

The Senkaku Shoto/Diaoyu Islands and Okinotorishima disputes: Ideational and material influences

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Abstract

The Senkaku Shoto/Diaoyu Islands dispute in the East China Sea and the Okinotorishima dispute in the western Pacific are currently among the most prominent maritime disagreements between Japan and China. Both disputes are influenced by neorealist strategic and material interests in relation to sea lines of communication, the demarcation of maritime territory, exclusive economic zones (EEZs), and continental shelf claims. Despite material similarities, it is the issue of the rightful ownership of the historically sensitive Senkaku Shoto/Diaoyu Islands that has seriously strained bilateral relations. The way that the disagreements manifest themselves arguably reflects the central role that such liberal and constructivist themes as emotion, identity, nationalism, and domestic politics play in the dispute. The Senkaku Shoto/Diaoyu Islands dispute in particular is one where domestic politics and ideational influences play a disproportionately strong role in escalating tensions and complicating attempts at resolution. This article aims to examine the shared and contrasting ideational and material aspects of these two disputes, and to show how these interests shape Japan's and China's respective approaches in both cases. It thus sheds some light on when and why Sino-Japanese ideational and material interests intersect and how they affect bilateral relations.

Keywords

constructivism, East China Sea, exclusive economic zones, maritime disputes, Okinotorishima, Senkaku Shoto, Diaoyu Islands

The Senkaku Shoto/Diaoyu Islands dispute in the East China Sea and the Okinotorishima dispute¹ in the western Pacific are currently among the most prominent maritime disagreements between Japan and China. Both disputes are influenced by neorealist

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strategic and material interests in relation to sea lines of communication, maritime demarcation, exclusive economic zones (EEZs), and continental shelf claims. An alternative theoretical framework is applied here since it further contributes to explaining the more combustible nature of the East China Sea disputes when compared to the Okinotorishima dispute, despite their material and strategic similarities.

In analysing the disputes, many have reflexively been tempted to apply a realist explanation with its prioritizing of the international system as one of states, relative power, security, and material capabilities and resources. Both disputes can seem to be best understood by examining the external state versus relations at the state level. Defensive structural realism or defensive neorealism, for example, is certainly applicable and has merit in explaining some of the most important material and strategic components, but it also leaves a gap and has limitations in illustrating the subnational, social and non-material dimensions of these disagreements. It also does not address why, as a result of these factors, the East China Sea issue became dramatically politicized despite the significant material and strategic value in both cases.

There are two main camps of realism: classical realism with its emphasis on the imperfections of human nature, and structural realism or neorealism which argues that the anarchic international system is to blame for inter-state rivalry and conflict. The latter camp is further divided into offensive and defensive structural realist schools. Defensive realists argue that structural realities place limitations on how much power a state can realistically achieve, which lessens security competition between states. Both these strands of state-centric structural realism (neorealism) see states as being deeply concerned about the balance of power and competing with each other to achieve power at the expense of other states or at the very least to ensure that they do not lose power. States behave according to these tenets because of the structure of the international system; to do otherwise could undermine a state's ability to survive.² Realists also tend to view internal and cultural considerations as secondary issues. Another crucial aspect of inter-state relations is uncertainty about the future.³

The emphasis of defensive neorealism is on balancing, capabilities, structural power, structural constraints on offensive behaviour, and relative versus absolute gains. How these factors both limit and complicate security competition appear to offer an attractive set of assumptions that explain Japan and China's maritime behaviour in terms of strategic issues. Evidence shows that both states attempt to balance each other and take measures to prevent the other from strengthening its claims, or at least loudly protest whenever one side is seen to be doing so.

In economic terms, the reasons why Japan and China are eager to protect and utilize the possible energy resources in the East China Sea and, in Japan's case, on and around Okinotorishima are obvious. Defensive realist contentions have some explanatory power in terms of informing observers as to why the two states have failed (and continue to fail) to agree to a definitive *modus operandi* concerning their interests in both areas. This is despite the fact that both governments have repeatedly made unspecific declarations about the desirability of joint cooperation.

Thus, although there is little doubt about the applicability of neorealist tenets, they are only one part of the story. Observers also have to appreciate other contributory variables such as domestic politics and popular sentiment to understand why the East China Sea

problems became so dramatically politicized and tense, and why constructive approaches to these disagreements have often been so constrained. It is important therefore that the discussion includes the interrelationship between domestic politics, popular sentiment, and bilateral approaches. Such issues also provide observers with an appreciation of the factors that have served to dangerously escalate the issue.

Structural realist theories tend to ignore cultural and regime differences among states, mainly because structural realists contend that the realities of the system between states offer the same basic incentives for all powerful states. Under these circumstances, the question of whether a state is democratic or autocratic is of little importance in terms of how it behaves towards other states. Little regard is also given to the people who are in charge of a state and those who conduct its foreign affairs. Structural realists thus see states as 'black boxes' in that they are all assumed to be the same, with the exception that some states are less powerful or more powerful than others.⁴ For these reasons, realism does not shed enough light on what are certainly some of the main destabilizing factors in the East China Sea disagreements.

Liberal framework, constructivist themes

The liberal model emphasizes the significance of 'second-image' state-level domestic actors, institutions, practices, and structures on state behaviour on the international stage.⁵ This approach has gained particular traction since the 1990s in attempts to explain China's foreign policy towards Japan. In broad terms, a core characteristic of the liberal camp is its prioritizing of domestic politics and domestic structure in explaining the international behaviour of states. This 'inside-out' approach argues the overriding importance of domestic properties such as actors, institutions, and practices as critical explanatory variables.⁶

Andrew Moravcsik points to the fact that realists assume that citizens hold allegiance to their state above everything else whereas liberals contend that popular support for state policies can never be taken for granted.⁷ State preferences are shaped and influenced by societal ideas, interests, and institutions through which governments calculate and formulate their strategies and policies.⁸ He further explains that 'the state is not an actor but a representative institution constantly subject to capture and recapture, construction and reconstruction by coalitions of social actors' and points out how state policy is 'constrained by the underlying identities, interests, and power of individuals and groups (inside and outside the state apparatus) who constantly pressure the central decision makers to pursue policies consistent with their preferences'.⁹

A liberal approach prioritizes the effect of internal and domestic pressures and influences in China and Japan on approaches adopted by, and left open to, the governments in each state. As illustrated by Phil Deans in his appraisal of the Senkaku Shoto/Diaoyu Islands dispute, nationalist sentiment on its own in both countries should not be taken at face value. Rather, when compared with Okinotorishima, the symbolic relevance of East China Sea issues for wider domestic political conflict, political power, and instability is seen as the central factor that drives these disputes and motivates nationalistic individuals and groups in both countries to pressure their top decision makers to be assertive and consequently raise the level of tensions.¹⁰

Given these circumstances and the increased salience of domestic politics, nationalism, popular sentiment, and history since the 1990s, examining the East China Sea disagreements and the Okinotorishima dispute through a liberal framework provides an additional lens through which to probe into these problems. In particular, such a theoretical approach gives special emphasis to the role of individuals, nationalist groups, party factions, media outlets and so forth, and how these have placed constraints on top decision makers, which have a restrictive effect on positive approaches. A liberal approach emphasizing constructivist themes and focusing on how an issue is framed, along with its relationship to social learning, is all the more pertinent when debates and arguments on certain issues strongly resonate with prevailing ideas, interests, and identities.¹¹ This is not to say that the domestic competition for political power or the international competition for wealth, capabilities and resources do not matter, but to suggest that rational interests and bargaining alone without due respect to the ideational dimension of decision-making considerations leaves any examination incomplete, particularly when identity, history and memories still cut deeply in the psyches of ordinary and elite citizens.

Overview: The Senkaku Shoto/Diaoyu Islands and Okinotorishima disputes

The disputes over the Senkaku Shoto/Diaoyu Islands and Okinotorishima are currently among Japan and China's most prominent maritime disagreements. It is clear that both disputes tie directly and indirectly into central issues that could lead to a military confrontation. In 2004, for example, the Japanese Defense Agency (now renamed the Japan Ministry of Defense) concluded there were three possible scenarios where the People's Republic of China (PRC) might attack Japan in disputes over: (a) maritime resources; (b) the ownership of the Senkaku Shoto/Diaoyu Islands; and (c) the knock-on effects of a China–Taiwan conflict.¹²

The East China Sea disputes centre primarily on ownership of uninhabited yet symbolic islands under Japanese control since the end of the First Sino-Japanese War in 1895. The disputes could be described as conflicting differences of opinion over demarcation of maritime territory and EEZs with potentially significant energy deposits, and ownership of the strategically important and historically sensitive Senkaku Shoto/Diaoyu Islands.¹³ To observers such as Reinhard Drifte both the islands dispute and the demarcation dispute are considered interlinked, for example, which further complicates possible solutions.¹⁴ The islands component of these disputes is largely a legacy of the two countries' histories. However, the maritime delimitation aspect is relatively new, with disagreements arising out of the 1982 United Nations Convention on the Law of the Sea (UNCLOS), but not ratified by both countries until 1996.¹⁵ Ever since, Japan has used the Senkaku Shoto/Diaoyu Islands as a baseline from which to legally lay claim to a sizeable area of maritime territory as its EEZ. China protests this, and both the islands and delimitation issues are seen as closely interrelated. Ratification did not prevent the resurgence of the oil and gas dimensions of the disputes nor subsequent lingering legal disagreements over the median line, the continental shelf and each state's rightful EEZs.¹⁶

The rights and privileges granted to Japan and denied to China are significant in terms of economic and defence interests. For example, Japan's claims impact upon the freedom of navigation of Chinese vessels and their ability to conduct surveys of the seabed's topography, the latter vital in terms of submarine warfare. Okinotorishima-related claims also mean that China will be denied the right to explore for and extract vital resources such as fisheries, oil, gas, and rare earth elements in a vast area around the nearly submerged feature, involving over 400,000 square kilometres of ocean territory. As China's military and economic strength increases, and Japan reacts, issues surrounding the Senkaku Shoto/Diaoyu Islands and Okinotorishima will have serious implications for both maritime and resource security. Japan's and China's strategic concerns in both disputes are also strongly influenced by the importance of sea lines of communication for the security and prosperity of both nations.

Despite material similarities, the issue of the rightful ownership of islands in the East China Sea has seriously strained bilateral ties and undermined efforts at improved relations. How the East China Sea disagreements play out reflects the central role of the themes within a constructivist approach and a liberal framework. Such disagreements have also threatened the peace and stability of Northeast Asia, a rapidly transforming global economic hub. The islands disputes in particular concern ideational influences playing a disproportionately strong role in escalating tensions between the two countries and in complicating attempts at resolution. This article examines the shared and contrasting ideational and material aspects of these two disputes, and shows how these interests shape Japan's and China's respective approaches to them. It also sheds light on when and why Sino-Japanese ideational and material interests intersect, and how they affect bilateral relations.

The complexity of the Senkaku Shoto/Diaoyu Islands

According to one Japanese scholar, the risk of the East China Sea disputes within bilateral relations are highly significant in Japan's relations with China: 'If there is a flash point to ignite a third Sino-Japanese War, it will be the ownership of the Diaoyu Islands in the East China Sea.'¹⁷ The Senkaku Shoto/Diaoyu Islands are made up of five uninhabited islets and three barren rocks that comprise less than seven square kilometres. They are located approximately 120 nautical miles (nm) south-west of Okinawa, just at the edge of the East China Sea continental shelf. Japan decided in 1996 to unilaterally draw a median line which it hoped would 'equitably' divide the overlapping EEZs by adopting an equidistant approach.¹⁸ Japan used its ownership of the islands to claim a large EEZ around them and a territorial sea of up to 12 nm from the baseline. The presence of Chinese vessels in proximity to these islands has been a constant source of tensions. Japan views the islands as indisputable sovereign territory, denies any existence of a territorial dispute¹⁹ and protests Chinese exploration activities near the disputed median line.²⁰

As with Okinotorishima, the East China Sea is economically important in terms of fishery and mineral resources, and its yet untapped potential of oil, gas, and rare earth elements. Much interest, particularly from China, surrounds the energy prospects of a 940-square-mile area known as the Xihu Trough, 80 per cent of which is inside the Chinese side of the median line, a seabed about two-thirds the size of Taiwan and

potentially endowed with natural gas deposits estimated at 300 billion cubic feet.²¹ Estimates for the Chunxiao²² field reserves, located in the Xihu Trough area, originally stood at 1.8 trillion cubic feet with an annual production rate of 70 billion cubic feet of gas, increasing to 350 billion by 2010.²³ However, explorations over the years have often yielded less optimal results.

Historical outline

Although the islands became a Japanese acquisition shortly before the end of the First Sino-Japanese War (1894–95), they did not become an official matter of dispute until the late 1960s, when the claims had gained added weight and influence. Protests over the islands occurred from 1968–79 following a 1968 UN-sponsored survey of the Yellow Sea and the East China Sea, which concluded that the continental shelf was ‘one of the most prolific oil and gas reserves in the world’.²⁴ China formally claimed the islands in December 1971, after Japan and Taiwan commenced joint-exploration negotiations for energy resources near the islands, and after the US agreement to return the Okinawa and Senkaku Shoto/Diaoyu Islands to Japan in 1972. In the same year, the PRC normalized diplomatic relations with Japan and entered an era of rapprochement with the United States.

Both Beijing and Tokyo held firm to their legal claims despite the signing of the 1978 Sino-Japanese Treaty of Peace and Friendship. Drifte suggests that although two major bilateral agreements were secured in 1972 and 1978, the price was ‘sweeping explosive issues under the carpet by agreeing to disagree for the time being’.²⁵ Bilateral ties from the late 1970s up to 1989 were largely pragmatic and friendly, although the 1989 Tiananmen Square massacre was the first in a line of incidents to mark a dramatic deterioration in relations. This led to a shift in China from a generally strong and decisive approach to something more cautious and consultative.²⁶ In addition, the islands’ proximity to Okinawa and the main islands of Japan, the Japanese sense of vulnerability, history and emotional symbolism, and the troubled interrelated between China and Japan all meant that the East China Sea disputes were having a significant impact on the Japanese psyche.

In 1992 the Law of the People’s Republic of China on the Territorial Sea and the Contiguous Zone (中华人民共和国领海及毗连区法) was passed, re-iterating claims to a broad swathe of maritime territory in the East and South China Seas, including the Senkaku Shoto/Diaoyu Islands. The law emphasized the right to use force if Chinese sovereignty was threatened or undermined.²⁷ UNCLOS was ratified in 1996 and the two countries codified their contested EEZ claims. The Chinese military’s dissatisfaction over a moderate approach to Japan was also demonstrated in writing²⁸ and in action.²⁹

By 1996 the disputes transformed from an issue confined to diplomats and CCP elites to one which involved the Chinese public and intellectuals who attached increasing importance to the disputes. The Chinese authorities clamped down on university computer systems and deleted messages when they learned of students planning anti-Japan demonstrations.³⁰ The two neighbours still managed to make some progress on a number of regional and global security issues, including the 2001 prior notification agreement in relation to scientific research activities.³¹ Although all did not proceed smoothly, the PRC

maintained its public willingness to keep channels open, strengthen ties, and sincerely attempt in a spirit of goodwill to resolve problems. As a result of these developments in Japan and China, however, the pursuit of these mutually beneficial objectives and public sentiments would come to the fore subsequently, particularly from 2003 to 2012.

Official claims

China's claim to the Senkaku Shoto/Diaoyu Islands rests on three legal arguments. Firstly, China asserts that Japan agreed to return the islands to Taiwan along with other 'occupied' territories under the terms of surrender following the Second World War. Japan disputes this. Secondly, China maintains that the islands are historically Chinese by virtue of the acts of prior discovery, use, and ownership. Finally, the Chinese highlight Japan's pre-1885 prior acknowledgement of Chinese ownership. However, the Chinese claim to the islands in the late 1960s after over 70 years under uncontested Japanese control is an indication of the strength of Japan's claim.³²

The Japanese continue to counter Beijing's claims with three arguments of their own. In the first place, Japan has legal possession over islands which Japan views as sovereign national territory. From the Japanese standpoint, they argue that the islands were *terra nullius* before 1895. Secondly, the Japanese have continuously and peacefully held control and sovereignty for over 100 years.³³ International law also tends to look more favourably upon claims based on demonstrated 'effective' and continuous occupation.³⁴ Lastly, because China remained almost completely silent about Japan's occupation for the best part of 70 years, the Japanese maintain that China acquiesced to Japan's sovereignty.³⁵

Recent developments

The initial optimism accompanying the largely symbolic bilateral 'principled consensus' over the East China Sea in June 2008 was followed by several serious downturns. To name a few, the September 2010 interception of a Chinese fishing boat and the arrest of its captain near the Senkaku Shoto/Diaoyu Islands and its subsequent consequences resulted in a major freeze in East China Sea negotiations, large-scale street protests in Japan and China, and a disruption of bilateral economic relations. The furore resulting from the former Governor of Tokyo, Shintaro Ishihara's April 2012 declaration to purchase some of the East China Sea islands from their private Japanese owner, and the Japanese government's decision to purchase and nationalize all of the islands in September in order to prevent that outcome, resulted in serious diplomatic deterioration and strong diplomatic and economic protests from China. November 2013 also saw Beijing declaring an 'Air Defense Identification Zone' encompassing most of the East China Sea. Japan protested the move as a 'unilateral escalation' and said it would be ignored.³⁶ The fluctuating nature of the disputes and their interrelationship with domestic political circumstances at any given period was reflected in the lead-up to the 2014 Asia-Pacific Economic Cooperation summit in Beijing in a bilateral four-point agreement concerning a 'crisis management mechanism' aimed at preventing confrontations and reducing tensions.³⁷ These positive and negative developments serve as a stark reminder of the lingering vulnerabilities evident in bilateral approaches to the East China Sea. As

with earlier signs of progress in joint East China Sea approaches, it remains to be seen if this most recent development will lead to peaceful dispute management.

Okinotorishima's reduced significance

It is important to note that Okinotorishima has been of less concern comparatively due to its remote location and the absence of a dispute over sovereignty, which in turn has made it less historically sensitive and ideationally relevant. This does not mean it has not also contributed to increased frictions and distrust. Disagreements over the atoll's legal status centre on whether or not the Japanese are entitled, under UNCLOS, to claim very substantial EEZ and continental shelf rights around it. Japan claims rights to four maritime zones around the feature: a 12 nm territorial sea; an additional 12 nm contiguous zone; a 200 nm EEZ; and a continental shelf area which reaches as far as 200 nm from the atoll.³⁸ In the southern segment, the Japanese are using UNCLOS regulations and a favourable topography to apply to the UN for additional rights over an extended continental shelf area beyond 200 nm. The area's important strategic location as well as the potential value of untapped resources have also meant that the 'island' versus 'rock' controversy is much more than a trivial 'point of principle'. Moreover, the dispute is key in understanding how the military, research, and exploration vessels of the two neighbours in sensitive waters can operate in a changed security environment and how these disagreements can be managed in a peaceful and robust manner.

Ownership of an EEZ and continental shelf area as a result of Okinotorishima's 'island' status in accordance with UNCLOS includes economic rights for Japan to a disproportionately large maritime area.³⁹ The surrounding waters are a valuable fisheries resource while the seabed is believed to be rich in rare earth metals and methane hydrate, a natural gas made up of methane and water. From a defence perspective, the feature is situated in an area militarily and strategically important to both states. This adds to the value of the atoll for defence planners of both states. The area is almost equidistant between Taiwan, a top defence priority for the PRC, and Guam, where sizeable US forces are based and from which a military response to a serious Taiwan scenario, such as the Third Taiwan Straits crisis in 1995–6, would probably emanate. Defence analysts tend to agree that the People's Liberation Army Navy is eager to 'investigate the surrounding seabed for submarine operations in case of military conflict involving the Republic of China (Taiwan)'.⁴⁰ This would explain why the Chinese are suspected of mapping the ocean floor: in order to gauge how US vessels might behave and the routes they might take on their journey toward Taiwan.⁴¹ At the very least, a Chinese submarine presence in the area and detailed knowledge of the seabed's topography would delay the arrival of US vessels in the event of a crisis involving Taiwan. Thus, the PRC denial of Japan's EEZ claims around Okinotorishima is fed, alongside its economic interests, by the strategic desire to study the seabed without obstruction from Japan.⁴²

While Okinotorishima is not as historically and politically sensitive as the Senkaku Shoto/Diaoyu Islands, it is nonetheless a potentially explosive bilateral problem for the future, especially in regard to disagreements over the presence of PRC vessels within the EEZ area. The absence of a sovereignty dispute, lack of sensitivity towards its relationship to national identity and historical grievance as well as its lesser impact on domestic

politics in both states, however, suggests that the dispute is certainly easier to manage than the high-profile East China Sea disagreements. This is despite the fact that the material interests in this dispute are very significant, thus strongly supporting defensive neo-realist explanations for understanding security competition and the strategic behaviour of both China and Japan.

Historical outline

The rift over Okinotorishima is recent, and began on 22 April 2004 when Chinese diplomats, citing ‘differences of opinion’, officially protested against the extent of Japan’s EEZ claims around the atoll, stating it was only ‘a collection of rocks’. In a reflection of Chinese concerns over what they perceived as increased Japanese expansionism, during a bilateral meeting PRC diplomats stated they would not recognize Japan’s Okinotorishima EEZ. The meeting was held to discuss the increased presence of PRC research vessels within Japan’s EEZ area, a lingering controversy since the mid-1990s. It had also been the first time since 1996, when Japan formally outlined its EEZ claims, that the PRC had officially objected to Japanese claims. Japan had signed UNCLOS in 1983 and had begun to enforce it from 1994 to 1996.⁴³

Official claims

China’s formal protests in 2004 included non-recognition of Japan’s EEZ, and subsequent continental shelf demarcations in 2008, because, in their view, Okinotorishima was only a barren, economically inactive, and uninhabited set of nearly submerged rocks propped up with artificial constructions. As a result, the feature was, in accordance with their interpretation of Article 121, Paragraph 3 of UNCLOS, undeserving of such a vast EEZ or rights to large sections of the continental shelf. By protesting, Beijing was declaring its view that the activities of Chinese research vessels in surrounding waters were valid under international law, did not violate UNCLOS guidelines concerning EEZs and continental shelves, and as such did not require the prior consent or approval of the Japanese government.⁴⁴ Parallels can also be drawn between Japan’s Okinotorishima stance and that of the United Kingdom’s unsuccessful claims around the natural feature of Rockall prior to its ratification of UNCLOS in July 1997. Comparisons between Okinotorishima and Rockall are an important element in the Chinese diplomatic armoury.

The official Japanese position on Okinotorishima was concisely summed up by the Japanese Ministry of Foreign Affairs in February 2005:

The island, under the Tokyo Municipal Government, has been known as an island under Japanese jurisdiction since 1931, long before the United Nations Convention on the Law of the Sea came into existence. Having ratified the Convention in 1996, Japan registered its domestic laws concerning its territorial waters, in which Okinotorishima is included as an island, to the Secretary-General of the UN in 1997. Seven years passed without a single claim.⁴⁵

The statement also indirectly criticized China for its actions in adjacent waters, ‘Vessels of a single country have been repeatedly trespassing, eighteen times in the Pacific and as

often as nine times around Okinotorishima alone, by defining the nature of foreign soil at their discretion.⁴⁶

According to Yasuhiko Kagami, Japan's actions have also been in accordance with customary international law regarding the accumulation of activities over many years. This was the case well before UNCLOS was ratified in 1996 and cannot be ignored. The Japanese treated Okinotorishima as an island for decades and without protestation until April 2004, as the atoll's legal status implied it was under customary international law. The Chinese also often overlook the fact that the PRC does not even share a maritime border with Okinotorishima's delineated EEZ and continental shelf boundaries. This arguably weakens their position. Indeed, the two states that do share a sea border, the United States and Palau, expressed an understanding of the feature's maritime law status during the lead-up to the November 2009 deadline, before which Japan applied to the Commission on the Limits of the Continental Shelf to extend the claimed continental shelf area around Okinotorishima.⁴⁷ Jonathan Charney also sides with Japan when he argues that rocks and reefs are indeed a kind of island, and if they were not, they would not fall under the 'island' clause of UNCLOS Article 121. Paragraph 3 of the article stipulating sustaining 'human habitation' *or* 'an economic life of their own' also means that the claimant state only has to prove one in order to enjoy island status and subsequent EEZ and continental shelf rights.⁴⁸ The above assertions indicate that Japan could make convincing arguments at an international tribunal in defence of its Okinotorishima claims.

Recent developments

In order to reinforce its claims and presence in and around Okinotorishima, the Japanese government initiated a ¥75 billion (about US\$790 million) project in 2011 to build a 160-metre-long pier for large ships at Okinotorishima, scheduled to be completed in 2016.⁴⁹ In April 2012, Japanese media reported that the Commission on the Limits of the Continental Shelf ruled Okinotorishima to be an 'island'.⁵⁰ The ruling was in response to a 2008 request by the Japanese government for recognition of their claim to a continental shelf in the Pacific measuring 740,000 square kilometres.⁵¹

Beijing, however, interpreted the ruling differently, and declared that the Japanese assertions were 'absolutely baseless'. Lei Hong, a Chinese Ministry of Foreign Affairs spokesman, noted that the ruling recognized only that the Shikoku Basin Region, which lies north of Okinotorishima, was part of Japan's outer continental shelf. Hong contended that this finding was based on other parts of Japan's land territory and bore no relation to Okinotorishima, which should not be regarded as a territorial base point.⁵² He also noted that out of a continental shelf covering an area of 740,000 square kilometres claimed by Japan, the commission only recognized 310,000 square kilometres. He noted that 'the areas claimed by Japan as part of its outer continental shelf but not accepted by the commission include the 250,000-square-km southern Kyushu-Palau ridge based on Okinotori Atoll'.⁵³ According to the Commission on the Limits of the Continental Shelf, a decision on the continental shelf area south of Okinotorishima was in fact postponed until a later date because both China and South Korea protested Japan's Okinotorishima continental shelf claims.⁵⁴

The contrasting Japanese and Chinese perspectives on these legal outcomes reflect both the ambiguity and complexity of international law, as well as its role in often complicating maritime disputes and leaving interpretations hostage to a state's own interests. Despite this, when viewed alongside Japan's arguments vis-a-vis Okinotorishima, that is, long-standing and unopposed activities (until 2004), the support of the territories neighbouring the feature (Palau and the United States), and Japan's ability to make convincing arguments concerning the feature's status on the international stage, the April 2012 Commission on the Limits of the Continental Shelf decision was an added boost to Japan's 'island' claim.

Comparative discussion

The Senkaku Shoto/Diaoyu Islands and Okinotorishima disputes share similarities and differences, and they illustrate that the ideational aspects of the East China Sea disputes, when combined with significant material interests, have contributed to making the issue volatile. Such a view conforms to both constructivist and liberal theoretical viewpoints, particularly regarding the role of domestic actors, in explaining the rising frictions that have accompanied the East China Sea islands dispute since the 1990s. Disagreements over Okinotorishima appear to highlight the shortcomings of applying neorealist contentions alone for rising bilateral tensions.

Economic and strategic considerations

The East China Sea and the area around Okinotorishima are two of the few locations where the security interests of Japan and China intersect on a daily basis. They are also two of the last unexplored high-potential resource areas located near the large markets of the East Asian economic hub. In appreciating the role of both disputes in the relationship between Japan and China, there are several important considerations which are all contained within the security, legal, geographical, and political contexts of Sino-Japanese ties. These are: (a) security factors such as the bilateral security structure, the potential energy, mineral, and natural resources, and the strategic value of the respective sea lines of communication; (b) the important geographical location of the East China Sea and the Okinotorishima areas; and (c) conflicting interpretations of UNCLOS. As mentioned, the two disputes' most significant difference is the extent to which domestic politics and popular negative sentiment influence and impact bilateral approaches to either dispute.

Both disputes also highlight the growing economic and military significance of maritime boundaries since the 1990s. Mark Valencia and Yoshihisa Amae comment that East Asian maritime disputes are very significant because they symbolize national pride and integrity where 'the widespread depletion of fishery resources, the expansion of national fleets, alleged poaching by non-littoral countries, the growing thirst for oil and gas, and intelligence gathering in the East China Sea' began to test the tacit conflict prevention system between coastal states such as Japan and China. They warn that this reality, amid often hostile and fragile relations between countries in Northeast Asia, means that maritime disagreements 'could become the tail that wags the dog of international relations' in the region.⁵⁵ In both disputes, it is also clear that Beijing and Tokyo understand that their

mutual interests lie overwhelmingly in a peaceful, stable, and prosperous economic and political relationship. Both governments have also tended to adopt approaches that serve to protect this shared understanding and maintain stability while holding firm to their contrasting arguments.

It is also apparent that the bilateral security relationship complicates approaches to managing these disputes. As Penghong Cai observes, the weak security structure in East Asia remains closely related to one suited to a Cold War environment, where Beijing remains cautious of any real or imagined US–Japanese attempts to contain a rising China and its growing military capabilities, a fact that inhibits China’s ability to engage in regional security activities.⁵⁶ International agreements such as UNCLOS tend to look more favourably on the EEZ and the continental shelf claims of states that have shown demonstrated ‘effective’ and continuous activities and occupation in a disputed area while punishing those states that acquiesce. Japanese actions and Chinese counteractions in both cases can thus be understood in relation to the ambiguity of international maritime law.⁵⁷ These economic and security similarities on their own, however, do not adequately explain why the East China Sea disputes are more volatile than the Okinotorishima dispute, and are further discussed below.

Domestic political context

Several key domestic political considerations which indirectly influence how policy-makers approach maritime disputes include increased plurality in the PRC since the 1990s and the more influential role of anti-Japanese nationalism. There are also unprecedented levels of public and elite fear in Japan surrounding the rise of China as well as the 1990s resurgence of new Japanese nationalism, a card exploited by groups and politicians at the end of a decade of economic and political malaise. The atoll is not currently a major factor in terms of Chinese nationalist sentiment, perhaps due to the absence of a sovereignty dispute or the exploitation of the Okinotorishima issue by Chinese political elites. Thus the Okinotorishima dispute’s impact in terms of elite rivalry and popular sentiment in China is negligible, arguably as long as the dispute remains stable. In Japan, however, Okinotorishima has been exploited and elevated to a higher public position by right-wing Japanese elites, albeit nowhere near the level of the more sensitive East China Sea disputes. Mentioned earlier, Shintaro Ishihara has been the standard-bearer for Japan’s nationalistic Okinotorishima camp since 2004. His highly publicized May 2005 trip to Okinotorishima resulted in the claim it was an ‘island’.⁵⁸ Ishihara observed that the atoll ‘stands between Guam – America’s strategic base – the Taiwan Strait, China, and areas near Japan where there may be conflict in the future’. Emphasizing Okinotorishima’s importance, he predicted the PRC was likely to have more submarines active in the area in the future than the United States.⁵⁹

As frictions as well as nationalistic sentiment have increased, recent years have also seen a rise in the number of Japanese citizens (520 in January 2011) registering disputed territories such as the Senkaku Shoto/Diaoyu Islands, the Liancourt Rocks (Dokdo in Korean and Takeshima in Japanese), the Kuril Islands, and Okinotorishima as their official rather than actual domicile. Japanese law permits citizens to register any area claimed by Japan as their official residence provided a land number has been allocated by the

authorities. As many as 262 Japanese people have claimed Okinotorishima as their official address, a rise of 140 from 122 in 2005. According to *The Japan Times*, this shift was attributable to a growing frustration amongst Japanese citizens and as an 'act of protest' over the hard-line positions adopted by neighbours such as Russia and China. It also was a result of what they viewed as their government's apparently slow approaches to and their failure to settle the disputes.⁶⁰

Nationalistic Japanese organizations, such as the Nippon Foundation,⁶¹ also worried that 'inaction would mean losing out to China' and therefore began to devise ways to defend Japan's claims.⁶² In late November 2004, a Nippon Foundation-affiliated group, the Ocean Club, sent an expedition of experts in international law, coral reef ecology, and construction to the atoll to study it in terms of maximizing the potential of its EEZ resources. A month later, Ishihara also made inflammatory statements concerning Japan's EEZ claims.⁶³ Fortunately for the wider bilateral relationship, these examples appear to be the extent of Japanese nationalist influence upon domestic political decisions regarding Okinotorishima. As opposed to the East China Sea disagreements, the Okinotorishima case has not, as yet, elicited street protests, nor has it tied the hands of political elites in the two countries which have managed to hold firm to their claims while preventing the dispute from undermining the broader relationship.

Significant differences

Despite economic, strategic, and, to a lesser extent, domestic political commonalities between the two cases, Okinotorishima appears to be influenced primarily by strategic and material concerns, and less so by ideational influences when compared to the material-ideational-influenced East China Sea disputes. One notable security consideration for China is the impact of Japan's claims over Okinotorishima, its EEZ and continental shelf area, upon any future Taiwan contingency. As Denny Roy asserted in regard to Taiwan and Sino-Japanese relations, 'now and through the medium term, China's greatest Japan-related strategic concern is the possibility of Japanese involvement in the defense of Taiwan'.⁶⁴ The feature's location midway between Guam and the strategically well-placed Okinawa islands of Kumejima and Miyakojima as well as the Chinese navy's Ningbo East Sea fleet headquarters in Zhejiang Province also means that strengthening submarine intelligence and capabilities in these waters are an essential strategy for enhancing Chinese naval power. These are, after all, waters which connect the Chinese coast, the East China Sea, and the Pacific Ocean. Japan's protective presence and its EEZ claims around Okinotorishima significantly restrict the ability of the People's Liberation Army Navy to freely conduct marine research surveys.⁶⁵ In addition, greater access to the western and central Pacific provides the Chinese with the possibility of a 'sanctuary for submarines' unhindered by the constraints of the first and second island chain. This, as well as the strengthening of China's submarine-launched ballistic missile nuclear deterrence and second-strike capabilities against the entire contiguous United States, should also be considered as a motivation for the PRC in terms of its interests within Okinotorishima's large EEZ area.⁶⁶ The Japanese also appreciate the strategic value of the atoll, located at the heart of the Philippine Sea in the western Pacific, and surrounded by deep water. The possession of Okinotorishima and its EEZ provides Japan with the

ability to more easily protect and defend its interests in the area as well as keep an eye on China's increased naval and research vessel activities.⁶⁷

Writing in 2007, Zhiguo Gao, a Chinese judge on the UN International Tribunal for the Law of the Sea, explained the PRC's Okinotorishima position, stating: 'It is our consistent hope that after the recovery of Taiwan, China can become a real ocean state facing the Pacific straight on. However, if Japan declares the EEZ around Okinotorishima, our good natured hope will meet a setback.' He also commented on its 'strategic and military importance' in times of war and peace.⁶⁸ Another major consideration for Beijing is the realization that if Japan's EEZ and continental shelf claims are accepted, then China's freedom to navigate and conduct underwater surveys, and thus its ability to deter 'foreign' interference within the strategic first and second island chains, would be weakened.⁶⁹ It has also been asserted that Beijing fears that the Japanese may treat the Okinotorishima EEZ in the same way China treats its own claimed EEZ areas, demanding, for example, prior notice before entering.⁷⁰ In addition, the Chinese complain bitterly against perceived unfair treatment despite China's long coastline, huge population, and economic needs. Current EEZ delimitations and claims, for example, see Japan, the world's 62nd largest country with an area of approximately 380,000 square kilometres, claiming ownership over maritime resources within a total area of 4.47 million square kilometres, making it the ninth largest such area in the world.⁷¹

When Okinotorishima became an issue after spring 2004, bilateral maritime-related friction escalated in parallel with numerous other negative developments. These included tensions over Taiwan, Japanese media reports on Chinese maritime surveys, anxiety over Chinese intentions, and a US–Japan alliance declaration. Where Japan was seen as increasingly assertive and disrespectful on key bilateral issues and 'expansionist' in maritime areas, Beijing decision makers realized the need to finally declare a position on Okinotorishima. Despite serious strategic concerns and in marked contrast to the Senkaku Shoto/Diaoyu Islands, the Chinese have largely confined their stance to a mixture of diplomatic protests and ignoring Japan's EEZ and continental shelf claims by treating Okinotorishima's adjacent waters as 'high seas' waters. This is notable because even though China's position has been weakened by recent developments, and Japan's position has been strengthened, Beijing's response has been relatively constrained. In 2010, Peter Brown attributed the claim that China was unlikely to take any major destabilizing steps to protest Japan's claims or hinder its activities to Peter Dutton, and that this was due to the obvious contradictions between Beijing's Okinotorishima-related protests and its own claims regarding features in the strategically vital South China Sea. However, Brown qualified this by referring to Dutton's contention that 'China will probably continue to diplomatically object to Japan's claim in order to preserve Chinese freedom of military action in the waters surrounding Okinotorishima'.⁷² Peter Brown also referred to another specialist, Yukie Yoshikawa, who perceived it unlikely that Japan would suffer any consequences for the foreseeable future.⁷³ Brown further refers to Yoshikawa, who viewed the Okinotorishima dispute as a 'peripheral issue' in the context of the wider bilateral relationship, when he maintains that it is more likely the health of overall bilateral ties would have a stronger bearing on approaches to the dispute than Japanese activities in that area.⁷⁴ This points to a dispute considerably less influenced by the corrosive

effects of domestic politics and negative popular sentiment in China, and impacted primarily by Beijing's calculations.

Seeking solutions

Finding a solution comprising a revised median line or diminution of Japan's claims is extremely unlikely, even if one accepts that both states have often behaved counter-intuitively. Concerning the wider relationship, bilateral ties are likely to be characterized by a blend of cooperation, mostly due to convergent economic interests, and confrontation, arising from conflicting security and political interests. The East China Sea remains a thorn in the side of both countries. Viewing the East China Sea disagreements through the lenses of constructivism and liberalism sheds light on key actors and issues which can serve to effectively stall any progress in resolving these disputes, and raise the level of tension. This is pertinent since it illustrates how bilateral negotiations can be at the mercy of domestic political circumstances and negative popular sentiment. Their influence goes a long way in understanding the difficulties experienced by policymakers in managing the disputes.

The lessons learned from the worrying lows of 2003–6, 2010, and 2012 place the onus on the two governments to work towards improving wider bilateral ties through strengthened institutions and confidence-building. The East China Sea challenge is urgent, because when unfavourable domestic politics and negative popular sentiment combine, it makes for a volatile mix that has a troublesome and escalatory influence. Simply shelving the disputes for a future generation is no longer realistic. As the most obvious barometer for the state of the relationship, a comprehensive and workable understanding and modus operandi on the central issues that have caused so much trouble since the 1990s would make a powerful statement about the future direction for the two neighbours.

The imprecision of UNCLOS as well as the sizeable economic, domestic, political, and strategic losses which would result should either side capitulate means that, in all probability, a final and lasting solution to Okinotorishima is unlikely. For now, a key threat to stability will be the movement and presence of PRC vessels in surrounding waters, and Japan's and China's reactions to tense incidents. The chain of events following any future incidents will greatly depend on strengthening conflict-prevention mechanisms and the versatility of the wider bilateral relationship. Currently, the Japanese interpretation of UNCLOS permits it to observe and closely monitor any *foreign* ship which it suspects of *economic activity* within its EEZ. The PRC interpretation of the convention means that any such activity by the Japanese is likely to raise tensions and convince the Chinese they need to hold their ground in order to emphasize their *right* to behave as any other great power would on the *high seas*. The sensitivity of these incidents on national pride may encourage hardliners within each state to be more assertive in defending its position. This would eventually damage the more important wider relationship and result in outcomes contrary to the mutual interest of peace, stability, and prosperity.

Again, the primary push factor in this dispute is Japan's strengthening of its claim and China's insisting on freedom of navigation. Beijing to date has confined its protests to ignoring Japan's Okinotorishima EEZ and, along with South Korea, to diplomatically

challenging Tokyo's position, while attempting to prevent the dispute from destabilizing the wider relationship. Both Japan and China's behaviour in this regard conform to neo-realist explanations for state behaviour. Fortunately, in cases where political elites such as Shintaro Ishihara have landed on Okinotorishima, the lesser sensitivity of the issue as well as the absence of a sovereignty disagreement have meant that the Okinotorishima issue has been spared the domestic reactions which have dogged the more volatile East China Sea problems. While the Okinotorishima dispute looks to be confined to symbolic actions in adjacent waters as well as diplomatic protests, the East China Sea disputes may very well remain hostage to the fraught political and historical bilateral relationship.

Changing realities in East Asian waters since the 1990s, especially when considered alongside the limitations of legal and institutional frameworks, have stressed the need for regional leaders to move beyond earlier symbolic yet not substantive maritime agreements. This is a most urgent need in the sensitive areas of military and intelligence-gathering activities. As a guideline, the 1972 Incidents at Sea Agreement between the United States and the Soviet Union stands as a proven method to regulate the interaction of vessels in contested waters. In places like the East China Sea and around Okinotorishima, this might involve a number of confidence-building measures such as limiting the frequency and size of naval exercises, prohibiting activities and tests in certain areas, and creating 'peace zones' where no military activity is permitted.⁷⁵ Key to conflict prevention would be a code of maritime practice encompassing how people and vessels are treated, freedom of navigation and overflight, resource exploration and exploitation activities, scientific research, marine and aerial spying, and military activities in disputed areas. Such a code would incorporate declarations that abiding by its regulations would not prejudice the rights and claims of any signatory in any way while committing to a peaceful resolution of disagreements.⁷⁶

Notes

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