Island disputes and the "oil factor" in the South China Sea disputes

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Abstract
The South China Sea has long been regarded as one of the key potential flashpoints for conflict in the Asia-Pacific, alongside North Korea and Taiwan. Recently tensions have been on the rise and relations between China and the other South China Sea littoral states have become more fraught – characterised not only by diplomatic claim and counter-claim (though frequently framed in less than diplomatic language) but also, more worryingly, by confrontations at sea.

Context, as they say, is everything. This article briefly outlines geopolitical drivers that sustain these complex and seemingly intractable disputes, and seeks to shed light on their international legal dimensions. It suggests that China in particular has been driven to adopt extreme positions in order to secure access to what Beijing tends to regard as its proper share of the resources, especially seabed energy reserves, of the South China Sea. However, such resources may not, in fact, prove to be the kind of panacea for regional energy security concerns that they are sometimes perceived to represent. Nonetheless, if present trends are sustained, further incidents are highly likely. Before proceeding to assessment of those issues, a brief consideration of the disputed South China Sea islands is in order.

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ISLAND DISPUTES
AND THE ‘OIL FACTOR’
IN THE SOUTH CHINA SEA

by Clive Schofield

THE SOUTH CHINA SEA has long been regarded as one of the key potential flashpoints for conflict in the Asia-Pacific, alongside North Korea and Taiwan. Recently tensions have been on the rise and relations between China and the other South China Sea littoral states have become more fraught – characterised not only by diplomatic claim and counter-claim (though frequently framed in less than diplomatic language) but also, more worryingly, by confrontations at sea.

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Dangerous Ground

The South China Sea disputes tend to focus on possession of several groups of islands, sovereignty over which is contested among multiple claimants. Remarkably, for all of the attention devoted to the disputed South China Sea islands over the years, some uncertainty remains over their geographical characteristics.

Looking at a map of the region, the key island groups in the South China Sea are, clockwise from the northwest: the Paracel Islands (disputed between China and Vietnam), the Pratas Islands (administered by Taiwan but, inevitably, claimed by China also), Scarborough Reef (or Shoal) together with Macclesfield Bank (contested between China and the Philippines) and the Spratly Islands group (see Figure 1). The Spratly Islands are claimed in whole or in part by no fewer than six states or entities (in the case of Taiwan) – Brunei, China, Malaysia, the Philippines, Taiwan and Vietnam. With the exception of Brunei, all of these claimant states occupy and garrison at least one of the disputed features.

Accordingly, the Spratlys Islands represent the primary point of contention among the South China Sea littoral states. The Spratlys group comprises around 150-170 islands, islets, rocks, reefs, shoals and low-tide elevations. That different authors offer different figures regarding precisely how many Spratly Islands there in fact are, is testament to the bewilderingly varied character and types of insular features in question. This complexity has tended to lead to disagreement over which features to count, resulting in different figures. The Spratlys also have different names in multiple languages, including Chinese, English, French, Malay, Filipino and Vietnamese as well as variants within these languages, adding a further problematic dimension to the equation. For convenience this essay refers to the most commonly used English names of local features.

The Spratly Islands are uniformly small, isolated and uninhabited save for garrisons of occupying troops and government personnel. The tiny dimensions of the Spratly Islands is underscored by the fact that the largest, Itu Aba (Taiping Island), occupied by Taiwan, is a mere 1.4km long and 370m wide, with an area of approximately 50 hectares. Indeed, a review of hydrographic records suggests that as few as 36 of the Spratly “Islands” are actually above water at high tide. Collectively these features have an estimated total area of less than 8km² (3 sq. miles) scattered over approximately 240,000km² of the southern South China Sea (Figure 1).

The Spratly Islands are therefore almost vanishingly small specks of territory, in a broad swath of ocean space semi-enclosed by the surrounding mainland and main island coastlines of the littoral states. Indeed, for most of their history the Spratlys have been known as places to avoid because of the dire threat to the safety of navigation that they pose, rather than as the highly desirable real estate that they have become. This is well illustrated by the fact that on British Admiralty charting, the area now commonly known as the Spratly Islands group has traditionally, and aptly, been labelled “Dangerous Ground”.

All the more remarkable, then, that these seemingly insignificant and intrinsically worthless features are the cause of such angst in regional relations.
As at least some of the Spratly Islands are indeed above water at high tide, they constitute land territory, no matter how small, that can be subject to sovereignty claims on the part of surrounding coastal states. Such territorial claims are notoriously hard to reach compromise on as they instantly engage with a core state interest: safeguarding territorial integrity. Such disputes are readily hijacked by nationalists, leaving extremely limited leeway for dispute resolution—a situation that, arguably, works to the advantage of governments keen to bolster legitimacy and popularity and prepared to do so by appearing firm on territorial and border issues.

The Spratly Islands are located in close proximity to sea lanes which are vital to the generally resource-poor and thus import-dependent major economies of East and Northeast Asia. In particular the South China Sea forms an important part of the sea lane of communication (SLOC) carrying seaborne energy supplies from the Middle East, Africa and Australia. The military significance of the installations on the Spratlys has also been touted in this context. That said, shipping tends to avoid rather than sail through the disputed islands, which remain hazards for navigation. The military worth of small bands of troops garrisoned on the disputed islands is also militarily questionable save perhaps for their role as listening posts.

It is noticeable, however, that many sovereignty disputes over small, sparsely inhabited and far-flung islands, including those of the South China Sea, have only manifested themselves in the post-World War II period, as extended claims to maritime jurisdiction became more prevalent. That such tiny features may have the potential to provide the basis for broad maritime claims offers a seductive additional dimension to the sovereignty disputes over them. This is particularly the case given strong, though not necessarily well-founded, presumptions that the ocean spaces associated with these disputed features contain valuable marine resources, especially seabed energy resources.

Two factors suggest that the ‘oil factor’ in the South China Sea disputes tend to be overlaid. The first of these relates to the international legal status of the disputed islands—and thus their capacity to generate extensive maritime claims or significantly influence the course of future maritime boundaries in the South China Sea. The second concerns the existence (or non-existence) of South China Sea hydrocarbon resources themselves, and their likely impact on the regional energy security picture.

When is an island a Rock?

The islands are often regarded as the key to the South China Sea disputes, not only because the disagreements represent the primary source of contention among the littoral states but also because they are viewed as having the potential to generate extensive claims to maritime jurisdiction and thus offer access to a significant prize in terms of marine resources. Such broad maritime claims would, however, only result if the disputed features were actually capable of generating such extensive maritime claims and, crucially, were awarded full weight in the delimitation of future maritime boundaries in the South China Sea. Both of these propositions are open to question.

All of the South China Sea states with the exception of non-UN member Taiwan are parties to the United Nations Convention on the Law of the Sea (UNCLOS). Article 121 of the Convention articulates the “regime of islands” in international oceans law. In accordance with UNCLOS an island is defined as “a naturally formed area of land, surrounded by water, which is above water at high tide”. In principle the maritime claims made from islands should be determined in the same manner as for “other land territory”. Islands can therefore be used as the basis for advancing claims to a 12 nautical mile broad territorial sea as well as continental shelf and exclusive economic zone (EEZ) rights out to 200 nautical miles.

There is an exception to the rule, however. Article 121, paragraph 3 provides for a disadvantaged sub-category of islands, formally termed “rocks”, that are incapable of supporting human habitation or an economic life of their own. Such features “shall have no exclusive economic zone or continental shelf”. This represents an enormous disadvantage in terms of capacity to generate claims to maritime jurisdiction. Thus, if an island had no maritime neighbours within 400nm, it could generate 125,664 sq nm [431,014km2] of territorial sea, EEZ and continental shelf rights as compared to the capacity of a “rock” to generate a territorial sea claim of 452 sq nautical miles (1,550km2).

Great volumes of academic ink have been expended in the quest for clear distinctions between islands, capable of generating continental shelf and EEZ rights, and mere rocks, which cannot. To little avail. Such efforts have proved futile, as Article 121, paragraph 3 was drafted in a deliberately ambiguous manner in order to satisfy competing, indeed diametrically opposed, positions and interests among the drafters of UNCLOS. This provision of the Convention is, as a result, open to radically differing interpretations in order to enable consensus on a particularly controversial issue.

Clearly at least some of the disputed features of the Spratly Islands remain above water at high tide. At first glance many of these would, however, seem to most readily fit the description of rocks. There is, though, no way to be conclusive on this point because Article 121 of UNCLOS lacks an objective test. Some of the claimant states, notably Malaysia and Vietnam, have indicated that they are of the view that the disputed islands should be treated as rocks and therefore generate territorial seas of no more than 12 nautical miles. If all the claimant states were to accept this position, the maritime area in dispute would shrink significantly. It is clear, however, that China does not agree. It has stated in explicit terms that it not only possesses “indisputable” sovereignty over the disputed islands (despite the palpable reality that such disputes do indeed exist), but also that the islands are capable of generating the full suite of maritime zones, including EEZ and continental shelf rights.

Even if at least some of the Spratly Islands are, in fact, capable of generating EEZ and continental shelf claims, there is
Figure 1: Competing Maritime Claims in the South China Sea

little reason to anticipate that they would necessarily give rise to jurisdiction over broad maritime spaces on behalf of whichever coastal state is ultimately deemed to hold sovereignty over them. The putative delimitation of maritime boundaries is between small, isolated features among the Spratly Islands, on the one hand, and the long mainland and main island coasts surrounding them, on the other.

There is significant disparity in the length of relevant coasts under such a scenario. It is highly unlikely that the disputed islands would be accorded full effect in the delimitation of a maritime boundary. Indeed, there is a growing trend internationally of small islands, especially those that are remote, sparsely inhabited or completely uninhabited, and which possess restricted coastal fronts, being awarded only limited impact on their respective maritime boundaries. Instead, they have often been awarded only territorial sea rights as though they were indeed mere rocks.

**Temptations and illusions:**
the “Oil Factor” in the South China Sea

There is a strong, long-standing perception of the South China Sea as a major potential repository of seabed oil and gas resources. It is a view not well supported by evidence. The South China Sea’s reputation as an oil rich region arises in part from a fervent desire on the part of interested parties for this to be the case, and tends to be perpetuated through misinterpretation of oil reporting terminology and a general lack of reliable data.

All of the South China Sea states face increasing energy security concerns. The rapid industrialisation of East and Southeast Asian economies has led to sharp, and ongoing, increases in demand for natural gas and petroleum-derived products. At the same time many of the countries concerned are facing stagnating or declining domestic oil and gas production leading to growing reliance on imported energy resources to meet the gap between supply and demand. Of the six direct parties to the South China Sea islands disputes, China, the Philippines and Taiwan are already strong net importers of oil while Malaysia and Vietnam are on the cusp of becoming net importers. While Brunei Darussalam remains a net exporter of oil, on a global or even regional scale it is not a major player. Enhanced energy security concerns have created a compelling incentive for these states to seek sources of supply ‘close to home’. This has made claimants extremely reluctant to concede any potential source of supply falling within the scope of their own potential jurisdiction, such as may underlie disputed parts of the South China Sea.

Estimates of the hydrocarbons resource potential of the South China Sea vary wildly. As a direct consequence of the existence of the island disputes and overlapping maritime claims, very little exploration work, such as 3D seismic surveys or exploratory drilling, has been undertaken. As a result, estimates tend to be restricted to geology-based assessment methodologies, and are necessarily highly speculative – something that helps to explain why such estimates vary so much. Geology-based assessments have their limitations, but can offer useful guidance. In particular, they can indicate areas where it is highly unlikely that oil and gas will be found, such as the broad swath of the central South China Sea to the north of the Spratly Islands, which is underlain with oceanic crust. There are key geological ‘play elements’ necessary for the formation of oil reservoirs: the presence of a highly porous and permeable sedimentary reservoir, organic rich source rock, and a low permeability seal or capping rock. While these geological conditions are required for oil to be present, they offer no guarantee that oil will, in fact, be found. There are several areas of the southern South China Sea which are geologically most attractive and apparently prospective. These include the peripheral parts of the South China Sea where sediment thicknesses are generally greater, localised areas of favourably thick tertiary sediments to the East of the Spratly Islands group (e.g. the Reed Tablemount), and some relatively thick sediments distributed over areas to the Southeast and West.

Crucially, estimates also tend to be loosely defined, often as a consequence of poor understandings of proper oil reporting terminology. In particular there is frequently a lack of distinction between estimates of resources versus estimates of reserves. Resource estimates, are estimates of the volume of oil in situ in the ground. Reserve estimates are the proportion of the resource that can be recovered in light of technical feasibility and market price. For example, for a frontier field a reserve estimate may equate to only around 10 per cent of the overall resource estimate. Many estimates also fail to distinguish between the hydrocarbon resource types (conventional oil, unconventional oil, natural gas, gas hydrates) under discussion. All of these factors lead to confusion and tend to inflate the potential significance of South China Sea seabed energy resources.

In this context it is worth noting that the South China Sea is generally considered to be predominantly gas-prone. While the region’s oil resources remain a speculative quantity, East and Southeast Asian states are, in fact, comparatively rich in gas resources. But there are considerable limitations on the potential for gas to be used as a substitute for oil, and there are significant transportation challenges associated with recovery and movement of gas deposits. In combination these factors undermine the business case for the development of South China Sea hydrocarbons resources. This is especially so for gas resources in light of declining gas prices globally, at least in part as a consequence of the ongoing rise of shale gas. Finally, the considerable time lag between discovery and delivery of “first oil” has to be factored in. This is yet another complicating element that has to be balanced against the realities of seabed energy resources and a political context governed by seemingly intractable multilateral disputes over ownership, and escalating regional energy security concerns. Governments and investors alike should therefore treat with a healthy degree of caution any suggestion that the South China Sea is “oil rich” or that it may even represent “the next Middle East”.

CURRENT INTELLIGENCE
FALL 2012: 6/15
In recent times Chinese maritime surveillance and enforcement agencies have undertaken a number of troubling activities in waters close to the coasts of Indonesia, Malaysia, the Philippines and Vietnam. These have included enforcement activities related to fisheries jurisdiction, as has been done with respect to waters that Indonesia considers part of its EEZ, as well as interventions to disrupt Malaysian, Philippine and Vietnamese oil and gas survey and exploration activities in those states’ respective coastal waters. Further, in June 2012 the China National Offshore Oil Corporation (CNOOC) issued tenders for oil concessions in close proximity to the Vietnamese coastline.

All of these interventions and incidents have taken place in waters closer to the mainlands (or main islands) of the surrounding coastal states than to the disputed South China Sea Islands.

Even the provision of “maximum effect” – the claim to maritime zones based on the construction of a strict, equidistant line between the surrounding mainland coasts and the disputed islands – would be inadequate (and dubious) justification for Chinese enforcement activities. Instead, for all of its repeated assertions that its claims are “clear” and “indisputable”, China’s actions appear to be sustained only by questionable historical claims. The most notable example of this is its infamous nine-dashed line claim, the exact meaning of which has never been officially explained and remains opaque; it is now depicted graphically as a map embedded in Chinese passports, much to the chagrin of neighbouring South China Sea states.

Arguably China has been driven to adopt these positions, the “hard place” alluded to in the opening lines of this article, in order to sustain claims to the more prospective parts of the South China Sea: areas in the vicinity of the islands themselves, and peripheral parts of the Sea in close proximity to the shorelines of other South China Sea states, where substantial depths of sediment (and therefore oil) exist. China’s increasingly pressing energy security concerns provide a backdrop and strong incentive in this regard. Further drivers underlying China’s position are its long held sense that it has been poorly served by predominantly Western-inspired international law and treaty relations, as well as frustration that despite its own long coastline, China’s maritime claims are constrained and hemmed in by its regional neighbours and their competing claims. In contrast, the other South China Sea claimants fundamentally reject any Chinese claim to what they regard as their rightful offshore, coastal maritime spaces. These states appear intent on exploiting the resources that their adjacent waters may offer, not least because they face their own energy security imperatives. In light of China’s increasing propensity to flex its new-found maritime muscles in precisely these same areas, the scene appears set for further frictions and confrontations in the Sea, especially over access to marine resources.
NATIONALISM (rarely low) is up in Asia. Disputes over islands, fisheries, oilfields, visits to shrines and even national dances are the current mainstay of regional press coverage. Manifestations of patriotism in Asia are nothing new, and have long sat along a continuum varying from acceptance to extreme resistance. The nastier forms of nationalism demand attention, though.

One notable example has been anger expressed in Chinese streets at Japan’s purchase of the Senkaku/Diaoyu Islands in September 2012. This violent nationalism derives in part from China’s Patriotic Education Campaign, introduced in the wake of the Tiananmen massacre, and at times its adherents show a fascist tinge. Of similar concern is the stance espoused by Japan’s more nationalist politicians. Worrying, then, is that extreme rhetoric will rise as the 16 December elections in Japan draw near, raising the risk of tensions, perhaps even an accidental conflict between two of Asia’s great powers.

Less violent expressions of nationalism, such as those defined through economic regulation, are also on the increase. They appear less egregious. It is not easy to identify when economic regulation shifts from being a reasonable, if burdensome, regulatory tool to something prejudicial. But as any investor would attest, the distinction is crucial. Two current examples have arisen, in Mongolia and Indonesia.

In Mongolia, people have gained little from a resources boom; they still live in “gers” (traditional tents) and scrape a living. Accordingly, politicians claim a desire to apportion some mining company earnings to the people, an ostensibly laudable aim. A tax increase for mining businesses, a new strategic investment law, and efforts to force major companies, such as Turquoise Hill, a subsidiary of mining giant Rio Tinto, to renegotiate contracts, all seem justified, then.

Similarly in Indonesia, a mining boom has encouraged politicians to pass laws obliging companies to build smelters near plants, thereby adding to local jobs, and to hand their interests to an Indonesian counterparty ten years after investment. The government has also restricted certain foodstuffs, and is channelling imports through particular ports, ostensibly so as to build local capacity and improve social conditions.

However, a nefarious motive often underlies these noble ends. In Indonesia, many measures favour the interests of powerful businesses, such as those controlled by the Bakrie family or by presidential hopeful Prabowo Subianto. Similarly, in Mongolia, nationalist ministers often turn out to be involved in the sector in question. Vested interests thus subvert measures, orchestrate their introduction, or rely on them to assist in seizing assets. Either way, unless states are careful, the rules come to favour only local robber barons.

A related fear is that economic nationalism can be self-defeating. Take coal. It is demand for coal in China that has led to much investment and has emboldened Ulaanbataar. Mongolia became China’s biggest supplier of coal in 2011 (sending in some 43% of its imports), and expanded production from about 10 million tonnes in 2008 to nearly 20 million tonnes in 2011. Its industry, moreover, is still nascent.

Shifting policy to take account of demand seemed wise, even if it is actually quite risky. The first difficulty is that Ulaanbataar’s tough stance towards investors relies on the assumption that China’s fast growth will continue as before, a belief increasingly questioned. Indeed, the US Conference Board’s Global Economic Outlook published projections in November 2012 that Chinese GDP will grow only 6.9% in 2013, falling to 5.5% from 2014 to 2018. The lack of demand in China’s export markets, such as the European Union and the US, shows little sign of picking up.

A second, longer term concern is the shale gas revolution, which may ease pressure on energy markets. The US is now a major gas supplier. Russia is also claiming huge shale reserves, as have Canada and China. Coal, and, thereby Mongolia, may be the loser. Should prices fall, Ulaanbataar’s longer term prognosis may appear based on a top of the market calculation, and the country may be misguidedly risking its relationship with the investor community.

For their flaws, though, these nationalisms have a purpose. They tie individuals and groups together, and unify territories disparate in language, geography and culture. But at what stage do they become self-defeating? Is it when they are hijacked by corrupt oligarchs to further their interests, or is it when they provoke a war?

Nationalism is not organic, after all. It is built by governments or groups with particular agendas, and is usually defined in opposition to something or somewhere. And, as Doctor Johnson would have it, it remains the refuge of scoundrels – in Asia today, as in Georgian England.
THE DICTATORSHIP OF CIVIL SOCIETY IN TAJIKISTAN
Faisal Devji | OXFORD DIARY

The fall of the Soviet Union gave rise to a narrative about the “transition” to democracy, for which the concept of civil society was seen as being foundational. Represented by new-fangled NGOs on the one hand, and on the other by more traditional religious or economic institutions, civil society was meant to establish peace in post-Soviet societies by limiting the reach of the state and indeed politics in general, seen as the source of conflict and violence there. I want to argue here that the reverse is actually the case. Civil society in its post-Cold War incarnation, which is very often funded from abroad, serves both to prevent the establishment of democratic politics, as well as increase the risks of conflict and so the possibility of violence.

What the idea of civil society does in the post-Cold War period is to depoliticize the “people” in whose name it claims to speak. For unlike in its republican conception, the people’s role is no longer revolutionary, to found a new political dispensation. It is meant rather to limit politics either in a libertarian or neoliberal way. Unlike the role it had played from the nineteenth century and late into the twentieth, civil society is not seen in liberal terms today. It is no longer supposed to make politics possible, because this would require the prior constitution of a people in some kind of explicitly political, if not necessarily revolutionary way. In fact the people can only be invoked by or in the name of the state, which also recognizes the presence of conflict and even enmity within it. That the people should be divided and possess enemies is crucial to its existence as a political entity.

What would it mean to be a people without the possibility of conflict and in the absence of a state? Outside this political context the people possesses no meaning, with any claim to represent it as a whole echoing the equally preposterous one made by dictators who rig elections in which they are endorsed by 99% of voters. Without the state and its institutionalization of conflict, in parties and parliaments, violence comes to mark social relations in a way that can lead to civil war. On its own civil society is unable to found a new politics, only to protest against an old one. Whether it is the Occupy movements in Europe and America, or the more successful Arab Spring, civil society activism can at most dislodge governments but never constitute them. And this means that it is condemned eventually to offer up the people to the state in a kind of sacrifice.

I shall take as my example of this sacrifice the recent violence in a region of Tajikistan inhabited by an ethno-religious minority. Previously known after their mountainous homeland as Pamiris, this group is today increasingly identified by the purely sectarian name of “Ismalis”. The change in designation, which disconnects Pamiris from a local and indeed national politics to link them with a transnational and apolitical religious identity, came about as the devastating civil war in Tajikistan was drawing to a close in the late 1990s. At that time the Ismaili spiritual leader – the Aga Khan, based outside Paris – averted a humanitarian catastrophe by having his NGO, the Aga Khan Development Network (AKDN), provide food and other forms of relief in the region where his followers lived.

The role played by the AKDN in Tajikistan’s Badakhshan province represented a victory for the “neutrality” of civil society in a sensitive region, preventing as it did the direct intervention of the UN, NATO or any regional power in a potentially “separatist” area located on the Afghanistan border. But despite its good work during the decade and a half in which it has dominated the area, the AKDN has come no closer to effecting a “transition” to democracy there, let alone in the country as a whole. This is due to the nature of civil society activism itself, more than to the peculiarities of Tajikistan. For the AKDN’s “success” was due entirely to the weakness of Tajikistan’s new government, with the autonomy of its civil society activism compromised with the regime’s stabilization, and especially once Russia and the US started competing for influence and military bases there.

In July this year Tajikistan launched a large-scale and entirely unexpected military incursion into this technically autonomous region. Ostensibly, the move was about arresting former rebels who had been granted amnesty after the civil war, and who were apparently involved in drug trafficking and violence across the Afghan border. Vastly disproportionate to its apparent cause, this deployment resulted in the killing of at least twenty civilians and the assassination of a number of former rebels. Given that the AKDN had taken on the role of a state in its provision of services and employment over the past decade, these events in Badakhshan constituted a direct attack on its influence and left its reputation in tatters. Indeed it may not be an overstatement to suggest that the AKDN was as much the target of the incursion as were the former rebels. But what could be more predictable than the attempt of a state to regain control of its territory, even if only to secure a share in the trafficking profits that seem to have bypassed Dushanbe?

With a naïve faith in its own resources and international connections, especially in the West, the AKDN had in effect destroyed its own bargaining position with the Tajik regime, not only by urging the disarming of former rebels, but also by dismantling the structures of local authority in Badakhshan. Tying “development” there to an unrepresentative organization run and funded from abroad, the NGO set itself up as the chief spokesman for the Pamiris with the state, through the Aga Khan’s “Resident Representative” in the capital of Dushanbe. This process of dismantling local authority was also extended to the cultural and religious life of Badakhshan, with arbitrary changes made in leadership, ritual and doctrine. It was all done in the name of efficiency, the same reason given for the AKDN’s unrepresentative model of development. Their poverty has allowed the institutions of Pamiri religious as much as economic authority to be transferred into the hands of strangers in Europe.

The Tajik state no doubt appreciated the truly “efficient” way in which the AKDN, and the Ismaili religious bodies that it informally supported, deployed their political neutrality and resources to depoliticize the Pamiri population and speak on its behalf, purely in the language of development and civil society. Yet the AKDN’s influence and foreign connections would also have worried any government concerned with its sovereignty and territorial integrity. In the process the Pamiris, who had long been a regional majority and a national minority – which is to say a recognizably political
entity—were quickly being transformed into a transnational religious movement. And this only allowed them to be attacked as traitors and religious deviants with access to funds and assistance from abroad. And indeed, despite its wholesome reputation for development, the absorption of Pamiris into a non-state organization like the AKDN put them in the same structural position as more sinister movements of transnational militancy, some of which have also adopted a civil society model.

Having helped to save Pamiris from violence, pestilence and famine during the civil war, the AKDN, together with the Ismaili religious organizations that shadow it, ended up making them more vulnerable to attack. This is partly due to their entering into what appears to be an informal pact with the government, in which the latter is allowed to have its way while the AKDN and its religious shadows engage in murky financial and other transactions. A number of the Ismaili religious bodies, for example, seem to have no official existence in Tajikistan, though the funds they receive from abroad appear to be transmitted by the AKDN, even though its role is not meant to include this kind of support. These organizations then hire Pamiris who, in violation of Tajik law, possess no recognized employment status or identification, and can therefore be picked up at any time by the state’s security agencies.

In addition to the uncertain tax implications involved in such arrangements, they guarantee the quiescence and loyalty of Pamiris. Unlike the expatriates who run the AKDN and its religious outliers, for instance, Pamiris are often kept for years on short-term consultancy contracts with no benefits such as pensions or health insurance, making them vulnerable to the state as much as to their employers, who can dismiss them at will for any reason at all. Their loyalty, in other words, is bought by insecurity as much as gratitude for the employment given them as a favour. However necessary these arrangements may be thought to be in a post-Soviet context, they also end up making the NGO sector dependent on the state and complicit in its actions. For the AKDN and its satellites require the government’s favour to engage in such dealings in the same way as they dispense favours to others.

Tied as they are in a relationship of co-dependency, in which the state is increasingly coming to dominate civil society, the AKDN has itself become a threat to the security of Pamiris, partly because it appears to confuse its own protection with that of the people it claims to represent. In the wake of July’s violence, for example, neither the AKDN nor any Ismaili religious body has issued any public statement condemning the state’s actions or, indeed, giving Pamiris any instructions or advice, apart from demanding their further disarmament. Given the rumours of another attack by Tajik forces, this silence by the “neutral” institutions of a foreign-funded civil society works only to prevent a resolution to the problem brought to light by the violence this summer. So a letter recently sent to the Aga Khan by a number of Pamiris, an electronic copy of which I received over Skype from some of the authors in Dushanbe, contains the following plea:

We are deeply concerned about the lack of responsibility, empathy and participation of the leaders of the National Council who, according to community members, do not attend community meetings when invited by the people through the local khalifas, stating that they must remain neutral in such a situation [...]. We are confused by their response and are at a loss—whom can we turn to in such a dire situation that affects the lives and securities of all jamati members? We feel that the unwillingness of those appointed as your representatives, either in the AKDN or the jamati institutions, to engage with, advise or instruct members of the community, is a dereliction of leadership and responsibility that is deeply demoralizing. We have heard no word about the progress of any negotiations or the planning for any contingency in the uncertain political atmosphere of Tajikistan, and this can only increase the anxiety of your murids.

The passage quoted above is from the second letter sent by some of the signatories. They had received not a word of response, no doubt for legal and diplomatic reasons, to a first letter sent to the Aga Khan late in August. At that time demonstrators had peacefully taken to the main square in Khorog, asking for its council to convene and legalize the gathering so that protestors could demand the army’s withdrawal as well as the resignation of the provincial leadership for acquiescing in its violation of Badakhshan’s autonomy. The head of the Aga Khan Foundation in Tajikistan, however, persuaded them to rely upon the informal negotiations that he and others were conducting with the government. While leading eventually to the army’s replacement by the secret service, the agreement reached seems not to have addressed popular concerns, and those supporting the demonstrators continue to be harassed and arrested. The important thing to note about this event, however, is that it made clear the fundamentally anti-political attitude of Badakhshan’s “civil society” institutions, which worked to dissuade people from acting as citizens and institutionalizing conflict in the political process. Surely if there was any sign of a transition to democracy in post-Soviet Badakhshan this was it, but such a move would threaten the ability of the AKDN to speak on behalf of Pamiris.

The AKDN, of course, together with the Ismaili religious bodies (known as jamati institutions) linked to it, are most likely involved in extensive behind the scenes negotiations with the government and other parties in order to secure the protection of the Pamiri population. This security they probably think will only be compromised by demonstrations and demands, but the question to ask is how responsible these civil society organizations might have been for the violence whose repetition they are now working to prevent? The authors of the letter to the Aga Khan are clear about the fact that the non-availability of political action, or rather its forestalling by the AKDN, together with the latter’s own secrecy and silence, may well encourage a self-destructive resort to arms by some young Pamiris:

We do not wish to hide from you the rumors that some of the younger members of the Jamaat have identified a weapons supply lines and are arming themselves as we speak, preparing themselves for the new offensive, and although they lack experience of warfare, many of them do not wish to act as passive observers to the unjust attack, and we therefore are concerned that the repercussions of this offensive will end in greater loss of human life. [...] We, your spiritual children, feel helpless and scared right now, as we prepare ourselves for another attack. Unless something is done, we foresee a large number of us taking up arms to
Recognizing the fact that the AKDN and its associated “jamati institutions” have become the mainstays of Badakhshan’s subservience, the Tajik government now flaunts its patronage of these organizations. The President claims to have made their operations possible, and newspapers report that permission for the Aga Khan to visit his followers might be withdrawn for his own security given prevailing conditions. In other words the institutions of civil society are being held hostage to guarantee the good behaviour of Pamiris, thus acting as a brake on their autonomy and political development. Facing the prospect of being humiliated before their own clients, who have until now been fed with unrealistic stories about the wealth and power of the Aga Khan, these institutions are not likely to do anything more than submit ever more unctuously to government decrees, if only in order to maintain their authority over the Pamiri population and continue the work of development which is somehow meant to lead to freedom. The fact that TCELL, the mobile phone company partly owned by the Aga Khan, ceased working during the army action in July and for a couple of months afterwards, is already being seen as a sign of civil society’s capitulation to the state, in a move damaging to the AKDN as a whole.

This is the conclusion to which the supposedly smooth and efficient provision of services, achieved by the elimination of political rivalries, is inevitably driven. Politics cannot be avoided and must be engaged with, a fact that the transitory power of the AKDN and its form of civil society had only obscured over the last decade. Fractious though it may always have been, Pamiri society had at least possessed its own forms of cultural, religious and other authority even in the Soviet past. But their fragmentation and transportation abroad in the era of global civil society activism have done nothing more than limit the possibility of social integrity and political agreement in Badakhshan. Pamiris must realize that in some ways the AKDN and its religious satellites need them more than the reverse, since the profile and credibility of these institutions would be severely damaged without a role to play in Tajikistan. The task before them is therefore to take control of such institutions while at the same time participating in political life under their own name, and not as part of Ismailism’s “frontierless brotherhood”. In no other way can a transition to democracy, even if only at a provincial level, ever be achieved in Tajikistan.

OBAMA’S ASIA PIVOT: BETWEEN SOME ROCKS AND A HARD PLACE
Jon Western | THE QUIET AMERICAN

As tensions persist between China and Japan over the disputed islands in the East China Sea, the United States faces the almost impossible task of simultaneously reassuring and constraining its regional allies, while ensuring that it does not escalate its own tensions with Beijing. On one level it is hard to see how China and Japan could become so consumed over a small set of remote islands and it remains unclear how serious the crisis is. Yet, over the past several months, Chinese and Japanese ships have been patrolling the same waters with both laying territorial claims to the area. And, earlier this fall, U.S. Defense Secretary Leon Panetta warned that the escalating tensions and close proximity of Chinese and Japanese vessels could lead to some triggering event and conflict.

The island dispute, however, is only a small part of the much larger geostrategic dance and set of regional challenges associated with China’s rise. In September 2012, The Economist wrote that all sides see their posturing as part of the future power alignment in the region:

The islands matter, therefore, less because of fishing, oil or gas than as counters in the high-stakes game for Asia’s future. Every incident, however small, risks setting a precedent. Japan, Vietnam and the Philippines fear that if they make concessions, China will sense weakness and prepare the next demand. China fears that if it fails to press its case, America and others will conclude that they are free to scheme against it.[1]

Washington has not taken a position on the sovereignty of the islands, but it has publicly announced that the islands fall within the commitments of its mutual security agreements with Japan. Nonetheless, Japan, South Korea, and other U.S. allies remain anxious. One cause for concern is China’s assertiveness. The other is potential U.S. global retrenchment in the face of its internal debt and decade-long wars in Iraq and Afghanistan. In the absence on a comprehensive regional security framework, the United States has long played the role of regional balancer by providing its allies with an extensive set of bilateral security arrangements. With America’s current debt burden, public exhaustion with the wars in Iraq and Afghanistan, and continued sluggish economic trends at home, uncertainty about America’s commitment and overall strategic posture is creeping into the discussion. Many in the region worry that America’s departure from Afghanistan in 2014 might lead to a retrenchment from global responsibilities, in a fashion similar to that which followed the American withdrawal from Saigon in 1975.

High levels of uncertainty about China’s future have also exacerbated concerns about the future of American power in East Asia. It has been widely projected that China will continue to rise and may overtake the U.S. economy in the next half century. This led to a number of claims and concerns about the potential for conflict during this anticipated hegemonic transition or hegemonic parity.

Today, however, there are now increasing signs and worry that China will not keep up the same pace. While it may eventually reach and surpass the size of the U.S. economy, China faces a number of internal contradictions and challenges. Projections suggest that growth rates are likely to hover between six and eight per cent rather than the 10 and 12 per cent rates sustained
over the past two-and-a-half decades. China's high domestic savings rate and low domestic consumption rate create extensive dependency on exports. The government is under intense pressure to ensure adequate job growth to absorb new migrants. And in the beginning of a new leadership transition, the Communist Party is under pressure to control corruption and widespread economic criminal activity.

Longer-term trends suggest even greater challenges. Despite China’s impressive economic gains, the sheer size of its population means the country’s per capita GDP is still well below the world average -- just above US$5,000 per year. Even if, or when, its aggregate GDP catches up to that of the United States, it will continue to face much higher levels of inequality than found in the West. Furthermore, a number of social challenges are looming that will create significant long-term fiscal pressures. China’s population is aging with nearly 30 per cent of its population projected to be over the age of 60 by 2020. It currently does not have a comprehensive social security system to provide levels of care and support for this aging population once they leave the workforce. Likewise, environmental degradation and the associated affects on public health have not been addressed. The government has deferred efforts for comprehensive reforms on all of these fronts. But, it is clear it will need to address them, and they will require significant fiscal outlays.

All of this will put increasing pressure on the Communist Party and threaten its legitimacy and control. If history is any judge, we may well see greater regional and global aggressiveness both to demonstrate its power and deflect domestic dissent.

This is the context of America’s current “pivot” to Asia. Thus far, the Obama administration has redeployed a modest number of naval assets to the region. And it also has publicly confirmed that the disputed islands fall under the mutual defense treaty with Japan and that the United States would side with Japan in any dispute. Yet, unlike Europe, the region is not well institutionalized to help manage diplomatic or security challenges. A recent study from the London School of Economics warned, for example, that ASEAN has little capacity to cope with a significant conflict between Washington and Beijing.

This puts a much greater burden on Washington to develop a more comprehensive strategic posture. In a recent study, the Washington-based Center for Strategic and International Studies concluded that thus far the United States has fallen short. It argued:

> The top priority of U.S. strategy in Asia is not to prepare for a conflict with China; rather, it is to shape the environment so that such a conflict is never necessary and perhaps someday inconceivable. It is therefore critical that the United States can achieve and maintain a balanced combination of assurance and dissuasion to shape the environment.

> Identifying and reaching that delicate “balanced combination” is not going to be easy, given the dynamic nature and interconnectedness of events in the region, and the fluidity of perceptions and uncertainty about the future of U.S. and Chinese power in the region. Nonetheless, this is really the only viable approach, and the island dispute does demonstrate that it is now time to think much more comprehensively about how to avoid escalating conflicts, and ensure long-term stability in East Asia.

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**THE FUTURE OF INFORMAL ECONOMIES**

Scott Smith | DISCONTINUITIES

Economists, anthropologists and other social scientists have spent the past three decades probing, sizing and documenting so-called informal economies— from the structures and behaviors of deviant subcultures and black markets to informal production and labor dynamics. More recently, technologists, designers and social innovation experts have taken notice of these unstructured, unofficial, “unseen” economies as future growth sources and incubators for innovative practices. This past October, I was fortunate enough to speak at the Informal Economies Symposium in Barcelona organized by design group Claro Partners, where representatives from all of these groups came together to kick off a macro examination of the subject. The goal of the event was to improve understanding of the relationship between informality and formality, and to discern what the nature of this relationship can teach us about where global economies are headed.[4]

Our collective exploration started with Keith Hart, the anthropologist who himself coined the term “informal economies” in a seminal paper on labor in Ghana written for the International Labor Organization in 1973.[5] Hart’s insights anchored subsequent talks and panel discussions. Informal economies were probed from multiple angles, by design and social innovation thinker John Thackara; strategic designer Richard Tyson; design strategist Niti Bhan, who has studied so-called “prepaid” economies in India and Africa; Steve Daniels of IBM and Makeshift Magazine, whose graduate research focused on “maker” economies; and a number of other technologists, social innovation experts and entrepreneurs.

Against the backdrop of resurgent informality in Spain itself (the result of seriously ailing local and global economies), the discussion was rich with reflection on recent experiences in the field, problems with current “casual” thinking about informal economies, and open questions about how informality impacts the prospects for our own economic and social design. Throughout the day, speakers shared field and research lab experiences alike. The symposium was exploratory and inquisitive rather than declarative. As the putative inception stage of a longer process of discovery, it fused together disciplines and insights, and set us on a path toward greater understanding of the role of informality.
Hart's opening call asked us to rethink how we define informality, particularly as the "formal/informal pairing", as he calls it, was shaped both by the polarities of the Cold War, and later fragmentation of the economic order that the global industrial powers had sought to impose after World War II. For Hart, this "we/they" construct has become increasingly meaningless. The global economy has blurred the lines between formality and Informality, leading to a growing informalization of the global economy, to use Hart's own phrase (for more on Hart's thinking, see his blog, The Memory Bank).[3] As with many of the day's discussions, Hart focused partly on the role of money in the formality/informality dynamic, pointing out that it, and therefore labor, became unmanageable after the oil shock of the 1970s. Add technology to this formula, as has happened in the past decade, and the shape and flow of informal economies look more like what we now think of as the formal. Formal definitions of work, commerce, innovation, and organization, in what we consider the formal and the informal, are increasingly indistinguishable, Hart told us. As such, we should focus on how to bridge formality and informality, instead of thinking of them as separate, oppositional spheres.

Richard Tyson, whose work with Caerus Associates focuses in part of systems design in frontier markets, and Adam White of Groupshot, who works in social innovation, focused on the need to "map" informal economies at a high level and understand how they relate to traditional systems. Informal economies are often understood endogenously, they argued, but to understand them exogenously, from the outside, we need to interact with them (interdict if necessary), manage the risks they present themselves and the larger world. Better definitions are needed, they pointed out. However, both suggested in different ways that strict codification of informal economies is more harmful than not. Tyson emphasized the need to establish flexible systems and frameworks for understanding them, particularly in a state of what he called "permanent crisis" created by formal sector breakdown. Now would be a good time to better chart how they work, Tyson said, as the emergent power structures of groups creating greatest tension for the formal sector, such as insurgencies in the Sahel, are coded by the dynamics of informal economies.

A separate panel on the role of money in informal economies really turned to the subject of flexibility—how much of it exists, and needs to exist, within modern economies. Here, Hart's point regarding the change to post-gold standard money flows: what we think of as flexibility in the formal economy is really just money and economies systems working in a natural state, not behaving according to some artificial freedom.

Within informal economies, money is situational. As Niti Bhan pointed out in her talk on prepaid economies, even something as "formal" as the iPhone ends up being converted, in an informal situation, to local currency that make sense locally (like an equivalent value in, say, goats). We are only now beginning to (re)recognize how many forms money takes in the formal world, and as a result, we are pushing its boundaries and templates with everything from mobile payments to time banks and barter systems in depressed economies such as Spain and Greece.

The final talks focused on where future opportunities might be found. Steve Daniels of IBM and Makeshift showed his ongoing research on the extent of innovation within informal economies. Many of his examples were particularly striking in the way they underpin the resilience needed for survival — they are incredibly efficient and show levels of resourcefulness we historically haven't had to develop in resource-rich formal economies. A tour through New York City, newly battered by Sandy, reminds us how well we would do to relearn these approaches in our own formalized lives. Tim Brown flipped this theme around and showed how Chinese and Taiwanese “Shanzai” culture has informalized massively formal cultures of technology development (something I've covered previously in the pages of this bulletin here).

My own talk concluded the day. My intent was to inspire thinking about a possible future where the informal and formal come together on a local scale, to focus on sustainable, functional innovation. I argued that this is in the process of happening right now as the remaining hulk of the formal economy slowly composts into a large-scale informal economy, increasingly functioning on foundations — through communications networks, and open software and hardware, for example — that we presume to be purely formal.

Growth is problematic in a world of finite physical resources and limited ability to absorb the byproducts of endless growth. So is resilience, which too often becomes a defensive strategy. Rather than try to recapture either of these, I proposed we refocus on functional innovation as a lesson from informal economies, building what we need, when we need it, in ways that are locally sustainable. Bookending Hart's call to break down the barriers between formal and informal, I posited that this is where we increasingly stand, in a zone of traffic between the two demarcated by disappearing boundaries. Only those with a stake in keeping such boundaries intact seem to notice.

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CURRENT INTELLIGENCE
FALL 2012: 13/15
OBAMA’S CHRISTMAS WISH LIST AND NEW YEAR RESOLUTIONS
Stephen Saideman | XENOPHILE

Being re-elected President of the United States was a pretty nice gift, but what else could President Obama want for Christmas? What would I like to see him promise to do more or less of in the New Year?

If I were Obama, the first thing I would ask for would be a foreign policy team as strong as his first one. Hilary Clinton will be tough to replace, and Leon Panetta is not as strong in a time of defense budget cuts as Robert Gates could have been. Already, there has been much discussion about this, with Susan Rice dropping out and Chuck Hagel under fire. The risk of appointing Kerry is more about losing the Senate seat he occupies. Thus far, there has been far less speculation about the Department of Defense. A great but most unlikely gift would be a Republican Party with a bit of a learning curve. Sure, the Democrats would be better off in 2014 and 2016 with the Republicans of today as their opponents, but Obama is done with re-elections and would like to get some stuff done. A reasonable Republican Party would be an amazing gift.

If Santa were super-generous, Obama could wish for a bit more peace in the Mideast, starting with a magical solution to the Syrian civil war. The Middle East is the Land Of Lousy Alternatives for American foreign policy. Syria presents a tremendous challenge, given that the US public is exhausted by a decade of war, that the Syrian opposition is hardly united and includes many folks the US would rather not arm, that Russia and China have very conflicting preferences, and so on. Perhaps Assad will fall off a horse. A more likely but still not quite probable gift would be a multilateral deal with Iran. The sanctions are biting hard, but Obama would want a deal negotiated by the coalition representing the international community. Unfortunately, Obama cannot return the earliest gift—more violence between Israel and Hamas. This is exactly what he didn’t want for Thanksgiving or Christmas or anytime.

Of course, as the Beatles suggested, the love you take is equal to the love you make. So, Obama is probably shopping right now for a chill pill for China. The rising power has been testing and pushing its neighbors. A less assertive, more cooperative China would be a gift to the entire region. Perhaps Obama will give Vladimir Putin a new exercise machine for his abs, so that Russia focuses on building inward strength rather than serving as a spoiler. On the other hand, both countries’ reluctance to allow NATO the freedom to do in Syria what it did in Libya is probably a gift to Obama, who would prefer to avoid yet another intervention in the wider region.

The winter season is not just for gift giving and receiving, but also making resolutions to do better in the New Year. So, what should Obama resolve to do or not do, besides giving up smoking? He should definitely try to keep the US at or under the number of wars it is currently fighting. He should resolve to rely less on drones as a hammer for every foreign policy problem. He should try to advocate less on austerity as a solution for everyone’s economic problems.

I think the most important resolution for the American public would be to make counter-terrorism less extraordinary. A war on terrorism, as the truism goes, means fighting a technique and it can never be won. Instead, declare that some objectives have been reached and try to return to normalcy plus—not exactly how the US operated in 1999 or 2000 but how it should have been acting in a world where terrorism exists but causes far less damage than economic crises, climate change, domestic gun crimes, and all the rest.

Partly as a consequence of the “ending of the war on terrorism,” the US could pivot not just towards Asia and the Pacific but away from the Middle East. Hard to do, but South America, Africa, Southeast Asia have promises and challenges of their own and some assistance could make a difference. Again, the Middle East is the land of bad policy choices, and it is no fun to keep having to figure out which option is the least bad one. Not that these other places are perfect, but they have been on the back, back burner for too long.

Obama should resolve to focus on Mexico as the most important foreign policy priority. The US has bet hundreds of billions of dollars and thousands of lives on far distant failed states. How about the very violent country next door for which the US bears considerable responsibility, with its thirst for drugs and its excess of guns?

The question is always raised during an election: who would want this job, that comes with such baggage? The US Presidency is a very tough role, with the greatest latitude in foreign policy. Obama’s first post-election trip to Burma, Cambodia and Thailand was promising, but the crises du jour will drag his attention back to the usual suspects.
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