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The Lost Heritage of the South China Sea Trade, Fishing, and Religion as Expressions of Popular Sovereignty

They that go down to the sea in ships, that do business in great waters; these see the works of the Lord, and his wonders in the deep.

Psalm cvii. v. 23, 24.

Abstract

China has a long history of fishing, trading, and settlement across the South China Sea. Recently, this maritime and economic history has been widely debated in Western countries as China reminds the world of her maritime heritage. Due to this disconnect, use of Western primary sources may be the key to unlocking the path for a common understanding of this history.

Keywords: *South China Sea, Collective Memory, Dongsha, Xisha, Zhongsha, Nansha, Paracel Islands, Spratly Islands, Chinese maritime history, UNCLOS, 9-Dash Line, 11-Dash Line, Popular Sovereignty*

1. Introduction

In 1947, the Republic of China (ROC) published a map of the South China Sea region that included a line comprised of eleven dashes (11-Dash Line) out from the Chinese coastline (ROC:MOFA:MAP). There had never been a map like it. It was unique in its concept; defining a territorial space that included the open sea. The events of the following years did not allow for international awareness of the map's publication, in effect

blocking the opportunity for protests to be registered according to international law (Prescott 2008, p. 91). Global political events and the United States of America's (U.S.) Strategy of Ambiguity, (Benson 2006) obscured any basis for a clear understanding, causing international disputes in decades to follow (Hayton 2014).

To explore the historical basis of the map's territorial claims, this paper will utilise evidence concerning trade, fishing activities, and the building of religious structures in the South China Sea region to consider the applicability of the concept of popular sovereignty (Schurz 1860; Van Leyden 1981). The assumption: A collective memory of a Chinese presence in the region could result in a "historic rights" narrative (Dupuy 2013; International Council for Science 2002). It asks if there is enough evidence of actions by peoples from a single culture acting on their own authority, to support the existence of a notion of popular sovereignty (Kahn 2000). The 1509 arrival of the Portuguese in Melaka (Borschberg 2004) (Malaysia), began the formation of a European textual corpus. This record of the "fourth stage" of Chinese maritime history forms the main body of sources for this investigation (Elleman 2012, p. xii).¹

The methods established after the founding of the United Nations (UN) for resolving issues of a maritime nature are the mechanisms of the International Court of Justice (ICJ), and the International Tribunal for the Law of the Sea (ITLOS). The Contracting Parties to the United Nations Convention of the Law of the Sea (UNCLOS:1994) may resolve issues through these organisations. The PRC declined to join in a dispute brought before ITLOS by the Philippines in 2013, and therefore did not submit supporting documents, causing a modern reconstruction of history. This act affected the legal process of discovery in this case that could preclude a modern legal claim through the principle of *stare decisis* "maintain what has been decided" (Wells 1878, p. 561) by an exploration of recorded history. This may have rendered the question moot, instead it has added to the post-1947 confusion over the line's formation. Throughout the paper, UNCLOS is not considered greatly. It is not a universal principal or human right; a historic activity or norm that led to a rights definition under the UN Charter. Nor does it have a defining article for

1 Professor Lo considered the Song to early Ming period as the last of three failed attempts by China to become a major sea power. The Author of this paper considers the mid-Ming to late-Qing period, circa 1509–1898, when China possessed the fifth strongest navy in the world, as a "fourth stage." See: S.A.R. (1888).

historic rights included, although the Arbitration did consider this question and rejected the suggestion (UNCLOS:Ph-PRC). Instead, the older laws of the sea will be applied, in line with the principal of the law in use prior to the act being applicable (ICRC: 1949).² This is also in line with the constitutions of the Philippines and the U.S., who share a colonial past. These constitutions expressly prohibit the enactment and use of *ex post facto* (retroactively applied) laws (Constitution of the Republic of the Philippines 1935; Shallus 1787; Farrand 1911).

The experiences of people who could be considered seasonal or specialist workers according to the universal principles of the UN (Schlesinger 2003),³ parallel the historic activities and experiences of other people's performing similar activities. However, did these activities and experiences form a collective memory that led to a concept of popular sovereignty, later manifested through the creation of the 11-Dash Line on Chinese maps of the South China Sea?

2. Methodology

In consideration of this question, a multi-faceted approach allows for a broad spectrum of data acquisition. Archive material from the U.K., U.S., the UN repository, and publications from the 15th–20th century were considered. The result allowed the blending of theories into a philosophy that is as complex as the opinions surrounding the 11-Dash Line.

A major component of any organised sociocultural system are the interactions between society and culture in a form that includes religious practice and worship (Elwell 2013). These components combine with art and science, as considered by Einstein:

All religions, arts and sciences are branches of the same tree. All these aspirations are directed toward ennobling man's life, lifting it from the sphere of mere physical existence and leading the individual towards freedom. (Einstein 1930, p. 3)

This combination of "three branches" provides a focus for identification of a distinct culture. If religious practices can be defined as behaviours

2 Geneva_Convention IV: "The courts shall apply only those provisions of law which were applicable prior to the offence."

3 As the principles of the UN and EU are deemed 'universal' by member states, they are applied here as an articulated human norm. This is considered applicable through ROC founder member status within the UN.

that appear to have no practical purpose, practised “alone or in the community of others and in public or in private” (UNHRC 2011, p. 12) this can be identified through a survey for the arts and sciences a culture has developed over time into identifiable traits. This paper will look for temples and graves as an identifier of cultural traits.

As religious behaviours have been defined within UN principles (*ibid.*; McCrea 2010, p. 27), these definitions will be utilised to guide a virtual survey of the region through the records of officials, explorers, traders, and naturalists over a 450-year period. This survey will utilise observations following the concept of Slim:

These accounts are not as official history should be... completely accurate and untouched by emotion. They are instead the more individual and freer canvasses of a man trying to paint things seen, felt and remembered; a shade blurred here, a trifle out of perspective there... Yet withal true impressions of actual happenings as he saw them. (Slim 1962, p. vii)

The concept; these external observers were recording their personal experiences for prosperity, providing a primary historical account following the long established legal principal of “other things said” (Howell 1822, p. 901; House of Peers 1710, p. 270; Cardozo 2005; Philippines Supreme Court 1934, p. 183; U.S. Congress 1919, p. 61). These techniques were developed by Manguin:

Foreign sources – mainly written by travellers and geographers – offer an indispensable textual corpus to help scholars reconstruct the maritime history of the region. (Manguin 2017)

To allow for the possibility of regard for peoples as inhabitants of the South China Sea as sojourners, consideration will be given to the meteorological conditions, utilising the findings of Dr. Halley:

Winds extend to within two degrees of the equator, during the months of May, June, July, &c. to November; at which time, between two and twelve, forth latitude, being near Sumatra and Java, the contrary winds from the north-west, or between the north and west, set in, and blow strong, accompanied with dark rainy weather, for half a year, viz. from the beginning of November to April; and this monsoon is observed as far as the Molucca Isles. (Halley 1705, p. 68)

These conditions will guide examination of human activity within the South China Sea. Consideration will be therefore given for observations of “migrant worker[s] whose work by its character is dependent on

seasonal conditions and is performed only during part of the year" (U.N. 1990, p. 263) or as people "who engage for a restricted and defined period of time in work that requires professional, commercial, technical, or other highly specialised skill" (*ibid.*, p. 262). This seasonal aspect is consistent with the exercise of authority for territorial title; "the degree of exercise of authority varies according to the geographic and natural conditions of the territory concerned" (Norquist & Moore 1998, p. 186; Ferraro 2012 pp. 56–60). These UN designations allow for specific harvest and work periods, guiding consideration according to universal norms. As China (ROC) was a founding member of the UN, it is therefore appropriate to consider these principles (U.S. Department of State 1967, p. 2).

3. Chiang Kai-shek and new constructions of territorial space

Hainan Island is a historic Chinese source of pearls and sea food (Lowery 1992, p. 45) used as a base for naval operations by the Han Dynasty during 112 B.C. (Lo 1957; Michalk 1986). It later became known as a place of banishment for the literati (Mayers 1871 & 1872), which resulted in it becoming a place of learning, producing Charles Soong in 1866 (Chu 2017). He was a U.S. Coast Guard sailor, a Methodist Minister, and a bible publisher, experiences that were to affect his daughters global awareness, two of whom married Sun Yat-sen (Lee 2011; Wells 2001) and Chiang Kai-shek (Hollington 1937). Both men were Republicans and converts to Christianity; Sun Yat-sen in 1883 (Lee 2011; Wells 2001) and Chiang Kai-shek in 1930 (Hollington 1937; Junio 2017). These familial and religious connections to Hainan could be seen as important links in their "traditional knowledge" (International Council for Science 2002, p. 9).

Hainan was affected by the events of the Century of Humiliation (Bickers 2016) despite the statement; "hereafter no port, bay or island along the coast of China will be ceded or leased to any foreign country" (Van Antwerp 1921). However, the weak Republic could not prevent seizures of Chinese territory (Willoughby 1922, p. 371; LoN Commission 1932). Hainan became a Japanese Imperial Navy base, while the French occupied the Paracel Islands "as a counter to Japanese activity in that region" (CMS 1939, p. 11; Japan T&M 1938, p. 1). Japan made her position on the Paracel Islands clear in a conversation with the U.S. Ambassador, J.C. Grew: "The Japanese claim no title but sustain the Chinese

claim that the islands are Chinese" (U.S. Department of State 1938). As China's Ambassador to the U.S. would state in 1938: "China is literally bleeding to death" (Hu 1939). China's humiliation was continuing. However, opponents at that time were validating later Chinese claims through their official declarations concerning sovereignty.

Japan recorded China's loss of Guangzhou, and the ability to fish freely out to sea: "The growing European Crisis facilitated seizure of Hainan Island in February and the Spratly Islands in March 1939" (Takenboy 1940). As territorial encroachments continued, Chiang Kai-shek may have recalled his 50th birthday statement: "For so long as we have not recovered our lost sovereign rights and restored our territorial integrity, we will never be free as a people nor independent as a nation" (Fenby 2003). Retaining sovereign rights and territorial integrity were later written into the UN Charter (UN 1947). Chiang Kai-shek would go on to inform President Roosevelt in 1941: "The people of China... will be immeasurably heartened by your impressive reaffirmation of the will of the American people to assist them" (Linebarger 1941).

That year, the Declaration of Principles, commonly called The Atlantic Charter, was published. Among the principles; "signatory states promised to respect not only the rights of nations but those of peoples and 'all the men in the lands'" (Evans 1996; UN:DI 1947, p. 2). The 1946 independence declarations by Viet Nam (Vietnam Const. 1959; FR: Du Ministre 1909; Stanford 1909; Survey Department. Singapore 1954; Anon. 1921; Nederlandsche 1671; Chung 1936) and the Philippines' (Constitution of the Republic of the Philippines 1935; U.S. Senate 1899; Dawson 1899; Foreman 1906, p. 25) were later political changes; creating nations whose boundaries had been determined through colonialism. The eighth principle was also of primary importance: "They believe that all of the nations of the world, for realistic as well as spiritual reasons, must come to the abandonment of the use of force" (U.N. 1947, p. 10). The suggestion of both realistic and spiritual reasons for a change in human behaviour was a principle in line with U.S. political philosophy.

This spiritual aspect of human behaviour could be found in statements made by the U.S. government pre-1941. Secretary of State Cordell Hull mentioned faith, spiritual integrity, God, or Church twelve times. He mentioned one other institution; schools, once (U.S. State pp. 335–6). Working towards the "desire to see no territorial changes" (UN:DI 1947, p. 2) Chiang Kai-shek clearly exhibited this also through his work during the war (Mayle 1987, p. 48). This was expressed through a joint statement from the Cairo Conference:

It is their [U.K., U.S., ROC] purpose that Japan shall be stripped of all the islands in the Pacific which she has seized or occupied since the beginning of the First World War in 1914, and that all the territories Japan has stolen from the Chinese, such as Manchuria, Formosa, and the Pescadores, shall be restored to the Republic of China. (Van Slyke 1967, p. 519)

Chinese territory, which theoretically included the Paracel and Spratly Islands due to prior declarations, was to be returned. The U.S. however, were to further redefine the world order by breaking international law, in the interests of domestic fishing rights.

In 1945 (Duus 1996), the U.S. redefined land based territorial systems; a three-mile marine limit formulated before the country declared independence (Selden 1652; Flattery, 1790; Swarztrauber, 1970). President Truman unilaterally declared the first major claims over the seas since Pope Alexander VI (Dawson 1899). This “exercise of jurisdiction over the natural resources of the subsoil and sea bed of the continental shelf” (Truman 1945) from the coastlines of the U.S. showed differing intentions. The Proclamations mentioned fish on 31 occasions; yet oil was mentioned only twice, exhibiting the primary importance of fish.⁴ However, the U.S. continued to refuse recognition of other nations claims to unique territorial space at sea, despite their own claims. This had unforeseen consequences. In 1968, the USS Pueblo, an intelligence gathering ship, was seized 15 miles from the Democratic People’s Republic of Korea (DPRK) coastline; inside of the DPRK’s 20-mile territorial claim (USS Pueblo; Shulimson 1997, p. 226). The U.S. only recognised a 3-mile territorial limit internationally, 23 years after its Proclamation.

As colonial empires disintegrated, other cases involving maritime rights (LoN 1899; LoN 1929–1930) raised awareness, which China learned when treaties were lodged (UN 1947, p. 267). Amid the claims, China published the map that defined “lost sovereign rights and restored our territorial integrity” (Fenby 2003, p. 30). The 11-Dash Line did not encroach on accepted international practices; the three mile limit of eastern French Indo-China (Vietnam), or post-colonial Philippines, whose 1898 Spain-U.S. treaty defined its territorial limits (U.S. Congress 1930; PH:OC 1932). As this activity continued, was there a ‘historic rights’ narrative as the foundation? (Dupuy 2013, p. 124–141) Cree had observed on the South China Sea in 1840: “We were accompanied by hundreds of

4 Statistic calculated by the Author based on U.S.Arch: *Fed.Reg.Vol.13, No.193, 2 October 1945.*

junks and fishing boats." (Levien 1981, p. 53) 106 years later, a 1946 directive exhibited this activity:

The ROC government was to implement immigration [to the islands] for fishermen who regularly and seasonally travel from Hainan to the Paracel and Spratly archipelagos to fish, and provide greater protection of their fishing permits. (Chung 2014, p. 45)

The intention was clear; the ROC Navy would protect traditional fishing rights in Chinese maritime territory, 800 miles from Hainan, a Chinese fishing enterprise Horsburgh had noted in 1818 (Horsburgh 1818, p. 57). While not strictly following Truman's Proclamation, the intention was clearly the same; protection of fisheries in traditional territories.

4. Definitions, principles and laws

The Western notion of territorial sovereignty utilises a fixed land mass and an aligning sea border for countries that are not land locked (Page 2013). Territory can be further identified as "of the geographic territory administered by a government within which persons, goods and capital circulate freely" (UN:ITSKn). Colonial expansion; the forced acquisition of territory populated by indigenous groups or disorganised peoples, has been repudiated (Pinkham 1972; Kratoska 2001). These definitions of territorial boundaries and methods for territorial acquisition provide a framework for examination of the post-1883 period considered by this paper. Generally, the concept of popular sovereignty will be supported through the activities of the peoples found to occupy the South China Sea (Kahn 2000; Schurz 1860; Van Leyden 1981).

In western maps of territory, lines prevail, exhibiting the rigid nature of borders and thought (Branch 2014; Prescott 1965). A map also visually attempts to depict "a zone created through the intersections of geography, culture and history" (Warren 2007, p. xxvii). In the context of political geography, territorial space, or "notions of 'frontier' and 'border' are the same, that is, a zone" (Winichakul 1994, p.74). This spatial concept of a zone can be observed in Chinese maps, expressing a historic Thai description; "if either side doubted any boundary, it should depute some officials and people from the frontier posts to inquire and settle mutual boundaries in a friendly manner" (ibid., p. 65). This can be seen in a modern context: "The Parties concerned undertake to resolve their territorial and jurisdictional disputes... through friendly consultations

and negotiations by sovereign states directly concerned" (ASEAN 2012). Other statements also exhibited desire to settle territorial issues through negotiation (PRC:FMOCC). These are in line with the traditional concepts of border and territory; borders can be discussed, based on local knowledge using direct and friendly methods. This can also be seen in the UNLOS (UNCLOS:NEWSUB).

The PRC made statements on other matters concerning the South China Sea People's Daily, 2015. One interesting point: "built various military and civilian facilities on the islands, thus resuming exercise of sovereignty" (ibid.). The PRC clearly describes buildings; 'facilities' as sovereign expressions. This compares with the survey's intent in this paper, which considers the building of temples as a primary expression of popular sovereignty, a building often used for humanitarian purposes, including the sharing of food and shelter (Ch'en 1964, p. 283–285).

These statements, and the descriptions of historic Thai territorial matters all carry a common theme; borders can be discussed, based on local knowledge. Therefore, occurrences of discord in the South China Sea were sown by the Western establishment of fixed lines in the sea and the imposition of external political forces (U.S. Senate 1899; Foreman 1906, p. 25; Dawson 1899; Selden 1652; Flattery 1790; Swartrauber 1970; Malloy 1910, p. 1688; McPherson 1998; U.S. State 2014). It may be suggested that the use of dashes, rather than a solid line, exhibits this traditional concept of negotiation and "soft borders" (Gerstl & Strašáková 2017). This discord is visible in the 2016 UNCLOS arbitration award for the Philippines v PRC case (UNCLOS:SCS; ROC:SCSA 2016; ROC:MOFA 1989).

5. Man's actions in the settlement of territorial space

As man settles in new territory, this will be exhibited in an advanced culture through the building of common spaces; available for all within the community as it organises. This examination will concentrate on three examples, thereby exhibiting the universal nature of this behaviour.

Greenock, Scotland was erected into the Burgh of Barony in the year 1635 (U.K.P.O. Greenock, p. 68). The first Magistrates and Council were elected in the year 1751 followed by a Sheriff's Court opening in 1815 (ibid.). However, The Old West Church was built in 1591 (SCHR: Greenock). Greenock exhibits development from church building to

localised law enforcement; a process that took 160 years to perform. Clearly, the people considered the construction of a church, a place for organised religious worship, a matter of primary importance.

The U.S. exhibited the same processes in the settlement of Idaho, beginning with Franklin in 1860 (Marcum 1992, p. 671). The settlers were missionaries with goal of “building homesteads, farming, and living among the Indians” (ibid., p. 673). While their passage to new lands was religious in foundation, the primary purpose was that of settlers:

The stout-hearted pioneers had in mind to establish yet another frontier community, on an isolated, inconspicuous spot, with no name... to build small cabins and commence farming. (Shumway & Shumway 2004)

With log cabins forming a perimeter; “in the centre of the rectangle stood the bowery where their formal worship services and secular counsel meetings were conducted” (ibid.). From the above description, the primary aims of settlement were cultivation and harvest of food, and the manifestation of that culture the building of a bowery for religious worship (Tucker 1867, p. 282; Roberts 1902). A local courthouse was built in nearby Preston 79 years later (Hellman 2005, p. 263–266; Judy 1961). In a process of development similar to Greenock, the people of Franklin built a place for organised religious worship over a generation before a courthouse (Shumway & Shumway 2004).⁵

Spanish California exhibited the same traits in building 16 missions as the land was settled (SB: Court: DA). For example, the Franciscan mission in Santa Barbara was founded in 1786 (Forbes 1839, p. 55). It was not until 1855 that a store was purchased and then converted into a courthouse (SB: Court: LF; SB: Court: DA).

As these examples have shown, religious building establishment was the primary symbol of territorial sovereignty by sociocultural systems that intended to settle and retain their allegiances. They did not add structures for legal use until later, in effect arguing through action the Antifederalists debate over the U.S. Constitution: “The Constitution should not be ratified because judges would use their power of judicial review to violate the principle of popular sovereignty” (Padula 2002, p. 52).

These examples represent different cultures that adhered to their original national linkages. They exhibited the same expressions of religious

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5 Prior to this event, court cases were heard in Salt Lake City, Utah.

belief and identity in the formation of territorial space over several centuries. Churches have taken primary importance, showing the religious structure as the first determinant of organised popular sovereignty by disparate cultures seeking food and trading in new territorial spaces.

6. A survey of the South China Sea

Chinese marine activities were noted as being of significant volume by the Portuguese when they took Melaka by force in 1511 (Cortese 1944, p. 282). While typically unregulated, Chinese port authorities began to issue trade licenses in 1567 (Blussé 1979, p. 196). This policy recognised that trade had continued despite Qing restrictions aimed at preventing support to Ming loyalists (Morse 1908, p. 16, 271). Later in the 17th century, the policy slowly fell into disuse after mariners were included in the census through “special registers and door placards” (Ping-ti 1959, p. 50; Durand 1960, pp. 209–256). These actions show that while overseas trade was officially closed at certain points, disorder and interrupted communications had not stopped Chinese trade or fishing activities (Cressey 1934, p. 136). Licences were reinstated in 1869 at the suggestion of British officials seeking to control opium smuggling, although it did not stop foreigners engaging in the illicit trade (Fox 1940, p. 181; Williams 1856, p. 268).

Overseas, Japanese regulation of Chinese shipping began in 1715 to control bullion outflows (Yoneo 1998, p. 91). This marine trade, and the fishing operations that formed a distinct portion of it, will form the activities being sought by this survey.

Liuqiu, Pescadores and Pinnacle Islands

As junks sail south from Japan, they pass the Liuqiu (Goldsmith 1821, p. 37; Beechy 1831, p. 143), and Pinnacle Islands (Diaoyutai Islands) before reaching Taiwan and the Pescadores. Pinnacle Island, “called by the Chinese *Tsaou su* or the Chair-bearer” (Findlay 1878, p. 1047) is north-west of Taiwan. Collingwood visited in 1867 but couldn’t land due to tidal conditions. However, when he visited nearby Craig Island, there were two Chinese egg collectors’ residing (Collingwood 1868, p. 118). On nearby Agincourt Island: “On the west side is a poor village, or hamlet, whose inhabitants we could see watching us; and this accounted for the fact

that the highest part of the island was under cultivation.” (ibid., p. 123) Belcher recorded visits to Napa Kiang (Nata Harbour, Okinawa), where “we were visited by some of the minor Mandarins” (Belcher 1848, p. 321) who spoke to his Chinese interpreter concerning Japanese located further north in the Satsuma territories. Beechey also recorded Japanese trade, and drew a chart of the port and town (Beechey 1831, p. 143, 165; Peard 1937, p. 322; Beechey 1835). This is the only record of persons on the Pinnacle Islands in the survey. It is clear however; Chinese had settled the Liuqiu islands, and Japanese visited for trade purposes.

Collingwood also visited the Pescadores Islands: “Before quitting Makung (Magong), we paid a visit to the chief Mandarin of the place, but were not successful in seeing him at his *yá-mun*” (Collingwood 1868, p. 51). The presence of a Qing government official on the Island and his established official residence, does not describe “an ungoverned space” (Corr 2018, p. 45). Collingwood also noted temple on the island: “They do not appear to have offered any personal molestation to the Europeans, who were even accommodated with the shelter of a joss-house” (Collingwood 1868, p. 51–52). This is a description Cree used; “joss-house or Chinese temple” (Levien 1981, p. 49; Chan 1989, pp. 94–120). Collingwood found our first temple on a South China Sea island.

Pratas Island and Reef (Dongsha)

Heading south from the Taiwan Strait, Pratas, “called by Native pilots Tungsha” (Morse 1908, p. 17) is the first island group reached. Dalrymple found “this Shoal is of greater extent than I have made it [in my chart]” (Dalrymple 1786, p. 6). Ships had difficulty passing the area, “especially if the trade wind blows from the northward” (von Krusenstern 1813, p. 273) combined with the currents in December and January (Dunn 1791, p. 328). These navigation issues continued after 1813, when Ross made a survey:

On landing, there was found to be a deep inlet or harbour for boats on the West side of the island, which must afford shelter to the Chinese fishermen, who come here to fish in the early part of the year; and upon the island, was erected a Chinese Temple, by pieces of wreck, apparently that of a junk. (Horsburgh 1841, p. 288)

When Collingwood visited 48 years later, he offered a complete report, listing a well and the temple, which was “dilapidated,” (Collingwood 1868, p. 26–27) a normal effect of the regional weather on structures (Froc 1920).

Clearly, this was not a “realm of semi-nomadic fisherfolk” (Corr 2018, p. 45) but an organised, multi-generational culture practicing freedom of expression. King also noted: “[Pratas Island] must afford shelter to the Chinese fishermen who come here to fish in the early part of the year. Brackish water can be obtained by digging a few feet into the sand” (King 1861, p. 266; Findlay 1878, p. 606). It is clear that Pratas Island had been settled within the meteorological conditions described by Halley. Other structures and official activities would follow after HMS Saracen surveyed the islands for lighthouse locations in 1858 (Richards 1858; USN:Sec 1919, p. 2242; Stanton 1861, pp. 80–91). Later in the 19th century, the Chinese Maritime Customs Service (CMCS) built a lighthouse, “Doongsha Shoal Light,” (Banister 1932), p. 1, CIMS (1899) assigned to the Canton Customs District (CIMS 1882, p. 12). This was followed by a postal service utilising the supply ship after China joined the Universal Postal Union in 1894 (IGCS 1903; Van Antwerp 1921, p. 585) A Chinese long wave radio station was set up in 1926, providing ships weather and time signals (Admiralty 1945, p. 598; U.S.N. Hydrographic 1930, p. 479). While the Japanese later took control of the island, the record shows 1935 attempts “to obtain a foothold on the Chinese owned Pratas islands” (Oriental 1935, p. 48; Xu 1941, p. 574) after earlier attempts in 1909 which ended when Japan recognised China’s sovereign claims after territorial negotiations (Rhoads 1975, p. 141; Wreck 1917, p. 20). This followed the pattern formulated by ASEAN: “[T]hrough friendly consultations and negotiations by sovereign states directly concerned” (ASEAN 2012).

Hainan Island

Hainan has long been a source of natural resources: “The *Teng-liu-mei* gharuwood [from Melaka] ranks next to that of Hainan” (Wolters 1958, pp. 587–607). Pinto relates a 16th century conversation with a pearl fisherman: “I’ve heard from these old men. They told me that the total income from trade, silver-mines and customs duties in the ports amounted to two and a half million taels” (Lowery 1992, p. 45; Catz 1989, p. 80; Congreve 1695, p. 23). This exhibits the size of the tax income the state was apparently receiving from Hainan Island and the surrounding seas. Pires confirmed pearl fishing activity: “Near it are some islands in the sea, where they fish for seed pearls. There are large quantities of these” (Corteseo 1944, p. 120). There are similar details from the 1699 French embassy to

China; “a Chinese craft from Canton passed us... She seemed destined for the island of Hainan, where the Chinese get much wax, salt, planks, cocoa nuts, and other produce” (Bannister 1859, p. 103). The maritime trade in natural resources is therefore a historic fixture in the economy of Hainan.

When Parliament examined the trade of Southeast Asia, Crawford provided the following evidence:

A great number of small junks belonging to the Island of Hainan, which carry on trade with Tonquin, Cochin China, Cambodia, Siam, and Singapore. Those for Siam amount yearly to about 50, and for the Cochin Chinese dominions, to about 43. (Lords 1830, p. 741)

The quantity of junks and trade levels confirms Dunn’s findings (Dunn 1791, p. 385), and the ports used by the *Tôsen* 200 years prior (Yoneo 1998, p. 13). Horsburgh later confirmed Pinto and Pires statements in his directory, giving descriptions of seasonal harvest and work that matched Halley’s weather patterns (Halley 1705, p. 13). He also stated that the fishermen would head 800 miles south to the Spratly Islands; “in the vicinity of Borneo” (Horsburgh 1818, p. 57).

After French colonialization of Tonkin (northern Vietnam) in 1874, requests were made for Chinese declarations concerning “alienating or ceding Hainan to any other foreign Power” (MacMurray 1921, p. 98). This was later expanded to all border provinces: “Because of the necessity of taking care that no change be introduced in the existing situation as regards the provinces bordering on Tongking [Tonkin]” (ibid., pp. 123–124). By 1930, Chinese declarations were ignored by France. However, this section has found that Hainan was historically governed, and used as a base for trade and fishing operations to acquire “adequate food” (UNHR:OHCHR 2010, p. 2, OHCHR) and for an economic life of their own (UNCLOS).

Paracel Islands (Xisha)

The Paracel Islands have often been perilous to ships when the Northwest or Westerly gales blow, causing notable wrecks over the centuries (Bullock 1884, p. 34). Due to the geography and weather conditions, sailing along the coastline of Viet Nam was the regular sailing route (Dunn 1791, p. 386; Huddart 1801, p. 468; Horsburgh 1817, p. 256; Bullock 1884, p. 34). A region where in 1627 “the intercourse between Cochin-China [Viet Nam] and China was uncontrolled” (The Asiatic

Journal 1816–Jun.1822, p. 446) carried a risk of piracy, although passing Hainan allowed for a pilot to be found (Horsburgh 1817, p. 251). The alternative was to sail East of the archipelago, to find a passage past the area Portuguese called “a continued chain of rocks and sands” (Dunn 1791, p. 447). The route south of the Paracels carries another risk; the currents may run westward, towards the Viet Nam coastline. Chung suggests that a 1730 Qing directive contained a warning due to these sailing conditions:

[the islands] were not intended to be travelled to. Chen noted only that if one strayed East from his described route, these islands would be “encountered.” The corresponding Chinese character, 犯 (fan), normally denotes ‘illegality,’ “trespassing,” and “violating,” indicating that the Qing regarded the islands as locations to be avoided. (Chung 2016, p. 51)

Chung then goes on to suggest this and later Chinese directions do not show historic domination through deliberate avoidance (*ibid.*, p. 52). This is due to the many warnings to avoid the islands, a directive he suggests show they were not visited by Chinese junks. However, soundings around the archipelago show why the direction was correct for *large* junks, which could reach 1000tons burthen (Barrow 1804, p. 28). The rocks and shoals should be avoided due to the possibility of grounding and shipwreck (Bullock 1884, p. 34). Therefore, if a large junk *infringes* or *trespasses*, it will be *violating* the laws of nature and maritime navigation. This is shown by the warning in Horsburgh’s New Sailing Directory: “Ships ought, therefore, never to come within these dangers” (Horsburgh 1817, p. 254). However, smaller junks of 100–300 tons with a flat bottom, can survive grounding, or be grounded deliberately; waiting for a rising tide to float back off. This is among the features Needham described: “In sailing to the South Sea [*Nan-Yang*] where there are many islands and rocks in the water, ships with dragon-spines can turn more easily to avoid them” (Needham 1971, p. 429; Keith 1981, pp. 119–132). The design of Southern junks therefore gave the fishermen and smaller trading vessels a technological advantage.

Crawford recognized trade patterns a century later that accounted for this design feature: “a great number of small junks belonging to the Island of Hainan, which carry on trade with Tonquin, Cochin China, Cambodia, Siam, and Singapore” (Lords 1830, p. 741). These small junks could sail upriver to Hué, as Chapman found in 1778; “twenty-five junks were at anchor” (The Asiatic Journal Jan.1816–Jun.1822, p. 450). Junks that could safely negotiate the twists of the Perfume River (Huong) (Shulimson

1997, p. 185) could also sail among the dangers of the Paracels. Therefore, the various Chinese directions do not preclude small Chinese trade or fishing vessels. It suggests they are good fishing grounds through their topography, which the destination of the pearl fishers recorded by Pires and Pinto in the 16th century shows (Cortese 1944, p. 120). The result of these various warnings, within what Dunn called “this great assemblage of dangers” (Dunn 1791, p. 447) therefore does not mean fishermen will avoid sailing there. It shows their fishing locations can remain private, and remained out of view due to “highly specialized skill” (United Nations 1990). This also raises another possibility; historic domination was applicable through regular seasonal use and settlement that provided economic gain; “the degree of exercise of authority varies according to the geographic and natural conditions of the territory concerned” (Norquist 1998, p. 186). Ross also found fishermen present in the early 19th century, from “January to May” (Horsburg 1817, p. 253). The Japanese later offered confirmation in a 1938 statement:

Ordinarily the only human visitors to the Paracels are Chinese fishermen from Hainan in shallow junks with leisurely matting sails. They venture cautiously around spots where the blue sea churns white against coral reefs, or dimples in sinister pale blue-green patches above the extensive hidden shoals. (The Japan Times & Mail 1938, p. 8)

Their “cautious” ventures, in “shallow junks” confirm French findings: “The islands had been visited by Chinese fishermen for generations” (The North China Herald 05.04.1938, p. 206). No presence of temples were found in the historic records. However, the Japanese detailed their observations as the archipelago became a topic for the newspaper reports we will now consider.

A modern expression of governance may be state supplied aids to navigation (Rosen 2014, p. 11). In 1923, the Chinese government planned to build a meteorological observatory, and prohibited all Japanese undertakings on the archipelago; expressions of sovereignty and title through governance (The Japan Times & Mail 1926, p. 1). A subsequent report notes the ruins of a Japanese guano mining venture were found, the undertaking prohibited by the Chinese government (Dowdall 6.06.1934, p. 162). The writer also notes there is a row of graves on Woody Island (The North China Herald 6.06.1934, p. 162), the first location in the survey where possibility for Chinese ancestor veneration is recorded (Lakos 2010, p. 2, 17).

Unfortunately for the fishermen, the peace of their existence was shattered. France occupied the Paracel Islands with Annamite policemen (The Japan Times & Mail 1938, p. 1), despite the signing of a 1921 Treaty that promised “to refrain from taking advantage of conditions in China” (Willoughby 1922, p. 371). This broke the “Regulations for Mixed Police on Sino-Annamite Frontier, 1896” (ibid., pp. 32–35). A later agreement defined “the whole of the Sino-Annamite frontier” (ibid.), giving treaty limits that France was now breaking for defence reasons “before the other nations could” (The North China Herald 4.06.1938, p. 206) despite Chinese protests (The North China Herald 13.07.1938, p. 58).

The Japanese, who had relied on the *Tôjin* for centuries, followed the French by breaking the same Treaty (Phillips 1980, p. 93–109; Marshall 1995, p. 61). They occupied Hainan according to Chinese statements, who also informed Britain; to no avail (Portsmouth Evening News 7.07.1938, p. 9; CIMC 1939, p. 11).

Knowledge, use and economic benefit by generations of Chinese fishermen “according to the geographic and natural conditions of the territory concerned” (Norquist 1998, p. 186; Ferraro 2012, pp. 56–60) was acknowledged by all parties, however Chinese protests were ignored (The North China Herald 13.07.1938, p. 58).

There were no records found in the survey of temples in the Paracel Islands until 1974. This does not preclude their existence however, as Western sailors were less likely to find evidence of their existence due to Horsburgh’s directions “never to come within these dangers” (Horsburgh 1817, p. 254). This section has shown that Pinto, Dunn, Horsburgh and Ross recorded details of pearl fishermen, trade, and a supply of pilots in the 16th–19th centuries who were found on Hainan and among the Paracel Islands.

Spratly Islands (Nansha)

The Spratly Islands “ought to be avoided by all navigators” (ibid., p. 316) a warning the Admiralty still gives for the “Dangerous Ground” (U.K.RN 2018). Horsburgh advised sailing closer to the centre, a route used by “Chinese vessels trading to Java, Borneo, and Rhio [Singapore]” (Horsburgh 1805 p. 24). This is possibly the route *Tôjin* Chen Siguan used on voyages between Java and Nagasaki (Yoneo 1998, pp. 148–150). Others sailed to Borneo, which was “well frequented by the Chinese, who carry

Surat Piece-goods from Malacca and Johore, and barter to very good purpose" (Earl 1836, FO881/482:1855). This trade to Borneo was recorded over two centuries, providing ample opportunity for Chinese knowledge of the central sailing route (Hamilton 1727, p. 79; Milburn 1813, p. 419; Craufurd 1853, p. 83; Krause 1867, p. 14).

Preference for this route is an indication of the dangers presented by the Spratly Islands and the Philippines. Ross made this observation during his survey: "The Hainan fishermen, visit the islands and shoals in this part of the China Sea, in March and April to fish, as well of those of the Paracels" (Horsburgh 1817, p. 317). The descriptions by Ross are clear; Chinese fishermen sailed 800 miles to the archipelago. They would remain there, deriving an economic life from the region dangerous for large ships. Due to the instructions to avoid the region, it can be assumed that earlier details are scarce. However, the remote location brought about a security issue when submarines and seaplanes were developed, providing us modern records (U.S.N. 1976, p. 1; Herrmann 1927).

As the early 20th century brought the height of colonialism, rising Japanese nationalism brought security concerns (Matthiessen 2015, p. 17, 102). In this period others have suggested the French warship *Malicieuse*, a 1916 built Ardent Class gunboat (Couhat 1974, p. 179), claimed sovereignty through a visit when she gave a 21-gun salute. It has been claimed the only witnesses "were four marooned and starving fishermen" (Hayton 2014, p. 53). Japanese newspapers presented very different details:

Hainan fishermen... some of them remain for years among the reefs. Junks from Hainan annually visit the islands of the China Sea with supplies of rice and other necessities... and supply themselves with water from a well in the centre of the north-eastern cay. (The Japan Times & Mail 1993, p. 3; Greenwich:TIZ/4Tizard)

These are not "marooned" persons when junks regularly visit and trade for produce. For example, turtle meat, which Horsburgh noted was brought back to Hainan in a dried form from the Spratly Islands (Horsburgh 1818, p. 57), is high in proteins, vitamins A, B1, B6, trace minerals, and low in lipids (Gremillion 2011, p. 100; Moseley 1879, p. 562). The French claimed the islands were unoccupied territory, or *terra nullius* (Ulstein 1995, p. 50). However, the fishermen, who identified as being originally from Hainan had begun their seasonal occupation in the archipelago at minimum a century before the arrival of the French according to Horsburgh and Ross. A contemporary example to the French visit can be found

on West York Island, named in 1905 after a shipwreck of the same name (U.S.N. 1976, p. 378). It is located at 11° 05' 15 N., 116° 51' E.; outside of the official 1935 118° territorial line of the Philippines (Hodgson 1908; Constitution of the Republic of the Philippines 1935; U.S. Senate 1899; Dawson 1899; Foreman 1906, p. 25). This island was visited by the USS *Nanshan* (South Mountain), present in the Far East until 10 May 1913; three years before the *Malicieuse* was built (U.S.N. 1915, p. 70; U.S.N:ZC, U.S.N. 1970, p. 8). Master William Prideaux logged this report;

Chinese fishermen from Hainan appear to frequent it... as a josshouse [temple] and three graves were found on the island, as well as an old cannon. Some remains of wrecks were also seen. (The Japan Times & Mail 1993, U.S.N. (1915) p. 378)

In this record of a temple, the presence of graves, where Chinese ancestor veneration can be practiced (Lakos 2010, p. 2,17), combines with the presence of Chinese fishermen who “remain for years among the reefs” (The Japan Times & Mail 1993, p. 3; Greenwich:TIZ/4Tizard). Cultural resource protection laws concerning graves and historic human existence define this site as an area of Chinese cultural significance, built by the long-term occupiers of territorial space for economic life and existence from which they sustained a livelihood (Westlake 1904, pp. 246–247; OKSC. OKIAC 1994, p. 216, 240; Blanco 2004, p. 66; Labadi 2013, pp. 127–145; ICC-01/12-01/15; Kwiatkowska 1994, p. 203; Stahn 2015, p. 19).

7. Conclusions

In their trade and fishing activities, it has been shown that Chinese sailors occupied the South China Sea according to the seasons defined by Dr. Halley. This survey has shown these activities, and that technology and practices were developed to allow for seasonal voyages to trade and harvest produce. These activities showed an exercise of authority according to the geographic and natural conditions of the territory examined. The experiences of peoples considered migrant or specialist workers today, according to UN principles, worked within their communal space; a parallel to other peoples that have performed similar actions in other regions over the centuries. During these activities, their social-cultural heritage was kept intact as they derived economic benefits for themselves and their families.

As China changed politically, consideration has been given to the actions of Chiang Kai-shek and his contemporaries. Specifically, President

Truman's development of vast maritime territorial space. In Chiang Kai-shek's subsequent actions, the finding can be made that he applied cultural and religious belief, historic knowledge, and an awareness of the actions being taken by other nations. The conclusion is therefore that he combined this information, and directed the creation of the 11-Dash Line. In doing so he was formalising through the government publication of an official map a unique combination of law and recognised sovereignty in the Paracel, Pratas, and Spratly Islands in the area long known as the China Sea.

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