

## SINGAPORE-MALAYSIA RELATIONS REVISITED: AN “ENGLISH SCHOOL” IR ANALYSIS

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Singapore merged with Malaya, Sabah and Sarawak to form the Federation of Malaysia in 1963. However, this political union proved to be short-lived, as Singapore was ousted from the Federation in 1965 due to political and ethnic differences. This failed political union, and the resulting stigma of separation has continued to cast a shadow over Singapore-Malaysia's bilateral ties. Furthermore, due to geographical proximity, bilateral problems are prone to exaggeration by both sides, often a case of “virtuous self and the stereotypical other”.<sup>1</sup>

Even though problems in bilateral relations tend to be subjected to hyperbolic treatment for domestic political purposes by both sides, it is important to be aware that serious problems do exist between Singapore and Malaysia. For instance, they have outstanding disputes over substantive issues such as the sovereignty of Pedra Branca, a small but strategic island off the eastern entrance of the Straits of Singapore, as well as the adjacent Middle Rocks and South Ledge, and the supply of water from Malaysia to Singapore. Hence, the existence of real and perceived problems between Singapore and Malaysia has resulted in realism, which focuses mainly on the adversarial aspects of international relations,<sup>2</sup> establishing a near-monopoly on the analysis of Singapore's foreign policy towards Malaysia.<sup>3</sup>

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1 N Ganesan, *Realism and Interdependence in Singapore's Foreign Policy* (London: Routledge, 2005), 58.

2 Upper case is used when referring to International Relations as an academic study and lower case when referring to international relations as the subject matter in this field.

3 Chan Heng Chee, “Singapore's Foreign Policy: 1965-1967,” *Journal of Southeast Asian History* 10, no. 3 (1969), Ganesan, *Realism and Interdependence in Singapore's Foreign Policy*, Tim Huxley, “Singapore and Malaysia: A Precarious Balance,” *The Pacific Review* 4, no. 3 (1991), Michael Leifer, “Overnight, an Oasis May Become a Desert,” *Far Eastern Economic Review* (1987).

While adversarial aspects are indeed present, this paper argues that a closer examination of the resolution of the sovereignty dispute over Pedra Branca [and the neighbouring Middle Rocks and South Ledge], as well as the genesis of the dispute over the supply of water from Malaysia to Singapore will demonstrate that associational aspects are present, evidenced by how both states handle these two conflicts. A well-rounded analysis of Singapore's foreign policy has to take into account such associational aspects marginalised by realist literature. Therefore, this paper posits that the English School theory, which Martin Wight advocated to be the *via media* between realism and liberalism,<sup>4</sup> presents itself to be a good candidate to address the existing literature's lacuna.

To support the use of the English School theory in this context, this paper argues that Singapore and Malaysia have a special relationship that allows their interaction to take on the form of an international society. As a result, they are able to handle these two disputes through institutions such as international law, defined here as "a body of rules which binds states [...] in world politics in their relations with one another and is considered to have the status of law".<sup>5</sup> To support this stance, this paper argues that Singapore and Malaysia's handling of the Pedra Branca and water disputes reflect their joint commitment to honour the principles of "life, truth and property",<sup>6</sup> which Bull argues to be the "elementary or primary goals of modern international society".<sup>7</sup> Since their actions are consistent with the tenets of international society, the use of the English School theory in this instance is appropriate.

It is very important to state upfront that this paper seeks to put forward a narrative of Singapore's foreign policy based on the English School theory *in its own right*. This article aims to provide an alternative perspective to facilitate further debate and conversation among interested parties; it does not seek to pit one International Relations theory against another, for such endeavours "are more useful for polemics than for analysis...The chief issues in the theory of international politics can be approached in a more fruitful way if we avoid defining them in terms of realism versus something else".<sup>8</sup> Consequently, this paper does not explicitly address the limitations of the realist approach. Instead, this paper seeks to put forward a coherent narrative of Singapore-Malaysia relations based on the English School theory.

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4 Gabriele Wight and Brian Porter, eds., *International Theory: The Three Traditions* (London: Leicester University Press, 1991), 91.

5 Hedley Bull, *The Anarchical Society: A Study of Order in World Politics* (London: Macmillan, 1977), 127.

6 *Ibid.*, 4-5.

7 *Ibid.*, 19.

8 Kjell Goldman, "The Concept of 'Realism' as a Source of Confusion, Cooperation and Conflict," *Cooperation and Conflict* 13, no. 1 (1988): 1.

### English School theory

The label 'English School' was popularised in the 1970s to categorise a group of British or British-influenced political theorists such as Hedley Bull, Martin Wight and C.A.W. Manning who focus on the concept of international society in the study of International Relations. Hedley Bull defines an international society of states to exist:

...when a group of states, conscious of certain common interests and common values form a society in the sense that they conceive themselves to be bound by a common set of rules in their relations with one another, and share in the working of common institutions.<sup>9</sup>

From the above definition, this paper purports that the "common set of rules" Bull was alluding to manifests itself most evidently in the form of international law, which is essentially a common code of conduct among states, and is central to the working of international society.

The primary argument of the first generation of English School theorists such as Hedley Bull is that despite the formally anarchical structure of the international system, there is still a high degree of order present as states do observe international law. This observation indicates that associational aspects in international relations are present but are often overlooked. Likewise, this neglect is applicable to Singapore's foreign policy towards Malaysia, and is addressed by this paper.

Thomas Hobbes, the quintessential realist, argued that the term "international law" was a misnomer. This was because there is no universal sovereign in international politics and "where there is no common power, there is no law".<sup>10</sup> However, a closer examination of Singapore's bilateral relations with Malaysia indicates that Hobbes' observation is not valid since international law regulates much of their interaction. Even though no common power exists to compel them to adhere to this particular set of laws, both states have come to a mutual understanding that their actions should be based on international law. This perceived anomaly can be easily explained by the English School theory. It argues that functional or utilitarian considerations rather than moral considerations are why states observe common institutions such as international law, which distinguishes it from liberalism, which is prone to seeing the world in Manichean terms.<sup>11</sup>

States do not obey international law because it is in their nature to do so. However, this admission should not undermine the general observation that most states still observe international law. Even when their actions are not in accordance with international law, recalcitrant states still tend to justify their actions with reference to the perceived set of norms, values, and rules that should govern their behaviour. This affirms the importance

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9 Bull, *Anarchical Society*, 16.

10 Thomas Hobbes, *Leviathan*, Reprinted from the edition of 1651 ed. (Oxford: Clarendon Press, 1947), 83.

11 R.J. Vincent, "Racial Equality", in Hedley Bull and Adam Watson, eds., *The Expansion of International Society* (Oxford: Oxford University Press, 1985), 213.

that states attach to international law. As such, R.J. Vincent argues that the general adherence to international law “[provides] evidence for the existence of [international society], not the reason for its existence”.<sup>12</sup>

### Criticisms of English School theory

Roy E. Jones, in his polemical article, argues that the English School ought to be closed because its parochial approach does not advance the academic study of International Relations. In his opinion, scholars working in this area “share a broad commitment to international relations conceived as a distinct, even autonomous subject”,<sup>13</sup> when in fact, it does not warrant such a place.<sup>14</sup> Jones also critiques the English School scholars’ narrow focus in “taking the whole society of states to be the peculiar study of international relations”.<sup>15</sup> To Jones, the English School’s definition of what constitutes international society is imprecise, and the resultant focus on this concept risks endowing unjustified gravitas to an analytical collectivity that, in his opinion, generates more heat than light:

The term ‘society’ in all ordinary usages refers to the norms, communities, associations and such through which individual lives are expressed and, to a greater or lesser degree, regulated. It is a term which is rendered even more meaningless than it already is when it is used to describe the collectivity of states. What does its use add to the understanding of states?...and [so] it would be positively harmful if it led to prolonged and distracting attempts to give this almost meaningless expression some deep substances of its own.<sup>16</sup>

Jones’ rationale is that the term “international society” is a misnomer; states are so different in their internal constitutions, they do not subscribe to a particular conception of statehood. As such, there is no authority with universally accepted authority to control them or to ensure that they observe international law. Due to the presence of anarchy, it would be very problematic for states to form a new grouping – international

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12 Vincent, “Order in International Politics”, in J.D.B. Miller and R.J. Vincent, eds., *Order and Violence: Hedley Bull and International Relations* (Oxford: Clarendon Press, 1990), 55. Alan James also points out, “The typical question asked by a state is not, what does the law require me to do? but, does the law permit me to do this? Or, how can I lawfully achieve this goal? Likewise it will ask whether it has any ground for complaint in particular circumstances, or whether another state’s complaint is well-grounded. Thus states are not dictated to by the law, any more than are individuals within domestic society. But they are anxious to act in a manner which is not contrary to law or at least can be justified in legal terms”. Alan James, “Law and Order in International Society,” in *The Bases of International Order*, ed. Alan James (London: Oxford University Press, 1973), 71.

13 Roy Jones, “The English School of International Relations: A Case for Closure,” *Review of International Studies* 7, no. 1 (1981): 1.

14 *Ibid.*: 3.

15 *Ibid.*

16 *Ibid.*: 5.

society, which indicates the presence of a high degree of order that is widely assumed to be absent in international relations.

Apart from the perceived lack of utility associated with the introduction of a new entity to analyse International Relations, the English School's definition of an international society has also been criticised as being vague and ambiguous. Alan James argues that English School theorists do not differentiate clearly between international system and international society, making it "[a] distinction without a difference".<sup>17</sup> To critics, the fundamental weakness in Bull's pronouncement of the distinction between a system and a society is that in the former context, states can be "in regular contact with one another" to the extent that makes "the behaviour of each a necessary element in the calculations of the other" without perceiving their ongoing interaction to be "bound by certain rules".<sup>18</sup> However, as Alexander Wendt points out, rules inform all but the most elementary forms of interactions, be they between individuals or states.<sup>19</sup> Since rules are present in both entities, there are then essentially no differences between an international system and an international society. Consequently, there is no need for a new approach in the academic study of International Relations. Hence, it is possible to understand why Jones calls for the closure of the English School.

### A Defence of English School Theory: Two Key Features

Hedley Bull, aware of the blurring between international system and international society, defends the need for this distinction:<sup>20</sup>

This use of terms is not compulsory, but the distinction is a vital one, for while an international society presupposes the existence of an international system, an international system does not necessarily entail that there is an international society: independent political communities can and do impinge on one another without accepting a common framework of rules and institutions.<sup>21</sup>

Although the presence of rules is a distinguishing feature of international society, the presence of rules itself is not the *defining* feature of international society. Hedley Bull and Adam Watson argue that one of international society's key defining features is that

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17 Alan James, "System or Society," *Review of International Studies* 19, no. 3 (1993): 272.

18 Bull, *Anarchical Society*, 10, 12.

19 Alexander Wendt, *Social Theory of International Politics* (Cambridge: Cambridge University Press, 1999), 254.

20 Drawing such fine distinctions are important. C.A.W Manning complains, "Some people, perhaps many, are allergic to fine distinctions". C.A.W Manning, *The Nature of International Society* (London: G. Bell and Sons, 1962) 64. He then goes on to quote Lord Balfour, "I am told people complain that I am given to drawing fine distinctions: and, if people find they cannot understand them, they should entrust their policies to those who do". Hence, Bull's emphasis on the distinction between the two concepts is warranted.

21 Hedley Bull, "The European International Order," in *Hedley Bull on International Society*, ed. Kai Alderson and Andrew Hurrell (Houndmills: Macmillan Press, 1980), 172.

such rules are established by “dialogue and common consent” and they are maintained because states “recognize their common interest in maintaining these agreements”.<sup>22</sup> In other words, the English School concept of international society emphasises the genesis of these rules, and why states have voluntarily chosen to accept binding obligations to govern their on-going interactions, and not on the presence of rules *per se*. Furthermore, rules, like laws, are expressed in the “if-then” form that sets out how they would be implemented and the consequences for breaking them.<sup>23</sup>

Rules, unlike commands, are applicable to all. As H.L.A. Hart points out, it is quite clear that the gunman who demands you hand over your valuables to him has excluded himself from obeying this command.<sup>24</sup> A command, unlike rules, “carries with it very strong implications that there is a relatively stable hierarchical organization”,<sup>25</sup> which is largely absent since states inhabit a formally anarchical structure. Since the English School theory stresses that rules, rather than commands, moderate states’ interaction, it can be inferred that international society’s second distinguishing feature is the explicit and universal recognition that all states are equal in terms of their duties and obligation, regardless of population and geographical sizes. In sum, these two distinctions differentiate international society from international system and address the earlier criticisms made by James and Wendt.

### Anarchy: Neglected Nuances

Ferguson and Mansbach designate anarchy as “the defining characteristic of the field [of International Relations]”,<sup>26</sup> and this condition is also an axiomatic assumption of the English School theory. For instance, Hedley Bull writes, “Whereas men within each state are subject to a common government, sovereign states in their mutual relations are not. This anarchy it is possible to regard as the central fact of international life and the starting of theorizing about it”.<sup>27</sup> The concept of anarchy is therefore a well-worn one in International Relations. Yet, it would be wrong to assume that this term is well understood. In fact, misunderstanding of this term has given rise to another criticism levelled against the English School theory: it is not possible for states to form a society with rules in the anarchical context states find themselves in.

The *Oxford English Dictionary* defines anarchy as an “absence of government; a state of lawlessness due to the absence or inefficiency of the supreme power; political

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22 Bull and Watson, eds., *The Expansion of International Society*, 1.

23 Gidon Gottlieb, *The Logic of Choice* (London: George Allen & Unwin, 1968).

24 H.L.A. Hart, *The Concept of Law*, 2nd ed. (Oxford: Clarendon Press, 1994), 18-20.

25 *Ibid.*, 20.

26 Yale H. Ferguson and Richard W. Mansbach, *The Elusive Quest: Theory and International Politics* (Columbia: University of South Carolina Press, 1988), 186.

27 Hedley Bull, “Society and Anarchy in International Relations,” in *Hedley Bull on International Society*, ed. Kai Alderson and Andrew Hurrell (Houndmills: Macmillan Press, 1966), 79.

disorder.”<sup>28</sup> This definition draws attention to the fact that “anarchy” does not only have a single and immutable meaning. However, the different meanings of this term are generally lost in the study of International Relations.<sup>29</sup> For example, one of realism’s defining characteristic is its assumption that since there are no supra-state organisations with universally accepted powers to control the actions of sovereign states, the ensuing anarchy will therefore lead to rampant disorder and chaos. However, the English School theory argues that the lack of a government does not, by default, mean that complete political disorder will inevitably occur.<sup>30</sup> Anarchy only means the absence of government. Although disorder and instability may occur, it is still possible for states to form an anarchical society. For instance, if anarchical conditions inevitably lead to disorder and instability, the question to then consider is not why wars occur, but rather why they do not occur more often and on a more regular basis.<sup>31</sup>

The term “society” is usually associated with order and stability. However, it is important to stress that the word “society” as used by the English School theory should not be misinterpreted to have overtly positive associations, and so is akin to political idealism. As Evan Luard pointed out, even though “a society may be closely knit yet [it can still be] marked by frequent conflict”.<sup>32</sup> It is important to note the English School concept of international society only provides an alternative organisation of international life between states; it makes no claim of being morally superior to realism or other International Relations theories. Chris Brown clarifies an international society “means little more than an association of states whose mutual relationships are norm-governed” and it is “not to be associated with any particular understanding of the

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28 Incidentally, the differentiated approach is also favoured by Bull. See footnote 2 in Transcript of “introductory Talk by Hedley Bull”, “International Society and Anarchy”, British Committee on the Theory of International Politics, 21-24 July, quoted from Kai Anderson and Andrew Hurrell, eds., *Hedley Bull on International Society* (London: Macmillian, 2000), 79.

29 “It would be a gross mistake to assume that familiar words are better understood. The fact is just the contrary. This familiarity, unfortunately, hinders, rather than helps cognitive understanding of the term in its usage in studying international relations”. Quoted in Zhang Yongjin, *China in International Society since 1949: Alienation and Beyond* (London: Macmillan Press, 1998), 43. Seifudein Adem has gone as far as to argue that international anarchy does not exist since there is a very high degree of order present although it is usually overlooked. Seifudein Adem, *Anarchy, Order and Power in World Politics: A Comparative Politics* (Aldershot: Ashgate, 2002).

30 “In so far as society functions with success this is partly because it is formed of individuals so emotionally and psychologically constituted as to lend themselves to social co-existence. Not all of them may do this with equal freedom from spiritual unease. But society functions as it does because enough of its members have sufficiently little difficulty in behaving as is conducive to its functioning”. C.A.W Manning, *The Nature of International Society* (London: G. Bell and Sons, 1962) 92-3.

31 Robert Jervis, “From Balance to Concert: A Study of International Security Cooperation”, in Kenneth A. Oye, ed., *Cooperation under Anarchy* (Princeton: Princeton University Press, 1986), 78-9.

32 Evan Luard, *Types of International Society* (London: Macmillian, 1976), 14. For example, Chinese secret societies have various rules and rituals, as expected of a society. Yet, they are most commonly associated with violence and criminality.

requirements for human flourishing. These requirements differ from place to place - the good society rests upon the shared understandings of members of a political community rather than on natural reason, and the purpose of a society of states is to allow these shared understandings to develop".<sup>33</sup>

### **Singapore's Foreign Policy towards Malaysia and the English School theory**

In order to analyse Singapore's foreign policy towards Malaysia using the English School theory, it must meet a number of conditions. Firstly, the interaction between Singapore and Malaysia must conform to that of an international society, the basic theoretical unit of the English School. The most straightforward way to establish the validity of this argument is to prove that a common culture exists between Singapore and Malaysia.<sup>34</sup> A common culture facilitates the formation of international society as it makes for "easier communication and closer awareness and understanding".<sup>35</sup> Secondly, a common culture can "facilitate the definition of common rules and the evolution of common institutions".<sup>36</sup>

A credible test to determine if the English School theory lends itself well to analysing Singapore's foreign policy towards Malaysia is to examine the conflict resolution process between them. The conflict resolution process is important because it will be a good test to determine if a common culture, and by extension, an international society exists between the two states. To this end, this paper focuses on how the disputes over sovereignty and natural resources between Singapore and Malaysia are dealt with, and not that disputes are present. These two issues are chosen because disputes over sovereignty and natural resources are associated with high politics, and are common causes of armed conflict between states. By subjecting the English School theory to testing cases such as these would deflect criticisms that the theory's relevance is established through an examination of issues that are peripheral, and not central, to international relations.

### **Special Relationship: Basis of Common Culture**

The term "special relationship" is originally used to describe bilateral relations between the United Kingdom and the United States since 1940. Linguistic and cultural similarities, coupled with close historical links, between these two states formed the basis of this special relationship. Despite the close links between them, as evidenced by the United States' assistance to the United Kingdom in the form of the Lend-Lease Act,

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33 Chris Brown, "The "English School" and World Society," in *Observing International Relations: Niklas Luhman and World Politics*, ed. Mathias Albert and Lena Hilkerme (London and New York: Routledge, 2004), 62,63.

34 Bull, *Anarchical Society*, 16.

35 *Ibid.*

36 *Ibid.*



Marshall Plan, and political support during the Falklands conflict against Argentina, and likewise, strong British support for the American war effort in Iraq and Afghanistan, bilateral relations were also sometimes fraught with difficulties. For instance, American President Dwight D. Eisenhower did not support British Prime Minister Anthony Eden's actions in the Suez; Prime Minister Harold Wilson did not accede to President Lyndon Johnson's request for military assistance during the Indo-china conflict. The important issue to note is that even within the context of a special relationship between very close allies, problems and differences remain.

Singapore-Malaysia relations are no different. Although Singapore and Malaysia share a common history and have very close links, it is inevitable that there would always be a certain degree of tension and friction between them. Abdullah Badawi, in his then capacity as Malaysia's Foreign Minister, made a valid point in 1990:

You may ask why Malaysians are so sensitive. Perhaps, even emotional about what happens in Singapore. After all, Malaysia also shares a common border with Thailand. Yet the Malaysians do not get uptight or publicly emotional about the fate of Malays in Southern Thailand and about the American presence in that country. It is a fact that relations between Malaysia and Singapore have been underlined by a certain degree of competitiveness, tension and sometimes, even hostility.<sup>37</sup>

Apart from geographical proximity, Singapore, unlike Thailand, is always "the yardstick which [Malaysia is] measured against",<sup>38</sup> which also increases mutual antagonism between them. Likewise, Lee Hsien Loong, in his former capacity as Minister of Trade and Industry and Second Minister for Defence, observed that disputes are bound to occur even between states with strong bilateral relations such as Singapore and Malaysia:

It is not possible to avoid all such issues between two close neighbours. But such controversies should be treated as differences between intimate friends. They should not jeopardise fundamentals... With goodwill and good sense on both sides, any difficulty can be smoothed over, and given time any unintentional damage done to relations can be repaired.<sup>39</sup>

He is aware that despite the presence of differences between these two states, it is also very important to not only focus on the adversarial aspects and in so doing, to overlook the associational aspects. He reasons that the political leaders from both sides had:

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37 Datuk Abdullah bin Haji Ahmad Badawi, "Malaysia-Singapore Relations," in *IPS Regional Speakers Lecture Series* (Singapore: Institute of Policy Studies, 1990), 10.

38 *Ibid.*, 15.

39 Lee Hsien Loong, "Singapore and Malaysia: Managing a Close Relationship," (Text of Speech delivered at the Harvard Business School Alumni Club of Malaysia Dinner at Hilton Hotel, Kuala Lumpur: 1988).

...gone through many crises together, including the trauma of separation, these men knew one another and had reached an accommodation with one another. Each had taken the measure of the other. Miscalculations were unlikely, and the relationship had become steady and predictable.<sup>40</sup>

Therefore, in spite of the problems and tensions that have at times clouded Singapore's relations with Malaysia, just as in the case of the United States and the United Kingdom, there is a very strong support for the argument that Singapore and Malaysia have a "special relationship".

In a landmark speech Singapore's first Foreign Minister Rajaratnam made *after* the Republic was ejected from the Federation, he emphasised the "special relationship" between Singapore and Malaysia. He emphatically stressed that both states share many historical, cultural, and societal links that could neither be denied nor made obscure:

There is something unreal and odd about lumping our relations with Malaysia under foreign relations... The survival and well-being of Malaysia is essential to Singapore's survival. Conversely, the survival of Singapore is essential to Malaysia's survival... we in Singapore have to accept the fact that we and Malaysia are two sovereign states, compelled to move, by different routes towards the ultimate destiny of one people and one country... So one cannot talk of a foreign policy towards Malaysia in the same sense as we would in regard to other countries. It must be foreign policy of a special kind, a foreign policy towards a country which, though constitutionally foreign, is essentially one with us and which, sanity and logic reassert themselves must once more become one. It must be a foreign policy based on the realisation that Singapore and Malaysia are really two arms of one politically organic whole, each of which through a constitutional proclamation has been declared separate and independent.<sup>41</sup>

In 1988, more than twenty years after the separation, Lee Hsien Loong reiterated the special relationship between Singapore and Malaysia:

Singapore cannot set sail and go somewhere else if it quarrels with Malaysia. Singapore and Malaysia are fated to live side by side for all time, *bagai aur dengan tebing* [like bamboo roots and the river bank]. Therefore, let us both work together, with sincerity, understanding, and conviction, to build confidence, harmony, and cooperation with each other.<sup>42</sup>

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40 *Ibid.*

41 Kwa Chong Guan, ed., *S Rajaratnam on Singapore: From Ideas to Reality* (Singapore: World Scientific Press, 2006), 15.

42 Lee, "Singapore and Malaysia: Managing a Close Relationship."

Likewise, Prime Minister Goh Chok Tong, in 1995, emphasised Singapore's "unique and special" relationship with Malaysia.<sup>43</sup>

In order to sustain any relationships, it is essential that reciprocity is present. It is therefore significant to note that Malaysia's notion of a special relationship concurs with Singapore's. For instance, Badawi notes that:

For many Singaporeans, Malaysia is where their parents, grandparents, or relatives are from and where they will continue to live. There is therefore, a sense of the brotherhood on the part of Malaysians about what happens to their kind in Singapore and vice versa. It is because we are close that we have become sensitive about our relationship... We cannot divorce ourselves from the emotional attachment or the historical and cultural linkages which exist between us.<sup>44</sup>

In 2003, Malaysian Prime Minister Badawi again stressed that there was "an inextricable relationship between Malaysia and Singapore. There will be differences of opinion on many things. There will be perhaps be periods of tension because we do not see things from the same perspective. But I believe that the relationship between Malaysia and Singapore will not deteriorate to the extent that it will involve us in any kind of conflict".<sup>45</sup>

Senior ministers from both sides acknowledge that there would always be problems between Malaysia and Singapore, but they are very confident that such problems can be solved in a manner acceptable to both states. Singapore's current Foreign Minister George Yeo opined, in an interview with *Astro Awani Television* in February 2008, "[b]etween neighbours, there will always be niggling problems but the big game is one of cooperation", and this is "[b]ecause our two countries share so much in common in terms of our history, our culture, our heritage..."<sup>46</sup>

The continuing acknowledgement of this special relationship by the new generation of political elites such as Lee Hsien Loong and Abdullah Badawi proves that this special relationship is not based on personal diplomacy between former long-serving Prime Ministers Lee Kuan Yew and Mahathir. Instead, this special relationship is stable and enduring because it has been institutionalised. Significantly, the special relationship between Singapore and Malaysia provides very strong proof that these two states have

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43 Kalimullah Hassan, "Ties at Their Best but Beware of Sensitivities-BG Lee," *Straits Times*, 18 January 1995.

44 Abdullah Bin Haji Badawi, *Malaysia-Singapore Relations* (Singapore: Institute of Policy Studies, Times Academic Press, 1990), 10-11.

45 Ministry of Foreign Affairs, "Remarks in Parliament by Singapore Foreign Minister Professor S Jayakumar on Singapore-Malaysia Relations," (Singapore: Singapore Government, 2003).

46 Ministry of Foreign Affairs, *Transcript of Minister George Yeo's Interview with Syed Omar Farradino from Astro Awani Television* (Ministry of Foreign Affairs, 4 February 2008 [cited 31 March 2008]); available from <http://app.sprinter.gov.sg/data/pr/20080204989.htm>.

already reached a prior consensus as to what constitutes acceptable behaviour and so a high degree of order can be observed in the inter-state interaction between them. Despite the presence of adversarial aspects in this set of bilateral relations as reflected by the presence of bilateral disputes, associational aspects are also present, as evidenced by the way these two states resolve them, which existing realist literature overlooks.

### **Sovereignty Dispute: Pedra Branca, Middle Rocks and South Ledge\_**

Sovereignty is deemed to be of utmost importance by all states. It is the principle that determines whether a geographical territory qualifies as a state, which is the unit most widely accepted as the primary and most legitimate actor within the international system. Predictably, states are highly protective of their sovereign status, and so sovereignty disputes are one of the most common causes of armed conflict between states. As such, Malaysia's contest of Singapore's claim of ownership of Pedra Branca and the adjacent Middle Rocks and South Ledge in 1979 was one of the most important issues for Singapore's foreign policy.<sup>47</sup> Although this sovereignty dispute was not an immediate source of conflict, its mismanagement could potentially strain ties between the two neighbouring states.<sup>48</sup> Since the dispute started, Singapore has constructed a helipad and deployed a commando detachment at that location.<sup>49</sup> At the same time, Singapore also conducts regular naval patrols around the disputed territory. With military presence in the region,<sup>50</sup> the potential for the dispute to escalate to an armed conflict has influenced existing scholarship to focus on the adversarial aspects of this issue. For instance Michael Leifer and N. Ganesan concentrate on the bilateral tensions arising from this dispute.<sup>51</sup> Similarly, Bilveer Singh also devotes much attention on how the dispute started and less emphasis on how both states have attempted to resolve it.<sup>52</sup>

### **Background of the Dispute**

Pedra Branca is a very small island, approximately the size of a football field, twenty-four nautical miles off the eastern entrance to the Straits of Singapore. In 1849, the British colonial government of Singapore built the Horsburgh Lighthouse. Britain exercised

47 Ajoy Sen, "Disputed Isle Strains Singapore-Malaysia Ties," *Reuters*, 5 December 1991.

48 "Armed Forces Urged to Remain Alert for Possible Conflicts," *Straits Times*, 13 January 1993, "Pedra Branca Cannot Wait," *Straits Times*, 29 May 1992, "S'pore-KL Ties a Hot Topic for Zaobao Readers," *Straits Times*, 16 June 1992.

49 Tim Huxley, *Defending the Lion City* (Melbourne: Allen & Unwin, 2001), 126.

50 For a transcript between a Singapore Navy vessel and a Malaysian Police vessel, see S Jayakumar and Tommy Koh, *Pedra Branca: The Road to the World Court* (Singapore: NUS Press, 2009), 22.

51 Michael Leifer, *Singapore's Foreign Policy: Coping with Vulnerability* (London and New York: Routledge, 2000), 147., Ganesan, *Realism and Interdependence in Singapore's Foreign Policy*, 60.

52 Bilveer Singh, *The Vulnerability of Small States Revisited: A Study of Singapore's Post-Cold War Foreign Policy* (Yogyakarta: Gadjah Mada University Press, 1999), 194-99.

control over the island, which Singapore took over when it became independent in 1965 and Malaysia had never protested against Singapore's claim of sovereignty over the island. For instance, M. Seth Bin Saaïd, Acting State Secretary of Johor to the Colonial Secretary, in a letter to his Singaporean counterpart in September 1953 clearly stated Johor's express disclaimer of title to Pedra Branca.<sup>53</sup> There were no disputes over the Pedra Branca's sovereignty until 1979 when the Malaysian government published its official atlas, the *Map Showing the Territorial Waters and Continental Shelf Boundaries* that included the island in its territorial waters.<sup>54</sup>

According to a Malaysian politician, Pedra Branca belongs to Malaysia and the Malaysian government is prepared and able to produce documentary evidence to prove ownership of this disputed territory.<sup>55</sup> From Malaysia's perspective, Johor had an original title to the island. Even though the British later constructed the Horsburgh Lighthouse, Malaysia contended that Britain, and subsequently Singapore, merely had the rights of a lighthouse operator that was allowed to operate at Johor's pleasure.<sup>56</sup> Since Malaysia had consented to the construction of the lighthouse, Pedra Branca was not *terra nullius* and Singapore's conduct of sovereign acts did not mean that the territory belonged to Singapore. Furthermore, Malaysia also argued that although Singapore did operate the light house, it did not mean that it had sovereign control over Pedra Branca. This was because Singapore also operated another lighthouse at Pulau Pisang, a territory that belonged to Malaysia. In early 1980, Singapore responded by lodging a formal protest to Malaysia over the contentious new map.<sup>57</sup> Though "tiny as it is, it is significant for

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53 See Chapter VIII, "Johor's Express Disclaimer of Title to Pedra Branca" in Government of Singapore, "Case Concerning Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore)," in *Memorial of Singapore* (Singapore: Government of Singapore, 2004), 161-78. However, during the second round of the hearing at the ICJ, Malaysia argued that the 1953 document was invalid because the Acting Secretary of Johor "did not have the capacity to provide a disclaimer or to renounce title" since the issue involved foreign affairs, which fell under the purview of the Federal Government Jayakumar and Koh, *Pedra Branca*, 123.

54 R. Haller-Trost, *Historical and Legal Claims: A Study of Disputed Sovereignty over Pulau Batu Puteh (Pedra Branca)*, ed. Clive Schofield, vol. 1, *Maritime Briefing* (Durham: International Boundaries Research Unit, 1993), 2.

55 "Disputed Island Belongs to Us, Says Muhiyiddin," *Straits Times*, 8 September 1991. For the official position of the Malaysian Government, see Government of Malaysia, "Case Concerning Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore)," in *Memorial of Malaysia* (Kuala Lumpur: Government of Malaysia, 2004).

56 Jayakumar and Koh, *Pedra Branca*, 116.

57 In that note, Singapore said: "The Government of the Republic of Singapore is gravely concerned at what is set out in the said map. This map purports to claim the island of Pedra Branca as belonging to Malaysia. The Government of the Republic of Singapore rejects this claim. There is no premise in international law on which to found such a claim. The Government of the Republic of Singapore has since the 1840s, by virtue of both its acts and those of its predecessor governments, occupied and exercised sovereignty over Pedra Branca and the waters around it. Since that time, no other country has exercised or claimed jurisdiction or contested Singapore's sovereignty over Pedra Branca. The Government of the Republic of Singapore therefore requests that the said map be suitably amended to reflect the sovereignty of Singapore over Pedra Branca". *Ibid.*, 18-9.

its strategic position, impact on the delimitation of territorial sea boundaries and, most of all, for national pride".<sup>58</sup> Hence, both Singapore and Malaysia have adopted a very tough attitude towards this issue.

In 1989, the Ports of Singapore Authorities (PSA) started work to install new radar systems in Pedra Branca to aid navigation in the Straits of Singapore, and reignited the dispute. When the construction works commenced, PSA reminded all ships to stay away from the area for safety reasons. As a result, Malaysian vessels could not fish in the area when the construction works were underway. However, certain Malaysian quarters interpreted that PSA's action unfairly targeted Malaysian vessels. In response, PSA stressed that "that all vessels, not just the Malaysian ones, had been asked to keep away from the island" since the Malaysian government was now claiming ownership of the island.<sup>59</sup> According to the PSA, after it completed the construction works in August 1989, all fishing vessels were allowed back into the area around Pedra Branca.<sup>60</sup> PSA argued that the temporary entry restriction was due to safety considerations, and not directed at Malaysian vessels.

In September 1991, the Johor Baru division of United Malay National Organisation (UMNO) passed a resolution "calling on the Malaysian government to restore Malaysia's sovereignty over Pedra Branca."<sup>61</sup> Its action effectively escalated the issue from a one-off fishing dispute since Malaysian vessels have always been allowed into the area,<sup>62</sup> into a full-blown sovereignty issue. Furthermore, in a politically provocative action, opposition party Parti Islam (PAS) planned to plant the Malaysian flag on Pedra Branca to stake Malaysia's ownership of the disputed territory.<sup>63</sup> Mahathir warned PAS "not to look for trouble",<sup>64</sup> and his stern warning proves that any escalation by either state has the very real potential for the dispute to escalate into a conflict between Singapore and Malaysia. According to press reports:

The Prime Minister emphasised that attempts by members of the [PAS] to plant a flag on the island recently may not only damage Malaysia-Singapore relations but could also drag the country to war. He said the action was provocative and ought not to be done by the party.<sup>65</sup>

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58 Carolyn Hong, "Spotlight on Batu Puteh," *New Straits Times*, 2 January 2003.

59 "Radar Equipment Being Put up at Horsburgh Lighthouse," *Straits Times*, 21 July 1989.

60 "Fishing Now Allowed near Horsburgh Lighthouse," *Straits Times*, 26 August 1989.

61 Ministry of Foreign Affairs, "Ministry of Foreign Affairs Press Statement," (Singapore: Singapore Government Press Release, 1991). See also "Disputed Island: Umno's JB Arm Wants Govt Action," *Straits Times*, 15 September 1991, "Johor UMNO Wants Singapore to Give up Its Claim to Island," *Straits Times*, 25 September 1991.

62 "Fishermen Always Allowed near Pedra Branca: PSA," *Straits Times*, 10 September 1991.

63 Ismail Kassim, "PAS Plans Stunt to Push Claim to Pedra Branca," *Straits Times*, 21 May 1992.

64 Kalimullah Hassan, "Mahathir Warns PAS against Planting Flag on Pedra Branca," *Straits Times*, 9 June 1992.

65 *Utusan Malaysia*, 9 June, 1992 quoted in Jayakumar and Koh, *Pedra Branca*, 26.

In an attempt to resolve this territorial dispute, Singapore pressed Malaysia to exchange diplomatic papers so both parties can examine the other's claim to the island. Both parties agreed to this undertaking in 1992.<sup>66</sup> Although Malaysia agreed to this proposal, it was not forthcoming in providing the necessary documents. Chan Sek Keong, Singapore's Attorney-General sent a diplomatic note to the Malaysia authorities on 17<sup>th</sup> February 1992, which drew no response. Hence, Singapore sent a second request in March of the same year.<sup>67</sup> Even in June 1992, the Singapore press was still reporting that Ministry of Foreign Affairs (MFA) was still awaiting the response from its Malaysian counterpart.<sup>68</sup> Predictably, both states were unable to resolve this territorial dispute on a bilateral basis; neither state could convince the other claimant about the validity of its claim, a process made more difficult in view of the slow pace of the exchange of diplomatic notes.<sup>69</sup> Therefore, as early as 1991, Singapore proposed that since the sovereignty dispute over Pedra Branca was unlikely to be solved on a bilateral basis, the matter should be handed over to the International Court of Justice (ICJ) for adjudication, a move that Malaysia accepted.

In a move that signalled Malaysia's firm, and more importantly, continuing intent to resolve the dispute in a mutually acceptable manner, Mahathir declared during the Fourth ASEAN Summit held in Singapore in 1992 that "Malaysia would adhere strictly to legal principles and not history to resolve the dispute". Haq, a political analyst, commented at that time that "[this was] a wise and constructive move... [that set] a healthy precedent and [built] up a climate for settling such disputes by judicial rather than other means."<sup>70</sup> In 1994, Singapore and Malaysia agreed in principle to refer the dispute to the ICJ. Prime Minister Goh Chok Tong commented: "That means, if Malaysia proves that legally, it (the island) is theirs, well it is theirs. If Singapore has a stronger legal case, then it is ours. That's a very civilised way of settling disputes".<sup>71</sup> In 1996, the foreign ministers met in Kuala Lumpur to discuss the terms of reference so that the case could be submitted to the ICJ.<sup>72</sup>

## Resolution

After seven years of intermittent negotiations, a major breakthrough was achieved in 2003 when Singapore and Malaysia successfully worked out the legal details

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66 "Pedra Branca: KL, S'pore to Swap Papers," *Straits Times*, 27 January 1992, "S'pore Wants Early Formal Exchange of Documents," *Straits Times*, 17 September 1991.

67 "Pedra Branca: S'pore Sends Another Reminder to Malaysia," *Straits Times*, 17 March 1992.

68 Kalimullah Hassan, "Pedra Branca Claim: KL 'Likely to Submit Papers Soon'," 1992, Ismail Kassim, "KL Says It Will Soon Submit Documents," *Straits Times*, 6 June 1992.

69 For an explanation for the slow pace of exchange, see Jayakumar and Koh, *Pedra Branca*, 31.

70 Warren Fernandez, "Horsburgh: Where's the Light?," *Straits Times*, 12 October 1991, "A Mature Approach," *Straits Times*, 10 October 2003.

71 P Parameswaran, "Singapore, Malaysia to Refer Island Dispute to World Court," *Agence France-Presse*, 7 September 1994.

72 "Malaysia Confident Batu Putih Dispute Will Be Resolved," *New Straits Times*, 8 March 1996.

that enabled this dispute to be referred to the ICJ. More significantly, as part of the agreement, both states committed in advance to “accept the Judgment of the Court . . . as final and binding upon them”.<sup>73</sup> Both states signed the Special Agreement in Putrajaya to formalise the referral of the issue to the International Court of Justice (ICJ) on 6 February 2003.<sup>74</sup> The Special Agreement was necessary “because neither Malaysia nor Singapore accepts the jurisdiction of the ICJ as compulsory”.<sup>75</sup>

Malaysia’s decision to submit the case to the ICJ for review was not a foregone conclusion during the late 1980s and early 1990s. For instance in 1991, Datuk Shahrir Abdul Samad, head of the UMNO Johor Baru division, organised a public forum “Pulau Batu Putih - Between Reality and History”. He argued that there was no need to refer the matter to a third party “as the island was clearly in Malaysian waters”.<sup>76</sup> Opposition party, Parti Rakyat Malaysia (PRM) also urged the Malaysian government not yield to Singapore’s pressure for third-party adjudication.<sup>77</sup> Likewise, there was pressure from within UMNO for the Malaysian cabinet to press its claim over the disputed island.<sup>78</sup> Given the political pressure from within the ruling party and from the opposition, the final decision to accept ICJ’s adjudication is therefore very significant. It is risky to accept the ICJ’s authority as a state may end up with an unfavourable decision. If a state were to resolve the issue bilaterally, it will arguably have more control over the resolution process. Yet in this particular case, both Singapore and Malaysia have agreed to accept the ICJ’s authority, a development that strongly provides evidence of the primacy of the associational aspects over the adversarial aspects in their bilateral relationship.

The joint decision to refer the dispute to the ICJ is very significant and demonstrates that the resolution efforts had shown progress. To put the issue in context, Tommy Koh lamented in 1978, prior to the start of this sovereignty dispute, “that of the 149 member States of the United Nations, only 45 have accepted [sic] the compulsory jurisdiction of the International Court of Justice. At the present the Court has not a single case before

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73 International Court of Justice, *Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore)* (16 November 2006 [cited 26 July 2007]); available from <http://www.ICJ-cij.org/docket/index.php?pr=1883&p1=3&p2=1&case=130&p3=6&search=%22pedra+branca%22>.

See Article 6, Government of Singapore, “Special Agreement for Submission to the International Court of Justice of the Dispute between Malaysia and Singapore Concerning Sovereignty of Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge,” (2003).

74 Ministry of Foreign Affairs, “MFA Spokesman’s Comments,” (Singapore: Singapore Government Press Release, 2003).

75 Carolyn Hong, “P. Batu Puteh Dispute for ICJ Reference Soon,” *New Straits Times*, 6 February 2003.

76 Salim Osman, “JB Forum Sees No Need for International Court Ruling,” *Straits Times*, 27 October 1991.

77 “Opposition Party Chief Urges KL ‘Not to Give in to Singapore’,” *Straits Times*, 25 October 1991.

78 Kalimullah Hassan, “KL Urged Not to Back Off from Claim to Island,” *Straits Times*, 9 November 1991.



it. The reluctance of U.N. members to refer their disputes to the Court stands in sharp contrast to their readiness to resort to force to settle their disputes”.<sup>79</sup>

### **Existence of a Common Code of Conduct**

Further supporting the English School’s argument that international order is possible to achieve through the states’ observance of various international institutions such as international law, and that Singapore-Malaysia interactions are congruent with that of an international society is the fact that inter-state disputes cannot be referred to the ICJ on a unilateral basis; both parties involved must unanimously agree to submit the case to the ICJ for adjudication in order for the case to be heard there. This is because the ICJ has no coercive power to pressure the dissenting state to submit the case before the organisation for review;<sup>80</sup> the ICJ can only hear the cases that states choose to bring before it.<sup>81</sup> As EH Carr writes in the *Twenty Years’ Crisis*, “the institution of the Court has not changed international law: it has merely created certain special obligations for states willing to accept them”.<sup>82</sup> The joint decision to refer the Pedra Branca dispute to the ICJ demonstrates that the recognition and observance of international law and norms still form the bedrock of the interaction between Singapore and Malaysia.<sup>83</sup>

The ICJ began to hear the case in January 2008 and the verdict was delivered on May 23, 2008 in which Singapore’s title over Pedra Branca was upheld by 12 votes to four. However the ICJ awarded sovereignty of Middle Rocks to Malaysia by 15 votes to one, and the sovereignty of South Ledge was judged to belong to “*the State in the territorial waters of which it is located*” [emphasis original].<sup>84</sup> Both states have agreed to set up a technical sub-committee to oversee the Joint Survey Works that has been tasked to work on related maritime issues arising from this split decision.<sup>85</sup>

Even though the ICJ arrived at a split decision, Singapore has planned to proceed and claim an Exclusive Economic Zone around Pedra Branca. Singapore is aware that

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79 Tommy Koh, “Statement of the Chairman of the Singapore Delegation at the United Nations Tenth Special Session on Disarmament,” (1978).

80 “Adjudication by UN Court Needs Both Parties’ Consent,” *Straits Times*, 12 October 1991.

81 International Court of Justice, *Jurisdiction* ([cited 15 April 2008]); available from <http://www.ICJ-cij.org/jurisdiction/index.php?p1=5>.

82 Edward Hallet Carr, *The Twenty Years’ Crisis, 1919-1939: An Introduction to the Study of International Relations* (New York: Perennial, 2001), 170-1.

83 May Wong, *International Court of Justice Begins Hearing on Pedra Branca* (Channelnewsasia, 2007 [cited 7 November 2007]); available from <http://www.channelnewsasia.com/stories/singaporelocalnews/view/309938/1/.html>.

84 Jayakumar and Koh, *Pedra Branca*, 135.

85 “Joint Press Statement by His Excellency Dr Rais Yatim, Minister of Foreign Affairs of Malaysia and His Excellency George Yeo, Minister for Foreign Affairs of the Republic of Singapore: Meeting between Malaysia and the Republic of Singapore on the Implementation of the International Court of Justice Judgement on Pedra Branca, Middle Rocks and South Ledge,” (Singapore: Ministry of Foreign Affairs, 2008).

such a move will affect Malaysia's interests. Singapore's Senior Minister of State for Foreign Affairs, Balaji Sadasivan said that if disputes arise, Singapore "will negotiate... with the view to arriving at agreed delimitations in accordance with international laws".<sup>86</sup> Singapore's present move is not new. As early as 15 September 1980, the Ministry of Foreign Affairs stated that Singapore wanted to claim a territorial sea limit that extends to 12 nautical miles as well as an Exclusive Economic Zone. This stance was reiterated in a press statement issued on 23 May, 2008.<sup>87</sup> At the time of writing, Malaysia has protested against this move and discussions are currently underway at the joint technical committee to resolve this issue.<sup>88</sup>

Although this dispute has yet to be fully resolved, both states have not resorted to the use of military force, have agreed to honour the agreement to accept the ICJ's decision, and have promised to recognise the rights of ownership of the island to whichever state the ICJ awards it to. Their actions conform to the principles of "life, truth, and property", and provides strong evidence that their interaction takes on the form of international society, thereby validating the use of the English School theory in this context.

### Water Supply Issue<sup>89</sup>

Apart from the sovereignty dispute over Pedra Branca, the future supply of water from Malaysia to Singapore is another issue that has put the bilateral relations of these two states under strain. Both states have thus far failed to come to a consensus as to what constitutes a mutually equitable arrangement acceptable over the future supply of water once the two current contracts signed in 1961 and 1962 lapse in 2011 and 2061 respectively. Although there are no indications that Singapore and Malaysia are likely to come to blows, nevertheless the potential for a conflict does exist. As a PAP backbencher puts it: "This issue [of water supply] is very serious. I mean, it is not a case of sacrificing an opportunity to bathe ourselves. It's our lifeblood. It's like declaring war on Singapore if they cut off water."<sup>90</sup> The importance of a continual supply of water from Johor to Singapore is so great that it is prepared to go to war in order to ensure that the supply does not become disrupted.<sup>91</sup> Lee Kuan Yew in his memoirs wrote that

86 Singapore Institute of International Affairs, *Pedra Branca: Singapore Claims Economic Zone* (Singapore Institute of International Affairs, 2008 [cited 30 March 2009]); available from <http://www.siiiaonline.org/?q=programmes/insights/pedra-branca-singapore-claims-economic-zone>.

87 Ministry of Foreign Affairs, "MFA Press Statement: International Court of Justice Awards Sovereignty of Pedra Branca to Singapore," (Singapore: Singapore Government, 2008).

88 "KL's Warning on Pedra Branca," *Straits Times*, 30 March 2009.

89 For a chronology of the water dispute, refer to Lee Poh Onn, "The Water Issue between Singapore and Malaysia: No Solution in Sight?," in *ISEAS Working Papers, Economic and Finance* (Singapore: ISEAS, 2003), 7-11.

90 K.S. Nathan, "Malaysia-Singapore Relations: Retrospect and Prospect," *Contemporary Southeast Asia* 24, no. 2 (2002): 397.

91 Shahrum Sayuthi, "Singapore Was Ready to Go to War," *New Straits Times*, 8 April 2002.

if Malaysia were to suddenly turn off the taps and cause a serious shortage of water, the Singapore military “would have to go in, forcibly if need be, to repair damaged pipes and machinery to restore the water flow”<sup>92</sup> Although this worst-case scenario is possible, it is highly unlikely to occur because the fundamental cause of bilateral friction does not arise from the physical natural resource itself; instead the tension arises from Singapore and Malaysia’s conflicting legal interpretations of the terms in the water agreements. Yet existing literature has largely focused on the adversarial aspects of this issue.<sup>93</sup>

The supply of potable water in the world is limited. Singapore is not unique as other states also face problems with securing a reliable water source. This water shortage problem is also present in regions such as the Middle East, where it has contributed to the outbreak of armed conflicts. For instance, the issue of water supply and distribution from the Euphrates River has already resulted in disputes between Iraq, Syria and Turkey. In most cases of water disputes, the four main possible causes of conflict are over usage, quality, distribution and availability issues,<sup>94</sup> and the common theme running through these four factors is that they are all related to the physical nature resource itself.

In the case of the water dispute between Singapore and Malaysia, none of the four causes listed above are applicable. Since Singapore separated from Malaysia, and the latter started selling water to the Republic, there have been no disputes over how Singapore has used, or is planning to use the water.

In terms of quality, Malaysia sells raw water to Singapore which does its own treatment process. In fact, Singapore treats the raw water it purchases from Johor, and then sells the processed water back to it. If there were any problems with water quality, it would be more likely that Johor would raise them, and not Singapore. As of now, Johor has yet to complain about the quality of the water it has bought from Singapore.

About the distribution rights, Singapore recognises that the water clearly belongs to Malaysia. Singapore has never disputed Malaysia’s ownership of this resource. In terms of availability, the Malaysian government has stated it is willing to continue supplying water to Singapore into the foreseeable future. However, Malaysia wants to increase the price of the water and Singapore accepts this decision. Singapore is willing and able to pay for the increased cost of water. The only problem is that Singapore opposes Malaysia’s unilateral and arbitrary price increase without prior consultation. The crux of the dispute is the principle behind how Malaysia calculates the price of water, and not the price or availability of water itself.

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92 Lee Kuan Yew, *From Third World to First, the Singapore Story: 1965-2000* (New York: HarperCollins, 2000), 276.

93 Huxley, *Defending the Lion City*, 47-48, Leifer, *Singapore’s Foreign Policy*, 19-20. Irvin Lim Fang Ju, “Water Spike!: Hydropolitik and Conflict in Singapore-Malaysia Relations”, in Kwa Chong Guan, ed., *Beyond Vulnerability?: Water in Singapore-Malaysia Relations*, vol. IDSS Monograph No. 3 (Singapore: Institute of Defence and Strategic Studies, 2002), 45-98, Singh, *Vulnerability of Small States Revisited*, 205-13.

94 Helga Haftendorn, “Water and International Conflict” (paper presented at the International Studies Association, Washington, D.C., February 16-20 1999).

The first water agreement signed between Singapore and the then-Malaya allowed Singapore to get water from Johor for free. When Malaya became independent, two new water contracts were signed in 1961 and 1962 respectively. Under the terms of these agreements, Singapore paid 3 Malaysian cents per thousand gallons of raw water from Johor. Under the terms of the agreements, Malaysia had the right to review and increase the price of water in twenty-five years' time, which happened in 1986 and 1987 respectively. This review was not done then. The issue of price revision only surfaced in 2000 when Prime Minister Mahathir wanted to increase the price Singapore paid for raw water currently at 3 Malaysian cents to 45 Malaysian cents, a fifteenth-fold increase.<sup>95</sup> In 2002, Mahathir again proposed fixing the price of raw water at 60 Malaysian cents, and not the earlier price of 45 Malaysian cents. He also proposed to backdate the new price to 1 September 1986 and 29 September 1987 respectively.<sup>96</sup> Singapore's position was that since Malaysia did not choose to exercise its right to revise the price of raw water at the twenty-five year cut-off mark, it had effectively renounced its right to do so. Malaysia's position was that it reserved the right to revise the price of raw water after twenty-five years, and not only at the twenty-five year mark

When Malaysia made the price revision proposal, it also introduced a new formulation to calculate the price of raw water it sells to Singapore in the future. Prime Minister Goh Chok Tong responded Singapore was agreeable to this move but noted it would be very difficult for the either party to come up with a formula to fix the future price of water since many variables are involved. However, Goh stressed it was imperative for both parties to have "a definite basis for all future price revisions".<sup>97</sup> From Singapore's position, the contentious issue was how the price of water was calculated, and not the actual price Singapore paid for it.<sup>98</sup> Singapore Foreign Minister Jayakumar also insisted that "The fundamental issue was not the price of water, but *how* [emphasis original] Singapore was made to pay for any revision. This cannot be done at the will or dictate of Malaysia".<sup>99</sup> As such, the water dispute arose solely out of the legal principles behind the validity of Malaysia's attempt at revising the price of raw water, and not over the natural resource itself. Likewise, during this whole fiasco over the water issue, the main contention, as Mahathir wrote, was "the price review of raw water, and how it was to be arrived at".<sup>100</sup>

95 Refer to "See Agreed Items between Malaysia Prime Minister Dr Mahathir and Senior Minister Lee Kuan Yew at their 4-Eye meeting on Tuesday, 15 August 2000 at Putrajaya", in Singapore Government, *If Water Talks* (Singapore: Ministry of Information, Culture and the Arts, 2005), 32.

96 See "See Malaysia-Singapore Package of Five Issues: Malaysia's Proposals, 4 March, 2002", in *Ibid.*, 40-3.

97 See "Prime Minister Goh Chok Tong's letter to Dr Mahathir Mohamad, 11 April 2002", in *Ibid.*, 56.

98 Ministry of Foreign Affairs, "MFA's Spokesman's Comments in Response to Media Queries," (2001).

99 Ministry of Foreign Affairs, "MFA Press Release-Water Issue Is About Sanctity of Agreement, Not About Price Alone, Says Singapore Foreign Minister Prof S Jayakumar," (Singapore: Singapore Government, 2003).

100 See "Dr Mahathir Mohamad's letter to Prime Minister Goh Chok Tong, 7 October 2002", in Singapore Government, *If Water Talks*, 61.

Despite the public rhetoric of turning off the taps, Malaysia has agreed to honour the terms of the Separation treaty.<sup>101</sup> Singapore has consistently argued that Malaysia cannot unilaterally modify the terms of the 1961 and 1962 water agreements because they are part of the 1965 Separation agreement lodged with the UN. Hence, these agreements “cannot be altered without the express consent of both parties”.<sup>102</sup> The unilateral modification of these agreements would directly undermine the actual sovereignty of Singapore. Furthermore, it is also very important to note that although Malaysia perceives the price Singapore pays for raw water to be inequitable, Mahathir has stressed that Malaysia is both morally and legally bound to observe the agreement signed with Singapore; Malaysia recognises that it cannot act unilaterally without Singapore’s consent.<sup>103</sup>

Even though the Malaysian government’s rhetoric indicates that it wants to revise the price upwards, the rhetoric has not been, and is very unlikely to translate into concrete action. Moreover, in a reconciliatory gesture to decrease bilateral tension, Mahathir noted in 2001 that after the first of the two water contracts lapses in 2011, even though “there is no provision for any continued supply of...raw water to Singapore. Nevertheless Johore is willing to supply...treated water if Singapore so desires”.<sup>104</sup> As reported in the *New Straits Times*, Mahathir reiterated, “There was never any question of Malaysia not continuing to supply water to Singapore, [...] It was a matter of price and process, not do or die”.<sup>105</sup>

Currently, the dispute over differing legal interpretations has yet to be resolved but both parties are still receptive towards conducting future negotiations to settle their differences. At the time of writing, there have been no new water talks since 2002.<sup>106</sup> However, since Singapore has insisted in the past on resolving the water dispute in conjunction with other bilateral issues such as constructing a new crooked/scenic bridge to replace the Causeway as well as the withdrawal of Central Provident Funds by Malaysians who were previously working in Singapore being the more notable ones, it can be inferred with a great deal of certainty that Singapore would continue adopting this approach.

This continual dependence on Malaysia for a substantial part of Singapore’s water supply has been described by Goh Chok Tong as a Damocles sword hanging over the Republic. Hence, in 2002, Prime Minister Goh stated in Parliament that:

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101 Sonia Kolesnikov, “Malaysia-Singapore Water Issue Boiling,” *United Press International*, 28 January 2002, “Singapore Won’t Be Deprived of Water Supply,” *The Star*, 26 January 2006.

102 See “Third Party note from Singapore to Malaysia, MFA/PDI/00007/2002”, in Singapore Government, *If Water Talks*, 36.

103 Leslie Lau, “Water Deal ‘Unfair’, but KL Can’t Act Alone,” *Straits Times*, 4 May 2002.

104 “Dr Mahathir Mohamad’s letter to Senior Minister Lee, 21 February, 2001”, in Singapore Government, *If Water Talks*, 16.

105 Lim Kok Wing Lim, “Separated Siblings Bicker,” *New Straits Times*, 1 July 2003.

106 For a chronology of events, refer to Channel NewsAsia, *Chronology of Developments with Regards to the Water Issue* (Channelnewsasia, 2002 [cited 12 August 2008]); available from <http://www.channelnewsasia.com/cna/parliament/relations/chronology.htm>.

I think it is high time we explore a different approach to water supply from Malaysia. I do not want our relations with Malaysia to be always strained by this issue. It is not healthy to be always locked in dispute. It is unwise to allow this one issue to sour bilateral relations at all levels and on all fronts. It prevents us from co-operating in strategic areas of mutual benefit... It may be better for bilateral relations if we start to move a little away from our reliance on Malaysia for water. This is doable if we have to.<sup>107</sup>

In order to reduce its dependence on Malaysia, Singapore has implemented a broad-based strategy which ranges from constructing new water catchment areas, desalination as well as recycling waste water.

In this ongoing water dispute, despite the public rhetoric of using military force, neither states have actually done, or are likely to do so. Even though Malaysia perceives the water agreements to be inequitable, it has agreed to honour the terms. Singapore, on its part, has never laid claim over the water and has always respected Malaysia's ownership. Like the Pedra Branca issue, both states' handling of the water dispute conforms to the principles of "life, truth, and property", which then validates the use of the English School theory in this context.

## Conclusion

In conclusion, this paper has established that Singapore and Malaysia have a special relationship that allows their interaction to take on the form of international society. Despite there being serious bilateral disputes between them, and the historical and political baggage associated with the failed merger and the ensuing split, they have managed to successfully co-exist. This development indicates that the associational aspects of the relationship are arguably more influential than the adversarial aspects. Hence, the disputes over Pedra Branca and the water supply, issues that have greater potential to lead to armed conflicts, are dealt with through the use of legal principles.

This development is very significant as it introduces certainty and stability into their interaction. It is then possible for them to develop long-sightedness in their interactions with each other, thereby mitigating the adversarial aspects of the bilateral relations. Over time, even if the agreed mode of conflict resolution through using international law is not codified, prolonged exposure to this particular mode will cause it to be perceived as the *de facto* course of action to take.

These two case studies, which focus on disputes over sovereignty and natural resources, have shown that even in the absence of a universal authority in the international realm to ensure laws are observed as is the case in the domestic context, both Singapore and Malaysia have internalised the use of international law to resolve their differences. This observation validates the English School argument that states are able to observe a common code of conduct that can regulate their interaction even within anarchical

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107 Tan Harn How, "Water: Singapore to Rely Less on KL," *Straits Times*, 6 April 2002.

conditions. In the sovereignty dispute over Pedra Branca, both states agreed to refer the case to the ICJ for adjudication, and that the decision reached by this court was accepted to be final and binding on both states. In the water supply dispute, it arises from a legal principle, namely which interpretation of the terms is accepted to be authoritative, rather than over the physical resource itself. In both case studies, their actions are entirely consistent with “life, truth, and property”, which are the goals of international society, and therefore validates the use of the English School theory in this context.

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