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ISLAND DISPUTES IN NORTHEAST ASIA

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ABSTRACT

Although focus of less attention than the island disputes in the South China Sea, conflicts over disputed islands in Northeast Asia also have the potential for violent escalation. They are deeply enmeshed with identity politics in the claimant states and a barrier to improved political and security relationships between them.

This paper examines the conflicts over disputed island territories between Japan and China/Taiwan, between Japan and Russia and between Japan and Korea. It argues that the introduction of the Law of the Sea and the creation of 200 nautical miles Exclusive Economic Zones has actually increased tensions and that resources concerns, in particular access to fisheries, have become a greater source of contention as a consequence.

The paper argues that the most formidable barriers to resolving these conflicts lie in the realm of domestic politics where the disputes have become the focus of nationalist agitation. Most nationalist groups have no interest in conflict resolution, except on terms which are totally unacceptable to other claimant states. In the current climate the task of conflict resolution faces insuperable barriers and the paper argues that political resources should rather be invested in conflict management initiatives. A number of such initiatives are discussed in the paper.
ISLAND DISPUTES IN NORTHEAST ASIA

Andrew Mack*

Introduction

During the past two decades territorial disputes in the South China Sea have given rise to bitter clashes between rival claimant states and real concern about possible resource wars in the future. The importance of these small, and otherwise insignificant, islands has been considerably increased by the entry into force of the Law of the Sea (LOS) in November 1994. The LOS gives states the right to claim 200 mile Exclusive Economic Zones (EEZs) around their sovereign territory. Sovereignty gives states exclusive access to any oil reserves found within their EEZs. Some analysts believe that parts of the seabed of the South China Sea may yield billions of barrels of oil—a vital resource for an increasingly energy-hungry East Asia.

But while the South China Sea clashes get most of the headlines, Northeast Asia has been no more successful than Southeast Asia in dealing with its maritime territorial disputes and recent moves by Japan and South Korea to extend their EEZs have considerably increased the possibilities for confrontation over the disputed islands. China will almost certainly follow Japan and Korea in extending its EEZ.

The foci of this paper are the disputes between Japan and the Koreas over the Takeshima/Tokto islands; Japan and Russia over the Northern Territories/South Kurils and Japan, and China/Taiwan over the Senkaku/Diaoyu islands.

The paper argues that each of these island disputes has the potential to lead to confrontation between the claimant states, not so much because of their strategic or economic importance, although this is not discounted, but because in each case the dispute has become a volatile element in domestic politics. Historical animosities between Japan and the other claimant states are a further complicating factor. While the risk of serious military confrontation over any of these territories remains relatively small, each dispute has the potential to damage the broader relationship between the claimant states.

* Thanks to colleagues Greg Austin and Greg Noble for helpful comments.
This paper briefly examines each of the three disputes in turn before discussing the political constraints which make resolution impossible in the short term and conflict management extremely difficult. In examining the various arguments made by the claimants no judgments are made about the merits of rival claims. I do argue, however, that because all of the conflicts are deeply affected by identity politics, and because the legal arguments have been endlessly rehearsed by all sides without any progress towards resolution, settlement of these disputes is unlikely to be achieved in the short- or even medium-term. When settlements are ultimately reached it will more likely be on the basis of political accommodation than on the basis of legal adjudication via the World Court or some other legal body.

**The Senkakus/Diaoyus Dispute**

Of the three island disputes discussed here, that between Japan, on the one hand, and China and Taiwan, on the other, currently has the greatest potential for dangerous escalation.

The Senkakus/Diaoyus are a small spread-out group of uninhabited islands lying 150kms northeast of Taiwan and 300kms from Okinawa, though closer to other Japanese islands. They are controlled by Japan, and private Japanese citizens claim ownership.

Japan argues that the islands were incorporated as part of the Okinawa prefecture in 1894, the year before it defeated Imperial China and they should therefore not be seen as war booty from its 1895 victory. The islands were formally administered by the US from 1953. When the US handed Okinawa back to the Japanese in 1972, the Senkakus/Diaoyus were part of the package.

Although the US claims to take a neutral position on the issue of sovereignty, the US/Japan Security Treaty applies to all territories ‘under the administration of Japan’. This clearly includes the Senkakus/Diaoyus regardless of any question of sovereignty. The US would, however, be both very reluctant and very unlikely to become involved in any violent dispute over the islands unless it were to escalate into a major war.

The Chinese, who have claimed the islands for centuries, reject Japan’s claims and maintain that the islands should have been handed back to China at the end of World War II, when Japan was forced to return Taiwan and other territories it had seized. However neither China nor Taiwan started raising the Chinese claim until 1970, not long after the first reports came out suggesting that there might be major oil deposits beneath the South and East China Seas.
Japan and China have engaged in several rounds of bilateral talks over the disputed islands since they normalised relations in 1972, but without any progress towards resolution. Japan maintains, however, that the sovereignty question is not open for discussion. The most important issue aside from sovereignty, is fisheries access and management and recent reports suggest that a new fisheries agreement to replace the outdate 1975 agreement may be reached shortly.

In the past the two governments informally agreed that the resolution of the dispute should be put to one side and be addressed by future generations. The Chinese maintain that joint resource development should be possible in the meantime.

Taiwan makes the same claim to the islands as China and although Tokyo and Taipei have no official diplomatic ties, there have been several rounds of inconclusive talks about fisheries access in waters surrounding the islands.

Over the past twenty years there have been a series of provocations which have raised the temperature of the dispute. Most have been catalysed by right wing Japanese activists. However, in 1992, China upped the ante by reasserting its territorial claim over a number of maritime areas including the Senkakus/Diaoyus, a move which caused considerable regional concern and which prompted a swift Japanese protest.

The most recent, serious resurgence in this long-running dispute started in July 1996, when members of the far-right Japan Youth Federation erected a lighthouse on one of the islands and demanded that the Japanese government accord it official recognition. China and Taiwan were already angered by Japan’s declaration of a 200 mile EEZ around the disputed islands in June, and it was thus not surprisingly that the erection of the lighthouse and subsequent provocations, including the planting of a Japanese flag and a memorial on one of the islands, should have sparked massive protests in Hong Kong, Taiwan, Macao and from US-based Chinese.

The most risk-prone acts of protest have involved fleets of as many as 50 Taiwanese protest vessels trying to land on the disputed islands to plant Chinese/Taiwanese flags and being repulsed by even larger numbers of Japanese coastguard vessels. In September 1996, a Hong Kong activist was killed when he leapt off one of the protest vessels. There were further incidents in May 1997 following the landing of another group of Japanese rightists on the islands.

Beijing has denounced these provocations and made official protests to Japan, but has prevented any mass popular protests at home. Some analysts
believe that China’s current restraint is tactical and that Beijing may show greater willing to prosecute its claims forcefully when its currently modest naval capabilities are enhanced. Chinese inclination to use force in support of maritime claims may also be affected by the eventual determination of the value of any oil and other mineral resources under the South and East China Seas.

Japan maintains that it rules out the use of force to settle its territorial disputes with its neighbours, but it is difficult to prevent protest fleets manned by impassioned activists from landing on the islands without force if the protesters are determined and foolhardy enough. Repelling determined assaults can only be done by resort to physical force. The possibilities for death and injury and consequent inadvertent escalation in such situations are both obvious and sobering, especially given Taiwan’s Interior Minister’s claim last year that his government was determined ‘to protect its territory’ and that it would ‘…show that determination when necessary.’

The lighthouse, that was the focus of the initial controversy, was the second erected by the rightist group, the first having been emplaced in 1978. While the erection of both lighthouses were ostensibly intended to be an aid to navigation, they were in fact deliberately provocative acts of sovereignty-assertion. After vacillating for twelve years the Japanese government legitimised the erection of the first lighthouse by recognising it as an official navigation mark, a move that sparked a wave of protests from Taiwan and attempts to land a protest group on the islands.

The Japanese rightist group allegedly erected the second lighthouse because the first one, emplaced on a different island, was poorly located. Seeking to defuse the issue Japanese Foreign Minister Ikeda assured the Chinese that Japan did not intend to recognise the new lighthouse as the rightists had demanded.

However, Tokyo angered Beijing by refusing to dismantle the second lighthouse on the grounds that it had been erected by private citizens on private property and that there was nothing the government could do about it.

**The Takeshima/Tokto Dispute**

While the disputed Senkakus/Diaoyus are controlled by Japan, the two small Takeshima/Tokto islands, which lie between Japan and Korea, are physically controlled by Korea and have been inhabited by a small South Korean garrison
since 1954. Japanese fishing boats operate in the waters of the disputed islands and Japanese coastguard vessels make occasional patrols around them.

While there may possibly be some mineral deposits beneath the waters around the Takeshima/Tokto islands, fishing is currently the most contentious resource issue. A number of South Korean fishing boats have recently been seized by Japanese coastguard vessels for ‘illegal’ fishing in waters which Japan claims and controls. Should South Korea decide physically to protect Korean fishing boats operating in waters it claims when Japanese coastguard vessels were trying to seize them, the potential for escalation would be obvious. South Korea has indicated its intention to increase the number and capability of its marine police vessels in order to enhance its ability to protect fisheries. The Korean Navy is also to be expanded.

Tokyo maintains that the islands have been Japanese since Japan took military control over them in 1905, five years before Korea was forced to sign the treaty of annexation which led to 35 years of brutal Japanese occupation. Seoul adamantly rejects Japan’s arguments, citing historical documents going back centuries to bolster its claim. Indeed Seoul claims that there is no territorial dispute and that the islands are incontestably South Korea’s.

The US, an ally of both states, takes no position on the sovereignty issue. The islands became the focus of increased tension in February 1996 when Japan and South Korea both announced that they were extending their 200 mile EEZs to encompass the disputed territories. South Korea held military manoeuvres around the islands and started constructing a new wharf on one of them. Japan’s Foreign Minister demanded that the construction be halted and also reiterated Japan’s sovereignty claim over the islands. This generated a furious response in South Korea. There were massive protest rallies in major cities, and Japanese flags and effigies of Foreign Minister Ikeda and other Japanese politicians were burned in public. The issue dominated national media coverage for days. The small island garrison was strengthened and, in February 1996, South Korean President Kim Young-sam, who had described the Japanese claim as ‘intolerable’, made a series of highly publicised phone calls to the garrison guards reminding them that they were defending the nation’s sovereign territory. (Since there were only 34 guards on the island it would seem that the South Koreans did not believe the threat to be too serious.) In March, President Kim canceled a planned meeting with Japanese Prime Minister Hashimoto. In 1997 the issue again became politically contentious following the July seizure of five Korean fishing boats.
Unlike the Senkakus/Diaoyus dispute where the Japanese claim there is no sovereignty issue to discuss because the islands incontestably belong to them, Tokyo concedes the existence of a sovereignty dispute in the case of the Takeshima/Tokto islands. There is, however, no formal bilateral framework for seeking to resolve the dispute as is the case with the acknowledged dispute with Russia over the Northern Territories/South Kurils. Nor are Japan or South Korea interested in taking their claim to international adjudication at the World Court or some other forum. Indeed international adjudication is not an option in any of the sovereignty disputes discussed in this paper, including those in the South China Sea.

While the Takeshima/Toktos dispute may well once again cause upsurges of widespread nationalist outrage in South Korea and among small rightists groups in Japan, it seems unlikely that armadas of Japanese protest vessels will be dispatched to the islands—thus risking clashes with South Korean naval or marine police vessels and possibly even the small garrison on the islands. Perhaps the greatest risk would arise if South Korea decided to use its marine police vessels to physically protect Korean fishing boats from seizure by Japanese coastguard vessels.

The Northern Territories/South Kurils Dispute

The Northern Territories/South Kurils are a group of four islands and some islets at the southern end of the Kuril Island chain which runs from Kamchatka almost to the northern Japanese island of Hokkaido. They have a combined land area of some 5,000 square kilometres and are thus much larger than the other disputed islands.

In 1945, the islands were occupied by Soviet forces, who expelled the 16,000–17,000 Japanese residents and began a settlement program. By 1991, the Russian population was 24,600 settlers and some 7,000 armed service personnel, but numbers have subsequently declined dramatically and in 1994 there were only 14,000, including 3,500 military personnel. Two more army units were due to be pulled out of the islands by the end of June 1997.

The Soviet/Russian claim to the islands is based on decisions taken by the wartime allies at Cairo, Yalta and Potsdam, as well as the 1951 Treaty of Peace signed in San Francisco under whose terms Japan renounced ‘all right and title to the Kuril islands’. The Russian view in essence is that Japan had launched a war of aggression and that surrendering the islands was one of the penalties it
had to pay for losing the war. Some recent research suggests that Japan has officially conceded Russian sovereignty on occasion in the past.

The Japanese claim that what they call the ‘Northern Territories’ have always been under Japanese control and point to the Shimoda Treaty (1855) and the Treaty of St Petersburgh (1875) to support their claim that the disputed islands are not among the territories ‘taken by violence and greed’ that Japan was required to return under the terms of the 1943 Cairo Declaration. The Japanese position was supported by the Russian Foreign Ministry in Supreme Soviet Hearings dealing with the issue in 1992, with Ministry officials citing archival documents to support the Japanese case. At the time the Ministry position was bitterly denounced by Russian nationalists.

Both Japan and Russia formally acknowledge the existence of the territorial dispute.

While the US is neutral on the sovereignty disputes between Japan and China/Taiwan and Japan and Korea, it supports Japan’s claim to the Northern Territories/South Kurils. Washington would, however, have preferred that the Japanese had not pursued its claim in such a hardline manner. The US sees the provision of economic aid to Russia, which Japan has been reluctant to offer because of the dispute, as being in the security interest of the West.

The waters around the disputed islands are rich in fish and what the Russians see as ‘illegal’ fishing in the island waters by Japanese fishing boats has been a source of frequent tension between Moscow and Tokyo. Talks to try and work out a fisheries agreement between the two sides in May 1997 were the latest of many to fail.

During the Cold War the islands were also of considerable strategic importance since the Kuril chain guarded the East/West passages between the Pacific and the Sea of Okhotsk, where Russian missile firing submarines were deployed. The southern Kurils are particularly important because their passages provide year-round relatively ice-free access. However, while some Russian military spokesmen claim that the islands are still strategically important, progressive reduction of Russian forces on the islands during the 1990s suggests otherwise.

**Factors Complicating Resolution of Northeast Asia’s Island Disputes**

The introduction of the Law of the Sea (LOS), which confers exclusive rights to mineral exploitation within a 200 mile EEZ surrounding sovereign territory, has considerably increased the significance of otherwise strategically and
economically insignificant islands in the region. The possibility that major oil deposits could exist in the East China Sea as well as the South China Sea was first raised in the publication of a report by the United Nations Economic Commission for Asia and the Far East report in 1968. Since then the disputed islands have been viewed as having far greater potential economic significance than was the case in the earlier period. Copper, zinc, lead, nickel, cobalt, manganese, iron, gold, and silver may also be found under the East China Sea. Chinese marine research and oil drilling activities near the Senkakus/Diaoyus were factors in Japan’s decision to extend its 200 mile EEZ to the islands.

Energy security has long been a concern for Japan, while China became a net oil importer in 1994. As China’s economy continues to expand and domestic production continues to decline, the Chinese are being forced to import an ever-increasing fraction of their oil needs. Prior to the introduction of the LOS and predictions that parts of the South China and East China Seas might lie over major oil deposits, territorial disputes were of marginal significance.

Second, as regional populations grow and become more affluent, the demand for fish continues to rise, while fish stocks are declining due to over-exploitation. One consequence is that access to fish stocks within the 200 mile EEZs has become a major issue in regional resource politics. What the Japanese saw as overfishing by Chinese and Korean fishing vessels in waters surrounding the disputed islands was an important factor in determining Tokyo’s decision to extend 200 mile EEZs to cover the disputed island waters. Competition over fishery resources obviously complicates efforts to resolve sovereignty questions and the 1975 Japan/China and the 1965 Korea/Japan fisheries agreements are hopelessly out of date.

If two states claim an EEZ and each seeks to defend its claim by preventing the fishing fleets of the rival claimant from fishing in its waters, the potential for conflict and for conflict escalation is obvious. In addition to the recent seizures of Korean fishing boats noted above, there have been serious clashes between Japanese fishermen and Russian forces when the former have been caught fishing in the waters of the Northern Territories/southern Kurils islands which are claimed by Russia. In 1994, a Japanese fishing boat was sunk by Russian border guards. In 1995, Japanese trawlers were fired on in eight separate occasions. There were similar incidents in 1996.
The Political Dimension

While not discounting the importance of competition over marine and mineral resources in the disputed waters, resource issues are not the fundamental barrier to achieving a resolution of these disputes. The disputes are deeply affected by unassuaged historical grievances and identity politics. Differing interpretations of past treaties, competition over resources and strategic interest are complicating factors that make the disputes more difficult to resolve, but in no case do they constitute the most serious barriers to achieving a settlement.

If either side in any of the three disputes discussed here were prepared to concede sovereignty there is little doubt that the other would be generous in granting fishing rights by way of compensation. Equally there is no doubt that joint development of mineral resources would be possible on generous terms to the state which conceded on the sovereignty question. This suggests that, while resource concerns do not, in themselves, constitute an insuperable barrier to settlement.

Somewhat paradoxically, democratisation in Russia, South Korea and Taiwan has made sovereignty issues more, not less, difficult to resolve. Governments which are not constrained by domestic constituencies can make deals more easily than those which are. Brezhnev’s authoritarian Soviet government could have settled the Northern Territories/Kurils dispute had it decided that this was in the Soviet interest without any need to heed domestic opposition. By contrast Boris Yeltsin’s far more democratic Russian national government is deeply constrained by nationalist forces, which bitterly oppose any concession on the disputed territories. In Japan, numerically small, but well-funded, rightists make ‘surrender’, or even concessions, on sovereignty claims politically difficult if not impossible.

Sometimes sovereignty disputes are exploited to further political ends which have little to do with the islands in question. In the Senkakus/Diaoyus dispute, for example, Taiwan’s New Party used the fishing disagreements and the emplacement of the lighthouse by Japanese rightists to try and undermine support for President Lee Teng-hui by presenting him as being too ‘soft’ on Japan. But the evidence suggests that, in general, nationalist groups in Taiwan, Hong Kong and Macao were not seeking to exploit this issue opportunistically to further other political ends, but were motivated by a deep sense of grievance. Protest rallies of 10,000 or more were held in Hong Kong and Taiwan in September 1996—large numbers of the protesters were demonstrating for the first time. The lighthouse episode needs to be seen in the context of more general feelings of resentment towards Japan.
The timing of the 1996 incidents also made it difficult for Japan to be conciliatory. An election was looming in Japan and Prime Minister Hashimoto, himself a nationalist who had caused considerable controversy by visiting the Yasukuni war shrine, could not afford to be seen as soft on such a sensitive sovereignty issue.

The February 1996 flare-up of the Takeshima/Tokto dispute took place just weeks before elections in South Korea. Since popular antipathy towards Japan is widespread in Korea, competing political parties and the government seized the opportunity to try and outbid each other in their condemnation of Tokyo’s actions, in particular Foreign Minister Ikeda’s ‘intolerable’ reiteration of Japan’s sovereignty claim over the islands. While the popular sentiment was genuine, its exploitation was for political reasons which had little to do with the sovereignty dispute.

With respect to the Northern Territories/South Kurils dispute, the economic and security issues at stake for both Russia and Japan appear very minor compared with the costs to the overall Japan/Russia relationship which the repeated failures to resolve the dispute have generated. Not least of these is the fact that the two states still have not signed a peace treaty to end WWII. Japan’s relations not only with Russia, but with Korea, China and Taiwan as well, have been seriously harmed by its stance on the various territorial disputes.

Moscow’s intransigence has been equally, if not more, costly for Russia. Japan blocked Russian membership of the G-7 until 1997 primarily because of Russian refusal to return the disputed islands. Tokyo has also been far less generous in its aid policies than it would have been if the territorial dispute had not existed. The Japanese would have provided even less aid to Russia had they not been pressured by their G-7 partners to do more.

Perhaps the best example of the economic benefits that the Russians have foregone by their intransigence was the abortive aid-for-islands deal which Japan proposed in 1991. Prior to Mikhail Gorbachev’s April 1991 visit to Japan, the LDP’s Secretary-General, Ichiro Ozawa, traveled to Moscow to propose a deal which could have given Russia a $28 billion aid package in return for the two largest islands and ‘residual’ Japanese sovereignty over the other two. Gorbachev, concerned not to offend growing nationalist sentiments at home, declined. Nationalists in both Russia and Japan rejected the idea that the ‘sacred soil’ of their nation should be treated like a commodity.

In the 1990s, despite the end of the Cold War, attitudes on the sovereignty dispute have hardened in both countries. In Russia, there has been intense
nationalist pressure on President Yeltsin not to give up any ‘sacred’ Russian territory, while Tokyo, which had been deeply angered by Moscow’s rebuff of the aid-for-islands package, has subsequently never offered any similar deal. The Japanese were further infuriated when Yeltsin, who knew that he had no political room to make concessions on the islands, canceled his long-awaited visit to Tokyo in 1992.

The nationalist Right in Russia has sufficient strength in Russian politics to make any concessions on the territorial issue impossible at the present time. Public opinion is on the nationalist side. In 1993, according to the *Economist*, 77 per cent of Russians opposed the surrender of Russian territory for foreign aid. In the early 1990s an influential Russian politician representing the Sakhalin oblast, repeatedly warned that any attempt to ‘sell out’ the islands to the Japanese would lead to a campaign for full independence of the Russian Far East.

In the 1995 election, a combination of communists, nationalists and other conservatives were elected to the Russian Duma making any chance of finding a resolution to the islands’ dispute impossible for the foreseeable future. Yevgeny Primakov, the new Foreign Minister, said on taking office that the dispute should be left to future generations to resolve. The Japanese reject this idea, but there is little that they can do about it.

The emotions which are invested in this dispute in Russia and Japan, and the intransigence demonstrated by both sides cannot be explained in terms of the material and strategic interests that are involved; these are relatively minor. The Northern Territories/South Kurils dispute is in many ways a classic example of a ‘constructed’ conflict. The political salience of the islands has changed over time as key issues associated with conflict have been manipulated by governments and political groups in both countries for domestic political ends which have little directly to do with the islands themselves.

In 1956, for example, the Soviets put forward a settlement proposal which would have given two of the four islands back to Japan. The Japanese were willing to accept the proposal at the time but were pressured by the US to reject it. Subsequently the ‘two islands’ solution has been rejected by the Japanese, even though the US would no longer raise any opposition to it being pursued. This raises an obvious question: how did a solution that was acceptable in 1956, become totally unacceptable later? The story is long and complicated but one set of events stands out. The Soviet Union had become deeply concerned by the Sino–Japanese rapprochement of 1978 and responded by building up its forces on the disputed islands. For Tokyo, the increased presence of its Soviet
enemy on what was perceived as sovereign Japanese territory just a few miles off Hokkaido, was a potent symbol of the Soviet threat to Japan and one that the government exploited to build domestic support for increases in defence expenditure and for the US alliance, both of which were difficult and highly sensitive issues in domestic politics.

The islands became more politically important, not because their objective economic or strategic significance had changed, nor because any new evidence was found to support Japan’s legal claim, but because of the high-profile public and diplomatic anti-Soviet campaign waged by the Japanese government. Over more than a generation this policy stance has come to be an unquestioned and unreflected upon article of faith, not only within the bureaucracy and government, but also among the majority of ordinary Japanese. This remains the case in the 1990s, despite the fact that the politico-strategic rationale for the anti-Soviet campaign disappeared with the end of the Cold War. Today, even if the politicians and bureaucrats had an unlikely change of heart and decided that compromise on sovereignty was in the national interest, to even suggest such a thing would generate a furious backlash at home. There would be bitter opposition from the influential government-funded and backed Northern Islands Association, and nearly 100 other organisations which seek the return of the islands, including right wing Japanese nationalist organisations whose political influence is disproportionate to their size. Some of the rightist groups have criminal connections and are quite prepared to use physical intimidation and outright violence to further their ends. Their impact on a weak and often corrupt conservative Japanese government, many of whose members are susceptible to nationalist sloganeering, has been considerable. In addition the media tend to be fearful of the rightist groups, a fact which further inhibits rational discussion of territorial issues.

**Conflict Resolution**

With respect to long-term solutions, the so-called ‘future generations’ approach that has been proposed by a number of governments at different times, makes a great deal of sense. Here the premise is that the political passions of the moment make compromise difficult if not impossible, and that while sovereignty claims should not be abandoned, they should be shelved and left for future generations to solve. The hope is that, in the long term, political relationships will have improved sufficiently to permit some sort of mutually acceptable accommodation. Even if this is not possible the improvement in atmosphere will at least prevent the territorial disputes souring relations in
other areas, as they frequently do at present. In the interim the sharing of fisheries resources and joint management of mineral resource exploitation may be possible on a cooperative basis without any state abandoning its sovereignty claims. There are a number of precedents for cooperative development which leave the sovereignty issue to one side and which could serve as possible models. The most relevant of these is perhaps the 1989 Timor Gap Treaty between Australia and Indonesia.

**Conflict Management**

Given that swift resolution of these disputes is impossible, the most pressing immediate task is to find effective mechanisms to manage them and prevent any escalation of incidents that cannot be prevented.

As suggested above the key problem lies not only, or even primarily, with governments, but with nationalist political constituencies within the polity of each state and the pressures they can bring to bear. It is no accident that authoritarian China, which can and does control domestic protest, responded in a far more measured way to the Senkakus/Diaoyus incidents in 1996 than did the government of Taiwan. Democratic governments are by definition susceptible to domestic political pressures; weak democratic governments are more so.

In the short- and medium-term it is critically important that the governments involved in these disputes take seriously the fact that governments of other claimant states are also constrained by domestic political considerations. There has been a marked failure to do this in the past. Japan, for example, rejects the ‘future generations’ formula for seeking a solution to the Northern Territories dispute and ‘demands’ a speedy resolution even though Tokyo knows perfectly that this is politically impossible for the Russian government. It is equally futile for Tokyo repeatedly to reassert the correctness of its legal claims to the islands; the Russian Foreign Ministry conceded that this was the case in 1992. The legal argument is irrelevant in Russia. Russian nationalists do not care about legalisms and they have the power to block any ‘sell out’ of ‘sacred’ Russian soil—even soil on which no Russian ever lived before 1945.

Second, the refusal of some states to recognise that sovereignty disputes exist despite all evidence to the contrary, simply exacerbates the conflict unnecessarily.

Third, while democratic governments may feel unable or be unwilling to prevent citizens embarking on legal, but provocative, actions like the 1996
erection of a lighthouse on the Senkakus, they do not have to give the imprimatur of official approval to such actions.

Fourth, greater emphasis needs to be placed on the role of preventive diplomacy. This is an issue now being taken up by the ASEAN Regional Forum (ARF) and the Council on Security Cooperation in the Asia–Pacific, but with little practical impact on policy thus far. Again there are a number of interesting precedents, particularly in Europe where the work of the Commissioner for National Minorities in facilitating the management of potentially explosive nationalist conflicts has met with some success.

In 1992, the ASEAN Ministerial Meeting issued a Declaration on the South China Sea which called on all sides to exert restraint and for the dispute to be resolved peacefully. The declaration was seen by some as an encouraging step in the direction of norm-creation; pessimists argued that such vague pronouncements have almost no practical effect. China appeared to support the statement, though some of its subsequent actions have raised questions about its sincerity. The fact that there is no Northeast Asian dialogue forum comparable to ASEAN means that similar commitments for Northeast Asian states could only be made in a series of bilateral declarations.

Of the claimant states to the disputed territories discussed here none has indicated any interest in taking the disputes to formal legal adjudication, but it might still be possible, via the good offices of the Chairperson of the ASEAN Regional Forum, for an ‘eminent persons’ group’ to be created with a preventive diplomacy mission. Such a group should preferably undertake its mission during a spell of relative calm. The task would not be to seek resolution, but rather to consider ways of managing the dispute non-violently and preventing/controlling escalation should there be more flare-ups in future.

The creation of fisheries agreements to cover disputed waters is one obvious mission for preventive diplomacy. The goal of such agreements is not simply to allocate fish catch quotas and agreed fishing zones, but to prevent clashes at sea between fishing boats and coastguard/navy vessels. The Law of the Sea Convention obliges parties that have extended their EEZs to negotiate resolutions to fisheries disputes. There has, however, been little success in the fisheries talks which have taken place thus far.

The task of preventive diplomacy is a particularly difficult and delicate one since the immediate catalysts of dispute eruption and escalation are so often located within the domestic political arena of the claimant states and not in interstate relations. Extremist nationalist groups have a vested interest in promoting conflict over the disputed territories, often for political ends which
have nothing to do with the issue itself. Their goal is frequently to prevent a compromise solution.

Fourth, if the creation of an eminent persons’ group is considered premature, Track II meetings involving scholars, ‘think tank’ analysts and officials could be set up to investigate a range of confidence-building measures designed to foster conflict management and to prevent conflict escalation. The Indonesian-hosted Track II, South China Sea Working Group decided early on that engaging in discussions on the sovereignty issue would be fruitless and consequently focused on less contested issues. Central to the agenda of the Working Group has been the idea of building confidence between claimant states by encouraging maritime cooperation between them in non-controversial areas such as scientific marine research, environmental protection, fisheries assessment and management and mineral resource assessment. The focus is on what is achievable at the time. Although these are formally ‘Track II’ meetings, officials from the claimant states take part under the polite fiction that they are acting in their ‘private capacity’. The hope is that Track II cooperation will form the eventual basis for formal official cooperation. However, the Indonesian-sponsored meetings have thus far not been accompanied by any increased political momentum towards effective dispute management. Indeed provocations have continued in the second half of the 1990s—the most serious being the 1995 and 1997 Mischief Reef disputes between China and the Philippines, and the March 1997 oil-drilling dispute between China and Vietnam.

**Coastguards, Navies, Conflict Management and Confidence-Building**

On the ground, or rather on the water, conflict management is the thankless task of navies, coastguard and marine police forces. Sovereignty/fisheries protection should preferably be carried out by coastguard/marine police vessels rather than naval vessels—‘law ships’ rather than warships—in order to reduce the risks of violent escalation should clashes occur. There have been suggestions that the Chinese may create a coastguard force for precisely this reason. Japan already has a coastguard; South Korea does not, but it does have a marine police force with relatively capable vessels.

South Korean sources say that the South Korean marine police and Japanese coastguard deliberately avoid confrontation, even though the former’s mission is to protect South Korean fishing vessels, while Japan’s coastguard ships are charged with seizing any vessels found ‘illegally’ fishing in what Japan claims are its territorial waters. Relying on informal understandings to
avoid confrontations does, however, involve real risks of misperception and miscalculation in situations of high tension.

Among the various maritime confidence-building measures that might be considered, would be specially tailored ‘incidents-at-sea’ (INCSEA) agreements intended to provide codes of conduct/‘rules of engagement’ for dealing with potential and maritime confrontations—like those over the Senkakus/Diaoyus and Takeshima/Toktos. Russia and Japan signed an INCSEA agreement in 1993, but this has not prevented subsequent clashes between Japanese fishing boats and the Russian Navy. (Russia and South Korea have also signed an INCSEA agreement.) The central problem with existing INCSEA agreements is that they focus on navy-to-navy procedures on the high seas. The real need is for agreements for appropriate escalation-avoidance/codes of conduct procedures within 200 mile EEZs, not just for navies, but for coastguard forces, marine police and fishing vessels as well. Such agreements are now under consideration in ASEAN, but not in Northeast Asia.

All naval/coastguard forces share a common interest in being able to cope effectively and non-violently with ‘illegal’ fishing, or with flotillas of protesting nationalists seeking to land on contested territory. Effective conflict management would be greatly facilitated by closer relations between the navy/coastguard/marine police forces of the claimant states and by the evolution of norms of appropriate behaviour in tense situations.

One of the striking successes of the US/Soviet INCSEA agreements was that the annual dialogues on safety issues were not only productive, but they continued throughout periods of intense political tensions. The dialogues brought together military professionals who shared a common security interest—i.e. the avoidance of behaviour that could trigger confrontations—and who were insulated from the vagaries and pressures of domestic politics. The cordial professional relationships built up during these dialogues were, together with the formal ‘rules of the road’ themselves, important confidence-building measures.

Ideally any intra-navy/coastguard dialogue process should be embedded in, and sustained by, wider discussions on maritime confidence-building between regional navies.
Military Options

What about military options? Could regional states simply reject any form of compromise and pursue their claims by military force? Many territorial disputes in the past have, of course, been settled precisely this way. But as a deliberate act of premeditated policy the unprovoked military takeover of any of the disputed territories by a claimant state, seems almost inconceivable. The political, economic and human costs of military action are potentially huge, while the economic and security benefits associated with possession of the islands are relatively small. Moreover all states with disputed claims have indicated a desire to resolve them peacefully.

As noted above, the real risk is not that a claimant state will make a coldly premeditated attack against disputed islands, but that agitators on either side may precipitate a crisis by committing provocative acts which their governments cannot or will not prevent. Such acts may well catalyse counter-provocations, raising nationalist passions still further and making conflict management difficult, if not impossible.

Conclusion

This paper has suggested that the intensity of emotion that these territorial disputes generate cannot be explained in terms of the strategic or economic value of the territories in question. Better explanations are found by examining the exploitation of these disputes by domestic interest groups. Insofar as domestic political factors are a major cause of these disputes, their ultimate resolution is unlikely to be achieved through interstate negotiation alone. Governments need to negotiate conflict management policies with their domestic nationalist opponents as well as with rival claimant states.

There is a further complicating factor which is most relevant to the Senkakus and Takeshima disputes. Much of the intense resentment of Japan’s claims to these territories relates to the widespread perception in Taiwan, China, Hong Kong and Korea that Japan has failed to deal appropriately with its militarist past. Both the Takeshima/Toktos and the Senkakus/Diaoyus are—rightly or wrongly—perceived as territories seized from Korea and China during Japan’s imperialist period. Japan’s refusal to concede sovereignty to Korea and China/Taiwan thus provides further evidence, along with other provocations, of Japan’s lack of repentance. If Japanese governments made greater efforts to assuage regional sensitivities on this issue—by making more forthright apologies for Japan’s past acts of aggression, by providing generous...
reparations for the ‘comfort women’, by ceasing Prime Ministerial and other high official visits to the Yasukuni shrine were war criminals are buried, and so forth, they would help create an atmosphere which would make rational discussion of the sovereignty disputes considerably easier. Moves in this direction will, of course, be hampered by domestic politics, but this does not mean that movement is impossible.

If, as has been argued here, these disputes are primarily about unassuaged historical grievances and identity politics, it follows that no purely legal solutions can be found to them; nor can be they resolved by resource-sharing schemes, no matter how ingenious and equitable. Ultimate solutions will be political ones. Unfortunately they seem to lie far in the future.
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