

A REPORT OF THE CSIS
KOREA CHAIR

History and Asia

POLICY INSIGHTS AND LEGAL PERSPECTIVES

Editors

Victor D. Cha
Ellen Kim
Yong-Hwan Kim
Sang Jun Lee

November 2011



A REPORT OF THE CSIS
KOREA CHAIR

History and Asia

POLICY INSIGHTS AND LEGAL PERSPECTIVES

Editors

Victor D. Cha
Ellen Kim
Yong-Hwan Kim
Sang Jun Lee

November 2011

About CSIS

At a time of new global opportunities and challenges, the Center for Strategic and International Studies (CSIS) provides strategic insights and bipartisan policy solutions to decisionmakers in government, international institutions, the private sector, and civil society. A bipartisan, nonprofit organization headquartered in Washington, D.C., CSIS conducts research and analysis and develops policy initiatives that look into the future and anticipate change.

Founded by David M. Abshire and Admiral Arleigh Burke at the height of the Cold War, CSIS was dedicated to finding ways for America to sustain its prominence and prosperity as a force for good in the world.

Since 1962, CSIS has grown to become one of the world's preeminent international policy institutions, with more than 220 full-time staff and a large network of affiliated scholars focused on defense and security, regional stability, and transnational challenges ranging from energy and climate to global development and economic integration.

Former U.S. senator Sam Nunn became chairman of the CSIS Board of Trustees in 1999, and John J. Hamre has led CSIS as its president and chief executive officer since 2000.

CSIS does not take specific policy positions; accordingly, all views expressed herein should be understood to be solely those of the author(s).

About the Northeast Asian History Foundation

The Northeast Asian History Foundation was established in September 2006 with the goal of laying the basis for peace and prosperity in East Asia by resolving historical conflicts in the region. As regionalism intensifies across the globe, the importance of exchange and cooperation is also growing for Northeast Asian nations. Nevertheless, unresolved historical and territorial issues are obstacles to the region's trust-building efforts. The Foundation strives to diagnose the precise causes of the region's historical and territorial disputes and prescribe appropriate responses and strategies. The Foundation is steadfast in its efforts to expand historical dialogues to foster mutual understanding and growth in Northeast Asia.

© 2011 by the Center for Strategic and International Studies. All rights reserved.

ISBN 978-0-89206-678-0

Center for Strategic and International Studies
1800 K Street, N.W., Washington, D.C. 20006
Tel: (202) 887-0200
Fax: (202) 775-3199
Web: www.csis.org



CONTENTS

Foreword v
Jae-jeong Chung

Acknowledgments vii

Executive Summary viii

Session I. Historical Issues in Northeast Asia: Perspectives from Law and Policy 1

1. Politics and History in East Asia: How Does the Past Affect
the Present? 3
David Kang

2. Northeast Asia in the Context of Global Maritime History 10
John Curtis Perry

3. Impact of International Human Rights Laws on the Resolution
of Historical Issues 16
Jin-Hyun Paik

4. The Long Memory: History and Policy in Contemporary
Northeast Asia 18
Michael R. Auslin

Discussion 22
Yong-Hwan Kim

Session II. Territorial Issues and Maritime Delimitation in Northeast Asia in Comparative Perspective 27

5. “Undesignated Sovereignty” 29
Katrin F. Katz

Discussion 38
Jon Van Dyke

Session III. New Tensions and Challenges to Northeast Asia	41
6. The Tea Party in Japan	43
<i>Alexis Dudden</i>	
7. New Tensions and Challenges in Northeast Asia: Diverging Expectations about How the Cold War Will End	50
<i>Michael J. Green</i>	
8. The Japanese Constitutional Amendment and the Possibility of East Asian Community	54
<i>Ina Masaki</i>	
9. The Minjinyu 5179 Incident and Its Impacts on the East China Sea Situation	63
<i>Wang Hanling</i>	
Discussion	69
<i>Tae-Hyung Kim</i>	
About the Editors	77



FOREWORD

This conference report is the result of an event cosponsored by the Northeast Asian History Foundation and CSIS, held in Washington, D.C., in September 2010. The Northeast Asian History Foundation is relatively new. Some readers may know of us already, but others may not, so I would like to introduce the foundation briefly to you.

The Northeast Asian History Foundation was established in 2006. At the time, the Korean people had come to realize that there are discrepancies among the historical perspectives of the nations and states of Northeast Asia. It became necessary, therefore, for us to establish this foundation so that we could somehow reduce the gap in perspectives that different nations had on that history.

We came to realize that many states and nations had their own ways of recording their histories and interpreting how those histories were made. However, I think we all do the same thing when it comes to learning lessons and gaining wisdom from history.

Our foundation supports various research activities and policy developments, and we carry these things out in order to help form a community in Northeast Asia, pursuing peace and prosperity together as a common goal. This can be achieved, we hope, by enhancing understanding among the region's different nations and by exchanging views among those nations.

The year 2010 was very important for Korea. It marked the 100th anniversary of the forced annexation of Korea by Imperial Japan. As such, holding our symposium at CSIS on September 17, 2010, was quite important to us.

History is not simply in the past, however. It remains a current issue for us in Korea. For example, we still have people who have suffered from the “comfort women” system of Imperial Japan and those who were forced to labor at Sakhalin. As long as these people remember what occurred, the issues will remain current.

So we have conflict on history, and we have continuing confrontations that we are facing today. In order for us to find ways to more wisely overcome these difficulties, there has to be a better way to communicate with neighboring states, and we have to look at the framework in international law, education, and policy.

That is why our symposium examined issues of policies and legal perspectives, and that is why we have our title, “History and Asia.” We have examined many issues with our neighboring states: we have the issues of borderline determinations; we have maritime delineations; and all these things I would say stem from different perspectives on history. As such, it is quite significant and meaningful that we held our symposium at a very important think tank, CSIS, in the heart of Washington, D.C.

The symposium included scholars from different disciplines, such as history, law, and policy, and the fact that we had these scholars gathered together in one room was, I believe, a success.

It is my sincere hope and desire that there would be conciliation and cooperation among nations in East Asia, and I hope that our discussions might be a seed that could grow into a bigger tree toward mutual existence and mutual cooperation.

We have a saying in Korea that “ground hardens after rain.” If we were to apply it to international relations, I think we would realize that when nations and states have been at odds and are subsequently able to overcome their difficulties and conflicts then those nations or states can become more mature in their relationship, and their relationship will be stronger for it.

We have seen 100 years of confrontation and conflict in Northeast Asia, but we cannot linger on that history too long. We must move forward, and by bringing to bear the wisdom of all involved, I hope there might be co-prosperity and community in East Asia, such as the European community has enjoyed.

Through this symposium and others to be held in the future, we hope that there would be conciliation in history and also better understanding of different historical perspectives. Through all these I hope there could be a focus on mutual coexistence and mutual prosperity.

I wish to thank Dr. John Hamre, president of CSIS, Dr. Victor Cha, Korea Chair at CSIS, and all the various staff members who worked so hard to make the event a success. Thank you.

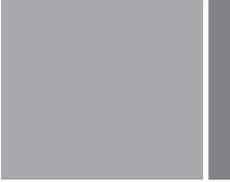
Jae-jeong Chung
President
Northeast Asian History Foundation



ACKNOWLEDGMENTS

This volume is a compilation of papers that were presented on September 17, 2010, at the first International Forum for Peace and Prosperity in Northeast Asia titled, “History and Asia: Policy Insights and Legal Perspectives.” We would like to express our sincere gratitude to Jae-jeong Chung, president of the Northeast Asian History Foundation, and John Hamre, president and CEO of CSIS, for their leadership in coordinating the forum in Washington, D.C. We would also extend our gratitude to all the participants and authors for their dedicated efforts and contributions to the success of the conference and this volume: David Kang, John Perry, Jin-Hyun Paik, Michael Auslin, Katrin Katz, Alexis Dudden, Michael Green, Ina Masaki, Wang Hanling, Jon Van Dyke, and Tae-Hyung Kim.

Thanks are due to the publication team of CSIS for their important assistance with the editing of these papers and the publication of the volume.



EXECUTIVE SUMMARY

History matters in international relations. At the inter-state level, history plays an important role in how a country relates to its neighboring countries or develops and manages its relationship with other countries. The sharing of common history and memories from the past—either good or bad—affects the country’s perception vis-à-vis other countries, and this has often determined formulation of its foreign policy. For instance, given the geographic proximity and similarities in culture, norms, and language, common history facilitated European countries in creating the formation of a regional integration and a new regional identity so-called the European Union. In contrast, sharing history itself has also given countries a source of friction and conflict. This trend is particularly salient in Northeast Asia and intense historical disputes among countries in the region have increasingly become one of the driving forces of regional dynamics today. To better understand the relationship between history and Asia, the CSIS Korea Chair and the Northeast Asia History Foundation cohosted a conference on September 17, 2010, in Washington, D.C., bringing together regional and functional experts to discuss historical disputes in Northeast Asia and their implications for the future peace, prosperity, and stability in the region. In this volume, we explore the current relationships among the Northeast Asian countries and the implications of their past encounters and experiences with one another. We also examine historical and territorial disputes among these countries and posit what we believe might be future challenges.

In Session One, we discussed the historical issues ever-present in Northeast Asia through the lenses of law and policy. The memories and remnants of the past are deeply rooted in countries’ policies, often coloring their perceptions toward one another and inhibiting them from acting in their mutual interests. Within the span of a century, the region underwent a complete transformation as states moved from a traditional to a Westphalian system. Each state’s modernization process saw rapid industrialization, changes in the domestic political system, and a remodeling of its national identity. As the region institutionalized the Western norms of equality and sovereignty, states found themselves rewriting their own histories. Thus, many ongoing conflicts in Northeast Asia trace back to disagreements on these differing versions of histories and the legacies that were born. First, the primary colonial legacy felt by the region is Japan’s colonization of Korea, Manchuria, and Taiwan. Even today, Chinese and Korean leaders demand stronger Japanese acknowledgment of war guilt. Second, the Cold War legacy imprinted and then split Northeast Asia into two ideologically opposing camps: South Korea and Japan versus China.

Though the extent of history’s impact in shaping international relations today is hotly debated, it is worth noting that from a legal perspective, the salience of historical disputes relates directly to human rights issues. Legal experts emphasize that historical disputes no longer solely embody bilateral issues between states, but raise a global concern for all humanity. It is evident that the perpetuation of these historical disputes prevents exchange and cooperation between East Asian states. Resolving these historical disputes might include a study of the normalization of international human rights and its political implications.

In Session Two, we further examined the extension of those historical disputes. Historical disagreements carry not only through time, but also across space and issues. In Northeast Asia, territorial or maritime disputes often trace back to revolve around a historically contested core. A few major ones are the Dokdo/Takeshima/Liancourt Rocks dispute between South Korea and Japan, the conflict over the Diaoyu/Tiaoyutai/Senkaku islands among China, Taiwan, and Japan, and the Russia and Japan dispute over the Kurile Islands/Northern Territories. At the core of the maritime disputes over these East Asian islands lies the abstract legal question of “undesigned sovereignty,” but because East Asia lacks an institutional organization capable of resolving these territorial disputes, dialogue between states and confidence-building measures serve to encourage the path toward a solution.

Looking further ahead, rising tensions in Northeast Asia show that the role of the United States will continue to be critical in maintaining stability in the region. Unlike any other power in the region, the United States is viewed as the closest thing to an “honest broker.” Yet, it is very difficult for the United States to place itself in the middle of these historical issues, particularly those between regional allies. These issues had all previously been subjugated to the broader Cold War dynamic, but now rising nationalism, financial difficulties, and an increasingly strong China create divergent expectations in the region about history. The future presents too many uncertainties, which leads naturally to tension. Some participants recommended that a wise U.S. strategy would be to stay steadfast and regulate the expectations and calculations of other powers. They also concluded that a stronger alliance between the United States and South Korea, as well as U.S. support for Taiwan, would counter the possible effects of China’s growing power in the region. However, an equally solid solution could be for the United States to coordinate with the Chinese on issues that lead to better participation and future expectations for the region. We conclude that conciliation in history goes a long way in mutual prosperity, peace, and security.

SESSION 1
HISTORICAL ISSUES IN NORTHEAST ASIA:
PERSPECTIVES FROM LAW AND POLICY

1

POLITICS AND HISTORY IN EAST ASIA HOW DOES THE PAST AFFECT THE PRESENT?

David Kang¹

*“Good fences make good neighbors.”—Robert Frost, *Mending Wall**

“Life can only be understood backwards; but it must be lived forwards.”—Soren Kierkegaard

How does the past affect the present? How does the present affect the past? Ultimately, we care about what happened centuries ago in East Asia because of what it might tell us about our own situation today. And, normally we view history as moving forward from past to present and see the events of the past affecting the way we think about or act in the present. In this way, we might ask whether there are any historical roots to the way East Asians behave or believe today, and how those roots might affect their contemporary foreign relations. Yet history also works backward, as well: after all, we learn about and remember events in the past by looking over our shoulders and shaping interpretations after the fact. And in this way, whose side of the story gets told in the present affects our knowledge of the past. Different stories emphasize, glorify, or condemn different people, events, and actions.

In this way, then, understanding history both forward and backward is central to understanding the contemporary international relations of East Asia. The question of whether history affects the present comes with asking whether there is anything unique or distinctive about East Asia. We might assume that all people and states are essentially the same and, because of modernization, globalization, and industrialization, that all East Asian states and peoples want, perceive, and act essentially the same as do Western states and peoples. But we also might ask whether history, culture, language, religion, and context have any bearing on how East Asian leaders and peoples view each other and interact with one another and with the rest of the world. It might be that distinctive memories, patterns, or beliefs have an impact on contemporary East Asian international relations, and acknowledging this may help our explanations and understandings.

On the other hand, the question of how the present affects our memories of history presents itself in the myriad of ways in which the contemporary states of East Asia dispute how history is remembered, characterized, and claimed. Thus, many of the current issues and problems of these states are often posed as historical issues: claims over territory, glorified ancient kingdoms, and control of how various historical events are remembered. Yet these are not historical issues, they are disputes over whose side of the story gets told, how it is told, who privileges what parts of history, and who ignores other parts of history.

1. David Kang is a professor of international relations at the University of Southern California in Los Angeles. This research was funded in part by a research grant from Strategic Initiative in Korean Studies, Academy of Korean Studies.

It is certainly worth asking to what extent history is important in explaining contemporary East Asian international relations, and also whether we can truly explain contemporary East Asian relations without having knowledge of this history. This is especially pertinent because the traditional East Asian order was replaced by the Western, Westphalian order within the space of less than a century. Despite wrenching and disruptive change, the ancient Asian states adjusted quickly, and perhaps better, to the new order than did peoples or governments anywhere else around the globe. Within decades Japan had succeeded in this new international order, and within a century South Korea, China, Taiwan, and other East Asian states had also become “successful” by most modern measures. Rapid industrialization, relatively stable political systems, and dynamic societies are all hallmarks of the contemporary East Asian states. Given the cataclysmic changes that took place, we might wonder whether anything of the old order remains. Of particular interest is how China, the bedrock of much of the East Asian order, has adjusted and changed in this modern Westphalian system. Given China’s historical, political, economic, and cultural centrality, and given how quickly the Chinese economy has come to once again dominate the East Asian region, whether and how China deals with contemporary international relations is of immense practical importance for regional stability and prosperity.

“Historical” disputes have arisen from the changing, and unresolved, identities and political relationships in the region and the manner in which national narratives have dealt with history. The debate is over how history is remembered, and characterized in the present, and is merely the most obvious indicator for how East Asian neighbors view each other, themselves, and their roles in the region. Indeed, the issues would be much easier to solve if they really were about history: just find better historians and archeologists. But while history is the proximate cause, it is underlying mistrust between the neighboring countries about not only the intentions of other states, but also their underlying identities, that is the real cause of friction. Because of the unresolved current political relations, it is not surprising that history is resurfacing as a contentious issue.

Furthermore, although there are numerous material or rationalist explanations for these disputes, they seem to be less relevant in most cases than many observers think. That is, issues such as control of economic resources, external threats, or even whether states can bargain with each other are less useful in explaining the tensions than probing the question of how each nation has constructed a domestic narrative that privileges their own interpretations of history and makes it a central aspect of national unity and identity.

Political science brings a set of ideas and tools to the issue of historical and territorial disputes and brings a potentially interesting perspective to the issue. This paper will survey the political science literature that surrounds explaining and resolving territorial disputes. I focus on three basic approaches to explaining the genesis and potential resolution of disputes: material hypotheses, rationalist hypotheses, and ideational or constructivist hypotheses. I then briefly show how these manifest themselves with respect to Dokdo and in comparison to other disputes in the region. The main point will be to show that disputes are neither material nor economic in nature, but rather have to do more with the identities of the nations in dispute.

Beyond Nationalist Histories

In the scholarly literature, there is a marked sense of nationalist historiography with a clear political purpose. All history, and indeed all writing, is of course aimed at some purpose. But the twentieth century—with the arrival of the West and its norms, institutions, and ideas—created an

enormous challenge to the existing worldviews of East Asian nations. In their struggle to create or maintain cultural, political, and ideological stability, East Asian writers, politicians, and governments engaged in a project of nationalist history writing aimed overall at elevating their countries using the standards set by the West. Thus, writers and historians claimed in particular the equality and sovereignty of their own countries as conceived in the West, wrote glorious histories that emphasized the martial and military exploits of their countries, and projected backwards a coherence that was only loosely related to the reality of their histories. Both of these trends—using the standards of the West and projecting backwards into time—led me further and further into the past, attempting to take as seriously as possible the relations at the time, and to probe for ways to provide a coherent view of the entire region and the relationships that existed at the time.

Another way to say this is that we decide in the present how to remember the past, what lessons to draw, what parts of the past to emphasize and celebrate, and what parts of the past to ignore or overlook. We also concoct stories and myths about our past that shape our view of ourselves and our place in the world, and in many ways, this creation of history is more important than whatever the historical reality might have been. Viewed in this context, we can see that East Asians are all in the midst of attempting to write their own histories. The states studied here—in particular China, Korea, Vietnam, and Japan—all have long, glorious histories. But they are also in the process of defining and crafting those national histories and beliefs and visions about their place in the world.

But history has been subject to multiple rewritings and reinterpretations. For example, do Koreans and Vietnamese remember and glorify the centuries in which they were loyal tributaries of the various Chinese dynasties? Or does that imply slavish obsequiousness and weakness?² Should Koreans glorify their military exploits against Japan in 1592 and against the nomads to the north? Should the Vietnamese downplay their relations with China and emphasize their military exploits against their Southeast Asian neighbors? Do the Japanese recognize and value the Chinese influence over their entire history, or do they emphasize the separateness of Japan from China?³ As for China itself, does it glorify a history of stable relations with its neighbors or rather emphasize a century of exploitation at the hands of the West?

Indeed, the arrival of the West and its different norms and institutions of international relations presented these East Asian countries with enormous challenges. Much of the old, tributary system of international relations was almost instantly reinterpreted to be considered “backward” or “despotic,” and East Asian countries quickly learned the new norms of international relations. In particular, those Western norms of equality and sovereignty meant that much of East Asian history needed to be reinterpreted and presented to the West in ways that dignified and elevated East Asian countries to a status similar to the Western ones. The modern view of nation-states as inherently equal is clearly at odds with the historical tribute system that differentiated states in a hierarchy. To admit historical subordination to China in the modern world was thus an invitation for colonization, imperialism, or worse. Thus, much of the twentieth century has involved a process of East Asian governments and peoples engaging in nationalistic writing of their history in ways aimed at convincing themselves and others that they were worthy of the equality that Western nations enjoyed and, along with it, the rights and respect that they enjoyed, as well.

2. Andre Schmid, “Rediscovering Manchuria: Sin Ch’aeo and the Politics of Territorial History in Korea,” *Journal of Asia Studies* 56, no 1 (February 1997): 26–46.

3. Shogo Suzuki, *Civilization and Empire: China and Japan’s Encounter with European International Society* (New York: Routledge, 2009).

Vietnam serves as an important example of how this selective history of the twentieth century was different from the actual Vietnamese historical experience. Vietnamese scholar/officials in particular, often used China as a model, comparison, or ideal, and the historical writings from these countries are thoroughly imbued with the use of China as a reference point. As Vietnamese scholar/official Le Quy Don (1726–1784) lamented: “Our kingdom calls itself [a domain of] manifest civility... [but] compared to writers in the Central Efflorescence [China], we have not produced even one-tenth of what they have. This is profoundly regrettable!”⁴ By the eleventh century, three-stage regional examinations were held on successive weeks of the seventh lunar month. There were word limits (for example, 300 words for policy questions at the regional level), and winners were publicly announced in order of excellence. The bureaucratic examination system, for example, was used by Vietnam under the Han, and when the French arrived in the nineteenth century, success in the civil service examination still required use of Chinese characters and knowledge of Confucianism. Vietnamese institutional forms were copied from China, and Vietnam used the same six ministries as existed in China. Below them were 13 provincial headquarters, which in turn administered district offices at the village level, with inspectors traveling the country to monitor the civil service, as was the case in China.⁵ This rationalized system of governance covered almost 10,000 villages organized into a “Chinese-style grid,” composed of circuits (*dao*), prefectures (*phu*), and districts (*chau*), and was “exceptionally penetrating by Southeast Asian standards.”⁶ There was also a standing army of up to 200,000 troops and a census every three years. Victor Lieberman notes that:

Although Confucian influence in Vietnam fluctuated after c. 1460 and although in practice patron-client ties remained crucial to the operation of the state, Chinese bureaucratic norms, first institutionalized during the so-called Neo-Confucian revolution of the 15th century, tended to encourage in that country a more impersonal, territorially uniform, and locally interventionist system than was found in Indianized polities to the west.⁷

Yet during the twentieth century, many nations in East Asia were either colonized by Western powers or Japan, and if they were not, they were deeply influenced by them. Furthermore, many other nations were born during the twentieth century, in a Westphalian world. In this new set of global norms and institutions, a subordinate position to China was “obviously” a sign of weakness, even though it had previously been a sign of cultural and civilizational strength. Thus, the twentieth century saw Vietnamese writers ignore and downplay the nine preceding centuries of close emulation of and relations with China in favor of a historiography that emphasized the few battles that Vietnam had fought against China.

Yet the arrival of the West and its norms of equality and sovereignty directly challenged the Vietnamese view of themselves. In the twentieth century, nationalist histories in Vietnam ignored or downplayed the thousand years of Chinese emulation, instead emphasizing enduring conflict with China. Today, this twentieth-century nationalist historiography in Vietnam is taken at face value by many scholars and deployed to many unusual ends, such as arguing that Vietnam will

4. Liam C. Kelley, *Beyond the Bronze Pillars: Envoy Poetry and the Sino-Vietnamese Relationship* (Honolulu: University of Hawaii Press, 2005), pp. 34, 35.

5. Stanley Karnow, *Vietnam: A History* (New York: Penguin, 1997), p. 117.

6. Victor Lieberman, *Strange Parallels: Southeast Asia in a Global Context, c. 800–1830, Vol. 1: Integration on the Mainland* (New York: Cambridge University Press, 2003), p. 382.

7. Victor Lieberman, “Local Integration and Eurasian Analogies: Structuring Southeast Asian History, c. 1350–c. 1830,” *Modern Asian Studies* 27, no. 3 (July 1993): 484.

inevitably balance Chinese power in the future. Reflecting this reinterpretation of history, Evelyn Goh writes that, “Vietnam, deeply suspicious of Chinese domination for historical reasons, harbors a defensive enmeshment concept...”⁸ Yet as Shawn McHale notes, “only a small minority of Vietnamese, usually young, educated, and urban, held [Western-centric] beliefs. The heritage of the past did not disappear.”⁹

In Korea, the humiliation of colonization by Japan led historians to emphasize how masculine and strong Korea had been in the past. In this modern context, the centuries in which Korea had been a close subordinate of China was reinterpreted as weakness and toadying. To counteract this, historians reached back 15 centuries into their past to claim a relationship with the Koguryo kingdom (37 B.C.–A.D. 668), which straddled present-day China and Korea. This new nationalist historiography downplayed the centuries of stability and close relations with China in favor of a tenuous relationship to the Koguryo kingdom, which was actually crushed by combined Chinese (Tang) and Korean (Silla) forces. A dominant strand of Korean national identity consists of a “master narrative” depicting the Korean experience as “one of almost incessant foreign incursions.”¹⁰

For their part, Japanese writers emphasized their difference from China and their similarity to the West. Being the first non-Western country to industrialize (the Meiji restoration) and the first to defeat a Western great power in a war (the Russo-Japanese War), the Japanese were more easily able to claim the mantle of “honorary” Western nation. The twentieth century saw a Japan that became ambivalent about its deep East Asian historical roots and that emphasized its uniqueness from Asia, and thus implicitly its similarity to Western great powers.

In each of these cases, the current, contemporary historiography that is taught in schools and that many Westerners accept at face value is a considerably different from the actual history of the region. While it is understandable that the modern process of nation building and state building requires governments and peoples to project and portray a certain image of themselves both domestically and internationally, it is also worth noting that many of these histories have, in fact, a political purpose and a political intent. These decisions are political and contemporary, not historical and ancient. East Asian states, leaders, and peoples are choosing today how to view history. They are determining what it means for the modern creation of a nation-state and its national identity and for its beliefs and values about how to interact with neighbors near and far.

This working backward into history manifests itself most clearly in the enduring disputes between East Asian states over maritime territories. “History” has been reduced to “historical memory,” which only lasts about a hundred years. While undoubtedly the problems of the past century or so—Japanese colonization, Western imperialism, national division, and so on—are important for states to fight about, their notions of the past are even deeper than that. Much of what the states are currently arguing over are, in fact, modern issues.

There is no eternal unchanging past; instead, we selectively look backward and choose what to emphasize and what to ignore, what to glorify and what to condemn. As each state struggles with

8. Evelyn Goh, “Great Powers and Hierarchical Order in Southeast Asia: Analyzing Regional Security Strategies,” *International Security* 32, no. 3 (Winter 2007/2008): 129.

9. Shawn McHale, *Print and Power: Confucianism, Communism, and Buddhism in the Making of Modern Vietnam* (Honolulu: University of Hawaii Press, 2002), p. 6.

10. John Duncan, “The Uses of Confucianism in Modern Korea,” in *Rethinking Confucianism: Past and Present in China, Japan, Korea, and Vietnam*, ed. Benjamin A. Elman, John B. Duncan, and Herman Ooms (Los Angeles: Asia Institute, University of California, 2002), pp. 431–62.

this, they are doing so in a world not of their making but in one made with rules and institutions from the outside. In this way, the states of East Asia are recrafting their national identities and histories. Each nation is now developing its own sense of identity and its history, and these are only being formulated in the present, in real time.

Conclusion: The Link between the Past and Present

How does the past affect the present? How does the present affect the past? Ultimately, we care about what happened centuries ago in East Asia because of what it might tell us about our own situation today. Normally, we view history as moving forward from past to present, and we see the events of the past affecting the way we think about or act in the present. In this way, we might ask whether there are any historical roots to the way East Asians behave or what they believe today and how those roots might affect their contemporary foreign relations. Yet history also works backward: after all, we learn about and remember events in the past by looking over our shoulders and shaping interpretations after the fact. And in this way, whose side of the story gets told in the present affects our knowledge of the past. Different stories emphasize, glorify, or condemn different people, events, and actions.

The question of whether East Asian culture has any effect on contemporary international relations and future arises most often in questions about the role of China. China historically was an enduring, acknowledged, and stable hegemon in the past and that it enjoyed fairly widespread legitimacy as a cultural, economic, and diplomatic leader. Today, as China increasingly appears poised to return to its position as the most powerful country in East Asia, there is a corresponding question about whether or not China can enjoy the legitimacy that it once held. That is, as China has grown increasingly powerful and self-confident, there is intense speculation about how it might live and act in a modern, Westphalian world.

In the future, there is absolutely no possibility of a return to the tribute system of international relations that existed centuries ago.

Most notable are questions about whether China can adjust itself to the Western international norms and rules that have come to dominate the globe and whether China will attempt to challenge the position of the United States as global hegemon. Capitalism, democracy, human rights, and other ideas have now become accepted as the international norms and rules of the game. While contemporary countries can choose not to follow these norms, to ignore them is to step clearly outside accepted boundaries of contemporary international relations. For example, today few authoritarian states trumpet their authoritarianism with pride; almost all claim to be some form of democracy and justify their rule based on some special need or circumstance. Similarly, few human-rights violators do so with pride; they tend to rationalize their abuses with some other justification. As the twenty-first century begins, it is not yet clear how China will fit into this system. The Chinese government and people, with a different history, an authoritarian political system, and current tensions with other countries, have not yet completely accepted or internalized these Westphalian ideas.

Given the changes in the international system and the central place of the United States, there is almost no chance that China will become the unquestioned hegemon in East Asia. Too much has changed for that to happen, and the United States—even as it adjusts to changing circumstances—is not going to disappear from the region. The United States remains too central and

too powerful, and American (and Western) ideals have become too deeply accepted around the globe for the United States not to be important. Perhaps the most important question is whether the United States, with its very Western way of viewing the world, and China, with a potentially more Eastern way of viewing the world, can come to some type of accommodation and agreement on each others' roles and their relations with each other. While to date both the United States and China are working to accommodate each other and stabilize their relations, that process is far from complete. How these two countries manage East Asian leadership, the status they accord each other, and how other regional countries come to view them will be central aspects of whether or not the future of East Asian international relations is one of increasing stability.

2

NORTHEAST ASIA IN THE CONTEXT OF GLOBAL MARITIME HISTORY

John Curtis Perry¹

The ocean forms the common denominator of Northeast Asia, the region of our concern, and it seems a useful port of entry for our discussions on “History and Northeast Asia.” What follows below are merely broad and introductory observations intending to provide a global maritime background.

The sea plays the role of avenue, arena, and source: an avenue for the flow of goods and resources, traditionally for people and ideas also, and an arena for struggle and combat. Furthermore the sea provides a source of foodstuffs and minerals and will perhaps offer much else in the future. Now a frontier of opportunity, it is also a frontier of challenge. But can we exploit these resources without severely damaging the natural environment or inflaming national passions?

As a maritime historian, I would like to propose an overview of changing uses of the ocean in Northeast Asia. I focus on the period from the early nineteenth century to the present, casting these two centuries in terms of “oceanic revolution,” a phenomenon that I see as unfolding in three major episodes, two of which happened during this period, one much earlier. Revolution may now be an overused term, but in measure of how the ocean is used, it seems apt. Without the drama of political revolution, but more like the agricultural or the industrial revolutions, oceanic revolution has unfolded in a protracted series of spasms of change reshaping the world.

European initiatives brought about the first burst of oceanic revolution at the turn of the fifteenth century, when intrepid Atlantic navigators discovered the world wind system and used it to open global sea routes for their gunned sailing ships, thus establishing a new stream of global interactions. Eurasia became part of a wider world and its two far peripheries, China and the European Atlantic states established continuing direct contacts.

Several European historians have suggested that the principal export of Europe at that time was violence; certainly Europeans were belligerently possessive and culturally overconfident. Their behavior was not unlike that of the Sythians, Huns, or Mongols. But whereas the Asian nomads had commanded from horseback, the Europeans commanded from the quarterdeck. For Eurasia, this image depicts both the reality of European power and its limits until the early nineteenth century.

The result of this first burst of oceanic revolution was that a European sea frontier replaced the nomad-created steppe frontier as a critical meeting point between civilizations. But unlike the nomads even at their acme, thanks to the sea, the maritime Europeans made themselves a global force, not simply a Eurasian one. Thus they were true revolutionaries.

1. John Curtis Perry is the Henry Willard Denison Professor of History at the Fletcher School of Law and Diplomacy at Tufts University in Medford, Massachusetts.

A papal bull of 1493 and a treaty shortly thereafter attempted to delineate newly opened oceanic space as spheres of influence or stewardship between the two pioneering Iberian states. But these documents did not declare ownership. Indeed neither Spain nor Portugal claimed ownership of the oceans linking their overseas territories to their respective motherlands, but they assumed the right to control the uses of blue water sea-lanes and attempted to exercise that authority to their advantage.

Other European powers contested these assumptions, following the argument of the Hollander Hugo de Groot (Grotius) that the community of nations shared such guardianship, which included freedom to fish and the right of passage on the seas. The Englishman John Selden advocated the right of nations to claim and enclose their coastal waters. These were of course European conceits, imposed on the rest of the world by an unchallenged European command of blue water space.

Thus the Atlantic world began to use its newfound power on the sea to make a global imprint. But that power was limited to the range of seaborne cannon. This was conventionally three miles and became the generally accepted determinant of national sovereignty over adjoining waters.

After 1815 and British defeat of the French in what has been called the Second Hundred Years War, the Royal Navy faced no foreign challengers and was obliged to put many of its officers on the beach, that is, without full pay or assignment. What then to do to resist “the canker of idleness” as Sherard Osborne, one of their captains, asked?

Although Britain “ruled the waves,” the British made no claim to own them. They had no difficulty in accepting Grotius’s concept of stewardship and oceanic community since they were clearly Number One, and they happily assumed the responsibility for acting as such, if for no other reason than it keeping their people active. Arctic exploration offered one purposeful activity, nourishing the desire to find and develop a maritime shortcut from the Atlantic to the Pacific over the top of the Eurasian landmass.

Chasing slavers and pirates was another activity. Northeast Asia lay outside the streams of slave traffic, which were largely Africa centered, but the China coast was rife with piracy and had been for many centuries. Here the British made themselves useful, contributing to the security of seaborne trade flows, in which of course they had great interest, being the globe’s largest commercial power.

The Royal Navy also busied itself in gathering geographical information, compiling surveys, and sharing its findings with the public both at home and abroad, unlike the secretive Spaniards earlier or the Russians as well. During the last decades of the eighteenth century, Captain James Cook, in the spirit of the Enlightenment, set a precedent for publishing voluminous information about his series of remarkable Pacific voyages, and these books became instant bestsellers.

In Northeast Asia, the British enjoyed a major strategic advantage transporting soldiers in the two wars they fought against the Chinese in the mid-nineteenth century. They could ferry their Indian troops freely up and down the China coast. (The advantage reminds us of what the U.S. Navy would enjoy in the 1950–1953 Korean War). In 1845, entering Korean waters, Captain Edmund Pellew of the Royal Navy in the course of a surveying operation sailed into the Komundo lagoon and named it “Port Hamilton.” Four years later, a French ship lacking adequate charts floundered at Dokdo, which they named “Liancourt Rocks” after their ship and its death.

Such appellations were not unusual. Many North Atlantic mariners, then coursing the world, viewed the islands and coastal littorals they found with a proprietary eye. Sailors and adventurers did not hesitate to attach their own names or identifications, usually English, to places that might have been known for centuries locally by other names.

The British did not ask permission to land or for any special privileges in Komondo, either from the Koreans—then members of the Chinese tributary system—or the Chinese. No local protests arose. Resting on British maritime power, Britain's maritime law became the default law of the seas and London arbitration the accepted means of dispute resolution.

The latter half of the nineteenth century saw a second major spasm of oceanic revolution, slower to evolve than the first but equally profound in impact. The steam engine made ships independent of oars or sails, wind or current, offering new tactical mobility. But steam carried strategic liability by making ships newly dependent on fuel supplies.

The availability of coaling stations became a hot issue, especially for warships and for those who were planning how to use them. Because Britain had a rich supply of coal and an empire with global sprawl, the new technology of transport gave fresh advantage to the British. And others became newly interested in obtaining coaling stations at strategic intervals on the world's major sea routes.

The steam-powered, shallow-draft gunboat, able to penetrate inland freshwater spaces, spread the tentacles of Atlantic presence and power globally, exposing hitherto untouchable territorial spaces to seaborne outsiders and establishing new vulnerabilities. China would be a leading example. Screw-propelled, shallow-draft, steam-powered gunboats notably HMS *Nemesis*, which fought in the first Anglo-Chinese War (1839–1842) against Chinese wooden sailing junks, slithered across sandbanks in search of her hapless quarry, like a serpent in a henhouse.

Thereafter, foreign warships routinely began to patrol the Yangzi River heartland of imperial China, extending foreign authority and influence as the Qing state began its collapse into disintegration and 1911 demise. At mid-century, the electric undersea cable divorced transportation from communications for the first time in history. By 1871, the cable, providing rapid transmission of news, linked China to Britain, giving enormous commercial and political advantage to those able to tap this new medium. A global wired network would follow.

Throughout much of the nineteenth century, Britain, as the world's greatest sea power, could dominate the world ocean and world politics. But as the century waned, the rapidly industrializing United States and Germany, joined by newly internationally active Japan, were beginning to emerge as strategic and commercial rivals, each carving out territorial empires in East Asia: Japan in Taiwan and Korea, the United States in the Philippines, and Germany in China's Shandong province. All of these acquisitions were made possible by the reach of sea power.

Thus, industrialization had become international, and with the notable exception of Japan, it was still a North Atlantic phenomenon. A relative British decline reflected new competition, as well as changing tides of tools and tastes, while the industrial revolution moved into a new phase. British prosperity rested on only several industries: ships, rails, machinery, and cloth made from imported cotton and wool. The structure depended on foreign suppliers of raw materials and foreign buyers of processed goods.

Few then recognized that British primacy had reached its peak by 1914, the eve of World War I. A British historian who did, writing in 1914, remarks, "the world is on the eve of great things

full of great possibilities, probably the greatest being the awakening of the Oriental.” And he puts this in specific terms, writing that Chinese iron and steel can already “compete successfully with both Europe and America.” Labor costs one-fifteenth that in Pittsburgh and is nearly as efficient, he reported, concluding that, “The time may come when not only Chinese pig-iron, but Chinese structural steel will invade the American markets...but one doubts whether the Chinese exports will be transported in American bottoms.”²

Oil had begun to replace coal as the fuel of preference, thus putting Britain, having coal but lacking oil, at great economic and strategic disadvantage. Not only did the British now need to buy their energy source, they also now had none to sell. The internal combustion engine brought diesel power to ship propulsion in 1912. Yet, despite its greater power and efficiency, the British were slow to adopt it, reluctant to move further into using a natural resource on which they were strategically dependent. Ultimately, this made British ships less competitive and proved to be a blow to the nation’s shipping industry.

After two great wars, the world moved into a third phase of oceanic revolution in the latter part of the twentieth century. Air power created a competitive new dimension. In the naval sphere, the gun yielded to the missile, and nuclear propulsion created new self-sufficiency, providing both tactical and strategic freedom for warships. They could travel wherever, whenever, and however long they wished. Nuclear power made the first true submersible possible. Thus far, nuclear propulsion has not been commercially viable, but in other aspects merchant ships have changed in revolutionary ways.

For the transport of resources and goods, the bulk carrier and the standard size steel box have caused transport costs to plummet, resulting in explosive growth in world trade and world wealth. Americans initiated these changes. Malcom McLean, originally a trucker not a seafarer, was first to see the enormous advantages of the container. Daniel Ludwig conceived the merits of giant ships for carrying oil and dry bulk materials and built the first of these in a Japanese shipyard, where one of the world’s largest battleships had slid down the way a decade earlier. Nothing remains of this great ship or her sisters but the skilled draftsmen, engineers, and laborers who had built her were available and eager for new employment. Ludwig laid the foundations for Japan’s emergence in 1956 as the world’s leading builder of ships, that nation’s first great postwar international industrial success.

The American consumer and the Asian producer have reaped the commercial benefits of this third spasm of oceanic revolution, contributing to the shift of the core of global maritime activity from the North Atlantic to Asian waters. Thus has been borne out the prediction of President Abraham Lincoln’s secretary of state, William H. Seward, in the 1860s that “the Pacific will become the great theater of events in the twentieth century.”

No place would seize more advantage from these oceanic phenomena than the Republic of Korea (ROK). Suddenly severed by politics from the Eurasian landmass, South Korea shed its millennial attachments to the continent and began to take on a new global oceanic life as, in effect, an island, a maritime nation. Facing outward, the ROK has made itself a major presence on the world ocean, emerging as the world’s leading shipbuilder and one of the world’s top dozen economies and enjoying success as an export economy undergirded by oceanic trade and the maritime industries.

2. Adam W. Kirkland, *British Shipping, Its History, Organization and Importance* (London: Kean Paul Trench, Turner and Company, 1914), p. 452.

As an international port, Busan, South Korea, has captured the primacy that Kobe, Japan, slow to recover from the great earthquake of 1995, previously enjoyed. And, the Korean port, the nation's second-largest city, is striving to become the maritime hub of Northeast Asia. Certainly the tools and talent are there, as well as highly developed information technology used by a motivated workforce and a leadership manifesting the organizational competence of a wired society.

In the late twentieth century, an increasing use of ocean resources prompted the 1982 UN Convention on the Law of the Sea (UNCLOS), an attempt to create an internationally accepted definition of maritime jurisdiction. It defines five provisions. In essence, they are first the *territorial sea*, extending as far as 12 miles from shore. Here the coastal state exercises total authority with the exception of the right of innocent passage for ships.

Second is the Exclusive Economic Zone (EEZ) that runs from the outer limit of the territorial sea to a distance of 200 nautical miles. Here the coastal state is totally free to fish and exploit any mineral resources available. Outsider ships and planes have the right to use the space as they would that of the high seas.

Differentiating rocks and islets from islands poses a special problem. If an outcropping in the sea is judged uninhabitable, it can only claim 12-mile territorial rights. If defined as an island capable of supporting life, it is entitled to an EEZ.

A third provision relates to the *continental shelf*. The presence of a continental shelf may extend an EEZ to 350 nautical miles. But it rapidly becomes a fuzzy matter because scientists cannot agree on its definition. UNCLOS states that a continental shelf consists of the submerged prolongation of the landmass of the coastal state. Yet, the distinction between those parts of the ocean that are a natural prolongation of the landmass and those that are part of the deep ocean floor lies in the geological character and the tectonic context of the rock, which is subject to differing interpretations.

Fourth is the *high seas*, an area that shrinks as more nations claim EEZs. The high seas include all waters beyond the EEZ and are totally open to all as defined and practiced by international law.

And finally we have what is called "*the area*," consisting of the seafloor and what lies beneath it—space outside any territorial claims. We know less about the deep ocean than we know of the surface of Mars, but it is attracting increased attention as a possible source of huge wealth, both of known minerals and of yet-unimagined resource possibilities.

Global climate change, now generally accepted by the global scientific community, is bringing rising sea levels with a threat resulting in new geographical patterns such as global coastal flooding. In Northeast Asia, one change that may have considerable positive impact is the opening of Arctic sea routes. The possibilities of both a northwest passage across the top of North America and a northeast passage across Eurasia have long excited and inflamed the imagination of explorers. Originally the impetus was to find a shortcut to China from the Atlantic. Despite many heroic efforts, both climate and technology made it impossible to create such routes.

The northern location of the world's core economic regions—Pacific Asia, Pacific America, Atlantic Europe, and Atlantic America—means that most maritime trade moves across and between the North Pacific and North Atlantic. The opening of Arctic sea routes has the potential to shift major patterns of global commercial shipping northward. Northeast Asia is situated to derive great benefit from the shorter distances between global centers of production and consumption that these far northern passages would provide to global shipping.

Now the impediments imposed by climate and tools have faded. Ice patterns are changing with dramatic speed. The Arctic ice cap has shrunk to about half its 1950 size. Within 30 to 40 years, projections are that the Arctic Ocean will be largely ice free and regularly open to commercial navigation during approximately four summer months.

The long hoped-for shortcuts will open, saving distances by thousands of miles. If the pace of melting continues to accelerate, deep-draft, Arctic sea-lanes could open on a similar seasonal basis within 10 to 15 years. Sea ice will return gradually in the winter, but seasonal ice is thinner than perennial ice, and ice-class vessels have the potential to make even winter navigation commercially viable.

This shift of global transportation routes must first cope with many problems. The passage across the top of Eurasia, likely to develop before its North American equivalent, will require among other demands, expensive ships with reinforced hulls, special materials, and powerful engines, ports en route for emergency repairs and supplies where none now exist, a network of navigational aids, specially trained seafarers, and the incurring of heavy insurance costs. Weather will inevitably inject uncertainties that can be costly.

However, all this is not a question of if, but when. Korea is especially well-situated geographically to take advantage of this change, has high consciousness of the importance of the ocean, and a well-developed role in global oceanic affairs.

3

IMPACT OF INTERNATIONAL HUMAN RIGHTS LAWS ON THE RESOLUTION OF HISTORICAL ISSUES

Jin-Hyun Paik¹

In a book on memory and history in East Asia and Southeast Asia published about five years ago,² Gerrit Gong argued that the demise of the Cold War brought not the end but the resurgence of history. He predicted that in East Asia the conflicts about the past would shape the future and that at stake was not so much a clash of civilizations as a clash of histories. The battleground would be issues of “remembering and forgetting.”³ While it is questionable that history has become as forceful a determinant in the international relations of East Asia today as Gong predicted, it is true that historical issues are now much more salient in both international and national contexts of East Asia than they had been in the past. While old issues have continued or even been exacerbated, new controversies have from time to time broken out to further estrange interstate relations in the region. The salience of historical issues may be attributed to many factors, but one of the most important factors in this regard is the rising influence of international human rights laws and norms.

The development of international human rights law has fundamentally changed the status of individuals in international law. This change comes in two forms: international protection of individual rights, and international responsibility of the individual. With the development of international human rights law, the relation between the state and the individual—be it the state’s own citizens or foreigners—has gone through a fundamental transformation. The protection of human rights is no longer considered a domestic affair but an international legal concern. Moreover, the individual now has the means, albeit modest, to enforce his or her rights under international law and can seek available remedies at both the international and domestic level. In parallel with this development, individuals who commit the gravest human rights violations, such as genocide, crimes against humanity, and war crimes, are now subject to international criminal responsibility. Various international criminal courts and tribunals have been created, and universal jurisdiction has been extended to deal with war criminals. Punishment of crimes no longer lies in the exclusive domestic domain, at least with respect to certain types of crimes. International law directly imposes criminal responsibility on the prosecuted.

The emergence of international human rights law (and international criminal law) may be perhaps the most significant and radical transformation to have taken place to international law in the past six decades. While international human rights law has been in the making for more than six decades, its impact and influence started to be felt seriously only since the 1990s for various

1. Jin-Hyun Paik is judge of the International Tribunal for the Law of the Sea in Hamburg, Germany. He is also dean of the Graduate School of International Studies at Seoul National University in Korea.

2. Gerrit W. Gong, ed., *Memory and History in East and Southeast Asia: Issues of Identity in International Relations* (Washington, D.C.: CSIS, 2006).

3. Gerrit W. Gong, ed., *Remembering and Forgetting: The Legacy of War and Peace in East Asia* (Washington, D.C.: CSIS, 1996).

reasons. The end of the Cold War, the transition of various authoritarian regimes (former East European socialist states and others) into democracies, calls for transitional justice, and the need to address atrocities and genocide committed in Bosnia and Rwanda have all contributed to the upsurge of global attention regarding human rights. The change of attitude toward international human rights litigation by the domestic courts of various countries, in particular the United States, has also been an important factor. Holocaust restitution cases in the U.S. courts are a case in point. It is astonishing that the U.S. courts were used, successfully, to deal with the wrongs committed half a century ago in foreign territory by foreigners. Until recently, such lawsuits would have been summarily dismissed. The decision on Holocaust restitution not only opened the door to other similar human rights victims to bring claims in the United States but also introduced a new era of rectifying past and current injustices for the victims. In addition, it laid the ground for a new standard of international justice.

International human rights law has affected the way a state perceives its interests and behaves. In today's world, a state's image and reputation hinge, to a large extent, on whether and how closely its conduct conforms to international human rights standards. In particular, international human rights norms have significantly changed the perspective of the international community on various issues related to historical injustices. One can argue that Holocaust restitution litigation now serves as "a global standard and model" for reparation claims. One can also argue that legal accountability and financial compensation are necessary, if not sufficient, for coming to terms with past injustices and achieving genuine historical reconciliation.

Compared to other parts of the world, East Asia has been slow in recognizing this important change in international law and its impact on the issues related to historical injustices. It should be understood, however, that many historical issues are no longer simple bilateral problems between states. They are human rights issues and cause global concern. How a state copes with such issues plays a significant role in shaping the image of that state and determining its standing in the world. In particular, the attitude and role of the judiciary and the legal community are important as they are better positioned to grasp those changes and their implications.

More than a half century has passed since the most serious forms of injustices and atrocities occurred in East Asia. The passage of time often obscures the meaning of conduct and puts the past into oblivion. However, cases of human rights violations are different. They do not simply go away with the passage of time or the need for a "forward-looking" stance. On the contrary, they are repeatedly put into a new perspective and judged by ever more stringent criteria as time goes by. Obviously, the role of law is rather limited in resolving historical issues in East Asia. But, understanding the trend of international legal development on human rights and its political implications can certainly help historical reconciliation in the region.

4

THE LONG MEMORY HISTORY AND POLICY IN CONTEMPORARY NORTHEAST ASIA

Michael R. Auslin¹

More than two decades have elapsed since the end of the Cold War, but the divisions that marked Asia during that half-century-long era remain, often coexisting uneasily with new organizations and groupings that aim at creating a more integrated Asia-Pacific region. As the most developed part of Asia, Northeast Asia, comprising China, Japan, Korea, and the Russian Far East, has played a particularly important role in shaping Asian history over the past century, and it continues to be the most significant subregion within Asia. At the same time, however, the legacy of the past century has kept the nations of Northeast Asia from fully moving past the eras of colonialism, war, and Cold War. This has led to continuing mistrust and the lack of new relationships that would allow Asia to become even more vibrant in the twenty-first century.

This paper will survey some of the major historical legacies in Northeast Asia that hinder the development of a new era. These include legacies from colonialism and legacies from the Cold War, and this paper will link them to ongoing policy challenges among the region's major players.

Colonial Legacies

There are various dates one could give for the end of colonialism in Northeast Asia. The most commonly accepted would be in August 1945, when the Imperial Japanese Empire collapsed at the end of World War II, thereby freeing Taiwan, the Korean peninsula, Manchuria, and much of mainland China. By other lights, however, the era did not close until the U.S. occupation of Japan ended in 1952. A small handful might see North Korea's dependence on first, the Soviet Union, and after 1991, on China, as a unique type of colonialism.

While this process was underway in Northeast Asia, the rest of Asia was struggling with decolonization, as well, and the bloody history of Indochina, along with outlying nations such as Timor-Leste, ensured that questions about postcolonial development and Asian international relations would be in the forefront of diplomatic maneuvering until today. Moreover, arguments by both Western and Asian scholars highlighting the mixed legacy of colonialism (mainly, providing a more developed economic infrastructure in some countries, such as Taiwan), became entangled in questions of political and economic modernization.

For Northeast Asia, the major legacies of the colonial era were the residue of the Japanese colonization of Korea, Manchuria, and Taiwan. Defeat and the occupation of Japan, followed by an increasingly close alliance relationship between Japan and the United States, served to insulate

1. Michael R. Auslin is resident scholar and director of Japan studies at the American Enterprise Institute for Public Policy Research (AEI) in Washington, D.C. He is also a columnist for the *Wall Street Journal*, writing biweekly on Asia topics.

Japanese political leaders from having to inaugurate a nationwide debate over war responsibility. While numerous Japanese prime ministers have apologized, at least since 1995, for Japan's wartime actions, these have not served to salve the bitter memories of the conflict. For reasons both genuine and seemingly political, Chinese and Korean leaders have often refused to accept Japanese apologies, demanding more Japanese introspection and a franker discussion of Japan's war guilt.

Indeed, it is clear that the colonial and wartime legacies are treated at best with circumspection by Japanese groups ranging from museums to textbook publishers. While there is far more discussion in Japan about the war today than there was 20 years ago, it is the public nature of such controversial sites as the Yasukuni Shrine museum or publications such as the middle school textbooks that continue to raise the ire of Asians. Above all, the issue of apologies and reparations for "comfort women" coerced by Japan during World War II lie at the heart of current tensions and ill-will between Japan and its neighbors.

From Tokyo's perspective, it has not only apologized for its wartime actions, but also acted as a good regional citizen for much of the past four decades. Starting with its outreach to mainland China in 1972 and continuing with its Southeast Asia emphasis in the latter 1970s to its providing billions of dollars in overseas development aid, Tokyo has seen itself as the responsible great power in the region, increasingly in contrast to China. In addition, Tokyo has promoted civil society through grass roots gatherings, underwritten antiterrorist training, and provided public goods such as humanitarian assistance and sea-lanes patrol in concert with the U.S. Navy. Given these activities, Japanese leaders believe that their contributions to Northeast Asian (and Asian as a whole) peace and stability should engender better relations with their neighbors.

There is some hope that a more cooperative attitude toward historical issues is developing in the early twenty-first century. Recently, Japanese and Chinese historians have held a series of working groups to come up with a joint historical survey. This endeavor heralds a potentially new approach by private citizens to work around the rigidities of official government pronouncements and diplomatic formalities. By including highly respected academics in both countries, this new Sino-Japanese initiative may provide a model for other attempts at settling painful historical legacies of the colonial and wartime eras. Yet much work remains to overcome contentious historical issues in the Seoul-Tokyo relationship.

Legacies of the Cold War

While Japan faces difficulties with most of its neighbors over colonial and wartime memories, the legacy of the Cold War serves to split Northeast Asia into two camps. On one side are Japan and South Korea, American allies for the last half of a century, while on the other is China, initially allied with the Soviet Union, then taking its own path through the final two decades of the Cold War. In Beijing's eyes, the U.S. alliances with Korea and Japan create a de facto encirclement of China, along with the U.S. commitment to Taiwan, alliances with Thailand and the Philippines, and strategic relationships with India and Singapore. Any moves to strengthen coordination, hold joint military exercises, or create liberal multilateral groupings are interpreted by Chinese leaders as an attempt to contain China's growth and influence. Using these alliances in part as an excuse, Beijing has embarked on a comprehensive military modernization program over the past decade and a half, increasing its capabilities and fielding advanced weaponry from ballistic missiles to attack submarines. As it has done so, Beijing has increasingly probed U.S. and Japanese defenses and boldly asserted its new strength as part of a broad-based national strategy to increase Beijing's influence in the region and beyond.

While Beijing eyes the United States as the core of the de facto anti-Chinese order, it does not hesitate to criticize what it sees as Japanese moves to limit China's role in the region. For example, when Japan proposed adding India, Australia, and New Zealand to the new East Asian Summit in 2005, China opposed the initiative, seeing it as a ploy to increase the membership of liberal nations in the new organization. Similarly, China strongly rejects any Japanese criticism of its military buildup or regional military activities, believing that Tokyo is acting solely as the junior partner in the U.S.-Japan alliance and therefore not holding legitimate security concerns of its own. Yet the sense of Chinese encirclement limits Beijing's willingness to forge better relations with Japan, reinforcing the belief in Tokyo and Washington that the U.S.-Japan alliance is just as relevant in the twenty-first century as it was in the Cold War.

Beyond the split between China and U.S.-allied nations, the ongoing Korean peninsula division is a major Cold War legacy that haunts Northeast Asian regional politics. With the demise of the Soviet Union, China has become Pyongyang's major sponsor and has acted to blunt international action against the Kim regime. The half-century war footing on the peninsula, involving hundreds of thousands of troops on both sides, along with U.S. troops, has kept tensions at a simmering point for years, and regular aggression by North Korea creates crises that tax diplomatic energies and stress allied militaries. The nuclear crisis of the past decade has further raised the stakes on the peninsula, with the fear of North Korean nuclear proliferation and ballistic missile development and export dragging nations around the region and globe into the process. Until the North Korean regime is replaced by one that no longer menaces South Korea and its other neighbors, this Cold War relic will continue to threaten regional stability and set China apart from South Korea and Japan.

Historical Issues and the Effect on Current Policy

Both colonial and Cold War legacies in Northeast Asia hamper the development of closer political relations among the region's main actors. This created, during the Cold War and in the two decades after the fall of the Soviet Union, a condition of regional stasis, perhaps best represented by the continued face-off of North Korean and U.S.-South Korean combat forces across the demilitarized zone for six decades.

Yet, a new dynamic has taken hold over the past decade, tied to the rise of China. As China has increased its economic strength, political influence, and military capability, it has shattered the relative equilibrium that held in Northeast Asia for decades. Unfortunately, the legacies discussed above that hindered the development of closer political ties has meant that Japan, South Korea, and other nations in Asia have viewed the Chinese rise with a mixture of anticipation and trepidation. So far as China has become an increasingly large element in regional economic growth, nations in the region have welcomed its new strength and influence. Yet, to the extent China has quickly become perhaps the most capable military, after the United States, in Asia, its rise has engendered concern and uncertainty. Without the lubricating oil of regular, established ties of trust and proven working relationships, Northeast Asia (and Asia as a whole) has been lurching from embracing China to considering ways to hedge against future aggressiveness.

This regional condition has spilled over into issues such as the North Korean nuclear crisis, with Northeast Asian powers unable to come up with a unified approach to dealing with the Kim regime that looks to the region's best interests. Instead, lines in the sand have been drawn between

China and North Korea on one hand, and the United States, South Korea, and Japan on the other. The result has been to view subregional problems through the lens of an increasingly divided set of blocs in Northeast Asia.

Contemporary policy is thus very much held hostage to the legacies of the past. Lack of trust and durable working relationships have prevented the emergence of meaningful regional multilateral organizations and institutions that can work to deal with political, economic, environmental problems and the like. The United States, too, has failed so far to find a workable arrangement that allows it to balance its alliance commitments with a new relationship with China that moves beyond suspicion and dashed hopes for better ties. As a self-perpetuating cycle, the worse China's relations get with its neighbors or the United States, the more the old alliance ties are seen as vital to maintaining stability in the region.

No nation or region can escape the effects of history, and each must deal with the legacies of the past even as they craft the future. Yet, to an unusually strong degree, the shackles of history have tied down the nations in Northeast Asia. This would be unfortunate in any case, but in the world's most dynamic and populous region, it is nothing short of a tragedy. Honestly grappling with the painful episodes of the nineteenth and twentieth centuries, ending the vilification of peoples and societies, and thinking forward to how Asia will shape the twenty-first century would allow the nations of Northeast Asia, the leaders in Asia, to work together for a future that provides more prosperity, stability, and security than ever before.



DISCUSSION

Yong-Hwan Kim¹

Before I comment on the presenters' papers, I would like to speak my appreciation for Washington, D.C., which is the capital of the United States. Many people say that the United States is the beacon of freedom, and much to my pleasure, the place where I stayed last night was the Beacon Hotel in Washington, D.C. So, I can say that I am really at the epicenter of freedom.

Now, I am willing to express my awareness to the audience who might wonder why all these distinguished guests and scholars gather together here. As Plato wrote, we should take historical account of the progress of mankind, the progress toward freedom. I believe that even if today's discussion is mainly about issues concerning Northeast Asia, it is not necessarily limited to one or two states in the region. Based on this belief, I will comment on the papers in this opening session.

My first comment is on Professor David Kang's presentation. I would like to mention two points here in regard to border issues and historical perspectives of East Asia. To begin with, Professor Kang cited Robert Frost, an American poet, with his insightful line, "Good fences make good neighbors." It reminds me of the Exclusive Economic Zone (EEZ) delimitation issue between South Korea and Japan. Two countries have maritime delimitation issues concerning sovereign rights in the East Sea, which is also called as the Sea of Japan.² There are also islands—Dokdo, Ulleungdo, and Oki—situated in the center of the sea area. Since the UN Convention on the Law of the Sea came into force in 1994, it has resulted in overlapping EEZ areas between South Korea and Japan in the East Sea. This raised issues of how to delimit these overlapping claims and how to define the line that would be the maritime boundary for the states concerned. They had been discussed in maritime boundary negotiations on a regular basis since the effectuation of the Convention on the Law of the Sea. However, the negotiations between the two countries have been in a predicament because Japan unilaterally notified Korea of its plan to conduct a hydrographic survey on the Korean side EEZ in the East Sea in 2006. The circumstances have reached a point where a compromise must be made. At first glance, it seems to relate to maritime jurisdiction issues. However, it is not merely related to law of the sea issues, but also to historical issues. In 1875, Japan started "creeping jurisdiction" with the same cause as the "hydrographic survey" in the sea area near the Korean island Kanghwa in the Yellow Sea. It was the so-called modernized Japan's first step toward colonizing Korea.

Secondly, Professor Kang asks himself, "How does the past affect the present and how does the present affect the past?" His conclusion seems to indicate that East Asian countries such as South

1. Yong-Hwan Kim is a research fellow at the Northeast Asia History Foundation in Seoul, Korea.

2. Historically, the sea area between the Korean peninsula and the Japanese archipelago has been called "East Sea" in Korea for the past 2,000 years. The term "East Sea" was inscribed on the stele of King Gwanggaeto in A.D. 414 and used in numerous references, such as "History of the Three Kingdoms" (1145) and the "Map of Eight Provinces of Korea" (1531). Even the very first words of the South Korea national anthem are "East Sea."

Korea, Vietnam, Japan, and others tried to establish their identities as modern nation-states in the Westphalian system through a positive affirmation of their history. Professor Kang also raises the criticism that East Asian countries tried to negate the old East Asian order in the way of emphasizing, glorifying, or degrading different people, events, and actions. I think that it is too harsh to apply his analysis to all the contemporary historical issues in Northeast Asia. Although I agree with his conclusion that many of the current disputes that evolved from historical roots are to be seen in terms of hegemony and whose side of the story should be told, I disagree with his suggestion that East Asian countries are recreating their identities and histories by negating the humiliating past. In particular when it comes to the Japanese history textbook issues³ and the so-called Chinese Northeast Project,⁴ the efforts of South Korean scholars to solve these problems should be considered a question of knowledge, a matter of seeking for truth, and above all, a matter of justice and fairness. The word “history” comes from the Greek word “historia,” meaning “inquiry, knowledge acquired by investigation.” Forged stories should be distinguished from rigid histories.

The second part of my comment is on Professor John Perry’s contribution. His presentation is so inspiring that readers can understand what it takes to be the “oceanic revolution.” He spoke about the period from the early nineteenth century to the present in terms of the oceanic revolution, as the ocean is a common denominator in Northeast Asia. Northeast Asian seas were introduced to the Europeans as a subdivision of the northern Pacific Ocean embracing the Korean peninsula and the Japanese archipelago. In this regard, I would like to explain geographical name issues between South Korea and Japan. The name pertaining to the eastern sea area of Northeast Asia began to appear on world maps in the sixteenth century. Until the nineteenth century, the sea area was variously called the Sea of Korea, Gulf of Corea, the Eastern Sea, the Oriental Sea, and the Sea of Japan. As there was no authoritative international organization to designate a standardized geographical name at that time, there are many old Western maps, even nineteenth-century Japanese maps, that do not even mark a name for the sea area. Therefore, this demonstrates that the sea name of the area was not internationally established at the period. Japanese influence in East Asia began to grow rapidly in the nineteenth century, and in 1910, Japan annexed Korea. The Japanese colonizers instituted a “cultural assimilation” policy toward the Koreans. This extended

3. Since the end of the Cold War, conservative politicians in the Liberal Democratic Party of Japan (LDP) have formed the Committee for History Examination (1993), the Research Society for Liberal View of History (1995), and the Japanese Society for History Textbook Reform (1997). They persisted in reconsideration of the historical awareness of their past for the improvement of the Japanese position in the international arena. Further, they demanded to delete accounts of sensitive facts like the “comfort women” from history textbooks. As a result, a history textbook was published by Fusosha with Japanese government approval in the early 2000s. Ever since, whenever the issue of history textbooks has been raised, it has been settled repeatedly by political compromise.

4. The Northeast Project is the abbreviation of Studies of History and Geography of Northeast Borderland and a Series of Phenomena, which was a five-year research project carried out from February 28, 2002, with Chinese government funding. The controversies on the history of Goguryo (37 B.C. ~A.D. 668) came up in the early 2000s when it became known that China had been supporting study of the history of Goguryo actively on the basis of the understanding that “the history of Goguryo belongs to that of China as it used to be a minor polity in ancient China.” The focal point of the study was “Northeast Project-way awareness of history,” which is a view that “all of regional history in present Chinese territory belongs to Chinese history.” Korean people and Korean academic circles protested continuously to China over Sinocentrism as the basis for examining the history of Goguryo. The conflict settlement surrounding the history of Goguryo is a problem that must be solved in order to strengthen peaceful coexistence in East Asia based on reconciliation and mutual cooperation.

to forcibly stamping out the Korean language, changing Korean names to Japanese, and converting geographical names to Japanese. In 1939, the Koreans were compelled to adopt Japanese names, and in 1940, all Korean-language newspapers were closed.⁵ Under the circumstances, the first edition of “Limits of Oceans and Seas,” published by the International Hydrographic Organization (IHO) in 1929, used only the name Japan Sea. At that time, Korea was under Japanese colonial rule and had no representation at the IHO conference. The third and last edition was published in 1953 when Korea was in turmoil during the Korean War and not yet an IHO member. Accordingly, the IHO retained the Japanese name. As a result, the Japanese name is still used in many maps today. Korea has made continual efforts to restore the original name, “East Sea,” for decades and has never given in to the name of Sea of Japan. Furthermore, joining the United Nations in 1991, South Korea raised this issue actively in the relevant international meetings, including UN and IHO conferences. Finally, resolutions adopted by the United Nations and the IHO recommend that when countries sharing a given geographical feature fail to agree on a common name, competing names should be concurrently used. Therefore, both “East Sea” and “Sea of Japan” should be used concurrently in accordance with the established general rule of international cartography. For our purposes here, however, it appears that it is not necessary to analyze the competing claims in detail and to view the facts through legal standards that would be applied by an international tribunal. While this paper addresses an identity of Korea and its name for the sea surrounding Northeast Asia, it also seeks to assess what it takes for an “equitable solution” between Korea and Japan on the nomenclature of the sea they share.

Third, when I read the paper of Professor Jin-Hyun Paik, judge of the International Tribunal for the Law of the Sea, I found the reasoning behind the argument impeccable and undeniable. Professor Paik introduced the development of human rights law since World War II getting to the level of imposing international criminal responsibility on individuals. Admitting the international law to resolve historical disputes to be limited, he states that we need to reconsider historical reconciliation in the Northeast Asian region in light of the development of human rights. Accordingly, I believe that neighboring states should admit the openness of a moral order that is relational rather than disjunctive. The issue of “comfort women”⁶ was raised publicly in 1990, as Korean women’s organizations issued a statement on comfort women against the Japanese government, requesting the investigation of its truth and an official apology from the Japanese government. The next year, the confession of Haksoon Kim, who survived a nightmarish comfort station, became a turning point in solving the problem of comfort women publicly. Even though expressing apology, the Japanese government has firmly maintained that it did not have any legal responsibility for the comfort women who were enslaved during World War II. When the comfort women issue was brought to the UN Commission on Human Rights, it caught international attention, expanding into an issue of violation of women’s human rights. As a result, since the mid-1990s, international organizations including the United Nations and the International Labor Organization have been

5. Tsuneo Akaha, ed., *Politics and Economics in Northeast Asia: Nationalism and Regionalism in Contention* (New York: St. Martin’s Press, 1999), p. 16.

6. Comfort women is an euphemistic term for Japanese military sexual slavery, which relates to women forced into prostitution as sexual slaves for the Japanese military and its attached civilians, being detained in “comfort stations” facilitated and managed by the Japanese Army and Navy after the Japanese invasion of Manchuria in 1931. The Japanese Army set up comfort stations in occupied territories such as Indonesia, Singapore, Papua New Guinea, and China, and mobilized women from Korea, Taiwan, China, Indonesia, East Timor, Philippines, the Netherlands, and even Japan. The number of comfort women is estimated to have been from 50,000 to 200,000, mostly Koreans.

calling on the Japanese government to solve this matter correctly. However, the descriptions about comfort women in junior and senior high school textbooks were deleted from the 2001 edition of the authorized junior high school textbooks in Japan. Also, acknowledgement of the Japanese military's involvement with recruiting comfort women disappeared from authorized senior high school textbooks. Even if there were global voices requesting a formal and sincere apology—for example, the U.S. congressional resolution (“the Honda Resolution”),⁷ the Dutch Parliament resolution, the Canadian Lower House resolution, and the British Parliament Recommendations—none of them led to any meaningful result because of the absence of the Japanese government's political will.

Meanwhile, the possibility for seeking claims through litigation in Japan was closed by the Supreme Court of Japan in a decision rendered April 27, 2007. Recently, South Korean foreign minister Kim Sung-hwan proposed that the issue be negotiated. However, Japan refused to be drawn out on the issue. Given that the average age of victims is now 86 years, the Japanese government should find the heart to resolve the issue on a humanitarian level. Ultimately, I would like to quote Michael Honda regarding the U.S. House Resolution on the comfort women: “We must teach future generations that we cannot allow this to continue to happen. I have always believed that reconciliation is the first step in the healing process.”

Last but not least, Michael R. Auslin introduced his survey of the legacies from colonialism to the Cold War. His insights on historical issues and the effect on current policy are not optimistic. What he emphasizes is the Chinese factor. I agree with his argument that the worse Chinese relations become with the United States or its neighbors, the more the old alliance ties are to be fastened in order to maintain stability in the region. We can take the recent case between China and ASEAN member states in the South China Sea area as an example. However, what I want to emphasize most is the U.S. factor. In a sense, crisis situations would be thought to occur more often when the U.S. fails to balance its alliance commitments with a relationship with China. I would like to point out the importance of the U.S. role in maintaining stability in the East Asian region. Thus, it is crucial for the states concerned to boil their disputes down to a model of international cooperation for the peace and prosperity in East Asia. Peaceful conversation is better than spiteful confrontation, mutual agreement better than law suit, and friends better than enemies.

7. In 2007, Michael M. Honda of the U.S. House of Representatives played a key role in passing House Resolution 121, which stated that Japan should formally acknowledge, apologize, and accept historical responsibility and educate current and future generations about the crime.

SESSION II
TERRITORIAL ISSUES AND MARITIME
DELIMITATION IN NORTHEAST ASIA
IN COMPARATIVE PERSPECTIVE

5

“UNDESIGNATED SOVEREIGNTY”

Katrin F. Katz¹

Question: What happens when a well-intentioned civil servant corrects an error in a U.S. government database that is publicly accessible through his agency’s website?

Answer: If it concerns a group of rocky islets in the waters between Korea and Japan, the phone rings.

Sunday, July 27, 2008

When you work at the National Security Council (NSC), early morning phone calls are almost never indicators of good things to come. This is especially true when the person on the other end of the line is a foreign embassy official.

When my phone rang at 7:00 a.m. one Sunday in July 2008, a colleague from the embassy of the Republic of Korea (ROK) was on the other end of the line. After a quick apology for disturbing me at such an early hour, he expressed his “deep concern” about Washington’s “new stance” on Korea’s sovereignty over Dokdo. He wanted to know what was behind the apparent change in U.S. policy. I recall him mentioning a “BGN” website, making reference to “undesignated sovereignty” and indicating that his government was seeking immediate clarification of the issue.

As a general rule, it is not a good idea to engage officers of foreign embassies on matters of U.S. foreign policy when one is half asleep and seriously under-caffeinated. That said, I do recall telling my caller that I was unaware of any change in our government’s policy with respect to Dokdo. I promised to follow up with him as soon as I could get to the office.

1. Katrin Katz, formerly special assistant to the assistant secretary of state for international organization affairs, served as the director for Japan, Korea and Oceanic affairs on the staff of the National Security Council from 2007 to 2008. She is currently working toward a PhD in political science at Northwestern University. This paper provides a perspective on the U.S. government’s response to the diplomatic crisis that erupted in late July 2008 over the Liancourt Rocks–Dokdo–Takeushima sovereignty issue. While I was an official in the U.S. government at the time, this paper is in no way an “official” recounting of the events of late-July 2008. The paper consists of my own recollections of the events as well as those of other officials involved in the episode, whose perspectives were gathered in a series of informal phone interviews in July and August 2010. Neither I nor others who contributed their recollections to the paper had the opportunity to access official government archives from 2008. The use of quotation marks represents my best effort to paraphrase my memory of conversations from that period (i.e., quotes do not necessarily reflect the spoken word of the people to whom the remarks are attributed). It is my understanding that professional historians have not yet addressed the U.S. government’s response to this particular episode of the Liancourt Rocks–Dokdo–Takeushima dispute. Accordingly, I hope this paper might provide a modest contribution to the historical record.

After hanging up with the ROK official, my first step (after turning on the coffee pot) was to Google “BGN” in an attempt to understand what he had been talking about. I learned that BGN was an acronym for the U.S. Board on Geographic Names, a federal body administered by the Department of the Interior (see <http://geonames.usgs.gov/>). Following that, I went to the office to begin drafting the memo needed to brief National Security Adviser Stephen Hadley and to prepare him for the flurry of meeting requests from the Korean and Japanese embassies that I expected would begin the following day.

What was at issue was the disputed sovereignty of a cluster of rocky islets in the sea between Korea and Japan referred to as “Dokdo” in South Korea, “Takeshima” in Japan, and “Liancourt Rocks” in the United States.² These islets had been on NSC’s radar that summer, as tensions between Tokyo and Seoul rose earlier in July due to reported plans of the government of Japan to issue an educational guideline stating that the islets were a part of Japan’s national territory.

The Sunday morning phone call was apparently triggered by Korean press reports over the weekend highlighting that BGN changed the text in the “country” column of its online database from “Korea” to “undesignated sovereignty.” It also changed the name of the islets from “Dokdo” to “Liancourt Rocks.” Although BGN’s new designations were entirely consistent with long-standing U.S. policy to not take a position on the sovereignty of the islets, the fact that these changes were apparently the only corrections BGN made at this time (even though its database reportedly contained several other errors) heightened suspicions in Seoul and provided an opportunity for the ROK media to “spin” the changes as a shift in Washington’s stance undertaken in response to Japanese pressure.³



Source: Map images © 2010 Google Earth, photograph from Google Earth by Kang Yun-gi.

The incident came at an extremely awkward moment, as it occurred only days before President George W. Bush’s scheduled August 5–6 stop in Seoul on the first leg of an Asia trip that would also see him visiting Bangkok and the Beijing Olympics. The president had postponed a previously scheduled visit to Seoul because of widespread protests in Korea over the ROK government’s plans to resume imports of U.S. beef. The protests were directed at the administration of President Lee Myung-bak of South Korea, as well as at the United States. It was apparent that the current situation might serve as a rallying cry for renewed anti-American protests.

2. Google Earth search coordinates: 37.241667, 131.866667.

3. For example, see “Japan 1, Korea 0,” *The Korea Times*, July 29, 2008, http://www.koreatimes.co.kr/www/news/opinion/2008/07/202_28421.html.

As I left the office on Sunday evening I sensed that the week ahead, already packed with preparations for the president's upcoming departure for Asia, would be busier than anticipated.

Monday, July 28, 2008

The first challenge Monday was pushing back allegations of a U.S. "policy shift." That morning I was greeted with a stack of South Korean press reports blasting the "new U.S. stance on Dokdo" and Washington's "pro-Japan bias." To provide one example from that week, a July 29 editorial in *Hankyoreh* noted:

Japan's provocations over Dokdo are in the same vein as its attempts to rationalize its history of imperialist aggression. We would hope that the United States would not create unnecessary factors for discord between our two countries with designations and comments about Dokdo that sympathize with such intentions on the part of Japan.⁴

Topping our "to do" list that morning was setting the record straight: BGN's designation change did not represent a policy shift on the part of the United States. Rather it was an effort undertaken by a U.S. government entity to align its previously incorrect database listing with the longstanding U.S. position.

The State Department's acting deputy spokesman, Gonzalo Gallegos, had the first opportunity to publicly address allegations of a U.S. policy change at the July 28 Daily Press Briefing. In response to a question on BGN's actions, he stated:

...the U.S. position for decades has been to not take a position regarding the sovereignty of the islands in question. As we've said in the past, the question of the sovereignty of these islets is for Japan and Korea to resolve peacefully between themselves. We do not take a position on Korea's claim or Japan's claim to the islands. It's a long-standing dispute, which the two sides have handled with restraint in the past, and we expect that they will continue to do so. We'd welcome any outcome agreed to by both Korea and Japan.

In terms of the name the classification...[the] U.S. position—our position—has for decades, and I repeat, been not to take a position regarding the sovereignty, and to use the name Liancourt Rocks to refer to the islands. The placement of Liancourt Rocks under the Board of Geographic Names file designation of undesignated sovereignty has no bearing on the USG's position, which has not changed. The re-filing was done to be in conformity with U.S. Government efforts to standardize the filing of all features to which we do not recognize claims of sovereignty. The change to the website does not represent a change in U.S. policy, but rather an action to ensure consistency with that policy.⁵

4. See "U.S. position on Dokdo enters danger zone," *Hankyoreh*, July 29, 2008, http://english.hani.co.kr/arti/english_edition/e_editorial/301298.html.

5. See Gonzalo R. Gallegos, "Daily Press Briefing," U.S. Department of State, July 28, 2008, <http://2001-2009.state.gov/r/pa/prs/dpb/2008/july/107498.htm>. See similar statements of U.S. policy during this time period in Sean McCormack, "Daily Press Briefing," U.S. Department of State, July 30, 2008, <http://2001-2009.state.gov/r/pa/prs/dpb/2008/july/107581.htm>; and Dennis Wilder, "Press Briefing on President's Trip to Asia," White House, July 30, 2008, <http://georgewbush-whitehouse.archives.gov/news/releases/2008/07/20080730-13.html>.

The other major activity in NSC's Office of Asian Affairs that morning was receiving several demarches, first from the South Koreans and later the Japanese. By the end of the day, my desk was covered with glossy brochures from the South Korean and Japanese embassies, each explaining why Dokdo/Takeshima is "our sovereign territory."

In our meetings that day with colleagues from the ROK embassy, we echoed the points made in the State Department briefing. They seemed to accept our explanation related to the U.S. policy but remained concerned that the listing change might have been a response to Japanese pressure. The gist of their comments was: "Even if this is not a policy shift, what drove BGN to make this change at such a sensitive moment in Tokyo-Seoul relations?"

It was a reasonable question. Unfortunately, at the time we did not have an immediate explanation for the timing of BGN's designation change. We knew for certain that the White House had not requested the change. Later calls to the Bureau of East Asian and Pacific Affairs (EAP) at the State Department and the Office of Asian and Pacific Security Affairs (APSA) at the Department of Defense—the two offices in their respective departments with the lead on East Asia policy issues—confirmed that they had made no contact with BGN on this issue prior to the change.

As the day progressed, I was able to piece together a rendering of events that seemed plausible. According to that account, the U.S. Library of Congress received a call (from exactly whom we were not able to determine at that time) inquiring about U.S. policy on the islets. A library employee then looked up the classification on BGN's website and found that it was inconsistent with their understanding of our neutral position with respect to the sovereignty of the islands. The library employee then called BGN's attention to the discrepancy between their database and stated U.S. policy, leading BGN to make the change.

The initial investigation that Monday may not have revealed the complete story or all the relevant facts, but what was more important at that point was confirming that BGN acted independently of any policy guidance from within the U.S. government in changing the Liancourt Rocks designation. It was also clear that BGN had no idea that its actions would create a diplomatic row that would ultimately be resolved by the president himself.

We communicated the results of our efforts to determine why BGN had made the change to our colleagues at the South Korean embassy. Unfortunately, this information did not appease the South Korean media, which continued in the coming days to suggest that BGN's new listing must have been an element of some grander scheme to favor Japan in this dispute.

Tuesday, July 29, 2008

Despite clear public statements from the State Department and our private assurances to our ROK colleagues, the Korean government continued to be assaulted by the Korean press. The South Korean embassy in Washington felt the greatest heat during that period. On Tuesday, reports from Seoul indicated that the South Korean ambassador to the United States, Lee Tae-sik, who was accused of "negligence of duty" in various media reports for not blocking BGN's designation change, might be fired over the incident.⁶ The South Korean media

6. See "US Repeats No Change in Dokdo Policy," *The Korea Times*, July 29, 2008, http://www.korea-times.co.kr/www/news/nation/2008/07/113_28377.html.

also reported that Foreign Minister Yu Myung-hwan ordered the ROK embassy to “deliver our concern” to the United States.⁷

South Korean diplomatic efforts in response to the foreign minister’s request reached the highest level of the U.S. government on Tuesday when Ambassador Lee, who was attending an unrelated White House event,⁸ took the opportunity to make the case for reversing the change directly to President Bush. Responding to Ambassador Lee’s request, the president immediately directed Secretary of State Condoleezza Rice to look into the designation change and determine exactly what took place.

By the time the president’s order reached Foggy Bottom, intense efforts were already underway in the State Department to determine the events leading to the designation change and, equally important, to consider options to defuse the situation.

Under normal circumstances, either the NSC or State Department would have convened a Policy Coordinating Committee (PCC) meeting at the under secretary or assistant secretary level or a “sub-PCC” meeting to bring together all the agencies affected by the situation and consider next steps. However, reaching consensus at these types of meetings is often not the quickest means to an end.

The president’s personal involvement and the sense of urgency created by his upcoming visit to Seoul prompted an expedited policy process. Rather than convening PCC or sub-PCC meetings, the information-gathering process and development and analysis of options was carried out in a series of direct interactions between the NSC’s Office of Asian Affairs (my office) and the EAP Bureau at State, particularly EAP/Korea (commonly referred to as “EAP/K” or “the Korea desk”).⁹

Acting together, we compared notes on our conversations with BGN and other affected agencies of the U.S. government to come to a more complete understanding of the situation. We also developed and discussed three options to attempt to resolve the crisis:

1. We could eliminate access to (i.e., “take down”) the BGN website. It would be “under construction” until all necessary corrections and changes could be made, at which time a “new and improved” website could be launched under more controlled circumstances;
2. We could leave the website as it was following the BGN corrections (i.e., with the “Dokdo/Korea” entry changed to “Liancourt Rocks/undesignated sovereignty”). Under this option we would leave other unrelated errors uncorrected for the time being; or,
3. We could reverse the BGN changes (i.e., revert to the status quo ante) while continuing preparations for a complete website overhaul in the future.

As with many thorny diplomatic issues, this was not a matter of choosing between options

7. “Envoy Vows to Rectify US Position on Dokdo,” *The Korea Times*, July 28, 2008, http://www.koreatimes.co.kr/www/news/nation/2008/07/113_28308.html.

8. Following a review of White House press statements and announcements available on the archived White House website from the Bush administration, I was unable to track down the precise nature of the event. However, I recall that it was a trade-related event, to which Ambassador Lee was invited to promote the pending Korea-U.S. FTA.

9. It is possible that a PCC or sub-PCC meeting was convened at a later date to discuss follow-up to the BGN-Liancourt issue and formalize the process; this may have occurred after I left government service at the end of August 2008.

that were clearly “good” or “bad” but rather of selecting among a number of suboptimal alternatives. The first option was eventually ruled out when we learned that other entities of the U.S. government rely on the information contained in the BGN website database on a real-time basis. Taking down the website would have created a new thread of problems. Recreating similar functionality on other information technology platforms apparently could not be done quickly.

The second option was appealing in that it allowed the website to remain running and at least more accurately than it was before the change. But leaving the website up, as it was, provided a focal point for some in the South Korean media to whip up anti-American sentiment. With the president’s visit less than a week away, there was a real downside to this option. I should note that we briefly considered a variation on this option. This would have involved leaving the website up while attaching a footnote to the Liancourt-Dokdo-Takeshima entry in the database that would clarify the U.S. policy of neutrality with respect to the sovereignty of the islands. This proved impossible for technical reasons.¹⁰

The third option made sense from the standpoint of tamping down Korean anger in the near term (albeit at the risk of possibly arousing Japanese anger), but it seemed conceptually strange to reverse a correction to what was obviously an error. What was clearly “wrong” had been made “right,” and this option proposed to make it “wrong” once again.

By the evening of July 29, we had concluded that there were no easy ways out of what had become a difficult diplomatic bind.

Wednesday, July 30, 2008

On Wednesday our deliberations on options were truncated. When the national security adviser briefed President Bush on our progress, the president did as presidents do—he made a decision.

Following Ambassador Lee’s intervention the day before, President Bush had made clear his desire to defuse the crisis as quickly as possible. He did not want the BGN issue to distract the attention of the South Korean government from the key strategic issues on the table for discussion during his upcoming visit. These included the North Korea nuclear issue, the Korea-U.S. Free Trade Agreement, the realignment of U.S. Forces in Korea, and the overall strengthening and expansion of the U.S.-ROK alliance. Clearly, a continuation of the Seoul media storm might complicate his upcoming visit, but it was also apparent that the situation was creating real difficulties for a friend and ally and that the immediate cause of the problem lay in Washington, not Seoul. President Bush had developed a high regard for President Lee and his stance on many issues of mutual national interest. He did not wish to cause a good friend of the United States any undue political difficulty.

Thus, the president chose option three as the most immediate means to calm the situation. He directed that the changes in BGN’s database be reversed with the objective of deflating media criticisms of the ROK government and the speculation regarding the policy and motives of the U.S. government.

10. We learned that the programming language used to manage the database was old and inflexible and that there were severe restrictions on field size and format. To permit footnoting of an entry or to expand the field size apparently would require substantial restructuring of the entire database.

The national security adviser relayed the president's decision to my boss, Dennis Wilder, senior director for Asian affairs, on July 30. Dennis announced the decision later that day during a press conference on the president's upcoming trip to Asia.¹¹

Preventing “BGN, the Sequel”

The president's decision removed near-term Liancourt Rocks issues from our desks, but longer-term issues remained unresolved. Specifically, it was clear that there were both technical and procedural problems that needed to be addressed with respect to BGN's operations. Initial investigations of July 28 and 29 revealed that additional corrections to the database would be required in the future for it to be completely consistent with U.S. government policy. The last few days had taught us we needed a better process to manage these changes.

Almost immediately my office began working with EAP/K to generate a number of recommendations in this area. On a technical level, it was suggested that BGN's future technology platforms allow the addition of “policy notes” to the BGN database that would include more thorough explanations of the U.S. position on areas of disputed sovereignty. For example, in the future BGN should not be forced by limited field size to use a term such as “undesignated sovereignty” to describe the status of the Liancourt Rocks—a term that led to tangential debates during this episode over what exactly it means for sovereignty to be “undesignated.” It was the State Department's view that it would have been better for all if BGN's database had permitted statements such as, “South Korea and Japan both claim sovereignty over these islets; the United States does not take a position on this matter.” These notes could take the form of either longer entries within the database or a link to footnotes elsewhere on the site. We agreed that the State Department would take the lead in drafting and updating these policy notes to ensure their consistency with U.S. policy.

BGN accepted this change but indicated that it would take considerable time to implement for technical reasons mentioned briefly above (see footnote 11). It is my understanding that BGN began planning these programming changes along with other major functional upgrades to its website in 2008 but has yet to complete the task.¹² In the meantime, a caveat added to the top of the database search page on the sovereignty issue states:

The geographic names in this database are provided for the guidance of and use by the Federal Government and for the information of the general public. The names, variants, and associated data may not reflect the views of the United States Government on the sovereignty over geographic features.¹³

On a process level, the State Department and NSC agreed on three necessary changes:

1. In the future, BGN should consult with the “policy side” of the U.S. government (primarily the State Department, which would then inform other relevant entities) before making any changes to its website on matters of potential diplomatic sensitivity. Advance notice of potential changes

11. See Wilder, “Press Briefing on President's Trip to Asia.”

12. An October 28, 2010, visit to the website (<http://geonames.usgs.gov/>) and a search under the term “Dokdo” indicates that the changes ordered by President Bush in July 2008 are still in place.

13. See <http://earth-info.nga.mil/gns/html/index.html>; this portion of the database is administered by the National Geospatial-Intelligence Agency (NGA).

would provide policymakers with the opportunity to alter the timing and/or wording of the changes.

2. Once BGN informs the State Department of these changes, the department should meet with representatives from any foreign governments that might be affected prior to the changes being posted on the website. This step would have eliminated the element of surprise that was so troubling for the South Koreans in this episode and would have given both the South Koreans and the Japanese an opportunity to air any concerns prior to the change.
3. Any remaining errors on the BGN database should be corrected simultaneously so as to avoid creating the perception that the timing of changes is linked to external events or issues.

BGN concurred with these process improvements.

Lessons Learned

Clearly, the BGN–Liancourt-Dokdo-Takeshima affair demonstrated that at least some of our government processes needed improvement. BGN’s database contained errors. An honest attempt to correct an error was, however unintentionally, done in such a way that it embarrassed a friendly government, allowed elements of a foreign media to question our government’s motives, and stirred anti-American sentiment within an important allied nation. The outcome of the episode was far from perfect: it effectively appeased one of our allies while not necessarily pleasing another. Fortunately, the Japanese government was almost as eager as we were to see tensions with South Korea eased, and so they chose not to make a big issue out of our decision.

Historians will at some point pass judgment on how the process was managed and whether the right decisions were made. From where I sat, and with the benefit of hindsight, I believe those involved at NSC, the State Department, and BGN did well under the circumstances and given the options available at the time. For his part, the president acted quickly and decisively. His decision effectively deflated the situation and allowed policymakers in Seoul and Washington to return their focus to the immediate intergovernmental agenda, as well as the important long-term objective of maintaining strong strategic ties among the United States, Korea, and Japan.

As I reflect back on the situation, I believe there are a few “lessons” to be drawn from these events that hopefully will be helpful to those who will analyze events like this in the future. At a very broad level, they are:

- *Process matters.* Not all international incidents are the product of policy. In this case, process problems played a key role in exacerbating the diplomatic flare-up. A more effective process (e.g., one that involved advance consultation between the relevant agencies of the U.S. government and between the U.S. government and relevant foreign governments) would probably have resulted in a much quieter week. BGN may or may not have changed the Liancourt Rocks designation at that time, but—with advance warning—Washington, Seoul, and Tokyo would have been much better armed from the start to handle the media outburst and clear up any misconceptions.
- *Silver bullet policies are rare.* Policymaking at the national or international level rarely involves perfect options. At the president’s pay grade, all decision options have warts of one kind or

another. In judging policy decisions, it is important to realize that even when the chosen path is flawed, it may not indicate that a poor decision was made. As in this episode, the path taken had to be chosen from imperfect options. When reviewing decisions in a historic context, considering the pros and cons of each option that was available at the time is essential. Judging decisions absent this step results in conclusions that are disconnected from reality.

- *Beware of conspiracy theories.* In the U.S. government, the real story is often less than meets the eye. Just because “things happen” in government does not mean they were orchestrated by a cabal of policy wonks. It is tempting for those not working in government, particularly the media, to assume that the U.S. bureaucracy is a well-oiled machine. In reality, the sheer size of that federal bureaucracy makes it impossible to keep track of events occurring at the far reaches of the government, even from a perch as central and powerful as the White House. Spinning stories beyond the given facts, as the Korean media did, can be misleading, at best, and, at worst, can exacerbate the crisis to new levels. In analyzing diplomatic flare-ups, particularly in a historic context, it is important to remember that sometimes seemingly insignificant, mundane actions by government employees—difficult to catch in a pile of archives—have the capacity to trigger events of significant consequence.



DISCUSSION

Jon Van Dyke¹

It's a great honor to be on this panel and at this important meeting. I've certainly learned already a lot today. I want to go through some of the disputes that have been put out on the table, both this morning and this afternoon, and offer some comments and thoughts on them. I'm going to move from south to north on these matters, starting with the South China Sea, which we talked about a bit this morning.

China has claimed historic rights to the area within the nine dashes that appear on many Chinese maps. People usually trace this back to about 1947 with a map put forward by what was then the Republic of China. And apparently, it purports to be a claim of the entire South China Sea by China, although China has never explained exactly what it is that it claims, nor the basis for that claim. China's unexplained claim has led to a lot of awkwardness over the years, including the *Impeccable* incident in March 2009, south of Hainan. The other countries in the region, of course, also make claims. So we have a very complicated patchwork of claims. It's very difficult to draw a very clear map of these claims. There are about 25 to 30 of these features above water at high tide in the Spratly Island group. Most of them are very small, and many of them are claimed by Vietnam, by the Philippines, by Malaysia, by Taiwan, and by the People's Republic of China. These countries have been at a stalemate now for many decades about exactly how to address and resolve these matters. My recommendation would be to establish a maritime delimitation of the South China Sea by ignoring completely the Spratly Islands in terms of the delimitation, because they are rocks and under Article 121(3) of the Law of the Sea Convention, they're uninhabitable, and they can't sustain any economic life of their own. I would give the Paracel Islands, the Xisha Islands, a role in the maritime delimitation. That would give China a fair chunk of the South China Sea, up in the north area, but many people think the hydrocarbons are more likely to be in the southern portion of the South China Sea, so that never seems to be sufficient for China. The Spratly insular features are really quite small. The largest, Itu Aba, is controlled by Taiwan at the present time. The second largest, Pagasa or Thitu Island, is controlled by the Philippines. Malaysia has tried to develop one of its features as a scuba diving resort. These islets are too small to play a logical role in maritime delimitation, and for that reason, they should be ignored. If you ignore them, it does leave an area in the middle of the South China Sea that is beyond the 200-nautical-mile zones of any country.

There are then continental shelf claims that might be made. So although the exclusive economic zone can go only to 200 nautical miles, the continental shelf in some situations can be claimed beyond 200 nautical miles, and that is being done by some of the other countries now. The Philippines has made a "regime of islands" claim around the islands in the Spratlys, producing an interesting configuration. China protested that claim within hours after the Philippines made it,

1. Jon Van Dyke is a professor at the William S. Richardson School of Law at the University of Hawaii at Manoa.

and said as they always say, that the People's Republic of China has "indisputable sovereignty" over the Spratly Islands and their adjacent waters, whatever that means. Malaysia and Vietnam did an interesting thing by putting forward a joint claim to the extended continental shelf in the middle of the South China Sea, in an area that is beyond 200 nautical miles from any of the countries' coastlines. Vietnam has also, by the way, protested against the name "South China Sea," just as Korea protests against the name "Sea of Japan." Interestingly, both Vietnam and Korea want to use the name "East Sea" for the body of water that they don't like the name of. So we have kind of a problem. Maybe we need the "Northeast Sea" and "Southeast Sea" or something, but we need some more imagination with names, I think. Anyway, China immediately protested the Vietnamese/Malaysian claim, and in doing so they attached the nine-dash-line map as a very official document. So they are standing behind and relying on these nine dashes.

In March 2010, U.S. officials said that they were told by China that the South China Sea was part of China's core interests of sovereignty, along with Taiwan and Tibet. This seemed like a new statement and then Secretary of State Hillary Clinton in July 2010 responded at the ASEAN Regional Forum meeting in Hanoi that the United States has a national interest in freedom of navigation, open access to Asia's maritime commons, and respect for international law in the South China Sea. So we're going back and forth with statements and claims. Secretary Clinton said that the United States supports a collaborative diplomatic process to resolve this matter without coercion and opposes the use of threat or force by any claimant. The Chinese foreign minister responded quickly once again—note that 12 out of the 27 at the ASEAN Regional Forum supported Secretary Clinton's statement—and suggested that maybe there was some kind of orchestration going on. He described Clinton's activities as virtually an attack on China, very vigorously protesting what was characterized as the internationalization or multilateralization of this conflict. He added that Asians are fully capable of resolving this matter in the Asian way without U.S. intervention. The spokesperson for the People's Liberation Army said that China has "indisputable sovereignty" over the South China Sea and then quickly added that China would "in accordance with international law, respect the passage of ships or aircraft from relevant countries." So we're still not clear on what the Chinese claim is or the basis of it. And then as people said this morning, China, just a few days ago, planted a flag in the South China Sea, at a great depth of 12,230 feet, apparently to let us know that they are serious about this claim. So we have a problem, and this will be a very difficult one to resolve because China's position seems to be so inflexible. Even if it defers to international law, China seems to ignore Article 121, Paragraph 3, which states that certain types of island features, namely "rocks" that "cannot support human habitation or economic life of their own," do not qualify to generate exclusive economic zones. So that's why in my judgment, we have to ignore these Spratly/Nansha islands when we draw those maritime delimitation lines.

Moving up the Asian coast, the Diaoyutai-Senkaku dispute is still an ongoing one. These are small islands located in the East China Sea, on the edge of the continental shelf there. They have never been inhabited, five small islands, with a total land area of seven square miles. In this case, it is my understanding that China's position is that these islands should not affect the maritime delimitation whereas Japan takes the position that they should. Japan currently occupies these islands, although China very vigorously claims them. Just recently, as most of you know, there was an incident where a Chinese vessel, according to the Japanese press, rammed a Japanese Coast Guard vessel and the Japanese arrested the crew and the captain. They have released the crew, but the captain is still in custody. It's interesting that the Japanese perspective on the Senkaku-Diaoyutai is sort of like the Chinese perspective on the Spratlys and the Korean perspective on Dokdo—namely, that we don't really have a dispute. Japan says there is no question that the

Senkakus are Japanese, and therefore, there's nothing to talk about. Anyway, some activists from Taiwan went out to reassert its claim. Interestingly, the former U.S. deputy secretary of state Richard Armitage referred to this incident as China testing Japan and linked it back to the South China Sea. He said that perhaps the incident is China's warning to Vietnam, Malaysia, the Philippines, and Taiwan, with regard to its claim to the Spratlys in the South China Sea. This is the statement by Ji Guoxing, one of the leading Chinese scholars, where he said that the Senkaku-Diaoyutai should not affect the exclusive economic zone, because they are uninhabited and cannot economic life of their own, and thus do not qualify under Article 121(3).

The boundary between North and South Korea is also a contentious one, very much in dispute. We talked earlier today about the *Cheonan* incident, which happened in the west part of the Northern Limit Line, which was drawn in 1953 by General Mark Clark for the purpose of discouraging South Korean vessels from going above it, thus serving as a kind of a demilitarized zone to help bring the violence to an end. So we have the *Cheonan* being sunk with 46 sailors killed, and that inevitably raises the question of the legitimacy of this line. There are five small South Korean islands up against the coast of North Korea, so that North Korea is trapped within this line. North Korea has argued that those five islands should be ignored in the delimitation and the delimitation should be the equidistant line between the South Korean coast and the North Korean coast. Others have suggested that North Korea should have fingers coming out through these islands, but in any event, some attention is needed on this line to make some adjustments so that it will be equitable in the future.

I'm running out of time, and we've talked about Dokdo in some detail. So, just to make one final point, I want to say a word about the decision that took place in the Black Sea last year between Ukraine and Romania involving a small island called Serpents' Island. Serpents' Island is a Ukrainian island. Ukraine said the maritime boundary between Romania and Ukraine should be drawn between Serpents' Island and the Romanian coast. Romania said no, it's too small and insignificant, and nobody has ever lived there, so it should be ignored in the maritime delimitation. The International Court of Justice ruled in favor of Romania and did, in fact, ignore the island in drawing the delimitation. So we have a very recent and very important decision that helps us as we look at these problems in Asia. During the argument, Vaughan Lowe, who is a distinguished scholar at Oxford and has written the main book on the Law of the Sea, was representing Romania. He was asked what is a "rock" and what is "human habitation." He said that "human habitation" means that you are there because you want to be there. If your government orders you to be there because of military duty or scientific study, that is not "habitation." The human communities have to be stable and sustained. This was an important statement made by this distinguished scholar. Even more importantly, the International Court of Justice agreed and did ignore the island completely in the way it drew the line. Serpents' Island and Dokdo are virtually the same size. If Serpents' Island is to be ignored, then Dokdo should be ignored as well. Itu Aba and Thitu Island in the Spratlys are a little bit larger, but not much larger than Serpents' Island. So again, they should be ignored.

I'm going to close at this point. There will be a little time for questions, but the ultimate question should be, of course, what should happen, and how should the countries resolve these disputes. I hope we have some time for discussion. Should the "just do nothing, and hang on to the islands you control" be the right approach? Or should there be some conciliation processes, whereby you try to promote some understanding and maybe some package deal, engaging in some *quid pro quo*, so there's a win-win situation? In any case, these are the questions before the countries of East Asia.

SESSION III
NEW TENSIONS AND CHALLENGES
TO NORTHEAST ASIA

6

THE TEA PARTY IN JAPAN

Alexis Dudden¹

The nightmarish combination of natural and man-made disasters that hit Japan on March 11, 2011, will have profound ramifications for Japan and Northeast Asia for years to come. Already emerging is broader recognition of deeply poor and forgotten areas in today's Japan. Although it is too soon to know how this will play politically, there is no doubt that the issue will be more difficult to will away.



There is a Tea Party of sorts in Japan, and not just at the Imperial Palace. Its members don't call themselves a movement, nor have they counted themselves collectively as of yet. However, the Japanese impulse mirrors that in the United States in two fundamental ways: the driving motor is the nation's quick-sanding economy, and its organizing rhetoric is everything and anything anti-immigration.

A full-scale history of capitalist modernity and its discontents is really needed to illustrate the key elements of these xenophobic and nationally circumscribed urges (which are not at all unique to the United States or Japan). For now, however, a singular and brief focus on Japan can reveal how and why this disorganized and as-of-yet unnamed impetus constitutes a new tension and challenge in Northeast Asia. Doing so also reveals how the jellyfish-like tentacles of the region's twentieth century play a substantial part in fueling the movement's fury.²

Poverty or Not Poverty in Japan

In a region that includes North Korea, it is almost unseemly to make a case for poverty in Japan. Most would hesitate in calling the world's second- or third-richest nation as anything close to poor. Many well-placed thinkers continue to maintain that Japan's social safety nets are in place. Yet, a series of scandals in 2010, for example, revealed that an overwhelming number of all those legendary Japanese centenarians were in fact mummified corpses living together with their elderly offspring who have been collecting their dead parents' pensions. In light of this, it is difficult to feel sympathy for the system writ large or small.

1. Alexis Dudden is a professor of history at the University of Connecticut in Storrs.

2. Preliminary ideas appear in Alexis Dudden, "Memories and Aporias in the Japan-Korea Relationship," *Asia-Pacific Journal/Japan Focus* (April 2010), <http://www.japanfocus.org/-Alexis-Dudden/3337>. See also David McNeill, "Sakurai: A Very Dapper Demagogue," *Japan Times*, May 18, 2010; and Martin Falcker, "New Dissent in Japan is Loudly Anti-Foreign," *New York Times*, August 29, 2010. In Japanese, Doshisha University's Itagaki Ryuta's essays and blogs are indispensable.

That said, for many (or most) Japanese hemorrhaging daily economic life—real *and* perceived—found expression at the ballot box in August 2009 as voters dismantled the Liberal Democratic Party’s (LDP) half century of rule as well as the LDP’s pervasive and alarmingly undemocratic commitment to opaque governance. In October 2009, thanks to Yukio Hatoyama’s victory and his cabinet’s decision to make the Japanese government more transparent, the Labor Ministry for the first time released data that demonstrated: (1) the 1990s bubble burst had been catastrophic; (2) many Japanese were struggling to keep pace with their pre-1990s selves; and (3) as of 2007, one in six Japanese were living in poverty. This means that as of 2010—pre-earthquake—there were over 20 million documented Japanese (i.e., not including homeless people or foreigners) living below the ministry’s determined poverty line of \$22,000 for a family of four (that number being half of the median income of \$44,000 for this same conjured family, which is staggering enough considering the cost of everything in Japan).³

The nation’s pundits professed shock, and the national myth of everyone pleasantly progressing forward and consuming upward along a very outdated vector of middle-class happiness evaporated—thankfully—overnight. Newspapers, blogs, and TV shows subsequently focused less on what to buy on a trip to Paris and more on economically related suicide, domestic violence, and child abuse.

In social terms it is important to ask what would sell well in such a mix, other than ever-cheaper imports. Nationalism, particularly the extremist form, costs little or nothing to produce and almost nothing to consume. Examining this kind of nationalism now in Japan is more, therefore, than a voguish concern with the rise of the right. In short, this is because the demands and expectations of Japan’s incipient Tea Partiers — like their counterparts in the United States — differ markedly in form from the neutered or studiously ignored extremist nationalisms of the past half-century.⁴

The kind of nationalism in Japan that is selling very well these days is “fast, cheap, and out of control.”⁵ Not all of its creators and purveyors are new to the political scene, although many of them are, and all have come to espouse new tactics that make them and their supporters essential to take seriously. Put simply, vitriolic, anti-foreign/pro-purity-of-blood ideas is not new in Japan. Finding easy access to public space to yell, print, and package all of these together with open calls for violence to achieve such ends has become much more possible politically, socially, and economically within Japan during the past decade.

3. In September 2010, Forbes’ list of Asia’s best mid- and small-sized companies indirectly underscored the precarious economic conditions in Japan now: only 2 of the companies listed were Japanese, down from 24 in 2009. Christina Settimi, “Asia’s 200 Best Under a Billion,” *Forbes.com*, September 1, 2010, <http://www.forbes.com/2010/09/01/bub-200-intro-asia-under-billion-10-small-companies.html>.

Granted the March 2011 earthquake shocked the economy further, the September 2011 report followed the trend and did not name a single Japanese firm to its top 50 in Asia list. See: <http://search.japantimes.co.jp/cgi-bin/nn20110913a2.html>.

4. In future years, it will be interesting to see whether making “national” Japan’s flag and anthem will be viewed as the lynchpin between the 1945–1995 nationalist movements and those of this newer variety.

5. This is the title of Errol Morris’s 1997 movie, which comes from a 1989 robotics paper of the same name by two MIT artificial intelligence scientists. Rodney A. Brooks and Anita M. Flynn, “Fast, Cheap and Out of Control: A Robot Invasion of the Sola System,” *Journal of the British Interplanetary Society* 42 (1989): 478–485.

The Other Side of Japan

As is well known, Japan's largest hate groups, their headquarters, and their targets are centered in Tokyo and, to a lesser extent, Osaka, Nagoya, and Fukuoka, all of which makes sense because that's where the political, economic, and media action is.⁶ As, however, with the United States' southwest, interior northwest, and central states where America's Tea Partiers first discovered real traction, it is vital to remember the other side of Japan, the region that for centuries has been called "ura Nihon," or the backside of Japan.

The industrial center of this region is Niigata, the major port on the Sea of Japan. Although Niigata has been well connected to Japan's east coast and southern cities since the 1930s when it became the central exit port to Manchuria, the Japan Sea coastline itself remains disconnected in parts, and to travel along it, it often makes more sense in terms of time and money to go back and forth via Tokyo or Osaka in a series of "Ws."

In late February 2010, I was returning to Niigata on the overnight train from Osaka and decided to stay awake and look out the window while my son slept in the bunk above. About half an hour north of Kyoto, just past Maibara on Lake Biwa, all of a sudden I became aware of profound darkness. The omnipresent neon that radiates life along the Pacific and Inland Sea coasts from Tokyo to Fukuoka abruptly stopped and made real within Japan the famous picture of electrified/un-electrified South and North Korea.

The point of this isn't, however, that half of Japan is rich and the other half poor. Instead, this simple example of a glaring absence in one-half of the country of what is taken for granted in the other half brought into relief how conditions are especially ripe in the other side of Japan to use the area and its people for political gain right now.⁷

The absence of light stood out to me that night because I was returning home from the city of Matsue (on the southwest coast), where earlier in the day tourists, residents, and politicians blended together with unorganized and unnamed extremists to celebrate the city's recently created holiday: "Takeshima Day," a day created in 2005 to focus attention on the rocky outcrops disputed by Japan and Korea in the Sea of Japan (or, the East Sea).

Matsue is the capital of Shimane prefecture, perpetually one of Japan's most impoverished and inward-looking regions. In 1905, those in charge of the empire of Japan assented to Shimane's incorporation of the islands known in Japanese as Takeshima and Dokdo in Korean. A century ago, no one bothered with what the Koreans might have thought about this. They would lose much of their country's sovereignty later that year anyway. In 1945, with apparently little concern for what

6. August 15 has always been a day to take a good look at and count these groups and their followers. The 2010 celebrations were no exception regardless of the heat, and the *Tokyo Reporter* website includes instructive pictures. See "Right wing groups protest anti-Yasukuni shrine march in Tokyo," *Tokyo Reporter*, August 15, 2010, <http://www.tokyoreporter.com/2010/08/15/right-wing-groups-protest-anti-yasukuni-shrine-march-in-tokyo/>.

7. Japan's now infamous story of its citizens' abduction by North Korea took place primarily along the Japan Sea coast. Remembered historically, it is significant that many in power in Tokyo initially shunned the protagonists' families' pleas for help in no small part because they came from the "other side of Japan" to make their claims. Once these sad stories proved true—North Korean agents had indeed kidnapped Japanese citizens—all sides of the political and media spectra immediately seized on them for their own gain. It is not by chance that the abduction matter remains politically most viable and volatile along the Niigata to Tottori corridor.

was happening to the rest of the Japanese empire, Shimane officials simply continued to name the rocks theirs. Disagreements followed regularly. In 1996, a renewed dispute with Seoul over fishing zones reignited the issue with a vengeance on the national scene, redoubling Shimane's demands that Tokyo assert itself more strongly over ownership of these islands. Then, in 2005, the Shimane prefectural assembly launched a holiday in the rocks' Japanese name to commemorate the centennial day of their incorporation into Japan's long-vanished empire.

Without question, the holiday's organizers have found value for themselves and their depressed region through their effort to give national meaning to what is now best understood as a prideful fight with Korea. Troublingly, however, they are gaining strength these days by tapping a vein of "out of control" Tea Partying nationalism that would appear to be bringing things to a dangerous precipice, whether or not the organizers had initially hoped for such a situation.

February 22, 2010, marked the fifth anniversary of Takeshima Day and made clear the conundrum of "there's nationalism and then there's *Nationalism*," a dilemma that became most apparent for a brief moment at the Takeshima Archive Office. The archive is a library of sorts that mirrors similar ones in South Korea on Ulleungdo and in Seoul to "research Dokdo." Takeshima's version is funded by the prefecture and located at the foot of Matsue's famous castle. As I was buying pamphlets and DVDs and collecting free "Takeshima is Ours" leaflets and buttons, one of the unmarked, black hate buses slowed down at the intersection in front of the archive office and turned its diatribe away from Koreans and toward the staff inside: "YOU IDIOTS!," the speaker shouted from within through his megaphone, "YOU ARE SELLING AWAY JAPAN WITH YOUR INCOMPETENCE!" The truck started up again continuing its chain music demanding military action to get the islands "back."

The staff was shaken, and the moment brought into stark relief the contradiction on the one hand between the archive's staff—as well as the contents of the archive itself—and on the other hand, the unnamed, unincorporated extremist lurking inside the unmarked, black bus both of which theoretically share the same end: to claim the disputed islands for Japan.

It is one thing when Japan's rightists threaten the supporters of the comfort women, for example. It's a whole new ballgame to openly threaten those advocating similar political goals.⁸

Will New Outliers Merge with Old Boy Insiders?

Current extremist behavior in Japan suggests that the newcomers to the disorganized ranks have upped the ante and are no longer content with being an unsavory yet tolerated fringe. Their numbers, albeit small, are increasing together with their new tactics.⁹ To them, the norm now begins with public and open demands for violence within Japan against those deemed detrimental to

8. It may become standard to locate the beginning of the shift in tactics with the 2003 attempted bombing attack on the house of Foreign Ministry official, Tanaka Hitoshi. The meager response—looked at differently, the *surreal* response—by the Foreign Ministry to urge Tanaka into early retirement rather than to press substantial criminal charges against all perpetrators involved may ultimately stand as the all-clear sign for open violence. See Tessa Morris-Suzuki, "When Is a Terrorist not a Terrorist?" *Asia-Pacific Journal/Japan Focus* (October 2003), http://www.japanfocus.org/-Tessa-Morris_Suzuki/1838.

9. It is really difficult to know the numbers of all involved. The group I follow, the Zaitokukai, trebled its membership list between March and September 2010, now counting nearly 10,000 among them.

their meaning of Japanese identity.¹⁰ Also normal are calls for preemptive military strikes outside Japan against countries that would appear to threaten the same (never mind holding a public debate about Article 9 because its erasure is a foregone conclusion). In this line of reasoning, targeting North Korea is a given; yet, for these emergent Tea Partiers, the same holds true for Japan's ally South Korea because of the island dispute, which adds a noticeably distinct flavor to their aims.

Historians of the future may name Tokyo governor Ishihara Shintaro as the political godfather of the shift. During the past decade, his casual reinsertion into common parlance of the hateful pre-1945 term for Koreans and Chinese ("third-country peoples" or 三国人) continues to be grotesque. By point of comparison, imagine a democratically elected, white, protestant, American politician routinely and publicly using the "N" word today with impunity. Bewilderingly, however, Ishihara's use of the term has only seemed to increase his popularity among Japan's most cosmopolitan voting bloc.

A potentially more pernicious figure, however, is Sakurai Makoto, nom de guerre, Doronpa, and described by journalist David McNeill as Japan's "Dapper Demagogue" for his predilection for three-piece suits, bow ties, and watch fobs.¹¹ In 2010, Doronpa emerged as the frontrunner of the new outliers with elaborately staged and self-promotional calls for violence in the name of protecting Japan and its peoples' apparently homogenous national identity.¹² In 2007, he founded the Citizens League to Deny Resident Foreigners Special Rights (the Zaitokukai), and like the loosely gathering Tea Partiers in the United States (who followed Obama supporter tactics), Doronpa has made liberal use of the Internet to attract followers and seed money.¹³

Perhaps to avoid sharing the spotlight, Doronpa steered clear of Matsue in February 2010. He held his own anti-Korean/anti-foreigner/anti-Article 9 Takeshima Day protests in Osaka outside the Korean consulate there. His group's calls for violence to protect the integrity of Japan on that day began weeks earlier in leaflets and posters throughout the Kansai region, and more importantly, on his group's various websites.

Of particular significance was Doronpa's incorporation of the emperor of Japan into his message: "No emperor to Korea! Take back Takeshima from Korea by force! Protest now! The Japanese government must take back Takeshima by force using military power! The emperor will go to Korea only when Takeshima is returned!" To be sure, Doronpa was seizing on the soft target of Democratic Party leader Ichiro Ozawa's sensationalized arranged meeting of a visiting Chinese dignitary with the emperor months before. More noticeable from a historical standpoint, however, was Doronpa's association of the Japanese emperor with the mundane notion of territory. Across

10. By way of introduction, visit the Zaitokukai's self-documentary series posted to YouTube in December 2009, detailing their harassment of ethnic Korean families in Kyoto. With Los Angeles-based Street Sweeper Social Club's "Clap for the Killers" thumping behind them, Doronpa's followers demonstrate how to distribute threatening leaflets in specifically targeted mailboxes among other things. See <http://www.youtube.com/watch?v=WrcBLWl4P8M&feature=related>.

11. David McNeill, "Sakurai: A Very Dapper Demagogue," *Japan Times*, May 18, 2010, <http://search.japantimes.co.jp/cgi-bin/fl20100518zg.html>.

12. On August 10, 2010, Kyoto police arrested several members of Doronpa's group for their tactics against a school for children of ethnic Korean descent in the northern part of the city. It is likely, however, that this will emerge as a case of "kenka ryo seibai" (both parties share the blame) with the city acceding to the Zaitokukai's initial charge that the school illegally used a park across the street as a playground (it has none of its own) and meaning essentially that, like the Tanaka Hitoshi case, it will become a case of blaming the victim for the crime.

13. See Doronpa's website: www.zaitokukai.info.

time in the place now called Japan, the term “tenno” has always differed from the titles of other rulers of this rank around the world (especially European counterparts) in never having had specific lands attached to the label.

Conditioning an imperial visit to Korea today on Japan’s assured control of the disputed islands has done several things at once: first, it blends Doronpa’s message into broader passions in current centrist Japanese nationalism that seek to expand and secure Japan’s borders; second, it reinvigorates the emperor’s role with a new twist back on top of the Prussian model so helpful in the 1870s; and third, it ingratiates Doronpa and his band with the Old Boy rightists, especially the wildly popular and widely popularized cartoonist/pundit Kobayashi Yoshinori.

Doronpa was born in 1972 and studied Japan’s twentieth-century history under Yoshinori Kobayashi’s cloud, or at least through Kobayashi’s famous brand of storytelling in which a fact is a fact if the author says so regardless of what happened, let alone whether there was any context for it. Not unusually, an imaginary past would appear to unite the Doronpa-style, younger extremists (those who openly urge violence) together with their older and established mentors (those with large, disorganized followings gathered by preach-teaching what it *could* mean to be Japanese if only everything were different). In this space, the rudimentary fantasies converge, most importantly that Japan fought a war of liberation in Asia in the 1930s and 1940s, which masochistic Japanese historians and evil America (not just Americans) have sought to rewrite into a web of lies to sully the honor of all true Japanese. Of deeper significance in this imagined past, however—at least in terms of challenges to Northeast Asia today—all Japanese have stood together across time with their militarily strong and benevolent emperor (again never mind historical facts such as rigid class systems that would have precluded this possibility or centuries of impotent imperial rule). In this logic, all Japanese will do so into the future through ever-tighter boundaries secured not just in but also with his name.¹⁴

In January 2010, Kobayashi self-importantly celebrated the 20th anniversary of the current Heisei emperor’s reign with a special comic manifesto, “On the Emperor,” published in *SAPIO: International Intelligence Magazine*.¹⁵ Ironically, the series details Kobayashi’s invitation to and attendance at, of all things, a tea party at the imperial palace. The drawings and text could fairly be described as gooey-eyed muck for the masses, yet criticizing Kobayashi’s talent isn’t the point. His fans have never cared because his point is simple and clear: like me, dear reader, you must cherish and protect our beloved emperor and his family (favorites are made patently clear), because they have and will always hold us together forever as “Japanese.” Neither foreigners nor history problems need apply.

And So

Two things will become increasingly important in terms of whether Japan’s Tea Partiers gain the momentum that has given their U.S. counterparts focus and force: money and the question of the emperor. The first factor will be easier to measure. If, as is happening in the United States, Japan’s anti-everythings can attract the big money backers to their cause—and especially if they can do so from established channels in Tokyo—these disparate people could emerge as a powerful move-

14. Of related significance is the absolute concurrence of these voices that the emperor was, is, and forever will be male, regardless of the historical record.

15. Kobayashi Yoshinori, “Tennoron” [On Emperor], *SAPIO*, December 16, 2009, 67–82.

ment democratic or otherwise. Their ability to achieve this may ultimately rotate around the second matter of the emperor's future place in Japanese society, which is arguably the most rational of possibilities for organizing their interests. This, however, is harder to follow. Practical discussion of the emperor remains taboo for the Japanese press (thanks in part to the bullying tactics of the Old Boy rightists) and in general of little critical interest to the international press.

In the meantime, a simple countermeasure could take some of the steam out of this potentially destabilizing force on the Japanese political scene: make hate speech crime laws that count in Japan. As it stands today, the ability to publicly shout racist invective at six year olds in Japan, for example, and get away with it—Doronpa's crowd shrieking "Dirty roaches! You're spies! You're the children of spies!" at ethnic Korean schoolchildren, or his group's hate campaign against a little Filipina girl, for example—sums up everything that has gone wrong with Japanese leaders not getting the so-called history problems right.

The window has almost shut to do anything meaningful for survivors of Japanese-perpetrated atrocities last century. The focus must shift now to the offspring of empire within Japan and without, because the way for Japan to prove that it stands ready to lead Asia and the international community comes through demonstrating a commitment to an inclusive future.

7

NEW TENSIONS AND CHALLENGES IN NORTHEAST ASIA

DIVERGING EXPECTATIONS ABOUT HOW THE COLD WAR WILL END

Michael J. Green¹

At the end of the Cold War many advocates of the realist school of international relations predicted that Northeast Asia would be “ripe for rivalry” as economic growth and military modernization shifted the balance of power in the region and exacerbated anxieties and historical tensions. They were right. In contrast, liberal institutionalists predicted that Northeast Asia would move toward a new regional architecture reflecting intraregional trade and economic interdependence. They were right too. Constructivists anticipated that nations like Japan would revel in their postwar pacifist norms and that states across the region would develop a more peaceful pan-Asian identity based on the epistemic communities of Han-ryu, Doraemon, or nostalgia for the Sino-centric tributary system. They were right too, at least in so far as pacifism or pan-Asian identity tamped down the state-centered rivalry that intensified after the Cold War. Of course, identity can cut both ways, and these more benign narratives or security subcultures have had to compete with other discourses that have been far more nationalistic and state-centered. So for the constructivists, it has been a wash.

Far from discouraging theoretical explanations for Northeast Asia’s curious international dynamics, these contradictory outcomes have only fueled the search for ever more rigorous methodologies in support of each perspective. That is a useful and necessary intellectual endeavor (though there is some danger it will lead to ever less useful conclusions for policymakers). Ultimately, however, history gets to decide. And for now, history has left Northeast Asia stuck in a transitional phase between the Cold War and post-Cold War eras. The Cold War lives everywhere in Northeast Asia. It is most obvious in the demilitarized zone (DMZ) separating the Koreas or in the Taiwan Strait, but it also inhabits Japanese strategic culture, which has not departed from the fundamental parameters of the Yoshida Doctrine formulated at the beginning of the Cold War. The Cold War infuses domestic politics—in Korea and Taiwan, where the ruling parties are creatures of Cold War competition, and in Japan, where the Liberal Democratic Party (LDP) is in opposition, but the Democratic Party of Japan (DPJ) is rapidly adopting most of the conservatives’ foreign and defense policies. The Cold War produced most of the leaders in Northeast Asia today, even as those leaders promise in one way or another to move beyond the constraints of bipolar confrontation.

The Cold War legacy has played a particularly pernicious role in the security dynamics in Northeast Asia over the past year. Governments in Seoul, Tokyo, Beijing, and Washington anticipate change in Northeast Asia. They sense that key elements of the Cold War structure remaining

1. Michael J. Green is a senior adviser and holds the Japan Chair at CSIS in Washington, D.C. He is also an associate professor of international relations at Georgetown University.

in Asia may be about to collapse, but each capital takes a divergent view of what will or should come next. These diverging expectations are becoming a growing source of uncertainty and tension.

Take North Korea. Over most of the last eight years, the major powers in Northeast Asia were drawn into the Six-Party Talks. That multilateral approach failed to curtail North Korea's nuclear weapons ambitions just as the Agreed Framework, the Modest Initiative, and all past strategies have proven insufficient to the task (or more precisely, as Pyongyang has proven impervious to diplomacy). Yet the Six-Party Talks for a time did produce one important result: they built a consensus among China, Japan, Korea, Russia, and the United States that the North Korean nuclear program was a regional problem requiring a regional solution. Despite different national positions on how to achieve denuclearization, the intense diplomacy that resulted created a sense of common purpose and reassurance about the future of the peninsula. That reassurance was deepened because all parties were dealing with the situation as it currently existed on the peninsula, not as it might be.

With North Korea's second nuclear test, the sinking of the *Cheonan*, and expectations of the imminent demise of Kim Jong Il and possibly his dynasty, attention has shifted back to scenarios for the future of North Korea and the implications for each powers' national interest. The result has been a strategic divergence. Washington, Seoul, and Tokyo have more or less concluded that for the foreseeable future Pyongyang will not be coaxed into verifiable and irreversible steps at denuclearization. While open to diplomacy, all three governments have shifted the emphasis toward containing and limiting inward and outward proliferation (primarily through sanctions). The Obama and Lee administrations—and presumably Kan's as well—are unwilling to relax these necessary defensive measures in exchange for the opportunity to engage in dialogue with Pyongyang, as all three governments have at various points in the past. The other focus of the democratic allies is on managing the consequences of collapse in North Korea. This is opportunistic to some extent, but is also essentially about self-defense: How would biological, chemical, and nuclear capabilities be contained? How would refugee flows and humanitarian relief be managed? How would accidental conflict among the powers around North Korea be avoided? These are serious concerns for pragmatic planners. The assumption in Washington, Seoul, and Tokyo is that the demise of the North would be a dangerous transition that requires greater planning and coordination, but the end state would be desirable and stabilizing—the unification of the Korean peninsula.

Beijing, in contrast, has revealed a markedly different strategic appreciation of what is happening on the peninsula. For Chinese leaders, instability in the North is a risk worth avoiding at almost any cost, and unification of the peninsula on Seoul's terms would be a strategically unacceptable—or at least undesirable—outcome. From Beijing's perspective, the focus should be on dialogue and maintenance of the status quo, even if the diplomacy of denuclearization is increasingly exposed as a futile. These are not new positions for China. Beijing sees Seoul, Tokyo, and Washington as changing the status quo by now assuming: (1) that diplomacy is highly unlikely to lead to denuclearization in the near term, and (2) that the Kim regime may collapse before that point. However, from the perspective of Washington, Seoul, and Tokyo, China's lame response to the *Cheonan* sinking and Beijing's lack of responsiveness on planning for collapse in the North has been revealing: it suggests that China's efforts to reinforce an untenable status quo are in their own way threatening and unhelpful. For these three democracies, there is no going back to the status quo ante before the nuclear tests and *Cheonan*, if it means that Pyongyang escapes without consequences for its actions. As numerous Obama administration officials have put it, they are not “going to buy the same horse again.” For Seoul, China's implicit support of Pyongyang after the

Cheonan sinking only reinforced the impression (not inaccurate in my view) that Beijing intends to exert dominant influence over any transformation in the North. Strategic calculations in all four capitals are adjusting to these new assessments. The focus is no longer on the immediate diplomacy at hand, but instead on what will come next. Diverging expectations about how and when the Cold War will end on the Korean peninsula are contributing to increased tensions.

In the Taiwan Strait, the Cold War seems to be waning. President Chen Shui-bien's independence rhetoric backfired politically against the pan-Green camp, and President Ma Ying-jeou has established fairly broad public support to pursue incremental steps toward confidence building with Beijing. The first major step, completion of an Economic Cooperation Framework Agreement (ECFA), will contribute to confidence and economic interdependence. However, future steps toward confidence building on the security side will be extremely difficult for Taiwan until the People's Republic of China (PRC) is prepared to take concrete measures at threat reduction (most often cited is the need for cuts in the enormous missile deployments by the People's Liberation Army [PLA] across from Taiwan). Beijing argues that political principles governing Taiwan's relation to the mainland must be determined first. Ma has been willing to declare three "no's" (no independence, no war, no unification) but can go no further for now. From Beijing's perspective, the threat of military action is therefore a necessary tool to deter Taiwan from pursuing independence, particularly since Ma may fail in elections and be replaced by a pan-Green president. From Taipei's perspective, Beijing's refusal to take threat reduction measures reveals a lack of goodwill and underlying hostile intent. China's stance on military threat-reduction and confidence-building measures also suggests that Beijing anticipates a strategy combining co-option and coercion will still be necessary to achieve unification. The slow pace of U.S. arms sales to Taiwan has only widened the gap in capabilities across the strait, reinforcing Chinese assumptions that this carrot and stick strategy does not have to change. Thus, while the trend lines in the Taiwan Strait are more positive than on the Korean peninsula, diverging expectations about how the Cold War will end have again produced the seeds of tension and rivalry.

What is to be done? From the U.S. perspective, one important element of strategy should be to shape the expectations and calculations of the other powers. By aligning more closely with Seoul and upgrading military exercises after the *Cheonan* sinking, the United States and Korea can demonstrate that Beijing's assumptions about the utility of the status quo on the Korean peninsula were wrong—that Chinese strategic influence over the peninsula is being weakened, not strengthened, by approaches that enable Pyongyang's provocative behavior.

U.S. support for Taiwan, through arms sales, cabinet visits, and trade agreements, can have a similar corrective impact on Chinese assumptions about cross-strait trends. Beijing will be less likely to agree to concrete threat-reduction measures with Taiwan on the security side if the assumption is that a combination of economic interdependence and coercive military tools will gradually create the conditions for unification. Chinese nonaction on threat reduction should be met with U.S. measures (consistent with the Taiwan Relations Act) that help Taiwan maintain credible deterrence. President Ma has been clear that such support is indispensable if he is to continue building confidence with Beijing from a position of strength rather than weakness—something that he must do in a democratic society and that the United States should understand and reinforce.

Beijing can also take steps to correct dangerous expectations and assumptions in Washington, Seoul, and Tokyo. Agreeing to confidence-building discussions about the future of the Korean peninsula would have an enormous reassuring effect in Seoul. More vigorous enforcement of UN

Security Council resolutions against North Korean nuclear and missile supply networks would reassure Washington that Beijing shares U.S. concerns about the proliferation challenge from the North.

It would also be productive if Beijing agreed to formulation of a Five-Party Northeast Asian Security Forum. The September 2005 Six-Party Joint communiqué established such an effort with the inclusion of North Korea. In a perfect world, North Korea would be included. However, that is now impossible, given Pyongyang's determination to be accepted as a nuclear-weapons state. A peace and security framework discussion with North Korea would only reinforce concerns that the other powers have decided to accept peaceful coexistence with a revisionist, nuclear-armed Pyongyang. China has repeatedly rejected efforts to establish a Five-Party Forum at different levels and on different themes. However, Washington, Seoul, Tokyo, and probably Moscow are now prepared to participate. Joining this emerging consensus would be an important transformative move by Beijing. Aligning expectations about how the Cold War will end in Asia should be a high priority for diplomatic strategies of all the major powers.

8

THE JAPANESE CONSTITUTIONAL AMENDMENT AND THE POSSIBILITY OF EAST ASIAN COMMUNITY

Ina Masaki¹

I am a Japanese constitutional law scholar. First, I would like to start my presentation on the topic of the amendment of the Constitution of Japan. Then I will argue on what is the best future course for Japan, in which it should adopt from the angle of the Japanese Constitution. Third, I would like to discuss the recent draft charter on the East Asian Community.

The Constitution of Japan

The Constitution of Japan was promulgated on November 3, 1946, and came into effect on May 3, 1947. This is the second constitution since the Meiji Restoration. However, it is the first constitution that is based on constitutionalism, the principle of limiting power by the protection of rights and freedom and the separation of powers. The Constitution of Japan adopts three principles, namely to preserve the people's sovereignty, adhere to pacifism, and protect fundamental human rights. The Preamble declares these principles clearly.² The first paragraph of the Preamble provides that "sovereign power resides with the people" and the Japanese people "do firmly establish this Constitution." This is a clear expression of the principles of people's sovereignty and the people's will in establishing the constitution. The same paragraph expands on the two principles of human rights and peace by showing that the aim of the establishment of the Constitution is based on securing "the blessings of liberty" and the liberation from "the horrors of war." The first paragraph of the Preamble declares the principles of people's sovereignty and representative democracy by saying that, "Government is a sacred trust of the people, the authority for which is derived from the people, the powers of which are exercised by the representatives of the people." Lastly it says that, "this is a universal principle of mankind upon which this Constitution is founded. We reject and revoke all constitutions, laws, ordinances, and prescripts in conflict herewith," making it clear that these principles cannot be denied even by a constitutional amendment. Paragraph two declares that "the Japanese people desire peace for all time" and clarifies its attitude by including that "we have determined to preserve our security and existence, trusting in the justice and faith of the peace-loving peoples of the world."

The establishment of the Constitution of Japan was a joint venture with the supreme commander of allied powers (SCAP), General Douglas MacArthur, then-Prime Minister Shidehara Kijuro of Japan, and the earnest cooperation of the American New Dealers. However, it also objectively embodies the pledge to no longer be a war state to the neighboring Asian countries.

1. Ina Masaki is a professor of constitutional law at International Christian University in Tokyo, Japan.

2. Ashibe Nobuyuki and Takahashi Kazuyuki, *Kempo* [Constitutional law], 4th ed. (Tokyo: Iwanamishoten, 2007), pp. 35–36.

We should especially note that the adoption of Article 9³ and the people's movement, using it as a weapon, have prevented Japan from becoming a militarily powerful country for the past 63 years. During the first half of the twentieth century, Asia saw the continuation of wars: the Sino-Japanese War, the Spanish-American War, the Russo-Japanese War, the First World War, the Siberian Intervention, the sending of troops to Shandong, the Manchurian Incident, the Second Sino-Japanese War, and the Asia-Pacific War. In World War II, over 20 million persons died in the Asia-Pacific area. Asia was literally the original place of wars. Almost all wars in Asia were caused by Japan. In other words, if Japan had not existed or if Japanese imperialism had not taken place, all wars during the first half of the twentieth century in the Asian region would not have occurred.

However, do we see that peace was realized in Asia after the end of World War II? The answer is no. Asia, post-World War II, was the frontline of the Cold War and the ignition point of wars. In the Korean War, 3 million Korean people died, and the number of missing people is still not clear. In the Vietnam War, 3 million people died, and 4 million people are still suffering from handicaps. However, there is one fundamental difference when comparing the before and after of World War II. That is, post-World War II, the Japanese armed forces never participated in any wars in Asia. The main thrust of waging wars came from the United States.

Japan cooperated with American wars in Asia economically, but never dispatched its own troops. To be precise, it could not do that. Japan adopted the Japan-U.S. Mutual Security Treaty and established the Self-Defense Forces (SDF) in 1954, but the SDF has kept the unique character of having never killed any foreigners or Japanese civilians since its inception. Some people say the SDF are a curious military force and Japan is "an abnormal country." The Constitution and the movement have regulated the government in various ways: nonnuclear three principles, three arms embargo principles, and the quantitative limitation of defense expenses. There is the Yasukuni Shrine, but it is still one kind of religious corporation. There is no military court and no service-men's pension, etc. So in order to become a normal state, the constitutional amendment should be realized. Article 9 is still a big obstacle today. Both pro- and anti-constitutional amendment forces pull on the rope strongly and evenly.

According to an analysis by Professor Watanabe Osamu, the relationship between making Japan militarily strong country and pushing through structural reform and the constitutional amendment is as follows: The sole purpose of the revision of Article 9 is to authorize the dispatching of the SDF overseas with the aim of exercising armed forces; it is not related to making the SDF existence constitutional.⁴

On the second issue of the evolution of structural reform and the constitutional amendment, the dismantlement of the social integration that the business community and conservatives had not expected occurred at the end of the 1990s with the accomplishment of structural reform. The reform for the recovery of a competitive edge by the global enterprise dealt a serious blow to the stability of a corporate, social integration, and the Liberal Democratic Party (LDP) politics that had stabilized Japanese society till then. A chain of social troubles erupted after the end of the

3. (1) Aspiring sincerely to an international peace based on justice and order, the Japanese people forever renounce war as a sovereign right of the nation and the threat or use of force as means of settling international disputes. (2) In order to accomplish the aim of the preceding paragraph, land, sea, and air forces, as well as other war potential, will never be maintained. The right of belligerency of the state will not be recognized.

4. Watanabe Osamu, (*Zoho*) *Kempo Kaisei* [The constitutional law amendment], revised ed. (Tokyo: Junposha, 2005), pp. 125–130.

1990s. For example, there was a steep increase in the number of homeless people, an increase in suicides, an increase in child abuse, and an increase in crime, etc. There was also a “de-industrialization” by globalization, unemployment, the rise of non-regular workers, and reduction employment problem. The social security system that should have dealt with the problem of unemployment and bankruptcy was destroyed in the shape of the deterioration of medical care or pension system or making revision of public assistance qualifications. Then, the issue of rebuilding social integration by making big enterprises in the mainstream appeared. The impulse of using a constitution as a “lever” for the resurrection of social integration was born.

We can find two types of constitutional amendment plans: one is the hierarchical type society with state plan and another is the community type with the nationalism plan. These two types of social integration are in conflict, but have common characteristics. They deny and take hostile stances against freedom, democracy, individualism, and the equality principles of the Constitution of Japan. They request the fundamental transformation of constitutional principles.

Preventing the Militarization of Japan

Recently we coedited a book, which could be briefly summarized as follows:⁵

“For over sixty years the Japanese people have kept the Constitution as the Supreme Law of the nation without amending it. Nevertheless, the full-scale militarization of Japan has become a deplorable reality and the subsequent virtual amendment of the Constitution by means of a distorted interpretation. We have repeatedly proposed alternative non-military theories of a constructive nature, which are supported by the current Constitution.

Today, we are offered a choice among three options as to the fundamental direction of the nation. The first is to support the Bush administration’s belligerent foreign policy and global arms buildup in a world where the US has become the only post-Cold War superpower. This option will inevitably lead Japan to make a *formal* amendment to the Constitution. That in turn will result in renewed militarism by which Japan will build up full-fledged forces integrated with and subject to the US military command, with a reinforced US-Japan Security Alliance to jointly dominate the world.

Second, to strengthen the US-Japan diplomatic relations in which the US government and the military-industrial-academic complex of both nations will compel Japan to adopt the policy of the *de facto* amendment of the Constitution. In compliance with the transformation of the US military forces and missile defense, Japan will work to secure and expand its vested interests as an economic super-power boosted by enhanced military procurement, gradually eroding the factual reality of the recent past.

Third, to *reaffirm* Japan’s Peace Constitution as the supreme law of the land to guarantee the policy of independent non-military alliance with the nations of the world. This option will help in avoiding the total destruction of the world, securing the survival of humanity, and promoting a healthy ecological environment in a world of increasing globalization. This is the di-

5. Summary by Okamoto Mitsuo, in *Heiwa Kenpo no Kakuho to Saisei* [The Defense and Rebirth of the Japan’s Peace Constitution], ed. Fukase Tadakazu, Ueda Katsumi, Ina Masaki, and Mizushima Asaho (Sapporo: Hokkaido University Press, 2008), pp. 3–5.

rection in which all peoples of the world desire to move: to have the right to live in peace⁶ and to contribute positively to the construction of permanent peace based on justice.

We believe the third option is the most appropriate one for an economic superpower like Japan. We wish to contribute to the creation of a new civilization in a permanent world peace by mobilizing Japan's soft powers in economy, technology, peace culture, and industry. Our basic policy should be assiduous effort by our people over the next 50 to 100 years to complete the peaceful, democratic constitutional revolution without using military violence, either domestically or internationally. We hope this option would also provide an example for other nations to follow, not only in Asia but also all over the world.”

Conflict Prevention

If we take the third option, we must change our current policy of doing nothing while always following the United States. For a truly serious attempt of positive policy transformation by not only Japan but also by Korea, China, and the United States, we can refer to the Global Partnership for the Prevention of Armed Conflict (GPPAC) Northeast Asia Regional Action Agenda. GPPAC is a worldwide civil society network that aims to build a new international consensus on peace building and the prevention of violent conflict. It was established in 2003 in response to the call of former UN secretary general Kofi Annan in his *Report on the Prevention of Armed Conflict* (2001). On February 2005, GPPAC North East Asia Region adopted Northeast Asia Regional Action

6. In the Preamble we can find the following provision. “We (the Japanese People) recognize that all peoples of the world have the right to live in peace, free from fear and want.”

In the lawsuit to stop dispatching Japan's SDF to Iraq, the Nagoya High Court held the following decision on April 17, 2008: “The right to live in peace which appellants claim is what the Japanese Constitution guarantees. Hence basic human rights do not exist without peace. Thus the right to live in peace is the right every person should have and the foundation upon which all human rights rest. It is not limit to constitutional principles. The Japanese Constitution is known to be standard of all Japanese laws and the Japanese Constitution clearly states that all Japanese citizens have the right to live in peace. Article 9 of the Japanese Constitution instructs the government to renounce war and not to hold force. Moreover, Article 13 and Chapter 3 of the Japanese Constitution instruct the Japanese government to respect and to hold individual human rights. Therefore the right to live in peace should be abided by as it is stipulated in the Japanese Constitution. The right to live in peace is founded on rights to freedom, social rights and rights to vote. Therefore the right to live in peace is a tangible subject and right. Hence, it can be brought into court to protect our rights to freedom, social rights and rights to vote. For example, if an action was taken by the Japanese government that was in violation of Article 9 of the Constitution, a Japanese citizen can bring the right to live in peace into court in order to stop the Japanese government's violation. As such he/she can claim for the damages. The violation of Article 9 means implementation of war, use of force, preparation of war, all which are conducts by which a Japanese citizen can lose his/her rights. The government by its violation exposes the citizen to dangers of loss of life, loss of freedoms, and being exposed to crises that an infringement of peace through suffering from fear if the plausibility of being forced to help the implementation of or forced to join the war. Effectively, a Japanese citizen can take the Japanese government to court for such violations and request that the Japanese government to cease and to desist its actions, which violate Article 9 of the Japanese Constitution.” *Hanreijiho*, no. 2056 at 74 (translated into English at http://www.haheisashidome.jp/hanketsu_kouso/20080417point_english.htm).

For analysis of this decision, see Ina Masaki, “Heiwateki Seizonken to Ninge no Anzenhoshou” [The right to live in peace and human security], in *Rikken Heiwashugi to Kenpo Riron* [Constitutional pacifism and constitutional law theory], ed. Urata Ichiro et al. (Kyoto: Horitsu Bunka Sha, 2010), pp. 37–53.

Agenda for Conflict Prevention and took steps toward its implementation. The essence of this action agenda is as follows:⁷

“We recognize Article 9 of the Japanese Constitution as one of the key elements to promote regional peace. It has been described as a norm to affirm the security of people in the region through the containment of Japanese militarism. Notably, the principles of Article 9—the renunciation of war as a means of settling disputes and of maintaining forces for those purposes—should be recognized as having universal value and be therefore utilized as a foundation for peace in Northeast Asia.”

“Civil society should take the initiative to build peaceful relations, particularly when state armed forces are not able to uphold sustainable peace.”(quotations from the Preamble)

What are some important issues in the East Asian region for the prevention of armed conflict?

1. Action on primary cause for armed conflict—transformation of neoliberal economic system: The neoliberal economic model that characterizes the current face of globalization is resulting in increasing economic disparity on a worldwide scale and producing potential risks of conflict. We should work toward building a sustainable and human-oriented economic system to replace the current neoliberal system.

Achieving the Millennium Development Goals (MDGs) and Corporate Social Responsibility (CSR), attaining a control system over international financial trade, securing labor rights, and strengthening the social safety net to include social security should be a part of this effort.

2. Construction of a peaceful system between multiple countries that prevent armed conflict:
 - 2-1. Overcoming the past (overcoming of colonial rule and war of aggression by the Greater Japan Empire, overcoming of crime and damage caused in the Korean War and the Cold War);
 - 2-2. Easing political stalemates and confidence building (easing of political stalemates in Northeast Asia, promoting exchange of civil society for confidence building and peaceful solution of the cross-strait issue, recognizing the unresolved territorial issue between Russia and Japan, promoting peaceful dialogue over the Diaoyu/Tiaoyutai/Senkaku islands problem, negotiating the Japan–North Korea problem, etc.);
 - 2-3. Disarmament and demilitarization (minimizing and dismantling foreign military bases, phasing out the U.S. forces from Northeast Asia, undertaking through disarmament of armed forces and self-defense forces, abiding by Article 9 of the Japanese Constitution, reaffirming and strengthening the non-use of force provision of Article 2 (4) of the UN Charter, strengthening the International Criminal Court to broaden its jurisdiction to include prosecution of the crime of aggression, monitoring military expenditure and corporations engaged in arms production and weapons developments);

7. Recomposed and condensed by Kimijima Akihiko in *Heiwa Kenpo no Kakuho to Saisei*, p. 326. For full text, see <http://www.gppac.net/tcb/uploads/File/Regions/Northeast%20Asia/NEA%20Action%20Agenda.pdf>.

- 2-4. From the Six-Party Talks to Regional Peace System (from overcoming the current nuclear crisis on the Korean peninsula through the Six-Party Talks to ending the Cold War, establishing a Northeast Asia Nuclear Weapon Free Zone, Hibakushas' important role in Japan and on the Korean peninsula in support of denuclearization through regional peaceful efforts, civil society tasks in precedent of the government).
3. Peaceful engagements for the prevention of armed conflict:
- 3-1. Nonmilitary and nonviolent engagement to conflicts and humanitarian crises (denial of military power intervention and colonialism intervention);
- 3-2. Official development assistance that reaffirms and strengthens the principle of prioritizing the poorest and ensuring local ownership;
- 3-3. Protection of rights of moving people, immigrants, refugees and foreigners;
- 3-4. Importance of peace education (overcoming the militarism, conflict resolution education, gender justice, historical education for reconciliation, UN University engagement to peace education).

An Jung-geun's Peace Argument

Sasagawa Norikatsu studied An Jung-geun's resistance spirit and his peace argument and concluded his own article with three points.⁸ First, An had a resistance spirit that combined nationalism and Christianity. Second, from an international law standpoint, his peace argument was based on a self-independence stance, thus being a clear antithesis to the argument for aggression into Korea. Third, if we were to draft a future East Asian community, we should take his self-independent argument seriously. An's peace argument states that Asia is composed of independent states, which recalls Emmanuel Kant's "*Zum ewigen Frieden*" (1795). Sasagawa analyzes An's peace argument through an interpretation of Kant. Kant's *Friedensbund* idea and An's self-independence argument are quite similar. First, An's argument advocates Oriental Peace, but it does not aim for the prevention of war. This is a noteworthy point. However, An denied the suppression of weak and small countries by strong, powerful states based on his assumption of each state's self-independence. So his argument can function to prevent war. Secondly, because his argument aims to realize self-independence between states, his stance is nearer to Kant's *Friedensbund*, which never seeks to *Weltrepublik*. Third, his argument tries to eliminate people's suppression, persecution, and discrimination in the state by fighting against colonialism. This resembles Kant's peace theory based on the realization of the republican form of politics. Fourth, An's argument sticks to making a parallel and equal relationship between states. This is different from the construction of organizations that allow for some violent power, such as the United Nations or the European Union. Sasagawa emphasizes that in the future, if we try to build an East Asian Community, An's proposal of self-independence is an essential condition for Oriental Peace.

8. Sasagawa Norikatsu, "An Jung-geun no Teiko no Seishin to Heiwaron" [An Jung-geun's resistance spirit and his peace argument], *Sekai* 801 (2009): 224–231.

Draft Charter of East Asian Community

I think the last point is very important when we try to draft some kind of East Asian Regional Community in the future. Now, we can see a more pragmatic and feasible Draft Charter of East Asian Community by four Japanese lawyers' independent efforts.⁹ Drafters employ the concept of East Asia, which is also related to the membership of the community. Though the membership criterion does not include geographical conditions, it is commencing with the ASEAN Plus Three (China, Korea and Japan). There are several reasons and motives for establishing the East Asian Community, all of which are stated in the Preamble of Draft Charter of the East Asian Community.¹⁰ They are:

- Sharing various historical, geographical, and cultural ties;
- Sharing the mutual desire for “everlasting reconciliation among the peoples and the countries of the region,” the shared desire to maintain and develop further peaceful relations in the region, and universal rejection of warfare and of coercive formation of a macro-regional community, such as the Japanese attempt to build the Greater Asia Co-Prosperty Sphere during World War II;
- Sharing a common wish to be able to respond more effectively to regional concerns with shared basic universal principles; and
- Sharing the idea of contributing to building a better world order through regional activities.

Article 2 states the aim of this community. Here we can find that regionalism is not isolated, but it should be mutually complementary with the making of a world order. Therefore, the following four items are aims of the community:¹¹

- To promote peace, security, stability, a higher standard and better quality of living, and equitable prosperity of the peoples of the region;
- To enhance constant and consistent consultation and cooperation among the governments and the peoples in the region to ensure that the peoples and the countries live in peace and prosper in an open and democratic environment;
- To resolve disputes in the region through peaceful means based on a set of common norms and principles that the member states share; and
- To contribute to the wider world in building a stable and harmonious global order both by promoting peaceful and mutually benefiting relations in and beyond the region and by articulating and accumulating shared norms and principles in and beyond the region.

The Draft Charter then lists in Article 3 the specific objectives that reflect the common concerns in the region. The list is based partly on the accumulation of the existing targets and concerns already shared in the Association of Southeast Asian Nations (ASEAN), ASEAN Plus Three, East Asia Summit, ASEAN Regional Forum, and Asia-Pacific Economic Cooperation. However,

9. Tamio Nakamura, ed., *East Asian Regionalism from a Legal Perspective: Current Features and a Vision for the Future* (New York: Routledge, 2009); and Tamio Nakamura et al., eds., *Higashi Ajia Kyodotai Kensho* [Draft charter of East Asian Community] (Tokyo: Showado, 2008).

10. Nakamura et al., *Higashi Ajia Kyodotai Kensho*, p. 207.

11. *Ibid.*, pp. 257–258.

when accumulating the existing targets, Nakamura says that the East Asian Community will be able to deal coherently with any of these targets so far as they are discussed separately and unsystematically in various forums.¹² Activities of the community shall include:¹³

- Promotion of cooperation and mutual assistance for regional security and peace;
- Enhanced cooperation against international crimes including terrorism, sea piracy, drug and human trafficking, counterfeiting and money laundering, and infection diseases and natural disasters;
- The establishment of mutual food aid in the event of natural and other disasters, based on the spirit of solidarity;
- Cooperation to ensure sustained and sustainable development for the peoples of the region, alleviating poverty, thereby enabling them to increasingly benefit from globalization;
- Cooperation to narrow the development gap among its member states through bilateral, regional, and international cooperation;
- The realization of an open, transparent, and competitive regional market with sustainable economic development and a high level of consumer protection and working conditions;
- The promotion of increased economic linkages and regional connectivity by enhancing integration and efficiency of transport and telecommunication infrastructures, facilities, and services;
- Cooperation for the stable and efficient development and use of natural energy resources;
- Promotion of economic growth and financial stability in the region;
- Cooperation in the field of currency and monetary policy;
- Cooperation to preserve, protect, and improve the quality of the environment by strengthening regional and global environmental agreement and capacity building;
- Cooperation to promote research and education in the region and the community, including exchange of students and people engaging in education, and to develop science and technology in the community;
- Cooperation for freer movement of people; and
- Cooperation in the field of law.

The main intention of drafting the Charter is to replace the existing flexible method of framework building with a more effective and maintainable mechanism with clear principles for operating the community. So drafters propose the basic principles to be shared. Article 4 provides 10 principles shared by the member states:¹⁴

1. The member states shall mutually respect the independence, sovereignty, equality, territorial integrity, and national identity of the member states.
2. The member states shall abstain from practicing policies and adopting measures that have serious adverse effects on the development of other member states.

12. *Ibid.*, pp. 207–208.

13. *Ibid.*, p. 258.

14. *Ibid.*, pp. 258–259.

3. The member states shall abstain from participating in any activity that constitutes a threat to the sovereignty, territorial integrity, or political and economic stability of other member states.
4. The member states shall renounce aggression and the threat or the use of force in their relations, and shall rely exclusively on peaceful processes in the settlement of disputes and conflicts among them.
5. The member states shall promote the objectives of the community and observe faithfully the principles contained in this Charter, the Charter of the United Nations, and other basic international treaties, conventions, and agreements subscribed by the member states.
6. The member states shall promote and uphold generally accepted principles of international law, including international humanitarian law.
7. The member states shall respect, protect, and promote human rights and fundamental freedoms without distinction as to, in particular, gender, race or ethnic origin, religion or belief.
8. The member states shall reject any act of genocide, ethnic cleansing, torture, and any use of rape as an instrument of war.
9. The member states shall reject unconstitutional and undemocratic changes of government.
10. The member states shall fulfill and implement in good faith all obligations and agreed commitments under this Charter and shall make maximum and unfailing efforts in participating in the activities provided for in this Charter.

The Draft Charter of East Asian Community establishes two kinds of institutions: intergovernmental and independent of government. The former will consist of two types of councils: an East Asian Council and several Councils of Ministers. These will be supported by Standing Committees. The latter will take forms of an Eminent Persons Committee and a National Parliamentarians Committee. It also considers registered nongovernmental organizations (NGOs) to have the important function of participating in the community as monitoring bodies. The Secretariat will gather process and disseminate information. For the decisionmaking procedure, the Council of Ministers, supported by the Standing Committee, is to prepare and draft common action plans and make recommendations to the East Asian Council, which will in turn make the decisions. For the implementation process, each member state will implement the common action plan in the form of national action plans. After implementation, member states will produce annual national reports for the Secretariat and for the Council of Ministers. Registered NGOs will also communicate on the results of the implementation of measures to the East Asian Secretariat.¹⁵

Drafters advocate that this is an attempt to realize the East Asia from two perspectives. One is to push the project of justice and reconciliation and another is to contribute to global governance. The Draft Charter considers that by participating in these two projects, states will make up the political units of East Asia.¹⁶ However, I think that if we treat the first perspective as an essential condition, we should enlarge our way of thinking on how to approach North Korea in the effort for regional dialogue. The second point is that if we maintain the present draft idea of ASEAN Plus Three, we need to request the realization of “rule of law” in China through the common efforts of the international community.

15. *Ibid.*, pp. 210–211.

16. *Ibid.*, p. 141.

9

THE MINJINYU 5179 INCIDENT AND ITS IMPACTS ON THE EAST CHINA SEA SITUATION

Wang Hanling¹

On September 7, the Japanese Coast Guard (JCG) arrested the Chinese fishing boat *Minjinyu* 5179 near the Diaoyu Islands (Senkaku), which has caused tension between China and Japan. This paper discusses the incident and its impacts on the East China Sea situation from the perspective of history, law, and politics.

The *Minjinyu* 5179 Incident

The 37-meter Chinese trawler *Minjinyu* 5179 was hit at its bow by the JCG 1,349-ton *Yonakuni*'s stern at around 9:15 a.m. on September 7 in waters some 12 kilometers north-northwest of Huan-gweiyu islet, and again hit by another JCG patrol boat, *Mizuki*, 40 minutes later. No one was hurt on any vessel. Six Japanese investigators boarded the Chinese ship after it stopped and questioned the Chinese crew. Japan arrested the captain of the Chinese fishing boat despite demands from China that Japan stop “illegal interception” of Chinese boats. The Chinese Ministry of Foreign Affairs lodged protests four times and summoned the Japanese ambassador to China, Uichiro Niwa, four times within six days from September 7 to 13. Dai Bingguo, the state councilor (vice premier level) in charge of foreign affairs, summoned the Japanese ambassador in the wee hours. He was the highest-ranking Chinese official to make a response to the incident so far. Dai expressed solemnly to the Japanese ambassador the Chinese government's grave concerns and its serious and just position. Dai warned Japan not to make a wrong judgment on the situation and urged it to make a “wise political resolution” and immediately release the fishermen and return the boat. Previously, Foreign Minister Yang Jiechi on September 10 summoned the Japanese ambassador and demanded Japan immediately and unconditionally release the boat and all the crew, saying China's determination to defend its sovereignty over the Diaoyu Islands and the interests of the Chinese people was unswerving. On September 13, 14 crew (fishermen) were released and returned to China. The trawler captain Zhan Qixiong was still under arrest for “obstructing officers on duty.” Zhan's 85-year-old grandmother died hours after hearing the bad news of his arrest on September 7. A Japanese court ruled on September 10 that Zhan could be detained until September 19 when prosecutors would have to decide whether to lay “formal charges” against him.

A Brief History of the Diaoyu Islands Dispute

The Diaoyu Islands are a group of eight uninhabited islands located in the East China Sea, less than 100 kilometers northeast of Taiwan and 410 kilometers southwest of the Liu Qiu Islands

1. Wang Hanling is a professor of international law and marine affairs and director of the Centre for Ocean Affairs and the Law of the Sea at the Institute for International Law at the Chinese Academy of Social Sciences in Beijing, China.

(Ryukyu Islands, also known as Okinawa), on the Chinese side of the Liu Qiu shelf. The largest island is two miles long and less than one mile wide.

The term “Diao Yu” in Chinese means “fishing.” The earliest historical records of the islands are Chinese navigation records from 1403, during the rule of Yong Le in the Ming Dynasty, more than 400 years before Japan claimed discovery of the Diaoyu islands in 1884. For several centuries, the Diaoyu Islands have been administered as a part of Taiwan and have always been used exclusively by Chinese fishermen as a base for fishing, both before and after World War II. This history was recognized by some distinguished Japanese scholars such as Kiyoshi Inoue of Kyoto University and Murata Tadayoshi of Yokohama University, who cited years of research, offered drastically different, dissenting views from the Japanese government, and supported China’s claim to the Diaoyu Islands.

Japan’s claim of ownership over the Diaoyu Islands is based on three reasons. First, when Japan found the islands, they were uninhabited. Second, Japan began to put them under its formal jurisdiction after it seized them in 1895. Third, the islands are part of Japan’s Ryukyu Islands but not part of the Chinese Taiwan Island, and its ownership over Ryukyu Islands is recognized by the United States. These are all groundless.

In 1874, Japan took Liu Qiu Islands from China by force when Chinese Qing Dynasty was involved in several wars with other foreign countries. However, the Diaoyu Islands still remained under the administration of Taiwan, a part of China. After being defeated by Japan in the Sino-Japan War, China ceded Taiwan to Japan under the unfair Shimonoseki Treaty signed on April 17, 1895. As a part of Taiwan, the Diaoyu Islands was theoretically ceded to Japan at that time.

Taiwan was returned to China at the end of World War II in 1945 based on the 1943 agreement of the Cairo and Potsdam Declarations. The Japanese government accepted the terms that stated in these documents “that all the territories Japan has stolen from the Chinese, such as Manchuria, Formosa, the Pescadores, shall be restored to the Republic of China.”

In 1951, Article 2 of the Treaty of Peace with Japan, signed by Japan and the allied powers (excluding China, which has never recognized this treaty), stated that “Japan renounces all right, title and claim to Formosa and the Parcels.” Article 4 of the separate peace treaty signed between Japan and the Republic of China (ROC) in 1952 declared that all agreements between Japan and China before 1941 were null and void.² As stated above, it is reasonable to understand that the Diaoyu Islands should be returned to China because the Diaoyu Islands are one part of Taiwan. However, Japan has maintained that the islands should not be included in these treaties. This issue remained quiet through the 1950s and 1960s.

The Diaoyu Islands issue had not been raised until the UN Economic Commission for Asia and the Far East suggested possible large hydrocarbon deposits in the waters off the Diaoyu Islands in 1969. (Actually, no oil has ever been found and no systematic search for oil has yet been carried out.) In 1970, the United States and Japan signed the Okinawa Reversion Treaty, which included the Diaoyu Islands as part of Okinawa to be returned to Japanese rule. This treaty was immediately challenged by both mainland China and Taiwan. The dispute emerged when the Japanese government delivered a note to the ROC government stating that its bids to exploit the oil potential around the island were not valid. In September 1970, a Taiwanese gunboat planted the ROC flag on the islands. In December, the People’s Republic of China (PRC) intervened in this

2. Cairo Declaration, November 26, 1943.

dispute, stating that the Diaoyu Islands and Taiwan were China's territory and that exploitation of the area by foreign countries would not be tolerated.

The United States, in its accord on returning Okinawa Island to Japan, said it would take a neutral stance toward any ownership disputes when it returned the islands gained from Japan during World War II, which included the Diaoyu Islands. The United States "considers that any conflicting claims are a matter for resolution by the parties concerned." The United States further explained that what it handed over to Japan was the administrative power rather than the ownership of the Diaoyu Islands after the eruption of the Chinese movement defending the Diaoyu Islands worldwide in 1971.

Since the reversion of Okinawa to Japanese rule, the Japanese government has repeatedly sent its naval forces to eject Chinese fishermen from the area. A crisis occurred in 1978 when the Japanese right-wing political group Nihon Seishinsha (Japanese Youth Federation) illegally erected a lighthouse on the Diaoyu Islands in an attempt to legitimize Japanese territorial claim over the islands. The event raised angry protests from Chinese communities all around the world. In July 1996, the Nihon Seishinsha made their third illegal landing on the Diaoyu Islands, erecting a new lighthouse on the northern islet. Though this lighthouse was unexpectedly destroyed by a typhoon later, the group soon built another lighthouse on September 9. Again, Chinese communities, including those from Hong Kong and Taiwan, held an even larger protest against the Japanese government.³ On August 10, 2008, the Taiwanese fishing boat *Lianhe Hao* sank after colliding with a JCG vessel during an early morning chase about ten kilometers south of the Diaoyu Islands north of Okinawa. The incident aroused protest in both Taiwan and the mainland. Taiwan sent ships to the adjacent seas of the Diaoyu Islands to demonstrate sovereignty over the islands. On December 8, 2008, China Sea Surveillance ships patrolled the islands.

In order to promote friendly relations and pursue a win-win compromise with Japan, the late Chinese leader Deng Xiaoping proposed that the two countries seek joint development of the Diaoyu Islands, while shelving disputes over the ownership of them during the negotiation and signing of the Sino-Japanese Peace and Friendship Treaty in October 1978. Both Chinese and Japanese governments had agreed to shelve the issue for future resolution since then.

Impacts of the *Minjinyu* 5179 Incident on the East China Sea Situation

From a legal perspective, Japan has no right to conduct so-called law enforcement in the adjacent seas of the Diaoyu Islands. As Chinese Foreign Ministry spokeswoman Jiang Yu said, Japan's acts violated international law and basic international common sense and were "ridiculous, illegal and invalid." One of the fishermen, Wang Guohua, was quoted as saying: "For generations we have fished in those waters and so how could they seize us?" Japan's attempt to control the islands will not change the legal status of the islands and their adjacent waters as China's sovereignty.

From a political perspective, Japan's actions have seriously harmed Sino-Japanese relations in general and cooperation in the East China Sea in particular. The incident has developed into a diplomatic crisis between China and Japan.

3. See, for example, Cheng-China Huang, "ICE Case Studies: Diaoyu Islands Dispute," Inventory of Conflict & Environment (ICE), <http://www1.american.edu/TED/ice/DIAOYU.HTM>.

- The Sino-Japanese negotiation on the East China Sea issue has been postponed. In June 2008, China and Japanese reached a principled consensus on the East China Sea issue after many rounds of difficult consultations and negotiations. Under the consensus, a joint development zone that is across the median line of the East China Sea was designated; Chinese enterprises welcome the participation of Japanese legal persons in the development of the existing oil and gas field in Chunxiao in accordance with the relevant laws of China governing cooperation with foreign enterprises in the exploration and exploitation of offshore petroleum resources. The governments of China and Japan will work to reach agreement on the exchange of notes as necessary and exchange them at an early date.⁴ This has been viewed as to be in favor of Japan and caused doubts and even protests in China. On September 10, three days after the *Minjinyu* incident, China decided to postpone a negotiation with Japan on the East China Sea issue, which had been scheduled for mid- September, after a Japanese court ruled for a 10-day detention through September 19 against the captain, despite strong protests from China. Ministry of Foreign Affairs spokeswoman Jiang Yu said that the Japanese side had “ignored China’s repeated solemn representations and firm opposition, and obstinately decided to put the Chinese captain under the so-called judiciary procedures.” “Japan will reap as it has sown, if it continues to act recklessly,” Jiang warned. In addition, China has also postponed its high-level official visits to Japan. Li Jianguo, vice chairman of the National People’s Congress (NPC) Standing Committee, who was scheduled to visit Japan for a five-day trip starting on September 14 at the invitation of the Japanese lower house of parliament, postponed his official visit to Japan.
- China sent law enforcement ships (Fisheries Bureau and China Sea Surveillance) to the adjacent seas of the Diaoyu Islands to protect Chinese fishermen and stop Japanese survey ships working there, which demonstrated China’s sovereignty and jurisdiction in the area.
- The incident has aroused anti-Japanese sentiment and a new round of movement for defending the Diaoyu Islands among Chinese both at home and abroad. The movement first took place in the United States when the United States “handed over” the administration of the islands to Japan in 1971.
- The position of some Japanese politicians on the Diaoyu Islands issue has changed. For example, Japanese minister of state for government revitalization Murata Renho admitted that the Diaoyu Islands were disputed after the incident. She was criticized because her position contradicted the previous position of the Japanese government. On September 5, the two candidates for leadership of the ruling Democratic Party of Japan (DPJ), Prime Minister Naoto Kan and DPJ powerbroker Ichiro Ozawa, both claimed that the Diaoyu Islands belonged to Japan and had never belonged to China in history in an effort to drum up support. It was therefore suspicious that the incident was premeditated by Japan. Prime Minister Naoto Kan won the ruling DPJ leadership vote on September 14. His victory means Japan’s policy will remain stable, and there should be no major changes for Sino-Japanese relations. On the same day, Chinese spokeswoman Jiang Yu urged that Japan must “immediately cease the so-called legal procedures” against the captain; it was “imperative” that the captain be allowed to return home “immediately and safely.”⁵ It was hoped that Kan could seize the chance of his victory to reach

4. Consulate General of the People’s Republic of China in San Francisco, “China and Japan Reach Principled Consensus on the East China Sea Issue,” June 18, 2008, <http://www.chinaconsulatesf.org/eng/xw/t466632.htm>.

5. Bao Daozu, “China: ‘Legal procedures’ must end,” *China Daily*, September, 15, 2010, http://www.chinadaily.com.cn/china/2010-09/15/content_11302805.htm.

an appropriate solution, preferably before the 79th anniversary of the “September 18 Incident.”⁶ If the current tension drags on, bilateral ties will be deeply hurt.

Observations

- The incident is not isolated. It is consistent with Japanese recent policy on the Diaoyu Islands. First of all, it was reported that the Kan administration planned to nationalize 25 islands including the Diaoyu Islands in August. Second, “Defense of Japan 2010,” the annual white paper published in September, expressed concern about the military development of China and called for strengthening the defense of the islands in the southwest, including the Diaoyu Islands. Third, Japan has strengthened military cooperation with the United States and South Korea after the *Cheonan* incident, which is more against China than North Korea. Against this background, Japan showed a tough stance by using aggressive, dangerous tactics of collision in the *Minjinyu* incident.
- The U.S. element cannot be ignored in the issues of the Diaoyu Islands and the East China Sea. The U.S.-Japan military alliance has been the cornerstone of regional security in Northeast Asia since the end of World War II. The Diaoyu Islands dispute was a disruptive mine planted by the United States into Sino-Japanese relations nearly four decades ago. When the United States decided to hand over occupied Okinawa to Japan in 1972, the Diaoyu Islands and adjacent islets, which belong to China, were also handed over to Japan. In so doing, the United States wanted to prevent China and Japan from getting too close and bring ties between the two countries under its control. The disputes between China and Japan over the sovereignty of the Diaoyu Islands have given rise to frequent friction between the two countries and become a drag on their bilateral relations.⁷ In March 2004, the U.S. government stated that the 1951 Treaty of Mutual Cooperation and Security between the United States and Japan applies to the Diaoyu Islands.
- The Diaoyu Islands dispute will last a long time in the future, which can only be managed rather than being resolved in the short term. This sensitive issue will remain an obstacle between China and Japan in their bilateral relation, especially the negotiation on maritime delimitation of the East China Sea, and other maritime cooperation including joint developments and management of the marine environment and resources. However, in the post-financial crisis era, Japan, China, and the United States need to cooperate in dealing with common challenges and should not escalate disputes. Neither the United States nor Japan can solve major regional and global issues without the cooperation of China. In this connection, the doctrine of “setting aside disputes and pursuing joint developments” advanced by Deng Xiaoping remains to be a wise choice.

6. The “September 18 Incident” is also known as the Mukden Incident or the Manchurian Incident. On September 18, 1931, near Mukden (now Shenyang) in southern Manchuria, a section of railroad owned by Japan’s South Manchuria Railway was dynamited. The Imperial Japanese Army, accusing Chinese dissidents of the act, responded with the invasion of Manchuria, leading to the establishment of Manchukuo the following year. The Japanese militarists staged the explosion in order to provide a pretext for war. It was a long premeditated invasion of China staged by Japanese Imperialist forces, a prelude to the occupation of northeast China, and a provocation of an all-round aggressive war against China.

7. Feng Zhaokui, “Diaoyu dispute sowed by US,” *China Daily*, September, 15, 2010, http://www.chinadaily.com.cn/thinktank/2010-09/15/content_11303758.htm.

- A major topic of this conference is history. History is very important. We learn lessons from history in order to avoid the mistakes we made in the past. If we forget history, history may repeat. We gather today to reflect on history in order to build a better future together. We settle territorial disputes not only for our generation but for next generations. We should be aware that maritime delimitation is the beginning of a new history of bilateral relations of the parties concerned rather than the end. Therefore, in territorial dispute settlement, we should plant seeds of peace rather than hatred for next generations.



DISCUSSION

Tae-Hyung Kim¹

“New Tensions and Challenges in Northeast Asia,” the topic treated by the papers in this session, is tremendously timely and relevant since there is presently plenty of tension and many challenges in the region. First, Alexis Dudden’s paper has an interesting and provocative title, “The Tea Party of Japan.” As insightful and thought-provoking as all her work, this paper analyzes a new trend of Japan’s right-wing ultranationalist movement. The activists of this new movement in Japan, dubbed “Japan’s Tea Partiers” by Dudden, share two fundamental similarities with their American counterparts: both are the product of sinking economies and both appeal to the disgruntled public through anti-foreign and anti-immigrant rhetoric. Since the ongoing economic recession is the motivating force of this new brand of extreme nationalist group, recruits are easily found on “the other side of Japan,” an impoverished and inward-looking region.

Although they promote a virulent form of nationalist and xenophobic claims, as the “Old Boys” have done, they differ from the old boys in openly calling for violence against foreigners, evoking associations with the emperor to advance their cause, and not even hesitating to attack other groups that seem to belong to the same side. They advocate a patriarchal and hierarchically pure and ideal Japan based on an imaginary past. Yet there is uncertainty about the feasibility of Dudden’s suggestion to enact hate speech crime laws that count in Japan as the first step to curtail the ultranationalists’ activities. In general, as Tom Burkman says, “societies that enact and enforce effective hate crime laws are societies that accept themselves as multiethnic, multiracial, and multicultural.”² But Japan seems to refuse to acknowledge its multiethnicity and hence hesitates to promote and protect diversity. As in the United States and other countries, close observation and careful analysis of where the extreme right groups (including the influential Tea Partiers in Japan) are going, how far they may go, and the implications of their vituperative activities will be necessary in order to effectively protect a democratic society, rich in tolerance and diversity, from these groups’ heinous attacks.

Ina Masaki’s paper begins with a discussion of the constitutional amendment debate in Japan, a subject on which he possesses ample expertise. Linking the constitutional issue with the future of East Asia, he suggests keeping Article 9 to maintain regional peace. Furthermore, Ina advocates expansion of the existing Global Partnership for the Prevention of Armed Conflict (GPPAC) Northeast Asia to establish an East Asian Regional Community based on the resistance spirit and peace argument of An Jung-Geun, a Korean nationalist during the process of Japan’s colonization of Korea, which has remarkable similarities to Kant’s perpetual peace thesis. The importance of

1. Tae-Hyung Kim is an assistant professor in the Department of Political Science at Soongsil University in Seoul, Korea.

2. Thomas Burkman, interlocution with him, September 15, 2010.

economic security amid the economic turmoil that has engulfed most countries around the world is clearly shown in his paper.

Ina's argument that "the neoliberal economic model that characterizes the current face of globalization is resulting in increasing disparity on a worldwide scale and producing potential risks of conflict" echoes Dudden's assumption of the contribution of capitalist modernity and its discontents to the growth of ultra-right-wing nationalism. As both authors acknowledge, this phenomenon is neither new nor unique. Certainly, economic hardships have always been breeding grounds for the increase of extremism within nations and for interstate disputes among neighbors. The current economic downturn has hit Japan, which is still struggling to overcome the economic recession that started in the early 1990s, particularly hard. Thus, it is not surprising to see the sharp increase of the Tea Partiers in Japan, since the growth of far-right-wing extremists is strongly correlated with economic troubles and rising unemployment in other parts of the world as well. Former prime minister Junichiro Koizumi's provocative visits to the Yasukuni shrine during his term, to appeal to Japanese nationalism, despite vehement protests from Japan's neighbors, also reflected the then-governing Liberal Democratic Party's concern regarding the loss of confidence and pride among the Japanese, especially the youth, due to an ongoing economic slump. The potential danger of rising extremism motivates the states in the region to work sincerely to cooperate in economic and human security and not just in traditional military security.

On Ina's topic of the debate about revision of Article 9, it seems there are abundant examples of interpreting the Constitution in a way that permits Tokyo to politically and legally circumvent Article 9 and thereby allow military commitments by the Japanese Self-Defense Forces. From the beginning in the 1950s, how to interpret and differentiate collective self-defense and collective security has never been easily resolved.³ Japan's participation in peacekeeping operations brought controversy and anxiety inside and outside Japan in the 1990s. Tokyo also dispatched its troops to support the U.S. war efforts in Iraq and Afghanistan, although without engaging in combat missions.⁴ Japan's moves were based on its worry about being abandoned by the United States, the single superpower and its only ally against a threatening North Korea and a rising China.⁵ Thus, although Japan de jure adheres to Article 9, the government has de facto gotten around it on many occasions. Therefore, the issue of constitutional revision may not be quite as important as Ina describes it to be.

It would be enlightening to see how the experience and lessons of other regions, especially of Europe in the form of the Organization for Security and Cooperation in Europe (OSCE)⁶ and to a lesser extent the European Union, would play out in community-building efforts in East Asia, since there are many overlapping activities, such as conflict prevention, education, arms control, etc. Another concern I have with this paper is that potential obstacles to achieving the goal of building the East Asian Community are not discussed. The existence of cruel power politics in the

3. Richard Samuels, *Securing Japan: Tokyo's Grand Strategy and the Future of East Asia* (Ithaca, NY: Cornell University Press, 2007), p. 48.

4. Moreover, the passage of the Basic Space Bill in 2008 paved the way to interpretation of peaceful use as "nonaggressive," allowing Tokyo to use satellites to support military operations, including the controversial ballistic missile defense system in collaboration with the United States. Setsuko Aoki, "Japan Enters a New Space Age," *Asia Times*, July 3, 2009.

5. Samuels, *Securing Japan*, p. 98.

6. Wolfgang Zellner, "The OSCE: Uniquely Qualified for a Conflict-Prevention Role," in *Searching for Peace in Europe and Eurasia: An Overview of Conflict Prevention and Peacebuilding Activities*, ed. Paul van Tongeren, Hans van de Veen, and Juliette Verhoeven (Boulder, CO: Lynne Rienner, 2002).

region, the growth of an aggressive version of nationalist sentiment among the countries experiencing economic hardships, and fierce competition over energy resources and other materials all present significant obstacles to any move toward construction of a meaningful community.

Wang Hanling, an expert on maritime territorial disputes, provides an in-depth analysis, in a very strong and assertive fashion, of the dispute over the Diayou/Senkaku islands in the East China Sea, paying particular attention to the recent incident involving a Chinese fishing boat and two Japanese patrol boats and the ensuing tense diplomatic row between the two countries. The incident became a diplomatic battle between these Asian rivals and escalated to verbal threats and Beijing's economic sanction of halting exports of rare-earth minerals to Japan. The row ended temporarily with Japan's release of the Chinese boat captain, seen as a victory for China and a humiliation for Japan.⁷ Yet this outcome certainly does not mean that the ongoing maritime territorial dispute between the two is over.⁸ In his paper, Wang demonstrates his expertise on the issue point-blank and in detail. Yet some of his arguments need to be backed up by more convincing evidence. For example, how is simply sending "law enforcement ships to the adjacent seas of the islands" demonstrating "China's sovereignty and jurisdiction in the area"? Furthermore, Wang makes a controversial claim that, based on the views of the leadership of the Democratic Party of Japan, "it was therefore suspicious that the incident was premeditated by Japan." Something compelling in the way of evidence must be put forward in order to keep that statement from falling into the realm of sheer speculation.

Michael Green superbly shows that the Cold War legacy is still everywhere in East Asia, especially surrounding the Taiwan Strait and the Korean peninsula, and suggests how the Cold War could be ended in the region. Yet divergent expectations among the countries in the region about how the Cold War will end (based on different strategic interests, as Green persuasively explains) makes progress slow and painful. Another very appealing point in the paper is his argument that a one-theory-fits-all approach does not work well in East Asia;⁹ hence we need to be more open minded in including a diversity of views and theories in our approach if we are to better comprehend the dynamics of the region.

All these well-researched and thought-provoking papers deal with interwoven challenges of history and politics and complex dynamics of identity and interests, all of which make the establishment of a peaceful region replete with reconciliation and free from nasty power politics extremely difficult. I begin with the potential danger of nationalist identity politics with origins in historical events. According to symbolic politics,¹⁰ people are motivated to act based on emotions, not rational calculations. Each ethnic (or national) group defines its identity through shared culture and interpretations of its history that bind the group together and distinguish it from others.¹¹ Ancient myths of victimhood or past glory form a symbol that the nation takes in utmost sincerity, regardless of its genuineness. The myth-symbol complex leads the people to "make political

7. Martin Fackler and Ian Johnson, "Japan Retreats with Release of Chinese Boat Captain," *New York Times*, September 24, 2010.

8. Cara Anna, "Thousands in China, Japan Protest over Island Claims," Associated Press, October 16, 2010.

9. See Peter Katzenstein and Nobuo Okawara, "Japan, Asian-Pacific Security, and the Case for Analytical Eclecticism," *International Security* 26, no. 3 (Winter 2001/10022): 153–185.

10. Stuart Kaufman, *Modern Hatreds: The Symbolic Politics of Ethnic War* (Ithaca, NY: Cornell University Press, 2001).

11. Stuart Kaufman, "Symbolic Politics or Rational Choice? Testing Theories of Extreme Ethnic Violence," *International Security* 30, no. 4 (Spring 2006): 50.

choices based on emotion and in response to symbol.”¹² Manipulative leaders could use emotion to mobilize the group to act violently in the name of protecting its identity and symbol.

In modern East Asia, each nation has developed its national identity by differentiating itself through different interpretations of history and the inheritance of a “unique” or superior culture. Often times, this is how history textbooks and the media portray the nation’s identity in each country.¹³ Through this process, people develop prejudice and bias against others. There are several outstanding symbols without much material merit that nonetheless have enormous symbolic power to motivate people, as in the case of Dokdo/Takeshima and Senkaku/Diayou.¹⁴ Although history-ridden and symbol-motivated all-out violence between nations in East Asia is unlikely, thanks to the absence of some necessary conditions for ethnic war, such as fear of ethnic extinction and opportunity to mobilize and fight (here geography helps: “the stopping power of water”¹⁵), one cannot rule out the possibility of myth- or symbol-originated conflicts. A surge of ultranationalist leaders or groups that could manipulate the current disputes for their own political gains would be particularly worrisome and hence should be watched carefully. Given the emotion-filled tension of the region, the role of the United States will be vital to keep the involved parties out of trouble.¹⁶

On top of this dangerous tendency, a tectonic material shift is also occurring in the region, namely the relative decline of the United States and the rising of China.¹⁷ China has been the biggest beneficiary of the U.S. hegemonic order, and Beijing has been cautious to avoid open confrontation with the United States, as was the instruction of the late Deng Xiaoping.¹⁸ Yet recently several signs of Chinese assertiveness and status-seeking behavior have appeared,¹⁹ which is something quite apart from China’s “peaceful rise” dictum of reserved and modest behaviors and which is seemingly indicative of a China emboldened by its own dramatic economic success and the re-

12. Kaufman, *Modern Hatreds*, p. 29.

13. Mikyoung Kim, “Myth and Fact in East Asia’s History Controversy,” *Japan Focus*, August 15, 2008, http://japanfocus.org/-Mikyoung_Kim/2855.

14. Alexis Dudden, *Troubled Apologies among Japan, Korea, and the United States* (New York: Columbia University Press, 2008), p. 12.

15. John Mearsheimer, *The Tragedy of Great Power Politics* (New York: W.W. Norton, 2001), p. 114.

16. The United States is not completely immune to the history-narrative-disputes in the region though, since its inaction or misrepresentation after WWII in some ways contributed to the current territorial disputes. Dudden, *Troubled Apologies*, pp. 24–25.

17. Certainly, not everyone agrees with this view. For example, Brooks and Wohlforth dismiss this thesis and argue that it is unlikely for China to become a serious contender of the United States in the foreseeable future.

Stephen G. Brooks and William C. Wohlforth, *World out of Balance: International Relations and the Challenge of American Supremacy* (Princeton, NJ: Princeton University Press, 2008), pp. 40–45.

18. See David Shambaugh, ed., *Power Shift: China and Asia’s New Dynamics* (Berkeley: University of California Press, 2005); Avery Goldstein, *Rising to the Challenge: China’s Grand Strategy and International Security* (Palo Alto: Stanford University Press, 2005); and Gilbert Rozman, *Chinese Strategic Thought toward Asia* (New York: Palgrave Macmillan, 2010).

19. Yong Deng, *China’s Struggle for Status: The Realignment of International Relations* (Cambridge: Cambridge University Press, 2008); and Deborah Larson and Alexei Shevchenko, “Status Seekers: Chinese and Russian Responses to US Primacy,” *International Security* 34, no. 4 (Spring 2010): 63–95. Examining Beijing’s efforts to build a power projection navy, Ross argues that “just as nationalism and the pursuit of status encouraged past land powers to seek great power maritime capabilities, nationalism, rather than security, is driving China’s naval ambition.” See Robert Ross, “China’s Naval Nationalism: Sources, Prospects, and the US Response,” *International Security* 34, no. 2 (Fall 2009): 46.

cent series of setbacks suffered by the United States. For example, Beijing has declared the disputed islands and the sea-lanes around them in the South China Sea as China's core national interests, which has made its neighbors anxious and pushed Washington to respond by arguing that "resolving the conflicting claims peacefully is an American national interest."²⁰ The row over the release of crew members of the Chinese ship that became involved in a collision with Japanese patrol boats near the disputed Senkaku/Diayou islands in the East China Sea, thoroughly analyzed by Wang Hanling, also demonstrates how seriously Beijing takes the matter.²¹ The sinking of a South Korea corvette *Cheonan* in March²² also shows where Beijing's strategic interests lie and how divergent those interests are from other nations in the region, as Michael Green excellently explains.

China's recent assertive foreign policy²³ has caused balancing behaviors by many of its neighbors and pushed them closer to the U.S. orbit, including Japan, South Korea, Vietnam, Indonesia, etc.,²⁴ all of which seemed to be flocking around China until recently. China, emboldened by its economic success and military modernization, seems to have decided to use "big sticks" in its neighborhood.²⁵ In Northeast Asia, this has pushed Japan and Taiwan closer to the United States and North Korea toward China. South Korea, a country that has been maintaining a military alliance with the United States while relying on China for economic benefits,²⁶ opted to be closer to the United States at the expense of creating the worst relationship between Seoul and Beijing since their 1992 normalization. Seoul's naval forces have conducted several exercises with their U.S. counterparts, which included the formidable carrier USS *George Washington*, raising eyebrows in Beijing.²⁷ South Korea and the United States, along with Japan and Australia, also conducted a joint naval drill in mid-October as a part of the Proliferation Security Initiative (PSI) operations, which Seoul had been reluctant to join (due to its concern about its neighbors) until last year when Pyongyang tested its second nuclear device.²⁸

Thus, nasty power politics seems to dominate the region, amplified by emotion and prestige-laden tension. Also, the current maritime territorial disputes that symbolize ongoing history and identity disputes cannot be understood without considering the disputed areas' importance as

20. Joshua Kurlantzick, "Avoiding a Tempest in the South China Sea," Expert Brief at the Council on Foreign Relations, September 2, 2010, <http://blogs.cfr.org/asia/2010/09/02/avoiding-a-tempest-in-the-south-china-sea/>.

21. Sheila Smith, "Chinese Fishing Boat Sets off Sino-Japanese Conflict," Expert Brief at the Council on Foreign Relations, September 13, 2010, <http://blogs.cfr.org/asia/2010/09/13/chinese-fishing-boat-sets-off-sino-japanese-conflict/>.

22. For a careful analysis of this tragedy and its aftermath, see Scott Snyder, "The Cheonan Incident and Its Impact on Regional Security," CFR Asia Unbound Blog, August 25, 2010, <http://blogs.cfr.org/asia/2010/08/25/the-cheonan-incident-and-its-impact-on-regional-security/>.

23. Brown hints that the upcoming leadership change in China, scheduled to take place in 2012, might have something to do with Beijing's current forceful foreign policy in order to look tough both inside and outside China. See Kerry Brown, "Power Struggle among China's Elites," *Foreign Policy*, October 14, 2010, http://www.foreignpolicy.com/articles/2010/10/14/the_power_struggle_among_chinas_elite.

24. John Pomfret, "US Continues Effort to Counter China: Indonesia Agreement Is Latest Hedge against Beijing's Rise in Asia," *Washington Post*, July 23, 2010; and Edward Wong, "China's Disputes in Asia Buttress Influence of US," *New York Times*, September 22, 2010.

25. David Sanger, "Three Faces of the New China," *New York Times*, September 25, 2010.

26. Scott Snyder, *China's Rise and the Two Koreas: Politics, Economics, and Security* (Boulder, CO: Lynne Rienner, 2009).

27. Elizabeth Bumiller and Edward Wong, "China Warily Eyes US-Korea Drills," *New York Times*, July 20, 2010.

28. "Experts Meet ahead of Naval Drills in South Korea," Associated Press, October 13, 2010.

vital sea lines of communication amid fierce competition among the countries over energy resources²⁹ and markets. Not surprisingly, a serious naval arms race has been going on in East Asia.³⁰ In addition, the recent intense disputes over the Chinese currency's alleged artificial undervaluation further complicate the relationship among major economic powerhouses.³¹ Thus, under the circumstances, Michael Green's suggestion to shape the expectations and calculations of the other powers, especially China's, may not be taken well by Beijing and therefore could be counterproductive, given China's definition of strategic interests, which are strongly influenced by its desire for status and privilege. That problem is added to the difficulties of putting the policy into force. It is also highly doubtful whether a country like South Korea, a medium state³² that is sandwiched

29. For the importance of energy and its relationships with security, see Jan Kalicki and David Goldwyn (eds.), *Energy and Security: Toward a New Foreign Policy Strategy* (Washington, DC: Woodrow Wilson Center Press, 2005); and David Zweig and Bi Jianhai, "China's Global Hunt for Energy," *Foreign Affairs* 84, no. 5 (September/October 2005): 18–30.

30. Richard Samuels, "New Fighting Power: Japan's Growing Maritime Capabilities and East Asian Security," *International Security* 32, no. 3 (Winter 2007/2008): 84–112; Ross, "China's Naval Nationalism"; U.S. Department of Defense, "2009 Annual Report to Congress on Military Power of the PRC," http://www.defense.gov/pubs/pdfs/China_Military_Power_Report_2009.pdf; and Edward Wong, "Chinese Military Seeks to Extend Its Naval Power," *New York Times*, April 23, 2010.

31. Sewell Chan, "IMF Doesn't Press China on Currency," *New York Times*, October 19, 2010.

32. The most common term in use to identify a state like South Korea is "middle" state. Middle power has been a useful but vague concept and remains unsatisfactory because it lumps countries around the world solely based on material criteria. The countries in Western Europe, North America, and Oceania have qualitatively different security and other interests from most countries with similar material capacity in other parts of the world. In order to be more analytically rigorous and contribute to understanding the real world, ideational and normative factors must be taken into account to grasp the foreign policy behaviors of the countries located in other regions. As a first step to developing a more useful categorization, I delineate a second group of mid-sized nations in Latin America, Asia, and Africa, which I term medium powers to differentiate them from the middle powers of Western Europe, North America, and Oceania. The historical, geographical, and cultural features of medium states make their behaviors distinct from those of traditionally recognized middle powers with a comparable level of material capacity. Even medium powers are diverse, and their behaviors can be affected by internal and external security environments, historical relationships with their neighbors, and the dynamics of domestic politics. Despite their diversity, however, the medium powers have much in common. They, especially those in the Middle East, South Asia, and East Asia, tend to have acute external security concerns and uneasy relationships with their neighbors for historical and geographic reasons. As former colonies for parts of their histories, they espouse a strong sense of nationalism. Their aspiration to promote independent foreign policy is supported by their relative economic affluence and significant military expenditure. Since the end of the Cold War, when it became apparent that the world had entered a unipolar phase of U.S. preponderance, many of these states have expressed their desire to be more assertive and pro-active in foreign policy. The medium states tend to act with prudence and caution in making their foreign policy decisions, regardless of their cultural orientations, ideological affiliations, or regime types. Thus, medium powers possess considerable military capability and share similar security concerns and interests. Medium powers aspire to be reckoned with in international politics, yet they understand the limits imposed by their economic and technological capability, geography, and military strength. This tendency of medium powers is apparent in the case of South Korea. The geographic location of South Korea (surrounded by China, Japan, and Russia) and the harsh reality of Northeast Asia have forced South Korea to remain dependent on the ROK-U.S. Security Alliance for more than half a century. South Korea's recent move toward more autonomy and independence based on its economic and political development and strengthened aggregate power has increased tension with the United States. Yet the reality of the Korean peninsula forces South Korea to remain dependent on its reliable security partner, despite aspirations to greater autonomy as a medium power. South Korea's growing tendency toward assertiveness, the uneasy but still strong and essential relationship with the United States, and the increasing significance to Seoul of "rising China" are all reflected in South Korea's security policy. Thus, the key to understanding Seoul's policy is

between major powers, can afford to be seen as so one-sided for long. Maintaining the security alliance with the United States is vitally important for Seoul, but distancing itself from Beijing too much may not be a wise policy.

Then, is the future of Northeast Asia as bleak as Mearsheimer³³ envisions? Not necessarily. The post-*Cheonan* tension shows signs of easing as many involved, including Pyongyang, seek exit strategies. Despite exchanges of still sharp rhetoric, the two Koreas are reaching an agreement to have a reunion for some of the separated families. Seoul also sent some rice to flood-battered North Korea as a sign of humanitarian assistance. An ensuing session of Six-Party Talks, which is likely to take place sometime soon, could break the ice. The ongoing tension over territorial disputes in the region and over Beijing's recent assertive moves that pressured its neighbors to move closer to Washington also has shown some signs of change. At the meeting of defense ministers of the Association of Southeast Asia Nations and other regional powers in the Asia-Pacific region hosted by Vietnam in Hanoi in mid-October 2010, participants tried to ameliorate the uneasy situation in the region. The delegate from China, acknowledging growing anxiety in other nations, tried to soften Beijing's approach to the issue. At the meeting, Washington and Beijing agreed to resume high-level military contact, which had been suspended by China in protest of the U.S. sale of high-tech weapons to Taiwan, and Secretary of Defense Robert Gates also accepted a Chinese invitation to visit Beijing.³⁴ It will certainly be better for Beijing's national interests to promote accommodation rather than confrontation with Washington. In addition, despite political anxiety, soft power can significantly contribute to bridging the gap among nations. Today's information technology is a double-edged sword: it can easily disseminate diatribe and vitriolic nationalist messages,³⁵ yet it distributes attractive cultural benefits to other nations as well, as has been the case in East Asia for quite a while.

These papers also demonstrate that the new challenges may provide a source of cooperation among the states in such areas as economy and education. More than anything else, even though the region is roiled by emotion and several powerful nations are jockeying for better position to further national interests, caution and prudence are likely to prevail eventually, since a conflict would be too costly to handle.³⁶ The recent party meeting in Pyongyang confirmed the long-circulating rumors about the North Korean succession scenario by elevating Kim Jong Il's youngest son to several high-ranking positions.³⁷ This transition could bring danger as well as opportunity,

its status as a medium power and its tendency toward prudence and caution, often shown as hedging strategy. For further details on medium powers and their behaviors, see Tae-Hyung Kim, "South Korea's Missile Defense Policy: Dilemma and Opportunity for a Medium State," *Asian Politics and Policy* 1, no. 3 (July/September 2009): 371–389.

33. John Mearsheimer, "The Gathering Storm: China's Challenge to US Power in Asia," 4th Annual Michael Hintze Lecture in International Security at the University of Sydney, August 10, 2010.

34. Anne Gearan, "China Tries to Calm Nerves over Asia Sea Activity," Associated Press, October 12, 2010; and Robert Haddick, "This Week at War: China Backs Down for Now," *Foreign Policy*, October 15, 2010, http://www.foreignpolicy.com/articles/2010/10/15/this_week_at_war_china_backs_down_for_now.

35. Tom Friedman, "Power to the (Blogging) People," *New York Times*, September 15, 2010.

36. For example, Seoul and Tokyo are likely to eventually hedge: they will both maintain their security alliances with the United States while not distancing themselves too much from Beijing.

37. Bernard Gwertzman, "North Korea's New Collective Leadership: Interview with Sue Mi Terry," Interview, Council on Foreign Relations, September 29, 2010, http://www.cfr.org/publication/23050/north_koreas_new_collective_leadership.html.

depending on how effectively the other parties engage with the process.³⁸ In the meantime, the United States needs to significantly shift its attention and energy from the Middle East and Central Asia to East Asia as a benign offshore balancer. Yet we must learn carefully the historical lessons of the past behaviors of major powers and all that implies for the current rivalry between the United States and China in East Asia, because these two will determine the general structure of the region for the foreseeable future.³⁹

38. For engagement with Pyongyang, see Sung-Chull Kim and David Kang, *Engagement with North Korea: A Viable Alternative* (Albany, NY: SUNY Press, 2010).

39. In a report on the Korean peninsula, a Council on Foreign Relations special task force team acknowledges the central role of Beijing for Pyongyang's denuclearization and regional stability and recommends establishing a channel of communication with Beijing to efficiently deal with the future of the peninsula. CFR Task Force, chaired by Charles Pritchard and John Tilleli and directed by Scott Snyder, "US Policy toward the Korean Peninsula," Task Force Report, June 2010. For history of the region, see Suisheng Zhao, *Power Competition in East Asia: From the Old Chinese Order to Post-Cold War Regional Multipolarity* (New York: St. Martin's Press, 1997); Bruce Cumings, *Korea's Place in the Sun: A Modern History* (New York: W.W. Norton, 1997); Kenneth Lee, *Korea and East Asia: The Story of a Phoenix* (Westport, CT: Praeger, 1997); and David Kang, *China Rising: Peace, Power, and Order in East Asia* (New York: Columbia University Press, 2007).



ABOUT THE EDITORS

Victor Cha is a senior adviser and Korea Chair at CSIS. He is also a professor of government and director for Asian studies at Georgetown University. From 2004 to 2007, he served as director for Asian affairs at the White House on the National Security Council (NSC). At the NSC, he was responsible for Japan, the two Koreas, Australia, New Zealand, and the Pacific Island nations. He also served as the U.S. deputy head of delegation for the Six-Party Talks. Dr. Cha holds a B.A., an M.I.A., and a Ph. D. from Columbia University, as well as an M.A. from Oxford University.

Ellen Kim is a research associate with the Korea Chair at CSIS, where she manages a number of projects that focus on U.S.-ROK alliance and bilateral relations, the two Koreas, and U.S. foreign policy in Asia. She coauthors a quarterly review of U.S.-Korea relations in *Comparative Connections*, an electronic journal on East Asian bilateral relations. She holds a B.A. in international relations and Japanese studies from Wellesley College and an M.P.P. from the Kennedy School of Government at Harvard University.

Yong-Hwan Kim is a research fellow at the Northeast Asian History Foundation, where he is in charge of managing research projects at a division of the Foundation, Dokdo Research Institute. After receiving his Ph.D. in public international law from Yonsei University in Korea, Dr. Kim worked at the Korea Maritime Institute from 2006 to 2009. He also has been a lecturer at Incheon University in Korea. Dr. Kim's academic interests include international litigation, law of treaties, and the law of the sea. Recently, he has focused on the law and practices of international courts and tribunals, especially concerning territory and maritime interests.

Sang Jun Lee is a research assistant with the Korea Chair at CSIS, where he handles a multiyear project, the Laboratory for the Globalization of Korean Studies, and also the Korea Chair visiting fellow program. His research interests lie in U.S.-Korea relations, South Korean domestic politics, and ROK defense and security policy. He received his B.A. in Asian studies from the George Washington University and spent a year at Seoul National University in 2007, where he studied international affairs as an exchange student.

CSIS | CENTER FOR STRATEGIC &
INTERNATIONAL STUDIES

1800 K Street, NW | Washington, DC 20006
Tel: (202) 887-0200 | Fax: (202) 775-3199
E-mail: books@csis.org | Web: www.csis.org

