

**Framing James Shoal:
Prospect Theory's Usefulness in Territorial Dispute Arbitration**



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14. ABSTRACT Territorial disputes are a historical cause for war. For disputes that are well suited, arbitration provides a peaceful means to reduce the chance for escalated conflict. Prospect theory, specifically the framing of a dispute, provides a useful litmus test for arbitrability. This paper proposes that states able to frame a territorial dispute from a gains frame may successfully arbitrate their dispute. James Shoal, a submerged feature off the northwest coast of Borneo, provides a case study where Chinese and Malaysian framing of the dispute can be analyzed. The context of the dispute places Malaysian decision-makers in a gains frame. However, China can be disposed to a loss frame unless leaders place the James Shoal dispute into the broader context and strategy of Chinese rejuvenation. Ultimately, Malaysia and China can approach the James Shoal dispute from a gains frame and arrive at negotiations with risk-averse positions, forestalling future conflict.						
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INTRODUCTION

Disputes over territory are a historical cause for war. As control of resources becomes more acute globally, territorial disputes will more often be linked to other sources of conflict, like ethnic tensions, economic inequities, and political enmities.¹ Since the Peace of Westphalia in 1648, the sovereign state is inextricably linked to territorial control. While a state's control of land territory can be ill-defined, territorial control of the sea is a more modern concept and is even more amorphous.

The South China Sea highlights current issues with territorial sea claims. Pacific communities have used the sea as a commons for millennia. With abundant resources, vast distances, and an inability to delineate (and therefore, defend) a claim, carving up the South China Sea was inconceivable before the mid-nineteenth century. However, after the exit of colonial powers, states bounding the South China Sea have sought to assert claims over the sea as a means to establish control of resources therein. For decades, the United Nations Convention for the Law of the Sea (UNCLOS) has served as the international benchmark for territorial claims and control of seas. Its ruleset creates a mosaic of boundary lines within the South China Sea's chaotic archipelagoes and shorelines.² With so many actors, so many boundaries, and now so few resources, territorial disputes are becoming catalysts for a larger conflict.

Malaysia and the People's Republic of China share such a dispute over James Shoal (Chinese: *Zengmu Ansha*). The submerged shoal is 56 nautical miles off Malaysia's coastline on the northwest coast of Borneo, and at its highest point is 72 feet below the surface. While sovereign claims to land features can be contentious, sea-based territorial claims are even more nebulous, and claims on permanently submerged rocks teeter on the absurd. International norms, laws, and

¹ Michael Klare, *Resource Wars* (New York: Metropolitan Books, 2001).

² *Convention on the Law of the Sea*, 10 December 1982, United Nations Division of Ocean Affairs and the Law of the Sea, https://www.un.org/Depts/los/convention_agreements/texts/unclos/unclos_e.pdf. Specifically, Part II Section 2, and Parts IV and V.

conventions do not acknowledge submerged features as territory to be claimed on par with land features. However, China does not intend to be obtuse claiming a submerged shoal; it was likely a cartographic mistranslation nearly a century ago that led the Chinese to stake their claim on a non-island.³ Still, they have placed their figurative (and recently, literal) stela, and generations of Chinese schoolchildren are taught that *Zengmu Ansha* is the southernmost point of China.

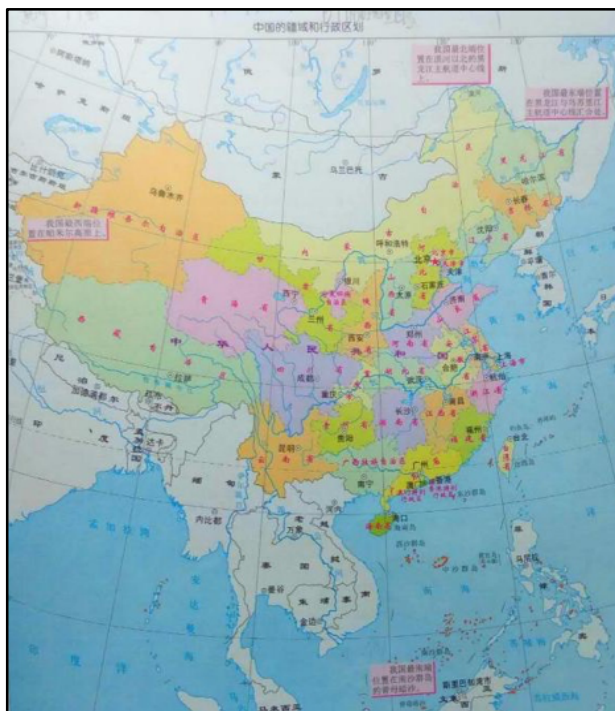


Figure 1. Chinese textbook showing claims in the South China Sea and highlighting James Shoal as the southernmost point of China (magenta box at the bottom of the image). Source: Quartz, www.qz.com.

With Malaysia and China both seeing the submerged rocks of James Shoal as part of their exclusive sea, what can be done to avert or de-escalate conflict between the two states? Arbitration stands out as a peaceful mitigation, whereby both parties perceive a settlement as mutually beneficial, and one side does not gain an advantage over the other. In arbitration, a durable agreement must be reached to achieve a lasting settlement and conflict resolution. To achieve this,

³ Bill Hayton, "How a Non-existent Island Became China's Southernmost Territory," *The South China Morning Post*, February 9, 2013, <https://www.scmp.com/comment/insight-opinion/article/1146151/how-non-existent-island-became-chinas-southernmost-territory>. Bill Hayton was able to make this link while studying British and Chinese charts during research for his book *The South China Sea: The Struggle for Power in Asia*. Chinese cartographers, in a nationalist rush in the 1930s, also copied over twenty errors from the Admiralty chart to the Chinese chart.

both parties must view the committed process as valued and legitimate. Devised by Daniel Kahneman and Amos Tversky in 1979, prospect theory has utility in determining the “framing” of each state’s territorial dispute, and therefore the conflict’s suitability for successful arbitration.⁴ This paper proposes that Malaysia and China can bi-laterally arbitrate their James Shoal territorial dispute if both are in a gains frame and eliminate or minimize any United States or outside intervention.⁵

BACKGROUND AND THEORY

James Shoal was likely unknown until depth soundings conducted during a nineteenth-century British oceanic survey earned it a place on Admiralty charts in 1870. From these English charts, Chinese cartographers in the 1930s mistranslated “shoal” to “sandbar” and designated James Shoal as *Zengmu Tan*.

Later, the Chinese naming was corrected to reflect that the feature is permanently submerged and changed its name to *Zengmu Ansha* to reflect it is a shoal, not a bar. However, China still formally recognizes the shoal as China’s southernmost territory, and it falls within the “9-dash line” of Chinese territorial claims in the South China Sea. Malaysia recognizes the shoal as laying in its exclusive economic zone and interprets no other maritime claims derived from James Shoal’s position.

China and Malaysia have been in dispute over the shoal since 1947, when China promulgated the first map with a 9-dash line encasing its historical territorial claims in the South China Sea. Malaysia does not recognize James Shoal as a feature to derive any further maritime

⁴ Daniel Kahneman and Amos Tversky, “Prospect Theory: An Analysis of Decision Under Risk,” *Econometrica* 47 no. 2 (1979): 263-292.

⁵ For analysis on the applicability and acceptability of using prospect theory for territorial dispute resolution, see Brett DeAngelis, “A Line in the Sand: Prospect Theory and Nash Arbitration in Resolving Border Disputes,” (MS thesis, Naval Postgraduate School, 2012).

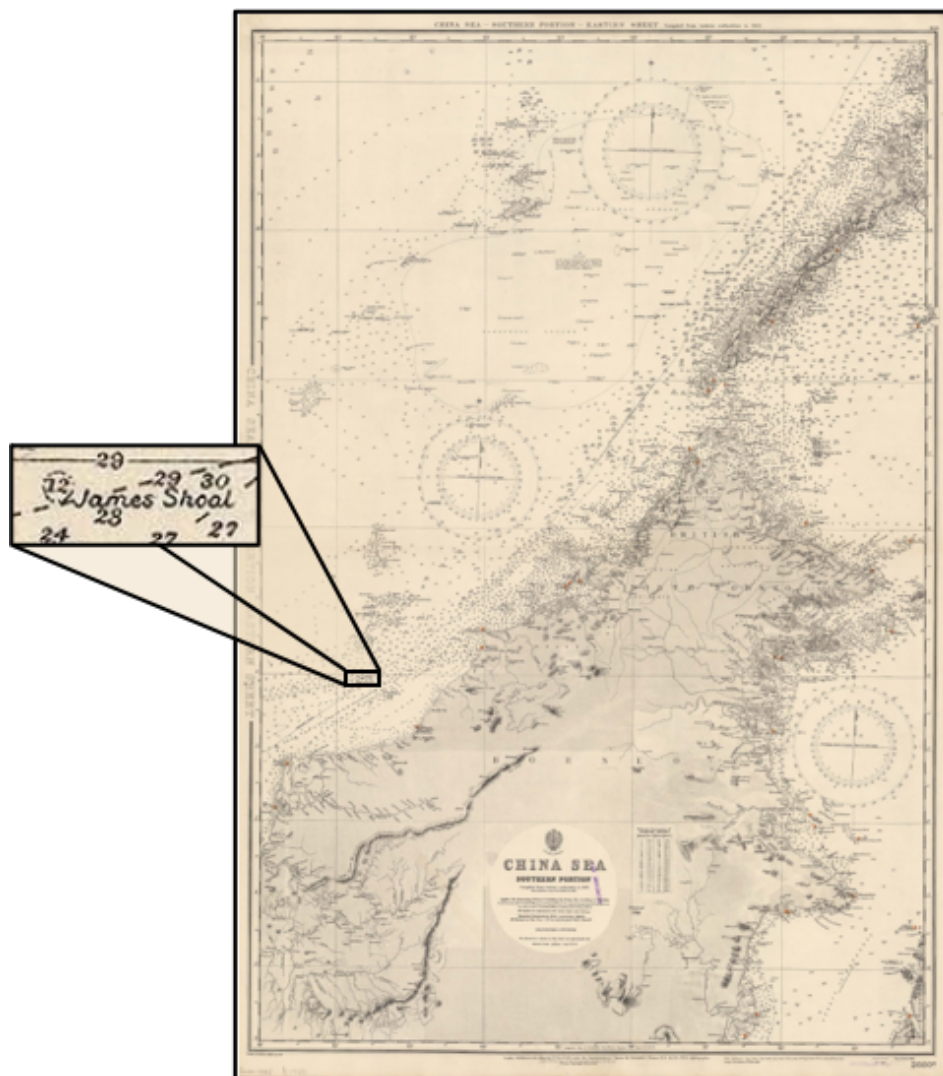


Figure 2. James Shoal on a British Admiralty chart engraved in 1881, last corrected 1935. *China Sea - Southern Portion - Eastern Sheet*, courtesy of The Map House, London.

claims (per UNCLOS). It views the dispute as Chinese claims penetrating its exclusive economic zone off the Borneo coast. Malaysia assesses James Shoal from an economic and legal perspective; fish and energy around the shoal are exclusively theirs, and international convention buttresses their sovereignty claim over them. However, China values the shoal more from a normative

viewpoint than a material view; the Chinese Communist Party (CCP) has “political, social, and psychological perspectives” on the shoal in addition to any resources it may provide.⁶

Prospect theory is well-suited for framing the context of these territorial perspectives.⁷ Postulated as an alternative to expected utility theory for decision-making under varying risk conditions, prospect theory better encapsulates human decisions.⁸ Tantamount is a “reference dependence.”⁹ Said another way, people are more sensitive to gains and losses from a specified reference point than to overall assets or wealth levels.¹⁰ From this reference point, Kahneman and Tversky highlight suboptimal outcomes when compared to the more linear computations of expected utility, specifically that “losses loom larger than gains.”¹¹ This creates altered versions of risk assessments. When framing issues positively (a gains frame), humans avoid risk. However, when the same issue is framed negatively (a loss frame), humans become risk-accepting, and conflict is more likely.¹² Table 1 summarizes some foundations of prospect theory and their relationship to decision making.

⁶ Tuomas Forsberg, “Explaining Territorial Disputes: From Power Politics to Normative Reasons,” *Journal of Peace Research* 33, no. 4 (1996): 433–449. Forsberg argues that terrain can be analyzed from more than just a material view and that a normative view of “territories and borders are more accurate than a simple geo-graphic one” (438).

⁷ For implications of the theory moving from individual choice to a collective (or state) choice, see James D. Morrow, “A Rational Choice Approach to International Conflict,” in *Decision Making in War and Peace*, eds. Nehemia Geva and Alex Mintz (Boulder, CO: Lynne Rienner Publishers, 1997): 16; Jack S. Levy, “Prospect Theory and the Cognitive-Rational Debate,” in *Decision Making in War and Peace*, 43-46; and Jack S. Levy, “Prospect Theory and International Relations: Theoretical Applications and Analytical Problems,” *Political Psychology* 13 no. 2 (1992): 292-293. The literature supports prospect theory as an alternative to analyze state decisions in international relations. See multiple examples in *Political Psychology* 13, no. 2 (1992).

⁸ See Dina A. Zinnes and Robert G. Muncaster, “Prospect Theory Versus Expected Utility Theory: A Dispute Sequence Appraisal,” in *Decision Making in War and Peace*, 183; Jack S. Levy, “An Introduction to Prospect Theory,” *Political Psychology* 13, no. 2 (1992): 173; and Jack S. Levy, “Loss Aversion, Framing, and Bargaining: The Implications of Prospect Theory for International Conflict,” *International Political Science Review* 17, no. 2 (1996): 180-183.

⁹ Amos Tversky and Daniel Kahneman, “Loss Aversion in Riskless Choice: A Reference-Dependent Model,” *The Quarterly Journal of Economics* 106, no. 4 (1991): 1039.

¹⁰ Levy, “Loss Aversion, Framing, and Bargaining,” 181.

¹¹ Kahneman and Tversky, “Prospect Theory,” 279.

¹² Kahneman and Tversky, “Prospect Theory,” 284-288.

Prospect Theory Element	Summary
Reference Point	Transactions viewed as a gain or loss, not overall wealth or final assets
Framing	Identification of the reference point; determines gain or loss
Loss Aversion	Losses loom larger than gains—rather not lose \$20 than find \$20
Reflection Effect	Risk-averse dealing with gains; risk-accepting dealing with losses
Endowment Effect	Possessed items perceived as more valuable than similar items not held
Isolation Effect	Simplify choices by disregarding shared attributes
Certainty Effect	Overweigh certain outcomes to those that are merely probable

Table 1. Summary of Prospect Theory Elements.

INTEGRATING PROSPECT THEORY AND THE JAMES SHOAL CASE STUDY

Framing a national leader’s decision is exceedingly more difficult than framing individual choices in a laboratory, as Kahneman and Tversky did. However, the explanatory power of prospect theory is worthy of the effort. Integrating prospect theory’s lexicon into the James Shoal territorial dispute helps to parse the conflict into manageable threads to determine Chinese and Malaysian reference points—the key to prospect theory. This section will analyze both nation’s viewpoints, set in context with prospect theory, to ultimately frame each nation’s view on James Shoal and lead to arbitrability conclusions.¹³

¹³ For territorial dispute case studies using prospect theory and modeling, see DeAngelis, “A Line in the Sand,” 59-97. Also, William Boettcher postulates dividing national-level decisions into three elements for framing: perceptions of the alternative courses of action, outcomes associated with those alternatives, and probabilities associated with particular outcomes. William A. Boettcher III, “The Prospects for Prospect Theory: An Empirical Evaluation of International Relations Applications of Framing and Loss Aversion,” *Political Psychology* 25, no. 3 (2004): 333.

Previous Losses, Gains, and the Status Quo

Because James Shoal is underwater, it does not have a history of exchange between belligerent parties, as many land disputes do. However, emotional factors in the dispute still sit well within prospect theory framing. Specifically, China has a substantial endowment effect with James Shoal as the CCP has been referencing it for generations as China's southernmost point. Any geographic place marked with such an extreme or unique designation makes it more curious for the human mind. In and of itself, James Shoal is uninteresting; however, the southernmost point of China is worth visiting for no other reason than the novelty. While China may not possess the shoal physically, the Chinese people do mentally. This dichotomy of physical and mental endowments makes James Shoal an "aspiration level" for the Chinese reference point. It is a foregone conclusion of certain gain by the Chinese but not viewed as such by the rest of the world.

Closely tied to China's aspirational level is the CCP's dissemination of the unaccommodated loss (while ancient) of the shoal and the South China Sea in general. With a realist view, China may acknowledge that they do not outright control the South China Sea, particularly when scoped within the past century. However, the Chinese national memory is long, and the CCP stokes these memories with the vastness and greatness of previous empires, which undoubtedly sailed and utilized the South China Sea. The 9-dash line may not fully be defined as an irredentist claim, but the CCP translates the lack of international recognition of complete Chinese sovereignty over the sea as an unaccommodated loss. Viewing any part of the South China Sea as a loss is foreboding, as the reflection effect shows it creates risk-acceptance.

Malaysia's "gain" of James Shoal through UNCLOS is surely anti-climactic. While offshore and out of sight of the coast, the shoal is in Malaysia's local waters compared to any other nation's claim. Calling it a gain is also a bit of a euphemism, as Malaysia recognizes the submerged shoal for what it is and only asserts the exclusive economic claim derived from its

coastal baseline. James Shoal lies within this zone but otherwise does not define or demarcate it. This creates a strong endowment effect for Malaysia. The international community, and no doubt the local fishermen, see it as exclusively theirs.

International recognition of James Shoal lying in Malaysia's exclusive economic zone is the status quo. This creates a dilemma for China, as inaction on their part cedes the shoal to Malaysia. Inaction fosters the certainty effect; if China does nothing, Malaysia is certain to gain/retain the shoal. Prospect theory shows outcomes that are relatively certain instead of merely probable are overly weighted when they are evaluated.¹⁴ The certainty effect interacts with—and is reinforced by—the reflection effect and over-weighs the loss of James Shoal in China's prospect evaluation. The status quo (Malaysian control) also confirms that possession of James Shoal is a Chinese aspiration level on which their reference point is based. Said another way, if the international community does not recognize China's claim, but China believes it to be true, the difference is Chinese aspirations. In this situation, China's reference point will be based on their aspiration level and not the recognized status quo.

China has a normative view of James Shoal (being its southernmost point, as discussed), but like Malaysia, it also has a material view.¹⁵ When decomposing the conflict into various parts, the isolation effect will cause Malaysia and China to simplify the decision-making process by ignoring shared attributes and focusing on the differences. In cases where material views are shared or common (e.g., fishing on the high seas), the isolation effect minimizes these productive and mutual benefits. This highlights the criticality of framing the conflict and thus determining if conflict resolution (or termination) lies in peaceful arbitration or escalation.

¹⁴ In prospect theory's evaluation phase, the individual selects the prospect with the highest value, which is composed of a weighting function (how desirable a prospect is based on its probability) and a value function (defined from a reference point; concave for gains, convex for losses; steeper for losses than gains). Overweighing a prospect, by definition, overvalues it compared to other theories. Kahneman and Tversky, "Prospect Theory," 275.

¹⁵ For a vignette of this normative sentiment, see Zheng Wang, "The Nine-Dashed Line: 'Engraved in Our Hearts,'" *The Diplomat*, August 25, 2014, <https://thediplomat.com/2014/08/the-nine-dashed-line-engraved-in-our-hearts/>.

Framing and the Determination of a Reference Point

The individual and collective cognitive effects within prospect theory described above are intertwined with framing. They both influence it and are influenced by it. This interdependence is a challenge to a concise framing and makes understanding context a critical factor in domain determination. For China and Malaysia to successfully arbitrate from a gains frame, analysis of the context of their dispute (i.e., current situation, history, actors, trajectory) should focus on the benefits of resolution. The focus should not be “on what has been lost or what can be gained, but rather on how to prevent future losses with a treaty. Agreements should be framed not only in terms of how peace represents a positive gain, but also in terms of how it prevents further loss of life and property.”¹⁶

It is easy to see any movement in the territorial dispute as a loss through the Chinese lens, as they most likely would give up their feeble *de jure* claim on James Shoal. However, recognizing the endowment effect, certainty effect, and their aspirational level will help China frame a reference point where resolution is viewed as a gain and not a loss.

China has maintained a consistent message not only on James Shoal but on the entire South China Sea. While the 9-dash line was first distributed in 1947, China continues to lay claim on the South China Sea, stating to the United Nations in 2009:

China has indisputable sovereignty over the islands in the South China Sea and the adjacent water, and enjoys sovereign rights and jurisdiction over the relevant water as well as the seabed and subsoil thereof...¹⁷

¹⁶ Rose McDermott, “Prospect Theory in Political Science: Gains and Losses from the First Decade,” *Political Psychology* 25, no. 2 (2004): 299-300.

¹⁷ Permanent Mission of the People’s Republic of China to the United Nations, *Note Verbale*, May 7, 2009, United Nations Division of Ocean Affairs and the Law of the Sea, Communication received with regard to the submission made by Viet Nam to the Commission on the Limits of the Continental Shelf. https://www.un.org/Depts/los/clcs_new/submissions_files/vnm37_09/chn_2009re_vnm.pdf. The language of this *note verbale* is repeated in other Chinese communications regarding submissions from other nations to the UN Commission during this same period.

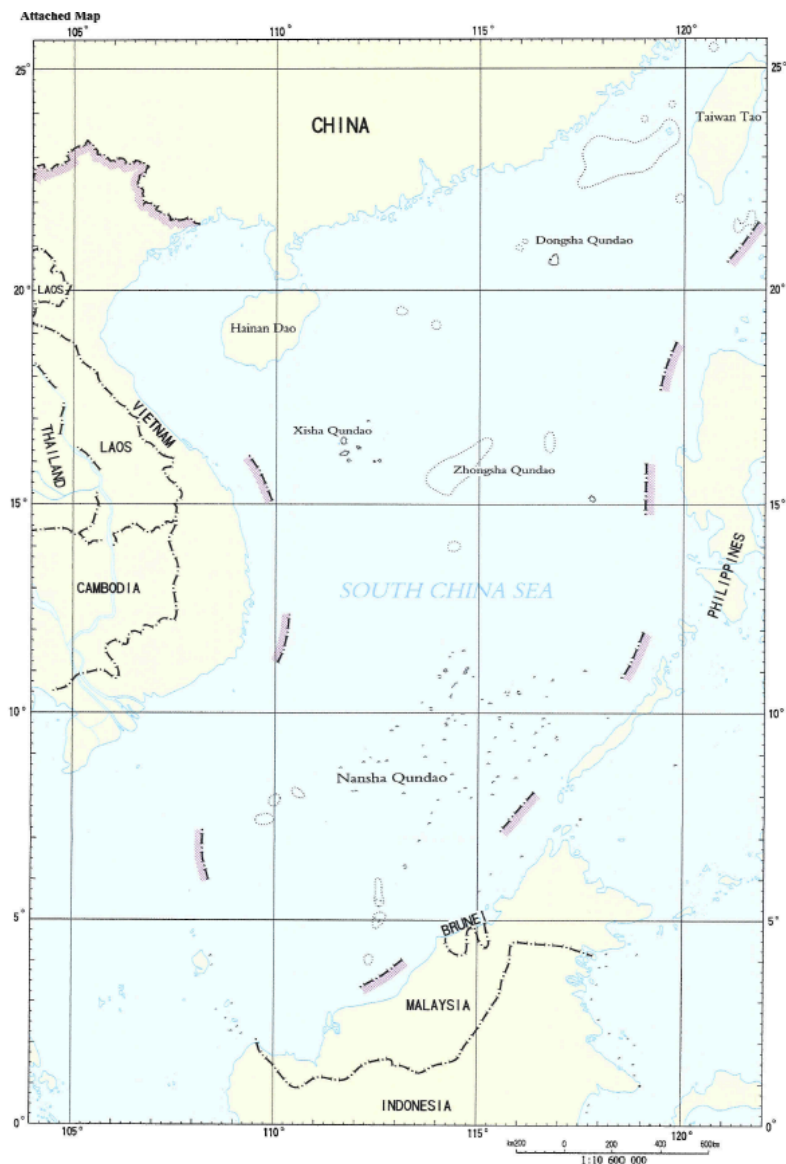


Figure 3. China's 9-dash line map attached to multiple Chinese declarations to the United Nations in 2009. James Shoal is depicted as a circular shoal immediately north of the southernmost magenta "dash." Source: United Nations Division of Ocean Affairs and the Law of the Sea.

Unfortunately for the Chinese, the consistent message has been ambiguous to those outside the CCP. The 9-dash line is not explained outside of the lines on a map, and there is no definition of what type of international legal claim China is making.¹⁸ However, this ambiguity—intentional or not—leaves space for the CCP to maneuver. This maneuver space is essential to mitigate the

¹⁸ M. Taylor Fravel, "China's Strategy in the South China Sea," *Contemporary Southeast Asia* 33, no. 3 (2011): 293-295.

endowment effect. China's consistent messaging feeds the endowment, but if they choose to delineate their unstructured claim better, features like James Shoal can be well suited to negotiations.

A bargaining chip is useful to this end. Using James Shoal as a chip tempers the endowment effect and loss aversion (and a subset of loss aversion, a concession aversion). Bargaining chips also create more of a “commercial transaction” and downplay the emotional underpinnings of an exchange. This is particularly true if a participant enters negotiations with the pre-determined notion of a bargaining chip, and it is not created as part of the process.¹⁹

However, the normative ties to China's southernmost point would seemingly make its depreciation to a mere bargaining chip unacceptable to the Chinese people. On the current trajectory, this is true. However, the CCP is effective at altering its domestic narrative. They must modify their untenable stance on James Shoal just as the cartographers did when they corrected its naming decades ago. Older generations understand re-interpretations to former truths—that our solar system is now eight major planets, Brontosaurus may really be Apatosaurus, and there is a Southern Ocean around Antarctica. Particularly when presented with the zeal the CCP is capable of, Chinese children and their parents will also understand the logic that China's “new” southernmost point is a land feature and not submerged.²⁰

The certainty effect of any Chinese inaction on James Shoal is easy to identify if the dispute is scoped to only regard the shoal. However, as Zhou Fangyin argues, the Chinese approach to the South China Sea is subjugated to China's overall strategic goals. While China has increased assertiveness in the sea, they have also shown self-restraint, depending on how the issue fits into

¹⁹ Levy, “Loss Aversion, Framing, and Bargaining,” 187.

²⁰ This would likely only shift China's southernmost claim slightly north to Luconia Shoals, which have a minimal presence above high tide. Luconia shoals are still very distant from the mainland, and Chinese claims on them are still ill-defined from the 9-dash line. China would be well suited to not just transition to the “next-closest” island but to take a more defensible position, providing them a legitimacy at the bargaining table.

the larger picture.²¹ Framed this way, Chinese inaction on James Shoal is by no means a defeated prospect that requires certain action to counter. Instead, and particularly when combined with its use as a bargaining chip, the (in)action of “letting go” of James Shoal can fit very well into broader CCP policy aims and the “great rejuvenation of the Chinese nation.”²²

The same scoping is important for China’s aspirational level. Instead of letting the aspiration of controlling the shoal define the issue, the CCP must put the shoal into the larger context of party aspirations. Does a sovereign claim over the submerged shoal advance Chinese rejuvenation? To a degree, staking a claim in the South China Sea does, but a sovereignty marker on James Shoal is not the zenith of this aspiration. A more strategic Chinese aspiration is increased influence and security in the South China Sea. This mollifies the aspiration of controlling James Shoal, as its control is not necessary or sufficient for either influence or security in the South China Sea. With this framing and “reduced” reference point, China can enter negotiations in a risk-averse gains frame with bargaining chips in play.

For its part, Malaysia must address the endowment effect and status quo bias in any of its South China Sea negotiations with China. Like China, Malaysia should not scope its prospects to narrow boundaries, like James Shoal. Malaysia may have a more dominant—and tempting—strategy when scoped narrowly. However, a gain (or reaffirmed retention) of only James Shoal may preclude other gains Malaysia may find more strategically valuable. For an unlikely but illustrative example, Malaysia could accede Chinese control of James Shoal (due to China’s overwhelming normative reasons) for strategic concessions in other areas, like China’s full recognition of the remainder of Malaysia’s exclusive economic zone per UNCLOS.

²¹ Zhou Fangyin, “Between Assertiveness and Self-Restraint: Understanding China’s South China Sea Policy,” *International Affairs* 92, no.4 (2016): 869-870.

²² Fangyin, “Between Assertiveness and Self-Restraint,” 872. For more, see Ministry of Foreign Affairs of the People’s Republic of China, “The Central Conference on Work Relating to Foreign Affairs was Held in Beijing,” news release November 29, 2014, https://www.fmprc.gov.cn/mfa_eng/zxxx_662805/t1215680.shtml.

Malaysia has never lost *de jure* control of James Shoal, and UNCLOS strengthens this claim. Therefore, the endowment effect of James Shoal is strong with Malaysia. Just like China, however, Malaysia could recognize the utility of a bargaining chip. James Shoal is Malaysian by nearly all accounts, but because Malaysia does not derive any claims based on the shoal's control, does it need to be Malaysian? Going back to the unlikely example above, if Malaysia retains its "win" of a full exclusive economic zone, could it also give China a "win" with continued Chinese claim of the submerged feature? The legal language would certainly be extraordinary, and its durability questioned by critics of Chinese ambitions, but it is plausible.

When utilizing prospect theory, a "reference-point bias" is a more meaningful term for status quo bias. Malaysia should be aware that an overweighed preference for the current state of affairs may cause a missed opportunity for a more valuable outcome. Here it is important to note that:

While a border dispute is typically a zero-sum game cartographically, it should not be limited to being framed in such a restrictive condition. That is to say, it is possible for both belligerents to be in a gains frame or for both to be in a losses frame. A gain of territory for one (implying a loss of territory from the other) does not mean a gains frame for one and a loss frame for the other. The reflection effect can work to both sides' benefit or detriment, depending on how frames align. Simply because one state may gain territory does not place the other state in a domain of loss.²³

Malaysian framing of the dispute with their larger and more powerful Asian neighbor still comes from a position of strength. From this, they do not need to exercise as many framing tools as China to arrive in (or rather, maintain) a gains frame and risk-aversion to conflict over James Shoal. Aggregating the shoal into the greater South China Sea and other Malaysian-Chinese issues is required to situate the dispute properly in context.

²³ DeAngelis, "A Line in the Sand," 24. See also, Forsberg, "Explaining Territorial Disputes," 438-439.

Arbitrability

With Malaysia and China establishing reference points that create a gains frame regarding their dispute over the James Shoal (and the South China Sea more broadly), bi-lateral arbitration can be introduced as a conflict mitigation.²⁴ Whereas if one or both of the nations were in a frame of losses and risk-accepting, arbitration would not be suitable. Coming to the table on their own accord brings validity and value to the negotiations. From a gains frame, both nations are there in a perceived position of strength, risk-averse, and without one feeling compelled or forced. This does not guarantee success and may make concessions and compromise difficult, but it does bode well for the durability of any accord.

With Chinese preferences to negotiate with Southeast Asian nations one-on-one and not as part of a union like the Association of Southeast Asian Nations (ASEAN), partnerships may need to accomplish their coordination in the background. For instance, ASEAN deliberations can come to a community consensus for how nations can frame their South China Sea disputes regarding China. With framing supported and partially created by ASEAN cooperation, Southeast Asian nations can then take their positions forward bilaterally with China.

This also creates a lack of American involvement in the negotiations—potentially a good thing. American support (and influence) can assist their partners in the framing, just like the ASEAN inputs. However, the final negotiations are more readily acceptable by the Chinese without any direct external influence. While this creates risk for the allied American side, it is a risk well assumed with the prospect of moving forward with conflict resolution.

²⁴ Due to the limited scope of this paper, arbitration is not fully developed and is oversimplified. Political compromise is difficult enough before introducing deeply rooted cultural differences. Ideally, Southeast Asian and Chinese negotiation styles will not be too divergent, but there is still a cultural gap. For a primer of American-Chinese negotiation pitfalls and a summary of how Chinese culture builds around the negotiation process (“finding the way”) rather than the end goal, see John L. Graham and N. Mark Lam, “The Chinese Negotiation,” *Harvard Business Review*, October 1, 2003, <https://hbr.org/2003/10/the-chinese-negotiation>.

CONCLUSION

Arbitration provides a non-violent means to conflict resolution. However, there is a high bar for entry to reap any long-lasting results. Placing the James Shoal territorial dispute into the structure of prospect theory provides an alternative way for China and Malaysia to frame the problem set. Addressing prospect theory elements that encompass their case, both China and Malaysia can frame the conflict from a domain of gains. This risk-averse mindset creates the opportunity for diplomacy, not violence, to create a lasting agreement and peace.

Modern Chinese culture is heavily invested in the narrative of James Shoal, but it is not shackled to it. The Chinese Communist Party has maintained trade space around the shoal, literally and figuratively, that it is well suited to bring to the negotiation set. Malaysia, too, is wise to bring forward a holistic view of the dispute. While cartography is almost always mutually exclusive, the world is not. A concession to the former can make a gain for the latter.

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