

DMZ

International Forum on the Peace Economy

평화경제 국제포럼

August 29, 2019, 14:30 - 18:30

The Westin Chosun Seoul (2F, Orchid Room)

[Parallel Session VI]

Legislation and Criminal Affairs



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Legislation and Criminal Affairs

Restoration of National Homogeneity between two Koreas and
Stabilization of Land Order inside DMZ for Peaceful Co-existence





Overview



Title	DMZ International Forum on the Peace Economy Parallel Session VI - Legislation and Criminal Affairs
Date & Time	August 29, 2019, 14:30 - 18:30
Venue	The Westin Chosun Seoul (2F, Orchid Room)
Organizer	Korea Legislation Research Institute, Korean Institute of Criminology

Theme	<p>Restoration of National Homogeneity between two Koreas and Stabilization of Land Order inside DMZ for Peaceful Co-existence</p> <p>There are several kinds of important things which have to be achieved in the era of inter-Korean exchange and cooperation. One is the restoration of national homogeneity between North and South Korea, and another is the stabilization of land order inside DMZ for the sustainable development.</p> <p>In order to restore the national homogeneity, it is imperative to improve the scope and impact of humanitarian assistance to the vulnerable groups in North Korea, expand social, cultural and sports exchanges, resume Mountain Kumgang tourism project and Kaesong Industrial Complex and raise awareness of unification and the importance of inter-Korean exchanges and cooperation among the youth in South Korea.</p> <p>The whole land in DMZ north of the 38th parallel was nationalized in 1946 by the land revision of North Korea's Government. On the other hand, the ownership of land in DMZ south of the 38th parallel, that is to say, the land in Pa-ju County, Gyeong-gi Province, was scattered and disappeared by the Korean War from 1950 to 1953. Beside, there is a substantial probability that the commanders of combatant nations in Korean War might insist on the dominium of some parts of land in DMZ during preparation for Korean Peace Arrangement instead of the present Armistice Agreement.</p> <p>It is, therefore, urgent mission for Korean People to change the DMZ into a neutral area as a natural monument like the Green Belt in Germany. In respect of stabilization and sustainability, the land in DMZ could not be nationalized or privatized and then should alternatively become the commons, so to speak, the public land like the open space or public surface.</p>
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Program



Time	Program
14:30 - 15:40	<p>[Keynote Speeches]</p> <p>The Justice Equation in Making Peace Fernando TRAVESÍ Executive Director, International Center for Transitional Justice <i>U.S.A.</i></p> <p>The German Green Belt - Environmental, Legal and Managerial Perspectives Bernhard SELIGER Resident Representative, Hanns-Seidel Foundation Korea <i>Republic of Korea</i></p>
15:40 - 16:00	<p>20' Memorial Photo and Coffee Break</p>
16:00 - 17:20	<p>[Chair] CHUN Jaekyong President, Social Capital Institute <i>Republic of Korea</i></p> <p>[Presentations]</p> <p>Realizing Peace Economy through Framework Legislation on Special Economic Zone HWANG Seung Hee Advisor to the Minister of Unification, The Ministry of Unification <i>Republic of Korea</i></p> <p>Policy Initiatives for Strengthening Inter-Korean Exchange and Cooperation SOUNG Jea Hyen Research Fellow / Deputy Director, International Cooperation Division, Korean Institute of Criminology <i>Republic of Korea</i></p> <p>Stabilization of Land Order inside DMZ through Making the Neutral Commons HWANG Eunju Executive Director, Korea National Nature Trust <i>Republic of Korea</i></p>
17:20 - 18:20	<p>[Comprehensive Discussion]</p> <p>Marie-Yon STRÜCKER Environmental Consultant, United Nations Environment Programme (UNEP) <i>Germany</i></p> <p>JEON Sumi Attorney at Law / President, Wave of Peace Institute <i>Republic of Korea</i></p> <p>HAN Myung Sup Partner / Adjunct Professor, Tongin Law Firm / University of North Korean Studies & Kookmin University <i>Republic of Korea</i></p> <p>JANG Won-Kyu Research Fellow, Office of Korean Unification Law, Korea Legislation Research Institute <i>Republic of Korea</i></p> <p>PARK Hun-Min Research Fellow, Office of Korean Unification Law, Korea Legislation Research Institute <i>Republic of Korea</i></p>
18:20 - 18:30	<p>10' [Closing]</p>



The Justice Equation in Making Peace

Keynote Speech

Fernando TRAVESÍ

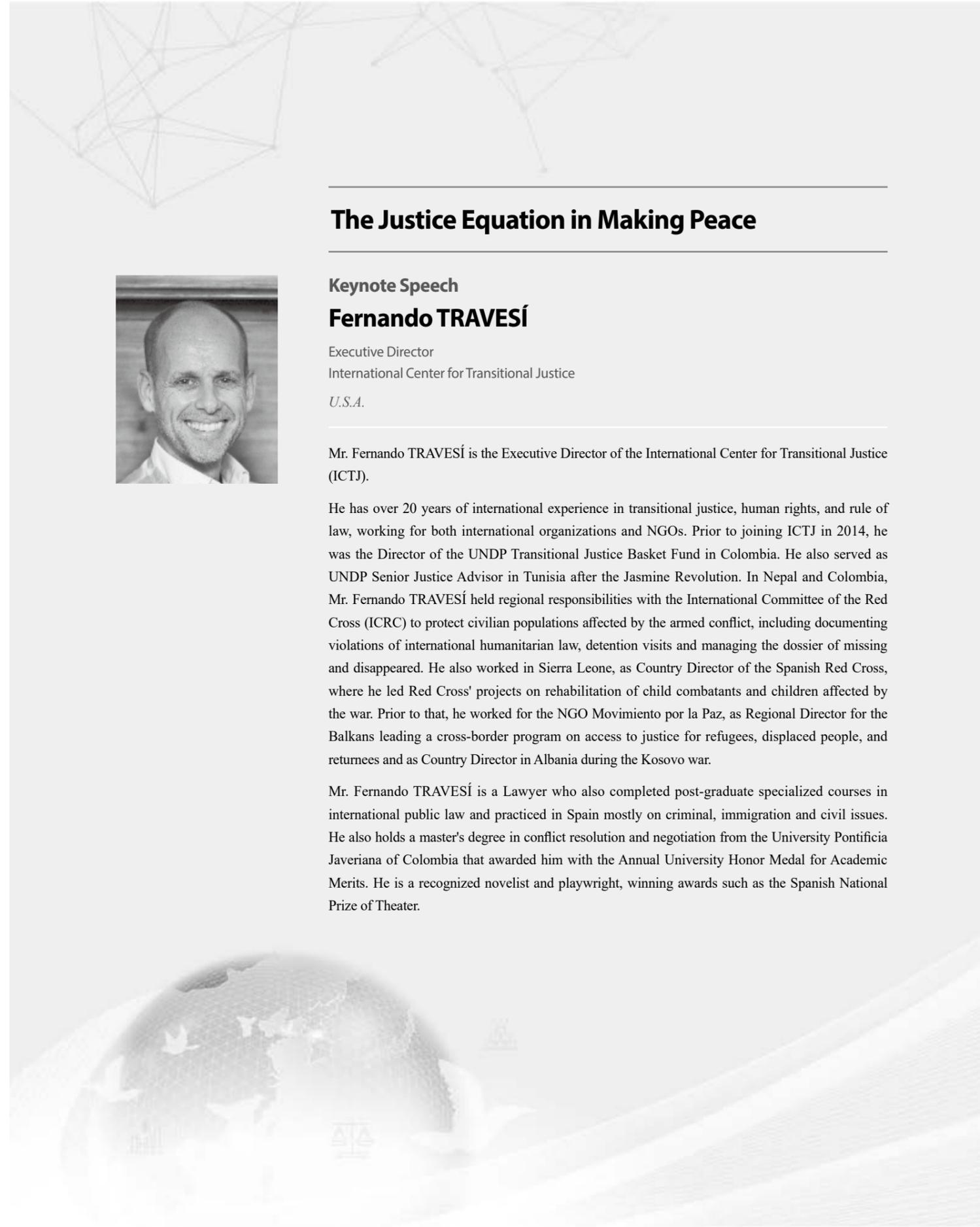
Executive Director
International Center for Transitional Justice

U.S.A.

Mr. Fernando TRAVESÍ is the Executive Director of the International Center for Transitional Justice (ICTJ).

He has over 20 years of international experience in transitional justice, human rights, and rule of law, working for both international organizations and NGOs. Prior to joining ICTJ in 2014, he was the Director of the UNDP Transitional Justice Basket Fund in Colombia. He also served as UNDP Senior Justice Advisor in Tunisia after the Jasmine Revolution. In Nepal and Colombia, Mr. Fernando TRAVESÍ held regional responsibilities with the International Committee of the Red Cross (ICRC) to protect civilian populations affected by the armed conflict, including documenting violations of international humanitarian law, detention visits and managing the dossier of missing and disappeared. He also worked in Sierra Leone, as Country Director of the Spanish Red Cross, where he led Red Cross' projects on rehabilitation of child combatants and children affected by the war. Prior to that, he worked for the NGO Movimiento por la Paz, as Regional Director for the Balkans leading a cross-border program on access to justice for refugees, displaced people, and returnees and as Country Director in Albania during the Kosovo war.

Mr. Fernando TRAVESÍ is a Lawyer who also completed post-graduate specialized courses in international public law and practiced in Spain mostly on criminal, immigration and civil issues. He also holds a master's degree in conflict resolution and negotiation from the University Pontificia Javeriana of Colombia that awarded him with the Annual University Honor Medal for Academic Merits. He is a recognized novelist and playwright, winning awards such as the Spanish National Prize of Theater.



The Justice Equation in Making Peace

Dealing with a difficult past shaped by massive human rights violations is a critical element in establishing a peaceful, just, and inclusive society. The question of justice, of how to deal with these past violations, is, and has always been, one of the most difficult and sensitive aspects of any democratization process, peace negotiation, or political settlement—of any transition—and is always full of dilemmas. How can we rebuild a country and reinstate peace when a significant part of the population has suffered and is traumatized by the most horrible crimes? How can we foster social trust in our institutions and each other when violence and abuse have persisted for decades? How can we achieve reconciliation? How can we create responsive institutions when the state apparatus itself has committed crimes against its own citizens? Transitional justice aims to support reconciliation processes, to bring accountability, to fight impunity, to restore social trust, and to develop responsive institutions in unique and challenging conditions—in societies devastated by violence and shaped by lack of trust, polarized politics, and fragile or compromised institutions. It helps to heal fractured communities with a victim-centered approach and restore the rule of law, and it promotes necessary reforms to prevent further violence, to guarantee nonrecurrence of abuse. The Republic of Korea has implemented many transitional justice processes over the years, from truth commissions, to compensation, to apologies, to memorialization projects. The country has accumulated a wealth of knowledge and lessons learned that should form the basis of future transitional justice in the peninsula when unification occurs. As plans are developed for the transformation of the DMZ and potential unification, there are numerous ways in which human rights can be kept on the agenda, such as creating a strong demand for justice and undertaking confidence-building initiatives. Experiences from other countries show that particular challenges in any negotiation on unification will include ensuring participation, a context-specific approach to criminal accountability, and a comprehensive approach to institutional reform. Finally, addressing the unequal development between the two countries will benefit from approaches to reparations, truth telling, and education that maximize the contribution of transitional justice to sustainable peace and development, as articulated in the Sustainable Development Goals.



The German Green Belt - Environmental, Legal and Managerial perspectives

Keynote Speech

Bernhard SELIGER

Resident Representative
Hanns-Seidel Foundation Korea

Republic of Korea

Dr. Bernhard SELIGER is currently resident representative of Hanns Seidel Foundation in Korea, based in Seoul, consulting NGOs, academic and public institutions in questions of unification. He frequently travels to North Korea, where he implements capacity-building projects, among others in forestry, biodiversity, organic agriculture and the introduction of the clean development mechanism. He serves as associate of North Korean Review as well as founding editor of the website www.asianintegration.org. Over 10 years, he also works on sustainable development issues in the inner-Korean border area and in February 2015 participated as an expert in a DMZ by UNESCAP. In 2006 the honorary citizenship of Seoul was conferred by the later president of South Korea, then mayor Lee Myung-Bak, on Bernhard Seliger. In 2012 he became honorary citizen of Gangwon province, partner province of Hanns-Seidel-Foundation in implementing projects of sustainable development in the border area.

He edited and wrote numerous articles and books, among them most recently 2015 East Asia and Eastern Europe in a Globalized Perspective – Lessons from Korea and Estonia, Ordnungspolitische Dialoge Vol. 5, Frankfurt/ Main: Peter Lang Verlag, ISBN 978-3-631-66860-3. (together with Jueri Sepp and Ralph Wrobel). Others include The Shrimp that Became a Tiger, Transformation Theory and Korea's Rise After the Asian Crisis, Peter Lang Verlag, Emerging Market Studies, Frankfurt: 2013; (with Gi-Woong Son et al.), 'Geurin detangteu' silcheonjeolyak: hwangyeongdongche hyeongseong-gwa jeobgyeongjiyeok · DMZ pyeonghwasangtae-jeok iyongbangan (Green Détente implementation strategy: formation of an ecological community and measures to use the border region peacefully and ecologically), Seoul: Korean Institute for National Unification, ISBN: 978-89-8479-792-5, 2014; (with Jüri Sepp, Ralph Wrobel) Innovationssysteme und Wohlstandsentwicklung in der Welt (Innovation systems and prosperity in the world), Ordnungspolitische Dialoge Vol. 4, Frankfurt/ Main: Peter Lang Verlag, ISBN 978-3-631-65024-0.

The German Green Belt - Environmental, Legal and Managerial perspectives

Dr. Bernhard Seliger, Hanns-Seidel-Foundation Korea

The German Green Belt next year celebrates its 30th anniversary. The transformation of the former "death strip", where many East Germans died trying to flee the country, to the largest biotope system in Europe was a major achievement of the peaceful unification process. The Green Belt today is a living monument of the past and a showcase for the peaceful development of Germany after unification. However, the landscape is dynamically changing, as is the legal situation. While originally, not the least due to the re-introduction of a federal system, the states chose very different ways to protect the Green Belt area, today a full-scale, uniform designation as a "national natural monument" might be coming. Last year, almost half of the area of the Green Belt, in Thuringia, was first designated as such, and currently Saxony-Anhalt prepares to follow the step. Maintaining a man-made, but ecologically valuable, landscape, closing gaps in the Green Belt and creating a consensus for use are important tasks. This cannot be done by command from the top, but needs communication and new approaches, like contractual nature protection.

Biographical Information

Dr. Bernhard SELIGER is currently resident representative of Hanns Seidel Foundation in Korea, based in Seoul, consulting NGOs, academic and public institutions in questions of unification. He frequently travels to North Korea, where he implements capacity-building projects, among others in forestry, biodiversity, organic agriculture and the introduction of the clean development mechanism. He serves as associate of North Korean Review as well as founding editor of the website www.asianintegration.org. For 10 years, he also works on sustainable development issues in the inner-Korean border area. In 2006 the honorary citizenship of Seoul was conferred by the later president of South Korea, then mayor Lee Myung-Bak, on Bernhard Seliger. In 2012 he became honorary citizen of Gangwon province, partner province of Hanns-Seidel-Foundation in implementing projects of sustainable development in the border area. He is also adjunct professor at Hallym University of Graduate Studies, Seoul. From 1998 to 2002 he worked as a professor at the Graduate School of International and Area Studies, Hankuk University of Foreign Studies. Dr. Bernhard SELIGER holds a habilitation (postdoctoral lecture qualification) at the University of Witten-Herdecke from 2007 and a doctorate (Dr.sc.pol.) at the Institute for Economic Policy, Christian-Albrechts-University at Kiel (Germany) from 1998. Dr. Bernhard SELIGER also holds a degree (Maitrise en sciences économiques) from Université de Paris I (Panthéon-Sorbonne, France).



Chair

CHUN Jaekyong

President
Social Capital Institute
Republic of Korea

Dr. CHUN Jaekyong is now CEO of the Social Capital Institute(cooperative), and also acts as a member of Regulatory Reform Committee under the President of the Republic of Korea as well as a chair of Affraisal Committee for the Ministry of Environment.

Dr. CHUN Jaekyong had worked for the Korea Legislation Research Institute under the Prime Minister's Office from 1990 to 2014 and then taught students of Seoul National University, Korea, as an Adjunct Professor from 2014 to 2018.

Dr. CHUN Jaekyong got his Master Degree with the thesis of public nuisance (so-called Immission in Germany legal system) and then got the Ph.D. with the thesis of the Due Process of Law at the Dong-gook University, Seoul, Korea.

Legislation and Criminal Affairs

Restoration of National Homogeneity between two Koreas and
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Realizing Peace Economy through Framework Legislation on Special Economic Zone

Presentation

HWANG Seung Hee

Advisor to the Minister of Unification
The Ministry of Unification

Republic of Korea

Mr. HWANG Seung Hee is currently serving as Advisor to the Minister of Unification at the Ministry of Unification, Republic of Korea. Prior to his current position, he served as Counsellor at the Embassy of Korea in Germany from 2015 to 2018, Director of Unification Policy Division from 2013 to 2015, Administrative Official at the Office of Senior Secretary for Foreign Affairs and National Security at the Office of the President from 2010 to 2013, and Secretary at the Office of the Inter-Korean Dialogue from 2007 to 2010.

He earned his LLB degree from the Korea University, graduate degree in public policy from the Rutgers University and ph.D. ABD from Freie Universität Berlin.

Legislation and Criminal Affairs

Restoration of National Homogeneity between two Koreas and
Stabilization of Land Order inside DMZ for Peaceful Co-existence



Policy Initiatives for Strengthening Inter-Korean Exchange and Cooperation

Presentation

SOUNG Jea Hyen

Research Fellow / Deputy Director
International Cooperation Division
Korean Institute of Criminology

Republic of Korea

Dr. SOUNG Jea Hyen is a research fellow and Deputy Director of the International Cooperation Division at the Korean Institute of Criminology. He is also an adjunct professor teaching criminal law at the HanKuk University of Foreign Studies. He was a Brain Korea 21 (BK21) postdoctoral research fellow and was a professor of law at the Sungkyunkwan University Law School in 2011. He has been an advisor to a number of government ministries. From 2014 to present, he has served as a member of the Policy Advisory Committee of the Ministry of Justice, the Policy Advisory Committee on Women and Children of the Ministry of Justice, the Unification Legislation Committee of the Ministry of Unification, and the Anti-Drug Abuse Committee of the Office for Government Policy Coordination. He has also served as a special expert commissioner to the Supreme Court of Korea since 2012, and a member of the Asset Recovery Interagency Network-Asia Pacific (ARIN-AP) since 2014. He spent much of his life dedicated to research and projects into different subject areas that include sentencing, crime prevention & criminal justice, transitional justice, and transnational organized crime. His recent scholarly publications include "Remedial Measures for Effective Cybercrime Investigation," "Analysis of Causes and Environmental Factors related to Incidence of Sexual Violence," and "Forensic science meets clinical pharmacology: pharmacokinetic model based estimation of alcohol concentration of a defendant as requested by a local prosecutor's office." He earned his Ph.D. in Criminal Law from the Hankuk University of Foreign Studies summa cum laude in 2009.

Legislation and Criminal Affairs

Restoration of National Homogeneity between two Koreas and
Stabilization of Land Order inside DMZ for Peaceful Co-existence



Stabilization of Land Order inside DMZ through Making the Neutral Commons

Presentation

HWANG Eunju

Executive Director
Korea National Nature Trust

Republic of Korea

Dr. HWANG Eunju has joined in the establishment of Korea National Nature Trust under the National Trust Act of 2006 for the preparation and management of such special public corporation during 13 years since 2006.

Dr. HWANG Eunju enjoined ardently in several kinds of environmental movements including "the detour of high voltage power line for the benefit of local people's safety and health", and "the legal suit in Sae-man-guem wetland, South Korea, for future generation". She also took part in some kinds of international activities, for example, "the 10th European Green Belt Conference in Berlin in 2013" and also "the Pan-European Green Belt Conference in Eisennach, Germany in 2018".

Dr. HWANG Eunju got the Ph.D. from Seo-gang University by way of the article, that is, "A Study of Legal Theory of Ecosystem Services available to Benefit-sharing" after receiving the master degree from the same University in the title of "Undertones of National Trust System on the Environmental Policy".

Stabilization of Land Order inside DMZ through Making the Neutral Commons

This article, in preparation for making end of the *Agreement concerning a Military Armistice in Korea*(1953) and transition thereof toward the peace agreement, tries to find a way to contribute to the achievement of the UN Sustainable Development Goals(SDGs), while preserving an internationally protected area and a base for inter-Korean economic exchanges as well as sharing interests between future generations and stakeholders. This approach is focused on around the Demilitarized Zone(DMZ) where is exposed to the development pressure and is also difficult to preserve and to utilize due to only the will of Koreans, inheritance and development of human culture and the inter-Korean exchange and cooperation framework.

1. Necessity for Stabilization of Land Order in DMZ and the Way toward Peace and Economy

1) Aspirations of Capital for Development

(1) 13.2 trillion won will be committed to 225 businesses in the DMZ, northern areas above the Civilian Controlled Zone(CCZ), and transboundary area below the CCZ by 2030 according to 「Comprehensive Regional Development Plan」(2011). This budget is also used for some environmental preservation, but the local residents hope to develop the project through inter-Korean exchange cooperation.

(2) Some politicians suggest so-called "short and expansive development after long delayed and crouching". This means that we will keep the DMZ in the underdeveloped area and develop it rapidly when the conditions are met. The development camp wants to build economic corridors in and around the DMZ, and promote projects such as civil engineering and architecture.

(3) The World Peace Park initiative, which appeared before war, was to settle down and install facilities in a 1 km square space inside the DMZ. If the development that the community or the central government wants penetrates or cuts through the DMZ, it may seem at first that progress is made, but many obstacles are expected.

2) Disadvantages of rampageous development

(1) Unless the DMZ is completely eliminated under international political agreements, military officials in the South and North will feel somewhat reluctant to develop the interior of the DMZ. If land on which both military authorities have been defending for more than 60 years is fully exposed to development, the military authority will lose its role.

(2) Until the reunification of the two Koreas, even if a peace treaty is signed, there will still be a border line with a modified demarcation line. Even if the DMZ is literally unarmed, it must maintain its current separation distance, or buffer zone, from north to south for environmental and ecological conservation and sustainable use.

(3) Even if inter-Korean exchanges expand, it is impossible and unnecessary to develop the entire DMZ through civil engineering, architecture, agriculture, forestry, and livestock. However, with the progress of inter-Korean exchange cooperation, economic routes (including roads, railways, telecommunications networks, and power networks) that cross the DMZ are expected to be fragmented.

3) Toward sustainable land use

(1) The DMZ has value as a common cultural and natural heritage between the two Koreas. Not only does Germany use its former East-West German border (green belt) as an ecological pathway, but also campaign to "preserve the old Iron Curtain" across Europe.

(2) As in the past, we must avoid countless conflicts over environment and development. Higher values should be obtained by comparing bridges between building a densely populated city around the DMZ and using them as a base for sustainable development.

(3) In the present state, abundant ecosystem services flow out due to diverse ecosystems and biodiversity, so that the two Koreas can share and trade them, leading to sustainable development.

2. DMZ Land Order Status and Concerns

1) Coordinates of DMZ Land

(1) In the north of the 38th parallel, the official cadastre book of land was lost due to the nationalization of land on the north side in 1946, and after the Armistice Agreement (1953), it was added to the DMZ.

(2) After the destruction of the cadastre book, the North DMZ and South DMZ of the 38th parallel continued the status of no effective control for a long time. Therefore, it is difficult in law to return to the old order of ownership before war, in the light of the idea of legal stability.



(3) The land north of the 38th parallel of the DMZ remains largely unowned and non-territorial, despite the regain of ownership under the Real Estate Registration Act several times after the Korean War.

(4) Korea Natural Environment Conservation Act (Articles 2 and 13 and 22) sets the South DMZ as a "nature reserve." However, natural reserves that are not currently in use are only two years after the unification, and the effectiveness of the law is questionable.

(5) The North DMZ of the 38th parallel, as a land with no owner, can not have land nationalization. The South DMZ(Paju region) of the 38th parallel due to the war and power outages of the so called 'Order of Power' the old land order has collapsed and the ownership is invalid.

(6) If the government and the private sector of the South DMZ (Paju Region) of the 38th parallel say that they will "restore the old land order," and North Korea also say that "We will restore the old land order of the South DMZ (the whole counties of Kang-won province and Yeoncheon county of Kyeong-gi province) of the 38th parallel." Anomies are expected to result.

2) Private ownership of DMZ land

(1) The land of the North DMZ may have the state insist on the restoration of ownership of the state-owned land, but since the land of the South DMZ has already lost its ownership before the Korean War (1950), the restoration of the ownership of the former owners is impossible.

(2) However, if the South declares the nationalization of the South DMZ land, it is possible for the North side to claim the original ownership of the land north of the 38th parallel, which can turn into a system problem.

(3) Many displaced people may cause invalid legal activities by storing or selling land-related documents that have already been invalidated by land reform before the Korean War.

(4) When inter-Korean exchanges are activated or unification is implemented in the absence of an ineffective or invalid legal relationship, legal stability is greatly shaken by the movement to restore the old land order.

3) The Problem of Equity

- (1) Even if the land order of the North DMZ is in accordance with the North's will or the North-South agreement, the land order of the South DMZ, which has no ownership, requires the South's will.
- (2) Responsible authorities should ensure that the land ownership of the South DMZ has been lost, and that restoration of ownership is not possible and should promote the settlement of a new land order in advance.
- (3) The government can cause problems such as the nationalization of land with no ownership system, Kangwon region and Gyeonggi Yeonchon region, as well as cause repulsion of owners of the old land.
- (4) However, acknowledging the regaining of ownership by the owners of DMZ lands in the south of the Gyeonggi region, on an equity basis, can lead to backlash from the owners of DMZ lands in the south of the Gangwon or Gyeonggi region.

3. Worldwide Restitution Cases after War and Their Limits

1) Conquest and military occupation

After the attempted conquests of Napoleon and up to the attempted conquests of Hitler, the disposition of territory acquired under the principle of conquest had to, according to international law, be conducted according to the existing laws of war. This meant that there had to be military occupation followed by a peace settlement, and there was no reasonable chance of the defeated sovereign regaining the land. While a formal peace treaty "makes good any defects in title", it was not required. However, the alternative was annexation (part or in whole) which if protested as unlawful, a peace treaty was the only means to legitimize conquest in a time of war.

2) Property Restitution Laws in a Post-War Context

Post-war reconstruction environments involve particular contexts within which legal reform must operate in order to facilitate the peace process, recovery, and development. Land and property restitution after a war is an important but difficult issue for the integrity of the process, given the chaotic rights environment created by war and the limited financial, personnel, and institutional resources of governments recovering from war.

Before the Russian Revolution of March 1917 had transformed the whole relation of the belligerents to the national question, it was generally assumed that annexations of territory would follow the conclusion of the First World War on the basis of the right of conquest, without regard to nationality or wishes of the populations concerned.

However, the historic events of the Russian Revolution, the entry of the USA into the war, ensuing a call for a peace without annexations, and the proclamation of the right of national self-determination created an entirely new situation. Above all, they made the old-style annexationist policies(imperialism) of the belligerents impossible to sustain.

In post-World War II times, when the international community frowned on wars of aggression, not all wars involving territorial acquisitions ended in a peace treaty. For example, the fighting in the Korean War ended in an armistice, without any peace treaty covering it. There are furthermore several kinds of case-studies including South Africa, Bosnia, and Guatemala relating to restitution after war .

3) Property Restitution in Central and Eastern Europe

During World War II, the Nazis seized property, real and movable, from organizations and individuals which the Nazi regime was persecuting --- Jews, members of some Christian organizations, Roma, homosexuals, and others. Much of that property in Western Europe was returned during the post-war period --- under occupation law in areas occupied by the Allies, and under the laws of individual countries. This was not generally possible behind the Iron Curtain, where the newly-established communist governments simply took over property seized earlier by the Nazis.

When the Berlin Wall fell and the Iron Curtain lifted in 1989, it was possible to reconstitute property in the former Iron Curtain countries. Many countries enacted legislation to provide for the restitution of both private and communal property. But the stages of implementation of land reform later varies. Some countries had already finalized land reform in the mid-1990s, others are in the process, and a few have still not taken any significant steps.

4) Land Reform in East Germany

The creation of a Soviet Empire in Central and Eastern Europe was no accident. The Soviet dictator had always planned to do so once Nazi Germany had been crushed. Before WWII, Eastern German farm structures were dominated by family farms, with an average farm size of 10.5 ha. After WWII, Eastern Germany was occupied by the Soviet Union during 1945-9. In this period, agricultural land belonging to estates larger than 100 ha was expropriated without compensation.

After the establishment of the German Democratic Republic(GDR), a further 700,000 ha were confiscated in 1952-53 during the first wave of collectivization. In most cases, this land was handed over to agricultural cooperatives founded in those years. Private landowners and farmers were forced to join the cooperatives with their land. In most cases the landowners kept the formal ownership rights to the land. This accounted for as much as about 70 percent of the agricultural land in GDR. The use rights, however, were given completely to the cooperatives.

After unification, the legal basis for the process in Germany was the adoption of the agricultural adjustment law and the law governing unsolved property issues as well as the unification treaty in 1990. In 1992, the BVVG(Bodenverwertungsund -verwaltungs GmbH) was founded as the implementing agency responsible for management and privatization of the state-owned agricultural and forest land.

Germany now consists of 16 federal states (Bundesländer) of which five are new. About 90 percent of farmland in the new states is being rented compared to 47 percent in the old states. Significantly, leasing and not selling became the most important method to privatise land in the new federal states. In 1996 the number of farming operations in Germany totalled about 540,000.

5) United States Civil Administration of the Ryukyu Islands

The United States Civil Administration of the Ryukyu Islands (USCAR: 琉球列島米国民政府) was the government in Okinawa, Japan, after World War II from 1950 until 1972. According to Article 3 and Article 4b of the post-war peace treaty of April 28, 1952, the United States had the right to exercise all and any powers of administration, legislation and jurisdiction over the territory and inhabitants of Nansei Shoto(including the Ryukyu Islands and the Daito Islands), Nanpo Shoto south of Sofu Gan (including the Bonin Islands, Rosario Island and the Volcano Islands) and Parece Vela and Marcus Island, including their territorial waters. After a formal agreement reached on June 17, 1971, control of Okinawa was given back to Japan on May 15, 1972.

The US military has handed over 9,909 acres (4,000 hectares) of Okinawan land to Japan on Thursday, December 22, 2016, in what's been lauded as the largest return of US-occupied land since 1972. But there's a catch. As part of the Treaty of Mutual Cooperation and Security between the two countries, the United States is granted the right to certain defense facilities. In exchange for the land, the Japanese government built several new helipads for the US military to use on its southernmost island of Okinawa. Yet the handover has done little to assuage the ire of activists, who've campaigned for decades, to remove US bases altogether from Okinawa.

6) Postwar Poland Cases

In 1939 at the start of World War II, Poland was partitioned between Nazi Germany and the Soviet Union (see Molotov-Ribbentrop Pact). Upon coming to power, the Polish Communists began a process of massive nationalization of the economy. As a preliminary step, all laws enacted by the German occupier were nullified. After the war, many Jewish survivors left the country never to return, and those who stayed were often threatened if they attempted to recover their property.

In Poland, the starting point for land reform varied from the situation in most of the other study countries because, throughout the socialist era, as much as 75% of the agricultural land remained in private ownership, as well as in private use, in the form of individual family farms. However, the Soviet authorities then started a campaign of forced collectivisation, which largely nullified the earlier gains from the land reform as the peasants generally did not want to join the Kolkhoz farms, nor to give away their crops for free to fulfill the state-imposed quotas.

"Property restitution has been underway in Poland for well over two decades now.... As far as private property is concerned, the existing legal system in Poland makes it perfectly clear that any legal or natural person (or their heir) is entitled to recover prewar property unlawfully seized by either the Nazi German or the Soviet occupation authorities, or by the postwar communist regime. Claimants may use administrative and/or court procedure to demonstrate that their property was unlawfully seized and to recover it.", interviewed Polish Foreign Minister Witold Waszczykowski with Israeli on-line newspaper YNetnews, published June 15, 2016.

At the end of 2017, the Polish legislature drafted a bill (draft Large Reprivatization Act) that would provide for compensation payments for people who lost property in the Holocaust, but it pointedly excluded non-citizens and those who were not residents at the time their property was confiscated, and so this bill was abandoned. The year 2018 brings new opportunities to end "the Polish exception" and for Poland to catch up with the rest of Europe.

"I'm ashamed that it has taken Poland until now, twenty-eight years after the fall of communism, to prepare such a bill. This should have been taken care of a long time ago." "Poland, the former leader of the social and political transformation, is the last state of the former Eastern bloc which has not carried out reprivatization."

The World Jewish Restitution Organization(WJRO) urged the government to delete those exclusions and the legislation was held up. Taylor of the WJRO said his organization is again pressing the Polish legislature to revise the legislation and adopt it. However, thousands of Polish nationalists marched in Warsaw on Saturday, May 11, 2019, demanding that Poland pay no compensation to Jews or other people whose properties were confiscated by the Nazis during World War II and later by the Communists.

Post-communist Poland prides itself on how well it has managed the transition of its economy away from Soviet-style socialism. In the restitution arena, however, Poland is the laggard, and needs to look to its neighbors on how restitution can be achieved. Poland is the only country in the European Union that has not enacted national property restitution legislation.

4. Routes and methods for sustainable use

1) Reorganization of Land Order through Peace Agreement

(1) The loss of private property on land in the DMZ does not necessarily mean that all of the land is state property. War makes all land order at a beginning state according to the 'dominance of facts'. The postwar land forms a new order through reorganization process such as peace agreement. There is no ownership in the DMZ, as in the creation of the world.

(2) Sophisticated approaches are needed to restructure the DMZ land order. Parties to the armistice and peace treaty can claim sovereignty over DMZ land. First, China and North Korea can claim sovereignty over the North's DMZ land. China will grant its sovereignty to North Korea. The United States may also claim sovereignty over South DMZ lands in the name of UN forces. The US military may place military bases in or out of the DMZ, as in Okinawa, or require reconstruction.

(3) If South Korea, North Korea, the United States, and China will insist wartime international law, they could divide and manage the DMZ according to their will. But this is the worst case scenario. If the DMZ is divided and ruled by the two Koreas and by the big powers, peace will be lost. Korea should make extraordinary efforts.

(4) South Korea may not be a party to the Armistice Agreement (1953) but may be subordinated to sovereignty. The ROK military was not a party to the armistice, but it fought with the UN forces. The DMZ is a constitutional Korean territory and therefore not the exclusive subject of UN forces. South Korea should assert its sovereignty over the DMZ as a party to the peace treaty.

2) Approach based on international and domestic law

(1) For inter-Korean peace, the parties to the war must first agree, making the entire DMZ a neutral area. Land in the DMZ deserves to be treated as commons, like common waters (sea).

(2) The land secured in this way can be made into a natural monument like Germany. Germany, with the state of Thuringia, turns the old national border (Grünes Band) into a natural monument. To do this, domestic legislative measures must be preceded.

(3) In order to designate the DMZ as a natural monument, the current provisions of the Natural Environment Conservation Act (Article 2 No. 13 Nature Reserves) must be amended. In other words, in the current regulation that defines "DMZ for 2 years from the date of jurisdiction belonging to Korea" as a natural reserve, "2 years from the date of jurisdiction belongs to Korea...". This condition can be deleted. In this case, the DMZ can be a natural reserve.

(4) It is not necessary to revise the concept of natural reserve as a "natural monument". Natural monuments can be used as a popular name. The Minister of Environment may establish a comprehensive plan and policy here (Article 22 of the Act).

3) Use of sustainable DMZ ecosystem services

(1) In accordance with the international political agreement, the DMZ shall be declared a neutral zone and a plan should be taken to utilize the natural reserve. The DMZ should be used as an ecological hub and a pathway linking the east, west and north and south of the Korean peninsula.

(2) It is not just to fence and preserve the DMZ, but to promote sustainable use with conservation. DMZ's unique ecosystem, biodiversity and landscape, and ecosystem services therefrom are precious trove. We can maintain the DMZ ecosystem as well as enjoy its ecosystem services for the sustainable development inter-Korea.

(3) As noted, ecosystem services flow from ecosystems and biodiversity but differ. Ecosystem services can be seen as a natural benefit to economic well-being. Foreigners may reward ecosystem services to the residents and the South may reward ecosystem services to the North.

(4) If ecosystems and biodiversity are stock capital, ecosystem services are flow capital. The DMZ produces not only civil engineering and construction, but also a variety of supply, control, support and cultural services.

5. CONCLUSION

We, all Korean including North Korean people, are on the threshold of integration for prosperity or disharmony toward retreat in front of the interchange and reunification inter-Korea. The DMZ is a great icon of hope as well as the cherished land where North Korean and South Korean could meet, come and go, and cooperate each other for the future generations in the world.

Considering the several cases, including Poland or the Ryukyu Islands, of the war and restitution thereafter worldwide, I would like to insist again here that the parties to the Korean War must at first agree, making the entire DMZ a neutral area for inter-Korean peace. Land in the DMZ deserves to be treated as commons, like common waters (sea).

The land secured in this way can be made into a natural monument like Germany(Grünes Band). To do this, domestic legislative measures must be preceded. DMZ's unique ecosystem, biodiversity and landscape, and ecosystem services therefrom are precious trove. We can maintain the DMZ ecosystem as well as enjoy its ecosystem services for the sustainable development inter-Korea.

Legislation and Criminal Affairs

Restoration of National Homogeneity between two Koreas and
Stabilization of Land Order inside DMZ for Peaceful Co-existence



Comprehensive Discussion **Marie-Yon STRÜCKER**

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Ms. Marie-Yon STRÜCKER works as Environmental Consultant for the Biodiversity and Ecosystem Management Division at UN Environment Programme (Asia and the Pacific in Bangkok). In addition, she serves as International Cooperation Manager of the National Nature Trust Korea, which she joined as part of her Mercator fellowship provided by the German Federal Foreign Office. Before being awarded the Mercator fellowship, she worked as Research Associate at the NEES Institute of Biodiversity of Plants in Bonn. She is committed to interdisciplinary and intercultural exchange between Europe and Asia focusing on biodiversity and natural heritage in the Korean DMZ with reference to the successful German Green Belt (Grünes Band Deutschland).

Marie-Yon STRÜCKER holds a Masters in Biomechanics from the University of Cambridge and a B.Sc. in Biomimetics and Bio-Inspiration from the University of Applied Sciences Bremen. In addition to her professional and research experience, Marie-Yon STRÜCKER worked for the South Korean broadcasting station KBS.



Comprehensive Discussion **JEON Sumi**

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Dr. JEON Sumi is currently President of the Wave of Peace Institute based in Seoul, Korea. She is also an adjunct professor at the Graduate School of Legal Affairs at the Kyung Hee University. Prior to her current position, she served as Legal Advisor at the Settlement Support Center for North Korean Refugees ("Hanawon") and Member of the Expert Committee on International Relations of the Presidential Committee on Northern Economic Cooperation. She was awarded Outstanding Lawyer Award from the Korean Bar Association.

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Comprehensive Discussion

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Mr. HAN Myung Sup is currently Partner at Tongin Law Firm. As a licensed attorney who passed the 32nd National Bar Examination and a graduate of the National Judicial Research and Training Institute, Mr. HAN Myung Sup has extensive experience in legal matters relating to unification. He served as a public prosecutor at the Unification Legal Affairs Division of the Legal Affairs Bureau of the Ministry of Justice, Republic of Korea; Member of the National Unification Advisory Council; Chair of the Research Committee on Unification Matters of the Korean Bar Association; Chair of the Special Committee on North and South Korea Legislation Research; Member of the Committee on Unification and Justice of the Supreme Korea of Korea; Member of the Committee on Unification Legislation of the Ministry of Unification, Republic of Korea; and Member of Committee on North and South Korea Legislation Research of the Ministry of Government Legislation, Republic of Korea. Mr. HAN Myung Sup holds L.L.B degree from the Kyung Hee University, Master's degree in North Korean politics and unification from the University of North Korean Studies and Ph.D. in law from the Kyung Hee University.

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Comprehensive Discussion

JANG Won-Kyu

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Dr. JANG Won-Kyu studied law in South Korea and Germany. Doctoral studies at the Christian-Albrechts-University Kiel and the University Bayreuth in Germany. At that time, he was partially supported through scholarships of the German Research Foundation (DFG). In 2011, JANG Won-Kyu's dissertation thesis was accepted at the Christian-Albrechts-University and was published on the subject of "Das Zessionsrecht und die Sicherungszession in der Insolvenz des Zedenten: Insbesondere vor dem Hintergrund deutscher, koreanischer und japanischer Rechtsprechung in kritischer Perspektive". Master-studies at the University Bayreuth and the Kyung Hee University in Seoul. He received a Master's Degree in 2003 from the Kyung Hee University with the theme for "A Study on Legal Issues of Security Interests held by Companies against Corporate Goods and Receivables: By Reflections on induction of Electronic Registration". Bachelor of Law, Kyungnam University in Masan 1999.

Between 2011 and 2013, Dr. JANG Won-Kyu was Academic Lecturer for legal basic, commercial law and international trade law at the Kyung Hee University and the Kyungnam University. From 2012 until 2013, he was Research Fellow at the Kyung Hee Institute of Legal Studies. In 2013, he was appointed as Visiting Researcher of KLRI.

His specialties are regulatory private law, corporate or personal rehabilitation & insolvency law, credit & security law, comparative law, etc. Since 2015 at KLRI, Dr. JANG Won-Kyu researches and consults on legal and legislative matters by various government departments as well as non-governmental organisations. From 2019, he focuses on the North Korean statute and legal system in the research fields, e.g., private law, foreign investment law & dispute resolutions, secured transaction law, financial law, etc.

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Comprehensive Discussion

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Doctor PARK Hun-Min began his career as a founding member since the launch of KLRI Unification Legislation Research Team in 2015 and devote his service to study of Korean Unification Law and Inter-Korean Relation Law. While previous studies on Korean Unification Law have focused on North Korea's "Sudden Change" or conflict situation, he has conducted the research with a major interest in the Legislation which improvement of Inter-Korea cooperation and promotion of reform & opening door policy in North-Korea. As research project, he has studied of 'Inter-Korean Exchange and Cooperation Act', Bill of 'Special Act on Designation and Management of Peace Economic Zone' etc.

Dr. PARK Hun-Min has been cooperated to Ministry of Unification, Ministry of Legislation as a specialist of Korean Unification Law and Inter-Korean relation Law. He also served as member of Legislation Support Board in National Assembly, a member of Joint Research Group for Korean Peninsula Peace and Prosperity in National Research Council for Economic, Humanities and Social Sciences (NRC). He does study and consultation in administrative law and other comparative law area as well.

He holds Bachelor of Law, Master of Law, Ph.D. in Law Degrees of Seoul National University college of Law and its graduate school. His major education in legal field was Public Law, especially Administrative Law. He joined the KLRI in 2014 and has been working so far.

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