

THE EFFECTIVENESS OF THE RESULTS OF THE SECURITY COUNCIL'S DECISION REGARDING NORTH KOREA'S CEASEFIRE VIOLATIONS SOUTH KOREA SOVEREIGNTY

Rully Agung Afrizal¹,

¹Universitas Muhammadiyah Surabaya, Indonesia.

E-mail Correspondent: rullyrly08@gmail.com

Abstract

This research focuses on examining the North Korean government's ambitions to expand its influence beyond the borders of other nations. Specifically, in this study, the President of South Korea responded quickly and efficiently to the protests lodged by him against the highest leader of the North Korean authorities, urging for an immediate meeting or dialogue regarding the recent violations of the armistice agreement by North Korea over the integral territory of South Korea, which is increasingly volatile at several strategic guard posts along the 248-kilometer border known as the Military Demarcation Line, cutting across the waist of the Korean Peninsula and following the Korean Demilitarized Zone that serves as the de facto border between the North and South. The purpose of this research is to analyze the forms of resolution for alleged violations of the armistice in the military demarcation line area between North and South Korea in the Korean Demilitarized Zone (DMZ) according to International Law. This research adopts a normative legal research methodology, using a conceptual approach and a historical approach. Secondary data sources, including laws, books, articles, and other relevant legal materials, are utilized in this study. The results of this research indicate that the possible resolutions for the alleged violations that can be chosen by North Korea and South Korea are non-legally binding settlements through mediation or conciliation. Additionally, diplomacy and negotiations can be pursued, ultimately involving international organizations such as the United Nations (UN), by drawing the attention of the Members of the Security Council through the International Court of Justice (ICJ) or the Permanent Court of Arbitration (PCA).

Keywords: Korean Armistice, Korean War, Demilitarized Zone, Treaty Violations.

I. INTRODUCTION

Before being divided into two parts in 1948, the Korean Peninsula was one country, Korea. Japan occupied Korea since 1910, and Japan surrendered to the allies in World War II (1939-1945), creating a power vacuum in several Japanese colonial countries, including Korea. The power vacuum in Korea at that time caused Korea to split into two parts, namely South Korea and North Korea. At the end of the Second World War (1945), Korea became an arena for ideological confrontation and conflict of interests between the United States and the Soviet Union after liberation from Japanese colonial rule. South Korea became a liberal democratic region under the influence of the United States and several allied countries, then North Korea became a communist region under the influence of the Soviet Union and China. So with this confrontation, Korea was divided into two parts separated by a 38 degree parallel line or parallel cross. The peak of the Korean War in 1950 took many lives. Between 1953 and 2017, relations between South Korea and North Korea have always experienced ups and downs (Cantika,2020).

The signing of the Armistice Agreement between South and North Korea on July 27, 1953 officially stopped the war temporarily. However, both countries still follow their respective ideologies. Korean relations after the Korean War in 1953 always experienced ups and downs. The fundamental differences in the foreign policies of the two countries, namely the socialist

ideology of North Korea and the liberal democracy of South Korea, essentially mean that the interests and goals of each country almost always clash. One of the provocations is an issue that causes fluctuations in the stability of peace and security on the Korean Peninsula, and of course threatens South Korea's interests there. In carrying out the process of ensuring the security of the Korean Peninsula, the South Korean government always uses three political platforms, namely cooperation, reconciliation and unification. These three foundations are always carried out continuously. In addition, there is a process of cooperation between countries, namely. Cooperation in the economic sector and cooperation in the security sector have raised the nuclear issue to become a major issue on the Korean Peninsula. South Korea adopted a policy that hoped to unite with North Korea. These efforts resulted in policies known as the Sunshine Policy (President Kim Dae Jung's policy) and the Peace and Prosperity Policy (Roo Moo Hyun's policy). This joint inter-Korean declaration resulted in a decision regarding a cooperation framework to institutionalize peaceful coexistence between the two Koreas (Firmansyah,2021).

By placing the analysis of ceasefire violations within a strategic decision-making framework, this article shows a significant shift away from conventional ceasefire violations, namely extraordinary events. The main conclusion is that we should view ceasefire violations as events that are part of broader military and political processes. Theoretical insights and typologies allow us to better understand the causal impacts leading to ceasefire violations and to identify the strategic interests of various parties in committing such violations. This not only helps explain the varying reactions of targets of violations, but also sharpens our understanding of how to effectively address existing violations.

This article combines insights from both lines of inquiry and shows how ceasefire violations relate to the broader military and political aspirations of conflict actors. At the heart of this analysis are two main claims namely (1) that the motive for establishing a ceasefire is in the interest of the conflicting party leaders to comply with the ceasefire, and (2) that the commander and his subordinate officers may not always do the same thing and to share the same goals. party leadership conflict. These two propositions refer to the two main layers of strategic decision making, including decisions at the leadership level and decisions of other party members. At the command level, actors may have an interest in complying with a ceasefire, or they may use or accept violations to gain military advantage. At senior levels and below, agents may follow the chain of command or try to undermine their reputation. The point is that not all violations are related to strategic decision-making processes where conflict parties may violate agreements accidentally or for reasons unrelated to the wider conflict.

II. PROBLEM FORMULATION

Problem Based on the background as previously described, the problem formulation in this research is as follows:

1. The reason the North Korean government attempted to violate the ceasefire agreement weapons over South Korea in the demilitarized zone
2. How to resolve violations of this ceasefire agreement with appropriately without harming either party in conflict

III. RESEARCH METHODS

The type of research used in writing this research is normative legal research. Standard legal research in legal science is a form of knowledge-based activity, not just a search for reasons, which aims to find answers to legal problems that arise. And the aim is to obtain consistent truth and provide solutions to the problems being investigated. To answer the legal questions of this research, in this case the researcher uses the most appropriate approach for his research, namely through the approaches used, including the conceptual approach and the historical approach.

Prescriptive research was carried out in this research using legal material analysis techniques (prescriptive research). Prescriptive inquiry is a researcher's perspective that aims to get ideas to answer research questions. After primary and secondary legal materials have been searched through library research, if necessary, the next step is to read, take notes and understand until you can explain the problems and theories of primary and secondary legal materials. Then the problems studied are analyzed by developing ideas or arguments in such a way that answers to legal questions are found, for which it is hoped that good and correct explanations can be provided.

IV. RESULTS AND DISCUSSIONS

1. The Cause of North Korea Violating the Ceasefire Agreement with South Korea in the Demilitarized Zone

In international law, a ceasefire is a military agreement that ends active hostilities between warring parties. This agreement does not end the war between the conflicting parties either legally or in reality. The Korean War armistice negotiations also emphasized that this important leadership competency was not unique to commanders alone. U.S. Army, Air Force, and Marine Corps colonels led United Nations Command (UNC) personnel negotiations and resolved disputes with opposing counterparts on important issues such as demarcation lines, detainee repatriation, and the operation of the Military Armistice Commission. As one scholar notes, military leaders ultimately take responsibility for determining military negotiations on the battlefield and determining whether they succeed or fail. Ceasefire violations are different from other forms of hostilities in armed conflict because such violations demonstrate the unwillingness or inability of the parties to the conflict to fulfill their obligations. Although ceasefire violations occur frequently and have a huge impact on the course of the conflict, ceasefire violations are still a blind spot in conflict studies. Ceasefire research shows the relationship between political negotiations and ceasefire compliance and highlights strategies to prevent or address violations. However, the various reasons that lead to violations remain unexplored. This is an important gap because the cause of the violation determines the response of the conflict parties and determines the effectiveness of strategies to prevent escalation (Budi Kusuma,2020). The broader literature examines obstacles to the peace process, ranging from information problems to disruptive behavior, but to date this knowledge has not been systematically linked to ceasefire violations.

The Korean Armistice Agreement was the armistice that ended the Korean War. The agreement was signed by US Army Lieutenant General William Harrison Jr., representing the United Nations Command, North Korean General Nam Il, representing the Korean People's Army, and the Chinese People's Volunteer Army. Some points include, [1] The Armistice Agreement was signed on July 27 1953, and was intended to "ensuring the total cessation of hostilities and all armed forces in Korea while waiting for a final peace agreement. [2] No final

peace agreement has yet been reached. So a policy emerged that gave birth to an agreement that will bring the two Koreas to an improvement in the future, namely the "Signed Armistice formed the Korean Demilitarized Zone (actually a new border between countries) however, the things agreed upon included the implementation of a ceasefire, and the possibility of repatriating prisoners of war." So the hope is that the Demilitarized Zone will be located near the 38th parallel line that separates North and South Korea. will be the front point and official boundary between the two on the Korean peninsula. If we look back, the conflict between North Korea and South Korea actually started with the outbreak of the Korean War in 1950. The war involved North Korea and South Korea and their allies. South Korea is supported by the United States and its allies, while North Korea is supported by China and Russia. The Korean War occurred from 1950 to 1953 and killed at least two million Korean civilians. At least one and a half million communist troops, about 30,000 American and 400,000 South Korean troops, and 1,000 British troops (Putri Ayu,2021). Although officially marked as ending in 1953, the war did not actually end. This is because the ceasefire between the two only ended with a Korean ceasefire agreement and not an official peace agreement.

Three years later, the warring parties agreed to a ceasefire. However, Korea has been divided into two parts, North Korea and South Korea, from 1945 until now. Armistice negotiations began in July 1953, with representatives of the United Nations Command, China, and North Korea signing an agreement not to attack either of them. South Korea refused to sign the agreement, so South Korea and North Korea were unable to sign a formal ceasefire agreement. The failure of these efforts means that a permanent peace agreement cannot be achieved. The agreement stated that both parties would create a demilitarized zone in Korea. This zone is currently the regional border between North Korea and South Korea. After the 1953 agreement, relations between Koreas were not always as peaceful as between the two neighboring countries. Both parties still believe that relations between North Korea and South Korea have not ended. Therefore, tensions between Korea are still recurring. This tension occurs more often in the Demilitarized Zone or better known as the Korean Peninsula. Both North Korea and South Korea never fail to guard the border and send hundreds of troops to guard the zone. In fact, both countries are already prepared if the Korean War breaks out again.

The provocative actions carried out by North Korea cannot be separated from the dynamics of its relationship with South Korea, where North Korea has also carried out provocative actions that threaten its national security, especially through joint military exercises between South Korea and the United States around Korea. In the peninsula region, it cannot be denied that the dynamics of relations between North Korea and South Korea cannot be separated from the United States, which has been South Korea's main ally since the end of the Korean War and is also interested in the security situation on the Korean Peninsula. Therefore, it is not surprising that the presence of the United States is an integral part of the dynamics of relations between North Korea and South Korea. If we pay attention to the current development of relations between North Korea and South Korea, after the resumption of dialogue between the two countries, it can be seen that the security situation on the Korean Peninsula is quite good. The two Koreas are not a provocation that can trigger tensions. The two Koreas appear to be trying to maintain the momentum of the rebuilt dialogue so as not to disrupt regional security. Indirectly, this could also mean that dialogue between North Korea and South Korea has a positive impact on regional security. This is what the international world really wants, because the Korean Peninsula has been experiencing an

unstable security situation, caused by, among other things, North Korea's missile and nuclear tests.

Tragedy in June 2012

North Korea and South Korea exchange fire across the Demilitarized Zone (DMZ) that separates the two countries. North Korean gunfire hit a South Korean guard post in the border town of Cheorwon at 8:00 a.m. Korean time, Seoul's military said in a statement. No casualties were reported on the South Korean side. In response, South Korea "fired two shots and issued a warning according to our instructions," the military said in a statement. What prompted the initial shooting remains unclear. The chiefs of staff said they were trying to contact North Korea through military channels to find out the cause of the incident. South Korea's military said it was unlikely the North Korean shots were fired intentionally. However, at this stage, the reasons for this assessment are still unclear. Whether this incident was an accident or a misunderstanding, it shows how important it is for DMZ troops to remain calm to prevent the situation from escalating (Bernardo,2018). If the attack was more of a North Korean tactical decision, that's another matter.

Interesting moments may be just 24 hours since North Korean leader Kim Jong-un emerged after a 21-day absence, North Korea has also held numerous military drills in recent months to increase its readiness to fight a "real war", according to state media. Pyongyang sometimes uses escalation tactics, demonstrating its military might to increase bargaining power in subsequent negotiations. But evidence that the shooting was deliberate disappointed many in South Korea. In the last two years, many efforts have been made to reduce tensions between the two countries since President Moon Jae-in met Kim Jong-un. Both sides signed a military agreement that made it clear any intentional fire would be in violation that agreement. This was the first time in five years that North Korean troops had opened fire directly on South Korea. The current guarded Demilitarized Zone (DMZ) was established at the end of the Korean War in 1953 to create a buffer zone between countries. Over the past two years, the Seoul government has been trying to turn the heavily fortified border into a calm zone. Reducing military tensions along the border was one of the agreements reached between the country's leaders at a high-level conference held in Pyongyang for the future. Kim Jong-un's reappearance in public, North Korean state media reported on Friday afternoon, followed the country's leader's nearly three-week absence from public view, sparking intense speculation around the world about his health.

Tragedy in October 2016

The US-led UN South Korea Command said North Korea violated a ceasefire agreement when some of its soldiers pursued a soldier who defected to South Korea. The statement was made on Wednesday afternoon local time after the UN Command released surveillance camera footage of last year's dramatic incident. The soldier who experienced the disturbance was seen driving his vehicle towards the border between provinces, passing through a checkpoint and abandoning his vehicle. After leaving his small ship, he ran across the military demarcation line towards South Korean territory. Just a few meters away, four North Korean border guards opened fire on the soldier and continued the chase. One of them even crossed the demarcation line in Panmunjom Village and entered several meters into South Korean territory before returning to North Korean territory (Wahyudi,2020). If the vehicle the soldier was driving was not damaged, he could have driven the vehicle into South Korean territory. Unfortunately, one of the car's tires reportedly came off. Next he ran across the road, then he fell in South Korean territory.

Immediately after the incident, three South Korean soldiers crawled over to the beaten North Korean soldier and pulled his body to safety.

Because he suffered serious injuries, he was flown by US military helicopter to a hospital in Suwon, about 34 km south of Seoul. US Command, which oversees international forces supporting South Korea, said surveillance footage showed flagrant violations of the ceasefire agreement signed after the Korean War. The violation in this case took the form of shooting from North Korean territory into South Korean territory and across the border line by North Korean border guards. On the other hand, this incident provides in-depth information about what happened in the exclusion process and how both parties handled the case. The escaped North Korean soldier is still in intensive care and is still being treated, according to the surgeon who treated him.

Tragedy in April 2020

North Korean and South Korean soldiers exchange fire in the Demilitarized Zone (DMZ). The United Nations (UN) Command announced that these countries had violated the ceasefire agreement. As of Tuesday evening, the two countries were technically still at war because fighting in the Korean War ended with a ceasefire in 1953 which was never replaced by a peace treaty, reported (AFP) International media. North Korean gunfire hit southern outposts on the morning of April 12, forcing South Korean soldiers to return fire and send a warning several minutes later. The UN Command, which monitors the ceasefire, launched an investigation into the shooting and concluded that "both sides violated the ceasefire". The investigation concluded that the North Korean People's Army fired four small caliber 14.5 mm rounds, which were returned by two South Korean shots (Kartika,2019). But the investigation "could not determine for certain" whether the North Korean fire was fired "intentionally or not." The North Korean military did not provide an "official response" when the UN Command invited them to participate in the investigation. At the same time, South Korean troops offered "little response." South Korea's Defense Ministry apologized for publishing the results and said its troops followed their response guidelines.

Despite its name, the Demilitarized Zone is one of the most heavily guarded places in the world. The area is full of minefields and barbed wire fences. The last time the two sides engaged in a large-scale firefight on the border was in early 2015. North Korean soldiers also shot a fleeing soldier at the end of 2017, but South Korea did not respond. For your information, North Korean Leader Kim Jong Un and South Korean President Moon Jae-in, among others, agreed to reduce military tensions on their borders at a summit held in Pyongyang at the end of last year. However, most of these agreements have not been reached or have even been completed. North Korea is likely to have cut ties with South Korea after a summit between Kim and US President Donald Trump failed in Hanoi, delaying nuclear talks let alone discussing peace issues.

Tragedy in August 2022

The North Korean military fired shots towards the southern area of the Demilitarized Zone, then this triggered South Korea to rush to communicate with the North Korean authorities regarding the cause of this incident. After the emergence of North Korean leader Kim Jong-un, North Korea again caused public unrest. The reason is, the North Korean military opened fire towards the South Korean border area without any prior warning. A demilitarized zone separates the peninsula, which was described by Agence France-Presse (AFP) as international media reporting on Thursday morning that a shootout occurred after the appearance of Kim Jong Un. Kim has been out of the public eye for nearly three weeks, sparking intense speculation about his

health (Kuncoro,2018). There were no casualties in this incident, this was then responded to. "Our military responded with two shots and a warning message in accordance with our manual," said South Korea's chief of staff in Seoul.

South Korean and North Korean officials communicate with each other through a military hotline. South Korean officials say they communicate with North Korea through a military hotline. They talk to find out what happened. The two Koreas are technically still at war since the Korean War ended with a ceasefire in 1953. Despite its name, the Demilitarized Zone is one of the most fortified places in the world today, full of minefields and barbed wire fences. Easing military tensions between them on the border was one of the agreements between Kim Jong Un and South Korean President Moon Jae-in at a summit in Pyongyang in September last year. However, North Korea has not followed most of the agreements and frequently violates them and Pyongyang has largely stopped contact with Seoul. The latest information is that North Korean leader Kim Jong Un is said to have died. However, this problem was resolved after Kim appeared in public for almost three weeks without being seen. North Korean state media speculated widely after North Korean leader Kim Jong Un's public appearance that he was seriously ill or even dying. North Korea's official Korean Central News Agency (KCNA) reported that Kim cut the ribbon at the opening of a fertilizer factory in Suncheon, near the capital Pyongyang. Kim attended the event on Friday morning local time.

This led me to identify four main types of ceasefire violations where strategic violations are part of the hit-or-miss calculations made by opposing party leaders and designed to gain military advantage, countermeasures are also part of the hit-or-miss calculations made by the leaders. However, this helps maintain the continuity of the ceasefire, destructive actions are deliberate efforts by factions or secondary forces to weaken the efforts of the conflicting party's leadership, and finally local violations are violations that are not related to the strategic decision-making process (Darmawan,2020).

This article continues as a matter of explaining the basic terminology and scope of my framework, the first part providing a brief overview of what we know about ceasefire violations based on existing research. The second section provides a theoretical framework for the reasons for ceasefire violations, discussing military and political calculations at the leadership level, when and why commanders and subordinate officers may commit violations to weaken the current leader, and why violations can occur without any connection, as well as to weaken incumbent leaders, and why violations can occur without any connection to the strategic decision-making process. The third section presents the four main types of ceasefire violations and the observable consequences of each type of ceasefire violation, and the fourth section describes the empirical application of the framework. The final section discusses implications for theory and policy and identifies avenues for future research.

2. Efforts to Resolve Violations of the Ceasefire Agreement without Harming any of the Parties to the Conflict

For South Koreans, the main outcome of the 1953 armistice was the signing of the Mutual Defense Treaty between the United States and South Korea, which was primarily intended to alleviate South Korea's security concerns regarding the armistice and still forms the basis of the country's military strength. The country will face an increasing nuclear threat, Yoon is now seeking stronger guarantees from the United States that the country will immediately and firmly use nuclear weapons to defend South Korea in the event of a sudden nuclear attack from the North Korean camp. Although the two Koreas have experienced several clashes along the border in

recent years, a ceasefire has prevented a return to full-scale hostilities (Cassandra,2020). A recent border incident in which a US soldier entered North Korea through the truce village of Panmunjom, highlights how the treaty can act as a safety valve when relations are strained.

The American-led UN Command, which was created to fight the war and then remained in South Korea to monitor the implementation of the ceasefire, said it was using the ceasefire communications mechanism to negotiate with the other party, namely Travis King, a United States Army soldier. This is possible referring to the so-called pink telephone, a telephone line between the command at Panmunjom and the North Korean People's Army. "Despite the countless provocations, challenges, misunderstandings and even deaths since the signing of the ceasefire agreement, overall things have stood the test of 70 years," said British General Andrew Harrison, deputy commander of the UN Command who held the conference on Monday Morning. The following are several Resolutions that have been issued by the United Nations Security Council regarding efforts to resolve peace for the Korean Peninsula.

1. UN Security Council Resolution 82, adopted on June 25, 1950.

The resolution asks North Korea to immediately stop its aggression against South Korea which is the main cause of North Korea's disintegration. The resolution was adopted with nine votes in favor and one abstention. The resolution calls on North Korea to immediately end its attacks and withdraw its troops to the 38th parallel. Although the United States saw it as a diplomatic victory, North Korea ignored the resolution. The UN and the United States decided to take additional steps, namely the massive deployment of international troops and the expansion of the Korean War.

2. UN Security Council Resolution 83, adopted on June 27, 1950.

This resolution defines a military attack by North Korea against South Korea as a breach of peace. DK called for the attack to end immediately and for North Korean troops to withdraw to the 38th parallel. They also read the report of the UN Commission on Korea, which concluded that North Korea was not complying with Security Council Resolution 82 and that military action should be taken as soon as possible to maintain international peace and security. The Security Council also recommended that UN members assist South Korea if necessary to prevent armed aggression and restore international peace and security in the region.

3. UN Security Council Resolution 84, adopted on July 7, 1950.

The UN Security Council recommends that UN members assist the Republic of Korea if necessary to prevent attacks and restore peace and security in the region. The Council also recommended that all members provide military and other assistance to the Republic of Korea and place troops and assistance under a unified command led by the United States. The government then appointed the United States as commander of the force and authorized the commander to use the UN flag at all times during operations against North Korean forces. Finally, the Council asked the United States to provide regular reports on the activities of the Joint Chiefs of Staff.

4. UN Security Council Resolution 85, adopted on July 31, 1950.

This resolution authorized the UN Command under General Douglas MacArthur to assist the Korean civilian population and requested that specialized agencies, UN agencies, and non-governmental organizations assist the UN Command in fulfilling its mandate. This resolution was adopted at the 479th meeting following the adoption of UN Security Council Resolution 84, which appointed General MacArthur as Supreme Commander.

The imposition of sanctions by the Security Council is based on three points mentioned in Article 39 of the UN Charter. First, if a country takes actions that threaten world peace. Second, if it disturbs world peace. Third, when a country launches an attack on another country. The role of the Security Council in relation to Article 39 of the UN Charter gives the body the authority to decide whether an activity is classified as a threat to international peace and security, so that the Security Council has the authority to decide whether an activity is classified as a threat or not. The Security Council acts in accordance with Article 41 of the UN Charter. But economic sanctions are not the only way to stop North Korea's nuclear development program. Shortly after the Security Council passed the resolution, North Korea carried out another nuclear launch in response to the Security Council's action.

North Korea's rejection of economic sanctions imposed by the Security Council based on article 41 of the UN Charter prompted the Security Council to try to impose other sanctions on its own recommendation, namely freezing membership, through the UN General Assembly. appropriate sanctions compared to the expulsion of member countries and military sanctions which could pose the threat of war and cause security instability on the Korean Peninsula and the East Asian region. Apart from implementing sanctions, denuclearization negotiations must also be carried out with North Korea, especially at the initiative of the United States and South Korea (Kurniawan,2020). The goal is to create peace on the Korean Peninsula and also in the world.

The US-led United Nations (UN) Command has announced that North Korea and South Korea have violated the ceasefire governing their shared border. The two countries reportedly sent drones through each other's airspace in late December 2022. Five North Korean drones entered South Korea in December, prompting the South Korean military to send fighter jets and helicopters and send military installations of surveillance aircraft to North Korea to record them and retaliate (Ferdiansyah,2018). The UN Command, which has helped monitor the demilitarized zone (DMZ) between the two Koreas since the end of an armistice in the 1950-1953 Korean War, said on Thursday it had launched a special investigation into the airspace incursions to determine whether they carried out the attacks, precisely the allegations ceasefire violation.

The United States and the United Nations welcomed the agreement to ease tensions between South and North Korea, but some analysts warned that North Korea could use the talks to buy time to develop its nuclear weapons program. The agreement between the two Koreas at the Panmunjom “peace village” suggests a possible easing of tensions over North Korea's nuclear and ballistic missile programs. Then the UN launched an effort to resolve the Korean War which would later be used as a benchmark for realizing Korean peace, including:

1. Kaesong Negotiations

The war situation is increasingly out of control and will never end, encouraging the parties to enter into negotiations. The aim of these negotiations was to end the ongoing war. The proposal was approved by both parties and the Kaesong Negotiations were held as a first attempt. These negotiations took place between 10 July and 22 August 1951 with Lt. Col. Lee Soo Young from the South Korean side, Chan Chun Sen from the North Korean side, Andrew J. Kinney and James C. Murry from the UN.

These negotiations discussed establishing demarcation lines but did not go smoothly or could be said to have failed. This is because there is no agreement from both parties and they even accuse each other and do not respect each other. The Kaesong negotiations ultimately failed,

because neither party respected or blamed the other party. In essence, the failure of these negotiations was due to the lack of agreement on a clear demarcation line for the two Koreas. Some of the results of the Kaesong Negotiations are as follows.

1. The North Korean side considers that Kaesong is 20 miles inside their defense line and proposes acceptance of the negotiation agenda.

2. For the South Korean side, it can give the impression that they are willing to carry out negotiations and try to determine military demarcation lines for the two Koreas.

2. Panmunjom negotiations

After the Kaesong Negotiations which were held from 25 October to 27 June 1953, the negotiations resulted in an agreement to establish a 2 mile wide demarcation line which was agreed to by both parties. The demarcation line was discussed again in the negotiations, North Korea proposed a 2 mile wide demarcation line which would then become a military-free zone.

Finally, South Korea agreed. The existence of this agreement shows that the current problems in the Kaesong Agreement have been resolved and can be said to have been somewhat realized. The next stage is negotiations regarding a ceasefire which will be discussed next. These negotiations resulted in several important points, including:

1. North Korea finally expressed regret over the landmine explosion in the Demilitarized Zone which resulted in several of Seoul's military being affected.
2. South Korea agrees to stop all anti-Pyongyang propaganda broadcast by loudspeaker at the border.
3. North and South agree to hold an inter-governmental dialogue, which could be held in Pyongyang or Seoul, as soon as possible.
4. Pyongyang is willing to abandon the state of war status.
5. North and South Korea also agreed to improve Red Cross work services in early September. This also aims to be a form of reunion for the many families separated since the 1950-1953 Korean War.
6. Pyongyang and Seoul also agreed to facilitate private sector exchanges on a variety of matters.

3. Korean Armistice

The Korean War ended with a ceasefire that began on July 27, 1953. The war ended with no winners or losers and resulted in Korea being divided into two regions separated by the Demarcation Line. It stretches from the mouth of the Han River across the 38th parallel southwest of Panmunjom then turns west to the south of Kumsong and ends north of Kaesong.

The Korean War, which lasted until July 27, 1953, claimed the lives of nearly three million people. On August 8 1953, a joint defense pact between South Korea and the US was signed in Seoul by John Foster Dulles as US Secretary of State and Syngman Rhee as President of the Republic of South Korea. This agreement provides protection for South Korea by the US in the event of an attack from outside. The Korean War is a bitter memory and created tensions between South Korea and North Korea that have not ended to this day. Even though many peace efforts have been made, a ceasefire is still an alternative for both of them to this day.

4. Korean unification

South Korea's Unification Ministry asked North Korea to respect inter-Korean agreements reached in the past. This request comes amidst improving relations between the two countries, which previously experienced ups and downs. On June 14 2020 morning local time, one of the

South Korean ministries said that "South Korea and North Korea must try to respect all inter-Korean agreements reached. Another matter was mentioned regarding Korean Unification which will actually be discussed again during the ceasefire back to being conducive. A united Korea must also think about how to harmonize national identity with current geopolitics. Creating a common enemy in Korea to create conditions for colonial unity in Japan is neither possible nor unreasonable.

A better solution is for former North Korean citizens to open themselves to the world around them so they can better define themselves. The information may be seeping into North Korean society little by little through campaigns initiated by non-governmental organizations and the South Korean government, and its full impact will only be known once North Korean citizens are free from the shackles of the current regime. A peaceful transition to a unified state from a state of protracted civil war between countries is so frightening that unification through war or the collapse of North Korea seems more likely, regardless of what regional powers want. The way out of this undesirable scenario is for both countries to learn from historical events and periods that sparked broader national consciousness. Finally, the South Korean-dominated reunification process appears to be nearing completion.

The Geneva Conventions and their additional protocols are international agreements that contain the most important rules limiting the barbarity of war. They protect people who do not participate in combat (civilians, doctors, workers) and those who can no longer fight (wounded, sick soldiers and prisoners of war). All countries have ratified the Geneva Convention and it can be applied universally. This convention calls on parties to a conflict to implement all or part of the Geneva Conventions through so-called special agreements.

The Geneva Conventions and their additional protocols are the core of international humanitarian law, namely a collection of international laws that regulate the course of armed conflict and aim to limit its impact. This protection primarily protects people who did not participate in the war and those who experienced the effects of the war. The Convention and its protocols require action to prevent or stop all violations. The regulations contain strict rules for dealing with what are referred to as serious violations. Those responsible for serious offenses must be traced, prosecuted or extradited regardless of their nationality.

Geneva Conventions 1949

1. Geneva Convention I: concerning improving the condition of injured and sick members of the armed forces on land battlefields
2. Geneva Convention II: concerning improving the condition of injured, sick and shipwrecked members of the armed forces at sea
3. Geneva Convention III: concerning the treatment of prisoners of war
4. Geneva Convention IV: concerning the protection of civilians in time of war

1977 Additional Protocols, Two additional protocols were adopted in 1977 which expanded the rules of war.

1. Additional Protocol I: protection of victims of international armed conflicts
2. Additional Protocol II: protection of victims of non-international armed conflicts

The commission mentioned above is a commission formed as an international commission of inquiry consisting of 15 members and each member is impartial, the commission has the right

to carry out investigations into serious violations according to the Geneva Conventions or Additional Protocols. However, this Commission can carry out an investigation only if one of the parties to the problem permits it, otherwise this Commission cannot carry out an investigation based on Article 90 of Additional Protocol I of 1977 which will further discuss the principle of differentiation of IHL (International Humanitarian Law). Common Articles or can also be called the main applicable provisions can be seen in Articles 1, 2, 3, 6-11 regarding general provisions, then in Articles 49, 50, 51 and 52 regarding legal provisions against violations and abuse, then Article 55 - 64 regarding implementing provisions and closing provisions (Herry,2021).

Application of the Geneva Conventions

1. The Geneva Conventions apply to all cases of war declared by conflicting parties.
2. This Convention also applies to all cases of armed conflict between two or more states even without a declaration of war.
3. This convention applies to countries that sign it even if the opposing country does not sign, but this rule only applies if the opposing country accepts and applies the rules of the convention.

Explanation of the Geneva Conventions

Then a third protocol was agreed in 2005.

1. The First Protocol provides protection for civilians as well as military and humanitarian workers in the midst of war.
2. The Second Protocol discusses protection for victims caught in the middle of war, for example civil war. This rule does not apply to riots at demonstrations or isolated acts of violence.
3. The Third Protocol in December 2005 adopted rules regarding the protection of Red Cross or Crescent institutions.

A ceasefire should allow for work unrelated to the general course of the war (such as moving the wounded, burying the dead, exchanging prisoners) or give military commanders time to ask for negotiating instructions. As long as the cessation of hostilities continues and no agreement to the contrary is reached, the position of the opposing forces cannot change. An agreement between conflicting parties to stop the use of military equipment in a specified place or area for a certain period of time. The impact of the suspension is limited to the areas specified in the relevant agreement. The cessation of hostilities does not mean the cessation of the application of international humanitarian law or the end of the state of war, which nevertheless has legal consequences.

In this article we will only discuss the Principle of Distinction. The principle or principle of distinction (Distinction Principle) itself is a principle that divides or differentiates the population of countries at war or involved in armed conflict, into two groups, namely Civilians and Combatants. Civilians are a group of residents who do not take part in disputes, while combatants are groups of residents who actively participate in disputes who are called (hostilities) (Haryo Mataram, 2012). The explanation of IHL contains guidelines that are used if a legal provision has not been regulated regarding an issue, then the provisions used refer to the principles of IHL. Ambarwati (Ambarwati, Ramdhany, & Rusman, 2009) believes that there are 8 (eight) basic principles of IHL, namely:

1. Humanitarian Principle, this principle prioritizes non-combatants as much as possible to be kept away from the dispute area and ensures that there are as few injuries as possible.
2. Principle of Interest, this principle makes military objects targets of attack in armed disputes.
3. Proportional Principle, in this principle every attack by combatants in an armed conflict must ensure that the attack will not cause excessive casualties and damage.
4. Principle of Distinction, this principle differentiates between combatants and civilians.
5. Limiting Principle, this principle relates to tools of war and methods of war.
6. Principle of Separation of Jus ad Bellum and Jus in Bello, this principle was developed as a basic provision of the differentiating principle, namely Jus ad bellum, namely the law of war, regulating how a state has the right to use armed force. Furthermore, Jus in bello, namely the laws that apply in war, are further divided into: a) Laws that regulate war (warfare). This section is often referred to as the Hague Act. b) The law protects victims of war. This section is often referred to as the Geneva Law.
7. The principle of the minimum provisions of IHL is the 1949 Geneva Convention.
8. Principle of Responsibility in upholding and implementing IHL, in this case IHL must be respected by the citizens of the relevant countries and their governments.

International humanitarian law, also known as the law of armed conflict or the law of war means a set of rules that protect people who are not involved or are no longer participating in hostilities during a war. The law limits military equipment and supplies. Its main goal is to reduce and prevent human suffering in armed conflict. These rules must be adhered to not only by the government and its armed forces, but also by armed resistance groups and all parties involved in the conflict. It is recommended that there be a comprehensive international agreement, which is absolutely binding on all countries in the world and regulates the prohibition of the use of certain weapons on the battlefield in both international and non-international armed conflicts (Handoko Putra, 2020). Because so far existing agreements have been deemed insufficient to take into account the benefits of humanitarian war, so that in every war unnecessary conflict victims can be avoided.

V. CONCLUSION

An armistice ended fighting in Korea on July 27, 1953. Since then, Koreans have viewed the war as the second greatest tragedy in their history after Japanese colonial rule. Not only did it cause destruction and three million deaths, it also emphasized the divisions in a homogeneous society after thirteen centuries of unity, while permanently separating millions of families. Meanwhile, American wartime spending boosted the Japanese economy, making Japan a global power. The Korean people instead had to endure a real tragedy in the form of longing for reunification, because diplomatic tensions and military clashes along the demilitarized zone continued into the 21st century. A military agreement is one of the things that ends active hostilities between opposing parties. A ceasefire can be local (i.e. stopping operations in one area only) or general (i.e. stopping all operations). If the duration of the ceasefire is not specified, the conflicting parties may resume their activities at any time, with prior notification in accordance with the terms of the ceasefire. A ceasefire does not necessarily end the state of war, which still has legal consequences. If one of the conflicting parties seriously violates the ceasefire, the other party can cancel it and in urgent circumstances immediately start hostilities. It's just that the government can take more initiative to propose a ceasefire. In addition to the general ceasefires already mentioned, international law regulates the scope of local ceasefires for the collection, exchange and transfer of injured victims.

The Korean War was a very complex and difficult conflict with deep historical and ideological roots. This conflict caused suffering for the Korean people and had a major impact regionally and globally. Finding a peaceful solution to this conflict is a very important goal. So it is hoped that diplomacy and dialogue must be the main means to achieve lasting peace. Resolving the conflict between North Korea and South Korea requires intensive diplomacy with a focus on ongoing negotiations and dialogue. Both sides must commit to ending technical war status by signing a formal peace agreement, monitoring North Korea's nuclear weapons program through international mediation and inspections, and enhancing economic cooperation and people-to-people relations to build trust. The International Community must mediate and support these efforts. Achieving peace on the Korean Peninsula requires determination and a willingness to change, but it is an important first step toward lasting stability and reunification if the Korean people truly desire it. Efforts must continue to be made to reduce tensions and improve communication between countries, as well as involve the international community to support peace on the Korean Peninsula. With the spirit of cooperation and willingness to dialogue, there is hope that this conflict will end so that North Korea and South Korea can achieve peace, stability and reunification until the Korean people enjoy the results.

VI. BIBLIOGRAPHY

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