

## ***Report from the Field***

### **APPROPRIATIONS AND ADJUSTMENTS: THE PANGLIMA SYTEM OF THE BAJAU OF BASILAN AMIDST PHILIPPINE STATE LAWS**

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#### **Introduction**

The Bajau have been described as the most marginalized among the Philippines' indigenous peoples (de Castro 2001, Roxas-Lim 2001, Tamayo 2008) and the most neglected (Tamayo 2008, Panaguiton 2008, Teo 2001, Torres 2001). Other groups, the Tausug and Sama Bangingi, in particular, pejoratively call them *Samal Palau* ('houseboat Samal') and *Samal Lawan* ('outcast Samal') (Abbahil 1984, Stone 1974). Generally, the Bajau are described as passive and timid (Orosa 1923, Roxas-Lim 2001), submissive, and without initiative. Apart from their subordinate status in relation to other ethnic groups, the Bajau image is that of poverty (Malabong 2001, Teo 2001) and helplessness. In fact they are associated with being street beggars, not only in the city of Zamboanga but also in other major cities of the Philippines, particularly Cebu City, Metro Manila, Davao City, Cagayan de Oro, and Iligan City.

Basilan's population is 33% Christian (of whom 90 per cent are Roman Catholic), and 65% Muslim. About two percent are "*lumad*" or 'indigenous peoples', who are neither Muslim nor Christian. Basilan is the ancestral domain of the Yakan, but it is also inhabited by other ethnolinguistic groups, namely: Tausug, Chabacano, Cebuano, Ilonggo and Samal (Bangingi and Bajau). The plurality of ethnicities implies a variety of spoken languages, of which Sinama and Tausug are predominantly used in the area. More recent migrants to the area are Tagalogs, Ilocanos, Warays, Bicolanos, Maranaos, Iranuns, and Maguindanaons. Among these groups, the Bajaus are generally the most disadvantaged, and also perceived to be vanishing as a 'tribe', primarily because of the peace and order situation in the province.

Through time, the Bajau have managed to co-exist with other ethnolinguistic groups in Maluso and Lantawan where they have settled (Roxas-Lim 2001). However, they continue to experience the negative stereotypes described above. Some of their traditional customary practices

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are also affected and influenced by the plurality of cultures around them. Most notable is the imposition of *barangay* authority over their traditional leader – the *panglima*.

This paper focuses on the Bajau in Maluso and Lantawan municipalities of Basilan Province, Philippines and attempts to explore the question: how do Bajau indigenous laws interact with the formal laws of the Philippines? The *barangay*, Civilian Volunteer Organization (CVO), as well as the local police (who are not Bajau) in some areas in Maluso and Lantawan municipalities have in fact imposed their authority on the *panglima* or Bajau community leader, in disregard of Bajau custom (as well as of their rights under the Indigenous Peoples Rights Act or IPRA of 1997). The research inquiry can also be rephrased as follows: how do the *panglima* and the Bajau constituents in many areas of Maluso and Lantawan continue to maneuver through the local government politics, adapting themselves to state laws while trying to maintain their customary laws?

Interviews for this study were primarily conducted in Shipyard Tabuk and Townsite both found in Maluso. The informants came from Teheman, Shipyard Tabuk; Lutah, Samal Village; and Calle Subah, Townsite and included an *Imam* (religious officiant), *Magtatawal* (traditional community healer), *Panday* (traditional midwives), and *Panglima* (community leaders). Employees of the Claret Samal Foundation, Inc. (CSFI)<sup>1</sup>, who were dispersed in five different areas in Maluso and one area in Lantawan, also a municipality in Basilan, were also interviewed.

Due to security concerns, purposive sampling was employed. Two translators<sup>2</sup> facilitated the field visits and assisted me during the interviews which were conducted in Sinama (which I do not speak). The questions were asked in Tagalog and they translated it to Sinama. The interviewees answered in Sinama and their responses were translated back to me by the translators. These recorded conversations were transcribed, and this comprised the raw data for analysis.

Our key findings, outlined below, discuss how apart from the *barangay* imposing its authority to ‘appoint’ a *panglima*, the police also limits the function of the *panglima* to manage crimes within his political jurisdiction. The *panglima* institution is altered because of the present political dynamics between the *barangay*, police, and the *panglima* of the Bajau communities.

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<sup>1</sup> [“CSFI is a pastoral endeavor of the Claretian Missionaries in the Philippines that caters to the needs of the most disadvantaged group in the island of Basilan – the Samal-Bajaus” (Claretian Missionaries n.d).]

<sup>2</sup> Staff members of the Claret Samal Foundation, Inc.

### The *Panglima*

The *Panglima*, or leader of a Bajau community, is a man who takes charge of maintaining peace and order primarily by facilitating the settling of disputes. Currently chosen through appointment by the barangay captain, he becomes one also because of his lineage.<sup>3</sup> However, presently, the barangay captain's decision has more weight than a recognized lineage. Because of this local practice, the *panglima* is practically coterminous with the term of the barangay captain. However, the term of the current *panglima* can be extended by an incoming barangay captain.

A *panglima*'s authority is only over the Bajau population of a community. In most cases, the Bajau are settled together and they do not physically mix with the other ethnolinguistic groups in the community. The barangay does not directly interfere in the *panglima*'s manner of resolving conflict, but the *panglima* in certain cases can be overturned by the barangay. In the past, the Bajau constituents would seek the help only of their *panglima*. Presently, particularly in Lulah, they can go directly to the Barangay Captain, the *Sangguniang Barangay* (Barangay Council), or the Civilian Volunteer Organization (CVO)<sup>4</sup>. According to Lulah's *panglima*, many Bajau under him prefer the CVO to settle their disputes because bringing up the case to the *barangay* incurs additional expenses due to the bureaucratic process entailed.

In case of conflict (except when the conflict is between a married couple), the *panglima* probes into the case by interviewing each party at separate times; he does not call them together in one place to avoid agitation. He carefully weighs allegations from both sides and then decides. The responsibility of the *panglima* does not end in settling disputes. He is expected to assist, usually in monetary terms, both the complainant and the person accused of wrongdoing that seek him out to settle their conflict. If a Bajau does not accede to his decision, the case may be forwarded to the barangay. Many times, the barangay asks the complainant why the decision of the *panglima* was not heeded. Not heeding the *panglima* is deemed a sign of disrespect to his position. The fine to the culprit is greater in this case. The Bajau avoid this more expensive circumstance.

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<sup>3</sup> The elected leader of the *barangay* (village), the smallest unit of local government in the Philippines.

<sup>4</sup> [The Civilian Volunteer Organizations are essentially vigilante groups supervised by the National Police.]

Marital conflict is a common type of case brought to the *panglima*. However, he cannot intervene if he has not witnessed the couple's wedding ceremony. The *Panglima* calls for both parties to come to his house and discusses the case with them until they are settled. This may last for a week or so. Today, there are Bajau couples who go straight to the *barangay* but when they get there they are usually advised to go seek the *panglima* first. The Bajau are not allowed to seek help from the *barangay* without an endorsement coming from the *panglima*.

In most cases (except for settling divorce), the *panglima* is not given remuneration for doing these tasks. In cases of elopement, the *panglima*'s own resources may be spent to assist the aggrieved party. He participates in weddings as a witness together with the *imam* who officiates the Bajau wedding. Only when he is appointed *barangay tanod*<sup>5</sup> by the *barangay* could a *panglima* receive honorarium.

Most of the cases of conflict in Bajau communities are said to be caused by *tumbi* (gossip) among women. Some said that this could be the reason why a Bajau woman cannot be a *panglima*. The second most common type of case is *pagtiman* (divorce) and disputes between married couples, which are also said to be the most difficult to settle. Many Bajau seek the help of a *panglima* for divorce, but others would go directly to the *barangay* to avoid family alliances getting in the way. In Lutah, many of the aggrieved parties, Bajau or not, would rather seek the help of the CVO for divorce. The reason for this is the ability by the CVO to demand obedience from the concerned parties. A wife, for example, can go to the CVO, pay one thousand and five hundred pesos and easily gets her divorce papers. The *panglima* on the other hand has no firearms and ammunition to enforce his. Because of this many Bajaus prefer to seek the CVO's decision even if the *panglima*'s fee for settling such matter is only two hundred pesos. There are other instances when the traditional function and responsibility of the *panglima* is undermined by the CVO or by the *barangay*.

### **The Bajau, barangay, police, CVO, NCIP, and the IPRA**

The present management of the *panglima* in Teheman with regards to allowing a newcomer who wishes to build a house in their community is in consonance with IPRA. Letter E (Right to Regulate Entry of Migrants) of Section 7 (Rights to Ancestral Domains) in Chapter III (Rights to Ancestral Domains) of the IPRA Law safeguards the Bajau's right to regulate the entry

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<sup>5</sup> [A *barangay tanod* is a watchman for the *barangay* who may perform a variety of police functions; the lowest level of law enforcement officer in the Philippines.]

of anybody into their community in Teheman (which is now a Reservation Area). Chapter IV, Section 16 of the IPRA Law states,

“Right to Participate in Decision-Making - ICCs/IPs have the right to participate fully, if they so choose, at all levels of decision making in matters which may affect their rights, lives and destinies through procedures determined by them as well as to maintain and develop their own indigenous political structures. Consequently, the State shall ensure that the ICCs/IPs shall be given mandatory representation in policy-making bodies and other local legislative councils.”

The regulation of the entry of people in the Teheman community is exercised by the *panglima* and the CSFI today, together with the barangay. This right however, is not shared in other CSFI program areas because they are not homogenously Bajau communities and did not have any Reservation Area grant or ancestral domain titles.

Recognizing the role of the *panglima* in settling disputes is provided legal basis by Chapter IV, Section 15 of the IPRA Law which states,

“Justice System, Conflict Resolution Institutions, and Peace Building Processes - The ICCs/IPs shall have the right to use their own commonly accepted justice systems, conflict resolution institutions, peace building processes or mechanisms and other customary laws and practices within their respective communities and as may be compatible with the national legal system and with internationally recognized human rights.”

The IPRA Law guarantees the right to self-governance of the Bajau. Chapter IV, Section 13 of the IPRA Law states:

“Self-Governance – The State recognizes the inherent right of ICCs/IPs to self-governance and self-determination and respects the integrity of their values, practices and institutions. Consequently, the State shall guarantee the right of ICCs/IPs to freely pursue their economic, social and cultural development.”

When the barangay asks the Bajau complainants to first seek resolution with their *panglima*, it acknowledges and respects the traditional *panglima* system of conflict resolution. However, this respect is not comprehensive as there are other cases where the barangay, CVO, and the police take command over the *panglima* and the cases. The local politics in Maluso and Lantawan municipalities, where the Bajau live, and which somehow limits the

traditional *panglima* system and imposes its different local government, may also limit the Bajaus right to self-governance and empowerment.

Similarly, a disjunction between what is presently practiced by the barangay, CVO, and local police in the said Bajau areas and what is stipulated in Chapter IX, Section 65 and 66 of the IPRA can be observed. Section 65, Chapter IX states,

“Primacy of Customary Laws and Practices – When disputes involve ICCs/IPs, customary laws and practices shall be used to resolve the dispute”.

IPRA promotes the primacy of indigenous customary laws and practices. On the other hand, the barangay leaders, by imposing their resolution process, may infringe upon Bajau traditional conflict resolution.

The National Commission on Indigenous Peoples (NCIP) was created as the “primary government agency responsible for the formulation and implementation of policies, plans and programs to promote and protect the rights and well-being of the ICCs/IPs and the recognition of their ancestral domains as well as their rights thereto” (Section 38, Chapter VII) and has the mandate to “protect and promote the interest and well-being of the ICCs/IPs with due regard to their beliefs, customs, traditions and institutions” (IPRA, Chapter VII, Section 39). The present discussion on the infringement of the Bajau’s *panglima* system of conflict resolution can be addressed by one of the offices within the NCIP, particularly the Office on Policy, Planning and Research. This office is:

“responsible for the formulation of appropriate policies and programs for ICCs/IPs such as, but not limited to, the development of a Five-Year Master Plan for the ICCs/IPs. Such plan shall undergo a process such that every five years, the Commission shall endeavour to assess the plan and make ramifications in accordance with the changing situations. The Office *shall also undertake the documentation of customary law and shall establish and maintain a Research Center* that would serve as a depository of ethnographic information for monitoring, evaluation and policy formulation. It shall assist the legislative branch of the national government in the formulation of appropriate legislation benefiting ICCs/IPs” (IPRA, Chapter VII, Section 46 b, *italics mine*).

The problem of infringement could have been negated by full understanding by the barangay, CVO, or local police of the uniqueness of

the traditional conflict resolution of the Bajaus. Unfortunately there is no proper documentation of the Bajau customary laws on the *panglima*.

### **Interplay between the *panglima* system and the Local Government Code**

It used to be that the *panglima* was appointed either by a Sultan or a dying *panglima*. But even if the *panglima* candidate belongs to the proper lineage, approval of the community was also given credence. Presently, in some communities of Maluso and Lantawan, a Bajau becomes a *panglima* when he is acknowledged and appointed by the barangay captain, but only after consultation with the Bajau residents has been made. The community's recommendation and the factor of lineage are enforced only after the approval of the barangay captain. Traditional considerations in choosing a *panglima* could therefore be undermined by the *barangay* captain.

The *panglima* is no longer appointed by the sultan because, presently, the sultan is no longer a part of the Philippine political system, although its rank and status are continuously recognized by the Philippine government. At the community level, a dying *panglima* is prohibited from appointing his own choice to replace him. Presently appointed by the *barangay* captain, the *panglima* is not afforded honorarium and allowances in exchange for his services whereas the barangay *tanod* (security enforcers) and the *Lupong Tagapamayapa* (a barangay committee to settle community conflict and disputes) receive honoraria and allowances.

Section 412 of the Local Government Code recognizes and respects the indigenous systems and practices of the IPs, including the Bajau. However, joining Section 412 and Section 409 implies that the Bajau are still managed and headed by the *Lupong Tagapamayapa* (not by the *panglima*). This means that the Local Government Code is cognizant and respectful of the customs and traditions of the IPs on settling disputes, but on the other hand, it may undermine the authority of traditional leaders, especially those who settle disputes. The same point can be raised of Section 399 letter F of the same Code,

“In barangays where majority of the inhabitants are members of indigenous cultural communities, local systems of settling disputes through their councils of *datus* or elders shall be recognized *without prejudice to the applicable provisions of this Code*” (*italics mine*).

The constitution of *Lupong Tagapamayapa* composed of the *punong barangay* (Barangay Captain) as the chairman and 10-20 members, and the *Pangkat Tagapagkasundo* [for mediation of particular conflicts] consisting of

three members coming from the *Lupong Tagapamayapa*, indicates that conflict could be settled by a group of people. The traditional Bajau practice of conflict resolution is managed by an individual, only by the *panglima*. The state procedure for amicable settlement (Section 410, Chapter 7, Book III of Local Government Code of 1991) differs to how the Bajau does it. The difference in the appointment and the number of the conflict managers, in the conflict management procedures, in the fees, and in the sanctions are all pointing to further dialogue and accommodations between the IPs laws and the state laws.

Allowing the *panglima* to operate in a *barangay* to settle criminal cases may also run into conflict with the local government criminal procedures and resolution. The present barangay set-up takes advantage of the traditional leaders to manage their own disputes and conflict while taking responsibility to handle criminal and other unresolved disputes. The study points out that participation of the CVO in the conflict resolution among the Bajaus in Maluso and Lantawan is another area to examine in the context of the Local Government Code. What particular written code or law allows the CVO in the barangay to settle divorce cases? Does the *Sharia* law allow the CVO or other local government leaders to quickly grant divorce in some municipalities under ARMM? These areas of inquiry are only raised as questions here due to the limitation of this case study.

### **Maneuvering within local politics**

Even if the present local government system of Maluso and Lantawan, where the Bajau *panglima* operates, is different in many ways from the traditional *panglima* system, the Bajaus continue to adjust and adapt to this new and more complex local political system. The process of adjustment and acceptance is seen in the ways their *panglima* recognizes and respects the command of the *barangay* system in their community. For example, the new *panglima* heeds the appointment and approval of the *barangay*. The *panglima* together with the rest of the Bajau acknowledge and conform to the political power of the Barangay Council and of other committees formed by the barangay. Hence, the *panglima* continues to lead, even with limited political power, over the Bajau.

The Bajau constituents accept this emerging political government under which they operate and live. They would take advantage of other political options made possible by the mainstream local political system. For example, if traditionally, the Bajaus would seek the wisdom and help of the *panglima* to settle a divorce, today, many would seek the force and might of



the CVO for a divorce grant, undermining confidence in their traditional *panglima*.

Traditionally, a *panglima* settles any community conflict or disputes. Included in this is resolving robbery and killing cases. Today however, the *panglima* does not settle these community-based cases even if he (practically speaking) can. The *panglima* only looks for the alleged culprit and then endorses him to the barangay or police. The *panglima* is thus no different from any simple civilian. His ability to resolve conflicts is limited to civil cases. The interviews reveal that many *panglima* have readily accepted this shift in the scope of their authority. Basically they succumb to the force and command of the barangay and police in their locality because they are no longer dealing with a homogenous and secluded community. Besides, the *panglima* in some cases also finds protection and support from the barangay and the local police.

### **Conclusion**

The Bajau of Basilan's Maluso and Lantawan appear to strategize when heeding the local government system, while continuing their traditional *panglima* system and traditional beliefs. They also appear to submit to the local government political system, operating under the auspices and approval of the local government unit. In some instances, the local government deprives and undermines some of the traditional beliefs and practices of the Bajaus.

Many of these situations point out to the problem of understanding and implementing both the national and local laws as well as customary laws. Lack of knowledge and full understanding of IPRA among all participants is one apparent problem that stifles the political empowerment of the Bajau, and the manner the barangay political structure deals with the with the Bajau. Meanwhile, lack of knowledge on the traditional customary laws of the Bajau has also contributed to problems of political management by the barangay.

Misunderstanding IPRA, consequently, has resulted in the problem of implementing it. The problem of mobilizing the NCIP has aggravated the problem.

The need to clarify the implementing agency of IPRA's Section 65, Chapter IX on customary laws and practices is crucial. There is a parallel provision in the Local Government Code where the mandated implementers would be the *lupong tagapamayapa* and not the *panglima* in the case of the Bajaus. Both the IPRA and the Local Government Code have set its good

intentions to recognize, respect, and promote the rights of the indigenous peoples, but it also contains biased and contradicting provisions which only aggravate the complicated position of the Bajau.

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