

THE DOKDO /TAKESHIMA DISPUTE: RESPONSES AND APPROACHES

Azlie bin Ismail

The East Asian region is replete with numerous territorial conflicts. One such conflict is the Dokdo or Takeshima which represents the territorial conflict between South Korea and Japan. Both countries are contesting based on various factors ranging from historical facts, international law as well as nationalistic tendencies. One of the main factors causing this conflict is that the San Francisco Treaty of 1952 did not specifically deal with the status of the island. While Japan insists that Takeshima belongs to it, the South Koreans are claiming that Dokdo is part and parcel of their territory. Though Japan is ready to bring the case to the International Court of Justice, South Korea has flatly refused to entertain the idea. This article traces the history and recent developments as well as paths to settling the dispute. It proposes either arbitration or mediation as part of the solution in determining which country Dokdo/Takeshima belongs to.

Keywords: Dokdo, Takeshima, Sovereignty, United States, Arbitration, Mediation

Introduction

It has to be noted that international law has no clear set of norms in determining national sovereignty over disputed territories. Therefore, such disputes are notoriously difficult to solve. Territorial disputes are usually always linked to nationalism, economics, natural resources or strategic locations. Governments are unwilling to 'lose' disputed territory because they will suffer political consequences and their sovereignty. Failure indirectly exposes the fragility of a government in handling international conflicts thus giving advantages to other neighbouring countries to be a direct threat.

Territorial disputes especially in Northeast Asia have proven difficult to resolve.¹ It is because the region and the seas area are relatively small. Therefore, even islets and rocks can be the subject of competing claims. For example, Japan alone has many territorial disputes with its neighboring countries such as Russia and China over Kurile Islands and the Senkaku Islands. In the case of South Korea, Japan has been involve in the territorial dispute over two tiny rocky islets known as Dokdo. While South Korea acknowledges Dokdo as the official name of these islets, Japan refers to them as Takeshima.²

Dokdo / Takeshima is situated in the East Sea, at 215 km from mainland Korea and 211 km from Japan's main island, Honshu.³ The nearest South Korean island, Ulleungdo, is at a distance of 87.4 km, meanwhile the distance to the nearest Japanese territory, Oki Island is 157.5 km away.⁴ Dokdo / Takeshima comprises two main islands and 33 smaller – islets together with numerous small reefs. Since the end of World War II (1939 - 1945), the international community began to witness the rivalry between South Korea and Japan regarding

¹ Sean Fern, "Tokdo or Takeshima? The International Law of Territorial Acquisition in the Japan-Korea Island Dispute", *Stanford Journal of East Asian Affairs*, Vol. 5, No. 1, 2005, p 78.

² In general, Dokdo or Takeshima also known as the Liancourt Rocks by international community to show neutrality. Liancourt Rocks derives from *Le Liancourt*, the name of a French whaling ship which came close to being wrecked on the rocks in 1849.

³ Steven Borowiec, "South Korea | Treasured Islands", *The Caravan*, 1 September 2013, Retrieved on 5th June 2015 from <http://www.caravanmagazine.in/letters/south-korea-treasured-islands>.

⁴ National Geographic Information Institute, *The Geography of Dokdo*, Gyeonggi-Do, Seoul: Im joobin, 2009, p 21.

the ownership of Dokdo / Takeshima.⁵ Both countries are contesting based on various factors ranging from historical facts, international law and nationalism. While South Korea's basic argument is Dokdo belongs to it historically, geographically and based on international law,⁶ Japan argues that it had acquired the islets based on the fact that the territory was *terra nullius* or nobody's land.⁷

The history of the dispute began when Japan won in the Russo - Japanese War (1904 - 1905). During the war, Japan saw the potential of Ulleungdo and Dokdo as a secret base to observe the activities of the Russian fleet.⁸ Thus, Japan built a watchtower and installed a telegraph submarine communication line as an early warning system against any attack from Russia.⁹ Due to the strategic location of Dokdo, on 28th January 1905, the Japanese cabinet decided unanimously to register Dokdo as "Takeshima" on 22nd February of the same year.¹⁰ Furthermore, notice was issued to state that Takeshima was under Shimane prefecture's jurisdiction.¹¹ Since the area was perceived as *terra nullius*, Tokyo claimed it by giving the islets a Japanese name. Therefore, it can be concluded that the Japan's victory in the war against the Russians started the occupation of Dokdo.¹²

The Koreans tried to make a formal protest regarding the illegal incorporation by sending their representatives to the *Second Peace Conference in Hague*, Netherlands in 1907. However, they failed due to the fact that Korea's sovereignty was in the hands of the Japanese due to the *Eulsa Treaty of 1905*.¹³ The treaty made the Korean Peninsula a protectorate of Imperial Japan. Five years later, Japan officially occupied Korean Peninsula for 35 years through the *Japan - Korea Treaty of 1910*. Through this annexation, Dokdo effectively came under Japanese control. In Japanese policymakers' viewpoint, the very fact Dokdo was considered as *terra nullius* and the signing of these treaties in 1905 and 1910, made it possible for the imperial government to legally occupy Dokdo as Takeshima.

Japan's Post - Occupation of Korea

After the defeat of Japan in 1945, the Allied Powers placed the Korean Peninsula under their trusteeship. Koreans expected the return of all territories taken by Japan, in accordance with the *Cairo and Postdam Declarations*. At this stage the Korean Peninsula was divided into two sections with the Soviet Union and the United States (U.S) governing the northern and southern parts respectively. It can be argued that the Americans were aware of the conflict over the sovereignty of Dokdo. The intention of returning Dokdo to Korea was cited in the Supreme Commander for the Allied Powers Instruction Notice (SCAPIN) No. 677 and 1033

⁵ Fern, p 78.

⁶ "The Korean Government's Basic Position on Dokdo", (n.d.), Retrieved on 6th June 2015 from http://dokdo.mofa.go.kr/eng/dokdo/government_position.jsp

⁷ Kim Hong Nack, "The U.S. and the Territorial Dispute on Dokdo/Takeshima between Japan and Korea, 1945-1954", *International Journal of Korean Studies*, Vol. 13, No. 2, 2009, p 99, Retrieved on 6th June 2015, from www.icks.org/publication/pdf/2009-FALL-WINTER/6.pdf

⁸ "Dokdo Takeshima Island Liancourt Rocks The Historical Facts of the Dokdo / Takeshima Island Dispute Between Korea and Japan", 2015, Retrieved on 7th June 2015, from <http://www.dokdo-takeshima.com/the-russo-japanese-war-dokdo-i.html>

⁹ Ibid.

¹⁰ Takashi Tsukamoto, "The Meaning of the Territorial Incorporation of Takeshima (1905)", *Review of Island Studies*, 2014, Retrieved on 7 June 2015, from <http://islandstudies.oprf-info.org/research/a00014/>

¹¹ Ibid.

¹² "Dokdo Takeshima Island Liancourt Rocks The Historical Facts of the Dokdo / Takeshima Island Dispute Between Korea and Japan", (n.d.), Retrieved on 7th June 2015, from <http://www.dokdo-takeshima.com/the-russo-japanese-war-dokdo-i.html>

¹³ Carter J. Eckert et al., *Korean Resistance Against Japanese Aggression. In Korea, old and new : A history. Seoul, Korea*. Seoul: Published for the Korea Institute, Harvard University by Ilchokak, 1990, p 245.

respectively. Both instructions were based on the early determination of the status of Dokdo by the U.S. State Department.¹⁴ SCAPIN No. 677 which was dated 29th January 1946 defined the territories of Japan. At the same time, SCAPIN No.677 also established a boundary line, namely *McArthur Line* to forbid Japanese fisherman from fishing outside of that boundary.¹⁵ Dokdo was located outside of the *McArthur Line*. Therefore, the islets were excluded from Japan's political authority.¹⁶ Meanwhile SCAPIN No. 1033 dated 22th June of the same year explicitly stated that Japanese vessels were prohibited from approaching Dokdo within 12 nautical miles.¹⁷ In the meantime, the Americans also requested from the Koreans to use Dokdo as a bombing range which South Korean Prime Minister, Chang Myun (1950 - 1952) approved.¹⁸ In so doing , it can be reasonably argued that the Americans viewed Dokdo as Korea's territory.

Unfortunately, the question of ownership of Dokdo / Takeshima became more complicated when there was no mentioned about the sovereignty of the islets in the *San Francisco Peace Treaty 1951*.¹⁹ In the peace treaty negotiation, discussions centred around Japan recognizing South Korean sovereignty and also renouncing all rights, titles and claims to Korea including the island of Quelpart (Jejudo), Port Hamilton (Komundo) and Dagelet (Ulleungdo).²⁰ Throughout the drafting process, both South Korea and Japan tried to lobby the U.S regarding the sovereignty of Dokdo / Takeshima. The draft preparation became difficult because some drafts mentioned the sovereignty of Takeshima as belonging to Japan and others put forward South Korea as the legitimate owner.²¹ On 8th September 1951, The *San Francisco Peace Treaty* was officially signed between the Allied Powers and Japan but the status of Dokdo / Takeshima was not mentioned in the final document.²² The decision not to put the status of Dokdo / Takeshima into the treaty was likely due to security consideration, influenced by the need to create a safe place from being occupied by North Korea during the Korean War (1951 - 1953). Therefore, it can be viewed that Dokdo / Takeshima became a geopolitical buffer zone to Japan and the U.S to limit the spread of communism throughout the East Asian region.²³

The Koreans were disappointed and eventually that led to the establishment of the *Korean Presidential Proclamation of Sovereignty over the Adjacent Sea* or *Rhee Line* by South Korea's first president, Syngman Rhee (1948 - 1960) on 18th January 1952. *Rhee Line's* jurisdiction ran within an average of 60 nautical miles from the South Korean coast and beyond Dokdo. The proclamation indirectly sent a message to Japan that Dokdo is South Korean territory. *Rhee Line* principally replaced the *McArthur Line* and excluded the Japanese from the East Sea. Many Japanese vessels were seized and shot at because the fishermen violated the line. Therefore, Japan made formal protests.

¹⁴ Kim Hong Nack, p 103.

¹⁵ "Dispute over volcanic rocks a stumbling block in Korean - Japanese relations", *UCLA Center for Korean Studies*, Retrieved on 9th May 2016, from <http://www.international.ucla.edu/cks/article/163679>

¹⁶ SCAPIN No. 677.

¹⁷ SCAPIN No.1033.

¹⁸ Mark S. Lomo, "USAF Requested Permission from ROK PM for use of Liancourt Rocks as a Bombing Range (June 20, 1951)", *Dokdo-research.com*, Retrieved on 23 August 2015, from <http://dokdo-research.com/page8.html>

¹⁹ Seokwoo Lee, "The Resolution of the Territorial Disputes between Korea and Japan over the Liancourt Rocks", *Boundary & Territory Briefing*, Vol. 3, No. 8, 2002, p 5.

²⁰ San Francisco Peace Treaty 1951, (n.d.), *Taiwandocuments.org*, Retrieved on 26th March 2015, from <http://www.taiwandocuments.org/sanfrancisco01.htm>

²¹ Lee, S., Van Dyke, J., "The 1951 San Francisco Peace Treaty and Its Relevance to the Sovereignty over Dokdo", *Chinese Journal Of International Law*, Vol. 9, No. 4, 2010, p 784, doi: <http://dx.doi.org/10.1093/chinesejil/jmq030>

²² Ibid.

²³ Ibid.

Continued Controversies over Dokdo/Takeshima

Japan insisted that the Takeshima conflict should be referred to the International Court of Justice (ICJ) but the request was not supported by South Korea. In January 1965, Foreign Minister of Japan, Shiina Etsusaburo (1964 – 1966) came to Seoul to propose a settlement of Takeshima issue, South Korea again maintained refused to entertain the request.²⁴ In the normalization treaty between South Korea and Japan did not include Dokdo in the main agenda because Seoul tried to reduce Dokdo as a non. Further, South Korea needed Japanese aid for its economic development. Any conflict would jeopardize Japan's contribution. In the end, both countries agreed to resolve the dispute through diplomatic channels.²⁵ However, South Korea's status as a former colony of Japan has made it difficult for the dispute to be resolved.

Between 1965 and 2004, bilateral relations remained good despite lingering resentments about Dokdo / Takeshima. However, the situation became tense when South Korea issued stamps depicting various images of Dokdo in January 2004. The postage stamps named "The Nature of Tokdo," renewed bilateral hostilities. Japanese official argued that the issuance of the Dokdo Stamp violated the cooperative spirit of the Universal Postal Union.²⁶ South Korea disagreed by emphasized that Dokdo is part of its territory making the Japanese an infringement of Korean sovereignty.²⁷ In retaliation Japan decided to issue its own sets of stamps of Takeshima but later decided against it because of worsening diplomatic relations with South Korea.²⁸

Two years later, the issue of Dokdo / Takeshima erupted once again when the Japanese Coast Guard planned to conduct a marine survey in the vicinity of the islets in April 2006. The plan brought negative reactions from the South Korean government. South Korea if the survey was carried on, it will increase security around Dokdo and arrest the Japanese Coast Guards.²⁹ The Japanese argued that the area of was within its own Exclusive Economic Zone which meant there was no need to obtain South Korea's consent. Because Dokdo was the first Korean territory colonized by Japan, Roh Moo Hyun, the then South Korean Prime Minister viewed the island as a symbol of Korean sovereignty and Japan's actions were akin ton the behaviour of a colonizer.³⁰ Therefore, he demanded the Japanese government issue a formal apology for its previous occupation of Korea. With the US intervening, eventually both Jaoran and South Korea backed off.³¹

Apart from the postage stamp and the maritime survey incidents, the tension between South Korea and Japan regarding the Dokdo / Takeshima usually stirs up when the Japanese publish their history textbooks. Japanese approved textbooks bring concerns to the South Korean government because reading materials are perceived to contain distorted truths and description of Japanese colonization and controversial accounts such as the comfort women

²⁴ Kim Young-soo, "Dokdo and the Korea - Japan Normalization Talks : A Study on the 'Treaty on Basic Relations' and the San Francisco Peace Treaty", *Korea Focus*, 2008, available at http://www.koreafocus.or.kr/design2/layout/content_print.asp?group_id=102397

²⁵ Ibid.

²⁶ Park Kyung-seo, *Promoting peace and human rights on the Korean Peninsula*, Seoul, Korea: Ewha Women University Press, 2007, p 127.

²⁷ Ibid, p 128.

²⁸ Pak Kyung-seo, p 128.

²⁹ John Chan, "Tensions between Japan and South Korea heighten over island dispute", *World Socialist Web Site*, 3 May 2006, available at <https://www.wsws.org/en/articles/2006/05/japa-m03.html>

³⁰ Kim Tae Kyung, "S. Korean President Takes Tough Stand on Japan", *Oh my News*, 25 April 2006, available at http://english.ohmynews.com/articleview/article_view.asp?no=288099&rel_no=1

³¹ Ibid.

and forced labour issues.³² Controversial textbooks usually sparks reactions from Koreans. As an example on 5th April 2005, about 3,000 demonstrators rallied in front of the Japanese embassy in Seoul protesting the approval of textbooks and burned Japanese related effigies.³³ South Korean officials condemned the action even though Japanese officials claimed that they have rectified the issue. However, Koreans still perceived that Japanese revisions were still far from sufficient.³⁴ Spokesman of the Ministry of Foreign Affairs and Trade, Lee Gyu Hyung argued that it was very shameful that some textbooks still justified Japanese wrongdoings in the past.³⁵ Again on 14th July 2008, the South Korea government temporarily recalled its ambassador for three weeks as a sign of protest when the Japanese Ministry of Education issued new guidelines for middle school textbooks concerning the ownership of Takeshima.³⁶ The then South Korean Prime Minister, Han Seung Soo expressed dissatisfaction by remarking,

*There is no reason to argue for and against our sovereignty over Dokdo since it's obvious that the islets are our territory from standpoints of history and geography and international law... It is a serious problem that Japan's Education Ministry has publicly distorted history.*³⁷

As a result, South Korea started considering dispatching marine forces to bolster the security of Dokdo.³⁸ Moreover, the government planned to build amenities and infrastructures on Dokdo which would able to sustain human life.³⁹ However, the Korean Ministry of National Defense rejected the idea for fear of increasing possible military conflict between Seoul and Tokyo. Further, the ministry believed that,

*Stationing armed forces on the islets could be interpreted by the international community that the islets are disputed area, weakening Seoul's sovereignty over Dokdo.... Such a move would rather offer a chance for Tokyo to get ready to use its military forces over the Dokdo issue.*⁴⁰

Verbal skirmished between Seoul and Tokyo continued despite efforts to retain a form of normalcy in bilateral relations. In 2012, the situation escalated again when the then president of South Korea, Lee Myung Bak (2008 – 2013) made a sudden visit to Dokdo. It was the first visit paid by a South Korean president. The sudden visit was perceived to be a nationalistic and symbolic stand.⁴¹ The action enraged the Japanese government and Tokyo temporarily recalled the Japanese ambassador to Seoul. At the same time, Japan threatened not to follow through its currency swap agreement with South Korea. The decision was announced by the then Japanese

³² Yoon Jong-Koo, Cho Hun-Joo, "Japanese Textbooks Claim Dokdo", *The Dong a – Ilbo*, 5 April 2005, available at <http://english.donga.com/List/3/all/26/240652/1>

³³ Anthony Faiola, "Japanese Schoolbooks Anger S. Korea, China", *Washington Post*, 6 April 2005, available at <http://www.washingtonpost.com/wp-dyn/articles/A27855-2005Apr5.html>

³⁴ Ibid.

³⁵ Yoon Jong-Koo, Cho Hun-Joo, "Japanese Textbooks Claim Dokdo", *The Dong a – Ilbo*, 5 April 2005, available at <http://english.donga.com/List/3/all/26/240652/1>

³⁶ "South Korea to recall Japan envoy", *BBC News*, 14 July 2008, available at <http://news.bbc.co.uk/2/hi/asia-pacific/7504933.stm>

³⁷ Jung Sung-ki, "Dokdo to Become Inhabited Islets", *The Korean Times*, 20 July 2008, available at http://www.koreatimes.co.kr/www/news/nation/2015/04/116_27873.html

³⁸ Ibid.

³⁹ Ibid.

⁴⁰ Ibid.

⁴¹ Kee-seok Kim, "Lee Myung - bak's stunt over disputed islands", *East Asia Forum*, 19 August 2012, available at <http://www.eastasiaforum.org/2012/08/19/lee-myung-baks-stunt-over-disputed-islands/>

Finance Minister, Jun Azumi in a press conference dated 17th August 2012.⁴² According to him,

*It is back to the drawing board including whether to extend (the currency swap program. We are considering revising the original plan.*⁴³

The Currency Swap Agreement was a financial method used by Seoul and Japan to stabilize and prevent the recurrence of the 1997 Asia Financial Crisis. The deal was formed in 2001 and was expanded in the amount allocated thereafter to ensure South Korea had access to funds.⁴⁴ If Japan had decided to freeze the currency swap, it would affect the value of the Korean Won drastically. Further more, Korean exports would have faced higher high rates of inflation. Subsequently, imported product will be cheaper than the Korean's. Although the swap deal expired in 2012, both governments eventually decided to resume it in 2016 to enhance bilateral relations.⁴⁵

South Korea's Claim

South Korea claims of Dokdo dates back to the 18th century when Usanguk was annexed by the Silla Dynasty in 512 A.D.⁴⁶ Usanguk was an island kingdom consisting of Ulleungdo and Dokdo. In addition, South Korea also argues that Dokdo along with Ulleungdo was well known not only to Japan but also in Europe. In the map of the Kingdom of Korea drawn by French geologist, Jean Baptiste Bourguignon D'anville in 1737, Dokdo was known as *Tchian - chan - tao*, which is a Chinese pronunciation of "Usando," an old name of Dokdo, together with *Fan - ling - tao*, the Chinese name for Ulleungdo.⁴⁷ Therefore, it is reasonable to argue Dokdo as the appendage of Ulleungdo which belonged to Korea.

In the beginning of Joseon Dynasty, political instability in the royal family resulted in Japanese pirates plying the seas. The Joseon government was unable to provide safety to Ulleungdo.⁴⁸ Therefore the Joseon government implemented the *Vacant Island Policy* on 1416. Although many residents evacuated but some remained engaged in farming and fishing.⁴⁹ After the Japanese invasion of 1592 and 1598 led by Toyotomi Hideyoshi, of Busan and Seoul, the government ordered remaining civilians to evacuate.⁵⁰

In many instances, the Japanese acknowledged the sovereignty of Dokdo in their ancient documents. In the Map of Three Adjoining Countries produced by the Japanese military scholar

⁴² "Japan Wants Korea to Let ICJ Rule on Island Dispute", *Pressreader.com*, 2012, available at <https://www.pressreader.com/philippines/manila-times/20120818/281990374680420>

⁴³ Song Sang-ho, "Seoul spurns Tokyo's step on Dokdo", *The Korea Herald*, 2012, available at <http://www.koreaherald.com/view.php?ud=20120817000978>

⁴⁴ "Japan, South Korea to resume currency swap deal", *The Japan Times*, 2016, available at <http://www.japantimes.co.jp/news/2016/08/28/business/japan-and-south-korea-to-resume-currency-swap-deal/#.WMVp3PI97IU>

⁴⁵ Ibid.

⁴⁶ Shin Yoong-Ha, "Korea's territorial rights to Dokdo : A Historical Study" in *Insight Into Dokdo : Historical, Political and Legal Perspectives on Korea's Sovereignty* ed. The Korea Herald and Park Hyun-Jin (Gyeonggi-do: Jimoondang, 2009), p 74.

⁴⁷ Kim Hee-sung, "Old French map attests to Korea's ownership of Dokdo", *Korea.net*, 2008, available at <http://www.korea.net/NewsFocus/Culture/view?articleId=73357>

⁴⁸ Shin Yoong-Ha, "Korea's territorial rights to Dokdo : A Historical Study" in *Insight Into Dokdo : Historical, Political and Legal Perspectives on Korea's Sovereignty* ed. The Korea Herald and Park Hyun-Jin (Gyeonggi-do: Jimoondang, 2009), p 81.

⁴⁹ Ibid, pp 83-85.

⁵⁰ Ibid, pp 91-116.

Hayashi Shihei in 1785, Ulleungdo and Dokdo were marked as Joseon possession.⁵¹ During the Ahn Yong - bok incident in 1693, whereby Korean and Japanese fishermen fought for fishing rights, Japan again acknowledged that Dokdo belonged to Joseon. During the Tokugawa Shogunate, Japanese fishermen were prohibited from sailing and fishing around these islands. In other words Joseon was seen as the legitimate owner of Dokdo by the Shogunate.

South Korea has always argued due Japan's colonization of the Korean Peninsula, it had little leverage to fight against Japan. For example, Korea was helpless Dokdo was incorporated into the Shimane Prefecture during the Russo - Japanese War in 1905. In addition, because Ulleungdo and Dokdo were no longer independent, Korea did not have a standing in protesting the Japanese incorporation. For South Korea, the Cairo Declaration of 1943 and the Potsdam Declaration of 1945 effectively ended Japanese colonialism and forced it to renounce all occupied territories including that of Dokdo. South Korea also states that the issuance of SCAPIN No.677 by the Allied Powers defined the scope of Japan as consisting of the four main islands of Hokkaido, Honshu, Kyushu, Shikoku and approximately 1,000 smaller adjacent islands. Moreover, the SCAPIN notes also excluded Ulleungdo, Dokdo and Jeju from Japanese territory. Indirectly the sovereignty of Dokdo was transferred to the US military government in Korea from 29th January 1946 until the establishment of South Korea on 15th August 1948.⁵² More importantly, American assertion of Dokdo's independence was included in Section Five of SCAPIN No. 677. It stated clearly that,

*The definition of Japan contained in this directive shall be apply to all future directives, memoranda and orders from this Headquarters unless otherwise specified therein.*⁵³

In this sense, it can be concluded that the sovereignty of Dokdo remained intact with the US military government in the southern part of Korea⁵⁴. Hence South Korea is of the opinion that the transfer of sovereignty was done even before the creation of the country itself. This meant Dokdo was essentially a territory that automatically was an inherent territory transferred from American hands to the newly established South Korea.

Japan's Claim

In order to prove sovereignty over Takeshima, Tokyo intensified its efforts to gain support from domestic and international powers. For example Japan published a pamphlet entitled "10 Issues of Takeshima" in 2008.⁵⁵ According to Japan, the earliest Japanese records documenting the ownership of Takeshima dated back to the 17th century.⁵⁶ Back then, Ulleungdo was known as Utsuryo or Takeshima during the Edo Period (1603 - 1867). During this time, two Japanese families from Yonago, Hoki Province named Ohya and Murakawa were granted permission by the Tokugawa Shogunate in 1618 to travel to Takeshima to fish and harvest abalone to be

⁵¹ Ibid, p 105.

⁵² Ibid.

⁵³ SCAPIN No. 677.

⁵⁴ Ibid.

⁵⁵ Murray Barnett, "Information is knowledge", *Korea Times*, 6 August 2012, available at http://www.koreatimes.co.kr/www/news/nation/2016/12/261_140634.html

⁵⁶ Ministry of Foreign Affairs, Japan, http://www.ro.emb-japan.go.jp/stuff/pamphlet_10%20issues%20of%20takeshima.pdf, assessed 6 June 2015.

presented as a tribute to the Shogun. At the same time, Japanese fishermen used Matsushima or present - day Takeshima as a navigational port and fishing ground for sea lions.⁵⁷

As mentioned earlier, in 1962, dispute between Korean and Japanese fishermen occurred over fishing rights in Takeshima. Eventually this led to the capture of Korean fisherman Ahn Yong Bok.⁵⁸ When handing over Ahn to the Joseon government, the Japanese made written protests over Korean fishermen trespassing Takeshima. However, the Joseon government claimed that Ulleungdo belongs to Joseon and that it regularly dispatched its officials to patrol Ulleungdo. Through the investigation and clarification from the Tottori Prefecture, Takeshima was declared by the Japanese that it was not part of the Japanese territories.⁵⁹

However, Japan claims that the sovereignty of Takeshima was never discussed during the Ahn Yong Bok incident. In addition, both countries discussed about fishing rights and the banning passage of Japanese to Takeshima but they assert that the question about Matsushima did not crop up.⁶⁰ Although in 1693, the Tottori Domain verified that Japan did not exercise control over Ulleungdo, Japan opined that Matsushima supposedly used to be a stopover for Japanese fishermen.⁶¹ Subsequently, the Japanese argued that if Tokugawa then had recognised Matsushima as foreign territory, it should have banned in 1653 under the *Sakoku* policy which banned foreigners from entering Japan.

Moreover, according to the *Sekisui Nagakubo's Kaisei Nippon Yochi Rotei Zenzu* (Revised Complete Map of Japanese Lands and Road) published in 1779, it proves that Takeshima was part of the Shimane prefecture.⁶² The location of Takeshima and Matsushima was accurately recorded between the Korean Peninsula and the Oki Island.⁶³ Plus, in the *Inshu Shicho Goki* (Records on Observations in Oki Province) by the local official of Izumo, Toyonobu Saito in 1667 fully explained that,

*Inshu (Okinoshima Island) is located in the northern sea...When one travels northwest for two days and one night from the island, there is Matsushima. When one travels one more day, there is Takeshima...The two islands are uninhabited. Viewing Goryeo from there is the same as viewing Okinoshima Island from Izumo. Therefore, this island is the northwest boundary of Japan.*⁶⁴

In addition, in 1681, a written request submitted from the third generation of Oya family to the Tokugawa Shogunate contained the following description,

On the way to Takeshima (Utsuryo Island), there is a small island with a circumference of around 20 cho. There are no grass and trees. The island consists of rocks. Twenty - five years ago, with the permission of Shogun through Shirogoro Abe, I sailed to the island by boat. In this small island, I engaged in

⁵⁷ Ministry of Foreign Affairs, Japan, <http://www.kr.emb-japan.go.jp/territory/takeshima/position.html>, accessed 16 June 2015.

⁵⁸ Ibid.

⁵⁹ Ibid.

⁶⁰ Tsukamoto Takashi, "The Late – Seventeenth - Century "Takeshima" Dispute, with Reference to the Dajokan Order of 1877", *Review of Island Studies*, 29 August 2014, available at <https://www.spf.org/islandstudies/research/a00012/>

⁶¹ Ibid.

⁶² Jiji, "Shimane confirms 1760s maps showing Takeshima as part of Japan", *The Japan Times*, 2013, available at http://www.japantimes.co.jp/news/2013/08/01/national/shimane-confirms-1760s-maps-showing-takeshima-as-part-of-japan/#.WNYVw_197IU

⁶³ "Takeshima", *Eonet.ne.jp*, (n.d.), available at <http://www.eonet.ne.jp/~camus/English/Japan/takeshima.htm>

⁶⁴ Arato Yokokawa, "Takeshima", *The Japan Institute of International Affairs*, 2015, available at https://www2.jiia.or.jp/en/pdf/digital_library/Yokokawa_takeshima.pdf

*the work of hunting a few sea lions and collecting some fish oil. The distance from Dougo Fukuura in Okinoshima Island to this small island is about 60 ri.*⁶⁵

Japan also claimed that the rapid growth in sea lion hunting activities in the late 20th century made one of the residents of Oki Island, Yozaburo Nakai wanted legal rights to operate there and so requested permission from the government in 1904.⁶⁶ The purpose to monopolize the sea lion hunting business. Nakai was granted a three year lease starting from 1905 - 1908.⁶⁷ Following this request, Takeshima was properly registered into the State Land Register and incorporated into the Shimane Prefecture in 1905. In order to emphasize its authority over Takeshima, Japan also established a licensing system for sea lion hunting until 1941.⁶⁸ Therefore, the above indicated that besides being aware of the islet existence, Japan argued that its citizens actively conducted economic activities in Matsushima. Also, it was perceived that by giving out licenses and exploiting Matsushima's economic resources, that Japan exercised sovereignty over the area.

South Korean claims of Ahn Yong - bok's activity in claimed island was doubted by the Japanese government.⁶⁹ It claimed that his visit happened only after the Tokugawa Shogunate declared prohibition of passage to the island. Equally, neither Ohya nor Murakami families went to the island at that time. So, based on the Japanese government point of view, the testimony of Ahn Yong - bok was basically made by a guilty person for had violating his country's national prohibition policy.⁷⁰

Japan also perceived the refusal of recognition of South Korea's claim of Dokdo by the United States as an action to strengthen its own claims on Takeshima. During the drafting process of the *San Francisco Peace Treaty 1951*, South Korea requested that Takeshima should be added as one of the areas that Japan should renounce. However, the request was rejected by the United States, claiming that Takeshima was never a part of Korean territory.⁷¹ One report by US Ambassador Van Fleet which was made public in 1986, stated that,

*...the United States concluded that they (Takeshima) remained under Japanese sovereignty and the Island was not included among the Islands that Japan released from its ownership under the Peace Treaty.*⁷²

In 1947, U.S. Force decided to use Takeshima as a military training ground via the issuance of legal SCAPIN notes.⁷³ In Japanese government's defence, the issuance of notifications by the US requesting permission and dealing with the Japanese on this matter was taken as giving the recognition that Takeshima was part of Japan's territory.

⁶⁵ Ibid.

⁶⁶ Ibid.

⁶⁷ Seizaburo Tamura, "Fisheries administration in relation to Takeshima", *The Japan Institute of International Affairs*, 2016, available at http://www2.jiia.or.jp/en/pdf/digital_library/japan_s_territories/160414_Seizaburo_Tamura.pdf

⁶⁸ Ministry of Foreign Affairs, Japan, 2008.

⁶⁹ Ministry of Foreign Affairs, Japan, http://www.mofa.go.jp/a_o/na/takeshima/page1we_000066.html#q3, assessed 17 September 2015.

⁷⁰ Ibid.

⁷¹ Ministry of Foreign Affairs, Japan, <http://www.mofa.go.jp/region/asia-paci/takeshima/position.html>, assessed 23 September 2015.

⁷² Dong-Joon Park, Danielle Chubb, "South Korea and Japan: Disputes over the Dokdo/Takeshima islands", *East Asia Forum*, available at <http://www.easiaforum.org/2011/08/17/south-korea-and-japan-disputes-over-the-dokdotakeshima-islands/>

⁷³ Mark S. Lovmo, "The United States' Involvement with Dokdo Island (Liancourt Rocks): A Timeline of the Occupation and Korean War Era", *Dokdo-research.com*, 2004, available at <http://dokdo-research.com/page9.html>

Possible Approaches In Solving the Territorial Dispute

The discussion above clearly outlines the various methods and arguments of both South Korea and Japan. Territorial disputes have the potential to cause instability and create tension that might lead to a full blown conflict. Inability to solve such conflicts puts a strain not only on the warring states but also on international community as a whole.⁷⁴ As stated earlier, although South Korea refuses to bringing the case to the ICJ, there are other possible approaches in resolving the issue. These include international arbitration and mediation.

International Arbitration

As mentioned above, the refusal to seek judgement from the ICJ makes a judicial settlement impossible. Besides a judicial settlement, international arbitration is one of the leading methods in resolving disputes and conflicts. For example, when disputants agree to submit their dispute to one or more arbitrators who are selected by or on behalf of respective parties. The arbitrators then hear and adjudicate through legal procedures.⁷⁵ Since international arbitration is deemed as a legal means of settling disputes, it presuppose an obligation of the parties to accept the award or judgement. However, the most significant difference between arbitration and judicial settlement is the method used to establish the tribunal.⁷⁶ While, disputants select the arbitrators, judicial settlement involves the references of a dispute to a permanent court whose composition is normally fixed.⁷⁷ Under the term and conditions agreed by the disputants, the arbitrator works within a framework so that they do not exceed their authority under the referral.⁷⁸ A few cases similar to the Dokdo/Takeshima conflict provide an understanding of international arbitrations. Examples of international arbitration include the *Island of Palmas* issue (The United States v. The Netherland) and the *Clipperton Island* case (France v. Mexico).

i) *The Island of Palmas Case (1928)*

The Island of Palmas Case ([1928] 2 RIAA 829) was a case involving a territorial dispute over the Island of Palmas between the Netherlands and the United States. The case contributed a landmark judgement dealing with island territorial conflicts. Palmas or referred to as Miangas by the Netherlands is located between Mindanao, Philippines and Nanusa Island of Indonesia. The United States claimed sovereignty over the Palmas Island based on three main arguments. The first was that the island was *terra nullius* when Spain discovered it. Second, it was claimed to be a part of the Philippines based on the principle of contiguity and the last argument was that the United States had received the actual title from Spain through legitimate means during the *Treaty of Paris* in 1898. In this case, when Spain was defeated in the Spanish - American War, the sovereignty rights over Philippines was transferred to United States.⁷⁹

⁷⁴ Krista Wiegand, *Enduring territorial disputes : Strategic of Bargaining, Coercive Diplomacy & Settlement*. Athens, Ga.: University of Georgia Press, 2011, p 279.

⁷⁵ Gary B. Born, *International Commercial Arbitration : Commentary and Materials*, Kluwer Law International, New York, 2001, p 5.

⁷⁶ Ibid.

⁷⁷ "International Law: Cases and Materials", 1998.

⁷⁸ The Carter Center, "Approaches to Solving Territorial Conflicts : Sources, Situations, Scenarios, and Suggestions", *The Carters Center*, May 2010, available at https://www.cartercenter.org/resources/pdfs/news/peace_publications/conflict_resolution/solving_territorial_conflicts.pdf

⁷⁹ UN Office of Legal Affairs, "Island of Palmas case (Netherland, USA)", *United Nations*, 1928, p 866, available at http://legal.un.org/riaa/cases/vol_II/829-71.pdf

The Netherlands, on the other hand argued that it acquired the sovereign rights over Miangas Island based on the colonization activities of the Dutch East India Company in 1677. It claimed that this sovereignty arose out of conventions entered with the island's native princes since 17th century.⁸⁰ Moreover, the Netherlands argued that it had exercised sovereignty by spreading Protestantism and denying other nationals from residing on the island.⁸¹

The case eventually was brought before the Permanent Court of Arbitration on April 1928. The decision rendered by Justice Max H the arbitrator concluded that there are few weaknesses in the United States claims on the Palmas Island. He stated contiguity aspect had no foundation in international law.⁸² Moreover, mere discovery is insufficient and cannot compete against the continuous and peaceful display in order to establish sovereignty over an island. Huber also noted the transfer of sovereignty from Spain to the United States was invalid and considered as *Nemo dat quod non Habet*.⁸³ Therefore Spain did not exercise authority over the island which meant that it could not legally grant to a third party what it did not possess.⁸⁴

However, Huber agreed with the Netherlands's argument based on the fact that there were documented communications between the natives and the East India Company from 1677 onwards.⁸⁵ In this sense, East India Company claimed ownership to the vassal states around the Islands. Moreover, Huber agreed that the Netherlands' occupation was conducted peacefully without any protest and interruption. Since there were no conflicts, the Island of Palmas was awarded to the Netherlands. The summary of Huber's judgement is as follows,

If a dispute arise as to the sovereignty over a portion of territory, it is customary to examine which of the States claiming sovereignty possesses a title – cession, conquest, occupation... However, if the contestation is based on the fact that the other party has actually displayed sovereignty, it cannot be sufficient to establish the title by which territorial sovereignty...⁸⁶

There are few similarities with Dokdo/Takeshima conflict. The similarities can be viewed by the act of annexation. The Netherlands, through the Dutch India Company colonized the island kingdoms including the Miangas Island and became the owner of all these territories. Usanguk was perceived to be Ulleungdo and Dokdo, which is the adjacent territory of Ulleungdo. In 512 AD, Usanguk was incorporated into the Silla Dynasty by annexation and thus became a vassal state and sent tributes to the Silla Dynasty.

In addition, the Netherlands announced its occupation by exercising effective occupation such by establishing treaties with the locals, spreading protestanism and rejecting foreign entities on the island. The ancient dynasties of Korea also expressed effective occupation by exploiting the resources in the surrounding area of Ulluengdo and Dokdo, enforcing jurisdiction, and implementing the so called *Vacant Island Policy* to avoid chaos and disturbances caused by Japanese pirates.

For Japan, it had built a watchtower to observe the Russian fleet during the Russo - Japanese War of 1904 and this can be considered as a symbol of effective occupation of Takeshima, However, the construction was done before the annexation of Korea Peninsula.

⁸⁰ Ibid, p 862.

⁸¹ Ibid, p 856.

⁸² Ibid, p 869.

⁸³ *Nemo dat quod non habet* literally meaning "no one gives what he doesn't have" is a legal rule, sometimes called the *nemo dat* rule, that states that the purchase of a possession from someone who has no ownership right to it also denies the purchaser any ownership title.

⁸⁴ UN Office of Legal Affairs, "Island of Palmas case (Netherland, USA)", *United Nations*, 1928, p 842, available at http://legal.un.org/riaa/cases/vol_II/829-71.pdf

⁸⁵ Ibid, p 867.

⁸⁶ Ibid, pp 838-839.

Therefore Japan claims of Takeshima is weak and groundless. Since Korea established sovereignty through the *Vacant Island Policy*, it has a stronger case compared to Japan as Tokyo did not protest the policy.

ii) *The Clipperton Island Case (1931)*

In the Clipperton Island Case ([1931] 2 RIAA 1105) between France and Mexico, the court applied the Palmas rule to the case. The question posed to the court was whether both claimants had completed ownership claims by actual manifestations of sovereignty as determined by the Palmas case. France argued that it claimed Clipperton Island on 17th November 1858 as a result of a French Navy Lieutenant named Victor Le Coat de Kerweguen's discovery of the island during the process of making geographical notes under the instruction of Minister of Marine. Le Coat landed and left some members of the crew on the island. On 20th November, the aforementioned crew sailed again to the island but failed to reach the shore, leaving the island without any sign of sovereignty. However, Lieut. de Kerweguen notified the discovery of the new territory to the French consulate in Hawaii. France also asserted that the island was *terra nullius* during the discovery.⁸⁷

However, there were no signs of apparent act of sovereignty from France or other powers until 1887. In 1897, the French government found out that activities of collecting guano was carried out by Phosphate Co. of San Francisco from United States. The French demanded an explanation for it and the on 28th January 1898, the US responded did not have any sort of concessions nor has it any intention of claiming any title and right of sovereignty over Clipperton Island.⁸⁸

Mexico, on the other hand claimed the Clipperton Island was named after the English privateer, John Clipperton and was used as a hiding spot during the War of Spanish Succession (1701 – 1714). At the same time, Mexico presented proof by providing few alternate names such as Passion Island, Medano or Medanos indicating that the island was discovered by the Spanish Navy earlier, thus indirectly giving the impression that Mexico was aware of the existence of Clipperton. As the successor of the Spanish state, Mexico argued that the full sovereignty of the Clipperton Island should be given to it.⁸⁹

Both states eventually agreed to leave the question of Clipperton Island' ownership to their chosen arbitrator, King Victor Manuel of Italy. In his decision on 28th January 1931, he ruled that the sovereignty of Clipperton Island belonged to France and the reason was as follows,

*Consequently, when France expressed its sovereignty for Clipperton Island, the island was in the legal situation of territorium Nullius, and therefore there is a basis for accepting that France was in position to carry out occupation.*⁹⁰

The arbitrator concluded that the actual and not the nominal taking of possession was a necessary condition of occupation.⁹¹ In this case, although Mexico claimed sovereignty over the Clipperton Island, it did not display any occupation. At the same time, the arbitrator noted that Mexico failed to prove that the island was discovered by Spain. King Manuel on to say if

⁸⁷ International Law Students Association. *Judicial Decisions Involving Questions of International Law : France v. Mexico*, available at <https://www.ilsa.org/jessup/jessup10/basicmats/clipperton.pdf>

⁸⁸ Ibid.

⁸⁹ Ibid.

⁹⁰ Ibid.

⁹¹ Ibid.

Spain had discovered the island, then it would have established title and right by incorporating the island as part of Spain to claim sovereignty. Meanwhile, on the French side, the arbitrator found that France had displayed its intention clearly in obtaining the sovereignty over the island even though there were no activities conducted by the French. France clearly showed no intention of renouncing the aforesaid island. Furthermore, the arbitrator found that the French exercised effective occupation by formally protesting Mexico's claim, formal naval landing on the island and the creation of a guano procurement.⁹²

The arbitrator's judgement can be applied to South Korea claim of Dokdo. The *Vacant Island Policy* cannot be regarded as a sign of renouncing Dokdo. As stated above, Dokdo showed evidence of Korean occupation intermittently. Korean patrol dispatched to investigate and capture Japanese piracy activities gave the impression that Dokdo was controlled by the Koreans. The fact that Koreans did frequently live on Dokdo before and after the *Vacant Island Policy* proves that Dokdo never was *terra nullius* and always been under Korean authority. Hence Japan's occupation of Dokdo was unlawful. Thus, Dokdo is part of Korea's sovereignty.

Mediation

Besides arbitration, mediation is another form of resolving disputes between two or more parties. The UN Charter in its Article 33(1) lists mediation as a peaceful method of resolving international disputes.

*The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.*⁹³

Typically, the mediator will act as a third party to assist the disputant to negotiate a settlement. Bercovitch defines mediation as

*a process of conflict management, related to but distinct from the parties' own negotiations, where those in conflict seek the assistance of, or accept an offer of help from, an outsider whether an individual, an organization, a group, or a state to change their perceptions or behaviour, and do so without resorting to physical force or invoking the authority of law.*⁹⁴

Mediation is also a form of Alternative Dispute Resolution (ADR) whereby dispute settlement conducted by a single mediator assists in facilitating discussion and eventual resolution.⁹⁵ Moreover, in terms of cost, time and outcome, it normally takes lesser time to mediate a dispute.⁹⁶ There is also more likelihood of a positive relationship between parties as the mediator often seeks to keep the parties talking until consensus is reached.

⁹² Ibid.

⁹³ United Nations Charter, Article 33, Chapter IV.

⁹⁴ "Mediation in International Conflict: An Overview of Theory", *A Review of Practice*, 1997. (as cited in Juma, 2013).

⁹⁵ "Mediation vs. Arbitration vs. Litigation: What's the Difference?", *Findlaw*, (n.d.), available at <http://adr.findlaw.com/mediation/mediation-vs-arbitration-vs-litigation-whats-the-difference.html>

⁹⁶ "Engaging Both Parties In Mediation Within a Changing Funding Climate : Perspectives from Relate's mediation staff", *Relate*, (n.d.), available at <https://www.relate.org.uk/sites/default/files/publication-mediation-report-feb2014.pdf>

The Beagle Channel dispute highlights the extent to which mediation can be of assistance in resolving conflicting territorial issues.

Beagle Channel dispute 1904 (Argentina v. Chile)

Beagle Channel dispute was a territorial dispute involving not only maritime boundary but also the possession of Picton, Lennox and Nueva Islands (PNL Islands) between Chile and Argentina. These islands are strategically situated at the south edge of Tierra del Fuego and at the east end of the Beagle Channel. The dispute began when the Argentinian government made official claims over the islands. However, the islands have always been under Chilean jurisdiction. According to the Argentine government, the Boundary Treaty of 1881 signed by both states indicated that the course of the channel bends sharply to the south after passing Navarino Island and automatically puts the PNL Islands in Argentina jurisdiction.⁹⁷ Chile on the hand, countered the argument by stating that the Beagle Channel continues its path to the east past of the PNL islands to Cape San Pio, meaning that the islands lie south of the channel and thus belongs to Chile.

Initially, the question of Beagle Channel dispute was submitted to Court of Arbitration in 1971 under auspices of the United Kingdom's Queen Elizabeth as accordance to the Pact of May 1902. However, in 1978, The Argentina rejected the award based on fear that its access to the Atlantic from Ushuaia and the Antarctic bases full of potential resources of oils, minerals and other fishing resources might be affected if Chile was allowed formal access to the Atlantic under the award.

After the failure of the arbitration, Chile suggested the mediation approach to solve the dispute by electing Pope John Paul II as a mediator. On 12th December 1980, the Pope invited the Foreign Ministers of both states to the Vatican and gave them his answer. He proposed a solution wherein Chile retain its possession of PNL Islands, but only claim 12 miles of territorial waters instead of 200. In this way, this would allow Argentina to preserve its Atlantic sovereignty without requiring Chile to surrender the islands.

Since the mediation reduced the maritime claim surrounding the islands to 12 miles, which limited Chile's capability to make claims to the South Atlantic, Chile ceased to object. In 29th November 1984, the *Treaty of Peace and Friendship Between Chile and Argentina* effectively ended the conflict. Since then, Argentina has recognized the PNL Islands as Chilean territory. At the same time, the treaty also resolves few maritime issues such as navigation rights, demilitation of the straits of Magellan, the issue related to Fugiean Archipelago and so on.

In international law point of views, one of the main requirements of acquiring territory is the enforcement of effective control over the territory. Since 1948, South Korea has occupied Dokdo. Moreover, it has increased control on the islets through a variety of infrastructure projects and improvements, such as a newly constructed landing stage, desalinization plant and telecommunication facilities. At the same time, South Korea has done this to make the islets inhabitable so that Dokdo can generate it owns EEZ in accordance to UNCLOS. Hence, if South Korea uses the international arbitration approach, the decision would favour South Korea due to its full commitment and pledges in improving the islets.

In terms of mediation, risks of military conflict can be reduced once common ground is found. The bitter relations between South Korea and Japan persists because both parties are not

sensitive to each. Mediation can lower tensions and prioritize security, economic and social cooperation. In this situation, Mongolia would be the suitable candidate as mediator to this dispute. As a neutral state in East Asia, Mongolia has played major roles in reducing contentious issue in the said region. For example, the Mongolian President Tsakhiagiin Elbegdor organized the “Ulaanbaatar Dialogue on Northeast Asia Security,” in June 2014. The dialogue’s objective was to reduce distrust among East Asian nations. In the Global Partnership For the Prevention of Armed Conflict (GPPAC) Northeast Asia Regional Meeting in 2014, the track 2 dialogue based GPPAC proposed a dialogue between Seoul and Korea to reach mutual understanding in order to reduce tensions. Mongolia’s achievement in lowering tensions temporarily is noteworthy and it is indeed a suitable candidate for resolving South Korea and Japan disputes.

Conclusion

The Dokdo/Takeshima issue has become a barrier to the establishment of cooperation to a higher level between South Korea and Japan. This is due to differences of point of views; South Korean is still holding on strong to the its bitter past as a former colony. Japan on the other hand has failed to understand South Korean’s sensitivity and has refused to acknowledge atrocities of the colonial period. The differences has manifested in the dispute concerning of the ownership of Dokdo/Takeshima. Furthermore, the *San Francisco Peace Treaty of 1951* and *Basic Relations Treaty of 1965* have failed to address the conflict. While the *San Francisco Peace Treaty’s* agenda was to secure US interest in the East Asia, the *Basic Treaty of 1965* primarily focused on economic cooperation and compensation to South Korea. The behaviour of both countries at different times has escalated tensions. Presidential visits, issuance of postage stamps as well as carrying out surveya are few of the acts that both Japan and South Korea have been involved in. This has certainly added to the mistrust in the relationship. As we progress into a new world order, it is imperative that the conflict is managed in a responsible way. While in many areas of the world national boundaries are blurring, it is not the case in East Asia. Hence, South Korea and Japan have to choose either the ICJ, international arbitration or the mediation approach to the settle the issue. One other idea is even to establish joint authority of Dokdo and Takeshima between South Korea and Japan. Failure to resolve the issue will have great repercussions not only for Seoul and Tokyo but also the region at large.

References

- “Dokdo Takeshima Island Liancourt Rocks The Historical Facts of the Dokdo / Takeshima Island Dispute Between Korea and Japan”, 2015, Retrieved on 7th June 2015.
- “Engaging Both Parties In Mediation Within a Changing Funding Climate : Perspectives from Relate’s mediation staff”, Relate, (n.d.), available at <https://www.relate.org.uk/sites/default/files/publication-mediation-report-feb2014.pdf>
- “Japan Wants Korea to Let ICJ Rule on Island Dispute”, Pressreader.com, 2012, available at <https://www.pressreader.com/philippines/manila-times/20120818/281990374680420>
- “Japan, South Korea to resume currency swap deal”, *The Japan Times*, 2016, available at <http://www.japantimes.co.jp/news/2016/08/28/business/japan-and-south-korea-to-resume-currency-swap-deal/#.WMVp3P197IU>
- “Mediation in International Conflict: An Overview of Theory”, A Review of Practice, 1997.
- “Mediation vs. Arbitration vs. Litigation: What's the Difference?”, Findlaw, (n.d.), available at <http://adr.findlaw.com/mediation/mediation-vs-arbitration-vs-litigation-whats-the-difference.html>

“South Korea to recall Japan envoy”, BBC News, 14 July 2008, available at <http://news.bbc.co.uk/2/hi/asia-pacific/7504933.stm>

“Takeshima”, Eonet.ne.jp, (n.d.), available at <http://www.eonet.ne.jp/~camus/English/Japan/takeshima.htm>

“The Korean Government’s Basic Position on Dokdo”, (n.d.), Retrieved on 6th June 2015 from http://dokdo.mofa.go.kr/eng/dokdo/government_position.jsp

Born, G., *International Commercial Arbitration :Commentary and Materials*, Kluwer Law International, New York, 2001.

Borowiec, S., “South Korea | Treasured Islands”, *The Caravan*, 1 September 2013, Retrieved on 5th June 2015 from <http://www.caravanmagazine.in/letters/south-korea-treasured-islands>.

Chan, J., “Tensions between Japan and South Korea heighten over island dispute”, World Socialist Web Site, 3 May 2006, available at <https://www.wsws.org/en/articles/2006/05/japan-03.html>

Eckert, C et al., *Korean Resistance Against Japanese Aggression. In Korea, old and new : A history*. Seoul, Korea. Seoul: Published for the Korea Institute, Harvard University by Ilchokak, 1990, p 245.

Fern, S., “Tokdo or Takeshima? The International Law of Territorial Acquisition in the Japan-Korea Island Dispute”, *Stanford Journal of East Asian Affairs*, Vol. 5, No. 1, 2005, <http://www.dokdo-takeshima.com/the-russo-japanese-war-dokdo-i.html>

International Law Students Association. *Judicial Decisions Involving Questions of International Law : France v. Mexico*, available at <https://www.ilsa.org/jessup/jessup10/basicmats/clipperton.pdf>

Jiji, “Shimane confirms 1760s maps showing Takeshima as part of Japan”, *The Japan Times*, 2013, available at http://www.japantimes.co.jp/news/2013/08/01/national/shimane-confirms-1760s-maps-showing-takeshima-as-part-of-japan/#.WNYVw_197IU

Jung, S.K., “Dokdo to Become Inhabited Islets”, *The Korean Times*, 20 July 2008, available at http://www.koreatimes.co.kr/www/news/nation/2015/04/116_27873.html

Kim ,H.S., “Old French map attests to Korea's ownership of Dokdo”, *Korea.net*, 2008, available at <http://www.korea.net/NewsFocus/Culture/view?articleId=73357>

Kim, Hong Nack, “The U.S. and the Territorial Dispute on Dokdo/Takeshima between Japan and Korea, 1945-1954”, *International Journal of Korean Studies*, Vol. 13, No. 2, 2009, p 99, Retrieved on 6th June 2015, from www.icks.org/publication/pdf/2009-FALL-WINTER/6.pdf

Kim, K.S., “Lee Myung - bak’s stunt over disputed islands”, *East Asia Forum*, 19 August 2012, available at <http://www.eastasiaforum.org/2012/08/19/lee-myung-baks-stunt-over-disputed-islands/>

Kim, T.K., “S. Korean President Takes Tough Stand on Japan”, *Oh my News*, 25 April 2006, available at http://english.ohmynews.com/articleview/article_view.asp?no=288099&rel_no=1

Kim, Y.S., “Dokdo and the Korea - Japan Normalization Talks : A Study on the ‘Treaty on Basic Relations’ and the San Francisco Peace Treaty”, *Korea Focus*, 2008, available at http://www.koreafocus.or.kr/design2/layout/content_print.asp?group_id=102397

Lee, S., “The Resolution of the Territorial Disputes between Korea and Japan over the Liancourt Rocks”, *Boundary & Territory Briefing*, Vol. 3, No. 8, 2002, p 5.

Lee, S., Van Dyke, J., “The 1951 San Francisco Peace Treaty and Its Relevance to the Sovereignty over Dokdo”, *Chinese Journal Of International Law*, Vol. 9, No. 4, 2010, p 784, doi: <http://dx.doi.org/10.1093/chinesejil/jmq030>

Lomo, M., "The United States' Involvement with Dokdo Island (Liancourt Rocks): A Timeline of the Occupation and Korean War Era", Dokdo-research.com, 2004, available at <http://dokdo-research.com/page9.html>

Lomo, M., "USAF Requested Permission from ROK PM for use of Liancourt Rocks as a Bombing Range (June 20, 1951)", Dokdo-research.com, Retrieved on 23 August 2015, from <http://dokdo-research.com/page8.html>

Ministry of Foreign Affairs, Japan,

http://www.mofa.go.jp/a_o/na/takeshima/page1we_000066.html#q3, assessed 17 September 2015.

Ministry of Foreign Affairs, Japan, <http://www.mofa.go.jp/region/asia-paci/takeshima/position.html>, assessed 23 September 2015.

Ministry of Foreign Affairs, Japan, [http://www.ro.emb-](http://www.ro.emb-japan.go.jp/stuff/pamphlet_10%20issues%20of%20takeshima.pdf)

[japan.go.jp/stuff/pamphlet_10%20issues%20of%20takeshima.pdf](http://www.ro.emb-japan.go.jp/stuff/pamphlet_10%20issues%20of%20takeshima.pdf), assessed 6 June 2015.

Murray Barnett, "'Information is knowledge'", *Korea Times*, 6 August 2012, available at http://www.koreatimes.co.kr/www/news/nation/2016/12/261_140634.html

National Geographic Information Institute, *The Geography of Dokdo, Gyeonggi-Do*, Seoul: Im joobin, 2009, p 21.

Park, D.J., Chubb, D., "South Korea and Japan: Disputes over the Dokdo/Takeshima islands", *East Asia Forum*, available at <http://www.easiaforum.org/2011/08/17/south-korea-and-japan-disputes-over-the-dokdotakeshima-islands/>

Park, K.S., *Promoting peace and human rights on the Korean Peninsula*, Seoul, Korea: Ewha Women University Press, 2007.

San Francisco Peace Treaty 1951, (n.d.), [Taiwandocuments.org](http://www.taiwandocuments.org/sanfrancisco01.htm), Retrieved on 26th March 2015, from <http://www.taiwandocuments.org/sanfrancisco01.htm>

Shin, Y.H., "Korea's territorial rights to Dokdo : A Historical Study" in *Insight Into Dokdo : Sovereignty* ed. *The Korea Herald* and Park Hyun-Jin, "Historical, Political and Legal Perspectives on Korea's" (Gyeonggi-do: Jimoondang, 2009).

Shin, Y.H., "Korea's territorial rights to Dokdo : A Historical Study" in *Insight Into Dokdo :*

Song, S.H., "Seoul spurns Tokyo's step on Dokdo", *The Korea Herald*, 2012, available at <http://www.koreaherald.com/view.php?ud=20120817000978>

Takashi, T., "The Late – Seventeenth - Century "Takeshima" Dispute, with Reference to the Dajokan Order of 1877", *Review of Island Studies*, 29 August 2014, available at <https://www.spf.org/islandstudies/research/a00012/>

Tamura, S., "Fisheries administration in relation to Takeshima", *The Japan Institute of International Affairs*, 2016, available at

http://www2.jiia.or.jp/en/pdf/digital_library/japan_s_territories/160414_Seizaburo_Tamura.pdf

The Carter Center, "Approaches to Solving Territorial Conflicts : Sources, Situations, Scenarios, and Suggestions", *The Carters Center*, May 2010, available at https://www.cartercenter.org/resources/pdfs/news/peace_publications/conflict_resolution/solving_territorial_conflicts.pdf

UN Office of Legal Affairs, "Island of Palmas case (Netherland, USA)", United Nations, 1928, p 866, available at http://legal.un.org/riaa/cases/vol_II/829-71.pdf

UN Office of Legal Affairs, "Island of Palmas case (Netherland, USA)", United Nations, 1928, p 842, available at http://legal.un.org/riaa/cases/vol_II/829-71.pdf

Wiegand, K., *Enduring territorial disputes : Strategic of Bargaining, Coercive Diplomacy & Settlement*. Athens, Ga.: University of Georgia Press, 2011.

Yokokawa, A., "Takeshima", *The Japan Insitute of International Affairs*, 2015, available at https://www2.jiia.or.jp/en/pdf/digital_library/Yokokawa_takeshima.pdf

Yoon, J.Koo, Cho, H.J., “Japanese Textbooks Claim Dokdo”, *The Dong a – Ilbo*, 5 April 2005, available at <http://english.donga.com/List/3/all/26/240652/1>