

The Role of the UN in the Unending Korean War. “United Nations Command” as Camouflage

By [Ronda Hauben](#)

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Some Background

The story of the Korean War is a story not often told. Yet sixty years after the agreement to end the military hostilities on July 27, 1953, there is not yet a peace treaty to end the war.

This article on the occasion of the 60th Anniversary of the Armistice Agreement is intended as a contribution to the body of research and study needed to find the underlying cause of the bottleneck impeding the negotiation of a peace treaty so a breakthrough can be made.

Korea, which had been one nation for over 1000 years, had been forcibly divided at the end of WWII. By the UN legitimating an election in the South of Korea in May 1948 which was boycotted by many Koreans and from which all North Koreans and many South Koreans were excluded, a formal structural division was created which continues until today. (1) The significant aspect of the UN supported election was that it led to an official government structure for only the southern part of Korea, thus solidifying the division of Korea. The government structure created in the South by the election was a repressive government structure. One view of the military conflict that became known as the Korean War was that it was a civil war that was trying to restore Korea as one country.

The US Government response to the fighting which broke out in June 1950 in Korea was to perpetuate support for the repressive government that the US and UN had put in place as the Republic of Korea (more commonly known as South Korea). This is the context in which the United Nations Security Council resolutions of June and July 1950 authorizing UN participation in the Korean War took place.

The question that led me to begin this study was:

What Was the Role of the UN in the Korean War and What Should be the Role of the UN in Bringing an End to the War?

It is important to take into account that before any action was taken on the part of the UN on June 27, 1950 authorizing intervention in the Korean War, the US had decided and began to send military support to the South Korean side of the conflict. The independent journalist, I.F. Stone in his book, “The Hidden History of the Korean War,” describes this US action as forcing the UN Security Council to support the US Government action in Korea.(2)

Stone writes:

“When Truman ‘ordered the United States air and sea forces to give the Korean Government troops cover and support’ he was in effect imposing military sanctions before they had been authorized by the Security Council. The Council had to vote sanctions or put itself in the position of opposing the action taken by the United States. For governments dependent on American bounty and themselves fearful of Soviet expansion, that was too much to expect, though again Yugoslavia had the courage to vote ‘No,’ an act of principle for which it got no credit from the Soviet bloc while antagonizing the United States to which it owed its Council seat.”

By acting before the Security Council could act, the US was in violation of Article 2(7) of the UN Charter which requires a Security Council action under Chapter VII before there is any armed intervention into the internal affairs of another nation unless the arms are used in self-defense. (See Article 51 of the UN Charter. The US armed intervention in Korea was clearly not an act of self defense for the US.) Also the actions of the UN have come to be referred to as the actions of the “United Nations Command”(UNC), but this designation is not to be found in the June and July 1950 Security Council resolutions authorizing participation in the Korean War. (3) What is the significance of the US using the UN in these ways?

The current US military command in South Korea claims to wear three hats: Command of US troops in South Korea, Combined Forces Command (US and South Korean troops), and “United Nations Command” with responsibilities with respect to the Armistice. The United Nations, however, has no role in the oversight or decision making processes of the “United Nations Command”. The US Government is in control of the “United Nations Command”. The use by the US of the designation “United Nations Command”, however, creates and perpetuates the misconception that the UN is in control of the actions and decisions taken by the US under the “United Nations Command”.

The Democratic People’s Republic of Korea (more commonly referred to as North Korea) has called for disbanding the “United Nations Command”(UN Command). At a press conference held at the United Nations on June 21, 2013, the North Korean Ambassador to the UN, Ambassador Sin Son Ho argued that the actions of the US Government using the designation “United Nations Command” are not under any form of control by the United Nations. (4) Since the UN has no role in the decision making process of what the US does under the title of the “United Nations Command”, North Korea contends the US should cease its claim that it is acting as the “United Nations Command”.

II-UN Authorized “Unified Command”

Looking at the Security Council resolutions related to Korea that were passed in June and July 1950, it is clear that the content of these resolutions supports North Korea’s argument. During this period the UN Security Council passed four resolutions. They are

SC 82 (V)-S/1501 on June 25 1950

SC 83 (V)-S/1511 on June 27 1950

SC 84 (V)-S/1588 on July 7, 1950

None of these resolutions refers to a “United Nations Command” or gives the United States permission to call itself the United Nations Command.

The last two of these resolutions refer to a “Unified Command”. SC Resolution 84 of July 7, 1950 is the first Security Council resolution to refer to the creation of a “Unified Command.” The language of the resolution says that the Security Council, “Recommends that all members providing forces and other assistance pursuant to the aforesaid Security Council resolution make such forces and other assistance available to a Unified Command under the United States of America.”

The resolution states that the Security Council requests the United States to designate the commander of such forces, and it authorizes the “Unified Command” at its discretion to use the United Nations flag “concurrently with the flags of the various nations participating.”

SC Resolution 84 also made the request that “the United States...provide the Security Council with reports as appropriate on the course of action taken under the Unified Command.”

In subsequent action by the Security Council during this period, the members of the Security Council, were careful to refer to the US command of the Korean War forces related to the United Nations as the “Unified Command.”

Therefore, when reviewing the action by the US to designate itself as the “United Nations Command,” the question is raised as to how, why and by whom the designation “United Nations Command” was substituted for the Security Council designation of a “Unified Command”.

SC Resolution 84 was passed on July 7 using the designation “Unified Command”. The following day, on July 8, the US President Harry Truman appointed General Douglas MacArthur to head this Command. A Memo referring to this appointment, states that with this appointment, General MacArthur was designated as the Commander of the “Unified Command”.(5)

In the period immediately following the passing of UN Security Council Resolution 84, US Ambassador Warren Austin refers to the US government command as the “Unified Command”.

For example, “A Letter to the UN Secretary General from Warren Austin, US Ambassador to the UN”, on July 12, says:

“(...)I have the honor to inform you that the President of the United States, in response to the Security Council resolution of 7 July 1950, has on 8 July designated General Douglas MacArthur as the Commanding General of the military forces which the Members of the United Nations place under the Unified Command of the United States pursuant to the United Nations effort to assist the Republic of Korea.”

Similarly the “Unified Command” was the designation used in a letter dated 24 July 1950 transmitting the first Report from General MacArthur to the Security Council. The Report is

titled, "First Report to the Security Council by the United States Government on the course of action taken under the Unified Command (USG)".

III-US Substitutes "United Nations Command" as Camouflage

It appears that it was in a US Government communique dated July 25 that the designation "UN Command" was first officially used in a US Government communication to the UN. This document was titled, "Communique Number 135 of the Far East Command S/1629 25 July 1950". It states:

"The United Nations Command with Headquarters in Tokyo was officially established today with General Douglas MacArthur as Commander-in-Chief. The announcement was made in General Order No. 1, General Headquarters, United Nations Command. The order reads:"

"1. In response to the resolution of the Security Council of the United Nations of July 7, 1950, the President of the United States has designated the undersigned Commander-in-Chief of the Military Forces this date the United Nations Command. Pursuant thereto, there is established this date the United Nations Command, with General Headquarters in Tokyo, Japan."

According to this communiqué dated July 25, 1950, it is the President of the United States not the United Nations that was responsible for creating the designation "United Nations Command", as a replacement for the UN authorized "Unified Command." The communiqué alleges that this was done to fulfill the obligations of SC Resolution 84 of July 7. It is evident, however, from reading the resolution of July 7 that there is no reference in that resolution to a "United Nations Command".

Why did the US government substitute the designation "United Nations Command" for the Security Council designation "Unified Command" after initially referring to the designation of "Unified Command", language which was actually provided for in the Security Council resolution of July 7?

There are accounts that are helpful in understanding what was going on behind the scenes at the time that can give clues to solve this puzzle. One such account is provided by an article by James W Houck titled, "The Command and Control of United Nation Forces In the Era of Peace Enforcement." (6) At the time he wrote this article in the early 1990s, Houck was Force Judge Advocate for the Commander of the US Naval Forces Central Command in Bahrain.

Houck writes that UN Secretary General Trygve Lie and some of the countries on the Security Council, namely the UK, France and Norway were in favor of creating a structure to provide for a United Nations role in the Korean operations.

Houck describes how, "During the negotiations preceding authorization of the unified command, Secretary General Trygve Lie had proposed a 'committee as coordination of assistance for Korea' consisting of troop contributing states and the Republic of Korea." (7)

While the explicit purpose of the committee, Secretary General Lie explained, was, "to stimulate and coordinate offers of assistance, its deeper purpose was to keep the United Nations 'in the picture'," as Lie himself writes in his recollections of his seven year term as

UN Secretary General. He explains that his purpose was, “to promote continuing United Nations participation in and supervision of the military security action in Korea of a more intimate and undistracted character than the Security Council could be expected to provide.”(8)

The US, however, was opposed to the idea of such a supervisory committee and had the power to turn it down. This effectively left the US in control of the decisions regarding what was to be done in the UN authorized operations of the Korean War.

“From the start of the Korean conflict,” Houck explains, “the United States exercised both political control and strategic direction over the operation.”(9) Though the Security Council authorized the US intervention in the Korean War, the Security Council failed to fulfill its obligation under the UN Charter to act as the political authority for military actions taken under the authority of the UN Security Council.(10) Implicit in Chapter 7 of the UN Charter is that it is the Security Council that can exercise force not that it can cede its authority to others.

Instead of the United Nations fulfilling its charter obligations, however, as Houck documents, “The United Nations, did not interfere at all in the purely military aspects of the operation and even in political matters it confined itself to making recommendations.”.

Corroborating Houck’s account, a military historian, James Schnabel in his account of the first year of the Korean War, describes why the US government was opposed to the Committee favored by Trygve Lie and several Security Council members. Schnabel explains that the response of the Joint Chiefs of Staff was to oppose such a project. They were hostile to the potential of such a committee to try to control military operations.

“The Joint Chiefs of Staff,” Schnabel writes, “wanted a command arrangement in which the United States, as executive agent for the United Nations, would direct the Korean operation, with no positive contact between the field commander and the United Nations.”(11)

Though the US Government had turned down the political oversight committee proposed by the Secretary General, there was, according to Schnabel, a recognition that the unilateral political and military control the US Government exercised over the “Unified Command” was problematic. The Chiefs of Staff directed MacArthur “to avoid any appearance of unilateral American action in Korea.”

As Schnabel writes, “For worldwide political reasons,” the Joint Chiefs of Staff, directed that, “it is important to emphasize repeatedly the fact our operations are in support of the United Nations Security Council.”

According to Schnabel, “this led General MacArthur to identify himself whenever practicable as Commander-in-Chief, United Nations Command (CINCUNC), and whenever justified, would emphasize in his communiqués the activities of forces of other member nations.”

Noting that the State Department proposed to the Secretary of Defense that reports be sent to the Security Council each week, Schnabel writes, “These would keep world attention on the fact that the United States was fighting in Korea for the United Nations, not itself.” But these reports were not required and were not a mechanism for UN supervision over the US activities or decision making processes.

Decisions on the operations of MacArthur’s command were made by the US Government,

writes Schnabel. The United Nations at no time in the Korean War sought to interfere in the control of operations which were the responsibility of the United States. As MacArthur later testified to a Senate investigating committee, “ ...my connections with the United Nations was largely nominal...everything I did came from our own Chiefs of Staff....The controls over me were exactly the same as though the forces under me were all Americans. All of my communications were to the American high command here.” (12)

IV-“United Nations Command” as Achilles Heel

UN Secretary General Trygve Lie, however, points out that the insistence on unilateral control of the conduct of the War waged in Korea by the US had its Achilles heel. Lie wrote, “As the Korean War developed, Washington complained, and had reason to complain, that the United States was carrying too much of a burden; but its unwillingness, in those early days, when the pattern of the police action was being set, to accord the United Nations a larger measure of direction and thereby participation no doubt contributed to the tendency of the Members to let Washington assume most of the responsibility for the fighting.”(13)

So an interesting anomaly emerges. The UN resolution authorizing military action in Korea spoke about a “Unified Command” and the original resolution the UN Secretary General proposed included a mechanism for the UN to supervise the military action. This control was rejected by the US government, and it appears, the UN never pressed to exert its supervision over the conduct of the Korean War. This control was thus ceded to the US government.

While the US government had total control over the Korean campaign it was waging, it appears that it also needed a means to camouflage the unilateral nature of this operation. The designation “United Nations Command”, which the US government assigned to its operation, replaced the designation of the “Unified Command” described in Security Council Resolution 84. This change of name provided the camouflage to hide the unilateral nature of the US command and control and of its conduct of the war against North Korea.

The US Government needed the appearance that its unilateral actions were on behalf of and under the United Nations. This was provided by changing the designation of the Command from the “Unified Command” to the “United Nations Command”. The change of name helped to create the needed misleading appearance. Similarly, the reports that the US Government voluntarily submitted to the UN Security Council were titled, “Reports of the United Nations Command”. This made it appear that the US was conducting the war on behalf of the UN and under its supervision.

This misleading designation continues to exist today over 60 years after it was created, thereby continuing to give the world the false impression that the campaign waged by the US in Korea was and continues to be a United Nations operation and that even today the UN has a presence on the Korean Peninsula

While the UN did not participate in the decision making process of the military campaign carried out in its name, it played a role then and continues to play a role by allowing the US Government to appropriate the United Nations name as a camouflage cover for the actions of the US Government What is the UN responsibility in such a matter for what was done, and for what continues to be done in its name? That is the essence of the question raised by North Korea’s call that the “United Nations Command” be dissolved.

V-Conclusion

The research represented in this paper presents a curious, but significant irony. The UN authorized Member States to intervene in the Korean War, to form the “Unified Command”, to use the UN flag along with the flags of the member states participating in the “Unified Command”, and it authorized the US to appoint a Commander in Chief for the “Unified Command”.

According to the obligation required under the UN Charter, and to the original efforts of Trygve Lie, with support from three Security Council members, namely, the UK, France, and Norway, there was an effort to set up a political entity that would oversee the Korean War operation for the Security Council.

The US, however, rejected the proposal and succeeded in controlling the political and the strategic direction for the Korean War. After rejecting the UN proposal for UN supervision over US actions and decisions, the US put itself forward as the “United Nations Command”, thus assuming the cloak of the United Nations, by referring to itself as the United Nations. This mechanism served as a means to misrepresent the US Government’s unilateral actions and decision making processes in the Korean War.

Recently several UN Secretary Generals, including Secretary General Boutros Boutros Gali, Secretary General Kofi Annan, and Secretary General Ban Ki-moon have acknowledged that the US was in charge of the Command structure of the Korean War activity taken under the authority of the “Unified Command”, and that the United Nations had no role in overseeing the actions undertaken in the name of the UN. The statement is made that the UN “never had any role in the command of any armed forces deployed in the Korean peninsula”.

The difficulty raised by such a claim, however, is that it evades the salient fact that the Security Council authorized the US to assume this role in violation of the obligations implicit in the UN Charter that the UN exercise supervision over the political, and strategic decision making processes of an action approved under Chapter 7 of the UN Charter.

Therefore, there is some truth to the statements of Boutros Boutros Ghali, Kofi Annan, and Ban Ki-moon that the UN had no role in the command of the military activity carried out under its name in Korea. Specifically as the Spokesperson for Ban Ki-moon stated recently, “The UN did not at any time have any role in the command of the forces that operated in Korea in 1950-1953.”(14)

But what this leaves out is that the UN authorized the US to designate the Commander of the “Unified Command”. Then, however, under pressure from the US, the UN failed to exercise its obligation to supervise the actions of the “Unified Command”.

Subsequently, the UN continues to evade fulfilling its obligations by continuing to allow the US to claim that it is the “United Nations Command” in Korea and in failing to provide its political supervision over what the US has done and continues to do in Korea in the name of the UN.

The DPRK proposal is that the US cease to call itself the “United Nations Command”. It is important to include a recognition of how the US Government activity represents a continuing violation of the UN Charter.

Recently, in response to a question, the Spokesperson for Ban Ki moon said that the issues

of the Korean Armistice are issues that do not concern the United Nations as the United Nations is not a party to the Armistice.(15) Why then has the United Nations allowed the US to continue to use the designation, “United Nations Command” to misrepresent itself as acting under the control of the UN in the Armistice?

Unless the UN takes responsibility for allowing the US to claim the authority of the United Nations in its continuing actions as part of the Armistice, the UN is continuing to allow actions in violation of the UN Charter. If there is a “United Nations Command” that is part of the Korean Armistice Agreement, such a command must be under the political and strategic direction of the UN Security Council. Otherwise the authority of the UN Charter is being treated as a charade to justify US Government unilateral activity under the camouflage of the UN name. It is as if the UN is but a set of words to hide the illegal acts of one of the Great Powers.

VI- Epilogue

There is another significant aspect of the conduct of the US government with respect to its initiating and intervening into the Korean War. This has to do with the role played by the US Government in bypassing not only the requirements of the UN Charter, but also the requirement of the US Constitution.

The UN Charter specifies that all military action taken to intervene in another country requires a resolution of the Security Council under Chapter 7. Yet the US government made the decision and began to act on that decision to intervene in the Korean conflict before there was any such action by the UN Security Council. This represented a violation by the US Government of the UN Charter. (16)

Similarly, the US Executive Branch violated the provision of the US Constitution requiring that no decision to go to war can be made without a Congressional Declaration of War. There was no such declaration with respect to the US Government waging war on the Korean peninsula.

There is a provision in the UN Charter, Article 43(3) which states that member states participating in military actions under Chapter 7 of the UN Charter are obliged to have such actions “subject to the signatory states in accordance with their respective constitutional processes,”

In his article “The Korean War: On what Legal Basis Did Truman Act?” Louis Fisher who is a specialist in Constitutional Law, points to the constitutional violation represented by Truman’s sending US troops to the Korean War.

Truman used as an illegitimate excuse that the act had been authorized by the UN Security Council. Fisher’s article describes the extensive debate in the US Congress before joining the UN to consider if it was appropriate for the US government to claim that a Security Council resolution justified bypassing US Constitutional obligations.

In his appearance before the House Committee on Foreign Relations then Under Secretary of State Dean Acheson explained that “only after the President receives the approval of Congress is he ‘bound to furnish that contingent of troops to the Security Council’.” (17)

Not only did Truman commit troops and aid to South Korea before the Security Council called it a military action, but more importantly, no action of the Security Council authorizes

the US government to violate the US Constitution. For the US government to wage war, the US Constitution requires that the US Congress make the decision that authorizes that war.

Though other artifices were employed to evade US Constitutional obligation, such as calling the Korean War a “police action”, US Courts rejected such subterfuges. (18)

Responding to these subterfuges, Vito Marcantonio, the American Congressman from NY for the American Labor Party said, “When we agreed to the United Nations Charter we never agreed to supplant our Constitution with the United Nations Charter. The power to declare and make war is vested in the representations of the people, in the Congress of the United States. (19)

Commenting on this same situation, Justice Felix Frankfurter argued, “Illegality cannot attain legitimacy through practice. Presidential acts of war, including Truman’s initiative in Korea can never be accepted as constitutional or as a legal substitute for Congressional approval.” (20)

Notes

(1) See for example: Jay Hauben, “Is the UN Role in Korea 1947-1953 the Model Being Repeated Today”

<http://www.columbia.edu/~hauben/UN-Role-in-Korea.doc>

(2) IF Stone, “The Hidden History of the Korean War,” New York, 1952, p. 75.

By August 1 1950 the Soviet Union had returned to the Security Council ending its 6 month boycott and so there were no further UN resolutions authorized by the Security Council supporting UN participation in the Korean War.

(3) See for example: Ronda Hauben, “US Misrepresents its Role in Korean War and in Armistice Agreement as UN Command”, taz blogs, June 26, 2013

<http://blogs.taz.de/netizenblog/2013/06/26/us-misrepresents-its-role-as-un-command>

(4) Press conference June 21 2013, Ambassador Sin Son Ho at the UN

<http://webtv.un.org/media/press-conferences/watch/ambassador-sin-son-ho-the-permanent-representative-of-the-democratic-peoples-republic-of-korea-to-the-un-press-conference/2498682301001>

A text version of the statement presented is online at:

<http://www.4thmedia.org/2013/06/26/illegitimacy-and-injustice-of-the-un-command-in-south-korea-dprk-calls-for-its-immediate-dissolution/>

(5) James F. Schnabel, “Policy and Direction: The First Year” p. 102, f/n 6.

http://www.history.army.mil/html/books/020/20-1/CMH_Pub_20-1.pdf

See Memo, JCS for Secy. Defense, 9 Jul. 50, sub: Designation of a United Nations Unified Comdr. By the United States.

(6) James W. Houck, “The Command and Control of United Nations Forces in the Era of ‘Peace

Enforcement’,” Duke Journal of Comparative and International Law, vol 4, No 1, 1993.

(7) see Houck, p. 13 f/n 51.

(8) Trygve Lie, “In the Cause of Peace”, New York, p. 334

(9)Houck, p. 12.

“None of the resolutions (referring to the June and July SC resolutions-ed),” writes Houck, provided for Security Council control over the ensuing operation despite the fact that it would be conducted under Security Council authorization.”

(10)See Articles 42, 44, 46 and 48 of the UN Charter. These articles authorize the Security Council to use force. There is no article in Chapter 7 of the UN Charter which authorizes the Security Council to cede political decision making to a member state to carry out a Chapter 7 action.

(11) Schnabel, p. 103, Rad, WAR 85743, DA to CINCFE, 12 Jul 50

(12)Schnabel, p. 104, f/n 10. See MacArthur Hearings, p. 10.

(13)Lie, p.334.

(14) Daily Press Briefing by the Office of the Spokesperson for the Secretary-General, June 21, 2013.

<http://www.un.org/News/briefings/docs/2013/db130621.doc.htm>

(15) Email Received from Eduardo del Buey on June 25, 2013.

(16) See I F Stone, “The Hidden History of the Korean War,” New York, 1952, p. 75.

(17) Louis Fisher, The Korean War: On What Legal Basis Did Truman Act?, American Journal of International Law, Jan 1995.(89 Am J. Int’l L. 21), p. 30.

(18) Fisher, p. 34.

(19) Fisher, p. 35.

(20) Fisher, p. 38

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