The Korean War: Special Essays

The Korean War, 60 Years on: Strategic, Political, and Normative Consequences*

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Scholars of the Korean War have referred to that devastating conflict as *The Unknown War*, or *The Forgotten War*[1] – a status they rightly reject not least because of its disastrous outcomes in blood and treasure and its powerful, often negative, legacies. Over time, we have come to understand better the Korean conflict's importance not only for the Korean peninsula, but also for the East Asian region and global politics more generally. William Stueck has termed that war, "a seminal event of the early Cold War."[2] But, in fact, those three years' of fighting, together with its immediate aftermath, have had serious and long-lasting consequences that take us well beyond the early Cold War

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1. Jon Halliday and Bruce Cumings, *Korea: The Unknown War* (New York: Pantheon Books, 1988); Clay Blair, *The Forgotten War: America in Korea, 1950-1953* (New York: Times Books, 1987).

2. William Stueck, "The Korean War," in *The Cambridge History of the Cold War*, vol. 1, *Origins*, ed. Melvyn P. Leffler and Odd Arne Westad (Cambridge: Cambridge University Press, 2010), 266.

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period.

This paper aims to reflect on the Korean War, sixty years after its start, by focusing on five main factors of a strategic, political, and normative kind, that have been of lasting significance.

1. The first refers to the death and destruction wrought by the conflict and its role in solidifying the division of the peninsula.
2. The second factor reminds us of how the Korean War globalized the Cold War and the American global presence.
3. Related to this outcome is my third factor and that is the US role in establishing the bilateral "security architecture" in East Asia – the "hubs and spokes" system as US Secretary of State John Foster Dulles termed it – which has mostly been maintained, even after the collapse of the former Soviet Union. This bilateral alliance system has had consequences for the various post Cold war attempts in the Asia-Pacific to establish multilateral security structures.
4. The fourth factor makes reference to the role of nuclear threats during that war and the influence those threats had on US and East Asian states' thinking about the place of nuclear weapons in security strategies.
5. Finally, it turns to the Prisoner-of-War (POW) issue in the Korean armistice negotiations, and the subsequent impact that the principle of "non-forcible repatriation" of POWs had on the treatment of prisoners in subsequent conflicts.

Many of these topics will be taken up by other scholars in their papers. I make brief reference to each of these in what follows.

Destruction and Division

By any standard, the Korean War was a hugely destructive conflict. Some three million Koreans, a tenth of the population at that time, were estimated to have been either killed, or wounded, or to have been listed as missing. Ten million families were broken up by the war, and another five million Koreans became refugees. Apart from these large-scale personal tragedies, the physical destruction has also been described as "staggering," with even Kim Il Sung admitting: "our people's economy has been *totally* destroyed by the war." The South was equally devastated, its GNP declining 14 percent, and agricultural production by 27 per cent. It is hard (especially for outsiders) to comprehend or to describe the psychological and physical impact on Koreans of this conflict, especially for the generation that experienced it directly, but also for those that came afterwards.[3]

Overcoming this bitter legacy has been difficult. Of course, the division of the peninsula predated the Korean War, but that war solidified the division psychologically, militarily, politically, and ideologically. It affected the governing institutions on both sides of the peninsula, and influenced their connections with neighbors and the wider world. The two Koreas have moved through periods of great tension where the prospects of war remained high, to phases of intense political-economic rivalry – a contest that the South has categorically won – to a stage where reunification is desired (at least in the South). But the strong preference is that reunification be brought about not by fighting but via a peaceful transition at the lowest personal and economic cost. That peaceful transition has become more difficult to reach as the North has become more impoverished and seemingly resistant to or at least hesitant in promoting fundamental economic reform, and as it becomes absorbed by succession politics and ways of legitimating the future rule of Kim Jong Il's third son, Kim Jong-un.

Globalizing the Cold War and the US Presence

Although Cold War tensions had been rising in Asia in the period after 1945, there was a sense that Europe was the seat of the struggle at that time. Certainly, US effort was concentrated on that continent. That all changed with the outbreak of the Korean conflict. The war of June 1950 acted as an accelerator and catalyst for approving a rapid US military build up and it galvanized the US administration to act to shape the region's security architecture. The US defense budget had represented some five percent of its GNP in 1950. That was to rise to 14 percent by 1953. The size of the US armed forces, set at ten army divisions, 281 major combatant naval vessels and 58 air wings prior to Korea, was revised upwards as quickly as September 1950 to 18 divisions, 354 vessels, and 78 air wings, and revised again as the war progressed through its various stages. The Central Intelligence Agency also grew dramatically in strength, as did the number of US covert operations, increasing some 16 times between January 1951 and January 1953.

In sum, during and immediately after this period, the United States developed preponderant military power, as Melvyn Leffler was to put it,[4] and

3. Stueck, "The Korean War," 283, and especially B.C. Koh, "The war's impact on the Korean Peninsula," in *A Revolutionary War: Korea and the Transformation of the Postwar World*, ed. William J. Williams (Chicago: Imprint Publications, 1993), 245-6.

this fact, wedded to American exceptionalism and its perceived role as custodian of global order, meant frequent involvement from that time in far-flung disputes that it interpreted in Cold War, zero-sum, terms. As the historian Ernest May wrote in 1992, the US National Security Council (NSC) and the military chiefs became central in US decision-making circles, and "the serious hours of presidents were mostly occupied with issues brought to them through the NSC system . . . the main business of the U.S. government had become the development, maintenance, positioning, exploitation, and regulation of military forces."[5]

As an illustration of the broader Cold War preoccupations of the US government during the Korean conflict, it is notable that much of its increased defense spending went to strengthening the conventional defense of the North Atlantic Treaty Organization (NATO).[6] After 1950, NATO became a genuinely functioning organization, with a unified command structure, an American general appointed as its supreme commander, and a fully integrated staff drawn from all NATO members. West German rearmament came vigorously to be debated (and eventually to be resolved). NATO membership was expanded – even Fascist Spain under General Franco was invited in as an auxiliary member.

In regional terms, the US presence also became ubiquitous. South Asia saw Pakistan consolidated as a US military ally, to the detriment of US ties with India. The US attempted (unsuccessfully) to establish a Middle East Command with a prime role accorded Egypt in particular (Pakistan was again called upon to take up the reins in that region instead of Cairo). The Korean War also transformed US ties with the Republic of Korea, the Republic of China on Taiwan, and Japan, of which more below. In Southeast Asia, the United States began its heavily stepped up involvement in the IndoChina conflict and established alliances with the Philippines and Thailand. By 1954, the United States was financing some 80 percent of the French war effort in Indochina. And by 1956, the French forces had withdrawn and it had become a wholly American operation.

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4. Melvyn P. Leffler, *A Preponderance of Power: National Security, the Truman Administration and the Cold War* (Stanford: Stanford University Press, 1992).

5. Ernest R. May, "The U.S. government, a Legacy of the Cold War," *Diplomatic History* 16 (Spring 1992), 276.

6. Here and in what immediately follows I draw on my "Pax Americana: Setting the Global Agenda after the Korean War," in *A Revolutionary War: Korea and the Transformation of the Postwar World*, ed. W. J. Williams (Chicago: Imprint Publications, 1993) and *The Wrong War: American Policy and the Dimensions of the Korean Conflict, 1950-1953* (Ithaca, NY: Cornell University Press, 1985).

Whereas before the Korean conflict, the United States had avoided overseas entanglements, and it had only one commitment outside the Western hemisphere – that is, NATO – by the mid-1950s, it had "about 450 bases in 36 countries and was linked by political and military pacts with some 20 countries outside Latin America."[7] The United States has never looked back from that: having established a global presence, it has worked to maintain and even expand that, with some 700 overseas bases now and a quarter of a million in the US armed forces permanently stationed abroad.

"Hubs and Spokes" – Bilateral Treaties as the Security Framework

The Korean War consolidated US ties with South Korea, Taiwan and Japan (and other states in Asia). The US committed itself to South Korean defense during the conflict and once it had made that commitment, its concern to protect its reputation and credibility as an ally ensured those ties would remain intact. With the ROC (Taiwan), the US decision at the outbreak of fighting on the Korean peninsula to place the Seventh Fleet into the Taiwan Strait implied that it had taken on the future defense of the island. Japan experienced a more rapid US commitment to ending the occupation and the breaking of bureaucratic obstacles in Washington that would lead to a transformation in US-Japan ties. With all three states, new and important defense treaties were established either during the Korean War (the US-Japan Mutual Defense Treaty of September 1951) or shortly after the conflict had ended (the US-Republic of Korea defense treaty of October 1953, and the US-ROC security treaty of December 1954). Only the Treaty with Taiwan has been ended with the normalization of US relations with the PRC in 1979, and even in this instance the Taiwan Relations Act has underpinned a US commitment to continue arming Taiwan in order to provide some deterrent against an attack from the Mainland. The other bilateral treaties have been modified over time, but they are still important in fulfilling a number of political and strategic functions.

Many scholars have debated why there was no multilateral NATO-type organization established in East Asia in the early Cold War period, pointing to a variety of factors that made it unlikely.[8] The arguments range from power

7. Burton I. Kaufman, *The Korean War: Challenges in Crisis, Credibility and Command* (Philadelphia: Temple University Press, 1986), 356.

8. Some representative literature on this topic includes John Duffield, "Why is there no PATO? Why is there no OSCAP?" *Contemporary Security Policy* 22, no. 2 (2001); C. Hemmer and P. J.

asymmetries – the US was so powerful relative to the regional actors, it did not need to consider the preferences of locals – to the lack of a unified threat perception (Japan was as feared as much as, if not more, than the PRC or the Soviet Union); to the absence of cultural affinities and of shared values; and feelings of Western racial superiority.

Victor Cha has added an important dimension to these perspectives. He has argued that the US preferred bilateralism to multilateralism because, while both forms of security organization would have been directed at containing the Soviet threat, the bilateral structure gave the United States greater control over its Asian allies. The United States feared that these Asian allies would start a war – perhaps to boost their domestic legitimacy – that Washington did not seek and certainly did not want. As Cha puts it: the US "established bilateral alliances with the ROK and ROC not only to defend against communism, but also to inhibit the highly unpredictable leaders of both countries from provoking conflicts with North Korea and mainland China that might embroil the United States in a larger war on the Asian mainland."[9]

In the case of Japan, the reasoning was slightly different: here the US was engaged in transforming Japan's institutions in order to reduce the prospects of its engaging in unilateral acts of aggression. Washington bound it into a tight alliance in order to shape it into a status quo power supportive of US regional interests.[10]

Cha goes on to argue that the United States was also intent on preventing a coming together of the ROC and ROK governments because it feared they would work in tandem in ways that would embroil the US in conflict. Washington felt differently, however, about Southeast Asia where it was more favorably disposed to a multilateral alliance. But when Rhee Syngman sought to join the Southeast Asian Treaty Organization (SEATO), Washington rebuffed this idea.[11] Finally, Cha shows that the US decision to retain operational command authority of ROK forces even after the ending of the war, was "not only to facilitate combined warfighting capabilities, but also to restrain South Korea from undertaking aggressive unilateral actions against the North."[12]

Katzenstein, "Why is there no NATO in Asia?" *International Organization* 56: 3, (summer 2002); J. Grieco, "Realism and Regionalism: American Power and German and Japanese Institutional Strategies During and After the Cold War," *Unipolar Politics*, ed. E. Kapstein and M. Mastanduno (New York: Columbia University Press, 1999).

9. Victor Cha, "Powerplay: Origins of the U.S. Alliance System in Asia," *International Security* 34, no. 3 (Winter 2009/10), 159.

10. Ibid., 159.

11. Ibid., 180-181.

Thus, Rhee's general belligerence, his rallying cries of "unification or death," and his unilateral actions designed to block a final armistice agreement worked against South Korea speedily regaining sovereign control over its fighting forces after 1953.

Thus, "hubs and spokes," without much in the way of connection among the spokes, became the security framing in East Asia. In some senses, it was matched on the Communist side by the bilateral Sino-Soviet Treaty of Alliance (which functioned for perhaps a decade, although formally stayed in place for much longer than that), and Soviet and Chinese bilateral alliances with the DPRK and with Communist Vietnam. However, with the onset of the Sino-Soviet conflict, this placed the DPRK in a good position to play the communist rivals off against each other – which it did to good effect – and the Sino-Soviet quarrel itself served to underline the twin purposes of the US alliance structure in the Cold War: that alliance structure was not just designed to contain and deter the Soviet Union, but also the PRC. This turned out to be important as the Chinese under Mao Zedong entered the more radical, revolutionary phase associated with the 1960s, and as we have moved into the post Cold War era which has witnessed the implosion of the former Soviet Union, but the rising power and influence of China.

Casualties and Benefits of Bilateralism

There have been both casualties and benefits of this US bilateral alliance system, both of which have had long-lasting effects. First, bilateralism did not help Japan to reconcile with its neighbors. Unlike the case of West Germany, which re-integrated with Europe via institutional mechanisms (from the 1950 Coal and Steel Community, to membership in NATO, and then in the EEC/EU), East Asia has not benefitted from the pacifying role that multilateral international institutions are sometimes said to play (for example, increasing transparency, binding unequal and potentially threatening power, and building confidence among multilateral partners).

Secondly, bilateral alliances, by their very nature, are exclusive, rather than inclusive, identifying some states as enemies and others as friends – a legacy and framing that is difficult to overcome.

Thirdly, it was only as the Cold war was drawing to an end that region-wide intergovernmental organizations came into being: the Asia-Pacific Economic Cooperation forum (APEC) in 1989, the ASEAN Regional Forum

12. Ibid., 176.

(ARF) in 1994, the ASEAN Plus Three arrangement (APT) in 1997, the 2005 East Asian Summit (EAS), and so on. There was, then, no habit of dialogue across the whole Asia-Pacific region established in the Cold War era – an important absence as security and economic connectedness has increased in depth. Undoubtedly, the establishment of the Association of Southeast Asian Nations (ASEAN) in 1967 was important and that organization has played a valuable role, but for decades it operated at the sub-regional level and only in the post Cold War era has helped to build security organizations across the whole region.

Thus, until relatively recently, there has been no mechanism for diluting the focus on the national interest and national sovereignty, no impetus to give more attention to the milieu goals, or collective action problems that should have been on the region's agendas several decades ago, including transnational environmental issues, transnational crime, proliferation of the goods associated with Weapons of Mass Destruction, infectious diseases, the sharing of scarce resources, and the like. The ARF has been in existence for some 17 years, and it has been better to have this organization in existence than not. But it has neither turned into a collective security organization, nor a security community (both very unlikely outcomes given its membership). Neither has it been able to engage in effective crisis management, let alone to resolve some of the major security threats in the region.

Perhaps this history of bilateralism also helps to explain why regional multilateral institutions more recently have (mostly) unhelpfully proliferated in the Asia-Pacific, and with varying memberships being proposed. There seems no end to this desire to extend the number of institutions with proposals for new regional groupings having recently emerged from the Japanese, the Indonesians, and the Australians, not often as a result of extended discussion of purpose and form with many of these states' neighbors.[13]

Because regional identity is under-developed and as noted above interests tend to be constructed at the national or bilateral rather than regional level these proposals have arisen either in response to ad hoc issues, or out of national rather than shared conceptions of what needs to be addressed. One result of institutional proliferation is the problem of overlap as well as potential overstretch for governmental officials, raising the prospects that those multilateral institutions of longer vintage may wither through neglect.

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13. See for example Ambassador Tommy Koh's criticism of the Australian proposal for an Asia-Pacific community that gives pride of place to a concert of major powers meeting annually. Tommy Koh, "Canberra's regional vision 'limited'," *The Australian*, 18 December 2009.

If some of these problems have emerged because of the historical creation of the "hubs and spokes" bilateralism, have there been any longer-term benefits associated with the bilateral framework? What the bilateral security relationships have offered is a sense of stability and security at times of high tension and great uncertainty. During the Cold War, the existence of the three main US alliances in Northeast Asia played a deterrent function against any Communist-backed aggression. However, because they were designed additionally to control America's Asian allies, they sometimes acted to reduce levels of tension between the Communist and Western states. Premier Zhou Enlai later told Henry Kissinger, for example, that he valued the US alliance's role in preventing the need for Japanese rearmament. In more recent times, Chinese objections to the US-Japan alliance have not been so much related to the alliance *per se*, but more to the strengthening of the Japanese military role that has come with the new US-Japanese defense guidelines agreements made in the mid-to-late 1990s. Presumably North Korean and South Korean leaders have also been grateful for a US alliance that has allowed Japan to turn its attention to economic matters rather than to building the kind of military force that one would expect to emerge from the second or third largest economy in the world.

The post Cold War era is also a time of transition and considerable uncertainty for the Asia-Pacific. This is the result, predominantly, of China's rapid rise (it is now the second largest economy in the world, the second largest defense spender, and is planning the slow development of force-projection capabilities). This rise to power – while it is only one among a number of reasons for certain states to improve their relations with the United States – has prompted some augmentation to the "hubs and spokes" system of the 1950s. Relationships have also been strengthened with the United States on a bilateral basis with several other states in the region. Malaysia and Singapore have both offered special basing facilities to American naval forces; and the US relationships with Indonesia and with Vietnam have steadily improved. Military and strategies ties with the Philippines have also been reestablished.

It is on the basis of this US presence that some of the smaller and weaker states have felt more secure in reaching out to China both bilaterally and multilaterally. These states have made it clear to China on more than one occasion that they see the United States as an important member of the region, a position that China has itself endorsed in direct conversation with some of these states, and also in the US-China joint statement signed at the close of President Obama's visit to China in November 2009. In addition, the bilateral alliances have been important in tying the United States into the region; thus, as

the region itself has developed an interest over the last two decades in multilateralizing some of its economic and security activities, the US has been seen as a "natural" participant, accepted, by some at least, as a Pacific power and not an extra-regional actor that is less relevant or necessary in the post Cold War era.

Nuclear Threats and Nuclear Weapons

Another important legacy of the Korean War has to do with nuclear weapons.[14] The war is distinctive because it is one where possible US use of nuclear weapons was debated not only in Washington, but also in European capitals, in Moscow, Beijing, Seoul and Pyongyang. When Beijing considered whether to enter the war in support of North Korean forces those who opposed entry argued against it in part on the grounds that the US would use nuclear weapons to avoid defeat. Others in favor of intervention pointed to the Sino-Soviet treaty of alliance, which contained the pledge that the two parties would aid each other with "all means at [their] disposal." That pledge, it was felt, would deter the United States from using the atomic bomb in fear of Soviet retaliation.

The Truman administration twice moved nuclear-configured B29s to the Pacific Theatre during the conflict. Also in Truman's time, a US official in conversation with a Chinese official identified with non-Communist elements in the Beijing government, outlined the difficulties of constraining American emotions during the Korean fighting when these feelings dictated laying waste to Chinese cities and destroying Chinese industries.[15] At the end of 1950, when US forces appeared to be in the throes of being driven from the peninsula, President Truman in response to a reporter's question seemed to imply that the atomic bomb might be made available if General MacArthur deemed it necessary. This statement caused uproar, especially in other Western capitals.

The incoming Eisenhower administration also hinted that nuclear weapons might well help to end the interminable Korean War armistice negotiations and spent some considerable time in internal debate of their possible role in

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14. For this section see, in particular, Rosemary Foot, *A Substitute for Victory: the Politics of Peacemaking at the Korean Armistice Talks* (Ithaca, NY: Cornell University press, 1990); Foot, "Nuclear Coercion and the Ending of the Korean Conflict," *International Security* 13, no. 3 (Winter 1988/89); Roger Dingman, "Atomic Diplomacy During the Korean War," *International Security* 13, no. 3 (Winter 1988/9).

15. See Foot, *A Substitute for Victory*, p.32 for one such quote from a US official.

extending the fighting aimed at eventually ending the war. In May 1953, those hints became a little more solid when the US administration sought to pass on messages via India that the United States was at the end of the road and a wholly new war might soon result. Eisenhower and Dulles subsequently came to argue that it was these nuclear threats that led to the signing of the armistice agreement (when the best evidence suggests that the compromise came because of the death of Stalin), and this erroneous belief helped shape the Eisenhower administration's "New Look Strategy" and adoption of the strategic concept of "massive retaliation." In particular, it led the US to threaten nuclear strikes in Indochina in 1954, and against Chinese forces during the two Taiwan Straits crises of the 1950s.

There were two main repercussions arising from the prominent role that nuclear weapons came to play in coercive diplomacy, as weapons of deterrence and compellence, and in strategy at this stage of the Cold War. The first was to convince the Chinese that it was essential to become a nuclear weapons state. These threats were not, of course, the only reason for China to take that decision, but its interest in acquiring such weaponry certainly speeded up in this period. As early as 1951, as one Chinese official put it, "only when we ourselves have the atomic weapon, and are fully prepared, is it possible for the frenzied warmongers to listen to our just and reasonable proposal." Chairman Mao Zedong said much the same thing in 1956: "if we are not to be bullied in the present day world, we cannot do without the Bomb;" and in 1958, without the bomb, "others don't think what we say carries weight."[16] Soviet and Chinese nuclear cooperation began in some earnest in 1954.

Northeast Asia over the 1950s and 1960s became a highly-nuclearized space. The United States deployed tactical nuclear weapons to bases in South Korea and Taiwan, as well as Guam, Hawaii and Okinawa. China, after its atomic test in 1964, joined the Soviet Union as a fully-fledged nuclear weapons state.

North Korea was undoubtedly influenced by these developments, especially those involving China, seeing merit in Beijing's arguments for nuclear self-reliance, increased strategic autonomy and enhanced international prestige. It also seemed to be persuaded by China's arguments at that time that the Nuclear Non-Proliferation Treaty (NPT) did not deserve to be supported,[17]

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16. Quoted in Foot, *The Practice of Power: US Relations with China since 1949* (Oxford: Oxford University Press, 1995), 171.

17. China eventually changed its mind and in 1992 joined the NPT. It signed the Comprehensive Test Ban Treaty (CTBT) in 1996, but has not yet ratified the latter.

even though Moscow tried to persuade Pyongyang that it needed to join the treaty before the Soviets would offer support for peaceful development of nuclear energy. Pyongyang remained convinced that nuclear weapons development made strategic sense and that signature of the NPT was of no advantage to it. As reported in a conversation between the Soviet ambassador in Pyongyang and the North Korean Foreign Minister, Pak Song Ch'ol in 1962, Pak remarked:

> The Americans hold on to Taiwan, to South Korea and South Vietnam, blackmail the people with their nuclear weapons, and, with their help, rule on these continents and do not intend to leave. Their possession of nuclear weapons, and the lack thereof in our hands, objectively helps them, therefore, to eternalize their rule. They have a large stockpile, and we are to be forbidden even to think about the manufacture of nuclear weapons? I think that in such case the advantage will be on the Americans' side.[18]

But a second repercussion from the 1950s nuclear weapons developments is far more positive. This focus on nuclear weapons as potential weapons of war, together with the testing of ever more powerful hydrogen weapons, galvanized an anti-nuclear weapons movement, often supported by neutral and non-aligned states. President Eisenhower and his Secretary of State, John Foster Dulles, gradually became aware of the moral restrictions that had been placed on the contemplated use of nuclear weapons in Cold War crises – what Nina Tannenwald has referred to as a nuclear taboo.[19] Though this US administration in particular worked hard to stop in its tracks this growing sentiment against nuclear use – in part by describing such weapons as simply another, if more destructive, weapon of war – they were not successful in convincing others of the merit of this argument. Aware of these growing constraints, the next move was to try to make a distinction between large-scale bombs and those smaller nuclear weapons being developed for tactical purposes, again not an argument that gained much traction. As Eisenhower put it in 1958 in reference to a proposed halt in testing: "the new thermonuclear weapons are tremendously powerful; however, they are not . . . as powerful as is world opinion today in

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18. Document No. 4, "Conversation between Soviet Ambassador in North Korea Vasily Moskovsky and North Korean Foreign Minister Pak Song Ch'ol," in Balazs Szalontai and Sergey Radchenko, "North Korea's Efforts to Acquire Nuclear Technology and Nuclear Weapons: Evidence from Russian and Hungarian Archives," *Cold War International History Project Working Paper* no. 53 (August 2006), 33.

19. Nina Tannenwald, *The Nuclear Taboo: The United States and the Non-Use of Nuclear Weapons Since 1945* (Cambridge: Cambridge University Press, 2007).

obliging the United States to follow certain lines of policy."[20]

This "nuclear taboo" grew in strength, particularly after campaigners linked their moral arguments to health and environmental concerns. Such activity and argumentation helped promote the development of the 1963 Partial Test Ban Treaty and 1968 Non-Proliferation Treaty (NPT). Over time, those who stood outside the NPT were very very few in number and attracted particular disapproval. North Korea's decision in 2003 to withdraw from the NPT – the first state ever to do so – has attracted especial opprobrium. In the current US Nuclear Posture Review (NPR), released in April 2010, the Obama administration has attempted to stress still further the "outlier" status of North Korea (and Iran), emphasizing in the NPR that non-nuclear states that abide by the NPT would not be threatened with US nuclear retaliation; but if they refused to abide by the rules, then all options (including the nuclear) had to remain on the table.

So the nuclear threats made during the Korean War and subsequently, were important prompts in a chain that led to the decisions by China and North Korea to develop nuclear weapons, but also to arguments that weakened the legitimacy of nuclear use, nuclear threats, and nuclear proliferation. There are of course weaknesses in this nuclear non-proliferation normative framework and it has been under particular challenge in the last 15 years or so, but the restraint it has imposed is tangible. We still live in a world of relatively few nuclear weapons states, far fewer than the 15-20 that President John F. Kennedy predicted in 1963 would come into being by 1975.[21]

Non-Forcible Repatriation of POWs

One of the major US decisions made during the Korean conflict was to reinterpret Article 118 of the 1949 Geneva Convention on prisoners of war. That Article in the 1949 treaty comprised a legal obligation to release and repatriate all prisoners at the formal end of hostilities – a decision that the Truman and Eisenhower administrations refused to comply with, even though this issue held up the signing of the armistice agreement by some 15 months.

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20. Maria Rublee, *Non-Proliferation Norms: Why States Choose Nuclear Restraint* (Athens, Ga: University of Georgia Press, 2009), 36.

21. Quoted in Francis J. Gavin, "Nuclear Proliferation and non-proliferation during the Cold War," in M. P. Leffler and O. A. Westad, eds., *Cambridge History of the Cold War*, vol. 2 (Cambridge: Cambridge University Press, 2010), 400.

During that 15 month period, not only did Western and South Korean prisoners endure continuing harsh imprisonment, but the camps run by the UN Command (UNC) – lawless and brutal – became the scene of some of the most intense rioting and blood-letting.[22] In addition, with the failure to resolve this final issue, UNC bombing continued with enormous ferocity (including the targeting of the dykes and dams in North Korea) and casualties on both sides continued at a high rate. Escalation of the conflict to the nuclear level was also contemplated.

This, then, was an enormously controversial US policy decision, taken for strategic, ideological, and moral reasons. The main arguments made in the United States in favor of this policy were first, if prisoners decided to stay either in South Korea or expressed a desire to return to Taiwan rather than mainland China, this would be a huge propaganda loss to the Communist side and a huge gain for the Western alliance. Second, the Communists would be constrained from starting new wars because of their fears that their soldiers would defect; and third, a policy of repatriation by force was unacceptable morally – as President Truman said, how could the West turn over anticommunists to almost certain death, adding "his government would not buy an armistice by turning over human beings for slaughter or slavery."

However, there is little reason to believe that those prisoners who took the decision to seek asylum or return home were able to do so freely; neither were they treated well wherever they ended up residing. The policy was not properly thought through at that time, introduced in haste, and on the basis of much ignorance about preferences. But despite these unpromising beginnings the principle of nonforcible repatriation did emerge as a positive normative development. It became linked in customary law to the idea of asylum, and was eventually embraced by the International Committee of the Red Cross as an acceptable reinterpretation of Article 118. That neutral and respected body has assisted in the determination of prisoner wishes in many conflicts after the Korean War, including in the 1982 Israel-Lebanon war, the 1980-1988 Iran-Iraq war, the Persian Gulf War of 1990-91, and the 1991-93 conflicts in the former Yugoslavia.[23] These prisoner wishes in these later conflicts have not been politicized or bartered in the way that was typical during the Korean War. Something positive was learned about proper procedure from that earlier, negative, experience.

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22. See in particular Foot, *A Substitute for Victory*, chap. 5.

23. See Robert Nelson, "Law, Strategy, and the Origins of the Principle of Political Asylum for Prisoners of War, 1945-55," M. Phil thesis, University of Oxford, April 2009, esp. pp. 82-88.

Ironically, this principle of non-forcible repatriation has raised its head again in the context of the anti-terrorist struggle post 9/11 and the attempt to release prisoners held in the detention facilities in Guantanamo Bay. Once again it is a matter that has impinged directly on US-Chinese relations. In the case of the Uighurs from Xinjiang province who have expressed a desire not to be returned to China for fear of persecution, the judicial debate in the United States made reference to the US's earlier position on non-forcible repatriation, first developed during the Korean armistice negotiations. Despite normalized relations between the United States and China, and the US desire to reduce the numbers held at Guantanamo – and the most convenient strategy would be to return them to their countries of origin – the United States finds itself constrained by a norm it originally created as a Cold War strategy. The Uighurs have not been returned.

Conclusion

The legacy of the Korean War sixty years on has then, both negative and positive elements. Overall, the Asia-Pacific has an enviable present and a bright future in comparison with many other regions of the world. We have come a long way in the region and globally from the high levels of tension of that era, the destructive nature of warfare taken almost as a given during that period, the use of prisoners as part of an ideological contest, and the regular use of nuclear threats, together with the assumption that more nuclear weapons states would be bound to emerge.

Instead, the region has enjoyed a long period of relative peace and increased prosperity in the last two to three decades and this is partly explained by some of the normative and strategic changes I have outlined in this paper. The tragedy that remains is the division of the peninsula, the unwillingness of the North to reconcile with its people or its neighbors, and its belief that emergence as a nuclear weapons state has helped and can help to solve some of its most fundamental problems. In these senses, the Korean War legacies are at their most profoundly disturbing.