

Dokdo or Takeshima?

Kiran Kim

Geography

Faculty advisor: Michael Yoder

Introduction

This paper will analyze two rocky islets located in the East Sea, also known as the Sea of Japan. These two islets are called Dokdo by South Korea, Takeshima by Japan, and the Liancourt Rocks by Western countries. Dokdo is located 87 km away from Korea's Ulleungdo Island. On a clear day, it is possible to see Dokdo from this island. Japan's closest island to Dokdo is Oki Island, which is 157 km away (Van Dyke, 2007).

Figure 1: The Map of Dokdo/Takeshima



Source: *Dokdo: A profile*. (n.d.). Retrieved November 28, 2013, from Student Society for Protection of Dokdo: http://www.koreaaward.com/kor/dokdo_profile

Both South Korea and Japan claim sovereignty over the islets. This paper will begin by explaining the history between Japan and South Korea since the nineteenth century, focusing specifically on the dispute. Next, the paper will examine the problem from each country's perspective and attempt to justify why they claim it as their territories. Then, several case studies will be evaluated to shed light on the problem, as there are no established international guidelines for this type of territorial dispute.

Before I examine the territorial dispute of Dokdo/Takeshima, it is essential to know why these small islets are important to both countries. There are a number of reasons including resources of the sea, geographical benefits, and possible sources of energy.

First, both Japan and the Republic of Korea are lacking in energy resources. Moreover, future advances in technology will enable the location and harvesting of oil and gas from under the sea. Therefore, Dokdo/Takeshima is very attractive for possibilities of oil and gas exploration. This could especially be significant for Japan, which is highly dependent on imported oil due to its physical geography and geology (Pizza, 2013).

Second, in 1982 the United Nations Convention of the Law of the Sea, Article 57, entitled the rights of the sovereign nations to claim 200 miles from the coast. In other words, whoever has the territorial rights over the islets will enjoy 200 nautical miles of sovereignty (Economic Exclusivity Zone) around the island and so-called "maritime and jurisdictional exclusivity (Pizza, 2013)."

Third, around Dokdo/Takeshima, there are enormous food resources. In these islets, 13 million tons of fish can be caught per year (Fern, 2005). Not only it will make a good food resource for the citizens, but also this can create economic benefits towards the country that holds the rights of this islets.

A Note on the Names of the Islands

The islands that this paper discusses are Ulleungdo and Dokdo/Takeshima. While the sovereignty of Ulleungdo is not in question, it is undeniably linked to the two islets that lie just 87 kilometers away. Both the Koreans and the Japanese have called this set of islands several names throughout history. For the Koreans, the islands have been called Usanguk, now known as Ulleungdo, and Usando, now called Dokdo. Historically the Japanese have referred to Ulleungdo as Takeshima and Dokdo as Matsushima. It was only since the 1900s that they began to refer to Dokdo as Takeshima and have attempted to argue for its sovereignty since then.

Historical Record of Japan and Korea since the Nineteenth Century

Through the late 19th century Japan made several expansionist moves onto the Asian mainland. The first involved the sending of troops to the Korean peninsula to assist in putting down a rebellion (Duus, 1995). Upon arrival, they found that Chinese soldiers had already quelled the uprising. At this time China suggested a bilateral withdrawal of their respective armies. Japan disagreed and suggested that they remain and reform Korea's government (Duus, 1995).

When they could not reach an agreement, Japan launched a preemptive attack against the Chinese, initiating the First Sino-

Japanese War. Although the war was between only China and Japan, it was fought entirely on the Korean Peninsula (Lee K. , 1988). Japan won a decisive victory against China and forced them to concede the Liaodong Peninsula and Taiwan through the Treaty of Shimonoseki. The treaty also forced China to recognize the complete independence of Korea (Duus, 1995).

Japan's last major rival in Korea was Russia. In 1900 Russia attempted to influence the strategically important region of Manchuria and proposed a joint neutralization pact for Korea (Lee K. , 1988). Japan thought this unwise unless the pact included Manchuria, and, therefore, declined. Russia had also begun a massive mobilization of its military to Manchuria, and had begun the process of attempting to gain traction in Korea, which led to Japan perceiving Russia as a regional threat (Duus, 1995). Japan sought out help from Great Britain, who was also having territorial disagreements with Russia in other parts of the world, and formed the Anglo-Japanese alliance in 1902 (Lee K. , 1988). In 1904 Japan attacked Russia and initiated the Russo-Japanese War, and by 1905 had destroyed both of Russia's fleets and claimed victory as the sole power in Northeast Asia (Duus, 1995). After the war Japan established a cabinet of advisors in Korea essentially placing it under Japanese rule in all but name.

With so many internal problems and external threats it is easy to see how Korea became a nation under the thumb of Japan. It also sheds light on Japan's actions regarding Korea and sets the stage for many of the country's decisions regarding Dokdo/Takeshima.

Korea's Argument

Korean scholars state that Korea has claimed Ulleungdo since Korea's Three Kingdoms Era from 512 C.E. Ulleungdo is a volcanic island and the Dokdo islets lie only 87 kilometers south of this island. On a clear day, Dokdo can be seen from Ulleungdo. (Van Dyke, 2007). Korean Scholars also describe how Korean people have always viewed Dokdo as territory of Ulleungdo. (Van Dyke, 2007).

From 1416 to 1881, Korea initiated the "Vacant Island Policy" which removed the residents of Ulleungdo to prevent tax evasion and avoidance of military service (Lee S. , 1997). It also was meant to protect them from Japanese "marauders" (Lee S. , 1997). Maps from the time period show that Korea maintained limited administrative control over Ulleungdo, as well as Dokdo (Van Dyke, 2007). In 1454, during the Choson Dynasty, a survey of the Silla Dynasty (57 B.C.E. – 935 C.E.) *The Annals of the Kingdom of Silla*, was discovered, which reported that the Silla dynasty conquered the Kingdom of Usanguk (called as Ulleungdo now) and Usando (now Dokdo) (Van Dyke, 2007).

The referenced Japanese "marauders" shows that Japanese fishermen were coming to the islands. Moreover, during the same era, there are records from the reign of Sejong the Great (R. 1418 – 1450) that detailed both Dokdo and Ulleungdo belonged to Uljin County and later it was added to *The Annals of the Dynasty of Choson*. Surveys of Ulleungdo continued periodically until the 1890s (Lee S. , 1997).

On the other hand, official Japanese records do not mention Dokdo until the sixteenth century; however, records from private Japanese collections of the early seventeenth century detailed that the Japanese had been making voyages to the islands fairly often (Shin, 1993). In 1667, a report of an observational trip to Oki Island is

the first official record that had written that “two islands are uninhabited and getting a sight of Korea from there is like viewing Oki from [Honshu] (Shin, 1993).” Moreover, this report noted that these islands “marked the northwestern boundary of Japan” which can be used as evidence that Japan did not claim ownership over Dokdo and Ulleungdo (Van Dyke, 2007).

In 1693, there was a conflict between Japanese and Korean fishermen for fishing rights off the shore of Dokdo (Lee S. , 1997). However, there are more interesting ways that Japan and Korea interpreted this incident. A fight began between some Japanese fishermen and the residents of Ulleungdo. This issue was brought before the Tokugawa government and it was concluded that Ulleungdo was part of Korea and that Dokdo was a dependency of the island (Van Dyke, 2007).

In the 1870s Japanese fishermen returned to the islands in greater numbers. Korea protested this to Japan. Japan did not attempt to claim either of the islands and denied their fishermen access. In 1881 Korea retracted the “vacant island policy” due to an increase in the number of Japanese fisherman visiting the island and to make use of its resources (Van Dyke, 2007). They began moving people back to the island in 1883 and by 1890 it had over 1000 inhabitants (Shin, 1993).

Modern Korean scholars have pointed to this exchange as proof of Japanese acquiescence. However, they agree that this has been difficult to determine due to the differing names for Dokdo (Lee S. , 1997). A Japanese scholar has used the opportunity to suggest that the Tokugawa government did not claim that Dokdo was part of Ulleungdo (Van Dyke, 2007). Other Japanese scholars have exploited this weakness in the Korean argument and have

suggested the island that they refer to, as Usando is actually a very small islet less than two kilometers off the coast of Ulleungdo which is now called Jukdo (Hori, 1997).

Japan's Argument

Japan's claim to the islets they now call Takeshima goes back to the time that Japan classified them as *terra nullius* in 1905 (Japan, Ministry of Foreign Affairs, 2010). This means that the Japanese government felt all previous activities around the islet did not constitute enough of a claim to establish ownership (Van Dyke, 2007). This can be further supported by the fact that in the late eighteenth century, Japanese cartographers and scholars produced maps that included Dokdo, but did not mark it as Japanese territory (Hori, 1997). One such color-coded map is called "A Map of Three Adjoining Countries." This map showed Korean possessions in yellow and Japanese in red and it shows Ulleungdo and Dokdo in yellow with the text "Korea's possessions (Hori, 1997)."

In the 1870s, Japanese fishermen began extend their outings to Ulleungdo and Dokdo, then known to the Japanese as Takeshima and Matsushima respectively, in growing numbers (Kajimura, 1997). They submitted applications to the Meiji Government to exploit the resources of the islands, and they specifically wanted lumber and abalone. The government denied their applications, referring to the ban from the 1693 "Takeshima Incident (Kajimura, 1997)."

In 1877 Japan's highest governing body, the Dajokan, responded to an inquiry made by the Shimane Prefecture, as to whether or not they should include the islands in a nationwide land survey, by stating that Japan had nothing to do with the islands. Maps were widely published as showing the islands outside of

Japanese territory as well (Shin, 1993). A Japanese scholar concluded that the government regarded the islands as belonging to Korea at the end of the nineteenth century (Hori, 1997). It was around this time that Japanese fishermen began to confuse the names of the two islands calling Dokdo/Matsushima as Takeshima on their applications (Kajimura, 1997).

When Korea protested the presence of the fishermen on the islands, Japan apologized and began evacuating some 250 Japanese inhabitants (Kajimura, 1997). Not all of the Japanese left the islands and by the 1890s about 70 Japanese remained on Ulleungdo and all reports indicate that they were amicable with their Korean neighbors (Kajimura, 1997).

During the Russo-Japanese War, the islands became significantly more important due to their strategically located position (Hori, 1997). Japan used the islands to construct watchtowers and lay underwater cables. They also established a radio tower and two more watchtowers throughout the war (Hori, 1997).

In 1904 Japanese fishermen went to the Japanese Ministry of Agriculture and Commerce for assistance in acquiring a license from Korea to fish in Korean waters around Ulleungdo. The ministry claimed that since the territory was *terra nullius* they did not need to obtain a license from Korea, but should apply to the Japanese government instead (Kajimura, 1997).

In 1905 Japan incorporated the territory of Takeshima into the Shimane Prefecture. There was no official announcement of this action, and Korea did not find out about the seizure of the island until 1906 (Van Dyke, 2007). The significance of the seizure of

Dokdo/Takeshima is that it took place at time when Korea, due to heavy Japanese infiltration of its government, was unable to successfully exert its independence and sovereignty, or to defend its territory (Van Dyke, 2007).

Since 1945

Both countries have attempted to claim the islands since the end of World War II. The most influential document regarding the territorial claims of Japan is the 1951 San Francisco Peace Treaty (Van Dyke, 2007). The treaty stipulated that Japan must recognize the independence of Korea and renounce all rights to Korea and its territory. The treaty did not mention Dokdo/Takeshima, but commentators are quick to establish that many Korean islands are not explicitly mentioned. The fact that the treaty does not explicitly mention Dokdo/Takeshima means that the drafters were unable to properly adjudicate the situation (Van Dyke, 2007).

In 1954 Korea began construction of a lighthouse facility on Dokdo/Takeshima. Korea has done this with the hope of reinforcing its claim to the islands while establishing a case for prescription. Korea has now administered the islets for 51 years, and the country's case seems to be growing (Van Dyke, 2007). Japan, however, has been protesting Korea's claim and occupation of the islets since 1954 in order to avoid acquiescence. Japan suggested that the two countries take the issue up with the International Court of Justice. Korean scholars have criticized this move, as Japan has previously been unwilling to allow third parties to determine solutions to their other disputes (Van Dyke, 2007).

Since 1965 Japan has wished to maintain a peaceful and prosperous friendship with Korea while simultaneously maintaining

its stance on the Dokdo/Takeshima issue. Japan took issue with Korean military activities around Dokdo/Takeshima in 1996 and refused to relay a phone conversation between its Foreign Minister and the Korean ambassador to Japan for the press as a "protest" (Van Dyke, 2007). From 2000 until 2003 the Japanese Diplomatic Bluebook stated that "it would not be appropriate for the issue to spark an emotional confrontation between the people of Japan and Korea" (Van Dyke, 2007).

Case Studies of Similar Territorial Disputes

The International Court of Justice has established precedents with past cases that will have an impact should Japan and Korea take the case before them. This is important due to the similarities that territorial cases have.

One case that will have bearing on the determination of whether Japan or Korea ever acquiesced Dokdo is case ICJ 1962, Cambodia vs. Thailand. The case addressed in which country the temple of Preah Vihear was located (Lee S. , 2011). The dispute arose from differing interpretations of a 1904 boundary treaty and the accuracy of French maps. At the time Cambodia was part of French Indochina and Thailand was still the kingdom of Siam (Lee S. , 2011). The ICJ examined the evidence and took consideration the region's history. They proclaimed that there were multiple instances where Siam could have brought up the boundary issue but did not. It was also not discussed when Siam became Thailand and thus the ICJ ruled in favor of Cambodia by way of acquiescence of Thailand (Lee S. , 2011).

The Fisheries Case of Norway v. United Kingdom in 1951 dealt with the U.K.'s fishermen penetrating the northwest

Norwegian Fjords. This was actually an old disagreement dating back to the seventeenth century (Van Dyke, 2007). The UK had instructed its fishermen to stop, and they had done so until 1906. Norway detained a British ship in 1911 but the First World War interrupted the negotiations that had started. After the war British fishermen returned and Norway again protested (Van Dyke, 2007). The British presence increased in the 1930s and Norway increased the amount of ships that it seized. The UK brought the issue to the ICJ and protested Norway's extended territorial waters (Van Dyke, 2007). The ICJ ruled in favor of Norway due to a series of consistent Royal Decrees and the consistent enforcement of those decrees. The main take from this case was the consistency with which Norway handled the situations and defined their territorial waters (Van Dyke, 2007).

Despite the previous cases, there is no internationally determined set of guidelines for overcoming acquiescence. This means that there is no accepted minimum effort for what is considered effective protest (Van Dyke, 2007). Some scholars of international law have argued that diplomatic protests are sufficient in avoiding acquiescence, while others have claimed that harsher measures should be required, such as cutting off diplomatic ties. However, one area of agreement is any attempt to bring the issue before an international tribunal (Van Dyke, 2007). Protests by one of the claimant nations are seen as being effective after this issue has been requested to settle via tribunal, and the other refuses this request. Afterward it is in the first nation's best interest to regularly protest the sovereignty of the other (Van Dyke, 2007).

Conclusion

The long-standing dispute between Korea and Japan over Dokdo/Takeshima has caused considerable controversy among each country's nationalists. While each nation has presented evidence for why it lays claim to the islets, the issue has not yet been brought to an international tribunal. Japan has requested the issue be taken to the ICJ for review but Korea refused the proposal. This has allowed Japan to effectively protest Korea's occupation of the islands through minimal diplomatic actions, mainly sending a letter of their claim to Korea. However, due to Korea's administration of the islets since 1954, Japan seems to be running out of time for this form of protest. Also, for much of the period of time that Japan administered the islands, it was wrongfully occupying Korea, as well as huge tracts of China and Southeast Asia. Since Korea has viewed the Japanese occupation of Dokdo/Takeshima as the beginning of the annexation of the country, Japan will have a difficult time arguing from the *terra nullius* perspective.

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