

Japan as a Major Territorial Contender : Further Towards U.S.–Japan Military ‘Alliance Restraint’

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This brief review article pays tribute to Japan’s multiple containment as a result of her being a major territorial contender.¹ Japan is literally encircled by territorial disputes with major East Asian powers as territorial claimants, People Republic of China (PRC), Taiwan, two Koreas and the Russian Federation (RF), which, to a large extent, view each other as a major security threat. Given the fact that formation of East Asian regional collective security system is hardly feasible in the visible future, while the U.S. military presence in the region remains primarily dependent upon continuation of the security treaty between Japan and the United States, it is only natural to relate Japan’s territorial disputes to the issue of the U.S. military presence in East Asia at large. The author strives to identify Japan’s territorial disputes, both current and potential, and briefly sketch a connection between Japan’s multiple territorial disputes and the US military presence in East Asia, concentrating in particular upon the Russo–Japanese territorial dispute.

The presentation singles out the “Northern Territories” dispute, involving Russia and Japan, as a major case study, considering substantial US involvement in its evolution throughout the Cold War period. However, the Russo–Japanese territorial dispute is also viewed as no more than a representative case study, given the fact that all of Japan’s current and potential disputes are rooted in both legal and political implications of the San Francisco Peace Treaty (SFPT), concluded in the wake of the World War II in 1951, and consequently share a number of fundamentally common features.

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1 The text is a modified version of a paper offered for presentation at the International Workshop “Seventy Years Since the End of the War in Asia” that was held in Munich, Germany, on 29–30 January, 2016. Only selected bibliographical references are provided. Photos attached were made by the author. For detailed conference data see scanned copies appearing below.

The article is largely based on two frequently misguided assumptions. First of all, I assume that it is wrong to assess Japan as a balancing regional power: the currently progressing revision of Japan's "peaceful" constitution, focussing on reinterpreting Article 9, coupled with Japan's reluctance to come to terms with her wartime past only serve to reinforce hard-liners in the neighbouring countries. Secondly, which matters most, I assume that World War II has not ended in East Asia at large, to which Japan's multiple territorial disputes clearly testify. While the 1951 San Francisco Treaty is widely viewed as having formally put an end to the war, neither the Republic of Korea (RK) nor the PRC were invited to take part in it, while the Soviet Union left the conference and has remained outside of its legal sphere of influence.

Nevertheless, the SFPT remains a major reference source concerning Japan's territorial disputes with her neighbouring states. It is just as apparent that the US has played a decisive role in both the Tokyo War Crimes Tribunal and the 1951 SFPT proceedings, and may not be viewed as an outside observer in any of the regional territorial disputes. Besides, as fairly noted by Professor Gi-Wook Shin of Stanford University, there is a growing concern regarding a legal status of the U.S. strategic bombings, including atomic bombings directed against Japan during the Pacific war.²

While contesting a group of islands to the north of Japan's northernmost island of Hokkaido which are administered by the RF as a part of the "Kurile Islands" chain, Japan is also demanding control over two rocky islets surrounded by 33 smaller rocks controlled by RK, known collectively as "Dokdo" in Korea and "Takeshima" in Japan. Besides, while administering as a part of Okinawa Prefecture a group of eight uninhabited islands and barren rocks located approximately 120 nm away from Taiwan, 200 nm east of China's mainland and 200 nm away from Japan-controlled island of Okinawa, called "Senkaku" in Japan and "Tiao Yu Tai" in China, Japan is also engaged in denouncing as illegitimate the PRC's and Taiwan's claims for gaining sovereignty over that territory.

Japan's territorial disputes involve East Asia's major nuclear powers, Russia and China, as direct adversaries. In addition, conflicting claims involving Japan assume global dimensions when considered against the background of the United States' indirect involvement in terms of the current security alliance between the US and Japan, which incidentally

2 Shin, Gi-Wook. "Historical Disputes and Reconciliation in Northeast Asia: the US Role." *Pacific Affairs*: Vol. 83, No. 4, December 2010.

serves to complicate further the territorial dispute between Japan and RK, yet another major Asia-Pacific regional ally of the United States.

To be sure, the United States, like China, Taiwan, South Korea and Russia, has a maritime boundary with Japan in the Pacific Ocean in the "Northern Marianas" area, the United States Commonwealth Territory. Japan's only peaceful border, delimitation with the Northern Marianas concerns frontier area between two archipelagoes, the "Northern Marianas" and Japan's "Volcano Islands" (*Kazan Retto*) which are hundreds of miles apart.

An island state, Japan has only maritime boundaries, which enormously raises the overall significance of her boundary disputes. Firstly, the ongoing search for marine resources is widely considered to be a matter of strategic importance. Suffice it to recall that more than 20 per cent of our planet's confirmed oil and natural gas deposits are located along continental shelves. More than 125 countries are currently actively engaged in both seeking and managing such types of resources, typically making use of sophisticated high-tech installations.

Moreover, Japan is located in the Asia-Pacific region which contains the largest island-composed countries on Earth, including Indonesia, the Philippines, Brunei, Singapore and Malaysia. Located inside the world's largest ocean area, the Asia-Pacific region states occupy about 19 percent of the planet's land surface and control over 32 per cent of the world's population. High expectations of the region's becoming the center of world economy and politics at large continue to attract attention.

Ever since the third United Nations Convention on the Law of the Sea (UNCLOS) adopted the Convention of the Law of the Sea in April 1982, within only 20 years that followed more than 130 coastal and island states proceeded to control over 30 per cent of the world ocean surface, referring to the Convention-defined legal regime. Considering that legal possession of islands, reefs, rocks and other similar features might lead to controlling larger maritime space, including seabed and ocean floor, it is no wonder that territorial disputes involving such features are among the most intense and threatening. In this regard it is remarkable that while there are eight major island-centered disputes in the western Pacific area, including disputes over the Spratlies, the Pratas (Tungsha) Islands, the Pescadores Islands, the Paracel Islands and the Natuna (Bunguran) Islands, Japan is directly engaged in as many as three of them and indirectly engaged in the remaining five.

The indirect involvement applies, for example, to the issue of security of “sea lanes of communications” (SLOCs) in the South China Sea area through which Japanese oil tankers routinely carry more than 70 per cent of Japan’s oil imports.

It is also worth mentioning two other relevant aspects of Japan’s maritime boundary disputes, one of which concerns a considerable number of disagreements about the delimitation process per se. Thus, the PRC and Japan, apart from their outstanding historical and political debates, have different views on delimitation of continental shelf. Secondly, maritime boundary disputes are capable of affecting delimitation proceedings of adjacent states not necessarily involved in any of the disputes. For example, while examining Japan’s maritime disputes we find out as well that the very existence of a maritime boundary between Russia and South Korea depends in particular on sovereignty status of the “*Takeshima/Dokdo*” island group (frequently designated as *Liancourt Rocks*) disputed between Japan and South Korea. In fact, in the Asia-Pacific region Russia shares a mutually agreed maritime boundary only with North Korea, without according a full weight to the legal status of the “*Takeshima/Dokdo*” island group.

The Russo-Japanese territorial dispute over sovereignty of the islands of Kunashiri (“*Kunashir*” in Russian), Etorofu (Iturup), Shikotan (Sikotan) and the Habomais (Habomai or Ploskie) is deeply rooted in a legally acceptable definition of the “*Kurile Islands*” term: Appearing in the wake of World War II and directly related to the evolving Cold War and consequent rivalry between two superpowers, the United States and the former Soviet Union, the “*Kurile Islands dispute*”, as it is commonly known, is composed of a mixture of political and legal components. At the same time, the current dispute carries with it an inherited burden of intense territorial exchanges which have occurred between Russia and Japan starting from the second half of the 19th century. Having engaged in mutual militarized conflicts as often as four times, Japan and Russia rank tenth and fourth, respectively, among ten leading sovereign states as regards involvement in territorial transfers from 1816 through 1980s.

In the wake of World War II, the ‘*Kurile Islands*’, including Etorofu, Kunashiri, Shikotan and the Habomais, were seized by the Soviet Union. These islands were occupied by the Soviet Army soon after the Soviet Union entered the war against Japan on August 8, 1945. In 1947 the “*Kurile Islands*” were incorporated into the Southern Sakhalin Region of the Soviet Union’s Russian Soviet Federated Socialist Republic (RSFSR) and are currently

placed under administrative control of the Sakhalin Region of the Russian Federation, with a peace treaty between both countries remaining to be concluded.

Acting as a claimant requesting “return” of the disputed islands, Japan primarily refers to the SFPT, signed in 1951, as a legal basis of her demands. Officially replying in November 2006 to the National Diet deputy Suzuki Muneo’s query regarding in particular a sovereignty status of the “Chishima (Kuril) Islands”, the government of Japan clearly stated that while there do exist territorial claims regarding sovereignty status applicable to the islands of Kunashiri, Etorofu, Shikotan and Habomais, Japan does not consider either the Southern Sakhalin or the “Chishima (Kuril) Islands” to be her territory because in accordance with the relevant SFPT provisions it had lost any rights in relation to the above mentioned territories.

The Japanese government’s position reflects an overwhelming legal significance of the SFPT provisions pertaining to the status of the “Kuril Islands” as well as makes it clear that the disputed islands are viewed as not being a part of the “Kurile Islands”. It is therefore compelling to assess the legal value of the SFPT provisions as they relate to the scope and features of the “Kurile Islands”.

In that particular regard Article 2 Section (c) of the SFPT is being of an utmost importance, stipulating as it is that “Japan renounces all right, title and claim to the Kurile Islands.” Being the only relevant reference to the “Kurile Islands” in the text of the SFPT as a whole, it lacks clarity as regards the scope of the islands mentioned. Nor does it make clear whether or not the “Kurile Islands” had to be ceded necessarily in favor of the Soviet Union. These two features in effect serve to cause substantial damage to Russia’s legal sovereignty claims related to the “Kuril Islands”.

Furthermore, while both the customary treaty law and Article 32 of the Vienna Convention indicate that in cases when language of a treaty is ambiguous or obscure it is permissible to investigate preparatory work and circumstances pertinent to its conclusion, the Soviet Union’s eventual refusal to sign the treaty serves as a clear sign of a highly negative legal environment, which in effect has caused further damage to the validity of Russia’s territorial claims. Finally, with the SFPT Article 25 stipulating that “the treaty shall not confer any rights, titles or benefits on any state which is not an Allied power as herein defined”, while the latter definition in particular assumes that “the state concerned has

signed and ratified the treaty”, Japan’s position gains considerable additional legal benefits.

In Russia, the currently disputed islands, along with their numerous adjacent and adjoining islets, are regarded as belonging to the “Kurile Islands ” chain which is in turn divided into the “Greater Kurile” chain, bordering the Kamchatka Peninsula in the north, and the “Lesser Kurile” chain, bordering Japan’s northernmost island of Hokkaido in the south.

In Japan, designation of the disputed islands as not belonging to the “Kurile Islands” chain dates back to early 1960’s, while until then it was common for the Japanese to regard the whole range of islands stretching from Hokkaido to the Kamchatka Peninsula, in some instances excluding either Shikotan or the Habomais, or both, as the “Kurile (Chishima) Islands”.

Typically, in accordance with accepted practice, Japan’s Ministry of Foreign Affairs (MOFA) Public Information Bureau stipulated in a brochure issued in 1955 and entitled



The Habomais islets observed from Cape Nosappu, Hokkaido

The Northern Islands. Background of Territorial Problems in the Japanese-Soviet Negotiations that the “Kuriles” were “a chain of thirty-odd small islands which hang out like a garland from Hokkaido, one of the four principal islands of Japan, to Kamchatka Peninsula of the U.S.S.R. over a distance of 750 miles (1,200 kilometers).” A no less important passage of the brochure indicated as follows : “By virtue of the Treaty of Amity between Japan and Russia signed in 1855, the latter obtained the string of islands north of Uruppu. Twenty years later, however, Japan took possession of them in compensation for her abandonment of her title to Sakhalin”, concluding that “thus the Kuriles in their entirety became Japanese territory.” However, the MOFA’s annual publication entitled “Japan’s Northern Territories”, issued in 1991, typically stated referring to “the important treaties concluded between the two countries in the past” that the “Northern Territories”, a term routinely applied in Japan to the disputed islands, were not included in the “Kurile Islands” renounced in accordance with the SFPT provisions.

A major change was initiated in October 1961 by the then ruling Japan’s Liberal-Democratic Party (LDP) which in the statement entitled *Government’s Position on the Northern Territories Issue* announced that Shikotan and the Habomais had geographically and administratively been a part of Hokkaido and hence were not included in the renounced “Kurile islands” chain, while Kunashiri and Etorofu did not belong to the latter island chain because according to bilateral agreements of 1855 and 1875 the term “Kurile Islands” allegedly implied only the islands located to the north of and including Uruppu.

In support of these arguments the LDP statement referred to a speech made by the U.S. Ambassador Plenipotentiary at the San Francisco Peace Conference, John F. Dulles, on September 5, 1951 in which Dulles had stated that the U.S. government viewed the “Habomais Islands” as not included in the “Kurile Islands” mentioned in Article 2 (c) of the SFPT, abstaining, however, from mentioning the island of Shikotan in that context. Furthermore, in support of the claims applied to Kunashiri and Etorofu, the statement mentioned Aide-Memoire of the U.S. government as of 7 September, 1956, addressed to the government of Japan, which did specify that both islands “have always been part of Japan proper and should in justice be acknowledged as under Japanese sovereignty” but failed to identify them as being not a part of the “Kurile islands” chain. The Aide-Memoir did, however, refer to Shikotan as “a part of Hokkaido”.

The LDP’s position had clearly reflected peculiarities of international environment, fea-

turing growing tensions between the former Soviet Union and the U.S. as in reference in particular to January 1960 revision of the U.S.–Japan Security Treaty, which had been initially concluded simultaneously with the signing of the SFPT in 1951. On 27 January, 1960 the Soviet government proceeded to issue a document widely known as “Gromyko Memorandum” which stipulated that “the Soviet Union cannot allow itself to contribute to an extension of the territory used by foreign armed forces by handing” the Habomais and Shikotan to Japan, mentioned as an option in the Soviet–Japanese Joint Declaration signed in 1956. This declaration in effect restored diplomatic relations between the two countries. At the same time, the “Gromyko Memorandum” positively promised to turn the Habomais and Shikotan over to Japan “on condition of the withdrawal of all foreign troops from the territory of Japan and the conclusion of a peace treaty between the U.S.S.R. and Japan”.

Replying to this memorandum on the same day, the LDP government made it clear that it was “unable to recognize the Soviet position in attaching a new condition to the terms of the Joint Declaration concerning the territorial problem”, simultaneously proclaiming that it “shall continue to ask for the return of not only Habomais and Shikotan islands but other territories which inherently belong to Japan.” On 24 February, 1960 the Soviet Union proceeded to send yet another memorandum addressed to the Japanese government, declaring that Japan’s claims “for the recovery of other territories as well” could only be regarded as “an expression of dangerous revenge-seeking tendencies.”

It is crucial to admit that from a legal standpoint deliberations on the issue of the status of Etorofu and Kunashiri observed through the realm of inter-party rivalry between the LDP, Japan’s ruling party for most of the post-World War II period, and the former Japanese Socialist Party (JSP) amply testify to the lack of consensus regarding definition per se of the renounced “Kurile Islands” stretch, which in effect serves to substantially weaken the claimant’s appeal.³

Similarly, Japan’s other territorial disputes have developed as a result of a highly com-

3 See “Kurile Islands” entry authored and monitored by Yakov Zinberg in Max Planck Encyclopedia of Public International Law at [http : //opil.ouplaw.com/home/EPIL](http://opil.ouplaw.com/home/EPIL); see also Zinberg, Yakov. “The Initial Response of the Japan Socialist Party (JSP) Towards the ‘Northern Territories’ Issue : A Case Study How Far Do the ‘Kuril Islands’ Stretch?” at [https : //kiss.kokushikan.ac.jp/pages/contents/0/data/1003531/0000/registFile/2186_3709_009_02.pdf](https://kiss.kokushikan.ac.jp/pages/contents/0/data/1003531/0000/registFile/2186_3709_009_02.pdf)

plex combination of the US heavy involvement and contradictory historical, political and legal factors, which makes up a fruitful milieu in terms of the evolving “pivot in Asia” US strategy. However, arguably Obama administration’s most prominent defense policy, the “pivot”, or rebalance, to the Asia-Pacific might as well bring about unpredictable negative results. Solidifying her control over the Senkaku islets by means of purchasing them in September 2012, Japan’s government had to face unexpected PRC’s response in May 2013 when two prominent academics, in a scholarly editorial of the “People’s Daily” newspaper, proceeded to question legitimacy of Japan’s control of the entire Ryukyu islands chain, including the island of Okinawa. Suffice it to recall that Okinawa makes up less than 1 percent of Japan’s total land area but about 75 percent of the US military bases in Japan are stationed on the island. To be specific, about 50,000 US troops are stationed in Japan, with more than half residing on Okinawa, one of the largest concentrations of the US military anywhere.

To a very large extent, Japan’s multiple territorial disputes add their share to regional tensions, serving in particular as a powerful instrument of coercive diplomacy and security threats. On Japan’s domestic policies level, returning to the issue of a rapidly evolving revision of Japan’s Constitution that imposes legal constraints in regard to Japan’s military activities, we might expect a growing level of repression as a result of Japan’s heavy involvement in multiple territorial conflicts. Thorin Wright fairly cautions, concluding as follows :

“Does territorial conflict affect domestic repression? The answer, in short, is yes, but I have shown that the way in which such conflicts affect repression is complicated by two sets of factors : regime type and the salience of conflict. I argue and find that when seeking to revise territory abroad, states can take advantage of in-group/out-group dynamics domestically to increase repression”.⁴

It remains to observe how that applies to formation of the evolving new territorial issue engaging the US, China and Japan, a vicious circle brooding, with consequences remaining open to a multitude of threatening options.

In the latter regard, particularly in terms of a theoretical orientation, an innovative framework elaborated by Jeremy Pressman, the first ever attempt of assessing the

4 Wright, Thorin M. “Territorial Revision and State Repression”. *Journal of Peace Research*. 2014. Vol. 51 (3).

restraint in a context of existing explanations of alliances formation as well as the first ever attempt “to compare explanations for the success or failure of attempts at alliance restraint” is highly promising.⁵ Alliance restraint has been analytically studied so far mainly by three authors, excluding Pressman, namely Paul Schroeder, Glenn Snyder and Patricia Weitsman, with none of them having treated this issue in sufficient depth in a comparative context.⁶ Pressman, as John Ikenberry has fairly observed, underscores “the view that alliances are not just protection pacts but also a form of political architecture that creates ‘institutional pathways’ for the management of wider geopolitical relation-



Okinawa landscape

5 See Pressman, Jeremy. *Warring Friends : Alliance Restraint in International Politics*. Ithaca and London : Cornell University Press, 2008, p.6.

6 Ibid., pp. 7–8. Pressman singles out Schroeder, Paul W., “Alliances, 1815–1945 : Weapons of Power and Tools of Management” in *Historical Dimensions of National Security Problems*, ed. Knorr, Klaus. Lawrence : University Press of Kansas, 1975, pp. 227–263 ; Snyder, Glenn, *Alliance Politics*; Weitsman, Patricia A. *Dangerous Alliances*. Palo Alto, Calif. : Stanford University Press, 2004.

ships. In other words, alliances are as much about allies as they are about enemies.”⁷ At the same time, Pressman intends to raise the status of the ‘alliance restraint’ issue to a level of the currently dominant balance-of-power theory, stipulating in particular as follows :

“In terms of alliance formation, the contrast is between the dominant explanation, balance-of-threat theory, and the restraint explanation. The former suggests that states form alliances in response to threats from actors outside the alliance. It is embedded within a larger belief that states form alliances to seek military protection. In contrast, the restraint alternative argues that states form alliances to rein their soon-to-be partners. Rather than protection, the restraint explanation highlights the role of control. Restraint demonstrates that one ally may use the alliance to control the behavior of other allies”.⁸

Seeing his scholarly attempt rather as an “exploratory exercise” determining in which of the case studies offered “the restraint explanation is relevant”, Pressman, nonetheless, challenges the very gist of a currently dominant explanatory version, or, as James Goldgeier points out, “breaches an important and understudied topic.”⁹ As it applies to the issue of alliance formation, the most contested area of research, Pressman – while admitting that protection from threat is being widely accepted as the major motivation behind alliances formation – emphasized that “restraint, a type of control, can also cause alliances to be formed.”¹⁰ Pressman mentions four main findings of his research efforts, including, firstly, the fact that “some states form alliances with the intent of restraining their new ally”; secondly, the fact that “the success or failure of alliance restraint attempts depends on the willingness of the most powerful ally to mobilize its power resources”; thirdly, identifying “several conditions that make power mobilization more or less likely in the case of alliance restraint : deception, leadership unity, national security priorities, and policy alternatives”; fourthly and finally, the fact that “alliance restraint is different from efforts to influence policies among non-allies, the ‘regular’ influence attempts in international relations.”¹¹

7 Ikenberry, John, G. “Warring Friends : Alliance Restraint in International Politics (Review)”. *Foreign Affairs*. 87 : 6 (Nov/Dec 2008), pp. 157.

8 Pressman, p. 11.

9 Ibid.; Goldgeier, James. “Warring Friends : Alliance Restraint in International Politics (Review)”. *Political Science Quarterly*. 124 : 1 (Spring 2009), pp. 178-179.

10 Pressman, p. 9.

11 Ibid., pp. 15-17.

Pressman's monograph introduces six case studies, including alliance formation cases of United States–Taiwan (1954) and Britain–Japan (1902), in all of which both the threats and the restraint explanations are presented as plausible options. While Pressman's monograph examines mechanisms of "intra-alliance power relationships, looking in particular at moments when states try to use alliance ties to restrain risky military actions by their partners",¹² I assume that a relevant deep-rooted and widely shared perception, stressing that East Asian regional stability might be secured by the U.S. military presence in Japan as a means of restraining the resurgence of Japan's military power, could be fairly viewed as appropriate and standing in need of further elaboration.¹³

12 Ikenberry, p. 157.

13 See Ellings, Richard J., Olsen, Edward A. "America's Asian Agenda : A New Pacific Profile". *Foreign Policy*, 89 (Winter 1993). (Accessed through *Academic Search Premier* on May 10, 2015).

Cover:

Russian marine soldiers hoisting the banner over Port Arthur in 1945. Source: [https://commons.wikimedia.org/wiki/File:RIAN_archive_834147_Hoisting_the_banner_in_Port-Artur_WWII_\(1941-1945\).jpg?uselang=de](https://commons.wikimedia.org/wiki/File:RIAN_archive_834147_Hoisting_the_banner_in_Port-Artur_WWII_(1941-1945).jpg?uselang=de)

SEVENTY YEARS SINCE THE END OF THE WAR IN ASIA

DIVERGENT PERSPECTIVES ON THE
WAR DENOUEMENT AND THE ONSET
OF THE COLD WAR



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