

the children could not advance themselves within North Korean society and were confined to the same hard labor occupations as their POW fathers. Many of the children were resentful to their parents when they suffered discrimination because their father had been a South Korean POW. [OH, YOON and HUR 2008, p.107-111].

3. The Legal Controversy Regarding the POW Issue and New Evidence against North Korean Claims

3.1 Agreements about the exchange of POWs in the Armistice

The issue of POWs was a controversial political issue throughout the war and a major point of contention during the Armistice negotiations. Korea had been a unified nation for centuries and only in 1945 was it divided into two countries: A Communist North and a pro-American South Korea. The ideological conflict divided families and communities and both sides claimed sovereignty over the entire Korean peninsula. Neither side recognized the other's legitimacy as a state. When North Koreans captured South Korean soldiers, they did not consider the South Koreans not as POWs protected by the Geneva Conventions they had announced they would observe. The North Koreans viewed the South Koreans either as soldiers they had "liberated from imperialist armies," or "war criminals against the people." [OH, YOON and HUR 2008, p.32; HEO 2002, pp. 145-46].

On the South Korean side, many of the North Korean soldiers they had captured were found to be South Koreans. They had been conscripted during the initial months of the war when North Korean forces had routed the South Korean army and controlled large parts of South Korea. These soldiers did not wish to return to North Korea. [HERMES 1992].

A substantial number of the captured Chinese soldiers were former members of the Nationalist Army and had fought against the Communist Chinese Army in the Chinese Civil War. They had been conscripted into the Communist Chinese forces when the Nationalists were defeated and the Communists took control of the Chinese mainland in 1949. Some of these soldiers wished to be repatriated to Taiwan where remnants of the Nationalist government had fled rather than to China. [HERMES 1992].

Such complexities made the ceasefire negotiations difficult. Nevertheless, both sides agreed to specific procedures for accounting and freeing POWs. [KOREAN WAR ARMISTICE 1953, Art. III]. POWs who requested to be repatriated were to be sent home to their respective sides. The prisoners who wished to stay with their captors or who sought asylum in a third country were to be handed over to the Neutral Nations Repatriation Commission (NNRC). This commission was composed of military representatives from five countries that did not fight in the Korean War: India, Czechoslovakia, Poland, Sweden, and Switzerland. It was charged with fairly administering the politically sensitive issue of POWs who for whatever reason did not

wish to be repatriated. The procedures for determining whether a POW truly wished to stay with their captors were long and strenuous involving interviews by representatives from both the UN and Communist sides. Joint Red Cross teams were to monitor and implement the actual exchanges. [KOREAN ARMISTICE AGREEMENT 1953, Art. III.51-57].

3.2 South Koreans suspect Communists illegally detained thousands of POWs after the Armistice

In the weeks after the signing of the Armistice, prisoners were either repatriated or turned over to the NNRC as had been agreed. There were many difficulties, including the death of some POWs that were in the custody of the NNRC, and numerous disputes. But eventually, processing of POWs by repatriation and the NNRC hearings worked through the rosters. Most of the POWs from the US and other UN combatants who survived the war did make it home. However, for the South Koreans this was not the case.

Over 79,000 South Korean POWs had not even been included in the rosters submitted by the Communist forces. The Communist forces reported only 8,668 South Korean POWs for repatriation and processing by the NNRC. [HERMES 1992, Ch. XXII; Appendix B]. The Communists never disclosed what had happened to the others. Some scholars estimate that 50,000 of these South Koreans may have survived the war in North Korea. [HEO 2002, p. 142].

Numerous UN Command and South Korean intelligence reports said that these South Korean POWs had been incorporated into the North Korean military against their will. North Korean and Chinese negotiators claimed that these individuals had already been "freed at the front." [HERMES 1992; Ch. VII]. During the war and in the decades after the Armistice, North Korea continued to deny any South Korean POWs had been held against their will and even refused even to discuss the issue. [OH, YOON and HUR 2008, p. 40]. For decades, the South Korean POWs were not heard from and their fate remained unknown.

3.3 New evidence contradicts Communist claims that South Korean POWs had voluntarily joined the North Koreans

New evidence since the 1990's sheds light on the South Korean POW issue. South Korean POWs have escaped from North Korea and provided first hand testimonies of their lives in the North during and after the war. Newly declassified Soviet-era documents from the Russian Foreign Policy Archives detail communications between North Korean, Chinese and Soviet leaders. [VOLOKHOVA 2000]. Both the POW testimonies and the documentary evidence contradict North Korean claims that the South Koreans had stayed voluntarily.

3.3.1 Escaped POWs testify they were not offered repatriation.

In 1994, Lt. Cho Chang Ho, was the first South Korean POW to escape from North Korea. He had been held for over 40 years of captivity. 79 more POWs have escaped to South Korea in the following years. Their testimonies provided first hand evidence on the lives of POWs in North Korea for the first time in decades. The former POWs have testified that they were never given the option of returning to South Korea.

Contrary to claims that they had been “freed at the front,” the escaped POWs report that they were indeed incorporated into the North Korean military. The majority of South Korean POWs were assigned to labor brigades, and others (mostly who had been captured early in the war) were initially incorporated into to the North Korean Army units. [HEO 2002, p.150; HERMES 1992 Ch. VII; OH, YOON and HUR 2008, pp. 65-66]. Later, even the South Koreans who had served in the frontline units were sent to the labor brigades. Although these labor brigades were nominally part of the Interior Ministry, the POWs lived under guard in facilities isolated from the public until 1956. [OH, YOON and HUR 2008, pp. 65-93]. At no time during the war were the South Korean POWs ever freed.

Many of the POWs did not even hear about the Armistice until months after it was signed. Many POWs testified that their guards told them various reasons why they could not return home after the ceasefire. Some POWs said that their comrades who insisted on returning home to South Korea would be taken away, never to be heard from again. Others witnessed executions of South Korean POWs who demanded to be sent home.

The POW's testimonies are supported by North Korea's denial of meetings with the Red Cross and NNRC. If the POWs had voluntarily joined the Communists, there would be no reason for them to be denied meeting with the Red Cross and the Neutral Nations Repatriations Commission at the end of the fighting. POWs from both sides (including 325 South Koreans) had freely stated their wishes to stay with their captors.

The 3-year delay between the Armistice and Cabinet Order 143 that granted the POWs North Korean citizenship also corroborates testimonies that the South Koreans did not volunteer. If the POWs had indeed volunteered, there would not seem to be any reason to delay granting them citizenship or to keep the POWs isolated and under guard for 3 years after fighting had ended.

The discrimination, severe restrictions and extensive surveillance by State Security that continues to this day also contradict Communist claims that the South Korean POWs stayed in North Korea by choice. It makes far more sense that State Security maintains a close watch over the POWs because they had been held against their will, and therefore posed a risk of escape.

State Security's involvement indicates that many North Korean officials were aware and had knowledge that the South Korean POWs had been held against their will. It also

indicates that North Korean State Security has accurate and comprehensive information on the number and whereabouts of the POWs and their families.

3.3.2 Soviet diplomatic archives show Communist leaders purposely detained South Korean POWs

In addition to the evidence from testimonies by the POWs themselves, documentary evidence from declassified Soviet Union Foreign Ministry archives also contradicts North Korean claims. Although the Soviet Union was not officially a combatant, it supported the North Korean and Chinese forces with weapons, training and material, and secretly sent pilots to fly in combat. [O'NEILL 2000]. Soviet General Secretary Joseph Stalin was deeply involved in planning the war to the extent that North Korean leader Kim Il Sung had to obtain permission from Stalin before launching the attack. [O'NEILL 2000]. Therefore, the Soviet Union's Foreign Ministry archives offers information on the strategic goals and planning activities of Soviet, North Korean and Chinese heads of states themselves. These memorandums show that the Communist leaders had little intention of allowing the South Korean POWs to return to South Korea regardless of their individual wishes.

The first document is a memo by Soviet Ambassador to North Korea, S.P. Suzdalev, written in May of 1953 shortly after the UN and Communist forces exchanged wounded POWs. Suzdalev writes "our Korean comrades preferred to keep a large number of South Korean prisoners of war, using them for various kinds of hard work in North Korea and ignoring their desire to return to their families.... A total of 1,300 [*sic*] South Korean prisoners of war were detained in North Korea and another 42,000 Southerners were recruited into the Korean Peoples Army in the South and remain in the KPA ranks to this day." Suzdalev was concerned that the detention of such a large number of prisoners of war eligible for repatriation was not justified and most of them could have been repatriated. [VOLOKHOVA 2000, p. 85].

Another document is a memorandum by Fedorenko, head of the First Far Eastern Department in the Soviet Foreign Ministry to Foreign Minister Molotov, dated December 3, 1953 over 4 months after the Armistice had been signed. Fedorenko summarizes Ambassador Suzdalev's reports that "13,094 prisoners of war from Syngman Rhee's troops eligible for repatriation and 6,430 men serving in the KPA were being detained in North Korea, the others were being employed on various jobs in the Interior Ministry and the Ministry of Railways [*sic*]." [VOLOKHOVA 2000, p. 89].

Fedorenko reports that North Korean President Kim Il Sung had consulted with Chinese leader Mao Zedong regarding the disposition of these South Korean POWs shortly prior. Mao had told Kim not to send back these POWs since bringing up such large numbers of POWs at this late time would give the Americans and South Koreans a pretext that the Communists had violated the terms of the Armistice. Kim agreed with Mao. Kim had told Ambassador Suzdalev that North Korea would prevent the POWs from escaping or contacting the NNRC by sending the prisoners to remote Northeastern regions of North