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Records from Nineteenth-Century
Korea,* compiled and translated
by Sun Joo Kim and Jungwon Kim

WRONGFUL DEATHS

Selected Inquest Records from Nineteenth-Century Korea

COMPILED AND TRANSLATED BY

Sun Joo Kim

AND

Jungwon Kim

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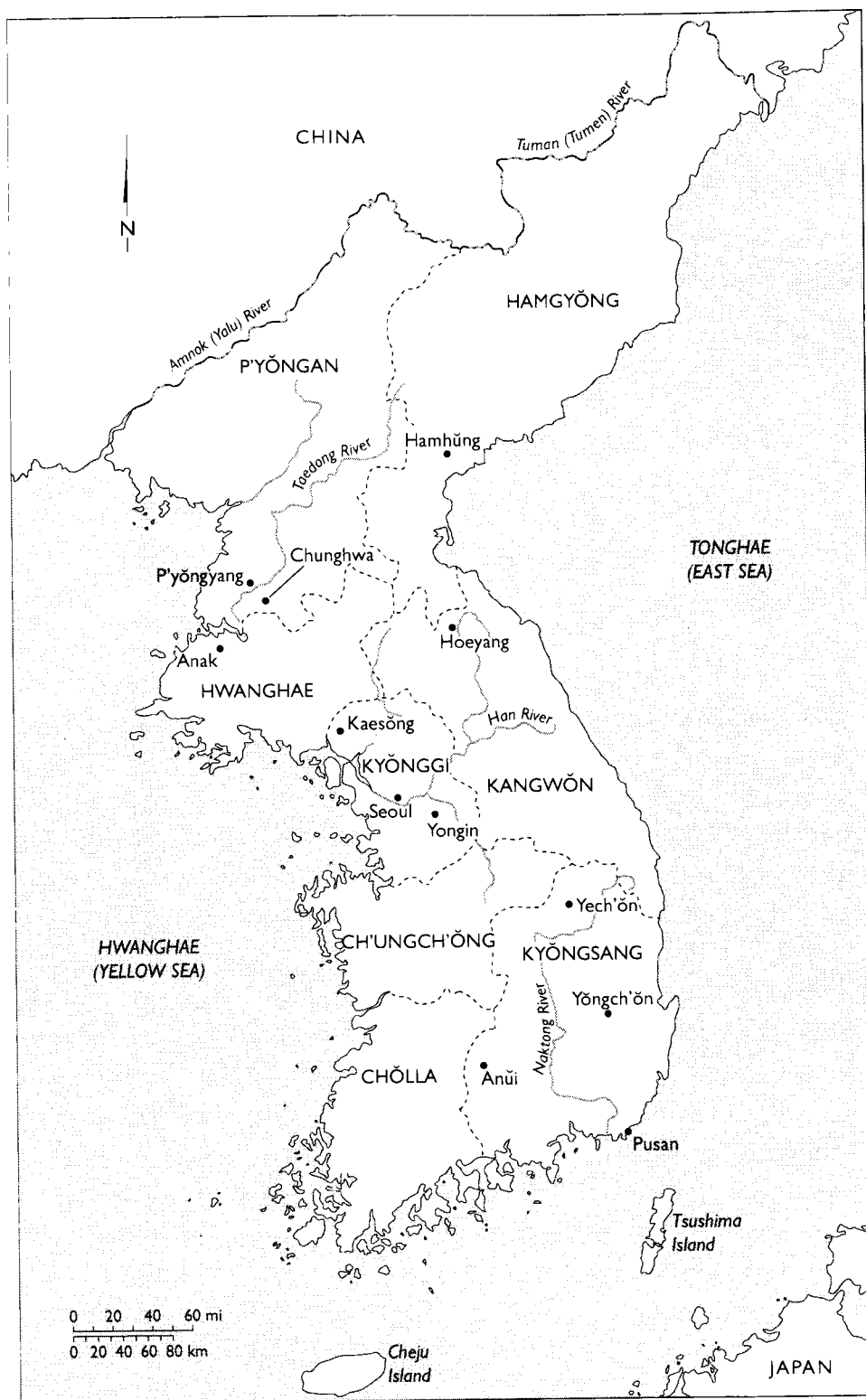
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Nineteenth-Century Korea

INTRODUCTION

Chosŏn Korea in Its Last Century

NINETEENTH-CENTURY CHOSŎN (1392–1910) IS AN AREA OF CON-
tention in Korean historiography, as Qing China and Tokugawa
Japan are in Chinese and Japanese historical studies. With the sud-
den demise of King Chŏngjo (r. 1776–1800), historians agree that nineteenth-
century Korea departed from the sociocultural renaissance mode of the
previous century under the strong leadership of kings Yŏngjo (r. 1724–76) and
Chŏngjo. The watershed event was the “opening” of the country to the West,
beginning with the Kanghwa Treaty with Japan in 1876, a convenient moment
that historians often use to divide Korean history between the premodern and
modern periods, although the same Yi royal house ruled the country until
1910, when Japan annexed Korea and made it its colony. The fact that Korea
became a colony after maintaining independent state systems for almost two
thousand years, with an unusually low number of dynastic turnovers during
that long time span, has vastly complicated Korean efforts to explain such a
humiliating historical anomaly.

The most conventional and traditional explanation employs the idea of the
dynastic cycle, according to which an initially robust dynastic system is des-
tined to decline, a process often accelerated by bureaucratic inefficiency and
corruption and resultant popular rebellions. In the case of Korea, historians
have found that the rise of in-law politics in the first half of the nineteenth
century, fueled by the enthronement of successive juvenile kings, brought
general disarray in numerous key dynastic institutions, including personnel
affairs and tax administrations. These institutional breakdowns prompted
bureaucratic abuses and exploitation, which led to the eruption of major
popular revolts, beginning with the Hong Kyŏng-nae Rebellion (1812). These
were followed by numerous tax-resistance movements, mostly in the southern

provinces (1862), and by the Tonghak revolts (1894–95), which were initially religiously motivated but soon turned into more complex popular movements that demanded various social and financial reforms and acquired certain nationalist tints in their later stages.

Before and after the opening of the country, Chosŏn rulers and elites made various attempts at institutional reform—both more traditionally oriented reforms initiated by Taewŏn'gun (1820–98), the father of the reigning King Kojong (r. 1863–1907) and the de facto ruler during the initial years of Kojong's rule, and more radical reforms with a modern outlook in the last few decades of the dynasty, mostly pursued by “enlightened” elites who had had the opportunity to learn about Western modernity after the opening of Korea. To some historians, the failure of these reform efforts was inherent in Chosŏn's institutional arrangements, which precluded any single group of political leaders from becoming powerful enough to lead the country toward a modern state at this crucial time when certain swift and epochal reforms were needed for Korea's survival.¹

To others, Korea was not simply repeating similar dynastic cycles but constantly evolving and developing toward eventual modernity. Scholars of this line of thought, which is often called the internal development theory (*naejaejŏk palchŏn non*), see the seventeenth century onward as a period of dynamic social and economic growth in which sprouts of capitalism emerged and the hierarchical social status system collapsed. According to this view, the popular revolts in the nineteenth century were largely peasant wars against the impotent state and corrupt, exploitative ruling elites and overlords, a necessary historical stage that would lead to a modern, democratic polity. Side by side with this bottom-up movement toward modernity, top-down reforms, which had their roots in late Chosŏn intellectual movements seeking practical learning and institutional reforms, emerged and were poised to transform the country until it was on a par with other civilized modern states. The internal development theory therefore holds that Korea's annexation by Japan was due not to a lack of internal development but to the timing of world history, which led to a particular mode of imperialism (that of Japan) posing an insurmountable obstacle to Korea's spontaneous evolution toward modernization.²

Whereas these explications acknowledge the shock of colonization and blame either Korea's traditional system or Japan's brutal imperialist drive, recent scholarship explores more factual and microscopic aspects of nineteenth-century Korea in an effort to understand the time, space, and people in nuanced and detailed ways. By using unconventional primary sources, such as lineage

and family archives, diaries, letters, petitions, and criminal records, it supplements earlier studies derived from official and widely recognized documents representing the voices of male elites, though it is not necessarily immune to the larger debates discussed earlier. For instance, a number of social historians have used diverse privately held documents that cover several centuries of the late Chosŏn, such as inheritance certificates, legal proceedings, and regulations and records produced by various local and village associations, to inform their view of the nineteenth century—especially the mid-nineteenth century, on the eve of the opening of the country—as a social crisis. By crisis they mean that the yangban ruling system had mostly broken down by this time because of the growth of non-yangban status groups and their encroachment on the privileges long monopolized by established yangban.³

From a slightly different angle, a group of economic historians who painstakingly collected and analyzed every piece of economic data available from both official and unofficial documents—including private diaries that multiple generations of a family kept, which recorded trivial matters such as rental rates and prices of major goods and services—came to the conclusion that the economy began to stagnate from the beginning of the nineteenth century on, and fell into a serious crisis around the middle of the century.⁴ From this perspective, various reforms planned and implemented in the last few decades of the Chosŏn dynasty were nothing but futile.

In response to this general view of nineteenth-century Chosŏn as declining or failing, some studies have proposed somewhat different pictures, based on their close readings of frequently used sources and on their introduction of new sources. For example, in her analysis of the causes of the two popular rebellions in the nineteenth century, the Hong Kyŏng-nae Rebellion and the 1862 popular revolts, Sun Joo Kim has pointed out that the dynastic administration was capable of meeting these domestic challenges, and that local elites who were loyal to the dynasty were quite successful in holding on to their power and prestige despite various social and economic challenges that might have weakened their domination in society.⁵ In her study of a local yangban association, she also found that although socioeconomic changes in the late Chosŏn did fuel the rise of “new” elites in local society, the established ruling elites held together tightly until the end of the dynasty.⁶ Anders Karlsson's studies of dynastic relief systems in the nineteenth century also support the idea that viable dynastic institutions existed.⁷

Because of these diverse perspectives, it may be difficult for general readers to form a clear picture of nineteenth-century Korea. Not only is history subject

to interpretation based on one's own predilections, but Korea's modern paths have been complicated by colonization, civil war, the cold war, and division in the twentieth century. An understanding of Korea's preceding centuries is anything but simple. Yet our intellectual motivation for writing this book emerges precisely from this complex historiography. It was the very vagueness of nineteenth-century Korea that alerted us to the possibility of exploring this period of vortex from hitherto unseen perspectives and through previously unheard voices, namely, by examining inquest records (*kōman*).

THE SOURCES: KŌMAN

The primary sources of this volume are *kōman*—inquest records or legal testimonies of late Chosŏn Korea (hereafter “inquest records”). *Kōman* is an abbreviation of *kōmsi munan*, meaning “a legal draft on examining a dead body.” However, the *kōman* sources are far more than simple records of examinations of corpses: in fact, the bulk of each *kōman* source consists of people's testimonies. In addition, it is not easy to locate these sources as single documents titled “*Kōman*” in Korean archives; rather, most of them carry a long title beginning with the specific area where the death or investigation occurred, and including other relevant information such as the name, gender, and social status of the victim. Moreover, various long and short versions of inquest records exist—from a full document with a thorough inquest report followed by an inquest form, testimonies, and a concluding statement, to abridged ones omitting some parts of the fuller reports. Whereas the fuller version of an inquest record either consists of a single-volume compilation with its own long title (as for cases 7 and 8) or comes as a collection of several cases (cases 1 and 5), shorter versions are found in volumes with more generic titles, such as *Selected Inquest Records* (*Kōman ch'o*), which contains dozens of death cases reported within one region during a specific period (cases 3, 4, and 6). Also, depending on the bureaucratic level of the office where a report was prepared, some records contain only concluding statements by inquest officials, which serve more as settlement memoirs for incidents than as an archetypal inquest record (case 2).⁸

A full version of an inquest record compiled by the inquest official, then, is a long and repetitive document, beginning with an opening statement explaining how the county magistrate who acted as an inquest official embarked on his investigation, accompanied by a death report often made by the close relative of the deceased (*sich'in*), a brief deposition given by the complainant, and

examination of the corpse, followed by a few rounds of interrogation of all persons involved in the death incident, including the accused (*chōngbōm*). This takes up the bulk of the document. The inquest record ends with the inquest official's concluding statement (*palsa*), in which he states his analysis both of the true cause of death (*sirin*) and of the death incident. Because the inquest officials frequently used allegories and parables or referred to stories from ancient Confucian classics and literature, the concluding statement is the most difficult part of the document for a modern reader to decode. The provincial governor's adjudication is often appended to the inquest record. Yet because there were many stages before final sentencing took place in a death case, and an inquest record does not carry any information beyond the county and provincial levels of investigation and judgment, we do not learn the final verdict against the accused.

It is unclear when the practice of compiling inquest records began during the Chosŏn, although the use of the manual *Coroner's Guide for the Elimination of Grievances* (Muwŏllŏk) in examining a death case had existed since the early dynasty. Some of the earliest known inquest records date to the latter part of the eighteenth century, but most extant inquest records, especially fuller versions, were produced during the nineteenth. While summaries of legal cases appear in official dynastic histories such as *Veritable Record of the Chosŏn Dynasty* (Sillok) and *Record of Daily Reflections* (Ilsŏngnok), pre-nineteenth-century original and full inquest records may have been lost or have been recorded in different formats. That said, it seems there was no explicit format for an inquest record prior to King Chōngjo's reign, and that may be a reason for the concentration of extant inquest records from the nineteenth century. In 1779, in response to Chōng Ho-in (1728–?) of the Ministry of Penal Affairs, who pointed out the complexity of the different investigation reports produced by each province, King Chōngjo ordered that a standard inquest record be prepared and distributed throughout the eight provinces.⁹ The standard format drafted at that time is similar to the format found in the full inquest records now extant, though the guideline suggests excluding the list of questions asked during the investigation and recording only the important statements made. The guideline also recommends that testimonies of joint interrogation under torture (*tongch'u*) for a doubtful case be kept succinct, rather than being recorded in detail.¹⁰ About five years later, King Chōngjo announced a slightly revised version of the 1779 inquest record, to provide an even more concrete format while retaining fundamental guidelines, such as not recording the list of questions and avoiding unnecessary redundancy.¹¹

Several of the late-nineteenth-century cases we introduce in this volume nevertheless contain the magistrate's list of questions (cases 1, 5, and 8), which may indicate that, rather than one definite inquest record format, some divergent formats were still employed and produced until the end of the dynasty, although the essential framework was kept intact.

About six hundred reports categorized as *kōman* are stored in the oldest archive in Korea, the Kyujanggak Archive. There are also several compilations of inquest records available at the National Library of Korea, containing short- to mid-length reports as well as numerous concluding statements. The Harvard-Yenching Library has several collections of inquest records, mostly compiled under the title of a county or a province. While most of these reports deal with death cases of the nineteenth and even first few years of the twentieth century, a few publications of the copious decisions on capital offences during King Chōngjo's reign—namely, the *Treatise on the Ministry of Penal Affairs* (Ch'ugwanji), *Records of Royal Reviews* (Simnirok), and *New Writings on Circumspection in Judicial Decisions* (Hūmhūm sinsō)—are valuable resources for examining the legal reasoning of eighteenth-century Korea and thus supplement our knowledge of nineteenth-century Chosōn judicial practices.¹² In selecting the eight cases introduced and translated in this book, we aimed to show the diversity of existing sources of inquest records in terms of format, length, compilation year, archive, location of the incident, type of crime or assault, and status and gender of the victim. The earliest case is from the late eighteenth century (case 2) and the latest from 1899 (case 8); the 1899 case is also the longest inquest record in this volume, comprising three full reports and six official pieces of correspondence and serving as a perfect example of the changes in legal terms and judicial procedures at the turn of the century.

The inquest records were written in a mixture of literary Chinese and “clerk's writing” (*idu*), a device of borrowing either the reading or the meaning of Chinese characters to express some part of colloquial Korean, particularly for some pronouns, particles, conjunctions, and verb endings. Toward the end of the nineteenth century, medieval Korean script replaced some clerk's writing used for particles and verb endings (cases 7 and 8). The use of clerk's writing is usually found in local and personal documents, such as various types of reports and certificates, investigation documents, and petitions. That a 233-*idu* vocabulary list is attached to the *Essential Knowledge for Scholar-Officials and Clerks* (Yusō p'ilchi)¹³ as an appendix shows its importance in formulating and understanding all kinds of documents often used by the local courts. “Clerk's writing” in inquest records enabled the court recorder to inscribe oral testi-

mony in colloquial form; literary Chinese, the official written language for Chosōn Korea, was unable to attain this effect because Chinese and Korean are such two fundamentally different languages. The power of inquest records lies precisely in this intersection of colloquial speech, literary Chinese, and clerk's writing, which conveys the impression that we are hearing the voices of the people who testified in the trials, in the same way that modern courtroom transcripts do.

While they were being recorded by the brushes of local officials, it is important to note that the testimonies were simultaneously being edited to meet judicial guidelines, and some alteration of nuance inevitably occurred. As Robert E. Hegel and Mathew Sommer discuss in their studies of Qing legal documents, despite the strength of inquest records in delivering the contemporaneous voices of illiterate people in late Chosōn Korea, these records are nevertheless textual products crafted from oral testimonies and were carefully molded by the priorities of the magistrates.¹⁴ Though containing true narratives, they were deliberately organized and composed not only to filter out some “fictive elements” but also to avoid any vulgarity in the stories told by ordinary people; thus, it is impossible to know how much of the participants' genuine voices has been lost in the process of mediation between exactly what people said and what the magistrates recorded.

Indeed, although we have used these inquest records to explore the most intimate and intense real-life experiences of men and women, the theoretical approach to analyzing the many-layered voices in inquest records remains challenging. We have therefore constructed our conceptual framework based on other studies derived from legal archives, for example, those by historians of early modern Europe, such as Natalie Davis and Carlo Ginzburg. Davis delves into this paradoxical articulation between archival fictions and historical narration in her superb analysis of sixteenth-century letters of remission, and Ginzburg reveals how transformation of the popular notion of witchcraft was manipulated by the inquisitors' perception of it. These studies ultimately suggest that creative use of ostensibly trivial details in inquisitional or court records can enable researchers to reconstruct popular attitudes and practices.¹⁵

Therefore, we argue that the constraints found in these inquest records as products of the official consumption of court proceedings do not completely erase the voices of the people who appeared in the court, fashioned their narratives themselves, and may already have been familiar with how to recount to a magistrate what had actually happened. Although inquest records do not represent transparent real lives or absolute truth about incidents and can be

understood only as constructions that may have had a calculated effect in court, they are still the most tangible sources we have that actually penetrate the prescribed hegemonic value of Confucianism and grasp the rich variety of attitudes and behaviors of ordinary people who lived under the apparent uniformity of a Confucian state. Most of all—given that for many years the only resources available for the study of Chosŏn society through legal archives were either legal codes (and other prospective legislation issued by the courts), drastically compressed summaries of legal cases, or petitions—no other primary source may transmit the intact statements and realities of people from every corner of Chosŏn society more vividly than inquest records do.¹⁶

LOCAL ADMINISTRATION

How did the Chosŏn state rule the country? How much of the state’s power did the villagers come into direct contact with, and through what means? The structure of provincial and local administrations underwent a number of changes in the early half of the dynasty, but the main skeleton of local administration established during the seventeenth century did not change much for the rest of the dynasty. In the nineteenth century, before some administrative shuffling took place after the Kabo Reform in 1894, the entire country—except for Hansŏng-bu (Seoul Magistracy) and four *yusubu* (municipalities) nearby established for defense of the royal capital—was divided into eight provinces, each of which was governed by a provincial governor (*kwanch’alsa* or *kamsa*) of junior second (Jr. 2) rank who oversaw various administrative matters, including judicial administration in the province (see the frontispiece).¹⁷ Provinces were further divided into administrative units called *pu*, *taedohobu*, *mok*, *tohobu*, *kun*, and *hyŏn* (we adopt the generic term “county” for these in translation, see table 1), to which an official of a rank ranging from junior second to junior sixth was centrally appointed. Despite the fact that the governing magistrates’ official ranks could and did vary, there was no hierarchical order among different levels of counties; all magistrates reported directly to the provincial governor, while also reserving the right to communicate directly with the king. Although there were fixed terms of service, ranging from 600 to 1,800 days for magistracy, it was rare for a county magistrate to serve his full term; this frequent change of magistrates, one of the well-known institutional problems, caused administrative inefficiencies, though this particular problem was not confined to the late Chosŏn period.¹⁸

In each county, the magistrate, who exercised executive as well as judicial

TABLE 1 Provincial administration in nineteenth-century Chosŏn (before the Kabo Reform of 1894)

Administrative Unit	Title of the Post	Bureaucratic Rank	Number of Administrative Units
Hansŏng-bu (Seoul Magistracy)	<i>P’anyun</i> (Chief Magistrate of Seoul Magistracy)	Senior second	1
<i>Yusubu</i> (Municipality)	<i>Yusu</i> (Chief Magistrate of Municipality)	Junior second	4 (Kaesŏng, Kwangju, Kanghwa, and Suwŏn)
<i>To</i> (Province)	<i>Kwanch’alsa</i> or <i>Kamsa</i> (Provincial Governor)	Junior second	8
<i>Pu</i> (Special City)	<i>Puyun</i> (Magistrate of Special City)	Junior second	5 (Chŏnju, P’yŏngyang, Hamhŭng, Kyŏngju, and Ŭiju)
<i>Taedohobu</i> (Greater County)	<i>Taedohobusa</i> (Magistrate of Greater County)	Senior third	4 (Andong, Kangnŭng, Anbyŏn, and Yŏngbyŏn)
<i>Mok</i> (Special County)	<i>Moksa</i> (Magistrate of Special County)	Senior third	20
<i>Tohobu</i> (County)	<i>Tohobusa</i> or <i>Pusa</i> (Magistrate of County)	Junior third	44
<i>Kun</i> (Lesser County)	<i>Kunsu</i> (Magistrate of Lesser County)	Junior fourth	82
<i>Hyŏn</i> (Prefecture)	<i>Hyŏllyŏng</i> (Magistrate of Prefecture)	Junior fifth	34
<i>Hyŏn</i> (Lesser Prefecture)	<i>Hyŏn’gam</i> (Magistrate of Lesser Prefecture)	Junior sixth	141

power, received administrative support from three quasi-official organizations: the Bureau of Local Yangban (*Hyangch’ŏng*), Bureau of Public Administration (*Chakch’ŏng*), and Bureau of Military Administration (*Much’ŏng*). Local clerks (*ajŏn* or *hyangni*) in the Bureau of Public Administration carried

out daily administrative duties, which were divided into six administrative areas in imitation of the six ministries in the central court: personnel, taxation, rites, military affairs, penal affairs, and public works. Although local clerks had shared genealogical roots with yangban ever since the late Koryŏ (918–1392) and early Chosŏn, their status had been drastically degraded beginning in the early Chosŏn through a number of legislative means, and by the late Chosŏn they were unsalaried hereditary service personnel.¹⁹

The personnel in the Bureau of Military Administration were a more complex mix of people. Although military service had been subordinated to the civil branch during the Chosŏn period, high-ranking military officers such as *chunggun* (chief military officers) in the bureaus of certain counties were supplied from the established group of local yangban and thus enjoyed the same prestige yangban did, while ordinary commoners filled the positions of the lower-level military officers who provided actual military and police services.

The Bureau of Local Yangban (*Hyangch'ŏng*), which oversaw the other two bureaus and also supported and advised the county magistrate, was originally a local yangban's institution representing their interests. The major local yangban lineages of each county had organized an exclusive, self-regulating association from the mid-Chosŏn period on, and this association intervened in county administration by sending its representatives to the *Hyangch'ŏng* as its director (*chwasu*), assistant director (*pyŏlgam*), and granary supervisor (*ch'anggam*). In some counties, the prestige of these quasi-bureaucratic posts (*hyangim*) at the Bureau of Local Yangban degenerated until those who held the positions were tantamount to local clerks, for they handled various administrative matters, taxation in particular, that the established yangban tended to avoid. However, in other counties, established yangban continued to hold these posts and fulfill these roles.²⁰

A county was subdivided into districts (*myŏn* or *pang*), which were composed of several subdistricts (*li* or *ri*), which in turn comprised several villages and hamlets (*tong* or *ch'on*). There were a number of different titles for district administrator, such as *p'unghŏn* and *yakchŏng* (collectively called *myŏnim*); for subdistrict administrator, such as *chonwi*, *ijŏng*, and *ihŏn* (collectively called *iim*); and for village headmen or elders, such as *tumin*, *tongsu*, *tongjang*, and *chwajang*. These headmen played a role as liaisons between the county office and the people on various administrative matters. When a murder or a suspicious death took place, it was their responsibility to report it to the county office immediately, and to be present and testify during the inquest investigation.

JUDICIAL ADMINISTRATIVE STRUCTURE: INVESTIGATION AND CRIMINAL PROCEDURE

English scholarship on Korea's legal history is disappointingly meager. William Shaw's authoritative book, *Legal Norms in a Confucian State*, published almost thirty years ago, nonetheless provides a firm foundation for understanding the legal system and legal reasoning of Chosŏn Korea. Therefore, the following description of judicial institutions and criminal procedures is largely borrowed from this book, supplemented by more recent scholarship in the Korean language.²¹ The Chosŏn court, while inheriting many institutions and legal codes from the preceding Koryŏ dynasty, carried out a number of Confucian reforms during the first several decades of the dynasty. The result was the collection of new administrative codes published as the *Great Code of Administration* (*Kyŏngguk taejŏn*) in 1485, which subsequently became the legal foundation of the dynasty. While keeping the structure laid out in the *Great Code of Administration*, numerous legal changes and royal orders were issued throughout the Chosŏn dynasty. These new codes and regulations were periodically collected and published as a vital reference for administrators, culminating in the 1865 publication of the *Comprehensive Collection of Dynastic Codes* (*Taejŏn hoet'ong*).

The *Great Ming Code* (Chinese: *Da Ming lü*; Korean: *Taemyŏngnyul*)²² served as the basic criminal law of the dynasty from its beginning. Traces of the *Great Ming Code* can be still found in the 1905 *Comprehensive Collection of Penal Codes* (*Hyŏngbŏp taejŏn*) and disappeared only when the Japanese colonial government promulgated the *Chosŏn Penal Order* (*Chosŏn hyŏngsaryŏng*) in 1912.²³ Throughout the dynasty, however, the Chosŏn court adopted a number of crucial revisions of the *Great Ming Code* in order to address cultural and socioeconomic differences between Ming China (1368–1644) and Chosŏn Korea, as much as the late Ming's profound social changes such as commercialization and the arrival of the Manchu Qing dynasty (1644–1912) required flexible translation of the *Great Ming Code* in judicial rulings in China.²⁴ While the *Great Ming Code* was employed as a general criminal law without much revision during the first half of the dynasty, the increasing complexity posed by the war experiences of the late sixteenth and early seventeenth century, as well as subsequent socioeconomic changes, demanded that the Chosŏn state enact new statutes to address new challenges. The fact that copious volumes of special laws were published and compiled from the reign of King Sukchong (r. 1674–1720) onward shows how the state endeavored to

respond to new and complex social problems, such as rampant gravesite litigations during the late Chosŏn (cases 2 and 8).

In judicial administration, there was no clear division among executive, legislative, and judicial branches of government in Chosŏn Korea, as in Ming China, and the criminal procedure was somewhat diffused because a number of different government offices exercised judicial authority. For example, provincial governors, county magistrates, and almost all the major central government offices—the State Council (Ŭijŏngbu), Border Defense Command (Pibyŏnsa), Royal Secretariat (Sŭngjŏngwŏn), Ministry of Penal Affairs (Hyŏngjo), Ministry of Military Affairs (Pyŏngjo), Capital Magistracy (Hansŏng-bu), and Office of the Inspector-General (Sahŏnbu)—could arrest and imprison criminal suspects as long as the case concerned matters under the purview of the office that was exercising authority. Yet judicial investigation, trial, and judgment were under the sole jurisdiction of a few offices, as follows.

The State Tribunal (Ŭigŭmbu) was a special judicial institution convened only on royal orders for the ad hoc consideration of political cases, accusations of treason or *lèse majesté* on the part of members of the official class, and crimes committed by royal relatives. The Capital Magistracy, which was responsible for all general administrative matters within its jurisdiction, also dealt with misappropriation of public funds and goods, daytime policing, physical violence, debt disputes, discord among relatives, robbery and adultery, inquest hearings, and others. The Ministry of Penal Affairs, which had jurisdiction over civil as well as criminal administration, was in charge of the review of death-penalty cases, legal education and research, criminal cases and penalties and the enforcement of prohibitive ordinances, and slave registration and slave-related litigation. The Ministry had a number of different offices that were served by 204 officials and functionaries at all levels in the mid-Chosŏn period, thus making it the largest of the six ministries.

In the local government, provincial governors and county magistrates oversaw penal administration. Provincial governors exercised initial jurisdiction over murder or other death-penalty cases and final judgment powers over crimes punishable with banishment (*yuhyŏng*) or less. County magistrates could pass final judgment in criminal cases for which the punishment was fifty or fewer blows with a light stick (*t'aehyŏng*), but were required to forward more serious cases to the provincial governor.²⁵ All criminal cases involving homicide, treason, and violation of the three cardinal values and five human relations (*samgang oryun*), and thus falling into the category of capital punishment, had to be reviewed by the king, who was to render final judgment in

consultation with relevant high-ranking officials.²⁶ Only the king could decide on the death penalty.

In fact, every murder or doubtful death had to be reported to the local court and required an inquest investigation (*kŏmhŏm*) to determine the true cause of death (*sirin*) and the principal offender (*chŏngbŏm*). An inquest was initiated by a complaint petition (*palgwŏl* or *paekkwŏl*) filed by a close relative of the deceased (*sich'in*), or by a low-level local administrator in cases where a close relative was not identified or located (as in case 7). The county magistrate who received such a complaint had to immediately begin the inquest investigation by traveling to the site of the death, accompanied by a relevant staff of clerks and attendants, such as a coroner's assistant (*ojak*), medical specialist (*ŭisaeng*), legal clerks (*yulsaeng*), and military officers (*kun'gwan*). Upon arrival, the inquest official (*kŏmgwan*) carried out inquest investigations composed of two major activities—the physical examination of the body (*kŏmsi*), and the questioning of all the people connected to the case, including the close relative of the deceased, the principal offender, witnesses, and relevant subcounty-level administrators. Procedural emphasis was evidently placed on speed and a pattern of open confrontation: speed in order to obtain an accurate examination and determination of the true cause of the death before bodies were too far decomposed, and open confrontation in order to create psychological pressure on the persons involved in a murder, the murderer in particular, for an unequivocal resolution of the case.²⁷

Before the physical examination of the body, a preliminary deposition was taken from the close relative of the deceased and others to initially set a ground for the case. Routine questions at this stage included personal information about the deceased, including age and occupation, previous illnesses and bodily marks, the exact circumstances of the incident, previous animosity between the victim and the suspect, and the sizes and disposition of murder weapons. Immediately after the preliminary deposition, the inquest official supervised the physical examination of the body, which strictly followed the detailed procedures and prescriptions of the *Coroner's Guide for the Elimination of Grievances* (Muwŏllŏk), originally a publication of Yuan China (1271–1368). Although Song China's *The Washing Away of Wrongs* (C: Xiyuan jilu; K: Sewŏllŏk) had become the most reliable reference on forensic science in China,²⁸ Korean officials relied on the *Coroner's Guide*, which had been annotated and even “translated” into vernacular Korean later in the dynasty, to aid easier reading and understanding of the original work, which was written in literary Chinese with many technical terms.²⁹

The examination of the body began with observation of the corpse in its dry condition. After that, the inquest officials washed the corpse and used various “inquest materials” (*pömmul*), such as lees and vinegar, which were sprinkled over the body as aids to make injuries more visible.³⁰ Another essential inquest material was a silver hairpin, which was routinely used to determine whether or not the deceased had been poisoned. If the hairpin, which was put deep inside the corpse’s throat, turned black, then the actual cause of the death would be “being poisoned” (*chungdok*).³¹ The silver hairpin was also inserted into the anus, especially when someone was thought to have poisoned him- or herself and the poison might already have reached the intestines. In such a case inserting a silver hairpin into the throat could not prove anything.³²

In keeping with the guidelines of the *Coroner’s Guide for the Elimination of Grievances*, however, there was always flexibility in the process of conducting autopsy. In case 6, the inquest official did not carry out a silver hairpin test of the woman’s anus when the test of her mouth turned out to be normal. In case 2, poisoning was ruled out as the cause of death because the silver hairpin, which turned black when inserted into the woman’s body, regained its natural color when it was washed with a concoction of boiled water and pods of soap bean. The black stain on the silver hairpin would not have disappeared that easily if it had been caused by poison, according to the *Coroner’s Guide*.³³

The handling of the body must have been an anathema to many of the yangban officials serving as magistrates. The *Coroner’s Guide* repeatedly emphasizes that the magistrate should examine the body in person rather than leaving the job to his staff and attendants.³⁴ In 1789, King Chǒngjo formally announced an edict punishing those magistrates who either delayed the investigation of a corpse or moved it to another region to avoid the autopsy.³⁵ The magistrate who played the role of coroner, however, did not actually touch or handle the corpse but examined it with a professional coroner’s assistant called an *ojak* (C: *wuzuo*). An *ojak* was a slave, and was thus sometimes termed *ojak no* (slave coroner’s assistant), though this was changed to *ojak saryǒng* (coroner’s assistant) after the abolition of slavery in 1894 (as exemplified in case 8).

The *Coroner’s Guide* also addresses the embarrassment of investigating a woman’s body and states that, especially in inspecting its virginity, a female corpse must be examined by an old midwife instead of a male coroner’s assistant, under observation by some female relatives or neighbors of the dead woman.³⁶ Although the *Coroner’s Guide* is silent about different autopsy procedures based on a woman’s social status, we know that in 1752 it was forbid-

den to perform an autopsy on a yangban woman.³⁷ Thus it is no wonder that in the present book we have only one case of a brief female autopsy, which was carried out on a non-yangban woman (case 6).

The primary purpose of the physical examination of the corpse was to identify the cause of death, which was the essential part of the investigation procedure to obtain concrete evidence. Together with confessions, detecting the true cause of death served to determine the principle offender as well as the appropriate level of punishment. Yet as the title *Coroner’s Guide for the Elimination of Grievances* indicates, the ultimate objective of conducting a thorough examination of a dead body was to redress any wrongs done to the dead person and his or her family, thus maintaining social harmony by officially recognizing their grievances. According to the *Coroner’s Guide*, each county office had to have on hand its own preprinted inquest form (*sijang*) with an identifying serial mark. There are some extant inquest records with such an inquest form attached (as in case 8, though there the form itself was not printed but handwritten on ruled paper). This form provided close guidance as to which parts of the body needed to be examined, and the examiner was supposed to call out loudly if there were any unusual bodily marks or injuries as he examined the corpse from head to toe, on the back (dorsal) as well as front (ventral) side. Every wound had to be measured as to its depth and width; the color of each part of the body was also regarded as crucial in determining its abnormality. All the details found during the examination were recorded and interpreted as a whole when the inquest official determined the true cause of death. The court produced three identical copies of the inquest form: one issued to the close relative of the deceased, one filed at the county office in charge of the inquest, and one attached to the inquest report forwarded to the provincial governor for review.

Though the *Coroner’s Guide for the Elimination of Grievances* remained the basic manual for autopsy procedures throughout the dynasty, it underwent several changes and additions to meet specific circumstances in Chosŏn society. For example, in addition to using a silver hairpin to determine death by poison, the *Coroner’s Guide* suggests a test using a chicken as a sort of litmus paper. To do this, the examiner first inserts a cooked rice ball into the mouth of the corpse and covers it with a paper. About an hour later, the rice ball is fed to a chicken. If the chicken dies, this proves that the person died of poisoning.³⁸ Yet the use of a chicken was banned in 1764 because such chickens were sold to people to eat even after being used to test for poison.³⁹ Moreover, whereas the *Coroner’s Guide* outlines and encourages the examination of a

corpse already buried or encoffined as a critical way to investigate the actual cause of death, in 1765 King Yǒngjo banned autopsies on bodies that had been buried for a long time.⁴⁰ This was reversed in 1777 by King Chǒngjo, when officials memorialized about allowing an autopsy for a buried corpse. Retaining the essence of the previous edict as well as that of the *Coroner's Guide*, however, King Chǒngjo decreed that an autopsy of a previously buried body was allowable only when there had been a secret burial after a homicide.⁴¹

Following the physical examination of the body, a new set of depositions was taken from everyone concerned, including witnesses. The late Chosŏn criminal court classified witnesses as belonging to one of three categories: *kanjŭng*, an eyewitness who was present at the spot of the crime or familiar with the victim's state of mind; *kallyŏn*, an "involved witness" who endeavored to mitigate the situation; and *saryŏn*, a "related witness" who merely observed the event after the criminal act took place.⁴² For example, in case 3 the slave Yi Pong-dol committed suicide by throwing himself into a deep pond. One of Yi's relatives who saw he was upset and witnessed him talking about killing himself was recorded as an eyewitness. A neighbor who dived into the water and tried to save him was recorded as an involved witness, while a bystander who witnessed the rescue operation was recorded as a related witness. These terms of art were regularly used in Korean legal case descriptions in the late Chosŏn and the distinctions among the three different types of witnesses seems to have been very clear to officials.

Testimonies taken at the court did not always fit together. In case of discrepancies among testimonies, second, third, and sometimes fourth and fifth depositions were conducted, until some acceptable and coherent level of detail about the incident was attained. The face-to-face confrontation of conflicting witnesses (*taejil*) was an essential technique in questioning and uncovering the "truth" within confusing testimonies. After the process of interrogation and cross-examination was complete, the inquest official made his judgment as to the true cause of death and the identity of the principal offender. Most inquest records end with the inquest official's "concluding statement" (*palsa*), which consists of a summary statement of the case and the judgment, complete with the evidence and reasoning that led to his conclusion. The entire package—of inquest report with attachments of the inquest form and drawings of the murder site, weapons, tools, or suicide notes if available (see case 8 for an example of this type of drawing)—was then sent to the provincial governor with a recommendation for a second inquest investigation (*pokkŏm*). The second inquest was conducted by an available magistrate of a neighbor-

ing county, and the procedure was identical to the first inquest. The purpose was to obtain an independent investigation as a check against the accuracy and thoroughness of the first inquest investigation. It was not unusual for the second investigation to come to a conclusion different from the first, which then called for a third round. In cases where the defendant did not confess his or her crime or there were still doubts, the inquest officials, with the permission of the provincial governor, carried out repeated interrogations of the defendant under torture (*tongch'u*), held three times a month as a form of joint interrogation by inquest officials. When no confession was achieved, continued torture sometimes led to the accused dying in prison. This procedure of interrogating the defendant under torture was regarded as a crucial method in obtaining a confession, the final proof of criminality. When investigations were completed, the provincial governor carefully reviewed all reports and forwarded them to the Ministry of Penal Affairs along with his own view on and recommendation for the case.

The king was the supreme judge who handed down the final sentence for cases involving doubtful deaths during the Chosŏn dynasty, though he consulted his officials present during the special royal review (*simni*). As shown in case 2, some doubtful cases, in which the principal offender or the cause of death could not be determined, were under repeated royal review and follow-up investigations for a number of years. As discussed in more detail in case 2, *Records of Royal Reviews* (Simnirok), the collection of royal reviews during the reign of King Chǒngjo, provides a variety of perspectives on eighteenth-century Chosŏn society and culture, although it tends to highlight the royal judgments on each case because it presents only a case summary along with a given royal judgment in its entirety.⁴³ It seems that King Chǒngjo had a great interest in rectifying various procedures of investigation and autopsy, for the *Records of Royal Reviews* was compiled during his reign and he even ordered that any adultery-related homicide should be reported to the king from the outset of an investigation.⁴⁴ In contrast to the *Records of Royal Reviews* summaries, however, the inquest records—especially the full versions translated in cases 1, 5, 7, and 8—supply much more dynamic and complete life stories.

The Kabo reforms of 1894 through 1896 brought some important changes to criminal laws and institutions.⁴⁵ A series of laws introduced new systems of punishments while abolishing most of the traditional five punishments (though beating with a light stick still remained). Along with abolition of the social status system and slavery, criminal legal institutions adopted the principle of equal rights for everyone before the law. In addition, the judicial

branch became independent of other branches of government and a modern-style court system was created. The Ministry of Justice (Pömmu Amun), established in 1894, whose name was changed to Pöppu next year, was to exercise independent judicial power and lead various institutional changes. Yet legal reforms met several difficulties and could not be carried out as designed. For example, there was no adequate educational and training infrastructure to produce a large number of legal experts, including judges and prosecutors to replace traditional practitioners of law such as provincial governors and county magistrates. Therefore, it was only in 1907, when magistrates were excluded from conducting inquest investigations, that this task was transferred to the police when the trial itself took place in the local court. The principle of independence of jurisdiction also declined because of the revival of authority of the monarch as the final arbiter of heavy punishments. Cardinal Confucian values were still taken as the essential guideline for judicial affairs, and thus special treatment of high-ranking officials and other privileged status groups returned. Despite such limits in legal reforms, some changed legal structures and procedures can be observed in case 8, whose inquest investigations took place between 1899 and 1901.

LAW AND SOCIETY IN THE NINETEENTH CENTURY, AS INSCRIBED IN INQUEST RECORDS

Inquest records were introduced to Korean academia in the late 1990s, but have thus far been underused for detailed study of the sociolegal history of Korea. As we come to understand the nature of inquest record materials produced by the systematic judicial process and dynamic human interactions, however, many facets of nineteenth-century Korean life are revealed that are simply not found in other conventional and official documents. Numerous stories, straight from the lips of men and women in these investigation reports, demonstrate how ordinary people consistently interacted with and redefined sociocultural categories, both in the context of a crisis and through everyday practices.

Scholars have shown that litigation and legal testimonies on various subjects were not unusual in late Chosŏn society.⁴⁶ As in any early modern society, legal codes and procedures were fully understood by local people, who then employed them to secure their own interests. During the reign of King Chŏngjo alone, for example, about four thousand petitions were filed and recorded in the *Record of Daily Reflections* (Ilsŏngnok), one of the court

records that focused on daily activities of the monarch.⁴⁷ While the majority of these concerned disputes over personal property, such as land and slaves, many of them sought to restore ancestors' moral and scholarly reputations or addressed adoption issues. Although Chosŏn society was highly stratified and segregated by gender, it is clear that people, including women and even slaves, actively utilized the existing legal channels to resolve various conflicts and rectify their grievances. It is certainly a remarkable aspect of the Chosŏn legal system that the state recognized everyone as an independent legal subject, regardless of gender or status.⁴⁸

Moreover, trials at the magistrate's office were generally open to the public, who were thereby able to gain valuable knowledge about law, judicial procedure, and punishment. On the one hand, audiences listened to interrogations of people involved—from principal offenders and victims' families to neighbors—and learned how they sometimes twisted testimonies in order to protect their positions. On the other hand, they witnessed the severity of the law practiced on the scene, such as court officers with the instruments of punishment and torture, if that proved to be needed to extract a confession. All such indirect or direct interactions and experiences in court gave ordinary people a legal perspective. In the meantime, magistrates hearing cases were well aware of perverse statements and usually tried to ferret out the truth. Therefore, a careful and critical reading of each inquest record proves to be an extremely valuable source of information about the everyday life of ordinary people in nineteenth-century Korea.

The eight cases selected and examined in this volume introduce various groups of people who are rarely, if ever, spotlighted in any historical materials and who have otherwise disappeared from the records of the past. Although we did not intentionally seek out cases involving the most marginalized groups in Chosŏn society, countless main actors in death cases were people of lower status, perhaps because they had few ways to solve their problems short of going to court. The testimonies of these non-elite people, whether speaking for themselves or for dead family members, suggest the potential for accommodation, negotiation, and reproduction between ideas and actual practices in nineteenth-century Korea. Despite the status gap, it is evident that some non-elites did not hesitate to confront a yangban's abuse, not only between people of the same gender (non-yangban man versus yangban man, as in case 3) but even between a non-yangban woman and a yangban man (case 6). Clashes within the same status group were not uncommon either, for the sake of securing personal or familial interests, especially among yangban

groups whose positions in a locality may have been weakened by a series of new socioeconomic challenges in the nineteenth century (case 8). And in contrast to the typical image of secluded Chosŏn woman, many women are seen actively defending their personal integrity and their position in a family and community, not to mention participating in economic transactions (cases 2, 4, 5, and 6). Finally, though female chastity and sexual virtue were an integral part of maintaining Confucian sociofamily order, adultery was not an incident unfamiliar to men or to women (cases 1 and 7).

While it is difficult to propose that the handful of cases translated here confirms upward social mobility or the breakdown of the status system, they do certainly complicate our picture of nineteenth-century Korea and clearly reveal diverse human interactions that transgress the usual Confucian boundaries of gender, law, and especially social status. People witnessed a great deal of change throughout the century, from domestic instability as exemplified by major popular movements such as the Hong Kyŏng-nae Rebellion (1812), numerous tax resistance movements (1862), and the Tonghak Rebellions (1894–95), to radical reforms by the Taewŏn'gun in the mid-century and more “modern” reforms in its last decade, to foreign encroachment in the latter part of the century. In addition, nineteenth-century Korea has been typically described as a drastic departure from the previous century, which flourished socially and culturally under the strong leadership of kings Yŏngjo and Chŏngjo. Yet the lives of people do not seem to have undergone sudden sweeping changes. In the meantime, the legal procedures and testimonies preserved in inquest records illustrate in minute detail the dynamic intersection of state and society in reaction to the changing social and economic circumstances in nineteenth-century Korea. Throughout such legal testimony, defendants as well as witnesses express a variety of responses to the conflicts as active agents, interpreting the sociocultural norms of their place and time according to their personal circumstances and needs. By divulging various cracks within families and communities, the cases in this volume thus offer readers a profound departure from the conventional picture of nineteenth-century Chosŏn society, and ultimately illuminate the complex constellations of constraint and opportunity that shaped the lives of the people whose voices we hear in these depositions, on both the individual and institutional levels.

CASE 1

AN ADULTEROUS WIDOWER MEETS A VIOLENT DEATH

Yang Hang-nyŏn (P'yŏngyang, P'yŏngan Province, 1866)

ADULTERY, THE ROOT CAUSE OF MURDER IN THIS CASE, IS ONE of the most common sources of violence and misery throughout human history and has been regarded as a crime in many societies in which marriage and patriarchy are the social and moral foundation. During the Chosŏn dynasty, both adulterous men and women were punished by law following Ming codes. According to an article in the *Great Ming Code*:

In all cases where a wife or concubine commits adultery with another, if [her own husband] himself catches the adulterer and the adulterous wife at the place of adultery and immediately kills them, he shall not be punished. If he only kills the adulterous lover, the adulterous wife shall be punished in accordance with the Code [Art. 390] and be remarried or sold by her husband.¹

The relevant punishments prescribed in the *Great Ming Code* for all cases of fornication with consent were eighty strokes of beating with a heavy stick; a woman who had a husband received ten additional strokes.² Chosŏn legal practitioners introduced their own adjustments that eventually deviated from the original Ming statutes. For example, the level of punishment differed in accordance with the offender's status: capital punishment was encoded for an adulteress of yangban status from the early sixteenth century onward, while an adulterous commoner woman in the late Chosŏn was often enslaved. There were also cases where an adulterous man, especially one of lower status who had had illicit sex with a yangban woman, was severely punished, even with the death penalty.³ However, to reinforce the principle of female chastity, late

Yu-dök, the query saying “You [Kim and Sö] sent Hong Chin-o to deliver the message” was stated as though Hong Chin-o had testified in such a way, whereas in fact Hong had not in his first testimony. This is a grave investigative error. In the last part of the second inquest investigation’s concluding statement, there was no record of district and subdistrict administrators, and this is out of line with proper procedures. In the first inquest investigation’s concluding statement, the character *kwang* (狂) was written as *kwang* (枉), and *ki* (岐) was written as *ki* (岐). This all demonstrates a slighting of the importance of court proceedings; the clerks at the Bureau of Penal Affairs in charge of both investigations shall be censured by informing the first inquest official and [other] local officials.

CASE 2

A FAMILY ACTIVIST CONFRONTS A LOCAL MAGNATE

Ms. Pak (Yongin, Kyönggi Province, Late Eighteenth Century)

GRAVESITE LITIGATION (SANSONG) INVOLVING ILLEGAL BURIALS (*t’ujang*) was an increasingly common social problem in the late Chosön period, with conflicts over gravesites often flaring up as both verbal and physical confrontations that sometimes resulted in death.¹ Rural conflicts over gravesites were grounded in at least three aspects—geomantic beliefs, economic benefits, and filial piety, which Chosön Confucian society upheld as a cardinal ethical value—all of which were closely intertwined. While locating and placing an ancestor’s tomb at a propitious site for the sake of the dead ancestor was the obligation of a filial son, a more mundane motivation was popular belief in geomantic blessings supposedly emanating from auspicious gravesites. According to the doctrine of geomancy (K: *p’ungsu*; C: *fengshui*), subterranean energy flowing beneath the surface of the earth affects human affairs both positively and negatively. Whereas disturbing the circulation of this energy can upset the harmony of human society, the wise utilization of its vital spots could result in the prosperity of a dynasty, lineage, family, or town. In the late Chosön, the geomantic idea took hold that a propitious burial site for an ancestor was critically linked to the well-being and prosperity of his descendants. Though geomantic theories are extremely complex, an ideal burial site needs to be near a strong flow of earth energy, a place where the loins of the azure dragon of the east and the white tiger of the west are locked together in intercourse. The site must also be protected from high winds by a black tortoise mountain to the north and possess a good open view toward the protective hill of a red phoenix to the south. The slow flow of water from eastern and western hills meeting in front of the spot before

moving away from the horseshoe-shaped lair of the dragon is another critical element.² Though numerous such sites were identified all over the Korean peninsula, fierce competition to locate the most beneficial ones emerged as more and more people came to subscribe to geomantic beliefs in the late Chosŏn.

In addition to abstract blessings that would bring prosperity and scholarly and bureaucratic success for many future generations, the owner of a gravesite came to have exclusive rights to the land surrounding the tomb, and also to the resources, such as firewood, lumber, and soil, that were produced there.³ Although all forests and mountains were in principle common property for everyone to share in Chosŏn Korea, yangban elite in the late Chosŏn expanded their occupation of forestland and mountains by placing their ancestors' tombs there. Once a family had secured forestland and mountains as a family graveyard, its members came to have exclusive usufruct over the space, and other people could neither place a tomb nor gather any resources there. The holders of the usufruct eventually exercised the ownership right and sold forest resources and even the land itself. Thus, gravesite litigation involved not only the violation of another family's graveyard by placing an illegal burial there, but also conflicts over uses of forest products and the sale and ownership of the land.

The *Great Code of Administration* (Kyŏngguk taejŏn), the fifteenth-century state code, originally granted the right to occupy the land surrounding a grave only to ranked officials.⁴ Subsequently, the royal edict of 1676 expanded the grantees to yangban without official ranks, and the royal edict of 1718 expanded it to all commoners.⁵ The fact that the *Supplement to the Great Code* (Sok taejŏn), which was compiled in 1744, began to contain regulations concerning gravesite litigations reflects the increasing occurrences of such legal matters derived from the expansion of gravesite protection and occupation rights.⁶

Another cause for increased gravesite litigations in the late Chosŏn was that the laws regulating grave protection and forest usage rights were not clearly laid out. For example, the spatial perimeter that a grave would create was unclear, and this naturally led to disputes over ownership of certain pieces of land and the legality of another family placing a new tomb nearby.⁷ Although gravesite litigations were often conflicts among yangban elites, non-yangban populations were also active in challenging the yangban who invaded their ancestral graveyards. In addition, they frequently trespassed on forestland owned by yangban in order to collect firewood and lumber, both for their own use and to sell on the market as increasing demand made it a

lucrative business.⁸ There were a number of reasons for this increased demand for firewood in the late Chosŏn period. The general population increase may well have generated more demand for cooking. In addition, heating rooms through a duct under the floor had become more popular in the late Chosŏn, and this must have resulted in exponential growth in the need for fuel for heating.⁹ Major industries requiring firewood included ceramics, metallurgy, and salt production, whose demands probably increased with general population growth.

When someone violated another's gravesite and placed his or her own ancestor's tomb there, it was most likely out of the very selfish desire to rob the imagined blessings as well as to claim land rights. The violated family, when it discovered the illegal burial in its family graveyard, took the incident very seriously, for it meant not only an unthinkable assault on the buried ancestor, but also the loss of the family's imagined good fortune for the present and future, and the land rights themselves. The afflicted party, therefore, mobilized every possible private and legal tool to remove the illegal burial and resolve the issue.

The present death case of Ms. Pak began with the illegal burial of the wife of Kim Wŏn-ch'ŏl near the gravesite of Ms. Pak's husband. Ms. Pak, a widow who did not have any children and who had also lost her own father, acted on her own and filed complaints with the authorities to undo the injustice. Chosŏn women, though ideally confined to the inner realm and not involved in "public" matters, did have the right to submit appeals to the authorities on various matters. Numerous documents show that women were the agents of legal proceedings, especially those concerning property rights and on behalf of wrongfully accused husbands.¹⁰ Ms. Pak's petition received multiple favorable resolutions issued by local officials, but the offender, Kim Wŏn-ch'ŏl, relying on his family's power and authority in the area, did not comply with the government's order to remove his wife's burial. Ms. Pak, frustrated and enraged by Wŏn-ch'ŏl's adamant attitude, dug up the illegal burial with her own hands, which eventually invited physical assault by Wŏn-ch'ŏl and his family. Ms. Pak died three days after the attack.

Apparently, powerful families in local areas intentionally violated other families' gravesites as a way to take over forestland, and often resisted removing an illegally placed tomb even after they had lost a suit.¹¹ One of the reasons the violator was able to resist the legal judgment was that there was no guideline specifying the use of official force to remove the illegal burial. Since there was no legal mandate enforcing the judgment of removal of the illegal burial,

powerful families simply kept the tomb there and waited for time to pass until the complainant gave up. In this incident, the infuriated complainant, Ms. Pak, took the matter into her own hands and destroyed the illegal burial—an act that was in itself illegal.¹² But her death took the case to a different level of investigation and judgment. Arbitrary exercise of power, over a powerless woman in particular—combined with the offending family’s plot to manipulate the cause of her death to make it look as though she had committed suicide by drinking poison—was regarded as an unforgivable crime, and the death penalty for the accused was ensured, at least in principle. Yet, as many of the royal reviews of late eighteenth-century murder cases in the *Records of Royal Reviews* (Simnirok) show, capital punishment was rare.¹³ Likewise, the reigning king ordered another thorough investigation just to make sure that there were no different opinions and facts, as the translated case document shows.

The present case is one of twelve from various counties compiled in the book *Inquest Records* (Kōman).¹⁴ None of the cases in this collection carries a “full” inquest report. Some consist only of a royal judgment (*p’anbu*); in others, the royal judgment is preceded by a combination of concluding statements of the first and/or second inquest, adjudication of the provincial governor, and comments by the Ministry of Penal Affairs. A few cases even include a report made by the special investigator or by a secret royal inspector (*amhaeng ōsa*). These characteristics of the collection resemble those of the *Records of Royal Reviews*, a collection of records of special royal hearings (*simni*) for more than one thousand cases held between 1776 and 1800, which overlaps with King Chōngjo’s reign. In fact, all twelve cases recorded in the *Inquest Records* are found in the *Records of Royal Reviews*. The *Inquest Records* was probably a draft for the *Records of Royal Reviews*, given the fact that it contains material not included in the *Records of Royal Reviews*.¹⁵ However, the *Records of Royal Reviews* usually provides much richer information that is missing in the *Inquest Records*, including when the recorded incidents were first filed with the authorities.¹⁶

The present case was filed with the Yongin county office in the eighth month of 1783 and presented for a royal review in the fifth month of 1784, according to the *Records of Royal Reviews*.¹⁷ The *Records of Royal Reviews* also reveals the surprisingly complicated nature of this case. Subsequent proceedings involved two petitions by “striking the gong” (*kyōkchaeng*) by the principal offender’s son in 1784, and eleven royal reviews, the last one in the fifth month of 1798—making the case unresolved and under review for fifteen years.¹⁸ Considering

that the average length of a trial was 41.8 months, from the case’s filing date to the final royal judgment, the fact that this case was not resolved for sixteen years signifies the extraordinary difficulty it generated in rendering the firm final judgment.¹⁹ The royal judgments for this case recorded in the *Records of Royal Reviews* can be divided into two groups: the first four (1784–85), and the rest (1797–98). The translated royal judgment here is in fact the fourth one, in the seventh month of 1785, and the fact that the case was reviewed again after a lapse of twelve years means that the principal offender Kim had probably been in prison during that time.

Apparently the true cause of Ms. Pak’s death—whether she was beaten to death or whether she committed suicide by drinking poison—was the key question. During the first inquest, the silver hairpin inserted into her body to test for the presence of poison inside her system apparently turned black, but it regained its natural color when it was washed with pods of soap bean. This alone did not confirm Ms. Pak’s suicide by drinking poison, for the stain on the hairpin should not have disappeared that easily if caused by poison.²⁰ Two women, meanwhile, came forward and made written testimonies in favor of the principal offender by saying that Ms. Pak, who was seventy years old at the time, tried to kill herself by harming her body first, and eventually by drinking poison, after she was battered and insulted by the Kims. Court officials and the king regarded such belated testimonies as untrustworthy. Yet, with conflicting testimonies and arguments, as well as physical evidence that left some doubt in determining the true cause of death, the case did not see a firm resolution even in the last royal judgment, which demanded another report from the provincial governor after seeking more evidence and reasoning. The fundamental quandary in this long-held case was that the requital for the life of Ms. Pak must be carried out, yet no death sentence could be rendered unless there was solid evidence against the accused because a wrongful sentence and death would only incur a greater grudge on the part of the dead.

YONGIN: KIM WŎN-CH’ŎL BEAT MS. PAK TO DEATH

In the concluding statement of the provincial governor: All maternal as well as paternal relatives of the criminal Kim Wōn-ch’ōl resided in the same village.²¹ The deceased Ms. Pak was a widow without any child, and also in mourning for her father. Wōn-ch’ōl always flouted her. Upon his wife’s death, he carried out an illegal burial of her corpse near the incoming dragon vein

(*naeryong*) of the gravesite of Ms. Pak's husband.²² Ms. Pak made the effort of going over the mountains and across rivers, and proceeded to submit appeals to the relevant county as well as provincial offices. She subsequently received numerous judgments that obliged Wŏn-ch'öl to remove his wife's grave. Yet Wŏn-ch'öl resisted for more than a year and did not take action. The way he resorted to his power to illegally occupy another's gravesite is extremely deplorable. Moreover, he did not move the grave even after the issuance of an official decision; this is certainly a habit of ignoring laws without shame. Ms. Pak was enraged and acted on her own to the extent that she grabbed a hoe and went straight to tear down the mound and remove the grave with her own hands. Although that was not womanly behavior, the fact that she reached that point lets us realize the extreme degree of Wŏn-ch'öl's arrogance. Both Wŏn-ch'öl and Ms. Pak are local yangban (*hyangban*). As for the mountain cemetery, there are differences between the owner and the guest. As for men and women, there are separations between the inner and outer realms. But Wŏn-ch'öl, together with his brothers and many male and female slaves, chased [Ms. Pak] to the top of the mountain cemetery and tied her up. They must have beaten her and dragged her to the hillside. Within three days, she died. Although he said that he had only tied her up but not hit her, there were numerous injuries, all in a critical state. Wŏn-ch'öl's two brothers and slaves not only followed him but obeyed his orders. It was Wŏn-ch'öl who tied her up. When he restrained and bound her, and also grabbed her hair to tie her up, he must have been angry and hit her wildly. With such force, he must have caused injuries all over her body. How could he dare to present confusion [at the court] in an effort to escape the charge? Furthermore, when Pak Kyöm-ch'oe came to [the site of the incident] by horse, immediately after he heard that his sister had been beaten, Wŏn-ch'öl and others had already tied her up, pushed, kicked, dragged, and pulled her. As if she were a corpse, she could not speak a word. Pak Kyöm-ch'oe did witness her like that with his own eyes. In addition, Ms. Pak, before her death, told her [brother]²³ that Wŏn-ch'öl had tied her up, kicked her, and hit her back and chest violently with the handle of the hoe. Therefore, there is no doubt that Wŏn-ch'öl is the principal offender in this criminal case.

Among numerous wounds, the bruises on both the right and left breast and the right side of the back are the most severe and located in the most critical spots. There are also traces of tying around her elbows, and they are really severe. When imagining the scene of that day, the fact that Ms. Pak did not die on the spot [put this case under the category of] "the period of responsibility

for crimes" (*kohan*).²⁴ Wŏn-ch'öl's illegal burial, followed by his arrest and battery of Ms. Pak—there is not a single excuse for clemency for what he had done. His maternal uncle²⁵ coaxed Chöm-hwa²⁶ and fabricated a story that Ms. Pak drank bittern [and died of it]. This story was a plot to confuse the court and to escape prosecution. His lie has been exposed and there is no way to cover up his crime. In this kind of crime, confession must be taken for requital for a life. I shall send down a strict order to the inquest official, who should carry out interrogation in no time to attain his confession.

As for Kim Hyŏng-ch'öl, he accompanied and assisted his brother Wŏn-ch'öl for his brother's sake, and it is clear that he himself also beat her. On that same evening, [he] tied up Ms. Pak again and all his acts were extremely deplorable. However, his older brother has already been accused as the principal offender and it is inappropriate to hold him in prison passing a year. In addition, he has received four rounds of punishments and these would indeed be enough punishments for his crime. Therefore, your subject, the provincial governor, issued an order to release him. As for [Kim] I-ch'öl, his crime is on a par with [that of] his brother. In his participation in tying her again, what he did was no different from his older brother. However, when Ms. Pak, having been tied up and beaten, managed to escape and was on her way back home, I-ch'öl suddenly appeared and kicked and struck her, and caused her to fall off a horse which stunned her. The death of Ms. Pak must have derived from injuries [caused by this assault]. There is no way to avoid the application of the law concerning accomplices (*sujong chi yul*). It is exceptionally lamentable that he has not been arrested because he ran far away. Your subject, the provincial governor, sent out an order to relevant counties and garrisons to make a special effort to search for and arrest him. Former magistrate Ŏ Sa-p'il is the maternal uncle [of the accused].²⁷ He must have wanted to harbor [I-ch'öl], and that is not unusual in terms of personal sentiment. Yet it is extremely impertinent to hide a criminal. In addition, he secretly provoked his female slave to disseminate the rumor that [Ms. Pak] drank bittern to die. Furthermore, he stood up and criticized [inquest officials] at the time of inquest. How dare a person, who had served at the court, behave in such a way at the solemn criminal court! I fear we should censure him for the sake of this country's cardinal principles.

In the ROYAL JUDGMENT:²⁸ As for the criminal Kim Wŏn-ch'öl in the murder case of Yongin Prefecture, the royal law of "requital for a life" in a homicide case is very strict. Although I would like to let him live, there is no

way. As a local magnate, he killed a vulnerable yangban woman. His scheme was extremely cunning; his dark trick and brutal acts were so cruel. Even people on the road would have spontaneously shed tears [of grief and rage] had they heard of his brandishing a sickle [to harm Ms. Pak].²⁹ His sly plot to concoct the story that she drank bittern has been revealed. Every act of his arouses great indignation. The discussion of his crimes by the Ministry of Penal Affairs has nothing out of line. Yet a criminal case must take the utmost care. Because people disagree [on certain things], order the new provincial governor himself to take charge of a detailed investigation and to submit his opinion. This is not to harm the meaning of legal prudence (*hŭmhyul chi ũi*). Inform the provincial governor of this decision.

CASE 3

A DEFIANT SLAVE CHALLENGES HIS MASTER WITH DEATH

Yi Pong-dol (Anŭi, Kyŏngsang Province, 1842)

THE DEATH OF YI PONG-DOL, THE SON OF A SLAVE AND THUS AN uneducable “fool” in the Chosŏn elite’s view, was “in vain.” His disrespectful speech and behavior upset a village yangban. The offended yangban invaded Pong-dol’s home after failing to catch him and broke jars containing precious preserved sauces, a critical source of nutrition for Korean people all year long. Pong-dol, in despair and frustration, committed suicide by throwing himself into a deep pond. This case reveals a widespread social problem: violation of the distinctions of status between noble and lowborn (*ch’ŏnmin*) and between master and slave, as manifested in insolent speech or behavior by people of the non-elite class. The Chosŏn elite’s sensitivity over the blurring of social status lines was acute throughout the dynasty because they believed that status distinctions were the foundation of society and that laxity in such matters meant institutional instability. Criminal incidents resulting from people crossing long-established social status lines seem to have increased in the eighteenth and nineteenth centuries, and scholars such as William Shaw have interpreted the phenomenon as “a by-product of economic changes” that enabled non-elites to purchase yangban titles and to imitate the yangban lifestyle while some local yangban fell into poverty and could not maintain their decorum and way of life.¹

The Yi family in this suicide case seems to fit this formula. The victim, Yi Pong-dol, as already noted, was the son of a slave who was owned by relatives of the assailant, Sin P’il-ho, a man from a well-established yangban family in the area. Pong-dol’s wife was a slave owned by the assailant, and his sister Ms. Yi was a private slave. Yet their eldest brother, Yi Pong-un, had the yangban

title *ch'ŏmji*, a senior third military post that was often sold for grain contributions in the late Chosŏn. Pong-un also owned a bean field of unknown size. Considering the fact that this family of slave status had a surname, that Pong-un held a yangban title probably by purchase, and that they enjoyed some economic means, the Yi brothers and sisters were most likely descendants of the son of a yangban (or a commoner) by his slave concubine.² Yangban Sin's economic condition seems to have been modest, if not impoverished. He was in mourning for his mother but did not have the wherewithal to prepare all the needed daily ritual offerings. The audacity of Yi Pong-dol in accusing Yangban Sin of violating Yi's usufruct of the fish farm that Yi had built may well represent this complicated situation in the village, where status and economic wealth did not always go hand in hand. However, contemptuous attitudes of the non-elite class toward yangban elites did not necessarily represent the dissolution of the social status system but fluid boundaries between social status groups. Tensions and conflicts among different social status groups did exist, often erupting into fights and even resulting in deaths; yet it seems that the existing law still functioned, in strong favor of the ruling class, to maintain social distinctions and inequalities. The legal reasoning in this case also clearly proves that it was Pong-dol who violated propriety, and thus Yangban Sin was not liable for Pong-dol's death.

This does not mean that non-elites did not have any legal rights to sue elites when they felt that their rights had been infringed, as shown in this case, in which Ms. Yi made a report of her brother's "unjust" death to the authorities. Disappointingly to the victim's family, the assailant was found not guilty of Pong-dol's death, though he was punished for his excessive behavior of breaking Pong-dol's sauce jars. In fact, the state was keen to regulate oppressive yangban who exercised abusive power over villagers in the countryside. From the state's perspective, domineering and unruly yangban were anathema because they competed with the state in controlling local resources, both human and natural, and often disrupted the peace and stability in local society by exploiting and provoking people.³ Cases 2 and 6 are such examples of a powerful yangban invading the rights of a fellow yangban woman and a non-yangban woman. Case 8 also involves private punishment imposed by a powerful local lineage.

The present case is one of forty-two preserved in the *Selected Inquest Records* (Kōman ch'o); all forty-two death incidents in this collection took place between the fourth and twelfth months of 1842 in Kyŏngsang Province.⁴ Case 4 is also selected from this collection. Each case record primarily con-

sists of a summary of testimonies from the first inquest and the adjudication of the provincial governor. From this, it appears that the book may have been compiled by the provincial governor's office for its own record keeping or in preparation to report to the Ministry of Penal Affairs. The provincial governor at the time was Yi Kyŏng-jae (1800–73) of the Hansan Yi descent group, who had accepted a number of important bureaucratic appointments after passing the higher civil service examination in 1822. Later he served as the chief state councilor, the highest position in the Chosŏn bureaucracy.

ANŬI

The accused (*p'igo*): Sin P'il-ho

The deceased: Yi Pong-dol

True cause of the death: Suicide by drowning (*chaik*)

In the official report (*ch'ŏpchŏng*) submitted by Min Ch'i-sŏ,⁵ magistrate of Anŭi Lesser Prefecture (Anŭi *hyŏn'gam*) and the first inquest official: On the twenty-seventh day of this month, Ms. Yi from Sŏmal Village, Kohyŏn District of this county, submitted a complaint saying, "My older brother Pong-dol had some altercation with Sin P'il-ho, a yangban from Cheha Village in Pukha District, and he drowned himself to death around noon the day before." Therefore, I [Min Ch'i-sŏ] conducted the first inquest investigation on 1842.4.27 (6/5/1842). The deceased was a man of about fifty-four or fifty-five years in age. On the ventral side of the body, the upper belly was bloated and there was an open wound on the right lower belly. It was yellow and 2 *ch'on* 9 *p'un* in length. There were two traces of abrasions on his elbows, in the shape of a bean.⁶ On the dorsal side of the body, the right side of the spine has pockmarks that look like scattered millet. Both backs of the shoulders were yellow, and looked normal. There were feces from his bowel. When tested with a silver hairpin, there was no change of color. The true cause of the death must be suicide by drowning.

In the testimony of Ms. Yi, a close relative of the deceased: "On the twenty-sixth day of this month, I went to help out with some sowing work at my eldest brother Pong-un's bean field. Around lunchtime in the field, Yu Si-jong, who was living right by Choch'u Rock in Cheha Village, came to deliver a message to Pong-un, saying, 'Yi Ch'ŏmji,⁷ your younger brother Pong-dol threw himself into the Choch'u Pond.' I was shocked and rushed to see him, together with my eldest brother Pong-un. Before we arrived, many villagers had gath-

ered and had already pulled him out of the water. They were talking to each other about the incident [earlier that day]. My brother [Pong-dol] removed the fishing net that Yangban Sin (Sin *pan*)⁸ had placed into the fish farm in the Chŏn Stream. Yangban Sin then got upset and went to my brother's house and broke the sauce jars. My brother, after seeing these broken jars, proceeded to the top of Choch'u Rock located in front of the village and threw himself into the pond. My eldest brother Pong-un wanted to file a report with the authorities at once, but Yangban Sin and others stopped him from doing so in many ways. Thus, I report this to you in secret like this."

In the testimony of Yi Pong-un, a close relative of the deceased: "When I was sowing beans in my bean field, I received a message [about my brother's death] from Yu Si-jong, who lives by Choch'u Rock, so I rushed there to see what had happened. My brother Pong-dol had already drowned in the deep water and been dead for a while. I was shocked and felt suspicious that a healthy person had died like this, so I investigated what had happened. Pong-dol had built a fish farm in the Chŏn Stream so that he could catch fish any time. On that day, Pong-dol removed the fishing net that Yangban Sin had placed earlier in the fish farm that he had built. When Yangban Sin scolded him for removing the net, Pong-dol said in reply, 'A yangban catches fish; a commoner should not?' Because Pong-dol's speech was so rude, Yangban Sin felt very offended and went to Pong-dol's house and broke the sauce jars. When Pong-dol returned home and saw those broken jars, he suddenly went to Choch'u Pond and ended up drowning himself to death. If Yangban Sin did not cause the trouble, would Pong-dol have drowned himself?"

In the testimony of Yu Si-jong, a related witness (*saryŏn*): "I live alone right by Choch'u Rock. Then I heard my daughter saying that Yi Pong-dol had drowned to death. Therefore, I indeed rushed to let his brother Pong-un know about this."

In the testimony of Ko Pok-chi, an involved witness (*kallyŏn*):⁹ "I heard that a person had drowned to death at Choch'u Pond, and so hurriedly went there to see what had happened. All people there said, 'This pond is so deep. Once drowned, he cannot be pulled out.' I am kind of good at swimming, so I dived into the water. Yet I was not able to locate the body. Yangban Sin's second nephew then hooked Pong-dol's clothes with a sickle with a long bamboo handle and pulled him toward the margin of the pond. So I, together with Yu Si-jong, dragged him out of the water."

In the testimony of Kim Il-un, an eyewitness (*kanjŭng*): "I am Yi Pong-dol's cousin by a maternal aunt. That day, on my way back home after having

worked at the field, I arrived in front of Pong-dol's house. Pong-dol said to me, 'I built a fish farm in Chŏn Stream. Because Yangban Sin set his fishing gear in the farm, I took it out. Then Yangban Sin got upset and scolded me. While I fled somewhere else to avoid him, Yangban Sin unexpectedly went to my house and broke our jars. How can I live [like this]? I want to drown myself to death.' When I strongly stopped him from doing it, he then said that his family members had gone to his eldest brother's place to help with sowing [beans in the field] and that he would go there to get some lunch. I believed his words and returned home. Before long, I heard the news that Pong-dol had drowned to death, so I hastily went to the pond. He was indeed dead. He drowned himself because of such a trivial thing and he died for no purpose."

In the testimony of Ch'oe Pong-nip, a close neighbor: "I am Pong-dol's cousin by an aunt. That day, on my way back home after having worked at the field, I arrived at the water's edge in front of the village. Pong-dol having drowned to death, many villagers got together to pull him out of the water. I inquired what had happened, and they said that Pong-dol threw himself into the water after having an argument with Yangban Sin about Sin's fishing net."

In the testimony of Sin P'il-ho, the accused: "I was in mourning for my mother. I had difficulty in obtaining side dishes for every morning and evening offering, and [that is why] I set my fishing gear in the fish farm in the Chŏn Stream. Although Pong-dol made the excuse that I had set my fishing gear in his fish farm, he blurted out such offensive words, grabbed my jacket, and pushed my back to the water, so that my clothes got wet. Pong-dol's wife is a hereditary slave of my household. Pong-dol himself is also the son of a slave owned by my relatives. So the incident was a matter related to propriety (*punŭi*). He was so ill-mannered that I could not overcome my anger and broke his jars. Pong-dol said, 'In such a lean year, when salt is so precious, you destroyed all our preserved sauces. I am going to kill myself. I will see how you manage to live after my death.' Then, he went to Choch'u Pond and threw himself into the water and died. I did not commit any crime and I have nothing to fear."

In the concluding statement: The entire altercation started with the trivial incident of removing fishing gear, but resulted in broken jars of preserved sauces. This foolish Pong-dol ended up throwing himself into a deep pond to his death. It is a useless death.

In the adjudication of the provincial governor: Send the inquest form as a reference for the second inquest investigation.¹⁰

In the report of Ch'oe U-hyŏng (1805–78),¹¹ magistrate of Tansŏng Lesser Prefecture and the second inquest official: The true cause of death and the testimonies by all related people are the same [as in the first inquest].

In the adjudication of the provincial governor: I received the inquest reports.¹² The primary matter of this incident—who set up fishing gear first—is such a trivial thing. However, a slave grabbed Yangban Sin's jacket and pushed his back, and his violation of propriety was absolutely extreme. Pong-dol's unruliness in his everyday life can be discerned. The ways in which Yangban Sin followed up and scolded Pong-dol are very understandable. This does not constitute a crime, and there is no doubt that it did not create the cause for Pong-dol's disastrous death. How could such a robust man harbor a suicidal thought? It originated from the fact that his sauce jars were destroyed by someone else. He naturally felt resentful, but he was not rational. He was stubborn and not friendly. Such a personality suddenly exploded into anger. Gazing at that huge rock, he huffed and puffed and went there. He looked down at the deep water and abruptly threw himself into it. In the end, his healthy body turned into a ghost in an instant. Thinking of the circumstances, it is very pitiable. Speaking of his death, it is largely futile and absurd. There is nowhere for the resentful soul to go. From the beginning, there is no way to discuss whether this constitutes a criminal case.

In speaking of Sin P'il-ho, although there is no ground to accuse him of any crime, he cannot avoid [the responsibility] for aggravating the whole matter [of Pong-dol's suicide]. As a man of a well-established yangban family, he must have embodied proper ways. It would have been enough to severely scold Pong-dol's misbehavior. But he chased down Pong-dol, then went to his empty house and destroyed those precious preserved sauces, which in turn drove Pong-dol mad and [caused him] to commit suicide. In addition, if he had heard [Pong-dol's] mention of drowning himself, why didn't he stop him with all his heart? From the beginning to the end, he was excessive and unreasonable. He must be punished for not being judicious in his behavior. Send down an order to punish him with one round of beating.¹³

As for Kim Il-un, he is Pong-dol's cousin by a maternal aunt. His feeling of caring [for Pong-dol] must be different from others. When Pong-dol proceeded to the water—and Yangban Sin also ordered him to go take a look—how come he was so casual and didn't go save Pong-dol? He cannot be simply dismissed as a fool and not punished. Punish him by flogging forty times and release him and all others. Release the body for a burial as well.

Even if this is not a criminal case that incurs requital for a life, the inquest is a serious matter in general. In the first inquest report, [it records] Yu Si-jong as “a related witness (*saryŏn*)” and Ko Pok-chi as “an involved witness (*kallyŏn*),” whereas both of them appear as “eyewitnesses (*kanjŭng*)” in the second inquest report. The fact is that the first inquest report is at fault. In the first inquest report, a close relative of the deceased is recorded as “a private female slave Ms. Yi” (*sabi Yi chŏi*). If identified as a private female slave, how can she have the title “Ms.” (*chŏi*)? Furthermore, the eyewitness Il-un and the close neighbor Pong-sam have been identified as private male slaves (*sano*), but both are recorded with their surnames (*sŏng*). It is in the law that both public and private slaves (*kongsano*) are not addressed with their surnames. In the second inquest record, a close relative of the deceased in the first deposition is written as “Ing-sim, a private female slave,” while in the second deposition, it is suddenly written as “Ms. Yi.” As in the first inquest report, the second inquest report repeats the same mistake of recording Il-un and Pong-sam with their surnames while identifying them as private male slaves. A second nephew of Yangban Sin who appears in the first as well as second inquest reports must have been interrogated, but both courts did not do so. Why are the investigative records of a criminal case so lax? Both clerks at the Bureau of Penal Affairs [who served for those inquests] shall be apprehended and punished with twenty strokes of beating with a heavy stick (*chang*). Deliver this order to the first inquest official and have him carry it out.

- 18 These are the concluding remarks of the magistrate of Chunghwa County, the official in charge of this first inquest investigation.
- 19 See *Sinju muwŏllok*, 432–33.
- 20 The inquest form was preprinted to record the result of the inquest report, including the examination of the corpse. Each form bears a unique serial mark, which was assigned in accordance with the sequence of Chinese characters appearing in the *Ch'ŏnjamun* (Thousand-character classic); *un* is one of those characters.
- 21 The original text says all murders “do not” derive from the three things. I have dropped the negative here because it is apparent that this is an error, probably introduced during transcribing.
- 22 This refers to article 308 of the *Great Ming Code*.
- 23 According to *Taejŏn hoet'ong*, a son should not be interrogated to testify against his father, a younger brother against his older brother, a wife against her husband, or slaves against their owners. See *Taejŏn hoet'ong*, 660.
- 24 In the original text, the entire provincial governor's adjudication statement is indented.

CASE 2

- 1 According to Sim Chae-u's analysis of 1,112 criminal cases in the *Simnirok*, 4.4 percent of 1,004 cases involving murder or suicide were caused by gravesite litigation. Sim Chae-u, *Chosŏn hugi kukka kwŏllyŏk kwa pŏmjoe t'ongje*, 153. In addition, analysis of various petitions recorded in the *Ilsongnok* (Record of daily reflections; one of the major court records of the late Chosŏn) during the reign of King Chŏngjo (r. 1776–1800) shows that 574 cases out of 4,304 (about 13 percent) concerned gravesite litigation. Among those cases, about 70 percent concerned illegal burials. See Han Sang-gwŏn, “Chosŏn hugi sansong ūi silt'ae wa sŏnggyŏk,” 779 and 791.
- 2 For more detailed discussion of geomancy, see Sun Joo Kim, *Marginality and Subversion*, 89–95, and Skinner, *The Living Earth Manual of Feng-Shui*, 14–23.
- 3 For more discussion of this subject, see Kim Sŏn-gyŏng, “Chosŏn hugi sansong,” and Sun Joo Kim, *Marginality and Subversion in Korea*, 89–91.
- 4 *Kyŏngguk taejŏn*, 3:36b.
- 5 Han Sang-gwŏn, “Chosŏn hugi sansong ūi silt'ae wa sŏnggyŏk,” 784–85.
- 6 Han Sang-gwŏn, “Chosŏn hugi sansong ūi silt'ae wa sŏnggyŏk,” 824. See also *Sok taejŏn*, 5:32b–34a.
- 7 Han Sang-gwŏn, “Chosŏn hugi sansong ūi silt'ae wa sŏnggyŏk,” 793–94 and 824.
- 8 For various ways in which the non-yangban population was involved in gravesite litigations, see Han Sang-gwŏn, “Chosŏn hugi sansong ūi silt'ae wa sŏnggyŏk,” 782–91.
- 9 Yi Chae-hŭi, “Kukka ka kyŏnjehan yangbandŭl ūi hwaryŏhan chugŏ munhwa,” 204–5.
- 10 See Cho Yun-sŏn, *Chosŏn hugi sosong yŏn'gu*, 131, and Jisoo Kim, “Voices Heard.”
- 11 See Han Sang-gwŏn, “Chosŏn hugi sansong ūi silt'ae wa sŏnggyŏk,” 794–97, and Cho Yun-sŏn, *Chosŏn hugi sosong yŏn'gu*, 128–30.

- 12 Ms. Pak was not unique in acting this way. There were other similar cases where the enraged complainant dug up the illegal burial. See Han Sang-gwŏn, “Chosŏn hugi sansong ūi silt'ae wa sŏnggyŏk,” 816–19.
- 13 According to Sim Chae-u's analysis of *Simnirok*, out of 1,112 offenders whose crimes warranted capital punishment, only thirty-six (3.2 percent) received a death sentence, while out of 1,004 murder or suicide cases, only twenty (2 percent) received a death sentence. See Sim Chae-u, *Chosŏn hugi kukka kwŏllyŏk kwa pŏmjoe t'ongje*, 138–41 and 234–35. See also Shaw, *Legal Norms in a Confucian State*, 118–20.
- 14 The *Kŏman* (*Inquest Records*) is in the collection of the Kungnip Chungang Tosŏgwan (National Library of Korea), han kojo 34–51. The entire book is available as images through the library's database, and the present translated case is found on pp. 14–18 (page numbers assigned by the library).
- 15 There are at least five different editions of *Simnirok* according to Sim Chae-u. See his *Chosŏn hugi kukka kwŏllyŏk kwa pŏmjoe t'ongje*, 95–103.
- 16 The *Simnirok* is available in Korean translation, and both original texts and translations are also available online, which enables a search function for these twelve cases. All twelve cases in the *Kŏman* were filed with the county-level authorities between approximately 1775 and 1786, and the first royal judgment came between 1778 and 1787.
- 17 *Kugyŏk Simnirok*, 2:285–91. The text is also online at <http://db.itkc.or.kr>.
- 18 This particular method of appeal, by presenting a petition directly to the king or local officials, was rather popular throughout the Chosŏn dynasty. See Shaw, *Legal Norms in a Confucian State*, 85–92.
- 19 For statistical information on the length of a trial in the late eighteenth century, see Sim Chae-u, *Chosŏn hugi kukka kwŏllyŏk kwa pŏmjoe t'ongje*, 212–13.
- 20 *Sinju muwŏllok*, 461. See the introduction to the present volume regarding the use of a silver hairpin during an autopsy.
- 21 This case is from *Kŏman*, 14–18.
- 22 “Incoming dragon vein” refers to the mountain range stemming from the main mountain of black tortoise to the north of the ideal burial site, and forming the azure dragon hill to the east.
- 23 The original text says “her,” but this must be a scribal error for “her brother,” considering the context.
- 24 The character *ko* in the text refers to *kohan*. The article “Pogo han'gi” (= *kohan*, C: Baogu hanqi; Period of responsibility for crimes) in the *Da Ming lŭ* (Great Ming code) specifies as follows: “In cases of striking and injuring others with hands, feet, or other objects, the period of responsibility for the offense shall be limited to 20 days; in cases of injuring others with the blade of a metal implement, boiling liquid, or fire, the period shall be limited to 30 days; and in all cases of breaking limbs, dislocating joints, breaking bones, or causing miscarriages, regardless of whether the injuries are caused by use of hands, feet, or other objects, the period shall be limited to 50 days.” See *The Great Ming Code*, 179–80, for more details on this law.
- 25 This is Ŏ Sa-p'il, mentioned in the latter part of the text.

- 26 Chöm-hwa was a female slave of Ŏ Sa-p'il, as revealed in the latter part of this text.
- 27 Ŏ Sa-p'il of the Hamjong Ŏ descent group was born in 1711 and passed the higher civil service examination (*munkwa*) in 1744.
- 28 In the original text, this line starts one space above other lines because all direct references to the king and his official pronouncements are raised above the text in traditional writings, as indicated here in the translation by the use of all capital letters. There are also other ways to mark the royal voice in traditional writings: leaving one or two letter spaces blank, or changing a line and starting at the top of the next line.
- 29 In the provincial governor's concluding statement, Kim Wŏn-ch'öl used a hoe to attack Ms. Pak.

CASE 3

- 1 Shaw, *Legal Norms in a Confucian State*, 106–15. See case 7, n1 for the four main status groups in the late Chosŏn and the eight occupations of those in the lowborn group, and the introductory paragraphs of case 7 for more on slaves.
- 2 For the social status of sons and daughters by a yangban father and his commoner or slave concubine, see Deuchler, "Heaven Does Not Discriminate."
- 3 For the tripartite relationship among state, elite, and non-elite producers in their effort to get hold of local resources, and resultant conflicts in various forms, including open uprisings, see Sun Joo Kim, "Taxes, the Local Elite, and the Rural Populace in the Chinju Uprising of 1862."
- 4 *Kŏman ch'o* (*Selected Inquest Records*) is in the collection of the Kungnip Chungang Tosŏgwan (National Library of Korea). It consists of two volumes, "kŏn" and "kon." This case is in kon 24–37 (pagination by the library).
- 5 Min Ch'i-sŏ appears once in the *sillok* on 1842.8.26 (9/30/1842), as the magistrate of Anŭi. Therefore, the *imin* year in this text is 1842. See *Hŏnjong sillok*, 1842.8.26.
- This case is from *Kŏman ch'o*, kon 24–37.
- 6 The elbows belong to the dorsal side of the body according to the *Muwŏllok* (Coroner's guide for the elimination of grievances).
- 7 *Ch'ŏmji* is a contraction of *ch'ŏmjijungch'ubusa*, a senior third-rank military position. However, it does not seem that Yi Pong-un held a real bureaucratic post; he probably purchased this title.
- 8 *Pan* was an appellation reserved for yangban; "Sin *pan*" (Yangban Sin) refers to the accused Sin P'il-ho, who was a yangban.
- 9 See the introduction (before note 42 in the text) for an explanation of the terms *saryŏn* and *kallyŏn*.
- 10 In the original text, this statement is indented.
- 11 Ch'oe U-hyŏng of the Sangnyŏng Ch'oe descent group earned a literary licentiate degree (*chinsa*) in 1837 and passed the higher civil service examination in 1850. Later in life, his bureaucratic service included ministerial posts.

- 12 In the original text, this statement is indented.
- 13 See case 1, n6 for the variations in the number of blows in a round of beating.

CASE 4

- 1 Out of about 165 biographies of chaste widows (*yŏllyŏjŏn*) compiled during the Chosŏn dynasty, only six were produced during the early Chosŏn. Publication of chaste women's biographies thrived from the seventeenth century on, reaching its peak during the eighteenth and nineteenth centuries.
- 2 This legal code articulates that "those who had guilt, sons of corrupt officials, sons and grandsons of remarried or unfaithful women, and sons of concubines are not permitted to take the civil service exam." *Kyŏngguk taejŏn* (Great code of administration), 3:1b.
- 3 In the original text, Madam Chang is written "Chang ssi," and Ms. Ŭn is written "Ŭn nyŏ." Chosŏn legal testimonies record one's social status, and *ssi* (translated here as "Madam") usually refers to yangban women, whereas *choi* (or *sosa*) indicates commoner women. It is clear that Madam Chang was a yangban widow in this case. As for Ms. Ŭn, *nyŏ* literally means "a woman" (not a yangban woman, but not necessarily a commoner, either), which distinguishes her status from that of Madam Chang. The fact that she is not recorded as "Ŭn *choi*," however, makes it difficult to determine her exact social status. If she was not a non-yangban commoner woman, what status did she have? We assume she may have been the daughter of a yangban's concubine. In this case, we simply translate *nyŏ* as "Ms." For more on such appellations, see the Translators' Notes.
- 4 Capp, *When Gossips Meet*, 189. Bernard Capp, in analyzing court records on female disputes in early modern England, points out that "whore" was the most common verbal insult for women because "sexual 'honesty' was so fundamental to female reputation that its language was often transferred to other forms of misconduct, plausibly enough in a culture that saw women's sexual and non-sexual honesty as indivisible."
- 5 Chapter 6, article 347, "Maein" (C: Maren; Cursing others), in *The Great Ming Code*, 190.
- 6 Local communities during the Chosŏn were closely connected through marriage, and it was quite common that people with the same surname gathered and lived either in the same village or neighboring districts. As seen throughout the testimonies, the witness Mr. Yi was related to both the victim and defendant in this case, as a remote nephew of Madam Chang and a cousin-in-law of Ms. Ŭn.
- 7 Barahona, *Sex Crimes, Honour, and the Law in Early Modern Spain*, 119.
- 8 It is not clear when Kim Ki-hyŏn was appointed a magistrate of Yech'ŏn Lesser County, yet later records show that he served in various posts for more than thirty years and was praised for his exceptional governing skills by kings who continued to promote him to several important positions. *Ch'ŏlchong sillok*, 1854.7.30; and *Sŭngjŏngwŏn ilgi* (Records of the royal secretariat), 1864.10.22 and 1865.5.10.
- This case is from *Kŏman ch'o*, kon 85–96. See case 3 for more information on this collection of inquest records.
- 9 The two volumes in which this case is included do not give us exact dates of the cases,