

Contending Issues of the Peace Regime

Advances, Challenges, and the Future of the Korean Peninsula

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What Is a Peace Regime?

The notion of a peace regime is an “essentially contested concept.”¹ Without consensus on the exact denotation of the term, the concept of a peace regime is subject to endless dispute. The preferred translation of the Korean term *pyeonghwa cheje* is “peace regime” in the Republic of Korea (ROK) and the United States, but “peace mechanism” in the Democratic Republic of Korea (DPRK), China, and Russia. However, North Korea has a precedent of agreeing to a translation of “peace regime,” both in the Joint Statement of the Six-Party Talks of September 19, 2005 and in the Trump-Kim Joint Statement at the Singapore Summit of June 12, 2018. “Mechanism” focuses on the structure and dynamics of the concept, while “regime” emphasizes the legal and institutional aspects of pursuing peace.

Confined to the Korean Peninsula, *peace regime* is a concept that aims to replace the *armistice regime*, which includes the Korean Armistice Agreement of July 27, 1953, when the United States, China, and the DPRK agreed to halt the Korean War. Under the definition of an international regime as a “set of implicit or explicit principles, norms, rules and decision-making procedures around which actors’ expectations converge in a given area of international relations,”² the armistice regime sets out the specific rights and obligations, codes of conduct, and methods of implementing the regime for the purpose of achieving the objective of an armistice, as stated in the armistice agreement. The Korean Armistice Regime has also included two alliances: the ROK alliance with the United States and the DPRK alliance with China and the former Soviet

1 Walter Bryce Gallie, “Art as an essentially contested concept,” *The Philosophical Quarterly* 6, no. 23 (1956): 97–114.

2 Stephen D. Krasner, “Structural Causes and Regime Consequences,” in *International Regimes*, ed. Stephen D. Krasner (Ithaca: Cornell University Press, 1983).

Union. These have provided an institutional mechanism for the balance of power in realizing negative peace, meaning the absence of war.

When defined in a similar way, a peace regime—being the institutionalization of peace on the Korean Peninsula—is a set of norms, rules, and decision-making processes that pursue a certain type of peace beyond what can be achieved by negative peace. The peace that goes beyond the balance of power on the Korean Peninsula may be regarded as a form of “stable peace.” It means the time has come for “a situation in which the probability of war is so small that it does not really enter into the calculation of any of the people involved.”³ More radically put, the peace regime can be defined as the process of creating an atmosphere of positive peace, in which there is no political oppression, economic exploitation, or cultural violence. In this process, all actors should be equipped with “the ability to handle conflict with empathy, non-violence, and creativity.”⁴

The Economic Consequences of Peace authored by John Maynard Keynes in 1919 argued that the peace regime envisioned in the aftermath of World War I was based on the imposition of a vengeful “Carthaginian” peace agreement on Germany.⁵ The Great Depression of the 1930s and World War II amplified the imperfections of the Versailles Peace Treaty. In addition to a peace agreement, a peace regime oriented towards a stable or positive peace should be realized through the pursuit of peace by peaceful means, rather than by forceful means such as through the balance of power. Thus, the concept of a *peace system* may be more appropriate for the Korean Peninsula than a *peace regime*, in that it encompasses a peace agreement as well as a structure and dynamic that supports military, diplomatic, and economic cooperation.⁶ The establishment of a peace system in the context of the Korean Peninsula is synonymous with creating an order of post-colonization, post-hegemony, and post-division.

International Legal Origin of the Korean Peninsula Peace Regime

On July 27, 1953, the combatants on the Korean Peninsula agreed to delay a peace settlement by calling a temporary truce under the “Agreement between the Commander-in-Chief, United Nations Command, on the one hand, and the Supreme Commander of the Korean People’s Army and the Commander of the Chinese People’s Volunteers, on the other hand, Concerning a Military Armistice in Korea.” Post-WWII military conflicts were often brought to an end in a temporary format similar to the Korean Armistice Agreement, and such armistice agreements often contain provisions recommending subsequent negotiations for a peace settlement. Article IV, *Recommendations to the Governments Concerned on Both Sides*, paragraph 60, of the Armistice Agreement states,

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

3 Kenneth E. Boulding, *Stable Peace* (Austin: University of Texas Press, 1978), 13.

4 J. Galtung, C. Jacobsen, and K.F. Brand-Jacobsen, *Searching for Peace: The Road to Transcend* (London: Pluto Press, 2000).

5 J.M. Keynes, *The Economic Consequences of the Peace* (London: Penguin, 1995), <https://www.penguinrandomhouse.com/books/322698/the-economic-consequences-of-the-peace-by-john-maynard-keynes/>.

6 David Mitrany, *A Working Peace System* (New York: Quadrangle Books, 1966).

In the Korean Central Yearbook (1951-1952), North Korea recorded that this paragraph was created through a proposal initiated by the Chinese and North Korean negotiators. Paragraph 60 was the result of a compromise between North Korea and China that argued for the immediate withdrawal of foreign troops and UN forces. It only proposed to discuss withdrawal matters after the signing of an armistice agreement. The two Koreas use paragraph 60 as a foundation of international law for the establishment of a peace regime.

The armistice agreement was signed; however, a higher-level political conference attended by both sides did not convene within three months as paragraph 60 suggested. Instead, the Geneva Conference took place nine months later, from April 26 to June 15, 1954. At this conference, the South insisted on general elections throughout the Korean Peninsula under the auspices of the UN, while the North proposed them under the supervision of the Neutral Nations Supervisory Commission. Regarding the withdrawal of foreign troops, the South called for Chinese troops to pull out before the general election for the two Koreas, while the North demanded that all foreign forces withdraw simultaneously. Consequently, the Geneva Conference further institutionalized the division of the Korean Peninsula, as it failed to formulate measures to transition from an armistice to a permanent peace regime.

The Agenda-Setting Process of the Korean Peninsula Peace Regime

Following China's withdrawal of its troops from the North in 1958, North Korea put forward a proposal to limit the armies in the two Koreas to less than 100,000 each, as well as to sign a peace agreement in the 1960s. Pyongyang was calling for the withdrawal of U.S. military forces to be followed by a peace agreement, in essence proposing that a non-aggression pact be made first between the South and the North. In the 2019 New Year address, Kim Jong Un said,

The Panmunjom Declaration, the September Pyongyang Joint Declaration and the north-south agreement in the military field, which were adopted by reflecting the firm resolve and will to usher in an era of peace in which war exists no longer on the Korean peninsula, are of great significance as a virtual nonaggression declaration in which north and south have committed themselves to terminating fratricidal war based on force of arms.

North Korea first put the peace agreement to replace the armistice agreement on the agenda in January 1972, when Kim Il-sung gave an interview to the Japanese newspaper *Yomiuri Shimbun*. The proposal—which could be best summarized as “peace agreement first, U.S. troop withdrawal later”—was officially rejected by the Park Chung-hee government of the South in January 1974. Instead, Seoul made a counter-proposal for a non-aggression pact between the two Koreas. In the March 1974 session of the Supreme People's Assembly, North Korea changed the parties involved in the peace agreement from the two Koreas to the DPRK and the United States. This sudden shift came when North Korea made a direct proposal to the United States for the withdrawal of U.S. troops from the Korean Peninsula, which had been previously linked to the peace treaty.

With the end of the Cold War in sight, the South confronted the North with a similar agenda for a peace agreement, which included the democratization of its society. In October 1988, President Roh Tae-woo proposed an inter-Korean summit at the General Debate of the UN General Assembly, stating that “specific measures to replace the armistice agreement with a permanent peace regime” could be discussed.⁷

⁷ Roh Tae-woo, “Promotion of Peace, Reconciliation and Dialogue in the Korean Peninsula,” Forty-third session of the United Nations General Assembly, October 18, 1988, <https://undocs.org/en/A/43/PV.33>.

The concept that North Korea used for the withdrawal of foreign troops and for the peaceful resolution of the Korean Peninsula problem under Article IV, paragraph 60 of the Armistice Agreement was a “peace agreement” between North Korea and the United States. North Korea did not use the term “peace regime” during the Cold War. However, the term that South Korea used for the peaceful resolution of the Korean Peninsula problem was “peace regime.”

During its first nuclear crisis, North Korea withdrew from the Non-Proliferation Treaty (NPT) in March 1993, removed the Czech and Polish delegation from the Neutral Nations Supervisory Commission, and withdrew the Chinese delegation from the Military Armistice Commission from April 1993 to February 1995. Pyongyang simultaneously approached Washington to propose negotiations to end the armistice agreement and establish a peace guarantee mechanism to replace the current armistice agreement and implement peace agreement in the place of the defunct armistice mechanism. In May 1994, the North established the Panmunjom Representative Office of the Korean People’s Army as an armistice management organization. In June 1994, a sudden crisis brought the Korean Peninsula to the verge of war. North Korea once again put on the table an agenda for the dismantling the United Nations Command in June 1995. Subsequently, in February 1996, it proposed negotiations to the United States in order to establish a new peace guarantee mechanism to conclude a “provisional agreement,” proposing to substitute the armistice agreement before the signing of a peace agreement and to create a U.S.-DPRK joint military organization to replace the Military Armistice Commission.

A second nuclear crisis erupted in October 2002 when the U.S. administration raised suspicions that North Korea was developing nuclear weapons with highly enriched uranium. North Korea withdrew from the NPT again in January 2003. In April 2003, shortly after the U.S. military intervention in Iraq of March 2003, North Korea expressed its willingness to make nuclear weapons, using the term “deterrent force” in a statement issued by a foreign ministry spokesperson. In the ensuing Six-Party Talks, the DPRK established a link between denuclearization and the peace regime. North Korea argued in July 2005 that “a transition from the armistice regime to a peace regime will lead to the elimination of the hostile policy and nuclear threat of U.S. towards the North, which would naturally lead to the denuclearization of the Korean peninsula.”⁸ The six parties concluded a multilateral agreement through the September 19 Joint Statement of 2005 to pursue the denuclearization of the Korean Peninsula in exchange for a Korean Peninsula peace regime.

In any exchange on topics as contested as these two concepts,⁹ substantive equivalence is bound to become an issue. Unlike the situation in September 2005, North Korea has stated that its nuclear capability has increased qualitatively and quantitatively. Pyongyang has conducted six nuclear tests and also launched nuclear delivery vehicles such as intercontinental ballistic missiles and submarine-launched ballistic missiles. North Korea’s nuclear and missile tests have increased along with the increasing amount of UN Security Council sanctions. If denuclearization can be defined as the elimination of the facilities, materials, weapons, technology, and delivery means of nuclear weapons, North Korea could abandon its “tangible” assets in return for *de facto* “intangible” assets, such as a peace agreement, establishment of diplomatic relations with the United States, removal of sanctions, accession to international economic institutions such as the IMF, discontinuation of U.S.-ROK joint military exercises, and a ban on the deploy-

8 KCNA, “Spokesman for DPRK FM Clarifies Principled Stand on Building Peace Mechanism on Korean Pen.,” July 23, 2005, <http://kcna.co.jp/item/2005/200507/20050723.htm>.

9 Denuclearization, a concept linked with the peace regime on the Korean Peninsula, is also unique to the Korean Peninsula. In international relations, the concept of a nuclear disarmament or a nuclear-free zone has been used that prohibits the experimentation, manufacture, storage and import of nuclear weapons in certain areas. In April 2019, Russian President Putin defined denuclearization as disarmament in his talks with North Korean leader Kim Jong-un.

ment of strategic assets on the Korean Peninsula. The issue of a “measure of value” will inevitably be raised in such an exchange. In addition, if a “time lag” occurs in the exchange process, negotiations would take the form of a prisoner’s dilemma, in which betrayal becomes the dominant strategy. For the negotiation to become a game of cooperation, norms are needed as a standard of behavior that could block the possibility of betrayal by the other party. Consequently, the principle of action for action was added into the September 19 Joint Declaration.

Due to the potential for each other’s betrayal, North Korea shows preference for a “phased, simultaneous” approach, while the United States places emphasis on a “simultaneous and parallel” approach in a comprehensive agreement that contains an end-state of denuclearization. Washington is mindful of the possible reverse of denuclearization, while Pyongyang is worried that the peace agreement may be reduced to a meaningless piece of paper. The Pyongyang Joint Declaration between the two Koreas of September 2018 included a provision that “the North expressed its willingness to continue to take additional measures, such as the permanent dismantlement of the nuclear facilities in Yongbyon, as the United States takes corresponding measures in accordance with the spirit of the June 12 U.S.-DPRK Joint Statement.”¹⁰ No similar agreement on the process and end-state of denuclearization was reached in U.S.-DPRK negotiations. This reveals limitations inherent to the ways in which third parties intervene in bilateral negotiations. Multilateral negotiations, such as six-party talks for the provision of a peace regime in exchange for denuclearization, could have a stronger binding force. A potential means to counter strategies of betrayal that the United States and North Korea might wage against each other is a multilateral agreement for the design of a denuclearized end-state that includes provisions for the right to peaceful use of nuclear energy in North Korea, one of the norms of the Non-Proliferation Treaty, and a peace regime that includes a peace treaty.

The Relationship between the Korean Peninsula Security Dilemma and the Peace Regime

The armistice regime is a mechanism that generates a “security dilemma” on the Korean Peninsula. Mutual violations of the provisions banning arms buildup in the armistice agreement have made the Korean Peninsula an area where security dilemmas have become commonplace, in which an act of arms buildup to maximize one’s security interest triggers a military response from the counterpart that reduces one’s security interests.¹¹ The peculiarity of the Korean Peninsula security dilemma is that a single entity from the colonial era was divided into two entities in the post-colonial era, creating a dynamic where one moves to absorb the other by violent means such as war, in aspiring to become a single nation through reunification. Another peculiarity is that the Korean Peninsula security dilemma is inexorably linked to nuclear weapons.

In June 1957, the UN Command declared in the Military Armistice Commission plenary meeting that because of North Korea’s repeated violation of paragraph 13d of the Armistice Agreement, the UN Command “considers that it is entitled to be relieved of corresponding obligations under the provisions of this sub-paragraph until such time as the relative military balance has been restored and your side, by its actions, has demonstrated its willingness to comply.”¹² Which meant they can start rearming the U.S. Eighth Army and the ROK Army from now on. Article II, paragraph 13 of the Armistice Agreement

10 “Pyongyang Joint Declaration of September 2018,” Cheong Wa Dae, September 19, 2018, <https://english1.president.go.kr/BriefingSpeeches/Briefings/322>.

11 Robert Jervis, “Cooperation under the Security Dilemma,” *World Politics* 30, no. 2 (1978).

12 “Statement by the United Nations Command Representative in the Military Armistice Commission at Panmunjom, Korea, 21 June 1957,” in Unified Command report on the United Nations Command statement in the Military Armistice Commission on 21 June 1957, United Nations, A/3631, <https://digitallibrary.un.org/record/755144?ln=en>.

reflects a view that there should be no arms build-up for the sake of solving the problem of the Korean Peninsula by replacing the armistice regime with a peace regime. In response to the UNC's move to disregard the Armistice Agreement, North Korea renewed its call for the withdrawal of foreign troops under paragraph 60, thereby turning the armistice into a "solid peace." At the time when North Korea promoted a disarmament discourse and China began withdrawing its troops from the North, the United States deployed tactical nuclear weapons and their delivery means in the South. It was part of a strategy to deter the Soviet threat in Europe and East Asia with low-cost, high-efficiency nuclear weapons. In July 1961, North Korea formed a military alliance with the Soviet Union and China in an attempt to seek "balancing" by being provided with a *de facto* nuclear umbrella and proposed the alternative of building a "peace zone" as an international institution.

The essence of the Korean Peninsula security dilemma in the post-Cold War era has appeared to be a confrontation between North Korea's nuclear weapons and the U.S.-ROK alliance. It is North Korea's internal balance of power policy directed against South Korea's external balance of power, shown through North Korea's nuclear deterrence directed against the U.S.-ROK extended deterrence and South Korea's self-reliance defense. The emergence of China as a hegemonic power has resulted in hegemonic competition becoming another peculiarity linked to the security dilemma on the Korean Peninsula.

The way to escape the security dilemma is as follows. First, one has to accept the acceleration of the security dilemma as a given reality. The final destination of a game of brinksmanship to increase security could be a war or balance of fear where one entity recognizes the deterrence capabilities of the other. Second, one can attempt to escape the security dilemma in an indirect manner through inter-Korean functional cooperation. However, a functionalist cooperation will not work when the security dilemma shifts into a war crisis. Third, one may attempt to eliminate the other to escape the security dilemma. However, by resorting to military means such as war one may not escape the security dilemma but instead face mutual destruction. Fourth, one can consider an institutional fix to escape from the security dilemma, one example of which is the establishment of a peace regime.

Supplying a peace regime to the region as an international institution can be initiated by one of the relevant governments with the "unilateral accommodation" as a preemptive way to escape the security dilemma, leading to a peace process of building institutions that restrict state actions, promote societal integration, and form new narratives and identities.¹³ During or in the wake of this process, a peace regime would be provided through inter-governmental cooperation.

The security dilemma of April and August of 2017 pushed the Korean Peninsula to the brink of war. The crisis was caused by North Korea displaying the willingness to fight a war in response to a U.S.-ROK joint military exercise. At the end of April, the United States deployed aircraft carriers and other nuclear-capable strategic assets around the Korean Peninsula. War could have broken out if North Korea had conducted a nuclear or ICBM test at that time. In June 2017, North Korea again proposed the "double freeze" to suspend nuclear missile testing in return for a suspension of U.S.-ROK military drills. When the United States and the ROK began the Ulchi-Freedom Guardian military exercise in late August 2017, North Korea fired a Hwasung-12 intermediate-range ballistic missile (IRBM) over Japan to land in the sea off the U.S. territory of Guam. In September, Pyongyang conducted a sixth nuclear test. Subsequently, North Korea declared that its "state nuclear force is complete" in a government statement after the launch of the Hwasung-15 ICBM on November 29, 2017.

13 Charles A. Kupchan, *How Enemies Become Friends: The Source of Stable Peace* (Princeton: Princeton University Press, 2010).

On December 19, 2017, the ROK government virtually accepted the double freeze proposal that North Korea insisted on, by proposing a suspension of the U.S.-ROK joint military exercise during the Pyeongchang Olympics in accordance with international norms passed by the UN General Assembly. These events led to the development of the “Pyeongchang Provisional Peace Regime.” The Pyeongchang Provisional Peace Regime demonstrated the inevitable need to modify the U.S.-ROK alliance to escape the Korean Peninsula security dilemma. By accepting the double freeze proposal, the actors agreed to simultaneously put forward denuclearization and peace regime agendas. The DPRK formalized the discontinuation of its nuclear missile testing with a *de facto* declaration of reform and a market opening at the third Plenary Meeting of the seventh Central Committee of the Workers’ Party of Korea on April 20, 2018, a week before the two Koreas issued the Panmunjom Declaration as an agreement on denuclearization and the establishment of a peace regime.

Is the South Korean Government Facing a Trilemma?

The peace process on the Korean Peninsula resumed by the formation of the Pyeongchang Provisional Peace Regime in late 2017 and early 2018 shows that non-great powers can change the international structure surrounding the Korean Peninsula through “protean power.”¹⁴ As can be derived from the experience of the Korean Peninsula security dilemma and the Pyeongchang Provisional Peace Regime, denuclearization, the peace regime, and the continuation of the U.S.-ROK alliance are important policy objectives; however, they represent an impossible trilemma in which the South Korean government cannot simultaneously achieve all ends. Seoul could be committed to pursuing the three policy goals but could achieve only two of the three goals simultaneously. For example, the combination of the denuclearization of the Korean Peninsula and continuation of the U.S.-ROK alliance would be a coercive policy towards the North or a path to North Korea’s collapse through war. However, the establishment of a peace regime on the Korean Peninsula and the continuation of the U.S.-ROK alliance could be regarded as a policy combination that recognizes North Korea as a *de facto* nuclear weapons state. As for denuclearization and the establishment of a peace regime on the Korean Peninsula, such a combination would be made possible through a transformation of the U.S.-ROK alliance. If the preference is for a peace regime that can break the deadlock on the Korean Peninsula, the South Korean government should then be willing to utilize requests for the modification of the KORUS alliance, such as the request of the Trump administration to reflect a “monetary assessment” of the alliance and the North Korean proposal to halt joint U.S.-ROK military training, ban the deployment of U.S. nuclear assets on the Korean Peninsula, and withdraw U.S. troops holding the right to use nuclear weapons from South Korea. If the priority is not to resolve the trilemma, the South Korean government may consider an “eclectic path” of simultaneously pursuing the establishment of a peace regime, denuclearization of the Korean Peninsula, and continuation of the KORUS alliance that is not as rigid as current proposals.

Policy Proposal

(1) Separate denuclearization negotiations from peace regime negotiations

Denuclearization is negotiated by the United States and the DPRK, along with participation by the International Atomic Energy Agency (IAEA) as the international organization that engages in the verification and decommissioning process, whereas a peace regime is negotiated in a separate “forum” as specified in the September 19 Joint Declaration of 2005. Negotiations for a peace regime can only begin when North Korea declares a nuclear freeze to suspend the production of nuclear materials.

14 Peter J. Katzenstein and Lucia A. Seybert, “Protean Power and Uncertainty: Exploring the Unexpected in World Politics,” *International Studies Quarterly* 62 (2018): 80–93.

(2) Resume six-party talks to negotiate a peace regime

In January 2019, in his New Year speech, Kim Jong-un proposed a multilateral negotiation for transformation of the armistice regime into a peace regime. China and Russia are in favor of resuming the six-party talks. The United States also provides an opportunity for China to engage in the Korean Peninsula issue as a responsible party.

(3) Sign a peace treaty during the negotiation of the peace regime after nuclear materials and weapons are removed from North Korea

The main parties of the peace treaty would be the ROK, the DPRK, the United States, and China—the belligerents of the Korean War. Japan and Russia will also leave their signatures in support of the peace treaty. The peace treaty will be elaborated in a form that requires ratification by each country's legislative body. The peace treaty could be constituted of the following chapters: End of War, Boundary Zone and Peace Zone, Non-Aggression and Security Assurance, Complete Denuclearization of The Korean Peninsula, Arms Control and Disarmament, Peace Management Body, Promotion of Bilateral Relations, and Cooperation for Regional Peace.

(4) Institutionalize diplomatic, military, and economic cooperation between North Korea, the United States, and Japan before and after the conclusion of the peace agreement

In the process of denuclearization, the peace regime negotiations can be further accelerated by preemptive measures from the United States, such as establishing a liaison office, discontinuing U.S.-ROK joint military drills, banning the deployment of nuclear-related assets on the Korean Peninsula, and relaxing and lifting the sanctions on North Korea. In October 2018, North Korea and China announced that the UN Security Council sanctions on North Korea should be adjusted.

(5) Follow negotiations for the peace regime on the Korean Peninsula with negotiations for multilateral security cooperation in Northeast Asia

In the September 19 Joint Declaration of the Six-Party Talks of 2005, “the Six Parties agreed to explore ways and means for promoting security cooperation in Northeast Asia.”¹⁵ This path intends to pursue a Northeast Asian order beyond The Treaty of San Francisco of September 1951 that formalized a peace treaty between the allied nations of the Second World War and Japan and created a security pact between the United States and Japan.

(6) Ensure that the United States, China, Japan, and Russia support the institutionalization of the confederal governance necessary for sustainable peace on the Korean Peninsula during the peace regime negotiations

The four parties of the United States, China, Japan, and Russia should acknowledge that the establishment of institutional arrangements, such as the South-North confederation, is an irreversible measure for the Korean Peninsula peace regime.

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This report is made possible by general support to CSIS. No direct sponsorship contributed to this report.

¹⁵ “Joint Statement of the Fourth Round of the Six-Party Talks Beijing, September 19, 2005,” U.S. Department of State, September 19, 2005, <https://2001-2009.state.gov/r/pa/prs/ps/2005/53490.htm>.

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