

# Public Administration and the Laws of Silla from the 3rd–5th Centuries

KIM Chang-seok

## Abstract

*In the early Silla period from the Saro state until the isageum era, vassals would administer state affairs under the direct orders of the rulers of small states and report the results to them. The vassals had no definite missions or roles, with the ruler entrusting tasks to any vassal as the occasion demanded and at his own discretion. The arbitrary directives and administration by the ruler and vassal groups were subject to regulations under the laws of the small states. As the jurisdiction of laws was confined to the state involved, the ruler of Saro was limited in his control and administrative policies vis-à-vis the small states of the Jinhan Confederacy, even after Saro became the leading state of that confederacy. During the rule of the maripgan (great chief), the decisions made at collective deliberation (gongnon 共論) sessions were announced in the form of royal instructions, which in turn were implemented as ordinances. Bureaucrats in charge of certain tasks emerged, and the public office administering financial and logistical affairs was established during this period. Administrative ordinances (gyoryeongbeop 教令法) were the legal basis of the state administration during the reign of the maripgan. As administrative system gradually settled at the central and local provinces, the administrative ordinances began to be enforced at the six central polities and local villages, affecting the residents in the provincial areas.*

**Keywords:** Silla, Saro state, public administration, vassals, laws, legal codes of small states, instructions, ordinances, penal and administrative codes

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## Introduction

It was during the third to fifth centuries that the Saro state, one of the small states of the Jinhan Confederacy, was developing into an ancient kingdom. According to the *Samguk sagi* 三國史記 (History of the Three Kingdoms), the state of Silla during this same period was led by rulers called *isageum* 尼師今 and *maripgan* 麻立干.<sup>1</sup> However, they did not enjoy control over the entire territory of the Jinhan Confederacy, with some allied polities around Gyeongju just indirectly governing the area east of the Nakdonggang river.

With *isageum* and *maripgan* at the center of power, administrative policies on logistics and security matters were implemented under the binding power of early legal codes. With the implementation of an administrative system, Silla established its central authority from the early sixth century. As the period from the third to the fifth century is deemed the infancy of Silla, research on this period helps us understand the growth and emergence of the centralized Silla state.

However, there have been few detailed studies on how the early Silla government administration functioned; who and what kinds of offices were in charge of public administration; and what kinds of laws supported that administration. Past studies on the ancient Korean states went no further than examining their early government offices, at best (C. J. Kim 1975; Inoue 1974; I. Yi 1993). Most studies of the legal system of Silla have focused on the promulgation of penal and administrative law codes, with the aim of determining their original features and exploring how they contributed to the establishment of kingly authority (B. Jeon 1968; Takeda 1971). However, they failed to note the concrete content of the codes themselves, or the correlations between the codes and functioning of the administrative system.

Public administration can most generally be defined as the government activity undertaken to fulfill the purpose of a state or common good. It was not until the rule of the *maripgan* in the late fourth century that Silla began to assume the shape of a kingdom, and government offices started to perform their roles. In contrast, the Saro state, the predecessor of Silla, estab-

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1. Rulers of Silla had various titles, including *isageum*, *maripgan*, *wang*, and *yeowang*.

lished its government offices as early as the third century, and its rulers operated their own organizations to exchange goods or information, or to stage wars with, other small states. Incipient forms of public administration already appeared prior to the early fourth century, and the legal system is deemed to have been in operation in close conjunction with the administrative functions of these public offices.

Based on the *Sanguozhi* 三國志 (Records of the Three Kingdoms), the *Samguk sagi* 三國史記 (History of the Three Kingdoms), and stele inscriptions of the sixth century, this article will explore the public administration and legal codes of the Saro state in the early Silla period. I hope this study might shed light on the governance, built on the legal codes of Silla, prior to that state's promulgation of the penal and administrative law code in 520.

## Early Public Administration and Laws of Small States of the Jinhan Confederacy

### *Vassals and the Origins of Public Administration*

Commencing with the use of bronze instruments in the southern region of the Korean peninsula before 300 BCE, a hierarchical order emerged among the tribal settlements there, with political leaders appearing within the villages. It was likely at this point that primitive administrative practices began in these settlements. When the state of Gojoseon collapsed in 108 BCE, some of its refugees headed southward and were accommodated by the Jinhan Confederacy in the southeastern portion of the Korean peninsula.<sup>2</sup> The advanced cultural products of Gojoseon's iron civilization stimulated Jinhan society. This advanced culture included administrative practices, which were

2. "Sijo Hyeokgeose geoseogan 始祖赫居世居西干" (The Founder, Geseogan Hyeokgeose), in *Samguk sagi, gwon* 1. This section also states: "先是朝鮮遺民分居山谷之間爲六村... 是爲辰韓六部" (Prior to this, the refugees from Gojoseon had been living in mountainous valleys, forming six villages... They became the six *bu* of Jinhan). The influx of Gojoseon culture into Jinhan is proved by the archaeological evidence of iron relics of Gojoseon excavated in Joyang-dong, Gyeongju.

integrated with the traditional administrative culture of Jinhan. Following the introduction of Gojoseon culture, towns as well as small states, including Saro, were formed, and the imported administrative culture played a pivotal role in their governance.

Around the Dihuang 地皇 year of the reign of Wang Mang 王莽 [20–23 CE], Yeomsachi 廉斯繼 became *ugeosu* 右渠帥 [chieftain of the western region] of Jinhan. Upon learning that the Lelang Commandery had fertile lands and a prosperous economy, he sought asylum in that commandery. After leaving his town, he saw a man chasing a sparrow but who did not speak the language of Jinhan. Upon Yeomsachi's inquiry, he said, "I am a Chinese [Han 漢], and my name is Hulai 戶來. While cutting and gathering wood, 1,500 of us were taken captive by Koreans [Han 韓]. We all had our heads shaven and were enslaved for three years." Yeomsachi told him, "I am going to surrender to Lelang. Will you join me?" The Chinese said, "Yes, I shall." Accompanied by Hulai, Yeomsachi arrived at Hanzi prefecture 含資縣 in Lelang Commandery. After the prefecture reported his defection to the commandery, the Chinese employed Yeomsachi as a translator and went on a large ship pushing through the waterweeds to Jinhan. They took over 1,000 Chinese from Jinhan, but the remaining 500 had already died. Yeomsachi told the Jinhan people, "Hand the 500 people over to the commandery, or a ten-thousand-man Lelang army will attack you." The Jinhan officials said, "Now that the 500 have already died, we will duly compensate for them." Jinhan turned 15,000 Jinhan people over to the Chinese commandery and 15,000 rolls of hemp cloth made in Byeonhan.<sup>3</sup>

According to this record, Jinhan took captive some 1,500 people of the Lelang Commandery, shaved their heads, and forced them into hard labor, under which some 500 died. As the commandery lodged a complaint against this, Jinhan handed over the surviving captives as well as some of their own people and hemp cloth as compensation. Here, Jinhan does not refer to the confederacy encompassing all the small states, but to a strong

3. See "Han 韓" in "Wuhuan xianbei dongyi zhuan 烏丸鮮卑東夷傳" (Biographies of the Wuhuan, Xianbei, and Dongyi), in *Sanguozhi*, vol. 30.

state near the Lelang Commandery, which wielded dominant power over its neighbors. This small state has not yet been identified, but is presumed to have possessed a military force and manpower enough to take the residents of the Chinese prefecture and commandery captive.

When there is a national project or a need to build a fortress under the control of offices, young and robust men would shoulder thick ropes and do spadework with long wooden spades. In spite of toiling all day long, they do not feel exhausted, but rather enjoy the work. They encourage hard work and are proud of it.<sup>4</sup>

Young men would be mobilized to public work projects or to construct fortresses in the small states. In particular, “public offices” are known to have supervised such construction projects. The “offices” here, it seems, refer to the capital town of the state where the ruler resided or the buildings where the vassals stayed, instead of a certain public office. In spite of their administrative function, the small states did not have systems of governance as seen in ancient kingdoms. Political leaders existed in the capital towns but had no control over neighboring smaller towns.<sup>5</sup> The government offices in charge of specific affairs had yet to be established.

During the Jinhan period, the subjects under the ruler, that is, vassals were at the forefront of public administration. In Goguryeo, *saja* 使者, *joui* 皂衣, and *seonin* 先人 who served kings or tribal chieftains (*daega* 大加) must have played the role of vassals. Subject to the ruler, they served as counselors on pending issues or executed orders given by rulers. In the “Silla bongi 新羅本紀” (Annals of Silla) of the *Samguk sagi*, they were called “aides” (*jwau* 左右), “messengers” (*sain* 使人), or “advisors” to the king.

During the rule of the *isageum*, starting from the mid-third century,<sup>6</sup>

4. “Wuhuan xianbei dongyi zhuan,” in *Sanguozhi*, vol. 30.

5. “其俗少綱紀 國邑雖有主帥 邑落雜居 不能善相制御” (“Wuhuan xianbei dongyi zhuan,” in *Sanguozhi*, vol. 30).

6. According to the chronology of the *Samguk sagi*, the first *isageum*, Yuri 儒理, took the throne in the early first century, but it is more reasonable to date the *isageum* era to around the mid-third century (Kang 2000, 46). As is well known, there has been much discussion about how to readjust the chronology of the early part of the *Samguk sagi*.

Saro emerged as a leading state of the Jinhan Confederacy after consolidating the diverse tribal groups inside of itself. As Saro absorbed the rulers of the neighboring small states, its vassal group was expanded.

The king heard a rooster crowing in the Sirim 始林 forest in western Geumseong 金城. After the day broke, the king sent Hogong 瓠公 to the forest, and he found a golden chest on a branch and a white rooster crowing underneath it. As Hogong reported it, the king sent for the chest and ordered him to open it.<sup>7</sup>

Hogong, who was active during the reign of Hyeokgeose, the founder of Silla, is known to have come from Japan with a gourd on his waist, thus his name, Hogong (Mr. Gourd).<sup>8</sup> This folktale to the letter is hardly trustworthy, but it is certainly feasible that Hogong was a foreigner, who came to Korea by sea.<sup>9</sup>

Hogong was trusted by the *isageum* to such extent that he was given the royal order to make a field report directly to the ruler about the scene of the first appearance of Kim Alji, who is recorded as having been born from the golden chest. Hogong was promoted to the highest vassal post (*daebo* 大輔) in recognition of his administrative caliber. Though hardly verifiable, he is known to have been dispatched to Mahan as a delegate during the reign of Hyeokgeose. These tales are indicative of the various activities of Hogong, who managed domestic and diplomatic affairs.

The public administration of early Silla from the Saro period to the period of the *isageum* reign is characterized by the activities of vassals, like Hogong, who were given direct orders by the rulers and reported the results

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However, no definitive conclusions have been reached in academic circles. Therefore, this author follows the opinion of Kang Jong-hun as the most reasonable.

7. "Talhae isageum 脫解 尼師今," in *Samguk sagi, gwon* 1, 9th year of Isageum Talhae's reign.
8. "Sijo Hyeokgeose geoseogan," in *Samguk sagi, gwon* 1, 38th year of Geoseogan Hyeokgeose's reign.
9. In ancient Korea and Japan, gourds were used as floatation devices. As late as the Japanese occupation of Korea (1910–1945), the *haenyeo* (women divers) of Jeju Island still used large gourds. The Japanese female divers in Shima 志摩 are known to have used gourds when collecting pearls (Nishimura 1930, 266).

of their mission to them. They had no fixed assignments, and missions were given to anyone fit for the job as the occasion demands. Therefore, personal ties with the ruler counted most in the assignment of duties, with trustworthy vassals attending to any kind of crucial affairs. Public administration was yet to be professional and segmented at that time. It was another characteristic of the time that *isageum* directly intervened in public administration by making fact-finding efforts, seeking solutions, and issuing orders.

### *Laws of Small States and Control over Confederate States*

In the early period of Silla, what was the basis of administrative interaction between the *isageum* and vassals, among vassals, and between vassals and the regional groups, including the six major polities in the capital town of Silla? Silla had no systematic legal code until the promulgation of such by King Beopheung (r. 514-540). Prior to this, public administration was based on the decisions and orders of the ruler, which were subject to the common laws, morals, customs, and cultural norms formed since the Bronze Age (C. J. Kim 1975). In the absence of precedent, they would have come up with creative ways of administration, but the new administrative acts would still have depended upon traditional practices or customs.

Let us call the common laws and regulations, applied to the small states during the Saro era before the early third century, as the laws of small states (*sogukbeop* 小國法).<sup>10</sup> The arbitrary orders of rulers or informal administrative acts by vassals in small states would have been subject to these laws. In the earlier Bronze Age, theocracy reigned supreme, with religious practices not separated from politics. Under the influence of theocracy, punishment was meted out in a religious fashion, and crimes faced the collective punitive action of the community. The most salient characteristic of the laws of small states was that their effects were limited to the state concerned (C. S.

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10. Small states are political entities based on iron culture. More than ten small states formed the Jinhan Confederacy, one of them being Saro. The laws of small states refer to the individual legal codes produced and enforced by each small state.

Kim 2010, 176–184).

Because of the geographic limitations of these laws of small states, the rulers of Saro were limited in their control over the confederate states and the implementation of policies. The following is an example of this:

In the eighth lunar month, the states of Eumjeupbeol 音汁伐 and Siljigok 悉直谷 were embroiled in a territorial dispute, and they asked the king of Silla to pass a judgment on it. The [Silla] king found it difficult to make a decision on the case, so he invited King Suro of Geumgwan Gaya, who was old and known to be wise, and asked him to pass a judgment on the case. King Suro gave a verdict that Eumjeupbeol state should occupy the disputed land. Upon the decision, the Silla king issued an order to the six polities that they throw a banquet for King Suro. All of the five polities sent officials of the rank of *ichan* 伊飡 to the banquet, but the Hangibu 漢祗部 alone sent one of lower rank. Infuriated at this, King Suro had his *nobi* 奴婢 Tamhari 耽下里 slaughter Boje 保齊, the ruler of the Hangibu.<sup>11</sup>

During the rule of Isageum Pasa, Eumjeupbeol, a small state in Angang, Gyeongsangbuk-do, and Siljigok, another small state in Samcheok, Gangwon-do, failed to resolve their territorial dispute and asked Saro to give judgment on the case. The *isageum* entrusted the case to the head of Gaya Confederacy, and the latter allowed Eumjeupbeol state to occupy the disputed territory. The reason the two states had failed to mutually settle their dispute was because they each had their own laws without a common judicial system. Most of the small states of the Jinhan Confederacy are deemed to have possessed their own legal systems. Until the reign of the *isageum*, Saro's public administration system seems to have coexisted with the administrative orders of other small states. In this situation, even though Saro was a leading state of the confederacy, its administrative orders could not govern the other small confederate states.

However, the fact that the two states requested Saro to issue a ruling on their case is evidence that the culture of Saro was more advanced than that

11. "Pasa isageum," in *Samguk sagi, gwon* 1, 23rd year of Isageum Pasa's reign.



of the other states. Thanks to the superior position of Saro, its ruler could gradually expand that state's administrative power over its neighbors.

## Collective Deliberation during the Reign of the *Maripgan* and Administration Based on Royal Instructions and Ordinances

### *Procedures and Structure of Collective Deliberation*

As a leading member of the Jinhan Confederacy, Saro attempted to strengthen its control over the small states. It required a change in the governance of Saro to establish out of the Jinhan Confederacy an ancient kingdom. It was difficult to govern the diverse regional groups of Saro, let alone the polities within the confederacy, with the *isageum* system of governance, as the *isageum* position was rotated among the heads of the loosely allied tribal groups, while the public administration was entrusted to the vassals.

Noteworthy in the efforts to overcome the limitations of this type of leadership was the installation of the Namdang 南堂 (South Hall Council), during the reign of Isageum Cheomhae. The *Samguk sagi* records that Cheomhae served as *isageum* in the mid-third century, but a more precise calculation of the chronology would put his reign around the mid-fourth century, when the *isageum* era was drawing to a close. The religious and political practices had already been separated in the Saro era, and the Namdang was established as a political apparatus at that time.

Literally, Namdang refers to the office in the south attending to political affairs (B. Yi 1954). Here “Isageum Cheomhae was said to have learned about political affairs.”<sup>12</sup> Therefore, Namdang was not a name of a certain public office, but a conference apparatus to deliberate on state affairs, or a building where such deliberations were held. The conference system is presumed to have been maintained until the *maripgan* era (fourth to early sixth centuries), at the latest, when it was called the Conference of Elders (*jegan hoeui* 諸干會議), as it was joined by chieftains, including the *marip-*

12. “Cheomhae isageum,” in *Samguk sagi*, *gwon* 2, 5th year of Isageum Cheomhae's reign.

*gan*. Here, the *gan* 干 represented each of the six polities, with the highest *gan* presiding over the conference as the *maripgan*. However, not all of the six *gan* attended the conference, with the participants in the conference varying depending on the importance of the agenda or what polities were concerned with the given issue.

Naengsu-ri Stele in Pohang was erected in 503 (4th year of King Jijeung's reign), at the end of the *maripgan* era. The inscription on the stele records the result of discussions among King Jijeung and the chieftains of four polities on how to settle property disputes. Let us examine the inscription to find out how the public discussion was held.

The instruction of King Sabuji and King Naeji of the Hwebu 喙部 of Sara 斯羅 served as proof that Jeolgeori 節居利 of Jinima 珍而 Village was entitled to the property. On the 25th day of 9th lunar month of the *gyemi* year, seven heads of polities—Galmunwang Jidoro, Aganji Sadeokji, and Geobeolganji Jasukji of the Sahwebu 沙喙部; Ilganji Ibuji, and Geobeolganji Jisimji of the Hwebu; Ganji Dubokji of the Bonpibu 本彼部; and Ganji Mosaji of the Sapibu 斯彼部—held a discussion and issued an ordinance that all the properties belong to Jeolgeori under the instructions of the two kings of the previous era.

They also issued another instruction that properties shall be owned by Sano 斯奴 of the Jeolgeori family, if Jeolgeori dies. In another order, Malchu and Sasinji were supposed not to raise a dispute over the properties again. The instruction had it that if they raised a dispute, they would be subject to severe punishment. The working-level officials (*jeonsain* 典事人), involved in the case, were Nama Ilbuji, Dorobul, and Suguhyu of the Sahwebu, magistrate Tamsu and Simjagong of the Hwebu, Sabu, and Nasari of the Hwebu, and Sonaji of the Sahwebu. As the seven officials concluded the case by sacrificing a brindled cow and announcing the results, the proceedings of the case are recorded here as such. Now that the leaders of the village, Ganji Yuji and Ilgeumji Suji, completed the assignment that year, it is recorded here as such.

Malchu and Sasinji claimed their rights to the property of Jeolgeori and lodged a complaint to the leader of the town. They reported the case to the

*dosa* 道使 (local magistrate), who reported it to the central government, asking for settlement of the case.

The officials at the central government reviewed the case and reported proper measures to the *maripgan*, who in turn decided to convene the Conference of Elders, while at the same time ordering a fact-finding probe into the matter. After the probe, messengers were sent to the polities to convene a conference. The *maripgan* issued a verdict after discussions with polity leaders and agreed with them on how to settle the case.

It was in the fifth century, when the *maripgan*'s governance was somehow established, that this complicated but orderly administrative procedure was introduced. However, when the Namdang was established in the mid-fourth century, the polity leaders would have attended, discussed the crucial issues, and made decisions at the Conference of Elders in a similar way. There was an apparatus similar to the Namdang when Saro was leading the Jinhan Confederacy in the *isageum* era. In each small state, as well as Saro, administrative affairs were discussed in the local communities and towns. However, during the *isageum* era, membership in the discussion group seems to have been confined to the heads of communities and their vassals.

During the era of the *maripgan*, the leaders of the new polities, called *bu* 部, made decisions on administrative affairs in their own meetings. The diverse local communities of the Saro state were reorganized into six polities. The leaders and their vassals were in charge of public administration within the polities. However, suprapolity issues were referred to the Conference of Elders.

The *isageum* in the late fourth century and the *maripgan* in the fifth century could obtain support on issues of war and trade from the six polities through the Conference of Elders at the Namdang, or such crucial case as the one recorded on the Naengsu-ri Stele in Pohang. With the affiliation with heads of the polities, the confederacy could secure a firmer grip on its diverse local communities, and through military cooperation with the six polities, it could annex and strengthen its control over other small states. The Jinhan Confederacy led by Saro emerged as a kingdom in the late fourth–early fifth centuries.

### *Characteristics and Functions of Early Government Offices*

In the mid-third century, public administration of Silla underwent changes with the consultative system of the six polities introduced by the Namdang.

Budo 夫道 of the Hangibu was widely known for his moral uprightness, calligraphy, and calculation skills though being poor. The king appointed him to the rank of *achan* 阿滄 in charge of the Muljanggo 物藏庫 warehouse.<sup>13</sup>

As Budo was from the Hangibu, he could not have been appointed by Isa-geum Cheomhae without the consent of the leader of the Hangibu. He is deemed to have been a professional financial official, because he was known to be good at record keeping and calculation.

Earlier, vassals were in charge of public administration, and they were given assignments in accordance with their personal ties and confidentiality with the rulers rather than their professional capabilities per se. However, this gave way to the merit system under which the ruler appointed experts, regardless of their affiliated polity. This in turn led to the birth of specialized bureaucrats, distinct from the earlier vassal group. As the assignments increased and diversified, the scope of administrative affairs expanded, resulting in the establishment of formal government offices.

Noteworthy is the fact that Budo was skilled at record keeping and calculation. Supposing that public administration is conducted in the procedure of “order, execution of the order, and report of the results,” good record keeping may contribute to the effective and accurate execution of duties. Considering the inflow of refugees from Gojoseon, and the exchanges with the Chinese Lelang and Daifang Commanderies, the Chinese characters are presumed to have been introduced, at least partially, to the Jinhan Confederacy at this time. However, the use of Chinese characters was confined to the names of persons and things, numbers, or religious well-wishing phrases and incantations. It was not until the late *isageum* era in the mid- and late fourth century that Chinese characters began to be used in daily affairs (Song 2002; S. Yi

13. “Cheomhae isageum,” in *Samguk sagi, gwon 2*, 5th year of Isageum Cheomhae’s reign.

2003; Ju 2001). As Budo was in charge of the management of the royal warehouse, he was required to keep records of the items brought in and out and be proficient in using Chinese characters to record the results of calculation.

The earliest identifiable government office of Silla is the Dongsijeon 東市典 (Eastern Market Office). According to the *Samguk sagi*, it was established in 508 (9th year of King Jijeung's reign) to oversee the market to the east of Wolseong 月城, the royal palace of Silla. There may have been other government offices predating the Dongsijeon, but they do not appear in the extant historical record. The aforementioned Budo, the earliest known bureaucrat of Silla, was an official in charge of the logistics facility, Muljanggo. This indicates that the distribution of supplies via the market and warehouse for the royal court and residents of the capital constituted some of the most important administrative functions as the Jinhan Confederacy was being shaped into an ancient kingdom.

Meanwhile, there are indications of a government office established earlier than the Dongsijeon. The Pumju 稟主 (Logistics Office), the predecessor of the Jipsabu 執事部 (State Secretariat) established in 651 (5th year of Queen Jindeok's reign), seems to have been instituted earlier than the Dongsijeon. Judging by the character *pum* 稟, which means “storage” as well as “dare to speak,” Pumju must have been an apparatus of early Silla attending to the political and financial affairs of the monarch (Lee 1964). Some scholars date its origin to the reign of King Jinheung (r. 540–576), but it is presumed to have been established in the early *maripgan* period, considering the warehouse and financial system of the early Silla (C. S. Kim 2001).

Originally, the Pumju was known as the Joju 祖主. As the character *jo* 祖 means “ancestral tablet” or “altar,” the Joju's mission was to secure and store supplies used in the state-organized ancestral rites. So great an emphasis did Silla place on rituals to worship heaven and the ancestors, that it built a shrine for the founder Hyeokgeose and allowed his sister to preside over the ancestral rituals there during the reign of Chachaung Namhae in the Jinhan Confederacy period.<sup>14</sup> From the late *isageum* period, the Joju is presumed to have attended to the political and financial affairs in its close

14. “Jesa 祭祀,” in *Samguk sagi*, *gwon* 32.

ties with the monarchy and then rechristened as Pumju. It may be at that point that the Pumju referred to a government office, not rank, and the officials attached to it increased.

From the *maripgan* period till the mid-sixth century, the Pumju emerged as the highest office by expanding its functions. During the reign of Queen Jindeok (r. 647–654), the Changbu 倉部 (Warehouse Office) was separated from the Pumju, which was abolished after being reorganized into the Jipsabu. Therefore, the Pumju is believed to have performed elementary political and administrative functions, while serving as a storage facility and financial service organ as well as being partly involved in the state-organized ancestral rites.

However, as it originated as the organ supplying the materials required for ancestral rites and distributing state supplies, its establishment had something in common with the appointment of Budo as a government official during the reign of Isageum Cheomhae and the opening of the Dong-sijeon during the reign of King Jijeung. It is noteworthy that government offices of the early Silla have their origins in government logistics and financial services, while also performing some religious functions. Silla government offices expanded their functions later, but with their organization yet to be systemized and segmented, they continued to lack professional bureaucrats. In addition, vassals still were in charge of administrative affairs of the government offices.

### *The Issue and Implementation of Instructions and Ordinances*

The decisions on significant state affairs or pending issues made at the Conference of Elders were delivered in a form of *gyo* 教 (instruction). These took concrete shape when issued as ordinances (*ryeong* 令)<sup>15</sup> by the con-

15. One view holds that the *ryeong* 令 (ordinance) of the Three Kingdoms period was basically the same as the *gyo* 教 (royal instruction), with the only difference being that the former had eternal legal effect while the latter did not (Hong 2013, 96–101). However, *ryeong*, used as a legal term in stele inscriptions and on wooden slips (*mokgan* 木簡), was an execution order based on a *gyo*. The possibility exists that the ordinances during the reign of *maripgan* were more than mere orders or instructions and had the same legal effect as a royal instruction, but this is difficult to prove based on surviving historical records.

cerned government offices, officials, or vassal-turned-officials. On certain occasions, these were integrated and issued as “instruction-ordinances.” The ordinance was executed by working-level officials. There were more cases of instructions issued unilaterally by *maripgan*, but they were also implemented in the basic order of “instruction, ordinance, and execution.”



**Figure 1.** *Left*, Jungseong-ri Stele in Pohang; *right*, its rubbing.

*Source:* Gyeongju National Research Institute of Cultural Heritage (2009).

Let us now examine the inscription on the Jungseong-ri Stele in Pohang to better determine the procedures for the implementation of royal instructions. Most scholars presume that this stele was erected in 501 (2nd year of King Jijeung’s reign) (U. Yi 2009; D. Jeon 2009a; Ju 2012), though some claim it to be 441 (25th year of King Nulji’s reign) (M. Yi 2009; Yoon 2012). Whichever is correct, it is certain that the stele dates to the *maripgan* period. There are also different views on the meaning of its inscription, but there is a wide consensus that it records how the government office in the capital issued a verdict and took measures on a dispute over certain interests in Pohang, and then issued a warning against the recurrence of similar disputes. It is deemed as a sort of proclamation posted at the area where the

dispute first arose.

A synopsis of the inscription is as follows. A plaintiff reported his case to the polity to which he belonged, and that polity filed a complaint against the defendant and his polity. The *maripgan* convened the Conference of Elders, issued a verdict on the case along with an instruction on how to settle the case. In the case recorded on the stele, the *maripgan* had his official directly investigate the case, separately from the Conference of Elders, and held a hearing with the plaintiff and defendant, because it was a very complicated case without precedent. The instruction was delivered to the local magistrate (*dosa* 道使) of the region, who issued an ordinance for the leaders of the communities to execute it.<sup>16</sup>

The administrative order found in the inscription on the Naengsu-ri Stele erected in 503 (4th year of King Jijeung's reign) presents a similar case. Seven leaders of the polities, including King Jijeung, held a meeting and issued a ruling. It was delivered by the administrative official (*jeonsain*) to the village headman (*chonju* 村主), who was tasked with its execution. It is unclear in this case if the instruction took the concrete form of an ordinance, but the administrative official is believed to have given an ordinance to the village headman, given the procedure of executing the ruling.

It is the Goguryeo Stele in Ji'an in China that contains the earliest instruction among the existing stele inscriptions and wooden slips (Ji'an City Museum 2013; Ye0 2013; Yun 2013). During the reigns of Maripgan Naemul and Silseong, when Silla had close ties with the state of Goguryeo, the instruction-ordinance system of Goguryeo was introduced to Silla, thus establishing the legal system of administrative ordinances (*gyoryeongbeop* 教令法) of Silla. This refers to the administrative laws, called *ryeong* (ordinances), that took effect based on *gyo* (instructions) issued by the highest rulers, including kings (C. S. Kim 2010, 202–206).

Promulgated as a royal instruction (*wanggyo* 王教)—or issued after collective deliberations (*gongnon* 共論)—during the reign of a *maripgan*, the

16. Though controversies persist about how to read and interpret the stele's inscriptions (C. S. Kim 2009), no major dispute has been raised regarding its described procedure for issuing and executing the ruling.



instructions (*gyo*) began to take effect through the ordinances issued by concerned offices or officials at the central six polities, as well as affecting other local communities and residents. The instruction began to take effect widely thanks to the ruler's efforts to take greater control over the local communities by reorganizing the central administrative system and dispatching magistrates to some strategic points and governors to larger communities or fortress areas, as well as by appointing community leaders as village heads.

### **The Importance and Limitations of the Public Administration and Laws of the Fifth Century**

Silla's code of laws (*yullyeong* 律令) was promulgated in 520 (7th year of King Beopheung's reign). It was a turning point in public administration. As the state's administrative action secured a legal basis with the code, it could have a more effective and stronger effect.

It is evident that the code was influenced by the Chinese legal system. There have been numerous speculations about the origin of the Silla code, with the Taishi law (Taishilu 泰始律) of the Western Jin (B. Jeon 1968), Goguryeo law code (Roh 1979), and Tianjian law (Tianjianlu 天監律) of the Liang dynasty of China (Ju 1989) all cited as models for the code of Silla. Studies on the procedure to establish the Silla code have confirmed that elements of foreign legal systems were added to the code, whose main part was constituted by traditional native norms since the theocracy.

The local character of the laws of small states, whose effects were confined to the small state in question, gradually dissolved during the *isageum* period. This coincided with the emergence of Saro as a leading state of the Jinhan Confederacy. For instance, there is a record of clemency for the prisoners of other small states during the reign of Isageum Nahae of Saro/Silla:

Drought persisted during the spring and summer. A messenger was sent to the capital towns of the *gun* 郡 [small states] to free all prisoners, except

for those felons sentenced to death.<sup>17</sup>

For the starving people, the state storehouse was thrown open to relieve them. In the 10th lunar month in winter, the criminal records of those prisoners both within and outside the state were reexamined, and minor offenders were released.<sup>18</sup>

The *gun* 郡 in the first record above was a term borrowed from a later period, as *gun* had not yet been established at this period. The term actually refers to the small states, annexed later to Saro. These states are also what is meant by the “outside” in the second record above. Here is a case, as early as the early fourth century, wherein the Saro code was applied to neighboring states to release prisoners there.

The laws of small states were integrated into the code of Saro, and thereafter Silla, in the *maripgan* period. The code of administrative law of Silla was established by compiling the instructions and ordinances issued irregularly, based on the theocracy of the Bronze Age and the laws of small states during the Saro state period. Therefore, it is characterized as a special law to resolve pending issues or settle certain cases. In the case of the Naengsu-ri Stele in Pohang, Maripgan Jijeung referred to the rulings given during the reigns of Maripgan Silseong and Nulji to resolve the dispute. This precedent was used as a standard to determine the ownership of property. It testifies to the fact that the earlier ordinances were utilized as judicial precedents.

The earlier instructions and ordinances could serve as precedents as they were recorded in characters. It is not known whether they were inscriptions such as those on Jungseong-ri and Naengsu-ri Steles in Pohang or written on wooden slips or paper. The announcement of the instructions and ordinances through the inscriptions was designed to preserve the records of administrative acts over a long period and to demonstrate the effects of state administrative measures to the people. The theocratic codes and the laws of small states are likely to have been common laws, judging

17. “Nahae isageum,” in *Samguk sagi, gwon 2*, 15th year of Isageum Nahae’s reign.

18. “Nahae isageum,” in *Samguk sagi, gwon 2*, 31st year of Isageum Nahae’s reign.

by the historical conditions. In contrast, the instructions and ordinances in the form of statute laws were more reliable in that they were documented, thus barring their arbitrary application.

However, the public administration and legal system during the *maripgan* period also exposed their limitations. The administrative system was yet to establish a consistent hierarchical order, to say nothing of the lack of central and local administrative units. Judging by the Jungseong-ri Stele, Bonpibu, involved in the dispute, dispatched its two *gan* 干 (leaders) and the village head in charge of the execution of the ruling—who was also called *gan* and had his own vassals. In the early sixth century—the late *maripgan* period—local villages as well as diverse polities were maintaining their own administrative systems, though they varied from that of the Jinhan Confederacy. This served as an obstacle to the implementation within other polities and local villages of the instructions and ordinances issued by the central Silla government.

It might be the code of laws promulgated during the reign of King Beopheung that overcame the limitations of the earlier legal system. As special laws, the instructions and ordinances had their shortcomings, and the code of laws is deemed to have organized them into a general statute. The law on servants (*noinbeop* 奴人法) in the inscription on Bongpyeong Stele in Uljin, erected in 524 (11th year of King Beopheung's reign), and the law on land management (*jeonsabeop* 佃舍法) on the Jeokseong Stele in Danyang, erected around 550, were articles of the Silla code, which had subordinate clauses and precedents. Whereas the conventional judicial system depended upon the automatic application of precedent, the Silla law code paved the way for standardized and systematic rulings on individual cases.<sup>19</sup>

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19. Thus far, scholars have classified the ancient legal system of Korea into local laws and foreign laws. This might be meaningful in identifying the foreign elements within local laws and establishing their genealogy, but it risks placing the local and foreign laws in a hierarchical relationship, thus stymieing efforts to explore the evolution of local laws. From the hierarchical perspective, local laws have been viewed as simply native conventions that were complemented and dominated by the advanced Chinese legal system, thus making it extremely difficult to identify the organic relationship between them. I propose that the local laws and Chinese legal codes should be set on equal footing, instead of in a hierarchi-

Timed with the promulgation of the law code, central and local administrative units expanded, and the document-based administration utilizing wooden slips settled in as a norm.<sup>20</sup> With a sophisticated administration, Silla could now collect taxes from and enforce corvée on the residents of every village unit. The *Samguk yusa* 三國遺事 (Memorabilia of the Three Kingdoms) distinguishes the period after the official adoption of Buddhism as a state religion during the reign of King Beopheung as the “medieval period” (*junggogi* 中古期) of Silla. The early sixth century is also deemed meaningful in that it saw significant improvement of the public administration and judicial system. However, it should be noted that the code of laws and advanced administration in the medieval period evolved out of the traditional legal system of small states—the administrative system and the instruction-ordinances and laws of the Saro state era. The characteristic of Silla’s code of laws, too, should be identified in that historical background.

## Conclusion

As the third to fifth centuries are regarded as the cradle period of Silla, research of this period serves as the first step to understanding how Silla was established as an ancient kingdom. However, there have been few serious studies on the public administration of this period, that is, who and what kind of apparatus attended to administrative affairs and what kind of legal system underpinned that administration.

During the Jinhan Confederacy, those similar to vassals were at the forefront of public administration. They undertook advisory roles to the rulers or executed their orders. The small states had yet to establish the

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cal order. With this approach, it might be possible to depart from the usual dichotomy between traditional (local laws) and foreign (code of laws) culture and to better determine the interactions between local legal traditions and foreign laws in the course of the evolution of the native law systems. I look forward to further research based on this perspective.

20. As of 2011, about 700 ancient wooden slips had been excavated from 27 relic sites. These slips had been used for record keeping, as shipping tags, and even for calligraphy practice (C. S. Kim 2014, 199–203).

bureaucratic governance system that would characterize the later kingdoms nor did they have government offices in charge of specific matters.

The arbitrary orders of the leaders of small states or administrative acts by their vassals were subject to the laws of small states. Punishment under the laws had a religious character, and even the crimes of individuals invited collective actions by the community. As the effects of the laws were confined to the state involved, the ruler of the Saro state—one of the main states of the Jinhan Confederacy and out of which Silla would emerge—suffered difficulties in governing the small states and implementing policies, even after it became the leading state of the confederacy.

The *isageum* in the late fourth century and the *maripgan* in the fifth century could obtain support from the six *bu* through the Conference of Elders held at the Namdang. The Naengsu-ri Stele in Pohang indicates that those in power made decisions on state affairs through collective deliberations. Talented individuals were recruited to undertake certain administrative matters and appointed as officials regardless of their polity. This led to the emergence of bureaucrats with specific missions. Further, early government offices, such as the Pumju and Dongsijeon, were established to administer financial and logistical affairs. Government offices continued to expand their functions, but still lacked professional bureaucrats, and their organization had yet to be segmented and systemized.

During the rule of the *maripgan*, the decisions made through public discussions were promulgated as royal instructions, which were implemented by the officials as ordinances. This is proved by the Jungseong-ri Stele, and the instruction-ordinance was the basis of the administrative acts of Silla in that period. Its legal effect was based on the instructions of the highest rulers, including the king, which were, in turn, implemented through the administrative ordinances. As the administrative system expanded its scope at the central and local levels, it came to have legal effects within all of the six central polities and to govern the local communities and residents there. However, the royal instruction-ordinance had its limitations as special law or case law, and this was only overcome by Silla's promulgation of its law code, modeled on Chinese legal codes, during the reign of King Beopheung.

The research on the ancient legal system of Korea has been largely focused on identifying the foreign elements within the domestic laws and tracing their genealogy. However, it is difficult to understand the original features and characteristics of Silla's code of laws without first understanding its traditional legal system that had evolved since the Saro era. The historical records also confirm that Goguryeo's legal system, which had close ties with that of Silla, evolved out of its traditional laws. However, it is uncertain if the law code of Baekje evolved in a similar fashion. Research from this perspective on the ancient laws of the Korean peninsula would provide a broader understanding of the interactions between local laws and the Chinese legal codes, and provide a new point of view on the history of East Asian law codes, including those of China and Japan.

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