Legal Problems in the Thinking of National Unification: The Korean Case.*

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1. Introduction

Last year (1987) we conducted under the title of Legal Basis and General Consequences of the Division of Korea, a survey of what had led to division of Korea and what its consequences are seen from constitutional and international law perspectives. This year we will undertake a legal analysis of the future phase of two Koreas relation, including national unification, projected on the basis of a prognosis. It will in a great part include a legal analysis of proposals made thus far for future two Koreas relation.

In any case, logically there are three categories of courses imaginable which two Koreas will take in the future: (1) more or less the same way as they have been, that is, a status quo course in which no action is taken to revise so that no better and no worse situation than the present one emerges; (2) the course of national unification which has been most strongly aspired for by Koreans south and north; and (3) the course of a better relationship between two Koreas as divided in which there are a variety of possibilities including a German style course. No doubt, all three courses will proceed from what we presently have as legal basis of divided Korea or, for a better word, from an

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unstable legal basis as we have seen last year. Therefore, our job will be to conduct a legal analysis of the second and third courses projected. Further, we believe that the projection of the first course is only one of a short range. The expected internal and external events and changes taking place in and around Korea are not likely to leave two Koreas the way as they have been in the long run. Among many, for example, the potential implications of the rising nationalism increasingly demanding positive actions for national unification in South Korea, the passing away of Kim Il-song from North Korean scene, the closer and closer trade relations between South Korea and China, the "open" and "reform" policy of Gorbachev, and the shambles of North Korean economy which will continuously force North Korea to seek for a solution from abroad will be enormous although a precise prediction of their eventual impacts on the relationship between two Koreas will be difficult. If the first course is not likely in the long run, then it will be conceptualized as being no more than an early stage of the third course.

2. Status Quo

In any case, what are the legal statuses of two Koreas? What we have here is an unstable state of matters describable by several lines of dualism as we have concluded in the last year's paper: (2) two Koreas still live under Armistice Agreement of 1953, that is, in a no-war-no-peace situation not only in legal but also actual terms; armed confrontation and tensions along the demilitarized zone and otherwise along with some dialogues; each of both Koreas maintains its avowed sovereignty claim of de jure status over the entire Korea and of the other party being only a de facto local government at best (the one-nation-one-state-two-governments formula); both Koreas rely for their ultimate security respectively on their host super power with the aid of the Mutual Defense Treaty between the ROK and the USA of 1954 and the Friendship, Cooperation and Mutual Defense Treaty between the DPRK and the USSR of

(2) Ibid., p.198.
1961 while being as a frontier country of the two conflicting ideological blocs headed by the USA and the USSR in their worldwide strategy; and notwithstanding their sovereignty claim over the entire Korea, both Koreas maintain an intermittent dialogue over a number of subjects, highlighted by the South-North Agreement of 1972, which remains now in a limbo, while they engage in a fierce competition and confrontation on the world scenes, to gain an upper hand in their maneuver, including the United Nations, the third world or non-aligned nations politics, cultural and sports events, economy, building of armed forces, and terrorism anti-terrorism. Presently as of October 17, 1988 South Korea maintains a diplomatic relationship with 129 countries and North Korea with 99 countries with 67 countries extending their relationship to both Koreas. As the result, we have quite an unstable, dubious legal foundation either for national division, for national unification or for peaceful co-existence at the moment. With two Koreas we hardly can imagine a worse situation than the present one beyond another Korean war.

Throughout the latter part of the 1970’s and the 1980’s, there have been various proposals and counter-proposals, contacts, and even some limited agreements between two Koreas. For our present legal analysis we cannot undertake here again a thorough survey of all the proposals and counter-proposals for unification or two Korea relations, meetings held, agreements, and relevant events having taken place around Korea. Nevertheless, the following general observation(3) may be in order for our purpose: in the 1950’s following the Korean War, major South Korean offensives vis-à-vis North had centered around the UN to which South alone was invited as an observer in the discussion of the Korean questions, and the Korean version of

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Hallstein principle(4) was well maintained. The South Korean formula for unification was through free elections held under the UN supervision for representatives in the National Assembly in which representation should be in direct proportion to the population(5) while practically having abandoned its March North policy in the 1960’s. In the meantime, North had engaged in an active peace offensive until the mid-1960’s, including the 1955 proposal of non-aggression pact, arms reduction, and economic and cultural exchange, which was conducted outside the UN (North Korean unification proposal was for elections prepared and conducted by an All-Korean Commission in which South and North would have equal representation under the supervision of neutral nations supervisory commission). (6) In the late 1960’s, North had switched to the tactics of active subversive activities and commando raids in South.

Except during the 1972-73 detente period, the mid-1970’s to 1984 period can be characterised as another confrontation period. There were the North instigated assassination attempt of President Park and discovery of North-made infiltration tunnels. With the proposals for the withdrawal of the US forces and UN related organizations like the UNCURK from South and others, North had made a success in gaining a considerable support in the third world politics and the UN to which both Koreas were invited in the discussion of the Korean questions (1973). South practically abandoned the Hallstein doctrine (1973) and the UN as an arena for unification efforts (1975) along with the proposals of non-aggression pact (1974) and simultaneous UN membership (1973). (7) Henry Kissinger’s proposal of cross-recognition of both Koreas by


(5) See Jae-shik Pae, Dai-Kwon Choi and Myong-jun Roh, Hankan tongilpanganui bopjok munjae (Legal Problems in the Korean National Unification Policies) (Seoul: the RCK National Unification Board, 1972); Chong-song Pak, “UNul tonghan hankuktongilpangan” (National unification Via the United Nations), Korean Journal of International Law, Vol. 8, No. 1, pp. 29-65 (1963); etc.

(6) Ibid.

world powers and simultaneous UN membership (1975) supported by South was countered by North with its proposals of peace treaty with the US (1974, 1975), confederation (1973, 1975, 1980), and all Korean grand conference (1973, 1979), and political parties and social organizations conference(1979). The South Korean and American KOR-DPRK-US tripartite conference proposal (1979) was shattered by the Rangoon terror (1983).

The 1984-1986 period is marked as another détente period which started with South’s acceptance of flood victim relief materials from North (1984) followed by several levels of dialogues like the Red-Cross, Economic, and Parliamentarian meetings and the cross-visits of separated family members (1985). From 1986, however, two Koreas are set in another confrontation still mixed with a campaign of unilateral proposals such as the three parties conference of South and North defense ministers and US commander in Korea (1986), South-North high authorities conference to deal with political and military matters (1986), a tripartite conference for arms reduction in South and North and withdrawal of the US troops from South (1987), and proposal to co-host the Seoul Olympic games, and with the explosion of the KAL plane over the Andaman bay (1987). South has also proposed for South and North foreign ministers conference (1987). In the South today, in the meantime, there is a burst of ideas, discussions and proposals for national unification from various sources with its political democratization so much so that the problem domestically is that of what and how to do with all those unintegrated ideas and proposals in the face of North’s Workers Party controlled monolithic approach.

All those proposals and counter-proposals did not amount to any major change in the unstable relationship either toward the second or toward the third course, however. The high hopes of the early realization of national unification or of an improved relationship aroused following some of those meetings and events, for example, the exchange of home town visitors and art troupes in 1984, were time and again instantly dashed away with incessant North Korean sabotage and terrorist activities. We can notice certain characteristics
of those proposals, however. Above all, it is very important to note that North Korea has never repudiated or abandoned their goal of "liberation" of South to achieve even by resorting to military means. The presence of the revolutionary leader still around, the numerical superiority of armed forces over South Korea, military fortification programs, advance deployment of the armies along the demilitarized zone, regimented and stringent social life of North Korean people, and many other indicators make attainment of the goal all the more probable. Various North Korean peace proposals and gestures, accordingly amount to nothing more than a matter of their strategy and tactics to achieve the goal. Among others, their confederation proposal for national unification has been their long-standing one seemingly attainable with peaceful means thus far. Generally speaking, the proposals which North Korea makes for national unification including the confederation scheme tend to advance an overall, one-shot political solution once for all. On the other hand, South Korean proposals advocate an incremental approach to national unification starting from exchanges of letters and visits of separated family members, to functional integration\(^{(8)}\) following trade and economic cooperation, then moving to political conference to finalize the union; many proposals by South Korea are for two Koreas to enter a stabilized relationship like proposals for simultaneous UN membership, for a non-aggression pact, for a German-style basic relations treaty. These are, however, invariably denounced by North Korea as a scheme to perpetuate Korean national division against the national aspiration for unification. The complacence of the expanding middle class along with material prosperity following industrialization is possibly one of the major factors behind such peaceful incremental approaches to unification and two Koreas

policy in South Korea. These days we do not hear very much about “march North”, which was a strongly appealed slogan in the late 1940’s and 1950’s. At the same time, it is characteristic of South Korean society, as compared with North Korean monolithic movement, that there has been in the very recent years a growing number of radical nationalists, especially among students and young intellectuals, who advance and even demand a variety of daring proposals for South Korean initiatives in reunification efforts although they may involve great risks. Another complication to the South Korean unification politics is a permanent neutrality approach after the Austrian model for Korean national unification that has been a pet idea constantly kept alive among some Korean intellectuals, especially among those living abroad.

3. Forceful Unification

Now we have a spectrum of proposals for unification and for a formalized two Koreas: forceful unification even by military means, that is, South Korean march north and North Korean liberation of South, and peaceful unification by permanent neutrality approach and by long-term incremental methods; two

(9) It seems that what the home-grown radical elements in South Korean society, particularly, student radicals intend to do recently by having suddenly dropped their previous leftist rhetorics from public views and switched to their radical unification themes and proposals including that for South-North student meetings at Panmunjon is to attack the middle class and thereby to attack the “capitalist” system indirect ways. The newly expanded middle class which is the supporter of the “capitalist” system in South Korean society is also in support of the South Korean government’s two Korea policies. Since national unification still commands strong national appeals, it is rather logical for the radicals to switch from their unpopular leftist rhetorics to national unification themes to attack the system by attacking the complacency of the middle class with the status quo of two Koreas as divided, a tactical maneuver. In any case, they are successful at least in igniting the hot debates for national unification that have engulfed the entire South Korean society today. As a result, the South Korean political leaders are in a sense forced to respond to the national aspiration for unification by initiating various proposals and conferences. The recent themes that national unification movement ought to be “minjung” movement seem to convince one to state that the analysis above is correct. See for example Cho Jae-hee, “Minjung minjokjok tongilundongui hwakananul wihayo” (For the Expansion of Mass-Based Nationalist Unification Movement), Minjok jisong, July issue of 1987, pp.82-88; So Kwang-u, “Minjungtongironi jujanghanun kotdul” (What the Mass-Based Unification Themes support), Minjok jisong, April issue of 1987, pp.119-128.
Korea policy with improved relationship which involves an acceptance of their co-existence while giving up the unification goal for the time being; and North Korean confederation proposal coming in between unification and co-existence. It is characteristic of the confederation proposal that it is dubious whether it is for unification or for co-existence as will be seen shortly. For the sake of simplicity for legal analysis, let us consider the following five or six classes of possible approaches to the solution of our two Koreas problems: forceful unification at the hand of South Korea; the same at the hand of North Korea; peaceful unification through a permanent neutrality route; an incremental, functional approach for unification including a proposal for a one-shot political solution; confederation proposal; and proposals for the co-existence of two Koreas.

We would believe that in realistic terms forceful unification by military means would pose a very difficult political question of whether even such an attempt would or could ever be made by South or again by North more than a legal question of whether it would constitute a violation of constitutional and international law. A number of factors tend to militate against such a possibility: among others, the present balance of power between South and North with the US armed forces compensating for North's military superiority over South; for greater destructiveness of the present weaponry deployed over industrial centers built up in both Koreas functioning as the great deterrence and the deterring role of the super powers; the transformability of local South-North conflict into the global conflict between super powers around Korea; and discouragement of North Korean attempt by both China and the USSR which are at the moment more interested in their domestic reform. Therefore forceful unification by military means is practically not feasible. But we may be able to conduct an intellectual exercise to see whether forceful unification by military means if ever employed would raise a serious constitutional problem either to South or North under their respective constitutional provisions. For the sake of argument, we can argue that forceful unification under the
rule of South would violate the ROK Constitution Article 4 ("the ROK stands for the peaceful unification policy...to set up and to pursue on the base of liberal democratic basic order") and Article 66 Section 3 (providing for the duty of the President to realize peaceful unification). For a counter-argument, we may be also able to argue that such an action by no means violates Article 5 Section 1 (providing for the ROK's pledge to endeavor to maintain international peace and to renounce an aggressive war) because it would not be "an aggressive war" but, on the contrary, would constitute an executive measure on the part of the president to execute the law within the territory of the ROK (Article 3) and to preserve territorial integrity under Article 66 Section 2 (providing for the President's duty to preserve the national independence, territorial integrity, continuity of the State, and Constitution), and Section 4 (providing for the executive power of the President). The argument is that such an action is only for the "recovery of territory temporarily under the unlawful rule of the rebels." As far as such a forceful recovery of lost territory is concerned, no doubt, Constitution Article 66 Section 2 and Section 3 are somewhat in conflict with each other. Perhaps a problem may arise, however, only as a matter of impeachment against the President for his non-peaceful action in unification (Art. 65) and as a matter of miniterial removal proceeding (Art. 63). As a practical problem, however, the President may be rather praised for his heroic deeds than censured once forceful unification is accomplished.

In outward appearance, the DPRK Constitution stands for peaceful unification (Article 5). But it requires it to proceed "on a democratic basis" (Art. 5), the meaning of which is nothing more than "dictatorship of the proletariat" to be carried out "through the class and mass lines" (Art. 10). In their view, North Korean forceful "liberation of South" is a form of class struggle waged by "a revolutionary state power" of the DPRK (Art. 3) which claims to represent "all the Korean people" composed of "the workers, peasants, soldiers, and working intellectuals" (Arts. 1, 2, 6, and 7). A means by which to achieve
national unification, whether peaceful or forceful, is only a matter of politics over which the Party has control, a matter of tactics for the goal of "liberation of South." In that sense forceful unification will not raise a legal question of whether it is against the law in North Korea. There is little of the rule of law independent of the Party politics or the autonomy of law.

On the international plane, however, its defense treaty entered with one of the super powers would be invoked to its defense when one Korea is militarily attacked by the other for unification. It is to be noted that there is a significant difference between the defense treaty entered by South Korea with the US and that by North Korea with the USSR and China. In the former treaty, the parties (South Korea and the US) agreed to "consult" whenever one recognizes that the political independence or security of the other party is threatened by an armed attack from outside (Article 2). In the latter treaties, the parties (North Korea and the USSR and China) agreed to "immediately provide military and other assistances with all possible means" to each other whenever it falls in hostilities by an armed attack from one or a combination of countries (DPRK–USSR treaty Article 1 and DPRK–China treaty Article 2). In South Korean politics, thus it has been regarded as one of the long remaining issues to resolve between South Korea and the US to upgrade the provision of mutual military assistance to that in the North Atlantic Treaty (Article 5). And a unification effort by either one of the Koreas with military means can possibly be regarded as a threat to the peace, breach of the peace, or act of aggression under the UN Charter, thereby invoking the Security Council's or the General Assembly's action for a collective action, as in the invasion of North Korea to South in 1950.

4. Permanent Neutrality

The only way to achieve the national unification except by military means appears to take a permanent neutrality course. (10) The idea even looks extremely

(10) Bong-yun Choi, "Naui jokuk tongil pangan" (My Approach to Unification of the
attractive in consideration of the cold war and the resultant stalemate between the two world blocs headed by the super powers because of whose strategic interest Korea has been held as divided. Especially to those who advocate the idea, the Austrian model is too inspiring; Austria was occupied as divided by the victorious Allied Powers following its liberation from German occupation; and by enacting a statute declaring a permanent neutral position to which the Allied Powers provided their recognition it was able to achieve national unification and an ultimate independence from the world powers, especially the Soviet Russia.\(^{11}\) Despite the apparent parallelism, however, there is an important difference between Austria and Korea. In Austria there was internal unity among post war leaders despite the four powers' divided rule.\(^{12}\) Among those naively inclined, the leaders who have been ruling divided Koreas in South and North are to be blamed under the name of Korean nation for their inability to be united and their greed which alone appear to have blocked a national unity essential for unification by a permanent neutrality course. From there some of them too easily jump to the conclusion that the national unity, that is, the nation comes first before ideology even if it means a surrender to a communist rule. It is also exactly to this kind of sentiments arguably existing in South that North Korean confederation proposal has been directed.

In any case among other Koreans, the US has been greatly resented for their failure to extend their recognition to the Korean Government—in—Exile

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in China as the legitimate government representing the Korean nation during the Pacific War and thereafter. If such a recognition had been provided by the US especially during the war, other allied powers could have followed the American suit, because the Korean army units under the government-in-exile were fighting the Japanese in close cooperation with the Chinese and American armies in China, and national unity among post-war national leaders would have been easily achieved with the Korean Government-in-Exile in the lead if it had had a victorious return back to Korea. The same surmise would be possible even if the US had extended a similar diplomatic recognition to the government-in-exile even after the war.

If there emerges a firm national unity among political forces, particularly between South and North, it would be relatively easy for Korea to have its permanently neutral position recognized by major world powers in consideration of its geopolitical location in the world. And legally Korea would have a right to demand such a recognition especially from the US and the USSR, which are responsible for its initial division and its perpetuation.\(^\text{13}\) Korea’s permanently neutral status would not disturb the prevailing international balance of power in the Far East. Conceptually, however, national unity comes prior to neutrality. Only when two Koreas overcome their differences and come to national unity, then the idea of permanent neutrality may be a tool for Korea to utilize to have major powers in the region accept her as a unified entity.

If the national unity among political leaders means a surrender to a communist rule, however, the permanent neutrality course immediately would lead to a serious constitutional problem under the ROK Constitution, because it would exceed the bound of the constitution’s “democratic basic order” (Article 8, previously 7, Section 4), the Korean version of the Grundgesetzs freiheitliche demokratische Grundordnung (Article 18), of which the protection of the fundamental human rights and pluralism are essential ingredients.\(^\text{14}\) Otherwise,

\(^{13}\) Dai-Kwon Choi, “Legal Basis and General Consequences of the Division of Korea,” p.197.

\(^{14}\) Dai-Kwon Choi, “Kibonkwonui jaehan mit hankye-ae kwanhan han yonku” (A Study on the Constitutionally Permissible Limits of the Fundamental Rights and Freedoms), Seoul
it would not cause any serious legal problem in the sense that Korea’s permanently neutral position will be well accommodated within the present constitution.

5. Incremental Approach

Now let us analyze two Koreas proposals made by South at least as a temporary measure until an ultimate national unification is realized. Two Koreas proposals in fact take the form of non-aggression pact, basic relations agreement like that between East and West Germany, and/or simultaneous UN membership, and cross-recognition of South and North by the US and Japan on the one hand and by the USSR and China on the other hand, among


(15) The Basic Relations Treaty between East and West German of 1972 (Vertrag über die Grundlagen der Beziehungen zwischen der Bundesrepublik Deutschland und der Deutschen Demokratischen Republik) includes provisions on the principle of developing a normal, neighborly relationship between the two (Art. 1), on peaceful settlement of their disputes and giving-up of use of armed forces or threat of its use according to the United Nations Charter (Art. 3), and on exchange of resident representatives (Art. 8), among others. For Germany’s Basic Relations Treaty and other related instruments and documents, see _Tong sodok kwanye-ne kwahan hogo mit munso_ (Reports on the Development of East-West German Relations and Documents) (Seoul: the ROK National Unification Board, 1981); _Rechtsstellung Deutschlands: Völkerrechtliche Verträge und andere rechtsgestaltende Akte_, herausgegeben von Professor D. Dietrich Rauschning, (Nürtingen: C.H. Beck, 1985).

(16) The Formula for National Reconciliation and Democratic Unification proposed by President Chun Doo Hwan and the follow-up Twenty Pilot Projects between South and North Korea by the Minister of National Unification in 1982 are a typical example of incremental approaches which presuppose a two Koreas policy at least as a provisional measure. For the Formula for National Reconciliation and Democratic Unification and the Twenty Pilot Projects, see _Namjuk daehwa poekso_, pp.270-295: _Minjokhwaphap minjutongil ron_ (On the Formula for the National Reconciliation and Democratic Unification) (Seoul: the ROK National Unification Board, 1982 through 1986), Vols. 1 and 3; Sung-u Yi, ed., _Tongil hankukui mosaek_ (Search for Unified Korea) (Seoul: Pakyongsa, 1987); Yong Chul Ha, “Minjokhwaphap minjutongil panganul nonpyonghanda” (Comments on the Formula for National Reconciliation and Democratic Unification), _Minjok jisong_, April issue of 1987, pp.94-101; Korean Unification: Source Materials with an Introduction (Seoul: Research Center for Peace and Unification of Korea, 1986), pp.208-213 and 214-216.

The recent South Korean government’s policy decision of allowing direct or indirect (through third countries) barter with North Korea can be seen in the same vein. See _Choson ilbo_, July 8, 1988 issue for the July 7th announcement. And the idea of cross-recognition by the 4 powers along with those of non-aggression pact and simultaneous entry into the membership of the United Nations is very recently made more plausible by the Soviet
others. We believe, however, that the latter two ideas may well be taken as an important international guarantee institution of the two Koreas situation more than themselves a two Koreas proposal, as will be seen shortly.

Above all, both non-aggression pact and basic relations agreement rely for their success on mutual trust between contracting parties and on their willingness to enter and to observe, as does any agreement. Between two Koreas, however, there are no such things as mutual trust and willingness thus far. Particularly North Korea has been denouncing those proposals from South as perpetuating the national division. That means, for a meaningful non-aggression or basic relations agreement, it will require both Koreas to accept the principle of co-existence, especially North Korea to give up the goal of liberation of South, more than anything else.

Moreover, many two parties non-aggression pacts in the past, like the Hitler-Stalin non-aggression agreement and the Japanese-Russian non-aggression agreement shortly prior to the Second World War, were a secret one and made purely for political convenience. With disappearance of the intended convenience, no party would have any incentive to observe the pact. Failure to observe the pact simply means an outbreak of war which it intended to prevent. Thus, a non-aggression pact does not mean very much except for the intended convenience; it does not guarantee peace at all unless there exists a peace-keeping mechanism otherwise available. Indeed a non-aggression pact is cognate with an alliance treaty. (17) Needless to add, a basic relations agreement contains in it an agreement not to attack each other. Certainly a multi-party alliance and particularly an international peace system such as the League of Nations and the UN are an international guarantee institution for a non-aggression obligation, which is in turn an integral element of such multi-party

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guarantee systems. It is in this light that the South and North simultaneous entry to the UN membership is an important international guarantee institution for a nonaggression and for a basic relations agreement between two Koreas. The four powers cross-recognition of both Koreas scheme can be also an important international guarantee scheme if it is made an essential element of overall six parties (two Koreas and four powers) agreements in which two Koreas' basic relations agreement and its guarantee by the four powers are to be included. If two Koreas are serious enough to enter a non-aggression pact with mutual trust to observe, they ought to prefer a basic relations pact to it. A non-aggression pact can be only a poor substitute for a basic relations agreement. Without mutual trust, a non-aggression pact does not mean much, perhaps except for its propaganda value or other insidious motive behind.

What legal effects would such a non-aggression pact or a basic relations agreement have? Would it lead to a formal recognition of a party as a government or as a state by the other party? What would be the nature of relationship between two Koreas? What happens to the constitution of each party? We believe that answers to these questions depend to a great extent on what contents such a pact would contain, that is, what effects the parties would intend to give to their action. Such a pact probably would provide for territorial integrity, obligation not to attack each other, and peaceful settlement of disputes between parties.\(^{(18)}\) It would not be a wild guess to say that it would not amount to, more correctly, it would not be so phrased as to amount to, a recognition of each other as a state but as a government at best, in consideration of the momentum the past history, past rhetorics would have and in consideration of the respective constitutional provisions of each party, especially the sovereignty provision over the entire Korea. Probably both Koreas would not go all the way to amend their constitution's sovereignty provision. Thus the one-nation—one-state—two governments formula may be maintained. And yet it would be an extraordinary job on the part of lawyers to maintain the sovereignty provi-

\(^{(18)}\) See Footnote (15) above.
sion intact while accepting the one-nation-one-state-two-governments formula. We suppose that lawyers may have to be creative enough to invent a few theories like, for example, one that, from the ROK Constitution’s perspective, the ROK’s sovereign power over the portion of the territory presently under the rule of the DPRK is now only dormant or the portion of territory is left now in trust of the DPRK until the ultimate national unification is realized. Internationally, each of two Koreas will have the full-fledged legal capacity to enter into foreign relationships with other nations. The inter-Korea relationship, however, will have to be treated as a domestic public law relationship between two domestic public entities, for example, in the matters of travel documents, taxations, etc., in a more or less similar fashion to that in two Germanies.

Technically a non-aggression or a basic relations agreement raises a potentially important problem with the anti-subversive activities legislation. A series of activities from an initial contact to negotiation to signature and announcement on the South Korean part constitute a violation of South’s National Security Law, particularly its Article 7. Under the law as things stand now, the North Korean government is no doubt a “domestically organized or otherwise subversive organization” which is designed to “assume the governmental authority or to subvert the state” (Article 2). The National Security Law Article 7 Section 1 provides for punishment of “one who praises, supports, or sides with activities of a subversive organization, its member, or one who is under its instruction, or otherwise provides benefits to it.” Those activities of governmental officials leading to the conclusion of a South-North non-aggression or basic relations agreement can be interpreted to constitute an act of “support, siding with”, or at least “providing benefits otherwise.” Such an agreement certainly is beneficial to the interests of the DPRK from the South Korean perspectives in the sense that it becomes a semi-legitimate government within territory under its rule from the previous insurgent status in the South Korean legal eyes. These and other problems arising from the National Security Law will be tackled in due course in connection with the
discussion of the present unification politics blooming in South Korea today. We do not know much about what problems even in theory such a non-aggression or basic relations agreement would create under the North Korean penal law. Probably no problems would arise at all under the North Korean penal law because those who are in governmental positions would do all the activities necessary for such an agreement; little of the rule of law autonomous of the political decision-making exists in North Korea.(19)

6. Federation Proposal

Now let us turn to the federation or confederation approach to national unification. It is North Korea’s long-standing proposal which Kim Il-song has been advocating over the period of almost three decades now. Each time his proposal has certain variances with his previous proposal, the details of which are not worth an analysis here. The important point is that what he really means by the Korean term yonbang was never clear: sometimes he seemed to mean by yonbang a federation, for example, when he talked about one Korean

(19) In North Korea the law subservient to rather than autonomous of the Party politics prevails on the basis of the so-called socialist legal theory. In North “the law as the powerful tool for the realization of the party policies” has been one of the main themes in their jurisprudence, and the mottos of legality and of independence of judges have been regarded as revisionist or bourgeois ideas. Thus, it is unimaginable that a series of actions and activities which would be taken by the governmental officials to conclude a pact or agreement with South pursuant to the Korean Workers Party decisions would cause a criminal problem even in theory. See Kye-mun Pang, “Gonghwakukbopun uridang jongch’aek silhyonul wihan kangryokhan sudan” (The Law of the Republic is the powerful means for the realization of our Party’s policies), in Gonghwakukbopun sahoeju-ui konsoleui hongryokhan mugi (The Law of the Republic is the Powerful Weapon for Construction of Socialism) (Pyongyang: Sahoekwahak ch’ulpansa, 1964), pp.1-30. See also other articles in the same book and Uribu bopui baijon (Development of Law in Our Country) (Pyongyang: Kukrip ch’ulpansa, 1960); Chuch’e ui hongboprion (Constitutional Theory of Chuch’e) (Pyongyang: Sahoekwahak ch’ulpansa, 1967); Chosonminjujui inmingonghwakuk sahoeju-ui konbopun sahoeju-ui konsoleui himikutae daguch’ilinsuikae hanun wirokhan mugi (The Socialist Constitution of the DPRK is the Powerful Weapon to Forcefully Facilitate Construction of Socialism) (Pyongyang: Kwaekwakwaesang ch’ulpansa, 1978); Widaesan Suryoong Kim Il-song Donjeikkweso Palkyoyojain Sahoejuui bopmasaenghwalee kwahkhan riron (Pyongyang: Kwaekkwaesang ch’ulpansa, 1980); Bopkonsol gyonghom (Experience with Construction of the Law) (Pyongyang: Sahoekwahak ch’ulpansa, 1984); Kyu-sung Kim, Chosonminjuhugi jinminkyoowagechunho to sihoseito (The Law and Legal System of the Democratic People’s Republic of Korea) (Tokyo: Nihonpyoronsa, 1985).
UN membership under the Democratic Federal Republic of Koryo (Koryo min-
juyonbang konghwakuk); many other times he appeared to mean by yonbang really a confederation, for example, when two separate systems of South and North would remain intact under the yonbang scheme.

In Korean language federation and confederation are very distinct: federation is yonbang and confederation is kikkayonhap. He always used the term yonbang to name his idea; he never used the term kikkayonhap. But in North Korean official English version of his proposal, he always used the term “confederal”. Another complication in Korean language is that the British Commonwealth of nations is translated as yong yonbang of which the prefix yong means only British. Thus a reverse translation of yong yonbang from Korean into English would be British Federation. Perhaps he means by yonbang the Soviet Russian concept of federalism. We have to use the same term yonbang in order to translate the USSR into Korean sovet sahoeju-ui yonbang-kongwhakuk. Perhaps he had in mind a political accord between the Communists and the non-Communists, as evidenced in the Chinese cases of the Nationalist Communists accord made in 1924 and during the anti-Japanese war in 1937, more than a

(20) See Rodong sinmun, June 24, 1973 issue for Kim Il-song’s speech at the welcoming mass meeting for Secretary Husec of Czech Party on June 23, 1973, and Rodong sinmun, October 20, 1985 issue for Vice-President of the DPRK Pak Song-chol’s speech at the UN General Assembly in celebration of its 40th anniversary on October 18, 1985. A state alone can be a UN member (The UN Charter Art. 4).

(21) See Rodong sinmun, August 15, 1960 issue for Kim Il-song’s speech at the mass meeting in celebration of 15th anniversary of Korea’s liberation from Japan on August 14, 1960.

(22) For example, “a north-south confederation” in Kim Il-song’s answers to the questions raised by the journalists of Japanese paper Mainichi shinbun The Pyongyang Times, September 23, 1972 issue: “The institution of a north-south confederation” in Kim Il-song’s speech made at the commemoration of the 3rd anniversary of Foundation of the KWP, The Pyongyang Times, October 18, 1975 issue.


legal institution of federalism. In fact, he also uses the term hapzak (accord; cooperation) along with yonkye(link) in describing his idea of Koryo yonbang konghwakuk.\(^{25}\) In Korea by hapzak we are usually reminded of the Nationalist-Communist accord. Perhaps he wanted to mean by yonbang a one-state-two-system situation which can be visualized with the status of capitalist Hongkong within the sovereign power of the Communist China when the former is returned to the latter.\(^{26}\) We believe probably his vagueness is intentional in order to deceive a naive partner or to escape from obligations easily when he finds there is nothing to gain. After all, one must bear in mind the fact that the very legalist term federation is used here without a clear definition by a communist leader in the communist-ruled land in which the rule of law holds practically no roots.

Both federation and confederation are in fact a very foreign concept to Koreans, and perhaps to the Far Easterners in general as well. Kim Il-song’s proposal has indeed contributed to the enrichment of our knowledge of those institutions among specialists in the sense that it had made us do a diligent study of the institutions to know what they really are.\(^ {27}\) To many Koreans,

\(^{25}\) See Kim Il-song’s speech made at the 6th Congress of the KWP on October 10, 1980, Rodong sinmun, October 11, 1980 issue.


however, their complex and delicate nature is still largely not well known. Kim Il-song's proposals are in fact directed to this large group of Koreans to gain their support of the proposal to his benefit.

Certainly there does not exist the definition of federalism. This does not mean that there do not exist certain central features of federalism and those of confederation by which we can tell them from other system of cooperation and one from the other. No doubt the British Commonwealth of Nations is by no means a federal system, nor a confederation, despite Korean usage of the term yonbang. In terms of a system of cooperation and co-ordination between a central authority and a local autonomy, federation and confederation naturally come somewhere in the middle of the continuum running from a unitary state with local governments, to federalism, to confederation, to the EC-like international organization to the UN to a simple alliance of nations. One of the central features of federalism and confederation is that in terms of international legal personality a federal state is one sovereign state just like a unitary state (although component units of a federal state may have a limited treaty-making power under the federal constitution) while under a confederation plan component units are respectively independent states with certain agreed-upon common governmental functions entrusted to their united government which is by no means a state and yet may have a limited international legal personality. Naturally a confederation shares a few common features with an EC-

like organization (28) and the UN in that component members are sovereign states upon which execution of the decisions of the central government and its finances ultimately rely and citizens remain nationals of member states but not of the central government.

Another central feature of federalism is the principle of division of powers between the central government and component units by which each of the governments is coordinate and independent within their respective jurisdiction; citizens are both citizens of the center and the component units. Still another feature of federalism is constitutionalism: (29) the federal principle (of the division of powers) is provided in the constitution in such a way that the division of powers is now an important constitutional matter; powers of the central government or constituent units cannot be increased or diminished unilaterally by one of them without constitutional amendment, in the process of which both of them are entitled to participate; and there is a certain constitutional mechanism by which to resolve jurisdictional conflicts between them (for example, judicial review or national referendum as possibly in Switzerland).

In a unitary state, the division of powers between the central government and local units is a matter of legislation. In the Soviet Union, not only the USSR but two of its component republics, Ukraine and Byelorussia, are also members of the UN whose membership is supposed to be limited to a “state.” Under the Soviet constitution a member of the Union has the right of secession (Article 72) and the unhindered right to enter into diplomatic relations with other nations (Article 80). They are attributes of a sovereign state indeed. These and other features of the Soviet constitution, the lack of constitutionalism in


the Western sense, and the ultra-legal dominating position of the Communist Party, the state party, among others, refutes outright the federal nature of the Soviet Union. Through the Communist Party domination it is more a unitary state than a genuine federal state.

Now what would the North Korean proposal of yonbang amount to, to a federalism or a confederation if what they proposed is realized? Briefly stating, the North Korean proposal made in 1960 appears to show a confederation scheme;\(^{(30)}\) Kim Il-song talked about setting up of the Supreme National Council composed of delegates from two governments and letting it coordinate South and North Korean economic and cultural development while leaving their respective political systems intact with the DPRK and the ROK doing their own business. In the proposal made in 1970’s, particularly around 1972 when South-North detente was in full bloom,\(^{(31)}\) however, the North Korean idea seems to have leaned a bit toward federation in that it still talked about setting-up of the Supreme or Grand National Council composed of delegates from both governments under the title of Koryo yonbang konghwakuk (literally Federal Republic of Koryo but Confederated Republic of Koryo in their English version) and letting it resolve political, economic, military and cultural problems arising between South and North while leaving the two existing respective systems intact, but also talked about UN membership as a federated single state. The proposal made in 1980 and thereafter, appears to have moved a bit further to federation while still retaining confederation features.\(^{(32)}\) This time

\(^{(30)}\) See Kim Il-song’s speech made at the mass meeting in celebration of 15th anniversary of Korea’s liberation. See Footnote (21) above.

\(^{(31)}\) See the DPRK’s Foreign Minister Ho Dam’s speech at the 5th meeting of the 4th Congress of the Supreme People’s Assembly on April 12, 1971 (Redong sinmun, April 13, 1971); Kim Il-song’s remarks at an interview with two New York Times reporters on May 26, 1972 (Anbotongii munjae kibonjaryojip (Source materials on National Security and Unification matters), sok pukhanpyon, (Seoul: Dong-a ibo, 1974), p.105); Kim Il-song’s remarks in a newspaper interview with Mainichi shinbun reporters on September 17, 1972 (Rodong sinmun, September 19, 1972); Kim Il-song’s speech made at a mass meeting welcoming the visit of Czech Communist Party’s General Secretary Husac on June 23, 1973 (Rodong sinmun, June 24, 1973).

\(^{(32)}\) See Kim Il-song’s speech at the 6th Congress of the KWP on October 10, 1980 (Rodong sinmun, October 11, 1980); DPRK President’s special envoy Pak Song-ch’ol’s speech at the UN General Assembly meeting in celebration of the UN’s 40th anniversary on October 18,
it has a far more elaborate description of a federated state formed by South and North although their official English title still retaining confederation ("Confederal Democratic" Republic of Koryo) while leaving their respective ideologies and systems to remain intact; under the unified national government, the Supreme National "Confederal" Conference and the "Confederal" Standing Committee, in which South and North participate with the equal powers including that of regional self-government within their own sphere and equal obligations; and the Democratic "Confederal" Republic of Koryo remains "a neutral state" that would not participate in any political or military alliance or bloc, and applies for a UN membership as a single state.\(^{(33)}\)

Whatever his proposal may amount to when realized, Kim Il-song cannot fool us about a few things: under a confederate scheme South and North remain legally (internationally) separate, not unified at all while they simply let a congress formed by them to conduct a few things for them. On the other hand, federalism presupposes a national unity whose legal expression is a single sovereignty within which there cannot be two international entities.\(^{(34)}\)

Logically, therefore, it is hard for a rational man to imagine how it is possible for two Koreas to form a national unity by way of federation when they cannot be united otherwise? Secondly, it is still hard to believe how it is possible for two Koreas to enter into a confederation agreement, not to mention a federation agreement, with a one-shot resolution between them while they have not been able, more accurately, North has been refusing, to come to such a simple humanitarian agreement as those of postal exchange and home visit or as those of purely economic trade for more than four decades thus far. Thirdly, mutual trust would be the more needed for a confederation or federation agreement than any other practically oriented agreement. But it has been starkly lacking between two Koreas thus far, as evidenced by such signs

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1985 (Rodong sinmun, October 20, 1985).

\(^{(33)}\) Ibid.

as various subversive activities, infiltration tunnels, and bombing terrors. Moreover, there were always unacceptable preconditions attached to their yonbang proposal like the withdrawal of the US troops and democratization of South in their fashion. Then it does not require a great imagination to figure out what those confusing yonbang proposals are intended to accomplish. Those proposals were made invariably when South Korean society was unstable with experimentation with political liberalization following the overthrow of Rhee regime in 1960 and the assassination of President Park in 1979 or with shocking experience of Park's imposed authoritarian yushin machine structure mixed with heightened aspiration for unification with South-North Agreement in 1972.

Even if there is mutual trust between South and North and even if there is sincerity on the part of both Korean leaders, however, we believe that the lack of the tradition of constitutionalism would hinder a successful implementation of confederation and particularly that of federation agreement. Without such a tradition, constitutionally provided guarantee institution (like judicial review) would not function at all.

Furthermore, communist doctrines always place revolutionary needs above constitutional or legal considerations. Even assuming that it would not cause a problem for federalism, it is still extremely hard to imagine under what kind of federal constitution two conflicting systems, a pluralist free democratic and a totalitarian communist systems, can co-exist without one system dominating the other. Is it indeed possible for the conflicting systems to co-exist at all under a federal constitution? Firstly, there is no such a precedent. Secondly, if under the same federal constitutions (if it is a genuinely federal constitutions) pluralist parties from South can compete with the communist party not only in South but also in North the constitution will be a pluralist constitution; in order to live under the constitution North has to give up their monopolistic position even within North (North would not take this course). Then the communist party will be relegated to that of the communist party in Italy or in
India whose federal constitution is definitely federal and pluralist. The reverse situation will be that pluralist parties may be permitted to exist nationally or within a region (comparable to Hongkong in Communist China called one-state-two-systems) under a communist controlled federal constitution but always with the dominating position of the communist party reserved. Now if one system is completely closed to the other system within the same federalism, is the federal constitution still a federal constitution? Lastly, whatever it may be, a constitution cannot be acceptable if its provisions are repugnant to the human dignity and value as such. And there still remain problems of what to do when a confederal or federal constitution is in conflict with that of the ROK or the DPRK.

7. Requirements

It is very clear from what we have analyzed thus far that it is crucial to build up a mutual trust between South and North going beyond one’s toleration of the other’s existence either for a non-aggression and basic relations agreement—two Korea solution—or for a permanent neutrality or federation or confederation agreement—one shot solution—or for an incremental approach. For national unification it will be more crucial to have a community formed between the two that stands above the interests of its component units (like a community of defence against their common enemy or a community of economy against their common competitors). An incremental approach is geared to the building of such a community between two Koreas. Beyond this, there is nothing much to analyze legally in an incremental approach.

It is up to the Korean Workers Party to decide how much diversity will be allowed in discussing national unification or two Koreas policy in North Korea. In that sense it is more a political question than a legal one (DPRK Constitution Art. 53) in North Korea. And it is characteristic of North Korea that there has been always one official position available on any matter related to national unification or two Koreas policy. Officially with a single voice the North Korea
strongly opposes any of two Koreas policies. In South Korea, however, the question of diversity in discussing national unification or two Koreas policy is a constitutional matter of freedom of expression (Art. 21) and its limitations (Art. 8 Sec. 4 and Art. 37 Sec. 2) above all. Pluralism is a built-in attribute of the constitutional system. By a National Assembly-made statute, that is, the National Security Law, however, the freedom of expression has been severely curtailed on the ground of national security as far as matters related to the North Korean regime and its policy lines are concerned. In addition to the National Security Law, there was Anti-Communist Law from 1961, but by way of statutory amendments in 1980 it was abolished, although its essential parts are now incorporated into the National Security Law. Thus, not only a subversive organization whose definition we have mentioned above but "a domestically organized or other organization or collectivity whose activities are in the communist line with the purpose of assuming the governmental authority or subverting the state" also comes under the proscriptive purview of the Law (Art. 2 Sec. 2). One of the problems with the National Security Law (and the Anti-Communist Law) has been its liberal interpretation by the police with the support of the Supreme Court. Although the court decisions are not always consistent in the interpretation of the Law, a number of liberal or socialist activists were also prosecuted under the Law for their being a member of a controversial anti-government organization or for their working for it. Activities for which criminal prosecution was instituted under the law included production, possession and distribution of publications "designed to praise, support, or side with" the activities of the DPRK or other communist organization, or paralleling in their contents the DPRK's propaganda toward the South, which could include North Korean unification proposals. No doubt, the National Security Law has been a strong weapon to fight against genuine subversive activities undertaken by the DPRK or its agents for many decades. But it has at times been used to stifle opposition activities and liberal debates on national security and unification policy as well. The government alone was
immune in meeting officials of the DPRK or agreeing with them.

With liberalization from the last year, however, radical activities, organizations, and ideas, including unification proposals not initiated by the government, which were previously unthinkable particularly under the National Security Law, are now in full bloom without fear of being prosecuted today in South Korea. These are especially true with radical students and those in the so called opposition circle (jaeya saeryok). Their demands include abolition or radical elimination of problematic provisions of the National Security Law. The pendulum has swung apparently from one end to the opposite. We believe, however, that there must be the guiding principles.\(^{35}\) No doubt, the constitutional principles are the guiding principles in the matters, not because South Korea stands for them, but because they represent the present level of humanities in this civilized world today. They include the freedoms of expression and association on the one hand and the principle of “the democratic basic order” in which those freedoms and rights cannot be available to destroy the very order by which they are protected on the other. The Constitution of the ROK just happens to have provided those principles in its provisions (Article 8 Section 4, Article 21 Section 1, and Article 37 Section 2). Accordingly, the National Security Law should be radically changed preferably by way of legislation or by principled interpretation (in conformity to the constitutional principles) in such a way that it applies strictly to concrete subversive activities but not to those simply in tendency to endanger the national security.\(^{36}\) In this

\(^{35}\) There have been hot debates on the fate of the National Security law and talks on the needs for its amendments. But a consensus has not yet emerged on the problems of what and how to do with the statute. See for those debates and talks, for example, Ho-kyong Namkung, “Kukkaboanbopui haesokronjok koch’al” (An Interpretational Analysis of the National Security Law); Song-u Hong, “Kukkaboanbopui siltaewa kibonjok inkwonui ch’imhae” (The Reality in the National Security Law and Violations of Fundamental Human Rights); Sun-ok Kuk, “Kukkaboanbopui paejiva ku ihu-ui munjaedul” (Abolition of the National Security Law and Problems Thereafter), in Daekan pyonhosakhojophoeji (Korean Federation of Bar Associations Journal). September of 1988 issue, respectively pp.8–23, 24–28, and 29–35.

area the American doctrine of clear and present danger can evidently be a supplementary interpretational rule in perfect conformity to the Constitution Article 37 Section 2. Thus even a communist party is OK if through its avowed programme and policies and through its activities it firmly stands for pluralism, particularly *Parlamentarismus*, among others. A unification or other proposal as such which happens to be paralleling Kim Il-song’s proposals or propaganda should not be within the purview of the National Security Law unless they constitute a concrete part of genuine subversive activities.

8. Concluding Remarks

The legal albeit unstable structure of the relation between two Koreas has not basically been changed since the end of the Korean War: the Armistice Agreement; the Constitution of the ROK with the claim of the sovereign power over North Korea; the Constitution of the DPRK with its goal of liberation of South; the one-nation-one-state-two-governments formula; and the ROK and the DPRK respectively as frontiers of the two world blocs in the cold war. Not only the built-in instability in the legal structure but also important political and economic changes that have taken place, however, have been functioning as stimuli to revise the legal *status quo* either in the direction of a better, stabilized relation between two Koreas, for example, in the form of entering a basic relations agreement or in the direction of national reunification by a peaceful or military means (a North Korean variation of forceful unilateral unification method is to topple the South Korean government by means of instigating popular uprisings mixed with subversive activities and terrorism and to unite by collaborating with “friendly” forces). Those changes include among others industrial revolution of South Korean society and the resultant internal dynamism and the enhanced world posture towering over the North, China’s switch to market economy and trade with South Korea, the USSR’s open and restructuring policies, South Korea’s improved relations with East European countries including the USSR, and the US-USSR detente.
Who are to revise the *status quo*? Naturally the two Koreas are to initiate and to undertake a legislative action to revise the *status quo*. The principle of national self-determination should apply here.\(^{(37)}\) Besides, legally speaking one who is aggrieved by an unlawful state of matter, that is, imposed national division and its perpetuation is entitled to demand its redress (Apparently this reasoning does not apply to German division). Those who are responsible for the unlawfulness, Japan, US, USSR, and China, are responsible for the redress as well. This principle should be available for the support of whatever alternative two Koreas come to take for the betterment of their fate: two Koreas relation or peaceful unification.

Use of military means even for the achievement of national unification, however, should be condemned both as the most systematic violation of humanities for the protection of which law exists including the declaration and protection of human rights particularly on international level, and as the grave crime against the Korean people in that it involves killing millions in the name of the Korean nation. Besides, such a forceful action will not be practical; it will not be tolerated so as to change unilaterally the world balance of power in the area.

Since the fate of the Korean people is very much up to two Koreas themselves and since the use of military means for revision of *status quo* is out of the question, then it is imperative for the two Koreas to form one community that would prevail over their separate ties with other powers. If two Koreas thus can come to unification by peaceful means, a neutral position toward the West and the East would be strategically an important device for unified Korea to take. If two Koreas cannot come to agree to form a unity, the alternative is a two Korea position. For two Korea relations they need mutual trust and acceptance of the other’s existence.

In German situation West Germany is incorporated into the EC and the NATO and East Germany into the COMECON and the Warsaw Pact. The world powers who had participated in the division of Germany do not want Germany to be united. Therefore German reunification either by way of using military means or peaceful means is out of the question. Probably realization of this fact also had led Germans to come to enter the basic relations agreement. In Korea, however, incorporation of South Korea into the Capitalist world and that of North Korea into the Communist bloc are not that firm and committed, as we have seen. In that sense two Koreas have definitely more room to move around for the betterment of their fate, but there are undeniably risks and perils involved there too.

Whatever option two Koreas take for their betterment, there are imperatives for them to follow. The order of imperatives for better future of Korea runs from a community, to mutual trust, to mutual acceptance of each other’s existence, then to each other’s necessity to accept the other’s existence. The forming of a national community is imperative for a peaceful unification to be attained either by means of a one-shot political solution or by way of an incremental approach. Without such a national community, a peaceful unification will not be easily obtainable. Then the choice is to enter into a basic relations agreement for the realization of which mutual trust is essential. Even if there is no mutual trust, a felt necessity to accept each other’s existence and a felt need to enter into an agreement can be a functional equivalent to mutual trust. And here an international guarantee system can be a very important institution to facilitate a basic relations agreement even without mutual trust. A basic relations agreement is preferably to be made a part of a bigger deal by which the US, the USSR, China, and Japan enter an international guarantee organization including their cross-recognition of South and North. This kind of scheme would certainly enhance the world peace while eliminating tensions in the region as well.

We believe the concept of mutual need to enter an agreement for a better
relationship has implications. As a policy matter, fostering of such a mutual need is important. For example, if South Korea can be instrumental in having an EC-like prospering economic community formed by nations along the Pacific rim including China, then North Korea will have every incentive to join the kind of international community, through which South and North will be able to have a practical relationship, which in turn can develop into further relationships. The recently suggested idea of a big brotherlike role for South Korea to play vis-à-vis North Korea should be conceptualized in a similar vein, that is, as a way to foster such a need.

Since we are talking about mutual trust and mutual need, a hasty approach to a better South–North relationship is not desirable as witnessed in South Korean society today. We believe patience can be an asset here. Every major group recently voices their unification ideas and proposals as not coordinated. Those can no doubt be easily played into the hands of the North Korean regime which always makes a well calculated move with one voice. Diversity in South can be a strength only when the major political forces and parties do aggregating functions very well in unification matters as well. Moral leadership of political parties is essential for their aggregating functions. Through their political leadership, the national pride and accompanied sense of confidence as a nation newly gained by having successfully hosted the Olympic games should be fruitfully geared to a revising action to improve the present unstable two Koreas relations or to realize the aspired national unification. Otherwise, national energy can be wasted to ruinous internal disruptiveness.