THE RISE OF TERRITORIAL DISPUTES AND THE STABILITY OF SOUTHEAST ASIA

By

Sukmawani Bela Pertiwi

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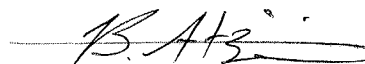
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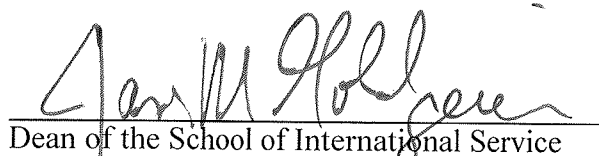International Politics

Chair:

Boaz Atzili, Ph.D.

Pek Koon Heng-Blackburn, Ph.D.

Dean of the School of International Service

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For my parents, whose whishes are well written in my name – this work is one of my dedications to Indonesia

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ABSTRACT

The main purpose of this study is to examine how the rise of territorial revivalism affects the stability of Southeast Asia. There are many unresolved territorial disputes in the region, yet the current regional stability overshadows the importance and the possible conflicts over these territories in the future. In order to understand the trajectory of the existing disputes, this study questions what are the remaining territorial disputes in Southeast Asia, what explains their stability, and under what circumstances a territorial dispute becomes stable, unstable, dormant and peacefully resolved. In contrast to the dominating international and regional approaches to territorial dispute, this study argues that it is the interplay between territoriality (issue-level approach) and domestic visibility (domestic-level approach) that best explains the dynamics of territorial disputes in the region.

PREFACE

The idea of writing this thesis stemmed from my concern on the rising tension in the South China Sea over the past five years. China's claim that stretches into Indonesian water in Natuna was perturbing particularly because Indonesian government seemed to remain calm in this crucial dispute that is related to the core sovereignty of the country. The fact that the government often pays little attention to the outermost islands and borders of Indonesia naturally moved my sense of belonging. Indonesia has 17,502 islands, yet many of the outermost islands and borders remain the least developed, uninhabited, and are undemarcated. The fact that we have ongoing disputes with Malaysia in Ambalat Block and *Outstanding Border Problems* in some other areas have added to the urge that something should be done about this border and territorial issues. Moreover, other states in the region also have similar disputes with their neighbors. Even though these disputes are currently dormant or stable, they can potentially erupt in the future as the case of the South China Sea. Therefore, I began this research to understand the dynamics of territorial disputes in the region: what are the remaining disputes, what explain their stability, and under what circumstances they become stable, unstable, dormant, and peacefully resolved.

This thesis itself would have never been possible without invaluable supports from my supervisor Dr. Boaz Atzili, who was willing to listen to my concern and idea, and helped me throughout the process of fulfilling my curiosity. His patience, trust, open mindedness, as well as his principle to always give a balanced view of my work has kept me moving until the end. Dr. Pek Koon Heng is another person that I am indebted the most as she is not only my reader, but also my mentor in Southeast Asian Studies during my two-year program in AU. In addition, I owe my gratitude to Dr. Amitav Acharya for his feedback on my initial research proposal; Randall Warnas, Lindsay Little, and the Writing Center for their help in proofing my writings;

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CHAPTER 1

INTRODUCTION

The issue of border and territorial disputes has been largely overlooked by academics and policy makers in Southeast Asia. The fact that the region has enjoyed greater stability in the past two decades has made the discussion of territorial disputes unattractive and irrelevant to their interstate relations. The view that territorial disputes should, and indeed have been, managed and resolved peacefully has also added to the corrosion of territorial issues, while at the same time advanced the confidence that open military confrontation is less likely to occur in the region.

However, the resurgence of territorial disputes over the past five years have been a wake-up call for the region proving that territorial issues are far from obsolete. The dormant dispute between Thailand and Cambodia since 1962, for example, erupted into an armed clash in 2011 and "temporarily displaced" thousands of people.[1] The following year, a two-month standoff occurred between the Philippines and China in the Scarborough Shoal, which for the first time since 1988 raised the possibility of open military confrontation. The long process of dispute settlement between Malaysia and "the Philippines" over Sabah has also fallen into fighting for the first time since the independence of both countries in the 1940s.[2] Not to mention the heating

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[1] International Crisis Group. "Waging Peace: ASEAN and The Thai-Cambodian Border Conflict." *International Crisis Group.* December 6, 2011. http://www.crisisgroup.org/~/media/Files/asia/south-east-asia/thai land/215%20Waging%20Peace%20--%20ASEAN%20and%20the%20Thai-Cambodian%20Border%20Conflict.pdf (accessed March 30, 2014)

[2] The Philippines claim to Sabah is a complex issue. The authoritarian government under Marcos has verbally dropped the Philippines' claim in 1977. However, no written document or law has been issued until today to relinquish the claim. The continuous efforts by the subsequent presidents always meet domestic oppositions from parties in the Senate, Congress, and the Sulu Sultanates. As a result the Philippines has demonstrated an ambiguous policy or what many observers called as "inactive claim" to Sabah. The latest development under Aquino in 2014 demonstrates that that the government is still revisiting the claim. See, Paridah Abd. Samad and Darusalam Abu Bakar, "Malaysia-Philippines Relations: The Issue of Sabah," *Asian Survey* 32, no. 6 (1992): 554-567; Manuel L. Quezon III, *North Borneo (Sabah): An Annotated Timeline 16402-Present,* March 2, 2013, http://globalnation.inqui rer.net/66281/north-borneo-sabah-an-annotated-timeline-1640s-present (accessed March 30, 2014); TJ Burgonio, *PH Not Giving Up Sabah over Malaysia's Help in Peace Talks MILF – Drilon,* March 30, 2014, http://globalnation. inquirer.net/101275/ph-not-giving-up-sabah-over-malaysias-help-in-peace-talks-with-milf-drilon (accessed March 30, 2014); Philstar, *Gov't 'Seriously' Studying Its Claim Over Sabah: Official,* January 28, 2014, http://www.philstar

situation between Indonesia and Malaysia in the Ambalat block, Malaysia and China in the South China Sea, and other unsettled territorial disputes, as well as undelimited borders that are widespread in the region. As Barry Wain has warned, despite the fact that these disputes have been relatively stable, they can be "latent dangers" that might erupt anytime in the future as the above cases indicate.[3]

Moreover, the recent development in the region indicates growing militarization and naval modernization in response to the rising tension in the South China Sea alone. In the last ten years, for example, defense spending by ASEAN countries has increased 136%, from 2003 to 2012, with almost 40% increase taking place between 2008 and 2012 alone.[4] A significant amount of this budget is dedicated to modernizing their naval bases near the disputed territory. Areas such as the southern part of the South China Sea are a potential flash point, not only because of overlapping claims in the Spratly and the Paracels, but also because the Sabah and Ambalat conflicts are centered there. With competition over maritime resources consistently increasing, the issue of territorial disputes, particularly maritime disputes, proves to be a serious challenge for the region that should no longer be ignored.

Against this backdrop, this study aims to contribute to exploring this new challenge of territorial revivalism in Southeast Asia, which in spite of its growing importance remains understudied. The main interest of this study is to see how the rise of territorial revivalism affects stability in Southeast Asia and whether these currently unsettled territorial disputes might erupt

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.com/headlines/2014/01/28/1284083/govt-seriously-studying-its-claim-over-sabah-official (accessed March 30, 2014).

[3] Barry Wain, "Latent Danger: Boundary Disputes and Border Issues in Southeast Asia," *Southeast Asian Affairs* (2012): 38.

[4] SIPRI, Military Expenditure By Region/Group, 2003-2012, http://portal.sipri.org/publications/pages/expenditures/world-regional-report/ (accessed December 15, 2013).

into military conflicts or remain stable and manageable as they are today. For this purpose, this study addresses two inter-related questions that are fundamental to understanding the future trajectory of territorial disputes in the region. First, what are the remaining territorial disputes in the region and what explains their stability? Second, under what circumstances territorial disputes become stable, unstable, dormant and peacefully settled? It is only by solving these puzzles that we can understand which territorial disputes are more stable and which of them are not, and ultimately whether the current territorial stability is more permanent or temporary.

As far as the literature is concerned, there have been considerable efforts in the past to study 'territorial disputes' and 'regional stability in Southeast Asia'. The study of both subjects in a single work, however, remains scarce, as the literature on territorial disputes has focused mainly on Europe and America, while the study of Southeast Asia has paid less attention to the issue of territorial disputes.[5] Except for individual cases, such as the South China Sea or Thailand-Cambodia conflict, there has been no effort to study systematically territorial disputes in Southeast Asia as a coherent unit of analysis.

In addition, the existing literature itself also suffers from limitations in explaining the central phenomenon of this study, that is, territorial stability. Most of these literatures work on the two extremes of how territorial disputes lead to war and how they lead to peaceful settlement.[6] The problem with this dichotomy is the fact that the current trend of territorial disputes, including those in Southeast Asia, lies somewhat in the middle. They are less likely to

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[5] The ICOW (International Correlates of War) dataset as the most comprehensive and the commonly cited source for quantitative studies on territorial disputes have only completed their territorial dispute dataset in the Western Hemisphere and Europe.

[6] See, for example, Paul F. Diehl and Gary Goertz, "Territorial Changes and Militarized Conflict," *The Journal of Conflict Resolution, Vol. 32, No.1*, 1988; Stephen A. Kocs, "Territorial Disputes and Interstate War, 1945-1987," *The Journal of Politics, Vol. 57, No. 1*, 1995, 159-175; John A. Vasquez, "Mapping The Probability of War and Analyzing the Possibility of Peace: The Role of Territorial Disputes," *Conflict Management and Peace Science, Vol. 18 No. 2*, 2001: 145-174; Arie Marcelo Kacowicz, *Peaceful Territorial Change,* Columbia: University of South Carolina Press, 1994.

lead to war, yet, they are not easily solved either. Therefore, a new framework that categorically captures the dynamics of stability such as; peacefully resolved, relatively stable, unstable, and dormant territorial disputes, would be more useful in understanding the current trend of territorial disputes, and would contribute to clarity to the existing body of knowledge.

In developing this study, I build on existing literature that still has proxy or relevance in explaining territorial stability. As will be explained in detail in the next chapter, there are at least three important approaches that have been developed in both the literatures of territorial disputes and Southeast Asian study. First, the international level approach proposes the explanation that territorial stability in Southeast Asia is part of the broader trend of the 'deterritorialization' taking place since the end of the Second World War.[7] The rise of the international norm of territorial integrity combined with the growing economic interdependence, have prevented states from invading others, therefore, not only reducing the number of territorial conflicts but also decreasing their level of conflict hostility. This, in turn, contributes, to territorial stability. The problem with this international approach, however, is its failure in explaining the persistence of territorial disputes and its inability to capture the dynamics of the disputes at local and regional level that is central to this study.

The second approach is the regional level approach that is dominant in the literature of Southeast Asian studies. It emphasizes the central role of ASEAN in creating and managing

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[7] For economic explanation, see, Erik Gartzke, "Globalization, Economic Development, and Territorial Conflict," In *Territoriality and Conflict in An Era of Globalization*, edited by Miles Kahler and Barbara F. Walter, 156-186. Cambridge: Cambridge University Press, 2006. For normative explanation, see, Mark W. Zacher, "The Territorial Integrity Norm: International Boundaries and the Use of Force," *International Organization* 55, no. 2 (2001), 215-250.

regional stability in Southeast Asia.[8] It is undeniable that ASEAN has transformed the previously war-torn region into one of the most stable regions in the world. When it comes to territorial stability, however, the role of ASEAN is less clear because the mechanism in ASEAN implies that only issues that affect regional stability can be discussed at the ASEAN level. As a consequence, even though ASEAN in general obligates peaceful conduct of interstate relations, many territorial disputes take place without direct interventions of ASEAN, and ASEAN itself has no influence on dormant or relatively stable territorial disputes. In short, ASEAN, too, has no ability to explain the dynamics of territorial stability as questioned in this study.

The third and more recently developed territoriality approach provides an alternative explanation by addressing the dynamics of territorial stability directly to the sources of the conflict, that is, the territory itself.[9] It proposes the explanation that territory has different levels of salience based on its tangible and intangible values that affect the stability differently. In general, territories with greater salience are more likely to be less stable and, in particular, territories with greater intangible salience are more likely to be less stable than those with tangible salience.[10] Even though this explanation provides better understanding on the dynamics of territorial stability, it is still incomplete because territorial stability here refers to a 'type' rather than a 'degree', and therefore, does not make a simple spectrum from war to peace or unstable to stable. As mentioned earlier, this dynamic includes peaceful settlement, relative

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[8] See Mely Caballero-Anthony, "Mechanism of Dispute Settlement: The ASEAN Experience," *Contemporary Southeast Asia, Vol. 20, No. 1* , 1998, 38-66; Timo Kivimaki, "Power, Interest, or Culture - Is there A Paradigm That Explains ASEAN's Political Role Best?" *The Pacific Review* 21, no. 4 (2008), 431-450.

[9] See Paul R. Hensel, "Territory: Theory and Evidence on Geography and Conflict," In *What Do We Know about War?*, by John Vasquez, 57-84, Lanham: Rowman & Littlefield, 2000; Daniel J. Dzurek, "What makes territory important: tangible and intangible dimensions," *Geo Journal, Vol. 64, No. 4*, 2005, 263-274.

[10] Paul R. Hensel and Sara Mclaughlin, "Issue Indivisibility and Territorial Claims," *Geo Journal, Vol. 64, No. 4*, 2005, 275-285.

stability, unstable peace, and dormant territorial disputes. There must be, therefore, a missing link that connects territoriality and this different type of territorial stability.

Building on this argument, I advance the main hypothesis of this study that it is the interplay between territoriality, defined as the value of a territory, and domestic visibility that best explain the dynamics of territorial stability in Southeast Asia. Territoriality by itself cannot explain stability because it requires an agency role, which in this study I would argue, is the visibility to domestic audience that eventually creates pressure on the states to adopt particular policy, which may stabilize or destabilize the disputes. The foundation behind this argument is twofold. First, past research has established strong relationships between domestic politics and international conflict.[11] Second, empirical studies also indicate that states in Southeast Asia are developmental states that are inward looking and mostly occupied by their domestic issues.[12] In fact, the very idea of establishing ASEAN was to promote regional stability that permits the states to focus on their domestic problems. In this sense, therefore, even though these states have numerous territorial disputes or undelimited borders, they might be unaware or intentionally shelve the disputes until the issues arise in the national media and visible to the public. Even if

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[11] For the relations between domestic politics and foreign policy, see, Robert D. Putnam, "Diplomacy and Domestic Politics: The Logic of Two-Level Games," *International Organization* 42, no. 3 (1998), 427-460; Thomas Rise-Kappen, "Public Opinion, Domestic Structure, and Foreign Policy in Liberal Democracies," *World Politics* 43, no. 4 (1991), 479-512; James N. Rosenau, ed. *Domestic Sources of Foreign Polic,* New York: The Free Press, 1967. James N. Rosenau, *Public Opinion and Foreign Policy: An Operational Formulation,* New York: Random House, 1961. Andrew Moravcsik, "Preferences and Power in the European Community: A Liberal Intergovernmentalist Approach," *Journal of Common Market Studies* 31, no. 4 (1993), 473-524. For international conflicts, see, James D. Fearon, "Domestic Political Audiences and the Escalation of International Disputes," *The American Political Science Review* 88, no. 3 (1994), 577-592; Graeme A. M. Davies, "Domestic Strife and the Initiation of International Conflicts: A Directed Dyad Analysis, 1950-1982," *The Journal of Conflict Resolution* 46, no. 5 (2002), 672-692; Birger Heldt, "Domestic Politics, Absolute Deprivation, and the Use of Armed Force in Interstate Territorial Disputes, 1950-1990," *The Journal of Conflict Resolution* 43, no. 4 (1999), 451-478; Jaroslav Tir, "Territorial Diversion: Diversionary Theory of War and Territorial Conflict," *The Journal of Politics* 72, no. 2 (2010), 413-425.

[12] See, for example, Michael Leifer, "South-East Asia." In *Foreign Policy Making in Developing States*, edited by Christopher Clapham, 17-41.

they do take care of it, states have tendency to solve the disputes without public attention unless they require mobilization to support the disputes.

With this in mind, there are several possible conjectures linking these factors to variation of territorial stability in the region. Salient territory with greater domestic visibility will create greater domestic pressure on the government to defend the disputed territory, therefore increasing the likelihood of the disputes to be unstable. Salient territory with less domestic visibility, however, tends to be relatively stable as the government has more flexibility to negotiate and to follow international law. In this situation, joint cooperation between disputants becomes more feasible as an alternative solution for territorial dispute. In the case of territory that is not salient but visible to the domestic audience, the government will face pressure to resolve the disputes in order to demonstrate its capability to its public. The low salience of the territory, however, increases the likelihood for peaceful settlement of the dispute. Finally, territory which is neither salient nor visible to the domestic audience tends to be dormant until the states have the capacity to deal with it or until it becomes visible to the domestic audience.

Table 1. The Model Linking Territoriality, Visibility, and Stability

Territoriality	Domestic Visibility	Stability
Salient	Visible	Unstable
Salient	Not Visible	Relatively Stable
Not Salient	Visible	Peacefully Resolved
Not Salient	Not Visible	Dormant

Notes: This model is modified from various studies of territoriality and domestic politics. See, Hensel and Mclaughlin, "Issue Indivisibility and Territorial Claims," 275-285; Daniel J. Dzurek, "What Makes Territory Important: Tangible and Intangible Dimensions," *GeoJournal* 64, no. 4 (2005): 263; Putnam, "Diplomacy and Domestic Politics," 427-460; Moravcsik, "Preferences and Power," 473-524; Rise-Kappen, "Public Opinion, Domestic Structure, and Foreign Policy," 479-512; Rosenau, *Public Opinion and Foreign Policy;* Fearon, "Domestic Political Audiences," 577-592; Tir, "Territorial Diversion," 413-425. Ralf Emmers also offers his own model of typology in explaining the dynamics of South and East China Sea disputes. However, his model differs in the way that it does not take into account domestic visibility as the key variable in this model, focuses instead on power calculation, and limits the dependent variable as escalation, deescalation, and neutralization. See, Ralf Emmers, Geopolitics and Maritime Territorial Disputes in East Asia, Oxon: Routledge.

To test the above hypothesis, this study is designed using qualitative methods that best suit the purpose of explaining territorial stability from domestic politics standpoint. While the tangible value of a territory can be measured easily using quantitative methods, its intangible value, stability, and domestic process that connecting these variables are problematic for quantitative measurement. The variable of domestic politics, which here refers to the visibility to domestic audience, is particularly problematic because it involves how an issue becomes a matter of national discourse, and how the government responds to this and translates this pressure to a policy vis a vis another state. It is important to understand this causal chain because it is the only way that we can determine that it is domestic pressure, and not other factor, that eventually determines the state's policy in territorial disputes. This causal mechanism is better explained by using qualitative analysis rather than statistical regression. After all, the small number of cases in this study itself prevents the use of quantitative methods that require a large number of cases in order to conduct meaningful statistical analysis.

Based on this consideration, I adopt two qualitative methods that are mutually reinforcing for this study. The first method is typological theories.[13] The basic idea of this method is building a typology or a categorization of cases based on my proposed independent and dependent variables.[14] This cross-case comparison is useful as a first cut to test my hypothesis; whether there is correlation between territoriality and domestic politics as my main independent variables and variation of stability as my dependent variable. I also include the role of ASEAN in the disputes to test whether there is correlation between ASEAN and the variation of territorial stability.

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[13] Alexander L. George and Andrew Bennet, *Case Studies and Theory Development in the Social Sciences* (Cambridge: The MIT Press, 2005), 235.

[14] Ibid.

As we know, however, correlation does not necessarily mean causation, particularly in a small number of cases. Therefore, the second method is within-case analysis through process tracing. As Alexander George and Andrew Bennet explain, process tracing is qualitative analysis that seeks to "identify the intervening causal process-the causal chain and causal mechanism-between an independent variable (or variables) and the outcome of the dependent variable."[15] By using process tracing, it would then be apparent whether my proposed independent variables indeed cause the variation of the dependent variable in question and explain how they are linked. For this purpose, I have selected four cases from the typology that represent each of the categorizations I have made in my hypothesis as can be seen in Table 1. These four cases also consist of two cases involving ASEAN (the South China Sea disputes) and two other cases which are not (Sipadan-Ligitan and Tanjung Datu). If the argument for ASEAN is correct then we should also see different dynamics between these two groups.

In addition to the above criteria, I prefer to select recent examples from each category and those that have sufficient data to establish valid analysis. It should be noted that gathering data of territorial disputes in the region is challenging, as most governments do not make this data readily available for the public. Most of the existing literatures that have datasets regarding territorial disputes in the region are outdated and not comprehensive. They also conflate territorial disputes with territorial changes or even separatism while excluding maritime territorial disputes. Therefore, the dataset used for this typology is the combination of various sources ranging from the Indonesian Ministry of Foreign Affairs, the International Court of Justice, the International Tribunal of the Law of the Sea, CIA fact book, and other academic literatures. I expect that crosschecking information from these sources would yield valid and up-to-date information for this research.

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[15] Ibid., 206.

Table 2. Case Studies

No.	Cases	Disputed Territory	Territoriality	Domestic Politics
1.	Vietnam – China	The South China Sea	Salient	Visible
2.	Malaysia – China	The South China Sea	Salient	Not Visible
3.	Indonesia – Malaysia	Sipadan – Ligitan	Not Salient	Visible
4.	Indonesia – Malaysia	Tanjung Datu	Not Salient	Not Visible

To better elaborate, this study is divided into two parts. The first part focuses on the conceptual and theoretical approaches for studying territorial disputes and their stability. Chapter 2 begins by discussing the conceptual and theoretical approaches based on the existing literature both on territorial disputes and Southeast Asian studies. It sets the definition of territorial disputes that has been very ill-defined and elaborates further the three main approaches to territorial disputes that have been touched upon in the above discussion. Taking into account this accumulation of knowledge together with their shortcomings, chapter 3 advances my argument on the interplay between territoriality and domestic politics as the alternative explanation underlying the dynamics of territorial stability in Southeast Asia. In this chapter, I delineate the four hypotheses together with the logic behind them as the crux of the present study.

To test the above argument, the second part of this study advances the case studies of territorial disputes in Southeast Asia. Chapter 4 provides an illustration of territorial disputes in Southeast Asia and builds typology of cases based on the definition of territorial disputes discussed in the preceding chapter. The following chapters, then, will discuss each of the case studies presented above in respective manner. Therefore, chapter 5 will present the case between Vietnam and China as an example of disputes that have both greater salience and visibility. Chapter 6, in turn, discusses the case between Malaysia and China, also over the South China

Sea, as a dispute that has greater salience but low visibility. Chapter 6 presents the case of dispute that has low salience but greater visibility as in the case between Indonesia and Malaysia over Sipadan and Ligitan. Finally, chapter 7 discusses the dispute between Indonesia and Malaysia over Tanjung Datu as a dispute that has neither significant salience nor visibility.

In each of these cases, I discuss the chronological order of the dispute and examine whether the proposed hypothesis about territoriality and visibility to domestic audience holds for each case. I also pay attention to their economic relations and the role of ASEAN in each dispute to test if these variables also contribute to the dynamics of the dispute. Particularly for both cases in the South China Sea, I also examine the role of China in these disputes, and see if there are different dynamics with other disputes that are not involving China. As many argued, China has been considered as an increasingly important factor in the regional stability in Southeast Asia. Thus, including the so-called "China's factor" in the equation would enrich the analysis of territorial disputes in Southeast Asia.

It should be noted, however, even though each case study is mainly dedicated as a test case for each hypothesis proposed in this paper, the observation within a case analysis may also expose dynamics of other types of territorial stability. For example, even though the main focus of the dispute between Vietnam and China is only on the recent tension in which we may see greater instability, the chronological description of the dispute prior to this period may include the situation where the dispute was not visible and it was stable. One case, therefore, may provide additional testing for other proposed hypotheses that would further strengthen the falsifiability of those hypotheses. Based on the examination of these four cases, then, the last chapter of this study will analyze the findings that would lead to the conclusion.

CHAPTER 2

CONCEPTUAL AND THEORETICAL APPROACHES TO TERRITORIAL DISPUTES AND
TERRITORIAL STABILITY

Understanding the existing conceptual and theoretical approaches to territorial disputes and stability is fundamental step in answering the puzzle raised in this study. As mentioned in the previous chapter, there have been considerable efforts in the past to explain the issue of territorial disputes. The discussion on territorial stability, however, remains underdeveloped and compartmentalized in different areas of studies. This chapter, therefore, will pull out the relevant literatures both from the study of territorial disputes and the regional study of Southeast Asia to see what the previous works have done to answer the puzzle of territorial stability in Southeast Asia, and, furthermore, what this study can contribute to the existing body of knowledge. For that purpose, the first part of this chapter will be dedicated to clarifying the definition of territorial disputes and stability used in this study, and the second part will further elaborate the existing approaches to address the issue of territorial disputes and their dynamics of stability.

The Concept of Territorial Disputes

Despite the extensive writings on the issue of territorial disputes, the concept of territorial dispute itself is very ill defined. Most of the works on territorial disputes are straightforward in elaborating their concerns on this issue without at first providing their definition of territorial disputes, as if it is a term that has been already agreed upon. In fact, if we look deeper among the few who define the term, there remain contentions on what constitutes territorial disputes.

The first position prefers to define territorial disputes in its broadest sense as disputes over "territorial sovereignty".[16] Without mentioning the actors involved in the dispute, this

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[16] Surya P. Sharma, *Territorial Acquisition, Disputes, and International Law,* The Hague: Kluwer Law International, 1997, 23.

definition conflates inter-state territorial disputes with other types of disputes involving state and non-state actors such as secession or unification.[17] This definition, therefore, is more similar to what Paul Diehl and Gary Goertz or Arie Kacowicz refers to as "territorial change." According to Diehl and Goertz, territorial change occurs "when a political entity gains or loses any portion of a territorial unit."[18] In this loose definition, territorial change can be said to take place even if it involves one sovereign state.[19] Examples of these changes are those from one colonial power to another colonial power, from one independent state to another independent state, from one colonial power to other independent state, and from one state to a non-state actor, such as the formation of a new independent state.[20] Based on this categorization, Kacowicz also defines territorial change in a similar way, as "political modifications or transformations dealing with a transfer of sovereignty over a given territory (such as cession) or an alteration of the existing status of a state or a non-state territory without actual transfer of territory (such as neutralization)."[21] The underlying belief behind this choice of broader definition of territorial dispute is the argument that all these types of disputes have similar characteristics as they are concerned with territory, and the states themselves respond to these disputes in a roughly similar manner.[22]

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[17] See Dzurek, "What Makes Territory Important," 263.

[18] Paul F Diehl and Gary Goertz, "Territorial Changes and Militarized Conflict," *The Journal of Conflict Resolution* 32, no. 1 (1988): 104.

[19] Ibid.

[20] Ibid., 105.

[21] Arie Marcelo Kacowicz, *Peaceful Territorial Change,* Columbia: University of South Carolina Press, 1994, 5.

[22] Dzurek, "What Makes Territory Important," 263.

While it might be true that these disputes are equally important, the argument that states respond to these disputes in a similar manner is definitely debatable. In the case of separatism, states would avoid using the ministry of foreign affairs to negotiate the issue, would be less willing to receive foreign intervention, and would have more legitimacy to use force to suppress the separatist movement. As the dynamics of this type of disputes are different, it would be better to separate these internal and international territorial disputes. Moreover, for the purpose of this study, territorial revivalism in Southeast Asia, refers only to the interstate territorial disputes, as that is what makes the disputes important, because they not only question the sovereignty of the participating states but also the stability of the region that have been previously characterized by peaceful coexistence.

As a response to this all-encompassing definition, the second position from scholars, mainly from legal perspective, imposes a strict and narrow definition of territorial disputes. These definitions usually break down the main umbrella of territorial disputes defined above to different categories, in which territorial dispute is one of them. Friedrich Katrochwil, for example, distinguishes territorial disputes from other types of disputes over territorial sovereignty such as "positional disputes" and "functional boundary disputes".[23] In contrast to the more technical "boundary-making" of the positional disputes or the more pragmatic dispute over "trans-boundary resource", territorial disputes have the deepest level of complexity as it relates to "the social formation of the social systems".[24] This implies that territorial disputes have more to do with "the mode of acquiring title" such as "discovery, occupation, cession, etc." and,

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[23] Friedrich V. Katrochwil, Harpreet Mahajan, and Paul Rohrlich, *Peace and Disputed Sovereignty,* Lanham, MD: University of Press of America, 1985, 18.

[24] Ibid.

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therefore, have more significant impact to the existence of the state in question as a whole.[25] In a similar vein, Surya Sharma also differentiates territorial disputes from border disputes, in that border disputes refer to interstate disputes about "the line to be drawn between their territorial domain", while territorial disputes refer to those disputes when a state "drawing a boundary seeks to supersede or eliminate another in a particular area of land."[26] The first, therefore, is similar to Katrochwil's positional dispute, while the latter is similar to his concept of territorial dispute.

This distinction between territorial disputes and other types of disputes over territorial sovereignty is definitely important because they have different characteristics and different legal consequences.[27] Yet, as Sharma also noted, despite these different characteristics, territorial disputes and border disputes are closely related and thus the case of territorial disputes is mostly accompanied by border disputes and the other way around.[28] In fact, there are only few cases that occur separately and they are usually related to offshore disputes, such as the dispute between the United Kingdom and Argentina over Falkland Island.[29] Furthermore, Sharma also mentions that in many cases the legal procedures for these two disputes are often similar if not "interdependent."[30] Therefore, this study takes the position of including both narrowly defined territorial disputes and border disputes as part of the definition of 'territorial disputes'. Even so,

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[25] Ibid., 3.

[26] Sharma, *Territorial Acquisition*, 23.

[27] Ibid., 24-26.

[28] Ibid., 26.

[29] Ibid., 24.

[30] Ibid.

this definition only includes those cases that overlap between territorial and border disputes and excludes cases of the pure border disputes.

This definition, however, remains incomplete. The above definition does not tell us how we know a territorial dispute when we see one, and how we should identify the beginning and the end of territorial disputes, considering the fact that the average territorial disputes occur more than ten years with the period of on and off. The definition proposed by Paul Huth, therefore, would further clarify the concept of territorial disputes.[31] His definition lies between the two extremes explained above in the way that it strictly limits territorial disputes as interstate disputes, but takes into account border disputes as part of the definition. Specifically, he refers to several conditions for a dispute to be categorized as a territorial dispute.[32] First, one state disputes the position of its border with the neighboring states because it rejects the existing arrangements, or because the existing arrangements itself do not have a clear provision on border demarcation. Second, one state invades another state. Lastly, one state rejects the existence of particular state together with their territory. To differentiate territorial disputes with the widespread undelimited borders, this definition limits territorial disputes only to those that have been declared officially by the relevant state.[33] Finally, Huth identified the end of the dispute by an agreement between the disputants, legal settlement through third party mediation, or an accepted occupation.[34] With these two criteria, then, it is clear when a territorial dispute begins and when it ends, and thus, provide better operationalization for analytical purposes.

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[31] Paul K. Huth, *Standing Your Ground: Territorial Disputes and International Conflict,* Ann Arbor: The University of Michigan Press, 1996, 19-26.

[32] Ibid., 19-22.

[33] Ibid., 23.

[34] Ibid.

The only problem with this definition is its exclusion of offshore or maritime territorial disputes which are central for Southeast Asia, and thus, also the focus of this study.[35] This exclusion is indeed understandable because Huth's study was limited to the cases of territorial disputes from 1951-1990 when maritime dispute had less salience than land-based territorial disputes. In fact, in that period, the development of United Nations Convention on the Law of the Sea (UNCLOS) as the international agreement governing the law of the sea was still in its nascent years as it was established in 1956. As mentioned in the previous chapter, however, in the current situation and, I believe, in the foreseeable future, maritime territorial disputes are becoming more important even when other territorial disputes are diminishing. First and foremost, this change has to do with the growing competition over maritime resources to fulfill the need of economic growth of the coastal states.[36] Second, as UNCLOS grants a larger maritime territory to an island, states have more stakes in defending this island than ever before.[37] Of course, the larger maritime territory also means that overlapping claims are more likely to occur among neighboring states.[38] Including these increasingly important, yet understudied, maritime territorial disputes will contribute to fill the gap in the body of knowledge of territorial disputes. Most importantly, it will be useful as an analytical tool to answer the puzzle of territorial disputes in Southeast Asia as raised in this study.

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[35] Ibid., 26.

[36] Clive Schofield, for example, observes similar trend occurring in Asia. Clive Schofield, "Maritime Energy Resources in Asia: Rising Tensions over Critical Marine Resources," *The National Bureau of Asian Research.* December 2011, 3-4. http://www.nbr.org/publications/specialreport/pdf/Preview/SR35_MERA-Energy andGeopolitics_preview.pdf (accessed February 24, 2014).

[37] Sam Bateman, "UNCLOS and Its Limitations as the Foundation for a Regional Maritime Security Regime," *The International Relations and Security Network,* April 2006, 6, http://www.isn.ethz.ch/Digital-Library/ Publications/Detail/?ots591=0c54e3b3-1e9c-be1e-2c24-a6a8c7060233&lng=en&id=27159 (accessed March 9, 2014).

[38] Ibid.

For the purpose of clarification, the term maritime territorial dispute covers several disputes over different maritime boundary zones. The first zone is the 12 nautical miles (nm) of *territorial sea* that serves as the extension of sovereignty of the coastal and offshore states.[39] Except for navigation where "innocent passage" has a right to traverse, the state has full control over all the activities from fishing, mining, to scientific activities.[40] Innocent passage here refers to the definition of the UNCLOS as "continuous and expeditious transit, through the territorial waters or internal waters, en route to or from the high seas, in a manner which does not prejudice the peace, good order, and security of the coastal state."[41] To protect this territorial sea, the second zone, that is the 24 nm *contiguous zone*, provides the state the authority to implement immigration policies and to monitor any encroachment on the state's maritime boundary by any foreign vessels.[42] The *exclusive economic zone* adds the state's sovereignty over maritime resources and jurisdiction over research activities within 200nm, while leaving other states the right of navigation.[43] The last zone or the *continental shelf* is the seabed stretching from the state's baseline to the end of the "continental margin" that may reach as far as 350 nm.[44] In this outermost maritime boundary, the states maintain control over mining and environmental policies but giving other states the rights for fishing and navigation.[45]

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[39] Peter Polomka, *Ocean Politics in Southeast Asia,* Singapore: ISEAS, 1978, 4.

[40] J.R.V. Prescott, *The Maritime Boundaries of The World,* London: Methuen, 1985, 40.

[41] Ibid., 39.

[42] Polomka, *Ocean Politics in Southeast Asia*, 4; See also, Henry W. Degenhardt, *Maritime Affairs - A World Handbook: A Reference Guide to Maritime Organizations, Conventions and Disputes and to the International Politics of The Sea,* Detroit: Gale Research Company, 1985, 7.

[43] Ibid., 5; Degenhardt, *Maritime Affairs*, 7.

[44] Prescott, *The Maritime Boundaries of the World*, 38; Degenhardt, *Maritime Affairs*, 7.

[45] Prescott, *The Maritime Boundaries of the World*, 40-41.

In addition to these four maritime zones, maritime territorial disputes are also related to two other important concepts of the law of the sea. The first concept is the "archipelagic waters" pursued and granted to the archipelagic states in which waters "within straight baseline" connecting the outermost islands of these states are considered as "internal waters" where only innocent passage has the right to traverse.[46] Even though this concept has now gained wider acceptance, this concept remains important to understand the unique prerogative of archipelagic states and their claims that are different from other states. The second contentious concept of the law of the sea, even until today, is the concept of the "regime of islands." Article 121 of the UNCLOS stipulates that only islands that are "above water at high tide" can be given the four maritime zones as mentioned above.[47] In contrast, "rocks that cannot sustain human habitation and economic life on their own shall have no exclusive economic zone or continental shelf."[48] Yet, as territorial disputes in Southeast Asia would later demonstrate, this distinction between islands and rocks is a crucial point of contention and manipulation among disputant states that have strategic interests in these maritime features.

Finally, having discussed in length the conceptualization of territorial disputes based on the existing literature, and examined its suitability to the purpose of this study; territorial disputes that will be referred from this point onward in this study can be summarized using the following criteria. First, it is interstate disputes over territorial sovereignty. Second, it includes both disputes over territory alone and the combination of territory and the position of the border. Third, only officially declared disputes and disagreements during demarcation can be categorized

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[46] Hanns J. Buchholz, *Law of the Sea Zones in the Pacific Ocean,* Singapore: ISEAS, 1987, 31; Prescott, *The Maritime Boundaries of the World*, 40.

[47] United nations, *United Nations Convention on the Law of the Sea- Part VIII,* http://www.un.org/depts/los/convention_agreements/texts/unclos/part8.htm (accessed December 21, 2013).

[48] Ibid.

as territorial disputes in this definition. Fourth, these disputes include both land and maritime territorial disputes.

Conceptualizing Territorial Stability

As it is now clear what constitutes territorial disputes, it is also important to define the concept of territorial stability as the central dependent variable in this study. Contrasted to the concept of territorial disputes that have been developed by other scholars, the concept of territorial stability discussed in this study is relatively new and has few equivalents in the past studies. In order to conceptualize the meaning of territorial stability, therefore, it would be useful to define what it means by stability in the study of international politics and international conflicts.

There are two competing views on the meaning of stability in international politics. The first view refers to international stability as the balance of power between two leading states.[49] Stability is said to occur because both states will carefully react to the other state in order to avoid any destruction for both parties.[50] The second view, however, refers to stability as hierarchical relations or power asymmetry between two states.[51] In this sense, stability occurs because the stronger state has the ability to establish rules of the game, while the weaker state has no ability to violate against it.[52] In either of these instances, stability refers to the preferred status quo between two competing states given the expected outcome for any changes of this relation.

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[49] Kenneth N. Waltz, "The Stability of A Bipolar World," *Daedalus* 93, no. 3 (1964): 881-909.

[50] Ibid., 883-886.

[51] See, G. John. Ikenberry, "Liberalism and Empire: Logics of Order in the American Unipolar Age," *Review of International Studies* 30, no. 04 (2004): 609-630.

[52] Ibid, 616.

This definition echoes those that are used used in the study of international conflicts. One definition proposed by Zeev Maoz refers to international stability as "the length of time elapsed from the termination of a dispute between the two states to the outbreak of another dispute between the same two states."[53] Another definition with the same tone refers to international stability as "the time-span during which a given dyadic relationship did not involve violent or potentially violent interactions."[54] In these two definitions, however, the term stability is more specific as it emphasizes the absence of open military confrontation as the parameter of measurement. Combined with the concept of territorial disputes, therefore, the concept of territorial stability can be defined as the time span during which territorial disputes do not erupt into open military confrontation or any violent interaction between the disputant states. In other words, it refers to the situation lying between the permanent dispute settlement and the eruption of war or military confrontation.

In assessing the causal factors of territorial stability, however, the concept of territorial stability in itself is not a sufficient analytical tool because the state of 'stability' is not static and unitary. It in fact covers different types of stability with their own dynamics. Using a quantitative approach, past researches have examined the different degree of territorial stability from unstable to stable or from war to peace. This distinction, however, does not sufficiently explain the characters of each degree, how we can differentiate them, how we position the dispute that have different characters but have no different degree of stability, and most importantly, how we can identify which causal factors lead to which types of territorial stability. It is for this reason that

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[53] Zeev Maoz, "Peace by Empire? Conflict Outcomes and International Stability, 1816-1976," *Journal of Peace Research* 21, no. 3 (1984), 229.

[54] Definition by Blema Steinberg, "Superpower Conceptions of Peace in the Middle East," *Jerusalem Journal of International Relations*, vol. 2, no. 4 (1977), 67-70, Taken from Maoz, "Peace by Empire?" 229.

this study prefers to adopt typology of territorial stability that breaks down stability into several types that do not necessarily have different degree, yet reflect the actual situation of the conflicts. Thus, it enables us to observe and identify them when we see one.

Peaceful Settlement. As mentioned above, territorial stability is said to lie between 'permanent' dispute settlement and military confrontation. However, in some cases, conflicts that were once settled often resurface in the following period for various reasons. These include changing administration in which the successors do not recognize the existing agreement, or there are some factions in the domestic politics that are dissatisfied or attempt to politicize the issue for particular purposes. Therefore, including peaceful settlement, as part of the dynamics of territorial stability remains relevant and useful particularly to see how causal factors in question may lead to this most desirable outcome of territorial disputes. Peaceful settlement itself, as Huth's definition also indicates, includes bilateral agreement between the disputants or third party mediation either by other states or by international arbitration. By peaceful settlement, it also means that the question of sovereignty of the disputed territory is eventually resolved.

Relative Stability. In contrast to a more permanent stability resulting from the peaceful settlement, relative stability refers to the situation where the disputes are still ongoing through legal procedures but there is no military confrontation occurring between the disputants. It may also refer to the situation when only one state pay attention to the disputed territory while other states, either for the lack of knowledge or distracted by other issues, do not take activities by other states seriously. In disputes over the intangible value of the territory, this situation refers to the cease-fire agreement, while in the disputes over the tangible value such as natural resources; this situation also refers to the joint cooperation between the disputants to develop the disputed area, either through joint research, exploitation, or development. In this situation, states have

shared interests in the strategic value of cooperation, but have not yet agreed on solving the sovereignty issue of the disputed territory. Both states prefer to maintain the status quo in order to avoid any undesirable outcome to their bilateral relations.

Dormant. A dormant territorial dispute is different from the category above in that both states do not put this dispute under policy consideration in the past five years. This definition is developed from Katrochwil's definition of "passive" dispute as territorial disputes that are not under "policy consideration" within three-year period.[55] To better distinguish dormant disputes from relatively stable disputes as defined above, I prefer to use five-year gap as the separating indicator for dormant territorial disputes. It is important to remember that, as the definition of territorial dispute implies, a dormant territorial dispute is different from undelimited borders in the way that the government has previously declared their claims or questions to the disputed border or territory.

Unstable Peace. This last type of territorial stability has its manifestation in two main circumstances. First, the dispute almost never erupts into significant military confrontation, but in contrast to the categories above, there are always small arm skirmishes, incidents, or threats to use force within at least five-year period. Second, unstable peace also refers to the situation of escalating tension between the disputant states that has not led to military confrontation. In this type of stability, both parties demonstrate their ability and willingness to use force even as the final resource to win the dispute. This stability, therefore, is fragile and is the most likely to lead to conflict in the future.

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[55] Katrochwil, *Peace and Disputed Territory*, x.

Theoretical Approaches To Territorial Stability

What are then the causes of territorial stability? What lead territorial disputes to these different types of territorial stability? Or in other words, under what circumstances can territorial disputes be peacefully settled, relatively stable, dormant, or unstable? Based on the existing literature on both territorial disputes and Southeast Asian studies, there are three main theoretical approaches that have been developed to answer this puzzle of territorial stability: the international level, regional level, and issue level approaches.

International Level Approach

The international level approach has dominated much of the literature on territorial disputes. By an international level approach, I refer to the group of literature that studies the relationship between territorial disputes and international politics, how territorial disputes affect the character of international politics and how the changing international politics, in return, affects the changing character of territorial disputes. Within this approach, there are at least three perspectives relevant in explaining territorial stability. One of them is pessimistic toward territorial stability while the two other perspectives are strong proponents of it. Even though further analysis will be given only to the last two perspectives, the pessimist perspective, that is realism, is worth mentioning as it is the earliest and the most dominating perspective in the literature on territorial disputes. This perspective also provides valuable insights on the importance of territorial disputes in international politics.

Realist Perspective

The Realist perspective shares a similar view with other perspectives on the importance of territorial stability in international politics. As the current Westphalia state system is defined in terms of territory, they acknowledge that the stability of territorial integrity, together with its

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borders, is indispensable for the "balance of power" in the system.[56] In contrast, without well-defined territory, it is even not clear "where the sovereignty of one state ended and that of another began."[57]

Many realists, however, are pessimistic on this ideal balance of power in the system. First, as traditional realists argue, territory has long been regarded as an important part of the state power.[58] Therefore, in line with the realist premise that states are in constant struggle for power, territorial expansion is also central in the state's foreign policy.[59] In the end, states are prone to territorial dispute because other states will also follow the suit in order to secure their sovereignty against the invasion of other states.[60]

Second, as another group of realists argue, tendency of states to fight for territory is not only based on the calculation of power. Rather, it is also the manifestation of the natural "human behavior as an animal."[61] As these scholars explain, "all vertebrates animals are territorial."[62] Therefore, states as the "human collectivities" would have the tendency to claim their territory, draw borders against other's territory, and become defensive to any changes in their territory.[63]

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[56] Beth A. Simmons, "Rules over Real Estate: Trade, Territorial Conflict, and International Borders as Institution," *The Journal of Conflict Resolution, Vol. 49, No.6*, 2005, 824.

[57] Robert L. Solomon, "Boundary Concepts and Practices in Southeast Asia," *World Politics, Vol. 23, No. 1*, 1970, 2.

[58] This is the main argument advanced by Morgenthau in his well-known book, "The Politics Among Nations". Simon, "Rule over Real Estate," 824.

[59] Zacher, "The Territorial Integrity Norm," 217.

[60] Diehl and Goertz, "Territorial Changes and Militarized Conflict," 104.

[61] Paul D. Senese, and John A. Vasquez, "A Unified Explanation of Territorial Conflict: Testing the Impact of Sampling Bias, 1919-1992," *International Studies Quarterly, Vol. 47 No.2*, 2003, 277. See also, John A. Vasquez, *The War Puzzle,* Cambridge: Cambridge University Press, 1993, 139.

[62] Ibid., 139.

[63] Ibid., 141.

Last, the persistence of wars over territory is repeated throughout the history of mankind. This is apparent in the findings of many quantitative studies conducted by the new generation of realist scholars on the relations between territorial disputes and the likelihood of war.[64] Using the data from 1816-1980, for example, Paul Diehl has come to the conclusion that territorial changes within this period have been characterized by violent conflicts.[65] A similar finding also appears in Steven Kocs' study that revealed how territorial contiguity has good predictability for the possibility of war.[66] In a more recent study, John Vasquez provides more support to this thesis by the findings of his tests that territorial disputes indeed has positive correlation with the likelihood of war, has better predictability than other issues, such as "regime" and "policy" issues, and remains important even after controlling for contiguity.[67] In contrast to Holsti's argument on the decreasing number of territorial disputes, his findings demonstrate a significant number of them even after the end of the World Wars.[68]

This realist view has unsurprisingly received wide support among many scholars, as it is, so far, the only argument capable of explaining the continuing presence of territorial disputes well into the current era of globalization. In addition, this realist explanation is among the few relevant explanations of why the current Westphalian state system persists and its borders remain obstinate as they were two decades ago. In short, the realist argument regarding the importance

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[64] Diehl, "Territorial Changes and Militarized Conflict," 103-122; Senese and Vasquez, "A Unified Explanation of Territorial Conflict," 275-298; Kocs, "Territorial Disputes and Interstate War," 159-175.

[65] Diehl, "Territorial Changes and Militarized Conflict," 103.

[66] Kocs, "Territorial Disputes and Interstate War," 159-175.

[67] Vazquez, "Mapping The Probability of War," 162-163. See also, John A. Vasquez and Marie T. Henehan, "Territorial Disputes and the Probability of War, 1816-1992," *Journal of Peace Research, Vol. 38, No. 2*, 2001, 123.

[68] Ibid.

of territory and territorial disputes in international politics is indeed undeniable and reflects much of the current situation in international affairs.

However, the realist argument on the relations between territorial disputes and war is debatable because empirical cases have demonstrated that the struggle for territory is not as persistent as realists argue. In fact, the number of territorial disputes has decreased significantly and many of them have been resolved peacefully or simply stable as the puzzle of this study indicated. There is, therefore, a shift in the dynamics of territorial disputes that realists do not anticipate. The close relations between territorial disputes and war as found in many quantitative studies resulted more from their selection bias on the period far before 1945 to only five decades after that. Diehl, as mentioned above, limited his study from 1816-1980; Kocs from 1945-1987, and Vasquez focused only on disputes from 1816-1992. While it can be argued that they somehow have included the period after the establishment of territorial integrity norm since 1945, the data remains skewed. That short period was obviously unstable as most of the states have only gained their independence, and therefore, disputes with former colonial powers or with other neighboring states were inevitable and contentious. Kocs has excluded disputes with colonial powers from his definition of territorial disputes. However, his definition of territorial dispute is too strict as it only involves those between contiguous states and those whose status have not yet determined, while excluding border disputes that only relates to "technical" issues.[69] It is unsurprising that their findings lean toward a stronger relationship between territorial disputes and war.

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[69] Kocs, "Territorial Disputes and Interstate Wars," 161-166.

Constructivist Perspective – Norm

      The above explanation has demonstrated that realists have clearly missed the changing trend of territorial disputes, and thus, lack the explanation on the current dynamics of territorial stability. A more useful argument comes from constructivists who propose the role of international norms in reducing the number of territorial disputes and ameliorating the severity of the conflicts after the end of the two World Wars.[70] According to this perspective, the spread of territorial disputes prior to 1945 was mainly caused by the absence of international norms to govern the relations among states over territory.[71] Therefore, It gave states freedom to invade the territory of others, which eventually resulted in the grim picture as narrated by the realists above. After the rise of norm of "territorial integrity" in 1945, states upheld this provision in order to avoid wars, and thus, the number of territorial disputes consistently decreased, while the remaining disputes tend to be more stable than before.[72]

      The norm of territorial integrity, as mentioned above, refers to the definition given by Mark Zacher, who was among the first to conduct study on the relation between norm and territorial stability. He defined territorial integrity norm as "the growing respect for the proscription that force should not be used to alter interstate boundaries."[73] This definition is similar to what Boaz Atzili refers to norm of "border fixity," that is, "the prohibition by most

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[70] Zacher, "The Territorial Integrity Norm," 215-250.

[71] Ibid.

[72] Ibid., 236-238.

[73] Ibid.

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states, and by international community in general, of foreign conquest and annexation of homeland territory, regardless of any internal or external condition."[74]

In examining the causal relations between these two variables, both authors demonstrate the parallel between the development of the territorial integrity norm and the decreasing number of territorial disputes. Zacher, for example, divides the development of territorial integrity norm into several periods with each period has less territorial disputes than the previous one. The first period marking the "emergence" of the norm took place during the interwar period between 1919-1945.[75] Major powers agreed for the first time to establish a code of conduct that would proscribe territorial conquest of other states, such as those in the Convenant of the League of Nations.[76] The weak enforcement of this agreement, however, resulted in the breakout of the Second World Wars when the Axis Powers expanded their territory in order to balance the hegemony of the allied forces of the Western countries. The triumph of the latter, after all, brought consciousness to the need of stronger norms to avoid future recurrence of these violations. In this second period, therefore, both major powers and those affected by the Wars accepted the UN Charter and adopted this provision in their respective regional organizations.[77] As a result, since the 1970s, there has been consolidation of the norm of territorial integrity that concurs with the decreasing, if not the absence, of significant territorial conquest.[78] Atzili also demonstrates this correlation by examining the actual practice of this norm, the changing

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[74] Boaz Atzili, *Good Fences, Bad Neighbors: Border Fixity and International Conflict,* Chicago: The University of Chicago Press, 2012, 16.

[75] Zacher, "The Territorial Integrity Norm," 236.

[76] Ibid., 236.

[77] Ibid., 236-237.

[78] Ibid., 237.

narratives among leaders in respond to territorial violation, and the institutionalization of this norm in various international and regional organizations.[79] Based on this evaluation, he concludes that border fixity has become a robust norm because it is not only supported by "material forces" that motivate the states to follow the norm, but also the idea that has changed how the states look at border and interstate relations regarding their borders.[80]

There are, however, two main issues with these two studies. First, their sole focus on territorial conquest is problematic for the purpose of this study in the way that territorial aggrandizement is only one aspect of territorial disputes. There are in fact undelimited borders, overlapping claims, and imposed borders that caused dissatisfactions among states, particularly in the developing countries. Therefore, even though the occurrence of territorial aggrandizement has decreased, territorial disputes related to the above issues remain high. Second, identifying correlation does not necessarily mean causation. Even though these studies have convincingly provided evidence on the parallel between the rise of the norm of territorial integrity and the declining number of territorial disputes, they do not further examine if it also determines causation, or if there are other factors contributing to this changing trend of territorial disputes. It is for this reason that Paul Hensel, Michael Allison, and Ahmed Khanani test the arguments of these studies using quantitative methods.[81]

In his test, Hensel separates two different types of the norm of territorial integrity. The first type refers to those defined by Zacher and Atzili, and thus limited only to the prohibition of territorial conquest, while the second type refers to a broader provision that "call explicitly for

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[79] Atzili, *Good Fences, Bad Neighbors*, 22-30.

[80] Ibid., 30.

[81] Paul R Hensel, Michael E. Allison, and Ahmed Khanani, "Territorial Integrity Treaties and Armed COnflict Over Territory," *Conflict Management and Peace Science* 26, no. 2 (2009), 123.

respect for all borders rather than only rejecting violent acquisition of territory."[82] Measuring the strength of the norms based on the number of relevant treaties that the states have ratified, this research finds that the broader territorial integrity norm has indeed reduced the number of militarized territorial disputes even after controlling for other variables, such as power asymmetry and democracy.[83] However, this relationship is less direct because the norm influences the disputes more through the mechanism of peer pressure particularly from major powers that support the norm.[84] In relation to Zacher's study, Hensel also found that the narrowly defined territorial integrity norm, that only prohibits territorial conquest, has no meaningful impact to the decreasing number of both militarized territorial disputes and territorial changes.[85] He suspects that it is because this norm is usually part of the broader treaties, such as UN Charter or treaties establishing particular regional organizations. Therefore participating states might agree on the treaties simply because of other political interests that have no relations with territorial disputes.[86]

Even though Hensel has provided supporting evidences on the causal relations between the norm of territorial integrity and the decreasing number of territorial disputes in general, he encourages future research to further examine whether this norm also affects "the peaceful management" and settlement of territorial disputes.[87] He also questions how this norm affects the dynamics of the disputes in particular region and how this norm vis a vis other norms such as

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[82] Ibid., 123.

[83] Ibid., 127, 131, 139.

[84] Ibid., 139-140.

[85] Ibid.

[86] Ibid., 140.

[87] Ibid., 141.

decolonization.[88] I mention these research opportunities listed by Hensel because it is exactly my caveat to the study of norms and their relations with territorial stability. Even though this norm can explain the decreasing number of territorial disputes, it cannot explain the dynamics of territorial stability as questioned in this study for the simple reason that it treats territorial stability as a single ultimate dependent variable to be explained. Therefore it provides no room for explaining that stability itself has its own dynamics. The only feasible way to relate international norms and the dynamics of territorial stability is by focusing on its manifestation in a more concrete and narrow scope in regional organizations, such as ASEAN, that will also be examined in this study.

Liberal Perspective

Regardless of the validity of the relationship between norms and territorial stability, one clear issue from Hensel's study that would invite criticism from liberal scholars is his exclusion of economic factors as a control variable of his statistical test. The liberal perspective has long advocated the role of economic factors, either in the form of economic development, trade, or Foreign Direct Investment (FDI), in pacifying the impact of interstate conflicts and promoting peaceful interstate relations in general. The basic tenet of this so-called liberal peace theory is clear: trade means economic benefits while war means economic costs.[89] Rational states, therefore, will opt for trade because trade provides win-win solutions for their economic problems that are not provided by the zero-sum game of the war.[90] In a more societal level, trading activities also increase the interaction among people from different states and thus

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[88] Ibid., 141.

[89] Dale C. Copeland, "Economic Interdependence and War: A theory of Trade Expectation," *International Security* 20, no. 4, 1996, 8.

[90] Ibid., 9.

increasing common understanding between them.[91] This combination of increasing gains and interaction eventually prevents the government to adopt a policy that may disrupt this relationship.[92] In Zeev Maoz's words, trade has "sensitivity" and "vulnerability interdependence." The first refers to the gain of participating in trade, while the latter refers to the cost of cutting off the relations once it has been established.[93]

In addition to these direct economic benefits, liberals also believe that trade have "spillover" effects that would bring the states to greater cooperation, and eventually to greater integration.[94] In this high level of cooperation, it would be difficult to break the already established network of cooperation and to initiate interstate conflict because the cost of doing so would be tremendous. Particularly with the current era of modernization and globalization, the proponents of this theory believe that the role of economic interdependence is even more significant as it is not only trade but also investment that pushes states into deeper economic interdependence.[95] With the decreasing importance of land in the globalization era, states with the higher level of economic interdependence are expected to have not only lower number of disputes in general but also territorial disputes in particular. [96]

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[91] John Oneal, Frances H Oneal, Zeev Maoz, and Bruce Russett, "The Liberal Peace: Interdependence, Democracy, and International Conflict, 1950-1985," *Journal of Peace Research* 33, no. 1, 1996, 11.

[92] Ibid.

[93] Zeev Maoz, "The Effects of Strategic and Economic Interdependence on International Conflict Across Levels of Analysis," *American Jurnal of Political Science* 53, no. 1 (2009), 223-224.

[94] See Ben Rosamond, *Theories of European Integration,* New York: St. Martin's Press, 2000, 50-73.

[95] Erik Gartzke, "Globalization, Economic Development, and Territorial Conflict," In *Territoriality and Conflict in An Era of Globalization*, edited by Miles Kahler and Barbara F. Walter, 163, Cambridge: Cambridge University Press, 2006.

[96] See the liberal analysis in Gartzke, "Globalization, Economic Development, and Territorial Conflict," 162.

The statistical study by Simmons, for example, demonstrates how territorial disputes, even if they are not accompanied by militarized conflict, have economic costs in the form of "jurisdictional uncertainty" and "policy uncertainty."[97] The first refers to the cost when the disputes cause uncertainty on the procedure of conducting any activities in the disputed area.[98] The latter occurs when the government issues particular policy in response to territorial disputes that disadvantages economic activities between the two countries such as economic embargoes.[99] These two economic risks would be expected to further discourage states to initiate territorial disputes that eventually lead to the decreasing number of territorial disputes we see today.

Other liberals, however, criticize this hypothetical analysis as obfuscating trades (the representation of economic interdependence/globalization) with other economic factors.[100] Erik Gartzke, for example, refines this analysis in his quantitative study by comparing the role of economic development and economic interdependence in reducing the number of territorial disputes.[101] His rather surprising finding indicates that economic development decreases the number of territorial disputes, but it does increase the number of militarized conflicts in general.[102] This finding is interesting as it seems to mediate the debate between those that argue economic development would lead to the greater ability for power projection and those that claim territory is no longer important for a state to initiate a new territorial dispute.[103] In regards

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[97] Simmons, "Rules Over Real Estate," 842.

[98] Ibid., 828.

[99] Ibid., 828.

[100] Gartzke, "Globalization, Economic Development, and Territorial Conflict," 156-186.

[101] Ibid., 157.

[102] Ibid., 179-180.

[103] Ibid., 156-157.

to globalization, however, this study finds that it has no meaningful impact to territorial disputes, even though it decreases the probability of militarized conflict in general.[104]

In a different study, Lee and Mitchell also demonstrate the role of globalization forces other than trade, such as FDI, in reducing the number and ameliorating the impact of territorial disputes.[105] Both authors argue that FDI is becoming more important in the last decade with the flow of FDI exceeding the flow of trade among countries.[106] With the character of FDI that is more responsive to any political changes and has higher level of mobility compared to trade, FDI may affect both the initiation and the management of territorial disputes.[107] FDI is said to reduce the number of territorial disputes in the way that it discourages states to initiate a new territorial dispute that would threaten the flow of FDI, both from the attacked country and other countries that are concerned about the impact of the dispute.[108] It also reduces the probability of dispute as countries with high level of investment usually have a better image on their partners, better information, and better policy compatibility in multilateral forum.[109] The finding of the study itself supports the correlation between the increasing trends of global FDI with the overall decrease of territorial disputes. However, there is no meaningful relationship between bilateral FDI and the number of territorial disputes.[110]

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[104] Ibid., 180.

[105] Hoon Lee and Sara McLaughlin Mitchell, "Foreign Direct Investment and Territorial Disputes," *Journal of Conflict Resolution* 56, no. 4 (2012), 675-703.

[106] Ibid., 680.

[107] Ibid., 680.

[108] Ibid., 680.

[109] Ibid., 681-682.

[110] Ibid., 690.

From the above overview, it seems that there remains debate among liberal scholars on which and how these different economic forces of globalization affect territorial disputes. The differing statistical findings, therefore, require deeper qualitative studies to better examine the causal mechanisms actually taking place in the empirical cases of territorial disputes. Similar to the issue on the study of norms, these studies also mix the concept of territorial disputes with a narrower concept of territorial conquest or, on the contrary, a broader concept of territorial claims. Therefore, it is difficult to make a judgment on the findings of these studies, or perhaps, this different conceptualization itself is the source of the differing findings among these studies.

What is clearly problematic from these studies, however, is their sole focus on the tangible value of territory as the only reason for a state to fight in a territorial dispute. As Barbara Walter and other scholars of territoriality argue, "the symbolic value" of the territory, or "the territorial attachment" of the people to the disputed territory, is the reason that makes territorial disputes more contentious than other types of disputes.[111] Therefore, we should take caution in looking at the findings produced in this study. In the case of Gartzke, for example, his finding that a state with higher level of economic development tends to have more "non-territorial" conflicts and less territorial disputes applies only if we define territorial disputes as territorial conquest, as Gartzke has defined.[112] However, for those states having territorial disputes, overlapping claims, or undelimited borders, economic development would also be the opportunity for them to reclaim "what they have lost" or to assert their sovereignty, as it relates to their national pride as a 'rising nation.' Therefore, as economic development increases, the

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[111] Barbara F. Walter, "Conclusion," In *Territoriality and Conflict in An Era of Globalization*, edited by Miles Kahler and Barbara F. Walter, 294, Cambridge: Cambridge University Press, 2006.

[112] Gartzke, "Globalization, Economic Development, and Territorial Conflict," 157, 179.

number of territorial revivalism might also increase, regardless of how these states would approach these conflicts.

Another caution in responding to these studies, as Walter also mentions, is the way they define globalization.[113] While these scholars define globalization narrowly in terms of economic globalization, which then creates significant relations with a decreasing number of territorial disputes, it might yield different result if globalization is broadly defined to include social and political forces of globalization.[114] These are issues that remain to be clarified by liberal scholars in order to better establish the relationship between economic interdependence and territorial stability.

<div align="center">Regional Level Approach</div>

The international level approach has provided the global explanation on the changing nature of territorial disputes from conflict-laden to more stable management among the disputant states. However, these explanations are not adequate because, as Hensel noted, the dynamics of territorial stability, and the role of their proposed explanations, are different from one region to another. It is, therefore, worthwhile to understand how the regional level approaches territorial disputes and their dynamics of territorial stability.

To date, there is little research connecting these two variables as the literature on territorial disputes explained above focus more on the international level approach. However, the role of regional institutions on managing interstate conflict, even though not specifically on territorial disputes, has received significant attention in the literature of regional studies, including Southeast Asian studies. In fact, since the end of the Cold War, it can be said that the

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[113] Walter, "Conclusion," 296.

[114] Ibid.

dynamics of interstate disputes are better captured in the regional level because the major powers have become reluctant to involve in a conflict that is not part of their objectives.[115] At the same time, regional powers have emerged and often times exert their influence in their immediate neighborhood.[116] As a result, there has been a trend of establishing regional institutions as a mechanism to manage interstate relations at the regional level, either in the form of economic cooperation, alliance systems, or multipurpose regional institutions.[117] The role of these regional institutions has been further strengthened by the inability of the United Nations (UN) to manage both interstate and intrastate disputes that have arisen after the end of the Cold War.[118] As stated by the former UN Secretary General Boutros-Boutros Ghali, the role of regional institutions is encouraged in order to help the UN to carry out their mandate as the standard bearer of "international peace and security".[119]

In doing so, regional institutions have several mechanisms to manage regional peace and stability that are best explained using a constructivist perspective as the strongest proponent of regional institutions. I intentionally separate the constructivist explanation between international and regional levels because the former focuses more on the normative side, while the latter focuses on both normative and institutional sides of the explanation. Even if they both discuss

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[115] Yoram Z. Haftel, *Regional Economic Institutions and Conflict Mitigation: Design, Implementation and the Promise of Peace,* The University of Michigan, 2012, 1-2.

[116] Ibid.

[117] Ibid., 1.

[118] Mely Cabarello-Anthony, *Regional Security in Southeast Asia: Beyond the ASEAN Way,* Singapore: Institute of Southeast Asian Studies, 2005, 17.

[119] Boutros-Boutros Ghali, "An Agenda for Peace: Preventive Diplomacy, Peacemaking and Peacekeeping," as quoted in Cabarello-Anthony, *Regional Security in Southeast Asia*, 17.

norms, the international level has more emphasis on international and more general norms, while the latter has emphasis on more specific norms that are unique to particular regions.

To begin with, regional constructivists argue that the establishment of regional institutions is the manifestation of conflict management among states in the region. As Alagappa explained in detail, there are three steps of conflict management consisting of "conflict prevention", "containment", and "termination".[120] In the first step, the institutions attempt to manage interstate relations, or disputes if they have already occurred, in such a way that they would not escalate into militarized disputes. These strategies include "assurance", "community building", and "deterrence".[121] In these three strategies, the institution basically provides an avenue for confidence building, information sharing, nurturing sense of community, and socializing norms to its members that would help shaping the identity and interest of the disputant states to be in line with the institution.[122] This is similar to what Haftel suggests as the role of high-level meetings in the regional institution.[123] They serve as an opportunity not only to increase the level of "familiarity" and "trust" among their representatives, but also to discuss the most pressing issues between them in a less rigid way.[124] His quantitative study found that regional institutions with broader economic cooperation and "regular meetings among high-level

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[120] Muthiah Alagappa, "Regionalism and Conflict Management: A Framework for Analysis," *Review of International Studies* 21, no. 4 (1995), 369.

[121] Ibid., 370.

[122] Ibid., 369-370.

[123] Yoram Z. Haftel, "Designing for Peace: Regional Integration Arrangements, Institutional Variation, and Militarized Interstate Disputes," *International Organization* 61, no. 1 (2007), 217-237.

[124] Ibid., 221.

officials" tend to have fewer numbers of militarized interstate disputes. Thus, it confirms the preventive role of regional institution.[125]

The second step of conflict management is containment, in which the institution attempts to avoid the escalation of the disputes in terms of scope and the number of participants involved.[126] Here, regional institutions can adopt "non-intervention", " isolation", "intervention", "intermediation", and "internationalization".[127] The first two strategies refer to intentionally passive response to the disputes in order to prevent further escalation.[128] Meanwhile, the remaining three strategies refer to active participation in the disputes. The last two strategies are also important in the last step of conflict management, wherein an institution eventually ends the conflict either "through settlement or resolution".[129]

In the level of implementation, the role of regional institutions is definitely different from one region to another. However, in Southeast Asia, ASEAN as the main regional institution is believed to have significant role in managing regional stability. In fact, most of the literature in Southeast Asian studies has been dedicated to explain the success of ASEAN in transforming the previously conflict-torn region into one of the most stable regions in the world. This is even caught in Hensel's study mentioned in the previous section. His statistical data indicates that ASEAN has had the most significant impact in reducing militarized territorial disputes compared

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[125] Ibid., 217.

[126] Alagappa, "Regionalism and Conflict Management," 369.

[127] Ibid.

[128] Ibid., 370.

[129] Ibid., 369.

to other regional institutions with the perfect predictability, meaning there has been no "fatal territorial disputes" since 1976.[130]

Based on the main theoretical framework of conflict management explained above, there are at least three ways that the literature has used to describe the relations between ASEAN and conflict management in the region. First, ASEAN itself was established as a conflict management among states in the region who at that time were fighting for territory.[131] After the independence of Southeast Asian states in the mid 1940s, states in the region faced various issues of nation building that required them to focus on their domestic affairs. They could not, however, ignore the development in the regional level because they needed regional stability to support the development in their respective states. They also concerned on the possible return of the colonial power and the threat of communism. Initial efforts, therefore, were made by three states, i.e., Indonesia, Malaysia, and the Philippines, to create a regional mechanism that would maintain regional stability in Southeast Asia. These efforts, however, were undermined because of the territorial dispute between Malaysia and the Philippines over Sabah, and Indonesia's confrontation policy against the establishment of Malaysian federation that it considered as an effort of the British to stay in the region. To prevent further conflict from occurring, these states, in addition to Thailand and Singapore, eventually agreed on the establishment of regional cooperation that would have the main purpose of managing regional peace and stability in the

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[130] Hensel, "Territorial Integrity Treaties," 138.

[131] See Ramses Amer, "Expanding ASEAN's conflict Management Framework in Southeast Asia: The Border Dispute Dimension," *Asian Journal of Political Science 6:2*, 1998, 34; Mely Caballero-Anthony, "Mechanism of Dispute Settlement: The ASEAN Experience," *Contemporary Southeast Asia, Vol. 20, No. 1* , 1998, 45; Amitav Acharya, *Constructing A Security Community in Southeast Asia: ASEAN and the Problem of Regional Order,* New York: Taylor & Francis e-library, 2003, 48.

region, by denouncing the use of force and holding up the norm of non-intervention in the internal affairs of other members.[132]

After the establishment of ASEAN, its role in conflict management is manifested in two ways.[133] The first is the normative framework under the Treaty of Amity and Cooperation.[134] In this document, ASEAN members agreed on the six principles of managing conflicts, consisting of the respect for sovereignty and territorial integrity, "the rights of every state to lead its national existence free from external interference", "non-interference in the internal affairs of one another", "settlement of differences or disputes by peaceful means", "renunciation of the threat or use of force", and "effective cooperation."[135] In addition, ASEAN members agreed on the establishment of High Council as the mediator of interstate conflicts in case the relevant parties could not reach an agreement.[136]

The second way of conflict management is the most often used by ASEAN and is well known as the ASEAN Way. The basic idea of this approach is shelving the dispute for future settlement.[137] For the critics of ASEAN, it only sweeps the dispute under the carpet and sacrifices the solution of the dispute for the sake of regional stability. For ASEAN, however, it is a way to buy time in order to let the dispute to pass its climax, and thus, provide better timing for discussing the settlement of the dispute.[138]

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[132] Acharya, *Constructing A Security Community in Southeast Asia,* 49.

[133] Caballero-Anthony, "Mechanism of Dispute Settlement," 46-62.

[134] Ibid., 49

[135] Treaty of Amity and Cooperation, Chapter I, Article 2, as mentioned in Amer, "Expanding ASEAN Conflict Management," 37.

[136] Ibid., 37.

[137] Ibid., 52.

[138] Cabarello-Anthony, "Mechanism of Dispute Settlement," 52.

The last way in looking at ASEAN as a conflict management instrument is the use of membership expansion as a way to broaden the socialization of ASEAN norms to the new members, which is expected to provide ASEAN with better control over the stability of the region.[139] This was evident after the Indochina War in 1978 where Vietnam invaded Cambodia. Concerned on the destabilizing impact of the dispute, ASEAN has actively engaged with both parties by establishing an "alternative" government in Cambodia (intervention), organizing Jakarta Informal Meeting as a dialogue forum for both parties (intermediation), and raising this issue in the United Nations (internationalization).[140] Even though the conflict settled more because of the changing political interests among the great powers in the end of the Cold War, ASEAN has indeed contributed in providing the foundation for the peaceful transition of the dispute until the signing of the Paris Peace Treaty in 1991.[141] Furthermore, ASEAN has continued engaging with the Indochina states and offered them memberships, with the expectation that these states will adopt the peaceful approach envisaged by ASEAN, and therefore, preventing another similar dispute to occur.[142] All of these states have eventually joined ASEAN and there have been no fatal territorial disputes among ASEAN states, perhaps, not until the military confrontation between Thailand and Cambodia.

Judging from the above explanation, the role of ASEAN in managing regional stability in general and territorial stability specifically seems to be indispensable. However, it does not mean that ASEAN has no limitation. Amitav Acharya, Shaun Narine, and Ramses Amer argue that all

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[139] Amer, "Expanding ASEAN Conflict Management," 44.

[140] Shaun Narine, "ASEAN and the Management of Regional Security," *Pacific Affairs, Vol. 71, No. 2*, 1998, 205.

[141] Ibid., 207.

[142] Amer, "Expanding ASEAN Conflict Management," 45.

of those achievements mainly occurred during the Cold War period with the later period has demonstrated a more nuanced role of ASEAN.[143] Amer highlights the remaining territorial disputes that linger on the region. Acharya, on the other hand, discusses new challenges including the growing significance of maritime territorial disputes and the South China Sea disputes that involve external power. This is a situation that ASEAN has not yet encountered considering the clash in the South China Sea in 1974 occurred when Vietnam was not a member of ASEAN. Even during the Cold War period, Narine argued that the role of ASEAN was equally mixed and owed to particular condition that is not "readily transferred to the post-Cold War period."[144] During the Vietnam invasion, for instance, ASEAN was divided between Malaysia and Indonesia, who preferred a softer approach to Vietnam on the one hand, and Thailand as well as Singapore with their tougher approaches on the other.[145] The principle of non-intervention also added to the limitation of ASEAN intervention in the dispute. As a consequence, in the later stage, the UN Security Council helped taking over the settlement of the dispute through the Paris Peace Conference.[146]

After all, these authors agree that ASEAN has succeeded in the level of conflict prevention that is apparent with the absence of significant military confrontation in the region.[147] Beyond this scope, ASEAN's role remains limited. One issue that these authors highlight is the

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[143] Acharya, *Constructing A Security Community*, 198-199; Narine, "ASEAN and the Management of Regional Security," 195-214; Amer, "Expanding ASEAN Conflict Management," 41-44.

[144] Narine, "ASEAN and the Management of Regional Security," 195.

[145] Ibid., 206.

[146] Ibid., 207.

[147] Acharya, *Constructing A Security Community*, 50, 199; Amer, "Expanding ASEAN Conflict Management," 41-44.

underutilized role high council as a possible way of conflict management in ASEAN.[148] To date, there has been no territorial dispute referred to this body. Instead, most territorial disputes are settled between the disputant states or referred to International Court of Justice, which Acharya sees as the "departure from an avoidance of formal mechanisms, characteristics of the ASEAN Way, and detraction from its norm of seeking regional solutions to regional problems."[149]

By this, ASEAN has limited use in explaining the dynamics of territorial stability as questioned in this study. It cannot explain why territorial disputes become dormant, stable, unstable, or peacefully resolved. Also, in order to use ASEAN as useful analytical tool, that is an actor that has causal impact on the dependent variable, we should change the existing approach of treating ASEAN as both the institution and all the actions by individual member states. Acharya gave the example that Indonesia's initiatives on creating an informal forum on the South China Sea disputes should not be viewed as the role of "collective ASEAN initiative".[150] Mixing these two different interventions would only equate ASEAN with other third party mediation, which is different from the focus of this constructivist regional approach, and would only exaggerate the role of ASEAN in managing territorial disputes.

<div align="center">Issue Level Approach</div>

The last approach is the issue level approach. As apparent in the above discussion, the explanations of territorial stability from international and regional levels left several limitations that deeply undermine their usefulness as analytical tool for this study. The first and foremost is their focus on the broader level of international and regional environment to explain a

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[148] Amer, "Expanding ASEAN Conflict Management," 44.

[149] Acharya, *Constructing A Security Community*, 132.

[150] Ibid., 133-134.

phenomenon that is more local. Therefore, even though these approaches can account for the changing nature of territorial dispute to relative stability in international and regional level, they cannot explain the dynamics of the stability itself, such as why some disputes can be peacefully resolved, why some remain unstable, and why some others dormant. It is for this reason that scholars of geopolitics propose to move beyond merely analyzing the environment where the dispute occurs, that is in the international and regional levels, and focus instead on the issue being disputed, that is the territory itself.

It is rather ironic that the literature on territorial disputes does not put considerable emphasis on the nature of the disputed territory until recent decades. The early literature on this issue, as mentioned above, has been dominated by realist perspective that, even though acknowledging the importance of territory, has only regarded its value in its relation to power. Therefore unsurprising if territory is then regarded as a persistent source of conflicts. Another strand of realism provides a closer territorial explanation by focusing on the role of territorial contiguity in increasing the probability of interstate disputes. Their main argument is that contiguity provides "opportunity" for greater interstate interactions that would eventually lead to greater risk of conflict.[151] As conventional wisdom says, the most immediate threat comes from a state's immediate environment.

This explanation, however, undermines the greater role a territory can play, because it focuses only on the role of territory as the so-called facilitator of interstate dispute rather than the "source" of conflict itself.[152] In addition, it would be too simplistic, if not misleading, to say that territory would only be stable among states with greater distance. As Deutch argues, greater

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[151] Paul D. Senese, "Territory, Contiguity, and International Conflict: Assessing A New Joint Explanation." *American Journal of Political Science* 49, no. 4 (2005), 770.

[152] Hensel, "Territory: Theory and Evidence," 57-58.

interaction facilitates "social learning and identity formation" that overtime increases the sense of community among these states to a point where war is unthinkable between them.[153] In contrast, greater distance in the current era of advanced technology does not necessarily inhibit power projection or interstate disputes between distant states, therefore does not guarantee territorial stability.

Based on this consideration, recent scholarship has developed a more systematic research on territoriality that they define as the study of "territory as the source of conflict" as opposed to only "facilitating the condition for conflict" in anyway.[154] Past research has indeed acknowledged that territory has different level of salience in which territories with greater salience is more contentious than those with less salience. However, it is only in the last decade that scholars have studied this territoriality perspective in a more comprehensive way. Hensel, for example, divides the salience of the disputed territory into "tangible" and "intangible" values.[155] The tangible value refers to concrete features of the territory that can be divided into three types. The first type is potential natural resources, ranging from the presence of the water source, forest, agricultural land, fisheries, to more strategic deposits of hydrocarbons.[156] Territories with these typical features are often disputed because it is crucial for the domestic economy of the disputing states. The second type is that which is crucial for the state's "power and security."[157] This includes territories with strategic location with a built-in defense

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[153] Karl W Deutsch, *Political Community and the North Atlantic Area: International Organization in light of Historical Experience*, 1957. Cited in Acharya, *Constructing A Security Community*, 1-2.

[154] Diehl, "Geography and War: A Review and Assessment of the Empirical Literature," as quoted in Hensel, "Territory: Theory and Evidence," 57.

[155] Ibid. 58-61.

[156] Hensel, "Issue Indivisibility," 278.

[157] Hensel, "Territory: Theory and Evidence," 59.

mechanism, such as natural frontiers, ports, or sea lines of communication (SLOC). The last type of tangible feature is the presence of local population, especially, those which have a cultural link to the disputant states.[158]

In addition, territory also has an intangible value that is less visible, more symbolic, and reflects the emotional attachment of the people. The first type of this is the deeper attachment to "homeland" rather than to "a colony or dependency".[159] As H.E. Goemans argues, homeland is the territory that defines the membership and the identity of a particular group.[160] It is a boundary that divides between "we" and "them", therefore when it is disputed; all members of the group tend to share similar threat and similar obligation to defend the territory.[161] The fact that it is an indivisible issue related to the 'survival' of particular group has made disputes over the territory that is considered as homeland tend to be more contentious than those over divisible tangible values.[162] The second type of intangible value is the attachment of the disputant states to the territory that shares cultural and religious symbols.[163] This includes symbolic structures, places and population. Similar to the dispute over homeland, disputes over this symbolic territory also tend to be indivisible, as they also relates to the identity and, more importantly, to the belief of a particular group. In practice, we see this type of dispute often followed by the willingness of the people from the disputant states to sacrifice themselves in the name of the disputed symbols. The

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[158] Ibid. See also, Hensel, "Issue Indivisibility," 278.

[159] Hensel, "Issue Indivisibility," 278.

[160] H. E. Goemans,"Bounded Communities: Territoriality, Territorial Attachment, and Conflict," In *Territoriality and Conflict in an Era of Globalization*, edited by Miles Kahler and Barbara F. Walter, 27, Cambridge: Cambridge University Press, 2006.

[161] Ibid., 27.

[162] Ibid., 28.

[163] Hensel, "Issue Indivisibility," 278.

last intangible value is the attachment to territory that was previously part of the territory of the disputant states in any form.[164] This type of intangible value highlights the historical ties that often times conflate with their socio-cultural identity.

This territoriality explanation helps filling the gap of the previous two explanations, as it has the ability to explain the dynamics of territorial stability as questioned in this study. Based on its theoretical framework, this approach would suggest that territorial stability in Southeast Asia, in general, is caused by the low salience of the disputed territory, and by the fact that most of the disputes involve tangible rather than intangible values. The different level of salience of these territories has eventually caused these territories to have different levels of stability.

While convincing, this explanation remains incomplete as well. As mentioned several times in the previous section, this type of territorial stability is not a degree or continuum from the least to the most stable. It is in fact different "types" of stability that do not necessarily have different levels of stability. The territoriality explanation, therefore, provide an incomplete answer to why some disputes are stable, unstable, dormant or peacefully resolved. Moreover, as Hensel's study also indicates, the proposition that disputes over intangible value is more contentious remains ambiguous. On the one hand, his statistical analysis demonstrates that disputes over intangible value have higher possibility to lead to violent conflict.[165] On the other hand, it also demonstrates that this type of dispute has higher possibility to reach a peaceful settlement.[166]

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[164] Ibid., 278.

[165] Ibid., 281.

[166] Ibid., 280.

In addition, the most apparent weakness of this explanation is the very fact that territorial disputes, no matter how salient its tangible and intangible values, are not in a consistent level of stability overtime. For example, the same territory can be unstable during a five-year period and then become relatively stable for the following ten years, and end up into a sudden escalation until it is eventually settled. Judging from this dynamic, there should be other intervening variables that link different territorial salience with different types of territorial stability in order to answer the very puzzle of this study. It is for this reason; the following chapter will advance the main argument of this paper that will fulfill the missing link between territoriality and the dynamics of territorial stability.

CHAPTER 3

TERRITORIALITY, DOMESTIC POLITICS, AND STABILITY IN SOUTHEAST ASIA

This chapter will argue that it is domestic politics, particularly domestic visibility, that best connects the missing link between explanations of territoriality with the dynamics of stability, or in other words, suggests that it is the interplay between these two factors that best explains territorial stability in Southeast Asia. It is clear that domestic explanation has been marginal in both the study of territorial disputes and regional stability in Southeast Asia. However, there are several reasons why a domestic explanation has comparative advantage in explaining territorial stability in the region. First and foremost is the failure of international and regional approaches in providing satisfying answers to the question raised in this study as elaborated in the previous chapter. Therefore, there is no reason not to look at domestic politics as another level of analysis that has been left unexamined in studying territorial stability. Second, the literature itself has established the relationship between domestic politics and foreign policy making as well as international conflicts. The last is the fact that foreign policies of Southeast Asian states have also been dedicated mostly for domestic purposes.[167] There are, therefore, theoretical and empirical foundations to establish the argument of domestic politics in explaining territorial stability.

To better elaborate on this argument, the first section of this chapter will explain in detail the theoretical basis for the relations between domestic politics and foreign policy. The second section will then provide the empirical basis for a more specific relationship between domestic visibility and territorial stability in Southeast Asia. The last section will then develop and

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[167] For general trend in Southeast Asia, see Michael Leifer, "South-East Asia." In *Foreign Policy Making in Developing States*, edited by Christopher Clapham, 17-41. For individual states, Franklin B. Weinstein, "The Uses of Foreign Policy in Indonesia: An Approach to the Analysis of Foreign Policy in the Less Developed Countries," *World Politics* 24, no. 3 (1972), 356-381; N. Ganesan, "Singapore's Foreign Policy Terrain," *Asian Affairs* 19, no. 2 (1992), 67-79.

synthesize relationships between territoriality, domestic visibility, and stability as the crux of this entire paper. In this section, I will delineate the four hypotheses relating to these three variables that will then be tested in the case studies presented in the next chapter.

<u>The Theoretical Foundation for Domestic Politics and Foreign Policy</u>

Many scholars of International Relations consider states as unitary actors whose interests are given and influenced mainly by the anarchic nature of international environment. While this assumption has helped scholars to better capture the complex interaction among states, this assumption has often times over-simplified and overlooked the important role of domestic politics in shaping a state's foreign policies, particularly in crucial events such as the question of war and peace. With the current wave of democratization and the increasing participation of non-state actors in international arena, downplaying the role of domestic actors might generate a misleading conclusion in the analysis of a particular state's behavior. It is for this reason that some scholars have begun to examine the relationships between domestic politics and states' foreign policies.

Among the first that conducted such inquiry was a group of scholars that linked domestic politics and international negotiation, such as Robert Putnam in his two level game theory and Moravscik in his liberal inter-governmentalism theory.[168] Both of these authors argue that state leaders are involved in two level negotiations. At the first level, state leaders negotiate with their domestic counterparts on particular issues that would later be aggregated at the national level as the state's interests; while in the second level, these leaders negotiate these interests with other

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[168] Putnam, "Diplomacy and Domestic Politics," 427-460; Andrew Moravcsik, "Preferences and Power in the European Community: A Liberal Intergovernmentalist Approach," *Journal of Common Market Studies* 31, no. 4 (1993), 473-524.

states.[169] Putnam further elaborates that this is not a one-way interaction, as his so-called "second image reversed" implies that the negotiation in the international level also affects the dynamics of negotiation in the domestic level.[170]

The question then arises on who participate in the domestic negotiation and how they do so. The "bottom up" or "pluralist" approach such as the one used by Andrew Moravcsik argues that societies ranging from individuals, civil society organizations, business groups, political parties, and other interests groups, have the ability to influence the state leaders in the making of foreign policy.[171] The "top down" or "statist" approach, on the other hand, argues that it is the government that has the power over the society.[172] In this perspective, foreign policy remains the exclusive domain of the state leaders, and domestic audience has no sufficient influence or knowledge on the decision making process.[173] They are, in fact, often "manipulated" by the leaders in order to pursue particular policy.[174]

As if mediating this debate, further researches offer clarification positing that this dual "flow of influence" in the foreign policy making depends on the context of "domestic structure" and "coalition building" within the state itself.[175] Peter Gouveritch and Peter Katzestein, as quoted by Thomas Rise-Kappen, argue that in a state with "centralized political institutions but

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[169] Moravcsik, "Preferences and Power," 481-483.

[170] Putnam, "Diplomacy and Domestic Politics,"430.

[171] Moravcsik, "Preferences and Power," 483-484; See also, Rise-Kappen, "Public Opinion, Domestic Structure, and Foreign Policy," 480; Jorn Dosch, "The Impact of Democratization on the Making of Foreign Policy in Indonesia, Thailand, and the Philippines," *Sudostasien aktuel*, no. 5 (2006), 46-47.

[172] Rise-Kappen, "Public Opinion," 480; Dosch, "The Impact of Democratization," 46-47.

[173] Rise-Kappen, "Public Opinion," 481.

[174] Ibid., 481.

[175] Ibid., 484. For further information on the "flow of influence" in foreign policy making, see also Rosenau, "Public Opinion and Foreign Policy," 9-18.

polarized societies and rather weak organizations," the flow of influence is more likely to be top-down.[176] On the other hand, a weaker institution with a stronger and unified society is more likely to lead to the bottom-up flow of influence.[177] In the middle situation, where both institution and the society are strong, the foreign policy reflects a more balanced view between these two forces.[178]

Other scholars offer different explanations by attributing this distinction to the type of the regimes, whether they are democratic or authoritarian as indicated by the democratic peace theory, and to the level of development, whether they are developed or developing countries.[179] The latter mentioned distinction is particularly interesting as it provides a useful insight into the foreign policy making in Southeast Asia as it is taking place in developing countries. According to these scholars, foreign policy making in the developing countries, particularly those of the newly independent states, is different from their developed counterpart both in terms of the purpose and the decision making process when crafting foreign policy.[180] In regard to the former, foreign policies of developing states are mostly centered on economic development, and are heavily influenced by the domestic situation.[181] This contrasted to already developed states, which have an equal concern on international security issues. In terms of the latter, decision-making in the developing states tends to rely on personal leaderships because there is a huge gap

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[176] Rise-Kappen, "Public Opinion," 486.

[177] Ibid., 486.

[178] Ibid., 486.

[179] For the latter see, Christopher Hill, "Theories of Foreign Policy Making for The Developing Countries," In *Foreign Policy Making in Developing States: A Comparative Approach*, edited by Christopher Clapham, 1-16. New York: Praeger Publishers, 1977.

[180] Ibid.

[181] Ibid.

between elites and the masses, therefore reflecting more of the top-down approach of the flow of influence.[182] Meanwhile, in the developed countries, there have been sufficient bureaucracies that link societal interests to the state level, therefore allowing a more bottom-up flow of influence in the decision making process.[183]

In addition to these variations of linkage between domestic politics and international negotiation, there are other groups of scholars linking domestic politics and foreign policy in more direct relation to international conflicts, particularly territorial conflicts. The basic variations, however, remain similar with the above mechanism in which there are top-down and bottom-up flows of influence. The bottom-up flow, which I categorize similar to Goemans' "territorial attachment," refers to the movement within the society in response to territorial disputes.[184] It often manifested in nationalist movement, which then creates pressure on the government to adopt particular policy in territorial disputes. Douglas Gibler, for example, demonstrates that territorial disputes have the "homogenizing" and "hardening" effects in the countries being attacked.[185] Individuals who basically have multiple identities, then, identified themselves with particular identity that relates to the disputed territory, while at the same time sharpening the division between their shared identity and that of their enemy.[186] This underlying nationalist feeling eventually fuels the conflicts to become even less stable than their initial conditions. As James Fearon argued, domestic "audience cost" is the most important

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[182] Ibid., 6.

[183] Ibid., 2-4.

[184] Goemans,"Bounded Communities," 25-61.

[185] Douglas M. Gibler, Marc L. Hutchison, and Steven V. Miller, "Individual Identity Attachments and International Conflict: The Importance of Territorial Threat," *Comparative Political Studies* 45, no. 2 (2012), 1659.

[186] Ibid.

consideration for a state leader in international conflict in order to maintain his position in the office.[187] Thus, once the state leader declares his position in the conflict, he is less likely to step back in order to avoid the above-mentioned consequences.[188]

The reversed flow of influence, that is the top-down flow, is more common in territorial conflict and relates to the well-known framework of "territorial diversion".[189] Derived from the diversionary theory of war, this variation refers to the initiation of international conflict by particular leader in order to distract public attention from internal issues.[190] Therefore, instead of initiatives from the bottom, the state leaders intentionally raise international conflict in order to gather support from their domestic audiences by exploiting their sense of territorial attachment.[191] Usually this strategy is pursued when the popularity of the leaders is decreasing or the society is divided over particular issue.[192] Therefore, by creating a common enemy, the state leaders expect to reintegrate these domestic fractions. Even though, by itself, this diversion creates instability in territorial disputes; various efforts by state leaders to "legitimize" their actions tend to destabilize the situation even further.[193] When the leaders engaged in this type of

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[187] Fearon, "Domestic Political Audiences," 577-592.

[188] Ibid., 577.

[189] Jaroslav Tir, "Territorial Diversion: Diversionary Theory of War and Territorial Conflict," *The Journal of Politics* 72, no. 2 (2010), 413-425.

[190] Ibid., 413-417.

[191] Ibid.

[192] Ibid.

[193] Fearon, "Domestic Political Audiences," 577; Stacie E. Goddard, *Indivisible Territory and the Politics of Legitimacy,* Cambridge: Cambridge University Press, 2010, 4.

behavior, they position themselves in a situation where they can no longer retreat from the disputes, and thus force what was once divisible dispute to become "indivisible".[194]

Putting together these fragmented linkages between domestic politics and international negotiation, as well as domestic politics and international conflicts, it is apparent that there is a strong theoretical foundation for establishing a relationship between domestic politics and foreign policy making. The discussion on the domestic politics and international conflicts even reveals the relations between variations of domestic visibility, whether a particular conflict is visible to domestic audience, and the variation of stability across conflicts that will be subject to further elaboration. The more immediate question, however, is whether this theoretical assumption has empirical basis in Southeast Asia. The following section, therefore, will examine the practice of foreign policy in Southeast Asian states to ensure that there is also empirical foundation for proposing the argument of domestic explanation and territorial stability in the region.

The Empirical Foundation for Domestic Politics and Foreign Policy in Southeast Asia

The practice of foreign policy in Southeast Asia is similar to those in other developing countries. Since the independence of Southeast Asian states well until the late 1990s, the general trend of foreign policy in the region was dominated by three main foreign policy objectives, all of which were centered on domestic political goals.[195] The first objective dominating the early years of their independence was the concentration on maintaining sovereignty as the newly independent states.[196] Except for Thailand, all of Southeast Asian states had been under

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[194] Ibid.

[195] Leifer, "South-East Asia," 17-41; Weinstein, "The Uses of Foreign Policy in Indonesia," 356-381; Ganesan, "Singapore's Foreign Policy Terrain," 67-79.

[196] Leifer, "South-East Asia," 26-32.

colonialism for centuries. Indonesia, for example, had been under "colonial threats" by the Portuguese and the Dutch for over four centuries; the Philippines had been under Spanish and American rule for almost four centuries; Malaysia and Singapore had been under colonial threats by the Portuguese, the Dutch, and British for almost five centuries.[197] Judging from this long period of struggle, it is understandable that these states were so protective in self-guarding their sovereignty against the possible return of the colonial powers, and the immediate threats from their neighborhood. This explains Singapore's vocal opposition to Vietnam's invasion of Cambodia, as well as Indonesia's confrontation policy against the establishment of the Federation of Malaya, whom they perceived as a neocolonial effort of the British in the region.[198]

The second foreign policy objective was the emphasis on nation building.[199] As already mentioned, most of Southeast Asian states are newly formed states that have generally conformed to boundaries set by the previous colonial powers, and have few equivalence with the past kingdoms. These states, at the same time, consist of various ethnic groups, both that are native to the region as well as those that were brought by the colonial powers to work in the region. While these groups were unified against the common enemy of colonialism, they are indeed different entities, that often times have different interests and agenda on what the post independent states looks like. As a consequence, early Southeast Asian states have faced various domestic insurgencies and separatism, including communist movements that were on the rise during the Cold War. It is unsurprising that Indonesia refused to recognize the independence of

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[197] I use the term 'colonial threat' to highlight the fact that most of the present day Southeast Asian states are newly formed states that often times have no equivalence in the past. As using the term colonial period would be problematic, I prefer to use the term colonial threat starting from the arrival of European colonial power who has already had the intention to conquer these would-be Southeast Asian states.

[198] For Singapore, see Ganesan, "Singapore's Foreign Policy Terrain," 67-79.

[199] Leifer, "South-East Asia," 26-32.

Bangladesh from Pakistan and the Philippines maintained their territorial claim in Sabah in order to appease the dissent from Moro separatist movement.[200]

The last foreign policy objective that is well maintained until today is the focus on economic development.[201] Emerging from centuries of colonialism, the early Southeast Asian states faced the immediate problem of underdevelopment, which meant "the absence of the requisite domestic support for a modern state."[202] In fact, it is this economic development that would maintain the legitimacy of the state leaders and prevent any grievance that would motivate disadvantaged groups to declare separatism. For this reason, Southeast Asian states have put economic development at the forefront of their foreign policies, as manifested by their active policies in securing foreign aid and economic relations with the previous colonial powers in order to advance their economy.[203]

Furthermore, this synergy between the focus on economic development, nation building and maintaining sovereignty, has culminated in their motivation to create regional cooperation that would ensure the stability of the region, as manifested in the creation of ASEAN. In line with these foreign policies, therefore, the norms adopted by ASEAN since the beginning, have emphasized the importance of non-intervention and peaceful management of interstate disputes. To this point, it is apparent how domestic politics of Southeast Asian states have relations with the relative stability in the region for decades, and thus supporting the empirical foundation for establishing further relations between domestic politics and territorial stability.

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[200] Leifer, "South-East Asia," 26-27.

[201] Ibid., 20.

[202] Ibid.

[203] See also the study of foreign policy in less developed countries with a case study of Indonesia's foreign policy, Weinstein, "The Uses of Foreign Policy in Indonesia," 368-371.

Of course, the focus on domestic politics does not necessarily mean domestic participation in the foreign policy making. Until the last decade, the decision making in Southeast Asian states was very "statist", meaning that it relied heavily on the personal leadership and a small circle of elites.[204] As many have noticed, all of Southeast Asian states were under "strong leaderships" of particular person if not of military regime. Therefore, foreign policies were the exclusive domain of the leaders that bore no visibility among the public.[205] The foreign policy of Indonesia, for example, was labeled as "a blocked two-level games" during the authoritarian regime of Suharto, as the domination of the President replaced the role of the Minister of Foreign Affairs in making almost all of the decisions of foreign policy issues.[206] Similar situations have occurred in other countries in Southeast Asia, such as Malaysia under the domination of Mahathir Muhammad, Singapore under Lee Kuan Yew, Philippine under Ferdinand Marcos, Thailand and Burma under military regimes, and Vietnam under the Politburo.[207] In all of these countries, the government suppressed the media, rival politicians, and even circumscribed the role of the House of Representatives, for the purpose of greater stability and economic development, not to mention his own personal political interests. Meanwhile, both military and economic elites often sided with the government as they find their interests better facilitated by cooperating with the regime.

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[204] Dosch, "The Impact of Modernization," 46-47.

[205] Ibid., 32-36.

[206] Dosch, "The Impact of Modernization," 50.

[207] Leifer, "South-East Asia," 32-36; For these individual countries, see Weinstein, "The Uses of Foreign Policy in Indonesia," 356-381; Marvin C. Ott, "Foreign Policy Formulation in Malaysia," *Asian Survey* 12, no. 3 (1972), 225-241; Khadijah Md. Khalid, "Malaysia's Foreign Policy Under Najib," *Asian Survey* 51, no. 3 (2011), 429-452; Ho Khai Leong, "Citizen Participation and Policy Making in Singapore: Conditions and Predicaments," *Asian Survey* 40, no. 3 (2000), 436-455; Zachary Abuza, "Institutions and Actions in Vietnamese Foreign Policy Making: A Research Note," *Contemporary Southeast Asia* 19, no. 3 (1997), 309-333; Bernard K. Gordon, "Cambodia: Where Foreign Policy Counts," *Asian Survey* 5, no. 9 (1965), 433-448.

As a consequence of this sole reliance, when these regimes fell and democratization emerged in the region, the pattern of foreign policy making also changed. Even though top-down decision making process still a dominant trend in Southeast Asia, there were also democratization process that opened public participation and visibility, particularly in countries such as Indonesia, the Philippines, and Thailand.[208] In these countries, there have been vibrant civil society organizations, free press, and more vocal people's representatives in the government which ensure the flow of public aspirations in the decision making process.[209] In Indonesia, for example, Defense Cooperation Agreement with Singapore failed because the people who disagreed on the use of their area for foreign military exercise pushed the House of Representatives not to ratify this agreement.[210] Even when there were no protests, public gesture and opinion deterred President Wahid from acknowledging the state of Israel or President Megawati from involving deeper in the war on terror.[211] In the Philippines, where the congress has the ability to "declare a state of war,"[212] public opinion succeeded in forcing the government to terminate the leasing of US bases in Subic and Clark Bay, and in forcing the later President Arroyo to terminate joint cooperation in the Southeast China Sea.[213] Domestic politics, therefore, affects the dynamics of foreign policy making in these countries.

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[208] Dosch, "The Impact of Modernization," 42-70.

[209] Ibid.

[210] Dewi Fortuna Anwar, "The Impact of Domestic and Asian Regional Changes on Indonesian Foreign Policy," *Southeast Asan Affairs*, 2010, 129-130.

[211] Dosch, "The Impact of Modernization," 57, 63-64.

[212] Ibid., 61.

[213] For the South China Sea, see Ian James Storey, "Conflict in the South China Sea: China's Relations with Vietnam and the Philippines," *The Asia Pacific Journal: Japan Focus,* April 30, 2008, http://www.japanfocus.org/. (accessed Deember 7, 2013).

To relate this with the purpose of this section, it is now apparent that there is also empirical foundation for the relations between domestic politics and the foreign policy making of Southeast Asian states. What is more, this empirical basis has strengthened the theoretical indication mentioned in the previous section about the role of domestic visibility on the dynamics of the foreign policy, and the variation of stability of international conflicts. During the authoritarian regimes where domestic visibility was heavily suppressed, there were only few, if any, unstable inter-state conflicts in the region. After democratization gave more room for greater visibility, inter-state disputes often attracted the attention of domestic audiences, and thus making the disputes less flexible and less stable. While this is not necessarily causally related, the parallel between domestic visibility and the variation of stability, even in the regional level, provides stronger justification for further inquiry on the role of domestic visibility on the territorial stability as questioned in this study. Hence, the following chapter will begin to establish the main hypotheses of this paper on the interplay between territoriality and domestic visibility, and their effects on the dynamics of territorial stability in the region.

<u>Modeling Territoriality, Domestic Visibility, and Stability</u>

To recall the literature review presented in Chapter II, the territoriality approach seems to provide better understanding on the dynamics of territorial stability. However, there should be an intervening variable that can play an agency role in relating these two variables, in order to provide more precise dynamics of stability as suggested by this paper rather than a simple division of stable and unstable territory. The domestic explanation seems to have both theoretical and empirical foundations for explaining foreign policies and international conflicts in the region. The variable of domestic visibility- whether the dispute is visible to domestic audience- particularly seems to have capacity to explain the dynamics of stability both in regional and

conflict levels. How does the interplay between territoriality and domestic visibility explain variation of territorial stability from peacefully settled, relatively stable, dormant and unstable? Also, what should we see in our case studies if these proposed explanations are correct?

Hypothesis 1. Dispute over salient territory with greater domestic visibility is more likely to be unstable.

The territoriality explanation argues that dispute over salient territory tends to be unstable because there are greater territorial stakes that the state will give up should they lose the dispute. The domestic explanation, on the other hand, offers two distinct scenarios. In the bottom-up situation where domestic audience has greater visibility or exposure to the territorial dispute, the sense of territorial attachment among the audience is more likely to increase. As prospect theory explains, "people are risk acceptant when they perceive that they are losing (as opposed to gaining) something they value, that is when they are operating in the domain of losses."[214] As a consequence, when they have been socialized for a long time that the disputed territory "rightfully belongs to them," they will think they will lose their own possession; therefore, they are more likely to defend what they think theirs.[215] Particularly, in the newly independent states that had struggled for centuries to gain their territorial sovereignty, the sense of territorial attachment or aversion to lose a piece of territory is more likely to be greater. However, it should be reiterated that the strength or consensus that may eventually appear in the domestic level will depend on how much people are exposed to the issue, how attached they are to the territory, and how they value this disputed territory.

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[214] Jaroslav Tir, "Territorial Diversion," 416, cited this explanation from Karl R. DeRouen, Jr., "The Indirect Link: Politics, the Economy, and the Use of Force," *Journal of Conflict Resolution* 39, no.3 (1995), 671-95; Karl R. Derouen, Jr., "Presidents and the Diversionary Use of Force: A Research Note," *International Studies Quarterly* 44, no.2 (2000), 317-28.

[215] Ibid., 416.

When talking about domestic visibility, I categorize territorial disputes as visible when they can reach national-level audiences including the people's representatives in the central government, and when they become headlines in various national media and are being exposed for at least a one-month period. In contrast, those disputes that have no capability to reach that level, being visible only to local audience and media, or not visible at all as perhaps they are uninhabited, are categorized under invisible disputes. This distinction is important because no matter the "potential feeling" people have to this territory, if the dispute is not visible to them, they will have no opportunity to react to the disputes, nor they will reach a critical mass to support their causes that eventually determine whether the dispute will be stable or not.

Similarly, even though people in general tend to defend their territory, the level of their willingness to take a risk also depends on the salience of the issue. As stated in the above hypothesis, it is those disputes that have both salience and visibility that have a higher probability to be unstable, because when the disputed territory has significant value, the number of domestic audiences that would defend the territory is more likely to be greater. It is not only those that have nationalism that would speak out, but also those who have pragmatic interests in the value of the territory, such as business groups, environmental activists, or even corrupted individuals within the government. And these groups usually have more power to influence the decision- making process rather than the nationalist public.

To this point, the domestic audience's attitude in the bottom-up situation can be understood to destabilize the dispute in two ways. First, in line with Fearon's argument, the domestic pressure will push the state's leader to take a tougher stance on defending their territory for the sake of appeasing or avoiding public dissent.[216] Acknowledging the importance of the

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[216] Fearon, "Domestic Political Audiences," 581-582.

issue and the domestic cost that it may bear to his position in office if he fails to win the dispute, the state leader tends to escalate and demonstrate his resolve in the dispute.[217] "Standing up to a bully", he argued, would be more beneficial even if the leader ultimately failed to win the conflict.[218] Second, the action by domestic audience in responding the disputes, by itself, may destabilize the situation, even though the government does not take their opinion into account. This is so because the other claimant states will tend to consider this inattention either as the inability of the government to play down the dispute in the domestic level, or, on the contrary, as deliberate action by the government to support their position in the dispute.

This point takes me to the top-down situation of decision-making process. In this type of situation, the government intentionally makes the dispute visible to the domestic audience for two possible reasons. First, the state leaders either, for their personal or national gains, aim to defend the disputed territory that has significant value for them and, in doing so, they need domestic support as a justification or backing for their position in the dispute. Second, the state leader makes the disputes visible as part of his diversionary strategy to divert domestic issues and gather public supports behind him. In all of the above cases, the interplay between salient territory and visibility reflects the congruence of interests between the government and domestic audience, which increase the hardening position of the state in the disputes, and thus makes the dispute itself unstable.

In order to test this hypothesis, there are several testable implications that can be derived from the above explanation that should be present in the selected case study if this hypothesis is correct.

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[217] Ibid.,577-592.

[218] Ibid., 580.

1. The prerequisite of this hypothesis should be present, that is, the observation that the disputed territory is salient and the dispute is visible to national domestic audience. In the case study, therefore, the disputed territory should demonstrate to have either one of the tangible or intangible values as listed by Hensel. The three types of tangible values include strategic natural resources, strategic location, and population. The intangible values include the presence of historical, cultural, or religious structure in the disputed territory.

2. The dispute should also be visible as defined in the above explanation. Therefore, the case study should demonstrate the national media discussing the dispute in headlines during which the dispute taking place. Otherwise, there should be government effort to publicize the dispute through official media such as documents, websites, or speeches. Often times, the state leaders make provocative speeches that have potential to raise nationalism among their people.

3. As a response to this visibility, there should be movements by various elements of domestic audiences such as: public demonstrations, independent actions of going to the disputed area, the establishment of caucus or groups, widespread negative comments in the social media toward the rival states or lobby to the members of government.

4. To indicate the increasing instability as a result of these actions, there should be sympathized members of the government that push the leader to take particular actions and the leader himself eventually adopted a tougher stance in the dispute.

5. From the rival state, there should be retaliatory speeches and actions that explicitly directed as a response to the first state's escalating actions and the growing public condemnation to this rival state.

Hypothesis 2. Dispute over salient territory with less domestic visibility is more likely to be relatively stable

Despite its value, salient territory is not always visible to domestic audience. There are at least two circumstances why this is the case. First, the state leaders may intentionally hide this dispute from the domestic audience because they are facing domestic pressures on other issues. As discussed in the previous section, developing states, particularly most of those in Southeast Asia, remain, to a great extent, inward-looking states that are not only preoccupied with domestic issues but also take domestic issues as priorities that have immediate impact on the ruling government. Rarely does foreign policy become a decisive issue on presidential election or even headlines in the daily newspaper. In this situation, a rational government is more likely to shelve the dispute with other states until the domestic politics conducive for such a move. The government, in this case, may simply take no action if there is no conflict occurring with other claimant states, or may agree on ceasefire or joint cooperation if the negotiation is ongoing.

One may argue that the government can also use diversionary strategy to boost their domestic popularity particularly when the disputed territory itself has significant value. However, the cost of initiating diversionary strategy, particularly in crucial issues, is so high that states tend to reserve this strategy as the last resort when they have no other viable option to appease domestic dissent. In his study, Graeme Davies found the pattern that the government indeed prefers to resolve domestic issues when they remain in their nascent stage.[219] However, when the issues became violent then states begin to consider the use of diversionary strategy.[220]

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[219] Davies, "Domestic Strife and the Initiation of International Conflicts" 685-686.

[220] Ibid.

The second circumstance of the invisibility of salient territory relates to the location factor. As Robert Solomon explains, most of the pre-colonial Southeast Asian states have a more fluid conception of territorial integrity with a clear distinction between "nuclear kingdoms" and their buffer zones.[221] This loose connection between the center and the periphery remains significant, as colonial rulers also exacerbated the situation by grouping these states based on their interests rather than based on ethnic ties of these colonized states.[222] The weak governments of these newly independent states eventually sustain the gap between central and the periphery until today. As a consequence, territorial disputes that took place in the periphery often find no resonance at the center, even though the disputed territory is salient and the domestic audience at the periphery has voiced their concern.

In the case that the government intentionally leaves the domestic audience at the center unnoticed in order to avoid any politicization of this dispute, the government then has more room to solve the dispute according to international law. As Putnam puts it, "the greater the autonomy of central decision-makers from their level II constituents, the larger their win-set and thus the greater the likelihood of achieving international agreement."[223] It should be remembered, however, that since the disputed territory is salient, the most possible outcome of international agreements is joint cooperation or ceasefire. In the case where the government attempts to publicize the dispute but finds no sufficient visibility at the center, the more likely outcome is also similar. One of the given explanations is that the absence of domestic pressure could weaken

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[221] Robert L. Solomon, "Boundary Concepts and Practices in Southeast Asia," *World Politics* 23, no. 1 (1970), 8-15.

[222] Ibid., 6-7.

[223] Putnam, "Diplomacy and Domestic Politics," 449.

the government's position in the negotiation, as they have no scapegoat or justification for not coming to an agreement or cooperation.[224]

Below are the indicators that should be present in the case study for the above hypothesis to be valid.

1. Similar to the previous hypothesis, both prerequisites for this hypothesis should be present, that is the salient territory and the invisibility from domestic audience. This invisibility may be approached by the observation that no domestic audiences, or only those near the disputed territories have knowledge on the dispute. Even if they do, they also have the tendency not to discuss the issue.

2. Either the government intentionally hides the dispute or fails to raise the issue at the national level; this more likely to occur during times when there are other domestic issues exhausting the government and public attention. Very little is also known about the government policy on this dispute, as reflected by the absence of official information from the relevant departments.

3. At this time, there should be no tension in the disputed territory. Otherwise the government has made agreement with the rival states to shelve the disputes for the foreseeable future, or has arranged peaceful arrangement and other deals that would not have been achieved if this process were visible to public.

4. To check if this is indeed the case, when the domestic issues subside, or when the domestic audience eventually aware of the dispute, the situation should immediately deteriorate. This is so because the government is now having more capacity to deal with the rival state while the domestic audience is disappointed with the existing arrangement.

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[224] Ibid., 449.

Hypothesis 3. Dispute over territory with less salience and greater domestic visibility is more likely to lead to peaceful settlement

At the conflict level, disputes over less salient territory are less contentious because both states do not have high stake on the territory. However, as mentioned earlier, disputes over any territory are not easily solved either. In this case, domestic visibility will increase the probability of peaceful settlement in the way that it creates domestic pressure on the government to take action that will settle the dispute. At this point, the government, as a rational actor, has the interest to demonstrate its capability to resolve the dispute and to appease the public dissent. However, it also avoids taking provocative action that will cost them more than the value of the territory itself. Moreover, in this case, the domestic pressure is more likely to come only from the mass public who express their impulsive nationalism without involving other significant audiences who are not compelled by the benefit of the dispute. Therefore, there is no convergence of interests among these domestic actors, which then weakens the pressure on the government side to take a tougher stance in the dispute.

With this in mind, both states are more likely to adopt the middle way of settling the dispute often times by referring the dispute to the international adjudication. By this, the states not only demonstrate their obedience to international law in settling territorial disputes through peaceful means, but also exploit this mechanism to prevent further domestic protest, because the decision is taken by and according to legitimate international law and not by the states themselves. In other words, the domestic audience has no reason to blame the government for any outcome of the settlement.

If this hypothesis as well as its causal mechanism is correct, then the case study should demonstrate the following indicators.

1. The disputed territory, at first, should demonstrate that it is indeed not salient, in the way that it has neither tangible nor intangible high values as defined above. This dispute typically involves a positional dispute of the border together with its surrounding territory rather than territorial dispute per se.

2. The dispute should also be visible to national domestic audience as it is covered in the national media during which the dispute taking place.

3. As a response to this visibility, there should be demonstrations, public protests, or exchanges of views in the social media about the disputes with strong sense of nationalism. However, there should be no pragmatic domestic actor, i.e. those with interests other than nationalism, involves in these activities.

4. Reading this situation, the government should demonstrate that it distances itself from the above activities, urges the mass public to calm down, and convincing the people that it will settle the dispute through peaceful means. This gesture should act as a prior notice that the government will not take any provocative action, and instead, follow international law of settling the dispute.

Hypothesis 4. Dispute over territory with less salience and less visibility is more likely to become dormant.

This last hypothesis is quite clear and predictable in the way that the dispute that has no territorial salience and capacity to produce territorial attachment within the domestic audience is more likely to be less contentious. The following question is why it has to be dormant and not relatively stable or peacefully settled. While these two outcomes are also possible, the hypothesis emphasizes that dormancy is more likely to occur in this situation. This goes back to the basic assumption underlying the development of all the above hypotheses, that most of Southeast

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Asian states remain inward looking and preoccupied by their domestic issues, if they are not focusing on economic development. As a consequence, states tend to shelve the dispute for future settlement particularly if the dispute is not significant both in terms of value and ability to attract domestic mobilization. Dormancy, therefore, is the most possible outcome as this type of dispute is the least importance among all the above combinations. The testable implications for this hypothesis, therefore, are also clear:

1. As in the case of other hypotheses, the dispute should demonstrate that the disputed territory has no significant value and is not visible to national audience.

2. Both of the disputing states should be preoccupied with their domestic issues, and therefore, no activity should have occurred in the disputed territory for more than five years.

3. To test if this is the case, the dispute tend to become unstable when it becomes visible or when the disputed territory is found to have strategic natural resources. The low salience of the territory, however, provides better opportunity for both states to come to an agreement on the dispute.

CHAPTER 4

PRELUDE TO EMPIRICAL CASES: THE TYPOLOGY OF TERRITORIAL DISPUTES IN
SOUTHEAST ASIA

Before testing the hypotheses to case studies, this chapter will provide the typology of

territorial disputes in Southeast Asia as presented in Table 3. As already mentioned in the

beginning of this paper, the first method used to answer the question raised in this study is

building a typology that will provide the universe of cases of territorial disputes in the region, in

order to conduct a cross-case analysis on the pattern of these disputes. This dataset contains the

type of stability characterizing each dispute and the three competing explanations discussed in

the previous two chapters, namely, economic interdependence, ASEAN, and the interplay

between territoriality and domestic visibility. From this table, it will be apparent whether

relational patterns exist between each of these independent variables and the dependent variable

across cases of territorial disputes. Considering the centrality of this dataset as the first layer of

answers to the question raised in this study, this chapter is dedicated to carefully explaining each

element of the data and what it means for the study.

Territorial Dispute Data

The territorial dispute data presented in this chapter is a compilation of data from various

sources, covering data from previous studies, information from individual state, and other

relevant information from international organizations.[225] After cross-checking data and ensuring

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[225] This includes: Huth, *Standing Your Ground*, 195-242; Katrochwil, Mahajan, & Rorhlich, *Peace and Disputed Territory*, 139-154; Degenhardt, *Maritime Affairs*, Prescott, *The Maritime Political Boundary*; Hanns J. Buchholz, *The Maritime Political Boundary of the World,* Singapore: Institute of Southeast Asian Studies, 1987; Central Intelligence Agency, "*The World Factbook,*" https://www.cia.gov/library/publications/the-world-factbook/fields/2070.html (accessed January 21, 2014); International Court of Justice, "*List of cases referred to the Court since 1946 by date of introduction,*" http://www.icj-cij.org/docket/index.php?p1=3&p2=2 (accessed January 21, 2014); International Tribunal for the Law of the Sea, "*List of Cases,*" http://www.itlos.org/index.php?id=35&L=0%20%255Co%20Opens%20internal%20link%20in%20current%20window (accessed January 21, 2014). The

its qualification as territorial dispute defined in Chapter 2, this dataset yields 28 cases of territorial disputes with 14 land disputes and 14 maritime disputes. Even though the number of cases is relatively low, each territorial dispute typically lasts for more than ten years with periodic military confrontations. The maritime dispute between Vietnam and China in the South China Sea, for example, started in 1951 and has continued into the present. Military confrontation occurred in 1956, 1974, 1979, and 1983-1988, not to mention the occasional tensions such as those in the last five years.[226] Similarly, the land dispute between Vietnam and Cambodia over territories near Prek Binh Gi, Loc Ninh and the intersection of Srepok and Se San involved military clashes in 1958-1959, 1962, 1975, and 1977-1982.[227] The small number of disputes, therefore, should not undermine the importance of the dispute or the validity of the analysis conducted in this study. Particularly if we see the participating states and the status of the dispute, the dataset indicates even distributions in the way that every state in the region is involved in at least one territorial dispute. There are roughly balanced numbers between those disputes that have been settled and those that remain ongoing. In this respect, this dataset presents no bias that might have occurred if the data were skewed.

In terms of the period covered in this study, the starting year of the disputes is set after the end of the Second World War in 1945. It was only during this war that the term Southeast Asia as a region firstly emerged, and it was only after this war that most Southeast Asian states gained their independence. The study includes the dispute between Thailand and France over Siem Reap and Battambang from 1941-1946 because both were independent states during the

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Ministry of Foreign Affairs of the Republic Indonesia has also provided the author with the invaluable documents on Indonesia's territorial disputes with the neighboring countries.

[226] Huth, *Standing Your Ground*, 232-233.

[227] Ibid., 237.

occurrence of the conflict, and judging from the actors and the character of the dispute, it meets the requirement of territorial disputes. Moreover, despite that the dispute was resolved right after the end of the World War, it was subjected to politicization by King Sihanouk as part of his response to living under the constant threat of his two predatory neighbors.[228] As a consequence, this dispute remained unstable in the first decade after the end of the World Wars.

To determine the type of stability for each dispute as the dependent variable, this study used the criteria provided in Chapter 2 and selected one type that is dominating in each dispute. As can be seen in the table, the type of stability has uneven distribution with eight cases of peaceful settlement, 16 cases of unstable disputes, three cases of relatively stable disputes, and one case of dormant territorial dispute. This trend, however, is understandable as the term dormant is often used to describe any territory that is inactive, particularly, undelimited border, which in this study is not included in the definition of territorial dispute. Also, the character of the dormant dispute itself is difficult to observe because there is no activity in the disputed area as well as no clear information from both of the participating states.

Even though only three cases belonging to relatively stable disputes, many of the disputes from this dataset had at least a certain period of relative stability. Some examples are relations between Thailand - Cambodia over Preah Viehar in the 1980s - 1990s, Malaysia - the Philippines over Sabah from 1993 to 2003, Vietnam and China in the South China Sea for most of the 1990s and the Philippines - China from 2002-2006. In these disputes, however, there are more periods of instability, and thus, they are categorized as unstable disputes.

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[228] Gordon, "Cambodia," 444-445.

Economic Interdependence Data

What then explains the variation of this stability? The discussion in Chapter 2 explained that the liberal perspective with its economic interdependence explanation is among the most significant perspectives at the international level. This dataset, therefore, tests this argument by including the data of economic interdependence to see if a relationship exists between these two variables. To approach the variation of economic interdependence, states are said to be dependent if the rival state is ranked among the top five, either as the sources of import or the destinations of export of the first state in the end of the dispute. It is said to be interdependent if both states are parts of the top five of each other's export and import destination. They are not dependent or interdependent, however, if they do not meet either of the above circumstances.

As there is no single dataset that covers the period of all conflicts, this study used the data from the WTO that only lists its 2013 trading partners in order to approach disputes that are ongoing.[229] For the rest of the disputes, this study relied on the data from the National Bureau of Economic Research (NBER) that offers global trade data from 1962-2000.[230] The limitation of this dataset is that it does not have any data for five conflicts that occurred prior to 1962 and after 2000. To remedy this discrepancy, this study used 1962 data for the conflict between Myanmar and China that ended in 1960, and for conflicts that ended in 2002 and 2003; it used the data from 2000. For the analysis of the dispute between Malaysia and Singapore, it used data from 2013.

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[229] World Trade Organization, *Trade Profile 2013,* Geneva: WTO Publications, 2013.

[230] Robert C. Feenstra et.al, "World Trade Flows: 1962-2000," *NBER Working Paper Series No. 11040,* January 2005, accessed January 22, 2014, http://www.nber.org/papers/w11040.

This is definitely not a perfect approach. However, from observing the data, the combinations of the top five trading partners within a three-year period are not significantly different. The bilateral trade data of the Correlates of War (COW) offers a more comprehensive data, in the way that it covers a longer period of bilateral trade from 1816-2009.[231] However, for the trade data of Southeast Asian states, this dataset has less comprehensive information than the NBER and records only bilateral trade with the neighboring states. Thus, it is unclear who are the top-ranked trading partners of these states. The NBER dataset, in this regard, remains 'the second best option' to approach the economic interdependence among states in the region.

As can be seen in the table, there are 17 territorial disputes between states with dependent economy, seven disputes between economically non-dependent states, and only two disputes between interdependent states - both of which are between Malaysia and Singapore. This variation of economic interdependence between disputants, however, seems to have no correlation with the variation of stability of the disputes. Disputes between dependent states, for example, result in unstable, relatively stable, peacefully settled, and dormant territorial disputes. Likewise, disputes between states with no economic interdependence end in both unstable and peacefully settled territorial disputes. These findings, therefore, support the previous study by Gartzke who found that bilateral trade has no meaningful impact on territorial disputes. Even if we shift the observation from bilateral trade to a regional level, economic interdependence seems to have no impact as well. ASEAN, whose intra-regional trade is relatively low (25.4% in 2010), is at the same time the most successful regional institution in reducing militarized disputes with

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[231] Katherine Barbieri and Omar Keshk, *Correlates of War Project Trade Date Set Codebook, Version 3.0.* 2012, January 22, 2014, http://correlatesofwar.org.

perfect predictability.[232] This is in contrast to the European Union (EU), which has both economic interdependence and stability at the same time.[233] To this point, therefore, we can conclude that economic interdependence seems to have weak explanatory power on territorial stability in Southeast Asia.

<div align="center">Regional Institution</div>

Regional institution, or in this case ASEAN, has also been argued to play an important role in managing regional stability in Southeast Asia. To test this argument, this study conducted a survey of the literature on each dispute to examine ASEAN's role in *mediating* and *solving* the dispute.[234] If ASEAN were involved in either of these dispute management, then the data from the table would be categorized as 'yes', meaning there was ASEAN intervention. Otherwise, the data would be categorized as 'no', meaning no ASEAN intervention. The data from the table, however, strengthens the criticism discussed in Chapter 2 that in the case of territorial disputes,

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[232]Hensel, "Territorial Integrity Treaties," 138; For the regional trade data, see, ASEAN Secretariat, *ASEAN Community in Figures 2012 (ACIF 2012),* Jakarta, March 2013, 9.

[233] In 2010, intra regional trade within European Union has reached 63.7% of the total trade. See, Franca Faes-Cannito, Gilberto Gambini, and Radoslav Istatkov, "Intra EU Share of EU-27 Trade in Goods, Services, and Foreign Direct Investments Remains More Than 50% in 2010," *Eurostat: Statistics in Focus,* Luxemburg, March 2012, 1.

[234] Samples of these sources are as following. All disputes in the South China Sea: Carlyle A. Thayer,"ASEAN's Code of Conduct in the South China Sea: A Litmus Test for Community Building?" *The Asia-Pacific Journal* 10, no. 34 (August 2012). For all disputes in the Gulf of Thailand: Clive Howard Schofield, "Maritime Boundary Delimitation in the Gulf of Thailand," *Durham Theses,* Durham University, June 1999, http://etheses.dur.ac.uk/4351/ (accessed January 23, 2014). For Thailand-Cambodian disputes: ASEAN Secretariat, *ASEAN Welcomes Cambodian-Thai Firm Commitment to Avoid Further Clashes,* February 22, 2011, http://www.asean.org/news/asean-secretariat-news/item/asean-welcomes-cambodian-thai-firm-commitment-to-avoid-further-clashes (accessed January 23, 2014). For Cambodia-Vietnam Land disputes: Ramses Amer, "Border Conflicts between Cambodia and Vietnam," *IBRU Boundary and Security Bulletin* , no. Summer (1997), 80-91. For Indonesia-Malaysia: John G. Butcher, "The International Court of Justics and the Territorial Dispute between Indonesia and Malaysia in the Sulawesi Sea," *Contemporary Southeast Asia* 35, no. 2 (2013), 235-257. For Indonesia-Portugal: ASEAN Secretariat, *ASEAN: Building the Peace in Southeast Asia,* July 31, 2012, accessed, http://www.asean.org/resources/2012-02-10-08-47-56/speeches-statements-of-the-former-secretaries-general-of-asean/item/asean-building-the-peace-in-southeast-asia (accessed January 23, 2014). For Malaysia-Singapore: S. Jayakumar and Tommy Koh, *Pedra Branca: The Road To The World Court,* Singapore: NUS Press. For background information on the development of various maritime disputes in the region, see The Florida State University College of Law, *Limits in the Seas,* http://www.law.fsu.edu/library/collection/limitsinseas/ (accessed January 23, 2014).

the direct role of ASEAN is less clear, if not insignificant. For example, 21 of 28 disputes, or more than two third of the disputes, did not involve ASEAN either in *mediating* or *solving* the dispute. In fact, none of the peacefully settled territorial disputes was solved by ASEAN. Nine of these disputes were solved at the bilateral level while the rest of them were solved through third party mediation. This third party mediation can be the International Court of Justice (ICJ), as in the case of Indonesia-Malaysia over Sipadan Ligitan and the case of Malaysia-Singapore over Pedra Branca, or the International Tribunal for the Law of the Sea (ITLOS) as in the case of Myanmar-Bangladesh dispute over the Bay of Bengal and the case of Malaysia-Singapore over Straits of Johor.[235] Meanwhile, the rest one third of the disputes involving ASEAN is the four bilateral disputes in the South China Sea, Thailand-Cambodia over Preah Viehar, and Malaysia-the Philippines over Sabah. The dispute between Indonesia and the United Kingdom over the establishment of Malaysian Federation falls into this category from the perspective of the establishment of ASEAN as the conflict management. This small number, however, does not necessarily mean that ASEAN has no role at all in managing territorial disputes.

As mentioned in Chapter 2, the fact that ASEAN only involves itself in disputes that are mostly unstable reflects more on its policy that disputes be first resolved between the states in conflict. When these parties fail to reach agreement or when these disputes pose immediate threat to regional stability, ASEAN then has the right to intervene in what it calls a 'constructive

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[235] International Court of Justice, *Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore),* http://www.icj-cij.org/docket/index.php?p1=3&p2=3&code=masi&case=130&k =2b&p3=0 (accessed January 23, 2014); International Court of Justice, *Sovereignty over Pulau Ligitan and Pulau Sipadan (Indonesia/Malaysia),* http://www.icj-cij.org/docket/index.php?p1=3&p2=3&code=inma&case=102&k=df &p3=0 (accessed January 23, 2014); International Tribunal for the Law of the Sea, *Case No.12: Case Concerning Land Reclamation by Singapore in and Around the Straits of Johor (Malaysia v. Singapore), Provisional Measures,* http://www.itlos.org/index.php?id=104&L=0 (accessed January 23, 2014); International Tribunal for the Law of the Sea, *Case No.16: Dispute Concerning Delimitation of the Maritime Boundary Between bangladesh and Myanmar in the Bay of Bengal (Bangladesh/Myanmar),* http://www.itlos.org/index.php?id=108&L=0 (accessed January 23, 2014).

engagement'. In this sense, there are correlations between ASEAN and territorial stability: disputes involving ASEAN are those that are unstable and disputes without the intervention of ASEAN are those that are relatively stable, if not peacefully settled or dormant. However, if we follow this logic, it is the type of stability that determines the involvement of ASEAN in the disputes rather than the other way around. Therefore, while ASEAN has explanatory power in explaining the consequence of the variation of territorial stability, by itself has no explanatory power in explaining the causes of these variations.

<u>Territoriality and Domestic Visibility Data</u>

Let us now turn to the proposed explanation on the interplay between territoriality and domestic visibility. Similar to the approach used to determine ASEAN involvement in the disputes, this study relied on the literature on each dispute to determine the salience of the disputed territory. It raised the question whether these disputes have strategic resources, strategic location, population, or cultural/historical/religious symbols to be categorized as a salient territory. Based on this categorization, the data on the table indicates that most of the disputed territories are salient and more than half of these salient territories have resulted from their tangible values rather than their intangible values. Therefore, this data supports the argument of territoriality explanation that territorial disputes in Southeast Asia are relatively stable because most of them are based on tangible values that are less contentious than intangible values.

A detailed observation of the data also reveals that the division between tangible and intangible-based territory is in line with the division between land and maritime territorial disputes. Except for the case of Malaysia and Brunei Darussalam over the Limbang area, all of the land territorial disputes are over intangible-based territory such as Thailand – Cambodia over Preah Viehar temple, Myanmar - India over Manipur, and Indonesia – Timor Leste over

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Oecusse. Meanwhile, most maritime territorial disputes are tangible-based territories. All disputes in the South China Sea, for example, are driven mainly by the information on the large potential hydrocarbon reserve in the disputed territory. Disputes in the Gulf of Thailand and the Gulf of Tonkin are also driven by the states' interests on the rich fishing ground that are central to the economy of the disputing states. Even though the maritime territorial disputes over tangible values are numerous and contentious, they have less period of open military confrontation than the land territorial disputes over intangible values.

The problem arises when determining the salience of maritime disputes over offshore islands. As discussed in the previous chapter, this type of dispute is salient because islands are entitled to have four maritime zones, which would extend the maritime territory of the wining states. However, during the data collection process, it was apparent that in some cases, states negotiate these two disputes between islands and maritime territorial sea separately. When these two disputes are disentangled, peaceful solution for the former is more likely because basically the disputed island has no tangible value. Based on this consideration, this study categorized Sipadan-Ligitan as well as Pedra Branca as not salient because the dispute settlement only solved the sovereignty issue of the islands and excludes the question of maritime jurisdiction of the surrounding sea.

In terms of domestic visibility, this study approached this variable using the criteria predetermined in the previous chapter, that is, by using national media as the parameter. It surveyed at least two main national media from the disputing states to determine the visibility of the dispute.[236] This approach, however, had its own limitation, as Southeast Asian states have

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[236] Lists of daily newspaper in Southeast Asian countries: 1) Indonesia: Kompas, Tempo, the Jakarta Post; 2) Malaysia: The Star, New Straits Times; 3) Singapore: Straits Times, Asiaone; 4) Brunei Darussalam: The Brunei Times, Brunei Direct; 5) The Philippines: Inquirer, Philstar; 6) Thailand: Bangkok post, The Nation; 7) Cambodia:

experienced long authoritarian regimes, which have limited the role of media in transmitting information. Many disputes were not visible because the government did not want or feel obliged to inform the audience about the dispute. As a result, this approach only explains more recent cases and cases between democratic states, such as Indonesia, the Philippines, and Thailand. To determine the visibility of other cases, particularly those that have ended in more than two decades, I relied on the literatures relevant to each disputes. This, results in 18 disputes or more than half of the total disputes in the region are visible to national domestic audience.

Combining the data from territoriality and domestic visibility variables, it seems that the interplay between these two variables has more explanatory power in explaining territorial stability than the previous two arguments. Out of the 28 total disputes, 22, or more than two-thirds of the disputes, are consistent with the four hypotheses proposed in the previous chapter. Almost all of territorial disputes with salient territory and domestic visibility, for example, are in line with Hypothesis 1, which argues that this type of dispute is more likely to be unstable. For the rest of the three hypotheses, however, the results are mixed, as there are four disputes that deviate from the proposed hypotheses. Hypotheses 2, particularly, argues that disputes over salient territory with lower domestic visibility are more likely to be relatively stable, in the way that it may end up either as joint cooperation, ceasefire, or simply stable, because the negotiation are still ongoing. Even though three disputes follow this causal mechanism, four of them end up in peaceful settlements, which supposed to have occurred, according to Hypothesis 3, when the disputes involve low salience territory and high domestic visibility.

The Phnom Penh post, The Cambodia Daily; 8) Vietnam: Vietnam News; 9) Myanmar: The Myanmar Times, The Irrawaddy; 10) Laos: Vientiane Times; 11) Timor: The Dili Weekly; 12) India: The Hindu, Times of India; 13) Bangladesh: The Daily Star, The Bangladesh today; 14) Australia: ABC News, The Sydney Morning Herald.

A possible explanation is that this deviation is a consequence of including peaceful settlement, which is ideally the end of a dispute, as part of territorial stability. If we look at the period before these disputes are settled, these four disputes are not inconsistent with the proposed hypothesis, since all of them have been relatively stable for the most part of the dispute. Judging from the duration of these disputes, I suspect that relatively stable disputes have greater probability to gradually move toward peaceful settlement over time. It is not accidental if these four disputes have lasted for more than twenty years before they are eventually settled. The Thailand-Vietnam dispute, for instance, required 20 years before it eventually ended. Malaysia-Brunei Darussalam dispute required 25 years, Vietnam-Cambodia dispute required 27 years, and Malaysia-Singapore dispute required 29 years. In short, while disputes over low salience territory with greater visibility have higher probability to be solved peacefully, disputes over salient territory with low visibility may also lead to peaceful settlement after a long period of relative stability.

Having said this, the cross-case analysis of the general trend of territorial disputes in Southeast Asia seems to support the argument on the correlation between territoriality, domestic visibility, and territorial stability. The next four chapters, therefore, will conduct within-case analysis to examine how the proposed causal mechanisms work in the four case studies.

Table 3. Typology of Territorial Disputes in Southeast Asia

No.	Start	Disputant States	Disputed Territory	Economic Interdependence	ASEAN	Territoriality	Visibility	Actual Stability	Expected Stability
1	1950-1962	Indonesia-The Netherland	West Papua	No	No	Salient (t&i)	Visible	Unstable until settled	Unstable
2	1941-1946	Thailand-French	Siem Reap & Batambang	Not available	No	Salient (i)	Visible	Unstable until settled	Unstable
3	1950-Present	Thailand-Cambodia	Preah Viehar	Dependent	Yes	Salient (i)	Visible	Unstable	Unstable
4	1950-1960	Myanmar-China	Small section in northern Myanmar	Dependent	No	Not Salient	Visible	Peacefully settled (b)	Peacefully settled
5	1951-Present	Vietnam-China-Taiwan	Paracels & Spratly Islands	Dependent	Yes	Salient (t)	Visible	Unstable	Unstable
6	1951-1999	Vietnam-China	25 m2 section of common borders	Dependent	No	Not Salient	Visible	Peacefully settled (b)	Peacefully settled
7	1956-Present	Philippine-China-Vietnam-Taiwan	Spratly Islands	Dependent	Yes	Salient (t)	Visible	Unstable	Unstable
8	1956-Present	Philippine-PRC-ROC	Macclesfield Bank, Scarborough Shoal	Dependent	Yes	Salient (t)	Visible	Unstable	Unstable

No.	Start	Disputant States	Disputed Territory	Economic Interdependence	ASEAN	Territoriality	Visibility	Actual Stability	Expected Stability
9	1956-1983*	Vietnam-Cambodia	Prek Binh Gi, Bassac-Mekong, Loc Ninh, Srepok-Se San	No	No	Salient (t)	Visible	Unstable	Unstable
10	1956-1982*	Vietnam-Cambodia	Quan Phu Quoc, Hun Panjang, Wei Islands	No	No	Salient (t)	Visible	Unstable until settled (b)	Unstable
11	1961-1966	Indonesia-UK-Malaysia	Malaysian Federation	No	Yes	Salient (i)	Visible	Unstable until settled (b)	Unstable
12	1961-Present	Malaysia-Philippine	Sabah	No	Yes	Salient (t&i)	Visible	Unstable	Unstable
13	1971-1997	Indonesia-Australia	Timor Gap	Dependent	No	Salient (t)	Not Visible	Relatively Stable	Relatively Stable
14	1978-1998	Thailand-Vietnam	Continental Shelf in the Gulf of Thailand	Dependent	No	Salient (t)	Not Visible	Peacefully settled (b)	Relatively Stable
15	1973-Present	Thailand-Cambodia	Gulf of Thailand	Dependent	No	Salient (t)	Visible	Unstable	Unstable
16	1973-2000	Vietnam-China	Gulf of Tonkin	Dependent	No	Salient (t)	Not Visible	Peacefully settled (b)	Relatively Stable

No.	Start	Disputant States	Disputed Territory	Economic Interdependence	ASEAN	Territoriality	Visibility	Actual Stability	Expected Stability
17	1974-Present	Burma-Bangladesh	Maritime delimitation in Bay of Bengal	Dependent	No	Salient (t)	Visible	Unstable until settled	Unstable
18	1975-1999	Indonesia-Portugal	Timor Leste	No	No	Salient (i&t)	Visible	Unstable until settled	Unstable
19	1979-Present	Indonesia-Malaysia	Ambalat	Dependent	No	Salient (t)	Visible	Unstable	Unstable
20	1979-2008	Malaysia-Singapore	Pedra Branca, Middle Rock, South Ledge	Interdependent	No	Not Salient	Visible	Peacefully settled (t)	Peacefully settled
21	1979-Present	Malaysia-China-Vietnam-China	Commodore Reef, Terumbu Layang-Layang, & Amboyna Cay	Dependent	Yes	Salient (t)	Not Visible	Relatively stable	Relatively stable
22	1984-2009	Malaysia-Brunei Darussalam	Limbang Area	Dependent	No	Salient (t)	Not Visible	Peacefully settled (b)	Relatively stable
23	1984-	Thailand-Laos	20km2 northern border & Ban Rom Klao	Not available	No	Salient	Visible	Unstable	Unstable
24	1998-2002	Indonesia-Malaysia	Sipadan-Ligitan	No	No	Not Salient	Visible	Peacefully settled (t)	Peacefully settled
25	2001-Present	India-Myanmar	Manipur	Dependent	No	Salient (i)	Visible	Unstable	Unstable

No.	Start	Disputant States	Disputed Territory	Economic Interdependence	ASEAN	Territoriality	Visibility	Actual Stability	Expected Stability
26	2001-Present	Indonesia-Malaysia	Tanjung Datu**)	Dependent	No	Not Salient	Not Visible	Dormant	Dormant
27	2003-2005	Malaysia-Singapore	Johor Straits	Interdependent	No	Salient t)	Not Visible	Peacefully settled (t)	Relatively Stable
28	2005-Present	Indonesia-Timor Leste	Oecusse	Dependent	No	Salient (i)	Not Visible	Relatively stable	Relatively Stable

Note: This Table is based on various sources that are discussed extensively in this chapter.

(i) Intangible, (t) tangible, (b) bilateral, (t) third party mediation

*) Dispute and tension often resurfaced after the settlement. **) OBP

CHAPTER 5

SALIENT AND VISIBLE: THE CASE OF VIETNAM AND CHINA
IN THE SOUTH CHINA SEA

This chapter will begin the within-case analysis of the four hypotheses proposed in this

study by introducing the first case study, that is the territorial dispute between Vietnam and

China in the South China Sea. This dispute is an example of territorial disputes with greater

salience and visibility. As indicated in the typology, this dispute supports Hypothesis 1, positing

that this type of territorial disputes is more likely to become unstable. This chapter, therefore,

will examine whether it is indeed the interplay between the salient territory and visibility that

causes the instability of the dispute. In order to do so, the first part will provide the historical

background of the dispute. The second part will then analyze the causal mechanism linking

territoriality, visibility and the unstable territorial dispute between Vietnam and China in the

South China Sea.

Historical Background

Maritime territorial disputes in the South China Sea are, perhaps, the most contentious

disputes in Southeast Asia over the last four decades. The disputes emerged for the first time due

to concurrent events in the region in the early 1970s. The rising price of oil, reports of

hydrocarbon deposits in the South China Sea, and the call for maritime delimitation under the

UN Convention on the Law of the Sea (UNCLOS), have driven the six surrounding states and

quasi-states such as China, Malaysia, Vietnam, Brunei Darussalam, the Philippines, and Taiwan,

to declare their sovereignty over this body of water.[237] The overlapping claims among these

states have led to complex territorial disputes that remain unresolved until today.

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[237] See M. Taylor Fravel, *Strong Borders Secure Nation: Cooperation and Conflict in China's Territorial Disputes,* Princeton: Princeton University Press, 2008, 268-280; Brantly Womack, "The Spratlys: From Dangerous

The dispute between Vietnam and China had more complex dynamics as it was also related to the Vietnam War and the Sino-Soviet rivalry in the region.[238] When the dispute firstly emerged in the 1970s, Vietnam was divided into the communist government in the North and the Republican government in the South. The former was supported by the Soviet Union, while the latter was supported by the United States. As the North occupied greater part of the South, China aimed to secure the Spratly and Paracels from the South before it fell to the North.[239] The concern over strategic resources, the exploration by the South, and the possible Soviet "use of the islands," led China to occupy the Paracels forcefully from the South in 1974.[240]

The unified Vietnam under the Communist government apparently claimed all the islands previously belonged to the South.[241] Soon after the unification, Vietnam reinforced its presence in the remaining islands, which then marked the beginning of the long-standing dispute between the present-day Vietnam and China. However, the dispute was diffused by Vietnam's invasion of Cambodia. China, who had close relations with latter, attempted to halt this invasion by attacking Vietnam from its northern border that led to the border war between the two countries in 1979.[242] As tension persisted, bilateral relations deteriorated and climaxed in another armed clash in the

Ground to Apple of Discord," *Contemporary Southeast Asia* 33, no. 3 (2011): 373; Sukmawani Bela Pertiwi, "Explaining China's Growing Assertiveness in the South China Sea Conflict from 2007 - Present." *Academia.edu.* https://www.academia.edu/3690441/Explaining_Chinas_Growing_Assertiveness_in_the_South_China_Sea_Conflict_from_2007-_Present (accessed March 19, 2014).

[238] John W. Garver, "China's Push Through the South China Sea: The Interaction of Bureaucratic and National Interests," *The China Quarterly*, no. 132 (1992): 999-1028.

[239] John W. Garver, "China's Push Through the South China Sea: The Interaction of Bureaucratic and National Interests," *The China Quarterly*, no. 132 (1992): 1001.

[240] Fravel, *Strong Border, Secure Nation*, 276-280; Garver, "China's Push Through the South China Sea," 1001.

[241] Garver, "China's Push Through the South China Sea," 1005-1006.

[242] Ramses Amer, "Assessing Sino-Vietnamese Relations Through the Management of Contentious Issues," *Contemporary Southeast Asia* 26, no. 2 (2004): 324.

South China Sea in 1988. China made several attempts to expand its occupation in the Spratly, but faced strong oppositions from the Vietnamese naval forces.[243] As a result, military confrontation broke out in the last encounter and killed 74 people.[244]

Vietnam called for negotiation of the dispute in order to ease the tension.[245] Even though China was reluctant in the beginning, both states agreed to end the confrontation in the South China Sea and other disputed territories.[246] Both states began their discussion on gradual normalization in 1991.[247] However, they failed to shelve their maritime dispute in the South China Sea, as in 1992, China passed its "Law on Territorial Sea and Contiguous Zone" encompassing the disputed islands and signed an agreement with a foreign oil company.[248] Vietnam, for its part, began its oil exploration in 1993.[249] Its actions, however, met retaliation from China, and thus, caused a series of tension until the late 1997, when China eventually decided to stop its oil exploration and to return to the negotiating table.[250]

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[243] Fravel, *Strong Border, Secure Nation*, 294-295; See also, Garver, "China's Push Through the South China Sea," 1013-1014; *New York Times,* "China and Vietnam Skirmish Over Disputed Island Chain," March 16, 1988: 13.

[244] Fravel, *Strong Border, Secure Nation*, 295.

[245] Barbara Crossette, "Hanoi Seeks talks With Beijing," *New York Times*, March 18, 1988: 10.

[246] Ibid.

[247] Amer, *Maritime Briefing: Sino-Vietnamese Approach to Managing Boundary Disputes,* Edited by Shelagh Furness and Clive Schofield. Vol. 3. 5 vols. Durham: International Boundary Research Unit, 2002; *New York Times,* "Beijing To Sign A Pact With Hanoi on Trade," November 1991, 1991: 11; Nicholas D. Kristof, "Hanoi Leaders to Visit China as Ties Revive," *New York Times*, September 13, 1991: 11; Nicholas D. Kristof, "Chinese Premier Making A Rare Visit to Hanoi," *New York Times*, November 30, 1992: 6; Amer, "Assessing Sino-Vietnamese Relations," 320-321.

[248] Paul Jacob, "China's Move On Disputed Islands 'Raise Misgivings'," *The Straits Times*, July 1, 1992: 14; Bernard D. Cole, *The Great Wall at Sea: China' Navy Enters the Twenty-First Century,* Annapolis: Naval Institute Press, 2001: 39.

[249] *South China Morning Post,* "Major Gas Find Off Vietnam," February 27, 1993: 5.

[250] See *South China Morning Post,* "Chinese Seismic Ship Leaves BP Survey Area," May 14, 1993: 1; *South China Morning Post,* "Scene Set For Clashes Over Rival Sea Claims," April 21, 1994: 10; *South China*

From 1998 to 2006, the relation between the two countries was relatively stable. Vietnam and China have advanced their bilateral cooperation as apparent by their agreement on the "Land Border Treaty" in 1999, and the maritime delimitation in the Gulf of Tonkin in the following year.[251] In regards to the South China, both countries not only signed the Declaration on Code of Conduct of Parties in the South China Sea (DoC), but also cooperated under the Joint Marine Seismic Undertaking (JMSU) together with the Philippines in 2005.

Since 2007, however, there has been growing friction between the two countries after the UN asked coastal states to submit their continental shelf boundaries. Both states strengthened their positions in the dispute that often caused diplomatic protests from the other state. After China unilaterally included the disputed islands under its newly established Sansha District, Vietnam and Malaysia submitted their maritime borders to the UN.[252] This action compelled China to take further move by submitting its "nine-dashed line map" covering all of the disputed territories.[253] The tension got even higher, as China intensified its fishing ban that increased the number of Vietnamese vessels captured during the inspections.[254] This, together with Chinese

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Morning Post, "Prospects of Oil Make Spratlys Hot Property; Storm Brews Around the Islands," July 26, 1994: 7; *South China Morning Post,* "Boats Blamed for Entering Viet Waters," October 21, 1994: 9; *South China Morning Post,* "Hanoi's Plan For Spratlys To Cause Row," October 25, 1994: 8; *South China Morning Post,* "Hanoi Insists On Rights To Oil Field in South China Sea," July 30, 1995: 7; *South China Morning Post,* "Doubts Fuel Oil Platform Protest Talks," April 9, 1997: 10.

[251] David Scott, "Conflict Irresolution in the South China Sea," *Asian Survey* 52, no. 6 (2012): 1028.

[252] Ibid., 1036. See also, Alice D. Ba, "Staking Claims and Making Waves in the South China Sea: How Troubled Are the Waters?" *Contemporary Southeast Asia* 33, no. 3 (2011): 272.

[253] Ba, "Staking Claims and Making Waves in the South China Sea," 272.

[254] M. Taylor Fravel, "China's Strategy in the South China Sea," *Contemporary Southeast Asia* 33, no. 3 (2011): 303-305.

naval modernization in the South fleet base has eventually provoked Vietnam to take balancing actions by strengthening its relations with the U.S.[255]

This rising tension climaxed in May 2011 when China allegedly disrupted a cable used by a Vietnamese oil-surveying team in the South China Sea.[256] As the news reached domestic audiences on both sides, hundreds of protesters expressing anti-China sentiments in Vietnam, while those in China urged the government to take a tougher stance on the dispute.[257] Despite both governments' agreement to negotiate the dispute peacefully, tension soon arose between the two.[258] China continued its fishing bans and naval patrols. Meanwhile, Vietnam boosted its cooperation with India, asked Japan to intervene in the dispute, dispatched Buddhist monks to the Spratly, and approved a maritime law covering both the Spratly and the Paracels.[259] These actions indicate that, even though China is now focusing on the Philippines and Japan, relations between Vietnam and China will remain unstable in the foreseeable future.

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[255] See, Scott, "Conflict Irresolution," 1030-1031.

[256] Liu Linlin, *Beijing Rebuffs Hanoi Offshore Oil, Gas Claims,* May 30, 2011, http://www.globaltimes.cn/content/659914.shtml (accessed February 23, 2014); Jia Cheng, *China Denies Vietnam's Accusation on South China Sea,* June 10, 2011, http://www.globaltimes.cn/content/660906.shtml (accessed February 23, 2014).

[257] *Vietnam Protest Damages Ties,* June 7, 2011, http://www.globaltimes.cn/content/660530.shtml (accessed February 23, 2014); Zhu Shanshan, *Vietnam Set for Major Naval Drill,* June 13, 2011, http://www.global times.cn/content/661205.shtml (accessed February 23, 2014); Huang Jingjing, *Public Want Tough Line in S. China Sea,* June 20, 2011. http://www.globaltimes.cn/content/662356.shtml (accessed February 23, 2014).

[258] *China, Vietnam Sign Accord to Solve Maritime Dispute Peacefully,* October 13, 2011, http://www.global times.cn/content/679086.shtml (accessed February 23, 2014).

[259] Ibid. See also, Xu Ming, *Vietnam Calls for Aid over Sea Spat,* April 23, 2012. http://www.globaltimes.cn/content/706144.shtml (accessed February 23, 2014); Jia Cheng, *Beijing Urges Hanoi to Avoid Complicating Situation,* March 14, 2012. http://www.globaltimes.cn/content/700186.shtml (accessed February 23, 2014); *China Opposes Vietnamese Maritime Law over Sovereignty Claim,* June 21, 2012, Global Times. http://www.global times.cn/content/716385.shtml (accessed February 23, 2014).

Territoriality, Domestic Visibility, and The Unstable Territorial Dispute

The explanation on the dispute between Vietnam and China in the South China Sea provides a clear picture on the instability of the dispute since the first clash in 1988 well until the present. This section will further examine if it is the interplay between salient territory and domestic visibility that causes the instability of the dispute. To begin with, the disputed territory between Vietnam and China should demonstrate the character of a salient territory.

The South China Sea is a three million-km^2 body of water that consists of several island chains and hundreds of "land features".[260] The disputed territories between Vietnam and China in the South China Sea lie in both the Spratly *(Nansha/Truong Sa)* and the Paracels (Xisha/Hoang Sa) that make up the two biggest island chains in the region. Despite that only few islands within these chains that are inhabited, the comparatively large size of these chains is significant enough to attract attention from the surrounding states. Moreover, these chains have both strategic resources and strategic locations that characterize the salience of a territory.

In terms of strategic resources, there are different estimations on the amount of potential hydrocarbons in the South China Sea, ranging from 28 – 213 billion barrels of oil and 266 – 2,000 Tcf of natural gas.[261] This significant amount of hydrocarbon is even more important, considering both Vietnam and China are the two fastest growing economies in the region. After economic reforms, China has relied heavily on its oil import, while Vietnam relied on its oil

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[260] See Hailing Liu, Yongjian Yao, and Hui Deng, "Geological and Geophysical Conditions for Potential Natural Gas Hydrate Resources in Southern South China Sea Waters," *Journal of Earth Science* 22, no. 6 (2011): 719; Zhinguo Gao and Bing Bing Jia, "The Nine-Dash Line in the South China Sea: History, Status, and Implications," *The American Journal of International Law* 107, no. 1 (2013): 99; Bernard D. Cole, *The Great Wall at Sea: China' Navy Enters the Twenty-First Century,* Annapolis: Naval Institute Press, 2001: 36.

[261] Global Investment Center, *Vietnam: Oil and Gas Exploration Laws And Regulation Handbook,* 41-42.

export as a key source to sustain its economic growth.[262] In addition, the South China Sea is among the top sources of fisheries in the world.[263] Fishermen in both Vietnam and China rely on this area for their economy. China particularly places a high value on this area because China is the biggest supplier to the global fish market.[264] Finally, in term of strategic location, the South China Sea is a crucial sea-lane of communication, connecting the global market with the most dynamic economy of East Asia. It transports more than 25% of the world trade, 30% of the world oil, and 50% of the world natural gas.[265] China itself has 80% of its oil delivered through the South China Sea.[266] With that being said, both Vietnam and China have significant stakes in the salient value of the disputed territory, which according to territoriality explanation, would make the dispute more contentious.

Domestic visibility particularly complicates the dispute even further as both states politicize the dispute that makes it unstable. After the first clash in 1974 and the unification of Vietnam in the following year, the newly formed government under the Communist Party, suffered greatly from economic loses due to the long protracted wars against the French, the U.S., China, and not to mention its invasion to Cambodia.[267] The command-economy system

[262] Leszek Buszynski and Iskandar Sazlan, "Maritime Claims and Energy Cooperation in the South China Sea," *Contemporary Southeast Asia* 29, no. 1 (2007): 155; Freg Torode, "Oil Search Shrugs at China's Claims." *South China Morning Post*, March 18, 1995: 6.

[263] Daniel Yarrow Coulter "South China Sea Fisheries: Countdown to Calamity," *Contemporary Southeast Asia* 17, no. 4 (1996): 373-375.

[264] Cole, *Great Wall at Sea,* 38.

[265] See, Ba, "Staking Claims and Making Waves in the South China Sea," 270; US Energy Information Administration, *The South China Sea Is An Important World Energy Trade Route,* April 4, 2013, http://www.eia.gov/todayinenergy/detail.cfm?id=10671 (accessed February 24, 2014); Cole, "The Great Wall at Sea," 39.

[266] Fravel, "China's Strategy in the South China Sea," 296.

[267] Le Hong Hiep, "Performance-Based Legitimacy: The Case of the Communist Party of Vietnam and Doi Moi," *Contemporary Southeast Asia* 34, no. 2 (2012): 154-155.

adopted by the Communist Party failed to generate economic growth, and even worse, it created hyperinflation, food crises, and a decreasing standard of living.[268] As a result, there were growing oppositions from the South who previously enjoyed free market system under the republic.[269] Many former South Vietnamese militaries, refugees, and dissidents that had fled to other countries, challenged the government programs in various forms and demanded reformations.[270] Le Hong Hiep noted that for the first time, the Communist Party, whose legitimacy relies on the people's nationalism against foreign enemies, was under serious "legitimacy crisis".[271]

For that reason, when a study reported the rich hydrocarbon potential in the disputed territory and China indicated its continuing survey in the Spratly from 1980-1988, the Communist leadership adopted a tougher stance in order to gather popular supports and to recover its legitimacy from domestic audiences.[272] Defending sovereignty from foreign invasion was an effective way to distract domestic issues. Defending it from Beijing was more effective because of Vietnamese strong historical memory of being under China's occupation for a thousand years. Moreover, the strategic value of the disputed territory was crucial for the recovering Vietnamese economy. This period, therefore, saw the increasing assertiveness of Vietnamese policies in the South China Sea that was apparent in many public statements in Vietnamese media. The Vietnamese Foreign Ministry, for example, repeatedly demanded

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[268] Ibid.

[269] Ibid., 155.

[270] Ibid.

[271] Ibid., 151-153.

[272] Since Hiep focused only on era between 1975-1986, he only used this diversionary strategy to explained Vietnam's behavior in the border war with China and in Cambodia. See, Hiep, "Performance-based Legitimacy," 156.

Beijing to withdraw its naval forces from Truong Sa islands.[273] The Vietnamese Defense

Minister also emphasized to the media that, "we'll defend [the] Spratlys".[274] The two state

media, *Nhan Dan* of the Communist Party and *Quan Doi Nhan Dan* of the military, were even

stronger in their statements, asking for "the immediate retreat of Chinese military forces from the

archipelago," and underlined that, "Vietnam is not about to let the disputed Spratly Islands go

without a fight."[275]

Vietnam's actions obviously met strong opposition from China. At that time, China has

started its economic reform under Deng Xiaoping. The need to secure energy resources, in order

to sustain this reform, had shifted China's attention to the offshore areas of the South China Sea.

The Chinese naval forces, or PLAN, had politicized the importance of securing maritime

resources in order to increase more funding for naval modernization.[276] Since the 1970s, there

were growing articles in the national newspapers, such as People's Daily and PLA Daily, which

had underlying purposes to expand Chinese navy to protect maritime resources.[277] The PLAN

obtained supports from "conservatives", "nationalists", and the local governments near the

disputed islands, who benefitted from the growing attentions to their areas.[278] As Vietnam

demonstrated its diversionary war, China had more reasons to expand its navy and to confront

Vietnam in the dispute. As a result, their militaries clashed in 1988. Hypothesis 1, therefore, is

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[273] *The Straits Times,* "Hanoi Wants Chinese Ships Out of Spratlys," February 22, 1988: 3.

[274] *The Straits Times,* "We'll Defend Spratlys: Viet Minister," May 12, 1988: 4.

[275] *The Straits Times,* "Viets Warn China: Remove Troops from the Spratlys," February 27, 1988: 40; *The Straits Times,* "Viet Warning on Spratlys," April 21, 1988: 32.

[276] Garver, "China's Push Through the South China Sea," 1020-1024.

[277] Ibid., 1025. See also Fravel, Strong Borders, Secure Nation, 276-277.

[278] Ibid., 1026.

correct in suggesting that a dispute over salient territory with greater visibility is more likely to be unstable. In this case, both Vietnam and China intentionally made the dispute visible, in order to obtain public supports in securing the disputed territory and in securing their own interests.

The continuing economic crisis and the apparent lack of domestic support for the dispute in Vietnam, however, made the communist party rethink their policy.[279] With the collapse of communism in the Soviet Union and the termination of the Soviet aid, Vietnam needed to better focus its policy on economic development, and to better cooperate with China whose economy has been significantly improved.[280] Therefore, the period of the 1990s marked the beginning of Vietnamese "cooperate and struggle" policy *(vua hop tac vua dau tranh)* in dealing with China.[281] On the one hand, Vietnam maintained its assertiveness in the territorial dispute, both to demonstrate its resolve to domestic audiences, and to secure strategic resources that were crucial for its growing economy under Vietnamese open door policy or *Doi Moi*.[282] On the other hand, it strengthened the cooperation with China and adopted a non-military approach to the dispute.[283] The success of the *Doi Moi* eventually helped the communist party to consolidate its position in the domestic politics and to retain full control over its oppositions and media.

This shift in Vietnamese policy was apparently concurrent with the similar shift in China's foreign policy. China's fast growing economy has, one the one hand, helped to

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[279] Hiep argued that it was these two factors that caused the failure of Vietnam's diversionary wars during 1975-1986. Despite the clash in the South China Sea occurred in 1988, or two years after Doi Moi, tension has arisen since 1980s and Doi Moi had not indicated significant impact to domestic economy. Therefore, these two factors were also influential in the case of the South China Sea. Hiep, "Performance-based Legitimacy," 156.

[280] See, "Performance-based Legitimacy," 146; Le Hong Hiep, "Vietnam's Hedging Strategy against China since Normalization," *Contemporary Southeast Asia* 35, no. 3 (2013): 339-342.

[281] Hiep, "Vietnam's Hedging Strategy," 343; Thayer, "The Tyranny of Geography," 351.

[282] See also, Thayer, "The Tyranny of Geography," 351-352; Hiep, "Vietnam's Hedging Strategy," 344.

[283] Thayer, "The Tyranny of Geography," 351-352; Hiep, "Vietnam's Hedging Strategy," 344.

consolidate the position of the communist party and its control over its domestic audience. On the other hand, this also meant that the legitimacy of the party relied heavily on its ability to provide sustained economic growth for the domestic audience. As a result, when China became a net oil importer in the beginning of the 1990s, China's government shifted its foreign policy for the purpose of "securing oil transport route" from the Middle East.[284] The strategic importance of Southeast Asia together with its stability, in this sense, eventually shifted China's approach to its territorial disputes with the regional states in the South China Sea to be more cooperative. Moreover, regional stability was also indispensable to enable China to concentrate on its economic development.[285] Therefore, it is unsurprising that China began to adopt a soft approach to Southeast Asian countries for the second part of the 1990s. From the early 2000, it also adopted the "New Security Concept" that sought to replace the old military way of settling disputes with the new one that stressed on the importance of "dialogue and cooperation."[286]

With the convergent interests to focus on economic development, both Vietnam and China had more incentive to better manage their territorial dispute. The absence of the need to adopt diversionary strategy in both countries and the ability of the governments to control the information to the domestic audience further diminished the domestic pressure on the governments. As a consequence, they had more flexibility in the dispute that eventually led the dispute to be relatively stable. From the late 1990s to the mid 2000s, for example, the number of tensions and disputes between the two countries, at least based on the coverage of the media, was decreasing. The survey conducted in this study indicates that the number of articles on the

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[284] Hongyi Harry Lai, "China's Oil Diplomacy: Is It A Global Security Threat?" *Third World Quarterly* 28, no. 3 (2007): 519-537.

[285] Pertiwi, "Explaining China's Growing Assertiveness."

[286] Ministry of Foreign Affairs of the People's Republic of China, *China's Position Paper on the New Security Concept.* July 31, 2002, http://www.mfa.gov.cn/ (accessed March 30, 2014).

dispute between Vietnam and China in the South China Sea during the period between 2000-2006 were roughly half of the articles in the period prior to 2000 or after 2006.[287] This period also witnessed the beginning of joint cooperation between the two countries under the JMSU. To this point, therefore, Hypothesis 2 is also correct in suggesting that disputes over salient territory, but invisible to the domestic audience, are relatively stable.

However, in the second half of the 2000s, there were three developments that contributed to the changing Chinese and Vietnamese foreign policy in the South China Sea. The first was the UN announcement to the coastal states to submit their maritime zone boundaries that caused all disputants including China to reconsolidate their position in the disputed territory. China seemed to be more assertive because it is a state with the least possession of islands in the Spratlys. This situation is disadvantageous for the communist party because it began to see the South China Sea not only as sea lanes delivering China's oil, but also a key potential oil resources that can help fulfilling China's energy demand as the second largest economy in the world. The growing domestic problems that may threaten the party's legitimacy, such as corruption and the highly increasing gap between the rich and the poor added to the incentives for the party to adopt diversionary strategy in the dispute.[288] China's military that has become the second largest in the world, after all, provides a tool to achieve all these purposes in the South China Sea. Added by the later U.S. announcement of the rebalancing policy to Asia, the end of the 2000s witnessed the beginning of the so-called "China's assertiveness" in strengthening its position in the dispute.[289]

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[287] Using keywords "Vietnam South+China+Sea," the digitalized-newspaper database in the National Library of Singapore, for example, records 200-358 articles per year between 2000-2006, 386-595 articles per year between 1995-1999, and 595-652 articles per year between 2007-2009. See, http://newspaper.nl.sg/.

[288] David Arase, *China's Militant Tactics in the South China Sea,* June 29, 2011, http://www.eastasiaforum. org/2011/06/29/china-s-militant-tactics-in-the-south-china-sea/ (accessed March 31, 2014).

[289] Pertiwi, "Explaining China's Growing Assertiveness."

This changing posture of China has inevitably visible to domestic audiences in other disputant states, including Vietnam. The rapid global development of the Internet and social media has penetrated Vietnam and has become a medium to express dissatisfaction to the communist party and to gather information from foreign media.[290] When the dispute reappeared and China indicated its growing activities in the disputed territory, Vietnamese netizens arranged widespread demonstrations to press the government to take a tougher stance against China.[291] While acknowledging the importance of the disputed territory, the communist government under Nguyen Tan Dung preferred to play down these nascent movements, and underlined the importance of a cooperative approach to China.

It was only after the global financial crisis that was proved detrimental to Vietnamese economy that Vietnam began to change its approach to China.[292] The significant decline of the economic growth, the high inflation rate, and the increasing number of bankruptcies caused a growing number of demonstrations against the government, which even compelled lawmakers to voice a motion of "no-confidence" against the Prime Minister.[293] Therefore, there was a convergence of interests at this time between anti-China protesters and those who were upset about the government failure in managing the domestic economy. Moreover, one of the most sensitive issues in this economic crisis is the trade deficit between Vietnam and China, which

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[290] An Nguyen, "Globalization, Citizen Journalism, and the Nation State: A Vietnamese Perspective." In *Citizen Journalism: Global Perspective*, edited by Stuart Allan and Einar Thorsen, 154-156. New York: Peter Lang Publishing, 2009.

[291] Ibid., 157.

[292] Hiep, "Performance-based Legitimacy," 162.

[293] Ibid., 162.

was reportedly 100 times larger in 2013 compared to what it was in 2001.[294] This, together with the growing China's activities in the disputed territories, eventually led Nguyen Tan Dung to change its previous approach to China to be more assertive.[295] This changing course in Vietnamese foreign policy is definitely a bold step considering the growing power asymmetry between the two and Vietnamese economic dependence on China. This signifies that securing strategic resources and appeasing domestic dissents have been, for the second time, the driving force of Vietnam's foreign policy in the dispute with China.

This was apparent during the incident of cable cutting in 2011 that attracted hundreds of protesters in both Hanoi and Ho Chi Minh City.[296] On the one hand, these movements reflected grass-root movements based on nationalism against China, as proven by the composition of the protesters that consisted of political dissidents and netizens.[297] On the other hand, they also reflected the government tactics to face the stronger China in the dispute, because large-scale demonstrations would not occur without the government consent in an authoritarian state, such as Vietnam. Either way, these events have further escalated the dispute between the two countries. Following these events, Nguyen Tan Dung adopted tougher positions by conducting naval exercises and strengthening Vietnam's presence in the disputed area.[298] He also began to

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[294] *Vietnam's Trade Deficit to China Surges to near $20 bln.* December 9, 2013. http://tuoitrenews.vn/socie ty/15841/vietnam-imports-many-goods-from-china-from-needles-to-elephants (accessed February 28, 2014).

[295] Hiep, "Performance-based Legitimacy," 163.

[296] *South China Sea: Vietnamese Hold Anti-Chinese Protest.* June 5, 2011, http://www.bbc.co.uk/news/ world-asia-pacific-13661779 (accessed February 28, 2014); Global Times, *Vietnam Protest Damages Ties;* Shanshan, *Vietnam Set for Major Naval Drill.*

[297] Szep, Jason. *Feature-In Vietnam, Anti-Chinese Protesters FInd A New Outlet - Soccer.* December 22, 2012, http://www.reuters.com/article/2012/12/23/vietnam-china-dissidents-idUSL4N09V2FP20121223 (accessed February 28, 2014).

[298] Shanshan, *Vietnam Set for Major Naval Drill. US, Vietnam Hold Military Drills in South China Sea,* June 25, 2011, http://www.globaltimes.cn/content/663217.shtml (accessed February 28, 2014).

strengthen its cooperation with the U.S. as apparent in the "Fourth US-Vietnam Political, Security, and Defense Dialogue" a month after the incident.[299] He stated that, "we continue to affirm strongly and to manifest the strongest determination of all party, of all people and of all the army in protecting Vietnamese sovereignty in maritime zone and islands of the country."[300]

The combination of anti-China movements and the government's growing assertiveness in the dispute have increased the distrust between the two countries, as soon after these massive protests, there were growing accusations against Vietnam in Chinese media. Global Times, a prominent state-controlled media, cited Zhuang Guotu, a Chinese scholar, commenting that; "the rare demonstration must have been approved tacitly by the Vietnamese government and is aimed at pressuring China in the South China Sea."[301] Another article cited Su Hao, also a Chinese scholar from China Foreign Affair University, who argues that the anti-China movement is a deliberate action by Vietnamese government to seek "international attention and enhance bilateral relations with the US to receive bolstered economic support."[302] In another article, he stated that it is the strategy of the government to raise the bilateral issue in the ASEAN meeting that would be held in the following week.[303]

In addition to this accusation, the anti-China movements in Vietnam have also sparked widespread nationalist sentiment among the Chinese. According to an online survey after the May incident, 80% out of 23,000 respondents did not "support China showing self restraint" and

[299] Scott, "Conflict Irresolution," 1030.

[300] Cheng, *China Denies Vietnam's Accusation on South China Sea*.

[301] Global Times, *Vietnam Protest Damages Ties*.

[302] Cheng, *China Denies Vietnam's Accusation on South China Sea*.

[303] Global Times, *Hanoi Breaks Up Anti-China Rally,* July 18, 2011, http://www.globaltimes.cn/content/666637.shtml (accessed February 28, 2014).

82.9% went as far as supporting military options.[304] A similar survey by Global Times also recorded that 86% of the total participants have "negative feelings toward Vietnam concerning the South China Sea."[305] An editorial in Global Times entitled "China Must React To Vietnam's provocation" perhaps best summarized these sentiments toward Vietnam.[306] It suggested that:

> China has to be ready for two plans: negotiate with Vietnam for a peaceful solution, or answer the provocation with political, economic, or even military counterstrikes. … China should clearly state if it decides to fight back, it will also take back the islands previously occupied by Vietnam. If Vietnam wants to start a war, China has the confidence to destroy invading Vietnam's battleships, despite possible objections from the international community.[307]

These various provocative opinions among the Chinese are important in giving feedback to the dispute in two ways. First, they increased the domestic pressure on the government to take tougher actions against Vietnam. China has cut the budget allocation and begun privatization of state-funded media since the 1980s.[308] As a result, media in China partly reflects the mood of the overall Chinese people.[309] With the broadening power centers in China, the government often use the media as the parameter of regime stability.[310] When there were growing dissents, as occurred in May 2011, the government could not simply ignore these demands as it may

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[304] Jingjing, *Public Want Tough Line in S. China Sea.*

[305] Global Times, *Vietnam 'Upsets' Chinese Public,* June 21, 2011, http://www.globaltimes.cn/NEWS/tabid/99/ID/662464/Vietnam-upsets-Chinese-public.aspx (accessed February 28, 2014).

[306] Global Times, *China Must React to Vietnam's Provocation,* June 21, 2011, http://www.globaltimes.cn/content/662453.shtml (accessed February 27, 2014).

[307] Ibid.

[308] Susan L. Shirk, "Changing Media, Changing Foreign Policy in China," *Japanese Journal of Political Science* 8, no. 1 (2007): 43-7045-46.

[309] Ibid., 46.

[310] See Shirk, "Changing Media, Changing Foreign Policy in China," 57-58.

undermine its legitimacy.[311] Therefore, soon after a series of protests broke out, China demanded that Vietnam be held responsible, stating that "some country took unilateral actions to impair China's sovereignty and maritime rights and interests, and released groundless and irresponsible remarks with the attempt to expand and complicate the disputes over the South China Sea."[312] China also added that "it is advisable for Vietnam to rein in its overarching ambition over the South China Sea, and dim its hope pinned on the U.S."[313] It, after all, urged Vietnam to stop violating China's territory and to begin negotiating the dispute.[314]

Second, these domestic provocations also gave a feedback to the dispute in the way that they signaled China's firm position to Vietnam. Despite the media privatization in China, the government retained a large control over the content of the media. Similar to Vietnam, the fact that these provocative opinions are allowed to appear in the state-controlled media implies that they have the consent from the government, and that they are in line with China's interest in the dispute. By letting these opinions appear, China signaled its position in the dispute without having to take responsibility of these provocations. This was understood by Vietnam who then responded to China's assertiveness and the media provocation by strengthening its presence in the disputed islands as explained in the previous section. Therefore, the dynamics of both China and Vietnam's strategies to secure strategic resources and to appease domestic pressures have created endless actions reactions in the disputed area that cause their relations to be unstable.

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[311] See Shirk, "Changing Media, Changing Foreign Policy in China," 48, 57.

[312] Louisa Lim, *A Dispute At Sea Escalates China, Vietnam Tensions,* June 14, 2011, http://www.npr.org/2011/06/14/137182730/tensions-escalate-between-china-vietnam (accessed February 14, 2014).

[313] Li Hongmei, "Vietnam Should Wake Up to Danger!" *People's Daily*, June 20, 2011. Quoted in Scott, "Conflict Irresolution," 1030.

[314] Global Times, *Vietnam Urged to Act Responsibly over Tensions.* June 14, 2011, http://www.globaltimes.cn/content/661353.shtml (accessed February 14, 2014); Global Times, *China, Vietnam To Ease Sea Tension.* June 27, 2011. http://www.globaltimes.cn/content/663342.shtml (accessed March 25, 2014).

This period, too, strengthened the proposition of Hypothesis 1, that the interplay between a salient territory and domestic visibility is more likely to destabilize the dispute. In this period, however, the visibility to domestic audience is the combination of both top-down and bottom-up process, and it is apparent that this causal mechanism resulted in a less stable dispute between the two countries.

CHAPTER 6

SALIENT BUT VISIBLE: THE CASE OF MALAYSIA AND CHINA
IN THE SOUTH CHINA SEA

Historical Background

In contrast to the unstable dispute between Vietnam and China, the dispute between

Malaysia and China in the South China Sea is relatively stable. After the UNCLOS decided to

entitle coastal states with the four maritime zones and disputes erupted among states surrounding

the South China Sea in 1974, Malaysia also began to assert its sovereignty in the southernmost of

the Spratlys by including these areas in its new map published in 1979.[315] Despite objections

from other states including China, Malaysia occupied Shallow Reef in 1983, Ardasier Reef and

Marivales Reef in 1986, as well as Dallas Reef and Louisa Reef in 1987.[316] Malaysia justified

these actions by the principle of proximity wherein these reefs are well into Malaysian maritime

zones as defined by the UNCLOS.[317]

In response to these actions and other actions in the following years, China has most

often indicated its soft approach or indirect retaliation to Malaysia. In essence, China preferred to

deal with states other than Malaysia to signal its resolve against the changing status quo of the

dispute. In regards to these pre-1990 actions, for example, China, which was involved in armed

clashes with Vietnam, merely strengthened its presence near Malaysia's claimed territory

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[315] Asri Salleh, Che Hamdan Che Mohd Razali, and Kamaruzaman Jussof, "Malaysia's Policy Towards Its 1963-2008 Territorial Disputes," *Journal of Law and Conflict Resolution* 1, no. 5 (2009), 112.

[316] Ibid., 113.

[317] Clive Schofield, "Dangerous Ground: A Geopolitical Overview of the South China Sea," In *International Security and International Politics in the South China Sea: Towards A Cooperative Management Regime*, edited by Sam Bateman and Ralf Emmers, 7, Oxon: Routledge, 2009.

through a series of patrols.[318] When Malaysia began developing the disputed islands in 1990, China still preferred not to confront Malaysia directly. At that time, Malaysia began its oil exploration in Dulang and Larut fields under cooperation with two US oil companies.[319] In fact, since the oil exploration began, Malaysia's claimed territory has produced the highest amount of oil compared to other claimant states.[320] In addition, Malaysia also developed Shallow Reef as marine and tourist resorts.[321] After installing naval base in the area, Malaysia reclaimed this small atoll into an island by extending the area using the sand transported from the nearest Malaysian state.[322] Against such actions, Chinese President Yang Shangkun only reaffirmed China's "undisputable sovereignty" over these islands, and emphasized the need for "consultation" and cooperation.[323] China indeed increased its forces in the South fleet base and the disputed islands.[324] This, however, did not even occur in Malaysia's claimed territory, which is contrasted to China's policies to other claimant states. When the Philippines granted such a contract to a foreign company in 1994, China sailed to the disputed territory and, for the first time, occupied the Philippines' claimed territory, which led to the Mischief Reef incident in

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[318] See David Jenkins, "A Bloody Island-Grab in the South China Sea," *Sydney Morning Herald*, May 3, 1988, 15.

[319] The New York Times, "Malaysia Oil Discovery," September 7, 1990, 4. Journal of Commerce, "Malaysian Field Output Projected," March 22, 1988, 7B.

[320] Global Investment Center, *Vietnam: Oil and Gas Exploration Laws And Regulation Handbook,* Washington: International Business Publications, 2012, 42.

[321] Makito Ohashi, "Malaysia Develops Disputed Spratly Isle; Hotel Goes Up On Territory Claimed By Six Nations," *The Nikkei Weekly*, May 30, 1992, 31.

[322] Ibid.

[323] Ruth Youngblood, *United Press International*, June 16, 1991.

[324] Lindsay Murdoch, "China's Oil Hunt Raises Tension in Spratlys," *The Age*, July 7, 1992: 8.

1995. Yet still, when Malaysia occupied Erica Reef and Investigator shoal in 1998 and 1999 respectively, China remained adopting a soft approach to this action.[325]

Around the negotiating table, these amicable relations between Malaysia and China seemed to be more apparent. Both countries shared a similar view that the dispute should be settled bilaterally between the claimant states. They have also agreed to engage in consultation related to the dispute.[326] It was for this reason that they never discussed their bilateral dispute openly in front of the public and they were in the same position to encourage other states to adopt a similar approach.

During the meeting with ASEAN foreign ministers in 1992, for instance, China declared its commitment to discussing the dispute peacefully and to pursuing cooperation in the disputed area.[327] If ASEAN countries did not agree on this solution, China proposed to "shelve the dispute" for future settlement.[328] Malaysia, for its part, convinced other ASEAN members that China should be invited in the dialogue pertaining regional security[329] and suggested that, "it may not be necessary for extra-regional powers to become involved in the South China Sea dispute."[330] In regards to the DOC, Malaysia affirmed that, "the proposed Code of Conduct (COC) for the South China Sea should not serve as an instrument to resolve territorial and

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[325] Christopher Chung, "Southeast Asia and the South China Sea Dispute," In *Security and International Politics in the South China Sea: Towards A Cooperative Management Regime*, edited by Sam Bateman and Ralf Emmers, 99-103, Oxon: Routledge, 2009.

[326] Kieran Cooke, "Plan For Mahathir To Meet Li Peng," *Financial Times*, June 12, 1993, 4.

[327] William Branigin, "China Assures Asian Bloc on Islands," *The Washington Post*, July 22, 1992, A23.

[328] Ibid.

[329] Kieran Cooke, "Plan For Mahathir To Meet Li Peng."

[330] New Straits Times, "Malaysia Wants Situation Is South China Sea Resolved In Fair Manner," December 9, 2011.

jurisdictional disputes."[331] According to Malaysia, the dispute "should be resolved between the parties concerned" – a view that is in line with China's traditional approach to the dispute.[332]

The convergent position between Malaysia and China in the last two decades, however, diverged in 2013, when foreign media revealed a Chinese navy sailed to the southern tip of the Spratly that are claimed by Malaysia.[333] First, this action was the first time China has ever patrolled as far as the southern most of the Spratly since its rising power in the late 1990s. This targeted feature, known as James Shoal, Beting Serupai, or Zengmu Reef lies in the furthest borderline of China's claimed area, or only less than 100 km away from the eastern mainland of Malaysia.[334] Secondly, it was also the first time China eventually shifted its attention to Malaysia after long focusing on Vietnam and the Philippines since tension arose in 2007. Therefore, even though the Malaysian government at first repudiated this incursion, the domestic discourse has made the government reconsider the strength of its relation with China.[335] They are in fact strengthening their naval presence near the disputed territory by preparing a new base, modernizing their naval force, and planning on the establishment of the Marine Corps with close cooperation with the U.S.[336] By the early 2014, therefore, there have been changing dynamics of the dispute between Malaysia and China that indicate a destabilizing trend in the near future.

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[331] New Straits Times, "Code of Conduct Not Instrument To Resolve Territorial Dispute: Anifah," July 10, 2012.

[332] Ibid.

[333] See Greg Torode, "PLA Navy Amphibious Task Force Reaches Malaysia 'To Defend South China Sea'," *South China Morning Post*, March 27, 2013, http://www.scmp.com/news/asia/article/1200564/pla-navy-amphibious -task-force-reaches-james-shoal-near-malaysia (accessed March 27, 2014).

[334] Ibid.

[335] See New Straits Times, "China Not Encroaching On Our Waters," January 29, 2014.

[336] Dzirhan Mahadzir, *Malaysia To Establish Marine Corps, Naval Base Close To James Shoal,* October 15, 2013, http://www.janes.com/article/28438/malaysia-to-establish-marine-corps-naval-base-close-to-james-shoal/ (accessed February 16, 2014).

<u>Territoriality, Domestic Visibility, and The Relative Stability of Territorial Dispute</u>

The above case between Malaysia and China in the South China Sea is an example of territorial disputes that is salient but not visible, which according to hypothesis two is more likely to be relatively stable. As the above case indicated, this dispute also demonstrated relatively stable trend for the most episodes from the 1980s to the late 2000s. Similar to the previous chapter, this section will examine if it is indeed the interplay between salient territory and invisibility that causes the stability of the dispute.

First of all, the disputed territory between Malaysia and China should indicate that it is a salient territory. Similar to other parts of the South China Sea, this group of islands is also located in strategic sea-lanes of communication and is rich in both hydrocarbon and fishing ground. Particularly for China, despite there only being eight features disputed with Malaysia, in which four of them are not permanently above the sea level and they are almost 2000 km away from the mainland China, these features are within China's 'nine-dashed line map' that is the core symbol of China's claim in the South China Sea.[337] Therefore, surrendering even a small under-the-water reef, such as James Shoal, to Malaysia will undermine the very idea of Chinese claim to the entire South China Sea. In addition, Malaysia's claimed territory is proven to be the most active source of oil and natural gas compared to other areas in the South China Sea.[338] The amount of oil production in 1998, for example, reached 50% of the total production in the entire South China Sea.[339] This type of salient territory, therefore, has the potential to be more

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[337] Salleh, Razali, and Jussof, "Malaysia's Policy Towards Its 1963-2008 Territorial Disputes," 113; Gregory B. Polling, "The South China Sea in Focus: Clarifying the Limits of Maritime Dispute," *Center for Strategic & International Studies.* July 2013, https://csis.org/files/publication/130717_Poling_SouthChinaSea_Web .pdf (accessed March 27, 2014); Torode, "PLA Navy Amphibious Task Force Reaches Malaysia."

[338] Global Investment Center, *Vietnam: Oil and Gas Exploration Laws And Regulation Handbook,* 41- 42.

[339] Ibid.

contentious as the case with Vietnam and China, particularly, when Malaysia itself relies primarily on the mining industry and China, too, relies on the energy import to sustain its economic growth.

The commitment of both governments to make the dispute invisible to domestic audience, however, has hindered politicization of the dispute that often times creates instability, as the case between Vietnam and China. During the first decade of the dispute from the late 1980s to the late 1990s, both Malaysia and China were under authoritarian leaderships of Mahathir Mohammad and Deng Xiaoping respectively. Both leaders suppressed political opposition and restricted freedom of press, and thus, foreign policy was the exclusive domain of the leader. In this sense, realist premise that states pursue their interests applied to this case.

When the dispute erupted for the first time in the early 1980s, Mahathir was just inaugurated as Malaysian Prime Minister. His vision was clear from the beginning - that is to bring Malaysia as the Newly Industrializing Country (NIC).[340] For this reason, securing the basic sovereignty of Malaysia that has been granted by the UNCLOS in the South China Sea was the primary objective besides, of course, securing strategic resources that are crucial for domestic economic growth. In addition, Mahathir also adopted the "Look East" policy that aimed to follow the economic success of East Asian countries, such as Japan, Singapore, South Korea, and, later, China.[341] For him, these countries are more appropriate model than western countries because they share similar Asian value.[342] Moreover, Mahathir at that time held negative view in regards to western countries, particularly Britain with whom Mahathir had several political

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[340] Johan Saravanamuttu, *Malaysia's Foreign Policy: The First Fifty Years,* Singapore: ISEAS, 2010, 186-193.

[341] Ibid., 186-193.

[342] Ibid., 186-193.

problems in the preceding years.[343] Therefore, even though in his first decade, Malaysia remained cautious with communist China, this policy has slowly shifted to positive engagement since the 1990s.[344]

With the fast growing economy of China, Mahathir was propelled even more to engage with this Asian tiger. Mahathir was the one who proposed to include China in the ASEAN Foreign Ministers Meeting in his country and advocated the establishment of East Asia Economic Grouping (EAEG), consisting of ASEAN countries plus East Asian countries including China.[345] Specifically in relations to the South China Sea dispute, despite Mahathir position that regarded sovereignty over the island as indispensable, he shared a similar view with China. He argued that the disputes should be resolved peacefully between the relevant states, and thus, do not disrupt economic relations between them.[346] When China began to demonstrate its growing assertiveness in the dispute, it was Malaysia who convinced other ASEAN countries that China was a "benign power".[347] Abdullah Badawi, the Minister of Foreign Affairs at that time put it that:

> Close relations and cooperation between Malaysia and China would alleviate any attempt by China to resort to military action because that would be detrimental to China…If there is no cooperation, there is possibility China may resort to military action (against

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[343] Ibid., 186-187.

[344] Ibrahim Abu Bakar, "Malaysian Perceptions of China," *Historia Actual Online*, no. 7 (2005), 101.

[345] Global Times, *Chinese Premier Gives A Joint Interview To Journalists From Malaysia, Indonesia,* April 27, 2011, http://www.globaltimes.cn/content/649261.shtml/ (accessed February 17, 2014); Joseph Chinyong Liow, "Chapter 2 Malaysia's Post Cold War China Policy: A Reassessment." In *NIDS Joint Research Series No.4*, edited by Jun Tsunekawa, 47-79. Tokyo: The National Institute for Defense Studies, 201074; Saravanamuttu, *Malaysia's Foreign Policy,* 190-192.

[346] See Kieran Cooke, "Plan For Mahathir To Meet Li Peng," *Financial Times*, June 12, 1993, 4; Liow, "Chapter 2 Malaysia's Post Cold War China Policy, 73-75.

[347] Cooke, "Plan For Mahathir To Meet Li Peng," 4.

Malaysia) or cause a conflict here because it will not lose anything. We want to create a choice (for China).[348]

Judging by this description, Mahathir's strategy in the South China Sea seemed to have two inter-related aspects. On the one hand, Mahathir preferred to keep the dispute in bilateral level and closed from public attention in order to appease China and to maintain economic relations. On the other hand, Mahathir preferred to develop economic and diplomatic relations to secure its sovereignty claim against China's military action in the South China Sea.

This pragmatic approach was apparently also dominating in China's strategy toward Malaysia. When the dispute erupted for the first time in the early 1980s and Mahathir came to power in Malaysia, the reformist Deng Xiaoping was also inaugurated as the new leader in China replacing the revolutionary leadership of Mao Zedong. Similar to Mahathir, Deng also had the vision to bring China to follow the suit of other NICs in the surrounding countries. The departure of Deng's focus from revolutionary and ideological-driven foreign policy to economic development has been well documented in his strategy of "Four Modernizations," covering "agriculture, industry, defense, and science and technology."[349] His foreign policy was best illustrated in his "28-character strategy" where he envisioned China to "watch and analyze [developments] calmly", "secure [our own] positions", "deal [with changes] with confidence", "conceal [our] capacities", "be good at keeping a low profile", "never become the leader", and "make some contributions".[350]

The manifestation of this foreign policy was clear in the case of the South China Sea. China became increasingly assertive in its position but, where possible, adopting a pragmatic

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[348] Liow, "Chapter 2 Malaysia's Post Cold War China Policy, 51.

[349] Quansheng Zhao, *Interpreting Chinese Foreign Policy: The Micro-Macro Linkage Approach,* Hong Kong: Oxford University Press, 1996, 50.

[350] Ibid., 53-54.

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approach to secure strategic resources in the disputed area and to maintain good economic relations with ASEAN countries.[351] Therefore, while China demonstrated a hostile policy against Vietnam who at that time was not a member of ASEAN, China preferred to adopt self-restraint to ASEAN countries that laid similar claims in the South China Sea.[352]

In relations to Malaysia, China was reluctant to take a tougher stance against Malaysia's occupation of several islands and reefs in the Southern Spratly throughout the 1980s and 1990s because of the historical amity between the two. First, Malaysia was the first Southeast Asian country that formally acknowledged People's Republic of China in 1974 and among those that advocated for China's admission in the U.N.[353] Malaysia was also the one that opened the door of ASEAN to China.[354] As mentioned earlier, one of the very reasons of the establishment of ASEAN was to contain the influence of communist China. When this threat was no longer present, Malaysia saw that ASEAN would be better advantaged by engaging the potential market of China, while China itself would benefit from the ASEAN market.[355] For China, therefore, having Malaysia on its side reflects both historical reciprocity as well as future assets for China's stake in the region. And this remains highly appreciated in China even until present. As the current premier Wen Jiabao put it, "We [China] have never forgotten these historical episodes between our two countries."[356]

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[351] See also, Chen Jie, "Spratly Policy: With Special Reference to the Philippines ad Malaysia," *Asian Survey* 34, no. 10 (1994), 893-905.

[352] Ibid., 900-902.

[353] Liow, "Chapter 2 Malaysia's Post Cold War China Policy, 50.

[354] Global Times, *Chinese Premier Gives A Joint Interview;* Kieran Cooke, "Plan For Mahathir To Meet Li Peng;" Tang Siew Mun, *Malaysia Can Play Honest Broker.* October 2, 2013.

[355] See, Liow, "Chapter 2 Malaysia's Post Cold War China Policy, 49, 74-75; Jie, "Spratly Policy," 898.

[356] Global Times, *Chinese Premier Gives A Joint Interview.*

With this already strong foundation of bilateral relations between the two, Malaysia and China have also evolved to become key trading partners. In the first eight years of the 1990s, bilateral trade between these two countries increased 369%, while in the period from 1996 – 2002 it increased 297%, and thus making Malaysia a Southeast Asian state with the largest trade volume with China.[357] With this growing economic interdependence, China has even more reasons to respond cautiously to Malaysia's action in the South China Sea. Moreover they both shared similar views on the importance of Asian value and the resilience of Asian nations as manifested in the EAEG.[358] Thus, Malaysia is both an economic and political asset for China in the region.

As both countries have convergent interests on maintaining bilateral relations, while they have not yet agreed on the joint cooperation or peaceful settlement of the dispute due to the salient value of the territory, both China and Malaysia preferred to shelve the dispute. Their shared interests not to discuss the dispute openly have led to the invisibility of the dispute in their local media. The survey conducted in this study, for example, found no article on the dispute in the local Malaysian and Chinese media prior to 1995.[359] Even when there was a growing number of articles since then, most of them focused more on explaining the overall situation in the South China Sea and the bilateral dispute between China and Vietnam or China and the Philippines. In fact, this trend of focusing only on these two dyads continues until present, and thus overshadow the dispute between Malaysia and China.

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[357] Liow, "Chapter 2 Malaysia's Post Cold War China Policy, 74; Abu Bakar, "Malaysian Perceptions of China," 103; China View, *China-Malaysia Bilateral Relations,* October 23, 2003 http://news.xinhuanet.com/english/2005-12/02/content_3867959.htm (accessed February 17, 2014).

[358] Liow, "Chapter 2 Malaysia's Post Cold War China Policy, 47-49.

[359] This study conducted local media survey using Factiva, Lexis-Nexis, and digitalized newspaper database of the National Library of Singapore. For the more recent dates, the survey also included individual media such as New Straits Times and The Star in Malaysia and Xinhua and Global Times in China.

There were indeed few articles on the dispute between these two countries. However, most of them focused more on the positive development of economic relations between them or how both governments ensure they do not threaten each other. In Malaysian media, for example, several articles were entitled "M'sia, China agree to resolve territorial disputes in S China Sea peacefully", "Wen: Malaysia a good brother" and "Malaysia 'can grow with China'".[360] In Chinese media, similar tone can be found in articles such as "Chinese President: Sino-Malaysia ties developing soundly", "China, Malaysia hail cooperation, pledge deeper ties", "Malaysian PM opposes internationalization of South China Sea issue", and "Malaysia never feels being bullied by China: Malaysian official".[361] This typical amelioration of relations between the two, compounded with the limited number of the articles compared to those overwhelming number of articles on other disputes, have made the dispute between the two were not visible. Thus, no pressure or politicization occurred in the domestic politics to defend the disputed islands. It was for this reason that this dispute was relatively stable compared to the dispute between China and Vietnam.

To further support this argument, when the dispute eventually became visible in 2013, there were signs of the changing dynamics of the dispute to be unstable. China was upset because Malaysia and Vietnam made joint submission to the UN Commission on the Limits of

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[360] A.Jalil. Hamid, *Malaysia 'can grow with China',* January 10, 2013, http://www.nst.com.my/opinion/columnist/malaysia-can-grow-with-china-1.215903 (accessed February 17, 2014); New Straits Times, *M'sia, China Agree To Resolve Territorial Disputes in S China Sea Peacefully,* August 12, 2012, http://www.nst.com.my/latest/m-sia-china-agree-to-resolve-territorial-disputes-in-s-china-sea-peacefully-1.124188 (accessed February 17, 2014); New Straits Times, "Wen: Malaysia A Good Brother," April 27, 2011: 13.

[361] Xinhua News, *Chinese President: Sino-Malaysian Ties Developing Soundly,* September 16, 2003, http://news.xinhuanet.com/english/2003-09/16/content_1084527.htm (accessed February 17, 2014); Global Times. *China, Malaysia Hail Cooperation, Pledge Deeper Ties.* August 1, 2013, http://www.globaltimes.cn/content/800912.shtml#.UwK5ev2PBfO/ (accessed February 17, 2014); Global Times, *Malaysian PM Opposes Internationalization of South China Sea Issue,* November 20, 2012, http://www.globaltimes.cn/content/745408.shtml/ (accessed February 17, 2014); Global Times, *Malaysia Never Feels Being Bullied By China: Malaysian Official ,* November 9, 2010, http://news.xinhuanet.com/english2010/china/2010-11/09/c_13598807.htm (accessed February 17, 2014).

the Continental Shelf (UN CLCS) on their claims in the South China Sea. Therefore, even though China focused on the Philippines for the past five years, it also wanted to demonstrate its firm position on the dispute, and thus it initiated patrols to the southernmost of the Spratly.[362]

This move, however, has attracted widespread attention from foreign media that saw this as a significant departure from China's focus on the Philippines and Vietnam. When this news became apparent in the local media, there were growing concerns among domestic audiences on the possible confrontation with China. Opinions in daily newspapers, for example, began to reassess the merit of Malaysia's "quiet diplomacy" with China. They argued that this typical strategy is no longer applicable against the stronger China, and that it only makes the dispute "intractable" instead of resolvable all at once.[363] The defense minister also began to strengthen cooperation with the Vietnamese military in the South China Sea, while the former Royal Malaysian Navy Chief proposed to increase the number of submarines in the disputed area.[364] Even UMNO, the leading government party, proposed to have a "Marine and Island Protection Act" that is similar to that of China.[365]

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[362] Torode, "PLA Navy Amphibious Task Force Reaches Malaysia."

[363] New Straits Times, *KL's Soft Diplomacy,* February 5, 2014, http://www.nst.com.my/opinion/columnist/ kl-s-soft-diplomacy-1.477138 (accessed February 17, 2014); See also, Tang Siew Mun, *A Test of Friendship,* February 18, 2014, http://www.nst.com.my/mobile/opinion/columnist/a-test-of-friendship-1.486652/ (accessed February 18, 2014); Datuk Dr. Ananda Kumaraseri, *Diplomacy, Foreign Policy Tests.* June 28, 2013, http://www.nst .com.my/mobile/opinion/columnist/diplomacy-foreign-policy-tests-1.308989/ (accessed February 17, 2014); Tang Siew Mun, *The Beting Serupai Incident,* April 16, 2013, accessed February 17, 2014, http://www.nst.com.my/ opinion/columnist/the-beting-serupai-incident-1.256312 (accessed February 17, 2014).

[364] Adrian Lai, *Malaysia, Vietnam May Link Naval Bases.* November 3, 2013, http://www.nst.com.my/ nation/general/malaysia-vietnam-may-link-naval-bases-1.390605/ (accessed February 17, 2014); New Straits Times, *Malaysia Needs More Submarines - Former RMN Chief,* May 10, 2013, http://www.nst. com.my/latest/malaysia-needs-more-submarines-former-rmn-chief-1.276087 (accessed February 17, 2014).

[365] New Straits Times, *Government Suggested To Introduce Marine and Island Protection Act,* December 5, 2013, http://www.nst.com.my/latest/government-suggested-to-introduce-marine-and-island-protection-act-1.4226 19 (accessed February 17, 2014).

While the destabilizing impact of this bottom-up visibility remains to be seen, this changing discourse within the domestic sphere has made the government adopt a tougher stance in the dispute, as apparent by the naval modernization, naval deployment, and the establishment of Marine Corps in the area. More importantly, Malaysia began to strengthen its military cooperation with the US.[366] This assertive response by Malaysia, therefore, suggests the beginning of the unstable relations with China in the South China dispute. Hence, hypotheses one and two proposed in this study also hold for this case: when the dispute over salient territory is invisible to domestic audience, it is more likely to remain stable; however, when it is eventually visible, it is more likely to become unstable.

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[366] Mahadzir, *Malaysia To Establish Marine Corps.*

CHAPTER 7

NOT SALIENT, YET VISIBLE: THE CASE OF INDONESIA - MALAYSIA
OVER SIPADAN AND LIGITAN ISLANDS

<u>Historical Background</u>

The dispute between Indonesia and Malaysia over Sipadan and Ligitan Islands is the third

case study that presents an example of territorial disputes with no salient, yet visible to domestic

audience. This dispute dated back to 1969 when the two countries were discussing their maritime

border for the third UN Convention on the Law of the Sea in 1973.[367] Since the independence of

Malaysia from the British transferred the authority over territories in the northern part of

Indonesian Borneo (Kalimantan) Island to this newly independent state, both Indonesia and

Malaysia had overlapping maritime boundaries particularly in the Celebes Sea in the eastern side

of the island.[368]

Prior to this negotiation, both states did not notice the problem surrounding the status of

both Sipadan and Ligitan because they were too small in comparison to the mainland Borneo and

both were uninhabited. During the negotiation, however, both states found a peculiar issue

because the islands were not present in the Indonesian map, but they were included as an

Indonesian territory in the existing Malaysian map.[369] As a result, both states argued that they

should use the other state's map as the point of reference in order to protect the status of the

islands as their possession.[370] The deadlock between the two countries eventually led to the

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[367] Hasjim Djalal, "Dispute Between Indonesia and Malaysia On The Sovereignty Over Sipadan and Ligitan Islands," *Jurnal Opinio Juris* 12 (2013), 10.

[368] R. Haller-Trost, *The Contested Maritime and Territorial Boundaries of Malaysia: An International Law Perspective,* London: Kluwer Law International, 1998. In Asri Salleh, el.al., "Malaysia's Policy Towards Its 1963-2008 Territorial Disputes," *Journal of Law and Conflict Resolution* 1, no. 5 (2009), 107-116.

[369] Djalal, "Dispute Between Indonesia and Malaysia," 10.

[370] Ibid., 10.

decision to shelve the issue, particularly because the negotiating team felt they had no power to determine the status of a particular island.[371]

Ten years has passed without any discussion of the issue, marking the dormancy of the dispute until 1979. Malaysia surprised its neighboring states with its new map that included the disputed islands, not only with Indonesia, but also with Singapore, Thailand, Brunei Darussalam, Vietnam and the Philippines.[372] Even with this action, both states seemed to play down the issue and reaffirmed their commitment to solve the dispute in a peaceful manner.[373] As an Indonesian analyst argued, both states seemed to be overshadowed by the memory of confrontation that was very sensitive for the bilateral relations between the two countries.[374] For this reason, both states emphasized their shared cultural trait and "brotherhood" as basis for managing differences between them.[375]

It was only in 1991, when the press revealed the development of Sipadan and Ligitan as a tourist resort, that Indonesia demonstrated a tougher stance in the dispute.[376] It was clear at this time that Indonesia was upset by Malaysia's action that it regarded as breaking the "status quo" agreed in 1969.[377] Malaysia, for its part, defended that no agreement on "status quo" existed

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[371] Ibid., 10-11.

[372] See Salleh, Razali, and Jussof, "Malaysia's Policy Towards Its 1963-2008 Territorial Disputes," 109-110.

[373] See for example, *The Strait Times,* "Border Issue To Be Resolved By Talks," October 29, 1982, 14.

[374] Alfitra Salamm, "Sipadan, Ligitan Dispute Continues," *The Jakarta Post*, February 28, 1995. See also Joseph Chinyong Liow, *The Politics of Indonesia-Malaysia Relations: One Kin, Two Nations.* London: Routledge, 2005, 145.

[375] Ibid.

[376] John G. Butcher, "The International Court of Justics and the Territorial Dispute between Indonesia and Malaysia in the Sulawesi Sea," *Contemporary Southeast Asia* 35, no. 2 (2013), 235-257.

[377] See the explanation on 'status quo' in Djalal, "Dispute between Indonesia and Malaysia," 11.

during the negotiation in that year.[378] As there was no written evidence to mediate these differences, disputes between the two countries were deteriorating.[379] Even though no open military confrontation erupted between the two countries, there were indeed increasing tensions, as both states modernized their naval forces and conducted patrols to these disputed islands.[380]

To avoid further tension, Indonesia and Malaysia formed Joint Working Group (JWG) in 1991 as the first effort to negotiate the dispute since the disagreement arose in 1969.[381] Notwithstanding their frequent meetings, this body failed to reach an agreed mechanism to solve the dispute.[382] Considering the dispute has been around for 25 years and still had no clear prospect for a peaceful end, domestic audience in both states became increasingly less patient to their government.[383] Both states then decided to let the dispute to be settled between their top leaders.[384] Both Indonesia and Malaysia at that time were under authoritarian leaderships of Suharto and Mahathir respectively. When the diplomacy at the ministerial level failed, both leaders took over the full control of the decision making process.

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[378] Djalal, "Dispute between Indonesia and Malaysia," 11.

[379] See Djalal, "Dispute between Indonesia and Malaysia," 11.

[380] *The Strait Times,* "KL Plans To Deploy More Commandos On Disputed Isles," June 2, 1992, 14; *The Strait Times,* "Armed Forces Urged To Remain Alert For Possible Conflicts," January 13, 1993, 17; *The Strait Times,* "Indonesian Navy Will Defend Two Disputed Islands," October 14, 1993, 12; *The Strait Times,* "Border Issue To Be Resolved By Talks," October 29, 1982, 14.

[381] R. Haller-Trost, *The Territorial Dispute Between Indonesia and Malaysia over Pulau Sipadan and Pulau Ligitan in The Celebes Sea: A Study In International Law,* Vol. 2, Durham: International Boundary Research Unit, 1995 29.

[382] Salleh, Razali, and Jussof, "Malaysia's Policy Towards Its 1963-2008 Territorial Disputes," 110.

[383] *The Straits Times.* "Need For Time Limit To Resolve Isles Row: Jakarta MP." July 21, 1993; *BBC Monitoring Servie: Asia Pacific,* "Editorial Urges Settlement of Island Dispute With Indonesia," June 6, 1994.

[384] Kadir Mohammad, *Malaysia's Territorial Disputes - Two Cases At the ICJ,* Kuala Lumpur: Institute of Diplomacy and Foreign Relations, 2009, 36.

As a result, the period between 1994-1996 witnessed both leaders engaging in several meetings to end the dispute "once and for all".[385] Indonesia proposed for a regional solution by raising this issue to the ASEAN High Council.[386] However, Malaysia was concerned that ASEAN countries might be biased because they were also involved border disputes with Malaysia.[387] The character of the high council that approaches the dispute from "political" instead of "legal" perspective, as well as its unbinding decision to the disputing parties may also result in a prolonged and inconclusive dispute.[388] Based on this consideration, Malaysia preferred to bring the dispute to a more neutral and authoritative body, which in this case, referred to the ICJ.[389] As it was the leaders who now decided on the settlement mechanism of the dispute, Suharto finally agreed on Malaysia's proposal despite domestic voices that remained in favor of bilateral solution.[390]

After a year of preparation, both Indonesia and Malaysia filed their joint proposition to the ICJ in 1998.[391] The ruling began with "written pleading" from 1999 to 2001 and "oral hearings" in 2002.[392] In this ruling, the main contention was related to Article IV of the 1891

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[385] Endy M. Bayuni, "Sipadan/Ligitan Row: A Matter of National Pride," *The Jakarta Post*, December 16, 2002. Indonesian representatives were often quoted as saying that the dispute "should not drag on too long," or do not "burden future generation". See *The Strait Times*. "Row Over Isles Tops Agenda of KL-Jakarta Talks." June 7, 1995: 14; *The Strait Times*. "SIpadan, Ligitan Row To Go To World Court." October 8, 1996: 1.

[386] Haller-Trost, The Territorial Dispute Between Indonesia and Malaysia, 31.

[387] Djalal, "Dispute between Indonesia and Malaysia," 13.

[388] Ibid. See also, Butcher, "The International Court of Justice," 243; Haller-Trost, The Territorial Dispute Between Indonesia and Malaysia, 32.

[389] Butcher, "The International Court of Justice," 241-243.

[390] Ibid., 244.

[391] Djalal, "Dispute between Indonesia and Malaysia," 16.

[392] Mohammad, Malaysia's Territorial Disputes, 36.

Treaty between the United Kingdom and the Netherlands concerning their colonial border separating Indonesia and Malaysia. It is stated that:

> From 4°10' north latitude on the east coast the boundary line shall be continued eastward along that parallel, across the island of Sebitik, that portion of the island situation to the north of that parallel shall belong unreservedly to the British North Borneo Company, and the portion south of that parallel to the Netherland.[393]

For Indonesia, this implied that the inherited territory from the Netherland covered all islands in the eastern part of Sebatik (Sebitik) including both Sipadan and Ligitan.[394] However, Malaysia insisted that it implied only to the immediate "eastern coast of the Sebatik Island."[395] To arbitrate this difference, the Court proposed to trace the entitlement of the island as a common mechanism to determine the ownership of the disputed territory.[396] Because Indonesia and Malaysia failed to provide supporting data to their arguments their arguments, the Court, shifted to the principle of *effectivites* as an alternative way to determine the right over the disputed territory by examining the continuing administration over the island.[397]

Indonesia argued that the disputed territory has been a traditional fishing ground for local people residing nearby.[398] This argument, however, was unfounded because there was no sufficient data presented to support it.[399] Malaysia, on the other hand, provided stronger

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[393] Ibid., 38.

[394] J.G. Merrills, "Sovereignty Over Pulau Ligitan and Pulau Sipadan (Indonesia v Malaysia), Merits, Judgement of 17 December 2002," *The International and Comparative Law Quarterly* 52, no. 3 (2003), 798-798; Mohammad, Malaysia's Territorial Disputes, 36.

[395] Djalal, "Dispute between Indonesia and Malaysia," 12; Mohammad, Malaysia's Territorial Disputes, 38.

[396] Merrills, "Sovereignty Over Pulau Ligitan and Pulau Sipadan," 800; Butcher, "The International Court of Justice," 246.

[397] Merrills, "Sovereignty Over Pulau Ligitan and Pulau Sipadan," 800; Butcher, "The International Court of Justice," 246.

[398] Butcher, "The International Court of Justice," 246.

[399] Ibid.

evidences on the administrative activities by the British in using the island as an area for "the collection of turtle eggs," area for natural reservation, and area important for its navigation.[400] Judging from these arguments, the Court eventually gave its final decision in favor of Malaysia with the margin 16: 1 judges – a decision that was eventually accepted by both sides.[401]

<u>Territoriality, Domestic Visibility and The Peaceful Settlement of Territorial Dispute</u>

Hypothesis 3 argues that territories with no salience but visible to domestic audiences are more likely to lead to peaceful settlement. As an example of this type of territorial disputes, the case between Indonesia and Malaysia over Sipadan and Ligitan Islands also demonstrates the peaceful settlement of the dispute. This section, therefore, will elaborate how the interplay between the low salience and the high visibility contributes to the peaceful settlement of the dispute between Indonesia and Malaysia.

As discussed above, Sipadan and Ligitan Islands are both located offshore to the east of the mainland Borneo and Sebatik islands, the latter was divided into the northern Malaysian territory and the southern Indonesian territory. Despite the long process of the dispute settlement, it should be admitted that these two disputed islands have no significant strategic value for either country, except for their maritime boundary delimitation. Malaysia indeed developed Sipadan Island into a commercial diving spot. This, however, was not a central component of Malaysian economy that relied heavily on the manufacture and, to a less degree, on the mining industry and agriculture.[402] Judging from the three elements of territoriality discussed in the previous chapter, these two islands also have no strategic resources, location, and population that made up the

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[400] Ibid. See also Haller-Trost, The Territorial Dispute Between Indonesia and Malaysia, 21-22.

[401] Asri Salleh et.al., "Malaysia's Policy", 110; Butcher, "The International Court of Justice," 246.

[402] The World Trade Center, Trade Profiles 2013, 116.

tangible value of a territory, nor they have historical, cultural, and religious symbols that made its intangible value.

As offshore islands, both Sipadan and Ligitan are very small islands that have never been inhabited. Even though both are permanently above the sea level, the size of Sipadan and Island are only 10.4 hectares and 7.9 hectares respectively.[403] While Sipadan has at least forested, Ligitan is barren with only some bushes growing in this area.[404] It is because of this low salience of the territory, that both islands have never been mentioned in any past treaties during the British and the Dutch administration.[405] Similar negligence occurred after the independence of both Indonesia and Malaysia. Indonesia, who struggled to gain recognition for its archipelagic status, did not include these two islands in the map that was prepared for the UNCLOS II, nor it included them as the baseline delimiting Indonesia's maritime territory.[406] Malaysia, who argued their consistent administration over the islands, did not include these islands in their map as well.

Finally, the low salience of the territory was apparent during the negotiation in 1969 when both states were consciously aware of the disputed islands, but still preferred to shelve the dispute for future settlement. Indonesian foreign minister himself was quoted as saying that "the islands were not of strategic value to either side," while Malaysian Foreign Minister said that the islands are "too small" to "support development."[407] He added that the dispute occurred only as a remnant left from the colonial period that should not hinder cooperation between the two

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[403] Djalal, "Dispute between Indonesia and Malaysia," 9.

[404] Ibid., 9.

[405] This paragraph relies heavily to Haller-Trost, The Territorial Dispute Between Indonesia and Malaysia, 6-29.

[406] Ibid., 17.
[407] Paul Jacob, "Isles Row 'Not In Way of Malaysia-Indonesia Ties'," *The Straits Times*, February 9, 1993; *The Straits Times,* "Quick Solution Not Likely, Says Malaysian Official," October 9, 1991.

countries.[408] In short, it was clear that the disputed territory did not only have no salience in terms of its objective value, but also not salient in relative to other issues, or in this case, the importance of bilateral relations between the two countries.

As was predicted by the territoriality argument, this type of disputes is less likely to be contentious. Moreover, the dispute prior to 1990 was not visible and, despite the fact that Malaysia started developing the island in 1982; Indonesia did not notice this development. From the survey conducted in this study, only one article in Malaysian media, none in Indonesian media, and only three articles in the long-established newspaper, The Straits Times, from Singapore discussed this issue.[409] As a result, the governments did not face any pressure from domestic audiences to resolve the dispute. This, in turn, provided the government with more flexibility to shelve the dispute, in order to maintain domestic stability and bilateral relations that were both essential for economic development under both Mahathir and Suharto. Not surprisingly, this period prior to the 1990s demonstrated the dormancy of the dispute when there was barely any discussion or clashes in the disputed area, except when Indonesia protested to the 1979 Malaysian map. Hypothesis four, therefore is correct in predicting that disputes over territory that is not salient and not visible are likely to be dormant.

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[408] Jacob,"Isles Row."

[409] The survey was conducted through the digitized newspaper database in the National Library of Singapore, Factiva, and LexisNexis database. All these databases covered newspaper both in English and Malay language from 1970s. Even if these databases have no newspaper in Bahasa, they still have the Jakarta Post as representative of newspaper from Indonesia. International newspapers also often adopted articles from Indonesian newspaper. Based on this survey, there was only one relevant article in *Berita Harian* Malaysia in 1980 and three articles in *The Straits Times* in 1980 and 1982.

This situation, however, changed dramatically in 1991, when the media revealed the fast growing development of the disputed islands by Malaysia into diving spot and Marine Park.[410] The Indonesian naval forces that were inspecting the island, arrested Malaysian vessels, which then sparked further tension between the two countries.[411] At the Indonesian domestic level, members of the House of Representatives responded to the media reports by urging the government to take necessary steps to settle the dispute, while demanding Malaysia to refrain from its activities in the islands.[412] A member of the House of Representatives argued that both states "should set a time limit for resolving the dispute."[413] Defense Minister Edi Sudradjat echoed this aspiration by emphasizing that any idea for joint development "should be undertaken only after the sovereignty issue was settled."[414] Until then, he argued, the island would remain under the jurisdiction of Indonesia.[415]

In response to this growing domestic pressure, Foreign Minister Ali Alatas began to be more vocal in his approach to Malaysia. In addition to his intensive explanation to the public on his effort to remind Malaysia about her action, he also openly stated that Indonesia "would continue to defend its claim to the disputed islands" and will issue an official protest on

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[410] Liow, *The Politics of Indonesia-Malaysia Relations,* 145. See also, *The Straits Times,* "Jakarta Asks KL To Stop Developing Disputed Island," June 6, 1991. Malaysia also planned to develop marine park in the area. See *The Straits Times,* "Sabah Hopes To Set Aside Three New Areas As Marine Parks," May 25, 1992, 18.

[411] Liow, *The Politics of Indonesia-Malaysia Relations,* 145.

[412] *The Straits Times,* "KL 'Should Stop Development of Disputed Islands'," June 21, 1991; *Reuters News,* "Lawmakers Say Indonesia Owns Disputed Islands," January 4, 1994.

[413] *The Straits Times.* "Need For Time Limit To Resolve Isles Row: Jakarta MP." July 21, 1993.

[414] Paul Jacob, "Sudradjat Rejects Call To Develop Disputed Islands With Malaysia," *The Straits Times*, June 16, 1993.

[415] *The Straits Times,* "Sipadan Belongs To Us As Long As There Is No Accord: Sudradjat," December 14, 1993.

Malaysia's action.[416] However, as he basically acknowledged the low salience of the territory, especially in comparison to the importance of bilateral relations with the neighboring Malaysia, he also emphasized that in doing so, Indonesia should be guided by a peaceful way of settling the dispute based on "the spirit of ASEAN and brotherliness."[417] More importantly, he argued, this dispute should not disrupt the good relations between the two countries.[418] The combination of these two contrasting rhetoric eventually resulted in Indonesia's insistence to accelerate the negotiation of the dispute, yet with emphasis on the use of peaceful means without any confrontation between the two militaries. To this point, hypothesis three found its justification that disputes over territory with no salience but visible to domestic audience has more probability to lead to peaceful settlement.

This remained true even after the negotiation failed and the dispute was passed on to their top leaders. Even though Suharto as an authoritarian leader maintained a strong influence in all of the decision making process in Indonesia, his power consistently decreased since the early 1990s. It was for this reason that the House of Representatives and the media had louder voices on the dispute, at least in comparison to the previous decade. In this situation, Suharto could no longer ignore the voices of domestic audiences, and thus, he preferred to agree on resolving the dispute immediately, as opposed to delaying the settlement as he did in the previous era. Even during the period when the dispute had not yet been formally delegated to the President, he had

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[416] *The Straits Times,* "Jakarta Asks KL To Stop Developing Disputed Island," June 6, 1991; *The Straits Times,* "Jakarta 'To Defend Claim To Sipadan and Ligitan Isles'," February 8, 1993; *BBC Monitoring Servie: Asia Pacific.* "Indonesia To Protest Over Malaysia Promoting Tourism On Sipadan Island," November 2, 1993.

[417] *The Straits Times,* "Jakarta Asks KL To Stop Developing Disputed Island," June 6, 1991.

[418] Paul Jacob, "Isles Row 'Not In Way of Malaysia-Indonesia Ties'," *The Straits Times*, February 9, 1993, 12.

insisted Malaysia to end the dispute immediately, so that it would not be "a burden to future generations".[419]

The low salience of the territory, however, caused the coalition of the domestic audience in defense of the islands to be insufficiently strong. Outside the military and the members of the House of Representatives, there were no other influential actors that expressed their stakes on defending the island. In contrast, these influential actors, including the President, had more stakes in maintaining bilateral relations with Malaysia. As for the president and business actors, who were dominant under this *New Order,* relations with Malaysia was important because bilateral trade between the two countries was on the rise in this period.[420] Moreover the president was in the middle of negotiating the construction of a pipeline delivering Indonesian natural gas bypassing Malaysia.[421] It might not be accidental that Mahathir gave his approval on this project at the same time when both leaders decided to accelerate the settlement of Sipadan Ligitan.[422]

While the influence to the dispute was less known, business actors, such as the daughter of the President, had also significant stakes in the relation with Malaysia, as her company had a considerable investment in the latter.[423] A new influential actor, that is the Indonesian Association of Muslim Intellectuals (ICMI), also indicated their preference to engage with the

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[419] *The Straits Times,* "Resolve Dispute Over Ownership of Isles, Jakarta Tells KL," December 5, 1993; *The Straits Times,* "Suharto Seeks To Build On Momentum of Talks With Mahathir," July 20, 1993, 16.

[420] M. Sahibullah, "Talks Help to Improve Ties with Indons," *New Straits Times*, June 21, 1996: 10

[421] *The Straits Times,* "Mahathir and Suharto Agree To Speed Up Submission of Territorial Dispute To World Court," December 1, 1996, 23.

[422] Ibid.

[423] Yang Razali Kassim, "Malaysia and Indonesia: Beyond Brothers," *Business Times*, June 30, 1993.

neighboring Muslim dominated country.[424] ICMI was established by the President to embrace Muslim community in light of his loosing support from the military. Finally, the former foreign minister and the influential figure in international law, Mochtar Kusumaatmadja, also explicitly suggested the public not "to insist on fighting on the islands inherited from the Dutch and the British era".[425] He recommended that the dispute should be resolved in such a way that is not disrupting the relations between the two countries.[426]

These divergent interests among domestic audiences reduced the cost of loosing the island while at the same time increased the incentive for the President to agree on Malaysia's proposal of settling the dispute through the ICJ. It can be summed up, therefore, that in the case of Indonesia, Hypothesis 3 maintains its validity in modeling the interplay between territoriality, domestic politics, and peaceful settlement of the dispute, both at the official and the presidential level. In this case, the visibility caused bottom-up pressures on the government to resolve the dispute immediately. The low salience of the territory, in the end, made peaceful solution a more feasible option for Indonesia.

In the case of Malaysia, the causal mechanism of this interplay is rather different. In contrast to the weakening position of Suharto, Mahathir was enjoying his 'golden age' from 1990 to 1996, during which the dispute occurred.[427] In this period, Mahathir maintained strong economic growth, while at the same time maintained his dominance over his political opponents

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[424] Ibid.

[425] *Merdeka,* "Menhankam: Jelas Milik RI - Mochtar: Hindari Perpecahan," February 16, 1995.

[426] Ibid.

[427] Robert Dayley and Clark D. Neher, *Southeast Asia In The New International Era,* Boulder: Westview Press, 2013, 283.

and even over the Sultans that have enjoyed long-established prominence in Malaysia.[428] Most importantly was the fact that he and his coalition party retained full control over media and freedom of press in general.[429] In the case of Malaysia, therefore, it was the state that shaped public opinion on the dispute rather than the other way around.

Like Suharto, Mahathir had more stakes in maintaining relations with Indonesia because of his priority on economic development, as stated in the "vision 2020" that aimed to bring Malaysia to be the member of the developed countries.[430] He saw Indonesia, in this case, not only as a rising trading partner, but also as a key determinant of the regional stability.[431] In fact both countries, together with Singapore, were in the middle of building a growth triangle that strengthened economic cooperation among the three countries. Mahathir government, therefore, was, from the beginning, interested of solving the dispute immediately and peacefully. By doing this, he also expected to avoid any deteriorating condition that might lead to another *Konfrontasi* between the two countries. This trauma over tension with Indonesia as its bigger neighbor, at least, became a shared feeling between the government and the people. For this reason, when Malaysia was in a position of a state that was defending a territory that it had already occupied, as in the case of Sipadan Ligitan, visibility to domestic audiences would only push the government further to resolve the dispute immediately. As an editorial of local media once put it,

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[428] Ibid., 283.

[429] Ibid., 283.

[430] Ibid., 284.

[431] *Agence France-Presse,* "Malaysia Seeks Quick Settlement of Island Row With Indonesia," June 9, 1995.

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"the dispute has been dragging on unwarrantably," and thus, it is desirable that "something positive will come out of a three day meeting of the Joint Working Group".[432]

In addition to this role, media also served the function of maintaining the credibility of the government in handling international issues and domestic stability. During the period of the dispute, most of the articles in the local newspaper convinced domestic audiences that "the islands belonged to Malaysia."[433] They also convinced their audience that Malaysia had supporting evidences, and that both Malaysia and Indonesia were in consistent progress toward solving the dispute.[434] Defense Minister Datuk Seri Najib Tun Razak, for example, has been reported as convincing the public that "for all intents and purposes, they *[Sipadan and Ligitan]* are Malaysian islands", but "the claim should not be blown up so as to disrupt the good relations between the two countries".[435] *Bernama* also quoted remarks from Ghafar Baba, the Deputy Prime Minister, as saying that, "Malaysia has strong grounds and proof to support its claim… But since Kuala Lumpur did not want the issue of the islands to create conflict, it was willing to listen to Jakarta's ground for claiming them".[436] Other senior officials also added that essentially "Malaysia wants to settle this problem as soon as possible in a peaceful manner," and that

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[432] *BBC Monitoring Servie: Asia Pacific,* "Editorial Urges Settlement of Island Dispute With Indonesia," June 6, 1994.

[433] *The Straits Times,* "Panel Will Discuss Jakarta's Claim To Disputed Islands, Says KL Minister," June 9, 1991.

[434] *The Straits Times,* "KL 'Has Strong Grounds, Proof to Back Claim On Islands Off Sabah'," September 29, 1991; *The Straits Times,* "Working Group Set Up To Discuss Jakarta's Claim To Islands Off Sabah," July 28, 1991; *Reuters News,* "Indonesia, Malaysia Discuss Army Role in Islands," January 28, 1992; *The Straits Times,* "Bid To Avert Clashes Over Disputed Isles Off Sabah," January 29, 1992.

[435] *The Straits Times,* "Panel Will Discuss Jakarta's Claim To Disputed Islands, Says KL Minister," June 9, 1991.

[436] "KL 'Has Strong Grounds, Proof to Back Claim On Islands Off Sabah'," September 29, 1991.

Malaysia believes that "the authoritative and neutral third party that can settle the issue of Sipadan and Ligitan in a peaceful and speedy way is the International Court of Justice".[437]

These types of rhetoric were useful to condition the domestic stability, so that there was no mass movement that hindered peaceful solution of the dispute. It was also useful to signal resolve for both domestic audiences in general and the opposition ruler in Sabah, the state where the disputed islands are located.[438] It demonstrates that the central government paid attention to this remote and less developed province, and that it took necessary steps to defend the islands.[439] To relate to Hypothesis 3, therefore, it can be concluded that the case of Malaysia also supports the proposition that the interplay between the low salience and visible dispute increases the likelihood for peaceful settlement. In the case of Malaysia, however, this causal mechanism serves as a *condition* that supports peaceful solution, rather than as a *direct pressure* on the government, as in the case of Indonesia.

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[437] *Agence France-Presse,* "Malaysia Seeks Quick Settlement of Island Row With Indonesia," June 9, 1995; *Agence France-Presse,* "Recasts With Closing Statements of Delegations And Additional Statements," September 9, 1994.

[438] See, Lai Kwok Kin, "Man and Politics Threaten Borneo Undersea Paradise," *Reuters News*, January 26, 1992; *The Straits Times,* "Sabah Bans New Projects On Disputed Sipadan Isle," October 19, 1991.

[439] Ibid.

CHAPTER 8

NEITHER SALIENT NOR VISIBLE: THE CASE OF INDONESIA AND MALAYSIA
OVER TANJUNG DATU

The last case study is the dispute between Indonesia and Malaysia over Tanjung Datu.

This is an example of a territorial dispute that is neither salient nor visible. As indicated in the

typology, this case study supports Hypothesis 4 that this type of dispute is more likely to become

dormant. Similar to other preceding case studies, this chapter will first explain the historical

background of the dispute, and then, the causal mechanism linking the low salience, the domestic

visibility, and the dormancy of the dispute.

Historical Background

The dispute between Indonesia and Malaysia over Sipadan and Ligitan is only one

example of a territorial dispute in Borneo Island. In addition to this dispute, Indonesia and

Malaysia have other Outstanding Boundary Problems (OBP) in the mainland Borneo,

specifically in Buan, Sinapad and Semantipal rivers, Tanjung Datu, Mount Raya, Batu Aum and

other coordinates from B2700 to B3100, C500 to C600, and D400 (see figure 4).[440] The OBP in

Tanjung Datu is particularly problematic because Malaysia rejects to include this area as a

disputed territory.[441]

The historical background of all these OBPs including the one in Tanjung Datu began in

1966, when Indonesia and Malaysia normalized their bilateral relations after the confrontation in

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[440] Indonesian Ministry of Defence, *Permasalahan OBP Tanjung Datu Masih dalam Proses Perundingan Indonesia-Malaysia,* October 7, 2011, http://dmc.kemhan.go.id/post-permasalahan-obp-tanjung-datu-masih-dalam-proses-perundingan-indonesia-malaysia.html (accessed March 1, 2014).

[441] Siti Nurbaya, *Tanjung Datu: Akibat Salah Ukur [Tanjung Datu: A Consequence of Measurement Error],* October 22, 2011, http://www.jpnn.com/read/2011/10/22/106274/Tanjung-Datu:-Akibat-Salah-Ukur-# (accessed March 5, 2014).

1965.[442] Both Suharto and Mahathir who were the presidents of Indonesia and Malaysia respectively at that time agreed to demarcate their borders in Borneo as a counter-insurgency measure against the communists' safe heaven in these undemarcated territories.[443] This intention was manifested in the agreement in 1972 on "Security Arrangements in the Border Regions between the Government of the Republic of Indonesia and the Government of Malaysia."[444] One of the main points of the agreement was the establishment of the *General Border Committee Malaysia – Indonesia (GBC Malindo)* under the auspices of the Ministries of Defense of both countries.[445] The GBC was then enlarged to include other related ministries to deal with the legal and technical issues of the border demarcation.[446]

The GBC conducted its first survey on Indonesian-Malaysian border in 1975, based on the treaty between the United Kingdom and the Netherlands in 1891, which was later amended in 1915 and 1928.[447] According to these treaties, the borders between the two countries stretch "from 4°10' north latitude on the east coast (Article I) and continuing westward, so as to include

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[442] See, Dewi Fortuna Anwar, *Indonesia in ASEAN: Foreign Policy and Regionalism,* Singapore: ISEAS, 1994, 143; Saru Arifin, "Pelaksanaan Asas Uti Posidetis Dalam Penentuan Titik Patok Perbatasan Darat Indonesia dengan Malaysia," *Jurnal Hukum* 2, no. 16 (2009): 197.

[443] Anwar, *Indonesia in ASEAN,* 143-144.

[444] Anwar, *Indonesia in ASEAN*, 143; Ministry of Foreign Affairs of the Republic of Indonesia, *Malaysia,* http://kemlu.go.id/Daftar%20Perjanjian%20Internasional/malaysia.htm (accessed March 5, 2014).

[445] Ministry of Foreign Affairs of the Republic of Indonesia, "Pengaturan dalam Bidang Keamanan di Daerah-Daerah Perbatasan antara Pemerintah Republik Indonesia dan Pemerintah Malaysia [Security Arrangements in the Border Regions between the Government of the Republic of Indonesi and the Government of Malaysia," *Ministry of Foreign Affairs of the Republic of Indonesia,* http://naskahperjanjian.deplu.go.id/uploads-pub/2811_ MYS-1984-0033.pdf (accessed March 5, 2014).

[446] World Bank, "Rencana Induk: Pengelolaan Batas Wilayah Negara dan Kawasan Perbatasan 2011-2014," *World Bank.* March 1, 2011, 2.2-2.3, http://documents.worldbank.org/curated/en/2011/03/16239722/rencana-induk-pengelolaan-batas-wilayah-negara-dan-kawasan-perbatasan-2011-2014 (accessed March 1, 2014); Arifin, "Pelak-sanaan Asas Uti Posidetis," 197-198.

[447] Nurbaya, *Tanjung Datu: Akibat Salah Ukur*; See also, Department of State, "International Boundary Study: Indonesia - Malaysia Boundary," *International Boundary Study, the Florida State University.* March 15, 1965, http://www.law.fsu.edu/library/collection/LimitsinSeas/IBS045.pdf (accessed March 1, 2014), 9-10.

the Simengaris River in Dutch territory, to 117° East and 4°20' North (Article II)."[448] Article III, specifically, emphasized that, "the boundary followed the main watershed of the principled rivers as far as Tandjong-Datoe (Tandjung Datu) on the west coast."[449] During the survey, however, the plain topography near Camar Bulan Village in Tanjung Datu made the identification of the watershed difficult.[450] The surveying team used an alternative method to determine the border, which resulted in indented borders to the Indonesian territory.[451] Even though this indentation made as if Indonesia was disadvantaged from the point of view of the possible straight line that could have been drawn between the two, both governments approved the findings. They came to agreement as apparent in the Memorandum of Understanding (MoU) 1978 that left only nine OBPs as mentioned earlier, except Tanjung Datu.[452]

It was only in 2001, after the completion of other border demarcation and both states began to revisit the rest of the OBPs, that Indonesia reassessed the status of Tanjung Datu.[453] A study by the Ministry of Home Affairs claimed that Indonesia "has lost" a significant amount of territory as a consequence of the incompatibility between the topography and the method used

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[448] Nurbaya, *Tanjung Datu: Akibat Salah Ukur.*

[449] Ibid.

[450] Ibid.

[451] Hikmahanto Juwana, "Lagi-Lagi Soal Perbatasan," *Kompas.* October 12, 2011, http://nasional.kompas.com/read/2011/10/12/02105348/Lagi-lagi.soal.Perbatasan (accessed March 1, 2014).

[452] Nurbaya, *Tanjung Datu.*

[453] Harmen Batubara, *Masalah Camar Bulan, Indonesia Dirugikan 1500 Hektar [The Issue of Camar Bulan, Indonesia Lost 1500 Hectare],* October 9, 2011, http://www.kawasanperbatasan.com/masalah-camar-bulan-indonesia-dirugikan-1500-hektar/ (accessed March 5, 2014); Nurbaya, *Tanjung Datu.*

during the survey in 1975.[454] Malaysia, however, refused to revive the issue of Tanjung Datu, because it firmly believed that both sides had agreed on this issue in 1978.[455]

After a decade of dormancy, the OBP Tanjung Datu reemerged, once again, in 2011. A member of the House of Representatives visited the location and reported to the national media that "the border marker stone had declined 3.3 km beyond the original border," and that "Malaysian police patrol entered the area which they claim belongs to Malaysia."[456] This report immediately sparked strong reactions from Indonesian domestic audiences who "lost" Sipadan-Ligitan in 2002, and are currently facing territorial dispute with Malaysia in the Ambalat block.[457] They immediately accused Malaysia of deliberately moving the markers to expand its territory.[458] Amid this pressure, the governments of both Malaysia and Indonesia played down the tension.[459] They instead agreed to negotiate the border problem in Tanjung Datu.[460]

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[454] This explanation was written by the former Indonesian Secretary General of the Ministry of Home Affairs. Dr. Siti Nurbaya. Nurbaya, *Tanjung Datu.*

[455] Ibid. See also, Batubara, *Masalah Camar Bulan.*

[456] Ira Guslina, Atmi Pertiwi, and Dedi S., *Malaysia Violates Kalimantan Border.* October 11, 2011, http://en.tempo.co/read/news/2011/10/11/055360914/Malaysia-Violates-Kalimantan-Border (accessed March 5, 2014).

[457] See, for example, Liputan 6, *Demonstran dan Petugas Kedubes Malaysia Bentrok [Demonstrantors and Security Officials at the Malaysian Embassy Clash],* October 13, 2014, http://news.liputan6.com/read/357722/demonstran-dan-petugas-kedubes-malaysia-bentrok (accessed March 5, 2011); Ferdinan, *DPR: Saatnya Melawan Malaysia.* October 10, 2011, http://news.okezone.com/read/2011/10/10/337/512961/dpr-saatnya-melawan-malaysia (accessed March 5, 2014).

[458] Ferdinan, *DPR: Saatnya Melawan Malaysia;* K. Yudha Wirakusuma, "Camar Bulan Dicaplok, SBY Malah Beri Penghargaan ke Raja Malaysia [Camar Bulan Being Annexed, SBY Gives An Award To A Malaysian Sultan]."

[459] See, Jakarta Post, *No Border Conflict with Malaysia: Foreign Minister,* October 11, 2011, http://www.thejakartapost.com/news/2011/10/11/no-border-conflict-with-malaysia-foreign-minister.html (accessed March 5, 2014); Jakarta Post, *No Border Conflict with Malaysia: Foreign Minister,* October 11, 2011, http://www.thejakartapost.com/news/2011/10/11/no-border-conflict-with-malaysia-foreign-minister.html (accessed March 5, 2014).

[460] Ibid.

Territoriality, Domestic Visibility, and The Dormant Territorial Dispute

The explanation on the dispute between Indonesia and Malaysia over Tanjung Datu clearly demonstrates the dormancy of the dispute from 1978 to 2001 and from 2002 to 2011. If Hypothesis 4 were correct, the causal mechanism of this dormancy can be explained by demonstrating the low salience of the disputed territory and the absence of domestic visibility that led to the absence of domestic pressure to resolve the dispute immediately.

The OBP of Tanjung Datu is a dispute over the position of boundary markers separating Camar Bulan village of West Kalimantan, Indonesia with Teluk Melano of Serawak, Malaysia. The dispute occurred because there was a positional gap between the "old markers" made by the Netherlands and the UK in 1891 with the "new markers" made by Indonesia and Malaysia in 1978.[461] Camar Bulan village is a remote area in the western tip of Indonesian Borneo Island. It is located around 70 miles from the main city and can only be reached by motorcycles and boats.[462] This area has less than 200 families and is among the least developed areas in West Kalimantan.[463] It has neither strategic resources nor strategic location that are parts of the

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[461] See, "Pemerintah Tak Perhatian, 1.440 Hektare Tanah Indonesia Jadi Bagian Malaysia [The Government Does Not Pay Attention, 1,440 Hectare of Indonesian Territory Became Part of Malaysia]," *Suara Pembaruan,* October 10, 2011, http://www.suarapembaruan.com/home/pemerintah-tak-perhatian-1440-hektare-ta nah-indonesia-jadi-bagian-malaysia/12222 (accessed March 6, 2014); Tribun Pontianak, *Cornelis: Batalkan Perjanjian 1978,* October 16, 2011, http://pontianak.tribunnews.com/2011/10/16/gubernur-kalbar-bukti-mata-air (accessed March 6, 2014).

[462] See, JPNN, "Potret Camar Bulan, Dusun Terluar Indonesia di Sempadan Kalbar-Serawak (1) [The Potrait of Camar Bulan, The Outermost Village of Indonesia in the Border between West Kalimantan-Serawak (1)]," *JPNN,* November 21, 2013, http://www.jpnn.com/read/2013/11/21/202007/Butuh-Lima-Jam-Naik-Motor-dari-Sambas- (accessed March 6, 2014); JPNN, "Potret Camar Bulan, Dusun Terluar Indonesia di Sempadan Kalbar-Serawak (2) [The Portrait of Camar Bulan, The Outermost Village of Indonesia in the Border between West Kalimantan-Serawak (2)]," *JPNN.* November 21, 2013, http://www.jpnn.com/read/2013/12/04/203979/index.php?mib=berita.detail&id=202049 (accessed March 6, 2014).

[463] See Suara Pembaruan, "Dikabarkan Dicaplok Malaysia, Aktivitas TNI di Camar Bulan Meningkat," *Suara pembaruan,* October 11, 2011, http://www.suarapembaruan.com/home/dikabarkan-dicaplok-malaysia-aktivitas-tni-di-camar-bulan-meningkat/12277 (accessed March 11, 2014); World Bank, "Kajian Strategi Batas Pengelolaan Wilayah Negara & Kawasan Perbatasan di 12 Provinsi," *World Bank,* 2011, http://documents.world bank.org/curated/en/2011/10/16233045/kajian-strategi-batas-pengelolaan-wilayah-negara-kawasan-perbatasan-di-12-provinsi (accessed March 6, 2014), 118,123.

salience of a territory.[464] Even though the village is inhabited, the old markers are located two hour walking distance from the local settlement.[465] The new markers are also located 15 minutes away from the settlement, and thus, further emphasizing that the disputed territory has no salience in terms of population as well.[466] In fact, most of these areas are dense forests with several plantations owned by local populations, as in other part of the Borneo Island.[467] Therefore, it is clear that the disputed territory in overall has a low salience, which the territoriality explanation argued, to be more stable than those with the high salience.

The governments' decision to sign the MoU 1978, despite of the measurement issue, reflected the government's view that the division of the territory was acceptable to both states. This contrasts to the early maritime delimitation in the South China Sea where the relevant states could not agree on the dividing lines, because of the strategic resources in the disputed territory. Therefore, it is apparent in this comparison that different levels of salience of the disputed territories affect the different types of territorial stability. Moreover, when the agreement between Indonesia and Malaysia was made in 1978, it was not visible to domestic audiences in both states.[468] Indonesia and Malaysia were under the authoritarian leadership of Suharto and Mahathir respectively. Therefore, there was no domestic pressure, even from the House of

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[464] World Bank, Kajian Strategi Batas Pengelolaan Wilayah Negara," 120-121.

[465] See the article by local journalist Muhlis Suhaeri. Muhlis Suhaeri, *Sengketa Batas di Camar Bulan [Border Dispute in Camar Bulan],* October 20, 2011, http://muhlissuhaeri.blogspot.com/2011/10/sengketa-batas-di-camar-bulan.html (accessed March 6, 2014).

[466] The Local Government of Sambas, "Sikapi Camar Bulan, Bupati dan Ketua DPRD Pantau Langsung Patok Batas [Responding to Camar Bulan, the Regent and the Head of Regional House of Representative Survey the Boundary Markers]," *Sambas,* October 16, 2011, http://sambas.go.id/component/content/article/2342-sikapi-camar-bulan-bupati-dan-ketua-dprd-pantau-langsung-patok-batas.html (accessed March 6, 2014).

[467] See Suhaeri, "Sengketa Batas;" The Local Government of Sambas, "Sikapi Camar Bulan."

[468] The media survey through local media and databases, such as LexisNexis, Factiva and digitalized newspaper of the National Library of Singapore, found no article on this agreement.

Representatives, to question the measurement issue that might, otherwise, have led Indonesia to maintain Tanjung Datu as part of the OBP.[469] In this situation, the government has more flexibility to follow the dynamics of the negotiation between the two countries. In 1993, for example, both states agreed to shelve the OBPs until "border demarcation is completed."[470] Such agreement did not occur in the case of Sipadan Ligitan, which at that time became visible to domestic audiences. At this point, therefore, the interplay between the low salience and the low visibility contributed to the delay or dormancy of the dispute for the rest of the 1990s.

This remained true after the fall of Suharto in 1997. The completion of border demarcation and the rise of Sipadan and Ligitan dispute among domestic audiences gave a momentum for the Indonesian Ministry of Home Affairs to review the status of Tanjung Datu.[471] The Ministry considered that the existing border has disadvantaged Indonesia, and thus demanded Malaysia to revisit the MoU 1978.[472] The rejection by Malaysian government and the changing administration within the Indonesian government made the discussion short lived.[473] There was also no discussion of the issue in the national media, perhaps reflecting the reluctance of the government to inform the public after "the loss" of Sipadan and Ligitan. The combination of these factors, after all, led to another decade of dormancy of the dispute.

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[469] Amril Amarullah, *Perjanjian Malaysia-Indonesia 1978 Tak Pernah Disahkan DPR [The Agreement between Indonesia-Malaysia 1978 Was Never Ratified by the House of Representatives],* October 12, 2011, http://news.okezone.com/read/2011/10/12/337/514107/perjanjian-malaysia-indonesia-1978-tak-pernah-disahkan-dpr/large (accessed March 6, 2014).

[470] Harmen Batubara, *Masalah Temajok, Cari Akar Permasalahannya [The Issue of Temajok, Find the Root of the Problems],* October 16, 2011, http://www.wilayahperbatasan.com/masalah-temajok-cari-akar-permasalahannya/ (accessed March 6, 2014).

[471] Nurbaya, *Tanjung Datu.*

[472] Ibid.

[473] Batubara, *Masalah Temajok, Cari Akar Permasalahannya.*

It was only in 2011, after a member of the House of Representatives visited Tanjung Datu, and reported to the media on the changing position of the boundary markers that domestic audiences began to notice the issue. The resentment and the premature allegation that Malaysia moved the markers and claimed Indonesian territory reflected the lack of understanding among the publics on the dispute that have been invisible to them since the beginning.[474] The publics considered the gap between the old markers and the new markers was an intended action by Malaysian government to enlarge its territory.[475] Within the House of Representatives, some members were baffled by their lack of knowledge on the dispute, while some others blamed the previous government who agreed on signing the MoU 1978.[476] These responses further strengthen Hypothesis 4 that dormant disputes, once it became visible, tend to cause disappointment among domestic audiences regarding any agreement that has been signed without their notice.

Similar to Sipadan and Ligitan, however, the low salience of the territory, made the coalition in defense of the disputed territory to be not sufficiently strong. Other than the House of Representatives and nationalistic publics, there were few, if any, influential actors supporting an

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[474] See typical articles, such as: Ferdinan, *DPR: Saatnya Melawan Malaysia;* K. Yudha Wirakusuma, "Camar Bulan Dicaplok, SBY Malah Beri Penghargaan ke Raja Malaysia [Camar Bulan Being Annexed, SBY Gives An Award To A Malaysian Sultan]," *Okezone,* October 16, 2011, http://news.okezone.com/read/2011/10/16/337/515980/camar-bulan-dicaplok-sby-malah-beri-penghargaan-ke-raja-malaysia (accessed March 11, 2014).

[475] Ferdinan, *DPR: Saatnya Melawan Malaysia;* Wirakusuma, "Camar Bulan Dicaplok."

[476] Their lack of knowledge was particularly apparent by their insistence to ask explanations from relevant institutions and their direct visit to the disputed area. See, Pikiran Rakyat, *Dewan Akan Tinjau Perbatasan Camar Bulan dan Tanjung Batu [The House of Representatives Will Visit the Borders in Camar Bulan and Tanjung Batu],* October 13, 2011, http://www.pikiran-rakyat.com/node/161722 (accessed March 13, 2014); The House of Representatives of the Republic of Indonesia, *Komisi I DPR Akan Bahas Isu Perbatasan Pekan Depan [Commission I Will Discuss the Border Issue Next Week],* October 14, 2011, http://www.dpr.go.id/id/berita/komisi1/2011/okt/14/3230/komisi-i-dpr-akan-bahas-isu-perbatasan-pekan-depan (accessed March 13, 2014); Ramadhan Pohan, *Isu Wilayah RI Dicaplok? Bohong [The Indonesian territory being Claimed? A Lie],* October 16, 2011; Bagus BT Saragih and Nani Afrida, *Malaysia Didn't Violate Kalimantan Border: Govt.* October 11, 2011, http://www.the jakartapost.com/news/2011/10/11/malaysia-didn't-violate-kalimantan-border-govt.html (accessed March 13, 2014).

assertive posture against Malaysia.[477] In fact, many Indonesians blame the government for neglecting the outermost regions of Indonesia, and thus asked the government to focus more on the economic development as a solution for this issue.[478] Against this backdrop, the Indonesian government adopted a middle way of settling the dispute. On the one hand, it continued the negotiation of the dispute with Malaysia.[479] On the other hand, it refused to take any military solution to the dispute, which is contrary to its policy in the dispute with Malaysia over the oil-rich Ambalat block.[480] Malaysia, for its part, agreed to negotiate the dispute over Tanjung Datu to prevent deteriorating relations between the two. Since 2009, Malaysian Embassy and Consulates in Indonesia have been under pressure from frequent mass demonstrations over various territorial disputes with Indonesia, including the one in Tanjung Datu.[481] As a

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[477] See, for example, Ilham Khoiri, "Selesaikan Soal Perbatasan Melalui Dialog [Settle Border Issues Through Dialogue]," *Kompas,* October 18, 2011, http://internasional.kompas.com/read/2011/10/18/23475160/ Selesaikan.Soal.Perbatasan.Melalui.Dialog-7 (accessed March 11, 2014); Andi Saputra, "Menhan Bantah Camar Bulan dan Tanjung Datu Dicaplok Malaysia [Defense Minister Denied that Camar Bulan and Tanjung Datu was Claimed by Malaysi]," *Detiknews,* October 10, 2011, http://news.detik.com/read/2011/10/10/010707/1740132/10/2/ menhan-bantah-camar-bulan-dan-tanjung-datu-dicaplok-malaysia (accessed March 11, 2014).

[478] See, for example, Republika, "Malaysia 'Caplok' Wilayah RI Gara-Gara Pembangunan Tak Merata," *Republika Online,* October 12, 2011, http://www.republika.co.id/berita/nasional/umum/11/10/12/lsyho3-malaysia-caplok-wilayah-ri-garagara-pembangunan-tak-merata (accessed March 11, 2014); Novan Anugrah Prasetyo, "Kesejahteraan untuk Masyarakat Batas Negara," *Detiknews,* October 17, 2011, http://news.detik.com/read/2011/ 10/17/103124/1745453/471/3/kesejahteraan-untuk-masyarakat-batas-negara (accessed March 11, 2014); Bagus Kurniawan, "Perbatasan di Kalimantan Jadi Fokus Perhatian RI [Borders in Kalimantan Become Indonesian Focus of Attention]," *Detiknews,* November 1, 2011, http://news.detik.com/read/2011/11/01/133503/1757332/10/1/ perbatasan-di-kalimantan-jadi-fokus-perhatian-ri (accessed March 11, 2014).

[479] See, Masrur, *Marty-Menlu Malaysia Bahas Perbatasan [Marty-Malaysian Minister of Foreign Affairs Discuss Border Issues],* October 11, 2011, http://www.tempo.co/read/news/2011/10/11/078360934/Marty-Menlu-Malaysia-Bahas-Perbatasan (accessed March 13, 2014).

[480] These two articles provide the contrasting policies adopted by Indonesian President, Susilo Bambang Yudhoyono in Tanjung Datu and Ambalat. Fahmi Firdaus, *Tidak Takut, SBY Pertahankan Ambalat Dari Malaysia [Not Afraid, SBY Defends Ambalat from Malaysia],* June 26, 2013, http://news.okezone.com/read/2013/06/26/337/ 828166/tidak-takut-sby-pertahankan-ambalat-dari-malaysia/large (accessed March 13, 2014); K. Yudha. Wirakusuma, *SBY Pilih Jalan Damai Ketimbang Perang [SBY Chooses A Peaceful Way Rather Than A War],* October 26, 2011, http://news.okezone.com/read/2011/10/26/339/520614/sby-pilih-jalan-damai-ketimbang-perang (accessed March 13, 2014).

[481] Riky Ferdianto, "Kedutaan Besar Malaysia Kembali Didemo," *Tempo,* June 11, 2009, http://www. tempo.co/read/news/2009/06/11/078181347/Kedutaan-Besar-Malaysia-Kembali-Didemo (accessed March 11,

consequence, both Indonesia and Malaysia had a convergent interest to solve the dispute peacefully. The absence of final agreement between the two until 2014 is understandable because it is only two years after both agreed to negotiate the dispute in their yearly meeting and the dispute itself is tied to other disputed territories. What is clear is that both states are still working in solving the differences between them. To this point at least, therefore, Hypothesis 3 is correct to argue that the interplay between the low salience territory and domestic visibility *is more likely to lead* to a peaceful settlement of territorial dispute.

2014); JPNN, "Malaysia, Maunya Apa?! Ancam Larang Warganya ke Indonesia [Malaysia, What Does She Wants?! Threatens to Prohibit Her Citizens to Indonesia]," *JPNN*. August 27, 2010. http://www.jpnn.com/read/2010/08/27/71039/Malaysia,-Maunya-Apa?! (accessed March 11, 2014); Risna Nur Rahayu, "Camar Bulan Diaku: Laskar Merah Putih Ancam Sweeping Warga Malaysia [Camar Bulan Being Claimed: Merah Putih Front Threatens to Conduct Sweeping of Malaysian Citizens," *Okezone*. October 10, 2011, http://news.okezone.com/read/2011/10/10/340/513225/laskar-merah-putih-ancam-sweeping-warga-malaysia (accessed March 11, 2014).

CHAPTER IX

CONCLUSION

To recall the discussion in the beginning of this thesis, the main purpose of this study is to examine how the rise of territorial revivalism affects the stability of Southeast Asia. There are many unresolved territorial disputes in the region, yet the current regional stability overshadows the importance and the possible conflicts over these territories in the future. In order to understand the trajectory of the existing disputes, this study questions what are the remaining territorial disputes in Southeast Asia, what explains their stability, and under what circumstances a territorial dispute becomes stable, unstable, dormant and peacefully resolved.

In contrast to the dominant international and regional approaches to territorial dispute, this study argues that it is the interplay between territoriality (issue-level approach) and domestic visibility (domestic-level approach) that best explains the dynamics of territorial disputes in the region. It proposes four hypotheses linking the combination of these two variables and the four types of territorial stability. First, disputes over salient territory with greater visibility are more likely to be unstable. Second, disputes over salient territory with less visibility are more likely to be relatively stable. Third, disputes over territory with less salience and greater domestic visibility are more likely to be settled peacefully. And forth, disputes over territory with less salience and less visibility are more likely to be dormant.

To test these hypotheses, this study uses two levels of qualitative methods. The first is the cross-case analysis using a typology to see the general trend of territorial disputes in the region, and whether relational patterns exist between the proposed independent variables and the main dependent variable. The second is the within-case analysis using four case studies to examine if it is the interplay between territoriality and domestic visibility that affects the dynamics of the territorial disputes, and how the causal mechanism works in linking these variables. This

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concluding chapter, therefore, will be dedicated to discuss the main findings of this study together with its theoretical and practical implications.

<center>Discussions of the Main Findings</center>

Chapter IV has discussed extensively the findings of the cross-case analysis. It answers the first question raised in this study on the remaining territorial disputes in the region. As summarized in Table 3, there have been 28 territorial disputes in the region from 1945 until present, with half of them were settled and the other half are ongoing. It is important to note that 10 out of 14 ongoing territorial disputes are unstable, and eight out of these 10 unstable disputes are maritime territorial disputes. There are two main implications of this finding. First, the fact that more than two third of the remaining territorial disputes are unstable, implies that militarized conflicts over territorial dispute remain possible. Second, the dominance of maritime territorial disputes implies that the trend of territorial disputes in Southeast Asia has shifted from the land-based territorial disputes during the decolonization period (1945 – 1990) to the maritime-based territorial disputes, usually over strategic resources. With close geographical positions of Southeast Asian states, and compounded by their fast growing economic development, overlapping claims in maritime territories for the purpose of hydrocarbon exploration, are more likely to increase in the near future. In short, territorial revivalism is a challenge for Southeast Asia that should no longer be ignored.

The following question is what explains the dynamics of these territorial disputes. The cross-case analysis compares three possible explanations: economic interdependence, ASEAN (regional institution), and the interplay between territoriality and domestic visibility. It appears that no relational patterns exist between the first two explanations and the dynamics of territorial disputes. Territorial disputes between dyads with dependent economy result in peacefully settled,

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unstable, stable, and dormant situations. Similarly, territorial disputes without the intervention of ASEAN result in all of the four types of stability. The causal impact of both economic interdependence and regional institution, therefore, is not clear. This is in contrast to the explanation of the interplay between territoriality and domestic visibility. The dataset indicates that 24 out of 28 cases are in line with the four proposed hypotheses. The cross-case analysis, in this sense, provides empirical foundation on the correlations between territoriality, domestic visibility, and the four different types of territorial stability.

To further examine if this correlation also means causation, the within case analysis provides deeper analyses on the four case studies selected from the typology. The first case study on the territorial dispute between Vietnam and China in the South China Sea provides insights of how the interplay between salient territory and domestic visibility contributes to the instability of the dispute. With the demise of communism, both Vietnam and China have been gradually shifting to state capitalism, where in the legitimacy of the state or the communist party depends on the ability to maintain economic development and domestic stability. It is the balance between securing strategic resources to sustain the economic growth and maintaining domestic trust that explains the conflict behavior of both countries.

However, there were two different causal mechanisms taking place in this conflict during the period between 1988-1998 and the period between 2007-2014. In the first period, Vietnam became assertive in the dispute in response to China's continuing exploration in the disputed islands and to the multidimensional crisis within Vietnam itself. The Vietnamese government made the dispute visible to domestic audiences in order to demonstrate its efforts in defending Vietnam's territory and to gather support to secure the strategic resources against China. This diversionary strategy provoked more assertive behavior from China that led to the clash in 1988.

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In the second period, however, the visibility of the dispute was more bottom-up. The penetration of Internet and social media made the information on the dispute readily available to domestic audiences. This, in turn, created a sense of nationalism among Vietnamese, who were not only aggravated by the dispute, but also by the economic slowdown in the late 2000s. The social movement in Vietnam was at the same time a pressure and an opportunity for the government. It created pressures on the government to take an assertive policy against China to appease domestic dissents, but it also created an opportunity for the government to demonstrate to China that it had the support from its domestic audience. The assertive behaviors of both Vietnamese government and society eventually made the dispute unstable, as similar causal mechanism was also taking place in China in response to these actions.

The second case study of the territorial dispute between Malaysia and China, also in the South China Sea, offers an interesting explanation of why a different dyad in the same disputed area has more stability than the other. It appears that the absence of domestic visibility on both states led to the absence of pressure on the government to react aggressively against the other state's behavior. Thus, it provides the government more flexibility to shelve the dispute in order to maintain economic cooperation between them or to deal with other more assertive states. Further strengthening the important role of visibility is the fact that when the dispute became visible in Malaysian media; there were growing discourses among publics, military, and political parties, to revisit the current approach to China. Even though the future dynamics of the dispute remain to be seen, Malaysian efforts to strengthen its position in the dispute indicates a destabilizing trend in their bilateral relations.

Moving from the South China Sea, the last two case studies are disputes between Indonesia and Malaysia over low salience territories in the Borneo Island. The difference is that

the one in Sipadan Ligitan is visible, while the other in Tanjung Datu was not visible, at least until 2011. As a consequence, both have different types of territorial stability. In the case of Sipadan and Ligitan, the visibility of the disputes in 1991 caused domestic audiences in Indonesia to push the government to resolve the dispute immediately. The low salience of the territory, however, made the support of defending the island was not strong, as only nationalistic publics and government officials who were in favor of this tougher action. Business actors and other influential actors did not have any stake in the disputed territory, and instead, they have more stakes in maintaining good relations with Malaysia. As a result, Indonesia agreed on settling the dispute peacefully through the ICJ as demanded by Malaysia. The latter was indeed supportive of a peaceful solution as it was the state that occupied the disputed territory and it had a disadvantaged relative power compared to Indonesia. The visibility to the public, therefore, only pushed the Malaysian government further to resolve the dispute immediately.

In the case in Tanjung Datu, by contrast, the dispute was not visible to domestic audience, and thus was not subject to any pressure from domestic audiences. The low salience of the territory, after all, made it less significant in the bilateral relations between the two countries. When Indonesia and Malaysia agreed on solving the dispute in Sipadan and Ligitan, both states agreed on shelving the dispute in Tanjung Datu for future settlement. As a result, the dispute remained dormant until the media revealed the border problem, and both states began to resume their negotiation.

The above four case studies has provided evidences supporting the four hypotheses proposed in this study, as well as elaborations of how these hypotheses work in each case. To strengthen this finding, one should also notes the role of other competing explanations, i.e., economic interdependence and ASEAN. It is obvious from the four case studies, that economic

consideration were playing a significant role in determining states' behaviors in territorial disputes. They explain Vietnam's rapprochement to China during the 1990s and China's engagement with Malaysia in the same period. However, there are two main limitations of the explanation of economic independence. First, it is only one factor among many that determine states' policy to other states. In the case of China's engagement with Malaysia in the 1980s, it was based more on the strategic calculation of Malaysia's position as a member of ASEAN. In the case of Indonesia's approach to Malaysia in Sipadan Ligitan, it was based more on the economic interests of influential actors under Suharto regime rather than the economic interdependence of both states' in general. Second, the explanation of economic interdependence was heavily weakened by the escalating tension between China and Vietnam as well as between China and Malaysia in the past five years. The economic relations between these two dyads are much closer in recent years than they were in the past. Yet, their relations in the dispute were far more constrained in recent years compared to those in the 1990s. Despite their economic dependence on China, Malaysia and Vietnam also took assertive response against China's activities in the disputed territory. In the four case studies, therefore, the role of economic interdependence is unclear in explaining the dynamics of territorial disputes.

With regards to the role of ASEAN, the case studies do not discuss explicitly its role in the dispute. However, as already mentioned in the beginning of this paper, both disputes in the South China Sea involved a role for ASEAN, while both disputes between Indonesia and Malaysia did not. There should be, therefore, different dynamics between these two groups of conflicts. Both disputes in the South China Sea were unstable disputes that potentially disrupted regional stability, and thus required the intervention of ASEAN. Meanwhile, both disputes between Indonesia and Malaysia were not unstable, and thus did not require the role of ASEAN.

However, it is for this very reason that ASEAN has no explanatory power on the disputes that it does not involve. It could not explain why Sipadan Ligitan was peacefully settled and Tanjung Datu was dormant. Even in the disputes over the South China Sea, ASEAN could not explain why a certain period was stable and the other was unstable.

Similar issues occurred in the case of China as an alternative explanation of territorial disputes in the region. The first chapter mentioned that the study would look at the role of China in both case studies in the South China Sea. It was apparent that China has played significant roles particularly in causing the instability of the disputes in the late 2000s. However, China's explanatory power only limited to China's territorial disputes. It could not explain other territorial disputes that it does not involve; yet made up the most cases of territorial disputes in the region. Even in both cases of the South China Sea, securing strategic resources and maintaining its legitimacy in front of its domestic audience has, to a great extent, shaped China's behavior in the dispute. In this sense, China's factor, too, can be explained within the framework of territoriality and domestic visibility.

Thus, it can be concluded that based on the cross case analysis, the within case analysis, and the comparison to other competing explanations, the proposed hypotheses in this study, that is the interplay between territoriality and domestic visibility, seems to have more explanatory power in explaining the dynamics of territorial disputes in Southeast Asia. The following section will conclude this study by exploring the implications of these findings to theories and practices related to territorial disputes.

Theoretical and Practical Implications

There are at least two main theoretical implications of this study. First, it has demonstrated the increasing importance of maritime territorial disputes that have been under-

theorized in the literatures of territorial disputes. Most of the literatures focus on land-based territorial and border disputes as part of colonization and decolonization process before and after the two World Wars. They often bracket off maritime territorial disputes because they are considered as having different dynamics. This tendency is unsurprising, as this area remains an exclusive domain of scholars in legal studies. However, as demonstrated in this study, maritime territorial disputes have similar dynamics with other land-based territorial disputes, in the way that they can attract nationalist sentiments, and are thus subject to politicization by the ruling government and the publics. As a consequence, maritime territorial disputes should also be a subject of interests among scholars in the study of territorial disputes. Moreover, they are not unique to Southeast Asia. There are significant numbers of them in East Asia, South Asia, Latin America, and Africa. With the increasing volume of maritime trade, the growing importance of offshore hydrocarbon resources, and the growing trend of naval expansion, maritime territorial disputes will have even more significance in the future.

Second, this study has also demonstrated the overstated role of economic interdependence and regional institution in explaining the dynamics of territorial disputes. Even though both are important in the changing international and regional dynamics of inter-state relations related to territorial disputes, their roles in explaining individual dispute are more nuanced. On the contrary, the underestimated domestic explanation has been proved in this study to have better predictability of the states' behavior in territorial disputes, both in democratic and authoritarian states. This brings further implication on the common practice of treating states as unitary actors with embedded interests to maximize its power in relations to other states. While simplifying, it is questionable how accurate this assumption in explaining states behavior,

because, at least in this study, this assumption misses half of the explanation that comes from domestic visibility.

Third, the proposed model on the interplay between territoriality and domestic politics also demonstrates that territoriality or domestic politics alone is not sufficient explanation of the stability of territorial disputes. Territoriality requires agency role that is manifested in domestic visibility, which eventually determines whether territorial disputes are more likely to be unstable or stable. This model also helps to clarify the ambiguous findings of the existing territoriality explanation that territorial disputes over intangibly salient value are more likely to reach to peaceful settlement. As they argue, this type of disputes should have been more contentious than those over tangibly salient territory. In this sense, the proposed model of the interplay between territoriality and domestic politics provides a better explanation in the way that it fills the missing link connecting the variation of territoriality with the variation of stability. Moreover, this model also expands the types of territorial stability that can be explained to include not only stable and unstable disputes, but also dormant and peacefully settled territorial disputes.

In addition to these theoretical implications, this study also has practical implications, particularly for the policy making in Southeast Asia. In recent years, policy makers and scholars in the region have focused more on the non-traditional security as a more urgent challenge for the region. This study, however, strengthens the argument that traditional security, or in this case, territorial dispute, is and will be a challenge for Southeast Asia in the foreseeable future. The economic growth of the region demands more hydrocarbon resources that mostly come from maritime territory, and thus making maritime disputes more contentious issues for the coastal states. The continuing problems of trans-boundary crimes in mainland Southeast Asia from drug smuggler, human trafficking, to terrorism mean that fencing inter-state borders become

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imperative for the security of states and the stability of interstate relations. Territorial and border disputes, therefore, are closely related, if not important to resolving non-traditional security issues. Finally, the finding that the stability of territorial disputes depends on the domestic visibility of the dispute means that territorial disputes may become unstable anytime depending on the need to politicize the issue by the ruling governments. For this reason, strengthening domestic politics and economy of Southeast Asian states may be of a consideration in maintaining regional stability, as it will decrease the possibility of a state using diversionary strategy in territorial disputes. The government may also consider avoiding the visibility of a salient territorial dispute in order to anticipate the risk of militarization of the dispute. It will be even better if they can solve the dispute in its nascent stage before it becomes visible.

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