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THE EVOLUTION OF DIPLOMATIC RELATIONS BETWEEN MALAYSIA AND NORTH KOREA

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ABSTRACT

This paper aims to analyse the aftermath of Kim Jong Nam's assassination on the diplomatic relations between Malaysia and North Korea along with the historical evolution of diplomatic relations between both countries since Malaysia's independence. Little is known about the nature of diplomatic relations between Malaysia and North Korea, especially when public perceptions dictate that both countries barely share any similarities. In appreciating the implications of the murder case from the perspective of international law, an analysis is carried out on the history of diplomatic relations between Putrajaya and Pyongyang. A further study is conducted on the factors which attract Malaysia and North Korea to forge and strengthen their diplomatic relations. Malaysia's inclusive foreign policy is highlighted via her participation in the Non-Aligned Movement (NAM) in 1970 which promotes peaceful engagement with all countries regardless of their political allegiance, including the Communist-led regime in North Korea. The task of preserving regional safety and bolstering economic prosperity are top on Putrajaya's priority list. With the volume of bilateral trade between Malaysia and North Korea is steadily increasing and Pyongyang's continuous provocations of her Weapons of Mass Destruction (WMD), peaceful engagements with the aim of repairing the damaged diplomatic relations is the best option for both countries. This study concludes that although the relationship between the two nations are severed, it is crucial for Malaysia to consider reviving and enhancing bilateral relations with North Korea, hence benefiting Putrajaya in outlining Malaysia's future foreign policy.

Keywords: *malaysia-north korea diplomatic relations, international law, international relations, tracks of diplomacy, geopolitics, non-alignment*

Introduction

The diplomatic relations between Malaysia and the Democratic People's Republic of Korea (DPRK/North Korea) started off apprehensively (Izzudin, 2017, p. 2). It all began during the era of the Cold War (1947-1991) whereby North Korea was assisting the Communist movement in some Southeast Asian nations (Ping, 2017). Malaysia's foreign policies under the administration of Tunku Abdul Rahman, the nation's first premier was predominantly pro-West (i.e. pro-U.S.) and anti-Communism (Kheng, 2002, p. 150). On 21 April 1964, Pyongyang established diplomatic relations with Jakarta – 9 years prior to the setting up of diplomatic relations with Malaysia – in which Kim Il Sung (North Korea's first Supreme Leader) had fully supported (The Strait Times, 1964) Indonesia's *Crush Malaysia (Ganyang Malaysia)* campaign (Shuib, 2009, p. 93). A close bilateral tie between Indonesia and North Korea was forged and subsequently materialised into the *Jakarta-Phnom Penh-Hanoi-Pyongyang-Beijing Axis* in 1964 (Williams, 2017, p. 67-68). Therefore, it was unsurprising that initially North Korea treated Malaysia unfavourably by showing her support for Indonesia (Lee, 2016, p. 560).

Malaysia's stance on foreign policy was renewed when Tun Abdul Razak as the Second Prime Minister, re-aligned Malaysia's direction in diplomatic relations from the pro-Western outlook to gradually moving toward neutralisation and non-alignment in international relations (Saravanamuttu, 2010, p. 151). For example, Tun Razak's visit to China on 28 May 1974 was groundbreaking in diplomatic relations as Malaysia was still battling against the Communist insurgency (Second Malayan Emergency: 1969-1989) and the local sentiment against Communist-Socialist countries was nothing but animosity (Er, 2013). As a matter of fact, Malaysia was the first ASEAN country to reach out to China at a time when almost all other countries in the region were keeping a distance from the Communist state (Scobell, 2018, p. 255). The reason was simple for Malaysia; the best way in sustaining geopolitics and diplomatic relations for the long run is a route towards non-alignment and neutrality (Beng, 2006, p. 255).

The culmination of the shift in diplomatic relations resulted in Malaysia joining the Non-Align Movement (NAM) in 1970 (To & Othman, 2017, p. 106) and initiated the Zone of Peace, Freedom and Neutrality (ZOPFAN) in 1971 (Muzaffar, 2019). At the same time, Kim Il Sung had initiated his politically-fuelled nationalistic brainchild known as *Juche (self-reliant)* partly to opposed the wide-spreading influence of foreign powers since the Cold War (Turku, 2009, p. 15). The doctrine was to inculcate the spirit of independence in critical areas such as politics (*chaju*), economics (*charip*) and national defence (*chawi*) and most importantly, to justify his political dominance in North Korea (Kim, 2012). As North Korea began to realise that it had been isolated by the rest of the world, Kim Il Sung slowly recreated Pyongyang's *Hermit Kingdom* image (Behnke, 2005, at p. 31) by enlarging the scope of its diplomatic relations beyond the Socialist-Communist bloc (Armstrong,

2009). This strategic geopolitical move was due to the gradual fall of the Soviet Union (now Russia) as its chief economic proponent (McEachern, 2019, p. 56) and the urgency to counter the rise of Republic of Korea (South Korea) as the new economic powerhouse in Asia (Lerner, 2004, p. 209). The move was aimed at demonstrating a better diplomatic approach to the rest of the world (Park, 2003, p. 608-611).

Despite once being a staunch opponent to Malaysia, North Korea's diplomatic path was destined to converge peacefully when Pyongyang joined NAM as a full-fledged member in August 1975 (Pak, 2000, p. 48). The idea of being politically independent in geopolitics as posited by NAM which intertwined with *Juche*, particularly in *chaju* (*politically independent*) had attracted Kim Il Sung to join the coalition (Seth, 2018, p. 118). It seemed that from this point onwards, the diplomatic course between Malaysia and North Korea is set to change from animosity to diplomacy (Izzudin, 2017). As per Article 17 North Korea's Constitution: -

The State shall establish diplomatic as well as political, economic and cultural relations with all friendly countries on principle of complete equality, independence, mutual respect, non-interference in each other's affairs and mutual benefit.

Sports Diplomacy: The Dawn of Malaysia-North Korea Relationship

The 2018 Pyeongchang Winter Olympic in South Korea was remembered as both a sporting event and a diplomatic relations stage whereby recurrent world issues were discussed amongst the world's most influential leaders (Grieco, 2019, p. 242). The 2018 Winter Olympic was another example where Track Two and A Half Diplomacy (Track 1.5 Diplomacy) in the form of Sports Diplomacy (Merkel, 2017, p. 29) was manipulated to achieve the desired results for all stakeholders (Kerrigan, 2019). Similarly, in the case of diplomatic relations between Pyongyang and Putrajaya, North Korea made the first move to attract Malaysia's attention through an unofficial visit by North Korean officials on 27 September 1971 led by Bak Su Kwon, the North Korean Director of Asian Affairs, Ministry of External Trade (Ping, 2019). A friendly table tennis and football matches between the country's national teams followed suit and before long cultural performances by the *North Korean Cultural Troupe* was staged in Kuala Lumpur (Ping, 2019).

The official diplomatic relations between Pyongyang and Putrajaya was finally formed on 30 June 1973 in a meeting at the official residence of Malaysian envoy in Jakarta (The Straits Times, 1973). On 18 April 1973, the then Opposition Leader and Member of Parliament for Bandar Melaka, Lim Kit Siang questioned the efforts in establishing diplomatic relations with North Korea (Dewan Rakyat, 1973). Tun Abdul Razak responded that Malaysia should be opened to all countries that respect each other's sovereignty, sharing common belief in peace and having common interests in

expanding economic ties (Hussein, 2020). The real impetus was Malaysia's commitment toward neutralisation and non-partisan (i.e. non-alignment) in Southeast Asian geopolitics by withdrawing from the debunked Asian and Pacific Council (ASPAC) in 1973 (Berita Harian, 1973). The council which was comprised of exclusively non-Communist countries in Southeast Asia was deemed as inconsistent with Malaysia's aspiration to forged diplomatic relations with Communist countries in the region such as Vietnam, Laos and China (Camilleri, 2003, p. 60). For Malaysia, the true meaning of non-align movement and neutrality could only be achieved through the forming of diplomatic relations with all countries, irrespective of their differences in political and social ideologies (The Straits Times, 1973). It was only through this foreign policy that Malaysia can stay true to its principle of non-alignment and becomes the real neutral State in the region (Baginda, 2016, p. 100).

Sports Diplomacy is an area that should be explored and angled by Wisma Putra since Kim Jong Un is a devoted fan of the American basketball (NBA); an interest he shared with his late father Kim Jong Il (Pickrell, 2019). As a matter of fact, ahead of the second U.S.-North Korea Summit in Vietnam in 2019 Kim Jong Un had specifically requested a team of famous American basketball players to be sent to North Korea for cultural exchange between both countries (Rodrigo, 2019). Jong Un's love for the sport is evident especially when the written request was made integral to the plan of denuclearising North Korea by the United States (Palmeri, 2019). Further, his close friendship with former NBA star Dennis Rodman is also publicly known (Lavender, 2020).

Tun Dr. Mahathir & The Look East Policy: The Lynchpin of Malaysia-North Korea Diplomatic Relations

Economic activities between both countries inaugurated immediately after the formation of the diplomatic relations on 30 June 1973. Although the volume was sparse compared to other States in the same region (Cook & Singh, 2018, p. 212), both Malaysia and North Korea managed to sustain the peaceful bilateral relations via close co-operation in the agricultural sector (The Star, 2017) and mutual participation in sports tournament (Ping, 2019). In 1975, the late Tun Ghafar Baba as the then Minister of Agriculture and Rural Development led a Malaysian trading delegation to North Korea. It was reported that he had the longest meeting Kim Il Sung ever accorded with any foreign Minister; they discussed how Malaysia could have developed her own farming machinery (The Straits Times, 1975).

In 1979, North Korea displayed keen interest to purchase tons of rubber from Malaysia instead of buying from Singapore and Sri Lanka. In a meeting dated 20 September 1979 between Liew Sip Hon, the Malaysian Deputy Minister for Trade and Industry and Choi Jong Geun, the North Korean Minister for Foreign Trade, Pyongyang purchased 4,000 tonnes of rubber from Malaysia valued at RM7 million (Business Times, 1979). The official trade relationship between Malaysia and

North Korea began on 9 June 1979 with a comprehensive list of commodities trades between Malaysia and North Korea (Ping, 2019). The breakdown of the commodities is as follow: -

| List of Exports from Malaysia | List of Exports from North Korea |
|---|--|
| <ul style="list-style-type: none"> • <i>Natural Rubber</i> • <i>Tin</i> • <i>Metal & Ores</i> • <i>Timber & Timber products</i> • <i>Palm Oil & Palm Oil products</i> • <i>Coconut Oil & other vegetable oils</i> • <i>Plywood, Veneer Sheets & other related products</i> • <i>Pepper, Nutmeg & other spices</i> • <i>Tea</i> • <i>Coffee, Beans & Powder</i> • <i>Cocoa</i> • <i>Canned Pineapples & other fruits: canned and juices</i> • <i>Canned Foodstuffs</i> • <i>Fresh Vegetables & Roots</i> • <i>Marine products: canned, fresh, frozen, chilled or simply preserved</i> • <i>Beverages</i> • <i>Natural Gums Antexotic Resin</i> • <i>Gutta Percha (Jelutong)</i> • <i>Skin & Hides</i> • <i>Rubber Manufactures & Articles of Rubber</i> • <i>Made Up Textile Goods, Clothing</i> • <i>Textile Piece Goods</i> • <i>Handicraft</i> • <i>Hosiery</i> • <i>PVC Floor Tiles</i> • <i>PVC Electric Cables</i> • <i>Footwear & Gaiters</i> • <i>Paints, Varnishes & Lacquers</i> | <ul style="list-style-type: none"> • <i>Machine Tools (all types)</i> • <i>Pumps</i> • <i>Tractor</i> • <i>Electric Motor</i> • <i>Transformer</i> • <i>Electrical Cable</i> • <i>Insulator</i> • <i>Magnesium Clinker</i> • <i>Rolled Steel</i> • <i>Alloy Steel</i> • <i>Wire</i> • <i>Tin Plate</i> • <i>Electrolytic Lead</i> • <i>Electrolytic Zinc</i> • <i>Chemical Fertilizer</i> • <i>Vinyl Chloride</i> • <i>Peppermint Oil</i> • <i>Cement</i> • <i>Tiles</i> • <i>Timber & related products</i> • <i>Medicine</i> • <i>Textile products</i> • <i>Knitting products</i> • <i>Raw Silk</i> • <i>Pottery</i> • <i>Glassware</i> |

Source: Ping, H.C. (2017) *Malaysia-North Korea Relations During the Cold War*, International Seminar on “Early Cold War: China & Southeast Asia”, Institute of China Studies & East China Normal University Shanghai at the Institute of China Studies, University of Malaya (UM), Kuala Lumpur.

On the geopolitical front, Malaysia was amongst the countries in Southeast Asia that supported North Korea’s membership into NAM (Ping, 2019). Despite North Korea not originally part of Tun Dr. Mahathir’s Look East economic policy in 1981 – since Malaysia championed for the Third World movement (Cooper, 1997, p. 153) – his administration cautiously integrated North Korea in

Malaysia's trade agendas (Izzudin, 2017). In short, Tun Dr. Mahathir's Look East policy was not a mere extension of Tun Abdul Razak's vision towards neutrality but a strategic move to sustain valuable diplomatic relations (Abdul Rahim, 2014) with an important trade partner (Workman, 2018).

During the North Korea Famine (1994-1998) where up to 3 million North Koreans died of starvation (Human Rights Watch, 2006), besides than providing humanitarian aid (Tedboy, 2016), Malaysia had also employed 60 North Korean artists from the Mansudae Art Studio to paint a panoramic view of a paddy field worth RM11 million in the Kedah Padi Museum as an effort to assist Pyongyang (Lopez, 2017) which is still struggling economically (Kihl & Kim, 2006, p. 225). Mansudae Art Studio even held two (2) public exhibitions of paintings in Malaysia – in 2008 titled *Window of Pyongyang* at Berjaya Times Square, Kuala Lumpur and in 1992 at Lot 10, Kuala Lumpur (Lee, 2008).

Diplomatic relations between Malaysia and North Korea continued to flourish under the fifth Prime Minister, Tun Abdullah Ahmad Badawi (2003-2008) whereby both countries opened their respective embassies in 2003 (Hamid, 2017). In 2010, the Pahang State government announced that it will adopt a North Korean technology to plant paddy in Sungai Pelak on a commercial scale after a successful paddy planting project in Mambang, Pahang. The pilot project was conducted with the cooperation from Sungai Duri Plantations Sdn. Bhd. where five (5) North Korean paddy experts worked on their project in the 60 hectares State government-sponsored land in Mambang. The project which will employed the MR 219 paddy variant as its subject was projected to boost farmers' harvest up to seven (7) tonnes of paddy per hectare in a season (Mohamad, 2010). Currently, paddy farmers in Malaysia are harvesting twice per year (Omar, 2019, p. 23). According to the company, the results had been very encouraging whereby the first batch of the paddy was ready to be harvested by May 2010. It was optimistic that the joint venture between the Malaysian and North Korean government would be a success (DPRK Business Monthly, 2010). The North Korean paddy planting technology has thus far been proven successful in other countries such as in China, Uganda, Angola and the Philippines (North Korea Economy Watch, 2010).

Other than close cooperation in agriculture and arts, special arrangements had been made between Putrajaya and Pyongyang to increase the tourism sector. For example, to boost tourism in North Korea, a travel agent alliance known as the Malaysia-DPR Korea Travel Agent Alliance was formed by several Malaysian entrepreneurs in 2009. The joint venture gained the full support from the Malaysian Ministry of Foreign Affairs as it permitted Malaysians to visit North Korea without a visa. In August 2008, about 1,000 Malaysians had visited North Korea. Moreover, Malaysians became the first and the only citizens in the world to travel to North Korea without a visa (Aziz, 2009).

The presence of North Korean workers in Malaysia was first exposed during an explosion incident at the Silantek Sarawak coal mine in 2014 which had claimed three (3) lives including a North Korean (The Malaysian Times, 2017). It was reported that out of 119 miners employed, 49 were from North Korea (Ling, 2014). The Deputy Home Minister acknowledged that there were North Korean miners legally employed in Sarawak and this was due to their discipline, dedication and mental-toughness (Hodal, 2014). He elaborated that in the coal mining industry, only certain countries like China, Great Britain and North Korea possessed high-skilled workers. The nature of the work was too risky that even the Sarawakians shunned it (Brown, 2014). The influx of North Korean miners was made possible under a special arrangement between Pyongyang and Sarawak State government (Malay Mail, 2017) and working permits were issued by the Sarawak State Labour Department where they were only allowed to work in Sarawak (Chin, 2017). Despite the undercurrent fear that North Koreans might use Malaysia as the platform to propagate their political ideology, Putrajaya seemed unperturbed due to its harmonious diplomatic relations with other Communist-Socialist countries in the region such as China, Laos and Vietnam (Ling, 2014). Malaysia's policy on hiring workers from North Korea was an epitome of her neutrality in diplomatic relations as Putrajaya has no business in meddling with a State's political doctrine (Malay Mail, 2019) and envisioned a solid relation with a reclusive state (Pearson & Latif, 2017); a heightened geopolitical status that Malaysia should be proud of.

North Korea's Nuclear Weapons Proliferation

After Kim Jong Un's installation as the Supreme Leader of North Korea on 17 December 2011 to succeed his father, Kim Jong Il who passed away due to heart attack (Joon, 2014, p. 7), Pyongyang has accelerated its nuclear weapons and missile development programs (Kerrigan, 2012, p. 159). North Korea's nuclear weapons program has markedly improved (O'Neil, 2015, p. 174) whereby the overall nuclear weapons and missiles launches during Kim Jong Un's reign are totalling 71, have far exceeded the eight (8) tests conducted during his father's era. His grandfather, Kim Il Sung carried out only 15 launches (Pak, 2018). In 2017, it was reported that North Korea has upgraded her nuclear weapons technology which was ten (10) times stronger than the nuclear bombs detonated in Hiroshima and Nagasaki in World War II (O'Connell, 2019, p. 51). After test-firing two (2) Inter-Continental Ballistic Missiles (ICBM) in July 2017, Pyongyang has insisted that it has mastered the long-range ballistic missile technology capable of striking the United States (Izumikawa, 2018, p. 320). Further, North Korea has been increasingly outspoken in flaunting her nuclear weapons technology, boasting to conduct nuclear tests whenever and wherever she sees fit (Jeffries, 2010, p. 135).

Subsequent to North Korea withdrawing from the Nuclear Non-Proliferation Treaty (NPT) in 2003 (Margulies, 2008, p. 150) and started to conduct its nuclear weapons test and missiles launching in 2006 (Parrington, 2012, p. 88), the UN Security Council (UNSC) has passed numerous resolutions condemning Pyongyang's actions which put the world's security at stake (Parrington, 2012). Over time, UNSC has steadily increased the sanctions with the aim of pressuring North Korea toward denuclearisation (Thiessen, 2009, p. 50). For instance, UNSC Resolution 1781 dated 14 October 2006 stated that all Member States shall prevent either directly or indirectly supply any battle tanks, missiles and any military spare parts to North Korea (United Nations Security Council, 2006). Further, the sale of luxury goods to North Korea is also prohibited. However, the UNSC sanctions may have backfired as they seemed only to embolden Kim Jong Un's ambitions to solidify North Korea's nuclear weapons technology (Asian Green News, 2018). Thus, the U.S. and her allies in Asia view North Korea as a threat to global security (Payne & Schlesinger, 2015, p. 44).

North Korea has one of the largest military forces in the world where it has more than 1.2 million active soldiers and 8.3 million in reserve plus paramilitary troops combined with the escalating numbers of Inter-Continental Ballistic Missiles (ICBM) (Slater, 2004, p. 153). Apart from increasing the number of nuclear weapons tests, Pyongyang has also escalated provocations against her geopolitical rivals (Tan, 2015, p. 227). These factors have reasonably heightened security tensions worldwide. Moreover, North Korea is reported to embark on an accelerated production of her Weapons of Mass Destruction (WMD) (Mazarr, 2018, p.1) and modernising its already large conventional military force (Shin, 2018). As of 2017, there are nine (9) Nuclear Armed States (NSA) in the world as per the Nuclear Non-Proliferation Treaty (NPT) 1968, namely United States of America, United Kingdom, France, Russia, China, India, Pakistan, Israel and North Korea (Macias, 2018). However, all these countries have various reasons for pursuing nuclear weapons armament and technology development (Menon, 2000, p. 114).

Whilst some countries have legitimate reasons to develop nuclear technology (e.g. mass energy generation), the others have questionable motives such as enhancing national security system (Meer, 2016, p. 212-230). North Korea belonged to the latter since she is frequently involved in nuclear weapons-motivated extortions (Lam, 2017). Pyongyang's continued development of her nuclear weapons technology might be a response from the realisation that foreign interventions in North Korea's internal affairs would inevitably lead to warfare instead of peaceful negotiation (Cohen, 2017). Further, the nuclear weapons development program is crucial to defend North Korea's security and to justify the longevity of Kim's dynasty (Wooseon, 2017, p.1). The policies upheld by Kim Jong Un are bolder than the course adopted by his father and grandfather (Freeman, 2015), especially Jong Un's decision to proclaimed North Korea as a Nuclear-Armed State by amending the

North Korean Constitution in 2012 (Son, 2020, p. 325). Clearly, Pyongyang's nuclear weapons proliferation contradicts Putrajaya's stand on peace and neutrality in the region (Zin, 2017).

North Korea's economy began to collapse subsequent to the Korean War (1950-1953) (Funabashi, 2007, p. vii) and Pyongyang sought her Communist-ally Soviet Union for assistance to reconstruct the nation (Richardson, 2006, p. 107). During the initial stages, North Korea had received substantial training and technology transfer in heavy industries from the Soviet Union in 1950's until 1980's (McEachern, 2010, p. 67-68). North Korea's nuclear program started during mid-1950's when North Korean scientists received their training in Soviet Union (Oh, 2005, p. 27). In developing the nuclear reactor technology, North Korea was closely aided by the Soviet Union (Kort, 2010, p. 109) and China (Copper, 2016, p. 106). North Korean scientists have also benefited tremendously from the academic exchanges and technology transfer from Soviet Union (Dixon & Smith, 1993, p. 209) and China (Nanto & Manyin, 2010, p. 14). From 2004 to 2014, the North Korean government spent an average of \$3.5 billion annually on military and defence system (Lee, 2019, p. 115).

North Korea's guiding principles in diplomatic relations are based on *Juche* (self-reliant) and *Songun* ('military-first' or 'militarism') (Cordesman & Hess, 2013, p. ix). Thus, the Korean People's Army (KPA) plays a central role in North Korea's politics and economy (Oh & Hassig, 2000, p. 113-115). The status of the army has been steadily elevated within Pyongyang's socio-economic hierarchy throughout Kim's dynasty (Hur, 2018, p. 130). Under *Songun*, priority is given to the KPA in terms of the government's policy and the allocation of national resources (Ministry of Unification, South Korea, 2014). *Songun* guides the political and economic life in North Korea with Military-First by dominating the domestic political and economic systems (Kim, 2006). As North Korea embarked on its large scale nuclear weapons development, the country has grown economically and geopolitically isolated (Park, 2006, p. 38-39). Apart from *Juche* which over-emphasised on self-reliance that leads to isolation (Pidcock, 2007, p. 19), North Korea military provocations to its neighbours and arch nemesis also played a large part of her *isolationism* principle (French, 2007, p. 219). As a result of *isolationism* and over-reliance on her Communist allies for economic supplies (Bluth, 2011, p. 109), North Korea's economy is consistently in decline and her 25 million population are impoverished and suffered from famine (Blackmore, 2018). Despite North Korea's economic slump, Kim Jong Un implemented an improvised policy in 2013, namely *Byungjin* ('parallel development') which allows North Korea to improve her economy while retaining the nuclear weapons technology (Pardo, 2020, p. 127). As the successor to *Songun*, *Byungjin*'s two-fold objectives are meant for liberating North Korea's resources to construct nuclear weapons that serve as the ultimate protection against foreign aggression (Panda, 2020, p. 16-18). The North Korean regime believed that the foreign forces including South Korea and the U.S. could at any time attack or undermine her security (Beggin, 2019).

The detonation of nuclear bombs in Hiroshima and Nagasaki that caused the defeat and surrender of the Japanese Imperial Army during World War II (1940-1945) (Rotblat, 1997, p. 106) had inspired the Kim's regime to develop nuclear weapons, as justified by *Juche* (Flake & Snyder, 2003, p.1). Hence, the only way to guarantee the survival of North Korea is to exploit nuclear military technology to thwart foreign threats (Nam, 2019). Possessing nuclear weapons is also part of Pyongyang's Crisis Diplomacy (i.e. Brinkmanship) that deliberately manipulate the risk of war as a leverage (Lim, 2000, p. 127). Besides, the nuclear weapons technology is also manipulated to boost Kim Jong Un's image (Albert, 2019). Be that as it may, the Kim's dynasty is still struggling to fulfil its economic promises to North Koreans (Hawk, 2013, p. 354), on the back of spending billions of dollars to advance its nuclear weapons (O'Neil, 2014, p. 31).

Thus, parading an unparalleled nuclear weapons to the world is perhaps the only way for the Kim's regime to survive (Roehrig, 2012, p. 81) otherwise, Kim Jong Un will struggle to sustain his political prowess in North Korea (Onchi & Nagai, 2018). As such, Malaysia carefully maintains its diplomatic relations with North Korea with caution. On one hand, Putrajaya continued to pursue economic, cultural and educational co-operations with Pyongyang (O'Carroll, 2017), while on the other, Malaysia condemned North Korea's nuclear weapons proliferation and even supported the United Nations' backed sanctions (The Star, 2012). Malaysia and ASEAN have been amongst the strong proponent for the 'Six-Parties Talk' which aimed to denuclearised North Korea (ASEAN, 2012). Malaysia's stance against the proliferation of nuclear weapons can be attributed to the following reasons: -

- (i) **Neutralisation** – Malaysia is staying true to being a neutral country as the only way to survive the ever-changing landscape of diplomatic relations and geopolitics
- (ii) **Security** – being a relatively small but strategic country in the Southeast Asian region, security either national or regional is of the utmost importance for Malaysia
- (iii) **Perception** – a stand against the proliferation of nuclear weapons is in harmony with the local and international perception that aspire to co-exist peacefully
- (iv) **'Middle Power'** – Malaysia is recognized as a middle power country that practices foreign policies hedging which greatly influenced in shaping her diplomatic relations. However, since the majority of hegemonic Western countries which wielded nuclear weapons technology is against the

North Korea's nuclear weapons enrichment program, it is befitting for Malaysia to support the view of the majority (Saravanamuttu, 2011, p. 5).

On 3 October 2013, Kim Jong Un was awarded with a Honourary Doctorate in Economics by HELP University Malaysia, making him the first foreign Head of State to receive an award from the university (Murad, 2013). The university believed that education could help North Korea to integrate with the global society, thus gradually ending its *isolationism* policy (Zurairi, 2013). It is evident that Malaysia has thus far, applied its neutrality and non-alignment stand in most of diplomatic relations issues with North Korea, particularly when Putrajaya engaged Pyongyang in a conciliatory mode rather than in an offensive mode (Krishnamoorthy, 2017). This diplomatic stance is also illustrated in Putrajaya's response to the United States hegemonic plan to combat terrorism in Southeast Asia subsequent to the September 11 tragedy (Nesadurai, 2006, p. 194-195).

The Assassination of Kim Jong Nam and the Suspension of Malaysia-North Korea Diplomatic Relations

The murder of Kim Jong Nam at Kuala Lumpur International Airport (KLIA) on 13 February 2017 by the deadly VX Nerve Agent drew shock and suspicion (Reynolds, 2020, p. 188). A lot of theories behind the murder have been suggested by critics and observers; chief amongst them is the fact that Kim Jong Nam was a credible pretender to the Kim's dynasty (Ma, 2018). Moreover, Kim Jong Nam was the ideal candidate for China's economic reforms which supported the liberation of North Korea's economy (Shen, 2007, p. 135) that will run contrary to the age-old philosophy of *Juche* (self-reliant) which is the backbone of Kim's family legitimacy in North Korea (Harden, 2017). Adopting the economic liberalisation policy will definitely end Kim Jong Un's grip on power (Adam, 2019).

The assassination and the eventual banishment of North Korea ambassador – Kang Chol – from Malaysia as *Persona non Grata* have ruptured the once cordial and carefully coordinated diplomatic relations between two countries with different political ideologies (South China Morning Post, 2017).

Malaysia's decision to expel Kang Chol as *Persona non Grata* was in accordance of Article 9 (1) of the Vienna Convention on Diplomatic Relations 1961 (VCDR 1961) (Astro Awani, 2017); an international treaty of which Malaysia and North Korea are signatories. Malaysia signed the VCDR 1961 on 9 November 1965 while North Korea signed it on 29 October 1980 (United Nations Treaty Collections). By virtue of Article 26, Vienna Convention of the Law of Treaties 1980 (VCLT 1980) Malaysia and North Korea shared the legal responsibility to comply with and abide by the provisions in the VCDR 1961 – *pacta sunt servanda* (Capaldo, 2016, p. 178).

Kang Chol's criticism against Malaysian authorities as inept in handling the investigation are a clear violation of Article 41 VCDR 1961; a diplomatic tenet in the VCDR that any accredited Diplomats shall abide to (Ishan Jan, 2017). His statements were outrageous since the other countries implicated in the murder case such as Indonesia and Vietnam did not issue any offending remarks against Malaysia (Yong, 2017). Kang Chol's accusations that the Malaysian and her authorities were colluding with the enemies of North Korea persisted despite several reprimands made by the Malaysian government prior to his banishment (Radio Free Asia, 2017). His refusal to apologise (South China Morning Post, 2017) and to appear before the Ministry of Foreign Affairs were the penultimate acts of defiance that led to the declaration of *Persona non Grata* and his expulsion on 6 March 2017 (Johnson, 2017).

Regrettably, North Korea's reaction on 7 March 2017 to ban the movement of Malaysian Diplomats from leaving Pyongyang that was akin to a hostage situation, only aggravated the dispute (Latif & Park, 2017).

In hindsight, expelling Kang Chol was the correct decision as Malaysia is ultimately defending her sovereignty in the midst of diplomatic dispute (Bangkok Post, 2017). Moreover, Malaysia's tactful way of handling the issue had been applauded by international observers (Han & Ho, 2017). Nonetheless, the murder case has piqued the public's curiosity on North Korea and on the extent of diplomatic relations it maintained with Malaysia (Hazis, 2018, p. 212); a bilateral relation that even surpassed Malaysia's diplomatic relations with the People's Republic of China (Sutter, 2019, p. 323).

On 1 March 2017, two (2) individuals accused of the murder: Indonesian Siti Aisyah and Vietnamese Doan Thi Huong who are believed to be the assailants; and four (4) other unnamed suspects were charged at Sepang Magistrate's Court. They were charged under Sections 302 and 34 Penal Code for the offence of murder and common intention. The murder trial started on 2 October 2017 at Shah Alam High Court. On 16 August 2018, both accused were ordered to enter their defence after the Court decided the Prosecution succeeded in establishing a *prima facie* case against them (Shim, 2018). However, on 11 March 2019 the High Court judge has ordered a Discharged Not Amounting to an Acquittal (DNAA) to Siti Aisyah (Borneo Post Online, 2019). This decision was partly due to a diplomatic appeal made by the Indonesian government to the Malaysia government (Xuxin, 2019). In a letter written by the Indonesian Minister of Law and Human Rights, the Minister pleaded to the Attorney-General of Malaysia to reconsider the charges against Siti Aisyah on the ground that she was deceived and hence, innocent (Palma, 2019). Further, the criminal charges should be re-evaluated taking into account the longstanding and good diplomatic relations between both countries (Minister of Law & Human Rights Indonesia, 2019).

As a result of Track 1 Diplomacy between Malaysia and Indonesia, the Attorney-General agreed to drop the charges based on the merits raised by the Indonesian Minister (BBC News, 2019).

On Thi Huong's side, the Prosecution however, proceeded with the trial (Petersen, 2019) despite appeals made by the Vietnamese government for the withdrawal of the murder charge (Ngoc, 2015). The Malaysian government explained that the decision on whether to pursue or discontinue a criminal case is the prerogative of the Attorney-General under Article 145 Federal Constitution without the interference from the government (Ariff, 2017). The decision had resulted in backlash from her Defence lawyers, alleging the Malaysian government of discrimination (Rodzi, 2019). It was argued that since a *prima facie* case was established against both accused whom stated similar Defence (Hamdan, 2019) – in view of the acquittal (not amounting to a discharge) of Siti Aisyah (The Star, 2019) – the charge against Thi Huong should had been withdrawn as well (Khaliq, 2019).

Nevertheless, it was revealed in a CCTV footage tendered as evidence during the trial that Thi Huang was seen approaching the deceased, placing her hands on the deceased's face and running away (The ASEAN Post, 2019). The same evidence showed Siti Aisyah was walking away from the crime scene without committing the alleged murder (Rashid, 2017), hence a weaker case against Siti Aisyah as argued by her lawyers (Dinh & Ng, 2019). Later, on 1 April 2019 the judge sentenced Thi Huong to three (3) years and four (4) months in jail after she pleaded guilty to a lesser alternative charge under Section 324 Penal Code for voluntarily causing hurt by dangerous weapons or means. The section provides for imprisonment up to 10 years or fine or whipping or any two of the punishments (Hamdan, 2019).

However, after intense Track 1 Diplomacy by the Vietnam government and *Plea Bargaining* by her lawyers, the sentence was reduced and she was released on 3 May 2019 (Kyodo News, 2019). The outcome of the murder trial has a lasting impact on strengthening the diplomatic relations amongst Malaysia, North Korea, Indonesia and Vietnam (Han & Ho, 2017, p. 2-3).

The diplomatic crisis entered a new phase when the Malaysian national football team refused to play a qualifying match for the Asian Cup 2019 in Pyongyang scheduled on 28 March 2017 at Kim Il Sung Stadium, Pyongyang, North Korea (Malay Mail, 2017). For security reasons, the Football Association of Malaysia (FAM) had requested the Asian Football Confederation (AFC) to allow the match to be played at a neutral venue (Malay Mail, 2017). Malaysia lost in both matches and did not qualify for the Asian Cup 2019. Malaysia may have lost the spot to play in the Asian Cup 2019 but what is more important is for Putrajaya to keep the diplomatic channels open for the healing process to begin.

The absence of any diplomatic missions in both countries at the moment is a sign of temporary fall out in their diplomatic relations (Farzana & Haq, 2019, p. 792). This phenomenon may

indicate that Malaysia has lost its *neutral State* status it proudly held on for so long; being the only country in the region able to bring North Korea and major superpowers to negotiate. Kuala Lumpur used to serve as a venue for secret meetings between Japan (Kim, 2007), the United States, South Korea and North Korea that has started since two decades ago (Ping, 2017). In fact in 2018, the United States had shown her interest to groom Malaysia as the regional leader towards North Korea's denuclearisation (Lopez, 2017). Malaysia, however under Tun Dr. Mahathir – the individual who spearheaded the diplomatic relations between Putrajaya and Pyongyang about 40 years ago – are eager to rekindle the damaged diplomatic relations. It is just a matter of time before both countries repair and resume their bilateral relations (Chu, 2018).

In retrospect, it seems that North Korea stand to lose more than Malaysia especially after two (2) U.S.-North Korea Summits held in Singapore and Vietnam have failed to deliver any positive outcome (Buckle, 2017). With the change in the U.S. administration, President Trump had scrapped the *Strategic Patience* policy employed by Barack Obama (Kaussler & Hastedt, 2017, p. 148) which means that military responses are probable against North Korea for any of her future provocations (Howell, 2018). Furthermore, the United States under the leadership of new President Joseph Biden shows no signs of abatement in denuclearising North Korea (Aoki, 2021). The diplomatic quagmire between the U.S. and North Korea is aggravated with Kim Jong Un's latest decision in January 2021 to upgrade North Korea's nuclear weapons capabilities (Burke, 2021). Thus, it is only sensible for Pyongyang to resume her diplomatic relations with countries that are known to be friendly and that includes Malaysia and as such, ending the diplomatic disputes will benefit North Korea in the long run (Bridges, 2019). Therefore, the future of diplomatic relations between Malaysia and North Korea hinges entirely on the sincerity of both countries in protecting their national interests (Reuters, 2018). The diplomatic row was severe but momentary and is recovering; taking into account Malaysia's intention in 2019 to reopen her embassy in Pyongyang (Gabriel, 2019).

The murder case has given the Malaysian government the chance to reassess all the merits and demerits of sustaining diplomatic relations with a volatile country like North Korea (Radio Free Asia, 2018). Nonetheless, the assassination of Kim Jong Nam has managed to unite all Malaysians regardless of their race, religions and political affiliation. It could only be achieved when Malaysians realised the security of their country was truly at stake against a country possessing nuclear weapons technology (The Star, 2017).

The Severance of Diplomatic Relations Between Malaysia and North Korea

On 19 March 2021, North Korea unilaterally severed her diplomatic relations with Malaysia (Channel News Asia, 2021). The reason being was Malaysia's Federal Court decision on 8 October 2020 that rejected North Korean businessman Mun Chol Myong's appeal against an extradition

request from the United States' authorities (Malay Mail, 2021). Mun Chol Myong was arrested in 14 May 2019 under Section 13 (1) (b) Extradition Act 1992 (Act 479) (Nik Anis, 2021) following a request from the U.S. government (Anbalagan, 2021) for offences relating to, *inter alia*, Money-Laundering in the US' financial services (United States Department of Justice, 2021); a violation of both the U.S. (South China Morning Post, 2021) and UN-backed sanctions (Balsamo, 2021). Mun Col Myong, via his application for Writ of *Habeas Corpus* to challenge his arrest (High Court of Malaya Kuala Lumpur, 2020), appealed that he was innocent and was caught in a diplomatic dispute between North Korea and the U.S. (Channel News Asia, 2021). The Prosecution argued that it was the Malaysian government duty's to assist the U.S. in extraditing Mun Chol Myong (The Star, 2021). Money-Laundering is an extradition offence under both the America's Racketeer Influenced and Corrupt Organisations Act 1970 ('RICO') and under Section 4 (1) of Malaysia's Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001 (Act 631) ('AMLA').

Thus, the extradition process had also satisfied the elements of 'Double Criminality' as mentioned in Section 6 (2) (a) and (b) of Act 479 (Wai Mon & Mohd Rusli, 2021).

Prior to the Federal Court's decision, the Kuala Lumpur High Court in dismissing the *Habeas Corpus* application stated that there was insufficient evidence tendered by Mun Chol Myong to challenge the Money-Laundering charges and to prove the indictments filed by the U.S authorities were politically motivated (High Court of Malaya Kuala Lumpur, 2019). In dismissing the appeal, Malaysia's highest Court stated that all requirements under the Malaysia-United States Extradition Treaty 1995 had been fulfilled (Berita Harian, 2021). The entire extradition proceeding clearly showcased the interplay between the enforcement of international law and the legal mechanism of the Malaysian law in assisting and implementing international law.

North Korea lashed out at Malaysia's decision by describing it as an 'unpardonable crime' (New Straits Times, 2021) and insisted that Mun Chol Myong was innocent (Nikkei Incorporated, 2021). Mun Chol Myong – who is not a North Korean Diplomat (Talib, 2021) – is the first North Korean ever extradited by any country in the world to face charges in the U.S. (Bartlett, 2021). Reports revealed that Mun Chol Myong was associated with North Korean intelligence services i.e. Reconnaissance General Bureau (RGB) (Viswanatha, 2021). As a result, Malaysia ordered the North Korean diplomatic mission to vacate its diplomatic premise in Jalan Batai, Bukit Damansara and leave Malaysia on 21 March 2021 (Channel News Asia, 2021). Malaysia had earlier shut down her embassy in North Korea which was suspended since 2017 (Channel News Asia, 2021). In its official statement, Malaysian Foreign Ministry regretted North Korea's unilateral decision to sever their diplomatic relations (The Edge Markets, 2021). Wisma Putra emphasised that Malaysia had optimised her diplomacy with North Korea with a view to rejuvenate their bilateral relations even after the

reprehensible murder of Kim Jong Nam in Malaysia (Ministry of Foreign Affairs, Malaysia, 2021). After more than four decades of bilateral relations, North Korea's irrational decision has officially ended her diplomatic relations with Malaysia (Wey Kok, 2021).

From Hostility to Diplomacy: How Malaysia Benefits from Maintaining Diplomatic Relations with North Korea

Prior to the severance of diplomatic relations, North Korea had enjoyed enormously from trade relations with Malaysia (Latiff & Annanthalakshmi, 2018). North Korea also viewed Malaysia as her gateway to the markets of other countries in the Southeast Asian region (The Edge Market, 2017). Similarly, in 2015 Malaysia's trade with North Korea totalled RM22.72 million in the imports of electrical and electronic products, chemicals and chemicals products, iron and steel products (The Star, 2016). Technological collaboration with North Korea in agriculture has provided fruitful results in the form of advanced paddy planting technique and a better variant which could withstand infestation and dry spell. It is projected that from 2019 until 2020, Malaysia will import 1.12 million tonnes of rice from Thailand and Vietnam which accounts for more than 80% of Malaysia's total global import of rice (Schroeder, 2019). Malaysia's ability to increase paddy harvesting by using North Korean technology is a good prospect for its economy especially when there is no more increase in paddy planting areas in the country and Malaysia's overall population is expanding by 3% annually (Idris, 2018). In the long run, the transfer of technology in paddy planting from North Korea will alleviate Malaysia's dependence on foreign imports to feed its growing population (Wahab, 2018, p. 8). Malaysia's cooperation with North Korea in agriculture is part of Putrajaya's efforts to reach out to the isolated State, thus enhancing their bilateral ties. (Ministry of Foreign Affairs Malaysia, 2016).

Foreign labour is an issue which Malaysia has been grappling with since the Look East policy in 1981 (Food & Agriculture Organisation, 1998). The flow of foreign workers to Malaysia becomes the bone of contention between Malaysia and the source countries as their arrival has caused the spike in crime rates and the rise in social ills (Rahman, 2017, p. 14-15). However, the same argument could not be applied to the North Korean workers working in Malaysia. In 2014, Deputy Home Minister Wan Junaidi Tunku Jaafar praised the North Korean miners in Selantik, Sarawak as diligent and disciplined (Tawie, 2017). He also dismissed the allegation that the North Koreans despite working legally in Malaysia, were involved in the propagation of their political agenda (The Sun Daily, 2017). As such, Malaysia could consider North Korea as an alternative source of dependable foreign labour (The Japan Times, 2017) particularly in certain industries which demand high-skilled workers but are deliberately snubbed by Malaysians due to the nature of the jobs which are dirty, dangerous and difficult (3D-Jobs) (Kumar, 2016). For as long as Malaysia continues to over-rely on the foreign manpower to built its economy in critical areas like agriculture, construction and manufacturing, issues such as reliable and high-skilled foreign workers should be addressed immediately since these

are the major factors suppressing the rate of local wages and slowing down the country's pace towards achieving a high-income high-productivity nation (Kok, 2018).

During the early 21st century, Malaysia led the Non-Aligned Movement (NAM) when Prime Minister Tun Dr. Mahathir was the Chairperson in 2003 (Ministry of Foreign Affairs Malaysia, 2019) and Tun Abdullah Ahmad Badawi assumed the position from 2003 until 2006 (Prime Minister's Office of Malaysia, 2006). Amongst the primary roles of NAM are to promote world peace and to affirm a country's right to self-determination (The Star, 2003). The ongoing trade war between the U.S. and China which aggravates the world's economy is a testament that a peaceful region will encourage more economic activities (Forrer, 2012, p.1). Malaysia's current economic slump could be revived with Putrajaya taking the helm of welcoming more economic and diplomatic collaborations with more countries other than the U.S. and China (e.g. the European Union) to negotiate trading pacts and strengthening existing diplomatic relations (Sharif, 2013). This leads to the conclusion that the more neutral a country behaves, the more Foreign Direct Investments (FDI) it will attract (Overseas Development Institute, 2006).

After the end of Cold War, NAM's direction is shifted towards developing multilateral ties amongst its members (Ministry of External Affairs, Government of India 2012). Thus, the purpose of NAM is no longer limited to forge peaceful co-existence but also to encourage economic growth that serves to solidify mutual interests amongst its members (Union of International Associations, 2020). The failures of the U.S.-North Korea Summits in 2018 (Singapore) and in 2019 (Vietnam) (Friedman, 2019) have signalled that it is timely for NAM to assert its role in promoting world peace by providing a platform for Pyongyang to freely explain her aspiration in resolving her conflict with the U.S. (Shim, 2014, p. 4). NAM could be manoeuvred as the alternative channel to redress perennial security issues such as the denuclearisation of North Korea (Triwibowo, 2018). Similar to the U.S.-China Trade War, the issue of nuclear weapons proliferation in North Korea affects not only the U.S. but the entire world especially those countries in Southeast Asia due to their proximity to the Korean Peninsula (Clinton, 1996, p. 288).

The sooner the issue is resolved, the better it is for global peace and economic stability (Moon, 2019). Since North Korea is still a member of NAM, Malaysia should grab the opportunity to broker a peace treaty by spearheading NAM again. This was Malaysia's approach in the Palestine-Israel conflict in 2004 of which negotiation that is lead by a neutral State (i.e. outside the Middle East region) is the effective way of reaching sustainable solutions (Abdullah, 2013).

Conclusion

Establishing and maintaining diplomatic relations especially with rogue nations such as North Korea is a challenging task. The differences in political ideologies between Malaysia and North Korea are not hampering the vigour to forge a meaningful bilateral relations. As a matter of fact, both countries are seeking a neutral path in voicing out their justification for their stand in geopolitics. Malaysia's neutral and non-alignment foreign policies under Tun Abdul Razak which was a departure from the earlier pro-British slant under Tunku Abdul Rahman, coincided with Pyongyang's ideological break out from the Socialist-Communist bloc. Whilst Malaysia intended to be friendly to all countries, North Korea pursued geopolitical independence and economic self-sustenance. Track One and a Half Diplomacy (Track 1.5 Diplomacy) in the form of Sports Diplomacy clearly served as the bridge to initiate diplomatic relations between Malaysia and North Korea. Sports Diplomacy has the potential to be exploited by Wisma Putra to facilitate the negotiation process that is carefully tailored to suit both countries' rights, needs and demands. This is especially so when Kim Jong Un is an avid fan of the American basketball (NBA) and the exchange of sporting talents between Pyongyang and Washington D.C. was emphasised as a crucial part of the agreement to denuclearise North Korea. It shows that innovative diplomacy is workable and is sometimes preferred by countries which share little similarities. Along the way, both countries collaborated in mutually beneficial ventures in the areas of education, agriculture, human resources, arts and tourism. The transfer of North Korean technology in agriculture (i.e. paddy harvesting) and the supply of high-skilled North Korean workers in 3-D jobs have clearly benefitted Malaysia in those critical areas. Historical facts showed that both Malaysia and North Korea were colonised by the same Colonial Master *viz.* Japan; the former was conquered during the World War II (1940-1945) and the latter was enslaved during the Japanese Occupation of the Korean Peninsula (1910-1945). Unknown to many, North Korea also participated in the Yom Kippur War (1973) against the Zionist Israeli regime. Thus, both countries shared the identical aspiration that opposes war, conquest, oppression and colonialisation. As the country that championed the cause of maintaining Southeast Asia as the Zone of Peace, Freedom and Neutrality (ZOPFAN), Malaysia should repair the damaged diplomatic relations with North Korea. The assassination of Kim Jong Nam in Malaysia has temporarily halted what was once described as secret but strategic bilateral relations. However, North Korea's unilateral decision to sever diplomatic relations with Malaysia is conceived as irrational response to the extradition of Mun Chol Myong – an ordinary North Korean citizen who has been treated fairly in Malaysia under the notion of Rule of Law. Hence, the prospect of reaching an amicable solution with North Korea will not only resolve the diplomatic impasse but should be seen as a catalyst to solve bigger problems in the Korean Peninsula (e.g. denuclearisation of North Korea). Malaysia's history of pioneering innovative diplomacy with rogue countries (e.g. China) should positioned Putrajaya in a constructive mode to rebuild the trust it

once shared with Pyongyang. Sanctions have terribly backfired and it is time now for North Korea to sit down and talk with an old friend.

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