

BATU PUTEH RCI PROPOSES CRIMINAL PROBE INTO DR M

Then PM sent letter to S'pore to halt legal applications related to Batu Puteh, Middle Rocks and South Ledge before cabinet decision

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THE Royal Commission of Inquiry into Batu Puteh, Middle Rocks and South Ledge has recommended that a criminal investigation be launched against former prime minister Tun Dr Mahathir Mohamad.

This was among the legal suggestions made by the RCI in the 271-page declassified report that was tabled in Parliament yesterday.

According to the RCI, a criminal investigation can be initiated against Dr Mahathir for offences under Section 415(b) of the Penal Code, and punishable under Sections 417 and 418 of the same code.

"Therefore, it is proposed that a police report be made by the secretary of the commission to enable this investigation to commence."

In February, the government announced that His Majesty Sultan Ibrahim, King of Malaysia, had consented to the establishment of the RCI.

The issue stems from a decision made by the government in 2018 to withdraw Malaysia's application to review the International Court of Justice's decision on the sovereignty of Batu Puteh.

At the time, the government was led by Dr Mahathir.

In 2008, the ICJ ruled that Batu Puteh belonged to Singapore while Middle Rocks was awarded to Malaysia. It also ruled that the ownership of South Ledge would be determined based on the delimitation of territorial waters.

Malaysia filed an application to review ICJ's ruling in 2017, but it was withdrawn in May 2018.

In the RCI report, it said that Malaysia could refile the new interpretation application at any appropriate time.



A Jan 3, 2003 file picture shows Batu Puteh, where Singapore administers a lighthouse, sitting at the entrance to the Singapore Strait, about 30km east of the city state and 15km off Peninsular Malaysia's southern coast. REUTERS PIC

"However, the commission does not suggest that Malaysia refile the interpretation application."

Regarding administrative issues, the RCI has suggested that the government address significant sovereignty-related issues, such as those concerning Batu Puteh, through formal cabinet ministers' memorandum, not under "Other Matters".

"Efforts to reclaim the sovereignty of Batu Puteh through the Review Application and Interpretation Application should not be restricted to certain individuals under the pretext of maintaining confidentiality."

"As a guideline for the future, important matters such as national sovereignty, which can determine the loss or retention of Malaysia's territories, must be carried out in an integrated manner with the involvement of all relevant ministries, departments and agencies. Confidentiality should not be used as a basis to limit the membership of a team."

The RCI said the National Security Council should oversee national sovereignty issues, and state governments must be consulted on matters that affected their sovereignty, ensuring their input and position were considered.

"Others are that the work process at the Attorney-General's Chamber regarding the responsibilities of senior officers to provide legal advice to the government needs to be reviewed and improved."

The RCI said the Guidelines for Actions Regarding Support Received from Government Leaders, Influential Individuals, or

Any Person in Relation to Government Matters dated March 8, 2010, and the Guidelines for Handling Support by Administration Members in Government Affairs dated May 21 this year should be widely disseminated and consistently followed by administration members and public servants.

The RCI also called for the government to reconsider the proposed Public Service Bill to improve integrity and governance among public servants, ensuring that governance was conducted fairly and without fear or bias.

"The National Security Council should act as the lead agency responsible for coordinating and regulating all actions involving maritime issues, boundary delineation, security, national sovereignty and national airspace."

"The establishment of a special task force or investigative team as a precursor to forming a RCI is not suitable for important issues that require immediate action."

"Additionally, Universiti Malaya should be established as a centre of expertise in maritime affairs and national sovereignty."

The decision to halt the legal applications related to Batu Puteh, Middle Rocks and South Ledge was not the cabinet's official decision, but was based on a letter from Dr Mahathir.

The RCI into the Batu Puteh dispute concluded that the decision was based on a letter from the former prime minister dated May 21, 2018 and not a decision made by the cabinet on May 23, 2018, which began at 9.30am.

"The statement further shows that the decision was communi-

cated to Singapore on the morning of May 23, 2018, before the cabinet meeting started (at 9.30am).

"A copy of the email from senior federal counsel to Datuk Azian Mohd Aziz (A-GC former international affairs division head) Intan Diyana Ahamad stating that the Singapore High Commissioner was informed of Dr Mahathir's views and intention not to proceed with both applications at 9am on May 23, 2018.

"A copy of the email from Alifan Yang Amri dated May 23, 2018, sent at 1.12pm to Dr Mahathir's media officer Sufi Yusnibin Md Yusoff, attaching the letter from the A-GC to the Attorney-General of Singapore, informing that Dr Mahathir intended to discontinue both applications."

The RCI said the loss of sovereignty over Batu Puteh, as decided by the ICJ on May 23, 2008, should serve as a lesson, emphasising that weaknesses, carelessness and a complacent attitude in matters involving national sovereignty, as seen in that case, must not be repeated.

"It is also a lesson that a simple letter of inquiry from an external party, along with the written response provided, can at any time be used as evidence by outside parties to claim rights and sovereignty over the nation's territory."

"Careless and uninformed statements can be used by opponents and turn against oneself. Every action and decision regarding policy matters that involve national sovereignty and interests must be made carefully and in accordance with the law."