

PACIFIC SETTLEMENT OF DISPUTES
BASED ON INTERNATIONAL LAW
**MALAYSIA'S EXPERIENCES AT THE
INTERNATIONAL COURT OF JUSTICE**

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Institute of Diplomacy and Foreign Relations (IDFR)
Ministry of Foreign Affairs, Malaysia



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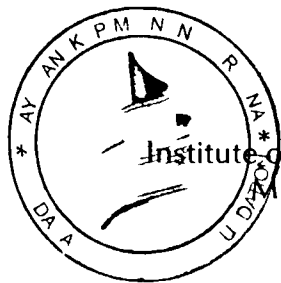
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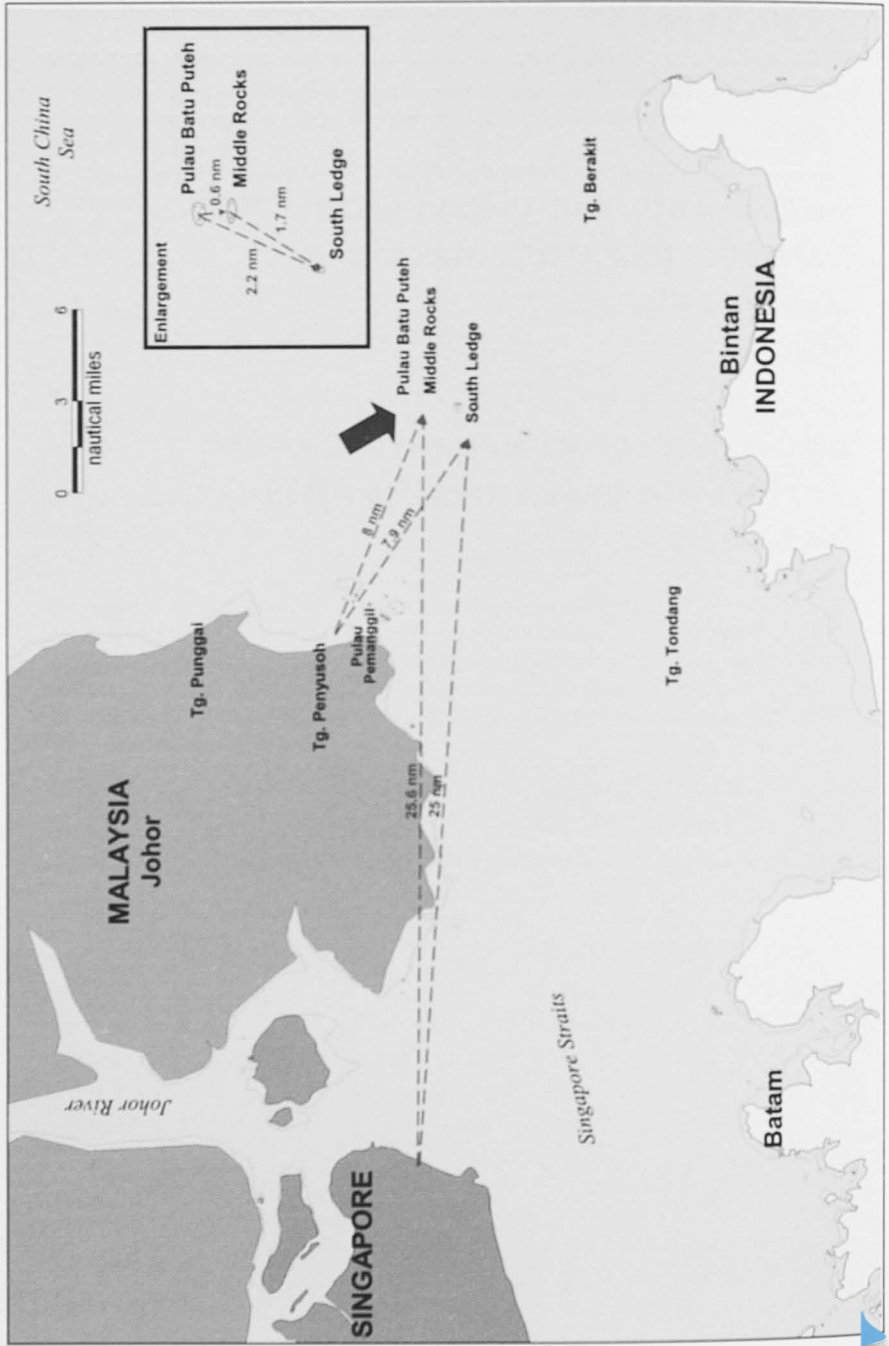
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BATU PUTEH, MIDDLE ROCKS AND SOUTH LEDGE



THE CASE OF BATU PUTEH, MIDDLE ROCKS AND SOUTH LEDGE AT THE INTERNATIONAL COURT OF JUSTICE

Abdul Kadir Mohamad

INTRODUCTION

On 23 May 2008, when the International Court of Justice (ICJ) in The Hague handed down its Judgment on the country's territorial dispute with Singapore, many people in Malaysia reacted with dismay that Pulau Batu Puteh (BP) had been lost to Singapore. As a piece of the national territory, BP was indeed sacred property. The Judgment particularly hurt because in the eyes of Malaysians the claim made by Singapore, ever since the problem surfaced in 1980, had come to symbolize the height of Singapore's arrogance in the conduct of its relations with Malaysia and insensitivity towards the feelings of Malaysians.

In 1979, Malaysia had published a map entitled "Territorial Waters and Continental Shelf Boundaries of Malaysia" in which BP was shown as forming a part of Malaysian territory. That inclusion was, in fact, a deliberate step taken by the cartographers to reaffirm Malaysia's sovereignty over BP which had always been a part of the original Sultanate of Johor since ancient times.

In February 1980, Singapore lodged a protest against the inclusion of BP in the 1979 Map. That began a protracted dispute between Malaysia and Singapore, spanning almost three decades. Much effort was extended to settle the dispute bilaterally but without any success. In 1994, the Leaders of Malaysia and Singapore agreed to refer the question of sovereignty over BP to the ICJ for peaceful adjudication by a third party.

Before then, the dispute concerned only one feature, namely BP. However, by the time the two sides had agreed to refer the matter to the ICJ, the dispute had enlarged to include two other features in

the same vicinity, namely Middle Rocks (MR) and South Ledge (SL). The case was formally registered by the ICJ as the “Case Concerning Sovereignty Over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge Malaysia/Singapore .”¹

A proper appreciation of the case requires careful reading of the written pleadings and oral submissions of Malaysia before the Court as well as the text of the Court’s Judgment including the dissenting opinions of four Judges, all of which are easily accessible on the website of the International Court of Justice <http://www.icj-cij.org> as well as in the enclosed CD.

This account is necessarily a brief rendition of a very lengthy and truly national effort spanning nearly 30 years. In particular, it does not reflect the thousands of hours of research and other work done by the Malaysian Team to prepare a good case on behalf of Malaysia. For more than 18 years a total of more than 50 people were engaged in the search for historical and documentary evidence in 63 archives and libraries in no less than 10 countries throughout the world.

BILATERAL NEGOTIATIONS DID NOT SUCCEED

Following its protest in 1980, Singapore continued to raise the issue with Malaysian leaders on several occasions.

- In May 1980, Lee Kuan Yew raised the issue of ownership of Pedra Branca with Dato (Tun) Hussein Onn. The two leaders agreed to settle the matter peacefully.
- In December 1981, Lee Kuan Yew raised the same issue with Dr. (Tun) Mahathir Mohamad. They agreed to have a formal exchange of documents to prove ownership.
- In October 1991, Goh Chok Tong and Dr. (Tun) Mahathir Mohamad reaffirmed the 1981 understanding to resolve the matter by a formal exchange of documents, for the purpose of

¹ <http://www.icj-cij.org/homepage-cases>