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The modern transformation of Korean political thinking : revisiting the political ideas of the Late-Nineteenth-Century Reformists

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PART TWO RECONSTRUCTION

Chapter Four

The Reformists' Adoption of New Public Values and Norms

Examining the development of Chosŏn's political thinking chronologically and thematically, in Part One we have identified that, while the ethical world was shrinking in Korean intellectuals' world consciousness since the eighteenth century, the factual and empirical world was getting expanded. The Confucian ethical ideal that functioned as a central resource providing values and norms in both the private and the public realm was getting losing its hegemonic lustre. The late nineteenth century in Korean history was a critical period when traditional public values and norms were replaced by novel ones. In the midst of the disintegration of the traditional social system, the reformist intellectuals put forth new public values and norms and new political ideas for post-Confucian Korean society. In the coming three chapters, I aim to examine how the reformist intellectuals reconstructed the public realm in a post-Confucian way, beginning with a discussion of their advocacy of new public values and norms.

Public values during the Chosŏn dynasty, which also operated as the source of public norms, mainly originated from Confucian ethics. Besides the Confucian principle that for a person to build a career in the public realm, he should first cultivate moral virtues, a

²⁴⁰ This chapter is an upgraded version of the originally published article in *Sungkyun Journal of East Asian Studies* 13(2) (2013), pp. 169–92.

variety of and culturally embedded norms, supported by Confucian ethics, regulated people's behaviours and their relationships to each other. Specifically, *sangang* (三綱, three principles) and *wulun* (五倫, five Confucian relationships) defined the basic Confucian standards of interpersonal relationships in Chosŏn. In the late nineteenth century, however, the traditional Confucian values were being distrusted, particularly as values in the public realm, and being retreated to the private realm. Instead, influenced by modern Western political ideas, the reformists championed new public values, such as liberty, equality, rights, and the rule of law. Importantly, the reformists adopted the new values to address social needs of contemporary Korea, specifically the needs to catch up with Western wealth and power and to redress chronic social problems, such as the authorities' dominance over the people, the hierarchical social status system, and patriarchal and male-dominated customs. The reformists' adoption of the new values, therefore, reflected the historical context of late nineteenth-century Korea; they did not champion those values because of sheer merits of the notions themselves.

Previous studies have mainly interpreted the new values in terms of the reformists' adoption of the Western conception of *minkwŏn* (民權) or 'the people's rights,' without considering the historical context of the time seriously. Specifically, they focused on the reformists' limited reception of the concept of rights which they imputed to the reformists' Confucian background. For example, drawing a general picture of Pak Yŏnghyo's ideas of rights, Kim Hyŏnch'ŏl saw that Pak's view of the need to restrict individual liberty in society was based on his Confucian preconception.²⁴¹ In his survey of Yu Kilchun's ideas of rights, Chŏng Yonghwa also ascribed Yu's limited adoption of rights to his Confucian pre-

²⁴¹ Kim Hyŏnch'ŏl, "Pak Yŏnghyo ŭi '1888 nyŏn sangsomun e nat'an an minkwŏn ron ŭi yŏn'gu" [A Study of the Ideas of People's Rights in Pak Yŏnghyo's 1888 Memorial], *Han'guk chŏngch'i hakhoebo* 33(4) (1999), pp. 9–24.

understanding.²⁴² In a similar but slightly different manner, Oka Katsuhiko claimed that, while Yu Kilchun's adoption of rights was basically linked with his Confucian preconception, Yu, instead of holding to the Neo-Confucian view of society in toto, accepted "humans' desires" as a relevant source in social life and validated a "utilitarian" aspect of society, too. Yu's idea of the need to constrain liberty in society is therefore not simply based on his Confucian pre-understanding, but rather on the need to regulate individuals' maximisation of utility.²⁴³ On the other hand, Kim Pongjin, in his comparative study, found the difference between Yu Kilchun and Fukuzawa Yikichi in the diverse Confucian traditions between Chosŏn Korea and Tokugawa Japan. In Fukuzawa's case, the original championing of individual rights leant towards the value of national rights, which was related with the Japanese tradition. By contrast, Yu Kilchun understood rights as given from heaven in the Confucian manner and regarded it as an overriding *principle* for the people's life.²⁴⁴

These studies largely highlighted the remnants of Confucian tradition within the reformists, but they paid little attention to the reformists' confrontation with their traditions. When we see the reformists' advocacy of the concept of rights within the historical condition of the time, we can grasp that their championing of rights was closely associated with the need to correct 'bad' social customs at the time. Moreover, they failed to distinguish a considerable difference between Pak Yŏnghyo, the radical, and Yu Kilchun, the moderate,

²⁴² Chŏng Yonghwa, *Munmyŏng ŭi chŏngch'i sasang: Yu Kilchun kwa kŭndae han'guk* [The Political Thought of Civilisation: Yu Kilchun and Modern Korea] (Seoul: Munhak kwa Chisŏngsa, 2004).

²⁴³ Oka Katsuhiko (岡克彦), "Han'guk kaehwa sasang ŭi kwŏlligwan: Yu Kilchun ŭi kwŏlliron ŭl sojae ro" [The Ideas of Rights in Korean Reformism: with Special Reference to Yu Kilchun's Ideas of Rights], *Kyŏnggi pŏbhak nonch'ong* 1 (2000), pp. 399–424.

²⁴⁴ Kim Pongjin, "Sŏku 'kwŏlli' kwan'nyŏm ŭi suyong kwa pyŏnyong – Yu Kilchun kwa Fukuzawa Yukichi ŭi pigyo koch'al" [The Reception and Transfiguration of the Western concept of 'Rights' – A Comparison between Yu Kilchun and Fukuzawa Yukichi], *Tongbang hakji* 145 (2009), pp. 65–104.

because of their deductive approach given by their theoretical framework, i.e., Confucian influence on the reformists' ideas. As a radical, Pak had a seriously confrontational attitude toward the traditions. They did not either heed other factors that helped to create the reformists' peculiar understanding of rights; that is, the translation of Western concepts and the terminological characters of the translated words. In addition, by putting their attention only to the 1880s, they did not track the development of the new public values in the 1890s.

When it comes to new public norm (the rule of law), Chŏn Pongdŏk comprehensively illuminated the reformists' ideas of law in the 1880s and '90s.²⁴⁵ His jurisprudential approach provides a professional assessment of the reformists' understanding of law, but, owing to his legal approach itself, he has failed to consider historical contexts in which the reformists proclaimed rule of law as the most important norm in the public space. The reformists' championing of law was directly associated with the context of the time.

This chapter first examines the introduction of new concepts of public values, which were originally translated from modern Western concepts into Chinese and Japanese, and then sees the context of the adoption of those concepts through the reformists' works.

1. New Public Values

1.1. Liberty

In Confucian Chosŏn, the basis of social interactions was not merely individuals or subjects.

²⁴⁵ Chŏn Pongdŏk, *Han'guk kŭndae pŏp sasangsa* [The History of Legal Thoughts in Modern Korea] (Seoul: Pak'yŏngsa, 1981).

Besides an independent person, a man was seen with regard to wider networks of relationship, such as a member of an extended family and one in a certain social status category. This relationship-based social interactions, supported by Confucian ethical norms, took the division of people into both the high and the low and the near and the far for granted. Given that the hierarchical social status system (especially, the discrimination of *sŏŏl* (the secondary descendants of the *yangban* class)) had been criticised by many reformist Confucians in late Chosŏn, it looks obvious that the traditional social system was not complete. Rather, it was a system based on deep dissatisfaction and conflict. This inner dissension was gradually addressed during the nineteenth century, as slaves were liberated steadily and the social status system itself was finally repealed through the *Kabo* reforms (1894–95). The equalisation process was accelerated after the opening up (1876) and, as a consequence, facilitated the destabilisation of the existing social system. An important moment that fuelled the destabilisation of the existing system was the adoption of new public values, including liberty. From the early 1880s, Chosŏn's government officials and students began to experience foreign countries like Japan and the U.S. and accepted novel ideas on the constitution of society. Liberty, a core public value replacing Confucian values, was a key element of the new ideas they adopted.

The English word 'liberty' or 'freedom' is currently translated by *chayu* (自由, Ch. *ziyou*; Jp. *jiyū*), yet *chayu* was not an entirely new word created in the process of cultural encounter in the late nineteenth century. The expression had occasionally been used in old Chinese texts and poems, though in these cases *chayu* was not a public value but an

expression meaning that something is done without outer intervention or done arbitrarily.²⁴⁶ Before the word became the translation of liberty/freedom, *chayu* was more frequently used in Japan, as is found in the interrogation documents relating to Christian missionaries, and in the 1860s it was employed in diplomatic treaties with Western countries, though it was still being used as a predicate, not the public value liberty.²⁴⁷ This would be the reason why *jiyū* was chosen for the first time in Japan as the translation of liberty. The first case of the adoption of *jiyū* in Japan was in Horii Tatsunosuki's *A Pocket Dictionary of the English and Japanese Languages* (1862).²⁴⁸ Yet even in this case, *jiyū* meant “do something at will” and “be wayward” in a somewhat negative sense. On the other hand, in China liberty was frequently rendered as *zizhu* (自主) until Wilhem Lobschied adopted *ziyou* for the first time, along with other terms like *zizhu*, *zhiji zhiquan* (治己之權, the right of self-governance) and the likes in his dictionary compiled in 1869.²⁴⁹ These confusions probably would have made Fukuzawa Yukichi reluctant to use *jiyū* in the first edition (初編) of his book *Seiyō jijō* (西洋事情, Conditions in the West) published in 1866. In the first edition, Fukuzawa used the expression “jishu nin'i (自主任意)” as the word indicating liberty.²⁵⁰ In the later edition (外

²⁴⁶ An instance of the usage of *chayu* in an old Chinese text is seen in *Houhanshu* (後漢書): “建武元年 赤眉賊率樊崇逢安等 立劉盆子爲天子 然崇等視之如小兒 百事自由。” (松尾章一, 『自由民權思想の研究』, 日本經濟評論社, 1990, p. 14) Recited from Chōng Yonghwa, *Munmyōng ūi chōngch'i sasang*, 339.

²⁴⁷ Ch'oe Chonggo, *Han'guk ūi sōyangpōp suyongsa* [The History of the Adoption of Western Laws in Korea] (Seoul: Pak'yōngsa, 1982), pp. 319–22.

²⁴⁸ Zhang Qing, “Interpreting ‘liberty’: an analysis of the history of ideas,” *Journal of Modern Chinese History*, vol. 5 (1), (2011), p. 29.

²⁴⁹ Wilhem Lobschied, *English and Chinese Dictionary, with the Punti and Mandarin Pronunciation*, part 3 (Hong Kong: Daily Press Office, 1869), p. 1107, quoted from Zhang Qing, “Interpreting ‘liberty’”, p. 29.

²⁵⁰ See Fukuzawa Yukichi, “*Seiyō jijō Shohen* (西洋事情 初編),” *Seiyō jijō* (西洋事情: 福澤諭吉著作集 vol. 1) (Tokyo: 慶應義塾大學出版会, 2004), pp. 15–16.

篇) published in 1869, however, Fukuzawa used *jiyū* as the word indicating liberty unequivocally, and as the book became popular, the word *jiyū* became current among people and was transmitted even to China and Chosŏn. Following Fukuzawa's precedent, in rendering John S. Mill's *On Liberty*, Nakamura Masanao (中村正直, 1832–1891) also used the word *jiyū* for the translation of liberty. In Chosŏn the word *chayu* began to be used from the early 1880s, as is seen for the first time in Min Chongmuk's report presented to King Kojong in 1881 after he returned from a secret investigative journey to Japan to see its modern facilities and institutions.²⁵¹ Then, in 1882, when King Kojong had a dialogue with the reformist official Hong Yŏngsik soon after the latter's return from a diplomatic mission to the U.S., American people's right to liberty was addressed in their dialogue.²⁵² In Pak Yŏnghyo's 1888 memorial and Yu Kilchun's *Sŏyu kyŏnmun*, the word *chayu* was employed as the exact translation of liberty or freedom.²⁵³

Now let us see the context in which the Korean reformists used the word *chayu* in their works. The first discussion of *chayu* is shown in *Hansŏng sunbo* and *Hansŏng chubo*, although in the newspaper the editors did not address new values such as *chayu* and *p'yŏngdŭng* (equality) as independent themes. This reluctance can be ascribed to the status of the newspaper, which was founded and financially supported by the government. The editors

²⁵¹ Hŏ Tonghyŏn, *Kŭndae han'il kwangyesa yŏn'gu: chosa sich'aldan ŭi ilbongwan kwa kukka kusang* [The Studies of the Relations between Korea and Japan in the 1880s: Chosŏn Government Officials' Views on Japan and Their Visions of State] (Seoul: Kukhak charyowŏn, 2000), pp. 101–2

²⁵² Kim Wŏnmŏ (ed. and trans.), “Kyŏnmi sajŏl Hong Yŏngsik pokmyŏng mundapgi” (遣美使節洪英植復命問答記) [The First Korean Embassy, Vice-minister Hong Yŏngsik's Report on the United States in 1883], *Sahakji* vol. 15 (1981), pp. 214–24.

²⁵³ Yu Kilchun also used the expression “*chayu im'ui*” (自由任意) as a translation of liberty and stressed that *chayu im'ui* was obviously different from licence. He would have brought the expression from Fukuzawa's original translation of liberty, “*jishu nin'i*” (自主任意). Yu Kilchun, “*Sŏyu kyŏnmun*,” ch.5 (政府의 治制), 173.

would have to be cautious in expounding new ideas unpalatable to high officials. Moreover, considering the still conservative social conditions of Chosŏn in the 1880s, it is not strange that the editors did not deal with these values directly. Instead, they championed the values indirectly, addressing them in the articles introducing the European countries and their political regime. The 10 November 1883 issue of *Hansŏng sunbo*, entitled “the European continent” (歐羅巴洲), is a rare article discussing the value of liberty. The writer of the article first described Europe’s geographical character in detail and then treated its races, religions, social customs, and its academic and political features. In the part dealing with its social customs, the writer stated that in Europe the garments, meals, houses, and churches are splendid, and the gap between the high and the low class (貴賤) is not large and the people just want to be close to each other. Even the noble-class people like a king or prince, according to the writer, are so humble that they are not accompanied by servants when they go outside, and the people do not kneel down on the floor when greeting them. Described in concrete cases, what the article meant was that people in European countries are more *equal* than those in Asia. Then, it went on to explain that in Europe if people’s acts do not cause harm to society, they can do what they want without being prohibited by the authorities and without being vilified by their neighbours. The writer called this “the right of liberty” (自主之權利). What is important is the writer’s mode of understanding *chayu*. He argued that, due to the right of liberty, in Europe a government and common people (上下) cooperate with each other, and thus to a large degree a country can seek “wealth and power,” and to a minor degree a person can preserve his own rights. And the writer contrasted the situation in Europe with that in other continents where people cannot pursue what they want, even if they cause no harm to society. Although written very briefly, this description gives us a hint that the

writer located one of the secrets of European countries' prosperity and strength in the universal provision of the right of liberty.²⁵⁴ Because of the right of liberty, according to them, individuals can pursue their talents and interests and thus in the end contribute to the state's wealth and power.²⁵⁵ So the interest in the concept of *chayu* was endowed not by its sheer value but by its socio-political effects. This says that the editors recognised the merits of *chayu* as a core public value for their factually and empirically tilted view of the world.

This way of understanding *chayu* is more clearly seen in Pak Yŏnghyo. In the sixth proposal in his 1888 memorial, he argued for the importance of educating common people. He first stated that, if the king wanted to maintain his unlimited power, it would be a good strategy for the common people to be kept in a state of ignorance, whatever effects this had on the state. But on the contrary, if the king desires a wealthy and powerful country and aims to stand as an equal to other countries, he argued, the king should limit his power and, instead, provide commoners with "a proper portion of liberty" (當分之自由) and, at the same time, let them have obligations toward the state. And he added that only with these measures could the civilisation of the state progress. Likewise, in the seventh proposal on correcting the

²⁵⁴ The writer especially emphasises liberty as a core value in European societies, so this interpretation is reasonably drawn. On the other hand, the editors do not mention the source of this article at all. Given the expression of "*chaju*" (自主) as a translation of liberty, it is possible to assume that the editors fetched it from a Chinese source, but it is unclear. One thing notable is that, although the writer aimed to introduce the European continent, it maintained a comparative perspective between the European and the East Asian countries.

²⁵⁵ Reformist Chinese intellectuals such as Wang Tao (1828–1897) and Yan Fu (1853–1921) also saw that, behind Western wealth and power, there are the values like freedom, equality, and democracy. In particular, Yan Fu found a core factor that determined the historical development of the West in the liberation of "the individual's energy and faculty" and suggested his own idea of an ideal society based on Herbert Spencer's evolutionism. For Wang's and Yan's life and thoughts, I have referred to Paul A. Cohen, *Between Tradition and Modernity: Wang T'ao and Reform in Late Ch'ing China* (Council of East Asian Studies, Harvard University Press, 1987) and Benjamin Schwartz, *In Search of Wealth and Power: Yen Fu and the West* (Cambridge, Mass.: The Belknap Press of Harvard University Press, 1964).

national politics, he stated that “if the people have the right of liberty and the king’s power is limited, then the people and the state will be peaceful forever; yet, if the people do not have the right of liberty and the king’s power is unlimited, then though there is a short period of strength, this state of affairs will not last and it will decline.”²⁵⁶ From these remarks, it is surmised that, in Pak Yŏnghyo’s view, only by furnishing more liberty to commoners, society could become more dynamic, and, with their initiatives, the state could generate bases for national wealth and power. So it is reasonable to argue that he found one of the secrets of Western advancement in the universal right of liberty. Liberty was seen as the matter of need for the wealth and power of Chosŏn.

Pak also addressed the need to increase Korean people’s liberty in another context. In the eighth proposal, he first mentioned the existence of humans’ inborn rights that heaven endowed universally and then focused on the reason why the right of liberty is critically restricted in contemporary Chosŏn. He found a main reason in “bad social customs” (惡風/惡俗) in society. He thought that liberty in contemporary Chosŏn was a “barbaric liberty” (野蠻之自由), because, instead of all people’s equal liberty, men and husbands enjoyed liberty upon the illiberal state of women and wives, and the *yangban* class enjoyed it upon the sacrifice of other classes. He illustrated concrete examples of the barbaric liberty, such as high officials’ use of palanquins carried by lower people on their shoulders, *yangban*’s treatment of their servants like animals, and men keeping concubines. Thus, he thought that the primary limitation of “civilised liberty” (文明之自由) in Chosŏn was inequality between men and women and the existence of the privileged class. Then, he explained in a quite

²⁵⁶ “凡民有自由之權 而君權有定 則民國永安 然民無自由之權 而君權無限 則雖有暫時強盛之日 然不久而衰亡.” Pak Yŏnghyo, “Pak Yŏnghyo ūi kŏnbaeksŏ,” 287.

theoretical manner the reason why individual liberty in society is to be restricted through law, which he named “social liberty” (處世之自由), employing Fukuzawa’s ideas in his *Seiyō jijō* (西洋事情).²⁵⁷ Kim Hyōnch’ōl’s study on Pak Yōnghyo emphasised this point in order to argue that Pak was still thinking of the value on the basis of Confucianism; yet the point is that Pak’s adoption of *chayu* itself had a strong confrontational attitude towards Chosŏn’s traditions.²⁵⁸ Pak’s *chayu* had an aim for liberation in contemporary Chosŏn. In sum, Pak Yōnghyo considered both the social merits of the value of *chayu* and the need to restrict it for the public end. He did not approach *chayu* in an abstract, theoretical manner; rather, for him *chayu* was demanded for its practical needs for Chosŏn society at the time.

Yu Kilchun’s approach to *chayu* is more theoretical than practical and largely repeats Fukuzawa’s view of *chayu*. Unfolding his understanding of *chayu* in the fourth chapter of *Sōyu kyōnmun*, he saw liberty as a core element of citizens’ (*kungmin*) rights and defined it as “the right to do as one wants to do without external restrictions.” What is characteristic to Yu’s understanding is that he is seriously inclined to a theoretical clarification of a proper degree of liberty in society, not seeking to contrast the ideal of liberty with the reality of Chosŏn at the time, as Pak Yōnghyo did. At core parts, following Fukuzawa’s ideas, Yu maintained that, though liberty is a right given to humanity by heaven,

²⁵⁷ The expressions, “野蠻之自由” and “處世之自由,” were borrowed from Fukuzawa’s book *Seiyō jijō*. Both Pak Yōnghyo and Yu Kilchun used these expressions in discussing people’s liberty. The Japanese scholar Aoki Koichi registers how much Pak Yōnghyo was influenced by Fukuzawa Yukichi. He analyses Pak’s memorial sentence by sentence and clarifies Pak’s direct citations from Fukuzawa’s books. See Aoki Koichi (青木功一), *Fukuzawa Yukichi no Ajia* (福澤諭吉のアジア) [Fukuzawa Yukichi and Asia] (慶應義塾大學出版會, 2011), ch. 7.

²⁵⁸ Kim Hyōnch’ōl saw Pak’s view of restricting liberty in society as evidence of his upholding of the Confucian mind-set. It is understandable, but the need to restrict liberty in society can be seen as a way to maintain social order in terms of utilitarianism, as Fukuzawa understood so. Moreover, Kim did not address Pak’s criticism of traditional practices concerning liberty, which stood for his radicalness. Kim Hyōnch’ōl, “Pak Yōnghyo ūi 1888 nyōn sangsomun.”

in living with others in society, each individual must renounce some degree of liberty. Limits of liberty to live together in society (*ch'ŏseji chayu*) can be made only through “law,” which is the acceptance of Fukuzawa’s view. What is peculiar for Yu was suggested at the last part of the fourth chapter where he added his own opinion. He used some Confucian-flavoured expressions such as *tianli* (天理, heavenly way) and *renyu* (人慾, human desires), and divided liberty into both good liberty (良自由) following *tianli* and bad liberty (惡自由) following *renyu*. And he saw that law is the mechanism that discerns good liberty from bad liberty. His use of Confucian terms and his stress on the limits of liberty drove researchers like Tsukiashi Tatsuhiko and Chŏng Yonghwa to focus on Yu’s holding to Confucian legacies, which was different from Fukuzawa’s utilitarian approach. Yet another point to consider is that he never addressed the reality of Chosŏn regarding *chayu*. While he recognised the value of *chayu* theoretically, he refrained from discussing the actual condition of *chayu* in Chosŏn. This can be interpreted to be related with his moderateness and elitism in social and political issues. Due to these characteristics, he was not much interested in transforming the undesirable state of his country. From the perspective of Confucian legacy on him, his adherence to the ethical ideal of Confucianism forced him to be passive in tackling the reality of Chosŏn.²⁵⁹ In this regard, his view of liberty was not progressive.

The word *chayu* was widely circulated in the language acts of Korean people in the

²⁵⁹ Concerning Yu Kilchun’s moderateness, Chŏng Yonghwa has found it in his Confucian background, but he has failed to discern diverse traditions within Confucian political thinking. There are both the progressive and the conservative tradition within Confucianism, which are well matched with the ‘political necessity’ and ‘ethical ideal’, the two aspects of Confucian political thinking suggested in this dissertation. The radical Pak Yŏnghyo mainly adopted the former, while divesting himself of the latter. On the other hand, Yu Kilchun maintained the two aspects. Both the liberal and conservative sides within Yu’s thoughts were thus connected with this character. His moderateness in political issues and his elitism derive from this view of Confucianism. Chŏng Yonghwa, *Munmyŏng ŭi chŏngch'i sasang*.

late 1890s. In the editorials of *Tongnip sinmun* (7 April 1896 – 4 December 1899), the paper representing the reformists' view in the late 1890s, the word *chayu* was commonly used, and their understanding of *chayu* was not different from the currently used one in modern Korea. The use of *chayu* in the paper is divided into two groups. Firstly, it was used to indicate the public value liberty, or the right of liberty, by being expressed in *chayukwŏn*, *chayu kwŏlli*, *chayujigwŏn* (자유지권), and other similar expressions. Secondly, it was used more commonly as adverbial expressions and predicates to refer to “be free.”²⁶⁰ In two editorials introducing a legal judgement on a case in which the Club leaders were embroiled and King Kojong's decree sentencing a legal case, the word *chayu* was employed as both a common noun and the public value (*chayujigwŏn*).²⁶¹ And even in the lyric of a song composed to encourage the common people's spirit of national independence and patriotism, the expression “*chayu hase*” (let's achieve freedom) was used.²⁶² Because of the routinisation of the term, in the entire editorials of the paper there is none that addresses the value of liberty theoretically.

Instead of a general and theoretical explanation of the concept of liberty, the editors' attention was placed in a specific form of liberty. For example, in an editorial discussing the right to expression (*ŏn'kwŏn chayū*), which was the only editorial that used *chayu* in the title,

²⁶⁰ Commonly used expressions are as follows: “*chayu hada*” (자유하다), “*chayu ropgye*” (자유롭게), “*chayu hanŭn*” (자유하는), “*chayu rŭl/ro hada*” (자유를/로 하다), “*chayu ro hago*” (자유로 하고).

²⁶¹ For the editorial on the legal judgement on a case in which core leaders of the Independence Club were embroiled, see *Tongnip sinmun* 21 July 1896, and for the king's decree sentencing a legal case, see *Tongnip sinmun* 15 February 1898. Hereafter *Tongnip sinmun* is abbreviated to *TS*.

²⁶² “사농공상 진력하여 사람마다 자유하세.” For the lyric of the song, see the miscellaneous news of *TS* 9 May 1896.

the editor showed worries about the government's measure to create a new law regulating newspaper publication, and persuasively argued that the government should not hurt the right to free press, which would contribute to forming public opinion and thus guaranteeing an upright government, mobilising both the idea of natural rights and historical precedents that preserved the right to speech in both the East and the West.²⁶³ Therefore, in the late 1890s, liberty as a public value was widely circulated among Korean people through their language acts.²⁶⁴

1.2. Equality

Contrary to the value of liberty, equality cannot be said to be a wholly new value because it is

²⁶³ “언권 자유” in *TS* 10 January 1899.

²⁶⁴ The prevalence of the word *chayu* or ‘liberty,’ however, did not develop into liberal-ism in Korea, as did not in China and Japan. The historical circumstances of the turn of the century were too severe to move toward liberalism as a socio-political ideology. Korea was distraught by the pressure of rapid modernisation and the fear of falling to a prey of neighbouring imperialist countries. The conception of liberty was also challenged by nationalism and then socialism in the first decades of the twentieth century. In Japan, Fukuzawa Yukichi, who had championed the value of liberty in his early book *Seiyō jijō*, turned himself into a nationalist in *Bunmeiron no Gairyaku* (文明論之概略, 1875). Some researchers like Kim Chusōng, Chōng Yonghwa, and Yi Nami interpreted the adoption of new values in the 1880s and '90s as the first instance of *liberalism* in Korea, highlighting the reformists' emphasis on “more liberty to people” and “limits on the state's authority.” This insistence, however, was caused by their failure to divide liberalism from liberty as a public value. Besides the two aspects, the reformists did not mention other core liberal elements, such as the primacy of individuality, minimal role of government, and recognition of differences or tolerance. And other pivotal values the reformists addressed, including equality among those of different social status, rule of law, people's sovereignty, and division of power, and people's self-rule in local government, cannot be said to be closely related to liberalism. They are the values of modern Western political thinking since the Enlightenment. Their writings mainly focused on “the nation,” “the people,” or “human beings,” not individuals. Moreover, their peculiarity lies in limiting liberty in society to be balanced with others' liberty and social mores, not in enhancing liberty as a supreme value. See Kim Chusōng, “Kim Ok'kyun Pak Yōnghyo ūi chayujuūi chōngsin” [Liberal Ideas in Kim Ok'kyun and Pak Yōnghyo], *Chōngch'i sasang yōn'gu* 2 (Spring, 2000), pp. 37–60; Chōng Yonghwa, “Yugyo wa chayujuūi: Yu Kilchun ūi chayujuūi kaenyōm suyong” [Confucianism and Liberalism: Yu Kilchun's Adoption of liberal Ideas], *Chōngch'i sasang yōn'gu* 2 (Spring, 2000), pp. 61–86; Yi Nami, “Tongnip sinmun e nat'anan chayujuūi sasang e kwanhan yōn'gu” [A Study of Liberal Thought in *Tongnip sinmun*], PhD dissertation, Koryō University (2000).

a quite universal value integral to any human community. This is the reason why East Asian civilisation developed a number of words indicating equality. However, being equal as an instrumental and mechanical sense is different from all human beings' inborn equality as a natural right. While Confucianism does not instruct humans' legitimate discrimination in accordance with one's status background, it is apparent that Confucianism is not a radical political theory proclaiming humans' inborn equality. In that Confucians in Chosŏn did not seriously problematise the institutional segregation of people subject to the difference of social status, it can be said that the orthodox teaching worked as a conservative political doctrine in service to the ruling *yangban* class' social interests. The long-lasting social status system, together with the custom of putting women and wives lower than men and husbands, remained core inequalities in Chosŏn Korea. These chronic problems gradually surfaced on the public sphere as social ills from the late eighteenth century, as *Sirhak* scholars denounced the old habit of discriminating secondary descendants of *yangban*. This claim for equalisation was strengthened as the reformist intellectuals of the 1880s raised this problem as a core social issue. Here, I will examine the context in which they problematised the unequal situation in Chosŏn. Ahead of that, we need to see how the concept of 'equality' was translated and accepted into Korea.

The currently commonly used word as a translation of the English word 'equality' in East Asia is *p'yŏngdŭng* (平等, Ch. *pingdeng*; Jp. *byōdō*). Yet there have been a number of words indicating equality in East Asian literature, because equality is a basic value in a civilised society and 'equal/unequal' is one of the common words in people's language acts. In East Asian culture of *hanja* (漢字, *hanzi* or *kanzi*), the representative words signifying equality are *kyun* (均), *tong* (同), *p'yŏng* (平), and *dŭng* (等), and, by combining these

individual words, two-syllable words are also easily created. Currently, therefore, besides *p'yŏngdŭng*, similar words such as *kyundŭng*, *tongdŭng*, and *kyunp'yŏng* are used in Korean language. *P'yŏngdŭng*, thus, was just a choice among a number of similar words. This is why it is difficult to find the word *p'yŏngdŭng* in the literature published in the late nineteenth century. For instance, one of the first books of jurisprudence translated into classical Chinese, *Wanguo gongfa* (萬國公法, 1864), used the word “平行” for the word “equal.”²⁶⁵ In his work *Yinbingshi wenji* (飲冰室文集, 1899), Liang Qichao employed the word “平權” as a translation of equality, which was borrowed from Japanese words at the time.²⁶⁶ This means that even in the late 1890s *p'yŏngdŭng* was not the only choice as a translation of equality. Even in the case of Fukuzawa Yukichi, *p'yŏngdŭng* or *byōdō* was not used in his main works and instead *tongdŭng* (同等) or *dōtō* was frequently employed. In Chosŏn, *Hansŏng sunbo* and Pak Yŏnghyo's memorial composed in the 1880s continued to use the word *kyun* (均) to indicate equality. Even in *Tongnip sinmun* the word *p'yŏngdŭng* was not used at all prior to 1898, and the common word employed for 'equal' or 'equality' was *tongdŭng*. This means that in Korea *p'yŏngdŭng* came to be used commonly as from the late 1890s.

Let us now see the context in which equality was used by the reformists. In *Hansŏng sunbo* 'equality' was not addressed as an independent theme. The championing of equality as a public value was briefly made in an article on a democratic regime and each country's constitution and parliament (譯民主與各國章程及公議堂解) in the 7 February

²⁶⁵ Yi Kŭnkwan, “Tongasia esŏui yurŏp kukjepŏp e kwanhan koch'al: man'guk gongpŏp ūi pŏnnyŏk ūl chungsim ūro,” Appendix 1.

²⁶⁶ Federico Masini, *The Formation of the Modern Chinese Lexicon and Its Evolution toward a National Language: The Period from 1840 to 1898*, trans. Yi Chŏngjae (Seoul: So'myŏng ch'ulp'an, 2005), p. 309.

1884 issue.²⁶⁷ The editor first explained the nature of a democratic regime, arguing that the essential character of Western countries' governmental system was that its source of power lay in the common people (民). According to the article, this resulted from the fact that people are "equal" (均). Subsequently, the editor demonstrated why humans are equal in a naturalist or factual manner, to the effect that nature affects all humans identically. Under the impartiality of nature, the editor continued, both the noble and the lower (貴賤) are the same, and just as a king and his retainers do not have longer ear, neck, lip, and nose, lower people (小民) do not have shorter ones. Therefore, the editor argued that the laws of a country must come from the common people, not from a ruler's arbitrariness, yet in reality, people are divided into numerous individuals so that there is a need to delegate the people's power to a person, a ruler, which is the origin of a publicly elected ruler and his officials. This quite adamant assertion was made in order to introduce Western countries' democratic political system, not as a form of deontological insistence. With these demonstrations, what this article conveys is that 'equality' is a prerequisite for the democratic system. Yet the situation of Chosŏn based on traditional absolute monarchy was far from the ideal of equality.²⁶⁸ The

²⁶⁷ In this article, the editor remarked that he translated the contents from a Western newspaper, but the editor did not translate them without his own view. Rather, the article was edited from the editor's point of view, regarding the Western countries as a third-party. So the article in fact entailed the editor's opinion.

²⁶⁸ It is not an easy work to exactly translate traditional Korean monarchy into English. The kingship had elements to be named tyranny, but in concrete political process, the king's power was checked by Confucian bureaucrats' collective power. This is the reason why James Palais saw the relationship between the king and *yangban* bureaucrats as checks and balances. Traditionally, Chosŏn's kingship has been called *chŏnje* (專制, rule by a single person), and in European history 'absolute monarchy' that reached the apex in Louis XIV in Bourbon France is quite similar to Chosŏn's monarchy. Therefore, in this dissertation I will use the term 'absolute monarchy' to indicate Chosŏn's monarchy. For a study that illuminated the rise and fall of absolute monarchy in France with regard to intellectual backgrounds, see Nannerl O. Keohane, *Philosophy and the State in France: the Renaissance to the Enlightenment* (Princeton University Press, 1980). For a study that compared the two absolute monarchs in both Chosŏn Korea and Bourbon France, see Christopher Lovins, "Absolute Monarchy

traditional hierarchical social status system and the male-dominated social customs remained intact in the 1880s. This was the reason why most of the reformists focused on that value.

The real state of equality in contemporary Chosŏn is revealed in an article in *Hansŏng chubo*, where the editor praised King Kojong for his measure to limit private slaves' service only to their own lifetime.²⁶⁹ In the 1880s, the slave system and the stratified social status system hardly changed and represented core social contradictions of Chosŏn, although the move toward status equality had gradually progressed from King Sunjo's reign (1800–1834), when the king emancipated public slaves in government offices. So King Kojong's 1886 decree on private slaves followed this move, and the article welcomed the king's measure as a pivotal step toward the equality of social statuses. Therefore, equality in Chosŏn in the 1880s was an urgently demanded value requested from the inside, rather than an abstract value introduced from the outside for its conceptual merits. Equality of social statuses, however, was still a very subtle and nuanced idea to deal with publicly, because slave owners were mostly the privileged *yangban* class including government officials. This would be a reason why the paper merely paid tribute to the king's feat without directly grappling with the undesirable reality regarding equality in Chosŏn.

The understanding of equality as a pressing public value is also shown in Pak Yŏnghyo. He did not illuminate equality as an independent theme in his memorial. He treated it alongside liberty, but in his view equality was premised in liberty. As in *Hansŏng chubo*, in his memorial Pak acclaimed the royal decree on the emancipation of private slaves, assessing

East and West: Chŏngjo and Louis XIV", *Journal of Asian History* 52 (2018), pp. 1–22. And for Palais' explanation of the checks and balances relationship in Chosŏn, see James B. Palais, *Politics and Policy in Traditional Korea* (Cambridge, Mass.: the Council on East Asian Studies, Harvard University, 1975), pp. 4–16.

²⁶⁹ *Hansŏng chubo*, “禁奴婢世役論,” 15 February 1886.

it as “a sage’s governing” (聖政).²⁷⁰ Yet Pak appreciated the value of equality more seriously and spelled out inequalities of Chosŏn at the time. Firstly, he pointed out unequal conditions under which women and wives were placed, and petitioned King Kojong for them to be given equal rights (權), the same as furnished to men and husbands, concretely explaining how women were being treated unequally by social institutions and customs. Next, he sternly urged the king to abolish the traditional hierarchy of social status among *yangban*, commoners, middle men, and secondary descendants of *yangban* (班常中庶). Specifically, just as Kim Ok’kyun had lamented the existence of the privileged *yangban* class in his 1885 memorial, he also deplored the continuance of the *yangban* status. Pak critically saw *yangban*’s privilege and their liberty to use lower-class people like animals, naming it a “barbaric liberty” which is contrasted with “civilised” or equal liberty. So, to Pak Yŏnghyo, the issue of equality in contemporary Chosŏn was such an important and urgent social problem to be treated, rather than an abstract, deontological value to be pursued.

As we have seen, radicals like Pak addressed the matter of equality seriously, but, for moderates like Yu Kilchun, that issue was not regarded as a sober social issue. It would be related to the fact that Yu held on to the traditional difference of the high and the low class and the related social customs. It also relates to Yu’s elitist character which made him distrust commoners’ capacity as political citizens. So how to see tradition largely affected the reformists’ diverse attitudes towards the championing and neglect of the value of equality. Previous studies paid scant attention to the reformists’ ideas of equality and thus failed to capture this difference between Pak and Yu.

²⁷⁰ Pak Yŏnghyo, “Pak Yŏnghyo ŭi kŏnbaeksŏ,” 290.

Equality was also of critical importance in *Tongnip sinmun*, yet the paper's treatment of the value largely reiterated that of Pak Yŏnghyo. Firstly, the paper scarcely unveiled a theoretical explanation of equality. What it mainly discussed was concrete examples of the current unequal state in Chosŏn. Next, what the paper mainly addressed was both the inequality between *yangban* and commoners, and the discrimination of women and wives *vis-à-vis* men and husbands. While Pak treated these two points equally, the editors of the paper put their attention to the latter. The division between *yangban* and commoners (班常) and the *yangban*'s unlawful acts against commoners still had some remnants, but in the late 1890s the social status system had officially been repealed through the *Kabo* reforms. This would be the reason why only two editorials touched upon the negative legacy of the *yangban* class, while the discrimination of women and wives received far more attention in the forty three months of publication.²⁷¹ The unfair treatment of women and wives was not as much an institutional inequality as an androcentric folk culture or *p'ungsok* (風俗). Due to the deep-rootedness of that custom within Korean culture, it was difficult to uproot. Concretely, the most commonly mentioned problem was men keeping concubines and their right to re-marriage when their wives passed away, which was denied to women even when they lost their husbands when young. Moreover, parents' disinterest in educating their daughters and in the worst case trading off their daughters to rich men as their concubines for money were also remarked frequently. To correct these problems, *Tongnip sinmun* argued in repetition for the education of women, as well as the awakening of inborn equality of both sexes. The paper emphasised women's education through six editorials and praised the

²⁷¹ The two editorials on the *yangban* class are in the issues of *TS* 22 February 1899 and 26 April 1899.

women's association, *Ch'anyanghoe* (讚揚會), for its memorial to the king about the founding of girls' school in 1898.²⁷² For the reformists in the 1880s and '90s, therefore, equality was a pivotal and urgently demanded value so as to treat the social ailment and to rebuild the public order of contemporary Korean society. Equality as a new public value arose out of the need of contemporary Chosŏn, not for its merits in a theoretical sense.

1.3. Rights

Another core value that the reformists commonly referred to with regard to the people's public life was 'rights.' In traditional Korean society as in other civilised societies, the concept of rights was not uncommon, but rights was mainly understood as existing between parties that have legal transactions and between one who has a government position and the other who has not. This legal and administrative understanding of rights was obviously different from the new conception of rights, 'heaven-endowed universal rights to all humankind,' adopted in the wake of the late nineteenth century. Indeed, this kind of broad concept of natural rights incorporates the notions of liberty and equality and defines the essence of the new public values. The unfree and unequal state of humanity caused by old, habitual social institutions and customs could be broken up by this new conception of rights. The underlying social contradictions in Chosŏn caused above all by the hierarchical social status system were on the way to be redressed as the idea of universal natural rights was introduced. Here, I will first see the process in which the novel, tricky concept of rights was

²⁷² Concerning the editorial on the memorial by *Ch'anyanghoe*, see *TS* 13 October 1898. And the editorials emphasising women's education are in the issues of *TS* 12 May 1896, 4 January 1898, 13 September 1898, 26 May 1899, 21 September 1899.

translated with Chinese characters and then survey how the Korean reformists comprehended this new concept.

The English word ‘rights’ is now commonly translated as *kwŏlli* (權利, Ch. *quanli*; Jp. *kenri*) meaning ‘power and benefits provided to a person,’ which is similar to traditional concepts like *kwŏn* (權), *kwŏnse* (權勢), or *kwŏnhan* (權限), all meaning power, authority, or the capacity attached to a person’s status or position. This lexical similarity gives us an impression that ‘rights’ was an easy word to translate and already had words of similar meaning in East Asia. However, the word ‘rights’ expressed a novel value for East Asians, because it did not merely indicate legally granted rights, but rather signified natural rights, which was given at birth to everyone regardless of social position. Fukuzawa Yukichi used the expression “*tenbu no jiyu*” (天賦の自由) to mark this sort of rights and Korean reformists also understood the concept of rights in this way.²⁷³ For instance, Pak Yŏnghyo started his last reform proposal, which is about liberty, with the sentence following: “Heaven has generated humans, and all sorts of people are the same and have an inalienable *t’ongŭi* [通義, rights]. *T’ongŭi* is humans’ preservation of their life, the seeking of their liberty, and the pursuit of their happiness. This is what others cannot intervene in.”²⁷⁴ This idea of rights, taken from Fukuzawa, originated from *The Declaration of Independence* of the U.S.²⁷⁵

²⁷³ Fukuzawa Yukichi, “人間の通義” in *Seiyō jijō*, pp. 238–53.

²⁷⁴ “天降生民 億兆皆同一而稟有所不可動之通義 其通義者 人之自保生命求自由希幸福是也 此他人之所不可如何也.” Pak Yŏnghyo, “Pak Yŏnghyo ŭi kŏnbaeksŏ,” 288.

²⁷⁵ The original passage in *The Declaration of Independence* is: “WE hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness.” Pak took this passage from Fukuzawa Yukichi’s explanation of the U.S.’s history in “亞米利加合衆国” in *Seiyō jijō*.

What is important here is the translation word *t'ongŭi* indicating rights. *T'ongŭi* is the word Fukuzawa used in his book *Seiyō jijō*.²⁷⁶ He well understood the meaning of rights being humans' privileges provided universally at birth, but he had difficulty in translating it into a proper word using *kanzi*. *T'ongŭi*, 'universally accepted (right) principles or norms' in literal translation, was Fukuzawa's choice for 'rights,' and it highlighted the social and political aspect of the word, not its narrower legal one. Yet, in fact, the word rights had originally been translated using *kwōlli* in the latter sense in William Martin's *Wanguo gongfa* (1864). This book was soon transmitted to Japan and re-published there in 1868. So, by the time Fukuzawa published the first edition of his book *Seiyō jijō* (1866), he might have known the word *kwōlli* or *kenri*. He must have been reluctant to use that word, however, because it did not fully reflect rights as heaven-endowed universal values for humanity; *kenri* rather mirrored the narrower legal meaning.²⁷⁷ So, until Japanese jurisprudence scholars adopted the word *kenri* as a better translation for 'rights' after they understood its full legal meaning, some translations were in competition. Korean reformists who studied under Fukuzawa's guidance and were affected by him in the 1880s adopted his translation, yet, at the same time, they used *kwōlli* because *kwōlli* was commonly circulated at the time. As a result, confusion arose. Pak Yōnghyo and Yu Kilchun used the two words *kwōn* (權), or *kwōlli*, and *t'ongŭi* in their works. To make things more complicated, the two persons, well-informed in old

²⁷⁶ *T'ongŭi* had been used in classical Confucian texts. An instance is *Mencius*: “故曰或勞心或勞力 勞心者 治人 勞力者 治於人 治於人者 食人 治人者 食於人 天下之通義也.” *Mencius* 3A4. Cited from Kim Hyōnch'ōl, “Pak Yōnghyo ŭi '1888 nyōn sangsomun e nat'anankwōn ron,” 16.

²⁷⁷ In this context, Fukuzawa used the term “權理通義” in his book *Gakumon no susume* (學問のすすめ) published in 1873 and “權理” in the book *Jiji taisei ron* (時事大勢論, 1882). This indicates that he still had some discontent with the translations of the word 'rights'. For concrete contexts of the translation of *kwōlli* in Japan, see Yanabu Akira (柳父章), *Pōnyōk'ō sōngnip sajōng* (翻譯語成立事情) [The Context of the Formation of Translation Words], trans. by Sō Hyeyōng (Seoul: Ilbit, 2003), pp. 148–66.

Chinese letters (*hanja*), interpreted the word *t'ongŭi* literally, so, at some parts, they used *t'ongŭi* as Fukuzawa originally meant, that is, as rights, but, at others, they interpreted it as is indicated literally, that is, universally accepted (right) principles or norms. This dual use of *t'ongŭi* is exhibited in both Pak and Yu.

Pak Yŏnghyo considered liberty significant, but, at the same time, he contrasted liberty with *t'ongŭi* as social norm, insisting that by giving up certain liberty by *t'ongŭi* and law, one can achieve the liberty of living with others in society (*ch'ŏseji jayu*). This contrast between human liberty and *t'ongŭi* is clearer in Yu Kilchun's case. Yu saw that *kwŏlli* (權利) consisted of both liberty and *t'ongŭi*, and understood *t'ongŭi* as proper and right principles or norms in society (當然한 正理) by interpreting it literally. So he divided *kwŏlli* into two, the right of liberty and the right of *t'ongŭi*, and indicated the former as belonging to individuals and the latter as being social norms regulating individuals' excessive pursuit of liberty. After dividing liberty into several sub-liberties, such as relating to life, property, business, assembly, religion, speech, and dignity, he also added socially proper forms of them, which were called *t'ongŭi* for each of them. Even in Fukuzawa the need to restrict liberty by law for the sake of social order was mentioned, but Yu, owing to the misconception of *t'ongŭi* or his own firm judgement, strengthened the need to limit individual liberty in society. Following Tsukiashi Tatsuhiko's view, Chŏng Yonghwa has interpreted that Yu's emphasis on "the right of *t'ongŭi*" resulted from Yu's firm judgement based on his Confucian background. That is to say, because of the communitarian ethics of Confucianism, Yu thought that liberty should be properly restricted by social norm (*t'ongŭi*).²⁷⁸ Given Yu's moderate character, this view is

²⁷⁸ Chŏng Yonghwa, *Munmyŏng ŭi chŏngch'i sasang*, ch. 7. Earlier than Chŏng Yonghwa, Tsukiashi positively interpreted the concept of *t'ongŭi* as the proof of Yu's influence by Confucian ethics. Oka

acceptable. Yet considering that the radical Pak Yŏnghyo also used *t'ongŭi* in a dual way and that the word *t'ongŭi* itself is interpreted so, we can also find their double use of *t'ongŭi* in the characteristic of that translated word.

Comparatively speaking, Pak put more stress on the value of liberty, but Yu was ambivalent about the value of liberty and the need to curtail it to maintain social order. Likewise, Pak revealed concrete cases of the unequal state of rights in contemporary Chosŏn, but Yu stuck to a theoretical perspective, emphasising “education” as a method to inspire the value of rights among Koreans. Through education, he thought, people can recognise each one’s rights and, furthermore, the importance of the rights of their own state, i.e., the right to national independence. With his stress of education, we can surmise that he had a negative view on contemporary Koreans’ capacity to become the men of rights.

Contrary to Yu’s *Sŏyu kyŏnmun*, in the editorials of *Tongnip sinmun* we can see an explosive use of the word *kwŏlli* or *kwŏn*. According to Kim Tongt’aek, the word *kwŏlli* was used 471 times, the frequency of which far exceeded that of *chayu* (75 times).²⁷⁹ This means that the word *kwŏlli* was no longer a novel concept to Korean people in the late 1890s. If we

Katsuhiko opposed this view and saw that Yu insisted on the need to restrict liberty on the basis of an utilitarian idea of society, while it is accepted that Yu himself could adopt the concept of rights easily due to the Confucian notion of *tianli* (天理). Oka thinks that Yu’s Confucian ideas are not purely Neo-Confucian and, within Yu’s thought, the Confucian view of *tianli* (天理) and *renyu* (人慾) has some change. In that Oka argues that in Yu’s ideas Confucianism underwent some serious change, I think his view is more pertinent than Tsukiashi and Chŏng Yonghwa’s. Yet Oka’s basic thesis that Yu Kilchun is still a Confucian reiterates Japanese scholars’ typical view of Korean reformists. I think that this perspective has some serious limits in explaining the major parts of Yu’s ideas in a coherent manner. In this study, I see Yu Kilchun as a moderate reformist. See Tsukiashi Tatsuhiko (月脚達彦), “Chōsen kaika shisō no kōzō: Yu Kilchun Sōyu kyōnmun no bunmei ron teki riken kunshu sei ron; Oka Katsuhiko (岡克彦), “Han’guk kaehwa sasang ūi kwŏlligwan: Yu Kilchun ūi kwŏlliron ūl sojae ro.”

²⁷⁹ Kim Tongt’aek, “*Tongnip sinmun* ūi kŏndae kukka kŏnsŏl ron” [The Idea of Modern State Building in *Tongnip sinmun*] in *Kŏndae kyemong’gi chisik ūi palkyŏn kwa sayu chip’yŏng ūi hwakdae* (Seoul: So’mŏyŏng, 2006), pp. 189–225.

think about the reason why the new notion *kwŏlli* was accepted quickly among Korean people, a clue is its similarity with other words in meaning, such as *kwŏllyŏk* (權力, power), *kwŏnse* (權勢, force), and *kwŏnwi* (權威, authority). Indeed, one of the features of the usage of the term was that it was often used to signify *kwŏllyŏk*, *kwŏnse*, or *kwŏnwi*. This confusion of *kwŏlli* with other concepts appears to be caused by its meaning common with the others in the sense of ‘being given exclusively’ or ‘having something authoritatively.’ The compatibility of *kwŏlli* with the others in meaning, thus, was a reason why it was quickly established as a common word among Korean people’s language acts. This overuse of *kwŏlli* in *Tongnip sinmun* editorials continued for quite a long time until it clearly indicated both legal and natural rights from late 1899.

Tongnip sinmun and the Independence Club (*Tongnip hyŏphoe*, 1896–1898) were in fact fervent advocates of the people’s rights in contemporary Korea, and worked to protect both ‘the common people’s rights’ and ‘the state’s rights’ as an independent country. Indeed, these two kinds of rights represented the conception of rights suggested in *Tongnip sinmun*. Firstly, the rights of individual citizens included both natural rights like women’s rights and many legal rights. In an editorial, the editor made it clear that the Club’s objective was “to prevent the government from violating the people’s (*paeksŏng*) rights to life and property.”²⁸⁰ Many of the Club’s activities indeed aimed to prevent both the central and local government officials from breaching commoners’ rights.

Next, another concept of rights ardently proclaimed in *Tongnip sinmun* was the state’s right (*nara kwŏlli* or *kukkwŏn*), which meant contemporary Korea’s right to enjoy

²⁸⁰ See “협회에서 할일” in *TS* 4 August 1898.

itself as an independent sovereign state. Because of this value, the paper persistently reiterated the importance of national independence (*chaju tongnip*) and endeavoured to rouse the people's patriotism. The rise of the concept of the state's rights was, of course, associated with the political circumstances of Korea at the time. As China lost its suzerainty over Chosŏn in the wake of the Sino-Japanese War (1894), Chosŏn came to assume its full diplomatic rights. Moreover, Japan retreated from the peninsula after the murder incident of Queen Min (1895), so Chosŏn had full rights as an independent state. However, the king and some high officials depended on Russia, and Russian influence was growing from October 1897. In this situation, the rivalry between Russia and Japan was going on under the surface to the point that the paper even warned of a possible collision between the two countries over the peninsula in the near future.²⁸¹ *Tongnip sinmun*'s emphasis on the value of the state's rights and its endeavour to stimulate common people's patriotism, and on this basis, its opposition to the government to rely on Russia in 1898, stemmed from this context.

Indeed, the Club's shift from an enlightenment association to a political association was linked with its objection to the government leaning on Russia, and this finally led to claims for political rights, or "the right to opine to the king."²⁸² In this context, the paper's original emphasis on common people's private rights to life and property developed to their public (or political) rights to oppose the misled government from early 1898. This expansion of the concept of rights and the Club's patriotism drove them to stage mass street demonstrations against the pro-Russian government in March 1898, which developed further

²⁸¹ See *TS* 16 November 1899.

²⁸² The first editorial opposing the government for its invitation of a Russian general accountant cum advisor for the Finance Ministry, which became a milestone for the Club's turn toward a political association, is shown in the issue of *TS* 23 October 1897. And the first remark on common people's right to political opinion, or the right to opine about government issues is seen in the editorial in the issue of *TS* 8 January 1898.

as grand political rallies in central Seoul from September. Throughout the year, *Tongnip sinmun* used diverse expressions to indicate this kind of political rights of the common people. For example, in the editorial in the 11 January 1898 issue, the editor stated that the people have “duties” (*chikbun* or *chikmu*) to oversee the government activities and to thwart its misdeeds when it harms the state. Here, the people’s political rights were translated into civic duties. In a memorial to King Kojong presented in October 1898, the Club members stated that when a government official does illegal acts and hurts the benefits of the state, to voice against and impeach him is “the rights of the subjects (the people).”²⁸³ And in a letter to *Tongnip sinmun* after he went back to the U.S. in May 1898, Sŏ Chaep’il, the founder and the first editor of the paper, used a radical expression, remarking that “owners of the state” (common people) in Korea have become the slaves of government officials, so, in order to recover their original ownership, the people must let the officials work for them.²⁸⁴ Therefore, through the activities of *Tongnip sinmun* and the Independence Club, the horizon of a person’s individual rights extended to the right of political opposition. The shift of the traditional political system was anticipated through this extension of the notion of rights, which indeed represented the Club’s idea of popular sovereignty.

Taken together, the idea that all humans have inborn rights to be free and equal was a ground-breaking intellectual resource, which was novel to Korean people. However, the two core values, liberty and equality, were demanded from the needs in the context of contemporary Korea. The abstract value, natural rights, theoretically supported the new values. The extension of the concept of rights to that of political rights was also the result of

²⁸³ TS 25 October 1898.

²⁸⁴ TS 16 November 1898.

the need that surfaced in the late 1890s. Therefore, the spread of Western political ideas was not as much one-sided intellectual transmission as a positive embrace of them on the part of the Korean reformists because of their needs.

2. New Public Norms

2.1. The Rise of Rule of Law

The decentring of the Confucian paradigm in the public realm signalled the destabilisation of the old public norms in Chosŏn, which combined ‘ye’ (禮) as moral norms and customs founded on Confucian ethics, and ‘law’ mainly as administrative and penal codes. Specifically, as *ye* lost its authority as a public norm, re-establishing public norms supported by new public values became an urgent historical task.²⁸⁵ Most publications written by the reformist intellectuals in the 1880s and ’90s reinterpreted law as *a system of rights* and defended it as a new public norm. Here I will first examine the context in which law, or rule of law, became the single public norm and then will see how the reformists of the 1880s and *Tongnip sinmun* understood law.

The true condition of traditional public norms is well illustrated in a speech by a high official, Chŏng Pŏmcho (鄭範朝, 1833–1898), in a dialogue with King Kojong about

²⁸⁵ *Ye* is a comprehensive concept which covers the areas of values, way of behaving, rites, and even institutions and customs. It is a norm based on hierarchical social status and encompasses various levels of relations between individuals, families, and states. *Ye* is regarded as a primal norm ahead of law in Confucian Chosŏn. For the understanding of *ye*, especially in the context of Chosŏn Korea, see Martina Deuchler, “Neo-Confucianism in Early Yi Korea: Some Reflections on the Role of *Ye*,” *Korea Journal* 15 (5) (1975), pp. 12–18; Rhee Wontaek, “Kaehwagi yech’i robut’ŏ pŏpch’i roŭi sasangjŏk chŏnhwan,” 67.

national problems in 1892. In the dialogue, Chŏng said:

As far as the current situation is concerned, the people's destitution is getting worse day by day, and the recent drought has only added to these difficulties. Reports from local provinces are nothing but surprises... Now, the ways to care for the poor people and the measures to help them rely on local magistrates, yet will they do their best in soothing the people and will they treat Your Majesty's worries about the subjects with deference? In recent years, *law and discipline* became loose (法綱解弛) and the sense of *shame and moral integrity* collapsed (廉防隳壞), so that there have never before been local magistrates who were so corrupt or made such harsh extractions as those today. Extorting money from the people is regarded as competency and exacting with draconian methods is thought talented; when one does not do so, he is simply regarded as a gentle but useless man. It is deeply lamentable to say this to your Majesty.²⁸⁶

In his speech, Chŏng mentioned two points in relation to public norms. Firstly, he emphasised that the two resources of social regulation in Chosŏn were in crisis, that is, on the one hand, "law and discipline became loose" and, on the other, "the sense of shame and moral integrity collapsed."²⁸⁷ Secondly, he revealed that local magistrates became corrupt

²⁸⁶ KJSL 29/#6/25, italics added.

²⁸⁷ Because the ideal of an ethical community had held intellectual hegemony through orthodox Neo-Confucianism, law did not develop much in Chosŏn except as administrative and criminal legal codes. Although law was a significant means to regulate society, especially the common people, it was conventionally regarded as a subordinate to morality. For example, following the tradition of Confucian view of law, Yi Hwang (李滉) argued in his memorial to young King Sŏnjo that governing people by teaching morality is a central method and governing them by law is a subordinate method. As one who teaches morality to people, the ruling class of Chosŏn was required to cultivate moral virtue. Nevertheless, law in Chosŏn was continuously augmented throughout the entire period of the dynasty and had some rationality as positive law. Jung Geungsik argues that *Daminglü* (大明律, The Great Ming Code), the key penal code in Chosŏn, had the principle of *nulla poena sine lege* (no penalty without a law), though less so than modern Western law (Jung Geungsik (Chŏng Kŭngsik), "Taemyŏngnyul ūi choehyŏng pŏpchŏngchu'ui wŏnch'ik" [The Principle of *nulla poena sine lege* in The Ming Code], *Pŏphak* 49, no.1 (2008), pp. 110–58.). Yet, since the ideal of rule by ethical teaching was strong, punishment was understood as means to achieve the ideal of no crime and punishment. Thus, punishment was largely harsh in order to enlighten people so that they would commit no crimes (Chŏn Pongdŏk, *Hankuk kŭndae pŏp sasangsa*, 52–4). This conventional conception of law lasted even in the late 1890s, so that, for instance, when a former government official, Kim Hongnyuk, attempted to commit regicide in 1898 by putting opium in King Kojong's

and lost the integrity required to rule. Chŏng's speech described the conditions of local governance in Chosŏn in the early 1890s, which eventually led to the *Tonghak* peasants uprising in 1894. The message of the dialogue was that the traditional social norms in Chosŏn virtually disintegrated in the 1890s.

Rhee Wŏntaek has already sought to explain the decline of the old system of norms and the rise of a new one in this period through the transition from the system of *Kyŏngguk taejŏn* (經國大典, Great Code of Administration) to that of *Taeahan 'guk kukje* (大韓國國制, Constitution of Great Korea), characterising it as a change from the rule by *ye* to the rule by law.²⁸⁸ His stress on 'change' between the two systems, however, is unconvincing. Two legal codes within the *Kyŏngguk taejŏn* system, that is, the *Kukjo oryeŭi* (國朝五禮儀, Code of the State's Five Ye) as a code of rites and *Damingliu* (大明律, The Great Ming Code) as a code of criminal law, changed to *Taeahan yejŏn* (大韓禮典, Great Korea's Codes of Ye (1898)) and *Hyŏngpŏp taejŏn* (刑法大典, Great Code of Criminal Law (1905)), but without much change

coffee, conservative officials insisted on the restoration of old draconian punishments. A memorial raised by conservatives represents the traditional conception of punishment: "The intention of sages in establishing laws was not made because they dislike saving people's lives or they like killing, but in making people alert by punishing one [harshly as an example] in order to make punishment disappear" (TS, 5 October 1898). For a general introduction on law in Chosŏn, see Chŏn Pongdŏk, *Han 'guk kŭndae pŏp sasangsa*, 11–54. For law as criminal code in Chosŏn, see Cho Jiman (Cho Chiman), "Chosŏn ch'ogi taemyŏngnyul ŭi suyong kwajŏng" [The Process of the Reception of the Ming Code in Early Chosŏn], *Pŏpsahak yŏn'gu* 20 (1999). For the role of morality in legal cases, see Lee Junghoon (Yi Chŏnghun), "Chosŏn chŏn'gi hyŏngpŏl ŭi mokjŏk: taemyŏngnyul hyŏngnyul ŭi punsŏk ŭl chungsim ŭiro" [The Purpose of Punishment in Early Chosŏn: The Analysis of Criminal Law in The Ming Code], *Pŏpch'ŏlhak yŏn'gu* 13(1) (2010), pp. 227–52. And for the historical development of Korea's legal tradition and customs with an emphasis on the formation of civil codes under the Japanese colonial authorities, see Marie Seong-Hak Kim, *Law and Custom in Korea: Comparative Legal History* (Cambridge University Press, 2012).

²⁸⁸ Here, 'rule by law' does not mean 'the rule of law'. Rhee Wontack, "Kaehwagi yech'i robut'ŏ pŏpch'i roŭi sasangjŏk chŏnhwan," 60–83.

in their contents, as he admits.²⁸⁹ The most striking change in law in the reign of King Kojong was the establishment of a modern legal court system in 1895, and the enactment of the *Taehan'guk kukje* in 1899, which clearly stipulated the absolute power of the monarch. The key point is that the two came from very different intellectual backgrounds. While the former was a progressive measure instigated by the reformers, the latter was a reactionary measure taken by King Kojong and the conservatives just after the collapse of the reformists' mass street demonstrations in 1898. Rhee did not recognise that what he called the *Taehan'guk kukje* system was continuous with the *Kyōngguk taejōn* system and what was really discontinuous with the latter was the reformists' ideas of law and their reforms of legal institutions in the *Kabo* reforms.²⁹⁰

Among the works by the reformist intellectuals, Pak Yōnghyo's memorial and Yu Kilchun's *Sōyu kyōnmun* explicitly depicted law as a new public norm. Distinctive to both was their recognition of the two main roles of law in society. Pak's understanding of law, at first glance, seems limited to its traditional conception as a means to maintain public order. Yet his understanding of law was obviously modern in that his proposals for the reform of the legal system were based on a modern understanding of it as a system protecting people's lives, liberty, and property. What he emphatically stressed concerning law was the idea of "equality

²⁸⁹ According to Pak Pyōngho, *Hyōngpōp taejōn* was established with reference to existing bodies of law, such as the *Taejōn hoet'ong* (大典會通, Great Codes Collected) and *Daminglū* (大明律, The Great Ming Code). The new body of law created after 1894 inherited the traditional laws. Pak Pyōngho, *Han'guk pōpjesa go: kūnse ūi pōp kwa sahoe* [Korean History of Legislation: Law and Society in Modern Times] (Seoul: Pōpmunsa, 1987), p. 429.

²⁹⁰ To use modern terms, both the *Kyōngguk taejōn* and *Taehan'guk kukje* are constitutions, but the two are starkly different. The former does not mention the king's prerogatives, while the latter stipulates the king's absolute rights in eight out of its nine articles. These differences reflect different contexts of the Chosōn king's authority. When the *Kyōngguk taejōn* was established in early Chosōn, the king's power was strong, but when the *Taehan'guk kukje* was promulgated, the king's traditional authority was being seriously destabilised. King Kojong intended to clarify his unlimited power as king in the form of a constitution.

before law,” which was contrary to the traditional discrimination in legal applications according to the offenders’ social status.²⁹¹ This modern conception is clearly illustrated in his proposal to establish a modern legal system by specifying twelve items like establishing legal courts, repealing egregious punishments, and introducing the principle of *nulla poena sine lege* (no penalty without a law). His suggestions in the memorial became real institutions through legislations, when he took charge of the interior ministry in 1895.

Yu Kilchun’s discussion of law was more systematic as he understood well the two main roles of law in society.²⁹² He wrote that “the fundamental intention of law was to respect a person’s rights and preserve them” and “if there was no law, rights would have hardly existed.”²⁹³ In several parts of his work, he repeated the same argument. Furthermore, his insistence on law as a system of rights was balanced with the concept of law as “a great tool maintaining public order.”²⁹⁴ Law can limit a person’s rights in order to “maintain a

²⁹¹ According to the criminal law section of *Taejŏn hoet’ong*, the *yangban* class was not imprisoned without the king’s approval, and in a legal hearing *yangban* were allowed to submit their reply in a document instead of presenting themselves. *Yangban* were judged at *Ŭigŭmbu* (義禁府), a central government office treating legal cases, instead of a local magistrate’s office. Chŏn Pongdŏk, *Han’guk kŭndae pŏp sasangsa*, 49.

²⁹² There are a number of studies that analysed Yu’s reformist thought in *Sŏyu kyŏnmun*, but studies that focused on his legal ideas are rare. Exceptionally, Chŏn Pongdŏk highlighted Yu’s legal ideas in *Sŏyu kyŏnmun* upon jurisprudential terms and concluded that his legal ideas were conservative and still largely limited by traditional Chosŏn’s legal conceptions. As for how Yu’s thought continued or broke with traditional legal terms, Chŏn emphasised continuous aspects. (Chŏn, *Han’guk kŭndae pŏp sasangsa*, 227–52.) In contrast to Chŏn’s slightly negative view of Yu Kilchun’s legal ideas, Oka Katsuhiko reinterprets his legal ideas with a focus on his concept of *hang’gupŏb* (恒久法), and defends that Yu aimed not to follow old laws and customs blindly, nor did he replace the old ones with the Western legal system. That is to say, he aimed to improve Korean laws upon the basis of the old one. See Oka Katsuhiko (岡克彦), “Yu Kilchun i p’aakhan ‘hang’gupŏb” ŭi kwannyŏm e kwanhan han koch’al: han’guk kundaepŏb sasangsa yŏn’gu sŏsŏl” [A Study of Yu Kilchun’s Idea of *hang’gupŏb*: A Preliminary Study for the History of Modern Korean Legal Thoughts], *Pŏbhak yŏn’gu* 7 (1997), pp. 203–35.

²⁹³ Yu Kilchun, *Sŏyukyŏnmun*, 138–9.

²⁹⁴ Yu Kilchun, *Sŏyukyŏnmun*, 282.

public end, which is to make the public live well together.”²⁹⁵ In this regard, he compared law with an army commander and rights with a private, stating that only when each person observes their duties can law and rights be arranged properly.²⁹⁶

A peculiarity of Yu, in contrast to Pak, is his moderate standpoint on legal policy. While Pak demanded a radical reform in the legal system, Yu believed that a country could develop satisfactory laws simply by revising existing laws instead of creating new ones.²⁹⁷ He wrote that “only when it is befitting of a country’s customs and institutions can law become public principle.”²⁹⁸ In this context, he admitted the king’s rights and role in legal administration, stating that “the king has the right to legislate,” as was thought traditionally.²⁹⁹ However, he made it a proviso that the king must “take care of the rights of the people and protect and guide them.”³⁰⁰ He also championed the Confucian understanding of rule by prioritising governing people by teaching morality over governing them by law.³⁰¹ This seemingly contradictory viewpoint on law appears to have come from his very moderate and prudent perspective on the reality of contemporary Korea.

In sum, Pak and Yu’s understanding of law was based on a very modern view, although they still maintained morality as a means of social regulation. They had a far more sophisticated understanding of law, which included a new meaning of law as a method for

²⁹⁵ Yu Kilchun, *Söyukyönmun*, 138.

²⁹⁶ Yu Kilchun, *Söyukyönmun*, 139.

²⁹⁷ Yu Kilchun, *Söyukyönmun*, 287–91.

²⁹⁸ Yu Kilchun, *Söyukyönmun*, 291.

²⁹⁹ Yu Kilchun, *Söyukyönmun*, 283.

³⁰⁰ Yu Kilchun, *Söyukyönmun*, 283–4.

³⁰¹ Yu Kilchun, *Söyukyönmun*, 284–5. Pak Yöngghyo also expressed the same idea in his memorial. Pak Yöngghyo, “könbaksö,” 257.

protecting people's innate rights. The rediscovered law, which was fit for new public values, gained force by being institutionalised during the *Kabo* reforms, but competition between the old and the new notion of law persisted. The *Taehan'guk kukje* (1899) was the result of a mixture of the traditional conception of governing and its modern, constitutional form.

2.2. Law in *Tongnip sinmun*

Law, as presented in *Tongnip sinmun*, is different from Pak and Yu's theoretical understanding of it in that the paper shows the real context in which law had become the only possible public norm in Korea at the time. As the frequent use of the word *pŏmnyul* (법률, law) in *Tongnip sinmun* indicates, Korea desperately needed law or rule of law, not only because social disorder was prevalent, but also because traditional social norms had virtually collapsed and the public culture was increasingly on the decline.³⁰² The editors thought that 'rule of law' was the single alternative for restoring social stability and rebuilding public culture.³⁰³

The domestic situation of Chosŏn concerning public order in the mid-1890s is well

³⁰² According to Kim Tongt'aek's survey, the word *pŏmnyul* was used 821 times in the paper. Kim Tongt'aek, "Tongnip sinmun ūi kŭndae kukka kŏnsŏl ron," 223.

³⁰³ Systematic research on the conception of law in *Tongnip sinmun* has been carried out by Chŏn Pongdŏk. He interpreted law in the paper in the modern sense, analysing it on jurisprudential terms. However, why the word was mentioned so frequently should be understood in terms of its social context, not its jurisprudential significance. See Chŏn Pongdŏk, *Han'guk kŭndae pŏp sasangsa*, 264–309. For other studies which address the legal ideas of the paper, though limitedly, see Shin Yong-ha, *Tongnip hyŏphoe yŏn'gu*, pp. 311–16, 341–47; Ch'oe Chong'go, "Hanguk ūi sŏyang pŏp sasang suyong kwajŏng ko" [Discussions on the Adoption of the Western Legal Ideas into Korea], *Han'guk munhwa* 2(1981); Kim Hongwoo, "Han'guk sahoe kwahak ron ūi hwadu rosŏui tongnip sinmun" [Tongnip sinmun as a Subject of Korean Social Science] in *Han'guk chŏngch'i ūi hyŏnsanghak chŏk ihae* (Seoul: Ingan sarang, 2007), pp. 753–856.

shown in the editorial of the third issue of the paper:

The people of Chosŏn do not seem to clearly know the difference between loyal subjects and rebels. So, today, we would like to discuss loyal subjects and rebels. We think that a loyal subject is none other than a person who observes law and a rebel one who does not observe law. Whoever wants to preserve his body and loves the king and government must follow the law whether he is high or low and privileged or low-born, once law has been ratified by His Majesty. When a law is thought to be inappropriate, he can express his opinion in a newspaper or make a public speech about that. However, rising up in rebellion, or insulting or killing local magistrates is the act of rebels. If one commits crimes, the punishment will not stop at his own body but reach his parents, brothers, wife, and children. So we hope that the people will realise that those acts are not beneficial at all.³⁰⁴

This editorial carries the simple message that, by observing law, people can protect their lives and become faithful subjects. Yet it implicitly confirms the reality of Korea at the time in which social order was seriously shaken after a series of political incidents from 1894 onwards. In April 1896 the country was still in great turmoil in the wake of several incidents, such as the *Tonghak* peasants uprising, the Sino-Japanese War in Korea, the pro-Japanese reformist government's radical reforms (*Kabo* reforms), the murder of Queen Min, and King Kojong's escape to the Russian legation. In the midst of these incidents, peasant rebels swept across the southern provinces, bandits haunted the countryside, and righteous armies raised their banners against the Japanese and the pro-Japanese government. The statements quoted above exhorting people to observe laws were raised in an effort to stabilise the chaotic situation of the time. Under such circumstances, invoking law as a constraining norm to secure social order was inevitable, leading to the high frequency of the word *pŏmnyul* in *Tongnip sinmun*.

³⁰⁴ TS 11 April 1896.

However, a closer reading of the paper makes it clear that the emphasis on law was intended not merely to preserve social stability but also to establish new values for society. In the wake of the dramatic events following 1894, the public culture of Chosŏn was in serious disrepair. In many editorials, the paper disclosed the corrupt realities of the public space and argued for ‘rule of law’ as a public value to correct them. One of the commonly mentioned problems that the paper revealed was the ruling class’ loss of morality and rampant corruption. Ever since the traditional system of norms was critically destabilised, local magistrates and lower officials lost the sense of public spirit and pursued private interests by extorting money from people, making rich commoners poor. On the other hand, positions in local government often became the object of trading.³⁰⁵ The collapse of the government officials’ public spirit engendered a sharp decline of social mores as seen in the following editorial:

Let us talk about the current situation in Korea... Imagine a person who manages a farm. If he works hard and harvests sufficient crops, he can sell his surplus products to markets and with the profit he can buy oxen for farming and can build a tile-roofed house instead of his former grass-roofed house. In this case, it is reasonable for the government to protect his property, and, because he pays more tax than others, the laws should allow him to flourish all the time. But in Korea this person can easily lose all his property, because the government officials extract money from him by threatening him with groundless crime, or by naming him a member of *tonghak* (동학, Eastern learning) or *ũibyŏng* (의병, righteous army), or by blackmailing him for his impiety to his parents or for family discord. In addition, *yangban* borrows money from him and does not repay it. If he demands that they repay the loan, they [falsely] accuse him [of some crime] at a local magistrate’s office and, in the end, reduce him to poverty. Everybody likes to have a fortune, but who would like to build a fortune in this situation? Some rich people, after witnessing these illegal acts, are afraid of their being placed in the same situation. Thus they try to avoid them by irregular methods... Specifically, they form a connection with a central government official in return for a bribe so that he will

³⁰⁵ Two editorials of the paper vividly present the current situation of Chosŏn, see *TS* 15 August, 8 December 1896.

save them if they suffer from that kind of local officials' illegal acts. They might buy an official position that does not require any real work, or a real position by paying 200 *wŏn* for *chusa* (주사, a clerkship) or 2000 *wŏn* for a *wŏn* (員, a chief of a town), where they can at most earn 800 *wŏn* a year. At times, they also have to give presents to government officials. Thinking about these situations, we can understand how miserable they are. But it is really distressing that even though Koreans suffer from these illegalities, they do not bear any strong resentment.³⁰⁶

This situation, caused principally by institutional problems that lower officials in local provinces were not paid at all, was not a new pathology in late Chosŏn, yet it is true that these illegal acts worsened in the late nineteenth century. The deterioration of public culture was also linked with the traditional culture of *ch'inch'in* (親親, treat closely those who are close), social relations based upon kinship. This had formed the legitimate basis of the Confucian social order, but by the 1890s it was regarded by the editors of the paper as a serious social ill distorting the public order of society. The deep-rooted social bias that favoured those connected by kinship was seen as one of the fatal maladies of society:

Once the two characters, *sajŏng* (私情, private connections), disappear, all of the affairs of Chosŏn will go well. So, we hope that those who love Chosŏn, regardless of whether they are authorities or the common people, will think about things in the interest of the public and act accordingly... If the government and the people cooperate and deal with things in a fair and honest way, then we believe that in a few years Chosŏn will be treated as a dignified country among countries in East Asia and that the state will become wealthy and the people will be comfortable.³⁰⁷

In the issue of 1 September 1896, the paper repeated the same idea that, if the government officials work only on the basis of *kongp'yŏng* (公平, fairness), eliminating

³⁰⁶ TS 19 April 1898. Italics added.

³⁰⁷ TS 28 May 1896. Italics added.

sajŏng, then, all people of Chosŏn will believe in them. As the traditional norm which relied on individuals' ethical virtue became discredited and the culture and customs based on familial kinship gradually came to be conceived as the source of distorting the public order, new public norms were needed to regulate a person's external behaviour instead of internal moral conscience by clearly stipulating wrongdoings and punishments for them in legal codes. The new public norms were also expected to embody new public values like 'justice' and 'fairness.' A new public norm which satisfied these conditions was the modern conception of law. Law administered through fair procedures was assumed to exist "for judging legal cases only with the two characters *kongp'yŏng*, regardless of whether litigants are high or low, prestigious or humble, rich or poor, powerful or powerless."³⁰⁸ Thus, the concept of law expressed in the paper was a *public value* representing justice and fairness, which were seen as necessary for a new society. According to the paper, it is only with *rule of law* that the government and people can communicate well, build trust in each other, and in the end maintain national integrity from foreign countries.³⁰⁹ Law in *Tongnip sinmun*, therefore, was a major building block for a new public culture and a stable country.

Tongnip sinmun editors' vision of rule of law, however, came into conflict with the conservative government officials' traditional notion of law as the penal codes and a system of punishments. The conflict between the reformists and the conservative officials took place over the punishment of those who attempted to murder King Kojong.³¹⁰ The conservative

³⁰⁸ *TS* 14 July 1896.

³⁰⁹ *TS* 1 March 1897.

³¹⁰ Kim Hongnyuk, a pro-Russian official favoured by King Kojong for a time and later rejected because of his abuse of power, attempted regicide in September 1898. For the controversy over the Kim Hongnyuk incident between the Independence Club and conservative officials, see *TS*, 11/14/16/17/26/27/28/30 September 1898 and 1/4/6/7/8/10/11/12/14 October of the same year.

officials saw the attempt at regicide as the result of inadequate punishments for felonies within the new legal system.³¹¹ They sought to revive old draconian punishments and execute them without a trial, but *Tongnip sinmun* and the Independence Club insisted that even those rebels must be treated according to due process of law.

This incident basically marked a confrontation between two visions of regulating society in that transitional time, that is, the conservatives' traditional combination of the ruling class's ethical virtue and exemplary use of law for crimes versus the reformists' vision of society regulated by the principle of rule of law. The following dialogue between the conservative minister of justice and the representatives of the Club, depicted in *Tongnip sinmun*, illustrates this situation well:

Mr. Shin Kisŏn [the Minister of Justice] replied: "Is whether the laws are enforced more fairly or not really an issue related to our national affairs?" Representatives of the Independence Club said: "How can whether or not laws are enforced fairly not be connected to our national affairs? Can anything and any affair in the world exist beyond the boundary of law? How can you speak like that as a justice minister?" Mr. Shin said: "Cultivating virtue is more important." The representatives retorted: "Once laws are enforced fairly, will not virtue arise from that?" Mr. Shin looked embarrassed and did not reply.³¹²

Although this incident resulted in the victory of the Club, the confusion and disorder over norms for the public space continued, partly because conservatives still occupied the key posts of the government at the time.

³¹¹ The minister of Justice Shin Kisŏn's remark represents the traditional approach in handling this kind of incident: "Does not whoever turns his face to the north [i.e., subjects] in our royal court want to eat the rebel's meat and rest his head on the rebel's leather [i.e., his flayed skin]? As far as our public mores are concerned, if a rebel is just executed by decapitation, it is not enough to appease the people's public anger... This kind of incident has occurred because rebels are not executed severely" (TS 28 July 1898).

³¹² TS 4 October 1898.

Until now, we have examined the reformist intellectuals' visions of a post-Confucian society in terms of their ideas of new public values and norms. The need to adopt the new public values and norms arose in the midst of their confrontation with the problems of contemporary Chosŏn, which were related to the decline of the Confucian ethical ideal. It is difficult to say that the reformists accepted the new values sheerly owing to their theoretical goodness in an abstract sense. Domestic *needs* were combined with the new concepts from the outside world.

Among the new values, *chayu* and *kwŏlli* engendered the matter of the pertinent translation of original Western concepts because of their novelty. For the same reason, the reformists had to consider the optimal level of *chayu* for Korean people to enjoy in society, over which a division into radical Pak Yŏnghyo and moderate Yu Kilchun was made. It is also noteworthy that the political rights of the common people were first championed in *Tongnip sinmun*. The unprecedented 1898 mass rallies staged by the Independence Club were possible because of the new notion of rights. Therefore, it is reasonable to argue that the public values that modern Koreans enjoy and take for granted were already formed in the wake of the 1890s.

Previous studies have sought to establish a thesis that Confucian values were continuous with the reformists' ideals, and in order to prove this they highlighted the moderate Yu Kilchun's views. It is acknowledged that Yu's limited adoption of liberty has something to do with his Confucian background, but a point to consider is that the new values that Yu admitted were substitutes for Confucian ethical values. Previous studies have placed too much focus on Yu Kilchun's maintenance of the Confucian legacy, blurring the historical significance of the transformation in public values. The new values, such as liberty, equality,

rights, and the rule of law, were replacing Confucian ethical values in the public realm. Therefore, while admitting that the Confucian preconception was still affecting the reformists, a core point is that the relationship between Confucian ethical values and modern public values was rather discontinuous.

In this chapter, we have examined changes in the public values and norms after the Confucian ethical ideal came to be distrusted. What we should survey next is changes in the political thinking of the reformists. In particular, we will consider how they treated the Confucian political necessity ideas in reconstructing their political thinking.