

Pulau Batu Puteh: Past, present and future

The long-drawn saga of conflicting claims to Pulau Batu Puteh is drawing to a close in a victory of process over protest, writes RAIS YATIM

A PANEL of 16 judges at the International Court of Justice (ICJ) convenes on May 23 in The Hague to deliver judgment on the case of Pulau Batu Puteh, Middle Rocks and South Ledge, a longstanding territorial dispute between Malaysia and Singapore.

For generations, Pulau Batu Puteh — roughly half the size of a football field located 7.7 nautical miles off Johor's coast at Tanjung Penyusoh — was a tranquil haven for fishermen plying the surrounding waters. But a claim on the island, which is part of the Johor Sultanate, surfaced three decades ago.

It began on Feb 14, 1980, when Singapore protested against the 1979 map published by Malaysia clearly placing Pulau Batu Puteh in our territory. Singapore then expand-



The lighthouse built on Pulau Batu Puteh by Singapore.

In the case involving Sipadan and Ligitan, the ICJ on Dec 17, 2002, in a 16-1 majority decision, ruled that both islands belonged to Malaysia. On Singapore's land reclamation, the ITLOS tribunal issued a provisional ruling on Oct 9, 2003,

have been successful without the assistance of the attorney-general, the National Archives of Malaysia, the Department of Survey and Mapping, and the Johor government. The inter-departmental co-operation involved 35 ministries, agencies,

helping Malaysia present the best possible case at the ICJ.

We all have a special attachment to this case. Not just for the time and effort spent on it, but because of our responsibility to the Malaysian public to give our all in protecting our nation's territorial sovereignty.

The judgment on May 23 will mark the end of a long journey. We must bear in mind that in any legal case, the outcome is not guaranteed. We can only prepare the best possible arguments and hope that the judges will agree and rule in our favour. As I have communicated to my counterpart in Singapore, in the event Malaysia gets the judgment, Singapore should accept the fact. And if Singapore gets the decision, Malaysia will do likewise. Inasmuch as both nations respect

ed its claims to the nearby Middle Rocks and South Ledge in February 1993. On Feb 6, 2003, Malaysia and Singapore signed a special agreement to refer the matter to the ICJ.

Malaysia's position is that Pulau Batu Puteh is and has always been part of the state of Johor. We have asserted to the ICJ that nothing has happened to displace our sovereignty over it. Singapore's presence on the island for the sole purpose of constructing and maintaining a lighthouse there — with the permission of the territorial sovereign, Johor — does not displace Malaysia's sovereignty over Pulau Batu Puteh.

Our nation has more than 1,000 islands. Many of them sit in strategically important, resource-rich seas, so territorial disputes are bound to occur for one reason or another. It is unfortunate that Malaysia has had to seek international legal recourse. But it is only when diplomatic and political channels are exhausted that Malaysia refers the dispute to a third party.

We have had to exercise this option twice before. A territorial dispute between Malaysia and Indonesia over the islands of Sipadan and Ligitan off the coast of Sabah was referred to the ICJ, while our concern over Singapore's land reclamation led us to institute arbitral proceedings at the International Tribunal for the Law of the Sea (ITLOS).

which, among others, directed Singapore not to conduct its activities in ways that would prejudice Malaysia's rights or damage the marine environment.

In both cases, the outcome of the proceedings confirmed Malaysia's position. But neither outcome would have been possible for Malaysia without a strong, meticulously prepared case. That track record continued with the Pulau Batu Puteh proceedings at the ICJ.

Three of the five leading international law experts who argued our case for Pulau Batu Puteh also represented Malaysia at the ICJ during the proceedings for Sipadan and Ligitan and at the ITLOS tribunal on Singapore's reclamation works. Cambridge University professors Sir Datuk Elihu Lauterpacht QC and Datuk James Crawford, and Leiden University international law professor Datuk Nicolaas Jan Schrijver are among the best in the business.

Under the capable leadership of Malaysia's Agent for the Pulau Batu Puteh case, Tan Sri Abdul Kadir Mohamad, as well as our Co-Agent, Datuk Noor Farida Ariffin, the legal team assembled a case that involved research spanning nearly 30 years. More than 50 experts were roped in to scour records in nine countries. No stone was left unturned in our research to present the most compelling arguments to the ICJ.

Our preparations would not

departments, the armed forces, police and local institutions of higher learning. It easily serves as one of the best case studies in teamwork and dedication to protect the interests of Malaysia.

To put the nearly 30 years spent researching the Pulau Batu Puteh case into perspective, consider how the top position at the Foreign Ministry changed hands not once or twice but seven times in that period! Tan Sri Tengku Ahmad Rithauddeen Tengku Ismail was foreign minister at the time the work began. He was succeeded by Tun Mohd Ghazali Shafie in 1981, but was reappointed to his old portfolio in 1984.

I was made the minister two years later, and Tan Sri Abu Hassan Omar succeeded me in 1987. But the research went on uninterrupted right through to when Datuk Seri Abdullah Ahmad Badawi was appointed foreign minister in 1991, and when Datuk Seri Syed Hamid Albar assumed the position in 1999.

Now, as fate would have it, I have again found myself back in the saddle at the ministry, just as the case draws to its conclusion. All my predecessors deserve their due credit. This is a story of a torch being handed from one helm to another. I would be remiss not to record the highest appreciation to all the many officers — some of whom have retired — who dedicated themselves to

report the decision of the ICJ.

The dispute over Pulau Batu Puteh has constrained our ties with one of our closest neighbours and fellow Asean member states. We hope a resolution to this dispute can pave the way to easing our other outstanding bilateral issues with Singapore.

Our decision to take this matter to the ICJ demonstrates that Malaysia is a nation that places great emphasis on the rule of law and affirms our position as a respectable member of the international community.

There should be no acrimony on either side, no matter what the judgment may be, and on this both Malaysia and Singapore have agreed. I'm happy to report that both countries have also agreed to have a Joint Technical Committee meeting headed by our Foreign Ministry secretary-general, Tan Sri Rastam Mohd Isa, and his Singapore counterpart, before the judgment is made.

In the end, it is what Malaysia and Singapore do after May 23 that will decide whether we can bring closure to a bilateral issue that has besieged us for more than three decades. Whatever the final outcome, Malaysia and Singapore will remain steadfast as friends and neighbours bound by understanding and harmony.

■ **Datuk Seri Dr Rais Yatim is
Foreign Minister of Malaysia**