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Abstract: The conflicts in the South China Sea have come to dominate debates on Southeast Asian security and specifically on how boundary disputes have been managed within the region. Yet, the case is not necessarily exemplary for the way Southeast Asian countries have dealt with territorial disputes generally. The article gathers three common perceptions about conflict management that are strongly informed by the South China Sea case, but have lesser relevance when looking at other territorial conflicts in the region. I offer a critical reading of the who, why, and how of territorial conflict management and provide tentative guidelines on what to expect in the future.

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Introduction

Over the past years, the ongoing disputes in the South China Sea have attracted increasing attention to territorial conflicts over land features and maritime areas in the Asia-Pacific. The "cottage industry" (Klintworth 1994: 211) that developed around China's rise to power tended to overshadow the many other cases of territorial disagreements in the region. In the light of the South China Sea problem, this article[1] shows, other dispute cases are easily misunderstood. The South China Sea is far from being a typical case and therefore fails to lend itself to direct comparisons with other territorial disputes in the region.

The special character of the South China Sea problem is well known. The conflicts involve a series of disputes over the control of islands and ocean areas between two and sometimes more states (see Hayton 2014). Together, there are at least six parties directly involved: China, which claims the largest area by far according to its infamous nine-dash line, Taiwan, and the four Southeast Asian states of Brunei, the Philippines, Malaysia, and Vietnam, which are also members of the Association of Southeast Asian Nations (ASEAN). There is a fifth ASEAN member state, Indonesia, whose claimed exclusive economic zone (EEZ) boundary overlaps with China's nine-dash line. Yet, Indonesia has only taken minimal actions and instead positioned itself as an honest broker in the dispute. Since an EEZ is a zone of jurisdiction but not of sovereignty, the authorities mostly preferred to hide behind the cover of not being an official party to the dispute, a position they began to revisit only recently and with utmost care (Supriyanto 2016).

In addition to the multiplicity of actors, the South China Sea issue is further complicated by the fact that it involves China, the region's dominant power, thus creating important stakes for the United States in the dispute. Although the case is therefore not emblematic of the many other territorial disputes in the region, its very prominence risks reinforcing a number of biased perceptions about dispute management in Southeast Asia. To make matters worse, the disagreements over the South China Sea are sometimes poorly understood. Superficial analyses surely have done little to help better understand of how similar issues have been managed elsewhere in the region.

This article offers a critical reading of several claims regarding dispute management in Southeast Asia. These are found in media outlets but also in academic productions where a number of misperceptions have escaped closer scrutiny. The number of studies that deal systematically with border conflicts in Southeast Asia is surprisingly small, despite the fact that territorial issues have played an important role in the region.[2] Likely due to the generally low level of public visibility territorial disputes attract scholarly interest has been sporadic, case-specific, and often descriptive.

The objective of the present discussion is not to refute the dominant narratives altogether; in fact, some of the propositions developed here do not contradict the claims I take issue with. Instead, the article contributes to the debate with details that complicate an all too simplified reading and thus lead to at times radically different conclusions. Furthermore, I uncover a number of blind spots, which, for different reasons, have received scant attention in the literature. To be clear, the article offers little in the way of elucidating the debates on the South China Sea. Rather, for the purpose of this study, I use that case to show how perceptions of international dispute management in Southeast Asia have been biased towards the rather exceptional challenge in the South China Sea, and to highlight how other cases differ.

The individual claims consecutively discussed in the article are grouped into three broad positions that address the *who*, *why*, and *how* of territorial disputes and their management in Southeast Asia. The first position, on the *who* in dispute management, tends to overestimate the role of third parties, specifically the role of external security guarantors and ASEAN (Kivimäki 2001; Buzan and Wæver 2003: 144–171). The second position holds that the question of *why* these disputes exist can be answered by reference to aggressive foreign policy attitudes, especially in situations of domestic instability (Blanchard 2003). The third perception leans towards the other extreme. This set of arguments on the question of *how* disputes have been managed posits that Southeast Asia has developed a particular way to address conflicts. Accordingly, an Asian values-inspired "ASEAN Way" has been characterised by an anti-legalist attitude and a tendency to avoid, rather than to resolve conflict (Busse 1999; Acharya 2001). Before discussing the three positions, the next section begins with an overview of territorial disputes in the region.

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2   Exceptions dealing with territorial disputes not limited to a particular case are Amer (1998) and Amer and Nguyen (2009).

Southeast Asia's Territorial Disputes

The bigger part of Southeast Asia's contemporary borders stems from the time of the European empires. Where boundaries had previously been fluid, the European settlers drew lines to halt the advancement of their rivals. The British came to dominate the western parts of the region, comprising contemporary Myanmar, Malaysia and Singapore. In the east, the French occupied the peninsular countries of today's Laos, Vietnam and Cambodia. The Dutch claimed the islands of Indonesia, and the current state of the Philippines was first colonized by Spain and later transferred to the United States. Only Thailand maintained its formal independence thanks to its geographical position as a buffer zone between Great Britain and France. In real terms, the autonomy of Siam, as Thailand was called, was severely compromised and the European influence on its territorial extension and conceptions of territoriality strong (Thongchai Winichakul 1994).

When the countries of Southeast Asia gained independence after the Second World War, the limits of the colonial administrations became the new international borders. Together with the new states, however, came a considerable number of overlapping territorial claims, though many would be discovered only years later. The boundaries left over from colonial times were ambiguous and/or poorly demarcated, or had simply never been defined. The colonial-time provisions were fewer still in the maritime realm, given that the contemporary regime of the ocean law developed significantly only in the latter half of the twentieth century. Despite the difficulties, there have been only three significant changes in Southeast Asia's territorial order since independence: in 1965, when Singapore split away from Malaysia; in 1975, with the merger of what had been known as North and South Vietnam; and in 2002, when Indonesia ended its occupation of Timor-Leste, which it had invaded in 1975, nine days after the latter's independence from Portugal.

During the Cold War, progress in delimiting and demarcating the borders of the newly independent states was difficult, if not impossible, due to the violence on the Southeast Asian peninsula. Between the Southeast Asian countries standing on opposite sides in the superpower conflict, no serious attempt was undertaken to negotiate overlapping claims. Within the communist grouping, Vietnam and Laos resolved some disagreements through a treaty signed in July 1977. The treaty returned to Laos territory that North Vietnamese troops had "borrowed" for the Ho Chi Minh trail in the independence struggles (Le Thai Hoang 2007: 11). The document was not made public until 1986 and raised suspicions that the Hanoi-dependent Laotian government had been

lured into undue concessions. Yet, according to the probably best available English-language source, the "agreements and demarcation were not to [Laos'] detriment, that is, Laos did not have to give up substantial areas" (Amer and Hong Thao 2005: 432). Since March 2016, with the planting of the last of 1,002 border markers, the demarcation of the Lao–Vietnamese border has been considered complete.

Along Vietnam's border with Cambodia, close to no progress was made. During the time Pol Pot and the Khmer Rouge ruled in Phnom Penh, Hanoi's attempts to reach a treaty similar to the one with Laos were overtaken by a series of events that eventually led the Vietnamese to invade Cambodia (Heder 1979). With the new, Vietnamese-installed government of the People's Republic of Kampuchea (PRK), Hanoi concluded the Agreement on Historical Waters (1982), the Agreement on the Principle for Settlement of Border Disputes (1983), and the Treaty on Delimitation (1985). The agreements have since been bitterly contested. In 1996, Cambodia's King Sihanouk and then co-prime minister Norodom Ranariddh publicly declared the provisions null and void. Protests demanding their abrogation have turned violent on several occasions, most recently in 2015 (*Straits Times* 2015). To understand the virulent opposition, the border issue needs to be placed in the historical context of Cambodian politics and anti-Vietnamese sentiments (Thayer 2012). Today's ruling elite is still largely the same that sat at the negotiation table when the boundary agreements were made, and increasing discontent with its crony capitalism over the past years has turned the border into one of the main programmatic items for the otherwise weakly organised political opposition.

With regards to the individual provisions of the existing agreements, the few available independent studies conclude that the treaties from the 1980s conform to standard practices in international law.[3] Regarding the framework agreements on maritime boundaries, the terms are sufficiently broad for a detailed study to note that "the observer is left with serious questions of what actually has been settled" (Farrell 1992: 335). On the land border, a comparison between the geographical coordinates of the 1985 treaty and maps used by both sides suggests that "very few, and very minor, changes were effected in the old borders" (Vickery 2011: 40–42). Given the prevailing political sensitivity, however, the two countries still have not been able to resolve the pending issues on the land border, the original target date of which was 2012.

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3   Interview with Clive Schofield, a leading oceans scholar at the Australian Centre for Ocean Resource and Security (ANCORS), University of Wollongong, Singapore, 24 September 2013.

While the communist grouping achieved only modest progress on settling their borders during the Cold War, the states of non-communist, Western-aligned Southeast Asia suspended pending boundary negotiations almost entirely. They felt that, in the face of more pressing issues, cooperation was needed and the potentially conflictive overlapping claims were too risky to be openly discussed. Towards the mid-1960s, a regional association was seen as the best choice to maintain some degree of autonomy whilst ensuring the United States' continued involvement against the communist advances in Southeast Asia. It is one of ASEAN's frequently told success stories that the Philippines and Malaysia shelved the conflict over the Malay state of Sabah to allow ASEAN to survive – unlike its predecessor, the Association of Southeast Asia (ASA), which had effectively been shut down when the Philippines laid claim to Sabah (Turnbull 1992: 615–617). Although the Philippines have not actively pursued their claim since, the issue has led to irritations as recently as in 2013 with the so-called Lahad Datu incident and is yet to be resolved.

Another, similar example of delayed boundary settlement is Indonesia. During the Cold War, Indonesia concluded maritime boundary treaties with two of its five Southeast Asian neighbours, Thailand (1971) and Malaysia (1969, 1970), only because these were seen as essential to achieving the international recognition of its status as an archipelagic state (Butcher 2009). Beyond what in Indonesia was seen as a question of survival, however, pending questions were put on hold in order not to threaten the fragile cooperation within ASEAN.

Soon after the Cold War ended and the 1991 Paris Peace Accords formalised Vietnam's withdrawal from Cambodia, ASEAN welcomed four new members: Vietnam (1995), Laos (1997), Myanmar (1997), and Cambodia (1999). Vietnam was the first country to make significant progress in delimiting its maritime boundaries (Amer and Hong Thao 2005). As a former director of the Political Affairs Division in the ASEAN Department at the Ministry of Foreign Affairs explained, "With all these ASEAN meetings it was now easy for us to talk to them, and we had long everything prepared to settle the border."[4] Thailand, which had begun a policy of rapprochement with the Indochinese countries under Prime Minister Chatichai Choonhavan (1986–1991), set up Joint Border Commissions successively with Laos, Myanmar, and Cambodia, copying a long-standing, similar working group with Malaysia.

Border settlement also made headway amongst the original ASEAN members: the International Court of Justice (ICJ) resolved territorial

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4   Interview with Nguyen Hung Son, Hanoi, 17 October 2013.

disputes between Indonesia and Malaysia over the islands of Sipadan and Ligitan (2002), between Malaysia and Singapore over the three maritime features of Pedra Branca/Batu Puteh, Middle Rocks, and South Ledge (2008), and between Cambodia and Thailand (2013) over the interpretation of a previous judgement from the ICJ over the ownership of the temple of Preah Vihear from 1962. Nonetheless, all of Southeast Asia's states still have territorial conflicts pending resolution with at least one of their neighbours.

It is impossible to state with any certainty how many remaining disputes there are since some borders are still to be surveyed. In other words, not all existing disagreements have yet been formally expressed. This should be borne in mind when using territorial disputes databases (Huth 1996; Huth and Allee 2002; Hensel et al. 2008), especially with regards to the Southeast Asian mainland, where several states have yet to acknowledge the existence of conflicting interpretations over their borders. Hence, territorial disputes are likely to remain on the political agenda at least in the mid-term and it is therefore important to understand the patterns of how these have been managed. The next section addresses the *who* of territorial conflict management, specifically the role of third parties. As in the subsequently following sections on the *why* and *how* of territorial disputes and their management, I begin by sketching a set of dominant assumptions about the South China Sea disputes before discussing them in the light of Southeast Asia's bilateral, intraregional disputes. In each section, I show that the claims based on the South China Sea case are not easily applicable to other territorial disputes in the region. The selected claims discussed in the remainder either tend to reinforce existing misperception about territorial disputes in Southeast Asia, or lead straight to incomplete and sometimes incorrect assertions.

Who? The Overrated Roles of External Security Guarantors and ASEAN

Issues of territory are known to be the most contentious in international politics. The probability that border issues will escalate into armed conflict depends on their strategic, economic, and symbolic importance. Such variation notwithstanding, however, research is unanimous in showing that territorial disagreements bear an inherent risk of interstate violence (Senese 2005; Hensel et al. 2008). Despite Southeast Asia's many territorial squabbles, the region experienced only two wars that changed its international borders: the war that ended up unifying Vietnam, and Indonesia's occupation of Timor-Leste. The fact that both

occurred in the same year of 1975 is not coincidental. Independently of each other, the two events were strongly influenced by the bipolar system of the Cold War and the direct involvement of its protagonists. Other than those two wars, which were really wars of state formation, Southeast Asian countries have managed interstate disputes short of armed conflict. Two commonly found explanations for the absence of major interstate war are the involvement of the great powers and of ASEAN. Reference to third parties playing a mitigating role in conflict, however, appears to be grounded in the South China Sea experience and has lesser relevance in other disputes between Southeast Asian countries. I consider each of them in turn.

The Great Powers

With tensions in the South China Sea on the rise over the past several years, observers have frequently described the waters as a "flashpoint" of competing great-power aspirations, on not only a regional but also a global scale. The point is not so much that "rising China" is one of the parties to the dispute, but how "this critical body of water" is turned into a chessboard of international politics (Cronin and Kaplan 2012; Hayton 2014; Kaplan 2014; Lin 2015; for a critique see Taylor 2014). The claim is succinctly summarised in the following statement by Cronin and Kaplan (2012: 7):

> As the decades-old rules-based system fostered by the United States is being called into question by a rising China, the South China Sea will be the strategic bellwether for determining the future of U.S. leadership in the Asia-Pacific region.

Using the same logic, observers have been quick to interpret the ups and downs in Southeast Asia's bilateral disputes in the context of ostensive great-power strategies, including but not limited to those of China and the United States together with the latter's Asian allies (Storey 2011). Consequently, we are led to believe that Southeast Asia's significantly stable international order was the result of some type of overarching great-power balance (White 2008), a view that is both theoretically and empirically questionable. Unless one assumes that balance-of-power politics produced Southeast Asia's territorial peace by default, neither a macro-regional nor a global balancing logic can provide a satisfactory answer to the stability-despite-territorial-disputes puzzle. As Acharya and Tan aptly put it,

> Quite possibly the most glaring thing about Southeast Asian inter-
> national relations is the absence of any clear sense of grand strate-
> gic coherence or orderliness in the ways in which Southeast Asians
> and extra-regional powers manage the security of the region.
> (Acharya and Tan 2006: 40)

Regardless of the power position one is willing to concede to China, the
United States' preeminent position globally and in Southeast Asia re-
mains unmatched (Beckley 2011). Theoretically, however, the effect of a
hegemonic power is ambiguous: On the one hand, the existence of a
hegemon can increase conflict between secondary powers ("proxy wars")
in both number and intensity. On the other hand, hegemonic influence
can lead to greater stability, either through intervention for the benefit of
maintaining order, or through an indirect effect that occurs when subor-
dinate states cooperate to counterbalance the hegemon's power. The
hegemonic-stability argument relies on two conditions, the hegemon's
willingness to enforce compliance and its capacity to do so. As these
factors naturally fluctuate, so also did the effect of the United States'
preponderance in Southeast Asia.

Washington's rebalance to Asia in recent years increased its visibility
in the region again. Nevertheless, the "pivot" did not effect the direct
involvement of Washington in Southeast Asia's intraregional disputes.
Any direct action would have aroused resentments with other major
players in the region, in particular China but also the United States' alli-
ance partners in Tokyo, a cost that the White House would hardly as-
sume since the US lacks vital interests in Southeast Asia's territorial dis-
putes. This was evident in the most recent, widely publicised case of a
border dispute that led to a series of military clashes between Cambodia
and Thailand. In the course of three years, between 2008 and 2011,
Cambodia appealed twice to the UN Security Council but failed to
achieve its objectives since both the United States and China preferred
not to take sides (Jones and Jenne 2016). After addressing the council for
the first time in July 2008, Cambodia, under Thai pressure and absent the
support of China and the United States, eventually withdrew its request
for a hearing. The second time, in February 2011, Cambodia insisted that
the Security Council deal with the matter; although the Security Council
then took the matter under consideration, in the end its response was to
merely inform the parties that the conflict should be handled through
regional and bilateral means. Since ASEAN, the primary regional organi-
sation, was little able to improve the situation, the conflict between
Cambodia and Thailand followed its own logic, eventually returning to
quiet along the border without the great powers having played a role.

From a Southeast Asian perspective, it is important to note that when countries have sought external security guarantees, they have at the same time striven to protect their autonomy. No country in the region could be assured of third-party support in a bilateral dispute, and in fact no open request for another state's assistance has been reported. Under ASEAN, Southeast Asian states promoted the slogan of "resilience through capacity building" to describe their joint efforts to prevent foreign involvement (Anwar 2000). Even though external assurances were generally invited as part of governments' hedging strategies (Kuik 2016), at the very least they followed what a senior Thai Foreign Ministry official called "the rules of the slum," saying, "If you are so close together you *must* shut your ears and eyes, pretending that you don't notice what is going on next door."[5]

Due to Southeast Asia's internal strategic incoherence, however, it cannot be concluded that cooperation amongst the ASEAN states was a strategy to counter hegemony and that this was the reason why serious conflict has been avoided. For instance, since the turn of the millennium, Malaysia and Indonesia, together with Singapore and Thailand, have collaborated in various cooperation schemes to prevent great-power interference in the Straits of Malacca. Although generally seen as successful, this had little impact on a conflict between Indonesia and Malaysia over maritime areas further east that have not been delimited, which has led to repeated irritations in their relations over the past decade. The so-called Ambalat conflict saw various military standoffs, in none of which either of the two parties attempted to involve an external actor. Moreover, it is highly unlikely that the United States would have risked alienating Indonesia, the world's biggest Muslim-majority democracy and an important partner in the fight against Islamist terrorism, by involving itself in a bilateral conflict. It needs to be concluded, therefore, that although any account of Southeast Asian interstate relations is certainly incomplete without appropriately acknowledging the role of the great powers, the management of territorial disputes within the region is not reducible to them.

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5   Interview, 28 July 2014 (place omitted).

ASEAN

Consider now the opposite position, which asserts that far from being pawns of the great powers, Southeast Asian states have successfully exploited rivalries between the great powers to establish an ASEAN-centred regional-security architecture (Caballero-Anthony 2014). Following this reading, ASEAN, being the most strongly institutionalised regional organisation within a wider net of overlapping multilateral fora and institutions, is to be credited for successful conflict management within the region. When looking beyond the South China Sea, however, the claim overemphasises the role of the organisation as an actor promoting a particular set of norms and principles. The South China Sea is a critical case for the advocates of ASEAN-led regionalism, who see the ASEAN-proposed rules to regulate the overlapping claims areas as lying at the heart of what constitutes the organisation's self-proclaimed "ASEAN-centrality" (Terada 2012; Ba 2016). Consequently, ASEAN's fate is said to depend on whether or not it can "cope with China" (Ba 2006; Beeson 2015). Put into historical context, if in the past ASEAN was accused of being a "one-issue organisation" merely concerning itself with the Vietnamese in Cambodia, its litmus test has since come to be the developments in the South China Sea (Tong 2016).

With regard to the management of territorial conflicts in Southeast Asia generally, drawing lessons from the South China Sea entails judging the organisation according to a biased metric. The two positions on the relevance of ASEAN as an actor are well known (Acharya 2009; Eaton and Stubbs 2006): on one side, observers have argued that ASEAN is a powerless institution because it failed to get active in territorial disputes, while others have countered that the organisation was in fact able to facilitate dialogue amongst its members despite its lack of sanctioning mechanisms (Emmers 2017). However, the debate over whether ASEAN has contributed to the peaceful handling of disputes loses sight of the key question: Have its members envisaged a role for the organisation in managing interstate disputes? The short answer is no. ASEAN does not (even pretend to) play a role in dealing with territorial issues beyond providing a space for personal encounters. While ASEAN's constituent legal framework, the Charter of 2007, commits members to resolving their conflicts peacefully, it fails to associate a mandatory instrument with the provision. The long answer to the question of what type of actor ASEAN wants to be is slightly more complicated, though not fundamentally different, from the question about the role it sees itself playing in interstate disputes. Some key actors within ASEAN have hoped that the organisation could play a role in managing interstate dis-

putes, an idea promoted mainly by Indonesia, by individual supporters of a region-wide push for democratisation, and by the Group of Eminent Persons who advised the ASEAN governments in preparing the Charter (ASEAN 2006). Yet, the general consensus in the association has remained that states would not compromise on their sovereignty by giving ASEAN the option or legitimation to intervene in matters the members consider of exclusive national competence.

The above-mentioned conflict between Cambodia and Thailand offered a possibly unprecedented opportunity for ASEAN to involve itself in a bilateral dispute (ICG 2011). Yet, the majority of its member states were reluctant to even issue a statement on the conflict; even Indonesia, under a proactive foreign minister and with the institutional blessing to act as ASEAN chair, proceeded with utmost caution in seeking to facilitate talks between the conflict parties.[6] The ASEAN Secretariat called "the fact that the ASEAN Ministers [were] meeting specifically on the issue of the bilateral dispute" a "historic first" (ASEAN 2011). However, it is telling that the same day Cambodia and Thailand resumed the Indonesian-sponsored talks in the city of Bogor, relations between Indonesia and Malaysia turned sour. That day, 7 April 2011, saw another spat in a long series of incidents over fishing rights in a disputed EEZ in the Straits of Malacca (Arsana 2011). "Indeed, the tension between Indonesia and Malaysia, and the silence of ASEAN," one of Indonesia's foreign policy intellectuals complained, "has once again demonstrated the growing irrelevance of the association" (Sukma 2005).

ASEAN had little influence in bilateral disputes apart from what its members were willing to allow it – and that was hardly anything. Of course, it must be said that Southeast Asia is no exception in this regard, as the incentives for countries to put their territorial disputes into the hands of an international organisation are minimal. Moreover, elevating the question of ASEAN's role in territorial disputes to a life-or-death question for the organisation seems unwarranted, considering that it has always lived with the problems of overlapping territorial claims. Thus, the fact that ASEAN has not been able to agree on the details of a code of conduct in the South China Sea does not mean the organisation is at a standstill. In fact, it should not surprise anyone, as the complexity of

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6   Interviews with Derry Aman, then deputy director for Political Cooperation at the Directorate of ASEAN Political-Security Community, Directorate-General of ASEAN Cooperation, Ministry of Foreign Affairs Indonesia, and Jose Tavares, Director for ASEAN Dialogue Partners' and Inter-Regional Cooperation at the Directorate General of ASEAN Cooperation, Ministry of Foreign Affairs Indonesia, both Jakarta, 19 November 2013. See also ICG (2011).

agreeing on a regulatory framework for a disputed area is considerable even when it involves just two countries. Malaysia and Indonesia, for example, have tried to find a formula for developing standards of conduct under an Incidents at Sea Agreement (INCSEA) for two decades. Malaysia has sought to use the INCSEA with Indonesia as a model for agreements with other neighbouring states, but the future of the agreement is unclear, since the two countries have so far failed to agree even on an area where the provisions would apply. In the case of the South China Sea, such obstacles would need to be overcome by not two, but four ASEAN states.

Despite disagreements on specific matters, however, perhaps ASEAN's most significant achievement has been its ability not to let these disagreements affect relations generally, a phenomenon that the ASEAN literature knows as "bracketing" (Leifer 1999: 26; Jetschke and Rüland 2009). Thanks to ASEAN's bracketing capacity, it is unlikely that diverging preferences regarding China and the future handling of the South China Sea disputes will affect the way in which other territorial disputes in the region are dealt with.

Many ASEAN scholars have argued that Southeast Asian international politics is best described as "a web of overlapping bilateral cooperation" (Caballero-Anthony 2005: 199). Territorial dispute management between the ASEAN states has been a bilateral affair in the past and is likely to remain so in the future. Consequently, I have argued that the role of the great powers and of ASEAN should not be overrated. Both need to be considered together with other factors that are important to explain why territorial disputes have generally been managed peacefully and have only rarely led to violent conflict in the region. On the global level, the impediments to annexing territory are extraordinarily high today due to the development of international law and multilateral institutions that prohibit the forceful alteration of international borders (Zacher 2001). Another factor that has played in favour of the non-violent handling of ASEAN border conflicts is surely the fact that no member state, except for the city-state of Singapore, has developed a military prepared to fight external wars. Not least, territorial disputes short of war are not necessarily difficult to manage, as I will discuss next. As in the other sections, I demonstrate that assertions derived from the case of the South China Sea – whether rightly or wrongly so – are unsuitable vis-à-vis other dispute cases in Southeast Asia, risking that we draw incorrect conclusions.

Why? The Overrated Motives of Revisionism and Internal Politics

Territorial disputes are commonly attributed to bad intentions and troublemakers. Warring parties often accuse each other of harbouring expansionist motives, but there is also another, widespread perception that territorial conflicts have in fact little to do with territorial issues themselves. Instead, the argument goes, boundary disputes are used for internal political purposes. Johnston (2013) documented such a conflict-branding process for the case of the South China Sea, which is worth quoting in some length:

> In recent years, it has become increasingly common in U.S. media, pundit, and academic circles to describe the diplomacy of the People's Republic of China (PRC) as newly or increasingly assertive. […] Many believe that it reflects a conscious decision by the top leadership in the wake of the 2008–09 financial crisis to be much more proactive in challenging U.S. interests in East Asia and, indeed, elsewhere around the world. The new assertiveness meme has "gone viral" in the U.S. media, the blogosphere, and in scholarly work.

Johnston went on to show that the observed assertiveness was in fact not as new as portrayed to be and, further, that it is not really clear what being "assertive" actually means. More recently, Johnston scrutinised the related claim that rising popular nationalism in China was responsible for China's coercive diplomacy in the South China Sea, finding that, in fact, it "may not be a critically important variable constraining Chinese foreign policy" (Johnston 2017). I do not claim that there is a direct link between branding China as assertive/aggressive in the South China Sea, potentially in response to domestic pressures from Chinese nationalists, on the one hand, and branding the leaders of other states as unfriendly troublemakers, on the other hand. Nevertheless, dominant discourses about aggressive Chinese strategies in the South China Sea are likely to leave a mark on how commentary frames other boundary issues, including among Southeast Asian states. At the very least, Johnston (2017: 9) offers one generalisable conclusion: regardless of whether their content is true, "assumptions, conventional wisdoms, and memes that are circulated in the media, among pundits, and in academia […] are being rapidly reproduced in an era of digital and social media." Given the negative effects perceptions of bad intent almost surely have on the prospect of cooperation in a dispute, it is worth starting to question the supposed motives in territorial conflicts.

The first fact to note is that disagreements over territorial belongings are almost inevitable in a world organised into territorially defined units. In fact, conflicts over states' jurisdictional and sovereign limits at land, at sea, and in the air are rather common and they tend to persist (Hassner 2006). A global survey of the progress on maritime delimitation reveals no single group of states with a higher number of delimited maritime boundaries as compared to another (ASIL 2017). However, the challenge of settling borders can be more daunting for relatively young states. As described above, when countries in Southeast Asia gained independence, the tasks they faced to this effect were myriad, while their capacity to inspect the areas in question, revise international standards, and negotiate with their neighbours was scarce. Even Thailand, which already had an administrative unit in charge of borders, resorted to archives in Europe to carry out the necessary delimitation. Some of these problems have persisted to the current day, with Cambodia facing probably the most daunting task after decades of civil war in which most boundary experts perished and almost all documentary evidence was destroyed. Along Myanmar's border, large, poorly demarcated stretches have not been accessible since they have been under the control of rebels and resistance groups of repressed minorities.

Ignorance of the problems stemming from undefined borders easily leads to ill-informed judgements. Commentary still exhibits subliminal memories from two of Southeast Asia's past wars in which expansionist motives were insinuated vis-à-vis Indonesia and Vietnam, respectively. In neither case, however, has decisive evidence come forth (Gelling 2009). In the case of Indonesia, Konfrontasi, a three-year, low-intensity aggression launched against the formation of Malaysia (1963–1966), was remembered especially outside the region as an attempt by President Sukarno to create a Greater Indonesia (Indonesia Raya) that would include all Malay areas in the region. Yet, there is no evidence showing that territorial interests played a role in this conflict (Mackie 1974). The existence of expansionist motives appears indeed rather unlikely given that at that time, the idea of an Indonesia Raya had already disappeared from the relevant discourses (Tarling 2004: 151). Instead, Indonesia became an example of a state offering substantive concessions in several boundary negotiations for the benefit of having an agreement in place.[7]

The other emblematic case of supposed revisionism is Vietnam, a country that had expanded southwards for centuries only to be stopped

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7   On the treaties with Malaysia, see Forbes (2014: 41); with Australia, see King (2002); with Singapore, Forbes (1995: 24–25); with Thailand, Prescott (1993).

by the European colonialists. In the run-up to Vietnam's invasion of
Democratic Kampuchea in December 1978, territorial conflicts over the
land border and islands in the Gulf of Thailand led to violent clashes.
But after the initial phase of the conflict, the boundary question faded
into the background (Heder 1979). At this stage, observers agree that it
was the Cambodian Khmer Rouge rather than Vietnam that brought the
conflict to a point of no return (Heder 1979; Chanda 1986: 206). After
Hanoi had replaced the Khmer Rouge with a new puppet regime, the
two sides signed several border agreements. As noted above, however,
none of these favoured one or the other party in any obvious way.

    Another set of claims that should be treated with caution holds that
state leaders have used territorial conflicts to divert the public's attention
away from internal problems or to rally public support in order to bol-
ster their legitimacy. Both arguments are based on the intuitive and well-
researched insight that the creation of an out-group can foster in-group
cohesion. While it is relatively easy to identify an upcoming election, a
political scandal, or signs of an economic crisis each time a territorial
issue turns into a public controversy, it is often forgotten that the crea-
tion of an external enemy is a successful strategy only if an in-group
already exists (Stein 1976). Southeast Asian states are generally not the
strong, inclusive nation-states that fit this characteristic, and there is no
reason to believe that this fact has gone unnoticed by its governing elites
(Alagappa 1995). In fact, to maintain internal and external order, South-
east Asian governments have relied on fostering relations with neigh-
bouring states much more than on stirring conflict among each other.
Perhaps the only case where it is possible to identify popular hatred
between two Southeast Asian countries is the anti-Vietnamese attitudes
prevalent in Cambodia, but in this case antagonism cannot be traced to
mobilisation strategies by the government.

    There is no doubt that governments have taken advantage in dis-
putes portraying themselves as defendants of a "national" cause. Yet, to
say that leaders deliberately create conflict for internal purposes over-
states the political leverage of territorial disputes. When governments
have evoked them to increase popular support, they have done so in
measured ways. Consider the example mentioned earlier, the Thai–
Cambodian conflict over the border at the temple of Preah Vihear. At a
time when tensions between the two countries were running high, Cam-
bodian Prime Minister Hun Sen embarrassed the Thai government of
Abhisit Vejjajiva in a blatantly provocative move by declaring that he had
appointed Abhisit's political rival Thaksin Shinawatra as his personal
advisor (*Phnom Penh Post* 2009). In the preceding months, the dispute had

clearly boosted the popularity of Hun Sen, but well aware of the dangers that momentary mass manifestations of aggressive nationalism can present, he took measures to ensure the conflict would not escalate beyond his control. In an immediately following press conference, Hun Sen assuaged public sentiments, explaining that having examined the disputed border, "we decide[d] to withdraw paratroops number 911 from Preah Vihear area to the camp, and one week from now, [there will be a] complete withdrawal [of the troops]" (*The Nation* 2010).

Domestic politics are also frequently evoked in the case of quarrels between Indonesia and Malaysia (Chong 2012), including the already mentioned series of incidents over undefined maritime boundaries. These disputes see protestors taking to the streets of the Indonesian capital of Jakarta on a regular basis, but in May 2009 public agitation was further fuelled when the press reported live from aboard the navy vessels navigating the conflict area. Indonesian president Susilo Bambang Yudhoyono, himself a retired army general, had repeatedly been criticised for not being tough on Malaysia (*Jakarta Post* 2009). Nevertheless, he interdicted the navy's direct contact with the media and the tensions gradually began to ebb.[8]

There are other examples where, far from being used for political purposes, governments actually suppressed territorial issues before they could come to the public's attention. In some of these cases, self-censorship of the press has helped the government's cause. Take the example of Singapore's authoritarian democracy (Slater 2015), where citizens have traditionally been prevented from playing a meaningful role in foreign policy making. When the ICJ was called to arbitrate a case over maritime features Singapore disputed with Malaysia, five years of proceedings (2003–2008) passed with hardly any commentary in the press. In another case, Brunei and Malaysia kept a set of official letters under wraps: signed in 2009, the agreements define the guidelines and positions of the two countries for future maritime- and land-boundary negotiations. In conclusion, while governments welcomed the unity-creating effects territorial disputes sometimes had, they were also cautious about using them as political instruments. The next section discusses the way existing disputes were managed instead.

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8   Interview with Salim, commander of the Indonesian vessel KRI Tedong Naga, Jakarta, 10 December 2013.

How? The ASEAN Way and Southeast Asia's Not Quite Anti-Legalistic Way of Addressing Conflict

Like the claims discussed so far, arguments about the *how* of territorial dispute management in Southeast Asia have also tended to follow the dominant interpretations from the case of the South China Sea. The first major obstacle to moving the South China Sea disputes forward is the vagueness of China's claim, stemming from a lack of clarity over its nine-dash line. This, together with China's rejection of the Permanent Court of Arbitration's 2016 ruling in a case brought before the tribunal by the Philippines, reinforced a long-standing (Western) perception of China as a country where law and legal instruments had traditionally little significance (Ruskola 2013). Similar perceptions have existed about other Asian states as well, especially those of Southeast Asia, which are said to have developed a particular informal, anti-legalistic way of conflict management commonly cited as part of the "ASEAN Way" (Acharya 1998). Thus, when the Philippines decided in 2013 to seek arbitration regarding its maritime-boundary conflict with China, Manila's move was viewed as a brusque departure from ASEAN's traditional approach, including by many within the organisation. With a view to the management of territorial disputes generally, however, Southeast Asian states appear to have been less anti-legalistic than the common reading of the ASEAN Way suggests.

Before discussing the ostensible informality of the ASEAN Way, it is necessary to define what the ASEAN Way is and whether it has played a role in the management of interstate disputes. In contrast to the discussion above, where I argued that ASEAN had no role as an independent actor in interstate conflict, the effect ascribed to the ASEAN Way is an indirect one of gradually changing the preferences and identities of its members (Ba 2005). Does ASEAN have a particular working mode that socialises states into using informal ways of conflict management?

The ASEAN Way refers to a set of procedures and principles including non-intervention into the affairs of another state, informality and deliberation as instruments for decision-making, and face-saving to safeguard the dignity of others (Busse 1999; Kivimäki 2001).[9] To understand the relevance of the now well-known concept, it is worth recounting that the often forgotten origins of the term go back to ASEAN's first-

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9 Connoisseurs of the organisation know that the ASEAN Way also refers to golf sessions, karaoke, and extended dinner parties.

generation leaders, for whom the ASEAN Way described the associa-
tion's ineptitude to generate leadership.[10] Forced to operate on the basis
of the minimum common denominator, ASEAN diplomats adopted the
term "ASEAN Way" – not without an air of irony – in reference to
themselves. Its negative connotation notwithstanding, governments now
had a unifying concept that served to prevent potential temptations by
individual members to deviate from the majority line.

In the 1990s, academia became interested in the idea of the ASEAN
Way to theorise about identities in international politics (Acharya 2001;
See Seng Tan 2009; Roberts 2011). The term gained an increasingly posi-
tive connotation, as it was directly related to ASEAN's post-Cold War
successes and the organisation's enlargement from six to ten members,
who subsequently set themselves the ambitious goal of becoming a
community of states in the economic, political, and socio-cultural realms
(ASEAN 1997). Due to the closeness between academia and politics that
is typical in Southeast Asia, the positively connoted ASEAN Way was
quickly included into the training curricula for the region's future diplo-
mats. Henceforth, observers could hardly ignore the importance
ASEAN's policymakers attached to consensus, mutual respect, and dia-
logue. Nonetheless, the degree of the ASEAN Way's particularism and
its corresponding explanatory power should not be overestimated.

As Acharya noted early on, some of the ASEAN Way principles are
foundational principles of the modern state system (Acharya 2001: 51–
56). Such is the principle of non-intervention, which, on top of that, has
been interpreted rather flexibly in Southeast Asia (Jones 2012). Similarly,
deliberation and face-saving have always belonged to the standard reper-
toire of the world's most able diplomats. ASEAN has abstained from
formal voting, something that has long been practised in South Ameri-
ca's Mercosur (Southern Common Market) and even at the United Na-
tions. The evidence also fails to indicate that Southeast Asian states
avoided legal instruments generally – and, in border disputes, more than
other states did. From the very days of independence, the future mem-
bers of ASEAN relied on international law. Indonesia and the Philip-
pines signed a Friendship Treaty in 1951, whose Article II stipulates that
conflicts between the two countries that cannot be resolved by diploma-
cy or mediation must be referred to the International Court of Justice.

The first Southeast Asian countries to accept the jurisdiction of the
ICJ in a territorial conflict were Cambodia and Thailand in 1962. Six

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10   Interview with Barry Desker, long-time Singaporean foreign service officer,
      Singapore, 4 October 2013.

decades later, in 2011, Cambodia asked the Court to interpret the verdict and the two parties met again in The Hague. Earlier, during the Cold War, Southeast Asian states had effectively refrained from using legalistic means of conflict resolution. However, this was due to the politicisation suffered by international tribunals and courts in the bipolar context of superpower competition rather than to a visibly anti-legalistic attitude of Southeast Asia proper.

As noted above, since the 1990s several countries in the region have decided to bring their disputes before a legal entity. Although the litigations were in themselves a new experience for countries such as Singapore, Malaysia, and Indonesia, all of them had practical knowledge in using international law in pursuit of their foreign policy goals. One outstanding example is Tommy Koh of Singapore, a pioneer from the non-Western world for his contribution to international law. Amongst other influential positions, Koh chaired the Third United Nations Conference on the Law of the Sea (1980–1982), in which Southeast Asia is remembered for its contribution to a conceptual milestone decision. In the negotiations, Indonesia and the Philippines, together with Fiji and Mauritius, achieved the formal recognition of the archipelagic state concept, which is now the basis of the definition of their maritime boundaries (Butcher 2009).

It is interesting to note that Indonesia's decision to bring its islands dispute with Malaysia to the ICJ was taken by its long-term leader, Suharto, who reportedly ignored the advice of the Foreign Ministry.[11] Suharto was the foremost representative of Indonesia's Javanese elite, which is said to have stamped its consensus culture onto the ASEAN Way of conflict management (Leifer 2000: 25). If we accept that the ASEAN Way is indeed less anti-legalist in essence than commonly assumed, however, one may wonder why informality has prevailed in discourse, though not in practice. Looking back to the origins of ASEAN, the answer suggests itself that it was the still lively spirit of Bandung and the anti-colonial movement that framed international law critically as an instrument that had served Western domination. In any case, even if the ASEAN states chose an identity construct that de-emphasised legalistic and formal means of interstate conduct, it did not prevent them from relying on international law frames, including in dealing with territorial disputes.

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11   Interview with Hasjim Djalal, then ambassador at-large for the Law of the Sea and Maritime Affairs, Jakarta, 25 November 2013.

Conclusions

My goal in this article was to append rather than to refute a set of common perceptions about the management of territorial conflicts in Southeast Asia. These, I argued, have been examined through the lens of the South China Sea disputes, a set of conflicts that is not readily comparable to other territorial dispute cases in the region. First, the article showed that it is necessary to distinguish between the role that external actors and ASEAN have played in the security of Southeast Asia generally and in the context of bilateral disputes specifically. Neither the great powers nor ASEAN as independent actors are key to explaining how the region's territorial problems have been managed. Moreover, criticism of ASEAN's lack of action in these contexts should be measured against the organisation's stated aims, which have generally quite explicitly excluded bilateral issues. The second perception the article put into perspective is the view that territorial conflicts are driven by bad intentions, be these expansionist motives or the goal of creating an external enemy in order to increase domestic approval ratings. Quite naturally, Southeast Asian politicians tended to exploit problems for internal purposes when they arose. However, diversionary conflicts have not been the norm, because if they were, the region would have seen more armed clashes occur. The main security objective of Southeast Asian states has been to maintain internal stability, and external conflicts hardly serve this purpose.

How then did states manage territorial disputes before they could escalate? I summed up a third common perception under the premise that there is an exceptional ASEAN Way of conflict management in Southeast Asia characterised by an informal, anti-legalistic approach. However, adopting a less exceptionalist perspective that emphasises opportunities, I provided an alternative reading, showing that Southeast Asian states were all but hesitant to resort to legal instruments of dispute settlement if they found favourable conditions.

What will Southeast Asia's territorial disputes look like in the future? There is little doubt that the conflicts in the South China Sea will dominate the region's security agenda for years, if not decades, to come. In this case, the ASEAN claimant states have decidedly stuck to their unwritten agreement that some form of settlement needs to be reached with China before any attempt is made to resolve overlapping claims amongst themselves. Thus, the intra-ASEAN disputes in the South China Sea will most likely remain dormant for a considerable time to come.

There is little to suggest that developments in the South China Sea will have a significant impact on how other territorial disputes in the

region will be dealt with in the future. A considerable number of border questions remain unresolved, and it may well be the case that new disputes arise. One of the biggest challenges ahead for the region is the border between Myanmar and its ASEAN neighbours, Laos and Thailand. If Myanmar moves forward in its political transition, it will have to face the difficult task of demarcating a border that for decades has been characterised by violence between the state's security forces, armed groups, and criminal gangs. If the process follows the same patterns as described here, it will be a strictly bilateral process governed by the desire not to let any dispute escalate. Because politics are at times more complex than that, however, it is worth bearing in mind the lesson history has taught: good fences make good neighbours.

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