

Report:

History, Psychology, and the Rule of Law in East Asian Security

Lecture by Professor David Welch*

Abstract

On December 18, 2018, the Japan Institute of International Affairs (JIIA) invited Professor David Welch to hold a workshop on the rule of law and the Asian regional order entitled “History, Psychology, and the Rule of Law in East Asian Security.” The following is a synopsis of the event.

The security environment of East Asia is now unstable. To manage the situation and challenges that East Asia is facing, Professor Welch stressed the importance of the rule of law and of understanding the psychological aspects of the behavior of countries in and around East Asia. The lecture was insightful because of its use of psychology to explain international politics, which tends to place emphasis on power politics.

The Asian Security Environment

Professor Welch opened his lecture with a thoughtful analysis of the security environment in East Asia by focusing on the leaders of key countries that have an influence on the regional balance of power and order. To begin with, Welch stressed that East Asia is currently full of uncertainty and instability, and Donald Trump is the number one reason for that. Trump is unwittingly doing his best to undermine the liberal international order that the United States helped create after World War II, and on which American security and influence depends.

Welch went on to talk about East Asian leaders such as Xi Jinping of China, Kim Jong-un of North Korea, Tsai Ing-wen of Taiwan, and Shinzo Abe of Japan. According to Welch, Xi Jinping’s China is not an expansionist power, but it is a country that wants to be respected as a great power. A big part of Chinese foreign policy these days focuses on controlling what other people say and think about China and Chinese policy, which is evidence of China’s sense of vulnerability and insecurity.

There are two broad ways to interpret North Korea’s Kim Jong-un, though Welch admitted he does not fully understand Kim. One possibility is that Kim is an unambitious, status quo autocrat like his father. If all Kim wants is to maintain the independence of North Korea, he is not necessarily a big international problem. The other possibility is that Kim is an ambitious leader who thinks having a nuclear capability is necessary for North Korean survival and doesn’t want to give up nuclear weapons.

However, as Welch noted, there is no sign that North Korea will ever seriously attempt denuclearization. Kim might therefore be a manageable problem, but there is another possibility, which is that he is very ambitious and seeks to succeed where his god-like grandfather failed: namely, in reunifying Korea under Kim family rule. Welch expressed concern that Kim may eventually suffer from delusions of invincibility, because dictators who enjoy absolute power and

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are worshipped for extended periods of time can lose the capacity for rational judgment and do things that may seem irrational.

Welch said Taiwan's Tsai Ing-wen was doing a good job by not crossing the red lines that would trigger aggressive action from China. He expressed his opinion that the relationship between China and Taiwan is the number one long-term problem in East Asia. Welch was generally dismissive of President Rodrigo Duterte of the Philippines, except to note that he made it easy for China to save face when the Philippines won their South China Sea arbitration tribunal dispute.

In his analysis of Japanese Prime Minister Shinzo Abe, Welch noted that it is natural for a country such as Japan that faces a very uncertain security environment in East Asia to increase its capabilities to deal with its own security challenges. However, what makes Japan an unusual country is that there is domestic opposition to increasing defense capabilities, and Abe has to make adjustments for this. Considering the unusual situation in Japan, Welch noted that it makes complete sense for Japan to emphasize the importance of the rule of law, and Japan's vision of a "Free and Open Indo-Pacific" was an articulation of this emphasis.

Four Different Concepts for Analysis and Their Relationship to Each Other

Welch introduced four concepts that help us analyze the security environment in East Asia: the rule of law, history, politics, and psychology. The rule of law was the main concept that Welch focused on in his lecture, and he stressed we have to understand how it relates to psychology, history and politics. Starting from the rule of law, Welch explained the implications of each of the concepts on the others, and explored the usefulness of this framework by looking at the case of the South China Sea.

<History>

History is vitally important in legal disputes over territorial sovereignty. Not surprisingly, all claimants in the South China Sea offer historical narratives to back up their claims. Unfortunately, the historical record is not clear enough to sustain any particular set of claims. History plays a very minor and peripheral role in legal arguments over maritime jurisdiction in view of the fact that the UN Convention on the Law of the Sea (UNCLOS) swept aside all prior customary maritime law, replacing it with an agreed body of positive law. That China relies so strongly on historical arguments in the South China Sea is interesting, for two reasons: first, because they cannot establish maritime rights; and second, because China insists upon resolving disputes through negotiation. Historical claims play no role in negotiation.

<Politics>

Whenever there is a hot topic, there is a domestic political angle and an international political angle, and these angles interact with each other. Even authoritarian states have to be responsive to domestic opinion. Therefore, when we are dealing with maritime and territorial disputes, we are basically trying to address both a domestic and an international audience at the same time.

<Psychology>

There are at least four insights from psychology that help us understand the rigidity and emotional valence of claims in the South China Sea.

Cognitive psychology tells us that beliefs are terribly important. We all have sets of beliefs ("schemas") about the world that we use to interpret new information. Schema theory shows us that we easily form new beliefs without much evidence, but demand a much higher standard of evidence for changing a belief once it is formed. There are two main schools of thought about the way people change their beliefs. One says it takes a long list of events that are inconsistent

with your beliefs before you start to change your beliefs. The other school of thought says a big disaster is adequate; if you experience a serious failure, that will force you to change your beliefs.

Another part of the psychology of disputes is what is known as the fundamental attribution error. If somebody we don't like does something we don't like, we tend to attribute it to their character. This is in contrast to behavior we don't like by people we like, which we generally attribute to situational constraints.

We can find still another psychological tendency that helps us understand things: egocentric bias. When people do things we don't like, we tend to think they're directed specifically at us.

The last factor is the justice motive. When our sense of justice is triggered, we tend to become hysterical, and demand absolute satisfaction of our rights.

Conclusion

Welch concluded that historical disputes may trigger bad psychological dynamics, which then trigger domestic and international political challenges. We then get feedback loops between historical narratives and the psychology of politics.

However, when we introduce law into this loop, historical disputes tend to be calmed down by the dialog between law and history. Law is a magic ingredient for helping take history out of the picture and calming down the political and psychological dimensions of disputes, according to Welch. In the long run, then, the best hope for solutions to disputes in the South China Sea is to give claimants time to internalize legal judgments of the kind handed down in 2016 by the Permanent Court of Arbitration in the case of *Philippines v. China*. There are encouraging signs that this is already beginning to happen.