
THE RIGHT TO PEACE IN KOREA

How the State of War in Korea Violates Fundamental Human Rights

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The war in Korea has never ended. More than twenty eight thousand U.S. troops in dozens of posts and bases still occupy the tiny country of South Korea as the saber rattling of an endless war marches on. On March 9, 2009 the U.S.-South Korea Key Resolve-Foal Eagle military drills, involving tens of thousands of U.S. servicemen, including 13,100 stationed outside South Korea (ROK), filled Korea with parachuting soldiers, ran exercises to round up mock prisoners and engaged in war maneuvers with nuclear capacity destroyers and aircraft carriers.¹

The action brought the North Koreans to “full combat readiness,” a response repeated year in and year out for decades. Less than a month later Pyongyang went ahead with a launch of a communications satellite aboard a space rocket. Japan threatened to shoot it down, and the US and ROK led a move for sanctions against North Korea (DPRK) in the UN. In response the DPRK announced they will begin reprocessing spent fuel rods at their nuclear facility to improve their “nuclear deterrent” demanded that the Security Council apologize for infringing on the North's sovereignty. Otherwise, the Foreign Ministry said it "will be compelled to take additional self-defensive measures," including "nuclear tests and test-firings of intercontinental ballistic missiles." This perpetual dangerous state of war has gone on for more than half a century.

In Korea the “forgotten war,” as it is referred to by many in the U.S., still hangs in a delicate balance with no end in sight and American soldiers

¹ The event was larger than the 2008 war simulation exercise which only utilized 27 warships and 30 combat and cargo helicopters.

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are once again caught far from home with no exit strategy in sight. We are nearing the close of the United Nations Decade for a Culture of Peace. It is time to see the damage wrought by a perpetual state of war and mistrust and *put teeth to peace*, by declaring an end to the Korean War and acknowledging that such actions, whether justified as “strategic alliances” or “police actions,” violate international law and UN resolutions that guarantee peace as a sacred human right. With both halves of Korea having reunification proposals, ideas and even government unification ministries, the time is ripe to support peace and reunification in Korea.

THE WAR AND ARMISTICE

For 1300 years or more the Korean peninsula was one nation – one people. Although having suffered through the trauma and tragedy of numerous violent invasions and occupations by China and Japan, it was not until the mid 20th century that a foreign power, the United States, unilaterally divided their country. It was 1945 in a small basement room of the White House, hours after the bombing at Hiroshima, that two mid-level military strategists drew a pencil line through Korea along the 38th parallel on a National Geographic map. Thus, a nation was divided by those with little experience in the region and without consulting Koreans.

This separation of families and neighbors led to a civil war for reunification. Over the next five years more than one hundred thousand lives would be lost in the guerilla fighting throughout Korea, as the U.S., beginning in 1948, propped up a series of corrupt regimes. In 1950 alone nearly one hundred thousand civilians were massacred in South Korea for political reasons by the newly formed South Korean government in a move to purge alleged communists. Recent investigation by the South Korean Truth and Reconciliation Commission has



uncovered documents showing that the U.S. was present at and/or was aware of the mass killings and took no remedial action.²



While dissent was being quashed in the South, the United States led the push for authorization for formal military action at the newly formed United Nations. In a vote of the United Nations Security Council (9-0 with the Soviet Union absent), the U.S. received a green light to form a "UN force" to come to the aid of South Korea to stop the alleged aggression of the North. Eminent Korea Historian Bruce Cumings described the sad irony at a recent conference on peace and reunification stating: "Imagine if the British drew a line splitting America during the civil war and Americans did not agree to the imaginary line, nor agree to British enforcement...It was Koreans invading Korea in a civil war and we call it 'aggression.'"

In a press conference on June 29, 1950 announcing the deployment of U.S. troops, U.S. President Harry S. Truman characterized these hostilities as not being a "war", but a "police action." Thus, he decided that it was not necessary to seek a formal declaration of war from Congress. The "forgotten war" would go on to be the "forgotten peace."

To understand the importance of a peace treaty and also the psyche of the regime in the DPRK, it is necessary to study the nature of the war. The Korean War proved to be far from a "police action," and was extremely destructive to the land and to its people. Carpet-bombing of civilian urban areas in the North raise serious international law issues and was "worse than in Germany," points out Cumings. "Pyongyang looked like Hiroshima and Nagasaki after the bomb." As the war raged, China came to the aid of the North and the multinational force "of the willing" led by the U.S. increased its campaign.

² The Korean Truth and Reconciliation Commission (TRC) is the first of its kind in Asia and is charged by the ROK government under the Framework Act with investigation into such matters as massacres from August 15, 1945 to the Korean War; Incidents of death, injury or disappearance, and other major acts of human rights violations, including politically fabricated trials, committed through illegal or seriously unjust exercise of state power, such as the violation of the constitutional order from August 15, 1945 to the end of the authoritarian regimes; and Terrorist acts, human rights violations, violence, massacres and suspicious deaths by parties that denied the legitimacy or were hostile towards the Republic of Korea from August 15, 1945 to the end of the authoritarian regimes; See http://www.japanfocus.org/-G_McCormack_D_C_Kim/3056

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Picture a country shocked by the leveling of nearly its entire territory through bombs, mostly of an incendiary nature utilizing more than 17,000,000 pounds of Napalm. Fifty three thousand U.S. soldiers died, and there were more than 3.5 million victims of the “police action”, resulting in one in ten Koreans being wounded or killed. These wounds still reverberate through the fabric of Korean society.



An Armistice Agreement was finally signed on July 27, 1953. It had taken 158 meetings spread over more than two years to reach an agreement. It provided for POW releases and the establishment of the Demilitarized Zone (DMZ). However, an armistice is a tenuous way to end a war and is not a peace treaty. Article 36 of the Regulations annexed to the Hague Convention with respect to the Laws and Customs of War by Land of July 29, 1899, provides that an armistice only suspends military operations by mutual agreement between the belligerent parties. Any serious violation by one party gives the other the right of denunciation, justifying their immediate recommencement of hostilities (Article 40). This is the state of war that has existed to this day. It is merely a military agreement, as no nation has signed it. Under the General Assembly Resolution 711 (V11) of August 28, 1953, the United Nations endorsed the Korean Armistice Agreement of July 27, 1953, as did General Kim, Il-Sung as one of the Commanders but no treaty was negotiated.

The armistice agreement itself envisioned that the political sides to the conflict would meet rapidly and enter a formal peace treaty. Article 60 read:

In order to insure the peaceful settlement of the Korean question, the military Commanders of both sides hereby recommend to the governments of the countries concerned on both sides that, **within three (3) months** after the Armistice Agreement is signed and becomes effective, a political conference of a higher level of both sides be held by representatives appointed respectively to settle through negotiation the questions of the withdrawal of all foreign forces from Korea, the peaceful settlement of the Korean question, etc.

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The Soviets left in 1950 and the Chinese by 1958. The U.S. is the only foreign power that left troops in Korea in contravention of the intent of the the Armistice Agreement and no peace treaty has been signed.

The Korean War took place at the height of the cold war and became a war of separation and pain for millions of Koreans. Rather than chart their own destiny the country was divided and families were scarred forever in this international cat and mouse game of anti-communism. After the guns fell silent it fell upon politicians in the U.S. and Korea to build a lasting peace. No peace treaty was entered, talks that year collapsed and it became a symbol of the now-outdated ideological East/West division taking place across the planet.³

On certain levels little has changed in the DPRK/U.S relationship since 1953. Trust is elusive as the U.S., having pointed nuclear weapons at the DPRK from South Korean soil for decades, declared in 2002 in Bush's Nuclear Posture Review that the DPRK is "a target for nuclear pre-emption," - a threat of war that is inconsistent with the UN Charter and the right to peace. With the massive annual war-games along the DMZ, the illegal invasions of Iraq and former President Bush's inclusion of North Korea as part of an "axis of evil," it is not surprising that the DPRK played the nuclear card.

Not only had the U.S. been responsible for dividing Korea and leading a cruel and destructive war, but today it still controls war-time command over the South Korean army, now standing at over 660,000, whose own military expenditures exceed its Northern half by more than 10:1. South Korea buys billions of dollars of weapons from U.S. manufacturers and the government and the U.S. is spending nearly \$30 billion annually to cover its operations. One then would be forced to ask "If the state of war and instability ends, what is the justification for such massive expenditures and what would be the need for U.S. soldiers to occupy dozens of U.S. army posts and air force bases

³ One attempt at a peace treaty was made following the armistice. In 1954, from April until June, representatives met in a peace conference in Geneva. At the conference, the Communist side was represented by North Korea, Communist China and the Soviet Union (by special invitation), while the United Nations was represented by the United States, Republic of Korea, Australia, Canada, Colombia, Belgium, Ethiopia, France, Greece, Luxembourg, the Netherlands, New Zealand, the Philippines, Thailand, Turkey, and the United Kingdom, whose armed forces had participated in the Korean War under UN Security resolutions of June 25, June 27 and July 7, 1950. Unfortunately this meeting was held at the height of the Cold War and it ended without an agreement. On the table were removal of all foreign troops, the presence of a temporary UN force, unification and elections. A recommendation at the end of the conference put forth by the Chinese was to "agree to continue their efforts toward achieving a "peaceful settlement of the Korean question," and that the time and place for resuming appropriate negotiations be determined separately through negotiation by the states concerned."

in a country roughly half the size of the state of Minnesota and half way around the world?”

A treaty between the U.S. and DPRK would be a key step in moving from the tension inherent in continually being on the brink of war to an atmosphere where healing and increased trust can be cultivated.⁴ It would be a step in the direction of peace, rather than maintaining this state of war.⁵ Ending such conflicts is not only mandated by law, but serves to define our moral fabric as a planet.



Such action is also in line with the stated intent of both North and South Korea, as each have pledged to make peace and reunification their goal. The nation has engaged in joint economic ventures, exchanged craft shows, and even held joint golf tournaments, while their level of trade and exchange has through 2008 been growing annually. Yet, today as the threat of war or a nuclear showdown edges closer, the United States/DPRK relationship remains in a diplomatic limbo, causing cross-border or international incidents to often begin with a military threat, lead to patchwork or shotgun diplomacy with short-term objectives, and do little to break a dysfunctional relationship based on misunderstanding and mistrust.

We as a world can no longer tolerate a quasi-state of war in Korea in violation of international laws that require those involved to take steps for peace. The U.S. has remained a “belligerent” in a lingering state of war. Despite extensive formal reunifications efforts between the North and South, peace remains elusive in large part due to this on-going hostility, the failure to recognize the DPRK as a nation and the abandonment of engagement, as a powerful tool in diplomacy, even with those nations with which we have profound differences.

⁴ Despite no formal peace treaty ending the war, most all of the countries involved in the military operation in Korea have entered into separate agreements by which they recognized the DPRK and established diplomatic relations. France has a formal DPRK Liaison Office in Paris with accredited diplomats and is discussing more formal diplomatic relations. To date more than 158 countries have formal diplomatic relations with the DPRK with the notable holdouts being South Korea, Japan and the United States.

⁵ No unified peace conference or negotiation of a peace treaty occurred over the next fifty years and it was not until 1997 and later in 2003 in the four way talks between the North and South Korea, and China and the U.S. that peace was at least back on the table.

THE RIGHT TO PEACE

The time has come. The Korean people on both sides of the border have a right to peace - a human right. The General Assembly of the UN has declared "that life without war serves as the primary international prerequisite for the material well-being, development and progress of countries, and for the full implementation of the rights and fundamental human freedoms proclaimed by the United Nations." ⁶

It is time for the people of the world, along with the United Nations and its member states, to step forward and call for an end to the standoff - an end to the war.

In 1984 the UN General Assembly passed Resolution 39/11 : *The Right of Peoples to Peace* recognizing that the maintenance of a peaceful life for peoples is the sacred duty of each State:

1. Solemnly proclaims that the peoples of our planet have a sacred right to peace;
2. Solemnly declares that the preservation of the right of peoples to peace and the promotion of its implementation constitute a fundamental obligation of each State;
3. Emphasizes that ensuring the exercise of the right of peoples to peace demands that the policies of States be directed towards the elimination of the threat of war, particularly nuclear war, the renunciation of the use of force in international relations and the settlement of international disputes by peaceful means on the basis of the Charter of the United Nations;
4. Appeals to all States and international organizations to do their utmost to assist in implementing the right of peoples to peace through the adoption of appropriate measures at both the national and the international level.

⁶ General Assembly - The right of Peoples to Peace A/RES/39/11 2 November 1984

<http://www.un.org/documents/ga/res/39/a39011.htm>

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The UN must move to enforce its “sacred” *People’s Right to Peace* declarations with any ongoing conflicts that maintain an actual or quasi-state of war. This is especially true in light of the UN’s checkered role in authorizing the war and in still lending its name to the operation. The world must tell the United States that its time to step up and fully support the divided nations’ rights to self-determination, reunification and peace.

The *Right to Peace* resolution puts the duty on the U.S. to set policies and take actions “Toward the elimination of the threat of war” and to actively “find ways to settle disputes through peaceful means on the basis of the UN Charter.” The UN Charter, a ratified treaty which under the U.S. constitution is the “supreme law of the land,” was a strong reaffirmation of “our faith in fundamental human rights....to....live together in peace.” But it also established an affirmative duty “to take effective collective measures for the prevention and removal of threats to the peace...and to bring about by peaceful means ... settlement of international disputes....”⁷

When the United States runs provocative war games, fails to recognize a nation’s right to exist, occupies another country with tens of thousands of troops and takes no steps to work proactively to negotiate an end to a war, it is not complying with its legal constitutional duty to “remove the threats to the peace.” It is time for the international community to invoke the founding notion of the UN and apply pressure the U.S. to actively work for peace and end its militarism in Korea.

THE INTERNATIONAL DECADE FOR A CULTURE OF PEACE

The time for the international community to intervene for peace is especially poignant as we wind out of the UN’s “Decade of Peace.” The International Decade for a Culture of Peace and Non-violence for the Children of the World (2001-2010) was to redefine our world for the 21st century and implement “a set of values, attitudes, modes of behavior and ways of life that reject violence and prevent conflicts by tackling their root causes to solve problems through dialogue and negotiation among individuals, groups **and nations.**”⁸

⁷ UN Charter, Preamble and Art. 1

⁸ UN Resolutions A/RES/52/13 : Culture of Peace and A/RES/53/243, Declaration and Programme of Action on a Culture of Peace.

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To bring about peace and non-violence, the UN declared that “whenever war and violence dominate, there is no possibility to ensure human rights.” In order to have a peace culture it is necessary to:

advance understanding, tolerance and solidarity to abolish war and violent conflicts [by] transcending and overcoming enemy images with understanding, tolerance and solidarity among all peoples and cultures. Learning from our differences, through dialogue and the exchange of information, is an enriching process...”⁹

A relationship between nations is essential to have a culture of peace as “participatory communication and the free flow of information and knowledge are indispensable for a culture of peace.” It states that all efforts should be made to “promote international peace and security [in order to] increase our efforts in negotiation of peaceful settlements, elimination of production and traffic of arms and weapons, humanitarian solutions in conflict situations, post-conflict initiatives...”

Therein lies our path. The United States must become a leader for peace and join the move toward a new way of relating. By finding a “humanitarian solution” to the Korean conflict that is respectful, advances understanding wherein we learn from our differences, we create a new world dynamic.

In this world of weapons of mass destruction and poorly defined “wars on terror” it is becoming clear that militarism is outdated as a means of resolving conflict. Canadian Senator Douglas Roche in his latest book *The Human Right to Peace* points out strongly that “we must replace our current culture of war with a culture of peace.” The “massive lie” of militarism, says Roche, is that weapons bring security. When resources are poured into the military-industrial complex, they are diverted from investments in the environment, education and public services. He argues that these foundations for true peace and real security end up deteriorating, leading to conflict and endlessly perpetuating the cycle of

⁹ Id. Furthermore the Korean conflict has been a symbol of the one filled with “enemy images,” whether it be the horns of the devil South Korean school kids were taught to place on their depictions of North Koreans, or the distorted images of Kim Jong Il as the evil “pygmy dictator,” as stated by former President Bush at an Asian meeting during his presidency. Even the progressive filmmaker Michael Moore got caught up with the rhetoric publicly calling Kim “that drug selling porn loving leader.”

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violence and war.¹⁰ He adds that "The culture of war so pervades public opinion that it has drowned out voices asserting that the human right to peace is a fundamental right of every human being and is, in fact, the major precondition for all human rights."

In the United States the National Lawyers Guild Korean Peace Project, along with several other organizations, has established a National Campaign to End the Korean War .¹¹ It has rallied hundreds of groups and individuals to sign on to the call for a peace treaty to end the Korean War and the establishment of normalized relations between the U.S. and the DPRK. The goal is to support the North and South's efforts at peace and reunification without outside interference. However, the movement for peace needs world solidarity behind establishing that the right to peace of the Korean people are violated by the current militarism of Korea by the United States and the failure to work unconditionally for peace. The UN must continue its effort to further clarify that the right of peace is a fundamental human right, but also to start enforcing it.¹²

With 2.7 billion people living on less than \$2 a day, 1.1 billion lacking drinking water and over 800 million hungry, we can ill afford to continue the culture of war. These problems can only become resolvable as we see the value of shifting resources from maintaining states of war to truly enforcing the UN Charters call for fundamental human rights that builds peace. Currently the U.S. spends nearly as much in its operations in Korea as the entire UN had for its millennium goals of advancing a human security agenda in health education and human rights. This must change. The right to peace is truly a human right because without it, there can be no progress in a culture of war .

As Senator Roche quoted from an unnamed U.S. delegate to the UN during the Bush Administration: "Peace should not be elevated to the category of a human right, otherwise it will be very difficult to start a war."

Hmmm.

¹⁰ The U.S. is often critical of the DPRK for it spending on military defense, missiles and related projects when its people are in need of food and other enhancements to the quality of life. Yet, the U.S. often fails to see that it is maintaining the necessity for military deterrence by its actions on the peninsula.

¹¹ See www.endthekoreanwar.org Founded by the National Association of Korean Americans (NAKA), National Committee for Peace in Korea (NCPK), National Lawyers Guild, Korean Peace Project, North American Network for Peace in Korea (NANPK) and Veterans for Peace, Korea Peace Campaign

¹² The Lluçà Declaration on the Human Right to Peace, adopted in 2006 in Spain by an expert drafting committee, is now in consultation with international civil society, with a view to submitting to the UN a draft universal declaration on the human right to peace.