



Whose Law to Apply?: *Kwon I-jin's Official Report of a 1707 Waegwan Legal Dispute*

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Abstract

What was the actual status and sovereignty of the Tsushima state under its “ritual subjection” and what seems an “(almost) tributary relationship” to Joseon? What were the implications of Joseon being unable to apply its own criminal code on its vassals, that is, Tsushima residents in the waegwan? This article examines the dispute over judicial sovereignty between Joseon and the Tsushima state—something insufficiently explained by the conventional Joseon-Tokugawa Japan neighborly relations model—by focusing on the illegal prostitution issue that regularly provoked political feuds between the two countries. This article uses the report of the incident of Magistrate Kwon I-jin to focus on the issue of disparities in sentencing for the same crime between Joseon and the Tsushima state. This case exemplifies the complex relations between a suzerain and its vassal and an analysis of it promises a better understanding of the realities of international relationships in traditional East Asia.

Keywords: waegwan (Japanese enclave), serving the great and neighborly relations (*sadae* and *gyorin*), double subjection, illegal prostitution issue, suzerain state

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Introduction: The *Extraterritoriality* of the Waegwan?

To whom did the Japanese enclave (waegwan 倭館) in Busan belong?¹

Tabohashi Kiyoshi, who is referred to as the pioneer of historical research into the foreign affairs of modern East Asia, asserts that the waegwan was a de facto Japanese domain. He claims that a Tsushima faction had been exercising judicial power over the waegwan since its inception. On the enforcement of unilateral consular jurisdiction, Tabohashi writes:

Either the Korean Government or its interlocutors granted an unconditional concession to Japanese demands, regarding the related clause as fair. There was a reason for this: Every Japanese criminal had been extradited to the master of the waegwan since its foundation. According to their rank, the criminals were handled by the master himself, or repatriated to the Tsushima mainland to submit a matter to the lord's direct decision. They were judged and punished only by Tsushima state law. Although many local Korean administrators lodged complaints against its application, they were conventionally rejected. That is, for a long time the extraterritoriality had been applied for all intents and purposes. The related clause in the treaty was nothing but a codification of it. (Tabohashi 2013, 464–465)

It goes without saying that the term *extraterritoriality* was newly imposed, along with the introduction of the Western treaty system. Yet, judging from the waegwan's actual management, it appeared likely to Tabohashi that the area could be construed as having been under a premodern extraterritoriality. So the clause above the tenth article in the Korean-Japanese treaty of 1876 was only a stipulation of a *fait accompli* in the form of a modern treaty.

Apart from the adequacy of the anachronistic application of this concept, Tabohashi's emphasis on Tsushima's exclusive jurisdiction over the area is an over-simplification of the real situation. Tabohashi himself mentions that local Korean administrators tried time and again to intervene

1. In Tsushima, wakan 和館 was also used to refer to the waegwan in Busan, but not always. Thus, I have determined to adopt waegwan 倭館 as the official title in this text.

in the domestic affairs of the island. Joseon's tenacious demands for the application of Korean rule over the Tsushima criminals in the waegwan reveals the inconsistency of his explanation. First, Joseon treated the Tsushima state as a foreign subject (外臣) and vassal state (藩邦), even proclaiming openly, "This island is just a small province of Joseon. Due to the fact that its ruler is under our command, receiving our seal and stipend, he is on duty to serve us as a vassal.... His rank is the same as the deputy minister of Rites and Dongnae Magistrate (東萊府使)" (Sin 1985, 408–409). For its part, Tsushima officials commented, "How frustrating it was to put up with such humiliation for hundreds of years!" Even so, they admitted the fact that they had served Joseon with the "rites of the vassal" (Tabohashi 2013, 165–166).

Among themselves, Joseon officials argued, "All life in Tsushima solely depends upon our rice...It is said that Tsushima inhabitants are so desperate that they would rather suffer their new-born infants to be drowned than face a life of hunger. And now, even with the aid of Joseon, they are barely able to survive." And so, "even though they are Japanese, actually they come to our people on the frontier."² With this absolute superiority over food security, Joseon ought to have employed "the supreme method of manipulation" (操縦伸縮の柄), i.e., control over food exports, to manage the Tsushima state (Matsuura et al. 1978, 47). But we can easily find numerous counter examples among period historical documents. "At times when daily necessities were being provided (五日雜物), the Joseon person in charge (色吏) was sent to check the quantity and amount as always. However, the Tsushima residents in the waegwan unleashed their rage and resorted to violence at even the slightest dissatisfaction. This was against

2. *Sukjong sillok*, 5th day of the 12th lunar month, 1705. For a discussion of the "double subjection" to Joseon and Tokugawa Japan, see M. Han (2011, 147–148). On a related matter, particularly the problem of Edo Bakufu's (江戸幕府) stance, Tsuruta argues that the bakufu did not raise any questions about the subjection of the Tsushima state to Joseon, as long as neighborly relations were maintained between the two countries (Tsuruta 1992, 301). Also, Tsushima had a wide range of discretion in general diplomatic negotiations with Joseon (Seki 2017, 181–182).

the good neighbor policy between the two countries.”³ The situation was so serious that the Joseon government had to demand an official prohibition against beatings. But the Tsushima side stated openly that “yelling without hesitation” (大肆咆哮) or “threatening with an outrageous roar” (以强狼取勝) was the best way of handling Joseon. Was this a temporary condition due to feelings of “lingering dominance” (餘威) following the Japanese invasion of Joseon of 1592, as Amenomori Hōshū⁴ pointed out (Amenomori 2001, 45–46)?

The problem was not a temporal fluctuation of dominance relations, but a consequence of the actual status and sovereignty of the Tsushima state under “ritual subjection” and a seemingly “(almost) tributary relation” to Joseon (Ishida 2010, 10; Arita 2012, 23). What are the implications of Joseon’s inability to apply its own criminal code to Tsushima residents in the waegwan? After all, the installment and maintenance of waegwan facilities were only possible as a favor from Joseon (Arano 2003, 391). Joseon demanded the application of the same rules whenever a problem arose. However, as the negotiations of 1707 show, Joseon was confronted with a tenacious resistance from the Tsushima state, which claimed that the use of coercion against them, without consideration of differences in criminal law between the two countries (彼此同律勘罪之意), was unjust (Chang 2016, 102).

This is in stark contrast to Joseon’s own trespassing dispute cases (犯越) with China, wherein Joseon showed a willing obedience to the Qing Empire’s demands, which were based on the domestic law of China, the superior country (上國) (Lim 2017, 511). In fact, as Amenomori admits, the Tsushima side knew too well that “there exists no case of the Japanese providing provisions and firewood to the Chinese who came to Japan on business” (Amenomori 2001, 45–46). From the standpoint of “serving the great and loving the small” (事大字小), how did Joseon perceive and cope with Tsushima’s “continuous objection to the way,” particularly when

3. “Yakjo” 約條, in *Jeungjeong gyorinji* 增正交隣志, gwon 4.

4. Amenomori Hōshū 雨森芳洲 (1668–1755), also known as Amenomori Tōgoro 雨森東五郎 or Usamdong 雨森東 (his Chinese name in Joseon records), was the most prominent Confucian scholar and foreign policy advisor (朝鮮方佐役) of his time in the Tsushima state.

Tsushima openly acknowledged that it received “lenient treatment” from their suzerain (Chang 2004, 56–58)?⁵

“Serving the great and neighborly relations” is generally referred to as the basic framework for the international order in premodern East Asia. Yet, the relationship between the Ming and Qing Empires and Tokugawa Japan was purely commercial (通商), not an official diplomatic one (通信). Only Joseon was in the position of serving the great (giving to China and receiving from Tsushima and Jurchen) and conducting neighborly relations (with Tokugawa Japan) at the same time. In this regard, we may say that the case of Joseon represents the full actuality of the international framework in traditional East Asia. The problem is that Joseon was subject to a contradictory situation all along: the inconsistency between the sense of obligation to China as a vassal state to China and the expectations they placed on Tsushima as a suzerain. Perhaps it was a natural consequence of the gap in the balance of power between the Qing and Joseon and between Joseon and Tsushima (with Tokugawa Japan supporting the latter behind the scenes): “Joseon welcomed our Tsushima envoys cordially, allowing the covenant of regular trading ships (歲船), because your country [Joseon] is too timid to secure yourself against the enemy. You entertained the enemy instead of developing the capacity for defense. This is to the shame of your country” (Suyama 1914a, 372). Since the Gihae Eastern Expedition (己亥東征) of 1419, Tsushima’s political transgressions were deemed unacceptable by Joseon, whether for reasons of ideology or a traditional policy orientation (S. Han 2014, 164–166).

James Lewis asked why Joseon tolerated the waegwan, the connection with Tsushima, despite such dissension and hardships (Lewis 2003, 213–216). First, perhaps the dominant country felt pressured by a moral duty to what they deemed lesser barbarians. Second, Joseon had to consider the issue of national defense costs. Regarding Tsushima as a vanguard against the potential threat posed by Tokugawa Japan, a loose-rein policy towards Tsushima and the costs of keeping up the waegwan were cheaper than the costs of full-scale war. Finally, they were bound by the economic necessity

5. Also, *Bibyeonsa deungnok*, 20th day of the 5th lunar month, 1711.

of foreign trade. Yet, the motivation of the Tsushima side was certainly as strong, if not stronger than that of Joseon, because their survival literally depended upon the connection with Joseon.

Accordingly, to clarify the reality of this mutual relationship, one more *why* must be answered: Why did Joseon fail to control Tsushima, particularly the waegwan, which was located within its own territory? To this end, the focus of this study will be directed toward the issue of illegal prostitution (交奸), which continuously provoked serious political feuds between Joseon and Tsushima. Particularly, it will be argued that a 1707 case was a turning point in the issue of judicial sovereignty.

Diplomatic Disputes over Illegal Prostitution

In the ports of the waegwan period (浦所倭館), Tsushima people were officially permitted to live in their own settlement (倭里). Long-term residents (恒居倭人) naturally brought their families, and before long, the Joseon government was alerted to a rapid population growth in the waegwan, referring to it as a “great threat from within” (腹心之疾).⁶ Although the long-term residents fomented frequent local disturbances, and even revolts, as was to be expected, the residence system itself was maintained. With the Japanese invasion of 1592, however, the Joseon government abolished the reception hall for Japanese envoys in the capital (東平館), establishing the waegwan on the southern border, and allowing in only Tsushima people on official business.

The restoration of diplomatic relations with Tsushima and Japan, “the irreconcilable enemy,” was a result of a traditional appeasement policy (羈縻). The Joseon government monitored the contact between the waegwan residents and local villagers in an effort to prevent “the leaking of military secrets caused by the smuggling trade” (潛商).⁷ However, the waegwan

6. *Sukjong sillok*, 17th day of the 3rd lunar month, 1681.

7. *Seonjo sillok*, 23rd day of the 7th lunar month, 1603; *Gwanghaegun ilgi*, 4th day of the 3rd lunar month, 1610.

could not be maintained without connections to local Joseon residents. “Those who stealthily visited the local villages always claimed they just went out to purchase fish and vegetables. Needless to say, those excuses were hardly believable, even detestable. However, if the connection had actually been cut off, they could hardly have lived.... [no other means were provided to] enable them to buy daily necessities from our people, than to allow for trade at the gate in the morning.”⁸ Hence, Joseon merely sent its officials to accompany the Tsushima officials in charge to watch over the morning market (朝市). At times, Joseon officials tried to keep a tight rein over contacts, but with little success in the long term. Soon enough, the connection between the waegwan and locals returned to what it had originally been (Yang 2010, 143–144).

With the growth of such connections came unceasing troubles like fraud over smuggling funds (路浮稅/登せ銀) or brawls (喧譁). Above all, the trouble over illegal prostitution established itself as an endemic problem. Four hundred to five hundred men were stationed permanently next to the local community. Reports claimed that “local people are taking the waegwan residents’ visits to their houses for granted, housing them [i.e., engaging in illicit sexual relations,] even letting them into the main room when there is no one but the hostess at home. They are too intimate and share whatever they have.”⁹ From the reign of King Hyeonjong 顯宗 (r. 1659–1674) and the first stipulated exclusion of women in 1676, to time of King Cheoljong 哲宗 (r. 1849–1864), there were at least eleven cases that became serious diplomatic issues between the two sides (K. Kim 2015, 292).

Among these disputes, the 1707 case, which lead to the New Treaty of 1711 (新定約條/倭人潛奸律), was a turning point in the issue of proper punishment. A basic outline of the event is as follows: A military officer named Song Jung-man 宋中萬, who was on guard duty on the perimeter of the waegwan, brought a woman named Gamok 甘玉 inside the waegwan (闖入). After an introduction from Song, Gamok engaged in prostitution

8. “Josi” 朝市, in *Jeungjeong gyorinji* 增正交隣志, gwon 4.

9. *Hyeonjong sillok*, 15th day of the 12th lunar month, 1666; *Sukjong sillok*, 29th day of the 3rd lunar month, 1710.

with Shirasu Genshichi 白水源七. When the event was discovered, Song and Gamok were jailed at once. In the end, both were executed by decapitation. To this point, the conventional punishment for such a crime seems to have been carried out: the death penalty for the seller and the mediator engaged in prostitution. However, Joseon went further and demanded the application of the same punishment to Genshichi. This strongly provoked the waegwan faction, particularly the newly appointed Dongnae Magistrate Kwon I-jin 權以鎭.¹⁰ Magistrate Kwon, who had been praised for his “strategy for controlling Japan (倭),” thereafter, took a stronger position against the waegwan, going to great lengths to demand equal punishment for Genshichi.¹¹

The waegwan faction remained extremely passive toward Genshichi's violation, as with Korean laws in general (Hwa-Jin Park 2013, 360). Genshichi was hurried back to the Tsushima mainland, and Joseon's demands were rejected under the pretext of the uncertainty of the facts. Han Bae-ha 韓配夏, Kwon's predecessor, reported that the waegwan's basic attitude was as follows;

Although everything about the case was apparently revealed with the woman's [Gamok] and Jungman's testimonies, they had no intention of accepting our admonitions at all.... So many times we tried to persuade them and admonished them to apply the law mutually. Half a year has passed already, yet there is little likelihood that the negotiation will be settled. How deplorable the situation is ... (Yejo Jeongaeksa 2009, 106)

Further, the waegwan made their intentions clear by sending back the official documents of protest from the Joseon Ministry of Rites without acceptance, giving as a reason the potential for “reproach from the bakufu (江

10. Kwon I-jin (1668–1734), known also as Yuhoedang 有懷堂 or Sumanheon 收漫軒, consecutively filled various government posts, including minister of finance. From extensive experience as a magistrate on the southern and northern frontiers, he emphasized the necessity of strengthening national defenses.

11. *Seungjeongwon ilgi*, 25th day of the 12th lunar month, 1737; 6th day of the 1st lunar month, 1769.

戸),” the Tokugawa shogunate government.¹²

Diplomatic Disputes over Illegal Prostitution

As soon as Kwon I-jin received the report from the delegation, he immediately impeached Choe Sang-jip 崔尙嶠, the chief interpreter (渡海譯官) in charge of the conveyance of the documents, on the grounds that, “as humble barbarians of the island, they [the Tsushima side] should have respectfully accepted the documents from the superior country.”¹³ Choe had brought disgrace on Joseon by failing in his mission. Kwon reported the incident to the capital five times, expressing his utter disapproval of the manner of dealing with the waegwan in all legal matters, the Genshichi case notwithstanding.

Kwon flatly refused the proposal to interrogate Genshichi jointly with Tsushima officials. In his view, this was only a shallow trick of the local interpreters or the waegwan to divert Joseon’s attention from the documents issue. He warned against being trapped by “artifice”:

I have kept an eye out for their wily tricks for some months. They had no intention of applying the same rule from the very beginning. In case our local army officer from Busan (釜山僉使) might find out the truth during an interrogation, they made an excuse that the suspect [Genshichi] just drank water together [with Gamok], or they just brought him back to Tsushima again, claiming he had confessed nothing. Even if we could get the confession, he would only be banished, under the pretense of the law of their land. This is not my personal speculation, but a conclusion drawn after careful consideration of the interpreters’ opinions.¹⁴

In Kwon’s eyes, the Tsushima proposal for a joint interrogation was itself a kind of contempt, because the Tsushima police officer (都禁徒倭), who

12. *Sukjong sillok*, 13th day of the 4th lunar month, 1709.

13. “Waejeong janggye” 倭情狀啓, “Janggye” 狀啓, in Kwon (2006, 2).

14. “Waejeong janggye samdo” 倭情狀啓 三度 in Kwon (2006, 10).

would be the co-interrogator with the local Joseon army officer of Busan, was considered to be only a slightly higher position than a Joseon office runner (使令). And above all, Kwon felt it was hard to believe their verbal proposal without any official documents and that negotiations would only be possible after the Tsushima side submitted documents stating they would apply the same rule.¹⁵

Kwon I-jin suggested putting pressure on the Tsushima state, making use of “their most desired wish,” the issue of permission for the trading ships related to the Amyeong seal (兒名圖書), which is “solely dependent upon our will.”¹⁶ As Magistrate Kwon expressed it, “If they submit the document of acceptance, hoping for the seal, the pride of our land will be saved to some extent. Otherwise, it would be a good excuse to refuse their request, and also to impose a penalty on them.”¹⁷

The co-interrogation issue withstanding, no progress was made in the negotiations. The Joseon government sought ways to negotiate directly with the bakufu at the meeting of communication envoys (辛卯通信使) in 1711.¹⁸ The Tsushima state managed to obtain Joseon's plan ab initio and even developed a counterstrategy before the arrival of the envoys. Amenomori described the situation at the time, claiming that when the forgoing Joseon interpreters came to Tsushima to discuss the documents issue, one of them leaked word of the discussions then taking place within the Joseon government, warning that Tsushima would be in trouble. Actually, as a

15. “Waejeong janggye sado” in Kwon (2006, 13).

16. Kwon went on, “Because the head of Tsushima severely humiliated us by returning our official documents concerning applying the same rule to the adulterer, we could hardly accept their request, in a normal fashion, for the seal of his successor (彦千代)” (“Doseo sangjik” 圖書賞職, in Yejo Jeongaeksa [2006, 345]).

17. “Waejeong janggye samdo” in Kwon (2006, 12).

18. Im Su-gan, who was ultimately dispatched by Joseon to negotiate with the Tokugawa bakufu after Kwon's term had expired, related how, “During their stay in Edo, our [Joseon] envoys brought up the Genshichi issue. The head of Tsushima seemed to be embarrassed, but never listened to our demands in spite of sending letters. After discussions, our three envoys came to the conclusion that the situation might be changed with a direct appeal to the Shogun. They informed the Tsushima faction about our preparation of a draft. It seemed the accompanying officers from Tsushima were shocked by the news” (Im 1985, 289–290).

fallback, the Tsushima side took different measures, such as the temporal repatriation of Genshichi, in case of any contingency in Edo. What is more, they had also unofficially reported the issue to the bakufu beforehand. Through these efforts, even “under the greatest of disadvantages,” Tsushima succeeded in maintaining their principle of punishing according to the gravity of the offense, despite demands from Joseon.¹⁹

Why did Joseon press their views to such an extent? By Joseon law, which was based on the Great Ming Code (大明律), illegal prostitution was a grave crime. Similarly in Japan, illicit intercourse (密通) with women other than sex workers (遊女) was a felony deserving of the death penalty.²⁰ When considering the threats posed by Korean-Japanese mixed-race subjects during the Japanese invasions of 1592–1598, when it was said many mixed Korean-Japanese subjects of Joseon helped guide the Japanese forces to Seoul, the political risk was perceived as very high (Lewis 1997, 177, 191). The point of controversy, though, was not the significance of the crime itself, but the issue of judicial sovereignty between the two countries.²¹

Once in a while, the master of waegwan claimed that there were no cases of applying the same rule in their daily administrative bureau records (在館臚錄). They would not hear of our demand at all, claiming there is no rule like ours in their country. However, it is stipulated in the prohibitive provisions that mutual lawbreakers will be executed in front of the waegwan's main gate. To solicit, hide, and buy a prostitute is a most serious crime. Is it consistent with the prohibitive provisions that they be

19. The contents of the agreement (the New Treaty of 1711) were as follows: “Any Tsushima person who commits rape outside the waegwan shall be subject to the death penalty. Anyone who commits adultery with consent or attempted rape shall be banished permanently. Anyone who commits adultery with a woman who has sneaked into the facility, shall also be banished permanently” (Amenomori 2001, 49–51).

20. 一、密通いたし候妻死罪。一、密通の男 死罪。“Mitsu oshioki no koto” 密通御仕置之事, in *Osadamegaki hyakka-jō* 御定書百箇条 (Takimoto 1930, appendix 60).

21. In a discussion of the differences in their political concerns, Chang suggests that the Tsushima faction focused more on the problem of the source of the money paid for sex as it related to the issue of smuggling, than on prostitution itself (Chang 2016, 109). By contrast, the Joseon faction paid attention to “the protection of the border” (*Bibyeonsa deungnok*, 20th day of the 6th lunar month, 1859).

executed in some cases and not in others? According to your country's desirable rites or rigid discipline, there should be no objection to the prohibition on private adultery. Yet, they stood by the culprit, charging his fault to the custom of their land.²²

Interestingly, in some cases Tsushima also put forward similar arguments:

Each time a [Joseon] person trespassed on the waegwan in order to steal, our master demanded the Joseon interpreters put the culprits to death immediately. However, sometimes this becomes an awkward situation because it does not always unfold as we asked. The gravity of each theft differs greatly. Thus, our demand of an indiscriminate death penalty is unreasonable. In contrast to Joseon's sentencing of the death penalty in the illegal prostitution case, we only banish the adulterer permanently. Each country has its own rules (法式). (Amenomori 2001, 66–67)

Had the two sides negotiated with each other on the assumption of equal footing, they could have adjusted and affirmed their relationship more easily and accepted their mutual differences. Yet, as observed earlier, the relationship between Joseon and the Tsushima state was extremely complex, based as it was on Tsushima's ambiguous political position. This position, in some instances, was even referred to as “double subjection” under the neighborly relations between Joseon and Tokugawa Japan (Son 1999, 71).²³ What is more, the nominal relationship of dominance and subjugation did not conform to the actual relationship. Even though Joseon often boasted of its favors to Tsushima, inwardly its ministers sighed over the reality, “We haven't won them over even now” (Yejo jeongaeksa 2009, 108). Likewise, although the Tsushima state still “managed the situation somehow,” it was

22. “(Gyeongja) dongnaebusa i-gwanwaejamgansa yeo-dojuseo” (庚子)東萊府使以館倭潛奸事與島主書, “Yakjo,” in *Dongmun hwigo bupyeon* 同文彙考 附編, gwon 24.

23. Upon the Joseon envoy's departure from Japan, the head of the Tsushima side bade Im Sugan farewell, saying, “It is regrettable that we are always suspected by both sides, because our state is wedged between two large countries. I hope your Excellency will do us the favor of explaining the circumstances, and promoting increased mutual understanding and good will” (Im 1985, 290).

anxious about its gradual decline in “dominance” (威勢), and the pressure that sometimes arose from various Joseon hardliners. Consequently, with such an unstable power balance, each side had no choice but to contend for superiority and dominance at every opportunity.

From Boundary “Area” to Boundary “Line”

At this point, Kwon I-jin argued aggressively for the necessity of putting pressure on Tsushima, taking advantage of the seal issue to make his point. He admitted that it would be inappropriate for a suzerain to demand an eye for an eye in their dealings with the vassal state, which was analogous to “hostage exchange during wartime.” However, a relationship based on reciprocity applied only to relationships between parties on equal footing, which was not the case Joseon and Tsushima. Kwon warned his government that Tsushima would look down on them if Joseon showed too much favor. By holding fast to their demands regarding pending issues, despite threats, Tsushima would have no choice but to submit to Joseon’s will. In the meantime, Kwon wondered what the result of appeasement policies based on “generosity” (度量) might be:

[The Tsushima representatives said to me,] “How could it be possible to return to your country [Joseon] empty handed? It would not be a tolerable result in our country.” The irregular envoys from the Tsushima state (差倭) who came to Joseon, were scornful of our recent failure to convey the national documents. They claimed, “As for us, we would never return to our country without achieving the results we sought.” If we don’t scold the Lord of Tsushima, for all this contemptuousness, it will be as if Joseon willingly accepted their serious insults.²⁴

Kwon went further by drawing up a specific action list of how to deal with the waegwan, as part of a broader “plan for border control”: First, move

24. “Waejeong janggye sado” in Kwon (2006, 23).

the villagers to a new town (新草梁); second, set up a gateway and a wall around the town to monitor the access by Tsushima residents; third, keep a close watch on the morning market, particularly the “friendly relationship” between the local villagers and the Tsushima residents; fourth, stop unofficial private deals and collusion of the waegwan with the merchants and interpreters of Joseon; and fifth, prohibit interpreters or lower-level government officials from taking illegal bribes from the Tsushima state. To sum up, Kwon devised a radical plan for cutting off the various kinds of connections between the waegwan and the local community, and the waegwan and the local government. The Joseon central government favored the plan, and ordered its permanent establishment.²⁵

Why did Kwon take such strong measures? In his view, the Tsushima subjects were nothing less than a “Japanese enemy” (倭奴).²⁶ The cause for alarm was too close, “in a position to stab us in the back without a moment’s notice.” Yet, during his field visits from the coastal area of Honam province to the Dongnae prefecture in Gyeongsang Province, Kwon found that “there were no defensive preparations at all in any provincial military headquarters.”²⁷ What is more, the vacillation of public sentiment near the waegwan was also a risk:

The waegwan residents were never prohibited access to our villagers, being always at their private houses. Among 92 households in Choryang town, every house accommodated two or three of them without exception. They could be found together with our people at any time, night or day. The problem went as far as hostesses being home alone

25. *Sukjong sillok*, 29th day of the 3rd lunar month, 1710.

26. On this point, Yang Heungsook holds the view that the international events in the reign of King Sukjong, like the widespread rumor about Zheng Jing's 鄭經 (or 鄭錦 in Korean records) invasion, the expansion of territorial consciousness in relationship to the erection of the border monument on Mt. Baekdu, and particularly the territorial dispute over Ulleung Island, had stiffened Joseon's attitude toward Japan. Under these circumstances, the wariness over another potential Japanese invasion stimulated the reconstruction of the defense system on the southern border, including in Dongnae prefecture (Yang 2010, 115–116).

27. “Jin-geumjeongsanseong chungyeol byeolsa haebang samgeonso sinmyo dongnaebu sasi” 陳金井山城忠烈別祠海防三件疏 辛卯東萊府使時, “So” 疏, in Kwon (2006, 245–264).

and receiving them into their homes. The husbands would serve them as their clerks, selling their goods instead of the Tsushima consignors. Under those circumstances, the hostesses being alone in the house, there was nothing that was off limits to the Tsushima predators. Accordingly, they were so attached to each other, being together whether the husbands were in or out. This shameful conduct was closely related to the villagers' livelihood, so our people even risked their own lives.²⁸

On account of such intimacy, all information would be passed on to the waegwan. What is worse, the residents of the waegwan, Kwon notes, were so fluent in the Korean language that "they already knew about everything we just handled in our local governmental office."²⁹

More troubling was the fact that Joseon interpreters and local governmental officers were widely won over by them:

The Tsushima side gives exceptional preferential treatment to our interpreters.... They bribe anyone who is doing business with them. To say nothing of the local officers or paperwork clerks (書契色) in Busan and Dongnae, they even proffer bribes to the clerks in the relevant government ministries of the capital, or government slaves. Therefore, everybody is their henchman, and works for their good.³⁰

28. "Byeonsangsa ujorye janggye" 邊上事宜條列狀啓, in Kwon (2006, 28–29).

29. "Waejeong janggye samdo" in Kwon (2006, 5–6). Actually, Kwon is not alone in pointing out the gravity of the local situation. For example, when the newly appointed magistrate of Dongnae, Yi Ha, gave his parting words to King Hyeonjong in 1667, he stated his view on the situation as follows: "Because every officer in the Dongnae is a devoted retainer of Tsushima, all secrets are leaked to them immediately. This public sentiments issue is no small worry." Heo Jeok, prime minister at the time, agreed with this warning, stating, "It is said that the Tsushima faction reward an informer with 400 ryō 兩 (17.8g) of gold per secret. So, our local merchants were worried only about falling behind the others, without feeling any shame in leaking the secrets of their own country. What a frustrating thing this is!" (*Hyeonjong Sujeong sillok*, 12th day of the 2nd lunar month, 1667).

30. "Waein nanchul janggye" 倭人闌出狀啓, in Kwon (2006, 53–54). These views are also supported by the remark from the Tsushima faction as follows: "We should be mindful of treating the interpreters of the Joseon faction well. Make them convinced that they cannot advance their career without Tsushima's help" (Amenomori 2001, 22–23).

As a result, even Joseon interpreters first pathetically begged Kwon, then failing this, attempted to persuade him, and finally went so far as to threaten him to accept the waegwan's proposal. In his report, Kwon taunted them as follows: "Those interpreters who asked my favor looked so desperate. Yet, I could hardly understand why they almost cried over somebody's business like that."³¹

Therefore, it was necessary to cut these collusive ties, and to set a firm barrier between them, and for the two sides to never mingle together again. There was to be not only a physical wall and gateway, which Kwon had suggested before, but also symbolic rules and regulations, that would apply to anyone entering the territory of Joseon. His conclusion was this: "Do not fear the threats from the cunning Tsushima people, nor be agitated by the interpreters. Just hold fast to the rules and agreements in every case."³²

However, Kwon I-jin thought something was still lacking. Without local support, no matter how high the official barriers were constructed, they would not be maintained in the long run. The problem was that the vacillation of public sentiment had shifted toward a position that nearly favored Tsushima. What could solve this situation? On the one hand, Kwon considered that it advisable to force people to internalize a mindset of constant vigilance. This should be accomplished by any means necessary, even beatings. On the other hand, it was also necessary for the people to develop "a life-risking loyalty to the King and their elders." In order to achieve this dual aim, Kwon suggested the commemoration of the Korean and Chinese (Ming) patriotic martyrs, regardless of their social position, so as to implicitly alert the local people to the presence of the Japanese enemy.

Though they be only a low-ranking officer, clerk, or servant, we should commemorate everyone who sacrificed their life to the country, for the sake of establishing moral principles and humane imperatives.... It is wrong to neglect the national duty of encouraging the people on the frontier by the establishment of loyalty.... If your Majesty dispatches an official to hold a memorial service for the forgotten loyal dead, the local

31. "Misugongmok, gwansu-cheolgong, yeokgwang banghwan samgeonsa janggye" 未收公木, 館守撤供, 譯官放還三件事狀啓, in Kwon (2006, 71).

32. "Waein nanchul janggye" in Kwon (2006, 54).

people would be astonished at the commemoration, being convinced that the loyal dead will not be forgotten forever. This is an effective way to establish the social ethos and humane imperatives, far better than the firmness of an iron castle.³³

In brief, through mutual responsibility, surveillance, and mental vigilance, Kwon I-jin planned to unite those living on his side of the boundary.³⁴

Conclusion: A Territorial Joseon, a Jurisdictional Joseon

Did Kwon I-jin's efforts accomplish his intended goal?

On the one hand, his policy marked an epoch in the history of Joseon's foreign relations, by setting an example of how to manage relations with the waegwan and the Tsushima state (Yang 2010, 129). Kwon's policy is similar to other past cases. Like Kwon's predecessor Yi Sejae 李世載, magistrates who took an aggressive position were all too often expelled under pressure from the waegwan's organized resistance (Lewis 2003, 176). In this regard, it was quite unlikely for Kwon's case to become political standard rather than mere temporary measure.

Yet, the Joseon government had no choice but to adjust the policy that Kwon implemented, because prohibitive law on the frontier relaxed again in less than thirty years. This was actually almost a foregone conclusion when they adopted the regulations as their policy orientation. As we have seen before, either for the local people in Dongnae or the waegwan residents, there was no "way to survive" without collaboration.³⁵ Accordingly, until this traditional concept of the boundary area was turned into a modern

33. "Chungryeolbyeolsa Sa-aeksa geup busan jaseong mangyeongri ipmyosa janggye" 忠烈別祠 賜額事及釜山子城萬經理立廟事狀啓, in Kwon (2006, 38–39).

34. "What do you think about making the new regulations as follows?: Punishment for the head of household who secretly contacts Tsushima residents,...the collective punishment of four neighboring houses in a mutual aid group (統), ...[and] the mutual surveillance of every two interpreters who are engaged in business with the waegwan" ("Byeonsangsau-jorye janggye" in Kwon [2006, 30]).

35. *Sukjong sillok*, 22nd day of the 4th lunar month, 1712.

“sovereign power line” under Western influence in the late 19th century, there were no drastic changes in the situation on the whole (Akizuki 2002, 143–144).

Of particular interest from our point of view is the fact that the same dispute over the issue continued between the local Dongnae government and the waegwan, and between Joseon and Tsushima, nearly 150 years after Kwon I-jin's declaration that “Tsushima's adulterers should be subject to the same rule as our adulterers, after undergoing cross-examination.”³⁶ In a dispute in 1859, the waegwan went against the demands of Joseon on the grounds of the New Treaty of 1711, which stipulated the degree of punishment would be decided according to Tsushima's standard of the gravity of the offense (Chang 2016, 89). For Joseon, there was nothing else to do but demand a copy of that agreement. The Tsushima culprit was ultimately sentenced to permanent banishment at the waegwan's insistence.

If we consider the fact that Kim Seok 金鉞, the magistrate of Dongnae in 1859, referred in his daily records to the necessity of following the agreement of 1711, it seems improbable that the Joseon side had forgotten the conclusion and terms of that treaty (Seok Kim 1995, 79). Kim sent interpreters time and again to deliver his protests to the waegwan; he could hardly accept the inconsistency that one adulterer was simply exiled while the other was subject to execution. How could this vast difference in ruling be possible? As his statement shows, the crux of the matter was whether the waegwan was under the authority and law of Joseon or not. If it was, then even the Tsushima mainland was a part of Joseon's territory. How much more so the waegwan, given that it was entirely dependent for its site, buildings, and provisions on the Joseon government?³⁷

36. “Waejeong janggye sado” in Kwon (2006, 13).

37. “The head of the islands (島酋)...requested our doctor to take care of their patient in Edo. We turned down his request, saying, ‘In spite of your earnest wish, we could hardly go further than Tsushima. As a neighboring country's people, it is hard to go to Edo as you wish’” (“Ginyeon” 紀年, in *Tongmungwanji* 通文館志, 1678); Around the same time, by contrast, some Confucian scholars in Tsushima raised a criticism that their current status as Joseon's vassal state was not only the shame of Tsushima, but also the disgrace of all Japan, asserting that Tsushima was “a land on the border of Japan” (Suyama 1914b, 101). Under the circumstances,

Therefore, it is hard to escape the conclusions that territorial Joseon did not accord so well with jurisdictional Joseon (Robinson 2010, 22). By comparison, how did Joseon, as China's foreign vassal state (東藩), behave toward its suzerain? In general, Joseon had no choice but to humble itself, saying, "Every person in our country appreciates your gracious favor. We are going to increase our efforts to follow China's beneficent laws."³⁸ What if an intolerable demand had come from China? According to the Samdogu 三道溝 case of 1685 in the era of King Sukjong, Joseon once tried to remonstrate with the Qing Empire about the monetary penalty on the king. However, this attempt only made the situation worse and incurred even further punishment beyond the payment of the penalty.³⁹

It is well known that the question of what was the actual position of the vassal state to the suzerain country (属邦ノ名実), was emerging as one of the most important issues in the area, riding on the momentum of the conclusion of the Korean-Japanese Treaty of 1876 (Kato 1894, 10). Yet, as we have seen before, the issue had already been a serious controversy since the traditional era in the relationship between Joseon and the Tsushima state. Kwon I-jin and the dispute over illegal prostitution are significant for understanding the traditional perspective on the relationship between the waegwan and Tsushima before the impact of the West.

On what account did Joseon fail to fulfill its duty in the end? An interesting clue can be found in the Joseon government's debate over the official rice trade (公作米) in 1708, just after the Genshichi case. The government ultimately agreed to pay for the rice, however, it is not the conclusion that is important, but how they came to it. For the most part, the Joseon ministers' opinions were as follows: The waegwan and Tsushima are ready to contend against everything. "Rather than being compelled to give

the Tsushima faction tried to "lower the tone of tributary relations" by erasing their expression of the "subject" (臣) in their memorial to Joseon (上表文), but their efforts turned out to be in vain. What is more, the bakufu took no notice of the *habitual practice* between Joseon and the Tsushima state at all (Kometani 1995, 50).

38. "Jin-gong dongchiksa anmungakbeom uiyulju" 陳公同勅使按問各犯擬律奏, "Beomwol" 犯越, in *Dongmun hwigo wonpyeon* 同文彙考 原編, gwon 50.

39. "Bongjin beol-eunja" 封進罰銀咨, "Beomwol," *Dongmun hwigo wonpyeon*, gwon 52.

the rice, it would be far better to simply provide it and thereby maintain the moral upper hand” (Yejo jeongaeksa 2009, 108).

This “rather than” rhetoric shows that the basic strategy of Joseon was to maintain their symbolic superiority by showing generosity to Tsushima, instead of being rigid and risking the existing framework.⁴⁰ By virtue of this principle, “to bend our will and grant their wish every time,” the status quo could be maintained. At the same time, this leads to the misinterpretation of this strategy being same as modern “foreign concession” (專管居留地), or later, extraterritoriality (Takahashi 1920, 99).

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40. *Sukjong sillok*, 1st day of the 7th lunar month, 1718.

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