

*Towards Sustainable Peace
in the Korean Peninsula :*
A Korea Peace Treaty



THE NATIONAL COUNCIL OF CHURCHES IN KOREA

Towards Sustainable Peace in the Korean Peninsula: A Korea Peace Treaty

For some time there have been talks about a Korea peace treaty among activists of the reunification movement organizations and scholars. The discussions include the necessity of the peace treaty itself, its contracting parties, substance, and its effects. Let us look at the key aspects of the peace treaty in the context of a permanent peace system in the Korean peninsula.



1. Peace System and Peace Treaty

The peace system is a holistic concept of tangible/intangible factors and structures. It enables those involved in war to end the war and develop a peaceful relation among them. The tangible factors include armistice treaty, peace treaty and disarmament while the intangible factors include the transition of military culture to a peace culture, settling enmities and strengthening friendship.



The peace treaty largely consists of two pillars. The first one is restoration of peace that includes preventing another war and creating a peaceful relationship. The second one is peace-keeping to preserve such a peaceful state. When these two come true, the peace system can maintain a steady condition. Restoration of peace includes the armistice and peace treaty while peace-keeping includes a security treaty and nonaggression treaty. A nonaggression treaty contains territory nonaggression, arbitration, renunciation of war, non-intervention and peaceful coexistence. While the peace treaty is signed during war, the nonaggression treaty is signed during peace. When nonaggression clauses are included in a peace treaty, then such a peace treaty would also be a nonaggression treaty as well.

The Korean War has not officially ended, but instead has only been temporarily suspended. Therefore restoration of peace let alone peace-keeping has not yet taken place either in the real world or under international law. The Armistice Agreement (1953.7.27) states in the preamble its purpose: “with the objective of establishing an armistice which will insure a complete cessation of hostilities and of all acts of armed force in Korea until a final peaceful settlement is achieved,” and it also mentions the following important content in article 4, clause 60:

“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.”

Ending the Korean War and settlement of peace is only possible when a peace treaty follows the armistice agreement. However, since the armistice agreement, there have been no high-level talks to ensure the conclusion of a peace treaty, and thus the peninsula has become a place of conflict where hostility and confrontation persists. After the end of the Cold War, the peninsula has been referred to as the world’s flashpoint where dangers of war persist. Therefore there is a need of peace-keeping of the cease-fire condition; however, such conditions are self-contradictory. The armistice system itself is unstable and threatens peace; therefore, how can such a condition be maintained peacefully? The transition of the armistice into a peace system is the right alternative from the realistic point of view as well as from the point of international law. Of course signing of a new treaty does not ensure the complete transition of an armistice system to a peace system. International politics



fundamentally relies on power and interests, furthermore, those who have waged war against each other experience such forces more severely. Therefore, the international law approach such as a peace treaty involves certain political measures like normalization of diplomatic relations, military measures like denuclearization, trust building and disarmament. It also involves economic cooperation such as cultural, economic and social exchange.

Then what can be the appropriate legal measure that can embody Korea's peace system? Depending on the treaty's scope and character, either peace-keeping or peace restoration could be emphasized, or a political declaration or a binding international law could be put into focus.



Accordingly there can be a nonaggression statement (treaty) and a peace statement (treaty). In fact, nonaggression has already been agreed upon in the Inter-Korean Basic Agreement (1992.2.19) signed by the North and South prime ministers. Since 2005 there had been certain progress concerning North Korea's nuclear issue, hence the Roh government and

the Bush government began to explore the possibility of a declaration of the end of the war with the North and South, the US and China. As a result, in an October 4 Inter-Korean Summit (2007) and in Kor-US high level talks, the possibility about the declaration of the end of the war was mentioned. Still, the declaration of nonaggression and the end of open conflict is not a peace treaty itself, but rather a transitional measure to promote the process of the peace treaty. In contrast, some may say that the peace treaty is not necessary because the peace treaty can easily be nullified. Such measures as establishment of diplomatic relations, and the strengthening of friendship through political, military and economic exchange could supposedly be more useful in the settlement of a peace regime. In the past, the non-aggression treaty between Germany and Soviet Union as well as the Israeli-Palestine peace treaty were not fully implemented and war broke out again. In

contrast, after the World War II, the Soviet Union and Japan promoted a good relationship without the peace treaty through establishing diplomatic relations.

Nevertheless, most experts agree that there needs to be some form of a peace treaty when moving from an armistice system to a peace system. Especially when peace is continually threatened under the armistice system, it is impossible to recover and maintain peace without any political or military measures. In our climate, economic and cultural exchanges cannot be alternatives to a peace treaty. Therefore a peace treaty is a must in the Korean peninsula.



2. Contracting Parties of the Peace treaty

The peace treaty differs from the status quo nonaggression treaty in that it changes the war state to a peace state and that the signing parties are head of states rather than army commanders. The contracting parties of a peace treaty and an armistice treaty are not necessarily identical with each other. The signatories of the Korean War are the Supreme Commander of the UN Command, Supreme Commander of the Korean People's Army, and Supreme Commander of the Chinese People's Volunteer Army. In contrast, it is plausible that heads of North/South Korea, the US and China be the signatories of the peace treaty. The fact that South Korea is participating as a signatory of the peace treaty is what makes it different from the armistice treaty. Likewise, President Roh Moo-hyun and Chairman Kim Jung-Il agreed upon the following in the fourth clause of the 10.4 Joint Declarations.



The South and the North both recognize the need to end the current armistice regime and build a permanent peace regime. The South and the North have also agreed to work together to pursue having the leaders of the three or four directly concerned parties convene in the Korean Peninsula and declare an end to the war.

In the agreement above, there has been debate within the media and related parties on who the “concerned 3~4 parties” are. First, regarding the “4”, most have agreed that it would be North and South Korea, the US and China. Disagreement emerged as to who the “3rd” would be, and then whether the “4th” was even necessary. We may assume that based on the fact that the parties of the 10.4 Joint Declaration were North and South Korea, these two countries would be definitely be part of the “3”. In fact, the fourth clause of the Joint Declaration is significant as both the heads of the North and South have officially confirmed that the direct parties for building peace in the peninsula would be North and South Korea. Until then, North Korea had not acknowledged South Korea as a partner in discussion of the peace issue. This was because the South was not a signatory party of the armistice treaty and also because wartime control belongs to the US, not to the South. Then who would be the 3rd country in the “3”? During that time, right after the 10.4 Joint Declaration, the Chinese ministry of foreign affairs issued a critical remark on the fourth clause of the 10.4 Declaration. The South is allied with the US; and the North must end the hostile relations with the US and acquire security assurance. In fact it remains questionable as to whether China, who not only participated in the Korean War but also signed the armistice treaty should be left out. If a declaration of the end of war requires participation by 4 countries, then there needs to be further consideration of a four-party peace treaty.



Regarding the issues of the parties of a peace system in the Korean peninsula, there are some examples to look into. First, since the Cold War period, four party talks have been discussed and suggested in Washington and Seoul. In 1976, US Secretary of State Henry Kissinger first mentioned four party talks in his speech at the UN. Twenty years from then, on April 16, 1996, President Kim Young-sam officially proposed four party talks in Jeju during a KOR-US Summit. After the Summit paved the way forward, the

North and South, US, China opened its first talks in December, 1997 and carried out six talks up until 1999. But the four countries could not agree upon the issue of the US military in the South as well as the method for building the peace treaty; then the talks halted. There have been claims that there are six rather than four parties. In fact, between August 2003 and December 2008, there have been Six Party Talks. The Six Party Talks designated denuclearization as its main goal, but there have also been discussions on a peninsula peace system and Northeast Asia security issues.

Even before the 10.4 Inter Korean Normalization Declaration in September 2005, the six parties, after long discussion, produced a 9.19 Common Statement and in the fourth clause, the peninsula's peace regime is mentioned along with related parties accordingly.

The directly related parties will negotiate a permanent peace regime on the Korean Peninsula at an appropriate separate forum. The Six Parties agreed to explore ways and means for promoting security cooperation in Northeast Asia.

Here, it is appropriate that the signatories of the peace treaty be four parties: North and South Korea, the US and China. Such has been made clear under the consideration of related parties of the divided/armistice system, of the host nations of foreign troops, and of the interest of the parties directly related to the peninsula's peace treaty. The balance of national



and international cooperation in resolving the Korean issue has also been considered. Still, just in case the Korean problem becomes over-internationalized to a point that the North-South party principle becomes eroded in building peace, ways to decrease such difficulties have also been taken under consideration in the draft of this peace treaty proposal.



3. Main contents of the peace treaty

There is no standard form for the contents of the peace treaty as it is up to the agreements of the contracting parties. But the clause “ending hostile behavior and recovering peace” should definitely be included in the peace treaty.

The contents of the peace treaty can largely be divided into general and special clauses. The general clauses include the end of hostile behavior, withdrawal of occupation forces, the restoration of seized properties, the repatriation of captives, and the recovery of treaties. The special clauses include damage compensation, cession of territories, etc. In the case of Korea, several of the general clauses such as the end of hostile behavior, withdrawal of occupation forces and repatriation of captives have already been included in the armistice treaty. Of course, regarding the end of hostile behavior, there have not yet been cases of war so far, but there indeed were several cases of military collision at sea as well as gunfights at the DMZ area. But the issue of withdrawal of the US military forces still remains as a key issue. Especially since the war ended without victors, it is likely that there will be disagreement on whether the special clauses should be included in the peace treaty or not. The contents of the special clauses, as seen in the results of WWI and WWII, should be the responsibility of the defeated nation, but the Korean War ended without any victors. In contrast, in the peninsula’s peace treaty, due to the uniqueness of being a divided country, the peninsula’s denuclearization and the diplomatic normalization between the confronting countries could all be considered. Hence the NCKK would like to propose the following peace treaty which has included the considerations above.





A Korea Peace Treaty

The Democratic People's Republic of Korea (DPRK), the People's Republic of China (China), the Republic of Korea (ROK) and the United States of America (USA) sign the present Peace Treaty for the purpose of building permanent and sustainable peace in the Korean (Chosun) Peninsula, with a desire to completely end the Korean War and to build an overall friendly relationship among related countries. The four parties shall respect universal human values, abide by the United Nations (UN) Charters, respect the existing agreements on the peace and reunification of the Korean (Chosun) peninsula, support the North-South reunification and give their best efforts to contribute to world peace. Hence the contracting parties shall promise to faithfully follow the articles below.

Chapter 1 Ending the War and Following Measures

Article 1: The contracting parties shall pronounce a complete end to the armistice which followed the Korean War. They shall restore and maintain peace in the Korean (Chosun) peninsula.

Article 2: Upon entry into force of the present Peace Treaty, all activities of the UN Command shall come to the end and all foreign troops shall be withdrawn. Withdrawal processes will depend on agreements provided by the contracting parties.

Article 3: The contracting parties shall cooperate to resolve humanitarian issues that occurred during the period of Korean War and armistice.

Chapter 2 Boundaries and Eco-Peace Zone

Article 4: The boundary between the DPRK and the ROK shall follow the Military Demarcation Line outlined in the 'Military Armistice Treaty' and the original jurisdiction set by the Inter-Korea Basic Agreement 1991. Until reunification the DPRK and the ROK shall abide by the principle of

non-aggression and peaceful solution of disputes.

Article 5: The previous De-Militarized Zone shall be replaced by the Eco-Peace Zone and in that zone all types of military activities and force deployment shall be banned.

Chapter 3 Non-aggression and Normalization of Diplomatic Relations

Article 6: The contracting parties shall neither threaten the other parties with force nor use force against other parties, under any circumstances.

Article 7: The DPRK and the USA as well as the DPRK and other countries around shall respectively carry out bilateral agreements for the purpose of normalizing diplomatic relations. They shall suspend mutual slander, pressure and sanctions.

Chapter 4 Arms Control and Nuclear Free Zone

Article 8: For overall political and military trust building, the DPRK and the ROK shall follow the existing agreements between them as well as relevant international agreements. For this purpose the DPRK and ROK shall operate standing high-level talks.

Article 9: The DPRK and the ROK shall operate military talks between them that will carry out arms reduction and disarmament.

Article 10: The contracting parties shall ban nuclear armaments, all measures related to military-technological development, and operation of weapons of mass destruction in the Korean (Chosun) peninsula.

Chapter 5 Peace-Building Organization

Article 11: To resolve conflicts and maintain peace including the management of the Eco-Peace Zone, the DPRK and the ROK shall organize and operate a Peace-Building North-South Joint Committee.

Article 12: To promote implementation of article 11, the contracting parties may organize and operate a Peace-Building Committee composed of the four contracting parties.

Chapter 6 Regarding Other Treaties and Laws

Article 13: Treaties that the contracting parties have with other countries shall be respected under the condition that they do not contradict the present Peace Treaty.

Article 14: Domestic laws of the contracting parties that impede the goals and progress of the present Peace Treaty shall be amended or repealed.

Chapter 7 Entry into Force

Article 15: After representatives of the contracting parties sign the present Peace Treaty and ratify it according to domestic procedures, the present Peace Treaty shall be effective upon exchange of the original version.

Article 16: The present Peace Treaty can be amended or repealed upon the agreement of the four contracting parties.

- “A Korea Peace Treaty” was proposed by the Reconciliation and Reunification Committee of the NCKK and approved by the Executive Committee of the NCKK on April 21, 2016.





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THE NATIONAL COUNCIL OF CHURCHES IN KOREA

Room 706 Korea Christian Building, 19 Daehak-ro, Jongro-gu,
Seoul 03129, Republic of Korea
Tel. +82 02 763 7990 Fax. +82 02 744 6189
Email. mtschunsam@gmail.com <http://koreapeacetreaty.com/>