



Stakeholder Report by

Coalition of Sabah Muslim NGOs Council (CONCERN)

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INTRODUCTION

1. Since its inception in 2006, CONCERN has been actively involved in human rights initiatives and other social activities, including engagements with various Muslim communities in Sabah. At present, CONCERN is made up of 20 members from various humanitarian and advocacy backgrounds.

VIOLATION AGAINST MUSLIMS' RIGHTS TO BUILD MOSQUES AND COMMUNITY CENTRES

2. Sabah is part of Malaysia and has adopted most of the pillars forming part and parcel of the Malaysian identity including adoption of Islam as state religion in 1973 under Article 5A of Constitution of the State of Sabah, in line with Article 3 of the Federal Constitution of Malaysia that enshrines Islam as the religion of the Federation.
3. Islam is the largest religion in Sabah; with 65% of its 3.5 million population are Muslims. However of late, there have been movements to underscore dissatisfaction among various religious communities by challenging these national and state identities.¹

¹ Santos, J. (16 Nov 2017) *No way to amend law on Islam as official religion of Sabah*. Retrieved from: <https://www.themalaysianinsight.com/s/23146/>

4. CONCERN has received complaints from Muslims on discriminatory incidences against Muslim community, including the following:²
 - i. Non-Muslims prohibiting Muslims from practising Islamic culture;
 - ii. Muslim converts are prohibited from professing their religion in front of their families;
 - iii. Muslims are denied of their rights to perform Friday prayer;
 - iv. Muslim converts are denied of their rights to inherit family inheritance due to their conversion to Islam;
 - v. Muslims are not permitted to practise their customs and cultures fashioned with Islamic teachings.

5. There are also reports where Muslims, who live in areas where they are the minorities, are denied of their rights to construct mosques. In most cases, the Muslims ended up forgoing their intention to build their place of worship after they faced objections from their communities.

6. In the District of Penampang, Kota Kinabalu, the Muslim community is the minority; while the majority are from the Christian faith. Since the formation the Federation of Malaysia in 1963, the Muslims in the District had been trying to have and build Mosque for the community living in the District, but were met with objections by the non-Muslim community who forms the majority.³

7. In the year 2008 Muslim Non-Governmental Organisations (NGOs) in the Penampang District bought a piece of land with the intention of building an Islamic Community Centre. However, the community surrounding the area objected, citing that the area is their sacred ancestral heritage.⁴

² Series of Interviews conducted by CONCERN with its members circa 2016 - 2017.

³ Malaysiakini (17 Mar 2015) *Residents upset over mosque in Penampang*. Retrieved from <https://www.malaysiakini.com/news/292221>

⁴ Sabahkini (17 Mar 2015) *No Necessity To Have A Mosque In The Middle Of Christian-Dominated Penampang*. Retrieved from <http://sabahkini.com/no-necessity-to-have-a-mosque-in-the-middle-of-christian-dominated-penampang/>

8. Despite the NGOs having complied with all of the legal requirements imposed onto them, including to submit various architectural plans, the consent to build the Centre seems to have been purposefully delayed by the local councils.
9. CONCERN has evidence to confirm that the State Town and Regional Planning Department had in the year 2016 approved and consented to the building of the Islamic Community Centre. However, the Local Municipality Authority withheld the letter of approval from the Central Board, and thus, to-date the Muslim Community in Penampang still cannot initiate the construction of their own place of Worship and/or Community Centre.⁵
10. Other similar situations are also happening across Sabah, where the Muslim community are in the minority. There are instances where the Muslim communities were not allowed to build mosques.

RECOMMENDATIONS:

- A. To promote inter-religious harmony to the people of Sabah.
- B. To take actions against whoever politicizes or purposely ignites religious tension among different religious communities in Sabah.
- C. To call relevant authority to render approval without further delay.
- D. To call for the necessary authorities to take action against the officers of any Local Municipality Authority who deliberately refused to abide by the state authority's decision in granting approval for the building of the place of worship.

MARGINALIZATION OF BAJAU LAUT IN SEMPORNA

⁵ Vide **Appendix 1**: Letter dated 27 October 2017 from Sabah Town and Regional Planning Department, Kota Kinabalu Sabah Malaysia addressed to Penampang District Council stressing that the latter's refusal to grant consent to build Muslim Community Centre in the District of Penampang as being irrelevant and contravenes the decisions of LTown and Country Planning Board under Section 15 of Town and Country Planning Ordinance Cap.141.

11. The total number of stateless persons in West Malaysia registered with the United Nations High Commissioner for Refugees (UNCHR) is within the range of 12,000 - 15,000.⁶ Malaysia has not ratified the 1951 Convention on Refugees and also the 1954 Convention on Stateless Persons.
12. Stateless children are denied of Malaysian citizenship due to various reasons, including that these children were born to parents from Indonesia, Philippines, and Myanmar, who are normally refugees or migrants without legal documents. Under Malaysian law, children of illegal migrants and refugees are automatically classified as undocumented by virtue of the irregular status of their parents.⁷
13. Statelessness denies their rights to travel, to attend government schools,⁸ and their access to public health care.⁹ With no official status and documentation, they are also at risk of detention and vulnerable to discrimination, abuse, exploitation and human trafficking.¹⁰ Stateless children are associated as "street children" and are seen as causing public nuisance.¹¹

⁶ UNCHR (Accessed on 15 March 2018) *Ending Statelessness in Malaysia*. Retrieved from <http://www.unhcr.org/en-my/ending-statelessness-in-malaysia.html>

⁷ Muguntan Vanar, Ruben Sario, Stephanie Lee, Mazwin Nik Anis, Martin Carvalho, Yuen Meikeng, Hemananthani Sivanandam, Farik Zolkepli, Natasha Joibi, T. Avineshwaran, Akil Yunus, and Rahmah Ghazali, (4 Dec 2014) *RCI report: Record of birth for kids of stateless people*. Retrieved from <https://www.thestar.com.my/news/nation/2014/12/04/record-of-birth-for-kids-of-stateless-people/>

⁸ Surail bin Abdul Kahar @ Eting Yazid bin Noh; Lajulliadi Bin Lajahidi; Rashidah Binti Omar, Education Intervention in the Rural Muslim Village of Sabah: Case Studies in the Rural Muslim Community in Eastern Sabah Security Command (ESSCOM) Zone, Mukim Tembisan, *The 10th Borneo Islamic International Conference 2017, Universitas Mulawarman Samarinda, Kalimantan Timur Indonesia*, and Predeep Nambiar (12 Jan 2018) *More stateless children turned away from school*. Retrieved from <http://www.freemalaysiatoday.com/category/nation/2018/01/12/more-stateless-children-turned-away-from-school/>

⁹ The Star (7 Jul 2015) *Look into the plight of Bajau Laut, urges NGO*. Retrieved from <https://www.thestar.com.my/news/nation/2015/07/07/look-into-the-plight-of-bajau-laut-urges-ngo/>

¹⁰ Al Jazeera (1 May 2015) *Sabah's Invisible Children*. Retrieved from <https://www.aljazeera.com/programmes/101east/2015/04/sabah-invisible-children-150428090433383.html>

¹¹ Allerton, C. 2017. Contested Statelessness in Sabah, Malaysia: Irregularity and the Politics of Recognition. *Journal of Immigration and Refugee Studies*, 15 (3), 250-268.

14. These children are unable to trace their family ties to their parents' country with many procedural hurdles serving as enduring problems for realization of their birth registration.¹²
15. With non-availability of the Philippine consulate in Sabah, birth and marriages are difficult to be registered. Consequently, without a valid marriage certificate from their parents, it is impossible for the stateless children to obtain a birth certificate. The Anti-Filipino sentiment, among Sabahan natives built around the historical claim of the Philippines on Sabah, discourages the authority to consider granting citizenship among stateless of Filipino decent.¹³

RECOMMENDATIONS:

- A. To accede the Convention Relating to the Status of Stateless Persons 1954.
- B. To initiate the process of granting citizenship to Bajau Laut community in accordance with domestic laws.
- C. To form a Special Task Force under National Security Council to look into appropriate mechanism with the aim of granting citizenship to the stateless persons.
- D. To respect the principles of international humanitarian law in regards to having access to education and health care.
- E. To ensure that the economic, social and cultural rights of the Bajau Laut community are protected based on humanitarian basis.

¹² The Star (16 Apr 2015) *Solve issue of stateless folk to overcome immigrant woes*. Retrieved from <https://www.thestar.com.my/news/nation/2015/04/16/solve-issue-of-stateless-folk-to-overcome-immigrant-woes/>

¹³ Rodziana Mohamed Razali, Rohaida Nordin and Tamara Duraisingam, (2015) Migration and Statelessness: Turning the Spotlight to Malaysia. *Pertanika Journal of Social Science and Humanities*. Soc. Sci & Hum. 23 (S): 19-36.