

The Takeshima Issue—ROK Government Responses in the 1950s and 1960s
(March 20, 2018) (Summary)

The following is a summary of a talk given by Fujii Kenji, Advisor on the Takeshima Island Issue, Shimane Prefecture, at the Japan Institute of International Affairs.

1 Three Fundamental Points Involving the Takeshima Issue

- (1) Japan has a well-reasoned rationale for three fundamental points on the Takeshima issue, but the Republic of Korea (ROK) does not.
- (2) Firstly, there is the point of whether Japan or Korea was the first to consider and administer the Takeshima islets as national territory. In the case of Japan, the rationale for territorial rights dates back to the 17th century when the Ohya and Murakawa families of Yonago secured the official approval of the Edo shogunate to fish and hunt on Ulleungdo and they also conducted fishing and hunting on Takeshima on the way to Ulleungdo.
- (3) Secondly, there is the issue of declaration of territorial rights and implementation of peaceful rule over the islets under modern international law. In 1905, Japan reaffirmed its intent to possess the islets by incorporating Takeshima into Shimane prefecture through a decision of the Cabinet. In February the same year, the governor of Shimane prefecture also announced that the islets came under the jurisdiction of Shimane prefecture. The prefecture implemented continuous and peaceful rule over the islets by granting fishing licenses and collecting fees for the use of land on Takeshima.
- (4) The third point is the postwar process of delineating the territory of Japan. After the war, the ROK requested that Takeshima be made a territory of Korea during the process of drafting the San Francisco Peace Treaty, but the United States refused this request. This is how matters stood when the San Francisco Peace Treaty was concluded.
- (5) Accordingly, Japan holds three strong cards while ROK has no clear and comparable card at all. Therefore, the ROK treats the issue as a question of historical recognition, claiming that Korea was dispossessed of the territory of Takeshima in the course of Japan's aggression toward Korea, which led to Japan's annexation of Korea in 1910. However, to begin with, the Korean claim is not feasible since there is no evidence that the government on the Korean peninsula implemented continuous and peaceful rule on Takeshima prior to 1905.
- (6) When Lee Myungbak, then President of the Republic of Korea, visited Takeshima in August 2012, Noda Yoshihiko, then Prime Minister of Japan, held a press conference. At the time, Prime Minister Noda clearly made the case for the three points outlined above, stating that the Takeshima issue was not a matter to be argued in the context of historical recognition, but a question of whether the act of unilateral and illegal occupation by the

postwar government of South Korea was consistent with justice and the laws of the international community. Japan should emphasize this point more clearly.

2 Problems with ROK Government Responses to the Takeshima Issue (1950s-1960s)

(1) The Rusk Letter and the ROK Government

- On July 19, 1951, the ROK made a request to the United States that Takeshima be deemed a territory of Korea in the peace treaty with Japan, but the United States turned down the Korean request in the so-called Rusk letter. Dated August 10, 1951, the letter pointed out that Takeshima was “according to our information never treated as part of Korea and, since about 1905, has been under the jurisdiction of the Oki Islands Branch Office of Shimane Prefecture of Japan. The island does not appear ever before to have been claimed by Korea.” Article 2 of the San Francisco Peace Treaty signed on September 8, 1951, establishes that Japan will renounce the territories of “Korea, including the islands of Quelpart, Port Hamilton and Dagelet,” but Takeshima remained a territory of Japan.
- The Rusk letter was conveyed to the ROK government (August 10, 1951) at a time when work on the demarcation of the Syngman Rhee Line had already begun within the ROK government. At the 98th State Council of South Korea held on September 7, 1951, a vast area of the Sea of Japan, including the vicinity of Takeshima, was added to the original bill for the Syngman Rhee Line, which had been drawn around preferred fishing grounds in the East China Sea. Subsequently, the establishment of the Syngman Rhee Line was declared in the Presidential Proclamation of Sovereignty over Adjacent Seas on January 18, 1952.
- The reasons why the ROK chose to ignore the Rusk letter and to include Takeshima in the area of the ocean inside the Syngman Rhee Line have long been a mystery, but the key to resolving the issue is a document held at the Diplomatic Archives in Seoul. The document in question is a letter entitled “The matter of forwarding documents concerning Dokdo” (No. 2208), dated December 13, 1952, and sent from the director of the ROK Ministry of Foreign Affairs to the Korean ambassador to the United States.
- In this letter, the ROK Ministry of Foreign Affairs instructed the Korean ambassador to the United States “to promptly send copies of the relevant documents since we would like to consult the memorandum dated August 10, 1951, where Mr. Rusk, Assistant Secretary of State, outlines the views of the United States government on Dokdo.” The Korean ambassador forwarded the Rusk letter to the ROK Ministry of Foreign Affairs in a document entitled “The matter of forwarding copies of documents concerning Dokdo” (No. 552) dated January 13, 1953.

- There are two possible reasons for such an exchange of messages. Professor Jung Byung-joon of Ewha Womans University has already pointed out one of these possibilities: The Korean ambassador to the United States may not have conveyed to the ROK government the part of the Rusk letter that dealt with the United States response to the Takeshima issue. In addition to the Takeshima issue, the Rusk letter also responds to Korean demands regarding the issue of Japanese property in Korea and the fisheries issue. According to my research, aside from the Takeshima issue, the Korean government acknowledged the U.S. responses to these two issues. Since no response has been found to indicate receipt of the part of the Rusk letter that deals with the Takeshima issue, it is possible to draw the inference described above, that the ROK government was not informed by its ambassador about the U.S. position on Takeshima.
- The other possibility is that although they knew that Takeshima remained Japanese territory under the San Francisco Peace Treaty, President Syngman Rhee and his Foreign Minister, Pyun Yongtae, disregarded this point and included Takeshima in the area of the ocean inside the Syngman Rhee Line.
- In either case, it is an undeniable fact that the ROK government took an action that contravened the San Francisco Peace Treaty. Further, the Korean request addressed to the Korean ambassador to the United States to resend the Rusk letter (the abovementioned No. 2208) stems from a letter from the U.S. Embassy in Korea dated December 4, 1952. This letter concerns the ROK government's protest against a September 1952 incident when U.S. military aircraft conducted bombing training at Takeshima. In the telegram, the United States government told South Korea that the U.S. position on the Takeshima issue was consistent with the Rusk letter. In her paper, "The Creation of a Basis for Possession of Takeshima by the Korean Government," Yamasaki Yoshiko points out that the reference to the Rusk letter was deleted and replaced with [etc.] when the letter was appended to *Introduction to the Dokdo Issue* (1955), a publication edited by the ROK Ministry of Foreign Affairs Government Affairs Bureau. This indicates how inconvenient the ROK government found the Rusk letter.

(2) The Illegal Occupation of Takeshima (1953-54) and the ROK Government

- The Republic of Korea began forcibly occupying Takeshima in the period from 1953 to 1954. The ROK removed Japanese territorial signposts from Takeshima a total of four times. The ROK attacked the patrol boats of Japan's Maritime Safety Agency in July 1953, and in August and November 1954. In June 1954, the ROK dispatched a Coast Guard unit to Takeshima. During this time, the governments of Japan and the Republic of Korea exchanged notes verbales regarding the possession of Takeshima twice respectively.

- As rationales for the possession of Takeshima, the Japanese government clearly presented the three fundamental points outlined in section 1 above, in notes verbales dated July 13, 1953 (the first one) and February 10, 1954 (the second one). That is, (1) the historical point of whether, in ancient times, Japan or Korea had more clearly recognized Takeshima and considered it a part of their territory; (2) The international legal point concerning the incorporation of Takeshima into Shimane Prefecture in 1905 and subsequent effective rule over Takeshima; (3) The point concerning the postwar process of delineating the territory of Japan. Regarding point (2), in particular, the first note verbale states that “in order that a nation may establish its territorial right over any extension of land, it is required, according to the accepted idea of modern international law, to have an intention of making the land a part of its territory, and to exercise an effective administration thereupon;” that Takeshima has been “effectively developed by the Japanese people” since 1905; and that “the Japanese jurisdiction over the island had never been questioned by any foreign countries” (the continued implementation of peaceful rule over the territory). In addition, the second note verbale elaborated on point (2) saying, “The following are requisite, under modern international law, to the acquisition of territory: (1) intention of state to acquire territory; (2) public announcement of the intention, and (3) establishment of adequate power to control the territory.” As examples of specific facts that conform to these requirements, the note verbale referred to the Cabinet decision of January 28, 1905, the announcement by Shimane Prefecture on February 22, 1905, and payments to the national treasury for seal hunting licenses and usage fees.
- When one reads the notes verbales from the ROK government and related internal government documentation, it is clear that the ROK government was unprepared for the claims of the Japanese government, which were based on international law, and totally unable to respond. It seems that the ROK government thought that the resemblance of geological features and biology on Takeshima with those on Ulleungdo, and the distance between Takeshima and Ulleungdo being shorter than the distance between Takeshima and Oki were rationales that supported its viewpoint. Although at a loss over the claims of the Japanese government, the ROK government prepared notes verbales dated September 9, 1953 (the first one) and September 25, 1954 (the second one).
- Concerning historical point (1), the ROK diplomatic mission to Japan in Tokyo sent a document entitled “Matters Concerning the Possession of Dokdo,” dated July 15, 1953 (No. 5142), to the ROK Ministry of Foreign Affairs. In the document, the diplomatic mission sets out its rationale in four historical points under the heading “Tentative Opinion of the ROK Regarding the Possession of Dokdo” They are (1) the mention of Sambongdo in ancient documents; (2) an island on a map by Hayashi Shihei, a 18th century Japanese

strategist; (3) the extension of Korean jurisdiction to Dokdo through the appointment of Lee Kyuwon as prosecutor for Ulleungdo Island in 1882; (4) the extension of jurisdiction to Dokdo by establishing a magistrate on Ulleungdo Island in 1900. Since there were doubts about each claim, the diplomatic mission's document pointed out the need for further investigation. Perhaps the ROK government lacked confidence, but the first note verbale added with regard to the first point that Usan Island mentioned in ancient documents was a reference to Takeshima, but points (2) to (4) of the mission's document were not incorporated into the first note verbale. The document "Matters Concerning the Possession of Dokdo" (No. 257), dated August 12, 1953 and sent from the ROK Ministry of Foreign Affairs to the ROK's diplomatic mission to Japan, is an important document as it states that "The matter is still under investigation since no reliable authority for the placement of Dokdo under the jurisdiction of the prosecutor for Ulleungdo has been found so far," indicating that the Korean claim regarding point (3), the extension of its jurisdiction to Dokdo, is baseless.

- Concerning point (2) and "the continued implementation of peaceful rule," the director of the ROK Ministry of Foreign Affairs raised the matter in the document "Matters Concerning the Possession of Dokdo," dated July 27, 1953 and sent to the directors of the ROK Ministries of Home Affairs and National Defense, as well as to Korea Alpine Club. The document states, "We require documents and materials to enable us to demonstrate that Dokdo was under the jurisdiction of Korea prior to 1905, and when the island was incorporated into the Korean administrative district (for example, Ulleungdo history, or documents establishing the island administrative district)." In the document "Full Report of Opinions on the ROK Government Viewpoints on the Possession of Dokdo" (No. 7162) dated September 2, 1954, and sent from the diplomatic mission to Japan to the director of the ROK Ministry of Foreign Affairs, the mission wanted to know "whether there are official documents or other documentation substantiating the fact that Korea had incorporated Dokdo as a territorial island of Ulleungdo prior to the written report by magistrate Sim Heungtaek," but there was no response from the Ministry of Foreign Affairs or other Korean government agencies. The written report in question was prepared by Sim Heungtaek, the magistrate on Ulleungdo, and addressed to the governor of Gangwon province after a team of inspectors from Shimane Prefecture informed the magistrate of the incorporation of Takeshima into Shimane while on a visit to Takeshima and Ulleungdo in 1906. The document includes the wording "Dokdo, which belongs to our county." However, this alone does not clarify when it was established that Takeshima belonged to Korea, or when the public declaration was made, so it is insufficient as a

“requirement for territorial possession.” This is why the diplomatic mission to Japan requested an investigation.

- Based on the internal communications of the ROK government described above, it is clear that while the ROK government acknowledged that it needed to show evidence that the government on the Korean peninsula prior to 1905 recognized Takeshima and administered it, it was unable to do so (combination of points (1) and (2)). This point is particularly important. Despite the absence of any foundation for the possession of Takeshima, the ROK government illegally occupied Takeshima. The people of Japanese have not exercised their right to fish in waters off Takeshima since May 3, 1954.
- In the Introduction to the Dokdo Issue (1955) edited and published by the ROK Ministry of Foreign Affairs Government Affairs Bureau “for heads of diplomatic missions to acquire appropriate understanding of the issue,” the ROK government states that “Dokdo is already well known from records and practical knowledge. As already mentioned, since traffic between the islands did not disappear even when the empty island policy was applied to Ulleungdo, there was no need to declare the incorporation of Dokdo into the administrative organization for Ulleungdo. Unlike now, there was no reason to retain official records. [...] Even though there are no public records clearly showing that [Dokdo] was incorporated into the administrative organization for Ulleungdo prior to its incorporation into Japanese territory (Shimane Prefecture) in 1905, it cannot be denied that Dokdo was under the jurisdiction of the magistrate on Ulleungdo.” This shows that it was not possible to produce evidence that Korea had established territorial rights to Takeshima prior to 1905.
- Concerning point (3) and the postwar process of delineating the territory of Japan, the ROK government comments on two directives (SCAPIN-677 suspended the Japanese government’s right to exercise authority over Takeshima, and SCAPIN-1033 stated that Japanese vessels or personnel shall not approach or have any contact with Takeshima) issued by the General Headquarters of the Supreme Commander for the Allied Powers (GHQ) in the document “Matters Concerning the Possession of Dokdo” (No. 257) dated August 12, 1953, and sent from the ROK Ministry of Foreign Affairs to the ROK diplomatic mission to Japan. These are the same documents that the ROK government is now using as the basis for its claim. In the 1953 document, the ROK government states “ Since, as Japan claims, it is plausible that the GHQ measures do not signify the final demarcation of territory, we should assert that the implied intent of the U.S. at the time was to return Dokdo to Korea.” Today, the Republic of Korea is basing its claim to Takeshima on these two directives issued by the GHQ, but at the time, the ROK government recognized that Japan’s claim was correct.

(3) The ROK Government's Refusal to Refer the Takeshima Issue to the International Court of Justice

- On September 25, 1954, after the abovementioned exchange between Japan and Korea of two notes verbales respectively, Japan proposed in a note verbale to Korea to refer the Takeshima issue to the International Court of Justice (ICJ), but Korea refused to do so. Having refused to refer the Takeshima issue to the ICJ, the ROK government claimed "Dokdo was the first Korean territory which had been made a victim of the Japanese aggression" in a note verbale dated October 28, 1954. This claim is still influential today as President Moon Jae-in made the same claim this year in a speech to commemorate the anniversary of the March 1 Movement of 1919.
- In response, the Japanese government issued a strong denial stating, "unless it can be proved that Korea had managed Takeshima effectively since before the public announcement of Shimane Prefecture, such argument is absolutely untenable. In fact, since a grave accusation against a sovereign State such as of committing an act of aggression ought to be proved with the highest measure of certainty and the accusation which the Korean Government dogmatically makes against Japan in utter disregard of facts can in no way be tolerated" in a note verbale dated July 13, 1962 (the fourth one), which also described the grounds for the possession of Takeshima.
- In 1962, the Japanese government, once again, proposed to the ROK government to bring the Takeshima issue before the ICJ. In an explanation dated December 11, 1962, and prepared by the diplomatic mission to Japan, the ROK government indicates the reasons for its refusal to refer the matter to the ICJ. Among the reasons, they mention that the court will determine the case within two years at the most, and that an appeal to the court for provisional measures of protection may force the ROK to take steps to remove the Coast Guard facilities and staff on Dokdo prior to the court's decision. It can be inferred that the ROK feared even the temporary suspension of the state of illegal occupation of Takeshima, and that they had no confidence in the outcome of the court.

(4) Conclusion

- Japan needs to challenge South Korea on its responsibility for the actions of the ROK governments in the 1950s and 1960s (proclaiming the Syngman Rhee Line in contravention of the San Francisco Peace Treaty, forcibly and illegally occupying Takeshima despite a lack of basis for possession, refusing Japan's proposal for a peaceful solution, and making claims that deviate from the facts, such as "Dokdo was the first Korean territory which had been made a victim of the Japanese aggression")

3 The State of the Research on the Takeshima Issue in Japan

- (1) It is important to continue the research on the Takeshima issue carried out by Kawakami Kenzo, formerly of the Ministry of Foreign Affairs, and Professor Tsukamoto Takashi of Tokai University, and to building on their findings.
- (2) The Shimane Takeshima Issue Research Group, established in 2006 and chaired by Professor Shimojo Masao of Takushoku University, has produced extremely interesting and distinctive research outcomes, thanks to the work carried out by Yamasaki Yoshiko, Ishibashi Tomonori and Sugihara Takashi, among others.
- (3) It is necessary to establish a system at the national level to further deepen research on the Takeshima issue, and to transmit the fruits of the research and historical materials to posterity.

4 What the Japan Institute of International Affairs should do with regard to the Takeshima issue

- (1) I would like to make three recommendations to the JIIA with regard to the Takeshima issue.
- (2) Firstly, collect research materials on the issue.
- (3) Secondly, deepen research on the subject. As mentioned in point 3 above, it is important to train investigators to continue and deepen research on Takeshima.
- (4) Thirdly, provide information on the issue. Since the Takeshima issue encompasses many complex problems, it is important to make information on Takeshima available worldwide in an understandable format, and in the English language. It is also necessary to connect the issue to universal values. It is important to clearly state that it is a question of whether the unilateral and illegal occupation of Takeshima by the postwar government of South Korea is consistent with justice and the laws of the international community. This message was raised at the abovementioned press conference by then Prime Minister Noda and needs to be communicated once again. Another issue is how to work with online sites and social media that are providing quality information on Takeshima. (E.g.: <https://blogs.yahoo.co.jp/chaamiey>).

* For the particulars of this lecture, refer to “Takeshima mondai ni kansuru nikkanshū ryōkoku seifu no kenkai no kōkan ni tsuite (jō) (ge)” (Exchanges of opinion between the governments of Japan and the ROK regarding the Takeshima issue, part 1 and 2) in *Tōshō Kenkyū Jānaru* (Journal of Islands Studies), Vol. 7, Issues 1 and 2.