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# RSIS COMMENTARIES

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## **Railway Land Swap: New Light on an Old Issue**

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*The Malaysian Deputy Foreign Minister's recent statement in Parliament that the Malayan Railway land in Singapore did not belong to Malaysia but was leased sheds new light on an old issue. Was this the reason for the breakthrough in bilateral ties?*

MALAYSIAN DEPUTY Foreign Minister Richard Riot Jaem's statement in Parliament on 28 June -- on the landmark deal for a swap of Malayan Railway land in Singapore -- has shed new light on an old issue. Responding to a question from an opposition PAS MP the deputy minister unveiled what had hitherto been little known to the public in Malaysia as well as Singapore.

### **Railway Land Lease 1918**

As reported by the national news agency Bernama, Jaem dismissed the PAS MP's allegation that the railway land in Tanjong Pagar was to be sold to Singapore. "The land is not ours," he said. Rather it had been leased in 1918 for 999 years from the Straits Settlements, of which Singapore was then a part. "The Singapore Railway land leased was 434.26 acres (173.7ha). Out of this, 352.52 acres (141ha) was to be held by the Federal Land Commissioner for a period of 999 years while 81.74 acres (32.7ha) was for perpetuity. If the land were no longer to be used for rail services, it was to be returned to the respective Straits Settlement without compensation whatsoever. As such, such allegations are not true because the land is not ours," he was quoted by Bernama as saying.

The Straits Settlements were a British colonial construct comprising Singapore, Malacca and Penang. It was dissolved in 1946 with Singapore becoming a crown colony separate from peninsular Malaya, which eventually became the Federation of Malaya. The 25 October 1918 agreement, known as the Singapore Railway Transfer Ordinance, gave the then Federated Malay States use of the land. But the land would have to be reverted – without cost, if the transfer was without cost – if it was not used for railway purposes.

The deputy minister's statement gives a totally new complexion to the long-running saga of the Malayan Railway (KTM) land in Singapore since it became a hot issue in the 1990s. The general perception in both Malaysia and Singapore had been that KTM land in Singapore was Malaysian territory -- a residue of history. Singapore was part of Malaysia from 1963 to 1965. Upon this thin strip of land runs the Malayan Railway, from Tanjong Pagar to Woodlands and across the Causeway to Johor Baru and the north of peninsular Malaysia. The land had long been seen as belonging to Malaysia because KTM was a state-owned entity, though it was subsequently corporatised in 1992.

### **Significance of Jaem's Statement**

Jaem's statement however clarified for the first time that the KTM land did not in fact belong to Malaysia because it was "leased" from the Straits Settlements in 1918. It was also probably the first time that the Malaysian public learnt of the 999-year lease. Significantly, the 1918 agreement also stipulated that should the railway land not be used anymore for its intended purpose -- that is for a railway line -- then the land would revert to the Straits Settlement concerned, in this case, its successor entity, Singapore. Another significant point was that the land concerned, should it be vacated, would revert to the transferring party, in the words of Jaem, "without compensation whatsoever". Hence his assertion that the issue of selling the KTM land in Singapore did not arise.

The larger significance of Jaem's statement is over the issue of sovereignty. For long, it had been thought that the KTM land in Singapore, being Malaysian state land, would never be sold. Jaem's statement has turned the issue of sovereignty on its head; it is Singapore's sovereignty that is hinged to the KTM land. As long as KTM land existed in Singapore as state land, it could be argued that this affected Singapore's sovereignty. But because the Malaysian leased ownership of the land is based on a historical agreement, Singapore has to respect the law. Malaysia was no doubt aware throughout the preceding two decades that it would lose ownership of the railway land should it move its station from Tanjong Pagar to Woodlands. Hence the mutual recognition that the most rationale solution would be through joint development of the land to be vacated by the shift.

The deal tentatively agreed by the two Prime Ministers to resolve the KTM land imbroglio is based on this understanding. Singapore is prepared to realise the market value of the KTM land in offering Malaysia a 60% stake of the joint holding company for its development. Singapore is also prepared to swap the KTM land at Tanjong Pagar, Bukit Timah, Kranji and Woodlands for other parcels in downtown Singapore of equivalent value. So what was legally supposed to be returned for free will now largely be paid for by Singapore -- at a price that is now the subject of mutual valuation and final negotiations. A Malaysian paper, *The Star*, reported that a valuation exercise last year estimated the total land value to be up to S\$4bil (RM9.5bil).

### **The Larger Picture**

Significantly, the debates in Malaysian circles to date have been in defence of the 1918 agreement. Shahrir Samad, the former minister from Johor, in another report by Bernama, urged Malaysians to move away from "nostalgic-romantic sentiments" to a future arrangement that would benefit KTM and Malaysia. UMNO Supreme Council member Norraesah Mohamad said the new deal would turn a "sleepy asset" into a high value commercial venture. UMNO Youth leader Khairy Jamaluddin said the new agreement would allow Malaysia to monetise its assets in Singapore. "Malaysians must know that the Tanjong Pagar land cannot be utilised for anything other than a railway station."

Nevertheless this major shift in the railway land issue would not have been possible had there not been a new mindset at the very top of the Malaysian leadership. Under Prime Minister Najib Razak, we are seeing a government that is prepared to break new ground in seeking mutual accommodation for mutual gain. Singapore's leadership has also contributed to this major shift by not being too

calculating, and showing that Singapore can also think out of the box to secure a more harmonious long-term strategic relationship. The end result is not just a resolution of the railway land issue, but also possibly a settlement of other outstanding issues that have bedevilled bilateral ties for too long.

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