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on the U.S.-Russia-China Nuclear Cold War:
In Search of a Domestic Foundation
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Historical Observations on the U.S.-Russia-China Nuclear Cold War: In Search of a Domestic Foundation for Japan's Security

Kaoru Iokibe

Abstract

Russia's invasion of Ukraine has led to a growing historical awareness that we may now be in an interwar period like that between the two world wars, and that this period may be coming to an end. At the same time, the presence of nuclear arms as the ultimate weapon has reemerged. This paper is inspired by these repetitions of the past.

First of all, I confirm the present phase of international confrontation, taking George Kennan as my guide.

Secondly, I survey the history of the "ultimate weapon." Viewing the nation-state as the first ultimate weapon, I consider what suggestions the efforts to prevent the outbursts of its destructive power may provide in order to prevent the use of today's ultimate weapon of nuclear arms.

Thirdly, focusing on nuclear deterrence, I consider how the tripolar deterrence among the U.S., China and Russia differs from the U.S.-Soviet bipolar deterrence that was the keynote of the Cold War.

Fourthly, based on the above arguments, I discuss the domestic foundation needed for Japan's policy towards China.

1. 75th Anniversary of George Kennan's X Article

Guidance for Historical Observations

There have been numerous discussions on how the U.S., Japan, Europe, and other Western countries should deal with the threat from Russia and China. I am a historian specializing in Japanese political and diplomatic history, so I hope to contribute my two cents' worth using past experience as guidance.

It is probably safe to say that the Western countries have entered a cold war with China and Russia. In light of Russia's invasion of Ukraine, they have imposed harsh economic sanctions on Russia to support Ukraine. Russian President Vladimir Putin has even talked about the use of nuclear weapons in his attempt to intimidate the Western countries. On the other hand, China is perceived as posing an even greater challenge to the international order than Russia.

While China and Russia have a cooperative relationship, they are not allies. This cooperative relationship requires the West to pursue a balance with the combined military power of the two countries. The absence of an alliance also compels the West to adopt a two-pronged conceptual strategy on the assumption that these two countries will take independent actions.

Historical observations are precisely necessary for a complex and difficult situation like this. Focusing solely on the current situation may result in short-sighted or inflexible responses.

This essay is a translation of an article published online on December 9th, 2022. It can be accessed at: <https://www.jiia.or.jp/jic/20221209.html>. The information in this essay is current as of December 2022.

I will attempt to make historical observations based on the concepts of “ultimate weapon” and “ultimate war.” From there, I would like to undertake a preliminary discourse on what is the domestic foundation needed for the implementation of policy toward China.

However, first, I would like to refer to the experience of the previous Cold War for guidance on the historical view to be adopted in order to arrive at policy conclusions.

The year 2022 happens to be the 75th anniversary of George Kennan's article published under the pseudonym “X” which laid out the basic strategy for the Cold War. I would like to start my discussion using the 75th anniversary of the X Article as my vantage point.

The Life History of George Kennan

Kennan was born in Milwaukee, Wisconsin in February 1904, the month the Russo-Japanese War started. He stated in his memoirs that he hailed from a “family of settlers.” When he entered Princeton University, he recalls being very self-conscious, but he studied very hard. He joined the Department of State in 1925.

While he was an introvert academic type, he participated in the practice of diplomacy. These two aspects meant that he achieved limited career advancement but was able to make unique intellectual contributions to U.S. diplomacy.

Kennan published his article “The Sources of Soviet Conduct” in *Foreign Affairs* in 1947. (In George Kennan, *American Diplomacy, Expanded Edition* [Amerika Gaiko Goju-nen], Iwanami Gendai Bunko, 2000) In consideration of his position as a State Department official, he used the penname “X.” This X Article was highly acclaimed.

This was two years after the end of World War II. It was a time when optimism was waning and doubts were rising inside the U.S. government on whether it would be possible to work with the Soviet Union, which had fought with the U.S. against the Axis powers, after the war.

Kennan studied Russia intensively. He became so knowledgeable of Russian literature that he wanted to become an expert on Anton Chekhov. He knew about the Russian government's history of suspicion, aggression, and expansionism against the outside world. The Soviet Union's belief in Marxism, which was antagonistic toward capitalism, aggravated such tendencies. This knowledge was also based on Kennan's own experience working at the U.S. Embassy in Moscow. The X Article argued that the U.S. should do away with its optimistic illusion about the USSR's intent.

On the other hand, the USSR's overall national power was inferior to the Western camp, so war was not imminent. He advised “long-term, patient but firm and vigilant containment of Russian expansive tendencies.” The identity of X soon became known, and Kennan came to be remembered as the “father of the containment policy.”

It was important to rehabilitate West Europe and Japan to enable them to resist the infiltration of Soviet communism (mostly the nonmilitary aspects). Kennan was deeply involved with the formulation of and messaging on the Marshall Plan for the economic recovery of Europe. He also contributed to the shift in the occupation policy for Japan.

However, Kennan was in the mainstream of policymaking for only more than two years. He was critical of the founding of NATO and West Germany, as well as the development of the hydrogen bomb. He believed that such confrontational military posture was neither patient nor vigilant. Perhaps translating “containment” as advocated by Kennan as *fujikome* [confinement] in Japanese has a slightly stronger aggressive nuance than what he intended.

Kennan returned to Princeton University in 1950 to work as a scholar. While he did serve as ambassador to the USSR and Yugoslavia subsequently, he failed to establish good relations with the host country governments and his home office, so his tenure was short-lived. He died in 2005. Perhaps being a scholar is the secret to longevity.

Difference with the Present (1) —Paradigm of Confrontation

Kennan's basic strategy underwent many revisions even during the last Cold War, so it was merely a basic doctrine. It goes without saying that this strategy cannot be applied unamended today. First, I would like to examine the difference with the X Article's assumptions to further our understanding of the present.

First, the paradigm of confrontation is different.

The X Article was premised on a bipolar U.S.-Soviet confrontation. While the Cold War in Asia became multipolar subsequently due to the intensifying China-Soviet confrontation, this was a process beneficial to the West. On the contrary, China and Russia today share a strong sense of rivalry against the West, and they are in a cooperative relationship.

Difference with the Present (2) —Trust in the Enemy

Second, the level of trust in the challenger is different.

Kennan's assumption was that the USSR believed that time was on its side. According to communist doctrines, capitalism was bound to collapse. Regarding the Soviet Union's perception, the X Article stated: "The theory of the inevitability of the eventual fall of capitalism has the fortunate connotation that there is no hurry about it." It asserted that the USSR was in no rush, so unless the West engaged in provocation out of impatience, the probability of a Soviet military attack was low.

In this connection, Kennan trusted the USSR of being capable of making rational decisions on the power balance. Since the challenger was a country with inferior national power that reckoned time was on its side, containment would be effective.

Do China and Russia today have time on their side?

No such confidence can be seen from Russia. Its main exports of oil and natural gas were increasingly being avoided amid the drive to decarbonize in response to climate change. Russia appears to be attempting territorial expansion while there is still demand for these exports. However, Europe is striving to reduce its dependence on Russian resources, so China and India are buying them cheap. War and economic sanctions are accelerating Russia's decline.

China is catching up with the U.S. in military and economic power, so it can be said that time is on its side. However, what is the long-term outlook? Population decline is already taking its toll in China. There is an estimate that even if its GDP overtakes the U.S. in 2033, there will be a reversal in 2050, and China will never be able to catch up again. It will not be surprising if China is anxious to take whatever it can while it still has the momentum.

Therefore, rationality must not be overestimated. There will probably be different opinions on China. However, as seen in its obsession with the zero Covid policy, the situation is such that Xi Jinping's words are difficult to reverse, even by himself. It is highly possible that there will be even less room for dissent inside the regime under the third term of the Xi regime which started in October, rendering it more vulnerable. Needless to say, trust in Russia's rationality is even lower.

This might be the beginning of the end of authoritarianism. A regime that suppresses disagreeable opinions will come to suppress even disagreeable information, resulting in its making fatal mistakes eventually. While the advancement of surveillance and information manipulation technology may nip disagreeable opinions and information in the bud, this may actually dig the regime's own grave in the long run. That is to say, the global degeneration of authoritarianism may be happening. However, this process is destabilizing the world for the time being. The road to the end of the end will be long and tortuous, and there is no guarantee that democracy will not end ahead of this end and that mankind will not be wiped out by a nuclear war. Come to think of it, there was still time until victory or destruction in the situation understood by Kennan 75 years ago.

Difference with the Present (3) —Trust in Allies

Third, trust in the Western system is different.

How long would “long-term, patient but firm and vigilant containment” take? When and how would it bring about changes in Soviet conduct and its regime? This was the theme of another article published in 1951 dubbed the second X Article, “America and the Russian Future.” (In *American Diplomacy, Expanded Edition*) Kennan asked for people’s patience in this article. Since the USSR was not a country that would change under outside pressure, people must wait for the Russian people to change their thinking. However, it would not do to simply wait. Kennan left behind the inspiring words that this was a wait for “time to be gained for the working of more hopeful forces.”

He was saying that if the U.S. made its democracy work properly, this information would gradually penetrate the USSR and lead to changes. Kennan tended to take a pessimistic view of U.S. diplomacy and the domestic political situation behind it. Will he be able to find a “more hopeful forces” in the polarized America today? The pride and hope he had in U.S. democracy 75 years ago was so impressively strong.

The Effect of Area and Historical Studies

However, there is still something to learn from Kennan beyond the contexts cited above. This has to do with Kennan’s being an area studies scholar with a strong historian’s leaning. Why is this good?

Nuclear deterrence used to be the centerpiece of the theories of Cold War strategy. In particular, the Mutual Assured Destruction (MAD) theory claimed that there could be no nuclear war because in an all-out nuclear war, attack by one side and retaliation by the other side would result in fatal damages on both sides. This was based on the Game Theory premised on the rationality of both sides.

However, with nuclear proliferation, there are more entities now that might resort to nuclear attacks, rendering this assumption of rationality untenable. There might be countries which would resort to intimidation or use of nuclear arms even at the expense of widespread casualties among its own people. This is even more plausible in the case of non-state terrorists. For this reason, the “tailored deterrence strategy” based on an intrinsic understanding of the challenger’s goals and values – what it hopes to gain and what it does not want to lose – is being advocated in U.S. nuclear strategy since the beginning of the 21st Century. This will require an accumulation of a variety of area studies.

Furthermore, China has increased its nuclear arsenal. While its delivery systems are still inferior to those of the U.S. and Russia, it has become the number three nuclear power. Greater complexity brought to the Game Theory of nuclear deterrence by a tripolar paradigm, compared to a bipolar structure, will be discussed below. Moreover, it appears to be difficult to have trust in China’s and Russia’s rationality at a level comparable to that in the old Soviet Union. While the U.S. is an ally, its mindset and interests may not be identical with those of Japan.

Universally costly bets – that losing may mean the annihilation of a country’s people – are placed on the table of nuclear deterrence, so it would seem that analysis transcending the character of individual actors is possible. Yet, the players at this table represent a diverse variety of mentalities and cultures. There is no guarantee that they share the same view on the value of the bets let alone the rules. In areas other than nuclear deterrence, it is even more necessary to make efforts to pursue security by constantly thinking in consideration of the actors’ character.

Kennan’s View of the Russians

It is particularly important to understand the Russian personality at present. I have engaged in academic exchanges with Russians in the past. The discussions on the Russian side were very

interesting. I came to know about their truly commendable genuine enthusiasm for democracy and international cooperation. On the other hand, there was no lack of advocates of unabashed power politics, and their uninhibited observations without concern for any taboos had the appeal of the forbidden fruit. At the same time, they harbored a sense of rivalry against Western values and opinions and displayed a rebelliousness at times, asserting that Russia was not bound by them. A certain childishness arising from both admiration and inferiority complex could be felt.

Kennan was able to offer an explanation for such confusing impressions. For example, when he was working at the U.S. Embassy in Moscow, he submitted a memorandum entitled “Russia – Seven Years Later” to Ambassador W. Averell Harriman in September 1944. He later revealed in his memoirs that he had been confident that this memorandum was even better than the X Article and that he was hurt by the lack of response from his superior. (*George F. Kennan Memoirs, I* [Joji·F·Kenan Kaikoroku I], Chuokoron Shinsha, 2016)

“To him [the Russian], contradiction is a familiar thing. It is the essence of Russia. West and East, Pacific and Atlantic, arctic and tropics, extreme cold and extreme heat, prolonged sloth and sudden feats of energy, exaggerated cruelty and exaggerated kindness, ostentatious wealth and dismal squalor, violent xenophobia and uncontrollable yearning for contact with the foreign world, vast power and the most abject slavery, simultaneous love and hate for the same objects: these are only some of the contradictions which dominate the life of the Russian people.” (pp. 477–478)

“Lies” as Seen in Russia

Since the Russians lived in contradictions, there was no permanent truth. Truth was something that changed according to the circumstances from time to time. The sublime pain of the “soul” living with contradictions was the flip side of the coin of human opportunism. Kennan explained the world’s criticism of Russia’s deception in the following terms at the risk of not being understood by his readers.

“What do we mean by this? We mean that right and wrong, reality and unreality, are determined in Russia not by any God, not by any innate nature of things, but simply by men themselves. Here men determine what is true and what is false.

The reader should not smile. This is a serious fact. It is the gateway to the comprehension of much that is mysterious in Russia.” (p. 479)

How Do Russians Resist?

We are watching with keen interest how the Russian people will respond to Putin’s orders or resist such orders. Since historically, the Russians had consistently received orders from despotic governments, Kennan believed that the following prediction would be valid.

“The Russian people have dissembled for so many centuries that they have dignified the quality into a national virtue. In contrast to Western nations, they can dissemble graciously and good-naturedly – without resentment, without bad manners, without impatience. In this they have challenged, and challenged successfully, the power of the Kremlin.

By this, I do not mean to say that they are politically dissatisfied. But when the influence of the regime comes too close to those mysterious recesses that we may call – at the risk of banality – the Russian “soul,” then the people quietly and politely disengage themselves behind an impeccable series of superficial responses, leaving their masters not quite sure what they

meant by the demure tone in which they murmured, 'Why, yes. Of course.'"
(pp. 443–444)

Half of the Expectation

I would not put all my bets on such an opinion. The more unequivocal observations on national character are, the more they tend to be arbitrary. I believe that in reality, there is a bigger difference between individuals than between nations. Moreover, each individual with his own character follows impersonal normal calculations of gains and losses in most situations in life. The same is true for all countries, so it should be possible to find rational explanations for China's and Russia's maneuverings in most cases.

However, when it comes to crucial basic policies and decision-making, that is, in cases that entail multiple serious conclusions and require thorough calculation of pros and cons, where the ability to calculate falls short, the character of the decision-makers may become more dominant.

For example, Russia's decision to withdraw from Kherson is reckoned to be a rational one. Yet, its very decision to invade Ukraine was a mistake in terms of its realistic interests. Russia is also making one decision after another and taking one action after another to continue its invasion that will bring serious damages not only to Ukraine, but also to itself.

China's specific maneuverings are even more rational than Russia's. However, I do not believe that its current national policy of carrying out hardline diplomacy, expending enormous resources for military expansion and to extend its international influence, and driving itself into the role of challenger to the international order is in China's interest.

There is a limit to putting trust in rationality. Therefore, we shall put half of our expectation on Kennan's view of the world as an amalgamation of actors with diverse characters.

Military Preparedness but Not Militarization

To think in the opposite way from Kennan will mean ignoring individuality and applying a uniform idea to various situations. It is probably appropriate to call such a way of thinking militarization. All soldiers shoot when the commander gives the order. It will not be possible to shoot in unison if each soldier thinks about whether the order was valid, who the targets are, what sort of life they have lived, and who are their family members. Applying uniform ideas by ignoring individuality is like soldiers who are trained to shoot without thinking.

In his collection of philosophical writings published in 1993, *Around the Cragged Hill: A Personal and Political Philosophy* [Nijisseiki wo Ikite—Aru Kojin to Seiji no Tetugaku], (Chuko Classics, 2015) Kennan stated:

There is, in military thinking, a certain absolutist quality that strongly resists anything that tends to obscure or to impair this purity of motive and action [to annihilate the enemy's forces – Iokibe].

Wariness of militarization was consistently behind Kennan's arguments. While military power is necessary, militarization must not be tolerated. I think his excessive wariness of militarization made him overly averse to military rivalry against the Soviet Union. However, wariness of militarization per se is valid.

Kennan was concerned that U.S. diplomacy after Hitler started the Russo-German War was leaning excessively toward cooperation with the Soviet Union due to its focus on defeating Germany and Japan. He advocated the reconstruction of Japan and Germany in order to stem the expansion of the Soviet sphere of influence. This was accepted in U.S. diplomacy. However, he went on to criticize U.S. preoccupation with military rivalry due to its confrontation with the USSR, resulting in his fall from the mainstream of policymaking.

There were also pitfalls in Kennan's arguments. Since the USSR had become a global challenger, Kennan's understanding of Russia and the solutions drawn therefrom would appear to be applicable to all areas in the world. Such solutions, however, did not exactly fit the specific circumstances that vary by region, with insufficient military focus in certain regions and excessive confrontation in others. There has been criticism that to the extent that the X Article offered clearcut propositions, it was obviously an oversimplification, neglecting the unique context of the East European countries. Even for someone knowledgeable of a national character, there is still a limit to the range of national characters that can be learned in depth, so there is a constant risk of distorting and disregarding other characters based on such limited knowledge. This is a common pitfall for area studies researchers.

The era when Kennan enjoyed influence was only a short period when the U.S. was moving from cooperation to confrontation with the USSR. But precisely for this reason, he had critical viewpoints valid for both the era of cooperation and confrontation.

Kennan also came to criticize longer-term U.S. foreign policy. While he hoped that the U.S. would become an ideal that inspired the world, he was against imposing the American ideal on the world. The reason was this would either lead to ignoring the history and circumstances of other countries and engaging in self-gratifying pontification or costly intervention in the worst case. On the other hand, he criticized isolationism as well. While isolationism meant exercising restraint regarding military intervention in other countries, Kennan might have sensed militarization in its assumption that the outside world is a dangerous place contaminated by imperialism.

Kennan's *American Diplomacy, Expanded Edition* (Iwanami Gendai Bunko, 2000) discussed U.S. diplomacy's unstable vacillation between isolationism and idealism. This work established his reputation as a diplomatic historian.

Above all, Kennan's wariness of militarization shows the West how to fight. Military power is important. When dealing with China or Russia, security cannot be attained merely through dialogue. Dialogue cannot begin without possessing self-defense capability and making the other side understand that it will face devastating retaliation if it attacks. However, to be dragged into militarization by military necessity will mean becoming of the same ilk as China and Russia. The West will lose its moral superiority and lose sight of the meaning of "hope" in the process of time being "gained for the working of more hopeful forces." This will not only be regrettable but will also mean losing the West's advantage.

The Allied forces' air raids on Hamburg toward the end of World War II resulted in 70,000 deaths. When Kennan visited the ravages left behind, he wrote in his diary: "... for moral principles were a part of its [the Western world's] strength. Shorn of this strength, it was no longer itself; its victories were not real victories." (*Around the Cragged Hill: A Personal and Political Philosophy*, p. 271)

Perception of the present may change if history is understood in light of a certain concept. One may realize that the direction being taken at present tends to have been repeated in the past – albeit in a different context and form – with unsatisfactory results. One may even find some form of indirect guidance on what needs to be done. Reading Kennan, one gets a feeling that this could be possible.

2. Historical View Predicated on the Ultimate Weapon

Peace through the Ultimate Weapon

Until tension heightened with China and Russia, most people had thought that they could live in a postwar period indefinitely. Yet, today, there is a sense that this could be an interwar period and a strong premonition that we are about to enter yet another period of war.

If we are in an interwar period, this has indeed been a long interwar period because with

the advent of nuclear arms as the ultimate weapon, the superpowers have exercised restraint in order not to trigger a war. Ironically, the ultimate weapon made this prolonged peace possible. At present, Russia's behavior has made the prospect of unleashing the ultimate weapon a real possibility. While the probability of Russia actually using nuclear weapons is low in the present situation, one cannot help but be conscious of this threat, and it is now feared that the interwar period may be coming to an end.

If mankind never learns and war occurs repeatedly, history can be understood as a repetition of interwar periods. The benefit or unleashing of the ultimate weapon will probably determine the continuation or end of the interwar period.

The Long Interwar Period after the Napoleonic Wars

The ultimate weapon before nuclear arms was the nation-state. Napoleon, who inherited the fruits of the French Revolution, conquered almost the whole of Europe at one time. With the people regarding their own fate as being tied to the state and accepting conscription, the state came to be able to mobilize enormous human resources. Napoleon's talent in concentrated deployment of massive forces was integrated with the nation-state.

Britain, France, Russia, Austria, and other great European powers had no choice but to accept the concept and structure of the nation-state, albeit at different times. However, they strived to avoid the full mobilization of the destructive power of the nation-state. These countries would suffer intolerable damages if they fought a full-fledged war against each other. They were also imperial powers that ruled over multiple nationalities in their own countries or possessed colonies overseas, so bringing up the ideal of national independence would be rather troublesome. From 1815, following Napoleon's downfall after losing the Battle of Waterloo, the great powers including France had paid attention to the balance of power among themselves, resulting in a prolonged interwar period.

Wars also occurred even during this period. The Crimean War fought in 1853–56 between Britain, France, the Ottoman Empire, and the Kingdom of Sardinia (Italy) on one side and Russia on the other resulted in 640,000 deaths, so it may not be valid to regard this as part of the interwar period. However, this war converged into a limited battle over the naval fort of Sevastopol on the Crimean Peninsula because under Austrian pressure, Russia was restrained in its incitement of Balkan nationalism. In the end, it can be said that the imperial powers fought for their pride in a running battle that lasted a whole year. This, aggravated by an epidemic, resulted in an appalling number of casualties.

The wars that ended in the unification of Italy in 1861 and the unification of Germany in 1870, as well as the Sino-Japanese War of 1894–95 and the Russo-Japanese War of 1904–05 demonstrated the difficulty of stopping the forces of the awakening nation-states.

How Interwar Periods Come to an End

How do interwar periods end? Challengers to the international order are either formidable enemies or dangerous enemies.

A formidable enemy is a force that possesses the ultimate weapon as well as other capabilities, such as Germany which succeeded in industrialization, expanded overseas, and was becoming an imperial power.

A dangerous enemy is a force that possesses only the ultimate weapon. The Balkan states that gained independence from the Ottoman Empire were a case in point. They were mid-sized and small nation-states that were unlikely to become imperial powers and their only goal was to become consummated nation-states. For this reason, they waged wars repeatedly over compatriots living outside the country or foreign elements inside the country. This situation was made worse by the lack of agreement on the definition of nation due to the entanglement of

different races and religions. Furthermore, Russia, which claimed to be a champion of the Slavic people, was encouraging the Balkan states to assert themselves internationally.

The strategy for maintaining an interwar period where the ultimate weapon is involved is complicated. The dangerous enemy is more dangerous because it tends to resort to the ultimate weapon. On the other hand, serious long-term confrontation is necessary in dealing with the formidable enemy. However, the formidable enemy has something to lose and it has other capacities to choose than the ultimate weapon. Generally speaking, it is desirable to cooperate with the formidable enemy to restrain the dangerous enemy.

Two Balkan Wars occurred from 1912–1913. In the first Balkan War, Serbia, Bulgaria, and Greece seized the Balkan territories, the Crete Island, and other parts of Turkey (Ottoman Empire). In the Second Balkan War, Serbia, Greece, Romania, and Turkey took land from Bulgaria, which was thought to have grabbed too much in the First Balkan War. While this weakened Turkey and boosted Russia's prestige, in reality, Russia and the other major powers were beginning to have trouble controlling the Balkan states.

Serbian nationalism, in particular, came to regard the Austro-Hungarian Empire, which had a sizable Serbian population, as its main target after it defeated Turkey. On June 28, 1914, a Serbian nationalist assassinated Austria's Archduke Franz Ferdinand and his wife in Sarajevo, Bosnia.

This would have been a situation in which the great powers should cooperate to prevent the rampage of the nation-states of the Balkan Peninsula. However, the assassination of its heir to the throne won Austria strong international sympathy for a while, resulting in a major discrepancy in the major powers' policies.

Austria thought this was a golden opportunity to subjugate Serbia. With the consent of its ally Germany, it presented extremely tough demands. Since Serbia rejected some of the demands, war was declared on July 28. By that time, sympathy for Austria was waning.

Russia and its ally France had wanted Serbia to make concessions in order to avert a crisis. Serbia had accepted its responsibility for the assassination incident but was only resisting demands that might infringe on its sovereignty, such as allowing Austrian officials to participate in the investigation of the incident. Therefore, Russia could not abandon Serbia. It ended up issuing a general mobilization order.

Austro-Hungary and Russia and their respective allies Germany and France also went to war. After the German forces violated Belgium's neutrality, Britain also joined the war. Thus, World War I started and lasted until 1918. There were 9.5 million casualties among the military forces alone, and over 7 million noncombatants lost their lives.

Short Interwar Period after World War I

The interwar period after World War I was very short because the power of the ultimate weapon was diminished. Several empires collapsed after the great war, and there was a proliferation of nation-states. This brought about more small independent nations such as the Balkan states, the breaking up of existing nations, and independence movements in other countries. This was also a source of weakness and instability that led to the rise of a new empire, which mobilized the citizens making full use of the structures of the nation-state and aspired to expand beyond the territory of the nation-state.

In Russia, a revolution occurred during World War I, which led to the founding of the Soviet Union. The USSR handed over part of its territory to Germany then dropped out from the fighting. However, Germany was also defeated in the war and lost large tracts of its territory. The Austro-Hungarian Empire was dissolved. Multiple independent nations came about amid the resulting power vacuum in Central and Eastern Europe. It can be said that the impetuous adoption of the ideology of nation-state rendered it difficult to maintain the balance of power. Furthermore, a double standard was also applied in the division of German people between

different nations, such as Germany and Austria. This facilitated Nazi Germany's expansionism beyond its national border in the 1930s on the pretext of unification with compatriots in other countries.

Britain and France had adopted an appeasement policy for a period but declared war after Germany invaded Poland. Thus, World War II started in September 1939.

Similar events occurred in East Asia, albeit under different circumstances. After Japan succeeded in establishing a nation-state at an early stage, the national independence movement on the other side of the ocean spurred the military invasion of the continent.

Even at the time of the First Sino-Japanese War, there had already been advocates of taking advantage of ethnic conflict to occupy the whole of China. *Mitogaku* [a school of Japanese historical and Shinto studies] stressed differences by nation. This had a significant influence on *Kokugaku* [National Learning] aimed at differentiation from the Sino-civilization and antiforeign exclusionism that sought to expel Western powers. Naito Chiso, a *kangaku* [premodern study of China] scholar who adhered to this line of thinking, argued that while Toyotomi Hideyoshi was a great hero, he failed in his advance into the continent because he attempted the expedition with Japanese *samurais* alone. He claimed that since the Manchus founded the Qing Dynasty, it would have been possible to recruit forces in China with the "trick" of inciting the Han people's "heroic struggle to restore the ancient regime." (Naito, "Open Up a New Japan in the Orient," *Shin-Nippon*, No. 2, 1894) If the Han people would not be subservient to the Manchurians, it is doubtful if they would be subservient to Japan. Did he mean that this could be done with some sort of "trick"?

The Xinhai Revolution of China occurred in 1911, prior to the start of World War I. The Qing Dynasty collapsed, and the Republic of China was founded. The problem now was how the Han people would control the minority nationalities. From time to time, the Japanese army took the opportunity to machinate cooperation with the independence movements in Manchuria and Inner Mongolia. In 1931, the Kwantung Army instigated the Mukden Incident. The last Qing emperor, Puyi, was installed as the emperor of Manchukuo.

The Japan-China relationship deteriorated. Japan advocated Pan-Asianism and anticommunism in its attempt to draw China closer to Japan. Although it had little hope for long-term success as long as it upheld Manchukuo as a *fait accompli*, Japan wanted to stir up Chinese nationalism and channel the animosity toward Britain, the U.S., and the Soviet Union.

The Second Sino-Japanese War broke out in 1937. Japan failed to win a total victory in the all-out war against the Han people. As one strategy to reverse the unfavorable situation, it attempted to cut off the supply route from the south for the Chiang Kai-shek regime supported by the West. At that time, vast areas in Southeast Asia were colonies of Britain, France, and the Netherland. Japan advanced southward using the local independence movements.

While the expansion of Japan's military actions to Manchuria, the Kannai region [all Chinese territory south of the Great Wall], and Southeast Asia appeared to be suicidal, it can also be said that this was in pursuit of people who would conveniently engage in "heroic struggle to restore the ancient regime" and ultimately serve Japan's purpose. However, Japan probably did not see the same potential in Siberia. While the start of Germany's attack on the Soviet Union in June 1941 presented an excellent opportunity for Japan to advance northward, it did not make this move.

Japan's advance southward was also motivated by the desire to obtain natural resources in Southeast Asia. From the American point of view, Japan was not only challenging the international order in Asia but was also grabbing the resources Britain needed for its resistance to Germany, thus endangering the European battlefront. After Japan occupied the southern part of French Indochina (Vietnam) in July, the U.S. imposed a total oil embargo. The Japanese navy depended on the U.S. for oil so it was apprehensive that the situation would become even more unfavorable

with time. Japan then attacked Pearl Harbor in December, plunging into war against the U.S.

How to Prevent the End of This Interwar Period

Some 55 million lives were lost in World War II, making this the most destructive war in history. Moreover, the majority of casualties were civilians. This was because on top of Germany's holocaust, both sides resorted to extensive air raids. Subsequently, the U.S. dropped the nuclear weapons it developed on Hiroshima and Nagasaki. The USSR also succeeded in developing nuclear arms, which led to a confrontation between two camps in the Cold War, both possessing large numbers of the ultimate weapon.

Ironically, this prevented another great war. Both camps understood that an all-out nuclear war would be suicidal, so a sort of cooperative relationship to prevent such war was built. Following the disintegration of the Soviet Union and the end of the Cold War, an international order centered on the Western camp was established.

This international order is facing a serious challenge today. The formidable enemy this time is China. It possesses not only nuclear arms, the ultimate weapon, but also enormous conventional forces and economic power. The typical dangerous enemy is North Korea, which surges ahead in its development of nuclear arms and missiles. And now Russia is about to join the list of dangerous enemies. Its conventional forces are fighting a desperate war of attrition against Ukraine, while the process of breaking away from dependence on Russian energy resources is progressing in Europe. Nuclear weapons are now one of the few advantages Russia has left.

The advent of low-yield nuclear weapons led to assertions that they will prevent a worldwide nuclear war. Yet, I feel uneasy. This is because considering the example of the last ultimate weapon, nation-states, failure to make serious efforts to control small nation-states like the Balkan states, which would not be capable of starting a world war on their own, led to the first step toward a world war.

The lesson learned from World War I is that the proper way to respond to a crisis is to cooperate with the formidable enemy to restrain the dangerous enemy. There are numerous issues, such as climate change and epidemic prevention, that may further aggravate the plight of the West and mankind unless China cooperates. I believe that China is willing to make contributions on these issues.

This is because unlike Russia, China's national character is the product of a long history as the center of the Sino-civilization. While Russia shows strong antipathy and independence born out of the contradiction between admiration of Western civilization and an inferior complex, China wants to be the leader of universal values. If there is no likelihood of success, it may indeed behave like Russia but it will not miss an opportunity to epitomize such values.

However, today's ultimate weapon, nuclear arms, is different from the past ultimate weapon, nation-states. In the sense that nuclear arms can annihilate an entire people or even mankind, it is not only the strongest, but literally the ultimate weapon. It may bring about an ultimate war that will mean the end of mankind or truly extensive irreparable damages. Therefore, it is not only necessary to prevent war based on a historical perspective premised on the ultimate weapon, but also to have a common understanding between allies and enemies on the predictable consequences of an ultimate war and join hands in preventing such a war. That is, a historical view predicated on the ultimate weapon must be supplemented with a historical view predicated on an ultimate war.

3. Historical View Predicated on an Ultimate War

Why Is a Historical View Predicated on an Ultimate War?

Ishihara Kanji, who plotted the Mukden Incident, was a well-known proponent of a historical

view predicated on an ultimate war. He believed that an ultimate world war would be carried out by attacking the enemy population with powerful weapons carried on long-range aircraft. The ultimate weapon Ishihara imagined was very similar to the nuclear arms developed subsequently. He reckoned that eternal peace would come under the victor in an ultimate war. The Mukden Incident was one of his answers when thinking of what needed to be done for Japan to become the victor.

In a sense, Ishihara Kanji did what needs to be done in the nuclear age to a certain extent. The MAD theory that came later followed the logic of Ishihara's historical view predicated on an ultimate war in that the necessary actions under this theory were premised on an ultimate war, although the goal was not to win the ultimate war but to prevent one. For this purpose, what needed to be done was for both the U.S. and the Soviet Union to possess retaliatory capability to inflict fatal damages on the enemy if attacked with nuclear arms. (Defense Secretary Robert McNamara estimated in 1964 that at least 400 nuclear bombs must survive a first attack.) Since there could be no victor in an ultimate war, such a war would be avoided.

The idea of preventing an ultimate war also needs to be developed in the tripolar nuclear cold war between the U.S., Russia, and China.

Is the Nuclear Threat Real?

I might be criticized for overestimating the probability of a nuclear war. There are as yet no signs that Putin will actually make nuclear attacks. While the current situation is said to be the most serious nuclear crisis since the Cuban Crisis, experts have concluded in their explanations that for now, such a probability is low. The West's deterrence is still effective at present. Although Putin may indeed use nuclear arms in a situation that may lead to his downfall, such as Ukraine's retaking the Crimean Peninsula, at this point, the Ukrainian forces have yet to achieve this on the battlefield. It is a common tendency to turn to such optimistic talk, but is this a valid analysis of the present situation?

It is said that even if Putin uses nuclear arms, he will probably use low-yield nuclear devices in Ukraine. In such a case, NATO will use force against Russia, not in Russia itself, but on Russian forces in Ukraine or its Black Sea Fleet will be attacked with conventional weapons. That is, there is unlikely to be an immediate nuclear war between Russia and NATO.

In other words, it is generally believed that only amateurs talk nervously about the nuclear threat. I am a historian specializing in the late 19th century, so I am indeed an amateur. Yet, I do have my concerns as an amateur.

First, I have a feeling that the asymmetry of Russia fighting on the one hand and NATO not fighting on the other may lead to different understanding on the escalation of the confrontation.

For the West, Russia's use of nuclear arms deserves a harsh punishment, so punishing it with conventional weapons is actually being considerate so as not to escalate the situation.

However, from the Russian point of view, it may see this as being attacked by NATO even though it has only attacked Ukraine. If Russia begins to use nuclear arms in reaction to this, it seems that no plan is in place to prevent escalation by Putin, who will become even more irrational.

Ukraine cannot be counted on to cooperate in preventing an escalation because it is the party that is most frustrated by the asymmetry, since it is the one resisting Russia's aggression without NATO's participation. Although Ukraine will be the first one to suffer damages if Russia uses low-yield nuclear arms, NATO's entering the war will tip the power balance in its favor overnight. The explosion on the Crimean Bridge and drone attacks on air bases inside Russian territory have seriously provoked Russia. U.S. Secretary of State Antony Blinken's remark three days ago (Dec. 6) that, "We have neither encouraged nor enabled the Ukrainians to strike inside of Russia" appears to indicate that Ukraine is seen as a risky ally.

Too much talk about a nuclear war crisis will lead to insensibility to the tragedy happening on the battlefield. Ukraine and East Europe are already facing serious damages and threat from Russian conventional forces. If Japan and the U.S. talk only of their fear of the use of nuclear arms, they may be accused of being insensitive and unreliable allies. However, there is something to be done from an objective distance. West Europe, the U.S., and Japan that bred the originator of the historical view predicated on an ultimate war (Ishihara Kanji) should be the ones to deepen the thinking on ultimate war even as they support Ukraine.

Second, the optimistic talk has too many caveats, such as “for the time being...” When a missile landed on Poland on Nov. 15, many people must have broken into a cold sweat and questioned themselves as to whether they had not been complacent on account of these caveats.

Even in the past Cold War, the threat of an immediate nuclear war had not been constantly present. Yet people continued to refine the theory of nuclear deterrence. There was a continuous reciprocation of the thinking that the worst scenario could be avoided by preparing for it during peacetime. Although this was dreary and unpleasant business, it was the wisdom needed to survive the Cold War, and it served as a galaxy that shone dimly on postwar history. Are we fully putting our forebears' wisdom into practice in the present Cold War?

Tripolar Nuclear Deterrence

To be fair, practicing such wisdom now is admittedly more difficult than before.

Several studies have already been published on nuclear deterrence under a tripolar structure of the nuclear powers. It has been pointed out that theoretically, this will be much more difficult than in a bipolar paradigm. (Discussed expertly in Andrew F. Krepinevich, Jr., “The New Nuclear Age,” *Foreign Affairs*, May/June 2022) People tend to become optimistic in two cases: when there is a plan and when there is no plan. I am worried that the latter may be the case at present.

Will thinking in terms of the actual confrontation and not along the line of the Game Theory open up new prospects? Unlikely. If an all-out nuclear war occurs between the U.S. and Russia and both sides come to suffer serious damages, China's hegemony will be established. Since China is not an ally of Russia, it will probably stay clear of the nuclear war.

Although mankind may perish from radioactivity and drastic climate change anyway, until that day China will put pressure on other countries to secure all possible resources for its people and Western countries will have little power left to resist China's self-centered behavior. China too will be desperate, so the threat or use of nuclear arms cannot be ruled out from its possible options. China calls nuclear deterrence “*weishe*,” which means not only to stop the other party but also has the nuance of forcing it to do something. Even greater misery and absurdity may persist after an ultimate war that will even make the expression “ultimate war” seem too naive and exasperating.

Under a bipolar U.S.-Soviet rivalry, theoretically, the U.S. president would at least be able to push the nuclear button to stop the evil empire from dominating the world. His ability to push this nuclear button deterred the USSR from launching nuclear attacks. However, under the tripolar U.S.-Russia-China structure, pushing the nuclear button will hand over hegemony to China, which is the greatest threat. I doubt if the U.S. president will be able to make such a decision.

This is because the U.S. is defined by democracy, and it has a strong aversion to plunging its people into miserable and humiliating conditions. It is also not only a democracy, but its economy also consists of free competition. The combination of these two tends to give rise to disparity and discontent with such disparity. A strong resentment that the elite unjustly neglected the citizens has given rise to the Trump faction in the Republican Party. Can America tolerate a scenario in which the Democratic president and his close aides board Air Force One (U.S. Air Force aircraft used by the president) to survive after pushing the nuclear button and take command over the nuclear war and the catastrophic postwar era while the people die violent deaths or hide in nuclear shelters surviving on canned food?

The world American politicians live in consists of two self-contained societies of the two major parties. The U.S. president will always have to live with his reputation in his own party and criticism from the opposition party throughout his life and even after he dies. Trump is a traveling salesman roaming this self-contained society who has decided to leave his sense of shame at home. That is why he was able to come up with clever, strange, and bad moves beyond the imagination of the members of this society. Discounting such an exception, presidents are sensitive about their posterior reputation. He will have to be prepared to face harsh criticism to start a U.S.-Russia nuclear war under a U.S.-Russia-China tripolar setup. The psychological hurdle to making the decision to launch a nuclear attack on Russia will be much higher than in the case of a bipolar world.

Nuclear deterrence will not be effective against the other party unless preparations are made to use nuclear arms when the necessity arises. I believe the U.S. will launch a nuclear attack if Russia crosses the red line. However, there is no guarantee that Putin realizes that. Authoritarian leaders, while paying attention to and counting on the confusion and absurdity brought about by democracy, tend to underestimate the determination of democratic countries. Prewar Japan also made this mistake. If Russia comes to have lower regard for U.S. nuclear deterrence, this may make it easier for Russia to take provocative action.

It is difficult to stop Russia from escalating the confrontation. If this is to be attempted, the surest solution is to make Ukraine cease hostilities. Yet, it will be difficult to tell Ukraine to stop fighting as long as it still has the will to fight. The next best solution is to reduce aid to Ukraine, thus delaying its advance as a result, in order to avoid a situation where Putin will be tempted to use nuclear arms.

However, as long as a Russia with its current national character exists, even if the present Ukraine war ends or Putin steps down, it will only mean deflecting a crisis for the time being. Even so, this may still be an option since it will save many lives and livelihoods. However, this will be at the expense of losing the West's moral superiority and give the challenger possessing nuclear arms false hopes. Will this not lead to an even greater crisis?

Factors that evoke thoughts about such a scenario can be found in the media reports we receive. They make us worry that the anchors securing the international order, such as nuclear deterrence and aid to Ukraine, are being removed one after the other.

Inertial Thinking

Inability to think of an effective solution for tripolar nuclear deterrence is terrible but falling into inertial thinking out of intellectual weariness is even worse.

The optimistic thinking cited above is an example of inertial thinking.

There may be even more sophisticated forms of inertia. Some may think of reducing the tripolar paradigm into a bipolar one and reverting to the good old MAD theory. This is possible if the U.S. declares that when an all-out nuclear war breaks out with Russia, similar nuclear attacks will be launched on China as well. Since China's not being an ally of Russia and not participating in the U.S.-Russia nuclear war is complicating matters, lumping China and Russia together will result in a bipolar arrangement.

This will be a precipitate and outrageous policy that is not even worth discussing. Yet sadly, the policy of making such a declaration will be effective to some extent. While China will be furious, above all, it will desperately try to stop Putin from escalation. Although Xi Jinping has already expressed opposition to the use of nuclear arms, China should be able to make further contributions. It can offer options that the Western countries are unable to provide, including awesome economic inducements, providing political asylum, and abduction and confinement.

There are precedents of abduction and confinement by China even for a dignitary of Putin's status.

Anti-Japanese riots known as the Imo Incident erupted in Korea in 1882. The Qing Dynasty resolved this by abducting the Daewongun (the king's father) Yi Ha-eung, who was thought to be the mastermind behind the unrest, and taking him to Tianjin. In 1936, Chang Hsueh-liang took Chiang Kai-shek prisoner to make him cooperate with the Communist Party of China to form an anti-Japanese united front. China has not only succeeded in abduction and confinement but has also achieved the goal of such action.

The historical view predicated on an ultimate war can be restructured within certain limits even under the U.S.-Russia-China tripolar paradigm. That is, on the premise of an ultimate war and if China is forced to assume that it will be embroiled in this ultimate war, Russia can be deterred to the extent that China can restrain Russia.

I am opposed to the policy of making such a declaration [of nuclear attack on China if a nuclear war breaks out with Russia]. Either this will become a laughingstock because it will not be taken seriously, or moral superiority will be decisively lost.

Will the Pentagon's experts be able to come up with a reliable prescription if this matter is left in their hands? The "2022 Nuclear Posture Review" released by the Defense Department in late October is cause for some concern.

It not only confirmed the intent to possess the capability to fight a nuclear war with both China and Russia. The policy advocated by President Joe Biden during his presidential campaign that nuclear weapons shall be used for the "sole purpose" of nuclear deterrence has been rejected. It also stated clearly that the principle of "no first use" will not be adopted. This means that it is possible that the U.S. may be the first to use nuclear arms in conventional warfare.

The principle of "no preemptive use" has not been negated, which means that the U.S. will not start a war with nuclear attacks. However, the "Nuclear Posture Review" appears to have eliminated any principle that will forbid a nuclear attack on China if, for example, China wages war against Taiwan while there is a rising crisis of nuclear war between the U.S. and Russia.

That is to say, nuclear deterrence between the U.S. and Russia is not completely reliable. While a policy of U.S.-Russia-China nuclear war is not one that can be adopted, this may be useful as a subject of hypothetical debate. Yet, it appears that safety mechanisms in policy have somehow been removed without such a debate.

Security as an Independent Academic Field

Will Japan be able to contribute to the discourse on nuclear deterrence?

Since the invasion of Ukraine, comments by security experts have gained greater acceptance and they are in greater demand. This is a good thing. However, perhaps because these experts have been given a cold reception so far, Japanese experts, while very capable, are few in number. This small number of experts are working very hard, appearing on TV, giving speeches, and participating in international conferences.

I think despite the manpower shortage and their limited access to the latest military information compared to U.S. and European experts, they are striving to obtain information and conveying what they know to us.

Naturally, they tend to tell us only what the situation looks like for now. While that is indeed the first requirement, since they are somewhat removed from live information in the first place, why not investigate various views of history and include contribution to broadening the West's framework of thinking in their agenda? If they are not good at doing this, it will also be interesting for scholars in other fields to brainstorm and make suggestions.

This is because discussions with a broader range than government policy needs to be conducted by private citizens. This is no longer only a desirable undertaking in a general sense. The Western governments must not adopt the policy of declaring a nuclear attack on China in the event of a U.S.-Russia nuclear war. However, private discussions should include the fact that this

policy, despite its brutality, is a very likely offshoot of the historical view predicated on an ultimate war.

The government must work for the relaxation of tension while enhancing the country's defense capability. Private citizens should argue that the challenge to the international order has become riskier with the start of a tripolar nuclear cold war and urge China to cooperate in averting an ultimate war. With substantial discussions at the private level, the government will be able to minimize its provocative language. The best cooperation can be achieved with the government and private citizens each accepting their different roles. Hence, the need for independent scholarship.

Experts who are only able to quickly detect what is actually happening will not be enough. Scholarship is the creation of knowledge (not the creation of facts). To know what somebody else knows is not scholarship. Scholarship requires knowledge of what is not known to others based on what everyone knows.

For sure, since information accessible to all is limited in the field of security, linkage with the practice of security is important. Certain Japanese experts appear to refrain from imagination that goes beyond actual practice because they are faithful to their mission and not because they make light of independent scholarship. The Japanese government is also not restricting the freedom of scholarship in the field of security. Both parties are preoccupied and seriously short of manpower. Still, I am strongly advocating the independence of scholarship because I know that the experts I respect are also independent scholars and they will not be bothered by my support.

I have forgotten to mention that improving the performance of missiles and strengthening missile defense have also been cited as a solution to the tripolar nuclear cold war. That is true but it will take time and money. In contrast, the independence of scholarship is an urgent requirement for security.

4. Rise of the Silent Majority

Policy toward China from the Two Historical Views

While the historical view predicated on the ultimate weapon emphasizes the need to cooperate with China, the historical view predicated on an ultimate war claims that China should be given a strong warning. In order for Japan to survive, it needs a delicate package of carrot and stick policies toward China, as well as a strong domestic consensus in support of these policies. Considering the complexity and difficulty of the situation, this consensus must support extraordinary balance of mind, resourcefulness, and perseverance. To use an analogy from the Doha Soccer World Cup, this is like seizing the chance for victory in the match against Germany, remaining calm in the game with Costa Rica, and not losing hope in the game against Spain – although I failed in all three counts.

Japan's policy toward China so far has been torn between two outspoken minority groups – the pacifists and people with anti-Chinese sentiments – and has navigated a narrow path in order not to offend either group as much as possible. While this might be reasonable domestically, it does not make sense internationally. Executing a delicate policy package is difficult.

The Emperor and Achilles

How can these vocal minorities be made to reconsider? The Emperor played a role in the prewar period. Exactly 130 years have passed since the clash between the oligarchy government dominated by feudal domain cliques and the opposition parties came to a head at the fourth Imperial Diet (late 1892-early 1893). When such emotional exchanges as Diet Member Yukio Ozaki asking if the budget could not be cut even by a single cent and Finance Minister Kunitake Watanabe retorting “no” reached an impasse, the Emperor issued an edict calling for harmony,

thus settling the situation. In response to the opposition parties' criticism of the cost of naval expansion, the edict indicated that part of the spending would be paid by savings from the imperial household expenses and urged the government to carry out administrative reforms and reduction of expenditures, thus expressing hope for the House of Representatives' cooperation. With this, the opposition parties engaged in consultations with the government, resulting in an agreement on the budget. Japan won in the naval battle in the Sino-Japanese War 18 months after this.

There is no doubt that the edict was using the Emperor for political purposes. In the first place, the presence of active minorities was desirable. Laying the groundwork to suppress them came with serious side effects. Militarization moved ahead in the 20th Century using the Emperor as symbol, resulting in tragic consequences for Japan and its neighbors.

Achilles is known as the strongest warrior in the Trojan War. Yet in Homer's "Iliad," he did not join the battle until the final part of the story. All the other warriors, such as Mycenaean Greek King Agamemnon and Hector, son of Trojan King Priam, fought desperately even knowing that the appearance of Achilles would turn the tide. Achilles also had his weakness, which came to be termed Achilles tendon today. He was prophesied to die if he joined the battle. That is how it should be in a world created by mortals.

Silent Majority

Today, the Emperor cannot and should not play a role similar to that in the prewar years. The only force that can overwhelm the minorities is probably the silent majority.

However, the silent majority will remain silent barring an earthshaking event, so it will be difficult for it to play a political role. During the turmoil over the revision of the Japan-U.S. Security Treaty in 1960, Prime Minister Nobusuke Kishi stated: "I must listen to the silent voices."

When mass demonstrations protesting Kishi's revision of the treaty surrounded the Diet, it would appear that all the vocal people were opposed to the treaty. Kishi reportedly said: "The demonstrators are a minority. The baseball stadiums and movie theaters are all full and nothing has changed in the streets of Ginza." That was an objectionable remark, more so because he had a point. Even though there is a silent majority, there is no denying that normally, they do not express their political views, and they are all in baseball stadiums, movie theaters, or Ginza.

I also appreciate the good aspects of old Japanese politics. Although the House of Representatives censured the oligarchy government at the fourth Imperial Diet, Japan presented a united front during the Sino-Japanese War. Regardless of their position on the war, the people cooperated in an emergency. The demonstrations subsided after the Security Treaty revision was approved by the Diet, and the new Security Treaty became the foundation of Japan's security and prosperity. On the other hand, Kishi, whose high-handed political methods stood out, was forced to step down. From the long-term point of view, it would seem that a balance was achieved. However, this was in an era when the source of threat was in London or Paris or Moscow. The threat at present is more imminent. Not only the providence of popular sentiment, which has been exerting an influence without our realizing it, but also meticulous discussions by the policy community and the leaders' decisions, as well as the consensus supporting them, will be necessary.

As if in response to this age of crisis, I have a feeling that the silent majority left the baseball stadiums and showed up in public spaces after the fatal shooting of former Prime Minister Shinzo Abe on July 8. Although many people opposed the state funeral on Sept. 27, when the funeral was actually held, more than 25,000 people queued up to offer flowers at the Kudanzaka Park.

As many as 330,000 demonstrators surrounded the Diet during the protests over the Security Treaty, so it can be said that 25,000 people is a small number. Yet, this was amid the Covid pandemic on a hot weekday, and the silent majority is supposed to be silent. Even just the tip

of the iceberg of this group was already quite impressive. For sure, there were fervent Abe supporters who added to the number. However, it is conceivable that people who were critical of Abe, who resented the procedures leading to the state funeral, and who were not keen about the state funeral were included. Yet the queue of people who came to send off the former prime minister who had worked very hard for national administration and who met an untimely death extended as far as Yotsuya. Their silence overwhelmed the protests against the state funeral.

It is interesting that the rightists also do not appear to be celebrating without reserve. They might have felt that the queue of the silent majority was not the same as their own procession.

They might have also resented the fact that the highlight of the memorial service for Abe was the condolence speeches by Yoshihide Suga and Yoshihiko Noda. While Suga had assisted Abe as the chief cabinet secretary, he is more of a pragmatist who has not inherited Abe's ideology. Noda was prime minister during the Democratic Party administration. He was asked to deliver a condolence speech because he was the political adversary of Abe, who led the opposition Liberal Democratic Party at that time.

The Kishida Administration's Mission

As the rightists look on with displeasure, the Kishida administration is also in confusion from the attacks of the leftists. Prime Minister Fumio Kishida is not necessarily good at managing the administration. In the first place, it is regrettable that his aspiration and will in steering the administration to do something remains unclear. Yet, he could be representing the lethargy of the silent majority through a mysterious bond. There is unlikely to be another leader in the political world today who will listen to the voice of the silent majority while maintaining a balance of mind like Kishida. Such is the prime minister we have today.

There will be no lack of forces wanting to use the silent majority for political ends. However, the silent majority has disappeared after forming long queues to offer flowers on that day. They indeed made an appearance but did not stay. They are following Homer's script.

Japan is beginning to walk a critical tightrope with the other Western countries where falling off will be fatal, but it might have made a good start. For now, we would like the Kishida administration to bounce back.

Note: The views expressed in this article are those of the author. They do not represent the views of the Japan Institute of International Affairs.

Original Title to Territory: To What and to What Extent Is the Concept of Title to Territory Applied?*

Tomoko Fukamachi

1. Introduction

It is well known that international law was born as the law among modern sovereign states based on territory. “Law of territory,” which handles various problems regarding state territory, and in particular “title to territory,” which regulates the attribution of territory, is a field with a long history within international law. Now that there are many opportunities for territorial problems to be addressed in school education and in the news, this is also a field that easily attracts beginners’ interest. Yet, in fact, many people feel that it is a topic that is difficult to learn and difficult to teach. One of the probable reasons for this is that law of territory has few treaties that can serve as a reference concerning concepts and rules, let alone the codification conventions which are now often seen in many fields of international law, while relevant arbitral and judicial cases have become numerous. Accordingly, the overall legal structure cannot easily be grasped. In standard Japanese and foreign textbooks on international law, which should serve as the ultimate guide, there is a substantial lack of uniformity in how they handle and describe law of, and title to, territory.¹

“Original title,” which this paper addresses, is a relatively “new” concept that has come to be discussed in academia with several noteworthy published articles,² following the 2008 ruling by the International Court of Justice (ICJ) in the *Pedra Branca* case. I have placed “new” in quotation marks because the term “original title” itself has long been used in law of territory. If we are to call the traditional concept of original title the first original title, and the concept of original title employed in the *Pedra Branca* case the second original title, at the very least it is necessary to understand the differences between the two. However, the mere existence of differences is not a sufficient reason to hold discussions on the second original title separately and specifically. To state the conclusion in advance, the importance of the second original title is that it may provide an opportunity to reconsider the structure and scope of title to territory (territorial title).

As stated above, international law of territory was developed early in history. Why was that? The reason was that modern European nations “discovered” non-European regions, and in expanding their own control, rules were needed to govern the competition among European

* This article is translated from an article in Japanese, Tomoko Fukamachi, “領域に関する原始権原——領域権原論は何をどこまで扱うのか [Ryōiki ni kansuru genshi kengen: Ryōiki kengenron wa nani wo doko made atsukau noka],” *Hogaku Seminā*, No. 765 (2018), pp. 24–30. The Japanese Manuscript—“Ryōiki ni kansuru genshi kengen: Ryōiki kengenron wa nani wo doko made atsukau noka”—has been reprinted in the following book: Mori, Tadashi and Naoki Iwatsuki (eds.), *Sabutekusuto kokusaihō: kyōkasho no ippo saki e* [Advanced readings in international law] (Nipponhyōronsha: 2020), pp. 106–120.

¹ Brownlie’s textbook may be a clear example. The sections and description contents in “Part III Territorial Sovereignty” are greatly changed from the 7th edition, which was the last edition by Brownlie himself, to the 8th edition, which was revised by Crawford. Brownlie, Ian, *Principles of Public International Law*, 7th ed., (Oxford University Press: 2008), pp. 103–170; Crawford, James, *Brownlie’s Principles of Public International Law*, 8th ed., (Oxford University Press: 2012), pp. 201–252.

² Kohen, Marcelo, “Original Title in the Light of the ICJ Judgment on Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge,” *Journal of the History of International Law*, Vol. 15 (2013), pp. 151–171; Fry, James D. and Melissa H. Loja, “The Roots of Historic Title: Non-Western Pre-Colonial Normative Systems and Legal Resolution of Territorial Disputes,” *Leiden Journal of International Law*, Vol. 27 (2014), pp. 727–754; Huh, Sookyoon, “Title to Territory in the Post-Colonial Era: Original Title and *Terra Nullius* in the ICJ Judgments on Cases Concerning *Ligitan/Sipadan* (2002) and *Pedra Branca* (2008),” *European Journal of International Law*, Vol. 26 (2015), pp. 709–725.

nations.³ This history brought about certain basic characteristics in traditional law of territory as well as the concept of territorial title. The present-day arguments regarding law of territory may be said to be an accumulation of efforts to elucidate the structure of those characteristics in reference to a number of international arbitral and judicial decisions regarding the attribution of territory, and to seek an appropriate theory of title to territory for the post-decolonization era. From such a perspective, this paper follows the development of the concept of original title and aims to be of some assistance in understanding contemporary law of territory. The subsequent sections begin with an overview of traditional theory on territorial title and its revisions to date as preparation for clarifying what in traditional title theory the second original title concept leads us to reconsider.

2. The traditional concept of title to territory and first original title

Under international law, the attribution of territory is discussed using the concept of title to territory. Because territory is land where a state exercises territorial sovereignty, for land to be recognized as state territory, grounds to legally justify the establishment of territorial sovereignty by the state must be presented. The facts that are viewed as grounds for justification of territorial sovereignty under international law, in other words, the facts that are deemed the sources of territorial sovereignty, are called “title to territory.” In general, title is a fact that is the grounds for a right to be vested.

Territorial title has traditionally been considered equivalent to several fixed “modes of acquiring territorial sovereignty.” Because the requirements for each of these modes are defined mutually exclusively, whether or not absolute title exists at a given point in time is statically judged by their fulfillment. The modes of acquisition many scholars cite are occupation, accretion, cession, prescription, and subjugation, and these are generally classified into original acquisition and derivative acquisition. What is established by modes of original acquisition is original title in the traditional sense, that is to say, the first original title.

However, it is necessary to note that several different opinions have been presented regarding specifically what is classified as original acquisition.⁴ For example, according to the view that original acquisition is to establish territorial sovereignty over land which previously did not belong to any state and that other acquisitions are all derivative acquisition, occupation and accretion are categorized as original acquisition, while cession, prescription, and subjugation are classified as derivative acquisition. Conversely, under the standpoint that instances where the validity of a title depends on the validity of a prior title are derivative acquisition and all other instances are original acquisition, occupation, prescription, accretion, and subjugation are original acquisition, while derivative acquisition is limited to only cession.⁵

At any rate, it is now widely recognized that title to territory as that of above-mentioned “modes” has played only a limited role in the settlement of territorial disputes through international

³ As research that clarified this point, Taijudō, Kanae “Kokusaihō jō no sensen ni tsuite: Sono rekishiteki kenkyū” [Regarding occupation in international law: Its historical research], *Hōgaku Ronsō*, Vol. 61, No. 2 (1955), pp. 36–99 (in Taijudō, Kanae, *Ryōdo Kizoku no Kokusaihō* [Title to territory in international law] (Toshindō: 1998)) is essential reading.

⁴ See Fukamachi, Tomoko “Gendai kokusaihō ni okeru ryōiki kengen ni tsuiteno ichikōsatsu” [Some reflections on title to territory in international law], *Hōsei Kenkyū*, Vol. 61, No. 1 (1994), p. 71.

⁵ Prescription, subjugation, and cession all concern the acquisition of the territory of another state. However, in the cases of prescription and subjugation, the prior title is cut off, as it were, and a separate title is established, while in the case of cession, the title of the state receiving territory is established only within the effective scope of the prior title, that is, the title of the state ceding territory.

adjudications.⁶ While the courts and tribunals to which territorial disputes are submitted have tried to judge attribution based on agreement among the parties regarding the disputed territory as much as possible, they have also adopted an approach of determining the existence of title emphasizing the fact that the exercise of state authority, namely, acts which are deemed as embodiment of territorial sovereignty, is continuously and peacefully conducted (“the continuous and peaceful display of territorial sovereignty [peaceful in relation to other states]”) (“the display of sovereignty approach”).⁷ While there is no room for a detailed explanation in this paper, under the display of sovereignty approach, title to territory—which had a static and absolute nature under the modes of acquisition scheme—becomes dynamic, relative, and non-standardized. This important point has been noted in a previous study.⁸ In this way, it may be said that the view which unconditionally equates title to territory with the modes of acquisition of territorial sovereignty has been overcome.

However, the traditional concept of title to territory actually has one more limitation or self-definition. This is the concept to “acquire” territorial sovereignty. Because it was generated and developed as rules to govern the colonization of non-European regions by modern European states, the scope of the territorial title concept was limited to the new acquisition of territorial sovereignty by existing states under international law, despite the seemingly universal definition as “the facts deemed as grounds for the justification of territorial sovereignty.” For acquisition, the prior existence of the acquiring body, i.e., the state, is essential. Consequently, as long as the concept of title is deemed to be for acquisition, it becomes difficult to use this to logically explain the grounds whereby “defined territory,” which is a requirement necessary for the establishment of a new state, belongs to that state. A similar problem applies to the territories of modern European states, which were the assumptions upon which modern international law was established.⁹

In this regard, what should be added quickly is that, while “a defined territory” constitutes a qualifying element for a state, the complete delimitation of borders is not required. That is to say, the possibility that the outer limit of such territory as inseparable from the very existence of a new state may not be totally fixed is contained in the qualifying elements for a state. Modern

⁶ Regarding approaches of resolving territorial disputes taken by international courts and tribunals, see Yanagihara, Masaharu, Morikawa, Koichi, and Kanehara, Atsuko (eds.), *Purakutisu kokusaihō kōgi* [Lectures on international law and practice] 3rd edition (Shinzansha: 2017), pp. 199–202.

⁷ In past judgments and awards, in line with the specific conditions of the disputed territory, the exercise of legislative, administrative, and judicial authorities of states such as tax collection and administration of justice has been recognized as displays of sovereignty that create title. For a simple commentary on the display of sovereignty approach and the display of sovereignty concept, see Huh, Sookyeon, “Jikkōshihai to wa nanika?: Kokkashuken to jikkō shihai no kankei” [What is effective control?: The relation between state sovereignty and effective control] in Morikawa, Koichi et al. (eds.), *Kokusaihō de sekai ga wakarū: Nyūsu wo yomitoku 32 kō* [Understand the world with international law: 32 lectures to interpret the news] (Iwanami Shoten: 2016), pp. 69–80.

⁸ Huh, Sookyeon, *Ryōiki kengenron: Ryōiki shihai no jikkōsei to seitōsei* [The acquisition of territory in international law: The effectiveness and legitimacy of territorial control] (University of Tokyo Press: 2012), pp. 148–165.

⁹ Yanagihara, Masaharu, “*Kyōiki, hanto, hōdo, soshite ryōiki*” [Chinese and Japanese notions of territory and the European notion of territory], *Kokusai Mondai*, No. 624 (2013), p. 1; Fukamachi, Tomoko, “Nihon, Kankoku, Chūgoku ga tomoni shuchō suru ‘koyū no ryōdo’ to wa?: Ryōiki funsō no kaiketsu kijun to shite no ryōiki kengen” [What is the ‘inherent territory’ claimed by Japan, South Korea, and China?: Title to territory as a standard for resolving territorial disputes] in Morikawa, Koichi et al. (eds.), *Kokusaihō de sekai ga wakarū: Nyūsu wo yomitoku 32 kō* [Understand the world with international law: 32 lectures to interpret the news] (Iwanami Shoten: 2016), pp. 52–54; Starke, Joseph G., “The Acquisition of Territorial Sovereignty by Newly Emerged States,” *Australian Year Book of International Law*, Vol. 2 (1966), p. 11.

European states themselves were not clearly divided by complete national boundaries right from the start. In some cases there were areas, on the periphery of core territory of those states, whose attribution was not yet decided or being disputed. If the state argues for their attribution that it acquired territorial sovereignty over them after it was established as a state, the structure of the argument remains as one of acquisition of sovereignty by an existing state under international law. In contrast, when the claim is that the area in question has always been the state's own territory from the time it was established as a state, it seems necessary to squarely discuss the grounds for justifying territorial sovereignty over such territory as inseparable from the establishment of the state or its very existence. An unavoidable repercussion of this line of argument is to bring into the theory of title to territory the difficult problem of how to assess "territorial control" implemented under the "international order," which differs from international law.

3. Forerunners of the second original title

(1) The *Minquiers and Ecrehos* case

The ICJ handled such problematic situations as early as 1953 in the *Minquiers and Ecrehos* case.¹⁰ In this case, the UK and France disputed the attribution of the Minquiers and Ecrehos islands in the English Channel going back to the Middle Ages when modern international law was not yet established. Both of the parties asserted that the disputed islands had become part of their respective territory at one time in the Middle Ages as part of the Channel Islands, and that the ancient title or original title had been maintained without interruption during and after the modern era. As an alternative claim in case this argument was not upheld by the Court, the UK also argued that it had acquired title based solely on long continued effective possession. In response, the Court concluded that even though the ancient title asserted by the UK was presumed to have existed, the attribution of sovereignty could not be decided by that alone, that it must be founded on evidence directly related to the possession of the Minquiers and Ecrehos, and that both of the disputed islands belonged to the UK based primarily on the exercise of "jurisdiction" by England in the Middle Ages and of state functions in the modern era.¹¹

The concept of original title asserted in this case is clearly different from the one traditionally adopted in the classification of original acquisition and derivative acquisition. Moreover, it is deemed to be used in the context of how to show the grounds to justify territorial sovereignty over a territory that the parties claimed they already possessed at the time when they became international legal subjects as modern states. Nevertheless, this case did not produce the momentum to consciously question the scope of title to territory as an "acquisition" scheme. That is to say, while the reliance on the exercise of state functions that characterizes this case has gathered frequent attention, amid the academic trend to reconsider the appropriateness of the "mode" theory mentioned in the previous section, the issues of how the parties and the Court grasped original title or ancient title and the significance thereof for the concept of title to territory at large has not been examined in sufficient depth.¹²

¹⁰ *Minquiers and Ecrehos* case, judgment of 17 November 1953, *ICJ Reports 1953*, pp. 47–73.

¹¹ However, between *Minquiers and Ecrehos*, the extent to which the exercise of state functions is used as the basis for the attribution differs. In the case of *Minquiers*, the evidence that France recognized the island as British territory was also emphasized. *Ibid.*, pp. 70–72.

¹² For an interpretation of the relationship between "ancient title" and "the display of sovereignty" in the *Minquiers and Ecrehos* case presented by ICJ in its 1992 judgment in the *El Salvador–Honduras Land, Island, and Maritime Frontier* case, see Huh, *supra* n. 8), pp. 244–246.

(2) The *Qatar v. Bahrain* case

The next case that should be noted is the *Qatar v. Bahrain* case in which a judgment on the merits was rendered in 2001.¹³ In this case, regarding the Zubarah region in the northwestern part of the Qatar Peninsula, the ICJ concluded that the authority of the Sheikh of Qatar based in Doha on the eastern coast of the peninsula had gradually been consolidated to be definitively established in 1937.¹⁴ On the other hand, regarding the Hawar Islands located between the peninsula and the main island of Bahrain, the Court found that the decision by the British government in 1939 which attributed the island to Bahrain was binding on both states, giving no consideration to original title, *effectivités*,¹⁵ or any other arguments presented by the parties.¹⁶ It concluded that the Hawar Islands belonged to Bahrain.

Five of the judges voted against 2(a) of the operative provisions of the judgment, which presents the attribution of the Hawar Islands. One of them, Judge Torres Bernardez, criticized the conclusions of the majority of the Court, stating that they failed to acknowledge the scope of the original title of Qatar to the Qatar Peninsula and its adjoining islands and viewed the 1939 British decision, which fundamentally lacks validity, as the source of Bahrain's derivative title.¹⁷ According to Judge Bernardez's definition, original title is the title to the territory of a new state while derivative title is the title to territory acquired by an existing state. In his view, international legal theory has distinguished between these two categories from long ago.¹⁸ As we have seen, however, it was clear at least that the expressions of original title and derivative title were generally used for a different classification. Therefore, although we should have certain reservations about the appropriateness of Judge Bernardez's remark that the distinction between the two categories has a long history, the significance of his opinion can be found in the conceptualization and presentation of original title as a title with "constitutive elements linked to the very birth of the political entity or state."¹⁹ As such, this opinion leads to the concept of second original title.

¹³ *Maritime Delimitation and Territorial Questions between Qatar and Bahrain*, Merits, Judgment of 16 March 2001, *ICJ Reports 2001*, pp. 40–118.

¹⁴ *Ibid.*, pp.64–69. Regarding this judgment, from the viewpoint of the theoretical interest of this paper, issues may be noted such as whether the authority consolidated regarding Zubarah can be explained under the "acquisition" framework, the timing of when Qatar was established as a state, and what are the territories that are inseparable from the establishment of Qatar as a state, but because of the space limitations here these will have to be addressed on some other occasion.

¹⁵ When the concept of *effectivités* was initially employed in law of territory, under the *uti possidetis juris* principle which requires that the boundaries between new states having achieved independence from the same colonizing power follow the administrative boundaries in the colonial period, the concept had only the limited meaning of indicating the conduct of the colonial authorities during the colonial era. Subsequently, however, cases emerged where this was used to paraphrase the display of sovereignty, and it has now become rather ambiguous. Regarding the discussion concerning *effectivités* by the parties in this case, see Huh, *supra* n.8), pp. 262–266. For an overview of the ambiguity of the concept of *effectivités*, Huh, Sookyeon, "Ryōdo kizoku hōri no kōzō: Kengen to *effectivités* wo meguru gokai mo fukumete" [Structure of the legal doctrine of attribution of territory: Including misunderstandings regarding title and *effectivités*], *Kokusai Mondai*, No. 624 (2013), pp. 20–34 is useful.

¹⁶ *Qatar v. Bahrain* case, *supra* n. 13), pp. 70–85. The judgment only mentions the fact that the parties made arguments regarding the claim of original title, and the parties themselves hardly touched upon it in the written procedures, so it is necessary to refer to the record of the oral arguments.

¹⁷ Dissenting Opinion of Judge Torres Bernardez, the *Qatar v. Bahrain* case, *supra* n. 13), p 260.

¹⁸ *Ibid.*, p. 281, para. 60.

¹⁹ *Ibid.*

(3) The *Ligitan and Sipadan* case

In the following year, 2002, the ICJ handed down its ruling in the *Ligitan and Sipadan* case.²⁰ The two parties, Indonesia and Malaysia, both used the concept of original title in their claims. Pulau Ligitan and Pulau Sipadan are uninhabited islands in the Celebes Sea off the coast of northeastern Borneo. In this case, Indonesia called the title to both islands held by the Sultan of Bulungan the original title and Malaysia did the same regarding the title held by the Sultan of Sulu. Each party claimed that these had been transferred to Western powers and then inherited by themselves.²¹ In the end, the Court did not adopt either argument. As for Indonesia, the Court did not examine the original title at all because it found that the disputed islands were clearly not included in the areas that had passed to Indonesia as a successor to the Netherlands.²²

On the other hand, regarding Malaysia's claim, the Court did consider whether or not the disputed islands had been part of the possessions of the Sultan of Sulu, and denied the existence of original title to both islands based on the following four points. First, the parties recognize that geographically both islands do not belong to the Sulu Archipelago. Second, the relevant documents describe the territorial extent of the Sultanate of Sulu as comprising "the Archipelago of Sulu and the dependencies thereof," but these documents provide no specific reference to decide whether Ligitan and Sipadan, which are located at a considerable distance from the main island of Sulu, were part of the Sultanate's dependencies. Third, even if the Bajau Laut who may have made use of the two islands were loyal to the Sultan of Sulu, such ties are not sufficient to provide evidence that the Sultan of Sulu claimed territorial title to both islands. Fourth, there is no evidence that the Sultan of Sulu actually exercised authority over both islands.²³

In this way, while the application to Ligitan and Sipadan was not recognized, the concept of original title was used by the Court as the grounds for justifying the territorial control exercised by Sulu, which was a non-European local "state." In addition, the above-mentioned four points which the Court considered when it denied that original title existed can be summarized, using more common expressions, as three factors: focusing on the overall territorial extent of the state, negative evaluation on personal ties of loyalty to determine original title, and the requirement of the actual exercise of authority. Keeping these in mind, the following section examines in detail the contents of the judgment in the *Pedra Branca* case, which first presented outright recognition of the second original title.

4. Recognition of the second original title—the *Pedra Branca* case

(1) Outline of the case and the claims of the parties

Pedra Branca is a small island located at the eastern entrance to the Straits of Singapore. In Malaysia, the island is called Pulau Batu Puteh. In 2003, Malaysia and Singapore signed a Special Agreement requesting the ICJ to determine the attribution of Pedra Branca/Pulau Batu Puteh (hereinafter Pedra Branca) and the nearby Middle Rocks and South Ledge. The Court issued its ruling in 2008.²⁴ This section examines the dispute focusing on the judgment concerning Pedra Branca.

²⁰ *Sovereignty over Pulau Ligitau and Pulau Sipadan*, Judgment of 17 December 2002, *ICJ Reports 2002*, pp. 625–686.

²¹ Indonesia primarily claimed that the attribution of the disputed islands was already decided by the 1891 Convention concluded between Great Britain and the Netherlands, but this was not upheld by the Court. Transfer and succession from the Sultan of Bulungan was Indonesia's alternative claim.

²² *Ligitan and Sipadan* case, *supra* n. 20), p. 669, paras. 95–97.

²³ *Ibid.*, pp. 674–675, paras. 108–110.

²⁴ *Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge*, Judgment of 23 May 2008, *ICJ Reports 2008*, pp. 12–102.

In this case, it was Malaysia that claimed original title. According to Malaysia, Pedra Branca was and is part of the Malaysian State of Johor. The reason for this is that the Sultanate of Johor, which is the predecessor of the State of Johor, controlled all of the islands in the Straits of Singapore including Pedra Branca ever since it was established in 1511, and that there is nothing to show that Johor ever lost its title. Malaysia called the title which it inherited from the Sultanate of Johor “an original title of long standing.”²⁵

In response, Singapore claimed that prior to 1847, Pedra Branca was *terra nullius*. As such, it was claimed that by taking possession of it through the construction of a lighthouse from 1847 to 1851, the United Kingdom was able to acquire lawful title, and that the title had been maintained until the present time by the British Crown and by its successor the Republic of Singapore.²⁶ Consequently, the issue was whether Malaysia could prove the establishment of its original title dating back to before the lighthouse construction activities, or conversely whether Singapore could prove its claim that it established lawful possession at some time after the start of the construction of the lighthouse.²⁷

(2) Recognition of original title by the Court

The ICJ recognized the original title that the Sultanate of Johor possessed over Pedra Branca based on the following considerations.²⁸

The Court started by observing that it was not disputed that the Sultanate of Johor had been established as a sovereign state with a certain territorial domain under its sovereignty since its foundation in the early 16th century, and then examined proof showing the common understanding of that time regarding the extent of that territorial domain to confirm that the Straits of Singapore and the islands therein were included in that domain. Next, the Court pointed out that because Pedra Branca had been known as a navigational hazard, and had not been an unknown island, the reasonable inference was that it was one of the islands within Johor’s general geographical scope. Finally, the Court mentioned the requirement of “continuous and peaceful display of territorial sovereignty [peaceful in relation to other states],” noted that no competing claim had ever been advanced against Johor and that it is sufficient to display sovereignty in accordance with the specific circumstances of each case, and concluded that Johor satisfied the requirement of display of sovereignty.

The Court then addressed the ties of loyalty that existed between the Sultan of Johor and the Orang Laut, who made the Straits of Singapore the area of their activities, and concluded that this could also be used to confirm the existence of Johor’s original title to Pedra Branca.^{29, 30}

²⁵ *Ibid.*, p. 29, paras. 37–38; pp. 31–32, paras. 47–48.

²⁶ *Ibid.*, pp. 29–30, paras. 39–40; pp. 32–33, paras. 49–51.

²⁷ *Ibid.*, p. 30, para. 42.

²⁸ *Ibid.*, pp. 31–37, paras. 52–69.

²⁹ *Ibid.*, pp. 37–39, paras. 70–75.

³⁰ In the dispositif, Pedra Branca is attributed to Singapore and the Middle Rocks to Malaysia, while the attribution of South Ledge, which is a low-tide elevation, is required to be decided by future maritime delimitation. This is because the Court judged that the territorial sovereignty based on the original title to Pedra Branca held by Johor had been transferred to Singapore some time after the middle of the 19th century or at least by 1980, whereas it found that Malaysia, as the successor to Johor, continued to hold the original title to the Middle Rocks, which did not fall under special circumstances having caused that transfer.

(3) Appraisal

In that this case employed the concept of original title to discuss the issue of whether or not the “territorial control” by a non-European local “state” extended to the territory in dispute, it follows the same track as the judgment in the *Ligitan and Sipadan* case. The original title in both cases, that is, the second original title, differs from the first original title, which concerns the acquisition of new territory by an existing state under international law, and may be seen as a concept used for the legal basis for the attribution of territory that cannot be separated from the establishment of the state or its very existence under international law, namely, territory that came to be established under an “international order” other than international law.

It was inevitable that the Court should feel the necessity of such a concept particularly strongly in judgments on the attribution of territory in the post-decolonization era. This is easily understood by recalling the *Island of Palmas* arbitral award, which was issued during the colonial era. To elaborate, that award, which is acknowledged as the pioneer in the display of sovereignty approach, did not use the traditional mode, but still left no room to doubt that the concept of title to territory consisted of rules to regulate territorial acquisition by Western countries. More specifically, the tribunal did not consider territory as belonging to a local “state” comparable to Johor, and took the conventions between the native princes and the East India Company as evidence of the display of sovereignty by the Netherlands, which was a state under international law.³¹ However, as pointed out by Sookyeon Huh,³² even if the principle of inter-temporal law were invoked, to rely on this kind of logic could no longer be a realistic option for the ICJ today, since it directly reflects colonialism which should be rejected. Hence, the introduction of the second original title concept may be considered as one attempt to accommodate law of territory to changes in international society.

As for the method whereby the Court recognized original title, it cannot be denied that there are points of doubt as well as points that require caution. Let us look at this in line with the procedure of recognition as stated above. What the Court did first was to label the Sultanate of Johor as a sovereign state with a certain territorial domain under its sovereignty. However, the only evidence presented for this was a work written by Grotius that called Johor a sovereign principality (*supremi principatus*).³³ The established theory is that Grotius did not have a clear concept of sovereignty in the modern sense,³⁴ and at the time that Johor was established, even in Europe, sovereign states were in the process of being formed both conceptually and in reality, so one cannot help but call the attitude of the Court, which used the word sovereignty without any qualification or explanation, ahistorical or at least incautious.

What the Court focused on next was, similar to the judgment in the *Ligitan and Sipadan* case, to identify a general scope of the “territory” of the local “state” and to draw a rational inference that the territory in dispute lay within that scope. Regarding the former, the Court found two grounds for identification: the Sultan of Johor’s understanding of territory shown by the fact that the Sultan had objected to the East India Company’s act of seizure in the Straits of Singapore, and the understanding of territory seen in letters by the British government official in Singapore at

³¹ *Island of Palmas* case, Arbitral Award of 4 April 1928, 2 *RIAA* 831, pp. 858–859.

³² Huh, *supra* n. 2), p. 724.

³³ *Pedra Branca* case, *supra* n. 24), p. 33, para. 53. This quotation from the work by Grotius is believed to have been taken from a quotation in the memorial of Malaysia. However, the concerned section in the memorial of Malaysia does not contain any statement using this quotation to position Johor as a sovereign state. Memorial of Malaysia, Vol. 1, paras. 37–38 (available at <http://www.icj-cij.org/files/case-related/130/14139.pdf>).

³⁴ As a convenient reference concerning this point, see Yanagihara, Masaharu, *Grotiusu* [Grotius] (Shimizu Shoin: 2000), pp. 180–183. The version now being sold as of 2018 is the new edition published in 2014.

that time.³⁵ Regarding the latter, the inference was drawn from the fact that the island was not an unknown island. Accordingly, at none of those stages was the actual territorial control over the disputed territory by the local “state” scrutinized.

Furthermore, if we ask whether the Court looked at the actual situation of territorial control by checking the requirement of “continuous and peaceful display of territorial sovereignty [peaceful in relation to other states],” which was deemed the final procedure in the judgment, that did not occur either, at least in this case. This is because the judgment accepted the requirement for display as being satisfied in accordance with the conditions of the disputed territory despite mentioning no specific acts which may be regarded as display of sovereignty.

As we have already seen, under the display of sovereignty approach, the “continuous and peaceful display of territorial sovereignty [peaceful in relation to other states]” has become an established expression indicating the exercise of state authority, which is the source of title as well as its proof. The exercise of state authority is recognized to be the source of title because it demonstrates that the sovereign of the territory fulfilled the duty imposed on him, that is, to ensure minimum protection within the territory as is required under international law.³⁶ Consequently, even if the extent and form of the exercise of authority required to fulfill that duty vary depending on the conditions within the territory, it is difficult to accept that no concrete evidence of the exercise of authority directly related to the territory in question could be presented, or that no specific examinations could be made as to whether it existed. This means that, in recognizing original title in this case, by making the “continuous and peaceful display of territorial sovereignty [peaceful in relation to other states]” its “requirement,” the Court succeeded in giving the impression that recognition of original title and conventional recognition of acquisition of title are fundamentally the same. However, we cannot help but remark that the reality of the application in the former constituted “a variation that differs from the traditional display of sovereignty approach.”³⁷

5. Concluding remarks

The concept of the second original title employed in the *Pedra Branca* case is the point where two junctures come together. The first is the juncture between the concept of title to territory and the issue of the grounds of territorial sovereignty over territory that is inseparable from the existence of the state itself, which used to be considered as outside the scope of title to territory. The other is that between the issue of the evaluation of historical territorial control or attribution in the traditional order which differs from international law, and the determination of territorial attribution in contemporary international law.

Nevertheless, the Court did not try to evaluate the legitimacy of the historical territorial control by non-European “states” using the framework of the traditional order to which they belonged. This contrasts with the detailed examinations in the *Minquiers and Ecrehos* case of territorial control by medieval England and France in light of the *Grand Coutumier de Normandie*, which constituted the contemporary order.³⁸

What the Court did instead in the *Pedra Branca* case was, while adopting the posture of using the same framework as the rules of territorial acquisition by existing states by mentioning the requirement of “continuous and peaceful display of territorial sovereignty [peaceful in relation to other states],” to recognize the existence of grounds for the justification of territorial sovereignty, namely original title, by incorporating a new method of emphasizing the general

³⁵ *Pedra Branca* case, *supra* n. 24), pp. 33–34, paras. 54–56.

³⁶ Huh, *supra* n. 7), pp. 75–76; Huh, *supra* n. 8), pp. 145–146.

³⁷ Huh, *supra* n. 8), p. 329.

³⁸ *Minquiers and Ecrehos* case, *supra* n. 10). pp. 60–64, pp. 67–68.

extent of territory without looking into the local traditional order and even without any display of sovereignty. As background to this recognition, which may be called an unusual feat of reasoning, it should be noted that the special geographical conditions in this case may have had some effect. That is to say, because the land on both banks of the narrow Straits of Singapore belonged to the Sultanate of Johor, it was not necessary to consider possible competing claims to the islands within the Straits by nearby countries or countries on the opposite bank. In this sense, it would be necessary to carefully and separately consider whether original title could be identified using the same method in the absence of such conditions.

From the above, it is difficult to support without qualification the positive evaluation that by recognizing Johor's original title, the ICJ made a concrete contribution to the clarification of the difference between original title and title of occupation of *terra nullius* and also of the territorial situation in Eastern Asia during the 19th century.³⁹ Rather, the concept of second original title encourages us to make further efforts and contributions toward the clarification of the concept of title to territory itself while showing many issues that should be examined regarding the application of the second original title and its theoretical impact on title to territory.

³⁹ Kohen, *supra* n. 2). pp. 170–171.

Japan's Confluence of the Two Seas Conception: The Influence of Mughal Prince Dara Shikoh's 1655 Text "Majma'-ul-Bahrain" [The Mingling of the Two Oceans]

Monika Chansoria*

Abstract

In his March 2023 visit to India, Japan's Prime Minister, Fumio Kishida could not help but feel a sense of destiny when he put forth his vision for a Free and Open Indo-Pacific (FOIP) in New Delhi. PM Kishida reminded the Indian audience that FOIP, as a concept, was proposed by his esteemed friend and former Japanese Prime Minister, Shinzo Abe. It was in India that former PM Abe delivered a speech in 2007 in which he linked the Pacific and the Indian Oceans for the first time. This research paper chronicles the conceptual journey of Japan's FOIP strategy and of India's centrality to it. In his historic 2007 speech titled "Confluence of the Two Seas" Abe famously cited the title of the seminal 1655 book – *Majma'-ul-Bahrain* [The Mingling of the Two Oceans] authored by the Mughal Prince, Dara Shikoh, and said, "We are now at a point at which the Confluence of the Two Seas is coming into being." This 17th century book is said to have been the inspiration, foundation, and title of Abe's vision to nurture an open and transparent Indo-Pacific maritime zone as part of a "broader Asia."

In his March 2023 visit to India, Japan's Prime Minister Fumio Kishida could not help but feel a sense of destiny when he put forth his vision for a *Free and Open Indo-Pacific* in New Delhi. Kishida reminded the Indian audience that the *Free and Open Indo-Pacific* (FOIP) concept was proposed by his esteemed friend former Prime Minister Shinzo Abe and stated:

Here in this country, former Prime Minister Abe delivered a speech that linked the Pacific and the Indian Oceans for the first time. India is the place where FOIP came into being. I also traveled here in 2015 as Minister for Foreign Affairs and spoke at an event... about how Japan and India should jointly lead the region and the world in the "Era of the Indo-Pacific."¹

Declaration of the "Confluence of the Two Seas" Notion [New Delhi, 2007]

Prime Minister Kishida highlighted the necessity of developing FOIP, arguing that the international community is at a historical turning point. The balance of power is shifting dramatically, and the remarkable rise of India is one such example. With the "Global South" rising and the world becoming more diverse, a good understanding of historical and cultural backgrounds needs to be developed, which implies sharing responsibility for global governance.²

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¹ "The Future of the Indo-Pacific – Japan's New Plan for a 'Free and Open Indo-Pacific' – Together with India, as an Indispensable Partner," *Policy Speech* by Japan's Prime Minister Fumio Kishida at the Indian Council of World Affairs (ICWA), New Delhi, March 20, 2023. Text released by the Prime Minister's Office of Japan, available at https://japan.kantei.go.jp/101_kishida/statement/202303/_00013.html

² Ibid.

Kishida pointed towards the changing paradigm in international relations, and termed FOIP a vision that is gaining rapid relevance. In this sense, FOIP (based on the *Confluence of the Two Seas* notion) was a visionary concept. In his description of Japan's plan to develop and achieve a *Free and Open Indo-Pacific*, PM Kishida unequivocally identified India as an "indispensable partner" when he stated:

I believe that Japan and India are in an extremely unique position in the current international relations and, furthermore, in the history of the world. India is the largest democracy in the world. I have always viewed with great respect at the way such a huge and diverse country as India has developed democracy. Japan, for its part, was the first country in Asia to achieve modernization and embrace democracy...[B]oth Japan and India have unique historical backgrounds. The people of the two countries humbly acknowledge that there are diverse values, cultures, and histories on this planet, and that fully understanding them is not an easy task. We are the kind of people who understand intuitively that the best way forward is to respect the other party and cooperate through dialogue.³

The ambit of Japan's *Free and Open Indo-Pacific* strategy launched and pushed during the second tenure of the Abe administration in December 2012 was initially conceived and formulated during his first term as prime minister, when he addressed the Indian Parliament in August 2007. During that visit, an interesting historical connect was established in reference to the Indo-Pacific by Prime Minister Shinzo Abe. He stood in the Central Hall of the highest chamber of Indian democracy, to speak directly to the one billion-plus Indian population via its people's representatives. Speaking at the Parliament of India in August 2007, Abe considered it his "great honor of addressing the highest organ of state power in the largest democracy in the world."⁴ Abe presented himself on "behalf of the citizens of another democracy that is equally representing Asia" and put forth his views on the future of Japan and India. While discussing Indo-Japan relations, Abe said, "It gives me tremendous pleasure to be able to begin my address today with the words of Swami Vivekananda, the great spiritual leader that India gave the world – *the different streams, having their sources in different places, all mingle their water in the sea.*"⁵

It was in this historic speech that Abe questioned and identified where Japan and India stand historically and geographically. He answered this by borrowing a term from, and famously citing the title of, a seminal 1655 book – *Majma'-ul-Bahrain* [The Mingling of the Two Oceans] authored by the Mughal Prince Dara Shikoh⁶ and said, "We are now at a point at which the *Confluence of the Two Seas* is coming into being." The Pacific and the Indian Oceans are bringing about a dynamic coupling as seas of freedom and prosperity. This 17th century book is said to have been the inspiration, foundation, and title of Abe's vision to nurture an open and transparent Indo-Pacific maritime zone as part of a "broader Asia."⁷ It needs to be recalled that, following his

³ Ibid.

⁴ *Confluence of the Two Seas* – Speech delivered by Shinzo Abe, Prime Minister of Japan, at the Parliament of the Republic of India, August 22, 2007, available at <https://www.mofa.go.jp/region/asia-paci/pmv0708/speech-2.html>

⁵ Ibid.

⁶ Prince Muhammad Dara Shikoh, *Majma'-ul-Bahrain: The Mingling of the Two Oceans*, [Persian to English Translation] ed., M. Mahfuz-Ul-Haq, (Calcutta: Asiatic Society of Bengal Publications, 1929).

⁷ For further reading and details on the subject see, Monika Chansoria, "Japan's Relations with South Asia," in Sumit Ganguly and Frank O'Donnell, eds., *Routledge Handbook of the International Relations of South Asia*, (London: Routledge, 2022).

2007 *Confluence of the Two Seas* speech delivered at the Indian Parliament, Prime Minister Abe declared his vision the *Free and Open Indo-Pacific*.

Suggesting that a “broader Asia” breaking away from geographical boundaries had begun taking on a distinct form, Abe further stated that Japan and India have the ability and the responsibility to ensure that they further broaden, nurture, and enrich these seas to make them seas of the clearest transparency.⁸ Stressing the importance of Japan-India strategic cooperation in carrying out the pursuit of freedom and prosperity in broader Asia, Abe averred:

By Japan and India coming together in this way, this “broader Asia” will evolve into an immense network spanning the entirety of the Pacific Ocean, incorporating the US and Australia. Open and transparent, this network will allow people, goods, capital, and knowledge to flow freely.⁹

Originally a geographic concept comprising the Indian Ocean and Pacific Ocean that shaped linkages between the United States and East Asia, a free and open Indo-Pacific maritime zone has evolved into a geostrategic concept and strategy. When stretched beyond the Indian Ocean, it paved the way for what more commonly came to be known by the new framework of the “Indo-Pacific.” At its heart, a strategic system can be understood as a set of geopolitical power relationships among nations where major changes in one part of the system affect what happens in the other parts.¹⁰ The US policy pronouncements of “pivot” and later “rebalance” in Asia were almost concurrently followed by PM Shinzo Abe’s proposed Indo-Pacific concept and strategic framework in 2012. When Abe penned his book *Utsukushii kuni e (Towards a Beautiful Country)* in 2006, he publicly advocated the concept of a “broader Asia” consisting of nations in the Pacific and Indian Oceans. Abe appeared to have anticipated Asia’s geostrategic future exclusively through the prism of political realism, and rightly so.¹¹ The concept of a “broader Asia” appears to have transcended geographical boundaries, with the Pacific and Indian Oceans’ merger becoming far more pronounced and evident than ever. To catch up with the reality of broader Asia, the Abe administration rehabilitated its focus on South Asia in general, and India in particular, within the ambit of Japan’s *Free and Open Indo-Pacific* strategy.

Japan’s Free and Open Indo-Pacific Framework: The Influence of the 1655 Text “Majma’-ul-Bahrain” [The Mingling of the Two Oceans]

The *Majma’-ul-Bahrain* (hereafter *Majma*) – a prose work written by Dara Shikoh in 1655 – dealt with the cross-cultural doctrine, and remains of considerable importance to this day owing to its deep-rooted historical connect.¹² In the long history of cross-cultural exchange and discourse between Islam and Hinduism, the comparative treatise *Majma* began to be regarded as a

⁸ *Confluence of the Two Seas* Speech by Shinzo Abe, n. 4.

⁹ Ibid.

¹⁰ Rory Medcalf, “The Evolving Security Order in the Indo-Pacific,” in David Brewster, ed., *Indo-Pacific Maritime Security: Challenges and Cooperation*, (National Security College, Crawford School of Public Policy, Australian National University, July 2016); also see, Rory Medcalf, “The Indo-Pacific: What’s in a Name?” *The American Interest*, vol. 9, no. 2, Nov/Dec 2013, pp. 58–66.

¹¹ As cited in, Monika Chansoria, “Modi-Abe Personality Impacts Foreign Policy,” *The Sunday Guardian*, September 20, 2014.

¹² R.P. Dewhurst, “Review: *Majma’-ul-Bahrain: or The Mingling of the Two Oceans*,” *The Journal of the Royal Asiatic Society of Great Britain and Ireland*, no. 2, (Cambridge University Press, April 1931), p. 460.

significant dialogue contributing to the Indic tradition's rich pluralism.¹³ *Majma*, a comparative hermeneutical attempt, illustrated how translations and interpretations can be textually rooted and how they profoundly impact cross-religious conceptual expansions across traditions as a result of translations.¹⁴

Muhammad Dara Shikoh (دارا شیکوه) (1615–1659), also known as Dārā Shikoh [and not Shikūh, which represents only the modern Persian pronunciation of the word], was the eldest son and heir-apparent of the fifth Mughal Emperor, Shah Jahan. Dara was never able to become king as he was barbarically executed by his younger brother Aurangzeb. Born in 1615 in Ajmer, Rajasthan (north-western India), Dara Shikoh was widely renowned for being an enlightened paragon of the harmonious coexistence of the heterodox cultural traditions and interactions of the Indian subcontinent. Known to be a patron of fine arts and music, he also indulged in art in the form of paintings and as a calligrapher of scripts and, given his avid interest in comparative religion and philosophies. Dara was identified as among the great synthesizers symbolizing the larger encounter between the Islamic and Hindu worlds.¹⁵

Dara Shikoh was a scholar in his own right, having been recognized in history for his translations of dozens of Sanskrit texts into Persian. He studied Sufi and Vedic philosophies extensively. His name has been inscribed in Mughal history more so for his scholarly works than for his understanding of the art of statecraft. He was devoted to finding a common mystical language between Islam and Hinduism. Towards this goal, he completed the translation of many *Upanishads* from the original Sanskrit into Persian by 1657.

However, perhaps his most celebrated and famous work to this day remains the 1655 treatise in Persian, *Majma'-ul-Bahrain* [The Mingling of the Two Oceans], devoted to the mystical and pluralistic affinities between Sufism and *Vedāntic* speculations. The works of the young prince became a major milestone of one of the greatest and longest movements of translations in human history (from Sanskrit and Hindi to Persian and Arabic).¹⁶

For that matter, the *Majma* and translation of the *Upanishads* became the culminating projects of his literary journey.¹⁷ The *Majma* includes 22 chapters/discourses in which Dara asserts that religions and languages share important features as they both are "semiotic systems" with the ability to "capture, preserve, and reify basic cultural values, to structure experience according to shared conceptual elements."¹⁸ The initial lines of *Majma's* text spelt out Dara's emphasis on describing ultimate reality through opposites.¹⁹ Dara Shikoh pointed out in his composition:

... having collected the views of the two parties and having brought together their points – a knowledge of which is essential and useful for the seekers of *Truth* – he (i.e., the author) has compiled a tract and entitled it *Majma'-ul-Bahrain*, or *The Mingling of the Two Oceans*,

¹³ Doha Tazi Hemida, *A Hindu-Islamic Translation: Retrieving Dārā Shikūh's Confluence of the Two Oceans*, (Columbia University, 2005), p. 38.

¹⁴ *Ibid.*

¹⁵ For further details see, Munis D. Faruqui, "Dara Shukoh, Vedanta, and Imperial Succession," in Vasudha Dalmia and Munis D. Faruqui, eds., *Religious Interactions in Mughal India* (Delhi: Oxford University Press, 2014), p. 32.

¹⁶ Carl W. Ernst, "Muslim Studies of Hinduism? A Reconsideration of Arabic and Persian Translations from Indian Languages," *Iranian Studies*, vol. 36, no. 2, 2003, p. 173, cited in Hemida, n. 13.

¹⁷ Faruqui, n. 15, p. 40, cited in Hemida, n. 13.

¹⁸ Tony K. Stewart, "In Search of Equivalence: Conceiving Muslim-Hindu Encounter through Translation Theory," *History of Religions*, vol. 40, no. 3, 2001, p. 268, as cited in Hemida, n. 13.

¹⁹ *Ibid.* p. 42.

as it is a collection of the *truth* and *wisdom* of two truth-knowing (*Ḥaḳ Shinās*) groups.²⁰

Considered a strong threshold towards that search, *Majma* significantly talks about expansion and of the two worlds overlapping. The book cites by example what water is to the waves, and how existence or consciousness is the water while the supreme self is the totality of waves.²¹ The book has been identified as one of the most prominent and significant paradigms of transcultural literature of early modern Indian history. The manuscript offers a discourse having a distinct philosophical/metaphysical approach with the aim to establish commonalities through observations of Hindu *Vedānta* philosophy and Sufism. In the framework of transcultural literature, the text was considered an accomplishment since it managed to transcend different boundaries, and eventually became identified as *Majma'ul-Bahrain*.²²

The term “transculture” grossly encompasses a particular kind of paraphernalia that expands beyond the boundaries. While discussing transcultural literature, the most significant question that determines the transcultural character is what kind of boundary/ies it crosses – topographical, social, religious, or linguistic.²³ In the framework of transcultural literature, *Majma*'s significance as a single text, and its voyage as well as purpose of transcending barriers becomes far more pronounced in a contemporary context when “The Mingling of the Two Oceans” is interpreted and refurbished by Japan as the *Confluence of the Two Seas*.

The thrust of *Majma* indicates the path, which can broadly be divided into two categories: the world around and the world beyond. *Majma* surpassed boundaries and became a pioneering example of transcultural literature in the early modern age.²⁴ It reflected the inner ethos of Indian spirituality with a distinct identity of divine harmony. Dara Shikoh acknowledged divine unity as a boundless ocean, where the *Truth* is one for everybody. In fact, the title *Majma'ul-Bahrain* is perhaps a symbolical representation of this boundlessness, which transcends the limitations of institutional religion, scriptural rules, lingual individuality, and doctrinal differences.²⁵

The World and Politics Around, and the World and Politics Beyond: Contextualizing “Majma” in Contemporary Asia

Majma was Dara Shikoh's attempt to manifest the spiritual affinity between two distinct religious traditions and cultures. The “Mingling of the Two Oceans” refers to the Hindu and Islamic traditions, each of which was regarded by Dara as a repository of knowledge and wisdom. At a maximalist level, Dara tried to create a syncretic Hindu and Islamic culture to promote greater unity between the two. At a minimalist level, he brought home the point that Hindus and Muslims have grossly misunderstood each other's religion as well as their own.²⁶

Following Shinzo Abe's 2007 reference to this seminal text, the current vice-president of India, Jagdeep Dhankhar, unveiled an Arabic translation of the *Majma'ul-Bahrain* in New Delhi

²⁰ Haq, ed., n. 6, *Majma'ul-Bahrain: The Mingling of the Two Oceans*, p. 38.

²¹ Dārā Shikūh and Asghar Ali Engineer, *Majma'ul-Bahrain, [Comingling of Two Oceans] Majma'ul-Bahrain: A Discourse on Interreligious Understanding*, (Gurgaon: Hope India Publications, 2006), p. 78; also see, Daryush Shayegan, *Les Relations de l'Hindouisme et du Soufisme d'après le Majma' al-Bahrain de Dārā Shokūh* (Paris: Editions de la Différence, 1979), p. 33, cited in Hemida, n. 13.

²² Gargi Bhattacharya, “*Majma'ul-Bahrain: Transcending Cultural Boundaries in the Quest for ‘Truth of Truths,’*” *postScriptum: An Interdisciplinary Journal of Literary Studies* [Special Issue on Transnational and Transcultural Spaces] vol. 4, no. 2, July 2019, pp. 248–258.

²³ *Ibid.*, p. 249.

²⁴ *Ibid.*, p. 255.

²⁵ *Ibid.*, p. 257.

²⁶ Haq, ed., n. 6, *Majma'ul-Bahrain: The Mingling of the Two Oceans*.

in September 2022. Speaking on the occasion, Vice-President Dhankhar defined Dara Shikoh as a genius, a skilled poet, and a scholar of Sanskrit. The vice president suggested that Dara was a torchbearer of social harmony and religious unity. In the book *Majma*, all the commonalities between Hinduism (*Vedānta*) and Islam (Sufism) pointed to the conclusion that the difference between Islam and Hinduism is only verbal. Mentioning that Dara Shikoh strove for improving dialogue between different religions, the vice-president called for the revival of Dara's legacy and the application of his spiritual thought to strengthen contemporary social cohesion, stating that the *Majma* threw invaluable light on the similarities between religions. Dhankhar recalled that India has a glorious heritage not only of "tolerance" for others' views but also a unique culture of "engagement" with all views – a culture of pluralism and syncretism. He further said that this spirit of mutual respect was exemplified by many Indian kings – ranging from King Ashoka more than two millennia ago to Prince Dara Shikoh a few hundred years ago.²⁷

For a long time, the geopolitical paradigm most widely used to denote the massive expanse stretching from Northeast Asia to South Asia and vast oceans and seas – namely, the Pacific Ocean, the South China Sea, and the Indian Ocean—was termed the "Asia-Pacific." Subsequently, the idea of the "Indo-Pacific" evolved over time, recognizing the seemingly blurring lines between geoeconomics and geopolitics. It also demonstrates a gradual convergence of opportunities and challenges in the Indian Ocean and the Pacific Ocean. Sustained economic growth, relative political stability, and social cohesion have enabled major powers in Asia to exert expanding influence in shaping agendas and global rule-making.²⁸ Asia has ascended as a pivot amid these changing global economic and strategic realities. The resurgence of the Indo-Pacific, described as the "maritime underbelly of Asia," has become the locus of maritime activity in Asia. A gradual evolution of the Indo-Pacific concept has resulted in varied ideas and perspectives.²⁹

While in 1941 Japan did not see, or at least hesitated to consider, India as part of its imagination of Asia, by the first decade of the next century Tokyo was seen attempting to integrate India into its strategic landscape by introducing the concept of an Indo-Pacific region due to the rise of China and its potential challenges to Japan's strategic interests. The idea of connecting the two oceans as a single geopolitical sphere continued to be at the center of Japan's contemporary foreign policy thinking. To promote this idea, Tokyo introduced various initiatives, such as the Quadrilateral Security Dialogue (*Quad*) in 2007 (Australia, India, Japan, and the United States), the Democratic Security Diamond, and, most significantly, the *Free and Open Indo-Pacific* framework and strategy.³⁰

One of the most widely popular notions in geopolitical thinking is the postulate that geography is destiny, leaving leaders with limited choices because of the landscape of their nations.³¹ However, even if the notion that geography is destiny is accepted, it is important to be aware that

²⁷ Indian Vice-President Jagdeep Dhankhar's speech at the unveiling of the Arabic translation of the *Majma'-ul-Bahrain* at the Indian Council for Cultural Relations, New Delhi, press release by Vice President's Secretariat, September 9, 2022, Press Information Bureau, New Delhi.

²⁸ Rajeev Ranjan Chaturvedy and Ankush Ajay Wagle, "ASEAN, India, and the Indo-Pacific: Evolving Regional Maritime Environment," in Ceren Ergenç, ed., *ASEAN as a Method: Re-centering Processes and Institutions in Contemporary Southeast Asian Regionalism*, (London: Routledge, 2021), p. 74; also see, Rajeev Ranjan Chaturvedy, "Indo-Pacific: One Region, Many Visions?" *RSIS Commentary*, no. 23, February 2019.

²⁹ *Ibid.*, pp. 73–74.

³⁰ Shofwan Al Banna Choiruzzad, "The confluence of the two seas: The rise of the Indo-Pacific region and ASEAN Centrality," in Ceren Ergenç, n. 28, p. 52.

³¹ For further reading and details on the subject see, Tim Marshall, *Prisoners of Geography: Ten Maps That Tell You Everything You Need to Know About Global Politics*, (London: Elliott & Thompson, 2015), pp. 1–2, cited in Choiruzzad, n. 30.

regions are not. Regions are constructed socially and politically by various actors for numerous purposes, including governments, the epistemic community, and the private sector.³² In this context, “East Asia” is not always “East Asia.” Even the word Asia itself was, in the beginning, an ancient Greek conception, referring exclusively to a region known today as the Near or Middle East.³³ It was only with the arrival of European colonialism that “Asia” became the term that includes the large area from Japan to the Middle East because the colonial powers juxtaposed these colonized areas with Europe’s own identity.³⁴ Later, this Asian identity started to be embraced by “Asians” themselves, creating a shared identity to fight against European colonialism. A sense of solidarity against Western colonial rule gave birth to the strong connection between nationalism and Pan-Asianism. For an instance, the Japanese victory against the Russians in the Battle of Tsushima in 1905 was understood by many Asian nationalist leaders not only as Japan’s victory but also as their own.³⁵

It was in this context that the concept of “East Asia” as a regional identity was introduced. Despite the internal debate within Japan on whether the modernizing country should consider itself as part of Asia for its cultural affinity, or, should it consider itself as “escaping Asia” because it had been successfully modernizing itself,³⁶ Tokyo campaigned for the Greater East Asia Co-Prosperity Sphere. The promise of common prosperity and the support for nationalist independence movements convinced many nationalist leaders of Asia to ally themselves with Imperial Japan. However, “East Asia” faded away from the imagination of the newly independent Asian countries post-WWII.³⁷

Confluence of the Two Seas and ASEAN Centrality

The emergence of competing strategic visions related to areas surrounding the Pacific and Indian Oceans has been one of the primary challenges to the Association of Southeast Asian Nations (ASEAN) Centrality. Both China and India see the Indian Ocean and East Asia as an integrated stage for their strategic play. While China is not likely to concede to India’s primacy in South Asia and the Indian Ocean Region (IOR), the latter too, would not be willing to accept Southeast and East Asia as China’s exclusive spheres of influence. If China’s navy is going south to the Indian Ocean, the Indian navy is going east towards the Pacific Ocean.³⁸

Contextualizing in the above reference, Japan’s *Free and Open Indo-Pacific* strategy matches up with India’s *Act East* policy. Further, the strategic ties between Japan and India are pushing for an Indo-Pacific vision that is “balanced, open, inclusive, stable, transparent, and rules-based economic, political, and security driven.”³⁹ In this joint strategic vision, Tokyo and New Delhi find a “confluence of the two seas.” Though ASEAN generally welcomes the initiatives of major powers

³² Choiruzzad, n. 30, p. 54.

³³ David Camroux, “‘Asia, Whose Asia?’ Evolving Conceptions of an Asian Community from the 1920s Till Today,” in Heribert Dieter (ed.), *The Evolution of Regionalism in Asia: Economic and Security Issues*, (New York: Routledge, 2007), p. 12, cited in Choiruzzad, n. 30.

³⁴ Camroux, *ibid.*, pp. 12–13.

³⁵ For further reading and details on the subject see, Pankaj Mishra, *From the Ruins of Empire: The Revolt Against the West and the Remaking of Asia*, (New York: Allen Lane, 2012).

³⁶ As cited in, Kazuo Ogura, *Japan’s Asian Diplomacy: A Legacy of Two Millennia*, translated by David Noble, (Tokyo: International House of Japan, 2015), pp. 41–44.

³⁷ Choiruzzad, n. 30, p. 54.

³⁸ For further reading and details on the subject see, Mohan Malik, “China and India Today: Diplomats Jostle, Militaries Prepare,” *World Affairs*, vol. 175, no. 2, 2012, pp. 76–78.

³⁹ For further reading and details on the subject see, Vinay Kaura, “India-Japan Relations and Asia’s Emerging Geopolitics,” *Indian Journal of Asian Affairs*, vol. 29, no. 1/2, 2016, pp. 17–18.

in the economic sense, ASEAN member states have been found warily navigating to manage their relationships with all the major powers amidst these developments. While China and Japan are the main trading partners of the ASEAN countries, India's rapidly growing economy is also becoming increasingly important for them.⁴⁰

Further, ASEAN has welcomed Japan's "Expanded Partnership for High-Quality Infrastructure,"⁴¹ an initiative often seen as Japan's answer to China's Asian Infrastructure Investment Bank (AIIB) and Belt & Road Initiative.⁴² In terms of security, many ASEAN countries remain worried about China's growing assertiveness in the region creating a division within ASEAN. For the first time in its 45-year history, for instance, ASEAN's leaders failed in 2012 to agree on a *Joint Communiqué* due to diverging views on China's actions in the South China Sea. The move was described a "harbinger of future trends."⁴³ Just when the major powers and regional stakeholders are beginning to reimagine the map with an identified Indo-Pacific region, ASEAN cohesion is increasingly coming under doubt.

This leads to the question "Will the emergence of an Indo-Pacific region as a consequence of the inclusion of the Indian Ocean Region in the regional imagination of major Asian countries degrade ASEAN Centrality?". This puts the future of ASEAN Centrality in a major spot amidst the rise of the Indo-Pacific region. ASEAN could well view the Indo-Pacific region in a balanced manner wherein its "Centrality" will likely dwindle, as few member states will deal with players such as China, the US, Japan, and India in a flexible and *à la carte* manner.⁴⁴ Another scenario could be that of an Indo-Pacific region with ASEAN at its center, eventually finding a way to bring back its cohesiveness and being united to face the challenge of great power rivalries.⁴⁵ The third scenario could be that of two separated but connected regions, wherein the Indo-Pacific's regional imagination will struggle to be fully realized.

The fundamental concept of FOIP remains that stakeholders will enhance the connectivity of the Indo-Pacific region, foster the region into a place that values liberty, the rule of law, and freedom from force or coercion. A significant region that FOIP seeks to cover was outlined in Kishida's speech, namely, Southeast Asia. The ASEAN Outlook on the Indo-Pacific (AOIP) and FOIP are visions that resonate with each other. Japan announced that it will make a new contribution of \$100 million to the Japan-ASEAN Integration Fund, being mindful of the ASEAN-Japan Commemorative Summit to be held in Tokyo in December 2023. Later this year, Japan will also renew the comprehensive Japan-ASEAN Connectivity Initiative, which seeks to promote efforts to strengthen hard and soft connectivity.

Conclusion

Analyzing the past decades of Asian politics and policies brings to the fore certain momentous developments that have redefined Asian geopolitics, expectedly impacting South Asia and the

⁴⁰ Choiruzzad, n. 30, p. 64.

⁴¹ "ASEAN, Japan renew commitment to strengthen cooperation," Ministry of Foreign Affairs, Singapore, August 29, 2016, available at <https://www.mfa.gov.sg/Overseas-Mission/Ministry-of-Foreign-Affairs--Permanent-Mission-of-the-Republic-of-Singapore/Past-Highlights/2016/08/ASEAN-Japan-renew-Commitment-to-Strengthen-Cooperation>

⁴² As cited in, Masaaki Kameda, "Abe Announces \$110 Billion in Aid for High Quality Infrastructure in Asia," *The Japan Times*, May 22, 2015, available at www.japantimes.co.jp/news/2015/05/22/business/abe-announces-110-billion-in-aid-for-high-quality-infrastructure-in-asia/#.WaEUfVFLfIU

⁴³ For further reading and details on the subject see, Barry Desker, "ASEAN Integration Remains an Illusion," *PacNet* #17, March 16, 2015.

⁴⁴ Choiruzzad, n. 30, pp. 65–66.

⁴⁵ *Ibid.*

Indian Ocean Region. By 2030, Asia will contribute most to global growth,⁴⁶ thus underscoring its importance and that of the Indo-Pacific. These realities have driven Japan's policies and approaches for operating in the IOR as they underwent a major phase of transformation. The first signal of this was the lifting of the ban on overseas deployments to enable Japan's Self-Defense Forces to dispatch armed troops to Iraq in 1992.⁴⁷ The subsequent transition and evolution has reached a point when today, notably, nearly 40 percent of all Japan's Self-Defense Forces' missions have occurred in the IOR, and nearly half of Japanese Official Development Assistance (ODA) goes to IOR countries.⁴⁸

While cross-oceans initiatives will continue to be pushed by major and regional powers, what remains to be seen is whether they will be able to truly transform the Indo-Pacific into a single, integrated region.⁴⁹ The evolution of ASEAN cohesion, the trajectory of great power rivalry, and the progress of the various Indo-Pacific initiatives by stakeholders will be the primary determinants that decide the future of the *Confluence of the Two Seas* vision.

In his 2009 *Foreign Affairs*' essay, Robert Kaplan argued that the "center stage of the 21st century" will be the Indian Ocean.⁵⁰ The rise of China and India as well as their increasing need to secure energy sources and routes, together with the rising involvement of other important players from East Asia, most significantly Japan, will ensure that this region has a tremendous impact on global politics.⁵¹ However, Shofwan Al Banna Choiruzzad submits a modification to Kaplan's argument that the Indian Ocean must increasingly be seen as a geopolitical complex, an integrated region with East Asia and/or the Pacific Ocean.⁵² At least, that is what Japan, Indonesia, Vietnam, and India seem to foresee in their strategic visions. While the future of the Indo-Pacific region remains uncertain, the ability of ASEAN member-states to consolidate their individual and collective positions, the willingness of major powers to manage competition with their rivals, and the ability of those major powers to materialize their grand initiatives⁵³ regionally will define the future of this 21st century center stage.

⁴⁶ For further reading and details on the subject see, Praneeth Yendamuri and Zara Ingilizian, "In 2020 Asia Will Have the World's Largest GDP; Here's What That Means," *World Economic Forum*, December 20, 2019, available at <https://www.weforum.org/agenda/2019/12/asia-economic-growth/>

⁴⁷ John Hartle, "The Normalization of Japanese Policy in the Indian Ocean Region," *Policy Report*, Analysis and Policy Observatory, Australia's Global Interests, June 21, 2018; also see, Chansoria, "Japan's Relations with South Asia," in Ganguly et al., n. 7.

⁴⁸ Peter Wyckoff, "Making Waves: Japan and the Indian Ocean Region," *Commentary*, The Stimson Center, May 1, 2017.

⁴⁹ Choiruzzad, n. 30, pp. 65–66; for related reference and reading also see, Evan Laksmana, "An Indo-Pacific Construct with 'Indonesian Characteristics,'" [*The Strategist*], Australian Strategic Policy Institute, February 6, 2018, available at www.aspistrategist.org.au/indo-pacific-construct-indonesian-characteristics/

⁵⁰ For further reading and details on the subject see, Robert D. Kaplan, "Center Stage for the Twenty-first Century: Power Plays in the Indian Ocean," *Foreign Affairs*, vol. 88, no. 2, 2009, pp. 16–32.

⁵¹ *Ibid.*

⁵² Choiruzzad, n. 30, pp. 66–67.

⁵³ *Ibid.*

Territorial Conflicts in Europe: Possible Lessons for Japan?

Valérie Niquet

Abstract

Territorial conflicts in Europe are complex and determined by geopolitical, strategic, historical, and ideological factors. The European Union, consisting of member states, has agreed to submit to certain principles and rules to limit escalation risks. These disputes are managed through diplomatic means and rules of law and arbitration, rather than force. Japan faces conflicts in Asia, such as China and the Senkaku question, which are manifestations of deeper tensions. Comparing these conflicts is difficult but may be enlightening due to their fundamental differences.

Territorial issues are complex issues that are determined by geopolitical and strategic factors as well as historical and ideological factors. In Europe, even within the European Union, there are or have been numerous territorial conflicts between nation-states constituted according to the Westphalian system. Some of these conflicts have been resolved, others remain unresolved, and the degree of tension, including military tension, varies. However, territorial disputes involving one or more members of the European Union are very different from those facing Japan in its own geographical area.

One of the fundamental reasons for this is that the European Union, whatever its borders, is composed of member states that, in order to join, have agreed to submit to a certain number of principles and rules that help to limit or control the risks of escalation. Territorial disputes are not systematically resolved, but they are managed through diplomacy and the application of rules, laws and arbitration rather than through the use or threat of force.

In this context, the question arises whether a comparison is possible. According to Diez, Stetter, and Albert, four types of conflicts can be defined that involve or have involved EU states—conflict episodes, issue conflicts, identity conflicts, and subordination conflicts—with the last two types having an existential dimension for the political regime or the population.¹ While the first two types (conflict episodes and issue conflicts) are more common in Europe than the last two, it is the last two (identity and subordination conflicts), sometimes combined with the second, that Japan faces in Asia. One of the fundamental differences is the general willingness of European member States—despite exceptions often related to the recent nature of the European socialization process or to the involvement of a non-EU member State—to reach a settlement or at least to avoid escalation. In Asia, on the other hand, conflicts express a fundamental disagreement and allow the use of force (military or non-military) or tension as a means of managing bilateral relations. In other words, the conflicts Japan faces in Asia are manifestations of deeper tensions that have little to do with the object of the conflict itself. In the case of China and the Senkaku issue, behind the territorial issue are threats of escalation, i.e., the intensification of military or quasi-military activities on the part of the PRC (People's Republic of China) aimed at establishing

¹ Thomas Diez, Stephan Stetter, Mathias Albert, “The European Union and Border Conflicts: The Transformative Power of Integration,” *International organization*, vol. 60, n° 3 (Cambridge University Press, Summer 2006).

a balance of power with Japan in the region and beyond.

The comparison is therefore difficult, but perhaps instructive, because of these fundamental differences.

Contrary to popular belief, there are more than twenty active conflicts involving EU states, either among themselves, with entities not recognized as states (autonomist or independence movements), or with non-EU states. Despite common elements, each conflict is different, including in the number and characteristics of the actors involved, and we will not deal with all the conflicts facing the European Union. Because they are too different from the issues facing Japan, we will also not deal with internal conflicts that historically have often been the most violent, with a dimension of cultural tension as well as terrorism or civil war, such as the Basque question, Northern Ireland, or Catalonia. We have chosen to focus on conflicts within the European Union using four examples: France and the Netherlands, Spain and the United Kingdom, Slovenia and Croatia, and one conflict involving an EU state (Greece) and a non-EU state (Turkey). These four conflicts offer a gradation of tension, from the least tense (France–Netherlands) to the tensest (Greece–Turkey). In addition, we will focus not on the legal conditions, as views on legitimacy are generally divided among possible interpretations, but on the resolution or non-resolution of these conflicts and the determining factors in this resolution—or non-resolution—of the conflicts.

France and the Netherlands: a resolved conflict in the Caribbean

The conflict

Once again, contrary to popular belief, not all conflicts involving EU member States take place on European territory; some arise in far-off lands. One conflict emblematic of this type involves France and the Netherlands and is a legacy of the 17th century. On March 23, 1648, the Treaty of Concordia (*Traité du Mont des Accords* in French), consisting of nine articles originally written in Latin, defined the terms of coexistence between the two parts of Saint Martin, an island divided between the Kingdom of France and the United Provinces (Netherlands).² According to the text of the agreement, which was imprecise in its wording, France received 56 km² of the territory of the island, located in the Caribbean Sea 250 km from Guadeloupe, and the Netherlands 34 km². The nine articles of the treaty provide for the peaceful coexistence of the two populations, the sharing of resources, a form of judicial cooperation and the free settlement of each in its preferred zone. The Treaty of Concordia was confirmed and clarified by the Franco–Dutch Convention of November 28, 1839, particularly with regard to the sharing of resources, judicial extradition and free settlement. In 2015, a report submitted to the French National Assembly highlighted the need to strengthen police cooperation between the two parts of the island, whose Dutch part has been an autonomous state of the Netherlands since 2010 following referendums and whose French part has become an overseas collectivity.³

While relations have long been functional, tensions rose in the 2010s, particularly over the issues of crime control and immigration, more important on the Dutch side. Due to the special status of the Dutch part, which unlike the French part is not subject to the rules of the European Union, the issue of money laundering linked to tax conditions in Sint Maarten has been raised, as well as that of the difference in social rights, which encourages companies to set up in the Dutch part.⁴ Although there are three border crossings, the border is open because of the constantly invoked rule of free movement. The disputed territory is that of Oyster Pond, which is poorly defined. In 2017, French police conducted a check on a Dutch reconstruction site after it was

² <https://www.assemblee-nationale.fr/14/rapports/r2649.asp>

³ *Ibid.*

⁴ <https://www.capital.fr/economie-politique/ile-de-saint-martin-le-business-cote-neerlandais-la-deglingue-cote-francais-1233910>

destroyed by a cyclone. The Dutch, who claim the entire bay, which is important for its tourist resources, denounced this as a violation of its territory. France, which demanded that the dividing line pass through the middle of the bay, took the issue to the UN while negotiations continued.

The current situation

After complex negotiations lasting more than six years, and despite the small size of the territory concerned, an agreement was signed on May 26, 2023 between French Minister of the Interior Gérald Darmanin and Prime Minister of the Autonomous Territory of Sint Maarten Silveria Jacobs. The French position of a median water sharing was accepted and the new agreement renews the principle of cooperation established in the Treaty of Concordia.⁵

By fixing the border, the agreement, described as historic, has allowed the resumption of work and the development of tourism—the island’s main resource—in the Oyster Pond area, which was severely affected by Hurricane Irma in 2017. It is intended to confirm the good understanding between France and the Netherlands, two states of the European Union, stating that “it illustrates the excellence of the friendly relations between France and the Netherlands.”⁶ The agreement also provides for the maintenance of freedom of movement and the creation of a cross-border commission to manage issues related to tourism, fishing, education, health and security.

The border conflict between France and the Netherlands, which lasted for several years, is the lowest on the tension scale and can be defined as a conflict episode with elements of a conflict of interests.⁷

Spain and the United Kingdom: the insoluble question of Gibraltar

The question of Gibraltar between Spain and the United Kingdom, like the previous one, is partly inherited from history, but it is more complex, oscillating between a conflict of identity in the tensest periods and a conflict of interests. An additional dimension is that of the will of the local population concerned. This is a factor that the British never took into account when they handed over their colony of Hong Kong to the PRC, as Beijing rejected the very principle of consulting the population.

The conflict

Gibraltar is a British overseas territory that was ceded to the British Crown by the Treaty of Utrecht on July 13, 1713, after having been captured in 1704. The Treaty of Utrecht ended the the Spanish Succession War (1701–1713), in which Spain, France, Great Britain, Austria, and the Netherlands were involved. Under the terms of the Treaty of Utrecht, the King of Spain ceded Gibraltar, the fortress and its port “forever” to the British Crown. In addition to Spain’s regularly stated desire to see an end to “British colonization” and the return of Gibraltar to Spain, the most specific points of contention today concern the portion of the territory extending from the city walls as they existed in 1704 to the current border marked by the British in 1804 and materialized in 1908.⁸ Spain also disputes the United Kingdom’s right to territorial waters around Gibraltar

⁵ <https://www.interieur.gouv.fr/actualites/communiqués-de-presse/signature-dun-accord-entre-france-et-pays-bas-relatif-a-frontiere>

⁶ Ibid.

⁷ Thomas Diez et. al. Op.cit.

⁸ <https://publications.parliament.uk/pa/cm199899/cmselect/cmcaff/366/36604.htm>

and its port.⁹ Today, 27% of the world's maritime trade passes through the Strait of Gibraltar. During World War II, Gibraltar played an important role for the Allies, while Franco's Spain was officially neutral. Since 1945, however, Spain has reasserted its claim to Gibraltar. Under Franco's dictatorship, Spain demanded the return of Gibraltar in gratitude for its neutrality during World War II, and sought the support of the UN, which in fact favored "decolonization" before 1969. The Spaniards demanded the return of Gibraltar to Spain, the annulment of the Treaty of Utrecht while nonetheless allowing the British to maintain a military base in Gibraltar—at a time when, especially during the Cold War, control of the Strait was vital for NATO, of which Spain was not a member¹⁰—and the guarantee of a special status for the inhabitants of Gibraltar under UN guarantee. However, the will of the people of Gibraltar to remain British has been reaffirmed time and again. The first referendum was held in 1967, and in 1969 Gibraltar was granted a form of self-government by the Gibraltar Constitution Order 1969. The gist of the constitution was that "the sovereign status shall not be altered without the consent of the people of Gibraltar."¹¹ To protest this rejection, the government in Madrid gradually closed the border and all points of land contact with Gibraltar in 1967. Other referendums have been held, most notably in 2002, when the people of Gibraltar also rejected the principle of joint Spanish–UK sovereignty proposed by Spain.

In the name of the right of peoples to self-determination, the British authorities refuse to discuss the sovereignty of Gibraltar and a bilateral agreement with Spain without the consent of the inhabitants.

After Franco's death and the adoption of a democratic constitution in Spain in 1978, the situation eased considerably, accentuated by Spain's gradual accession to the European Community and NATO. In 1980, the Spanish and British foreign ministers signed the "Lisbon Declaration," in which both countries declared their willingness "to resolve the question of Gibraltar in a spirit of friendship, to overcome differences, to re-establish communication and to develop cooperation, while reaffirming their position on questions of sovereignty."¹² The border was reopened in 1985, on the eve of Spain's entry into the European Community in 1986.

New plans for joint sovereignty were proposed by Spain in 1985, but were again rejected by the people of Gibraltar. In 2006, Britain, Spain and Gibraltar signed a cooperation agreement, the Cordoba Agreement, to improve communication, and in 2009 the Spanish foreign minister visited Gibraltar for the first time.¹³

However, tensions have not gone away. In 2009, Britain denounced incursions by the Spanish coastguard into what London considers its territorial waters, and the Spanish press criticized the restructuring of the Spanish military presence in the Strait to the benefit of the British.¹⁴ New tensions over fishing rights emerged in 2013.

⁹ Gerry O'Reilly, "Gibraltar: Sovereignty Disputes and Territorial Waters", *IBRU Boundary and Security Bulletin*, Spring 1999 on https://www.durham.ac.uk/media/durham-university/research-/research-centres/ibru-centre-for-borders-research/maps-and-databases/publications-database/boundary-amp-security-bulletins/bsb7-1_oreilly.pdf.

¹⁰ Spain joined NATO in 1982.

¹¹ <https://www.gibraltarlaws.gov.gi/legislations/gibraltar-constitution-order-1969-1835>

¹² <https://publications.parliament.uk/pa/cm199899/cmselect/cmfaff/366/36604.htm>

¹³ <https://www.ladepeche.fr/article/2006/09/19/34333-accords-historiques-sur-gibraltar.html>

¹⁴ "España cede el control del estrecho", *ABC*, 09-03-2009 on https://www.abc.es/espana/abci-espana-cede-control-estrecho-200903090300-913640194561_noticia.html?ref=https%3A%2F%2Fwww.google.com%2F

The current situation

The Gibraltar issue, which also involves two EU member States, although Spain only joined in 1986 and the United Kingdom left the EU in 2020 after Brexit, is therefore unresolved, but has not escalated dramatically and is still being managed by diplomatic means, especially since Spain became a democratic power after the end of Francoism. At the time of Brexit, Spain used its status as a member state of the European Union by threatening to use its veto until the President of the Commission, the President of the Council and all the member states signed a document stating that “no agreement on Gibraltar can take place without the agreement of Spain.” The sovereignty issue has not been resolved and the UK position remains that no agreement can be reached without the consent of the people of Gibraltar. One of the reasons for Spain’s opposition to these talks is also the question of separatism that the Madrid government is facing in other parts of the country.

Slovenia and Croatia: a legacy of the dissolution of Yugoslavia

Like other conflicts in the region, the conflict between Slovenia and Croatia over several border points is a legacy of the breakup of Yugoslavia in 1991, but also of older tensions dating back to the Austro–Hungarian Empire. Although Slovenia and Croatia have become two independent states, there is no precise demarcation of the border, especially the maritime border in the Bay of Piran.

The conflict

Croatia, citing the first part of Article 15 of UNCLOS, requests that the boundary in the Bay of Piran be established at an equal distance from both shores. Slovenia, citing the second part of Article 15, which mentions exceptions based on historical rights or special circumstances, claims the right of free access to the international waters it enjoyed when it was part of Yugoslavia.¹⁵

Discussions continued in 2000 and 2010. In 2001, the prime ministers of Slovenia and Croatia, Janez Drnovšek and Ivica Račan, signed an agreement (Drnovšek/Račan Agreement) defining the border, including the maritime border, between the two countries in the name of peaceful cooperation and in the interest of both states and their citizens.¹⁶ The agreement was ratified by the Slovenian parliament, but the Croatian parliament, influenced by nationalist and populist currents, refused to ratify the agreement. In 2005, the two countries signed the Brijuni Declaration, which mentions the desire of both parties to avoid incidents at the border. In 2007, two new prime ministers, meeting in Bled, agreed in principle to resolve the border issue by submitting it to the arbitration tribunal in The Hague.

Between 2008 and 2009, Slovenia blocked Croatia’s accession to the European Union until the Croatian parliament passed a resolution accepting the principle of arbitration by the International Court of Justice in The Hague. It did, and Croatia joined the European Union in 2013.

The current situation

On June 29, 2017, the Hague Court of Arbitration issued its ruling, awarding 80% of Piran Bay to Slovenia and a high seas access corridor to Croatia.¹⁷ Slovenia has accepted the decision, but Croatia has said it will not implement it.¹⁸ The situation between the two EU states remains

¹⁵ https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf

¹⁶ https://www.assidmer.net/doc/Drnovsek-Racan_Agreement.pdf

¹⁷ <https://pcacases.com/web/sendAttach/2172>

¹⁸ Luigi Lonardo, “Republic of Slovenia versus Republic of Croatia: Am I My Brother’s Keeper? International Agreement by Member States and the Limits of the European Court of Justice’s Jurisdiction,” *European Law Review*, 105 (2021)

unresolved but, as in previous cases, does not cause major tensions between the two countries, although nationalist sentiments are being expressed, particularly in the Croatian parliament.

Turkey and Greece: an almost existential conflict in the Aegean Sea

The fourth conflict we are considering, between a member state of the European Union and a non-member state that has been a candidate for membership since 1999, is the one that remains the tensest and includes a dimension of military tension, albeit limited. The conflict is neither a relatively simple conflict of interests nor an episodic one; it has a long history, going back to the historically conflictual relations between Christianity and Islam, between the Ottoman Empire and Greece with the Greek War of Independence between 1821 and 1829, and continuing after World War I and the partition and subsequent demise of the Ottoman Empire (1918–1922). Even today, the relationship between Greece and Turkey is one of the tensest involving a European Union state.

The conflict

The extremely complex conflict concerns the definition of the continental shelf, the status of the islets—former possessions of the Ottoman Empire—ceded to Greece by Italy after World War II, and the unlawful occupation (according to Greece) by Turkey of some islets ceded directly to Greece by the Ottoman Empire after World War I.

The conflict mobilizes divergent interpretations of the law of the sea but, as in the case of Japan and China (Senkaku archipelago) or Japan and Korea (Takeshima), the rise of military tensions and nationalist rhetoric is the consequence rather than the primary cause of tensions between the two countries.

In the Aegean case, Turkey refused to sign the first continental shelf convention in 1964 and is not a member of UNCLOS (1982) because of this territorial dispute with Greece.

Between 1987 and 1996, tensions between the two countries were particularly high, almost reaching the level of military conflict, with numerous incidents around the island of Imia (Kardak in Turkish). Between 1998 and 2010, as Turkey sought to begin the process of joining the European Union, things calmed down. However, since 2010 and a move towards a more authoritarian and populist regime with the election of Recep Erdogan as president of the Republic in 2014, tensions have flared up again.

According to Article 12 of the Treaty of Lausanne (1923), one of the treaties imposed on the Ottoman Empire as a defeated power at the end of World War I, virtually all the islands, rocks and islets in the Aegean Sea were allocated to Greece.¹⁹ Turkey was allowed to keep only those islets that were within 2.6 nautical miles of its coastline. The most important of these are Imbros (Gökçeada) and Tenedos (Bozcaada) at the entrance to the Dardanelles. Greece now accuses Turkey of occupying 17 islets outside this 2.6 nautical mile zone, including the island of Imia/Kardak.

In 1947, following the end of World War II, the Treaty of Ankara also ceded to Greece the Dodecanese islands, which the Italians had seized from the Ottoman Empire in 1913. Turkey believes that these islands should have been returned to Turkey at the end of World War II.

The current situation

Despite the fact that both Greece and Turkey are members of NATO, the tensions between Greece and Turkey, far from easing, are being raised by Turkey to an almost existential conflict. The Turkish president's nationalism plays a major role in the rising tensions. Turkey denounces the renewal of the mutual defense treaty to contribute to stability in the region signed between

¹⁹ There are approximately 1416 features.

Greece and the United States in 2021, as well as Greece's "militarization of the islands" and debates concerning the possibility of maintaining a military contingent on a Greek island in the Aegean Sea, the Turkish argument being that these islands should remain demilitarized. In October 2022, a political ally of President Erdogan declared: "The islands you occupy do not bind us..."²⁰

Factors leading to tensions and failure to resolve crises

One of the main factors of tension remains the nationalism or national-populism of one or both of the parties, regardless of their common strategic interests.

For instance, in the case of South Korea with the Dokdo/Takeshima Islands, relations with Japan remain highly dependent on the political evolutions in Seoul, as demonstrated by the very significant improvement in relations since the election of President Yoon Suk Yeol in 2022. In Turkey also, Devlet Bahçeli, a supporter of Erdogan's coalition, took a particularly aggressive stance on the issue of sovereignty over the Aegean islands on the eve of the 2023 elections.²¹ In the conflict between Slovenia and Croatia, Zmago Jelinčič's role as leader of the nationalist Slovenian National Party was instrumental in blocking for a time Croatia's accession to the European Union. In the case of Gibraltar, a nationalist dimension remains extant in Spain, albeit less pronounced than under the dictatorship of General Franco, but it is also present in the fierce opposition of the Gibraltarian population to being tied to Spain and their fervent desire to maintain their specific status as British subjects. On the other hand, this dimension was much less present historically on the island of Saint Martin between France and the Netherlands, although this did not prevent the conflict from requiring six years of negotiations to resolve.

In the case of Greece and Turkey, where tensions are at their highest, the membership of both states in NATO has not helped to resolve tensions, especially since Turkey's position within NATO and its relations with Russia have been the subject of debate, especially but not only since the war in Ukraine began. Under these conditions, Washington's position is to express its wish that the two parties avoid tensions.²²

A peacemaking role for the European Union?

Despite its limitations, the European Union, in its various historical forms, was and is seen as an important factor for peace on the European continent. The European framework encourages the peaceful resolution of disputes through dialogue and negotiation and respect for international law. Member states are expected to resolve their disputes in a peaceful manner, favoring a peaceful, non-confrontational approach. After World War II, the Constitution of the European Union in its initial form was first and foremost an instrument for bringing the Western camp closer together and consolidating it, and it could be argued that the main factor bringing reconciliation between France and Germany was their membership in the same "camp."²³ The resolution or prevention of conflicts on its eastern borders was also one of the main motivations for the enlargement of the European Union after 1991. The question is whether this factor can play a role in resolving all conflicts. Actually, the European Union has not played a significant role in resolving conflicts, especially internal sovereignty conflicts, and it lacks the instruments to intervene in a binding manner.

²⁰ Ryan Gingeras, "Why Erdogan Might Choose War with Greece," *War on the Rocks*, 05-10-2022.

²¹ Ibid.

²² Ibid.

²³ Valérie Niquet, "The Franco-German reconciliation model does not correspond to the challenges of the Japan-PRC relationship," *Japan Review*, vol 5, 2022 on https://www.jiia-jic.jp/en/japanreview/pdf/JapanReview_Vol5_04_Niquet.pdf

In matters of sovereignty internal to member states, it cannot itself mediate between member states on issues of sovereignty, let alone impose a decision.²⁴ Each member state determines the boundaries of its own territory in accordance with international law.²⁵ This does not mean, however, that the European Union has no role to play, especially when both parties to a conflict ask the European Union to mediate.

However, the European Union can act as a normative and reassuring example, not only for its member states but perhaps even more so for those aspiring to join. For example, while Turkey was hoping to join the European Union, tensions with Greece were lower. Similarly, Croatia initially accepted arbitration by the Hague Tribunal to have Slovenia withdraw its veto on Croatia's accession to the European Union. However, these motivations were not strong enough to lead to real solutions to the problems once the veto was lifted or Turkey's hopes for rapid integration into the European Union were dashed.

However, member states are also obliged to cooperate with each other and to resolve any disputes promptly and in accordance with international law.²⁶

Conclusion

Conflicts within the European Union involving member states are therefore by no means rare. However, when such conflicts do occur, their level of tension—especially military tension—is essentially based on factors related to the political or ideological positioning of the parties involved. Whatever legal arguments may be used or argued, including in international arbitration at the UN or The Hague, it is the political will to defuse or even resolve the conflict that plays a decisive role. In Europe, the nationalist or populist dimension plays a role, as may be the case between Japan and South Korea. In conflicts involving the PRC, on the other hand, it is the dimension of power rivalry and the Chinese regime's determination to gradually change the regional status quo and the international order by force or the threat of force that is the primary factor in the rise or fall of tensions. In that case, the resolution and dealing with conflicts in Europe, and particularly between European Union member States offers a very limited model.

²⁴ Nikos Skoutaris, "Problematising the Role of the EU in Territorial Sovereignty Conflicts," *Revistas Ideas*, 15-02-2021 on <https://revistaidees.cat/en/problematising-the-role-of-the-eu-in-territorial-sovereignty-conflicts/>

²⁵ Josef Weinzierl, "Territoriality Beyond the State: The EU's Territorial Claims and the Search for Their Legitimacy," *German Law Journal*, (2021)

²⁶ *Ibid.*

A Reexamination of the 1877 Instruction of the Council of State

The Takeshima Documents Study Group

Abstract

In October 2018, the Takeshima Documents Study Group was founded by volunteers as a part of a research project of the Japan Institute of International Affairs to scrutinize the Instruction of the Japanese Council of State on March 29, 1877 (明治10年太政官指令, hereinafter referred to as “the 1877 Instruction of the Council of State”), in which the Council stated that, with respect to the Shimane Prefecture’s / Ministry of Home Affairs’ inquiry on “Takeshima and the other island (竹島外一島)” in the Sea of Japan, “there is no relation to Japan.” As a result of surveys and discussions over three years, the Study Group published a report and concluded that present-day Takeshima was not included among the island(s) declared “there is no relation to Japan” in the Instruction. After its publication, historical materials corroborating the findings of the Study Group were found. In light of the impact that one of the major grounds of the South Korean claim over the Takeshima is clearly refuted, the JIIA has decided to update the introductory chapter of the report, thereby introducing the newly found materials which were made in the same period as the 1877 Instruction of the Council of State. This paper is an English translation of the updated introductory chapter.

Background

In October 2018, the Takeshima Documents Study Group was founded by volunteers as a part of a research project of the Japan Institute of International Affairs to scrutinize the March 29, 1877 Instruction of the Japanese Council of State (明治10年太政官指令, hereinafter referred to as “the 1877 Instruction of the Council of State”), in which the Council stated that, with respect to the Shimane Prefecture’s / Ministry of Home Affairs’ inquiry on “Takeshima and the other island (竹島外一島)” in the Sea of Japan, “there is no relation to Japan.” After conducting surveys and discussions over a period of three years, the Study Group published a report on March 31, 2022 and concluded that present-day Takeshima was not included among the islands determined to have “no relation to Japan” in the 1877 Instruction. This paper is an English translation of the introductory chapter.

Historical materials corroborating the findings of the Study Group were confirmed after its publication. This paper is updated to include these newly-confirmed materials, which were prepared in the same period as the 1877 Instruction of the Council of State.

The views and opinions expressed in this paper are those of the authors and the Takeshima Documents Study Group and do not necessarily reflect the views or positions of the Japan Institute of International Affairs.

1. Introduction—Why it is necessary to reexamine the 1877 Instruction of the Council of State

Takeshima, also known as the Liancourt Rocks in English and Dokdo in Korean, is an uninhabited island located in the Sea of Japan approximately 211 km north of the Japanese mainland

and 217km east of the Korean Peninsula at 37° 14' north latitude and 131° 52' east longitude. Takeshima is comprised of two main islands, Higashijima (Mejima) Island and Nishijima (Ojima) Island, and numerous small islands. The total land area of Takeshima is approximately 0.2 square kilometers. The two main islands are precipitous volcanic islands, and cliffs about the coastline on all sides. They have scarce vegetation and drinking water resources. Approximately 88km west-northwest of Takeshima lies the Korean island of Ulleungdo, and approximately 158km south-southeast of Takeshima are found the Japanese Oki Islands (see the map below).



Source: Office of Policy Planning and Coordination on Territory and Sovereignty, Cabinet Secretariat, website

The territorial dispute over Takeshima is one of the biggest concerns in Japan–South Korea relations. After WWII, South Korea requested the Allied nations (including the United States) to explicitly stipulate that Japan renounces Takeshima as a part of “Korea” in the peace treaty with Japan. The United States denied the South Korean request in a letter from Dean Rusk, the United States Assistant Secretary of State for Far Eastern Affairs, that stated “...[a]s 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.” In the San Francisco Peace Treaty, Takeshima was affirmed as a territory of Japan. In January 1952, South Korea issued the Presidential Proclamation of Sovereignty over Adjacent Seas and established the “Syngman Rhee Line” in the Sea of Japan, encompassing Takeshima within the Line. Then, in 1954, the South Korean government deployed a Coast Guard unit on Takeshima, and thus ensued the illegal occupation of Takeshima by South Korea.

Chronological History of Ulleungdo and Takeshima

Year	Events
1417	The Joseon Dynasty adopted the “Empty Island” policy on Ulleungdo and the Japanese started fishing activities on and around the island.
17th century	Merchants in Yonago conducted abalone fishing and sea lion hunting on Ulleungdo (known as “Takeshima” at the time) with permission from the Edo Shogunate. Later, the merchants started a similar business on present-day Takeshima (known as “Matsushima” at the time), located on the route from Oki to Ulleungdo. Later, passage to Takeshima was also permitted by the Edo Shogunate.
1696	The Edo Shogunate prohibited the passage of merchants in Yonago to Ulleungdo, also known as “Takeshima” at the time. However, passage to present-day Takeshima (known as “Matsushima” at the time) was not prohibited.
Late 18th century	As a result of some inaccuracies in latitudinal and longitudinal charting by a European ship, a non-existent island known as Argonaut started being depicted between the Korean Peninsula and Ulleungdo, also known as Dagelet, in European maps.
Mid-19th century	A German doctor named Philipp Franz von Siebold, who had stayed in Japan, published a “Map of Japan” (1840) in Europe. Siebold designated Argonaut as “Takasima” and Ulleungdo (Dagelet) as “Matsusima” on his map. As a result, Ulleungdo started being called “Matsushima” in European maps, and such maps were imported to Japan.
1877	The Japanese Council of State stated in the 1877 Instruction of the Council of State that, with respect to the inquiry on “Takeshima and the other island” (the other island being “Matsushima”), “there is no relation to Japan” (the main topic of this paper).
1905	The Japanese government incorporated Takeshima into Shimane Prefecture at the request of Nakai Yōzaburō, who had conducted sea lion hunting on present-day Takeshima. The name “Takeshima” was given to present-day Takeshima because Ulleungdo was called “Matsushima” at the time (hereinafter “Takeshima” refers to present-day Takeshima when touching upon history after 1905).
1951	The San Francisco Peace Treaty was signed. It was decided that Japan would retain Takeshima.
1952	South Korea issued a declaration concerning maritime sovereignty and established the “Syngman Rhee Line” in the Sea of Japan, asserting fishery jurisdiction within the Line. The Line encompassed Takeshima so a territorial dispute over Takeshima arose. In 1954, the South Korean government started its illegal occupation of Takeshima.

2. South Korea has invoked the 1877 Instruction of the Council of State to justify its territorial claim over Takeshima

After the outbreak of the dispute over Takeshima, Japan and South Korea exchanged views via attachments to their *notes verbales*, but this ended in South Korea’s complete defeat as it was never able to produce any valid grounds for its possession during the exchange of views, and was unable to refute “The Japanese Government’s views on the Korean Government’s views of January 7, 1959, concerning Takeshima” (July 13, 1962, the so-called Fourth Japanese View). With regard to the display of state authority¹ over present-day Takeshima, Japan has a clear upper

¹ International trials on territorial disputes have sought rational solutions based on indications of “peaceful and continuous display of State authority.” This means a state wins the case if it has exercised sovereignty and that exercise has not been contested by other countries. If both parties have conducted such activities, it comes down to which party presents the stronger evidence or grounds.

hand: ① the Japanese government was involved in the economic activities of Japanese nationals on the island in the 17th century and ② Japan implemented a variety of administrative measures after its incorporation into Shimane Prefecture in 1905. The South Korean government could not have been able to show any proof that it has exercised sovereignty over the island but South Korea has, nonetheless, refused to even admit the existence of a dispute over Takeshima and rejected Japan's proposals to refer the case to the International Court of Justice in 1954, 1962, and 2012.

This inability to legitimize the South Korean claim based on Korean sources was what motivated them to turn to the use of Japanese sources. The 1877 Instruction of the Council of State was a suitable target for the Korean side in adopting this approach.

The 1877 Instruction of the Council of State was an instruction issued by the Council of State² to the Ministry of Home Affairs in 1877. In March 1877, the Council of State instructed the Ministry of Home Affairs to “understand that, with respect to the inquiry on Takeshima and the other island, there is no relation to Japan” in response to an inquiry from said Ministry titled “Inquiry on the Incorporation of Takeshima and the Other Island in the Sea of Japan into the Land Register.” The instruction was conveyed to Shimane Prefecture, which originally issued the inquiry, via the Ministry of Home Affairs. At the time, the Ministry of Home Affairs was taking initiative to compile a land registry. Shimane Prefecture's original inquiry was sent to the Ministry of Home Affairs after two land register incorporation supervisors of the Ministry had sent a letter (Otsu No.28) to the prefecture to propose to do so (see the figure below).

「明治10年太政官指令」(1877年) 発出までの過程



Examination Process of Inquiry on “Takeshima and the Other Island”

- October 5, 1876 Two land register incorporation supervisors of the Ministry of Home Affairs sent a letter (Otsu No.28) to Shimane Prefecture to propose that the prefecture conduct an investigation on Takeshima (Ulleungdo) and send the Ministry an inquiry over whether the prefecture should incorporate the island into its land register.
- October 16, 1876 Sakai Jirō, Vice-Governor of Shimane Prefecture, sent an inquiry on “Takeshima and the other island” to Ōkubo Toshimichi, Minister for Home Affairs (“Inquiry on the Incorporation of Takeshima and the Other Island in

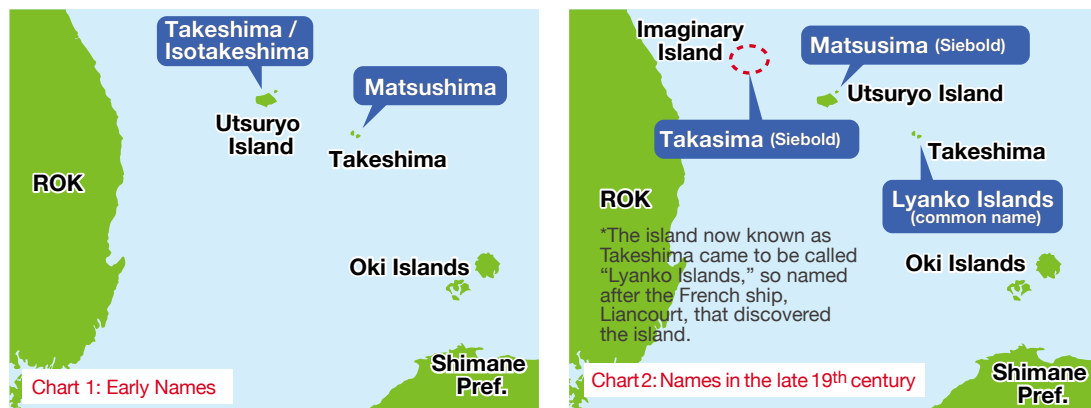
² *Dajōkan* or the Council of State was a Japanese state organ in the late 19th century under whose command ministries operated. It was set up in 1868 and re-formed as the Cabinet in 1885.

- the Sea of Japan into the Land Register”).
- March 17, 1877 Maejima Hisoka, Vice-Minister for Home Affairs, sent an inquiry (Shimachi No. 664) to the Council of State to get its approval for the Ministry’s judgment that “there is no relation to Japan.”
- March 20, 1877 A Council of State official drafted an approval document for the 1877 Instruction of the Council of State (Draft No. 20).
- March 29, 1877 The 1877 Instruction of the Council of State was sent from Iwakura Tomomi, Minister of the Right, to Maejima Hisoka, Vice-Minister for Home Affairs.
- April 9, 1877 Maejima Hisoka, Vice-Minister for Home Affairs, instructed Sakai Jirō, Vice-Governor of Shimane Prefecture, to “understand that, with respect to the inquiry on Takeshima and the other island, there is no relation to Japan.”

The first time the 1877 Instruction was referenced in Japanese or Korean academia was in a paper by Hori Kazuo (later a professor at Kyoto University).³ Based on an interpretation of the 1877 Instruction that “Takeshima” refers to present-day Ulleungdo and “the other island” to present-day Takeshima, he argued that “the Dajōkan (the Council of State), the highest government organ in Japan at that time, formally declared, on the basis of the reports of both Shimane Prefecture and the Ministry of Home Affairs and treating Takeshima/Ulleungdo and Matsushima/Tokdo as an integral whole, that these two islands were not Japan’s territory.”

In the Edo era (1603–1867), present-day Takeshima was called “Matsushima” in Japan, whereas Ulleungdo was called “Takeshima” or “Isotakeshima.” In the 19th century, inaccuracies in the latitudinal and longitudinal charting of Ulleungdo resulted in the island being depicted as consisting of two separate islands on maps subsequently produced in Europe: Dagelet Island, whose location was thought to be the same as present-day Ulleungdo, and non-existent Argonaut Island, which was thought closer to the coast of the Korean Peninsula. A doctor named Philipp Franz von Siebold created a “Map of Japan” (1840) based on the knowledge he had acquired during his stay in Japan. Siebold believed that Argonaut and Dagelet Islands were “Takeshima” and “Matsushima,” respectively, and drew up a map based on this understanding. Western maps thereafter followed suit. In the latter half of the 19th century, Japan imported Western maps and started calling Ulleungdo “Matsushima.” Experts in Japan and Korea share the view that “the other island” was an island called “Matsushima.” Thus, the controversy comes down to which “Matsushima” the 1877 Instruction of the Council of State refers: the “Matsushima” of the Edo era (present-day Takeshima) or that of the late 19th century (Ulleungdo)? The arguments of both the Korean government and Professor Hori are premised on the hypothesis that the Council of State maintained its Edo-era recognition of “Matsushima.”

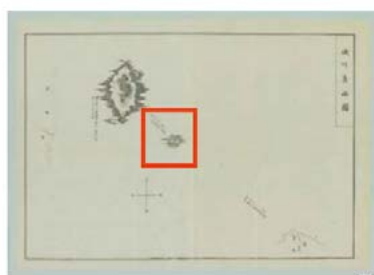
³ 堀和生「一九〇五年日本の竹島領土編入」『朝鮮史研究会論文集』24 (1987.3) pp. 97–125. Hori Kazuo, “Japan’s Incorporation of Takeshima into Its Territory in 1905,” *Korea Observer*, Vol.28 No.3 (September 1997), p.477–525. The latter is an English translation of the former. The citation is taken from the latter.



Source: Office of Policy Planning and Coordination on Territory and Sovereignty, Cabinet Secretariat, website

The 1877 Instruction of the Council of State had a remarkable impact on Korean academia as a plain indication of the “falsehood” of the Japanese government’s view that Japanese possession over present-day Takeshima was established in the 17th century (Edo period). The ROK government adopted the 1877 Instruction as a part of its official views, in particular in “Dokdo, Beautiful Island of Korea,” a pamphlet issued by the South Korean Ministry of Foreign Affairs. It is also used as an indispensable part of South Korean “Dokdo education.” For instance, the Ministry of Education’s “Primary School Years 5–6: Social Studies (6–2)”, the government-designated elementary school textbook first published on August 15, 2019, introduces the 1877 Instruction to “inform of the truth those who believe the false claim that Dokdo has been Japanese territory since ancient times.” The 1877 Instruction plays an important role in Korean public diplomacy on Takeshima as well.

As the 1877 Instruction exclusively concerns the Japanese side’s perception, it is necessary for South Koreans to present separate evidence to the effect that present-day Takeshima has been Korean territory since the premodern period. Nonetheless, the 1877 Instruction has come to have the power to make not only Koreans but also some Japanese experts believe Korean claim that Takeshima is Korean territory. This likely has a lot to do with the visual impact of a map titled *Simplified Map of Isotakeshima* (磯竹島略図) (see the map below). This is stored among the *Kōbunroku* (公文録) (Compilation of Official Documents [exchanged between the Council of State and ministries]) at the National Archives of Japan as one of the documents attached to the inquiry that Shimane Prefecture submitted to the Ministry of Home Affairs. Some researchers in Japan and South Korea argue that it is obvious that “the other island” mentioned in “Takeshima and the other island” by the Ministry of Home Affairs and the Council of State refers to present-day Takeshima since this map depicts “Isotakeshima” (Ulleungdo) and “Matsushima” (present-day Takeshima), leaving no room for further argument. They maintain that the Japanese government adhered to the Edo-era recognition of “Matsushima.”



磯竹島略図



出典：国立公文書館デジタルアーカイブより

Simplified Map of Isotakeshima

Source: National Archives of Japan Digital Archive

3. Examination and Conclusions of the Takeshima Document Study Group

Did “the other island” of “Takeshima and the other island” in the 1877 Instruction of the Council of State refer to present-day Takeshima? Over the past three years, the Study Group has scrutinized the texts of all the documents stored together with the 1877 Instruction in *Kōbunroku*, surveyed other relevant documents and maps at the time, and examined historical facts that should be considered. After the Study Group issued a report in March 2022, new documents were confirmed. Consequently, the Study Group has concluded that the 1877 Instruction has nothing to do with present-day Takeshima. To put it differently, the Japanese government at the time did not maintain the Edo-era recognition that “Matsushima” referred to present-day Takeshima when it issued the 1877 Instruction, as opposed to the arguments put forth by Professor Hori and South Korea. The grounds for the Study Group’s judgment are summarized as follows.

- ① The main text of the inquiry from the Ministry of Home Affairs to the Council of State started with “with respect to the inquiry on the jurisdiction over Takeshima...,” examined only Takeshima, and did not refer to “the other island” or “Matsushima” at all (“the other island” appeared only in the title of the inquiry).
- ② The *Simplified Map of Isotakeshima* and other documents submitted by Shimane Prefecture to the Ministry of Home Affairs were attached to the inquiry from the Ministry to the Council of State simply to explain Shimane Prefecture’s inquiry. They were not used in the inquiry as a basis for the Ministry’s judgment that “there is no relation to Japan.” In addition, documents on the exchanges between the Japanese and Korean governments in the 17th century on Ulleungdo (there is not even a single reference to “Matsushima” in the documents) were attached to the inquiry from the Ministry as grounds to conclude that “there is no relation to Japan” and the Council of State approved the Ministry’s judgment.
- ③ “Matsushima” in the official maps made by the Japanese government at the time referred to Dagelet Island, i.e., Ulleungdo.
- ④ After the issuance of a report by the Study Group, one of its members confirmed an official document that clearly shows that the Ministry of Home Affairs at the time considered “Matsushima” to be Ulleungdo: a reply letter sent from Ōkubo Toshimichi, Minister for Home Affairs, to the governor of Nagasaki Prefecture, who had proposed to develop “Matsushima” as the island was rich in forestry and fishery resources. It has become clearer than ever that the South Korean argument does not hold water. Ōkubo dismissed the governor’s proposal, explicitly stating that the Ministry had “found that there is no relation to Japan” with respect to “Matsushima” as a result of careful examination of the documents related to the exchanges between the Japanese and Korean governments in the 17th century when Shimane Prefecture sent an inquiry on “the island.” As mentioned above, it was “Takeshima” that the main text of the

inquiry from the Ministry of Home Affairs referred to in the case of Shimane Prefecture's inquiry. Consequently, it has become crystal clear that the Ministry and the Council of State considered both "Takeshima" and "the other island (Matsushima)" to be Ulleungdo when the Council issued the 1877 Instruction.

⑤ Moreover, the members of the Study Group confirmed several other documents that show Japanese government officials around 1876 and 1877 recognized Ulleungdo as "Matsushima."

Each point is explained in detail below.

4. Analysis of original documents (Chapter 2)

Chapter 2 ("The 'Instruction of the Council of State' and the Genroku Japan–Korea Negotiations" by Tsukamoto Takashi, former professor at Tokai University) analyzes documents concerning the "Inquiry on the Incorporation of Takeshima and the Other Island in the Sea of Japan into the Land Register" in *Kōbunroku*, focusing mainly on its texts. The author points out that the approval document of the 1877 Instruction of the Council of State stated that the Council should endorse the proposal by the Ministry of Home Affairs in its inquiry. Therefore, the author asserts that the texts of the Ministry's inquiry need to be scrutinized to consider whether the 1877 Instruction of the Council of State decided "there is no relation to Japan" vis-à-vis present-day Takeshima.

Analyzing the structure of the inquiry by the Ministry of Home Affairs, he revisits documents on the Japan–Korea negotiations over Takeshima at the time (Ulleungdo) in the Genroku period (excerpts from the *Takeshima Kiji* (竹島紀事), a record from Tsushima Domain), highlighted by the Ministry as Reference Materials No. 1 to No. 4 and used as a basis for its judgment. He then points out that there is no mention of present-day Takeshima in the reference materials selected by the Ministry. In the Genroku Japan–Korea negotiations, present-day Takeshima was not part of the negotiations. The negotiations came about when Japanese merchants ran into Korean fishermen on Takeshima at the time (Ulleungdo). As the Japanese side was concerned with possible interactions between Japanese and Koreans on the island, the Edo Shogunate requested that the Joseon Dynasty prohibit Korean fishermen from traveling to Ulleungdo. The same problem did not apply to present-day Takeshima, where no Korean fishermen had shown up.

Moreover, seeing how the inquiry from the Ministry of Home Affairs to the Council of State starts with "[a]s we have investigated the attached documents submitted by Shimane Prefecture on the subject of jurisdiction over TAKESHIMA (Ulleungdo), THIS ISLAND [...]" (emphasis added by the author)," we should note that the judgment by the Ministry that "there is no relation to Japan" solely concerns "Takeshima." Subsequently, the Council of State endorsed the judgment of the Ministry of Home Affairs, which only considered "Takeshima" (Ulleungdo), so the 1877 Instruction of the Council of State did not decide "there is no relation to Japan" with respect to present-day Takeshima.

On the other hand, the *Summary of Background Information* (原由の大略) and the *Simplified Map of Isotakeshima* were documents attached to Shimane Prefecture's inquiry. The documents submitted by the Ministry of Home Affairs to the Council of State include these documents, but the author points out that these were attached simply as part of Shimane Prefecture's original inquiry and were not referenced during the examination by the Ministry of Home Affairs to render a judgment. They were attached just to show why the Ministry had submitted the inquiry and what the inquiry was about.

Shimane Prefecture submitted the *Summary of Background Information* and the *Simplified Map of Isotakeshima* to show that, in exchange for Korean recognition that Takeshima at the time (Ulleungdo) belonged to Japan, the Edo Shogunate prohibited passage to the island by Japanese merchants and granted fishing and hunting rights to Korea. This understanding was the basis of Shimane Prefecture's request to incorporate into the prefecture "Takeshima" (Ulleungdo) and "Matsushima," "the other island" on route to "Takeshima." However, the Ministry of Home Affairs

did not share the prefecture's understanding and thus did not approve its request. While the Ministry continued to use the title of the inquiry, "Takeshima and the Other Island," it examined only "Takeshima" and concluded that "it appears that there is no relation to Japan." This was because the Ministry believed that both "Takeshima" and "the other island (Matsushima)" referred to Ulleungdo and it was sufficient to examine only that one island.

5. Perceptions of Shimane Prefecture (Chapter 3 and 4)

Chapter 3 onward examines the background and surrounding circumstances of the 1877 Instruction of the Council of State. Chapters 3 and 4 focus on the perceptions of Shimane Prefecture. Chapter 3 essentially highlights Sakai Jirō, the top decision-maker in Shimane Prefecture on the "Inquiry on the Incorporation of Takeshima and the Other Island in the Sea of Japan into the Land Register," while Chapter 4 mainly discusses the Shimane Prefecture file "1876 Land Register."

Chapter 3 ("The Instruction of the Council of State' in Light of the History of the San'in Region" by Sugihara Takashi, special advisor to the Shimane Prefecture Takeshima Archive), focuses on Sakai Jirō, who served as Vice-Governor of Shimane Prefecture at the time, while examining the 1877 Instruction of the Council of State based on sources related to the history of the San'in region to be found in Shimane Prefecture. It shows that ① a request to develop "Takeshima" (1871) submitted by Fuji Shigechika (born in Fukuoka Prefecture), who served as Vice-Governor of Oki and Hamada Prefectures in 1869–1870, indicates his perception that "Takeshima" and "Matsushima" refer to the same island. Sakai Jirō then asked Fukuoka Prefecture about Fuji around the same time that the "Inquiry on the Incorporation of Takeshima and the Other Island in the Sea of Japan into the Land Register" was submitted to the Ministry of Home Affairs in 1876, and the author points out the possibility that he may have wanted to know about Fuji's perception of equating "Takeshima" with "Matsushima." Moreover, ② (a) when Sakai Jirō (then Governor) received a request to develop "Matsushima" (actually Ulleungdo) from Ōya Kensuke and another person in 1880, he asked the Ministry of Home Affairs if the policy regarding the island had changed since the 1877 Instruction of the Council of State to "establish it within the country's territory" and (b) Sakai Jirō's subordinate Shimizu Seitarō's *Oki no Kuni Chishi Ryaku* (Simplified Geographical Records of Oki Province) only mentions "Takeshima" when introducing the geography of Oki Province. This leads the author to argue that "Takeshima" and "Matsushima" may have been used interchangeably (meaning that they were the same island). Based on this, he writes that Sakai used the phrase "Takeshima and the other island" in the "Inquiry on the Incorporation of Takeshima and the Other Island in the Sea of Japan into the Land Register" to make sure that the inquiry would concern an island whose existence was certain. Although he knew that he had been asked to inquire with the Ministry of Home Affairs about the "Takeshima" land register, the existence of Argonaut Island as "Takeshima" was unclear and often drawn with dotted lines at the time, while "Matsushima" in the same position as Dagelet Island was drawn with solid lines. By adding "the other island" in his inquiry, Sakai avoided the situation where Shimane Prefecture inquired only about a non-existent island.

Chapter 4 ("Incorporation into the Shimane Prefecture Land Register and the 'Inquiry on the Incorporation of Takeshima and the Other Island in the Sea of Japan into the Land Register'" by Uchida Teruko, temporary staff member at the Shimane Prefecture Takeshima Archive), analyzes the "1876 Land Register," a document file prepared in Shimane Prefecture as the Ministry of Home Affairs conducted the land register incorporation project, and examines historical facts related to Shimane Prefecture's inquiry to the Ministry of Home Affairs dated October 16, 1876, which served as the prelude to the 1877 Instruction of the Council of State. In particular, the author focuses on a visit to the prefecture made by land register incorporation supervisors (Sugiyama Eizō and Tajiri Kenshin) from the Land Register Division, Geography

Bureau, Ministry of Home Affairs. She then points out that Sugiyama Eizō was from Tottori Prefecture and had served as an official of Tottori Prefecture until 1873 (Oki belonged to Tottori Prefecture at the time). Moreover, when Tottori Prefecture was asked to check the “Compendium of Japanese Geography, First Draft” (out of “Takeshima” and “Matsushima” it only mentions the former in the part about Oki) drafted by the Geographical Record Division of the Central State Council in 1873, the Prefecture advised after much deliberation that both “Takeshima” and “Matsushima” ought to be mentioned, which was accepted by the Geographical Record Division as they added a reference to “Matsushima” in the revised “Compendium of Japanese Geography.” The author points out that Ōtsuka Shōzō from the former Tottori Prefecture, who was involved in this, still belonged to Shimane Prefecture’s Tottori Branch Office (Tottori Prefecture was incorporated into Shimane Prefecture in August 1876) when Sugiyama visited the prefecture. Moreover, she writes that documents referenced in Shimane Prefecture’s inquiry, including “the old documents of the Ōya and Murakawa families,” merchants in Yonago who conducted abalone fishing and sea lion hunting on Ulleungdo in the 17th century, and old maps were produced in the area of Tottori Prefecture and that the Tottori Branch Office must have been involved in the drafting of the *Summary of Background Information* and the *Simplified Map of Isotakeshima*.

Moreover, Sugiyama was in Toyooka Prefecture right before arriving in Shimane Prefecture, and the Governor of Toyooka at the time was Miyoshi Kanesuke. Miyoshi had previously served as Vice-Governor of Tottori Prefecture, being in charge also when the aforementioned revisions to the “Compendium of Japanese Geography” were discussed. After returning to Tokyo from Shimane Prefecture, Sugiyama and Tajiri sent a document dated October 5, 1876 and based on verbal discussions during their visit, requesting that Shimane Prefecture investigate old sources about “Takeshima” and make an inquiry to the Ministry of Home Affairs (Otsu No. 28). This document was shared by Shimane Prefecture with Hyogo Prefecture (which had just been reorganized from Toyooka Prefecture) on the following day, October 6. Considering these facts, she points out that Miyoshi and others in former Toyooka Prefecture were interested in “Takeshima” and likely brought it up also when Sugiyama was in Toyooka Prefecture.

While Otsu No. 28 makes mention of only “Takeshima,” the title of Shimane Prefecture’s inquiry to the Ministry of Home Affairs mentions “Takeshima and the other island.” The author draws attention to the fact that “the other island” only appears in the title, and the main text only talks about “Takeshima.” The appendices thought to be based on documents held by the former Tottori Prefecture and drafted by prefectural officials—*Summary of Background Information* and *Simplified Map of Isotakeshima*—clearly mention both “Takeshima” and “Matsushima.” In this regard, she points out that the authors of the main text and the appendices were likely not the same, as well as that “Takeshima and the other island” may have been inserted into the title in consideration of the appendices. She then goes on to argue that, since there is no indication that Shimane Prefecture asked the central government about the interpretation of the 1877 Instruction of the Council of State after its issuance and the prefecture asked the Ministry of Home Affairs about any changes to the “last Instruction” after receiving Ōya Kensuke’s “Matsushima Development Request” (“Matsushima” here meaning Ulleungdo) in 1881, it seems that people in Shimane Prefecture also thought that both “Takeshima” and “Matsushima” referred to Ulleungdo. Meanwhile, Watanabe Kōki, the director of the Records Department at the Ministry of Foreign Affairs, wrote that “[a]lthough it is said that Matsushima and Takeshima refer to the same island, namely what the Koreans call Ulleungdo, the governor of the former Tottori Prefecture argued that they are definitely two islands.” He pointed out that this means a certain governor of the former Tottori Prefecture thought “Takeshima” and “Matsushima” referred to different islands. As we consider that the main text of the inquiry, the *Summary of Background Information*, and other appendices were drafted by different people, it is likely that not all the officials in Shimane Prefecture (especially those from the former Tottori Prefecture) shared the understanding that

“Takeshima” and “Matsushima” were the same island.

Considering Chapters 3 and 4 as a whole, it is suggested that not all Shimane Prefecture officials involved in the drafting of its inquiry, including those from the former Tottori Prefecture, shared the same understanding on what island(s) the prefecture had inquired about in the “Inquiry on the Incorporation of Takeshima and the Other Island in the Sea of Japan into the Land Register.” We also cannot deny the possibility that Shimane Prefecture’s inquiry itself could be the product of a compromise of the two views that “Takeshima” and “Matsushima” were the same island (main text of the inquiry) and that they are separate (appendices). As pointed out in Chapter 3, maps printed in the West and by Japanese government organizations such as the Japanese Imperial Army and Navy treated “Takeshima” as “E.D.” (existence doubtful). On the other hand, mentions of “Takeshima” were overwhelmingly more numerous than those of “Matsushima” in old documents in Japan. One way to think about this is that “Takeshima” and “Matsushima” did refer to the same island, but the old documents clearly said that they were separate and, as the existence of “Matsushima” had been visually confirmed on the sea route between Nagasaki and Vladivostok, some continued to insist that “Matsushima,” a large and resource-rich island different from Ulleungdo, must exist.

6. The nature of “1877 Instruction” as a government document (Chapter 4, cont.)

Chapter 4 also examines the relevant regulations of the Council of State on inquiries from various ministries as well as regulations on the selection of documents in the *Kōbunroku* and the *Dajōruiten* (太政類典, Precedents and Rules of the Council of State).

The Council of State was asked by other ministries to make decisions on various matters ranging from important to trivial ones. For instance, listed in the *Kōbunroku* right before the documents on the “Inquiry on the Incorporation of Takeshima and the Other Island in the Sea of Japan into the Land Register” are those concerning the “Inquiry on the Transfer of Land from Nagasaki Hospital to the Pharmaceutical Inspection Office” and the “Inquiry on Relocation Payments to Purchase Foreign National Residences in Yamate, Yokohama.”

Recognizing that they were making decisions about various matters of differing importance, the Coordination Bureau (Secretariat) of the Council of State proposed to categorize official documents based on their importance, saying “[w]e believe that governmental affairs range from the important to the trivial and this holds true in documents. We currently have so many pending documents that we fear troubles and complications might occur unless they are categorized according to importance.” [A rule on documents approved by the Council of State on February 14, 1877, titled “Official Documents Shall be Divided into the Four Categories of Laws (法律), Regulations (行政規則), Bylaws (訓條) and Replies (批文).”] According to the rule, instructions (指令) of the Council of State are distinguished from laws and regulations such as “ordinances (布告), directions (達) and ministerial ordinances (布達),” and are described in general as “[i]n addition to instructing ministries that have asked about unregulated matters, instructions of the Council of State ordinarily include instructions in response to legal queries and other minor matters, with dozens of documents being transacted on a daily basis, thereby shifting the responsibilities of the ministries.” [ibid.] A red stamp that says “*Hibun* (Replies)” can be found outside the top row of the inquiry of the Ministry of Home Affairs discussed in this report. This is defined as “providing directions to those who ask questions about laws, regulations, and bylaws or about unregulated matters.”

As such, the assertion of a Korean researcher that the “1877 Instruction is an extremely legally binding document as it is an official document issued by the Council of State (the prime

minister today) as the highest political decision-making organ in Japan at the time⁴ is erroneous. As suggested by the fact that the document was categorized as “Replies,” the 1877 Instruction was a response to an inquiry from the Ministry of Home Affairs/Shimane Prefecture (an interaction between government agencies) and neither a law nor a regulation. Of course, this does not deny that the 1877 Instruction of the Council of State is indicative of the judgment and perception of the Council of State and the Ministry of Home Affairs, but it is necessary to discuss what their perception was in light of their decision to respond to the inquiry with a reply (批文).

7. Perceptions of the Ministry of Home Affairs and the Council of State (1) (Chapter 5) : Analysis of maps published by central government agencies

Chapter 5 (“‘Takeshima and the Other Island’ from the Perspective of the Parties Concerned—Ministry of Home Affairs and Council of State” by the Takeshima Documents Study Group) examines the perceptions of the Ministry of Home Affairs and the Council of State by looking into maps issued by central government agencies. It points out that the discussions about the “Inquiry on the Incorporation of Takeshima and the Other Island into the Land Register” were held around the same time that perceptions about “Takeshima” and “Matsushima” were changing in Japan. Against this background, it is noted that determining the scope of “Takeshima and the other island” in the 1877 Instruction of the Council of State requires considering maps published by central government agencies at the time.

Checking maps published by government agencies such as the Army, the Navy, and the Geographical Record Section of the Department of the Council of State in the five years between 1872 and 1877, “Matsushima” on all the maps showing “Matsushima” in the figure below refers to Dagelet Island (Ulleungdo). Examining the maps made by the Geographical Record Section of the Council of State, the Section perceived Argonaut Island to be “Takeshima” and Dagelet Island to be “Matsushima” around 1873–1874. Then, as shown in the figure below, it became common for Argonaut Island to not be drawn or to be drawn with dotted lines, and its non-existence became widely accepted. “Matsushima” consistently refers to Ulleungdo on all the maps published by Japanese government agencies.

Considering the above, it is clear that “the other island” in the 1877 Instruction of the Council of State, or “Matsushima,” refers to Ulleungdo. In addition, while the Japanese government perceived “Takeshima” to be Argonaut Island in 1873–1874, by the time that the 1877 Instruction was issued, the non-existence of Argonaut Island had become widely accepted. In this regard, it is likely that government agencies such as the Ministry of Home Affairs and the Council of State considered both “Takeshima” and “the other island (Matsushima)” in the 1877 Instruction to refer to Ulleungdo, as indicated by a passage in Kitazawa Masanari’s report *Takeshima Kōshō* (A Study of Takeshima) showing that the majority of officials in the Ministry of Foreign Affairs believed “Takeshima” and “Matsushima” were the same island around 1876.

⁴ 송휘영 「17세기 일본의 독도 인식과 ‘고유영토론’」 『일본의 독도 영유권 주장의 허상』 (동북아역사재단, 2018) [宋彙榮 「17世紀日本の独島認識と‘固有領土論’」 『日本の独島領有権主張の虚像』 (東北アジア歴史財団, 2018年) Song Hwi-Yeong, “Japanese Perception of Dokdo in the 17th century and assertion of inherent territory,” *Myth of Japan’s territorial claim over Dokdo* (Northeast Asian History Foundation, 2018)] p.106.

Perceptions about “Takeshima” and “Matsushima” on Maps Made by Japanese Government Agencies in the Early Meiji Period

	Argonaut Island	Dagelet Island	Present-day Takeshima
Carte du L’Empire du Japon (made by a cartographer of the Geographical Record Division of the Council of State and possibly exhibited at the International Exposition in Vienna in 1873)	Take I.	Matsou I.	Not depicted on the map
The Complete Map of Korea (朝鮮全図) (made by General Staff Office, Imperial Japanese Army, in 1875)	Takeshima (with dotted lines)	Matsushima	Outside of the area covered by the map
Map of East Coast of Korea (朝鮮東海岸図) (made by Hydrographic Bureau, Ministry of the Navy, in 1875 and revised in 1876)	Argonaut Island	1875 Ver.: Dagelet Island 1876 Ver.: Matsushima	Olivutsa and Menelai
Map of East Asia (亜細亞東部輿地図) (made by General Staff Office, Japanese Imperial Army, in 1875)	Takeshima (with dotted lines)	Matsushima	Not depicted on the map
The Complete Map of the Land and Sea of Japan and Adjacent Areas of Korea and Sakhalin (大日本海陸全図聯接朝鮮全国並樺太) (made by Hydrographic Bureau, Ministry of the Navy, in 1875)	Not depicted on the map	Matsushima	Olivutsa and Menelai
The Complete Map of Japan (大日本国全図) (made by Geographical Record Section, Historiography Bureau, Council of State, in 1876 as an exhibit for the International Exposition in Philadelphia) (the exhibition was canceled because the map was not completed in time)	Not depicted on the map	Not depicted on the map	Not depicted on the map
The Complete Map of Japan (大日本国全図) (made by the Geographical Record Section, Historiography Bureau, Council of State, probably around 1876 to show the locations of lighthouses)	Takeshima	Matsushima	Not depicted on the map
The Complete Map of Japan (大日本全図) (made by General Staff Office, Japanese Imperial Army, in 1877)	Not depicted on the map	Not depicted on the map	Not depicted on the map
The Complete Map of Japan (日本全図) (made by Ministry of Education, in 1877)	Takeshima (with dotted lines)	Matsushima	Not depicted on the map

8. Perceptions of the Ministry of Home Affairs and the Council of State (2) : Exchanges between the central government and the governor of Nagasaki Prefecture

The report of the Takeshima Documents Study Group concluded that present-day Takeshima was beyond the scope of “Takeshima and the other island” in the 1877 Instruction of the Council of State. After the publication of the report, two new documents were confirmed as a result of investigation and research by Shimane Prefecture, and Fujii Kenji wrote an article about them. These documents not only support the conclusion of the report but also prove that the Ministry of Home Affairs and the Council of State perceived both “Takeshima” and “Matsushima” to be

Ulleungdo in the process of examining the inquiry on “Takeshima and the other Island.”

One of these documents is a reply letter dated August 18, 1877 from Ōkubo Toshimichi, Minister for Home Affairs, to Kitajima Hidetomo, Governor of Nagasaki Prefecture.⁵ In the letter, Ōkubo denied Kitajima’s request expressed in his letter dated July 13, 1877 to develop “Matsushima” under the jurisdiction of Nagasaki Prefecture. This “Matsushima” must be Ulleungdo because Kitajima’s letter stated that “the island is covered by dense forest, and big trees can be found around the island.” Present-day Takeshima is a group of small rocky islands with poor vegetation. In his reply letter, Ōkubo stated that, with respect to “the island in question,” the Ministry had decided “there is no relation to Japan” as a result of an examination of the exchanges between Japan and Korea pertaining to the Genroku Takeshima Incident in the 17th century, and the Ministry’s judgment had received approval from the Council of State. In other words, Ōkubo specified that, with respect to the 1877 Instruction of the Council of State, “Matsushima” had been the subject of discussion in both the inquiry from the Ministry of Home Affairs and the reply from the Council of State. On the other hand, as mentioned above, the Ministry of Home Affairs only identified Takeshima as the subject of discussion in its inquiry pertaining to the 1877 Instruction of the Council of State. Therefore, it has become crystal clear that both the Ministry of Home Affairs and the Council of State considered both “Takeshima” and “Matsushima” to refer to the island that was discussed in the Genroku Takeshima Incident, i.e., Ulleungdo.

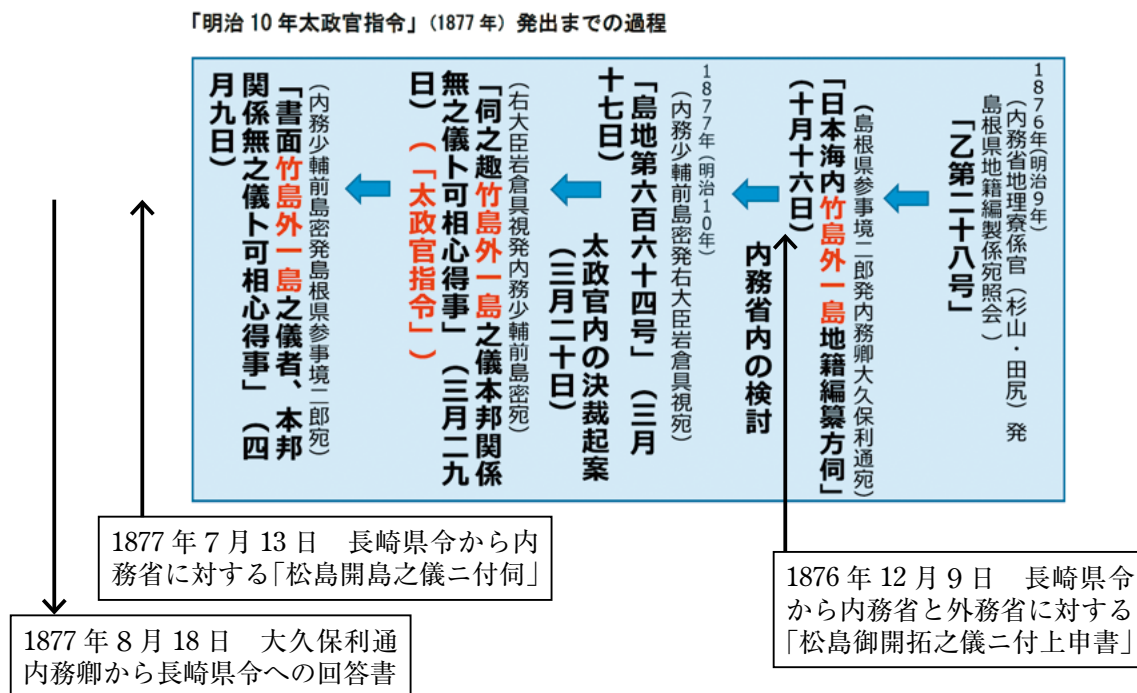
Another such document was the “Petition on the Development of Matsushima”⁶ dated December 9, 1876 that Kitajima submitted to Ōkubo Toshimichi, Minister for Home Affairs, and Terashima Munenori, Minister for Foreign Affairs. In this petition, Kitajima stated that it would be profitable if Japan were to export lumber from “Matsushima” to Vladivostok. This “Matsushima” must be Ulleungdo because it is the only island on which forestry could develop in the Sea of Japan. It is important that this petition was sent to both the Ministry of Home Affairs and the Ministry of Foreign Affairs. In December 1876, the Ministry of Home Affairs was still conducting the investigation it had begun in response to the inquiry on “Takeshima and the other island” from Shimane Prefecture. It is not plausible that the Ministry of Home Affairs, which had the latest geographical information, depended upon only the old Edo-era information in the *Summary of Background Information* and the *Simplified Map of Isotakeshima*, the appendices of the inquiry from Shimane Prefecture. It is quite natural that the Ministry of Home Affairs drafted its inquiry to the Council of State while taking into account the latest geographical perception that “Matsushima” referred to Ulleungdo.

The two above-mentioned documents, one of which was prepared right after the issuance of the 1877 Instruction of the Council of State and the other when the Ministry of Home Affairs was examining the inquiry from Shimane Prefecture, make clear the perception of the Ministry of Home Affairs on “Matsushima.” They support the conclusion of the report by the Takeshima Documents Study Group. Moreover, they prove that the Ministry of Home Affairs and the Council of State perceived “Takeshima” and “Matsushima” to be Ulleungdo. The chart below shows the relevant documents in chronological order. “The other island,” namely “Matsushima,” referred to present-day Takeshima in the appendices of the inquiry from Shimane Prefecture.

⁵ The document is filed in “Hanabusa Yoshimoto related documents” owned by Tokyo Metropolitan University Library (東京都立大学附属図書館蔵『花房義質関係文書』「書類の部」「A朝鮮国関係4公務類・公信類」「2) 対朝鮮交渉のための書類一綴り明治9年6月10日～明治10年11月23日」).

⁶ The document was confirmed in a file in Nagasaki Museum of History and Culture. The title of the file is 『明治九年 外務課事務簿 拾遺書類 雑之部 第二 .』 For more detail, please see Fujii Kenji, “Research on the Dajōkan Instruction has come to a new phase,” *Mid-term Report of the 5th term of the Takeshima Issue Research Group* (Shimane Prefecture, 2023)[藤井賢二「新局面を迎えた「太政官指令」問題研究」第5期竹島問題研究会編『第5期「竹島問題に関する調査研究」中間報告書』(2023年)].

The Ministry of Home Affairs considered “Takeshima” and “Matsushima” to be Ulleungdo and drafted its inquiry based on such understanding, and the Council of State endorsed the Ministry’s judgment. The 1877 Instruction in which the Council of State “understand(s) that, with respect to the inquiry on Takeshima and the other island, there is no relation to Japan” concerns Ulleungdo, which was called “Matsushima” and “Takeshima” at the time, and it had nothing to do with present-day Takeshima.



Examination Process of Inquiry on “Takeshima and the Other Island”

- October 5, 1876 Two land register incorporation supervisors of the Ministry of Home Affairs sent a letter (Otsu No.28) to Shimane Prefecture proposing that the prefecture conduct an investigation on Takeshima (Ulleungdo) and send the Ministry an inquiry over whether the prefecture should incorporate the island into its land register.
- October 16, 1876 Sakai Jirō, Vice-Governor of Shimane Prefecture, sent an inquiry on “Takeshima and the other island” to Ōkubo Toshimichi, Minister for Home Affairs (“Inquiry on the Incorporation of Takeshima and the Other Island in the Sea of Japan into the Land Register”).
- December 9, 1876 Kitajima Hidetomo, Governor of Nagasaki Prefecture, submitted a petition on the development of Matsushima to Ōkubo Toshimichi, Minister for Home Affairs, and Terashima Munenori, Minister for Foreign Affairs.
- March 17, 1877 Maejima Hisoka, Vice-Minister for Home Affairs, sent an inquiry (Shimachi No. 664) to the Council of State to get its approval for the Ministry’s judgment that “there is no relation to Japan.”
- March 20, 1877 A Council of State official drafted an approval document for the 1877 Instruction of the Council of State (Draft No. 20).
- March 29, 1877 The 1877 Instruction of the Council of State was sent from Iwakura Tomomi, Minister of the Right, to Maejima Hisoka, Vice-Minister for Home Affairs.
- April 9, 1877 Maejima Hisoka, Vice-Minister for Home Affairs, instructed Sakai Jirō, Vice-

Governor of Shimane Prefecture, to “understand that, with respect to the inquiry on Takeshima and the other island, there is no relation to Japan.”

July 13, 1877 Kitajima Hidetomo, Governor of Nagasaki Prefecture, submitted “the inquiry on the development of Matsushima” to the Ministry of Home Affairs.

August 18, 1877 Ōkubo Toshimichi, Minister for Home Affairs, replied to the inquiry by Kitajima.

9. The political situation at the time (Chapter 6)

Chapter 6 (“The Political Situation at the Time of the 1877 Instruction of Council of State: Neither the Emperor nor the Chancellor of the Realm Were Involved with the Issuance of the Instruction” by Kanji Matsuzawa, former Program Director of NHK World Radio Japan) highlights the fact that Ōkubo Toshimichi and other key persons in the Meiji government were in western Japan dealing with the Satsuma Rebellion when considering who was involved in the decision-making for the 1877 Instruction of the Council of State.

He points out that the approval document of the 1877 Instruction of the Council of State only has the approval seals of four officials (State Councilor or higher): Minister of the Right Iwakura Tomomi, Councilor Ōkuma Shigenobu, Councilor Ōki Takatō, and Councilor Terashima Munenori. Just as the draft of the 1877 Instruction of the Council of State was being prepared on March 20, 1877, government forces were successfully concluding a major attack that took Tabaruzaka during the Satsuma Rebellion. He then introduces the fact that Emperor Meiji appointed Iwakura Tomomi as regent to handle matters in Tokyo while the emperor visited Kyoto in January 1877. Iwakura was specifically instructed that “[i]mportant matters should be reported to the traveling court for approval, while matters that cannot wait may be decided and subsequently reported,” meaning that Iwakura Tomomi as regent was entrusted with political matters, but that important matters needed to be reported to and approved by the emperor (although urgent matters could be decided and then reported to the emperor). He then draws attention to the fact that there are no traces of discussions with or reports to the emperor about the 1877 Instruction of the Council of State. As an example of east-west communications, he presents the fact that Iwakura Tomomi in Tokyo presented his views about the Satsuma Rebellion to Sanjō Sanetomi and Kido Takayoshi in Kyoto. Considering the above, it is unlikely that the 1877 Instruction of the Council of State decided such an important matter as changing the borders of Japan. He concluded that “Takeshima” (Ulleungdo) had been determined to be Korean territory in the Edo-period Genroku Takeshima Incident, and the 1877 Instruction of the Council of State merely confirmed that decision from the Edo period. Regarding the Instruction, Iwakura thought that there was no need to report it to or discuss it with the emperor.

Moreover, he points out that the Ministry of Foreign Affairs was not involved in the decision-making behind the 1877 Instruction of the Council of State, considering the following facts: 1) in the *Kōbunroku* the March-April 1877 “Inquiry about Incorporating Takeshima and the Other Island into the Land Register” has a “regional” seal rather than a “diplomatic” seal (as categorized in the *Precedents and Rules of the Council of State*), 2) there were no inquiries about “Takeshima” from the Ministry of Foreign Affairs to the Council of State around that time, and 3) the *Takeshima Kōshō*, an 1881 compilation of documents about the discussions on “Takeshima” and “Matsushima” in the Ministry of Foreign Affairs, makes no reference to the 1877 Instruction of the Council of State. The author concludes that, if the 1877 Instruction of the Council of State had determined a new national border, then the Ministry of Foreign Affairs would naturally have been consulted, so this again shows that the decision in the Genroku Takeshima Incident was simply confirmed.

As an addendum, he points out that his conclusion that the 1877 Instruction of the Council of State followed the decision in the Genroku Takeshima Incident strangely matches what the South

Korean side is saying. In this regard, he tries to reconsider what was decided in the Genroku Takeshima Incident. He reaffirms that what was discussed between Japan and Korea at the time was “Takeshima” (Ulleungdo) only, as confirmed by the primary sources from South Korea and Tsushima Domain in the Genroku period. Moreover, when it comes to an exchange between the Edo Shogunate and Tottori Domain (Tottori Domain replied to a Shogunate inquest that “Takeshima” and “Matsushima” did not belong to the provinces of Inaba and Hōki, over which Tottori Domain was reigning) that the South Koreans consider evidence for their argument, he points out that there is no mention of “Matsushima” in any diplomatic exchanges between Japan and Korea at the time, so the reply from Tottori Domain is not meaningful as a historical source to verify what was discussed between the two countries. He also criticizes the Korean interpretation of all instances of the name “Ulleungdo” to mean “Ulleungdo and Dokdo,” since this automatic interpretation prohibits any meaningful dialogue when it is doubtful there is any truth to the Korean claim that Dokdo is a dependency of Ulleungdo.

10. The 1883 Order of the Council of State (Chapter 7)

Chapter 7 (“Examining the 1883 Order of the Council of State” by Yamasaki Yoshiko) points out that the 1877 Instruction of the Council of State should not be isolated as a single moment to be discussed but should be considered as a part of the Meiji Government’s efforts to get an accurate grasp of the islands in the Sea of Japan from a comprehensive perspective on the Japanese government’s geographical perception of “Takeshima” and “Matsushima” from the Genroku to the Meiji period. She points out that, in the diplomatic exchanges between Japan and Korea from the 17th through the late 19th century, the Korean side never raised the issue of the ownership of present-day Takeshima. She looks in particular at legislation enacted in 1883 in which the Japanese government conveyed the perception that both “Takeshima” and “Matsushima” refer to Ulleungdo to the Japanese public and prohibited Japanese from traveling to the island (the 1883 Order of the Council of State). The Order was originally prompted by the Korean government’s complaint to the Ministry of Foreign Affairs that Japanese nationals were engaged in lumbering on Ulleungdo. She points out that the Order provides a stark contrast with the 1877 Instruction of the Council of State, which was nothing more than a confidential instruction to Shimane Prefecture. In the case of the 1883 Order, for instance, ships were dispatched to Ulleungdo to repatriate Japanese after the Order was issued. In addition, documents dispatched across Japan to promulgate the Order are still extant in various prefectures (the author surveyed many prefectural archives and presents some in her paper). In her analysis, she especially focuses on the first volume of the *Retrieval and Punishment of Japanese Illegally Crossing over to Ulleungdo, Korea*, a document file about a proposal made by the Ministry of Foreign Affairs to the Council of State that resulted in the issuance of the 1883 Order. The Ministry proposed that all Japanese leave the island and that the Japanese government inform the Korean government of the fact it had prohibited Japanese from going to the island based on the Korean complaint. The file includes the 1877 Instruction of the Council of State, the original inquiry from Shimane Prefecture, and Kitazawa Masanari’s text on “Takeshima” (the *Takeshima Hanto Shozoku Kō*, an abridged version of the *Takeshima Kōshō*). The author points out that the Ministry reached the final judgment, after considering all the relevant facts including the 1877 Instruction of the Council of State, that it was only Ulleungdo that fell outside Japanese territory. What is especially important are the exchanges between the Ministry of Home Affairs and the Ministry of Foreign Affairs when a request to develop “Matsushima” was submitted by Ōya Kensuke and another person (see Chapter 3). “Shimachi No. 1114,” which is an inquiry from the Ministry of Home Affairs concerning the request, articulated that “the other island” in the 1877 Instruction of the Council of State was “Matsushima.” Based on such understanding, the government clearly expressed once again its view that “Matsushima” and “Takeshima” referred to Ulleungdo in the

1883 Order of the Council of State. As the Order, which only concerns Ulleungdo, states that “[t]he two governments have previously agreed on this,” the author emphasizes that the Meiji government’s view was that Ulleungdo was the only subject of Japan–Korea negotiations during the Genroku Takeshima Incident. She also points out that this fact has been ignored by past Korean studies.

Next, she argues that, even if present-day Takeshima were somehow included in the scope of the 1877 Instruction, the 1883 Order of the Council of State would prevail because of the principle “*lex posterior derogat priori*”; the 1877 Instruction was no more than an instruction to Shimane Prefecture, whereas the 1883 Order was legislation binding people in general. We ought to prioritize the 1883 Order, which clearly did not include present-day Takeshima in its scope, as the government’s decision. She also writes that, unlike the 1877 Instruction of the Council of State, which was drafted in the context of compiling a domestic land register, the 1883 Order of the Council of State was issued following communications between the Japanese and Korean governments (meaning it was a diplomatic measure) prompted by a Korean complaint about Japanese activities on Ulleungdo.

Moreover, the author states that, due to the focus on identifying “the other island” in the 1877 Instruction of the Council of State, which was no more than an internal administrative document of a temporal nature, the discussion on Takeshima has deviated from the essence of the issue. The 1883 Order of the Council of State, which was conveyed to the Korean government as the result of diplomatic negotiations, should instead be prioritized when considering the intents of the parties concerned. Finally, she concludes that the Takeshima issue as a territorial issue should not be discussed only using a historical approach as it requires a comprehensive and interdisciplinary approach that involves international law, domestic law, international relations theory and so on, meaning that it is inappropriate to persistently seek to identify “the other island” in the 1877 Instruction of the Council of State from a historical point of view bereft of other perspectives.

11. The Instruction of the Council of State in South Korean research and education (Chapters 8–9)

Chapter 8 (“South Korea’s Territorial Claim to Takeshima and the Instruction of the Council of State” by Fujii Kenji, Advisor on the Takeshima Island Issue, Shimane Prefecture) examines the impacts that the 1877 Instruction of the Council of State has had on South Korean research on Takeshima. The author points out that, although the first scholar to introduce the 1877 Instruction of the Council of State in an academic paper was Japanese (Hori Kazuo, later a professor at Kyoto University), South Korean papers have built on Professor Hori’s research, including his clear misreadings and mistakes, in particular those parts advantageous to the Korean cause such as the use of the *Summary of Background Information* and the theory that present-day Takeshima is a dependency of Ulleungdo, citing research by Shin Yong-Ha and Song Byeong-Gi. He then points out that these papers have even engaged in the “development” of South Korean narratives using the 1877 Instruction in ways that could be considered a distortion of facts and a manipulation of impressions: this includes but is not limited to the following allegations: 1) the 1877 Instruction of the Council of State is proof that the Japanese side admitted that “Takeshima and the other island” were Korean territory (in reality, it only says that “there is no relation to Japan”) and 2) the *Summary of Background Information* and the *Simplified Map of Isotakeshima* have the same value as Reference Materials No. 1 to No. 4 that formed the basis of the judgment by the Ministry of Home Affairs (looking at the inquiry of the Ministry of Home Affairs, the *Summary of Background Information* and the *Simplified Map of Isotakeshima* were treated as part of the “appendices” of the inquiry submitted by Shimane Prefecture and were not included in the attached documents that formed the grounds for the decision that “there is no relation to Japan”). By so doing, the South Korean side has tried to make the 1877 Instruction of the Council of State into something

more advantageous to South Korea than Professor Hori himself thought. The author is concerned about the current situation where the false image of the 1877 Instruction of the Council of State, including the misrepresentation that the *Simplified Map of Isotakeshima* came attached to the Instruction, is being reproduced in South Korea, with even some Japanese starting to doubt the trustworthiness of the Japanese government's view.

Based on *notes verbales* exchanged between Japan and South Korea in the 1950s and 1960s, the author points out that the South Koreans were utterly defeated in the exchanges about Takeshima as they were unable to produce any grounds for their possession of Takeshima. He introduces one example: although the South Korean government “asked prominent historians and international law experts in South Korea” to produce any objection to the Fourth Japanese View on several occasions in connection with the normalization of relations between Japan and South Korea in 1965, they were unable to do so. He points out that Shin Yong-Ha and other Korean scholars tried to prove Korean possession of Takeshima based on Korean evidence but were unable to produce good results.⁷ He concludes that the failure to establish Korean possession based on Korean evidence led to their efforts to deny Japanese possession and establish Korean possession based on Japanese sources, most notably the 1877 Instruction of the Council of State. Then, a few years ago, an examination by the Ministry of Education of a “Japanese History B” textbook for Japanese high schools revealed a footnote in the textbook draft stating that “The Japanese government decided in 1877 that the island corresponding to present-day Takeshima had no relation to Japan.” While the footnote was not adopted, this episode suggests that Japanese, too, are now being influenced by the South Korean arguments about the 1877 Instruction of the Council of State. Lastly, he emphasizes that South Korea ought to show grounds for their possession rather than try to find fault with the Japanese positions by using Japanese documents such as the 1877 Instruction of the Council of State.

Chapter 9 (“The Takeshima Issue in South Korean Social Studies Education and the Instruction of the Council of State” by Fujii Kenji, Advisor on the Takeshima Island Issue, Shimane Prefecture) introduces in detail how the Takeshima issue, including the 1877 Instruction of the Council of State, is treated in South Korean elementary, middle, and high school textbooks as part of social studies education. He concludes that the typical, perverted approach to the 1877 Instruction of the Council of State that seeks “grounds” for South Korean possession of Takeshima in Japanese documents can also be seen in South Korean social studies education. He also writes that in South Korean “Dokdo” education there is a growing tendency to perceive the Takeshima issue as an issue of historical perception by presenting the 1905 Shimane Prefecture incorporation as “aggression.” In this regard, he emphasizes that Japan must reject this assertion and convey that the Japanese side only seeks a peaceful resolution to the Takeshima issue. Moreover, he suggests the importance of communicating accessible information in languages other than Japanese and telling the truth to the young South Koreans who will build the future by, for example, explaining that denial of Japanese possession of Takeshima as such will not establish South Korean possession or that Korean textbooks are wrong to say that the *Simplified Map of Isotakeshima* came attached to the 1877 Instruction of the Council of State.

12. Lee Kyu-Won and the Ulleungdo Survey Diary (Supplementary Chapter)

The Supplementary Chapter (“Lee Kyu-Won and the *Ulleungdo Survey Diary*” by Professor Nagashima Hiroki, Kyushu University) is not directly concerned with the 1877 Instruction of the Council of State but reinforces the theme of the report by presenting historical sources that show the Korean perception of “Takeshima” in the same period. The chapter examines

⁷ E.g. 신용하 『독도의민족영토사연구』 (지식산업사, 1996) [愼鏞廈 『独島の民族領土史研究』 (知識産業社, 1996年) Shin Yong-Ha, *Dokdo from the perspective of Korean National Territorial History* (JISIK SANUP PUBLICATIONS CO., LTD, 1996)].

the *Ulleungdo Survey Diary* authored by Lee Kyu-Won. Lee Kyu-Won was a military official in the late 19th-century Joseon Kingdom and was ordered by King Kojong to survey Ulleungdo in 1881. The *Ulleungdo Survey Diary* is thought to have been a draft of the report he wrote on that occasion. The document is cited by Japanese and South Koreans alike as a source about the perception of Ulleungdo (and non-perception of present-day Takeshima) in late 19th-century Korea. The original text donated by Lee Hye-Eun (then professor of geography education at the College of Education, Dongguk University), a great-grandchild of Lee Kyu-Won, can be found at Jeju National Museum. Having seen it with his own eyes, the author has photographed it and is comparing it with existing transcriptions by South Korean researchers (including Lee Seon-Geun and Shin Yong-Ha).

He points out that the *Ulleungdo Survey Diary* consists of “a rough draft hidden on the back” (first draft), a secondary text with corrections to the first (second draft), and a draft of the report submitted to the king (royal report draft). Next, he comments on two South Korean claims (① “Usando” on premodern maps is present-day Takeshima and ② “Seokdo” in Imperial Edict No. 41 from 1900 is present-day Takeshima) by writing that the *Ulleungdo Survey Diary* “may not be decisive for the latter but has the potential to shoot down the former [...] South Korean claim.” The end of the royal report draft states “when I climbed the height of (Ulleungdo) on a clear day and looked out over the sea, I could not see a single rock or lump of earth” and “Usan is Ulleung likely in the same way that Tamna is Jeju.” Meanwhile, the *Sŭngjŏngwŏn ilgi* (*Journal of the Royal Secretariat*), which is an official record of the Joseon court, states that Lee Kyu-Won, prior to his departure for the survey, answered a question from King Kojong by saying that Usan is the old name for a province, just like Tamna is the old name for Jejudo, showing that he was correctly informed that Usando and Ulleungdo are the same island. In other words, just as the *Journal of the Royal Secretariat* says, Lee Kyu-Won possessed very accurate geographic information about the surroundings of Ulleungdo even before his departure, and the accuracy of his argument was later proven after his on-site survey, as indicated in the royal report draft of the *Ulleungdo Survey Diary*. The author then concludes that this matches the depiction of “Chikdo” and “Tohang” on the *Ulleungdo oedo* (Map of Ulleungdo’s Surroundings), which is thought to have been attached to the royal report.

Moreover, there is a part in the second draft that shows Lee Kyu-Won’s title to be *t’ongjŏng taebu* (通政大夫) so at least this part was very likely written in July and August 1882 since that was when he held the title of *t’ongjŏng taebu*. This is also supported by other parts, so Professor Nagashima points out that, if the *Ulleungdo Survey Diary* was drafted in the summer of 1882, then it is a precious and highly contemporaneous Korean historical record.

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