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China and Japan's Dispute over the Senkaku/Diaoyu Islands

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ROXANNE HISLOP, DEC 16 2013

The Senkaku/Diaoyu Islands dispute has been a persistent antagonism in relations between Japan and China, particularly deteriorating since the 1970's when the 'administrative rights' over the islands were transferred to Japan from the United States (Smith 2013:28). Recent years has seen the disputed islands assume greater significance as it becomes intertwined with a power shift juxtaposing the political and military ascendancy of China with the relative demographic and economic decline of Japan (Smith 2013:28). This dormant issue was reignited when Japan unveiled plans to purchase three of the Senkaku/Diaoyu Islands in a bid to prevent Tokyo Governor Shintaro Ishihara from purchasing the Islands aggravating tensions with China over Japan's control and perpetual denial that they are disputed (International Crisis Group 2013:6). Although the Senkaku/Diaoyu islands are being currently administered by Japan, there is deep contestation over the territorial sovereignty involving Japan, China and Taiwan with each claiming ownership based on historical and legal arguments (Smith 2013:29). International law is one facet of this as it is perpetuated by regional and domestic dynamics that are dictating Tokyo and Beijing's actions. The sea's surrounding the Islands are home to an exorbitant amount of gas and oil reserves which would provide fifty to eighty years of energy sources to either state (Weigand 2009:170). Furthermore, the growing nationalism within the region highlights the complexities of the dispute as groups are exploiting the issue to pressure governments (Deans 2000:119). Whilst Japan and China are adamant in their claims of territorial sovereignty, it is apparent that this is a confluence of military, economic and geographical factors that will remain unresolved in the foreseeable future.

Under the jurisdiction of international law and basic historical facts, both Japan and China have asserted their sovereignty claims over the Senkaku/ Diayou Islands. Japan's Ministry of Foreign Affairs (MOFA) is emphatic that the Senkaku/Diaoyu Islands are 'an inherent part of the territory of Japan....there exists no issue of territorial sovereignty to be resolved' (MOFA 2013). In accordance with Article two of the 1952 San Francisco Peace Treaty, the Senkaku Islands and its incorporation in the Nansei Shoto Islands were transferred under the administration of the US. The US administration of the islands was characterised as temporary governance and granted Japan with 'residual sovereignty' agreeing to return the Islands to 'full Japanese control as soon as Free World security permits' (Smith 2013:30). Therefore, on May fifteen 1972, Japan was the sole administer of exercising direct control over the Islands. Japan's claims are justified through evoking international law concerning *terra nullius* which stipulates that in establishing sovereignty over land it must be *terra nullius*- that is territory belonging to no one (Pan 2007:77). However, China has refuted Japan's annexation of the Islands in 1895, under *terra nullius* as well as the 1971 Japan-US Ryuku Islands Reversions Agreement arguing that Tokyo's claims are invalid and unacceptable (Pan 2007:77). Prior to Japan's annexation of the islands, China argues that it had established sovereignty dating back to the Ming Dynasty (1368-1644). Chinese authorities refer to ancient documents that suggest the Islands were a part of the Ming and Qing Dynasties (1644-1911) maritime defences (Pan 2007:77). Moreover, according to historical records the islands under the Ming Dynasty were utilised as navigational aids and operational bases for Chinese fishermen, thus China contests that the Islands were under China's administration and jurisdiction for several centuries (Pan 2007:77-8).

Furthermore, China repudiates the Japan US San Francisco Peace Treaty by refusing to recognise its validity, as it illegally includes China's Diaoyu Islands in the territory to be returned to Japan and lacks any finality on the dispute (Pan 2007:79). In accordance with international law China highlights the Cairo Declaration signed by China, United

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States and the United Kingdom which stipulated that the three allies were fighting to combat the aggression of Japan and that 'all the territories Japan has stolen from the Chinese...shall be restored to the Chinese side' (Embassy of the PRC :2012). On the eve of WW2's conclusion the three allies reaffirmed the Cairo Declaration issuing the Potsdam Proclamation reiterating that 'the terms of the Cairo Declaration shall be carried out'. As such, these documents validate the Chinese objection to Japan's claims of sovereignty utilising international law to expose the illegal nature of Japan's aggression and the stealing of Chinese territory (Embassy of the PRC:2012). Thus, it can be inferred that the issue of sovereignty remains a persistent irritant between China and Japan bound by the complexities of history and international law, a conflict that shows no signs of abating in the foreseeable future.

Recent trends has seen maritime issues on the forefront of international security concerns as the economic value of oceans have become breeding grounds for conflict as areas of intense competition over scarce resources (Yee 2011:166). The Japanese government asserts a survey conducted by the United Nations Economic Commission for Asia and Far East in 1968 suggested possible deposits of petroleum resources in the East China Sea with particular attention on the Senkaku Islands (MOFA 2013). A further complexity is the delineation of the exclusive economic zone (EEZ) which has implications over who could exploit the oil and gas deposits within the central area of the East China Sea (Yee 2011:173). Considering the East China Sea is suspected to have one hundred to two hundred million barrels of oil reserves which would provide energy sources for fifty to eighty years, it is not surprising that either side is relenting (Weigand 2009:170). It seems that the deepening competition over energy resources will exacerbate tensions between Beijing and Tokyo as both are major energy consumers and importers (Huang: 2012). It is evident that the Islands are of strategic and economic value with estimates of oil and gas reserves in the East China Sea are able to meet China's needs for at least eight years (Huang 2012). Conversely, it is estimated that there is enough natural gas for one hundred years as well as an abundance of other minerals and fish (Huang 2012).

Another issue of contention is regarding the delineation of the Exclusive Economic Zone (EEZ) with the two countries adopting alternative principles of an EEZ. The EEZ is defined as the stretch of sea in which a state has the right to exploit natural resources (Huang 2012). China asserts the natural prolongation of the continental shelf which under Article 76 (1) of the 1982 UN Law of the Sea (LOS) defines the continental shelf as the seabed to a distance of two hundred nautical miles from where the outer sea is measured or either to the outer edge of the continental margin not exceeding three hundred and fifty nautical miles (Yee 2011:173). Alternatively, Japan refers to Article 57 of the LOS which specifies that the EEZ does not extend beyond two hundred nautical miles from the baseline (Yee 2011:173). Therefore, underpinning this dispute over sovereignty 'is also the struggle for deep-seated economic interests and geopolitical strategic interests', with Tokyo and Beijing recognising that access to these energy sources would be exponentially important to each states economic and strategic interests.

The conjecture surrounding the regional dispute is the power shift narrative between China and Japan implemented to explain the underlying tensions and incessant competition. The late twentieth century saw Japan's economic power unrivalled whilst China stagnated remaining undeveloped and militarily weak, however today China has surpassed Japan as it experiences an economic, military and demographic decline (Smith 2013:38). Since the inception of economic reforms by Deng Xiaoping, China's GDP has achieved an annual growth rate of seven to eight per cent propelling China's economy to become the second largest in the world (Yee 2011:171). China's ascendancy in the region demonstrates a palpable power transition altering the rules and status quo which is explicit in the increasing frequency of Beijing's maritime activities. The new dynamics of the Asia-Pacific region are epitomised by a powerful China asserting its authority and exhibiting its 'capabilities to safeguard its territorial sovereignty' (International Crisis Group 2013:14). Furthermore, China's strategic interests have prioritised economic growth, military development and reconfiguring itself as a maritime power citing the principal security threat derives from the sea (International Crisis Group 2013:15).

As Beijing asserts its regional hegemony, Japan has become increasingly wary and suspicious of their military activities perpetuated by Beijing's lack of transparency (Smith 2013:38). In response to the power shift narrative, Japan's strategic objectives emphasise the importance of 'paying up-most attention to China's movements' as it acknowledges China's engagement in separate territorial disputes in the South China Sea (International Crisis Group 2013:4; Ministry of Defence 2013:4). The ascendancy of China within the region coupled with its lack of transparency and assertiveness has caused tension within the region as both adapt to their new roles, perhaps even more so for

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Japan as it becomes somewhat subordinate to a more powerful China.

Whilst Japan and China are one of the most important bilateral relationships within the region, the legacy of the Sino-Japanese war is deeply ingrained by historically based mistrust and animosity and has obstructed a smooth relationship (Rose 2005:8). The dispute over the Senkaku/Diaoyu Islands has severely impacted relations between the two countries through the evocation of national pride which has been precipitated a rise of Chinese irredentism and right-wing Japanese nationalists which are pressuring their governments to defend their national pride (Rose 2005:8). Entrenched in the Chinese psyche is a strong anti-Japanese sentiment arising from a legacy of Japanese war aggression which has been exacerbated by Tokyo's ineptness in adequately apologising for its imperial past (International Crisis Group 2013:17). It can be inferred that the enmity of the past remains relevant to the younger generation as the nationalistic sentiments have been prominent deriving from the territorial dispute. This was explicit in the collision between a Chinese fishing boat and the Japan Coast Guard (JCG) in September 2010 reigniting anti-Japanese sentiments through mass public protests (Manicorn 2010:9). As Japan detained the crew of the Chinese vessel coupled by the tensions of the territorial dispute there was a surge of anti-Japanese sentiments with protestors vandalising Japanese businesses and chanting anti-Japanese slogans (Manicorn 2010:10).

Conversely, the activities of Japanese far right groups have been prolific in influencing the dispute, in particularly the Nihon Seishinsha who assisted in precipitating the crisis in deciding the repair a lighthouse built on the dispute Islands provoking the Chinese government (Chien-Peng 1998:137). Although anti-Chinese sentiments exist within Japan, it can be inferred that is not nearly as pervasive as anti-Japanese sentiments are in China (Deans 2000:125). The nationalistic dynamic to this dispute is particularly significant as both China and Japan have to balance their domestic interests whilst also to maintain a bilateral relationship. However, it is evident that the domestic pressures are to an extent dictating the dispute and the governments responses ensuring that they are not 'too soft' or conciliatory (Manicorn 2010:10).

In conclusion, it is evident that the Senkaku/Diaoyu Island dispute has been exacerbated as a result of the strategic importance in terms of security and economic as well as the political implications (Pan 2007:71). Both Japan and China have evoked international law to legitimate their claims of sovereignty. Japan has argued that the Islands were terra nullius and further solidified their claims under the Japan US San Francisco Peace Treaty. However, China rejects the legality of the treaty and Japan's terra nullius arguing that they belonged to China dating back to the Qing Dynasty. Under the jurisdiction of international law, China asserts ownership under the terms of the Cairo Declaration which were reaffirmed through the Potsdam Declaration which stipulated that all lands 'stolen' by Japan must be returned. The potential access to energy sources has precipitated the dispute as these energy reserves would supply each state for a substantial period of time, however another issue of contention is the delineation of the EEZ zone as Japan and China have adopted different principles. Furthermore, the dispute is complicated by the power shift narrative and nationalist rhetoric that continues to plague the region. Considering the myriad of issues that perpetuate the dispute, it can be inferred that it will remain a persistent antagonism that shows no signs of abating in the foreseeable future.

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