Chapter IV

Territorial Disputes in East Asia, the San Francisco Peace Treaty of 1951, and the Legacy of U.S. Security Interests in East Asia

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I. Introduction

In 1895, Japan signaled its intention to join the world’s great colonial powers by embarking on an aggressive campaign of territorial expansion in East Asia.1 This campaign, though successful on its own terms, spread death and misery to millions of people living in the acquired territories. Finally, in 1945, Japan’s empire imploded.

This chapter argues that while the post-war period offered the opportunity for the complete and unambiguous resolution of territorial questions regarding Japan, the lack of precision in key diplomatic documents, especially the San Francisco Peace Treaty of 1951, allowed certain territorial disputes to arise between Japan and its neighbors. For example, Japan and Russia both claim sovereignty over the Kurile Islands, a small group of islands, currently occupied by Russia, lying to the north of Hokkaido, the northernmost of Japan’s four main islands. Additionally, Japan, China, and Taiwan all claim sovereignty over eight uninhabited islands in the East China Sea known as the Senkaku Islands. Finally, Japan and Korea both claim sovereignty over the Liancourt Rocks, a pair of rocky islets in the Sea of Japan/East Sea. The Liancourt Rocks are currently occupied by Korea.

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1 The geographical definition of East Asia used in this chapter encompasses Northeast Asia, which includes the East China Sea and the Sea of Japan/East Sea. It is surrounded by the People’s Republic of China (hereinafter China), the Republic of China (hereinafter Taiwan), Japan, North Korea, South Korea (hereinafter Korea, unless otherwise specified), and Russia. The order of the reference to the disputants in this chapter is based on the current occupant country first and the counter disputants later. Regarding the name of the islands in dispute, this chapter uses internationally known names or the names used in the current occupant country.
This chapter first examines the historical background of each dispute including the bases for the claims made by the various parties. In the case of the dispute between Russia and Japan over the Kurile Islands, treaties executed between the two countries in 1855 and 1875 are the starting point of the discussion. Questions remain as to whether the San Francisco Peace Treaty had the effect of reinstating the terms of pre-war treaties, and if so, whether the treaties themselves were precise enough to put the conflict to rest.

The claimants disagree over who first discovered and effectively occupied the Senkaku Islands and whether they were *terra nullius* when Japan incorporated the islands in January 1895. In the same context, it is also questionable whether China ceded the Senkaku Islands along with Taiwan to Japan under the Shimonoseki Treaty after being defeated in the Sino-Japanese War in May 1895. The question also remains as to whether the islands reverted to China after Japan’s defeat in 1945, were incorporated into Taiwan in 1949, or were restored to Japan as part of Okinawa in 1972.

As to the Liancourt Rocks, Japan specifically affirmed its claim to the Liancourt Rocks by officially incorporating them into Shimane Prefecture in 1905. Japan opines that the Liancourt Rocks were *terra nullius* in 1905, and therefore subject to occupation, while Korea asserts that historical documentation proves that the Liancourt Rocks belonged to Korea prior to Japan’s alleged 1905 incorporation, thereby refuting Japan’s contentions that the Liancourt Rocks were *terra nullius*. Korea regained its independence in the aftermath of the Second World War, and Japan specifically renounced its claims to several named islands in the Sea of Japan/East Sea when it signed the San Francisco Peace Treaty. However, the treaty was silent regarding the status of the Liancourt Rocks. Thus, for almost fifty years the two sides have exchanged unilateral declarations of sovereignty over the tiny islands.

This chapter analyzes the diplomatic and political maneuvering that allowed these territorial questions to remain unanswered. Included in this section is a discussion of the declarations of intent issued by the Allied Powers late in the war when it was apparent that Japan would be defeated, i.e., the Cairo Declaration, the Yalta Agreement, and the Potsdam Proclamation. These resolutions provided the general framework for the San Francisco Peace Treaty. The evolution of the San Francisco Peace Treaty itself, as revealed in a series of interim drafts, is also examined. The ongoing territorial disputes in East Asia, as this research demonstrates, involve intertwined political and legal issues. In other words, these three territorial disputes have multifaceted implications for the disputants on the one hand, and for the relations between the disputants and the interested powers, notably the United States, on the other hand. The rivalry between the United States and the former Soviet Union in the period of the Cold War; the complicated stance of the United States in the cross-strait relations between China and Taiwan; and the hands-off policy of the United