

INDO-PACIFIC

INSIGHT SERIES



Philippines: Shifting Tides in the Sulu-Celebes Sea

The Sulu-Celebes Sea, commonly known as the tri-border area, has been warned as a potential “new Somalia” by Indonesian Minister for Maritime Affairs Luhut Panjaitan following a worldwide escalation in maritime kidnapping which is unparalleled in the past decade. The Philippine militants, the Abu Sayyaf Group (ASG), have emerged as the predominant actors operating within the tri-border area, successfully kidnapping more than 50 sailors and generating roughly U.S. \$7.3 million dollars in hostage revenue in the past year alone. In response, the littoral states of the Philippines, Indonesia and Malaysia have revitalised trilateral diplomatic efforts to strengthen a regional comprehensive framework to counter maritime piracy and kidnapping, however, there remains a failure to address many of the fundamental challenges that has so far resulted in a failure to shift the tides of the reality on the ground.

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CONTENTS

Executive Summary	1
Introduction	2
The Southern Philippines	4
The Abu Sayyaf Group	5
The Philippine Government Response	6
Implications for the Broader Indo-Pacific	11
Conclusion	13
Endnotes	14





EXECUTIVE SUMMARY

- The kidnappings of Indonesian and Malaysian sailors between March and July 2016 resulted in resurgence in diplomatic efforts between the Philippines, Indonesia and Malaysia towards countering regional maritime piracy and kidnapping.
- The Sulu-Celebes Sea, commonly known as the tri-border area, has an estimated U.S. \$40 billion dollars' worth of cargo flowing every year and maritime piracy and kidnapping threatens regional trade and stability.
- The Abu Sayyaf Group has emerged as the dominant maritime piracy and kidnapping actors operating in the tri-border area and has successfully generated roughly \$7.3 million dollars in hostage revenue in the past year alone.
- Despite the revitalised diplomatic efforts between the Philippines, Indonesia and Malaysia, there remains many fundamental challenges that need to be addressed before shifting the tides of the reality on the ground.



INTRODUCTION

The Australian Foreign Minister, Julie Bishop, visited Southeast Asia from 13-17 March which included visits to key partners – Singapore, Malaysia and the Philippines. Following her visit to the Philippines, Minister Bishop expressed Australia's concerns regarding the declaration of an Islamic State (I.S.) caliphate in southern Philippines.¹ The rise of Islamist terrorist groups pledging allegiance to the I.S. in the southern Philippines, the collapse of the caliphate in the Middle East and the potential return of 600 foreign fighters to Southeast Asia undoubtedly remains a significant security concern for the broader region. However, regional security concerns such as the persistence and future of maritime piracy and kidnapping within the southern Philippines must also be deliberated.

The Indo-Pacific region, particularly Southeast Asia, remains a global hotspot for maritime piracy and 2016 witnessed more maritime kidnappings than any other year in the past decade.² Worldwide attention towards Southeast Asia maritime piracy and kidnappings was re-ignited when a string of kidnappings began from March 2016 in the Sulu-Celebes Sea, sparking Indonesia's Minister for Maritime Affairs, Luhjut Panjaitan, to warn that the region could potentially become the "new Somalia".³

The Sulu-Celebes Sea, commonly known as the tri-border area, has so far resulted in the kidnapping of more than 50 sailors, mostly from Indonesia and Malaysia.⁴ Following these events, there was a significant resurgence in diplomatic effort between the Philippines, Indonesia and Malaysia towards countering regional maritime piracy and kidnapping through the establishment of an enhanced comprehensive regional framework.

The Indo-Pacific region is prone to maritime piracy and kidnapping since there is more than half of the world's commercial shipping passing through these waterways.⁵

Within the tri-border area alone, there is roughly U.S. \$40 billion dollars' worth of cargo flowing through every year,⁶ and there has been an escalation in recent months with Philippine pirates increasingly attempt to target ships of larger tonnage with high value cargo.

This has been seen in November 2016 with Japan's bulk carrier Kumiai Shagang and in February 2017 with Vietnam's cargo ship MV Giang Hai.⁷

With high value regional commodity trading and goods floating through the tri-border every year, increased attempts of maritime piracy and kidnapping undoubtedly has regional implications. For instance, the East Kalimantan to the Philippines trading route transports roughly U.S. \$800 million dollars' worth of Indonesian coal to the Philippines every year, accounting for 70% of Philippines domestic coal imports – an integral component to Philippines energy security.⁸ Consequently, the economic costs of maritime piracy and kidnapping undoubtedly threaten the region's multi-billion dollar trade and it remains within the littoral interests of the Philippines, Indonesia and Malaysia to strengthen their regional counter-piracy and kidnapping response in the tri-border area.

The tri-border area consists of many non-state actors operating within the maritime piracy domain, however, the Philippine militants, the Abu Sayyaf Group (ASG), have emerged as the predominant actors' within the Sulu-Celebes Sea since the early 2000s. According to the 1982 United Nations Convention Law of the Sea (UNCLOS), piracy is defined as *'illegal acts of violence, detention or depredation, committed for private ends by the crews or passengers of a private ship or private aircraft and directed, on the high seas, against another ship (or aircraft),*



or persons or property on board that ship or aircraft'. The 1982 UNCLOS definition, however, has been criticised for being too narrow and does not include classic boarding or hijacking of vessels on the high seas and does not account for the reality that most piracy acts occur within territorial waters and in ports.⁹ In order to mitigate this, the International Chamber of Commerce International Maritime Bureau (ICC IMB) uses a broader definition of piracy as 'an act of boarding (or attempted boarding) with the intent to commit theft or any other crime and with the intent or capability to use force in furtherance of that act'.¹⁰

This paper seeks to explore the significance of maritime piracy and kidnapping in the Philippines, the emergence and significance of the ASG within the tri-border area, the Philippines government response to maritime piracy and kidnapping and the future implications and opportunities for the broader Indo-Pacific region.



THE SOUTHERN PHILIPPINES

The Philippines is a maritime archipelagic state with a geographic expanse that scatters over 7,000 islands, an Exclusive Economic Zone (EEZ) of 2.27 million km² and an irregular coastline that stretches beyond 17,000 kilometres.

Nomadic ethno-linguistic groups have also historically transcended national maritime borders within the Sulu Sea and this continues to pose challenges to the contemporary notions of the nation-state and international borders.¹¹ The Philippines is thus faced with the vast security challenge of regulating and monitoring its own maritime territorial boundaries. Consequently, responding to maritime crimes such as piracy and kidnapping remains one of the most prominent national security challenges the Philippines faces today.

Maritime piracy and kidnappings is largely concentrated in the country's south, particularly surrounding the islands of Mindanao, Tawi-Tawi, Basilan, Sulu and the Zamboanga peninsula.¹² The southern Philippines are primarily home to the Filipino-Muslim (Bangsamoro) minorities which account for only 5% of the Christian-dominated population.¹³

Since the arrival of the Spanish conquistadors to the Philippines archipelago over 400 years ago and the subsequent Christianisation of the Filipino people, the Bangsamoro have typically been subjected to marginalisation and exploitative policies which has resulted in the higher rates of poverty, economic backwardness and criminality witnessed in the southern Philippines today.¹⁴ After several centuries of marginalisation, conflict and social economic inequality, the Philippines witnessed a violent eruption of Bangsamoro sentiment calling for self-determination in the 1970s, which has resulted in the Bangsamoro grievances that still persist today.¹⁵





THE ABU SAYYAF GROUP

The ASG was formally established in 1991 as an Islamist organisation under the leadership of Abdurajak Janjalani.¹⁶

Drawing upon the Bangsamoro sentiment, the ASG was originally created to violently pursue the calls for the self-determination movement of the Bangsamoro people,¹⁷ and aimed to establish an independent Islamic state government operating on Islamic law under Salafi Wahhabism.¹⁸

The early 1990s saw the ASG establish itself with a notorious reputation for executing lethal terrorist attacks and kidnappings, mostly targeting Christian and government targets.¹⁹ From the late 1990s and throughout the 2000s, however, the ASG began to evolve following the death of Janjalani in 1998.²⁰

The death of Janjalani sparked a leadership crisis in the ASG due to the significant loss of ideological and operational direction.²¹ His death resulted in the fragmentation of the ASG, in which it subsequently began to operate as a decentralised network of militant factions divided between the islands of Basilan and Sulu.²² Several years following Janjalani's death, it was reported that the Basilan group

had 10-armed groups acting independently of each other, whereas the Sulu group had 16-armed groups.²³

The ASG has since fluctuated between a political and ideologically driven militancy to committing kidnapping-for-ransom exploitations.

Existing research data suggests that this trend has resulted due to the absence of an ideologically driven leader.²⁴ In addition to this, the varying ASG battalions largely revolve around the personalities of the local leadership, ethnic lines and geographic divides. The ASG currently remains factionalised largely segregated by ethnic and geographic lines and remains ideologically divided. As such, this demonstrates the complex nature and fluidity of southern Philippine criminality with independent armed factions operating between the motives of political ideology and financial gain within the Philippine maritime piracy and kidnapping domain.



THE PHILIPPINE GOVERNMENT RESPONSE

The ASG has begun to emerge as a significant maritime criminal actor within the tri-border area and successfully began its high-profile kidnappings in 2001 when the ASG kidnapped 21 tourists in Sipadan, Malaysia generating revenue of U.S. \$16 million dollars. Since then, the ASG has developed notoriety for maritime piracy and kidnappings at sea, which has been highly lucrative generating roughly U.S. \$7.3 million dollars in the past year alone.²⁵

The Philippines government has responded with a multi-faceted response. This includes land-based counter-insurgency operations (COIN) in the southern Philippines, maritime-borne modernization and regional diplomatic engagement with Indonesia and Malaysia. Many fundamental challenges, however, continue to exist and must be addressed effectively or it may potentially undermine any progress in the near future.

COUNTER-INSURGENCY OPERATIONS

The Armed Forces of the Philippines (AFP) has primarily responded to the ASG militants through COIN operations in the southern Philippines, since the ASG was originally created as an Islamist terrorist organisation dedicated to the creation of an independent Islamic state. Following the events of September 11 in 2001, the U.S.-Philippine alliance was reinvigorated through the 'War on Terror' in which the southern Philippines became the Southeast Asian heartland for the fight against terrorism.²⁶ The launch of U.S.' Operation Enduring Freedom Philippines (OEF-P) saw developments such as a massive multi-million dollar surge in U.S. military and development assistance, the deployment of U.S. Special Forces advisors and the annual U.S.-Philippine military exercises called Balikatan (shoulder-to-shoulder).²⁷ At the turn of the 21st century, AFP counter-insurgency truly intensified with COIN efforts which primarily focused on ASG militants operating throughout the southern Philippines.

The surge of U.S. presence in the southern Philippines post-9/11 undoubtedly intensified counter-insurgency pressure upon the ASG. According to U.S. government estimates, there was a significant decline of ASG membership from approximately 1,270 to 437 in 2000 to 2012 respectively.²⁸ With U.S. military support, Philippines civil-military relations also improved which transformed the AFP's public image as "soldiers of war" into "messengers of peace" enabling them to win public support and gain valuable intelligence that led to the elimination of key ASG leaders.²⁹

The Philippines government under President Duterte continues to wage war on the ASG. In the first 100 days of Duterte's administration, the AFP reportedly launched 571 military operations which resulted in the neutralisation of 94 ASG militants and capture of strategic territory and strongholds, such as Hill 355 in Tipo-Tipo, Basilan. This may seem promising as in September 2016, a faction of ASG militants surrendered themselves to the AFP, potentially signaling that militants have been feeling the intensifying pressure of the government as well as the disunity of the ASG.³⁰ In September 2016 Malaysia was on "high alert" due to the possibility of ASG militants fleeing by boat towards Sabah.³¹

Although these efforts may seem promising, the threat of militant insurgency and terrorism remains and the security landscape of the Philippines may continue to deteriorate, largely due to the growing emergence of terrorist groups pledging allegiance to the U.S., including the ASG under Isnilon Hapilon, as well as the future prospects of returning foreign fighters from the Middle East. Furthermore, although the Philippines government have seemingly localised the armed conflict within the southern Philippines, there remains a credible threat of growing transnational terrorist linkages in the region, particularly through Sabah, and the persistence of maritime piracy and kidnappings which continues to threaten national and broader regional security.



MARITIME MODERNISATION

The Philippines has sought to strengthen and modernise its maritime security capabilities, as part of its recalibration from an internal to external security focus, partly due to the escalating geopolitical tensions in the South China Sea. These modernisation efforts were championed by the previous Aquino government and have been evident through the acquisition of naval vessels for the Philippines Navy (PN) and the Philippines Coast Guard (PCG), as well as the establishment of the Maritime Situation Awareness Centre (MSAC). As witnessed during the Scarborough Shoal incident between the Philippines and China in 2012,³² the modernisation of the Philippines maritime operational capability and domain awareness remains one of the most significant national security challenges.

With a reputation to have one of the weakest navies throughout the Southeast Asian region,³³ the Philippines have begun to invest to strengthen its maritime operational capabilities. In May 2016, the Philippines welcomed its first brand-new warship, the BRP Tarlac, which has since been deployed for ongoing sea denial missions and is serving as a command-and-control ship in its counter-piracy and kidnapping operations in the Sulu Sea.³⁴ It is also expecting the delivery of BRP Davao Del Sur from Indonesia which will serve as the sister-ship of BRP Tarlac and assist in command-and-control, particularly with humanitarian and disaster response operations, as well as operational capability to launch Amphibious Assault Vehicles (which has been ordered and expected to be delivered in 2018).³⁵ The Philippines has also signed a U.S. \$336 million dollar contract with South Korea's Hyundai Heavy Industries for the building of two new warships which will be received in 2020; the largest defence contract awarded under the Duterte administration so far.³⁶

In the same vein, the PCG is also expanding its maritime operational capabilities through the acquisition of new naval vessels. In May 2015, the Philippines awarded Japan Maritime United Corporation a U.S. \$200 million dollar contract to build ten multirole response vessels (MRRV),³⁷ a potential step forward for closer

defence industry cooperation between Japan and the Philippines. The MRRV's will be utilised for rescue operations, control of pollution, environmental protection, enforcement of maritime laws, humanitarian relief and the transportation of personnel and logistics which will undoubtedly improve Philippines existing maritime operation capabilities.³⁸ This was again bolstered in January 2017, when Japanese Prime Minister Shinzo Abe visited the Philippines and pledged an additional U.S. \$5 million dollars for speedboats and other counter-terrorism equipment for the PCG.³⁹

The establishment of the Maritime Situation Awareness Centre (MSAC) in 2011 also further strengthened Philippines capabilities to improve coastal surveillance and the coordination in responding to maritime security threats, especially maritime piracy and kidnapping. The Maritime Situation Awareness Centre (MSAC) is a centralised interagency mechanism established in 2011 responsible for collecting and disseminating information relevant to maritime security and coordinating a cohesive approach on maritime issues and operations within the Philippine maritime domain.⁴⁰ Coordinated by the Maritime Research Information Centre in Manila, the MSAC draws upon information and data from four main monitoring stations located in West Palawan, Luzon, Western Mindanao and Davao City, in addition to the 20 Littoral Observatory Stations strategically positioned throughout the Philippine archipelago.⁴¹ Despite this, however, there remain limitations about the effectiveness of MSAC which include the lack of physical and human naval assets, inter-agency bureaucracy and corruption, the geographical vastness of the Philippines archipelago and the weakness of existing diplomatic agreements with Indonesia and Malaysia.⁴²

Despite millions of dollars of investment towards the Philippine maritime defence industry and efforts to improve its maritime operational capability and maritime domain awareness, there remain significant limitations particularly due to the lack of availability of human and naval assets.



The modernisation of the Philippines maritime operational capabilities and its domain awareness remains a long-term investment which will only bear its fruits in the coming years.

Without addressing the contemporary shortcomings of its operational capabilities and maritime domain awareness, the future success to counter maritime piracy and kidnapping in the tri-border area remains impeded.

REGIONAL DIPLOMATIC COOPERATION

Maritime piracy and kidnapping in Southeast Asia has continued to flourish due to the lack of comprehensive regional security cooperation. Maritime regional cooperation against piracy within diplomacy has predominantly been characterised with bilateral agreements, instead of multilateral agreements.⁴³ Since the early 2000s, however, there have been developments in regional maritime security cooperation. In 2006, the Regional Cooperation Agreement on Combating Piracy and Armed Robbery Against Ships in Asia (ReCAAP) was established and adopted by 20 countries. In terms of the tri-border area, however, it remains fundamentally limited due to the exclusion of Malaysia and Indonesia, largely due to Malaysia's objection of the Information Sharing Centre being headquartered in Singapore and Indonesia's sensitivities surrounding its sovereignty.⁴⁴

Despite the bilateral and regional multilateral efforts, there remain fundamental challenges such as limited maritime operational capabilities between the tri-littoral states and existing demarcated maritime border and territorial disputes. There also remains a lack of mechanisms for the use of force to respond to maritime piracy and kidnapping crimes on the water, particularly including cross-border maritime pursuits (commonly known as 'hot pursuits') and joint maritime patrols between Philippines, Indonesia and Malaysia.⁴⁵ These fundamental challenges will likely undermine any diplomatic progress in the future if it is not effectively addressed and resolved. With this in mind, the looming uncertainty surrounding these

fundamental challenges and the Philippines ability to effectively address them leaves the future of counter-piracy and kidnapping efforts in a cloud of ambiguity.

PHILIPPINES—INDONESIA

The Philippines cooperation with Indonesia encompasses the signing of the Border Crossing Agreement in 1961 and the Joint Border Patrol Agreement in 1975. This has resulted in the bilateral cooperation of border management and maritime security, supported by the annual Philippines-Indonesia Border Committee Chairmen's Conference and the annual coordinated border patrols and joint maritime exercises (CORPAT PHILINDO) in the waters between Mindanao and northern Sulawesi.⁴⁶ These efforts have also been bolstered by the Agreement on Cooperative Activities in the Field of Defence and Security signed in 1997 and joint announcements regarding intensifying border patrols.⁴⁷ In September 2016, Indonesian President Joko Widodo (Jokowi) and Duterte signed the Joint Declaration on Maritime Security and Law Enforcement to also further strengthen maritime cooperation against piracy, including the exploration of bilateral cooperation within defence, human resources development, fisheries, aquatic resources and shipbuilding cooperation.⁴⁸

Despite several bilateral agreements between the Philippines and Indonesia on maritime cooperation, there remain many fundamental challenges that limit effective bilateral counter-piracy and kidnapping cooperation.

Not dissimilar to the Philippines, Indonesia also has a significant limited maritime operational capability to safeguard its territorial waters. Despite Jokowi's vision for Indonesia to become a 'global maritime fulcrum', Indonesia has been grappling with the challenge of maritime coordination between its several agencies for many years. In reality, it remains a logistical nightmare with roughly a dozen maritime agencies competing for authority and limited naval assets and resources.⁴⁹ Furthermore,



the establishment of the Indonesia's Maritime Security Agency (BAKAMLA) in 2014 has failed to improve this reality, with BAKAMLA reportedly only having six patrol vessels to operate throughout Indonesia's territorial waters.⁵⁰ The lack of maritime coordination and resources in Indonesia undoubtedly serves as an impediment within Philippine-Indonesian maritime cooperation, especially within the tri-border area.

PHILIPPINES—MALAYSIA

The Philippines cooperation with Malaysia is also evident in agreements such as the Memorandum of Understanding on Defence Cooperation signed in 1994, including the alleged permission for the conduct of anti-piracy patrols and information exchange.⁵¹ Despite the existence of diplomatic agreements between the Philippines and Malaysia, existing territorial disputes surrounding Sabah (North Borneo) have historically strained diplomatic relations and could potentially do so in the future.⁵² This erupted in 2013 with the Lahad Datu incident, which saw roughly 200-armed Filipino militants loyal to Philippines Jamalul Kiram III, the self-proclaimed Sultan of Sulu, assert his ancestral claim to Sabah. This resulted in an armed conflict killing at least 50 Filipinos and less than 10 Malaysian police officers.⁵³

The unresolved territorial dispute between the Philippines and Malaysia over Sabah fundamentally remains a diplomatic flashpoint which can potentially undermine any progress on the future Philippine-Malaysia maritime kidnapping and cooperation.

TRILATERAL DIPLOMACY

Trilateral security cooperation between the Philippines, Indonesia and Malaysia has been evident since the formalisation of a tripartite cooperation agreement called the Agreement on Information Exchange and Establishment of Communication Procedures signed in 2002. This agreement aimed to strengthen collective security cooperation regarding transnational criminal issues such as terrorism, money laundering, smuggling and maritime piracy. In accordance to this agreement, a

joint committee was created for administrative and operational tasks and established communication networks and information sharing. This tripartite cooperative agreement, however, remains limited, with littoral states merely 'recognising, desiring and realising' the need for collective security cooperation.

Realistically, however, parties can refuse to exchange information and intelligence or even temporarily suspend the agreement, allowing this agreement to undermine regional efforts against maritime piracy during times of diplomatic spats and conflicting national interests.⁵⁴

Despite these limitations, there have been some recent developments in strengthening this cooperation through trilateral diplomacy. In August 2016, the Philippines signed a trilateral maritime cooperation agreement with Indonesia and Malaysia in an attempt to strengthen comprehensive regional maritime security efforts within the tri-border area. This framework covers coordinated sea patrols, naval and army exercises, designated patrol corridors and intelligence sharing. Since this agreement, the Philippines, Indonesia and Malaysia have agreed upon hot pursuits during emergency situations with the permission from the infringed party, the establishment of three command posts to facilitate coordination and intelligence sharing, and agreement on potential sea and air surveillance routes.⁵⁵ In addition to this, the littoral states have also agreed to initiate joint army training for the formation of a joint special task force committed to responding to the threat of ASG and maritime piracy, as well as joint sea patrols within the tri-border area which is anticipated to begin sometime in 2017.⁵⁶

Many remain sceptical about the recent success of diplomatic efforts translating into joint action within the tri-border area. This is especially due to the weakness and limitations of the country's naval and coast guard capabilities and unresolved sovereignty sensitivities and existing border disputes. It is worth noting that although the Philippines and Indonesia have successfully demarcated their maritime boundaries in 2014,⁵⁷ this is not the case with the



maritime boundaries between Sabah and East Kalimantan in the Celebes Sea which, again, fundamentally limits maritime cooperation and the implementation of mechanisms such as hot pursuits.⁵⁸

In January 2017, Duterte indicated that he has requested the Chinese to conduct sea patrols in international waters to also assist in combating maritime piracy and kidnapping in the tri-border area, which followed the inaugural meeting of the Sino-Philippines joint coast guard committee on 20-22 February 2017 in Subic Bay.⁵⁹

Although this may seem like a promising prospect for the Philippines, the ambiguity of 'international waters' may arise confusion between Philippines and Malaysia due to their unresolved territorial dispute regarding Sabah and thus its surrounding territorial waters.⁶⁰

The littoral states of the Philippines, Indonesia and Malaysia have made significant diplomatic efforts to improve and craft a comprehensive regional response to maritime piracy and kidnapping.

The weakness and limitation of the maritime operational capabilities of the littoral states, however, as well as the unresolved territorial disputes potentially impedes any future diplomatic efforts taken towards responding to maritime piracy and kidnapping.

The future prospects of an increasing Sino involvement within the tri-border area may also trigger diplomatic flashpoints between Philippines and Malaysia. Without addressing these fundamental challenges, it remains unlikely that recent efforts will shift the tides of the reality of maritime piracy and kidnapping within the tri-border area.



IMPLICATIONS FOR THE BROADER INDO-PACIFIC

TRANSNATIONAL LINKAGES OF MARITIME PIRACY, KIDNAPPING AND TERRORISM

The future peace and prosperity of the southern Philippines and addressing the root grievances of the Bangsamoro is fundamental in countering maritime piracy and kidnapping within the tri-border area. The Philippines has more than four decades of restive history plagued with distrust and failed peace negotiations with Islamist rebels. The current peace process between Duterte and the Moro Islamic Liberation Front (MILF) remains a fragile and slow process.⁶¹ Furthermore, given Duterte's collapsed peace talks with Communist insurgents in February 2017, many remain sceptical whether the government can successfully negotiate peace with the MILF.⁶²

The current peace process under Duterte, however, remains flawed. The current negotiations specifically exclude local non-state actors that are deemed terrorists; this includes ASG as well as the Maute group, Islamiyah Mindanao and the Bangsamoro Islamic Freedom Fighters – terrorist militancy's that have pledged allegiance to I.S.. With this in mind, there is no guarantee that the negotiations between the government and MILF will result in a quelling of anti-government sentiment due to the existence of other marginal groups. Simultaneously, the presence of I.S.-linked groups and potential return of foreign fighters from the Middle East likely means that the security environment in the southern Philippines will continue to deteriorate as conflict rages on.⁶³

The pre-conditions of economic backwardness and the deteriorating security environment in the southern Philippines is unquestionably a domestic national security issue for the Philippines, however, its continued destabilisation will likely pose a credible threat to the broader security of the Indo-Pacific, particularly for Indonesia and Malaysia. The permeable maritime borders of the littoral states territorial waters and the existing presence of I.S.-linked terrorist movements in the south may foster increased transnational terrorist linkages and increased cases of maritime piracy,

kidnapping and terrorism which have been feared by Malaysia.⁶⁴

ENHANCED DEFENCE AND MARITIME COOPERATION

The Philippines, Indonesia and Malaysia enhancement of defence and maritime cooperation is also fundamental in countering the threat of maritime piracy and kidnapping within the tri-border area. As noted before, bilateral agreements have remained the dominant form of maritime defence cooperation.

These diplomatic agreements have essentially failed to shift the tides of the reality on the ground.

The reinvigorated diplomatic efforts in the past year have signaled a promising step towards the establishment of a comprehensive multilateral response. This includes advancing necessary mechanisms such as joint-sea patrols, hot pursuits, increased maritime coordination, information and intelligence sharing. The Philippines, Indonesia and Malaysia must also invest and improve their own national maritime operational capabilities and maritime inter-agency coordination, as these shortcomings will affect its ability to cooperate and coordinate with its littoral neighbours. Regional diplomacy, however, can potentially be undermined by sovereignty sensitivities and unresolved territorial disputes, particularly Sabah.

Beyond the region, the Philippines recalibrated foreign policy and closer rapprochement with China has seen Duterte request China for anti-piracy patrols, which may see an even closer Sino involvement in the tri-border area in the near future and trigger diplomatic flashpoints and sensitivities in the region.

Overall, it remains imperative for the littoral states to overcome their fundamental limitations in order to establish an effective regional framework dedicated to countering maritime piracy and kidnapping within the tri-border area.



DEFENCE INDUSTRY LINKAGES

The Philippines modernisation of its maritime operational capabilities is also an opportunity for littoral neighbours, particularly Indonesia, to cooperate more closely through defence industry ties. The Indonesian vision of becoming a global maritime fulcrum includes the growth of Indonesia's naval defence and shipbuilding industry with Indonesia's state-owned companies such as PT Pal committed to pursuing this goal.⁶⁶ Philippine future interests in ordering additional naval vessels from Indonesia have also been signalled during the Asian Defence and Security exhibition in Manila in September 2016.⁶⁷ Beyond the Indo-Pacific, the Philippines have also deeply invested with Japan and South Korea's defence industry through multi-million dollar contracts.

This undoubtedly signals the Philippines intent on acquiring and modernising their maritime operational capabilities, while presenting a lucrative opportunity for closer defence industry ties within the Indo-Pacific and beyond.



CONCLUSION

The diplomatic resurgence witnessed in the past year is faced with an array of fundamental challenges that sees no solution in the short-term future. Despite the recent efforts, there is little sign of shifting tides within the tri-border area. Without addressing these fundamental challenges, the Philippines, Indonesia and Malaysia will likely see maritime piracy and kidnapping continue to flourish as it has for the past decade.

The modernisation and investment in maritime operational capability, particularly in the Philippines and Indonesia, must also be addressed as a lack of resources and coordination has fundamentally opened the doors to a lucrative maritime piracy and kidnapping market which has seen the ASG generate roughly U.S. \$7.3 million dollars in the past year. The return of foreign fighters from the Middle East and the deteriorating security environment may also potentially exacerbate the realities of the southern Philippines, which may undoubtedly further strain the limited maritime operational capabilities of the Philippines and its neighbours, Indonesia and Malaysia.

The littoral states continue to have several maritime demarcation border and territorial disputes, especially between the Philippines-Malaysia with Sabah and Indonesia-Malaysia with the Celebes Sea, which may cause diplomatic flashpoints which will likely complicate or undermine any future diplomatic progress or cooperation.

The question of peace and prosperity in the southern Philippines also remains uncertain under the Duterte administration. Given Duterte's track record of negotiating peace with Filipino insurgents, as well as his overlapping approach in achieving peace with MILF, many remain sceptical about his success to translate peace in the southern Philippines. Furthermore, though the challenges of the southern Philippines remain seemingly localised, the threat of transnational terrorism, maritime piracy and kidnapping spilling over into the region continues to remain credible, especially with I.S.-linked terrorist organisations.

Although the Philippines, Indonesia and Malaysia have made diplomatic progress in an attempt to counter maritime piracy and kidnapping in the past year, the failure to address many of these fundamental challenges have so far failed to shift the tides of the reality on the ground.



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