

Unmoored Boundaries: Bajau Laut and Mobility Perspectives in Maritime Southeast Asia

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Abstract

The existence of rigid, statistically-driven, state-centric languages of policymaking are often used to solve the complexities of the worldwide migration crisis. But the maritime nation-states of the Sulu maritime borderlands (using Malaysia, Indonesia and the Philippines as examples), experience similar mass migration concerns, which are exacerbated by the presence of littoral communities and large water bodies that policymakers are believed to misunderstand. Using the nomadic Bajau Laut community as an entry point, this article explains why there is a pressing need to recognise mobility sentiments and practices against international migratory policies, especially when the further development of such laws does very little to cease the everyday practices and alter the maritime worldview of this community.

Keywords: migration, mobility, maritime borders, Bajau Laut community

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Introduction

In 2017, I met Freddy, a 33-year-old native of Lahad Datu, an eastern coastal town in the state of Sabah—one of two Malaysian states on the Island of Borneo. While he self-identifies as a native, this label is highly controversial, especially since Freddy, a non-citizen of the state, is an undocumented irregular migrant of Bajau Laut descent. He is perceived by the state and a number of indigenous groups as a threat to state security. Approximately half a million, like Freddy, live in Sabah, and for decades, have been accused of invading the state with their foreignness.

Freddy tries not to let these debates consume him and does what he can to keep the family afloat. While he supports his family through a series of odd jobs such as collecting and selling scrap metal and car washing, his primary income comes from teaching children basic arithmetic at an alternative learning centre, a mere ten-minute walk from his village. He tells me he is greatly attached to the centre as he was, like his siblings and now his children, a product of the centre. “*Bacak, tulis, kirak seya samua dari sana bah* (I learned to read, write and count there)”, he explains.

He explains that life has always been difficult for stateless people like himself living in the state of Sabah in Malaysia, especially in the coastal town of Lahad Datu. In 2013, the town made international headlines when over 200 men self-identifying as “the Royal Sulu Army” illegally entered the state from southern Philippines on the basis of reclaiming the state due to a century-long territorial claim. The incursion ended in violence with most of them killed through air strikes initiated by the Malaysian military. Since the incursion, Freddy has admitted to feeling constantly on tenterhooks, as he shares a similar ethnic composition as the 200 men. He explains, “*nah seya la urang paling durang takut* (see, I am the one they fear the most).”

Without wanting to offend, I was keen to understand how an individual without any social, economic or political currency could ever come across as a threat to authorities, apart from being labelled an illegal migrant. Freddy explains that because he is stateless, he continues to maintain a geographically fluid way of life, and this translates as unanchored and disloyal to the Malaysian state.

“Tia sukak bah durang. Kesana, kemari jak kami kan. Padahal ini lah kampung kami ni sampai di sabrang. Teda guna durang bikin undang-undang jugak lah tu. Tau la kami maritim mau jaga belah-belah durang tu, pilipin sama Malaysia, tapi bagi kami ni, sudahlah ditindas, ini jak dunia kami. Ini jak cara kami ni. Teda la kami ni bahaya. Siapa mau cari penyakit bah kan? Tapi tatap jugak kami ni musuh dimata durang. Tapaksa la kami cari jalan hidup kami sandiri”
(They don’t like us. We’re just seen as inconveniencing them with our movements. But our village is from here to across the sea. I suppose their laws have no power on us. We understand both Malaysia and the Philippines have to monitor these maritime spaces, but for all of us that are already so oppressed, this is the only world we know. This is our way. We are not a danger. Who wants

to cause trouble anyway? But we continue to be seen as enemies in their eyes. We are forced to find ways of surviving.)

What is interesting about Freddy's family but certainly not unique to this phenomenon is that, through marriage, he is also related to native Sabahans who are also Malaysian citizens, all of whom share a common position of the inconvenience of the existence of Sabah's maritime borders and policies. A cousin of Freddy's, who wanted to be identified at Mir, is a Malaysian citizen, equipped with legal documents all of which she obtained upon birth through her mother who was also a Malaysian. She, like Freddy lives in legal precarity, but as her father was undocumented, her parents' marriage was never recognised, and thus a Malaysian mother who has a child and does not declare her marriage to the state is able to pass her citizenship down.

Mir explained that in recent years—and together with relatives who are undocumented like Freddy—she has made boat trips back to visit grandparents and other family on Mindanao and the Palawan islands. She said that such journeys must be taken with adept boatmen who are able to navigate, or if intercepted, engage with maritime authorities, which helps them get to their destination. She said these journeys are never easy for those who travel but are necessary simply because “*kampung kami bah tu*” (It is our village). When I asked her how she felt about the international laws forbidding such crossing between both the Malaysian and Philippines waters, her tone echoed Freddy's: “*Bagitu la, mimang tugasan durang bah kan? Tapi kin susah jak kami. Nda bulih juga kami brenti tinguk family kan? Tu la, susah.* (That's it I suppose, they (governments) have a job to do, don't they? But such an inconvenience for us. We cannot exactly stop seeing our family, can we? So that's the problem, it's an inconvenience.)”

While this seems anecdotal, I argue it is anything but; data from families like Freddy's and Mir is a reflection of the large disconnect between ongoing international maritime policy enforcement and development and centuries of pelagic living from tens of different coastal ethnic groups found between Malaysia, Philippines, and Indonesia. In the study of maritime Southeast Asia, water bodies when examined from historical, sociological, cultural, political and economic perspective reveal historic and contemporary importance. Within these intellectual discourses, the highlight is the fact that movement within the oceans and seas is fluid, and borders are porous. States within the region which include Brunei, Indonesia, Malaysia, the Philippines, Singapore and ASEAN observer Timor-Leste, saw free movement among the population. Within the context of policy studies, fluid movement and porous borders are equated with current narratives of security and a host of challenges that pose a threat to maritime security within the Indo-Pacific.

Despite the routine nature of these maritime activities, contentious maritime spaces within the Indo-Pacific—such as the Sulu and Celebes Seas—are perceived as porous danger zones. Protecting these areas is not only intended to safeguard the sovereignty of the respective member states but also to secure potential control over maritime trade and economic development, which is currently lacking. This is especially relevant with the development of Nusantara, Indonesia's new capital in Kalimantan, its portion of the island of Borneo. Thus, laws and policies crafted in the name of protecting these spaces are seen by those living in them as rigid and overly regulated; for residents like Freddy and Mir, they have learned to recognise the laws imposed over those spaces, but also reject their presence over their need for mobility within these seascapes.

This article offers an interpretation of how maritime communities react to the rigidity of maritime borders and argues that grassroots maritime movements in Southeast Asia will continue despite the ongoing enforcement of ASEAN's maritime policies of security.

Challenges to maritime security in the Indo-Pacific

The Indo-Pacific region spans a large geographical area, from the eastern part of the Indian Ocean to the west coast of the United States, connected by the Straits of Malacca (Tertia and Perwita 77). Comprising 40 countries which make up 65% of the world's population (Government of Canada), it is an area of considerable economic importance—it is home to nine out of ten of the busiest sea ports in the world and contributes 62% of the planet's Gross Domestic Product (GDP) (Rahman et al. 2). Approximately 60% of global trade passes through the region's sea routes, with a third of it passing through the South China Sea (Tuan 126). Due to its economic and geopolitical importance, the Indo-Pacific holds strategic significance for countries such as the ASEAN member states, China, India, Japan, Australia, and the United States (US) (Tertia and Perwita 77).

Although maritime areas constitute a significant part of the Indo-Pacific region, maritime security issues have historically been approached through region- and state-centric frameworks rather than as a comprehensive, collective priority. Mechanisms such as the Five Power Defence Arrangements (FPDA), ASEAN Defence Ministers' Meeting Plus (ADMM+), ASEAN Regional Forum (ARF), and the Expanded ASEAN Maritime Forum (EAMF) demonstrate that maritime security has been a long-standing focus for major Indo-Pacific states, including those within ASEAN. However, despite these initiatives, the prominence of maritime security in broader national and regional strategies has only recently escalated, particularly in light of intensifying disputes over territories and sovereign rights to resources in areas like the South China Sea (Hasan and Jian 148). While most disputes are addressed through mechanisms like the United Nations Convention on the Law of the Sea (UNCLOS), China's rise and its expansive claims in the region have heightened tensions. Its assertive actions have not only challenged Southeast Asian states but also drawn superpowers such as the US into the region to act as counterbalances to maintain security and stability (148).

Incidences of piracy and armed robbery in the Indian Ocean and South China Sea place the region second only to Africa. 2020 saw 103 incidents taking place or a 16% increase of incidents within the region (Joubert 17). Complicating the matter further, the Sulu-Celebes area presents another challenge with its historically porous borders and cross-national familial bonds where migration between states is normal (Amling et al. 69). This gives way to frequent incidences of maritime terrorism within the Sulu-Celebes area with groups like Abu Sayyaf Group and Bangsamoro Islamic Freedom Fighters (BIFF) relying on the waters and porous borders to smuggle their supplies and recruits, as well as engaging in kidnappings at sea to finance their operations (Curran et al. 34). It was found that the area faced increased insecurity during the COVID-19 pandemic, as government defence budgets decreased in order to tackle the outbreak (Salleh).

Aside from these traditional threats, the region also faces environmental challenges namely in the form of illegal, unreported and unregulated (IUU) fishing, the rise in sea levels due to climate change, natural disasters, and loss of biodiversity which negatively impacts the lives of the coastal communities (Hangzo 29).

International and regional mechanisms to tackle maritime insecurity

As of 2021, Asia retained its position as the world's leading maritime cargo handling centre, responsible for 64% of imports and 42% of exports (United Nations Conference on Trade and Development 6), as well as becoming the centre of global manufacturing (9). Due to its role in the global supply chain economy, most, if not all, nations have a stake in safeguarding the sea route. Unsurprisingly, maritime security in the Indo-Pacific has become an important policy focus for the US as well as the European Union (EU).

International mechanisms

Dating back to World War II, the US acknowledges that its security and economic prosperity is intrinsically bound to the fate of the Indo-Pacific. The US considers itself as an Indo-Pacific economic power and is vested in expanding its economic leadership in the region. It is the leading exporter of services to the Indo-Pacific. In 2020, US direct foreign investment (FDI) in the region surpassed USD 969 billion. The White House estimates that trade with the Indo-Pacific allows inflows of almost USD 900 billion of FDI to the country and sustains more than three million jobs for its citizens (The White House, *Fact Sheet*). In mid-2022, the Biden administration signed the Indo-Pacific Economic Framework for Prosperity with Australia, Brunei, India, Indonesia, Japan, Republic of Korea, Malaysia, New Zealand, the Philippines, Singapore, Thailand, and Vietnam (“The United States Launches the Indo-Pacific Economic Framework” 868). Given how vital Asia is to the American political-economy, US maritime strategy is centred around the maintenance of free sea lines of communication (SLOCs) (Andrews-Speed and Len 22).

Therefore, China's foray into this sphere of influence is a cause for concern for the Americans. The official Chinese Navy doctrine of 2004 outlines “anti-SLOCs operations” as part of its military campaign (Bradford 187). While the primary function of China's anti-access/area denial (A2/AD) capabilities is to deter a possible conflict with the US over Taiwan, these capabilities can also be used to hinder others from operating in regional sea lanes. China's anti-ship ballistic missile (ASBM)—designed to hit warships at sea covering a range of 540 to 1,000 nautical miles—is able to attack ships crossing the Straits of Malacca, the South China Sea, and Japan (Balasubramaniam and Murugesan 100). On top of that, China also has other A2/AD capabilities which have the capacity to strike at all the key Indo-Pacific sea lanes (Bradford 187). China's push for dominance in Southeast Asia, along with the lack of transparency in its country's naval build-up, fosters distrust and creates the need for US military posturing in the region to serve as a counter to Chinese influence and preserve stability and the rule of law (The White House, *Indo-Pacific Strategy* 5).

Simmering tensions between the two nations could potentially boil over into a Sino-American war or even World War III (Tuan 126). China has shown that it is not afraid to take unilateral action to advance its interests. In 2016, China rejected an international tribunal ruling in favour of the Philippines regarding certain issues pertaining to the nine-dash line on the grounds of “historic rights” (Pemmaraju 265); and over the years, China has reclaimed land in the South China Sea to build islands and has set up runways, ports, and military outposts in the Paracel and Spratly Islands, in addition to the militarisation of Woody Island through the deployment of cruise missiles, fighter jets, and a radar system (Centre for Preventive Action).

While the US recognises the Chinese threat (The White House 5), it remains impartial to sovereignty claims and relies on UNCLOS to resolve maritime disputes as the treaty provides clear guidance on how to settle them without the use, or the threat, of force as per customary international law (Kim 131).

Much like the US, the EU is also dedicated to the maritime security of the Indo-Pacific as almost 75% of imported goods to the continent is obtained via sea, with 40% of trade volume crossing the South China Sea. Freedom of navigation in the oceans is vital to ensure “the smooth running and growth of the global economy and digital telecommunications via a vast network of undersea cables” (Pacheco Pardo and Leveringhaus 7). China’s antagonistic behaviour in the East and South China Seas is worrisome and is seen as a response to the US’ pivot to the Asia-Pacific which was set in motion during the Obama presidency and has continued during the Trump and Biden administrations (8). Any disruption of maritime trade in the Indo-Pacific will have an adverse effect on the lives of everyday Europeans.

As such, the EU is advocating for a larger naval presence in the Indo-Pacific through the Coordinated Maritime Presences (CMPs) (17). Under its Strategy for Cooperation in the Indo-Pacific, the EU seeks to promote a regional security architecture which is open and rules-based, intensify the naval presence of EU member states in the region, assist in the capacity-building of its regional partners in tackling maritime security issues and cybercrime, strengthen ocean governance in the Indo-Pacific by ensuring adherence to international law, and implementing the Sustainable Fisheries Partnership Agreements to combat IUU fishing practices (Lim).

Regional mechanisms

ASEAN

ASEAN is committed to promoting maritime security, among others, through its Expanded ASEAN Maritime Forum (EAMF) , a platform for dialogue and cooperation between ASEAN member states and other stakeholders to enhance maritime security in the region (ASEAN, *Maritime Cooperation*). The ASEAN Regional Forum (ARF) also serves as a platform to exchange views on “the coordination between various regional maritime-related bodies and maritime security matters, including the safety of navigation and sustainable marine development” (ASEAN Secretariat 3). Inter-sessional meetings held during the various ARFs have discussed pertinent issues such as enhancing the capabilities of the ASEAN member states to detect, deter, and respond to maritime threats, such as piracy, armed robbery, illegal fishing, and trafficking in persons. They have also called for increased cooperation and information sharing amongst its members to improve regional maritime awareness. (3).

ASEAN is also party to the Code for Unplanned Encounters at Sea (CUES), which seeks to reduce the risk of maritime incidents between parties to the agreement—the list includes Australia, Canada, Chile, China, France, Japan, New Zealand, Papua New Guinea, Peru, Russia, South Korea, Tonga, and the United States—and reduce potential conflict escalation, alongside promoting safe navigation in the region (US Department of the Navy 17). In addition, ASEAN has adopted the Declaration on the Conduct of Parties in the South China Sea (DOC), which calls for the peaceful resolution of disputes, freedom of flight and navigation, as well as the practice of self-restraint in the conduct of activities (ASEAN, *DOC*).

The existence of these mechanisms allows for regulation of state behaviour with regards to the oceans and seas, allowing for the creation of diplomatic ties, and peaceful means to settle disputes. It also highlights the areas of common interest that could benefit from collaborative efforts. One such endeavour is the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against Ships in Asia (ReCAAP). In doing

so, nation-states are cooperating to ensure safe passage for trading of goods and produce, whilst simultaneously ensuring their boundaries are protected (ReCAAP Information Sharing Centre). UNCLOS provides guidelines for state behaviour with regards to the ocean on issues such as territorial disputes, which is crucial for the region as multiple states have laid claim to areas in the South China Sea (Tertia and Perwita 79).

In the case of external threats, states have formulated national strategies or have entered into multilateral partnerships to safeguard their common interests. These measures are key to regulating state behaviour at the international level, providing avenues for dispute settlement, in addition to access to diplomacy in order to prevent potential conflicts from escalating.

Malaysia

Maritime security is a priority for Malaysia and the government has taken a number of measures to strengthen this domain. The Royal Malaysian Navy has been given the primary responsibility for the protection of waters and coastal areas, and the Malaysian Maritime Enforcement Agency (MMEA) has been established to enforce laws and regulations related to maritime security. The MMEA works closely with other agencies including the Malaysian Customs Department and the Royal Malaysian Police (Krishnan).

The state relies on its Defence White Paper, which was published in 2019, the Maritime Defence Strategy, the Maritime Security Act, as well as the National Security Policy as a framework for its maritime security push (Krishnan). Among the issues outlined by the National Security Policy as a “threat to national security” include overlapping claims of sovereignty, trans-border crimes such as smuggling (wildlife, drugs, weapons, etc.), trafficking in persons, piracy, and the influx of illegal immigrants (National Security Council 28).

On 10 December 1982, Malaysia signed UNCLOS and later ratified it on 14 October 1996 (George 78). UNCLOS is of critical importance to Malaysia, as it sets out the rules and regulations governing the world's oceans and seas, providing the legal framework for the sustainable use of marine resources, including fisheries, oil and gas exploration, and the protection of the marine environment. Malaysia is particularly concerned with the delimitation of maritime boundaries, dispute resolution, and the conservation of marine resources. UNCLOS also provides Malaysia with the right to exploit its marine resources within its exclusive economic zone (EEZ) as well as the right to establish a continental shelf. These rights are especially important for the country, as it is a producer of oil and gas (Zulkifli and Zahari 1-2). Additionally, UNCLOS provides the legal basis for Malaysia's ability to participate in international fisheries agreements. As a maritime state, Malaysia has a vested interest in the conservation and management of marine resources, and UNCLOS is a critical part of this process.

Impact of maritime policies on littoral communities

Ongoing debates on international, regional, or domestic policies often translate into daily inconveniences for coastal communities, affecting their access to work, social connectivity, and native practices. Consequently, this gives rise to other social problems. The rigid governing of water boundaries within Malaysia has seen major problems surrounding migration, parallel to the situation of displaced migrants and refugees from Myanmar, Sub-Saharan Africa, and Syria (Braithwaite et al. 5).

A different point of view

For the Bajau Laut or Sama Dilaut, a community living on boats or in huts by the water, their lives are tied to the ocean. Historically, they have resided in the Sulu-Celebes region which today forms part of eastern Sabah in Malaysia, southern Philippines, and eastern Kalimantan, Indonesia (Clifton and Majors 717). To them, the ocean is more than just a place of residence or a means of daily survival. Their relationship with the ocean is a crucial part of their community: it is central to their belief system as ancestral spirits are believed to reside within the life forms, it also determines social hierarchy and cohesion within the group (721).

Before the arrival of colonial powers in Southeast Asia, sea nomadic groups (also known as the *Orang Laut* or Sea People in English)—which included the Bajau Laut people—were a very well-respected community with close ties to the Malay kingdoms of Srivijaya, Majapahit, Borneo, Kalimantan, Sulawesi, Sulu as well as those on the Peninsula (Chou and Wee 328-329). Their skill in navigation accorded them a significant role in the political and economic activities of that era; they were even given the title “*Datu*”, which carried the same social status as local gentries in hinterlands and coastal areas. Mundayat and Dahiru observed that the Orang Laut were not merely nomads, but were considered “rulers of the sea” (Mundayat and Dahiru 55).

The advent of colonialism saw the colonial powers carving up their territories according to their spheres of influence, thus upending the Orang Laut nomadic way of life. The introduction of steam engines and the expansion of colonial maritime power relegated the Orang Laut to the periphery of society, where they experienced economic, political, and socio-cultural marginalisation. Prior to that, these seafarers were able to roam unimpeded “within their social network” in the seas which were not dependent on strict geographical boundaries (52). Attempts to bring them into the fold of modern society were unsuccessful. The Bajau Laut still subscribe to the idea of a borderless Nusantara or Malay archipelago. It shapes their understanding of the world. The notion of territorial boundaries by the Bajau Laut differs from the conventional understanding of the concept. Rather than borders divided among states, they perceive it to be the “farthest distance they can reach (by boat fishing)” (Chiew). And with familial bonds dispersed within the tripoint, the Bajau see movement between these areas as fluid and natural (Wan Hassan and Peters 188).

The term “pelagic alliance” best describes how the Bajau Laut, along with numerous other seafaring and mobile communities, perceive sea borders and citizenship in contrast to land-based notions (Somiah). Across the Sulu Sea and the broader Malay Archipelago, these communities have, for decades, regarded the waters as integral to their identity, galvanised by the concept of maritime allegiance. They see themselves as citizens of water borderlands—fluid, interconnected spaces that challenge and often inconvenience the rigid territorial frameworks of modern sovereign states.

Statelessness and the villainisation of littoral communities

Post-Westphalia, the international system has adopted a nation-statist view where boundaries are clearly drawn and state sovereignty is paramount. Citizenship is one of the key features of this, and it is enshrined within the United Nations Declaration of Human Rights (Ganczer 18). However, not everyone is privy to this, as is the case for the Bajau Laut.

The United Nations High Commissioner for Refugees (UNHCR) estimates that there are around 10,000 stateless people in the Peninsular, with undetermined numbers in East Malaysia (UNHCR). According to the 1954 UN Convention relating to the Status of Stateless Persons, a stateless individual is someone who is “not recognised as a national by any state under the operation of its law” (UNHCR 3). However, the convention stipulates that, in some cases, stateless people should be granted certain rights that are on par with a citizen of a country such as freedom of religion and education for their children. For other rights, such as the right to employment (as prescribed in Article 17), Article 18 states that stateless persons have the right to self-employment, while Article 19 specifies that they should be permitted to practice liberal professions. Similarly, for rights such as housing and association, stateless individuals should be granted the same rights as non-citizens in the state (UNHCR 12).

Malaysia is not party to the 1954 Convention nor the 1961 Convention on the Reduction of Statelessness as the Federal Constitution has provisions which prevent and reduce the problem of statelessness in the country (Selvakumaran et al. 354, 365). Among them include a child born in Malaysia who does not have citizenship and cannot acquire citizenship of another country within a year of birth is legally a Malaysian citizen; the Constitution also allows for citizenship through the process of naturalization and prevents citizenship deprivation if it would lead to statelessness. Nevertheless, there are some glaring gaps in the country’s citizenship laws: foundlings born in the country and children born overseas to Malaysian mothers do not automatically obtain citizenship as a right. For the latter, citizenship will only be acquired by descent, i.e., if the father is of Malaysian nationality. Other than that, there is no provision in the Constitution that prevents the relinquishment of nationality, even if it results in statelessness (UNHCR 2).

Allerton observes that although laws exist to prevent child statelessness, in practice, the path toward gaining Malaysian citizenship for potentially stateless children is difficult and disingenuous (Allerton 251). She argues that political will is important in dealing with the issue as “statelessness is fundamentally an issue of (social, moral, and political) recognition and is not simply a question of the lack of citizenship” (251). As they are nomadic, there has never been a need for the Bajau Laut to stay in one place and lead sedentary lifestyles. Now, however, they belong nowhere. Intergenerational statelessness is a problem they face as their children are unable to claim citizenship in Malaysia based on the principle of *jus sanguinis* due to the undocumented status of their parents and grandparents (Razali 7).

Under Malaysian law, asylum seekers, refugees, and the stateless are categorised as illegal immigrants or *Pendatang Asing Tanpa Izin* (PATI), and as such, are unable to enjoy basic rights within the state. Without proper identification, the Bajau Laut are deprived of property ownership, in addition to access to government services such as healthcare and education (Somiah and Domingo 7, 21). This presents a bleak future for them and especially for the children, rendering them vulnerable to exploitation. This results in a vicious cycle of socio-political and economic poverty. Attempts to remedy this, on humanitarian grounds, have seen the

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establishment of alternative schools in Sabah (Zahan and Chen). This amounts to a band-aid solution to the problem as they would still be unable to undergo national examinations or obtain certification, hindering them from being gainfully employed in the long run.

On top of that, the lack of documentation restricts their freedom of movement and places the Bajau Laut at risk of arrest and deportation, especially if caught trespassing or migrating between the three areas of Sabah, Kalimantan, and southern Philippines. The problem is further aggravated when non-recognition in media and political discourses dismiss statelessness as a non-issue. For instance, in 2015, then Home Minister Datuk Seri Dr Ahmad Zahid Hamidi claimed that there were no stateless people in Malaysia as technically no individual would be allowed into the country without valid travel documents (Allerton 260). This, therefore, implied that statelessness is a “non-problem” for Malaysia as the issue of illegal immigrants is the purview of *other* states (261).

The maritime policies that are in place have further alienated and exacerbated the problems faced by the Bajau Laut people. For instance, these policies have encroached upon and led to the exploitation of resources in the traditional roaming areas of the Bajau Laut, such as overfishing, oil and gas extraction, and tourism development, which have led to the depletion of the natural resources that are essential to the community’s survival (Mundayat and Dahiru 52). The region’s coral reefs, a source of protein and local trading wealth for centuries, are under threat of extinction.

The gazetting of the Tun Sakaran Marine Park in 2004 which covered an area of 340 km, deeply affected some 2,000 Bajau Laut living in the area (Wan Hassan and Peters 192). Likewise, the establishment of the Eastern Sabah Security Zone (ESSZone) in 2013—following the incursion in Lahad Datu by armed militants from the southern Philippines—and the creation of the Eastern Sabah Security Command (ESSCOM) in 2014 to prevent similar incidents, as well as to curb robberies and kidnappings at sea, have only exacerbated the challenges faced by the Bajau Laut by restricting their freedom of movement in these waters (192). It is important to note that while the Philippine government attempted to defuse the situation with the Malaysian government by instructing the militants to return to Southern Philippines, the Sulu army mercenaries were part of a private force instigated by the Sultan of Sulu.

The banning of pump-boats by the government in 2016, their main mode of transport, and the increased presence of fishing trawlers in Semporna constitute a dilemma for the Bajau who still utilise traditional equipment and the hook-and-line fishing method (193). As a result, this has affected their livelihood as they are unable to gather marine products to be sold or bartered. Consequently, this has led to increased poverty rates within their community and the Bajau—especially the women (typically with a baby) and children—are driven to begging on the streets in town and at traffic lights in areas such as Kota Kinabalu, Lahad Datu, and Tawau (192).

A lack of recognition of rights to the Bajau Laut ancestral land has led to a decline in their traditional practices and beliefs. Subsequently, this has led to the displacement and erasure of the Bajau Laut culture and identity. The problem with the existing policies and solutions is that they are top-down and often rigid, subscribing to the nation-statist perspective and fail to understand the lifestyle nuances of littoral communities (how it is their way of life and impacts every aspect of it—i.e., economic, social, custom, etc. In fact, their way of life is often portrayed as dangerous and threatening to the norm. For example, Clifton and Majors highlights the need for nuance in understanding the practice of blast fishing, where it is a not means of industry and maximising profit

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for the Bajau, but rather an act of providing for the community where bounty is shared and the head blast fisher is deemed the unofficial leader of the community (Clifton and Major 722). Taking action against these individuals by punishing them could potentially backfire on the authorities who would be deemed as the “villains” in this narrative (722).

During the Third Wave of the pandemic, Sabah became a hotbed for the spread of COVID-19 infections following state-level elections when the *Gabungan Rakyat Sabah* (GRS) coalition led by former Prime Minister, Tan Sri Dato’ Dr. Muhyiddin Yassin, defeated Warisan Plus. The elections were held in-person despite concerns about the rising number of COVID-19 cases in the country. Sabah’s caretaker Chief Minister at the time, Datuk Seri Mohd Shafie Apdal, stated that the state polls was necessary due to “political turmoil and power grabs in the country—even though this did not directly involve Sabah—that [would] eventually spread here” and that these irresponsible parties would try to “seize control of Sabah” (Ong).

While the spike in COVID-19 cases were fundamentally caused by travel and a lackadaisical adherence to the social distancing standard operating procedures (SOPs), Muhyiddin also attributed this phenomenon to Sabah’s undocumented population who would slip in and out of the state using its porous maritime borders or “*jalan tikus*” (rat paths). The country, from the outset, has a negative perception of immigrants, both legal and illegal. So much so that the National Defence Policy encapsulates the presence of foreign workers as, “while necessary, has created many social problems including crime, spread of infectious diseases, and a clash of culture” (Prime Minister’s Office 11-12). As a result of the events transpiring in Sabah, *Ops Benteng*—an inter-agency effort involving the Malaysian military, police, border control, immigration, and customs departments—was instituted to suppress trans-border criminal activity as well as control the spread of the COVID-19 virus (Rusli et al. 128).

The Population Division of the United Nations Department of Economic and Social Affairs postulates that migration can lead to inclusive and sustainable economic growth and development for both the country of origin and destination when proper policies are in place—i.e., filling labour market shortage and stimulating economic growth (United Nations Department of Economic and Social Affairs, Population Division 1). However, in his work, Gibney suggests that statelessness can be used as political currency by political and social elites to keep the undocumented in a state of perpetual vulnerability. Their lack of agency due to their irregular status means that they are unable to air their grievances through formal channels, thus exposing them to socio-economic exploitation (Gibney 53).

Fear and distrust of the group’s allegiance to foreign powers cements the belief that they are “unworthy” of citizenship and should be excluded from the nation-building process (54). In the case of Sabah, government authorities looking to repatriate undocumented Filipino migrants perceive that these individuals would relish the opportunity to return to the Philippines. In true top-down fashion, this presumption is one-dimensional, indiscriminate, and completely disregards the lived experiences of these migrants, who have varying degrees of affinity towards the Philippines. Those with family based in Sabah and have integrated into local society to a certain degree were unlikely to consider repatriation. Despite ancestral ties, these individuals would return back to Sabah as they no longer considered the Philippines as their homeland (Somiah et al. 15-16). Thus, it is vital to consider on-the-ground sentiments of the people in the formulation of national policies.

Recommendations

The conundrum facing the undocumented coastal communities is multifaceted, complex, and layered. Addressing these issues requires a concerted effort led by civil society organisations, as state agencies have shown little interest in acknowledging the existence of these communities. A community mapping exercise should be initiated by civil society organisations in collaboration with local stakeholders to gather vital demographic data, including population size, age distribution, and gender composition. This information would serve as the foundation for targeted interventions. Furthermore, a clear and transparent registration process, aligned with international standards, must be established to grant stateless and undocumented persons access to legal documentation and pathways to citizenship. Achieving legal recognition would enable these communities to access quality education, healthcare, and formal employment opportunities, fostering their long-term inclusion and empowerment.

A comprehensive national policy and action plan on statelessness in Sabah should be developed, and feedback from all the relevant stakeholders should be taken into consideration: government agencies, academics, civil society groups, and most importantly, those directly affected by the said policies. These policies and action plans should include clear objectives, strategies, and implementation processes to ensure that stateless persons are effectively identified and assisted.

Monitoring and evaluation mechanisms of the implementation of the national policy on statelessness in Sabah should be consolidated. Regular reviews should be carried out to ensure that the policy is properly implemented, and that the situation of stateless persons is addressed in a timely and effective manner.

The capacity of relevant governmental and non-governmental agencies in Sabah should also be strengthened to better manage the statelessness situation. This should include providing necessary resources and training to ensure that stateless persons can access their rights and entitlements.

At the societal level, it is essential to increase awareness among the population, particularly in Sabah, about statelessness and the challenges faced by stateless persons. This should include public education campaigns and public outreach efforts by the government, non-governmental organisations, alongside civil society to ensure that stateless persons are not discriminated against.

Additionally, Malaysia can engage in effective dialogue with its neighbouring countries to ensure that statelessness is addressed at the regional stage. This should include developing common standards and protocols to ensure that stateless persons have access to their rights and entitlements. Subsequently, a regional framework for migration should be developed in line with global norms to streamline and manage the mobility of people in a safe, systematic, and organised manner (United Nations Department of Economic and Social Affairs, Population Division 1). At present, ASEAN already has frameworks related to migration, namely the ASEAN Plan of Action for Cooperation on Immigration Matters (ASEAN, *Cooperation on Immigration*) and the ASEAN Migration Outlook (ASEAN, *Migration Outlook*), but these mainly centre around economic migration, which is to guarantee the unencumbered mobility of people, goods, and services between its member states. These frameworks do not address the issue of statelessness or political migrations.

Conclusion

The protection of maritime borders remains a crucial facet to national security, and nations in the Indo-Pacific—particularly developing nations—will continue to prioritise this issue. However, it is essential to acknowledge that the daily practices and relationships of the littoral communities with their sacred water bodies have been sorely disregarded by existing international maritime treaties. The socio-cultural practices of these groups are largely misunderstood by governments and policymakers alike as it runs contrary to the current norms which are founded on the perspective of nation-states.

Littoral communities will continue to use maritime spaces for the movement of goods, people, and ideas because their primary concerns revolve around the issue of daily survival. As a result, they repudiate these maritime conventions. Hence, it is necessary to recognise the mobility sentiments and practices against the backdrop of these international migratory and maritime policies.

Furthermore, there is the need to emphasise the non-traditional threats to maritime security which includes addressing the impact of climate change, the livelihood sources of the coastal communities, conservation initiatives to counter the depletion of natural resources and ensuring sustainable use of these marine resources. In order to solve this problem, coastal and maritime communities must be invited to contribute to the development of more efficient policies. It might also mean adopting an alternative or less rigid view of water bodies, to accommodate the communities that have been residing there for centuries.

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