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The Spatial Structure under the Treaty Regime and Its Dismantling (1876-1910):
*The Boundary between the Sea and the Land**

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Abstract

From a European perspective, all lands were either European territories or their potential colonies. In contrast, the sea remained a free space outside all territorial orders and was open to all countries. In the nineteenth century, Europe created new spaces in Asian countries by forcing them to conclude a treaty. In the case of Korea, the spatial structure under the treaty regime resembled concentric circles centered around a "foreign settlement," a "mixed residence zone within a distance of 10 Korean ri *(approx. 4 km) from the foreign settlement" and then the "interior." This structure was a kind of spatial representation of the view towards the interior, which lay beyond the boundary of the foreign settlement, and a plan of spatial division for the land, the Korean Peninsula. The process of colonization of Korea was also a process of dismantling the structure. Until the annexation of Korea in 1910, the Korean Peninsula became a huge sea, and it was upon the sea that a new order of colonial Korea, named the exterior of the Japanese archipelago, began to develop.*

Keywords: sea, land, exterior, interior, the spatial structure under the treaty regime, the process of colonization of Korea

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Introduction: Two Orders of Space, the Sea and the Land

Soon after Columbus discovered the New World, European powers attempted to divide the world based on a newly formed geographical perspective. From this perspective, all *lands* were either territories of Europe or other countries of equal standing or potential colonies that could be freely acquired. In contrast, the sea remained beyond all territorial orders. Unlike the lands that were completely divided into national territories and controlled spaces, the *sea* had no boundaries other than the coastline itself. The sea was the only space that was open to all countries for trade, fishery, and warfare. Thus, the balance between the two spaces—the land that was bounded by territorial borders and the free sea that had no boundaries—was the key element that characterized the European perspective from the early eighteenth century to the early twentieth century (Schmitt 2007, 208–226).

As an illustration of this conception, in the nineteenth century, Europe developed a special system based on the extraterritoriality of European subjects in Asian countries. Following in the footsteps of China and Japan, *foreign settlements* were initiated in Korea. As described subsequently, the system of spatial structure under the treaty regime was developed around these *foreign settlements*. This plan for spatial division was for the *land* rather than the *sea*, which clearly existed outside this spatial structure. However, the plan for the *land* could only be established in association with the *sea*.

As a further illustration, a book published by the Northeast Asia History Foundation has evaluated that the current trend of research on Korean history "still fails to progress beyond the scope of the conventional 'national history' or 'land history.'" It has further emphasized that "the sea in the early modern period was much more dynamic than what people may have expected." The book has presented the sea as "the most useful theme to utilize in order to understand the Korean history, within the framework of Northeast Asia" (Rhee et al. 2008, 9–18). However, if we simply focus on disputes over fishing rights in coastal waters or territorial seas in the late nineteenth century, as existing research has done, the conclusion would

likely converge, once again, onto a *national history* or *land history* and the formation of national boundaries.

Recently, this research trend has been reassessed. A number of new researchers have attempted to reach beyond national borders and emphasize the importance of the area as a framework. An example of such research would be Ishikawa Ryota's study on the role and function of networks established by Chinese merchants in Korea within the context of expanding free trade and uniting Northeast Asia as one broad market (Ishikawa 2002; 2008). The study is significant, insofar as it has broadened the horizons of future studies and revealed the multilayered nature of history. However, one should not overlook that the construction and reorganization of various boundaries and limits, including national borders, played an important role in this network formation.

Accordingly, this paper studies the structuring and dismantling of the spatial structure under the treaty regime on the Korean Peninsula. I will try to uncover the long-standing multiregional aspects of the various boundaries that were created in this process. I will go one step further and redefine the process of Korean colonization in terms of spatial reconstruction. In so doing, I will take into account the relationship between the sea and the land, especially focusing on several disputes over the boundary between the sea and the spatial structure under the treaty regime.

The Establishment of Spatial Structure under the Treaty Regime

It was the Regulations for Maritime and Overland Trade between Korean and Chinese Subjects 朝淸商民水陸貿易章程 (hereafter, Regulations) of October 1882 that regulated the entire Korean Peninsula as an area of trade, travel, and partly residence for foreigners. By that time, Korea had already entered into the Korea-Japan Treaty of Amity and its Appendix as early as February and August of 1876 respectively, and the Korea-United States Treaty of Amity and Commerce in May 1882. These treaties, however, only regulated open ports in Korea and its vicinity.

For example, Article 4 of the Korea-Japan Treaty stipulated that Japa-

nese subjects were granted the right to reside and trade in the port of Choryang in Busan, where up until then, *waegwan* 倭館, the trading and living quarters for the Japanese in Joseon, existed. Article 5 had also granted the same rights in two additional ports in Korea that were expected to open to foreign trade. Article 4 of the Appendix of the Treaty limited the extent of *ganhaengijeong* 間行里程 (the range admitted for travel and trade) to 10 Korean *ri* (approx. 4 km) from the pier. Article 6 of the Korea-United States Treaty also permitted residence and trade for citizens of the United States only in ports that were already open to foreign commerce. This article was the first of its kind to mention a space called the *naeji* 內地 (interior) but only specified that American citizens were not permitted to enter the interior for the sale or purchase of produce. In other words, it delineated the interior as a prohibited area, rather than defining it as an activity area for foreign commerce. However, according to Article 4 of the Regulations between Korea and China, the Chinese were acknowledged with having the right to enter the interior to purchase native goods only if they were issued with a pass, which was the first time that the interior itself was considered a potential area for foreign commerce.

Notably, Article 4 of the Korea-Great Britain Treaty of Amity and Commerce of 1883 systemized the spatial structure under the treaty regime. The first provision was a regulation of the open port locations, opening up Incheon, Busan, and Wonsan, together with Hanseong (Seoul) and Yanghwajin, as *places of commerce*. The second provision was a regulation of the rights of British subjects and the establishment of foreign settlements within the open ports. The sixth provision involved a regulation of the interior, stipulating that British subjects were allowed to go where they please without passes within a distance of 100 *ri* (approx. 40 km), virtually reflecting the regulation of *ganhaengijeong*. (The range of *ganhaengijeong* was expanded to 50 *ri* from 10 *ri* by Article 1 of the Korea-Japan Treaty of August 1882, with the anticipation being further expansion to 100 *ri* two years later.) Moreover, as explained earlier, while the Regulations between Korea and China only recognized the right to purchase native goods, this provision also recognized the right to sell foreign goods within the interior.

In the Article mentioned previously, the forth provision was provided

that had never been seen in past treaties, regulating areas "within a distance of 10 *ri* from the foreign settlements." The provision permitted British subjects mixed residence within this distance on the condition that they observe local Korean regulations. Harry Parkes, who had represented the British in the negotiations leading to the Korea-Great Britain Treaty, first defined this area. Having resided in China and Japan earlier, he had witnessed at first hand many of the issues that could arise over the boundaries of the open ports. He then sought to prevent those issues in advance by creating a "buffer zone" (Sohn 1982, 64–65), which was the only quarter of mixed residence under the treaty between the foreign settlements and the interior.

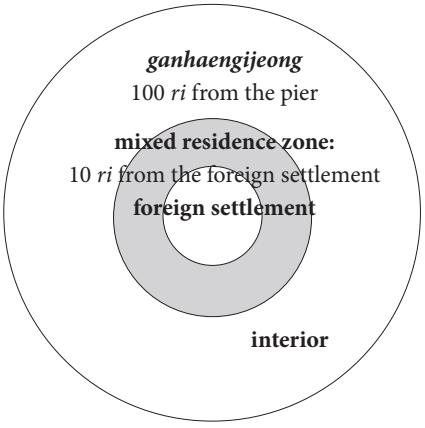

Figure 1. The spatial structure under the treaty regime

As an illustration, Figure 1 presents a visual schematization of the spaces described in Article 4 of the Korea-Great Britain Treaty. The spatial structure under the treaty regime took the form of concentric circles with the mixed residence zone, *ganhaenglijeong*, and the interior nested around the center, the foreign settlements.

From then on, the Korea-Great Britain Treaty served as a model for later treaties without undergoing significant changes in content. Furthermore, it also served as a basic framework for helping to understand the spatial structure of the Korean Peninsula, not only for Korea but also for other countries, including Great Britain.

From the fact that the mixed residence zone was measured from the boundaries of the foreign settlements, the spatial structure represents the view towards the interior, which lay beyond the boundary of the foreign settlement. For that reason, in the spatial structure under the treaty regime, visualizing the sea was difficult. At that time, the sea was considered a passageway that

could not be monopolized by one nation and through which vessels from all countries could travel. Yet, the boundary between land and sea eventually became a new issue of controversy with regard to fishing rights in coastal waters. In other words, the question now became how far the sovereignty over land could be extended to the sea.

The Boundary between the Sea and the Land: "Three *Ri* from the Coast"

Article 41 of the Korea-Japan Commercial Agreement of 1883 朝日通商章程 (hereafter, Commercial Agreement), under which Japanese trade is to be conducted in Korea, stipulated that "Japanese fishing vessels may come and go and fish off the seacoast (*haebin* 海濱) of the four provinces of Jeolla-do, Gyeongsang-do, Gangwon-do, and Hamgyeong-do, and Korean fishing vessels may do the same off the seacoast of Hizen, Chikuzen, Iwami, Naka-to [near the Korean sea], Izumo, and Tsushima." Pursuant to this Article, the coastal waters of the four provinces—Jeolla-do, Gyeongsang-do, Gangwon-do, and Hamgyeong-do—were opened to Japanese fishing vessels. The Commercial Agreement itself seemed fair and equal at first glance because it reciprocally permitted Korean fishing vessels to fish along the southwest region of Japan. However, the operations of Korean fishing vessels largely remained within the coastal waters of Korea, and Korean fishermen hardly ever entered Japanese coastal waters. For Korean fishermen to travel that far was also unnecessary as the coastal waters of Korea were rich in fish varieties. Thus, what the aforementioned Commercial Agreement actually achieved was to unilaterally open up the Korean seas to Japanese fishermen (K. Park 1974, 24).

In fact, before 1886 or 1887, Japanese fishermen had already been actively operating in the coastal waters of Korea. Among these Japanese fishermen, many built illegal warehouses and processed fish in the island areas. Some carried knives or guns to threaten Korean fishing vessels as they came in and out of the islands. Moreover, they often landed on the shore for the purchase of firewood and drinking water and then treated

Korean citizens like captives, using violence and verbal abuse (Rhee et al. 2008, 35–37). Under these circumstances, conflict ensued between Korean and Japanese fishermen over fishing rights in Busan in 1888. The conflict eventually developed into a diplomatic dispute between the two nations. The problem at issue was the boundary of the *seacoast* in the aforementioned Commercial Agreement.

Based on the complaints filed by Korean fishermen, the Busan Port Commissioner Yi Yongjik sent a letter to the Japanese Consul Murota Yoshifumi 室田義文, and requested that the Japanese Consulate in Busan come up with a measure to prevent the infringement on fishing grounds by Japanese fishing vessels. The Korean fishermen complained that a Japanese fisherman named Isayama had led seven or eight fishing vessels to steal fish from existing fishing grounds, causing approximately 100 local fishing grounds to shut down. They offered Three Provisions on Rights to Install Fishing Grounds as a solution and requested this document to be submitted to Japanese Consul so that Japanese fishermen would no longer violate the boundaries prescribed by the Commercial Agreement. The Three Provisions laid out the detailed locations of fishing grounds, and limited the operation of Japanese fishermen to the distant sea. Murota, however, argued that Article 41 of the Commercial Agreement did not limit the operations of Japanese fishermen to a certain area. He responded that he would simply enjoin Japanese fishermen to refrain from fishing within a distance of 30 *gan* 間 (approx. 55 m) from the Korean fishing ground.[1]

In addition, Yi also quoted Article 41 of the Commercial Agreement in his attempt to counter Murota's arguments. He claimed that "seacoast" in the Commercial Agreement referred to the open sea outside the ports. Thus, Yi asserted that Japanese fishing vessels operating inside the port areas were clearly violating the Commercial Agreement. The reason why Japanese fishing vessels were allowed to access to seacoast in the first place was only because Korean fishing vessels were not be able to operate in the open sea anyway. Furthermore, Yi quoted *Manguk gongbeop* 萬國公法 (Universal Public Law), which provided that "fishing operation in the sea of

1. *Documents on Japanese Foreign Policy* (hereafter, DJFP), Vol. 21, No. 123.

another country is limited to the waters outside a distance of three *ri* from the coast." Yi argued that the term "three *ri*" was equivalent to 10 Korean *ri*, and that the word "the coast" referred to "the one of the open sea," which carried the same meaning as "seacoast" in the Commercial Agreement.[2]

Whether Yi was referring to international law in general or to the *Manguk gongbeop*, a translated edition by William A. P. Martin of *Elements of International Law*, written by Henry Wheaton, is unclear.[3] If we examine the *Manguk gongbeop*, the Maritime Territorial Jurisdiction section stipulated that "the sea under the jurisdiction of each nation includes the waters surrounded by mouths of rivers, bays, and adjacent parts of the sea enclosed by headlands, and also the coastal waters within a distance of 10 *ri* from the coast, pursuant to the custom." It further stipulated that "these waters belong to the jurisdiction of the country and shall not be infringed by any other countries" (KLRI 1981, 265–266). Therefore, together with other criteria defining the scope of the territorial sea, the waters within a distance of 10 *ri* were also customarily considered a part of the territorial sea of a nation.[4] Moreover, a section called the "Right of Fishery" also states that "the subjects of each nation have the full rights to operate within the coastal waters and places under the jurisdiction of their country, and subjects of other countries may not interfere with the rights" (KLRI 1981, 267). In short, the *Manguk gongbeop* recognized the waters within a distance of three nautical miles from the coast as territorial sea and did not recognize foreign subjects' right to fish within the territorial sea of another country.

Based on this observation, the three *ri* from the coast that Yi Yongjik had referred to probably limited the territorial sea to within three nautical

2. *DJFP*, Vol. 21, No. 123.
3. In Joseon, the term *Manguk gongbeop* was used to refer to International Law in general, and was interchangeable with the terms "public law," "public international law," and "international law." The term was also used to refer to books on international law, including *Manguk gongbeop*, *Gongbeop hoetong* 公法會通, and *Gongbeop pyeollam* 公法便覽, which were introduced to Korea in the late nineteenth century (S. Kim 2002, 22).
4. The term "10 ri" is a translation of "a distance of a marine league" in Henry Wheaton's book (Wheaton 1878, 237). It is equivalent to three nautical miles.

miles of the coast, a concept that had been customarily recognized by the international community. It could be assumed that Yi was attempting to limit the operation of Japanese fishing vessels to the open sea outside the port by basing his arguments on the provisions of international law. However, it remains questionable whether or not Yi had a correct understanding of the concept of territorial sea. According to international law, the notion of three *ri* from the coast could be legitimately applied to all seas, but Yi was making a distinction between the inside and outside of port areas. As a result, whether the "three *ri* from the coast" that Yi asserts applies to the sea outside a port is not clear. Park Koo-byung has pointed out that Yi Yongjik "failed to understand the concept of the 'territorial sea' and the 'high seas,'" and that he "did not comprehend that the 'three *ri* from the coast' he was talking about actually referred to the 'three nautical miles'" (K. Park 1974, 26). However, the fact that the previously mentioned Article 41 of Commercial Agreement between Korea and Japan originated from the Regulations between Korea and China raises the need to reconsider these criticisms.

In fact, the Regulations between Korea and China were established on the assumption that the relationship between Korea and China was different from that of Korea and other countries. Although China actually conquered many rights and interests from Korea through the Regulations, according to the preamble, the nominal purpose of the Regulations was "granting to a tributary state certain advantages." Therefore, in principle, other countries were not entitled to the same rights and interests as China. For example, "the right to trade in Beijing" specified in Article 4 of the Regulations again recognized the red ginseng trade that had been practiced for a very long time by Korean envoys in Beijing. In return, following the principle of reciprocity, Chinese subjects were authorized to trade and engage in commercial activities in the city of Hanseong.

However, soon after China was granted the right called *Hanseong gaejangwon* 漢城開棧權, other countries, starting with the United Kingdom, were also granted equivalent rights. Japan and the United States, which had already conducted a treaty with Korea, acquired the right by the principle of most favored nation. As a result, the city of Hanseong evolved into a

quarter of mixed residence, where subjects from all treaty-signing countries lived side by side with Korean citizens and engaged in commercial activities. As observed previously, the origin and development of *Hanseong gaejangwon* would not have been possible without the unique relationship between Korea and China. Yet, this background eventually lost its significance as other countries came to be granted the same rights through their own treaties with Korea.

The fact that Article 3 of the Regulations between Korea and China granted access to the coastal waters near Pyeongan-do and Hwanghae-do provinces, as well as Shandong and Liaodong, for fishing vessels of both countries should also be understood as a result of the unique relation between Korea and China, rather than provisions of international law. The Korean representative for the negotiation of the Regulations, Eo Yun-jung, expressed his concerns that Japan might use Article 3 as a pretext to demand the same fishing rights for Japanese subjects, and that the Article might potentially increase illegal smuggling by Chinese fishing vessels. Chinese representatives countered that under circumstances where traffic of fishing vessels of both countries could not be prevented, illegal trade would increase without legalization of the traffic. Soon after the Regulations between Korea and China were signed by both countries, Japan, which was also negotiating to revise the Commercial Agreement, demanded equivalent rights as China and added a fishing rights provision that was very similar to those granted in the Regulations (M. Kim 2009, 74–77). Therefore, the fishing rights granted to Japan could be defined in terms of international law only ex post facto, because the rights were ahead of the laws. In this respect, to blame a Korean official for lacking an understanding of international law is unfair.

Thereafter, the dispute between Korea and Japan over the scope of Japanese fishing operations was no longer at a regional level; rather, it became a central diplomatic issue between the two countries. While reluctantly granting the fishing rights prescribed in the Commercial Agreement, Jo Byeong-jik, Deputy President of the Foreign Office, still noted that the agreement between Korea and Japan concerning fisheries had yet to be concluded. Jo also expressed that Yi's interpretation of seacoast and

his logic based on the *Manguk gongbeop* were both legitimate. Jo then criticized Japanese Consul Murota's response for neglecting the situations of local Korean fishermen and requested that the Japanese Consulate deport the Japanese fisherman, Isayama, in light of the three *ri* provision of the *Manguk gongbeop*. However, Deputy Consul *Kondo Masuki* 近藤眞鋤 expressed his disagreement with the interpretation of seacoast that distinguished the inside and outside of the ports and questioned the legitimacy of the *Manguk gongbeop* on which Korean officials had been basing their arguments. He further argued that even if such provisions of international law actually existed, it was not possible to deny the rights of Japanese fishermen, nullifying the special contract between the two countries.[5]

In the end, it seems that no special measures were actually taken to address the matter, as Korea did not offer a new counterargument on the issue. A year later, in late 1889, the Korea-Japan Fisheries Agreement 朝日通漁章程 (hereafter, Fisheries Agreement), a detailed enforcement of the guidelines of Article 41 of the Commercial Agreement, was signed. Article 1 of the Fisheries Agreement provided that:

> . . . fishing vessels that seek to operate within a distance of three *ri* [This shall be done in accordance with the nautical mile calculation method of Japan. The same shall apply hereinafter] from the coast in the regions specified by the both countries, shall have the owner or his agent file an application. The application should provide the width of the vessel, and the owner's name and his place of family registration in detail. For Japanese fishing vessels, the application shall be submitted to the local offices of Open Port Commissioner through the Japanese Consulate. For Korean fishing vessels, the application shall be submitted to the local offices in the specified district. The owner then shall be issued *jundan* 准單 (a certificate) after their vessels have been inspected. The certificate must be carried at all times while operating the vessels.

However, even after the Fisheries Agreement was signed, some Korean officials still believed that Japanese fishing operations were limited to the

5. *DJFP*, Vol. 21, No. 124.

waters outside a distance of three *ri* from the coast as prescribed by the *Manguk gongbeop* (K. Park 1974, 32–33).

Before again pointing out the *misunderstanding* of the Fisheries Agreement by Korean officials, it should be noted that their understanding of the distinction between the inside and outside of the three *ri* was similar to their method of understanding the interior. Unlike extraterritorial areas, such as foreign settlements, the interior was a space that was, in principle, under the complete jurisdiction of the Korean government. Therefore, from Korea's standpoint, that commercial activities of foreigners had to remain outside the interior was only natural. Admittedly, through multiple international treaties, the right to travel and trade was gradually granted to foreign subjects though limited to those who were issued a *hojo* 護照 (a pass). However, the gradual change did not alter the basic principle that the interior remained under the complete jurisdiction of the Korean government.

Similarly, the *Manguk gongbeop* also recognized the exclusive fishing rights of a sovereign state in waters within a distance of three *ri* from the coast of its land. Even though the Fisheries Agreement specified that Japanese fishing vessels could operate in waters within this distance, it did not provide legitimate grounds to deny the sovereignty of the state over the territorial sea within a distance of three *ri* from the coast.

According to international law, the scope of the territorial sea could also be defined as the landing distance of a projectile that was fired from the coast, following the logic that the territorial sovereignty of the state could be extended over the sea up to the firing range of a battery from the shore (Schmitt 2007, 218–221). In this respect, a distance of three *ri* from the coast could be seen as the interior extended to the sea. However, through legal or illegal practices, Japan attempted to transform the waters within three *ri* from the coast into a free sea, where jurisdiction of the Korean government would not be able to reach.

The Sea within the Interior

In the spatial structure under a treaty regime, the sea could never be directly

connected to the interior. While the open ports mediated between the interior and the sea, illegal trade in nonopen ports, which remained closed to foreign commerce, contributed to the cracking of this spatial structure. In the late 1880s, illegal smuggling by Chinese merchants in Pyeongan-do and Hwanghae-do regions increased continuously. The situation ultimately developed into a diplomatic issue as Japan brought a challenge against the illegal trade of Chinese subjects. *The Description of Korea* (The Описаніе Кореи), published in 1900 by the Ministry of Finance of Russia, a study on politics, economy, society, culture, and geography of Korea, described the status of the illegal trade of Chinese subjects at that time:

> The trade between the forbidden ports of Korea and China was strictly prohibited to subjects of both countries under the treaty signed between China and Korea. Nonetheless, the frequent fogs and numerous islands scattered along the coast of China and Korea, combined with a lack of security checkpoints on the coast, presented a favorable environment for illegal smuggling on a large scale.
>
> These transactions were most actively taking place in the northwest coast of Korea, and Shandong and Liaodong regions. The illegal smuggling was further facilitated when Chinese subjects were granted the fishing rights in the abovementioned coasts. Not long ago, it was the estuary of the Daedonggang river that served as the base camp for the illegal import and export. It is now impossible to determine even the approximate volume of such illegal trades (MFR 1983, 279).

The "treaty signed between China and Korea" described in this passage refers to Article 3 of the Regulations between Korean and China. The Article prohibited the smuggling trade within nonopen ports and further provided that all vessels and cargo be confiscated in case of violation. The preceding excerpt explains that the natural environment of the northwest coast of Korea with its frequent fog and numerous islands, coupled with a lack of monitoring, led to the active proliferation of illegal trade. Meanwhile, Article 3 also granted fishing rights within the coastal waters of Pyeongan-do and Hwanghae-do regions to Chinese subjects. In other words, the Article strictly prohibited illegal trade, while recognizing the fishing rights of Chi-

nese fishermen. The excerpt points out that the fishing rights granted to Chinese fishermen were a driving force behind the proliferation of illegal trade in Korea. At the earlier stages of the transformation from *eoho* 漁戶 (fishermen) to *jamsang* 潛商 (smugglers), the distinction between the fishermen and smugglers was necessary in order to crack down on illegal trade. Since the former were associated with the sea and the latter with the interior, the attempt to make such a distinction could also be seen as an attempt to clarify the distinction between the sea and the interior.

In this light, the incident known as "The Chinese Smuggler Yu Yantang 于晏堂" in 1889 is worth noting. The circumstances can be briefly described as follows. In order to investigate the severity of illegal trade in Pyeongan-do and Hwanghae-do regions, the Korean government appointed Ryu Wan-su as an inspector to the regions. Ryu, while on duty as inspector, landed in the ports of Daetan in Hwanghae-do province, arrested a Chinese merchant, Yu, and transferred him to the Foreign Office after seizing his vessel and cargo.[6] The facts might suggest that this event was simply another smuggling incident that happened within a nonopen port. However, a dispute ensued between Korea and China over the confiscation of the vessel that Yu had used for illegal trade.

At the start of the dispute, Yuan Shikai 袁世凱, Chinese general commissioner in Korea, heard of the incident through a query on September 28 from Min Jong-muk, President of the Foreign Office. In a response dated October 5, he sought to rebut the Korean government's arguments, based on Yu's statement. Yuan's response was as follows: the vessel that was seized did not belong to Yu, who was only leasing the vessel from a person named Jiang Wanshun. Yuan admitted that Yu's conduct constituted a violation of the Treaty, but argued that Jiang should be freed from detainment and permitted to have his vessel returned to him because he was not a smuggler. Thereafter, Yuan repeatedly requested a prompt response from the Korean government. Min Jong-muk replied on November 8 that even though Yu's vessel might have been leased from Jiang, if this ship was used to commit a crime, Jiang should also be held liable. He further explained

6. *Documents on Old Korea Foreign Policy* (hereafter, DOKFP), Vol. 8, No. 1024.

that while Jiang possessed a certificate and therefore could not be considered a smuggler, he was still not a fisherman. His response stated that anchoring the vessel in nonopen ports could have been for evading tax. However, he replied that he would try to give a favorable judgment for Jiang in respectful consideration of Yuan's request, since it was not possible to tell whether the vessel was actually anchored at the port. Yuan questioned why Jiang would not be considered a fisherman when his certificate specified that he was one and asked for an explanation as to why Min would presume the intention of tax evasion when anchoring in the coasts to seek food and water was a permitted practice under the the Regulations between Korea and China.[7]

This dispute originally began with the issue of how to dispose of Jiang's ship leased by Yu. However, at the heart of the dispute lay a difference of opinion over whether Jiang was a fisherman or not. China regarded Jiang as a fisherman, whereas Korea did not consider him as one. The decision was important because it could have made Jiang a potential accomplice to the smuggling by Yu, and the punishment would have been determined in accordance with it. Whether or not Jiang was in fact a fisherman was virtually a question of distinguishing between a fisherman and a smuggler. The Chinese merchants who were arrested and had their cargo and certificate confiscated by Inspector Ryu Wan-su in Hagampo and Gajeonpo faced a similar controversy in this context.

If Chinese fishermen had anchored a vessel and landed in a nonopen port, the act would have been a movement from the sea to the interior, in other words, from lawfully permitted area into a prohibited area. However, the advance of fishermen into the interior, although limited in scope, was still permitted by the exceptions provided in Article 3 of the Regulations between Korea and China that permitted the purchase of food and water by the fishermen. Thus, for those fishermen to transform into smugglers was only a matter of time. The Korean government was concerned that these fishermen might roam around the market place, extorting money from Korean citizens. The government was further concerned that the nega-

7. *DOKFP*, Vol. 8, No. 1035, 1057, 1069, 1072, 1078.

tive consequence of allowing them into the interior could be aggravated by the possible joining of forces with Chinese vagrants and stragglers.[8] On the other hand, Japan protested that the Korean government could no longer refer to the Chinese subjects within the interior as smugglers because the regional governments of Korea had failed to keep them out of the interior and instead imposed an *interior tax* on them. Japan then claimed that Japanese subjects should also be granted the rights that Chinese subjects enjoyed within the interior of Korea.[9]

As a consequence, the Korean government sought to clarify the distinction between the interior and the sea. In April 1887, an incident occurred in which the Korean government did not issue a pass despite a request by the Japanese Consul. The Temporary Deputy Consul from Japan, Takahira Kogoro 高平小五郎, immediately complained that the Korean government had failed to respond to the request. In May of the following year, President of the Foreign Office Jo Byeong-sik explained that the incident had involved a Japanese merchant's attempt to engage in trade in the Hongwon region. He was trying to engage in commercial activities by renting a Korean vessel and traveling through the sea lane. Jo explained that the supervising official's right to reject a pass application was not a violation of the Treaty and that no reason existed to reject the application if the commercial activity using the ship was restricted to a river, not the sea. Japan countered by quoting Provision 6, Article 4 of the Korean-Great Britain Treaty that allowed foreign subjects to hire local workers and wagons in order to transport their cargo. However, Jo replied that the provision only applied to transportation within the interior, not from open ports to non-open ports. He further explained that if the Korean government granted permission to engage in trade within nonopen ports through waterways, Article 33 of the Commercial Agreement that prohibited the smuggling trade within the nonopen ports would be rendered meaningless.[10]

In addition, in 1889, the Japanese Consul Kondo sent a notice to the

8. *Hwanghaedo gwancho* (Hwanghae-do Province Official Document), April 14, 1887.
9. *DOKFP*, Vol. 1, No. 1453.
10. *DOKFP*, Vol. 1, No. 869, 1150, 1151.

Korean government in order to notify that it would be conducting a survey on the Daedonggang river, and Jo Byeong-sik once again denied the request. Jo pointed out that Article 7 of the Korea-Japan Treaty and Article 9 of its Appendix only permitted the survey of coastal waters and that neither article authorized the survey of the riverside and its vicinity.[11] Jo's response could be seen as an attempt to clarify the boundary between the sea and the interior by distinguishing between the riverside and the coast.

However, because of the illegal smuggling trade that continued to increase and through the special contract that Korea had signed with foreign countries, nonopen ports represented neither open ports with maritime customs nor the interior, where the traffic of foreign vessels was prohibited. Rather, the place gradually evolved into a *sea* within the interior. The sea and interior thereby gradually became connected to each other, not only through open ports but also nonopen ports throughout the country. As a result, the boundary between the sea and the interior eventually became meaningless.

Conclusion: The Dismantling of the Spatial Structure under the Treaty Regime and the Colonization of Korea

The fact that the boundaries between the sea and the interior were rendered meaningless also meant that the outer boundary of the spatial structure under the treaty regime was largely demolished. The issue now became the space called the interior itself. The interior was the residential area exclusive to Korean citizens and under the complete jurisdiction of the Korean government. However, foreign subjects could also freely travel and engage in commercial activities by carrying a government-issued pass. Thus, the rights guaranteed by the treaties and the illegal expansion of mixed residence quarters within the interior caused the boundaries between the interior and the mixed residence zone to collapse.

Marking a more significant change to the concept of the interior, the

11. *DOKFP*, Vol. 1, No. 1435, 1436, 1437, 1438.

Residency-General, established by Japan in February of 1906, recognized foreigners' land ownership in Korea through the public announcement of the Land and Housing Certification Rules in Royal Edict No. 65. On one hand, the interior now became a place of mixed residence completely open to foreigners (J. Park 2013, 93). On the other hand, in 1908, the Residency-General also forced upon the Korean government a Fisheries Agreement and granted the same fishing rights with Korean people to Japanese subjects (Lee 1995, 177–178). These two legal instruments were different insofar as the former targeted the transactions in the land and the latter those at sea. However, they were similar in nature because they both publicly recognized the dismantling of legal and illegal boundaries. In other words, the Fisheries Agreement was the sea version of the Land and Housing Certification Rules.

As distinctions between the high seas and territorial waters, the sea and the interior, and the interior and the mixed residence zone virtually lost their meaning and function, the spatial structure under the treaty regime also became a mere façade. The *Chosen Iju Annai* (The Korea Immigration Guide) published in 1904, advertised that "the interior of Korea [. . .] is a fairyland filled with freedom" (Yamamoto 1904, 62). The *freedom* it referred to was no different from the freedom in the sea, which eluded control by any country. Through the colonization of Korea and the consequential dismantling of the spatial structure of the treaty regime, the Korean Peninsula eventually turned into a huge *sea*. A new order of colonial Korea named the *exterior* (*gaichi* 外地) of the Japanese archipelago started to develop over this *sea*.

REFERENCES

Primary Sources

Documents on Old Korean Foreign Policy (*DOKFP*). 舊韓國外交文書
Documents on Japanese Foreign Policy (*DJFP*). 日本外交文書

Secondary Sources

Ishikawa, Ryota 石川亮太. 2002. "Kindai Ajia ikinai Shijo no Naka no Chosen" (Korea in the Modern Asia Market). In *Gurobaru Hisutori ni Mukete* (Towards Global History), edited by Kawakatsu Heita. Tokyo: Fujiwara-shoten.

_____. 2008. "Joseon gaehang hu junggugin sangin-ui muyeok hwaldong-gwa neteuwokeu" (The Commercial Activities and Networks of Chinese Merchants in Korea during the Open Port Period). *Yeoksa munje yeongu* (Critical Studies on Modern Korean History) 20: 9–50.

Kim, Moon-kee. 2009. "Gihu, bada, eoeop bunjeng: 1882–1910 nyeongan jocheong eoeop bunjaeng-ui jeongae" (The Climate, Sea, Fishing Rights Disputes: The Development of Fishing Rights Disputes between Korean and China, 1882–1910). *Junggуksa yeongu* (The Journal of Chinese Historical Researches) 63: 67–120.

Kim, Se-min. 2002. *Hanguk geundaesa-wa manguk gongbeop* (Modern History of Korea and Universal Public Law). Seoul: Kyungin.

KLRI (Korean Literature Research Institution), eds. 1981. *Manguk gongbeop* (Universal Public Law). Seoul: Asea Munhwasa.

Lee, Young-hak. 1995. "Gaehang ihu ilje-ui eoeop chimtu-wa joseon eomin-ui daeeung" (Infringement by Japanese Fishermen and Reaction of Korean Fishermen during the Open Port Period). *Yeoksa-wa hyeonsil* (Quarterly Review of Korean History) 18: 154–188.

Park, Jun-hyung. 2013. "'Japgeo'-ui yeoksa, hanguk hwagyo-wa iut hagi" (History of Mixed Residency, Becoming Intimate with the Overseas Chinese in Korea). *Dongbang hakji* (The Journal of Korean Studies) 161: 77–118.

Park, Koo-byung. 1974. "Ijo mal hanilgan-ui eoeop-e jeogyongdoen yeonghae 3 haeri wonchik-e gwanhayeo" (On the Application of the Three-Mile Limit Rule for Territorial Seas to the Fisheries Agreement between Korea and Japan in the End of the Joseon Dynasty)." *Gyeongjehak yeongu* (The Korean Journal of Economic Studies) 22.1: 21–39.

Rhee, Kun-woo et al. 2008. *19 segi dongbuga 4 gaeguk-ui doseo bunjaeng-gwa hae-*

yang gyeonggye (A Study on Controversies over Delimitation of Sea Sovereignty in Northeast Asia of the nineteenth Century). Seoul: Northeast Asian History Foundation.

MFR (Ministry of Finance of Russia). 1983. *Guhanmal-ui sahoe-wa gyeongje* (The Economy and Society of the Late Joseon Period [original title: *Описаніе Кореи* (Discription of Korea)]). Translated by Kim Byeong-rin. Seoul: Yupung Munhwasa.

Schmitt, Carl. 2007. *Daichi no Nomosu* (The Nomos of the Earth [original title: *Der Nomos der Erde: im Völkerrecht des Jus Publicum Europaeum*]). Translated by Nitta Kunio. Tokyo: Jigakusha.

Sohn, Jung-mok. 1982. *Hanguk gaehanggi dosi byeonhwa gwajeong yeongu: Gaehangjang, gaesijang, jogye, georyuji* (A Study on the City Change during the Korea's Open Port Period: Open Ports, Open Markets, Concessions, and Foreign Settlements). Seoul: Iljisa.

Wheaton, Henry. 1878. *Elements of International Law.* London: Stevens & Sons.

Yamamoto, Kurataro 山本庫太郎. 1904. *Chosen Iju Annai* (Korean Immigration Guidance). Tokyo: Minyusha.