

Culture and Society in Asia

April 25, 2023

Mizuno Mitsuaki, Ph.D.

1. Today's key words and points
Government, Government in exile and territory
2. Government and Territory
3. Government in exile and its 'territory'

a) Tibet and China (People's Republic of China)

All the sovereign states or countries have their own territories, except the government in exile. For example, so-called Tibetan government in exile in Dharamshala, India (Central Tibet Administration; CTA) claims that they have their own territory. But all the area, which CTA claims they have sovereignty to, is under the administrative control of People's Republic of China. CTA does not have their own territory in fact.

b) former Soviet Union and Baltic countries

i) Latvia

U.S.-LATVIA RELATIONS

The U.S. and Latvia share a history as strategic allies and valued partners. The United States established diplomatic relations with Latvia in 1922 following its independence in the years after World War I. Latvia was annexed by the Soviet Union in 1940 during World War II. In 1991, Latvia claimed de facto independence, and international recognition followed. The United States had never recognized the forcible incorporation of Latvia into the Soviet Union, and it views the present Government of Latvia as the legal continuation of the interwar republic.

source:

U.S. Relations With Latvia, Department of States, the United States

<https://www.state.gov/u-s-relations-with-latvia/>

ii) Lithuania

U.S.-LITHUANIA RELATIONS

The U.S. and Lithuania share a history as valued Allies and strong partners. The United States established diplomatic relations with Lithuania in 1922, following its declaration of independence during World War I. Lithuania was forcibly annexed by the Soviet Union in 1940 during World War II. In 1990, Lithuania proclaimed its renewed independence and international recognition followed. The United States never recognized the forcible incorporation of Lithuania into the Soviet Union, and it views the present Government of Lithuania as the legal continuation of the interwar republic.

source:

U.S. Relations With Lithuania, Department of States, the United States
<https://www.state.gov/u-s-relations-with-lithuania/>

iii) Estonia

U.S.-ESTONIA RELATIONS

The United States and Estonia are strong allies and partners. The United States established diplomatic relations with Estonia in 1922 following its declaration of independence during World War I. Estonia was annexed by the Soviet Union in 1940 during World War II. In 1991, Estonia declared full independence, and international recognition followed. The United States had never recognized the forcible incorporation of Estonia into the Soviet Union, and it views the present Government of Estonia as the legal continuation of the interwar republic.

source:

U.S. Relations With Estonia, Department of States, the United States
<https://www.state.gov/u-s-relations-with-estonia/>

What was the legal status of these three countries during World War II?
Beside the United States, how many countries refused the recognition of the Soviet annexation? How about Japan, Denmark, Finland and the United Kingdom?

cf)

The legal status of Manchukuo.

Manchukuo was founded as a republic in 1932 after the Japanese invasion of Manchuria, and in 1934 it became a constitutional monarchy under the *de facto* control of Japan. It was dissolved in 1945.

Manchukuo was diplomatically recognized as a sovereign state by El Salvador (3 March 1934) and the Dominican Republic (1934), Costa Rica (23 September 1934), Italy (29 November 1937), Spain (2 December 1937), Germany (12 May 1938) and Hungary (9 January 1939).

After the outbreak of World War II, the state was recognized by Slovakia (1 June 1940), Vichy France (12 July 1940), Romania (1 December 1940), Bulgaria (10 May 1941), Finland (17 July 1941), Denmark (August 1941), Croatia (2 August 1941), Wang Jingwei's Reorganized National Government of the Republic of China (中華民國南京國民政府；南京國民政府 (汪兆銘政權)；汪精衛政權)(30 November 1940), Thailand (5 August 1941) and the Philippines (1943).

4. territorial land, airspace and territorial waters

The sovereign territory of the state consists of 1) territorial land or land, 2) airspace or air and 3) territorial waters

1) territorial land or land

the place where sovereign power of a country or nation exists.

2) airspace or air

The airspace consists of 1) controlled airspace and 2) uncontrolled airspace. The difference between controlled airspace and uncontrolled airspace is whether airplanes is controlled or not.

3) territorial waters

The territorial waters, often the sea, is a belt of coastal waters extending at most 12 nautical miles from the baseline of a coastal state (usually the mean low-water mark).

Foreign ships (both military and civilian) are allowed innocent passage through it.

Recently, space and cyber space are considered new elements of the territory. Space is the region beyond the earth's atmosphere or beyond the solar system. But how far from the earth's atmosphere is not defined exactly. The Fédération Aéronautique Internationale (国際航空連盟) has established the Kármán line (カーマン・ライン) at an altitude of 100 km as a working definition for the boundary between aeronautics (航空機が航行する空間) and astronautics (宇宙飛行士が活動する空間). The United States designates people who travel above an altitude of 80 km as astronauts.

Although several definitions of cyberspace can be found both in scientific literature and in official governmental sources, there is no fully agreed official definition yet.

“Cyberspace is a global and dynamic domain (subject to constant change) characterized by the combined use of electrons and electromagnetic spectrum, whose purpose is to create, store, modify, exchange, share and extract, use, eliminate information and disrupt physical resources.”

source:

The most recent analysis of the interaction of Cyberspace and International politics has been investigated in the MIT, Harvard and CFR ECIR project (Explorations in cyber International Relations).

<http://ecir.mit.edu/http://web.mit.edu/polisci/people/faculty/nazli-choucri.html>

As for the territorial waters, we will discuss them more later.

領域にかんする主要用語集

sovereign territory of the state: 領域、国家の主権が及ぶ領域

land or territorial land: 領土

airspace or air: 領空

controlled airspace: 管制空域 (航空管制の実務)

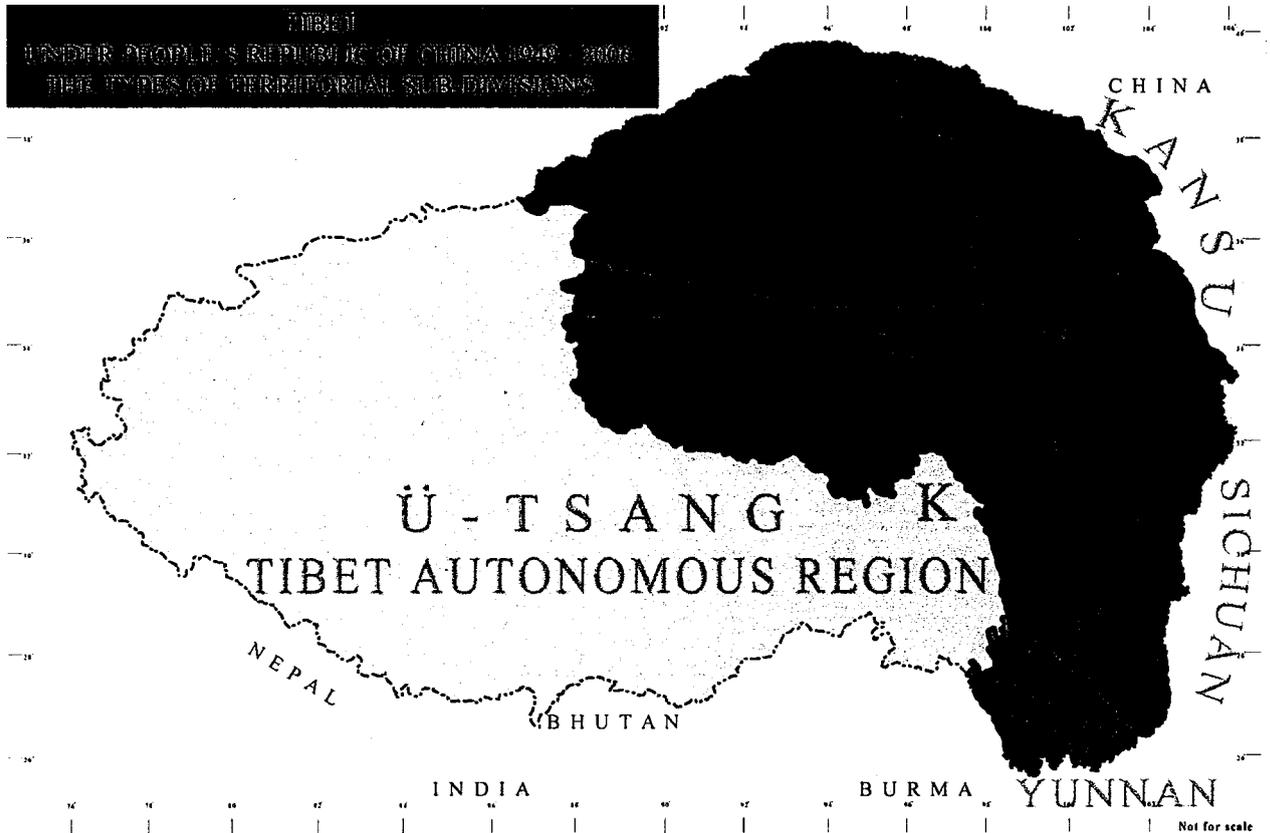
uncontrolled airspace: 非管制空域 (航空管制の実務)

territorial waters or sea: 領海

nautical miles: 海里

5. Map of Tibet

Central Tibet Administration claims as below:



The CTA government claims that Tibet spreads not only Tibet Autonomous Province (Region) 西藏自治区 but also Qinghai 青海, Inner Mongolia 内蒙古, Kansu 甘肅, Sichuan 四川 and Yunnan 雲南 Provinces.

source: *Map of Tibet*, Central Tibet Administration,
<https://tibet.net/about-tibet/map-of-tibet/>

6. Cyber security

The cooperation between the US and Japan to defend the security of cyber space

U.S. to defend Japan from cyberattack under security pact

The Japan Times, April 20, 2019.

WASHINGTON - The foreign and defense chiefs of Japan and the United States confirmed on Friday for the first time that Article 5 of the two countries' security treaty (日米安全保障条約), which sets out Washington's

s obligations to defend territories under Tokyo' s jurisdiction (ここでは「主権が及ぶ範囲」の意) , could apply to cyberattacks against Japan.

This was clarified in a joint statement adopted at so-called two-plus-two security talks (2プラス2、外務・防衛担当閣僚協議) held among the ministers in Washington the same day.

The officials affirmed that “a cyberattack could, in certain circumstances, constitute an armed attack for the purpose of Article 5” of the security treaty, the statement said, adding that a decision as to whether a cyberattack would be covered by the article will be made “on a case-by-case basis, and through close consultations” between the two countries.

While refraining from citing specific countries, the statement implicitly expressed concerns over rapid technological progress made by China and Russia in the new fields.

“Malicious (悪意のある) cyber activity presents an increasing threat to the security and prosperity of both the United States and Japan,” it said.

Japan-U.S. collaboration in cross-domain (クロス・ドメイン、領域横断的) operations involving the conventional air, ground and maritime defense fields, and the new domains, is one of the “core (核心的な) objectives” to advance the two nations’ defense relationship, the statement added.

It also said the officials highlighted space, cyberspace and the electromagnetic spectrum (電磁波領域) as priority areas to better prepare the alliance for cross-domain operations.

Friday’s two-plus-two meeting was the first since August 2017. Foreign Minister Taro Kono and Defense Minister Takeshi Iwaya took part, while the U.S. side was made up of Secretary of State Mike Pompeo and Acting Defense Secretary Patrick Shanahan.

At a joint news conference after the meeting, Pompeo criticized China, which has been boosting activities in cyberspace and other fields. Pompeo said that

he and Shanahan shared their concerns with Japan that “geopolitical competition and coercive (威圧的な) attempts to undermine international rules, norms and institutions – especially from China – present challenges to the alliance and to continued peace, stability and prosperity in the Indo-Pacific (インド太平洋。安全保障の領域では「アジア太平洋」と言わずに「インド太平洋」と言うことが多い.) .”

Kono said that Japan and the United States will further strengthen their alliance by enhancing bilateral cooperation, including in the new fields.

The defense cooperation guidelines that were revised in April 2015 only said that “the United States will provide appropriate support to Japan” in dealing with cyberattacks against the Asian ally.

This time, the two countries more clearly showed their intention to work together by saying that Article 5 of the security treaty could apply to cyberattacks against Japan.

Beyond the cyber domain, the two-plus-two joint statement also expressed the ministers’ “serious concern” over “unilateral coercive attempts to alter the status quo (現状)” in the East China Sea and the South China Sea – a not-so-oblique reference to China.

Tokyo and Washington also reconfirmed that the Japanese-administered Senkaku Islands in the East China Sea are covered by Article 5 of the security treaty. The islands are claimed by China and Taiwan.

The joint statement stressed a policy of supporting Southeast Asian countries in a bid to realize a free and open Indo-Pacific region.

“The Japan-U.S. alliance is now the cornerstone of peace, security and prosperity of the entire Indo-Pacific region,” Kono said. “Both Japan and the United States will conduct joint trainings and capability buildings and others with partner countries in order to jointly expand their presence in the region.”

Speaking at the same joint news conference after the meeting, Iwaya requested cooperation from the United States in investigating the crash of an F-35A fighter in the Pacific during an Air Self-Defense Force exercise earlier this month.

Despite the accident, Shanahan expressed appreciation for Japan's continued procurement (導入、調達) of F-35s and other U.S. assets as part of efforts to promote interoperability.

The top officials welcomed diplomatic efforts by the administration of U.S. President Donald Trump "to achieve the final, fully verified denuclearization of the Korean Peninsula."

They stressed the need to realize at an early time the relocation of U.S. Marine Corps Air Station Futenma in the densely populated (人口が密集している) city of Ginowan, Okinawa Prefecture, to the Henoko coastal district of Nago within the prefecture. The plan is "the only solution" that avoids the continued use of the Futenma base, they said in the statement.

In an apparent reference to a case in which a U.S. Navy sailor allegedly stabbed (刺す) a Japanese woman to death in the Okinawa town of Chatan earlier this month, Kono said it is necessary to reduce the burden on local residents by moving step by step to prevent accidents and other incidents involving U.S. servicemen in Okinawa and deal with issues related to the bilateral status of forces agreement.

出所：

The Japan Times, April 20, 2019.

<https://www.japantimes.co.jp/news/2019/04/20/national/politics-diplomacy/first-japan-u-s-say-security-treaty-cover-cyberattacks/#.XLtq59jgrCY>

7. References and materials

a) Treaty of Mutual Cooperation and Security between the United States and Japan

日本国とアメリカ合衆国との間の相互協力及び安全保障条約

ARTICLE V

Each Party recognizes that an armed attack against either Party in the territories under the administration of Japan would be dangerous to its own peace and safety and declares that it would act to meet the common danger in accordance with its constitutional provisions and processes. Any such armed attack and all measures taken as a result thereof shall be immediately reported to the Security Council of the United Nations in accordance with the provisions of Article 51 of the Charter. Such measures shall be terminated when the Security Council has taken the measures necessary to restore and maintain international peace and security.

第五条

各締約国は、日本国の施政の下にある領域における、いずれか一方に対する武力攻撃が、自国の平和及び安全を危うくするものであることを認め、自国の憲法上の規定及び手続に従つて共通の危険に対処するように行動することを宣言する。

前記の武力攻撃及びその結果として執つたすべての措置は、国際連合憲章第五十一条の規定に従つて直ちに国際連合安全保障理事会に報告しなければならない。その措置は、安全保障理事会が国際の平和及び安全を回復し及び維持するために必要な措置を執つたときは、終止しなければならない。

b)The United Nations Charter

国際連合憲章

Article 51

Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defence shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

第51条

この憲章のいかなる規定も、国際連合加盟国に対して武力攻撃が発生した場合には、安全保障理事会が国際の平和及び安全の維持に必要な措置をとるまでの間、個別的又は集団的自衛の固有の権利を害するものではない。この自衛権の行使に当って加盟国がとった措置は、直ちに安全保障理事会に報告しなければならない。また、この措置は、安全保障理事会が国際の平和及び安全の維持または回復のために必要と認める行動をいつでもとるこの憲章に基く権能及び責任に対しては、いかなる影響も及ぼすものではない。

Tips

The Article 51 of the United Nations Charter says 'the inherent right of individual or collective self-defence'. Is the right of collective self-defence inherent?

Culture and Society in Asia

May 2, 2023

Mizuno Mitsuaki, Ph.D.

1. Today's key words and points:

- a) The definition of territorial land or land
- b) boundary / border
- c) demarcation and delimitation
- d) peaceful or legal settlement of the border disputes by the International Court of Justice
- e) *Uti possidetis juris* and colonial rule

2. Territorial land or Land

A territory is a term for types of administrative division, usually an area that is under the jurisdiction of a nation state. It is located in land, not waters.

All the countries have their own territories, even some countries face the waters, and some do not face them.

3. Boundary / Border

Sovereign states are distinguished each other by the boundary or border, even they consist of many islands such as Archipelagic states (for example, the Philippines, Indonesia, Fiji and Papua New Guinea).

4. Demarcation / Delimitation

The border line is expressed physically or by written documents.

| | | | |
|------------------------|-------------------------|------------------------------|--|
| Demarcation (実地画定) | expressed physically | pillars or stones, fences | need delimitation before demarcation |
| Delimitation (机上画定) | expressed literarily | maps (in many cases) | |

(註)

国内法では「確定」、国際法では「画定」という漢字を用いる。

5. Border or boundary disputes

A certain territory belongs to whom or what sovereign state / country?



In case of islands, there are different approaches from that of territorial land cases.

International Court of Justice is dealing with many border or boundary disputes by its decisions.

Article 2, section 4 of the United Nations Charter says:

All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.

すべての加盟国は、その国際関係において、武力による威嚇又は武力の行使を、いかなる国の領土保全又は政治的独立に対するものも、また、国際連合の目的と両立しない他のいかなる方法によるものも慎まなければならない。

6. Russia-Ukraine border

The border was delimited in maps, but was not and has not been demarcated by both sides.

The border issue has been ongoing ever since the fall of the Russian Empire in 1917.

After the USSR was formally created in 1922 and due to the onset of the administrative division reform, issues emerged. The Ukrainian government claimed mainly some parts of the Kursk and Voronezh gubernia, which were home to a Ukrainian-speaking population. As a result of the border dispute of the 1920s, Ukraine was granted approximately one-third of the claimed territories, while the Taganrog and Shakhty districts went back to the RSFSR. By 1927, the administrative border between the RSFSR and Ukrainian SSR was established.

In 1954, First Secretary of the Communist Party of the Soviet Union Nikita Khrushchev transferred the peninsula of Crimea from the Russian SFSR to the Ukrainian SSR.

The Treaty Between the Russian Federation and Ukraine on the Russian-Ukrainian State Border was signed by President Leonid Kuchma of Ukraine and President Vladimir Putin of the Russian Federation on 28 January, 2003¹. It defined the entire land border between the two states, except for the point where it met the Belarusian border, which was agreed in

a separate treaty². It was ratified by both states, and entered into force on 23 April 2004.

A treaty on the demarcation of the common border between the foreign ministers of Ukraine and Russia was signed on 17 May 2010 and came into force on 29 July of the same year³. At that time, Ukraine intended to start work on the demarcation of the border upon ratification of the agreement by the respective governments, but ratification was not completed. However 16 June 2014 the National Security and Defense Council of Ukraine ordered the government to carry out a one-side demarcation of the border "in terms of existing threats to national security"; amidst the worst fighting of the 2014 pro-Russian conflict in Ukraine.

7. *Uti possidetis juris*

Uti possidetis juris or *uti possidetis iuris* is a principle of international law which provides that newly formed sovereign states should have the same borders that their preceding dependent area had before their independence. Originally, it was applied to the border disputes in South America, and was later used to solve border disputes in Africa. *Uti possidetis juris* has been applied in modern history to such regions as South America, Africa, the Soviet Union (in Soviet case, it was only applied after the collapse of the Soviet Union), and numerous other regions where centralized governments were broken up, or where imperial rulers were overthrown. It is often applied to prevent foreign intervention by eliminating any contested *terra nullius*, or no man's land (無主地), that foreign powers could claim, or to prevent disputes that could emerge with the possibility of redrawing the borders of new states after their independence.

There are a lot of arguments whether it can be applied to border disputes in Asia and Pacific.

8. Aggression

Aggression and the right of self-determination

If the people in the colonized country or area hope to be independent, and for this purpose, escape there and enter the neighbored land or area, is this aggression?

9. References

a) Ukraine: Demarcation of Border with Russia (Dec. 2, 2014)

On November 19, 2014, the Government of Ukraine announced that it will approve the draft of the President's Executive Order that provides for the beginning of work on delimitation of the border between Ukraine and the Russian Federation. (Government Approved President's Decree on Unilateral Demarcation of Borderline Between Ukraine and Russia.)

The Treaty Between the Russian Federation and Ukraine on the Russian-Ukrainian State Border was signed on January 28, 2003, by then President Kuchma of Ukraine and President Putin of the Russian Federation. (*BIULLETEN MEZHDUNARODNYKH DOGOVOROV* [Bulletin of International Treaties, official publication] No. 7 (2004), President of the Russian Federation website.) The Treaty states that the Russian-Ukrainian state border will be the line and the vertical surface (a virtual vertical line that divides subsoil, waters, and airspace between two countries) following that line that divide the state territories of the parties to the Treaty from the point where the state borders of Ukraine, Russia, and Belarus meet to a point located on the coast of the Taganrog Gulf. (*Id.* art. 1.) The point where the state borders of Ukraine, Russia, and Belarus meet was to be defined by a separate treaty. (*Id.* art. 4.)

The actual demarcation of the border was not carried out at the time the Treaty was concluded. On May 14, 2010, the Russian Federation government issued Resolution No. 720-r, ordering the Ministry of Foreign Affairs of the Russian Federation to start work on concluding an agreement with the Ukrainian government on the demarcation of the border. (*COLLECTION OF THE RUSSIAN FEDERATION LEGISLATION* [official gazette], No. 21, Item 2630 (2010) (in Russian).) It appears that no such agreement was concluded, however, and, according to news reports, no work on defining the borderline has been done. Since 2010, the Russian-Ukrainian Commission on the Border Demarcation has met 18 times, and only one border post was placed on the Russian side of the border. Ukraine has placed about 235 border signs thus far; 7,000-10,000 additional signs need to be erected. The border between Ukraine and Russia is more than 1,200 miles long. (*Government Approved Draft President's Executive Order on Unilateral Border Demarcation, NEWSRU.UA* (Nov. 19, 2014) (in Russian).)

According to Russian government statements, the border construction will

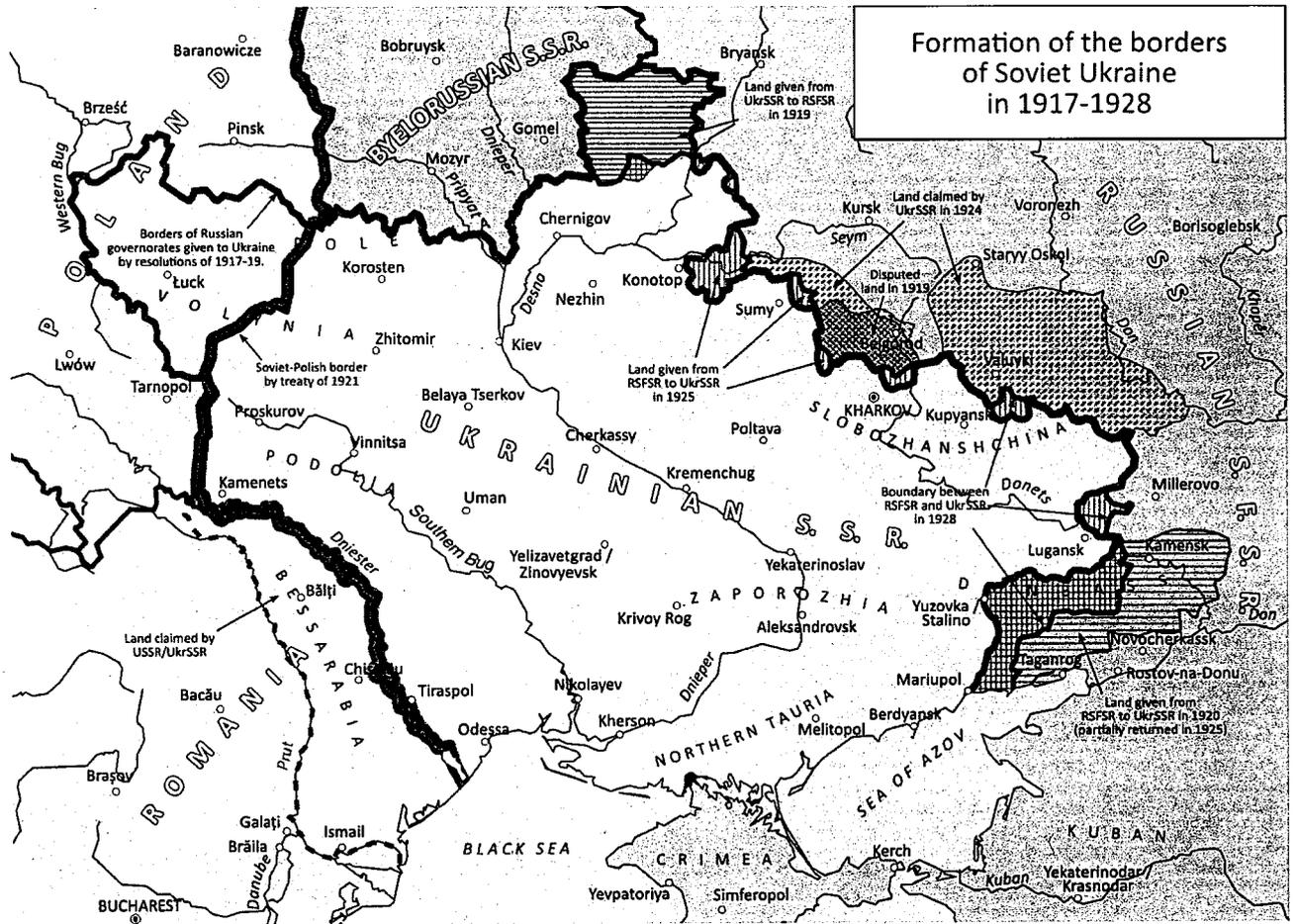
be financed by foreign aid and national budget funds and will be finished in three years. ('Wall on the Russian Border Will Be Built in Three Years', *UNIAN.NET* (Oct. 16, 2014) (in Russian).)

Ukraine recently negotiated the demarcation of its almost 650-mile-long northern border with Belarus, and an intergovernmental agreement between Ukraine and Belarus was approved by the Ukrainian Cabinet of Ministers on November 12, 2014. ('Cabinet of Ministers Approved the Agreement with Belarus on Border Demarcation', *NEWSRU.UA*, (Nov. 12, 2014) (in Russian).) The Government of Belarus approved the Statute on Border Demarcation on December 24, 2014. ('Belarus Council of Ministers Resolution No. 1097 of Nov. 24, 2014', *REPUBLIC OF BELARUS NATIONAL LEGAL INTERNET PORTAL* (Nov. 26, 2014) (in Belorussian).)

source:

Roudik, Peter. *Ukraine: Demarcation of Border with Russia. 2014.*
<https://www.loc.gov/item/global-legal-monitor/2014-12-02/ukraine-demarcation-of-border-with-russia/>.

b)maps



source:

Establishment of the boundaries of the Ukrainian Socialist Soviet Republic in 1917–1928.

[https://en.wikipedia.org/wiki/Russia%E2%80%93Ukraine_border#/media/File:1917-1928_Soviet_Ukraine_borders_formation_\(EN\).svg](https://en.wikipedia.org/wiki/Russia%E2%80%93Ukraine_border#/media/File:1917-1928_Soviet_Ukraine_borders_formation_(EN).svg)



source:

Territorial evolution of the Ukrainian SSR 1922–1954

https://en.wikipedia.org/wiki/Russia%E2%80%93Ukraine_border#/media/File:Ukraine-growth.png

¹ Roudik, Peter. *Ukraine: Demarcation of Border with Russia*. 2014. Web Page.

<https://www.loc.gov/item/global-legal-monitor/2014-12-02/ukraine-demarcation-of-border-with-russia/>.

² Library of Congress, *Ukraine: Demarcation of Border with Russia*, Washington, D.C. . Retrieved 2022-10-02.

³ *UKRAINE RUSSIA MAY dissociate itself from the Fence*, <https://www.pravda.com.ua/news/2014/06/16/7029251/>

Culture and Society in Asia

May 16, 2023

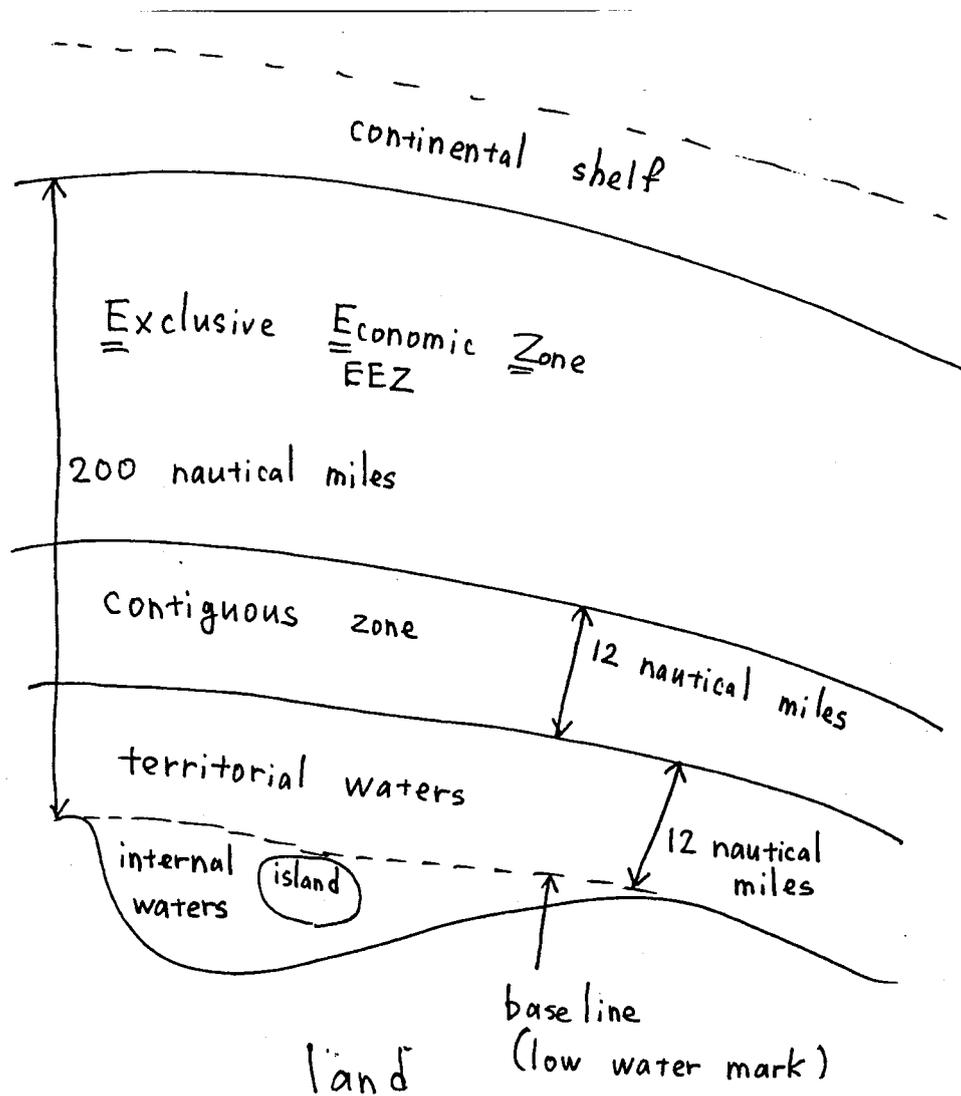
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Territorial waters

1. Territorial waters

The United Nations Convention on the Law of the Sea says the territorial water(s) consist of territorial sea, internal water(s) and Archipelagic Water.

| | From the baseline: | |
|-------------------------|--|--|
| Internal water(s) | --- | Sovereignty of the state is equal to that which it exercises on the mainland. |
| Territorial water(s) | 12 nautical miles | The territorial waters is regarded as the sovereign territory of the state, although foreign ships are allowed innocent passage through it. |
| Contiguous zone | 24 nautical miles | Within contiguous zone, a state can exert limited control for the purpose of preventing or punishing "infringement of its customs, fiscal, immigration or sanitary laws and regulations within its territory or territorial waters". |
| Exclusive Economic Zone | 200 nautical miles | A coastal nation has control of all economic resources within its exclusive economic zone, including fishing, mining, oil exploration and any pollution of those resources. |
| International water(s) | Outside of the territorial waters (territorial sea, international water and Archipelagic water) | Any state does not have the right of control. It belong to all nations equally. |



2. Island

The article 121 of the UNCLOS says:

An island is a naturally formed area of land, surrounded by water, which is above water at high tide.

Except as provided for in paragraph 3, the territorial sea, the contiguous zone, the exclusive economic zone and the continental shelf of an island are determined in accordance with the provisions of this Convention applicable to other land territory.

Rocks which cannot sustain human habitation or economic life of their own

shall have no exclusive economic zone or continental shelf.

1 島とは、自然に形成された陸地であって、水に囲まれ、高潮時においても水面上にあるものをいう。

2 3に定める場合を除くほか、島の領海、接続水域、排他的経済水域及び大陸棚は、他の領土に適用されるこの条約の規定に従って決定される。

3 人間の居住又は独自の経済的生活を維持することのできない岩は、排他的経済水域又は大陸棚を有しない。

3. Innocent passage

UNCLOS says:

Article 17

Right of innocent passage

Subject to this Convention, ships of all States, whether coastal or land-locked, enjoy the right of innocent passage through the territorial sea.

Article 18

Meaning of passage

1. Passage means navigation through the territorial sea for the purpose of:

(a) traversing that sea without entering internal waters or calling at a roadstead or port facility outside internal waters; or

(b) proceeding to or from internal waters or a call at such roadstead or port facility.

2. Passage shall be continuous and expeditious. However, passage includes stopping and anchoring, but only in so far as the same are incidental to ordinary navigation or are rendered necessary by force majeure or distress or for the purpose of rendering assistance to persons, ships or aircraft in danger or distress.

Article 19

Meaning of innocent passage

1. Passage is innocent so long as it is not prejudicial to the peace, good order or security of the coastal State. Such passage shall take place in conformity with this Convention and with other rules of international law.

2. Passage of a foreign ship shall be considered to be prejudicial to the peace,

good order or security of the coastal State if in the territorial sea it engages in any of the following activities:

- (a) any threat or use of force against the sovereignty, territorial integrity or political independence of the coastal State, or in any other manner in violation of the principles of international law embodied in the Charter of the United Nations;
- (b) any exercise or practice with weapons of any kind;
- (c) any act aimed at collecting information to the prejudice of the defence or security of the coastal State;
- (d) any act of propaganda aimed at affecting the defence or security of the coastal State;
- (e) the launching, landing or taking on board of any aircraft;
- (f) the launching, landing or taking on board of any military device;
- (g) the loading or unloading of any commodity, currency or person contrary to the customs, fiscal, immigration or sanitary laws and regulations of the coastal State;
- (h) any act of wilful and serious pollution contrary to this Convention;
- (i) any fishing activities;
- (j) the carrying out of research or survey activities;
- (k) any act aimed at interfering with any systems of communication or any other facilities or installations of the coastal State;
- (l) any other activity not having a direct bearing on passage.

第十七条 無害通航権

すべての国の船舶は、沿岸国であるか内陸国であるかを問わず、この条約に従うことを条件として、領海において無害通航権を有する。

第十八条 通航の意味

1 通航とは、次のことのために領海を航行することをいう。

(a) 内水に入ることなく又は内水の外にある停泊地若しくは港湾施設に立ち寄ることなく領海を通過すること。

(b) 内水に向かって若しくは内水から航行すること又は(a)の停泊地若しくは港湾施設に立ち寄ること。

2 通航は、継続的かつ迅速に行わなければならない。ただし、停船及び投びょうは、航行に通常付随するものである場合、不可抗力若しくは遭難により必要

とされる場合又は危険若しくは遭難に陥った人、船舶若しくは航空機に援助を与えるために必要とされる場合に限り、通航に含まれる。

第十九条 無害通航の意味

1 通航は、沿岸国の平和、秩序又は安全を害しない限り、無害とされる。無害通航は、この条約及び国際法の他の規則に従って行わなければならない。

2 外国船舶の通航は、当該外国船舶が領海において次の活動のいずれかに従事する場合には、沿岸国の平和、秩序又は安全を害するものとされる。

(a) 武力による威嚇又は武力の行使であって、沿岸国の主権、領土保全若しくは政治的独立に対するもの又はその他の国際連合憲章に規定する国際法の諸原則に違反する方法によるもの

(b) 兵器(種類のいかんを問わない。)を用いる訓練又は演習

(c) 沿岸国の防衛又は安全を害することとなるような情報の収集を目的とする行為

(d) 沿岸国の防衛又は安全に影響を与えることを目的とする宣伝行為

(e) 航空機の発着又は積込み

(f) 軍事機器の発着又は積込み

(g) 沿岸国の通関上、財政上、出入国管理士又は衛生上の法令に違反する物品、通貨又は人の積込み又は積卸し

(h) この条約に違反する故意のかつ重大な汚染行為

(i) 漁獲行為

(j) 調査活動又は測量活動の実施

(k) 沿岸国の通信系又は他の施設への妨害を目的とする行為

(l) 通航に直接の関係を有しないその他の活動

4. Okinotorishima islands

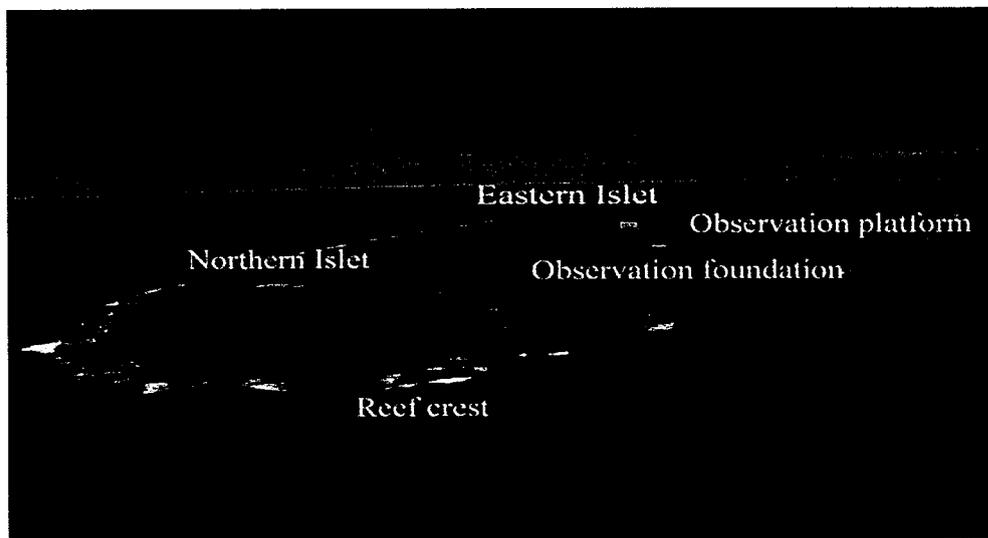
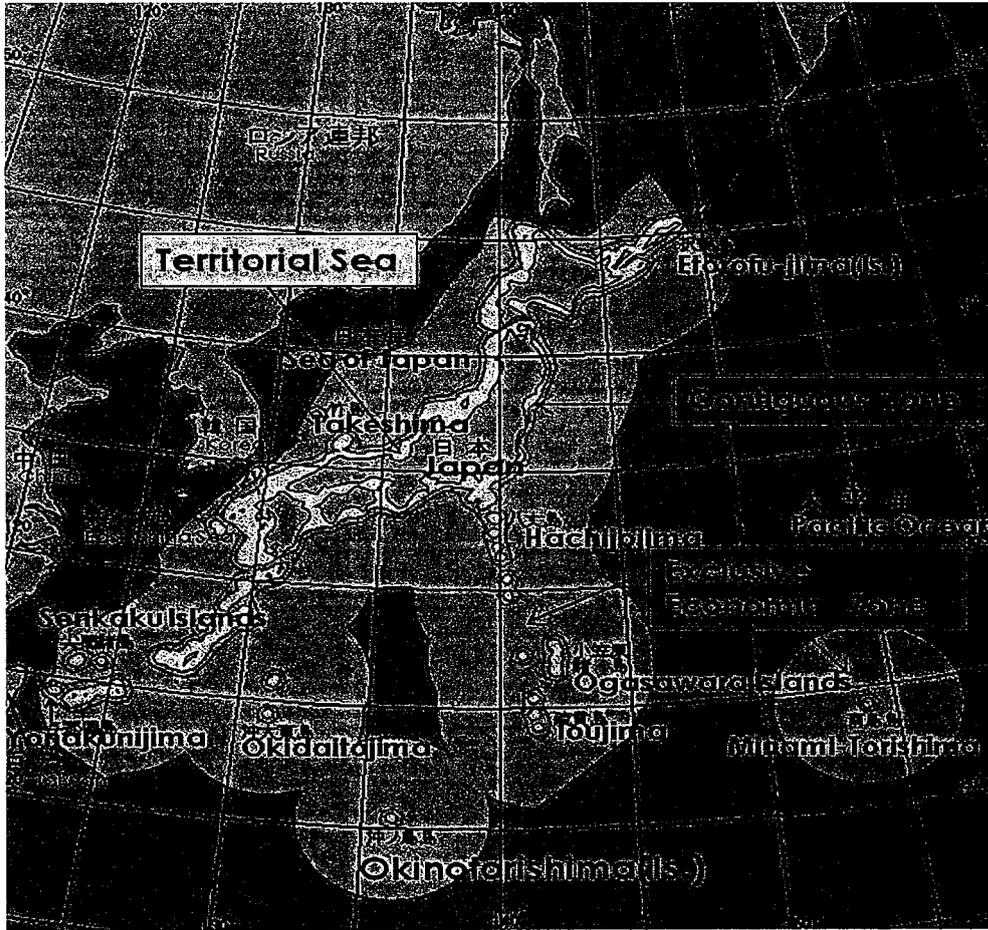
Are Okinotorishima islands rocks or islands? If they are islands, they have Exclusive Economic Zone. But if they are rocks, they do not have Exclusive Economic Zone, they have only the territorial sea, the contiguous zone.

Japanese government says:

They are islands, where human or people can live.

Chinese government says:

They are rocks which cannot sustain human habitation or economic life of their own.



source: A full list of Corals at Okinotorishima
 (https://www.u-tokyo.ac.jp/focus/en/articles/a_00119.html)

For Your Information:

Japan and China Dispute a Pacific Islet (小島)

By NORIMITSU ONISHI¹

TOKYO, July 9 - The smaller of the two is roughly the size of a twin bed and pokes only 2.9 inches out of the ocean. The larger, as big as a small bedroom perhaps, manages to rise up 6.3 inches.

The Japanese government has already spent \$600 million to keep the two barren islets in the western Pacific above water. Collectively (総称して) called Okinotori and located 1,082 miles south of here, the islets have long allowed Tokyo to claim exclusive economic control over an ocean area larger than all of Japan.

But a threat potentially bigger than typhoons or global warming emerged last year when China challenged Japan's exclusive rights to the economically and militarily important waters, describing Okinotori as just a "rock."

Rock or island, Okinotori lies in a three-square-mile coral reef, most of which is under water even at low tide. A few decades ago, the area was dotted with half a dozen islets, but by 1989, only two were still visible. To protect its claim, the government in Tokyo encased the tiny protrusions (海面上に突き出ている陸地) -- some 1,400 yards apart -- in 82-foot-thick concrete, an effort that cost \$280 million. Workers later covered the smaller islet with a \$50 million titanium net to shield it from debris thrown up by the waves.

Finally, slits were made across the concrete casing, so it would comply with (合致する) the United Nations law that an island be "surrounded by water."

As with some of Japan's other territorial disputes, a patriotic organization with right-wing roots has taken the lead in rebutting the Chinese challenge to Okinotori's status. The organization, the Nippon Foundation (日本財団),

¹ 大西哲光, Japanese Canadian journalist, staff writer of New York Times. Not diplomat.

has drawn short-term plans to build a lighthouse and long-term ones to increase the size of the islets by breeding micro-organisms known as foraminifera (有孔虫 ; アメーバ状の極めて小さい海洋生物) . The government last month installed a radar, repaired a heliport and placed an official address plaque, "1 Okinotori Island, Ogasawara Village, Tokyo."

Shintaro Ishihara, the tough-talking governor of Tokyo, under whose jurisdiction the islets fall, took reporters to Okinotori recently and raised the Japanese flag on it.

"That's an island," he said later. "A tiny island. Territory."

"Got a problem with that?" he said with a grin.

The Chinese do. In a meeting with Japanese officials last year, they said Okinotori could not be regarded as an island under the United Nations Law of the Sea.

According to the law, an "island is a naturally formed area of land, surrounded by water, which is above water at high tide." Furthermore, it adds, "rocks which cannot sustain human habitation or economic life of their own shall have no exclusive economic zone."

Okinotori lies at a militarily strategic point, midway between Taiwan and Guam, where American forces are based. Chinese vessels -- whose increasing forays (侵入する ; 進入する) into this disputed exclusive economic zone have been drawing Japanese protests -- are believed to be mapping the sea bottom over which Americans warships might pass on their way to Taiwan.

Washington supports Tokyo on the island versus rock issue. But a visit to Tokyo in February by John R. Bolton, then an under secretary of state (國務次官) , no doubt left the Japanese scratching their heads: With friends like these, who needs the Chinese?

An American reporter unable to pronounce Okinotori shima, which means "Offshore bird island," asked Mr. Bolton about "Otokono shima," a

nonexistent (存在しない) island that would mean, "Man's island (人が住んでいる) ."

"The rock," Mr. Bolton said.

"Yeah, the rock," the reporter said.

No one has ever lived on Okinotori, and the islets have yet to show any sign of economic life. Workers are deployed twice a year to make repairs to the casing that sits atop Okinotori, and this year, after China's "rock" declaration, the Ministry of Land raised the budget for it to \$5.6 million, from \$2 million.

Last fall, fearing that inaction (何もしないで放置すること) would mean losing out to China, the Nippon Foundation focused its considerable resources on the issue.

"If someone doesn't do it, this country would drag its feet and nothing would be decided," said Yoshihiko Yamada (山田吉彦), who oversees the Okinotori project for the foundation.

The foundation led teams of researchers and reporters on two boat trips to Okinotori. Mr. Yamada, something of a romantic, waxed poetic about the "moonlit sea (月明かりに照らされた海)," the "mysterious natural environment" and the flyingfish jumping merrily around the ship.

"We made it into sashimi and it was delicious," he said.

The foundation now wants to build a \$1 million lighthouse, which would constitute economic activity by guiding ships. "If the government can't do that, we are asking them to let us do it," Mr. Yamada said.

Other proposals include opening up Okinotori to divers or ecotourists. Masazumi Nagamitsu (長光正純), an executive director at the foundation, is partial to an international coral research center and a 6,500-foot runway. An even more ambitious proposal would reverse the land erosion by attracting foraminifera -- hard-shelled organisms that would attach themselves to the

islet.

"Well, I wonder what their intention is with these proposals," said Katsunori Kadoyu, an official at the Ministry of Land, which administers Okinotori. He has yet to step foot on Okinotori but watches live images of it from a camera set up there in February. "It is a bit difficult to answer."

Part of the difficulty lies in the history of the Nippon Foundation, which was founded by Ryoichi Sasakawa (笹川良一), a World War II war-crimes suspect who built a gambling empire around motorboat racing.

Yukio Hori (堀幸雄), a retired professor at Tohoku Bunka Gakuen University and author, said the government and nationalist groups often had a collaborative relationship. Those groups would typically push a project that government officials were hesitant to do openly.

In another territorial dispute with China, over the Senkaku Islands, Japan's largest right-wing group, Nihon Seinen-sha (日本青年社), built a lighthouse there 27 years ago and traveled to it regularly for repairs. After the government and Nihon Seinen-sha engaged in negotiations last year, the government finally took over control of the lighthouse early this year.

On Okinotori, the government may let the foundation build its lighthouse. Doing so on its own could be too provocative (挑発的な) to the Chinese.

"In some aspect," Mr. Nagamitsu said, "we are doing things that the government finds a bit difficult to do, or that they are entrusting us to do, or hoping we would do."

Source: *New York Times*, July 10, 2005.

Culture and Society in Asia
Senkaku Islands dispute

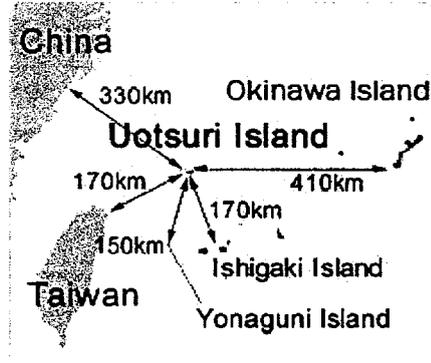
July 25, 2023

Mizuno Mitsuaki, Ph.D.

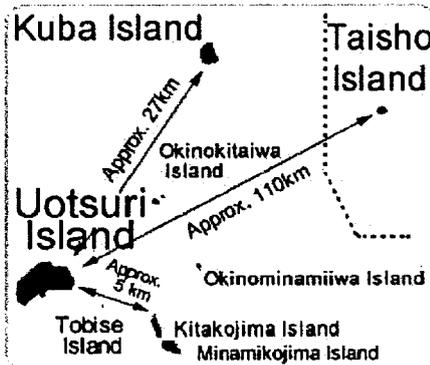
1. location and geography



Location Map



Surrounding Area



Detailed Map

The Senkaku Islands are a group of islands located in Ishigaki City, Okinawa Prefecture, which include Uotsuri, Kitakojima, Minamikojima, Kuba, Taisho, Okinokitaiwa, Okinominamiwa and Tobise Islands.

source: *About the Senkaku Islands*, Ministry of Foreign Affairs of Japan
<https://www.mofa.go.jp/region/asia-paci/senkaku/>

terra nullius (?)

2. parties concerned

Japan, China (People' s Republic of China) and Taiwan (Republic of China)

3. disputes over sovereignty

4. status of Senkaku Islands

i) up to 1879: a part of Ryukyu Kingdom

Following the Meiji Restoration, the Japanese government formally annexed what was known as the Ryukyu Kingdom as Okinawa Prefecture in 1879. The Senkaku Islands, which lay between the Ryukyu Kingdom and the Qing empire, became the Sino-Japanese boundary for the first time.

ii) 1879 to 1945: a part of Okinawa Prefecture

On 14 January 1895, during the First Sino-Japanese War, Japan incorporated the islands under the administration of Okinawa, stating that it had conducted surveys since 1884 and that the islands were terra nullius, with there being no evidence to suggest that they had been under the Qing empire' s control.

iii) 1945 to 1972: under the administration of the US as part of Ryukyu Islands

After the end of World War II, the United States occupied and control Ryukyu Islands.

iv) 1972 to present: a part of Okinawa Prefecture

5. issues to be discussed

i) critical date

ii) the conflicts of norms of European International System and Chinese world order

iii) differences of the approaches between international law and history or politics

iv) peaceful settlement of the disputes or military solution(?)

v) textbooks and the guidelines of education at elementary school, junior high school and high school levels in Japan