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von benkamis

in Außenpolitik, Sicherheitskultur, Strategie, Versicherheitlichung

Kommentare (3)

Who's to blame for island disputes in the western Pacific? Thomas Jefferson, a Dutch teenager, and Ecuador. Obviously.

von Ben Kamis

Many theories of international conflict explain virtually all decisions states make with reference to strategic interaction. That is, the actors are trapped in some decision matrix analogous to a member of the game theory bestiary: chicken game, prisoner's dilemma, battle of the sexes, etc. While this makes the actors' decisions contingent on each other, it gives the impression that each has freedom to choose within the matrix. Some more refined approaches see the matrix itself as contingent, implying that the actors could choose a different matrix, a different definition of the situation, if they really wanted to. What both of these conceptions miss is how historically conditioned and inertial these situations are. The matrices themselves aren't necessarily chosen; they have a history, and it might be an utterly absurd history, but that absurdity makes them no easier to change. Absurd international conflicts are not just born, they are made – often over the course of centuries.

The idea that certain historical choices/events can have effects long after they're apparently over, like the hangover long after the ill-advised 'just one more drink', is referred to as path dependence, sensitivity to initial conditions, increasing returns, or, popularly, the butterfly effect. Like a butterfly or a missing nail , a small decision at the right (or wrong – depending on how history treats you) time and place can have effects totally out of proportion to its importance at the moment, unleashing a hurricane half a world away or losing the kingdom.

History, the macro-social scientist's laboratory, has just provided us with a demonstrative experiment. Let's look at the effects: China and Japan dispute the Okinotorishima islands; Taiwan, China and Japan dispute the Senkaku/Diaoyu islands ; S. Korea and Japan dispute the Liancourt Rocks . Japan is willing to submit these disputes to the International Court of Justice when it's not in possession of the islands (and has something to gain), but not when it does possess the islands (and has something to lose). The US is probably obligated to defend Japan against others, making war between the world's two greatest military powers more probable than it should be. And if

you're ever vacationing in South East Asia, just don't even mention the word Spratly, or you won't be able to avoid offending somebody. The territorial sovereignty situation in the South Pacific and Sea of Japan (even that title is disputed!) is a mess, and a pretty dangerous mess at that.

The main quality that these islands have in common is their apparent worthlessness. Seriously, every self-respecting naval empire in history, the Phoenicians, the Athenians, the Romans, the Norse, the English, and the Dutch, would have sailed right by them. They're just rocks, generally unfit for self-sustaining human habitation. As national territory, they should be worth less together than a FIFA approved football stadium, and the stadium would be bigger than many of them.

So what's the big deal? Why all the panic? Well, there's a silly little rule in international maritime law that gives states exclusive rights to maritime resources within 200 nautical miles (c. 370 km) from their coastlines. This area, the Exclusive Economic Zone (EEZ), is why these Pacific states are getting so absurdly upset over so little. Here's the geometry: let's say there's an island about the size of a football stadium, say 350 m in diameter, distantly removed from the coast. ∏r^2 = 3.14(0.35/2)^2 = the area of the island is about 0.1 sq. km. Add a ribbon of sea 370 km wide around that island, and you get an area of *nearly 100 000 sq. km*.. Acquire sovereignty over that sad and lonely little rock, and you'll get a return on investment of about 1 000 000 %. That's almost 18 000 times better than Apple's stock performance over the last ten years.

Given the human propensity for narcissism and greed, the EEZ a stupid little rule indeed.[*] So how did this silly rule ever get accepted? To answer this, we need to look back much further in history, to the late 16th century in fact. At that time, there was one rule for maritime sovereignty in Scandinavia, where the states of the day claimed 1 Scandinavian league (c. 4 nautical miles) around their entire coasts, and another rule in the Mediterranean, which basically said that if warring navies started fighting within range of neutral states' coastal cannons, they could be legitimately sunk by the neutral state to protect its coastal populations and assets. The latter was the original *cannon-shot rule*. Beyond that, nobody thought much about sovereignty at sea. Then in 1602 the relatively new Dutch East India Company captured a Portuguese galleon around today's Indonesia. The Portuguese were more powerful at the time, but the Dutch wanted to join the big leagues of colonizing naval powers. Although it was fairly common practice to capture others' ships as prizes, the company's Calvinist shareholders were worried both about the reaction of the Portuguese and the moral question of whether a non-sovereign quasi-private enterprise could legitimately capture other state's property. Just as a modern multinational would do, the company's board found a clever young lawyer to justify the capture to their shareholders. They chose a very nerdy but capable teenager named Huig de Groot, who, as Hugo Grotius, would go on to become the father of modern international law.

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I'm not kidding. They're just rocks. Really. [Photo by National Land Image Information (Color Aerial Photographs), Ministry of Land, Infrastructure, Transport and Tourism]

Whereas the Portuguese argued the Pope had given them special rights in the area under the Treaty of Tordesillas, Grotius argued that God had effectively created the seas as a public goodfrom which no one could be practically or justly excluded, so the Dutch could do what they wanted where they wanted at sea. After arguing with a pair of Englishmen about the topic for a couple of decades, which need not detain us, and maturing considerably, Grotius revised his thesis to say that a coastal state has sovereignty into the sea for as far as it can control it from land. For the next century and a half or so, every lawyer in Europe was trying to figure out what exactly this should mean, and the suggestions ranged from as far as the eye can see, to the range of cannon, to whatever warships could defend, to a ratio of the length of the country's coastline, to absolute confusion.

Fast forward to the Napoleonic Wars, which were increasingly spilling out of Europe. The French and the English were fighting up and down the North American coast, and the French demanded to know what coastal zone the Americans claimed for neutrality purposes. At the time, Thomas Jefferson was Secretary of State, and though he had read contemporary famous works of international law by Vattel and Martens, he was a very busy man trying to navigate the foreign policy of a very young and somewhat paranoid state. Jefferson replied in 1793, cc'ing the British, that the United States wanted to settle the matter at a multilateral conference at some future date, a fairly innovative idea at the time, but for the moment, the United States would

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claim 1 league (i.e. NOT a Scandinavian league, so only 3 nautical miles), which he claimed was about the range of cannons and was already a worldwide standard. He seems to have got the idea from an Italian jurist, Galiani, whose work he had also consulted, but Galiani had only argued that standardizing cannon-range more or less arbitrarily at 3 nautical miles would be a good idea to reduce the pan-European confusion. The idea wasn't, in fact, so widespread and no cannon on the planet could shoot a whole league, but you can't be an expert on everything. In any event, the 3-mile 'cannon-shot rule' quickly gained popularity, so Jefferson's impromptu decision started something of a norm cascade.

The 3-mile rule was fine and good as long as coastlines were good for sailing and very little else. It started to become inadequate, though, as ship-based refrigeration became practical, bringing a totally new dimension to long-distance mass fishing, and harvesting offshore mineral resources, especially hydrocarbons, became possible in the mid-20th century. In order to exclude rival claimants, states started rapidly claiming sovereignty over their continental shelves, the shallower coastal areas where most of these resources were located or could at least be profitably harvested. This also seemed satisfactory for most states, but not for little Ecuador. Whereas Chile and Peru had claimed their continental shelves in 1948, Ecuador must have consulted a geologist first because they realized that the west coast of South America is one huge subduction zone. A subduction zone is where one tectonic plate gets crammed underneath another with the upshot that they make coastal waters get very deep very fast. In other words, Ecuador and its neighbors had no continental shelves to speak of, and they were going to be at a disadvantage relative to other states with shallower coastal waters. The solution? Ecuador organized with Chile and Peru to release the Declaration of the Maritime Zone in 1952, which claimed 200 miles of exclusive sovereignty along the coast for them all. The Organization of American States was furious, but ever more states, especially from the developing world, claimed this distance to shut out first world fishing fleets and nuclear warships from Cold War powers, which they could only achieve by law, not by force.

This continued to be a matter of debate for another 30 years (and, coincidentally, exactly 30 years ago) until 1982, when UNCLOS III set the distance of the territorial sea, where states can exercise proper sovereignty, at 12 nautical miles and the EEZ, where they have rights to everything that's really valuable, at a ludicrous distance of 200 nautical miles.

Now to recall: coastal states in Asia are threatening each other with war over some useless rocks and nearly limitless brine. What sense does strategic interaction make here? The water and rocks themselves don't interest anyone in the slightest. And it seems implausible that a set of rules that were 400 years in the making can be changed at a whim. When an impetuous and ambitious young politician tries to score political capital with some jingoistic rhetoric about utterly worthless real estate, he can only do so because there's a law that gives that real estate value bearing no proportion to its physical

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qualities. And the origins of that law are to be found in the statements of a long dead Dutch lawyer, who claimed that states can project sovereignty over fluid and indomitable water from land, to correct an extreme position he had expressed as a teenager. For want of a nail...

* Most parties to these disputes also claim a historical, cultural tie to these uninhabitable rocks as well, about which I am less qualified to comment. They might really mean something. Who knows? However, I'm trying to argue that the way that states and peoples perceive their security environments are normative, and that these norms are deeply historical and path dependent, not that all norms are strictly legal, so claims of historical, cultural ties actually reinforce this argument. Quod erat demonstrandum. [back]

Tags: Okinotorishima, senkaku, territory dispute

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3 Kommentare zu "Who's to blame for island disputes in the western Pacific? Thomas Jefferson, a Dutch teenager, and Ecuador. Obviously."

thelepathy | 22. Okt. 2012 um 23:55 | **#1**

Very happy that I found this most brilliant piece! The whole thing is touched with shining clarity.

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