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The Senkaku Islands Were No Man's Land

Masao Shimojo*

Abstract

China's State Oceanic Administration's website cites the "Basic Facts on Diaoyu Dao" to argue that the Senkaku Islands are Chinese territory. Although the Chinese government insists on making territorial claims on the Senkaku Islands by presenting what it calls four "Basic Facts on Diaoyu Dao," the analysis in this review shows that China has no historical title to the Senkaku Islands.

The "Basic Facts on Diaoyu Dao" states as the basis for claiming the islands as Chinese territory that "China had jurisdiction over the islands for several hundred years." However, Taiwan and the Pescadores Islands were affiliate islands of the Ryukyu Kingdom, according to the *Da Ming yitong zhi*, and were alien lands according to the *Dili zhi* in Mingshi, an official history of the Ming. The Chinese government's insistence that it has controlled the Senkaku Islands for several hundred years is totally groundless. The perception of Jilong Fort (or Mt. Jilong) as the northern limit of Taiwan Prefecture remained unchanged throughout the Qing era. What this means is that the Senkaku Islands, which are situated 170 kilometers northwest of the northern limit of Taiwan, were not affiliated with Taiwan Prefecture. The relationship between the Senkaku Islands and Taiwan clearly shows that the Chinese argument, to the effect that "Diaoyu Dao and its affiliated islands are an integral part of China; China's sovereignty over them has been established both historically and in terms of international law," cannot be sustained. Besides, the Chinese government's argument that "In accordance with the Treaty of Shimonoseki, Diaoyu Dao and its affiliated islands were ceded to Japan, along with Taiwan and its affiliated islands", which it presents as one of the "Basic Facts on Diaoyu Dao", is totally groundless.

Zhai Kun was saying that Mt. Jilong was the boundary of the Qing Dynasty and Kumejima was the boundary of the Ryukyu Kingdom. The Senkaku Islands, which lie between Mt. Jilong and Kumejima, did not belong to either the Qing Empire or the Ryukyu Kingdom. To apply a modern legal expression, this means that the Senkaku Islands were *terra nullius* (no man's land).

Introduction

The Senkaku Islands became a Japanese territory on January 14, 1895 (28th Year of Meiji) by a decision of the country's cabinet that day. Before that, the islands had been *terra nullius* (no man's land). Through the cabinet decision, the islands came under the valid control of Japan, except for a period following Japan's defeat in the Pacific War when the islands were put under the military administration of the United States.

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The governments of China and Taiwan began to show interest in the Senkaku Islands because the Okinawa Reversion Agreement (officially known as the Agreement between Japan and the United States of America concerning the Ryukyu Islands and the Daito Islands) of June 1971 included the Senkaku Islands in the territories to be reverted to Japan.

After Taiwan issued a Ministry of Foreign Affairs announcement in June 1971 saying that the “Tiaoyutai Islands [Senkaku Islands] belong to Taiwan Province and are an integral part of the Republic of China,” the Chinese government (the government of the People’s Republic of China) also made an announcement in December of the same year:

[The Diaoyu Islands (Senkaku Islands) and its affiliated islands] are islands attached to Taiwan. Like Taiwan, they have been an inseparable part of the Chinese territory since ancient times. It is a blatant violation of China’s territorial sovereignty to include the Diaoyu Islands among territories to be reverted to Japan in the Okinawa Reversion Agreement that the two governments recently concluded.

The Chinese people are determined to recover Diaoyu and other islands appertaining to Taiwan.

This statement is the genesis of the Chinese government’s current classification of the Ryukyu Islands as China’s “first island chain” and Taiwan and the Senkaku Islands as its “core interests.”

In recent years, the China Coast Guard’s ships have frequently made provocative intrusions into Japanese territorial waters surrounding the Senkaku Islands. The Chinese intrusions can be traced back to September 7, 2010, when a Japanese Coast Guard cutter was intentionally rammed by a Chinese fishing vessel. On December 30, 2014, China’s State Oceanic Administration launched a website entitled “Diaoyu Dao: The Inherent Territory of China” that documents the China Coast Guard’s numerous violations of Japanese territorial waters.

1. Have the Senkaku Islands historically been Chinese territory?

The State Oceanic Administration’s website cites the following four “Basic Facts on Diaoyu Dao” to argue that the Senkaku Islands are Chinese territory:

1. Diaoyu Dao and its affiliated islands are an inseparable part of the Chinese territory; China’s sovereignty over them has been established both historically and in terms of international law.
2. China had jurisdiction over Diaoyu Dao and its affiliated islands several hundred years before Japan discovered them.
3. In accordance with the Treaty of Shimonoseki, Diaoyu Dao and its affiliated islands were ceded to Japan, along with Taiwan and its affiliated islands. However, all of the islands were returned to China after World War II in accordance with provisions of the Cairo Declaration, the Potsdam Declaration, and the Japanese Instrument of Surrender.
4. China’s determination to protect the fruits of its victory in an anti-Fascist war will not be shaken. China has the confidence and capability to thwart Japan’s acts in defiance of historical fact and international law, and to maintain peace and order in the region.

Of these four points, the third item contains an obvious factual error. While China claims that “In accordance with the Treaty of Shimonoseki, Diaoyu Dao and its affiliated islands were ceded to Japan,” it is a historical fact that the Senkaku Islands became a Japanese territory through a cabinet decision on January 14, 1895. The Japanese act came prior to the signing of the Treaty of Shimonoseki, which took place on April 17 of the same year. In other words, the Treaty of

Shimonoseki had nothing to do with the incorporation of the Senkaku Islands into Japan. This shows that what the Chinese claim to be historical facts are erroneous.

2. Taiwan was not Ming territory in the fifteenth century

What are the grounds for the Chinese territorial claim on the Senkaku Islands? According to the “Basic Facts on Diaoyu Dao,” “China had jurisdiction over the islands for several hundred years.” Let us analyze this claim by reviewing the history of the Ming Dynasty. The most reliable document for this purpose is *Da Ming yitong zhi* (Comprehensive gazetteer of the Ming Dynasty), the official regional topographical record of the Ming Dynasty. Each dynasty in China, all of which historically were centralized states, had a tradition of recording the territory under its jurisdiction in its own imperially commissioned topographical records. An examination of the reference to Taiwan in *Da Ming yitong zhi* reveals that both Taiwan and the Pescadores Islands were described as islands affiliated with the Ryukyu Kingdom. Sections of *Dili zhi* (Administrative geography) in *Mingshi* (History of the Ming Dynasty), an official history of the Ming, reveal that Taiwan was considered a foreign land, as were Korea, Annam (Vietnam), Japan, and the Ryukyus. This shows that at least one of the “Basic Facts” on which China bases its argument—that “China had jurisdiction over the islands for several hundred years”—is historically groundless.

When did Taiwan become a part of Chinese territory? The following reference to Taiwan is found in the *Da Qing yitong zhi* (Comprehensive gazetteer of the Great Qing Realm), from the reign of Emperor Qianlong (see photo 1):

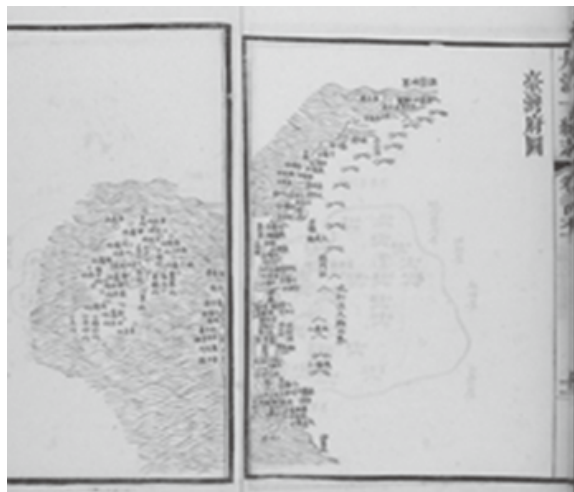


Photo 1: Taiwan Prefecture Map in *Da Qing yitong zhi*

The region has been a frontier since ancient times. The people there do not have dealings with China, and the land has been called an eastern area for barbarians (Tong Fan). People from Japan gathered there during the early years of the Tianqi Era in the Ming Dynasty, and Zheng Zhilong followed them. Subsequently, Taiwan became occupied by red-haired Dutch barbarians.

As shown above, before the Qing Dynasty, Taiwan was not governed by China. During the Ming Dynasty, people from Japan lived in Taiwan, and the island was later occupied by the Dutch. This version of the *Da Qing yitong zhi* explicitly states that Taiwan belonged to Japan.

The Chinese government has claimed that the Senkaku Islands are Chinese territory, citing the *Shun feng xiang song* (Voyage with a tail wind), a navigational guide supposedly compiled in the fifteenth century. It was in the Qing period, however, not in the Ming period, that Taiwan

became a part of Chinese territory. It is a historical fact that Taiwan and the Pescadores Islands were affiliated islands of the Ryukyu Kingdom, according to the *Da Ming yitong zhi*, and were alien lands according to the *Dili zhi* in *Mingshi*, an official history of the Ming. The Chinese government's insistence that it has controlled the Senkaku Islands for several hundred years is totally groundless.

3. The Qing Dynasty and Taiwan

It was in 1684 (23rd Year of Kangxi) that Taiwan, which had once been described as a Japanese territory by the *Da Qing yitong zhi* from the reign of Emperor Qianlong, became a Chinese territory. At this time, Taiwan belonged to Fujian Province, and was called Taiwan Prefecture. The question is how far into Taiwan the Qing was able to extend its jurisdiction, and whether the Senkaku Islands were included in the territory under Qing jurisdiction.

According to the *Taiwanfu zhi* (Annals of Taiwan Prefecture) compiled by Jiang Yuying during the reign of Emperor Kangxi, the northern limit of Taiwan Prefecture was Jilong Fort, which was 2,315 *li* away from the southernmost point in Taiwan. Jilong Fort was located in present-day Keelung City. Another *Taiwanfu zhi*, compiled by Gao Gongqian and others in 1696 (35th Year of Kangxi), confirms that the vicinity of present-day Keelung City was the northern border of Taiwan. This document clearly states that Mt. Jilong, 2,315 *li* north of the southernmost point in Taiwan, was *jiè* (the boundary line).

This perception of Jilong Fort (or Mt. Jilong) as the northern limit of Taiwan Prefecture remained unchanged throughout the Qing era. What this means is that the Senkaku Islands, which are situated 170 kilometers northwest of the northern limit of Taiwan, were not affiliated with Taiwan Prefecture.

This goes to show that the Chinese government's argument that "In accordance with the Treaty of Shimonoseki, Diaoyu Dao and its affiliated islands were ceded to Japan, along with Taiwan and its affiliated islands", which it presents as one of the "Basic Facts on Diaoyu Dao", is totally groundless.

What was Taiwan Prefecture like? Both *Taiwanfu zhi* compiled by Jiang Yuying and *Chongxiu Taiwanfu zhi* (Annals of Taiwan Prefecture expanded) compiled by Xian Fan and others carry the Comprehensive Map of Taiwan Prefecture. In these maps, Jilong Fort or Mt. Jilong, or both, were depicted as the northern limit of Taiwan (see photo 2).

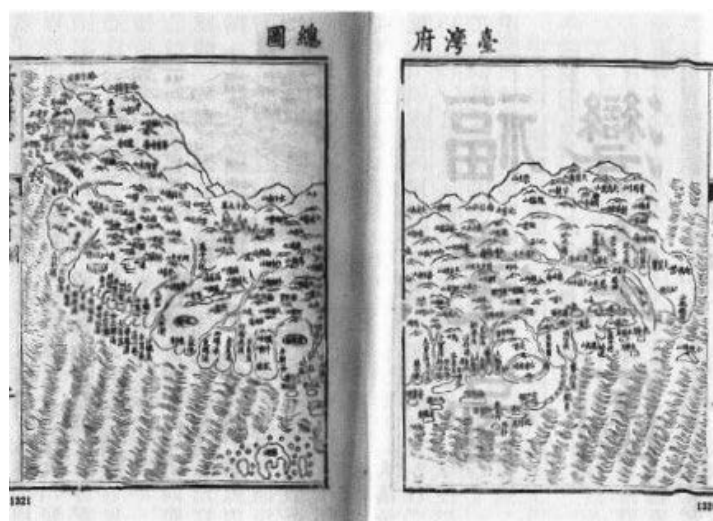


Photo 2: "Comprehensive Map of Taiwan Prefecture"
in *Chongxiu Taiwanfu zhi*

During the reign of Emperor Kangxi, the *Kanxi Huang'yu chuanlan tu* (Complete atlas of the empire) was produced, which presented an accurate map of Taiwan (see photo 3).



Photo 3: “Map of Taiwan” in *Kanxi Huang'yu chuanlan tu*

This *Kanxi Huang'yu chuanlan tu* was the result of a geographical survey that Emperor Kangxi had commissioned the Jesuits to conduct. The information in the atlas was later used in *Da Qing yitong zhi* and “Drawings of Taiwan” in *Qinding gujin tushu jicheng* (Imperial encyclopedia). “Drawings of Taiwan” (see photo 4) shows the northern border line of Taiwan as Jilong Fort *jiè* (boundary line). This confirms that the border of Taiwan was Jilong Fort or Mt. Jilong.



Photo 4: “Drawings of Taiwan” in *Qinding gujin tushu jicheng*

This fact was inconvenient for China, which wished to depict the Senkaku Islands as an integral part of China. What the Chinese decided to use instead to back up their argument was records of the Qing's missions to the Ryukyus, including those that described navigational routes. These records include *Shi Liuqiu lu* (Record of a mission to the Ryukyus) by Tao Kan (1534), *Chongbian Shi Liuqiu lu* (Record of a mission to the Ryukyus: updated version) by Guo Rulin (1562), *Shi Liuqiu zalu* (Account of a mission to the Ryukyus) by Wang-chi (1683), *Liuqiuguo zhilue* (A short history of the Ryukyus) by Zhou Huang (1756), *Shi Liuqiu lu* (Record of a mission to the Ryukyus) by Li Dingyuan (1800), and *Xu Liuqiuguo zhilue* (A short history of the Ryukyus, continued) by Zhai Kun (1808).

While these travel records say the emissaries caught glimpses of the Senkaku Islands while sailing near them, the documents do not constitute evidence that these islands were Qing territories. While *Huang Chao Zhong Wai Yi Tong Yu Di Zong Tu* (Atlas of the Great Qing Dynasty) compiled during the Qing era includes references to Uotsuri-shima, Kuba-shima (Kobi-sho), and Taisho-to (Akao-sho) of the Senkaku Islands, Zhai Kun, who visited the Ryukyu Kingdom as the Qing's emissary during the same period, characterized Mt. Jilong in Taiwan as a border for the Qing Dynasty.

A poetry anthology compiled by Zhai Kun, *Dongying baiyong* (*One Hundred Verses from the East*) contains a poem titled "Eight Poems in Sailing" (Hanghai bayong) that describes his voyage to Naha of the Ryukyus. Zhai composed a poem "Mt. Jilong—The Mountain Appeared After Passing Through Taiwan Prefecture," when passing near Taiwan. In the poem, he said Mt. Jilong "appeared to mark the frontier of the Qing Dynasty." This passage is evidence that Zhai Kun perceived Mt. Jilong of Taiwan province to be the boundary of the Qing Dynasty (see photo 5). Furthermore, he also wrote that Mt. Jilong, the border of China in "Duhaiyin" in *Dongying baiyong*. In a word, Zhai Kun, an envoy from the Chinese Emperor who crossed to the Ryukyu Kingdom, considered that Mt. Jilong as the boundary of the Qing Dynasty.

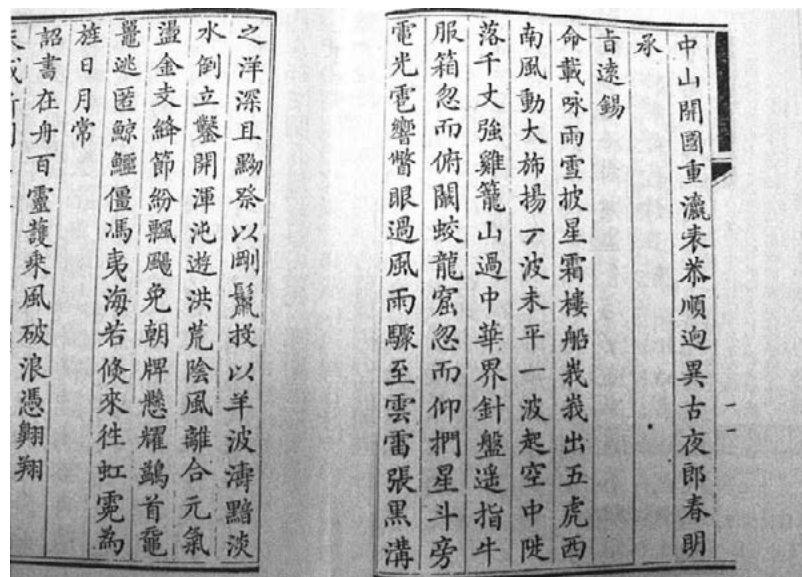


Photo 5: *Dongying baiyong*

4. The Senkaku Islands were no man's land

Why did Zhai Kun claim Mt. Jilong to be the boundary of the Qing Dynasty? This was because the Qing had conquered Taiwan in 1684 (23rd Year of Kangxi) and established Taiwan Prefecture, while defining Mt. Jilong as the northern limit of the Qing's territory. This fact is also confirmed by *Taiwanfu zhi* compiled by Jiang Yuying and *Chong xiu Taiwanfu zhi* compiled by Xian Fan and others. When the Jesuits produced *Kanxi Huang'yu chuanlan tu*, the contents of the atlas were incorporated into *Da Qing yitong zhi* and "Drawings of Taiwan" in *Qinding gujin tushu jicheng*. These two works show Jilong Fort and Mt. Jilong, in the vicinity of present-day Keelung City, as the northern border line (*jiè*) of Taiwan Prefecture.

To whom did the Senkaku Islands belong? The answer lies in Zhai Kun's *Dongying baiyong*. Zhai wrote about Gumishan (Kumejima) as his ship neared the Ryukyu Kingdom. In the footnote to this verse, he wrote that this mountain (island) was within the boundary of the Ryukyu Kingdom. In other words, Zhai was saying that Mt. Jilong was the boundary of the Qing Dynasty and Kumejima was the boundary of the Ryukyu Kingdom. The Senkaku Islands, which lie between Mt. Jilong and Kumejima, did not belong to either the Qing Empire or the Ryukyu Kingdom. To apply a modern legal expression, this means that the Senkaku Islands were *terra nullius* (no man's land).

5. Taiwan in later days and the Senkaku Islands

This perception that Mt. Jilong/Jilong Fort was the northern border of Taiwan carried on unchanged into the era of the Republic of China. Later documents such as the *Huang-chao xu wen-xian-tong-kao* (Encyclopedia of the historical records of the Imperial Dynasty) of 1912 and the *Qingshigao* (Draft to a history of the Qing) of 1927 (16th Year of the Republic of China) also show that the Senkaku Islands were not territory of the Republic of China.

This fact can also be confirmed by the timing of the incorporation into Taiwan of islets such as Huaping and Pengjia, which are located between the Senkaku Islands and Taiwan. According to the *Chi-lung shih zhi* (Record of Keelung City) published in 1951, it was in 1905 (31st Year of Guangxu) that islets such as Keelung, Pengjia, Mianhua, and Huaping were incorporated into Keelung City. The Senkaku Islands are located some 150 kilometers away to the east-northeast of these islets.

This overview of the relationship between the Senkaku Islands and Taiwan clearly shows that the Chinese argument, to the effect that "Diaoyu Dao [Senkaku Islands] and its affiliated islands are an integral part of China; China's sovereignty over them has been established both historically and in terms of international law," cannot be sustained.

The insistence that "China had jurisdiction over Diaoyu Dao [Senkaku Islands] and its affiliated islands several hundred years before Japan discovered them" is also confirmed to be untrue.

The argument that "in accordance with the Treaty of Shimonoseki, Diaoyu Dao and its affiliated islands were ceded to Japan" is also factually wrong.

Although the Chinese government insists on making territorial claims on the Senkaku Islands by presenting what it calls four "Basic Facts on Diaoyu Dao," the analysis in this review shows that China has no historical title to the Senkaku Islands. If the Chinese government still continues to violate Japanese territorial waters in the vicinity of the Senkaku Islands and take unlawful possession of these islands, Japan, to borrow the language in China's declaration, must have "the confidence and capability to thwart" China's "acts in defiance of historical fact and international law, and to maintain peace and order in the region."

The Understanding of the United States Government Regarding the Geography of Takeshima Immediately After the San Francisco Peace Treaty Came into Effect: Drawing on US Government-Issued Aeronautical Charts Published in 1953 and 1954

Rikinobu Funasugi*

1. Introduction

- (1) Purpose of this paper**
- (2) Views of the governments of Japan and the Republic of Korea on the treatment of Takeshima in the San Francisco Peace Treaty**
- 2. Details of textual and other information provided on aeronautical charts**
 - (1) USAF JET NAVIGATION CHART, (JN-25), YELLOW SEA(1954)**
 - (2) USAF JET NAVIGATION CHART, (JN-26), SEA OF JAPAN(1954)**
 - (3) USAF PILOTAGE CHART, (379D) G, TO DONG, JAPAN-KOREA(1953)**
- 3. Comparison with previous editions of relevant aeronautical charts**
- 4. Conclusion**

1. Introduction

(1) Purpose of this paper

This paper examines the understanding of the United States government regarding the geography of Takeshima immediately after the San Francisco Peace Treaty came into effect. Taking international law into account, I use aeronautical charts compiled by the United States government and published immediately after the peace treaty came into force to consider the views of the United States from the perspectives of historical geography and cartographical history.¹

After World War II, Japan's postwar territory was defined by the San Francisco Peace Treaty, which was signed in September 1951 and came into effect in April 1952. A peace treaty is generally accompanied by a map or maps, but this was not the case with the San Francisco Peace Treaty. Instead, the treaty merely listed the territories over which Japan was to relinquish sovereignty under the terms of the peace. As we shall see, Japan and the Republic of Korea differ in their interpretations of how Takeshima was to be treated in the San Francisco Peace Treaty.

In territorial disputes, official maps compiled by a third country generally do not form a basis

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¹ This paper represents the personal views of the author and does not necessarily represent the views of the Japan Institute of International Affairs.

for territorial claims under international law.² Since the United States was one of the main drafters of the San Francisco Peace Treaty, official maps drawn up by the US government are valuable sources of information that can help to supplement and clarify the content of the San Francisco Peace Treaty. These official maps are important resources for research on the Takeshima issue when analyzing the geographical views of the US government soon after the peace treaty came into effect. In spite of their importance, these official US maps, drawn up shortly after the peace treaty, have been mostly overlooked in research to date on the question of territorial sovereignty over Takeshima.

On the Korean side, Li Jin-mieung, professor emeritus at the Université Jean Moulin Lyon 3 in France, included in a study on Dokdo (the Korean name for Takeshima) a photograph of an aeronautical chart dated March 22, 1951, which he describes as a “Map of KADIZ (Korea Air Defense Identification Zone) and JADIZ (Japan Air Defense Identification Zone), established by the Commander of the US Air Force of the Pacific (sic).” The explanatory note to the illustration claims that “‘Liancourt Rocks (Take Island)’ [Dokdo] is included in the KADIZ. This measure remains valid until nowadays (sic).”³ However, Professor Li’s study merely quotes the note printed on the chart regarding the Japanese and Korean air defense identification zones. He fails to provide basic information on his source, including the title of the aeronautical chart, its publisher, or the date of publication.

From the content, it seems likely that the map in question is “Global Navigation and Planning Chart, GNC-5, Central Asia, 9-87, Edition 7,” a 1:5,000,000 map published by the Defense Mapping Agency Aerospace Center (US Department of Defense) in September 1987. By using charts published much later than the period in question, and failing to provide publication information, Professor Li misleads his readers, encouraging them to believe that he is discussing a map published in 1951. Professor Li’s actions violate academic integrity.

But in fact, even if this aeronautical chart did date from around March 1951, this would not affect my argument because the Supreme Commander for the Allied Powers (SCAP) responded to a query from the Japanese government about territorial issues by saying that these should be settled by the San Francisco peace conference. Citing aeronautical charts drawn up before the signing of the peace treaty is therefore without significance in clarifying the content of the treaty. And as I will explain later, an air defense identification zone does not define the limits or extent of territorial air or land space.

Aeronautical charts produced by US government agencies are important sources of information that demonstrate Washington’s understanding of Takeshima’s geography. There are three well-known types of aeronautical charts: those published by the International Civil Aviation Organization (ICAO, a UN organization), those published by the private company Jeppesen, and those published by the United States government.⁴ The aeronautical charts published by

² Norio Araki, a professor in international law at Hakuoh University, has written about official maps produced by a third-party country as follows: “Although maps printed and published by a third country do not have as much value compared to the fact of governance as evidence for claims to sovereignty, nevertheless, in a case for example where newly independent countries are involved in a dispute over international boundaries, maps produced by the former colonial power are regarded as official maps produced by a third nation, but the value of such maps cannot be discounted entirely.” Norio Araki, “Ryodo/kokkyo funso ni okeru chizu no kino” (The function of maps in disputes over territory and boundaries), in Waseda Hogaku, 74-3, 1999, p.13.

³ Li Jin-mieung, *Dokdo: A Korean Island Rediscovered*, Northeast Asian History Foundation, 2010, pp.237–238, p.329.

⁴ Incidentally, neither the aeronautical charts produced by the ICAO nor those produced by the private company Jeppesen contain any information regarding sovereignty over Takeshima. They would have no value as evidence in international law.

the United States government cover almost the entire world, with maps scaled at 1:2,000,000, 1:1,000,000, and 1:500,000. As the world's most comprehensive, precise, and widely circulated charts, they have been used for civilian and military purposes, and have been described as goliaths in the world of aeronautical charts. These topographical maps are used not only for flight navigation but also for many purposes including strategic planning, exploration, and media reporting.⁵

In June 2012, I purchased from an antiquarian bookseller in Tokyo a copy of the “Jet Navigation Chart, JN-26, Edition 3” (Sea of Japan), a 1:2,000,000-scale map drawn up by the US Department of Defense in 1980 and published in 1981. On the chart, a national borderline is drawn between Ullūng Do (Ulleungdo, or Utsuryo To in Japanese) and another island which has a latitude and longitude corresponding with the coordinates of Takeshima, although its name is not marked on the chart. The area to the southeast of this line is marked “Japan,” and the area to its northwest is marked “Korea.” This confirms that on this chart, Ulleungdo is shown as Korean territory and Takeshima as Japanese territory.⁶

In February 2013, I obtained from a university library in the United States a photocopy of a 1:2,000,000 aeronautical chart: “Jet Navigation Chart, JN-25, Edition 5” (Yellow Sea), drawn up by the US Department of Defense in 1996 and published in 1997. The map showed an island which had coordinates and a position that corresponded to those of Takeshima, though no name for the island was given. Above the island was the text “Japan,” while the island of “Ullūng Do” was marked “South Korea,” confirming that this chart too showed Ulleungdo as Korean and Takeshima as Japanese territory.⁷

Even though these charts were produced 29 and 45 years respectively after the San Francisco Peace Treaty came into effect, they remain important sources of information that indicate the understanding of the United States government regarding the geography of Takeshima. By analyzing the text printed on aeronautical charts produced by the United States government directly after the peace treaty came into effect, it should be possible to confirm the US government's understanding of Takeshima's geography when the treaty was signed and came into effect. A private research company based in Tokyo was accordingly hired to conduct a study of US government-produced aeronautical charts in the collections of the US National Archives. This study was carried out in fiscal 2019 as part of a research project undertaken by Shimane University on behalf of the Japan Institute of International Affairs.

(2) Views of the governments of Japan and the Republic of Korea on the treatment of Takeshima in the San Francisco Peace Treaty

Research carried out over many years by Takashi Tsukamoto, a former professor at Tokai University, has already made clear the treatment of Takeshima in the San Francisco Peace Treaty.⁸ The views of the Japanese government are given as follows on the website of the Ministry

⁵ Hiroshi Ota, *Kokuzu no hanashi* (About aeronautical charts), Seizando Shoten, 2007, pp.44–45.

⁶ *Yomiuri Shimbun*, Osaka edition, February 20, 2013: “80-nen Bei no chizu de ‘Nihonryo’ Ken nyushu” (Prefecture obtains US map from 1980 showing island to be Japanese territory). This map has since been donated to Shimane Prefecture's Takeshima Reference Room.

⁷ *Yomiuri Shimbun*, Shimane edition, March 28, 2013: “Bei 1997-nen Takeshima ‘Japan’ Kokubososhō no kokuzu kisai” (US Department of Defense marked Takeshima as “Japan” on 1997 aeronautical charts).

⁸ For example, Takashi Tsukamoto, “San Furanshisuko Joyaku to Takeshima: Bei-gaiko bunsho-shu yori” (The San Francisco Treaty and Takeshima: From collections of US diplomatic papers), *The Reference* 33-6, 1983. Also, “Heiwa joyaku to Takeshima: Sairon” (The Peace Treaty and Takeshima: Reconsidered), *The Reference* 44-3, 1994.

of Foreign Affairs.⁹

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1. The San Francisco Peace Treaty, signed in September 1951, stipulated that Japan should recognize the independence of Korea, and that Japan should renounce all rights, titles and claims to “Korea, including the islands of Quelpart, Port Hamilton and Dagelet.”
 2. Upon learning of this section drafted by the United States and the United Kingdom, in July 1951 the ROK submitted a letter to Dean G. Acheson, the Secretary of State of the United States, from Yang Yu Chan, ROK Ambassador to the United States. This letter contained the following statement:

My Government requests that the word “renounces” in Paragraph A, Article Number 2, should be replaced by “confirms that it renounced on August 9, 1945, all rights, titles and claims to Korea and the islands which were part of Korea prior to its annexation by Japan, including the islands [of] Quelpart, Port Hamilton, Dagelet, Dokdo and Parangdo.”

3. In response to this request from the ROK, in August of the same year the United States submitted a letter (an excerpt of which is shown below) from Dean Rusk, United States Assistant Secretary of State for Far Eastern Affairs, to Ambassador Yang, and in it clearly denied the claims of the ROK:

...the United States Government does not feel that the Treaty [the San Francisco Peace Treaty] should adopt the theory that Japan’s acceptance of the Potsdam Declaration on August 9, 1945, constituted a formal or final renunciation of sovereignty by Japan over the areas dealt with in the Declaration. As regards to the island of Dokdo, otherwise known as Takeshima or Liancourt Rocks, this normally uninhabited rock formation 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.

Based on this correspondence, in the San Francisco Peace Treaty, it is obvious that Takeshima was affirmed as a territory of Japan.

4. The report by Ambassador Van Fleet after visiting the ROK in 1954 and returning to the United States also states that the United States concluded that Takeshima was a territory of Japan and the island was not included among the islands that Japan released from its sovereignty under the San Francisco Peace Treaty.

⁹ The Ministry of Foreign Affairs of Japan maintains information relating to Takeshima in English and several other languages: “Treatment of Takeshima in the San Francisco Peace Treaty” https://www.mofa.go.jp/a_o/na/takeshima/page1we_000062.html (Accessed June 1, 2021).

To summarize: Takeshima was not listed among the territories to be relinquished by Japan in the article concerning renunciation of claims over Korea¹⁰ in the San Francisco Peace Treaty. The US government officially rejected the Korean government's request to include Takeshima among the territories to be given up by Japan, in a letter dated August 10, 1951, written by Dean Rusk, United States Assistant Secretary of State for Far Eastern Affairs. In light of these facts, we can conclude that Takeshima was clearly retained as part of Japanese territory in the San Francisco Peace Treaty.

Further reinforcement for the position of the Japanese government can be found in the statement made at a regular press briefing at the White House in Washington, DC on July 30, 2008. The statement read: "Our policy on this territorial dispute has been firm and consistent since 1952, and that is, we do not take a position on this territorial dispute."¹¹ This extremely important statement shows that although the United States government has consistently maintained a stance of not getting involved in territorial disputes between third-party countries that do not affect its own interests, the US government has not changed its view on the issue since the Rusk letter of August 1951, the San Francisco Peace Treaty (signed in September 1951, effective from April 1952), and the Van Fleet report of August 1954.

Despite this, the government of the Republic of Korea's interpretation is diametrically opposite to the Japanese view. The extent of these differences is made clear by a series of diplomatic *notes verbales* between the Korean and Japanese governments, as follows.¹²

- 1) In a "rebuttal to the views of the Japanese government of July 13, 1953, on Dokdo [Takeshima]" dated September 9, 1953, the Korean government wrote:

SCAPIN [Supreme Commander for the Allied Powers Instruction Note] 677, dated January 29, 1946, clearly placed Dokdo outside Japanese territory, and the section of the peace treaty dealing with Japanese territory contains nothing that contradicts this memorandum. The treaty therefore confirmed the intentions of the Supreme Commander for the Allied Powers on this issue without any changes.

- 2) In a note outlining the "Views of the Korean government" dated September 25, 1954, regarding *note verbale* No. 15 A-2 sent by the Japanese Ministry of Foreign Affairs on February 10, 1954, the Korean side wrote:

The peace treaty with Japan contains nothing that contradicts Korea's legitimate claim to territorial sovereignty over Dokdo. Furthermore, our interpretation is that Chapter 1(sic), Article 2A (The correct reference should be to Chapter 2, Article 2A of the treaty.) of the treaty recognizes Dokdo as Korean territory along with Ulleungdo [Dagelet], as a dependency of Ulleungdo.

¹⁰ "Japan recognizing the independence of Korea, renounces all right, title and claim to Korea, including the islands of Quelpart, Port Hamilton and Dagelet."

¹¹ Available on the White House website: "Press Briefing by Senior Director for Asian Affairs at the National Security Council, Dennis Wilder, on President's Trip to Asia," July 30, 2008. <https://georgewbushwhitehouse.archives.gov/news/releases/2008/07/20080730-13.html> (Accessed April 18, 2021).

¹² This and all following documents released by the government of the Republic of Korea are taken from Takashi Tsukamoto, "Takeshima ryoyuken o meguru Nik-kan ryogoku seifu no kenkai" (Views of the Japanese and Korean Governments on Takeshima), *The Reference*, 52- 6, 2002.

- 3) In a note dated January 7, 1959, outlining the “Views of the government of the Republic of Korea, in rebuttal of the views of the government of Japan regarding Dokdo of September 20, 1956,” Korea wrote:

SCAPIN 677 explicitly treats Dokdo separately from the “adjacent smaller islands,” and since Japanese territory was limited to the [main islands and] adjacent smaller islands in the basic policy after Japan’s surrender, published on June 19, 1947, this confirms the separation of Dokdo from Japanese territory. Since the Treaty of Peace with Japan contains no ruling positively including Dokdo within Japanese territory, no change is possible from the previously confirmed position, namely that the island would be separated from Japan. It is necessary to have a unified understanding of the treatment Dokdo based on the various documents from the Potsdam Declaration to the basic policy after Japan’s surrender. Japan’s position, which attempts to distort the whole by taking Article 6 of SCAPIN 677 out of context, is inappropriate. In particular, we should remember that Korea achieved independence in August 1948 — in advance of the Treaty of Peace with Japan — and accordingly recovered control and administration over Dokdo, and received formal acknowledgement of this from the countries involved in formulating the Peace Treaty at the time. Dokdo was not one of the peripheral small islands under the control of SCAP, nor was it a region over which the United States retained legislative and judicial control after Korean independence. Furthermore, Japan never established what it claims as “residual sovereignty” over Dokdo.

The Korean view is essentially that Takeshima became Korean territory as a result of SCAPIN 677, published in 1946, and that since the San Francisco Peace Treaty does not contain any clause explicitly declaring Takeshima to be Japanese territory, there has been no change to the decision laid out in SCAPIN 677. This is not an essay on international law, and counterarguments in response to the Korean appeals to international law regarding SCAPIN 677 and the Peace Treaty have already been made by the Japanese government and Japanese scholars, so I will not go into a detailed discussion here. Suffice it to say that SCAPIN 677 was a ruling issued under the special and limited circumstances of Japan’s temporary occupation. This is made clear in Article 6 of the ruling: “Nothing in this directive shall be construed as an indication of Allied policy relating to the ultimate determination of the minor islands referred to in Article 8 of the Potsdam Declaration,” a final decision on which was to be made in the Peace Treaty. The Korean government’s claims are consequently unsustainable in international law. It is also worth noting that nowhere in the various notes and other documents issued by the Korean government is there any mention of the Rusk letter sent by the US government to the Korean government.

We can confirm the current views of the Korean government regarding the San Francisco Peace Treaty via the informational internet page “Dokdo, Beautiful Island of Korea,” hosted on the official website of the Korean Ministry for Foreign Affairs.¹³ The section “Why Dokdo is Korean Territory” contains the following account of the “Conclusion of the Treaty of Peace with Japan”: “The Treaty of Peace with Japan is a treaty which the Allied Powers concluded with Japan at the close of World War II. Article 2 (a) provides that “Japan, recognizing the independence of Korea, renounces all right, title and claim to Korea, including the islands of Quelpart, Port Hamilton and Dagelet.” The webpage goes on to say that Among Korea’s approximately 3,000 islands, these three islands have been referred to as examples, and therefore, the mere fact that Dokdo is not

¹³ See the section “Conclusion of the Treaty of Peace with Japan” under “Why Dokdo is Korean Territory” part of “Dokdo, Beautiful Island of Korea,” available on the website of the Korean Ministry of Foreign Affairs: <https://dokdo.mofa.go.kr/eng/dokdo/reason.jsp> (Accessed June 3, 2021).

named in the said article, does not suggest that Dokdo is not included among those territories of Korea that have been separated from Japan.” It is clear that the Korean government today has essentially inherited the views of the Korean government of the 1950s more or less unchanged. However, there is still no mention of the Rusk letter, in which the US government informed Korea before the treaty was signed that the San Francisco Peace Treaty treated Takeshima as Japanese territory. The current Korean view is therefore also untenable.

It is clear from the Rusk letter, the San Francisco Peace Treaty, and the report of the Van Fleet mission that according to international law, Takeshima was retained as Japanese territory after World War II. Despite this, the Korean government and some scholars in Korea and Japan continue to adhere to the views put out by the Korean government during the 1950s.

Some Korean scholars today maintain that the Rusk letter cannot be considered as valid evidence — even though it was official diplomatic correspondence sent from the US government to the government of Korea. In this paper, while continuing to consider international law, I want to move away from traditional international-law-based perspectives. Although maps are no more than secondary proof, I will look at official maps produced by the government of the United States, as a drafter of the treaty, and use them to consider the treatment of Takeshima in the San Francisco Peace Treaty by analyzing the US government’s understanding of Takeshima’s geography immediately after the Peace Treaty came into effect.

2. Details of textual and other information provided on aeronautical charts

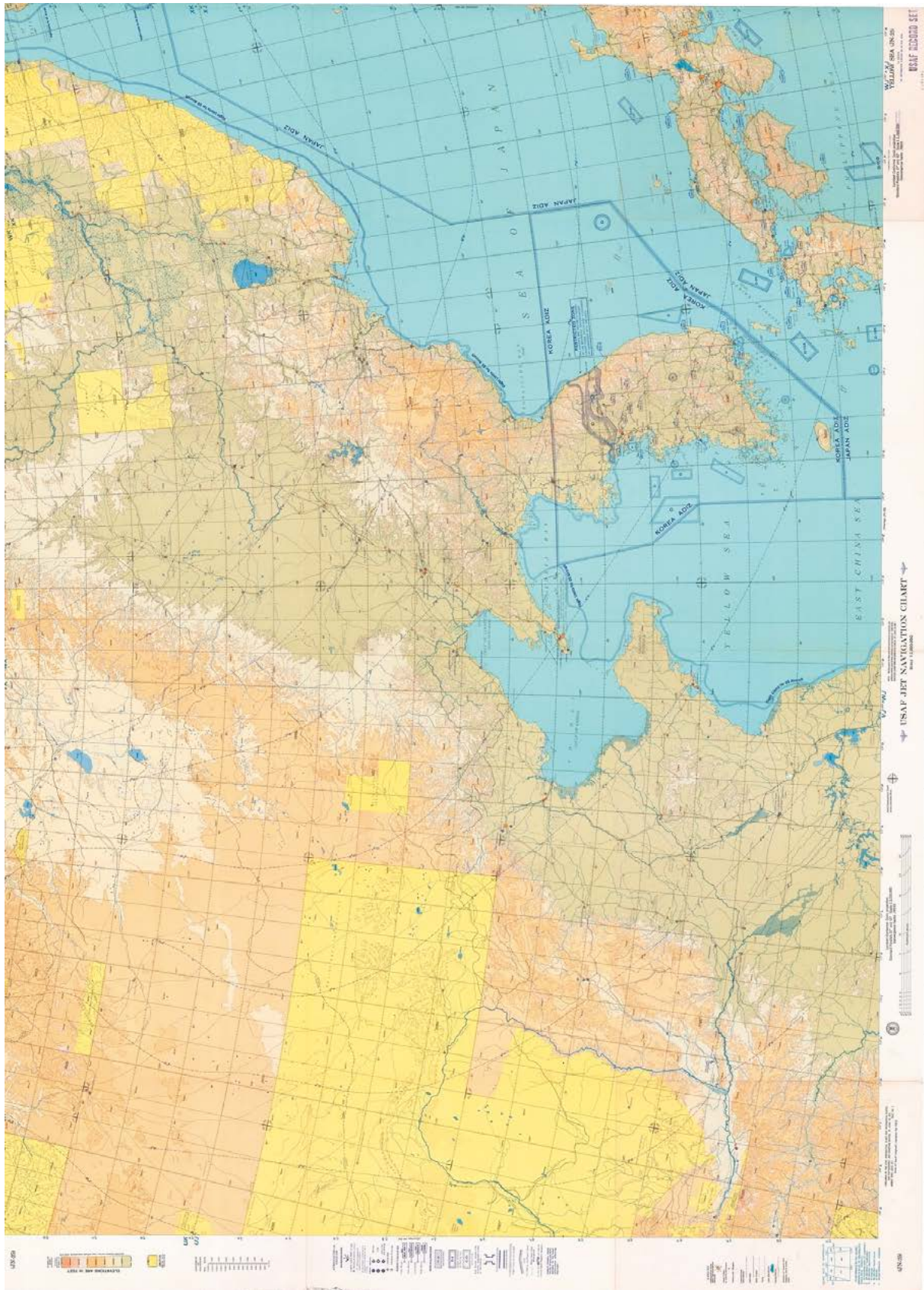
Work to retrieve information at the National Archives of the United States has made it possible to confirm the content of three aeronautical charts produced by the US government immediately after the San Francisco Peace Treaty came into effect. All three charts were produced and issued by the US Air Force, and were published in 1953 and 1954, one to two years after the Peace Treaty came into effect.

(1) USAF Jet Navigation Chart, (JN-25), Yellow Sea (1954)

The title of this map is “USAF Jet Navigation Chart, JN-25, Yellow Sea,” 9-54, 1st Edition. The publisher is listed as the USAF Aeronautical Chart and Information Center (ACIC), Air Photographic and Charting Service (APCS)—in other words, the map was published by the US Air Force. The publication date is given as August 1953 and the printing date is September 1954.

The map has a scale of 1:2,000,000, and shows the western part of the Japanese archipelago, the Korean Peninsula, eastern China, the Russian Far East, and Mongolia (Fig. 1). In the Sea of Japan, Ulleungdo and Takeshima are shown between the Korean Peninsula and the Oki Islands (Fig. 2). Ulleungdo is marked with its Korean name, spelled “ULLŬNG DO.” The number 3232 indicates an altitude in feet (equivalent to approximately 985 meters), showing the elevation above sea level of Seonginbong, the highest mountain on Ulleungdo, at 984 meters. Takeshima is marked using its Western (originally French) name, as “Liancourt Rock.” Two islands are marked: Ojima (or Nishijima, West Island) and Mejima (Higashijima, East Island).

According to the map’s legend, labeled “Aeronautical Legend,” the area to the northeast of Takeshima marked “D” represents “Danger, Restricted or Warning Area,” and presumably marks a US armed forces training area. Between Takeshima and the Oki Islands are markings showing the “KOREA ADIZ” and the “JAPAN ADIZ,” or “Air Defense Identification Zone,” as is explained on the map legend.



**Fig. 1 “USAF JET NAVIGATION CHART, (JN-25), YELLOW SEA,” 9-54, 1st EDITION
[Collection of the National Archives of the United States]**



**Fig. 2 “USAF JET NAVIGATION CHART, (JN-25), YELLOW SEA,” 9-54, 1st EDITION
 (Showing the vicinity of Ulleungdo, Takeshima, and Oki Islands)
 [Collection of the National Archives of the United States]**

Takeshima is therefore included within the Korea's ADIZ. Some people connected with the Korean government have claimed that Takeshima is Korean territory based on this inclusion. However, ADIZs are not an established system in international law, and lack legal underpinning. Generally, an ADIZ is something established internally by each country for air defense. An ADIZ is not considered to define the limits or extent of a country's airspace or land territory. Takeshima's inclusion in the Korea's ADIZ consequently cannot be used as evidence in international law for the claim that the island is part of Korean territory.

A dotted line is marked between Ulleungdo and Takeshima. The area to the northwest of this line is marked "Korea," and the area to the southeast is marked "Japan." On the legend, this type of dotted line is explained as a "Division of Insular Sovereignty (land areas only)" (Fig. 3). In other words, the line marks sovereignty over islands but not sovereignty over maritime areas. At the time, territorial waters extended three nautical miles, or about 5.6 km from the coast, and everything outside that was international waters. Consequently, the chart shows that Ulleungdo is Korean territory and Takeshima is Japanese.

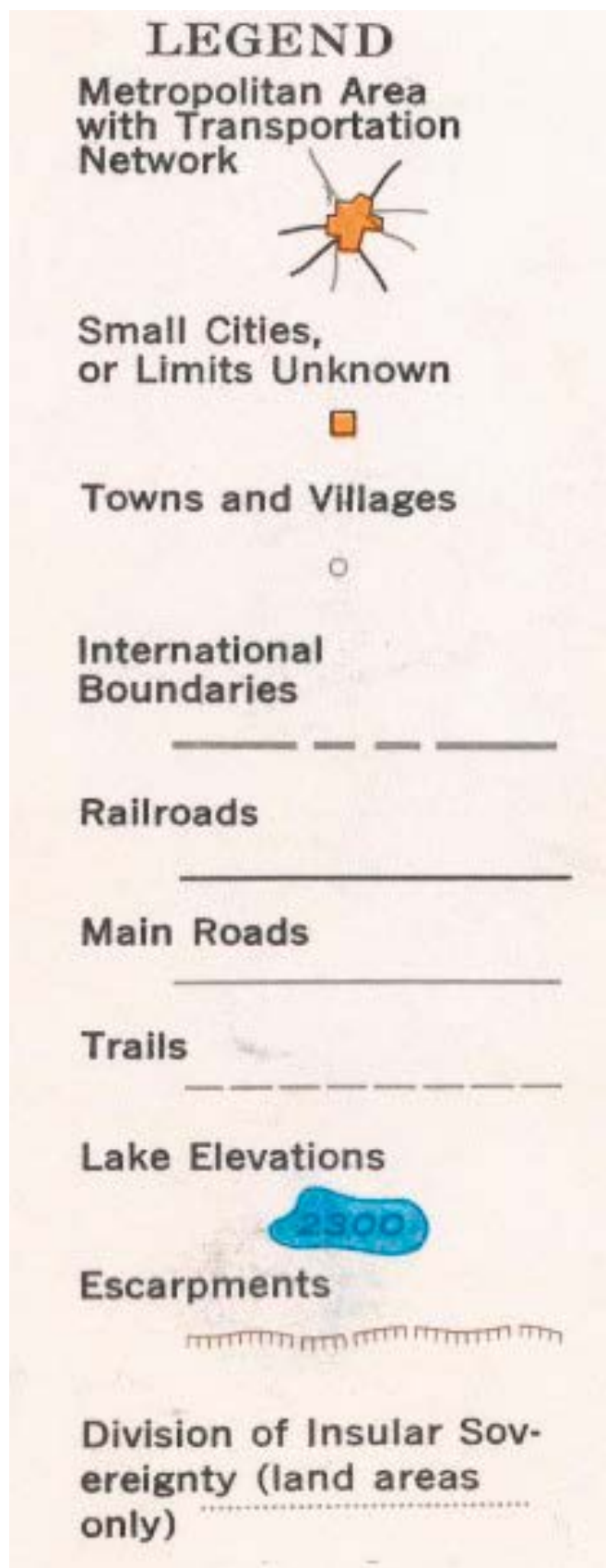
(2) USAF Jet Navigation Chart, (JN-26), Sea of Japan (1954)

The title of this aeronautical chart is "USAF Jet Navigation Chart, (JN-26), Sea of Japan" 12-54, 1st Edition, and the publisher is given as "USAF Aeronautical Chart and Information Center, Air Photographic and Charting Service." In other words, it was published by the US Air Force. The date of publication is July 1953 and the printing date is December 1954.

The scale is 1:2,000,000 and the map is centered on the Sea of Japan, showing the Japanese archipelago, South Sakhalin, the Korean Peninsula, Northeast China, and the Russian Far East. In the Sea of Japan, Ulleungdo and Takeshima are shown between the Korean Peninsula and the Oki Islands (Figs. 4 and 5). Ulleungdo is marked with its Korean name, spelled Ullungdo. The number 3232 indicates an altitude in feet (equivalent to approximately 985 meters), and shows the elevation above sea level of Seonginbong, the highest point on Ulleungdo, at 984 meters. Unlike on Map 1, Takeshima is marked with its Japanese name, rendered as "Take-shima." Two islands are shown: Ojima (Nishijima) and Mejima (Higashijima). As on Map 1, the area to the northeast of Takeshima is marked "D" for "Danger: Restricted or Warning Area," presumably indicating a US Forces training area.

Marked between Takeshima and the Oki Islands are the "KOREA ADIZ" and the "JAPAN ADIZ," showing the Air Defense Identification Zones. As on Map 1, Takeshima is included within the Korea's ADIZ. However, in international law this fact cannot be used as evidence to support the contention that Takeshima is part of Korean territory.

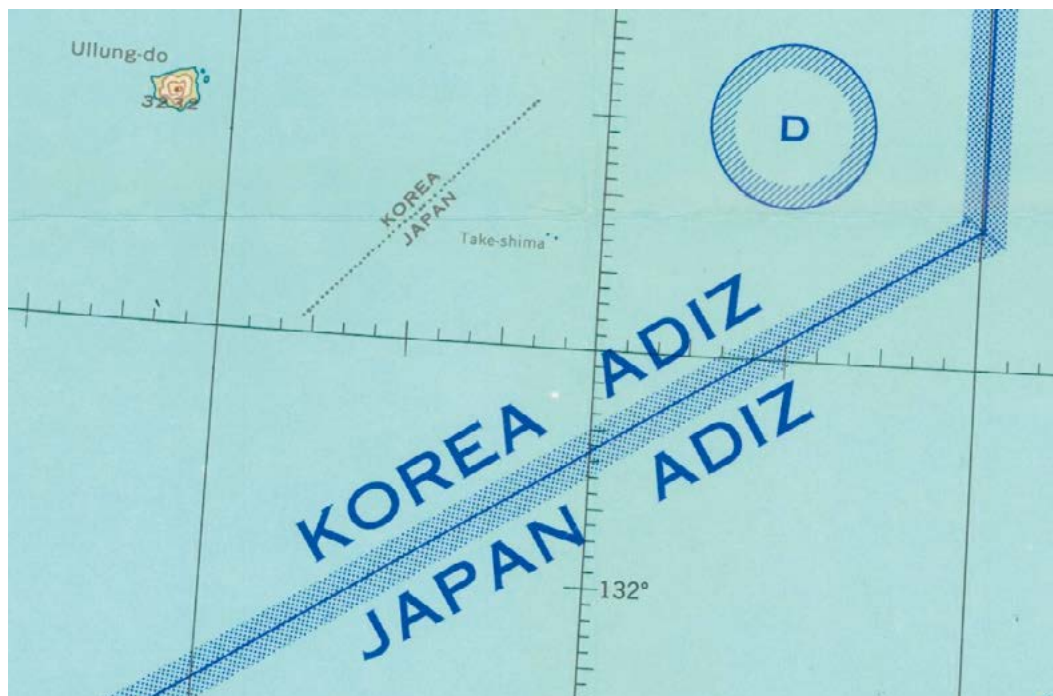
As on Map 1, there is a dotted line between Ulleungdo and Takeshima, marked "Korea" on the northwest side and "Japan" on the southeast. This dotted line marks "Division of Insular Sovereignty (land areas only)." In other words, as with Map 1, this chart too shows Ulleungdo as Korean territory and Takeshima as Japanese.



**Fig. 3 “USAF JET NAVIGATION CHART, (JN-25), YELLOW SEA,” 9-54, 1st EDITION
(Legend) [Collection of the National Archives of the United States]**



**Fig.4 “USAF JET NAVIGATION CHART, (JN-26), SEA OF JAPAN,” 12-54, 1st EDITION
(Coastal regions around the Sea of Japan)
[Collection of the National Archives of the United States]**



**Fig.5 “USAF JET NAVIGATION CHART, (JN-26), SEA OF JAPAN,” 12-54, 1st EDITION
(Vicinity of Ulleungdo and Takeshima)
[Collection of the National Archives of the United States]**

(3) USAF Pilotage Chart, (379D) G, To Dong, Japan-Korea (1953)

The title of this aeronautical chart is “USAF Pilotage Chart, (379D) G, To Dong, Japan-Korea,” 12-53, 1st Edition Revised. The publisher is the USAF Aeronautical Chart and Information Center. The publication date is given as November 1943, with revisions as of June 1953. The date of printing is given as August 1953, with overprinting as of December 1953. The scale is 1:500,000.

Charts like this, on a 1:500,000 scale, together with 1:250,000 charts, make up the 1:1,000,000 World Aeronautical Chart series. Printed on the back of the chart is the “Interchart Relationship” (Fig. 6). Each 1:1,000,000 chart is divided into four sections, A, B, C, and D, and each section is represented by a 1:500,000 chart. These are then divided in turn into four sections to give the 1:250,000 charts, shown as I, II, III, and IV. At the bottom of the Interchart Relationship, it is written: “Each chart is a component section of 1:1,000,000 World Aeronautical Chart Series, and is indexed within the series as indicated on diagram.” This 1:500,000 aeronautical chart is numbered 379D, corresponding to the southwestern side of the 1:1,000,000 World Aeronautical Chart 379, showing the southern part of the Sea of Japan.

On this aeronautical chart, Ulleungdo, Takeshima and the Oki Islands are shown in the southwestern part of the Sea of Japan (Fig. 7). The text “To Dong” in the title of the map refers to “Dodong,” located in the southeast of Ulleungdo. Dodong is the island’s chief town and port that serves as the gateway to Ulleungdo. The Oki Islands are also shown on the chart, and the map’s title is clearly marked “Japan-Korea,” indicating clearly that the map shows parts of both countries. Although the map’s title makes specific mention of Dodong on the Korean island of Ulleungdo, this should not be taken to suggest that the entire area shown on the map is Korean territory. The map includes not only Takeshima but also the Oki Islands—so that it can hardly be claimed on this basis that Takeshima is a dependency of Ulleungdo.¹⁴

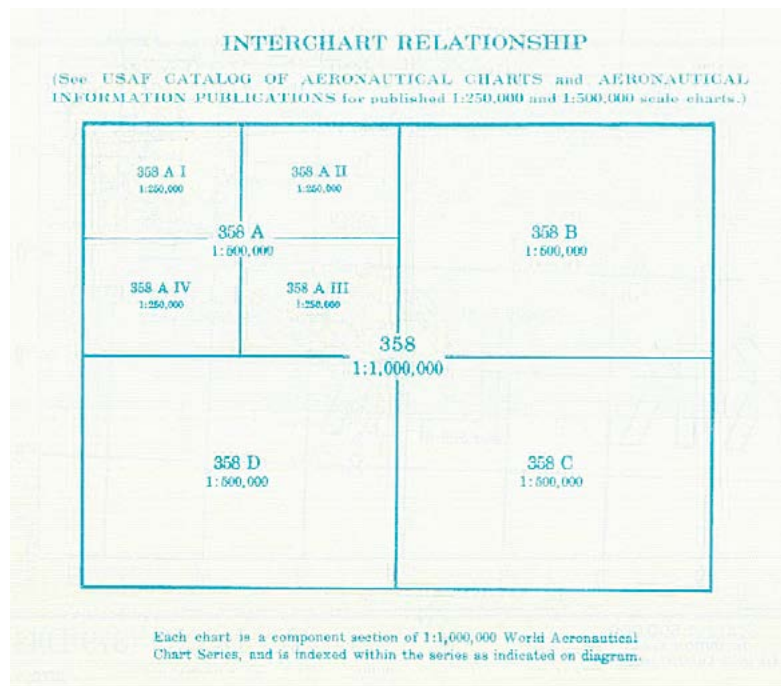
The two letters on the charts are an alphanumerical code used by US and NATO forces to indicate coordinates on maps as part of the Military Grid Reference System, or MGRS. Each 100-kilometer square is indicated by a two-letter reference.¹⁵

Ulleungdo is shown using the Korean name for the island, as “ULLŬNG DO (UTSURYŎ-TŎ) Korea” and is specifically marked as Korean territory (Fig. 8). The number 3228 is in feet (approximately 984 meters), and indicates the 984-meter elevation of Seonginbong, the highest point on the island.

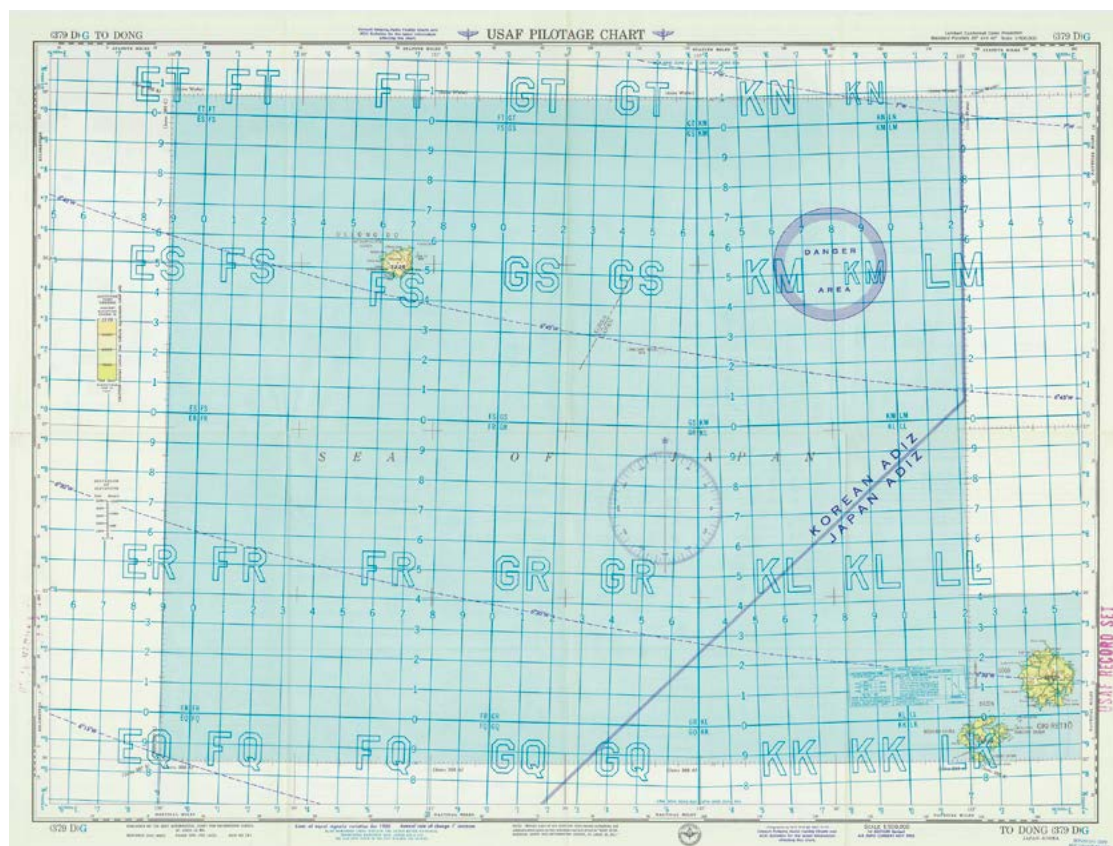
Takeshima is shown using its Western (French) name, as Liancourt Rocks. The number 515 is in feet, and indicates the highest point at approximately 157 meters, on Ojima (Nishijima). According to a geological survey carried out by satellite imaging by the Geospatial Information Authority of Japan in 2007, the highest point on Ojima (Nishijima) is at an elevation of 168 meters. The two symbols “+” (labeled “Charted Rocks”) shown on Takeshima indicate Ojima (Nishijima) and Mejima (Higashijima).

¹⁴ Korean and some Japanese scholars have used the inclusion of present-day Takeshima on some nautical charts published by Japan’s Hydrographic Department during the Meiji Era (1868-1912), among them the Map of the East Coast of Korea (*Chosen higashi kaigan-zu*) and Map of the Entire Coast of Korea (*Chosen zengan*) to argue that the Japanese government of the time recognized the islands as part of Korean territory. These arguments claim that all the areas included on a map must belong to the territory of the country named in the title of the map. But in order to show clearly the position places marked on the map, some parts of neighboring countries must naturally be shown as well. Unreasonable arguments along these lines are clearly without basis or proof.

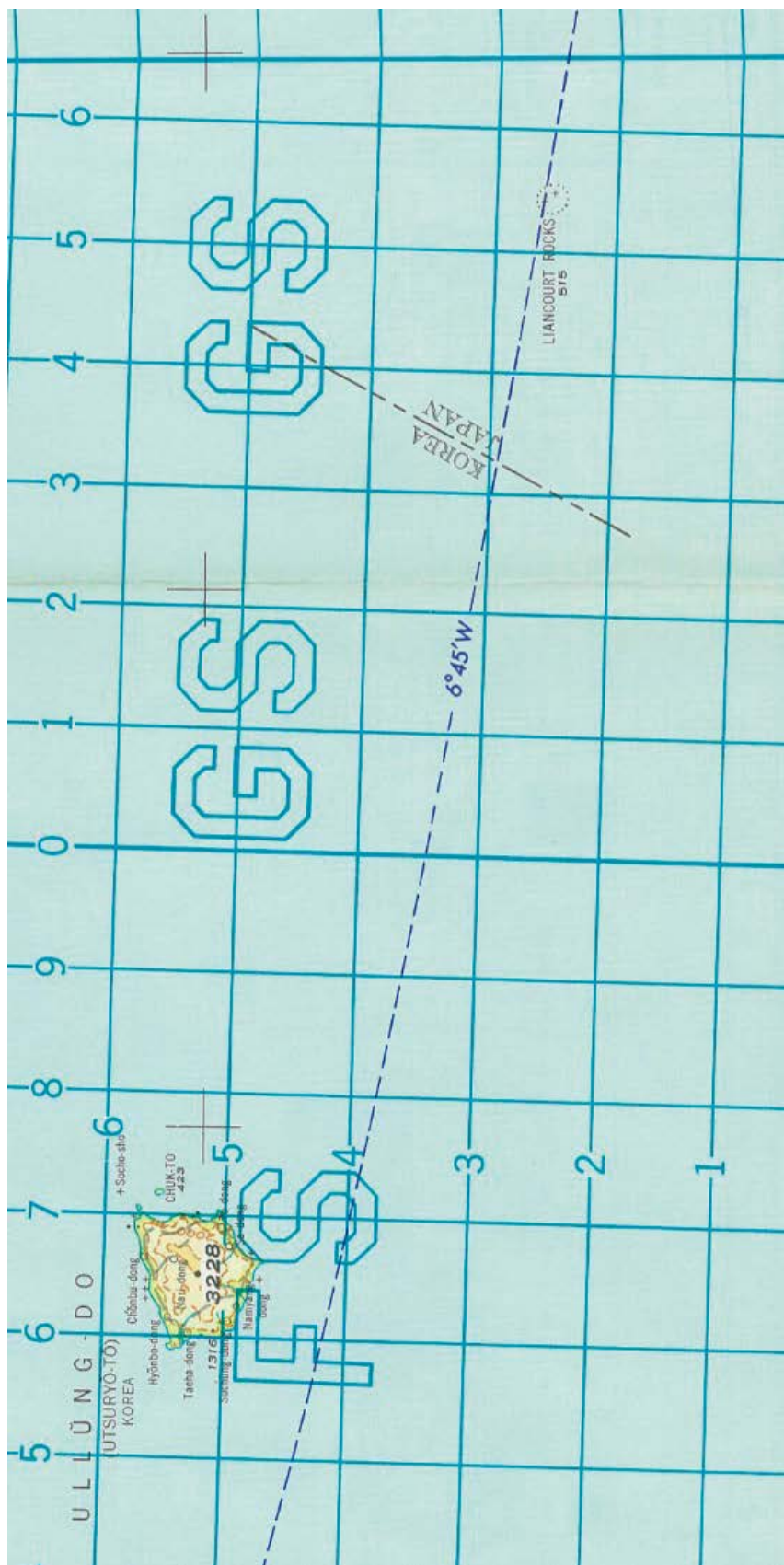
¹⁵ Based on information from the Hydrographic and Oceanographic Department, Japan Coast Guard.



**Fig.6 “USAF PILOTAGE CHART, (379D) G, TO DONG, JAPAN-KOREA,”
12-53, 1st EDITION Revised
“Interchart Relationship” [Collection of the National Archives of the United States]**



**Fig.7 “USAF PILOTAGE CHART, (379D) G, TO DONG, JAPAN-KOREA,”
12-53, 1st EDITION Revised
[Collection of the National Archives of the United States]**



**Fig.8 “USAF PILOTAGE CHART, (379D) G, TO DONG, JAPAN-KOREA,”
 12-53, 1st EDITION Revised
 (Vicinity of Ullungdo and Takeshima)
 [Collection of the National Archives of the United States]**

The practice of marking the highest point on Ojima (Nishijima), one of the two islands that make up Takeshima, at 515 feet on Japanese sailing directions, maps, charts, and instructions can be traced back to two publications. The first, dealing with the Korean coastline, was *Nihon Suiroshi Dai-6-kan Chosen Zengan* (Japan sailing directions, Vol. 6: Entire coast of Korea)¹⁶ published in December 1911 by Japan's Hydrographic Department. For the northwest coast of Honshu, the relevant volume is *Honshu engan Suiroshi Dai-2-kan* (Sailing directions for the coast of Honshu, Vol.2), published by the Hydrographic Department in 1931. The first of these says: "The westerly of the two islands rises to 515 feet above sea level in a sugar cube shape" (p.49), while the latter reads: "The westerly islet has a height of 157 meters, and forms a sharp pinnacle" (p.54). Subsequent records reproduce these figures, which were based on an actual survey carried out by the Hydrographic Department in August 1908.¹⁷

Nihon Suiroshi Dai-4-kan (Japan sailing directions, Vol.4) published by the Hydrographic Department in 1916, and providing sailing directions for the northwest and north coast of Honshu, notes that Takeshima was "incorporated into Shimane Prefecture in Year 38 of Meiji" (p.58), recording Takeshima's formal incorporation into Shimane Prefecture in 1905. All subsequent publications, with the exception of the abridged edition of May 1945 (*Kan'i suiroshi Honshu engan Dai-2-kan*), reproduce the same text.

Two memoranda drawn up on July 13 and 16, 1951, by Samuel Boggs, geographer at the US Department of State during the drafting of the peace treaty, quote US Hydrographic Office Publication No.123A, *Sailing Directions for Japan, Volume I* (1st ed., 1945). Page 597 of the publication says of "Take Shima (Liancourt Rocks)" that "the western and highest has a pointed summit, which rises 515 feet."

After Yang Yu-chan, Korean ambassador to the United States, sent his request to the US government regarding the final draft of the peace treaty on July 19, 1951, Boggs submitted an office memorandum on July 31 on the subject of "Parangdo and Dokdo (islands)." The memorandum was addressed to Robert A. Fearey, an assistant to John Foster Dulles, a special advisor to President Harry Truman, who was handling negotiations on the peace treaty at the State Department. The memo cited US Hydrographic Office Publication No.122B, *Sailing Directions for the Southeast Coast of Siberia and Korea, from Sakhalinskiy Zaliv (Sakhalin Gulf) to the Yalu River including Sakhalin* (1st ed., 1947). Pages 535 and 536 of Publication No.122B contained an entry on "Liancourt Rocks (Take Shima)" that was very similar to a passage in the previously mentioned Publication No.123A, *Sailing Directions for Japan, Volume I*.

This allows us to confirm that the US Department of State referred to sailing directions compiled by the US Hydrographic Office during the drafting of the peace treaty. It also allows us to confirm, from the information given regarding the highest point on Ojima (Nishijima) as 515

¹⁶ It is sometimes claimed by Korean and some Japanese scholars that the Japanese government recognized Takeshima as part of Korean territory based on the inclusion of the islands in sailing directions for the Korean coast published in Japan. But the publication in question, *Nihon Suiroshi Dai-6-kan Chosen Zengan*, published by the Hydrographic Department in December 1911, also includes other places clearly not intended to be considered as part of Korean territory: Chapter 3 on the South Coast of Korea lists details on the Tsushima Strait, Western Channel and Eastern Channel (pp. 202–203), and Chapter 5, West Coast North Section (Korea) includes in its section on the Yalu River references to Dadonggou (p. 628) on the west bank of the mouth of the Yalu River, which is Chinese territory (now Donggang, Dandong, in Liaoning Province). In other words, the directions included places that were not under the jurisdiction of the colonial Korean Government General. This makes it clear that information provided in sailing directions does not necessarily coincide neatly with geographical or administrative boundaries.

¹⁷ Based on the "Ledger of Latitude and Longitude Measurements of Markers (本標実測経緯度原簿)" in the collection of the Hydrographic and Oceanographic Department, Japan Coast Guard, consulted in March 2012.

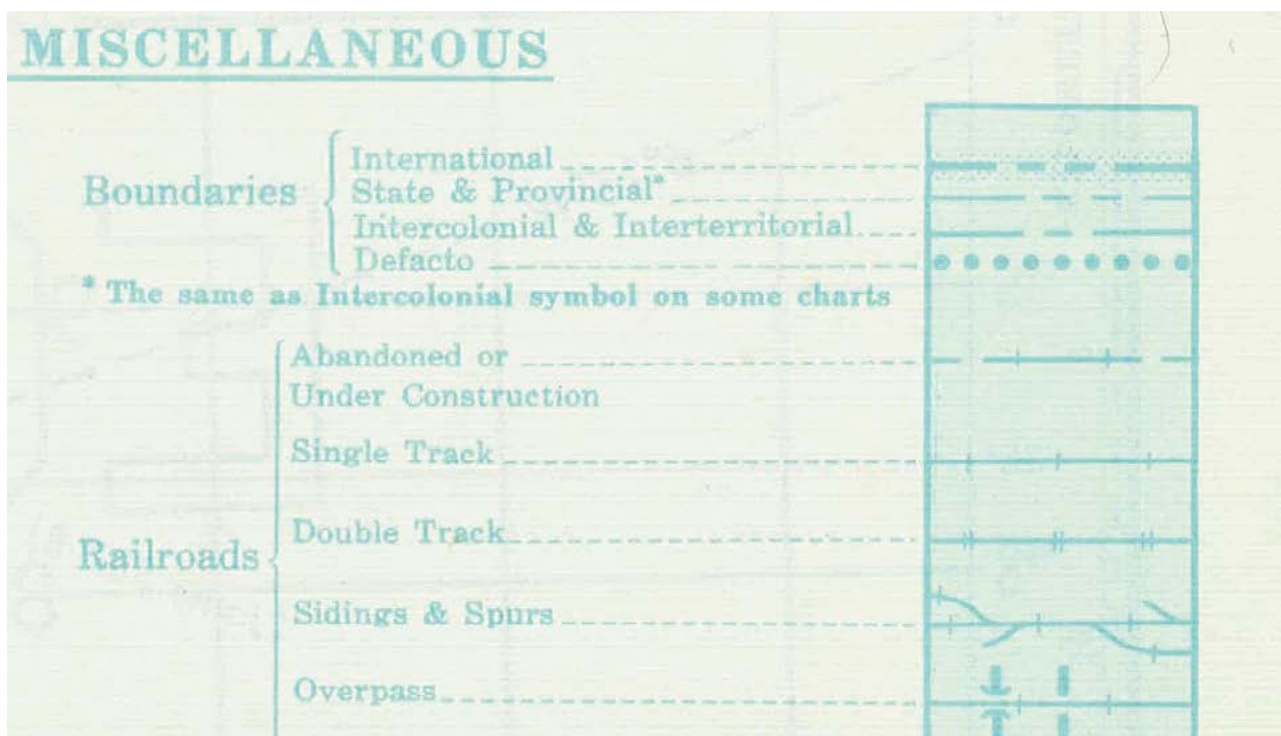
feet, that the US Hydrographic Office referred to the *suiroshi* (sailing directions) published by the Japanese Hydrographic Department. It is likely that in compiling its aeronautical charts, the US Air Force referred to the sailing directions published by the US Hydrographic Office, with the US Hydrographic Office directions based on the information in the *suiroshi* (sailing directions) published by the Japanese Hydrographic Department.

In the office memorandum sent to Fearey on July 31, 1951, on “Parangdo and Dokdo (islands),” Boggs wrote: “In response to your telephone requests for information regarding Dokdo and Parangdo, two islands which Korea desires to have Japan renounce in favor of Korea in the treaty of peace, we have tried all resources in Washington which we have thought of and have not been able to identify either of them. . . . [Ulleungdo] is the Korean name corresponding to the name conventionally used in English, Dagelet Island, and to the Japanese name Utsuryo To. That island is found on available maps and charts, by all three names, in approximately 37° 30' N. latitude, 130° 52' E. longitude.”

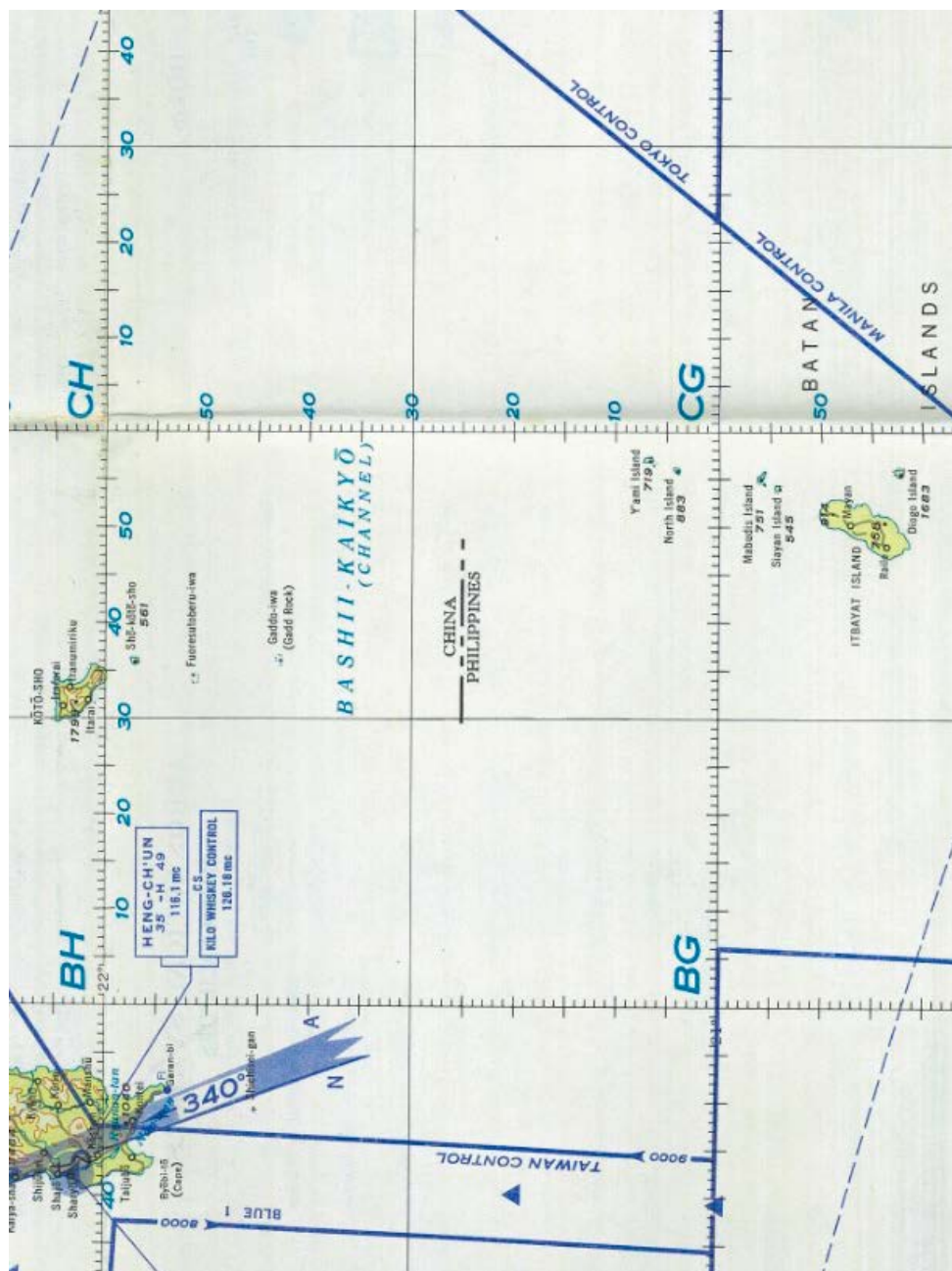
This shows that during the drafting of the San Francisco Peace Treaty, officials at the US Department of State hunted through all the sailing instructions, maritime charts, and maps available in Washington in search of the Korean name of Dokdo. In fact, no island labeled as “Dokdo” appears on any Korean-drawn map of the Korean Peninsula produced before 1950.

As on Map 1, the “Danger Area” shown to the northeast of Takeshima is presumably a US Armed Forces training area. Between Takeshima and the Oki Islands are the “KOREA ADIZ” and the “JAPAN ADIZ.” As I explained for Map 1, ADIZ stands for “Air Defense Identification Zone.” As with Map 1, Takeshima falls within the Korea’s ADIZ on this chart, but in international law this cannot be used as evidence for a claim that Takeshima is Korean territory.

Between Ulleungdo and Takeshima is a dotted line: the area northwest of this is marked “Korea,” and the area southeast as “Japan.” According to the legend on the reverse of the map, which gives an explanation of “Topographical Symbols (Cultural and Miscellaneous) [Features],” this two-point chain line marks “international” boundaries. In fact, on the legend, “international” boundaries are shown with a belt of dots around the two-point chain line. At first glance, the line on the map in question might look more like a “State & Provincial” boundary marker than an indication of an “international” boundary (Fig. 9). However, it seems fair to say that this two-point chain line does indeed represent an international boundary. In 1953, the boundary between Korea and Japan was clearly an international boundary, and similar dotted lines can be found representing international boundaries on other US-produced aeronautical charts from the same series. For example, a US Army 1:1,000,000 map that is in the author’s collection — “World Aeronautical Chart, (613), Niitaka Mountain, China-Nansei-Islands-Philippines,” 11-52, 8th Edition, printed in June 1952 and with overprinting in November 1952 — uses the same two-point chain line to mark the international boundary in the Bashi Channel between the Republic of China (Taiwan) and the Philippines (Fig. 10). As with Map 1, therefore, this chart too marks Ulleungdo as Korean territory, and Takeshima as Japanese territory.



**Fig.9 “USAF PILOTAGE CHART, (379D) G, TO DONG, JAPAN-KOREA,”
12-53, 1st EDITION Revised
“TOPOGRAPHIC SYMBOLS (CULTURAL and MISCELLANEOUS [FEATURES])”
[Collection of the National Archives of the United States]**



**Fig.10 “WORLD AERONAUTICAL CHART, (613), NIITAKA MOUNTAIN,
 CHINA-NANSEI-ISLANDS-PHILIPPINES,” 11-52, 8th EDITION
 (US Army) (Vicinity of Bashi Channel) [Author’s Collection]**

3. Comparisons with previous editions of relevant aeronautical charts

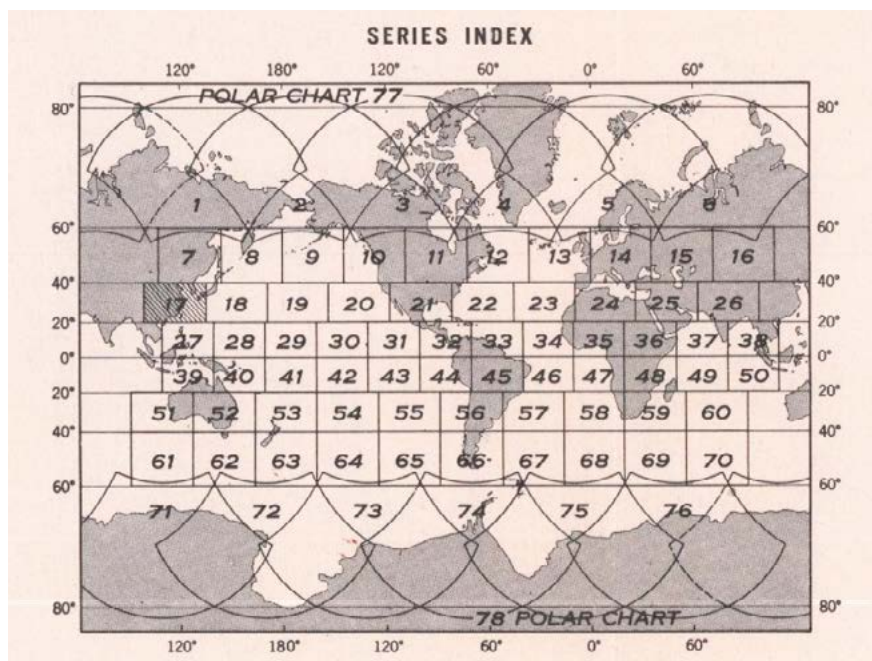
I will next analyze the information that was recorded on previous editions of relevant aeronautical charts to confirm whether the details provided on our three maps about Takeshima reflect the content of the San Francisco Peace Treaty after it came into effect in 1952.

Starting with Map 1, a previous edition of this is available, albeit in a 1:3,000,000 scale, as “U.S. Army Air Forces Long Range Air Navigation Chart, (LR-17), Yellow Sea,” 11-50, 8th Edition Revised. This chart was printed in November 1950, with overprinting as of March 1953. For Map 2, however, no post–World War II aeronautical chart showing this section of the Sea of Japan was published before 1954. According to the Series Index (Fig. 11) that serves as an index map for the 1:3,000,000 aeronautical LR series, Map LR-18, to the east of LR-17, covers the eastern side of the Japanese archipelago.

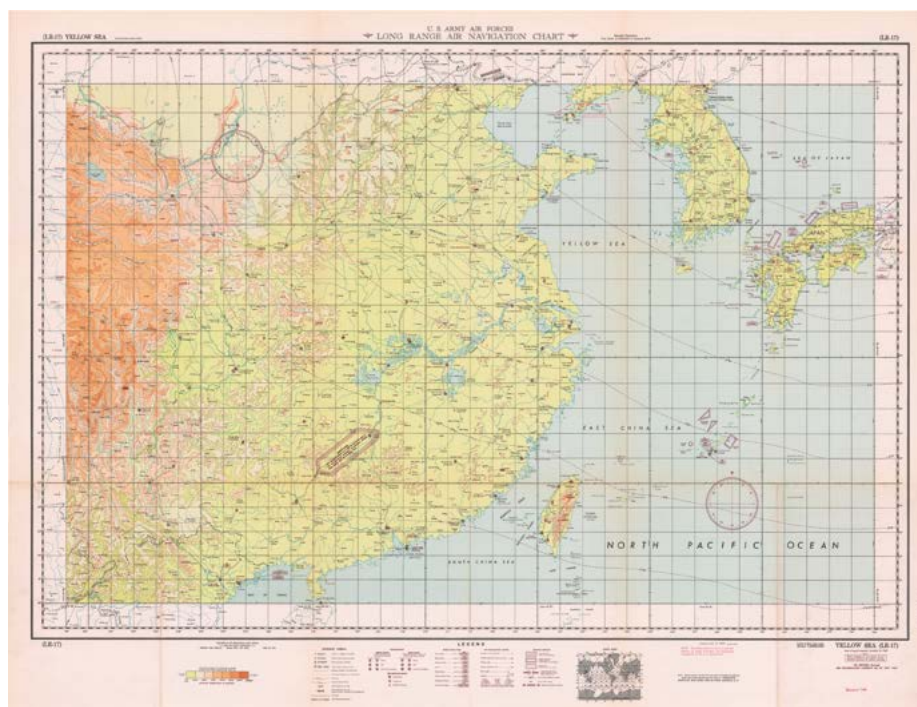
Although the chart (LR-17) was published directly after the peace treaty came into effect and shows the “KOREAN ADIZ” and “JAPAN ADIZ” in the western region of the Sea of Japan, it does not mark Takeshima or the international boundaries between islands, and is therefore not suitable for comparison. An older edition is available, in the form of “U.S. Army Air Forces Long Range Air Navigation Chart, (LR-17), Yellow Sea,” 6-50, 7th Edition Revised (Fig. 12). This chart was printed in June 1950, with overprinting as of October 1950. On this chart, KOREAN and JAPANESE ADIZs are not shown in the western region of the Sea of Japan, and the only information marked for Takeshima is its Western (French) name “Liancourt Rocks,” the number 515, marking the elevation of its highest point in feet, and the text “Danger Area,” presumably denoting a US Forces training area (Fig. 13).

Incidentally, SCAPIN 1778, issued on September 16, 1947, during the occupation of Japan, designated Takeshima as a US Armed Forces bombing range, and it is likely that the chart reflects this fact. No international boundaries are shown in the vicinity of Takeshima. Similarly, the 1:3,000,000 aeronautical chart (LR-17) Yellow Sea, 7th Edition (printed March 1948, with overprinting as of March 1950) and 6th Edition (printed March 1948, with overprinting of aerial information as of June 1948) carry the same text as the revised 7th Edition (printed June 1950, with overprinting as of October 1950), and do not show international boundaries in the vicinity of Takeshima. Takeshima is not shown on the 5th Edition (printed August 1947, with overprinting of aerial information dated back to June 1947, and re-issued December 1947), or on the previously cited 8th Edition (printed November 1950, with overprinting as of March 1953). Similarly, there is no text to indicate KOREAN or JAPANESE ADIZs.

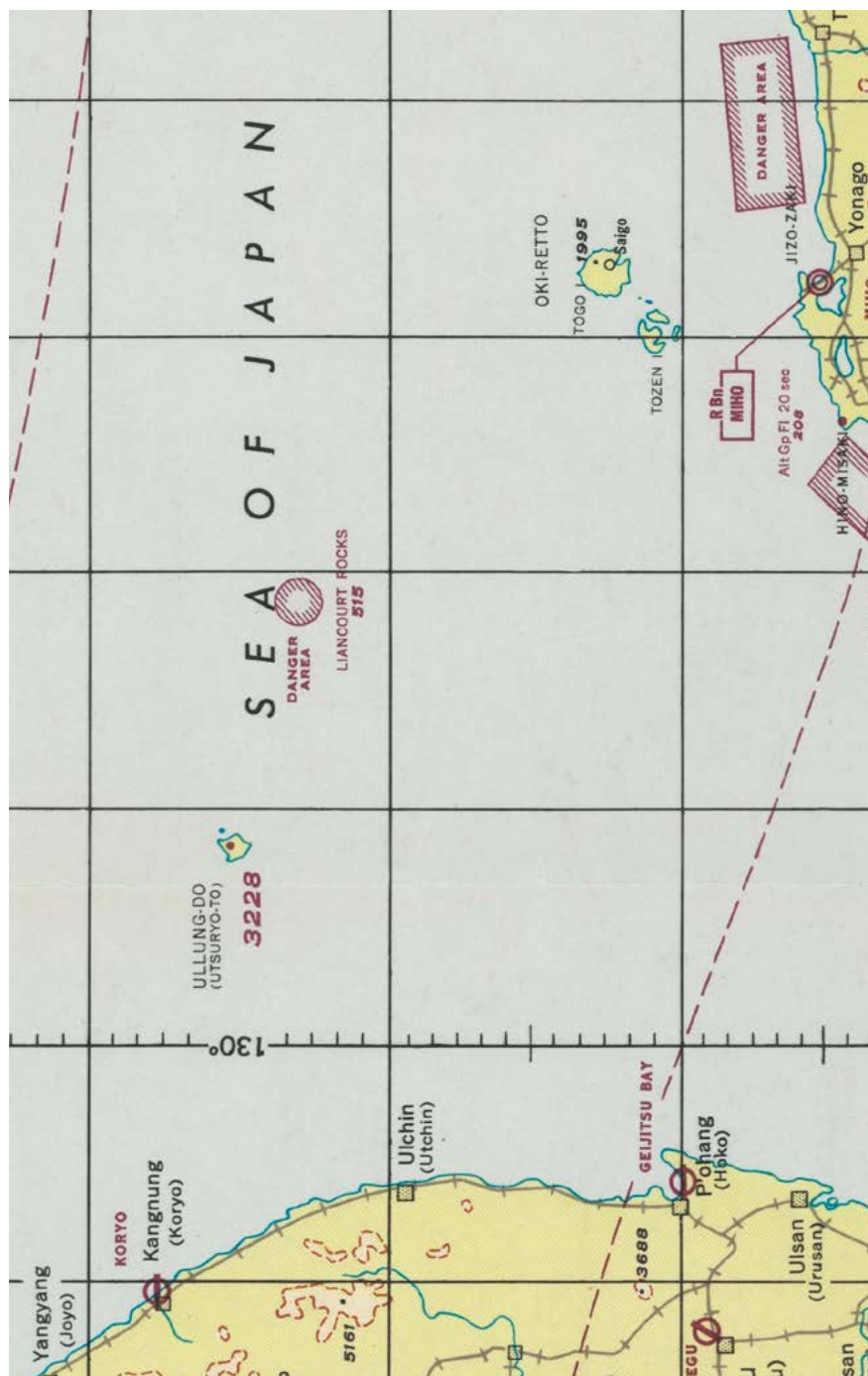
An older edition of Map 3 is “AAF Aeronautical Chart, (379D) G, To Dong, Central Japan,” 3-51, 1st Edition, in the same 1:500,000 scale (Fig. 14). KOREAN and JAPANESE ADIZs are not marked in the western region of the Sea of Japan. There is no marking to indicate international boundaries in the vicinity of Takeshima, where the only text is the Western (French) name of “Liancourt Rocks,” the number 515 indicating the elevation of the highest point in feet, and the warning “Danger Area,” presumably indicating the presence of a US military training area (Fig. 15). It is important to note that, as with the 1:3,000,000-scale map described earlier (LR-17, Yellow Sea, 7th Edition Revised) that was printed in June 1950 with overprinting as of October 1950, this map (1:500,000, (379D) G, 1st Edition, To Dong, March 1951) does not show any international boundaries between the small islands. The same is true of two other editions. The 3rd Edition of the 1:500,000 chart (379D), To Dong, (printed September 1950 with overprinting as of October 1950, and printed February 1951 with overprinting as of March 1951) only has “Liancourt Rocks,” the altitude of its highest point, and the text “Danger Area,” while the revised 2nd Edition of the 1:500,000 chart (379D), To Dong, (with aerial information as of December 1945) carries only the name “Liancourt Rocks.” Neither of these maps carries any indication of international boundaries in the vicinity of Takeshima.



**Fig.11 “U.S. ARMY AIR FORCES LONG RANGE AIR NAVIGATION CHART, (LR-17),
 YELLOW SEA,” 3-53, 8th EDITION “SERIES INDEX”
 [Collection of the National Archives of the United States]**

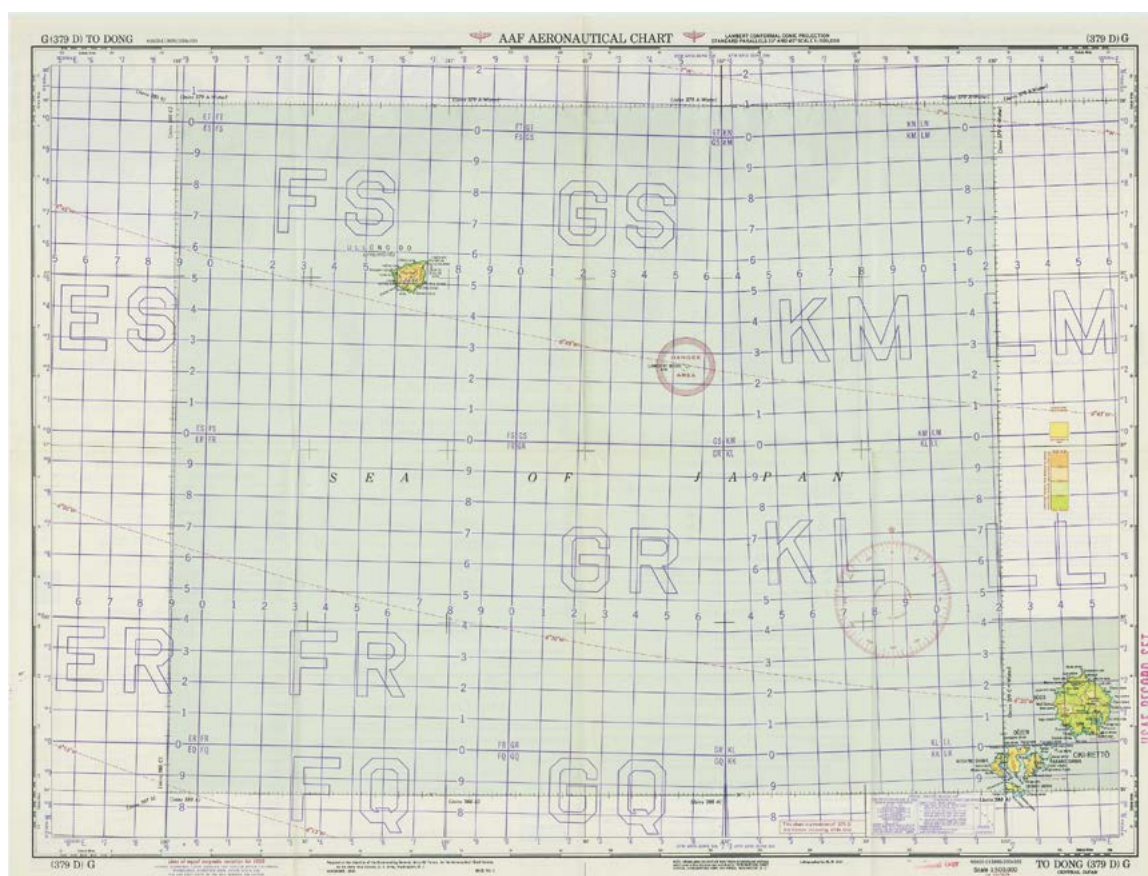


**Fig.12 “U.S. ARMY AIR FORCES LONG RANGE AIR NAVIGATION CHART, (LR-17),
 YELLOW SEA,” 10-50, 7th EDITION Revised
 [Collection of the National Archives of the United States]**



**Fig.13 “U.S. ARMY AIR FORCES LONG RANGE AIR NAVIGATION CHART, (LR-17),
YELLOW SEA,” 10-50, 7th EDITION Revised
(Vicinity of Ulleungdo, Takeshima, and Oki Islands)
[Collection of the National Archives of the United States]**

These two aeronautical charts (Fig. 12 and Fig. 14) were published immediately before the signing of the San Francisco Peace Treaty. The map shown in Fig. 12 was released in October 1950 as an overprint, and the map shown in Fig. 14 was released in March 1951 in a new printing run. On aeronautical charts dating from just before the signing of the Peace Treaty, no international boundaries between islets are shown in the vicinity of Takeshima. This presumably shows that the boundaries of Japan's territory were not yet legally fixed before the peace treaty came into effect. This fact too can therefore be taken to mean that Maps 1, 2, and 3 show the US government's understanding of geography directly after the peace treaty came into effect, and likely reflect the intended content of the peace treaty as well.



**Fig.14 “AAF AERONAUTICAL CHART, (379D) G, TO DONG, CENTRAL JAPAN,”
 3-51, 1st EDITION
 [Collection of the National Archives of the United States]**

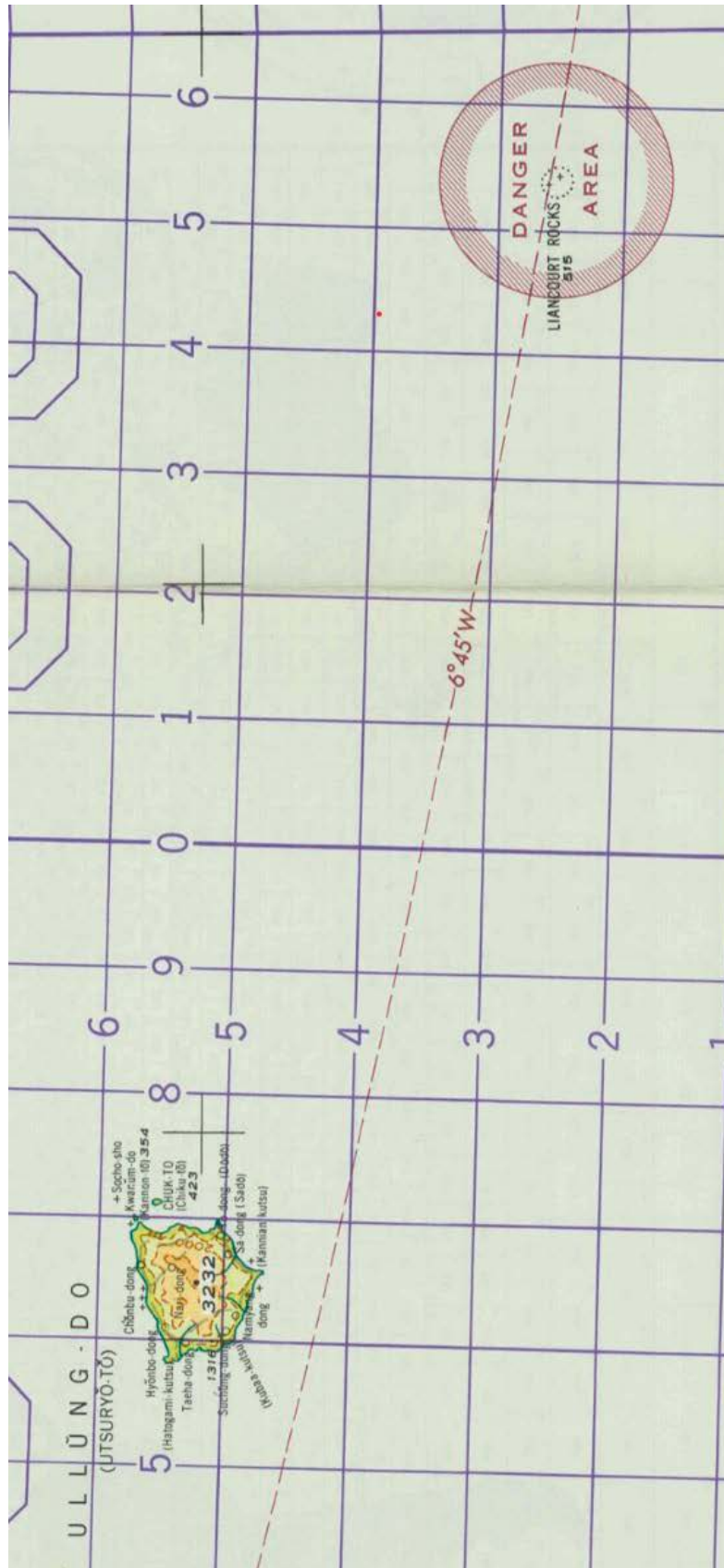


Fig.15 “AAF AERONAUTICAL CHART, (379D) G, TO DONG, CENTRAL JAPAN,”
3-51, 1st EDITION
(Vicinity of Ulleungdo and Takeshima)
[Collection of the National Archives of the United States]

4. Conclusion

All three aeronautical charts examined in this paper, published in 1953 and 1954, were produced and published immediately after the San Francisco Peace Treaty came into effect in 1952, and were drawn up by the US Air Force. They are therefore official maps produced and published by the United States government. It is consequently possible to use them to gain an insight into the US government's understanding of geography at the time.

On the three maps, KOREAN and JAPANESE ADIZs are shown between Takeshima and the Oki Islands. People connected with the Korean government and scholars on the Korean side have argued that these ADIZs show that Takeshima was recognized as Korean territory. However, an ADIZ is a domestic measure established by a country for air defense purposes, and is not considered to define the limits or range of a country's territorial air or land space. In the same way, international boundaries are shown in the Tsushima Strait Western Channel between Tsushima and Busan, and between the Goto Islands and Jeju Island. These boundaries are shown separately and are clearly distinguished from the ADIZs. The marking of ADIZs on these maps cannot therefore be used as evidence showing sovereignty over Takeshima.

It was also possible to confirm that Takeshima is shown as Japanese territory on these charts because all three aeronautical charts mark the Korea/Japan international boundary between Ulleungdo and Takeshima. From the textual and other information marked on these aeronautical charts produced by the US Air Force, we were able to confirm that the US government recognized Takeshima as Japanese territory. Since these charts were published in 1953 and 1954, just after the San Francisco Peace Treaty came into effect, it is reasonable to conclude that the information given on these charts reflects the content of the San Francisco Peace Treaty.

Comparisons of the textual information on the charts with previous editions reveal that information listed on previous editions of Map 1 and Map 3 was limited to an indication of Takeshima using its Western (French) name as "Liancourt Rocks," the number 515 indicating the elevation of the highest point in feet, and the text "Danger Area," presumably indicating a US military training area. We were able to confirm that no international boundaries were marked on the maps in the vicinity of Takeshima. These aeronautical charts were issued immediately before the signing of the San Francisco Peace Treaty. No international boundaries are shown between the islands on aeronautical charts published before the peace treaty came into effect, probably because they date from before when the boundaries of Japanese territory were legally fixed and finalized in the treaty. Our recent research also showed that the content of SCAPIN 677, which reflected the policy of the Supreme Commander for the Allied Powers during the occupation and was not a final decision on Japanese territory, was not reflected in textual or other information printed on charts that were published before the San Francisco Peace Treaty came into effect. This further supports the view that these three aeronautical charts published in 1953 and 1954 reflect the US government's understanding of geography immediately after the peace treaty, and reflect the intentions and content of the peace treaty.

The Korean government makes a number of claims: that Dokdo was recognized as Korean territory in the San Francisco Peace Treaty as a dependency of Ulleungdo, that the territories named in the treaty are merely a partial list, and that Dokdo was intended to be among the territories to be relinquished by Japan. But the fact is that these aeronautical charts drawn up by the government of the United States, one of the drafters of the treaty, immediately after the treaty came into effect, marked the international boundary between Ulleungdo and Takeshima, with Ulleungdo shown as Korean territory and Takeshima as Japanese. In light of these charts, we may conclude that our research firmly and unmistakably disproves the claims of the Korean government.

The views of the US government were also made clear in the official report of the Van Fleet mission, written in August 1954:

When the Treaty of Peace with Japan was being drafted, the Republic of Korea asserted its claims to Dokdo but the United States concluded that they remained under Japanese sovereignty and the Island was not included among the Islands that Japan released from its ownership under the Peace Treaty. The Republic of Korea has been confidentially informed of the United States position regarding the islands but our position has not been made public. Though the United States considers that the islands are Japanese territory, we have declined to interfere in the dispute. Our position has been that the dispute might properly be referred to the International Court of Justice and this suggestion has been informally conveyed to the Republic of Korea.

The Van Fleet mission report confirms that the US government's view that Takeshima was Japanese territory did not change between the signing and coming into effect of the peace treaty and the publication of the aeronautical charts we have studied in this paper.

The significance of these three aeronautical charts is that they can be understood to reflect the US government's understanding of geography immediately after the San Francisco Peace Treaty came into effect. It is therefore reasonable to assume that the charts reflect the intended content of the San Francisco Peace Treaty and the Rusk letter that supplements the treaty. This is the first time it has been possible to confirm that Takeshima was shown as Japanese territory on maps produced by the US government soon after the San Francisco Peace Treaty came into effect. The claims of the Korean government—that the territorial provisions in the San Francisco Peace Treaty merely represent an incomplete and illustrative listing, that Takeshima was a dependency of Ulleungdo, and therefore regarded as part of Korean territory together with Ulleungdo—have therefore been discredited and disproven by the charts uncovered at the National Archives of the United States. In international law, Takeshima cannot be claimed as Korean territory, and our research reconfirmed that Korea is illegally occupying Takeshima. Maps can never be more than a secondary source of proof in international law. Nevertheless, it is fair to describe these charts as an important resource that supports Japan's claims that Takeshima was retained as Japanese territory after World War II, by means of the San Francisco Peace Treaty and the Rusk letter that supplemented it.¹⁸ We will continue our research in archives and libraries and continue to study more maps and charts published in the United States, United Kingdom, and other countries involved in the drafting of the San Francisco Peace Treaty.

[Postscript]

During the writing of this paper, I benefitted greatly from the assistance provided by then division head Yo Iwabuchi (now managing director at the Japan Hydrographic Association) and division head Tetsuichiro Yabuki, both of the Hydrographic and Oceanographic Department at the Japan Coast Guard. I would like to express my gratitude for their help. I dedicate this paper to the memory of Hiroyuki Sakata, *Sankei Shimbun* newspaper's Matsue Bureau Chief, who passed away suddenly on March 20, 2021, at the age of just 43. For many years, Mr. Sakata made important contributions to research and reporting on Takeshima, particularly on US aeronautical charts and Edo period geographer Sekisui Nagakubo's map of Japan.

¹⁸ A rebuttal from the Korean side was reported by Yonhap News in Korea on October 23, 2020, the day the Japan Institute of International Affairs issued a press release about the US aeronautical charts discussed in this paper. My response to the Korean rebuttal was published on the website of the Japan Institute of International Affairs on December 10, 2020 as "On U.S. Government Aeronautical Charts Published in 1953 and 1954 Indicating that Takeshima Is a Japanese Territory—Rebuttal to the October 23, 2020 reporting of Korea's Yonhap News Agency" <https://www.jiia.or.jp/column/20201210-takeshima-addendum.html>

This paper is an edited and expanded version of “Appendix 1: Summary of Findings from US Government Aeronautical Charts Published in 1953 and 1954 Indicating that Takeshima Is a Japanese Territory (written by Rikinobu Funasugi),” originally prepared for a press release by the Japan Institute of International Affairs at Shimane Prefecture’s Takeshima Reference Room on October 23, 2020. This paper represents part of the results of two research projects undertaken by Shimane University on behalf of the Japan Institute of International Affairs: “Geographical Research on Takeshima as Seen on Old Maps (Including Compilation of a Database of Old Maps and a Written Report),” for fiscal 2019 and fiscal 2020.

Released April 26, 2021
Revised February 13, 2022

Addendum as of February 13, 2022:

This paper was published on the website of the Japan Institute of International Affairs on April 26, 2021. The paper has been reposted after being revised to correct typographical errors and is also being issued as a pamphlet.

The English-language translation of this paper was prepared by the Japan Institute of International Affairs.

Ramseyer's Paper: Criticisms of It, and Arguments in Its Favor*

Wooyoun Lee**

Abstract

For about three months in early 2021, people in South Korea were slandering J. Mark Ramseyer, an American scholar. The journal *International Review of Law and Economics*, (Vol. 65, March 2021) was due to publish Ramseyer's paper "Contracting for Sex in the Pacific War," which had been uploaded in December 2020. In the paper, Ramseyer argued: 1) That the relationship between the owner of a "comfort station" and a "comfort woman" was a contractual relationship, no different from the relationship between a brothel owner and a prostitute before World War II, and 2) That the treatment of comfort women in wartime was better than the treatment generally accorded to prostitutes before the war. The violent condemnation of Ramseyer shows that the comfort women issue remains the most powerful stronghold of what has been called "anti-Japanese tribalism" in Korea. Their attack on him was not academic criticism, but an expression of anger and hostility—qualities that are common to all tribalism. The president of Harvard University has defended Ramseyer on grounds of academic freedom, and Ramseyer's paper remains accessible online. This episode has become the first case in which anti-Japanese tribalism in Korea has failed in its attempt to attack Japan and its allies by brandishing the comfort women issue. In this essay, I will introduce Ramseyer's paper, rebut major criticisms of his work, and put forward my own arguments.

I. Introduction

For about three months in early 2021, people in South Korea were slandering J. Mark Ramseyer, an American scholar. The journal *International Review of Law and Economics*, (Vol. 65, March 2021) was due to publish Ramseyer's paper "Contracting for Sex in the Pacific War,"¹ which had been uploaded in December 2020. In the paper, Ramseyer argued: 1) That the relationship between the owner of a "comfort station" and a "comfort woman" was a contractual relationship, no different from the relationship between a brothel

* Parts of this paper have been previously published online as separate articles. They can be accessed at: <https://japan-forward.com/bookmark-harvard-thesis-on-comfort-women-fortells-the-decline-of-anti-japan-tribalism/>. <https://japan-forward.com/bookmark-harvard-professors-paper-on-comfort-women-will-become-academias-pandoras-box/>. <https://japan-forward.com/bookmark-controversy-over-harvard-article-cant-erase-the-facts-of-comfort-women-contracts/>. <https://japan-forward.com/bookmark-the-substance-of-contracts-why-ramseyer-is-correct-about-korean-sex-workers>.

** Wooyoun Lee is a researcher at Naksungdae Economic Research Institute in Seoul. In this paper, Korean and Japanese names will be presented in the traditional Western order, with the surname following the given name. For example, the author's given name is "Wooyoun" and the family name is "Lee."

¹ J. Mark Ramseyer, "Contracting for Sex in the Pacific War," *International Review of Law and Economics* 65 (March 2021). <https://doi.org/10.1016/j.irle.2020.105971>.

owner and a prostitute before World War II, and 2) That the treatment of comfort women in wartime was better than the treatment generally accorded to prostitutes before the war.

The violent condemnation of Ramseyer shows that the comfort women issue remains the most powerful stronghold of what has been called “anti-Japanese tribalism” in Korea. Their attack on him was not academic criticism, but an expression of anger and hostility—qualities that are common to all tribalism. After the furor subsided, scholars, mostly in the United States, began to offer academic criticism. Their most important arguments were that: 1) Korean women were forcibly taken as comfort women by the Japanese state, rather than voluntarily signing contracts, and that 2) To show a contractual relationship, a written contract is necessary, but Ramseyer failed to produce this evidence.

In Korea, any issue can be magnified into a great vortex that draws in other controversies, but these flare-ups are also quick to disappear from people's minds. Since April, the Ramseyer issue has disappeared from the radar of the media and faded from public attention. In the meantime, the president of Harvard University has defended Ramseyer on grounds of academic freedom, and Ramseyer's paper remains accessible online. This episode has become the first case in which anti-Japanese tribalism in Korea has failed in its attempt to attack Japan and its allies by brandishing the comfort women issue. In this essay, I will introduce Ramseyer's paper, rebut major criticisms of his work, and put forward my own arguments.

In Section II, I provide an overview of how critics of Japan have reacted to Ramseyer's paper. Section III discusses the academic contributions made by Ramseyer's work. In Section IV, I offer rebuttals to Ramseyer's critics. Section V explains the *miuri* contracts through which women sold themselves and discusses how prostitutes with prior experience were recruited into the comfort stations. Section VI summarizes the discussion.

II. Anti-Japanese Slanders against Ramseyer's Paper

Since January 28, South Korean media have been energetically carrying reports on Ramseyer's paper, with many news organizations alleging that he had depicted comfort women as prostitutes. Korean society was whipped up into a fury of outrage.

For example, MBC, a national television network, did not hesitate to convey Koreans' angry responses, which included racist attacks accusing Ramseyer of being a “white Japanese.” He was labeled a “pro-Japanese collaborator” and a “spokesman for Mitsubishi,” which some Koreans believe is a corporation that committed war crimes. This kind of reporting reflects the saying “If you can't refute the message, kill the messenger.” A ludicrous situation developed in which a whirlpool of anti-Japanese sentiment swallowed up other issues.

Most Korean journalists did not even read Ramseyer's paper, or if they did, they did not understand it. The former is more likely. Early media reports on the issue tended to follow more or less the same script: much of the media essentially copied and pasted reports from the Yonhap News Agency. This isn't particularly surprising. Indeed, it is the norm in Korean journalism. Perhaps I am foolish to expect reporters to read Ramseyer's paper for themselves. Anyone wishing to offer solutions to the problem of comfort women may first have to give lessons to Korean newspaper reporters.

According to Ramseyer's paper, the contracts between comfort women and comfort station owners were basically indentured servitude contracts. This is the first point of Ramseyer's article. Critics may argue that Ramseyer assumes that the women signed contracts voluntarily, when in reality, Korean women were forcibly taken by the Japanese. But anyone wanting to make such an argument would need to present relevant evidence by showing proof of “forcible recruitment.” However, there is no evidence that forcible recruitment took place. It has been 30 years since the comfort women issue and the theory of forcible recruitment came to light, but not a shred of objective evidence has been found to support the theory that the women were taken by the

Japanese state.

The only thing that anti-Japanese critics in South Korea present as evidence to support their theory is the testimony of former comfort women who claim that they were forcibly taken by the Japanese military or police. However, it is difficult to trust this kind of testimony. Someone like Ramseyer who is not from Korea or Japan, and who is better positioned to view the matter objectively, would also probably agree that the testimony cannot be fully trusted.

One of the most prominent of the former prostitutes is Yongsoo Lee, who has worked to attack Japan through the issue of comfort women. She seems to think of herself as a hero of the anti-Japanese movement who struggled for national independence. But her testimony should not be allowed to pass as evidence. The same is true of much of the testimony given by other comfort women, as well as the activists and researchers who supported them. Not being able to criticize the contracts, they had no choice but criticize the messenger.

Ramseyer's argument is actually a historically objective fact: brothel owners did pay cash advances. To refute this, it would be enough to provide evidence that this was not the case. The same goes for the argument that comfort women became free and returned to Chosen (the Korean peninsula) when they had paid off their advances, or when they had completed their contracts. All critics need to do is to present evidence that says otherwise. However, anti-Japanese critics have not been able to do that, because such evidence does not exist. They couldn't even find errors or leaps of logic in this paper. All they could do is to disparage the messenger.

Those who have claimed that Ramseyer argues that comfort women were not sex slaves but prostitutes fail to understand the point of his paper and are misguided in their criticism. Ramseyer is not even the first person to talk about contracts, the existence of which is a well-known fact among historians who have studied the comfort women issue.

His article doesn't even mention the expression "sex slave." If you look at the details of the contracts discussed in his paper, you'll see that although the paper was not written to prove that comfort women were prostitutes, the contracts could be used to support the argument that comfort women were not sex slaves. It is this position that anti-Japanese critics wanted to criticize. But they couldn't find the historical and objective data to refute the argument of the paper and couldn't even clarify their own logic about the problem.

Another reason they are making a fuss about Ramseyer's paper has to do with a recent scandal about the malfeasance of Meehyang Yoon. Yoon is a member of Korea's National Assembly and was the representative of Jeongdaehyeob the most powerful anti-Japanese activist organization dealing with the comfort women issue. The comfort women movement was on the verge of losing its leading position in the anti-Japanese movement in Korea because of the scandal, and national trust in Jeongdaehyeob dropped dramatically.

In addition, Younghoon Rhee, a former professor at Seoul National University, presented convincing new data and explanations about comfort women in his books *Baniljongjokjuuiwau* (Anti-Japanese tribalism) and *Baniljongjokjuuiwau tujaeng* (Struggle against anti-Japanese tribalism),² which caused a stir in Korean society. According to Rhee, comfort women shouldn't be regarded as "sex slaves." Those on the other side, including anti-Japanese researchers and activists, did not know how to refute the arguments put forward in these books either.

The critics were therefore on the lookout for a pretext to fight back. When the *Sankei Shimbun* newspaper carried a report on Ramseyer's work, they seized the opportunity. They staged ad hominem attacks and strived to whip up anti-Japanese sentiment. As a result, most Koreans who did not know much about what was going on came to believe that the issue was a major controversy in the United States and Japan. However, Japanese media have been quiet

² Younghoon Rhee et al, *Baniljongjokjuuiwau* [Anti-Japanese tribalism] (Seoul: Miraesa, 2019); Younghoon Rhee et al, *Baniljongjokjuuiwau tujaeng* [Struggle against anti-Japanese tribalism] (Seoul: Miraesa, 2020).

about the paper. In the United States, there were only a few scattered complaints voiced by some students and scholars. Lawrence S. Bacow, the president of Harvard University, defended Ramseyer and his paper in the name of academic freedom, and *International Review of Law and Economics* continues to post the Ramseyer article online with an "Expression of Concern."

Perhaps some anti-Japanese critics might interpret this small-scale commotion in Japan and the United States as a great victory. But internationally, the incident marked their first failure in their attempts to attack Japan using the comfort women issue.

III. Ramseyer's Arguments

Academic articles start with an abstract and three to five keywords. In Ramseyer's article, the keywords are "prostitution" and "indentured servitude." In the economic history of Japan, it is well-known that female employees who worked at inns, restaurants, and brothels from the Edo period on were generally indentured laborers. They received a lump sum in advance—an amount that they couldn't dream of in ordinary circumstances—and in exchange, they worked for several years at their jobs. They received wages and gradually repaid the advance from their salaries.

A. Indentured Servitude Contracts

Some of the most well-known indentured laborers are the workers who immigrated to America from Europe in the eighteenth and nineteenth centuries. They were required to pay for their passage and food, which were costly for poor European workers. Essentially, employers in America paid for their travel expenses, and when the laborers arrived in America, they worked for their employers for about seven years on average.

Ramseyer identifies as indentured servitude contracts the agreements between brothel owners and prostitutes that were entered into before the Asia-Pacific War, as well as the agreements between comfort station owners and comfort women that were entered into during the conflict. Before comfort women began their work, brothel owners loaned large sums of money known as *zenshakukin* to prostitutes or their parents, and the women would pay off the advance over several years. The money that women earned from their customers, namely the *gyokudai* (sales), was split between the owner and the women according to a certain ratio, and the women used the *gyokuwari* (the portion of the money that belonged to the women) to pay back part of the advance they had received. In this contract, the woman is both the sales item and the seller at the same time, and she was typically the daughter of a poor farmer. The buyer was the brothel owner, and the woman's parents (mostly her father) became the joint borrower of the advance.

As with all good articles, Ramseyer's idea is simple. He first asks, "Why do contracts in the prostitution industry take this particular form?" Ordinary laborers first work and get paid later. So why is it that prostitutes and comfort women entered into a different type of contract, whose characteristics include a multi-year contract period, upfront advances, and shared earnings?

The answer is also simple. A woman who gets an offer to work as a prostitute faces a problem. She worries that working in prostitution will be fatal to her reputation. To compensate for this, the brothel owner offers very favorable conditions. But she cannot be sure whether he will keep his promise. How do you solve this problem? The brothel owner pays her a large amount of money in advance, known as *zenshakukin*.

The brothel owner also faces a problem. The nature of the industry makes it impossible to monitor whether his employees are working hard, since their labor takes place in a closed space. The owner asks himself, "I pay them generously, but will they work as they are supposed to? Will clients leave satisfied and come back to look for the same woman again?" The owner solves this problem by splitting the money earned from the sex services between himself and the women, according to a pre-agreed ratio. This will incentivize the women to do their best at their job, while

a regular salary would only discourage them from working hard. This is another of the points of Ramseyer's article.

The framework of Ramseyer's analysis is game theory. According to game theory, the best way to get someone to believe my promise is to demonstrate that keeping the promise is in my best interests. Keeping the promise of paying high wages benefits the brothel owner because it allows the prostitute to repay her advance quicker. Prostitutes are motivated to work hard by the terms of their contracts, by which they share the income from their sex services with their employers at a certain rate. By agreeing on this share of the proceeds from her "sales," a prostitute demonstrates to the brothel owner that it is in her best interests to keep her promise to work hard. Both sides believe each other's promises, and the indentured servitude contract as described above becomes reality.

B. Improvements in the Working Conditions of Comfort Women

In all societies, sex work is known to be arduous and severely damaging to a sex worker's reputation. In return, sex workers earn high incomes. The same was true of the prostitutes who worked in Japanese brothels before the Asia-Pacific War and of the military comfort women during the conflict. According to Ramseyer, improvements in the treatment of comfort women can be seen in the contracts they signed with the owners of the comfort stations. The better working conditions came about because comfort women were working in a dangerous war zone.

Several factors motivated brothel owners to provide more favorable conditions for comfort women in wartime. First, a comfort woman had to take the risk of being killed or injured in a battle zone, unlike someone working in the interior of Japan and Chosen. Second, if the brothel owner violated the contract, she faced the risk of having fewer means to get herself out of her predicament. Prostitutes in Tokyo or Seoul could turn to their friends, the police, or courts for help, or simply disappear into the city crowds, if need be. Comfort women working in a foreign war zone did not have this choice.

This high level of risk needed to be compensated by correspondingly high pay. A similar pattern is found in the wartime labor mobilization (including conscription) of men in colonial-era Korea, which took place after September 1939. In the 1920s and 30s, wages for Koreans working in Japan were just over half of the wages paid to Japanese. However, after the mobilization began, wage differentials due to non-economic reasons, such as ethnic discrimination, became almost nonexistent, though pay did vary based on individual ability. This is because the Japanese government, facing labor shortages, banned discrimination. Ironically, during the war, working conditions for Korean workers became much better.³

According to Ramseyer, in the mid-1920s, advances for prostitutes in Japan were about 1,000 to 1,200 yen. In those days, the daily wage of a typical female factory worker was less than 1.5 yen.⁴ In addition, unlike female factory workers, prostitutes were provided with meals and housing. In an environment characterized by a low level of economic development and a high Engel's coefficient, the provision of meals and housing further widened the wage gap between prostitutes and other occupations. Given these circumstances, advances paid to comfort women might have been more than 1,000 times greater than the daily wage of female factory workers.

Ramseyer argued that even after the start of the war, there was no significant change in the size of the advances. Rather, the indenture period was reduced. In the case of prostitutes, the common contract period was six years in Japan and three years in Korea, while it was two years

³ Woo-youn Lee, "Korean Coal and Metal Mineworkers Mobilized in Wartime Japan: The Question of Wages and Ethnicity," *Japan Review* 1, no. 3 (2018): 26–59.

⁴ Naknyeon Kim, "Jeonjeon (1900–39) Ilbonui Siljirimgeumgwa Imgeumgyeokcha" [Real wages and wage differentials in Japan], *Geongjebaljeonyeongu* 2 (2011): 141–170.

for those in comfort stations for military personnel. There were also cases where contracts were for just six to twelve months, as was the case for comfort women in Burma. Military comfort women could also leave the comfort station when the contract period was over, regardless of whether their advances had been paid off in full or not. This shortened indenture period would make it easier for them to return home.⁵

The division of the earnings also became more favorable to women, according to Ramseyer. If the earnings were shared in a ratio of 7:3 for ordinary prostitutes, it became 6:4 for comfort women. In some cases, a 4:6 ratio was adopted, whereby the comfort women got to keep more than the brothel owner. As a result, there were comfort women who returned home after paying off their advances in just a few months.⁶ I would add that the number of soldiers serviced by comfort women was generally higher than the number of ordinary citizens serviced by prostitutes, so the income of military comfort women was significantly higher.

In 1925, prostitutes in the brothels of Tokyo serviced an average of 2.5 people per day. However, on the military front, there was always a shortage of comfort women. The Japanese military also imposed strict hygiene practices to prevent sexually transmitted diseases and required the use of condoms. The military prohibited public access to comfort stations, while forbidding soldiers from visiting other private brothels. These policies meant that the comfort women had better health and higher incomes than other prostitutes. Some people claim that after the end of the war, comfort women were not able to collect the wages they were owed from the military. But it is likely that such cases were exceptional. There would have been far more comfort women who returned home before the end of the war, and most comfort women would have been spared from the disorder right after the end of hostilities. In conclusion, comfort women faced higher risks but earned higher incomes compared to pre-war prostitutes.

IV. Criticisms of Ramseyer's Paper and Rebuttals to Ramseyer's Critics

A. Korean Recruiters vs. the Japanese State

After launching ad hominem attacks against Ramseyer, the Korean media reported criticisms about the contents of his paper by conveying the opinions of a number of researchers in the fields of Korean and Japanese history.

The researchers first criticized Ramseyer's insistence that the responsibility of Korean recruiters was greater than that of the Japanese state. The critics denounced this passage in his paper:

It was not that the government—either the Korean or the Japanese government—forced women into prostitution. It was not that the Japanese army worked with fraudulent recruiters. It was not even that recruiters focused on the army's comfort stations. Instead, the problem involved domestic Korean recruiters who had been tricking young women into working at brothels for decades.

Of course, Korean recruiters were responsible. The Japanese government and military were wary of recruiting comfort women through employment fraud and human trafficking because

⁵ People usually assume that the comfort women were able to return home only after the end of the war. But this line of thinking is heavily influenced by the argument that women were forcibly recruited and that they were sex slaves. From 1937 to 1945, when the comfort stations were operating at their full extent, many comfort women would have returned to their home country even before the end of the war. Those who were still working until the end of hostilities would have been a minority.

⁶ Profit-sharing ratios are discussed by Ikuhiko Hata. See Ikuhiko Hata, *Comfort Women and Sex in the Battle Zone*, trans. Jason Michael Morgan (Lanham: Hamilton Books, 2018), 99.

this could damage Japan's reputation. Because of this, the Japanese military and the Government-General of Chosen tried to crack down on such recruiters. Still, it is true that the Japanese government and military were involved in the establishment and operation of comfort stations. Is this Japan's fault? Yes. People and governments everywhere make mistakes. But this is where historical comparisons would be useful.

The United States, with its strong Puritan tradition, is famous for its dualistic attitude toward sex in war zones. Since 1941, the U.S. has officially maintained the principle that "soldiers are not allowed to contact prostitutes in any area." After venereal diseases became a problem due to soldiers' contacts with local prostitutes, in 1942, the Surgeon General of the Army sent 150,000 boxes of condoms and 310,000 cases of disinfectant to the front.⁷

During the Vietnam War, the largest war fought by the United States since World War II, the United States took a more realistic stance. For example, there were two buildings housing "recreation centers" at the U.S. military camp in Lai Khe, where 60 Vietnamese women had room and board. They worked in 60 private rooms. The sales were split in a 6:4 ratio between the proprietor and the women. Army medics checked the women every week for venereal disease, and women who passed their medical exams got a sign on their door that said they were safe. Places such as this, which were called "Disneylands," were supervised by brigade commanders, and even the Pentagon turned a blind eye to them. Doesn't this sound familiar? Indeed, this reminds us of Japanese comfort stations.⁸

In World War II, Germany also had comfort stations very similar to those of Japan, with about 500 comfort stations in place in 1942. In the same year, the number of Japanese comfort stations was about 400.⁹

Ramseyer describes the relationship between comfort women and owners of comfort station as contractual. The key point in researchers' criticisms of his paper was that he failed to present contracts—that is, literal "sheets of paper" with the terms of the contracts. According to law textbooks, a contract is an agreement, and the contract sheet is only proof of the contract. Critics do not seem to consider that the present issue in question concerns not the written contract but the contract itself.

In part, these criticisms may have arisen from an insufficient understanding of the cultural differences between the West and Korea. While the West had a culture of documenting agreements in writing, people in Chosen relied heavily on oral contracts.

B. Forcible Recruitment and Kidnapping-Trafficking

The critics of Ramseyer's paper argued that since there were no written contracts, no contracts were agreed to at all. They have their own reasons for arguing in this way. They believe that Korean women did not become comfort women based on contracts, but through forcible recruitment by Japanese soldiers, police, and officials. "How can we talk about contracts when women were recruited forcibly against their will?" is the question they will usually ask.

The critics believe there is an abundance of evidence that supports their positions. There

⁷ Hata, *Comfort Women and Sex*, 130–131.

⁸ Hata, *Comfort Women and Sex*, 238–239.

⁹ Hata, *Comfort Women and Sex*, 121.

are “testimonies” of former comfort women who are “victims.”¹⁰ As a defendant, Seiji Yoshida confessed his “war crimes” for himself.¹¹ Japanese military documents were “discovered” by Yoshiaki Yoshimi in 1992.¹² The Kono Statement of 1993 expressed the Japanese government’s “apology.”¹³ Reports by international organizations, such as the International Commission of Jurists (ICJ) and Amnesty International, agreed that Japan had carried out the forcible recruitment of Koreans. The United Nations Human Rights Commission adopted the so-called Coomaraswamy Report in 1996.¹⁴

However, contrary to the belief of the critics, the only “evidence” that has survived is the testimony of comfort women. The rest of the so-called evidence is either fictional, a mere expression of personal views, or relies on comfort women’s testimonies.

Reports released by international organizations, for example, the Coomaraswamy Report, are based on the testimony of comfort women and that of Seiji Yoshida, documents of the Japanese military, and the Kono Statement. The Japanese government released the Kono Statement under pressure in circumstances in which almost everyone believed that testimonies of victims and perpetrators existed, as well as military documents to back up the statements.¹⁵ Since 1992, it has been proven that the military documents that were found were in fact irrelevant to the claim of forcible recruitment.¹⁶ No additional documents have since been found.

Furthermore, Seiji Yoshida’s *My war crimes* turned out to be a work of fiction.¹⁷ As a result, the *Asahi Shimbun* newspaper had to retract 12 articles that were based on Yoshida’s statements—a distressing stepdown for a newspaper with one of the largest circulations in Japan. Although there might seem to be an abundance of evidence, therefore, the reality is that practically every piece of evidence has been refuted, and the only evidence that remains is the testimony of comfort women.

The remaining question then is whether the claims of “forcible recruitment” by former comfort women are credible. Most of their testimonies in the early 1990s, when the women first came forward, had nothing to do with forcible recruitment. At the time, they testified that they became comfort women through employment fraud committed by Korean recruiters, or through

¹⁰ Jeongdaehyeob (Hanguk Jeongsindae Munje Daechaek Hyeobuihoe [Korean Council for Compensation from Japanese Military Sexual Slavery Victims]) and Hanguk Jeongsindae Yeonguhoe [Korean Research Association of Japanese Military Sexual Slavery], *Junggugeuro Kkeullyeogan Joseonin Gunwianbudeul (1)* [Korean Military Comfort Women hauled into China (1)] (Seoul: Hanul, 1995). These are relatively early testimonies. Since then, there have been too many testimonies reported in the media to list them all. Many comfort women changed their testimonies, for example, from “my father sold me” to “Japanese soldiers forcibly took me to a comfort station.”

¹¹ Seiji Yoshida, *Watashi no senso hanzai: Chosenjin kyoseirenko* [My war crimes: The forced removal of Koreans] (Tokyo: Sanichi Shobo, 1983).

¹² Hata, *Comfort Women and Sex*, 1–3.

¹³ Ministry of Foreign Affairs of Japan, “Statement by Chief Cabinet Secretary Yohei Kono on the Result of the Study on the Issue of ‘Comfort Women,’” August 4, 1993. Accessible at: <https://www.awf.or.jp/e6/statement-02.html>.

¹⁴ United Nations, Commission on Human Rights. “Report of the Special Rapporteur on Violence Against Women, Its Causes and Consequences, Ms. Radhika Coomaraswamy, in accordance with Commission on Human Rights resolution 1994/45”; “Report on the Mission to the Democratic People’s Republic of Korea, the Republic of Korea and Japan on the Issue of Military Sexual Slavery in Wartime,” E/CN.4/1996/53/Add.1. January 4, 1996. Available online at: <https://www.awf.or.jp/pdf/h0004.pdf>.

¹⁵ Tsutomu Nishioka, *Yoku wakaru ianfu mondai* [The comfort women issue—an easily understood explanation] (Tokyo: Soshisha, 2012), 25–31.

¹⁶ Hata, *Comfort Women and Sex*, 1–5.

¹⁷ Hata, *Comfort Women and Sex*, 181–186.

human trafficking that was tolerated by their parents.

But when the comfort women issue became a social, political, and diplomatic problem between South Korea and Japan, they started to change their statements. They began to claim that they were “forcibly recruited.” Their testimony became politically contaminated.

Let’s take a look at an example. Yongsoo Lee, a former comfort woman, appeared on KBS television on August 15, 1992. When the program host asked her how she became a comfort woman, she answered as follows:

I was 16. I had no clothes, no food. Then someone gave me a dress and a pair of shoes, telling me to come with him. So I followed him, excited, without thinking about anything else.

Here, she speaks of a typical kidnapping case involving a recruiter of a comfort station who was evidently Korean.

However, on February 16, 2007, when she appeared as a witness at a hearing on Japanese military comfort women in the United States House of Representatives, she spoke differently, and contributed to the resolution condemning Japan.

Soldiers and the girl came in, held my shoulders like this, covered my mouth with one hand, and the soldier stabbed me in the back with something. I got dragged away at night.

As can be seen here, the first problem with the testimony of comfort women is that their statements are inconsistent. However, the more important problem is that there is no objective proof supporting their testimony. There are no official documents that point to “forcible recruitment” by Japanese authorities. There are no records left by the families, relatives, or neighbors of these comfort women dated before 1992 that attest to the alleged abductions. For that matter, there have been no verified statements after 1992 either. Jeongdaehyeob (the Korean Council for Compensation from Japanese Military Sexual Slavery Victims) should have investigated the “forcible recruitment” of the women in their hometowns and announced the results after 1992.¹⁸ But we do not know whether Jeongdaehyeob conducted such investigations, or whether the organization covered up the findings of any investigations, if indeed they were carried out.¹⁹

According to news reports, a leading critic of Ramseyer, Alexis Dudden, a professor at the University of Connecticut, argued, “If there is no documentation to support the claim, if there is no evidence, the claim is not true,” and called Ramseyer’s arguments a “total fabrication.” In turn, I would like to ask Professor Dudden if she thinks the testimony of comfort women would pass muster by the same standard of evidence that she insists on.

If not through forcible recruitment, how did Korean women become comfort women? One method was employment fraud, in which Korean recruiters pretended to offer good jobs (for example, work at factories) to lure women. In such cases, contracts might have been unnecessary. Upfront payments smaller than those in comfort women contracts may have been paid, and in others no payments may have been made. The recruiter then typically sold the woman to a

¹⁸ Nevertheless, advocates of the forcible recruitment theory claim that 200,000 women were taken to Japanese military comfort stations. Yet they have not been able to present a single piece of evidence for their claims over the last 30 years.

¹⁹ Jeongdaehyeob has collected at least several billion won (several million dollars) in government grants and private donations since around 1990. Meehyang Yoon, a sitting lawmaker in the National Assembly and the former representative of Jeongdaehyeob, was prosecuted in September 2020 and was tried on charges of accounting fraud while at Jeongdaehyeob. Because of this case, Jeongdaehyeob lost the trust of many people and the organization faced the greatest crisis in its history.

recruiter or owner of a brothel in exchange for an advance. This chain of events constitutes illegal human trafficking. Criminal acts that combine the kidnapping of a woman and human trafficking are properly called acts of “kidnapping-trafficking.” Such crimes were subject to police crackdown even before the war because thousands of Koreans were working as professional recruiters to carry out kidnapping-trafficking—a situation that lasted until the end of the war.²⁰

Someone who committed kidnapping-trafficking could be punished under Articles 224 to 228 of the Japanese Criminal Code. The Japanese Criminal Code became applicable to Chosen through the 1912 Ordinance on Penal Matters in Korea (*Chosen keijirei*). Here are the relevant provisions of the Criminal Code, specifying the crimes for which a person could be punished:

Article 224: A person who abducts or kidnaps a minor...

Article 225: A person who abducts or kidnaps someone for profit, lewd purposes or marriage...

Article 226: A person who abducts or kidnaps someone for the purpose of transporting the person outside the empire...

Article 227: A person who trades someone for the purpose of transporting the person outside the empire or transports the kidnapped or the traded outside the empire...

Article 228: A person who accepts or hides the kidnapped or the traded for the purpose of aiding the person who commits the preceding three crimes...

When women travelled from Korea to a comfort station in foreign territory, they needed several official documents. Firstly, any traveler from Korea going to places such as China or Southeast Asia needed to have an identification card issued by a police chief in Korea, for which the purpose of the trip needed to be made clear.

The procedure was much more complicated and difficult for prospective comfort women. The items that were required to be submitted included:

- A job application form filled out by the woman and the brothel owner, called the “temporary hostess employment permission form”
- Two photos
- A job approval letter signed by the woman and the head of her family
- Seal certificates of the related parties
- A copy of the woman’s family register.²¹

The job approval letter, seal certificates, and family register copy could only be obtained or completed by the woman or her parents. In addition, an investigative report by a Japanese consulate official confirming the woman’s will to work as a comfort woman was required. In the case of illegal recruitment, preparing these documents would have been difficult and expensive, even if they were forged.

Furthermore, the owner of a comfort station could face problems even after the woman arrived at the comfort station. The military units in charge of monitoring the stations carried out checks to see whether each comfort woman was fully aware of what her job entailed. In fact, there were cases in which the military sent women back home after learning that they had been deceived into coming to work at comfort stations.

²⁰ Rhee et. al., *Baniljongjokjuui*, 286, 298.

²¹ Naimusho Keihokyoku, “Shina toko fujo ni kansuru ken ukagai” [Inquiry into women traveling to China], November 4, 1938.

The Hankou brothel, the largest in China affiliated with the Japanese military and one of the most thoroughly documented, was supervised by the Comfort Department within the logistics headquarters of Japan's 11th Army. Seikichi Yamada came there as a comfort clerk in February 1943 and left detailed records of the comfort station. Yamada also described in detail the procedures for registering a new comfort woman. Upon arrival, a photo, family registry, written oath, and identity documents issued to her by local authorities were to be submitted to the Comfort Department. Based on the items, an investigation was carried out into aspects of the woman's history such as past jobs held, parents' address and occupations, family make-up, and amounts of cash advances. When asked by comfort clerks, "It's very difficult work to do, can you bear it?" most new hires answered that they fully understood the situation. The women seemed to have been well briefed by recruiters or brothel owners about what the job would entail.

But there were also accidents. In 1944, 30 women led by two Koreans arrived at the Hankou station. A woman cried and said, "I was promised that I would be working at a club for army officers. I didn't know I would be here as a comfort woman." Military officials ordered the station owner not to employ her and had him find a suitable job for the woman. A military doctor who witnessed the incident, recalled, "It seems a pimp of some kind used honeyed words to recruit her."²²

C. "There is no written contract"

Numerous people have criticized Ramseyer for not having presented written contracts as evidence in his article.²³ However, according to law textbooks, the essence of contracts is the "meeting of the minds," and written contracts are only evidence of such an agreement.

As an example, let us take a look at the testimony given by a former comfort woman which shows us that written contracts existed. The following testimony is from *Junggugeuro Kkeullyeogan Joseonin Gunwianbudeul (2)* (Korean military comfort women hauled into China (2)). The person who testified is Byungsook Hyun, a former comfort woman.²⁴

²² Hata, *Comfort Women and Sex*, 76–78.

²³ For some essays criticizing Ramseyer's work from a historical perspective, see the following. Alexis Dudden, "The Abuse of History: A Brief Response to J. Mark Ramseyer's 'Contracting for Sex'"; Andrew Gordon and Carter Eckert, "Statement"; Tessa Morris-Suzuki, "The 'Comfort Women' Issue, Freedom of Speech, and Academic Integrity: A Study Aid"; Amy Stanley, Hannah Shepherd, Sayaka Chatani, David Ambaras and Chelsea Szendi Schieder, "'Contracting for Sex in the Pacific War': The Case for Retraction on Grounds of Academic Misconduct," all of which are in *The Asia-Pacific Journal* 19, no. 5 (2021). The articles are all available at <https://apjif.org/2021/5/ToC2.html>.

Michael Chwe, who works as an economist in the United States, drafted an online statement criticizing Ramseyer's paper. Chwe's statement has been signed by economists around the world, especially in the United States, with 3,665 signatures as of September 14, 2021. The statement, Michael Chwe, et. al., "Letter by Concerned Economists Regarding 'Contracting for Sex in the Pacific War,' in the *International Review of Law and Economics*," is at: <http://chwe.net/irle/letter/>. A Frequently Asked Questions supplement about the letter is available at: https://docs.google.com/document/d/1UMg_XL MoS6J999LTghDhAwh3DZuFaB5KCoSkFGSITWc/edit

The following article criticizes Ramseyer's work from a legal perspective. Yong-Shik Lee, Natsu Taylor Saito and Jonathan Todres, "The Fallacy of Contract in Sexual Slavery: A Response to Ramseyer's 'Contracting for Sex in the Pacific War,'" *Michigan Journal of International Law* 42, no. 2 (2021). You can read it at <https://repository.law.umich.edu/cgi/viewcontent.cgi?article=2108&context=mjil>

²⁴ Hanguk Jeongsindae Yeonguso [Korean Institute of Japanese Military Sexual Slavery], *Junggugeuro Kkeullyeogan Joseonin Gunwianbudeul (2)* [Korean military comfort women hauled into China (2)] (Seoul: Hanul, 2003), 284–288.

Joonchul Bae (Questioner): Then you got paid money to go to the hostess bar?

Byungsook Hyun: I got paid 500 yen for the term of two years. I gave my mother and father the 500 yen. Then, I thought if I just did nothing, I wouldn't be able to do anything for my family. I thought I would go to another place and get paid again and give the money to my mother and father. I did not live in the countryside anymore.

Hyun had already worked as a prostitute at a hostess bar. After her elder brother told her she should get married, she chose to make money instead. So she went to find a recruiter.

Byungsook Hyun: I went to find this guy, Park, and so I went to Pakchun to find him.... When I go to this inn, I said, "I hear someone came to buy girls. Is he around?"

They tell me, "It's that inn over there. I heard someone came from China to buy girls, go check it out."

So when I go, there's a man sitting there. "Did you come to buy girls?"

"Yes. But how can a maiden as small as you...?"

I said, "I've been to China to make some money."

Joonchul Bae: But did you know what you would be doing in China when you went there?

Byungsook Hyun: Yes, I knew. I went knowingly.

Joonchul Bae: Did you know that you would have to receive a lot of Japanese soldiers, too?

Byungsook Hyun: Yes, I knew.

She knew very well what the man who "buys girls" was gathering women for. Next, she negotiates the contract terms.

Joonchul Bae: Did you hear all about that from somewhere?

Byungsook Hyun: You hear these things around.... I went looking for the right place. So when I asked him if he would buy, he said he would.

So he asked me how much I would like.

When I said, "My mother and father are in difficulties, how much would you give me for the term of three years?" he said, "I'll give you 2,000 yen."

So I said, "If you give me 2,000 yen, that's not even 1,000 per year. Give me 1,000 yen more."

He said, "Sure, take 3,000 yen and go home and get consent from your mother and father."

In order to get a job as a comfort woman, a woman needed her parents' approval. In this case, the father initially refused, but eventually gave his consent in the face of the woman's

importuning. Of course, the father also knew what she would be doing:

Joonchul Bae: Ah, you got the seal?

Byungsook Hyun: Yes, of course, he said, “if you bring either your mother or father, I will give you money.” He even asked me to get seals from my grandmother and grandfather. It was tough then.

Joonchul Bae: How old were you then?

Byungsook Hyun: I was probably about 16, because I also worked at a bar for two years. They said I should also get seals from my grandma and grandpa. I mean, there's no way my grandma and grandpa would give me their seals. So I beg my father, who trusts me: “Dad, there's a guy who came to buy girls and he's offering this much, and I'll go far away to make money.”... I wanted to see him live well. I just wanted him to be able to use money and eat what he wanted... “Dad, talk to him for me.”

In this case, an upfront advance was only paid in the presence of a woman's parents. But in return, parents and grandparents needed to give their consent as well as their seals. If this is not a contract, then what is it? In the contract, parents even added a condition that their daughter should not be sold to another place.

Byungsook Hyun: Father said, “If you insist, I'll talk to him for you.” So we put down my mother's name and father's name and put their seals on them.

“But they tell me I need seals from grandma and grandpa, too. What should I do, dad?”

“Then I'll write it.”

So my dad wrote it and put the seals of grandma and grandpa, then we got all the agreements.

My father said, “Since I sold my daughter to you, you can't sell her to someone else again.”

He answered, “That was the promise.... That's up to you.... Then, it shall be that way. Let's go.”

Her father said he would “write it,” and he actually wrote and stamped it. A contract was what he wrote and stamped. That is how Hyun came to be a prostitute. At the first place she went to, she did not have many customers. She blamed it on her appearance. So she went to Fèngtiān, China, again.

Byungsook Hyun: As for me, I couldn't get a single client over there. I've got an ugly face. Clients want pretty girls. Who would choose an ugly one? There are lots of girls there. About 20 to 30 women. They are all from Chosen.

To the son of the guy who bought me, I said, “If I stay here, I won't be able to pay my debt. Take me somewhere else.”

“But in the contract, your father said I couldn't sell you to someone else.”

"If I consent to it myself, what is the problem?"

"In that case, let's go to Fèngtiān. Let's go by the agency and if someone chooses you, I'll receive that money."

"Do you want to receive interest?"

"I won't take any interest. Just make something of yourself and go back home."

She talks about "my debt," which is an advance in an indentured servitude contract. "That money" was also a reference to the advance. The man reminds her that according to the contract, her father had made it clear the owner couldn't sell her again to someone else. That is, prohibitions on resale could be written into the contract. Here we can also observe the process by which contracts on prostitutes were resold. The bonds on the wage advance were transferred to the new owner. In some cases interest was paid, and in others interest payments were forgiven. The brothel or comfort station in Fèngtiān was used by both civilians and Japanese soldiers.

Joonchul Bae: Ma'am, what kind of clients came to the house?

Byungsook Hyun: Soldiers, ordinary individuals, many types of people came.

As she couldn't make money in Fèngtiān either, Hyun decided to follow the Japanese army on her own and moved to Bengbu in Anhui Province. The owner of the comfort station there was also Korean.

Byungsook Hyun: I said I couldn't stay there. I was going to make money after all, and I would follow the army and earn money in the countryside. So I got chosen in Fèngtiān again and came to Bengbu.

Joonchul Bae: So at that time, your debt of 3,000 yen was transferred to the owner in Bengbu then?

Byungsook Hyun: Yes.

Joonchul Bae: The owner in Bengbu was also Korean?

Byungsook Hyun: Yes. They were all Koreans.

She moved from somewhere in China to Fèngtiān, then to Bengbu. The first place she went to seems like an ordinary brothel, but there aren't many details about it. Her workplace in Fèngtiān catered to both soldiers and civilians, and it seems that the place in Bengbu was a comfort station exclusively for the Japanese military.

If the first place was an ordinary brothel, this would mean that it was quite simple for an ordinary prostitute to become a military comfort woman. All it took was being "transferred" to a new comfort station. Just like in the resale of prostitutes among brothel owners, the owner of the brothel simply resold her to a military comfort station.

In the example discussed above, the former comfort woman and her parents signed a contract. Her parents and grandparents signed, too. The contract terms included the negotiated

amount of the advance, the contract period, and the conditions for a resale.²⁵

The example above concerns China and Manchuria, but other places were similar. The Japanese occupation forces in Malaya had regulations about comfort stations with dozens of extremely detailed clauses. The sixth clause read, “When an operator wishes to employ a woman, a written employment contract must be entered into, which must be approved by the regional commanding officer.”²⁶ From the perspective of the Japanese military, comfort women were important resources for preventing venereal disease, deterring sex crimes, and maintaining morale. The Japanese military monitored owners of comfort stations to ensure that they complied with the contracts and worked to discourage them from exploiting the comfort women. The prerequisite of such a system was the existence of written contracts.

In the face of this evidence, are critics still going to insist that contracts or written contracts did not exist?

V. Where Did Comfort Women Come From?

A. *Miuri*

A *miuri* contract is a type of indentured servitude contract that was entered into between a woman’s parents and the owner of a comfort station (or a recruiter acting on behalf of one of the parties) in the prostitution industry. In Japanese, *miuri* literally means “body sale.” As a contract for the recruitment of women, in a *miuri* contract, the parents intentionally transferred their daughter into prostitution. The operator of the house of prostitution, as the buyer, gave the parents a cash advance. The woman repaid the advance out of her salary, while working in the prostitution industry for a number of years during her contract. When she had repaid all of the advance and the period came to an end, she regained her freedom. Instances of *miuri* were much more frequent than “kidnapping-trafficking,” not to mention forcible recruitment. *Miuri* was legal, but the latter practices were illegal. To my regret, Ramseyer didn’t use the term *miuri* in his paper. I don’t know why.

When it comes to transactions concerning persons, it is a misunderstanding to think of *miuri* as being the same as transactions involving slaves or Chosen “*nobi*,” through which a person, for example a young woman, was permanently transferred to the ownership of someone else. Although *miuri* is a Japanese practice dating to the Tokugawa era, Koreans during the colonial period equated *miuri* with “human trafficking,” so we should be careful about our terminology.

In Chosen, trading practices or concepts corresponding to *miuri* have not been found. Japanese systems were implanted in Chosen around 1900, and took root during the colonial period. Japan and Chosen shared similar social and legal backgrounds. In both countries, women’s rights were weak, the rights of the patriarch were strong, and systems of licensed prostitution were in place.

There are many cases in Chosen in which a daughter, a son, the head of a family, or a whole

²⁵ Haksun Kim is famous for being one of the first persons to announce she had been a comfort woman. In 1991, she testified, “My mom got 40 yen from my foster father and made me live in that house (Pyongyang, Chosen) with a contract for several years.” It is clear that there was a contract, but unclear whether the contract was in writing. (Jeongdaehyeob and Hanguk Jeongsindae Yeonguso, *Gangjero Kkeullyeogan Joseonin Gunwianbudeul(1)* [Forcibly Recruited Korean Military Comfort Women(1)] (Seoul: Hanul, 1993), 34.) There may have been cases in which the persons concerned only entered into oral contracts. But it is clear that these cases involved valid contracts. This is because when a woman and her family entered into a contract in Korea, all of them were fully aware that she would be receiving Japanese soldiers in China.

²⁶ Hata, *Comfort Women and Sex*, 98.

family were sold as *nobi*, a kind of slave. This custom is called *jamae* (meaning “selling oneself”). Like other slaves and “*nobi*,” the social status of *jamae nobi* was legally inherited. Documents used in transactions of *nobi* stereotypically used phrases such as “serving their owners until death” or “selling themselves (or their families) forever,” which is an important difference from a *miuri* contract. In Chosen, *jamae* trades were frequently carried out in the eighteenth and nineteenth centuries. The last contract for *jamae* was concluded in 1910.²⁷

According to newspapers in colonial-era Korea, illegal human trafficking and *miuri* of young women were commonplace and became serious social issues. In the mid-1930s, Japan went through a similar situation. An important trigger behind the abortive coup of February 26, 1936, was the abysmal situation faced by soldiers from rural areas, where financial conditions were so bad that their sisters were being sold into prostitution. A Korean comfort woman once said that she hated her father more than the owner of the comfort station because her father had sold her.

From the parents' point of view, the money given to them by recruiters of the comfort station was the price they received in exchange for their daughter. But from the perspective of the recruiters, this money was an advance which they would get back. Transactions of young women were at the boundary between illegal human trafficking and legitimate *miuri*. Transactions involving young women were so rampant as to become a social issue leading to investigations and prosecutions. But most of the persons suspected of illegally trafficking in women were found not guilty by the authorities.

About 90 percent of the suspects arrested by police for abduction or kidnapping in colonial-era Korea were sent to prosecutors. But only a few suspects were charged or tried. A total of 40,553 suspects were sent to prosecutors in 1924–1941, but only 2,506 were charged. From 1924 to 1943, as many as 87.5 percent of those arrested by police were not prosecuted; 85 percent of those tried were convicted and sentenced to prison. In short, only about 10 percent of those arrested by police for abduction or kidnapping were tried and convicted.²⁸ This shows that legitimate *miuri* contracts were selected for use much more frequently than resorting to illegal kidnapping-trafficking.

At the same time, we can reasonably deduce that people who were signing *miuri* contracts with recruiters or owners knew exactly what their daughters would do. Even in cases in which there were no explicit written contracts, if parents knew the facts, their agreements were indisputably contracts. Critics of Ramseyer seem to be unaware of or uninterested in these details about Korean prostitution.

B. From Prostitute to Comfort Woman

The other important contracts signed between comfort women and recruiters or owners of comfort stations would be the ones by which existing prostitutes in Chosen, China or elsewhere were recruited. This aspect of recruiting is the one most neglected by researchers, but it may be the most probable route through which someone became a comfort woman. There were about 10,000 Korean prostitutes in Chosen, according to one count by the Government-General. In addition, there were about 8,000 Korean prostitutes in areas where Korean people had a presence, such as in China and Manchuria, which became war zones.

These are the numbers of licensed prostitutes who were identified and permitted to work by government agencies. There may have been more unlicensed prostitutes than licensed ones.

²⁷ Jaeho Kim, “Jamaenobiwa Ingane Daehan Jaesangwon 1750–1905” [Jamae slave and property rights to human beings], *Gyeongjesahag* 38 (2005): 3–39; Wooyoun Lee and Myongsoo Cha, “Joseon Hugi Nobu Gagyegui Gujowa Sujun, 1678–1889” [Structure and levels of slave prices in late Chosen Korea, 1678–1889], *Gyeongjesahag Yongu* 58, no. 4, (2010): 99–132.

²⁸ Younghoon Rhee et al., *Baniljongjokjuuwai tujaeng* [Struggle against anti-Japanese tribalism] (Seoul: Miraesa, 2020), 41–42.

Even in the center of Seoul, there were several famous districts of unlicensed brothels. What was needed to convince these prostitutes to start working as comfort women was to inform them that their new jobs would be accompanied by higher risk, but would allow them a higher income than their current jobs.

From the recruiter's point of view, hiring existing prostitutes meant that he did not have to take the risks that accompanied kidnapping-trafficking, not to mention "forcible recruitment." From the prostitute's point of view, becoming a military comfort woman did not further impair her social reputation. Many women took pride in being able to comfort soldiers. Japanese military officers and soldiers were not in a position to question where comfort woman came from, and they generally did not raise such questions. With these factors in mind, the first target of recruiters or comfort station owners would be existing prostitutes from Chosen and other countries.

In 1984, before the issue of comfort women became politicized, Gunho Song described how prostitutes were recruited. Song, who served as the president of the *Hankyoreh* newspaper, the most left-wing and anti-Japanese media organization in Korea, was born in 1927 and grew up in colonial-era Korea. The following is a passage from his book *Nittei shihaika no Kankoku gendaishi* (Modern Korean history under Japanese rule).

After the invasion of Nanjing at the end of 1937, around the beginning of the operation for Xuzhou, the Japanese authorities instructed brokers in Chosen to transfer to China many women who were working as prostitutes due to poverty. Placing them in Japanese military facilities called "comfort stations," "temporary comfort stations," or "army recreation centers," they made them into playthings of Japanese soldiers.²⁹

There exists testimony that describes the circumstances of how comfort women were recruited. It is found in the U.S. military's records of an interrogation of three Korean civilian workers who had been working for the Japanese navy before being captured as prisoners of war in 1944. The questions in the records:

Do Koreans generally know about the recruitment of Korean girls by the Japanese Army to serve as prostitutes?

What is the attitude of the average Korean toward this program? Does the PoW [prisoner of war] know of any disturbance or friction which has grown out of this program?

The answers were as follows:

All Korean prostitutes that the PoWs have seen in the Pacific War were volunteers or had been sold by their parents into prostitution.

This is proper in the Korean way of thinking but direct conscription of women by the Japanese would be an outrage that the old and young folks alike would not tolerate. Men would rise up in rage, killing Japanese no matter what consequences they might suffer.³⁰

²⁹ Gunho Song, *Nittei shihaika no Kankoku gendaishi* [Modern Korean history under Japanese rule], trans. Chanho Pak (Tokyo: Futosha, 1984), 345–346.

³⁰ U.S. War Department, Military Intelligence Service, Captured Personnel and Material Branch, "Composite Report on Three Korean Navy Civilians, List No. 78, Dated 28 Mar 45, RE 'Special Questions on Koreans,'" 3. Available online at: <https://archives.seoul.go.kr/item/49>.

Their replies first suggest there was no forcible recruitment of women by the Japanese, nor could such dragooning exist. Secondly, the people who were questioned explicitly call comfort women “prostitutes.” Thirdly, there were two common ways through which one became a comfort woman. Both entailed voluntary contracts. When the woman was living with her parents, the contract was a *miuri* agreement. When the woman was already working as a prostitute, she would go to a comfort station by being resold, an example of which was given above. Existing prostitutes could decide what to do much more easily because of their experience, compared to cases involving women with no such experience. The above testimony provides the briefest but most complete picture concerning the reality of comfort women.

Let's look at another example. Chi-geun Park is known for his diary, *Ilbongun wianso gwanriinui ilgi* (Diary of a Japanese military comfort station manager).³¹ In his diary, which was later published as a book, Park describes his life during 1943 and 1944. He worked as a clerk who ushered people and oversaw accounting at comfort stations in Burma and Singapore. Park spent some time working at a station that was owned by his brother-in-law—the younger brother of his second wife. Park's wife was running an inn in Daegu.

At that time, inns were often involved in prostitution businesses. So when Park was recruiting comfort women with his brother-in-law, isn't it more likely that they negotiated with existing prostitutes who had experience as sex workers and had a business relationship with Park's wife? This would make more sense than roaming in search of complete strangers—heartless parents who were willing to sell their daughters—to procure women with no experience as sex workers.

Most former Korean comfort women said they were victims of employment fraud or were traded away by their parents. No one has explicitly testified that she had worked as a prostitute before going to the comfort stations. In Korea, disclosing such a work background would give rise to “social death.” For the same reason, no woman in Japan used her real name in revealing her history as a prostitute and comfort woman, even after the comfort women issue came under scrutiny in the early 1990s.

VI. Conclusion

Among the four possible ways to recruit comfort women—forcible recruitment, kidnapping-trafficking, *miuri* contracts, and the recruitment of existing prostitutes—the third and fourth were the methods by which most comfort women were hired. This means that we should accept that in most cases, comfort women and their parents signed business contracts with recruiters or station owners. Even if no written contracts exist, the existence of economic actors who behaved according to certain patterns shows that the contracting parties acted in compliance with their agreements. This demonstrates the existence of contracts. If we accept that sex service is a kind of labor, these contracts are not different from ordinary work contracts between rank-and-file and management. In the final analysis, comfort women were not “sex slaves” but sex *workers*.

To rely on the absence of written contracts to claim that there were no contracts at all, one must deny the existence of the features that Ramseyer considers to be the substance of contracts—the payment of upfront advances, the existence of fixed contract periods, and the sharing of sales revenue. So far, no criticisms of Ramseyer's article have succeeded in debunking his core logic. Ramseyer's arguments provide an excellent opportunity for international academia to start a new discussion about the comfort women.

³¹ Byongjik Ahn, ed., *Ilbongun wianso gwanriinui ilgi* [Diary of a Japanese military comfort station manager] (Seoul: Esoop, 2013).

Article 2 of the Treaty of San Francisco and Takeshima

—With a Focus on the Negotiation Process in 1951—*

Kenji Fujii**

Abstract

Prior studies have already made it amply clear that the Treaty of Peace with Japan (Treaty of San Francisco or San Francisco Peace Treaty) signed on September 8, 1951, officially confirmed that Japan retains Takeshima. Nevertheless, as expressed in a public relations booklet titled “Dokdo, Beautiful Island of Korea” which was published by the Ministry of Foreign Affairs of the Republic of Korea, the ROK Government has a different view. With respect to Treaty’s Chapter II Territory, Article 2(a), which provides that “Japan, recognizing the independence of Korea, renounces all right, title and claim to Korea, including the islands of Quelpart, Port Hamilton and Dagelet,” South Korean government insisted that “the mere fact that Dokdo [Korean name of Takeshima] is not explicitly mentioned in the said article does not suggest that Dokdo is not included among those territories of Korea that have been separated from Japan.” Furthermore, the South Korean government continued to argue, “In consideration of the Allied Powers’ stance, . . . it should be understood that Dokdo is included among the territories of Korea separated from Japan.”

It was during the working-level consultations between the United States and the United Kingdom in April through May 1951 that the wording of this article was de facto finalized. Therefore, in Part I of this paper, the author reviewed the working-level consultations in order to verify the South Korean argument, the outcome of which follows below.

As a result of the author’s review, it was reconfirmed that, at the U.S.-U.K. working-level consultations, accepting British emphasis on the “desirability of disposing of islands between Japan and Korea by specific mention,” the U.S. agreed to clearly specify the islands that belong to “Korea” which would be renounced by Japan. In return, the British government withdrew its proposal to enclose Japan with a territorial demarcation line and place Takeshima out of the line. Thus, Takeshima is not included in the term “Korea (including Quelpart, Port Hamilton and Dagelet)” in the U.S.-U.K. joint draft made after the above-mentioned working-level consultations. Consequently, the U.S. government’s position that Takeshima should be retained by Japan was shared with Britain, making it the Allied Powers’ common understanding.

In Part II of the attached article, the author draws attention to the U.S. and Australian repudiation of ROK’s 1951 demand for Takeshima. The U.S. government understood that Japan’s territorial title over Takeshima was based on “continuous and peaceful display of national authority.” By the same token, in July 1951, the U.S. turned down the ROK government’s demand for Tsushima that had been made in May the same year; the United States did not subscribe to the South Korean argument that Korea was a member of the Allied Powers and deserved to get a portion of victor’s booty.

* This article was originally published in Japanese on the webpage of JIIA on October 2021. The original article “サンフランシスコ平和条約の領土条項と竹島 - 1951年の交渉経緯を中心に - can be found at <https://www.jiia.or.jp/column/20211005-takeshima.html>.

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Then, the Republic of Korea requested Australia to support its alternative requests for demilitarization of Tsushima and the ownership of Takeshima. South Korean lobbying to the U.S. for Takeshima and South Korean *démarche* for Australian support was conducted almost simultaneously. In both cases, South Korea cited the security need to counter the threat of Japan as the grounds for its demands. Here, it is likely that South Korea had intention to convince the Allied Powers countries Tsushima's importance for Korea's security in the face of the threat of Japan and to argue that the same reasoning could be applied to its claims to Takeshima.

The South Korean demand for Takeshima was decided on very short notice after its request for the ownership of Tsushima had been turned down by the U.S.. This probably explains the reasons why the South Korean side referred to Takeshima only as Dokdo in its request to the U.S. and Australia and even provided false information on the location of the island. Bewildered by the sudden and unclear requests from South Korea, neither the U.S. nor Australia responded affirmatively. Australia could not understand which island South Korea was referring to. After South Korea had provided the precise coordinate of Dokdo, the U.S. finally realized that the island that ROK was requesting was, as a matter of fact, Takeshima. Immediately after that, the U.S. government notified South Korea of the Allied Powers' common understanding that Japan was to retain Takeshima in an official letter by Assistant Secretary for State Dean Rusk in August 1951. Korea did not show any legal grounds for its territorial rights over Takeshima and could not supersede the Allied Powers' common understanding. And nothing indicates that Korea's argument for sovereignty over Takeshima for security reasons was considered among the Allies.

Nevertheless, even when it was notified by the U.S. that Takeshima would be retained by Japan and even though it could not find any legal grounds for its sovereignty over the island, South Korea could not stop its greed for unlawful occupation of Takeshima. One cannot but suspect that at the core of South Korea's demand for Takeshima was the same irresistible craving for obtaining a territory from Japan as a victorious member of the Allied Powers that the ROK did not hide in its earlier demand for Tsushima.

Introduction

Part I: Discussions on Takeshima during the U.S.-U.K. Working-level Consultations

- 1. Discussions on Takeshima during the Peace Treaty Drafting Process**
- 2. Discussions on Takeshima during the U.S.-U.K. Working-level Consultations**

Part II: South Korea's Failed Attempt to Demand Takeshima through Negotiations

- 1. South Korea's Demand for Tsushima and Its Rejection by the United States and Britain**
- 2. Logic behind South Korea's Demand for Tsushima and Its Inconsistency with International Law**
- 3. South Korea's Request for Status as a Member of the Allied Powers and Its Rejection by the U.S. and Britain**
- 4. South Korea's Sloppy Demand for Takeshima**
- 5. Shift of South Korea's Demand from Tsushima to Takeshima**
- 6. South Korea's Moves toward Unlawful Occupation of Takeshima**

Closing Remarks

Introduction

Prior studies¹ have already made it amply clear that the Treaty of Peace with Japan (Treaty of San Francisco or San Francisco Peace Treaty hereafter) signed on September 8, 1951, and taking effect on April 28 the following year, officially confirmed that Japan retains Takeshima. Nevertheless, the Republic of Korea claims otherwise.

For instance, on page 30 of “Dokdo, Beautiful Island of Korea,” a public relations booklet of the Ministry of Foreign Affairs of the Republic of Korea, it is stated:

Article 2(a) of the Treaty of Peace with Japan of 1951 provides, “Japan, recognizing the independence of Korea, renounces all right, title and claim to Korea, including the islands of Quelpart, Port Hamilton and Dagelet.” Of Korea’s some 3,000 islands, the said article refers to only Jejudo (Quelpart), Geomundo (Port Hamilton), and Ulleungdo (Dagelet) as examples. Therefore, the mere fact that Dokdo is not explicitly mentioned in the said article does not suggest that Dokdo is not included among those territories of Korea separated from Japan.

It was during the working-level consultations between the United States and the United Kingdom in 1951 that the wording of this article was de facto finalized. Therefore, in Part I of this paper, the author reviews discussions on Takeshima during the U.S.-U.K. working-level consultations in April and May 1951 for the purpose of reconfirming that the argument in “Dokdo, Beautiful Island of Korea” is inconsistent with the relevant facts. The author corroborates his argument with materials and documents he found in his recent overseas surveys.

Furthermore, “Dokdo, Beautiful Island of Korea” argues that, “in consideration of the Allied Powers’ stance reflected in the Cairo Declaration of 1943 and SCAPIN-677 of 1946, it is evident that Dokdo is included among the territories of Korea separated from Japan.” With this South Korean argument as backdrop, the author reviews in Part II on the discussions on Takeshima in the drafting process of the treaty in 1951, in which the U.S. and Australia repudiated South Korean demand. In contradiction to the South Korean assertion otherwise, it is clear that “the Allied Powers’ stance” on Takeshima was not consistent with South Korea’s argument that “Dokdo is included among the territories of Korea separated from Japan.” Part II is devoted to the reconfirmation of this historical fact. In particular, the author will focus on the shift in South Korea’s territorial claim from Tsushima to Takeshima.

¹ They include: Tsukamoto Takashi, “San Furansisuko Jōyaku to Takeshima—Bei gaikō bunshoshū yori” [Treaty of San Francisco and Takeshima—as depicted from the compilation of U.S. diplomatic documents], *Reference* no. 389 (June 1983) compiled by the Research and Legislative Reference Bureau, National Diet Library; Tsukamoto Takashi, “Heiwa Jōyaku to Takeshima sairon” [Peace Treaty and Takeshima revisited], *Reference* no. 518 (March 1994); Tsukamoto Takashi, “Tainichi Heiwa Jōyaku to Takeshima no hōteki chii” [Treaty of San Francisco and Takeshima’s legal status], *Tōsho Kenkyū Jānaru* 2 no.1 (October 2012) compiled by the OPRI Center for Island Studies; Tsukamoto Takashi, “Takeshima ni kansuru eibun setsumei shiryō (1947-nen Gaimushō sakusei) wo megutte” [On briefing material on Takeshima in the English language prepared in 1947 by the Ministry of Foreign Affairs], *Tōsho Kenkyū Jānaru* 4 no.1 (November 2014); Yamasaki Yoshiko, “Kankoku seifu ni yoru Takeshima ryōyū konkyo no sōsaku” [The invention of a basis for the possession of Takeshima by the South Korean government], *Dai 2-ki Takeshima mondai ni Kansuru chōsa kenkyū saishū hōkokusho* [Final report of the survey and research on the Takeshima issue phase 2], March 2012 compiled by General Affairs Division, Shimane Prefecture; Fujii Kenji, “Tainichi Kōwa Jōyaku to Takeshima—Eikoku kokuritsu kōbunshokan shozō shiryō no kentō” [Treaty of San Francisco and Takeshima—examination of documents collected by the National Archives (United Kingdom)], *Tōsho Kenkyū Jānaru* 8 no.2 (March 2019); and Fujii Kenji, “San Furansisuko Heiwa Jōyaku ni okeru Takeshima no toriatsukai ni tsuite” [On how Takeshima is treated in the Treaty of San Francisco], *Tōsho Kenkyū Jānaru* 10 no.1 (October 2020).

It should be pointed out at the outset that many of the documents quoted were found in overseas archives and collected by the author in the course of field research commissioned by the Japan Institute of International Affairs.²

Part I: Discussions on Takeshima during the U.S.-U.K. Working-level Consultations

1. Discussions on Takeshima during the Peace Treaty Drafting Process

The drafts of the peace treaty with Japan, which the U.S. Department of State had been preparing since 1947, proposed to take Takeshima away from Japan and to include it in a part of “Korea” that Japan should renounce. This policy on Takeshima, however, was reversed in 1949. In the treaty draft on the December 29, 1949, Article 3 of Chapter II “Territory” clauses included Takeshima in the list of islands that Japan would retain, while in Article 6, a provision on the renunciation of Korea, Takeshima was deleted from the list of islands belonging to Korea.

The Commentary made in July 1950 on the Draft Treaty of Peace with Japan on December 29, 1949 prepared by the U.S. Department of State contains the following statement with respect to Article 3 (territorial clause) of the draft:

Takeshima (Liancourt Rocks)—the two uninhabited islets of Takeshima, almost equidistant from Japan and Korea in the Japan Sea—were formally claimed by Japan in 1905, apparently without protest by Korea, and placed under the jurisdiction of the Oki Islands Branch Office of Shimane Prefecture. They are a breeding ground for sea lions, and records show that for a long time Japanese fishermen migrated there during certain seasons. Unlike Dagelet Island a short distance to the west, Takeshima has no Korean name and does not appear ever to have been claimed by Korea.³

The U.S. government’s position that Japan was to retain Takeshima was based on the understanding that Japan has territorial title of “continuous and peaceful display of national authority,” or “effective occupation” over the island. The “Continuous and peaceful display of national authority” has functioned as one of the criteria for judgment in international adjudications. “Display of national authority” signifies that “a state actually treats a particular region as its own territory,” including imposing taxes and providing approvals and licenses. One can say the display is “continuous and peaceful” when this state can demonstrate its power and authority in the said region repeatedly in a certain duration of time without protestations from others.⁴

Under the leadership of John Foster Dulles, who had been appointed Advisor to the Secretary

² The author conducted research in The National Archives United Kingdom (TNA henceforth), the National Archives of Australia (NAA henceforth), the National Archives and Records Administration, USA (NARA henceforth), and the Archives New Zealand (ANZ henceforth). Quoted in the text with * were documents obtained as images by Streamgraph Inc., commissioned by the Office of Policy Planning and Coordination on Territory and Sovereignty, Cabinet Secretariat, from which the author benefitted. It should be stressed, however, that this paper is based on the author’s personal view and does not necessarily reflect views of the Japan Institute of International Affairs, the Office of Policy Planning and Coordination on Territory and Sovereignty, Cabinet Secretariat, or Streamgraph Inc.

³ “COMMENTARY ON DRAFT OF PEACE WITH JAPAN” (NARA, RG59, Central Decimal File 1950–54 Box3006, 694.001/7-1750) and Tsukamoto Takashi (1994), *supra* note 1, p. 44.

⁴ Tsukamoto Takashi, “Kokusaihō teki kenchi kara mita Takeshima mondai” [The Takeshima issue seen from the viewpoint of international laws], *Fujōri to tatakau* [Fighting the unreasonable] (Bungei Shunju Kikaku Shuppanbu, August 2017), pp. 124–125.

of State of the U.S. government in April 1950, the text of the draft peace treaty prepared became much simpler in comparison with previous versions. For instance, no longer did the draft include an article defining Japan's territory or an enumeration of islands belonging to Japan or attached maps. The article stipulating Japan's renouncement of Korean territory did not include which islands Japan was to abandon as a part of Korea. As shown in the October 1950 reply to Australia on the Seven Principles of the Peace Treaty with Japan, however, the U.S. position that Takeshima belonged to Japan remained unchanged.⁵

Meanwhile, the U.K. government was also in consultation with the Commonwealth members on the peace treaty with Japan. It was during the U.S.-U.K. working-level consultations in April through May 1951 that the two countries coordinated the texts of their respective treaty drafts. In the consultations, both the U.S. draft peace treaty, which was made on March 23, 1951 (U.S. March draft henceforth), as well as the U.K. draft peace treaty of April 7, 1951 (U.K. April draft henceforth) were out on the table and a U.S.-U.K. joint draft of May 3, 1951 was made. The joint draft treaty was further revised when Dulles visited London for U.S.-U.K. discussions in June 1951 to become the joint draft treaty of June 14, 1951 (revised U.S.-U.K. joint draft henceforth). In the course of revisions, the wording of articles related to the renouncement of Korea has been somewhat modified, but, after the draft of June 14, 1951, the relevant text stayed the same when the Treaty of San Francisco was finalized.

2. Discussions on Takeshima during the U.S.-U.K. Working-level Consultations

In the U.S.-U.K. working-level consultations⁶ convened on April 25 through May 4, 1951, the U.S. and U.K. governments submitted their respective draft peace treaties.

In the U.S. March draft, Article 2 of Chapter 2 on sovereignty provided that "the Allied Powers recognise the full sovereignty of the Japanese people over Japan and its territorial waters." Article 3 of Chapter 3 on territory provided that "Japan renounces all rights, titles, and claims to Korea, Formosa and the Pescadores."⁷ Article 1 of Part 1 on territorial clauses of the U.K. April draft, on the other hand, carried a map of Japan surrounded by a line within which Japan's sovereignty would be retained. With respect to the Sea of Japan, the line was drawn from a point between Korea and the island of Tsushima in the direction "with the islands of Oki-Retto to the south-east and Take Shima to the north-west," thereby putting Takeshima out of the areas that Japan would retain territorial sovereignty. Article 2 of the same section called for Japan to renounce "any claim

⁵ For details, see Saitō Kōhei, "Shiryōgun (1): Beikoku tainichi kōwa 7 gensoku ni taisuru Gōshū no shitsumonsho oyobi sorenai taisuru Beikoku no kaitōsho" [Document Group (1) Questions Submitted by Australia to the United States Regarding the Seven Principles for a Peace Treaty with Japan, and the U.S. Response] in the "Press Release on Collecting of Archive Materials on Territory and Sovereignty (Results to date with Relation to Takeshima)" on the webpage of the Japan Institute of International Affairs on September 10, 2019 (https://www2.jiia.or.jp/pdf/JIC/10910-press_release_takeshima_attached.pdf).

⁶ On the U.S.-U.K. working-level consultations, see "Shiryōgun 2: Bei-Ei jimu reberu kyōgi oyobi 1951-nen 5-gatsu 3-nichi zuke Bei-Ei kyōdō sōan" [Document Group (2) Anglo-American Working-level Meetings and the Joint U.S.-U.K. Draft of May 3, 1951] included in the earlier quoted "Press Release on Collecting of Archive Materials on Territory and Sovereignty (Results to date with Relation to Takeshima)" on the webpage of the Japan Institute of International Affairs on September 10, 2019 (https://www2.jiia.or.jp/pdf/JIC/10910-press_release_takeshima_attached.pdf).

⁷ "Japanese Peace Treaty: Attaches Provisional draft which is to be sent to H. M. Ambassador at Washington, intended to serve as preliminary working document" (TNA, FO371/92538, FJ1022/222) p. 16 & p. 18.

to sovereignty over, and all right, title, and interest in Korea.”⁸

The U.S.-U.K. joint draft produced as the result of the bilateral working-level consultations provided, in its Article 2, Chapter 2 on “Territory,” that “Japan renounces all rights, titles, and claims in connection with Korea (including Quelpart, Port Hamilton, and Dagelet). Tsukamoto Takashi points out that, “in the process of completing the U.S.-U.K. joint draft, not only the U.K. idea of surrounding Japan with a line but also putting Takeshima out of this line were dropped, thus retaining Takeshima as a part of Japanese territory.”⁹

Tsukamoto based his interpretation on the following two grounds. The first was the comments on the bilateral joint draft provided by the U.S. government, which said:

In the discussions at Washington the U.K. agreed to drop this proposal when the U.S. pointed to the psychological disadvantages of seeming to fence Japan in by a continuous line around Japan.... U.S. willingness to specify in the treaty that Korean territory included Quelpart, Port Hamilton and Dagelet also helped to persuade the British.¹⁰

⁸ Tsukamoto Takashi (1994), *supra* note 1, p. 46, which was originally taken from the earlier quoted “Japanese Peace Treaty: Attaches Provisional draft which is to be sent to H. M. Ambassador at Washington, intended to serve as preliminary working document” (FO371/92538, FJ1022/222), p. 15 & p. 17. In Chapter 6, Section 1, “Completion of the map attached to U.K. draft peace treaty with Japan in March 1951 and reconfirmation of Korea’s territorial right over Dokdo” in his book titled 독도 1947: 전후 독도문제와 한미일 관계 [Dokdo 1947: The Postwar Dokdo Issue and Tripartite Relations of Korea, the U.S. and Japan] (Paju: Dolbaege, August 2010) Jung Byung-Joon states that the attached map to the U.K. April draft had six meanings. Of these six meanings, the third signified that this map was not only a view of Britain, a major member of the Allies, alone but also a collective view held by members of the Commonwealth including Canada, Australia, New Zealand, South Africa, India, Pakistan, and Ceylon. In other words, Jung insists that the said map depicted the content of consensus reached at least among eight Commonwealth member countries as of March–April 1951, indicating that all of these countries had a common view that Dokdo was released from Japan to become a Korean territory (p. 579). Nevertheless, Jung failed to present grounds for his argument. Although the present author also conducted research of the literature to find what could endorse Jung’s conclusion, the search proved to be futile. For instance, the New Zealand government expressed a view on the U.S. March draft that, in light of the need to assure that there would be no territorial dispute in the future over any island in the vicinity of Japan, it would be desirable to accurately confirm Japan’s territory with the aid of a latitude-longitude location as proposed by the first article of the U.K. draft peace treaty. In my judgment, this merely indicated that the New Zealand government was in support of the British argument that it would be desirable to ascribe islands located between Japan and Korea to either country in a clear-cut fashion. It by no means argued that Takeshima should be taken out of Japan’s territory. (While the aforementioned Tsukamoto Takashi (1994) claimed that this New Zealand government’s view was attributed to FRUS (Foreign Relations of the United States) 1951 Vol. VI Part1 p. 1060, it was discovered that the original document was actually included in NAA, Item ID: 217102 Japanese Peace Settlement 1st May–31st May 1951.) (It is also recorded in Treaty, Draft, 23 Mar. 1951 (NARA, RG59, Lot File 56 D 527 Records of the Office of Northeast Asian Affairs, Relating to the Treaty of Peace with Japan - Subject File, 1945–51, Box No.6).) It should be pointed out that the text of Jung Byung-Joon’s other work, “영국 외무성의 대일평화조약 초안·부속지도의 성립 (1951.3) 과 한국독도영유권의 재확인” [A Draft of Peace Treaty with Japan by British Ministry of Foreign Affairs, the Formation of the Map attached to it (March, 1951) and Reconfirmation of Korean Possession of Dokdo], 한국독립운동사연구 [Journal of Korean Independence Movement Studies] 24 (Institute of Korean Independence Movement Studies, August 2005) is almost identical with Chapter 6, Section 1 of aforementioned *Dokuto 1947-sengo Dokuto mondai to Kan-Bei-Nichi kankei*, but this treatise does not include the above-quoted argument (p. 153).

⁹ Tsukamoto Takashi (1994), *supra* note 1, p. 47. The quoted portion of the U.S.-U.K. joint draft is found in FRUS (Foreign Relations of the United States) 1951 Vol. VI Part1, p. 1025. It is also recorded in Parts I – II : Peace Treaty (TNA, PREM8/1404).

¹⁰ FRUS (Foreign Relations of the United States) 1951 Vol. VI Part1, p. 1061.

The other was the summary report of the seventh bilateral discussion on May 2, 1951, prepared by the U.K. government. The report stated:

Both Delegations agreed that it would be preferable to specify only the territory over which Japan was renouncing sovereignty. In this connection, United States Article 3 would require the insertion of the three islands: Quelpart, Port Hamilton and Dagelet.¹¹

A record of the discussion with a party of Dutch officials on the draft Japan peace treaty on May 29, 1951,¹² whose presence was recently confirmed by the author, endorses the above view of Tsukamoto. In the course of briefings on the U.S.-U.K. working-level consultations, the British side made the following explanation regarding the handling of Articles 2 and 3 of the U.S. March draft:

Mr. Johnston [the Head of Japan and the Pacific Affairs, British Foreign Office] said that the United States representatives had agreed to drop this article. He added that United Kingdom representatives had not insisted on Article 1 of the United Kingdom draft in view of the American preference for and expanded version of Article 3 of the United States draft.

With this newly discovered document, it has been reconfirmed that, at the U.S.-U.K. working-level consultations, the United States agreed to drop Article 2 of its U.S. March draft in return for which the British side agreed to withdraw Article 1 of its U.K. April draft. The two sides agreed to further articulating Article 3 of the U.S. March draft by specifying the islands to be returned to Korea.

Additionally, the following record of discussions also endorses the view that Article 3 of the U.S. March draft was revised to specify names of islands to be returned to Korea: “[The] British mentioned the desirability of disposing of islands between Japan and Korea by specific mention. (This might be done by inserting ‘(including Quelpart)’ after ‘Korea’ in U. S. article 3).”¹³

This “desirability of disposing of islands between Japan and Korea by specific mention” had been a consistent argument for Britain throughout the drafting process of the peace treaty with Japan. On August 26 through September 2, 1947, a Commonwealth conference was convened in Canberra with the aim of exchanging views on drafting a peace treaty with Japan. The “Territorial, Political and General Clauses of the Treaty of Peace with Japan”¹⁴ of August 27, 1947, prepared by the U.K. delegates pointed out that “(a) a large number of islands in waters immediately adjacent to Japan which should clearly remain under Japanese sovereignty; and (b) a number of islands between Hokkaido and Sakhalin, between Hokkaido and the Kuriles, and between Japan proper and Korea in regard to the disposal of which some dispute may be expected.” Therefore, this document stressed, “[v]ery careful drafting of this section will be necessary in order to ensure

¹¹ “Anglo-American meetings on Japanese Peace Treaty. Summary record of seventh meeting” (TNA, FO371/92547, FJ1022/376) p. 66. Also, “Anglo-American meetings on Japanese Peace Treaty” (Japanese Peace Treaty (TNA, CO537/7103)), p. 240.

¹² “Discussion with a party of Dutch officials of the draft J.P.T. at the FO on 29th May” (TNA, FO 371/92553, FJ 1022/478) p. 21. Also, “Summary record of meetings held at the foreign office on 29th May with the representatives of the Netherlands Government” (Japanese Peace Treaty (TNA, CO537/7104)), p. 134.

¹³ “Check List of Positions Stated by U.S. and U.K. at April 25–27 meetings” (NARA, RG59, Central Decimal File 1950–54, BOX 3008, 694.001/4-2751).*

¹⁴ “Territorial, Political and General Clauses of the Treaty of Peace with Japan” (NAA, Item ID: 140452 Pacific affairs – Canberra Conference Agenda – [Commonwealth Conference on Japanese Peace Settlement, Canberra, 1947]).

that no islands are left in disputed sovereignty.”

On November 20, 1950, the United Kingdom Liaison Mission in Japan (de facto U.K. Embassy to the occupied Japan) sent a document titled “Certain matters affecting the present and future disposition of Japan’s former island territories”¹⁵ to the British Foreign Office in London. This document was prepared in response to the Dulles-led drafting of the peace treaty and influenced the drafting process of the British side. It should be noted that, in the section on “His Majesty’s Government’s policy,” this document referred to the above-mentioned part of the document prepared for the 1947 Commonwealth Conference: “very careful drafting of this section will be necessary in order to ensure that no islands are left in disputed sovereignty.”

In a document prepared on April 23, 1951, on the eve of the U.S.-U.K. working-level consultations,¹⁶ the British Foreign Office deliberated the U.S. March draft. On Article 2 of this U.S. draft, which provided, “[t]he Allied Powers recognise the full sovereignty of the Japanese people over Japan and its territorial waters,” the April 23 document stated, “Very careful drafting of this Section is essential in order to ensure that no islands near Japan are left in disputed sovereignty,” and pointed out that “this Article [of the U.S. March draft] in its present form is too imprecise to meet the criterion set out above.” The British Foreign Office was concerned that disputes over sovereignty of islands near Japan “might benefit the Soviet Union or other Communist States in Asia.” One can detect in this document in 1951 a stronger sense of urgency compared to the document prepared for the abovementioned Commonwealth Canberra Conference in 1947.

In addition, in the same April 23 document, the British Foreign Office criticized that Article 2 and Article 3 (“Japan renounces all rights, titles and claims to Korea, Formosa, and the Pescadores”) of the U.S. March draft, when combined, could lead to a sovereignty dispute over Quelpart and Takeshima as the draft failed to clarify who owned territorial rights to these islands. The British Foreign Office noted that while the Japanese people themselves had perceived Quelpart and Ulleungdo islands to be a part of Korea, “[i]f it is desirable to prevent future Korean acquisition of the Hornet Islands which are uninhabited, they might be retained by Japan.” This statement reveals that, while the U.K. had put Takeshima outside of Japan’s territorial line in its April draft, the position of the line in relation to Takeshima was arbitrary and the British side did not have any concrete reason to put the island outside of it.

From this it can be conjectured that the U.K. government was concerned with clarifying national boundaries, in hope of preventing sovereignty disputes over the islands. In other words, it was not much concerned with the attribution of each island situated between Japan and Korea itself. As soon as its concern of the boundary clarification was addressed, therefore, the U.K. government withdrew Article 1 of its draft, thereby dropping its proposal to enclose Japan with a line and place Takeshima out of Japan’s territorial line. Consequently, the U.S. government’s position that Takeshima should be retained by Japan was shared with Britain, making it the “Allied Powers’ stance.”

From the above process, it is obvious that, when Article 2 of Chapter 2 on “Territory” of the U.S.-U.K. joint draft proposed that “Japan renounces all rights, titles and claims to Korea (including Quelpart, Port Hamilton and Dagelet,)” the two governments meant “Korea” did not include Takeshima. Thus, the fact that, in Article 2 (a), Chapter II on “Territory” of the Treaty of San Francisco, which stipulates, “Japan, recognizing the independence of Korea, renounces all right, title, and claim to Korea, including the islands of Quelpart, Port Hamilton and Dagelet,” “Dokdo

¹⁵ “Certain matters affecting the present and future disposition of Japan’s former island territories” (TNA, FO371/83825 J10114/5), p. 86.

¹⁶ “Attaches new edition of draft brief on U.S. provisional draft peace treaty with Japan on which discussion will be held in Washington” (TNA, FO371/92543, FJ1022/302), p. 63.

is not explicitly mentioned” means Takeshima is not a Korean but a Japanese territory under the Treaty.

Part II: South Korea's Failed Attempt to Demand Takeshima through Negotiations

1. South Korea's Demand for Tsushima and Its Rejection by the United States and Britain

In May 1951, the South Korean government requested the United States to revise the U.S. March draft; in July of the same year, it requested that the U.S.-U.K. joint draft be revised.¹⁷ It should be pointed out that, as far as the “Territory” chapter of the San Francisco Peace Treaty was concerned, South Korea had not demanded Takeshima from the beginning. Indeed, it was Tsushima that the South Korean government demanded first.

On May 7, 1951, Kim Sae-Sun, acting South Korean Ambassador to the United States sent a letter to the U.S. Secretary of State Dean Gooderham Acheson. In this letter, he attached South Korean government's request dated April 27, 1951 concerning the U.S. March draft.¹⁸ In this attachment, the South Korean government, in relation to Article 3 (on Japan's renouncement of Korean territories), Chapter 3 on “Territory” of the draft, requested that Japan “return” Tsushima to Korea (p. 3).

The “Comments on Korean Note Regarding U. S. Treaty Draft”¹⁹ with a handwritten “May 9” in the margin, which was found in the NARA, would be comments of the U.S. government to the South Korean requests on April 27, 1951. The South Korean requests were organized into eleven items,²⁰ of which the fifth was the request to return Tsushima to Korea. The U.S. government's comment to this fifth item was that the ground of the request was “extremely weak.” In his meeting with Yang Yu-Chan, South Korean Ambassador to Washington, D.C., on July 9, 1951, Dulles rejected the South Korean request to “return” Tsushima, upon which Yang acknowledged

¹⁷ The U.S. March draft was circulated in March 1951 to the South Korean government, while the revised U.S.-U.K. joint draft was circulated to the South Korean government on July 3 in the same year. See “Japanese Peace Treaty Negotiations – Alleged Cavalier Treatment of Other Allies by the United States” (NAA, Item ID: 140426 Japanese Peace Treaty – Drafts).

¹⁸ A letter from Kim Sae-Sun chargé d'affaires a.i. to Dean Acheson, the Secretary of State May 7, 1951 (NARA, RG59, Central Decimal File 1950–54, BOX 3008, 694.001/5-751). * The portion on the demand for Tsushima is found on page 2 of the request letter. See also Jung Byung-Joon, *Dokuto 1947-sengo Dokuto mondai to Kan-Bei-Nichi kankei* [Dokdo 1947-postwar Dokdo dispute and Korea-U.S.-Japan relations] (in Korean language), pp. 709–726.

¹⁹ “Comments on Korean Note Regarding U. S. Treaty Draft” (NARA, RG59, Lot54 JAPANESE PEACE TREATY FILES OF JOHN FOSTER DULLES, Box 8, Korea). *

²⁰ According to Tsukamoto Takashi, “Kankoku no tai-Nichi heiwa jōyaku shomei mondai—Nicchō kōshō, sengo hoshō mondai ni kanren shite” [The issue of Korea's signing of the Peace Treaty with Japan—in relation to Japan-Korea negotiations and postwar compensation], *Reference* no. 494 (March 1992), p. 97–98, South Korea made the following demands: (1) Korea should be specifically designated as Allied Powers; (2) Korea should be permitted to sign the treaty, as Poland was [a signee of] the Versailles Treaty; (3) Japan's admission to the UN should be tied to Korea's; (4) Koreans in Japan should be accorded the status of the Allied nationals; (5) Tsushima should be “returned” to Korea; (6) Korea should be included in any Pacific security system; (7) The “MacArthur (fishing) Line” between Korea and Japan should be reserved in the treaty; (8) Korea should be permitted to seize all Japanese properties in Korea without regard to the exceptions listed in our draft; (9) Korea should have the same right as the Allied Powers to the restoration of Korean property in Japan; (10) Korea requests that it be made a party to the International Court of Justice; and (11) Korea should be specifically included as an Allied Power. These eleven items are almost identical to the contents of requests from (1) through (11) handwritten in the South Korean request documents on April 27.

in a meeting on July 19 that South Korea withdrew its request for Tsushima.²¹

In the letter of I Myo-Mook, South Korean Minister to Britain, to U.K. Foreign Minister Herbert Morrison dated July 20, 1951, the South Korean government conveyed its requests regarding the peace treaty draft. The British Foreign Office reorganized the requests into the following nine items²² (see table 1).

Table 1. South Korean government's requests submitted to the U.K. government on July 20, 1951

1. The term “Allied Power” should be defined specifically include Korea. (Preamble)
2. Any future status which may be acquired by Japan in connection with an application for membership in the United Nations should be limited to a status equivalent to that enjoyed by South Korea. (Preamble)
3. Korean residents in Japan should be treated as citizens of an Allied Powers member. (Preamble)
4. The island of Tsushima should be transferred from Japan to Korea. (Chapter 3: Territory)
5. Special consideration should be given to the importance of Korea in the maintenance of peace and security in the Pacific. (Chapter 4: Security)
6. The MacArthur Line should be maintained. (Chapter 5: Political and Economic Clauses)
7. While Allied Powers can protect their rights through bilateral agreements, Korea does not have such agreements due to forty years of the Japanese occupation. The relevant article should be revised so that Korean rights are equally protected with other countries having bilateral agreements with Japan. (Chapter 5: Politics and Economy)
8. It should be recognized that Japanese properties in Korea and Korean properties in Japan belong to Korea. (Chapter 6: Claims and Property)
9. South Korea should be made a party to the International Court of Justice. (Chapter 7: Settlement of Disputes)

These requests to Britain were almost identical to South Korea's requests to the U.S. government on April 27, 1951. As can be detected from the South Korean reference to “Territory” as Chapter 3, these requests were based not on the revised U.S.-U.K. joint draft but on the U.S. March draft. (In the former, “Territory” constituted Chapter 2, instead.) Even though the revised U.S.-U.K. joint draft of June 14, 1951, had already been shared with South Korea, South Korea did not base its requests on that draft.

On August 2, 1951, the British Foreign Office tabulated requests regarding the peace treaty with Japan submitted from various countries concerned and comments on them.²³ In response to South Korea's demand for the return of Tsushima, the comment said, “This is unacceptable because Tsushima has been Japanese since the dawn of Japanese history and inhabitants are

²¹ “Memorandum of Conversation on July 9 & 19, 1951” (NARA, RG59, Lot54 JAPANESE PEACE TREATY FILES OF JOHN FOSTER DULLES, Box 8, Korea), FRUS (Foreign Relations of the United States) 1951 Vol. VI Part 1, pp. 1183–1184 and pp. 1202–1206, Tsukamoto Takashi (1983), *supra* note 1, pp. 58–63, and Tsukamoto Takashi (1994), *supra* note 1, pp. 48–49.

²² “Encloses Korean comments and suggestions on J.P.T.” (TNA, FO371/92570, FJ1022/799), pp. 27–28. See pp. 33–39 for the South Korean request.

²³ “State Department would still like Mr. Fitzmaurice to go the U States” (TNA, FO371/92574, FJ1022/876), pp. 56–68 (see p. 56). An identical document is found in “JAPANESE PEACE TREATY: PROPOSED AMENDMENTS WITH COMMENTS” (TNA, CO 537/7106), pp. 269–283 and pp. 375–387 (see p. 271 & p. 375). This document was produced for the benefit of Gerald Gray Fitzmaurice, legal counsel to the British Foreign Office, who was on his way to the United States to assist finalization of the peace treaty.

Japanese by speech, race, and choice.” Subsequently on August 17, in a letter from the British Foreign Office to Minister I Myo-Mook²⁴ responding to the South Korean requests, the U.K. government turned down South Korea’s demand for Tsushima, pointing out that “the island is Japanese and should remain part of Japan.”

2. Logic behind South Korea’s Demand for Tsushima and Its Inconsistency with International Law

Well-known incidents surrounding South Korea’s demand for Tsushima occurred on August 17, 1948, and January 7, 1949, in the form of remarks made by I Seung-Man, the first president of South Korea, immediately following the founding of the Republic of Korea government. It was, however, Chung Moon-Kee that had demanded the return of Tsushima earlier. Appointed as Fisheries Bureau Chief of the Ministry of Agriculture, the United States Army Military Government in Korea, in July 1947, Chung was an expert in fisheries administration. In his treatise entitled “the attribution of Tsushima to Korea and Perpetuation of Peace in the Orient,” which was dated “October 15, 1945, National Fisheries University of Busan,” Chung stressed, “[i]n order to secure peace in East Asia in days to come, we must deprive Japan of a base for its political and military conspiracies and schemes by confirming that Tsushima belongs to Korea.”²⁵

Chung contributed a memoir to the daily *Hankook Ilbo* on December 10, 1977, in which he reminisced that, having read MacArthur’s “statement on the range of Japanese territory” issued immediately after Japan’s defeat, he thought that Japan’s territory would be limited to four main islands and Tsushima would not be included in it. It is conjectured that Chung was referring to the U. S. Initial Post-Surrender Policy for Japan issued on September 6, 1945, which stipulated, “Japan’s sovereignty will be limited to the islands of Honshu, Hokkaido, Kyushu, Shikoku and such minor outlying islands as may be determined, in accordance with the Cairo Declaration and other agreements to which the United States is or may be a party.” This, however, did not at all include a decision that Tsushima would be excluded from Japanese territory.

In a February 19, 1948, daily *Dong-A Ilbo* article titled “the Attribution of Tsushima to Korea Proposed at Legislature,” it was reported that a member of the legislature Heo Gan-yong had proposed that the issue of reinstituting Tsushima as a Korean territory should be submitted to the peace conference with Japan lest an aggressive Japan might rise again, using Tsushima as a base for invading the Asian continent and disturbing the peace in East Asia. It was also reported that fifty-nine of Ho’s colleagues supported his proposal and that it had been submitted to the general assembly of the legislature on February 17.²⁶

The daily *Chosun Ilbo* issued on January 8, 1949, reported that, at a press conference on January 7, 1949, a reporter asked how far back President I Seung-Man intended to demand reparations from Japan. In reply, President I said, “While, personally, I wish to go back some 350 years to the Japanese invasions of Korea of 1592–1598 (Imjin War), I should first demand reparations at least for the past forty years as well as the return of Tsushima.”

²⁴ “Encloses a confidential communication on Korea’s wish to participate in the JPT and request immediate attention” (TNA, FO371/92572, FJ1022/847), pp. 130–135 (see p. 133).

²⁵ Korea Fisheries Technology Association ed., *한국수산물기술협회* [Treatises and essays of the *Tosan* Dr. Chung Moon-Kee in commemoration of his 70th birthday] (in Korean language, April 1968), p. 170. In an article in *Hankook Ilbo* on December 11 and 13, 1977, however, Chung complained that all the influencers of the time were uninterested in the appeal for the “return” of Tsushima. He also complained that President I Seung-Man’s 1948 statement was issued far too late.

²⁶ “The Stenographic Records of the Provisional Legislature of the Republic of Korea, No. 208” (February 17, 1948) in Volume 5 of *the Stenographic Records of the Provisional Legislature of the Republic of Korea* compiled by the National Assembly of the Republic of Korea (May 1999) does not, for reasons unknown, contain the record of deliberation on the demand to recover Tsushima (see pp. 371–393).

All these arguments heard inside Korea based their demands for Tsushima either on the security need to prevent another attempt by Japan at invasion or on the right to reparations from Japan. A different argument for the “return” of Tsushima was included in the April 27, 1951 requests submitted to the U.S. government (which were almost identical to the July 20 requests presented to the U.K. government):

In the firm belief that justice is the only basis for a lasting peace, the Government of the Republic of Korea requests that a thorough study be given to the territorial status of the Islands of Tsushima. Historically, the two islands called Tsushima were Korean territory until forcibly and unlawfully taken over by Japan. In paragraph number 5 [of the U.S. March draft], Japan is ordered to hand over to the Union of Soviet Socialist Republics the southern half of Sakhalin, all adjacent islands and, in addition, the Kurile Islands. In the belief that Korea should be accorded full and equal justice and equality of treatment, the Republic of Korea requests that Japan specifically renounce all right, title and claim to the Islands of Tsushima and return them to the Republic of Korea.

As this quote shows, the Republic of Korea argued that it had the same right as the Soviet Union had and demanded the “return” of Tsushima. It argued that it was entitled to similar treatment as the Soviet Union, which was proposed to be the recipient of “the southern half of Sakhalin, all adjacent islands and, in addition, the Kurile Islands” by Article 5 of Chapter 3 on “Territory” of the U.S. March draft.²⁷

Article 2(c) of Chapter 2 on “Territory” of the revised U.S.-U.K. draft, however, merely stipulated that Japan should abandon these territories.²⁸ And this might be a key to understanding South Korea’s mysterious choice of the U.S. March draft instead of the revised U.S.-U.K. joint draft as the basis of its request made to the U.K. government on July 20, 1951. In any event, South Korea’s demand for Tsushima was premised on its argument that it should be recognized as a member of the Allied Powers.

Thus, it can be said that South Korea did not base its demand for Tsushima on the ground that it has the territorial title of “continuous and peaceful display of territorial sovereignty.” Both the United States and Britain, however, attached great importance to whether territorial claims are based on the above-mentioned territorial title. A March 30, 1950, report produced by the U.S. Department of State also concluded as follows: “Although Korea apparently held a dominant position on the island before 500AD, its claim to control in subsequent periods is not supported by the facts available. On the contrary, there is little doubt that during at least 350 years Japan has

²⁷ In the April 26, 1951, request regarding the U.S. March draft from Yim Byung-Jick, South Korea’s Ambassador to the United Nations, addressed to John Foster Dulles (National Institute of Korean History ed., *이 승만 관계 서간 자료집* [Compilation of I Seung-Man-related letters and documents] Vol. 3 (1951), pp. 333–336), which is believed to be the draft of the request on April 27, 1951, the phrase, “In the belief that Korea should be accorded full and equal justice and equality of treatment” was used in place of “In view of this fact.” The South Korean side might have hesitated to equate itself to the Soviet Union.

²⁸ Hosoya Chihiro, in his *San Furansisuko kōwa eno michi* [Road to the San Francisco Peace Treaty] (Tokyo: Chūō Kōronsha, 1984), attributed this to: (1) the original proposal would give direct benefits to the Soviet Union, which was feared to provoke heated arguments at the U.S. Senate, and (2) Dulles explained to Morrison that, had Japan not openly abandoned sovereignty over these territories, it was feared that the United States, which was to conclude a security pact with Japan, might be entangled in an unintended dispute (see pp. 239–240).

exercised complete and effective control of Tsushima.”²⁹ South Korea had no grounds on which to override this conclusion.

3. South Korea's Request for Status as a Member of the Allied Powers and Its Rejection by the U.S. and Britain

To begin with, both the United States and Britain had rejected South Korea's request to be a signee of the Treaty of San Francisco as a member of the Allied Powers (the war winners), which underlay its demand for Tsushima. Although South Korea tenaciously repeated this request, it was turned down for good in the following way.

On August 17, 1951, in a letter on from the British Foreign Office addressed to I Myo-Mook, South Korean Minister to Britain, the U.K. government conveyed the reason for the rejection of South Korean's request as follows: “This decision is a necessary consequence of the fact that Korea is not at war with Japan, having been part of the Japanese Empire throughout the war with Japan.”³⁰ Furthermore, the British Foreign Office pointed out that Article 21 of the revised U.S.-U.K. draft stated that Korea would benefit from Article 2 (renouncement of Korea by Japan), Article 9 (fisheries), and Article 12 (conclusion of trade relations). In light of this, the U.K. government turned down other requests from South Korea dated July 20.

On August 21, 1951, South Korean Foreign Minister Pyun Yung-tae issued a statement that said, “As Japan's closest neighbor and victim of 40 years suffering Korea should participate [in the peace conference].”³¹ The next day, Yang Yu-Chan, South Korean Ambassador to the United States, told Dulles that South Korea's signing of the peace treaty with Japan would “terminate the state of war with Japan which had been declared by the Korean Provisional Government” and stressed that it would “have the most important effect raising the morale” of the South Korean people in the midst of the destruction and confusion caused by the Korean War.³² Nevertheless, Dulles rejected Yang's pleas, putting an end to South Korea's quest to become a signatory of the Treaty of San Francisco as a war victor.

As described, South Korea had pursued its wish to be recognized as a member of the Allied Powers until only half a month before the San Francisco peace conference. South Korea had not given up on this request despite repeated rejections by the United States and Britain because its status as a member of the Allied Powers had been the premise of many of its requests regarding the draft peace treaty. This can also be found from the following two incidents.

On July 25, 1951, regarding the South Korean request on the issue of claims, which later became the thorniest issue in the bilateral Japan–South Korea Talks for the normalization of diplomatic relations between the two countries, the British Foreign Office made the following comment rejecting South Korea's request:

The comments on Claims and Property are based on the assumption that Korea will be an Allied Power and will be entitled to seize Japanese property under Article 14. This is not so. Japanese property in Korea will be regulated by the special agreement between Japan and

²⁹ “KOREA'S RECENT CLAIM TO THE ISLAND OF TSUSHIMA” (NARA, RG84, Records of the Foreign Service Posts of State, Entry 2846, Korea, Seoul Embassy, Classified General Records, 1953–55, Box,12) * p. 6.

³⁰ TNA document, *supra* note 24, pp. 130–135. (See p. 130.) This letter was also a reply of the British government to the letter by I Myo-Mook dated July 25, 1951, in which South Korea had requested its participation in the peace conference as a signee of the peace treaty.

³¹ A telegram from the U.S. Ambassador to Korea to the U.S. Secretary of State, Aug. 22, 1951 (NARA, RG59, Central Decimal File 1950–54, BOX3011 694.001/8-2251). *

³² “Memorandum of conversation dated August 22, 1951” (NARA, RG59, Central Decimal File 1950–54, BOX3011 694.001/8-2251). *

Korea provided for under Article 4. It is hardly possible at this stage to include in the Treaty any detailed provisions for Korean property claims.³³

Article 14 was about reparations to the Allied Powers both in the U.S. March draft and the revised U.S.-U.K. draft. In addition, on August 2, 1951, the British Foreign Office pointed out that “this request is based upon the false assumption that Korea is an Allied Power.”³⁴

Another incident was related to the request for continuation of the MacArthur Line (line instituted in the sea around Japan while Japan was occupied by the Allied forces beyond which Japanese fishing boats were not allowed to operate.) South Korea obstinately insisted on the line’s continuation in conjunction with its argument for membership in the Allied Powers as follows.³⁵

During the forty years in which Korea was under the domination of Japan, the Japanese monopolized every means of livelihood, including the Korean fishing waters. Although unable to enter into a bilateral treaty under these circumstances, Koreans living in and outside of their own country maintained a status of belligerency with Japan which continued until 1945.

Therefore, the South Korean government argued that Article 10 of the U.S. March draft (“Each of the Allied Powers within a year after the present treaty has come into force between it and Japan, will notify Japan which of its pre-war bilateral treaties with Japan it wishes to keep in for or revive, and such treaties shall continue in force or be revived except for any provisions thereof not in conformity with the present treaty, which provisions shall be deemed deleted. All such treaties not so notified shall be regarded as abrogated.”) had to be revised. This was, according to the South Korean side, because “[a]ny so-called ‘treaties’ between Japan and Korea, entered into prior to 1945 while Korea was under the Imperialistic domination of Japan, are not in fact treaties and the Republic of Korea considers any or all such ‘treaties’ to be null, void and of not effect whatever.”

It was South Korea’s position that only a treaty that South Korea concluded with Japan as a member of the Allied Powers deserved to be regarded as a genuine treaty and that all existing treaties, including the Japan-Korea Treaty of 1910 (Japan-Korea Annexation Treaty), should be regarded as null and void from the beginning. This kind of argument from the South Korean side later became a point of contention as the issue of the validities of pre-annexation treaties in the Japan–South Korean negotiations toward diplomatic normalizations (the Japan–South Korea Talks). On the other hand, the South Korean side insisted that the MacArthur Line was something that should never be null and void. It argued that the MacArthur Line represented a “historic division line” between Japan and Korea and as such was tantamount to a “prewar bilateral treaty.”

This was why South Korea demanded continuation of the MacArthur Line. The MacArthur Line was characterized as an “arbitrary line” in the August 1947 activity report of the United

³³ TNA document, *supra* note 22, p. 28.

³⁴ TNA document (FO371/92574), *supra* note 23, p. 62, and TNA document (CO 537/7106), *supra* note 23, p. 277 & p. 381. It should be pointed out that, in response to the South Korean request, the United States added an additional stipulation to Article 4 which satisfied the South Korean request. The U.K. government, on the other hand, informed the South Korean government that the handling of Japanese assets would be addressed by Article 4 in its letter on August 17, 1951. (“Encloses a confidential communication on Korea’s wish to participate in the JPT and request immediate attention” (TNA, FO371/92572, FJ1022/847), p. 134.) An Article 4 was added to items which Korea would benefit in the final draft of the peace treaty.

³⁵ NARA document, *supra* note 18, pp. 3–4 for South Korea’s request to the United States and, TNA document, *supra* note 22, pp. 35–36 for the South Korean request to Britain.

States Army Military Government in Korea³⁶ (which governed the southern half of the Korean peninsula after the end of Japanese rule), meaning it is simply not a fact that the MacArthur Line was instituted in compliance with a “historic division line.” The South Korean argument was so far-fetched as to be beyond comprehension. South Korea’s request on April 27, 1951, that Article 10 should be revised to something befitting Korea as a member of the Allied Powers was not included in the eleven items summarizing South Korea’s comments on the U.S. draft of May 9. The United States government simply ignored it.

4. South Korea’s Sloppy Demand for Takeshima

In a letter dated July 19, 1951, Ambassador Yang Yu-Chan requested U.S. Secretary of State Dean Acheson to revise the following wording in Article 2(a) of the revised U.S.-U.K. joint draft:

Japan, recognizing the independence of Korea, renounces all right, title and claim to Korea, including the islands of Quelpart, Port Hamilton and Dagelet.

The South Korean government, through Ambassador Yang, proposed the following revised wording instead:³⁷

Japan, recognizing the independence of Korea, confirms that it renounced on August 9, 1945, all right, title and claim to Korea and the islands which were part of Korea prior to its annexation by Japan, including the islands of Quelpart, Port Hamilton, Dagelet, Dokdo and Parangdo.

On the other hand, according to a telegram of John Joseph Muccio, U.S. Ambassador to South Korea addressed to the U.S. State Department, dated July 17, 1951,³⁸ South Korean Foreign Minister Byun Young-tae had requested Muccio to replace “Korea, including the islands of Quelpart, Port Hamilton and Dagelet” in Article 2(a) of the revised U.S.-U.K. joint draft with “Korea and all islands which were part of Korea prior to its annexation by Japan, including Kuelpart, Port Hamilton, Dagelet, Dokdo and Prangdo.”

On the July 20, 1951, in the telegram No. 38 sent from Busan to the Australian Department of External Affairs³⁹, James Plimsoll (an Australian diplomat who, at that time, was served as the Australian representative to the UN Commission for the Unification and Rehabilitation of Korea) wrote that the South Korean Foreign Minister had asked the support of the Australian government for four proposed amendments to the peace treaty draft. One of these four was a request to insert “and all islands which were part of Korea prior to its annexation by Japan” before

³⁶ “U.S. Army Military Government–South Korea: Interim Government Activities, No.1, August 1947” (NARA, RG331 GHQ/SCAP Records, Adjutant General’s Section Administration Division; Mail and Records Branch— Miscellaneous File, 1945–52 Box 762, Folder #6).

³⁷ Tsukamoto Takashi (1994), *supra* note 1, p. 48.

³⁸ A telegram from John Joseph Muccio, U.S. Ambassador to Korea, to the U.S. Secretary of State, July 17, 1951 (NARA, RG59, Central Decimal File 1950–54, BOX3010, 694.001/7-1751). * In addition to Article 2, Byun Young-tae also made requests on the handling of the Japanese properties in Korea (Article 4) and the MacArthur Line (Article 9).

³⁹ “Amendments to Draft Japanese Peace Treaty 27th July, 1951” (NAA, Item ID: 140412, Japanese peace settlement). The second of the four was dissatisfaction with Article 4 which could endorse Japan’s claims on the Japanese properties in Korea, the third was about demilitarization of Tsushima, and the fourth was a request to add continuation of the MacArthur Line to Article 9 until conclusion of fisheries treaties between Japan and various countries. See Fujii Kenji (2020), *supra* note 1, pp. 60–62. Plimsoll also wrote that Korea wished to be a signee of the peace treaty with Japan.

“including” in Article 2(a) of the revised U.S.-U.K. joint draft. The South Korean Foreign Minister also insisted that the islands of “DOK DO and PRANG DO” should be specifically mentioned in the treaty text.

In summary, Byun Young-tae requested the U.S. and Australian governments to accept the following revision:

Japan, recognizing the independence of Korea, renounces all right, title and claim to Korea, and all islands which were part of Korea prior to its annexation by Japan, including Kuelpart, Port Hamilton, Dagelet, Dokdo and Prangdo. (Note that in the request to the Australian government “Dokdo and Prangdo” was rendered as “DOK DO and PRANG DO.”)

While Yang Yu-Chan requested the return of “Dokdo and Parangdo,” Byun Young-tae demanded “Dokdo and Prangdo.” Parangdo is the Korean pronunciation of what is called Harōtō in Japanese. Having heard of Socotra Rock located in the East China Sea, the Koreans mistook it for an island. In actuality, it is a submerged rock located in the East China Sea. Thus, the South Korean government claimed sovereignty over a nonexistent “island.”⁴⁰ Moreover, the name of this “island” was not even consistent within the South Korean government.

Neither was the wording for the proposed revision consistent. It is not known whether the insertion of “it renounced on August 9, 1945,” one of differences between Yang’s text and Byun’s text, was instructed by the home government or was based on Yang’s own decision. August 9, 1945, was the day Japan notified the Allied Powers of its decision to accept the Potsdam Declaration.⁴¹ Article 8 of the Potsdam Declaration stipulated that the Cairo Declaration—which said, “The aforesaid three great powers [the United States, Britain, and the Republic of China] . . . are determined that in due course Korea shall become free and independent.”—shall be carried out. The insertion of this wording must have represented an outburst of emotion by South Koreans rejoicing Japan’s acceptance of the Potsdam Declaration, which was tantamount to Korea’s liberation from Japan.

In a diplomatic note dated August 10, 1951 (The Rusk documents, also known as the Rusk-Yang correspondence, which was the official diplomatic correspondence sent by Dean Rusk, the United States Assistant Secretary of State for Far Eastern Affairs, to Yang Yu-Chan, South Korean

⁴⁰ For the details of this process, see Yu Jin-O, “한일회담이열리기까지 (상)” [Process toward convening of the Korea-Japan Talks Part 1], *Sasanggye* no.156 (Sasanggyesa, February 1966) p. 96. After this incident, Parangdo became in the minds of Koreans so synonymous with the image of Jeodo, an imaginary island that existed only in folk songs and folklore among Quelpart islanders, that, today, Socotra Rock is called Jeodo in South Korea. It is known as Suyan Islet in Chinese. In 2003, the South Korean government built the Jeodo Ocean Research Station, triggering a protest from China.

⁴¹ According to “Bei-Ei-Ka sangoku sengen judaku ni kansuru wagakuni no mōshiire” [The Japanese government’s announcement of acceptance of the U.S.–Britain–Republic of China declaration] in *Nippon gaikō nenpyō narabini shuyō bunsho gekan* [Chronological tables and major documents of Japan’s diplomacy: part 2] compiled by Ministry of Foreign Affairs (Nippon Kokusai Rengō Kyōkai, March 1955), the acceptance telegram was sent at 7:15 in the morning of August 10 (p. 631). Thus, the telegram was likely to have reached the United States on August 9 at the latest. Since the United States Army Military Government in Korea’s ordinance #33 on December 6, 1945, recorded that properties that existed within the jurisdiction of United States Army Military Government in Korea as of September 25, 1945 and owned or controlled by the Japanese government and people in Korea on or since August 9, 1945 would be confiscated by the Military Government. Thus, August 9, 1945 might have been a familiar date to the South Korean people.

Ambassador to the United States)⁴², the U.S. government stated, “The United States Government regrets that it is unable to concur in this proposed amendment. The United States Government does not feel that the Treaty should adopt the theory that Japan’s acceptance of the Potsdam Declaration on August 9, 1945, constituted a formal or final renunciation of sovereignty by Japan over the areas dealt with in the Declaration.” It was the U.S. intention to stress that it would be only the peace treaty with Japan that would determine the handling of Japan’s former territories.

The Rusk documents show that the U.S. government rejected South Korea’s demand for Takeshima and that it understood that South Korea had withdrawn the claim to Parangdo. As for the grounds for Japan to keep its sovereignty over Takeshima, the documents cite the following:

As regards (1) the island of Dokdo, otherwise known as Takeshima or Liancourt Rocks, this normally uninhabited rock formation was (2) 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. (underscores applied by the author)

The reference to “the island of Dokdo, otherwise known as Takeshima or Liancourt Rocks” itself reveals how the Rusk documents came about on the U.S. side. When South Korea demanded Takeshima, it only referred to it as Dokdo, and, therefore, the U.S. side had a hard time locating the island.

When, in a meeting on July 19, 1951, Ambassador John Foster Dulles asked about where Dokdo and Parangdo were located, Han Pyo-wook, First Secretary of the South Korean Embassy in the United States, replied that “these were two small islands lying in the Sea of Japan, he believed in the general vicinity of Ulleungdo.”⁴³ The record of the U.S. Government dated August 3, 1951, shows that, even though a Mr. Boggs, an expert on geography in the U.S. State Department, “‘had tried all resources in Washington,’ he has been unable to identify Dokdo or Parangdo.” Another State Department official in charge of Korea, “Frelinghuysen later reported that an Embassy officer had told him they believed Dokdo was near Ulleungdo, or Takeshima Rock, and suspected that Parangdo was too.”⁴⁴

In a telegram sent to the U.S. Ambassador to South Korea in the name of Secretary of State Dean Acheson on August 7, 1951, Dulles stated:

“Neither our geographers nor Korean Embassy have been able locate Dokdo and Parangdo Islands. Therefore unless we hear immediately cannot consider this Korean proposal to

⁴² A note from Dean Rusk, the United States Assistant Secretary of State for Far Eastern Affairs, to Yang Yu-Chan, South Korean Ambassador to the United States (NARA, RG59, Lot54 JAPANESE PEACE TREATY FILES OF JOHN FOSTER DULLES, Box 8, Korea). *

⁴³ “Memorandum of conversation dated July 19, 1951” (NARA, RG59, Lot54 JAPANESE PEACE TREATY FILES OF JOHN FOSTER DULLES, Box 8, Korea) * and Tsukamoto Takashi (1994), *supra* note 1, p. 49.

⁴⁴ “Office Memorandum, To: Allison From: Fearey, Date: August 3, 1951” (NARA, RG59, Lot54 JAPANESE PEACE TREATY FILES OF JOHN FOSTER DULLES, Box 8, Korea)* and Tsukamoto Takashi, “Takeshima ni kansuru eibun setsumeishiiryō (1947-nen Gaimushō sakusei) wo megutte” [On briefing materials on Takeshima in the English language prepared in 1947 by the Ministry of Foreign Affairs] in *Tōsho Kenkyū Jānaru* 4 no.1 (November 2014) p. 63.

confirm their sovereignty over these islands.”⁴⁵

It is conjectured that it was through a telegram of August 8 from the U.S. Embassy in South Korea that the U.S. government learned that Dokdo was Takeshima. The State Department's record⁴⁶ contains the summary of a telegram that said, “Dokto (Jpn. name Takeshima) situated at 37° 15' N, 131° 53' East.” It was also written in the same record that the South Korean Foreign Ministry had withdrawn the claim to Parangdo.

A document dated December 2, 1953, compiled by the New Zealand Department of External Affairs titled “Japanese-Korean Relations with Special Reference to the Dispute Concerning Takeshima Island” had a section on “The Takeshima dispute,” which contained a record of the South Korean Foreign Minister's request of the Australian government.⁴⁷ The South Korean Foreign Minister requested that Dokdo and Parangdo should become Korean territories, explaining, “these two islands were some distance to the south of the mainland.”

Telegram No. 32 of the Australian Department of External Affairs dated July 25, 1951, addressed to James Plimsoll in Busan⁴⁸ stated, “We are unable to locate the two islands you mentioned on any maps of Korea in our possession.” The South Korean side could not even provide precise coordinates for these islands. It was only natural that the United States and Australia decided to turn down South Korea's request.

5. Shift of South Korea's Demand from Tsushima to Takeshima

Although it remains unknown precisely when the South Korean government decided to take up the issue of Takeshima in the peace treaty draft, one can make an educated guess. A telegram of Ambassador Muccio to the Department of State, dated July 17, 1951, is the very first record of South Korea's demand for Takeshima. In this telegram, it was reported that South Korean Foreign Minister Byun Young-tae had criticized the peace treaty draft when asked about it at the

⁴⁵ “Confidential Telegram Received: From Department of State, Washington, D.C., Date: August 7, 1951, NR:111” (NARA, RG84, Records of the Foreign Service Posts of State, Entry 2846, Korea, Seoul Embassy, Classified General Records, 1953–55, Box,12) * and Tsukamoto Takashi (2014), *supra* note 1, p. 64.

⁴⁶ “Correspondence regarding Tokto, island claimed by Japan” (NARA, RG84, Records of the Foreign Service Posts of State, Entry 2846, Korea, Seoul Embassy, Classified General Records, 1953–55, Box,12). * This document is handwritten with the date of October 14, 1952, and it contains summaries of (1) John Joseph Muccio's telegram dated July 17, 1951; (2) Yang Yu-Chan's letter dated July 19, 1951; (3) dialogue between John Foster Dulles and Yang Yu-Chan on July 19, 1951; (4) Dulles' telegram dated August 7, 1951; and (5) a telegram dated August 8, 1951 from the American ambassador to South Korea. This document was also introduced in Jung Byung-Joon (2010), *supra* note 8, p. 776.

⁴⁷ “JAPANESE - KOREAN RELATIONS WITH SPECIAL REFERENCE TO THE DISPUTE CONCERNING TAKESHIMA ISLAND” (ANZ, Post-war settlement – Japanese peace settlement – Territorial (Code: R20107058)) p. 9. It is recorded that this summary is contained in a July 21, 1951, telegram from South Korea to Australia, it must have been a telegram sent by an Australian diplomat residing in South Korea to Australia.

⁴⁸ NAA document, *supra* note 39. It was also reported in telegram No. 38 from Plimsoll in Busan to the Australian Department of External Affairs that there was no “adequate information” about Dokdo and Parangdo. Incidentally, a copy of telegram No. 32, which was sent to the Australian Embassy in the United States on July 27, was attached to “Amendments to Draft Japanese Peace Treaty” (NAA, Item ID: 217103 Japanese Peace Treaty – Japanese Peace Treaty 1st June–31 July 1951). In this telegram, the Australian Department of External Affairs warned Ambassador to the United States Percy Spender of South Korea's approach.

national assembly the previous day.⁴⁹

After it was rejected by the United States on July 9, 1951, South Korea's demand for Tsushima had disappeared from Byun Young-tae's July 17 telegram and Yang Yu-Chan's letter dated July 19. It was under these circumstances that the South Korean government demanded Dokdo and Parangdo in its letter to the United States on July 19 and the telegram sent to Australia on July 20. It is inconceivable that South Korea had had ample time to prepare for this demand for Dokdo and Parangdo, which was made immediately after its demand for Tsushima was rejected by the United States. It was as if South Korea sought to quickly replace the target territory. As a matter of fact, South Korea was unable even to specify the precise coordinates of these two islands.

In his telegram on July 17, 1951, Muccio disclosed that Byun Young-tae had stated that it would be imperative for South Korea to own Dokdo and Parangdo because, the "two islands claimed [are] important as they lie in an exposed and dangerous position if in unfriendly hands." The aforementioned document, "Japanese-Korean Relations with Special Reference to the Dispute Concerning Takeshima Island" compiled by the New Zealand Department of External Affairs recorded that Byun Young-tae had stated, "These two islands, . . . were of no economic value, but they were of strategic importance to Korea."⁵⁰

Byun Young-tae cited security needs as the grounds for the demand for Takeshima. One can find a commonality between this argument and the following request that South Korea made to Australia around the same time.

According to the telegram No. 38⁵¹ of Plimsoll in Busan addressed to the Australian Department of External Affairs, dated the July 20, 1951, Byun Young-tae asked Australian support for four revisions to the revised U.S.-U.K. draft. Of the four requests, the third was prohibition of rearmament of Tsushima without the United Nations' consent. On July 25, 1951, in the telegram No. 32 addressed to Plimsoll,⁵² the Australian Department of External Affairs pointed out that it was not in a position to express its view on demilitarization of Tsushima until the agreement on the U.S. military's use of bases in Japan was disclosed. The Australian government turned down this request along with the other three.

There must have been some calculation of its own on the part of South Korea to choose Australia as the target of its request regarding the demilitarization of Tsushima. For one thing, Australia had not been happy with a benevolent peace treaty pursued by Dulles, and it remained apprehensive about the possible remilitarization of Japan.⁵³ The Australian government kept the record in a telegram dated the August 2, 1951 from Seoul, which said, "Foreign Minister stated yesterday that demilitarization of Tsushima Island would be demanded. Korean claims for the island would however not be Pressed."⁵⁴ This fact in itself reveals the considerable interest the Australian government had in this issue.

When its demand for Tsushima was rejected by the United States, the South Korean government requested the Australian government to support its proposal on demilitarization

⁴⁹ NARA document, *supra* note 38. * The stenographic record of the extraordinary session of 11th National Assembly session No. 27 compiled on July 16, 1951, by secretariat of the National Assembly includes a report on Byun Young-tae's request regarding the peace treaty draft, but there is no record of discussions on the Takeshima issue. It may be noteworthy that the daily *Dong-A Ilbo* on July 17, 1951, reported that deliberations at the National Assembly on July 16 were a closed-door session.

⁵⁰ ANZ document, *supra* note 47, p. 9.

⁵¹ NAA document, *supra* note 39.

⁵² *Ibid.*

⁵³ Hosoya Chihiro, *supra* note 28, pp. 114–117 and pp. 192–196.

⁵⁴ SUMMARY OF SHORTWAVE RADIO NEWS (NAA, Item ID: 584264 Japanese Peace Treaty–London Working Party).

of Tsushima, stressing security needs. This reminds us of Chung Moon-Kee's aforementioned comment—"We must deprive Japan of a base for its political and military conspiracies and schemes"—as well as the proposal in the daily *Dong-A Ilbo* issued on the February 19, 1948, that the issue of reinstituting Tsushima as a Korean territory should be submitted to the peace conference lest the aggressive Japan might rise again.

On the other hand, the following South Korean request to Australia regarding Tsushima is found in "Japanese-Korean Relations with Special Reference to the Dispute Concerning Takeshima Island" compiled by the New Zealand Department of External Affairs:⁵⁵

The South Korean Foreign Minister did not suggest that Tsushima should be Korean, stating that while Korea would like sovereignty over the island he realized this was unlikely, particularly since the majority of the island's inhabitants were Japanese. He said that the Korean Government had suggested to the United States that Tsushima become an American trust territory, but the United States had declined.

It appears that South Korea took a cue from Article 3 of the revised U.S.-U.K. draft, which proposed the Ryukyu and Bonin (Ogasawara) islands to be placed under a trusteeship system with the United States as the sole administering authority. Japan was expected to agree with this proposal in relation to these islands.

There is, however, no record to endorse South Korean claim that Yang Yu-Chan proposed that Tsushima should be put under U.S. trusteeship in his meeting with Dulles on July 19, 1951. On the other hand, South Korea made the request for Tsushima to Britain, even though it had already notified the United States and Australia of its withdrawal of the same request. Had the United States, Britain, and Australia compared notes on South Korea's request for Tsushima, it would have revealed the lack of coordination within the South Korean government concerning its demand for Tsushima. The request to Britain was, thus, a risky act on the part of the South Korean government that could have jeopardized trustworthiness of its diplomacy among the Allied Powers.

Behind the proposal to make Tsushima a U.S. trust territory there seemed to be South Korea's wish to secure the country's security by establishing a buffer zone between Japan and itself. If South Korea had succeeded in convincing the United States and Australia of the security importance of Tsushima to counter the threat of Japan, it could have made it an excuse for the demand for Dokdo and Parangdo. In the midst of its solicitations for deprivation of territories of Japan with countries of the Allied Powers, it was not altogether unnatural for the South Korean government to come up with this fancy idea.

There is, however, no trace of the United States having deliberated the sovereignty of "Dokdo and Parangdo" from the viewpoint of security. In the meeting with Ambassador Yang Yu-Chan on July 19, 1951, Dulles asked Yang whether "Dokdo and Parangdo" "had been Korean before the Japanese annexation.... If that were the case, Mr. Dulles saw no particular problem in including these islands in the pertinent part of the treaty which related to the renunciation of Japanese territorial claims to Korean territory."⁵⁶

To Dulles' question on whether "Dokdo and Parangdo" had been Korean territories before Korea's annexation by Japan, Yang "replied in the affirmative." Nevertheless, the Korean government failed to follow up with concrete evidence.

On the other hand, the Rusk documents said:

⁵⁵ ANZ document, *supra* note 47, p. 9.

⁵⁶ Tsukamoto Takashi (1994), *supra* note 1, p. 49, and NARA document, *supra* note 43. *

As regards the island of Dokdo, otherwise known as Takeshima or Liancourt Rocks, this normally uninhabited rock formation 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.

As can be detected from this quote, the U.S. government had had an accumulation of information on Takeshima and, as a matter of fact, by December 1949 the U.S. government had already decided on the policy to allow Japan to retain Takeshima. Furthermore, this policy was shared with Britain during the U.S.-U.K. working-level consultations in April–May 1951. Again, the South Korean government failed to present information that could overturn the “our information” of the U.S. side. Thus, as soon as it was known on August 8, 1951, that Dokdo was Takeshima or Liancourt Rocks, the U.S. government drafted the Rusk documents, which were sent immediately to the South Korean government on August 10 as a reply.

6. South Korea's Moves toward Unlawful Occupation of Takeshima

In the document compiled by the New Zealand Department of External Affairs titled “Japanese-Korean Relations with Special Reference to the Dispute Concerning Takeshima Island” the section titled “The Takeshima Dispute” concludes with the statement, “Despite this indication of Korean dissatisfaction, the Peace Treaty was finally signed without amendment of Article 2(a) in the sense desired by Korea.”⁵⁷ The U.S. government conveyed to South Korea through the Rusk documents the “Allied Powers’ stance” that Japan should retain Takeshima. This should have settled the issue for good.

As hard as it is to believe, though, the South Korean government launched a new search for evidence to prove that Takeshima had been Korea's territory before annexation by Japan in spite of the U.S. rejection. On August 31, 1951, the Interior Department of the Korean government instructed the North Gyeongsang province government to urgently search for evidences that could confirm Dokdo as Korean territory. It was explained in a South Korean government document that, in conjunction with the second draft peace treaty (i.e., the revised U.S.-U.K. joint draft), although the South Korean government claimed sovereignty over Dokdo (Jukdo) in the vicinity of Ulleungdo under jurisdiction of North Gyeongsang province, it wished to urge the provincial government to look into the issue further because Japan, too, made a similar claim.⁵⁸

In response, the governor of North Gyeongsang province submitted “독도 (죽도) 에 관한 조사의 건” [On the investigation in the Dokdo (Jukdo) issue], drafted on September 1, 1951, which contained no document to indicate that “Dokdo” had been Korea's territory before annexation by Japan.⁵⁹ While it might be noteworthy that the governor's reply refers to a report in 1906 by a Shim Heung-Taeg, the head of Ul-do county, which reported Japanese officials who had visited the island had notified that Japan had incorporated Takeshima into Shimane Prefecture in 1905, this report was not about the Korean Empire's protest against the Japanese government's annexation of Takeshima in the previous year nor was it to confirm grounds to Korea's territorial claim derived from the peaceful and continuous display of national sovereignty.

Although Foreign Minister Byun Young-tae insisted in his September 21, 1951, letter to

⁵⁷ ANZ document, *supra* note 47, p. 9.

⁵⁸ “독도 (죽도) 에 관한 조사의 건” [On the investigation in the Dokdo (Jukdo) issue] compiled by Local Administration Division, Local Administration Bureau, Ministry of Interior and Safety in 1951 (National Archives of Korea register number BA0182403). The instruction from the Ministry of Interior and Safety is found on p. 27. Since it is described to be “in the vicinity of Ulleungdo,” there is a possibility that the ministry confused Jukdo, a small island adjacent to Ulleungdo, with Dokdo.

⁵⁹ Ibid. Copy of Shim Heung-Taeg's report is found on p. 14.

Muccio⁶⁰ that “we have substantial documented evidence to prove that the isle has been in the Korean procession for many hundred years,” he failed to present said “documented evidence.” Instead, Byun called attention to two directives issued by General Headquarters, the Supreme Commander for the Allied Powers (GHQ/SCAP). One was SCAPIN-677, which had suspended Japan’s administrative authority over Takeshima. The other was SCAPIN-1033, which had instituted the MacArthur Line and prohibited Japanese access to or contact with Takeshima. In particular, Byun claimed that SCAPIN-677 was a “conclusive factor” to determine sovereignty over Takeshima. It should be recalled, however, that it was clearly stipulated in these directives themselves that they were by no means the ultimate determination about Japan’s territory. Therefore, Byun’s claim was, simply, void.

In a letter from the U.S. Embassy in Seoul to the State Department, dated the October 3, 1951,⁶¹ it is stated as follows, in regard to “substantial documented evidence” as Byun had boasted:

[A]n officer of the Embassy was orally informed by the Minister of Foreign Affairs that such evidence appears throughout Korean and Japanese historical archives. The implication was that the Ministry of Foreign Affairs did not possess a compliment of such “evidence” at this time. Although it was pointed out to the Minister that the Embassy would welcome the submission of such “evidence” for transmittal to the Department, it appears doubtful that such information will be forthcoming.

And this conjecture of the U.S. Embassy that South Korea did not possess “a compilation of such evidence” was proven to be correct. In the exchange of views on the grounds for sovereignty over Takeshima between the Japanese and South Korean governments launched in 1953, the

⁶⁰ A letter from Yung Tai PYUN, South Korean Foreign Minister to Muccio, the U.S. Ambassador to South Korea, on September 21, 1951 (NARA, RG59, Records of the U.S. Department of State relating to the Internal Affairs of Korea, 1950–54 Department of State Decimal File 795.022/10-351). * The present author had once referred to the possibility that the South Korean government had not obtained the Rusk documents or the documents had not been shared inside the government. (Fujii Kenji, “Takeshima mondai ni kansuru Nichi-Kan ryōkoku seifu no kenkai no kōkan ni tsuite (Ge)” [On exchange of views on the Takeshima issue between the Japanese and Korean governments: Part 2], *Tōsho Kenkyū Jānaru* 7, no.2 (March 2018) pp. 59–60). As of today, the latter seems more plausible. Byun referred to “Dokdo, known as ‘Liancourt Rocks’ and also as ‘Takeshima’ in Japanese” in his letter, which is quite similar to “the island of Dokdo, otherwise known as Takeshima or Liancourt Rocks” in the Rusk documents, hinting that at least Byun must have read the Rusk documents.

⁶¹ A letter from the U.S. Embassy in Seoul to the State Department (NARA, RG59, Records of the U.S. Department of State relating to the Internal Affairs of Korea, 1950–54 Department of State Decimal File 795.022/10-351). * At this point, the U.S. Embassy in South Korea was not aware that Korea’s request for Takeshima had been rejected. Thus, it is stated, “the Embassy would welcome the submission of such ‘evidence.’” It was in November 1952 that the Embassy was notified of this fact. See Tsukamoto Takashi. “Takeshima ryōyūken funsō ni kanrensuru Beikoku Kokumushō bunsho (tsuiho)-shiryō” [U.S. Department of State document related to the Takeshima territorial dispute (supplement) references], *Takeshima mondai ni kansuru chōsa kenkyū saishū hōkokusho* [Final report of the research on the Takeshima issue] compiled by Takeshima Mondai Kenkyūkai (General Affairs Division, General Affairs Department, Shimane Prefecture, March 2007), pp. 82–83. The aforementioned NARA, RG84, Records of the Foreign Service Posts of State, Entry 2846, Korea, Seoul Embassy, Classified General Records, 1953–55, Box 12 also contains the same document.

South Korean side was unable to refute the Japanese argument.⁶²

Thus, the South Korean side could not discover grounds to support its sovereignty over Takeshima and it was confirmed by the Treaty of San Francisco that Takeshima would remain a Japanese territory. These unfavorable circumstances notwithstanding, at the 98th session of the State Council of the Republic of Korea on September 7, 1951, the South Korean government passed a bill to institute a fishery protection zone, in which Japanese fishing boats were not allowed to operate, and included Takeshima within this zone.⁶³ On January 18, 1952, President I Seung-Man issued the Presidential Proclamation of Sovereignty over Adjacent Seas covering a vast sea area, including Takeshima at the east end of this sea zone.⁶⁴ This was South Korea's attempt to obtain with a unilateral declaration what it had failed to gain diplomatically.

Closing Remarks

As it went through the drafting process of the Treaty of San Francisco, the U.S. government had decided by 1950 on the policy to recognize Japan's sovereignty over Takeshima. Recognition was given on the grounds to territorial claim derived from the "peaceful and continuous display of national sovereignty." Accepting the U.K. argument during the U.S.-U.K. working-level consultations in April–May 1951 that it would be desirable to dispose islands between Japan and Korea by specific mention in order to prevent future disputes, the U.S. government agreed to explicitly enumerate Korean island territories that Japan was to renounce. In return, the U.K. government agreed to drop the idea of enclosing Japan's territory with a line and withdraw the proposal to put Takeshima out of Japan's territory. Consequently, the Korean territories that the U.S.-U.K. joint draft proposed Japan renounce encompassed the islands of Quelpart, Port Hamilton, and Dagelet but did not include Takeshima. The policy of the United States that Japan should retain Takeshima was shared by the U.K. government, and this formed the "Allied Powers' stance."

In May 1951, the South Korean government demanded Tsushima. In July, the United States turned down this demand to take away the island from Japan. The South Korean demand had made from the fictitious position of itself as a member of the Allied Powers, the war victors. After this U.S. rejection, South Korea requested Australia to support its quest for demilitarization of Tsushima. The same month of July, when South Korea lobbied the United States for Takeshima and requested Australia's support, South Korea again cited the security need to counter the threat of Japan as its grounds for its demand. Here, one can detect South Korea's hidden agenda

⁶² Fujii Kenji, "Takeshima mondai ni kansuru Nichi-Kan ryōkoku seifu no kenkai no kōkan ni tsuite (Jo)" [On exchange of views on the Takeshima issue between the Japanese and Korean governments: Part 1], *Tōsho Kenkyū Jānaru* 7, no.1 (October 2017), "Takeshima mondai ni kansuru Nichi-Kan ryōkoku seifu no kenkai no kōkan ni tsuite (Ge)" [On exchange of views on the Takeshima issue between the Japanese and Korean governments: Part 2], *Tōsho Kenkyū Jānaru* 7, no.2 (March 2018); Fujii Kenji, "Takeshima gyorō to 1970-nendai no Takeshima mondai: horon—Kankoku no Takeshima mondai eno ninshiki" [Takeshima fishery and the Takeshima issue in the 1970s: addendum—Korea's perception of the Takeshima issue], Dai 4-ki Shimaneken Takeshima Mondai Kenkyūkai ed., *Dai 4-ki Takeshima mondai ni kansuru chōsa kenkyū saishū hōkokusho* [Final report of the study on the Takeshima issue phase 4], General Affairs Division, General Affairs Department, Shimane Prefecture (March 2020).

⁶³ *한국의 어업보호정책 : 평화선 선포, 1949-52* [Fishery protection policy of Republic of Korea: proclamation of peace line 1949–52] 1952. pp. 1485–93 (Collection of South Korean Diplomatic Archives catalogue number 743.4, register number 458).

⁶⁴ The Presidential Proclamation did not include the grounds for Korea's territorial claim on Takeshima. Although it proclaimed that welfare and defense of the state had to be eternally guaranteed (Extra issue of official bulletin on January 18, 1952, collection of official archives of Republic of Korea), the United States had not approved Korea's sovereignty over Takeshima on the grounds of security need, as previously stated.

to make the Allied Powers countries recognize Tsushima's importance for Korea's security in the face of the threat of Japan, so as to set a precedent which could be used as leverage to convince them of the importance of Takeshima for Korea's security.

The demand for Takeshima having been decided on very short notice might be why the South Korean side referred to Takeshima only as Dokdo and was, in fact, even unable to provide precise coordinates for the island. Bewildered by these unfathomable requests from South Korea, neither the United States nor Australia responded affirmatively. And once Dokdo was found to be Takeshima, the U.S. government notified South Korea in August 1951 through the Rusk documents of the "Allied Powers' stance" that Japan was to retain Takeshima. Thus notified, South Korea no longer possessed grounds for territorial rights over Takeshima that could supersede the "Allied Powers' stance." And there is no trace of South Korea's argument for sovereignty over Takeshima for security reasons being considered among the Allies.

Nevertheless, even when it was notified by the United States that Takeshima would be retained by Japan and even though it could not produce grounds for its sovereignty over the island, South Korea would not stop its drive for unlawful occupation of Takeshima. One cannot but suspect that at the core of South Korea's demand for Takeshima was the same irresistible craving for acquiring a territory from Japan as a member of the Allied Powers (a war victor) as was detected in its earlier demand for Tsushima.

Structural Changes in Chinese Foreign Policy: From “Prosperous Nation Diplomacy” to “Strong Nation Diplomacy”*

Rumi Aoyama**

Abstract

As China's economic power has increased, its foreign policy has undergone structural changes: from “prosperous nation diplomacy” to “strong nation diplomacy.” There are three salient features of China's “prosperous nation diplomacy” since its reform and opening up in 1978. First, the main pillar of the “prosperous nation diplomacy” was strengthening relations with Japan, the United States, and Western European countries. Second, China was enthusiastic about joining and engaging with the Western-led international order and existing international and regional organizations. Third, China's “prosperous nation diplomacy” was based on the principle of not forming alliances. China shifts to “strong nation diplomacy” under President Xi. The main pillar of “strong nation diplomacy” is “South-South cooperation,” or strengthening China's relationships with developing nations. By relying on cooperation with developing countries, China seeks to expand its influence in global governance and build global and regional institutions centered on itself. Furthermore, China's “strong nation diplomacy” is intensely colored by ideology. In its pursuit of “strong diplomacy,” China is pushing for domestic reform of its foreign policy. Foreign policymaking within China has become more centralized. The Chinese government has introduced a new system to ensure that local and ministry-level institutions follow the central government's lead and faithfully implement foreign policy made by the central level. As the confrontation between China and the United States intensifies, China's strategy faces setbacks. The result is that China's foreign policy may become more developing-country based and ideologically tinged.

Introduction

It is roughly 40 years since the policy of reform and openness was adopted. In that time, China has experienced remarkable economic growth, expanded its presence around the world, and is well on the way to becoming a global superpower. If Mao Zedong's great achievement was the founding of the nation and Deng Xiaoping's the introduction of “reform and openness,” Xi Jinping has appointed himself as a leader whose destiny is to guide China on the road to becoming a “strong nation,” and as such he is driving the third major revolution since the founding of the People's Republic.¹ In this context, Chinese diplomacy too is changing from a “prosperous nation policy” built around the aim of prosperity to a “strong nation policy” driven by an urge for national strength and power.

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¹ Elizabeth C. Economy, *The Third Revolution: Xi Jinping and the New Chinese State* (Oxford University Press, 2018).

At the same time, the international environment in which China must operate has also changed dramatically over the past 40 years. The developed nations of the West adopted a policy of positive engagement with China when the reform and openness policy was introduced, hoping that China would gradually transform itself into a more democratic and rule-abiding country if it is integrated into the international community. But today, these countries are increasingly taking a less positive view. Scholars and government officials in the United States are divided on whether the engagement policy with China has failed, and China policy is already being revised with no consensus in sight on this issue. As the trade war between the United States and China drags on, the US National Defense Strategy document published in January 2018, the first under the Trump administration, regarded China as a more serious rival than Russia, North Korea, Iran, or international terrorist groups, while the Indo-Pacific Strategy Report published by the Department of Defense in June 2019 clearly set out again the strategy of cooperating with trusted partners like Japan and Taiwan to defend a free and open international order. Changes are also occurring in the academic, cultural, and person-to-person exchanges that sustained stable relations between China and the United States for many years.

The European Union also described China as “a systemic rival promoting alternative models of governance” in its report *EU-China: A Strategic Outlook*, published in March 2019. The case for caution against China is also increasingly heard in places like Australia and New Zealand, which have been on the receiving end of Chinese “sharp power” as China has tried to exert its influence on the domestic politics of democratic states, through manipulation of public opinion and espionage.

The stand-off between China and the developed Western countries has become increasingly overt and intense. Today, China has become unambiguously a “threat,” recognized as “an ideological rival that is seeking to spread a non-democratic system of government around the world.” We should not overlook the fact that the structural changes in Chinese foreign policy over the past 40 years have taken place against the background of these international circumstances. China’s economic rise has brought changes in the balance of power in international systems, and the objectives and priorities of Chinese foreign policy and strategy have also changed, albeit more slowly, in order to maintain the legitimacy of Communist Party rule. In this paper, I want to discuss these structural changes in China’s foreign policy from three perspectives: changes in China’s understanding of the global situation and its foreign policy objectives, owing to the shifting balance of power in international systems; changes in China’s foreign policy strategy; and changes in the way foreign policy is formulated and implemented within China. I will also consider the effectiveness of the policy of engagement with China.

1. China’s perception of the international situation and the shift in its foreign policy objectives

(1) China’s “Prosperous Nation Diplomacy”

When the signal was given for the policy of reform and openness to begin in 1978, it is estimated that China’s GDP was around 364.5 billion yuan, or just 381 yuan per capita. Based on this reality, Deng Xiaoping, China’s leader at the time, set a target of making China a middle-income country by the middle of the twenty-first century.² After the Cold War ended, the prevailing view in China was that the international order would shift from a bipolar to a multipolar one, with United States

² Deng Xiaoping *wenxuan* (Selected Writings of Deng Xiaoping), vol. 3, p. 328.

as the sole superpower alongside a larger number of major powers.³ In the debate about this projected new world order, China did not evaluate highly its own economic and political power at the time, to the extent that opinion within China was divided on whether China ought to regard itself as one of these “poles.”

Under slogans such as “an independent foreign policy” in the 1980s and “hide your strength and bide your time (*Daoguang Yanghui*)” after the end of the Cold War, the Chinese government sought to build a peaceful international environment and has pursued a “prosperous nation diplomacy” since the 1980s, with economic development as the primary goal. The characteristics of this policy can be summarized in three points, as follows.

First, the main pillar of the “prosperous nation diplomacy” was to strengthen relations with Japan, the United States, and Western European countries—the countries that would provide the funding and technology China needed for its economic development. Inarguably, following the Tiananmen Square incident in 1989, China came to see the importance of developing countries that would support China on human rights and Taiwan issues. After reexamining the somewhat dismissive attitude it had shown toward developing countries in the 1980s, China worked to strengthen its relations with countries in Asia and Africa in the 1990s, and then with Latin America and the island nations of the Pacific from around the turn of the new millennium. Nevertheless, China continued to place an extremely high importance on its relations with developed countries, and with the United States in particular, as the sole superpower.

Second, China was enthusiastic about joining and engaging with the Western-led international order and existing international and regional organizations. Following the adoption of the policy of reform and openness, China shifted to a policy of across-the-board participation, and started to engage enthusiastically with existing international organizations, based on its position as a permanent member of the United Nations Security Council and its double stance as a major aid donor country that was also a developing nation that needed funding for its own economic development.

Throughout the 1990s, China’s national policy was to seek to “merge tracks (*jiegui*)” with the Western-led international community. In December 2001, China successfully joined the World Trade Organization after 15 years of negotiations, an event that seemed to symbolize that China had finally “converged” with the international economy.

Under the “prosperous nation diplomacy,” multilateralism also began to be a part of China’s foreign policy. From the second half of the 1990s, China started to engage positively with regional organizations, and today it has a framework in place for cooperation with all the regional organizations.⁴ In Asia, the China-ASEAN dialogue was instituted in 1996, followed by the Shanghai Cooperation Organization (SCO) in 2001 and the Six-Party Talks (involving the United States, South Korea, Japan, China, Russia, and North Korea) in 2003. In 2005, China participated as an observer in the South Asian Association for Regional Cooperation (SAARC). In Europe, the China-EU Summit exists alongside a summit for heads of government of China and Central and Eastern European Countries; in Africa, there is the Forum on China-Africa Cooperation and a framework for strengthening relations between China and the Africa Union. In Arab countries, there is the China-Arab States Cooperation Forum and the China-Gulf Cooperation Council Strategic Dialogue; in Latin America and the Caribbean there is a strategic dialogue framework with the Community of Latin American and Caribbean States (CELAC). Since around 2006 China has also started to move closer to the island nations of the Pacific, establishing the China Pacific

³ Takagi Seiichirō, “Posuto–reisen kōzō to Chūgoku gaikō no ‘shin-dankai’” (The Post–Cold War Structure and the “New Stage” of Chinese Foreign Policy), *Kokusai Mondai*, no. 394, January 1993, pp. 18–19.

⁴ Aoyama Rumi and Amako Satoshi, *Chōtaikoku Chūgoku no yukue 2: Gaikō to kokusai chitsujo*, (The Future Direction of China as a Superpower, vol. 2: Foreign Policy and the International Order) (University of Tokyo Press, 2015).

Island Countries Economic Development and Cooperation Forum. Since 2014, meetings have been held twice between Xi Jinping and the leaders of the eight countries in the region that have diplomatic relations with China.

In 2002, the Declaration of Conduct of Parties in the South China Sea was signed between China and ASEAN, and China has also hosted the Six-Party Talks that started in 2003. China’s diplomatic position of participating in the international order and regional organizations and making a constructive contribution to regional peace was widely seen as a positive result⁵ of the policy of engagement and therefore was well received.

Third, China’s “prosperous nation diplomacy” was not dependent on ideology; instead, it was based on the principle of not forming alliances. Ideology is inherently important to the survival of any Communist Party government, and from the early 1980s until the present the government has placed a high importance on patriotism. Following the collapse of the Soviet Union and the “color revolutions” in the Central Asian republics, China’s leaders came to understand that economic development alone was not sufficient to guarantee the legitimacy of Communist Party rule. They perceived that the ability to govern and Communist Party control of the military and society were also crucial to the survival of the party state.⁶ However, even though the government has depended on ideology domestically, it was not bound ideologically in its foreign policy. Since the 1980s, China has developed an omnidirectional policy that sought to improve and strengthen relations with all countries, with the aim of building a peaceful environment that would contribute to economic development.

China’s “prosperous nation diplomacy” has been so successful that today it is the largest trading partner of many countries around the world. In 2010 China overtook Japan to become the world’s second-largest economy, and in 2016 it became the world’s second-largest overseas investor. It could be said that China today benefits more than any other country from the existing international order.

(2) The Shift to a “Strong Nation Diplomacy”

As China’s economic strength grew, from the beginning of the twenty-first century it became strongly conscious of its own “rise.” At the Boao Forum for Asia held in November 2003, Zheng Bijian, chairman of the China Reform Forum, put forward the idea of China’s “peaceful rise.” Believing that in 2007 the global financial crisis had “brought deep changes in international systems and international relations,”⁷ China came to believe that the international order had entered an age of “major change, coordination, and development.”⁸

Based on this understanding of the international situation, China decided that its policy should be to become a “strong nation.” From around 2009, the country modified Deng Xiaoping’s “hide your strength and bide your time” slogan, adding that people should seek to “actively pursue what you can do (*Jiji Yousuo Zuowei*).” In fact, although the slogan urged people to “hold firm to” the old values, the emphasis had now shifted to proactively doing “what needs to be done.”

⁵ Alastair Iain Johnston, *Social States: China in International Institutions, 1980–2000* (Princeton University Press, 2007).

⁶ David Shambaugh, *China’s Communist Party: Atrophy and Adaptation* (University of California Press and Woodrow Wilson Center Press, 2008).

⁷ “2007-nian Zhongguo waizhao shuoguo leilei: Zhuan fang waijiao-buzhang Yang Jiechi” (The Many Achievements of Chinese Diplomacy in 2007: An Exclusive Visit with Minister of Foreign Affairs Yang Jiechi), http://news.xinhuanet.com/politics/2007-12/24/content_7307367.htm (Accessed July 3, 2015).

⁸ “Waijiao-bu buzhang Yang Jiechi huijian Zhong-wai jizhe” (Minister of Foreign Affairs Yang Jiechi Meets Chinese and Foreign Journalists), <http://news.qq.com/photoc/yjc2011.htm> (Accessed July 3, 2015).

To achieve this vision of China as a powerful nation, Xi Jinping's government launched a number of objectives, including "leading the world in terms of overall national power and international influence" and becoming a "socialist superpower" by the middle of the century. On the understanding that the ongoing fourth industrial revolution will decide the rise or decline of China as a great power, and has the potential to bring about a major shift in the international balance of power,⁹ the "Chinese dream" of becoming a strong nation has grown ever more grandiose and ambitious.

The "strong nation diplomacy" is an international strategy for the rise of China, and its important policy objectives include "defending national interests," "enhancing national prestige and influence," and "stabilizing the environment surrounding China."

The United Nations Convention on the Law of the Sea, which was promulgated in 1994, provided an opportunity to redefine China's national interests. The Convention introduced exclusive economic zones (EEZs), and set a time limit of May 12, 2009 for each country to submit the papers relating to its own EEZ boundaries. Looking toward this submission deadline, from around 2006 China added a new national interest to its existing objectives of economic growth: national sovereignty and security. Since then, China has prioritized diplomatic policies that contribute to its national sovereignty, security, and development interests, and has demonstrated a hardline position with regard to maritime issues and anything else affecting its "core interests."

"Enhancing national prestige," or showing off China's strength, is another important policy objective under the "strong nation diplomacy." Since the founding of the People's Republic, China has used its huge market as a carrot to strengthen its political relations with other countries. In recent years, China has taken to using its increasing economic power as a stick with which to discipline other countries. China now frequently uses economic sanctions in response to policies that do not suit its interests. These include sanctions on exports of rare earth metals to Japan following the fishing boat collision in waters near the Senkaku Islands, limits placed on imports of Norwegian salmon following the controversy over the award of the Nobel Peace Prize to Lu Xiaobo, the "banana wars" it declared on the Philippines over the disputed sovereignty of the Scarborough Shoal, the banning of Chinese tour group travel to South Korea over the placement of Terminal High Altitude Area Defense (THAAD) missiles, and restrictions on coal imports to Australia over the proposed ban on foreign political donations and the Huawei controversy, among others.

The idea of enhancing national prestige also began to color the patriotic education that had been ongoing for many years. The narrative concerning the War Against Japan had depicted China as a victim of Japanese aggression, but in recent years there has been a tendency to emphasize China's role as one of the victors in the war. In 2018, the China Central Television (CCTV) documentary series "Amazing China! (*Li hai le, wo de guo*)" was a major hit, appealing to audiences by underlining how "amazing" their country was. The "strong nation diplomacy" stimulates national pride, and tends to encourage nationalism.

In this context, it is perhaps only natural that another aim of foreign policy has shifted from "creating a peaceful environment" to "stabilizing the international environment." The "strong nation diplomacy" that has taken shape since the early 2000s has different characteristics from the "prosperous nation diplomacy" that preceded it.

First, while still looking to stabilize relations with developed countries, the main pillar of the "strong nation diplomacy" is "South-South cooperation," or strengthening China's relationships with developing nations. Since the global financial crisis, China has valued forums such as the G20 and BRICS, in which emerging economies participate, as places in which to exercise

⁹ Fu Ying, "Rengong zhineng dui guoji guanxi de yingxiang chuxi" (A Preliminary Analysis of the Influence of Artificial Intelligence on International Relations), *Guoji Zhengzhi Kexue* (Quarterly Journal of International Politics), vol. 4, no. 1 (2019), pp. 1–18.

influence. Strengthening relations with developing countries is also one of the main aims of the Belt and Road Initiative (BRI), one of the main strands of Xi Jinping’s foreign policy.

Second, the “strong nation diplomacy” emphasizes expanding Chinese influence in global governance. As part of this, China is working to establish organizations in which China itself plays a central role, at the same time as working to strengthen relations with international organizations and regional organizations. Following the launch of the BRICS New Development Bank in July 2015, the Asian Infrastructure Investment Bank (AIIB) opened in January 2016. The China-led AIIB is seen as a rival to the Japan-led Asian Development Bank, and has grown into a prestigious international financial institute, with around 100 countries and territories having joined so far. China also launched the Xiangshan Forum to compete with the Asian Security Summit (Shangri-La Dialogue) held by the UK-based International Institute for Strategic Studies. Representatives from around 80 countries apparently attended the eighth meeting in 2018. China had been actively involved in development projects in the Greater Mekong Subregion since the 1990s, but in 2016 the China-led Lancang-Mekong Cooperation Summit was launched as a rival organization.

Third, the “strong nation diplomacy” is strongly colored by ideology. Although this ideology is designed to demonstrate the legitimacy of the administration, in fact there is a strong sense of crisis within the current administration regarding the survival of Communist Party government. In 2010, a Chinese white paper on foreign policy spoke of “security diplomacy” for the first time, and at the first meeting of the National Security Commission of the Chinese Communist Party held in April 2014, Xi Jinping put forward the concept of an “overall national security outlook,”¹⁰ and called for efforts to ensure “the people’s security, political security, economic security, military security, cultural security, and social security,” to safeguard the socialist state system.

Even though it is not facing a war, the Xi Jinping administration sees China’s security situation as increasingly challenging. “The ideological penetration of hostile Western forces is bringing increasing international pressure against our sovereignty, security, development interests, and domestically on our internal political and social security,” he says.¹¹ This discourse makes it clear that China is strongly conscious of its ideological differences with Western countries, and is increasingly wary of the idea of “peaceful evolution” (the idea popular in some sections of the West of undermining or overturning China’s socialist system by peaceful means).

To prevent “peaceful evolution” of this kind, the Chinese government launched a campaign to boost what it calls the “confidence doctrine” and calls on the Chinese people to be “confident in our chosen path, confident in our guiding theories, confident in our political system, and confident in our culture.” Moves are also increasing to spread the “Chinese experience” to other countries as part of the Belt and Road project.

2. China’s changing foreign policy strategy

As we have seen, under the “prosperous nation diplomacy,” China looked to build cooperative relationships with international and regional organizations and strengthened its relations with developed countries, to secure the markets and resources it needed for economic development. Now, based on an analysis that the world is currently undergoing an unprecedented period of transition, China has switched to a “strong nation diplomacy,” and is working to build its own sphere of influence. At the heart of its strategy for achieving this are its efforts to construct a

¹⁰ Zhang Rui, “Shilun Zhongguo huoban guanxi wangluo de zhenzhi anquan xiaoying” (On the Political and Security Effects of China’s Network of Partnerships), *Guoji zhanwang* (World Outlook), no. 5 (2016), p. 45.

¹¹ “Juan siwei, gongzhu guojia anquan jingshen changcheng” (Preparing for Danger: Building a Great Wall of National Security Spirit), *Zhongguo Guofang Bao* (China National Defense News), April 12, 2017.

global network of partnerships.

(1) Constructing a global network of partnerships

At the Central Conference on Work Relating to Foreign Affairs held in November 2014, Xi Jinping for the first time spoke of a strategy that would aim to accelerate changes and reforms in international systems of global governance through what he called a “global network of partnerships.”¹²

The global network of partnerships idea is a strategy that builds on the partnership diplomacy that China has followed since the early 1990s. Since concluding its first partnership agreement for strategic cooperation with Brazil in 1993, China had concluded partnerships with 75 countries and five regional organizations by 2015.¹³

The global network of partnerships idea was inspired by the network partnership diplomacy espoused by Russia as an alternative to alliances.¹⁴ In a joint statement signed by China and Russia in 2014, it was said that the two governments would support efforts to develop network partnership diplomacy. The statement explained network partnership diplomacy in the following terms: “The aim of network partnership diplomacy is the building of flexible mechanisms in international cooperation. Good examples are the G20, BRICS, SCO, and the China-Russia-India cooperation framework.”¹⁵ After it was mentioned by Xi Jinping in his speech, this concept of networks became synonymous with China’s foreign policy, replacing the idea of “partnership diplomacy.”

Although “networks,” unlike alliances, do not involve compulsion and their effectiveness is therefore not guaranteed, at the same time they do not come with the idea of a supposed adversary and for that reason are less likely to cause adverse international reactions. It is also easy to expand their membership. This is presumably the reason why China sets such importance on building a global network of partnerships.

More than anything, the strategy helps to expand China’s influence. In a network, the principle of “many to many” operates, making the network essentially equal¹⁶ — but the regional cooperation frameworks that China has built tend to take the form of “many to one,” or “China + many countries,” and come with the kind of hierarchical relationship normally expected in an alliance.

Yan Xuetong, a leading Chinese scholar of international relations, argues that China needs alliances. Against this argument, the Chinese government has strongly maintained the “non-alliance policy” that was one of the principles of the “prosperous nation diplomacy,” and has called for the building of networks rather than alliances. In reality, however, the global network of partnerships has a hierarchy quite similar to the one that exists in alliance relationships, and

¹² *Shijie Zhishi* (World Knowledge), no. 14 (2018), p. 6.

¹³ Wang Yi, “Guojian yi hezuo gongying wei hexin de xinxing guoji guanxi: Zai Zhongguo fazhan gaoceng luntan wucanhui-shang de yanjiang” (Building a New Type of International Relations Centered on Mutually Beneficial Cooperation: A Luncheon Lecture Given at the China Development Forum), March 23, 2015, Beijing.

¹⁴ Cheng Zhijie, “Wangzhuang huoban waijiao jizhi: Zhong-E hezuo de xindaojing” (Partnership Network Diplomacy: A New Road Forward for Sino-Russian Cooperation), *Eluosi Yanjiu* (Russian Studies), no. 3 (2015), p. 121.

¹⁵ “Zhong-E guanyu quanmian zhalue xiexuo huoban guanxi xin jieduan de lianhe shengming” (Sino-Russian Cooperation: Joint Statement on the New Phase of the Comprehensive Strategic Cooperation Partnership), http://www3.fmprc.gov.cn/web/ziliao_674904/1179_674909/t1157763.shtml (Accessed August 7, 2019).

¹⁶ “Network Institutionalism,” *The Oxford Handbook of Political Institutions* (Oxford University Press, June 2008), pp. 3–4.

the network serves to increase China's international influence. Additionally, given the importance given to the idea of “nodes”¹⁷ within the Chinese network-building strategy, it is quite possible that an alliance or a similar relationship will be developed in the future between China and some of the countries that form these “nodes.”

China's Global Network of Partnerships strategy involves two main pillars: Asian and global, and has four main aims: systemic hegemony, economic hegemony, political and ideological hegemony, and military hegemony. China's strategy for its “rise” has been strongly influenced by the international political theory of writers like Charles P. Kindleberger and Robert Gilpin and their ideas of Hegemonic stability theory and structural power.¹⁸

(2) The “Asia Plus” network strategy

As it rises, China is increasing its diplomatic offensives in Asia, based on the understanding that this is the region with the most dynamic latent economic power in the world, as well as being China's own back yard. Some scholars use the phrase “Asia Plus” to refer to China's efforts to construct a global network of partnerships in Asia.

China is trying to build regional organizations that have China itself at their center, with the aim of constructing its own sphere of influence and driving a wedge through the US attempts to contain China. To this end, China is moving forward with regional free trade agreements (FTAs), and is pursuing an active diplomacy, engaging with Afghanistan, North Korea, and regional conflicts including the Sino-India border conflict. SCO is valued for its ability to function as a regional organization for the Eurasian continent, and its membership is steadily increasing. In addition to cooperation channels with the countries of Southeast Asia, China has also launched a China-led framework for cooperation in the Mekong river basin, as already mentioned. China is also pushing ahead with economic cooperation in Northeast Asia, even with no progress in sight on the problem of North Korea's nuclear weapons development program. In the economic sphere, in addition to already operating FTAs including the China-ASEAN FTA and the China-Pakistan FTA, China also has plans for a China-Japan-South Korea FTA, a China-SCO FTA, a Regional Comprehensive Economic Partnership in East Asia, and a China-India FTA.

In terms of making progress with the Asia + network strategy, strengthening relations with major regional countries is of primary importance for China. In recent years, in an attempt to alleviate suspicion of China on the part of many of the major countries in the region, ideas based on the idea of third party cooperation or “China +1 +alpha” have emerged, built on the linchpin of bilateral cooperation with Russia, Japan, and India, among others.

However, the “Asia Plus” strategy has failed to deliver results as confrontation between the US and China has intensified since the Trump administration took office. China's assertive maritime policy and deteriorating relations with India have also stalled the “Asia Plus” strategy.

(3) Global Network Strategy

In terms of systems-building within its “global network” strategy, China places particular importance on the G20 and BRICS, in addition to existing international organizations. In recent years, China has been working energetically to expand the political influence of BRICS through its “BRICS Plus” strategy.¹⁹ Meetings with leaders from several African countries, including Egypt and Nigeria, were held alongside the BRICS summit in March 2013, at which infrastructure

¹⁷ A “node” is the point in a network where pathways intersect.

¹⁸ On the “hegemony” debate in China, see Tse-Kang Leng and Rumi Aoyama, eds., *Decoding the Rise of China: Taiwanese and Japanese Perspectives* (London: Palgrave Macmillan, 2018).

¹⁹ Aoyama Rumi, “Taitō o mezasu Chūgoku no taigai senryaku” (The Foreign Policy Strategy of a Rising China), *Kokusai Seiji*, no. 183 (2016), p. 125.

cooperation with African countries was apparently discussed. In subsequent years, meetings with other countries have been held in parallel with the BRICS summit: with leaders from Latin American countries in 2014, a joint meeting of BRICS and SCO countries in 2015, and a meeting with several SAARC countries including Afghanistan and Bangladesh in 2016. In 2017, China officially proposed the idea of “BRICS Plus,” and countries from outside the BRICS rubric have taken part in dialogues in subsequent years: five countries in 2017, and 22 in 2018.

In recent years, the function of the G20 as a venue that brings together newly emerging economies from the global South and developed economies from the global North has been declining, but China still sees it as having an important role to play in making international rules for new areas including the environment, deep sea policy, the Arctic and Antarctic, space, and the internet.²⁰

In this way, through action plans and memoranda signed at cooperation frameworks including the G20, BRICS, and between China and regional organizations, China is already beginning to demonstrate substantive leadership in the making of international rules relating to new fields including the digital economy.

In the economic field, China is promoting the idea of a global FTA network. In addition to the FTA network in Asia mentioned above, the idea of constructing a China-centered FTA network along the Belt and Road project is included in the Thirteenth Five-Year Plan, and is already underway.

There is a tendency to see the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), in which Japan plays a leading role, as a policy of hedging against China. But in fact, China's view is that the rules of the CPTPP, the new Trade in Services Agreement (TiSA), and the Japan-EU Economic Partnership Agreement are likely to become the global standards of the future. China is therefore eager to adopt the rules of the TPP and the Japan-EU Economic Partnership Agreement,²¹ and has concluded the China-Europe Investment Agreement in January 2021 and applied to join the CPTPP in September 2021.

A wide-ranging and high standard FTA is one of the policy objectives of the Chinese government, which understands the need to take measures in areas like negative lists, ISDS,²² intellectual property, environmental protection, worker protection, and policies on state-owned enterprises.

Against this background, since 2013 the Chinese government has on four occasions established pilot free-trade zones within China that conform to TPP standards. The Shanghai pilot free-trade zone, said to be an experiment to find a way to join the TPP, started in September 2013. In 2015, Xi Jinping's government announced that another ten free-trade zones would be established, in Guangdong, Tianjin, Fujian, Liaoning, Zhejiang, Henan, Hubei, Sichuan, Shaanxi, and Chongqing. In May 2018, the State Council launched additional policies to promote greater reform and liberalization in the free-trade zones in Guangdong, Tianjin, and Fujian. The new policies gave each zone a clearly defined role: Guangdong would support development of the Twenty-first Century Silk Road, centered on Guangdong, Hong Kong, and Macao; Tianjin would strengthen links and cooperation between the provinces and cities of Beijing, Tianjin, and

²⁰ He Yafei, “Hangshi G20 quanqiu jingji zhili zhuyao pingtai diwei” (Consolidating the Position of the G20 as the Chief Platform for Global Economic Governance), <http://opinion.huanqiu.com/hqpl/2019-06/15049574.html?agt=15422> (Accessed August 7, 2019).

²¹ He Ping and Shen Chen, “RCEP yu Zhongguo de Ya-Tai FTA zhaolue” (The RCEP and China's FTA Strategy in the Asia-Pacific), *Guoji Wenti Yanjiu* (International Studies), no. 3 (2013), pp. 56–57.

²² An ISDS (Investor State Dispute Settlement) makes it possible for an investor to appeal against a state to a third-party court of arbitration in the event that investments have suffered because of the policy of the country in which the investment has been made. A settlement of this kind has been signed between Japan and China.

Hebei; while Fujian would strengthen economic collaboration and links, chiefly across the Strait of Taiwan. Further, in August 2019, an additional six pilot free-trade zones were established in Shandong, Jiangsu, Guangxi, Hebei, Yunnan, and Heilongjiang.

However, it seems that these pilot schemes have not all gone according to plan. In the Shanghai pilot free-trade zone, which centers on experimental financial reforms, policies including changes to the legal code have been allowed, including internationalization of the renminbi, liberalized interest rates, and greater freedom for the service industry. In most respects, the established systems comply with TPP standards. Despite this, however, because the policies of the pilot free-trade zone are not consistent with the regular policies actually in force, progress with the policies and their operation within the pilot zone have not been smooth. A Chinese report on the pilot free-trade zones, published in June 2019, while praising the achievements of the Shanghai pilot zone, such as the introduction of negative lists, nevertheless admits that the liberalization of the finance and capital markets is behind schedule.²³

As the experience of the Shanghai pilot free-trade zone shows, financial reforms require political reforms as well, including an independent judiciary and prosecution, central bank credibility, and government accountability. Adapting the rules of the CPTPP, TiSA, and the Japan-EU Economic Partnership Agreement would also have to involve reforms relating to the marketization of the Chinese economy and the democratization of its politics. The Chinese government has introduced “wide-ranging and high standard” rules on a trial basis within these pilot zones, and is running an experiment on financial liberalization and trade facilitation, along with new government functions tailored to the introduction of negative lists, and is evaluating these in terms of feasibility, economic effects, and political risk. But at present, the government sees managing political risk as more important than liberalizing the capital market.

Building military networks is also an important part of the Global Networks strategy. Under the “prosperous nation diplomacy,” China strengthened its military relationships with other countries, mainly in the area of non-traditional security. But since switching to the “powerful nation” policy, military cooperation in traditional security spheres has also been a priority. The China Defense White Paper for 2015 argues that, with the national interest expanding, China’s armed forces should play an active part in the region and in international security cooperation. The same White Paper also says that China should respond in particular to important international security cooperation efforts that are deeply related to the national interest.

China’s global networking strategy emphasizing BRICS and the G20 also faced setbacks as BRICS countries lost growth momentum in the wake of the global financial crisis. Cooperation with developing countries under the BRI has now become a top priority of China’s foreign policy.

3. Moving to more centralized control over foreign policy

The structural changes in China’s foreign policy can be clearly discerned in systems within the country as well. From the time when the policy of reform and openness was first adopted through to the “collective leadership” government of Hu Jintao, one of the main characteristics of the Chinese system was highly concentrated power alongside a wide decentralization of decision-making authority.²⁴ Under the party state system, ultimate authority rested with the Communist Party, but on a policy level that authority was dispersed to the various ministries and local governments that were responsible for implementing policy. Under this system of “fragmented

²³ “Shoufen ‘Zhongguo ziyou maoyi shiyanqu fazhan baogao’ fabu: Woguo zimao shiyanqu jianshe jinru quanxin jieduan” (Initial Report on Development of China’s Pilot Free-Trade Zones Is Published: The Country’s Construction of Pilot Free-Trade Zones Enters a New Phase), <<https://finance.sina.com.cn/roll/2019-06-23/doc-ihytcerk8715741.shtml>> (Accessed August 7, 2019).

²⁴ Aoyama Rumi, *Chūgoku no Ajia gaikō* (China’s Diplomacy in Asia) (University of Tokyo Press, 2013).

authoritarianism,” a diverse range of actors including local governments and resource-related companies emerged as “participants” in foreign policy, and as a result foreign policy coordination became dysfunctional.²⁵

From the end of the Cold War until the administration of Hu Jintao, the formulation of foreign policy involved two stages.²⁶ The central leadership would decide the principles and basic direction of the national diplomatic strategy, along with priority issues, but it was then up to the ministries, agencies, and local governments to interpret these ambiguous principles and instructions in their own way. The authority to decide and implement concrete foreign policies lay with these diverse actors.

Under Xi Jinping, the right to interpret guidelines was taken away from the ministries and local governments, and the formulation of foreign policy became more centralized. At the Eighteenth National Congress of the Chinese Communist Party in 2012, it was agreed to defend the authority of the central party leadership and strengthen the unified leadership of the Communist Party of China over foreign policy, and structural reforms were undertaken on foreign policy.

These reforms to domestic systems relating to foreign policy aimed to introduce a more systematically planned foreign policy and a more centrally organized coordination system to decide and control policy. This was done by strengthening of party leadership. The leading role in these reforms was played by the Ministry of Foreign Affairs. To ensure that local governments implement foreign policy as decided by the central government, cadres from the Ministry of Foreign Affairs travel out to visit the ministries, important companies, universities, party schools and local governments in each region, giving lectures to spread understanding of disciplinary rules relating to foreign affairs. The Ministry also holds events to introduce China’s regions internationally and encourage exports from the regions, to ensure that local governments participate as planned in the strategy decided on by central government. Training of foreign affairs cadres in the regions is also carried out under the leadership of the Ministry of Foreign Affairs.

In an attempt to build a stronger collaborative framework, in recent years there have been regular meetings between the foreign affairs offices of regional local governments, and mechanisms for resource-sharing and holding joint events have also started to operate.

Conclusion

In the roughly 40 years since the policy of reform and openness was adopted, the principal axis of China’s foreign policy has shifted from an emphasis on strengthening relations with developed countries to South-South cooperation, and China’s stance with regard to the Western-led international order has moved from proactive participation to a strategy of building Chinese-led international organizations. China’s foreign policy has also taken on a stronger ideological tint. Along with these changes, China is now attempting to create its own sphere of influence by constructing a global network of partnerships. It has changed its domestic systems for formulating foreign policy to a more centralized system, and now has a centrally planned foreign policy. The structure of China’s foreign policy has undergone a major transformation.

If we look back at China’s foreign policy over the past 40 years, it is likely that the contest for hegemony and the ideological stand-off between China and the Western developed countries will continue to escalate. If China can continue to rise, despite these challenging conditions, then a

²⁵ Linda Jakobson and Dean Knox, (Okabe Tatsumi, ed., Tsuji Kōgo, trans.), *Chūgoku no atarashii taigai seisaku: Dare ga dono yō ni kettei shite iru no ka* (New Foreign Policy Actors in China) (Tokyo: Iwanami Gendai bunko, 2011).

²⁶ Aoyama, *Chūgoku no Ajia gaikō*, op. cit.

non-Western, non-democratic country state will emerge as a leading power for the first time since the end of World War II. To avoid another new Cold War that would divide the world into two competing factions, we need a new policy of engagement with China. Today's engagement policy means that Western democratic countries should actively participate in China-led international and regional organizations to change China's behavior from within. For its part, strategy of constructing wide-ranging and high standard FTAs will also be important.

Will China successfully avoid the “middle income trap” even in the midst of its trade war with the United States, and will its “planned foreign policy” allow China to develop a dynamic diplomacy? It will be some time before answers to these questions emerge.

The Limits of Repentance : Lessons from France for a Comparative Approach with the Japan-Korea History Debate

Valérie Niquet*

Abstract

In January 2021, France published an important report commissioned to Benjamin Stora. The title of this report is «Les questions mémorielles portant sur la colonisation et la guerre d'Algérie». The “Stora Report” focuses on one of the most difficult bilateral relations France has, with Algeria, a former French colony independent since 1962 after a prolonged “dirty war.” This paper is a tentative comparative analysis between the France-Algeria case and the Japan-South Korea one. There are differences between the two situations, among them the fact that Japan and South Korea are part of a strategic relationship with the United States when France and Algeria are not. There are also many points in common, including the difficulty of remembering the past without acrimony and looking towards the future. Another point in common, despite the differences in the nature of the regimes between Algeria and the Republic of Korea, is the reticence of both the Algerian and Korean governments to move away from a systematically accusative and aggressive posture for reasons that have more to do with internal issues rather than historical ones. In both cases, dialogue itself remains elusive.

In that context, the objective of this paper is to ascertain from an analysis of the Stora Report and its findings if there is a “French model” that could be used to confront complex issues of repentance and history and to improve bilateral relations between former colonial and colonized nations.

In 2017, Fondation pour la Recherche Stratégique in France, the Japan Institute of International Affairs and the Japan Information Center (JIC) organized in Paris a symposium called “Perceptions croisées : Questions d’histoire et de mémoire en Europe et en Asie,”¹ with the participation of Benjamin Stora, who spoke, alongside Professor Yuichi Hosoya among others, on «Un enjeu global : le rôle de l’histoire dans l’éducation et la constitution d’une légitimité politique».²

In January 2021, France published an important report commissioned to Benjamin Stora. The title of this report is «Les questions mémorielles portant sur la colonisation et la guerre d’Algérie».³ The report tries to find a difficult balance between repentance for past deeds and history that implies responsibility from both parties. The “Stora Report” focuses on one of the most difficult bilateral relations France has, with Algeria, a former French colony independent

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¹ https://www.youtube.com/watch?v=qhEeF77GprY&ab_channel=Fondationpourlarecherche%20strat%C3%A9gique. This symposium has been watched more than 800 times on FRS’ YouTube channel.

² “A global challenge: the role of history in education and the constitution of political legitimacy”

³ “Memorial questions relating to colonization and the Algerian war”

since 1962 after a prolonged “dirty war.”⁴ This paper is a tentative comparative analysis between the France-Algeria case and the Japan–South Korea one. There are differences between the two situations, among them the fact that Japan and South Korea are part of a strategic relationship with the United States when France and Algeria are not. There are also many points in common, including the difficulty of remembering the past without acrimony and looking towards the future. Another point in common, despite the differences in the nature of the regimes between Algeria and the Republic of Korea, is the reticence of both the Algerian and Korean governments to move away from a systematically accusative and aggressive posture for reasons that have more to do with internal issues rather than historical ones. In both cases, dialogue itself remains elusive. As Benjamin Stora writes in his introductory remarks to the report: “In a context of victim competition and fantasized histories...freedom of spirit and historical work are necessary to control the fires of inflamed memories.”⁵

In that context, the objective of this paper is to ascertain from an analysis of the Stora Report and its findings if there is a “French model” that could be used to confront complex issues of repentance and history and to improve bilateral relations between former colonial and colonized nations.

The context

There are points in common between the French and Japanese situations: both are former colonial powers. The conquest of Algeria was achieved in 1848 and fully established in 1902. Korea became a colony of the Japanese Empire in 1910. Both followed the trajectory of the great powers of the time establishing new colonies in Africa and Asia.

In the 21st century, more than 70 years after the end of the colonial period in Japan and 60 years in the case of France, the past has been largely pardoned and forgotten in most of the former colonies or territories occupied during the war, except in the case of Algeria for France and the case of South Korea, North Korea and the People’s Republic of China for Japan. The question remains: why do these resentments persist?

Whereas analysts often refer to the example of Franco-German reconciliation after the war as an example of what should be done with South Korea, the Franco-Algerian case is much closer to the situation that still bars Japan and Seoul from building a stronger and more trustful relationship despite their common strategic interest vis-à-vis an increasingly disturbing Chinese power.

The persistence of resentment in Algeria...

The Algeria war has been and still is a trauma both for Algeria and for France. The unprincipled behavior of some elements of the French forces, the use of torture and rape of prisoners on one side, the number of civilian victims, and the acts of terror both against French colons and Algerians working for France or French interests left scars that are very profound even today. On both sides, the number of deaths is still debated. According to the Algerian authorities, there were more than 1.5 million dead, including civilians, women and children, but France, like Japan in similar situations, contests the number.

Moreover, it is only in very recent years that France has officially recognized the nature of the “Algerian war.” This reticence on the part of France helped nurture resentment and give excuses to those who do not wish for reconciliation in Algeria. At the same time, some on the French side deplore that victims of the FLN (Front de Libération Nationale) and political repression of

⁴ <https://www.vie-publique.fr/rapport/278186-rapport-stora-memoire-sur-la-colonisation-et-la-guerre-dalgerie> hereafter referred to as the “Stora Report.”

⁵ Stora Report, introduction.

opponents among those who fought for the liberation of Algeria are still not debated openly. The 150,000 Harkis who fought alongside the French army and were later executed as “traitors” by FLN combatants have never been recognized by the Algerian side.

Furthermore, resentment has been cultivated in France among some groups of migrants, including third-generation migrants with French nationality long-established in France. In this case, frustration related to difficult acculturation and perceived racism, particularly among young men, does play a significant role.

However, more so than the Algerian people, large numbers of whom hope to emigrate to France and also feel resentment against their own government, the Algerian authorities, dominated since independence by the FLN, are not ready to “forgive” in either sense of the term. On February 8, 2021, Algerian government spokesman Ammar Belhimer declared that the Stora Report “lacked objectivity” and failed to properly acknowledge “war crimes and crimes against humanity” committed by France as colonizer.

Indeed, for the Algerian government under the leadership of the FLN, the war of liberation against France still underpins the legitimacy of a regime often criticized for its level of corruption as well as a lack of economic efficiency by its population.

Whereas in France the colonization is part of the high school history curriculum, which often portrays wars of liberation in a positive manner, in Algeria, where the curriculum is under the responsibility of the Ministry of National Education through “Commission nationale des programmes,” the independence war is an important element of national identity building and is presented as an “epic of resistance” against colonial powers.⁶

In Algeria, the role of education is thus very important in perpetuating these feelings of resentment. In this narrative, the war of independence remains the major element of national unity in a country confronted with persistent factors of division.⁷

...as well as in South Korea

One of the main difference between Algeria and South Korea is that, despite a large population of Korean descent living in Japan, the resentment against Japan in this segment of the population has considerably abated since the post-war period. Contrary to the situation in France, the resentment is not nourished by the constant arrival of new poorly integrated migrants that contribute to identity frustrations. However, in South Korea, and despite a lack of contemporary reasons for the level of tensions that do exist between the two countries, it is difficult for Korean citizens to express a sympathetic attitude towards Japan in a society where “Japan-bashing” plays a significant role in politics, and the official governmental position regarding Japan in recent years, particularly after the election of Moon Jae-in, is also an important factor. According to a poll published in June 2021, 68% in Japan and in South Korea do believe that relations between the two countries should be improved but 80% of Koreans said they “do not trust Japan.” The figure is only 69% in Japan. 76% of Koreans also say they do not have a favorable impression of Japan, despite the fact that, before the Covid-19 pandemic, South Koreans were second only to China in the number of tourists traveling to Japan.⁸

In 2015, Japan and South Korea, under President Park Geun-hye, signed an agreement on comfort women issues. According to this agreement, this issue “is resolved finally and irreversibly.” However, President Moon Jae-in, elected in 2017, decided to dissolve the foundation

⁶ Lydia Aït Saadi, «Le Passé Franco-Algérien dans les manuels scolaires d'histoire algériens» in Frédéric Abécassis ed., *La France et l'Algérie: leçons d'histoire*, Lyon, ENS Éditions.

⁷ Idem.

⁸ Yomiuri and Hankook Ilbo Opinion poll in *Yomiuri.com*, 09-06-2021. And : <https://www.statista.com/statistics/654312/japan-foreign-visitors-breakdown-by-country/>

in charge of implementing the financial aspects of the agreement in 2018. This decision was taken essentially for internal political reasons, to garner the support of public opinion supposedly against the agreement. This is despite the fact that 70% of the comfort women who were alive at the time of the agreement had accepted a financial settlement. In 2018, President Moon Jae-in declared that “Wartime crimes against humanity cannot be swept under the rug by saying it is over,” putting an effective end to an international agreement.⁹

This attitude goes against Prime Minister Keizo Obuchi’s and South Korean President Kim Dae-jung’s declaration of bilateral partnership in 1998 calling for the building of a “future-oriented relationship,” in which Japan apologized for its past colonial rule of Korea while South Korea lauded Japan’s post-war development as a pacifist and peaceloving nation.

South Korea is a full democracy, albeit a young one.¹⁰ However, just like Algeria, there is strict control of the education curriculum and history textbooks. These textbooks are the core of national unity and nation-building in the Republic of Korea, a country profoundly divided both between north and south and also internally.

In South Korean history textbooks, the focus is not on context and the Second World War, including the Second World War in Asia and in China. The focus is almost exclusively on Japan’s colonization as well as an inflated resistance to oppression.¹¹ As in Algeria, the education system is one of the biggest obstacles to reconciliation and the end of resentment,¹² but this education system is also the product of an official policy of encouraging resentment against an external “enemy” to bolster political support. This is the case in South Korea on both the left and right sides of the political spectrum for reasons inherited from the past, including the collaborationist attitudes of elites and contemporary political divides. Strategies of influence from North Korea to increase the division between the two closest allies of the United States in Northeast Asia cannot be excluded either. Both Pyongyang and its ally in Beijing have a direct interest in persistent divisions between South Korea and Japan.

In that context, school books in South Korea controlled by the Ministry of Education do tend to focus on issues like Dokdo (Takeshima), comfort women, and Japanese war crimes.¹³ The rhetoric of anti-Japanese sentiment and resentment is prevalent in these schoolbooks and the objective is to build a “victim identity” that also serves as a unifying principle for Korea.¹⁴

Moreover, as in the People’s Republic of China (PRC), the law in South Korea forbids any challenges to official positions on issues such as that of comfort women. Feminist historians, placing the issue of comfort women in the broader context of women’s exploitation, often with the support of Japanese feminist movements, have been condemned. Historian Park Yu-ha who works on the continuity of patriarchal society in Japan but also in South Korea has been denounced.¹⁵ In 2018, Professor Lee Tae-he, who questioned the systematically forced recruitment of comfort

⁹ «Japan Protests South Korea Comfort Women Remarks», *Voice of America*, 28-02-2018 on <https://www.voanews.com/east-asia-pacific/Japan-protests-south-koreas-comfort-women-remarks>

¹⁰ South Korea became a full democracy, free from military rule, in 1987 with the establishment of the Sixth Republic.

¹¹ Daniel Sneider, “Divided Memories: History Textbooks and the Wars in Asia,” *Nippon.com*, 29-05-2019.

¹² Significantly, in the opinion poll published by the *Yomiuri Shimbun* and the *Hankook Ilbo*, 70% of young Koreans say they do not have a favorable opinion of Japan. This figure, for the same segment of the population, is only 40% in Japan according to *Yomiuri.com*, 09-06-2021.

¹³ One of the differences with Algeria is that, in Algeria, military “comfort stations” or «bordel militaires de campagne» supported by the French army did not become a major issue.

¹⁴ Jamal Barbari, «Anti-Japanese Sentiment Among Graduates of South Korean Public Schools», *SIT Digital Collection*, Win 12-15-2017.

¹⁵ Sarah Soh, “Post-Cold War Transnational Feminist Humanitarian Perspective”, ...

women and mentioned the fact that many of these comfort women were Japanese citizens, was sentenced to prison for “insulting comfort women.”¹⁶ The debate is almost impossible with Japanese historians; it is also difficult for Korean historians themselves.

On the contrary, in opposition to regular public opinion crusades, history textbooks in Japan are much more uncontrolled ideologically, as they are as in France compared to the ones published in Algeria. In Japan, there is a process of authorization but, under the condition that they follow the curriculum decided by the Ministry of Education, Culture, Sports, Science and Technology, books are written and published by private companies and diversity does exist within limits.

In recent years, the “Japanese history textbook” controversy has been built around one publication used in a very limited number of private schools in Japan. Moreover, the objective of this book was to help combat the “defeatist spirit” of mainstream history textbooks, thus demonstrating that the general tone of these mainstream books was not considered to be “nationalist enough” by the Society for the Dissemination of Historical Fact, whose agenda is to reestablish a “truth” more favorable to Japan’s historical position.

Most Japanese history textbooks are neutral, geared to help students pass the university examination based on factual information. Most of these books do mention, for instance, the Nanking “incident” as well as, until quite recently, the comfort women issue. Moreover, the role played by teachers’ trade unions cannot be underestimated.¹⁷

Counter-reactions against “excuses” and “repentance” in France and in Japan

However, the negative reaction and constant resentment in South Korea have also led to what has been termed in Japan “Korea fatigue” and to counter-reactions that can only hurt relations. Whereas in 1996 all junior high school textbooks mentioned comfort women, only one did it in 2006.¹⁸ This evolution is also due to the fact that stories about the plight of “comfort women” published by the *Asahi Shimbun* had been discovered to be fabricated did not help to calm the debate on the Japanese side. This also led to a form of radicalization in some circles that, for instance, now reject the apologies expressed in 1993 by Chief Cabinet Secretary Yohei Kono.¹⁹

In France as well, the constant call for “repentance” has led to counter-reactions that go beyond relations with Algeria and are also related to the real threat posed by radical Islam and terror, a factor that does not exist in Japan. In France, debates on these issues have also become part of the political agenda, and intellectuals as well as political parties such as (but not limited to) Rassemblement National on the far right, do dispute the concept of repentance. In 2017, President Macron declared before his election that “colonization is a crime against humanity” and was largely criticized. Since then, the posture of the authorities has radically changed to follow public opinion in France. In 2021, the possible “pantheonization” of lawyer Gisèle Halimi, who defended

¹⁶ Idem.

¹⁷ Idem.

¹⁸ Shaun Dwyer, “Korean Nationalism and the Comfort Women Issue,” *Japan Times*, 23-09-2020.

¹⁹ According to the Kono declaration:

“The then Japanese military was, directly or indirectly, involved in the establishment and management of the comfort stations.”

“The recruitment of the comfort women was conducted mainly by private recruiters who acted in response to the request of the military.”

“In many cases they were recruited against their own will, through coaxing, coercion, etc.”

“At times, administrative/military personnel directly took part in the recruitments.”

“They lived in misery at comfort stations under a coercive atmosphere.”

the FLN during the Algerian war, has been rejected as being “too controversial.”²⁰

In Japan, another element has been the inclusion of these debates on the colonial past into larger issues focusing on pacifism and the denunciation, by political parties and some media, of a potential return to “militarism.” These debates on history and pacifism must be understood in the context of the Cold War. In that context, pacifism and denunciations of a return to prewar militarism and the defense treaty with the United States were and still are useful tools in a strategic context of rivalries and tensions in Northeast Asia.

As in West Germany, the fundamental objective of the Soviet Union during the Cold War—and of the People’s Republic of China and its allies today—was to weaken the US-Japan alliance and delegitimize at all costs the potential role of Japan as a normalized military power. It was in this context, exploiting fundamentally pacifist public opinion after the tragedy of the Second World War, that the *Asahi Shimbun*, close to these movements, published at the end of the 1990s a series of fabricated stories about the comfort women issues that helped place this issue at the forefront of historical debates, although years later its author Takashi Uemura did recognize that these stories were a fabrication.

The weight of identity nationalism

If the risks of a return to militarism and the risks linked to “Japanese nationalism” are often put forward and taken up by the media, the nationalist dimension in South Korea—but also in the People’s Republic of China—to explain the persistence of memorial issues is a dimension that cannot be overlooked. Korean identity nationalism, especially in the south, has been built up and continues to assert itself against Japan, more than 75 years after the end of World War II and the end of the colonization period. This recourse to nationalism with a strong anti-Japanese component essentially responds to poorly resolved internal political issues and to the specific situation of the division between North Korea, for long the only bearer of the image of resistance against the colonial power, and South Korea where, for structural and sociological reasons, colonization gave rise to a lesser level of organized resistance. As a result, there is a tendency among South Korean political circles to “overact” in expressing anti-Japanese nationalism. This posture also plays on supposed public opinion against Japan, at least “publicly expressed public opinion.”²¹

The contemporary strategic dimension is also very present, and we cannot rule out the role of the North Korean regime in supporting organizations and groups hostile to Japan. The objective being to prohibit any rapprochement and peaceful cooperation between Japan and South Korea, the two closest allies of the United States in Northeast Asia. Likewise, the People’s Republic of China pursues the same objective of dividing the alliance system around the United States in Asia.

In the southern part of the peninsula, the debate on comfort women has also developed thanks to the democratization process of the 1980s, which freed up speech, especially the discourse of women, but which also led to a nationalist competition between right-wing parties seeking to dispel accusations of collaboration with the former colonial power and left-wing parties seeking a means of strengthening their legitimacy.

In this context, the anti-Japanese dimension has remained and remains today a potential factor in the Republic of Korea and across the peninsula as a whole. As demonstrated in the recent court decisions in favor of Japan’s position, these issues remain very much prisoners of internal politics

²⁰ In France, the tombs of officially recognized great men and women who served the country are assembled at Le Panthéon in Paris.

²¹ Sonfa Oh, *Getting Over It, Why Korea Needs to Stop Bashing Japan*, Tokyo, Tachibana Publishing, 2015. The author is controversial, particularly in South Korea, but she raises important issues of identity and guilt to shed light on the complexity of contemporary relations between Japan and South Korea.

in South Korea.²²

In that context, there is no real freedom of expression in South Korea, including in the academic sector, on these issues, perpetuating the impossibility of building common discourse and common research leading to conciliation.²³

The French model and the Stora Report's mission

With tensions increasing in France on issues such as terrorism, Islam, migration and the French model of assimilation two years before a presidential election where the far-right party Front national may become the leading political party in France, President Macron launched in July 2020 a mission to “draw up a fair and precise inventory of the memory of colonization and the Algerian war.”

For President Macron, one objective of the report was to take two positions on the same subject, recognizing on the one hand the necessity of controlling migration to win back voters who support Rassemblement National while agreeing on the other hand to deal with the question of the memory of colonization and the Algeria war to satisfy a large migrant population and possibly win its vote when they choose to acquire French nationality.

In his letter commissioning the report, President Macron wrote “I wish to support a new desire for reconciliation between the French and Algerian peoples” to build a “common destiny” between the two shores of the Mediterranean.”

The report is organized into three parts. The first part is called “Algérie: L'impossible oubli” (“Algeria, The Impossible Oblivion”) and focuses on memory issues. Interestingly the report stresses the fact that issues and disputes seem to never end, just as in the case of Japan and South Korea. There is no large segment of the population in Japan that still cultivates a nostalgia for the colonial past as does a segment of the French population that was established in Algeria for generations and had to leave the country in 1962. However, the fact that the Algerian war was negated in France finds some echoes in the difficulty of focusing on some controversial issues of the colonial period in Japan, too. These issues are difficult for all former colonial powers and Japan is no exception, particularly as the end of Japan's colonial power coincided with its defeat in 1945 and its wish to just forget about a complex and difficult past, cutting off Japan from its own history.

The example of France is differentiated by the fact that, since the end of the 1980s, the opening of military and other archives has led to a flourish of publications by historians on many different issues and from different and complementary angles. Symposiums have also been organized on memory issues and on how to teach this period and include it in the history curriculum. Once again, this is strongly related to the presence of an important community of Algerians or residents of Algerian origin in France raising the urgency of the debate in a way that does not exist in Japan.

The second part of the report concerns “Les rapports de la France avec l'Algérie” (“Relations between France and Algeria”), focusing more on efforts by France to recognize the issues at stake as well as diplomatic initiatives in that field. The Stora Report, however, recognizes that the results were limited. It was not until 1999, more than 40 years after the end of the war, that the French National Assembly officially recognized the expression “Algeria war,” previously named “Les événements” or “order maintenance missions,” after a debate not unlike the one in Japan concerning the denomination of the Nanking incident. It was only in 2012 that the existence of a

²² <https://www.japantimes.co.jp/news/2021/06/11/national/south-korea-court-rulings/>

²³ Joseph Yi, Joe Phillips, Wondong Lee, “Manufacturing Contempt: State-Linked Populism in South Korea,” on *springer.com*, 28-08-2019.

massacre in Setif in May 1945 was recognized by the French government.²⁴ One of the lessons from the Stora Report is the difficulties that former colonial powers have in navigating between admitting challenging issues while at the same time avoiding over-repentance and sparking counter-reactions. In France in 2000, the establishment of a committee on the use of torture in Algeria was rejected by the prime minister's cabinet. Conservative or more right-wing parties have been critical of efforts to implicate the French police as an institution in the repression that took place in 1961. These same conservative political parties have also criticized President Macron's denunciation of the colonial regime as "unjust and brutal."

The third part of the Stora Report is called "Défis" ("Challenges"). That third part deals with unsolved issues and issues that cannot be easily solved. Two of these issues have a global dimension that could also be of interest for the case of Japan and Korea. The first one is access to archives. The Stora Report is in favor of greater access to French archives, without any control, up to 1962, but it points out the asymmetry between the former colonial power France, where the archives are more fully accessible to historians, and Algeria where, for ideological reasons, access to archives is much more difficult. This asymmetry can be also found in the case of the People's Republic of China where history is a political instrument that cannot be left in the hands of historians and also in the case of South Korea where accusations of "distortion of history" can be used to take action against historians who do not fully conform to the "official" position on historical issues.

In Japan, archives concerning the colonial period are accessible through the National Archives of Japan established in 1971 or the Japan Center for Asian Historical Records. However, these institutions have a degree of latitude over access to sensitive materials. These rules also exist in France regarding the Algerian war and repression on French territory. For Benjamin Stora, the objective should be to implement the concept of "patrimoine commun" or "collective heritage" but this is more easily said than done and there are opponents in both the former colonial and colonized powers. One thing certain, however, is that, in terms of "history," results can only be achieved by accepting the existence of some issues and the fact that no return to an idealized past is possible.²⁵

The Stora Report also mentions the limits of a policy of "excuses" that Japan, like France and other colonial powers, face with their former colonies. The question asked, and it is valid for France as well as for Japan, is how "excuses" can be effective and play a positive role when the other party, on principle or for internal reasons, cannot "let go" of a past that contributes to its legitimacy. Algerian authorities want "excuses," but that would hardly be "enough," as the Stora Report mentions, as there were already excuses expressed by French as well as Japanese authorities to their former colonies. Some of the weariness and backlash in France as well as in Japan among the general public and certain political circles comes from the fact that excuses, as well as diplomatic decisions and agreements that are constantly challenged in the case of Japan, become hostages of internal rivalries in states that use the past to circumvent unsolved contemporary challenges.

Conclusion: major differences and the same disappointments

In the maturity and motivation to find a solution it demonstrates, the Stora Report can be an inspiration not only for Japan and Korea but also for other former colonial and colonized powers. At the same time, there are differences. In Japan, third-generation Koreans living in Japan, many

²⁴ In May 1945 demonstrations organized to celebrate Victory in Europe evolved into anti-colonial demonstrations. Estimates of the number of victims range between 3,000 and more than 40,000.

²⁵ David Hundt, Roland Bleiker, "Reconciling Colonial Memories in Korea and Japan," *Asian Perspective*, vol.31, n° 1, 2007.

of them with Japanese names even when they keep their Korean nationality, do not pose a crucial and existential problem to Japanese society and political balance. A relatively large population of Korean origin chose, after the end of the Second World War, to live in Japan and, despite some tensions, their assimilation is almost complete and does not constitute an issue of internal politics. This is not the case in France where, more than 60 years after independence, Algeria remains the most important source of legal migration to France with 807,000 migrants in 2019.²⁶ There is also an asymmetry of development between France and Algeria that does not exist at the same level between Japan and Korea.

However, despite these major circumstantial differences, tensions at the bilateral level remain unresolved in both cases, and both Japan and France are confronted with the same reluctance to solve the issues and “look towards the future.” In the case of Japan and Korea, the status quo is all the more difficult to accept as the strategic dimension should be at the forefront given North Korea’s nuclearization and tensions with an increasingly aggressive China. On the other hand, the situation between France and Algeria remains essentially at the bilateral and societal levels.

A revisionist debate exists in Japan, as it does in France. However, in France as in Japan, this is a minority position and what is denounced as “revisionism” often is only the objective to deal with historical issues as historians and researchers, accepting debate and contradiction but refusing to accept in principle ideological positions not based on facts and research. This approach is not possible yet with Korea or with Algeria. On these issues, too, a dialogue between former colonial powers and how they deal with historical issues could have positive results.

Among the many points in common between France and Japan, and one of the most important and persistent stumbling blocks to reconciliation with their former colonies in South Korea and in Algeria, is the refusal by the formerly colonized party to “let go” of the past to look towards the future. The responsibility here does not—or at least not only—lie with the former colony.

The French debate on history and memories of the Algerian war is profoundly inscribed into the French contemporary societal debate on immigration and integration. This is a situation very different from the debate between Japan and Korea. In the introduction to the report, President Macron of France declared that “This work of memory, sincerity, and reconciliation has not been completed and will be continued. It must be carried out with courage in a spirit of harmony, appeasement, and respect for all consciences”; along the same line, President Biden of the United States visited for the first time the site of the Tulsa massacre, answering the same expectations from a significant part of American society that also contributed to his election.

The context is very different in Japan, where the expectations of the Japanese public are rather low, in part due to the “Korea fatigue” mentioned earlier. However, the will of mainstream political parties to take into account historical issues and try to solve them in a sensitive and positive manner to improve bilateral relations should not be discarded.

Nevertheless, the asymmetry between the objectives of former colonies and former colonized countries remains huge, and one cannot say that, for the time being at least, France’s efforts to build new bridges with its former colony in Algeria have been successful. Likewise, it must be recognized that, whatever the efforts made by Japanese governments, the results in Japan have not been positive, although a negationist posture would be unmerited. Moreover, the speed and scope of reconciliation and dialogue on history and memory issues are almost entirely in the hands of Algeria in the case of France, or South Korea in the case of Japan, and at the mercy of insecure or weak political movements tempted by nationalism and populism.

For France as for Japan, another issue at stake is regaining the right to historical and scientific debate on controversial periods of their own history without immediately becoming the target of criticisms and denunciations by those whose objectives are to block any discussion on an “official”

²⁶ The total number of foreign legal migrants living in France was 4.1 million in 2019.

and ideologically oriented historical vision for purposes more related to contemporary issues than historical ones.

In his conclusion, Benjamin Stora underlines the importance of historical scrutiny to provide “necessary counter-fire to the fires of memories ignited especially in the youth.” Problems arise when only one of the two sides wishes to engage in this historical scrutiny and the other side needs the history to support its legitimacy. In such instances, joint research becomes very restricted or even impossible. This is the situation facing Japan with South Korea and France with Algeria. As long as identity questions are not resolved in formerly colonized countries, solutions will be very difficult to find in the long term and history will remain hostage to political changes of priority as was the case between Japan and South Korea.

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