**Alternative Approaches to Territorial**

**Disputes in Northeast and Southeast Asia**

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**Introduction**

The rapidly unfolding reconfiguration of societies in the world today brings into question long-held systems of thought and action with respect to international relations, state-citizen interactions, concepts of national identity, and national sovereignty. Several factors have brought about this transformation. Among the more significant ones are:

1. Globalization and the breakdown of national boundaries with respect to trade, finance, and investments;
2. A global diaspora of migrant and overseas worker communities;
3. The failure of the dominant paradigm of neo-liberalism and capitalism to ensure a more equal and just world economic and political order; and,
4. The rise of civil society and social movements both nationally and internationally which pose alternative and countervailing models of development;

States are becoming are less and less able to assert their notions of national sovereignty in the face of globalizing actors and powerful hegemonic players who assert their expansionary policies in almost every corner of the globe. But globalization’s ugly face has also become more and more apparent. The ongoing crises in the once-stable European community and the world-wide impact of the economic crises of 2008-2009 that began in the United States are but the latest in a series of meltdowns that have affected the entire globe. Economic crises breed political crises and drastic regime changes have taken place as a result. Not having developed sustainable and self-generating economies, governments in the more vulnerable developing world are then forced to run to international financial institutions and foreign governments for help in stemming the crises in return for instituting painful and unpopular reforms. In such instances, their national autonomies become even more compromised.

Widespread poverty, unemployment, and deteriorating productive sectors in many developing societies have caused a global trend of overseas contract work (both short term and long term) and permanent migration to more developed societies. This has created pockets of communities with dual or multi-identities thus blurring further and bringing into question the notion of a single national identity (Mushakoji 2012).

**Challenges to Global Capitalism**

Despite the single overwhelming hegemony of neo-liberalism and global capitalism and their vaunted superiority in production and wealth creation which has resulted in high growth rates, social and economic inequality remains a stark reality and is actually growing in both developed and developing societies. This has created wide swaths of social unrest as exemplified by the Occupy Movement that originated in the U.S. and spread to other parts of the world, including Asia. The ascension into power of socialist and left-leaning governments in many Latin American societies constitutes a powerful challenge to the existing global configuration and a clear rejection of the capitalist meta-narrative.

The above state and market failures have focused attention once more on the third sector of modern society – the civil society. Non-state and non-market forces in the form of social movements, popular organizations, advocacy groups, progressive intelligentsia, and community-based organizations have been aggressively staking their claim to their right to determine their lives and their future. It is within these forces that alternatives to the existing systems can be sourced and, hopefully realized.

**Disputes in East and Southeast Asia**

These developments bear down on and are clearly relevant in the issue of territorial disputes that have strained state to state and (in some cases) even people to people relations among the countries involved. Territorial disputes in Northeast and Southeast Asia today include the following:

1. Disputes over the Diaoyu (Senkaku) Islands among mainland China, Taiwan and Japan;
2. Conflicts over the Dokdo (Takeshima) Island between Korea and Japan;
3. In the South China Sea, mainland China, Taiwan, Vietnam, and the Philippines are fighting over the Spratly Islands and the territorial sea; and,
4. In the North, the disputes over the Kuril Islands between Japan and Russia.

Discussions and debates on ongoing territorial disputes in Asia have focused more on the issues of nationalism, national identity, sovereignty, territorial integrity and state boundaries and similar concerns. In some instances, manifestations of chauvinism and right wing ultra-patriotism have surfaced. Under such an atmosphere, the resolution of territorial conflicts becomes difficult if not impossible to come about. A more dismal prospect is the threat of military conflicts that almost always loom in the horizon.

There is therefore a need to move the discussion away from the above divisive issues and surface instead the concerns that unite the parties involved. In order to achieve this, the parties in the conflict must also bring into the picture the interests and welfare of the peoples and their communities who are most directly affected by the consequences of these conflicts. Their voices are largely unheard and their opinions and reactions unsolicited. The conceptual ideas behind this approach can be gleaned from various papers, books, statements, conference proceedings, and research proposals that expound on this issue.

**Shared Regional Identity and Multiple Identities**

We start off our discussion with the insights provided by Kinhide Mushakoji (2012) in his paper “Identity Politics in the Developmentalist States of East Asia: The Role of Diaspora Communities in the Growth of Civil Societies.” He argues that the present age has given rise to “multi-identity, multi-ethnic, and multi-cultural societies” which has been brought about by the “massive influx of foreign migrants forming diaspora communities” in host countries. This has necessitated the “development of multi-level hierarchy of identities among overlapping identity communities quite different from the State/individual Westphalian security contractual system.” Mushakoji thereafter call for a “coalition of sedentary and migrant citizens” who are both adversely affected by global economic upheavals. He proposes the creation of a new model of citizenship based on “multiple identities combined according to the principle of subsidiarity and strongly anchored into an eco-cultural local community as a matrix of endogenous intellectual creativity.”

Such a novel concept could result in a regional identity shared by citizens of various neighboring countries where divergent national identities are recognized and respected while at the same time rejecting the narrow view that national identity is the only legitimate identity, a position often taken by developmentalist state hegemonies. Mushakoji does not specifically take on the issue of territorial disputes in his paper, but the implications on the issue are palpable and evident. Too often have notions of a national identity and territorial integrity based on a homogenous racial stereotype been used to fan inter-societal conflicts which oftentimes lead to war. A shared regional identity will necessarily go a long way in easing tensions among nations and facilitate the peaceful resolution of territorial disputes.

**Common Pool Resource**

For the Nobel Prize winner in Economics Elinor Ostrom (1990), the age-old system of a common pool resource (CPR) has been a viable formula for getting people of various backgrounds and classes to work together for the common good. She defines CPR as “a natural or man-made resource system that is sufficiently large as to make it costly (but not impossible) to exclude potential beneficiaries from obtaining benefits from its use.” Utilizing the theory of collective action, Ostrom examines how, in case studies of communities in many parts of the world, “individuals might be able to achieve an effective form of governing and managing their own commons (through) a binding contract to commit themselves to a cooperative strategy … to share equally the sustainable yields” from the natural resources under their control. This is achieved through “self-organized and self-governed collective action … arrived at by mutual agreement. This is the opposite of a model that “relies on a central authority to manage the resources and impose sanctions.”

The motivation is the prospect of greater economic returns and substantially reduced conflicts from the utilization of the CPRs where participants try “to solve common problems to enhance their own productivity over time.” The development of self-regulatory mechanisms necessitate a “limited access common property resource … rather than open-access resources” to better conserve and protect scarce resources and nurture a fragile environment.

In Ostrom’s study, “the central question is how a group of principals who are in an interdependent situation can organize and govern themselves to obtain continuing joint benefits when all face situations to free ride, shirk, or otherwise act opportunistically.” She recommends a combination of “folk traditional knowledge with investments in specialized research.” Ostrom, however, warns that although successful CPRs can be found, such governance systems, if newly established “requires considerable trial and error learning” with more errors in the early stages and even disasters.

As with the propositions outlined by Mushakoji, Ostrom’s ideas and the case studies she presented could also be used as the bases for looking at how territorial disputes between contending states can be resolved. Although Ostrom limited her discussion to communities of individuals or families, the common issue with territorial disputes is how what would otherwise be irreconcilable interests in exploiting and benefiting from natural resources could be set aside for the good of all parties involved, i.e. contending states and societies.

**Common Heritage of Mankind**

For Taylor (2011) the concept of the common heritage of mankind “establishes that some localities belong to all humanity and that their resources are available for everyone’s use and benefit, taking into account future generations and the needs of developing countries.” At this point, it is also instructive to revisit the decade-long debates in the seventies and eighties surrounding the United Nations Conference on the Law of the Sea (UNCLOS III) when, for the first time, developing countries stood together and took on the developed states led by the United States and asserted the doctrine that the international seabed and their resources are the “common heritage of mankind” and therefore “belong to everyone and (are) to be exploited by all” (Encarnacion 1991:53). This was in opposition to the free-market-oriented view of the United States of “freedom of the seas,” i.e., “that they belonged to no one and can be exploited by anyone.”

The latter view, in effect, meant that the powerful and technology-rich states would always lord it over the poorly endowed ones. Encarnacion (1991:53) says that the eventual adoption by UNCLOS III of the developing countries’ position was “of great significance … because importance is placed on the need to cooperate and work closely together and not to compete to develop the resources of the international seabed area.”

**An ASEAN-China Regional Common**

We now come to works that directly address the territorial disputes issue in Northeast and Southeast Asia. First on line is a research proposal on “ASEAN-China Relations and the South China Sea (SCS)” developed by Professor Dr Thanh-Dam Truong of the Erasmus University of Rotterdam (2012). She prefers a constructivist approach instead of a purely legalist perspective which will show (1) “the relevance of historically formed social and psychological variables, in addition to (and/or in conjunction) with materials concerns,” and (2) “an implication for resistance on how to transform the view on SCS as China’s **regional sphere of influence** into an ASEAN-China **regional common**.” The latter compliments Mushakoji’s point about a shared regional identity, Ostrom’s common pool resource, and UNCLOS III’s common heritage of mankind.

Truong’s framework includes the formulation of a China-ASEAN code of conduct for maritime cooperation in the SCS, mentions *sustainable development* initiatives, stresses regional norms as part of international frameworks using *norms shaping and sharing* (rather than *diffusing*), and adopts the language of *comprehensive security* (traditional security plus non-traditional socio-economic and cultural aspects). In line with the latter point, research focus must be on human security as a “people-centric concept expressed locally” and one that would “add value to traditional security. Within this focus, small-scale fishing communities are to be prioritized as they are “caught between China’s patrol of (its claimed) U-shaped line and large fishing operations that suck up resources due to superior technology.” The small fishers’ “security of livelihood” thus becomes compromised. In locating these communities within the SCS conflict, Truong sees their positions as essentially positioned “between two realms of power:

1. “A Sino-centric world view that underpins the U-Shape line and patrols their livelihood activities”; and,
2. “A Euro-centric world view on ‘Modernization’ that underpins the development of fisheries which subordinates their interests.”

**Shared Regional Area of Essential Commons**

Rasti Delizo (2012) departs from an exclusively state-centric and imperial standpoint in asserting that the South China Sea’s “strategic mineral and aquatic resources cannot be claimed by just a few and in the name of ancient empires that have long ago disappeared into the library of world history.” Taking into account “today’s global environmental realities, he proposes that the SCS “must by now be claimed by the many and in the name of a 21st Century world order shared by all of humankind.” This entails the urgent assertion of “a new regional framework … to push for the area’s peacefully cooperative stability.”

Delizo further proposes “that the area already be declared a ‘Shared Regional Area of Essential Commons’ (SRAEC)” that must be “outlined according to its factually precise and geographic location on the global map.”  Obviously, the SRAEC “has to be recognized and upheld by all the common stakeholders presently involved in the region’s long term future” including “state and non-state entities, together with various regional organizations and even global institutions.”

Its basic premise and thrust must be to ensure that all the commonly essential natural maritime resources that are now presently found (and have yet to be discovered) within the parameters of the Southeast Asian Sea have to be collectively shared by all stakeholders, especially the region’s vast humanity and not merely a handful of states and their ruling leaders.

Certain basic premises have to be upheld with respect to the SRAEC entity. One, it will have to be independent and neutral. This means that “it cannot be absolutely claimed (wholly or partially) by any one state or regional entity, such as China or the ASEAN” and even more so, the SRAEC must not become a conflict zone under the geopolitical maneuverings of any global superpower, specifically the imperialist thrusts of the US.” Secondly, the SRAEC will have to “break free from the reactionary mindset of *realpolitik* still guiding the key players” on the SCS question who alternately play either the Beijing or Washington card and can therefore be prey to both powers. Thirdly, and perhaps the most difficult of all, parties in the SCS conflict must chart “a progressive direction and an openly participative process within the framework of a SRAEC (in order) for the peoples living around the South China Sea (to) radically alter the balance of power in this highly contentious but vital corner of the world.”

**Joint Development and Use of Resources**

On September 28, 2012, over 1900 Japanese peace activists, intellectuals, media persons, and lawyers issued a statement entitled “A Japanese Citizens’ Appeal to Stop the Vicious Cycle of Territorial Disputes.” Alarmed over the rising tensions over the Senkaku (Diaoyu) Islands among mainland China, Taiwan and Japan and the Takeshima (Dokdo) Island between Korea and Japan, the group pointed out that, although the conflict is touted to be about territorial disputes, it is also important to note the historical background, that of Japan’s aggression against its neighbors. Decrying the fanning by political agencies and the media of nationalist sentiments around the territorial disputes, the group also disputes the notion of a “fixed inherent territory” as not being “true for any party.” The statement’s general appeal is for all parties to agree that the

Joint development and use of the resources in the areas of “territory” now under dispute is the only way forward. While sovereignty cannot be divided, it is possible to jointly develop, manage and distribute resources in the area including fishing resources. Rather than clashing over sovereignty, the countries involved should pursue dialogue and consultation to come to an understanding over resources and share interests. We must shift the seeds of conflict which flare up territorial nationalism, and instead use them as a foundation for regional cooperation.

The Japanese statement also call attention to the historical fact that the marine areas around Senkaku have “been a place of both fishing, exchange, and life for Taiwanese and Okinawan people, an ocean of production” and that, therefore, their voices must be respected. This view brings the debate outside of the realm of state and sovereignty interests to the more people-centric community level.

Recognizing the often intransigent nature of state to state interactions when territorial issues are discussed, the group finally proposes “to create frameworks for dialogue on a non-governmental, citizens' level between Japan, China, Korea, Okinawa and Taiwan, with a view towards the future in good faith and with mutual trust.”

**Spheres of Border Interaction and Demilitarized Zones**

*Minjian* is a Chinese term that in Japanese is known as *minkan* and in Korean as *mingan*. Used in the context of the Mingian East Asia Forum on “Facing History, Resolving Disputes, and Working Towards Peace in East Asia” held on 6 October 2012, the term “refers to the non-governmental, popular voices and organizations, initiated by the people.” Initiated as a response to the heightened tensions surrounding territorial disputes in East Asia, the Forum builds on “the foundation of East Asian solidarities built by many predecessors in the last thirty years.” The forum’s organizers expects it “to become a people-to-people network that will continue to extend beyond borders and express people’s voices, fostering the steady development of peace in Asia and the world through communication, conversation, and collaboration.”

Like the previous statement by Japanese intellectuals, the Statement by the Minjian Forum participants released on 12 November 2012 traces the current territorial conflicts to the “yet-to-be-resolved problem of colonial and imperial history since the late 19th Century, as well as one entangled with and compressed by the Cold War structure.” They decry “nationalist modes of thought on territorial sovereignty” as having a negative impact on “earnest attempts to seek people-to-people solidarity, exchange and dialogue, mutual cooperation, and peace.” At the same time, they lament the ascendancy of “global capitalist development” in becoming “the only path to modernity in Cold War East Asia, intensifying the struggles for resources and hegemony and causing the lack in alternative imagination.”

The Forum statement recommends that the “disputed islands should be transformed into “spheres of border interaction (where people can freely interact and move around), “subsistence spheres for neighboring communities” (where people share the space and resources for their daily subsistence) and “demilitarized zones” (including the demilitarization of the islands and the territorial seas around them) in East Asia.”

Consistent with previous alternative viewpoints presented in this paper, the Forum statement asserts that “the insistence on sovereignty alone will not resolve the controversy.” Respective governments are called upon “to refrain from intensifying nationalist sentiments within its borders and to avoid any acts of violence and aggression against people.” East Asian countries and minjian societies must insist on “the principles of people-to-people solidarity, communication and dialogue, and mutual help and collaboration, we expect the people in each country to monitor and demand their governments to restrain their militaristic tendencies and to avoid military conflict by all means when facing territorial disputes.” Collective values and principles must be sought to overcome territorial concerns. These transformations will help resolve territorial disputes and enhance mutual understanding and conviviality in the region.”

**The Role of Social Scientists**

How do intellectuals, scholars, and academics relate to the above issues and concerns? What can they do to contribute to the process of resolving territorial disputes in a creative and progressive way? The answers to this can be gleaned from the “Conference on People and the Sea” organized by the Center for Maritime Research, Amsterdam, from 26-28 June 2012. These are some of the relevant conference themes:

1. Knowledge Production. (Includes) “integrative approaches … such as working together with society (sectors, NGO’s) to produce knowledge and develop it for use in decision making; involving scientists working together in an integrative multidisciplinary or transdisciplinary ways; (and) research and critical thinking on the role of social scientists and social science in the production of a management knowledge base.”

1. Maritime Governance. “How different policies for regional seas and coastal zones are developed, whose voices are heard, aspects of power, procedural justice, examples of good and bad practices, and consequences of policy contestation.”
2. Maritime communities. “Maritime anthropology and the cultural meanings that people associate with the sea and the coastal zone (and) occupational specializations, such as fishing, coastal tourism, aquaculture, or oil rig work.
3. Fisher well-being, human rights, and shifting vulnerabilities - challenges and opportunities.
   1. “Challenges of poverty alleviation and the securing of human rights in fisheries in the context of diminishing resources, changing access to resources, and fast-paced coastal development trends.
   2. “How do these changes affect the current and future well-being of fishing dependent people, what are the implications for vulnerability, human rights and justice, and how can new knowledge on these aspects contribute to fair and sustainable policy options?
   3. “Address poverty in fisheries in north and south; human rights-based approaches in fisheries; aspects of social justice; and quality of life and wellbeing in fishing communities.
   4. “Gender focus, recognizing that change in fisheries can affect men and women differently, and can inspire a range of coping reactions and strategies.”

**Rights of small-scale fisherfolk**

In the midst of the tense disputes over territorial waters being waged by governments in the East and Southeast Asia, the plight of small-scale fisherfolk may grow to be a major issue especially in the South China Sea disputes as some observers see the whole territorial dispute in the area as all about one thing: **fish**. This is what the observers have to say:

Despite the overwhelming preoccupation with the [potentially abundant](http://www.eia.gov/cabs/South_China_Sea/Full.html) energy reserves in the South China Sea, fishing has emerged as a larger potential driver of conflict. Countries such as the Philippines and Vietnam rely on the sea as an economic lifeline. And China is the largest consumer and exporter of fish in the world. And as overfishing continues to deplete coastal stocks through Southeast Asia, fishermen are venturing out further into disputed waters. (Kleine-Ahlbrandt 2012).

But while the value of oil and gas resources in the SCS remains the subject of debate, the potential value of its fishery and aquaculture resources is not in doubt. Currently, the South China Sea accounts for [one-tenth of the world’s global fisheries catch, and plays host to a multi-billion dollar fishing industry](http://www.cnas.org/files/documents/publications/CNAS%20Testimony%20Cronin%20012612_1.pdf). Fish protein accounts for more than [22% of the average Asian diet](http://www.cnas.org/files/documents/publications/CNAS%20Testimony%20Cronin%20012612_1.pdf) and growing incomes across Asia will inevitably raise demand. (Pitlo 2013).

One must, therefore, always be cognizant of the rights of small-scale fisherfolk lest they be further marginalized, impoverished and disempowered and eventually driven to extinction by the operations of large fishing companies and the unfriendly policies of governments in the region. The UN Food and Agricultural Organization (UN FAO), in its Code of Conduct for Responsible Fisheries recognizes as a fundamental human right, the concerns of small-scale and artisanal fisheries (Charles 2011:86). This is what the UN FAO code says:

Recognizing the important contributions of artisanal and small-scale fish­eries to employment, income and food security, States should appropriately protect the rights of fishers and fishworkers, particularly those engaged in subsistence, small-scale and artisanal fisheries, to a secure and just liveli­hood, as well as preferential access, where appropriate, to traditional fish­ing grounds and resources in the waters under their national jurisdiction.

**Conclusion**

As the above discussion shows, an alternative approach to resolving the territorial disputes in Northeast and Southeast Asia hinges on being committed to the principles of collective action, multilateralism and a shared regional identity, and a people-to-people concern. The last point is important as state-to-state interactions have often been proven to be inadequate in solving disputes. At the same time the rights and welfare of the less privileged sectors of society, e.g., fishing communities, have to be upheld and their livelihoods protected and developed.

In this approach, notions of absolute sovereignty and permanent territorial rights have no place in the equation. Uncompromisingly asserting these would be only be counter-productive and will lead to a stalemate, a later escalation of the conflict, and eventually, an outright war. In a world of greater interaction between governments and societies, the porousness of national borders, rapidly dwindling resources, and looming and actual environmental disasters, it is imperative that states and market forces act more responsibly and take a less belligerent and more reasonable attitude to existing territorial disputes. On the part of civil society and the academe, their human resources and talents must be equally harnessed to achieving the goal of a socially just, economically equitable, and less conflictual planet.

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