

**NOMADIC MARGINALITIES: THE CASE OF BAJAU
LAUT'S STATUS WITHIN STATES AND LOCAL
ECONOMIES IN SEMPORNA, MALAYSIA**

By

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ABSTRACT

This thesis examines the reasons why the sea nomadic and semi-nomadic Bajau Laut community is not incorporated into the state despite being permanent residents in Semporna for more than 40 years and why their lives remain fragile and worsen without access to public goods and amenities while the state exercises despotic control over them. Primary sources like fieldwork and secondary sources were used in the research. Its main findings are as follows. First, the statelessness, mobility and subsistence living of the Bajau Laut are not a form of active resistance against the state. Second, the Malaysian government lacks state capacity to register them as citizens. And third, the lack of political incentives of political elites is a crucial reason for the Bajau Laut's statelessness to persist.

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ACRONYMS

ESSCOM Eastern Sabah Security Command

FSTF Federal Special Task Force

IC Malaysian National Identity Card

IMM13 Passes given to political refugees who fled Mindanao

LRFT Live Reef Fish Trade

RCI Royal Commission of Inquiry on the immigration crisis in Sabah¹ WWF

World Wildlife Fund

GLOSSARY

Lepa-Lepa A boat where the Bajau Laut family resides

Panglima Head of the village

Surat Lepa-Lepa A letter issued by a Panglima to the Bajau Laut

¹ set up in 2012 and concluded with a report in 2014

ACKNOWLEDGEMENTS

ACRONYMS

GLOSSARY

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INTRODUCTION

Nomadism and ‘high’ modernity tend to be antagonistic in many parts of the world, as states increase capacities to control populations within their boundaries. High modernism is an attempt to redesign society with scientific laws that excludes its practical and local knowledge (Scott 1998). This thesis explores a puzzle: an extreme case of persistent economic and political marginality of some nomadic and semi-nomadic communities within a territory controlled by state with a high capacity to implement policies.

The majority of the nomadic and semi-nomadic Bajau Laut in Malaysia are not incorporated into the state (Ali 2010), unlike their counterparts in Indonesia and the Philippines (Clifton and Majors 2012). Due to their statelessness, they have no access to public goods like education and health (Brunt 2013; Ali 2010). They are also unable to speak Bahasa Malaysia, the national language, and are considered as outcasts of

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the society. In recent times, they are surveilled by the states and considered as the “eyes and ears” of regional criminals.

This thesis examines the reasons why this highly-mobile community is not incorporated into the state despite being permanent residents in Semporna for more

than 40 years and why their lives remain fragile and worsen without access to public goods and amenities while the state exercises despotic control over them. Despotic power allows states to control and have power over people (Mann 1988).

To answer the questions, I developed three theoretical hypotheses and tested them empirically. The thesis has the following main findings. First, the statelessness, mobility and subsistence living of the Bajau Laut are not a form of active resistance against the state. Second, the Malaysian government lacks state capacity to register them as citizens. And third, the lack of political incentives of political elites is a crucial reason for the Bajau Laut's statelessness to persist.

The thesis is divided into four chapters. Chapter 1 explains the theoretical framework which underlines the puzzles this thesis tries to solve, the three hypotheses, an introduction to the research sample and the Bajau Laut community, and the methodology. Chapter 2 answers hypothesis two and three by evaluating the state's reaction to the Bajau Laut identity and statelessness status in the midst of an acute and unresolved immigrant crisis in Sabah. It also answers part of hypothesis one through my respondents' inclination towards having a Malaysian identity card. It establishes Bajau

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Laut's historical link to Sabah before and after independent to locate their position in the eyes of the state amidst a growing number of immigrants. Finally, chapter 2 analyzes the reasons the state, despite considering the Bajau Laut as stateless, conducts population census on the group by aggregating census information from three different sources: Sabah Park, Semporna District Office and the Eastern Sabah Security Command (ESSCOM).

Chapter 3 answers the other part of hypothesis one by investigating how the Bajau Laut's livelihood is interdependent with the local economy. It also paints a picture of the economic lives of Bajau Laut to understand how marginalized they are in comparison to the Poverty Line Income (PLI) of Sabah. Next, it establishes how the stateless group contributes to the local economy despite being a non-entity to the state, in particular via their role as the main provider of the Live Reef Fish Trade (LRFT). This is followed by their perspectives towards public goods such as education and health from which they are excluded. Lastly, chapter 3 discusses how various non-state actors can provide public goods to the Bajau Laut in the absence of state service providers. Chapter 4 analyses one such initiative where communities stepped in to provide basic literacy to the children of the stateless Bajau Laut. It is a peer-to-peer informal school that I co-founded during the course of my fieldwork in August 2015.

CHAPTER 1: THEORETICAL FRAMEWORK

1.1. Theoretical proposition:

1.1.1 Research questions

My three research questions are the following:

- Why are the Bajau Laut not incorporated into the state despite being permanent residents in Semporna for more than 40 years? Do political incentives play a

role?

- Why does the Bajau Laut community continue to live in subsistence and nomadic manner?
- Why does the state exercise despotic power on them instead of infrastructure power?

1.1.2 Hypotheses:

The three hypotheses are as follows:

H1: The Bajau Laut's high mobility and subsistence way of life is not an act of resistance towards the state

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My first hypothesis argues that the contemporary stateless Bajau Laut nomadic and semi-nomadic maritime community in Semporna and their subsistence way of life are not an act of resistance towards the state. This hypothesis contradicts James Scott's claim that the stateless nomadic people's way of life is a form of active resistance against the state.

Recent literature on nomadic peoples frames their high-mobility and subsistence way of life as acts of resistance towards the state (Scott 2009). Scholars argue that such mobility and lifestyle are political choices that keep the group stateless in an area known

as nonstate space, which differs from state space (*ibid.*). Nonstate spaces are locations almost inaccessible for the state, preventing the authority from controlling and taxing the people as in state space. This “art of not being governed” (Scott 2009) and state evasion comprise various dimensions such as location, mobility, escape-agriculture, and so on (*ibid.*).

Current work on this theory of nomadic lifestyle as an act of resistance is confined to the study of the hill peoples of Zomia in the Southeast Asia mainland explored by James Scott (2009). Zomians’ livelihoods (forms of cultivation and types of crops), social organisation, ideologies, physical mobility and even oral cultures are strategically designed to escape from being incorporated into the state. Put simply, they resist the oppression of state-making projects from slavery, conscription and taxes. Other nomadic people who were forced out by coercive state-makings and unfree labour systems into this anarchist history of resistance towards the state (*ibid.*) include Roma (Gypsies), Cossacks, or San Bushmen.

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Stateless and nomadic people take refuge in nonstate spaces to self-govern (Scott 2009). State spaces and nonstate spaces can be differentiated using the analogy of valley state and hill peoples (Scott 2009). States are an area with “concentrated grain productions typically arise where there is a substantial expanse of arable land” (Scott 2009, 13) where the state can tax on the grain production. Nonstate spaces, however, are areas where the state finds it hard to control due to geographical challenges (*ibid.*) (i.e. mountains, volcanic margins, open seas, etc.).

Stateless people resist being part of a wage economy and sedentary culture when they can trade with valley people without being subordinated and immobilised by

the state. This is reflected in the case of the stateless nomadic hill peoples of Zomia, who reside in the world's largest remaining nonstate spaces, spanning from five Southeast Asian countries (Burma, Cambodia, Laos, Thailand, Vietnam) to China, India and Bangladesh. Modern states want to incorporate all stateless people into their administration, through assimilation of language, culture, and religions of the majority as well as forced settlement (Scott 2009, 12). For example, the previous military junta in Burma encouraged the Karen hill tribe to speak Burmese and practice Buddhism (*ibid.*).

Nomadic people manage to keep the state away due to three elements: locality, mobility and escape-agriculture (Scott 2009). Firstly, the location being on the periphery of the state made the people inaccessible. The Orang Asli of Malaysia, indigenous tribal groups such as Semang and Senoi have been living in remote regions out of choice as a strategy to refuse the state even though they trade with lowland markets (Benjamin

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and Chau 2002 cited in Scott, 2009, 182). The Orang Asli has evaded the state and resisted becoming Malay (*ibid.*). Interestingly, the Orang Laut was also listed as the other tribes of the Orang Asli, who opposed the state. The Orang Laut is another group of sea nomads similar to the Bajau Laut community I study but resides in different locations. The Orang Laut sea nomads live in the south of Peninsular Malaysia, Singapore and the Riau archipelagos, while the Bajau Laut resides in the Sulu archipelago.

Secondly, mobility, like the ability to change location easily, amplifies the inaccessibility of society to the state, as the people "... can easily shift to a more remote area and advantageous site" (Scott 2009, 184). For example, the Yomut Turkmen pastoral nomad used their nomadic ability to "escape taxes and conscription"(*ibid.*) of

the Persian government. Finally, the escape agriculture practiced by the Zomia people is a form of direct negotiation with the state. By practicing shifting agriculture, slash-and-burn and the preference to grow fast and scattered root crops (such as yams, sweet potatoes, and cassava), the Zomian avoids paying tax to the state.

The characteristic of stateless nomads to repeal state in the literature, however, is not found in the stateless Bajau Laut nomadic and semi-nomadic maritime community of my research. On the contrary, the Bajau Laut in Semporna prefers to be integrated into the state despite having high mobility, and their livelihood depends on the local economy. Chapter two and three will elaborate this further.

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H2: The state does not have the capacity to tackle the stateless status of the Bajau Laut

Contrary to Scott's argument that the nation-states in Southeast Asia try to incorporate its nomadic hill people into the state (e.g. Karen tribe in Myanmar), I posit that the Malaysian government does not have the needed capacity to absorb the Bajau Laut population as Malaysian citizens.

Many scholars have attempted to define state capacity. More recently, state capacity is illustrated as the ability of the government in three dimensions such as the, "...fiscal capacity (the power to raise taxes), legal capacity (the effectiveness of legal and regulatory systems) and collective capacity (the ability to fulfil needs not met through markets)" (Besley 2015, 4).

In addition, state capacity also includes the power to monopoly violence, execute policy

(Acemoglu 2015), establish government agencies and ensure cohesion between leaders and government agencies (Migdal 1988). First, state leaders want to have exclusive control over the key means of coercion in the society through armies and police forces (*ibid.*). Second, states want to make rules and decisions according to their own preferences to “reshape, ignore or circumvent” (Migdal 1988, 20) other social actors. Third, states establish different specialised agencies to govern people’s daily lives (Migdal 1988). And fourth, states coordinate these components to achieve coherence between leaders and the various agencies (*ibid.*). State capacity is also further conceptualised as the existence of “state functionaries and agencies”

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(Acemoglu, García-Jimeno, and Robinson 2014, 7) or infrastructure power (*ibid.*; Mann 1988).

In fact, state capacities can be differentiated into two types of power: infrastructure power and despotic power (Mann 1988). Infrastructure power enables the state to provide public goods to its people. This type of state has robust infrastructures to reach out to its population and has the capability to influence civil society and execute its political decisions (*ibid.*). It is related to capitalist democracies where the government implements taxation, knows citizens’ income and wealth status, provides employment, pensions, etc. (Mann 1988, 6). Despotic power, in contrast, allows states to control and have power over people (Mann 1988). The despotic strength of the state allows its political elites to rule in autonomy without the need to negotiate with civil society groups (*ibid.*). There is a lack of routine and institutionalized mechanism for the state to engage in dialogue with civil society (*ibid.*). This power is enhanced with territorial-centralization

of economic, ideological and military resources (*ibid.*). If state infrastructural power increases, so will the territoriality of social life (*ibid.*).

The state has a variation of capacities, including administration, fiscal arrangement (taxation), economic intervention, violence deployment, public goods provisions, policy-making, etc (Evans, Rueschemayer and Skocpol 1986, 352). Each of such capacities is exploited for a different task (*ibid.*). Variants in state capacities indicate a state's strength, whether it is a state is strong or weak.

A strong state is a state with high capabilities to make rules that govern social relationships, to extract and appropriate resources and high infrastructure power

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(Midgal 1988, 15). Rule-making is one form of social control where the state can change people's behavior through regulation and extraction. A strong state would have high infrastructural power and centralize its means of coercion (Mann 1988). Such state uses rules, regulations, and norms to rule over its population even though it has a centralized means of violence (Mann 1988). Here, states police its citizens instead of destroying them as another way of state repression (Mann 1988). Strong states would increase its capacities by expanding its state social control (Midgal 1988). Social control is when the state becomes the reality of people's everyday way of survival (*ibid.*) by subordinating their preference to state's rules. States deploy material incentives and coercion as a strategy for social control (*ibid.*). For instance, the state can get its citizens to obey certain rules by outlawing the particular action through the deployment of police force and judiciary.

A weak state, conversely, has low capabilities to extract, penetrate, regulate and appropriate (Midgal 1988). States are weak when they have fragmented social control

which makes political mobilization difficult, hence the difficulty in implementing policy (*ibid.*). Weak states try to prevent leading officials in major agencies from mobilizing against central state leadership (*ibid.*). It has low infrastructural capacities, and its means of violence are dispersed through its citizenry (Mann 1988). It could not provide the needed infrastructure to ensure infrastructural power (Mann 1988). Therefore, such states deploy despotic power to control its people (Mann 1988). However, both infrastructural power and despotic power are not mutually exclusive.

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As a mean of control, states deploy various strategies such as census. Strong states use their capacity to execute census or population registration “as an attempt at legibility and simplification” (Scott 1998, 2). It is an attempt of simplifying reality via measuring (e.g. tax registries, names, censuses) to fit the population into their own administrative categories to enhance its capacity (*ibid.*). In doing so, states ignore local knowledge and practices as these are deemed “illegible” (Scott, 1998, 32) to states’ administrative routines. These practices are inline with the ruler’s interest such as state security (*ibid.*). The simplification measure also includes the political simplification of the modern era or the concept of a uniform and homogenous citizenship (*ibid.*).

In this thesis, I aim to analyze the case of Malaysia to see how it fits within the theoretical typology of state capacity and strength. Malaysia is considered as having high state capacity (Crone 1988). After 1970, Malaysia became a strong interventionist state (Brennan, in Higgott and Robinson cited in Crone 1988), using the public agencies to accumulate and redistribute wealth. This can be seen in its 1970s affirmative action policies where the majority Malays (and *Bumiputera*) is given quota and priority (e.g. in

business and education) over non-Malays (e.g. Chinese and Indian). The state agencies play “a central and efficient role” (Crone 1988, 265) administering such policies.

While conventionally Malaysia is identified as a strong state (Scone, 1988), I argue that it has low capacity in its handling of the Bajau Laut citizenship status. This capacity is undermined by political incentives. Malaysia tried to centralize its means of control and coercion in the eastern Sabah with the creation of the Eastern Sabah

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Security Command (ESSCOM) to protect its border against the pirates and militants in Southern Mindanao, the Philippines. But there is a lack of coordination and incoherence between the federal and state governments as well as different government agencies (i.e. immigration and national registration department) in the way the Malaysian state handles the issue of Bajau Laut’s statelessness. Officially, Malaysia does not recognize statelessness, yet one of its immigration officer claims that the Bajau Laut people are considered stateless, and that the immigration department faces challenges in tackling this issue (See Chapter 2 for more details). Furthermore, some of the Bajau Laut people (those who fled the 1970s civil war in Mindanao) are trapped in the immigrant crisis in Sabah (see Chapter 2). While some illegal immigrants were given Malaysian citizenship for political reasons, the Bajau Laut have been left out. They are not incorporated into the state because there are no political incentives.

H3: Political incentives are likely to impact the stateless status of the Bajau Laut people.

Other governments, for example in Eastern Europe and Indonesia, adopted different policies towards their nomadic people such as assimilation and extending

citizenships. However, the government of Malaysia shows no intention of promoting policies to incorporate the nomadic and semi-nomadic Bajau Laut community into the state. In the case of other communities, Malaysia granted citizenship to illegal Muslim immigrants from the Philippines and Indonesia through extralegal means between 1986-1995 (Sadiq 2009; Chong 2009; RCI 2014). This is motivated by political

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incentives, as the Muslim immigrants were later registered as party members and voters by various government agencies (*ibid.*). The new voters helped the central government to oust the Sabah state government after the 1994 election (*ibid.*, Lim 2007).

In Eastern Europe, there were three models of state policy against Gypsies before the nineteenth and the twentieth centuries during the Ottoman Empire, Austro-Hungarian Empire and the Russian Empire: status-quo and voluntarily assimilation, force control to assimilate and non-interference (Marushiakova and Popov, 2001, 44). On the one hand, the Ottoman Empire's policy was to maintain the status-quo but allow the Gypsies to assimilate voluntarily. However, their status remained lower than the non-Gypsies. On the other hand, the Austro-Hungarian Empire policy tried to control and assimilate the Gypsies into the peasantry. Its policy was to prevent Gypsies from their nomadic way of live: it stopped them from using their language, forced them to dress like peasant and conform to non-Gypsies names, and separated children of 4 years old from their gypsy family to live with peasants. The Russian Empire, in contrast, adopted a non-interference and inconsistent policy because the Gypsies was seen as a minority, almost a non-entity. Hence the empire paid no attention to them.

Socialist states' policy was to settle the nomadic Gypsies. For example, the Soviet Union ban on nomadism in 1956, followed by Hungary, Czechoslovakia, Bulgaria

and Poland in 1958-9 (Marushiakova and Popov, 2001, 46). Gypsies were regarded as the least developed community to be considered a nation and did not represent an ethnic group according to Marxist-Leninist theory, hence they were treated as the lower

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class/group compared to other minorities (*ibid.*, Guy 2001). However, after World War II, the Communist regime aimed to make Gypsies equal citizens. This meant full and “enforced assimilation into the society” (Marushiakova and Popov 2001, 47). Today, Gypsies are known as Roma and are stigmatised as a social problem, and state policies are paternalistic towards them (*ibid.*). Similarly, in the case of the Bajau Laut, in Indonesia, the state gradually assimilate the Bajau Laut community into modern society as part of its government’s priority in asserting greater control over marginal groups and ethnic minorities (Clifton and Majors, 2012). This is manifested in the establishment of floating villages or stilt water villages (*ibid.*). This process however is not seen in Malaysia as the Bajau Laut marginal group in Semporna are “left out in the modernization” (Ali 2010, 157) of the state without citizenship.

The following section will introduce the sample of the study and methodology.

1.2. The Bajau Laut

1.2.1. Geography and sample of the study

Semporna is located on the southeastern coast of Sabah, Malaysian Borneo. Sabah is also known as North Borneo, bordering Brunei, Sarawak, Malaysia and Kalimantan, Indonesia (Refer to Map 1).



Map 1: The location of Semporna in Malaysia.(Google Map)

The Bajau Laut is one of three nomadic boat-dwelling peoples in Southeast Asia. This nomadic group resides in Sabah (formerly known as North Borneo), Sulu Archipelago and the Celebes Sea, at the center of the Coral Triangle. They are part of the nomadic Bajaus (Sopher, 1965, 130) illustrated by David E. Sopher in his monograph of the nomenclature maritime boat people in Southeast Asia. They reside in Semporna, and can be found in at least three different locations: (1) the Tun Sakaran Marine Park (TSMP), (2) other surrounding islands besides TSMP, for example, Pulau

reasons, they are two different groups of Bajau Laut in Semporna. The first is those who have been living in Sabah before 1963 – sedentarized, and given Malaysian² citizenships, but in small number. The second is those who are still considered as nomadic and semi-nomadic (living in semi-permanent stilt houses settlement) Bajau Laut – some have been living in Sabah before 1963, while others came after 1963 and are chiefly considered as stateless.

The sample of this research is the second group of Bajau Laut who are undocumented, mainly deemed as stateless who are part of the nomadic Bajaus (Sopher, 1965, 130) illustrated in Sopher's monologue. The majority of the sample are descendants of those who arrived in Semporna in the early seventies to flee civil wars in Southern Mindanao, the Philippines. They mainly reside in the latter two locations: the surrounding islands in Semporna and around the coast along Semporna town. None of the sample is from TSMP because entrance and research permits are required in order to conduct a survey.

²The year Sabah joined Sarawak, Singapore and Malaya to form the Federation of Malaysia.



Map 2: Map of the islands where Bajau Laut can be found. (Author's mapping in Google Map)

1.2.2. Who are the Bajau Laut?

The majority of the nomadic and semi-nomadic Bajau Laut found Malaysia are not incorporated into the state (Ali 2010), unlike their counterparts in Indonesia and the Philippines (Clifton and Majors 2012). Due to their statelessness, they no access to public goods like education and health (Brunt 2013; Ali 2010). They are also unable to speak Bahasa Malaysia, the national language. However, as a result of their intriguing way of life, they are used by the state to promote tourism such as the *Regatta Lepa-Lepa*, an annual festival that pays homage to the lepa of the Bajau Laut tribe from

Semporna (Visit Malaysia 2014). Similarly, travel companies organize paid trips to visit their settlements.

Generally, they live in small family boats (or *lepa-lepa*) in the sea and rely on marine resources for living (Sopher 1965; Sather 1997; Ali 2010). In addition to consuming sea products, the Bajau Laut also sell their catch to the local community, seafood restaurants, and big fish operators. They are known to be one of the small-scale suppliers of the luxurious Live Reef Fish Trade (LRFT) in Southeast Asia (Clifton & Majors 2012, 718; Teh et al. 2011, 457). They are poor and are often socially marginalized by the general public “for their nomadic seafaring way of life” (Saat 2001; Torres 2005, cited in Teh et al. 2011, 457; Clifton and Majors 2012, 717). They are called derogatory terms such as *Pala’u*, *a’a Dilaut*, *Mangat*, *Luwa’an*. Their average³ monthly fishing income is only enough to survive, insufficient for anything beyond necessities (Teh et al. 2011, 456; Clifton and Majors 2012, 717).

The Bajau Laut is part of the larger group of Sama-Bajau speakers who reside in the region of Borneo, Sulu, and eastern Indonesia. The Sama-Bajau speakers consist of shore-based and land-based peoples (Sather 1997, Rahim, Osman and Dambul 2012). In Sabah, the land-based Sama-Bajau people occupy the West Coast, while the shore-based peoples live in the East Coast (Rahim, Osman and Dambul 2012). Though both groups are distinct, the settled Bajau (also known as Samal) are probably descended from sea nomads but are different from the current sea nomads (Sopher 1965, 122)

³The term *Pala’u* denotes low status in the societal hierarchy in the Philippines

Contrary to most Western researchers' assumption, the shore-based Sama-speakers are not a homogenous group known as the Bajau Laut (Rahim, Osman and Dambul 2012, 29). Instead, they consisted of two different community, first, the nomadic/semi-nomadic Bajau Laut (nomadic Bajaus as identified by Sopher 1965) and second, the settled/mainland Bajau (or just Bajau) (*ibid.*), possible known as the Samals (Samales Laut) originated from Sulu (Sopher 1965, 122). Both groups are different culturally. The latter are Muslim while the former are pagan, often assume a more inferior status. Scholars suspect that both are descended from the same sea-roving ancestor, but the Samals would reject such hypothesis (Taylor 1931, 482 cited in *ibid.*). However, foreigners continue to identify all Bajau as Bajau Laut, which has cause identity confusion among the community (Rahim, Osman and Dambul 2012, 29). This confusion could arise from the adoption of the term 'Bajau' in the Philippines to refer to the boat-nomadic and formerly nomadic groups of the Sama-Bajau population (Sather, 1997, 5; Sopher, 1965). In my own fieldwork, I have encountered foreigners who have worked in resorts in the Mabul Island, Semporna for many years refer to the Bajau Laut community as Bajau and think that there is only one homogenous group of Bajau in Semporna, which is the Bajau Laut community (Sather 1997 noted the same confusion on page 8). In fact, the East Coast Bajau are identified according to their places of origin and settlement, which is amongst the many islands in the Philippines and Indonesia as well as those who are still living in the sea (Rahim, Osman and Dambul 2012).

Moreover, the Bajau dislike to be called Bajau Laut because they associate Bajau Laut or *Pala'u* as those who are still living in the boat and refuse to modernize

(Rahim, Osman and Dambul 2012). The East Coast Bajau decline to be linked to the

Bajau Laut or *a'a Dilaut* or *Pala'u* because they deem the former to have lower status. The Bajau or mainland Bajau are identified by the geography of their settlements. For instance, they are known as Bajau Tawi-Tawi, Bajau Simunul, Bajau Bannaran, Bajau Ubian, Bajau Kagayan, Bajau Tabawan, etc. (*ibid.*, 24). There are also Bajau who live in the mainland Semporna. They initially originated from Pulau Omodal and later moved to other places like Pulau Bum-Bum, Pulau Bait, Pulau Denawan, Pulau Selawa, Pulau Manampilik and others.

The Bajau Laut community is considered as the lowest class in the social hierarchy. They are known as social outcasts. Other groups do not socialise with them, and their children do not play together with Bajau Laut children. The main reason is their way of life which is very different from those on land. According to one key informant, the Bajau Laut live on boats and do all their daily activity there such as cooking, eating, sleeping and defecating. Therefore, his mother does not like to buy fish from the Bajau Laut because the fish would probably be contaminated by their unhygienic living.

In Semporna downtown, the sight of the Bajau Laut children running around barefooted begging for money and food is common. Sometimes, they are accompanied by a few women who could be their mothers. The Bajau Laut children can be identified by their gold-streaked hair resulted from being under the sun and bathing in the sea water for a long time. Also, most of them are not able to converse in Bahasa Malaysia/Melayu, the national language. Apart from that, another common sight is children sniffing glue. According to a child respondent (aged less than ten from the

author's guess), smelling glue makes him happy. He was left roaming around the seafront when his father goes fishing. Unfortunately, without a Malaysian birth certificate,

this child is unable to spend his days in the school instead of on the streets. He wishes to spend his time working to earn money to help his family instead. However, because he is underaged and stateless, shop owners in Semporna are unable to hire him. The Malaysian police conduct frequent checks in Semporna for stateless and undocumented immigrants workers. Shop owners will be fined a hefty sum if they are found to employ workers without any identification document. Therefore, many of them would not take the risk to recruit one. Such a situation shows that the Bajau Laut community, especially the children, are trapped in a cycle of poverty. This part is further explored in Chapter 3.

1.3. Methodology

To collect data, I used the following methods:

For the purpose of validity, I triangulate multiple sources to examine the consistency of information received from all actors. The main five sources are (1) seafood restaurant owners; (2) key-informants from government departments; (3) Bajau Laut fishers and their families from four different locations, (4) participant observation, and (5) desk research. Each step of the methodology deployed is discussed below.

(1) Structured interviews with seafood restaurants in Semporna

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I interviewed six out of eight live seafood restaurant owners in downtown Semporna to understand where they normally buy their live seafood. This information can help me understand the supply chain for Live Reef Fish Trade (LRFT) in Semporna and if the Bajau Laut fishers play a significant role in this chain.

Bajau Laut (BL) -> Seafood Restaurants -> Tourists/locals

(2) Semi-structured interviews with key-informants

To better understand the other supply chain of the LRFT, I conducted key-informant interviews with the Fisheries Department, Korporasi Kemajuan Perikanan dan Nelayan Sabah (Ko-Nelayan), one fish cage operator and dive operators. This would provide me an overview picture of the LRFT's supply in Semporna.

In addition, I also interviewed Dr Chacho, the District Officer; Mr Haja from Sabah Parks; and Mr Jamie Valiant from Semporna Island Project (SIP) to understand the stateless situation of the Bajau Laut community in Semporna and Tun Sakaran Marine Park (TSMP).

(3) Semi-structured interviews with Bajau Laut fishermen and family

I conducted 16 semi-structured interviews with the Bajau Laut fishers in four locations.

The survey questions covered their fishing habits — where, how, when; their preferred places to sell their catch; income; identity; citizenship preferences and more. This interview is to ascertain from the Bajau Laut small-scale fishers themselves on how much time they spend on fishing and where they normally sell their catch.

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Two trips were made to Pulau Omdal where I managed to interview eight Bajau Laut respondents. The other trip was to Pulau Mabul where I interviewed four Bajau Laut fishermen. Additionally, I also interviewed four Bajau Laut fishermen after they sold their fish and seafood to the seafood restaurant in Semporna. Among them, two are currently residing in Pulau Tiga and the other two in Kampung Bangau-Bangau.

(4) Participant observation

I complemented my qualitative interview with systematic observations using participant-observer method to try to investigate information I might not get during the interview. This is one way to obtain behind-the-scene information. The observation took place in the seafood restaurants, fish cage operator and the Bajau Laut's boathouses and stilt villages.

(5) Desk Research

My secondary desk research includes: the ethnography on the sea nomadic people in the Southeast Asia by David E. Sopher; the transformation of the Bajau Laut community in Semporna since 1960s by James Warren, Carol Warren, Clifford Sather and Helen Brunt; and the statelessness of the Bajau Laut in Semporna by Ismail Ali, and the statelessness issue in Malaysia by a symposium organized by University Kebangsaan Malaysia (UKM), etc. I also reviewed materials related the immigration crisis in Sabah such as the Royal Commission Report 2014, various media reports, government agencies websites, the Rakyat Guide to Malaysian constitution and more.

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CHAPTER 2: THE STATE AND THE BAJAU LAUT

This chapter examines the relationship between the Bajau Laut community and the state from as early as the 16th century. I tried to understand the reason this community was completely left out in the eyes of the state, drawing from primary and secondary sources like Clifford Sather's seminal work on the Bajau Laut in Semporna, a "Statelessness on

Sabah symposium” report and the 2014 Royal Commission of Inquiry on Immigrants in Sabah, to name a few. It is divided into three sections: (1) the historical perspective; (2) the contemporary state of the community; and (3) the Bajau Laut population census in Semporna.

Section one analyzes the history of Semporna from five historical periods of Sabah starting with the Sultan of Borneo, who ruled Sabah in the 15th century and ceded it to the Sulu Sultanate in the 16th century. Sabah later became the British North Borneo Chartered company in the 19th century and started the township of Semporna when the Chinese, Bajau and Bajau Laut traders fled Sulu from the Spanish conquest in 1886. Later in 1963, Sabah joined Sarawak, Singapore and Malaya to form the Federation of Malaysia with the condition that their special interests are safeguarded. One of the safeguards is Sabah’s autonomy to control its own borders. In the 1970s, civil war in Mindanao, Southern Philippines triggered mass migration of Filipinos including the Suluk, Bajau and Bajau laut to Sabah. The influx of migrants continued and became a political and social crisis in Sabah.

Section two scrutinises the complicated relationship between the federal government, state government and local administration in managing the inflow of immigrants into Sabah, starting with the 1970s refugees crisis from Mindanao in order to locate where the Bajau Laut fits in the bigger picture of the refugee crisis. Here, I map out all different types of foreigners in Sabah from the perspectives of the Sabah National Registration Department (SNRD), Sabah Immigration Department and the findings from the RCI report. I also draw a simple social network plotting to understand actors involved

and how this issue has escalated into a full-blown crisis as Sabah's population demographic was altered. Politician leaders from United Sabah National Organization (USNO) and United Malays National Organization (UMNO) allegedly, with the help of the NRD and Immigration officers, gave Malaysian citizenships to Muslim illegal immigrants, especially those of Suluk descents, in return for votes in the mid-80s. Findings show that there is a complicated web of civil agencies who issued various passes and permits to these illegal migrants. The power of the state government to control the rights of entry and residence (in the Immigration Act 1957/63) was overstepped when the federal government issued the IMM13 passes to refugees. Both federal government (e.g. FSTS) and state government (e.g. Settlement Department) set up agencies to tackle the problem, yet it further escalated into a serious security issue, with constant kidnapping for ransom cases and an incursion by a claimant of the Sulu Sultanate in 2013. Amidst these events, the Bajau Laut community remains a non-entity to the state, hence being left out in the political patronage. They were, instead, issued a

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different type of permit known as the "*Surat Lepa-Lepa*" which confined them to the area of Semporna.

The final section estimates the total number of the Bajau Laut population in Semporna by aggregating data from Sabah Park, Semporna District Office and the ESSCOM which is currently conducting a comprehensive census of the Bajau Laut population.

2.1 Historical Perspective

The Bajau Laut historical roots in Semporna, south-eastern of Sabah can be divided into at least five different phases: (a) pre-colonial period, (b) colonial (Company) period, (c) post-colonial and nation-states period, (d) 1970s civil war in Mindanao and (e) the present time.

2.1.1 Pre-colonial period:

According to anthropologist Clifford Sather (1997, 35), the maritime community in the Semporna district, south-eastern Sabah has existed since 3000 years ago. In the 16-17th century, Sabah was part of the Brunei Sultanate. Early records show that the Bajau population was already an indigenous people of Borneo.

By 1877, Brunei Sultan had ceded Sabah to Sultan of Sulu (Sather, 1997, 7, 44). However, other scholars argue that Sabah was 'given' to Sulu Sultan by the former much earlier, in 1740 instead (Ong et al., 2015). Subsequently the Sultan of Sulu

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relinquish Sabah to the British North Borneo Chartered Company in 1878. Sather (1997,12) contends that the earliest historical records (1521 brief encounter of Pigafetta mentioned in Pallesen, 1906: Vol. II, 53 cited in *ibid.*, 13) shows that the Sama-diLaut sea nomads originate from the northern Sulu-Mindanao region of the Philippines. According to the language reconstruction by Kemp Pallesen of the proto-Sama-Bajau speakers, this maritime groups spread into two directions: (1) southward down the Sulu Archipelago and settled in the northern and western coasts of Sabah, and (2) eastern coast, "expanding southward into coastal Kalimantan" (Sather,1997, 15). Afterwards, they entered "into the Strait of Makassar, spreading to Sulawesi and other parts of

eastern Indonesia” (*ibid.*, 15). Since then, the Bajau Laut seafarers were noted as a significant “regional supplier of maritime trading communities” (*ibid.*, 15) in Sulu and the Bugis and Makassarese states of eastern Indonesia. The Bajau seafarers were the principal gatherers of “*tripangs*” (sea cucumbers) under the Bugis patronage (*ibid.*, 14) for about 200 years.

In the Sulu Archipelago, Jolo Island became the hub of its maritime trade with China, the central and the northern Philippines, Borneo, and to other parts of the eastern and western Malay world (Sather, 1997, 16). By the 18th century, this zone known as “the Sulu Zone” (James Francis Warren cited in Torres III, 2003, Part 1 21) was an important economic region with Semporna as part of it where the Sama-Bajau worked as skilled seamen, boat-builders, artisans, fishers, pilots, inter-island traders and more (Warren 1981, 65-70; Sather 1984, 7-8 cited in Sather 1997, 41).

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Historically, there are three theories (or myths) about the origin of the Bajau ethnic group in Sabah: Johor, The Philippines, and Indonesia (Rahim, Osman and Dambul, 2012). The first is the local oral history that claims that the Bajau people are from Johor, linked to the Sultanate of Johor (supported by Najeeb Saleeby, Cyrill Alliston cited in Sather 1997, 15). Furthermore, Thomas Forrest, in his voyage to New Guinea, noted that he had met Bajau fishermen in the Borneo island who originated from Johor (Sather 1997, 19).

The second theory is that the East Coast Bajau originated from Southern Philippines because both communities share a similar lifestyle (Irenena Obon, 16). Most of the Bajau population who migrated to Semporna during the late 19th century were

from the islands of Simunul, Siasi, Tawi-Tawi, Sitangkai, Sibutu, Sibaud, Balangingi, Bannaran and others (Sather 1997, 16). They identify themselves according to their places of origin. For example, those originated from Pulau Simunul are identified as Bajau Simunul and those living in the sea are known as Bajau Laut.

The last theory views that the Bajau ethnic group originated from the islands in Indonesia. It was said that most of the Bajau then settled in the Philippines and Sabah as a result trading and sailing (Sather 1997, 17). The earliest settlement in Sabah was in Pulau Omadal. Most of the Bajau community now live in eastern Indonesia in Sulawesi (Sather 1997, 19).

2.1.2. Colonial Period (Company Rule)

In 1881, Sabah became British North Borneo Chartered Company (Black 1983, 1-5 cited in Sather 1997). The Company's presence in the first two decades was to overcome piracy and slave trading.

Semporna was founded as a Market Centre during the Company's rule (around 1887) and its first settlers were the Chinese fleeing Sulu, when Maimbun was destroyed by the Spanish, to Sandakan (Sather 1997, 50; Warren 1971, 63). Toonah, the leader of the Chinese merchant, became the first Kapitan China of Semporna (Warren 1971, 63-64). The last Spanish conquest in 1886 triggered massive emigration of the Chinese and Bajau traders to Semporna, the newly established coaster port (Warren 1971, 118-25 cited in Sather, 1997, 52). Semporna began to prosper with the Bajau Laut

playing a significant role by providing sea products such as dried fish, shark fin and 'tripang'.

The Omadal Island where the Bajau first settled to escape the Company's control in Semporna was known as the regional hub for slave trade between Central Sulu to the eastern Borneo coast (Sather 1997, 45). However, between 1901-1910, the Bajau's mobility was restricted with new policies introduced by the Company as a way to control them such as the promotion of coconut planting to encourage settlement and boat licensing and tax system (Sather 1997, 47). One reason why the Company tried to restrict the Bajau, according to Black (1971, 384 cited in Sather 1997, 45), was that the

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people in Semporna were frightened of the Bajau, who allegedly were known for piracy, robbery on lands and murder and they neither submit to any authority nor pay any tax. The coconut plantation policy was successful as copra became Semporna's key cash crop by 1910 (*ibid.*). The boat registration policy, however, was met by massive resistance, which resulted in the use of draconian methods by the authority such as destroying the houses and crops of those who resisted (Black, 1971, 384 cited in *ibid.*). The Bajau conceded and were drawn further into the cash economy, as they had to pay the annual licence fee and in return, they would be given a licence number (Sather, 1997, 47). Subsequently, the Bajau came into direct contact with the government, who gave the local authorities "a degree of control" (*ibid.*) over their movement and allowed the police to monitor the travel between Sabah and the southern Philippines. Besides, the policy also encouraged the Bajau's relocation to Semporna's mainland and "resettlement in [an] area closer to the town" (*ibid.*).

Soon after, the American colonial authority in the Philippines implemented similar boat-licensing system (Sather 1997, 48). This boat-licensing system and the political partition among the colonial powers such as Dutch East Indies in Indonesia, British North Borneo in Sabah and the American in the Philippines restricted the freedom of the people's movement by sea (*ibid.*).

Sather (1997, 54) argues that the migration of the massive Bajau-speaking people from the islands of southern Sulu into Semporna occurred during 1886-1910. At the same time, the rise of the commercial market altered the Bajau Laut's livelihood as they began to sell their maritime products through the town market to other communities

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(*ibid.*). This is the pivotal period when the Bajau Laut started to move closer to the Semporna town in a bigger group (*ibid.*).

Since 1961, there have been approximately 17,000 residents in Semporna, out of whom only 1000 are Chinese of Hakka and Hokkien (Rahim, Osman and Dambul 2012). The remaining 16,000 are the Bajau ethnic majority residing in the islands (*ibid.*). The number dramatically increased after Sabah achieved independence in 1963 (*ibid.*). This increase, especially during 1970-1977, was caused by the political instability in Southern Philippines where the Moro National Liberation Front (MNLF) rebelled against the Philippines government (*ibid.*).

2.1.3. Post-colonial and nation-states period

After World War II, Sabah (formerly known as North Borneo) together with Sarawak of the Borneo island became part of the British Empire's Crown Colonies (The Rakyat Guides 7). In 1957, after the Federation of Malaya gained independence, Sabah and Sarawak began to discuss their independence and the possibility of forming a

federation with Malaya. A commission led by Lord Cobbold was created to survey the people of Sabah and Sarawak's opinion on this idea. The commission concluded that the majority has no objection but one criterion: there must be special safeguards to protect their interests (The Rakyat Guides 7).

As a result, an Inter-Governmental Committee was established to formulate the special safeguards for the Borneo states. This Committee comprised delegates from the Malayan government, the British government, Sabah and Sarawak. The special

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safeguards were included in the "Malaysia Agreement" that was signed in July 1963 by the British and Malayan governments, Sabah, Sarawak and other parties (including Singapore) in London. That, marked the formation of the Federation of Malaysia. With that, the Malayan Parliament amended the 1957 Constitution to include the special interests and safeguards for Sabah and Sarawak, which then became the Federal Constitution of Malaysia (The Rakyat Guides 7). Among others, these special safeguards included Sabah and Sarawak's immigrations authority to control the rights of entry and residence.

Other than the Constitution, Sabah and Sarawak's safeguards are also included in other Federal Laws. For example, in the Immigration Act 1959/1963's Part VII declares "that anyone who does not belong to Sabah and Sarawak must have a valid Permit or Pass to enter Sabah or Sarawak except for members of the Federal Government, judges, public servants or a person entering for the sole purpose of engaging in legitimate political activity" (The Rakyat Guide 7). Furthermore, Sabah and Sarawak made their own laws on matters regarding local government, national land

code and employment and do not follow the federal laws of the Local Government Act 1976, the National Land Code and the Employment Act 1955 (The Rakyat Guide 7).

2.1.4. 1970s civil war in Mindanao

The Bajau Laut's subsequent mass migration to Sabah occurred during the Mindanao civil war between the Philippines government and the Muslim insurgents

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known as the Moro National Liberation Front (MNLF) in the 1970s. This is considered as the first phase of the immigration crisis in Sabah. The federal government stepped in to grant IMM13 passes to the refugees or evacuees while the state authority grant them temporary identification certificates (RCI 2014). This effort was supported and funded by the UNHCR, International Red Cross and Saudi Arabia.

Mass civilian migration from Mindanao to Sabah occurred in two key waves (Rachagan and Dorall, 1981, 64) during the civil wars between the Muslim separatists and the Christian administration of the Philippines. The first wave coincided with the martial law declaration in 1972 (*ibid.*) while the second coincided with the destruction of Jolo in 1974 (*ibid.*). The census of 1977 shows that there were 25,800 Filipino Displaced Persons (FDP) in Semporna and they formed half of the local population. This accounts for approximately 36.4% of the total of the number of FDP in Sabah, which is 71,000 according to an official survey (*ibid.*). However, the actual number ranges between 100,000 (The Star, March 24, 1980 quoted in *ibid.*) to 200,000 (Rachagan and Dorall's interview with Ignatius Malanjun, President Party Pasuk, Sabah, *ibid.*). The inflow of "evacuees" (Rachagan and Dorall, 1981, 68) started to subside around 1984 (Bahrin

and Rachagan 1984 quoted in Kassim, 2009, 58).

In the first phase, the then Sabah Chief Minister, Mustapha Harun, welcomed the evacuees from Southern Mindanao for three reasons: humanitarian, economic and political (Kassim 2009). The first reason was humanitarian (*ibid.*, 58). UNHCR (Rachagan and Dorall 1981, 68), International Red Cross (RCI 2014, 235) and Saudi Arabia (Sather 1997) supported and funded the refugee settlements in Sabah - one of

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which is on Mabul Island - and the Filipino government between 1967-1987. UNHCR⁴ issued 60,000 refugee passes to the evacuees, while the Sabah Immigration issued about 62,000 IMM13 passes to them (RCI 2014).

The second reason was the shortage of labor due to the boom in logging and palm oil plantation. Hence, these evacuees or refugees could add on to the local workforce. The influx of evacuees increased the much-needed labor force in Eastern Sabah as it saw an expansion in logging and plantation sector (Kassim 2009, 58)

The final reason was personal and political “related to his religious belief, origin and his role as the head of the Muslim-based political party, the United Sabah National Organization (USNO)” (Kassim 2009, 58). Mustapha wanted to increase his USNO⁵ membership through the Muslim refugees. Mustapha claimed ancestry to the Sulu Sultanate and as a Suluk-Bajau Muslim, he felt a call to duty “to protect his Muslim brethren from Mindanao”(*ibid.*). Furthermore, by accepting them, it would help to increase the membership of USNO and increase Mustapha’s political position (*ibid.*). As a result, he “has facilitated around 100.000 refugees to stay in Sabah from the seventies” (*ibid.*) Apart from the Philippines refugees, Sabah also received Chinese refugees (during the Indonesian/Anti-communist Genocide 1965-1966) as well as

economic immigrants from Indonesia (Ong et al., 2014, 33-34). This phase of the immigration flow is illustrated in Figure 1.

⁴ One of the fieldwork site of this research.

⁵ USNO was de-registered in 1994 with six of its legislators joined UMNO while the rest joined PBS (Chin 1999, 31).

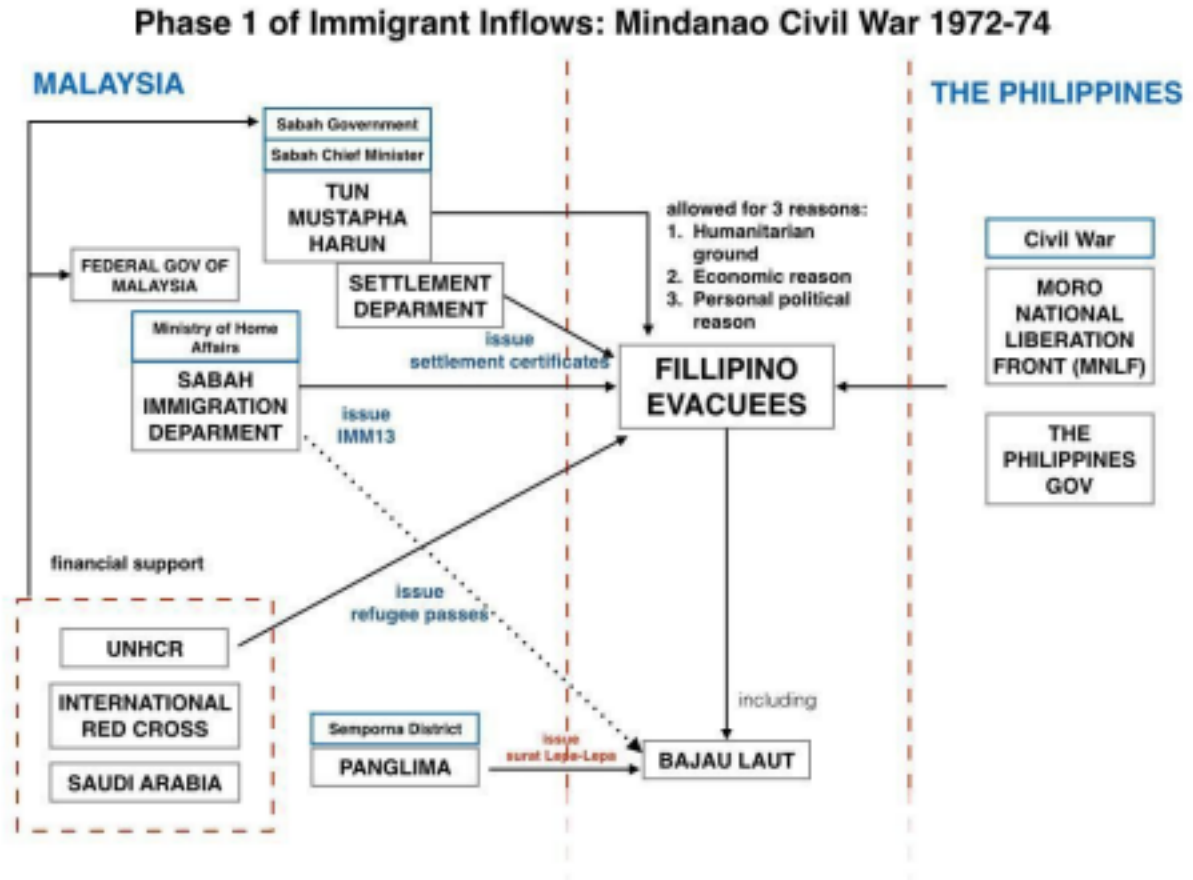


Figure 1: Phase 1 of immigrant flows in Sabah

2.1.5 The present time

The issue of the mass migration from the Sulu Archipelago and Indonesia has

escalated into the conflict of illegal immigrants in Sabah. The ongoing immigration influx for security and economic reasons from Mindanao from the 1980s can be considered the phase 2 of the immigration crisis. It is unclear if the Bajau Laut people continue to move to Semporna in this period. Their status of statelessness is, however, further

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affected by this phase. The immigrant crisis in Sabah has been in the news since the early 1990s. But, it was only in 2012 that the Malaysian Prime Minister, Najib Razak, decided to set up a Royal Commission of Inquiry (RCI) on this issue after much pressure from the Sabahan and politicians. One of its objectives is to investigate Project IC where the ruling government was accused of giving Identity Card (IC) to the illegal migrants to alter the demographic of Sabah (RCI 2014) during the time of the former Prime Minister, Mahathir Mohammad (Chong 2009). Kamal Sadiq claims that the Malaysian state gave citizenship to illegal immigrants from the Philippines and Indonesia who are Muslim in Sabah so that they can vote for the ruling government (Sadiq, 2005). One reason is the similarity in ethnicity between Malaysia, the Philippines and Indonesia. For instance, Malaysians Bugis are similar to the Indonesian Muslim - both can speak Malays and practice Islam (*ibid.*). Likewise, Malaysian Bajau is like the Filipino Bajau.

The phase two of the “immigration crisis” started in 1985 when Joseph Kitingan became Sabah Chief Minister after he formed an opposition party called Parti Bersatu Sabah (PBS). The crisis became full-blown when the demography of Sabah was altered as the Muslim community became the majority in the 1991 census (Sadiq, 2005). The population of Sabah was said to surge by 78% in the 1990s. At the same time, UMNO membership increased dramatically (Chong 2009). This was the result of the plot to topple the PBS government by the federal government when the latter lost Sabah in the

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power by giving citizenship and registering illegal immigrants from the Philippines and Indonesia as their members and voters.

Joseph Kitingan quit the political party, BERJAYA from the ruling coalition, Barisan National (BN) due to differences with party president, Harris Salleh, in 1985 to form PBS. PBS became an ethnically based Kadazan-Dusun and a Christian dominant party. PBS joined BN in 1986 after a riot and left again in 1990. It won all state elections, however, his government fall when some of his state assemblymen defected to BN after the 1994 election. Throughout his rule, the inflow of immigrant from the Philippines never stop and the there was a plot by the federal government to topple him by changing the demography of Sabah. Hence a project, widely known as "Project IC" took place between 1986-1995.

Project IC was allegedly started after a meeting called by the then Deputy Minister of Home Affair, Megat Junid. He met with Sabah Immigration Department's Director, Sabah National Registration Department (NRD)'s Director, the political secretary of the then Prime Minister Dr. Mahathir Mohammad, Aziz Shamsuddin and others officers (RCI 2014). According to Hassnar Ebrahim, the aim of the project is to give Malaysian IC or citizenship to Muslim illegal immigrants and register them as UMNO members as well as voters. This secret project was facilitated by the NRD and Immigration officers, as well as Districts Officers, District Chiefs and *Panglima* (Village Chief), knowing or unknowingly. Subsequently from 1988 to 1999, scores of government servants were arrested under the Internal Security Act (ISA) for issuing fake documents

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allowed them to be detained without trial and hence avoided media's full disclosure of the project (Sadiq 2005; Chong 2009). According to the Special Branch, the officials arrested forged fake IC documents for profit, not due to any political reasons (RCI 2014). Some politicians implicated in the Project IC who testified during the RCI such as Dr Mahathir Mohamad and his then political secretary Aziz Shamsuddin denied any knowledge or involvement in the Project IC. Nonetheless, the RCI concluded that the project existed due to the corroborated testimonials from the NDR and immigration officials as well as the unusual population rise and demographic change in Sabah (RCI 2014, 301). Phase 2 of the immigrant crisis is illustrated in Figure 2.

Phase 2 of the Immigrant Crisis in Sabah: 1987 - now

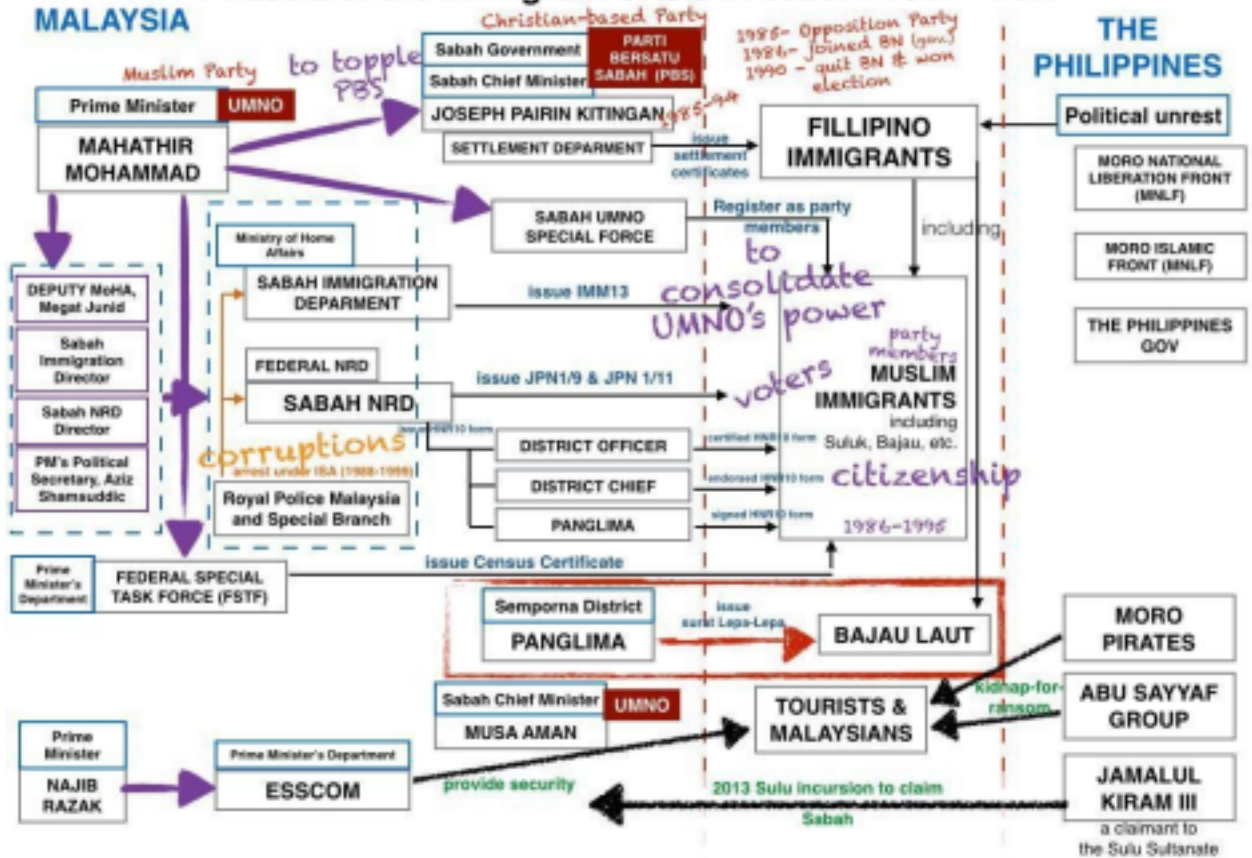


Figure 2: Phase e of immigrant crisis in Sabah

This clearly shows that the ruling elites can give citizenship to immigrants/stateless people when there is a political incentive to do so, albeit extralegally. The politicians can bend rules and use agencies for their political gain. The Bajau Laut, as a group of people, do not pose any political incentive for the elites to include them as Malaysian citizens. At most, the Bajau Laut people are given the *Surat Lepa-Lepa*, a letter authorized by a Panglima, which confines them to the area of

Semporna without any access to public goods. In fact, even politicians or state assemblymen from the neighbouring constituency are clueless about the existence of ⁶

Surat Lepa-Lepa. In the eyes of the state and the politicians, the Bajau Laut community is a non-entity, too insignificant for their political mileage. At best, the direct link between them and the politicians is evergetisme (euergetism) (Lomas and Cornell, 2003). Evergetisme means elites distributing goods and money to the society out of generosity. In Semporna, a local politician was known of distributing money to everyone, including the Bajau Laut, during the Hari Raya (Eid-fitr celebrated by Muslim after one month of fasting) festival .⁷

2.2 The contemporary state of the community

2.2.1 Security in East Sabah/Semporna

After the 2013 incursion by the alleged heir to the Sulu Sultanate in Sabah, the Malaysian government tightened its maritime security through the creation of the Eastern Sabah Security Command (ESSCOM). Furthermore, since 2000, there have been a series of kidnappings by militants linked to the Abu-Sayyaf separatist movement from Mindanao. In most cases, it is international tourists who were kidnapped for ransom because Semporna is a famous tourist spot popular for diving and beautiful beaches. In 2015, two Malaysian citizens were abducted from Sandakan and held for six months in Jolo, Southern Philippine by the same militant group. One was released,

⁶in an email correspondence with a state assemblymen

⁷Information from key-informant interview during fieldwork

but unfortunately the other was beheaded (Scawen, 2015). The ESSCOM has claimed that some Bajau Laut members have become the “ears and eyes” (The Star Online 2015) of kidnappers by providing information on ESSCOM sea patrols and troops at

islands around Semporna. This is an issue of national security. Therefore, the ESSCOM is conducting census to estimate the number of Bajau Laut population in Eastern Sabah, especially in Semporna in their bid to strengthen the maritime security (*ibid.*).

2.2.2. The Supply and Demand of citizenship

The two main ways to enter Sabah is through Malaysian citizenship and immigration access. The issuance of permit/pass/access into Sabah, is conducted by at least four different tiers of government involved from the Federal to the village level.

The Federal Government controls access into Sabah by issuing citizenship certificate or travel passes/permit (i.e. IMM13 passes) or census certificates. There are at least five departments at the federal level which can grant access to Sabah, namely:

- Immigration Department of Sabah - Immigration Act 1959/63,

Immigration Regulations 1963 and Passport Act 1966

- National Registration Department of Sabah
- National Registration Department Malaysia
 - Federal Special Task Force for Sabah and Labuan (FSTF)
- ESSCOM

Even though Sabah has the exclusive privilege to control its border access, the **Immigration Department of Sabah** is under the purview of the Immigration Department of Malaysia which is under the jurisdiction of **Ministry of Home Affairs** in the Federal government level. Similarly, **Sabah National Registration Department** is also under the

purview of the same ministry. Furthermore, under the Prime Minister's department, a Federal Special Task Force for Sabah and Labuan (FSTF) and ESSCOM were created to tackle the issue of the illegal migrants and securitise the Eastern coast of Sabah.

Under the **Sabah Government**, the Chief Minister's Office has the power to issue temporary identification receipts known as *Kad Burung*. It also has a Settlement Department to register undocumented immigrants. As for the **local government**, only in the Semporna District, the *Panglima* or village head has the authority to issue *surat lepa-lepa* to the Bajau Laut community that would allow them to move freely only in the Semporna area. Other than that, all District Officers, District Chiefs and Panglima are authorised to certify, sign and endorse the HNR10 form used to apply for Malaysian ICs. All relevant government tiers are summarized in Appendix A :

Due to the massive inflow of immigrants, Sabah has various categories to identify the legal and illegal immigrants. Such categories are different for both Sabah National Registration Department (SNRD) and the Immigration Department of Sabah. Most notably, SNRD has a special category called "Sabah in Land Foreigners" for eight different types of foreigners including the IMM13 holders and the Bajau Laut. These labels for foreigners and policy for statelessness are not standardized across the two

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government agencies. On the one hand, the SNRD does not recognize statelessness; on the other hand, the immigration department confers stateless status to at least two different groups of people. Despite that, even the immigration department has conflicting answers to who constitutes as stateless. One officer considers only the Bajau Laut as stateless persons, while another states that children left behind by illegal immigrants are also considered as stateless (Ong et al, 2014). The former also claims that there has

been efforts to give documentation to the Bajau Laut people, but was hindered by the nonchalant attitude of the Bajau Laut. By contrast, my findings show that almost all my respondents want to be recognized by the authority but are clueless on how to obtain any official documentation, except for the *surat lepa-lepa*. To add on to the mosaic of definitions and understanding of immigrants in Sabah, the RCI defines its own meaning of undocumented immigrants, refugees and stateless in its 2014 report. The categories of foreigners from the SNRD, immigration department of Sabah and findings from RCI are summarized below:

(a) The Sabah National Registration Department (SNRD)

According to the Registration Department, there are two categories of immigrants: (1) Sabah inland foreigners and (2) illegal immigrants (*Pendatang Tanpa Izin*) (Ong et al., 2014, 33-34, The Rakyat Post, Nov 2014). The “Sabah inland foreigners” can be further divided into eight categories as follows:

	Sabah inland Foreigners' Type	Remark
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	Permanent Resident	Those with Red Identity Card
	Temporary Resident	Those with Green Identity Card
	Filipino Refugees (<i>Perlarian</i>)	Refugees fleeing the 1974 conflict; holders of IMM13; Estimated figure: 62,000
	Indonesian Chinese Surrender Illegal Immigrant (with IMM13)	Political refugees from Indonesia who escaped the 1965 Gestapu anti-communist and anti-chinese coup-d'tat
	Kad Burung (or Sijil Burung-Burung; JKM)	Issued by Sabah Chief Minister's Department; Filipino citizens who were left behind; settlement certificate

	Census Certificate (Sijil Banci)	Issued by Federal Special Task Force (FSTF); those who lost their other certificates
	Palaau' Filipino (Bajau Laut)	The majority of them reside in Semporna; They are given Surat Lepa-Lepa by the head of the village. Some of them also receive IMM13 or permanent resident
	Non-citizen children with birth certificate	Street children whom parents were sent back to their country of origin

Table 2.2: Sabah inland Foreigners according to the National Registration

Department of Sabah

Interestingly, there is no “stateless” category to describe any citizens in Sabah. According to Tuan Ismail Ahmad, the Director of the National Registration of Sabah, there is no “stateless” category in the population category of the National Registration Department, (Ong et al., 2014, 34). “Sabah inland foreigners” are different from illegal immigrants (PTI) because the former cannot be deported back. But the illegal immigrants can be deported back by the ESSCOM. Although there is official stateless

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category, this officer claims that “Sabah inland foreigners” are the root cause of the stateless crisis in Sabah (*ibid.*).

(b) Immigration Department of Sabah

To understand how the immigration department of Sabah categorises foreigners, I look into two accounts. One is from Ismail Ali, the Head of Visa and Permit Sabah’s presentation at a Symposium on “Stateless in Sabah” while the other account is from Datuk Muhammad bin Mentek, the former Director of Immigration Department Sabah

(2010-2013) and former Director of ESSCOM (2013-2014) in his testimonial during the RCI.

There are three types of foreigners in Sabah from the Immigration Department's perspectives: (1) foreigners with valid documents, (2) foreigners living illegally and (3) stateless persons. Foreigners with valid documents can be further divided into four types: foreign workers holding temporary employment visit pass (PLKS); legal immigrants holding various kinds of passes; IMM13 and HIF-22 holders; and holders of census certificates and temporary identification receipts. Further description of the different types are listed in the table below:

	Type	Remarks
1	Foreigners with valid documents	
	Foreign workers holding temporary employment visit pass (PLKS)	the total number of PLKS issued to immigrants from Indonesia and Philippines between 2007 and September 2012 was 1,130,399

	Legal immigrants holding various types of passes	Example of passes are: border pass (Tawau only), student pass, visitors pass (professional), PLKS (offshore, cook, masseur), Malaysia My Second Home pass, social visit pass, etc.
	IMM13 and HIF-22 holders (HIF-22 is a prerequisite document for IMM13)	<p>Those with valid documents, i.e. IMM13 As of december 2012, the number of IMM13 passes issued are 98,427 , but the active holders are 60,248 (those who renew their IMM13 passes every year) (RCI, 2014, 71).</p> <p>Proper guidelines for the issuance of IMM13 passes are contained in an office circular Bil. 2/2012 (P23) & (P24). These directives were not in existence in the period from 1972 to 1984. Apparently the witness in RCI (2014) does not know of any specific guidelines issued from 1972 to 1984.</p>

	<p>Holders of census certificates and temporary identification receipts</p>	<p>Possibly the census certificates issued by the Federal Special Task Force and the temporary identification receipts issued by the Chief Minister's office.</p>
2	<p>Foreigners living illegally</p>	<p>Those who entered Sabah illegally, overstayed or lost their documents.</p>
3	<p>Stateless Persons</p>	<p>Those without citizenship and do not have any self-identification document.</p> <p>Ismail and Mohammad have contradicting answers when it comes to who can be identified as stateless.</p> <p>According to Ismail, only the Bajau Laut (or known as Pala'o/Palaau) is considered as stateless. The Bajau Laut are those reside on the East Coast, commonly linked to the district of Semporna, live in a lepa-lepa and spent most of their life in the sea.</p> <p>Children born to immigrant parents without any document or birth certificate and were abandoned cannot be considered as stateless because their status is dependent on their parent's citizenship.</p> <p>However, Mohammad testified that such children are considered stateless, but the Sabah Immigration Department does not issue any document to them because they do not have birth certificates. However, there has been a suggestion that a pass to be called the Resident Pass could be issued to them and this Pass be made renewable.</p>

Table 2.3: Different types of foreigners according to the Immigration Department of Sabah

It is puzzling that the two officers from the same Sabah Immigration Department have different understanding of who constitute as a stateless person in Sabah. While Mohammad made no mention of the Bajau Laut community in his RCI testimonial, Ismail went at length to describe the effort taken by the Sabah Immigration Department to

register the Bajau Laut and the problems they face.

The main problem the immigration authorities confront is to identify if a person is a Bajau Laut (Ong et al., 2014) because no one has been given the authority to determine the Bajau Laut's status (*ibid.*). According to the immigration officer, Ismail, some individuals would admit themselves as Bajau Laut, but their physical outlook and face do not resemble the Bajau Laut (*ibid.*). To make matter worse, officials encounter issue with the legality of Bajau Laut's document or testimonial since false documents or letters were issued to the some Bajau Laut members (*ibid.*). In addition, some of the statutory declarations owned by them were not produced by any government agencies (*ibid.*).

On the one hand, the Bajau Laut's basic necessities are ignored (and not integrated into the state) and their plights are disregarded by the *Panglima (Village Head)* (*ibid.*). The *Panglima* is the only bridge between the Bajau Laut and the authority although they have been living in Sabah before independence. On the other hand, they

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do not register for documentation, and when detained (in Papar, Tawau or Sandakan), they are not used the living condition on land and the local food (*ibid.*). The state recognizes the special status of the Bajau Laut, as indicated by the immigration officer, Ismail that the Immigration Department considers the Bajau Laut as stateless and tries to provide them with documentation in Semporna (*ibid.*). However, the officer blame the Bajau Laut for their nonchalant attitude in obtaining any documents as only 10% of them had received a valid document (*ibid.*). On the contrary, from my interviews, the Bajau Laut respondents indicated that they want to have an identification documentation but

do not know where to obtain them. The only documentation they know of is the *surat lepa-lepa*. But some *Panglima* charges a fee for the letter even though it should be free of charge (Refer to Section “Demand Factor of the Access”).

(c) The Royal Commission of Inquiry Report’s Findings

The RCI, which started in 2012, began the finding section in its report by firstly clarifying the terms between illegal immigrants, refugees and stateless persons. From the RCI perspective, the term illegal immigrants and undocumented immigrants ought to be differentiated from refugees and stateless persons. Their findings are summarized in the table below:

	Type	Remark
1	Illegal immigrants/ Undocumented immigrants	There are five categorised (Dr. Dayang Suria Mulia cited in RCI) Those who enter Sabah without proper documentation. Those who overstayed their permit

		Those who defaulted their contracts Those who abused their permits or passes Children of people born in Malaysia whose birth are not registered
2	Refugees	Those who had fled the Philippines due to civil wars. The Commissioners takes on the definition of refugees as outlined by UNHCR under the The Convention relating to the Status of Refugees 1951 as amended by the Protocol on the Status of Refugees 1967: “a refugee as a person owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.” However, Malaysia is not a signatory of this Convention.

3	Stateless persons	<p>The RCI received three definitions of stateless persons as follows: UNHCR - the notion of statelessness is based on the person who does not have a state and who does not have a citizenship. Datuk Muhammad bin Mentek (former Director of Immigration Department Sabah but now the Director General of ESSCOM) - stateless persons are those nationality not yet determined, for example, children born to immigrants who are then abandoned when their parents leave the country. The Convention on the Status of Stateless Persons 1951 and the Convention on the Reduction of Statelessness 1961 - a stateless person as a person who is not considered a national of any state under the operation of its laws. But Malaysia is not a signatory of this Convention.</p> <p>According to the UNHCR, there are approximately 62,000 stateless people in Malaysia in 2013 and most of them reside in Sabah (Ong et al., 2014, 62).</p>
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Table 2.4: Different types of immigrants in Sabah according to the Royal Commission of Inquiry Report in 2014

It is puzzling that the State/government has different and contradicting views on statelessness. Officially, under the NRD the stateless persons are non-existent.

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However, the immigration authority acknowledges the existence of the stateless people but offer two opposing views on who can be defined as stateless. One views that only the Bajau Laut population can be considered stateless while another claims that abandoned children born to immigrant whose parents have left the country are stateless to the disagreement of the former view. In addition, the RCI adopts the UNHCR definition of stateless and also the view that abandoned children born to undocumented immigrants are stateless.

Furthermore, the State also has a complicated mechanism of supplying/allowing

access into Sabah to different groups of people. The access given are in the form of citizenship, temporary employment visit pass for foreigners (PLKS), various passes for immigrants (i.e. student pass, visitor pass, social visit pass, etc.), IMM13 and HIF-22 passes for political asylum from the Philippines and Indonesia; census certificates and temporary identification receipts. The supplier of such access spans from the federal government to the local administration across multiple departments as elaborated in Table 1. Reasons for such a complex mechanism can be manifold: geography, history, local, national and geopolitics, economic and weak immigration structure.

Briefly, the reasons can be expanded as follows:

The geographic location of Sabah: Sabah's proximity to Southern Philippines and Indonesia makes it the best and easier place for political refugees to flee the ongoing political conflicts in their country: civil wars in the Philippines (1970s) and anti-communist and anti-Chinese genocide in Indonesia (1965).

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Historical linkages: Migration from Southern Philippines to Sabah has started as early as the 15th century. Before the colonial powers (Spanish, British and Dutch) draw the borders in the Sulu Archipelago and the formation of nation-states, the people in this region have been moving fluidly (See Section 2.1.1).

Geopolitics: Political instability due to the civil wars between the Moro National Liberation Front (MNLF) and the Philippine Government has caused many Muslim Bajau and Suluk (as well as Bajau Laut) to flee their country and seek sanctuaries in Sabah (RCI 2014, 234). Sabah also receives political refugees from Indonesia, who escaped

the 1965 Gestapu anti-communist, and anti-Chinese *coup-d'tat*.

Weak immigration structure: Since the 1970s, Sabah has weak border control that has allowed many refugees to enter the State without regulation. For example, one witness testified in the RCI, named Abdul Salam bin Ali from Tawi-Tawi in the Philippines, entered Sabah illegally in 1971 easily as there were no checks by the authorities (RCI 2014, 235). He was then allowed to settle in a State Government's refugee settlement (*ibid.*)

Local and national politics: The influx of immigrants in Sabah has opened up an opportunity for the then Peninsular-based Muslim incumbent political party, UMNO to expand its influence. In the 1990s, in a secret project codenamed "Project IC", Sabah National Registration Department (NRD) officials issued Malaysian identification

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documents to Muslim illegal immigrants so they could vote in a certain constituency to recapture this area from the Christian-based PBS party.

The project involved District Chiefs who were told to sign the NHR10 forms whose statutory declaration is used for applying ICs. The forms were issued by the Sabah NRD. The orders were allegedly given by the then Deputy Home Minister, the late Megat Junid, the former Sabah Chief Minister Harris Salleh and Aziz Shamsuddin, the political secretary of the former Prime Minister, Mahathir Mohammad. In that period, Sabah saw an unusual population rise of 78% (RCI, 2014). This increase coincided with the expansion of UMNO membership in Sabah from 1990 to 1995. Since 1994, the PBS party has lost all subsequent elections and has not been in control of the government.

The current Sabah government has been headed by Chief Minister Musa Aman from UMNO since 2003.

The RCI report has concluded to the “that “Project 1C” did exist” (2014, 301), but not the reasons for its existence. High-level politicians testified in the RCI has vehemently denied knowing about the Project IC. The NRD officials involved were detained under the Internal Security Acts from mid-late 1990s. More importantly, Sabah and Sarawak are seen as the voters bank for the ruling Barisan National government. Despite making inroads in the Peninsular Malaysia, the Opposition Party failed to gain access to the two Borneo states.

Economics: According to the police investigation of the “Project IC”, officials who issued illegitimate citizenship document to the illegal migrants were driven by

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economic gains. The Special Branch officer claimed that the issuance of fake ICs and documents “...were solely for the monetary benefit and nothing else.” (RCI 2014, 299).

The decline of Sabah state’s power over its immigration through the issuance of

IMM13 passes

What is equally puzzling is the role of the Sabah Immigration Department in this immigrant's saga. The department is part of the Immigration Department of Malaysia under the purview of the Ministry of Home Affairs. One wonders how the Sabah Immigration Department can then safeguard the special provisions of Sabah as stipulated in the Federal Constitution and the Immigration Act 1957/63 when it does not

report to the State government. One such example can be found in the issuance of the IMM13 passes.

Findings from the inquiry show that the direction for the issuance of IMM13 came directly from the Ministry of Home Affairs without referring to the State Government even though the State Government has special powers on immigration as far as entry into and residence in Sabah are concerned and the application of immigration laws to Sabah should be treated as a separate unit.

Section 8 of the Immigration Act states that any person who enters Sabah without a valid entry permit or valid pass or a passport is regarded as a prohibited immigrant, a category the illegal immigrants fall under. Therefore, Sabah Law

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Association (SLA) argues that the issuance of IMM13 passes to prohibited immigrants contravenes **Regulation 11** of the Immigration Regulations 1963 which stipulates that: “A visit pass may be issued by the Controller to any person other than a prohibited immigrant who satisfies the Controller that he wishes to enter the Federation - on a social business or professional visit; or for temporary employment; or as a tourist; or as a dependent child accompanying or joining the holder of a work pass in Sabah.”

However, the RCI opines that SLA’s argument holds only if the term “refugees” means “prohibited immigrants”. In the case of the IMM13 passes issued to the Filipinos fleeing the civil wars in their country, they are known as political refugees. With that regards, there is an exemption provision under section 55 of Immigration Act which ⁸ states that

a. Notwithstanding anything contained in this Act, the Minister may by order exempt

any person or class or persons, either absolutely or conditionally, from all or any of the provisions of this Act and may in such order provide for any presumptions necessary in order to give effect thereto.

- b. Every order made under this section which relates to a class of persons shall be published in the Gazette.

⁸ **Section 6** of the Immigration Act 1959/63 stipulates that no person other than a citizen shall enter Malaysia unless: (a) he is in possession of a valid entry permit lawfully issued to him under section 10; (b) his name is endorsed upon a valid entry permit in accordance with section 12, and that he is in the company of the holder of the permit; (c) he is in possession of a valid pass lawfully issued to him to enter Malaysia; or (d) he is exempted from this section by an order made under section 55.

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Evidence from the RCI shows that the Minister had issued orders to accommodate the Filipinos refugees “subjects to various conditions”. Nonetheless, SLA views that any order issued under section 55 has to comply with Part VII of the Immigration Act, in particular, section 64 and section 65 which state that “application of the immigration laws to each East Malaysian State as separate unit” and “general powers of State authority.”

Where does the Bajau Laut community fit in the picture?

The Malaysian government shows ambivalent responses towards the Bajau Laut in terms of recognizing their identity and issuing of documents to them. There is a lack of coordination and communication between the various bureaucracies in this regards. They are also too marginalized to be considered as a political entity to be given citizenship. Nonetheless, presently, the state is surveilling them as they are thought to be spies for regional security threats.

On the one hand, the federal government does not recognize any stateless persons officially; on the other hand, the Sabah Immigration Department of Malaysia identifies the Bajau Laut as stateless. In spite of that, the government allows them to stay in the Sabah Parks and other surrounding islands in Semporna, as well as in the water around the town. Their nomadic lifestyle is also featured as unique to Semporna as part of tourists attractions.

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This confusion has left a majority of them as illegal immigrants, vulnerable to the risk of being deported. According to the immigration authority, only 10% of the Bajau Laut community receives any form of documents, and it is unclear what legal paper this is. The only known document is a letter called *surat lepa-lepa* issued to them by the *Panglima*. This letter is supposed to be free of charge, but various *Panglima* charges the Bajau Laut a different fee from RM20-RM50 per head. This letter does not mean that the Bajau Laut can roam freely outside Semporna and does not guarantee any access to public good as it does not make them a Malaysian citizen.

Furthermore, there is no one channel where one can get information about the *surat lepa-lepa*. There is a lack of transparency in the flow of information between different government agencies as well as politicians. Even a state assemblyman from the neighboring constituency is not aware of the existence of the *surat lepa-lepa*. There⁹ is also no coordination between the various state departments involved in issuing passes and permits. For instance, when I queried about the *surat lepa-lepa*, the Sabah NRD directed me to the Semporna District Office, while the district office directed me to the Immigration. The state is almost unsure of what to do with the Bajau Laut.

The Bajau Laut is a non-entity and is too marginalized to be counted as a political constituency. Interestingly but unsurprisingly, the Bajau Laut community was only mentioned four times in the 2014 RCI report. There was no mention of the *surat lepa-lepa* that was only given to the Bajau Laut people in the district of Semporna. This indicates that they were probably not given any citizenship under the illegal Project IC.

⁹ in an email correspondence with a state assemblymen

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The reasons could be manifold. Firstly, it could be due to the language barrier as they only speak the Bajau language. Even the immigration officer cited language as a challenge to registering them (Ong et al., 2014). Secondly, their nomadic, boat-dwelling and subsistence lifestyle which is distinct to the modern way of living could hinder them from being included. The same immigration officer mentioned that the Bajau Laut have difficulties adjusting to land life and local food when being detained (Ong et al., 2014). Finally, religion could be another reason as many of them do not profess Islam and are animist. Hence, there are no political incentives to register them as either USNO or UMNO party member and Malaysian citizen so that they can vote.

In addition, the Bajau Laut is also caught in the ongoing securitization of Semporna due to the past security trespasses from Mindanao, such as the Moro pirates, the Abu Sayyaf kidnapping groups, and the Sulu Sultanate security forces, among others. The ESSCOM has also identified the Bajau Laut as possible spies to these regional threats. It is currently conducting censuses to profile them. This is a possible mean of controlling and surveying the seafarer community as they are deemed dangerous to the state. During my fieldwork, I was repeatedly warned by the authority and security personnels to be careful when I interview the Bajau Laut people.

The above discussion demonstrates that the Malaysian authority is unsure of how to handle the Bajau Laut predicaments as seen in its ambivalence responses towards them and the lack of coordination and communication between various government departments. The Bajau Laut stands as non-entity as any political constituents, hence, there are no political incentives to register them as citizens. Further

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to their subsistence living, their plights are intensified by the state's surveillance on them. The next section explains the state's census on them and the next chapter discusses the Bajau Laut's economy livelihood.

Demand Factor of the Access

On the demand factor of the access, the Bajau Laut want to continue to live in Sabah and be granted access to public goods. All my Bajau Laut respondents unanimously want to receive any Malaysian identity document, but are unaware of how to do it. Currently, the majority of them do not possess any form of identification documents and are in constant fear of deportation. The main reason they want a document is so that they can move freely without being detained. The only document available to them is the *surat lepa-lepa* which is issued by a *Panglima*. Only one out of my 14 respondents possesses a *surat lepa-lepa* which costs him RM30. The remaining do not own a *surat lepa-lepa* for two reasons. First, 76% of them do not know how or where to get the *surat lepa-lepa*. Second, 24% of them are not willing to pay RM50 for it because it is too expensive. One interviewee indicates that his parents used to have the pass *lepa* and it was free of charge .¹⁰

Half of my respondents indicated that they have been deported by the

immigration and police before. One of them was deported for five times, and was sent to Zamboanga twice. However, he always finds a way to return to Semporna. Two of them

¹⁰Interview with the District Officer also confirms that the *Surat Lepa-Lepa* is supposed to be free of charge.

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were sent to Bongao in Tawi-Tawi twice, but they followed their friends back to Semporna. Another one respondent was sent to Bongao once. As seen from the responses, the Bajau Laut respondents would find ways to return to Semporna even though they were sent away. The main reason is because a majority of them are born in the area of Semporna and are used to living here. Some mentioned that they are born in the *lepa-lepa*, in the sea and in Pulau Tiga. Only three respondents who are more elderly admitted to be from Tong Bangkau and Bangau-Bangau in the Philippines. For a majority of the respondents, their parents come from the Philippines such as Bangau-Bangau and Tawi-Tawi. Furthermore, most of them have not been travelling to the Philippines. Three of the respondents have not been there before, while another two last visited the Philippines three years ago. Reason given was because the Philippine is very dangerous.

The above findings show that my Bajau Laut respondents want to be incorporated into the state so that they can continue living in Sabah without the constant fear of being detained and deported.

2.3 The Bajau Laut population census

Due to their statelessness, the Bajau Laut community has no access to public goods.

Furthermore, there is no consolidated census on the Bajau Laut population. The Eastern Sabah Security Command (ESSCOM) is presently conducting a comprehensive census on the Bajau Laut community.

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As the majority of the Bajau Laut people are stateless, their census is not included into the Administrative District of Semporna's census but they are grouped as non-Malaysian citizens. The latest Semporna census in 2015 shows that 27.2% of Semporna's population is non-Malaysian citizens. This group includes the Bajau Laut, the Suluks and others.

Currently, there are three organisations that collect census information from the Bajau Laut community. These institutions also provide different kind of public goods to local communities: (a) Sabah Parks for government conservation efforts; (b) the Semporna District Office (SDO) for local community wellbeing; and (c) Eastern Sabah Security Command (ESSCOM) Office for local and national security. Sabah Parks reports to Ministry of Tourism, Cultural and Environment while both SDO and ESSCOM report to the Prime Minister of Malaysia.

(a) Sabah Parks

The census information of the Bajau Laut population in Tun Sakaran Marine Park (TSMP) was given to me during my interview with a Sabah Park officer in July 2015 for my thesis fieldwork. TSMP was gazetted as Sabah's seventh marine park on 22 July 2004 to promote the sustainable use of natural resources. It is the largest marine park in Sabah covering 340 square kilometres of sea and coral reefs and 10 square kilometres of land. It has eight islands: Pulau Bodgaya (Pulau BoheyBual), Pulau Boheydulang,

Pulau Tetagan, Pulau Selakan, Pulau Sebangkat, Pulau Maiga, Pulau Sibuan and Pulau Mantabuan.

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The TSMP's website promotes the park as a favourite dive site for its rich marine lives as well as the unique life of the nomadic boat-dwelling Bajau Laut community. From the TSMP's 2015 census carried by Sabah Parks' officers, there are currently 525 non-citizens Bajau Laut residing in six islands as tabulated in Table 2.4. However, the number is not static, as other Bajau Laut members from other islands would sometimes move into the park. For instance, in the month of July when the wind is strong in the Mabul Island, some Bajau Laut boat-dwellings community would move into the marine park without park rangers noticing.

Bohey Bual (Pulau Bodgaya)	178 (including children)
Pulau Sibuan	50
Pulau Selakan	133
Pulau Matabuan	28
Pulau Boheydulang (Kg. Dasar)	33
Pulau Maiga	103
Total	525

Table 2.4: Bajau Laut population in Tun Sakaran Marine Park

(b) Semporna District Office (SDO)

The SDO has two kinds of census data collected by the Semporna District Office through the office of the State Assemblyman. The first is the population census of Bajau

Laut residing in Kampung Bangau-Bangau, the main settlement of Malaysian Bajau Laut (Table 2.5). The second is the estimated population of the non-citizen Bajau Laut

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residing in other surrounding islands in Semporna except for TSMP, specifically four islands: Denawan, Mabul, Omodal and Salakan (Table 2.6). According to the District Officer, the number of Bajau Laut population in other islands is negligible.

	MyKad (Malaysian Identity card)		PATI (<i>Pendatang Asing Tanpa Izin</i> - Immigrants without permission)		PASPORT (legal non-citizen with passport)		Total accommodation
	Male	Female	Male	Female	Male	Female	
	2193	2375	941	1042	10	12	
Total	4568		1983		22		
Total	6573						

Table 2.5: Bajau Laut population in Kampung Bangau-Bangau in 2015 before the fire (before March 2015)

Island's name	Population
Denawan	700
Mabul	461
Omodal	85
Salakan	30
Total	1276

Table 2.6: Bajau Laut population in four Islands in 2015

(c) Eastern Sabah Security Command (ESSCOM)

Apart from the TSMP and the District Office, the ESSCOM also conducted their census on the Bajau Laut population as reported in the media since September 2013 to present (The Malay Mail Online, 2013).

The census data from ESSCOM were retrieved from two channels: (1) media reports and (2) an informal request to an ESSCOM officer. The information from the former is summarised in the following paragraphs, while I am still awaiting information from the latter.

According to the Malay Mail Online, the first phase of the census was carried out in Kampung Simunul, Semporna in 2013. This was followed by the census conducted in three islands in March 2015 with the collaboration of ESSCOM, Department of Statistic, the Semporna District Office, Universiti Malaysia Sabah, Sabah Parks Office and Sabah Health Department (SabahKini, 2015). The islands are Pulau Kelapuan, Pulau Omadal and Pulau Labuan Haji (*ibid.*).

The second phase of the census was conducted in August 2015 in two islands: Pulau Sibangkat and Terumbu Sibangkat, where an estimated of 1,800 Bajau Laut families resided in (DailyExpress, 2015). It was also known as the profiling study carried out in cooperation with the same agencies listed above. In March 2016, another profiling study was launched by the ESSCOM in five areas: Kampung Bangau-Bangau,

Kampung Halo and Pulau Tiga's Kampung Manampilik, Kampung Sepanggau and Kampung Nusa Tengah.

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Below is a summary of the Bajau Laut population census in different islands or settlements taken by the three different organizations as discussed above:

Island/Settlement	Sabah Parks (TSMP)	Semporna District Office	ESSCOM	Remark
Bohey Bual (Pulau Bodgaya)	178			In TSMP
Pulau Sibuan	50			In TSMP
Pulau Selakan	133	30		In TSMP
Pulau Matabuan	28			In TSMP
Pulau Boheydulang (Kg. Dasar)	33			In TSMP
Pulau Maiga	103			In TSMP
Kampung Bangau-Bangau		6573	Not disclosed	Citizen: 4568 Non-Citizen: 2005
Pulau Denawan		700		
Pulau Mabul		461		
Pulau Omodal		85	Not disclosed	
Kampung Simunul			Not disclosed	
Pulau Kelapuan			Not disclosed	
Pulau Labuan Haji			Not disclosed	
Pulau Sibangkat			Not disclosed	1800 families estimated by ESSCOM
Terumbu Sibangkat			Not disclosed	
Kampung Halo			Not disclosed	

Pulau Tiga's Kampung Manampilik			Not disclosed	
Pulau Tiga's			Not disclosed	

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Pulau Tiga's Kampung Nusa Tengah			Not disclosed	
Total	525	7,849	Not disclosed	

Table 2.7: Bajau Laut Population in different Islands and settlements in Semporna by Sabah Parks, District Office and ESSCOM.

From Table 2.7, we can deduce the estimated number of citizen and non-citizen Bajau Laut population as follows:

Citizen Bajau Laut	4,568
Non-Citizen Bajau Laut (525+700+461+85+2005)	3,776
Total	8,344

Table 2.8: Estimated total of citizen and non-citizen Bajau Laut population in Semporna by collating information from Sabah Parks and Semporna District Office.

The census information obtained from this exercise reveals that there are at least 8,344 Bajau Laut's people in Semporna from 19 islands and settlements (not exhaustive) as tabulated in Table 2.8. Out of which, 55% are Malaysian citizens while the remaining are considered stateless. However, we cannot assume that there are

more Malaysian Bajau Laut than non-Malaysian Bajau Laut as this number is not conclusive and the census information obtained are not comprehensive. It is more likely that the stateless Bajau Laut population would exceed the number of the Malaysian Bajau Laut population. In addition, it is also interesting to note that even though there

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are Malaysian Bajau Laut as per census provided by the SDO, their numbers are not considered in the official statistic of the Semporna census. The category Bajau Laut is absent from the 2015 census.

We can argue that the census and profiling study carried out by the ESSCOM as the most comprehensive information providers among the three, is an attempt by the state at “legibility and simplification” (Scott 1998, 2) due to the security risk allegedly posed by the Bajau Laut. It ignores the local knowledge and the historical linkage where the Bajau Laut community was once moving freely across borders between Semporna, Southern Philippines and Eastern Indonesia (Sather 1997). Indeed, as argued by Scott (1998), these border-crossing are incongruence to the government's interest in security.

However, what remains uncertain is how would this population census fit into the concept of a uniform and homogenous citizenship as suggested by Scott (1998) since a large part of the Bajau Laut population are considered stateless. How would the provision of public goods be extended to this stateless group, which is the poorest of the poor? What kind of public goods can/will the state provide for them? Would the state continue to rely on the NGOs to distribute donations to the Bajau Laut community as suggested by the ESSCOM? Further attention and research should be given into this topic to find solution to this long-standing issue.

2.4. Conclusion

The discussions indicate that the Bajau Laut community are trapped in between a weak state capacity and realpolitik that have undermined their position as the indigenous people in the region. A distinct way of living in a nomadic manner without knowing the national language, Bahasa Malaysia and having no religion have rendered them a non-entity to political elites. Therefore, there are no incentives to register them as Malaysian citizens. They are trapped being stateless and living in a subsistence manner with no access to electricity and fresh water, as well as education and health. The next chapter further elaborates their economic lives.

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CHAPTER 3: THE BAJAU LAUT AND THE LOCAL ECONOMY

This chapter analyzes how the livelihood of the Bajau Laut community is intertwined with the local economy in Semporna, yet they are alienated from receiving public goods as a result of their statelessness. The chapter is divided into four sections. Section one examines the income generation and consumption profile of my fourteen respondents using Banerjee and Duflo (2006)'s "The Economic Lives of the Poor" as a reference. I calculated my interviewees' average weekly income against each consumed item as found in their consumption patterns, such as tapioca and rice, water, petrol and fishing

equipment. I further explore my respondents' attitude towards risks and the environment. On risks, they associate their life with a high level of uncertainties and income volatility which they perceive as fate. On the environment, almost all participants know the danger of the use of cyanide and fish-bombing to the sea and their health.

Section two investigates how the Bajau Laut contribute to the local economy despite being a non-entity to the state, in particular, their role as the main provider of the Live Reef Fish Trade (LRFT), and briefly discusses their occupational profiles such as dried fish sellers, carpenters, cleaners, maids, etc. Section three elaborates on the Bajau Laut's exclusion from the social safety net provided by the states, and analyses my respondent's attitude towards education and health. Finally, section four discusses how various non-state actors, in the absence of state service providers, deliver

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education and food to the Bajau Laut community. Non-state actors like the Society for Education of Underprivileged Children in Sabah (PKPKM), a local NGO, provides free education to the Bajau Laut children while a tour operator controversially gives food to the community by organizing paid tours to the Bajau Laut settlements.

3.1 The Economic Lives of the Bajau Laut

An extremely poor person does not have choices on how to spend her/his money according to common belief (Banerjee and Duflo 2006). However, Banerjee and Duflo (2006) argue that the poor, an average person living below USD 1, see herself/himself as having the power to choose what to spend on. For instance, a poor household in Udaipur spends 30% less on food than it could (*ibid.*). The following consumption profile

of the Bajau Laut's household follows Banerjee and Duflo's cross-country documentation of the economic lives of the poor's (those who live on less than \$2 per day per capita at purchasing power parity) income generation and consumption pattern.

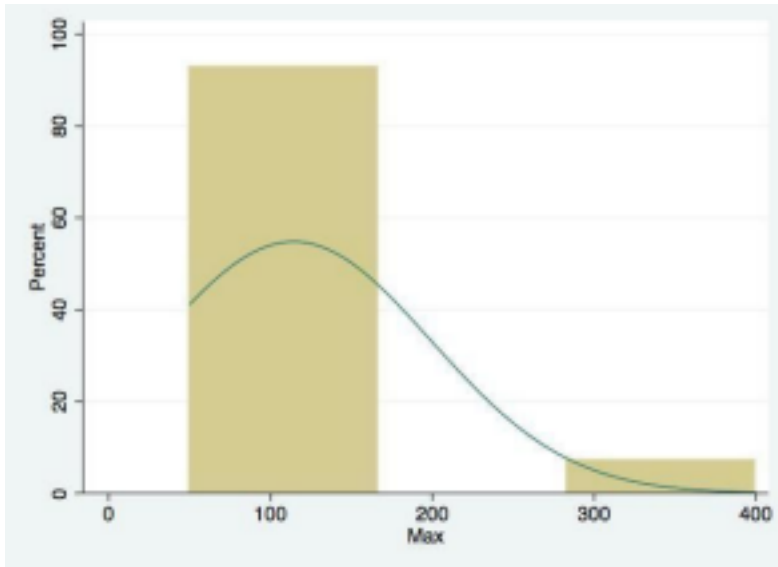
3.1.1. Income and assets

The findings from my fieldwork reveal that the Bajau Laut household's key source of income is fishing activities through the Live Reef Fish Trade (LRFT) as well as by making and selling salted fish. For the Bajau Laut women, some of them work as cleaners and maids to wash clothes for other community. A few women also earn extra income through crafts (this part will be further elaborated in section 3.2.1.).

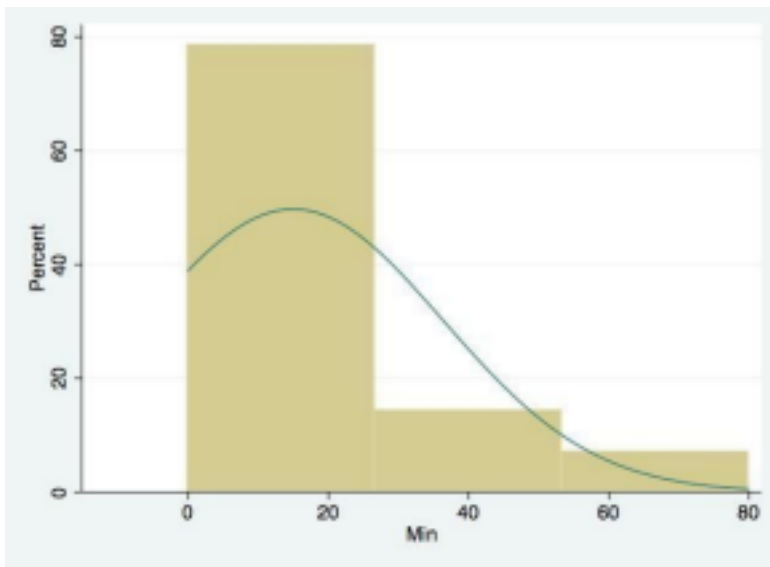
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According to the survey of the 14 Bajau Laut households, their average income is around RM52 per day. However about 90% of the respondents said that their maximum earning a day is between RM80 to RM150, while about 80% of them indicated that their minimum income per day is from RM0 to RM25. Refer to Graph 3.1 and Graph 3.2 for a histogram of their highest and lowest income.



Graph 3.1 Histogram of the possible maximum income a day a Bajau Laut fishermen/household can get



Graph 3.2 Histogram of the possible minimum income a day a Bajau Laut fishermen/household can get

In terms of asset ownership, the respondents own a *lepa-lepa* and/or a stilt house as a mean of shelter. The *lepa-lepa* is also a mean to their source of income because it is the vessel for their fishing activities and transport to sell their fishes. About 43% of the respondents also own stilt houses where they either live with their family or with extended family. A typical family has three to seven children, depending on the years of marriage. From the interview, participants indicated that the *lepa-lepa*'s cost ranges from RM500-RM3000. Individually they spent RM500-RM600, RM1000, RM2000 and RM3000 each on a *lepa-lepa*, which is often either self-made or have others build for them. As for the stilt houses, 33% of the respondents who owns one said that they make it themselves.

3.1.2. Consumption profile

An average Bajau Laut household's consumption pattern can be divided into (1) what it consumes on and (2) what it prefers to spend on with extra cash.

Firstly, results from my interview shows that a Bajau Laut household generally spends on food, water and mobility item and shelter. The Bajau Laut basic food necessity is rice, tapioca and fish. They typically eat the fish they caught. Therefore, they only spend money buying rice and tapioca mostly. A pack of tapioca costs RM7 can be consumed by seven people and a bag of 5kg rice costs RM17 is for the consumption of 10 individuals. As the Bajau Laut have no access to clean water, they need to buy fresh water for drinking. One gallon of water costs RM0.50, and they normally need 2 gallons of water per week for one family. Interestingly, half of the respondents indicated that they sometimes still do barter trade for their food and water with the fish they caught. On mobility, the Bajau Laut spends on petrol for those who have a *lepa-lepa* with an engine. They pay between RM20-RM50 for a return trip to Semporna. Some of them visit Semporna once every 2-3 weeks, twice a week or even 2-3 times a week.

Secondly, if a Bajau Laut household has more money, it prefers to spend more on food, clothes and shoes, entertainment items, kitchen utensil and mobility items as well as on saving. With the extra cash, the Bajau Laut would buy more kitchen utensil and groceries. One respondent who lives in a *lepa-lepa* mentioned that his household borrows stove from his sister-in-law daily. After finished cooking, his wife would need to

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return it. Apart from the stove, their houseboat lacks proper kitchen utensils like plates, bowls, forks, spoons and cups. There is also no sight of extra food in the house or boat. Entertainment items the Bajau Laut respondents indicated that they want are cigarettes

and TV. It is a surprise that the Bajau Laut would want to own a TV because they do not have access to electricity. In the Omadal island, only very few stilt houses have a generator to power radio/cassette player at night, perhaps for entertainment use. When night falls, I could hear music and singing from the Bajau Laut settlement in pitch darkness when I was there. Mobility items they want are new engines and better roofing for their *lepa-lepa* or a new boat. It is a sensible choice to invest in their *lepa-lepa* as this is also their source of income. A better engine and boat can help to increase their fishing productivity as it will take lesser time for them to travel from one place to another.

The Bajau Laut like to buy gold for saving purposes since they do not have access to the banking system. Gold can be pawned for money in rainy days. It is easy to pawn gold in the Semporna town, since there is a row of gold shops in the vicinity of the town about 5 minutes walk from the market and public pier. From interviews with local communities, the Bajau Laut community also spends on festivals like wedding celebrations. During a wedding ceremony, the Bajau Laut people will sing and dance their traditional dance known as *igal-igal*. The dance could be one of the few forms of entertainment they have.

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(a) Share of expenses according to their average earnings

Using the average income of RM52, a calculation obtained from the interview data, a Bajau Laut household of seven earns RM364 in a week if they work every day. By considering a family's consumption pattern as discussed above, I calculated how much its weekly income is spent on each consumption. The essential items a Bajau Laut

family spends on are food such as tapioca and rice, water, petrol for fishing and marketing trips to Semporna and fishing equipment.

Bajau Laut parents with five children spend at least 64% of their income on food and water. They also spend about 24% on petrol to fuel their *lepa-lepa* and 1% on fishing equipment. The remaining 11% of the earning can be consumed on more food, clothes and shoes, entertainment items like cigarettes, kitchen utensil or for saving.

However, if a Bajau Laut fisherman only manages to work for five days in a week, since fishing activities are very much dependent on the weather and their life is often characterized by uncertainty, his weekly income would be RM260. In this case, the household budget will run over by 20.6%. This household would have then spent 86% of its income on food and water, 37% on petrol and 2% on fishing equipment.

According to Sabah's Poverty Line Income (PLI) of RM1,090 a month for a family of five, the PLI for a family of seven would be RM357 a week. This amount is slightly below RM364 (BL's 7-day-weekly-income) and above RM260 (BL's 5-day-weekly income). This weekly income means that when uncertainty weighs in, a Bajau Laut

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household from my interview lives below the PLI. This shows a difficult living condition as even the PLI is contested to be unrealistic because it is too low.

3.1.3. Attitude towards risk

Living on the sea, Bajau Laut view their lives with a high level of uncertainty. For many, living on the sea is unstable and they face income volatility as their income is dependent

on the change of weather. If the weather is too windy, they may not be able to go fishing and may end up not eating for the day. A respondent commented that their lives at the sea as “*binasa di laut*” which means “perish at sea”.

My Bajau Laut interviewees’ outlook on uncertainty is characterised by a strong belief in fate. They resign their lives to whatever fate brings. To the question of how much they earn a day or how much fish they catch a day, it is often met by “*ikut nasib*” which means depends on fate. When probed further, the fishermen reveal that they get between RM30-RM60 on average. The ranges are RM30-RM50, RM40-RM50, and RM50-RM60. At most, a Bajau Laut fisherman can make about RM100 a day, but the occasion is rare. At times, they would not gain anything especially when the weather is bad. Graph 3.3 shows a histogram of income volatility faced by my respondents. Almost 90% of them experience income volatility between RM50 to RM150 in a day.