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Museums and Cultural Heritage: To Examine the Loss of Cultural Heritage During Colonial and Military Occupations with Special Reference to the Japanese Occupation of Korea, and the Possibilities for Return and Restitution

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This thesis is submitted to City, University of London as part of the requirements for the award of Ph.D. in Culture, Policy and Management

School of Arts and Social Sciences

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Declaration

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Museums and Cultural Heritage:
To Examine the Loss of Cultural Heritage During Colonial and Military Occupations with Special Reference to the Japanese Occupation of Korea, and the Possibilities for Return and Restitution

Abstract

The purpose of this study is to examine the loss of Korean cultural heritage during the Japanese colonial and military occupation between 1910 and 1945, and the possibilities for its return and restitution. To examine the historical background and the reasons for Japan's particular interest in Korean cultural objects during the 20th century, the thesis first outlines the earlier Japanese plunder of Korean cultural heritage during the Imjin War (1592-1598).

The Japanese colonial occupation of Korea began in 1910; however, the removal of Korean cultural property to Japan began earlier, in around 1905, when Japan had secured its political and military power after victories in the Sino-Japanese (1894-1895) and Russo-Japanese (1904-1905) Wars. Therefore, this thesis considers Japan's institutionalised 'investigations' of Korean cultural heritage and assets from the late 19th century until 1945. These activities were associated with the removal of Korean cultural property including artefacts, works of art, treasures, books, libraries and archives to Japan and also with cases of destruction of Korean cultural heritage.

The thesis then introduces Korea's claims for the return of cultural property after its restoration of independence in 1945. The process whereby the Government of the Republic of Korea and the Government of Japan re-established their diplomatic relations in 1965 is highlighted. Following the Agreement attached to the 1965 Treaty between Korea and Japan, Japan returned some Korean cultural objects, but not enough to match the original request from Korea. The thesis also discusses whether the 1910 Treaty of Annexation of Korea was legally valid or not. This argument is important, because Japan maintains that its annexation of Korea was done legally, and that consequently the removal of Korean cultural property during its occupation of Korea was lawful. In order to test this question, this research first examines the lawfulness of the preceding 1905 Agreement, which deprived Korea's diplomatic rights, given that the 1910 Treaty was a consecutive convention that depended on the 1905 Agreement. Case studies are presented that offer examples of the return of Korean cultural objects from Japan between 1965 and the present time.

This study uses a methodology of re-examining and re-testing each historical event that has a high significance for this subject. Importantly, the author has researched relevant archival and historical resources that support the study and have not been examined in other previous research. Theoretical principles in cultural heritage are also reviewed in the course of this study.

As the discovery of Korean cultural objects in Japanese museums, libraries, universities, and private collections continues and even increases, the conclusion of this thesis emphasises the necessity for further research into concrete resolutions.

Abbreviations

ASEM: Asia-Europe Meeting

DPRK: Democratic People's Republic of Korea

ICOM: International Council of Museums

ICPRCP: Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation

JGGK: Japanese Government-General of Korea

JRGK: Japanese Residency-General of Korea

KMT: Kuomintang (Chinese Nationalist Party)

MFAA: Monuments, Fine Arts and Archives

NIKH: National Institute of Korean History

NIEO: New International Economic Order

SCAP: Supreme Command for the Allied Powers

UN: United Nations

UNESCO: United Nations Educational, Scientific and Cultural Organisation

UNIDROIT: International Institute for the Unification of Private Law

USAMGIK: United States Army Military Government in Korea

Introduction

The purpose of this study is to describe Korean cultural heritage that was taken by the Japanese during the Japanese colonial and military occupation of Korea between 1910 and 1945, and to examine the situation and the possibilities of return and restitution.

When Korea began to be ruled by Japan in 1910, it was the 'Empire of Korea'[1] that had changed its name of the 'Joseon Kingdom' [2] (founded in 1392) and re-established the national system since 1897; Japan had named itself the 'Empire of Japan' in 1889 during the Meiji era (1868-1912). Between 1910 and 1945 when Japan was defeated in the Second World War and Korea was liberated from the Japanese occupation, the Japanese took numerous items of Korean cultural property to Japan, and also destroyed cultural heritage in Korea. Japanese citizens, politicians, businessmen, Japanese colleges and scholars, the Government-General and the Residency-General in Korea and others all deprived Korea of cultural heritage.

Currently, the Korean government[3] has been investigating the situation of the Korean cultural property that the Japanese removed to Japan, examining material from government agencies, public organisations, museums, libraries, colleges, and private scholars and so on. Increasing amounts of cultural property have been discovered year by year and it is thought to be of immense value and unique as a record of cultural history. The Overseas Korean Cultural Heritage Foundation (Gugoe sojae munhwajae jaedan)[4] reports that, as of April 2017, there are more than 71,000 items of Korean cultural property in Japan, although the provenance of each item and when and how they were removed to Japan are yet to be fully studied.

In 1945, when Korea became free from Japanese rule, academic circles in Korea immediately launched a campaign for the return of the cultural property. As soon as the Government of the Republic of Korea was established in 1948, Syngman Rhee [5], the first President, said that the Korean cultural property in Japan should be returned to Korea. In 1951, both countries had talks to restore diplomatic relations and finally made a Basic Treaty in 1965 to normalise the relations. The Basic Treaty included an affiliated Agreement on return of the cultural property. However, the talks to discuss the return did not go smoothly, and Japan returned only a part of the cultural property

at the request of Korea: thus, the issue of the return of Korean cultural property is still current.

This study describes the historical background and discusses some important earlier cases of Japan's systematic removal of Korean cultural property. Reasons for the Japanese people's interest in Korean cultural property are examined, as well as the institutionalised removal of cultural property at the government level. Japan triggered the Imjin War (also known as the Battle of Bunroku,[6] the Seven Years' War, or the Hideyoshi Invasion)[7] to invade Korea from 1592 to 1598, during which it carried out full-scale removal of cultural property. Chapter 1 describes the background and situation of that War.

Chapter 2 examines how Japanese people deprived Korea of cultural property during the 1894-1895 Sino-Japanese War, as well as the 1904-1905 Russo-Japanese War. Japan deprived Korea of diplomatic rights in 1905, opened a Residency-General in 1905 and the Japanese Government-General in 1910 and began full-scale removal of cultural property. Both these Japanese government agencies investigated cultural property and relics in Korea and made yearly plans. The situation in Korea was influenced by the external situation in Japan and had different characteristics in different time periods, as follows:

- Situation before and after the start of the Japanese occupation of Korea in 1910
- Investigation of Korean cultural heritage and assets by Japan, 1909-1915
- Five-year project for investigation of Korean cultural heritage and assets by Japan, 1916-1920
- Investigation of Korean cultural heritage and assets by Japan, 1920-1930
- Investigation of Korean cultural heritage and assets by Japan, 1931-1945.

The Japanese Government-General of Korea (JGGK) enacted and announced laws and regulations for control of the cultural property in Korea during its rule in the Korean Peninsula and created organisations for investigation into cultural relics and properties in Korea. It announced associated laws and regulations as follows:

- Rules for the Conservation of Historical Sites and Relics[8], 1916
- Rules for the Investigation Committee of Historical Sites and Relics[9], 1916
- Matters on Historical Sites and Relics[10], 1916
- Cautions for the Administration of Historical Sites and Relics Investigations[11], 1916
- Rules for the Research Society for Korean Historical Sites and Relics[12], 1931
- Ordinance for the Conservation of Treasures, Historical Sites, Scenic Places and Natural Monuments in Korea[13], 1933
- Decree for the JGGK Society for Conservation of Treasures, Historical Sites, Scenic Places and Natural Monuments[14], 1933.

This study investigates whether these laws and regulations were able to prevent the Japanese from removing cultural property to Japan, or whether they were allowed to do so because of incorrect interpretation and application of the laws and regulations.

Chapter 2 examines specific cases of removal of cultural property by the Japanese from excavations and/or discovery sites. The chapter investigates the regional distribution of investigation projects over time, as well as damage done to ancient tombs in Korea in search of relics, and the organisations in Japan, such as national museums and national universities, that kept the relics.

Japan excavated many ancient tombs during its rule in the Korean Peninsula and took the cultural objects from them to Japan. The JGGK investigated Korean traditional system and materials at the beginning of rule in Korea in order to establish its colonial governing policy.

Chapter 3 describes the project of the JGGK to collect Korean ancient books and historical material. The JGGK searched for material throughout Korea and then rewrote Korean history, which required the collection of many Korean historical books. The Japanese plan was to produce a 'colonial view of history', to select or discard the historical books collected, and to destroy all historical books that could help the Koreans to have a self-supporting consciousness and independence. Therefore, Japan collected and removed this cultural property and adopted a policy of destruction of such cultural relics.

Japan destroyed not only such cultural objects but also Korean palaces, traditional buildings and monuments. Chapters 4 examines some cases and the JGGK's policy. The Japanese intentionally destroyed Korean cultural property throughout their rule in the Korean Peninsula: in the first half of the rule, they demolished many Korean palaces in order to use them for exhibitions for public relations purposes both at home and abroad, to show Japan's 'good' governing of Korea. On the other hand, in the latter half, in 1941, Japan joined the Second World War and made Korea one of its military supplies bases, enforcing a total mobilisation policy and depriving Korea of cultural property again. At that time, the Japanese government collected many Korean cultural properties to produce weapons and guns; and destroyed historical monuments throughout Korea to prevent the Korean people from having the spirit of independence.

Chapter 5 describes the 1965 Agreement and its process regarding return of the cultural property as part of the Basic Treaty resuming official diplomatic relations between the two countries in 1965. The associated Agreement was designed to provide a legal framework for the return of the cultural property from Japan and is therefore of considerable importance.

In Chapter 5, parts of the Minutes of the Korea-Japan Talks leading to the Basic Treaty are referred to; this original material forms a valuable resource, especially given that many diplomatic documents including those from the Korea-Japan Talks, were not disclosed until 2005. Thirty years after 1965, the Korean government permitted disclosure of these records, but then postponed disclosure considering political relations with Japan. In 2005, the Seoul Administrative Court (Seoul haengjeong beopwon) in the Republic of Korea asked the Korean government to disclose these documents, amounting to more than 35,000 pages, to the public. Since then, Korean scholars have investigated this primary historical material to keep it in order and have translated many documents in either English or Japanese into the Korean language; some collections of documents were published three years later in 2008.

Chapter 6 examines the 1910 Annexation of Korea by Japan from the historical and

political points of view with a focus on the legal effectiveness of the Japanese annexation of Korea in 1910, after Japan had deprived Korea of diplomatic rights in 1905. The reason why this thesis deals with the legal validity of the Japanese colonial occupation of Korea is that the issue is still the subject of controversy between the two countries. When Korea discovers Korean cultural property in Japan and demands its return, Japan's basic position for raising objections is that Korean cultural property was legally exported to Japan at that time and thus there is no legal obligation to return it.

This study first examines the legal effectiveness of the so-called Agreement of Protectorate between Korea and Japan that was made on 17th November 1905. The Basic Treaty in 1965 for restoration of diplomatic relation between both countries declared that not only the 1905 Agreement, but also the Treaty of Annexation made on 29th August 1910, were legally ineffective. However, the two countries had different ideas about the timing of the ineffectiveness: Korea thought that the Agreement and the Treaty in 1905 and 1910 respectively were ineffective from the beginning, while Japan thought that they became ineffective as of 15th August 1945 when the Second World War ended, and Korea regained its independence from Japan. However, many Korean scholars have conducted research to show that the Japanese removal of diplomatic rights from Korea was ineffective and illegal from the beginning. These Korean scholars have stated that the 1905 Agreement made by 'personal coercion of the one who could conclude a treaty' was ineffective according to international law, and they have investigated historical materials and diplomatic documents to publish findings on this matter since the 1990s.

Chapter 6 conducts a literature review on the legal principle of ineffectiveness of the treaty and introduces evidence from eye-witnesses of the situations in 1905 and in 1910. Also, the chapter introduces the reaction and interpretation of the situation between Korea and Japan from scholars in the field of international law, and findings of cognition and interpretation from the United Nations (UN).

Chapter 7 introduces three examples of two cases where Japan has returned Korean cultural objects since 1965, and another case that France has done so in 2011. They are as follows:

- The Japanese Governor-General Masatake Terauchi's library of his Korean collection
- *Joseon wangjo sillok* (The Annals of the Joseon Dynasty)
- The Oekyujanggak Archives (The Korean royal archives) seized by the French Navy in 1866 and taken to Paris

The first two cases involve return of the cultural property that had been removed, depriving Korea of its historical background and values. The third case was the return from France of Korean cultural property that Korea had been deprived of for much longer than the Japanese rule in the Korean Peninsula, and the Korean government consistently negotiated with the French government through diplomatic channels for as long as nineteen years from the first request for the return until the issue was finally solved.

The three cases show that the government, civilians, academic world and religious world and others can negotiate and provide good examples of return between the countries for the future.

Chapter 8 discusses the theoretical principles underlying the issue of the return of cultural property. As the post-colonial era of the 1960s began, the demands of formerly colonised countries for the return of cultural property removed during the colonial period became visible internationally.

In general, when making an academic study of a phenomenon, the procedure is first to consider the theoretical interpretations in the relevant academic field and how these have developed from previous research. However, in the case of the protection and return of cultural property, there is rather a different pattern. Prior to theoretical discussions in academia, international organisations established principles and codes of conduct for the protection and return of cultural property. The United Nations Educational, Scientific and Cultural Organisation (UNESCO) established the Convention for the Protection of Cultural Property in the Armed Conflict in 1954, and in 1970, the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. The International Council of

Museums (ICOM) also established the Ethics of Acquisitions in 1970. While ICOM's Ethics of Acquisitions is a recommendation to be followed by its members, the 1954 Convention and the 1970 Convention are international law, and the Parties are legally obligated to comply with the provisions of it if they join the Convention.

Ironically, the fact that such international legal instruments have been established has provided motivation for the emergence of various theories of cultural property return, and for the beginning of academic disputes. The reason for this is the non-retrospective principle of international law; it does not apply to the cases that occurred before it took effect. So, for example, in the cases of Korea and Japan, the 1970 UNESCO Convention cannot be applied to the issues of cultural property removal in Korea during the Japanese occupation. This has provided room for some related theories and debates to emerge.

The main theoretical discussions on the return of cultural property began in the 1980s, in which one common aspect is that the perspective is one of dichotomies. Among the theories developed so far, 'cultural imperialism[15] and cultural nationalism' and 'art-rich and art-poor' offer the most obvious dichotomous arguments. Cultural imperialism has subsequently been re-examined as cultural internationalism. 'Art-rich and art-poor' is also interpreted as 'source nations of art and market nations of art'. In addition, cultural nationalism leads to the concept of cultural patrimony as the debate deepens. The 'cultural patrimony' theory strengthens the claim that cultural property should be preserved in the original cultural context since the notions of 'authenticity' and 'originality' are added to the theoretical concept of a cultural property. In summary, theories are divided into four categories, as follows:

1. Art-rich and art-poor: source nations of art and market nations of art: cultural nationalism, cultural patrimony and cultural internationalism related to cultural property
2. Authenticity and originality
3. Legality and international legal instruments
4. Morality and ethics.

The international community enacted international law on the return of cultural

property in 1970, and ICOM established the Ethics of Acquisitions in the same year. Therefore, the international community has already presented a detailed practical theory as well as a professional one. Also, 'morality' and 'ethics', as mentioned and implied in the 1970 UNESCO Convention and ICOM's Ethics of Acquisitions, are included in the theoretical frame to be presented in this thesis.

As the title of this thesis implies, the earlier chapters examine the loss of cultural heritage during colonial and military occupations, with special reference to the Japanese occupation of Korea. In the final chapter, the above-mentioned theories will be used as a theoretical framework to re-assess the case study.

Previous studies examining the issue of cultural property return between Korea and Japan have initially focused on introducing a narrative history of what happened in Korea during the Japanese occupation. Then, researchers sought to clarify what kind of Korean cultural assets were located in Japan and how they were removed to Japan. In particular, Korean researchers have played this role and are credited with providing important information that reveals the provenance of the removed cultural property. On the other hand, the study outcomes of Japanese researchers are relatively scarce compared to those of Korean ones. Similarly, research conducted by researchers from outside Korea and Japan is scanty compared with the work that has been done in Korea.

Therefore, Chapter 8 explores the possibilities of solving the problems of cultural property return between Korea and Japan by applying the above-mentioned theories based on the historical facts presented in the previous chapters. These theories are introduced and considered in terms of how they can be interpreted and applied to the issue of return of cultural property between Korea and Japan.

Chapter 8 also examines the question of legality and the international legal instruments for the return of cultural property as they apply to the relations between Korea and Japan. Some key international conventions present the important principles in international law regarding the return of cultural property. They are as follows:

- Convention for the Protection of Cultural Property in the Event of Armed

Conflict (Hague 1954) and Its Second Protocol (Hague 1999)

- Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (UNESCO 1970)
- Convention on Stolen or Illegally Exported Cultural Objects (UNIDROIT 1995)

Because of the principle of non-retroactivity of laws to cases before the conventions were enacted, there have been legal difficulties in applying them to the return of cultural property between Korea and Japan. This study examines the situation from the point of view of moral and ethical considerations, based on the underlying principles of the aforementioned laws. In order to investigate the international trends on moral and ethical matters arising from the acquisition of museum collections, this study investigates clauses and applications of both Ethics of Acquisitions (1970) and the Code of Ethics for Museums (1986; 2001 amended; 2004 revised) established by ICOM.

As stated in the title of this thesis, the purpose of this study is partly to examine the possibilities that Korean cultural assets can be returned from Japan. In order to do so, the theories of 'art-rich: source nations of art: cultural nationalism, cultural patrimony' and 'authenticity and originality' are positively reviewed. The four categories that are used as a framework in this thesis are representative theories which have been discussed and debated for some years, within the discipline of cultural policy and management and in the wider international community. Thus, they have been selected as the appropriate theoretical apparatus for this study.

This thesis introduces many examples of Korean cultural property, especially excavated materials and objects from the ancient tombs of the Goryeo Kingdom (918 to 1392 AD), removed to Japan from the region that is currently the Democratic People's Republic of Korea (DPRK). However, this thesis does not cover the overall situation of DPRK, such as the current opinions and position of its government and academia, because it was very difficult for the author to obtain or access research materials, books, newspapers and periodicals published in DPRK. A study on the return of Korean cultural heritage that would completely include the situation of DPRK is left as a future task.

Chapter 1. The 16th Century War between Korea and Japan (the Imjin War) and the Destruction and Removal of Korean Cultural Heritage

Though the core of this thesis concentrates on cultural heritage losses during the Japanese 'colonial' period in Korea through the first half of the 20th century, in terms of studying the issues of Korean cultural heritage objects now located in Japan it is desirable to understand the impact of the 16th century war between Korea and Japan. During the war and its associated disturbances, many thousands of Korean cultural heritage objects were taken to Japan, and the war also resulted in serious damage to important parts of the Korean immovable cultural heritage and destruction of their important contents.

This is important, in that while Korean cultural objects now in Japan but without a clear provenance which are believed to date from the 16th century war may possibly, or even probably, have been removed to Japan during the 20th century 'colonial' period, this cannot be assumed in the case of such older objects dating from the time of the 16th century war or earlier. Therefore, in the case of Korean cultural objects which were produced before that war and are now to be found in Japan, it can be difficult to determine when these heritage items were removed from Korea, and under what circumstances. So, when Korean cultural heritage objects which are found with unreliable provenance or documentation sources are researched, it is necessary to consider the possibility of removal during either period: the 16th century war or the 20th century Japanese 'colonial' period.

1.1 Introduction to the Imjin War

The Imjin War began in 1592 with the Japanese invasion of Korea and was fought until 1598. At that time, having gone through the age of civil wars, Japan became unified led by the warlord Hideyoshi Toyotomi. Toyotomi's professed goal was to conquer Ming Dynasty China and the European trade enclaves on the Chinese coast. However, his ambitions aroused concern and opposition within the Japanese ruling group, as Nagayashu Maeno, a close associate of Toyotomi, testified in *Bukō yawa* (a record of his family) as follows:

> Recently, His Highness Hideyoshi Toyotomi seems to be meddling between wisdom and foolishness. He intends to attack both the neighbouring country Korea[16] (Joseon Kingdom) and the Great Ming China, crowning himself as their emperor. Right now, it seems that nothing can stop his ambitions, not even his royal brother Hidenaga's recommendation.[17]

Toyotomi's goal was the conquest of China, not Korea, and the role that Korea might play in the affair was regarded as being subject to negotiation. Toyotomi's desire was that the Joseon court should pay him homage, thereby opening the road to China for his armies.[18] Located between China and the Japanese Archipelago, the land of the Korean Peninsula was a geographic and strategic spot which Japan needed to possess on the way to the hoped-for path towards the conquest of China. It was necessary to make Korea the road by which he should invade China, and therefore he sent an envoy to Korea suggesting that, as he was about to conquer the four corners of the earth, Korea should give him free passage through her territory.[19]

Toyotomi informed the Korean King Seonjo (1552-1608):

> I have in mind to introduce Japanese custom and values to the four hundred and more provinces of the Ming [China] and bestow upon it the benefits of imperial rule and culture for the coming hundred million years.... I have no other desire but to spread my fame throughout the Three Countries, this and no more.[20]

King Seonjo ignored Toyotomi's request that Japanese troops be allowed to pass through Joseon Kingdom to attack the Ming, and paid dearly for it.[21] After a considerable interchange of envoys, Toyotomi became convinced that there was nothing to do but crush Korea, as a preliminary to the greater work.[22] At last, Toyotomi mobilised his roughly 200,000-soldier army on April 1592, and invaded Korea.

The Japanese army attacked Korea's capital Seoul[23] twenty days after their arrival in the Korean Peninsula, and headed northward towards the border area between Korea

and China in just sixty days. As the War progressed, Korea was no longer regarded just as the road to China; it became in itself another objective for Japan.[24] Later on, Ming China joined the War in alliance with Korea. As the Korean navy had beaten the Japanese in a succession of naval battles in 1597, the Japanese army lost the control of the sea. After the death of Hideyoshi Toyotomi, the Japanese army began to retreat in 1598, followed by a formal cease-fire.

Although Japan had been finally unified after two hundred years of war between wealthy feudal lords, their ambition to conquer Korea and China and to loot the much richer cultures of China and Korea had always been in their minds, bearing in mind Japan's comparative lack of historic and advanced cultural assets compared with those of China and Korea. So, as soon as the Imjin War broke out, the powerful Japanese army recklessly looted thousands of Korean cultural objects, ranging from historic works of art and architecture, books and manuscripts through to the scientific and technological heritage, such as Korean printing type, the first of its kind in the world.

1.2 Destruction of Korean Cultural Heritage and Removal to Japan during the Imjin War

The Imjin War continued for seven years and had a great impact on Korea from every perspective, with much damage to all kinds of property. It left Korea a ruined country. Many of the cities were rebuilt only in part, and they were squalid. Some were never rebuilt at all.[25]

The Korean cultural heritage suffered greatly, with numerous important cultural heritage properties being destroyed by the Japanese army, and much of the wooden and even stone components of these, such as temples and sculptures, being taken to Japan. These included the structures and contents of important Korean public institutions, such as palaces, religious temples and an important higher educational institution called the Sungkyunkwan. Korean royal and noble tombs were excavated, and the contents removed; and Buddhist temples of historical significance were burnt down by the Japanese army as deliberate acts of arson.[26] The destroyed palaces, libraries, and treasures of art were not replaced for a long time.[27]

In a lecture in 1939, Japanese scholar Inoijiro Dogudomi described Japan's looting during the Imjin War in the following terms:

> Among those Japanese thugs who went to Joseon and illicitly robbed all the things they wanted to have. There were many ways to steal things, such as tea-lovers robbing pottery and so on. Some even brought stones to Japan. As you well know of, Simasuga brought himself a big stone from Korea. In Kumamoto, there is the Korea Gate, so we can see that these thugs even stole a gate.[28]

Similarly, a Japanese monk called Keinen, the head priest of the Anyōji Temple in Japan, joined the army as a surgeon from 24th June 1597 to 2nd February 1598 and recorded the large-scale atrocities of war. His diary depicts the miseries he saw, ranging from killings, arson, lootings, and even human trafficking to Japanese merchants who followed the Japanese army. On 4th December 1597, he recorded the situation as follows:

> We arrived in Gyeongju, and planned to stay for a day, preparing for dinner. Although there were magnificent official residences and castles compared to Japan, all people fled this city, leaving the burnt ruins behind. [29]

On 14th and 19th November 1597, the following also states the miseries in Korea:

> Absolutely no mercy is found within the hearts of these men who place warriors in front of them and steal other's belongings.[30]
> All types of merchants came with the Japanese army from Japan, and among them, there were even human traffickers. They follow behind the rear army troops, hanging ropes around Joseon people from babies to the elderly in order to keep them in control. Joseon people who suffered from fatigue were beaten with sticks, and they were rushed or even forced to run. These traffickers were like devils treating their prisoners in hell.[31]

What made the invasion even worse was the presence in the invading army of so-called 'diplomat monk-soldiers' who were able to read and write. Enlisted as soldiers,

they served as consultants to warriors and as writers of diplomatic documents, and assisted the Japanese army to speak in writing with Korean people. Also, as many were familiar with important Buddhist texts and the wider Buddhist cultural heritage, these diplomat monks took a leading role in identifying Korean cultural treasures for removal to Japan. Indeed, there was even an independent troop made up mainly of such Japanese scholars called 'The 6th Division (Dai roku butai),' which was specifically charged with looting the Korean cultural heritage.

Alongside the looting of cultural objects, the Japanese army forcibly took Korean potters to Japan, and ordered them to produce pottery and porcelain in Japan. This is a critical historical fact in studying the cultural history of not just the Imjin War, but Korean and Japanese cultural relations and historical development more generally. Indeed, because of this, many Japanese have referred to the Imjin War as the 'pottery war' (Yakimono sensō).[32] Such forced movement of people was not confined to the potters. Many other important craftsmen were also captured and taken to Japan. There was a conventional view that the Japanese warriors admired the excellence of the Korean culture at that time, and that it was purely accidental for them during the warfare to plunder Korean cultural property. However, when Korean scholar Mun-gil Kim researched in Kobe University in Japan, he found the old document of order (Shuin jō) by Hideyoshi Toyotomi which showed that such activities were actually sanctioned, perhaps even initiated, from the very top. An order of 29th November 1597, found in the ancient manuscripts of Hidenari Nakagawa, a loyal retainer of Toyotomi through his period of rule, and the Minister of Construction at that time, reports:

> Capture many Joseon craftsmen, but extract and give special duties to obtain craftsmanship, needle-workers, and chefs. Let them live inside the fortresses, and fulfil their duties there.[33]

This clearly indicates that the cultural heritage looting was not a coincidence or the result of random action by out-of-control troops, but a carefully planned order by the absolute ruler Toyotomi, with the express purpose of robbing Korea of its craftsmen and national treasures. The number of skilled people who were captured at that time totalled about 100,000, including Confucian scholars, potters, print craftsmen and carpenters, as well as many oriental doctors. A good example of this kind of seizure

and forced settlement can be found in Gimhae, Gyeongsang Province, in the southern part of Korea, from where potters, print craftsmen, and literary experts were forced to move *en masse* to Saga ken in Japan. [34]

Though these activities implemented by Japan were mainly aimed at looting the cultural heritage, they also had strategic purposes in relation to war operations. At the time of the Imjin War, logistics for the Japanese army were mainly provided by Japanese warlords, not the central government. Here, the logistics included building ships for transporting soldiers to Korea. In light of this situation, Hideyoshi Toyotomi had to strictly control all the shipping, and also needed a strategy to prevent rebellion or runaways. So, right after transporting the Japanese army to Korea, he ordered all ships to return to Japan to eliminate treason and conspiracies among his warriors. However, if a ship sailed back empty, it might well capsize, so he ordered the ships to be loaded with precious items looted from Korea, together with many Korean prisoners of war. Together with them there were technicians, especially potters, who were skilled craftsmen to be searched out and sent to Japan.

The Korean heritage objects looted by Japanese warriors in the War are mostly scattered around the Setonai area,[35] since most warriors fighting in the Imjin War originated from there, and many of the captured Korean technicians, potters, and oriental doctors who could not return to their homeland settled in the same region.

Leading Japanese warriors of the Imjin War who are known to have led lootings of Korean cultural heritage include:

- **Hideie Ukita**: As an adopted son of Hideyoshi Toyotomi, he became the commander in chief of Japan's invasion army at the age of nineteen. He stayed in Seoul, the capital of Joseon Kingdom, and commanded the War. During the 2nd invasion in 1597, he became the commander of the Japanese army responsible for the left-half region of the Korean Peninsula and led the conduct of the War. He is known to have looted numerous Korean cultural heritage objects which were dispersed all over Japan, [36] especially considerable volumes of books.[37]

- **Naoshige Nabeshima**: He was the lord of Saga Castle in Saga ken, Japan; he captured and took numerous Korean prisoners of war to Japan, especially many potters. With the help of those Korean potters, he developed Kyushu's Arita as one of the world's most famous ceramic-producing regions.[38]

- **Kiyomasa Kato**: He led the more soldiers than any other Japanese warrior, and looted Buddhist paintings, stone pagodas, and a vast amount of metal printing type from Korean palaces.[39]

- **Yukinaga Goshini**: He was the lord of Uto Castle and was the leading warrior of Japan during the Imjin War. He took Korean craftsmen, print experts, and potters away to Japan.[40]

1.3 Destruction and Removal Cases according to Heritage Categorisation

This section reviews five case studies of the destroyed and removed Korean cultural heritage material in Japan, according to categories. In this respect the research for this thesis has focused particularly on an examination of the records made in *Joseon wangjo sillok* as a historical proof of the destruction and loss abroad of Korean cultural heritage.

1.3.1 Destruction of Jongmyo and Royal Tombs in Korea

During the Imjin War, the Joseon Kingdom which had established Confucianism as the national doctrine, was damaged severely both in terms of material culture and psychological damage, when they faced the scattered ruins of Jongmyo and the royal tombs. Jongmyo was a national shrine where memorial services were performed for deceased kings and queens of the Joseon Dynasty; it was built in 1395, following the foundation of Joseon in 1392. Along with its religious significance, Jongmyo was the most refined and magnificent construction at that time. Right after the War broke out, Jongmyo was burnt down and destroyed by the warfare triggered by the Japanese army which had advanced up to Seoul in May 1592. *Joseon wangjo sillok* depicts the situation as follows:

> 1st May 1592: The enemy has burnt down Jongmyo. When they first attacked the capital, all the palaces were burnt down except Jongmyo. So, the Japanese general Hideie Ukita used Jongmyo as a temporary station. However, there were many strange and haunting cases at nights, leading some soldiers to suddenly die. When someone said to him that 'This is the royal shrine where the holy spirits are buried', Ukita was so afraid that he ordered the burning down of Jongmyo and to leave there, residing in another palace called 'Nambyeolgung'.[41]

Korean royal tombs were no exception when it came to the damage of war, but they were special in being part of the religious heritage and built with the most elaborate arts and techniques according to Confucian law and proprieties. The Japanese army dug up these royal tombs, and even damaged the corpses to rob them of royal decoration artefacts. This kind of behaviour triggered the utmost hostility among the Joseon royal family and the people. Here are some records related to this matter:

> 1st April 1593: According to Chung-gyeom Shim, the Byeongjochampan,[42] these enemies have burnt our Jongmyo to ashes and dug up the royal tombs of the late kings with coffins scattered all over the place. We are utterly regretful that our King cannot retaliate against them.[43]

> 13th April 1593: According to the Gyeonggijwado provincial governor Yeong Seong's saying to King Seonjo, 'Since the enemy has dug up our late king's royal tombs and coffins, I am too heart-stricken to report you these tragedies as your subject'.[44]

> 28th September 1595: The Saheonbu[45] reported to the king, saying that 'We humbly report you that our national fate has fallen apart, with savages from neighbouring islands burning down our Jongmyo and royal tombs'.[46]

> 1st January 1596: Eon-seo Yi, the Uetongsa[47] said that 'The Japanese army invaded us with no reasons, and even excavated and burnt down our late kings' royal tombs. All Joseon people are raging over this crisis, but Japan

> has never visited us with sincere apology'.[48]
>
> 12th June 1596: Shin Hwang, the Haenghogun[49] has written as following in the report. 'Japan has recklessly looted gold, silk, and our women. They even burnt down our Jongmyo and excavated the late king's royal tomb'. … 'When they were digging up our royal tombs, Japanese warriors and soldiers participated in these activities, and there were Joseon people witnessing the incident, so Japan cannot deny the stark reality of ruining our shrines'.[50]

After the Imjin War broke out in 1592, Prime Minister of Joseon, Seong-ryong Yu, took charge of military affairs; he left a memoir of the War called *Jingbirok*[51] (*Record of Reprimands and Admonitions*). The followings are his testimonials:

> The moment I entered the castle, I counted the number of survivors among the citizens, who totalled only one out of every hundred. … I passed the residential districts, both public and private, only to find remnants of complete destruction. Also gone were the ancestral shrines of the royal family, the court palaces, government offices, office buildings and various schools. No trace of the old grandeur could be seen.[52]
>
> The Japanese enemy invaded Seoul, looting our cultural heritage day by day in the outskirts of the castle. Even royal tombs of the Joseon Dynasty were dug up.[53]

During the War, whenever Seong-ryong Yu received official messages from the Gyeonggi area which surrounds the capital Seoul, he asked the messenger about the enemy's situation. The messenger's reply was the following:

> The Gyeonggi area is the most severely damaged among all regions. Enemies come every day to burn down and loot the city, so everywhere is ruined.[54]

Jongmyo, the royal ancestors' shrine, was reconstructed in 1608 after the War ended

in 1598, and royal tombs which suffered from the chaos have all been restored up to the present day.

1.3.2 Destruction of Palaces, Sungkyunkwan, Shrines and Historical Buildings in Korea

Major palaces of Korea were destroyed in 1592 when the Imjin War was waged by Japan. These included Seoul's Gyeongbokgung Palace, which was the main and royal palace where the kings of Joseon lived and assumed the helm of state and had been built in 1395 after the foundation of the Joseon Dynasty in 1392. The Changdeokgung Palace, built in 1405, and the Changgyeonggung Palace, built in 1418, were both destroyed by the Japanese forces. In addition, Gwanghwamun, the main gate of the Gyeongbokgung Palace, was also damaged.[55]

A war monk-soldier and non-combatant, Denkei, who participated in the Imjin War as a member of the Japanese military, expressed his feelings in *Seiseinikki* (*Diary of Going on a Conquest of the West*) after seeing the palaces in Seoul on 7th May 1592:

> All palaces are destroyed…only ponds in palaces remained it looks like just a ray is remaining after the fire.[56]

However, the situation of destroyed major royal institutions located in Seoul was more severe than just palaces. Seong-ryong Yu wrote about the situation in *Jingbirok*:

> On 24th January … the enemies slaughtered citizens who remained in Seoul and destroyed most of the district offices and private houses by fire.[57]
>
> District offices and private houses have been ruined, except houses near Namsan[58] mountain toward the eastern part of Sungryemun[59] where enemies stayed. Confucian shrines, Gyeongbokgung Palace, Changgyeonggung Palace, the bell pavilion, each district offices, Sungkyunkwan[60] and private schools[61] located in the northern part of Jongro Street have been destroyed and only ashes remain. The princess'

house[62] is not destroyed because a Japanese general, Hideie Ukita has stayed there.[63]

Sungkyunkwan located in Seoul, referred to in the manuscript, was at the time Korea's top national higher educational institution but it never restored from cultural destruction of the Imjin War. Major buildings within it such as the Jongyeonggak (library) were completely destroyed, as were the Daeseongjeon (the main shrine) and the Myeonglyundang (lecture hall). The *Joseon wangjo sillok* recorded reports to the Joseon government in 1595, 1598 and 1600 as follows:

> 10th August 1595: a student of Sungkyunkwan, Jeong-gam presents a memorial to the King. 'Shrines which enshrine old holy persons have been reduced to ashes due to fire and the yard of school is parched and only weeds are remained. So, there is no place for scholars and we cannot perform a ritual for the late teachers. We cannot perform rituals in a right manner because there is no the equipment for it. The sound of reading is desolate. This is why the scholars wail and weep tears of blood'.[64]
>
> 20th October 1598: Sungkyunkwan reported that a shrine which enshrines Confucius was burnt down by Japanese during the War in the year of Imjin. Few rooms of Dongjae [65] and Seojae [66] are remained. Half of Sungkyunkwan staff members are died in the fire and students are left to escape the War.[67]
>
> 2nd April 1600: A student of Sungkyunkwan, Ho-shin Yi presents a memorial to the King. 'A king of a country should not stop processes of education in school. If a country exists a day, it should found a school for a day. If a country exists a year, a school also exists a year. The fortune of this country is stranded and the ritual which commemorates old holy people cannot be performed because a shrine enshrined Confucius has been destroyed by severe fire. In addition, students have no place to learn'.[68]

Along with the destruction of Seoul's Sungkyunkwan, Joseon's national higher education institution, regional education institutions located in other places occupied

by the Japanese army were also heavily damaged during the War. The Japanese army landed in Busan, the major southern port of Korea nearest to Japan and first occupied Dongrae. After that, they marched northwards up the Korean Peninsula to Seoul by dividing into three routes (west, central and eastern). Most if not all of the public schools, called Hyanggyo and the private schools called Seowon located on the route passed by the Japanese army were destroyed.

For example, an important Ulsan Hyanggyo which had been founded during the reign (1567-1608) of King Seonjo of the Joseon Dynasty was located in Ulsan, along the line that the eastern route used by the Japanese army on its way from Busan. This famous school was destroyed by fire during the War. *Joseon wangjo sillok* records the destruction of Hyanggyos. For example, the records on the Hyanggyo in Hwanghae Province in 1601 report:

> 25th February 1601: Lee-moon Seong, the provincial governor of Hwanghae Province reported that, according to Hyo-seon Yun, the chief officer of Songhwahyeon, 'The Hyanggyo in this region was burnt down during the Imjin War. Children who collect firewood and raise livestock are cutting trees and weeds and gathering firewood in that place. All passionate people lament deeply. Now, the Hyanggyo has been restored on the ruins'.[69]

Private education institutions, Seowons, were also damaged by the War. Byeongsan Seowon in Hahoe, Andong, Gyeongsang Province and Sohyeon Seowon located in Seokdam, Byeokseong in Hwanghae Province were all burnt down. Sohyeon Seowon was especially important historically as a place where Yi Yi (Yul-gok), one of the most distinguished scholars throughout Korean history, taught his disciples. The Eunbyeongjeongsa (lecture hall) and a shrine which had honoured the remains of ancient sages, built in 1578 and 1582 respectively were both completely ruined.[70] Fortunately, Sohyeon Seowon located in DPRK was restored in 1604 after the War. Today this is one of the major architectural monuments of the Joseon period architectural style, and in modern times it has therefore been designated as a National Treasure by DPRK.

The damage and destruction of the architectural heritage in relation to the educational institutions of Korea during the Imjin War was almost inevitably accompanied by massive destruction and loss of the material culture, especially books, libraries and printing heritage. One important example was the Jongyeonggak, the library of Sungkyunkwan, which held a lot of important books and publications as a national higher educational institution.

As the research conducted by Korean scholars who have studied the situation of looted cultural materials during the Imjin War has made clear, most of the books kept by Sungkyunkwan had been lost by the end of the War.[71] It is assumed that some of the lost books were taken to Kyoto via Osaka by the soldiers under the Japanese general Yukinaga Konishi, who is known to have been very actively involved in plundering Korean cultural objects.[72]

Joseon wangjo sillok also has a record of damage to books possessed by Sungkyunkwan. In 1604, Sungkyunkwan reported that there was a huge shortage in books after the loss of books in the Jongyeonggak due to the War, and that it is important to collect copies of replacement books. The relevant text recorded in *Joseon wangjo sillok* is as follows:

> 2nd December 1604: Sungkyunkwan reported to Yejo.[73] 'It was meaningful to build Jongyeonggak [library] in Sungkyunkwan with various books to make the place for scholars to study. However, after the War, books were lost and there is no way to recover the books. Currently, all efforts are being made to re-print *Sijeon, Saseo, Garye* in Chungcheong Province, *Saseo, Juyeok, Gyemong, Sipgusaryak* in Gyeongsang Province, and *Saseo, Samgyeong, Tonggam, Garye, Simgyeong* in Jeolla Province. Sungkyunkwan asks Yejo to report to the King to make each province where possible to re-print two or three sets per volume for Sungkyunkwan to keep the books as students' study materials'.
>
> Yejo reported this to the King saying: 'All books are lost after the War so there is no way to help new students who want to read. Sungkyunkwan is the highest educational institution of Joseon where students put their

efforts in a field of study. Therefore, it is so important to lay a foundation for providing materials by collecting without delay that they can read them. Please, allow us perform actions under the reports from Sungkyunkwan. Then, the King approved'.[74]

After the War, the Joseon government exerted all possible effort in restoring ruined palaces. In Seoul, the Changdeokgung Palace and Changgyeonggung Palace were restored in 1610 and 1616 respectively. However, the Gyeongbokgung Palace was the largest and, due to lack of financial resources, its restoration was only made possible in 1868, with the restoration of the main gate Gwanghwamun being the biggest national project of the 19th century.

Hamheungbongung Palace located in Hamgyeong Province of DPRK, is another example of an important building of the Joseon period which was destroyed during the War. In it was an important shrine of the Joseon period. King Taejo (Seong-gye Yi) who founded the Joseon Dynasty ordered to construct a new house in the place where his ancestors had lived, and to build a ritual shrine there for four generations of his ancestors. Taejo called this place Bongung (Original Palace) and lived in it for a long time after stepping down from the throne. However, it was also destroyed during the War, but in 1610 it was restored to continue the commemoration and mark its importance. This is also a designated National Treasure of DPRK at the present time.

1.3.3 Destruction of Buddhist Temples and Removal of Buddhist Cultural Property

In the 4th century AD, Buddhism was officially adopted in Goguryeo (37 BC to 668 AD), one of the ancient states of Korea. From then on it made quick progress and became a culture which is deeply related to the Korean people, rooted firmly in the life, thoughts and arts of Korea. So, it would be fair to say that Buddhist cultural property is very much part of Korea's national heritage rather than merely its religious one. The fact that approximately 70% of nationally registered cultural property, such as national treasures or treasures in Korea at present, is related to Buddhism confirms this.

The introduction of Buddhism to Japan was one of the most important events in Japanese history, and had a lasting effect on the development of its thought, art and culture. According to Japanese sources, Buddhism was introduced from Baekje (18 BC to 660 AD), one of the ancient states of Korea, to Japan in either 538 or 552, as part of a series of diplomatic exchanges that also led to a broader awareness of the beliefs and material culture of China and Korea.[75]

Buddhism was thus an important part of Japanese culture as well. For that reason, during the Imjin War, objects of Buddhist cultural heritage in Korea were highly desirable targets for the Japanese army. Therefore, the Imjin War had damaged Korean Buddhist cultural property severely. The invaders wrought great destruction in the Korean Peninsula: many of the temples and monasteries in the mountains were destroyed; altars were stripped of treasures; monks and priests were driven from their sanctuaries.[76] The damage and losses can be divided into three categories:

1. Temples burnt down or otherwise destroyed;
2. Movable Buddhist cultural property looted by Japan; and
3. Buddhist cultural objects actually used in pursuit of the war aims.

Hwaeomsa Temple, located in Gurye, Jeolla Province, was one of the most remarkable among the damaged and ruined temples. This was constructed in 544 AD and had been famous for having *Hwaeom seokgyeong* (stone-scripture) with engravings on stone of the *Hwaeom gyeong* (Avatamsaka Sutra), one of the most important texts of Buddhist scripture. However, during the Imjin War, the Temple was burnt down and the *Hwaeom seokgyeong* was destroyed: only the ruins remain today. What was worse, the monks of the Temple were massacred, and the Buddhist temple bell was looted by Japanese army. The bell was being taken down the Seomjin River on an army boat bound for Japan, when the boat capsized. Hwaeomsa was restored in 1702 and now its temples and stone pagodas have been designated as National Treasures.

In addition, most of the temples located in Gyeongju, the ancient capital of Silla Kingdom (57 BC to 935 AD) and one of the largest and important cities in the Korean Peninsula in the 8th and 9th centuries AD, were also destroyed. In fact, most temples

throughout Korea were damaged, while the Japanese General, Kiyomasa Kato, who commanded the advance to Seoul, was particularly notorious for plundering Buddhist artworks and stone pagodas from the Korean palaces as his army progressed northwards up the Peninsula. On the retreat to the coast, Kato's soldiers burnt down the Bulguksa temple at Gyeongju.[77]

Heungbeopsa Temple, built at Wonju in Gangwon Province in the late era of the Unified Silla Kingdom (676 to 935 AD) had a monument commemorating the great Buddhist master Jingong. The letters engraved on the monument were very important from the historical perspective and excellent in aesthetic terms, so it was handed down from generation to generation. However, during the Imjin War, the Japanese army tried to take away the stone body of the monument on a wagon, but the stone broke so they took away only one part of the monument.[78] Now, only the turtle sculpture base of the original standing stone monument and an associated dragon head sculpture (Korean Treasure no. 463[79]) survive.

The pillaging of temple bells among the Buddhist cultural property cannot be ignored. Korean bells were already well known in Japan, and they could easily be sold to Buddhist temples in Japan because bells played an important role in temple ceremonies. The Japanese army under Hideyoshi Toyotomi therefore took away the bells before recklessly burning Korean temples which were being used as Korean military bases in the battlefield. More than fifty ancient Korean bells are known to have been taken to Japan and relocated in temples and Shinto shrines in Japan.[80] Among them, four to seven were made in the era of Silla and the rest were known to be made in the Goryeo Kingdom (918 to 1392 AD).

For example, the Jōgū Shrine, located in a rural seaside area of downtown of Tsuruga city, a central port city of Japan, possesses one plundered bell, the third biggest bell of the Unified Silla Dynasty (only the Divine Bell of King Seongdeok and the Bell of Sangwonsa Temple were bigger). With a height of 133.9cm and mouth diameter of 66.3cm, this is the biggest of the Korean bells in Japan. It was made during the period of King Heungdeok of Unified Silla for the Yeonjisa Temple located in Jinju, Gyeongsang Province, Korea in 833 AD.[81] The Japanese archaeologist, Ryosaku Fujita, has denied that it was obtained by pillage, arguing that the city of Tsuruga had

had a long association with Korea so the bell could have come to Japan before the Imjin War. However, later research by Korean scholar Gyeong-jae Lee has found the following record showing its Imjin War origin in *Jōgū jinja jisho* (*Dictionary of the Jōgū Shrine*), confirming its origin:

> On 29th February 1597, Yoshisgu Otani donated the bell having looted it in Korea, by the order of Hideyoshi Toyotomi.[82]

In other words, Yoshisgu Otani, who was a Japanese combatant in the Imjin War, looted the bell when he took part in the battle that became known as the 'Jinju Fortress War'. In addition, this bell has a great importance as a historical record because it has carved texts on it which explains about the society in Unified Silla times, its infrastructure, regional administrative system such as activities of district officers based on the Jinju area in the 9th century, and the official titles of public posts and the Buddhist priesthood.[83]

In addition to the destruction and removal of Buddhist cultural property during the Imjin War, the third category of losses derives from the use of Buddhist heritage property as tools of a war. For example, the temple of Manboksa in Namwon, Jeolla Province, which was built in the 11th century during the Goryeo Dynasty, was destroyed during the War, according to *Yongseongji*, the history book of the town. Also, when the Japanese army attacked Namwon Fortress in 1597, they took the heavy statues of the four warrior spirits from the Manboksa Temple, made use of them in the assault, and ruined them.[84]

1.3.4 Destruction and Removal of Libraries, Books and Manuscripts

Many scholars consider that the gravest losses of Korean cultural property during the Imjin War were the very large number of libraries and books plundered by Japan. Libraries and books are basic materials for studying a country's history and culture, and they bridge the time gap between the traditional society of the past and the modern one. Japan also recognised the importance of books as a rich repository of knowledge and cultural identity, hence the systematic pillaging of these during the War. No contemporary accounts of the looting exist, but the survival in Japan of large

numbers of books taken from Korea at this time is some indication of its extent.[85]

When Hideyoshi Toyotomi dispatched his army to invade Korea, he ordered that the army should cut off the ears and noses of low-rank Korean people, and the heads of high-rank ones when killing them. He also ordered that Korean craftsmen should be captured, and that the army should bring rare animals and plants to Japan. In addition, a servant with a literary background, Hideie Ukita, insisted that it should be an urgent priority for the army to take books from Korea to Japan, since it was recognised that Korea had numerous basic books considered essential to laying a foundation for creating the best culture of the time. In reply, Toyotomi asked if Japan should take all the books in Korea, and how those relating to 'difficult' disciplines, that were especially needed, could be identified by the army in the field. In reply, Toyotomi's family doctor (a court physician) Masabayasi Manase, who was also a monk and scholar, suggested that it would be very helpful if Toyotomi were to dispatch with the army to Korea some Buddhist monk-scholars from temples in Kyoto who excelled in such studies, with the job of selecting and looting valuable books.[86]

So Toyotomi organised groups of monks in Kyoto as book-looting teams and sent them to Korea as non-combatants under the official name of Staff Officers of Military Records. Buddhist monk-scholars including Joreseu from Shokokuji Temple, Reijeu from Nanzenji Temple, Eiteseu, Bunei, and Seikan from Tofukuji Temple and Ekei from Ankokuji Temple are known to have been included in that team and had a specific role in evaluating and appreciating the Korean books as the looting took place.[87]

The large-scale plundering started with tens of thousands of books in the Seongju Library which had been stored for safety in the Seongju Fortress in Korea during the Imjin War. When the Fortress fell, the Japanese army looted the whole library. With similar cases elsewhere in Korea, hundreds of thousands of books were looted and taken to Japan.[88]

Most of the looted books from Korea went to Ieyasu Tokugawa, who was the political head of Japan after Hideyoshi Toyotomi died in 1598.[89] The new government of Tokugawa started to systematically arrange the books removed to Japan by

categorising them as books on Buddhism, Confucianism, medicine, and old literature.[90] Tokugawa created the Tsuruga Library in Tsuruga Castle, his defensive headquarters, but after Tokugawa died the books in the Tsuruga Library went to the Momijiyama Library in Edo Castle (modern Tokyo), joining a large collection of Buddhist books and manuscripts from Korea that were already stored in Edo Castle.[91] These two collections became the foundation of the present-day National Archives of Japan and the Japanese Imperial Library.[92] Besides the books from Tsuruga Library, Tokugawa donated two hundred Korean books acquired from Toyotomi to Fushimi School managed by his old teacher Sanyo, and some of these were transferred to Ashikaga School when Sanyo was appointed as the principal of the School.[93]

Oriental medicine books were arranged as the Yōanin Library and have been kept together as a very valuable collection in Japan, while tens of thousands of Confucian books have been kept there under the name of Kimishomoku Library.[94] In addition, after winning an internal conflict within Japan in 1600 AD, Ieyasu Tokugawa acquired more Korean books that had been looted by his political foes during the Imjin War. Tens of thousands of these books are now in Japanese imperial collections and the Miyake Tokugawa Library.[95]

As well as the Imjin War loot from Korea that went into Japanese institutional or public collections and libraries, there was much private looting, with the books and manuscripts being retained in the family collections of many Japanese warriors and advisers of feudal lords, or court physicians.[96] The following are some examples:

- **Sonkeikaku Library**: The feudal lord Maeda, who participated in the War as the staff officer of Toyotomi, had this collection of books. It was inherited as his family treasure, and still exists as such today in Japan.[97]

- **Kozoukan Library**: The feudal lord Uesugi, who surrendered to Ieyasu Tokugawa in the Japanese hegemony fight after Toyotomi Hideyoshi's death, had this collection of books. Some of the collection is currently kept in the Yonezawa Library in Japan.[98]

- **Yōanin Library**: A secretary of Toyotomi and also a court physician,

> Masabayasi Manase had this collection of books. Most of them are now scattered and are found in many places in Japan. Some of them can even be found in Peking University Library in China.[99]

Among books which were taken to Japan during the Imjin War, the most severely damaged were the medical science books in terms of their importance and uniqueness. Almost four thousand Korean medicine books were looted, and as a result, there are only about one thousand historic traditional medicine books left in Korea, almost all of these are very rare or unique. Among those, all 266 volumes of the then largest medical encyclopaedia in the world, called *Uibangyuchwi* and compiled in 1445, were looted and taken to Japan, where they are now designated as their own National Treasure (kokuhō in Japanese) and kept in the Japanese Imperial Household Library.[100]

The vast number of books looted from Korea had a major effect on Japanese society and culture. When Ieyasu Tokugawa recognised that the political era of fights between feudal lords and the power struggle among the Japanese warrior class was over[101], he moved quickly to implement civilian government structures and policies following the Confucian tradition of Korea. He appointed many cultured men as his government aides,[102] and while leading the Japanese political state into peace, he aggressively pushed forward printing modelled on that of Korea and its large printed literature, in support of building his power and administration in accordance with Confucian principles. Centred on Neo-Confucianism and based on Confucian principles of loyalty and filial piety, Japan created the concept of royalty and promoted stabilised national politics, both of which were very actively promoted through the adoption of the books and printing technology captured from Korea.[103]

Also, based on the looted books, numerous Confucian scholars and oriental medicine doctors quickly emerged in Japan. Rajan Hayashi, who read Korean Confucian scholar Hang Kang's books and became a famous Confucian scholar in his own right, was one of them, and Hakuseki Arai also became a famous pundit through studying Korea's Confucianism.[104] In the medicinal field, there is Rokusuke, who became a famous doctor for treating skin diseases in Japan through learning medical skills from Korea. Rokusuke had been a soldier for the Japanese warrior Hideie Ukita, who

engaged in a battle in the Jeolla Province, Korea, during the Imjin War. His family records show that he brought oriental medicine books from Korea, and had also learned medical skills through his Korean experiences. He also looted and retained for his own use various Korean oriental medicine tools.[105]

After the War was over, the Japanese reported to the superior officials of the feudal government that they wished to invite Korean scholars to Japan in order to learn about uninterpreted parts of Korean academic books. Through this invitation, the 'Joseon Tongshinsa' (diplomatic corps) was sent to Japan, among whom were many of the authors of the books looted by Japan.[106]

1.3.5 Movable Printing Type and Its Technology

Printing, as it is known, began with the taking of impressions from inked wood printing blocks, with images and calligraphy carved in relief up to the size of the whole page. However, this was very inflexible; and even very minor changes in the text were difficult to be made. The world's first known movable-type system for printing was created during the Song Dynasty in China around 1040 AD. This used small ceramic (or sometimes woodblock) print types, each with a single character on the printing surface (or combinations of a number of individual types used together for a more complex letter), laid out and held in place within an iron frame (known as a form), from which a complete page was printed. Not only could changes and corrections be made easily: once the page or book had been printed the type could be removed from the frame and saved for re-use in printing a completely new page or book.

However, though it was a major development, there were problems with the Chinese ceramic and small woodblock movable type technology, and during the Goryeo Dynasty of Korea, in around 1230, Korea made a major advance towards what was to become the standard technology from the 15th to the mid-20th centuries around the world. This was to cast single character types in bronze or brass, creating the first metal movable-type system for printing. The world's oldest surviving complete movable metal type book is the *Jikji*, printed in Korea in 1377. Consequently, by the time of the Imjin War, Korea had arguably the most advanced printing technology in

the world and almost 300 years' experience of printing using metal type, of which the Japanese seem to have been very envious.

During the War, the Japanese warrior Hidetoshi Ukada invaded Seoul, and made a surprise attack at Jujaseo[107] in Namsanrok and Jujaso[108] of Gyoseogwan[109] in the Gyeongbokgung Palace. He looted most of the bronze and brass printing types and printing equipment to offer these as a war trophy to Toyotomi.[110] The tradition and material of a golden age of Korean printing from type developed through the regimes (1400-1468) of King Taejong, King Sejong, and King Sejo were looted in a single day.[111]

The Japanese were confronted with new letterpress implements among the booty removed by Toyotomi's military expeditions to Korea.[112] The cultural situation in Japan was simply ripe for a new burst of printing activity at the time when its soldiers took the new technology from Korea.[113] It appears that looted Korean technology was put to use in Japan immediately after the Imjin War broke out, to print the text of the supposed 'old' version of the Chinese *Xiao Jing* (*Gomun hyogyeong* as called in Korean; *Kobun kokyo* in Japanese; *Classic of Filial Piety*) in 1593[114] using the Korean printing machinery and type,[115] including Korea's copper printing type which had been manufactured in 1403.[116] In 1597, in the postface to another work printed in Japan with movable type, a monk who was present at Toyotomi's headquarters acknowledged that typography in Japan had come from Korea.[117]

After printing using Korea's type and machinery in 1593, Japan made more wooden printing types, and had printed many books such as the most widely distributed Geicho pan[118] (Geicho Edition). The new era of Japanese printing using wood printing blocks was quickly followed by Japan's first bronze type printing learning from the Korean technology in 1615. A Japanese scholar Shidehara had described all this in his book *Chōsen shiwa okutsuke* as follows:

> Korean books were taken to Japan during the Imjin War, and Hideie Ukita brought many books made by printing types to offer as a gift to Hideyoshi Toyotomi. These types were mostly made of bronze (copper). Since there was no bronze (copper) type in Japan, many people were surely curious

> about it. Among those, Toyotomi left some as samples in the Imperial Court and other vast amounts to Fushimi Castle. When Toyotomi died, Ieyasu Tokugawa became interested in this type, and after the Sekigahara battle, he made an order to print many books by giving the type to Sanyo, the principal of the Ashikaga School. At the first printing, some type was found to be missing. So, many wood printing blocks were made which resembled Korean bronze printing type to fill in the gaps. The remains of the type which Jangno Yoshi used still exist in the Ashikaga School and Enkōji Temple in Kyoto, but both of these are wood type. Also, printed materials made during those times were known as precious 'Ashikaga Edition' or 'Geicho Edition'.[119]

Types looted during the Imjin War is known to still exist in the Nanki Library of the Tokugawa family, with about 1,000 large character types and about 5,500 smaller ones. Recently these historic Korean types have been relocated and stored in the University of Tokyo Library.[120] Wooden printing blocks looted from Korea are also found in the Enkōji Temple in Kyoto, and in the Kyoto Prefectural Library and Archives.[121]

However, the most important place where Korean printing type is kept in Japan is the Dotbba Printing Company. This stores as many as 5,813 Korean wood printing blocks[122] and 89,814 Korean bronze or brass types.[123] In *Sekai no katsuji nenpō* (*Yearbook of the Types in the World*) published by the Dotbba Printing Company, there is an explanation of the Korean bronze type as follows:

> These types are Korean metal printing ones which were taken by the Japanese warrior, Kiyomasa Kato who invaded Seoul during the Imjin War on May 1592.[124]

These Korean metal types were estimated to have been manufactured in 1403, and are regarded as extremely important cultural objects, having been developed at least forty-seven years earlier than Gutenberg's development of movable type in Germany in 1450.[125] Consequently, Japan designated these Korean types as 'Important Cultural Property' of Japan in 1962.[126]

Japan's rise in printing using metal type was due not just to the looting of Korean type, but also the capture and removal to Japan of the relevant skilled craftsman – metal type casters (technicians) and carvers of wood printing blocks – during the Imjin War.[127] With both the Korean types and Korean skilled technical labour, Japan was able to develop its own metal type printing technology.[128] The impact on Japan of Korean typography, both technologically and intellectually, was far greater than that of the Jesuit Mission Press, principally because the imported Korean typography was much closer to the centres of power in Japan than the increasingly precarious Jesuit missions.[129]

One example of a captured Korean printing type technician was Oh-gwan Im, who led the technician group to develop the 'Tsuruga types'.[130] Tsuruga was a name of a feudal territory of a Japanese feudal country, which is now called Shizuoka. Here, 11 *Ōkura ichiranshū* and 47 *Gunshochiyō* were printed under the orders of Ieyasu Tokugawa from 1593 to 1616, utilising Korean brass type and Korean technicians in developing newly manufactured copper type. Books were printed with this type are called 'Tsuruga' editions, and these types are the so-called 'Tsuruga type,'[131] but it is clear that these – the first ever metal printing types in Japan – were based very much on Korean technology and expertise.[132]

1.4 Capture of Korean Ceramic Craftsmen and Japan's Ceramics Industry

During the Imjin War, the Japanese armed forces took enormous quantities of booty of every kind to Japan. The Koreans were skilled in making a particular kind of glazed pottery, which the Japanese admired very much. So, they took the whole colony bodily to Japan, with all their implements, and set them down in western Japan to carry on their industry.[133] Because so many kilns in Korea were destroyed and Korean potters were captured and taken to work in Japan, the Imjin War has become known as the 'pottery war'.[134]

After the Japanese invasions of Korea, when the warlord Toyotomi sent a force to conquer Ming China by way of the Korean Peninsula, no more Buncheong wares (grayish-blue-powdered celadon) were made in Korea. Toyotomi failed to achieve his

ultimate aim, but succeeded in devastating much of Korea, leaving behind famine and social unrest. Although no conclusive evidence exists to demonstrate why Buncheong production ended, several factors can be noted. Firstly, the desire for white wares was intense: commoners and nobles alike prized the clear, shiny purity of white-glazed porcelain, and it seems that during the 16th century Buncheong versions of pots that were produced in white porcelain for the court and nobility were made for commoners. Secondly, the Japanese invasions severely disrupted all economic activity, including work at official (government-regulated) and private kilns. Thirdly, many Buncheong potters were kidnapped and taken to Japan, where Buncheong wares have traditionally been highly prized.[135]

At Daitokuji Temple in Kyoto, Japan, where most art works of the contemplative sect of Buddhism known in Japanese as Zen Buddhism are stored, there are many Korean tea bowls and pictures which were taken in the large-scale removal of Korea's fine ceramics during the Imjin War and are now valued as Japanese national treasures.[136]

Japan's famous kilns at Hagi Yaki in Yamaguchi ken, Satsuma Yaki in Kagoshima ken, Takatori Yaki of Chikuzen and those surrounded by Mt. Takatori in Kitakyushu were all built in the early 17th century by the many Korean potters[137] who were taken to Japan on the orders of Hideyoshi Toyotomi and forced to settle there as a human resource for developing Japanese chinaware.[138] Also, among the Japanese daimyo (feudal lords) who participated in the Imjin War, there were some others who took Korean potters to Japan to build kilns, the ceramic products of which have since been designated as indigenous products of Japan. This trend of claiming Korean ceramics as Japanese pervaded especially in the later period of Muromachi, when Wabi tea used in the tea ceremony became popular among Sakai (Osakabu) merchants, greatly increasing the price of Korean tea bowls.[139]

When the War was over, some prisoners of war were repatriated to Korea. However, most potters who were captured to Japan had already become possessions of feudal lords and had greatly contributed to the local finances by working in the ceramic industry. As a consequence, Japan eliminated all documents related to these potters, and they were never allowed back to Korea during the eventual prisoner of war repatriations.[140]

The Korean potters who were forcibly removed to Japan during the War, and then permanently settled there to develop Japanese ceramic craft afterwards, were mostly from the leading ceramics centres of the southern parts of Korea, such as Jeolla and Gyeongsang Provinces, which were on the main invading and retreating routes of the Japanese army.[141] The retreating Japanese generals took along a number of Korean potters on their return to Japan.[142]

In Japan, the Korean potters were mainly settled in Kyushu or other southern areas which were owned by Daimyo who had participated in the Imjin War.[143] The 1,700 to 2,000 highly skilled Korean potters and ceramic technicians taken to Japan[144] brought about a major change in Japan's chinaware industry;[145] the products of the Korean potters' labour revolutionised Japanese ceramics.[146] Before the Imjin War, Japan could only produce earthenware and stoneware pottery, the main production areas being Seto and Shigaraki in Honshu and Bizen in Kyushu in Japan. However, after the War, Japan's pottery-oriented industry transferred to Kyushu, the new production area settled by Korean potters with their long tradition of producing porcelain wares of very high quality in terms of both technology and artistry.[147] A Japanese researcher, Dakumi Asakawa, has described the circumstances as follows in his book:

> It is historically crystal clear that chinaware skills were transferred from Korea to Japan, along with the potters. So, as an outcome, many kinds of (Japanese) terms of chinaware have their linguistic roots in Korean.[148]

Some of the famous Korean potters who were forced to move to and stay in Japan to lead the then-latest technology of ceramic production chinaware industry are known from historical references or genealogy, and include the following:

- **Dang-gil Shim: Satsuma Area: Satsuma Yaki (Satsuma Chinaware)**[149]

Dang-gil Shim was a potter from the southern part of Jeolla Province, Korea. When Namwon Castle fell to the Japanese army in 1597, he was held as a prisoner, and then taken to Japan. In Satsuma, the southern part of Kyushu, Japan, he made Korean-style kilns and produced porcelain and other fine china in them. He had developed Korean-style masterpiece chinaware called Hibakari, which means that the technology was

borrowed from Korea, and 'merely obtained fire' from Japan.[150] Fourteen generations on, his direct descendants still lead production of the famous Japanese 'Satsuma' style of ceramics today.

- **Pyeong-eui Park: Satsuma area: Satsuma Yaki (Satsuma Chinaware)**

He was held as a prisoner with Dang-gil Shim when Namwon Castle fell to the Japanese army in 1597. Together they are known as the founders of ceramics in the Satsuma area of Japan. Again, the production continues through his direct descendants: for example, his eleventh generation was awarded the gold medal for ceramics in the 1867 Paris World Exposition.[151]

- **Sampyeong Yi: Arita area: Arita Yaki (Arita Chinaware)**

Sampyeong Yi is a Korean potter revered in Japan as the father of Arita porcelain, the most famous of all Japanese ceramics. In 1598, he was captured to be taken to the Arita area in Japan, where he soon found and mined pure white clay,[152] from which he began, in 1616, to make the new characteristic white porcelain body decorated with underglaze cobalt blue, overglaze red, and gold enamels. The Arita porcelain was soon sold nationwide, producing a 35-fold increase in tax revenues for the Arita region. This world-famous 'Arita Chinaware' was exported from the adjacent Imari port to regions all over Japan, and from the mid-17th century overseas as well, so it became known as 'Imari Chinaware'. From 1659 onwards, Arita also supplied enormous quantities of high-class ceramics to the Dutch West India Company for export to Europe and other parts of the world, following the ban on exports from China imposed by the Qing Dynasty government after the Ming and Manchu wars of the 1640s.[153]

- **Palsan: Fukuoka area: Dakadori Yaki (Dakadori Chinaware)**

Palsan, who was forced to move from Gyeongsang Province in Korea to Fukuoka in Japan in 1598, tried to submit a petition to the Korean delegation asking to be included in the exchange of prisoners of war. However, he was arrested by Japanese soldiers and was forced to stay under house arrest in Japan for the rest of his life. He managed the kiln owned by Koborienshū, one of the seven Japanese tea ceremony masters' families, and produced fine tea ceremony bowls for its head family.[154]

- **Jon-gye: Agano area: Agano Yaki (Agano Chinaware)**

During the Imjin War, Jon-gye was forced to move from Busan in Korea to Agano in Japan. Being a skilful craftsman, he worked in a kiln that was for royal use and became the founder of Japan's Agano chinaware (Yaki) tradition.[155]

- **Jak-gwang Yi and Gyeong Yi Brothers: Hagi area: Hagi Yaki (Hagi Chinaware)**

The Korean potter Jak-gwang Yi worked at a government kiln in Jinju, Gyeongsang Province, Korea. However, he was captured and sent to Japan by the Japanese warrior and tea master Terumoto Mōri. When Mori settled down in the Hagi area, Jak-gwang Yi managed and operated a kiln for royal use, and his Hagi Chinaware is renowned as among the masterpieces of Japanese tea ceremony bowls.[156] His younger brother, Gyeong Yi, who was also living in Korea, was captured during the latter period of the War, and according to family records, the two worked together to produce Hagi Chinaware. The descendants of Gyeong Yi continue their family tradition through to the present day.[157]

- **Other significant Korean potters of whom there are no full records: Karatsu area: Karatsu Yaki (Karatsu Chinaware)**

Karatsu, which is in the Karatsu Bay of Kyushu, Japan, was known for many centuries as the main strategic place for trading with Korea and China. When looking at the Chinese characters of 'Karatsu Yaki (Tang Dynasty (tō ōchō in Japanese) /Ferry Point /Chinaware)', one might seem to think that it is related with the Chinese Tang Dynasty, but in the past, Japanese people considered foreign people as 'People from Tang (tō jin in Japanese)', regardless of their nationality.[158] Originally, the term referred to the Chinese, but later it became the synonym for all foreigners including Korean people. Considering that many Korean people were captured as war prisoners and were taken to Japan after the Imjin War, it seems fairly clear that the frequently used label 'People from Tang' meant the Korean people. Also, the Japanese called the villages of the Korean settlers 'Tang People's Area'.[159] So, wherever Korean potters settled down in Japan, one can easily find the place name of 'Tang People's Area'. For example, Karatsu Chinaware, one of the masterpieces of Japanese ceramics down to current times, was also founded by captured Korean potters taken to Japan during the Imjin War. One at least of these is known to have come from Jungri at Busan in Korea.[160]

1.5 Field of Medicine: Captivity of Korean Oriental Medical Doctors

The skills and knowledge of doctors working within a centuries-old and well-developed Korean medical tradition were also sought out by the Japanese army during the Imjin War, and like other scholars and highly skilled practitioners in many fields, many doctors[161] were also taken to Japan, and forced to remain and settle there even when the main prisoner-of-war exchanges took place at the end of the War. Those known from historical and genealogical information on both Korea and Japan include:

- **Kwangji Kim**

Doctor Kwangji Kim, who resided in Gimhae, Gyeongsang Province, Korea, was forced to move to the northern part of Kyushu in Japan by the Japanese warrior Nabeshima during the Gimhae Battle in May 1597. He opened an oriental medicine clinic in Saga ken in Japan and became an officially qualified doctor during the Tokugawa period. He invented a medicine called 'Shingomaru', an important special medicine for heart disease. In the late 19th century the New Meiji government designated this medicine as a Local Cultural Property.[162]

- **Gyeongdong**[163]

Gyeongdong was a Korean doctor who was taken to Kōchi ken of Shikoku province, located in the southern part of Japan, during the War. In the Kōchi ken Library, there is a book called *Tosa mei retsu den*. According to this, he was captured in April 1597 by the Japanese warrior Abe Osamune during the Jeonju Castle Battle at Jeolla Province in Korea. Gyeongdong was famous for curing leprosy and was the first person to introduce Korea's insam (ginseng) to Japan, and the first to grow it there. In his own book *Kaizanshū,* he introduced the recipe for an important oriental medicine which blended Chinese pepper and Korean insam.[164]

There were other Korean doctors who were taken to Japan and practiced in Shikoku province, for example, Doctor Gyeongdong. In this area, which is known as Matsuyama city in Japan in the present time, there is still a 'Tang People Area', named because that was the area in which most of the Korean doctors who were taken to Japan during the War lived. It was also called 'streets of pharmaceutical doctors'

reflecting the expertise and reputation of these doctors in relation to their use of traditional medicines.[165]

1.6 Effects of the Imjin War on Korean and Japanese Cultures

A Japanese scholar of Chinese classics and also a famous writer during Japan's late Shogunate period,[166] Gazutoshi Dokutomi, described the Imjin War in these terms: 'The Imjin War was a studying abroad period for 200,000 Japanese army'.[167] Another Japanese scholar, Nobuo Yagi, describes the War as follows:

> The biggest benefit in terms of culture which Japan has procured through the Imjin War was books 'brought' from Korea by many warriors of Hideyoshi Toyotomi. … Others include 'bringing' metal types and 'going and fetching' potters.[168]

However, all of this narrative is still strongly denied in Japan. Even today only a few Japanese historians frankly admit that in the Imjin War Japan 'looted' so much of Korea's cultural heritage such as books, potteries, ceramics, printing metal types, religious materials etc., and 'kidnapped' scholars, potters, doctors and so on from Korea,[169] while the Korean origin or influence in relation to much of Japanese cultural tradition is systematically denied in most histories, catalogues and museum exhibitions, and particularly in school textbooks. Even in recent interviews and discussions with Japanese experts, one repeatedly finds that the only terms Japanese people are willing to use are 'transferred' Korean cultural heritage and knowledge and 'naturalised' or 'immigrant' Korean scholars and craftsmen, notably the potters and doctors. For example, *A Dictionary of Japanese Art Terms,* published in Japan, writes '… a naturalised Korean potter…'[170] and '… immigrant Korean potter(s) …'[171]when giving introductions to Yaki in Japan which had developed during or after the Imjin War period.

After the War, Korea's Neo-Confucianism had spread and formed the foundation for the development of Japanese Confucianism, and the Korean types and print craftsmen distributed new printing technologies,[172] which contributed to establishing the basis for philosophical ideas that influenced Japan to enter the modern era.[173] Also, through

Korean potters, the Japanese ceramic industry saw significant development, leading to the spread of high-quality tea bowls and tea culture. In addition, Edo Castle was built with the help of the Korean stonecutters' techniques, which consequently helped the urban culture (known as jocamachi) to be developed around the castle.[174] Other developments made by Korean culture included medicine and medical knowledge which were distributed by the captured Korean medical experts as well as obtained by means of medical science books taken from Korea.

Beginning with the Meiji period, the Imjin War was referred to by various names in Japan. It has been referred as the 'pottery war,'[175] and also as the 'print revolution in Japan'[176], while Confucianists called it the 'revolutionary period of thought' when Korea's Confucianism was introduced to Japan. Also, Japanese classic literature experts named it the 'literary renaissance' because Japanese had obtained so many books. In short, Hideyoshi Toyotomi's ambition was a scramble for culture, and the Imjin War was a culture war.[177]

Chapter 2. Japan's Late 19th Century to 1945 Investigations of Korean Cultural Heritage and Assets, Associated with the Removal of Korean Cultural Objects to Japan.

2.1 Introduction

There are approximately 4,000 Korean cultural objects kept by the Tokyo National Museum in Japan: among them, 800 items are earthenware, pottery and ceramics. These are relics of the period from the Bronze Age to the Joseon Dynasty era, most of which were acquired as donations or purchases from individual Japanese people who participated in excavations in Korea during the period of Japanese occupation.[178] Also, the Museum of Oriental Ceramics in Osaka, Japan, has a well-known collection of Korean ceramics from the Goryeo Dynasty to the Joseon Dynasty,[179] totalling up to 793 items,[180] mostly of great quality.[181]

Japan has more pottery and ceramics from Korea (the most typical cultural assets of Korea) than anywhere in the world with the exception of Korea itself.[182] The famous celadon and white porcelains of Korea are almost all excavated from graves or tombs, except for some porcelain of the latter period of the Joseon Dynasty.[183] However, 'digging up a grave purposely (Gulchong in Korean)', no matter what kind of grave, was considered unpardonable behaviour from ancient times in Korea, and contrary to traditional social morality – so unforgivable that an ancient insult says it is 'like a man digging a grave' until the middle of 20th century in Korea.[184]

A high proportion of the 'excavated' Korean cultural objects in Japan were removed during the occupation. This was due to systematic government-sponsored 'investigation' of historical and cultural materials, such as excavation projects by the JGGK, which had taken over thanks to occupation legislation taking control of antiquities and archaeological investigation.

This chapter examines how the cultural materials investigation project of the JGGK was carried out and examines examples of removals of important Korean cultural materials. Also, by examining the evidence of Japanese people collecting Korean cultural objects before and after the start of the occupation in 1910, the study

investigates the social and political aspects of the JGGK's policy for managing Korean cultural heritage over a period of almost half a century.

2.2 Situation Before and After the Start of the Japanese Occupation of Korea in 1910

In 1876, Korea and Japan concluded the Treaty of Amity and Commerce, replacing hitherto long-standing traditional and feudal relationships. The 1876 Treaty was made on the basis of international legal principles applying in the 19th century. In accordance with this Treaty, Korea opened its ports to Japan, and allowed Japanese people to reside in Korea.

At the end of the 19th century, Japan was steadily increasing its trade links with the rest of the world. At the same time, it was augmenting its military strength, and re-equipping its armed forces with modern weapons. It was not long before its army proved their worth: first against China, then Russia. In the war against China (1894-1895), the imperial Japanese army took Port Arthur from the Chinese, only to see it subsequently acquired by the Russians. From 1900 to 1903, Japan prepared to fight a limited war in Korea and Manchuria, with the aims of curbing growing Russian power and ensuring its own grip upon Korea.[185] Japan's turn toward the Korean Peninsula marked its first step on the road to empire. While, in a formal sense, Korea was the next to last addition to the colonial empire, it was the first alien overseas territory to provoke aggressive Japanese attention.

The Meiji leadership viewed Korea as both a problem and an opportunity. 'A dagger thrust at the heart of Japan,' Major Meckel, Prussian advisor to the Meiji army, had called it. Dangerous enough as a satellite of China, Korea in the hands of Russia might prove fatal to Japan. The Korean Peninsula's very accessibility and vulnerability had attracted the romantic ambitions of the free-booting element of the former samurai class, who had very nearly dragged the nation into an ill-considered attempt to conquer Korea outright in the early 1870s.[186]

The bloody struggles of the Russo-Japanese War (1904-1905) were a measure of how badly Russia had slipped and how Japan had risen as military and imperial powers.[187]

In about 30 years following the 1876 Treaty with Korea, Japan, which won the Sino-Japanese War (1894-1895), and Russo-Japanese War (1904-1905), gained more political and economic influence over Korea, upsetting the delicate equilibrium in East Asia.[188]

In particular, Japan started allowing its people to go abroad without a passport in order to encourage emigration after the Sino-Japanese War. The number of Japanese people who flowed into Korea had already steadily increased since the opening of Korean ports to Japan in 1876: reaching 1,791 by 1890, and 10,391 by 1895, immediately after the Sino-Japanese War.[189] The number continued to increase, rising to 31,000 by the end of 1904[190] and 55,000 in 1905[191]. In 1906, shortly after the Russo-Japanese War, the number rose to 69,500.[192] The reason why the figures increased in this way is believed to be closely associated with the Japanese policies of the time:

- From 1895, when a Japanese person residing in Korea temporarily returned to Japan, they did not have to obtain a permit for crossing back if granted certification from the Japanese Consulate in Korea, proving that they were currently residing in Korea;

- From 1900, a Japanese person engaged in fishery did not need to bring a passport nor obtain a permit when going over to Korea;

- From 1904, any Japanese person did not need to bring a passport nor obtain a permit when going over to Korea.[193]

Thus, those who could go to Korea under these provisions are now known to have included a large number of antiques dealers and grave robbers.[194] As Japan won first the Sino-Japanese War, then the Russo-Japanese War, they began digging nationwide across Korea, backed by great military force.[195] The Japan which won the two wars started robbing tombs and looting artefacts as if this was its right to claim them as trophies of war. In the most serious cases, some important ancient tombs were robbed two or three times.[196]

When the Japanese Residency-General of Korea (JRGK) was established in Korea in 1905 by the Agreement of Protectorate, all those Japanese traders and businessmen who came to Korea did so with the aim of making a great fortune on a single occasion. Under the protection of the Japanese authorities, they extorted expensive antiques one by one. They looted whatever came to their hand, such as Buddhist statues, paintings, Goryeo Dynasty celadon, and Joseon Dynasty porcelain.[197] Five years later, when Japan gained control of Korea through full annexation in 1910, its looting was expanded to the entire country: everything valuable in Korea, including priceless paintings and ceramics, was taken.[198]

Japanese scholar, Akio Koizumi, Director of the Pyeongyang Museum in Korea during the occupation, has said:

> Korean people, who have strong ideas of admiring the buried deceased, must not have gone through with such excavations if they were not such low-class ignorant men. Accordingly, this would have been a reason why Korean tombs would have been relatively well preserved until now. Such horrors came after the Japanese people entered remote areas in Korea before and after the Japanese occupation in 1910. The Japanese people who arrived in Korea with dreams of making a quick fortune wished to discover buried gold. They uncovered tombs which had a legend saying that golden cocks crowed on the Lunar New Year's Day, which was like digging out recent popular gold mines.[199]

From the early 20th century period of countless Japanese-led excavations in Korea onwards, collecting Goryeo celadon porcelain became very popular with Japanese people. Also, cultural objects buried in the tombs of the Goryeo Dynasty were seen as the cheapest 'treasure' for the Japanese to collect.[200]

In particular, Japanese grave robbers plundered large amounts of ancient remains, including Goryeo ceramics, when digging up royal tombs located in and around Gaeseong, the capital of the Goryeo Kingdom.[201] The Gaeseong area received particular attention from Japanese dealers and collectors, as an area which was known to have many tombs from the Goryeo Dynasty.[202] Therefore, many artefacts and other

ancient objects (including Goryeo ceramics) were soon on sale in antique shops dotted around the Gaeseong area.[203]

Even members of the Japanese military and civilian police, stationed in all parts of Korea during the occupation, took part in the excavations or worked as antique dealers: for example, the Japanese Takahashi, who had worked as a policeman, dealt in antiques without a store.[204] After his retirement, the Chairperson of the Gyeongseong[205] Art Society and former Japanese military man, Shichiro Morii, who had a defence mission in the Gaeseong area during the Russo-Japanese War, worked as an antique dealer, travelling between Seoul and Gaeseong. Moreover, former Japanese army soldier Otsurugichi Oda, the manager of the Gyeongseong Art Society, set up an antique shop following retirement. Besides that, groups of professional excavators (called 'Kulok' – 'house-digging') appeared.[206] However, for many of these excavations, the Japanese employed Korean workers.

Japanese lawyer Nagasaku Miyake, who went over to Korea around the time of the occupation, recalled:

> Korean people have deep admiration for their ancestors; they especially put great emphasis on graves. They also put graves to rights in order, and perform ancestral rites every spring and autumn, partake in sacrificial food and drink, and have no interest in investigating old things by digging up the graves or to dig up. They never enjoy ancient remains even in their dreams. Strictly speaking, it is Japanese people who have dug up graves in Korea. However, their direct pawns were mostly Korean people, and though some Japanese people may have directly taken part in excavation works, the Japanese usually made a profit by purchasing secretly excavated things and by getting around Japanese collectors in Korea.[207]

Even back then, there were few among the Korean intellectual class who knew of and understood that Goryeo celadon was an important part of Korean cultural heritage. At the time, these were known only to the Japanese as precious items which they dug up from ancient tombs in Korea; and which only they could sell and buy.[208] Nagasaku Miyake recorded what he heard from a Japanese antique dealer:

> Some time ago, one intellectual Korean person came to me, and I showed him Goryeo celadon. He seemed to consider it as rare and precious, asking 'Where is this from?' As I answered him that it was 'an object of the Goryeo Dynasty excavated in Gaeseong', he was extremely surprised.[209]

There is a story that even the Korean Emperor did not know the existence of Goryeo celadon:

> When Korean Emperor Kwangmu saw Goryeo celadon for the first time, he asked, 'Where was this celadon made?' Then, Hirobumi Ito, the first Japanese Resident-General to Korea, next to Emperor Kwangmu explained 'This was made in the Goryeo Dynasty of this country'. Then, Emperor Kwangmu said, 'No, there is no such thing in this country'. In response to this, Ito could not say any words and kept silent. It was because he could not answer that it was taken out of a tomb in Korea.[210]

2.2.1 Excavation of Ancient Tombs in Korea and the Damage to Buried Cultural Objects

The Japanese emperor's tomb is considered to have been robbed from about the 4th century in Japan onwards; majority opinion is that tomb robbery was introduced to Korea during the Japanese colonial period. In Korea, robbery excavated royal tombs, while there was also theft of antiquities kept inside Buddhist statues.[211] Some Japanese researchers who travelled to Korea and visited ancient towns wrote in their memoirs how ancient tombs had been damaged.

Ryu Imanishi of Tokyo Imperial University Graduate School (later a Professor at Kyoto Imperial University), who visited Korea for the first time in 1906 and travelled to Gyeongju, Gaeseong and Seoul, said:

> During my travel to Korea, ancient tomb robbery happened frequently, and all the excavations fell into the hands of Japanese merchants.[212]

Yoshimasa Tanaka, who travelled to Korea looking around the historical remains, wrote:

> Countless graves around the Goryeo tomb group were robbed and any mountain and hill are full of holes like a beehive in the vicinity of Gaeseong, which was the capital of the Goryeo Dynasty, as well as Ganghwa Island.

The Director of Incheon Weather Observation Station, Yuji Wada, who visited Ganghwa Island in the spring of 1909, gave his thoughts:

> There are many ancient tombs in the main island but many graves out of them have already been damaged. … They are like 'a beehive' and 'a fierce firefight battlefield during the Russo-Japanese War'. [213]

Wada's description shows how severe the robbery of Goryeo Dynasty graves of Gaeseong and Ganghwa Island was.

The purpose of tomb robbery was to obtain grave goods, especially Goryeo ceramics, such as expensive celadon. These were traded at a price high enough for only wealthy Japanese antique collectors to be able to afford them.[214] As the robbery of Goryeo tombs near Gaeseong became all the rage, tombs in Gyeongju were also excavated, many of the proceeds coming to antique art dealers in Daegu near Gyeongju.[215]

Illicit dealing of Goryeo celadon also became commonplace. Many were arrested and convicted for this. Countless graves were dug out and many mountains and hills were 'full of holes like a beehive'.[216] For instance, in Bokseong dong, Yakmok myeon, Chilgok gun, Gyeongsang Province, 100 ancient tombs or so were dug out by stealth; and destroyed by Japanese stonemasons and earth workers who went to Korea immediately after the Russo-Japanese War in order to collect building stones.[217] They threatened Korean residents by force while excavating the tombs, stopping them from accessing them. There were even cases where, in front of the descendants, the Japanese infringed upon their ancestors' sacred precincts at the point of the bayonet.[218]

Korean scholar Kyu-hong Jeong described the situation in 1904 as follows:

> Excellent pieces of Goryeo ceramics are worth of hundreds of won (yen) in Western countries' antique markets, but in this country one could buy the best one for merely ten won (yen). It was such a silly thing. However, if you want to buy it at the cheaper price, you can explore and examine a place which you think is an ancient tomb, and just buy the land which includes it. All you have to do is to discover things buried underground. Even though the land has a tomb in it, the price of it is not high. Sometimes you can have an unexpected income if you exercise your ability. [219]

In other words, the Japanese purchased land thought to contain tombs and dug these up to obtain Goryeo ceramics. It is known that almost 2,000 tombs of the Goryeo period were destroyed around Gaeseong and Haeju regions over a period of merely one year, 1905- 1906; and in total, about 1,000 relics, including Goryeo ceramics, bronze mirrors, bronze wares, and others were dug out by stealth from these regions alone.[220]

For example, two Japanese residing in Tokyo, Damisaburo Ito and Shodaro Nishimura, frequently went over to Korea from 1905; and purchased large quantities of Goryeo wares dug out by stealth around Gaeseong. They took them to Japan and opened a large exhibition of them in 1909. As the Goryeo wares had come to be very popular and valuable in Europe and North America, the Yamanaka Trading Company (based in Osaka, Japan) purchased Goryeo ceramics in bulk from such sources for re-sale.[221]

Hirobumi Ito, the first Resident-General to Korea – and hence, the most senior Japanese official appointed to Korea – was reported to have purchased more than 1,000 pieces of Goryeo celadon: to offer as presents to the Japanese Imperial family[222] and senior officials while staying in Seoul.[223] A large number of the Goryeo pieces he took to Japan were those he had purchased from a Japanese antique dealer, Kondo.

A Japanese lawyer, Nagasaku Miyake, who lived in Seoul, wrote about the situation in 1906 in his memoirs *Sonotoki no kioku - Kōrai kofun hakkutsu jidai* (*The Memory of*

That Time – the Era of Excavation of Goryeo Ancient Tombs):

> The age when collecting Goryeo celadon was a big trend had arrived and sometimes, thousands of people were engaged in Goryeo celadon-related occupations in these market conditions. Also, the number of large and small ancient tombs robbed in Gaeseong, Ganghwa Island and Haeju region was really amazing.[224] … In Seoul, there was an antique shop owned by a Japanese antique dealer, Kondo. As soon as the articles in the Goryeo era were dug out and carried in, someone showed up and purchased them. … Hirobumi Ito, the Resident-General, collected a large number of Goryeo ceramics in order to make a present to someone. The number may have been thousands of pieces. Ito, whenever he got a chance, asked a Japanese antique broker residing in Seoul to bring as many as he could. Then, Ito bought them all. … I remember that the other day he bought all the Goryeo ceramics in Kondo's antique shop. Because of that, the Seoul antique street ran out of Goryeo ceramics.[225]

Consequently, grave robbery peaked, and trading and collecting Goryeo ceramics became very popular among Japanese people both in Korea and in Japan.[226] As Japanese grave robbers seeking their fortunes randomly dug up ancient tombs in Gaeseong (the capital of Goryeo Kingdom), nearby Haeju, and Ganghwa Island,[227] the looted area widened day by day and thus the number of antique traders buying and exporting the antiquities increased.[228] Watching the situation, the Korean patriotic martyr Jung-geun Ahn lamented the grave robbery, saying 'Japan's invasion reached our ancestors' bleached bones'.[229]

2.2.2 Official Investigation of Korean Cultural Heritage and Assets by the Japanese Governmental Institutions

Japan's interest in, and removal of, important Korean antiquities and historic works of art were part of its continental political expansion, and already began before the Agreement of Protectorate in 1905 and the Treaty of Annexation in 1910. In parallel, the academic world of Japan took an interest in both Korea and Manchuria as geographical checkpoints. In these circumstances, in 1906 Japan established the South

Manchuria Railway Company, in which a research division of history was set up. In this division, Kurakichi Shiratori, Ikeuchi Hiroshi, Saugichi Tsuda and Iwagichi Inaba studied the histories of Korea and Manchuria.[230]

In Japan, the development of archaeology was similarly related to continental politics. The study of Korea was inspired with such academic interest because Japan had an undisguised intention to occupy Korea. In the fields of archaeology and anthropology in particular, the official investigations began as early as 1900 with a scouting mission by the Japanese scholar, Shozaburo Yagi. Although some earlier investigations had been conducted by Japanese individuals or military personnel, the government-commissioned investigation by Yagi between 1900 and 1901 is believed to be the first one by a Japanese scholar. His trips to Korea were organised by the Anthropology Department of Tokyo Imperial University, beginning on 27th October 1900 with a research tour starting in Busan, Korea, where he excavated ancient tombs on the right and left banks of the Nakdong River passing through Busan, examining sites and collecting excavated finds of the Korean Stone Age. In the preface to his 'Exploration Journal of Korea', he made clear his purpose in travelling to Korea:

> As a result of researching cultural materials and relics in Japan for many years, I realised the necessity of an investigation on Korea, and practiced it. In addition, I recorded what I had seen and heard in progressive order to help others someday.[231]

His investigation primarily focused on anthropological research over a wide field, including race, archaeology, soil and stones. His publication had a considerable impact on the academic world of Japan, which to that point had an extremely limited knowledge of Korea.[232] This initial report was very influential; and was subsequently widely referred to as many other Japanese scholars began to travel to Korea for their own research.

Within less than two years, in June 1902, an assistant professor at Tokyo Imperial University, Tadashi Sekino, and his two assistants, Seiitsu Yatsui and Kuriyama Takaichi,[233] were instructed to investigate old Korean architecture. Having arrived in Korea on 5th July 1902, they investigated sculptures and crafts, including ancient

structures such as palaces, castles, Buddhist monasteries and temples, Confucian academies, and masonry in Gyeongju, the capital of Silla Kingdom; Gaeseong, the capital of Goryeo Kingdom; and Seoul, staying for 62 days.[234] The results of their investigation were published two years afterwards. Tadashi Sekino explained its purpose as follows:

> At the time of my departing, Kingo Tatsuno, the Dean of the Engineering College specially instructed me to observe Korean architecture in a wide view for the purpose of historical study, rather than in a deep view. I kept his instruction in my mind and decided to visit all the important relics in Korea, but the transportation in Korea was poor and the weather conditions were limiting. So, I chose the centres of culture from ancient times having many kinds of relics. They were Gyeongju, the capital of the Silla Kingdom for such a long 1,000 years, Gaeseong that was the capital of the Goryeo Kingdom for 500 years, and Seoul, the capital of current Joseon Kingdom for 500 years of modern times, and its surrounding areas, as an investigation area.[235]

The 'special instruction' from the Dean of the Engineering College is thought to have been an instruction of the Japanese government. In addition, as Korean scholar Yeong-seop Huh observes, 'in a wide view, rather than in a deep view', he was directed to conduct the investigation not for the purpose of academic study but to search for information that could lead to useful materials and data for Japan[236] in a future occupation. To help with this investigation, the Japanese Ambassador and Consul to Korea, together with other diplomatic officials and interpreters, participated in large numbers.[237] This suggests that it was an extensive project, planned and authorised at Japanese government level.

When Tadashi Sekino first travelled to Korea in 1902, Japan's strategy to invade was proceeding as planned in spite of various ups and downs. Japan was competing with Russia to achieve domination across Northeast Pacific.[238] Japan already had a lot of information on Korean geography and history, but possessed few substantial studies of Korean cultural heritage and sites, so its architectural investigations had a wider value and purpose.[239]

In his report, Sekino attempted to argue that Korean archaeological structures, historical places and relics were of a different category from the anthropological investigations in progress inside Japan. This attracted the attention of Japanese archaeologists and historians; as well as architectural scholars. This led the Japanese government to recognise the necessity of a more systematic investigation on Korean cultural heritage and assets.[240] His report illustrates the shapes of many pieces of Goryeo celadon already in Japanese collections: notably those of Moshiyori Yagiji and the Tokyo Imperial Museum. Thus, it seems very likely that many Goryeo tombs had been looted, with the finds already taken to Japan before 1904, the year of the report.[241]

Due to this investigation, Buddhist relics and remains at Namsan (Mt. Namsan) in Gyeongju, an ancient city in Korea, were moved to Japan before Japanese researcher, Ryu Imanishi, visited in 1906.[242] As a result, the excellent quality of the Buddhist statues and pagodas was revealed. This led to the illicit excavation and removal of countless stone sculptures and architectural works from Korea. Ryu Imanishi also collected 20 pieces of earthenware in perfect shape and fragments of relics, and took them out to Tokyo Imperial University.[243]

2.3 Investigation of Korean Cultural Heritage and Assets by Japan (1909-1915)

All of this was put onto a more formal basis following the Japanese annexation of Korea, in the pattern seen in the colonial policies and practices of other countries towards cultural heritage. Typically, following initial investigations, various strategies were included in the projects and activities of the colonial government.[244] Japanese colonialisation was not typical, however, in that Japan had already conducted extensive cultural heritage investigations in Korea ahead of the 1910 annexation, as seen above.

An early step was to promote the investigation project organised by Tokyo Imperial University from 1902, to an official project of the JRGK from 1906. Three years later, in 1909, the JRGK formally established a more formal and large-scale investigation of Korean cultural heritage and assets under Professor Tadashi Sekino[245] and his team;

this systematic investigation continued until 1915. In the investigation in 1909, Sekino organised his team by appointing Japanese experts as his assistants: Kuriyama Takaichi in architecture; and Seiitsu Yatsui in archaeology. The team also included a land investigating engineer and photographer supported by JGGK. One official of the military police accompanied this investigation and took charge of security and guidance in regions where the team visited.[246]

This meant that the cultural investigation of Korea was promoted in direct connection with the Japanese government. The 'official' purpose of the investigation announced by the government was that it would be performed to obtain basic information for remodelling old Korean buildings and structures: so they could be used as administrative facilities as part of the establishment of the new JRGK political system in Korea, and reorganisation of its provincial government system.[247] The investigation by Sekino's team initially focused on ancient structures, but ultimately conducted a multi-faceted investigation on all fields of Korean material culture including various historical sites, ancient tombs, Buddhist statues, bronze bells, pagodas, stone monuments, incense burners, documents and paintings.

Korean scholar Dong-son Woo has interpreted the investigation of 1909 as follows:

> The year 1909 was the eve of Japanese annexation of Korea in 1910. In the previous year 1908 Japan established the Oriental Development Company in Korea, and in 1908 the JRGK performed a land investigation[248] nationwide in Korea. So then, was the investigation project of Korean cultural heritage and assets done as a pure academic research? The evidence shows that this is not the case. When the Land Investigation started, they were looting Korean cultural assets in the name of state-owned land by allowing Sekino's team to register historical sites-related information on the newly created map.[249]

After the occupation of Korea, the JGGK took over the investigation project from the JRGK, and continued this work; but in addition, took charge of Korea's former official cultural heritage system, i.e. Naimubu[250] (Internal Affairs Department, JGGK)'s role in investigating cultural assets, and Gakumu kyoku[251] (Bureau of

Academic Affairs, JGGK) in respect of historical records.[252]

Sekino's team focused on buildings and historical remains of various regions under a broadly based policy known as 'as widely as possible, but not necessarily deeply (Narubeku hiroku, shikashi fukai hitsuyō wa naku)'.[253] However, from 1915 onwards, they concentrated on the investigation and excavation of ancient tombs of selected priority areas, including Gaeseong, Gyeongju and Buyeo.[254] Yet even then, investigation of historical sites was not systematic; information in planned areas sometimes came from other sources, notably chance discoveries. However, for selected ancient tombs, acquiring important movable cultural property was regarded as a priority; rather than proper recording through systematic excavations.[255]

To take one important example, on 5th October 1911, Sekino's team excavated and removed the contents of an ancient tomb of the Goguryeo era in Masan myeon, Kangdong gun, and Pyeongan Province: known as 'Hanwang tomb' or 'Hwangje tomb'.[256] However, a century later, the detailed results and records are still not available. Only some sheets of drawings and illustrations, published in *Chōsen kosekizuhu*[257](*Illustrations of Korean Cultural Heritage and Assets*), are all that are available even today, while there are only brief details of a few of the large number of Goguryeo period relics excavated.[258] It is not known what kinds of and how many relics were unearthed; though it is recorded that at least some finds were taken to Japan, and displayed in an exhibition held in the Engineering College of Tokyo Imperial University in 1912.[259]

It seems clear that these cultural heritage research projects during this period constituted a nationwide project across Korea for the benefit of Japan's colonial rule, rather than a purely scholarly purpose. In so far as there were scientific objectives, the purpose of the investigations seems to have been, at least in part, to discover mural paintings which might be removed and to acquire artefacts and materials in them. Numerous historical and archaeological sites were investigated – but like the Hanwang tomb already referred to, few were reported in Korea; and even then, investigation results (if any) were only briefly available to the public in Korea.

If the investigation projects had been intended as a purely academic one, Korean

experts in ancient history, such as Chaeho Shin (1880-1936), should have been included. However, the participation of Koreans was ruled out in most cases (except as labourers carrying out the actual digging and similar work).[260] Also, the relics and materials collected were taken directly to Japan without seeking the participation of relevant Korean experts in the name of what was described as an 'academic purpose'.

These are some cases of Korean cultural objects known to have been taken into Japan:

- In November 1909, Professors Yoshiyuki Hagino and Ryu Imanishi, from Tokyo Imperial University, excavated ancient tombs on the Daedong River in Pyeongan Province. The artefacts, including ancient mirrors, gilt bronze dishes and bracelets, were taken to Japan by Professor Hagino's team. Those objects were lost in the Great Kanto Earthquake in Japan in 1923.

- In 1909, Seiitsu Yatsui excavated an ancient tomb at Seoak ri in Gyeongju. He chose the most perfectly shaped tomb among the four. Potteries and fragments of earthenware were excavated as grave goods. Those finds were taken to Tokyo Imperial University.

- In 1910, Tadashi Sekino's team excavated two tombs – Sujeongbong tomb No.2 and Okbong tomb No.7 – as part of the investigation led by the Local Division, the Internal Affairs Department of JGGK. The finds were sent to the Engineering College of Tokyo Imperial University.

- In 1911, Tadashi Sekino's team excavated a large tomb in Bongsan gun, Hwanghae Province. The excavated objects were taken to the Engineering College of Tokyo Imperial University.[261]

- In 1911, Tadashi Sekino, Seichi Tanii and Sunichi Kuriyama investigated Goguryeo relics and sites – including Pyeongyangji, Yonggang, Kangdong, Seongcheon and Bongsan – from 24th September to 20th October. They obtained a number of ancient tiles and fragments in the castle and palace areas. These were taken to Japan.[262]

As seen in the above cases, many Korean cultural objects collected by Tadashi Sekino's team were removed to his University in Tokyo. While Sekino was conducting an architectural investigation in ancient castles and Buddhist temple sites located around Gyeongju, the capital of the Silla Kingdom, he collected old Silla tile bricks, and took them to Japan. Approximately 500 were displayed at the exhibition held by the Department of Architecture of Tokyo Imperial University Engineering College in April 1912.[263]

The investigation and excavation project focused on the relics of the Silla Kingdom around its capital Gyeongju; and those of the Goguryeo era around Pyeongyang. There was a clear political purpose: to justify the occupation and annexation of Korea, and the assimilation policy[264] that followed. Japan chose the regions of the Silla Kingdom in order to produce material evidence intended to prove its 'Korea-Japan with the Same Ancestors Theory', i.e. the spurious claim that historically, Korea and its culture had been part of a greater Japan: meaning that annexation and assimilation would effectively reverse an historic separation.[265] Similarly, by choosing Pyeongyang as the other priority area, Japan aimed to justify its claim that Korean history had been heteronymous, based on the assumption that the Korean Peninsula had been controlled by China for a certain period in ancient times, notably during the Goguryeo period.

2.4 The Five-year Project for Investigation of Korean Cultural Heritage and Assets by Japan (1916-1920)

In 1915, Japan moved on to what became a second phase, by opening the 'Joseon mulsan gongjinhoe'[266] (Exposition of Korean Products) at the Gyeongbokgung Palace in Seoul; celebrating the fifth anniversary of the occupation of Korea; and promoting the beneficial effects of its colonial rule. This large exhibition, in one of the most iconic sites of the Joseon Dynasty swept away by the occupation and annexation, aimed to compare historic Korean products with modern items.

Just after the Joseon mulsan gongjinhoe in October in 1915,[267] the JGGK Museum was established under the leadership of Masatake Terauchi, the then Japanese Governor-General in Korea. A building used as an art museum during the Joseon

mulsan gongjinhoe became the main building of the new JGGK Museum, while some other buildings of Gyeongbokgung Palace were remodelled into exhibition halls, storages, and offices for the Museum.

Japan's investigations of Korean cultural heritage had been conducted by researchers entrusted and appointed by JRGK or JGGK: the latter supporting them with administrative services and by offering the protection of the Japanese military police, local police, Japanese staff and guides. After the new Museum was established under the jurisdiction of the JGGK's General Affairs Bureau,[268] a plan proceeded, whereby it wished to directly lead the investigation. The role of the new JGGK Museum included investigating Korean cultural heritage generally, as well as collecting and exhibiting Korean cultural objects.[269]

The JGGK began a full investigation into historical sites and relics in Korea under the five-year plan from 1916. This intended the scrutiny of ancient remains in chronological order and focused on unearthing ancient tombs. In addition, the project aimed at further increasing the collections and displays of the JGGK Museum.[270] The areas investigated during the first five years were:

- First year (1916): Ko Joseon (Old Joseon) and Goguryeo states / Hwanghae, Pyeongan, Gyeonggi, and Chungcheong Provinces.
- Second year (1917): Samhan, Gaya and Baekje states / Gyeonggi, Chungcheong, Gyeongsang and Jeolla Provinces.
- Third year (1918): Silla state / Gyeongsang and Jeolla Provinces.
- Fourth year (1919): Balhae state and Yemaek, Okjeo, and Yeojin peoples / Gangwon, Hamgyeong and Pyeongan Provinces.
- Fifth year (1920): Goryeo state / Gyeonggi Province.[271]

In the meantime, as the JGGK continued the official investigations focused on collecting Korean cultural objects, and after the establishment of JGGK Museum in 1915, the looting of ancient tombs and illegal trafficking remained very prevalent; and protests from the Korean public and experts were heightened. In the face of this, the JGGK felt it necessary to establish not just an administrative, but a legal basis to the official investigation.[272] The result was the promulgation of four cultural heritage

statutes on 4th July 1916:

1. Rules for Conservation of Historical Sites and Relics (Directive No. 52 of JGGK)
2. Rules for the Investigation Committee of Historical Sites and Relics (Official Order No. 29 of JGGK)
3. Matters on Historical Sites and Relics (Official Order No. 30 of JGGK)
4. Cautions for the Administration of Historical Sites and Relics Investigation (Internal Order No. 13 of JGGK)[273]

The contents of these laws are as follows:[274]

Rules for Conservation of Historical Sites and Relics
(Directive No. 52 of JGGK, 1916)

Article 1

The term 'historical sites' in these Rules means old sites and remains relating to historical facts. The 'old sites' include:
prehistoric sites such as lands (containing shell mounds, stone implements or bone implements) and dugout huts;
ancient tombs, ancient capital cities, palaces, fortresses, palisades, palace gates, traffic routes, station houses, beacons, shrines, altar-mausoleums, Buddhist monasteries and temples and kilns of pottery, porcelain and ceramics.

The term 'relics' means materials that can be resources of history, art, crafts and archaeology. They include (date engraved) pagodas, gravestones, stone monuments, bells, Buddhist statutes, poles used in Buddhist ceremony and stone lanterns.

Article 2

The JGGK will provide a specific form of a register of historical sites and relics. It shall register one(s) that is/are worth conserving amongst them. The register shall include the below categories of examined information:
1. Object name
2. Object type, shape and measurement
3. Location
4. Name and address of owner or custodian
5. Present condition
6. Origin and related tradition, legend, etc.
7. Method of conservation

Article 3

The discoverer or the finder of historical sites and relics must report to the

head of a provincial police division (or to the head of a military police squad or outstation that manages police affairs). The discoverer or the finder shall do so in writing or orally within three days and shall not alter the present condition.

Article 4

The JGGK shall immediately notify the owner or the custodian of historical sites and relics if it registers them and shall send a copy of the register to the head of the police division concerned. If the JGGK does not register historical sites and relics whose discovery is reported as Article 3 states, it shall immediately inform the discoverer or the finder of this notifying it through the head of a police division concerned. If registration will be withdrawn, the owner or the custodian shall be reported in accordance with the foregoing paragraph.

Article 5

The owner or the custodian must obtain permission from the JGGK in advance via the head of a police division if the owner or the custodian intends to alter, move, repair or dispose the registered objects, or intends to build facilities that can have an effect upon the preservation of the objects. In order to obtain such permission, the owner or the custodian shall clarify the below information:

1. Registration number and object name
2. Purpose of alteration, removal, repair, disposal or facility
3. Method, process, outline plan and budget for alteration, removal, repair or facility
4. Time of alteration/change, removal, repair, disposal or facility

Article 6

The head of a police division shall immediately report to the JGGK when there is any alteration/change to the registered information of historical sites and relics.

Article 7

When the head of a police division reports finding of buried objects which conform to Clause 2 of Article 13 of the Lost Property Law, the head of a police division shall, in addition to an article in matters of reports in the Lost Property Law, arrange to provide evidential factors that can prove that the report sufficiently conforms to Clause 2 of Article 13. The head of a police division shall report such finding to the Governor- General of JGGK through the Director General of Police Affairs.

Article 8

Any person who violates Article 3 or Article 5 will be liable to a fine or a negligence fine not exceeding two hundred won (yen).

Additional Clause

These Rules will be enforced from 10th July 1916.

Rules for the Investigation Committee of Historical Sites and Relics
(Official Order No. 29 of JGGK, 1916)

Article 1

The Investigation Committee of Historical Sites and Relics will be established in the JGGK in order to examine Korean historical sites, stone monuments, places of natural beauty and historical interest and other relics, and to examine matters concerning the preservation of them.

Article 2

The Investigation Committee of Historical Sites and Relics is composed of one Chairperson and some Members.

Article 3

The Director-General for Political Affairs of JGGK is appointed as the Chairperson. Persons amongst high-ranking officials of the JGGK or those who are learned and experienced are commissioned as the Members.

Article 4

The Chairperson presides over affairs of the Committee. In case that unavoidable circumstances prevent the Chairperson from accomplishing the task, a Member appointed by the Chairperson acts on behalf of the Chairperson.

Article 5

The Committee investigates the following matters:
1. Investigation of historical sites and relics
2. Conservation of historical sites; collecting of relics and antiquities
3. Facilities that could have an effect upon historical sites, relics and places of natural beauty and historical interest
4. Investigation and collecting of old books and documents

Article 6

The Committee will make general plans for the investigation, collecting and conservation of historical sites, relics, old books and documents. The Chairperson shall also make annual plans for the field study, collecting and conservation of historical sites, relics, old books and documents, and shall submit them to the Governor-General of JGGK by the end of the previous year.

Article 7

The Member of the Committee shall apply to the Governor-General of JGGK for a field study preparing to describe the investigation plans, objects for investigation by item, location, study method and time.

Article 8

The Chairperson shall give the governor of the Do [Province] and the head of police affairs in the Do [Province] prior notification which includes a Committee Member's name, examination objects by item, location, study method and time when the Chairperson commissions the Member to do a field study.

Article 9

A Member who intends to engage in a field study shall consult with the local authority and the local police. The Member shall request military police or police officer's presence at the field study.

Article 10

A Member who is commissioned for a field study shall make and submit a detailed report of it to the Chairperson. The Chairperson shall report the Member's work to the Governor-General of JGGK. The Member shall enclose description of the purpose with collected objects and shall ask the head of the local police to send them to the JGGK. If there is apprehension that the object can be damaged, the Member shall carry it in person.

Article 11

The Committee will have a Secretary. The Secretary will be appointed from amongst high-ranking officials of the JGGK. The Secretary will be in charge of general affairs taking orders from the Chairperson.

Matters on Historical Sites and Relics
(Official Order No. 30 of JGGK, 1916)

In case that historical sites, objects and ancient documents are found, it shall be reported to the Governor-General of JGGK according to Article 2 of the Rules for Conservation of Historical Sites and Relics. In the event of the following situations, the authorisation by the Governor-General of JGGK shall be received in accordance with Article 5 of the Rules for Conservation of Historical Sites and Relics:

Historical sites and objects, craftworks or other historical structures are to be altered/changed;
Stone monuments, epigraphs and others to be transferred, repaired, or disposed of;
New facilities affecting historical places to be installed.

If any case with the authorisation given is to be conducted, it shall be reported immediately to the Governor-General of JGGK.

Cautions for the Administration of Historical Sites and Relics Investigation
(Internal Order No. 13 of JGGK, 1916)

Article 1

Investigation of historical sites and relics shall be based on the general plan of the Investigation Committee of Historical Sites and Relics and on the annual plan to execute.

Article 2

The Member of the Investigation Committee of Historical Sites and Relics

shall notify the administrator in charge if the location of historical sites or relics is the state's land, or shall ask the owner's consent if the location of them is a private land.

Article 3

If necessary, photography before or during the excavation of historical sites and relics or making a detailed map of the structure and layout of buried remains shall be conducted.

Article 4

If the status quo of historical sites and relics is altered/changed during the investigation, they shall be restored to their original status. However, in case that it is difficult to restore them due to any reasons or that it needs to repair or to fence, then it shall be reported to the Head of the Department of General Affairs, the JGGK for further directions.

Article 5

As soon as an investigation of historical sites or relics is completed, the investigation report shall be made along with attached drawings and photographs and submitted to the Chairperson of the Investigation Committee of Historical Sites and Relics.

Article 6

If the permission is not given from the Head of the Department of General Affairs, the JGGK, the results of the investigation shall not be announced.

Article 7

The Head of the Department of General Affairs, the JGGK shall write an annual report of investigations based on conducted investigations of historical sites and relics, and submit it to the Governor-General of JGGK.

As it can be seen from the above legal measures, taken as a whole, the JGGK controlled investigations concerning cultural heritage and relics throughout Korea, and ran the five-year plan. Thus, as Korean scholar Seok-yeong Choe observes, 1916 marked an important breakthrough in the history of archaeological excavations and investigations by Japan across Korea.[275] In 1911, the JGGK announced 'The Order of Buddhist Monasteries and Temples'[276]. However, this Order sets out the regulations for the operation of Korean Buddhist monasteries and temples, including their movable and immovable properties. Thus, there is a difference in meaning from the 1916 laws by which the JGGK actively investigated Korean cultural heritage and dealt with the provisions for excavated material.

The JGGK began to investigate Korea's cultural heritage more systematically by laying a legal foundation, and also showed Japan's intention to establish proper

procedures in relation to Korean cultural heritage, based on the JGGK Museum established in 1915.[277]

The implementation of these laws and regulations, as stated by Japanese Governor-General Masatake Terauchi, was intended:

> First, for investigation and conservation of ancient cultures, an investigation committee shall be established being given more attention academically. The JGGK itself shall conduct a unified plan for both investigation and conservation.
>
> Second, Korea's cultural heritage shall be prevented from being dispersed overseas being preserved inside Korea. Therefore, those cultural assets shall be used widely for academic and social education so that they can be utilised for a higher cultural awareness of Korean people. From this perspective, the JGGK Museum shall take responsibilities in investigation, conservation and exhibition.
>
> Third, the results of investigation shall be reported to the academic world in Japan and Korea, and shall be provided as academic research data. They shall be used as actual evidence for the cultural aspects of the Japanese ruling of Korea. Their vast amount of reports, illustrations and pictures shall be published and distributed. The volumes 1 through 5 of those illustrations and pictures with English notes and captions added shall be free distributed worldwide.[278]

Governor-General Masatake Terauchi and Katsumi Kuroita, Japanese archaeologist and palaeographer who worked in Korea, stressed the local conservation principle: 'The things of the land should be kept on that land'.[279] This idea of Terauchi's is mentioned above, and emphasised in the investigation centring on the JGGK and the role of the JGGK Museum through the new rules. Terauchi had in mind the international promotion of Japan's colonial rule of Korea suggesting that the Japanese colonial policy was a civilised one. In line with this, he proclaimed that Korean cultural heritage must not be exported overseas. However, this was largely, if not

completely, ignored, as evidenced by many export cases, as in the examples below. Moreover, Governor-General Terauchi was one of those who took Korea's important cultural property such as old books and literary materials to Japan. He managed to take 1,855 works of calligraphy, 432 books, and 2,000 pieces of celadon, mirrors, and other artefacts from Korea to Japan.[280]

The Rules for Conservation of Historical Sites and Relics (Directive No. 52 of JGGK, 1916) and Matters on Historical Sites and Relics (Official Order No. 30 of JGGK, 1916), listed 'definition', 'registration', how to 'report' when finding historical sites and relics, and procedures for the 'approval' for formative 'alteration/change', 'transfer', 'repair', and 'disposal'. Concerning the registration process in particular, Hyung-il Pai comments that the prominent role assigned to the colonial police in the process is striking (though commensurate with its ethnographic duties in the 1910s): all discoveries of tumuli, shell-mounds, monuments, religious relics, bells, and other artefacts, as well as all reports of damage or theft, were to be conveyed to the local police, who were required to keep detailed records on such matters. Apparently, destruction, looting, and trafficking of antiquities by locals was prevalent enough to warrant such oversight.[281]

In addition, Articles 3-5 stipulated conservation rules that all procedures required the approval from the head of a police division. This suggests that the '(military) police system' under colonial rule was closely related to implementing cultural heritage policy.

Also, Article 5 of the Directive No. 52 and the Official Order No. 30 specify that the transfer and disposal of an historical site's structures, monuments and relics are only permissible with the prior permission of the JGGK. However, they then made institutional arrangements allowing Korea's cultural property to leave their places of origin and be relocated to other regions or be traded to individuals. Such Directives and Official Orders that had enabled 'transfer' and 'disposal' of this property were contrary to the principle of 'Prevention of Export to Overseas of Cultural Property - Local Conservation' proclaimed by Governor-General Terauchi. As the authorisation of transfers required the permission of the Governor-General, the actual practice in relation to exported Korean cultural property during the period needs to be examined:

were particular exports properly permitted, or at least reported to the Governor-General, in accordance with the laws?

Article 5 of Directive No. 52 mentions 'alteration/change' of historic sites and relics; and Official Order No. 30 includes the unearthing of ancient tombs and historical sites. Accordingly, any excavations carried out in accordance with the 1916 legislation were under the control of the JGGK; and therefore, done so with permission. In contrast, the unauthorised excavation of ancient tombs (in many cases, little short of crude looting) and the resulting acquisition and selling of the excavated materials were illegal; and under the legislation it ought to have been punished.

On 4th July 1916, the JGGK promulgated the Rules for the Investigation Committee of Historical Sites and Relics (Official Order No. 29 of JGGK, 1916) along with other laws, but had already appointed Committee Members on 26th April that year.[282] The Director-General for Political Affairs of the JGGK took charge as Chairperson of the Committee; other Members appointed included heads and high-ranking officers of the relevant JGGK departments, together with leading Japanese scholars such as Tadashi Sekino, Katsumi Kuroita, Ryu Imanishi and Ryujo Torii: all of whom had already been entrusted with the investigation of Korea's cultural heritage, historical records and old books by the Japanese government and the JGGK.[283]

In accordance with the Rules, the Committee established a draft plan for investigations of cultural heritage in Korea. Its academic Members played a key role in the JGGK's investigation of the historical sites and relics, through their strengthened status. However, Article 9 stipulated that the investigations must be conducted in the presence of a military or civilian policeman, confirming the role of the 'military police system' of the colonial administration mentioned earlier.

Also, Article 10 provides that objects found which are liable to be damaged shall be personally carried away from the sites by a Committee Member. In practice, this Rule offered the possibility for the Committee Members to conceal; then secretly retain important unearthed cultural objects personally.

According to Article 10 of the Rules for the Investigation Committee of Historical

Sites and Relics; and Articles 5 and 7 of the Cautions for the Administration of Historical Sites and Relics Investigation, researchers should submit an investigation report after each investigation. However, Article 6 of the Cautions stipulated that the results of any investigation need not be announced without the permission of the Head of the Department of General Affairs of the JGGK. Whether intended or not, the effect of these policies and practices were that Korea's material culture and history could be concealed or distorted by an authority such as the JGGK or be interpreted in an arbitrary way in support of the 'colonial view of history'. However, more serious is that, even now, the original investigation results from the projects have never been published or even released to researchers later; only very limited 'official' results, suspected by Korean and other authorities to have been distorted or arbitrarily interpreted, have been made available in the great majority of cases. Without information on cultural context of the excavations, the discovered artefacts and other materials are almost meaningless; thus, merely amounting to 'simple stuff' or collector's items.

It is clear from cultural heritage investigations conducted at the time that very many Korean cultural objects had been already exported to Japan even before the 1916 legislation; and this continued after 1916. Significant examples include:

- Some of the objects excavated from Jangreung, the tomb of King Injong of Goryeo Kingdom in Gaeseong gun, are introduced in Volume 7 of *Chōsen kosekizuhu*. According to Japanese scholar Husanoshin Ayukai's records, they were illicitly excavated in 1907 or 1908, and taken to Japan.[284]

- A great number of the ancient tombs of Gaya federation in Changnyeong, Goryeong, Haman, Gimhae, Seongju, Seonsan and other southern areas in Korea were apparently randomly excavated by Japanese to try to find evidence supporting Japan's claim that these areas had been ruled by Japan for a certain period in ancient times.[285] The tombs were devastated by robbers. In particular, many ancient tombs were excavated by Katsumi Kuroita in 1915 and 1917; most of the finds were taken to the College of Liberal Arts, Tokyo Imperial University. Likewise, the excavation of Gaya state's ancient tombs by the Japanese began with an aim to find evidence in support of the

Japanese claim, with most burial accessories and objects taken to Tokyo Imperial University.[286]

- Over 100 ancient tombs were excavated in Gaya region – Bannam myeon, Naju gun, and Jeolla Province - between 1917 and 1919; and in Changnyeong gun, Gyeongsang Province from 1918 to 1919, by Seiitsu Yatsui's team. The number of excavated objects was huge; transporting the finds from these tombs alone required 20 horse-drawn carriages and two goods wagons. However, when Seiitsu Yatsui left Korea in 1921, everything was taken to Japan, and eventually exhibited in the Tokyo Imperial Museum in 1928.[287]

- Almost all buried objects found in many ancient tombs in Changnyeong disappeared, due to continual tomb robberies after the opening of the site by Seichi Tanii. JGGK staff checked this case a couple of times, but the grave goods and accessories had already fallen into the hands of Japanese collectors. Prominent among these were Jiro Ichida and Takenoske Ogura: who lived in Daegu, Korea. After they returned to Japan, taking their Korean collections with them, some of the most valuable items were designated under Japanese national heritage law as 'national treasures' or 'important works of art'.[288] The present-day catalogue of the Ogura Collection in Japan includes very fine golden artefacts discovered in Changnyeong, Korea.[289] Illicitly excavated objects from numerous ancient tombs of Gaya state immediately disappeared through Japanese collectors living in Daegu, Busan and Seoul, Korea; and in Japan.[290]

2.5 Investigation of Korean Cultural Heritage and Assets by Japan (1920-1930)

Having annexed Korea, Japan suppressed and exploited it and its people in all fields (economic, social, and cultural) using military strength. Using the military police, the JGGK repressed the civilian population: imprisoning numerous anti-Japanese activists, carrying out human rights abuses, and restricting freedom of speech, press, assembly, and association. The JGGK aimed to suppress the legitimate basis of Korea in a number of ways, notably by strengthening economic controls and colonial exploitation; seeking to extinguish Korea's cultural identity and impose Japanese

culture instead. Many Koreans resisted colonial rule, and an anti-Japanese independence movement developed, launching non-violent resistance throughout Korea on 1st March 1919. In the three months of the national independence movement (which became known as the 1st March Movement), Japan's violent military response caused about 7,500 deaths and 16,000 injuries; while 47,000 Koreans were detained.

The Korean resistance led to the JGGK investigation of Korean cultural heritage and assets being stopped for some time. Koseki chōsaka[291](Department of Historical Sites and Relics Investigation, JGGK) in charge was officially abolished due to austerity measures in 1924 – though the investigation project continued, albeit on a reduced scale, and managed by Shoukyouka (Department of Religion) under Gakumu kyoku of the JGGK.

In 1925, two professors of Tokyo Imperial University, Kuroita and Muragawa, made a proposal to carry out a major excavation in Korea, and successfully secured funding from a Japanese sponsor, Hosokawa. They requested the JGGK to give them permission to excavate Nakrang ancient tombs, located in Pyeongan Province in Korea, as a project for their Historical Society (later, for the University's Faculty of Literature). As explained above, under the Rules for Conservation of Historical Sites and Relics (1916) and the Matters on Historical Sites and Relics (1916), such activities required the approval of the JGGK; and all finds of historical relics and cultural objects needed to be immediately reported to the JGGK through the local chief of police. Also, when a relic or object needed to be altered/changed in any way, e.g. by excavation or the dismantling or removal of stonework, permission again had to be obtained. In practice, no excavation or other work could be done without this permission; throughout the entire period of the Japanese occupation, most excavations were conducted by the JGGK Museum and the Research Society for Korean Historical Sites and Relics whose office is in the JGGK Museum.[292]

Consequently, for the proposal of excavation in Pyeongyang in 1925, Tokyo Imperial University submitted an application for permission to the JGGK, in the following terms:

To Recipient: JGGK
Regarding Excavation of Nakrang Ancient Tombs

Tokyo Imperial University's Faculty of Literature wishes to excavate Nakrang ancient tombs in Pyeongyang, Daedong gun, and Pyeongan Province under the JGGK's jurisdiction for archaeological research. So, the University asks for the JGGK's permission according to the following provisions:

1. The period of excavation is scheduled for forty-five days from the middle of September.
2. The University will cover the costs for excavation and investigation.
3. The excavation will be under the supervision of Professor Muragawa, Professor Kuroita and Assistant Professor Yoshido Harada.

On receipt of this, in its 22nd Meeting, the Investigation Committee of Historical Sites and Relics of the JGGK decided to give Tokyo Imperial University permission for this excavation under six conditions, as follows:

1. The sites of excavation and investigation shall be no more than four ancient tombs within Wonam myeon and Daedonggang myeon in Daedong gun, Pyeongan Province.
2. When doing excavation and investigation, Tokyo Imperial University shall consult beforehand with the Heads of the Provincial Office and the police respectively in the region concerned. Also, the University must have a Member or Members of JGGK's Investigation Committee of Historical Sites and Relics in order to participate in the excavation and investigation.
3. The costs related to any damage to the sites if made, as well as to excavation and investigation, shall be covered by Tokyo Imperial University.
4. Excavated ancient tombs shall be fully restored to their original state. A stone post with the investigation date shall be installed in front of the tomb.
5. All excavated objects except for JGGK's designated ones shall be fully preserved and kept by Tokyo Imperial University. The University shall

> provide them as study materials for other researches and shall not sell nor transfer them. All of the excavated objects shall be designated by JGGK except for duplicated ones.
> 6. A detailed report shall be submitted to JGGK's Investigation Committee of Historical Sites and Relics.[293]

The excavated tomb concerned was Registration No. 205 Ancient Tomb (Wangwoo Tomb) located in Seokam ri, Daedonggang myeon, Pyeongyang. By the time that the excavation finished in November 1925, more than 200 important artefacts had been found. Because Wangwoo Tomb discoveries were remarkable enough to surprise the world, the news that the excavated objects would be exported to Japan led to serious public concern and criticism in Korea. It was asked why those excavated objects were allowed to be taken to Japan with permission given by the JGGK, as condition No. 5 said 'All excavated objects except for JGGK's designated ones shall be fully preserved and kept by Tokyo Imperial University'.

Katsumi Kuroita, who visited Pyeongyang to settle the excavation, promised the following:

> We have excavated not for the sake of curiosity but for research. Preservation of those excavated objects is meaningful for research purpose only. Therefore, we will return the objects to Korea as soon as Tokyo Imperial University finishes its research on them because it is not good to spread them in Tokyo Imperial University or to private organisations. So, we will return them to Korea at any time when a museum is established in Pyeongyang.[294]

Strong Korean public criticism was not satisfied. A Korean newspaper The *Donga Ilbo* argued:

> The excavation of the ancient tomb is still ongoing. It is not time to mention any other matters including scientific examinations on them which will take quite a long time. However, there is a kind of weird rumour concerning this excavation. It says that the findings from the tomb will be

> taken out of Korea, which we cannot overlook. We have heard that a certain scholar said that it should be good to take them to Japan. It seems that the reason for the removal is from material greed rather than academic need.[295]

In spite of such strong criticism, the Japanese team took the excavated objects to Tokyo Imperial University as they intended.[296] Moreover, they took all of the excavated material, including much which might have qualified as Korean national treasures, without consultation with the JGGK.[297] Later, a museum was established in Pyeongyang; but the promise to return them to such a museum was not kept. Only in 2001 did some of those objects come to Korea, but then only as a loan to the National Museum of Korea for a temporary exhibition.[298]

Also in 1924, the Japanese Shinji Tomida, then living in Pyeongyang, obtained a metal mirror which was illicitly excavated from an ancient tomb in Seokam ri, Pyeongyang; and two days later, sold it to a Japanese lawyer, Moriya, a collector in Kyoto, Japan. However, the JGGK did not take any action against Tomida; this failure to act incited further robbery of Nakrang tombs, while numerous ancient tombs in the area were damaged by people seeking to rob very valuable metal mirrors from them, which were then sold to or through Shinji Tomida who was reported to have more than 100 mirrors by 1927.[299] Yet the JGGK did not take any measures to prevent such illicit digging. The very important original discovery of 1924 may well have alerted Tokyo Imperial University academics to the archaeological potential of the area, leading to the 1925 excavation proposal to the JGGK.

Pyeongyang had been a focus of public attention and the centre of Nakrang's material culture for some years; many artefacts had been excavated from 1909 onwards. There was a political dimension to this in terms of the JGGK's attempts to help justify Japanese colonial rule; and how Nakrang's remains related Chinese Han and Jin Dynasties in terms of both the tomb structure and the strong colours of the excavated pottery. The Japanese argued that such ancient artefacts of Nakrang could demonstrate Chinese influences or even occupation in around 108 BC, and could disprove Korean claims of a very long and distinct nationhood and cultural history. Therefore, the JGGK's priority was to conduct excavations of ancient tombs of the Nakrang period

in Pyeongyang, in order to seek 'proof' of the Japanese historical narrative. Tadashi Sekino was commissioned to conduct investigations on three ancient tombs in Pyeongyang in 1909; while between 1916 and 1925, more than 20 Nakrang tombs were officially excavated, mainly by the JGGK Investigation Committee of Historical Sites and Relics.

Following the abolition of JGGK's Department for Korean Heritage and Assets in 1924, the large scale professionally-run investigation and excavation project of JGGK soon ceased. However, as the news that splendid artefacts were to be found by excavation in Pyeongyang became widely known, illegal excavation and robbery of tombs became rampant. In fact, tomb theft was so widespread that the four or five-year period from 1924 became known as the 'Epoch of Ancient Tombs Theft'. Stolen ancient objects quickly attracted much attention from rich Japanese collectors residing in Pyeongyang, most of the finds fell into their hands and were eventually exported without permission.[300] Such a large amount of excavated treasury artefacts created a boom in collecting Nakrang ancient materials among ordinary people as well as experts; with the historical site of Nakrang destroyed by tomb robbery throughout the 1920s'.[301]

Another example of JGGK excavation at that time occurred in the southern part of Korea: Bubuchong (meaning of an ancient tomb of a married couple) in Yangsan, Gyeongsang Province was excavated by Japanese archaeologist, Keikichi Ogawa, commissioned by JGGK in November 1920.[302] This ancient tomb Bubuchong was assumed in advance to have been full of artefacts: so from the start, the excavation was primarily for the purpose of collecting the expected grave goods. The artefacts discovered amounted to 340 items, including a gold crown, pottery and various accessories. All were removed to Japan, and are currently kept by Tokyo National Museum, which records the collection as 'donated by the JGGK'.[303]

Commenting on such excavations and cultural heritage investigations at the time, the Japanese scholar, Ryosaku Fujita, recognised the seriousness of what happened:

> Many Korean historical relics such as stone pagodas and stone monuments were intentionally excavated, transported to Japan, and sold. For example,

> five to six hundred Nakrang tombs in Pyeongyang were robbed from 1924 to 1926; and all tombs in Yangsan that were regarded perfect and important in southern part of Korea were illicitly excavated in 1927. In addition, the tombs in Changnyeong found to have evidence that contradicted the Japanese claim that the southern part of Korea had been ruled by Japan for certain periods in ancient times, were all destroyed in 1930. Tombs of the Goryeo Kingdom in Gaeseong city and Ganghwa Island were severely damaged due to Japanese collecting Goryeo ceramics. Therefore, huge destruction of ancient tombs is actually occurring in the whole of Korea.[304]

As another example, in 1926, pottery and kiln fragments found in ancient kiln sites at Mt. Gyeryongsan in Chungcheong Province were robbed, traded with Korean-based antique dealers, and even sent to Tokyo and Osaka, Japan, where they could be sold at a higher price. These kilns were examined between 1918 and 1919 by Shozaburo Yagi and Tsunekichi Oba, Japanese staff working at the Yi Royal Museum of Korea and the JGGK Museum respectively. Illicit excavations were often made after 1926; and pottery found in Mt. Gyeryongsan was taken by a Japanese employee of Gongju City District Court in January 1928. The pottery was brought to Seoul for sale; a Japanese antique dealer, Ikeuchi, bought it and old part of it to his co-workers at Keijo bijutsu kurabu[305] (Seoul Arts Club). Later, pottery from Mt. Gyeryongsan was continually sent to Seoul: Japanese antique dealers went openly to Korea to buy this, so pottery from Mt. Gyeryongsan became very popular in Japan and in the international art market. Ikeuchi even bought areas of land with important archaeological sites at Mt. Gyeryongsan and searched the site to discover pottery for sale. He was followed by co-workers at Seoul Arts Club, who then competed with each other to search for pottery, and bought fields with old kiln sites.[306]

At the time, it was widely known that most Japanese antique and art dealers colluded with numerous professional grave-robbers and made copious profits. Japanese scholar, Koizumi, Director of Pyeongyang Museum during the Japanese occupation, wrote in a Japanese magazine *Geijutsu to Seikatsu*[307] (*Art and Life*) in 1965:

> The robbery of ancient kilns' sites in Mt. Gyeryongsan was like a form of enterprise. At that time, numerous antique dealers gathered in Mt.

> Gyeryongsan. The trade between pottery-robbers and dealers was constantly made without cease. Even a publication in Japan revealed that pottery that was originally bought for 20 won (yen) was later sold for 14,000 won (yen).[308]

The reason why tomb robbing in Mt. Gyeryongsan was on such a scale was partly because the pottery produced in the region was of a type highly prized for use in the traditional Japanese tea ceremony. Korean bowls were regarded as very suitable for tea bowls, because their irregular free and soft style was in harmony with the atmosphere that Japanese people seek during tea ceremonies. In fact, some of the kilns in Mt. Gyeryongsan were found to be sources of the most highly prized Tsunagasa tea bowls – those produced by the Japanese master potter, Fujitaka, during the time he lived in Korea. This made Mt. Gyeryongsan and its pottery even more famous, which in turn provoked illicit digging and collecting for sale.[309]

Many ancient tombs, especially those believed to be royal tombs, were seriously damaged by looters. For example, when four ancient tombs (which looked like royal tombs of the Baekje Kingdom and were found in a hilly area of Songsan ri, Gongju, and Chungcheong Province) were professionally excavated in March 1927, they were found to be already robbed and damaged.[310]

2.6 Investigation of Korean Cultural Heritage and Assets by Japan from 1931 until Korea's Restoration of Independence in 1945

In the first half of the 20th century, Japan conducted a series of aggressive wars: the Manchurian Incident in 1931 was followed by the Sino-Japanese War in 1937, and the Pacific War (the Second World War) of 1941-1945. Japan's strategy included making Korea into a key logistics base for the war effort, so it continued to plunder Korea for supplies of human and material resources until its surrender to the Allied Forces in 1945.

Given the economic and manpower pressures of successive wars, the JGGK no longer showed any great enthusiasm for Korean cultural heritage investigation and excavation projects by the 1930s. Under wartime pressures, there were fewer

resources available. As the Japanese imperial rule expanded to the occupied north-east region of China after the Manchurian Incident in 1931, the JGGK's projects of investigation was suspended due to financial problems.[311]

Also, ideological aspects which had been the major driver of cultural heritage projects for two decades or more – i.e. to 'prove' the current Japanese version of Korean and wider regional history and hence, justify colonisation – were of less importance now compared with the waging of aggressive overseas wars.[312]

Another Japanese scholar, Ryosaku Fujita, who was involved in the projects during that time, recalled that:

> It was extremely difficult for the JGGK Museum with the small number of staff to carry out its role and projects as a central museum in Korea as well the survey, designation, preservation, investigation, and conservation of historical places, treasures, scenic places and natural monuments throughout Korea. To make it worse, the fiscal austerity and rearranged administration of the JGGK reduced the program of investigating Korean cultural heritage year by year. Accordingly, a large part of the ongoing projects concerned has stood still since 1925.[313]

In order to break the near deadlock which had resulted from the JGGK Museum's dwindling levels of staffing and funding, the JGGK tried to gather research funding from outside. Thus, in August 1931, the Research Society for Korean Historical Sites and Relics was established for the purpose of researching historical remains, though in practice mainly in Pyeongyang and Gyeongju.[314] Its rules were as follows:

***Rules for the Research Society for Korean Historical Sites and Relics* (1931)**

Article 1

The Society is called the Research Society for Korean Historical Sites and Relics.

Article 2

The Society aims to promote Korean culture by researching historical sites and relics around Pyeongyang and Gyeongju.

Article 3

The office of the Society is based in the JGGK Museum.

Article 4

The operation expenses of the Society are maintained by donations of supporters for this Society's activities.

Article 5

The business year of the Society is based on the governmental financial year.

Article 6

The project plans of the Society along with the budget shall be approved by the decision of the Society's Committee. The results of the executed projects shall be reported to the Committee within two months after the end of the business year.

Article 7

The Society has the following organisation: five Executive Members, two Auditors, a few Ordinary Members and two Secretaries. One of the Executive Members shall be the Chairperson. The Director-General for Political Affairs of JGGK is appointed as Chairperson. The Chairperson appoints Executive Members, Auditors, Ordinary Members and Secretaries.

Article 8

The Chairperson deals with general affairs of the Society and represents it. In case of the Chairperson's absence, one of the Executive Members, nominated by the Chairperson, acts on behalf of the Chairperson. The Executive Members take responsibilities in assisting the Chairperson, and in conducting affairs of the Society. The Auditors audit accounting and finance of the Society. The Secretaries handle general affairs under the supervision of the Chairperson.

Article 9

The Council of the Society is composed of the Executive Members and the Ordinary Members, and makes decisions on important matters concerning this Society.

Article 10

The relics collected by the Society's project will be disposed according to the Council of the Society's decision except for those reverted to the state treasury.

Article 11

The detailed rules for conducting the Society's projects are decided by the Chairperson through the decision of the Council.

The office of this Society was based in the JGGK Museum, as stated in Article 3 of the Rules; but branch institutes were also set up in accordance with Article 2. Gyeongju Institute was established in the Gyeongju branch museum of the JGGK

Museum; and Pyeongyang Institute in Pyeongyang Prefectural Museum.

One of the main objectives of the Society was to seek and receive donations from external sources. However, in reality, donations came mainly from the Japanese Imperial Household Agency, the Japanese government, and Nihon gakujutsushinkōkai (Japan Society for the Promotion of Science). The official, rather than non-governmental, nature of the nominally 'arms-length' Society was emphasised by Article 7, which appointed the Director-General for Political Affairs of JGGK as ex-officio Chairperson. Thus, the activities of this Society were closely related to what the JGGK had been doing. Nevertheless, it was able to function as an extra-governmental body in practice and undertook the investigation of Korean cultural heritage and assets in the JGGK's place.[315] The Society played a leading role in the continued survey and investigation from 1931, and continued until Korea's restoration of independence in August 1945.[316]

For the financial resources needed for survey and investigation, the Society relied not upon the direct JGGK budget; but external donations, largely from Japan. Accordingly, it had no choice but to select mainly historical remains for investigation that could guarantee visible results. Thus it intensively investigated the Nakrang ancient tombs in Pyeongyang and those in Gyeongju.[317] Japanese archaeologist, Sueji Umehara, pointed out that ancient tombs continued to be excavated in Nakrang even after 1935; and numerous archaeological objects were collected in the hands of collectors in Pyeongyang and Seoul.[318] However, these selected areas were mostly those which the JGGK had already focused on during the previous two decades. As a result, the Society's policy on survey and investigation effectively remained in line with the Japanese government's overall policies towards occupied (then annexed) Korea.

The 1931 Rules also specified which Korean cultural property could be exported to Japan. These were much more liberal than existing JGGK laws (though the latter remained unchanged and should still have been followed). Article 10 provided that collected objects, except those handed over to the State, could be disposed by the decision of the Council of the Society. In other words, as long as cultural objects, artefacts, old books, and records excavated or discovered through Society investigations were not claimed by the State, they could be exported, sold and

privately acquired.

This was exactly what happened in the case of finds from several important ancient tombs in Jeongbaek ri, Daedong myeon, Daedong gun, and Pyeongyang between 1932 and 1933: excavated for the Society by Japanese archaeologists, Tsunekichi Oba and Sueji Umehara. Nothing was handed over to the JGGK; so in accordance with Article 10, everything was disposed of by a decision of the Council of the Society.[319] Approximately 180 objects found in No.127 Ancient Tomb, including potteries, lacquer wares, metal objects, harness, a wooden seal and a long sword, were donated to the Tokyo Imperial Museum.[320] In return, the Tokyo Imperial Museum gave 5,000 won (yen) to the Society as grants to encourage further academic activities over the three years from 1933 to 1935.[321] These finds are currently kept by Tokyo National Museum which records them as a donation from Kiyonori Imaida, then Director-General for Political Affairs of JGGK and as such, the Chairperson of the Society in accordance with Article 7 of the 1931 Rules.[322]

Another example relates a find of many ancient objects made of gold and silver, gems and other antiquities found by a resident of Noseo ri, Gyeongju eup, Gyeongju, and Gyeongsang Province on his own land in 1933; and reported to Gyeongju police station. Having received this report, the Society investigated the find with Kyoichi Arimitsu, who worked at JGGK Museum, commissioned by Gakumu kyoku of JGGK to do this. He was dispatched to Gyeongju and carried out an excavation from 12th to 19th April 1933. The majority of the excavated objects were donated to Tokyo Imperial Museum.[323]

In the 1930s, the JGGK reformed the existing legislation related to cultural heritage. In Japan, *Shiseki meishō tennenkinenbutsu hō* (*Act for Conservation of Historical Sites, Scenic Places and Natural Monuments*) – including natural monuments, as well as animals, plants, geologies and minerals – had already been proclaimed in 1919, and was being implemented. In order to include natural monuments and expand the categories of heritage referring to the above-mentioned Act, the JGGK abolished the 1916 Rules for Conservation of Historical Sites and Relics; and newly enacted and proclaimed the Ordinance for Conservation of Treasures, Historical Sites, Scenic Places and Natural Monuments in Korea in August 1933[324]:

***Ordinance for Conservation of Treasures, Historical Sites, Scenic Places and Natural Monuments in Korea* (Decree No.6 of JGGK, 1933)**

Article 1

1. The Governor-General of JGGK can designate structures, collections, books, paintings, sculptures, crafts, and others which symbolise history or become a model of fine arts, as a 'treasure'.

2. The Governor-General of JGGK can designate not only shell mounds, tombs, temple sites, castle sites, kiln sites, and picturesque places but also animals, plants, geology, and minerals which are materials for academic research and need to be conserved, as 'historical sites', 'scenic places' or 'natural monuments'.

Article 2

1. The Governor-General of JGGK shall seek advice from the JGGK Society for Conservation of Treasures, Historical Sites, Scenic Places and Natural Monuments (hereinafter the Society for Conservation) when it wants to designate according to the preceding Article.
2. The Governor-General of JGGK shall designate temporarily in times of urgency when there is no time to seek advice from the Society for Conservation.

Article 3

The Governor-General of JGGK shall order its administrator to visit relevant places to investigate treasures, scenic places and places of historical interest, and natural monuments, ask to provide necessary items, or have a survey of the land, excavate the land, alter/change obstacles, or do anything necessary for investigation. In this case, the administrator should carry personal identification.

Article 4

1. No treasure shall be exported nor shipped out unless it is permitted by the Governor-General of JGGK.
2. For the Governor-General of JGGK's permission specified in the above Clause, the advice from the Society for Conservation shall be sought.

Article 5

Any alteration/change or activity which can affect the conservation of 'treasures', 'historical sites', 'scenic places' or 'natural monuments' shall require the permission of the Governor-General of JGGK.

Article 6

1. The Governor-General of JGGK shall prohibit or limit a certain action or install necessary facilities to conserve treasures, scenic places and places of historical interest, and natural monuments.
2. Costs necessary to install facilities referring to the previous Clause shall be partially supported within the national budget.

Article 7

When the Governor-General of JGGK wants to permit according to Article 5 or make an order according to Clause 1 of Article 6, it should seek advice

from the Society for Conservation unless it is not a trivial issue.

Article 8

For any alteration/change in a treasure owner and disappearance or damage of the treasure, the owner shall report to the Governor-General of JGGK under the Governor-General of JGGK's regulations.

Article 9

A treasure owner shall have a duty to give the treasure to the Yi [Joseon] Royal Household's or public museums or art museums for a maximum one year under the Governor-General of JGGK's order. However, for the purpose of ancestral rites and execution of official duties or owing to unavoidable reasons, it shall be excused.

Article 10

In accordance with preceding Articles, a treasure giver shall receive government subsidies under the Governor-General of JGGK's decisions.

Article 11

In case that a person who suffers loss by Article 3 or Clause 1 of Article 6, or a treasure to be given according to Article 9 disappears or is damaged due to unavoidable reasons, the damage shall be compensated as provided by the Governor-General of JGGK's rule.

Article 12

In case that an owner of the treasure that is given by Article 9 is changed, a new owner shall succeed the duties and rights of the previous owner.

Article 13

1. The Governor-General of JGGK shall manage treasures, scenic places and places of historical interest, and natural monuments by appointing local public governments.
3. The costs necessary for management specified in Article 12 shall be supported partially within the state budget.

Article 14

For public or special reasons, the Governor-General of JGGK shall seek advice from the Society for Conservation to designate or cancel the designation of treasures, scenic places, places of historical interest, and natural monuments.

Article 15

In case the Governor-General of JGGK designates under Article 1 or Clause 2 of Article 2 or cancels the designation under Article 14, it shall notify and inform an owner, manager, or occupant of the object or land. However, if conservation of the designated object is necessary, the notification shall be made.

Article 16

The Governor-General of JGGK can have separate rules regarding treasures, scenic places, places of historical interest, and natural monuments owned by the nation.

Article 17

1. Treasures owned by a Buddhist temple shall not be seized.
2. Issues related to treasure management specified in preceding Articles shall be decided by the Governor-General of JGGK.

Article 18

1. Regarding historical remains such as shell mounds, tombs, temple sites, castle sites, and kiln sites, these shall not be excavated or altered/changed without the Governor-General of JGGK's permission.
2. Any person who finds any remains specified in preceding Articles shall report to the Governor-General of JGGK.

Article 19

The Governor-General of JGGK can entrust a governor of province with part of the duties specified in this Rule.

Article 20

A person who exports or ships out treasure without the Governor-General of JGGK's permission shall be sentenced to a maximum of five years in prison or would be subject to pay 2,000 won (yen) in fines.

Article 21

1. A person who damages/demolishes or conceals treasure shall be sentenced to a maximum of five years in prison or be charged 500 won (yen) in fines.
2. In cases that preceding Articles are related to one's ownership of treasure, he/she shall be sentenced to a maximum of two years in prison or 200 won (yen) in fines.

Article 22

In case that a person is related to the following clause, he/she shall be sentenced to a maximum of one year in prison or 500 won (yen) in fines:

1. A person who alters/changes treasures, scenic places, places of historical interest, and natural monuments or does something affecting conservation.
2. A person who violates Clause 1 of Article 6.
3. A person who violates Clause 1 of Article 18.
4. A person who violates Article 5 or Clause 1 of Article 18 or takes over the objects against Clause 1 of Article 6.

Article 23

A person who refuses/interferes with the performance of an administrator's duty under Article 3 or avoids/does not provide the things necessary for examination or provides a false thing shall be charged under 200 won (yen).

Article 24

A person who violates Article 8 and Clause 2 of Article 18 shall be fined 100 won (yen).

Supplementary provision

The date of enforcement shall be decided by the Governor-General of JGGK.

Following closely the principles and text of Japan's existing Act for Conservation of Historical Sites, Scenic Places and Natural Monuments, and Kokuhō hozon hō (Act for Conservation of National Treasures), the JGGK made the Ordinance for Conservation of Treasures, Historical Sites, Scenic Places and Natural Monuments in Korea (1933). According to the terms used in those Acts enacted in Japan and the Ordinance in Korea, a 'treasure'[325] is different from a 'national treasure'[326] by classification and designation. This reflects Japan's intention that, no matter how excellent or important Korean cultural heritage and natural monuments might be, they could not be a 'national treasure', but merely a 'treasure' suggesting that Korean cultural and natural heritage could not be equated in importance with those of Japan. In addition, Japan emphasised that Korea was its colony by differentiating the terms: 'Act' (for Japan); and 'Ordinance' (for Korea).[327]

As stated in the Articles 4 and 5 of the 1933 Ordinance, however, some institutional measures did allow for Korean cultural objects, no matter how important in national terms, to be taken to Japan with the permission of the Governor-General of JGGK. This suggests that the intention implied in Article 5 of the Rules for Conservation of Historical Sites and Relics (1916) and Matters on Historical Sites and Relics (Official Order No. 30 of JGGK, 1916), remained unchanged. More importantly, the scope of cultural and natural objects to be protected in accordance with the laws of 1916 and 1933 respectively had changed:

- In the 1916 Rules (Article 1 and Article 2)
  - 'Registered cultural objects' having values to be conserved.
- In the 1933 Ordinance (Article 1 and Article 2)
  - 'Treasures designated by the Governor-General of JGGK': historical evidence and symbols, or a model of fine arts

In summary, the 1933 Ordinance set out limited cultural objects to be protected at the level of 'treasures' only. As the Ordinance defines, 'treasures' are those 'designated' by the Governor-General of JGGK after consultation with the JGGK Society for Conservation of Treasures, Historical Sites, Scenic Places and Natural Monuments, in accordance with Article 2; not those 'registered' by founders, researchers, or holders of them. Therefore, following the repeal of the 1916 Rules, when the 1933 Ordinance

came into force, cultural objects and materials not defined as 'treasures' no longer had any legal provision for conservation or protection.

Another case of Korean cultural property exported to Japan during this period included that of a Japanese, Jion Karube,[328] teaching at Gongju High School in Chungcheong Province. He did a large number of investigations and photographed 115 ancient tombs located around Gongju between 1927 and 1932. He then contributed articles entitled 'Kōshū kudara kohun[329] (Baekje's Ancient Tombs in Gongju)' over eight series of papers in a Japanese magazine *Kōkogaku zasshi*[330] (*Archaeology Magazine*) between 1933 and 1936. In these, he presented many excavated objects, together with photographs; most of those illustrated are believed to have been taken to Japan. Afterwards, he took the artefacts found in Ssang reung ('of twin tombs' – known to be the tombs of King Mu of Baekje Kingdom and the Queen) in the name of investigating historical remains in the region of Jeolla Province. He escaped carrying a truck-load of Korean cultural objects to Japan as the latter surrendered in the Second World War in 1945. After his return to Japan, he donated some of the objects to Tokyo Imperial Museum.[331]

The Ordinance for Conservation of Treasures, Historical Sites, Scenic Places and Natural Monuments in Korea; and the Decree for JGGK Society for Conservation of Treasures, Historical Sites, Scenic Places and Natural Monuments[332], were proclaimed in 1933. In December, the Rules for the JGGK Society for Conservation of Treasures, Historical Sites, Scenic Places and Natural Monuments[333] were enacted. The relevant provisions were as follows:

Decree for the JGGK Society for Conservation of Treasures, Historical Sites, Scenic Places and Natural Monuments
(Decree No. 224 of JGGK, 1933)

Article 1

The JGGK Society for Conservation of Treasures, Historical Sites, Scenic Places and Natural Monuments (hereinafter the Society) is under the supervision of the Governor-General of JGGK, investigate and deliberate on important matters on treasures, historical sites, scenic places and natural monuments.

Article 2

The Society shall be organised with one Chairperson and forty Members. For special issues concerning research and investigations, Temporary

Members shall be formed.

Article 3

The Director-General for Political Affairs of JGGK is appointed as Chairperson. The Members and Temporary Members of the Board are appointed by the Cabinet of JGGK through the Governor-General of JGGK's recommendation.

Article 4

The Chairperson shall handle the affairs of the Society, and in case of an accident to the Chairperson, a Member designated by the Chairperson shall substitute his/her duties.

Article 5

The rules regarding decisions of the Society shall be decided by the JGGK.

Article 6

The Society shall have a secretary, who will be appointed among high ranking officials of JGGK by the Cabinet of JGGK through the Governor-General of JGGK's recommendation. The secretary shall handle general affairs under the Chairperson's directions.

Article 7

The Society shall have a manager, who will be appointed among officials of JGGK by the Governor-General of JGGK. The manager shall handle general affairs under the superior's directions.

Supplementary provision

The date of enforcement shall be decided by the JGGK.

Rules for the JGGK Society for Conservation of Treasures, Historical Sites, Scenic Places and Natural Monuments
(Instruction No. 43 of JGGK)[334]

Article 1

Department 1 and 2 shall be established in the JGGK Society for Conservation of Treasures, Historical Sites, Scenic Places and Natural Monuments (hereinafter the Society):

1. Department 1 shall manage treasures and historical remains.
2. Department 2 shall manage issues regarding scenic places and natural monuments.

Article 2

The Department's decisions shall be regarded as the Society's.

Article 3

The Governor-General of JGGK decides which Department the Members and the Temporary Members belong to.

Article 4

A general and a departmental meetings shall be convened by the Chairperson. On a simple matter as to be decided by the departmental

meeting, the opinions of the Members and the Temporary Members can be made in writing without holding a meeting. The departmental decisions shall be passed by a majority of two-thirds or more.
The Chairperson acts as chairperson of a general or departmental meeting, and organise opinions by opening and closing the meeting.

Article 5

A general meeting can be assembled when a majority of the Members and the Temporary Members of each Department are present. A departmental meeting can be assembled when a majority of the Members and the Temporary Members of the Department are present. However, for urgent matters, the attendance rate shall not be limited.

Article 6

The decisions shall be decided by a majority of the Members and the Temporary Members, and in cases of a tie, the Chairperson shall decide the issue.

Article 7

In case that Members or Temporary Members submit a proposition, more than five supporters in the general meeting, and more than three supporters in the departmental meeting must countersign and submit it to the Chairperson.

Article 8

The secretary shall write minutes and keep these along with relevant documents.

Article 9

In addition to what is prescribed in this Rule, the Chairperson shall decide what is required for the purpose of the Society.

The Director-General for Political Affairs of JGGK was appointed as Chairperson of the JGGK Society for Conservation of Treasures, Historical Sites, Scenic Places and Natural Monuments (hereinafter the JGGK Society for Conservation) pursuant to Article 3 of the 1933 Decree: re-enacting the provision of Article 3 of the 1916 Rules for the Investigation Committee of Historical Sites and Relics. In addition, Article 1 of the 1933 Decree specified that the JGGK Society for Conservation should be under the supervision of the Governor-General of JGGK. Article 4-2 of the 1933 Ordinance specified that when the Governor-General of JGGK gave permission for the export of treasures, prior consultation with the JGGK Society for Conservation would be required. As the 1933 Decree required that the Chairperson of the JGGK Society for Conservation should be the Director-General for Political Affairs of JGGK, and that the JGGK Society for Conservation should be under the supervision of the Governor-General of JGGK, it is clear that the law and in practice permission for the export of

Korean cultural property ultimately rested with the Governor-General.

In this respect, institutional arrangements were continually maintained by Japan to ensure that Korean cultural objects could be taken to Japan under a series of pieces of legislation up to and beyond the Rules for the Research Society for Korean Historical Sites and Relics of 1931, and the Ordinance for Conservation of Treasures, Historical Sites, Scenic Places and Natural Monuments in Korea of 1933. In fact, the 1933 legislation made no difference to the removal of Korean cultural property to Japan, nor were there any significant returns in the other direction.

To give just one further example, in the autumn of 1933, ancient tombs No. 54 and No. 16 in Hwango ri, Gyeongju, were excavated as a project of the Research Society for Korean Historical Sites and Relics. A variety of rare and valuable artefacts were found: in particular, examples of many types of earrings made of pure gold. The objects were then kept nearby in the Gyeongju Museum; but later, the gold earrings were taken to Japan, leaving behind only simple written descriptions and specimen labels rather than the detailed report that such an important excavation required. Kiyodaka Imaida, Director-General for Political Affairs of JGGK, and Chairperson of the JGGK Society for Conservation, took those objects to Japan. All of these were presented to Tokyo Imperial Museum.[335] In other words, the Chairperson of the JGGK Society which was established to 'conserve' Korean cultural heritage and assets, took national treasures from an important public museum in Korea, and removed them to Japan in order to give them to a Japanese museum: another case of improper removal of cultural property by the political authorities.

The JGGK published *Chōsen kosekizuhu* (*Illustrations of Korean Cultural Heritage and Assets*) in 15 massive volumes between 1915 and 1935. These include photographs of artefacts, artistic treasures, dolmens, tumuli, temples, and prehistoric and historic sites. The elegance with which the volumes were prepared expresses the majesty and grandeur of the curatorial endeavour. Each volume is 43 cm in length, cord-bound, and covered in silk, decorated with typical East Asian motifs. The plates on each gold-edged page are separated with tissue paper; some, usually those depicting tomb paintings, are in full colour. Moreover, the pagination and numbering of the photographs is continuous throughout the fifteen volumes, and the contents are

arranged in a resolute chronology.[336]

Many of the Korean cultural objects presented in the volumes were shown as part of the collections of Tokyo Imperial University and Tokyo Imperial Museum. These included objects found in excavations of ancient tombs in Pyeongyang, Gaeseong and Gyeongju. In addition, the books illustrated a great many Korean objects as possessed by Japanese private collectors. They included: Husanoshin Ayukai, Tsunekichi Oba, Shogo Oda, Keikichi Ogawa, Seiitsu Yatsui, Ichigoro Nakada, Hideo Moroga, Mihomatsu Komiya and Tadashi Sekino, all of whom had participated in the investigation projects, or had collected and purchased Korean cultural objects from the early stages of these.[337]

A large number of outstanding ceramics of the Goryeo Kingdom (published in Volume 8) were held by private collectors. Details of the volumes are as follows:

- Volume 1 (1915): Artefacts of Nakrang and Daebang commanderies and Goguryeo Kingdom (Pyeongyang vicinity)
- Volume 2 (1915): Relics from Goguryeo Kingdom and Jangan castle
- Volume 3 (1916): Relics from the Three Kingdoms period and Unified Silla Kingdom; special section on Buddhist icons of the Three Kingdoms
- Volume 4 (1916): Sites and relics of the Unified Silla Kingdom
- Volume 5 (1917): No discernible theme; seemingly random cataloguing of pre-Goryeo Kingdom stone statues, Buddhist icons, tile shards, etc.
- Volume 6 (1918): Goryeo Kingdom and medieval culture
- Volume 7 (1920): Goryeo Kingdom paintings and parchment manuscripts
- Volume 8 (1928): Goryeo Kingdom ceramics from various museum and private collections (some photos document pieces destroyed in the 1923 Great Kanto Earthquake of Japan)
- Volume 9 (1929): Goryeo Kingdom stone and metalwork, seals, mirrors
- Volume 10 (1930): Joseon Kingdom palace architecture from Gyeongbok, Changdeok, Gyeonghui, and Changgyeong royal residences in Seoul
- Volume 11 (1931): Joseon Kingdom architecture: regional castles, ceremonial platforms, ancestral shrines, Confucian academies and shrines, guesthouses, genealogical archives, libraries, gentry houses

- Volume 12 (1932): Joseon Kingdom Buddhist architecture from Pyeongan, Hwanghae, Gyeonggi, Gangwon, Hamgyeong, Gyeongsang, and Chungcheong Provinces
- Volume 13 (1933): Joseon Kingdom Buddhist architecture from Gyeongsang and Jeolla Provinces; stone monuments and grave markers from throughout the Korean Peninsula
- Volume 14 (1934): Joseon Kingdom paintings and the JGGK Museum's collections
- Volume 15 (1935): Joseon Kingdom ceramics from museums and private collections

The books contain virtually no commentary, aside from matter-of-fact one-page introductions and the photo captions. In much the same manner, ethnographers such as Chijun Murayama characterised themselves as 'collectors' of data for deeper thinkers. In later volumes, pictures of individual artworks or architectural landmarks predominate, but earlier volumes offer more landscape images (usually focused on tumuli, obelisks, grave markers, and dolmens) as well as a photographic record of the excavations and excavators. Some photographs show that the Japanese surveyors credited in the opening pages of each volume are dressed in clean three-piece suits and hats, with their hands either in their pockets or behind their backs. Sometimes, they are jotting notes. The men wielding shovels and hauling away pots of dirt are all Korean, distinguished by their soiled white garments and head wraps. A third distinctive group presented in these images is the gendarmerie. This is illustrative of the wide range of responsibilities assigned to colonial police forces in the Japanese empire.[338]

Japanese researcher Eisuke Zensho had an opportunity to see the collection of Ichigoro Nakada when he took part in the excavations at Gaeseong in 1923; and found this 'second to none'. The chief sources of Nakada's collection were Gaeseong, the capital city of Goryeo Kingdom; and the surrounding areas such as Gaepung gun, Jangdan gun, Yeonbaek gun and Keumcheon gun. It was said that: 'Disclosing the areas of the excavations is not desirable because many ancient tombs are being robbed', confirming that many of the Goryeo tombs were robbed during this period.[339] Only the ending of occupation in August 1945 brought to a close what had been

almost four decades of virtually open borders in terms of removing Korean cultural property to Japan.

2.7 Conclusion

The characteristics of the management of Korean cultural heritage by the JGGK may be summarised as follows:

- First, in advance of full annexation and colonisation, Japan conducted extensive investigations and excavations of Korea's cultural heritage and assets.
- Second, Japan modified the laws and regulations relating to cultural heritage in Korea, based on its domestic experience of making and implementing laws and regulations concerning cultural heritage.
- Third, superintendents of cultural heritage, both in their official capacity and probably privately, also participated aggressively in removing Korean cultural heritage; and failed to show due respect to the fundamental principles of managing cultural heritage during the occupation of Korea.[340]

From the beginning, Japan's investigation projects were organised directly by the Japanese government: acting through the JRGK and JGGK. This all appears to have been a matter of policy as part of Japan's plan to effectively apply and – perhaps even more importantly – justify its colonial policies in Korea.

An important part of these projects was the publication between 1915 and 1935 of the 15 substantial volumes of *Chōsen kosekizuhu*. These were all published in Japanese with detailed English notes and captions, and widely distributed overseas. Moreover, Masatake Terauchi, the first Japanese Governor-General, autographed the books himself, and presented them to important Western visitors, as part of his ostentatious display of the cultural aspects of colonial rule over Korea. However, the volumes were neither published by the JGGK in the Korean language, nor made widely available in Korea, implying that both the projects itself, and the showcasing of Korean cultural heritage, were not for people of Korea at all.[341]

Most of the important ancient tombs were excavated and robbed, not only of all of their contents, but also of important architectural features, during the first 20 years after the Japanese occupation of Korea. Korean cultural heritage was severely damaged by the manner in which these projects were implemented. Little associated scientific information on the nature and context of many of the important discoveries and their contents is available in Korea, and apparently even in Japan: making it very difficult to analyse the nature and historical truth of such ancient tombs; and so many of the excavation records, material evidence and information seem to have been lost. All the indications are that most of the activities throughout the whole period of the Japanese occupation amounted to little more than state-sponsored or private looting to meet the Japanese demand for rare and ancient objects, or to find evidence to support Japan's own claims regarding the history of Korea and the wider region.[342]

Moreover, although the colonial laws on cultural property and establishing cultural heritage institutions and museums were presented as measures intended to preserve and conserve the Korean cultural heritage, throughout the whole of the period of occupation, Japanese practice had paradoxically the opposite effect, as so many Korean cultural assets left their country of origin and were removed to Japan. A most extreme example comes in the guise of the first Governor-General, Masatake Terauchi. He collected or received as presents a very large number of various antiquities, art works, old books, paintings and calligraphies, all of which he took to Japan: where he even established his own private museum named 'Joseon Museum' in his hometown.

Even more extraordinarily, Terauchi's new museum building in Japan was a complete and spectacular wooden building from Gyeongbokgung Palace, Seoul, the most important and largest of the royal palaces of the Joseon Dynasty. He had the palace building pulled down and shipped to Japan, then rebuilt.[343] Another part of his Korean collections (notably historic books, documents, paintings and calligraphy) was donated to the Library of Yamaguchi Women's University in Japan in 1950, and today forms an important part of what the University has called the 'Terauchi Library' or 'Terauchi Collection'. Ironically, Terauchi was the Governor-General responsible for the 1916 promulgation of the first set of preservation laws governing archaeological remains.[344]

Commenting on the effects of the period of the Japanese occupation, Korean scholar Su-yeong Hwang wrote in 1973:

> Japan maintains that the so-called 'projects' of surveying and investigating Korean cultural heritage and assets was its contribution to Korea. Yet, how can they compensate for their robberies on Korean cultural heritage such as ancient tombs? Among them, we surely know that plundering the tombs of the Goryeo Kingdom in Gaeseong and many other places was so vicious that such plundering was beyond any example in human history. I have often heard from elders of each region that in the daylight, Japanese aimed their bayonets at the descendants of those who were lying in the tombs, trampled on their holy lands, and plundered sacred grave objects in front of descendants stamping with vexation. Indeed, among thousands of ancient tombs of the Goryeo Kingdom, have they really carried out, just once ever, so-called 'the investigation of the cultural heritage and assets' which the Japanese nowadays still justify their activities? … and is not Japan saying itself that there are tens of thousands of Goryeo ceramics now in Japan?[345]

Japanese scholar Isao Nakagiri has also reviewed the period:

> If we Japanese were Koreans, how would we conceive digging the ancient tombs? I cannot help but point this out. We should think about the feelings of Koreans who have been accustomed to Confucianism for the more than 500 years of the Joseon Dynasty. With a very strong Confucian belief of revering ancestors, Koreans' reverence for the ancient tombs of their people firmly remains unchanged, even though they might not be direct descendants of those who were buried under those tombs. So, is not it unbearable for Koreans to see the Japanese digging up the holy tombs under the name of academic research? Especially, it must be raising an unspeakable anger of elders who know their own past very well.[346]

As long ago as 1931, Ryosaku Fujita supplied similar sentiments:

> The Japanese researchers backed by the Japanese government propagated

> false facts that the past dynasties of Korea did not pay attention to cultural heritage and assets, and that Japanese has started to study and preserve them for the first time, arguing the 1902 study of Tadashi Sekino carried out is the first study presented in the academic world.[347]

These false conceptions were reproduced on a much greater scale by Japanese people living in Gyeongju, Korea, and led to actions such as the almost complete stripping of so many of the ancient cities' tombs, while these and many other cultural and religious sites and relics were randomly excavated and turned into tourist attractions without making any academic record of the often devastating work performed under the guise of 'discovery' and 'conservation'.[348]

The JGGK colonial authority carried out the projects of so-called survey and investigation on a very great number of cultural heritage sites and other assets across Korea throughout the period of occupation. However, it rarely published professional reports of the results of the great majority of excavations and other heritage activities, even though there were many experts from the Investigation Committee (1916), the Research Society for Korean Historical Sites and Relics (1931), the JGGK Society for Conservation of Treasures, Historical Sites, Scenic Places and Natural Monuments (1933), or the JGGK Museum, which should have been more than capable of keeping and publishing proper academic and professional reports and publications, implicitly (if not explicitly) required by law. No reports were ever produced for the excavations of No. 3 and No. 5 ancient tombs at Yangdong ri, Chowa myeon, Bongsan gun, Hwanghae Province in 1917; No. 4 tomb at Nodong ri, Gyeongju in 1924; and No. 8 and No. 13 tombs at Jeongbaek ri, Pyeongyang in 1933. More than a couple of generations later, the National Museum of Korea in Seoul finally published archaeological reports on these five tombs in 2001 and 2002: based on a re-examination of the structures and known finds, and the limited amount of information gathered together from various sources.[349]

Korean writer Dong-ju Jeong argued in 2001:

> The Imjin War (1592-1598) was a war where Japan plundered Korean people and heritage on the ground; the Japanese occupation of Korea in the

> 20th century was an act of brutality that destroyed and robbed Korean people and heritage under the ground.[350]

Also, the JGGK neither paid attention to nor established any system for the preservation of the important, intangible heritage of Korea throughout the period of the occupation. This was not surprising: Japan could not embrace this because it was so closely related to Korea's moral and spiritual culture, in a way that conflicted with Sino-assimilation policy. Thus Japan emphasised the form and technical characteristics only of Korean cultural heritage and assets, even when performing the so-called conservation policy of Korean tangible cultural property, at the same time as excluding Korean moral and spiritual culture. In effect, Japan's policy and management over the cultural heritage of Korea was to preserve the mere husk of it, while deleting all its contents.

While on the surface at least, Japanese investigations of the cultural heritage and assets of Korea had the very clear intention of obtaining cultural objects for collection, and alongside this laid its account of the history of relations between Korea and Japan at home and around the world, through which it sought to justify its right to rule over Korea. Japanese scholar Shinichi Arai says that Japan planned 'the colonial view of history' in advance, taking Sekino's research on Nakrang as an example.[351]

In order to do so, as Carter Eckert observes, the JGGK intentionally tried to make clear the intermingling of diplomatic relations and culture and the mixture of bloodlines between Korea and Japan throughout history. To increase this awareness, museums and local history study societies were to be established in areas where connections to Japan of the ancient Korean kingdoms of Baekje, Silla, and Gaya were strong.[352] The Japanese were intent on extending the concept of 'cultural assimilation' into the most intimate aspects of Korean life. Language was a crucial factor. Until 1938, Koreans had been able to attend schools in their own language and use Korean quite freely in public as well as at home. After 1938, the JGGK insisted on strict enforcement of the Japanese language in daily life, including in all educational facilities, which eventually resulted in an official movement to force Koreans to adopt Japanese names.[353] In 1942, Korea was formally declared an integral part of Japan, and its administration transferred from the Colonial to the Home Ministry of Japan.

Instruction in the Korean language had already been abolished in lower schools, and the study of Korean history forbidden.[354]

Regarding Japan's research on historical remains and archaeological excavations in Korea during the occupation, it is also notable that the large-scale excavation method led by JGGK (in collaboration with relevant disciplines), influenced research methods and techniques in Japan. Japanese scholars explain it as follows:

> The excavation and research of Nakrang historical sites in Korea done by Tadashi Sekino in the early 20th century is the case of establishing the excavation method as modern archaeological research, and has significantly affected the methods of archaeological excavation in the Japanese mainland, both directly and indirectly.[355]
>
> Professional archaeologists and architectural historians collaborated in large systematic excavations, including the Nakrang site and groups of mound burials in the Gyeongju region of Korea. This research was developed under the research plans of the JGGK. The archaeological surveying techniques and the illustrated reconstructions produced by architectural historians have set a model for later excavation in Japan. At that time, however, within Japan itself there were few comparable opportunities for such systematic research available to archaeologists. This situation remained almost unchanged until the 1950s in Japan.[356]

Japan's investigation of Korean cultural heritage and assets during its colonial occupation of Korea gave rise to the loss of huge numbers of the latter's cultural treasures. The investigation was also used as a tool to historically justify colonisation. The relevant laws enacted by JGGK revealed many loopholes, allowing various cultural materials to be taken to Japan, contrary to the nominal intention of protecting Korean heritage. Thus the Korean Peninsula became an experimental field for the technical development of Japan's archaeology.

Chapter 3. Institutionalised Japanese Removal of Korean Books and Libraries

3.1 Books and Libraries

The extensive research undertaken for this thesis using library and museum catalogues and similar sources has confirmed the widely-held view that a large amount of Korean library materials and ancient books are currently being held throughout Japan, in national or municipal institutions, universities, religious organisations and private collections. Some of these holdings are probably uncontroversial – for example, books and manuscripts of Buddhist classic texts were given by Korea to Japan as gifts as part of cultural exchanges in antiquity, or at least before the beginning of the 20th century. However, analysis of the number and size of Korean collections currently held in Japan and the apparent dates or periods of the transfers clearly indicates that cultural materials resulting from such instances of national gift-giving comprise only a tiny part of the total holdings of them in Japan today.

With regard to illicit removals, historians have identified three periods during which Korean bibliographical treasures were plundered by Japan. The first was during the late Goryeo and early Joseon periods (i.e. 13th-16th centuries), when Japanese pirate raiders known as Oegu often invaded Korea. The second was during the Imjin War (1592-1598). These periods are both overshadowed by the third period, which comprises the early 1900s and the Japanese colonial occupation (1910-1945).[357]

During this third period, which spanned almost the whole of the first half of the 20th century, the Japanese authorities removed books and archives from Korean institutions and collections in a systematic and large-scale manner. In addition to officially sanctioned Japanese removals, many Korean cultural materials of national significance were collected and removed by Japanese individuals visiting or working in Korea during the time of the occupation. The present-day legal and ethical situation in relation to private collecting and removals has been greatly complicated over the past half-century or more by the subsequent donation of such private collections of Korean books to Japanese public organisations and universities, many of which claim that they – and their contents – are now made outside the direct control of the Korean government.

Turning first to officially sanctioned institutional removal, this chapter reviews the way the Japanese government, as represented by the JGGK, removed Korean books and archives during its occupation of Korea. In order to do so, it is necessary to understand how the JGGK came to have sufficient institutional power to control these libraries and other collections. The chapter includes an examination of the JGGK's management policy towards Korean cultural heritage in general and its operations in this field in practice.

It would be more accurate to say that Japan started to engage in the administration of Korean libraries, books and the royal or national archives of Korea in 1905, when Japan established the JRGK in Korea – rather than in 1910, the year of the annexation of Korea by Japan. This is because the Japanese government had already begun a ground plan for colonising Korea using the JRGK, even though the Korean government was at least nominally maintained.[358] Indeed, the initial stage of the annexation plan was to exercise Japanese influence over all core activities of the Korean government.

Having launched its plan for permanently colonising Korea, Japan recognised that understanding the country was an important prerequisite for a successful occupation. It therefore initiated a project for collecting basic information and 'resources' about Korea. The scope of the project ranged throughout Korean territory and as included the full-scale investigation of books and archives. The JRGK needed to use a centralised administration to conduct this nationwide project effectively. The restructuring of the Korean government, by which Japan aimed to break up Korea's state power, began in 1905 as soon as the Russo-Japanese War ended, and as part of this, in 1907, the JRGK reorganised Korea's Kyujanggak[359] structure under Japanese control.

At the same time, the JRGK abolished the Hongmunkwan (another important Korean royal institution for the administration and management of books and archives) and transferred all its library materials to Kyujanggak. It also arranged for the transfer of all the materials kept in both the Sigangwon (the royal institution that taught the crown princes) and the Jipokjae (the king's study room) to Kyujanggak. The JRGK

made Kyujanggak a centralised institution which would combine and manage all important Korean national libraries and archives and their collections. According to this new policy, Kyujanggak was given superintendence over all library collections, such as the *Joseon wangjo sillok* kept in the four Sagos (the four royal depositories), some parts of which, kept in the Jeongjoksan (Mt. Jeongjoksan) Sago of Ganghwa Island, were relocated to Seoul. Other collections of the Sagos were not transferred due to a budget shortage, but still came under Kyujanggak's management.[360] Other important national records such as *Seungjeongwonilgi* (*Daily Records of Joseon's Royal Secretariat*) and *Bibyeonsadeungrok* (*General Records of Joseon's State Affairs*) that had been kept at a depository in Bukhansan (Mt. Bukhansan) also came to Kyujanggak. In addition, national depositories of woodcuts and metal printing type were also transported there.

A very large quantity of national books, archives and printing materials therefore began to fall within the jurisdiction of the much expanded Kyujanggak, which was now effectively under Japanese control, and through this manoeuvre the JRGK in Seoul established a centralised system by which it was able to collect and examine Korea's national archives, public records and books of value. With this, the real purpose of the Kyujanggak reorganisation became clear: laying the groundwork for Japan's plan to colonise Korea.

However, having used the reorganised Kyujanggak to create a central system for libraries and archives, Japan turned around and abolished it as semi-independent and academic institution following the annexation of Korea by Japan in August 1910. Instead, all the Korean national collections were to be managed by the General Affairs Section of Yiwangjik (the office that replaced the Imperial Household Office of Korea after the 1910 annexation) for six months. At the end of this short transitional period, in February 1911, Japan decided that the new JGGK would directly hold the Kyujanggak as it had existed in 1910, and most of the collections were transferred to Torisimari kyoku (Bureau of Investigation) of the JGGK in June of that year. This brought together the public records and archives of the former Korean [Joseon] government and of the JRGK of 1905-1910, the Kyujanggak collection and other Sago library and archive collections.[361]

The quantities of materials in each category that Torisimari kyoku received in 1911 were enormous, as the following figures show:

1. Books – 100,187 copies of 5,353 titles
2. Archives and records – 11,730 sets
3. Metal printing types – 653,921 types
4. Wood blocks – 9,507 blocks
5. Wood engravings of kings' writings – 471 engravings
6. Wood engravings of kings' appointments of officers – 53 engravings
7. Tablets and framed pictures – 24 sets
8. Accessories – 12 sets

These figures show that there was a vast quantity of 111,917 sets of printed materials alone.[362]

In this review, it is necessary to examine further the background of the transfer of the Kyujanggak collections, as well as the subsequent role of Torisimari kyoku. Having established a protectorate over Korea in 1905, Japan launched a project of basic research into various fields of Korean studies in order to colonise the country. One important objective was to enact colonial law. The JRGK, therefore, commissioned Kenjiro Ume, a professor of law at Tokyo Imperial University and a member of the committee that had drawn up the Japanese code of civil law, as Horitsu komon (Legal Counsellor), and entrusted him with a review of Korea's courts and property law system with a view to creating laws that could be applied to a would-be colony. To begin with, Ume requested that the Korean government organise Hudousanhou chousakai (Land Law Examination Group) in 1906. The Group was reconstituted to become Hotenchousa kyoku (Bureau of Code of Laws Examination) in 1908. Hotenchousa kyoku was formed entirely of Japanese officers and, under the lead of Ume, managed to draft various forms of colonial bills even before the 1910 annexation of Korea.[363]

After the annexation of Korea, Japan began to apply its colonial policy in earnest, covering numerous areas, including politics, the economy and culture in particular. The cultural aspect of the colonial policy and administration was seen as important.

One of the main cultural policies was called the 'Old Korean Custom and System Examination Project'. Torisimari kyoku was generally responsible for this project, under the direct control of the JGGK[364]. Another purpose of Torisimari kyoku was to replace the existing Hotenchousa kyoku and to enact the new laws in the colonised territory. Therefore, Torisimari kyoku became capable of implementing the Examination Project, having taken over Hotenchousa kyoku's duties.[365] The Old Korean Custom and System Examination Project made progress using field research and Korean bibliographical studies.

The purpose of establishing Torisimari kyoku was made clear officially in Article 1 of the JGGK Order 356 of 30th September 1910. The regulations defining Torisimari kyoku's duties were set out in Article 1 as follows:

> Article 1. The JGGK's Torisimari kyoku takes charge of the following affairs under the control of the Governor-General.
>
> 1. Examination of both the system in various fields and old custom in Korea.
> 2. Deliberation and legislation for each area that the Governor-General specifies.
> 3. Offering of an opinion on the abrogation or revision of laws.

Through this mechanism, Japan aimed both to carry out the extensive Old Korean Custom and System Examination Project, and to develop colonial legislation carefully. Such moves paralleled those the Japanese had already made in the occupied territory of Taiwan.[366]

In the course of further governmental reorganisation, the JGGK abolished Torisimari kyoku in April 1912. Consequently, the Old Korean Custom and System Examination Project was handed over to Sanjikan sitsu (Office of Councillor in the JGGK) which belongs to the newly established Soutokukanpou (Governor-General's Office). Also transferred to Sanjikan sitsu were all the Korean bibliographical materials held by Torisimari kyoku. According to Directive 27 (30th March 1912), the organisation and duties of Sanjikan sitsu were defined as follows:

> Article 1. Soutokukanpou consists of the Secretariat, Military Officers' Office and

Sanjikan sitsu.

Article 2. Sanjikan sitsu takes charge of the following affairs:

1. Affairs concerning the deliberation on and drawing up of laws.
2. Affairs on both the interpretation and application of laws, and on the deliberation of important measures.

In addition to these two clauses, Sanjikan sitsu took charge of the examination of old Korean custom, system and other specially ordered examinations.[367] Sanjikan sitsu designated the Torisimari kyoku's materials as the 'Kyujanggak Collection',[368] although Kyujanggak no longer existed, and continued to develop the Old Korean Custom and System Examination Project. In carrying out the Project, Sanjikan sitsu continued to collect Korean materials in addition to those that Kyujanggak had gathered from 1905 to 1910 and Torisimari kyoku had gathered after 1910. In order to collect more kinds of materials, such as rubbed copies of stone monuments, the JGGK established administrative guidance. One example indicates that in February 1913 the Director-General for Political Affairs of JGGK issued a notification to all provincial authorities which suggested that they should endeavour to examine and collect rubbings of inscribed stone monuments and other useful reference materials scattered all over Korea:

> The bibliographical collection which Sanjikan sitsu maintains is large and varied in kind so that it is not less valuable than antiquarian resources. However, it is not fully satisfactory in terms of collecting historic materials.[369]

The JGGK subsequently sent the provincial authorities lists of important stone monuments with inscriptions. In September 2013, it also despatched letters of request to the provincial authorities and to the police affairs divisions in the provinces telling them to collect six kinds of materials of reference:

1. Rubbed copies of Korean stone monuments
2. Korean books
3. Local geographies

4. Old archives and records
5. Printing blocks
6. Other materials.

An urgent request to collect the rubbed copies of Korean stone monuments in particular had already been made during Keimu buchou kaigi (Police Affairs Division Executive Meeting) of April 1913.[370]

Inscriptions on stone monuments are believed to have been the primary resources for studying ancient Korean history. They are important because they are the only remaining written material of, for example, the Goguryeo period, because neither paper materials nor books from that era have survived. Inscriptions made during the ancient Korean periods such as Silla and Goryeo also provide critical information on the history of Buddhism. In addition, scholars are often able to correct errors and uncertainty in ancient literature written in subsequent generations by researching the inscriptions. The more authentic the provenance identified, the more significant any record becomes. For this reason, Sanjikan sitsu is thought to have paid much attention to the gathering of Korean rubbings.

In collecting printing blocks, the staff concerned went on an official trip to search old government offices, Buddhist monasteries, temples and privately-owned localities. Staff who went on an official trip were also asked to examine old places such as Buddhist temples and collect antiquities such as old tiles and porcelain.[371]

The Old Korean Custom and System Examination Project was again transferred, this time to Chusuin (Advisory Council), on 30th April 1915 as part of a reorganisation within the JGGK. As explained in this chapter, by then the institutionalised Japanese examination had accumulated a collection of Korean library and related materials of every kind since the JRGK started the plan. The scale of this collection was huge, because the Japanese collection policy and project were successively carried out by Torisimari kyoku, Sanjikan sitsu and Chusuin. By late 1915, the collection included 1,579 Korean stone monument rubbings[372] and 152,159 books covering 19,461 different titles.[373]

In addition to establishing this collection, the JGGK was also drawing up a catalogue and bibliographical introduction to it for the benefit of Japanese officials and scholars. On completing the catalogue and its introduction, the JGGK had the Kyujanggak collection transferred to Gakumu kyoku in November 1922. The JGGK thought that the arrangement of the Kyujanggak collection was sufficiently complete at that point, and from then on the main duties of Gakumu kyoku shifted mainly to safekeeping the collection.[374]

In 1924, Japan established the Keijo[375] Imperial University in Korea. The Kyujanggak collection was once again transferred from Gakumu kyoku to the University's library in stages until the library was complete in 1930. The Kyujanggak collection was kept in Keijo Imperial University until the end of the Japanese occupation in 1945, and is currently in Seoul National University.

3.2 Removal of Korean Bibliographical Cultural Property to Japan

The sections of this chapter set out the processes by which Japan obtained the institutional capability to manage Korea's important bibliographical materials under its authority. The Japanese administrative policy, system and changes of management for Korean bibliographical treasures were reviewed. One could argue that having administrative power over the Korean books and archives not only meant keeping them in Japanese custody, but also gave the capacity to relocate them to Japan, and, indeed, many such removals occurred under the colonial regime. A few important examples are summarised below.

3.2.1 Kyujanggak Books and Hirobumi Ito, the Japanese Resident-General in Korea

In 1968, it was discovered that Hirobumi Ito, the Japanese Resident-General in Korea, had taken more than 1,000 sets of Korean classical books. Lin Baek, a head of department at the Seoul National University Kyujanggak Archives discovered a file of documents made out by the JGGK in 1911. The file included a list of books that were lent to Ito.[376]

Upon further study, Baek also found official correspondence that evidenced who had taken the books and where they had been kept since then. This official correspondence, dated 15th May 1911, was sent to Masatake Terauchi, then the Japanese Governor-General from Watanabe, Minister of the Japanese Imperial Household. It states:

> Hirobumi Ito brought Korean classical books to Japan in order to examine the relationship between Korea and Japan. After he died, those books were moved and are currently kept in the Japanese Imperial Library. They are needed as reference to compile a true record of the Japanese royal and noble families. Moreover, the Japanese Imperial Library does not have other such materials. Therefore, I wish to require that those books be handed over to the Japanese Imperial Household.[377]

The file list shows that these books were in fact those of the Kyujanggak collection. It also indicates that Hirobumi Ito must have taken the books in either March 1904 or November 1905, because he visited Korea twice as a special envoy during those months. The bibliographical materials that he took included materials concerning the Korean royal archives, constitution, laws, history, military affairs, geography, philosophy and folklore. Japan tried to use these materials as strategic reference before the colonisation of Korea in 1910. Korean researchers have also identified these materials in a large proportion of the Japanese Imperial Library's Korean collections.

After Korea and Japan signed the 'Agreement on Cultural Property and Cultural Cooperation between the Republic of Korea and Japan' in 1965,[378] a list of Korean cultural property to be returned to Korea was released. Baek recognised that there was no indication of the books that he had described kept in the Japanese Imperial Library:

> None of the books that I have mentioned in my article was included in the list of Korean cultural property. According to what I have learned, a catalogue of the Japanese Imperial Library was already published in Japan while Korea and Japan were having talks concerning the repatriation of Korean cultural property. However, it is said that Japan has suspended the distribution of the published catalogue because it is directly related to the

> talks on repatriation.[379]

The author's archival research at the National Diet Library in Japan undertaken during the course of this study indicates that Baek's remark on the suspended distribution at that time was likely true. The catalogue is comprised of three volumes[380], published in 1952, 1953 and 1955 respectively. The Library's stamps in the three volumes indicate that 17th July 1968 was the date of accession. On the other hand, the supplementary volume[381] was sent to the Library on 13th April 1968, three days after its publication on 10th April.

The National Diet Library (of Japan) was established when the National Diet Library Law was enacted on 9th February 1948. The legal deposit system mandates that copies of all new publications published in Japan should be sent to the National Diet Library in accordance with the National Diet Library Law (Law No.5, 9th February 1948). The Library indicates this in its publication as follows:

> Legal deposit is a system which requires books and other publications to be delivered under law to specific domestic organisations when they are published. Its significance lies in acquiring publications on the nation's responsibility and preserving and handing them to future generations as our cultural heritage and information sources to be shared by the whole nation. In Japan, the National Diet Library is the deposit library. Publications that have to be deposited are not only books, serials, newspapers, maps and music scores, but also such materials as microforms, gramophone records and CDs.[382]

Therefore, the three volumes should have been officially sent to the Library as the Law required. This was not the case, however, and public access to the three volumes at one of the most authoritative institutions in Japan was suspended until 1968, presumably by direct administrative action.

3.2.2 *Joseon wangjo sillok* (the Annals of the Joseon Dynasty) Kept in the University of Tokyo, Japan

In 1914, the JGGK gifted Tokyo Imperial University 439 sets of *Joseon wangjo sillok,* which had previously been kept in the Odaesan Sago,[383] under the premise of commemorating the 1910 annexation of Korea. Most were destroyed during the great Tokyo earthquake and fire of 1923, but a few volumes that had been lent out to the University's professors survived the incident. The University of Tokyo kept the remaining 47 sets in its library until 2006.

3.2.3 The Korean Collection of the First Japanese Governor-General Masatake Terauchi

Born in Yamaguchi, Japan, the Japanese Army Minister Masatake Terauchi, was appointed Governor-General of Korea in 1910, and held the position for six years. Returning to Tokyo, he then became Prime Minister of a new Cabinet in 1916.

It is known that Terauchi collected a large number of Asian cultural objects. Korean items were of particular interest to him, and his collection is estimated to have amounted to 18,000 items. After his death, his son established the Terauchi Collection in 1921, which included nearly 1,500 valuable Korean bibliographical items of about 1,000 kinds. It was finally donated to Yamaguchi Women's School,[384] which was located near his birthplace, in 1946, and the majority of the collection is still kept there.

3.3 Destruction and Hiding of Korean Library and Archive Materials

The earlier part of this chapter reviewed the process of how Japan secured the practical capability to administer an institutional system of library collections in Korea from 1905. The following colonisation of Korea made it possible for Japan to collect Korean books and archives easily from any source across Korea. However, it needs to be emphasised that Japanese colonial policy involved not only seizing and collecting books, but also hiding and burning them.

Korea began seeing radical changes in all aspects of life after the 1910 annexation, and the cultural sector was no exception. Terauchi, the first Governor-General, ordered the suppression of the freedom of the Korean press immediately after his appointment.[385] The JGGK also carried out a plan to search for books which could encourage Korean patriotism and historical consciousness, which mobilised almost every governmental organisations, including police divisions.[386] Orders were finally given to destroy by fire over 200,000 volumes of books which had a cultural significance to the Korean national identity, including those on Korean history.[387] The burnt books included those that had been gathered from November 1910 to December 1912, and such works as *Daehan sinjiji* (*New Topography of Korea*), *Aeguk jeongshin* (*Patriotism*), *Euljimundeok* (*General Euljimundeok*), and even *Miguk dongnipsa* (*History of the United States of America's Independence*).[388] Most importantly, books about Dangun, the founding father of the Korean state, were singled out for destruction.[389] Japan conducted such operations in order to falsify Korea's historical and cultural identity. The simultaneous collection of Korean materials through the Old Korean Custom and System Examination Project could then be used to create a different version of Korea's history.

In particular, the destruction of historical resources about Dangun is evidence that Japan intended to conceal the existence of Ko Joseon (Old Joseon), which is believed to be the first ancient state of Korea, founded in 2333 BC according to a legend known in Korea as 'Dangun shinhwa'. As a result, the history of Ko Joseon was misinterpreted as nothing more than a mythological story due to the lack of historical literature.

The JGGK was able to make its own selection of historical literature, and showed its intention in the books which it allowed to survive the destruction. These included *Samguksagi* (*The Chronicles of the Three States*) and *Samgukyusa* (*The History of the Three States*), whose original volumes were compiled in the mid and late Goryeo Dynasty respectively. *Samguksagi* only describes the specific period of the Three Kingdoms between 57 BC and 936 AD. While *Samgukyusa* does give an account of the foundation of Ko Joseon, there is a discrepancy in the interpretation of the exact chronological information because the author of it, a Buddhist priest, used a very metaphorical style.

Although these two titles have significant historical value, based only on them one could form the conclusion that the first ancient state of Korea was the Silla Kingdom, founded in 57 BC. Under the new Japanese narrative, more than two millennia of Korean history just disappeared.

Recalling the early 20th century, Korean historian Tae-yeong Choe said:

> Positivism in historical studies became predominant amongst Japanese scholars at that time. They regarded the description of history in chronological order as a reliable methodology. The fundamental purpose of making the most of such theory was to exclude the 'Dangun Joseon' history on the grounds that the era was not exact according to the 'very historical literature' which survived in the JGGK's selection. … When the JGGK was developing a project of compiling *Chōsenshi*[390] (*History of Joseon* [Korea]), it made it clear that *Samguksaki* had to be the standard material for ancient Korean history. Therefore, having categorised 'Dangun Joseon' as a mythological story, Japan finally succeeded in reducing the whole of Korean history to a mere 2,000 years.[391]

In addition to the JGGK's colonial policy of destroying so much Korean historical literature, the Compilation Committee of Korean History of the JGGK was involved in institutionally damaging Korean bibliographical treasures. As described in the earlier chapter, the Compilation Committee of Korean History was one of the core organisations attempting to mould the 'colonial view of history' towards Korea. Based on Japanese colonial policy, the Committee compiled its own Korean history, and published 35 volumes titled *Chōsenshi* from 1932 to 1938.[392] *Chōsenshi* was published under the leadership of Japan because a history was needed in response to the public unrest caused by the circulation of books recalling the dream of an independent country and criticising the annexation of Korea. So, *Chōsenshi* was published to argue that the Japanese and the Koreans are the same, that the Korean Peninsula had become impoverished and weakened since ancient times, and that the Koreans were benefiting from annexation.[393]

In a report celebrating the publication of *Chōsenshi*, the Committee made a reminder of the background of this policy stated in July 1916[394] as follows:

> Korean people are different from barbarian and uncivilised folk in other colonised regions. Therefore, they do not lag behind civilised people in reading and composition.
>
> Korea has a lot of historical books from ancient times and has a number of more recent works. The former are attended by many risks that Koreans would vainly cling to an old dream of its independent times, because those books, being writings of the independent days, lack a relationship with the present age. Describing the recent power struggles of Japan–Russia and Japan–China concerning Korea, the latter elucidate the course of action for Korea to follow. In addition, they make thoughtless remarks without care, although enquiry is needed into the truth of some books, such as what they call the 'Complete History of Korea', written by Korean authors abroad. It is, therefore, indisputable that such history books' harmful influence of confusing the minds of the people is indeed serious.
>
> However, we must consider that taking steps to solely exterminate those materials will only prove abortive, and also can lead to stimulating the propagation of such books. In order to deal with this matter, the creation of a fair and accurate book instead of banning and suppressing existing historical publications will be more effective as well as the quickest method. This is the principal reason for compiling a history of the Korean Peninsula.[395]

In collecting bibliographical materials for its project, the Compilation Committee of Korean History gathered 4,950 sets of books up to 1938, when the final volume of *Chōsenshi* was published. Moreover, the sphere of its collection extended as far as Tsushima, the islands lying between Korea and Japan. Tsushima had numerous Korean bibliographical materials, such as old history books and Buddhist scriptures, many of which were gifts from Korea in ancient times.[396] Tsushima has also held documents relating to Korea because the islands played a key role as a trading port during the Joseon period in particular.

Concerning the Tsushima materials, the Japanese historian Sakaeru Harata wrote:

> When Kuroita, the Japanese advisor to the Compilation Committee of Korean History, went to Tsushima for a commissioned investigation of historical materials in July 1923, he discovered that one of the members of the nobility in Tsushima kept a large number of old documents and records relating to Korea in their family collection. Hidden or burnt thereafter were 66,469 pieces of old documents, 3,576 sets of old records and 34 pieces of old maps.[397]

Tae-yeong Choe indicated that the JGGK was believed to have hidden some of the Tsushima historical materials in the Japanese Imperial Library, Tokyo.[398]

There is still no definitive information about how many Korean items were included in the damaged or hidden Tsushima materials. The bibliographical treasures destroyed or hidden in Korea or Japan in accordance with Japanese colonial policy continue to be a critical loss to knowledge of Korea's cultural heritage to the present day.

Chapter 4. Demolition, Removal and Destruction of Korean Cultural Heritage

4.1 Demolition and Removal of Korean Royal Palaces and Historic Buildings

During the Meiji Era, Japan initiated the Sino-Japanese and Russo-Japanese Wars and, as it expanded its imperial territory, it began to try to take the cultural property of foreign countries to Japan. Initially, much of this removal of foreign cultural property took the form of looting. During the Sino-Japanese War, the president of the Imperial Museum, Japan, Ryuichi Kuki, gave an instruction related to treasure looting. He planned to send a cultural property expert to Qing, China, during the War to collect treasures, remove them to Japan and exhibit them at the Japanese empire exhibition. This secret instruction was sent to the Japanese government and to army and navy senior officials in the autumn of 1894 (the 27th year of Meiji). The person responsible for the collection was supposed to entrust the cultural objects collected to the command of senior army officials or the commander (commanding officer) of the supply department. The looting plan was covered by the army's operational movements because soldiers cooperated in the collection and the transportation of cultural objects, if necessary.[399]

These collection methods were outlined in detail as referred to the archive titled 'Documents of Makoto Saito[400]'. 'How to plunder' is written in the Yoshi (Summarised Guidelines) as follows:

- Section 3: During war, we can obtain masterpieces that are difficult to collect in peacetime.
- Section 4: We can obtain masterpieces at unbeatable prices compared to peacetime.
- Section 5: We can easily take heavier cultural objects that cannot be removed in peacetime.
- Section 7: We can have opportunities to explore foreign territories that we cannot do easily in peacetime.

Collection should be directed by senior army officials or an army commander and, after arriving in Japan, cultural objects should be given to the Japanese Imperial

Household or Imperial Museum. Troops cooperated in the collection, meaning that this plunder of cultural property can be seen as a national project integrated with the military, as is emphasised by the role of Kuki, who held a position as an art administrator and proposed military-led plunder of cultural property in China and Korea.[401]

The Documents of Makoto Saito also included documents relating to the Qing Dynasty and treasure collection methods, which were sent to army and navy senior officials by Kuki, the royal advisor and the president of the Imperial Museum at the time of the Sino-Japanese War. These documents requested that senior army officials and local commanders collect historically valuable cultural relics in Korea and China during the Sino-Japanese War. Although the Sino-Japanese War was known in Japan as the 'Civilisation War' against barbarism, the planned looting of cultural properties was recorded.[402] In Korea, during the Sino-Japanese War, the first use of Japanese armed force was to break into Gyeongbokgung Palace in Seoul, Korea on 3rd July 1894 and to occupy it before officially declaring war. At that time, Keisuke Otori, the then Japanese ambassador to Korea, directed the looting of the goods and treasures of the Korean royal court, which were collected and transported to Inchon Harbour. The Korean cultural heritage that had accumulated over the course of centuries was gone in a day.[403]

Another documented instance of strategic, systematic Japanese looting in modern times was in 1900 when Allied forces lifted the so-called Boxer Siege of the legations in Peking. While British, American, German, Russian and French forces were celebrating their successful storming of the imperial capital, the Japanese army secretly entered the Forbidden City through its back gate and removed the most important treasures, the gold bullion in its tunnel complex and the imperial archives, all of which were taken immediately to Tokyo.[404]

Worse than the removal of cultural property to a foreign country, permanent damage to or complete destruction of both movable and immovable cultural property brings about the loss of much knowledge of the cultural context. Previous chapters have discussed a number of cases in which Korean movable cultural property was destroyed, moved or hidden under the JGGK's colonial policy in earlier periods. In

this chapter, some other instances of the continuity of Korean material culture being obliterated by permanent damage to immovable cultural property such as historic palaces, temples and buildings will be reviewed. This is especially true of the Joseon Dynasty's royal palaces in Seoul, which lost much, if not all, of their cultural integrity, as a result of Japanese policy. Gyeonghuigung Palace and Gyeongbokgung Palace were both seriously damaged.

Commissioned by the Japanese government, Tadashi Sekino's research on the Korean buildings and historical sites had the practical purpose of promoting the construction of government office buildings and other urban development associated with colonial rule. These priorities are reflected in the report-card-like rating system: 'Ko' was known to indicate 'need to be preserved the most', 'Otsu' 'need to be preserved after Ko' and 'Hinoe' and 'Cho' 'hardly need to be preserved'. Many historic buildings were rated and damaged according to Sekino's ratings.[405]

Gyeonghuigung Palace was built in Seoul, Joseon's capital, in 1620, and its 98 palace buildings were almost all demolished or massively changed as a result of Japanese construction projects of the Residency-General period because most palace buildings were rated as 'Hinoe'.[406] The Resident-General chose much of Gyeonghuigung Palace's western part as the location of the 'Residency-General Middle School' in 1907, and the remaining eastern part was used to build an official residence for Senbai kyoku[407] (Monopoly Bureau, JGGK) that was attached to the Governor-General's office in 1925.[408]

Even older than Gyeonghuigung Palace, Gyeongbokgung Palace was completed in 1395 after the establishment of the Joseon Dynasty and its new capital in 1392. Having been severely damaged during the Imjin War of the late 16th century, the whole complex was finally restored in 1868. According to *Gunggwolji* (*The History of Palaces*), which was written around 1908, Gyeongbokgung Palace had approximately 330 buildings at that time, 147 of which were main buildings, and more than 800 buildings in total if other office buildings and annexes within the complex were counted.[409]

In 1915, the Governor-General chose Gyeongbokgung Palace as the site of the major

exhibition it was to hold entitled 'Mulsan gongjinhoe[410]: Commemorating the Fifth Anniversary of the Administration', which commemorated the five years of Japanese governance of Korea since the 1910 annexation. It was basically an international industrial exposition, and was held for the first time to extend the market for Japanese goods in Korea and to propagandise the success of Japanese rule to the Korean people and abroad.[411] For the Mulsan gongjinhoe opening in September 1915, new exhibition buildings were constructed in the Palace site, including the First Gallery, the Second Gallery, the Reference Gallery, the Art Gallery, the Machinery Gallery, the Display Gallery, the VIP Gallery, the Special Gallery of Tōyōtakushoku kabushiki kaisha[412] (the Oriental Development Company in Korea[413]), and the Special Gallery of the Railroad Department. A bandstand was also built outside the main exhibition halls.[414] In order to make space for these exhibition halls, the Governor-General ordered the demolition of many of the royal buildings of Gyeongbokgung Palace. The result was that at least 4,000 of the 7,225 sections of the historic Palace were demolished.[415] By the time the programme of reconstruction of the lost Palace began in 1995, only 36 sections (9,780 square metres) of the original buildings remained:[416] more than 89% of Gyeongbokgung Palace's original pre-1910 buildings had vanished.[417]

Gyeongbokgung Palace, already seriously damaged due to the 1915 Mulsan gongjinhoe exposition, suffered even greater destruction from 1916 onwards as a result of the work begun in 1916 to construct a new headquarters building for the Governor-General, again within the Palace complex. Much of Korea's most iconic and representative architecture, such as the Heungryeomun (one of the large gates of Gyeongbokgung Palace) and hundreds of other important royal buildings, were demolished. By the time the new headquarters was completed in 1926, Gyeongbokgung Palace had not only lost its role as Korea's imperial palace and a traditional focus for national celebrations and events, but was also deprived of its cultural and symbolic value to Korean history.

In addition, it should be noted that the Governor-General dismantled and sold to private parties the wooden buildings due for demolition. A report published by Gyeongseongbu (Seoul Administration) in 1934 stated:

> …Except for large buildings such as Gyeonghoeru, Geunjeongjeon, and

> some others, approximately 4,000 sections of buildings or much of the palace has been pulled down. They were disposed of for private ownership, and the palace underwent a complete change.[418]

Of all the demolitions of Korean palaces, the Governor-General's plan to pull down the Gwanghwamun provoked the most serious criticism. The Gwanghwamun is the stone-built front gate of Gyeongbokgung Palace, which was built in 1395 to form the south entrance of Gyeongbokgung Palace. With its grand scale and impressive architecture and craftsmanship, it stood as the main gate of the Joseon Royal Household's main palace and is regarded as one of the most significant cultural properties in Korean architecture. The 1926 proposal sought to pull it down and replace it with a new front gate for the Governor-General in the modernist architectural style of the new buildings on the former Palace site.

The plan aroused vehement opposition among Koreans, who regarded the Gwanghwamun as a spiritually important part of Korean history. In the end the JGGK decided that while the Gwanghwamun gate should be taken down and replaced with a new Japanese-designed entrance, it should be reconstructed using the original materials at a nearby site, just outside the south-east corner of the outer wall of the Palace. Yet its removal from its original site caused it to lose both its architectural integrity – the gate had been carefully positioned and designed in accordance with the Korean Pungsu theory, the traditional Korean geomancy system of topography, equivalent to Chinese Feng Shui – and its symbolic meaning as the main entrance to Joseon's royal palace.

Even in Japan some leading scholars criticised the plan to move the gate, and indeed the Governor-General's overall plans for the Palace. Regretting the situation of Gyeongbokgung Palace, the Japanese researcher of folk art, Muneyoshi Yanagi (also known as Soetsu Yanagi) wrote:

> … Just imagine that the Japanese Imperial Palace is being ruined because Japan has been colonised, and that the walls of the Edo Castle are to be pulled down to build the Governor-General's headquarters in the Western style.… All the Japanese people would obviously feel indignation against this reckless

deed. Such a plan, however, will now be actually executed in Seoul under forced silence[419]. Gangnyeongjeon and Gyotaejeon, the representative buildings of the Joseon Dynasty, have already been deformed with their transfer to other locations. Their remaining chimneys appear forlorn along the hill. The days when we could look up to Gwanghwamun at Geunjeongjeon, one of the largest and leading architectural masterpieces in Korea, will never come again. In front of Gwanghwamun, the Governor-General's huge Western-style headquarters building that has nothing to do with Asian architecture is being hastily completed. Alas, every attempt so far to consider the natural scenery, to ponder on the arrangement of the buildings, keep the beauty of the balance of all aspects, and preserve the integrity of Oriental art has been thoroughly abandoned, forsaken, and disregarded. Instead, a Western-style building without any form of creative beauty has suddenly violated this sacred territory. Heungryemun, which is second to Gwanghwamun, has already disappeared without a trace because of this.… It is said that the grand Gyeonghoeru will remain. It was only preserved, however, because it could be used as a banquet hall.… Gwanghwamun was built on the site where it originally had to be.… Who could dare to deny that the new headquarters building was designed with utter disregard for Gwanghwamun's existence?[420]

There are no official JGGK records concerning the removal of the royal buildings. However, it is reported that Japanese individuals and organisations bought most of them,[421] and that at least some of them were exported to Japan. In the absence of official records, it has been difficult to locate the buildings that were sold and re-built completely or in part elsewhere. If there were official documents that the Governor-General and his staff might have drawn up in relation to the demolition and sale, none have been found. What scant information is available mainly takes the form of verbal evidence, although present-day academic research, including this thesis, has identified at least some examples, as summarised below:

- Bihyeongak, the crown prince's royal residence in Gyeongbokgung Palace, was pulled down, and later moved to Namsanjang, a Japanese-owned villa in Jangchungdong, Seoul.[422]

- In May 1922, Yungmudang and Yungmundang, which were located behind Gyeongbokgung Palace, were demolished to make room for the Governor-General's official residence. The dismantled parts were sent to Koyasan, Hangangro in Seoul, where they were used to build Yongkwangsa, a Japanese Buddhist temple founded after the 1910 annexation.[423]

- Sungjeongjeon was one of the most remarkable buildings in Gyeonghuigung Palace. The coronation ceremonies of some Joseon kings such as King Gyeongjong (1688-1724), King Jeongjo (1752-1800) and King Heonjong (1827-1849) were held in it, and it had been normally used for the official Johoe (the morning assembly of the king and the ministers). In 1926, the building was bought by a Japanese Buddhist organisation that was setting up a temple in Seoul, and it was rebuilt by the same organisation on a different site away from the Palace.[424]

- To preserve the memory of Hirobumi Ito, the first Japanese Resident-General appointed to Korea in 1905, Japan began to build a memorial Buddhist temple called Bakmunsa in Seoul. The eastern part of Jangchungdan (the memorial shrine built in 1900) was chosen as its site. The construction of the temple commenced in 1929 and was completed in 1931. The main hall of the temple was made up of Seonwonjeon (the palace building where the portraits of the kings were kept), which was taken from Gyeongbokgung Palace, and of Heunghwamun (the main gate of Gyeonghuigung Palace),[425] which had been already pull down between 1907 and 1925. Bakmunsa was also walled with bricks and stones from Gwanghwamun's demolished walls.[426] Later, a company house for the President of the Japanese Oriental Development Company in Korea was built on Seonwonjeon's old site.

- Heungjeongdang and Hoesangjeon in Gyeonghuigung Palace were removed and bought by Japanese Buddhist organisations in 1928. Heungjeongdang went to Kwangunsa temple and Hoesangjeon to Jokyesa temple, both in Seoul.[427]

Reviewing the large-scale demolition and removal of Korean royal palaces during the

Japanese colonial period, it is notable that such monumental cultural properties were totally devastated by official institutional plans, not by accident. One of the central parts of the JGGK's cultural policy in Korea seems to have been creating a major discontinuity in Korea's history and national identity by permanently damaging its cultural heritage. In this respect, it is generally agreed that the Korean royal palaces were intentionally destroyed and removed: there was no need to build on sites of such cultural importance to Korean history and identity.[428] There were plenty of other sites in the capital where the Governor-General's premises and the Mulsan gongjinhoe could have been built.

Among many other experts, Ima Wajiro, a professor at Waseda University, Japan, pointed out the unreasonableness of these demolition and removal, writing:

> I greatly regret that the project for the JGGK's headquarters would probably perpetually hurt the Korean people's feelings. I think the project was wrong right from the start, with the choice of its site.… No one would desire to use such a conspicuous building as the JGGK's headquarters.… There must have been plenty of more other suitable sites.[429]

As mentioned, there are some examples of the selling of Korean palace buildings to private parties, notably to the Japanese Buddhist organisations that entered Korea in earnest after 1910. As the word 'some' suggests, hardly any information is available on this matter, despite the JGGK being primarily responsible for it. In view of the Japanese tradition of professional administration and archive management, it is more than likely that most of what happened was recorded in some detail, though nothing seems to be available today. It is well-known that great quantities of records were lost at the time of the Japanese surrender in the Second World War.

In Korea, immediately after the Japanese surrender was declared on 15th August 1945, the Japanese Governor-General ordered that all official records and documents be burnt off. The documents known to have been destroyed included the confidential records that both the JGGK and the Compilation Committee of Korean History had kept about their operations.[430] Therefore, it seems quite reasonable to believe that the related official records relating to the fate of the royal palaces were destroyed by fire

at the same time. The loss of such vital information has made it particularly difficult to locate the possible remnants of the disposed royal buildings that are no longer in Korea. Research has identified some of the Korean palace buildings that were moved to Japan during the colonial period. One of these studies revealed that the Jaseondang (the royal residence where the crown prince lived) from Gyeongbokgung Palace was exported to Japan when the 1915 Mulsan gongjinhoe was being prepared.[431]

4.2 The Japanese Government-General of Korea (JGGK)'s Destructive Policy towards Korean Cultural Heritage during the Pacific War (1941-1945)

The Second World War entailed the loss of millions of human lives and the destruction of innumerable monuments of great historical and international importance.[432] In one of the remarkable examples, during the War Germany tried to completely destroy Poland and exterminate its population and culture. Countless Polish art objects were looted as Germany systematically carried out a plan of looting that was prepared before the start of hostilities.[433] The historic quarters of towns and cities were bombarded with inflammatory bombs and artillery missiles, seriously damaging, for instance, the Royal Castle in Warsaw.[434] This Royal Castle was state property and was the residence of the Presidents of the Polish Republic. It was also a museum open to the public and the headquarters of Polish state collections. The destruction of the Royal Castle during the siege of Warsaw in September 1939 was not accidental but was carried out wilfully by the Germans. The motives for its destruction were given by the Germans as follows:

> They [the Germans] declared to some of the Polish representatives that the decision to demolish the castle was due to its political nature, because it was the symbol of Polish Independence and national life. They said that the decision to destroy the building was taken by the highest authorities in Berlin.[435]

There was similar intentional destruction and looting of historic sites and cultural assets throughout Europe during the Second World War. In Russia, the cultural destruction by the German army was testified by Patrick Boylan:

> An experience of the impact of war that I will never forget was my 1977 visit to Peter the Great's magnificent summer palace on the Baltic close to St Petersburg, deliberately blown up by the retreating German army at the end of the Siege of Leningrad, leaving only parts of two outside walls standing, but expertly and lovingly restored over a period of more than thirty years.[436]

Korea was no exception, and its cultural heritage and historical sites were also destroyed during the Second World War. In Korea, which was a Japanese colony at that time, metal cultural objects were taken by Japan for use as military supplies, and historical sites were intentionally destroyed by the JGGK. However, unlike in Europe, there were few cases of Korean palaces or castles being destroyed because, as explained in the previous chapter, they had been already damaged by the JGGK's policy in the early period of colonial occupation.

In 1937, Japan launched a full-scale attack on China after the Manchurian Incident of 1931 provided the Japanese government with a military foothold in East Asia. It was not long before the Japanese leaders in Tokyo and Seoul not only came to see the Korean Peninsula as an advance military supply depot but also began to regard the Korean people themselves as indispensable to the Japanese war machine. The report of the JGGK's industrial commission of 1938 noted that, in connection with Korea's special mission as an advance military supply depot for the continent, 'the rapid development of material resources on the Korean Peninsula' required 'the cultivation of human resources'.[437] This policy was called 'Naisen Ittai' (the Integration of Korea and Japan) and was, therefore, implemented in Korea.

After the 1937 War with China, Japan concluded the Tripartite Pact with Germany and Italy, and entered the Second World War by attacking the American fleet in Pearl Harbour in December 1941. During the War, Japan carried out the Total National Mobilisation Policy, and actively transformed Korea into a supply base for Japan's war industry. The JGGK even enforced measures for the requisition of Korean items made of metal for re-use in weapons production under the slogan 'Spiritual Co-operation behind the Guns'. Due to these enforced measures, metal articles of many kinds, including Korean cultural objects such as metalwork used in religious

ceremonies, temple bells and Buddhist statues, were forcibly 'donated' to the Japanese war effort.

However, the Japanese military, defeated in the Battle of Midway in June 1942, lost its air and sea control in the Pacific region and defeat was looming. With a Japanese defeat looking more likely, the JGGK attempted a colonial policy to destroy Korea's cultural heritage, which could trigger independence movements and anti-Japanese sentiment. As a part of this destructive policy, the JGGK executed a secret plan entitled 'A Matter Concerning Both Enforcement of Discipline of Korean Confucian Scholars and Removal of Anti-State-of-Affairs Historic Remains in Korea'. This document was drawn up on 24th November 1943 and was forwarded from the Director of the Bureau of Education and Management, the JGGK, to the Director of the Bureau of Police Administration. From there, the head of each provincial police division was notified of the document as a secret order. By means of this directive, the JGGK tried to destroy Korea's most important historical stone monuments because they were regarded as focuses for the rise to national consciousness and the anti-Japanese resistance movements. Most were memorial stone monuments carrying historic inscriptions recording the history of Korea and therefore inevitably recorded some of the troubled relations between Korea and Japan over the centuries. Included amongst the national monuments listed in the Directive were the Hwangsan daecheop bi[438] of King Taejo (1392-1398; the founding King of the Joseon Dynasty) and the Seokjang bi of Sa myeong, the great Buddhist priest at the time of the Imjin War (1592-1598). The JGGK's secret document said specifically that it was necessary to destroy such monuments since they gave accounts of victorious Korean resistance to Japanese invasions.

In particular, the Hwangsan daecheop bi was an outstanding example of the academic and aesthetic standard of the times during which it had been created. It was the very first monument to be destroyed, in this case by dynamite explosion. The Seokjang bi was also broken into pieces in accordance with the orders of the head of the police division of Gyeongsang Province in December 1943.[439]

It is more difficult to figure out 'equivalents' for destroyed or damaged architectural monuments[440] than for movable cultural objects. Moreover, the destruction of memorial stone monuments is a particularly irrevocable cultural loss because it also entails the destruction of historical records.

Chapter 5. Claims for Returning Cultural Property and the Agreement between the Republic of Korea and Japan after the Restoration of Independence of Korea in 1945

5.1 Introduction

With Japan's declaration of its unconditional surrender to the Allies on 15th August 1945, the Second World War ended[441] and the Korean Peninsula regained nominal independence – but with the northern half occupied by the Soviet Union and the southern by the United States of America (USA) under the trusteeship. On 16th December 1945, the USA, the United Kingdom (UK) and the Soviet Union held a meeting of foreign ministers in Moscow to handle post-war problems. At this meeting, the USA and the Soviet Union confronted one another on many points, but in relation to Korea the leading wartime allies announced a joint statement, 'Four Items Resolution on the Korean Problem', on 27th December, in which they agreed to institute the Joint Soviet-American Commission to establish a democratic government for the whole of the Korean Peninsula, and in the meantime to put Korea for a period of up to five years under the trusteeship of the USA, the Soviet Union, the UK and the Republic of China (i.e. the old Nationalist Government of the Kuomintang, KMT).[442]

However, while the Joint Soviet-American Commission established under this agreement met for about a year, it eventually collapsed without completing its goals. Instead, the Korean Peninsula became *de facto* partitioned, with two governments established in the north and south respectively. As the Joint Soviet-American Commission was dissolved without results, the issues on the Korean Peninsula were transferred to the UN at the suggestion of the USA, and the division of the two Koreas accelerated.[443]

It was in this atmosphere that what became known as the Cold War between the USA and the Soviet Union and their respective allies began in earnest. The elections organised by the UN in 1948 led to the creation of separate Korean-led governments for the two occupation zones. On 15th August 1948, the Republic of Korea was formally proclaimed with the establishment of its government in the south, while in the north the Democratic People's Republic of Korea (DPRK) was proclaimed with its

own government on 9th September 1948. Thus, the Korean Peninsula was divided politically and administratively, though officially on a temporary basis, and it remains divided to this day.

For more than 17 years, neither the Republic of Korea nor the DPRK had diplomatic relations with Japan, but the Republic of Korea then signed an agreement under the normal procedures of international law that established formal diplomatic relations with Japan on 22nd June 1965. However, even now, the DPRK has no formal diplomatic relations with Japan.

The Treaty on Basic Relations between the Republic of Korea and Japan of 22nd June 1965 stated that diplomatic relations between Korea and Japan would come into force on 18th December of that year. The main Treaty also included four attached agreements and twenty-five documents on subjects ranging from fisheries to the legal status and treatment of Koreans in Japan, and – of particular significance to this research – two agreements covering the problems of property claims and economic cooperation, and those of cultural property and cultural cooperation. The issues relating to the return of Korean cultural property that had been removed to Japan during the period of Japanese occupation was the main focus of the Treaty's attached agreement on cultural property and cultural cooperation.

In August 1945, right after the Second World War was over, the American Commission for the Protection and Salvage of Artistic and Historic Monuments in War Areas (commonly known as the Roberts Commission) established principles for the resolution of issues regarding return of cultural property in East Asia, including Korea, after months of research and meetings. In April 1946, the Roberts Commission approved the 'Principles for the Restitution of Works of Art, Books, Archives and Other Cultural Property in the Far East,' and sent it to the US government. In this chapter, the contents and results of the Roberts Commission's report will be reviewed. This chapter therefore examines the almost immediate demands for the return of the Korean cultural property which had been removed to Japan after Korea's restoration of independence in 1945, and how these demands were finally responded to by Japan through the 1965 Agreement. In order to do so, it reviews the progress of negotiations concerning the return of Korean cultural property, using diplomatic documents and

materials that record the process of the Agreement and then discusses the current situation. In addition to the bilateral agreement of 1965, the progress of the Principles (for the Far East) of the Roberts Commission will be introduced by referring to the Commission's documentations.

5.2 The Republic of Korea's Claim for the Return of Its Cultural Property Shortly After the Restoration of Independence in 1945

As the Korean Peninsula was liberated in 1945, a movement demanding the return of cultural property was immediately established. A Korean academic association of historians called Jindan hakoe (Jindan Academic Society) held a meeting less than three months after the end of the War, on 30th October 1945, and presented a proposal to the Supreme Command for the Allied Powers (SCAP)[444] in Japan through the United States Army Military Government in Korea (USAMGIK),[445] which asked that old books and cultural materials that had been removed to Japan be returned to Korea. In connection with this, Jindan hakoe compiled a list of books and other treasures taken by Japan, and in December 1945 submitted this to USAMGIK.[446]

Then, on 18th August 1948, shortly after the establishment of the Government of the Republic of Korea, Syngman Rhee, the newly inaugurated first President, answered a question on cultural property from an Associated Press (AP) reporter, saying:

> We, the Government of the Republic of Korea, will demand that Japan should return cultural objects and historical records that it has taken from Korea.[447]

Following this, the list drawn up by Jindan hakoe in 1945 was included in the first volume of a formal 'Daeil baesang yogujoseo (Claim to Japan for Restitution and Reparation)' made by a new 'Daeil baesang simuihoe (Commission on the Investigation of Restitution and Reparation from Japan)' of Korea: a total of 212 volumes of books and manuscripts and 837 other kinds of cultural objects as identified at that time were listed.[448]

5.3 American Commission for the Protection and Salvage of Artistic and Historic Monuments in War Areas and the Principles for the Restitution of Cultural Property[449]

The American Commission for the Protection and Salvage of Artistic and Historic Monuments in War Areas, also known as the Roberts Commission,[450] was established by President Franklin D. Roosevelt in June 1943. The Commission worked with the US Army to protect cultural treasures, gather information about war damage and compile data on cultural property that had been appropriated by the Axis powers. Headquartered at the National Gallery of Art in Washington, D.C., the Commission was instrumental in the establishment of the Monuments, Fine Arts and Archives (MFAA) programme within the War Department, which aimed to protect cultural materials in war areas. The Roberts Commission cooperated with the US Department of State and other commissions[451] in Allied countries to consider problems relating to the restitution of cultural materials.[452]

In August 1945, right after the end of the War in Asia, the Roberts Commission conducted research into and made plans regarding the return of cultural property in Asia, including Korea, that had been plundered by Japan, and established the Principles for the Restitution of Works of Art, Books, Archives and Other Cultural Property in the Far East in April 1946. The members of the Commission at that time were as follows (as of March 1946):

- Owen J. Roberts (Chairperson), US Supreme Court Justice
- David E. Finley (Vice-chairperson), Director, National Gallery of Art, Washington D.C.
- Huntington Cairns (Secretary-Treasurer), Secretary-Treasurer and General Counsel, National Gallery of Art, Washington D.C.
- William Bell Dinsmoor, Professor of Archaeology, Columbia University, New York
- Herbert H. Lehman, Director General, Relief and Rehabilitation Administration of the UN
- Archibald MacLeish, US Former Assistant Secretary of State for Cultural and Public Affairs

- Paul J. Sachs, Fogg Museum of Art, Harvard University, Massachusetts
- Francis Henry Taylor, Director, Metropolitan Museum of Art, New York
- John Walker (Special Advisor), Chief Curator, National Gallery of Art, Washington D.C.

In order to set up principles for the return of cultural property in Asia, the Roberts Commission began reviews and discussions based on the principles established in response to looting by the German armed forces in Europe. The draft was prepared by revising, supplementing and adding comments, with consideration of Japan's cases and the final draft agreement for the German case approved on 28th May 1945. The Draft Agreement for Germany was as follows:

> **Draft Agreement**
> (Final approved form, for Germany, as of 28th May 1945)
>
> 1. There shall be an unlimited obligation on Germany to restore identifiable looted works of art, books, artistic or historic archives, and other artistic or historic property.
>
> 2. Looted property shall be claimed through the existing governments of territories where the property had its situs and not directly by the former owners individually. Looted property or replacements therefore shall be delivered to such governments.
>
> 3. The return of such property shall not count as a credit against Germany's reparation obligations.
>
> 4. Looted property shall be returned in the condition in which it is found. If a claimant government accepts a returned object in a damaged condition, it may enter a claim on reparation account for such damage or deterioration but may not demand replacement in kind in compensation therefor.
>
> 5. The destruction by Allied bombing or other military action of artistic or historic property known to have been looted shall not relieve Germany of the obligations to make reparation or to replace that property with other comparable artistic or historic property.
>
> 6. Restitution of artistic or historic objects shall be restricted to identifiable property in existence prior to German occupation.
>
> 7. All artistic and historic property removed to Germany during the period of German occupation shall be deemed to have been transferred under duress and accordingly treated as looted property

> 8. If works of art, books, historic or artistic archives, and other artistic or historic property known to have been looted cannot be found within a period of two years after the unconditional surrender or defeat of Germany there shall be an obligation on Germany to replace such articles by comparable objects from German public or private collections.
>
> 9. Works of art and objects of artistic and historic value used in connection with religious ceremonies or edifices of any religious faith which have proved ecclesiastical ownership prior to 1938 may not be used for replacement in kind.
>
> 10. Pending the determination of claims for restitution or replacement in kind, works of art, books, artistic or historic archives and other artistic and historic treasures in German public and private collections may not be used for reparations.
>
> 11. In the application of the principle of replacement, replacements shall be so limited as not altogether to deprive Germany of artistic and historic materials.
>
> 12. The four governments will urge that all European countries establish a freeze of the exportation and importation of works of art, rare books, artistic and historic archives and other artistic and historic property in order to cooperate in preventing the concealment of artistic or historic property which has been looted by Germany. The freeze should be followed by provision for the licensing of transactions which would have no harmful effects, and which would provide a means for carrying on such commercial transactions as may be possible and proper.

Based on the above Draft Agreement, there were at least two comments that were notable in the Asian cases. First, the comment relating to No. 6:

> Comment for No. 6: Not applicable in the Far East. Some of the most important claims may be for archaeological finds excavated by the Japanese in Manchuria, China and Korea; all of which were in existence underground but not 'identifiable' prior to Japanese occupation.

Therefore, the approved Principles for the Restitution of Works of Art, Books, Archives and Other Cultural Property in the Far East did not mention 'prior to Japanese occupation', and wrote that there was '…. an unlimited obligation on Japan to restore identifiable looted cultural property',[453] actively including the buried cultural objects excavated by Japan in the category of the looted property.

Second, concerning No. 9, Korean cultural objects located in Japan are given as an

example, and the following is suggested as a basis for revision:

> Comment for No. 9: Modified and extended to include all artistic, historic, and ecclesiastical property of Japanese origin. In Japan there are Korean bells, for example, which are declared National Treasures, in the possession of Buddhist temples, which might properly be returned to Korea, if they have been removed from Korea since 1910.

Reflecting this comment, No. 12[454] of the approved Principles (for the Far East) clearly defines 'the national patrimony of the Japanese people' as having originated from Japan. Therefore, it allows for claims of repatriation for cultural property which had been taken from Korea and other Asian countries to Japan, even if it had been designated as a National Treasure of Japan.

The Roberts Commission drafted the Principles (for the Far East) taking into account the Draft Agreement for Germany and the comments, and then arranged to make a working document that presented the opinions of the Commission members and the expert group. The following people were included in the expert group who reviewed this draft:

- Sumner McK. Crosby, Department of the History of Art, Yale University, Connecticut
- Charles H. Sawyer, Director, Worcester Art Museum, Massachusetts
- George L. Stout, Chief, Arts and Monuments Division, Headquarters of the Supreme Commander for the Allied Powers, Tokyo
- Archibald G. Wenley, Director, Freer Gallery of Art, Washington D.C.

Ardelia R. Hall, who worked as Adviser to the US Department of State at that time, also participated in preparing comments that were included in the working document.

No. 3 of the draft Principles, included in the working document, was an important provision that defines 'looted property'. No. 3 was commented on in detail:

> 3. All cultural property taken by Japan under unequal treaties (since 1894) and during the period of Japanese occupation of Far Eastern Territories shall be deemed to have been transferred under duress and accordingly

treated as looted property, subject to specific claims or open to adjudication.

Comment:

Similar principle [455] approved by Roberts and State Department for Germany.

China has already entered claims for cultural property 'looted from China' by the Japanese since the Sino-Japanese War of 1894. It is presumed that such claims will receive consideration.

The periods of Japanese occupation of Far Eastern territories, as included in this principle, would be during the occupation of Formosa since April 1895; during the occupation of Korea since 29th August 1910; during the occupation of Manchuria since 18th September 1931; during the occupation of Chinese territory since 1894, including the occupation of Shantung from 6th May 1915 to 17th May 1919; the Shanghai invasion of 1932; the occupation of Jehol, Chahar, and other territory east of the great wall in 1933; during the occupation of China, French Indo-China, Siam, Burma, Malaya, Netherlands East Indies, and the Philippines since the outbreak of the Second World War in the Far East on 7th July 1937.

The Japanese, for example, are known to have removed to Japan a large amount of Korean art as well as abundant archaeological finds from the extensive Japanese excavations in that country since 1910. This is perhaps the most extensive, long-term, public looting by which a great people have been deprived of their heritage that the Allies may have to deal with anywhere in the world.

For this reason, the justice of an arbitrary limitation of the period for which claims would be admissible, as since 1931, would be debatable. This latter date has been suggested by Lt. Comdr. George L. Stout and Mr. Wenley of the Freer Gallery of Art.

Comment by Mr. Wenley:

I do not believe it is feasible or proper to consider cultural objects under this heading other than those concerned since perhaps 1931. The so-called unequal treaties, occupation of Korea, etc. were all legalised at the time, and retroactive measures of the scope suggested here would be so complicated that they would be open to abuse. On the other hand it might be suggested to Japan that the restoration of these objects would be a graceful action which would help to promote cooperation and good feeling.

No. 3 and the relevant comments clarify the problems and historical background regarding the issue on cultural property between Korea and Japan, and at the same time, show that there were different opinions regarding the Japanese occupation of Korea. Particularly notable is one comment that describes 'the most extensive, long-

term, public looting by which Korea has been deprived of its heritage' which took place 'under duress' caused by 'unequal treaties' at the hands of the Japanese. By contrast, Wenley argued in relation to the legality of 'the so-called unequal treaties,' that 'retroactive measures' could overcomplicate the circumstances of the return of cultural property. At the same time, he suggests that the restoration of cultural property to their countries of origin by Japan would be a 'graceful action that would help Japan to promote cooperation and good feeling' with the countries concerned. (The question of the legality of the Japanese occupation of Korea will be reviewed in more detail in the next chapter).

In addition, when establishing the Principles (for the Far East), the Roberts Commission emphasised the principle that cultural property could not be used as reparation. There was such a provision in the Draft Agreement for Germany, and relevant provisions were also made in the 'Principles' in the same context. Assistant Secretary Lamont Moore of the Roberts Commission especially emphasised this point to attendees of other divisions at a meeting held in the US State Department on 14th March 1946, and reported it to the Commission members as follows:

> I think we convinced them that works of art should not be included in the Reparations pool. They cannot, for example, be used as replacements for steel manufacturing equipment, which Japan cannot supply, to settle claims made by China for such equipment.[456]

Finally, although a different view was raised by Wenley, the No. 3 provision was approved as it was in the original draft. The reparation-related provisions were also included in the final draft. The Commission approved the Principles, which then comprised a total of 15 provisions, in April 1946. The contents were as follows:

> **Principles for the Restitution of Works of Art, Books, Archives and Other Cultural Property in the Far East**
> (Approved by the American Commission for the Protection and Salvage of Artistic and Historic Monuments in War Areas – April 1946)
>
> 1. The United States Government seeks the restoration to the rightful owner nation of cultural property* taken by the enemy under duress and also the conservation of all cultural property held in public trust, as the

cultural heritage of the owner nation and of all peoples, in its policies on restitution and restitution in kind. All other principles should be consistent with the basic principle of conservation of public cultural property.

2. There shall be an unlimited obligation on Japan to restore identifiable looted cultural property.

3. All cultural property taken by Japan under unequal treaties (since 1894) and during the period of Japanese occupation of Far Eastern Territories shall be deemed to have been transferred under duress and accordingly treated as looted property, subject to specific claims or open to adjudication.

4. Looted property shall be claimed through the existing governments of territories where the property had its situs and not directly by the former owners individually. Looted property, therefore, shall be delivered to such governments.

5. The return of such cultural property shall not count as a credit against Japan's reparation obligations.

6. Looted cultural property shall be returned in the condition in which it is found. If a claimant government accepts a returned object in a damaged or deteriorated condition, it may enter a claim on reparation account for such damage or deterioration but may not demand replacement in kind in compensation therefor.

7. The destruction by Allied bombing or other military action or artistic or historic property known to have been looted shall not relieve Japan of the obligations to make reparation or to replace that property with other comparable artistic or historic property.

8. Whenever looted cultural property cannot be positively identified, it should be held for adjudication and possible treatment as restitution in kind.

9. The countries of the Far East will be urged to establish a freeze on the exportation and importation of cultural property in order to cooperate in preventing the concealment of artistic or historic property which has been looted by Japan or by the puppet officials under Japanese occupation.

10. If identifiable cultural property known to have been looted by Japanese cannot be found (within a period of two years following the surrender of Japan) there should be an obligation on Japan to replace such articles by a comparable work of art or cultural object from their own collections.

11. Cultural property preserved in Japanese collections for centuries, such as the Shosoin Treasures, should be recognised as the national patrimony of the Japanese people.

12. Artistic, historic, and ecclesiastical property of Japanese origin, among the National Treasures, should be recognised as the national patrimony of

the Japanese people.

13. All cultural property in public collections in Japan and among the National Treasures shall be used only for restitution in kind for Allied claims of losses from public collections. Public collections and National Treasures, declared prior to 1931, shall not be used to satisfy claims of private individuals.

14. Restitution of cultural property taken by the Japanese prior to 1931 and restitution in kind shall be adjudicated by an international tribunal.

15. Cultural objects in Japanese public and private collections may not be included in an estimate of capital assets to be seized or held for the purpose of ultimate reparations.[457]

* Cultural property includes archaeological antiquities, works of art, books, archives, and other artistic or historic property, including objects of cultural importance and objects of scientific or historical importance.

It is noteworthy that the terms 'cultural property' and 'archaeological antiquities', which were not in the Draft Agreement (for Germany) were used in the Principles, establishing the principle that buried cultural objects that had been excavated in the occupied territories and exported to Japan might also be claimed as candidates for restoration.

The following section reviews how the Principles (for the Far East) influenced the practice of the return of cultural property in Asia after the Second World War.

As Pai observed, in contrast to post-war Europe, where the Allies had mounted concerted efforts to track down the hundreds and thousands of masterworks, paintings and other treasures seized by the Nazis, it seems that no such initiatives were adopted by General Douglas MacArthur, the Supreme Commander for the Allied Powers, who was headquartered in Tokyo from 1945 to 1951.[458] SCAP also had an Arts and Monuments Division and staff. Among those serving in Tokyo were Lieutenant Colonel Harold Gould Henderson[459], Major Laurence Sickman, Lieutenant Sherman Lee, Lieutenant Patrick Lennox Tierney[460] and Lieutenant Commander George Stout, who later became director of the Worcester Art Museum in Massachusetts, USA in 1947.[461] However, SCAP did not adopt any official position regarding the return of treasures taken by Japan from its former colonies.[462] The international tribunal required by No. 14 of the Principles (for the Far East) was not created either.

Donald MacIntyre commented that post-war discussions of Japanese cultural restitution were rapidly superseded by political considerations, and that General MacArthur was a key opponent of Japanese restitution. In a transcript of a confidential May 1948 radio message, MacArthur told the Army:

> I am in most serious disagreement even with the minority view on the replacement of cultural property lost or destroyed as a result of military action and occupation.[463]

MacArthur's opposition had nothing to do with the legal, ethical or moral rightness of restitution claims, but rather with immediate US policy goals and growing Cold War fears. Restoration would, according to MacArthur, 'embitter the Japanese people toward us and render Japan vulnerable to ideological pressure and a fertile field for subversive action'.[464]

SCAP's expected role in the restitution of cultural property was considerably reduced from the restitution policy outlined at the end of the War to supervising the Japanese government if it were to return cultural property to the occupied countries.[465] Pai also pointed out that, to further complicate matters, on 15th August 1945, with Japan's surrender, USAMGIK was forced to become the reluctant steward of Korea's cultural treasures and museums.[466] Kazuo Morimoto argued:

> The fact of cultural property looting by Japan disappeared from the memories of the Japanese people. If the installation of an international tribunal had been realised, Japan's looting of cultural property would have been harshly interrogated by the international community including the occupied countries. However, cultural property restitution issue became obscure after all and, no agreement was made. Eventually, the issue of cultural property restitution is still going on in East Asia.[467]

In this regard, Lyndel Prott commented:

> The 1947 Treaty of Peace with Italy required that (Article. 37): 'Within

> eighteen months from the coming into force of the present Treaty, Italy shall restore all works of art, religious objects, archives and objects of historical value belonging to Ethiopia or its nationals and removed from Ethiopia to Italy since 3rd October 1935'. … It is notable however that no such provisions were included in the Peace Treaty with Japan, and return of cultural property looted by Japanese soldiers, and in countries colonised by Japan before the War, such as Manchukuo (a Japanese puppet State in China) and Korea, is still a very painful and unresolved issue.[468]

Finally, although the Principles (for the Far East) were established by the Roberts Commission, and the Korean Commission on the Investigation of Restitution and Reparation from Japan was formed in Korea so that the issue of cultural property restitution could be solved immediately after the Second World War in Asia, the advent of the Cold War meant that the stability of Japanese society took priority. Therefore, the problem of the return of cultural property from Japan to Korea did not come close to an overall solution.

5.4 The Normalisation of Diplomatic Relations between the Republic of Korea and Japan and the 1965 Treaty

One of the Allies during the Second World War, the Soviet Union, pursued expansionary policies in the post-war period, and in 1949 the victorious Chinese Communist Party established the People's Republic of China, following the departure of Kuomintang (KMT, Chinese Nationalist Party) to Taiwan. In response to the expansion of communism in Asia, in September 1951 the USA signed the Treaty of Peace with Japan, and the Security Treaty between the USA and Japan, which aimed to build a system of regional cooperation in East Asia. As an extension of this, the USA encouraged Korea and Japan to begin talks intended to normalise relations between the two countries. Thus, in October 1951, during the Korean War (1950-1953), talks between Korea and Japan began in Tokyo, Japan, under the arbitration of SCAP.[469]

The official schedule of the Korea-Japan Talks after the preliminary contact in 1951 was as follows:

Negotiation process for the normalisation of relations between the Republic of Korea and Japan (the Korea-Japan Talks)[470]

- 1st Talks: 15th February 1952 – 25th April 1952
- 2nd Talks: 15th April 1953 – 23rd July 1953
- 3rd Talks: 6th October 1953 – 21st October 1953
- 4th Talks: 15th April 1958 – 15th April 1960
- 5th Talks: 25th October 1960 – 15th May 1961
- 6th Talks: 20th October 1961 – 22nd June 1965

However, the negotiation of diplomatic relations with Japan, which had occupied Korea for thirty-six years, was not smooth. There were fourteen years between the start of the talks in 1951 and the actual signing in 1965. Above all, one of the key issues was that Japan had no intention of apologising for the colonial occupation (1910-1945).

During the third talks, held in 1953, the Japanese senior representative Kanichiro Kubota made what are known as the 'Kubota Thoughtless Remarks,' saying that the 'thirty-six years of rule of Korea by Japan was beneficial to Korea'. In the meeting, he justified Japan's colonial rule of Korea:

> If Korea newly considers claim to Japan, that is to say asking for reparation, Japan will require the return of benefits given to Koreans, in other words, the flood control and afforestation, electricity, railways, port facilities. Japan had assisted more than 210,000 Japanese yen every year to Korea during the period of the colonial rule in Korea.

In reply, the Korea representative asked:

> Then why did the Allied Powers point out 'the slavery state of Koreans' in the Cairo Declaration?

Kubota replied:

> The Allied Powers mentioned it in the excited state during the War. It denigrated the personality of the Allied Powers themselves.[471]

Kubota's remarks, rather than being merely 'thoughtless', were a manifestation of the Japanese attitude to the colonial occupation of Korea and continued unwillingness to take responsibility for it.[472]

Due to Kubota's remarks, the talks were put on hold for the next five years.[473] After they resumed in 1958, it took seven more years for the Basic Treaty for the Normalisation of Diplomatic Relations between the two countries to be agreed and signed in 1965.

5.5 The Treaty on Basic Relations between the Republic of Korea and Japan and the Attached Agreement on Cultural Property and Cultural Cooperation between the Republic of Korea and Japan (1965)

On 9th January, a month before the first talks were held on 15th February 1951, an unofficial meeting between Korea and Japan took place in the preparation for the official talks. During this preparatory meeting, 'the main points outlined on properties and claim rights' based on the first volume of the 'claim to Japan for reparation' adopted on 15th March 1949 by the Korean Commission on the Investigation of Restitution and Reparation from Japan was delivered to Japan. Article 1 stipulated that 'old books, artworks, antiquities, national treasures, original blocks of maps, and ingot gold and ingot silver that Japan took off shall be returned'. This was the beginning of the negotiations for bilateral cultural property to be returned.[474] As stated above, the document regarding the return of cultural property was submitted to the Japanese delegation during the first meeting of the Claim Rights Committee on 20th February 1952 as part of the first Korea-Japan Talks.[475]

However, in the period between the first and third Korea-Japan Talks little progress was made due to the inter-office disagreement in the initial talks, Korea's involvement in the Korean War and the Kubota Thoughtless Remarks referred to above.[476] In the

fourth Korea-Japan Talks, which resumed in 1958, the Sub-committee of Cultural Property[477] was established, which allowed issues relating to the return of cultural property to be discussed more systematically. In the first meeting of the new Sub-committee, held on 4th June 1958, Korea expressed its basic position and proposals:

- Korea's cultural property, as an object of negotiation, shall include books, artworks, antiquities and other cultural treasures and maps.
- The 'exported time' shall be 'since 1905'.
- Concerning the exported time, Japan began taking out Korean cultural property before this time. However, in the negotiation the exported time shall be based on 'the time when the JRGK was instituted in 1905' for the amicable settlement of the problem of cultural property.
- A complete list of cultural property to be returned shall be passed over to Japan as early as possible.[478]

In the fifth Sub-committee meeting, held on 4th October 1958, Korea detailed five categories of cultural property to be returned:

- Korean cultural property of those designated in Japan (including 'Important Cultural Property' designated)
- Cultural property transported to Japan by the JGGK
- The Research Society for Korean Historical Sites and Relics' acquisitions as a proxy of the JGGK
- Cultural property taken away to Japan by Japanese Governors-General and Residents-General
- Cultural objects obtained from tombs all over the Gyeongsang Province
- Cultural objects obtained from tombs of the Goryeo Kingdom[479]

However, in the fourth Korea-Japan Talks, during which cultural property was first addressed, no progress was made in discussions of specific issues by the time of the recess in December 1958. The Korean government that the reason for the failure of these talks was that the Japanese government refused to participate actively in the negotiation due to the significant difference between Korea and Japan. Reviewing the below minutes, one can see the status of the negotiation.

- Title: *Minutes of 3rd Sub-committee of Cultural Property* (*11th October 1958*)
  - Content: The Japanese side stated that the Japanese government's guidelines were still not ready. Korea stated that it would appeal to public opinion if the issue was not resolved in this meeting. Then, Japan responded that its Diet opposed the return; and that it would be, therefore, difficult to push for it. In response, Korea asked whether Japan intended to delay as much as possible because Japan had claimed that it had waited for the response from the its government for four months (since the first Sub-committee meeting held on 4th June). Japan replied that it would answer the claims and proposals at some point, but it was not sure when.[480]

- Title: *Minutes of the 4th Sub-committee of Cultural Property* (*13th October 1958*)
  - Content: As Japan stated last time, it answered that it would be difficult to give an answer to Korea's request due to its internal political situation. So Korea strongly urged Japan to give a specific answer as soon as possible, and expressed regret at the delay in Japan's answer.[481]

- Title: *Minutes of the 5th Sub-committee of Cultural Property* (*25th October 1958*)
  - Content: Japan stated that it was difficult to answer for the same reasons as at the last meeting (due to the domestic situation) but it would continue to try to solve the issue. Korea again stated that Japan must respond to the request as soon as possible, and explained the five categories of cultural property to be returned. Japan answered that it would try respond but that it would be difficult to determine the status of cultural property that was now held privately rather than by the state.[482]

Thus, on the issue on cultural property, the Korean officials reported the following in an internal document written in January 1959:

> In the fourth Korea-Japan Talks, the Sub-committee of Cultural Property met 12 times, but no concrete progress was made. The Japanese did not submit any

additional list and instead asked the Korean side to present a 'satisfactory' list. Japan had received a list presented by Korea but had accepted this 'only for reference'. According to the informal contact, Japan intended to return only the state-owned cultural property.[483]

In the fourth Sub-committee meeting held in November 1960 during the fifth Korea-Japan Talks, Korea updated the five categories of cultural property to be returned from the fourth talks to seven:

- Cultural property designated as an 'Important Cultural Property' or an 'Important Artwork' by the Japanese government
- Cultural property transported by the JGGK or Research Society for Korean Historical Sites and Relics
- Cultural property taken out by Japanese Governors-General and Residents-General
- Cultural property obtained from tombs and other places in the Gyeongsang Provinces
- Cultural property obtained from tombs and other places of the Goryeo Kingdom period
- Calligraphic works, paintings, books, documents and original blocks of maps
- Various kinds of Korean cultural property personally possessed by the Japanese[484]

In response to this, the Japanese representative remarked that the issue of return of cultural property was political, so political decision-making was more important than practical affairs. He said that his delegation could not decide on basic policy without consent with the Japanese Minister of Education, and that the Japanese Ministry of Education strongly opposed the return of cultural property. Thus, the Japanese representative proposed to open the next talks after the policy had been decided in an unofficial meeting.[485]

In addition, in the Sub-committee meeting held on 14th November 1960 during the fifth Korea-Japan Talks, the following basic conditions were proposed by the Japanese:

> In principle, state-owned cultural property shall be returned, but it is 'donation', not a 'return'. There has been no international precedent case. Japanese national universities' holdings are difficult to return, because they do not accept the government's directions as they are now autonomous legal entities. Privately owned cultural property is also difficult to return. Cultural property would be returned not due to a legal obligation but for political and cultural considerations.[486]

Korea answered that it was right to see the repatriation of cultural objects as a return, that the Japanese government should be responsible for the return of the collections held by national universities and that it would discuss privately possessed cultural property in near future.[487] There was a wide divergence of opinion between the two countries.

Japan continuously argued that it had no legal obligation to return cultural property, and Korea continuously refuted this claim. Japan continued to use the words 'donation' or 'gift', not 'return'. Assessing the legality of the removal of cultural property from Korea to Japan and therefore the 'legal obligation' for its 'return' were the most important points of discussion; and both parties made claims and counter-claims on this issue:

- Title: *Cultural Property Experts Group Meeting and Progress Report*
  - Date of report: 7th March 1961 (written on the date after the meeting)
  - Content: Attendees included Su-yeong Hwang (Expert Committeeman) on the side of Korea and Ryusyo Matsushita (Chief of the Arts and Crafts Department, Cultural Property Protection Committee) and Tadashi Saito (Inspector of the Cultural Property Protection Committee) of Japan. Su-yeong Hwang of Korea stated that buried cultural property such as that buried in tombs, which comprises the most part of Korean cultural property, stone works of palaces, Buddhist monasteries and temples, paintings, old books and documents are normally the state's cultural property or are not traded without a permission, so all such cultural property had been removed illegally.[488]

- Title: *Point of Iseki* (*Chief Sub-committee Member of Japan*)*'s Remarks in the Meeting of the Sub-committee of Cultural Property on 18th December 1961.*
  - Content: Iseki stated that Korea's view of the illegal export was not well evidenced or supported by the facts, and that therefore the export did not constitute a civil or criminal claim. He also remarked that no state could be responsible for individuals' behaviour in relation to private cultural property exports and had no obligation for return such exports under international law. However, he added that Japan was thinking of gifting Korean cultural property 'to a certain extent' to promote culture in Korea after the normalisation of diplomatic relations.[489]

- Title: *Additional Report on the 5th Meeting of the Sub-committee of Cultural Property in the 6th Korea-Japan Talks*
  - Communication: Chief negotiator (Korea) to Minister of Foreign Affairs (Korea)
  - Date of report: 18th December 1961
  - Content: Japan stated that the Japanese government had no obligation or responsibility to return Korean cultural property under international law. Korea argued that the return of cultural property varied depending on the situation referring to international cases and practices, and that unearthed cultural property belonged to the state as a rule, so Japan had duties and responsibilities to return Korean cultural property.[490]

- Title: *Report on the Result from the 4th Meeting between the Korean and Japanese Ministers of Foreign Affairs*
  - Date of report: 17th March 1962
  - Content: A report was made concerning the results of the fourth meeting between the Korean and Japanese Ministers of Foreign Affairs held in the Ministry of Foreign Affairs in Japan. In the main discussions, Korea stated that the issue of cultural property should be resolved as soon as possible based on a principle of returning it the country of origin. On the contrary, Japan insisted that it had no legal obligation to return Korean cultural property, but it intended to resolve the issue favourably from the standpoint of cultural cooperation.[491]

- Title: *Summary of the 4th Meeting between the Korean and Japanese Ministers of Foreign Affairs*
  - Date of report: 17th March 1962
  - Content: In a reception room on the morning 17th May, the fifth meeting was held in the form of talks for adjournment. On the cultural property issue, Korea made reference to UNESCO's recommendation that 'it is desirable to return cultural property to its country of origin' and compared the Korea-Japan situation to Article 75 of the Treaty of Peace with Italy.[492] These principles required Japan to return Korean cultural property. Japan answered that it did not accept that it had obligations to return the cultural property under international laws and practices but that it would consider the situation.[493]

- Title: *Summary of the 1st Meeting for Preliminary Negotiations on Cultural Property*
  - Content: This meeting was held on 13th February 1963. The basic view of Korea was that the demand for the return of cultural property was an exercise of legitimate rights. On the other hand, Japan upheld its basic view that the issue of cultural property could not be addressed using legal rights or obligations, and that the gift of some Korean cultural property could be made in terms of helping to promote the culture in Korea during the normalisation of diplomatic relations.[494]

- Title: *Minutes of the 3rd Meeting on Cultural Property for Preliminary Negotiations of the 2nd Political Meeting in the 6th Korea-Japan Talks*
  - Date of report: 27th February 1963
  - Content: The minutes recorded the third meeting on cultural property held on 27th February 1963. Questions and answers regarding the possession of Korean cultural property in Japan and its present condition were given, with particular reference to the third paragraph of the list of cultural property to be returned, which included postal services and communications related cultural property, particularly 'Hirobumi Ito's collection',[495] and 'Terauchi's collection of books'.[496] To Japan's question about the reason or ground for

demanding the return of cultural property, Korea answered that two aspects were equally important: the need for an academic perspective and the legitimate claim for unjust illegal removal.[497]

The negotiation then drifted, due to these diametrically opposing views between the two countries, and did not elicit a clear agreement even during the period of the 6th Korea-Japan Talks that started on October 1961 and proceeded to June 1965 when the main Treaty was signed. In addition to the failure to make progress on the general principles of Korea's claims, there was similarly little progress on talks about specific major Korean treasures removed to Japan during the decades of occupation.

For example, at the second meeting of the cultural property experts' group during the sixth Korea-Japan Talks, Korea described the loss of the pagoda and the Buddhist statues from Seokguram Grotto,[498] the lion stone statue of Bulguksa Buddhist Monastery and Temple[499] and the gold crowns of the Silla Kingdom. The JGGK was believed to have been responsible for the removal of these major works of art, and Korea asked Japan to elucidate these facts. However, Japan took a sceptical attitude to the discussion of the facts. Korea therefore strongly requested that Japan participate sincerely in the discussion of the facts in order for the cultural property expert meeting to operate effectively.[500] The whereabouts of the pagoda, the Buddhist statues and the lion stone statue, all outstanding examples of Korean Buddhist religious art and known to have been removed to Japan, remain unknown to the present day.

About these deadlock situations between the two countries, Korea's chief negotiator reported as follows:

- Title: *Negotiations Status and Prospects on the Return of Cultural Property*
  - Communication: Chief negotiator (Korea) to Minister of Foreign Affairs (Korea)
  - Date of report: 1st March 1962
  - Content: Japan agreed to institute a 'special committee of cultural property' consisting of experts, but judging by its attitude so far it seems that they do not have any intention to organise this. It is difficult to expect

progress any more on the discussion of practical problems of cultural property.[501]

In the sixth Korea-Japan Talks, Japan denigrated the function of the Cultural Property Experts' Group meetings and the role that the Group had played since 1958 in the negotiation of the return of cultural property, and maintained that instead decisions about the return should be resolved politically. The related records are as follows:

- Title: *Report of the 1st Meeting on Cultural Property for Preliminary Negotiations of the 2nd Political Meeting in the 6th Korea-Japan Talks*
  - Communication: Korean Ambassador to Japan to Minister of Foreign Affairs (Korea)
  - Date of report: 13th February 1963
  - Content: Korea stated that the discussion should proceed to decide the return based on a list of cultural property presented on 28th February 1962 by Korea, whereas Japan stated that the list should be reviewed but only for reference, and that the decision of the return should follow political decision.[502]

- Title: *Summarised Report on the Preliminary Negotiations and the 3rd Meeting on Cultural Property*
  - Date of report: 2nd March 1963
  - Content: Concerning processing the meeting, Japan suggested that the meetings on cultural property should stop because a decision could not be made for the return. Instead Japan proposed the opening of a non-official meeting between two or three experts to exchange academic and cultural opinions. In response to this, Korea stated that detailed checks on the list of cultural property to be returned and a review of them should continue throughout the current meetings.[503]

Moreover, in the meeting held on 28th March 1963, the Japan said that it had had much difficulty because the cultural property committee of the Japanese government opposed the return of Korean cultural property on principle. Thus, Japan stated that it would not be able to provide Korea with a list of cultural property to be returned shortly before the Korea-Japan Talks were finally enacted.[504] The negotiation for the

return of cultural property therefore entered another a difficult phase.

As explained previously, the wide divergence of opinion between the two countries continued throughout the discussion of the Korean claim on the 'illegality' of the removal of Korean cultural property to Korea and the consequent 'legal obligation' for its return.

When the section of the Agreement of 1965 that should describe the return of cultural property to Korea was being drafted, the gap between the two sides was again revealed, with Japan stating that the Agreement should be described as moving in the direction of 'donating' or 'gifting' the cultural property, but only for the sake of cultural cooperation between two countries, instead of as a response to the Korean argument that there was a legal claim for 'return'.

Japan constantly emphasised 'cultural cooperation' in the negotiations of return of cultural property. The reason why is indicated in the records of the sixth Korea-Japan Talks:

> They [Japan] wanted to justify their attitude of refusing to return the large amount of cultural property identified by the years of Korean research, and thus they shifted the subject to 'cultural cooperation' between the two countries in order to make the issue of returning cultural property vague.[505]

Regarding the Japanese strategy for the negotiations, in the preliminary negotiations held on 5th January 1963 for the 23rd meeting of Korea and Japan, Korea stated that it would welcome the promotion of cultural cooperation after the normalisation of diplomatic relations, but that it could hardly fall within the scope of the issues connected to the return of cultural property.[506]

In order to be able to conclude the proposed overall 1965 Korea-Japan Agreement, in the final negotiations in March and April 1965 Korea suggested 'turn over' as a neutral term in place of 'donation' or 'gift' proposed by Japan and 'return' proposed by Korea. The two countries agreed on this,[507] and the Agreement's text was written as: 'The Government of Japan shall turn over the cultural property … to the

Government of the Republic of Korea…'

The phrase 'cultural cooperation' was also finally agreed on for use in the Agreement. The Korean government's instruction to agree to this less than ideal compromise is seen in the following records:

- Title: *Directive on the Matter of Cultural Property*
  - Date: 17th March 1965
  - Content: … For the sake of concluding the negotiations, you are directed to use an expression 'turn over' as a neutral term of 'donation' proposed by Japan and of 'return' by us [Korea].[508]

- Title: *Directive on the Matter of Cultural Property*
  - Date: 20th April 1965
  - Communication: Minister of Foreign Affairs (Korea) to Chief Negotiator (Korea)
  - Content: ... The term 'cultural cooperation' is inserted into the title of the Agreement considering the stance of Japan, and in Article 2 concerning the return of Korean cultural property, a neutral term 'turn-over' is used.
  - Attached document: Draft Protocol on Solving the Problems with Cultural Property and Cultural Cooperation between the Republic of Korea and Japan.[509]

The minutes and entire text of the concluded Agreement of 22nd June 1965 are as follows:

Agreement on Cultural Property and Cultural Cooperation Between the Republic of Korea and Japan[510 511]

Signed in Tokyo on 22nd June 1965
Entered into force on 18th December 1965

The Republic of Korea and Japan hope to contribute to bilateral academic and cultural development and research in light of the historical relationship between the cultures of the two countries, and have agreed as follows:

Article 1

The Government of the Republic of Korea and the Government of Japan will cooperate as far as they possibly can in order to promote cultural

relations between the peoples of the two countries.

Article 2

The Government of Japan shall turn over the cultural property listed in the Annex to the Government of the Republic of Korea within six months after this Agreement comes into force in accordance with procedures to be agreed upon between the two Governments.

Article 3

The Government of the Republic of Korea and the Government of Japan shall provide convenience as far as they possibly can in order to give the people of the other country research opportunities in cultural property that art galleries, museums, libraries, and other academic and cultural facilities possess in their countries respectively.

Article 4

This Agreement shall be subject to ratification. Instruments of ratification shall be exchanged at Seoul as soon as possible. This Agreement shall take effect from the date of exchange of instruments of ratification.

IN WITNESS WHEREOF, the representatives of the legitimate delegation from the respective Governments have signed this Agreement.

DONE in duplicate in Tokyo on 22nd June 1965 in Korean and Japanese under the duly authority.[512]

For the Republic of Korea
(Signed) Dong-won Lee, Dong-jo Kim

For Japan
(Signed) Etsusaburo Shiina, Shinichi Takasugi

Agreed Minutes on the Agreement on Cultural Property and Cultural Cooperation between the Republic of Korea and Japan

The representative of Korea at the concluding meeting said that he hoped that Korea-originated cultural property in the personal possession of Japanese people should be also donated to Korea. The representative of Japan said that the Japanese government should encourage this because the voluntary donation of such cultural property possessed by Japanese people would contribute to the promotion of cultural cooperation between the two countries.

Tokyo, 22nd June 1965

5.6 Return of Korean Cultural Property according to the 1965 Agreement

Korea had already made a list of the cultural property claimed for return, which was delivered to Japan in the seventh Sub-committee of Cultural Property meeting during the sixth Korea-Japan Talks on 28th February 1962.[513] The details are as follows:[514]

- 689 items kept in Tokyo National Museum and the University of Tokyo. They are excavated objects from tombs in Korea and have been taken out by the JGGK.
- 103 items of Goryeo ceramics, 8 Buddha statues, 1,015 sets of books and archives kept by Tokyo National Museum, Kyoto National University and the Library in the Imperial Palace. They are believed to be taken out by the Japanese Residents-General and the Governors-General.
- 245 items of paintings and calligraphies privately kept in Terauchi's collection.
- 758 items kept in Tokyo National Museum and Japanese Postal and Communications Museum. They are excavated objects from tombs and postal services and communications related articles taken out from Korea. They are currently registered as Japanese state-owned.
- 80 items privately kept by Ogura (a Japanese private collector) as Japanese registered cultural property.
- 1,581 items kept by three other Japanese private collectors.

It is important to note that the identified items that Korea was asking to be returned in the meeting showed only a tiny percentage of the total cultural property lost during the period of Japanese occupation, and represent only a few of the lost cultural properties that were of great national importance to the Korean cultural heritage.

Analysing the different categories, there were 3,186 archaeological objects (1,015 items in Japanese national collections and 1,914 items in Japanese private collections at that time), 1,015 items of books and archives and 278 items of postal services and communications cultural heritage. However, of the 4,479 items in the original 1962 claim, only about 32% of were actually returned following the signing of the 1965 Agreement, all from Japanese national collections: 544 archaeological items, 852

books and archives and 35 postal services and communications related items – a total of 1,431 items.[515]

Furthermore, all the items in Japanese private collections of Korean cultural property were excluded from the returns.[516] A further serious complication was that Japan had transferred a wide range of public bodies such as national universities and museums out of direct state ownership and control such that, while they remained nationally funded and influenced (such as through the appointment of board members or senior staff), they were run by autonomous foundations or administrations, i.e. they had become 'Quangos' (Quasi-Autonomous Non-Governmental Organisations), as they are known in the UK and elsewhere. Japan claimed that such bodies and any Korean cultural property that they may have held were not regarded as public entities and so were not subject to repatriation under the 1965 Agreement except on a voluntary basis. It seems likely that many of the 68% of items regarded by Korea as subject to the 1965 Agreement which have not been returned were seen by Japan as outside the Agreement because they were held by such 'Quangos'.

5.7 Limitations and Challenges to the 1965 Agreement

The limitations of the text of the Agreement were above all that expressions such as 'return' or 'restitution' were not included.[517] The superficial representations in the Agreement, such as '… in light of the historical relationship between the cultures of the two countries, …' were intended to avoid representing Japan's export of cultural property including looted cultural property as illegal,[518] and ensuring that the return of Korean cultural property could not be portrayed as an admission of guilt or fault on the part of Japan. Instead it was presented as a precondition for promoting increased mutual understanding and goodwill between the two countries.[519] This was the result of negotiations between the two governments which showed the distinct differences in their attitudes to the problems of the return of cultural property. In short, the Agreement of 1965 gave the impression that the returns were merely part of a 'cultural agreement'.[520]

Second, nothing from Japanese private collections of Korean cultural property removed during the period of occupation was returned.[521] This was the result of

Japan's continued adherence to its principles that privately-owned properties could not be the government's responsibility throughout the Korea-Japan Talks. However, in the agreed minutes of the Agreement, it was stipulated that the Japanese government would encourage the return of private collections of Korean cultural property. The Korean government asked the Japanese government to act under this provision and in particular has urged it to take action in accordance with the 1965 Agreement in relation to the most important Korean national treasures in private collections. In 1966 the Korean government received a hard-to-understand answer from the Japanese government which argued that Korean experts and officials rather than Japanese should approach and make recommendations to Japanese collectors to encourage them to make donations. The related records are as follows:

- Title: *Recommendation for Donation of Japanese Private Collections of Korean Cultural Property by the Japanese Government or Korean Nationals*
  - Communication: Korean Ambassador to Japan to Minister of Foreign Affairs (Korea)
  - Date of report: 18th April 1966.
  - Content: As we [Korea] inquired about the Japanese government's actions about the recommendation of returning Korean cultural property possessed by Japanese civilians, Japan answered that as such cultural property now in Japan is protected by the Cultural Property Protection Law of Japan[522], it should not be okay for the Japanese government to recommend it, but it should be okay for Korean nationals to make the recommendation.[523]

The implication of all this seems to be that even if the items in Japanese private collections that Korea claimed were offered back to Korea in accordance with the 1965 Agreement, objects of high cultural property value could only be sent back to Korea with the authority or license of the Japanese authorities under the Cultural Property Protection Law of Japan. Korea therefore sought further clarification of this point:

- Title: *Negotiation for Donation of Privately Possessed Korean Cultural Property*

- Communication: Minister of Foreign Affairs (Korea) to Korean Ambassador to Japan
- Date of report: 21st April 1966
- Content: Concerning the recommendation for donation of privately possessed Korean cultural property, you will express a doubt about the answer of the Ministry of Foreign Affairs, Japan, saying that it should not be okay for the Japanese government to recommend it because of the Cultural Property Protection Law of Japan. You are also directed to ask the Japanese government about its actions on the recommendation for donation, and to urge the Japanese government to do so.[524]

However, Japan does not seem to have offered any clarification on the claimed conflict between the promise in the 1965 Agreement to encourage returns from private owners and the Cultural Property Protection Law of Japan. The position remains essentially unchanged: it is difficult to find any evidence that the Japanese government has adopted policies intended to restore Korean cultural property held in Japanese private collections.

Experts have estimated that only 10% of important Korean cultural objects taken to Japan during the occupation are in public museums, libraries and art galleries in Japan: the remaining 90% are in the hands of private collectors and organisations in Japan.[525] The fact that none of the Korean cultural property in private collections in Japan has been returned, in accordance with the Agreement of 1965, and the passive attitude of the Japanese government show the limits of the Agreement and the challenges of the future.

Third, the 1965 Agreement did not present a solution for the problems relating to Korean cultural property identified as located in Japan after the signing of the 1965 Agreement. Since that date, many significant Korean cultural objects have been identified: according to the Overseas Korean Cultural Heritage Foundation, 71,422 items of Korean cultural property are located in Japan.[526] Such studies continue, examining further categories of cultural property; and it seems almost certain that Japan will be asked to 'turn over' (to use the 1965 Agreement term) much more Korean cultural property. However, Japan considers that the issue of returning Korean

cultural property has already been solved by the Agreement of 1965.[527]

However, as made clear above, the cultural property to be returned in accordance with the 1965 Agreement was limited to those items or collections of cultural property which were listed in the Annex referred to in Article 2 of the Agreement – only a tiny proportion of the total Korean losses of important cultural property during the Japanese occupation. Therefore, a number of leading Korean legal and cultural experts argue that there is a need to continue the new negotiations between Korea and Japan about this issue.[528]

Chapter 6. Legal Matters Concerning the 1905 Agreement and the 1910 Treaty Between Korea and Japan

6.1 Introduction

As Chapter 3 explains, in 1914, the JGGK gifted the Tokyo Imperial University with 439 sets of *Joseon wangjo sillok,* which had been kept in one of the Korean national depositaries.

In 1998, Jeongbugirok bojonso (Government Archives and Records Service of Korea), currently Gukga girogwon (National Archives of Korea) requested the University of Tokyo to conduct some pre-investigation while proceeding work for the return of 47 books of the Odaesan Sago, the remainder of a total of 800 books of the *Joseon wangjo sillok*, which were being kept in a storage for valuable books of the University of Tokyo Library. In return for this, it was reported that the director of University of Tokyo Library agreed to conduct a co-investigation with Korea, saying:

> If the import of the Odaesan Sago edition to Japan was 'illegal' in the process, we will be willing to return the books.[529]

In principle, the *Joseon wangjo sillok* are important national archives, fundamental national records to be kept nationally. They should not be treated as objects for general sale or for donation, because they have a clear official purpose in being held as national records. In spite of these general principles, Japan has held fast to its opinion that the removal of Korean cultural property, taken to Japan during the occupation period, was lawful. For example, Daisuke Matsunaga, a deputy press secretary for Japan's Ministry of Foreign Affairs, stated:

> The original 'transfer' of cultural objects from Korea to Japan was lawful. Our position is that it is out of friendship and goodwill if we are giving things back.[530]

This official position by the Japanese government was also reported as follows:

> At the diplomatic meeting held in Pyeongyang, North Korea [DPRK] on 17th September 2002, North Korea [DPRK] requested that Japan return and compensate for cultural property taken during the Japanese colonial rule of the Korean Peninsula from 1910 to 1945. In reply to this request, an official of the Agency of Cultural Affairs, Japan, said 'All artefacts were acquired "legally and rightfully". We are under no obligation to return anything'.[531]

However, regarding all the cultural assets that the above Japanese official mentioned as being legally held, Japan needs to reveal how it obtained them, but does not generally give this information. In addition, there is a need to review once again how Korean cultural assets possessed by Japanese public institutions were acquired by Japan. As explained in the previous chapters, it is the case that numerous Korean cultural objects currently possessed by Tokyo National Museum, the University of Tokyo and the Japanese Imperial Household Agency have been taken to Japan under the authority of both the JRGK and the JGGK just before and during the period of occupation. In that situation, one may raise a question about whether such removal by the JRGK and the JGGK was legitimate.

6.2 Issue of Legality of Japanese Removal of Korean Cultural Heritage

To discuss the legality of the act of the removals by the JRGK and the JGGK, an overall question may be raised to see whether the establishment of the two institutions in Korea was legitimate. The ground for the establishment of those institutions in Korea was based on the result of the Japanese colonial and military occupation of Korea, so it leads to an ultimate question of whether Japan's annexation of Korea truly constituted a lawful procedure.

Regarding the annexation of Korea, the Japanese government maintains the following position:

1. The annexation of Korea in 1910 was for the sake of peace in Asia. Therefore, it did not create any ethical or legal problem.
2. Japan has moral and ethical responsibilities for the occupation of Korea, but

does not have any problem in law.[532]

Thus, in this chapter, the legal status of the Japanese occupation of Korea is discussed. First, the content of the Treaty on Basic Relations, made between the Republic of Korea and Japan in 1965, should be noted. The main purpose of the Treaty was to restore diplomatic relations between the Republic of Korea and Japan after Korea regained independence at the end of the Second World War in 1945. Its full text is as follows:

Treaty and Agreements Between the Republic of Korea and Japan
Dated 22nd June 1965[533]

Signed at Tokyo 22nd June 1965. Entered into force 18th December 1965

Treaty on Basic Relations Between the Republic of Korea and Japan

The Republic of Korea and Japan,

Considering the historical background of relationship between their peoples and their mutual desire for good neighborliness and for the normalisation of their relations on the basis of the principle of mutual respect for sovereignty;

Recognising the importance of their close cooperation in conformity with the principles of the Charter of the United Nations to the promotion of their mutual welfare and common interests and to the maintenance of international peace and security; and

Recalling the relevant provisions of the Treaty of Peace with Japan signed at the city of San Francisco on 8th September 1951 and the Resolution 195 (III) adopted by the United Nations General Assembly on 12th December 1948;

Have resolved to conclude the present Treaty on Basic Relations and have accordingly appointed as their Plenipotentiaries,

The Republic of Korea:
Tong Won Lee, Minister of Foreign Affairs of the Republic of Korea
Dong Jo Kim, Ambassador Extraordinary and Plenipotentiary of the Republic of Korea

Japan:
Etsusaburo Shiina, Minister of Foreign Affairs of Japan
Shinichi Takasugi

Who, having communicated to each other their full powers found to be in good and due form, have agreed upon the following articles:

Article 1

Diplomatic and consular relations shall be established between the High Contracting Parties. The High Contracting Parties shall exchange diplomatic envoys with the Ambassadorial rank without delay.

The High Contracting Parties will also establish consulates at locations to be agreed upon by the two Governments.

Article 2

It is confirmed that all treaties or agreements concluded between the Empire of Korea and the Empire of Japan on or before 22nd August 1910 are already null and void.

Article 3

It is confirmed that the Government of the Republic of Korea is the only lawful Government in Korea as specified in the Resolution 195 (III) of the United Nations General Assembly.

Article 4

(a) The High Contracting Parties will be guided by the principles of the Charter of the United Nations in their mutual relations.

(b) The High Contracting Parties will cooperate in conformity with the principles of the Charter of the United Nations in promoting their mutual welfare and common interests.

Article 5

The High Contracting Parties will enter into negotiations at the earliest practicable date for the conclusion of treaties or agreements to place their trading, maritime and other commercial relations on a stable and friendly basis.

Article 6

The High Contracting Parties will enter into negotiations at the earliest practicable date for the conclusion of an agreement relating to civil air transport.

Article 7

The present Treaty shall be ratified. The instruments of ratification shall be exchanged at Seoul as soon as possible. The present Treaty shall enter into force as from the date on which the instruments of ratification are exchanged.

IN WITNESS WHEREOF, the respective Plenipotentiaries have signed the present Treaty and have affixed thereto their seals.

DONE in duplicate at Tokyo, this 22nd day of June of the year one thousand nine hundred and sixty-five in the Korean, Japanese, and English languages, each text being equally authentic. In case of any divergence of interpretation, the English text shall prevail.

FOR THE REPUBLIC OF KOREA:	FOR JAPAN:
(Signed) Tong Won Lee	(Signed) Etsusaburo Shiina
Dong Jo Kim	Shinichi Takasugi

As Article 2 indicates that 'all treaties or agreements concluded between the Empire of Korea and the Empire of Japan on or before 22nd August 1910', both the 1905 Agreement of Protectorate and the 1910 Treaty of Annexation are confirmed to be 'null and void', which means they are of no force and effect, and of no legal or binding force.[534] 'Null and void' also means that which binds no one or is incapable of giving rise to any rights or obligation under any circumstances, or that which is of no effect.[535] Therefore, the nullity[536] of all of the treaties and agreements between Korea and Japan before the above date provides the interpretation that the 1905 Agreement and the 1910 treaty should be treated as though they had not taken place or that they have absolutely no legal force or effect[537] whatsoever.[538]

However, in terms of Article 2, Korea and Japan have different perspectives. Judging from the historical facts and the statement in Article 2, the Korean government takes the position that the treaties and agreements on and before 22nd August 1910, and the annexation of Korea as a colony, are inherently invalid. However, the Japanese government claims that its colonisation of Korea was legally valid. Korea interprets that 'already null and void' in Article 2 is a 'fundamentally invalid meaning that the effect has not been caused originally'.[539]

On the other hand, Japan takes the interpretation that 'from a certain point in the past, it became invalid'. Japan sees the 'point of the past' when the Agreement of Protectorate in 1905 and the Treaty of Annexation in 1910 became invalid as 15th August 1945, when Korea achieved its restoration of independence.[540] Japanese scholar Haruki Wada introduces Japan's stance a little differently, indicating that the 1910 Treaty of Annexation is 'now null and void', taking the interpretation that it had been valid but became null and void by the establishment of the Government of the Republic of Korea in 1948.[541]

On 5th August 1995, Japanese Prime Minister Tomiichi Murayama said:

> The Treaty on the Japanese Annexation of Korea had been concluded in a legally valid manner.[542]

Concerning this claim, Japanese scholar Yutaka Kawasaki has said that the remark was merely a restatement of the long-held official stance of the Japanese government.[543]

Japanese scholar Takashi Iwasaki has also made the following observation:

> Finally, not formally confirming the problems on the nature of Japan-Korea Treaty of 1905 and historical responsibility of colonial rule, the Japanese government signed the 'Treaty on Basic Relations between Japan and the Republic of Korea' on 22nd June 1965. The 1965 Treaty between Korea and Japan defined the annexation of Korea as null and void, but did not specify since when it is null and void, eventually leaving room for ambiguous interpretation. This is unusual as an international treaty.[544]

In addition, since Korea and Japan began talks for the normalisation of diplomatic relations in 1951, Japanese political leaders have made remarks to justify Japan's colonisation of Korea. When these kinds of remarks have been made by Japanese statesmen or opinion leaders, Korea has criticised those remarks as 'thoughtless', and diplomatic relations between the two countries have repeatedly grown tense. When Tomiichi Murayama's so-called 'thoughtless' remarks became a problem, the Korean Ministry of Foreign Affairs informally noted that he had made 26 such remarks.[545] The Prime Minister of Japan, also a lawmaker of Japan, wrote on his internet homepage: 'The Treaty of Annexation in 1910 between Korea and Japan was legal in terms of international laws'.[546]

In a situation where the Japanese government officially does not recognise the invalidity of the colonial annexation of Korea, Korean scholars in various fields have continued their research to prove its invalidity within the framework of international law. The results of such research so far can be summarised into two aspects, based on

a summary of the basic facts of the legal invalidity of the annexation of Korea:

1. The annexation of Korea was made by the Treaty of 1910, and that Treaty is essentially based on the Agreement of Protectorate of 17th November 1905.[547] Therefore, in reviewing the legality of the Japanese annexation of Korea and the related agreements prior to the 1910 Treaty of Annexation, the Agreement of Protectorate of 1905, is the principal subject of analysis, because it is legally meaningful and logically inter-related.[548] The signatory of the Agreement of 1905 was forced to sign by the coercive measures of Japan against Korea. The coercion in this case was a personal and direct one towards the Emperor and the Ministers of Korea. Moreover, the Emperor of Korea as the monarch never agreed to the Agreement of Protectorate in 1905.[549]

2. In addition to the fact of this personal coercion, the procedures and formality of agreements made between Korea and Japan from the 1905 Agreement until the 1910 Treaty inclusive contain further problems.[550] Also, the 1905 Agreement and the 1910 Treaty were never ratified.[551]

According to the constitution adopted by the Empire of Korea in 1899, only the emperor had the rights to conclude diplomatic agreements and treaties, which needed to be ratified by the imperial seal. However, as a result of research conducted on this, it was found out that neither the signature of Korean Emperor Kwangmu nor the imperial seal was on the Agreement of 1905.[552] This fact was discovered in 1992 by researchers of the Kyujanggak Archives in Seoul National University, who were examining the royal records and documents of the Joseon Dynasty. The researchers found out important documents thought to have been promulgated under the name of the Korean Emperor in the process of Japan's annexation of Korea were, in fact, forged.[553] Accordingly, Korea additionally presents the 'absence theory' that the Japanese colonial occupation of Korea was invalid in practice and was not even established in principle.

The following sections of this chapter review the historical facts to support the case of the invalidity of the Japanese colonial occupation, including the reaction of the international community and the legal review and interpretation. They are:

- Legal review on 'coercion' and 'invalidity' in terms of international treaties
- Situation when the signing of the 1905 Agreement of Protectorate was made under personal threats to and direct coercion of the Emperor and Ministers of Korea, and the reaction of the international community to the invalidity
- Reaction of international societies in law to the 1905 Agreement of Protectorate
- Reaction of the UN to the 1905 Agreement of Protectorate

6.2.1 'Coercion' in International Treaties and the Legal Theory on Invalidity

First, in relation to 'coercion' and validity in signing treaties, the UN includes the following definition in a relevant provision of the Vienna Convention of the Law of Treaties[554]:

> **Article 51. Coercion of a Representative of a State**
> The expression of a State's consent to be bound by a treaty which has been procured by the coercion of its representative through acts or threats directed against him shall be without any legal effect.

Thus, in international law, in case of the coercion of a representative of a state, the above article specifies that a treaty made in such circumstances does not have any legal effect. It can be seen that Article 51 meets the stipulation of the first of the two aspects mentioned above. If the situation described here occurred today between Korea and Japan, it would be assumed that the treaty between the two countries would be null and void under the 1969 Vienna Convention. However, in contrary to the current assumption, it is difficult to acknowledge that it is theoretically possible to apply the Vienna Convention to the circumstances of 1905 based on the principle of 'non-retroactivity', as enunciated under Article 4 of the Convention:

> **Article 4. Non-retroactivity of the Present Convention**
> Without prejudice to the application of any rules set forth in the present Convention to which treaties would be subject under international law independently of the Convention, the Convention applies only to treaties which are concluded by States after the entry into force of the present Convention with regard to such States.

However, the principle of 'inter-temporal law' can be applied in order to test the argument of No. 1. An interpretation by means of inter-temporal law is generally described as follows:

> A treaty is to be interpreted in the light of general rules of international law in force at that time of its conclusion – the so-called inter-temporal law. This follows from the general principle that a juridical fact must be appreciated in the light of the law contemporary with it.[555]

The lawyer William Edward Hall stated the following in 1890:

> The antecedent conditions of the validity of a treaty may be stated as follows. The parties to it must be capable of contracting; the agents employed must be so situated that the consent of both may be regarded as freely given; and the objects of the agreement must be in conformity with law.[556] Violence or intimidation used against the person of a sovereign, of a commander, or of any negotiator invested with power to bind his state, stand upon a different footing. There is no necessary correspondence between the amount of constraint thus put upon the individual, and the degree to which one state lies at the mercy of the other. … Accordingly all contracts are void which are made under the influence of personal fear.[557]

It is reasonable to believe that the fundamentals of this rule had not been changed as of 1905, since Lassa Francis Lawrence Oppenheim presented the parallel theory in his book on international law, completed in February 1905, before the Agreement of Protectorate was made on 17th November that year. It reads:

> The treaty-making power of the States is exercised by their heads, either personally or through representatives appointed by these heads.[558] … A treaty concluded through intimidation exercised against the representatives of either party or concluded by intoxicated or insane representatives is not binding upon the party so represented.[559]

6.2.2 The Personal and Direct Coercion of the Emperor and the Ministers of Korea to Accept the Agreement of Protectorate in 1905, and the Reaction from the International Community

This section reviews evidence in relation to the coercion argument. It provides evidence on the coercion of a representative of a state of the Emperor and the Ministers of Korea at the time the Agreement of Protectorate was made in 1905. First, the following texts from both English and Japanese sources respectively describe the then situation:

> Japan sent its elder statesman, Ito Hirobumi, to conclude the protectorate treaty. Ito entered the palace with an escort of Japanese troops, threatened Kojong [Emperor Kwangmu] and his ministers, and demanded that they accept the draft treaty Japan had prepared. When the Korean officials refused, Prime Minister Kyu-seol Han, who had expressed the most violent opposition, was dragged from the chamber by Japanese gendarmes. Japanese soldiers then went to the foreign ministry to bring its official seal, which then was affixed to the document by Japanese hands, on 17th November 1905.[560]

> On 17th November 1905, Hirobumi Ito went to Seoul. He threatened Kojong [Emperor Kwangmu] and the Ministers of the Korean Government and forced them to sign the Japan-Korea Agreement of 1905. This, therefore, made the Korean Empire to be a protectorate of Japan.[561]

One Japanese source, *Chosen kaikoroku* (*Memoirs of Joseon*), written by Kinjo Nakai and published in 1915, reads:

> The Japanese Minister to Korea urged Ambassador Hirobumi Ito to go to the Korean royal court by telephone. Ambassador Ito asked Japanese Army General Nagatani to come with him. Nagatani selected five Japanese military policemen to accompany him. Escorted by them, Ambassador Ito entered the royal court. However, Korean Cabinet Members opposed signing the treaty, and the General commanded something to the Japanese

> provost marshal, pointing to the Prime Minister and the Minister of Defence of Korea in the place. Korean Ministers who understood the General's words in Japanese shuddered…[562]

Japanese scholar Fukuju Unno also points out the following:

> Given the actual situation of military coercion and intimidation that the Japanese army has shown in Seoul, the forced conclusion seems obvious. … That is, it is true that Hirobumi Ito used coercion. There is no smoke without fire. I think that this story was written because compulsion actually occurred.[563]

As seen so far, the fact that the Agreement in 1905 was made under the duress of Japanese personal and direct threats made to the Emperor and the Ministers of Korea has been accepted by Korea and general academia as an incontrovertible historical fact since 1905. However, the Japanese government still does not recognise this historical fact, adhering to its opinion that the so-called the Agreement of Protectorate was made by amicable consent. Shortly after concluding the Agreement on 17th November 1905, Japan announced this news to the Western powers, saying the Emperor of Korea had agreed to sign the agreement. For example, the diplomatic document sent to the British government by Japan, dated 23rd November 1905, notes the following:

> The Emperor of Corea [Korea] is in accord with the Imperial Government of Japan as to the absolute necessity of the measure, and the two Governments, in order to provide for the peaceful and amicable establishment of the new order of things, have concluded the accompanying compact.[564]

This section will now look at the testimonies and records of Westerners to see how the situation at the time was described. If it finds that the international community, apart from Korea and Japan, accepted the above situation as an objective fact, it will be difficult to prove the coercion case. Additionally, this section will review the records and materials written and published after the Agreement of

Protectorate in 1905 and before the Treaty of Annexation of Korea in 1910.

Homer Bezaleel Hulbert, an American [USA] missionary who worked as a teacher at Yugyeonggongwon, a Korean state school, after visiting Korea in 1886 at the invitation of the Korean government, described the Agreement of Protectorate in 1905, as follows in his book published in 1906, *The Passing of Korea*:

> Marquis Ito was sent to Seoul with definite instructions. … Many conferences took place between the Japanese authorities and the Korean Cabinet, but without result. … Not one of the Cabinet consented. It was quite clear that stronger agencies would have to be used. Finally, after a very strenuous conference at the Japanese legation, the whole meeting adjourned to the audience chamber of the Emperor, and the curtain went up on the last scene of the tragedy. The Emperor and every one of his ministers stood firm. They would die sooner than acquiesce. Repeated exhortations and inducements were offered, but the Koreans were immovable. When this deadlock occurred, the scenes were shifted a little, and Japanese gendarmes and police suddenly appeared and surrounded the audience chamber and blocked every approach to the imperial presence. The Emperor, feeling sure that personal injury was determined upon, retired to a little anteroom. No sane person can deny that he had sufficient reason to fear. The strongest man in the Cabinet was the Prime Minister, Kyu-seol Han, and it was evident that only by segregating him and handling the Cabinet without him could the desired result be accomplished. When, therefore, the Prime Minister retired to the apartment where the Emperor was, supposably with the intention of conferring with him, he was followed by Japanese armed officials and detained in a side room. … Leaving him there, practically in durance, the Marquis returned to the rest of the Cabinet, who were very naturally alarmed at the non-appearance of the Prime Minister. The moment must have been one of great suspense. Hedged in by armed Japanese, their official chief spirited away and perhaps killed, there is little wonder that another turn of the screw resulted in the defection of several of the Cabinet. … The Foreign Minister signed this document, and the seal was attached. There is some question as to just

> how this last was done. Some say that the seal was purloined from the office by Japanese and the document was stamped by them. However this may be, we have here the picture of how the agreement was put through, and the reader and the world may judge for themselves how far it was voluntary on the part of the Korean government. When this had been done, the Japanese authorities announced in Washington that Korea had voluntarily entered into an agreement granting Japan a protectorate over the country.[565]

In his book describing the above situation, Hulbert expressed doubts on whether the seal of the Foreign Minister had been received. In another book, published in 1907, such doubts are again found and described. The writer of the book is Douglas Story, a reporter for the British Tribune, who stayed in Korea in 1906. He writes in his book *To-morrow in the East* as follows:

> Marquis Ito next despatched Japanese emissaries to the Foreign Office with orders to bring back the Foreign Office seal. Turning to the Council of Ministers, he said – 'It makes no difference whether the Prime Minister's seal be attached to the articles or not. It is the seal of the Minister for Foreign Affairs that counts'. … After a period of waiting, while the Prime Minister sat apart in a distant room guarded by soldiers, the seal was brought into the Council Chamber and affixed to the document. Under stress of coercion, Chi Yong Yi, the Minister for Home Affairs; Kun Tak Yi, the Minister for War; Wan Yong Yi, the Minister for Education; and Cheung Hiun Kwan, the Minister for Agriculture, appended their seals. The Prime Minister was not allowed to enter the Cabinet, and the Ministers for Finance and for Justice refused to sign the protocol.[566]

In addition, Frederic Arthur McKenzie, who became interested in the Korean issue while covering the Russo-Japanese War after being dispatched in 1904 as a correspondent for the Far East for the London *Daily Mail*, paid a second visit to Korea in 1906 and covered the activities of the Korean resistance against the forced occupation by the Japanese troops. He wrote *The Tragedy of Korea*, a book based on his experiences and information gained from his two visits to Korea. In

his book, he outlined the process of the forced signing of the Agreement of Protectorate, and recorded in detail how the seal was stamped on the treaty, providing the following explanation:

> That evening Japanese soldiers, with fixed bayonets, entered the courtyard of the palace and stood near the apartment of the Emperor. Marquis Ito now arrived, accompanied by General Hasegawa, Commander of the Japanese army in Korea, and a fresh attack was started on the Cabinet Ministers. … Thereupon Marquis Ito went outside to the Ministers. … The presence of the soldiers, the gleaming of the bayonets outside, the harsh words of command that could be heard through the windows of the palace buildings, were not without their effect. The Ministers had fought for days and they had fought alone. No single foreign representative had offered them, help or counsel. They saw submission or destruction before them. In the early hours of the morning commands were issued that the seal of State should be brought from the Foreign Minister's apartment, and a treaty should be signed. Here another difficulty arose. The custodian of the seal had received orders, in advance that, even if his master commanded, the seal was not to be surrendered for any such purpose. When telephonic orders were sent to him, he refused to bring the seal along, and special messengers had to be dispatched to take it from him by force.[567]

As described in Hulbert's writing quoted above, the Japanese government proclaimed at home and abroad at that time that the 1905 Agreement of Protectorate had been made by amicable agreement between the Korean and the Japanese governments. Actually, such content is identified in the document that the Japanese government sent to the British government on 23rd November 1905, as presented above.

With regard to the fact of the forced signing of the Agreement of Protectorate, the testimony is found in writings of missionaries living in Korea and Western journalists who visited Korea. In these accounts, records that became evidence of a diplomatic communication are identified as follows. It was stated in a confidential report sent to its government by the British Consul-General to Korea in 1907 that

Japan's internal and external proclamation that the Agreement of Protectorate in 1905 had been agreed between Korea and Japan was not true:

> But, however strong the justification from a Japanese point of view for establishing control over Corea [Korea], the measure was naturally unwelcome to the Coreans [Koreans]. The Corean [Korean] Government has been represented as a willing party to the Agreement of November 1905, but that is not the case. Seoul was filled at the time with Japanese troops, prominently displayed, and at the critical moment of the discussion it was found necessary to introduce the General in command of them into the conference at the Palace, not certainly for the purpose of suggesting diplomatic arguments overlooked by Marquis Ito and Mr. Hayashi. The Agreement was plainly the result of coercion, and of coercion in a form unusual in European negotiations.[568]

The report reveals that the 1905 Agreement was signed by force. Additionally, as described by Hulbert and Douglas Story, the explanation that the Agreement had been the result of the personal and direct coercion of the Emperor and Ministers of Korea was given. This personal coercion can be understood as a condition of the invalidity of the treaty, as stated in customary international law at the time of the event in 1905.

This section will now review the records where the personal circumstances of the coercion were testified to in more detail.

Regarding the assertion that a member of the Hirobumi Ito delegation threatened Prime Minister Kyu-seol Han, the highest authority of the Korean Cabinet, on 17th December 1905, Douglas Story made the following report:

> No sooner had he [Kyu-seol Han] left the Council Chamber, however, than Mr. Hagiwara, Secretary of the Japanese Legation, hurried after him with a force of gendarmes and police, who led him away to a corner room of the Imperial library and held him prisoner there. To him came Marquis Ito, who alternately cajoled and threatened. The Prime Minister was

> immovable. General Hasegawa half drew his sword, and seriously intimidated the Prime Minister.[569]

It is known that when Prime Minister Kyu-seol Han, who had been opposed to the treaty, left the council chamber, Marquis Ito ordered his Japanese entourages, 'Kill the guys who are stubborn'.[570]

Then, because it was easily interpreted by the Korean Ministers that the Prime Minister not having returned to the meeting for many hours must have meant that he had been murdered by the Japanese, as Hulbert described it, the seals of all the Ministers were provided under duress. The Ministers' fear that Kyu-seol Han had been murdered is described in McKenzie's writing as follows:

> Meanwhile the remaining Ministers waited in the Cabinet Chamber. Where was their leader, the man who had urged them all to resist to death? Minute after minute passed, and still he did not return. Then a whisper went round that the Japanese had killed him.[571]

Thus, the Ministers of Korea at the time felt compelled to sign the treaty and, as testified to by Hulbert, it was confirmed that Emperor Kwangmu was also threatened by a Japanese show of force in the final negotiations with Japan. Moreover, journalist Douglas Story testifies in his writing that Emperor Kwangmu, who did not ratify the treaty as a monarch, continued to receive explicit threats on his life. Story wrote as follows:

> Arrived in Seoul, I was speedily brought into communication with the Emperor. The Palace was a hotbed of Japanese spies. The Emperor himself lived in daily dread of assassination. He was cut off from all his friends. … The first message I received from the Emperor was a piteous appeal to do all in my power to save him from assassination.[572]

Amidst these threats of assassination continuing, Emperor Kwangmu pushed covert diplomatic negotiations to let the existing allies about the falsity of the Agreement of Protectorate and the illegal signing, without informing Japan of it.

The American missionary, Hulbert, also acted as a secret envoy of Emperor Kwangmu. When the Agreement of Protectorate was signed 17th November 1905, Emperor Kwangmu sent the following emergency telegram to Hulbert on 26th November. It reads as follows:

> I declare that the so-called treaty of protectorate recently concluded between Korea and Japan was extorted at the point of the sword and under duress and therefore is null and void. I never consented to it and I never will. Transmit to American Government. The Emperor of Korea.

This telegram was delivered to Assistant Secretary of the US Department of State on 11st December 1905 by Hulbert, but the US government did not take any action.[573]

This is an example of how a Western power reacted to Korea's appeal. In order to secure its political hegemony over Korea, Japan had already concluded the Katsura-Taft Agreement with the USA in July 1905, the second Anglo-Japanese Alliance with the UK in August 1905 and the Treaty of Portsmouth with Russia in September 1905. The Western powers, therefore, accepted Japan's political dominance over Korea. In addition, as John Dower argues, the Sino-Japanese War (1894–1895) brought imperial Japan its first colony, the island of Formosa. Its triumph over czarist Russia ten years later, after costly battles on land and a sensational victory at sea, gave the nation an internationally recognised foothold in Manchuria, and paved the way for the taking of Korea as a second colony. Loans raised in New York and London helped to finance this war, and the Western powers turned a deaf ear to the appeals of Korea.[574]

More concrete and empirical evidence of the diplomatic efforts by Emperor Kwangmu to overcome such a difficult situation was discovered by Ki-seok Kim, a professor of Seoul National University. In the library of Colombia University, he found six originals of direct communications sent to the nine Western countries (Russia, France, Italy, Austria, Germany, Hungary, the USA, the UK and Belgium) and China (the Qing Dynasty) that had signed a diplomatic treaty, which was written by Emperor Kwangmu on 22nd June 1906[575]. According to the

communications sent to the heads of these 10 countries, the Emperor stated that the Agreement of Protectorate was invalid and that he would file a suit to the International Court of Justice to resolve the sovereignty infringement by Japan[576].

For reference, regarding how a university library in the USA came to possess the six original documents written in the Emperor's own hand, Professor Kim states the following:

> Emperor Kwangmu delivered communications written in his own hand to Homer Hulbert appointed as a secret envoy and in July 1907 when Hulbert was trying to start diplomatic negotiations based on the secret documents, Emperor Kwangmu was forcibly abdicated by Japan. Then, Hulbert learned the news in the USA and thought that Emperor Kwangmu is no more an emperor of Korea. Thus, he regarded that his diplomatic mission to deliver communications in own writing failed. In the end, the autograph letters were not delivered to the leaders of the countries and Hulbert kept them secretly. He handed the letters to a reunification activist living in Korea. After that, the activist [he] passed away and the letters kept by his surviving family were donated to the library of Colombia University, USA in 1989.[577]

In the meantime, it has been learned from various related study materials that the 1905 Agreement of Protectorate did not acquire approval from the Korean Emperor because coercion was applied to the negotiation representatives of Korea.[578] However, it was confirmed that of the materials found in Colombia University in 1993, the letters sent to six countries, comprising Russia, France, Germany, Austria, Italy and China (the Qing Dynasty) are original. This suggests that insofar the Emperor of the Korea proclaimed that the Agreement of Protectorate was internationally invalid, and that the letters are valuable materials that proves the illegality and invalidity of the Agreement of Protectorate, compared to other documents.[579] One of the six letters, the letter dispatched to the Emperor of Russia, reads as follows:

> To His Majesty the Emperor of Russia: – Greetings:
>
> For many years, the Government of Korea has been on friendly treaty

relations with the Government of Russia and has often received evidence of the good-will of that power. In this time of our difficulty, we feel sure that all people who desire to see justice done will sympathise with us. In order to show that great injustice has been done, we hereby declare that the so-called treaty of 18th November 1905[580], was fraudulent, because (1) the signatures of certain members of our Cabinet were obtained by intimidation and under duress, (2) we never authorised the Cabinet to sign the document, and (3) the meeting of the Cabinet at which it was signed was illegal, having been convened neither by our call nor that of the Prime Minister but by the Japanese themselves.

We denounce that agreement as invalid in law and we declare that under no circumstances will we give our voluntary consent to the ratification of any treaty that impairs the independence of the Korean Empire. Furthermore, in view of the violent manner in which the so-called treaty of last November was carried through, we deem it both necessary and proper to declare to you that if at any time any power shall claim that we have agreed to such an agreement, the claim will either be wholly false or it will be based upon acts that will have been wrung from us by force of arms or under threats of personal violence.

In view of the fact that we are at the present moment *de jure* an independent power, we earnestly request you to reassert your right to establish a Legation at Seoul, or at least to prepare for such reestablishment by helping us to bring the matter before the Hague Tribunal, in order that the validity of our claim of independence may be legally established.

Any further information that may be desired will be given by our fully accredited Envoy, at whose hand we are transmitting this document.

In witness whereof, we here affixed the Imperial Seal.

Done in Seoul this twenty-second day of June 1906, AD, and of the Dynasty the five hundred and fifteenth.[581]

Given the contractual condition presented by William Hall, 'one of the antecedent conditions of the validity of a treaty is that the parties must be so situated that the consent of both may be regarded as freely given,'[582] the direct declaration by an emperor that makes it clear that the 'consent' behaviour itself did not exist forms

the most powerful judgment that the Agreement of Protectorate is legally invalid. Moreover, it can be seen that Emperor Kwangmu followed the theoretical detail of international law by listing the conditions in the international customary laws at the time that made the treaty invalid, such as the compelling of the negotiators to sign, the non-recognition of the signing of the treaty by the cabinet and the lack of ratification. Lassa Oppenheim explained the conditions of 'approval' and 'ratification' in 1905 as follows:

> The treaty-making power of the States is exercised by their heads, either personally or through representatives appointed by these heads. Yet, as a rule, heads of States do not act in person, but authorise representatives to act for them. Such representatives receive a written commission, known as powers or full powers, which authorises them to negotiate in the name of the respective heads of States. They also receive oral or written, open or secret instructions. But, as a rule, they do not conclude a treaty finally, for all treaties concluded by such representatives are in principle not valid before ratification. If they conclude a treaty by exceeding their powers or acting contrary to their instructions, the treaty is not a real treaty and not binding upon the State they represent.[583]

As is clear from the above, the Agreement of Protectorate in 1905 was an agreement signed in the context of personal threats, so it was not complete in procedure and form. In considering the international law-related theory at the time of 1906 mentioned above, first, representatives of Korea who consulted with Japan in November 1905 did not receive a 'written commission' from the Korean Emperor. Second, the Agreement of Protectorate was not ratified by the Emperor, the ratification authoriser. These two facts are the ones stated by the Emperor himself and were identified through studies on historical materials in Kyujanggak, the royal institute for keeping documents, archives, and books established by the Joseon Dynasty.[584]

Next, this section will review the situation and the signed forms at the time of the annexation of Korea in August 1910. After acquiring Korea's diplomacy in 1905, Japan installed a Residency-General in Seoul and extended its political and

military influence in Korea. Similarly, Japan conducted military demonstrations around the palace at the time of the signing of the treaty of annexation in 1910, as it did in 1905.

The fact is specifically observed in the 'annexation of Korea and military relations', which is an appendix to the 'annexation of Korea written by the JGGK', a secret report to the Japanese Emperor, written by Masatake Terauchi, who took the lead in devising the Treaty of Annexation of Korea in 1910. Terauchi reinforced the military presence by more than 1,000 around the annexation of 1910, and had the military and police fully armed near the annexation date. To prevent this fact from being revealed, Terauchi cut off contact with the outside and prohibited any outgoing communications.[585]

In the report, Terauchi says the following:

> Situation after the Initiation of the Negotiation for Annexation: The progress was ensured confidential; and thus military police and secret police were on full alert. Then, the negotiation came to an end without any disturbance ….
> However, it is undoubtedly true that the power of the army and the police, and their relentless attention, had a big effect.[586]

Additionally, regarding the bloody situation at the time of the annexation in August 1910, Kentaro Yamabe writes as follows in his book *Japan's Annexation of Korea*:

> Seoul, 22nd August, the day of the annexation, was in such an alert state that the military police patrolled every 15 minutes and if even two people came together and talked, they were investigated.[587]

It is known that this was the situation in which the Treaty of Annexation was signed in 1910. With regard to this, Kyujanggak of Seoul National University has conducted investigations on relevant historical materials. In the archive, a researcher at the Kyujanggak found that there is a crucial flaw in the imperial edict

of the Korean Emperor, which corresponds to a ratification instrument. Emperor Yunghui's signature does not appear in the 're-approval' column of the imperial edict kept in Kyujanggak. Only an imperial seal was stamped on it. Korea stipulated that all of the official documents needed an imperial seal or a national seal stamped together with the emperor's own signature over it as of December 18th 1907. Afterwards, all the official documents approved by the Korean emperor followed this format. Thus, all the edicts, decrees and documents had the signature of the emperor's name with his seal. However, only on the edict announcing the 1910 annexation is missing the signature.[588]

As the imperial seal of the Korean Emperor had been taken by the JRGK so that it could supervise Korean domestic affairs since another treaty had been signed on 24th July 1907, the imperial seal alone was not enough for the Emperor's approval to be given. This is evidence that the Emperor of Korea did not agree on the annexation.[589]

The fact is directly testified to in the imperial will proclaimed through the minister of the imperial office immediately before Emperor Yunghui, the last emperor of the Korean Empire, died on 26th April 1926. The full text of the imperial will is as follows:

> Having barely maintained a life, I hereby issue an imperial edict in order to annul the event of the approval of the annexation.[590]
>
> The approval of the annexation of old days was wilfully proclaimed by the threatening adjoining country[591] which had everything in its own way together with a group of a few traitors. None of it is what I had done.
>
> That is never what I had approved. I was confined and coerced so that I was not able to give clear words. How on earth can such unrighteousness exist through all ages?
>
> It has been seventeen years since I did not die living a humiliating life. Because I became a sinner both for Jongsa[592] and for the 20 million people,

> I will not ever forget this even for a while as long as my life does not fade away.
> I shall not close my eyes breathing my last however serious in illness if I do not speak one word although I have not had any freedom of speech being distressingly locked up until this day.
>
> I now entrust this imperial edict to you my minister. Therefore, you will declare it to the nation and the world, and will have my most loved and respected people distinctly know that the annexation was not what I had approved. Subsequently, both the so-called approval of the annexation and the edicts of the two states[593] will be absolutely nullified.
>
> My dear people, endeavour to restore independence.
> My invisible soul will help you all.[594]

In his will, Emperor Yunghui testified that physical confinement and compulsion had continued, so he could not have 'freedom of determination'. He made it clear in 1910 that he did not approve of the Treaty of Annexation as a monarch. It is notable that the Emperor's signature was not contained in his imperial edict, which directly supports the cause that the formal procedures of the Treaty of 1910 were defective.

6.2.3 Reaction of International Legal Academic Circles to the 1905 Agreement of Protectorate

This section reviews how the international legal academic circles of the day reacted to the 1905 Agreement of Protectorate. The fundamental discussion in this chapter focuses on whether the Japanese annexation of Korea was legally valid or not, and this section will review the professional analyses by conducting a literary review of the international legal academic circles at the time in terms of this theme.

First, shortly after the news of the Agreement of Protectorate was being announced in 1905, Francis Rey, a French legal scholar contributed a paper '*La situation internationale de la Corée*' to the journal *Revue Générale de Droit International*

Public in 1906. He mentioned that the 1905 Agreement of Protectorate was signed through the physical and mental compulsion of Korean representatives by Japan and claimed that the Agreement of Protectorate was invalid. Hereunder is his argument:

> According to the dispatches from the Far East, the treaty of last November was imposed on the Korean government by mental and physical violence, which is unworthy of a civilised state like Japan. The signature of the treaty was obtained from the Emperor of Korea and his ministers, only under the pressure of the Japanese soldiers by whom Marquis Ito and Mr. Hayashi, the plenipotentiaries of Japan were escorted. After having resisted for two days, the Council of Ministers resigned itself to signing the treaty, but the Emperor immediately sent his representatives to the Great Powers, and especially his special envoy to Washington [DC], to protest vigorously against the violence which was made to him. By reason of the particular circumstances in which it was signed, we do not hesitate to affirm that the treaty of 1905 is null. One admits, indeed, in public law, by application of principles of private law, that the violence exerted on the person of plenipotentiary constitutes vice assent which makes the treaty null since it is different from the constraint exerted by a powerful state on a weak state, which is never sufficient to completely destroy the assent.[595]

In addition, Jan de Louter, an international law professor from Utrecht University in the Netherlands, also mentioned in his book, *Le Droit International Public Positif*, that the 1905 Agreement of Protectorate was signed under confinement and physical compulsion of Korean representatives by Japan:

> The treaty of 17th November 1905 between Japan and Korea, which sacrificed the independence of the old Empire to Japan, was extorted from the Korean ministers by locking them up in the conference room and by threatening them physically.[596]

In 1927, the American Society of International Law commissioned Harvard University to conduct a codification of international laws. Harvard Law School

performed this assignment by convening many of the eminent international jurists of the time.[597] A draft of treaty law by the American Society of International Law, published in 1935, specifies, in Article 32, that a treaty signed by negotiation representatives who have been compelled to do so is invalid. The article pointed out in comments that the Agreement of Protectorate at the time was the latest instance of this. Article 32 and the comments attached to it are as follows:

> **Article 32. Duress**
>
> (a) As the term is used in this Convention, duress involves the employment of coercion directed against the persons signing a treaty on behalf of a State or against the persons engaged in ratifying or acceding to a treaty on behalf of a State; provided that, if the coercion has been directed against a person signing a treaty on behalf of a State and if with knowledge of this fact the treaty signed has later been ratified by that State without coercion, the treaty is not to be considered as having been entered into by that State in consequence of duress.[598]
>
> **Comment**
>
> Instances in which coercion was resorted to or alleged to have been employed against the ratifying authorities or other organs whose assent to the conclusion of treaties was necessary, have likewise not been lacking. … A more recent instance of the kind, sometimes cited, was the coercion alleged to have been employed by the Japanese plenipotentiaries with the aid of soldiers against the Emperor of Korea and his ministers, to obtain their assent to the treaty of 17th November 1905, for the establishment of a Japanese protectorate over that country.[599]

6.2.4 Reaction of the United Nations (UN) to the 1905 Agreement of Protectorate

The previous sections have reviewed historical testimonies relating to how the Agreement of Protectorate in 1905 was signed, and the injustice and formal defects of the signing procedures in the 1905 Agreement and the 1910 Treaty. It also reviewed the reaction of international legal academic circles, and analysed the relation between the 'Coercion of a Representative of a State' applied to Emperor Kwangmu and the Ministers at the time of the Agreement of Protectorate and the issue of the treaty's invalidity through the application of inter-temporal law. Thus, it seems that the legal academic circles of France, the Netherlands, and the USA were aware of the non-validity of the Agreement of 1905, at least academically and theoretically.

On 21st November 1947, the UN General Assembly adopted the resolution, establishing the International Law Commission and approving its statute. In accordance with the relevant provisions of the statute, the first elections to the International Law Commission took place on 3rd November 1948, and the Commission opened the first of its annual sessions on 12th April 1949.[600] The Commission was engaged in codifying the law of treaties, not rules for the pacific settlement of disputes. That question was dealt with in the Charter of the UN. The Charter contains the articles on 'Action with respect to threats to the peace, breaches of the peace, and acts of aggression', and any state was entitled to invoke those provisions in appropriate cases.[601]

The UN conducted a project for the codification of international law. The work was led by the International Law Commission. In this codification work, an article on the invalidity of 'personal coercion' and treaty signing was established. In this process, the results from previous studies by Harvard University were referred to, and the Agreement of Protectorate between Korea and Japan in 1905 was mentioned as one of the representative examples. The draft article and the commentaries related to reports from the results of the meetings held in 1963 are as follows:

Article 11 - Personal Coercion of Representatives of States or of Members of State Organs

1. If coercion, actual or threatened, physical or mental, with respect to their persons or to matters of personal concern, has been employed against individual representatives of a State or against members of an organ of the State in order to induce such representative or organ to sign, ratify, accept, approve or accede to a treaty, the State in question shall be entitled after discovering the fact -
(a) to declare that the coercion nullifies the act of its representative *ab initio*; or
(b) to denounce the treaty, subject to the reservation of its rights with respect to any loss or damage resulting from the coercion; or
(c) to approve the treaty, subject to the same reservation.
2. Paragraph 1 does not apply, however, where -
(a) a treaty, which is subject to ratification, acceptance or approval, has been signed by a representative under coercion but, after discovering the coercion, the State proceeds to ratify, accept or approve the treaty; or
(b) the State has so conducted itself as to bring the case within the provisions of article 4 of this part.

Commentary

There appears to be general agreement that acts of coercion or threats applied to individuals with respect to their own persons or personal affairs in order to procure the signature, ratification, acceptance or approval of a treaty will necessarily justify the State in repudiating the treaty. History provides a number of alleged instances of the employment of coercion against not only negotiators but members of legislatures in order to procure the signature or ratification of a treaty. Amongst these instances the Harvard Research Draft lists: the surrounding of the Diet of Poland in 1773 to coerce its members into accepting the treaty of partition; the coercion of the Emperor of Korea and his ministers in 1905 to obtain their acceptance of a treaty of protection; the surrounding of the national assembly of Haiti by United States forces in 1915 to coerce its members into ratifying a convention. Another instance from more recent history was the third-degree methods employed in 1939 by the Hitler regime to obtain the signatures of President and the Foreign Minister of Czechoslovakia to a treaty creating a German protectorate over Bohemia and Moravia, although in that instance the coercion was a mixture of personal pressure on the individuals and threats against their people.[602]

A report where draft articles and commentaries of the International Law Commission are included was made as follows to the UN General Assembly in 1963. A minor modification was made in the title of the article and the order was also changed from 11 to 35 through discussion, modifications and supplements. They are as follows:

Report to the General Assembly, 1963

At the present session of the Commission, the Special Rapporteur submitted a report (A/CN.4/156 and Add.1-3) on the essential validity, duration and termination of treaties. The Commission also had before it a memorandum prepared by the Secretariat containing the provisions of the resolutions of the General Assembly concerning the law of treaties (A/CN.4/154). It considered the report of the Special Rapporteur at its 673rd-685th, 687th-711th, 714th, 716th-718th and 720th meetings and adopted a provisional draft of articles upon the topics mentioned, which is reproduced in the present chapter together with commentaries upon the articles.[603] The text of draft articles 30-54 and the commentaries as adopted by the Commission on the proposal of the Special Rapporteur are reproduced below:[604]

Article 35. Personal Coercion of Representatives of States

1. If individual representatives of a State are coerced, by acts or threats directed against them in their personal capacities, into expressing the consent of the State to be bound by a treaty, such expression of consent

shall be without any legal effect. 2. Under the conditions specified in article 46,[605] the State whose representative has been coerced may invoke the coercion as invalidating its consent only with respect to the particular clauses of the treaty to which the coercion relates.[606]

Commentary

There appears to be general agreement that acts of coercion or threats applied to individuals with respect to their own persons or in their personal capacity in order to procure the signature, ratification, acceptance or approval of a treaty will necessarily justify the State in invoking the nullity of the treaty. History provides a number of instances of the alleged employment of coercion against not only negotiators but members of legislatures in order to procure the signature or ratification of a treaty. Amongst those instances the Harvard Research Draft lists: the surrounding of the Diet of Poland in 1773 to coerce its members into accepting the treaty of partition; the coercion of the Emperor of Korea and his ministers in 1905 to obtain their acceptance of a treaty of protection; the surrounding of the national assembly of Haiti by United States forces in 1915 to coerce its members into ratifying a convention. It is true that in some instances it may not be possible to distinguish completely between coercion of a Head of State or Minister as a means of coercing the State itself and coercion of them in their personal capacities. For example something like third-degree methods of pressure were employed in 1939 for the purpose of extracting the signatures of President Hacha and the Foreign Minister of Czechoslovakia to a treaty creating a German protectorate over Bohemia and Moravia, as well as the gravest threats against their State. Nevertheless, the two forms of coercion, although they may sometimes be combined, are, from a legal point of view, somewhat different; the Commission has accordingly placed them in separate articles.[607]

Commentary

The Commission gave consideration to the question whether coercion of a representative, as distinct from coercion of the State, should render the treaty *ipso facto* void or whether it should merely entitle it to invoke the coercion of its representative as invalidating its consent to the treaty. It concluded that the use of coercion against the representative of a State for the purpose of procuring the conclusion of a treaty would be a matter of such gravity that the article should provide for the absolute nullity of a consent to a treaty so obtained.[608]

The draft articles were transmitted to UN member states' governments for comments and included in the Commission's report to the General Assembly's 18th session, held later in 1963 together with commentaries by the International Law Commission.[609]

In the report made to the UN General Assembly, the Korean case of 1905 is cited as a historical fact where representatives of states were personally coerced, along with other representative cases. The UN convened the General Assembly in November 1963. In this General Assembly, they adopted resolutions unanimously and described the report of the International Law Commission as follows:

Resolution 1902(XVIII) by UN General Assembly, 1963

> The General Assembly,
> Having considered the report of the International Law Commission on the work of its fifteenth session,
> …..
> 1. Takes note of the report of the International Law Commission on the work of its fifteenth session;
> 2. Expresses appreciation to the Commission for the work accomplished at its fifteenth session, especially with regard to the law of treaties;[610]

The Commission submitted a final report of a project for the codification of international laws to the UN General Assembly in 1966. As modified in a report in 1963, the order number of the article changed to 48 and the change was made in its working. In the relevant commentary, only the case in 1939 was cited, so the volume was slimmer compared to the one in 1963. The contents are as follows:

Final Report to the General Assembly, 1966

> **Article 48. Coercion of a Representative of the State**
> The expression of a State's consent to be bound by a treaty which has been procured by the coercion of its representative through acts or threats directed against him personally shall be without any legal effect.[611]
>
> **Commentary**
> There is general agreement that acts of coercion or threats applied to individuals *with respect to their own persons or in their personal capacity* in order to procure the signature, ratification, acceptance or approval of a treaty will unquestionably invalidate the consent so procured. History provides a number of instances of the employment of coercion against not only negotiators but also members of legislatures in order to procure the signature or ratification of a treaty. It is true that in some instances it may not be possible to distinguish completely between coercion of a Head of State or Minister as a means of coercing the State itself and coercion of them in their personal capacities. For example, something like third-degree methods of pressure were employed in 1939 for the purpose of extracting the signatures of President Hacha and the Foreign Minister of Czechoslovakia to a treaty creating a German

> protectorate over Bohemia and Moravia, as well as the gravest threats against their State. Nevertheless, the two forms of coercion, although they may sometimes be combined, are, from a legal point of view, somewhat different; the Commission has accordingly placed them in separate articles.[612]

The reason why the case of the Agreement of Protectorate in 1905 was not mentioned in the final report in 1966; and the Japanese government claimed that the international community did not feel any concern about the invalidity of the Agreement of Protectorate.[613] At the 126th Committee on the Budget of the House of Councillors in Japan in 1993, which was responding to a Japanese lawmaker's question whether the Korea-Japan Agreement of Protectorate was invalid or not, the director of the treaty bureau of the Japanese government, quoting the fact that the commentary of the final draft of the UN International Law Commission did not mention the Agreement of Protectorate, answered as follows:

> We do not recognise that international community considers the 1905 Agreement to be invalid as a consensus.[614]

It is not incorrect that in the final draft, the cases in 1773 and in 1915, including the 1905 Agreement of Protectorate were not mentioned, and that instead only the Hitler regime's case in 1939 was described. However, the reason why only one case was introduced in the final report of 1966 is because of a technical matter with editing the report. Hereunder are the contents of a report that contains the details of that meeting of the Commission.

Report of the Commission on the Work of its Eighteenth Session (888th Meeting)

> Sir Humphrey Waldock, Special Rapporteur, said that the commentaries to the draft articles had been produced under conditions of stress; a good deal of editorial work would have to be done on them by the Secretariat and by himself after the Commission had completed its work.[615]
>
> Mr Rossene, one of the Commission members said that the various reports submitted by the Special Rapporteur, as well as the Commission's own reports for 1962, 1963 and 1964, were exceptionally well documented and had attracted much favourable comment, but there was no need to repeat in the Commission's final report the abundant references contained in those earlier reports.[616]

In other words, it was because they had attempted to efficiently edit the report by avoiding the inclusion of overlapping contents produced in the previous year. Additionally, as the contents had been sufficiently reported to the General Assembly in 1963, the Commission sought to edit the final report of 1966 in a more flexible way.

Thus, if the Japanese government's position is to argue that the international community does not consider the 1905 Agreement to be invalid as a consensus simply because it was not mentioned in the final report of 1966, the argument will not be fully supported since all other reports and the UN General Assembly's resolutions prove the reverse.

The UN processed its screening based on the draft provided by the International Law Commission, and it adopted the Vienna Convention on the Law of Treaties in 1969. Accordingly, Article 51 of the Convention deals with the provisions on coercion of a representative of a State.

As discussed above, Japan has deemed that the annexation of Korea was not an issue compared to the historical cases of other countries. According to Japanese legal scholar Etsuro Totsuka, the former Chief Justice of the [Japanese] Supreme Court Kisabro Yokota was a member of the International Law Commission. Senjin Tsuruoka also attended as a Japanese legal expert member the 15th Session of the Commission where these matters in question were discussed. This means that the Japanese government has recognised the process of the discussion concerned. Totsuka also points out:

> Japan hardly regarded it as a problem, and might have the psychological action of 'trying to hide' the past crime in the background. Therefore, the Japanese government and the Ministry of Foreign Affairs at that time might have tried not to raise that issue of the UN, and to avoid a legal action as much as possible even if knowing it already.[617]

6.3 Conclusion

This chapter has attempted to review the legality of the act of taking Korean cultural property to Japan by the institutional authorities, that is, the JRGK and the JGGK during the Japanese occupation. With regard to this, the Japanese government has retained the viewpoint that Korean cultural objects taken to Japan during the Japanese occupation were removed in a lawful situation. The negotiations between the Korean and Japanese governments over the return of Korean cultural property started with this gap existing between each side.

Thus, this chapter has investigated the legal invalidity of the 1905 Agreement of Protectorate as an international treaty, which served as the starting point for the annexation of Korea in 1910. Since it was the JRGK and the Japanese colonial authorities that took Korea's national records, archives, books, materials and ancient tombs' artefacts, they removed cultural property to Japan as part of a systematic plan and method. This chapter has reviewed the 1905 Agreement of Protectorate, which brought about this process.

First, this chapter reviewed the invalidity of the 1905 Agreement of Protectorate by applying the legal principles mentioned in Hall's writing, published in 1890, to the Agreement of Protectorate of November 1905, and relevant aspects of inter-temporal laws in Oppenheim's writing, published in February 1905.

Regarding this, the books with testimonies of Westerners living in Korea at the time and the records of Western reporters were used as a more objective truth in reviewing the 1905 Agreement of Protectorate. It is considered that the impact and meaning of this event is still critical, given the fact that international law scholars in the West at the time analysed the Agreement of Protectorate to be invalid based on the legal theories of the time and other historical facts. Therefore, the UN recognised it as a historical case constituting the invalidity of a treaty through the research of Harvard University and the International Law Commission.

Notwithstanding that, the position of the Japanese government is not the same as that of the internationally community. In particular, in relation to Article 2 of the

1965 Treaty of Basic Relations, Korea and Japan provide different analyses. Thus, regarding the issue of the return of cultural property, each has begun negotiations with a fundamental gap existing between them.

The background will now be reviewed on the basis of how the provision of invalidity (Article 2), showing the difference in the interpretation of the two parties, was included in the 1965 Treaty of Basic Relations and how the wording was decided. For this, the National Assembly of Korea's record of testimony by the Minister of Foreign Affairs, Dong-won Lee, who was appointed as a representative of Korea, and signed the 1965 Treaty will be presented below:

52nd Korean National Assembly 'Screening Special Committee for Ratification on the Treaty between Korean and Japan' (8th August 1965)

- Remarks of Minister of Foreign Affairs Dong-won Lee:
  I would like to explain about the process of negotiation concerning the 'null and void' Article. At the first Korea-Japan Talks, which commenced in 1952, we maintained that the wording of 'null and void' should be included in the treaty, but Japan strongly opposed having such an article, which states the nullification. … In the following second and third talks, there could not be substantial discussion on this matter. Japan continued to take so firm an attitude that we were not able to even discuss the groundwork in the fourth, fifth, and sixth talks either. When this matter came up for discussion in the final seventh talks, the Japanese side said that Japan wanted 'have no effect' as to its wording. However, Japan made instead another proposal of 'have become null and void' as we stood firm saying that we would not be willing to negotiate if 'null and void' was not included. This phrasing of 'have become null and void' was stated in the Treaty of Peace that Japan concluded with the Republic of China [KMT, 1952].[618]

The 'Treaty of Peace between Japan and the Republic of China [KMT, 1952]' mentioned by Minister of Foreign Affairs Dong-won Lee is an agreement made between the two countries at the end of the Second World War. The provisions relating to validity are specified in Article 4. The main contents are as follows:

Treaty of Peace Between the Republic of China* [KMT, 1952] *and Japan

Signed at Taipei, 28th April 1952
Entered into force, 5th August 1952, by the exchange of the instruments of ratification at Taipei

TREATY OF PEACE

The Republic of China and Japan,

Considering their mutual desire for good neighbourliness in view of their historical and cultural ties and geographical proximity; Realising the importance of their close cooperation to the promotion of their common welfare and to the maintenance of international peace and security; Recognising the need for a settlement of problems that have arisen as a result of the existence of a state of war between them; Have resolved to conclude a Treaty of Peace and have accordingly appointed as their Plenipotentiaries,

His Excellency the President of the Republic of China: Mr. Kung-chao Yeh;
The Government of Japan: Mr. Kawada Isao

Who, having communicated to each other their full powers found to be in good and due form, have agreed upon the following Articles: (excerpts)

Article 1

The state of war between the Republic of China and Japan is terminated as from the date on which the present Treaty enters into force.

Article 4

It is recognised that all treaties, conventions, and agreements concluded before 9th December 1941 between Japan and China have become null and void as a consequence of the war.

The remarks of Minister of Foreign Affairs Dong-won Lee continue as follows:

> Yet 'have become' is a present tense, and the Treaty of Peace also has 'as a consequence of the war' additionally stated in the article concerned. Therefore, it definitely indicates the end of the war as the point of time when their previous treaties, conventions, and agreements become nullified. We, however, asserted that we should not accept the wording of 'have become null and void' even though Japan used such terms in a previous example with another State. There had been thereafter rival opinions on this problem until I had direct negotiations, in the foreign ministers'

> conference, with Etsusaburo Shiina, Minister of Foreign Affairs of Japan, who officially visited Korea last February.[619]
>
> On 19th February, our Ministry of Foreign Affairs made all arrangements for the initial signature. Journalists were also ready. That evening, the talks between Mr Shiina and me, however, broke down over the reason that Japan would not accept the wording of 'null and void'. I remember that it was around 1:00am when Shiina finally said that he could concede so far as 'have become null and void' as he decided according to his conviction. He also said that he was going to face a lot of problems when he returned to Japan if he 'signed' for 'null and void', which Korea was maintaining. Consequently, the initial signature could scarcely be made although the foreign ministers' conference finished on the 19th. I did my best to make 'null and void' reached for agreement having consecutive meetings with Shiina till late at night in an anonymous place where I escorted him. … In the end, he said that he would then accept 'null and void', but additionally asked how about inserting 'already' in front of 'null and void'. So, all of our Korean team and I immediately inquired of jurists on international law through our officers and staff. We even rang up some scholars while they were sleeping, and ourselves also looked into both reference dictionaries and all the existing treaties. We tried to identify whether inserting 'already' would remove the essential meaning of 'null and void'. We found out that it would not do so. The original meaning of 'null and void' would not become ambiguous with 'already' inserted. Having come to this conclusion, I accepted his proposal of 'already', and had 'null and void' agreed.[620]

Thus, the provisions on 'invalidity' were very important, so Korea argued for the insertion of the provisions into the article. In the same vein, Japan opposed such provisions at the beginning of the Korea-Japan Talks. However, the two nations negotiated in the end.

It appears that in the Japanese position, the negotiators recognised that if the 1905 Agreement of Protectorate and the 1910 Treaty of Annexation of Korea were invalid on a principle of law in accordance with Article 2, it would serve as a serious

impediment when dealing with unresolved issues in various fields between two countries, and which may have had an impact until now because of Japan's annexation of Korea. Because the existence of the JRGK and the JGGK is invalid, all the governing acts, such as removal of Korean cultural assets to Japan, are invalidated. This may have an influence on the legal interpretation of the acts of the two institutions in taking Korean cultural property in a systematic way.

Japanese scholar Shinichi Arai has commented that the 'invalidation issue of the Japanese exploitation during the colonial occupation of Korea' was a problem directly related to Japan's obligations on making reparations to Korea, considering the Treaty on Basic Relations between the Republic of Korea and Japan.[621]

Japanese scholar Toshikatsu Sasakawa has also made the following remarks:

> As regards historical awareness, I think that there is no choice but to accept that the Agreement of Protectorate in 1905 was signed by coercion. Therefore, Korea claims the illegality and invalidity of the agreement in 1905, focusing on the coercion, while the Japanese government does not admit it. The reason is if the Agreement in 1905 is determined to be invalid, Article 2 of the 1965 Treaty on Basic Relations between the Republic of Korea and Japan should be amended. When it happens, Korea-Japan relations, including the issue individual compensation, will change fundamentally. The Japanese government is afraid of it. This problem is the Pandora's box of Korea-Japan relations.[622]

For this reason, the Japanese government has kept claiming the lawfulness of the 1905 Agreement of Protectorate and the 1910 Treaty of Annexation, and tries to interpret the invalid time as 15th August 1945. However, for such an interpretation to be given support, the Japanese government should have specified the invalid time '15th August 1945' as one provision in the 1965 Treaty of Basic Relations through mutual agreement with Korea, in the same way as Article 4 of the 1952 Treaty of Peace between the Republic of China [KMT, 1952] and Japan.

Chapter 7. Case Studies: Return of Korean Cultural Property

7.1 Introduction

The number of Korean cultural property located in Japan as of April 2017 numbers 71,422, according to a survey conducted by the Overseas Korean Cultural Heritage Foundation.[623] The number of the cultural objects returned to Korea by 2015 is 6,650 including the return at the Korea-Japan normalisation Treaty in 1965. Those return cases include 561 objects by individuals or private organisations; 273 objects by purchase; 2,978 objects of returns through negotiations between the two countries; 3,299 objects by donations[624]. The return through the Korea-Japan normalisation treaty was examined as the representative case.

Thus, this chapter introduces two return cases, which proceeded through negotiations between non-governmental organisations, and was supported and had the participation of the government. The two cases were selected due to the significant of the historical background that the cultural objects had been sent to Japan and the scale and Korean history of related cultural objects.

Lastly, this chapter deals with the return of national archives taken by the French Navy from Korea in 1866, which is a negotiation case between the Korean government and the French government. The Korean national archives are a very important cultural heritage for understanding Korean history, not only in terms of their large quantity but also their quality. This was one of a number of cases in the archives and is introduced here as another instance in which the Korean people demonstrated their keen interest in the return of cultural property between Korea and a foreign country, and in which the Korean government's official efforts to have the treasures returned continued internationally for many years. Thus, this case will be introduced as an example of intergovernmental negotiations that can be referred to in the future on the issue of return of cultural property between Korea and Japan.

7.2 Return of Terauchi Library's Korean Collection

7.2.1 Overview of the Terauchi Library

Masatake Terauchi, who was born in 1852 in Yamaguchi Prefecture, Japan, was a military officer in the Japanese Army. He became the Secretary of the Army in 1910, serving as a member of the Taro Katsura Cabinet. In May 1910, he started in his new post as the third Resident-General in Korea. In August, he played the leading role in the overturning of the national sovereignty of Korea, which made him the first Governor-General of Korea. Then, he became the Prime Minister of Japan, and his term ended in September 1918.

During his tenure of office, the JGGK carried out the investigation and collection of old books and historical records across Korea under the pretext of the 'Old Korean Custom and System Examination Project'. On the other hand, he issued an order for about 200,000 historical books or biographies of heroic figures to be confiscated or burnt. These were classified into a category of books defined as seditious that could arouse the spirit of independence after the investigation carried out by the JGGK.[625]

During his tenure of office, Terauchi also collected old books, literary resources, paintings and calligraphic works created in the period from the 13th to the 19th centuries in Korea. The scale of his collection was big, with 1,630 pieces of works classified into about 1,100 types.[626] When he left Korea after he was appointed as the Prime Minister of Japan in 1916, he took his collection of Korean books and materials to Japan. Throughout his whole life, Terauchi collected about 18,000 old books and literary resources from Korea, China and Japan.[627] After his death in 1919, his son transferred a considerable amount of Terauchi's collection to his private house in Yamaguchi Prefecture, in order to keep the book collection together, including those books brought from Korea.[628]

A historical record was found in *Gyeongseongbusa* (*History of Seoul*). It was published by the Japanese government immediately after the death of Terauchi in 1920. The government stated:

> In order to keep the 'Terauchi Library', which had been stored at the residence of Count Terauchi located in Miyanomura, Yosiki County, Yamaguchi Prefecture, together, a building of Gyeongbokgung Palace in Korea was purchased and the remodelling of it has been started.[629]

So, Terauchi's collection was kept in the building, of which the refurbishment was started in 1920 and completed in 1921. Decades later, the Terauchi Library was donated to the Library of Yamaguchi Women's University[630] in the Yamaguchi Prefecture in 1950, and it has remained in the same place since.[631]

7.2.2 Accounts of Negotiation and the Return

The claim for the return of a collection composed of Korean books and literary resources from the Terauchi Library was officially made by Korea after the beginning of the Korea-Japan Talks. Because Terauchi, as the Governor-General of Korea, was a public figure, it may be assumed that the collection and transfer of Korean books to Japan was well known to the public. However, according to the below-presented record of results of meetings held by the Sub-committee of Cultural Property during the Korea-Japan Talks in 1961, it seems that the Korean officials did not have precise information about the scale, contents and location of the collection:

- Title: *Summary Report of the 3rd Meeting, the Sub-committee of Cultural Property Expert Group*
  - Communication: Chief negotiator (Korea) to Minister of Foreign Affairs (Korea)
  - Date of report: 18th November 1961
  - Content: In the same way as the previous meeting, the Korean officials explained the results of the survey on the Buddha statue of Seokguram Grotto, the lion stone statue of Bulguksa Buddhist Monastery and Temple, the golden crown and the Terauchi Collection's books and literary resources. The Japanese representative replied that they would investigate these.[632]

- Title: *Report of the 4th Meeting, the Sub-committee of the Cultural Property Expert Group*
  - Communication: Chief negotiator (Korea) to Minister of Foreign Affairs (Korea)
  - Date of report: 6th December 1961
  - Content: The discussion focused on the Terauchi Library located in Japan, including the theft of a golden crown which was possessed by Ogura Museum … The Japanese representative replied that they would provide information on the investigation later.[633]

Afterwards, the Japanese officials informed Korea of the fact that the Terauchi Collection was located in Japan, being in the possession of the Yamaguchi Women's University library.[634]

After confirming the existence of the Terauchi Library, Korea drew up the list of cultural property to be returned, which would be presented at the seventh meeting of the Sub-committee of Cultural Property during the sixth Korea-Japan Talks on 28th February 1962. That list, which was delivered to Japan, included 245 items, comprising of Korean books, paintings and calligraphic works in the Terauchi Collection.

However, the claim for the return of 245 items was based on the investigation carried out by Korean experts themselves. Despite Korea's claim for confirmation of reference materials and a list of books in the Terauchi Library in the Korea-Japan Talks, the actual contents could not be assessed until after the conclusion of the Korea-Japan Agreement in 1965 due to the non-cooperative attitude of Japan. The minutes and the reports of the related meeting are as follows:

- Title: *Minutes of the 3rd Meeting on Cultural Property for Preliminary Negotiations of the 2nd Political Meeting in the 6th Korea-Japan Talks*
  - Date of report: 27th February 1963
  - Content: There were questions and answers related to Item 3 of the list of cultural property to be returned including the status of the possession of postal services and communications related cultural property, the

Hirobumi Ito Collection, and the Terauchi Library, which are in Japan.[635]

- Title: *Report of the 6th Meeting Related to Cultural Property*
  - Communication: Korean Ambassador to Japan to Minister of Foreign Affairs (Korea)
  - Date of report: 3rd April 1963
  - Contents: Korea claimed for a list of Korean books and literary resources from the Terauchi Library kept in the Yamaguchi Women's University. Yet the Japanese representative declined to make any comments on the issue.[636]

Despite the fact that the existence and location of the Terauchi Library was identified, none of the 245 items was returned, although their return was requested by Korea throughout the Korea-Japan Talks for the Korea-Japan Agreement in 1965.[637]

After 1965, a little bit of information related to the Terauchi Library became known in academic circles in Korea, including the existence of the library. In addition, there was no movement to promote the return of it. In 1990, 25 years later, a descendent of Am Yi,[638] a famous civil official during the Goryeo Dynasty, found that two handwritten materials created by Am Yi were included in the Terauchi Library, which led the descendent investigating the library. The founder, who was a descendant of the clan of Yi from Koseong, Korea, informed the Clan Association of Koseong Yi of the fact. So, he set out to look for Am Yi's materials with the help of the Clan Association. At the beginning, he did not know the location of the Terauchi Library; but after asking around for seven months, he came to learn that the Terauchi Collection was kept in Yamaguchi Women's University. So, he visited the university himself and found out a huge amount of Korean old books, records and historical resources were possessed by the university library, besides Am Yi's works of writing. Having returned to Korea, he immediately informed the principal of the National Institute of Korean History (NIKH) of what he had discovered in Japan. The principal of NIKH went to Japan himself to identify the existence of the Terauchi Library. Having identified it, the principal of NIKH tried to officially promote the return of Terauchi Library's Korean collection through the Korea-Japan Friendship Association and the Korea-Japan Parliamentarians' Union in the National Assembly of Korea. However, it

was not easy to do so due to the situation at that time.[639]

Meanwhile, the President of Kyungnam University in Korea, who came to know about the movement seeking the return of the Terauchi Library's Korean collection, began to think of a solution at a non-governmental level. Gyeongsang Province, where Kyungnam University is located, had set up a cooperative relationship with Yamaguchi Prefecture. Also, Kyungnam University was promoting an academic exchange agreement with Yamaguchi Women's University at that time.[640]

Therefore, it was possible to carry out a relatively smooth negotiation for the return of Terauchi Library's Korean collection between the two universities. The Korea-Japan Friendship Association and the Korea-Japan Parliamentarians' Union also played a role in supporting the negotiation.[641]

Finally, Yamaguchi Women's University made a decision to return 135 items in 98 categories from the Korean collection of the Terauchi Library to Korea.[642] However, an unexpected problem occurred just prior to the return, in which the agreement might have foundered. Immediately before the President of Kyungnam University left for Japan to conclude the agreement after preparing a list of books and literary materials to be returned, including the transportation methods, his university distributed a press release. The problem was that most of the Korean news articles reported the story under the title of 'Return of cultural property plundered by Governor-General Terauchi'. Yamaguchi Women's University and the Terauchi family sent a message to Kyungnam University saying that they would cancel the agreement. The President of Kyungnam University described the situation at that time as follows:

> I felt so hopeless. It seemed like everything we had done went down the drain. However, I braced myself, thinking we should get an amicable solution to mend the situation. And I began to make progress in the negotiation with Yamaguchi Women's University. As a result of discussions, it was agreed that a revised article in which the word 'plundered' would be changed into 'collected' should be put in newspapers. And then, I had to call every newspaper company throughout the day. So, one of the companies published the article under the title of 'Books

> collected by Governor-General Terauchi, including some purchased, according to what the President of Kyungnam University said'. Thus, I sent a copy of the article to Yamaguchi Women's University and the press in Japan. Finally, we could reach agreement with each other and solve the problem.[643]

So, both universities concluded the agreement on 11th November 1995; and 134 pieces in 97 categories of Korean books, records and literary resources were repatriated to Korea on 24th January 1996. One of the pieces, which was not in good condition, was returned on 27th April three months later, after restoration work in Japan.[644] Kyungnam University has been keeping those books and materials at its on-campus library, exhibiting some of the books and materials to the public after building a special gallery, which is called the 'Gallery of Terauchi Library's Collection'.

A closer survey and evaluation of those books and materials was carried out. According to the results, the Terauchi Library's Korean collection is composed of rare books, including the autographs of deceased people in Joseon Dynasty. The collection includes 1,959 poems, calligraphies and paintings created by more than one thousand scholars in Korea.[645] In particular, the letters are values as the best cultural assets in Korea in terms of quality and quantity.[646] In 2010, the whole set of the returned books and materials were designated as No. 509 of Tangible Cultural Property of Gyeongsang Province. Among them, the scrapbook named 'Kiwoncheop', created by Han-ji Yu, a literary man and calligrapher born in 1760, has been designated as No. 1682 of Treasure, Republic of Korea.[647]

7.2.3 Matters to be Considered in the Future

During his tenure of office as the JGGK, Terauchi collected a lot of artefacts excavated from ancient tombs and cultural objects, as well as books and literary resources, and took them to Japan. It is known that a large quantity of them is still kept by Yamaguchi University.[648] Therefore, on the basis of the idea that the returned Korean cultural materials from the Terauchi Collection are limited to books and literary resources, the items returned may not cover the whole collection. So far, there still remain approximately 1,500 pieces in 1,000 types of books and literary resources,

and other kinds of cultural objects originated from Korea in the Terauchi Collection. Therefore, it is necessary to conduct close studies and investigation of such materials.

The reason why the Korean books, records and literary materials of the Terauchi Library were not returned at the time of the Korea-Japan Agreement in 1965 is that his collection was not registered as cultural property of Japan but merely as private collection. However, there remains a question of whether the cultural materials collected by a public figure with absolute power, such as a Governor-General, can be truly considered as private property.

Terauchi went back to Japan in October 1916, being appointed as the Prime Minister of Japan after completion of his tenure in Korea. However, in July 1916, during his tenure as the Governor-General, the JGGK announced Directive No. 52 'Rules for Conservation of Historical Sites and Relics'. One of the remarks in which he clarified the purpose of the Directive is as follows: (excerpt)

> Second, Korean's cultural heritage shall be prevented from being dispersed overseas, being preserved inside Korea.

Therefore, an examination needs to be done concerning the institutional contradictions between the series of legal instruments made in 1916 such as the Rules and the removal of Korean cultural property by the Governor-General Terauchi.

7.3 Return of *Joseon wangjo sillok*

7.3.1 Overview of *Joseon wangjo sillok*

Joseon wangjo sillok is the Korean national annals recorded in chronological order, giving the history of 472 years (1392–1863) through 25 regimes from King Taejo, a founder of the Joseon Dynasty, to King Cheoljong, the 25th king. *Joseon wangjo sillok* is of a huge scale, consisting of a total of 1,839 books in 888 volumes. It is National Treasure No. 151 and was listed as a Memory of the World by UNESCO in 1997.

Joseon wangjo sillok covers historical facts in various fields, such as politics, diplomacy, military, laws, economy, industry, society, custom, astronomy, geography, science, literature, art studies, philosophy and religion. Thus, it is rated as an unprecedented valuable documentary history. It comprises core documentation in studying the history and culture of the Joseon Dynasty. In addition, the annals contain the story of Korea, and also deal with the story of neighbouring countries, such as China, Mongolia and Japan, so it largely helps in studying the history of East Asia.

Even after the Japanese colonial occupation, Korea continued to make the annals of Emperor Kwangmu and Emperor Yunghui, the last emperor of the Korean Empire. However it was compiled under the censorship of the Japanese. For this reason, the distortion was serious and thus the annals of the two Emperors were compromised in value as archival records.

Joseon wangjo sillok was distributed and kept in deep places in mountains, and were believed to be safe because multiple copies were made to preserve these records perfectly against wars and disasters. In 1910, when the ere of Japanese imperialism began, there was a Sago (historical records storage facility) in Mt. Jeongjoksan in Ganghwa Island, in Mt. Taebaeksan in Gyeongsang Province, in Mt. Jeoksangsan in Jeolla Province and in Mt. Odaesan in Gangwon Province. In addition, to keep each Sago in the mountains, the duty of protecting each Sago was assigned to the nearby Buddhist temple. For the Sago in Mt. Jeongjoksan, Jeondeungsa Temple took charge of it; for the Sago in Mt. Jeokseongsan, Ankuksa Temple; for the Sago in Mt. Taebaeksan, Gakhwasa Temple; and for the Sago in Mt. Odaesan, Woljeongsa Temple. The chief priest of each temple was commissioned to mobilise the army of the Joseon Kingdom as the general manager for protecting the Sagos.[649]

7.3.2 The Removal of and Damage to *Joseon wangjo sillok*

Of *Joseon wangjo sillok* stored in the four Sagos, the whole set of the Sago in Mt. Odaesan, Gangwon Province, was taken to Tokyo Imperial University in Japan as the JGGK's gift for the annexation of Korea.[650] Asian history scholar Kurakichi Shiratori, a professor of Tokyo Imperial University, who knew the existence of *Joseon wangjo sillok* through the results of the investigation of Korea's cultural heritage which was

performed by Japan around 1910, asked Governor-General Terauchi to make a present of *Joseon wangjo sillok* to his university. The JGGK accepted this proposal and sent to Japan 731 volumes of *Joseon wangjo sillok*, 3,610 books and archival materials including 380 volumes of the royal archives of Korea and 2,469 other publications.[651]

The JGGK transported those volumes, books and materials to a wharf in Jumunjin through the forced mobilisation of nearby residents to the Sago in Mt. Odaesan; and all of them were carried to Japan by ship. Woljeongsa Temple, commissioned to protect *Joseon wangjo sillok*, left a record 'Historical Records of Mt. Odaesan' to explain the then situation. It reads as follows:

> On 3rd March 1914, an official of the JGGK and a team led by Hakuchi, a general affairs manager of Pyeongchang gun, Gangwon Province, stayed at Woljeongsa Temple. They transported 150 bundles of records and books kept in the Sago to Jumunjin, Gangneung, Gangwon Province. Residents were mobilised for the transport, which continued from 3rd to 11th March.[652]

At that time, the Buddhist monks assigned to protect *Joseon wangjo sillok* were only able to keep bowing to the Buddha sounding a moktak (wooden percussion instrument used for chanting by Buddhist clergy) as a protest because the JGGK had mobilised the armed forces.[653]

Unfortunately, *Joseon wangjo sillok* taken to Tokyo Imperial University was severely damaged in the great earthquake that occurred in the Kanto region in September 1923. Only 74 books that were lent separately survived. Of them, 27 books were later returned to Keijo Imperial University in Korea in 1932. However, the remaining 47 books, including 9 books of the Annals of King Seongjong, 30 of King Jungjong, and 8 of King Seonjo were still kept in Tokyo Imperial University.[654]

In fact, it was known that the Odaesan Sago edition has disappeared, except for 27 books returned in 1932. However it was rumoured among Korean students studying in Japan in the mid-1970s that more books of *Joseon wangjo sillok* were kept in Tokyo Imperial University's library.[655] In the meantime, a Korean bibliographer went to Tokyo, and identified *Joseon wangjo sillok* left in the library in 1984 and 1988.[656]

7.3.3 Negotiations and Return

In 1998, the Government Archives and Records Service of Korea (currently the National Archives of Korea) reported to the National Assembly of Korea that it had been working on the repatriation of 47 books of *Joseon wangjo sillok* kept in the library annexed to the University of Tokyo. The Government Archives and Records Service announced that there was agreement that the director of the University of Tokyo Library was willing to return the Odaesan Sago edition of *Joseon wangjo sillok* if the process of removing it at that time would be proven to be illegal.[657] However, it was known that the negotiation on the return between the two institutions was not successful since then. Because of this news about the report and the negotiation, the issue of the return of *Joseon wangjo sillok* located in Japan began to emerge from the academic world.

In the meantime, the Korean Buddhist community organised the 'Committee for the Restitution of *Joseon wangjo sillok'* on 3rd March 2006. The two chief priests, including one priest of Woljeongsa Temple, which had been commissioned to protect the Odaesan Sago in the Joseon era, and another chief priest of Bongseonsa Temple, where there was a priest who had investigated *Joseon wangjo sillok* held by University of Tokyo, took charge as joint chairmen. Then, the Committee began the return movement in earnest. In the Committee, members of the National Assembly of Korea also participated. On 2nd May 2006, *Joseon wangjo sillok* doechatgi gukhoeuiwon moim (group of members of the National Assembly to take back *Joseon wangjo sillok*) was organised.[658]

Upon the official launch on 3rd March 2006, the Committee delivered a 'request for the return of *Joseon wangjo sillok*' to Japanese Prime Minister Koizmi, and had two meetings in the University of Tokyo on 15th March and 17th April 2006. The group of members of the National Assembly also sent a letter of official request to the Japanese Foreign Ministry right after its organisation on 3rd May 2006. Then the third meeting was scheduled on 31st May in the University of Tokyo.[659]

The University of Tokyo, which received the request from the Committee, claimed in its reply that it did not know how it had acquired *Joseon wangjo sillok* and it would

take a long time to investigate the issue because it had occurred a long time ago.[660] However, the Committee presented *Odaesansajeok* (*Record of Odaesan History*), and maintained that *Joseon wangjo sillok* was sent to Japan on the orders of the JGGK according to the Record. Additionally, the Committee strongly requested the return of *Joseon wangjo sillok* by presenting the article in the second issue of the 25th volume of *Sigaku zasshi* (*Historical Studies Magazine*), contributed by Professor Kurakichi Shiratori who had explained how *Joseon wangjo sillok* was sent to the University of Tokyo.[661]

Additionally, the Committee reminded them of the principle of returning state-owned cultural materials by presenting the 1965 Treaty between Korea and Japan. It urged them to return 47 annals kept in the University of Tokyo in accordance with the 1965 Treaty between Korea and Japan, explaining that the annals were not included in the list of request due to lack of information in the process of the then return negotiations.[662] Furthermore in the second meeting, the Committee gave the University of Tokyo a final notification that if the University did not make any specific comments for the return in the near future, it would file a legal suit against the University, with Woljeongsa Temple as an accuser.[663]

At the third meeting held on 31st May 2006, the director of the Library of the University of Tokyo made the decision on the intention of returning *Joseon wangjo sillok* to promote academic exchange between the University of Tokyo and Seoul National University as well as to celebrate the 60th anniversary of the establishment of Seoul National University and the 230th anniversary of the establishment of the Kyujanggak.[664] The reason why the University of Tokyo decided on Seoul National University as an institution for *Joseon wangjo sillok* to be returned to was that the Kyujanggak functioned as a royal library, and the Kyujanggak Institute for Korean Studies, had been newly opened at Seoul National University in May 2006.

That is how the 47 books of *Joseon wangjo sillok* kept in the University of Tokyo were returned to Korea on 7th July of that year, and designated as a National Treasure in 2007. The annals were transported to the Kyujanggak Institute for Korean Studies at Seoul National University, and were scheduled to be finally kept in the National Palace Museum in Seoul since the Korean government has selected the Museum as

responsible for safeguarding the annals. The Korean government explained that Seoul National University had already kept the set of the Jeongjoksan Sago edition of *Joseon wangjo sillok*, and that it was to follow the original principle of keeping *Joseon wangjo sillok* distributed.[665]

7.3.4 Future Tasks

Regarding the University of Tokyo's use of the term 'donation' in returning the *Joseon wangjo sillok*, public opinion in Korea expressed inadequateness and regret once again in recalling the situation of the 1965 Treaty between Korea and Japan.[666] With regard to this, an official concerned with Seoul National University gave the following explanation:

> In the return of 47 books of the Odaesan edition, we agreed on the return by taking the return forms for the University of Tokyo as a 'donation' and for Seoul National University as 'return'. I think this is the best decision considering the circumstances and practical benefits of the two countries. It is not without regret that the University of Tokyo used the term 'donation'. But I think it is a better way to restore ownership than a permanent loan or a two-way exchange.[667]

However, considering that this case of returning *Joseon wangjo sillok* could be a precedent, it is notable that obstacles in the negotiations between the two countries can occur because of the difference in agreeing on the concepts of 'donation' and 'return'.

7.4. The Oekyujanggak Archives (The Korean Royal Archives) Seized by the French Navy in 1866 and Taken to Paris

7.4.1 Historical Background

The Kyujanggak is a royal institute founded by the Joseon Dynasty in 1776. Its library included royal records, precious manuscripts, ancient books and many documents relating to the royal household. As national institution, the Kyujanggak is attached to Seoul National University which has had custody of these valuable collections and documents since its establishment in October 1946, just after Korea regained its independence in 1945.

To guard the safety of important Kyujanggak records, in 1781 the Joseon Dynasty established an additional royal depository on Ganghwa Island, at the mouth of the Han River, as this was thought to be a safe haven. The history of wars in Korea shows that at least since the Goryeo Dynasty, Ganghwa Island has been of strategic military importance, and was often used as a temporary capital when Korea went to war against China or Mongolia in earlier times. This depository, called the Oekyujanggak, 'Oe' meaning 'outer', was classified as an institution 'annexed' to the Kyujanggak.

The Joseon Dynasty adopted Confucianism as the state ideology, although the earlier Goryeo Dynasty had considered Buddhism the national religion. Historians believe that Buddhism was officially accepted by Goguryeo, one of the ancient states of Korea in the 4th century AD, and that Confucianism was well known in Korea too, as the Goguryeo Dynasty had established an educational institution whose curricula included Confucian Studies. Buddhism and Confucianism co-existed as Korea's key religions – ways of life and national ideologies – throughout Korean history.

Information about Christian religion was also introduced to Korea by scholars who brought or wrote books on Roman Catholicism in the 17th century based on Chinese Jesuit texts. Many in the Joseon Dynasty regarded this not as a religion but rather as a 'study', and called it Seohak[668] (Western Studies) at an early stage. However, later Koreans who had converted to Roman Catholicism protested against the existing social system and traditions. Some refused to undertake the Jesa (the Confucian

religious service for deceased parents and grandparents), as this was considered contrary to Christian doctrine. Christianity as a whole and Catholicism in particular were, in turn, considered unacceptable by Korean society in general and the Joseon Dynasty leadership in particular. Western missionaries were, consequently, not allowed to propagate Christianity, or to even enter Korea without official permission until the late 19th century.

The first two-thirds of the 19th century saw several phases in which Korean Catholics and missionaries were persecuted and, in some cases, executed. The most serious incident was in 1866, when between 1,000 and 2,000 Korean Catholics, and nine of twelve French missionaries active in Korea at that time, were arrested[669]. The nine French missionaries faced the Kukmun (a trial for felony), and were found guilty of having entered Korea without Kongbing (official permission), and of undertaking unlawful missionary work. As they were foreigners, the Korean government decided to allow them to return to France if they so wished. The nine missionaries, however, chose to be martyred, and were executed on a single day on the banks of the Han River in Seoul along with some thousands of Korean Catholics.[670] During his visit to Seoul in 1984, Pope John Paul II canonised 103 of the victims, declaring them to be saints and martyrs of the Church.[671]

One of the remaining three French priests, Father Ridel, made good his escape to China in May 1866, and contacted Admiral Roze, the Commander of the French Asiatic Squadron stationed at Chefoo in China, and secured his pledge of taking punitive action against Korea.[672]

On 18th September 1866, Admiral Roze and his three warships crossed Hwanghae, the Yellow Sea,[673] and reached the Han River, intending to sail up the river *en route* to Seoul. However, he observed that Korea had strengthened defences along the Han River and so returned his ships to Chefoo after seven days. Later, in October, Admiral Roze again led a flotilla, this time of seven warships, and his troops attacked Ganghwa Island, seizing the administrative centre on 16th October 1866. Historians think that Admiral Roze intended to occupy Ganghwa Island to exert strategic and psychological pressure on Korea by obstructing the Han River 'gateway'. However, the French naval forces were weakened in battles on Ganghwa Island, and their final

defeat at the Jeongjoksan fortifications on Ganghwa Island destroyed their morale. Admiral Roze, therefore, decided to withdraw his squadron from Ganghwa Island on 11th November 1866.

7.4.2 Removal of the Oekyujanggak Archives to France

While staying in Ganghwa Island, Admiral Roze commanded his troops to reconnoitre the Island, and reported to the French government:

> I immediately crossed the town and went to a government office, built with great elegance and surrounded by the armouries belonging to the nation. These alone amounted to a second town inside the town. The inspections which I ordered carried out confirmed the military importance of the place. We found a great number of gunpowder magazines and great quantities of cannons and helmets cast in iron and bronze. There were considerable armouries filled with all kinds of weapons and ammunition, more than ten thousand rifles, sabres in quantity, as well as a great number of arrows and quivers and armours of extremely rare design and type. The day before we had already discovered in the vicinity of our quarters three large gunpowder magazines filled with powder and with ammunition. Without doubt, Ganghwa Island must have been chosen by the Korean government in Seoul, as the main military store of Korea. (22nd October 1866).[674]

Admiral Roze ordered a systematic search for Korean cultural objects, and in the course of this search, his troops found the Oekyujanggak and its royal library, archives and other collections. One of his reports clearly shows that the French naval forces had primarily political and military aims, but were also intending to collect historical objects. Admiral Roze, after retreating from Ganghwa Island, wrote to Paris:

> On my arrival in Ganghwa Island, I appointed a mission to seek to collect objects that could offer any interest from the historical or scientific point of view. I have the honour to address to Your Excellency the official report presented to me by that commission.
>
> The town, rather poor in appearance, did not contain anything which

> deserved to be sent. But the residence owned by the King of Korea, and occupied by him only in rare occasions, contained a rich library with a great number of works that might prove to be of great importance. The commission gathered 340 volumes which were carefully packed; and I will dispatch them to France at the first opportunity. It is a pity that their enormous weight does not allow me to send them by the imperial couriers. Lacking a professional interpreter I refrain from adventuring any comment to your Excellency. Notwithstanding, I hope that these works will throw a great light on the history, the religion, the literature and the legends of Korea that has remained unknown to this day. (17th November 1866).[675]

Clearly a large part of the Oekyujanggak Archives in Ganghwa Island was removed to France after the 1866 armed conflict, and the 340 volumes referred to include the Oekyujanggak Archives.

7.4.3 Identification of the Oekyujanggak Archives in France

In 1978, a Korean graduate from a French graduate school, Librarian Byeong-seon Park, working for the Bibliothèque Nationale de France (BNF – the National Library of France) in Paris, identified that the BNF had retained 297 volumes of the Korean royal archives taken by the French naval forces from the Oekyujanggak on Ganghwa Island in 1866. She thought these archives were probably kept in the BNF, as a reference book indicated that Korean archives removed by Admiral Roze's squadron had been sent to the Library. She finally found them at the BNF's storage annexe in Versailles. The Korean royal archives, lost for more than a century, were discovered on her visit to the annexe to examine old Asian books written in Chinese characters. Park later explained that it had not been easy for her to find the archives since they had been incorrectly labelled, classified in the Chinese section[676] and placed in a 'store for damaged books'. She left the BNF in 1980 and was unable to do further research on these archives. Choong-hyun Paik comments that:

> One may argue that cultural objects of great worth should remain in the hands of those capable of providing for best protection. And it thus suits the collective interests of the international community in the preservation of common cultural heritage. From this viewpoint as well, France would not have advantage for the

appropriate preservation of the Oekyujanggak Archives over the State of Korea.[677]

7.4.4 Request for Return of the Oekyujanggak Archives

Having obtained information on Park's finding, the Kyujanggak of Seoul National University requested the return of the Oekyujanggak Archives in October 1991. The Kyujanggak submitted a formal request to the Ministry of Foreign Affairs, Korea, which, in turn, forwarded the request to the French government. A response from the Korean Ministry in March 1992 indicated that the BNF maintained a position of 'denying' any requests of this nature. The Korean Ministry also mentioned that the BNF had said, in rejecting the claim:

> … we would have to expect numerous claims from other countries in future should we return them to Korea.[678]

Notifying the Kyujanggak of this reply from Paris, the Ministry said there should be further discussion on this matter between the Korean and French authorities. It took further one and a half years before another opportunity arose to discuss the Oekyujanggak Archives, when President François Mitterrand of France visited Korea in September 1993.

The French 'state visit' to Korea was significant as there was an important matter pending between the two countries at that time. In 1989 and 1990, the Korean government announced a plan to build a national high-speed train network, with tenders open internationally. Three applications, from France[679], Germany and Japan,[680] were received. In August 1993, the advisory group considering the tenders recommended the French application to the Korean government and it should, consequently, have priority in further negotiations with Korea.[681] This evaluation was encouraging to the French government, especially as President Mitterrand had already scheduled a visit to Seoul the following September. The Kyujanggak's request of 1991 was discussed between Korea and France while preparing for this visit, and it was agreed that the return of the Oekyujanggak Archives should be placed on the agenda for the summit talks.

President Young-sam Kim of Korea held talks with President Mitterrand on 14th September 1993, on his arrival in Korea. They discussed the international situation in East Asia, and other matters, including the promotion of the Korean-French relationship. At the meeting, President Kim mentioned the Kyujanggak's request, and stated that: 'All Korean people wish they could see the Oekyujanggak Archives in Korea'. [682]

In reply, President Mitterrand said:

> We have rejected all requests for the return of cultural property from other countries. However, we have decided to consent to Korea's request[683]… Symbolically in the first place, two volumes of the Oekyujanggak Archives will arrive in Korea tomorrow.[684]

President Mitterrand promised that France would continue to discuss with Korea the best practical method of return[685], for example via a permanent loan (in view of the very restrictive French national laws relating to the inalienability of national collections) or cultural exchange and co-operation. He revisited the presidential residence the next day and handed one of the volumes to President Kim.[686]

There was a strong reaction from the BnF[687], which protested this 'exceptional' policy for Korea, while the French press also protested, and the talks and negotiations did not progress smoothly. Negotiations came to a standstill, making it difficult for the Oekyujanggak Archives to be returned to Korea[688]. In addition, it was later reported, that a request, by a young Korean researcher for public access to these materials, was rejected by the BnF, despite it having a purely academic purpose[689] (mirroring the long-standing Japanese refusal to allow Koreans academic access to Korean cultural materials in Japanese public collections).

Korean historians and researchers also discovered further evidence of the events of 1866, showing that Admiral Roze ordered the burning of more than 4,000 other items in the Oekyujanggak, including manuscripts and books kept on Ganghwa Island, just before retreating with his squadron. In fact, although apparently not noted by researchers earlier, Admiral Roze referred to his 'scorched earth' policy in his own

official report:

> We began at once the destruction of all the state-owned properties. More than 200 junks were sunk, the gunpowder magazines were blown up, and a lot of storages with their contents were set on fire.
> Soon, only the royal residence and the government office will be left standing. These dwellings have been used as housing by some of our men and for that reason they have been spared until the last moment. … According to plan, I completed the destruction of the official part of the town of Ganghwa Island from 10th to 11th January, everyone had taken their usual post on board the battleships. (15th January 1867).[690]

During this destruction, many of Korea's unique cultural objects were destroyed.[691]

7.4.5 Return of the Oekyujanggak Archives

In order to resume negotiations that had been deadlocked since 1993, the Korean government tried to find ways to resolve the issue with the French government through diplomatic channels. However, the two countries failed to narrow the differences in their positions. President Dae-jung Kim of Korea and President Jacques Chirac of France, who met at the second ASEM (Asia-Europe Meeting) Summit, held in London in April 1998, agreed to discuss this issue by appointing civilian experts of the two countries as a representative delegation. Thus, Korea decided the president of the [national] Academy of Korean Studies should be its delegate, and France appointed one of its senior members of the Court of Audit as its delegate in order to engage in negotiations.[692]

The representatives of both sides announced the results of their negotiations in 2001. In reply to Korea's request for the return of the Oekyujanggak Archives, the French authorities proposed a system of a 'temporary loan', with Korea required to offer an exchange of its other cultural material to a similar quantity and value.[693] However, a temporary loan, under such conditions, is considered by many in Korea to simply be the equivalent of an exchange exhibition. Korean academic circles consider a conditional restitution of pillaged cultural heritage as unjustified, and not a moral

solution. It should be borne in mind that the Oekyujanggak Archives are not only cultural objects, but include the state's official public records,[694] that is to say the inalienable and imprescriptible archives[695] without which Korea's national identity and history cannot be fully understood.

However, the results of the negotiations between the two representatives were not adopted as the ones of formal negotiations between the governments.[696] The two countries respectively claimed 'complete returns of Oekyujanggak documents' versus 'exchange and exhibition of the equivalent cultural material' and thus could not find common ground with each other, so the issue still remains an unresolved diplomatic one between the two countries.[697]

In the meantime, after nine years, an opportunity was arranged to discuss the issue again at a summit conference in Seoul. In November 2010, the G20 Summit was held in Seoul; and among those attending was President Nicholas Sarkozy of France. At the summit talks held between Korea and France during the G20 Summit, President Myung-bak Lee of Korea took the opportunity to raise with France once again the question of the Oekyujanggak Archives. In this summit, the two leaders agreed that the Oekyujanggak Archives should be returned to Korea. President Sarkozy said:

> Korea and France are trying to solve the difficult problem remained between the two countries. We will return the Oekyujanggak Archives by way of permanent loan to Korea, renewable every five years, in accordance with the procedures of French national law.

In response to this, President Lee said:

> I am glad to have disentangled the difficult problems between the two countries, and we will accept it as the actual return.[698]

The announcement of the return by President Sarkozy in Seoul provoked the wrath of the librarians of the BNF,[699] who responded by creating a petition against the return of the manuscripts. It is as follows:

On the fringes of the G20 Summit in Seoul, the President of the [French] Republic has announced the return to South Korea [Republic of Korea] of a vast collection of Korean manuscripts held by the Bibliothèque nationale de France since 1867. It should not be forgotten that copies of most of these manuscripts exist in Korea.

– the decision was taken against the advice of the Bibliothèque and of the Ministry of Culture, which for years have pleaded in favour of agreements involving reciprocity or corresponding benefits (exchange, mutual loans etc.). Any such possibility has now been abandoned.

– the decision deprives the Bibliothèque nationale de France of an important set of documents which it has long sought to preserve, restore and inventory to make them available to researchers, as has been done for the numerous foreign collections it has gathered since the 17th century, demonstrating its high regard for the heritage of all civilisations across the world and its desire to make this heritage available to everyone.

– under the cover of a loan renewable every five years, the decision is equivalent to a *de facto* restitution, contradicting the law. It will allow manuscripts to return to France in a manner that is at best episodic; and is sure to strengthen the increasingly sustained claims for the return of cultural property that various countries are making against archives, museums and libraries in France, Europe, and beyond.

– the decision demonstrates the growing and worrying subordination of the law and heritage policy to political, economic and geostrategic considerations, at the risk of threatening the principle of inalienability in respect of public collections.

For these reasons, the following staff[700] at the BNF wish to publicly express their disapproval of such a decision.[701]

French art scholar Didier Rykner also criticised the decision of return, calling the move 'totally illegal'.[702]

An official from the Republic of Korea's Embassy in Paris said, 'Although I expected it, the BNF put up considerable resistance, and it is likely that the follow-up negotiations will be delayed as more time is needed to gather opinions from related ministries in the French government'.[703] Also, the Korean Ambassador to France explained, 'Since the French negotiation team has undergone a legal review process, this objection will not be a hindrance'.[704]

While the opposition statement of the BNF was made public, scholars' academic and prudent opinion supporting the return of the Oekyujanggak Archives was also published in a newspaper in the interior of France. Jean-Loup Salzmann, president of the University of Paris 13 and Vincent Berger, president of the University of Paris Diderot (Paris 7) sent an article to the French newspaper *La Libération*, urging the immediate implementation of the promise of return. They wrote:

> On the occasion of the G20 meeting in Seoul, President Sarkozy promised the return to Korea of a collection of 296 manuscripts currently preserved at the BnF. This decision has not failed to provoke protesting reactions from librarians of the BnF. Yet there is no real surprise in the presidential announcement: the operation had been prepared for several months in negotiations involving the Elysée Palace, the [French] Ministry of Foreign Affairs, the [French] Ministry of Culture and the BnF. … Let us dismiss immediately the idea that the return of manuscripts to Seoul would expose France to a kind of jurisprudence. The State is sovereign; it does not have to justify to any international tribunal its choice to lend a work of art or a cultural property. This is a gesture of unique and singular friendship, motivated here and now, in an exceptional setting. These manuscripts indeed exceptionally occupy a unique and symbolic place without equivalent in the Korean culture and history. … In the case of the Korean manuscripts, the least we can say is that the punitive removal conducted by Admiral Roze and the French army at the end of the 19th century, which was the occasion of the looting of Korean manuscripts and burning of remaining books (more than 5,000 anyway!), is not one of the most glorious pages in the history of France. … Often, the claims for the restitution of works of art emanate primarily from official

circles, experts, professionals from the political, cultural and journalistic. In the case of Korea, the desire to return manuscripts to their soil is from the general public of Korean people and is not limited to nationalistic expressions. … When expressing their opinion on the Korean manuscripts, the BnF librarians should tell us if these manuscripts were accessible to the public, or even consulted by researchers. … The return of the manuscripts to Seoul does not hamper the French cultural wealth and cannot itself assume further similar negotiations with other countries. It is simply the result of a gesture of friendship, strong and important gesture, an exceptional gesture.[705]

Finally, in accordance with the bilateral summit agreement between the two countries, Korea and France concluded an Agreement in February 2011 to return the Oekyujanggak Archives to Korea in the form of a permanent loan. The Agreement stated in its content that those archives are part of the identity of the Korean people and constitute a fundamental element of Korea's memory. It is noteworthy that this statement can be referred to as a fundamental reason for constructing a framework of the general issue concerning the return of cultural property. The Agreement reads as follows:

***Agreement Between the Government of the French Republic and the Government of the Republic of Korea Regarding the Royal Manuscripts of Joseon Dynasty* (*An Annex Included*)[706]**

The Government of the French Republic and the Government of the Republic of Korea, hereinafter referred to as "the Parties";

Considering the declaration of intent of the President of the French Republic and the President of the Republic of Korea of 12th November 2010 expressing their determination to resolve the issue of the royal manuscripts Uigwe[707] of the Joseon Dynasty from the Royal Library of Oekyujanggak and preserved by the National Library of France;

Considering that these manuscripts from the Royal Archives are part of the identity of the Korean people and constitute a fundamental element of Korea's memory;

Desiring to better respond to the needs and expectations of the French and Korean peoples, to promote their mutual understanding and to strengthen relations of friendship and cooperation, agree as follows:

Article 1

The French Party lends to the Korean Party all 297 volumes of royal manuscripts Uigwe of the Joseon Dynasty from the Royal Library of Oekyujanggak and listed in the annex. The loan is for a renewable five-year period.

Article 2

These manuscripts are to be kept at the National Museum of Korea in Seoul, an institution mandated for this purpose by the Korean Party.

Article 3

The Korean Party undertakes to make available the manuscripts covered by this Agreement for exhibitions organised in France on the theme of Korean cultural heritage and exchanges between the two countries, in particular within the framework of the organisation in 2015 and 2016 cultural seasons crossed between France and Korea.

Article 4

The loan of the Uigwe manuscripts by France to Korea is an operation which has a unique character, not likely to be reproduced in any other circumstance and does not create a precedent. It provides a definitive answer to the disputes that may have arisen between the Parties concerning claims for cultural property. This loan shall take effect as soon as possible after the entry into force of this Agreement. The transfer of the manuscripts, after their digitisation, is to take place before 31st May 2011 at the latest.

Article 5

The conditions for implementing the activities defined above are the subject of the Agreement concluded prior to the transfer of the manuscripts between the two institutions mandated by their respective governments, namely:

- The National Library of France, for France;
- The National Museum of Korea, for Korea.

This Agreement is drawn up in accordance with the laws and regulations of both countries and the international practices in force as defined by the International Council of Museums (ICOM). It provides for the free access of the curators of the Bibliothèque nationale de France to the said manuscripts. In the event that a third institution wishes to obtain the loan of one or more manuscripts for a temporary exhibition, the request shall be subject to the agreement of both Parties. The public presentation of these manuscripts will make reference to this Agreement.

Article 6

Each loaned manuscript will be digitised by the Bibliothèque nationale de France according to already approved standards. One copy of each file will be given to each of the two institutions. All costs associated with the implementation of this loan agreement shall be borne by the Korean Party.

Article 7

In order to ensure control and monitoring of the implementation of this Agreement, the Parties shall establish a High Level Working Group, consisting of representatives of the two relevant institutions, which shall meet as necessary.

Article 8

Any dispute concerning the interpretation or application of this Agreement shall be settled by consultation or negotiation between the Parties.

Article 9

This Agreement shall enter into force on the date of its signature by both Parties.

Article 10

This Agreement is concluded for a period of five years. It is renewable for further periods of five years by written notification from each Party, transmitted through the diplomatic channel.

DONE at Paris, this 7th day of February 2011, in two original copies, in the French and Korean languages, both texts being equally authentic.

For the Government of the French Republic:
Paul Jean-Ortiz
Director of Asia and Oceania
Ministry of Foreign and European Affairs

For the Government of the Republic of Korea:
Heung Shin Park
Ambassador of Korea to France

Annex
List of the 297 manuscripts referred to in Article 1.

In this way, the Oekyujanggak Archives returned home 144 years after they left Korea, and nine years after Korea requested their return. They were returned to Korea on 14th April 2011, and are kept in the National Museum of Korea, which has been entrusted with them. After that, the National Museum of Korea held a special exhibition from July to September 2011, and offers reading services to the public on the internet by means of digitisation of the Archives.

7.4.6 Future Tasks

There were two views of this arrangement raised at the same time:

One was that it does not comprise a full return of the historical materials because

ownership has not reverted to Korea, under terms and conditions whereby the loan has to be renewed every five years,[708] and the other was that it is the best choice for their substantial return considering the national law of France.[709]

Concerning the return, Byeong-seon Park, who had found the Oekyujanggak Archives in France, said in a press interview:

> The Oekyujanggak Archives have returned. However, Korean people still have an obligation. They should all make efforts so that the Archives can remain in Korea. I earnestly hope that the Oekyujanggak Archives are left in Korea for ever, not going back to France.[710]

The Oekyujanggak Archives went back to Korea, but surveys to figure out the location of the remainder of the books and cultural materials that France had taken from Ganghwa Island in 1866 arose as another problem. According to a report written by Admiral Rose at that time, the French Navy took 340 books, 887.55 kg of a sliver ingot, one hanging map scroll, one astronomical chart, seven picture scrolls, six woodblocks, three suits of armour, three helmets, one mask, and other materials.[711] Of those, the books, documents and ingots, and the other materials mentioned in the report have not been precisely located.

In particular, one volume of the Oekyujanggak Archives taken by the French Navy is in the possession of the British Library in London. According to a survey, that volume was purchased from a French person on 24th October 1891, at a cost of £10 sterling.[712]

There still remain many assignments to be resolved, including the seeking of a permanent solution to the Oekyujanggak Archives being returned in the form of the five-year renewable loan, conducting a survey on the whereabouts of the remainder of the archives and books, and an inquiry on another part of the Oekyujanggak Archives located in a third country. As Byeong-seon Park said, from now on, everyone needs to put more effort into this project than ever.

7.5 Conclusion

The return of the Korean books in the Terauchi Collection was the result of negotiations that arose from a personal discovery after 25 years had passed on a situation where an agreement had not been reached at the time of the 1965 Agreement between Korea and Japan. Also, the return of *Joseon wangjo sillok* was achieved as result of the return movement led by Buddhist monks in a context where the negotiations of the Korean and Japanese governments were lagging.

The two cases have similarities: the former one involved descendants of the original creators of the cultural property laying the groundwork of the return negotiations, and the latter involved Buddhist temples historically assigned to safeguard *Joseon wangjo sillok* leading the return movement. In other words, individuals or organisation directly involved with the removed Korean cultural heritage initiated their return. Accordingly, in comparison to the efforts made by the government or a government institution, the return requests took a step forward and thus presented an 'understandable legitimacy' to the other party.

The return of *Joseon wangjo sillok* and the restitution of the cultural property taken by the Japanese Governor-General, the then most powerful official in Korea, is an area that generally involves long-term negotiations. However, given the fact that it was solved by non-governmental organisations, including individuals, religious organisations and universities, and through the negotiations led by them, it is worthy of being closely referred to in cases of future return negotiations.

On the other hand, the return of the Oekyujanggak Archives was requested to France through formal diplomatic channels by a national university designated to manage the materials by the government. After that, the negotiations between the two governments continued, and the return was decided in the summit talks of the two countries. From Korea's standpoint, after the return of cultural objects in the Korea-Japan normalisation treaty in 1965, the return procedure of the Oekyujanggak Archives was an official issue, because it was handled as an agenda for a summit meeting in spite of a situation where the presidents of the two countries had been replaced. This provides a useful precedent for the Korean government in terms of a

negotiation method in situations where cultural property removed during the Japanese occupation of Korea still exist in collections that Japan's national institutions keep and may still be found even today.

As seen in the return cases of Terauchi Collection and *Joseon wangjo sillok*, both Yamaguchi University and the University of Tokyo returned the Korean cultural materials to Korea in the form of a 'donation'. Regarding cultural materials known to have been taken during the Japanese occupation of Korea and returned in the form of a donation, Korean public opinion took a negative view in each case. However, compared to the case of the Oekyujanggak Archives returned from France as a renewable loan, there is a difference in that Korea had the ownership fully restored. Thus, in a position where Korea is seeking to have a large number of cultural objects located in Japan returned, it seems that it should continue on a strategic approach, considering both the historical and pragmatic issues involved.

The Terauchi Collection still has numerous Korean books and materials, and in the University of Japan also, a number of the relics excavated and sent to Japan in a survey of historical sites during the Japanese occupation of Korea are still kept. It is believed that in France also, not only the 297 volumes of the Oekyujanggak Archives but also other cultural materials removed are kept somewhere. This suggests the necessity of new surveys and studies regarding their location, and the demand for new return requests depending on this outcome may begin again.

Chapter 8. Theoretical Principles: Review for Return and Restitution of Cultural Property Between Korea and Japan

In reviewing the return of cultural property, the first step is to consider precedence by examining the cases and the respective historical backgrounds. There is always a reason for the claim by the country, institution, or individual requesting the return. The recipient of the request also has a reason why it wants to retain the cultural property. From those reasons of each side, some key theoretical principles have been derived while scholars, experts, and related organisations have been discussing these issues. Therefore, this chapter introduces the following four groups of theoretical principles and examines how they can be interpreted and applied to the issue of returning cultural property between Korea and Japan.

- Art-rich and Art-poor: Source Nations of Art and Market Nations of Art: Cultural Nationalism, Cultural Patrimony and Cultural Internationalism Regarding Cultural Property
- Authenticity and Originality
- Legality and International Legal Instruments
- Morality and Ethics

8.1 Art-rich and Art-poor: Source Nations of Art and Market Nations of Art: Cultural Nationalism, Cultural Patrimony and Cultural Internationalism Regarding Cultural Property

The Greek government formally requested the return of the Parthenon/Elgin Marbles kept in the British Museum on 12th October 1983, and the case has tested cultural relations between Britain and Greece ever since. It is also regarded by many museums as a battleground between the cosmopolitan and the particular (or the global and the regional). Others see it as a contest between colonisers and the colonised, or the art-poor and the art-rich.[713] These two general approaches have been scrutinised by John Merryman, whose article *Two Ways of Thinking about Cultural Property* in 1986 was a major contribution to an emerging area of legal discourse.[714] Merryman proposed:

> One way of thinking about cultural property – i.e., objects of artistic, archaeological, ethnological or historical interest – is as components of a common human culture, whatever their places of origin or present location, independent of property rights or national jurisdiction .... Another way of thinking about cultural property is as part of a national cultural heritage. This gives nations a special interest, implies the attribution of national character to objects, independently of their location or ownership, and legitimises national export controls and demands for the 'repatriation' of cultural property.[715]

The former view, often termed 'cultural internationalism', has become largely identified with a pro-market perspective. While there are many mechanisms by which cultural objects may be transferred internationally, the pro-market perspective sees market forces as the best way of ensuring the physical preservation of cultural objects, by transferring them to collectors and museums that have the financial resources to care for them. The latter view, often called 'cultural nationalism', is identified with a contextual perspective.[716]

Merryman sees the Preamble (below) to the Convention for the Protection of Cultural Property in the Event of Armed Conflict (Hague 1954) as embodying a nobility of purpose while also serving as a charter for internationalism:

> Being convinced that damage to cultural property belonging to any people whatsoever means damage to the cultural heritage of all mankind, since each people makes its contribution to the culture of the world;
> Considering that the preservation of the cultural heritage is of great importance for all peoples of the world and that it is important that this heritage should receive international protection.[717]

In Merryman's opinion, the 1954 Hague Convention exerts an influence that extends beyond the obligations imposed on and accepted by its parties. It is a piece of legislation that exemplifies 'cultural internationalism' and expresses the cosmopolitan notion of a general interest in cultural property apart from any national interest.[718] According to this analysis, cultural property and its legacy supersede the 'arbitrary'

boundaries of the producing nation and are celebrated as the cultural manifestation of a synoptic universalism, purely the product of the (fictionalised) artist-as-human. This ideology is best represented by the argument that the Parthenon/Elgin Marbles are now 'the cultural heritage of all mankind' and are as well kept in the British Museum as they would be in Athens. Cultural internationalism, an expression of neo-libertarian rationalism, is generally espoused by museums or collectors located in market nations.[719]

On the other hand, art-rich or source nations of art and their supporters frequently invoke cultural nationalism, and several UNESCO instruments give it significant legal support. The argument for the return of the Parthenon/Elgin Marbles to Athens is that they belong in Greece because they are Greek.[720] This attitude toward cultural property is embodied in the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export, and Transfer of Ownership of Cultural Property (1970), in which the parties agree to oppose the impoverishment of the cultural heritage of a nation through the illicit import, export, and transfer of ownership of cultural property, agree that trade in cultural objects exported contrary to the law of the nation of origin is illicit and agree to prevent the importation of such objects and facilitate their return to source nations.[721]

Merryman sees cultural nationalism articulated in the following proposition from the Preamble to the 1970 UNESCO Convention:

> 'Considering that cultural property constitutes one of the basic elements of civilisation and national culture, and that its true value can be appreciated only in relation to the fullest possible information regarding its origin, history and traditional setting'.[722]

The guiding ideology among a large majority of art-rich nations, as well as UNESCO, is nationalist and retentionist. It emphasises the relation between cultural objects and national history, culture and identity, employs terms like 'cultural heritage' and 'cultural patrimony' and prefers to speak of the 'protection' rather than the 'retention' of cultural property. According to this view, privately held cultural objects within a national territory should remain there and, if they stray from it, should be returned.[723]

This school of thought advocates the necessity of preserving cultural property in the producing culture and, by extension, repatriating removed property back to that source culture.[724]

Keeping in mind the goals and context of the related UNESCO Conventions,[725] it would appear that today the more nationalistic perspective seems to be prevailing over the internationalist one. This is probably because of the intergovernmental nature of UNESCO. It may also be a reaction to the globalisation process, whose spreading tentacles are reaching now into almost every corner of the globe, and which, it is widely perceived, threatens cultural diversity and integrity. Indeed, such a protective nationalist approach is most probably a response to what has been actually happening around the world [726] - for example, the illegal trade in art and antiquities, and the illicit export of cultural objects in the event of social turmoil or armed conflicts.

Not only is it a different way of looking at 'property,' but cultural nationalism may also represent a north-south response to a state's depletion of its cultural resources and a search for a postcolonial national identity. Folarin Shyllon observes:

> If we also accept that most of the singular objects that African nations would choose to keep are in the West ... then the retentive nationalists are not those African countries who seek to have access to their treasures, but the former colonisers who have granted independence but are refusing to let go what they now consider to be part of their patrimony.[727]

Therefore, making a sharp division between cultural internationalism and cultural nationalism is particularly questionable.[728] Ana Filipa Vrdoljak makes the same observation that the dichotomy between cultural internationalism and cultural nationalism is overly simplistic.[729] The wordsmiths of the benign-sounding term 'cultural internationalism' cleverly pirated a respectable term - internationalism - to justify laissez-faire practices that actually defy the fundamental requirements of cooperation and collaboration underlying internationalism in its normal sense. Lyndel Prott has effectively debunked this classification as simply a rhetorical construct to justify a perpetual legacy of commerce. It must yield and, indeed, is yielding to more cooperative approaches for accommodating the many diverse interests in the cultural heritage of humankind.[730] Jeanette Greenfield also asked:

> ‘Is it possible that arguments about ‘internationalism’ may merely disguise ‘nationalism’?[731]

In *The Return of Cultural Treasures,* Greenfield takes the opposite approach to Merryman. She also identifies conservation as a key and ongoing concern, alongside illicit trading (a contemporary issue) and the physical return of cultural property (which may be associated with illicit trading but is also an historic issue).[732] Her particular focus is on equity, the requirement to see justice done in cases where cultural things have been taken by force, unequal treaty, theft or deceit. She believes that a great unfairness is involved in the alienation of objects with a profound meaning for specific groups of people, often under conditions of war or colonial occupation, which should be remedied through the instruments of law. More preoccupied by the historic than the contemporary, which she feels is adequately covered by widespread national and international legislation, Greenfield puts much emphasis on the force of moral claims.[733]

Concerning the Preamble of the 1954 Hague Convention, as introduced by Merryman for the viewpoint of cultural property internationalism, Barbara Hoffman indicates that the phrase ‘cultural heritage of all mankind’ was intended to focus on state responsibility and not to define the rights of ownership or appropriation.[734] Jiri Toman also clarifies that the Hague Convention is based on the idea that the conservation of cultural heritage is not only a matter for the state within whose territory it is located, but that this heritage is of great importance for all people of the world and should be ensured universal protection.[735]

In summary, cultural nationalism stresses the relationship between cultural objects and national heritage and seeks to maintain objects inside their country of origin, or to ask for their return or restitution if they have been removed at some point in the past. According to the view of cultural internationalism, cultural heritage is of international interest and a free flow of objects should prevail. In both these views it is primarily the ownership of the items that is at stake.[736]

Having examined the representative dichotomic theory with respect to return of cultural property, this study will now consider the differences and limitations in the

application of these theories to the possibility of return of cultural property to Korea from Japan.

As the first difference, given the long history and depth of material culture of both countries in the 19th and 20th centuries, it is difficult to simply apply the concepts of 'Art-poor' and 'Art-rich'. However, the interpretation of 'Art-rich' as source nations and 'Art-poor' as market nations[737] can be applied. Merryman writes an example as follows:

> In source nations, the supply of desirable cultural property exceeds the internal demand. Nations like Mexico, Egypt, Greece and India are obvious examples. They are rich in cultural artefacts beyond any conceivable local use. In market nations, the demand exceeds the supply. France, Germany, Japan, the Scandinavian nations, Switzerland and the United States are examples.[738]

Thus, given the example that Japanese collected Goryeo ceramics excavated in Korea as great relics, there is room to identify a *relatively* 'Art-poor' and 'Art-rich' relationship in the field of certain material culture and at a certain period of history. In the case of the Imjin War in the 16th century and the Japanese cultural looting done in Korea at that time, described in Chapter 1, this can be interpreted *generally* as the relationship between 'Art-poor' and 'Art-rich'.

As the second limitation, given the quantitative scale of research achievements on Korea's demand for return of cultural objects, and on the damage and removal of cultural properties during the Japanese occupation period, Korea is considered to take the position of cultural nationalism. On the other hand, there is doubt whether Japan sticks to the position of cultural internationalism, because it is difficult to observe claims of cultural internationalism having a 'significant level' of voices in Japanese academic, museum and cultural circles. Korean scholar Seok-yeong Choe, an expert in Japan's archaeology and cultural history of museums, describes this as follows:

> What I felt through meetings and conversations with many Japanese scholars is that they are reluctant to talk about the issue of return of cultural

> property between Korea and Japan. Due to such atmosphere of academia in Japan, only a few scholars closely study theories on return of cultural property; therefore, the base to actively argue the opposite theory for Korea's demand for return of cultural property is not formed.[739]

Also, Japanese scholar Kazuo Morimoto observes as follows:

> Currently, the theme of looted cultural properties is frequently mentioned in Japan, but it is only about the West in many cases. In East Asia, cultural property looting is apt to be neglected as if there was no such an event, but Japan was the country directly involved in cultural property looting that frequently occurred in Asia especially during the Pacific War. These historical facts are forgotten in Japan and the cultural property restitution issue in the West is a hot topic among the Japanese people but like an event in another world. The Western cultural property issue has frequently been reported and has become a hot topic in Japan; but the similar problem in Asia has not been reported and is hardly known in Japan. Cultural property restitution shows complicated aspects in regard to the compensation issue; and Japan and its neighbouring countries will have to share at least historical facts. At the same time, I hope that the fundamental discussion such as 'Who owns the past?' which is rarely mentioned in Japan but being actively discussed the world, will be also active in Japan.[740]

However, Japan's fewer studies or opinions on cultural internationalism relevant to the issue of return of cultural property between Korea and Japan do not mean that Japan always shows a positive response to Korea's request for the return of cultural property, as this thesis reveals.

8.2 Authenticity and Originality

It is the authenticity of the objects that gives museums their very special aura and makes them distinctive.[741] The idea of authenticity, particularly important in fine arts museums, influences the majority of the questions attached to the status (masterpieces, copies and fakes) and value of museum objects.[742] Cultural heritage is unique and irreplaceable. Its authenticity has an appraised value and its loss or deterioration represents a loss for universal culture.[743]

Universal value is a concept related to the local authenticity and the diversity of cultures; according to Silvio Mendes Zancheti:

> The modern concept of universal value is referred to the particular quality of a heritage resource. This is related to its being an authentic product of a particular culture or cultures. This issue is related to the idea of cultural diversity, that is, humanity has the capacity to be creative and innovative.[744]

Archaeological sites that are being excavated can more easily define their outstanding universal values in world cultural history thanks to scientific research and their indisputable authenticity and integrity.[745] Cultural properties that are important milestones of global cultural history are selected according to certain criteria. It is a prerequisite that a cultural property must not only match these high-level criteria but also must have its authenticity and integrity preserved.[746] The ultimate realisation of the object's value lies in access to the original object, however that notion of originality may be established. Hélène Lassalle writes:

> No photograph, reproduction or video image can ever take the place of the original. The media serve as vectors for information, not first-hand knowledge. The curator, the dealer, the artist and the organiser of the event are all caught up in the same dilemma; preservation versus public display.

However, it is not always necessary to have complete access to the original in order to extract its value. Copies, holographs, photographs etc. may be adequate for the purpose required. The aesthetic qualities may, however, only be appreciated at their best in the original object, or the original object may have been sanctified by some special ritual, and no copy can properly take its place.[747]

Archaeological provenance may not exude the same fascination to the public, but it is the scholar's most basic and valuable tool in establishing an object's date, its function within a systemic context, and ultimately, its authenticity. Adding this information also allows us to highlight why objects recovered in controlled excavations have a much higher scientific value to us than those from the antiquities market.[748]

In their role of preserving and promoting heritage, museums are guarantors of the cultural identity of peoples and communities. Museums are also instruments of an inter-cultural dialogue that facilitates the understanding of society and the world, and significantly influences social behaviour. The authenticity and dimensions of museum objects, and the information they contain, stimulate the human capacity for creativity and contribute to non-formal education.[749]

Some key international conventions and guidelines for tangible cultural heritage emphasise the 'authenticity' and the value of cultural objects; in other words, evaluative criteria emphasise whether or not a historical structures or relic bears the special characteristics of the era in which it was made.[750] UNESCO, however, has brought broader foundational concepts to bear in its cultural programmes: memory, authenticity, meaning, diversity and creativity.[751] An advisory body to UNESCO, ICOMOS (International Council on Monuments and Site) has also declared:

> People are becoming more and more conscious of the unity of human values and regard ancient monuments as a common heritage. The common responsibility to safeguard them for future generations is recognised. It is our duty to hand them on in the full richness of their authenticity (Venice Charter 1964).[752]

The earlier principle of the non-duality of permanence and authenticity in heritage conservation has given way to respect and understanding that authenticity is culturally contextualised, acknowledging the existence of different heritage values and criteria.[753]

Context is the story of an artefact: the story of location, the surrounding material, and the artefact's relationship with other objects. However visually appealing or textually significant an artefact might be, without archaeological context most of its history and authenticity is lost forever. Without context, the artefact no longer carries the potential to further inform our comprehension of human history; rather it represents the magnitude of information that it might have shared, but now cannot. If an artefact is ripped from its archaeological context, people irretrievably lose knowledge that could

have helped them better understand both ancient societies and themselves.[754] Cultural objects are most fully understood in their original context, whether that emphasises the original archaeological context of unexcavated objects, or the social-historical context which produced works of art, or the indigenous communal context of ethnographic and indigenous objects. Such a contextual perspective acknowledges the significance of the original context for the full scientific understanding of archaeological objects.[755]

Ironically, the expansion of the authenticity concept and the question of originality have become theoretical issues that make it more difficult for both countries to compromise in terms of solving the problem of the return of Korean cultural property. The main reason is because Korea and Japan have exchanged cultures through a long history since ancient times and shared common material culture in a number of sectors. In this regard, Pai describes the interpretation of the Japanese colonial occupation period as follows:

> Korea's archaeological remains, excavated stratigraphically and preserved in situ, were embraced by colonial administrators, scholars, and educators as the most authentic and scientific evidence for understanding Japan's long-lost imperial past on the continent.[756]

Just as such authentic objects are important for Korea, the country of origin of archaeological objects, and the authenticity of the cultural materials taken from Korea is also important for Japan to understand the history of Japan. In addition to archaeological materials, there is a conflict of interest between both countries over works of art such as ceramics collected and taken by Japan from Korea.

Kim Brandt demonstrates that a group of Japanese art collectors generated a new domestic audience and market for Korean pottery in the 1920s and 1930s, which extended beyond the circumscribed sphere of wealthy tea enthusiasts by producing exoticised knowledge of 'Yi Dynasty[757] wares,' which satisfied metropolitan tastes for authentic Asian artefacts but offered more affordable wares than those that had been imported from earlier periods.[758] Brandt writes:

> As a measure of the success of the early collectors, Japanese demand for 'Yi Dynasty' grew rapidly during the 1910s and 1920s, spreading from colonial residents and visiting cognoscenti in Korea to the metropolitan market in Japan.[759]
>
> Japanese fascination with Korean ceramics is centuries old and can be traced back reliably to the late medieval period, if not before. Yet the specific character of late-20th century Japanese appreciation of Korean ceramics owes a great deal to much more recent history. In particular, only in the 1920s and 1930s did certain categories of the pottery and porcelain of Korea's Joseon period begin to achieve the special status they retain in Japan today. Yi Dynasty wares, as these objects are known in Japan, have a peculiar, almost cult-like following among Japanese collectors and aesthetes that persists into the present. As one collector has noted, there are those who go so far as to assert that the appreciation of ceramics 'begins with Yi Dynasty and ends with Yi Dynasty'.[760]

Authenticity is fundamentally different from other types of warranties, in that the authenticity of the work of art does not change over time. If a work is authentic at the time of sale, then it undoubtedly will remain authentic in the future. In this sense, it seems logical for a warranty of authenticity to extend until the time of discovery.[761]

Even today, Joseon Dynasty ceramics are used or appreciated in Japan as part of their tea culture. Therefore, just as the justification that Korean cultural property should be returned in order for its authenticity and originality to bridge a gap in Korean cultural history is claimed, the cultural property originating from Korea also has become, in Japan, a material element that cannot be abandoned in Japanese cultural history. This presents an aspect different from the case of the return of cultural property between Europe and Africa, for example,[762] whose cultural areas are generally considered to be different each other.

In Korea and Japan, the introduction of the Western disciplines of ethnography, geology, physical anthropology, archaeology, and art history, as well as techniques such as carbon-dating, have further complicated issues of antiquity and authenticity. These disciplines are now called on to produce the 'scientific evidence' to prove once-hypothetical arguments on racial origins, state formation, and historic continuity. In

contemporary society, educated citizens also want to see tangible evidence of their cultural heritage in museum collections, art galleries, and exhibitions. These institutions transform excavated artefacts and remains into objects that display ancestral ability, ancient beauty, and national pride, thus further reinforcing the national sense of cultural and living heritage. Thus, the collecting of cultural property turns into the act of possessing one's self and authenticating one's culture.[763]

Therefore, given the situation where the museum policy of continuously collecting cultural objects, and use of museums' collections are still being performed in both countries in the present time, if Korea requests the return of cultural property based on authenticity and originality theories, Japan can also oppose such a request for return by means of the same theories. Thus, it may be difficult to find a clue to the solution of the problem of cultural property between Korea and Japan.

8.3 Legality and International Legal Instruments

If one thinks of cultural objects as property, it is reasonable to apply property law and argue that art illegally taken or withheld from its owner should be returned. Thus, art wrongly seized by the Nazis in occupied countries during the Second World War clearly should be returned to its legal owners. It is, however, a general principle of property law that transactions legal at the time remain legal if the law subsequently changes.[764]

Regarding the ownership of cultural property, the country that owns cultural property from foreign countries emphasises the legal legitimacy of its ownership just as it does with other properties, while the country that requests the return of cultural property stresses that the route it went through was in itself illegal, and therefore, it should be returned to the country of origin.[765] There are a wide range of legal doctrines invoked by cultural internationalists to justify the transfer of ownership from the source nation to the current or aspiring owner: possession, abandonment (*res derelictae*), conquest, adverse possession, laches, repose, a lack of clear ownership (*res nullius*), statutes of repose and limitation, and *bona fide* purchase.[766]

Post-1970 international and national statutes often acknowledge the legitimacy of cultural nationalism by allowing and encouraging preservation and repatriation schemes. Unfortunately, this perspective is supported by rather indeterminate, human rights-based appeals to notions of post-colonial self-determination and the retention of cultural diversity rather than to conventional legal justifications.[767]

A resolution to the return of cultural property issue between Korea and Japan was sought through the legal scheme of the 1965 Korea-Japan Treaty and Agreement. In addition, the question if there is any other international legal instrument which can be applied to the issue for Korea and Japan will be reviewed below. Some key international legal instruments dealing with protection, prevention of illicit or illegal traffic and return of cultural property are as follows:

- Convention and Its First Protocol for the Protection of Cultural Property in the Event of Armed Conflict (Hague 1954) and Its Second Protocol (Hague 1999)[768]
- Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (UNESCO 1970)[769]
- Convention of Stolen or Illegally Exported Cultural Objects (UNIDROIT 1995)[770]

However, the application of such international laws to the issues of cultural property restitution between Korea and Japan has some juridical difficulties, since those international laws do not have any legal influences on issues that occurred from the 19th century to 1945 because of the principle of 'legal non-retroactivity'. A retroactive convention is one which applies to events which took place before it entered into force. Therefore, Greenfield gives a general observation that the main area of concern is that of objects historically removed and which are not covered adequately or retrospectively by existing international conventions or by current domestic legislation.[771]

There is no provision on retroactivity in the 1970 UNESCO Convention, which both the Republic of Korea and Japan have joined. The Special Committee in 1970 for the

UNESCO Convention discussed the possibility of including a non-retroactivity clause to this effect but decided it was unnecessary. The normal rule of international law as represented by custom and Article 28 of the Vienna Convention on the Law of Treaties is indeed that international agreements are not retroactive. Not all States were happy with this approach. In their comments on the original draft, a number of States wished the 1970 Convention to cover items that had been unlawfully exported before its entry into force. It must be remembered that the late 1960s was the highpoint of demands for restitution of cultural property taken by the dominant powers during colonial times.[772]

In addition, significant discrepancies in legal interpretation between Korea and Japan on the cultural property taken by the latter from the former during the Japanese occupation and the fact of removal in itself, including ownership, have up until now caused obstacles to achieving an amicable agreement on the property return through legal argument. Regarding the issue of restitution of cultural property removed long years ago or at least during the period when it is impossible to apply relevant international laws, Prott offers the following interpretation:

> Legal arguments: while it is important to research the legal status of an object being sought, legal arguments most often will not reserve the issue. It is very difficult to establish the legal status in many cases because, in old cases, documents have been lost, are unclear or their integrity can no longer be confirmed. In other cases there is a clear case of ownership according to the law of the holding State, a clear case of ownership according to the law of the requesting State, and there was no international law on the subject at the same time of the removal which could resolve these competing claims'.[773]

For example, not all countries have joined the 1970 UNESCO Convention, and in such cases the rules and regulations for return and restitution of cultural property stipulated in the Convention do not apply. Even between the States Parties to the Convention there can be cases where the Convention does not apply because the object in dispute was exported before the Convention came into force. There are, therefore, many cases where two countries are engaged in a dispute over the ownership of a certain piece of cultural property. This is very often the case with requests by former colonies to former colonial powers.[774]

Patrick O'Keefe and Prott note that the deliberations for the 1970 UNESCO Convention put former colonial powers and settler states on notice that national and international laws, relied upon to assert their title to the cultural objects of non-European peoples, were being challenged outright. In 1978, UNESCO established the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation (ICPRCP) to facilitate the resolution of restitution claims for objects removed prior to the operation of the 1970 Convention. The New International Economic Order (NIEO) proponents, who promoted the restoration of cultural resources to their countries of origin to assist their cultural development, drove the creation of the Committee. The Committee replicates the preoccupations and deficiencies of the 1970 UNESCO Convention.[775]

Composed of 22 representatives of Member States, appointed for a term of four years by the General Conference of UNESCO, the ICPRCP acts as a mediator between states that are in conflict regarding the return or restitution of cultural property when the provisions of the 1970 Convention do not apply. Acting as an advisory body and as a forum facilitating bilateral negotiations, the ICPRCP has no legal power to decide cases.[776]

The ICPRCP has undertaken work on various aspects of restitution, believing that:

> The reassembly of dispersed heritage through restitution or return of objects which are of major importance for the cultural identity and history of the countries having been deprived thereof is now considered to be an ethical principle recognised and affirmed by the major international organisations. This principle will soon become an element of *jus cogens* of international relations.[777]

One of the results of the ICPRCP was the creation in 1981 of the Standard Form Concerning Request for Return or Restitution, which is also to be used for filing a claim for cultural objects looted during the occupation of a foreign territory.[778]

Before bringing a case before the ICPRCP, the requesting State must initiate bilateral negotiations with the State in which the requested object is located; only when such

negotiations have failed or are suspended can the case be brought before the Committee. In order to be examined, a request filed in the Standard Form for return or restitution has to be submitted at least six months before the session of the ICPRCP.[779] The Committee has enabled the following cases to be resolved:

- 1983: Restitution by Italy to Ecuador of more than 12,000 pre-Columbian objects.
- 1987: Restitution by the German Democratic Republic to Turkey of 7,000 cuneiform tablets from Bogazkoy.
- 1988: Restitution by the USA to Thailand of the Phra Narai Lintel.
- 2010: Restitution by the Barbier-Mueller Museum (Switzerland) to the United Republic of Tanzania of the Makonde Mask.[780]

There has not been any case yet in which the Korean government has formally requested the ICPRCP to mediate concerning issues of cultural property restitution between Korea and Japan. However, the Korean government recognises the importance of ICPRCP, and organised an ICPRCP International Expert Meeting and Extraordinary Session in Celebration of Its 30th Anniversary in Seoul in November 2008.

8.4 Morality and Ethics

As Shyllon observes, legal rights to cultural objects cannot be determined solely on principles of common law or civil law. There are moral rights which count as much as established legal rights. The interconnections between cultural rights and other fundamental human rights suggest that the right to a cultural past is a human right.[781] Shyllon maintains:

> The request for the return of cultural objects snatched during the colonial era or spirited away by subterfuge during the period or later is not cultural nationalism or retentionism. It is an assertion of the right to have adequate representations of their material past in concrete terms within their borders.[782]

Repatriation of cultural objects has already become the biggest ethical concern. Resorting to the law of nations is necessary, as far as looted, stolen and swindled cultural relics are concerned. Since the 1960s and 1970s, some newly independent nations have become aware of the significance of cultural relics in enhancing national consciousness, encouraging a sense of pride and offering an emotional appeal. Increasingly, nations reclaimed their respective looted cultural property. Several relevant international treaties have been signed. Restoring a nation's cultural heritage by repatriation of its looted cultural property has become a moral principle accepted by many international organisations.[783]

Since ancient times, even though it may have been legal, aggressive art acquisition has been deplored. In the words of the Greek historian Polybius, writing before 146 BC:

> One may perhaps have some reason for amassing gold and silver; in fact, it would be impossible to attain universal dominion without appropriating these resources from other peoples, in order to weaken them. In the case of every other form of wealth, however, it is more glorious to leave it where it was, together with the envy it inspired, and to base our nation's glory, not on the abundance and beauty of its paintings and statues, but on its sober customs and noble sentiments. Moreover, I hope that future conquerors will learn from these thoughts not to plunder the cities subjugated by them, and not to make the misfortunes of other peoples the adornments of their own country.[784]

Concerning the moral issue of cultural property, history tells us that Napoleon's Italian art-looting campaign aroused objections even among French intellectuals.[785]

Appeals to conscience and ethical standards were heard and listened to during the 1990s and efforts were made in a number of countries to properly trace the origins of claimed works and to return or compensate when it was proven, or even probable, that works had been acquired of which the provenance should have been more closely examined. This revived conscience has also been invoked by communities and nations which feel that they have been wrongfully deprived of some of their most important

cultural icons. The great holding museums, mainly in the North and the West, which were alarmed in the 1960s that such claims would 'empty the museums of Europe,' at that time advanced a principle known as 'the primacy of the object,' according to which they argued that many claimants did not have the resources to ensure an object's long-term survival, and this would lead to alarming cultural losses to the detriment of all humanity. Such arguments are much less powerful today.[786]

One of the key international legal instruments, the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, states the moral and ethical principles in its Preamble as follows:

> Considering that, to avert these dangers, it is essential for every State to become increasingly alive to the moral obligations to respect its own cultural heritage and that of all nations,
> Considering that, as cultural institutions, museums, libraries and archives should ensure that their collections are built up in accordance with universally recognised moral principles,'

Its Article 5 also reads:

> (e) establishing, for the benefit of those concerned (curators, collectors, antique dealers, etc.) rules in conformity with the ethical principles set forth in this Convention; and taking steps to ensure the observance of those rules.

In 1977, five years after the 1970 UNESCO Convention came into force, the English Leicestershire County Council formulated the following policy:

> The Authority supports the principles of the UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property 1970, and declares that notwithstanding the fact that the Convention has not yet been enacted or ratified by the United Kingdom Government, the County Council will comply with the

> terms and ethical principles of the Convention so far as these are applicable to an individual Museum Authority.[787]

O'Keefe comments that the use of the phrase 'ethical principles' is significant because the 1970 UNESCO Convention was drafted in such a way that, depending on the wishes of the person concerned, it can be broadly or narrowly interpreted. It would seem that the Leicestershire County Council had an understanding of what the museums under its control could or could not do.[788]

Ely Maurer, Assistant Legal Advisor for Educational, Cultural and Public Affairs at the US Department of State also addressed this question in 1995:

> I might start by pointing out that the State Department adopted a position and a policy in favor of restitution for cases involving stolen cultural objects that had come to the United States. The department position in favor of restitution is based on three principles. The first principle involves morality: stolen property should be restored to its owner. The second is that it is good foreign policy and good foreign relations to make such restorations. The countries that see their masterpieces come to the United States are aggrieved and have made outcries to us and pressed us for our help. Any aid that we can give to them helps to assuage their concerns. The third principle is that such restitution action is in our own self-interest. Masterpieces that have been displaced to the United States are not only part of the patrimony of their particular country of origin, they are also the heritage of mankind, in which we all share and from which we all benefit.[789]

In the words of the Director of the Denver Art Museum in the USA, whose institution voluntarily returned the painting *The Letter* by the 17th century Dutch painter Gerard Terborch to the descendant of a Jewish victim of the Holocaust in the Second World War in 2000:[790]

> We felt we had a moral responsibility to be responsive to claims, which was just as important as our legal obligation.[791]

On 29th June 1998 at UNESCO's Office in Doha (Qatar), 54 valuable artefacts, reportedly stolen from Iraqi museums and smuggled to Saudi Arabia, were handed over to the Iraqi authorities. The antiquities, including figurines and seals some of which were more than 6,000 years old, were seized by the Saudi authorities in the refugee camp of Rafa in Saudi Arabia. The restitution was coordinated by UNESCO's Office in Doha with representatives of the UN High Commissioner for Refugees and the UN Development Programme. The objects – said to have been stolen from museums in northern Iraq – were returned by the Saudi Ambassador to his Iraqi counterpart in the presence of Qatari officials.[792] Speaking on the occasion, Saudi ambassador to Qatar Hamad ibn Salih al-Toeimi said the decision of the Kingdom of Saudi Arabia in this regard was in line with its moral values.[793]

The ethical challenges that museums are facing cannot be simply summarised in a code of conduct. Museum ethics reaches far beyond such a code, and also significantly affects the changed self-conception of museums.[794] Ethical norms and principles must be distinguished from those of law, even if – just as in the case of religiously founded ethics – there are manifold overlappings and commonalities in this case as well. The law regulates and establishes a minimum standard of public order so as to determine the framework conditions of social living-together and draw the boundaries to criminal actions. However, laws have not been made and established to make us be good humans but to make living-together of humans bearable and tolerable. Occasionally, there might be situations of conflict between ethics and law as well, which happens many a time under the title of civil disobedience, given that law (as something that can be adjudicated) and justice (as an ethical concept) need not necessarily coincide in all cases.[795]

During recent years, a clear tendency towards the return of cultural objects to their countries of origin has been demonstrated, based on ethical and moral criteria. The return of cultural objects is directly connected to the cultural rights of humanity.[796] The cases of return demonstrate that the cultural objects consist of an inalienable part of the cultural identity of peoples and operate as a link between the past, the present and the future, and often as a means for self-awareness and self-definition. The return of cultural objects, on a permanent basis or under conditions, represents a very important event for mankind as a whole.[797]

The General Assembly of ICOM – the largest international organisation of museums – adopts its Resolutions at the Triennial General Conference. In 1971 and 1983, ICOM adopted Resolutions on the morality and ethics of acquisition for museum collections, the return of cultural property to its countries of origin, and cultural heritage in occupied countries. They are as follows:

Resolutions adopted by ICOM's General Assembly,

10th General Assembly of ICOM, Grenoble, France, 10th September 1971: (excerpts)

Resolution No. 2: Ethics of Acquisitions
Considering the wholesale destruction and commercial exploitation that have occurred concerning elements of the world's cultural heritage,
Hoping to respond to appeals from scholars and from source countries for help in maintaining and contributing to the reconstitution of their cultural heritage,
Reaffirming the need for a code of professional ethics concerning the acquisition of museum objects,
Recommends to all museum professionals:
1. That they bind themselves to a moral obligation for collective action in establishing and adhering to a professional ethic as regards acquisition of objects the licit quality of which is not sufficiently established;
2. That they adopt within their professional activities a policy which conforms to the ICOM resolutions of 1970 on this subject and strive to encourage the incorporation of this ethical code into the policy of all museums.

Resolutions adopted by ICOM's General Assembly,

14th General Assembly of ICOM, London, UK, 1st and 2nd August 1983: (excerpts)

Resolution No. 5: Return of Cultural Property to its Countries of Origin
Acknowledging the positive results achieved during the past triennial period, through professional and institutional cooperation between museums, in promoting the return of cultural property to its countries of origin,
Noting with satisfaction that the initial distrust shown in certain countries with regard to the intentions and extent of the return of cultural property is disappearing and that, in the majority of cases, returns effected during the past three years were not motivated by political circumstances but responded rather to considerations of a

moral, cultural and scientific nature,
Recognising that the cultural heritage is an essential element of identity for a given community,
Noting that, in order to fulfil the moral rights of people to recover significant elements of their heritage dispersed as a consequence of colonial or foreign occupation, it is necessary to pursue professional efforts at the international level,
Decides that ICOM shall continue to:
a. Support actively, in an advisory capacity, the UNESCO Inter-governmental Committee for the Return of Cultural Property to Its Countries of Origin or Its Restitution in Case of Illicit Appropriation;
b. Undertake studies to evaluate the needs of countries having lost a significant part of their respective heritages;
c. Assist in the preparation of inventories of cultural property at the national and regional levels, and
d. Provide scientific data and information to all interested parties,
Urges ICOM members, both at the individual and institutional levels, to initiate dialogues with an open-minded attitude, on the basis of professional and scientific principles, concerning requests for the return of cultural property to the countries of origin,
Calls attention to the fact that many countries wishing to recover a significant part of their lost heritage need the assistance of the international community (through UNESCO, development agencies, bi-lateral or multilateral cooperation schemes, etc.) in order to improve or to build adequate human and technical resources and museum infrastructures.

Resolution No. 8: Cultural Heritage in Occupied Countries
Deeply concerned by the statements made by several participants about the situation of the cultural heritage in countries which are at present under foreign or colonial occupation,
Reminding the governmental authorities involved of their obligation to ensure the preservation of the national heritage and to respect its integrity, as required in the Final Act of the Inter-governmental Conference on the Protection of Cultural Property in the Event of Armed Conflict (The Hague 1954), and by the moral principles accepted by the international community,
Decides as a priority to put at the disposal of the museum professional in the occupied countries all the technical resources of ICOM, in order to contribute to the preservation of such cultural heritage for their legitimate owners,
Requests that museums abstain from purchasing cultural objects from occupied countries, which in most cases will have been illegally exported or illicitly removed by the occupying power,
Finally requests ICOM members to report to the authorities cases of illicit traffic in cultural objects from occupied countries that may eventually be known to them.

In particular, regarding removal of cultural heritage and return demands from the colonised as well as the ethical aspect, Prott adds the following explanation:

> Ethical arguments have been become increasingly important. One of the examples is 'colonial exploitation'. Because of the changing views in the international community over the last sixty decades, this will also arouse support.[798] Even where ownership law is clear, the retention of the object may continue to be challenged on ethical grounds e.g. colonial states asserted that international law recognised the right to colonise territories occupied by other peoples, but that rule is no longer generally accepted, so if ownership is claimed on that basis it remains subject to challenge. The same is true of objects taken as result of conflict, punitive raids or 'gifts' where the power balance was clearly unequal.[799]

In 1970, ICOM enacted the Ethics of Acquisitions with the following major paragraphs:

***Ethics of Acquisitions* (ICOM, 1970)** (excerpts)

> 7. The indirect acquisition, which includes the gift and bequest, is that which has been acquired through one or more intermediaries. When a museum feels obliged to acquire an object indirectly, this should always be done in observance of the laws and interests of the country from which it is obtained, or the country of origin when the country from which it is obtained is only a place of commercial transit.
>
> 17. If a museum is offered objects, the licit quality of which it has reason to doubt, it will contact the competent authorities of the country of origin in an effort to help this country safeguard its national heritage.
>
> 18. Gifts and bequests should only be accepted with a proviso that in the event of any object proving to have been illicitly exported from another country the authorities of the museum should be empowered to take action as above.

It is possible to consider the Korean cultural objects located in Japan based on ICOM's Ethics of Acquisitions (1970). In the Korea-Japan Talks which led to the 1965 Korea-Japan Treaty, Korea demanded the return of Korean cultural objects collected by Takenoske Ogura (1870-1964) who lived in Korea during the Japanese occupation. However, Japan rejected this by saying that the 'Ogura Collection' was

private property; so the return was not made. The Ogura Collection is composed of 1,300 masterpieces of ancient cultural materials, metal crafts and sculptures; and among them, nine works including gold and bronze antiquities discovered in Changnyeong, Gyeongsang Province, Korea, are registered as 'Important Cultural Property' in Japan.[800] Ogura was a businessman operating an electricity power company in Korea during the Japanese occupation, and collected a variety of cultural objects of Korea, including antiquities robbed from ancient tombs, during his stay in Korea.[801] After his death in 1964, the Ogura Collection was donated to the Tokyo National Museum in July 1981 and forms the major part of the Korean collection in the Museum.

Considering that the Tokyo National Museum, the beneficiary of the Ogura Collection of Korean cultural objects, joined ICOM in 1973; and the donation was made in 1981. However, the Museum, as a member of ICOM, should have followed the Ethics of Acquisition of ICOM. Because the Ogura Collection had many antiquities excavated from tombs in Korea, the return of them had been officially demanded by Korea in the Korea-Japan Talks for the 1965 Korea-Japan Treaty; and the Tokyo National Museum, as the representative national museum of Japan, is believed to have been reasonably and sufficiently aware of the progress of the Korea-Japan Talks and the 1965 Korea-Japan Treaty. Thus, when the intention to donate the Ogura Collection was presented to the Museum, the Japanese government should have provided information on such a donation intention to the Korean government in accordance with the Articles and the Agreed Minutes of the 1965 Agreement on Cultural Property and Cultural Cooperation between the Republic of Korea and Japan as well as ICOM's Ethics of Acquisitions. In particular, the Agreed Minutes contain the following:

> 'The representative of Korea at the concluding meeting said that he hoped that Korea-originated cultural property in the personal possession of Japanese people should be also donated to Korea. The representative of Japan said that the Japanese government should encourage this because the voluntary donation of such cultural property possessed by Japanese people would contribute to the promotion of cultural cooperation between the two countries'.

However, the matters mentioned above were not resolved.

Furthermore, ICOM states more strict collection policies to be abided by museums in the Code of Ethics for Museums established in 1986:

> ***Code of Ethics for Museums* (ICOM, 1986; 2001 amended; 2004 revised)**
> (excerpts)
>
> **2.2 Valid Title**
> No object or specimen should be acquired by purchase, gift, loan, bequest, or exchange unless the acquiring museum is satisfied that a valid title is held. Evidence of lawful ownership in a country is not necessarily valid title.
>
> **2.3 Provenance and Due Diligence**
> Every effort must be made before acquisition to ensure that any object or specimen offered for purchase, gift, loan, bequest, or exchange has not been illegally obtained in or exported from, its country of origin or any intermediate country in which it might have been owned legally (including the museum's own country). Due diligence in this regard should establish the full history of the item from discovery or production.
>
> **6.4 Cultural Objects from an Occupied Country**
> Museums should abstain from purchasing or acquiring cultural objects from an occupied territory and respect all laws and conventions that regulate the import, export and transfer of cultural or natural materials.

Therefore, museums in Japan, or at least museums in Japan with ICOM membership, should be aware of the Code of Ethics for Museums when considering acquisition of Korean cultural objects collected during the Japanese occupation of Korea, whether through purchase or donation. Even if a museum is not a member of ICOM, it is important for it to understand the moral and ethical principles included in the ICOM Code of Ethics for Museums, which are respected by many museums and museum professionals, and to make the effort to abide by them.

As for return and restitution of cultural property, ICOM announces the principles in the Code of Ethics for Museums as follows: (excerpts)

> **Principle**
> Museum collections reflect the cultural and natural heritage of the communities from which they have been derived. As such they have a

character beyond that of ordinary property which may include strong affinities with national, regional, local, ethnic, religious or political identity. It is important therefore that museum policy is responsive to this possibility.

6.2 Return of Cultural Property

Museums should be prepared to initiate dialogues for the return of cultural property to a country or people of origin. This should be undertaken in an impartial manner, based on scientific, professional and humanitarian principles as well as applicable local, national and international legislation, in preference to action at a governmental or political level.

6.3 Restitution of Cultural Property

When a country or people of origin seeks the restitution of an object or specimen that can be demonstrated to have been exported or otherwise transferred in violation of the principles of international and national conventions and shown to be part of that country's or people's cultural or natural heritage, the museum concerned should, if legally free to do so, take prompt and responsible steps to co-operate in its return.

Thus, ICOM provides wide-ranging and detailed information for reference to international moral and ethical principles in dealing with the return of cultural property issue between Korea and Japan. Most of all, since ethical values must underlie all of a museum's work and actions, it is essential that the director, other senior management and professional staff, and – not least – the governing board or other authority, both understand and are completely committed to the museum's agreed policies, not least its publicly declared ethical policies.[802]

Conclusion

This study has examined the state of affairs of the Korean cultural heritage removed or destroyed by Japan during the Imjin War (1592-1598) and the Japanese occupation of Korea (1910-1945), the historical situation, the legality of the 1910 annexation of Korea by Japan, the 1965 Agreement for the return of the cultural property, and some cases of return of Korean cultural property.

After Korea regained its independence in 1945, the need to investigate the Korean cultural property located in Japan was highlighted in the process of developing the 1965 Korea-Japan Treaty in the Korea-Japan Talks initiated in 1952. At the time of the Talks, any identification of the locations of Korean cultural property was reliant on information provided by Japan rather than a full field research by Korea. Even if there was some field investigation, it is questionable whether representative Korean researchers were able to investigate the public museums and libraries of Japan without restriction, in the middle of negotiations on cultural property restitution between the two nations.

From the 1980s, a systematic field investigation started to be made by the Korean government, visiting museums, libraries, archives, universities and other related institutions in other countries as well as Japan which had or exhibited Korean cultural objects and collections. The Cultural Heritage Administration (a Korean governmental institution) and the Korea Foundation (a public institution established by the Korean government) played key roles in this investigation. The two institutions had slightly different purposes. By the filed investigation, it was found that there were many cases in which Korean heritage objects were incorrectly described or displayed as originated from China or Japan. Since 1986, the Korea Foundation has helped curators and experts in Japan, Europe and North America to do research to correct such information, and has published catalogues on the outcomes of examining Korean cultural objects kept by museums in those regions. For example, five catalogues were published on Korean cultural objects in Japan by the Korea Foundation from 1993 until 1998. Other Korean governmental organisations have also been involved in solving problems of the return of Korean cultural property, for instance, the Ministry of Foreign Affairs, and the Ministry of Culture, Sports and Tourism. Especially, the

National Assembly of Korea always discusses the issue of return and the efforts of the Korean government at the inspections of government offices every year.

The general public of Korea pays serious attention to this issue too. Therefore, many academic circles, religious organisations and non-governmental organisations in Korea are actively researching and investigating various issues for the return and are conducting related campaigns on behalf of the public. The cultural heritage of Korea removed to Japan is an on-going important agenda and remains a task to solve for the Korean government, the National Assembly and Korean people.

The annexation of Korea by Japan in 1910 enabled Japan to remove Korean cultural property for 35 years without restrictions. It is an important period in the study of cultural history in East Asia. There is a fundamental question as to why Japan was so interested in Korean cultural objects, and took so many of them to Japan. Reviewing the general points and examples discussed in this thesis, the reasons can be summarised as follows:

- Japan needed to investigate Korean cultural heritage including artefacts, books, libraries, historical records, archives, monuments and sites in order to govern Korea effectively as its colony.
- Japan intended to justify its colonial rule over Korea on the basis of the two countries having the same origin; finding similarities in ancient relics and cultural objects would show evidence of cultural connection between the two countries.
- Japan tried to excavate archaeological materials that were similar to those of ancient China and/or Japan, in order to support its so-called 'theory' that Korea used to be ruled by China and/or Japan already in ancient times; and thus to justify the Japanese colonial rule over Korea.
- The JGGK investigated Korean cultural heritage to justify the Japanese rule in Korea, but made scarcely any reports of the investigations. Given this lack of official reports, it cannot be denied that there was also a purpose of simply collecting Korean cultural objects under the pretext of carrying out investigations.
- The cultural heritage laws enacted by the JGGK during the Japanese rule in

Korea provided an institutional loophole by which the collected cultural objects from the investigation projects could be taken to Japan.

- Japanese national museums and universities built up collections of Korean cultural objects.
- The growing interest of Japanese private collectors was another reason for the export of Korean cultural objects to Japan.
- Korean cultural objects, in particular Korean earthenware, could be sold for high prices on the art market in Japan.

In addition to the problem of restitution, this illicit removal of cultural objects has led to many scholars raising another claim regarding the lack of reports from the JGGK on its investigations into cultural heritage and assets in Korea. Since a number of the excavations of ancient tombs in Korea that were conducted by Japan had no report on the source, location, phenomena and detailed layout of the excavation, this has led to a permanent loss of information on the material culture and context of Korea. Although archaeological researchers are normally supposed to investigate the orally transmitted history, the myths of communities, and other intangible heritage together with historical sources about the ancient tombs, Buddhist temple sites and historical monuments when doing excavations, the Japanese researchers concentrated on the excavation of artefacts only, and did not try to make a written record of the cultural context information of the relics and remains. So, even if the removed cultural objects are returned to Korea, information on the cultural context would still be permanently lost.

This study has described the different interpretations made by Korea and Japan of the legality of the 1905 Agreement of Protectorate and the 1910 Treaty of Annexation. Research on this legal point has wider and more general implications beyond cultural property. Thus, many scholars in various areas including politics, economy, history, and law are involved in researching this subject. As time passes, Korea, Japan and other countries are disclosing classified diplomatic documents according to their national rules for declassification of public archives after a certain period. This is allowing more researchers to obtain new written evidence on this issue. In 2010, a hundred scholars and intellectuals from Korea and also another hundred scholars and intellectuals from Japan gathered to declare that the annexation of Korea by Japan was

legally invalid and conducted in accordance with illicit procedure; a joint statement to this effect was released by these intellectuals from both countries.[803] Since decades ago, starting with Korean academia, the term 'the period of the Japanese military occupation' has been used more than 'the period of the Japanese colony'.

Korea received no more than 1,432 pieces of cultural property from Japan following the 1965 Agreement, much less than the 4,479 pieces originally requested. Korea's survey and investigations done so far show that, with the exception of the cultural objects returned in 1965, there are more than 71,000 pieces of Korean cultural property still in Japan. The 1965 Agreement is currently still valid and effective, and the associated Minutes of the Agreement state that the Japanese government should encourage Korea-originated cultural property in the personal possession of Japanese people to be donated to Korea. Article 1 and Article 3 of the Agreement state that both countries should co-operate with each other as much as possible to promote cultural relations between them, and that each country should provide opportunities for research on cultural property to the people of the other country, 'as far as they possibly can'. This latter phrase may allow limitation of active cooperation. However, it is important to note that the 1965 Agreement between both countries includes legal measures for continuous discussion on the return of Korean cultural property.

In this study, the return cases of the Terauchi Library, the remaining collection of the Annals of Joseon Dynasty, and the Oekyujanggak Archives were introduced as representative examples. In all three cases, the types of cultural property returned are books, bibliographic materials, public records and archives. The JGGK collected cultural objects such as earthenware, metal materials and other various artefacts that were obtained from excavations of ancient tombs; however, there are few cases where these have been returned to Korea or adequately preserved as a collection open to the public with full access. The national archives and records, although they are very old historical objects, can be more persuasively requested in a negotiation for return of cultural property because they are not art objects but the state's documents. If Korea asks Japan to return Korean cultural property in the future, it may also be proposed to make mid- to long-term negotiations on overall cultural heritage, with priority given to cultural objects that are significant and inalienable, for example the state's documents and religious items. Governments, institutions, museums and libraries in

countries that require the return of cultural property need to be prepared to negotiate with their counterparts for a long time, with a mid- and long-term strategy in approaching this issue.

The Cultural Heritage Administration of Korea has researched the issue of return of the Korean cultural property in foreign countries including Japan. As a result of the research, for cultural property in particular which was exported before the 1970 UNESCO Convention was enacted, it suggests that a request for return should be required if it is of significant importance to the formation of cultural identity of Korea, and/or if it meets one or more of the following conditions:

(a) There was a high level of illegality in the process of exporting the cultural property;
(b) The Korean cultural property is exhibited or utilised in a humiliating manner concerning the colonial and/or military occupation;
(c) The relevance to the historical context and utilisation value of the Korean cultural property is significantly higher in Korea than in the present location;
(d) There is only one such Korean cultural property in the world, or similar cultural property is rare and hard to find in Korea;
(e) The Korean cultural property is not properly managed at the present location or institution from an academic/curatorial point of view, or there is a high risk of theft, loss, or destruction at the present location or institution.[804]

Also, Prott commented that the country asking for return of cultural property should have a strategy, and suggested the guidelines below:

(1) Make, or complete, an inventory of the cultural objects within the country.
(2) Make an inventory of the cultural objects outside the country.
(3) Select the items which are priorities and which might be made the subject of a request.
(4) Conduct very thorough research on the item.
(5) Research the attitudes of the holding institution on issues of return.
(6) Decide which country to approach.
(7) Decide on the best manner of approach.

(8) Consider offering long-term co-operation arrangements to a museum or other holding institution which is reflecting on a claim for return.

(9) Develop the arguments to be relied on in the discussion.[805]

For example, in the above guidelines, Korea has been focusing on (1), (2) and (4) to solve the problem of retrieving Korean cultural property from Japan. A number of projects for the above-mentioned three areas are being developed to increase efficiency by using digital technology and electronic databases. Therefore, since Korea has a strategy for those aspects of cultural property located in Japan, it is now necessary for Korea to further focus on 'research on policies', 'research on the other party', and 'research on methodologies' considering the above guidelines (3), (5), (7) and (8).

Although the legal approach to the issue of cultural property return is important, the international trends suggest that the moral and ethical points are more widely considered, and that there is a positive change around requests for cultural property return, especially in historical cases related to the colonial era. This change of situation seems to be a developmental change that is not a process of 'removal of cultural property → request for the return → negotiation → return or breakdown', but of 'removal of cultural property → request for the return → negotiation → verification of morality and ethics → return → cultural reconciliation and sustainable cooperation'. Therefore, if the issue of cultural property return between Korea and Japan is approached, not on the theme of 'request and return', but from a new perspective that the two sides can achieve 'cultural development', more innovative and creative solutions can be derived.

The Japanese scholar Arai pointed out:

> Solutions for Korean cultural heritage removed to Japan should be based upon the perspective of complete liquidation of Japan's colonial rule over Korea. In the present time, the problem of cultural property has become a worldwide issue. The destruction and looting of cultural property during the Second World War is regarded as a serious problem. We should think about the

> historical background, that the issues on the restitution of cultural property are recognised as related to de-colonisation and the liquidation of colonialism after the Second World War. However, the 1965 Treaty between Japan and Korea was signed while the interpretation of Japan's colonial rule over Korea and the complete liquidation of it were being handled ambiguously. Due to the influence of the 1965 Treaty, such ambiguity, the resolution of the cultural property problem between Japan and Korea is becoming difficult and complicated.[806]

The cultural property problems between Korea and Japan are about not only the return of objects but also the restoration of heritage that was lost in the era of the Japanese colonial and military occupation of Korea. For instance, the removal of palace buildings from Gyeongbokgung Palace in Seoul, numerous historical books burnt, monuments destroyed and metal cultural articles taken for the production of weapons for the Japanese army during the Pacific War. In terms of preserving the cultural identity of Korea, research on the cultural property which has been lost is another field in addition to working towards the restoration of cultural heritage.

As explained in the previous chapter, Japan intentionally destroyed ancient and old books that recorded the history of Korea, in order to prevent research into Korea's cultural roots. However, Korean historical books that were assumed to have been destroyed during the Japanese occupation have often been discovered in Japan and were found to have been taken during the colonial period. Discovery of such lost books could be fortunate from the point of view of scientific study, and much more research is needed into the situation and details of books and libraries removed from Korea.

For further areas of study, research needs to be carried out on the loss and destruction of cultural heritage by Japan that occurred in the current DPRK. The regions of the Republic of Korea and the DPRK were the same territory of 'Korea' during the Japanese occupation from 1910 to 1945. In this study, the cases of the JGGK's excavations and Japanese individuals' collecting of Korean cultural property actually took place throughout the Korean Peninsula. The region of DPRK includes the capital city of the Goryeo Kingdom; and most of the Goryeo celadon and other cultural

objects that were excavated at royal tombs from the era of Goryeo originated from the region of DPRK. However, information and research materials on the destruction and removal of cultural heritage in the DPRK region in the period of the Japanese occupation was relatively insufficient, due to limited information so far published or available. Therefore, further studies are needed concerning the current state of affairs in the northern part of the Korean Peninsula.

The academic circles of both Korea and Japan recognise this on-going issue on the return of Korean cultural heritage, and are well aware that it is important to have it fully resolved in the future, considering the current state of cultural affairs in the world as well as a number of existing legal and ethical principles. This study therefore concludes that the return and restitution of cultural heritage to Korea from Japan could be innovatively solved using an approach of not only 'request and return' but also the 'cultural development' of both countries.

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Notes

Introduction

[1] Declaring the 'Empire of Korea', the Joseon Dynasty (of Korea) began to use this new name from 1897; and the name was used until 1910, when Japan annexed Korea.
[2] The last dynasty of Korea (1392-1910 AD); The English transliteration of Korean words in this thesis is based on the Korean national standard system (Korean Ministry of Culture system) that was reformed in July 2000. Therefore, different terms for the old Korean dynasties can be found in other resources: for example, Goguryeo – Koguryeo; Goryeo – Koryeo; Joseon – Choson, Chosun, etc.; The English transliteration of Japanese words in this thesis uses the Hepburn system.
[3] In this thesis, the 'Korean government' means the 'government of the Republic of Korea' in the context of the period after 15th August 1945.
[4] This organisation was founded in 2017, in accordance with the Cultural Properties Protection Act, as an affiliate of the Cultural Heritage Administration (Munhwajae cheong) of Korea.
[5] Throughout this thesis, Korean and Japanese names are cited in the order of given name first, then family name.
[6] Japanese term for the Korean 'Imjin' War. (Bunroku is the Japanese name of the era from 1592 to 1596).
[7] According to the Asian calendar, 1592 is the year of Imjin. The war is hereinafter described as the Imjin War in this thesis.
[8] Gojeok mit yumul bojon gyuchik (Korean term) / Koseki oyobi ibutsu hozon kisoku (Japanese term).
[9] Gojeok josa wiwonhoe gyujeong (Korean term) / Koseki chōsa iinkai kitei (Japanese term).
[10] Gojeok mit yumure gwanhan geon (Korean term) / Koseki oyobi ibutsu ni kansuru ken (Japanese term).
[11] Gojeok mit yumul josa samu simdeuk (Korean term) / Koseki oyobi ibutsu chōsa jimu kokoroe (Japanese term).
[12] Joseon gojeok yeonguhoe hoechik (Korean term) / Chōsen koseki kenkyūkai kaisoku (Japanese term).
[13] Joseon bomul gojeok myeongseung cheonyeon ginyeommul bojon lyeong (Korean term) / Chōsen takaramono koseki meishō ten'nenkinenbutsu hozon rei (Japanese term).
[14] Joseon chongdokbu bomul gojeok myeongseung cheonyeon ginyeommul bojonhoe gwanje (Korean term) / Chōsensōtokufu takaramono koseki meishō ten'nenkinenbutsu hozonkai kansei (Japanese term).
[15] SCHILLER, H. (2000), 119, 123-124; SCHILLER, H. (1989), 149-150.

Chapter 1.

[16] In this chapter, Korea is identically described as 'Joseon Kingdom' or 'Joseon Dynasty'.
[17] HAN, Yeong-dae. (1997), 117. The translation is by the translator of the book (hereinafter, the translator).
[18] TURNBULL, S. (2002), 32.
[19] HULBERT, H. B. (1906), 94.
[20] ATKINS, E. T. (2010), 16.
[21] ibid., 16.
[22] HULBERT, H. B. (1906), 94.
[23] During the Joseon Kingdom period, the capital city had been called 'Hanyang' or 'Hanseong'. Later, during the Japanese occupation of Korea, it was called 'Gyeongseong' in Korean and 'Keijo' in Japanese. The word 'Seoul' actually means 'capital' in the Korean language and is currently used as the name of the capital of the Republic of Korea. The core geographic location of old 'Hanyang' and current 'Seoul' has been the same since 1392, although Seoul has expanded as a metropolitan city in the present day. Therefore, the author uses 'Seoul' hereinafter to generally indicate the capital of Joseon in this thesis.
[24] TURNBULL, S. (2002), 187.
[25] BROWN, A. J. (1919), 115.
[26] PARK, Chang-gi. (1998), 160.
[27] BROWN, A. J. (1919), 201.
[28] TOKUTOMI, Iichirō. (1930), 27-28. The translation is by the author of this thesis (hereinafter, the author).
[29] KEINEN. (1997), 88. The translation is by the translator.
[30] ibid., 116. The translation is by the translator.
[31] ibid., 121-122. The translation is by the translator.
[32] ATKINS, E. T. (2010), 123.
[33] KIM, Mun-gil. (1995), 131. The translation is by the translator.
[34] ibid., 173.
[35] An area which is comprised of Honshu, Kyushu, and Shikoku. Normally called when putting Yamaguchi, Hiroshima, Okayama, and Gochi are all together.
[36] JEON, Chung-jin. (2001), 78.
[37] KIM, Mun-gil. (1995), 133.
[38] JEON, Chung-jin. (2001), 78.
[39] ibid., 80.
[40] KIM, Mun-gil. (1995), 132.
[41] The *Joseon wangjo sillok*, King Seonjo period, Vol. 26; The New Edition *Gukpyeon yeonginbon*, Vol. 25, 615. The translation is by the author.
[42] Similar to current Vice-minister of the Ministry of Defence.

[43] The *Joseon wangjo sillok*, King Seonjo period, Vol. 37; The New Edition *Gukpyeon yeonginbon*, Vol. 21, 678. The translation is by the author.
[44] ibid., 686. The translation is by the author.
[45] Similar to current Board of Audit and Inspection
[46] The *Joseon wangjo sillok*, King Seonjo period, Vol. 67; The New Edition *Gukpyeon yeonginbon*, Vol. 22, 564. The translation is by the author.
[47] Similar to current Korean diplomat to Japan
[48] The *Joseon wangjo sillok*, King Seonjo period, Vol. 71; The New Edition *Gukpyeon yeonginbon*, Vol. 22, 620. The translation is by the author.
[49] Similar to current military officer
[50] The *Joseon wangjo sillok*, King Seonjo period, Vol. 76; The New Edition *Gukpyeon yeonginbon*, Vol. 23, 9. The translation is by the author.
[51] The writer, Seong-ryong Yu, was Prime Minister of Joseon (Korea). Therefore, no Japanese original of *Jingbirok* exists.
[52] TURNBULL, S. (2002), 153. The translation is by the translator.
[53] YU, Seong-ryong. (2007), 260. The translation is by the author.
[54] ibid., 148. The translation is by the author.
[55] Cultural Heritage Administration, Republic of Korea (http://www.cha.go.kr).
[56] PARK, Chang-gi. (1998), 160. The translation is by the translator.
[57] YU, Seong-ryong. (2007), 176. The translation is by the translator.
[58] Meaning 'south mountain'
[59] The south gate of Seoul
[60] See the following paragraph.
[61] Four of educational institutions located in Seoul were called 'Central School', 'Eastern School', 'Southern School' and 'Western School' according to location to nurture talents during the Joseon Dynasty. The institutions were founded and operated in 1411 and closed in 1894.
[62] The palace where Princess Gyeongjeong, the second daughter of King Taejong, lived.
[63] YI, Jin-hi & KANG, Jae-eon. (1998), 127. The translation is by the translator.
[64] The *Joseon wangjo sillok*, King Seonjo period, Vol. 66; The New Edition *Gukpyeon yeonginbon*, Vol. 22, 544. The translation is by the author.
[65] A house placed in the front and eastern part of Sungkyunkwan or Hyanggyo. Confucian scholars lived and studied there.
[66] A house placed in the western part of Sungkyunkwan or Hyanggyo. Confucian scholars lived and studied there.
[67] The *Joseon wangjo sillok*, King Seonjo period, Vol. 105; The New Edition *Gukpyeon yeonginbon*, Vol. 23, 522. The translation is by the author.
[68] The *Joseon wangjo sillok*, King Seonjo period, Vol. 124; The New Edition *Gukpyeon yeonginbon*, Vol. 24, 53. The translation is by the author.

[69] The *Joseon wangjo sillok*, King Seonjo period, Vol. 134; The New Edition *Gukpyeon yeonginbon*, Vol. 82, 36. The translation is by the author.
[70] JEONG, Jae-hun & JO, Yu-jeon. et al. (1990), 366-367.
[71] BAEK, Lin. (1981), 139.
[72] The *Kyunghyang Newspaper*. 27th August 1994.
[73] Similar to current Ministry of Education
[74] The *Joseon wangjo sillok*, King Seonjo period, Vol. 182; The New Edition *Gukpyeon yeonginbon*, Vol. 25, 1. The translation is by the author.
[75] LEIDY, D. P. (1994), 225.
[76] STARR, F. (1918), 29.
[77] TURNBULL, S. (2002), 203.
[78] JEONG, Kyu-hong. (2007), 451-452.
[79] The Cultural Heritage Administration of Korea administers the national treasury designation system of cultural heritage.
[80] The *Yonhap News*. 13th November 2017.
[81] LEE, Gyeong-jae. (2000), 144.
[82] ibid., 145. The translation is by the translator.
[83] The *Busan Ilbo* (*Busan Daily Newspaper*). 8th July 2008.
[84] YI, Jae-jun. (1995), 45
[85] KORNICKI, P. (2001), 129.
[86] KIM, Mun-gil. (1995), 166.
[87] ibid.
[88] ibid., 167.
[89] LEE, Hong-jik. (1967), 17.
[90] KIM, Mun-gil. (1995), 167.
[91] ibid., 167-168.
[92] CHEON, Hye-bong. (1996), 116-117.
[92] ibid.
[93] ibid.
[94] KIM, Mun-gil. (1995), 167-168.
[95] ibid.
[96] CHEON, Hye-bong. (1996), 116-117.
[97] ibid.
[98] ibid.
[99] ibid.
[100] KIM, Mun-gil. (1995), 172.
[101] SON, Bo-ki. (1987), 27.
[102] KIM, Mun-gil. (1995), 168.
[103] SON, Bo-ki. (1987), 27-28.

[104] KIM, Mun-gil. (1995), 168.
[105] ibid., 175-176.
[106] ibid., 168.
[107] A government office which was responsible for printing and producing types during the Joseon Dynasty.
[108] ibid.
[109] A government department which managed printing, and kept items used for ritual ceremonies during the Joseon Dynasty.
[110] JEONG, Kyu-hong. (2005), 502.
[111] SON, Bo-ki. (1987), 3.
[112] BROKAW, C. & KORNICKI, P. (eds.) (2013), 540.
[113] ibid., 334
[114] KORNICKI, P. (2001), 129.
[115] JEONG, Kyu-hong. (2005), 502.
[116] SON, Bo-ki. (1987), 4.
[117] KORNICKI, P. (2001), 129.
[118] Books printed by the wooden printing types made during Geicho era (1596 – 1615) in Japan.
[119] JEONG, Kyu-hong. (2005), 502-504. The translation is by the translator.
[120] ibid., 504.
[121] SON, Bo-ki. (1987), 4.
[122] ibid.
[123] The *Chosun Ilbo* (*Chosun Daily Newspaper*). 10th October 1997.
[124] ibid. The translation is by the author.
[125] ibid.
[126] SON, Bo-ki. (1987), 4.
[127] JEONG, Kyu-hong. (2005), 504.
[128] SON, Bo-ki. (1987), 3.
[129] KORNICKI, P. (2001), 129.
[130] SON, Bo-ki. (1987), 4.
[131] ibid., 26.
[132] The *Chungcheong Times*. 8th September 2008.
[133] HULBERT, H. B. (1906), 102.
[134] MIDDLETON, S. H. (1992), 57.
[135] MCKILLOP, B. (1992), 70.
[136] COVELL, J.C. (1999), 399.
[137] YI, Jin-hi & KANG, Jae-eon. (1998), 124.
[138] HONG, Yun-ki. (1996), 96.
[139] YI, Jin-hi & KANG, Jae-eon. (1998), 124.

[140] JEON, Chung-jin. (2001), 80.
[141] ibid., 88-89.
[142] TOKYO NATIONAL MUSEUM. (1958), 29.
[143] JEON, Chung-jin. (2001), 88-89.
[144] ibid., 80.
[145] ibid., 89.
[146] ATKINS, E. T. (2010), 123.
[147] JEON, Chung-jin. (2001), 89.
[148] ASAKAWA, Dakumi. (1996), 198. The translation is by the author.
[149] Hereinafter 'Name : Area in Japan : Name of kiln'
[150] JEON, Chung-jin. (2001), 90-91.
[151] ibid., (2001), 92-93.
[152] JAPAN FOLK CRAFTS MUSEUM. (1995), 184
[153] JEON, Chung-jin. (2001), 93-94.
[154] ibid., (2001), 95-96.
[155] ibid., (2001), 98.
[156] JAPAN FOLK CRAFTS MUSEUM. (1995), 189.
[157] JEON, Chung-jin. (2001), 99-100.
[158] ibid., (2001), 100.
[159] KIM, Mun-gil. (1995), 171.
[160] JEON, Chung-jin. (2001), 100-101.
[161] TURNBULL, S. (2002), 230.
[162] KIM, Mun-gil. (1995), 173.
[163] Family name is not specified.
[164] KIM, Mun-gil. (1995), 174-175.
[165] ibid., (1995), 175.
[166] 1192-1868 AD.
[167] KIM, Mun-gil. (1995), 169.
[168] YAGI, Nobuo. (1978), 337. The translation is by the author.
[169] JEONG, Dong-ju. (2001), 139.
[170] *Dictionary of Japanese Art Terms*. (1990), 4.
[171] ibid., 76, 120, 244, 313, 400, 506, 630.
[172] KIM, Mun-gil. (1995), 170-171.
[173] SON, Bo-ki. (1987), 29.
[174] KIM, Mun-gil. (1995), 170-171.
[175] ATKINS, E. T. (2010), 123; MIDDLETON, S. H. (1992), 57.
[176] SMITH, H. (2013), 562
[177] KIM, Mun-gil. (1995), 169.

Chapter 2.

[178] LEE, Soon-Ja. (2007), 134.
[179] YOON, Yong-yi. (1998), 6.
[180] ibid.
[181] ibid., 8.
[182] ibid., 5.
[183] YOU, Hong-june. (1998), 15.
[184] YI, Ku-yeol. (1996), 62.
[185] FORTY, G. (1999), 2.
[186] MYERS, R. H. & PEATTIE, M. R. (eds.) (1984), 15.
[187] ibid., 17.
[188] YOON, Yong-yi. (1998), 5
[189] CHOE, Seok-yeong. (2004), 22.
[190] JEONG, Kyu-hong. (2005), 24.
[191] ibid., 28.
[192] ibid.
[193] CHOE, Seok-yeong, (2004), 22.
[194] YOON, Yong-yi. (1998), 5.
[195] JO, Yu-jeon. (1996), 47.
[196] ibid., 59.
[197] MAEDA Kenji, WADA Haruki & KO Sumi. (2010), 144.
[198] SEAGRAVE, S., & SEAGRAVE, P. (2000), 253.
[199] KOIZUMI, Akio. (1932), __ The translation is by the translator.
[200] YOON, Yong-yi. (1998), 5.
[201] ibid.
[202] NATIONAL MUSEUM OF KOREA. (2009), 177.
[203] ibid., 56.
[204] HWANG, Su-yeong. (1973), 128.
[205] Meaning of Seoul
[206] LEE, Soon-Ja. (2007), 14.
[207] HWANG, Su-yeong. (1973), 131-132. The translation is by the author.
[208] YI, Ku-yeol. (1996), 65-66.
[209] ibid. The translation is by the author.
[210] ibid., 71. The translation is by the author.
[211] KANNO, Tomoko. (2012), 148.
[212] ARAI, Shinichi. (2012), 48. The translation is by the author.
[213] ibid., 11-12. The translation is by the author.
[214] ibid.

[215] ibid., 85.
[216] MORIMOTO, Kazuo. (2010), 536.
[217] LEE, Soon-Ja. (2007), 13-14.
[218] HWANG, Su-yeong. (1973), 1.
[219] JEONG, Kyu-hong. (2005), 196. The translation is by the translator.
[220] ibid.
[221] ibid.
[222] ARAI, Shinichi. (2012), 13.
[223] YOON, Yong-yi. (1998), 5.
[224] ARAI, Shinichi. (2012), 12.
[225] YI, Ku-yeol. (1996), 64-66. The translation is by the author.
[226] ibid., 67.
[227] The *Busan Ilbo* (*Busan Daily Newspaper*). 28th May 2005.
[228] JO, Yu-jeon. (1996), 59.
[229] The *Busan Ilbo* (*Busan Daily Newspaper*). 28th May 2005.
[230] LEE, Soon-Ja. (2007), 20.
[231] ibid., 21. The translation is by the author.
[232] ibid., 20-21.
[233] CHOE, Seok-yeong. (2008), 79-80.
[234] SEKINO, Tadashi. (1990), 473.
[235] ibid., 36-37. The translation is by the author.
[236] HUH, Yeong-seop. (2010), 132.
[237] SEKINO, Tadashi. (1990), 38.
[238] ibid., 478.
[239] HUH, Yeong-seop. (2010), 131.
[240] ibid.
[241] JEONG, Kyu-hong. (2005), 196.
[242] ibid., 389.
[243] ibid.
[244] NATIONAL MUSEUM OF KOREA. (2009), 88
[245] MORIMOTO, Kazuo. (2010), 536.
[246] YANG, Si-eun. (2010), 159.
[247] MOK, Soo-hyun. (2000), 54.
[248] The Japanese Government-General of Korea (JGGK) performed a national wide land investigation in Korea from 1910 until 1918.
[249] WOO, Dong-son. (2006), 137. The translation is by the author.
[250] Naemubu (Korean term)
[251] Hakmuguk (Korean term)
[252] NATIONAL MUSEUM OF KOREA. (2009), 88.

[253] SEKINO, Tadashi. (1990), 36.
[254] LEE, Byung-ho. (2011), 118.
[255] YANG, Si-eun. (2010), 159.
[256] JEONG, Kyu-hong. (2005), 282.
[257] Joseon gojeok dobo (Korean term).
[258] The *Yonhap News*. 15th July 2008.
[259] JEONG, Kyu-hong. (2005), 283.
[260] YANG, Si-eun. (2010), 161-162.
[261] LEE, Soon-Ja. (2007), 28-29.
[262] JEONG, Kyu-hong. (2005), 281-282.
[263] ibid., 404.
[264] ATKINS, E. T. (2010), 1-3, 10, 11, 42, 45, 96, 105.
[265] It is a theory that Japan advocated to make Korean people absorbed to the Japanese, where Korea and Japan would have the same ancestors.
[266] Chōsen bussan kyōshinkai (Japanese term).
[267] OH, Se-tak. (1996), 30.
[268] CHOE, Seok-yeong. (2012), 301.
[269] NATIONAL MUSEUM OF KOREA. (2009), 27
[270] CHOE, Seok-yeong. (2008), 84.
[271] CHOE, Seok-yeong. (2004), 84-85.
[272] OH, Se-tak. (1996), 30.
[273] See Notes 8-14 for Korean and Japanese terms.
[274] The English texts of laws, regulations, agreements, and legal documents originally written in other languages throughout this thesis have been translated by the author.
[275] CHOE, Seok-yeong. (2012), 298.
[276] The **Order of Buddhist Monasteries and Temples (Order No. 7 of JGGK, 1911)**
Article 1: Permission of the Governor-General shall be given when Buddhist monasteries and temples will be merged, moved and demolished. This rule shall be also applied when sites and names of Buddhist monasteries and temples will be changed**. Article 2:** Sites and buildings of Buddhist monasteries and temples shall not be used for any purpose except Buddhist study, propagation, Buddhist service and priests' residence without permission of the Provincial Governor. **Article 3:** Each headquarters of Buddhist monasteries and temples shall lay down its regulations for monks and priests, rules of Buddhist service, and shall clarify other detailed information of the Buddhist monasteries and temples. They shall be given permission by the Governor-General. **Article 4:** Each Buddhist monastery and temple shall have a chief priest. Representing the Buddhist monastery and temple, the chief priest manages all kinds of properties belonging to the monastery and temple, and is responsible for their affairs and Buddhist service. **Article 5:** Land, forest trees, buildings, Buddhist statues, stone works, books and paintings and other valuables which belong to the Buddhist

monasteries and temples cannot be disposed without permission of the Governor-General. **Article 6:** A violator against Article 5 will be sentenced to imprisonment not exceeding two years or will be liable to a fine not exceeding five hundred won (yen). **Article 7:** The Governor-General will lay down other necessary matters to Buddhist monasteries and temples that this Order does not cover. **Additional Clause:** The Governor-General will announce the date when this Order enters into force.

[277] NATIONAL MUSEUM OF KOREA. (2009), 101.

[278] FUJITA, Ryosaku. (1951), 252-253. The translation is by the author.

[279] MOK, Soo-hyun. (2000), 63.

[280] PAI, Hyung-il. (2013), 177.

[281] ATKINS, E. T. (2010), 110.

[282] PARK, Seon-ae. (2008), 215.

[283] YANG, Si-eun. (2010), 162.

[284] LEE, Soon-Ja. (2007), 70.

[285] BARNES, G. (2001), 38.

[286] LEE, Soon-Ja. (2007), 77-78.

[287] ibid., 79 and 83.

[288] JEONG, Kyu-hong. (2005), 310.

[289] LEE, Soon-Ja. (2007), 85.

[290] YI, Ku-yeol. (1996), 188.

[291] Gojeok josa gwa (Korean term).

[292] OH, Yeong-chan. (2011), 228.

[293] HWANG, Su-yeong. (1973), 56-58.

[294] The *Keijo Ilbo* (*Keijo Daily Newspaper*). 25th November 1925. The translation is by the author.

[295] LEE, Soon-Ja. (2007),109-110. The translation is by the author.

[296] PARK, Seon-ae. (2007), 98.

[297] LEE, Soon-Ja. (2007), 115.

[298] The *Hankook Ilbo* (*Hankook Daily Newspaper*). 2nd August 2001.

[299] LEE, Soon-Ja. (2007), 110.

[300] NATIONAL MUSEUM OF KOREA. (2009), 167.

[301] ARAI, Shinichi. (2012), 38.

[302] YANGSAN GRAND CULTURE NETWORK. (1996) [Online].

[303] LEE, Soon-Ja. (2007), 86.

[304] FUJITA, Ryosaku. (1931a), 6. The translation is by the author.

[305] Seoul misul kleob (Korean term).

[306] JEONG, Kyu-hong. (2005), 416-417.

[307] *Yesulgwa saenghwal* (Korean term).

[308] JEONG, Kyu-hong. (2005), 417. The translation is by the author.

[309] ibid., 418.
[310] NATIONAL MUSEUM OF KOREA. (2009), 199.
[311] ibid., 173.
[312] CHOE, Seok-yeong. (1997), 280.
[313] FUJITA, Ryosaku. (1963), 68. The translation is by the author.
[314] NATIONAL MUSEUM OF KOREA. (2009), 121.
[315] CHOE, Seok-yeong. (2008), 150.
[316] NATIONAL MUSEUM OF KOREA. (2009), 173.
[317] ibid.
[318] ARAI, Shinichi. (2012), 83.
[319] LEE, Soon-Ja. (2007), 132.
[320] ibid., 153.
[321] ibid., 132.
[322] ibid., 153.
[323] ibid., 155.
[324] See Notes 8-14 for Korean and Japanese terms.
[325] Takaramono (Japanese term); Bomul (Korean term).
[326] Kokuhō (Japanese term); Kukbo (Korean term).
[327] PARK, Dong-seok. (2005), 59.
[328] The *Yonhap News*. 28th November 2006.
[329] Gongju baekje gobun (Korean term).
[330] *Gogohak japji* (Korean term).
[331] JEONG, Kyu-hong. (2005), 438.
[332] See Notes 8-14 for Korean and Japanese terms.
[333] Joseon chongdokbu bomul gojeok myeongseung cheonyeon ginyeommul bojonhoe uisagyuchik (Korean term) / Chōsensōtokufu takaramono koseki meishō ten'nenkinenbutsu hozonkai gijikisoku (Japanese term).
[334] LEE, Soon-Ja. (2007), 145-146.
[335] CHOE, Soon-woo. (1992), 291.
[336] ATKINS, E. T. (2010), 111.
[337] NATIONAL MUSEUM OF KOREA. (2009), 124-125.
[338] ATKINS, E. T. (2010), 113.
[339] NATIONAL MUSEUM OF KOREA. (2009), 125.
[340] ibid., 85.
[341] CHOI, Hye-jung. (2007), 160.
[342] NATIONAL MUSEUM OF KOREA. (2009), 132.
[343] YI, Ku-yeol. (1996), 139-140.
[344] PAI, Hyung-il. (2013), 177.
[345] HWANG, Su-yeong. (1973), 1-2.

[346] NAGAGICHI, Isao. (1985), 133. The translation is by the author.
[347] FUJITA, Ryosaku. (1931b), 86. The translation is by the author.
[348] NATIONAL MUSEUM OF KOREA. (2009), 148.
[349] NATIONAL MUSEUM OF KOREA. (2006), 431.
[350] JEONG, Dong-ju. (2001), 139. The translation is by the author.
[351] ARAI, Shinichi. (2012), 38.
[352] ECKERT, C. (1991), 237.
[353] ibid., 238.
[354] MYERS, R. H. & PEATTIE, M. R. (eds.) (1984), 77.
[355] ARAI, Shinichi. (2012), 38. The translation is by the author.
[356] TSUBOI, Kiyotari. (1986), 484-485. The translation is by the author.

Chapter 3.

[357] CHEON, Hye-bong. (1996), 112-115.
[358] SEO, Yeong-hee. (1994), 99.
[359] The Kyujanggak is a Korean royal institute founded by the Joseon Dynasty in 1776. Its library included royal records, precious manuscripts, ancient books and many documents relating to the royal household.
[360] SEO, Yeong-hee. (1994), 108.
[361] ibid.
[362] SHIN, Yong-ha. (1981), 73.
[363] DO, Myeon-hoi. et al. (1999), 31.
[364] ibid.
[365] KIM, Tae-woong. (1993), 102.
[366] ibid., 100.
[367] ibid., 108-109.
[368] SHIN, Yong-ha. (1981), 75.
[369] KIM, Tae-woong. (1993), 112. The translation is by the author.
[370] ibid., 112-113.
[371] ibid.
[372] ibid.
[373] SHIN, Yong-ha. (1981), 75.
[374] ibid., 76-77.
[375] Gyeongseong (Korean term).
[376] BAEK, Lin (1968), 20-22.
[377] YI, Ku-yeol. (1996), 156. The translation is by the author.
[378] See Chapter 5 of this thesis for more details.
[379] BAEK, Lin. (1968), 26. The translation is by the author.

[380] NATIONAL DIET LIBRARY. (1952, 1953, 1955).
[381] ibid., (1968).
[382] ibid., (1998), 31. The translation is by the author.
[383] YI, Ku-yeol. (1996), 159-160.
[384] Yamaguchi Women's School was founded in 1941, it had been renamed to Yamaguchi Women's College (1950), Yamaguchi Women's University (1975) and Yamaguchi Prefectural University (1996).
[385] KIM, Jin-hak & HAN, Cheol-yeong. (1954), 22.
[386] MUN, Jeong-chang (1965), 80.
[387] KIM, Jin-hak & HAN, Cheol-yeong. (1954), 22.
[388] MUN, Jeong-chang (1965), 80.
[389] The *Chosun Ilbo* (*Chosun Daily Newspaper*). 4th October 1985.
[390] *Joseonsa* (Korean term).
[391] CHOE, Tae-yeong. (2002) [Online]. The translation is by the author.
[392] JAPANESE GOVERNMENT-GENERAL OF KOREA. (1986), 105-107.
[393] MORIMOTO, Kazuo. (2010), 537.
[394] JAPANESE GOVERNMENT-GENERAL OF KOREA. (1986), 13.
[395] JAPANESE GOVERNMENT-GENERAL OF KOREA. (1986), 15. The Korean publisher's editorial board has translated the original Japanese texts into Korean. The author has translated the Korean texts into English.
[396] CHEON, Hye-bong. (1996), 118-120.
[397] HARATA, Sakaeru. (1981), 34. The translation is by the author.
[398] CHOE, Tae-yeong. (2000), 270.

Chapter 4.

[399] MORIMOTO, Kazuo. (2010), 528.
[400] Makoto Saito (1858-1936): Japanese Admiral. He later became Prime Minister of Japan (1932-1934).
[401] ARAI, Shinichi. (2012), 20.
[402] REKISHIGAKU KENKYUKAI. (2011), 142-143.
[403] ARAI, Shinichi. (2012), 21.
[404] SEAGRAVE, S., & SEAGRAVE, P. (2000), 253.
[405] ARAI, Shinichi. (2012), 36.
[406] ibid.
[407] Jeonmae guk (Korean term).
[408] The *Hankook Ilbo* (*Hankook Daily Newspaper*). 20th May 2002.
[409] ibid., 2nd May 1995.
[410] Chōsen bussan kyōshinkai (Japanese term).

[411] The *Joong-Ang Ilbo* (*Joong-Ang Daily Newspaper*). 2nd July 1999.
[412] Dongyang cheoksik jusik hoesa (Korean term).
[413] Established by Japan in 1908.
[414] KIM, Jeongdong. (1997), 202-203.
[415] The *Joong-Ang Ilbo* (*Joong-Ang Daily Newspaper*). 10th December 1995.
[416] The *Kookmin Ilbo* (*Kookmin Daily Newspaper*). 2nd May 1995.
[417] The *Joong-Ang Ilbo* (*Joong-Ang Daily Newspaper*). 10th December 1995.
[418] KIM, Jeongdong. (1997), 17. The translation is by the author.
[419] YANAGI, Muneyoshi. (1996), 196-197. The translation is by the author.
[420] ibid., 202. The translation is by the author.
[421] YI, Cheol-won. (1954), 27.
[422] The *Chosun Ilbo* (*Chosun Daily Newspaper*). 27th July 1993.
[423] KONG, Jun-won. (2009), 56.
[424] The *Kyunghyang Newspaper*. 31st January 1987.
[425] ARAI, Shinichi. (2012), 37.
[426] The *Yonhap News*. 24th February 2009.
[427] The *NEWSis.* 31st October 2006.
[428] ATKINS, E. T. (2010), 138.
[429] HUH, Yeong-seop. (1996), 298. The translation is by the author.
[430] MUN, Jeong-chang. (1965), 485.
[431] KIM, Jeongdong. (1997), 17.
[432] DAVYDOV, S. & MATSULEVICH, J. (2001), 72.
[433] ANON. (2011), 79.
[434] ESTREICHER, K. (2003), 21.
[435] ibid., 513.
[436] BOYLAN, P. (1993), 5.
[437] ECKERT, C. (1991), 236.
[438] 'Bi' means a memorial stone.
[439] KIM, Jongsok (1998), 61.
[440] AKINSHA, K. & KOZLOV, G. (1995a), 30.

Chapter 5.

[441] Japan signed the surrender document on 2nd September 1945.
[442] HAN, Young-woo. (2004), 571.
[443] ibid., 573.
[444] SCAP: Located in Japan, operated from 2nd October 1945, after the defeat of the Japanese, until 28th April 1952, when the Treaty of Peace with Japan took effect.
[445] The temporary ruling body of the southern half of the Korean Peninsula from September

1945 to August 1948.

[446] JO, Bu-keun. (2004), 305.

[447] ibid., 304; The *Dong-A Ilbo* (*Dong-A Daily Newspaper*), 29th November 2005. The translation is by the author.

[448] ibid., 306.

[449] The following archive materials are the main source for this 5.3: Document set No. NND750168. *Far East - Restitution* (Roll 12 / Target 15) [Official document] Washington D.C.: National Archives and Records Administration.

[450] The Commission was chaired by Owen J. Roberts, US Supreme Court Justice.

[451] Including the MacMillan Committee (UK), and the French and Dutch commissions.

[452] YEIDE, N.H., & AKINSHA, K. et al. (2001), 56.

[453] See No. 2 of the Principles for the Restitution of Works of Art, Books, Archives and Other Cultural Property in the Far East in the following pages in this chapter.

[454] See the following pages in this chapter.

[455] No. 7 of Draft Agreement (Final approved form, for Germany, as of 28th May 1945) in the preceding pages in this chapter.

[456] Mr Lamont Moore. 27th March 1946.

[457] Similar to principle No. 10 of the Draft Agreement (Final approved form, for Germany, as of 28th May 1945) in the preceding pages in this chapter.

[458] PAI, Hyung-il. (2013), 173.

[459] Harold G. Henderson (1889 - 1974) was a noted academic, art historian and Japanologist. Although given a military title, he served with SCAP as an advisor on education, religion and art.

[460] ANON. (2011), 70.

[461] EDSEL, R. (2009), 420.

[462] PAI, Hyung-il. (2013), 173.

[463] MACINTYRE, D. (2002).

[464] ibid.

[465] MORIMOTO, Kazuo. (2010), 656.

[466] PAI, Hyung-il. (2013), 173.

[467] MORIMOTO, Kazuo. (2010), 656. The translation is by the author.

[468] PROTT, L. V. (ed.) (2009), 9.

[469] The *Yonhap News*, 17th January 2005.

[470] The *Hankook Ilbo*, 21st June 2005.

[471] ARAI, Shinichi. (2012), 126. The translation is by the author.

[472] ibid.

[473] The *Yonhap News*, 26th August 2005; The *Kukjeong Briefing*, 22nd April 2005.

[474] JO, Bu-keun. (2004), 305.

[475] JO, Bu-keun. (2007), 33.

[476] ibid., 33-34.

[477] This Sub-committee has held the cultural property experts' group meetings throughout the Korea-Japan Talks.

[478] NORTHEAST ASIAN HISTORY FOUNDATION. (2008), Volume 1, 390.

[479] ibid., 395.

[480] ibid., 392-393.

[481] ibid., 393-394.

[482] ibid., 395.

[483] ibid., 566.

[484] ibid., 634.

[485] ibid., 634.

[486] ibid., 634-635.

[487] ibid., 634-635.

[488] ibid., 636.

[489] ibid., (Volume 2), 830-831.

[490] ibid., 828.

[491] ibid., (Volume 5), 474.

[492] 'Treaty of Peace with Italy' (Paris, 10th February 1947).

Article 75 – (9) If, in particular cases, it is impossible for Italy to make restitution of objects of artistic, historical or archaeological value, belonging to the cultural heritage of the United Nation from whose territory such objects were removed by force or duress by Italian forces, authorities or nationals, Italy shall transfer to the United Nation concerned objects of the same kind as, and of approximately equivalent value to, the objects removed, in so far as such objects are obtainable in Italy.

[493] NORTHEAST ASIAN HISTORY FOUNDATION. (2008) (Volume 3), 247.

[494] ibid., 861.

[495] Hirobumi Ito: First Japanese Resident-General to Korea (1906-1909).

[496] Masatake Terauchi: First Japanese Governor-General to Korea (1910-1916).

[497] NORTHEAST ASIAN HISTORY FOUNDATION. (2008) (Volume 3), 863-864.

[498] Seokguram Grotto was included into the UNESCO World Heritage List in 1995.

[499] Bulguksa Buddhist Monastery and Temple was included into the UNESCO World Heritage List in 1995.

[500] NORTHEAST ASIAN HISTORY FOUNDATION. (2008) (Volume 2), 835.

[501] ibid., 832.

[502] ibid., (Volume 3), 860.

[503] ibid., 863.

[504] ibid., 519.

[505] JO, Bu-keun. (2004), 341.

[506] NORTHEAST ASIAN HISTORY FOUNDATION. (2008) (Volume 3), 472.

[507] ARAI, Shinichi. (2012), 132.
[508] NORTHEAST ASIAN HISTORY FOUNDATION. (2008) (Volume 4), 658.
[509] ibid., 660.
[510] Daehanmingukgwa ilbongukganui munhwa mit munhwahyeomnyeoge gwanhan hyeopjeong (Korean term) / Bunkazai oyobi Bunkakyouryoku ni kansuru Nihonkyoku to Taikanminkyoku tono aida no kyoutei (Japanese term).
[511] The translation of the Korean text is by the author.
[512] An official English version of this Agreement was not written since the two governments agreed not to make it.
[513] NORTHEAST ASIAN HISTORY FOUNDATION. (2008) (Volume 2), 833-834.
[514] The *Yonhap News*. 26th August 2005.

[516] The *Dong-A Ilbo* (*Dong-A Daily Newspaper*), 27th May 2005.
[517] KWEON, Se-ki. (2002), 8.
[518] JO, Bu-keun. (2004), 361.
[519] KWEON, Se-ki. (2002), 8.
[520] JO, Bu-keun. (2004), 361.
[521] The *Dong-A Ilbo* (*Dong-A Daily Newspaper*), 27th August 2005.
[522] *Bunkazai hogo-hō*. [Online]
[523] NORTHEAST ASIAN HISTORY FOUNDATION. (2008) (Volume 4), 685.
[524] ibid., 690.
[525] HAYASHI, Yoko. (2007), 54.
[526] [Online] Available from: http://www.overseaschf.or.kr.
[527] HAYASHI, Yoko. (2007), 48.
[528] BAEK, Chung-hyun. (1989), 170.

Chapter 6.

[529] The *Kyunghyang Newspaper*. 2nd November 1998. The translation is by the author.
[530] MACINTYRE , D. (2002).
[531] GLOSSERMAN, B. (2002).
[532] YI, Tae-jin. et al. (2001), 30.
[533] This is the original English text, publically available from the Ministry of Foreign Affairs of the Republic of Korea.
[534] STURGESS, H. & HEWITT, A. (1934), 159; STURGESS, H. & HEWITT, A. (1940), 182.
[535] BLACK, H. C. et al. (1979), 962.
[536] SAUNDERS, J. (1962), 383.
[537] BLACK, H. C. (1951), 1216.
[538] BLACK, H. C. (1951), 1745.

[539] The *Hankook Ilbo* (*Hankook Daily Newspaper*). 22nd June 2009.
[540] ibid.
[541] MAEDA Kenji, WADA Haruki & KO Sumi. (2010), 81.
[542] The *Kukmin Ilbo* (*Kukmin Daily Newspaper*). 10th October 1995; The *Korea Times*. 11th October 1995. The translation is by the author.
[543] KAWASAKI, Yutaka. (1996) [Online].
[544] IWASAKI, Takashi. et al. (2010), 24. The translation is by the author.
[545] YI, Tae-jin. et al. (2001), 11-12.
[546] The *Hankyoreh Newspaper*. 1st August 2011.
[547] YI, Tae-jin. et al. (2001), 36.
[548] KIM, Young-koo. (2002), 640.
[549] Yi, Tae-jin. et al. (2008), 30.
[550] ibid., 36.
[551] CHUNG, Il-yung. (2011), 188-189.
[552] ibid., 197.
[553] YI, Tae-jin. (ed.) (1995), 116-210.
[554] The Convention was adopted on 22nd May 1969, by the United Nations Conference on the Law of Treaties held in Vienna.
[555] JENNINGS, R, & WATTS, A. (1996b), 1281-1282.
[556] HALL, W. (1890), 324.
[557] ibid., 326.
[558] OPPENHEIM, L. (1905), 522.
[559] ibid., 1905.
[560] ECKERT, C. et al. (1990), 239.
[561] YASUDA, Tsuneo & CHO, Kyondaru (eds.) (2010), 65.
[562] IWASAKI, Takashi. et al. (2010), 54. The translation is by the author.
[563] ibid., 92.
[564] Document No. FO 881/10428, 23rd November 1905 [Official document] London: National Archives.
[565] HULBERT, H. B. (1906), 221-222.
[566] STORY, D. (1907), 107-108.
[567] MACKENZIE, F. (1908), 136-137.
[568] Document No. FO 881/8950. *General Report on Corea for the Year 1906 by Henry Cockburn* [Official document] London: National Archives, 6.
[569] STORY, D. (1907), 106.
[570] YI, Tae-jin. et al. (2001), 86.
[571] MACKENZIE, F. (1908), 136.
[572] STORY, D. (1907), 130-131.
[573] KIM, Ki-seok. (1995), 232-233.

[574] DOWER, J. (1999), 21.
[575] The *Dong-A Ilbo* (*Dong-A Daily Newspaper*). 24th October 1993.
[576] KOREAN EDUCATION ARCHIVES. (1996), 5.
[577] ibid., 6.
[578] KIM, Ki-seok. (1995), 215.
[579] The *Dong-A Ilbo* (*Dong-A Daily Newspaper*). 24th October 1993.
[580] Although the date of the Agreement is generally known as 17th November 1905, the actual date and time of it was around 2:00am on the 18th. Thus, the more accurate date is 18th November 1905.
[581] KOREAN EDUCATION ARCHIVES. (1996), 29.
[582] HALL, W. (1890), 380.
[583] OPPENHEIM, L. (1905), 522.
[584] The *Kukmin Ilbo* (*Kukmin Daily Newspaper*), 12th May 1992.
[585] YI, Jong-hak. (ed.) (2000), 19.
[586] ibid., 40. The translation is by the author.
[587] ibid., 19. The translation is by the author.
[588] YI, Tae-jin. et al. (2001), 55-58.
[589] ibid., 62.
[590] The annexation of Korea by Japan in 1910.
[591] Japan.
[592] Meaning 'of a nation'.
[593] Korea and Japan.
[594] YI, Tae-jin et al. (2001), 207-209; The *Shinhan Minbo*. 28th July 1926. The translation is by the author.
[595] REY, F. (1906), 55-56. (The translation of the French text is by the author).
[596] DE LOUTER, J. (1920), 479.
[597] KOREAN EDUCATION ARCHIVES. (1996), 11.
[598] ANON. (1935), 1148-1149.
[599] ibid., 1157.
[600] UN International Law Commission. [Online].
[601] UN. (1964a), 49.
[602] Document A/CN.4/156 and Add. 1-3: Second Report on the Law of Treaties, by Sir Humphrey Waldock, Special Rapporteur. In: UN. (1964b), 50.
[603] Document A/5509. Report of the International Law Commission Covering the Work of Its Fifteenth Session, 6 May – 12 July 1963. In: UN. (1964b), 188.
[604] ibid., 189.
[605] 'Article 46. Separability of Treaty Provisions for the Purposes of the Operation of the Present Articles', as entitled In: UN. (1964b), 211.
[606] UN. (1964b), 197.

[607] ibid., 197.
[608] UN. (1964b), 197.
[609] 'Legal Questions: Questions Concerning the International Law Commission'. In: UN. (1963), 500.
[610] RESOLUTION 1902(XVIII), as submitted by Sixth Committee, A/5601, adopted unanimously by General Assembly on 18th November 1963, General Assembly Plenary Meeting 1258. 'Legal Questions: Questions Concerning the International Law Commission' In: UN. (1963), 503-504.
[611] Report of the International Law Commission on the work of its eighteenth session (Geneva, 4 May – 19 July 1966), Part II. Reports of the Commission to the General Assembly (Document A/6309/Rev.1). In: UN. (1967d), 245.
[612] ibid., 245.
[613] SAKAMOTO, Shigeki. (2001), 88-89.
[614] 'The Records of the Committee on the Budget of the House of Councillors No.7, 23rd March 1993 (Answer given by Tanba, director of the treaty bureau), 7'. In: SAKAMOTO, Shigeki. (1997), 84.
[615] UN. (1967c), 295.
[616] UN. (1967c), 296.
[617] IWASAKI, Takashi. et al. (2010), 37.
[618] NATIONAL ASSEMBLY OF KOREA. (1965), 2.
[619] ibid. The translation is by the author.
[620] ibid. The translation is by the author.
[621] ARAI, Shinichi. (2012), 108.
[622] IWASAKI, Takashi. et al. (2010), 130. The translation is by the author.

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[623] [Online] Available from: http://www.overseaschf.or.kr.
[624] CULTURAL HERITAGE ADMINISTRATION. (2016), 377.
[625] KIM, Sam-woong. (1996), 60.
[626] The *Maeil Business Newspaper*. 31st December 2009.
[627] The *NEWSis*. 30th October 2009.
[628] KIM, Jeongdong. (1997), 74-75.
[629] ibid., 73. The translation is by the author.
[630] Prefectural University of Yamaguchi as of 2012
[631] KIM, Jeongdong. (1997), 74-75.
[632] NORTHEAST ASIAN HISTORY FOUNDATION. (2008) (Volume 2), 835-836.
[633] ibid., 836.
[634] KOOK, Sung-ha. (2005), 378.

[635] NORTHEAST ASIAN HISTORY FOUNDATION. (2008) (Volume 3), 863-864.
[636] ibid., 866.
[637] JEONG, Kyu-hong. (2005), 515.
[638] Am Yi: 1297-1364 AD.
[639] LEE, Seung-ryul. (2006).
[640] ibid.
[641] The *Seoul Newspaper*. 4th April 2006.
[642] The *Kukmin Ilbo* (*Kukmin Daily Newspaper*). 12th April 2006.
[643] LEE, Seung-ryul. (2006). The translation is by the author.
[644] ibid.
[645] The *Yeonhap News*. 17th November 2010.
[646] The *Hankook Ilbo* (*Hankook Daily Newspaper*). 18th November 2010.
[647] ibid.
[648] LEE, Seung-ryul. (2006).
[649] LEE, Jong-ho. (2006), 178-179.
[650] YI, Ku-yeol. (1996), 160
[651] LEE, Jong-ho. (2006), 178-180.
[652] YI, Ku-yeol. (1996), 159-160. The translation is by the author.
[653] JEONG, Kyu-hong. (2005), 513.
[654] The *Dong-A Ilbo* (*Dong-A Daily Newspaper*). 2nd June 2006.
[655] The *Kyunghyang Newspaper*. 10th February 2012.
[656] The *Weekly Kyunghyang*. 24th March 2006.
[657] The *Yonhap News*. 31st October 1998.
[658] HYEMOON (2007), 84.
[659] ibid., 82-84.
[660] ibid., 86.
[661] ibid., 80.
[662] ibid., 87.
[663] ibid., 83.
[664] ibid., 84.
[665] The *Korea Economic Daily*. 3rd July 2012.
[666] The *Kangwon Ilbo* (*Kangwon Daily Newspaper*). 27th June 2006.
[667] The *Segye Ilbo* (*Segye Daily Newspaper*). 1st June 2006. The translation is by the author.
[668] 'Seo' and 'Hak' in Korean mean 'Western' and 'studies' respectively.
[669] LEE, Ki-baik. (1995), 264.
[670] The *Kyunghyang Newspaper* (Seoul) 20th October 2001.
[671] The *Dong-a Daily Newspaper* (Seoul) 5th November 2011
[672] Lee, Ki-Baik. (1995), 264.
[673] The sea between Korea and China.

[674] Dossier No. 1045, Volume 852, 867, 869, Série BB4; *Correspondance Politique, Chine* (Volume 42) [Official document] Paris: Archives du Ministère des Affaires Etrangères and Archives Nationales Marine (French original source); PAIK, Chung-Hyun & YI, Tae-Jin. (1999), 19; The Korean translation of the French text is by the translators. The English translation is by the author.

[675] ibid.; PAIK, Chung-Hyun & YI, Tae-Jin. (1999), 20; The Korean translation of the French text is by the translators. The English translation is by the author.

[676] CONTEL, R., BANDLE, A. L. & RENOLD, M (2012) [Online].

[677] PAIK, C. (2002), 131. The translation is by the author.

[678] The *Kyunghyang Newspaper* (Seoul) 18 March 1992. The translation is by the author.

[679] *Le Monde*, 4th September 2014.

[680] TGV, ICE and Shinkansen respectively.

[681] The final contract was made with a French company in June 1994.

[682] The *Kyunghyang Newspaper* (Seoul) 15th September 1993.

[683] The *Joseon Ilbo* (Seoul) 15th September 1993.

[684] ibid. The translation is by the author.

[685] FALLETTI, S. (2010), __.

[686] President Mitterrand may have understood that two volumes were to be delivered, but the reason for only one volume being handed over is unknown.

[687] GLISSANT, E. (2004), __.

[688] *Le Figaro*, 17th July 2009.

[689] The *Kukmin Daily* (Seoul) 19th August 1997.

[690] Dossier No. 1045, Volume 852, 867, 869, Série BB4; *Correspondance Politique, Chine* (Volume 42); PAIK, Chung-Hyun & YI, Tae-Jin. (1999), 24. The translation is by the author.

[691] *La Libération*, 18th November 2010.

[692] YI, Tae-jin. (2010), 256.

[693] The *Dong-a Daily Newspaper* (Seoul) 25th July 2001.

[694] YI, Tae-jin. (2010), 243.

[695] CONTEL, R., BANDLE, A. L. & RENOLD, M (2012).

[696] YI, Tae-jin. (2010), 258.

[697] *Le Monde*, 12th November 2010.

[698] The *Kukmin Ilbo* (*Kukmin Daily Newspaper*). 12th November 2010. The translation is by the author.

[699] *La Libération*, 18th November 2010.

[700] http://jesigne.fr/declaration-personnels-bnf-sur-manuscrits-coreens#petition

"Amongst the first signatures:

Denis Bruckmann, conservateur général, directeur des collections, Thierry Delcourt, conservateur général, directeur du département des Manuscrits, Monique Cohen, conservateur général honoraire, ancienne directrice du département des Manuscrits, Sylvie Aubenas,

conservateur général, directrice du département des Estampes, Antoine Coron, conservateur général, directeur de la Réserve des livres rares, Michel Amandry, conservateur général, directeur du département des Monnaies Médailles et Antiques, Laure Beaumont-Maillet, conservateur général honoraire, ancienne directrice du département des Estampes, Gérald Grunberg, conservateur général, chargé des relations internationales, Catherine Gaziello, conservateur général, directrice du département Philosophie Histoire Sciences de l'homme, Jean Yves Sarazin, conservateur en chef, directeur du département des Cartes et plans, Catherine Massip, conservateur général honoraire, ancien directeur du département de la Musique, Thierry Grillet, délégué à la diffusion culturelle, Noëlle Guibert, conservateur général honoraire, ancienne directrice du département des Arts du spectacle, Josué Seckel, conservateur général, directeur du département de la recherche bibliographique, Anne Sophie Delhaye, conservateur en chef, adjointe au directeur du département des Manuscrits, Laurent Héricher, conservateur en chef au département des Manuscrits, Elizabeth Giuliani, conservateur général, adjointe au directeur du département de l'audiovisuel, Hélène Jacobsen, conservatrice générale, directrice du département du Dépôt légal, … "

[701] [Online, French version] Avaialable fom: http://jesigne.fr/declaration-personnels-bnf-sur-manuscrits-coreens#petition
[Online, English version] Available from: http://www.elginism.com/similar-cases/french-bibliotherque-nationale-staff-speak-out-agains-return-of-korean-manuscripts/20101208/3352/

[702] The *Art Newspaper*. 23rd December 2010.

[703] The *Yonhap News*. 25th November 2010.

[704] The *Cheonji Ilbo*. 19th November 2010.

[705] *La Libération*, 1st December 2010. (The translation is by the author).

[706] [Online] Available from: https://legimobile.fr/fr/lr/jorf/2011/5/18/2011-527/. (The translation of the French text is by the author).

[707] One of the Korean historical terms for 'royal archives'.

[708] *Le Figaro*, 24th November 2010.

[709] The *Yonhap News*. 14th April 2011.

[710] The *Cheonji Ilbo* (*Cheonji Daily Newspaper*). 11th June 2011. The translation is by the author.

[711] PAIK, Chung-Hyun & YI, Tae-Jin. (1999), 11.

[712] YI, Tae-jin. (2010), 248.

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[713] GILLMAN, D. (2011), 27.

[714] GILLMAN, D. (2001), 239.

[715] MERRYMAN, J. (1986), 831.

[716] PATTY, G. (2012), 625.

[717] MERRYMAN, J. (1986), 836-837.
[718] GILLMAN, D. (2011), 42.
[719] CARUTHERS, C. (1998), 155.
[720] MERRYMAN, J. (ed.) (2006), 11.
[721] COOMBE, R. (1998), 220.
[722] GILLMAN, D. (2011), 43.
[723] GERSTENBLITH, P. (2012), 629.
[724] CARUTHERS, C. (1998), 156.
[725] For example, the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (1970), the Convention on the Protection of the World Cultural and Natural Heritage (1972), the Convention on the Protection of the Underwater Cultural Heritage (2001), the Convention for the Safeguarding of the Intangible Cultural Heritage (2003) and the Convention on the Protection and Promotion of the Diversity of Cultural Expressions (2005).
[726] VAN KRIEKEN-PIETERS, J. (2010), 92.
[727] HOFFMAN, B. (ed.) (2006), 15.
[728] NAFZIGER, J. & NICGORSKI, A. (eds.) (2009), xx.
[729] VRDOLJAK, A. (2008), 210.
[730] NAFZIGER, J. & NICGORSKI, A. (eds.) (2009), xx.
[731] GREENFIELD, J. (1996), 312.
[732] ibid., 254-5.
[733] GILLMAN, D. (2011), 47.
[734] HOFFMAN, B. (ed.) (2006), 17.
[735] TOMAN, J. (2005), 15.
[736] VAN KRIEKEN-PIETERS, J. (2010), 90.
[737] HOFFMAN, B. (ed.) (2006), 3.
[738] MERRYMAN, J. (1986), 832.
[739] CHOE, Seok-yeong. (2014) *Museum, Cultural Heritage, and the Future.* [Interview]. 23rd May 2014. The translation is by the author.
[740] MORIMOTO, Kazuo. (2010), 789-790. The translation is by the author.
[741] AIGNER, C. (2007), 18.
[742] ICOM. (2010), 64.
[743] ICOM. (2000b), 246.
[744] ZANCHETI, S. M. (2002). 22.
[745] ERES, Z. & YALMAN, N. (2013), 40.
[746] ibid., 37.
[747] O'KEEFE, P. J. & PROTT, L. V. (1989), 163-164.
[748] RIECHEL, C. (2013), 55.
[749] BRINKMAN, M. (2009), 99.

[750] YIM, Dawnhee. (2009), 59.
[751] ARIZPE, L. (2010), 3.
[752] PETZET, M. & PEROT, J. (2003), 121.
[753] GALLA, A. (2009), 185.
[754] HANSON, K. (2013), 49.
[755] GERSTENBLITH, P. (2012), 625.
[756] PAI, Hyung-il. (2013), 137.
[757] Founded by Seong-gye Yi in 1392, the Joseon Dynasty is also referred as the Yi Dynasty for its ruling family although 'Joseon Dynasty' is an official term.
[758] WEISENFELD, G. (2000), 598.
[759] BRANDIT, K. (2000), 722.
[760] ibid., 711-712.
[761] GERSTENBLITH, P. (2012), 384.
[762] An example: 'A bilateral agreement between the United Republic of Tanzania and the Barbier-Mueller Museum (Geneva, Switzerland) was reached within the framework of discussions in the Committee that began in 2006 and included the Swiss authorities, the International Council of Museums (ICOM) and UNESCO's Secretariat, as well as the two parties concerned (Tanzania and the Barbier-Mueller Museum), these parties reached a bilateral agreement. The restitution ceremony took place under the aegis of ICOM and in the presence of UNESCO on 10th May 2010. It is an example of a 'Lipiko' Mask, the most recent style of Makonde Mask, which is characterised by its realism and its grotesque style. Until the 1960s, this type of helmet-mask was worn during male initiation ceremonies by dancers, who could see through the mouth of the mask. The sides of these masks have holes for strings with which they were attached to the dancers' costumes. The person is represented as wearing a hat, with protruding lips, a powerful nape, an angular jaw, a moustache and well-drawn nostrils. The mask was carved in light softwood. It is 30.5 cm high'. (Information Kit, *the Fight Against the Illicit Trafficking of Cultural Objects, the 1970 Convention: Past and Future.* Paris, UNESCO Headquarters, 15th and 16th March 2011. CLT/2011/CONF.207/6. p.29).
[763] PAI, Hyung-il. (2000), 13.
[764] MERRYMAN, J. (ed.) (2006), 11.
[765] LEE, Jae-kyoung (2011), 309.
[766] CARUTHERS, C. (1998), 156.
[767] ibid., 156.
[768] Japan joined the 1954 Hague Convention and its First and Second Protocols in 2007. The Republic of Korea is officially considering joining the Convention and its Protocols.
[769] Both the Republic of Korea and Japan joined the 1970 UNESCO Convention in 1983 and 2002 respectively.
[770] Neither the Republic of Korea nor Japan has joined the 1995 UNIDROIT Convention yet.
[771] GREENFIELD, J. (1996), 296.

[772] O'KEEFE, P. J. (2000), 14.
[773] PROTT, L. V. (2011), 183.
[774] UNESCO. (1997), 50.
[775] VRDOLJAK, A. (2008), 211.
[776] UNESCO. (2011), 18.
[777] KOWALSKI, W. (1998), 83.
[778] ibid., 83.
[779] UNESCO. (2011), 18.
[780] ibid, 19.
[781] SHYLLON, F. (1998), 116.
[782] ibid.
[783] Qin, C. (2010), 108.
[784] MERRYMAN, J. (ed.) (2006), 11.
[785] ibid., 12.
[786] PROTT, L. V. (ed.) (2009), 43.
[787] O'KEEFE, P. J. (2000), 122.
[788] ibid.
[789] MAURER, E. (1997), 142.
[790] RICH, L. (2000) Heir to Get Painting Confiscated by Nazis. The *Intermountain Jewish News*. 10th November. Available from: http://www.jweekly.com. [Accessed: 1st May 2014].
[791] PALMER, N. (2009), 367.
[792] PROTT, L. V. (ed.) (2009), 405.
[793] ibid., 406.
[794] KAMPITS, P. (2007), 47.
[795] ibid., 48.
[796] KORKA, E. (2008), 192.
[797] ibid., 187.
[798] PROTT, L. V. (2011), 182.
[799] ibid., 183.
[800] The *Yonhap News*. 11th September 1990.
[801] The *Kukmin Ilbo* (*Kukmin Daily Newspaper*). 12th May 2011.
[802] BOYLAN, P. & VICKY, W. (2006), 20.

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[803] The *Maeil Business Newspaper*. 10th May 2010.
[804] CULTURAL HERITAGE ADMINISTRATION. (2007), xi.
[805] PROTT, L. V. (2011), 178-180.
[806] ARAI, Shinichi. (2012), vi-vii. The translation is by the author.