

STOPPING ABU SAYYAF KIDNAPPINGS: AN INDONESIAN-MALAYSIAN CASE STUDY

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I. OVERVIEW

The best hope for reducing the transnational crimes of kidnapping and terrorism in the Sulu Sea by the Abu Sayyaf Group (ASG) may lie in the domestic policies of the three countries involved – Indonesia, Malaysia and Philippines – rather than in trilateral mechanisms per se. Those mechanisms are still important. They foster personal ties and can improve cooperation. But each country still has its work cut out at home to address ASG crimes.

The Indonesian government should consider stopping ransom payments that encourage more kidnappings and frustrate local Mindanao efforts to address the problem in other ways. (The government has always denied paying “ransom” but it has certainly brokered payments by other names.) Indonesia might also usefully address the economic conditions that send fisher families Sulawesi to Sandakan, Malaysia. These are the fishers who are frequently taken hostage.

The Malaysian government might address the treatment of the migrant community – especially Filipinos but Indonesians as well – and the reported harassment by a multi-agency task force known as the Eastern Sabah Security Command (ESSCOM) that encourages fishers to move into areas where they are not likely to encounter marine patrols. It has also pushed some migrants into western Sabah.

The Philippines government under President Duterte should recalibrate its approach to Nur Misuari, continuing efforts to ensure that he does not become a spoiler in the broader peace process but also ensuring that he, his family and his loyalists are not allowed to give refuge to ASG kidnapers or facilitate the holding of hostages.

Both the Philippines military and ESSCOM should prioritise arrests and intelligence-gathering rather than the killing of Abu Sayyaf in operations. The most effective preventive strategies will necessarily be grounded in an understanding of ASG networks, and only the ASG themselves will be able to provide this information.

II. THE INDONESIAN KIDNAPPING VICTIMS

The strongest motivation for kidnapping is money, but what is most striking about the Indonesian victims is their poverty.¹ Out of thirteen Indonesian victims kidnapped in five incidents since 2018, twelve were from Sulawesi and ten of these were of ethnic Butonese origin. Most were from Kaledupa, an island that forms part of Wakatobi chain in Southeast Sulawesi province.

These men are fishers, working on trawlers operated by Malaysian-Chinese owners called *towkay* or *tauke*. They are also Muslim, unlike most other victims. They thus on the surface seem unlikely targets. The ASG has released other very poor Muslim victims unharmed and without ransom. For example, on 18 June 2019, an ASG group seized ten Bajau fishermen of unclear nationality and took them to Jolo island, only to let them go three days later, presumably because of the low value they had in terms of potential ransom payments.²

The repeated targeting of poor Indonesians has several possible explanations: the drying up of other targets; the location that the Indonesians sought to fish in; and the possibility that other parties are paying the ASG’s ransom demands on behalf of the fishers. The background of the victims becomes an important part of the picture.

1 IPAC is grateful to Tasrifin Tahara of Hasanuddin University, Makassar, for his assistance in conducting some of the interviews with Butonese respondents.

2 The Malaysian government denied that the ten fishermen were its citizens because they had no Malaysian identity cards despite having lived in Sabah for decades. See “Sabah cops: All 10 kidnapped are sea gypsies,” www.thestar.com.my, 18 June 2019. The Bajau people are one of the poorest and most disenfranchised communities in the region; they are also Muslim. See also “Where kidnapping is a business,” www.thestar.com.my, 22 June 2019.

A. *The Kaledupa Fishers*

The Kaledupa fishers, like many other ethnic Butonese, were originally seafarers, carrying cargo on sailing vessels to many parts of the archipelago. In the late 1960s and early 1970s, as motors replaced sails and unemployment levels grew, many left home to find work.³ One group settled in Sandakan, Malaysia, building a settlement that forms the core of Indonesian migrant community there today. Some of the longer-term settlers have become Malaysian citizens or permanent residents, but as in most migrant communities, there is a constant arrival of younger relatives, recruited to work as crew on the fishing boats.

All work for Malaysian *towkay* on trawlers with mechanised nets that are banned in many parts of Indonesia because they have resulted in overfishing. Typically, a *towkay* will hire an experienced fisher as captain (*juragan* or *seran*), who is then responsible for hiring the crew. The captain's wife is often the recruiter, sometimes getting new recruits by phone, sometimes going back to Kaledupa to find them. La Sani, a Butonese from Kaledupa who is also a *seran* and community leader in Sandakan, estimated in 2020 that there were around 800 Butonese working on more than 100 boats owned by *towkays* in Sandakan.⁴

The *towkay* claim they pay their crews generously, but interviews with the fishers suggest that almost every fisher has a large debt to the *towkay*, starting with the amount charged for securing work permits, visas and other identity documents – most are in Malaysia legally – and extending to other loans.⁵ Some of the fishers interviewed said that they have to pay at least 1,500 ringgits [\$350] back to their *towkay* every month. One *juragan* said he typically cleared about 8,000 ringgit [\$1,900] per month with half that amount shared among the rest of the crew, typically five to ten men. The *towkay* keeps the passports of all as security and in some cases withholds payments as a way of forcing the crews to stay on.⁶

Nurhaida, the widow of Hariadin, a kidnap victim who drowned trying to escape from the ASG during a military operation in April 2019, had to borrow a sum of 300 ringgit from the *towkay* on three occasions to pay for basic needs while her husband was in captivity. She said the *towkay* has not demanded repayment but on the other hand, she has also not received the insurance money promised after her husband's death. In the meantime, she lives in Sandakan in a shack on stilts that looks like a hard rain would blow it over.⁷

B. *Why Would Poor Fishers Become Targets?*

The fishers themselves have put forward a few explanations of why they would become targets, one being that they were a fallback when the ASG could no longer target more lucrative coal barges. A second is that the economic imperative of getting a good day's haul takes them to dangerous areas.

The first explanation stems from the fact that from 2016 until 2018, the main victims of the ASG on the high seas were Indonesian, Vietnamese and Malaysian crews operating slow-mov-

3 Butonese went to Maluku and Papua in large numbers; the more adventurous went to Hawaii. See Blair Palmer, *Big Men and Old Men: Migrant-Led Status Change in Buton, Indonesia*, PhD dissertation, Australian National University, 2010.

4 IPAC interview with fisher families, Sandakan, Malaysia 31 January 2020.

5 IPAC interview with fisher families, Kaledupa, 23 January 2020.

6 One *towkay* interviewed gave much higher levels of income but also did not discuss personal indebtedness or interest charged. He said in a good season, the profit gained from five to six days of fishing could reach 100,000 ringgits (USD24,000). Thirty per cent of the profit is shared among the crew with most – around 10,000 ringgits (USD2400) – taken by the *juragan* while the crew will get 1,500 ringgits.

7 Hariadin's nephew, Heri Ardiansyah was the only one who survived the raid as he swam for more than twenty hours to avoid crossfire between his captors and the military. The Malaysian hostage, Jari Abdullah, was killed by stray bullet. According to Heri, all of his captors died there, except Apo Mike, who had left the island a week before the raid. IPAC interview with fisher families, Baubau, 14 January 2020.

ing vessels such as cargo ships and tug-and-barge duos going through the Sibutu passage, the dividing line between Philippine and Malaysian territorial waters.⁸ In response to the kidnappings, the Indonesian government on 1 June 2016 announced a moratorium on coal shipments from East Kalimantan to Philippines. At the same time the countries of Indonesia, Malaysia and Philippine embarked on series of meetings that culminated in the signing of Trilateral Cooperative Agreement on 14 July 2016.

Kidnappings of cargo crews were still frequent, however. This was reportedly because Indonesian sources paid ransom demands swiftly and without much negotiation.⁹ On 5 November 2016 near Tambisan, an island off the coast of eastern Sabah, two Sandakan-based fishers, La Utu bin Raali and La Hadi, both from Kaledupa, were seized from their trawlers, perhaps in the hope that ransom payments would be equally swift. They ended up being held for almost two years.

By 2017, the shipping companies had better procedures in place to mitigate risk. There were only three successful kidnappings out of seven attempts compared to 12 kidnappings and six failed attempts in 2016.¹⁰ After an attempted raid on Bohol island in April 2017 – a month before the Marawi siege began – that proved disastrous for the ASG involved, kidnapping at sea virtually ceased and did not resume until August 2018 with a failed boarding of a tugboat.¹¹

With tugboats, barges and cargo vessels better protected, the ASG began focusing more pointedly on Indonesian fishers beginning on 11 September 2018, with the kidnapping of two Indonesians in Malaysian waters off Semporna and four more incidents thereafter, involving mostly Butonese from Kaledupa.

Another explanation for why the fishers were targeted was the location they chose for fishing. The *towkay* leaves it up to the captains to decide where to go but pays them according to the weight of the haul. It is thus in their economic interests to get the biggest catch possible, and the best fishing is off Tambisan – one of the ASG's favourite sites. Also, precisely because other fishers stay away from the area, believing it to be too dangerous, the Indonesians have the richest fishing grounds in the area to themselves.

The fishers liked the waters off Tambisan because between October and February, it had big waves during high tide that stirred up the fish. The ASG liked the area because the high tides kept the Malaysian marine patrols away. Police were always around when the boats came back with their catches, however, because according to the fishers, they demanded a share and always took the best of the catch.

Even after it became clear that the area was a hot spot for kidnapers, the prospect of a good

8 ReCAAP, "Guidance on Abduction of Crew in the Sulu-Celebes Seas and Waters off Eastern Sabah," July 2019. That strait, with Malaysia's Tambisan island on one side and the Philippine island chain of Tawi-Tawi on the other, is one of most important international shipping lanes in the region. Some 14,000 ships pass through Sibutu yearly, including 70 per cent of Philippines coal consumption coming from Indonesia. Of 29 kidnapping incidents (18 successful and 11 attempted) in the Sulu-Sulawesi seas between March 2016 and June 2019, twelve occurred around Sibutu area (Lahad Datu and Tawi-Tawi). The 54 victims were all Southeast Asians (out of 75 in total), including 24 Indonesians, 9 Malaysians and 11 Vietnamese.

9 See IPAC, "Protecting the Sulu-Sulawesi Seas from Abu Sayyaf Attacks", Report No. 53, 9 January 2019.

10 ReCAAP Op.cit. On 22 February 2017, the crew of bulk carrier Donghae Star saw three fast boats painted black chasing them as they were crossing the Sibutu strait, approximately 37.8 nautical miles northwest of Littoral Monitoring Station, Bongao, Tawi-Tawi. The crew immediately contacted the Philippine navy radio and sounded the alarm. The three speedboats stopped their chase before the navy arrived. On 5 March 2017, the crew of cargo ship Phu An 268 managed to fend off six gunmen from boarding until the Malaysian Royal Navy arrived and escorted Phu An 268 safely to Sandakan port. See "Hot Water Thrown on Pirates," www.maritime-executive.com, 17 February 2018.

11 On 11 April 2017, ASG leader Muammar Askali attempted to mount a raid on Bohol, a popular tourist destination in the central Philippines but his group was intercepted by Philippine security forces. Askali and all of his ten followers were killed while trying to escape to Mindanao. On 10 August 2018, a ten-man crew led by ASG subcommanders Ama Ullah and Salip Mura boarded a tugboat in waters off Tambisan but decided to abandon it as the crewmembers had locked themselves inside and an ESSCOM boat patrol was sighted nearby. See "Esscom team foils kidnapping bid off Lahad Datu waters," www.thestar.com, 11 August 2018.

catch was a powerful incentive to men desperate to pay off debts, to the point they were willing to risk ignoring warnings and disobeying curfews.¹²

In some of the earlier kidnappings, there were suggestions that inexperienced subgroups of ASG may have seized captives without fully understanding the long procedures required for negotiation and ransom. Australian Warren Rodwell's kidnapping is a case study in hardship for all concerned, but the kidnappers knew they had to keep the hostage alive or their only chance of getting some kind of cut would be gone.¹³ But in the case of the Indonesians, top ASG commanders were involved, suggesting that they knew that however lowly the hostages, payment would be forthcoming.

C. *The Question of Ransom Payments and the Indonesian Military*

And so the final reason why poor fishers would be targeted emerges: individual ASG commanders knew or gambled on the likelihood that someone would be willing to pay on their behalf. When barges had been the targets, it was usually the coal companies who came up with the money but fishing was a very different kind of business without the same level of hierarchy and organisation.

The economics of hostage-taking are complicated: the hostage or hostages have to be fed, transported and guarded. The longer they are held or the more frequently they are moved, the higher the costs to the kidnappers. At the same time the higher the ransom demand, the less likely, in most cases, that the demand will be met quickly. The best outcome from the kidnappers' perspective was what they achieved in 2016 with the first batch of Indonesians: quick payment, little negotiation, speedy release. While publicity is useful to boost the Abu Sayyaf's prestige, money is better. This was what generally happened with middle-class Filipinos abducted in Zamboanga or Sulu. They had little international publicity value anyway, and most took place with no media attention at all – the abductions were an income-generating tool, pure and simple.

When one of the first groups of Indonesian fishers, as opposed to barge or tugboat crew, were caught in November 2016 and their abduction dragged on for more than a year, their captors must have wondered at times whether it was all worth it.¹⁴

La Utu, the trawler captain kidnapped in November 2016, initially thought that the small boats approaching his boat was someone looking for fish bait. After seizing him, the kidnappers proceeded to another boat and took its captain, La Hadi. The kidnappers then took the two Indonesians to Sulu where they were placed in the custody of Salip Mura. At one point, they were held together with six Filipino Christians from the Visayas, with an estimated 400 ASG gunmen guarding them, including well-known subcommanders such as Idang Susukan and Ben Tatum. (Idang Susukan was reported to have been killed in February 2019 but sources in Sulu say he was very much alive as of March 2020.) La Utu became the camp's designated cook for the duration

12 The 5am-7pm curfew regulation on the eastern coast of Sabah (ESSzone) was enacted on 19 July 2014, a week after an incident on 12 July in which ASG kidnappers killed a policeman in a water village in Semporna and took another back to Sulu. The curfew later was extended indefinitely because of continuous kidnappings at sea, the Marawi siege, and cross-border movement of extremists in the Sulu-Sulawesi maritime zone.

13 Bob East, *21st Century Philippines Piracy*, Cambridge Scholars Publishing (Newcastle, 2018).

14 One Indonesian fisher, Herman bin Manggak, was abducted in Lahad Datu waters on 3 August 2016. The ASG demanded Rp.30 million (\$2,100). He was held for 50 days and released on 22 September 2016, just three days after Norwegian hostage Kjartan Sekkingstad was handed over to the MNLF. Sekkingstad was the manager of a resort on Samal island, where he was kidnapped with two other foreigners and a Filipino woman, on 21 September 2015. Two Canadians, John Ridsdel and Robert Hall were beheaded because the deadline for their ransom lapsed in April 2016. ASG spokesman, Abu Rami, said that they received \$625,000 (30 million pesos) for the release of Sekkingstad. President Duterte said \$974,943, or 50 million pesos was paid to the kidnappers.

of his captivity.¹⁵

Ransom for the two captains was eventually paid on 19 January 2018 and for Samsul Saguni on 15 January 2019. It obviously was not the kidnapped crew who paid, since they had no money. It was not the captains, since they too were mostly in debt to their *towkay*. The *towkay* were routinely asked for ransom payments and often complied when their boats were taken or when their land-based staff working in restaurants or other businesses were seized. In the case of Samsul Saguni, the *towkay* paid after the ASG reduced the ransom demand from fifty million pesos (\$980,000) to one million pesos (\$19,600), and Saguni was released on 15 January 2019. The reduction came after another Indonesian hostage, Usman Yunus, managed to escape and was rescued by security forces in December 2018.¹⁶ The kidnappers must have decided it was better to get something than nothing.

It was not the *towkay*, however, who paid for La Utu and La Hadi. According to them, it was an Indonesian army officer who at least helped arrange the payment. They know he was responsible for their release because he met them in Mindanao and told them so.¹⁷

It is worth asking why the Indonesian military would be involved at all. Several factors are probably at work:

- Any security incident in the Sulu Sea is automatically considered as being within the military's bailiwick, especially after the initiation of the Joint Patrols.
- In the debate over the new counter-terrorism law, one of the tasks the military envisioned for itself in countering terrorism was addressing international threats to Indonesian ships and planes. While Malaysian-owned fishing vessels were not exactly what they had in mind, hostage rescue abroad is a task that fits with the military's conception of its counter-terror role. What top-ranking officers really wanted was a green light for hot pursuit, but there was no legal basis and little likelihood that the Philippine military would welcome Indonesian operations in its territory, even if jointly conducted.¹⁸
- Several officers believed they had a special relationship with MNLF founder Nur Misuari going back to the 1996 peace negotiations that Indonesia brokered between the MNLF and the Philippines government on behalf of the Organisation of the Islamic Conference (OIC). Alhabsy Misaya, the ASG subcommander behind the kidnapping of the first group of Indonesian hostages in 2016, had been Nur Misuari's driver at the 1996 talks.¹⁹

The problem was that the TNI's belief was based on an outdated understanding of Nur Misuari's role. By going through Misuari, the army was effectively working with someone who reportedly ensured safe haven for the kidnappers and hampered rescue attempts by the Philippines military. Everyone benefited: the kidnappers got their money, Nur Misuari got renewed prestige and almost certainly money, the Indonesian Foreign Ministry could maintain the government

15 IPAC interview with fisher families, Sandakan, 1 February 2020.

16 IPAC interview with Philippine law enforcement official, 5 February 2020. Investigators identified the individual holding the account that received the money and found withdrawals of 50,000 pesos per day through an ATM machine until the 1 million pesos was exhausted. They could not make an arrest, however. To prosecute, they needed evidence that the money was indeed the ransom payment for Saguni, and this would have required bringing Saguni and the *towkay* to the Philippines to testify.

17 La Utu said that his kidnapper Salip Mura were had tears in his eyes when he was about to get released, "because we have been together for so long." IPAC interview with fisher families, Sandakan, 1 February 2020.

18 In January 2020, after a new group of Indonesian fishers were seized, the military reportedly proposed resurrecting a long dormant proposal for a Status of Visiting Forces Agreement with the Philippines government that would include a clause authorising hot pursuit. Philippine authorities were not persuaded that this was a good option.

19 The 1994 Interim Agreement between the MNLF and the Philippine stipulates Indonesia role as the head of OIC-Joint Ceasefire Committee. As part of its provision, in September 1994, Indonesia sent its 40-person peacekeeping force, the Garuda Contingent XVII-1 led by Brig. Gen. Asmardi Arbi to observe the ceasefire agreement in Mindanao. In June 1995, Gen. Asmardi was replaced by Brig. Gen. Kivlan Zen, who served until 10 April 1996.

paid no ransom because it was not called “ransom” and the donors were outside the government, the victims were released and everyone was happy – except for the fact that the whole process virtually ensured it would happen again and again as long as the money continued to flow.

Paying ransom not only gave the ASG an incentive to prey on Indonesians but it also may have encouraged the Butonese fishermen in Sandakan to take greater risks in fishing in dangerous areas in the waters off Tambisan, knowing that if they got caught, someone would come up with the money – and that as Muslims, they would probably not be physically harmed, however terrifying the experience. One of the Indonesian victims said an ASG gunman had threatened him shortly after he had been seized, saying, “You’re going to be cut up” (likely implying beheading). Another ASG intervened, chastising the first, and saying “We don’t cut up Muslims, only white people and Christians.”²⁰

La Utu was almost seized again on 29 September 2019 when a group of gunmen under the command of Salip Mura boarded his boat at noon. He had gone out with four other boats, all captained by Butonese. The gunmen recognised La Utu from his long captivity at Salip Mura’s camp in 2016-7, and they had a kind of impromptu reunion. As a result, he and his crew were allowed to go free. The ASG forced him to point out the other fishing boats, however, and warned him not to alarm them. One of the other captains recalled:

They asked La Utu who else was with him. Then they spotted us from La Utu’s boat with a telescope. Some of them came to our boat while the rest stayed behind on La Utu’s. It was around 13:00 when they boarded my boat and shouted ‘Put your hands up!’ They forced me, my son and my nephew onto their boat, and they also took all of our belongings.²¹

In the two years since La Utu had first been seized, however, there had been more concerted efforts at hostage rescue by the Philippines military, so ransom negotiation was not the only strategy available. The risk that the hostages would be wounded or killed in rescue attempts, however, was high.

It is hard to ignore the videoed pleas for help from kidnap victims shown with knives to their throats, but this is just what the captors are counting on – that somehow, a sum will be raised that will have made the whole exercise at least marginally profitable. The threat has to be credible enough for sympathetic donors to act, so Muslim or not, the terror that the victims face is horribly real.

D. A Kidnapping-Reduction Strategy Aimed at the Victims

If the Indonesian government wanted another option for reducing the risk of kidnapping, it might look more closely at how to assist fisher families in Kaledupa, so there would be less need to recruit family and friends to work in Sandakan. Programs might include skills and/or entrepreneurship training based on labor market demands, micro-credit or debt-reduction programs, and other interventions. The problem is that few of these kinds of programs are implemented or evaluated well, and the calculations of fisher families may well be that it is better economic strategy to seek livelihoods in Malaysia even with the risk of kidnapping than count on long-term development programs.²² There are a few areas of Indonesia where local communities have successfully reduced dependence on out-migration by developing local industries that have absorbed many young people, but few are as remote as Kaledupa.

20 IPAC interview, former Indonesian hostage, Sandakan, Sabah, 1 February 2020.

21 IPAC interview with fisher families, Baubau, 16 January 2020.

22 The Kaledupa fishers cannot fish in the waters nearest their home since the Wakatobi national maritime park was created but many have migrated internally to Maluku and Papua. See Palmer, *op.cit.*

A second possibility might be to find migrant worker advocates who can work in Sandakan with the fishers to try and improve their bargaining position with respect to the *towkay*, including perhaps a provision for ensuring that the *towkay* are responsible for paying wages if they should be taken captive. (The *towkay* would probably insist that such a provision would only be thinkable if the fishers stayed away from known dangerous areas and respected the curfews.) The Indonesian consulate in Tawau, which has been active in looking for solutions and keeping families informed of developments, might also be able to play a role here in holding workshops in Sandakan to ensure that the fishers know the basics of Malaysian law and how to get appropriate guarantees in their contracts. The Malaysian government should also be more pro-active about ensuring the *towkays* and their captains respect the curfews.

III. THE PERPETRATORS

If in the early days of the ASG, kidnapping and terrorism were one and the same, the two crimes came to be associated with different factions of the ASG, as founders died, internal rivalries increased, regional differences deepened and ISIS emerged. The lines were never hard and fast, however, and these factions could come together against a common enemy, however, usually the Philippines military. They also were sometimes willing to offer protection as needed.

Thus, Majan Sahijuan alias Apo Mike, one of the kidnappers involved in the 2018 and 2020 abductions, is generally associated with a non-ISIS faction but also reportedly has good relations with the pro-ISIS Sawadjaans. His base is in Maimbung, Jolo, and if the Sawadjaan fighters based in Patikul, Jolo come under attack, Apo Mike is generally prepared to offer protection.

This obligation to offer protection can work in favour of the kidnappers, too, as Apo Mike and his fellow kidnapper Salip Mura and their hostages have found protection from Nur Misuari and his third wife Tarhata in Kagay, Indanan, Jolo – and Misuari is under the protection of President Duterte.

Addressing both kidnapping and terrorism would be easier if these protection links could be severed.

A. *Kidnapping and Terrorism Before and After Marawi*

By the time Indonesians started being targeted in 2016, the ASG factions involved in kidnapping and those involved in terrorism had become largely – but not entirely – separate. Several factors were involved.

First, the ASG became more and more decentralised after the death of Khaddafi Janjalani in September 2006. Radullon Sahiron was his nominal successor but he never had the same authority. Even so, Sahiron's own inclination was to stay away from both the global jihad and foreign fighters. In his view, they only caused trouble and perverted the original goals of ASG which was to fight for an independent Islamic state in Mindanao. They also resulted in military operations backed by U.S. intelligence that killed top leaders, including Khaddafi Janjalani in 2006 and a beloved founding member of ASG, Umbra Jumdail Gumbahali, otherwise known as Doc Abu, in 2010. Especially after Doc Abu's death, Sahiron wanted nothing more to do with foreign fighters.²³ He was also reportedly angry with the young men known as *ajang-ajang* who kidnapped Filipino women and children.²⁴

Second, the Basilan and Sulu parts of the ASG had largely split into separate factions by 2010, with Isnilon Hapilon, who had been with Janjalani on Jolo, returning to Basilan and gradually

23 IPAC, "Killing Marwan in Mindanao," op. cit.

24 IPAC phone interview with Tausug activist, 24 November 2018.

moving (back) into global jihadist circles.²⁵ (There were enough inter-marriages to ensure that the boundaries were decidedly fluid, but the interests of the leadership and the local dynamics in the two areas had diverged.) Hapilon became the amir of ISIS in the Philippines after ISIS leader Abubakr Al-Baghdadi declared the establishment of a new caliphate in June 2014. From then onwards, high-profile kidnappings by the Basilan ASG groups largely ceased. The pro-ISIS group under Hapilon seemed to have separate sources of funding so there was less need to rely on ransom payments. After his death in Marawi in October 2017, violence on Basilan declined. With the exception of July 2018 Lamitan bombing, terrorist attacks became less frequent in comparison to Sulu or Central Mindanao, while there has been no reported case of kidnapping involving ASG in Basilan since 2015.²⁶ Under these circumstances, Basilan governor, Hadjiman "Jim" Hatanan-Salliman, was able to persuade dozens of ASG combatants to surrender their arm in exchange of government amnesty and their participation to rehabilitation programme.²⁷

Third, the pro-ISIS groups in the year leading up to the Marawi siege, which began in May 2017, were too busy training and preparing for the takeover to devote much time to kidnapping. The exceptions were the Samal kidnapping on 21 September 2015 that ended with beheadings of two Canadians seized, and the (failed) Bohol raid of April 2017, both of which were carried out by top terrorists of the ASG and both of which may have been designed to raise major funding for pro-ISIS operations.²⁸ Also, there were occasional ambushes of Philippine military patrols by ASG groups on Jolo during the Marawi siege, perhaps intended as diversionary attacks to ease military pressure on the Marawi fighters – another example of coming together against a common enemy.²⁹

B. *The Tarhata Link*

Three names come up repeatedly as the ASG commanders responsible for the kidnapping of Indonesians: the late Alhabsy Misaya, killed by the Philippines military in April 2017; Apo Mike; and Salip Mura (see Appendix 1). All were from Jolo, and all had links that go back to Tarhata "Tata" Ibrahim, Misuari's third wife whom he married in 1994, when she was 20 and he was 55.

Misaya, originally from around Indanan but later based out on the southeast coast of Jolo (Kalingalang Caluang, Panamo and Luuk, all in the Sulu 2nd district) was responsible for the 2016 kidnappings. He did not personally seize the Indonesians but sub-groups loyal to him did, and eventually the hostages ended up in his control. According to convicted Indonesian Bali bomber Umar Patek, who first met Misaya in Sulu in November 2005 when Misaya was still in the MNLF and Patek was on the ASG executive council, Tarhata was key:

One year later, [Misaya] joined the Abu Sayyaf and he was actually my subordinate. There was also a prominent figure known as Jim Dragon, whom I got to know quite well [...] Alhabsy Misaya originally comes from the same village as the third wife of Nur Misuari, so they are quite close. I advised the Indonesian government to use this

25 Isnilon Hapilon had been involved in several high-profile kidnappings, including the abduction of 20 hostages from Dos Palmas resort in Palawan in 2001 and a series of kidnappings (and hostage beheadings) in Basilan in 2002. Isnilon and his Basilan faction were among the first to declare allegiance to ISIS in 2014.

26 The kidnapping of two Chinese-Filipinos and one Chinese resident of Isabela city on 22 May 2014 was reportedly orchestrated by Basilan-based subcommander, Furudji Indama.

27 By January 2018, the number of ASG surrendered to the authorities in Basilan reached 123, including the ones from Zamboanga. See "Three ASG members surrender in Basilan," www.news.mb.com.ph, 9 July 2018. For detailed account of ASG rehabilitation programme in Basilan see Alex Douglas, "Island of Stability: The Causes and Uncertain Future of Basilan's Recent Stabilisation," Centre for Humanitarian Dialogue, April 2019.

28 For more on the Bohol raid, see IPAC, "Protecting the Sulu-Sulawesi Seas from Abu Sayyaf Attacks", op.cit., p.11.

29 See for example, "Sulu ambush possibly an Abu Sayyaf diversionary tack, says AFP chief," ABS-CBN News, 28 May 2017.

channel, to approach Nur Misuari's third wife.³⁰

At the time that the ASG's kidnapping and terrorism functions were still linked, Misaya was involved in several high-profile attacks: the October 2002 Malagutay bombing that killed an US military personnel, the 2009 bombing of Salaam Bridge in Indanan, and 2011 bombing of a café in Jolo. His reputation as a kidnapper soared after a series of successful cross-border abductions in 2014 of Chinese and Malaysians in eastern Sabah, including from resorts and restaurants. He then led several other kidnapping operations throughout 2016-2017, including of the first group of Indonesians. Former hostages described Misaya's men as "purely bandits". They said many were long-haired youths who were casual drug users and not observant Muslims.³¹

Throughout his ASG exploits, Misaya remained close to the Nur Misuari faction of the MNLF.³² Umar Patek said Misaya was head of Tarhata's security but several sources claimed the two were romantically linked, to the point that there were even suggestions she had him ambushed and killed in a fit of jealousy. Philippine police strongly denied the story.³³ The problem is that on Jolo, gunmen can easily have multiple identities, and there is nothing mutually exclusive about being rogue MNLF, rogue military, rogue ASG or a personal rival of any of the above.

Whatever differences Misuari and Tarhata had, they appear together in photos with President Duterte before and after Misaya's death. One photo shows them just before Misuari had a private audience with Duterte on 27 March 2017, another was taken when Duterte and Misuari met just after the Bangsamoro Basic Law was submitted to the president for approval.³⁴ The apparent closeness of Duterte and Misuari raised Misuari's value in Indonesian eyes but complicated efforts of the Philippines military to pursue ASG who sought shelter in or around Misuari's stronghold in Kagay village. Indeed, Tarhata reportedly refers to the ASG as the "invisible force of the MNLF."³⁵ Salip Mura, the kidnapper who grew close to the Indonesian captain La Utu, is Tarhata's uncle.

Why would Tarhata and Misuari have an interest in protecting kidnapers and what is Duterte's interest in protecting Misuari? The answers get into the complicated politics of Sulu and the MNLF.

IV. MISUARI, JIKIRI AND DUTERTE

The MNLF, the first insurgency since Philippine independence to fight for a separate state in Muslim Mindanao, has steadily lost ground to its rival, the Moro Islamic Liberation Front (MILF). The peace process between the MILF and the Philippines government that culminated in February 2019 with the establishment of the Bangsamoro Autonomous Region in Muslim Mindanao (BARMM), effectively left the MNLF out in the cold. One MNLF faction, now led by Yusop Jikiri, supports BARMM and has been willing to work with the MILF (and also with the Philippine armed forces). Nur Misuari, however, has made no secret of his unhappiness with BARMM and has the potential to be a dangerous spoiler. President Duterte has gone out of his

30 According to Umar Patek, Misaya came from the same village as Tarhata in Parang but sources in both the Philippine military and police said he came from Bunot, Indanan. "Umar Patek: There should be no jihad in Indonesia," www.tempo.co, 7 June 2016.

31 "Info from Ex-Captives: Military says Abu Sayyaf members are shabu users," www.gma.network.com, 29 September 2016.

32 Misaya had been Misuari's driver and bodyguard during the 1996 peace talks and throughout Misuari's tenure as ARMM governor (from 1996-2001). See IPAC, "Protecting the Sulu-Sulawesi Seas from Abu Sayyaf Attacks," *op. cit.*

33 "Another notorious Abu Sayyaf leader killed," www.rappler.com, 29 April 2017. Australian writer Bob East notes the rumours that other MNLF fighters killed Alhabsy, though without the salacious details. See *21st Century Philippines Piracy*, (Cambridge 2018), p. 30.

34 "Nur Misuari gets closed-door meeting with Duterte," www.rappler.com, 29 March 2017 and "LOOK: Duterte, Misuari meet in wake of BBL submission," news.abs-cbn.com, 19 July 2017.

35 IPAC interview with senior MNLF official, Manila, 13 February 2020.

way to show his support, even affection for Misuari by holding high-profile meetings with him and appointing him to prestigious sinecures, such as Economic Ambassador to the Organisation of the Islamic Conference (OIC). Those steps may be important to keep Misuari on side. The link to Duterte, however, is what gives Misuari protection and encourages top ASG kidnapers like Salip Murah to hide with their hostages in Misuari territory, knowing they will be safe from Philippine military operations. By maintaining good relations with the ASG, Misuari keeps himself in the game in Mindanao, gives credibility to his spoiler threat and almost certainly gets handsomely rewarded financially. The question is whether there are not better ways of preventing Misuari from disrupting the peace (though he is far from the only problem).

A. *Misuari: Between Criminality and Collaboration*

Misuari has a history of alternating between criminal acts of violence and collaboration with successive governments in a way that has enabled him to escape serious punishment. He founded the MNLF in 1972 and for the next four years, heavy fighting between his forces and the military under then President Ferdinand Marcos led to an estimated 120,000 deaths – and the exodus of around 100,000 refugees to Sabah.³⁶ In 1976, the OIC and the Libyan government under Muammar Gaddafi sponsored peace talks that led to the so-called Tripoli agreement. The agreement set out the basic principles for a Muslim autonomous region but the Marcos government never fully implemented its provisions.³⁷ A large faction of MNLF commanders, dominated by clans from central Mindanao (ethnic Maguindanaon and Maranao), rejected the Tripoli agreement because Misuari had given up the demand for independence. They also wanted a more explicit commitment to Islam. Led by Salamat Hashim and initially calling themselves the New MNLF, they broke away in 1977 and in 1984 officially founded the Moro Islamic Liberation Front (MILF). Another faction, based in Sulu and dominated by ethnic Tausug (Misuari's ethnic group), broke away in 1992 and became the ASG.

After Marcus's fall in 1986, President Corazon Aquino reached out to Misuari personally but good will alone did not make up for what proved to be a rather clumsy approach toward peace. It was not until 1996 that then President Fidel Ramos made a major effort to get the process back on track by bringing in the OIC and the Indonesian government to broker a new peace pact with the MNLF while separately, he started a new set of negotiations with the MILF. Having two insurgencies claiming to represent the same people and negotiating separate agreements has bedevilled the government ever since. But the 1996 agreement, which constituted the first sustained interaction between Indonesian officials and Nur Misuari, eventually led to Misuari's election as governor of the Autonomous Region of Muslim Mindanao (ARMM), which he proceeded to govern ineptly and corruptly from 1996 to 2001.

Fed up with his leadership, fifteen top MNLF commanders in 2000, with discreet backing from the government, formed the MNLF Executive Council (EC15) and ousted Misuari as chairman. In retaliation, Misuari and his loyalists, including Tausug forces from both the MNLF and ASG, led an uprising in Jolo and Zamboanga that left 113 dead and thousands displaced.³⁸ He then escaped to Malaysia but was soon deported by the Malaysian authorities. The Philippine government charged him with rebellion and held him in a high security detention facility from 2002 to 2006, when he was moved to house arrest. He was released on bail in 2008 after interventions from Saudi Arabian King Abdullah, the OIC and the son of Muammar Gaddafi, and

36 Thomas McKenna, *Muslim Rulers and Rebels: Everyday Politics and Armed Separatism in the Southern Philippines*, (Berkeley, 1998).

37 Ibid.

38 Misuari forces were led by his right hand, Ustadz Habier Malik and a loyal commander from Luuk MNLF base command, Khaid Ajibon.

the charges were eventually dropped.³⁹

Misuari's faction, referred to by his rivals as the Misuari Breakaway Group (MBG), and the EC-15 under Cotabato-based Muslimin Sema took very different approaches to the separate peace process with the much larger MILF. That process, which produced a comprehensive agreement in 2012, a Bangsamoro Organic Law in 2018, a referendum in January 2019 and the new autonomous region of BARMM, replacing ARMM, a month later, left the MILF leadership in control of the transitional government. The MNLF was not happy but Sema and his colleagues in EC-15 still supported the referendum and agreed to work with the new entity, while reminding the government not to forget its commitments under the Tripoli agreement.

Misuari, by contrast, turned his antagonism toward the 2012 agreement into violent conflict. In September 2013, 500 fighters loyal to Misuari laid siege to Zamboanga city – presaging by four years the ISIS takeover of Marawi. The rest of MNLF distanced themselves from the operation, saying this was Misuari's doing and did not represent the MNLF more broadly. The siege lasted just over two weeks, ending in a bloody clash with the military that killed thirteen civilians, 23 police and soldiers and 183 fighters and led to the arrest of 292 fighters and supporters.⁴⁰ More than 100,000 were displaced. A warrant was issued for Misuari's arrest on charges of rebellion and crimes against international humanitarian law, but he fled to Sulu, coming back into the open only after Duterte was elected president. A court suspended the warrant so that he could meet the president, and in early November 2016, Duterte sent a jet to pick him up and bring him to Manila.

An elated Duterte spoke on nationwide TV to announce the rebel leader's presence in the presidential palace in Manila. Unaware that he would be asked to speak, Misuari expressed support for the president, his anti-drug crackdown and a government offensive against ransom-seeking Abu Sayyaf militants in a rambling speech.⁴¹

In April 2018, two graft charges stemming from Misuari's time as governor were dropped while four others were kept on the books, though few expected him to ever face punishment.

B. Jikiri's Role

On 19 February 2017, Muslimin Sema handed over the MNLF chairmanship to Yusop Jikiri, his fellow EC-15 member and former Sulu governor and later member of the Philippine Congress, representing Sulu's 1st District. (The 1996 agreement among other things had enabled the MNLF to join mainstream party politics.) This changed the dynamics within the MNLF and between the MNLF and ASG. Jikiri, like Misuari, was from Indanan, Sulu and had been Misuari's chief of staff. He knew many of the Misuari and ASG commanders personally; he had also been a target of their assassination attempts.⁴²

Jikiri had no reservations in going after the ASG who were under Misuari's protection, not least because a successful attack could woo some of these men back into the MNLF fold, on his side. On 31 June 2017, he formed a 400- strong Anti-Kidnapping Anti-Terrorism Task Force, consisting almost entirely of ethnic Tausug fighters. He said at the time that he did not want "these bandits and terrorists to use MNLF areas as their hideouts or bases."⁴³ The move was welcomed by the AFP, who supported Jikiri's efforts to set up camps in critical areas, including

39 "Misuari credits Saudi king for his release," www.philstar.com, 27 April 2008.

40 Alan Taylor, "Bloody Philippine Siege Brought to an End," *The Atlantic*, 30 September 2013.

41 Jim Gomez, "Philippine rebel leader emerges from hiding to meet Duterte," Associated Press, 3 November 2016.

42 The first attempt was in early 2003 in Talipao. The second was in Indanan on 15 September 2003 when 70 Abu Sayyaf men under the leadership of the late Galib Andang alias Kumander Robot, the late Albader Parad and Misuari loyalists ambushed his convoy. "Sulu Governor Survives Ambush," www.philstar.com, 16 September 2003.

43 "MNLF forms task force against kidnapping, terrorism," news.mb.com.ph, 1 July 2017.

Indanan, Parang and Talipao. He wanted to set one up in Patikul, the stronghold of the pro-ISIS ASG faction of Hajan Sawadjaan, but the AFP saw it as too risky.⁴⁴

Jikiri's task force was involved in the rescue operation of the British couple, Allan and Wilma Hyron, who were freed on 25 November 2019 on Mt. Piahon, Parang, Sulu after almost two months in captivity. The task force had set up a seven km-long blockade and prevented the ASG from getting out, thus enabling the AFP special forces were able to go in and rescue them. Three weeks later, Indonesian hostages Maharudin Lunani and Samiun Maneu, held in the same area, were rescued by the AFP.

A senior official in the Jikiri camp recalled that after five Indonesian fishers were taken to Sulu in January 2020 by the ASG, they were sighted on the Sulare islands of Parang. The Jikiri faction immediately deployed forces to the Island, warning that they had better arrive before nightfall because it was easier for the kidnapers to move around after dark.⁴⁵

The official said his forces managed to intercept four kidnapers and their speedboat. Two were captured and two were killed. The AFP said its Joint Task Force Sulu led the operation on 19 January 2020, killing one kidnapper and capturing one speed boat.⁴⁶ But it was clear the Jikiri forces and the AFP were working together, the later drawing on the former's intimate knowledge of Jolo.

Misuari's alliance with Duterte, however, prevented the AFP and Jikiri's forces from conducting a raid on the site where the hostages were held. One military source said:

Whenever we were closing in, they [ASG] would flee into Misuari territory. Misuari then would call someone from the President's office, and the guy would call and advise me to pull out. The president will always bypass the AFP to protect Misuari.⁴⁷

On 26 February 2020, Jikiri revealed that 2 million pesos out of 4.5 million pesos of a ransom payment paid on behalf of a kidnapped Filipino doctor was gone from the MNLF bank account. He suggested that the missing amount was taken by a negotiator from Misuari's faction.⁴⁸ The doctor was rescued on 20 March 2020 in a joint operation between the AFP and Jikiri's anti-kidnapping task force.

C. Policy Options

If one of the most important short-term objectives is to prevent Misuari's protection of kidnapers, the question is how to break the immunity that Duterte in practice has given him. There are three options. The first is to ensure that any privileges given to Misuari are made conditional on his cooperation in allowing hot pursuit into his territory on Jolo and in turning over known kidnapers like Salip Mura. The government should also strengthen its alliance with the Jikiri faction around Indanan and ensure that the military has the local knowledge to pursue top ASG operatives. Favouring one armed group at the expense of another, however, is generally a recipe for more violence.

A second, not mutually exclusive with the first, is to work toward reconciliation of the different Sulu-based MNLF factions so that together, they can better confront the ASG. Any assistance to the military would have to be combined with some sort of reintegration package that would offer alternative livelihoods to young ASG fighters, much as the program that Gov. Jim Hataman initiated in Basilan has done. But the obstacles would be enormous. Not only would

⁴⁴ IPAC interview with senior MNLF officials, Manila, 13 February 2020.

⁴⁵ IPAC interview with senior MNLF official, Manila, February 2020.

⁴⁶ "Philippine troops kill alleged kidnapper of Indonesian fishermen of Malaysia," www.thestar.com.my, 19 January 2020.

⁴⁷ IPAC interview with AFP official, Manila, February 2020.

⁴⁸ "Whereabouts of abducted Jolo physician remains unknown," www.news.mb.com.ph, 26 February 2020.

the MNLF factions have to come together at a time when all seem to see the ASG as a potential recruiting pool – but no such program would work without bringing the major Sulu political clans on board as well, a formidable challenge.

A third is to try and strengthen the MNLF representation in BARMM and build a joint strategy with the MILF for combatting violent extremism and crime. The MILF has set a precedent in this regard by working with the AFP against pro-ISIS factions in central Mindanao. But the MILF is too preoccupied with the day to day problems of BARMM, decommissioning its fighters and the 2022 elections to worry very much about Sulu. The answer may be to pursue option one in the short-term while looking to option three for the future.

V. THE SABAH ISSUE

Malaysia's response to criminal activity by Abu Sayyaf militants in Malaysian waters has focused on military operations by the Eastern Sabah Security Command [ESSCOM] and tightened control over its immigrant population, especially Filipinos. Raids and reported harassment by ESSCOM officers have pushed many of the migrants inland, creating the possibility of new networks or safe havens for radicals in western Sabah – although much of the migrant population just wants to be left alone to work and earn money to send home. The Malaysian government might want to consider injecting more of a community policing approach to ESSCOM to build trust rather than fear in a community that includes individuals who because of extended family ties may provide some logistic support to ASG. More generally, a serious independent review of ESSCOM policies and procedures is warranted if only to understand whether allegations by migrants of ill-treatment are valid and if so, how to improve training and accountability for the future.

A. *Why Treatment of Migrants Matters*

The size of the Filipino migrant population in Sabah has been a highly politicised issue since the 1990s. At the time, Malaysia's ruling National Front party (Barisan Nasional, BN), dominated by the United Malays National Organisation (UMNO), began encouraging in-migration from Muslim areas of the southern Philippines, to add to the Filipinos who had settled as refugees after fleeing the 1970s fighting. The goal was to increase the proportion of Muslims who were presumed to vote for UMNO relative to the indigenous Christians who dominated the state politically. Hundreds of thousands of undocumented Filipinos and to a lesser extent Indonesians received the coveted "ICs" or identity cards that gave them access to employment, education and health services – and also allowed them to vote. More than 200,000 birth certificates were also issued to undocumented Filipinos.⁴⁹ The impact of the so-called "Project IC" turned into a huge debate in the lead-up to the 2013 election with Sabahans demanding and securing a Royal Commission of Inquiry (RCI) on the extent to which the government or the ruling party was involved in issuing fake documents to increase its electoral advantage. The RCI issued a lengthy report that satisfied no one, though it confirmed that covert operations to use migrants to strengthen the UMNO vote had taken place.⁵⁰

Local antipathy to the migrants, which was already high, increased in February 2013 with the bizarre incursion into Lahad Datu, Sabah by an armed force claiming to represent the Philippines-based Sultan of Sulu – or at least, one of several claimants to the position. When it was over, 56 militants, ten Malaysian security personnel and six civilians were dead. The Filipino

49 "8 things to know about the Sabah RCI", www.malaysiakini.com, 28 January 2013.

50 Mohamed Nawab Mohamed Osman, "A Transitioning Sabah in a Changing Malaysia," *Kajian Malaysia*, January 2017, pp.30-31.

migrants were now seen not just as illegal voters but as a security threat, even though there was virtually no support on the ground for the Sultan. Mass displacement, deportations and voluntary returns followed.⁵¹ The incursion also led directly to the formation of ESSCOM.

In Malaysia's 2018 elections, voters unseated Barisan Nasional and UMNO and brought Mahathir back as prime minister at the age of 93. The new Home Minister announced in late 2019 that in an effort to deal with the issue of undocumented migrants in Sabah, a new temporary pass, called Pas Sementara Sabah (PSS), would be issued to migrants who had previously received one of three kinds of documents enabling them to live in Sabah. This included the thousands of Filipinos who came as refugees in the 1970s. The government would require all migrants to register for a PSS. On turning in one of these documents, they would receive a new card that would contain biometric data and allow them to stay three years in Sabah with the possibility of renewal; anyone who did not have one of these documents would be deported.

But there were several problems. Most local politicians and much of the general public in Sabah rejected the idea of the pass, fearing that it would only legalise the migrants whom they wanted sent home. The plan, due to go into effect in June 2020, was effectively dead by January 2020. Mass deportations or voluntary returns were not the solution either. Most of the migrants themselves did not want to leave, even if there were economic incentives to return.⁵²

Meanwhile, ESSCOM raids on migrant communities continued, sometimes accompanied by abuse and extortion, according to the Indonesian fishers in Sandakan. One, asked about ESSCOM's efforts to register migrants, said:

ESSCOM only comes, takes notes, orders us to fill out forms, takes our photo and then demands fish. They always take the fish themselves in the boat's tank, and they always pick the best ones. If we don't give them what they want, they hit us, even in the open sea. We're also wondering, why are there so many Abu Sayyaf kidnappings since ESSCOM was set up? [Abu Sayyaf] didn't capture us before, the most that would happen is that they would ask for bait or food while we were at sea, and we would give it to them.⁵³

The repeated ESSCOM raids led some in the migrant community to leave the east coast and seek work in western Sabah, especially in the Keningau and Tenom area in the palm oil sector. It is not clear how many moved but interviews in Sandakan suggest that this is an ongoing exodus. One possible danger is that this could result in some ASG-linked individuals joining new radical cells among plantation workers. One example is the cell in Keningau linked to the January 2019 Jolo bombings. Started by an Indonesian fugitive, Andi Baso, working as an undocumented palm oil labourer, it came to include a stateless Indonesian born in Sabah and a few pro-ISIS Filipinos with networks in Kota Kinabalu, Tawau and Sandakan, as well as Zamboanga and Jolo.⁵⁴ A little vetting by Malaysian palm oil employers could have determined that Andi Baso was on the most-wanted list of the Indonesian police. The need for migrants to perform labour that Malaysian workers will not do is so great, however, that security vetting is hardly a priority.

If the police want the community to provide information on suspicious individuals, they will have to reciprocate by building better ties, including perhaps by incorporating migrants who have achieved full legal citizenship in ESSCOM and other security services.

51 Since January 2013, over 52,000 Philippine nationals have been deported to the southern Philippines. Of those, 77 per cent were born in Sabah, or have lived there for more than ten years. See IMAN Research and the Centre for Humanitarian Dialogue, "Mixed Feelings: Attitudes of Sabah-based Filipinos to Returning to the Philippines," the Centre for Humanitarian Dialogue, May 2019.

52 A minority of them are willing to return to Mindanao given the right circumstances, such as legal guarantees for regaining their citizenship, and financial support for the costs for transportation and settlement back in the Philippines. *Ibid.*

53 IPAC interview with Butonese fishermen in Sandakan, 1 February 2020.

54 IPAC, "The Jolo bombing and the Legacy of ISIS in the Philippines", Report No.54, March 2019.

B. ESSCOM military operations

ESSCOM security measures to protect Sabah coastal waters from ASG intrusion seemed to be effective in preventing kidnappings between 2017 to mid-2018, but causal connections were difficult to establish when several other factors were also at play. These included the Marawi siege, increased Philippine military operations across Mindanao but particularly in Sulu, and a reintegration program in Basilan that offered an alternative to criminal operations for a relatively small number of the ASG there.⁵⁵

As noted, ESSCOM was set up in the aftermath of the Lahad Datu incursion in 2013. It was intended as an agency that brought together the resources of three agencies: The Royal Malaysia Police, Royal Malaysian Armed Forces and the Malaysian Maritime Enforcement Agency. From the beginning, the navy pressed for a change in the existing rules of engagement and discretionary powers that would allow them to shoot on sight any “intruders” along Sabah’s east coast. Said the Navy chief Abdul Aziz Jafaar in 2014:

I had asked for the shoot on sight authority because I didn’t want it to be a case of us not being able to do anything when chasing intruders in our waters. They run away and speed off and that’s it. We can only watch in vain.⁵⁶

While the rules of engagement were not changed, ESSCOM components, including the police, took a “robust” approach to thwarting kidnapping attempts, including by opening fire.⁵⁷ Nine would-be kidnappers were killed at sea in 2018, for example. As one officer said frankly, “We don’t want them coming back.”

Information-sharing remains a problem. Philippine police say they do not always get details in a timely fashion on arrests, killings at sea or deportations of their nationals. Malaysian police still have difficulty getting lists of terrorism suspects from the Philippines and Indonesia that could be used for an integrated watch list. This may have less to do with reluctance to assist trilateral counterparts than the bureaucratic obstacles, chains of command and rivalries within each law enforcement agency at home. ESSCOM is particularly complicated because of its nature as an inter-agency operation, and complaints about its not sharing information come as much from other Malaysian police officers as they do from neighbouring forces.

The kidnappings have also become part of Malaysian political sniping. After Indonesian foreign minister Retno Marsudi suggested that the coordination with Malaysia was less than optimal, former Malaysian defence minister Hishamuddin Hussein reacted angrily on his Facebook page, noting that five incidents had taken place since he left office in 2018, and his successor had done nothing to strengthen trilateral cooperation mechanisms:

It is understandable if they [Pakatan Harapan] do not like Barisan National security policy, but please inform us what PH is planning to do to improve our security especially in Sabah.⁵⁸

In the case of the Indonesians captured on 5 December 2018, the only surviving hostage, Heri Ardiansyah, said the fishers saw no maritime patrol throughout their ordeal.⁵⁹ But the fact is that the fishers deliberately choose times to go out when the patrols are least likely to be around,

55 A Malaysian criminologist has suggested that Abu Sayyaf discovered that tobacco smuggling from Malaysia could be more lucrative than kidnapping, though that does not explain why kidnapping increased again. Datuk Seri Akhbar Satar, “Fighting cross-border terror in Sabah,” *Straits Times*, 2 January 2020.

56 “Should Our Royal Malaysian Navy be given the power to shoot on sight?,” www.says.com, 10 September 2014.

57 In January 2020, ESSCOM reported that it had thwarted 40 kidnapping attempts since 2018. Statistics on 2019 were not available.

58 Excerpt from Hishamuddin’s facebook post on 23 January 2020. See <https://www.facebook.com/HishammuddinH2O/posts/dua-hari-lepas-saya-dah-persoal-kementerian-pertahanan-malaysia-selepas-kerajaan/10157278807339355/>

59 IPAC interview with fisher families, Baubau, 14 January 2020.

including after curfew hours and during high waves. ESSCOM appears to still be more effective in terms of foiling attempted kidnappings than various trilateral mechanisms, including the Trilateral Joint Patrol set up in 2016. The Joint Patrol still mostly consists of quarterly port visit exercises at each country's Maritime Command Centre. The fact that Apo Mike managed to kidnap three fishers in Malaysian waters just a week after a joint trilateral naval exercise in Zamboanga City on 27 November 2018 illustrates the weakness of these efforts as a deterrent, though they remain useful as a tool for improving military cooperation and the designation of shipping channels has helped in the protection of commercial shipping.

C. Other Measures Needed

Several additional measures could be taken to improve the security of Sabah coastal waters. Curfew regulations seem to be ineffective as some of the recent cases of kidnapping have happened in broad daylight, but it would be worth exploring whether the timing and routes of ESSCOM marine patrols need to be altered.

Boat owners could be given incentives to install the Automated Identification System (AIS), a tracking system. According to a January 2018 study by the Maritime Institute of Malaysia, only 2,000 out of 7,000 than fishing boats and trawlers operating out of Sabah have installed the system. Malaysian authorities believed that most boat owners do not want to install it to avoid detection of transnational criminal activity, "and most often all the workers of these unregistered trawlers are undocumented."⁶⁰ In fact, all of the kidnapped Indonesians were legal migrant workers with full work permits.

Intelligence-gathering from ASG suspects could be given higher priority. Any review of ESSCOM operations should include an assessment of the quality of custodial debriefings and whether these could be improved by more in-depth and regular access to updates from Philippine police counterparts about new developments in ASG networks. The more detailed the information about the networks, the better the chances of developing effective prevention strategies.

VI. CONCLUSIONS

The main message of this report is that while trilateral mechanisms are important, Indonesia, Malaysia and the Philippines all have serious work to do at home. Indonesia needs to look at how to provide better skills and education in Kaledupa that would enable its youth to find alternatives to the dangerous fishing jobs in Sandakan. The TNI needs to be discouraged from paying ransom (or the equivalent by other names, such as sedekah, a Muslim charitable contribution) and from working with Nur Misuari. Of course the government needs to help its citizens in trouble, but there have been efforts in the past to find creative alternatives, or in some cases supplements, to ransom, including scholarships for Tausug children to madrasahs in Indonesia and building mosques in Jolo communities (though in Kivlan Zein's case, the mosque was reportedly built for Tarhata, which defeats the purpose). The fishers were repeatedly told that as Muslims, they would not be killed as long as they did not try and escape. The cooperation between the MNLF's Jikiri and the Philippine military suggests that the Indonesian government should open channels to his faction rather than relying so exclusively on Misuari.

The main homework for the Philippine government is to sever the protection links that offer refuge to the kidnapers. President Duterte has the right idea in trying to ensure that Misuari does not play spoiler, as he has so many times in the past. But that does not mean he has to allow

60 Maritime Institute of Malaysia et al, "KESBAN at SEA - Enduring Security for ESSZone," www.mima.gov.my, December 2017, p.12.

his friendship with Misuari to prevent military operations against known terrorist hideouts.

Malaysia needs to work on its relationship with the migrant community, both Filipino and Indonesian. The relationship now is one of mutual hostility. A review of ESSCOM operations and procedures would be useful but so would a concerted effort to include elements of community policing in ESSCOM training and to institute a complaints procedure so that allegations of extortion and abuse can be registered and investigated.

Trilateral cooperation is important, but the critical work starts at home.

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