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# Maritime Territorial Disputes in East Asia: A Comparative Analysis of the South China Sea and the East China Sea

Andy YEE

**Abstract:** This article systematically compares maritime territorial disputes in the East and South China Seas. It draws on the bargaining model of war and hegemonic stability theory to track the record of conflicts and shifts in the relative power balances of the claimants, leading to the conclusion that certainty and stability have improved in the South China Sea, with the converse happening in the East China Sea. To enrich the models, this article also considers social factors (constructivism) and arrives at the same conclusion. This calls for a differentiated methodological approach if we are to devise strategies to mediate and resolve these disputes.

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**Keywords:** Diaoyu/ Senkaku Islands, South China Sea, regional security

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## Introduction

Maritime issues are rising to the forefront of international security concerns. Since the end of the Second World War, the ocean has become a source of instability in the international system. Barry Buzan (1978) cites the dramatic rise in the realisable economic value of oceans and the rapid spread of sovereign states to cover virtually all land areas as reasons to explain why oceans have become areas of intense competition for scarce goods. This trend has accelerated with the end of the Cold War, with international relations having shifted from divisions along ideological lines to economic competition over access to vital resources, especially oil and natural gas. This is producing a new geography of conflict in which resource flows rather than political divisions constitute the major fault lines (Klare 2001). While an international legal framework – namely, the United Nations (UN) Law of the Sea Convention – has been developed to resolve disputes, Buzan (1978) predicts that it “will not create order out of chaos, but rather define the terms of disorder”, as “political acceptability will have to be brought at a cost of legal clarity”. He is of the view that some intermediate mixture of conflict and cooperation is the most likely future, as political considerations and natural conflict of interests would somehow be balanced by functional considerations of trade, development and the cost of disputes.

Buzan’s observation provides an ideal starting point for us to critically examine the situation in the Asia-Pacific region, where economic motives and nationalism have stimulated a “sea enclosure” movement by littoral states. At the same time, international legal regimes have been shown to be inadequate in addressing national maritime interests and resolving conflicting claims. As a result, maritime issues are becoming a key concern among countries in Northeast and Southeast Asia. These issues are all the more important due to the rise of China as an economic and military power. China is currently involved in territorial disputes with Southeast Asian nations and Japan over maritime delimitations and the sovereignty of offshore islands, namely the Spratly and Paracel Islands in the South China Sea, and the Diaoyu/ Senkaku Islands in the East China Sea. Control of these islands and seas is key to securing the rights of resource exploitation, the safety of sea channels of communication and regional naval power projection.

The latest escalation of tensions in the East and South China Seas has drawn renewed attention to the possibility of there being conflict in the region. On 20 July 2010, US Secretary of State Hillary Clinton said at

the Association of Southeast Asian Nations (ASEAN) foreign ministers' meeting in Hanoi that the US had "a national interest in freedom of navigation, open access to Asia's maritime commons and respect for international law in the South China Sea". She also expressed support for a "collaborative diplomatic process" regarding territorial disputes in the South China Sea. This, though, clashes directly with China's recent assertion that the South China Sea is a core interest. Adding to the tension were the joint naval and air drills conducted by the US and South Korea in the Yellow Sea in July and August 2010, the prominent surfacing of three Ohio-class submarines armed with Tomahawk long-range cruise missiles in Subic Bay, Busan and Diego Garcia and the visit of the nuclear carrier USS George Washington to waters off central Vietnam (*Asia Times* 2010; *East Asia Forum* 2010). In response, the Chinese People's Liberation Army Navy (PLAN) carried out manoeuvres in the South China Sea and the Yellow Sea. At the same time, there have been renewed tensions in the East China Sea. On 7 September 2010, two Japanese Coast Guard patrol ships collided with a Chinese fishing boat while they carried out "law enforcement activities" in the waters off the Diaoyu/ Senkaku Islands. Chinese captain Zhan Qixiong was detained on the order of an Okinawa local court, sparking demonstrations in Beijing and diplomatic protests from China. On the day of the collision, China's Foreign Ministry spokeswoman, Jiang Yu, demanded that "Japanese patrol boats refrain from so-called law enforcement activities in waters off the Diaoyu Islands". The Japanese ambassador to China was summoned six times over the incident, once by Chinese State Councillor Dai Bingguo. The event was not resolved until China suspended diplomatic and civilian exchanges with Japan and threatened to stop rare earth exports (*The New York Times* 2010c).

Recent events may ultimately prove to be little more than passing chills in diplomatic relations. Whatever their ultimate significance, however, these developments raise fundamental questions about the future directionality of territorial disputes in China's near seas. Of particular importance are those disputes between China, Japan, and the ASEAN nations. This article tackles a crucial, but under-theorised, comparison: What are the similarities and differences in the fundamental characteristics of maritime disputes in the East and South China Seas? Given their close geographical proximity, disputes in these regions have very different dynamics. In both cases, China, as a dominant power, is an important claimant state. In the East China Sea, on the opposite side of the

ocean from China, is Japan, another major regional power in East Asia. Their mutual relationship is strained due to such factors as their competition for regional leadership and the historical memories of animosity between them. So far, there has been no military conflict between them *per se* as a result of the territorial dispute, but political tensions have been intense. In the South China Sea, China faces a group of ASEAN nations – including Brunei, Indonesia, Malaysia, the Philippines and Vietnam – that represent a more asymmetric balance of power when compared with the East China Sea. China engaged in military combat with Vietnam and the Philippines during the 1970s and 1980s, but a multilateral maritime regime has been developing since then.

These two maritime disputes allow for interesting and valuable comparisons. Understanding their fundamental differences allows us to assess the prospects for the peaceful resolution of these disputes, and how they might develop differently. My analysis draws on the bargaining model of war and hegemonic stability theory. Given the long-standing nature of these disputes, these frameworks enable us to track the record of conflicts and the shifts in the relative power balances of the claimants, eventually leading to the conclusion that certainty and stability have improved in the South China Sea, with the converse outcomes happening in the East China Sea. This will be confirmed through an evaluation of the recent events occurring in the region during 2010. While this comparison concentrates on the claimant states themselves – in particular China by way of its power and involvement in both disputes – it has also important significance for extra-regional and non-claimant states. If outsiders were to devise strategies by which to mediate and resolve these disputes, then the differences between the two regions would call for a differentiated methodological approach for each case, in spite of their close geographical proximities.

## Literature Review and Analytical Frameworks

I am unaware of anyone who has to date attempted to bring together a systematic analysis of disputes in the East and South China Seas, although scholarly literature that deals with each field separately is abundant. One notable exception is Ralf Emmers' *Geopolitics and Maritime Territorial Disputes in East Asia* (2010), which includes both the East and South China Seas. His argument is that three drivers of conflict – territory, energy and power – determine if there is escalation or de-escalation.

Though taking a predominately realist and geopolitical approach, he does shed light on why de-escalation took place earlier in the South China Sea (late 1990s) than in the East China Sea (mid-2000s).

The major challenge is to devise a theoretical framework that combines a holistic explanation for the initiation, prosecution, settlement or prolongation of the maritime disputes together with a rigorous analysis of the pattern of domestic politics and international negotiations linking these disparate events. One approach is the integration of the various levels of analysis in international relations, which have increasingly come to dominate contemporary theories of diplomacy and bargaining. As Robert Jervis commented on the future of post-Cold War world politics, “only rarely does a single factor determine the way politics will work out” (Jervis 1991: 40). Robert Putnam’s two-level games (Putnam 1993) select variables from the domestic and international levels and then examine their interactions. Paul Huth’s comprehensive study of territorial disputes throughout the world (Huth 1996) finds that international security variables were the principal factors pushing states towards settlement, while domestic factors explained why leaders were reluctant to do so. Chung’s study (2004) of China’s territorial disputes confirms this finding.

Another approach identifies the various dimensions of territorial disputes, which, broadly speaking, include material, ideational, structural and legalistic/ normative. The first school emphasises that the rising material and energy needs of contending states, in particular China, will lead to the escalation of conflicts, making compromise and joint development less likely (Kenny 2004; Calder 2006). The second school focuses on the ideational dimensions and nationalist sentiments that pressure foreign policymakers to adopt a hardline stance over sovereignty issues (Deans 2000). The structural school of hegemonic stability links regime creation and relative power distribution. In asymmetric power relations (for example, China and the ASEAN), states are more likely to reach a compromise. In contrast, symmetric power relations (for example, China and Japan) have less likelihood of producing cooperation (Buszynski 2003; Lee and Kim 2008). Finally, the legalistic/ normative school asserts that a state’s definition of interests does not depend only on national interests and power distribution. Maritime cooperation in functional areas, which can reduce transaction costs and facilitate agreements, may also motivate states to improve political relationships and resolve their disputes (Valencia 2000; Li 2010).

Hence, it is evident that scholars have identified a confluence of factors at different levels of analysis. The more recent literatures start to explore how these factors interact with, and have an effect upon, each other. For example, Manicom (2008a) shows that nationalist/ ideational sentiments in China and Japan have extended from sovereignty claims to material exploitation and security as of 2005. Koo (2009) claims that economic interdependence between China and Japan has successfully served to contain the two countries' respective territorial and maritime claims – the so-called “cold politics and hot economics” phenomenon.

On the basis of historical observations, at least three distinctive features of the disputes in the East and South China Seas stand out. The first is that they are fairly long-standing. The second is that relative power among disputants has shifted over the past three decades. In the South China Sea, it has evolved from a condition of parity to the predominance of China over ASEAN claimants. In the East China Sea, it has evolved from the predominance of Japan over China to a condition of parity. The third is that the level of violence has evolved. The South China Sea was marked by a history of violent conflicts in the 1970s and 1980s, while it is largely peaceful today with regime-building steadily proceeding. In the East China Sea, no significant conflict has occurred in the past, and Japan has exercised *de facto* control of the disputed islands, but the growing distrust between China and Japan and the lack of regime-building is conspicuous. Single/ multiple factors or levels of analysis models cannot capture these important changes in the power balance, nor their evolution over time. Territorial dispute is a bargaining process by nature, and models linking the different stages of the process are necessary. In light of these realities, I have decided to apply the bargaining model of war (Reiter 2003) and the hegemonic stability theory to the analysis of the situations in the East and South China Seas. The bargaining model provides a way of thinking about war as a bargaining process, linking the causes, prosecution, termination, and consequences of war. It sees the essence of conflict as disagreement over resource allocation. However, the possibility of a war is dependent on the disagreement between the two sides about the likely outcome of that war, and an inability to commit not to fight in the future (Reiter 2003: 29). In other words, the key issue is uncertainty about the capabilities or resolve of the disputants. This brings us to the second model, namely the hegemonic stability theory. The theory states that imbalances in power contribute to cooperation, while balance of power produces a smaller chance

of cooperation. In the former case, the outcome of war is more certain due to power imbalances, and weaker states are more likely to pursue a pragmatic approach and engage in “give and take” negotiations. In the latter case, when states of equal powers are both pursuing hegemonic aims, uncertainty is greater and states are less willing to engage in cooperation.

Relying on these frameworks, I argue that a history of violent conflict in the past, coupled with an asymmetric power relationship, leads to greater certainty and stability in the South China Sea today. The presence of the US in the region will act further as a stimulating factor for negotiations. In contrast, Japan’s effective controls in the East China Sea, a lack of conflict in the past, along with the more symmetric power balance between China and Japan, serve to bring uncertainty and instability to the East China Sea. Building on the present literature, I will also consider how other factors can enrich the bargaining model and the hegemonic stability theory as applied in the cases of the East and South China Seas, including constructivism and social factors in international relations. The article will conclude with a case study of how the recent developments in the disputes of 2010 conform to my hypotheses.

## Realist Roots of the Disputes

Following the realist tradition, the bargaining perspective sees conflict as originating from disagreement over the allocation of scarce resources. This point of departure brings us to the fact that international politics is often concerned with scarce resources, of which territorial dispute is but one manifestation. Realism, or power politics, has traditionally dominated thinking about territorial disputes. For realists, nation-states, existing as units within an international system of anarchy, live in a world of self-help. Material power and military strength are the decisive forces which shape relations among states (Waltz 1979; Mearsheimer 2001). For pessimistic realists, a major focus for the international security of East Asia is the rapid industrialisation of China, and the associated competition for energy resources in order to power its manufacturing industries (Kenny 2004). Since the start of economic reforms in 1978, Chinese GDP has consistently grown at an average rate of 7 to 8 per cent annually. China became a net importer of oil in 1994, and passed Japan as the second-largest importer of oil in the world in 2003. This year, it also passed Japan to become the second-largest economy in the world (*The*



*New York Times* 2010b). It follows that, as a rising power, there is a great need for China to compete for external sources of raw materials. A fast-growing economy makes it easier for China to modernise its military, which in turn enables China to project power and secure external resources.

While the idea of *Lebensraum* or survival space has long been discredited, Graver (1992: 1018-1019) showed that such a notion has strongly influenced Chinese policy in the South China Sea since the late 1970s. While the area's importance as a transit lane between the Indian and Pacific Oceans was continually emphasised in Chinese commentary during the 1980s and 1990s, this was overshadowed by discussions on the exploitation of natural resources in the region. Control over the South China Sea was seen as a way for China to seek living space for its population and achieve a position of great power through the exploitation of oil, gas, fisheries and other resources. Leifer (1995) pointed to the link between economic reform and security policy in the South China Sea – on the one hand, successes in economic reform enabled China to strengthen its armed forces, on the other hand, securing the South China Sea and its natural resources would in turn contribute to continuing economic development. Buszynski (2003: 346-347) also reiterated how the Chinese naval authorities used material reasons as a justification for naval expansion. Liu Huaqing, appointed Naval Commander in 1982, highlighted the South China Sea as one of China's lost territories and used it to justify larger budgets and a strategic mission for the navy. In 1992, Vice Admiral Zhang Lianzhing predicted that the struggle for ocean resources would intensify in the future and that China would strengthen its navy to protect its territorial waters.

Likewise, realism also points to increasing conflicts in the East China Sea. The two neighbouring states, China and Japan, are the world's second- and third-biggest economies and oil consumers, respectively. Disputes between the two countries concern both the sovereignty of the Diaoyu/ Senkaku Islands and the maritime delimitation of each country's exclusive economic zone (EEZ). The Diaoyu/ Senkaku Islands have strategic value to both countries due to their particular location. Should either country secure control of the islands, it would acquire a prolonged and enlarged frontier, putting the other side at a disadvantaged position militarily. In fact, some Japanese military experts have highlighted the desirability of establishing a radar system, a missile base or a submarine base on the biggest Diaoyu/ Uotsuri Island. Further-

more, control over the islands would enable either China or Japan to claim the surrounding 40,000 km<sup>2</sup> as part of their EEZ area, and with it the rights to exploit the natural resources therein (Pan 2007: 71-72).

Another issue is the delimitation of the EEZs as measured from each country's coast. This has implications over who could exploit the oil and gas deposits in the central area of the East China Sea, which could potentially go a long way to satisfying the energy needs of both countries. The dispute between the two countries stems from their well-documented alternative interpretations of the 1982 UN Law of the Sea Convention (LOS) in accordance with two cardinal principles for maritime delimitation (Hsiung 2005).

The first principle, employed by China, is to follow the natural prolongation of the continental shelf. Article 76 (1) of the LOS essentially defines the continental shelf as the seabed extending up to a distance of 200 nautical miles from the baseline from which the breadth of the territorial sea is measured, or to the outer edge of the continental margin, with the outer limit not exceeding 350 nautical miles from the baseline. China's continental shelf claim extends up to the axis of the Okinawa Trough, which measures approximately 350 nautical miles from the Chinese coast (Hsiung 2005: 516). The second principle, used by Japan, references the respective EEZs of the coastal states. Article 57 of the LOS defines an EEZ as not extending beyond 200 nautical miles from the baseline. Furthermore, Article 74 (1) specifies that the delimitation of EEZs between states should be agreed on an equitable basis, taking into account all facts and norms within the context of general international law. The body of waters between China and Japan is fewer than 400 nautical miles in total. Without having mutual agreement, Japan unilaterally drew a "median line" by connecting the middle points between the two shores (Hsiung 2005: 517).

## Considerations under the Hegemonic Stability Theory

Despite the fact that both the East and South China Seas are subject to the consideration of material and power factors, they have significantly different strategic environments. In the East China Sea, China and Japan reached an agreement in 1997 over fishing rights. However, the 2000s have seen an intensification of the competition for energy sources between the two countries. Liao (2008) documents the failed eleven rounds

of diplomatic negotiations between China and Japan over their joint exploration from 2004 to 2008. She ascribes this to the realist zero-sum perceptions held by both governments, which led to political distrust and power politics, preventing the two countries from finding a solution that would serve their energy interests. Dutton (2007: 2) contrasts the strategic competition in the East China Sea with the more cooperative atmosphere in the South China Sea. In March 2005, China completed cooperative development agreements with the Philippines and Vietnam. In November 2006, China and Malaysia announced a deal worth about 25 billion USD in which the Malaysian national oil company, Petronas, would supply liquefied natural gas to Shanghai for 25 years. As some of the fields in question lie within China's U-shaped claim line of the South China Sea, the deal indicates that China implicitly accepts Malaysian sovereignty over the disputed area (*Straits Times* 2006). Whereas China is engaged in strategic rivalry with Japan, it is also, in this way, actively courting support from ASEAN states as part of its "peaceful rise" strategy.

The essence of the difference lies in the realist theory of international regimes, which is employed in Lee and Kim (2008) to compare the East China Sea case with the partially successful regime formed in the Caspian Sea. The hegemonic stability theory states that imbalances in power contribute to cooperation (Gilpin 1987: 72-80). In asymmetric power relations, states are more likely to reach a compromise. This is because stronger states are focused on maintaining their hegemony and are prepared to make concessions to the weaker states in order to gain their support. This fits in well with the ambitions of the weaker states, who are more interested in maximising pragmatic benefits than in gaining hegemonic power. In this situation, states are more likely to engage in "give and take" bargaining, resulting in the creation of regimes. There are reasons to believe that China follows this rationalist calculation. Randall Schweller (1999) laid out the different categories of rising powers. Some do have truly revolutionary objectives and seek to overthrow the existing international system. Others have more limited, modest aims, seeking marginal adjustments rather than fundamental changes. Nathan and Ross (1998) note that China is neither a fully satisfied power nor a revolutionary threat. If China's maritime claims could be peacefully resolved, China would have little reason to behave in an overly aggressive or assertive fashion. In the case of symmetric power relations, though, states have less chance of creating cooperative regimes. As both states

are pursuing hegemonic power, they are more likely to prevent each other from the attainment of that goal.

It is evident that asymmetric power relations in the South China Sea facilitated regime-building, whereas symmetric power relations in the East China Sea, coupled with historical animosity and the lack of mutual trust, obstructed that effort. In Southeast Asia, regional maritime cooperation is at a more advanced stage of development than it is in North-east Asia (Valencia 2000: 238-240). Within the ASEAN itself, there exist a multitude of committees that encompass maritime issues – including fisheries, marine sciences and resources management. The 1976 ASEAN Treaty of Amity and Cooperation, the 1992 ASEAN Declaration on the South China Sea and various Indonesian South China Sea Workshop Statements also signalled the claimants' intention to resolve maritime disputes through peaceful means. Following the Mischief Reef incident in 1994, ASEAN thinking converged on the idea of a Code of Conduct as a way to manage their relations with China (Buszynski 2003). The expectation was that dialogue and negotiations would make the relationship more predictable and ordered. The Declaration on the Conduct of Parties in the South China Sea was eventually signed with China in November 2002. Although it fell short of a conduct with legal status, due to China's power advantage, its desire to maintain freedom of action over the area and suspicions about ASEAN's links with external powers, it is a successful attempt by the ASEAN to obtain China's endorsement of international norms of behaviour.

At the same time, China has agreed to various legal frameworks that facilitate closer maritime cooperation with neighbouring states, such as its 2000 action plan with the ASEAN to counter drug trafficking, and its 2002 joint declaration with the ASEAN on cooperation in non-traditional security issues (Li 2010: 298). Another positive step is that regional states are steadily moving forward towards the joint exploration of the area. For example, during the visit of the prime minister of Vietnam to China in October 2008, an agreement for strategic cooperation was signed between China's CNOOC and Vietnam's PetroVietnam (Li 2010: 302). In the wider context, ASEAN states are involving energy companies – including both Chinese and foreign ones – in exploration and drilling, which may stabilise the region and lead to greater security even in the absence of the settlement of maritime claims (Buszynski and Sazlan 2007).

In contrast, regime-building in Northeast Asia is relatively nascent. The reason for this can be traced to the unique and fluid geopolitical situation of the region. As Robyn Lim (2003) demonstrates, it is traditionally an area of strategic tensions between the great power interests of the quadrilateral – China, Japan, Russia, and the US. Unlike Southeast Asia, where regional dialogue processes – such as the ASEAN Regional Forum (ARF) – serve as the place of regime-creation, big power relationships and a system of balance dominate regional dynamics in Northeast Asia. At present, there is no quadrilateral dialogue among the four major powers. As for China and Japan, Valencia (2000: 241) comments that both remain reluctant to participate in a multilateral regime unless they can dominate it. There is a tendency for Northeast Asian states to think about boundary disputes rather than the deteriorating maritime environment or the management of resources. In terms of maritime affairs, China seems to pay more attention to the South China Sea; Japan seems to pay more attention to its “Northern Territories”.

The symmetric power relationship between China and Japan creates uncertainty. China and Japan are the two biggest economies in Asia-Pacific. In a 2006 report that was published by the Chinese Academy of Social Sciences, China and Japan were ranked sixth and seventh respectively in the top ten countries based on economic, military and diplomatic metrics. This showed China’s confidence about its power standing in relation to Japan (Lee and Kim 2008: 808). In 2007, the Stockholm International Peace Research Institute (SIPRI) noted that China was the world’s fourth largest military spender with a defence budget of 49.5 billion USD in 2006, while Japan’s defence budget followed closely behind at 43.7 billion USD (*Associated Press* 2007).

This simultaneous development of military power by both countries makes both sides less secure, a dynamic known as the security dilemma. Since the end of the Cold War, Japanese security policy has become more assertive, with the aim of achieving global recognition of its status as a major power consummate with its economic might. Japan is bidding for a permanent seat in the UN Security Council, and now participates in peacekeeping operations. There is now a national debate occurring within Japan over the normalisation of the Japan Self-Defense Force (JSDF) as a regular armed force, and a greater inclination to reconsider the unique restrictions placed on Japan’s defense policies, notably Article 9 of its Constitution (Roy 2004: 88). There is a danger that both countries would follow a spiral model into war. As China views itself as a past

victim of Japanese aggression, the argument of the “China threat” theory is not a legitimate reason for Japan’s gradual expansion of its security activity. It is a cloak for Japanese militarists, and Japan must accommodate Chinese worries. Conversely, Japan is anxious about China’s size and advantages, the lack of transparency surrounding China’s military modernisation plans and is uncertain of its intentions. Without credible assurance from China, Japan feels compelled to expand its military (Roy 2004: 100).

## Considerations under the Bargaining Theory of War

Another important difference between the East and South China Seas can be analysed under the bargaining model of war. Within the bargaining model, as elaborated by Dan Reiter (2003), war is the result of disagreement between the two sides as to the likely outcome of a war. This focus on uncertainty explains why states of equal power are more war-prone than states of unequal power, as uncertainty under conditions of parity makes states more optimistic to fight than to seek settlement (Reiter 2003: 29). In the 1970s and 1980s, China was still weak economically and its navy lacked projection capabilities. The bargaining model proposes military means as being part of the bargaining process for the achievement of political ends, which, for China, is to maintain the credibility of its sovereignty claims in the South China Sea. Through engaging in armed conflicts, China has reduced uncertainty about its capabilities and resolves to stand its ground. Some bargaining models also allow for states to update their beliefs about each side’s ability to absorb or inflict costs (Reiter 2003: 31). Combat helps end war by providing information for both sides about the actual balance of power, thus reducing uncertainty and creating bargaining space. This is consistent with the situation in the South China Sea. Whereas instances of serious armed conflicts were common in the 1970s and 1980s, they have declined since the 1990s.

As the importance of offshore islands increased from the 1970s, following the recognition of potential maritime resources, ASEAN states increased the number of islands and reefs that they occupied. This in turn prompted China to increase its presence in the Paracels and Spratlys. In two instances, China occupied contested islands by force (Fravel 2008: 267). In 1974, it seized the Crescent Group in the western Paracels

from South Vietnam, and, in 1988, it occupied six features in the Spratlys that had been previously claimed by the Philippines and Vietnam. However, Fravel (2008) notes that China used force in these cases because of its declining claim strength. In the 1974 conflict, China's claim strength grew vulnerable as South Vietnam initiated a programme to exploit offshore oil, and other states started to occupy features in the region (Fravel 2008: 277-278). Although China's navy remained weak, it decided to use force as its relationship with the US was improving at the time. The 1988 conflict was also preceded by a series of actions by other states which reduced China's claim strength. In 1982, the Philippines increased military presence in the area and its prime minister toured the islands in the region. In 1980, Malaysia claimed a 200-nautical-mile EEZ, which included 12 features in the Spratlys. Between 1983 and 1986, it seized and occupied four reefs in the Spratlys. In 1987, Vietnam also began to occupy additional features (Fravel 2008: 289-290).

In 1994, China occupied a seventh feature in the Spratlys claimed by the Philippines – the Mischief Reef – without armed conflict. This soon escalated into the Mischief Reef incident between the two countries in early 1995. This occupation is again consistent with declining claim strength. Firstly, China passed a law on territorial waters that repeated China's claims to the Spratlys of 1951. As China's other features are in the western side, the occupation of the Mischief Reef, which is in the eastern part of the archipelago, broadened the scope of Chinese control. Secondly, competition from other claimants heightened, as Brunei issued a formal claim to an EEZ, and Vietnam awarded drilling rights to a consortium including Mobil for blocks west of an area where CNOOC had earlier signed a contract with American firm Crestone to explore for petroleum (Fravel 2008: 297).

As predicted by the bargaining model of war, combat helps end war by providing information about the certainty of resolves. Therefore, Fravel reached the conclusion that "China's past use of force in these conflicts suggest that it may be less willing to do so in the future" (Fravel 2008: 298). By using force, China increased its claim strength in the contested islands. This reduced the sensitivity to decline and the need to show of force. Furthermore, Guan (2000) suggests that these disputes reveal a pattern of Chinese behaviour which may be described as "capitalising on opportunities". It appears that China is extremely adept at capitalising on the right moment to make a move when it perceives its opponents are distracted or when no strong response is expected. As an

example, the naval clash of 1974 was carried out with the favourable political backdrop of a US-China rapprochement, which meant there was practically no likelihood of American intervention. Against this background, China pre-empted the Soviet Union's occupation of the islands after the Vietnam War. Similarly, the 1988 conflict was carried out under the pretext of a cooling Hanoi-Moscow relationship after Gorbachev took power in March 1985. In the Mischief Reef incident of 1995, the ASEAN adopted a united position vis-à-vis China, albeit pressured by the Philippines. Nevertheless, China reasserted its claim in the second Mischief Reef incident of January 1999, when the ASEAN was distracted by the Asian economic crisis of 1997-98.

Coinciding with the above was the spectacular economic growth of China following Deng's bold and successful economic reforms. As the power imbalance between China and the ASEAN grows, the bargaining model of war (as well as the hegemonic stability theory) predicts that uncertainty would reduce, prompting them to bargain instead of engage in conflicts. In the early 1990s, there emerged the "China threat" theory which forecast growing regional insecurity due to the emergence of China as a great power. The ASEAN was probably convinced about China's resolve and the balance of power which was, and still is, tilting towards China. As a result, it chose to seek a deal with China rather than to fight. Since 1992, the ASEAN has attempted to obtain China's endorsement of international norms of behaviour in the South China Sea. As Buszynski (2003) demonstrates, however, it needs the US as a prerequisite for negotiations with China. With a history of resorting to force and little incentive to obey constraining norms due to its power advantage, it shifted to norm-affirming behaviour due to the subsequent US involvements. This became apparent in 1998 when the Philippines and the US signed the Visiting Force Agreement (VFA), which allowed US forces the use of Philippines facilities. This is similar to the situation of the Caspian Sea, where Lee and Kim (2008) have built on the hegemonic stability theory to explain how a regime was created there. Russia is the strongest among the Caspian littoral states; as such, without US support, Russia's position would likely have prevailed over that of states such as Azerbaijan and Kazakhstan.

Paradoxically, unlike in the South China Sea, the lack of major conflicts in the East China Sea might raise the prospect of future clashes. First, the more battles that are fought the more information that is revealed, causing the expectations of the two sides to converge (Reiter



2003: 32). Conversely, a lack of battles and information, coupled with the security dilemma, increases the chance of miscalculations about capabilities, resolve and the exchange of offers between the two sides. Second, if the show of force in the South China Sea increased China's claim strength, as previously argued, then China's position in the East China Sea is much less favourable. Japan exercises a higher degree of effective control over the Diaoyu/ Senkaku Islands. It has constructed signposts indicating Japanese sovereignty over the islands. It has also sent P3C surveillance aircraft into operation in the airspace over the islands, and coastguards patrol the area constantly. The Japanese Maritime Products Agency dispatches ships to the area to search for illegal fishing, and Japan's Maritime Self-Defence Force periodically carries out exercise in the area. The longer the situation continues, the higher the chance that Japan's claims will become solidified through the principle of "acquisitive prescription" (Hagstrom 2005: 168-169).

In these circumstances, China and Japan have exhibited a high level of distrust, which obstructs stable cooperation, although this is still possible under symmetric power relations if the countries involved do succeed in building trust (Lee and Kim 2008). The adversarial tit-for-tat relations have hampered bilateral negotiations on a joint resource development scheme. China insists on joint gas field development projects in the eastern side of the median line, which is proclaimed by Japan and not recognised by China. But even if the delimitation problem is solved, this will not still fully resolve the dispute. Japan has claimed that China's Chunxiao gas field, which lies on the western side of Japan's median line, is linked to Japan's gas fields and that as a result gas from Japan's EEZ would be sucked up by China "as if through a straw" (Lee and Kim 2008: 810).

These tense relations showed no sign of improvement until a "breakthrough" was reached between Chinese President Hu Jintao and then-Japanese Prime Minister Fukuda Yasuo in June 2008. The "new consensus" outlines a proposed joint development area straddling the median line, indicating China's willingness to be flexible. It also permits Japanese entities to invest in the Chunxiao gas field under the jurisdiction of Chinese law. However, Manicom (2008b) notes that it is also important to recognise what the countries did not achieve in order to assess the future direction of the dispute. First, Japan did not gain access to any of the fields in Chunxiao. Because of the "straw problem", Japan might push for access to these fields in future should public opinion

move in that direction. Second, China did not get access to the fields near the Diaoyu/ Senkaku Islands. Nothing in the agreements precludes China from pursuing these resources. Third, the maritime delimitation of the East China Sea remains unresolved. If China's objectives are resource exploitation and projection of its naval power, there is little incentive for China to surrender its claims based on the continental shelf principle. In short, the 2008 agreement is ultimately only a "very small step" towards wider cooperation in the East China Sea.

So far, the collision between the expanding interests of China and those of Japan has not been satisfactorily dealt with. The security dilemma appears to be at work in contemporary Sino-Japanese relations. China's development of a naval capability could prompt Japan to respond with expansionist tendencies and aggravate the existing rivalry with China. While economic interdependence can bring peace and prosperity, the example of Britain and Germany before the First World War demonstrates that interdependence and rivalry can coexist and may degenerate into war. Buszynski (2009) argues that this can happen when one side under the influence of military adventurism falsely assumes that the other side would be constrained from responding to its military action due to economic considerations. In the case of China, which has a non-representative political system and particular national ambitions, there is a risk that ambitious leaders may implement strategic plans without taking into account the reactions of others; plans justified as an entitlement that others should accommodate, made more pertinent by Japan's wartime guilt.

## Social Perspectives

Constructivism, a theory that emphasises subjective social factors in international relationships, claims that interstate relations are considerably shaped by identities, norms and strategic cultures, not by rationalist choices reflecting objective, material benefits, such as balance of military power, trade and investment ties or international institutions (Wendt 1999). As Friedberg (2005: 34) observes, because this theoretical perspective views social relationships as malleable, constructivists tend to be optimists. Repeated interactions can transform the underlying beliefs and interests of those who participate in them, conveying new information and ideas that can help displace prevailing concepts. Hence, even in symmetric power relations or in conditions of uncertainty, stable coop-

eration and constructive negotiations can exist if the countries involved succeed in building trust. States may not seek war just based on rationalist calculations, but also national identities and cultures. But, on the other hand, this is not necessarily the case. Existing social constructs may be deeply rooted and take a long time to change. Repeated interactions can also reinforce old identities if they are misinterpreted. In this context, social factors strengthen the conclusions made under the bargaining and hegemonic stability models, as illustrated above. Constructivism offers opposite perspectives on the South and East China Seas, pointing to cooperation in the former but competition in the latter.

During the past decade, constructivist optimism is evident in the relations between China and Southeast Asia. China's active diplomacy towards Southeast Asia is reflected in the growing trade relations, security ties and cooperation on issues ranging from environmental protection to drug trafficking to public health. Southeast Asia as a whole has received China's approach with activism and enthusiasm (Economy 2005). A US Congressional Research Service report in 2008 attributed China's growing influence in Southeast Asia to its use of "soft power", a term coined by Joseph Nye to refer to non-coercive means of influence including culture, diplomacy, foreign aid, trade and investment. The report asserted that

by downplaying many conflicting interests and working collaboratively with countries and regional organisations on such issues as territorial disputes and trade, Beijing has largely allayed Southeast Asian concerns that China poses a military or economic threat.

It can be seen that, with regards to Southeast Asia, China's concern is not only for material benefits, but a desire to be accepted as a modern, responsible country embracing liberal norms and universal/ international behaviours.

One useful concept used to distinguish affinities and disaffinities between nations is "attributional distance", or how "close" or "far away" the countries are in terms of ideology, type of government, economic system, human rights records and other attributes (Henrikson 2002: 457). To this we may also add the shared historical experiences of China and Southeast Asia, as both were victims of Japanese imperialism during the Second World War. Hostile images of Japan continue to persist in China and, to a lesser extent, Southeast Asia. Recognising that political orientations and values are potentially important causative factors in determining the degree of cooperation and other interactions between

countries, we can see how rival claimants in the East China Sea are “further apart” than between those stakeholders in the South China Sea. Although not an active promoter of ideologies abroad, Japan is a democracy that respects human rights at home. Japan has maintained a subtle balance between the West and its Asian neighbours, although its relations with the former, dominated by the US-Japan security alliance, have generally prevailed. In contrast, Southeast Asian nations are ideologically close to China, given their common opposition to the Western conception of universal human rights. For example, Southeast Asian leaders – such as Malaysia’s Mahamed Mahathir and Singapore’s Lee Kuan Yew – have advocated the idea of community-based “Asian values”, as opposed to the Western universal conception of human rights, as a means to justify their political dominance and privileges.

Meanwhile, it is important to note that the process of democratisation is underway in both China and Southeast Asia, much like how South Korea and Taiwan became democracies following their industrialisation. Economic development and international trade lead to rising per capita income and the emergence of a middle class in these countries. As these middle classes do not need to worry about daily subsistence, they will be demanding gradual democratisation and more political rights. Furthermore, economic development also creates a functional need for political liberalisation. At the 12<sup>th</sup> ASEAN Summit in 2007, ASEAN leaders affirmed their commitment to an ASEAN Economic Community (AEC) by 2015 and to transform the ASEAN into a region with free movement of goods, services, labour and capital. Earlier this year the ASEAN committed to further regional integration when FTAs with Australia, China and New Zealand came into effect on January 1. With these developments come the demands of reliable rule of law, free flows of information and an attractive environment for foreign investments. Over time, China and the ASEAN must become more democratic if they are to achieve the goals of economic progress.

At the same time, however, most observers agree that China is neither a totalitarian state nor a democracy, but an authoritarian regime in transition. Mansfield and Snyder (2002, 2005), while agreeing that there have been no wars between mature liberal democracies, conclude that countries in transition from authoritarianism toward democracy are especially likely to be involved in wars with their neighbours. Democratising countries are more war-prone than both stable democracies and stable autocracies. The resurgence of nationalism in the post-Cold War era

– together with the legitimacy crisis brought about by the 1989 Tiananmen Square incident – proved to be a dangerous and unstable mixture for China. Illegitimate regimes often use nationalist appeals to mobilise mass support and bolster their grip on power. Nationalism may also be used to divert attention from the government’s inability to meet the societal demands for continued economic growth and effective political institutions. David Shambaugh (1996: 205) states that “as China has grown economically more powerful in recent years, nationalism has increased exponentially”.

This would lead to more instability in the East China Sea, as Japan is the most likely target towards which China would vent its nationalist sentiment. While Asia has seemed peaceful since the end of the Vietnam War, Kristof (1998) contends that the peace is a fragile one, concealing dormant antagonisms that could still erupt. At the heart of the tension is the failure of Japan to apologise for its wartime brutality. Anti-Japanese sentiment among the Chinese represents a major fault line in Asian maritime disputes. While the appeal to nationalism by the Chinese leadership could be a highly problematic source of legitimacy, the Diaoyu/ Senkaku issue has been used by opposition groups who mobilise nationalism in domestic political struggles (Deans 2000). A further factor which could exacerbate conflicts between China and Japan follows from the democratic peace argument. Doyle (1983b) points out that while democracies may be less likely to come into conflict with other democracies, they have been historically suspicious of and hostile toward non-democracies. As a liberal and functioning democracy closely aligned to the US, a profoundly ideological country, Japan might perceive China with a measure of suspicion and hostility.

In this context, frequent contact may increase tensions and reinforce old identities, contrary to optimistic constructivists’ claims that repeated interactions can erode existing social structures and facilitate long-term improvements in relationships. For example, the various regional multi-lateral organisations in East Asia, such as ASEAN Plus Three and the East Asia Summit, are intended to consolidate solidarity among East Asian nations for region-wide benefit. However, as both China and Japan recognise the advantages of great strategic leverage in shaping regional architecture, these institutions have instead become places in which they compete against each other for regional leadership (Terada 2006).

It is also not difficult to see how easily communications between China and Japan are prone to misunderstanding and misinterpretations. Hagstrom (2005) provides a detailed analysis of how Japan exerted power over China in response to China's promulgation of the 1992 Law on the Territorial Sea and Contiguous Zone, which included the Diaoyu/Senkaku Islands in its territory. "Ideational statecraft", or attempts to exert influence through the transmission of ideas, norms and symbols, is often ambiguous. Since the early 1970s, Japan has pursued a policy of "no dispute". In line with this logic, Japan's response in 1992 was that the issue of sovereignty should not even be discussed with China, and the option to shelve the dispute simply did not exist. Japan's ulterior motive may have been a careful approach of "strategic non-action", so as to control the islands without provoking China. In time, effective control will become internationally recognised and legally consolidated (Hagstrom 2005: 169-170). Hagstrom cites further instances of Japan's refusal to compromise, develop the islands jointly or even to discuss the issue post-1992. If Japan carries this subtle and discreet diplomatic statecraft into the future, it is likely to obstruct honest exchanges with China while quietly favouring itself in the long term.

## Recent Developments

Attention is now turned to recent developments in the East and South China Seas in 2010 and beyond, and an attempt is made to show how they provide support to the views discussed above. In March 2010, it was reported that Chinese officials referenced the South China Sea as a "core interest" of China when US Deputy Secretary of State James Steinberg and Asia Director of the National Security Council Jeffrey Bader visited Beijing, warning their US counterparts not to interfere there. This led the US Secretary of State Hillary Clinton to declare, in the July ARF, that the US had a "national interest" in the "freedom of navigation, open access to Asia's maritime commons and respect for international law in the South China Sea". This was widely understood as an attempt to "internationalise" the dispute and a direct challenge to China (*The New York Times* 2010a). On 7 September 2010, a Chinese fishing trawler collided with Japanese Coast Guard vessels near the Diaoyu/Senkaku Islands. According to the Japanese government, the ship deliberately rammed into the Coast Guard. It later detained the Chinese captain and stated that it would handle the case according to Japanese do-

mestic laws. The captain was released two weeks later, but only after successive diplomatic escalations – the Japanese ambassador to China was summoned six times, diplomatic contacts and cultural exchanges were suspended, rare earths from China to Japan were threatened, and demonstrations were spreading in both Chinese and Japanese cities (*The New York Times* 2010c).

Throughout the incident, Japan's adherence to its formal position of "no dispute" and exercise of "quiet power" (Hagstrom 2005) was evident. Japan stated at the outset of the incident that the Diaoyu/ Senkaku Islands were an integral part of Japanese territories, and that the Chinese captain was being detained for breach of Japanese law. Japanese Foreign Minister Maehara was keen to extract reassurance from the US that the territories under consideration would fall under the US-Japan security treaty, because they were administered by Japan. Following a meeting with the US Secretary of State on 23 September, Maehara declared that Clinton had given him assurance that the Senkakus are "subject to Article 5 of the bilateral security treaty", which authorises the US to protect Japan in case of an attack on "territories under the administration of Japan" (*AFP* 2010). Meanwhile, in the months following the incident, there is no sign of a thaw between the two countries. In the October Asia-Europe Meeting (ASEM) in Brussels, Chinese Premier Wen Jiabao informed Japanese Prime Minister Kan Naoto that the Diaoyu Islands have always been "an inherent part of Chinese territory". In the same month, Japanese Foreign Minister Maehara described China's retaliatory steps against Tokyo over the detention as "hysterical". The Chinese Foreign Ministry expressed that it was "shocked" by the comments and hoped Japan could "demonstrate sincerity to improve bilateral ties" (*Kyodo News* 2010). In December 2010, the Okinawan city of Ishigaki adopted a resolution to declare 14 January as the "Senkaku Islands Colonisation Day". It has as its intention the commemoration of the incorporation of the islands by the Japanese cabinet in 1894. As to be expected, this drew immediate protest from China (McCormack 2011).

Developments were very different in the case of the South China Sea. Among the South China Sea claimants, China is the strongest player, and has long championed a bilateral approach to negotiation so as to prevail over weaker states. The entry of the US into the dispute changed the dynamics, and pushed back against Chinese assertiveness, creating space for bargaining. The "give and take" bargaining was evident after the July ARF meeting, as the US, China and the ASEAN have embarked

on a trend towards easing tensions. At the September US-ASEAN summit in New York, rather than renewing tensions in the South China Sea, member states softened the language in the final communiqué regarding territorial disputes, without making specific reference to the South China Sea. US Assistant Secretary of State Kurt Campbell declared that the US has “no intention of taking sides or stoking up tensions in the South China Sea”, and that its goal is to “create a more stable, predictable environment” (*Associated Press* 2010).

The inaugural ASEAN Defence Ministers Meeting-Plus (ADMM-Plus) in October 2010 also served to strengthen mutual trust and cooperation. While non-traditional security issues are prioritised, member states made a commitment to maintain peace and stability in the region. And while defence leaders tried to avoid sensitive sovereignty issues both in the East and South China Seas, Chinese Defence Minister Liang Guanglie reacted mildly when eight countries raised the South China Sea dispute (Storey 2010). Meanwhile, efforts to implement the Declaration on the Conduct of Parties in the South China Sea are still proceeding. While China has insisted that the South China Sea is a bilateral issue, the ASEAN succeeded in raising it at the ASEAN-China Summit in Hanoi in October. Chinese Premier Wen Jiabao reiterated China’s commitment to, and the ongoing importance of, implementing the agreement (Chinese Ministry of Foreign Affairs 2010). In a November trip to Singapore, to mark 20 years of official diplomatic relations, Chinese Vice President Xi Jinping stressed that China would shoulder responsibilities for regional peace and development, and that “China sees all countries, big and small, as equals”. This is in sharp contrast to Chinese Foreign Minister Yang Jiechi’s comment in the July ARF that, “China is a big country and other countries are small countries and that is just a fact” (Latif 2010). In December 2010, the ASEAN-China Joint Working Group was held in Kunming, China to discuss the implementation guidelines of the Declaration. The results will be discussed in the forthcoming ASEAN-China Senior Officials Meeting of early 2011.

As the weaker ASEAN states manoeuvre between America and China, pragmatic considerations drive them to strike a careful balance between the two powers. Vietnam, considered an aggressive claimant, illustrates this through its multiple strategies (Storey 2010) towards China. While it accelerates the modernisation of its navy, seeks the military presence of major external powers in Southeast Asia and encouraged, while it chaired the ASEAN in 2010, the US and the ASEAN to



internationalise the problem, it nevertheless continues to hold regular dialogue with China in order to manage tensions. For instance, take Deputy Defence Minister Nguyen Chi Vinh reiteration of Vietnam's "Three Nos" policy (*Vietnam News* 2010) while visiting Beijing in August last year: no military alliances, no foreign bases and no reliance on another country to combat a third. Vietnam is also active in raising the agenda of implementing the Code of Conduct in the ASEAN.

## Concluding Remarks

It appears that while Asian countries have felt Beijing's diplomatic pressure and economic clout, there are subtle differences in China's approaches to disputes in the East and South China Seas. The Obama administration's ambition to "return to Asia" in 2010 have highlighted this difference. This brings important policy lessons to China's neighbours and the US, with whom regional states seek to engage as a counterbalance to China. First, the asymmetry of power between China and ASEAN states makes a "give and take" bargaining possible in the first place. While China has the power advantage, the presence of the US could provide the prerequisite for negotiations. Recall that it was the ASEAN that chose to seek a deal with China rather than to fight during the 1990s. It was subsequent US engagement with the region that shifted China to norm-affirming behaviour rather than to resorting to force, resulting in the 2002 Declaration on Conduct. The recent raising of the issue by the ASEAN and the US in the July 2010 ARF also led China to adopt a more flexible and accommodating posture with regard to the other claimants. But while maritime regime-building in Southeast Asia is more advanced than in Northeast Asia, it is still at an early stage and one has to watch closely whether meaningful progress can and will be made on the implementation of the Declaration on Conduct in the coming year.

As for the East China Sea, progress is at a more primitive stage. Never in the course of history have China and Japan both emerged as major geopolitical players at the same time. This power balance is one characterised by uncertainty and mistrust. Recent events suggest that China and Japan have not yet succeeded in building trust, and it is apparent that they cannot even agree on whether there is a territorial dispute. Along with the political, economic and military tensions, China and Japan would do well to confront the underlying "strain of minds". The

heightened existence of suspicion and the “clash of nationalisms” do represent genuine constraints within which governments may have to operate. This implies that any resolution would have to start with confidence-building measures and, ultimately, the thorough facing of history. There is evidence that this sensitivity is not lost on the part of the US. While Japanese Foreign Minister Maehara declared that the US Secretary of State had given him assurances that the Senkakus fell under the US-Japan security treaty two weeks into the fishing boat collision furore, the account by the US State Department did not mention the pledge that was claimed by Maehara, but rather, merely repeated the US’ formal position of urging the two sides to resolve the dispute while also not taking a position on the sovereignty of the Senkakus (McCormack 2011). In other words, the US backing of Japan appeared ambiguous. Recent incidents have highlighted the still-virulent, historically rooted animosity between China and Japan. The important lesson for the US, as the key mediating and moderating power in the region, is that the strategic backing of its allies in the region could have very different consequences: diplomatic and military escalation in the East China Sea, and negotiations in the South China Sea. In these ways, the simplistic attribution of the twin conflicts to being inevitable consequences of China’s rise would be to misjudge the nuanced state of international affairs, as well as its complex and different dynamics.

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