ACTA KOREANA
VOL. 17, NO. 1, JUNE 2014: 307–338

DISCONTINUITY AND CONTINUITY IN THE TRADITIONAL KOREAN JUDICIAL SYSTEM DURING ITS MODERN REFORM PERIOD, 1894 TO 1905*

By DO MYOUN-HOI

This study explores the nexus of discontinuities and continuities in the Korean judicial system between the traditional court system before the 1894 reform and the allegedly modern post-reform judicial system. Despite the 1894 reform's obvious achievements such as centralization of judicial hierarchy, institutionalization of modern penal system, and separation of civil and criminal court, the 1894 reform did not succeed in making the break with the past that the reformers had purported to achieve. Rather, the post-reform judicial system still featured strong continuity with the traditional institutions and practices. This continuity of traditional legal system not only posed serious obstacle to the judicial reform undertaken by Korean themselves, but also gave rise to an expectation for the Japanese rule on the part of many Korean reform intellectuals after the protectorate treaty of 1905, paving the way to the emergence of colonial modernity in Korea.

Keywords: judicial reform, court, imprisonment, appeal system, torture, Korean modernization

INTRODUCTION

When China, Japan, and Korea were forced to enter into treaty relations with Western imperial powers in the mid-nineteenth century, they each granted the privilege of consular jurisdiction to foreign powers, with the result that their judicial sovereignty was seriously compromised. Reformist elites in these three

* This work was supported by the National Research Foundation of Korea Grant funded by Korean Government (NRF-2010-013-A00002).

countries agreed that modern legal reform was essential, not only for the recovery of their judicial sovereignty that had been damaged by the extraterritoriality clauses in their treaties with the Western powers, but also for building a modern nation-state. Still, the respective course of judicial reform in each country met with varying degrees of success or failure due to the differing historical circumstances of each nation.

In China, judicial reform was attempted beginning in 1921 as a precondition for abolishing the practice of consular jurisdiction, yet overall progress remained slow mainly due to financial difficulties. It was not until after the end of World War II in 1945 that consular jurisdiction was finally abrogated in China.[1] In Japan, after granting extraterritorial jurisdiction in 1856 to treaty powers such as the United States, the Netherlands, and Russia, the Meiji elites were aggrieved that the criminal offences of foreigners' were outside the jurisdiction of the Japanese government. They were the swiftest of the three countries in pushing for legal modernization beginning in the 1870s, and by 1899 they succeeded in effecting judicial sovereignty by abolishing consular jurisdiction in Japanese territory.[2]

In Korea, after granting extraterritorial privileges to Japan in 1876, which was followed soon thereafter by the United States, Great Britain, and China, a minority of government officials advocated their abolition to recover the judicial independence of Korea. Nevertheless, the momentum required to launch judicial reform aimed at abolishing extraterritoriality was lacking. Nevertheless, Kim Ok-kyun, a leading reformist official in the early 1880s, argued for the introduction of a system of penal servitude as a measure to mitigate what were seen as the overly harsh and inhumane aspects of Korea's penal system.[3] Another reform official, Pak Yŏng-hyo who had fled to Japan after the abortive Kapsin Coup (1884) presented a memorial to the king in 1888 in which he called for an overhaul of the judicial system through the prohibition of abusive penalties and torture, the abrogation of the law of association, and the introduction of adjudication based on evidence, public trials, and penal servitude.[4]

Such ideas of judicial reform set forth by Korean reformers were presented as part of their broader reform proposals to build a modern nation-state that they

---

[1] Hwang Ming-hŏ (Hwang Ming-heo), trans. by Yi Ch'ŏl-hwan, *Pŏpchŏng ŭi yŏksa* [History of law courts] (Seoul: Sigŭmabuksŭ, 2007), 33-59.

[2] Han Ch'ŏl-ho, "Kaehanggi Ilbon ŭi ch'ioe pŏpkwŏn chŏgyong nolli wa Han'guk ŭi taeŭng" [Japanese logic in applying extraterritorial jurisdiction and the Korean reaction] *Han'guksa hakpo* 21 (2005), 186–193.

[3] *Kim Ok-kyun chŏnjip* [Collection works of Kim Ok-kyun] (Seoul: Aseamunhwasa), 14–15.

[4] To Myŏn-hoe (Do Myoun-hoi), "1894–1905 nyŏn'gan hyŏngsa chaep'an chedo yŏn'gu" [Study on the criminal adjudication system of pre-colonial Korea, 1894–1905], Ph.D. dissertation, Seoul National University, 1998. 80–81.

had learned from the Meiji state. It was only through the reformist cabinet established in the aftermath of the Kabo Reforms (1894–1895) under the aegis of the Japanese that the traditional Korean state and society began to undergo tremendous changes with the implementation of modern institutions modeled after those of Meiji Japan. Judicial reform was also based on the model of the Japanese system, introducing many new elements that were alien to the traditional Korean legal system, such as the creation of separate courts, the appointment of professional judicial officials such as judges and prosecutors, the separation of civil and criminal suits, and the abolition of cruel and abusive punishments such as the death penalty by cutting.

One long-standing perspective on the Korean judicial system has taken a teleological approach that postulates a modern Western or Japanese judicial system as its ideal, and consequently assesses how much or little progress has been made through Koreans' efforts for legal reform in comparison with Western or Japanese standards.[5] This methodology presumes a dichotomy of "an advanced West and Japan versus an underdeveloped Korea" derived from a Eurocentric view of historical development that maintains that modern institutions originated from the West and spread to the rest of the world.

Since the 1990s, however, such a Eurocentric historical perspective has come under increasing criticism by a new generation of scholars calling for alternative interpretations of the modernization process of the non-Western world. Consequently, new interpretations of non-Western modernization highlight mutual interactions marked by contact, collision, and negotiation between modern Western cultures and traditional non-Western cultures, rather than unilateral actions marked by imitation, expansion, and trans-plantation of Western models.[6]

In line with this new academic approach, two recent studies that explore how the modern judicial system was introduced to Korea during the Kabo Reforms are very instructive. Sin U-ch'ŏl's study of the introduction of the modern judicial system in 1895 modifies the existing thesis that judicial reform was solely propelled by Japanese advisors, as it shows that the reform embraced some aspects of Korean reformers' conception of a modern legal system that had gained currency beginning in the early 1880s.[7] Thus, his study points to the

---

[5] Sŏ Il-gyo, *Chosŏn wangjo hyŏngsa chedo ŭi yŏn'gu* [Study of the penal system of the Chosŏn dynasty] (Seoul: Han'guk pyŏpryŏng p'yŏnch'anhoe, 1968); Kim Pyŏng-hwa, *Kŭndae Han'guk chaep'ansa* [History of modern Korean court adjudication] (Seoul: Han'guk sabŏp haengjŏng hakhoe, 1974); Ch'oe Chong-go, *Hanguk ŭi sŏyang pŏp suyongsa* [History of the adoption of Western laws in Korea] (Seoul: Pakyŏngsa, 1982); To Myŏn-hoe, ibid.

[6] Pak Yŏng-hŭi, "Han'guk sŏyang sahak ŭi Yurŏp chungsimjuŭi rŭl nŏmŏsŏ" [Beyond the Eurocentrism of Western historiography on Korea], *Sŏyangsaron*, vol. 95 (2007).

[7] Sin U-ch'ŏl, "Kŭndae sabŏp chejo sŏngnipsa pigyo yŏn'gu" [Comparative study on the origin of

spread of Korean reformist ideas as an "internal condition" for the enactment of a modern judicial system in 1895. Still, his study suggests that the very existence of such an "internal condition" in Korea represents a form of modern progress in line with Western historical development.

On the other hand, Mun Chun-yŏng's study confirms that the 1895 judicial reform was undoubtedly masterminded by the Japanese legation staff and advisors led by Inoue Kaoru, though it overlapped in part with the legal reform proposals set forth by Korean enlightenment thinkers. His study is more concerned with the post-1895 judicial reform undertaken by Korean officials who readjusted to Korean realities those elements of the Japanese-initiated reform that were alien to and incompatible with Korean legal concepts and sensibilities. He argues that such a readjustment may well be seen as backward by modern standards. Nonetheless, he asserts that it echoed, to a considerable extent, the legal reform ideas of Korean enlightenment thinkers of the 1880s.[8] Thus, Mun's study provides insight into the historical context of the legal reform in Korea, in which traditional and modern cultures interacted in terms of contact, collision, and adjustment.

It is certainly true that some Korean reformist thinkers of the 1880s and later were concerned with the confusions the abrupt reforms might bring about, and suggested a gradual approach that took account of possible conservative reactions. Yet, the ethos of Korean legal reforms in particular, and modern reforms in general was a final break with past institutions and practices that were seen as obstacles in the path to a modern nation-state. Therefore, given that Korean reformers were willing to embrace even those elements alien and incompatible to traditional Korean legal concepts and sensibilities as an essential condition for the abolition of extraterritoriality and the building of a sovereign nation-state, the post-1895 judicial reform that maintained traditional Korean legal concepts and sensibilities was seen as a reactionary obstacle to the gathering momentum for modern nation-state building in Korea in the late nineteenth century.

This study explores the discontinuity and continuity of the Korean judicial system that underwent a series of reforms beginning in 1894. Discontinuity can be found in the modern aspects of the reforms that were transplanted from Western and Japanese legal concepts and institutions, while continuity can be found in the preservation of aspects of the old Chosŏn dynasty (1392–1910) system, as well as the persistent resistance of the conservative ruling elite who

---

the modern judicial system], *Pŏpcho*, vol. 612 (2007).

[8] Mun Chun-yŏng, "1895 nyŏn chaep'anso chojik ŭi ch'ulhyŏn kwa Ilbonin ŭi yŏkhal" [Appearance of the court organization of 1895 and the Japanese role], *Pŏpsahak yŏn'gu*, vol. 39 (2009).

perceived modern reforms as a threat to their established positions and vested interests. By taking into account these two opposite aspects of the pre-colonial Korean judicial system caught in a series of modern reforms, this study aims to discern meaningful points of reference for accessing the possibility of Korea's transformation into a modern state, as well as for identifying the tenacity of Korea's traditional system.

1. BREAKTHROUGH: PARTIAL INDEPENDENCE OF JUDICIAL POWER AND STATE MONOPOLY OF PENAL POWER

In a modern state, typically the judicial handling of both criminal affairs and civil disputes is separated both from the administration and each other by independent courts staffed with professional judges. Even prior to the 1894 reform, Korea possessed government agencies specialized in handling criminal affairs, such as the State Tribunal (Ŭigŭmbu 義禁府) and the Board of Punishments (Hyŏngjo 刑曹). Nevertheless, judicial power was exercised not only by local administrators, such as provincial governors and county magistrates, but also by more than twenty central administrative agencies, such as the State Council, the Royal Secretariat, the Seoul Magistracy, the Office of Inspector-General, and the Office of Special Advisers.[9]

In April 1895,[10] the Court Organization Law (*Chaep'anso kusŏng pŏp* 裁判所構成法) that was geared to produce a separate judicial system was proclaimed, resulting in the overhaul of the existing court hierarchy. Instead, at the highest level of the court system, the Special Court (T'ŭkpyŏl pŏbwŏn 特別法院) and the High Court (Kodŭng chaep'anso 高等裁判所) were established. The Circuit Courts (Sunhoe chaep'anso 巡廻裁判所) functioned as appellate courts under the High Court. On the trial level, the Seoul City Court (Hansŏng chaep'anso 漢城裁判所), the Treaty Port Courts (Kaehangjang chaep'anso 開港場裁判所), and the District Courts (Chibang chaep'anso 地方裁判所) were established. The Special Court would try the crimes of royal family members while the High Court would try the crimes of members of the two highest ranks (*ch'igim-gwan* and *chuim-gwan*) of the government as well as serious crimes of a

[9] *Yukchŏn chorye* 六典條例 [Six-Division Codes], "Hyŏngjŏn" 刑典 [Criminal Codes]; *Taejŏn hoet'ong* 大典會通 [Collection of Great Codes], "Hyŏngjŏn" 刑典 [Criminal Codes].

[10] Unless otherwise indicated, all the dates in the text of this paper are based on the Western calendar adopted in Korea from January 1, 1896, which fell on the seventeenth day of the eleventh month of 1895 in the lunar calendar. All the dates in primary sources in the footnote section, however, appear as they were written either in the lunar or in the Western calendar.

political nature. It would also hear appeals from lower courts. General crimes committed by the people would be mostly tried by the Seoul City Court, the Treaty Port Courts, and the District Courts.[11]

Among these revised courts, only the High Court and the Seoul City Court operated exclusively as courts, being provided with separate buildings and legal professionals like judges and prosecutors.[12] The District Courts were housed in provincial governments, where provincial governors acted as judges in addition to their administrative duties. Likewise, the Treaty Port Courts were housed in treaty port offices, where treaty port intendants acted as judges in addition to their administrative work. Moreover, the branch courts that were to have been implemented under the auspices of the District Courts were never actually established. Instead, county magistrates were allowed to deal with lawsuits within their jurisdiction.[13]

The Ministry of Justice (Pŏppu 法部) was established in order to control these revised courts. It was not only in charge of overall judicial administration, but was also empowered to intervene in court decisions by even issuing orders such as directing the application of laws and the disposition of convicts. The lack of qualified legal professionals trained in modern legal knowledge at the incipient stage of modern legal reform in Korea partly accounts for the appointment of administrative officials such as provincial governors and county magistrates to the posts of judges and prosecutors who were answerable to the justice minister. Moreover, in the aftermath of the Kabo Reforms (1894–1896) a plethora of laws and ordinances were superimposed on the old laws, creating a great deal of confusion for legal officials, thus engendering intervention by the justice ministry. In fact, in July 1895 the justice ministry exhorted legal officials to request instructions from it in handling difficult cases that needed legal expertise, such as those involving penalties of lifelong banishment or imprisonment, those worthy of lighter penalties in consideration of extenuating circumstances, and those in which it was not clearly what laws should be applied.[14]

It has to be kept in mind that the reform cabinets (July 1894 to February 1896) allowed the justice ministry to intervene in the court decisions of the country only as a provisional measure. This was also how it viewed allowing such administrative officials as provincial governors, county magistrates, and treaty-port intendants to serve as judges and prosecutors. The reformers planned to have separate court houses built, and professional legal officials educated about

11 Kim Pyŏng-hwa, ibid., 56–66.
12 To Myŏn-hoe, ibid., 123.
13 Ibid., 137–138.
14 Ibid., 118.

modern criminal and civil laws once adequate funds were obtained. However, the conservative turn of the government in the aftermath of the king's flight to the Russian legation in February 1896, and the subsequent collapse of the reform cabinet, as well as the later disbanding of the progressive Independence Club largely frustrated the judicial reforms intended by reformist officials. Except for the High Court and the Seoul City Court, therefore, the rest of the court system, including the Treaty Port Courts and the District Courts, continued to allow provincial governors, treaty-port intendants, and county magistrates to exercise judicial power. Apart from the chronic financial deficit of the government, the resistance on the part of provincial governors and county magistrates against the transfer of their vested judicial power to the new judiciary accounts for the continuation of traditional practices, as can be evinced by one memorial submitted by Justice Minister Yi Yu-in in January 1898.

This memorial maintained that the appointment of separate judges and prosecutors at the Kyŏnggi Provincial Office and the Seoul Magistracy meant a major loss of work on the part of the governor of Kyŏnggi and the mayor of Seoul, who used to spend most of their time adjudicating civil and criminal cases in their jurisdiction. The memorial concluded that since the separate appointment of judges and prosecutors entailed much expense without bringing any improvement in the handling of legal cases, and only turned the governor and the mayor into idle consumers of salaries by depriving them of their main jobs, the two courts ought to be abolished, or the governor and the mayor should be appointed concurrently as judges on them.[15]

The memorial was accepted quickly on February 9, 1898. Accordingly, the Kyŏnggi Court was incorporated into the Kyŏnggi Provincial Office, the governor of which served as its judge, while the Seoul City Court was replaced by the Seoul Magistracy's Court,[16] with no separate building and with the mayor serving as its chief judge and the vice-mayor as its judge.[17] Thereafter, the practice of appointing administrative officials to the posts of judges and prosecutors continued until mid-1908, when the Japanese launched a reform of the Korean court system.

---

[15] *Chuŭi* 奏議 [Reported Issues] (Kyujanggak Library Document # 17703), 12th *ch'aek*, January 21, 1898.

[16] National Assembly Library, ed., *Hanmal kŭndae pŏmnyŏng charyojip* 韓末近代法令資料集, vol. 2 [Collection of modern laws and ordinances of old Korea] (hereafter *Pŏmnyŏngjip* 法令集), "Chingnyŏng" 勅令 [Edict] No. 4, No. 5, and No. 6, February 9, 1898.

[17] *Ku Han'guk kwanbo* 舊韓國官報 [Government gazette of old Korea], "Pŏppuryŏng" [Ordinance of the Ministry of Justice] No. 1, September 6, 1898.

Remarkably, however, the practice of administrative officials exercising judicial power continued as an expedient. The novel principle of independent judicial power that was to be exercised exclusively by the justice ministry and the new courts began to take root, as was illustrated by the prohibition of judicial functions hitherto exercised by more than twenty central administrative agencies.

The notion that suspects should be arrested and questioned only by officials with judicial power gained increasing acceptance among the people, as the following incident showed. In September 1898, a lower official from the Department of Husbandry, Ch'oe Man-sŏp, inflicted a flogging on a tenant farmer, Kim Tong-gyu, who had rented department land, on account of overdue rent. The victim's uncle, Kim Un-gyŏng, intervened on behalf of his nephew, protesting, "How absurd it is for you who are not a judicial official (*pŏpkwan* 法官) to mete out a penalty [arbitrarily] to the innocent."[18]

Meanwhile, with such centralization of judicial power in the hands of the state's judicial officials, the state's monopoly of penal power was further strengthened, leaving little room for punishments by private hands. From the vantage point of the modern state's monopoly of penal power, revenge slaying (*poksu sarin* 復讐殺人) by the victim's survivors of someone who had killed a close relative—hitherto justified on Confucian moral grounds—should be criminalized as illegal killing.

Killing undertaken for revenge on behalf of one's parents was met with no punishment at all or with penalties less than for outright murder in the Chosŏn era, prioritizing the extra-legal Neo-Confucian moral ethics of the Three Bonds and Five Relationships (Samgang Oryun 三綱五倫) over the legal norm pertaining to homicide. A son or grandson who killed the murderer of his parents or grandparents was sentenced to sixty strokes, yet was released with no punishment at all when he killed the murderer at the scene of the crime.[19] A son who killed the murderer of his father without waiting for sentence to be passed was banished, not executed for murder. Later, wives and mothers taking revenge for murdered husbands and sons were sentenced to the same penalty of sixty strokes as was given to a son or grandson who sought revenge for his parents and grandparents.[20]

---

[18] *Kodŭng chaep'anso Pyŏngninwŏn sangso p'angyŏl sŏngosŏ* 高等裁判所・平理院 上訴判決宣告書 [Ruling letters of the appeal cases of the High Court (Court of Cassation)] in *Pŏpsahak yŏn'gu*, vol. 8 (1985), 14.

[19] *Tae Ming ryul chikhae* 大明律直解 [Direct translation of the Great Ming Code], "Hyŏngnyul" 刑律 [Laws on penal affairs], "T'ugu pyŏn" 鬪毆篇 [Affrays and batteries section].

[20] *Taejŏn hoet'ong* 大典會通 [Collection of Great Codes], "Hyŏngjŏn" 刑典 [Criminal Codes], "Sarok" 殺獄 [Homicide]. Killing for revenge was called *ŭisal* 義殺 (righteous killing). For revenge killing during the Chosŏn dynasty, see Sim Hŭi-gi, "Poksu ko sŏsŏl" [Introduction to revenge

After the legal reforms, however, the courts were not to follow the rules hitherto applied to killing for vengeance—reduced penalties or release—because they would compromise the principle of the state's monopoly of penal power. Still, treating killing for vengeance as general homicide might have hurt the moral sensibilities of the people. Caught between these two contradictory demands, the Ministry of Justice tried to find a balance, yet gave more weight to the principle that denied private punishments by individuals.

Even amid the apparent conservative turn of the Korean government especially after the King's flight to the Russian legation in February 1896, we can find a number of revenge cases in which vengeance committed by the murder victims' close relatives received little sympathy from the legal authorities and was subjected to harsh punishment, as stipulated in the law provisions.[21] Thus, the monopoly of penal power by the state, in particular by the Ministry of Justice, was further strengthened by denying the legality of private punishments such as the revenge killing of the murderer of a close relative, which hitherto had received reduced penalties or no penalty at all on Confucian moral grounds.

2. BREAKTHROUGH: IMPROVED JUDICIAL PROCESS AND PENAL ADMINISTRATION AND THE GROWTH OF PEOPLE'S RIGHTS

The judicial administration and process underwent several important changes, including the amelioration of the penal system, the separation of civil and criminal cases, and the abolition of punishment by association, as well as status distinction before law courts.

Amelioration of the Penal Administration

In the penal system, many cruel punishments were ameliorated due to humanitarian considerations. Punishments by banishment and by exile were all abolished to be replaced by a new form of punishment, namely, penal servitude. In the case of the death penalty, two extremely cruel methods of execution by

killing] *Pŏphak yŏn'gu* 26-1 (1983); Chŏn Chae-gyŏng, Poksu wa hyŏngbŏl ŭi sahoesa [Social history of revenge and punishment] (Seoul: Ungjin ch'ulp'ansa, 1996); Yun Chae-hyŏn, "Tasan Chŏng Yag-yong ŭi poksu ron" [Thesis on revenge by Chŏng Yag-yong] *Tasanhak* 3 (2002); Kim Ho, "Ŭisal ŭi chogŏn kwa han'gye" [Righteous killing: Its conditions and limits] *Yŏksa wa hyŏnsil* 84 (2012).

[21] *Pŏpbu sojang* 法部訴狀 [Petitions filed with the Ministry of Justice], 1st *kwŏn* (Kyujanggak Library, Seoul National University: 2000), 123, 128, 220-221, 557, 637; ibid., 2nd *kwŏn*, 395; ibid., 6th *kwŏn*, 486.

slicing and by cutting were abolished, and only execution by strangling remained to be applied to civilians convicted of capital offenses.[22] As a consequence, appalling scenes of dismembered bodies being placed on public display after execution by cutting disappeared. A British woman traveler Isabella Bird Bishop who revisited Seoul in 1897 testified as follows:

> Torture is at least nominally abolished, and brutal exposures of severed heads and headless trunks, and beating and slicing to death, were made an end of during the ascendency of Japan. . . . I could hardly believe it possible that only two years before I had seen several human heads hanging from tripod stands and lying on the ground in the throng of a business street, and headless bodies lying in their blood on the road outside the East Gate.[23]

The proper enforcement of penal servitude necessitated the procurement of prison buildings, sufficient funds to feed and clothe prisoners, and prison workshops as well. Given that the Korean government's finances had been perennially strained, especially after 1895, construction of new or extended prison buildings was not attempted. Thus, prisoners continued to be housed at existing prisons located in Seoul and the provincial capitals. Moreover, food was always in short supply because of the prisons' meager budgets. For instance, in July 1899 on average only one *toe*[24] of rice per day was used to feed eight prisoners in Seoul, and their plight, whether convicted or waiting for trial, was depicted as being pathetic.[25] Despite such a poor diet prisoners were ordered to carry water or to clean yards.[26] Tied in pairs with chains around their legs and waists, some were seen toiling in government or palace premises.[27]

Despite adverse prison and worksite conditions, lifelong prisoners in general had a favorable view of this new form of punishment. First of all, the existence of life sentences saved many convicts who in the past would have been most likely subjected to the death penalty. While being supplied with food and clothes, they might even have the chance to acquire tobacco and alcohol after working.

---

22 To Myŏn-hoe, ibid., 108-111.

23 Isabella Bird Bishop, *Korea and Her Neighbors* (New York: Fleming H. Revell Company), Reprinted by Yonsei University Press (Seoul, 1970), 443.

24 One *toe* was approximately equal to one tenth of one picul (i.e. 1.8 liters).

25 *Kian* 起案 [Case Raised] (Kyujanggak Library Document # 17277-3), 2nd *ch'aek*, July 17, 1899.

26 *Tongnip sinmun* [*The Independent*], *chappo* [Miscellaneous reports], July 20, 1897.

27 Emile Bourdaret, trans. Chŏng Chin-guk, *Taehan cheguk ch'oehu ŭi sumgyŏl* [The last breath of the Taehan Empire] (Seoul: Kŭlhang'ari, 2009), 261.

Furthermore, they could also look forward to being granted their freedom after a series of amnesties.[28]

Separation of Civil and Criminal Cases

Even before the legal reforms, there had been a distinction between civil suits (*sasong* 詞訟) and criminal suits (*oksong* 獄訟). Yet the two categories had remained muddled, with civil suits not being devoid of the elements of prohibition and punishment. Thus, it had been a common occurrence that civil parties had been put in jail or punished.[29]

The justice ministry's ordinance, "Regulations for Civil and Criminal Proceedings," proclaimed in May 1895 spelled out in detail the procedures of civil and criminal cases from the filing stage to the appeal stage, and attached an array of official forms needed for every stage, such as a petition letter, proxy letter, criminal charge, criminal report, public suit, private suit, court ruling, and appeal letter.[30] As for civil cases, the justice ministry stipulated the regulations concerning the protection of incompetent persons, the appeal process and limitations, fees for suits, and enforcement. Concerning criminal cases, the justice ministry stipulated the regulations dealing with the distinction between criminal charges and criminal reports, indictments by a prosecutor, court procedures, the composition of a ruling letter, and the appeal period.

In May 1900, gravesite litigation (*sansong* 山訟), hitherto treated as a penal case, was reclassified as a civil dispute between private parties.[31] By turning one of the most common disputes among the people into a civil affair, the measure prevented the defendant from being put into custody or even tortured, unless his act was obviously criminal.

The introduction of the civil action system encouraged people to resort to civil suits to obtain repayment of loans or promissory notes even if they received less than the full amount. A study on the use of the new civil action system shows that it was in higher demand among commoners and the lowborn than among the

---

28 *Tongnip sinmun* 獨立新聞, *chappo*, March 15, 1899.

29 Pak Pyŏng-ho, "Chosŏn sidae ŭi chaep'an chedo" [Court system in the Chosŏn era] in *Kŭnse ŭi pŏp kwa pŏp sasang* [Laws and legal thought in early modern Korea] (Seoul: Tosŏch'ulp'an Chinwŏn, 1996), 329-349.

30 *Pŏmnyŏngjip* 法令集, vol. 1, 367–376. For the criminal procedure, see Kim Pyŏng-hwa, ibid., 381–382; To Myŏn-hoe, ibid., 119–120. For the civil procedure, see Son Kyŏng-ch'an, "Kaehwa-gi kŭndae chŏk minsa sosong pŏpche toip e kwanhan yŏn'gu" [Study on the introduction of a modern civil-suit system in the Enlightenment Period in Korea] M.A. thesis, Seoul National University, 2004.

31 *Ku Han'guk kwanbo* 舊韓國官報 [Government Gazette of Old Korea], May 1, 1902.

yangban elite, and was marked by a higher rate of success on the part of plaintiffs. In addition, the study also highlights ordinary people's use of the newly-instituted appeal system to protect their private rights.[32]

Abolition of Punishment by Association and Status Distinction

The abolition of punishment by association (*yŏnjwa* 緣坐) and status distinction (*sinbun* 身分) enacted during the Kabo Reforms significantly altered the penal system. Guilt by association was forbidden under the ordinance which reads "A convicted criminal shall bear the penalty alone, and all manner of punishment by association shall be discontinued."[33] Therefore, even if an offender committed such extreme crimes (*sibak* 十惡) as rebellion, treason, heinous evil, perverseness, blatant defiance, and unfilial acts, his or her close relatives and neighbors would no longer be subjected to punishment. Homer B. Hulbert, who recorded the Korean situation at the turn of the twentieth century, viewed this abolition as a major departure from earlier inhumane practices:

> Until recent years it was always customary to follow the execution of a traitor with the razing of his house, the confiscation of all his property, the death of all his sons and other near male relatives, and the enslavement of all the female portion of the family. It has recently been enacted that the relatives should be exempt.[34]

Another form of punishment by association in which the accused's close yet innocent relatives were arrested on behalf of him (*taesu* 代囚) was also abolished in principle. Before the reforms, if the accused had fled or was still at large, his close relatives—parents, elder brother, or wife—would have been taken into custody. Since the practice of arresting close relatives of the criminal offender served the goal of the penal authorities to arrest and punish an offender promptly, the district and treaty-port courts continued to resort to it as a way of expediting criminal cases. Nevertheless, the justice ministry was determined to bring an end to the practice, as was illustrated in its order issued to the district court in South P'yŏng'an;

---

32 Kim Hang-gi, "Kabo kaehyŏkki (1894–1896) minsa sosong chedo ŭi sihaeng kwa sagwŏn sinjang" [The civil action system and growth of private rights in the Kabo Reform Period (1894–1896)], M.A. thesis, Dongguk University, 2011.

33 *Ŭijŏng chonan* 議定存案 [Fixed issues on record] (Kyujanggak Library Document # 17236), the 28th day of the 6th month of 1894. The translation is quoted from Peter H. Lee, ed., *Sources of Korean Civilization*, Volume II: *From the Seventeenth Century to the Modern Period* (New York: Columbia University Press, 1996), 382.

34 Homer B. Hulbert, *The Passing of Korea* (New York: Doubleday Page & Company, 1909), 62.

> It is strikingly against the law that the following innocent wife, son, and father were put into prisons on behalf of a killer husband Cho Si-hyŏn from Sunch'ŏn County, a killer father O Yi-ch'u from Kaech'ŏn County, and a killer son Yi Yŏng-song from Maengsan County respectively. The commoner wife Kim, the son O Kwang-jo, and the father Yi Yun-hwa should be released on arrival of this order.[35]

As it happened, Sunch'ŏn County of South P'yŏng'an had arrested the wife, the son, and the father in an effort to force the surrender of the three runaway killers, yet the justice ministry denounced such an effort as illegal.

A prisoner named Kim Chin-hwa from the Capital Prison petitioned the justice ministry to put his son into prison on behalf of him for three months, so that he could perform the mourning rite for his mother. The ministry rejected the petition, determining that his reason did not provide an excuse for exempting the prohibition against arresting a substitute.[36]

Abolition of the Status System and Slavery

Before the Kabo Reforms, the penal laws recognized the status distinction between *yangban* and commoners, masters and slaves, and employers and hired hands (*kogong* 雇工) in applying penalties for the same offense. In handling all aspects of criminal procedure including arrest, interrogation, custody, application of law, and ruling, there had been separate sets of rules between *yangban*, commoners, and slaves.[37] The traditional status system along with slavery was abolished during the Kabo Reforms under the ordinances which read "The laws on public and private slaves shall be abolished, and there shall be no slave trade"; "Family lineage and class distinction between the literati and the commoners shall be eliminated. A qualified person shall be recruited irrespective of family origin."[38] As a consequence, in the "Rules for Punishing Robbers" published in April 1896, persons were indicated devoid of status connotations, such as "male and female people's family" (*inga namnyŏ* 人家男女) and "employee" (*koyong* 雇傭) in place of "commoner" (*yang'in* 良人) and "slave" (*nobi* 奴婢) used in old legal texts.[39]

---

[35] *Kian* 起案 [Case Raised] (Kyujanggak Library Document # 17277-2), 28th *chaek*, March 22, 1898.

[36] *Pŏpbu sojang* 法部訴狀, 5th *kwŏn*, 424, (January 1903).

[37] To Myŏn-hoe, "Kabo kaehyŏk ki hyŏngsa pŏpkyu ŭi kaehyŏk" [Reform of the criminal laws during the Kabo Reforms] *Kyujanggak* (Kyujanggak Institute of Korean Studies) 21 (1998), 107–109.

[38] *Ŭijŏng chonan* 議定存案, the 28th day of the 6th month of 1894.

[39] To Myŏn-hoe, ibid., 118.

Remarkably, the government declaration eliminating social distinction encouraged ordinary people to raise their voices against the abusive acts of their social superiors, including government functionaries. Before the reforms, the common people would have run a risk in charging state officials, as the crimes for which they could be legally accused by commoners were limited to treasonous plots and unlawful killing. Otherwise, the accuser was subject to the penalty of one hundred blows and three years of exile.[40]

Since the late 1890s, however, there was a flurry of reports by ordinary people against the extortion and misrule of local officials like provincial governors and county magistrates. It is highly likely that their bold actions were stimulated by the Independence Club members' activism to bring charges against even senior ministers to the courts.[41] Apart from filing official papers, some accusers after 1899 had recourse to the newspapers' advertisement sections for wider publicity.[42]

Even telegrams were used to press charges. For example, an extortion charge in 1902 concerning the garrison in Anju County in South P'yŏng'an that had tied and beat a gambler's elderly mother and daughter-in-law before exacting ninety *yang* of money as a gambling debt,[43] a murder charge in September 1903 concerning the magistrate of Ch'ŏlsan County who had two protesting peasants shot to death as rebels, and another murder charge concerning a royal inspector sent to North P'yŏng'an, who in collusion with the magistrate had had three villagers harassed and eventually beaten to death, were all lodged by telegram with the justice ministry.[44]

Such charges against local officials sometimes resulted in the punishment of the accused. For example, a farmer Kim Ch'i-gu from Sangnyŏng County in Kyŏnggi, who resisted a neighboring villager Chŏn Wŏn-guk who attempted to rape his widowed sister-in-law, was beaten by Chŏn. Kim brought a criminal charge against Chŏn before the magistrate Yi Chŏng-sŏk, who, listening only to Chŏn's words, arrested Kim, and did not release him until he received a bribe of three hundred *yang*. Outraged and grieved, Kim Ch'i-gu traveled all the way to Seoul, and appealed to the justice minister to bring the magistrate Yi Chŏng-sŏk to court. As it was revealed during the court examination, the magistrate had accumulated a record of malfeasance in addition to the illegal exaction from Kim.

---

40 Yi T'ae-jin, "Sarim p'a ŭi Yuhangso pongnip undong" [The reinstitution movement of the local literati associations by rural literati groups] *Han'guk sahoesa yŏn'gu* [Study on Korean social history] (Seoul: Chisik sanŏpsa, 1986), 145–146.

41 Sin Yong-ha, *Tongnip hyŏphoe yŏn'gu* [Study on the Independence Club] (Seoul: Ilchogak, 1976), 314–344.

42 *Pŏppu sojang* 法部訴狀, 2nd *kwŏn*, 354.

43 *Pŏppu sojang* 法部訴狀, 4th *kwŏn*, 481, (September 21, 1902).

44 *Pŏppu sojang* 法部訴狀, 5th *kwŏn*, 539.

He was punished severely.[45] In another case, the provincial governor of Kangwŏn, Chŏng Il-yŏng, was charged with extortion and abuse of power, and received the penalty of two years in exile.[46] In yet another case, the magistrate of Ch'irwŏn County, Hyŏn Yŏng-un, upon being charged by the local people, was brought to the Court of Cassation (P'yŏngniwŏn 平理院) in Seoul, and was found guilty of harassing people and extorting their property.[47]

It is hardly surprising that the charges brought by the people against provincial governors and county magistrates did not necessarily lead to the punishment of these officials. More often than not, commoner accusers of officials were instead punished for groundless charges and were subjected to abusive treatment. The justice ministry, facing a rush of charges involving officials, tended to discipline or punish commoner accusers rather than redress their grievances. Eventually, from 1902 onwards villagers' charges against magistrates brought at higher governmental agencies like the provincial office, the Court of Cassation, and the justice ministry increasingly fell on deaf ears. As a result, the grieved people, left with no legal protection, went so far as to send letters to newspaper editors to reveal local officials' extortion and oppression, using pseudonyms to avoid punishment.[48] Yet, there is no doubt that the ordinary petitioners' experiences of challenging the unjust, corrupt authorities contributed to the growth of consciousness of their rights, so that a great number of commoners joined a kind of people's rights movement led by the Unity and Progress Society (Ilchinhoe 一進會), the largest grass-roots organization after the Russo-Japanese War (1904–1905).[49]

3. CONTINUITY: INEFFECTIVE APPEAL SYSTEM AND THE UNSTABILITY OF FINAL JUDGEMENTS

Even prior to the Kabo Reforms, a three-part appeals system had been in operation in the Chosŏn judicial system. Accordingly, if the litigant would not

---

[45] *Pŏppu raemun* 法部來文 [Documents sent to the Ministry of Justice] (Kyujanggak Library Document # 17762), 2nd *ch'aek*, November 14, 1896; *Tongnip sinmun*, *nonsŏl* [Editorial], November 17, 1896.

[46] *Hwangsŏng sinmun* 皇城新聞 [Imperial capital news], *chappo* [Miscellaneous reports], September 18, 1900; ibid., *chappo*, January 7, 1901.

[47] *Hwangsŏng sinmun* 皇城新聞, *chappo*, January 14, 1902; ibid., *chappo*, February 21, 1902.

[48] *Hwangsŏng sinmun* 皇城新聞, *nonsŏl* 論說 [Editorial], April 2, 1904.

[49] Kim Chong-jun, "Munmyŏnghwa hwaldong kwa yŏron tonghyang" [Civilizing activities and trend of public opinion] in *Ilchinhoe ŭi munmyŏng kaehwa ron kwa ch'inil hwaltong* [Discourse of civilization and enlightenment by Ilchinhoe, and its pro-Japanese activities] (Seoul: Sin'gu munhwasa, 2010).

accept the lower court decision at the provincial or Seoul level, he or she could first appeal to the provincial governor or the Seoul Magistrate respectively, next to the Board of Punishments or to the Office of the Inspector-General, and finally directly to the king by striking a gong (*kyŏkchaeng* 擊錚) or writing a petition (*sang'ŏn* 上言).[50] In practice, however, it was not uncommon that even the king's decision was not properly executed by local officials, and also that the local litigant upon receipt of a local official's ruling revolted and resorted to appealing to special commissioners from the court such as the secret royal inspector (*amhaengŏsa* 暗行御史) and the inspection commissioner (*anhaeksa* 安覈使), or to central agencies in order to obtain a contrary decision, thereby getting an existing decision overturned.[51]

During the Kabo Reforms, the triple appeal system was clearly delineated to dispel such irregularities. Korea's first Court Organization Law promulgated in 1895 provided that the claimant could have the decision at magistrate's court reviewed by the Treaty Port Courts or by the District Courts on the appellate level and finally by the High Court. In the case of a decision by the Seoul City Court, the claimant was allowed to appeal to the High Court. The law aimed to regularize the judicial appeal process and to define the finality of court decisions.[52]

As time passed, however, the effect of the new appeal system became minimal. Since the claimants (both the plaintiff and the defendant) continued to file suits over again, though their final judgments had been rendered by the High Court, the appeal system failed to achieve its original objective.[53] Moreover, since many claimants preferred to go directly to the High Court, bypassing the District Courts or the Treaty Port Courts, the High Court warned that such kinds of appeals would not be recognized.[54]

One of the reasons for litigants' rush to appeal directly to the High Court to the extent of rendering the whole appeal system pointless was that the cases decided at the magistrate courts and the District Courts were highly vulnerable to

---

[50] *Kyŏngguk taejŏn* 經國大典 [Great code for administrating the state], "Hyŏnjŏn" 刑典 [Criminal code], "Sowŏn-jo" 訴寃條 [Petition section]; *Sok taejŏn* 續大典 [Supplementary great code], "Hyŏnjŏn" 刑典 [Criminal code], "Sowŏn-jo" 訴寃條 [Petition section].

[51] Kim Sŏn-gyŏng, "Minjang ch'ibuch'aek ŭl t'onghaesŏ pon Chosŏn sidae ŭi chaep'an chedo" [Court system in Chosŏn seen through the entry book of petitions] in *Yŏksa yŏngu* 1 (1992), 136.

[52] "Chaep'anso kusŏng pŏp" 裁判所構成法 [Court Organization Law] (Law no. 1) in *Ku Han'guk kwanbo* 舊韓國官報 [Government Gazette of Old Korea], March 25, 1895; "Kakkun kunsu ŭi hae kwannae sosong chŏngni hanŭn kŏn kaejŏng" [Reform of legal suits to be handled by a magistrate in his jurisdiction] (Edict no. 29) in ibid., June 29, 1896.

[53] *Kian chondang* 起案存檔 [Case Raised on Record] (Kyujanggak Library Document # 17277-12), 1st *ch'aek*, October 13, 1896.

[54] *Pŏmnyŏng chip* 法令集, vol. 2, 199-200.

the influence of bribes. In order to rectify such unfair judgments, the High Court issued a specific procedure to be followed in appealing a bribery case, stating that "if the litigant is able to obtain clear evidence that the bribery influences the judge's decision in favor of his or her opponent, such a case can be appealed in the higher courts—the provincial courts when the bribery is taking place in the magistrate courts, and the High Court when the bribery is taking place in the provincial courts."[55] Ironically, however, the High Court itself was not free from bribery cases, as the following newspaper note attested:

> Since the new High Court's handling of affairs is not different from that of the Board of Punishments and the Capital Magistracy in the past, it hardly brings about any benefit to the people. Furthermore, because of its taking bribes and letters asking for favor, the very name of it has become an object of ridicule among foreigners. . . . Deplorable is the current condition of the High Court, under which the guilty, when rich and powerful, are able to buy their way to freedom, whereas the innocent, when poor and weak, have no recourse to appeal their grievances.[56]

In an effort to solve these problems and to enhance the adjudicatory power of the High Court, in May 1899 the Court Organization Law was revised, according to which the High Court was renamed the Court of Cassation (P'yŏngniwŏn, 平理院), and was given extended jurisdiction. Yet, the procedural regulations were revised in such a way as to reaffirm the control of the Ministry of Justice (ultimately the Emperor) over the highest court by stipulating that "the Justice Minister shall be empowered to review and decide [finally] a treason case that has been reported by the Special Court and the Court of Cassation, yet contains questionable points. The minister is also empowered to dispatch the ministry's official to review civil and criminal cases that have been adjudicated by the lower courts and the Court of Cassation, yet leave something to be grieved, or to have all the relevant documents transferred to the ministry to investigate the concerned cases and to correct the [wrong] judgments of the courts."[57]

It was not the Court of Cassation, which was nominally designated as a supreme court, but the Ministry of Justice—supposedly in charge of judicial administration—that had the overriding authority in rendering a final decision. With this measure, the reformist desire for judicial independence was largely

---

[55] *Hwangsŏng sinmun* 皇城新聞, *chappo*, January 9, 1899.

[56] *Tongnip sinmun*, *nonsŏl*, June 15, 1897.

[57] "Chaep'anso kusŏngbŏp kaejŏng an" [Revised Court Organization Law] (Law Number 3), May 31, 1899; "Pŏppu kwanje kaejŏng e kwanhan kŏn" [Revision of the Ministry of Justice] (Edict Number 26) in *Ku Han'guk kwanbo* 舊韓國官報 [Government Gazette of Old Korea], June 5, 1899.

frustrated, and the courts were put again under the control of the justice ministry that was ultimately answerable to the Emperor. In this situation, an increasing number of litigants after 1899 appealed the decisions of the Court of Cassation to the Ministry of Justice, thus turning the court into an appellate court, and made direct appeals to the ministry after a trial in the magistrate's court, thus bypassing the District Courts or the Court of Cassation.[58]

Likewise, as the justice ministry stood above the highest court (i.e., the Court of Cassation), the appeals system became nominal with the final decision frequently overturned by the ministry. Thus, the overturning of the existing decision was so common in the judicial hierarchy consisting of the District Courts, the Court of Cassation, and the Ministry of Justice that the decisions rendered by the higher courts were often overruled by the lower courts.

The fact that the reversal of verdicts at all levels became routine can be evidenced from one notice issued by the justice ministry to all the courts in September 1899 that reads: "Once a judge changes, so too does his verdict with no recourse to the previous verdict, thus creating endless confusion in the dispensing of justice. This practice amounts to trapping the people in a [legal] net. Henceforth, if a judge had no choice but to reverse a verdict in consideration of a pitiful grievance suffered by the party that had lost a case, he was supposed to forward the case to the justice ministry and to await its directive. Then, the judge who passed the wrongful judgment cannot be exempt from guilt."[59]

The problem arising from overturning verdicts can be illustrated by a case in which the people from Yŏn'an County charged magistrate Min T'ae-sik and the functionary Ch'oe Ŭn-hyŏp with extortion. In August 1899, 100 people from Yŏn'an County traveled to Seoul to file charges against Min T'ae-sik who had extorted 140,000 *yang* of money, and against Ch'oe Ŭn-hyŏp who had embezzled 190,070 *yang* of tax money. The claimants repeatedly appealed to the Court of Cassation and the Ministry of Justice to have the extorted money returned to them, yet their appeals were ignored by the authorities.[60] In October of the same year the angry people struck a gong before the royal procession of Emperor Kojong to appeal their grievances, and were successful in bringing the two county officials to trial.[61]

---

58 To Myŏn-hoe, "Haesŏl" [Explanation] for *Poppu sojang* 法部訴狀 [Petitions filed with the Ministry of Justice], 1st *kwŏn* (Seoul: Kyujanggak Library, Seoul National University, 2000).

59 *Kian* 起案 [Cases raised] (Kyujanggak Library Document # 17277-3), 4th *ch'aek*, September 4, 1899.

60 *Poppu sojang* 法部訴狀, 2nd *kwŏn*, 530.

61 Ibid., 192, 194, and 196.

In December, it was ruled that the extorted money be returned to the people.[62] Yet, the two men procrastinated in repaying the money. It was not until May the next year (1900) that Min alone paid a small sum of 3,900 *yang* to only 3 to 4 of the 100 claimants.[63] In the next month, the people continued to appeal to the justice ministry before obtaining its directive urging prompt payment. When they proceeded to the Court of Cassation to have the ministry's directive enacted, the court unexpectedly overturned the decision, took all the documents, and chased the people away. Even though two days earlier the court had told the people that it would retrieve and return the extorted money to them, and they should go back home and wait. But the court not only reneged on its previous ruling, but also allowed Ch'oe and Min to be released on the condition of securing a guarantor.[64]

Afterwards, the claimants' representative Chŏng Ch'ang-sŏp continued to make appeals to the Court of Cassation, presenting a petition directly to the emperor during his trip, and as a desperate gesture wielded a beacon fire on Mt. Nam in Seoul to reopen the case, before being arrested.[65] Some others managed to meet the prosecutor only to be arrested for criticizing the court's handling of the case. All the claimants had to languish in prison until the end of 1902. In the meantime, although the ministry urged the prosecutors of the court to arrest Min T'ae-sik again on a criminal charge, the court would not listen.[66]

Apart from the above case of self-negation by the Court of Cassation, the court not infrequently ignored rulings rendered by the Ministry of Justice, namely, its higher authority. In March 1903, the ministry sent down an ordinance to the Kanghwa Magistracy that affirmed the validity of an appeal made by Cho Wŏn-hoe and Cho Hŭng-wŏn charging a certain Kye Sŏng-jung with extorting the inquest cost from them in a murder trial. Kye, though sending a written pledge to the ministry promising not to extort inquest costs any more, nonetheless filed a petition with the Court of Cassation that ruled instead that the two Chos should have borne the burden of the inquest cost, and ordered the Kanghwa Magistracy to take them into custody.[67]

The uncertain nature of final judgments either by the Court of Cassation or by the Ministry of Justice can be illustrated by a cause célèbre involving two

---

62 Ibid., 217–218 (December 7, 1899); *Hwangsŏng sinmun* 皇城新聞, *chappo*, January 27, 1900.
63 *Poppu sojang* 法部訴狀, 3rd *kwŏn*, 226 (June 1900).
64 Ibid., 236 (June 13, 1900); ibid., 439 (July 2, 1900).
65 *Hwangsŏng sinmun* 皇城新聞, *chappo*, July 5, 1900; ibid., *chappo*, July 16, 1900.
66 *Pŏppu sojang* 法部訴狀, 4th *kwŏn*, 149 (October 1902); ibid., 197 (November 1902).
67 *Kian* 起案 [Cases raised] (Kyujanggak Library Document # 17277-3), 22nd *ch'aek*, March 6, 1903.

litigants (Yi Wan-yong[68] versus Yi Sŭng-uk) that took nearly seven years from 1899 to 1906 to be resolved. In 1898, a royal censor Yi Sŭng-uk was dispatched to Chŏlla to collect tax money from each county on behalf of the governor. Later, he was charged with omitting 200,000 *yang* that was supposed to have been remitted to the Ministry of Taxation. The ministry brought the case to the High Court to pressure Yi Sŭng-uk to retrieve the lost money, whereupon he put the blame on Yi Wan-yong, the governor at the time, for illicitly appropriating the money.[69] From that point on, a fierce court debate over who bore the responsibility for the lost tax money continued for almost seven years. The two litigants went through a series of twists and overturns of court decisions, caught between the two highest contending legal authorities, the Court of Cassation and the Ministry of Justice.[70] As can be seen from this long drawn-out case, the finality of legal decisions either by the Court of Cassation or by the Ministry of Justice remained highly unstable, reflecting traditional confusion in court rulings.

4. CONTINUITY: LOCAL ADMINISTRATIVE OFFICIALS SERVING AS JUDICIAL OFFICIALS AND THE PRACTICE OF INTERROGATION UNDER TORTURE

Administrative Officials as Substitutes for Judicial Officials

In addition to the ineffective appeal system that gave rise to the irregularity of court decisions, even more problematic for the operation of the judicial system

---

[68] Yi Wan-yong, until 1897, had taken high posts such as Foreign Minister and Education Minister. However, since 1898 he had been demoted to provincial posts due to his activities in the Independence Club. With Japan's victory in its war with Russia, pro-Japanese Yi Wan-yong gained ascendency in the government, playing a leading role in concluding the protectorate treaty with Japan in 1905. He took a series of ministerial posts until Korea was annexed to Japan in 1910. For his detailed career, see An Yong-sik, *Taehan jeguk kwallyosa yŏn'gu* [Study on the history of government officials of the Taehan Empire] 3 vols., (Seoul: Research Institute of Social Sciences, Yonsei University).

[69] *Hunji kian* 訓指起案 [Instructions for cases raised] (Kyujanggak Library Document # 17277-5), 6th *chaek*, December 21, 1901.

[70] *Hunji kian* 訓指起案 [Instructions for cases raised] (Kyujanggak Library Document # 17277-5), 6th *chaek*, December 21, 1901; ibid., 7th *ch'aek*, April 7, 1902; ibid., 12th *ch'aek*, September 14, 1904; ibid., October 11, 1904; ibid., 13th *ch'aek*, April 8, 1905; *Tongnip sinmun*, *chappo*, January 25, 1899; *Hwangsŏng sinmun* 皇城新聞, *chappo*, June 14, 1901; ibid., *chappo*, March 10, 1903; ibid., *chappo*, March 14, 1903; ibid., *chappo*, June 30, 1903; ibid., *chappo*, March 29, 1904; ibid., *chappo*, June 25, 1904; ibid., *chappo*, August 9, 1904; ibid., *chappo*, February 21, 1906; The Ministry of Justice, *Chubon* 奏本 [Report Drafts] (Kyujanggak Library Document # 17276), 21st *ch'aek*, June 21, 1904; ibid., 27th *ch'aek*, January 14, 1905; *Taehan maeil sinbo* 大韓每日申報 [Korea Daily News], *chappo*, August 9, 1904; ibid., *chappo*, August 18, 1904; ibid., *chappo*, January 18, 1905.

was the practice of local administrators continuing to serve as judicial officials. Even though a nominally separate court system was established, consisting of the District Courts in the thirteen provinces, the Treaty Port Courts in Pusan, Inch'ŏn, and Mokp'o, and the branch courts in three hundred counties across the country, the posts of judges continued to be occupied by provincial governors, treaty-port intendants, and county magistrates.

The administrative officials continued to assume their conventional judicial power for the following two major reasons. First, the reform cabinets' program to appoint professional jurists trained in laws remained largely on paper. Second, the separation of legal jurisdiction from the administrative agencies met strong opposition from local officials who viewed judicial power as an effective means of controlling and extorting money from the people.

In April 1895, the reform cabinet established the Judicial Training School (Pŏpkwan yangsŏngso 法官養成所), which provided a six-month course and produced forty-seven graduates in that year and thirty-nine graduates in the next, among whom sixteen were appointed as probational officials or legal clerks in the justice ministry and various courts.[71] Those fortunate appointees would be promoted to the posts of judge and prosecutor, but the rest of the graduates were not given an opportunity to pursue a legal career, as they emphatically complained:

> Why is it that the posts of prosecutors and legal clerks at the District Courts still remain vacant? It is beyond dispute that the state has endeavored to train us to be legal professionals to the courts, so that every court will be staffed by a judge and prosecutor. At present, however, there are only [substitutes for] judges (i.e., local officials) but no prosecutor at all. Without prosecutors, who could possibly indict [the offender of law] according to the due procedures of a criminal case? Operating [the judicial system] as stipulated in the law codes will ensure firmness of the laws, no grievances on the part of the people, no robbery and thievery, and no contempt from foreign countries. As the abolition of the extraterritorial jurisdiction (*ch'ioe pŏpkwŏn* 治外法權) is sure to follow after this, why is it that [the reformed judicial system] has been delayed endlessly? Besides, all the graduates from other [government] schools have been employed according to the regulations. Why is it that only graduates from our school have been left idle? Is it because we are less talented than them, or our diplomas are inferior to those [of other government schools]?[72]

---

[71] *Pŏpkwan yangsŏngso sech'ik* 法官養成所細則 [Detailed regulation of the Judicial Training School] (Kyujanggak Library Document # 21683).

[72] *Pŏppu sojang* 法部訴狀, 4th *kwŏn*, 50.

As the petition stated, the graduates from other government schools, such as various foreign language schools, the teacher's school, the telegram school, the postal school, and the military school were generally appointed to related posts in the government. According to the Court Organization Law issued in April 1895, the judge and prosecutor of the Treaty Port Courts and the Seoul City Court would be appointed from among the passers of the judicial examination, while in the District Courts local officials would serve as judges and prosecutors for a while until the passers of the judicial examination could fill those posts.[73] Moreover, the Appointment Regulations for Military and Judicial Officials, issued in March 1900, also stipulated that "Judicial officials be appointed from among the law students who passed the justice ministry's examination."[74] Yet, it was not until 1905 when Korea became a protectorate of Japan that the graduates of the Judicial Training School were given any chance to be appointed.

The limited opportunity of employment for the graduates of the Judicial Training School can, without doubt, be attributed to the strained financial condition of the government. Still, more importantly, as the aforementioned memorial of Justice Minister Yi Yu-in suggested, it was because the bulk of the duties of governors and magistrates was, for the most part, the handling of civil and penal cases. In 1907, the Japanese jurists who came to Korea to take over its legal jurisdiction conducted a field study of local administrations, and observed that as much as eighty percent of the work of county magistrates comprised civil and penal adjudication, the remaining twenty percent being various administrative duties like collecting taxes.[75] Profit-minded governors and magistrates made the most of their judicial power to exploit the people in their jurisdiction.

Many local officials rendered questionable judgments when handling legal cases, causing the grieved parties, sometimes in groups, to travel all the way to Seoul to file appeals to the Court of Cassation or the Ministry of Justice. For instance, in 1903, in Sanch'ŏng County, the villager Min Ch'i-paek, facing harassment by the provincial chief clerk Ch'oe T'aeho, brought his charge before the Court of Cassation. Then the court sent down an order more than twenty times to the governor to arrest Ch'oe and to put him on trial at the court. Nonetheless, the governor, having taken a bribe from Ch'oe, ignored the repeated

---

[73] "Chae p'anso kusŏng pŏp" 裁判所構成法 [Court Organization Law] (Law Number 1), *Ku Han'guk kwanbo* 舊韓國官報 [Government Gazette of Old Korea], the 3rd month of the 25th day of 1895.

[74] "Mugwan kŭp sapŏpkwan immyŏng kyuch'ik" [Appointment regulations for military and judicial officials] (Edict Number 12), *Ku Han'guk kwanbo* 舊韓國官報, April 3, 1900.

[75] Nam Ki-jŏng, trans., *Ilche ŭi Han'guk sapŏppu ch'imnyak sirhwa* [The real story of imperial Japan's aggression against the Korean judiciary] (Seoul: Yukpŏpsa, 1978), 49.

orders from the court. Furthermore, he put the accuser Min Ch'i-paek in the provincial prison for months and had him beaten, which eventually caused his death.[76]

In November 1904, the magistrate of Andong County, serving as a commissioned investigator of the province, reported to the Ministry of Home Affairs that the former governor Yun Hŏn had extorted a sum of more than 150,000 *yang* from the people, and that his underlings Kim Sŭng-wŏn and Sŏ Pyŏng-hyŏn, who were in charge of the legal paper work, viewed the documentation as a source of authority to arrest or to release suspects. According to the report, the arbitrary exercise of power by those officials created deep resentment among the people.[77]

The above cases demonstrate that local administrators had a vested interest in keeping their role as legal prosecutor and judge, which they abused for extorting and oppressing the people under their jurisdiction. It was the unfair trial on the level of magisterial courts rather than on the level of provincial courts that caused more numerous woes on the part of the people. Contemporary government and newspaper reports are fraught with extortion scandals by magistrates who abused their judicial power to compensate for the money they had spent on purchasing their posts. [78]

In 1899, in Konyang County in South Kyŏngsang, Chŏng Ki-yŏng and others presented a collective petition (*tŭngso* 等訴) charging the magistrate Min Ki-ho with extorting money from the people, yet the head of the petition was put into prison. The petitioners presented their case directly to the Ministry of Justice many times, which responded by sending down an investigator. Ironically, however, the investigator put the fifty co-signers of the petition into the provincial prison, and pressured them to confess that their accusation against the government official had been false as the condition for their release. Furthermore, the investigator was willing to practice the law of association with the petitioners' relatives, putting Chŏng T'aek-chong's wife in prison and confiscating his family property, while also putting Hŏ Chŏng-gyun's elderly father into prison and expelling the remaining family members from the county. Still another petition led the ministry to order a reinvestigation, which ended up being blocked by the magistrate.[79]

The case of the magistrate Kang Kyo-sŏk of Munhwa County in Hwanghae clearly shows how the magistrate made use of his judicial power to forcibly obtain

---

[76] *Hunji kian* 訓指起案, 9th *ch'aek*, January 9, 1902.
[77] *Hwangsŏng sinmun* 皇城新聞, *chappo*, November 12, 1904.
[78] *Tongnip sinmun*, *nonsŏl*, September 6, 1899.
[79] *Hunji kian* 訓指起案, 1st *ch'aek*, November 3, 1899.

the people's property. In collusion with local functionaries, he used to call in farmers on some flimsy charge, threw them into prison after a beating, and then leave them to languish in prison for months without further investigation until he was paid a bribe.[80]

Interrogation under Torture

An indispensable factor for local officials in their exercise of judicial power was interrogation under torture (*komun* 拷問). Since confession was taken as evidence of a crime, especially when other solid evidence was lacking, interrogation under torture was a routinely-practiced method for extracting confessions.[81] Even during the Kabo Reforms, the legal reform did not outlaw this deeply entrenched practice, but only prohibited the abusive application of torture when interrogating defendants, reconfirming the regulations in the penal code sections of the Collection of Great Codes (*Taejŏn hoet'ong* 大典會通).[82]

The Terms and Principles of the Penal Code (Hyŏngnyul myŏngnye 刑律名例) issued in April 1896 defined the type and usage of torture instruments to be used when interrogating suspects. Accordingly, heavier sticks were replaced by a whip (*p'yŏn* 鞭) or smaller rod (*ch'u* 箠). The use of a whip or smaller rod had to be approved by the chief official of each court and the Head Police Office (Kyŏngmuch'ŏng 警務廳). And the application of these instruments was to be regulated by detailed provisions—no more than ten strokes for lighter crimes and no more than twenty strokes for heavier crimes, no more than one round per day, and no more than three times for each suspect, and exemption allowed for the old and weak as well as for women.[83]

But the code provisions to limit the usage of torture were largely ignored, as the local as well as central courts routinely used it as an effective means to extract a confession. The following episode reported by a newspaper revealed a terrifying torture case at the Seoul City Court, inflicted on a certain suspect Chŏng Ki-ho who refused to confess:

> The Seoul City Court literally beat a living person to such an extent that his legs with their flesh and skin were mutilated and peeled to the bone. Furthermore, he was sent to the Prison Office to be subjected to yet

[80] *Hunji kian* 訓指起案, 4th *ch'aek*, July 2, 1900.
[81] Sim Hŭi-gi, "*Chosŏn sidae ŭi kosin*" [Interrogation under torture during the Chosŏn era] *Sahoe kwahak yŏn'gu* 5–1 (1985).
[82] *Ŭijŏng chonan* 議定存案, the 10th day of the 7th month of 1894.
[83] "Hyŏngnyul myŏngnye" 刑律名例 [Terms and Principles of the Penal Code] (Law Number 3) in *Ku Han'guk kwanbo* 舊韓國官報, April 7, 1896.

> another beating. . . . The person under torture was Chŏng Ki-ho, who had been charged with digging out somebody's tomb secretly built on his ancestral mountain. The reason for his severe beating is said to be his former activities as a bandit.[84]

In April 1907, the Residency General of Japan decided to abolish the practice of interrogation under torture, yet met with Korean opposition. The incumbent Justice Minister opposed its outright abolition, and instead advocated a less severe form of torture such as beating the buttocks, reasoning that soft interrogations would not bring about a confession.[85]

Torture was used by local officials during court proceedings as an effective means to extract a confession or to extort property from the people. For instance, in 1899, in Yŏnch'ŏn County in Kyŏnggi, the magistrate Song Kyŏng-in charged a certain villager for counterfeiting money, inflicted severe torture on him, and demanded a sum of 100,000 *yang*.[86] In 1904, in Ch'ŏngju County of Ch'ung-ch'ŏng, the suspect Ch'oe Tong-gyu was subjected to such outlawed means of torture as beating by heavy sticks and *churi*,[87] causing his death.[88]

The reason behind this use of torture by local officials to extort the people's property was their need to recoup the money they had spent to purchase local posts. This system of bribery and corruption went all the way to the top, namely, the emperor himself, as was perceptively observed by Horace N. Allen, then the American minister to Korea, in his report to the State Department:

> I quote from one letter just received from the South. "They come down (officials) with no thought of ruling the people in justice and judgment. They buy the office as a speculation. It becomes their private franchise, and they have no other purpose than to work it for all it is worth to fill their own pockets. They seize men without even any pretext save the demand for money. I am compelled to keep my mouth shut even with my own people, and teach them to honor and obey those set in authority over them, but in my heart I pray that the swift judgment of the Lord of the poor and oppressed may come upon them." . . . The Emperor is alone responsible

---

84 *Tongnip sinmun*, *nonsŏl*, April 27, 1897.

85 Kim Chŏng-myŏng, ed., *Nikkan gaikō shiryō shusei* 日韓外交史料集成 vol. 6 [Collection of historical materials for Japan-Korea diplomatic relations] (Tokyo: Gannando, 1962–1967), 425.

86 *Pŏppu sojang* 法部訴狀, 2nd *kwŏn*, 465 and 492 (January 1900).

87 *Churi* was an interrogation torture in traditional Korea to extract a confession from the suspect by wrenching his legs with long levers. For private application of punishments using the *churi* technique, see William Shaw, *Legal Norms in a Confucian State* (Berkeley: Univ. of California, Institute of East Asian Studies, 1981), 97–99.

88 *Hunji kian* 訓指起案, 11th *kwŏn* , April 8, 1904.

> for all this. It is hard to attend to many affairs where there is great corruption displayed, because when the truth is finally learned, the matter has usually been traced to His Majesty or his immediate courtiers.[89]

Taken together, despite the legal reforms launched during the Kabo Reforms, the old legacies survived into almost all areas of the legal system in Korea. Except for the Court of Cassation and the Seoul City Court, the rest of the court organization existed only on paper. The administrative officials, such as provincial governors, city magistrates, and county magistrates continued to handle civil and criminal cases in their jurisdiction. Even in the courts separated from the administration, like the Court of Cassation and the Seoul City Court, the judges and prosecutors were by and large unqualified in legal knowledge and training. Hence, it was no surprise that the judicial system of Korea was the object of the ridicule and contempt of contemporary foreign citizens and Korean reformers.[90]

CONCLUSION

The reforms of the Korean judicial system accomplished in 1895 represented a sharp break with the existing system, however, the post-1895 reactions based on the legacies of 500 years largely undid them, allowing only a few innovations to break with the past.

One of the more prominent aspects of a break with the past was that the control over judicial affairs, criminal or civil, was centralized under the Ministry of Justice, and that a separate court system was introduced to deal with judicial affairs exclusively. This reform represented a departure from the past practice of allowing a number of central and local administrative agencies to exercise judicial power toward a new legal principle that ensured that only judicial officials from a court had the authority to arrest, interrogate, and punish offenders. Since the reform reinforced the monopoly power of the state over penal affairs, the past practice of a close relative of a murder victim inflicting private revenge according to a Confucian moral ethic was no longer exempted from punishment by the state.

Another important break with the past was the amelioration of corporal penalties by abolishing the death penalty by cutting. Penal servitude was introduced instead of punishment by banishment and by exile. Besides, the separation of criminal and civil suits resulted in improved protection of the

---

[89] Allen to Secretary of State (May 31, 1902) in Scott S. Burnett, ed., *Korean-American Relations* III (Honolulu: University of Hawaii Press, 1989), 172.

[90] "Administrative Reforms in Korea," June 15, 1907 (Consular to Assistant Secretary of State) in NARA RG84 MLR No: UD816, *United States Consular Records of Seoul,* Box003 vol.7, 184.

people's private rights, such as ownership rights. Remarkably, the abolition of the status system and the law of guilt by association provided a breakthrough in spreading the concept of equality before the state. Hence the enhanced sense of people's rights empowered the people to bring charges against corrupt officials, central or local, in rapidly increasing numbers, especially after 1898 when the protest movement of the Independence Club reached its peak.

On the other hand, the legal reforms met persistent resistance based on the deeply ingrained belief in and practices of the traditional legal system, and the vested interests of the conservative ruling elite. The nascent ideal of judicial independence was frustrated largely because it was not accompanied by the growth of a new class of jurists trained in modern law. Consequently, the contemporary Korean legal system remained plagued by unresolved evils arising from the frustration of its reform.

First, the new appeal system that gave review power to the higher court according to strictly-defined procedures was abused by common claimants, both plaintiffs and defendants, who preferred to go directly to the highest legal authorities—the Court of Cassation and the Ministry of Justice—bypassing the lower courts of the magisterial and provincial courts. The new appeal system became much more confused, as the Justice Minister's power to review judicial decisions even by the supposedly highest court—the Court of Cassation—was reconfirmed after 1899. The finality of court decisions was further undermined by the altercations between these two highest legal authorities, which frequently reversed each other's decisions.

Second, the local administrators like governors and magistrates continued to exercise judicial power. More often than not the magisterial courts were a source of grievances for the ordinary people, as it was in these courts that they were highly likely to be subjected to torture, exactions, and unfair decisions influenced by bribery, personal ties, and the legal ignorance of the magistrates. The Korean government was unable to bring about an overhaul in the appointment system for local government officials, which had been plagued by rampant bribery, thus allowing greedy governors and magistrates to exercise their vested judicial power to oppress and exploit the people even by using outlawed methods of torture.

These examples of the Korean government's incompetence not only posed a serious obstacle to the judicial reform undertaken by Koreans themselves, but also provided a ready excuse for the Japanese imperialists to take all aspects of Korean modernization including legal ones into their own hands—thus encroaching upon Korean sovereignty—after their victory in the Russo-Japanese War (1904–1905). Itō Hirobumi, who came to Korea as the first resident general in the aftermath of the protectorate treaty of 1905, put judicial reform in Korea as a top priority, as

he saw in it an opportunity to gain support from the Korean public and also an excuse to extend Japanese control over Korean domestic affairs.[91] It is highly probable that by 1909 the substantial progress in the judicial reforms led by Itō gave rise to a desire for Japanese rule on the part of many Korean reform intellectuals.

Submitted: February 1, 2014
Sent for revision: March 6, 2014
Accepted: May 27, 2014

DO MYOUN-HOI (yoktal@dju.kr) *is a professor in the Department of History and Culture, Daejeon University, Korea.*

[91] To Myŏn-hoe, "Kabo kaehyŏk ihu kŭndaejŏk pŏmnyŏng chejŏng kwajŏng" [Process of enactment of modern laws after the Kabo Reforms] *Han'guk munhwa* 27 (Seoul: Seoul National University, 2001), 342–352.

REFERENCES

An Yong-sik. *Taehan cheguk kwallyosa yŏn'gu* [Study on the history of the government officials of the Taehan Empire]. 3 vols. Seoul: Research Institute of Social Sciences, Yonsei University, 1995.

Ch'oe Chong-go. *Han'guk ŭi sŏyang pŏp suyongsa* [History of the adoption of Western laws in Korea]. Seoul: Pakyŏngsa, 1982.

Chŏn Chae-gyŏng. *Poksu wa hyŏngbŏl ŭi sahoesa* [Social history of revenge and punishment]. Seoul: Wungjin ch'ulp'ansa, 1996.

Chuŭi 奏議 [Reported issues] (Kyujanggak Library Document # 17703)

Emile Bourdaret. Trans. Chŏng Chin-guk. *Taehan cheguk ch'oehu ŭi sumgyŏl* [The last breath of the Taehan Empire]. Seoul: Kŭlhang'ari, 2009.

Han Ch'ŏl-ho. "Kaehanggi Ilbon ŭi ch'ioe pŏpkwŏn chŏgyong nolli wa Han'guk ŭi taeŭng" [Japanese logic in applying extraterritorial jurisdiction and the Korean reaction]. *Han'guksa hakpo* 21 (2005).

Homer B. Hulbert. *The Passing of Korea*. New York: Doubleday Page & Company, 1909.

Hunji kian 訓指起案 [Instructions for cases raised]. Kyujanggak Library Document # 17277-5.

Hwang Ming-hŏ (Hwang Ming-heo). Trans. by Yi Ch'ŏl-hwan. *Pŏpchŏng ŭi yŏksa* [The history of law courts]. Seoul: Sigŭmabuksŭ, 2007.

Hwangsŏng sinmun 皇城新聞 [Imperial Capital News]

Isabella Bird Bishop. *Korea and Her Neighbors*. New York: Fleming H. Revell Company, 1897.

Kian chondang 起案存檔 [Cases raised on record]. Kyujanggak Library Document # 17277-12.

Kian 起案 [Cases raised]. Kyujanggak Library Document # 17277-2.

Kian 起案 [Cases raised]. Kyujanggak Library Document # 17277-3.

Kim Hang-ki. "Kabo kaehyŏkki (1894–1896) minsa sosong chedo ŭi sihaeng kwa sagwŏn sinjang" [Civil action system and growth of private rights in the Kabo Reform period (1894–1896)]. M.A. thesis, Dongguk University, 2011.

Kim Ho. "Ŭisal ŭi chogŏn kwa han'gye" [Righteous killing: Its conditions and limits]. *Yŏksa wa hyŏnsil* 84 (2012).

Kim Chong-jun. "Munmyŏnghwa hwaldong kwa yŏron tonghyang" [Civilizing activities and the trend of public opinion] in *Ilchihoe ŭi munmyŏng kaewha ron kwa ch'inil hwaldong* [Discourse of civilization and enlightenment by Ilchinhoe, and its pro-Japanese activities]. Seoul: Singumunhwasa, 2010.

Kim Chŏng-myŏng, ed. *Nikkan gaikō shiryō shūsei* 日韓外交史料集成 vol. 6 [Collection of historical materials for Japan-Korea diplomatic relations]. Tokyo: Gannando, 1962–1967.

Kim Ok-kyun chŏnjip [Collection of Kim Ok-kyun's works]. Seoul: Asea munhwasa. 1979.

Kim Pyŏng-hwa. *Kŭndae Han'guk chaep'ansa* [History of modern Korean court adjudication]. Seoul: Han'guk sapŏp haengjŏng hakhoe, 1974.

Kim Sŏn-gyŏng. "Minjang ch'ibuch'aek ŭl t'onghaesŏ pon Chosŏn sidae ŭi chaep'an chedo" [The court system in Chosŏn seen through the entry book of petitions]. *Yŏksa yŏn'gu* 1 (1992).

Kodŭng chaep'anso Pyŏngniwŏn sangso p'angyŏl sŏngosŏ 高等裁判所・平理院 上訴判決宣告書 [Ruling letters of the appeal cases of the High Court (the Court of Cassation)]. *Pŏpsahak yŏn'gu*, vol. 8 (1985), 14.

Ku Han'guk kwanbo 舊韓國官報 [Government Gazette of Old Korea]

Kyŏngguk taejŏn 經國大典

Ministry of Justice, *Chubon* 奏本 [Report drafts]. Kyujanggak Library Document # 17276.

Mun Chun-yŏng. "1895 nyŏn chaep'anso kusŏng pŏp ŭi ch'ulhyŏn kwa Ilbon ŭi yŏkhal" [Appearance of the Court Organization Law of 1895 and the Japanese role]. *Pŏpsahak yŏn'gu*, vol. 39 (2009).

Nam Ki-jŏng, trans. *Ilche ŭi Han'guk sapŏppu ch'imnyak sirhwa* [The real story of imperial Japan's aggression against the Korean judiciary]. Seoul: Yukpŏpsa, 1978.

NARA RG84 MLR No: UD816, *United States Consular Records of Seoul*, Box003 vol. 7.

National Assembly Library, ed. *Hanmal kŭndae pŏmnyŏng charyojip* 韓末近代法令資料集, vol. 1, vol. 2 [Collection of modern laws and ordinances of Old Korea].

Pak Pyŏng-ho. *Kŭnse ŭi pŏp kwa pŏp sasang* [Laws and legal thought in early modern Korea]. Seoul: Tosŏch'ulp'an Chinwŏn, 1996.

Pak Yong-hŭi. "Han'guk ŭi sŏyangsa yŏn'gu wa Yurŏp chungsimjuŭi kŭkpok" [Beyond the eurocentrism of Western historiography on Korea]. *Sŏyangsaron*, vol. 95 (2007).

Peter H. Lee, ed. *Sources of Korean Civilization*, Volume II: *From the Seventeenth Century to the Modern Period*. New York: Columbia University Press, 1996.

Pŏppu raemun 法部來文 [Documents sent to the Ministry of Justice]. Kyujanggak Library Document # 17762.

Pŏppu sojang 法部訴狀 [Petitions filed with the Ministry of Justice]. Kyujanggak Library, Seoul National University: 2000.

Pŏpkwan yangsŏngso sech'ik 法官養成所細則 [Detailed regulations of the Judicial Training School]. Kyujanggak Library Document # 21683.

Scott S. Burnett, ed. *Korean-American Relations III*. Honolulu: University of Hawaii Press, 1989.

Shaw, William. *Legal Norms in a Confucian State*. Berkeley: Univ. of California, 1981.

Sim Hŭi-gi. "Poksu ko sŏsŏl" [Introduction to revenge killing]. *Pŏphak yŏn'gu* 26-1 (1983).

Sin U-ch'ŏl. "Kŭndae sabŏp chedo sŏngnipsa pigyo yŏn'gu" [A comparative study on the origin of the modern judicial system], *Pŏpcho*, vol. 612 (2007).

Sin Yong-ha. *Tongnip hyŏphoe yŏn'gu* [Study on the Independence Club]. Seoul: Ilchogak, 1976.

Sŏ Il-gyo. *Chosŏn wangjo hyŏngsa chedo ŭi yŏn'gu* [Study of the penal system of the Chosŏn dynasty]. Seoul: Han'guk pyŏmnyŏng p'yŏnch'anhoe, 1968.

Sok taejŏn 續大典 [Supplementary Great Code].

Son Kyŏng-ch'an. "Kaehwa-gi kŭndae chŏk minsa sosong pŏpche toip e kwanhan yŏn'gu" [A study on the introduction of a modern civil-suit system in the Enlightenment Period in Korea]. M.A. thesis, Seoul National University, 2004.

Tae Ming ryul chikhae 大明律直解 [Direct translation of the Great Ming Code].

Taehan maeil sinbo 大韓每日申報 [Korea Daily News].

Taejŏn hoet'ong 大典會通 [Collection of great codes]

The Great Ming Code. Translated and introduced by Jiang Yonglin. Seattle and London: University of Washington Press, 2005.

To Myŏn-hoe (Do Myoun-hoi). "1894–1905 nyŏn'gan hyŏngsa chaep'an chedo yŏn'gu' [A study on the criminal adjudication system of pre-colonial Korea, 1894–1905]. Ph.D. dissertation, Seoul National University, 1998.

———. "Haesŏl" [Explanation] for *Pŏppu sojang* 法部訴狀 [Petitions filed with the Ministry of Justice], 1st *kwŏn*. Seoul: Kyujanggak Library, Seoul National University, 2000.

———. "Kabo kaehyŏk ihu kŭndaejŏk pŏmnyŏng chejŏng kwajŏng" [The process of the enactment of modern laws after the Kabo Reforms]. *Hanguk munhwa* 27. Seoul: Seoul National University, 2001.

———. "Kabo kaehyŏk ki hyŏngsa pŏpkyu ŭi kaehyŏk" [Reform of criminal laws during the Kabo Reforms]. *Kyujanggak* 21. Kyujanggak Institute of Korean Studies, 1998.

Tongnip sinmun [*The Independent*].

Ŭijŏng chonan 議定存案 [Fixed issues on record]. Kyujanggak Library Document # 17236.

Yi T'ae-jin. "Sarim p'a ŭi Yuhangso pongnip undong" [Reinstitution movement of the Local Literati Association by rural literati groups]. *Han'guk sahoesa yŏn'gu* [Study on Korean social history]. Seoul: Chisik sanŏpsa, 1986.

Yukchŏn chorye 六典條例 [Six-Division Codes].

Yun Chae-hyŏn. "Tasan Chŏng Yag-yong ŭi poksu ron" [Thesis on revenge by Chŏng Yag-yong]. *Tasanhak* 3 (2002).