

Research Report

General Assembly I

The issue of the Senkaku/Diaoyu Islands

MUNISH '14



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Forum	General Assembly 1
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Introduction

Presence of natural resources or even only a suspicion thereof can fuel an international border dispute. This is the case especially when two very powerful countries in the international scope are in conflict with one another. For that reason, averting international disputes over natural resources can be seen as a priority for the international community in general, and more specifically, the United Nations.

The case of the Senkaku/Diaoyu islands is a perfect example of land claims becoming so heavily politicized to the point that the Islands are seen as tokens of a nation's sovereignty. The dispute surrounding the Senkaku/Diaoyu islands is an ongoing dispute between mainly the People's Republic of China and Japan over a tiny group of islands in the South China Sea.

Although the conflict is formally about the Islands themselves, serious military activity in the region suggests that something much more interesting is at stake. The islands themselves are uninhabitable and do not contain any natural resources. The extended continental shelf of the islands however, is speculated to contain oil and gas reserves, which is a source of interest for both nations.

The thought of having these resources present makes it very interesting for both countries to have the islands. It is for this reason that both nations have already been performing explorations and military exercises close to the islands, much to the anger of the adversary and other nations, who feel potentially unsafe due to a lurking danger that could result from a conflict between China and Japan.



Definition of Key Terms

Sovereignty

Sovereignty is an important term in any discussion regarding territorial claims and disputes. Sovereignty is on the one hand the effective control over a certain territory. A state that has control over a certain part of the world is said to have sovereignty over that part of the world. Sovereignty in a theoretical sense refers to who should be in charge of a part of the world. This is determined by various factors, as outlined below. A problem here is that the two definitions do not have to apply concurrently, which creates problems. For example, a state might have effective control over a part of the world, while it should belong to another state.

Territorial Claim/Dispute

When there is a land claim, a country claims sovereignty over a determined part of land. A land claim can be “backed up” with, according to legal scholars, eight different aspects of the claiming and the claimed territory:

- Treaty law (are there agreements that have already been established?)
- Geography (is a country part of the other in terms of geographical features?)
- Economy (is there a shared economy?)
- Culture (what people live in the claimed region?)
- Effective control (who is actually in control?)
- History (what historical backgrounds are present?)
- Uti possidetis juris (literally means “to whom possesses by law”, this refers to the doctrine that new boundaries are established along the lines of previously established borders)
- Ideology (why is this territory being claimed?)

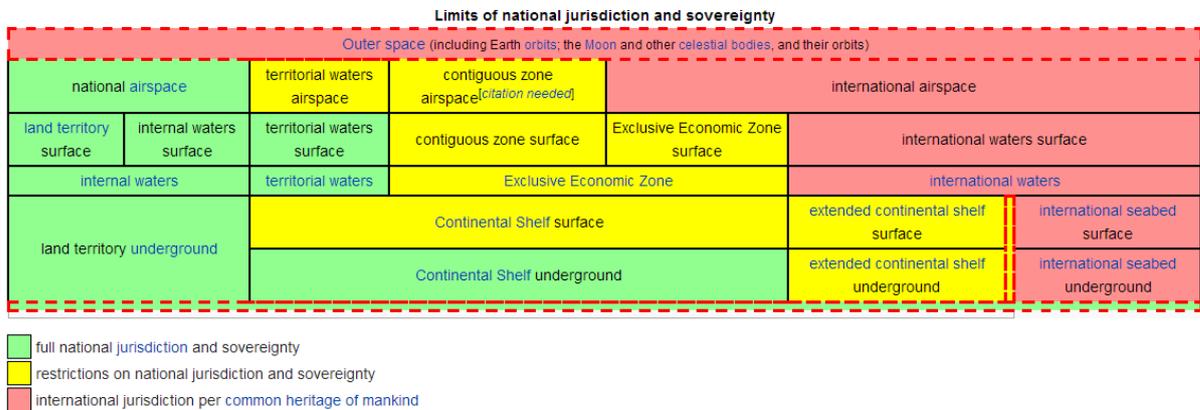
Territorial claims are notorious for causing conflicts amongst countries, and it is because of that that there is a part of the United Nations Charter dedicated to it.

When countries do not agree with territorial claims, there is a territorial dispute over a certain territory.

Acquisition of sovereignty

Sovereignty is sometimes acquired by a state from another state. This means that in order to transfer sovereignty there must be certain definitions over what parts can and

cannot belong to a state. The diagram below, from the Wikipedia page on sovereignty, shows the different parts a country can exercise sovereignty on.

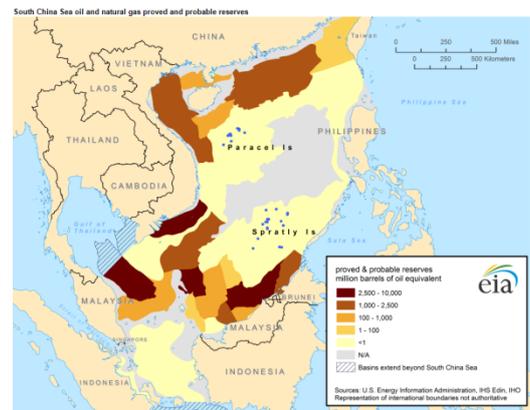


Different parts of the geography of a state and the sovereignty that can be exercised over them, Wikimedia Foundation

General Overview

The South China Sea: a considerable reserve of natural resources

The South China Sea is a region with a vast natural wealth. It is a region that contains potential oil reserves that could last for a very long time. The image on the right shows the possible oil reserves present in the South China Sea. The oil reserves thought to be present in the South China Sea are just an example of the many resources that can be found. There are countless potential trade routes and fisheries in the Sea that are very attractive for nations that are developing economically.



Expected oil reserves in the South China Sea, EIA

It is often thought that China, being a very important emerging economy, is the major force behind the conflicts that may arise in the region. This, however, is not entirely true. Although China is a country that has a lot of power and can obtain a lot of resources by force or the threat of it, many countries in the region, such as Vietnam, Indonesia, Malaysia, and the Philippines, have military bases and are exploring the region. The tension that is present in the region is definitely not only between China and Japan concerning the Senkaku/Diaoyu

Islands. It is of vital importance that all policies take into account that the Senkaku/Diaoyu Islands are definitely not the only issue that is relevant at any given moment.

The South China Sea includes roughly 4 million square kilometers in the Pacific Ocean, which encompasses an area between many rapidly developing nations. The South China Sea has many different islands and archipelagos. This, combined with the fact that there are many natural resources in the region, ensure that the region is, from a geopolitical point of view, a hotbed of potential tensions. Even though some claims, like the Senkaku/Diaoyu Islands are about islands that are mostly uninhabited and have never had an indigenous population, countries still lay many claims to them, making the issue of historical sovereignty extremely complicated.

The issue would be very simple if countries could only lay claim on the land that is part of the islands and states, but the claims include resources far out in the ocean - sometimes hundreds of kilometers offshore. The United Nations Convention on the Law of the Sea implies that all countries are entitled to a so-called Exclusive Economic Zone. A state has special rights, such as economic exploitation of the resources in it. An EEZ spans outward 200 nautical miles from the coast of the each state's territorial sea, and may include the continental shelf beyond the 200-mile limit. The continental shelf is a term from geology that describes the shore of the country extending into and under the sea that hits the shoreline of the state. It is in the best interest of the state claiming resources to make the continental shelf extend as far as possible into the ocean so that there is more to claim legally. Investigations have been initiated by states to make scientific reports that favor them, so that more resources can be claimed.

The Senkaku/Diaoyu Islands: a case study

As mentioned, the Senkaku/Diaoyu Islands, or any island at that, are a great opportunity for any country to lay claim to many natural resources in the region. Why are the Senkaku/Diaoyu Islands so important in the South China Sea? The Senkaku/Diaoyu Islands lie close to very large oil reserves that can be claimed if one of the states actually has sovereignty over the islands. This is what makes these islands so attractive for claims. The islands also lie very far from the states claiming them. This is relevant, since this means that the



Relative distance of the islands to the nearest point of the claiming states, Wikimedia Foundation

countries can claim a large amount of natural resources. The image next shows the location of the islands in the South China Sea.

Now that the context of the issue is clear, this section will focus on the specific development of the Senkaku/Diaoyu Islands issue. The issue of the Senkaku/Diaoyu Islands has existed for a very long time. Japanese exploration in the region dates back to the late 19th century, and is alleged by Japan to show that the land in that time was terra nullius, meaning that it did not belong to anyone and was thus free to be taken by Japan. This was an argument used by the Japanese administration in the 1890's, in the First Sino-Japanese War, to formally incorporate the Senkaku/Diaoyu Islands to Japanese sovereignty. This was, however, rejected by China.

At the end of the war, China officially ceded the islands, along with many other islands like Taiwan, to Japan. This was the start of the problem that is now the issue of the Senkaku/Diaoyu Islands, since Japan officially ceded the territories obtained from the treaty at the end of the war to the United States after the end of the Second World War. The treaty of San Francisco made this agreement a fact. There is uncertainty however, over the interpretation of the San Francisco treaty. Taiwan and China argue that the Senkaku/Diaoyu Islands do not belong to the islands "pertaining to the island of Formosa (Taiwan)", meaning that sovereignty over these islands has never officially been rightfully Japanese, which means that they can now argue that the islands were obtained illegally.

The most striking part of the conflict is that before the 1970's, the issue was given little attention by the governments of the People's Republic of China and the Republic of China (Taiwan). This is due to the fact that these countries were very close at that time, had little development, and had alliances in the region. There are little to no official declarations by the governments of these countries that state that the islands should officially be part of the states. There is even evidence that suggests that both states saw the islands as Japanese territory, even referring to them with their Japanese names.

China began calling the islands the Diaoyu Islands, which is their Chinese name, in the mid-1970's. It also started referring to these islands as collectively Chinese. The claims became more important when it became clear that the US would give up its administration over the islands. China had never officially expressed its desire to incorporate the islands into its administration during the US administration, but now it was clear that China was interested in the islands. Japan argued that the islands were rightfully theirs, while China asserted that the islands were a part of Japan as a result of their imperialism, and that it should therefore have the land, since it was once taken from the legal predecessor of the PRC, and the fact that China has not claimed the islands before must not be interpreted as a

sign of no interest but rather that the PRC was in a very complex situation which made it impossible for the state to pursue any successful claim.

It is striking that the first serious claims to the islands started roughly around the time that the first oil reserves were discovered. The situation of the islands was not an internationally volatile issue until it became clear that the Japanese government had bought the islands from private owners in 2012. This sparked massive protests in the PRC, and put existing dialogues under pressure. The media in the PRC demanded that China took action to ensure that Chinese land became Chinese again, while a conflict needed to be averted at all cost. A conflict in the South China Sea must be averted for all parties since PRC has been playing its policy more robustly in the last few years, which means that any escalation could result in full-out war. A war is extremely harmful, since the region is home to many alliances. A conflict in the area will involve many nations, causing incredible harm to the region.

The danger or escalation is always present. Provocation is not unknown in this issue, and as a matter of fact there are many things that the actors in this issue do that can be interpreted as true provocation. For instance, China has increased the amount of vessels passing through the waters after conflict soared in 2012. This is a sign of provocation. Japan has started as of 2014 to teach pupils about ownership of the Senkaku/Diaoyu islands in its Geography classes. This has infuriated Chinese government officials.

Major Parties Involved and Their Views

Japan

Japan is the actor in this conflict that is most actively defending its ownership of the islands. The islands are historically very important for Japan and the resources present in the region ensure that it is a key priority for its foreign policy. Japan has profiled with regard to international politics lately as a cooperative player; it has made several agreements with the Republic of China (Taiwan) over fisheries in the region of the Senkaku/Diaoyu Islands. Japan continues to refer to the past when it comes to the issues at hand here, and argues that the land has been Japanese for a very long time, and that China has never objected to Japan ownership of the islands.

United States of America

The United States is also interested in the outcome of this issue. The United States had sovereignty over the islands for a very long time, meaning that they automatically have

an active stance on the issue. Also, the US has handed over sovereignty of the islands to Japan. Lastly, the US is an active ally of Japan and of many countries in the South China Sea. This means that the US has a very active presence in the region. An active military presence of the US means that there is a likelihood of escalation, which causes tension. The US tries to avoid conflict, but can take action if necessary.

People's Republic of China

China is a very important player in international politics. It has developed itself as a nation that can take serious action in order to protect itself. China makes the following claims concerning their right of sovereignty over the Islands (list comes from the Wikipedia page on the Senkaku/Diaoyu islands):

1. Discovery and early recording in maps and travelogues.
2. The islands being China's frontier off-shore defence against wokou (Japanese pirates) during the Ming and Qing dynasties (1368–1911).
3. A Chinese map of Asia, as well as the *Sangoku Tsūran Zusetsu* map compiled by Japanese cartographer Hayashi Shihei in the 18th century, showing the islands as a part of China
4. Japan taking control of the islands in 1895 at the same time as the First Sino-Japanese War was happening. Furthermore, correspondence between Foreign Minister Inoue and Interior Minister Yamagata in 1885, warned against the erection of national markers and developing their land to avoid Qing Dynasty suspicions.
5. The Potsdam Declaration stating that "Japanese sovereignty shall be limited to the islands of Honshū, Hokkaidō, Kyūshū, Shikoku and such minor islands as we determine", and "we" referred to the victors of the Second World War who met at Potsdam and Japan's acceptance of the terms of the Declaration when it surrendered
6. China's formal protest of the 1971 US transfer of control to Japan

This list shows how incredibly complicated the issue is, because the weight that is given to all this evidence is highly debatable.

Republic of China (Taiwan)

The Republic of China (Taiwan) is a country that is quite new in the sense that it has arisen since a revolution in China after the Second World War. This means that it has not been part of the agreements made as a state but rather that it has always been the island



with which the Senkaku/Diaoyu Islands changed “owner”. The island has been under the control of all the parties, and was ceded to China under the treaty of San Francisco. China alleges that together with Taiwan the Senkaku/Diaoyu Islands should have been handed back as well. The ROC is, like Japan, a nation that seeks dialogue and international agreement in order to settle disputes.

UN involvement, Relevant Resolutions, Treaties and Events

The influence of the United Nations is limited in this matter; however, it can be expanded with proper agreements. The main advantage of the United Nations is that the United Nations is a platform of international cooperation where all the voices of the parties involved can be heard. It has indeed been used as a platform of cooperation and expression of intention. The United Nations have also played an important role in the knowledge and regulation about the region. For example, the Economic and Social Council of the UN expressed in 1968 that the region might have substantial oil reserves. This was one of the causes for extensive exploration of the region in the first place.

In addition to international agreement and organization, the UN has played an important role in passing international legal documents for settling disputes like these. The United Nations Convention on the Law of the Sea is a document, with an affiliated organization, that is frequently used as a tool for understanding the very complex land claims that are the case in this issue.

Also, the United Nations is supposed to be an organization devoted to the peaceful settlement of disputes, as outlined in chapter 6 of the Charter of the UN.

Evaluation of Previous Attempts to Resolve the Issue

Few attempts have really been undertaken by any actor concerning this issue. This does not mean that the involved nation states have not had an interest in solving the issue or have not taken any steps regarding the issue; rather they have taken many steps to increase exploration or continue provocation, but there have been few viable attempts to seek actual peace. The reason for this is quite straightforward; it being that it is in the interest of each member state to have as many benefits as possible. This brings to a non-optimal situation at the present moment, since no country can gain benefits without the other losing them.



As a result of that, the different states have opted to keep the situation in a state of tense balance. This is a situation wherein the different countries do have proper diplomacy and do show the international community that they are willing to cooperate, but that the aims of the negotiations are not to give each other a platform to cooperate, but much rather to give small concessions as to avoid a larger crisis than the one at hand. This is what experts call “silent diplomacy” since it is not observed by the people in the countries, making the situation seem without any progress at all, while there is quite a lot of dialogue just to maintain the tense balance there is already.

This in itself is quite a feat since the region has been home to a lot of instability and revolution. The fact that the nations have been able to maintain relative peace in the region is significant because it shows us to what extent it is necessary to keep peace in the region, but the tense relations that we have been observing also tell us how important it is that the nations keep negotiating and improving their relations, since interest in the speculated resources will only increase, making tensions in the region ever greater.

Even more important than the steps that were taken, are the steps that were not taken at the moment of deciding ownership of the islands. The policies that were followed by the members at respective points in history (such as the US when occupying the islands, and ceding them to Japan without dialogue with China) show that diplomacy has not always been present, and that the islands may have been used for provocation. The evaluation of these actions is certainly that the UN must prevent situations like this by assessing the situation at hand when there is an issue, and preventing future harms as much as possible by taking into account all possible actors.

Possible Solutions

As mentioned a number of times in this research report, the balance that has been kept so far in keeping peace in the region has been quite a feat since the situation is so incredibly dynamic. Any solution that is sought must take into account the enormous difficulties any international body will have with connecting policies to the underlying causes of potential conflict.

Another problem with a solution that can be implemented is that it might not be capable of coping with direct challenges and problems in a sustainable way, because it will be drafted without knowledge of future developments. This is partly a problem that is addressed in the previous paragraph, but also means that policy makers now must not have

the impression that we can immediately solve the problem for once and for all. We have seen for example, how big a role public opinion plays when the government takes certain actions or fails to do so and this all means that the governments are under enormous pressure to take decisions that will favor them.

The most controversial part of the issue is, beside all the historical troubles attached to it, its enormous wealth in terms of mineral resources, fisheries and trade routes. This lends itself for provocations very well. This is especially the case for China, which has increased the number of vessels that it sends to the region just after the conflict soared with Japan. The South China Sea has an enormous supply of natural resources, which, if used for military means, can be tremendously dangerous for international security since the region is home to hundreds of military bases of all different countries.

Whatever the solution, the delegates must always consider a number of questions that are vital for this issue. Especially since this issue involved international cooperation, a number of questions is very important. These questions will help the delegates in determining if a solution is viable and sustainable:

- Will this solution make the situation in the South China Sea more or less problematic? Will it cause friction between countries? What factors produce friction in the international community?
- Will this solution be one that can be changed easily to cope with direct challenges, or is it static so that it provides a sturdy legal framework to base other options on? Can it be both?
- Why would member states of the United Nations cooperate with this solution? What is in it for them?
- What developments are likely to happen in the future? Will this affect the PRC or Japan?
- What is the role of national pride in this issue, and how does this have an effect on the different approaches that governments have when making statements about the islands? Is there an issue with propaganda?

It is extremely important that delegates consider the role of the UN General Assembly in this issue, and realize that only the Security Council of the UN can make resolutions that are binding for all member states of the United Nations.



Bibliography

Parts of this research report come from a research report by the same author for various research reports. The links have been removed, but if requested, the research reports can be provided.

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Appendix or Appendices

If delegates have any questions about this issue, they can contact the President of the General Assembly via mail: simonmartinaperez@gmail.com



I. This is a link to a study about territorial claims:

http://www.cartercenter.org/resources/pdfs/news/peace_publications/conflict_resolution/Solving_Territorial_Conflicts.pdf