

Why claim over pedra branca with malaysia? essay



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INTRODUCTION Origins of the Dispute The dispute over Pedra Branca between Singapore and Malaysia originated on 21 December 1979 when Malaysia published its Map Showing the Territorial Waters and Continental Shelf Borders and for the first time included Pedra Branca within her territorial waters. In a response to the 1979 map, Singapore lodged a protest against it on 15 February 1980, rejecting Malaysia's claim and requesting it to recognise Singapore's sovereignty over Pedra Branca.

The note also reiterated that no country has ever questioned or contested Singapore's sovereignty over the island. Since then, there have been a series of bilateral exchanges, in the hope of solving the problem of ownership of Pedra Branca. After failing to resolve this problem bilaterally, both Singapore and Malaysia signed a Special Agreement on 6 February 2003, formally notifying the International Court of Justice of their decision to submit the dispute to the Court for arbitration. Written memorials were submitted by both sides to the Court in 2004 before commencing oral proceedings on 6 November 2007. Oral proceedings formally ended on 23 November, initiating the Court's deliberations over the case.

SINGAPORE'S REASONS FOR OWNERSHIP OF PEDRA BRANCA Singapore is contesting Malaysia's claim over Pedra Branca for several reasons, for purpose of clarity and organization; the reasons will be organized into three sections. The official reasons cited in the International Court of Justice written and verbal arguments, reasons that stem from Singapore's foreign policy and strategic reasons Official Reasons Singapore disputes Malaysia's claim over Pedra Branca because the construction and maintenance of the Horsburgh Lighthouse in 1851 by the British colonial government was a mark

of sovereignty over the island. It also maintains that it has been exercising sovereignty through the “ consistent, open and effective display of State authority” over Pedra Branca and its surrounding waters. Moreover, Singapore has undertaken these duties without objections or claims from any other country until the publication of the 1979 map. Reasons related to Singapore’s Foreign Policy Although the Singapore government is well aware that by contesting the claim on Pedra Branca with Malaysia and bringing it to the purview of the International Court of Justice (ICJ) is a potential threat to bilateral relations, it has relentlessly done so since 1980 to protect its sovereignty and national interests, in accord with its foreign policy tenets.

Sovereignty as defined by Hans Morgenthau is “ the appearance of a centralized power that exercised its lawmaking and law enforcing authority within a certain territory” , emphasizing the importance of territory while discussing the issue of sovereignty. States, therefore, expect complete and unquestioned authority over the space within their legal boundaries.

Territorial disputes occur when two states have the same expectations over the same piece of land. A quick analysis of Singapore’s foreign policy objectives shows that the fundamentals underlying Singapore’s foreign policy is the vulnerability of being a small state, buttressed between two huge neighbours, and the constant need to ensure the survival and sovereignty of Singapore. The need for Singapore to protect its independence stems partly from historical events such as the Japanese Occupation and the Separation of Malaysia and Singapore. The Japanese Occupation allowed Singaporeans to witness firsthand the ineptness of their British protectors and highlighted to them that the security of Singapore

should never be taken for granted and should never be placed in the hands of others but their own.

The Separation serves as an even more poignant reminder that “ Singapore’s vulnerability as a small state and the perpetual need of its citizens to ‘ defend’ the island state from all forms of aggression”. Singapore recognizes that as a small state, it is infinitely more vulnerable to external threats than its larger neighbours and thus has to take bigger steps to protect and maintain its sovereignty. In a speech addressed to the Parliament in December 1965, then Prime Minister Lee Kuan Yew declared that “ any policy which endangers our long-term interests as separate and distinct community in this region must be eschewed. Applying this to Pedra Branca, if Singapore was to meekly accept the sudden annexation of the island by Malaysia, it would signal to other countries in the region that “ rule of might” can easily replace the “ rule of law” and encourage willful statements such as these made by an UMNO Johor politician, who in relation to the Pedra Branca dispute once commented “ if we want to be calculating, even Singapore belongs to us.

” In this case “ physical preservation of the borders has become synonymous with the state of the union” and that to maintain sovereignty over existing borders is to confirm the legitimacy of the state. Strategic Reasons (Source: Ministry of Foreign Affairs) Located at 1° 19. 8’N, 104° 24. 4’E, Pedra Branca lies at the eastern entrance of the Straits of Singapore and is buttressed by the South China Sea in the East. Historically and in contemporary times, the Straits of Singapore has been one of the busiest shipping straits in the world because it links the South China Sea with the Straits of Malacca.

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This means that ships traveling between Europe and Asia will invariably have to pass through the Straits of Singapore and the port of Singapore. With no natural resources but blessed with a strategic geographical position, the success of Singapore's port is an economic necessity with "annual international trade is three times as large as its GDP." The Straits of Singapore sees "900 ships" pass through daily while the port of Singapore is one of the world's busiest ports, with an average of "10,000" vessels arriving every month. Therefore by claiming Pedra Branca as Malaysian territory, Malaysia will effectively hem Singapore in between her and Indonesia, further restricting Singapore's access to the high seas, which currently accounts for at least 85% of trade. Thus, as most of Singapore's "territorial waters are entirely surrounded by the territorial waters of Malaysia and Indonesia", retaining Pedra Branca as its easternmost point is essential for its economic survival.

Tim Huxley also suggests another reason for Singapore's dispute of Malaysia's claim; that is Singapore's small land area gives it little territorial strategic depth. Coupled with a small population and military infrastructure, relative to her neighbours, Singapore cannot, under any circumstances, "yield territory to an aggressor with the expectation of later regaining it."

RELATIONS BETWEEN SINGAPORE AND MALAYSIA, WITH RESPECT TO PEDRA BRANCA Tensions, understandably, rose between the two countries after a series of incidents involving Malaysian fishing and government boats. In 1989 and 1991, Johor politicians complained that Malaysian boats were denied entry into the waters surrounding Pedra Branca.

Singapore responded that they were denied entry due to safety reasons as there were installation works going around the island. At this point of time, allegations against Singapore were made by lower ranked politicians who tend to have a penchant for “ seeking publicity through a stridently nationalistic stance. Senior Malaysian politicians were in fact more neutral and tried to allay the rise of nationalism by announcing that the dispute would be settled bilaterally through discussions and that Singapore and Malaysia “ are not going to war over that little rock. ” From this statement, it seems that despite the tension on the ground, government to government relations were not as strained as one would think. However, this changed in 1992, when another incident involving a Johor Fisheries Department patrol boat was chased away from Pedra Branca by a Singaporean patrol boat. Malaysia’s Law Minister publicly announced that Pedra Branca belonged to Malaysia and that Singapore was in no place to claim sovereignty to the island.

Tension had apparently spread upwards since the 1989 and 1991 fishing boat incidents. This marked the beginnings of a period of high tension between the two countries. The Straits Times reported that at the Causeway, the Malaysia authorities came down harder on Singaporeans which led to a Singaporean MP discouraging Singaporeans from visiting Malaysia. Malaysian opposition parties, Partai Islam (PAS) and Semangat’46 also heightened bilateral tensions by joining in the fray. They accused the Malaysian government of dragging their feet over the issue instead of standing firm and refuting Singapore’s claim. They also announced plans to stake Pedra Branca as Malaysia’s by planting flags on the island.

Despite a rise in nationalist sentiments on the ground, the overall relationship between the two countries does not seem to be greatly affected. Compared to the Herzog crisis where Malaysians publicly took the streets in protest, there were no such protests about Pedra Branca. Judging from the response and actions, the Malaysian government seems especially keen in ensuring that the anti-Singapore sentiments did not spiral out of control and damage the relationship between the two countries. It demonstrated this desire by constantly issuing warnings against the provocative statements of the opposition and the risk of war should Malaysians continue antagonizing the Singaporean government. The Malaysian Chief of Defense Force General Yaacob Mohammed Zain also asked Singapore to “ take no notice of this small group of people as there is so much more to gain by working together.

” In another move to defuse the tensions on both sides and keep relations cordial, Singapore and Malaysia agreed to approach the dispute through a legal angle, starting with the exchange of legal documents supporting each side’s claim. When this was unable to resolve the conflict, both sides agreed to draft a Special Agreement to submit the dispute to the ICJ. The Special Agreement was signed in 2003 and submitted to the court in the same year. THE FUTURE OF SINGAPORE-MALAYSIA RELATIONS On 23 November 2007, the International Court of Justice formally concluded the public hearings regarding the sovereignty of Pedra Branca and commenced deliberations. Although no date has been announced for the Court’s Judgement, most analysts have suggested that it will be announced in 2008.

Although national pride on one side will be bruised, judging from the behaviour and actions of both governments throughout the dispute, it is

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unlikely that bilateral ties will be greatly affected. Firstly, the method chosen to resolve the dispute suggests that both governments would like to settle the matter in as peaceful a manner as possible without further endangering bilateral relationships. By referring the dispute to the International Court of Justice, both Singapore and Malaysia has accepted that the decision made by the court is final and cannot be appealed against. Judging from the comments of the leadership on both sides, it seems that both governments are fully aware of the consequences and are prepared to lose graciously should the ruling be against them. This shared sentiments stems from even before the signing of the Special Agreement.

In 1992, former Malaysian Prime Minister Mahathir announced that “ if legal evidence showed that the island belonged to Singapore, Malaysia would have nothing to say” . Former Singaporean Prime Minister Goh Chok Tong, who made the decision with Mahathir to turn the case over to the ICJ, concurred with the statement: “ if Malaysia proves that legally it is theirs... then it is theirs. If Singapore has a strong legal case, then it is our. It is a very civilized way of settling disputes.

” Secondly, when the Pedra Branca case is resolved by the decision made by the ICJ later this year, it would make little difference to the overall state of bilateral relations there are still the unresolved issues of water, the proposals for a new Causeway, Singapore’s use of Malaysian airspace and Malayan Railway Land which have yet to be resolved. Similar to Pedra Branca, these outstanding bilateral problems also concerns issues of sovereignty, strategy and history. These outstanding bilateral issues laid in abeyance in 2002, when Mahathir rejected the package approach and was revived in 2004

when Prime Minister Abdullah Badawi made his first official visit to Singapore upon succeeding Mahathir. However, these problems are not likely to be solved quickly.

Despite taking the legal route with Pedra Branca, the length of time from the start of the dispute to the decision made by the Court spans 29 years, it is likely that the resolution to the above problems will take about the same length of time, if not more. The problem of water has been festering since the 1980s and with the original water agreements due to expire only in 2011 and 2061, it is likely that this particular problem will remain until then.

Thirdly, the source of bilateral tensions between Singapore and Malaysia stems from the shared history between the two countries and how each has emerged from it. Although they remain highly bound together by history, the individual experience of each country's development since then " injects differential approaches to problem-solving within a national as well as regional context. It is highly unlikely that the citizens of both countries will forget the bitter experience of merger and separation which eventually led to the unceremonious booting out of Singapore from the Malaysian Federation.

Younger Malaysian politicians are still prone to using highly provocative anti-Singapore statements to gain the support of a populace that sees itself as the protector the minority Malay population in Singapore while the newer generation of Singaporean leaders has seemingly inherited the older generation's penchant for insensitive remarks towards neighbouring countries. This ensures that bilateral tensions between Singapore and Malaysia will continue to surface on certain issues such as political ideology and race. Even if Singapore and Malaysia manages to solve all the bilateral

issues between them, either through bilateral talks or third party arbitration, it remains highly unlikely for the two neighbours to enjoy “ long-term harmony” because the crux of the matter is the highly divergent mindset of the leaderships and the racial imbalance of both countries.