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Resolving the Japan - Korea “Comfort Women” Conflict: The Most Effective vs. The Most Likely Solution

Grace M. Kang

Institute for Korean-American Studies

Abstract

This article analyses the “comfort women” issue that is weakening the relationship between Japan and the Republic of Korea (ROK), which the U.S. fears may threaten their trilateral security partnership. It discusses the facts and legal terminology for imperial Japan’s system of sexual slavery in the 1930s and World War II. It reviews the history of imperial Japan’s annexation of Korea and the postwar years when the U.S. sought to strengthen Japan to counter the rise of Communism. It shows that Japan’s postwar conservatives engaged in audacious denialism for its crimes against humanity that it repeats today. It compares Germany’s path to reconciliation with its former enemies with Japan’s failure to do the same. Right-wing backlash derailed Japan, while Germany repaired its relationships through a process of apologies, reparations, memorialization, and other significant efforts that showed genuine contrition and acceptance of responsibility. The 2015 Statements by Japan and the ROK failed to meet international standards for adequate reparations. The UN has stated repeatedly to Japan that reparations must be victim-centered and comprehensive. The most effective solution to end friction between Japan and ROK is that Japan genuinely apologizes and provides sufficient reparations, according to international standards. The most likely solution will be the continuation of the status quo. The strengthening of human rights will ultimately side with the comfort women/girls.

Key Words: “comfort women,” sexual slavery, Japan-ROK relations, trilateral security, reparations, sovereign immunity

Introduction

Watching young men in a Tokyo street taunting an 86-year-old woman in a wheelchair, yelling that she is a whore and should go home to South Korea, is disconcerting in the 2016 documentary “The Apology.” Seeing a young Japanese man stand up in a Washington, D.C., audience and brazenly denounce the award-winning film to its director¹ as lies told by prostitutes against the Japanese government is astonishing. His passionate anger in defense of Japan matched the intensity of the audience’s grief on behalf of the “comfort women,” Japan’s brutally treated sex slaves in World War II.

The “comfort women” issue has remained a serious obstacle to a good relationship between South Korea and Japan, despite the decades that have passed since 1945. It is a top concern of the United States (U.S.), which views their trilateral relationship as key to countering China’s rise and North Korea’s nuclear weaponry. This article seeks to solve the issue by stating 1) the facts of the “comfort women” through legally accurate terminology, 2) why Japan’s systematic sexual slavery happened, 3) why it is a problem today by reviewing some history between Japan and Korea, including Japan’s apologies; comparing Japan’s reconciliation efforts with Germany’s; examining Japan’s right-wing backlash, South Korea’s legal front, and the role of the U.S., and 4) a recommendation for the most effective solution, but recognizing the status quo as probably the most likely “solution,” with the hope that larger trends in human rights lead to justice for the “comfort women and girls.”

What Happened? Terminology and Facts

Imperial Japan’s sex slavery during the 1930s and World War II, by forcing “comfort women” to be raped by Japanese military in “comfort

1 Tiffany Hsiung is the director of “The Apology” 2016.

stations,” was the largest government-sponsored system of sex slavery in modern history.² Given the critical role of accurate facts in the “History Wars” that right-wing Japan fuels and liberals fight, this article focuses on establishing correct legal language and facts as fundamental for any discussion of the “comfort women.”

The scope of the “comfort women” system was vast both in number and geography. Estimates have varied widely from 50,000 to 400,000³ “comfort women,” with 200,000 most often cited. In addition to China and Korea, the “comfort station” system covered large parts of Asia, including Singapore, Taiwan, the Philippines, Indonesia, East Timor, Thailand, Myanmar, Vietnam, Borneo, many Pacific Islands,⁴ and Japanese women were also forced into sex slavery. This article focuses on Korean “comfort women” as one aspect of Japan’s overall system, all of which must be remembered and condemned.

The imperial Japanese military oversaw the creation of the “comfort women” system because it wanted to reduce the number of rapes committed by its soldiers against the local population where it was seizing control.⁵ A notorious example is the “Rape of Nanking” (also known as the Nanjing Massacre), where tens of thousands were

2 Alexis Dudden, “The Comfort Women Part I” (Center for Korean Legal Studies YouTube, March 5, 2021), accessed December 24, 2021, <https://www.youtube.com/watch?v=1MWANFBJESk&list=LL&index=3>.

3 Estimates rose after further research in China suggested an additional 200,000 comfort women/girls. Peipei Qui, Su Zhiliang and Chen Lifei, *Chinese Comfort Women, Testimonies from Imperial Japan’s Sex Slaves* (Oxford: Oxford University Press, 2013), 6; Peipei Qiu, “Japan Government Continues to Deny Responsibility for Sex Slavery,” *The Conversation*, January 27, 2015, accessed December 23, 2021, <https://theconversation.com/japan-government-continues-to-deny-responsibility-for-sex-slavery-36533>.

4 Radhika Coomaraswamy, “Report of the Special Rapporteur on Violence against Women, Its Causes and Consequences, in accordance with Commission on Human Rights Resolution 1994/45,” January 4, 1996, accessed December 24, 2021, <https://digitallibrary.un.org/record/228137?ln=en#record-files-collapse-header>; Julie McCarthy, “PHOTOS: Why These World War II Sex Slaves Are Still Demanding Justice,” *National Public Radio*, December 4, 2020, accessed December 22, 2021, <https://www.npr.org/sections/goatsandsoda/2020/12/04/940819094/photos-there-still-is-no-comfort-for-the-comfort-women-of-the-philippines>.

5 Zhiliang Su, trans. Edward Vickers, “Reconstructing the History of the ‘Comfort Women’ System: The Fruits of 28 Years of Investigation into the ‘Comfort Women’ Issue in China,” *The Asia-Pacific Journal/Japan Focus*, vol. 19, issue 5, no. 7/Article ID 55488 (March 1, 2021), 5.

raped.⁶ The imperial Japanese were concerned that these rampant rapes were harming Japanese security by enraging the local population to kill imperial Japanese soldiers in revenge or subjecting them to espionage.⁷ They also harmed imperial Japan's international image as foreign correspondents reported their crimes. In addition, the military wanted to control its soldiers' exposure to venereal disease. In the "comfort stations," military doctors would examine "comfort women" weekly to stop soldiers from raping those with venereal disease. Ordering the soldiers to stop raping local women and enforce discipline was apparently not considered a solution. In fact, in some early cases, commanders encouraged the rapes of local women as part of soldiers' recreation, and rapes at the "comfort stations" were the replacement entertainment. Soldiers' attitudes indicated they felt entitled to rape as part of their life as soldiers.⁸

In discussing the 1930s and World War II, the term "imperial Japan" refers to the form of governance Japan had since the Meiji Restoration of 1868 until the end of World War II. The term "modern Japan" or "Japan" refers to the new form of governance that Japan took on in its 1947 constitution. The 1947 constitution was written with the Allies' supervision following Japan's defeat in 1945 and significantly changed Japan's governance.⁹ It reduced the role of the emperor from being the highest state authority to a mere symbol, and it denied Japan the right to wage war, such that Self-Defense Forces were established in 1954 to replace its traditional military. In addition, the term "Korea" refers to the 1910 - 1945

6 Newsweek Staff, "Exposing the Rape of Nanjing," *Newsweek*, November 30, 1997, accessed December 23, 2021, <https://www.newsweek.com/exposing-rape-nanking-170890>; University of Southern California Shoah Foundation, accessed December 22, 2021, <https://sfi.usc.edu/collections/nanjing-massacre>.

7 Yoshiaki Yoshimi, *Comfort Women, Sexual Slavery in the Japanese Military during World War II* (New York City, New York: Columbia University Press, 1995), 74-5.

8 Ustinia Dolgopol and Snehel Paranjape, "Comfort Women: The Unfinished Ordeal," Report of a Mission (International Commission of Jurists, Geneva, 1994), accessed December 29, 2021, <https://www.icj.org/wp-content/uploads/1994/01/Japan-comfort-women-fact-finding-report-1994-eng.pdf>, 25; Yoshimi, *Comfort Women, Sexual Slavery in the Japanese Military during World War II*, 67-74.

9 Council on Foreign Relations, "Japan's Postwar Constitution," accessed December 23, 2021, <https://www.cfr.org/japan-constitution/japans-postwar-constitution>.

period when the Korean peninsula was annexed to Japan. The terms “Republic of Korea,” “ROK,” and “South Korea” refer to the new state that emerged after the war and now commonly means the southern part of the peninsula, although legally the ROK encompasses the entire peninsula.¹⁰

The term “comfort women” means the women and girls the imperial Japanese military forcibly held in “comfort stations” for multiple daily rapes. Although “comfort women” is an offensive euphemism, I use it because it has become well-known to mean specifically the women and girls enslaved by the Japanese military in the 1930s and World War II. However, this article adds “girls” to the term (comfort women/girls) to make it more accurate because many girls under 18 years old were forced into the “comfort stations.” The elderly Grandma Gil Won-ok described above in “The Apology,” for example, was enslaved at the age of 13 for five years. Indeed, girls were deliberately sought out because they were virgins and therefore free of venereal disease.

Terms such as “slavery” and “torture” are legal terms meeting the definitions of international law, according to United Nations (UN) and other international legal experts analyzing the law at the time the crimes were committed.¹¹ Customary international law prohibited slavery, which was defined in the 1926 Slavery Convention. Article 1 stated (1) Slavery is the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised. (2) The slave trade includes all acts involved in the capture, acquisition or disposal of a person

¹⁰ Article 3, Republic of Korea Constitution, 1987, accessed December 23, 2021, <https://www.law.go.kr/LSW/lsInfoP.do?lsiSeq=61603&viewCls=engLsInfoR&urlMode=engLsInfoR#0000>.

¹¹ Gay J. McDougall, “Final Report of the Special Rapporteur on Contemporary Forms of Slavery, Systematic Rape, Sexual Slavery and Slavery-like Practices during Armed Conflict,” June 22, 1998, accessed December 24, 2021, [https://digitallibrary.un.org/record/257682?ln=en#record-files-collapse-header;Coomaraswamy, “Report of the Special Rapporteur on Violence against Women, Its Causes and Consequences, in accordance with Commission on Human Rights Resolution 1994/45”; Women’s Active Museum on War and Peace \(WAM\), “Women’s International War Crimes Tribunal for the Trial of Japan’s Military Sexual Slavery,” December 4, 2001, accessed December 24, 2021, <https://archives.wam-peace.org/wt/en/judgement.”>](https://digitallibrary.un.org/record/257682?ln=en#record-files-collapse-header;Coomaraswamy, “Report of the Special Rapporteur on Violence against Women, Its Causes and Consequences, in accordance with Commission on Human Rights Resolution 1994/45”; Women’s Active Museum on War and Peace (WAM), “Women’s International War Crimes Tribunal for the Trial of Japan’s Military Sexual Slavery,” December 4, 2001, accessed December 24, 2021, https://archives.wam-peace.org/wt/en/judgement.”)

with intent to reduce him to slavery; ... and, in general, every act of trade or transport in slaves.¹²

The comfort women/girls did not have freedom to escape the “comfort stations” and were subjected to multiple brutal rapes per day ranging from two or three reaching numbers such as 30 or 60, and suffered constant pain and injury that was often permanently debilitating.¹³ If some token amount of money was “paid” to the women/girls, it does not negate that they were slaves. “Sexual slavery,” not “forced prostitution,” is the most correct term, according to legal experts.¹⁴ In addition, UN Special Rapporteur Ms. Gay J. McDougall stated, “According to the Japanese Government’s own admissions [in the 1990s] ... the women were ‘deprived of their freedom’ and ‘recruited against their own will.’”¹⁵ Thus, imperial Japan’s forcible use of comfort women/girls met the definition of slavery under customary international law, and imperial Japan’s apparatus for acquiring these slaves met the definition of slave trade, thereby violating international law at the time the imperial Japanese military created the comfort women/girls system.

Slavery was also a crime against humanity, according to Article 5 of the Charter of the International Military Tribunal for the Far East in Tokyo.¹⁶ In addition, rape in most, if not all, cases also met the legal definitions for “torture” and could be prosecuted as such, “genocide” in that targeting a protected group through attacks on its female members is genocide, and a war crime.¹⁷ This is an abbreviated application of the law

¹² United Nations Human Rights, “The Slavery Convention,” September 25, 1926, accessed December 24, 2021, <https://www.ohchr.org/en/professionalinterest/pages/slaveryconvention.aspx>.

¹³ Yoshimi, *Comfort Women, Sexual Slavery in the Japanese Military During World War II*, 65-75.

¹⁴ Women’s International War Crimes Tribunal for the Trial of Japan’s Military Sexual Slavery, “Judgement Part III,” December 4, 2001, accessed December 24, 2021, <https://archives.wam-peace.org/wt/wp-content/uploads/2020/02/Part-III.pdf>, 150-6.

¹⁵ McDougall, “Final Report of the Special Rapporteur on Contemporary Forms of Slavery, Systematic Rape, Sexual Slavery and Slavery-like Practices during Armed Conflict.”

¹⁶ Article 5, “Charter of the International Military Tribunal of the Far East,” January 19, 1946, accessed December 24, 2021, https://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.3_1946%20Tokyo%20Charter.pdf.

¹⁷ McDougall, “Final Report of the Special Rapporteur on Contemporary Forms of Slavery, Systematic Rape, Sexual Slavery and Slavery-like Practices during Armed Conflict.”

to the facts; additional analyses can be cited to buttress these legal conclusions. The point is that these terms are not hyperbole because they are grounded in the requirements of established legal definitions.

“Comfort stations” means the physical locations where the Japanese held the women and girls. Like the term “comfort women,” “comfort station” is a misleading and offensive euphemism, given that these locations were sites of rape and other forms of torture and killing. Significantly, many women and girls did not survive their enslavement.¹⁸ High mortality was due to the brutality of the rapes, resultant injuries, and beatings. Women were killed by being forced to endure multiple gang-rapes or were killed after being repeatedly raped. High mortality was also due to suicide, diseases, lack of adequate medical care, poor living conditions, location with the soldiers on the battlefield thereby subjecting them to death by warfare, and murder triggered by an infraction or otherwise, such as trying to escape, illness, pregnancy, or even a whim, without consequences.¹⁹ Although “torture and unlawful killing station” would be an accurate term, I use “rape station” to underscore the sexual nature of the torture and vulnerability to grave physical harm and death.

As critical as knowing the true meaning of “comfort women” and “comfort station” is understanding what these terms did not mean. The comfort women/girls were not prostitutes. Any assertion that they were voluntary prostitutes is “mind-boggling in light of the enormous amount of testimonial, documentary, and circumstantial evidence to the contrary, according to legal experts.”²⁰ They did not work in “brothels” or “military

¹⁸ Alexis Dudden stated about half died, “The Comfort Women Part I.” Gay McDougall stated 75 percent died, Chung Chin Sung stated 90 percent died in Niamh Reilly, “Testimonies on War Crimes against Women in Conflict Situations at the United Nations World Conference on Human Rights” (Center for Women’s Global Leadership, June 1994), <https://www.cwgl.rutgers.edu/coalition-building/156-publications/cb/314-testimonies-of-the-global-tribunal-on-violations-of-womens-human-rights>, 21.

¹⁹ Qui, Zhiliang and Lifei, *Chinese Comfort Women, Testimonies from Imperial Japan’s Sex Slaves*.

²⁰ Women’s International War Crimes Tribunal For the Trial of Japan’s Military Sexual Slavery,” Judgement Part III,” 150–1.

brothels” because they were sex slaves, not prostitutes, held for rape against their will.²¹ Crucially, the “recruiters” used deception or force to take the women/girls to the rape stations.²² They targeted girls and women from poor families who welcomed an opportunity to work in a factory, as was often promised. The intersectionality of class (poverty), gender (patriarchal), and colonial rule (Japan’s annexation of Korea) put the women and girls in a particularly low place in society. This vulnerability also made kidnapping an easy way to take them to a rape station, as their families were powerless to intervene or save them.

In addition, women and girls were further easily deceived because it was not obvious that the term “comfort station” (“ianjo,” in Japanese, and “wianso,” in Korean) had anything to do with sex. Harvard Law professor Jeannie Suk Gersen writes that Japanese and Korean newspapers of the time used the term to refer to “recreation areas in municipal parks, a hotel, a shelter for children, and a hot-springs spa.” In 1940, a major Japanese newspaper reported that a Japanese woman who travelled to northern China in response to an advertisement seeking “comfort women” was surprised to discover what it actually meant.²³ The comfort women/girls did not enter into legal contracts to provide sex, as claimed by another Harvard Law professor, J. Mark Ramseyer.²⁴ When asked to provide such contracts to prove his argument, Ramseyer was unable to, as noted by Gersen, who also points out many other failings in his scholarship – remarkably low quality for a Harvard professor. Although right-wing Japanese academics praised Ramseyer, the larger academic community continues its consensus that the comfort women/girls were in fact sex

21 Coomaraswamy, “Report of the Special Rapporteur on Violence against Women, Its Causes and Consequences, in accordance with Commission on Human Rights Resolution 1994/45”; Yoshiaki, *Comfort Women, Sexual Slavery in the Japanese Military During World War II*, 65-75.

22 Coomaraswamy, “Report of the Special Rapporteur on Violence against Women, Its Causes and Consequences, in accordance with Commission on Human Rights Resolution 1994/45.”

23 Jeannie Suk Gersen, “Seeking the True Story of the Comfort Women,” *The New Yorker*, February 25, 2021, accessed December 24, 2021.

24 J. Mark Ramseyer, “Contracting for Sex in the Pacific War,” *International Review of Law and Economics*, vol. 65 (March 2021): 1-8.

slaves.²⁵

The horrific situation described above must be viewed with a recognition that in such a large population, variation existed. For example, legitimate research has included the unusual situation in which a comfort women/girl ended up having an affectionate relationship with a Japanese soldier.²⁶ In addition, the imperial Japanese military's use of locals to help get comfort women/girls to the rape stations, including by trickery and coercion, adds another shade to the picture. But the essential conclusion to draw from the variations or complications is that the overwhelming majority of comfort women/girls were coerced under the auspices of the Japanese military into living terrible lives in deep physical and emotional pain and that absolutists cannot wield rare exceptions to refute the norm.

Finessing the language regarding the comfort women issue is fundamental to addressing the current friction between Japan and Korea and for educating the public so it can distinguish between facts and false claims by both right-wing and left-wing groups. The issue must also be considered within the history of the relationship between Japan and Korea.

Why Did This Happen?

Japan-Korea historical relations and the role of the U.S.

The ROK's wary attitude towards Japan is based beyond colonialism and World War II. Rulers of the Japanese islands have long sought control of the Korean peninsula as an entry into the area of China. The peninsula was a natural staging ground and source for materials to support any Japanese military incursion into the continent. The Imjin Wars of the late 16th century marked a spectacular effort by Japan to take Joseon Korea

²⁵ Many academics have refuted J. Mark Ramseyer, eg. Al Roth et al., "Letter by Concerned Economists Regarding 'Contracting for Sex in the Pacific War' in the International Review of Law and Economics," accessed December 30, 2021, <http://chwe.net/irle/letter/>.

²⁶ C. Sara Soh, *The Comfort Women* (Chicago, Illinois, The University of Chicago Press, 2008), 186.

as the first step towards conquering Ming China. Although it ultimately failed, it left a legacy of distrust by Koreans against its large island neighbor.

This distrust has been well-taken. Japan's effort to control Korea as the gateway for seizing China foreshadowed imperial Japan's designs in the 1930s and World War II. Imperial Japan's Meiji Restoration in the mid-1800s set it on course to become a world power. Its victory in the first Sino-Japanese War 1884 - 1885 resulted in Qing China's ignominious loss of Joseon Korea as a tributary state. Although imperial Japan speciously couched its declaration of war against China as motivated by a desire to make Joseon Korea an independent state, imperial Japan apparently did not want Korea to exercise that independence in conducting its international affairs. Imperial Japanese government assassins hacked Korean Queen Min to death in 1885 when she sought help from Russia to reduce imperial Japan's influence in Korea.²⁷ Indeed, imperial Japan went to war with Russia in 1904 - 1905 because of their dispute over each state's influence over Manchuria and Korea. In this war, imperial Japan was victorious again. The Taft (U.S. Secretary of War) - Katsura (Japanese Prime Minister) agreement in 1905 was an understanding that the Philippines and Joseon Korea would be governed as "protectorates" of the U.S.²⁸ and imperial Japan, respectively. When Korea asked for U.S. help later that year to fend off Japanese pressure, President Theodore Roosevelt declined.²⁹ Roosevelt negotiated

27 Yasuji Nagai, "Diplomat's 1895 Letter Confesses to Assassination of Korean Queen," *Asahi Shimbun*, November 21, 2021, accessed December 30, 2021, <https://www.asahi.com/ajw/articles/14482741>.

28 United States House of Representatives, accessed December 23, 2021, <https://history.house.gov/Exhibitions-and-Publications/APA/Historical-Essays/Exclusion-and-Empire/The-Philippines/>.

29 James M. Lindsay and Anna Shortridge, "TWE Remembers: The Taft - Katsura Memorandum" (Council on Foreign Relations, July 31, 2020), accessed December 30, 2021, <https://www.cfr.org/blog/twe-remembers-taft-katsura-memorandum-0>. Koreans continued to dream of having state status while colonized. Yong-Chool Ha and Jung Hwan Lee, "The Impact of the Colonial Situation on International Perspectives in Korea: Active Imaginations, Wishful Strategies, and Passive Action," in *International Impact of Colonial Rule in Korea 1910-1945*, ed. Yong-Chool Ha (Center for Korea Studies, University of Washington, 2019), 106.

an end to the war in New Hampshire, producing the Treaty of Portsmouth, which was a green light for imperial Japan to annex Korea later in 1910. Disturbing from today's perspective, Roosevelt won the Nobel Peace Prize for this deal that had little regard for the Koreans.

Imperial Japanese colonial rule over Korea was harsh and first and foremost for the benefit of imperial Japan. For the next 35 years imperial Japan ruled Korea often with brutality. Imperial Japan tried to destroy Korea's cultural identity and language to make them Japanese. For example, in 1939 they compelled Koreans to change their names to Japanese ones. Children were required to speak and write in Japanese and answer to their Japanese names. Imperial Japan ruled Korea through a Japanese Governor-General. To the ordinary Korean, Japan enforced its control of the country through strict surveillance and stifling of dissent. Japan also controlled the Korean economy and forced many Koreans to go to Japan to work in agriculture, mines, and factories. The Japanese used coercive "recruitment" methods such that many did not freely choose this work.³⁰ Imperial Japan also drafted Koreans into its military in 1943 and almost 244,000 Korean soldiers and civilians were forced to serve in the armed services with about 22,000 Korean deaths during World War II.³¹

Imperial Japan also looked to Korean women as a source of labor. They were forcibly recruited or recruited by deceit, among other means. Many women were mobilized to work in factories in Korea and imperial Japan. Given this pattern, Japan's forcible recruitment of comfort women/girls can be seen as an extension of its coercive methods for labor generally. They all were slaves, albeit with the comfort women/girls bearing a most horrific form of "labor."

³⁰ Dolgopol and Paranjape, "Comfort Women," 22.

³¹ Justin McCurry, "I Don't Have Much Hope: Koreans Search for Loved Ones Who Died Fighting for Japan," *The Guardian*, August 14, 2019, accessed January 3, 2022, <https://www.theguardian.com/world/2019/aug/15/i-dont-have-much-hope-koreans-search-for-loved-ones-who-died-fighting-for-japan/>.

Why Is This a Problem Today?

Japan's behavior in World War II is a live issue because it impacts Japan's relationship with South Korea, which is at one of its lowest points in decades. It weakens and potentially threatens their security relationship, thereby making it a high concern of the U.S.³² Koreans will not forget the gross injustice imperial Japan inflicted on Korean women and girls, as well as forced laborers, and Japan's failure to give them adequate redress. The unresolved injustice creates fluctuating tensions that weaken the Japan - South Korea - U.S. security partnership. Although Japan and South Korea each enjoy strong bilateral relationships with the U.S., the U.S. is concerned with the problematic Japan-South Korea relationship as the weakest link in their trilateralism to counter China's increasing strength and North Korea's nuclear threat.

The Lack of Adequate Reparations

Japan claims that it has apologized many times for "acts" against the "comfort women" who suffered immense pain and permanent physical and psychological injuries. And indeed it has, if one is counting apologies in statements by high Japanese government officials, including several Prime Ministers. In fact, for its wrongdoings during wartime and colonial rule, Japanese officials have made nearly 50 apologetic statements.³³ In this sense, leftist claims that Japan has never apologized are incorrect. But for what did Japan apologize? These apologies, while specific in admitting imperial Japanese military involvement and in the case of the comfort women/girls, the terrible often permanent injury they suffered, have been vetted legally to carefully avoid terms such as "rape," "slavery," "torture," "crimes," "crimes against humanity," and "genocide," although UN and

³² Michelle Ye Hee Lee, "As Biden Seeks to Restore Alliances, a Souring Japan-South Korea Relationship Presents a Challenge," *Washington Post*, March 2, 2021.

³³ Stefan Engert, "Japan - China and the Two Koreas, the Apologia Syndrome," in *Apology and Reconciliation in International Relations, The Importance of Being Sorry*, ed. Christopher Daase et al. (London and New York: Routledge, 2016), 237.

other legal experts established these were legally correct terms. That was because Japan was also arguing against these experts in UN fora that such terms did not apply. Therefore, a more accurate characterization of the apologies is that they did indeed apologize for facts that formed part of “rape,” “slavery,” “torture,” and other crimes, but leaves the legal conclusion that they are “rape,” “slavery,” “torture,” and other crimes unstated.

Two key statements by a senior official and a Prime Minister in the 1990s seem to reflect this characterization by suggesting a genuine effort to apologize and attempt to improve regional relationships, while also being legally sanitized. The Japanese government began its policy of atonement in response to growing outspokenness in South Korea in the late 1980s with its democratization in 1987. A breakthrough in advocacy occurred in 1991, when a former comfort girl who was enslaved at age 17, Kim Hak-sun, emerged from society's shadows of shame and secrecy to openly state what the Japanese had done to her. She became the catalyst for many other comfort women/girls speaking out. Japan denied responsibility, but in 1992, Japanese historian Yoshiaki Yoshimi, who was moved by Kim's testimony, discovered imperial army documents that showed direct military involvement in the rape center system, thereby ultimately making the government concede state complicity.

Given the growing body of evidence and statements by comfort women who personally suffered from imperial Japan's rape stations, the Japanese government began an investigation of the issue. In August 1993 Yohei Kono, Chief de Cabinet, announced the study's findings. He stated: the Japanese military was “directly or indirectly, involved in the establishment and management of the comfort stations and the transfer of comfort women. The recruitment of the comfort women was conducted mainly by private recruiters who acted in response to the request of the military.” ... “in many cases they were recruited against their own will, through coaxing, coercion, etc, and that at times, administrative/military personnel directly took part in the recruitments. They lived in misery at comfort stations under

a coercive atmosphere.” ... “The Korean peninsula was under Japanese rule in those days, and their recruitment, transfer, control, etc. were conducted generally against their will ...”

He continued: “Undeniably, this was an act, with the involvement of the military authorities of the day, that severely injured the honor and dignity of many women. The Government of Japan would like to take this opportunity once again to extend its sincere apologies and remorse to all those, irrespective of place of origin, who suffered immeasurable pain and incurable physical and psychological wounds as comfort women.”

Kono stated further: “We shall face squarely the historical facts as described above instead of evading them, and take them to heart as lessons of history. We hereby reiterated our firm determination never to repeat the same mistake by forever engraving such issues in our memories through the study and teaching of history.”³⁴

The Kono statement was a landmark. This clear apology and vow never to allow it to happen again was reiterated repeatedly by Prime Minister Tomiichi Murayama, who as a Socialist was a rare exception to the conservative Liberal Democratic Party’s (LDP’s) dominance. In 1994, in preparation for the 50th anniversary of World War II’s end, Prime Minister Murayama announced the “Peace, Friendship, and Exchange Initiative,” which included collection of historical documents and evidence, “to enable everyone to face squarely the facts of history,” and exchange programs to promote understanding.³⁵ He reiterated the importance of the facts concerning the comfort women and expressed “profound and sincere remorse and apologies.”

When the 50th anniversary arrived, Murayama stated: “Now that Japan enjoys peace and affluence, we tend to forget how precious

³⁴ Digital Museum The Comfort Women Issue and the Asian Women’s Fund, “Statement by Chief Cabinet Secretary Yohei Kono in the Result of the Study on the Issue of ‘Comfort Women’,” August 4, 1993, accessed December 23, 2021, <https://www.awf.or.jp/e6/statement-02.html>.

³⁵ Digital Museum, “Statement by Prime Minister Tomiichi Murayama on the Peace, Friendship, and Exchange Initiative,” August 31, 1994, accessed December 13, 2021, <https://www.awf.or.jp/e6/statement-04.html>.

and sacred peace is. We must talk to younger generations about the tragedy of war, so that we never repeat the mistakes of the past.” He emphasized the need to build trust with neighboring countries and ultimately the world; Japan must look into the past and learn lessons to avoid mistakes in the future.

He further stated: “During a certain period in the not-too-distant past, Japan followed mistaken national policies and took the road to war, ensnaring the Japanese people in a fateful crisis and inflicting, through colonial rule and aggression, great damage and pains on people in many countries, especially in Asia. Regarding in all humility these irrefutable facts of history, and in the hope that no such mistake will be made in the future, I express once more my feeling of deep remorse and state my heartfelt apology. I also offer my sincere condolences to all victims of that history, both at home and abroad.”³⁶

A review of Murayama’s statements shows a striking emphasis on ‘facing squarely’ the facts of history, demonstrating an attitude that an objective truth existed that could be proven tangibly and must be taught so that it is never forgotten, that Japan must never repeat its mistakes, that it took responsibility for its devastation of neighboring countries, and that profound apology and remorse were necessary to gain the trust of these countries. In an attempt to pay reparations, Japan created the Asian Women’s Fund, which the government funded in part but was also funded by donations from “a wide spectrum of Japanese society as a way to enact the Japanese people’s atonement for the former comfort women and support welfare projects to assist the comfort women,” according to the Asian Women’s Fund Digital Museum.³⁷ Many, but not all, comfort women/girls rejected the funds because they were not provided fully by the Japanese government, lacked linkage to legal liability, and other

³⁶ Digital Museum, “Statement by Prime Minister Tomiichi Murayama on the Occasion of the 50th Anniversary of the End of the War,” August 15, 1995, accessed December 13, 2021, <https://www.awf.or.jp/e6/statement-10.html>.

³⁷ Digital Museum, “Establishment of the AW Fund, and the Basic Nature of Its Projects,” accessed December 13, 2021, <https://www.awf.or.jp/e2/foundation.html>.

reasons. UN Special Rapporteur McDougall recommended in 1998 that a new fund be created to provide legal compensation.

The UN Special Rapporteur on violence against women, its causes and consequences, Ms. Radhika Coomaraswamy, stated in her 1996 report: “The Government of Japan has not accepted legal responsibility but in many statements appears to accept moral responsibility for the existence of “comfort women” during the Second World War. The Special Rapporteur considers this a welcome beginning.”³⁸

As an effect of these efforts, junior high textbook editors began including accounts of the comfort women/girls in school history books. High-ranking Japanese officials also continued to make apologies, including in 1996 a letter to the “former comfort women” from Prime Minister Ryutaro Hashimoto and also signed by subsequent Prime Ministers Keizo Obuchi, Yoshiro Mori and Junichiro Koizumi.³⁹

The Kono and Murayama statements and the efforts to improve regional relations were a legitimate start towards reconciliation, but instead of leading to a fuller repair of relations, right-wing elements in Japan began to dominate and obfuscate the narrative.

Nearly the Opposite of Germany: A Brief Comparison

Although the Kono, Murayama, and other high-level apologies that followed suggested a positive trajectory toward improved relationships with Japan’s wronged neighbors, they did not move in that direction and instead produced today’s troubled relationships, especially between Japan and South Korea. In contrast, Germany, which once epitomized hellish aggression with its murder of 11 million people, including gassing, torture, and other unspeakable crimes against six million Jews, now enjoys global respect, prosperity, and excellent relationships with its former bitter

³⁸ Coomaraswamy, “Report of the Special Rapporteur on Violence against Women, Its Causes and Consequences, in accordance with Commission on Human Rights Resolution 1994/45,” paragraph 125.

³⁹ Digital Museum, “Letter from Prime Minister to the Former Comfort Women,” 1996, accessed December 13, 2021, <https://www.awf.or.jp/e6/statement-12.html>.

enemies. Why such contrasting outcomes?

The Early Postwar Years

A comparison of the postwar years of Japan and Germany is revealing. From the earliest days after the war's end in 1945, the seeds for today's differences were planted. In Germany, the Allies divided it into zones for their control, with the Soviet Union gaining the eastern half, and made the pursuit of justice a top priority. They set up the International Military Tribunal in Nuremberg, which held trials from November 1945 to October 1946, with succeeding trials until 1949.⁴⁰ While imperfect, the trials produced many positives: an opportunity to present evidence of the Nazis' horrific crimes for all the world to see, a sense of some degree of justice through the execution and imprisonment of the perpetrators of mass crimes, and the advancement of international law, including new terms, such as "crimes against humanity," to describe the magnitude of the atrocities, never before seen at this scale.

In contrast, the International Military Tribunal for the Far East trials (Tokyo Trials) were weaker in significant ways. Most fundamentally, the trials spared Emperor Hirohito, which affected it from the start, according to Kristen D. Burton.⁴¹ Supreme Commander of the Allied Powers U.S. General Douglas MacArthur and Japanese officials "worked to ensure no testimony implicated the Emperor," thereby suppressing evidence that would implicate him in imperial Japan's vast crimes against humanity and other atrocity crimes. MacArthur also called for censoring the Japanese media to exclude any criticism against the Imperial government or himself. Burton states, "Historians have argued that MacArthur's actions had a profound effect on distorting

⁴⁰ Jennifer Lind, *Sorry States, Apologies in International Politics* (Ithaca & London Cornell University Press, 2008), 106.

⁴¹ Kristen D. Burton, "War Crimes on Trial: The Nuremberg and Tokyo Trials" (National World War II Museum, November 24, 2020), accessed December 2, 2021, <https://www.nationalww2museum.org/war/articles/nuremberg-and-tokyo-war-crimes-trials>.

the Japanese public's general understanding about the war. In a contrast to Nuremberg, in which photographs and videos of Nazi atrocities were put on public display, the Tokyo Trials were characterized by limited discussions of details." Also, American press coverage was much less than that at Nuremberg. This meant that public transparency and display of overwhelming evidence against Japan was muted and the horror and extent of Japan's crimes did not become as well known and well understood as Germany's did. People remembered Nuremberg as the judicial act that ended World War II, while Tokyo slipped from view.⁴²

The Tokyo Trials had additional omissions, such as imperial Japan's systematic sexual enslavement of the comfort women/girls⁴³ and its forced mass labor and conscription of its colonial subjects from Korea and Taiwan. They also did not adequately cover the horrific medical experiments done by the imperial military's Unit 731. The difference in how the U.S. viewed the gruesome medical experimentation by the Nazis and imperial Japan was stark. Medical experts investigated the Nazi's experiments as war crimes, while others viewed imperial Japan's experiments as providing valuable scientific information that the U.S. could get for a fraction of the financial cost. The Japanese also benefited from their ruthlessness in killing their experimental subjects, who could not testify as some German subjects did.⁴⁴

According to Jennifer Lind, author of *Sorry States Apologies in*

42 Timothy Brook, "The Tokyo Judgment and the Rape of Nanking," *The Journal of Asian Studies*, vol. 60, no. 3 (August 2001): 675.

43 The only specific cases of comfort women/girls (who were Dutch) were prosecuted in subsequent trials at Batavia, Dutch East Indies (now approximately Jakarta, Indonesia). See Ethan Hee-Seok Shin and Stephanie Minyoung Lee, "Japan Cannot Claim Sovereign Immunity and Also Insist that WWII Sexual Slavery Was Private Contractual Acts," *Just Security*, July 20, 2021, accessed December 4, 2021, <https://www.justsecurity.org/77492/japan-cannot-claim-sovereign-immunity-and-also-insist-that-wwii-sexual-slavery-was-private-contractual-acts/>. Evidence showed the Japanese government forced Dutch women into sexual slavery. See Yun-hyung Gil, "Released Document Shows Japan's Forced Mobilization of Comfort Women," *Hankyoreh*, October 8, 2013, accessed December 18, 2021, https://english.hani.co.kr/arti/english_edition/e_international/606227.html.

44 Howard Brody et al., "United States Responses to Japanese Wartime Inhuman Experimentation after World War II: National Security and Wartime Exigency," accessed December 10, 2021, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4487829/>.

International Politics, the U.S. agreed not to prosecute these crimes in exchange for the results of the experiments and then covered up this arrangement and the program's existence.⁴⁵ Although the Nuremberg Trials also did not encompass the Nazi's gruesome experiments, with its leader Dr. Josef Mengele escaping to South America, a subsequent judicial proceeding convicted 16 German doctors for these crimes.⁴⁶

Under the watch of the United States and its Allies, the behavior of Germany and Japan in the early post war years also diverged. The key factor for the United States in Japan was its strong concern over the rise of Communism. Instead of seeking to keep Japan weak and pay large reparations, the U.S. decided to turn it into a strong ally against the Soviet Union. As Lind states: "Faced with the choice between justice and reconstruction, the United States chose the latter. Government officials were de-purged and reinstated; most prisoners were released, pardoned, and returned to positions of authority."⁴⁷ One beneficiary was a literal bloodline to the present: Kishi Nobusuke, grandfather of former Prime Minister Shinzo Abe. Kishi was a cabinet minister under Class A⁴⁸ war criminal Prime Minister Gen. Hideki Tojo and organized forced labor as a minister for imperial Japan's puppet state of "Manchukuo" in Manchuria.⁴⁹ He was arrested as a war criminal, but the Americans released him from prison after three years to help build up Japan during the Cold War. Kishi helped found the conservative Liberal Democratic Party (LDP) "with a bit of help from the CIA"⁵⁰ and became Prime

⁴⁵ Lind, *Sorry States, Apologies in International Politics*, 31.

⁴⁶ United States Holocaust Memorial Museum, "The Doctors Trial," *Holocaust Encyclopedia*, accessed November 22, 2021, <https://encyclopedia.ushmm.org/content/en/article/the-doctors-trial-the-medical-case-of-the-subsequent-nuremberg-proceedings>.

⁴⁷ Lind, *Sorry States, Apologies in International Politics*, 31.

⁴⁸ As stated in Article 5 of the Nuremberg Tribunal Charter, Class A was Crimes against Peace, Class B was War Crimes, Class C was Crimes against Humanity. The significance of Class A is that the perpetrators were top leaders who had planned and directed the war. Classes B and C included perpetrators of any rank. <https://www.pbs.org/wgbh/americanexperience/features/macarthur-tokyo-war-crimes-trials/>.

⁴⁹ The Economist, "The Family Man," *The Economist*, September 5, 2020, accessed November 14, 2021, <https://www.economist.com/books-and-arts/2020/09/03/a-timely-comprehensive-biography-of-abe-shinzo>.

⁵⁰ The Economist, "The Family Man."

Minister in 1957. His son-in-law became Foreign Minister and his grandson, Shinzo Abe, became Prime Minister twice in 2006 - 2007 and 2012 - 2020, building his career by building the right-wing. His strong desire to amend Japan's Constitution in favor of a stronger military is traceable to Kishi's aim to re-establish Japan as a more equal power to the U.S.⁵¹ Other suspected war criminals included postwar Prime Ministers Hatoyama Ichiro (1954 - 1956) and Ikeda Hayato (1960 - 1964).⁵²

Although in 1945-46, the U.S. considered burdening Japan with hefty reparations, by the time of the 1951 San Francisco Peace Treaty, U.S. policy was to protect Japan's economic recovery, thereby minimizing reparations. As such, Korea and China got nothing at the time. In addition, the U.S. obsession with the Cold War caused it to oppose the Japanese left-wing, which supported greater justice and remorse for the war and was anti-imperialist. Thus, the U.S. largely blessed Japan's conservatives, which also meant overlooking their refusal to take responsibility for the crimes they committed just a few years before.⁵³

This political situation allowed Japan to engage in audacious remarks, even during negotiations for a peace treaty with South Korea. Instead of discussing reparations to Korea, one negotiator demanded that Korea pay Japan reparations because its colonialism turned Korea into a "flourishing country."⁵⁴ Other Japanese officials joined in his claim. The U.S.'s preoccupation with the Red Threat made it easy for Japanese conservatives to dismiss other more liberal Japanese views by labeling them pro-Communist. Japan's stridency continued with officials pretending Japan did nothing wrong to Korea. It refused to pay reparations; only compensation was to be considered. It refused to pay anything to Korean forced laborers, denying that they even existed. Individuals were not paid reparations;

⁵¹ Ibid.

⁵² Edward Drea, "Researching Japanese War Crimes Records Introductory Essays, Nazi War Crimes and Japanese Government Records Interagency Working Group," 2006, accessed December 4, 2021, <https://www.archives.gov/files/iwg/japanese-war-crimes/introductory-essays.pdf>.

⁵³ Lind, *Sorry States, Apologies in International Politics*, 32.

⁵⁴ Ibid., 33.

instead in yet another audacious move, Japan paid the Japanese companies, such as Mitsubishi, that had used the forced laborers. In addition, American prisoners of war (POWs) who also labored as slaves were not justly compensated. Linda Goetz Holmes, author of *Unjust Enrichment: American POWS Under the Rising Sun*, blames the U.S. government in part for not ensuring that POWs abused by Japan were treated the same as those by Germany. Shockingly, more than 40 percent of American POWS died⁵⁵ in Japanese captivity compared to about one percent under Germany.⁵⁶

Japan did make bilateral treaties for compensating Burma, the Philippines, Indonesia, South Vietnam, and Thailand, but they shrewdly included products and services that would enhance Japan's economic in-roads into these countries and increase their trade opportunities.⁵⁷ The payment was also not tied to any Japanese wrongdoing, perpetuating impunity. Consistent with its denials, Japan's conservatives also reversed the Allies' education reforms from the early days of its occupancy, the one area where the Allies did not tolerate Japanese amnesia. The Ministry of Education rejected textbooks that did not emphasize the story of Japan's victimization, especially from the atomic bombing of Hiroshima and Nagasaki, and its virtuous quest to end nuclear weapons. The atomic bombings were, indeed, horrific, with a total of about 200,000 Japanese killed,⁵⁸ but so too were Japan's mass atrocities that killed as many or more people, such as the 200,000 - 300,000 in Nanjing in 1937.⁵⁹ Regarding the military's organized mass rape of women and girls, the

55 National WWII Museum, "'To Sustain, Not Destroy': Operations Swift Mercy and POW Supply," September 18, 2020, accessed December 29, 2021, <https://www.nationalww2museum.org/war/articles/operation-swift-mercy-and-pow-supply>.

56 Kirk Spitzer/Yokkaichi, "The American POWS Still Waiting for an Apology from Japan 70 Years Later," *Time*, September 12, 2014, accessed December 13, 2021, <https://time.com/3334677/pow-world-war-two-usa-japan/>.

57 Lind, *Sorry States, Apologies in International Politics*, 34.

58 Britannica, The Editors of Encyclopedia. "Atomic Bombings of Hiroshima and Nagasaki," *Encyclopedia Britannica*, July, 30, 2021, accessed December 1, 2021, <https://www.britannica.com/event/atomic-bombings-of-Hiroshima-and-Nagasaki>.

59 History.com Editors, "Nanjing Massacre," *History*, June 7, 2019, accessed December 1, 2021, <https://www.history.com/topics/japan/nanjing-massacre>.

Ministry declared that rape had occurred on all battlefields in history and therefore need not be raised in connection with the imperial Japanese military.

In immediate postwar Germany, no one was trying to spin the war into an opposite virtue. However, while leftists pushed passionately for recognition of responsibility and atonement, German conservatives supported a more moderate degree of remembrance. In the war's aftermath, people had to grapple with their own devastation. Lily Gardner Feldman states that the German people were in a "collective trauma."⁶⁰ Attitudes were mixed, with some in denial and others saw themselves as culpable. Germany's first postwar chancellor and leader of the conservative Christian Democratic Union party, Konrad Adenauer, championed emerging efforts by faith-based groups to reach out to France and newly-created Israel. In 1951, Adenauer began negotiations for a reparations agreement with Israel, although the German Parliament was not wholly supportive. Nonetheless Adenauer continued his push that Germany pay material indemnity for moral and pragmatic reasons, recognizing that West Germany had to become trusted and respected to be able to rejoin the international community. In addition, NATO, especially the United States with its strong Jewish lobby, pressured Germany to get agreement.⁶¹ Unlike Japan, Germany also paid reparations to individuals, not just to state governments. These reparations would grow over the decades with Germany supporting pensions and compensation to more people, rather than fewer or denying them as Japan had done. By 2021 the German government had paid about \$90 billion to individuals and will continue to pay pensions and redress.⁶²

Some Apologies 1960s - 1990s

In the 1960s, Japan and Germany were both addressing their pasts

⁶⁰ Greg Rienzi, "Other Nations Could Learn from Germany's Efforts to Reconcile after WWII," *Johns Hopkins Magazine* (Summer 2015), accessed December 3, 2021, <https://hub.jhu.edu/magazine/2015/summer/germany-japan-reconciliation/>.

⁶¹ Rienzi, "Other Nations Could Learn from Germany's Efforts to Reconcile after WWII."

⁶² Kristen Grieshaber, "Germany Expands Compensation Program to More Holocaust Survivors," *The Los Angeles Times*, October 6, 2021.

more, but with widening degrees of difference. In an effort to forge normal relations with South Korea in 1965, Japan made a vague apology that did not admit responsibility for an “unhappy phase” between the two nations. Because Japan had maintained that Korea owed it reparations, it audaciously said it would drop its claims.⁶³ On June 22, 1965, Japan and ROK signed the Treaty on Basic Relations⁶⁴ between Japan and ROK and associated agreements, such as the Agreement on the Art Objects and Cultural Co-operation, the Agreement on the Legal Status and the Treatment of the Nationals of the Republic of Korea Residing in Japan, the Agreement on Fisheries, and 20 additional documents.⁶⁵ The most important agreement regarding payments was the Agreement on the Settlement of Problems concerning Property and Claims and on Economic Co-operation (the 1965 Claims Agreement).⁶⁶ Japan agreed to pay compensation, without admitting responsibility, to South Korea, which would consist of \$300 million (about \$2.4 billion today) in grants and \$200 million in loans.⁶⁷ This 1965 Claims Agreement said any additional claims were closed.⁶⁸

In the 1970s, Japanese leftists were stronger and pushed for education that included Japan’s role in colonialism and the war. In addition, the Tokyo District Court ruled against the Ministry of Education for controlling the contents of textbooks.⁶⁹ Textbooks began including previously verboten topics, such as the suffering of Koreans under Japanese colonial rule. Conservatives, however, were angered by these developments.

⁶³ Lind, *Sorry States, Apologies in International Politics*, 47.

⁶⁴ Japan and Republic of Korea, “Treaty on Basic Relations,” June 22, 1965, accessed December 21, 2021, <https://treaties.un.org/doc/Publication/UNTS/Volume%20583/volume-583-I-8471-English.pdf>.

⁶⁵ Shigeru Oda, “The Normalization of Relations between Japan and the Republic of Korea,” *American Journal of International Law*, vol. 61, issue 1 (January 1967): 35-56.

⁶⁶ “Japan and Republic of Korea Agreement on Settlement of Problems concerning Property and Claims and on Economic Co-operation (with Protocols, Exchanges of Notes, and Agreed Minutes),” June 22, 1965, Tokyo, accessed December 21, 2021, <https://treaties.un.org/doc/Publication/UNTS/Volume%20583/volume-583-I-8473-English.pdf>.

⁶⁷ Isabel Reynold, “Why Japan’s Feud with South Korea Isn’t Going Away,” *Washington Post*, August 3, 2020.

⁶⁸ See “Japan and Republic of Korea Agreement on Settlement of Problems concerning Property and Claims and on Economic Co-operation.”

⁶⁹ Lind, *Sorry States, Apologies in International Politics*, 49.

Japanese memorialization of the war continued to focus more on themselves and honoring their fallen soldiers. In 1978, 14 convicted Class A war criminals, including Prime Minister Hideki Tojo and other top leaders, were elevated to the status of gods at Yasukuni Shrine, an outrage for Koreans and Chinese,⁷⁰ especially when Prime Minister Nakasone visited there to pay his respects in 1985.⁷¹ The Japanese public largely accepted the unapologetic tone of the conservatives.⁷²

Germany also increased its apologies, and in the late 1960s and 1970s also reflected a more liberal society. However, Germany's apologies showed a much stronger willingness to look at its past unflinchingly. Unlike the Japanese, German politicians were admitting detailed responsibility. Germans, not the Allies, held their first major Nazi war crimes trials from 1963 to 1965.⁷³ The Germans continued to seek justice against Nazi criminals, and the German parliament abolished the statute of limitations for murder to accommodate the passing years since the war.⁷⁴ In the 1980s, the conservatives came to prominence and urged that Germany should become "normal," which was supported by NATO. As part of "normalization," in 1985, President Ronald Reagan met with Chancellor Helmu Kohl at Bitburg Cemetery,⁷⁵ which held German SS soldiers, an elite unit notorious for absolute loyalty to Hitler and determined by the Nuremberg Trials to be active participants in the Holocaust.⁷⁶ But the visit was no Yasukuni. Although conservative intellectuals argued that remembrance had gone too far, becoming self-flagellation, liberal intellectuals fought back. The "Historians' Debate"

70 "Explainer: Why Yasukuni Shrine Is Controversial Symbol of Japan's Wartime Legacy," *Reuters*, August 14, 2021, accessed November 15, 2021, <https://www.reuters.com/world/asia-pacific/why-yasukuni-shrine-is-controversial-symbol-japans-war-legacy-2021-08-13/>.

71 Lind, *Sorry States*, *Apologies in International Politics*, 52.

72 *Ibid.*, 53.

73 Rienzi, "Other Nations Could Learn from Germany's Efforts to Reconcile after WWII."

74 Lind, *Sorry States*, *Apologies in International Politics*, 128.

75 *Ibid.*, 133.

76 Andrew Glass, "Reagan Visits German War Cemetery, May 5, 1985," *Politico*, May 5, 2019, accessed December 23, 2021, <https://www.politico.com/story/2018/05/05/this-day-in-politics-may-5-1985-565776>.

was born, played out openly in the press and throughout society. Germans went through a period of some argument but the conservatives soon resoundingly sided with memory. By the late 1980s, the clear consensus emerged that both sides were committed to acknowledgement and acceptance of Germany's responsibility for the past.⁷⁷

In the early and mid 1990s, both Japan and Germany were on the path of apology and responsibility for the past, albeit with Germany being much further down the road. Especially compared to its previous stance, Japan engaged in seemingly genuine contrition, as discussed above, by officially studying the comfort women/girls issue and with Prime Ministers and other high officials apologizing for the permanent injury and pain suffered by the comfort women/girls. As had been the case in Germany a decade earlier, some conservative backlash appeared. But unlike Germany, Japan veered off the road of reconciliation. Right-wing backlash became dominant and apparently became the ticket to high political success, as seen in the rise of Shinzo Abe.

Germany, meanwhile, ended the 20th century with the Bundestag's decision to build the Memorial for the Murdered Jews in Europe, a breathtaking monument in the heart of Berlin, next to the Brandenburg Gate. It is mammoth, covering 19,073 square meters,⁷⁸ later dwarfing the modest comfort woman statue placed by comfort women/girls in Seoul, the removal of which became Japan's obsession in the 2010s. In stark contrast, Japan saw its history splashed out in United Nations reports condemning its treatment of the comfort women/girls and in the landmark Women's International War Crimes Tribunal for the Trial of Japan's Military Sexual Slavery (Women's International Tribunal on Sexual Slavery),⁷⁹ held by legal experts and civil society groups in 2000 in Tokyo, that laid out unequivocal evidence of Japan's system of sexual

⁷⁷ Lind, *Sorry States, Apologies in International Politics*, 134.

⁷⁸ "The Memorial for the Murdered Jews of Europe," accessed December 30, 2021, <https://www.stiftung-denkmal.de/en/memorials/memorial-to-the-murdered-jews-of-europe/>.

⁷⁹ Women's International War Crimes Tribunal of Japan's Military Sexual Slavery, "Judgement."

slavery, including testimony from former Japanese soldiers who admitted to raping women and described it in detail. It also included Emperor Hirohito in its indictment. It was not legally binding, but it filled some of the major omissions from the Tokyo Trial and other postwar redress. It showed how justice should have been meted out in 1946, with a finding of guilty for the ironically-named Showa (“bright peace”) Emperor and those responsible for the systematic rape of comfort women/girls.

Japan’s Right-wing Backlash

The rise of right-wing revisionism in the late 1990s was backlash against the growing movement for justice and accountability. According to Puja Kim, in 1997, Shinzo Abe led the newly established Young Diet Members’ Group for Considering Japan’s Future and History Textbooks, which was created by “ultra-rightists” in the LDP.⁸⁰ The group said that “comfort women” were prostitutes and that they be eliminated from public school textbooks. Three months later, far-right leaders of society, businessmen, and academics founded Nippon Kaigi (the Japan Conference), the powerful right-wing organization to which Abe and other top LDP leaders are members. Kim notes that in 1997 all seven publishers of junior high school textbooks included comfort women/girls, but then the LDP and other revisionists pressured publishers to drop any mention of them. By 2012, all references were gone.⁸¹ (As of 2021, only one textbook states that the comfort women/girls were coerced.⁸²)

At the same time, Kim writes, “comfort women” bashing emerged.⁸³

80 Puja Kim, “The ‘Comfort Women’ Redress Movement in Japan: Reflections on the Past 28 Years,” in *The Transnational Redress Movement for the Victims of Japanese Military Sexual Slavery*, ed. Pyong Gap Min, Thomas R. Chung and Sejung Sage Yim, Volume 2 in the Series Genocide and Mass Violence in the Age of Extremes (DeGruyter Oldenbourg, 2020), 55.

81 Kim, “The ‘Comfort Women’ Redress Movement in Japan,” 56.

82 So-youn Kim, “Japanese Textbooks Don’t Acknowledge ‘Comfort Women’ System’s Coercive Nature,” *Hankoryeh*, March 31, 2021, accessed October 22, 2021, http://english.hani.co.kr/arti/english_edition/e_international/989040.html.

83 Kim, “The ‘Comfort Women’ Redress Movement in Japan,” 56.

In 2001, the publicly funded Japan Broadcasting Corporation (NHK) was scheduled to air the Women's International Tribunal on Sexual Slavery, described above. While the Tribunal's judgment did not have legal effect, it had strong moral effect in promoting the quest for justice. The Tribunal's overwhelming evidence and meticulous legal analysis that convicted Emperor Hirohito and other perpetrators was persuasive. Apparently too persuasive for senior government officials, who pressured NHK to alter the documentary. NHK complied because the government controlled its budget. Kim states that the NHK incident was "a turning point in public perception that paved the way for an official policy of "comfort women" denial."⁸⁴ As part of his pattern that would emerge of remarks against comfort women/girls, contradicting his statements of apology and the Japanese government's own admissions, Abe in March 2007 told the Diet there was no evidence of forcible recruitment of the comfort women/girls. Such remarks, made repeatedly, rendered any apology by Abe essentially meaningless.

Meanwhile, civil society continued its fight on behalf of the comfort women/girls. Every Wednesday the Korean Council for Justice and Remembrance for the Issues of Military Sexual Slavery by Japan (Korean Council) led protests at the Japanese Embassy in Seoul. When the number of Wednesdays reached 1,000, the Korean Council marked the anniversary in 2011 by unveiling its Statue of Peace, which depicts a young comfort woman or girl sitting calmly and placed so she is looking directly at the Japanese Embassy. This statue has become an unforgettable symbol of the comfort women/girls reparations movement. So strong, in fact, that right-wing Japan is obsessed with removing it and other memorials around the world, especially in the United States, as Tomomi Yamaguchi writes.⁸⁵ In

⁸⁴ Kim, "The Comfort Women Redress Movement in Japan," 57.

⁸⁵ Tomomi Yamaguchi, "The 'History Wars' and the 'Comfort Woman' Issue: The Significance of *Nippon Kaigi* in the Revisionist Movement in Contemporary Japan," in *The Transnational Redress Movement for the Victims of Japanese Military Sexual Slavery*, ed. Pyong Gap Min, Thomas R. Chung and Sejung Sage Yim, Volume 2 in the Series Genocide and Mass Violence in the Age of Extremes (DeGruyter Oldenbourg, 2020), 233.

2012, in response to a plaque in New Jersey memorializing the comfort women/girls, conservatives put an ad in the local paper denying that they were forced into sex and that some had salaries that were higher than military generals. Shinzo Abe was one of the signers.⁸⁶ In 2013, the city of Glendale in California built its own comfort woman/girl statue. In 2014, right-wingers in Japan and the U.S. filed unsuccessful lawsuits against the city of Glendale in U.S. courts demanding the removal of the statue. The right-wing groups behind this effort did not include Nippon Kaigi, which thought the effort was futile. Instead Nippon Kaigi took the legal fight to Japan and targeted a more useful foe: the liberal *Asahi Shimbun*,⁸⁷ Japan's second largest newspaper that had provided extensive coverage of the comfort women/girl issue and revealed that conservatives had pressured NHK to sanitize its documentary on the Women's International Tribunal on Sexual Slavery.

Given intense criticism, *Asahi Shimbun* had conducted an internal review of its comfort women/girls coverage to determine its accuracy. When it revealed in 2014 that some articles had errors, while the larger body of work on the subject had no errors, the Japanese right took full advantage of the admission of errors to amplify criticism.⁸⁸ Ever-forming right-wing groups brought three lawsuits in Japanese courts against *Asahi Shimbun*, including one backed by Nippon Kaigi called "Asahi Glendale." They all lost, but they reveal a level of audacity that was reminiscent of the immediate post-war years. In *Asahi Glendale*, the Japanese plaintiffs, who lived in Japan and the U.S., blamed *Asahi Shimbun* for damaging Japan's reputation by impacting several adverse developments, including the creation of statues in the U.S., inclusion of comfort women in U.S. high school textbooks, negative UN reports, and the U.S. House Resolution 121

⁸⁶ See an image of the advertisement, accessed December 30, 2021, <http://lendnow.org/wp-content/uploads/2016/09/yesweremember.jpg>.

⁸⁷ Yamaguchi, "The 'History Wars' and the 'Comfort Women' Issue," 243.

⁸⁸ *Ibid.*, 244.

of 2007⁸⁹ that condemned Japan on the comfort women/girls issue. These damages to reputation led to harm, they claimed, including bullying of Japanese children.⁹⁰ One of their demands was that Asahi Shimbun give a written apology in major Japanese and international newspapers that included a statement that the Japanese Army never forcibly recruited any “comfort women.” In addition, after their losing verdicts in 2016 and 2018, Nippon Kaigi brazenly claimed victory for favorable findings that did not exist in the rulings.⁹¹

The 2015 Statements by Japan and ROK

With this backdrop, in 2015 Japan and South Korea issued statements that were intended to resolve “permanently and irreversibly” the comfort women disagreements between them. I will refer to these statements as “the 2015 Statements,” not “Agreement,” because the foreign ministries at the time did not call the two statements an agreement; instead, they were announcements,⁹² reflecting their legally non-binding character.

The Japanese statement reiterated previous apologies, stating “Prime Minister Abe expresses anew his most sincere apologies and remorse to all the women who underwent immeasurable and painful experiences and suffered incurable physical and psychological wounds as comfort women.” In addition, “it has been decided that the Government of the ROK establish a foundation for the purpose of providing support for the former comfort

⁸⁹ Text H.Res.121 - 110th Congress (2007 - 2008), “A Resolution expressing the sense of the House of Representatives that the Government of Japan should formally acknowledge, apologize, and accept historical responsibility in a clear and unequivocal manner for its Imperial Armed Forces’ coercion of young women into sexual slavery, known to the world as ‘comfort women,’ during its colonial and wartime occupation of Asia and the Pacific Islands from the 1930s through the duration of World War II.” U.S. House of Representatives Resolution 121, <https://www.congress.gov/bills/110th-congress/house-resolution/121/text>.

⁹⁰ Yamaguchi, “The ‘History Wars’ and the ‘Comfort Women’ Issue,” 246.

⁹¹ Ibid., 251.

⁹² Japan Ministry of Foreign Affairs, “Announcement by Foreign Ministers of Japan and the Republic of Korea at the Joint Press Occasion,” December 28, 2015, accessed December 30, 2021, https://www.mofa.go.jp/a_o/na/kr/page4e_000364.html.

women, that its funds be contributed by the Government of Japan as a one-time contribution through its budget, and that projects for recovering the honor and dignity and healing the psychological wounds of all former comfort women be carried out under the cooperation between the Government of Japan and the Government of ROK.” By carrying out these acts, Japan “confirms that this issue is resolved finally and irreversibly with this announcement.” In addition, with the ROK, Japan will “refrain from accusing or criticizing each other regarding this issue in the international community, including the United Nations.”⁹³

The ROK statement also said the “issue is resolved finally and irreversibly with this announcement,” on the premise that Japan will implement the announced measures. The ROK also acknowledged the fact that Japan “is concerned about the statue built in front of the Embassy of Japan in Seoul from the viewpoint of preventing any disturbance of the peace of the mission or impairment of its dignity, and will strive to solve this issue in an appropriate manner through taking measures such as consulting with related organizations about possible ways of addressing this issue.” ROK also agreed to “refrain from accusing or criticizing each other regarding this issue in the international community, including at the United Nations,” premised on Japan implementing its announced measures.⁹⁴ Statements following this announcement indicated that Japan would contribute 1 billion yen (about \$8.3 million) and that Abe expected the Seoul comfort girl statue to be removed.

Despite the intent to resolve totally the comfort women issue forever, the 2015 Statements utterly failed to do so. The failure to meaningfully consult with Korean comfort women/girls in the process leading to the 2015 Statements and the lack of legal accountability by Japan were unacceptable. The UN condemned the agreement as inadequate. UN legal experts indicated “the agreement did not meet standards of State accountability for gross human rights violations and was reached without

⁹³ Ibid.

⁹⁴ Ibid.

a proper consultation process.”⁹⁵ The UN and international civil society stressed a victim-centered approach as the heart of any meaningful reparations, which must be determined according to what the victims deem most meaningful, not what governments decide, especially not the perpetrator government. To address the full humanity of the victims and society - meaning the collective as well as individuals, reparations must include many facets.⁹⁶ A genuinely contrite perpetrator state would not try to dodge this necessity. Yet acceptance of legal responsibility, proportionality to the gravity of the violations, dedicated education of the existence of the crimes in schools, and assured prevention of repetition were missing in the 2015 Statements. UN bodies and other legal experts have told Japan that reparations must include significant compensation, restitution, rehabilitation, satisfaction, public apology, full disclosure of documents, preservation of memory, prosecution of individuals, the inapplicability of statutes of limitations for gross human rights violations, access to legal redress, and related elements. At least 12 UN reports have addressed the comfort women/girls issue and recommended actions to Japan, thereby establishing clear goalposts for what it must deliver for acceptable reparations.⁹⁷ Japan’s game of apologetic words followed by contradictory denials places Japan at the wrong end of the playing field.

In fact, the 2015 Statements had elements that were the opposite

⁹⁵ UN Office of the High Commissioner for Human Rights (OHCHR), “Japan/S. Korea: ‘The Long Awaited Apology to ‘Comfort Women’ Victims Is Yet to Come - UN Rights Experts,” March, 11, 2016, accessed December 24, 2021, <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=17209>.

⁹⁶ Please see for a full discussion on reparations, The Women’s International War Crimes Tribunal for the Trial of Japan’s Military Sexual Slavery, “Judgement Part VII Reparations,” December 4, 2001, accessed December 24, 2021, <https://archives.wam-peace.org/wt/wp-content/uploads/2020/02/Part-VII.pdf>, 254-63.

⁹⁷ Please see Women’s Active Museum on War and Peace (WAM), “Compilation of Recommendations by the UN Human Rights Bodies on the ‘Comfort Women’ Issue,” Japan/Alternative Report On the Issue of Japan’s Military Sexual Slavery, May 2014, accessed December 30, 2021, https://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/JPN/INT_CCPR_CSS_JPN_17435_E.pdf. Additional UN Reports: UN Committee against Torture, “Concluding Observations on the Second Periodic Report of Japan, Adopted by the Committee at Its Fiftieth Session (6-31 May 2013); UN Committee on the Elimination of Discrimination against Women, “Concluding Observations on the Combined Seventh and Eighth Periodic Reports of Japan,” March 10, 2016.

of international standards. Abe's intent that the statue near the Japanese Embassy in Seoul be removed undermined memorialization, an important part of reparations. UN experts said, "We are deeply concerned that the [ROK] may remove a statue" commemorating the comfort women and their long search for justice.⁹⁸ In addition, to try to close the comfort women issue as "resolved finally and irreversibly" is the opposite of the recognition that apologies and reparations are merely part of a process towards reconciliation. As David Tolbert of the International Center for Transitional Justice (ICTJ) states, "An apology should open up space for accountability rather than close it." It should "encourage a collective reckoning by society..." Instead, the 2015 deal provoked South Korean passions and protest, including the later self-immolation and death of a Buddhist monk.⁹⁹

In addition, Japanese officials quickly undermined the 2015 Statements following their delivery. Foreign Minister Fumio Kishida (currently Prime Minister) stated that the \$8.3 million would be Japan's "humanitarian" contribution, as opposed to state compensation, to the new foundation. Kishida also spun the statements into an accord for enhancing security arrangements among Japan, South Korea, and the United States, and emphasized that the "comfort women" issue was resolved irreversibly.¹⁰⁰ It appeared that the overarching motive for the agreement, applauded by the U.S., was firming up the trilateral security relationships. Kim has further stated that one month later, Prime Minister Abe told the Diet that he would not make a personal apology to former "comfort women" because "sexual slavery" and [the story of] 200,000 victims are not facts. He expected the statue in front of the Japanese Embassy to be removed."¹⁰¹

The right-wing called their efforts the "History Wars." Unlike Germany's internal "Historians' Debate" in the 1980s, these were aimed

⁹⁸ Ibid.

⁹⁹ BBC, "S Korean Monk Dies after Sex Slave Self-immolation Protest," *BBC News*, January 10, 2017, accessed, December 30, 2021, <https://www.bbc.com/news/world-asia-38566234>.

¹⁰⁰ Kim, "The Comfort Women Redress Movement in Japan," 65.

¹⁰¹ Ibid.

at other states, such as China and South Korea, as being at war with Japan's "truth."¹⁰² The United States was a crucial battleground for disseminating the denial of the sexual slavery. The United Nations became another front. One example: Japan vehemently opposed documentation of comfort women/girls in UNESCO's Memory of the World Program. Nippon Kaigi's Historical Awareness Research Committee pressured UNESCO strongly and said it would request that Japan stop its contributions to UNESCO if it accepted the documents.¹⁰³ Given the membership of top LDP leaders in Nippon Kaigi, that threat was real. UNESCO postponed its decision in 2017 on whether to accept both the documents of the comfort women/girls and the revisionists and called for a dialogue among all parties.¹⁰⁴

South Korea's Legal Front

Recent cases in South Korea have opened up another front for the "History Wars" and the quest for adequate redress. Prior to this time, comfort women litigation had not been fruitful for advancing their justice.¹⁰⁵ Comfort women began taking their cases to Japanese courts in the 1990s, but all cases were dismissed either at the first instance or once, on appeal. Comfort women also filed suit in the U.S but lost because sovereign immunity shielded Japan and the political question doctrine meant the issue was non-justiciable, among other reasons.¹⁰⁶ However, after the

¹⁰² Yamaguchi, "The 'History Wars' and the 'Comfort Woman' Issue," 234.

¹⁰³ Ibid., 257.

¹⁰⁴ Ibid.

¹⁰⁵ Amnesty International, "South Korea: Disappointing Japan Ruling Fails to Deliver Justice to 'Comfort Women'," April 21, 2021, accessed December 24, 2021, <https://www.amnesty.org/en/latest/news/2021/04/south-korea-disappointing-japan-ruling-fails-to-deliver-justice-to-comfort-women/#:~:text=9%3A02%20am-,South%20Korea%3A%20Disappointing%20Japan%20ruling%20fails,deliver%20justice%20to%20'comfort%20women'&text=%E2%80%9CThis%20ruling%20runs%20contrary%20to,against%20humanity%20and%20war%20crimes.>

¹⁰⁶ Columbia Law School Center for Korean Legal Studies, "Lawsuits Brought against Japan by Former Korean 'Comfort Women'," accessed December 24, 2021, <https://kls.law.columbia.edu/content/lawsuits-brought-against-japan-former-korean-comfort-women>.

2015 Statements, comfort women began bringing cases in South Korea. On January 8, 2021, Seoul Central District Court ruled in favor of 12 comfort women (or family members) and ordered Japan to pay them about \$91,800 each.¹⁰⁷ In this landmark ruling, the Court determined that Japan could not shield itself by invoking sovereign immunity against *jus cogens*-prohibited crimes, which are crimes so significant that they pre-empt other rules of international law and are universally applicable.¹⁰⁸ This determination is at odds with prevailing judgments that do not allow for a *jus cogens* exception, including the International Court of Justice's *Jurisdictional Immunities of the State (Germany vs. Italy: Greece intervening)* judgment (*Jurisdictional Immunities* case) in 2012.¹⁰⁹ The Seoul Central District Court in the January 8, 2021, decision joins Italy and Greece as the only countries who have ruled this way.¹¹⁰

The related issue of forced labor was also brought to Japanese and South Korean courts. In another landmark ruling in 2018, South Korea's Supreme Court ruled against two of Japan's largest companies. The Court ordered Mitsubishi Heavy Industries Ltd. to pay \$88,000 to each of four plaintiffs. A South Korean court then ordered seizure of Nippon Steel's assets worth about \$356,000, which Japan says is illegal. However, these landmark judgments favoring comfort women/girls and forced laborers were soon contradicted by additional rulings in Seoul Central District Court. In April 2021, the Court (with a different panel) ruled that Japan's sovereign immunity eclipsed another group of comfort women's claims. On June 7, 2021, the Court dismissed a case brought by forced laborers, stating the 1965 agreement between Japan and ROK precluded their claims. The companies they were suing included Mitsubishi Heavy

¹⁰⁷ Ibid.

¹⁰⁸ United Nations Report of the International Law Commission, Chapter V, Seventy-first Session 2019, accessed December 30, 2021, <https://legal.un.org/ilc/reports/2019/english/chp5.pdf>, 141-208.

¹⁰⁹ International Court of Justice Judgment, *Jurisdictional Immunities of the State (Germany vs. Italy: Greece intervening)*, February 3, 2012, accessed December 30, 2021, <https://www.icj-cij.org/public/files/case-related/143/143-20120203-JUD-01-00-EN.pdf>.

¹¹⁰ Shin and Lee, "Japan Cannot Claim Sovereign Immunity and Also Insist That WWII Sexual Slavery Was Private Contractual Acts."

Industries Ltd, Nippon Steel Corp; Mitsui E&S Holdings Co., ENEOS Corp., and Sumitomo Metal Mining Co.¹¹¹

These conflicting rulings show that the contours of the law are in flux in ROK. The January 8, 2021, ruling relies on the notion that sovereign immunity is not fixed. “It continuously evolves in accordance with the changes in the international order. This is reflected in international conventions... which have evolved from the theory of absolute state immunity and does not exempt jurisdiction over a state in certain cases...” After citing national laws that also stipulate exceptions where state immunity is not applicable, including the U.S. Foreign Sovereign Immunities Act, the judgment continues: “This change seems to reflect the changes in the international legal order towards protection of individual rights.”¹¹² The April 2021 ruling, in contrast, adheres to a traditional view of sovereign immunity and reflects the current state of customary international law.

One of the losing plaintiffs in the April 2021 decision has called for ROK to take the comfort women/girls issue to the International Court of Justice (ICJ). There is a strong risk the ICJ will rule in favor of Japan because of sovereign immunity, as it ruled in the *Jurisdictional Immunities* case in favor of Germany. In this case, the ICJ did not find a *jus cogens* exception for sovereign immunity. The ICJ said the issue of whether sovereign immunity applies was a procedural matter that rendered Germany’s crimes against humanity irrelevant to its decision. On the other hand, Korea vs Japan could be distinguishable from the *Jurisdictional Immunities* case in that Korea was an annexed colony and therefore was a part of Japan during its use of sex slavery, but this distinction may not change the outcome. In addition, political fall-out and acrimony from any decision could be as damaging as an adverse legal conclusion.

¹¹¹ Takuya Suzuki, “S. Korea Court Rejects Laborers’ Claims against Japanese Firms,” *The Asahi Shimbun*, June 7, 2021, accessed December 24, 2021, <https://www.asahi.com/ajw/articles/14367481>.

¹¹² The Korean Council for Justice and Remembrance for the Issues of Military Sexual Slavery by Japan, trans. Woohee Kim, “Seoul Central District Court The 34th Civil Chamber Judgment,” January 8, 2021, accessed December 30, 2021, https://womenandwar.net/kr/wp-content/uploads/2021/07/ENG-2016_Ga_Hap_505092_30Jun2021.pdf, 1-40.

Therefore, a probable bar to a suit before the ICJ is the requirement that both states agree to its jurisdiction. It is difficult to imagine Korea and Japan weighing the risks and potential benefits and both concluding that it would be in their best interests to grant ICJ jurisdiction.

Japan also argues that the Treaty on Basic Relations¹¹³ between Japan and ROK and its associated agreements signed June 22, 1965, preclude any claim by the comfort women/girls and forced laborers. Article II of the 1965 Claims Agreement states:¹¹⁴ “The Contracting Parties confirm that [the] problem concerning property, rights and interests of the two Contracting Parties and their nationals (including juridical persons) and concerning claims between the Contracting Parties and their nationals, including those provided for in Article IV, paragraph (a) of the Treaty of Peace with Japan signed at the city of San Francisco on September 8, 1951, is settled completely and finally.”¹¹⁵ The reference to the San Francisco Peace Treaty is to the “special arrangements” countries such as Korea would make with Japan to resolve claims.¹¹⁶ Japan contends that the term “claims” in the 1965 Claims Agreement includes the claims from the comfort women/girls and forced laborers. Therefore, their claims are void because this agreement settled all claims “completely and finally.”

However, with respect to the comfort women/girls, it was nearly impossible that they were even considered when the 1965 Claims Agreement was under negotiation, given that the issue was hidden as a shameful topic, including by the comfort women/girls themselves, and by Japan, which denied any sex slavery. As noted above, the issue did not emerge into public discourse until the 1990’s when comfort women/girls began to speak out. The 1965 Claims Agreement, as shown by its full title and contents, was geared towards property and economic matters, and sexual slavery was not within its four corners.

¹¹³ Ibid.

¹¹⁴ Ibid.

¹¹⁵ Ibid.

¹¹⁶ “Treaty of Peace with Japan,” Signed at San Francisco, on September 8, 1951, *United Nations - Treaty Series*, no. 1832 (1952), accessed December 30, 2021, <https://treaties.un.org/doc/publication/unts/volume%20136/volume-136-i-1832-english.pdf>.

These court developments and Japan's reaction further underline the stark difference with Germany's reparations to individuals. As stated above, Germany has provided significant individual reparations, and it has only become more generous over the decades, providing to this day compensation and pensions to increasingly more people. In addition, the amounts awarded by the ROK courts, while historic, are also paltry compared to the German amounts, totaling \$90 billion thus far.¹¹⁷ Yet Japan refuses to pay or accept the rulings' authority over Japanese businesses.

The United States facilitated Germany's reparations agreements with European states in the 1990's and 2000's, but did not push Japan similarly in Asia, even though it was by then a prosperous country. Timothy Webster writes, "The United States' failure to do the same in Asia perpetuates a pernicious double standard set after the war."¹¹⁸ The U.S. set up compensation mechanisms in France, Germany, and Switzerland, while U.S. courts dismissed East Asian cases. "The moral leadership that yielded transatlantic solutions to war responsibility issues in Europe dissolved when the topic emerged in East Asia."¹¹⁹

Japan states that Japan's compensation efforts cannot be compared to Germany's. Its Foreign Ministry website states: "Japan dealt collectively with the issue of reparations with the countries concerned in a manner that was generally accepted by the international community at the time, pursuant to the San Francisco Peace Treaty, treaties and instruments. On the other hand, the Government of Japan is aware that Germany took the approach of personal compensation as it could not deal collectively with countries concerning various issues including reparations as Japan did, since Germany was divided following the war."¹²⁰ This explanation

¹¹⁷ Grieshaber, "Germany Expands Compensation Program to More Holocaust Survivors."

¹¹⁸ Timothy Webster, "Recent Attempts at Reparations Show That World War II Is Not Over," *The Conversation*, May 23, 2019, accessed December 29, 2021, <https://theconversation.com/recent-attempts-at-reparations-show-that-world-war-ii-is-not-over-114655>.

¹¹⁹ Webster, "Recent Attempts at Reparations Show That World War II Is Not Over."

¹²⁰ Japan Ministry of Foreign Affairs, "History Issues Q&A," February 1, 2021, accessed December 29, 2021, https://www.mofa.go.jp/policy/q_a/faq16.html.

is unsatisfying because West Germany could have behaved as Japan did; the division of Germany did not make personal compensation the required option. The non-Communist Allies' ease towards Japan generally was because it wanted to strengthen Japan as an anti-Communist partner in the Cold War, instead of keeping Japan weak and a financial burden.

The Role of the U.S.

The 2018 ROK Supreme Court judgment in favor of the plaintiff forced laborers precipitated another front for battle: trade. In seeming retaliation, Japan restricted exports of materials that South Korean semiconductor manufacturers needed and removed South Korea from its favorable trading status with Japan.¹²¹ South Korea then removed Japan from its list for favored trading status. It almost withdrew from an important military intelligence-sharing agreement, General Security of Military Information Agreement (GSOMIA),¹²² but did not under heavy U.S. pressure.¹²³ Disputes also continued at the World Trade Organization.

The role of the U.S. in pressuring South Korea from withdrawing from the GSOMIA was but one example of the long-standing vital influence of the U.S. in Japan-ROK relations. As I have shown, the U.S. played a decisive role at key junctures in history, both positive and negative for Korea. The United States was instrumental in 1905 when it allowed Japan to control and ultimately colonize Korea. It also ended Japan's rule over Korea when it won World War II, at great sacrifice with the Allies. Its tolerance of Japan's denialism at the dawn of the Cold War planted the seeds for denialism today, echoed by highly

¹²¹ Brian Kim, "Korea and Japan Clash over History and Law," *Lawfare*, August 16, 2019, accessed December 25, 2021, <https://www.lawfareblog.com/korea-and-japan-clash-over-history-and-law>.

¹²² BBC, "South Korea to Continue Intelligence-sharing Pact with Japan," November 23, 2019, accessed December 29, 2021, <https://www.bbc.com/news/world-asia-50526883>.

¹²³ Min Joo Kim and Simon Denyer, "Under US Pressure, South Korea Holds Off Ending Intelligence Pact with Japan," *Washington Post*, November 22, 2019.

influential former Prime Minister Shinzo Abe, the grandson of a formerly imprisoned wartime cabinet member and forced labor organizer. The U.S. and Allies' failure to push Japan to pursue justice and pay reparations in the way Germany did and is doing now is an injustice to many, including American POWs, as well as Korean comfort women/girls and forced laborers. That the Allies divided Korea in half, leading ultimately to about 4 million total casualties¹²⁴ in the devastating and still unresolved Korean War exacerbates the injury. However, United States-led forces stopped North Korea from taking the entire Korean peninsula in 1950, saving the ROK from complete defeat. The U.S. ultimately suffered more than 36,000 deaths,¹²⁵ a tremendous sacrifice. Its continuing commitment with about 28,500 troops in ROK today, with the protection of the U.S. nuclear umbrella, makes the U.S. the ROK's most extraordinary and essential friend.

The United States also played a critical role in moving South Korea and Japan towards their 1965 Treaty on Basic Relations and associated agreements.¹²⁶ It has also intervened when there was risk of skirmish between the two countries.¹²⁷ The U.S. also was credited as supporting their first summits in 1983 and 1984.¹²⁸ The U.S. was watchful of problems between Japan and the ROK to ensure they would not escalate. The U.S. later led the way in the creation of the Trilateral Coordination and Oversight Group (TCOG), thereby institutionalizing the trilateral relationship, but this Group ended in the 2003.¹²⁹ Some argue that

¹²⁴ Bruce Cumings, *The Korean War: A History* (New York: Modern Library, 2010), 36.

¹²⁵ CBSNews.com Staff, "How Many Americans Died in Korea," *CBS News*, June 5, 2000, accessed December 25, 2021, <https://www.cbsnews.com/news/how-many-americans-died-in-korea/>.

¹²⁶ Erik French, Jiyoung Kim and Jihoon Yu, "The US Role in South Korea-Japan Relations: From Johnson to Biden," *The Diplomat*, January 14, 2021, accessed December 24, 2021, <https://thediplomat.com/2021/01/the-us-role-in-south-korea-japan-relations-from-johnson-to-biden/>.

¹²⁷ Lind, *Sorry States, Apologies in International Politics*, 39.

¹²⁸ French, Kim and Yu, "The US Role in South Korea-Japan Relations."

¹²⁹ Chung Min Lee, *Prospects for US-South Korean-Japanese Trilateral Security Cooperation in an Era of Unprecedented Threats and Evolving Political Forces* (Atlantic Council, Washington, D.C., 2018), 3.

reviving the TCOG could hold the answer for better Japan-South Korea relations.¹³⁰ This arrangement could facilitate regular communications among Japan, ROK, and the U.S. and be attractive in that the U.S. is the most important partner for both Japan and ROK in countering threats, such as North Korea and China.

The Most Effective vs. The Likely Solution

To assess responsibility and actions necessary to resolve the acrimonious impasse between Japan and ROK requires consideration of the big picture in how we got here. The role of the U.S. had both positive and negative consequences. But of course, the most important cause of today's tensions between Japan and ROK is Japan. That Japan never fully repaired relations with the countries that imperial Japan ruthlessly took throughout Asia remains Japan's responsibility. It must take responsibility for its treatment of Korea during colonialism and World War II. It must bear the burden of its breathtaking crimes against humanity, genocide, and war crimes throughout Asia. The fundamental fact is that the comfort women/girls issue is about perpetrator vs. victim. It is not simply a Japan vs. ROK issue.

The Most Effective Solution

As the perpetrator state, Japan must bear the onus of providing what it takes to allow victims to feel, at last, some sense of peace. A victim-centered approach, which was lacking in the 2015 Statements, is necessary, according to international standards. Instead, Japan is putting the blame squarely on ROK for its failure thus far to fulfil its side of the non-legally-binding 2015 Statements. And indeed, ROK has failed to do what it announced it would do. But that misses the point - the issue is the redress

¹³⁰ Mathew Ha, "How Washington Can Help Bridge the Gap between Seoul and Tokyo" (Foundation for Defense of Democracies, September 10, 2020), accessed December 30, 2021, <https://www.fdd.org/analysis/2020/09/10/how-washington-can-bridge-gap-seoul-tokyo/>.

of the comfort women/girls, not failure by the ROK. The comfort women/girls must be included in determining the adequacy of the reparations. That they do not approve of the 2015 Statements is what matters. The goalposts have not been moved; the goalposts were never properly recognized by Japan in the first place, even though repeated UN reports and expert legal analyses have stated clearly what adequate reparations entail.

Secondarily, the onus must also be on the U.S. to push Japan to meet its full responsibility, rather than pushing Japan and ROK equally to find some compromise in the middle. Of course, the ROK and the comfort women/girls must be reasonable in what they require, but thus far their unreasonableness has not been the barrier to just resolution. Japan's contradictory denials refuting its apologetic statements, its unwillingness to admit legal liability, its obsession in removing comfort women/girls statues, its revisionist campaign launched in the United Nations and globally, and its failure to educate its youth are what is unreasonable. The brazenness of the young Japanese man I describe at the start of this article is a bad fruit of these actions. Japan now owes double the repentance; first for its original crimes during colonialism and World War II, and second, for its actions since. While Japan would probably lash out, the U.S. has the leverage to pressure Japan to do much more to make reparations for its World War II crimes. Japan needs the U.S. as much as, if not more than, the U.S. needs Japan. The U.S. - Japan relationship must remain rock solid in terms of security, but there is room for the U.S. to lean on Japan to take responsibility for its atrocity crimes.

German Chancellor Angela Merkel gave some advice to Japan in 2015: "look back humbly on the past" and the necessity of facing history squarely and calling things by their name.¹³¹ As I have shown, Germany now has much better relationships with its former bitter enemies by making reconciliation the heart of its foreign policy from the early postwar years.

¹³¹ BBC, "Germany's Merkel Addresses WWII Reconciliation in Japan," *BBC News*, March 9, 2015, accessed December 30, 2021, <https://www.bbc.com/news/world-asia-31792313>.

Germany's success has not been perfect; incidents involving neo-Nazis and the right-wing have erupted in Germany over the years, especially after Merkel welcomed a million refugees in 2015 - 2016.¹³² But as for World War II atrocities, the German people came to embrace contrition overwhelmingly, voting for politicians who promoted reconciliation and made reparations accordingly. Many people in Japan, on the other hand, left the path of reconciliation in favor of right-wing backlash, voting in favor of the LDP consistently since 1955 with less than seven years of non-LDP rule.¹³³

Why this difference in societies? Former ROK Ambassador Yoo Euy-sang, author of *Diplomatic Propriety & Our Interests with Japan*, has said "Twenty years of economic depression...have caused Japan to be no longer tolerant [of Korea] ... Recession also encourages nationalism and populism in Japan. In the past, most Japanese newspapers were politically balanced, except for a few papers. Now, however, there's barely any balance ... This change in newspaper voice has consolidated Japanese public sentiment, which works as an obstacle to easing our relationship."¹³⁴ In addition, the LDP has been credited for offering a tent big enough to maintain power, seeming to be all things for all people. The party has been likened to Amazon: "you can find anything to buy ... Therefore, people do not need any opposition party to buy something else."¹³⁵ Compounding the problem for comfort women/girls is the patriarchy of Japanese society, which discourages victims from reporting rape to the police. The remarkable obstacles faced by journalist Shiori Ito when she tried to press charges against a prominent journalist who raped her in 2015 exemplified the repressed state of women's rights in

¹³² Lauren Jackson and Tara Godwin, "On the Path to Day X: The Return of Germany's Far Right," *New York Times*, June 25, 2021.

¹³³ Lee, *Prospects for US-South Korean-Japanese Trilateral Security Cooperation in an Era of Unprecedented Threats and Evolving Political Forces*.

¹³⁴ Tack-whan Wi and Iou-chung Chang, "1965 Korea-Japan Agreement Should Be Re-estimated," *Korea.net*, March 23, 2016, accessed December 25, 2021, <https://www.korea.net/Government/Current-Affairs/National-Affairs/view?affairId=83&subId=258&articleId=134245>.

¹³⁵ Motoko Rich, "Why the Governing Party Election Is the Main Event in Japan," *New York Times*, October 31, 2021, accessed December 30, 2021.

Japan.¹³⁶

The ideal solution would be Japan taking the onus for finding reconciliation with Korea's comfort women/girls. A Germany-like embrace of legal responsibility and contrition with reparations, education so that future generations never commit these crimes again, and profound memorialization in the form of significant monuments and museums in Tokyo and elsewhere in Japan would go a long way in achieving reconciliation. Like Germany, Japan is now a wealthy country that can easily afford paying more reparations as Germany has done. Lind has argued that Germany-like reparations are too much in that they would provoke right-wing backlash, but what if that backlash is already dominant? It seems strong pushback is required to prevent possible further movement to the right. Importantly, German-style contrition in no way would diminish the reputation of Japan. In fact, it would be a path for respect, just as Germany has achieved. Japan could also easily make clear it was imperial Japan, not the successor Japan, that committed the crimes, just as Germany blamed the Third Reich, not the successor West and East Germany. For the sake of diplomacy, the 2015 Statements could be a starting point for a new victim-centered agreement with comprehensive reparations.

By achieving a victim-centered agreement, Japan would be following the lead of court decisions that have stated the remedy is through political negotiations when sovereign immunity is a bar to legal remedy. To achieve a truly effective agreement, Japan must genuinely meet victims' concerns. Crucially, the United States, the ROK's strongest friend, must also be part of the solution by pressing Japan sufficiently to take its responsibility, which the U.S. failed to do in the early postwar years that created a through line to today's politics.

¹³⁶ Shiori Ito, *Black Box* (New York, New York: Feminist Press, 2017).

The Likely, Minimal Solution

In reality, however, none of this ideal is likely, at least in the foreseeable future. Japan will likely continue to prefer stability and the LDP, which includes conservative, right-wing, denialist values, and the U.S. will likely continue to chide both ROK and Japan to get along. Anything is possible, but immediate trends indicate this is likely. An example of the fraught diplomacy was in July 2021, when ROK President Moon Jae-in sought an hour-long meeting with then-Prime Minister Yoshihide Suga to discuss export controls and the 2018 ROK Supreme Court decision ordering reparations. A high-ranking Japanese diplomat at the Japanese Embassy in Seoul told a journalist that Moon was “masturbating” in his suggestion for a dialogue because his government “does not think about the Japan-South Korea relationship as much as Korea does.”¹³⁷ Although the Japanese ambassador apologized, Moon did not go to Tokyo. ROK Presidential elections in March 2022 could produce an outcome that results in improved relations, but fundamental sources of tension will remain.

The reality that trilateralism will likely continue imperfectly with varying degrees of friction is fine, however, so long as the comfort women/girls and their supporters continue to be a thorn in Japan’s side. For the sake of justice and human rights advancement, civil society must insist in public protest, academia, media, memorialization, and in the courts that the comfort women/girls are to be respected and that Japan must bear the burden for reconciliation. Comfort women/girls statues must further proliferate, with the recent one in Berlin underlining the need for Germany-like atonement.¹³⁸ In this way, the status quo, with the ups

¹³⁷ S. Nathan Park, “Japan Wasted a Golden Chance for Olympic Reconciliation, Tokyo-Seoul Relations Remain Mired in Bad History and Petty Insults,” *Foreign Policy*, July 29, 2021, accessed December 24, 2021, <https://foreignpolicy.com/2021/07/29/japan-olympics-korea-relations/>.

¹³⁸ “Japan Protests Berlin District Comfort Woman Statue Extension,” *Kyodo News*, September 6, 2021, accessed December 24, 2021, <https://english.kyodonews.net/news/2021/09/bf8eb5424adf-japan-protests-berlin-district-comfort-women-statue-extension.html>.

and downs of the touchy Japan-ROK relationship, will continue, and the U.S. will be fated to serve as a mediator when tensions even remotely threaten security. So be it, as it is appropriate for the U.S. to bear that burden and preferable to silencing the victims through denials and blame.

Security must also prevail, of course. Tensions between Japan and ROK must never fall so low that a military outbreak is possible. Such a scenario has not emerged in recent times, despite tensions raised in 2018 when an ROK naval vessel allegedly locked its radar on a Japanese military aircraft while the ship searched for a North Korean fishing boat in distress. The territorial question of Dokto/Takishima/Liancourt Rocks,¹³⁹ the islands that both ROK and Japan claim, has also not proven urgent, although again tensions have been raised by, for example, military drills¹⁴⁰ and when ROK President Lee Myung-bak visited the islands in 2012.¹⁴¹ Overarching all tensions, however, are interests and incentives that push Japan and ROK into cooperation. They are keenly aware of their common security interests, including preventing war with North Korea. The interests of Japan and ROK are not exactly the same, given ROK's desire to have better relations with North Korea, but they are alike enough to be a strong incentive to cooperate on security. And they both want to maintain excellent relationships with the U.S. Better relations would produce better interoperability and other efficiencies, but with the role of the U.S. as mediator, the three countries can work well enough to maintain security. The revival of the TCOG would be desirable, but is not essential.

Accordingly, tension over unresolved World War II issues can continue without causing an overwhelming security risk. Indeed, this tension may in a different way enhance security because letting Japan deny its World

¹³⁹ The Korean name for these islands is Dokto, the Japanese name is Takishima, and the U.S. calls them the Liancourt Rocks.

¹⁴⁰ Jeff Jeong, "Is 'Radar Feud' Sign of Future Military Confrontation between South Korea and Japan?" *Defense News*, December 26, 2018, accessed December 23, 2021, <https://www.defensenews.com/global/asia-pacific/2018/12/26/is-radar-feud-sign-of-future-military-confrontation-between-south-korea-and-japan/>.

¹⁴¹ BBC, "South Korea's Lee Myung-bak Visits Disputed Islands," *BBC News*, August 10, 2021, accessed December 21, 2021, <https://www.bbc.com/news/world-asia-19204852>.

War II crimes in itself is a form of security threat. How can a country that does not take responsibility for such massive crimes be fully trusted? The comfort women/girls issue thus acts as a political constraint on Japan. The LDP's desire to amend Japan's constitution to allow for greater military powers, its denial of its crimes, and other revisionism that it projects internationally should be viewed warily. The presence of about 55,000 U.S. troops in Japan¹⁴² probably absolutely constrains Japan, but security must never be taken for granted. It behooves all countries to keep a check on Japan's ambitions.

Thus, the most realistic solution is a minimal one of continuing the status quo. While time is not on the side of the elderly comfort women/girls as they live out their twilight years, time also does not favor Japan's denialism. As noted by the Seoul Central District Court in January 2021, international law has been developing significantly in favor of increasing human rights and accountability. It is possible that this Court's finding of a *jus cogens* exception for sovereign immunity might lead to other courts ruling similarly, despite the current state of customary international law. If enough courts rule in this manner and states start accepting this exception as binding, then new customary law emerges. After all, sovereign immunity has already evolved from absolute to having limited carve-outs, such as for commercial activities. Why not also for crimes against humanity and other atrocity crimes?

Another example of growing jurisdiction is in the criminal prosecution of individual perpetrators of crimes against humanity and genocide. German and other European courts are at the forefront by invoking universal jurisdiction, thereby prosecuting non-European perpetrators, such as a former Syrian government official who committed such crimes in Damascus.¹⁴³ That there was no nexus to European territory did not

¹⁴² Lindsay Maizland and Nathanael Cheng, "The U.S.-Japan Security Alliance" (Council on Foreign Relations, November 4, 2021), accessed December 24, 2021, <https://www.cfr.org/backgrounders/us-japan-security-alliance>.

¹⁴³ Ben Hubbard, "German Court Convicts Former Syrian Official of Crimes against Humanity," *The New York Times*, February 24, 2021, accessed December 29, 2021, <https://www.nytimes.com/2021/02/24/world/middleeast/germany-court-syria-war-crimes.html>.

matter. Indeed, if individual Japanese perpetrators of the mass rape of comfort women/girls are still living now, prosecuting them in German courts must also be pursued vigorously – a poetic reckoning for former World War II partners. There is no time bar for such crimes under universal jurisdiction, though it will be difficult to get them into German (or other European) custody.

While the world has seen a rise in right-wing populism in certain countries and backlash against progressiveness, the overall trend is advancement towards greater accountability and recognition of human rights. The pioneering activism of comfort women/girls has already helped lead to advancements in prosecuting sexual violence in conflict, such as that by the International Criminal Tribunal for the Former Yugoslavia and the International Criminal Court.¹⁴⁴ It is also directly applicable to the situation today. The March 2021 UN Report on conflict-related sexual violence focused on 18 countries for which it had verified information of such violence.¹⁴⁵ Examples, such as the Islamic State's recent sexual enslavement of Yazidi women and girls, underline the urgency of the issue. The foundation of Noble-prize-winning Dr. Denis Mukwege states that the comfort women/girls movement "has proven to the world that sexual violence in conflict can be condemned by communities and nations at large ... The Korean example can provide crucial knowledge on how to successfully pave the way for such movements elsewhere."¹⁴⁶ Survivors from many countries across the world, including Colombia, Burundi, Bosnia, and Iraq, have shown solidarity with the comfort women/girls. As the long arc of the moral universe bends toward justice,¹⁴⁷ the comfort women/girls and their brethren will likely find their peace.

¹⁴⁴ Just Security, Japan Cannot Claim Sovereign Immunity and Also Insist that WWII Sexual Slavery Was Private Contractual Acts.

¹⁴⁵ UN Secretary-General's Report, "Conflict-related Sexual Violence," March 30, 2021, accessed December 30, 2021, <https://undocs.org/S/2021/312>.

¹⁴⁶ "The Mukwege Foundation Celebrates the 1400th Wednesday Demonstration Honouring the Japanese Military 'Comfort Women'," accessed December 30, 2021, <https://www.mukwegefoundation.org/2129/>.

¹⁴⁷ Paraphrasing Martin Luther King Jr., accessed December 30, 2021, <https://www.si.edu/spotlight/mlk?page=4&iframe=true>.

Conclusion

This article lays out the facts of imperial Japan's sexual enslavement of comfort women/girls in World War II using legally correct vocabulary. It describes the history of Japan - ROK relations and the role of the U.S. in allowing Japan to annex Korea in 1910 and choosing reconstruction over justice in the early post-war years, thereby allowing Japan to engage in audacious denialism, with some suspected wartime criminals regaining positions of authority. In the 1990s, Japan made apologies to the comfort women/girls, but right-wing backlash derailed reconciliation efforts and instead produced audacious denialism again. Comfort women/girls were not adequately included in the negotiations for the 2015 Statements by Japan and ROK announcing a deal that failed to meet their needs, as recognized by the UN and civil society. Court rulings in Seoul show the legal landscape is in flux, with the Seoul Central District Court finding a *jus cogens* exception for sovereign immunity and ruling that Japan must compensate the plaintiff comfort women/girls, but then a different panel of the Court ruling later that sovereign immunity shielded Japan from liability.

The onus for truly resolving World War II crimes must be on Japan, as the perpetrator, and secondarily on the U.S. as enabling Japan's colonialism over Korea and inadequate postwar pursuit of justice, including brazen denialism and insufficient reparations. The U.S. must pressure Japan far more than it pressures the ROK for improved relations. The most effective solution would be Japan behaving as Germany did to reconcile with its former bitter enemies by taking full legal responsibility for imperial Japan's crimes, apologizing fully, educating young people, providing sufficient reparations, including significant memorials in Japan, and other elements necessary for the needs of victims and society. This outcome is unlikely, however. The likely solution will be a minimal one - the continuation of the status quo with fluctuations in Japan-ROK relations and the U.S. intervening when tensions become too much. Security will remain sufficient with this arrangement, although not as robust as it could be if relations were better. This outcome, however, is

preferable to one in which the comfort women/girls are silenced without true reparations. Remembering Japan's atrocity crimes is in itself a security measure. Time is not on the side of Japan as international law strengthens. Demands for justice for historical and current atrocities throughout the world are increasing, even as more years pass since the crimes were perpetrated. The comfort women/girls will not be forgotten in a world of growing accountability and strengthening human rights.

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Cyberattack Severity Assessment (CASA) and National Response Matrix (NRM) in Korea

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Abstract

State-sponsored cyberattacks have increased significantly and threaten national security in recent years. In order to maintain and ensure peace in cyberspace, it should be clear that malicious acts are paid for when they occur. However, due to the intrinsic characteristics of cyberspace, it is difficult to establish guidelines and procedures in proportion to the impact of a cyberattack.

In particular, the Republic of Korea (ROK) has never taken public proportional response measures against numerous attacks over the past 20 years. But the ROK is also trying to change its will to secure cyberattack deterrence and prepare active response through the “National Cybersecurity Strategy 2019.”

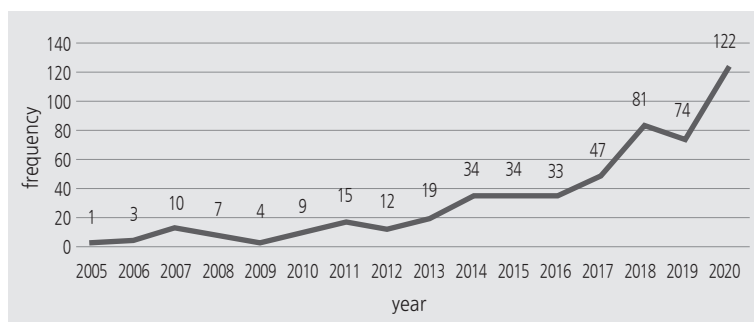
In this paper, we propose a cyberattack severity assessment methodology and national response matrix to enable active response in the event of a cyberattack. We analyze the scale and impact of cyber threats caused by more than 27 attacks that the ROK has suffered, and propose guidelines and procedures for proportional response accordingly. Therefore, we could contribute to securing cyberattack deterrence by establishing the national standard for external responses against cyberattacks and actively imposing costs on malicious cyber attackers thorough CASA and NRM.

Key Words: cyberattack severity, assessment, proportional response

Introduction

Recently, cyberattacks led by the state and state-sponsored groups have increased and threaten national security. Looking at the Cyber Operation Tracker (COT),¹ a national cyber incident DB has operated the Council on Foreign Relations (CFR),² it can be seen that state-sponsored cyberattacks are continuously increasing. In particular, the number of attacks increased by about 2.5 time in 2020 compared to 2017.

Figure 1: Frequency of State-sponsored Cyberattacks



Source: Council on Foreign Relations, "Cyber Operation Tracker," March 17, 2021, <https://www.cfr.org/cyber-operations/>

To promote peace through deterrence in cyberspace, 1) impact and severity of cyberattack should be clearly identified, 2) retaliation and response levels should be commonly shared and communicated, 3) retaliation and response levels should not be excessive or insufficient, 4) both attackers and responders should be fully shared and agreed the severity and response matrix, 5) finally, the respondent's willingness to respond to the response should be clear and capable of implementing it.

¹ Cyber Operation Tracker is a database of the publicly known state-sponsored incidents that have occurred since 2005. Council on Foreign Relations. "Cyber Operation Tracker," March 17, 2021, accessed October 21, 2021, <https://www.cfr.org/cyber-operations/>.

² The Council of Foreign Relations is a United States nonprofit think tank specializing in U.S. foreign policy and international affairs.

This allows actors to clearly recognize mutual policy commitment and goals to achieve peace, and to avoid mutual unnecessary provocation and escalation. This corresponds to socialization in existing international political theories. In order to pursue this, each country develops and shares confidence-building measures (transparency measures, cooperative measures, and reliability measures), and reasonably expects this to be respected by other actors. This ultimately leads to a positive effect of overcoming anxiety and distrust and achieving peace.

However, as of yet, the appropriate level of proportional response to the occurrence of cyberattack has not been clearly standardized in cyberspace unanimously. Countries and organizations have their own deterrence by response measures and announced them through their strategies or documents. Michael Schmidt proposed a diagram that classifies malicious cyber activities in peacetime according to their attributes and determines the level of response.³ The OECD recommended that member countries prepare a reliable sharing mechanism for security attributes and levels and conduct appropriate management, audit, and response.⁴ The EU established the principle of proportional response measures against malicious cyber activities.⁵ However, the ROK has never been disclosed in any specific document other than the indirect remarks set out in its 2019 strategy.⁶

We proposed a methodology for assessing the severity of cyberattacks and possible response measures by matrix. The study consists of two phases as follows. First, we develop the Cyberattack Severity Assessment (CASA). To develop the methodology, we analyze international trends and

3 Michael N. Schmitt, "Peacetime Cyber Responses and Wartime Cyber Operations under International Law," *Harvard National Security Journal*, vol. 8 (2017), <https://harvardnsj.org/wp-content/uploads/sites/13/2017/02/schmitt-NSJ-Vol-8.pdf>.

4 OECD Legal Instruments, "Recommendation of the Council on Digital Security of Critical Activities," 2021, <https://legalinstruments.oecd.org/en/instruments/OECD-LEGAL-0456>.

5 Council of the European Union, "Draft Implementing Guidelines for the Framework on a Joint EU Diplomatic Response to Malicious Cyber Activities," October 2017, <https://data.consilium.europa.eu/doc/document/ST-13007-2017-INIT/en/pdf>.

6 National Security Office of Cheong Wa Dae, "National Cybersecurity Strategy," April 3, 2019, https://www.kr-cert.or.kr/data/noticeView.do?bulletin_writing_sequence=34989.

identify domain to assess the severity of cyberattacks against the ROK. Then, we design weighted values for each criterion, and define severity levels. To verify the developed methodology, we collect data on cases of cyberattacks against the ROK and assess the severity of each case. Based on the assessment results, we analyze the characteristics of cyber threats against the ROK and its responses.

Second, we develop the National Response Matrix (NRM) in the ROK and decision making process. We list up possible response measures by response target and analyze which response measures are taken according to the response target/severity in the international cyberattack cases. Then, we develop a National Response Matrix and a decision making process for cyberattacks of the ROK by reflecting the considerations and determination criteria for each level.

Cyberattack Severity Assessment (CASA)

The CASA aims to prepare criteria for determining the need for a response at a national level and adjusting the response level by assessing the severity of cyberattacks. Therefore, we can support to adjust the level of response at a national level and determine the need for government interventions and who should lead the response in cases of cyberattacks that occur in the private sector.

Previous Research

The previous assessment methodologies comprehensively looked at various types of assessment of the cyberattack severity, such as the severity assessment of cyberattacks or incidents in the IT (Information Technology) and OT (Operation Technology) fields, vulnerabilities assessment, and assessment framework for diplomatic responses. Therefore, we have studied and compared the following 5 methodologies, which are publicly available, to assess the severity of cyber incidents/attacks.

US-CERT, National Cyber Incident Scoring System (NCISS)

The US-CERT (Cyber Emergency Response Team) has been using NCISS since 2014 for consistent cyber incident risk assessment and information collection of critical infrastructure.⁷ After the announcement of the “National Cyber Incident Response Plan (NCIRP)”⁸ in 2016, the scope of use of NCISS has been expanded from critical infrastructure to the entire federal government.

There are 8 assessment domains: Functional Impact, Observed Activity, Location of Observed Activity, Actor Characterization, Information Impact, Recoverability, Cross-Sector Dependency, and Potential Impact. Each domain is weighted according to the importance.

FireEye, Cybersecurity Incident Classification

In a world where the convergence of IT and OT is increasing and threats to OT are growing significantly, FireEye developed Operational Technology Cyber Security Incident Ontology (OT-CSIO), a cybersecurity incident classification method.⁹ OT-CSIO provides reference materials for decision-making and guidelines for risk assessment in the event of cyberattacks on OT.

Assessment domains and damaged equipment were composed using the international standard for industrial control systems. The assessment domains are 4: Target, Sophistication, Impact, and Damaged Equipment.

Symantec, Security Response Threat Severity Assessment

Symantec has operated symantec security response threat severity

7 CERT, “NCISS Incident Scoring Demo,” accessed October 21, 2021, <https://www.us-cert.gov/nciss/demo>.

8 The National Cyber Incident Response Plan includes plans, adjustments, and response exercises to minimize threats that may have critical impact on public health and safety, national security, economic security and international relations. U.S. Department Homeland Security, “National Cyber Incident Response Plan,” December 2016, https://cisa.gov/uscert/sites/default/files/ncirp/National_Cyber_Incident_Response_Plan.pdf.

9 Daniel Kapellmann Zafra and Nathan Brubaker, “The FireEye OT-CSIO: An Ontology to Understand, Cross-compare, and Assess Operational Technology Cyber Security Incident” (Mandiant, September 30, 2019), accessed October 21, 2021, <https://mandiant.com/resources/ontology-understand-assess-operational-technology-cyber-incidents>.

assessment, which includes a threat severity assessment methodology and a response measure matrix.^{10,11} The Symantec Security Research Center and its security products offer basic information on threats such as the affected system and time of detection, as well as the results of its severity assessment.

Assessment domains are three: Wild which is the degree of spread of the virus, Damage which is the degree of damage caused by the infection, Distribution which is the degree of spread of the infection.

FIRST, Common Vulnerability Scoring System (CVSS) 3.1

FIRST (Forum of Incident Response & Security Teams) developed Common Vulnerability Scoring System (CVSS).¹² CVSS assesses and scores technical characteristics of vulnerabilities. Although CVSS is a vulnerability-oriented scoring system, it is included in the analysis because it is an international standard. Therefore, the CVSS is not tailored to a certain IT product or platform and does not take into account the unique outcomes that occur in each organization such as the damage to personnel or financial losses.

CVSS allows to check the overall severity reflecting the environment inside and outside of system. Assessment domains are Base/Temporal/Environmental Metric Group. Base group to focus on the technical characteristics of vulnerabilities, Temporal group to consider characteristics that change over time, and environmental group to consider user environments such as the importance of IT assets of the target organization.

EU, Cyber Diplomacy Toolbox (CDT)

The EU (European Union) developed the CDT framework for a joint EU diplomatic response and provided a way to coordinate member states'

10 Petraq Papajorgji, *Automated Enterprise Systems for Maximizing Business Performance*, 1st edition (Hershey, Pennsylvania: IGI Global, 2015), 233-4.

11 Joseph Boyce and Daniel Jennings, *Information Assurance: Managing Organizational IT Security Risks*, 1st edition (London: Butterworth-Heinemann, 2002), 253-4.

12 FIRST, "Common Vulnerability Scoring System Version 3.1 Specification Document," accessed October 21, 2021, <https://www.first.org/cvss/v3.1/specification-document>.

responses to malicious cyber activity at the EU level.¹³ In fact, it is difficult to regard the CDT as a cyberattack severity assessment methodology as it does not provide specific details for assessment domains and methodologies. However, domains selected by the EU to be considered for the assessment of the severity of malicious cyber activity can be compared together, so domain was considered as one of the international assessment methodologies.

There are seven assessment domains: Scope, Scale, Duration, Intensity, Complexity, Sophistication, and Impact.

Comparative Analysis

We compared and analyzed the assessment agents, targets, objectives and assessment result indicators of the five assessment methodologies. The assessment target could be broadly divided into ICS for national institutions and critical infrastructures and general IT systems according to the objective of assessment.

The objective of the severity assessment methodology was to provide a standard for information sharing and common situational awareness on cyber incidents and attacks, and to provide visualized assessment results to support decision-making when responding to incidents. And there were some differences in the assessment domains, score calculation method, and assessment result indicator depending on the objective.

As a result of analyzing the five cyberattack severity assessment methodologies, there are some differences in objective and assessment point of view. However, they have in common in that the selected assessment domains are items for assessment the severity of cyberattacks.

We classified assessment domains with similar meanings to avoid duplication between domains while including as many domains as possible to assess the severity of cyberattack at the national level. These groupings are the domain and subdomain on the left side of the Table 2. There are

¹³ Council of EU, “Draft Council Conclusions on a Framework for a Joint EU Diplomatic Response to Malicious Cyber Activities” (Cyber Diplomacy Toolbox, June 2017), <https://ccdcoe.org/uploads/2018/EU-170607-CyberDiplomacyToolbox-1.pdf>.

three domains: target of attack, attack capability, extent of damage and impact.

As for the domain of the “target of attack,” the sub-domains are divided into the area of attack and the importance of the damage system. The sub-domains of the “attack capability” are divided into the complexity and sophistication of the attack and the step of actor's activity when an attack is found. The domains of “extent of damage and impact” are

Table 1: Comparison of Assessment Agents, Targets, Objectives, Results Indices of Cyber Incident/Attack Severity Assessment Methodologies

Classification		NCCIC	EU	FireEye	Symantec	FIRST
Assessment Agent		State	State	private security service provider	private security service provider	international organization
Target		all US systems in federal agencies and major Infrastructure	national agencies and citizens	industrial control systems	general IT systems	general IT systems
Objective		identification of priority and distribution of resources for cyber incident response	proportionate response to malicious cyber activities	OT risk management and preparation of the basis for future incident response strategies	estimation of the severity of malware and provision of response options	sharing of information on the severity of vulnerabilities and identification of priority of patches
Result Indicator	Score	scores of the severity of cyber incidents	N/A			scores of the severity of vulnerabilities
	Level	levels of severity			levels of the severity of malware	levels of severity
	Matrix			matrix of cyber incident results	matrix of response measures by level	
	Etc.			assessment results of previous cases		string of the results by basic assessment items

Source: Sunha Bae, Young-in You and So Jeong Kim, “Cyber Attack Severity Assessment,” *Journal of The Korea Institute of Information Security & Cryptology*, vol. 31, no. 6 (December 2021).

Table 2: Classification of Domain to Assess the Severity of Foreign Cyberattacks

Domain	Sub-domain	Descriptions	NCCIC	EU	FireEye	FIRST	Symantec
Targets of attacks	area of attack	areas of attacked agencies and enterprises, significance of the facility, interdependency	interagency impact	scope			
			potential impact				
	significance of damaged system	location where the attack took place and significance of damaged system	location of observed activities		damaged equipment	environment measurement (significance of IT assets)	
Attack Capability	complexity and sophistication of attack	complexity and sophistication of attack technologies and existence of targets	characteristics of the actor (level of technology)	Sophistication	targets	basic measurement (vulnerability) time measurement	degree of distribution
				complexity	Sophistication		
	stage of attack	stage at time of attack detection (intrusion, stake-out or completion of attack, etc.)	observed activities				
Extent of Damage/ Impact	extent of damage	extent of damage (number of victims, number of infected PCs, amount of damage, etc.)		scale, intensity			degree of infection
	impact on functions	impact of attacks on system functions (system damage and service interruption)	impact on functions	duration of impact	impact	basic measurement (impact)	degree of damage
	impact on information	impact of attacks on information	impact on information				
	recoverability	scope of resources needed for damage recovery	recoverability				

Note: Depending on the assessment methodology, the scope of the domains is different, so one domain is divided into several sub-domains or is integrated into one item. So if there are several sub-domains, the table rows are displayed separately, and if there is only one sub-domain, the rows are merged.

Source: Bae, You and Kim, "Cyber Attack Severity Assessment."

classified into the scale of quantitative and qualitative damage that was spread by the attack, impact on function, impact on information, recoverability that is the scope of resources required for damage recovery.

In all five assessment methodologies, the complexity and sophistication of the attack, the impact on the function, and the impact on the information were selected as assessment domains. Therefore, there can be essential domains for CASA.

Methodology

Assessment Domain

The objective of the proposed CASA is to assess the severity of an attack, focusing on the scale and impact of the attack when a cyberattack occurs. In order to increase objectivity of assessment result, assessment domains are defined based on domains and sub-domains that grouped the assessment domains of the five international assessment methodologies discussed above.

Table 3: Assessment Domain

Domain	Sub-Domain (weighted value)	Option	
		Name	Details
Target of Attack	Area of Attack (C_1) ($W_1=6$)	Administration	Government agencies and public institutions related to administration
		National Defense	Agencies and institutions related to national defense including the military
		Public Safety	Government agencies and public institutions related to public safety such as the police
		Finance	Public and private institutions related to finance such as banks
		Communications	Public and private institutions related to communications such as major internet service providers
		Transportation	Public and private institutions related to transportation such as roads, rail, ports, aviation, etc.
		Energy	Public and private institutions related to electricity
		Other Private Facilities	Other private institutions that do not fall into the category of infrastructure

Domain	Sub-Domain (weighted value)	Option	
		Name	Details
Target of Attack	Significance of Damaged System (C ₂) (W ₂ =3)	Open System	Open systems that offer open services with insignificant impact on citizens
		Simple Institutional Information System	Simple institutional information systems for carrying out tasks
		Critical Information System	Critical information systems related to public health such as personal information and health promotion, etc.
		Emergency Control System	Emergency control systems related to the lives of citizens such as earthquakes, aviation, natural disasters, etc.
		System for National Existence	Systems for national existence in areas such as national defense, diplomacy, and unification.
Attack Capability	Complexity & Sophistication of Attack (C ₃) (W ₃ =4)	High	Attacks that require long periods for preparation and reconnaissance and uses various IT tools and ICS vulnerabilities to achieve goal through the use of the target's assets or specific information on the network
		Medium	Attacks using malware or wireless access modified and optimized to targets for IT-based targeted reconnaissance or information from an insider or known vulnerabilities
		Low	Attacks using commercial malware or known vulnerabilities, etc.
Extent of Damage/ Impact	Extent of Damage (C ₄) (W ₄ =4)	High	1,000 computers / 10 infected sites / 5 countries / 20 million victims / damage of 100B or more
		Medium	50-999 computers / 2 infected sites / 2 countries / 10 million victims / damage of 50B or more
		Low	49 computers or less / 1 infected site or less / 1 country or less / less than 10 million victims / less than damage of 50B
	Functional Impact (C ₅) (W ₅ =5)	No Impact	
		Suspected but Not Identified	
		Degradation of Non-Critical Systems	
		Degradation on Critical Systems	
		Destruction of and Loss of Control on Non-Critical Systems	
		Destruction of and Loss of Control on Critical Systems	
	Information Impact (C ₆) (W ₆ =3)	No Impact	
		Suspected but Not Identified	
		Leakage of Personal Information	
		Leakage of Exclusive Information	
		Infringement of Core Credentials	
		Destruction of Critical System Information	

Domain	Sub-Domain (weighted value)	Option	
		Name	Details
Extent of Damage/ Impact	Recoverability (C ₇) (W ₇ =4)	Regular	An enterprise's internal staff can handle an incident without external support
		Supplemented	Time to recovery is predictable but additional resource is required
		Extended	Time to recovery is unpredictable and additional resources and external assistance is required. (e.g. formation of multiple project teams across multiple institutions or organizations to handle incident)
		Not Recoverable	Recovery from the incident is not possible (e.g. leakage and disclosure of sensitive data)

Note: If there are details in addition to the name of the domain in the "Option" column, there were explained in "Details." If the domain is explained by name, "Details" are not included.

Source: Bae, You and Kim, "Cyber Attack Severity Assessment."

Each domain has different weight value based on the importance. And "area of attack" domain has an additional weight that has been set depending on the number of targets to reflect simultaneous attacks on multiple targets. Attacks can occur simultaneously across multiple sectors, and there have been multiple instances of simultaneous cyberattacks on government and financial institutions in the ROK. In order to respond to these simultaneous cyberattacks, the target sector domain was assigned according to the importance and interdependence of each target sector. For example, when an attack occurs in the energy sector, it has the highest score.

Assessment Method

The score is graded between 0 and 100 by adding up the multiplied values of the score and weighted value for each domain.

$$\text{Assessment Score} = \sum_{n=1}^7 W_n \times C_n$$

The severity level is 6 levels of Base, Low, Medium, High, Severe,

Emergency according to the assessment score. Severity levels are distinguished by reference to the CISS (Cyber Incident Severity Schema) in US.¹⁴

Table 4: Severity Level

Severity	Level 5 (Emergency)	Level 4 (Severe)	Level 3 (High)	Level 2 (Medium)	Level 1 (Low)	Level 0 (Baseline)
score	0-35	36-50	51-65	66-75	76-90	91-100

Source: The U.S. Whitehouse, "Fact Sheet: President Policy Directive on United States Cyber Incident Coordination," July 26, 2016.

Experiment

We assessed the severity of 27 domestic and 46 foreign cyberattack cases using proposed CASA methodology.

Assessment Results of cyberattacks in the ROK

The ROK has suffered several critical cyberattacks that have tested its concepts, methodologies, and bureaucratic processes. So we assessed the severity of 27 cyberattacks that occurred in the ROK. Data for assessment and attribution were based on information published in the media, and the assessment results were expressed in severity level and are as shown in Table 5. A majority of the cases had a severity of Medium-High, and most attacks with severity of High-Severe are assumed to have been committed by North Korea.

There are continued espionage carried out by States and State-sponsored groups to obtain national secrets in energy and national defense sectors and advanced industrial/technical information. Recently, there is

14 The CISS defines the level of security by assessing the severity of cyber incidents from a common perspective of the federal government upon the occurrence of cyber incidents that impact national security, economy, etc. The U.S. Whitehouse, "Fact Sheet: President Policy Directive on United States Cyber Incident Coordination," July 26, 2016, <https://obamawhitehouse.archives.gov/the-press-office/2016/07/26/fact-sheet-presidential-policy-directive-united-states-cyber-incident-1>.

an increase in cyberattacks aiming for monetary profits which is not irrelevant to the fact North Korea is concentrating on securing funds via cyberattacks.¹⁵

Table 5 shows that most of the response plan against cyberattacks by the Korean government are passive capacity-building, which urgently revised national policies and systems, conscious of public sentiment and opinion. In addition, there are not many cases of public attribution, and even after publicly announcing attribution, there were no cases of prosecution or separate sanctions against the attacker.

Table 5: Assessment Results of Cyberattacks in the ROK

No.	Month /Year	Cyberattack	Severity	Attribution	Actual Response	
					Target	Type
1	JAN 2003	JAN 25 Internet crisis	High	North Korea (State)	N/A	capacity building
2	FEB 2008	personal data leak, Auction, 18.63M users	Medium	Chinese Group (Private)	individuals	arrested
3	JUL 2009	JUL 7 DDoS attack	High	North Korea (State)	N/A	capacity building
4	MAR 2011	MAR 4 DDoS attack	Medium	North Korea (State)	N/A	capacity building
5	APR 2011	paralyzint the computer network, Nong Hyup (National Agricultural Cooperative Federation)	Medium	North Korea (State)	N/A	capacity building
6	JUL 2011	personal data leak, Nate, 35M users	Medium	Chinese Group (Private)	N/A	capacity building
7	OCT 2011	hacking, National Election Commission	Low	Chinese Group (Private)	N/A	capacity building
8	JUN 2012	hacking, JoongAng Ilbo	Medium	North Korea (State)	N/A	capacity building
9	MAR 2013	MAR 20 computer system Crisis	High	North Korea (State)	N/A	capacity building

¹⁵ According to the August 2019 expert panel report by the UN Security Council Sanctions Committee on North Korea, North Korea is estimated to have seized \$2B through hacking banks or cryptocurrency exchanges. The ROK has been affected the most with ten cases of attacks including the 2018 hacking on Bithumb. UN Security Council, “Midterm Report of the Panel of Experts Submitted Pursuant to Resolution 2464,” August 30, 2019, https://www.ncnk.org/sites/default/files/UN_POE_August2019.pdf.

No.	Month /Year	Cyberattack	Severity	Attribution	Actual Response	
					Target	Type
10	JUN 2013	JUN 25 cyber terror	High	North Korea (State)	N/A	capacity building
11	JAN 2014	KB Card, Lotte Card, etc., 20M customers	Medium	Korean Group (Private)	individuals	arrested
12	MAR 2014	SKT, LGU+, 12.3M customers,	Medium	Korean Group (Private)	individuals	arrested
13	MAR 2014	personal data leak, KT	Low	Korean Group (Private)	individuals	arrested
14	DEC 2014	hacking, Korea Hydro & Nuclear Power	Severe	North Korea (State)	N/A	capacity building
15	OCT 2015	hacking, subway lines 1-4	Medium	North Korea (State)	N/A	capacity building
16	JAN 2016	emails impersonating the Blue House	Low	North Korea (State)	N/A	capacity building
17	JUN 2016	hacking, Cyber Command	High	North Korea (State)	N/A	capacity building
18	JUL 2016	personal data leak, Interpark	Medium	North Korea (State)	N/A	capacity building
19	MAR 2017	retaliatory attack for Korea's stance towards China's THAAD	Baseline	Chinese Group (State-sponsored)	N/A	capacity building
20	JUL 2017	20 companies including Eugene Futures, DBpia, etc.	Medium	Chinese Group (State-sponsored)	individuals	arrested (Korean conspirator(s))
21	OCT 2017	hacking, Daewoo Shipbuilding's drawings, etc. of Aegis Vessels	High	North Korea (State)	N/A	capacity building
22	DEC 2017	hacking, Youbit	Medium	North Korea (State)	N/A	capacity building
23	FEB 2018	hacking, ROK Pyeongchang Olympics	High	Russia (State)	N/A	capacity building
24	JUN 2018	hacking, Coinrail Korea, damage worth 40B KRW	Medium	Unknown	N/A	capacity building
25	JUN 2018	hacking, Bithumb Korea, damage worth 35B KRW	Medium	North Korea (State)	N/A	capacity building
26	NOV 2018	hacking, Korean Military Defense Acquisition Program Administration	High	North Korea (State)	N/A	capacity building
27	NOV 2019	hacking, UPbit, damage worth 58B KRW	Medium	North Korea (State)	N/A	capacity building

Source: summarized and edited by author

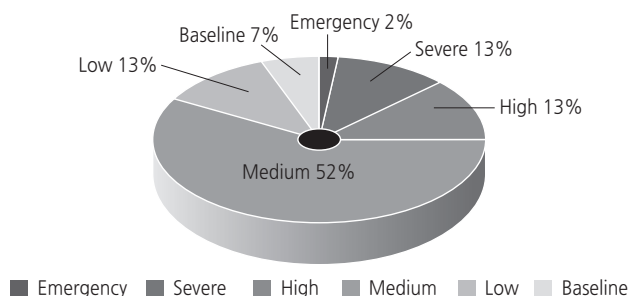
Assessment Results of Cyberattacks in Other Countries

We assessed the severity of 46 cyberattacks that occurred in other countries. For international cases, cases that meet the following conditions were selected first. First, it was a serious cyberattack that occurred after 2007. Second it was publicly estimated that the State and State-sponsored groups were responsible for it. And finally, the victim country responded to the cyberattack. We referred to the CFR's COT for the affected State's response measures and attribution on cyberattacks.¹⁶

Similar to the ROK case assessment results, among all cases, the case of medium severity was the most (52%), and the cases of severe and emergency cases were estimated to be carried out by the State or a State-sponsored group. This indicates that cyberattacks are not as urgent and destructive as warfare through physical attacks, but are affecting national security through persistent and disruptive attacks.

Among the international cyberattack cases, the case where the victim country responded to the attacking country accounted for more than half (56%). And there have been many cases in which the State and State-sponsored groups are responsible for cyberattacks targeting the State as a response target. The higher the severity level, the more multilateral responses were made.

Figure 2 : Assessment Results of the Severity (Ratio by Category)



Source : by author

¹⁶ Supra note 1. Council on Foreign Relations, "Cyber Operation Tracker," March 17, 2021.

International response measures mainly used in international cases include countermeasure, retorsion, prosecution, and hacking-back. Internal response measures are defined as capacity building, and capacity building includes all activities for strengthening internal cyber security capabilities, such as policy establishment, organizational expansion, and technology development.

Countermeasures and hacking-back had a higher rate as the severity level increased. Retorsion were often directed at countries that continued to conduct cyberattacks across all levels of severity. In most cases where countries were the target of countermeasures, the attacking country was the main cyber threat state. When determining response plan, it was found that the relationship between countries and the severity reflecting the accumulative effect of the attack had a great influence. Here, inter-state relationship is the political relationship between the victim and the affected State. In the analyzed international cases, the countries that were subjected to countermeasures and retorsion were Russia, China, Iran and North Korea.

Table 6: List of Foreign Cyberattacks

No.	Month /Year	Cyberattack	Severity	Attribution	Actual Response	
					Target	Type
1	APR 2007	paralyzing an Estonian national agency	High	Russia (State)	individuals	prosecution, capacity building
2	AUG 2007	intrusion, German government network	Medium	China (State)	State	condemnation, capacity building
3	AUG 2008	hacking, Georgia	Medium	Russia (State)	N/A	capacity building
4	JUN 2010	Stuxnet attack on Iran	Emergency	USA (State), Israel (State)	State	counter-hacking, international joint investigation, capacity building
5	JAN 2011	confidential information leakage, US manufacturer	Medium	Chinese group (State-sponsored)	State	prosecution, international agreement, capacity building
6	DEC 2011	invasion, US Chamber of Commerce & Industry	Low	Chinese group (State-sponsored)	State	condemnation

No.	Month /Year	Cyberattack	Severity	Attribution	Actual Response	
					Target	Type
7	AUG 2013	hacking, US financial institution & control system	Medium	Iran (State)	individuals	prosecution, capacity building
8	AUG 2012	attack, Aramco, Saudi Arabia	High	Iran (State)	State	countermeasures, capacity building
9	SEP 2014	attack, major US defense industry contractors	Low	China (State)	State	condemnation
10	NOV 2014	hacking, Sony, US	Severe	North Korea (State)	State	countermeasures, retorsion(economic sanctions, ban on entry), prosecution
11	DEC 2014	hacking, German steel company	Medium	unknown	N/A	capacity building
12	FEB 2015	hacking, Anthem (insurance company)	Medium	Chinese group (State-sponsored)	individuals	prosecution
13	APR 2015	attack, US Office of Personnel Management	Medium	Chinese group (State-sponsored)	State	condemnation, retorsion (rejected diplomats), prosecution
14	APR 2015	intrusion, US Department of Defense's old system	Medium	Russian group	State	condemnation
15	APR 2015	intrusion, UK Broadcasting Station and French TV5 MONDE	Low	Russian group	State	condemnation (public attribution)
16	MAY 2015	hacking, US aviation technology	Medium	Chinese group (State-sponsored)	individuals	prosecution
17	JUN 2015	attack, Japan Pension Service's management system	Medium	unknown	N/A	capacity building
18	JUN 2015	hacking, German Bundestag	High	Russian group (State-sponsored)	individuals	condemnation (public attribution), prosecution, joint sanctions, capacity building
19	DEC 2015	attack, Ukraine's power grid	Severe	Russian group (State-sponsored)	State	condemnation (public attribution)
20	FEB 2016	hacking, Bangladesh's SWIFT computer network	Medium	North Korea (State)	individuals	prosecution, international joint investigation
21	MAR 2016	hacking, US nuclear facilities and infrastructure	High	Russian group (State-sponsored)	State	countermeasures, condemnation

No.	Month /Year	Cyberattack	Severity	Attribution	Actual Response	
					Target	Type
22	JUL 2016	intervention in the US election	Medium	Russia (State)	State	countermeasures, retorsion (economic sanctions, ban on entry into, and departure from, the country), prosecution, condemnation, joint condemnation
23	DEC 2016	DDoS Attack, Russian bank	Medium	Ukraine	N/A	international joint investigation, capacity building
24	DEC 2016	intrusion, Yahoo	Medium	Russia (State)	individuals	prosecution
25	DEC 2016	Crash Override	Severe	Russian group (State-sponsored)	individuals	prosecution, capacity building
26	MAY 2017	dissemination of WannaCry ransomware	Severe	North Korea (State)	State	joint condemnation, retorsion (economic sanctions, secondary sanctions), prosecution
27	MAY 2017	hacking, US power grid	Medium	unknown	N/A	capacity building
28	JUN 2017	Not Petya	Severe	Russian group (State-sponsored)	State	joint condemnation, retorsion (economic sanctions)
29	SEP 2017	hacking, Equifax	Medium	China (State)	individuals	prosecution, capacity building
30	NOV 2017	theft of business secrets from Moody's (American company)	Medium	Chinese group (State-sponsored)	individuals	prosecution
31	JAN 2018	hacking, Japan's Coin check	Medium	Russian group (State-sponsored)	N/A	capacity building
32	MAR 2018	hacking, German government	High	Russian group (State-sponsored)	State	international joint investigation, condemnation (public attribution)
33	MAR 2018	hacking by the Mabna Institute, US government and universities	Medium	Iranian group (State-sponsored)	State	retorsion (economic sanctions)
34	JUL 2018	hacking, Russian bank	Medium	private group	N/A	capacity building
35	JUL 2018	attack, US strategic facilities and infrastructure	Severe	Russian group (State-sponsored)	State	retorsion (economic sanctions), joint condemnation

No.	Month /Year	Cyberattack	Severity	Attribution	Actual Response	
					Target	Type
36	OCT 2018	intrusion, US an Aerospace company	Medium	China (State)	individuals	prosecution, international joint investigation
37	OCT 2018	hacking, Dutch OPCW	Low	Russian group (State-sponsored)	individuals	prosecution, deportation
38	DEC 2018	hacking, US NASA	Medium	China (State-sponsored)	State	prosecution, condemnation
39	MAR 2019	hacking, US marine technology	Medium	China (State-sponsored)	State	press reports, capacity building
40	APR 2019	intrusion, UK Infrastructure	Low	Iranian group (State-sponsored)	State	condemnation
41	JUN 2019	attack, US private company	Baseline	Iran (State)	State	countermeasures, retorsion (economic sanctions)
42	MAY 2020	attack, critical German infrastructure	Low	Russian group (State-sponsored)	State	condemnation
43	MAY 2020	cyberattack, Iranian port	High	Israel (State)	State	condemnation
44	MAY 2020	attack, Israel's water treatment & wastewater facilities	Baseline	Iran (State)	State	counter-hacking
45	FEB 2020	attack, Israeli military	Baseline	Palestinian group (State-sponsored)	State	countermeasures
46	NOV 2020	scanning, US Government agency's network	Baseline	China (State)	State	condemnation

Source : summarized and edited by author

National Response Matrix and Decision Making Process

Classification of Response Measures according to Response Targets

In order to develop a NRM, we first listed the available response measures according to response target. Response targets are defined into four categories: State, individual or group, transit State, and unknown, which may vary depending on the attacker and accuracy of attribution.

Table 7: Classification of Cyberattack Response Measures by Response Target

Target	Classification	Category	Detailed Measures
States	Military Response		invocation of self-defense rights
States	Political, Economic, Diplomatic Response	Countermeasure	non-fulfillment of obligations under treaties and agreements
			sanctions contradictory to treaties and agreements
			operations as countermeasures
		Retorsion	severance of normal diplomatic relations
			economic sanctions (ex. freezing of asset, export/import control, restrictions on remittance, imposing additional tariffs, boycott, ban on providing insurance for international vessels)
			travel bans
			aid suspension and cut-off
			suspension of visa waivers
		Invocation of State Responsibility	suspension and non-repetition of wrongful Acts
			compensation for damages
		Other Diplomatic Measures	condemnation and announcement of statements via media
			announcement of official statements by high-level government officials
			signing of international agreements
			announcement of official statements by States in solidarity
			statements from international organizations
			request of joint investigations
			political dialogues
			summoning diplomats
	Technical Response	Counter-hacking	collection of information on the attacker and attacked website
			measures to block/suspend attacks
			measures to neutralize remote access
			measures to have leaked information destroyed
			infiltrating into the attacker's network and deleting leaked information
Individuals and Groups	-		prosecution in accordance with domestic law
			entry ban
			deportation
			freezing of assets of individuals and groups within affected States
			request of joint investigation
Transit States	-		counter-hacking
			promise to prevent recurrence - request of capacity building

Note: Response measures for “Individual and Groups” and “Transit States” do not have a different classification and category because there are currently not many options.

Source : summarized and edited by author

National Response Matrix

The national response measures according to the cyberattack severity and response target are presented in a two-dimensional matrix. The response measures are eight: military response (A),¹⁷ political/economic/diplomatic sanctions (B),¹⁸ invocation of State responsibility (C),¹⁹ diplomatic response (D), criminal punishment (E), capacity building and accumulation of attack information (F), response against violation of due diligence obligations (G), and reinvestigation of the incident (H).

According to the type of response measures, the matrix area was defined in seven categories: Black Zone, Red Zone, Orange Zone, Yellow Zone, Blue Zone, Green Zone, and Gray Zone.

The NRM according to the response target and severity is as shown in the Table 8, and the response measures within the matrix area refer to the highest level of response measures that can be taken in that domain. In addition, the baseline for external response is indicated so that it can be used as a reference when determining whether the victim country needs an external response according to the severity and response target.

A Black Zone is a case of a cyberattack that has a very urgent and serious impact on national security. In the black Zone, a military response according to the right of national self-defense may be considered. However, in addition to military response, various response measures such as countermeasure, sanctions, diplomatic response, criminal punishment, and capacity building can be used in a complex way.

A Red Zone is a case in which the severity is high and a cyberattack

17 No provision of this Charter violates the unique individual or collective rights of self-defense until the Security Council takes measures necessary to maintain international peace and safety upon the occurrence of military attacks. Actions taken by member States in exercising the rights of self-defense are immediately reported to the Security Council (Article 51, Chapter 7, UN Charter).

18 Sanctions are actions not involving the use of armed force to restore international peace and safety (Article 41, Chapter 7, UN Charter). It refers to give disadvantages to the target State for sanctions through limitations and prohibitions.

19 Sangmi Beak, "The Types, Scope, and Implications of Internationally Legitimate Response Actions Against Cyber Attacks," *International Law Policy Research*, vol. 18, no. 2 (2018), 49-94, <https://s-space.snu.ac.kr/bitstream/10371/140831/1/000000150415.pdf>.

can be attributed to the State. In the Red Zone, the attacking country can be directly disadvantaged through sanctions such as countermeasures and retorsion.²⁰ As a result, it will be able to contribute to securing deterrence against cyberattacks.

Table 8: National Response Matrix

Severity		External Target of Response			
		State	Individual/ Private Group	Transit State	Unknown
5	Emergency	Response A	Response H	Response G	
4	Severe	Response	Response E		
3	High	B+C			
2	Medium	Response D	Response F		
1	Low				
0	Baseline				

- ↓
Baseline for External
Response
- Black Zone : Response A, B, C, D, E, F
 - Red Zone : Response B, C, D, E, F
 - Orange Zone : Response D, E, F
 - Yellow Zone : Response E, F
 - Green Zone : Response F
 - Blue Zone : Response G, F
 - Gray Zone : Response H

	Black Zone
	Red Zone
	Orange Zone
	Yellow Zone
	Green Zone
	Blue Zone
	Gray Zone

Source: by author

20 If the affected and responsible States have concluded an international agreement through a treaty or agreement, the affected State's declaration of a temporary or tentative suspension of the agreement or non-fulfillment of its obligations thereunder can be regarded as countermeasures.

The Orange zone is a case in which the severity is less than medium and the response target is the State. In the Orange Zone, diplomatic responses such as warnings from the international community about the seriousness of the malicious activity of the threat State and public attribution can be taken. In addition, it is possible to establish complex response measures such as strengthening the criminal punishment capability.

The Yellow zone is of severe high severity, and the response target is individuals and groups. Victim country can impose criminal penalties on individuals and groups according to domestic laws, and among the existing cases, prosecution and asset freezing are the most common cases. Even if the attacker is presumed to be a State-sponsored group, but it is difficult to belong to the State, criminal punishment may be imposed on the group.

The Blue Zone is difficult to be attributed to a State because the accuracy of attribution is low, but the severity is higher than high and there are transit States. In the Blue Zone, transit States are the response target. Victim country may request transit State to fulfill their due diligence²¹ and to undertake efforts to strengthen capability to prevent recurrence.^{22 23}

The Gray Zones are urgent in severity and are targeted by individuals and private groups. However, most of the cases of urgency are attacks by States and State-sponsored groups, the possibility of cyberattacks falling within the Gray Zone is very low. Therefore, when such an attack occurs,

21 A State may exercise due diligence in not allowing its territory, or territory or cyber infrastructure under its governmental control, to be used for cyber operations that affect the rights of, and produce serious adverse consequences for, other States (Rule 6, Tallinn Manual 2.0).

22 A clear standard to apply the principle of due diligence has not been established in international law, but the principle will be applicable for cyber operations that cause grave negative outcomes (Rule 6, Tallinn Manual 2.0).

23 The State responsible for the internationally wrongful act is under an obligation to offer appropriate assurances and guarantees of non-repetition, if circumstances so require. International Law Commission, "Draft Articles on Responsibility of States for Internationally Wrongful Acts," 2001, https://legal.un.org/ilc/texts/instruments/english/draft_articles/9_6_2001.pdf.

intensive re-investigation will be required based on domestic and international cooperation.

Decision Making Process

The decision making process was developed to suggest a more appropriate response measure by adding two considerations to the matrix and it has four stages. We propose the following four elements to be considered for each stage of establishing response measures in Figure 3: 1) assessment of the severity 2) actor of the attack, 3) accuracy of attribution, and 4) imminence (continuity) of the attack.

- Actor is classified into four categories: State, State-sponsored Group, Individual and Private Group, and Unknown.
- Accuracy of Attribution is classified into three levels: Accurate (Verifiable), Mostly Accurate, and Estimate.
- Imminence (Continuity) of Attack is classified into two: Imminent and Not Imminent.

The imminence of an attack has a problem in that it is difficult to determine whether a cyberattack is in progress or whether it will end. If an attack with a similar purpose is repeated several times in the same country, the effect of the attack will accumulate and the attack may be considered imminent.

As seen in the severity assessment results for international attack cases, the fact that attacks with low severity below the critical point are continuously occurring is currently a global issue. To reflect this response measures, we considered the imminence of an attack as one of the steps in the decision-making process. Therefore, when a continuous attack on the same attacker occurs, it is considered that an attack is imminent and the level of response can be raised.

In the decision-making process, additional considerations were included in the response matrix, and the matrix area and available response

measures were also shown in the flowchart so that a more suitable response measure type could be suggested.

Application of the National Response Matrix

The Table 9 is the result of applying cyberattacks that occurred in the ROK to the NRM. Among the cyberattacks that occurred in the ROK, cases in which the actors were States and State-sponsored groups and the attacks were attributable to the States (the Red and Orange Zones) need active external response including political, economic, and diplomatic response.

In particular, for continued cyberattacks carried out by major threatening States, such as North Korea, causing damage to the ROK, there is a need for external responses at a national level that can impose disadvantages to the affected States, e.g. countermeasures and retorsion, etc.

The flowchart illustrates the NATO Cyber Incident Response Process (NCIRP) for Attribution and Response, categorized by the severity of the attack: Severe-High, Medium-Low-Baseline, and Emergency.

Severe-High:

- Investigation:** Occurrence of Attack leads to Investigation, which leads to Severity.
- Actor of Attack:** Severity leads to Actor of Attack. If Individual/Private Group, it leads to Gray Zone H. If State/State-sponsored Group, it leads to Is the attribution certain? (Accurate).
- Is the attribution certain? (Accurate):**
 - If 1 (Yes), it leads to Red Zone B C D E F.
 - If 2 (No), it leads to Is the attack imminent?
 - If Yes, it leads to Red Zone B D F.
 - If No, it leads to Is there a transit State?
 - If Yes, it leads to Violation of Due Diligence Obligation.
 - If Yes, it leads to Blue Zone G F.
 - If No, it leads to Orange Zone D F.
 - If No, it leads to Yellow Zone E F.
 - If 3 (No), it leads to Yellow Zone E F.
- Response:** All paths from Severe-High lead to Green Zone F.

Medium-Low-Baseline:

- Actor of Attack:** Occurrence of Attack leads to Investigation, which leads to Severity. Severity leads to Actor of Attack. If Individual/Private Group, it leads to Yellow Zone E F. If State/State-sponsored Group, it leads to Is the attribution certain? (Accurate).
- Is the attribution certain? (Accurate):**
 - If 1 (Yes), it leads to Red Zone B D F.
 - If 2 (No), it leads to Is the attack imminent?
 - If Yes, it leads to Red Zone B D F.
 - If No, it leads to Is there a transit State?
 - If Yes, it leads to Violation of Due Diligence Obligation.
 - If Yes, it leads to Blue Zone G F.
 - If No, it leads to Orange Zone D F.
 - If No, it leads to Yellow Zone E F.
 - If 3 (No), it leads to Yellow Zone E F.
- Response:** All paths from Medium-Low-Baseline lead to Green Zone F.

Emergency:

- Actor of Attack:** Occurrence of Attack leads to Investigation, which leads to Severity. Severity leads to Actor of Attack. If Individual/Private Group, it leads to Gray Zone H. If State/State-sponsored Group, it leads to Is the attribution certain? (Accurate).
- Is the attribution certain? (Accurate):**
 - If 1 (Yes), it leads to Black Zone A B C D E F.
 - If 2 (No), it leads to Is the attack imminent?
 - If Yes, it leads to Red Zone B D F.
 - If No, it leads to Is there a transit State?
 - If Yes, it leads to Violation of Due Diligence Obligation.
 - If Yes, it leads to Blue Zone G F.
 - If No, it leads to Orange Zone D F.
 - If No, it leads to Yellow Zone E F.
 - If 3 (No), it leads to Yellow Zone E F.
- Response:** All paths from Emergency lead to Green Zone F.

Cyberattack Severity Assessment (CASA) and National Response Matrix (NRM) in Korea 93

Table 9: Applying the National Response Matrix

		Target of External Response			
		State	Individual / Private Group	Transit State	Unknown
5	Emergency				
4	Severe	14			
3	High	1, 3, 9, 10, 17, 21, 23, 26			
2	Medium	4, 5, 8, 15, 18, 22, 25, 27	2, 6, 11, 12, 20		24
1	Low	16	7, 13		
0	Baseline		19		

↓
Criteria for External Response

Note: See Table 5 for corresponding definitions of numeric labels.

Source : by author

Conclusion

This study is of primary significance in analyzing the ROK's cyberattacks and other countries attacks, objectively assessing the severity of the damage and presenting national standards that can respond proportionally and reasonably. The ROK's national cyber security strategy, announced in 2019, also declares that it will actively and proportionately take

appropriate measures against malicious cyber activities, but the standards are not proposed.

To strengthen policies and anticipate future scenarios for cyberattacks in the ROK, we presented a response manual by developing matrices, standards, and procedures. In addition, the proposed manual guarantees effective deterrence against cyberattacks with active responses by suggesting the necessity of external responses and possible response measures. In the end, it is expected that unnecessary provocations and conflicts will be reduced by being able to predict in advance the consequence and costs to be borne by the hostile actors have to bear.

However, the proposed CASA and NRM are initial models, and various improvement will be needed in the future to be used for policy purposes. First, it is necessary to secure the objectivity of assessment domain and scores for the CASA methodology, and to diversify the assessment methodology according to the assessment agent and time. In order to improve NRM, it is necessary to develop new response measures that can be taken politically, economically, and diplomatically, and to be able to propose appropriate response measures according to time/country/purpose. Above all, in order to obtain validity for external response, an international consensus should be drawn through continuous discussion on methodology.

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Chinese Perspective on China's Practical Actions, Experience Summary and Development Direction in Safety Guarding Peace and Stabilization on the Korean Peninsula

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Abstract

Maintaining peace and stability on the Korean Peninsula has always been a core issue of China's foreign policy. Since the outbreak of the Korean nuclear crisis, China has actively mediated and played an important and constructive role in promoting and maintaining peace and stability on the Korean Peninsula. China adheres to the concept of peace and development. While adhering to the denuclearization of the Korean Peninsula and promoting the establishment of a peace mechanism, China has deepened its economic cooperation with the DPRK and South Korea, thus promoting the overall development of the Korean Peninsula. In its practical actions to safeguard peace and stability on the Peninsula, China has summed up the basic experience that equality and respect are the foundation, mutual benefit is the way and win-win cooperation is the goal. In the future, China will continue to make efforts to strengthen equality and respect based on actual conditions. Second, we need to take multiple measures to maintain regional peace and stability. Third, we need to work together to build a community with a shared future for mankind.

Key Words: China, Korean Peninsula, peace and stability, Xi Jinping Thought on Diplomacy

Introduction

Northeast Asia has special geopolitical interests and involves multiple stakeholders on many issues, so it often becomes the key region of great power game. The special geographical conditions make the Korean Peninsula, which is located in the center of Northeast Asia, become the geographical scope of strategic intersection and competition of the world powers. The situation on the Korean Peninsula is both complex and sensitive due to the complicated interests of many countries such as China and the United States. For China, the Korean Peninsula is located around China and is an important strategic fulcrum for China. Since the outbreak of the Korean nuclear crisis, the international community has been paying continuous attention to whether the DPRK will conduct a nuclear test. However, the antagonism between the DPRK and the US on the DPRK nuclear issue makes the Korean Peninsula and Northeast Asia deeply troubled by nuclear issues, seriously affecting their security and stability. Under this circumstances, China committed to promoting peace and stability on the Korean Peninsula and made diplomatic efforts in accordance with the international situation under the scientific guidance of its leaders. On the one hand, China has coordinated relations among countries to promote and maintain lasting peace on the Korean Peninsula. On the other hand, China has deepened economic cooperation and Non-governmental exchanges with South Korea and the DPRK to seek and realize common development with the Korean Peninsula.

China's efforts on the Korean Peninsula are actually consistent with the general proposition of Xi Jinping Thought on Diplomacy. Xi Jinping Thought on Diplomacy is the crystallization of the wisdom of the CPC Central Committee with Xi Jinping at its core on foreign policy and diplomatic philosophy since the 18th CPC National Congress. It is an important theoretical guide for China's diplomatic layout and a basic guideline for maintaining peace and stability on the Korean Peninsula. General secretary Xi Jinping examined the new era of China's domestic development needs and the world economic and political pattern from

historical depth, strategic height and span of time, summarized the experiences and lessons of China's diplomacy, to innovate and operate from a strategically advantageous position, profoundly answered the development direction of the theory and practice of Chinese diplomacy, condensed out Xi Jinping Thought on Diplomacy that is scientific, forward-looking and practical. As China's overall national strategic vision, Xi Jinping Thought on Diplomacy takes the realization of the common values of mankind, peace and development, the promotion of equity and justice, democracy and freedom as its specific goals, and the building of a new type of international relations and a community with a shared future for mankind as its practical path. Therefore, it has distinct characteristics of the Times. Maintaining peace and stability on the Korean Peninsula is an important part of Xi Jinping Thought on Diplomacy, and plays an important role in building China into a great modern socialist country in all respects, realizing the great rejuvenation of the Chinese nation, and promoting the building of a community with a shared future for mankind. Under the leadership of General Secretary Xi Jinping, China continues to adhere to the principles of equality, respect, mutual benefit and reciprocity, strive for win-win cooperation in dealing with the Korean Peninsula issue and maintain regional peace and stability.

China's Efforts to Maintain Peace and Stability on the Korean Peninsula

Promoting Peace: China Adhered to Denuclearization of the Korean Peninsula and Promoted the Building of a Peace Mechanism

The DPRK nuclear issue continues to grow under the condition of antagonistic and uncompromising policy between the DPRK and the US. In the face of the threat of nuclear tests, South Korea and the US jointly

deployed the “THAAD” missile system in South Korea, which not only intensified the hostility between the DPRK and the US and between the DPRK and South Korea, but also turned the Korean Peninsula into a potential “powder keg.” The DPRK nuclear issue is closely related to the peace and stability of the Korean Peninsula. Therefore, how to sign a peace agreement on the turbulent Korean Peninsula is an important issue for both the DPRK and South Korea, and also is the direction of China's efforts to maintain peace and stability on the Korean Peninsula. “China faces a complex geopolitical environment,”¹ being different from the hard-line attitude and sanctions of the United States, China, on the basis of reviewing the security perceptions of other countries, adhered to a peaceful attitude and dialogue in dealing with the DPRK nuclear issue, and tried to play a constructive role in maintaining peace and stability on the Korean Peninsula.

Firstly, China strove to ease tensions between North and South Korea industriously. As the main state of the Korean Peninsula, the hostility between the DPRK and South Korea seriously threatens the peace and stability of the Korean Peninsula. On the contrary, the improvement of their relations is conducive to the realization of high-quality development of the two sides. While consolidating the traditional friendship between China and the DPRK, China is also deepening the strategic cooperative partnership between China and South Korea, thus becoming an important bridge for the easing of the relations between the DPRK and South Korea. “The Sinking of the Cheonan in 2010” and “the shelling of Yeonpyeong Island” chilled relations between the DPRK and South Korea and seriously affected peace and stability on the Korean Peninsula. On September 28, 2011, Chinese Foreign Ministry spokesperson Hong Lei expressed “sincerely hope and support for beneficial contact and dialogue between the DPRK and South Korea.”² China expressed

1 Chenran Xiong et al, “Scenario Analysis in Geopolitical Environment: A Chinese Perspective,” *World Geographic Studies*, no. 3 (2019): 8.

2 “The Ministry of Foreign Affairs, China Sincerely Hopes That Good Contact and Support the Inter-Korean Dialogue,” *The China Daily*, September 28, 2011, http://www.chinadaily.com.cn/hqgj/2011-09/28/content_13812515.htm.

firm opposition and strong dissatisfaction with South Korea's deployment of THAAD in 2016 in defiance of the opposition of the international community, and actively engaged in dialogue and consultation with South Korea on the THAAD issue to safeguard security and stability on the Peninsula. China takes a neutral position on the DPRK-ROK relations, neither conniving at the DPRK nor taking sides with South Korea. China insisted on the denuclearization of the Korean Peninsula when the DPRK conducted a nuclear test, and insisted on opposing when South Korea deployed the THAAD missile system and conducted joint military exercises. China's efforts to encourage dialogue and ease the conflict between the DPRK and South Korea are not only a consideration of its own security interests, but also a concrete action to realize and maintain peace and stability on the Korean Peninsula.

Secondly, China actively advocated dialogue between the DPRK and the US. The lifting of sanctions by the United States on the DPRK, the improvement of relations with the DPRK by the international community, economic assistance and the signing of a peace mechanism on the Korean Peninsula are all based on the DPRK's "abandonment of nuclear weapons." "The United States does not want to solve the DPRK nuclear issue, but pushes it on to China."³ But the DPRK sees the move as putting the cart before the horse, saying it cannot dismantle its nuclear weapons before sanctions are lifted and a peace mechanism signed. The situation on the Peninsula is volatile as the DPRK and the US do not make concessions to each other. The United States is the main cause of geopolitical changes around China.⁴ Faced with a sudden nuclear crisis in the DPRK, China hopes to "talk peace" through the six-party talks. The lack of political mutual trust between the DPRK and the US is an external manifestation of divergent national interests and ideological opposition. China is aware that in the absence of a thorough change in

3 Yuanhua Shi, "Preventing the Korean Peninsula Crisis from 'Hard Landing'," *World Knowledge*, no. 21 (2016): 72.

4 Hongpeng Cai, "The Change of China's Geopolitical Environment and Its Impact," *International Review*, no. 1 (2011): 15.

the DPRK-US relationship, it is necessary to be a third party as the main driver to solve the bottleneck problem and launch negotiations with the DPRK and the US so as to bring the dialogue back on track. China encouraged dialogue and consultation to increase the basis of political mutual trust between the DPRK and the US, strove to explore common interests between the DPRK and the US, and provides Chinese wisdom and proposals for the denuclearization of the Korean Peninsula and the establishment of a peace mechanism. On September 26, 2006, The Chinese Foreign Ministry held a press conference in which Qin Gang expressed “encouragement and support for direct dialogue between the DPRK and the US.” After informal talks between the DPRK and the US, China remained supportive. On October 24, 2016, Chinese Foreign Ministry spokesperson Lu Kang stressed that China encourages friendly talks between all parties, “especially contacts, consultations and talks between the US and the DPRK.”⁵ In 2018, after the Moon Jae-in administration improved inter-Korean relations, China continued to express its hope that “the DPRK and the US can strike while the iron is hot and realize direct talks as soon as possible.”⁶

Thirdly, China coordinated state-to-state relations and reach consensus on the Peninsula. Meetings are an effective way to increase the foundation of mutual trust among countries. China strove to increase the opportunities for negotiations among countries to reach solutions through consultation, mainly including the Six-Party talks and the Quadrilateral talks and encouraging mutual visits among countries. The situation on the Korean Peninsula is evolving and changing in an infinite cycle of “tension-ease-tension” due to the DPRK nuclear issue. In 1993 and 2003, the DPRK withdrew from the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) twice, becoming a thorny problem in international

5 “The Ministry of Foreign Affairs: Encourage the DPRK Nuclear Issue Dialogue Contact,” CCTV, October 24, 2016, <http://news.cctv.com/2016/10/24/ARTICTjdNpMfwSiRz2J2uMK161024.shtml>.

6 “China Calls on the DPRK’s ‘Strike While the Iron Is Hot’ As Soon As Possible Direct Dialogue,” *Xinhua*, February 28, 2018, http://www.xinhuanet.com/world/2018-02/28/c_129819604.htm?rsv_upd=1.

politics. On April 5, 2009, when the DPRK launched a satellite, China immediately made clear its position, “we hope all parties can keep calm and exercise restraint and properly handle relevant issues.”⁷ On April 23, the DPRK announced its withdrawal from the Six-Party Talks. Before this, the six-party talks had progressed to the second stage of the sixth round under the active mediation of China. The talks also achieved substantive results and the negotiating parties reached an agreement to promote the denuclearization of the Peninsula. Despite China's mediation efforts, “consensus and differences exist, expectations and disappointments exist between the DPRK and the US.”⁸ In the years when the DPRK frequently conducted nuclear tests, the US took a tough attitude and repeatedly used international resolutions to impose comprehensive sanctions on the DPRK. In order to avoid provoking the DPRK and aggravating the situation on the Peninsula, China has also tried its best to mediate and reduce comprehensive sanctions so as to win proper development space for the DPRK. On September 6, 2018, Kim Jong UN promised to denuclearize the Korean Peninsula, ushering in a new turning point in The DPRK nuclear issue. The easing of the situation on the Korean Peninsula not only involves the change of attitude of the US side, the real-time adjustment of the US policy towards the DPRK and the return of the DPRK and the US to negotiations, but also China's diplomacy is an important force to accelerate the easing of the tension on the Korean Peninsula. In short, it is China's consistent position to handle the DPRK nuclear issue through dialogue and consultation. Under China's active mediation, the number of negotiations and leaders' meetings between countries on the DPRK nuclear issue has been increasing, and the DPRK nuclear issue has experienced relative detente since the late 1990s, from 2003 to 2005 and 2018.

7 “Foreign Ministry Spokesman Is the DPRK's Response to the Security Council Presidential Statement and Etc,” *Xinhua*, April 16, 2009, http://news.xinhuanet.com/world/2009-04/16/content_11195855.htm.

8 Xiaobo Wang, “‘Emergency Prevention’ and ‘Anti-suspension’: The Denuclearization of the Korean Peninsula Needs a Push to Regain ‘Joint Force’,” *Journal of Yanbian University (Social Science Edition)*, no. 1 (2020): 11.

Seeking Development: China Strengthened China-DPRK and China-ROK Economic Cooperation and Strove to Build a Peninsula Economic Community

Marx believed that “only with this universal development of the productive forces can the universal intercourse of men be established.”⁹ Therefore, economy is also an important measure to establish close exchanges on the Korean Peninsula. The ups and downs of the DPRK nuclear issue, the degree of economic openness of the DPRK and its future economic development direction together constitute the focus of the international community after the Cold War.¹⁰ Security interests and economic interests are the most basic needs of the state, and the DPRK's self-preservation with nuclear weapons is closely related to economic needs. Opening up to the outside world is a prerequisite for economic development. Guiding the DPRK to carry out reform and opening up and accelerating the construction of economic integration in Northeast Asia is conducive to fundamentally solving the DPRK nuclear issue.¹¹

First, China deepened China-DPRK economic cooperation. On the one hand, the DPRK has a desire to gain international recognition through reform and opening up. On the other hand, the international community wants to see the DPRK integrated into the world economic and political system. Therefore, it is feasible and timely to exchange economic cooperation for stability on the Korean Peninsula. China has a clear position on China-DPRK economic cooperation: First, it clearly recognizes that economic cooperation can be an important breakthrough to ease the DPRK nuclear issue under the condition of the DPRK's all-out resistance regardless of opposition. Second, China can clearly recognize the main role of China in China-DPRK economic cooperation.

⁹ Karl Marx and Friedrich Engels, *Selected Works of Marx and Engels*, vol. 1 (Beijing: People's Publishing House, 2012), 166.

¹⁰ Qiangyi Jin, “China's Northeast Asia Regional Strategy and Northeast Asia Political Structure,” *Journal of Yanbian University*, no. 3 (2007): 5-11.

¹¹ Xuewei Li, “The Strategic Approach of Sino-South Korea Cooperation to Solve the DPRK Nuclear Issue,” *Pacific Journal*, no. 11 (2008): 41.

China can actively integrate DPRK resources and help industrial structure transformation. Third, China can clearly understand the limitations and long-term nature of the role of economic cooperation in alleviating the DPRK nuclear issue. China-DPRK economic cooperation is only an important breakthrough, and security interests are far more important than economic interests in national strategy.¹² In addition, improving the situation on the Peninsula through economic cooperation will be a long and arduous process, and China has a long way to go.

In January 2006, Chinese Premier Wen Jiabao and the DPRK leader Kim Jong Il proposed a policy of “government guidance, enterprise participation and market operation,” which “means that the traditional way of China-DPRK economic cooperation will change.”¹³ In the process of economic cooperation between the two countries, China has made full use of its economic advantages to help vulnerable industries in the DPRK, the DPRK has achieved great achievements in economic development, and its path of attaching importance to economic development has also been recognized by the international community. Under Kim Jong-un, he has continued to increase trade with China and build new economic zones. On April 22, 2018, at the third Plenary Session of the seventh WPK Central Committee, the DPRK adopted a resolution on “concentrating on socialist economic construction in compliance with the requirements of the new stage of revolutionary development,” indicating that the DPRK is concentrating on economic development. By the end of 2018, the DPRK had established more than 20 economic development zones covering agriculture, tourism, high-tech and other fields. With the increase of China-DPRK trade, the DPRK’s trade dependence on China is gradually increasing. In 2010, China-DPRK trade accounted for more than 80% of the DPRK’s total trade ratio, and the China-DPRK trade volume reached 63.32 million US dollars in 2020.

¹² Xuetong Yan, “National Security Is More Important Than Economic Interests,” *Learning Monthly*, no. 4, (2003): 15.

¹³ Chao Lu and Wanli Zhang, “The Current Situation and Prospect of China-North Korea Economic Relations,” *Northeast Asia Forum*, no. 4 (2009): 84.

Concentrating on economic development is a major turning point in the DPRK's national development and provided a new opportunity for realizing peace and stability on the Korean Peninsula.

Second, China strengthened economic exchanges between China and South Korea. The establishment of cooperative relations between China and South Korea continued to lead the deepening of economic relations. Since the establishment of diplomatic ties between China and South Korea, under the efforts of the leaders of the two countries, bilateral relations have achieved leap-forward development of “good-neighborly cooperative relationship” (1992-1997), “cooperative partnership” (1998-2002), “comprehensive cooperative partnership” (2003-2007) and “strategic cooperative partnership” (2012-present). China and South Korea are separated by a strip of water and facing each other across the sea, which lays a foundation for bilateral relations, and economic complementarity promotes exchanges and cooperation. Due to the different division of labor and functions of the global industrial chain, China and South Korea are complementary in technology needs and labor demands, so there is still a large space for the future economic development of China and South Korea. The establishment of China-South Korea strategic cooperative partnership has narrowed the distance of economic cooperation and exchange between the two countries. In 2013, when the China-South Korea strategic cooperative partnership was established, the total amount of goods exported by South Korea to China was 145.87 billion US dollars, accounting for 26.1% of South Korea's exports, with a year-on-year growth of 8.6%. In the same year, the total amount of bilateral trade was 228.92 billion US dollars, with a year-on-year growth of 6.4%.¹⁴ On June 1, 2015, after many negotiations and consultations, the Free Trade Agreement between China and South Korea was officially signed, allowing both countries to enjoy the economic benefits of the establishment of the free trade zone.

¹⁴ “The Ministry of Commerce of the People's Republic of China National Report [EB/OL],” https://countryreport.mofcom.gov.cn/record/view110209.Asp?News_id=38041.

Admittedly, the deepening of China-ROK economic cooperation is the result of win-win strategy of the two countries and can truly promote the positive development of the situation on the Korean Peninsula.

Third, China strove to speed up the building of the economic community among China, South Korea and the DPRK. With the construction and improvement of economic development zones in northeast Asia, the economic relations between regions are gradually strengthened. The establishment of high-level regional economic groups should have four conditions: similar per capita GNP level, the same or consistent trade system, geographical proximity and commitment to regional economy.¹⁵ The building of the Economic community on the Korean Peninsula has laid a certain objective foundation. China is willing to continue to adhere to the concept of common development and common prosperity and work hard to promote the building of the economic community among the three countries.

In the basic framework of northeast Asian economic development model, the trade-first policy should be adhered to.¹⁶ The expansion of trade between China and South Korea, China and the DPRK, and between the DPRK and South Korea will enhance the closeness of the three countries' economic development. The DPRK needs to carry out economic cooperation with South Korea. The institutionalization of the economic cooperation between the DPRK and South Korea, on the one hand, can expand the DPRK market, increase new employment opportunities, add new impetus to the economic development of the DPRK meanwhile increase stability factors on the Korean Peninsula. On the other hand, due to the objective existence of the US-ROK alliance and the US-ROK FTA, the economic cooperation between the DPRK and the US has increased the possibility of dialogue between the US and the DPRK and added options for the improvement of the relationship

¹⁵ Hua Fang, "The Present situation and Prospect of Regional Economic Cooperation in Northeast Asia," *Modern International Relations*, no. 11 (2008): 59.

¹⁶ Lucheng Huang, "On the Model of Regional Economic Development in Northeast Asia," *Northeast Asia Forum*, no. 2 (1995): 19.

between the DPRK and the US. At the same time, China-DPRK economic cooperation, China-ROK economic cooperation and DPRK-ROK economic cooperation are not competitive and antagonistic, but complementary, which can effectively make up for the defects of the DPRK's economic development and jointly contribute to the prosperity and development of the Korean Peninsula. China has been actively strengthening the promotion of China-DPRK and ROK economic cooperation projects, promoting the development of economic cooperation among the three countries to the direction of economic community construction, firmly "seizing the opportunity for regional peace after the signing of the Pyongyang Declaration between the DPRK and South Korea, and overcoming the hindering factors caused by political instability in the region."¹⁷

China's Experience in Dealing with the Korean Peninsula Issue

Equality and Respect Are the Foundation

In 2019, China and the DPRK exchanged congratulatory messages to carry forward their friendship on the 70th anniversary of the establishment of diplomatic ties. The firm position of the Chinese Party and government to consolidate and develop China-DPRK relations will not change, the friendship of the Chinese people to the DPRK people will not change, and China's support to the socialist DPRK will not change,¹⁸ the three "no change" is a summary of the experience of equality and respect in China-DPRK relations over the past 70 years

17 Lei Jing and Binbin Zhu, "Prospects and Countermeasures of Regional Economic Cooperation in Northeast Asia under the Background of 'Anti-globalization'," *East Xinjiang Academic Journal*, no. 2 (2020): 74.

18 "What Does 'Three Things Will Not Change' Mean for China towards the DPRK?" *Overseas*, June 20, 2018, <https://baijiahao.baidu.com/s?id=1603747208582057382&wfr=spider&for=pc>.

and a guide to action for future development. China's approach to the DPRK adhered to offer kindness in return for acceptance, rather than force.¹⁹ Thanks to the joint efforts of the leaders of China and the DPRK, bilateral relations have entered an intimate stage since the end of the Korean War, which laid a solid foundation for China-DPRK friendship. During the decades of China-DPRK relations, China has taken the principle of equality and respect as values and actively helped the DPRK to participate in international activities. Influenced by the Cold War and the establishment of diplomatic relations between China and South Korea, China-DPRK relations experienced a cycle of friendship, got cold, got warm and then got cold again. After the outbreak of the nuclear crisis in the DPRK, the political differences between the two countries began to become obvious and expand. Regarding the DPRK nuclear issue, China has always encouraged peaceful dialogue and accorded full respect to the DPRK. China opposed extreme pressure, called for respect for the DPRK, and expressed the hope that all parties could engage in dialogue “on the basis of mutual respect” when the international community proposes to refer the DPRK's human rights issues to the International Criminal Court. In its policy towards the US, China also advocates dialogue with the US on the basis of “equality and mutual respect” and firmly opposes US to interfere the internal affairs of the DPRK due to its human rights issue.

In addition, although China and South Korea have differences in ideology and political system, China still adheres to equality and respect in exchanges, upholds China-ROK friendly relations and contributes to peace and stability on the Korean Peninsula. Since the establishment of diplomatic ties between China and South Korea in 1992, the economic, political and cultural cooperation between China and South Korea has quickly moved on the right track under the friendly policy of the Kim Young-sam government, which laid a solid foundation for the friendly

19 Zhihua Shen, “Respect and Aid: The Formation of New China's Foreign Policy towards the DPRK (1950-1955),” *Problems in History Teaching*, no. 6 (2015): 13.

development between China and South Korea. After the Kim Dae-jung and Roh Moo-hyun administrations took office, they continued friendly diplomacy with China. They not only paid state visits to China and exchanged views on the DPRK issue, but also upgraded China-ROK relations to “China-ROK cooperative partnership facing the 21st century” and “comprehensive partnership.” During the Lee Myung-bak administration, although the situation on the Korean Peninsula had a serious impact on China-South Korea relations, the establishment of China-South Korea strategic cooperative partnership effectively created conditions for China-South Korea economic cooperation. Since General secretary of the Chinese leader xi Jinping came to power, peace and stability on the Korean peninsula is being affected by the confrontation between the North and the South and the deterioration of DPRK-US relations. To maintain the inheritance and continuity of diplomatic concept, China has put forward the neighborhood diplomacy concept of “amity, sincerity, mutual benefit, inclusiveness,” repositioning South Korea's strategic position from the height of the Times and highlighting the important role of China-ROK relations in the overall layout of China's diplomacy. During the park Geun-hye administration, China-ROK economic cooperation developed rapidly, and China-ROK relations reached a peak when the Park Geun-hye administration attended the commemoration of the 70th anniversary of the victory of the Chinese People's War and the World Anti-Fascist War in 2015. After that, the foundation of China-ROK friendship was seriously damaged by the THAAD incident. Since taking office, the Moon Jae-in administration has negotiated with China over the THAAD incident, and China-ROK relations warmed up again.

In addition, equality and respect are not only reflected in China's relations with the DPRK and South Korea, but also in the attitude of seeking major powers to deal with the Korean Peninsula. China has always called for equality and respect among different countries, ethnic groups and cultures. It can be seen that equality and respect are the basis for harmonious relations. China does not harm the interests of other

countries while safeguarding its own interests. In dealing with the Korean Peninsula issue, China not only maintains relations with the DPRK and South Korea, but also effectively coordinates contradictions among countries to avoid greater conflicts.

Reciprocity Is the Way

The DPRK issue is not only a purely military and security issue, but also a political and diplomatic issue between countries. In the important task of safeguarding the Korean Peninsula, the realization of mutual benefit between China and the DPRK and between China and South Korea is an important breakthrough to ease the situation on the Peninsula and shape a good surrounding ecology. New features have emerged in the DPRK's national strategy since Kim Jong UN took office, which presents both opportunities and challenges to China's stance and determination in dealing with the Korean Peninsula. Due to the differences in national interests and the influence of the development of China-ROK relations, China-DPRK relations were once again left out in the cold. Since Kim Jong UN took office, he interrupted the exchange of visits between China and the DPRK and did not make an informal visit to China until realizing the first meeting between Xi and Kim on March 25, 2018. On May 7 and June 19, 2018, Xi Jinping and Kim Jong-un held bilateral talks in Dalian and Beijing respectively. The two sides exchanged views on China-DPRK relations and had in-depth exchanges of views on the important role of China-DPRK relations on the Korean Peninsula and northeast Asia, so as to promote peace and stability on the Peninsula. After Kim Jong UN's visited to China, China-DPRK relations began to take a turn for the better, which proved once again that China-DPRK relations will change according to the current situation, but the premise of mutual benefit will not change. During the cold period of China-DPRK relations, the economic cooperation between the two countries is booming. The adjustment of DPRK's foreign economic policy and the increase of its economic dependence on China pro-

vide an opportunity for China to maintain peace and stability on the Peninsula. At the same time, the Chinese and ROK economies also follow the principle of mutual benefit. China's strong economic strength is attractive to South Korea, and economic complementarity can add new vitality to South Korea economy. On July 4, 2014, General Secretary Xi Jinping said in a speech at Seoul National University, "China has become the largest trading partner, the largest export market and the largest source of imports of South Korea."²⁰ Economic integration between China and South Korea has contributed to accelerating economic revitalization and stability in Northeast Asia.

Security cooperation is an important issue that China and South Korea cannot avoid or retreat from.²¹ The mutual benefit of politics and security between China and South Korea can add stability factors to the situation on the Korean Peninsula. China sees the six-party talks as an effective path, while the DPRK and the United States see the six-party talks as an effective tactic to buy time,²² so China and South Korea are deeply constrained by the DPRK nuclear issue. During his visit to South Korea in July 2014, General Secretary Xi Jinping expressed the willingness of China and South Korea for security cooperation, and China is willing to become South Korea's partner committed to peace. The tacit cooperation between China and South Korea in international affairs is mutually beneficial. It is mainly reflected in the following aspects: First, China and South Korea firmly oppose the DPRK's nuclear test. The leaders of the two countries have repeatedly reached consensus on promoting the denuclearization of the Korean Peninsula and discussed the peaceful handling of the DPRK nuclear issue. After Taking office, General Secretary Xi Jinping and the Park Geun-hye administration decided to resolutely implement the resolution on the DPRK nuclear

20 "Xi Jinping's Speech in South Korea Seoul National University," *Xinhua*, July 4, 2014, http://www.xinhuanet.com/world/2014-07/04/c_1111468087.htm.

21 Shaohua Yu, "Security Situation in Northeast Asia and China-South Korea Strategic Cooperation," *International Studies*, no. 5 (2010): 33.

22 Xiaobo Wang and Sihan Bao, "Risks and Countermeasures of the DPRK's Nuclear and Missile 'Pendulum Phenomenon'," *Journal of Yanbian University* (Social Sciences Edition), no. 1 (2018): 11.

issue in the September 19 Joint Statement. When meeting with the Moon Jae-in administration in Berlin on July 7, 2017, China stressed that it hoped South Korea would attach importance to the THAAD issue. Despite difficulties in China-ROK relations, China's position of developing friendly China-ROK relations would not change and China actively supports the new government in resuming contacts with the DPRK.

Second, China and South Korea are cooperating to come up with solutions to the DPRK nuclear issue. To carry out the principle of mutual benefit and reciprocity, China supports Park Geun-hye administration's "Northeast Asia Peace and Cooperation Initiative" aimed at resolving the DPRK nuclear issue and strengthening communication between the North and the South, supports the DPRK's participation in the process of peninsula trust, and recognizes the Moon Jae-in administration's proposal to build a "peaceful and prosperous Korean Peninsula." China has worked hard to safeguard the common interests of the two countries, to realize peace and stability on the peninsula.

In short, realizing mutual benefit is a viable path to promote peace and stability on the Peninsula. In the future, China will play an active role in promoting mutual benefit among countries in Northeast Asia and the world at large.

Win-win Cooperation Is Our Goal

The strategic goal of neighborhood diplomacy is to make China's political relations with its neighbors more friendly, stronger economic ties, deeper security cooperation and closer people-to-people ties.²³ The ups and downs of the situation on the Korean Peninsula since the Korean War are the litmus test of China's diplomatic line. China has withstood the test and always adhered to peace and development and worked hard to achieve win-win cooperation among countries. History has proved

23 Xi Jinping, "Strive for a Good Surrounding Environment for China's Development and Promote China's Development to Benefit More Neighboring Countries," *People's Daily*, October 26, 2013.

and will continue to prove this. Conflict is gradually being replaced by cooperation, zero-sum game is being replaced by non-zero-sum game, and win-win cooperation has become the consensus of the international community. Since the 18th CPC National Congress, General Secretary Xi Jinping has attached great importance to win-win cooperation between countries. He has mentioned it many times in his speeches: In November 2014, at the Central Conference on Work relating to Foreign Affairs, He stressed that “the concept of win-win cooperation should be reflected in all aspects of foreign cooperation.” In September 2015, at the UN Forum, China called for “building a new type of international relations taking win-win cooperation as the core.” At the 19th CPC Conference in October 2017, General Secretary Xi Jinping stressed the need to “promote a new type of international relations featuring mutual respect, fairness, justice and win-win cooperation.” In November 2020, at the opening ceremony of the third China International Import Expo, General Secretary Xi Jinping emphasized its commitment to “promoting win-win cooperation, shared sharing and shared governance.”

As the core concept of a new type of international relations, win-win cooperation is a summary of experience in maintaining peace and stability on the Korean Peninsula. The concept of win-win cooperation applies not only to maintaining the relative stability of the international political system, but also to the sub-elements of the international social system, including the maintenance of friendly relations between countries and the overall development of countries within the region. The DPRK's nuclear test and South Korea's deployment of THAAD have made the two countries at loggerheads, aggravating the security dilemma between China and the United States and between China and Russia in Northeast Asia.²⁴ On the DPRK nuclear issue, China is committed to the denuclearization of the Korean Peninsula, the maintenance of peace on the Peninsula and the “three principles” of resolving the issue through dialogue. China opposes strategic pressure and suggests calm and

24 Xiangrong Dong, “Identifying Security Dilemma and Non-security Dilemma on the Korean Peninsula,” *Northeast Asia Forum*, no. 1 (2019): 110.

dialogue. The specific path to solve the DPRK nuclear issue should be “dual-track.” While promoting the denuclearization of the Korean Peninsula and the transition from armistice mechanism to peace mechanism, China is seeking the “suspension for suspension” of the DPRK nuclear test and the US-ROK military exercises, as well as the parallel implementation of denuclearization talks and peace treaty talks.²⁵ As China's solution to the DPRK nuclear issue, it fully meets the political rationality, sustainability and technical feasibility.²⁶ Since China's approach of promoting peace on the Peninsula through cooperative means is different from that recognized by the international community, China's proposal has not been recognized by the vast majority of countries when it was put forward. The national strength gap between the major powers in Northeast Asia and the imbalance of economic and political development lead to differences in the definition of their national interests. The ideological difference or opposition further strengthens the awakening of national consciousness and the loss of common identity. Therefore, “the deep structural contradictions is hard to eliminate, and the goal of denuclearization cannot be completely achieved in a short period of time.”²⁷

It is the responsibility of all countries to promote peace and stability on the Korean Peninsula. Each country is both a stakeholder and a responsible party. Only through cooperation and dialogue can all countries achieve win-win results. “There should be no nuclear weapons on the peninsula, no war or chaos.”²⁸ China has acted as a mediator of interests, actively built a network of relationships on the Peninsula and among northeast Asian countries, accelerated the mutual integration of

25 Chi Zhang, “Dual-track Progress under the Interaction of ‘Quartet Talks’ and ‘Six-Party Talks’: Re-exploring the Construction Path of Peace Mechanism on the Korean Peninsula,” *World Economic and Political Forum*, no. 5 (2019): 143.

26 Bin Li, “Building a Peace Regime on the Korean Peninsula: What Kind of ‘Road map’ China Should Promote,” *World Knowledge*, no. 17 (2018): 28.

27 Shaohua Yu, “The Prospect of the Denuclearization Process on the Korean Peninsula,” *International Studies*, no. 2 (2019): 110.

28 Zhengyu Li, “On the Korean Peninsula Can Have Nuclear, Nor a Tumult of Raw Wars,” *The Chinese Military Network*, February 7, 2016, http://www.81.cn/gjzx/2016-02/07/content_6903516.htm.

economy and politics on the Peninsula, and become an important bridge for regulating the Korean Peninsula. Practice has proved that China's "dual-track" approach is indeed a feasible plan to promote win-win cooperation on the Peninsula. In 2018, the strategic plan proposed by Kim Jong UN and Moon Jae-in is in line with the path choice proposed by China to some extent, and the international community has gradually realized that peace is the way to solve the problem.

So far, China's plan has become an international consensus and China's path has become an international action. China has effectively promoted win-win cooperation and maintained peace and stability on the Korean Peninsula.

A review of China's practice and experience in maintaining peace and stability on the Korean Peninsula shows that China's foreign policy has strict inheritance and continuity. Xi Jinping Thought on Diplomacy is a guide to major country diplomacy with Chinese characteristics. It can be seen that the practical evolution process of promoting peace and seeking development is consistent with the value orientation of Xi Jinping Thought on Diplomacy, and the practical experience of equality, respect, mutual benefit and win-win cooperation is consistent with the spiritual essence of Xi Jinping Thought on Diplomacy. In handling the Korean Peninsula issue in the future, China will continue to follow Xi Jinping thought on socialism with Chinese characteristics, follow the value guidance of Xi Jinping Thought on Diplomacy, strengthen strategic focus, and keep breaking new ground.

How Should China Safeguard Peace and Stability on the Korean Peninsula in the Future

Based on Reality to Strengthen Equality and Respect

In June 2018, the second meeting of the central foreign affairs adopted "Thought on Diplomacy of Socialism with Chinese Characteristics

for a New Era” as the guiding ideology of Chinese diplomacy. General Secretary Xi Jinping highly condensed “ten points to adhere to,” summarized in depth the basic connotation including “a community with a shared future for mankind,” “a new type of international relations,” “the right approach to justice and shared interests,” “the Asian security concept” and so on, which has become a spiritual ferment for China’s diplomacy. Xi Jinping Thought on Diplomacy has inherited and innovated China’s traditional diplomatic concepts and realized the unity of historical and contemporary characteristics. Since the 18th National Congress of the Communist Party of China (CPC), under the guidance of Xi Jinping Thought on Diplomacy, China has adhered to the Five Basic Principles of Peaceful Coexistence, ushered in a new chapter in its diplomacy, demonstrated the demeanor of a responsible major country in the region, and made outstanding contributions to safeguarding peace and stability on the Korean Peninsula. Equality and respect mean that countries, big or small, strong or weak, rich or poor, are all equal and respect each other in their interactions. In order to strengthen equality and respect based on reality, China needs to adopt a more flexible strategy. China should carry out major-country diplomacy with Chinese characteristics on the premise of equality and respect, and further promote and realize equality and respect among countries under the vision of a new type of international relations.

On the one hand, China should follow the guidance of Xi Jinping Thought on Diplomacy and take advantage of the important time points between China and the Korean Peninsula to promote the steady development of relations with the Peninsula. We should fully respect the sovereignty and diplomacy of northeast Asian countries and properly handle China-DPRK, China-ROK and China-Japan relations. Firstly, China needs to stabilize its relations with the DPRK. In 2018, General Secretary Xi Jinping met with DPRK Leader Kim Jong-un on several occasions, ushering in positive changes in China-DPRK relations and setting a good example for the DPRK-US and DPRK-ROK summits. 2021 is the 60th anniversary of the Signing of the Treaty of Friendship,

Mutual Assistance and Cooperation between China and the DPRK. Under the background of friendly exchanges between China and the DPRK, China can make full use of the advantages of traditional friendship and the same system model with the DPRK to seek more convergence points of interests and expand the space for strategic cooperation. Secondly, China needs to consolidate its friendship with South Korea. 2022 is the 30th anniversary of the establishment of diplomatic ties between China and South Korea. China and South Korea can take this opportunity to promote China-South Korea friendship, find common interests of “Eurasia Initiative” and “Belt and Road” from the economic level, and reach a high-level and wide-ranging China-South Korea trade agreement. At the cultural level, the foundation of China-South Korea cultural exchange should be strengthened with the Confucian culture as the link. At the diplomatic level, we should work together on the basis of equality and respect to maintain peace and stability on the Peninsula. Finally, the relationship between China and Japan is the unity of mutual dependence and strategic prevention. Both sides seek to improve the relationship with each other, but at the same time, there are competitions and conflicts in many fields. On the whole, China-Japan-ROK cooperation enjoys broad prospects. In the face of the complex situation in Northeast Asia, efforts should be made to resume China-Japan-ROK cooperation, promoting exchanges through economic cooperation and form a balance of cooperation in northeast Asia. On the other hand, equality and respect are the basis of international exchanges. The resolution of the DPRK nuclear issue not only requires equality and respect between China and the DPRK and between China and South Korea to promote harmonious coexistence on the Korean Peninsula, but also requires full respect from all countries in the world, especially the US and South Korea. Effective dialogue and consultation essentially requires reasonable concessions from all parties. Without the concept of equality and respect, it will be difficult to make substantive progress or even sustain dialogue and consultation. Therefore, interpreting the concept of equality and respect, and encouraging mutual respect

between countries is an effective basis for the peaceful settlement of the DPRK nuclear issue.

Taking Multiple Measures to Maintain Regional Peace and Stability

“The world is undergoing major development, transformation and adjustment, and peace and development remain the theme of our times.”²⁹ Individual disputes and local conflicts between regions cannot block the general trend of peace and stability, nor can they become major obstacles to regional peace and development. China has always been a staunch defender, faithful advocate and effective executor of regional peace and stability. China has always adhered to the diplomatic philosophy of independence and peaceful development, which has won respect and recognition from the international community. Meanwhile, China’s efforts and practices in safeguarding regional peace have provided other countries with viable options for their diplomatic work. How to take advantage of the situation and take multiple measures to better maintain regional peace and stability has become the realistic basis for China to deal with the Korean Peninsula issue. The reunification of the Korean Peninsula, the China-Japan relations, security threats between the South Korea and the DPRK, economic isolation and interference by external forces constitute important factors affecting the peace and stability of the Korean Peninsula. China still needs to play its role in addressing the destabilizing factors affecting regional security through dialogue and consultation and gradual easing of tensions. China should actively promote the sense of community formation between the DPRK and South Korea, improve relations between China and Japan, the South Korea and the DPRK, and solve difficult problems in Northeast Asia.

Second, “only with great patience and the right package of concessions

²⁹ Jinping Xi, *Xi Jinping: The Governance of China*, vol. 3 (Beijing: Foreign Languages Press, 2020), 45.

can substantive progress be made at every step of the negotiating process.”³⁰ China should actively play its role as a major country in the region, adhere to the spirit of Xi Jinping Thought on Diplomacy, advocate strategic dialogue among neighboring countries, promote equality and peaceful coexistence, and resume the Six-Party Talks when necessary. Promote the improvement of inter-Korean relations and the normalization of relations between the DPRK and the US, stabilize regional peace and stability, and create a good environment for China's development; We will support and guide the increase of multilateral talks among major countries, strengthen multilateral negotiation mechanisms, and promote the establishment of a fairer and more equitable new international political order.

Third, continuing to practice the neighborhood diplomacy of amity, sincerity, mutual benefit and inclusiveness. We should increase talks and visits between countries in the region, strengthen exchanges and cooperation, weave a close network of regional relations, share weal and woe, and truly be “close”; We should treat each other with sincerity and live in peace in the region, follow the order of international relations and rules governing regional development, and truly be sincere. We should follow the principle of mutual benefit, adhere to common development, common prosperity and common benefits, promote regional integration, and achieve real benefits. Then, we should respect differences, face differences with a calm mind, accommodate and understand each other, actively promote common development of the region, and strive for inclusiveness.

Sharing Weal and Woe to Build a Community with a Shared Future for Mankind

“Looking around the world, we are facing profound changes unseen

30 Jing Ma, “The Crux of the DPRK-US Denuclearization Negotiations and China's Counter-measures,” *Journal of Yanbian University* (Social Science Edition), no. 6 (2019): 14-20.

in a century,”³¹ which puts forward higher requirements for China's diplomatic strategy. In this context, Xi Jinping Thought on Diplomacy came into being. “With the aim of safeguarding world peace and promoting common development to promote the construction of a community with a shared future for mankind” is an important part of Xi Jinping Thought on Diplomacy. Ten Principles, it is also a core concept of Xi Jinping Thought on Diplomacy. The community with a shared future for mankind has important value implication, manifests the Marxist thought of establishing a communist society for the realization of human freedom and liberation, and embodies the spiritual core of Chinese traditional cultural philosophy of “great harmony” and “in success, one tries to let others be benefited.” It transcends nationality and ideology, transcends national boundaries and regions, and emphasizes the value identification of peaceful coexistence, harmonious coexistence and seeking common ground while shelving differences of the whole human race, which makes China's theory and practice of maintaining peace and stability on the Korean Peninsula more holistic and overall. China should adhere to improve the diplomatic strategy, and actively advocate sharing weal and woe, continue to maintain peace and stability on the Korean peninsula, promote the construction of a community with a shared future for mankind through Neighborhood Diplomacy, and efforts to achieve “the fate of the world is in the hands of all countries, international rules are written by all countries, global affairs are governed by all countries, and the fruits of development are shared by all countries.”³²

To this end, China must firmly grasp the domestic and foreign two main lines to seek happiness for the Chinese people, rejuvenation for the Chinese nation and common prosperity for the people of the world. First, under the vision of building a community with a shared future for

³¹ Xi, *Xi Jinping*, 421.

³² Jinping Xi, *On Promoting the Building of a Community with a Shared Future for Mankind* (Beijing: Central Literature Publishing House, 2018), 417.

mankind, we should actively build an economic belt linking the Korean Peninsula and lay a foundation for international economic cooperation. General Secretary Xi Jinping said, “China will work with other countries to pursue the Belt and Road initiative through extensive consultation, joint contribution and shared benefits with high quality, high standards and high level, and create greater development opportunities for people in the Asia-Pacific and beyond.”³³ This will release to the outside world the intention of the Belt and Road initiative covering the entire Asia-Pacific region, and become a feasible path for China to build a community with a shared future for mankind. The Belt and Road initiative is also closely related to the DPRK nuclear issue and peace and stability on the Korean Peninsula. Presently, the initiative “lacks the China-Korean Peninsula Economic Corridor, mainly because of the north-south confrontation and traffic disruption caused by the nuclear issue and reunification of the Peninsula, and also because of the unbalanced development between the DPRK and South Korea.”³⁴ Therefore, China should strive to build an economic belt between China and the Korean Peninsula and promote the steady economic development of countries along the route.

Second, China's successful experience in fighting the global epidemic can serve as a breakthrough in building a community with a shared future for mankind. On the one hand, China can strengthen its ties with the Korean Peninsula by spreading its experience, providing supplies and enhancing medical assistance, deepen China-ROK relations and promote lasting cooperation in maintaining peace and stability on the Peninsula. On the other hand, while presenting China's feelings and image as a major country to the world, we should also strengthen the international recognition of the “community with a shared future” and provide a broad public foundation for China to promote the building of

33 Jinping Xi, “Xi Jinping Attends the 26th APEC Economic Leaders' Meeting and Delivers an Important Speech,” *World Knowledge*, no. 23 (2018): 6.

34 Qin Zhu, “China's Strategy and Role on the Korean Peninsula in the New Era,” *Journal of Yanbian University* (Social Science Edition), no. 2 (2019): 5-12.

a community with a shared future for mankind.

Third, we should actively foster and publicize a correct view of justice and interests. First of all, countries should face up to differences in interests, actively look for converging interests, and carry out cooperation in common interests. Second, we need to help each other. China has set a good example in providing assistance to countries in need. Other countries should also help each other to promote common development and build a community with a shared future for mankind.

Conclusion

Peace and stability on the Korean Peninsula is an important issue in China's diplomacy. The Korean Peninsula involves multiple stakeholders. As the DPRK nuclear issue has brought about interwoven policies and emotions among countries, the definition and division of their respective interests, it has increased the uncertainty of peace and stability on the Korean Peninsula. China has always been committed to peace and development and the Five Principles of Peaceful Coexistence, and has contributed to peace and stability on the Korean Peninsula. In order to maintain the continuity of the theme of peace and development in China's diplomacy, Chinese leaders have promoted in-depth development of China-DPRK and China-ROK relations on the premise of equality and respect based on the forefront of the Times, have taken mutual benefit as an opportunity to maintain peace and stability on the Korean Peninsula; with win-win cooperation among countries as a goal, trying to promote the building of a community with a shared future for mankind. Xi Jinping Thought on Diplomacy is a guide to action for China's diplomacy and has accumulated rich practical experience for China in dealing with the Korean Peninsula issue. Since the 18th CPC National Congress, under the correct guidance of General Secretary Xi Jinping, China has consolidated and maintained China-DPRK relations, deepened and strengthened China-ROK relations, and led and shaped the relations

surrounding the Korean Peninsula.

In the future, China will be based on the experience of dealing with the Korean peninsula, based on the historic intersection of two 100-year in the domestic and the greatest changes in the world that have not been seen in a century, continue to adhere to Xi Jinping Thought on Socialism with Chinese Characteristics for a New Era in handling the Korean Peninsula issue, with Xi Jinping diplomatic thoughts as the instruction, learn and carry out Xi Jinping's specific strategic guidelines and layout on diplomacy. On this basis, China will review China-DPRK relations and China-ROK relations in an all-round way, build a strategic layout with the Korean Peninsula as the strategic basis, actively coordinate relations among major powers in Northeast Asia, promote world peace and development, and jointly build a community with a shared future for mankind.

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ASEAN as a Security Cooperation Organization

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Abstract

The rise of China and the shift in focus of the United States to the Indo-Pacific affects the security order in Southeast Asia. As the only single regional organization in Southeast Asia, it must be asked whether ASEAN can develop itself from an economic and social based organization into an effective security cooperation organization in order to deal with current and potential regional challenges of the future. There are three key factors that prompt it to do so: non-traditional threats, external factors and internal disputes. However, it has faces four main obstacles in becoming an effective security cooperation organization: state sovereignty, the “ASEAN Way,” bilateral relations perspective and the APSC Blueprint. This paper concludes that until these obstacles are overcome (and there is currently no indication that this is likely to occur within the next decade) ASEAN will remain an economic and social based organization.

Key Words: ASEAN, security cooperation, regional organization, China, United States

Introduction

The focus of international relations has been gradually shifting from the Middle East region to the Indo-Pacific for the United States. This Asia shift will inevitably affect the security order in Indo-Pacific especially in the Southeast Asian region for various reasons that will be explored further. There have been increasing debates concerning how the emerging Southeast Asian security order will be managed, and which entity will be most suitable to undertake this challenge. When considering global security in the 21st Century, the roles of international and regional organizations are increasingly crucial. Therefore, this paper will focus on the role of the Association of Southeast Asian Nations (ASEAN) in a changing world.

In recent years there have been many factors that are causing ASEAN to transform itself to be able to tackle more security issues. First, Southeast Asia is more exposed to non-traditional threats. These new threats are likely to be more transnational in character and resolution of issues by a single state is impossible. Terrorism, climate change and transnational crime are good examples of new threats confronting Southeast Asia. These threats need a comprehensive approach from Southeast Asian states and ASEAN seems to be the only appropriate organization to take lead. Second, ASEAN still relies on external powers. The United States and China have significant influence on the security of this region. If ASEAN cannot create a more autonomous security mechanism, it will continually be overshadowed by these external powers and ASEAN states will lack the freedom to address their own policies to pursue national interests. Lastly, never ending internal disputes among ASEAN members have had a significant impact on the region. The unsolved disputes paved the way to a degree of regional military competitiveness. Without an effective regional organization to deal with these problems, a stable Southeast Asia is a remote prospect.

Although many factors suggest that ASEAN may need to develop itself in order to address security cooperation concerns, some factors prevent it from doing so. First, each ASEAN member state still regards its

sovereignty as its highest national objective. The decision to join ASEAN was based on a notion that sovereignty must not be diminished by ASEAN or other forms of power. Second, ASEAN still operates under its main principles which are essentially the norm of non-interference and non-use of force, commonly referred to as “the ASEAN Way.” These norms are a consequence of a strong sense of sovereignty among the ASEAN member states. Therefore, there is resistance towards ASEAN membership conferring binding robust legalistic and functional mechanisms; states would rather resolve disputes through informal discussion and dialogue. Third, ASEAN member states enjoy bilateral relations with external powers rather than multilateral relations among themselves especially in terms of defence cooperation. It can be argued that Southeast Asia’s policymakers pay more attention to their own national security rather than regional security. Finally, the ASEAN political and security community blueprint (APSC Blueprint), established according to the ASEAN Charter in 2005, reflects ASEAN’s ambition to be a more effective and professional organization in terms of security issues, but it still lacks effective strategies to deal with the issues mentioned above.

The first part of this paper describes the background of ASEAN since its establishment. It illustrates how ASEAN functioned as a single regional organization dealing with dynamic situations in Southeast Asia. This provides initial thoughts about the ASEAN methodology for dealing with problems both externally and internally. The second part is a literature review of attitudes towards ASEAN and its development in the future. Some criticisms suggest that ASEAN cannot be a security cooperation organization whilst others are more optimistic. Comparison between ASEAN and the European Union especially in terms of the way of thinking is also provided in this section. The third part provides key factors that indicate why ASEAN needs to develop itself into a security cooperation organization; non-traditional threats, external factors and internal disputes. The last part shows some obstacles that substantially hinder ASEAN from becoming an effective security cooperation organization; state sovereignty, the “ASEAN Way,” the preference for

bilateral relations and the APSC Blueprint. The paper concludes that until these obstacles are overcome (and there is currently no indication that this is likely to occur within the next decade) ASEAN will remain an economic and social oriented organization.

Driving Forces of ASEAN Security Cooperation

Security cooperation can be defined as a security arrangement, regional or global, in which each state in the system accepts that the security of one is the concern of all, and agrees to join in a collective response to threats and breaches of the peace. Moreover, it can be meant that the cooperation of several countries in an alliance is to strengthen the security of each. Therefore, regional security cooperation organization should have the capacity to deal effectively with both traditional and non-traditional threats coming from both inside and outside its region in order to stabilize a security situation in its own boundary. Stable regional security will lead to stable national security of countries in that region.

This part of the paper will discuss the driving factors forcing ASEAN to establish an effective security cooperation organization.

The Non-Traditional Threats

A range of emerging non-traditional security challenges is now confronting Southeast Asia. These are defined as challenges to the survival and well-being of peoples and states that arise primarily out of non-military sources, such as terrorism, climate change, infectious diseases, drugs trafficking and other forms of transnational crime.¹

These new threats have shared common characteristics that are different from those of traditional threats that may have been seen to be

¹ Anthony C. Mely, "Non-Traditional Security Challenges, Regional Governance, and the ASEAN Political-Security Community," *Asia Security Initiative Policy Series Working Paper*, no. 17 (2020): 1.

predominant until the end of the cold war. These threats are more unpredictable, and the enhanced mobility and expanding activities of individuals enable their impacts to spread and proliferate far more quickly in the contemporary world.² Territorial boundaries are no longer important. Then, to resolve these threats need more than national solution, and thus regional and multilateral are essential.

The emergence of non-traditional threats has had the effect of broadening security concerns in Southeast Asia.³ ASEAN is interested in ensuing regional stability to create a landscape for economic development and regime security, and non-traditional security challenges are undoubtedly key element.⁴ Evidence suggests that ASEAN has been trying to cope with this problem by establishing ARF (ASEAN Regional Forum) and APSC (ASEAN Political-Security Community). However, ARF partially failed to address emerging non-state-centric threats such as the 1997 Asian economic crisis and transnational terrorists.⁵ Whilst APSC seems to be the right solution dealing with this problem it is still too soon to judge its effectiveness. Moreover, ASEAN has been criticized for some time for malfunctioning over intramural non-state-centric security threats as a result of its principle of non-interference.⁶

The Southeast Asian policymakers have been compelled to revise existing regional mechanisms for identifying these new threats. As a result, ASEAN states had tried to solve this problem proposing constructive intervention or flexible engagement after the 1997 financial crisis.⁷ However this effort was strongly opposed by other states, especially

2 Suarabh Chaudhuri, "Defining Non-Traditional Security Threat" (Global India Foundation), accessed February 5, 2021, <http://www.globalindiafoundation.org>.

3 Andrew Tan, "Force Modernization Trends in Southeast Asia," *Working Paper Series of Institute of Defence and Strategic Studies Singapore*, no. 74 (2019): 32.

4 Stephen Aris, "A New Model of Asian Regionalism: Does the Shanghai Cooperation Organization Have More Potential Than ASEAN?" *Cambridge Review of International Affairs*, vol. 22, no. 3 (2019): 464.

5 Kai He, "Does ASEAN Matter? International Relations Theories, Institutional Realism, and ASEAN," *ASEAN Security*, vol. 17, no. 3 (2021): 190.

6 He, "Does ASEAN Matter? International Relations Theories, Institutional Realism, and ASEAN": 205.

7 "ASEAN Needs Flexible Engagement," *The Irrawaddy*, vol. 26, no. 4 (August 1998).

Indonesia, Vietnam and Laos, because of the concerns over their own political independence and state sovereignty.⁸ Nonetheless, an issue of non-traditional threats attracted more attention from ASEAN after the 9/11 event in 2001. This event substantially affected the security order of the Southeast Asian region and inevitably questioned whether ASEAN can be an effective security provider in the region.

The 9/11 event in the United States following by the evidence rise of militant Islam and the influence of pan-Islamic militant ideology in the region as shown by a string of violent incidents involving militant Muslim in Malaysia, Indonesia and the Philippines in recent years, have caused Southeast Asian states to rethink about their security priorities.⁹ A series of terrorist attacks within the region can be seen from 2000 to 2010. The number of the attacks significantly increased between 2000 and 2002. On 13th September 2000, a car bomb explosion in Jakarta stock exchange building killing 15 people. On 30th December 2000, series of bombing that occurred around Manila in Philippines killing 22 people. Most importantly, on 12th October 2002, a huge car bomb killed more than 202 and injured 300 on Indonesian resort in Bali.¹⁰ This series of incidents not only affected the stability in Indonesia and Philippines, but also affected the entire security of the region. Due to the lack of ASEAN ability to deal with this threat, each member states welcomed the cooperation from external powers rather than expecting ASEAN to resolve this problem.

It can be said that American involvement in the counter-terrorist campaign in Southeast Asia created a new problem for ASEAN. While the assistance from the United States was welcomed, the prospect of direct US participation in regional and domestic counter-terrorism would appear to involve Southeast Asian states in a war popularly perceived

8 He, "Does ASEAN Matter? International Relations Theories, Institutional Realism, and ASEAN": 205.

9 Tan, "Force Modernization Trends in Southeast Asia": 31.

10 "Al Qaida and Jemaah Islamiyah in Southeast Asia," accessed February 5, 2021, <http://www.historycommons.org>.

to be anti-Islamic.¹¹ This led to a misperception between the Muslim states and Non-Muslim states in the region and subsequently paved the way to create a national suspicion which hampering the intention of ASEAN as a whole to solve the terrorist problem together. For example, Malaysia criticized the Philippines for conducting joint military exercises aimed at eradicating the Abu Sayyaf Group (ASG) believed to be linked to Al Qaida.¹²

It can be argued that this threat was not equally felt by all ASEAN member states. From state to state, the threat elicited different reactions with different implications.¹³ The approaches to tackle this threat were different depending on the number of the Muslim people within each country. The Muslim majority states (Indonesia, Malaysia, Brunei) faced a direct impact from terrorists, whilst the Muslim minority states (Thailand, Philippines) became an alternative safe haven and training camp for the terrorists whilst Vietnam seemed to be the one that exploited this situation enjoying increasing numbers of tourists because it might be one of the places in the region that has not yet been attacked by the terrorists.

If ASEAN cannot cope with this threat effectively, more intervention from external powers will be likely in the future. This will pave the way to a decreasing role of ASEAN in terms of bargaining power with other international communities or other major powers. The threat from transnational terrorists illustrated that Southeast Asian states still have relied on the assistance from the external powers and ASEAN's role to mitigate this threat was still limited due to the different perceptiveness from each state in the region. To solve this problem effectively and to avoid more intervention from external powers, more robust regional cooperative actions or arrangements from ASEAN are urgently required.

¹¹ Sheldon Simon, "ASEAN and Multilateralism: The Long, Bumpy Road to Community," *Contemporary Southeast Asia*, vol. 40, no. 2 (2018): 270.

¹² Jonathan Chow, "ASEAN Counter Terrorism Cooperation Since 9/11," *Asian Survey*, vol. 55, no. 2 (2015): 85.

¹³ Donald K. Emmerson, "What Do the Blind-Side See?: Reapproaching Regionalism in Southeast Asia," *The Pacific Review*, vol. 33, no. 1 (2020): 10.

The External Factors

During the first decade of the 21st century, the policymakers of ASEAN's leading member nations were preoccupied with the problems posed by the rise of China as a great power on the Southeast Asian stage.¹⁴ China's economic growth has had a significant impact on the stability of Southeast Asia especially in terms of energy security. It is crucial for China to make sure that its access to energy resources is secure, particularly so when considering approximately seventy five percent of Chinese oil imports come through the Malacca Straits. Maintaining the security of the Malacca Strait is crucial for Southeast Asian states and China. This inevitably led to Chinese intervention in Southeast Asian's affairs diplomatically and economically. A proposal of an Asian Free Trade Area by China intended to promote access to Indonesian and Malaysian oil and gas and to Singapore's refinery capacity and is part of China's strategy to assure that its natural resources will be available at all times.¹⁵

It can be argued that China's growing demand of energy has a twofold impact. First, energy will substantially play a more prominent role in the Chinese grand strategy and in its diplomatic, political and military relationships with its neighbours. Second, Southeast Asia will play a significant role in this issue relating to China's vital interests because massive amounts of energy resources pass through this region. China inevitably is increasing its engagement within this region in order to guarantee that its access to energy is secured. In order to avoid greater intervention from China especially in the form of military presence to ensure its access to energy resources, ASEAN needs robust security initiatives to establish stability throughout the Malacca Straits

14 Donald E. Weatherbee, "Southeast Asia's Security and Political Outlook" (Institute of South-east Asia Study), accessed February 5, 2021, <http://www.ebscohost.com>.

15 John Garofano, "China – Southeast Asia Relations: Problems and Prospects," in *Asia Looks Seaward: Power and Maritime Strategy*, ed. T. Yoshihara and J. R. Holmes (New Delhi: Praeger International, 2019), 171.

and also to secure other sea lines of communication in the region.

In addition to those non-traditional developments, territorial disputes with China in the South China Sea remain a source of conflict. China will accept no diplomatic solution that calls into question its sovereign and territorial claims. Nor will China accept a multilateral diplomatic negotiating framework involving ASEAN and China, let alone an even broader framework that might include other major maritime powers. From the Chinese perspective, the South China Sea issue is not a regional issue; it is bilateral issue between China and individual Southeast Asian states.

China occupied nine reefs following a naval confrontation with Vietnam in 1988, in which Vietnamese vessels were sunk with a loss of over 70 sailors. In 1992, Vietnam accused China of drilling in Vietnamese waters and landing troops on Da Luc Reef. In 1997 the Philippine Navy ordered a Chinese boat to leave the Scarborough Shoal area and subsequently placed the Philippine flag and markers at this location. In 1999, Malaysia seized Navigator Reef, claimed by the Philippines, and in August 2002 Vietnamese troops based fired at Philippine military aircraft from here.¹⁶ These disputes were temporarily solved through ASEAN apparatus and resulted in the mutual agreement from the claiming states to sign the November 2002 Declaration on the Conduct of Parties in the South China Sea in which all parties agreed to resolve the dispute without the use of force.

It has to be asked how the ASEAN states can assure that this agreement will be implemented by China in the future. What if factors such as the increasing significance of energy outstrip states' ability (especially China) to keep this dispute off the table? China has a strong political stance in its sovereignty and internal affairs as shown by the statement from the Chinese leader, Premier Wen Jiabao thundered at the 2010 UN General Assembly that "when it comes to sovereignty, national unity, and territorial integrity, China will not yield or

¹⁶ Garofano, "China – Southeast Asia Relations," 182.

compromise.”¹⁷ These issues are considered by the Chinese as non-negotiable topics.

It has to ask that how should ASEAN respond to such an aggressive policy? If the conflict in the South China Sea occurs, does ASEAN have proper mechanisms to deal with that potential conflict? Balancing power with China by maintaining a close relationship with the United States seems to be a good resolution for ASEAN as this policy has worked well in the past and present. In terms of regional cooperation, involving the United States to be a part of ARF and APEC is considered as a successful policy to balance power with China. The United States has also signed bilateral military agreements with some ASEAN states and strengthened its agreement with others, such as a logistic support arrangement with Singapore.¹⁸ The statement made by Hillary Clinton in November 2011 confirmed America's commitment to Asia saying that “The future of politics will be decided in Asia, not from Afghanistan or Iraq, and the United States will be right at the centre of the action.”¹⁹

During the Cold War period, America regarded the Indo China peninsula as a strategic area to stop the spread of communist influence from the Soviet Union. The massive American expeditionary force during the Vietnam War is the good example of this point. John M. Gates argued in his article that the United States was partially successful in the Vietnam War and decided to step out from Vietnam and shifted its focus into the Middle East region.²⁰ This left ASEAN the burden of unilaterally dealing with the communist threat thereafter. Moreover, the United States did not offer the expected financial support to some ASEAN states that were severely affected by the 1997 economic crisis;

¹⁷ Weatherbee, “Southeast Asia's Security and Political Outlook,” 4.

¹⁸ He, “Does ASEAN Matter? International Relations Theories, Institutional Realism, and ASEAN”: 197.

¹⁹ “America's Pacific Century,” accessed February 12, 2021. http://www.foreignpolicy.com/articles/2011/10/11/americas_pacific_century.

²⁰ John M. Gates, “Successful Colonial Warfare in the Philippines and Cold War Failure in Vietnam,” *War in History*, vol. 28, no. 1 (2021): 49.

rather they imposed political and economic pressures to encourage democratic transition in Southeast Asia, especially in Indonesia.²¹

To summarize, it has been shown that the stability of Southeast Asia can be threatened by external factors, notably the foreign policies of significant international actors. To sustain China's economic growth, the maritime security environment in Southeast Asia is one of Beijing's most serious concerns. The fluctuations of the United State's foreign policy since the Cold War period cannot guarantee the security for the Southeast Asian States. ASEAN might not be able rely on the United States as a security provider in the future. Therefore, it is necessary for ASEAN to strengthen itself as a security cooperation organization such that it can leverage its power to bargain effectively with external powers.

The Internal Factors

Southeast Asian peace and order are affected not only by the powers outside the region but domestic insecurity. Territorial disputes and arms acquisition are also issues that create tension among the ASEAN members. A lack of ASEAN's confidence building measures and peaceful settlement of disputes has made domestic insecurity harder to solve. Without effective resolution in the near future of a number of issues which will be discussed below, ASEAN's role in the international community will gradually deteriorate.

A number of territorial disputes in Southeast Asia can be observed. Malaysia and Singapore both claimed the Pedra Blanca Island off the coast of Johor. The two states have occasionally put their force on alert over these claims.²² Malaysia and Indonesia had a dispute over the Sipadan and Ligitan Islands in the Sulawesi Sea near Sabah-Kalimantan border.

²¹ He, "Does ASEAN Matter? International Relations Theories, Institutional Realism, and ASEAN": 198.

²² Martin Gainsborough, "Vietnam II: A Turbulent Normalisation with China," *The World Today*, vol. 68, no. 11 (2012): 207.

Malaysia and Indonesia have agreed to set up a joint committee to deal the problem, but a final settlement is unlikely to happen.²³ A dispute over Sabah between Malaysia and Philippines has been regarded as the most serious bilateral dispute in Southeast Asia.²⁴ The Philippines' government claimed that the Muslim insurgents in the Philippine Island of Mindanao has used the Malaysian Island of Sabah as a safe haven and training camp. This suspicion prevented bilateral cooperation between the two countries. More recently, the use of force among ASEAN members can be seen in the border dispute between Thailand and Cambodia concerning the ancient temple of Preah Vihear located in the disputed area between both countries. In December 2011, there was a report indicating that the troops of both sides exchanged gunfire causing minor injuries for both sides but huge political tension has continued. Such enduring and unsolved territorial disputes in Southeast Asia lead to the mistrust among individual states. As a result, intra-regional arms races become a risk.

In terms of new capabilities, to balance power with Thailand (a major conventional land power on mainland Southeast Asia) the Malaysian Army has aimed to modernize its combat systems by purchasing 211 of Turkey's FNSS ACV-300 armoured infantry fighting vehicles²⁵ whilst Singapore armed forces are in the process of developing the Advanced Combat Man System.²⁶ Due to the increasing threat of maritime piracy and the importance of offshore natural resources, some Southeast Asian states are developing their own maritime capabilities. Thailand has been building up a blue-water capability, which has seen the purchase of an aircraft carrier. Singapore has been successful in developing its Navy from a coastal to blue water capability, having six Formidable class frigates in service whilst the Royal Malaysian Navy

23 Gainsborough, "Vietnam II": 207.

24 Amitav Acharya, "A New Regional Order in Southeast Asia: ASEAN in the Post Cold War Era," *ADELPHI Paper*, no. 379 (2013): 31.

25 "Malaysia Armed Forces Structures," accessed February 12, 2021, <http://www.militaryperiscope.com>.

26 "Singapore Armed Forces Structures," accessed February 12, 2021, <http://www.militaryperiscope.com>.

has already received two new Scorpene class submarines. With respect to air power in Southeast Asia, in a reaction to the Thai acquisition of F16s and Indonesia and Singapore's consideration of acquiring the advanced multi-role Tornado, Malaysia has since purchased MiG 29s, F/A - 18s and more recently, the SU - 30 fighter bombers.²⁷ This subsequently led to the Thai purchase of two groups of the Swedish Grippen aircraft.

The territorial disputes and shifting balance of power caused by competitive arms acquisition in Southeast Asia are the main factors undermining the internal regional stability and the need more robust security apparatus to deal with. These problems cannot be solved effectively by the actions of individual states.

Hindrance of ASEAN Security Cooperation

Etel Solingen summed up the character of ASEAN as an institution that has three main traits: it is market oriented, sovereignty sensitive, and consensus oriented. He also argued that "ASEAN is weakly institutionalized in formal terms, and is not a supranational entity with the power to intrude into sovereign decisions of its member states."²⁸ From his argument, it can be seen that sovereignty is one of the key obstacles to ASEAN becoming an effective security institution. However, there are other factors that should be taken into a consideration such as the "ASEAN Way" (the non-interference and the non-use of force norms that strongly held by ASEAN leaders), member states' perspectives towards ASEAN favouring bilateral rather than multilateral cooperation, and APSC Blueprint which lacks effective implementation and enforcement.

²⁷ Tan, "Force Modernization Trends in Southeast Asia": 28.

²⁸ Etel Solingen, "Regional Conflict and Cooperation: The Case of Southeast Asia," accessed February 5, 2021, <http://www.ciaonet.org>, 3.

State Sovereignty

Realists argue that the international system is anarchic. If this argument is true, then it can be said that states are normally reluctant to relinquish their sovereignty to any supranational organization, unless the perceived benefits of doing so outweigh the costs.²⁹ Then it is difficult for ASEAN to take a leading role in terms of security in its region as long as its members still have a strong sense of keeping sovereignty and domestic affairs away from regional organization. Most of ASEAN states remain deeply concerned over issues of sovereignty, and to this end retain a high degree of autonomy in determining domestic policy.³⁰ This approach has become a defining characteristic of the organization.

Historical backgrounds have influenced the ASEAN states' way of thinking about their sovereignty; it has led them to consider state sovereignty as an essential element of national and regional security. In the past, regional security has frequently been threatened by one or more state's interference and/or intervention.³¹ With the exception of Thailand, ASEAN states have been controlled by colonial empires and even after independence, their national security was still affected by external powers. The intervention of the major powers during the Vietnam War is a good example of this point. Historical memories of common colonial power and the intervention of external powers have made all ASEAN states respectful of one another's sovereignty.³²

29 Geoffrey B. Cockerham, "Regional Integration in ASEAN: Institution Design and the ASEAN Way," *East Asia*, vol. 37 (2020): 168.

30 Hiro Katsumata, "Reconstruction of Diplomatic Norms in Southeast Asia: The Case for Strict Adherence to the ASEAN Way," *Contemporary Southeast Asia*, vol. 35, no. 1 (2013): 105.

31 Katsumata, "Reconstruction of Diplomatic Norms in Southeast Asia": 112.

32 Ibid.

The “ASEAN Way”

The “ASEAN Way” refers to a set of diplomatic norms shared by the members of ASEAN. It reinforces the ASEAN members to seek an informal approach to cooperation through lengthy consultation and dialogue. Practically speaking, the ASEAN Way needs to implement the norms of non-interference in the internal affairs of each member state, and the non-use of force in order to support the concept of state sovereignty. These norms can be seen through the Treaty of Amity and Cooperation (TAC) in Southeast Asia especially in Article 2.³³

The non-interference norm in internal affairs is one of the most crucial elements for ASEAN. As one ASEAN foreign minister put it in 1997, “non-interference in the affairs of another country was ... the key factor as to why no military conflict had broken out between any two member states since 1967.” In practical terms, this norm has four aspects: first, the avoidance of commenting on domestic affairs of other member states (so called “quiet diplomacy”), second, criticizing the behaviours of states which are likely to have breached the non-interference norm, third, denying recognition or other forms of support to any rebel group seeking to destabilize or overthrow the government of neighbouring states, and last, providing political support and material assistance to member states in their campaign against destabilizing activities.³⁴

It can be argued that non-interference is an attractive concept for developing countries to join ASEAN that are in the early stages of nation-building. Changing the non-interference norm may reinforce

33 Article 2 In their relations with one another, the High Contracting Parties shall be guided by the following fundamental principles: a. Mutual respect for the independence, sovereignty, equality, territorial integrity and national identity of all nations; b. The right of every State to lead its national existence free from external interference, subversion or coercion; c. Non-interference in the internal affairs of one another; d. Settlement of differences or disputes by peaceful means; e. Renunciation of the threat or use of force; f. Effective co-operation among themselves.

34 Amitav Acharya, *Constructing a Security Community in Southeast Asia: ASEAN and the Problem of Regional Order* (London: Routledge, 2011), 58.

the further institutionalization of ASEAN, but at the high cost of serious damage to ASEAN's integration and even its survival.³⁵ Take Cambodia as an example. As Cambodia's Prime Minister Hun Sen mentioned, "the key to Cambodia's participation in ASEAN is the non-interference principle and any attempts to revise this principle will pose a threat to the strength and confidence in this regional association."³⁶

Another norm of ASEAN Way is the non-use of force. The key idea of this norm is to adhere to peaceful settlements of disputes. As Chartchai Chunhawan, Thailand's foreign minister, stated in 1973, "the immediate task of ASEAN... is to attempt to create a favourable a condition in the region whereby political differences and security problems among Southeast Asian states can be resolved peacefully."³⁷ This norm encourages the member states to seek improvement of situations in the long term by gradually promoting a sense of trust.³⁸

The phrase "non-use of force" has been interpreted in the western context as the settlement of disputes through legal means or frameworks. The establishment of the Conference/Organization for Security and Cooperation in Europe (CSCE/OSCE) is a good example of this point. It established the Department of Human Rights and Communities and Legal System Monitoring Section to support its mandate such as arms control, freedom of press and fair elections. This monitoring section effectively served OSCE mission in KOSOVO in 2008.³⁹ However ASEAN has implemented this norm in a different way. It prefers a more informal approach to the conflicts.⁴⁰ The primary aim of ASEAN's

35 He, "Does ASEAN Matter? International Relations Theories, Institutional Realism, and ASEAN": 206.

36 Jurgen Haacke, "The Concept of Flexible Engagement and the Practice of Enhanced Interaction: Intramural Challenges to the ASEAN Way," *The Pacific Review*, vol. 32, no. 4 (2019): 581.

37 ASEAN, 2nd edition (Jakarta: ASEAN Secretariat, 1975), 65.

38 Katsumata, "Reconstruction of Diplomatic Norms in Southeast Asia": 107.

39 Organization for Security and Co-operation in Europe, "Legal System Monitoring Section Monthly Report," December 6, 2008, accessed February 6, 2021, <http://www.osce.org/kosovo/38444>.

40 Organization for Security and Co-operation in Europe, "Legal System Monitoring Section Monthly Report."

approach is the prevention of escalation of conflicts by promoting mutual trust rather than creating the legal framework or measures to directly tackle the conflicts.⁴¹ They are not considered to have completely ruled out the use of force through harsh and effective sanctioning and enforcement mechanisms.⁴²

A prime example of the non-use of force in Southeast Asia can be seen in the demise of the Indonesian Konfrontasi's policy. This was a policy launched by the Indonesia government during the President Sukarno era. The Konfrontasi policy promoted the use of force to settle disputes. After the fundamental political change when Sukarno was replaced by Suharto, Indonesia abandoned Konfrontasi which served as a model for its neighbours and raised the possibility of a regional order based on the non-use of force in inter-state relations.⁴³ Having considered the unsolved territorial disputes among ASEAN members as mentioned earlier, it can be said that the current norm of non-use of force is not sufficient and a more formal approach is needed.

Bilateral and Multilateral Perspectives

There are a number of bilateral security and defence cooperation arrangements among ASEAN members. Singapore and Malaysia launched a bilateral security dialogue, the Malaysia – Singapore Defence Forum, and signed a memorandum of understanding on defence industrial cooperation intended to involve co-production as well as joint marketing of defence equipment. Malaysia and the Philippines set aside their long – standing dispute over Sabah to sign an agreement covering an exchange of defence – related information, logistic support and training. More recently, Singapore and Indonesia launched the 2007 Bali Agreement for a bilateral extradition treaty and defence cooperation agreement that required tough negotiation in the future regarding their

⁴¹ Ibid.

⁴² Solingen, "Regional Conflict and Cooperation," 9.

⁴³ Acharya, *Constructing a Security Community in Southeast Asia*, 49.

territorial disputes.⁴⁴ Even a multilateral event such as the annual ASEAN summit, is considered as an important event for reaching bilateral deals concluded on the side-lines rather than any multilateral agreements at the main event.⁴⁵

Whether or not existing forms of bilateral military cooperation constitute a necessary basis for moving ASEAN towards wider regional alliances should be addressed. The lack of standardization of equipment and differences in doctrines and languages are the main constraints that prevent this, and it is much easier for the Southeast Asian armed forces to bridge this gap through existing bilateral frameworks.⁴⁶ However, the most significant obstacle for ASEAN to greater regional security cooperation comes from political-military consideration. ASEAN leaders continue to emphasize the advantages of keeping their defence links bilateral, and there seems to be a consensus against military pact.⁴⁷ As General Sutrisno argued, “A pact is a contract and we don’t want that... without a military pact ASEAN states can in fact cooperate flexibly.” Military pact is clearly not to be a right solution for greater regional security cooperation in Southeast Asia.

The preferred bilateral relations among ASEAN states substantially decrease the importance of ASEAN as the security provider for the region. Research has been conducted that indicates the sense of ASEAN identity remains quite weak within ASEAN states, even among their leaders. Christopher Roberts, in a series of interviews conducted with over 900 people in Southeast Asian states between 2004 and 2007, indicated that the level of trust within ASEAN remains surprisingly low as it was a decade ago.⁴⁸ The unpopularity of ASEAN is also reinforced by another set of interviews by Evelyn Goh in 2005 with officials and

⁴⁴ Simon, “ASEAN and Multilateralism”: 288.

⁴⁵ Ibid.

⁴⁶ Amitav Acharya, “A Survey of Military Cooperation Among the ASEAN States: Bilateralism or Alliance?” Occasional Paper 94 (May 2020), 31.

⁴⁷ Acharya, “A Survey of Military Cooperation Among the ASEAN States.”

⁴⁸ Shaun Narine, “ASEAN into the Twenty-first Century: Problems and Prospect,” *The Pacific Review*, vol. 32, no. 3 (2019): 377.

policy-makers in various Southeast Asian states which indicate that the order of preference of hierarchical regional arrangement that these states aim for is as follows:

- (a) Superpower overlay: the United States
- (b) Regional great power: China
- (c) Major powers in the region: India, Japan, South Korea
- (d) ASEAN

From this it can be assumed that ASEAN states are unlikely to address its security issues directly through the ASEAN framework. They prefer to engage on defence and security issues through a bilateral basis with external powers rather than ASEAN. If ASEAN states still do not believe that their international influence is meaningfully enhanced by being part of ASEAN, they will not see any advantages in maintaining their commitment to the organization especially with respect to defence and security.⁴⁹

ASEAN Political – Security Community (APSC) Blueprint and Other ASEAN Agreements

Since the establishment of the organization in 1967, ASEAN has launched 54 principal agreements. About sixty-five per cent of the agreements relate to dispute settlement issues calling for settlement by negotiation or consultation. However, there were only two agreements providing for possible sanctions for non-compliance. These are the 1995 Treaty on the Southeast Asian Nuclear Free Zone (SEANWFZ) and the 2004 Protocol on the Enhanced Dispute Settlement Mechanism.⁵⁰ However, both agreements present no clear penalties for non-compliance clearly indicated. The Article 14 of the nuclear free zone

⁴⁹ Narine, "ASEAN into the Twenty-first Century": 375.

⁵⁰ Geoffrey B. Cockerham, "Regional Integration in ASEAN: Institution Design and the ASEAN Way," *East Asia*, vol. 37 (2020): 178-9.

agreement is a good example of this point. This can be argued that ASEAN agreements prefer to be operated as soft law. They tend to mostly be in functional areas and exhibit low level of transparency and delegation.⁵¹

Notably, from those 54 agreements, only seven security issues were addressed: three natural resources issues, two nuclear weapon issues, one interstate war issue, and one food issue.⁵² The most significant ASEAN security agreement is the 1976 Treaty of Amity and Cooperation (TAC). Its detail was mentioned earlier in the part 1. This agreement reflects the main characteristic of typical ASEAN agreements as mentioned earlier eg. low level of transparency and delegation. In terms of delegation of authority, TAC only provides for a High Council to settle disputes. In terms of function, it acts as a non-aggression pact among members.⁵³

As mentioned earlier, the APSC is perhaps the most crucial development of ASEAN that exemplifies the characteristics of new regionalism and trends towards regional governance in Southeast Asia.⁵⁴ Its blueprint committed ASEAN to the principle of comprehensive security that goes beyond tackling traditional security issues to non-traditional security issues. Many comprehensive actions have been addressed to respond more complex security challenges. For example, in terms of non-traditional security issues, many actions are raised such as (a) to further strengthen criminal justice responses to trafficking in persons, (b) to develop multilateral or bilateral legal agreements towards combating drugs, (c) to provide transfer of knowledge concerning the profile of drug crime syndicate groups, (d) to foster closer cooperation in fighting against maritime piracy, armed robbery against ships, to

⁵¹ Cockerham, "Regional Integration in ASEAN": 165.

⁵² Ibid: 179.

⁵³ Mark E. Manyin, Michael J. Garcia and Wayne M. Morrison, "U.S. Accession to ASEAN's Treaty of Amity and Cooperation (TAC) (Congressional Research Service, May 2009), accessed February 12, 2021, <http://fpc.state.gov/documents/organization/124064.pdf>.

⁵⁴ "Indonesia Proposing ASEAN Security Community Concept," *Jakarta Post*, June 16, 2003.

name but a few.⁵⁵

The APSC Blueprint not only brings ASEAN security cooperation into a higher plane, but also aspires for people and member states of ASEAN to live in peace with one another and with the world at large in a just, democratic and harmonious environment.⁵⁶ The APSC Blueprint provided two significant projects of regional governance dealing with the increasing human security of individuals and communities across the region through human rights promotion, and to a lesser degree, protection.⁵⁷ These are the ASEAN Inter-Governmental Commission on Human Rights (AICHR) established in 2009 and ASEAN Commission on the Promotion and Protection of the Rights of Women and Children (ACWC) established in 2010.

It is notable that however similar formal inter-government agreements are not seen in other security areas regarding the underlying causes of instability in the region. For example territorial disputes among member states and the intervention of external powers are not addressed to the same degree. Several objectives and actions can be observed from the APSC Blueprint which cover these problems but result in nothing of binding significance. In terms of intra-regional disputes, the Blueprint intends to promote peace and stability in the region by supporting the inclusion of a culture of peace which includes, respect for diversity, promotion of tolerance and understanding of faiths, religious and cultures. It also provides actions to strengthen confidence-building measures and efforts in maintaining respect for territorial integrity, sovereignty and unity of ASEAN states in accordance with the Charter of the United Nations.⁵⁸ In terms of dealing with external powers, the Blueprint intends to promote regional norms of good conduct and solidarity by upholding TAC, SEANWFZ and other key agreements. It

⁵⁵ "Indonesia Proposing ASEAN Security Community Concept."

⁵⁶ Mely, "Non-Traditional Security Challenges, Regional Governance, and the ASEAN Political – Security Community": 7.

⁵⁷ Ibid: 12.

⁵⁸ "ASEAN Political – Security Community Blueprint" (ASEAN Secretariat), accessed February 7, 2021, <http://www.aseansec.org>.

also aims to build up the necessary institutional framework to strengthen the ARF process in support of the APSC.⁵⁹

The APSC Blueprint is considered to be a key factor promoting ASEAN as an effective security cooperation organization in the future, however the Blueprint failed to talk about how the ASEAN Way should be revised. As mentioned earlier, ASEAN Way is the concept of a set of diplomatic norms to seek an informal approach to cooperation through lengthy consultation and dialogue supported by the norms of non-interference in the internal affairs of the member states, and the non-use of force. Whilst the Blueprint covers ways to tackle a wide range of security problems in the region, it should be less reluctant to address issues embedded within the domestic practices and institutions of states at the national and sub-national levels,⁶⁰ - such as state sovereignty, the “ASEAN Way” and multilateral agreements. Therefore, while the APSC Blueprint illustrates an important shift in terms of ASEAN’s direction and shows the seriousness of building a system of regional security cooperation, its effort might be hindered by domestic politics and conflict with different political perspectives.

Conclusion

According to the trend of global security in the 21st Century, traditional threats are decreasing and becoming overshadowed by non-traditional threats. International organizations will have more important roles to deal with these new threats, rather than being dealt with by a single state. ASEAN as a single regional organization in the Southeast Asian region has to adapt itself in order to effectively provide security for the entire region. Having considered the current Southeast Asian

⁵⁹ “ASEAN Political – Security Community Blueprint.”

⁶⁰ Shakar Hameiri, “Beyond Methodological Nationalism, but Where to for the Study of Regional Governance,” *Australian Journal of International Affairs*, vol. 73, no. 3 (2019): 431.

security environment, it is substantially influenced by several factors. Unprecedented threats such as transnational terrorists and climate change emerge, and may have an enormous impact on the security of the region. Moreover, ASEAN substantially relies on external powers especially the United States and China. Some ASEAN members had special relationship with the United States during the Cold War period, but China is increasing its influence towards this region. The special financial assistance from China given to some ASEAN members during the 1977 financial crisis is a good example of this point. However, the rise of China made the United States shift its focus towards Indo-Pacific and it might pave the way to a political or military confrontation in Southeast Asia between the United States and China in the future. Furthermore, internal disputes among ASEAN members still remain and have not been resolved. This has led to an increasing military build-up and competition in arms acquisition in the region. There is a compelling argument that all the factors mentioned above need to be solved in order to create stable security in the region and it must be done through a regional organization rather than a single state or bilateral agreement. Therefore, ASEAN inevitably has to develop itself to be a security cooperation organization.

To achieve this goal ASEAN has to overcome some factors. First, ASEAN members are reluctant to give their sovereignty over to ASEAN especially in areas that relate to their national security, which makes it very difficult for ASEAN to take the lead and reach a common conclusion or agreement in terms of security issues. Second, ASEAN still operates under the norm of non-interference in the internal affairs and non-use of force namely the “ASEAN Way.” It reinforces the ASEAN members to seek an informal approach to cooperation through lengthy consultation and dialogue rather than a more robust formal and legalistic framework. Third, ASEAN members still enjoy operating a bilateral relation especially with external powers. ASEAN finds itself more difficult to act as security provider within the region.

Although the APSC Blueprint reflects a strong intention of ASEAN

to develop itself into a security cooperation organization, having considered its detail, it still shows reluctance to deal with the sovereignty issue and the “ASEAN Way.” Although it comprehensively mentions security problems in the region and illustrates aspirational measures to address these problems, it still lacks a strong legal framework and roadmap for implementation which are considered essential to move ASEAN beyond its current role. This is the main reason to argue that in the near future, ASEAN cannot be an effective security cooperation organization.

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Challenges of Forest Management for Achieving the Sustainable Forest Management in DPRK

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Abstract

Deforestation is one of the most severe environmental problems of the DPRK, leading to soil erosion, landslide, and flooding with frequent consequences. Moreover, recently it is seriously affected living conditions with the changing climate in DPRK. Under Kim Jong Un, the active campaign for afforestation started to solve the problem of deforestation. With the onset of the administration of Kim Jong Un in 2011-2012, reforestation became a crucial national priority. While the need for reforestation was, to some extent, stressed in DPRK policy publications. With the millions of trees planted every year, albeit in an unsustainable way, under Kim Jong Un, the significance of reforestation has been highlighted in an unprecedented way. The ten-year plan for afforestation (first dated to 2013-2024, and later version 2015-2024) expects a complete tree cover on all deforested mountains, which may account for more than fifty percent of the total tree cover. It is followed by another long-term (30-year plan) to change forests from prevailing monocultures to more mixed forests with a higher percentage of deciduous trees, able to withstand climate change. This study focused on analyzing the policy to restore the forest ecosystem in DPRK related to sustainable development goals and sustainable forest management. This study can help the cooperation project avoid deforestation and move towards a sustainable forest ecosystem on the Korean Peninsula.

Key Words: forest policy, sustainable forest management, cooperation, capacity building

Introduction

The Democratic People's Republic of Korea (DPRK, also known as North Korea) has considered environmental issues. From the beginning of the DPRK's existence as a socialist state, there was a specific interest in protecting national heritage, such as natural monuments or protected areas. The primary type of vegetation in the DPRK is forest and accordingly, forests are a dominant ecosystem and a key natural resource for economic development. However, deforestation has rapidly increased since the late 1990s. The DPRK has for several decades conducted extensive forest reforestation and afforestation measures.¹ The DPRK government started the Forest Master Plan in 2013, which is meant to recover the forest condition and improve living conditions in the next 30-years and show long-term, stepwise planning.² Significantly, the Forest Restoration Campaign was launched in 2015, and a nationwide movement to rehabilitate the deforested mountains has been carried out. The social environment in DPRK ensured the successful implementation of the campaign. While before, the need for reforestation was rejected to some extent in DPR Korean policy publications, and every year millions of trees were planted, albeit unsustainable, the significance of reforestation under Kim Jong Un has been highlighted in an unprecedented way. For instance, this issue was emphasized in his 2012 speech on land management and most recently, in 2015, in his publication "Let the Entire Party, the Whole Army and All the People Conduct a Vigorous Forest Restoration Campaign to Cover the Country's Mountains with Green Woods." Despite the government's efforts to overcome the environmental crisis and decrease the deforestation rate, there is still a long road ahead of them regarding reforestation and afforestation in

1 UNEP, "The 4th National Report of DPR Korea to the Convention on Biological Diversity" (United Nations Environment Programme, Paris, 2011).

2 Hyun-Ah Choi, "Prospect and Implementation Strategy of the Inter-Korean Forest Cooperation: A Case Study of International Organization Support Project in DPRK," *Unification Policy Studies*, vol. 27 no. 2 (2018): 1-20.

the DPRK. This study focused on the DPRK's current forest management plan and international issues regarding sustainable forest conservation. Furthermore, this study looked into forest cooperation with DPRK and suggested applications for sustainable forest management (SFM) with the international community.

Sustainable Forest Management Related to the Forest Policy in DPRK

According to the World Bank in 1990, 68.1 percent of the DPRK was forested. The range of total forest area has decreased from 9.85 million ha in the 1970s to 7.55 ~ 8.93 million ha in early the 2000s.³ By 2016, only 40.7 percent of the DPRK was covered with forests. There are several reasons for the severe deforestation. First, the 1990's economic crisis in DPRK caused a coal shortage for residential energy use, and as a result, firewood was consumed at an unsustainable rate.⁴ Second, DPRK's *Juche*, "self-reliance" ideology and self-sufficiency policy in food production has intensified the problem. The forest-dominant land cover and scarcity of arable land resulted in only 0.08 ha of

3 Various researchers analyzed the forest area in DPRK using satellite imagery or estimation trends such as FAO, "Global Forest Resources Assessment 2010: Main Report," *FAO Forestry Paper 163* (Food and Agriculture Organization of the United Nations, Rome, 2010); Kyung Seok Park, "Forest Condition and Policy in North Korea," *KREI Quarterly Agricultural Trends in North Korea*, vol. 15, no. 3 (Autumn 2013): 1-21; Korea Forest Service, *2011 Annual Report of Trend in Forest and Forestry* (Korea Forest Service, Daejeon, 2012); Damin Kim et al., "Estimation of Future Carbon Budget with Climate Change and Reforestation Scenario in North Korea," *Advances in Space Research*, vol. 58, no. 6 (2016): 1002-16; Dong Kun Lee, Young Chool Oh and Jae Uk Kim, "A Study on Forest Changes for A/R CDM in North Korea," *Journal of the Korea Society of Environmental Restoration Technology*, vol. 10, no. 2 (2007): 97-104; So Hee Park, Ja Choon Koo and Seok Hyun Deok, "Selection of Primary Site for Deforested and Degraded Mountain Restoration Projects in North Korea," *Korean Forest Economics Society*, vol. 21, no. 1 (2014): 37-46; Korea Forest Research Institute, *Cooperation Direction and Assignment for Restoration of Degraded Forest in the DPRK* (Korea Forest Research Institute, Seoul, 2010); FAO, "State of the World's Forests 2009" (Food and Agriculture Organization of the United Nations, Rome, 2009) and so on.

4 Ken Piddington, "DPR Korea: State of the Environment" (United Nations Environment Programme, 2003).

available farmland to each person, far short of producing adequate food supply to support the population.⁵ The DPRK rulers have ordered farmers to convert forests into agricultural land to increase food production.⁶ The final cause of deforestation is a natural hazard and associated secondary disasters. Forests provide essential ecosystem services, including climate regulation, erosion control, and food production.⁷ The increase in runoffs also resulted in the loss of crucial farmland developed in hilly areas because of widespread soil erosion due to the absence of efficient sloping land management.

In DPRK, the forest restoration project started in 2015 and is planned until 2044 (former 2013-2042). It is called the Forest Master Plan (National Forestation Strategy) and will span 30 years at the national level. This master plan includes critical topics, such as adaptation to climate change and disaster prevention, and the improvement of livelihood by increasing direct food production and the increased value of forests through an increase of forest products, such as oil-seed fruit trees, and nut-bearing trees. The key slogans of the current efforts for reforestation are *Hwanggeumsan* (Golden Mountain), and a conversion into *Pomulsan* (valuable mountains), which in the DPRK refers to tree use species of higher economic value. It also includes forest restoration plan and strategy (2015-2024) and forest protection plan.⁸ The forest restoration plan and strategy, a 10-year plan, aims to maintain the survival rate of trees planted in the mountainous area and plant 6.3 billion trees in the 1.67 million ha of mountainous area. Moreover, 340 million trees will be planted on agricultural lands with slopes over 20°,

5 Graham Ashford et al., *Democratic People's Republic of Korea Environment and Climate Change Outlook* (Ministry of Land and Environment, Pyongyang, 2012).

6 Rakhyn E. Kim, "International Environmental Cooperation of the Democratic People's Republic of Korea" (paper presented at the DMZ Forum, April 2015); Park, "Forest Condition and Policy in North Korea": 1-21.

7 Matteo Vizzarri, Roberto Tognetti and Marco Marchetti, "Forest Ecosystem Services: Issues and Challenges for Biodiversity, Conservation, and Management in Italy," *Forests*, vol. 6, no. 6 (2015): 1810-38.

8 MoLEP, *A 30-year National Forest Restoration Plan of Democratic the Democratic People's Republic of Korea* (Ministry of Land and Environment Protection, Pyongyang, 2014).

an additional 110,000 ha, by 2022. Consecutively, all trees planted will be monitored for two years to overview the survival rate of trees. In the forest restoration plan's first phase (2015-2017), the tree nursery area should increase to 13,000 ha, from 7,600 ha in 2014. According to the DPRK's Forest restoration plan and strategy, the tree nursery area should produce 1.4 billion tree saplings during the first phase. Approximately 1,036 ton of seed is needed per year for the whole DPRK. The tree species use for forestation are mostly Japanese larch (*Larix kaempferi*), Korean pine (*Pinus koraiensis*), pitch pine (*Pinus rigida*), Japanese cedar (*Cryptomeria japonica*), and chestnut tree (*Castanea crenata*). The 113 km long forest fire prevention line will be installed, and 3,090 km of the fire prevention line will be installed at the national level until 2024. Prevention of disease and insect pest plan aims to mobilize by manual removal of pest with the military labor force and use bio-pesticide and chemical pesticides. The plan also includes an increase in the number of parasitic bees and facilities producing bio-pesticide. To reduce the damage caused by landslides and floods, projects on the prevention of erosion will be conducted over 100,000 ha and river management, including the construction of dam and waterway. According to the national forest restoration plan, forest restoration and protection projects are implemented every year and it is DPRK's priority to be carried out until 2024. In 2017 the first phase of the afforestation plan has been successfully finished according to the Ministry of Land and Environment Protection (MoLEP), which oversees the Forest Restoration Battle (FRB), observing the country by MoLEP that there has been made visible progress in many places.

In 2016, the DPRK ratified the Paris Agreement and UN 2030 Agenda for Sustainable Development Goals (SDGs). SDGs are a promising way to improve livelihood and human rights since the SDGs are accepted by the DPRK and the focus of several projects. The DPRK has published the 2021 voluntary national review (VNR) at the High-Level Political Forum on SDGs. Assessing forest sustainability conditions will help clarify forest management under climate change in

DPRK. The DPRK Government's national forest restoration plan is linked to the SDGs. The analysis of the connection among forest policy, and indicators, and detailed targets of SDGs in the DPRK are shown in Table 1. SDG 15 “Life on Land: Protect, Restore, and Promote Sustainable Use of Terrestrial Ecosystems; Sustainably Manage Forests; Combat Desertification; Halt and Reverse Land Degradation, and Halt Biodiversity Loss” is directly related to forest policy in DPRK and other SDGs like SDG 13 (Climate Action). The forest policy in DPRK also has the interactions which occur in soil protection, water-food-energy nexus, the global partnership for Disaster Risk Reduction (DRR), Forest Land Restoration (FLR), and Land Degradation Neutrality (LDN) by United Nation. The SDGs' targets related to the Forest Restoration Campaign are 13 and 15, and its detailed targets are 13.1, 15.1, 15.2 and 15.3. The targets of the SDGs related to Forest restoration plan and strategy are 13 and 15, and its detailed targets are 13.1, 15.1, 15.2, 15.3, 15.4

Table 1. SDGs Related to Forest Policy in DPRK

Goal	Related policy	Related regulation	Competent authority	Thematic reference
13	National Disaster Reduction Strategy (2019-2030), National Environmental Protection Strategy (2019-2030)	Disaster prevention, relief and recovery law	State Committee of Emergency and Disaster Management, Ministry of Land and Environment	DRR, Water-food-energy nexus
15	National Forestration Strategy (2015-2044), Forest restoration plan and strategy (2015-2024), National Agroforestry Strategy and Action plan (2015-2024)	Forest law, Disaster prevention, relief and recovery law, Forest ordinance, Agroforestry regulation	Ministry of Land and Environment	Soil protection, Water-food-energy nexus, DRR, FLR, LDN

Source: Own compilation based on DPRK's VNR and MoLEP's planning materials

and 15.5.

The Sustainable Development Solutions Network has provided indices to the SDGs to support the sustainable development of individual countries. The DPRK has not been evaluated for decades because roughly 40% of the data required to assess the SDGs are missing. Previous studies have significant restrictions on data collection from DPRK, but recent studies have employed remote sensing data to overcome these limits. Two Koreas agreed on environmental cooperation to protect and restore the natural ecosystem in 2018 as a follow-up to implementing the Panmunjom declaration. In addition, Korean-SDGs newly added the target 16.13 to ensure inter-Korean cooperation for peace and prosperity.

Sustainable Forest Management Approaches in DPRK with Cooperation

Achievements and Limitations for Sustainable Forest Management in DPRK

Recently, in cooperation with the international community, the DPRK government has been trying to achieve SDGs designed to overcome environmental issues, social and economic limitations, and include climate change, to finally promote the sustainability of future generations. For example, on the 22nd of April 2016, the DPRK government signed the Paris Agreement under the United Nations Framework Convention Climate Change and ratified on the 1st of August 2016. In addition, the government set up the “UN Strategic Framework 2017-2021 DPRK” to select four priorities, including resilience and sustainability. It means the DPRK's readiness to engage in active exchange and cooperation as a member of the international community in the field of the environment. Furthermore, the government is making efforts in terms of: eliminating poverty of DPR Koreans (SDG

1), keeping people's hunger away (SDG 2), maintaining healthy and good quality of life (SDG 3), activities on the environmental protection (SDG 13), clean water and sanitation (SDG 6), conservation of water resources (SDG 14), ecological protection (SDG 15), and strengthening partnerships for SDG (SDG 17). In connection with the current environmental activities in and out of DPRK, MoLEP was appointed to be the liaison officer in 2019, being a government-designated organization for the Green Climate Fund and the director of the International Cooperation Agency. The designation of MoLEP as an intermediate can be seen as a part of efforts to take action against climate change and its effects, and it highlights the policy efforts and the FRB for forest restoration in DPRK.

The Kim Jong Un regime carried out a constitutional revision and enacted the related legislation. It released a statement on “bring[ing] about a revolutionary shift in national territory management project in line with the demands of constructing a prosperous socialist nation.” This message was addressed to the people responsible for the party, national economic institutions, and labor organizations on 27 April 2012. In this statement, the government ordered to thoroughly carry out afforestation and project on protection and management of forests along with land management projects. It was also ordered to make all the mountains of the DPRK thick with trees by 2022. The statement also covered the strengthening of water management projects through the purification of rivers and streams, the modernization of roadways to increase the weight and speed of transportation, and environmental protection projects. The Kim Jong Un regime announced a declaration of forest enacted on March 17, 2015 for afforestation and restoration and prohibited activities which hinder afforestation and forest development. Since Kim Jong Un came into power, the DPRK developed science and technology-oriented policies, focusing on Pyongyang. The policies emphasized the city's greening, land management, and forest protection projects while highlighting the city's beautification by constructing Changjon Street and Scientist Streets. In April 2019, the DPRK revised

its constitution, specifying scientific technologies as the nation's most important strategic resource. The revised form also included information on people's economy and technology investment expansion. The government of DPRK announced a plan to afforest plant spruce trees, oak trees, pine trees, birches, and mixed forests to enhance the ability of forests to absorb carbon dioxide and store water around tree-planting day on 2nd of March 2020, and a plan to increase the forest per unit area to produce high-quality materials. Furthermore, the government also announced a plan to successfully carry out forest restoration, including strengthening remote training by using *Hwanggeumsan* as the internal network of forest resource management.⁹

The singularity of the Kim Jong Un regime is that the DPRK became aware of the needs and methods of environmental protection when developing and using tourism resources. The development of economic development zone since 2013 also emphasizes on ecological protection, with one of the principles of growth being the protection of the economic development zone and its surrounding natural ecology. The government is required to set proper standards of environmental protection for each development zone, implement the environmental protection plan for the year, and establish measures to prevent environmental pollution. For example, in 2013, the government adopted a renewable energy law and established Korea Green Fund (KGF) to support activities supporting a green society. This support concerned the economy and environment in 2014, such as the continuous use of green energy, the efficient management of land, forest and water resources, the saving resources, the construction of a cycloid economy, and the prevention of environmental pollution. KGF activities aim to “convert the whole nation into forest and garden,” which Kim Jong Un regime emphasized. The KGF also acts as a non-governmental fund to conduct international cooperative activities, with fundraising supported by

9 KCNA, “Homepages Helpful to Forestation” (Korean Central News Agency, September 27, 2018); Naenara, “Hwanggeumsan 2.0,” *Naenara (in DPR Korean)*, January 24, 2020.

domestic and foreign institutions, organizations, companies and citizens, as well as the donations and real estate from overseas DPR Koreans and foreigners.

Moreover, environmental protection regulations for Rason economic and trade zone enacted on the 23rd of July 2014 included a clause specifying that companies that want to develop and construct in Rason Special Economic Zone are required to receive an environmental impact assessment to obtain a construction permit. This regulation provides specific and clear provisions regarding the disposal of sanctions, including listing 17 types of actions that result in fines. Unlike environmental protection regulations for Kaesong industrial region enacted on the 11th of November 2006, it is believed that there is a strong will to regulate the activities harming the environment of Rason special economic zone.

The DPRK has adopted relevant laws and regulations and their development through modifications to understand and respond to the importance of environment-related policies. This shows a will to develop the economy while protecting the natural environment in the economic development zones. In particular, the government is making efforts to establish environment-related policies and promote the environment of the national land by introducing advanced scientific technologies. The DPRK also carried forward a project to restore degraded forests, as readiness project of Green Climate Fund.¹⁰ However, the DPRK's forest policy is a national unit plan that does not include the use of satellite data, and therefore an action plan that considers forest ecosystem by region is needed.

Similarly to the economic development of other developing countries, DPRK prioritization of development rather than environmental protection results in a conflicting situation. It is not easy for DPRK to strongly promote ecological environment protection while it is

¹⁰ Green Climate Fund, "NDA Strengthening and Country Programming Support for DPR Korea through FAO," accessed September 13, 2021, <https://www.greenclimate.fund/document/nda-strengthening-and-country-programming-support-dpr-korea-through-fao>.

internationally recognized as the poorest country. However, the DPRK has a strong interest in environmental protection, as reflected through its policies. When looking at the DPRK's ecological environment protection policies, it is primarily focused on absolute protected area and historical sites. Then, policies also cover the protection of touristic regions and famous sights that can generate revenue through tourism. Third, the new policies are the result of international environmental cooperation. These promote the exchange of human resources (capacity building), overseas trips, and support from the international community to protect sites such as biosphere reserves and bird sanctuaries. The DPRK's ecological environment protection policy is pursued maintain the “*Suryong* (Leader) System” and the protection of tourism is a resource to earn foreign currency.

In the field of economic development, the keyword “self-reliance” was emphasized by Kim Jong Un at the 5th plenary session of the 7th Central Committee of the Korean Worker's Party held in late December 2019. Under the international sanctions on the DPRK, “the system, order and arrangement of economy and business,” “increase of major industrial tasks and agricultural production,” “improvement of science, education and health projects,” and “measures to protect the ecological environment and prevent natural disasters” were presented as significant tasks. This reflects the policy intentions of the top leader, aiming at decisive measures to establish a national crisis management system to handle natural disasters and thoroughly protect the forest. It should first examine how the DPRK government will implement the environmental policies decided by the plenary session after 2020. It should discuss environmental cooperation with the DPRK to ensure sustainability and achieve results. Currently, the DPRK is actively promoting the construction of tree nurseries in each province and modernizing the tree nursery in the county units. The main tree nurseries are 122 tree nursery by the People's Army, the Gangwon Province tree nursery, and the Jungpyong tree nursery in Hamgyong Province at the national level. Together, these nurseries aim at producing 20 million trees annually by focusing on the

production of seedlings, the shells needed for FRB.

Cooperation for Sustainable Forest Management in DPRK

DPRK has tree planting strategy. The afforestation and greening in DPRK remain a challenge, but it is good to see that DPRK started to work on it. New tree nurseries were built, and people mobilized for tree planting at province and county levels. However, resources necessary for the FRB's success are lacking, such as pipes and fertilize. In addition, there is a lack of knowledge on sustainable forestry management.

Like the Republic of Korea (ROK), DPRK needs support from the international community for SFM. The ROK, since the 1960s also started a successful afforestation program, together with a comprehensive village renewal program, leading to fast-recovering forests and development in the country. Measured by the growth of forest stock, it was one of the most successful countries regarding afforestation. However, new challenges, like upgrading the quality of forests, sustainable economic use of forests, and climate change adaptation have to be resolved. In its drive for afforestation, ROK used large-scale community action with human resources and modern technology, capacity-building, and international cooperation. The German forest service cooperated with the RO Korean forest authorities for several decades. ROK established the organization named Korean-German Forest Management (KGFM) Project in 1974, in Yangsan, South Gyeongsang Province, ROK, to oversee forestry management. During the project, the German foresters helped open the forestry management office in Yangsan in 1975 alongside a forest machinery education center in 1982 in Gangneung, Gangwon Province, ROK. German foresters from the State Forest of Hesse organization worked alongside RO Korean colleagues for the afforestation of the country, and also closely cooperated with the scientific personnel in ROK, having for a long time an office at the grounds of the Korean Forest Research Institute (today National Institute

of Forest Science) under Korea Forest Service. Based on this experience, ROK can improve SFM techniques and implement successful short-term reforestation.

One of the German organizations, Hanns Seidel Foundation (HSF), carried out the project called Improvement of rural living conditions through healthy forests - establishment of a Training Center for Sustainable Forestry in DPRK together with the Forest Management Research Institute (FMRI), Academy of Forest Science under the MoLEP in Sangseo-Ri, South Pyongan, DPRK.¹¹ This project is similar to KGFM, but it's a small-scale cooperation project. In this project, a Training Centre for sustainable forestry, established in the Central Tree Nursery, has effectively operated and provided good opportunities for science and technology dissemination, contributing to the project and the FRB. In the training centre, equipped with a modern education system such as online learning materials, DPRK researchers developed and operated. This intranet supports general tree planning documents and information at province, city, and county levels. In addition, Pureonsan (Green Mountain), an advanced intranet, is organized by the Academy of Forest Science for researchers. The project improved the local livelihood, which relies heavily on the forest and its products.

One of the main focuses was on training for sustainable forestry management. In this project, 11 local trainings, 5 international seminars and 5 times of overseas trainings were successfully carried out to strengthen the FMRI and experts' technical capacities. The local and central government experts and research institutes participated in the training to develop the country-specific advanced forestry technologies in DPRK. The FMRI and other beneficiaries could increase their technical capacity related to sustainable forestry through the abovementioned activities. At the same time, the project sites could maintain the material

¹¹ HSF, "Final Report EU-Project" (Hanns Seidel Foundation Korea), accessed November 2, 2021, https://korea.hss.de/fileadmin/user_upload/Projects_HSS/Korea/Dokumente/Flyer-and-Booklets-Publications/FLYER-EU-PROJECT.pdf.

and technical basis for sustainable forest management. The partner organizations widened their network significantly by working with many institutions and organizations in environmental fields. Through the activities, the technical knowledge of the partner organization was increased, and contacts with relevant technical and scientific counterparts in China, Mongolia, and Germany were established. Some of the contacts lead to other and independent exchange and internationalization of the DPR Korean forestry sector. The project sites provide space for foresters' training and a showcase for sustainable and successful reforestation efforts while improving the livelihood of the local people and additional benefits from ecosystem services around villages in Sangso-Ri. As this project has shown, FMRI and related organizations in DPRK need capacity building and network with the international community to implement SFM. In addition, under the COVID-19 pandemic situation, HSF organized virtual lecture series with MoLEP focused on forest pest control, forest Certification, and SFM.¹² It's an example of the way of cooperation in DPRK regarding SFM. International organizations such as Food and Agriculture Organization, Concern Worldwide, and HSF have capacity building and implementing model projects for many years. It shows the organization has to support the knowledge and training.

What can realistically do in a time when sanctions still exist? The challenge in preparing a thorough afforestation plan is supporting a new, modern forest inventory of DPRK for SFM. A forest inventory is the systematic collection of data and forest information for assessment or analysis. Estimating timber's value and possible uses is an essential part of the broader information required to sustain ecosystems. The forest inventory collects species, diameter at breast height, height, site quality, age, and defects. One can calculate the number of trees per acre, the basal area, the volume of trees in area, and the timber value

12 HSF, "Sustainable Forest Management and Forest Certification with North Korea" (Hanns Seidel Foundation Korea), accessed November 2, 2021, <https://korea.hss.de/en/news/detail/seminar-1-news7938/>.

from the data collected. In the ten-year forest restoration plan and strategy (2015-2024), DPRK already specified the number of hectares to be reforested and the main tree species, information found on the county level in many places in maps outside tree nurseries. However, this information is not enough. In particular, the calculation and changes of biomass are essential since planting many hundred trees might not be enough if much stronger older trees are felled, resulting in a decline of forest biomass despite evident plantation of new trees.

The forest inventory is not only crucial for national deciders to evaluate the success of the FRB. As a baseline, it is indispensable for projects of green finance in the future; all international donors able to finance afforestation projects, e.g., as part of climate change policies, first need to see this baseline. A second, related but even more significant consideration is the question of material aid for afforestation. Today, the Green Climate Fund (GCF) has become a significant source of funding of projects on climate change, including afforestation, biodiversity projects, etc. DPRK is ready to cooperate with the GCF. But it still has to go a long way due to UN sanctions. One meaningful way of supporting DPRK could be an agreement of funding organizations, the UN, and other important actors like the US to define which forest-related activities would be possible under the current sanctions regime and which might be exempted in the future. It could be an essential focus of forest-related diplomacy of ROK, but not much has been achieved in this way. The emphasis on forestry would probably also help inner-Korean relations much more than plans for large-scale economic cooperation such as industrial or transport since it could start small-scale but soon and lead to practical collaboration and trust-building. For ROK and the international community, much remains to be done. However, it is good to see that nature can retake its place reasonably soon. ROK, itself for decades suffering from severe deforestation, is a good example, with its current health and slow aging forests, which cover all mountains. In addition, the Korean Peninsula is one of the countries most affected by climate change already. In DPRK, with a

weak environmental protection system and severe problems due to decades of environmental mismanagement, mainly deforestation, related disasters like droughts and floods, are likely to be exacerbated. ROK again is one of the world's largest emitters of CO₂. Since it vowed to become climate neutral in 2050, it has to work hard to find ways to reduce dependency on fossil fuels. In 2020, the ROK designed a new strategy to create a carbon-neutral society through the Korean New Deal policy. As a result, ROK should consider the carbon removal to decrease by 30% from the current level by 2050. Innovative forest management is key to increasing carbon sink and storage. The ROK plans to increase carbon sinks by creating urban green spaces for recreational use, restoring degraded forestlands, and tree-planting in underutilized lands. It will continue its forest management to maintain forest carbon removals at the highest level possible by changing tree species and implementing programs to keep the forests.¹³ In this part of the plan, Korea Forest Service (KFS) announced 3 billion new trees would plant over the next 30 years after logging aged trees to offset carbon emissions and US\$ 5.3 billion will invest in creating pristine forests by 2050. KFS also has plans to expand carbon sink and storage through inter-Korean forest cooperation by 2050.¹⁴ In line with the new climate system, the ROK will plant 300 million trees in DPRK to restore devastated forests, absorb 1 million tons of carbon every year, and restore 147,000 ha. Creating a cooperative model to distribute incentives to DPRK authorities and residents planting and cultivating forests is necessary. DPRK's failure to climate change could undermine political stability on the Korean

13 The Government of the Republic of Korea, "2050 Carbon Neutral Strategy of the Republic of Korea - Towards a Sustainable and Green Society" (The Government of the Republic of Korea, Seoul, 2020).

14 Korea Forest Service, "Plant 3 Billion Trees by 2050 to Reduce 34 Million Tonnes of Carbon" (Korea Forest Service, January 20, 2021), accessed November 2, 2021, https://www.forest.go.kr/kfswb/cop/bbs/selectBoardArticle.do?sessionId=Spxy5h6EeTZ1ro xjK0scA2d20J77z4qm3PCf1gatJOFFPOhCJnx14tBz5IQ3XQDH.frswas02_servlet_engine5?nttId=3154431&bbsId=BBSMSTR_1036&pageUnit=10&pageIndex=1&searchtitle=title&searchcont=&searchkey=&searchwriter=&searchWrd=&ctgryLrcls=&ctgryMdcls=&ctgrySmcls=&ntcStartDt=&ntcEndDt=&mn=NKFS_01_01&orgId=.

Peninsula, so if the two Koreas can cooperate to climate change by establishing a system to respond to climate change jointly, it is also vital as a task. DPRK will contribute to peace on the Korean Peninsula by first using the path of forest restoration to establish a non-political climate change joint response system related to the Kim Jong Un regime's FRB. In addition, from the ROK's point of view, it can be a Win-Win strategy that can expand carbon storage and absorption sources through inter-Korean forest cooperation to achieve the goal of carbon neutrality.

Conclusion

For many areas, DPRK has been isolated from cooperation in various fields. It is one of the reasons why so much is unknown about the country. Its district's political and social system suggest that the country's opening can not be expected any time soon. However, there are topics where cooperation is not only beneficial but urgently required. Environmental protections, climate change and SDGs are such topics. We cannot achieve global, regional, and national changes without coordination and joint effort. The increased awareness of SDGs has quickly affected other fields, and the understanding that forests and biodiversity are key elements of a functioning ecosystem also has been increasingly recognized in DPRK. Forest cooperation with DPRK is difficult because of the current relations between the two Koreas, UN sanctions on DPRK, and the COVID-19 pandemic. Nonetheless, it is necessary to prepare to respond to the climate crisis and cooperate with DPRK in the near future. Thus, this study analyzed the forest policy in DPRK concerning the SDGs, and suggested cooperation with DPRK for SFM. Numerous international actors can address multiple topics, including forestry, specifically sustainable forestry in the DPRK, wetland, and biodiversity conservation. The case of international organizations that continuously conduct exchange and cooperation is an important measure

of collaboration. It furthermore leads to dialogue and cooperation while also building empirical trust with DPRK. In particular, it supports soft-power instead of hard-power. It brings people together and improves education while exchanging information and cooperating. Therefore, it is necessary to build mutual trust with DPRK through environmental partnerships, including forests, conduct various information exchanges and pilot projects, and take a step-by-step approach to work on small and large-scale projects. Although this study analyzed DPRK's forest policy, follow-up studies are needed to evaluate the implementation of linked policies and measures to maximize policy effectiveness in DPRK.

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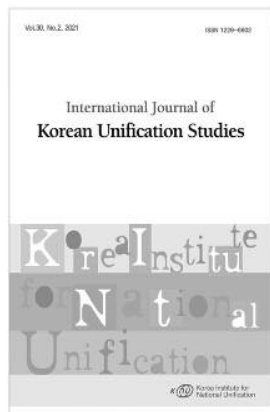
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