

Ieodo, Okinotorishima and International Politics

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Abstract

1982 marked the culmination of 14 years of negotiations via the United Nations Convention on the Law of the Sea (UNCLOS) which involved over 150 member states. UNCLOS provides dispute resolution mechanisms to resolve maritime disputes peacefully. While South Korea and China ratified parts of UNCLOS, the two states avoid UNCLOS dispute resolution mechanisms. The Ieodo issue is a maritime dispute between South Korea and China. It is not a territorial dispute, but an Exclusive Economic Zone (EEZ) delimitation dispute. EEZs refer to areas that states consider vital sea resources of an economic nature. From a technical standpoint, Ieodo is not the object of a territorial dispute, but jurisdiction over it has to be decided through negotiations between South Korea and China. China's expanded economic strength has raised suspicions and concerns among neighboring countries. Maritime issues are rising to the forefront of China's security concerns. EEZ has started to become linked with wider strategic issues relating to China's naval strategy. China has never disputed Japan's sovereignty over Okinotorishima, but rejects its claim to the 400,000 square kilometers marine footprint, which is larger than Japan's entire land area. With China emerging as a major power, China wants to deny American access to its nearby waters so it can have its way with its neighbors. China's intensified effort to keep America's military out of its EEZ. Ieodo Issue and Okinotorishima Issue imply to deny China access to their nearby waters. This article explores how the UNCLOS regime affects maritime boundary delimitation, and its implications for international relations focusing on Ieodo and Okinotorishima.

Keywords: UNCLOS, Maritime disputes, EEZ delimitation dispute, The Ieodo issue, Okinotorishima Issue

I. Introduction

The United Nations Convention on the Law of the Sea(UNCLOS) in 1982 marked the culmination of more than 14 years of negotiations which involved over 150 States. The Convention, which came into force on November 16th, 1994, was established as a comprehensive legal framework for the regulation of all ocean space.

UNCLOS provides dispute resolution mechanisms to resolve maritime disputes peacefully. It also provides both the procedural mechanisms for how and when states actually talk to one another, and the substantive rules by which they play.

Both South Korea and China avoid UNCLOS dispute resolution mechanisms. On September 22, 2011, China and the 10-member Association of Southeast Asian Nations adopted a Declaration on the Conduct of Parties in the South China Sea in November 2002, laying a political foundation for the discussion of commercial cooperation as well as long-term peace and stability in the region. Yet tensions rose in the region. The United States now plays a role that China sees as an effort to re-assert United States's role in the regional strategic mix.

The Ieodo issue is a maritime dispute between South Korea and China. This dispute over what South Korea calls the Ieodo Reef and China refers to as the Suyan Reef is not a territorial dispute, but an EEZ delimitation dispute. Ieodo is not technically the object of a territorial dispute, but jurisdiction over it has to be decided through negotiations between South Korea and China. Under the UNCLOS, a country has special rights over use of marine resources in an EEZ extending 200 nautical miles from its shores. When one country's EEZ overlaps with another country's claims over territorial waters, the relevant countries involved are supposed to decide where to draw the line.

Okinotorishima may only be two islands collectively, not much bigger than a small bedroom, which cannot sustain human habitation or economic life on their own. China has never disputed Japan's sovereignty over Okinotorishima, but rejects its claim to the 400,000 square kilometers marine footprint, which is larger than Japan's entire land area. If Okinotorishima stays as a rock, it will not be entitled as an EEZ. Therefore, the ocean around it will be open sea and the resources will be subject to competition among several countries. However, Japan claims as its Exclusive Economic Zone (EEZ) extending 200 nautical miles around Okinotorishima, which lies half-way between Taiwan and Guam.

National politics is the realm of authority and law, whereas international politics, they sometimes claim, is a sphere without justice, characterized by active or potential conflict among states.

Realism and liberalism provide contending explanations for state behavior in the international system. Realists consider the principal actors in the international arena to be

states, which are concerned with their own security, act in pursuit of their own national interests, and struggle for power.

Liberalists believe that interstate cooperation will create institutions and regimes for the peaceful settlement of conflicts. They argue that stability is a function of economic interdependence, emerging multilateral institutions, and the spread of democracy. South Korea and China's trade dependency has increased remarkably since 2000. In the last decade, the PRC has emerged as the number one destination for South Korean investment, while also surpassing the United States as Seoul's leading trading partner.¹ Regime theory (an international relations theory) is derived from the liberal tradition that argues that international institutions or regimes affect the behavior of states or other international actors. It assumes that cooperation is possible in the anarchic system of states. Indeed, regimes are, by definition, instances of international cooperation. UNCLOS² contains principles, norms, rules, and decision-making procedures around which actors' expectations converge. 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”.³

This article evaluates the effects of UNCLOS and EEZs on the peaceful and militarized management of maritime claims in Northeast Asian countries. This article analyzes the international community's response to maritime disputes using two key theories of international relations: realism and international regime theory. Finally, it also explores how the UNCLOS regime affects maritime boundary delimitation, and its implications for international relations focusing on Ieodo and Okinotorishima.

II. Ieodo

1. The Geography of Ieodo and Its History

Ieodo (located in the East China Sea), the subject of a territorial dispute between South

¹ Timothy L. Savage. "South Korea-China Relations and the future of North Korea," *The Journal of Peace Studies*, vol.9, no.4 (2008), p.397.

² Sundav E. N. Ebave. "Regimes as mechanisms for social order in international relation", *African Journal of Political Science and International Relations*, Vol. 3(4) (April, 2009), p. 117.

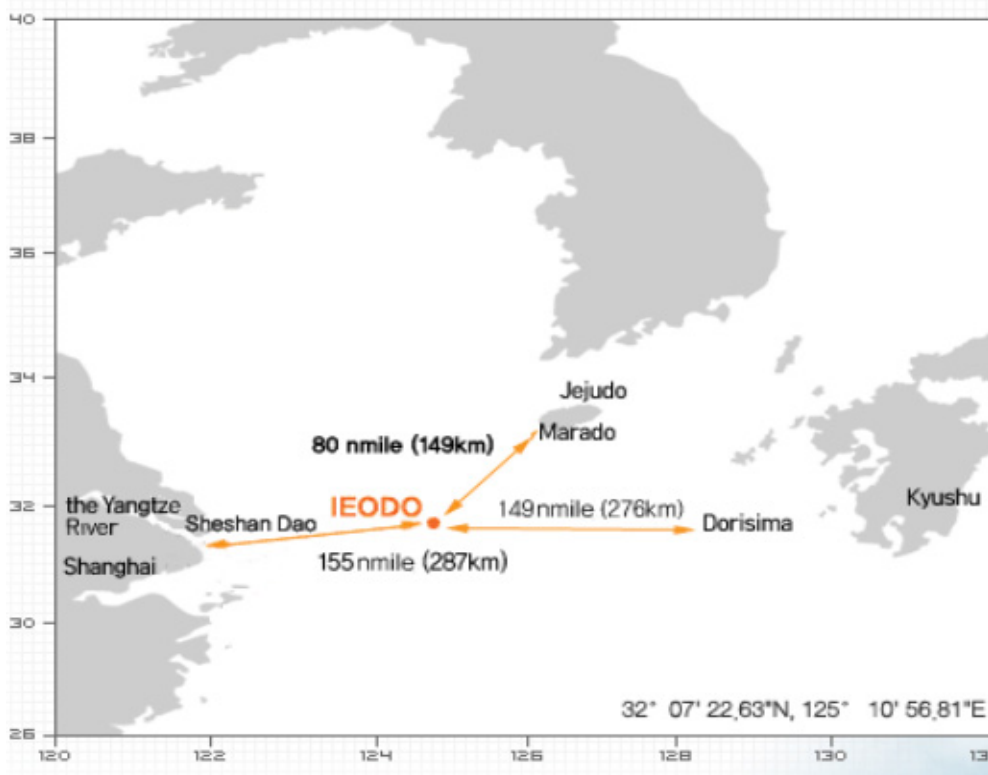
³ Yee. Andv. "Maritime Territorial Disputes in East Asia : a Comparative Analysis of the South China Sea and the East China Sea". *Journal of Current Chinese Affairs*, Vol. 40, No. 2, (German Institute of Global and Area Studies, 2011), p.166.

Korea and China, is a submerged rock 4.6 meters below sea level at low tide. Ieodo is an island of fantasy and nirvana in the folk tale of Jeju people. It has been a Utopian island in the Jeju people's mind and heart long before the British merchant ship Socotra wrecked at the unknown submerged rock in 1900.

Ieodo was first discovered by the British commercial vessel 'Socotra' in 1900 and was named in its honor. In 1910, Socotra Rock was surveyed by the British Royal Navy ship, HMS Waterwitch. HMS Water Witch conducted a survey on Ieodo and confirmed it was a submerged rock about 5.4m in depth.⁴

Ieodo is considered part of Korea's EEZ in the East China Sea with its most shallow part about 4.6m below the sea level. Based on the 40m in depth, it stretches about 600m north-south and 750m east-west from its top while it makes steep slopes in the south and east and rather gentle slopes in the north and west.⁵

<FIGURE 1> Ieodo's Location



Source: KHOA (http://ieodo.khoa.go.kr/eng/open_content/introduce/position.asp)

⁴ KORDI, "Introduction to Ieodo", (Accessed: June 17, 2013).

⁵ KHOA, "Introduction to Ieodo", (Accessed: June 17, 2012).

Ieodo has long been a fascinating subject for many generations of Koreans. In the 1950s, Koreans searched for the Ieodo of Jeju myth and literature. At that time, Ieodo was referred to as Parangdo, Eodo or Ieodo, all meaning the same underwater rock. The first president of South Korea in 1948 (Syngman Rhee) asked the Korean Ambassador in Washington to protect Dokdo in the East Sea and Parangdo in the Yellow Sea. However, the ambassador could not find Parangdo in the Yellow Sea on any available map, so Parangdo, Eodo or Ieodo was forgotten in the diplomatic language of the San Francisco Treaty in 1952 between the United States and Japan, which Allied Powers defeated in the Pacific War.

After some initial explorations in 1984, the South Korean government decided to construct the Ieodo Ocean Research station; construction was completed in 2003. The Chinese Government protested and registered its complaints on the construction and operation of the Ieodo ocean research station on the grounds that it is located in the sea between China and South Korea. South Korea's government never consulted with China in the construction and operation of such a scientific tower on the contested island. China claimed that the sea around Ieodo was a fishing ground for Chinese fishermen throughout its long history (the island even appeared in Chinese literature, including the *Book of Mountains and Sea* published before Christ). Its claim was not considered serious to the South Korean people nor in world opinion.

2. South Korea's Position on Ieodo

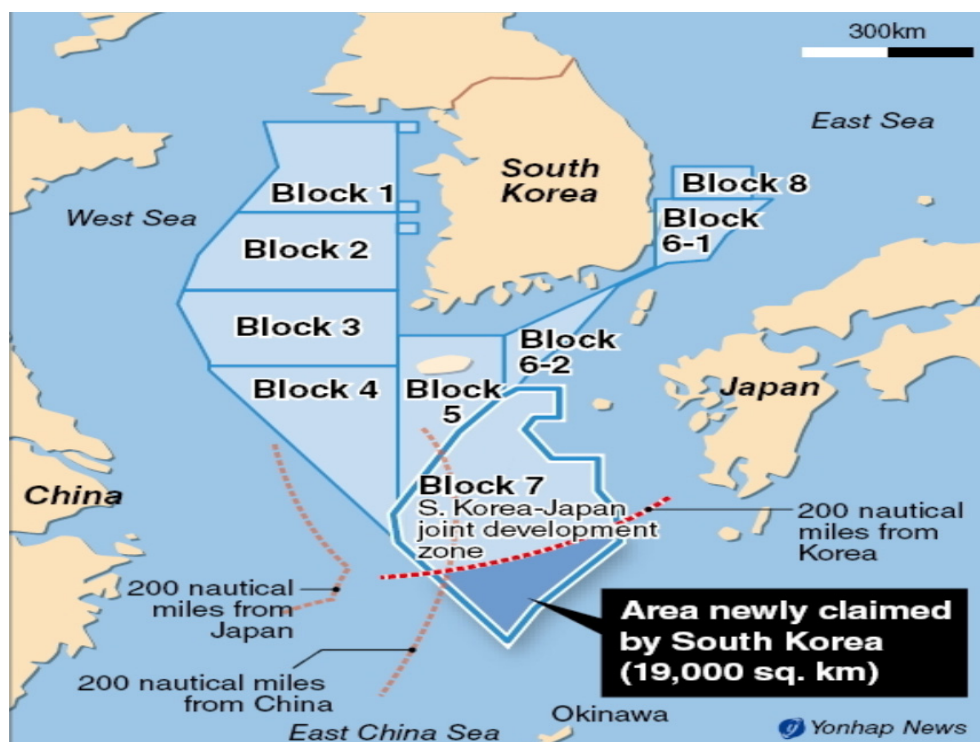
Ieodo is located 80 nautical miles southwest of Marado; the southernmost island of Korea; 155 nautical miles Northeast of Sheshandao in China, and 149 nautical miles West of Torishima in Japan. Ieodo is under South Korea's jurisdiction because it is within the proclamation waters of the peace line declaring sovereignty on the adjacent sea in 1952. In addition, it is a part of a continental shelf fourth Block of South Korea in the Maritime Mineral Resource Development Act enacted in 1970. When the Exclusive Economic Zone (EEZ) based on the principle of a median line is established and recognized, the waters of Ieodo will also be within the EEZ of Korea.

Ieodo is in the overlapping EEZ of the two countries. However, it is within Korea's EEZ, given that it is located 149 kilometers southwest of Korea's southernmost island of Marado, while China's nearest island of Sheshandao is 287 kilometers away. Korea also supports its position making the claim that Ieodo is part of its territory as the reef is located on Korea's continental shelf. Moreover, geological and geomorphological factors are no longer important factors in the delimitation of the EEZ from the base points from which the territorial sea is measured, since the UNCLOS came into force. Based on the universal principle of applying a median or close line, however, Ieodo is within the Korean EEZ.⁶ As it turned out, China didn't raise any objection when South Korea exercised

⁶ Bveona-Cheol. Kana. "Ieodo Issue and Strenathening Measures for South Korea's Maritime Sovereignty," *The Journal of Peace Studies*, vol.13, no.4 (2012), pp.250-251.

effective control of the reef by constructing the maritime research base. Korea has taken the position that the equidistant approach should be utilized to draw the maritime boundary between China and Korea in the Yellow Sea. Because Jeodo is on the Korean side of the equidistant line, Korea views the reef as lying within its EEZ.

<FIGURE 2> South Korea's continental shelf



Source: Yonhap News

3. China's Position on Jeodo

China's EEZ overlaps with South Korea's in the ocean with the Jeodo (Suyan Reef) falling into the area claimed by both countries. The two states held 16 rounds of negotiations on how to divide the waters, and failed to reach an agreement.⁷ China wants to divide the overlapping EEZ with Korea on the principle of equity in a series of long negotiations. China has insisted its favorite equity principle on Korea is with a longer coastal line and natural prolongation of its continental shelf. China conducted its surveillance activities on the sea

⁷ Jeremy Page, "China, South Korea in Row Over Submerged Rock", *Wall Street Journal*, March 14, 2012.

surrounding Ieodo after Korea began operating its ocean research station in 2003. On September 14, 2006, China's foreign ministry's spokesperson issued a statement which denied South Korea's rights to construct and operate the Ieodo Ocean Research Station on the grounds that China and Korea had not yet settled the EEZ disputes in the East China Sea. He added a statement, "Suyan Rock can be settled by peaceful dialogues and negotiations." His statements are as follows:

In handling its relations with other countries, China abides by universally-recognized norms of international laws and advocates consultations and dialogues. Suyan islet is located in the northern part of East China Sea under the sea level, over which China and the ROK have no territorial disputes. China and the ROK have conducted several consultations over the demarcation of each others' exclusive economic zones. Suyan islet is located in an area over which both countries have overlapping EEZ claims. In 2000 and 2002, China made representations twice to the ROK for its construction of the maritime observation station on Suyan islet and opposed its unilateral actions in the area over which both countries have overlapping exclusive economic zones claims. The ROK said Suyan islet wouldn't affect the demarcation of the exclusive economic zones. China always holds a clear and consistent position on Suyan islet. ROK's unilateral actions can't take any legal effect.⁸

China does not accept any of the procedures provided for in Section 2 of Part XV of the Convention with respect to all the categories of disputes referred to in paragraph 1 (a) (b) and (c) of Article 298 of the Convention.⁹

UNCLOS article 298 provides that State parties have the option to formally declare to the UN Secretary-General that they do not accept the compulsory binding dispute settlement under Section 2 for the following categories of disputes.¹⁰

⁸ Oin Gana. "Foreian Ministrv Spokesman Qin Gang's Regular Press Conference on 14 September 2006," (Accessed: July 31, 2012).

⁹ UN. "Declaration under Article 298 by the Government of the People's Republic of China (25 August 2006), UN Division for Ocean Affairs and the Law of the Sea",

(searched date: June 17, 2013).

¹⁰ UNCLOS, Article 298(1), supra note 1.

(a) (i) disputes concerning the interpretation or application of articles 15, 74 and 83 relating to sea boundary delimitations, or those involving historic bays or titles

...

(b) disputes concerning military activities, including military activities by government vessels and aircraft engaged in non-commercial service, and disputes concerning law enforcement activities in regard to the exercise of sovereign rights or jurisdiction excluded from the jurisdiction of a court or tribunal under article 297, paragraph 2 or 3;

(c) disputes in respect of which the Security Council of the United Nations is exercising the functions assigned to it by the Charter of the United Nations, unless the Security Council decides to remove the matter from its agenda or calls upon the parties to settle it by the means provided for in this Convention.

Significantly, on 25 August 2006, China submitted a declaration under Article 298, providing that China does not accept any of the procedures provided for in Section 2 of Part XV of the Convention with respect to all the categories of disputes referred to in paragraph 1 (a) (b) and (c) of Article 298 of the Convention.

China's position on Ieodo is clear. The ownership of Ieodo should be determined through bilateral negotiation, a pending status in which neither of the two should take unilateral moves in these waters. China wants to expand its EEZ and prevents U.S. accession. China argues that military activities are prohibited in the EEZ without coastal State consent. The position ultimately accepted by the overwhelming majority of the delegations at UNCLOS III was that military operations, exercises and activities have always been regarded as internationally lawful uses of the sea and that the right to conduct such activities will continue to be enjoyed by all States in the EEZ.¹¹

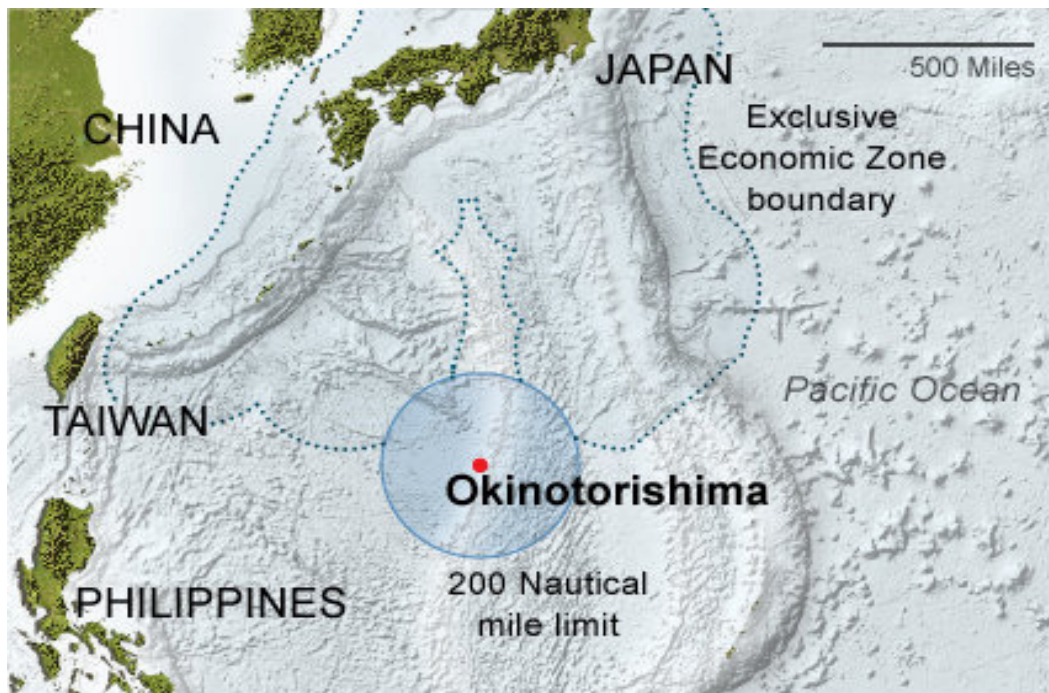
¹¹ Raul (Pete) Pedrozo, "Preserving Navigational Rights and Freedoms: The Right to Conduct Military Activities in China's Exclusive Economic Zone" *Chinese Journal of International Law* Vol.9, No. 1, (Oxford University Press, 2010), p.29.

III. Okinotorishima Issue

1. The Geography of Okinotorishima and The Surrounding Sea

Atoll is known as Okinotorishima, and in practice, it is a lagoon surrounded by coral with a few rocks that emerge within it. Okinotorishima is located 1740km south of Tokyo, consists of three emerged islets that disappear at high tide, and is surrounded by a reef.

<FIGURE 3> Okinotorishima's Location



source: The Geography lady(<http://texasgeography.wordpress.com/2012/05/31/here-today-gone-tomorrow>)

Originally named the Douglas Reef after the British naval officer, William Douglas, discovered it in 1789, the atoll, which at the time amounted to a handful of rocks or islets uninhabitable by humans, was long ignored by imperial powers.¹² The Japanese government has begun to realize that their territorial claims could evaporate together with Okinotorishima's

¹² Dirk de Meyer, "Growing an island: Okinotori", *SAN ROCCO 01*(SAN ROCCO,2011), p.24.

two remaining rocks, which were disappearing due to rising sea levels and the constant pounding of waves during the typhoon seasons. Typhoons and global warming are constant threats to Okinotori's existence. A few decades ago, there were only around five or six visible protrusions, but by 1989, only two were visible.

2. Japan's Position on Okinotorishima

Japan claimed Okinotorishima, also known as Douglas Reef, in 1931 as part of Ogasawara village in the prefecture of Tokyo, and officially named it Okinotorishima. As Okinotorishima was "terra nullius," the Japanese government could possess it. However, Okinotorishima does not satisfy the conditions for an island which could be claimed as an EEZ and continental shelf. However, Japan has insisted that it is an island, which is entitled to a continental shelf and an EEZ covering more than 100,000 square kilometers. In April 2004, China advanced its claim that, in accordance with the Law of the Sea, Okinotorishima should be considered as 'rocks', which do not entitle a country the right of an EEZ.¹³

<FIGURE 4> China's maritime disputes



Source: "Brushwood and gall", *The Economist*(Dec 2nd 2010)

¹³ Kazuhiko Toyo, "Greater Self-Assertion and Nationalism in Japan", *The Copenhagen Journal of Asian Studies* vol.21(2005), p.35.

The Japanese government submitted a national report on the limits of its continental shelf "which lie 200 nautical miles beyond Okinotorishima's baselines to the CLCS in 2009. Several countries, including China, the Republic of Korea and Australia, were concerned about Japan's moves and have repeatedly expressed these concerns to the UN secretary-general.¹⁴

Japan's position that the Okinotorishima rocks are a full-fledged island under UNCLOS Article 121(1)-(2) was importantly reinforced in its 2008 Submission to the CLCS, where, of the six regions in which Japan claims outer continental shelf beyond 200 miles, Okinotorishima Island was included within the Southern Kyushu-Palau Ridge (KPR) Region.

Over the past 30 years, Japan has spent heavily on fortifying the atoll and creating artificial facilities there, in order to develop the area into an island. At Atoll Okinotorishima, jetties, concrete walls and a marine research base heliport were built, and an investment of 600 million US dollars was also used to try to resist the rise of the sea level and the disappearance of islets.

The Japanese government, which has a successful strategic and economic sense, has been careful in the past and present to lay a property right so rudimentary. According to the UNCLOS, an island can have the territorial sea, contiguous zone, exclusive economic zone (EEZ), and continental shelf, while rocks that cannot sustain human habitation or economic life of their own shall have no EEZ or continental shelf.

East of the Japanese Ryukyu Island chain and midway between Taiwan and Guam (hosting an important U.S. military base) lie four - some 1,280 meters apart - barren Okinotorishima (Offshore Bird) Islets, which are located in a coral reef and in the low-tide nature of which was, as of 2005, protected by Japan at the expense of 600 million US dollars. These dollars were used to fortify the reefs so they would not be completely washed away and included: \$280 million spent on encasing these features in concrete, \$50 million spent on covering one of them with a titanium net to shield it from debris thrown up by the ocean's waves, and \$1 million for installing radar and drawing plans to build a lighthouse and an Ocean Thermal Energy Conversion system. All this was done with a view to counter China's position that Okinotorishima is, under Article 121(3), not entitled to the 163,000 square miles of its EEZ claimed by Japan. Furthermore, the Nippon Foundation has drawn plans to build a lighthouse and increase the size of the reef by breeding microorganisms known as foraminifera.

Under the United Nations Convention on the Law of the Sea, an island is "a naturally formed area of land, surrounded by water, which is above water at high tide". It states that

¹⁴ Zhao Shengnan and Zhang Yunbi, "Japanese 'island' claims dismissed by UN", *China Daily*, May 17, 2012.

“rocks which cannot sustain human habitation or economic life of their own shall have no exclusive economic zone.”

3. Other States' Positions on Okinotorishima

Since April 2004, the Chinese government has been saying that it is prepared to recognize the territorial rights of Japan to Okinotorishima, but not on the basis that it is one or more “islands.” The Chinese definition precludes claims to an EEZ based on Okinotorishima. The island is the subject of controversy between the Chinese and Japanese governments. The Chinese government recognizes Japanese sovereignty over Okinotorishima, but they claim that it is a rock (not an island) which cannot sustain human and economic life, and hence that this does not grant Japan an EEZ around it.¹⁵

A Chinese navy survey ship, The Nandiao 411 survey ship, which was towing a wire, was believed to have been conducting oceanographic research in Japan's exclusive economic zone in 2004. The Japanese Foreign Ministry sent a request for an explanation from the Chinese Foreign Ministry through the Japanese Embassy in Beijing. Under the U. N. Convention on the Law of the Sea, prior approval is required from concerned countries when one country wants to conduct oceanographic research in the exclusive economic zone of another.¹⁶

As China increases PLAN capabilities, it is inevitably projecting its national interests into the maritime arena. But, China has argued that military activities, except navigation and over flight, pose a threat to its national security and are inconsistent with the peaceful purposes provisions of UNCLOS. Japan's EEZ can be use as a China Navy's blocking instruments. China denies Japan's EEZ based on the Okinotorishima.

Among other things, China refuses to grant Okinotorishima's island status. China hopes to throttle back Japan's plan to create an exclusive economic zone(EEZ) there. The dispute over Okinotori, which Japan calls Okinotorishima, persists because it involves strategic concerns and rights to undersea resources over an area that is roughly equivalent to the entire land mass of the four main Japanese islands.¹⁷

Okinotorishima is located midway between Taiwan and Guam, and China would wish to exercise naval, including submarine, control of the area. For this purpose, the China Navy would require a seabed map for use by its submarines in the area. A reconnaissance aircraft

¹⁵ Yukie. Yoshikawa. “The US-Japan-China mistrust spiral and Okinotorishima”, www.japanfocus.org/products/details/2541. (searched date: june 17,2013).

¹⁶ "Chinese Navy Ship Spotted In Japan's Eez Waters", *Yomuiiri Shimbun*, Jul 8, 2004.

¹⁷ Peter J Brown, "China all at sea over Japan island row", *Asia Times*, Mar 4, 2010.

belonging to Japan's Maritime Self Defense Forces (MSDF) spotted the Chinese survey ship, the Kexue Yihao, in waters about 320km south of Okinotorishima islands at around 8pm Dec 07, 2004. "It was the 34th maritime research by Chinese vessels conducted within Japan's 200-nautical mile exclusive economic zone (EEZ) and confirmed by MSDF aircraft this year so far, up sharply from eight cases confirmed the whole of last year," Omata said.¹⁸

The Okinotori Reef issue is a unique territorial dispute in that it is not a case in which countries squabble over control of a territory, but for the right to exploit maritime resources and investigate the seabed.¹⁹

In the past, when Japan protested oceanographic research in its waters, China discussed the matter calmly through diplomatic channels, but suddenly, in April 2004, eight years after Japan declared its EEZ, China raised tensions to a higher level by denying Japan's EEZ.²⁰

South Korea opposed Japanese waters expansion, arguing that Okinotorishima is a coral atoll rather than an island. China and South Korea repeatedly note the Secretary-General of the United Nations, stressed that under international law, Okinotorishima reef should not have the Exclusive Economic Zone and Continental Shelf, requesting the Commission to recognize the outer continental shelf of Japan in accordance with Okinotorishima reef advocate.²¹

Jon Van Dyke pointed out the fact that Okinotorishima is an atoll which cannot sustain human habitation or economic life. Van Dyke has argued that from the perspective of history, if a rock or reef cannot sustain human habitation, then it cannot claim an EEZ or a continental shelf. "Although the *Romania v. Ukraine* decision does not contain a comprehensive discussion of Article 121(3) or a definition of the terms used in that provision, the Court's conclusion—that Ukraine's tiny and uninhabited Serpents' Island should have a twelve-nautical-mile territorial sea but no other impact on the maritime delimitation between the two countries—should make it easier to resolve the unresolved maritime boundaries of East Asia."²²

¹⁸ Taipei Times, "Japan blasts China after 'research' ship intrudes in EEZ", *Taipei Times*, December 9, 2004.

¹⁹ China Daily, "Beijing slams Tokyo move on atoll", *China Daily*, January 8, 2010.

²⁰ Yukie. Yoshikawa. "The US-Japan-China mistrust spiral and Okinotorishima", www.japanfocus.org/products/details/2541 (searched date: June 17, 2013).

²¹ Chinese Foreign Ministry. "Photo: China: multinational Okinotorishima reef Japan involving illegal advocate the mention of objection" (searched date: June 17, 2013).

²² Jon M. Van Dyke. "The *Romania V. Ukraine* Decision and Its Effect on East Asian Maritime Delimitations". *Ocean and Coastal Law Journal*: Vol.15, No.2 (University of Maine School of Law, 2010), p.283.

IV. Ieodo, Okinotorishima and China's naval expansion

With specific regard to Liberal theory, South Korea and China can share economic interests and work toward cooperation. International Law provides arbitration of conflicting interests based on a common cannon of rules, but it is subject to political influence in the absence of an international court intervention. According to Realist theory, States consider the “balance of power,” the “anarchic international society,” and the “maximizing of one's own interests.” Sometimes states use international regime as a realistic instrument. Even though globalization and the human rights regime has a strong impact, and nation-state identities and behavior increasingly are being shaped by international society, the lack of international enforcements mechanisms is still seen as undermining the effectiveness of the regime.²³

China's EEZ overlaps with South Korea's in the ocean between them. The two sides have held 16 rounds of negotiations on how to divide the waters, but have failed to reach an agreement. Both countries do not accept international arbitration for any of the sovereignty or EEZ delimitation issues. China's naval expansion affects on the EEZ delimitation issues. It makes hard to reach EEZ delimitate agreement.

<FIGURE 5> China's two island chains



Source: Office of the Secretary of Defense, *Annual Report to Congress:*

Military and Security Developments Involving the People's Republic of China, 2010.

²³ Christian Bundegaard, "The Normative Divide in International Society: Sovereignty versus responsibility", *DIIS Working Paper 2010:27* (Danish Institute for International Studies, 2010), p.12.

The Former People's Liberation Army Navy (PLAN) Admiral Liu Huaqing developed the PLAN's current strategy of "offshore defense," which began as the now robust program of naval diplomacy and foreign engagement and laid the intellectual and technical foundations for the rapidly modernizing PLAN of today. The first island chain is usually described as a line through the Kurile Islands, Japan, the Ryukyu Islands, Taiwan, the Philippines, and Indonesia (Borneo to Natuna Besar).

The primary phase of the "offshore active defense" is the development of naval power sufficient to establish control over the waters of the "first island chain" or the islands running approximately parallel to China's coastline from southern Japan, through Taiwan, to the Philippines.²⁴ Initially, China would seek to be able to have control over the Yellow Sea, the East China Sea and the South China Sea.²⁵

Ieodo is located in China's first island chain. If South Korea and China reach an agreement on the East China EEZ delimitation, PLAN operations will face limitation in the Yellow sea and the East China Sea. Considering this element, China prefers a status quo policy and used strategic ambiguity on the Ieodo Issue.

China demands that foreign military vessels give it prior notice before passing through its EEZ and fears South Korea will do the same. To be consistent with its demand that the US cease performing military operations in and above China's EEZ, China would not be able to undertake any military operations in the waters of South Korea's EEZ. As such, to preserve their own security interests, China prefers a status quo policy and used strategic ambiguity on the Ieodo Issue.

Okinotorishima does not satisfy the conditions for claiming an EEZ and continental shelf status. It lies about half-way between Taiwan, which China considers a renegade province, and the US territory and major military base of Guam. Japan's EEZ would overlap with China's main access route to the Pacific, seen as the new theatre for maritime rivalry with the United States.²⁶

The Taiwanese government, which is caught between national security interests and fishing rights, has been low-key in dealing with the territorial dispute with Japan. A foreign ministry official in charge of Japanese affairs said that the government holds a "vague" position on the issue in order not to affect its good relations with Japan. This statement means that the Taiwanese government won't challenge Japan's claim of an EEZ around Okinotorishima. Japanese analysts, however, believe that China is conducting underwater

²⁴ David Bennett, "China's Offshore Active Defense and the People's Liberation Army Navy", *Global Security Studies*, Spring 2010, Volume I, Issue 1, p.128.

²⁵ GlobalSecurity, "People's Liberation Navy - Offshore Defense" (Accessed: June 17, 2013).

²⁶ Energy Daily, "China-Japan diplomatic storm brews over remote islet," *Energy Daily*, March 11, 2010.

surveys to find a way to block the US fleet from Guam in the event of a military conflict in the Taiwan Strait. Japanese military experts have suggested that Taiwan supports Japan's territorial claims on Okinotorishima, which would help Japan block China's underwater surveys.²⁷

According to Realists, states consider the “anarchic international society,” and the “maximizing of one's own interests.” China, Japan, South Korea and Taiwan follow realist tenets as the above national leaders are concerned with their own security, act in pursuit of their own national interests, and struggle for their own power.

V. Conclusion

The international law on maritime boundary delimitation, while having a foundation in multilateral treaties such as the 1982 UN Convention on the Law of the Sea, has been greatly influenced by the decisions of the International Court of Justice (ICJ) and arbitrations panels. After the 1982 UNCLOS entered into force in 1994, maritime boundary disputes increased. Some states' maritime boundary delimitation disputes cannot be solved using the international law mechanisms.

Ieodo is located 149 km to the southwest of Korea's Mara Island and is 287 km from China's Sheshandao Island. South Korea has built maritime scientific facilities and a helicopter landing pad on it to serve as the foundation for the Korean Ieodo Ocean Research Station. Since Korea and China have 'opted out' of the compulsory binding dispute settlement system in Section 2 for sovereignty and boundary delimitation disputes, the options for settling the dispute through a binding dispute settlement are limited.

The Chinese government argues that foreign military vessels must provide prior notification before entering an EEZ and that foreign military activities involving hydrography, surveys, and intelligence-gathering within the EEZ are illegal. This argument was made to be consistent with its demand that China would not be able to undertake military operations in the waters of South Korea's EEZ. As such, to preserve China's own security interests, China prefers the status quo policy and used strategic ambiguity on the Ieodo Issue.

In 2009, the dispute between Japan and China/Korea regarding whether Okinotorishima is a rock or an island came to the attention of the rest of the world. Okinotorishima is indeed an uninhabited small rock located only within a 12n mile territorial sea. This issue came to the forefront in 2009 because of Japan's proposed outer limit of the continental shelf

²⁷ Chang Yun-ping and Rich Chang, "Small islet yields significant clout in Pacific waters", *Taipei Times*, November 20, 2005.

submission to the Commission on the Limits of the Continental Shelf and the public reaction about this submission from South Korea and China.

China is conducting underwater surveys to find a way to block the US fleet from Guam in the event of a military conflict in the Taiwan Strait. The Okinotorishima EEZ might block PLAN in undertaking military operations and military activities involving hydrography, surveys, and intelligence-gathering.

The UNCLOS regime must overcome the nature of an anarchic international system. It seems that the UNCLOS regime could solve some maritime disputes peacefully with its mechanisms, but not maritime disputes related to states' core interests.

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