

The illegality of the “United Nations Command”, The illegality of using the UN Flag by “UNC”

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Let me introduce myself. I am a photographer, and the subjects of my photographic work include the DMZ, US Forces Korea, Japan, Germany, and the “United Nations Command.” South Korea still maintains the National Security Law, which is designed to control political dissent. Because of my work on US military bases and the “United Nations Command”, I was imprisoned for charges of violating the National Security Law for secretly disclosing military secrets and praising and encouraging North Korea. The argument was that criticizing the “UN Command” was unique to North Korea. However, I won a decisive victory in court, and since then, discussion of the “UN Command” has been legalized in South Korea. As a result, an organization called the ‘International Campaign to Abolish the Fake “UN Command”’ was formed, and Professor Lee Jang-hee, one of today’s speakers, is its representative. Today, I will discuss the illegality of the “UN Command” and, in particular, explain the significant achievements we have made in the movement to ban the use of the UN flag by the “UN Command”.

1. “UNC” is Not a Organ of the UN

Relevant Facts and Law1

The Security Council Resolution 84 recommended all UN Members “providing military forces...make such forces...available” to a US-led “Unified Command.” This was the result of the United States’ rejection of the proposal of the then UN Secretary-General Trygve Lie and others to establish the new military command as a subsidiary body of the UN.

Moreover, the ‘recommendation’ in the Article 39 of the United Nations Charter has been interpreted, from early time of the UN Charter, to limit its use only for a peaceful resolution of conflict listed in Chapter 6 of the UN Charter.¹⁾

Thus, the US-drafted SCR 84 was adopted in violation of the Article 39 by recommending military aid to the Republic of Korea(South Korea) to the UN Member States.²⁾ Therefore, the recommendation for the creation of the Unified Command was neither legal nor a UN entity. However, the Truman administration unilaterally changed the name of the Unified Command to “UN Command” on July 25, 1950. Because of this, it was misunderstood by many people as if the “UNC”

was a UN entity.

Relevant Facts and Law 2

On June 16, 1994, the United Nations Office of Legal Affairs provided its legal analysis on the “UN Command.”

“Security Council recommended that all Members providing military forces and other assistance to the Republic of Korea make such forces and other assistance available to a unified command under the United States of America… Clearly, the Security Council did not establish the unified command as a subsidiary organ under its control. Therefore, the creation and/or dissolution of such command does not fall within the responsibility of any United Nations organ such as the Security Council but rather within that of the United States Government…there was no United Nations involvement in the conduct of military operations and no United Nations budget for the unified command.”³⁾

2. Theft of the UN name by the US “UN Command”

Relevant Fact 3

According to Senator Tom Connally, who was the Chairman of the Senate Foreign Relations Committee in 1950, Truman told him and other key members of the Congress at a White House briefing on Korea, June 30, 1950, that “MacArthur was …the UN commander as well as the United States commander in the fighting.”⁴⁾

On July 8, 1950, Truman announced that he designated Gen. 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.” Then, on July 10, the US Joint Chiefs of Staff (JCS) sent an official message to the Far East Command, informing MacArthur that he was designated by the President as “commander of the military forces assisting the Republic of Korea which are placed under the unified command of the United States.”⁵⁾

Here again, there was nothing said of the “UNC” in the JCS message. In response, however, MacArthur sent a personal message to Truman on July 11, thanking Truman for his appointment of him as the “United Nations Commander of the international forces to be employed in Korea.”⁶⁾

July 11, Truman sent a personal message to MacArthur, expressing his appreciation for MacArthur’s message relating to the General’s appointment as the “United Nations Commander of the international forces in Korea.”⁷⁾ If this is true, then it was, after all, Truman himself who started using the UN title first. In his memoirs, he stated as follows: “We were in Korea in the name and on behalf of the United Nations. The ‘unified command’ which I had entrusted to Douglas

MacArthur was a United Nations command.”⁸⁾

As for the name of the “United Nations Command” itself, it was officially established as a separate military command in Tokyo on July 25, 1950, in the name of Gen. Douglas MacArthur.⁹⁾ The First Report of the UC (USG) to the SC described the multinational forces fighting in Korea as the “United Nations Forces” as well as “Unified Command forces.”¹⁰⁾ And from the Second report, officially used the name “United Nations Command” ¹¹⁾

The use of “UNC” name was nothing more than a deliberate abuse of the UN name.

Relevant Fact 4

On November 29, 1966, the US Embassy in Korea reported to the US Department of State that it was illegal for the US to use the name “UNC” and discussed countermeasures against it.

‘We should also be aware that the UN resolution called only for a “Unified Command” and the phrase “United Nations Command” does not appear in any UN resolutions. “UNC” appears to have been adopted at the beginning of the Korean War as a name for the “Unified Command” solely as a unilateral action by the US and, though unchallenged over the years, is, nevertheless, without UN sanction. In this era of UN peace-keeping forces in various parts of the world, the UNC is an anomaly in terms of its relationships to the UN... Now that hostilities have been over for thirteen years, the Soviets could argue that the pattern established for other UN peace-keeping forces in their relationships with the UN should be followed or UNC should be stripped of its UN cloak.’¹²⁾

The above text shows that the United States was also fully aware that the use of the name “UN Command” was a violation of Security Council Resolution 84.

Relevant Law 5

In June 1994, the UN Office of Legal Affairs issued the following clear legal analysis of the use of the name “UNC.”

‘The so-called ‘United Nations Command’ is a misnomer.’¹³⁾

As such the abuse of the UN name by “UNC” is a violation of UN Security Council Resolution 84.

3. Illegal use of the UN Flag by the “UN Command”

Relevant Fact and Law 6

On October 20, 1947, the UN General Assembly, by resolution 167(II), authorized the UN Secretary-General to create a UN Flag Code.¹⁴⁾ Accordingly, on December 19, 1947, Secretary-General Trygve Lie drafted and issued the Flag Code.¹⁵⁾

Pt. 8 of the Code stated that “the flag shall not be used except in accordance with this Flag Code.” But the Security Council authorized the Unified Command, under the SC Resolution (SCR) 84, to use the United Nations flag at its discretion.

According to UN Flag Code, the authority to use the UN flags was given to the UN Secretary-General, not with the Security Council. Therefore, the SCR 84 was in violation of the UN Flag Code.

Relevant Fact and Law 7

The SCR 84 also authorized the use of UN Flag only “in the course of operations against North Korean forces concurrently with the various nations participating”.

However, the UN flag Code did not contain a provision authorizing the use of the flag in military operations. On 28 July, 1950, Secretary-General Trygve Lie added to the Code a new paragraph under Pt. 6, which stipulated that “the flag may be used in military operations only upon express authorization to that effect by a competent organ of the United Nations.”¹⁶⁾ Hans Kelsen leading legal scholar on the Charter and Law of the United Nations criticized this new provision as “an ex post facto justification” of the SCR 84.¹⁷⁾ Furthermore, he said such authorization had “no basis neither in the Charter nor in the Resolution 167(II) of the General Assembly.”¹⁸⁾ The authority to approve the use of the UN Flag rests solely with the Secretary General of the United Nations. Nevertheless, the US-led “UNC” has been using the UN flag in Korea and Japan for 73 years now, although the “operation against North Korean forces” was halted in July 1953 with a military Armistice Agreement.

Relevant Fact and Law 8

According to a joint letter sent to the Secretary-General by 28 Member States on 15 September 1972, they asked to add to the agenda of the 27th session of the General Assembly a draft resolution with the title of “Creation of Favorable Conditions to Accelerate the Independent and Peaceful Reunification of Korea,” and the second clause of the resolution stated that the General Assembly “Considers that the right to use the United Nations flag...in South Korea, should be annulled.”¹⁹⁾ Thereafter, the US wrote a letter to the Security Council, informing that it will “undertake measures to reduce manifestations of the ‘United Nations Command,’ including restricted use of the flag...”²⁰⁾ About three months later, the US sent another letter to the Security Council, informing that “from 25 August 1975, the United Nations flag” will no longer fly over military installations in the Republic of Korea “except at facilities directly associated with the implementation of the Armistice Agreement of 27 July 1953.”²¹⁾ This was a partial admission of the U.S.

Government that the UN flag had been abused by the US. However, the “UNC” is still using the UN flag today in certain “UNC” military facilities in South Korea and Japan, including seven U.S. military installations designated as the “UNC-Rear” in Japan.

Relevant Fact and Law 9

In 1994, the United Nations Office of Legal Affairs stated:

‘The flying of the United Nations flag in the Republic of Korea is not related to any United Nations activities or programmes.’²²⁾

4. Violations of the new UN Flag Code by the “United Nations Command”

Relevant Fact and Law 10

On September 23, 2019, 46 NGO’s around the world, including the International Association of Democratic Lawyers (IADL), a non-governmental organization in consultative status with UN Economic and Social Council(ECOSOC), and the International Campaign to Abolish the Fake “United Nations Command” sent a letter to the UN Secretary-General.

It was a question urging action against the illegal use of United Nations Flag by the “UN Command.” A year later, in November 2020, the amended United Nations Flag Code was published in the Secretary-General’s Bulletin.²³⁾

This was a large revision of the UN Flag Code, which had not changed since 1967. We welcomed this revision of the 1967 UN Flag Code, which are quite outdated and unclear, and thanked the Secretary-General for his leadership on this matter. At the same time, we would like to inform your Government that there is a continuing abuse of the UN flag in violation of the new UN Flag Code by the “United Nations Command”, which is not a UN entity in South Korea and Japan today.

Relevant Fact and Law 11

Article 8.4 of the new Flag Code prohibits as follows: “No mark, insignia, letter, word, figure, design, picture or drawing of any nature shall ever be placed upon or attached to the flag.”

(See Exhibit A “UNC” Logo & Its Variations)

However, the “UNC” created its own Website sometime in 2020, including its own military command logo for the first time: using a circle around the UN flag with

the words “United Nations Command” on top and 16 stars in the bottom part of the circle. In addition to the “UNC” logo, the “UNC” is also using several other similar logos with different words such as “United Nations Command(REAR)··· YOKOTA AB JAPAN,” “United Nations Command, Military Armistice Commission,” and “JSA”.²⁴⁾ Thus, by continuing its use of these logos, the “UNC” is in violation of Article 8.4 of the new UN Flag Code.

Relevant Fact and Law 12

Article 6.2 of the new Flag Code requires of organizations and individuals who want to use the UN flag to meet certain conditions, including “such a display of the flag: (a) does not suggest any affiliation between the United Nations and the organization···displaying the flag;”

(See Exhibit B. UNC Hq, DMZ in Korea & Camp White Beach, Kadena AB in Japan)

However, in violation of the Article 6.2 of the new Code, the “UNC” is using the UN flag with the U.S. and ROK flags at such places like Camp Humphreys - a major U.S. military base where the “UNC Headquarters” is located - in Pyongtaek, military guard posts in the southern parts of the DMZ, etc., while the “UNC-Rear” is flying the UN flag with the U.S. and Japan flags at its seven military bases in Japan.

(See Exhibit C. Korea War Memorials and UN Flag)

Moreover, there are Korean War memorials in over 300 locations in over 20 countries around the world, 29 of which display the UN Flag or insignia. The United States is the most prominent of these.

Therefore, we are deeply concerned with the extensive and flagrant violations of the new UN Flag Code that are taking place in South Korea, Japan and Others by the so-called “UNC.” If these violations are not stopped by the UN in the near future, it is most likely that they will seriously undermine the dignity and respect of the United Nations in the international community.

Conclusion

The revision of the UN flag code was the first significant victory of our movement. A second, even more significant victory followed. The United States has officially announced its position that the “UNC” is not a UN organization. Even “UN Command Commander” LaCamera stated in the 2023 and 2024 U.S. Senate and House Armed Services Committees that the “UNC” is a U.S.-led multinational military organization unrelated to the UN.²⁵⁾

The Ministry of National Defense of the Republic of Korea and the National

Assembly Research Service (NRS) have also reaffirmed this.²⁶⁾

However, rather than reducing or disbanding the “UNC”, it is strengthening it by recruiting more member states, about 20. We are raising awareness of the UNC’s illegality in violation of the UN Charter, UN Security Council resolutions, and UN law, and are persuading member states to discontinue their participation. We hope that peace activists from each country will join us in preventing their country’s participation in the UN. I encourage you to cite this article and send a letter of inquiry to your country’s Ministry of Foreign Affairs.

I wish your good health.

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- 1) U.N.C.I.O. document 1027, III/2/31(1), p.4 : Hans Kelsen, *The Law of The United Nations A Critical Analysis of Its Fundamental Problems* (New York: Frederick A. Praeger, 1950), p.444참조
 - 2) Julius Stone, *Legal Controls of International Conflict* (New York: Rinehart & Company Inc., 1954), pp.234-235
 - 3) UN Office of Legal Affairs, “53. STATUS OF THE “UNITED NATIONS COMMAND” IN KOREA – SECURITY COUNCIL RESOLUTION 84 (1950) OF JULY 1950”, *UN Juridical Yearbook*, Chapter VI, (1994), pp.501-502
 - 4) Tom Connally, *My Name is Tom Connally*, (Thomas Y. Crowell Company, 1954), p.349.
 - 5) JCS to CINCFE, 10 Jul 1950, Truman Library
 - 6) General Douglas MacArthur to The President 11 Jul 1950, Truman Library
 - 7) The President to General Douglas MacArthur, 11 Jul 50, Truman Library
 - 8) Harry S. Truman, *Memoirs by Harry S. Truman*, Vol.2, (William S. Konecky Associates, 1956), p.378
 - 9) S/1629, 25 July 1950
 - 10) S/1626, 25 July 1950
 - 11) S/1694, 17 August 1950
 - 12) “102. Telegram From the Embassy in Korea to the Department of State” (November 29, 1966), *FOREIGN RELATIONS OF THE UNITED STATES, 1964-1968*, VOLUME XXIX, PART 1, KOREA
 - 13) UN Office of Legal Affairs, “53. STATUS OF THE “UNITED NATIONS COMMAND” IN KOREA-SECURITY COUNCIL RESOLUTION 84 (1950) OF JULY 1950”, *UN Juridical Yearbook*, Chapter VI, (1994), pp.501-502
 - 14) A/167(II). United Nations Flag, (20 October 1947)
 - 15) United Nations Flag Code, (19 December 1947)
 - 16) ST/AFS/SGB/89, The United Nations Flag Code (as amended), (28 July 1950)
 - 17) Hans Kelsen, *The Law of the United Nations: A Critical Analysis of Its Fundamental Problems* (New York: Frederick A. Praeger, 1950), Kelsen, p.939.
 - 18) Hans Kelsen, *The Law of the United Nations: A Critical Analysis of Its Fundamental Problems* (New York: Frederick A. Praeger, 1950), p.938.
 - 19) A/8752/Add. 9.
 - 20) S/11737 (27 June 1975).
 - 21) S/11830 (22 September 1975).
 - 22) UN Office of Legal Affairs, “53. STATUS OF THE “UNITED NATIONS COMMAND” IN KOREA-SECURITY COUNCIL RESOLUTION 84 (1950) OF JULY 1950”, *UN Juridical Yearbook*, Chapter VI, (1994), pp.501-502
 - 23) ST/SGB/2020/4. United Nations Flag Code
 - 24) www.unc.mil
 - 25) ‘United Nations Command is not a UN peacekeeping organization, but a multinational military command under U.S. leadership.’ “HHRG-118-AS00-Wstate-LaCameraP-20230418”, p.8: ‘United Nations Command is a one-of-a-kind, multinational military command under U.S. leadership. The UNC is not a United Nations peacekeeping organization.’ “HHRG-118-AS00-Wstate-LaCameraP-20240320”, p.9: ‘UNC operates under the direction of the U.S. Secretary of Defense and Chairman, Joint Chiefs of Staffs and does not fall under the command and control of UN Headquarters in New York or any of its subordinate organizations.’ <http://www.unc.mil/Resources/FAQs/>
 - 26) The Ministry of National Defense of the Republic of Korea and the National Assembly Research Service (NRS) have also reaffirmed this. Response to the Office of the President’s Civil Complaint (1BA-2409-0310192) (October 25, 2023); Kim Do-hee

(Legislative Researcher, Foreign Affairs and Security Team, Political and Administrative Research Office, NRS), "US Joint Chiefs of Staff Report to the UN Security Council - Response to the Legislative Investigation," (December 22, 2021), p.4.