Border Institutions - What Is Lacking in the Diaoyu/Senkaku Islands Dispute

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Border Institutions - What Is Lacking in the Diaoyu/Senkaku Islands Dispute

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Abstract: This study explores the interactions among the claimants for the sovereignty over the Senkaku/Diaoyu Islands dispute with the intention to find out what is lacking in their communication for a genuinely peaceful and mutually beneficial solution to the multilateral international conflict. Guided by the theory of border institutions and via the research methods of hermeneutics, we found that the US, though not a claimant, appears officially neutral but actually pro-Japan in the conflict, though deeply involved in the dispute, purposely remains on the sidelines. As claimants, Japan, China and Taiwan all insist on their own claims based on supporting evidence from various perspectives so strongly that they leave no room for negotiations. Nevertheless, the study reveals that a peaceful and collaborative resolution to this complex dispute can only result from genuine dialogues for appreciating, reconstructing, and maintaining border institutions, possibly under the influence or leadership of the US. [China Media Research. 2013; 9(4): 27-44]

Keywords: Senkaku/Diaoyu Islands; border institutions; peaceful and collaborative resolution

Lying in the East China Sea, an island group consisting of five uninhabited islands and three rocks (known as the Senkaku in Japan, Diaoyu in China, and Diaoyutai in Taiwan) has been causing waves of sensation of the whole world. For instance, Kristof (2010) asked the global audience to stay tuned because “this is a boundary dispute that could get ugly and some day have far-reaching consequences for China, Japan, Taiwan and the United States” (p. 1). Most recently, Harner (2013) began his blog article in the online Forbes magazine with “second only to nuclear weapon development on North Korea and Iran, it is the most dangerous potential *casus belli* [sic] in the world today, and it is likely to remain so indefinitely” (p. 2). Thus, we can clearly sense the intensity and severity of the conflict under discussion.

On the one hand, Japan declares full sovereignty and rejects any territorial dispute over these islands arguing that it discovered the islands *terra nullius* or land of no human beings and incorporated them into Japan as a cabinet decision in 1895 and exercised effective control over the islands with no Chinese protest until 1971. On the other, both Mainland China and Taiwan claim that China, not Japan, discovered and exercised sovereignty over the islands since the 14th century, and Japan seized them from Taiwan under Article Two of the Treaty of Shimonoseki of 1895 after Japan won the first Sino-Japanese War from 1894 to 1895.

Although disputes over the Diaoyu/Senkaku islands have been recurring for many decades, what flared up the most recent conflict involving Japan, China, Taiwan, and the US is Tokyo Governor Shintaro Ishihara’s proposal of purchasing these islands by the Tokyo Metropolitan Government in April 2012 and the subsequent nationalization of three of the islands by the Japanese government in September 2012. For months, China has been regularly sending out surveillance ships and planes towards the disputed areas. To confront the aggressive Chinese patrol missions each time, war ships of Japanese Coast Guards and jet fighters from the Japanese Maritime Self-Defense Force would come to intercept the approaching Chinese ships and planes. The non-compromise positions of the two governments have not only put their bilateral relationship into a stand-off but also filled the whole world with increasing worries about unexpected face-off or more catastrophic consequences.

To complicate the conflict, Liang Ying-ping, Taiwan’s top representative to Seoul, South Korea announced to the media: “Our stance is clear. The Diaoyutai Islands are the territory of the Republic of China (ROC). The dispute is a three-party concern, not just confined to Japan and China” (Kim, 2012, p. 1). Just as President Ma Ying-jiou of Taiwan remarked, “we will not make any concessions on national sovereignty…. There could be more serious confrontations or wars if we do not resolve the dispute peacefully” (Mo, 2012, p. 7). President Ma called for a trilateral dialogue between Taiwan, Japan and China to resolve the sovereignty dispute. In fact, there is also a fourth party, the US, which has been directly and indirectly involved in the Senkaku/Diaoyu Islands dispute.

From the above, we can see that there are actually two sides of four parties deeply involved in the Senkaku/Diaoyu Islands dispute: Japan and the US as the accused on the defensive side; China and Taiwan as the accusers on the challenging side. This does not mean that there are no conflicts between Japan and the US and China and Taiwan. However, for the purpose of this study and based on the existing literature, we just focus
on exploring what is lacking in the available interactions between the two sides and among the four parties in this multi-lateral international conflict.

Literature Review

The backdrop and influence of the Senkaku/Diaoyu Islands dispute. The Senkaku/Diaoyu Islands are located northeast of Taiwan, east of China, and southwest of Okinawa, the southern-most prefecture of Japan. In his Congressional Research Service Report, Manyin (2013) reported, the Senkaku/Diaoyu Islands consist of five islets and three rocky outcroppings with a total landmass of less than seven square kilometers or three square miles. The largest island is about two miles in length and less than one mile in width. None of the islands are inhabited and unlikely to support any human life or economic activities from indigenous resources. Despite the unfavorable natural features, Japan, China, and Taiwan all claim sovereignty over the islands. Periodic tensions and conflicts have been occurring among the claimants and, fueled by rising nationalism in all parties, waves of nation-wide campaigns have been witnessed, all claiming the sovereignty over these islands due to their strategic significance in terms of economy, security, and political implications.

Economically, sovereignty over the Senkaku/Diaoyu Islands could “convey exclusive economic rights to nearly 20,000 square nautical miles of undersea resources” (Ramos-Mrosovsky, 2008, pp. 903-904). It means that control of the islands would confer ownership of natural resources such as fishery and potential oil and gas reserves in their vicinity. In terms of security, the Senkaku/Diaoyu Islands lie close to key shipping lanes in the region. As Pan (2007) said, the location of the islands on the eastern edge of the continental margin in the East China Sea exerts strategic impact upon “both China and Japan’s increasingly voracious appetite for energy, natural resources, and extension into the high seas” (p. 72) and the sovereignty over the islands “can be a factor that significantly influences the location of a maritime boundary between China and Japan” (p. 84). This is why Suganuma (2000) remarked: “If there is a flash point to ignite a third Sino-Japanese War, it will be the ownership of the Diaoyu Islands in the East China Sea” (p. 151). Finally, since both China and Japan have maritime territorial disputes with their neighboring countries, both have been making the greatest efforts avoiding any potential negative domino effect in the handling of the Senkaku/Diaoyu Islands dispute. Just as Koo (2009) noted, any concessions in the dispute “could possibly jeopardize their respective claims to the other disputed islands” (p. 206). Thus, the Senkaku/Diaoyu Islands dispute is not just territorial. It bears more chain-effect significance in politics, economics, and national, even international security.

At least, how the dispute will be resolved will definitely affect the Asia-Pacific region directly and indirectly. The Asia-Pacific region, which covers 70% of the earth’s surface and 50% of the world’s ocean surface, provides many export-oriented economies around the Pacific Rim with the most dynamic and strategic trade routes and energy resources. As a “key engine for the global economy” (VOC, 2013, p. 1), the region has half of the world’s population, with a combined gross domestic product (GDP) of $39 trillion, accounting for 56% of the world economic output. The region is home to quite a number of the world’s largest militaries and the majority of the world’s nuclear power.

Therefore, in his remarks to the Australian Parliament, President Obama (2011) predicted that this region will “largely determine whether the century ahead will be marked by conflict or cooperation, needless suffering or human progress” (p. 15). In her article entitled “America’s Pacific Century,” Secretary Clinton (2011) emphasized a smart and systematic US effort over the next decade by “locking in a substantially increased investment—diplomatic, economic, strategic, and otherwise—in the Asia-Pacific region” (p. 1). It is clear that the year 2011 became a pivot point for the United States to complete its withdrawal of soldiers from Iraq and Afghanistan and began reasserting itself in the Asia-Pacific region. Although the reassertion of the Asia-Pacific region is a continuation of the US policies undertaken by previous administrations, the Obama Administration intends to achieve some larger purposes and make the US “play a larger and long-term role in shaping this region and its future, by upholding core principles and in close partnership with our allies and friends” (Obama, 2011, p. 16).

Scholarship on territorial conflict. Among all kinds of conflict, territorial conflict is next to none in its frequency, severity, and consequences. Holsti (1991) noted, among interstate wars between 1648 and 1989, “territorial issues were by far the most important single issue category” (p. 307). Vasquez (1995) found, “a minimum of 79% of wars were fought over territory-related issues in five historical periods from 1648 to 1990” (p. 284). Hensel (2000) also found that, between 1816 and 1992, more than half of the wars were related to issues of disputed territory, and disputes over territory tended to result in conflicts with much more fatalities than disputes of other categories. Gleditsch (1998) provided reasons for the territorial conflict by saying, “the territory itself might be seen as important to the identity of a people and the symbolic function might be more important than any material value” (p. 385). Similarly, Knight (1982) remarked, “territory is not; it becomes, for territory itself is passive, and it is human beliefs and actions that give territory meaning” (p. 517). Murphy (1990) also stressed, as a social construct,
“territory is fundamentally embedded in social processes,” which is “at the heart of national identity and cohesion and of supreme importance to the state” (p. 531).

To comprehend international disputes or conflicts, there are two main camps of scholars. While liberals argue that territorial disputes lose their salience as a result of increasing economic interdependence, realists counter-argue that economic interdependence not only fails to promote peace but also increases conflicts due to asymmetric dependence and inequality between economic partners. Nevertheless, Simmons (2005) found, while scholars of realist thought regard territory as the object of zero-sum state competition for power, prestige, or an imagined national identity, liberal scholars of globalization stress that in this increasingly borderless world, human capital matters more than territorial matters and national power. In reality, less than one third of the international borders have been disputed since World War II. Even in the Middle East, 80% of the borders remain peaceful through mutually accepted formal treaties. Take China for example, it has settled 17 of its 23 territorial disputes since 1949. Moreover, China has made substantial compromises in most of these settlements, “usually receiving less than 50% of the contested land” (Fravel, 2005, p. 46). In contrast, it is also argued, “national boundaries continue to have significant influences on international economic relations” (Simmons, 2005, p. 826). An empirical study of bilateral trade between the US and Canada revealed that “trade between Canadian provinces was 22 times that of Canada-US trade, all other factors being held equal” (McCallum, 1995, p. 617).

As a summary, Mowle (2003) commented, realism and liberalism “are as much quality as they are of action. A comparison of the two approaches must somehow pry open the intent behind the action” (p. 562). It means that there must be a shift of the analysis from the state to the individuals within the state who make decisive decisions and implement purposive actions. Chiozza and Choi (2003) concurred with Mowle in their empirical study, “leaders, who have the political interest and ability to lead their countries onto a different road, do matter in explaining decisions to settle territorial disputes” (p. 275). Thus, territorial disputes may lead to military confrontations, but wise leadership guided by domestic needs and international norms may set the interactions between or among claimants and bilateral or trilateral relationships onto peaceful paths.

Literature on the Senkaku/Diaoyu Islands dispute. Existing literature concerning the Senkaku/Diaoyu Islands dispute falls into three major categories. The first category of literature explains the continuity and escalation of the dispute. Scholars (e.g., Bush III, 2010; International Institute for Strategic Studies, 2010; Kenny, 2004; Park, 1973; Valencia, 2000) predicted that the Senkaku/Diaoyu Islands dispute would continue and escalate so long historical and legal issues among the claimants remain unresolved and the dispute involves material and symbolic significance. For example, Bush III (2010) predicted, “there was a danger that the dispute might become militarized,” (p. 6) as strategists in both Japan and China “cited with concern the old Chinese expression, ‘two tigers cannot coexist on the same mountain’” (p. 8). However, all the flare-ups over the Senkaku/Diaoyu Islands have been eventually calmed down.

The second category of literature provides explanations for the mutual restraint from all parties involved in the Senkaku/Diaoyu Islands dispute. Some scholars (e.g., Blanchard, 2000; Bush III, 2010; Fravel, 2010; Ito, 2008; Hara, 2001; Lind, 2004) remarked, due to the US factor, the Sino-Japanese dispute over the Senkaku/Diaoyu Islands was taking place within certain limits. For example, Blanchard (2000) noted, “it [the US] currently has the authority, at a minimum, to press both sides to explicate their real interests and to promote alternatives for a settlement of the controversy” (p. 121). Fravel (2010) seconded, “the United States is an important actor in the China-Japan disputes, especially the conflict over the Senkaku Islands” (p. 144). Some other scholars (e.g., Christensen, 2006; Friedberg, 2005; Goldstein, 2005; Niksch, 1996; Wiegand, 2009) showed their worries that a more capable China might become a nascent China threat. Wiegand (2009) claimed, as the second largest consumer of oil after the US, China “continues to claim sovereignty over the islands and the dispute is nowhere close to being resolved” (p. 170). Nevertheless, it has been found that China has been cooperative and peaceful in its territorial disputes since 1949 (Fravel, 2005, 2008, 2010; Nie, 2009).

The final category of literature accounts for the repeated ups and downs in the Senkaku/Diaoyu Islands dispute. On the one hand, many scholars (e.g., Chung, 2004; Fravel 2005; Hagström, 2005; Pan, 2007) associated the ups and downs of the dispute with the desires and power struggles of the state elites among all sides of the claimants in their domestic decision-making processes. Pan (2007) remarked that the handling of Senkaku/Diaoyu Islands dispute “is seen as a factor impacting on the legitimacy of Chinese and Japanese central governments in domestic politics and on their foreign relations in the international arena” (p. 72). Meanwhile, many other scholars (e.g., Blanchard, 2000; Fravel, 2010; Koo, 2009; Manyin, 2013; Tanaka, 2010) emphasized the international nature of the dispute, especially the US factor. Blanchard (2000) noted, the US “has been deeply involved” in the Senkaku/Diaoyu Islands dispute, and it “should become more actively involved in trying to encourage a resolution of the dispute, or at a minimum, serious
discussion between the Chinese and the Japanese” (p. 121).

It can be seen from the above that the Senkaku/Diaoyu Islands dispute is not simply a conflict between Japan/US and China/Taiwan, it is a complicated and multi-sided conflict of international nature. So far, much ink has been spilled about the Senkaku/Diaoyu Islands dispute from various perspectives as described, little has been done from the perspective of communication in terms of argumentation. We attempt to fill this void by exploring how the involved parties have been communicating to the public to seek answers to the following three research questions:

RQ1: What are the conflicting points in the claimants’ claims?
RQ2: What are the pieces of supporting evidence and counterevidence?
RQ3: What is lacking for a genuinely peaceful and win-win solution to the Senkaku/Diaoyu Islands dispute?

The research findings of this study are expected to enrich the existing body of literature on conflict communication in general and the dispute over the Senkaku/Diaoyu Islands in the East China Sea in particular while shedding light on similar disputes over islands in the South China Sea at the same time.

Theoretical Framework of Institutions

The application of international borders as institutions “neither falls prey to claims that borders do not matter nor is prisoner to realism’s zero-sum assumptions” (Simmons, 2005, p. 827). Simmons is a Harvard scholar of international affairs, and he defined institutions as “sets of rules, compliance procedures, and moral and ethical behavioral norms designed to constrain behavior” (p. 827). Giordano, Giordano, and Wolf (2005) specified that, in the international resource arena, “institutions range from customary practices among neighboring states to multilateral resource conventions and treaties” (p. 53). As a summary, Slaughter (1995) clarified, the theory of institutions posits that rules, norms, and decision-making procedures define international regimes, which reduce transaction costs consistent with regime principles through cooperation. Simultaneously, they facilitate connections within and between regimes over issues by creating conditions for orderly, multilateral negotiations.

Amenta and Ramsey (2010) noted further that there are three types of theoretical claims in institutions: sociological, historical, and political. The first holds that cultural and ideational causes in a society exert influence on the state policies. Focusing on macro-political or macro-economic determinants, the second asks big questions and highlights the importance of institutions. The third argues that the process of formation of states, political systems, and political party systems have strong impact upon political processes and outcomes. Nie (2009) specified two major forms of institutional explanations over territorial disputes. The first argues that “border territories are extraordinary spaces embodying a defined legal order within international relations,” therefore; “border issues influence the attitudes of policymakers” (p. 491). Jean-Marc Blanchard and Paul K. Huth are representative scholars here, and they predict democratic countries tend towards peaceful means, and non-democratic states towards non-peaceful means of resolving territorial issues. The second emphasizes: “International institutions are an important guarantee of conflict prevention” (Nie, 2009, p. 492). Stephen A. Kocs and Mark W. Zacher are representatives in this regard. To them, without clear and legally demarcated boundaries, wars will probably break out between involved states.

Furthermore, Giordano, Giordano, and Wolf (2005) summarized three causes for potential territorial conflicts and four conditions for successful institutions. The most likely locations for territorial conflicts are “those in which (1) institutional development is hindered; (2) previously functioning institutions collapse; or (3) change in resource conditions outpace the ability for institutional adaptation” (p. 48). Critical factors for long-term institutional success include: (1) clear language concerning resource allocation and quality control; (2) high degree of institutional adaptability; (3) allocating benefits considered more productive than allocating the resource; and (4) clearly defined conflict resolution mechanism in place.

Research Method

For the purpose of this study, we collected our primary data from relevant wartime declarations1, bilateral treaties2, government statements3, and dozens of news briefs from the governments of the above three governments plus the government of the US. The supporting evidence and counterevidence of the claimants’ claims are composed of historical records of Chinese missions and official decrees during the Ming and Qing dynasties and Japanese survey and Cabinet decision to annex the Senkaku/Diaoyu Islands; letters between the Chinese and Japanese and among the Japanese, relevant maps of Japan, China, and the US, and experts’ interview transcripts with Professor Susumu Yabuki and Kurt Campbell, former assistant secretary of state for East Asian and Pacific affairs. Besides, we made a purposive selection of artifacts in terms of the relevant media reports and readers’ online responses concerning the Senkaku/Diaoyu Islands dispute, from both the LexisNexis news database and Google News website. In total, we have printed over 100 pages of singled-lined news reports. For the discussion about the role of the US in the Senkaku/ Diaoyu Islands dispute, we focused on the online Forbes
Magazine blog article entitled “The U.S. Could Have Prevented the Senkaku/Diaoyu Crisis. Why Did It Not?” in February 2011 by Stephen Harner, who has worked in both Japan and China for dozens of years, and the 60-some responses to his blog.

For data analysis, we adopted hermeneutics to interpret the interactions in the above-mentioned communication artifacts of Japan, China, Taiwan and the US. Byrne (2001) explained, hermeneutics is usually used for the interpretation and understanding of texts derived from stories, interviews, participant observations, letters, speeches, or other relevant written documents and personal experiences. Girish (2008) further clarified, as an art of interpreting, hermeneutics developed into a theory of human understanding through the works of Schelieermacher, Dilthey, Heidegger, Gadamer, and Derrida. The essence of hermeneutics is that “the concealed import of a text cannot be understood without uncovering the historical contact and the sociocultural milieu of the community on which it is based” (p. 2). This means that, to thoroughly and appropriately analyze a text, it is essential to understand the origin of the text along with its historical and cultural background. To this end, the texts are usually closely examined in connection to their relevant historical and socio-cultural contexts for the generation of themes or patterns as research findings, which reflect the knowledge of the phenomenon under study.

**Research Findings and Critical Analysis**

As mentioned earlier, there are two sides and four parties in the Senkaku/Diaoyu Islands dispute, namely Japan and the US on one side and China and Taiwan on the other. Among the four parties, Japan, China, and Taiwan are claimants of the sovereignty over the Senkaku/Diaoyu Islands while the US is a deeply-involved participant and important factor in the Senkaku/Diaoyu Islands dispute. In addition to the literature review, our analysis of the selected raw data results in the following three interrelated aspects as the conflicting points in the claimant’s claims: (1) the ownership of the Senkaku/Diaoyu Islands; (2) the change of hands of these islands; and (3) the US role in the dispute. Below are the provided supporting evidence and counterevidence of Japan, China, and Taiwan regarding the above conflicting points, our critical analysis of the conflicting points and evidence, and our conclusion of the US role in the dispute.

**Evidence and counterevidence regarding the ownership of the Senkaku/Diaoyu Islands.** With the Senkaku/Diaoyu Islands under administrative control, Japan rejects the existence of any dispute over the sovereignty of these islands. According to its official statements of “The Basic View on the Sovereignty over the Senkaku Islands (The Basic View)” and “Q&A on the Senkaku Islands” (Q&A) by the Ministry of Foreign Affairs (MOFA) of Japan, the Japanese government began a series of thorough surveys of the Senkaku Islands from 1885, which proved the islands uninhabited. Then, a Cabinet Decision (Appendix 1) was made on Jan. 14, 1895, and the islands were incorporated into Japan as *terra nullius* with markers erected (Fact Sheet of MOFA, 2012, para. 9).

Even during the US administration of the islands, the US Navy “established firing ranges on the islets and paid an annual rent of $11,000 to Zenji Koga, the son of the first Japanese settlers of the islets” (Manyn, 2013, p. 4). A copy of the lease contract is provided in Appendix 2. Besides, the Japanese government also lists the following as examples of valid control of the Senkaku/Diaoyu Islands: (1) Patrol and law enforcement; (2) Levy taxes on the owners of the islands; (3) Management as state-owned land; (4) Implementing researches for utilization and development (Q&A, p. 4).

However, the Chinese side counter-argued that when the Japanese Cabinet decided to annex the islands to the territory of Japan in 1985, Japan was fully aware that “the islands have already been well-known to Qing envoy ships dispatched to crown the former Zhongshan King and already given fixed Chinese names and used as navigation aids en route to the Ryukyu Islands” (MOFA of Japan, 1950). The citation is from a report of the Magistrate of Okinawa, Nishimura Sutezo to the Japanese Home Secretary Yamagata Aritomo on September 22, 1885. In less than a month on October 21, 1885, the Japanese Foreign Minister announced: “Most recently Chinese newspapers have been reporting rumors of our government’s intention of occupying certain islands owned by China located next to Taiwan,” and he warned, “the investigations of the above-mentioned islands should not be published in the Official Gazette or newspaper. Please pay attention to this” (MOFA of Japan, 1950).

In its “Statement of the Ministry of Foreign Affairs of P.R. China” (Statement) on Sept. 10, 2012 and “Diaoyu Dao, an Inherent Territory of China” White Paper (White Paper) on Sept. 28, 2012 by the State Council Information Office of P.R. China, the Chinese government held that it was China, instead of Japan, that discovered and peacefully used the Diaoyu Islands since its Ming Dynasty in the 14th century. According to the White Paper, 24 mission voyages were made from China to the Ryukyu Kingdom, a tributary nation of China, from 1732 to 1866. There were ample records from these voyages about the Diaoyu Islands. Envoy Chen Kan from the Ming Court recorded in the *Envoy to Ryukyu* in 1534, “the ship has passed Diaoyu Dao, Huangmiao Yu, Chi Yu…. Then, Gumi Mountain comes into sight, which is where the land of Ryukyu begins” (White Paper, 2012, p. 3). For another example, to
guard against Japanese pirates along the southeast coast, Zheng Ruozeng compiled the Illustrated Compendium on Maritime Security (Zhouhai Tubian) in 1556 under the auspices of Hu Songxian, who is the supreme commander of the southeast coastal defense of the Ming Court. The Diaoyu Islands were included in the Compendium (Appendix 3).

Geographically, China posits that the Diaoyu Islands sit on the edge of the Asian continental shelf and are separated from the Ryukyu Islands by a deep underwater trench called the Okinawa Trough (Appendix 4). China holds that the distance between Taiwan and the Diaoyu Islands is 120 nautical miles, which is shorter than the 200 nautical miles between the Diaoyu Islands and Okinawa of Japan. Moreover, the surrounding waters of the Diaoyu Islands have been traditionally Chinese fishing grounds (White Paper, 2012, pp. 3-5). In one of the envoy missions, Envoy Xu Baoguang also recorded in his Records of Messages from Chong-Shan in 1719: “After sailing 10 geng, our ships will arrive at Kumé Hill, which is the southwest boundary between the Ryukyu Kingdom and China” (Inoue, para. 8). Envoy Xu Baoguang also described “the Senkaku/Diaoyu Islands are the same color as other Chinese territories on Fuzu” (Appendix 5) (Inoue, para. 9).

By the same token, in its official statement of “The Diaoyutai Islands: An Inherent Part of the Territory of Republic of China” (Diaoyutai Islands) by the Ministry of Foreign Affairs of Republic of China, Taiwan claims, “The Diaoyutai Islands, an island group of Taiwan, are under the jurisdiction of Yilan County” (Diaoyutai Islands, para. 1). Historically, it is the Chinese that discovered and named the Diaoyutai Islands and put it under the jurisdiction of Yilan County of Taiwan. Chinese fishermen frequently sought shelter on the islands and knew that there were no terra nullius between China and the Ryukyu Kingdom (The Diaoyutai Islands, para. 6). Geographically and geologically, the Diaoyutai Islands share the same monsoon zone with Taiwan, thus making it favorable for sail from Taiwan to the islands than from the Ryukyu Islands. Geologically, the Okinawa Trough separates the Diaoyutai Islands and the Ryukyu Islands, making them reside on different tectonic plates in the East China Sea (The Diaoyutai Islands, para. 2-5). Thus, to the Chinese in China and Taiwan, these historical records demonstrate that the Senkaku/Diaoyu Islands and Chiwei Island belong to China and Kume Island belongs to Ryukyu. The dividing line between China and Ryukyu is Hei Shui Gou, which is today’s Okinawa Trough between Chiwei Island and Kume Island. However, it is “an established principle in international law that neither discovery nor use by itself is sufficient to establish sovereignty over land territory” (Su, 2005, p. 49).

**Evidence and counterevidence regarding the change of hands of the Senkaku/Diaoyu Islands.** The Japanese government held that the Senkaku/Diaoyu Islands were not part of “the Island of Formosa together with all islands appertaining or belonging to the said Island of Formosa,” (Treaty of Shimonoseki, 1895, (b) of Article 2), which were ceded to Japan in May 1895 at the end of the First Sino-Japanese War (Fact Sheet of MOFA, 2012, para. 11). Whether the Senkaku Islands were included in the islands of the above treaty article, “there was no mutual recognition between the two countries” (About the Senkaku Islands of MOFA, 2013, p. 11).

Furthermore, Under the San Francisco Peace Treaty of 1951, Japan renounced Taiwan but maintained territorial sovereignty over the Senkaku/Diaoyu Islands (The Basic View, 2013, para. 2). The San Francisco Peace Treaty stipulates the US “as the sole administering authority” over “Nansei Shoto south of 29 degree north latitude (including the Ryukyu Islands and the Daito Islands)” (1951, Article 3). The Ryukyu Islands and the Daito Islands were reverted to Japan with “all and any powers of administration, legislation, and jurisdiction” under Article 2 of the Agreement between Japan and the United States of America Concerning the Ryukyu Islands and the Daito Islands of 1971 (also known as the Okinawa Reversion Agreement). The Senkaku Islands were included in this agreement as can seen in Appendix 6.

The Japanese government also pointed out that neither China nor Taiwan made any objections to the stipulations in the San Francisco Peace Treaty of 1951 and the Okinawa Reversion Agreement of 1971 (About the Senkaku Islands of MOFA, 2013, p. 7). Instead, both China and Taiwan actually recognized the Senkaku/Diaoyu Islands as Japanese territory. For example, it was mentioned in a letter of appreciation from a Chinese consul in Nagasaki in 1919 that the Senkaku/Diaoyu Islands were within the “Yaeyama District, Okinawa Prefecture, Empire of Japan” (Appendix 7). For another example, an article in the People’s Daily dated January 8, 1953 reported that the Senkaku/Diaoyu Islands are one of the seven island groups belonging to the Ryukyu Islands (Appendix 8). Finally, the Republic of China New Atlas published in 1933 (Appendix 9) and World Atlas published in 1958 (Appendix 10) identified the Senkaku Islands as part of Japan (Fact Sheet of MOFA, 2012, para. 13).

In response, the Chinese government argued that the Diaoyu Islands were grabbed from China by Japan in the first Sino-Japanese War from 1894-1895 (White Paper, 2012, pp. 5-8). Early in 1884, a Japanese businessman by the name of Tatsushiro Koga applied to lease the Diaoyu Islands, but both the Okinawa Prefecture Government and the Home Ministry in Tokyo turned down his applications because “it was not clear at that time whether the islands belonged to the
Japanese empire” (White Paper, 2012, p. 5). Nevertheless, in response to a report of the Magistrate of Okinawa, the Japanese National Home Secretary wrote on Sept. 22, 1885: “In regard to the matter of placing national markers and developing the islands, it should await a more appropriate time” (MOFA of Japan, 1950). The appropriate time came when China was defeated in the First Sino-Japanese War and had to sign the Treaty of Shimonoseki on April 17, 1895. In the Treaty of Shimonoseki, China was made to “cede to Japan in perpetuity and full sovereignty… the island of Formosa, together with all islands appertaining or belonging to the said island of Formosa” (Treaty of Shimonoseki, 1895, (b) of Article 2).

Legally, China argues that the Diaoyu Islands were returned to China after World War II. However, it is the US that had made backroom deals with Japan by arbitrarily including the Diaoyu Islands under the US trusteeship in the 1950s and returned the power of administration over the islands to Japan in the 1970s (White Paper, 2012, pp. 7-9). On Sept. 2, 1045, Japan solemnly “undertakes for the Emperor, the Japanese Government and their successors to carry out the provisions of the Potsdam Declaration in good faith” (First Instrument of Surrender, 1945, para. 6), which stipulates that “Japanese sovereignty shall be limited to the islands of Honshu, Hokkaido, Kyushu, Shikoku and such minor islands as we determine” (Potsdam Declaration, 1945, (8), (b), Annex II). Nonetheless, when Taiwan and its appertaining islands were returned to the Republic of China in 1945, Japan did not give back the Diaoyu/Diaoyutai Islands, whose name had been changed to Senkaku Islands since 1900. Thus, the Chinese were left “unaware that the uninhabited ‘Senkaku Islands’ were in fact the former Diaoyu Islands (Shaw, 2012, para. 15). To make matters more complicated, the US extended the Ryukyu to include the Diaoyu Islands during its administration from 1953 to 1971 and returned Ryukyu Islands including the Diaoyu Islands to Japan under the Okinawa Reversion Treaty in 1971, which was signed without the presence and agreement of China (White Paper, 2012, pp. 2, 5 & 7). All this not only supports the Chinese arguments but also explains the belated protests from the Chinese people in China and Taiwan over Japan’s theft of Chinese territory, Chinese maps incorrectly identifying the Senkaku/ Diaoyu Islands as Japanese territory, and the US manipulation of its hegemonic power.

From the perspective of the government of Taiwan, Japan annexed the Daiyutai Islands as a direct consequence of the first Sino-Japanese War and never made any public announcement in order to avoid arousing China’s objection. The islands should have been returned to Taiwan after World War II (The Diaoayutai Islands, para. 16-17), but the US gave the Diaoyutai and Ryukyu Islands to Japan against the strong will of the Chinese. According to declassified documents of the Foreign Relations of the United States (FRUS), the embassy of Republic of China (ROC) sent a note to the US State Department on March 15, 1971, making clear that “the U.S. is requested to respect the ROC’s sovereign rights over the Senkaku Islets and restore them to the ROC” (FRUS, Vol. XVII, China, 1969-1976, Document 115, para. 7). Although Kissinger’s hand-written comment “but that is nonsense since it gives islands to Japan. How can we get a more neutral position?” (FRUS, Vol. XVII, China, 1969-1976, Document 115, footnote 3) on the US position of the sovereignty over the Senkaku Islands, the US finally did implement such a nonsensical policy till this very day.

The US role in the Senkaku/Diaoyu Islands dispute. Although the US is not a claimant, it is still necessary to demonstrate the US position in the Senkaku/Diaoyu Islands dispute. According to Fravel (2010), since World War II, the US “has been a direct participant in the dispute over the Senkaku Islands” (p. 147). The US policy towards the Senkaku territorial dispute is based on: “(1) neutrality in terms of the ultimate sovereignty of contested areas and (2) peaceful resolution without resort to coercion or armed force” (p. 147). In other words, “the United States took a neutral position with regard to the competing claims of Japan, China, and Taiwan, despite the return of the islets to Japanese administration” (Manyin, 2013, p. 4). Upon stepping down as the Secretary of State, Hillary Clinton reiterated the US neutral position over the sovereignty of the Senkaku/ Diaoyu Islands. She further stated: “We oppose any unilateral actions that would seek to undermine Japanese administration and we urge all parties to take steps to prevent incidents and manage disagreements through peaceful means” (Quinn, 2013, para. 5-6). Furthermore, the US Senate unanimously approved an amendment to the 2013 National Defense Authorization Act, announcing: “While the United States takes no position on the ultimate sovereignty of the Senkaku Islands, the United States acknowledges the administration of Japan over the Senkaku Islands” (Johnston, 2012, para. 2). Clearly, the US stance in the Senkaku/Diaoyu Islands dispute is officially neutral but actually pro-Japan.

Just as Blanchard (2000) noted, “the historical record clearly shows that the United States favored in both word and deed Japanese claims to the islands” (p. 97). On January 19, 1946, the commander of the Okinawa Naval Base was instructed to “extend Military Government operations so as to include the Northern Ryukyus south of the 30th parallel north and to include
Sakishima Gunto, [which includes the Senkaku/Diaoyu Islands included]” (p. 103). On August 6, 1948, a report from the US Central Intelligence Agency (CIA) emphasized, “if the Communists won control of China, the return of the Ryukyus to China would give the Soviet Union access to these islands and thereby endanger the entire US Pacific base system as well as Japan” (p. 105). In January 1951, the Prime Minister of Japan sent a message to the US State Department, agreeing to “give the US all required military rights there” for “transferring title to the Ryukyus and Bonins” (p. 107). As a result, former US Secretary of State Dulles claimed that Japan had “residual sovereignty” in the Ryukyu Islands, which means: “The United States will not transfer its sovereign powers [administrative, legislative, and jurisdiction] over the Ryukyu Islands to any nation other than Japan” (p. 109). Therefore, it is questionable for the US, which has been so deeply involved in the Senkaku/Diaoyu Islands dispute, to “insist on remaining on the sidelines” (p. 120).

This is why China responded by saying, “the United States and Japan conducted backroom deals concerning the ‘power of administration’ over the Diaoyu Dao” (White Paper. China, 2012, p. 8). Harner (2011) seconded in his blog article, “it was the US acquiescence in (if not encouragement of) the Noda government’s decision to nationalize the disputed islands … that enabled this crisis” (para. 5). There is also supporting voice in the media, “indeed, the ambiguity of maintaining US neutrality on sovereignty yet giving Japan administrative power over the islands, backed by a mutual defense treaty, has emboldened Tokyo to nationalize the islands” (Cheong, 2012, para. 2).

Discussion

As mentioned before, territorial conflict is next to none in its frequency, severity, and consequences among all kinds of conflict. To guard against potential territorial conflict and strive for mutually beneficial resolutions, the theory of border institutions has been proposed, which refers to “sets of rules, compliance procedures, and moral and ethical behavioral norms designed to constrain behavior” (Simmons, 2005, p. 827). In the case of the Senkaku/Diaoyu Islands dispute, unwritten rules, compliance procedures, and ethical norms did exist since China’s Ming Dynasty in the 14th century till 1885. Thus, the Chinese envoys could use the islands as navigation aids during many mission voyages to the Ryukyu Kingdom, and the ocean areas around the islands could remain peaceful for so long. There were also common understandings and restrained behaviors on all sides of Japan, China, and Taiwan even after Japan secretly annexed the islands to its territory in 1885 and changed the name of the islands from Diaoyu to Senkaku. For instance, the Japanese government has done a good job for many years to keep not only foreigners but also its own nationals from approaching and developing the islands. It is when such status quo was violated that waves of dispute and conflict arose consequently.

In our theoretical framework, both positive and negative prospective scenarios have also been depicted with or without border institutions. As Giordano, Giordano, and Wolf (2005) noted, the most likely locations for territorial conflicts are “those in which (1) institutional development is hindered; (2) previously functioning institutions collapse; or (3) change in resource conditions outpace the ability for institutional adaptation” (p. 48). With regard to the Senkaku/Diaoyu Islands dispute, all these three conditions were met. Change in resource conditions resulted in the hindrance to and collapse of existing institutions. For example, the Japanese government declared that it was in the 1970s that China and Taiwan began arguing for the sovereignty over the islands only after the United Nations’ report of potential oil and gas reserves of 200,000 square kilometers in the East China Sea in 1968 (About the Senkaku Islands, 2013, p. 7).Taiwan was even caught to have changed the terminology of the “Senkaku Group of Islands” to “Diaooyutai Islets” in its middle school geography textbook (Appendix 11).

The Japanese government also insisted that there was no agreement to shelve the Senkaku/Diaoyu Islands issue when Japan and China normalized their diplomatic relations in 1972 and when they were negotiating for the Treaty of Peace and Friendship in 1978. Former Japanese Foreign Minister Maehara officially confirmed that at the Japan-China summit meeting on Sept. 27, 1972, “they [the Chinese] did not mention the words ‘shelving the issue,’ therefore; it cannot be judged that there existed any agreement of ‘shelving the issue’ from the meeting.” Maehara continued that, at the Japan-China summit meeting on Oct. 25, 1978, “‘shelving the issue’ was the remark made by Mr. Deng Xiaoping unilaterally” (About the Senkaku, 2013, pp. 9-10).

However, the Chinese government remarked that the Japanese Government, besides changing the name of Diaoyu to Senkaku to mislead the Chinese people, is also attempting to “write off with one stroke the consensus between the two nations” (Statement, 2012, para. 6). According to the Statement of China, the leaders of the two countries, during their summit meetings in 1972 and 1978 “reached important understanding and common ground on ‘leaving the issue of the Diaoyu Island to be resolved later’” (para. 6). This consensus “opened the door to normalization of China-Japan relations and was followed by tremendous progress in China-Japan relations and stability and tranquility in East Asia in the following 40 years” (para. 6).

It is even recorded in “About the Senkaku Islands” by MOFA of Japan, “Vice Premier Deng: ‘We refer to the Senkaku Islands as the Diaoyu…. At this time of negotiations on the Treaty of Peace and Friendship, we
agreed to leave the issue aside in much the same way”’ (p. 9). Deng’s remark of “we agreed to leave the issue aside” is written in black and white, but MOFA of Japan still denies there is no agreement to shelf the Senkaku issue. Professor Susumu of Yokohama City University further clarified, the exchange of Japanese apology in all sincerity and shelving of the Senkaku issue between former Prime Minister Tanaka Kakue and Chinese Premier Zhou Enlai were “removed in the MOFA-prepared transcripts,” which became “the source of mistrust between China and Japan” (Harmer, 2012, pp. 1-2).

When we reread Giordano, Giordano, and Wolfa’s (2005) four critical factors for long-term institutional success, which include: (1) clear language concerning resource allocation and quality control; (2) high degree of institutional adaptability; (3) allocating benefits considered more productive than allocating the resource; and (4) clearly defined conflict resolution mechanism in place (pp. 58-59), we cannot but emphasize President Ma Yingjeou’s peace initiative over the Senkaku/Diaoyu, which proposed that “all parties concerned hold conflicting standpoints, and that this is the cause of the long-standing disputes and the recent rise of tensions in the region” (East China Sea Peace Initiative by the Ministry of Foreign Affairs of the Republic of China, para. 4). In line with the critical factors for and as the first step towards long-term institutional success, Taiwan calls on all the involved parties to “resolve disputes peacefully based on the UN Charter and relevant provisions in international law” (para. 5).

Conclusion

The purpose of this study was to explore the interactions between the two sides and among the four parties over the Senkaku/Diaoyu Islands dispute with the intention to find out what is lacking in their communication for a genuinely peaceful and mutually beneficial solution to the multilateral international conflict. To this end, we raised three research questions and searched for the answers under the theoretical guidance of border institutions and the research methods of hermeneutics.

We found that, as the answer to RQ1, the three conflicting points in the claimants’ claims are: (1) the ownership of the Senkaku/Diaoyu Islands; (2) the change of hands of these islands; and (3) the US role in the dispute. As the answer to the RQ2, we found that in terms of the ownership of the Senkaku/Diaoyu Islands, Japan provided evidence that the islands were terra nullius after repeated survey when it annexed them with a Cabinet Decision in 1895. In response, both China and Taiwan supplied geographical and geological evidence, historical envoy mission records, maritime defense system, and letters between high-ranking officials of Japan as well as international conference declarations and the instrument of Japanese surrender. It is really hard to provide a universally accepted warrant as to which side the Senkaku/Diaoyu Islands belongs. Each side has vulnerable points in its claims. It appears that Japan is legally stronger in its evidence, but such legal evidence has been overshadowed by its secretive annexation of the islands without public notice and backroom deals with the US. Both China and Taiwan have provided rich historical, geographical, and ethical evidence; however, more legal evidence may be required for international law court resolution.

As the answer to RQ3, we found that what is lacking in the Senkaku/Diaoyu dispute is threefold: First, among the claimants, each claimant may need to study its own claims in relation to the mingled history and the positive future prospects. To avoid the worst in history from repeating itself and maintain stability and prosperity in bi-lateral or tri-lateral relations, Japan, China, and Taiwan ought to seek consensus again by calming down and sitting down for open dialogues and better understanding.

Second, since it has been so deeply involved in the Senkaku/Diaoyu Islands dispute and anxious to “play a larger and long-term role in shaping this region and its future” (Obama, 2011, para. 16), the US should play a more active, more responsible, and more impartial role. In other words, the US is expected to take the lead to establishing and maintaining international rules and norms, not just US core principles, and nurture mutually-beneficial partners with all claimants instead of just its allies. Just as Campbell, a renowned US diplomat for Asian affairs, stressed in an interview: “So we’re going to push hard for more diplomacy, more dialogue, and more caution, in both Beijing and Tokyo” (Kato, 2013, p. 6).

Last but not least, all the three claimants are advised to seek commonalities by putting aside differences and begin working out constructive border institutions. As mentioned before, border institutions can maintain peace between neighboring countries; whereas, catastrophic consequences may occur as a result of increasing conflicts when the existing institutions collapsed. In other words, territorial disputes may lead to military confrontations, but wise leadership guided by domestic needs and international norms may set the interactions between or among claimants and bilateral or trilateral relationships onto peaceful paths. Hopefully, by recognizing and appreciating the existing border institutions in the form of customary practices since the 14th century, all the three claimants, possibly under the influence or leadership of the US, start working together towards acceptable and legal resource conventions and treaties in the East China Sea today and South China Sea tomorrow.
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Notes.
2. Treaty of Shimonoseki on April 17, 1895, San Francisco Peace Treaty with Japan on Sept. 8, 1951, and the Okinawa Reversion Treaty on June 17, 1971
4. One geng equals 18.6 miles.

References
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Appendix 1: Japanese Cabinet Decision on Jan. 14, 1895

Appendix 2: Lease Contract between Zenji Koga and the US Navy in 1958
Appendix 3: Illustrated Compendium on Maritime Security of 1556

Zhouhai Tubian by Hu Songxian (1556)

Appendix 4: The Geographical Position and Bird’s Eye View of the Diaoyu Islands
Appendix 5: The Zhongshan Chuan Xin Lu by Xu Baoguang

The Zhongshan chuan xin lu by Xu Baoguang

- Inoue points out that the Senkaku Islands are the same color as other Chinese territories on Fumu, a map attached to the Sangoku Tsuran Zuzetu (Japanese: 三國通覧図説), a geopolitical book written by Hayashi Shihai in the late Edo era about Japan’s three neighboring countries. The book contains a map called

Appendix 6: Geographical Boundaries of the Ryukyu Islands

Geographical boundaries of the Ryukyu Islands (Source: U.S. Civil Administration Proclamation NO. 27, 1953)
Appendix 7: Letter of Appreciation from the Consul of the ROC in Nagasaki

[Letter of appreciation from the consul of the Republic of China in Nagasaki] [provisional translation]

In the winter of the 8th year (1949) of the Republic of China, 31 fishermen from Fujian Province were lost due to the stormy wind and were washed ashore on the Wayo Island, of the Senkaku Islands, Yaeyama District, Okinawa Prefecture, Empire of Japan. Thanks to the enthusiastic rescue work by the people of Tahigaki village, Yaeyama District, Empire of Japan, they were able to safely return to their homeland. With a deep response and admiration toward the people of the village who were willing and generous in the rescue operation, I express my gratitude by this letter.

Consul of the Republic of China in Nagasaki
20 May, 1953 (1920) of the Republic of China

Appendix 8: Article on the People's Daily dated Jan. 8, 1953

[The article on the People's Daily titled "Battle of people in the Ryukyu Islands against the U.S. occupation", dated 8 January 1953] [Excerpt, provisional translation]

"The Ryukyu Islands are scattered on the sea between the Northeast of Taiwan of our State (note: China, same in the following text) and the Southwest of Kyushu, Japan. These consist of 7 groups of islands: the Senkaku Islands, the Okinawa Islands, the Daito Islands, the Oshima Islands, the Okinawa Islands, the Oshima Islands, the Tokara Islands and the Osumi Islands. Each of them consists of a lot of small and large islands and there are more than 50 islands with names and about 400 islands without names. Overall they cover 4,670 square kilometers. The largest of them is the Okinawa Island in the Okinawa Islands, which covers 1,211 square kilometers. The second largest is the Amami Oshima Island in the Oshima Islands (the Amami Islands), which covers 730 square kilometers. The Ryukyu Islands stretch over 1,000 kilometers, inside of which is our East China Sea (the East Sea in Chinese) and outside of which is the high seas of the Pacific Ocean."
Appendix 9: Republic of China New Atlas published in 1933

Appendix 11: Change of Terminology in the Middle School Geography Textbook

1970
Identified as "the Senkaku Group of Islands"

1971
Identified as “Diaoyutai Islets”