Korea Journal, vol. 56, no. 4 (winter 2016): 5-32.
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Treaties Leading to Japan's Annexation of Korea: *What Are the Problems?*

Yi Tae-Jin

Abstract

In August of 1910, the Japanese Empire annexed the Korean Empire (Daehan Jeguk 大韓帝國; also known as the Great Han Empire), the culmination of a step-by-step seizure of Korea's national sovereignty by means of a military force that was used starting from the Russo-Japanese War (1904–1905). In this process, the Japanese Empire coerced five treaties from Korea: (1) Japan–Korea Protocol (February 23, 1904); (2) 1st Japan–Korea Agreement (August 22, 1904); (3) 2nd Japan–Korea Agreement, or Eulsa Treaty (November 17, 1905); (4) Japan–Korea Treaty of 1907 (July 24, 1907); and (5) Japan–Korea Annexation Treaty (August 29, 1910). It is well known that the above treaties were forced upon the Korean emperor and ministers through threats. This article examines how these treaties not only did not follow the standard form of treaties, but also how the Japanese government in fact prepared the documents that should rightly have been prepared by the Korean government. This article also focuses on how the Japanese government, in the translated English versions of the treaties, added words that were not present in the original treaties in order to convince the Western powers that the treaties were flawless in terms of their respect of national sovereignty. In addition, regarding Japan's Treaty of Korean Annexation of 1910, this article shows how both the Korean and the Japanese versions not only used the same paper, but also the same strap and font. These facts constitute clear objective evidence that the annexation of Korea was done without the consent of the Korean Empire. The author expects this study to be utilized as evidence in proving the illegality of the Japanese annexation of Korea.

Keywords: Japanese annexation of Korea, illegality of treaties, forceful signing, falsification of signature, King Gojong, King Sunjong

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Introduction

On the heels of its victory in the Russo-Japanese War in June 1905, the Japanese government forced a protectorate treaty upon the emperor and government officials of the Korean Empire on November 17 of the same year. This led to the establishment of the Japanese Residency-General in Korea, and to the Japanese resident-general's gaining control over Korea's diplomatic relations. In 1907, the Emperor of Korea sent three envoys to the 2nd Hague Conventions appealing for the invalidation of the treaty, on the terms that the treaty lacked his authorization. Consequently, the Japanese government replaced the Korean emperor with the crown prince, who suffered from health issues at the time, which in turn led to the Japanese resident-general expanding his authority to oversee even Korea's domestic affairs. While the dispersed Korea's righteous armies rose up against the Japanese throughout the peninsula, in August of 1910, the Japanese Empire completely annexed the Korean Empire, gaining full control over its national territory.

In protest to the forced annexation, Koreans resisted the Japanese through a variety of methods while condemning the illegality of that annexation. Internationally, during 1919–1920, they made appeals as to the illegality of the annexation to the Paris Peace Conference and the League of Nations, and asked for international assistance in restoring Korea's status as an independent state. Korea's reasoning for this was backed by the fact that the Japanese enforced the treaty with military might and that the Korean Empire had not accepted its signing. This article seeks to strengthen the argument on the invalidity of the treaties which were forced upon Korean Empire by the Japanese government from the beginning of the Russo-Japanese War by presenting evidence of the coerced nature of these treaties within the original treaty documents themselves.

Valid Treaties during the Early Stage of Establishing Treaty Relations

In international law, the treaty-making process begins when two nations' heads of state each appoint plenipotentiaries and bestow a proxy statement

on them, granting them authority to conduct negotiations on behalf of their respective nations. The representatives meet at an agreed location, present each other their proxy statements, and then enter into treaty negotiations.[1] They prepare a treaty statement based on the results of their negotiations, affix to it their respective names and titles, and sign or seal the statement. If there are no errors upon reviewing the document, the heads of state then issue ratification statements to bring the treaty into force. These are the procedures and formalities in the treaty-making process that began after the Treaty of Westphalia of 1648 and that continue to be followed today in international relations. For administrative convenience, two countries that have already established diplomatic relations can sign an agreement or arrangement without making the issue of a ratification statement under the responsibility of the legation and the minister of foreign affairs, as long as it stays within certain limits and does not conflict with national sovereignty.

Korea entered into modern diplomatic relations with Japan by signing the Korea–Japan Treaty of Amity, also known as the Ganghwa Treaty, in February of 1876. Although this treaty became widely regarded as an unequal treaty, it is incorrect. At the time of negotiating the treaty, the Joseon (Korean) side took an active part in the negotiation process to the extent that Korea demanded the exclusion of a most-favored nation clause as well as a revision of the draft treaty that included the changing of terms for nine out of the twelve remaining articles in the treaty draft Japan had prepared (Yi 2007, 142–144). This was because King Gojong, unlike his father Daewongun, was determined to open the country and achieve enlightenment (*gaehwa* 開化). Of course, this treaty became effective when the heads of state of both Joseon Korea and Japan issued a ratification statement (Fig. 1). Unequal relations between Korea and Japan began to develop six years later when the Daewongun fomented the so-called Soldiers' Mutiny, also known as the Imo Incident (June 1882). Japan pressured the Joseon government to take responsibility for the deaths of Japanese military advisors and the burning of the Japanese legation in Seoul during the rebellion. It was at this time that a most-favored nation clause was added and Korea lost its tariff autonomy in the

1. John Bouvier and Francis Rawle (1897), s.v. "treaty."

Treaty of Tax Regulations for the Japanese Trade and the Maritime Customs of July 25, 1883.

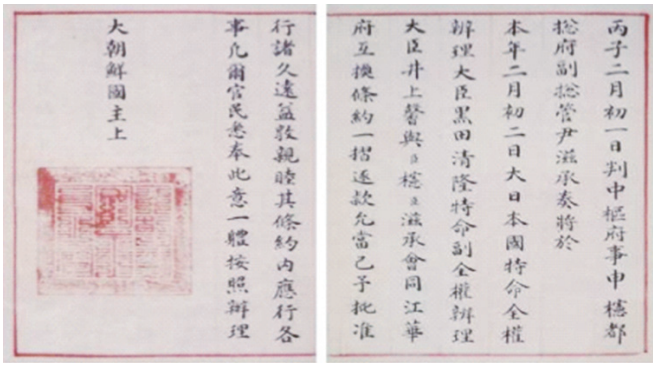


Figure 1. A ratification statement issued by King Gojong for the Japan–Korea Treaty of Amity. The document includes the title "The Sovereign of the Joseon Dynasty" along with the royal seal below. Treaties that deprived Korea of its sovereignty after the Russo-Japanese War should have had this form of ratification statement.

Source: Yi and Lee (2010, 82–83).



Figure 2. A royal seal affixed with the Joseon king's credentials with apologies for Japanese losses during the Military Mutiny, issued on August 7, 1882.

Source: Yi and Lee (2010, 81).

Japan demanded conclusion of the Treaty of Jemulpo (1882) and the Treaty of Tax Regulations (1883) with Korea after the Military Mutiny of 1882 (*imo gullan* 壬午軍亂), and the Treaty of Hanseong (1886) as a result of the Coup d'Etat of 1884 (*gapsin jeongbyeon* 甲申政變). These treaties fulfilled all the necessary requirements of a formal treaty including ratification statements. The Treaty of Jemulpo and the Treaty of Hanseong substituted ratification statements with Gojong's credentials, which in-

cluded an apology for Japanese losses during the aforementioned incidents (Fig. 2).

As shown above, there were no aspects in Korea's treaty relations with Japan during the 1880s that lacked the necessary established diplomatic requirements. Contrary to their later attitude, the Japanese side rather strongly demanded that all necessary treaty requirements be fulfilled. When the Joseon representative Kim Hong-jip 金弘集 (1842–1896) came to the negotiating table for the Treaty of Hanseong without a proxy statement granting him plenipotentiary powers, the Japan representative Inoue Kaoru 井上馨 (1836–1915) postponed negotiations until Kim could supply it. Such a law-abiding manner on the part of Japan was intended to firmly establish a legal basis for the achievement of its diplomatic strategy: to eradicate Qing China's influence over Korea. The Joseon government also sought the faithful execution of treaties with foreign countries. Several times, the government compiled and published the *Yakjang happyeon* 約章合編 (Compilation of Treaties), a handbook with the categorization of the contents of various existing treaties, for use by its diplomatic representatives. The objective of Joseon in these actions was entirely different from that of Japan. As a weak nation, it was part of the Joseon government's efforts for *faithful diplomacy* to secure its position as an independent nation through treaty relations.

Japan's Changing Attitude after the Sino-Japanese War

With the extension of compulsory military conscription in the late 1880s, Japan began to put 70 percent of its national budget into armaments; this was the groundwork for the military showdown with China to eliminate Qing influence over the Korean peninsula and make Joseon its protectorate. In early June of 1894, under the pretext of suppressing the Donghak peasant army, both China and Japan dispatched troops to Korea. While the Qing troops landed at the Asan bay, close to the main region where the activities of the Donghak peasant army were taking place, Japan sent a brigade of 8,000 troops to Seoul via Incheon. The reason for this was that Japan claimed that it was more urgent to press the Joseon government in Seoul to

carry out internal reforms in order to prevent the peasant army from rising again. This was clearly a Japanese intervention into Korea's internal affairs and a threat to Korea's sovereignty. Korea's monarch and government strongly protested, but Japan ignored their objections.

On July 23, 1894 at 12:30 in the morning, Japan sent one battalion of troops to occupy the Gyeongbokgung palace by force and place Gojong in near confinement. Two days later, the Sino-Japanese War began as the Japanese attacked Chinese troops stationed near Seonghwan, a small town near Cheonan in Chungcheong-do province. Japanese troops occupied the Gyeongbokgung palace to seize control of the telegraph lines that had been established from Seoul to Uiju, and from Seoul to Busan in the mid-1880s. They detained King Gojong, who was in charge of the management of the telegraph lines, and occupied the Telegraph Office located in front of the Gyeongbokgung palace (Kim 2009, 387). Control of telegraph communications played a decisive role in Japan's victory. To conceal their naked military intervention, Japan formed a pro-Japanese government and secretly concluded treaties such as the Provisional Joint Agreement (*jamjeong hapdong jogwan* 暫定合同條款) and the Treaty of Alliance between Korea and Japan (*daejoseon daeilbon yangguk maengyak* 對朝鮮對日本兩國盟約) with Korea's minister of foreign affairs (Fig. 3).

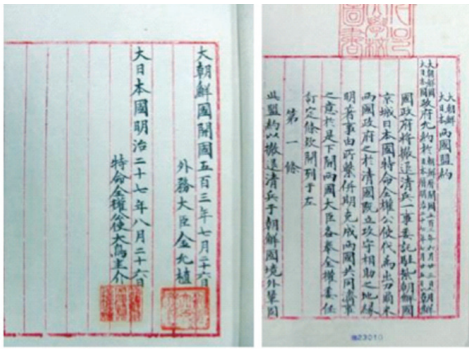


Figure 3. The Treaty of Alliance between Korea and Japan of August 26, 1894. The first instance of a forced treaty that lacked a ratification statement from the Korean sovereign.

Source: Yi and Lee (2010, 122–123).

These treaties were regarding military cooperation, a matter clearly infringing on national sovereignty. However, by concluding *agreements*, Japan blocked the monarch's involvement. Japan's threat to Korea's sovereignty through informal *agreement* had already begun. The assassination of Queen Min, an atrocious brutality, followed directly afterwards.

Following the retrocession

of the Liaodong peninsula as a result of the Triple Intervention after the Sino-Japanese War, the Imperial General Headquarters of Japan strove to maintain its control over the Korean peninsula. To this end, Japan decided to leave one battalion of troops behind to maintain control over the Korean telegraph lines. King Gojong, however, strongly demanded the complete withdrawal of Japanese troops from Korea. In response, Japan posed a brutal threat to Gojong by assassinating Queen Min. By completing the assassination by four in the morning, Japan hoped to lay the blame for the plot on the Daewongun while he was still at the palace. However, as the murder took place an hour and a half after dawn due to delays, Japan was clearly exposed as the culprit; consequently, Japan was forced into a corner (Kim 2009, 342–352).

Fraud and the Seizure of Korean Sovereignty during the Russo-Japanese War

After its guilt in the assassination of Queen Min was revealed to the international community, Japan withdrew from the Korean peninsula and focused on consolidating its colonial rule in Taiwan—the only remaining spoil of the Sino-Japanese War. Taking advantage of the internal turmoil created by the rise of the righteous armies (*uibyeong* 義兵) throughout the country, Gojong escaped from his confinement in the Gyeongbokgung palace and moved to the Russian legation. Having recovered his authority in the government administration, Gojong established the Korean Empire (Daehan Jeguk 大韓帝國; literally, "Great Han Empire"). The Qing withdrawal after its loss in the Sino-Japanese War and Japan's diminishing position in Korea had opened an opportunity for Korea. It was at this time that Seoul first witnessed streetcars running along its streets as part of the government's Seoul urban redevelopment project, modeled after Washington, D.C. (Yi 2007, 278). In addition, by attracting foreign capital and technology from France and Belgium, the Korean government began the construction of the Northwest Railway Line (Seoul–Uiju), and secured from Belgium a promise of investment in the establishment of the Korean Central Bank for the issuance of paper money.

After Great Britain adopted the gold standard in 1899, Korea's gold

mining industry began to attract European capitalist interest. The Korean Empire's modernizing reforms rapidly achieved clear progress and Japanese diplomats, of course, reported to their home government on the changes taking place. Gojong, with his goal of establishing a permanently neutral nation, took counsel from Belgium, itself a neutral nation, and hurried to join various international organizations such as the Red Cross Society. Japan, however, did not allow Korea's attempts to go unhindered. Amidst the construction of its colonial administration in Taiwan, Japan was already arming for war with Russia.

In early February 1904, the Russo-Japanese War broke out. This time again, Japan's most forward troops entered Seoul through Incheon. The most important goal of this war was to make Korea a Japanese protectorate, an attempt that had ended in failure ten years before. The Japanese force of one division that entered Seoul stationed itself in the capital under the name "Japanese Army Stationed in Korea" and provided the military force needed to impose treaties on Korea. It was under this constant armed threat that treaties concerning matters of national sovereignty were subsequently coerced (Yi 2007, 169).

After the Russo-Japanese War, Japan by degrees deprived Korea of its national rights by forcing Korea to accept a series of five treaties. These five treaties were: (1) Japan–Korea Protocol (February 23, 1904); (2) 1st Japan–Korea Agreement (August 22, 1904); (3) 2nd Japan–Korea Agreement, or Eulsa Treaty (November 17, 1905); (4) Japan–Korea Treaty of 1907 (July 24, 1907); and (5) Japan–Korea Annexation Treaty (August 29, 1910). None of these treaties includes a ratification statement from the Korean emperor.[2] It is illegal to treat matters relating to national sovereignty in the form of an "agreement" without a ratification statement from the head of state. Furthermore, the Japanese government frequently forged documents in the process of announcing these forced treaties with Korea to the Western powers.

With the declaration of war on Russia in 1904, Japan announced the

2. The processes leading to these five compacts are examined in the chapter titled "Forced Treaties and Japan's Annexation of the Great Han Empire" in the author's 2007 publication (Yi 2007, 170–184).

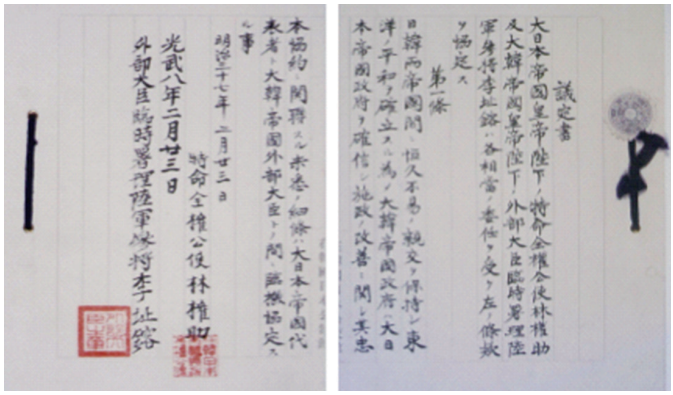
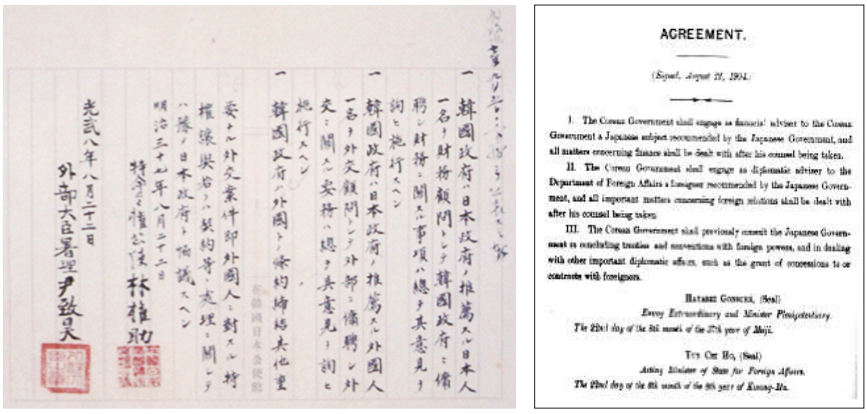


Figure 4. The first and last pages of the Japan–Korea Protocol of 1904. Proxy representatives are mentioned at the beginning of the document, and the signatures and seals of both nations' representatives appear at the end of the document.

Source: Yi and Lee (2010, 160–161).

Japan–Korea Protocol (Fig. 4). This protocol stipulated that Japan could use various locations in Korea as military bases. Although opposed, the Korean government was constrained to accept this protocol as it included in its Article 3 a clause that stipulated that the Imperial Government of Japan also guaranteed the independence of the Korean Empire. Then in late August of the same year Japan forced on Korea the 1st Japan–Korea Agreement, which demanded that Korea accept financial and diplomatic advisors recommended by the Japanese government. Although called the 1st Japan–Korea Agreement, in fact it was presented to Korea as a memorandum. It also included in its Article 3 a clause that stipulated that the Korean government must consult in advance with the Japanese government in Tokyo before concluding any treaties with foreign nations.

As shown in the left picture of Figure 5, there is no mention in this document of the selection of representatives and the plenipotentiary which must be included even in an agreement. This document simply listed three articles. No Korean version appeared as it was not in accordance with the forms of a treaty. Only the Japanese version is housed in the Diplomatic Record Office of the Ministry of Foreign Affairs of Japan.



AGREEMENT.

(Signed, August 22, 1904.)

I. The Corean Government shall engage as financial adviser to the Corean Government a Japanese subject recommended by the Japanese Government, and all matters concerning finance shall be dealt with after his counsel being taken.

II. The Corean Government shall engage as diplomatic adviser to the Department of Foreign Affairs a foreigner recommended by the Japanese Government, and all important matters concerning foreign relations shall be dealt with after his counsel being taken.

III. The Corean Government shall previously consult the Japanese Government in concluding treaties and conventions with foreign powers, and in dealing with other important diplomatic affairs, such as the grant of concessions to or contracts with foreigners.

HATASHI GOSHICHI, (Seal)
Envoy Extraordinary and Minister Plenipotentiary.
The 22nd day of the 8th month of the 37th year of Meiji.

YUN CHI HO, (Seal)
Acting Minister of State for Foreign Affairs.
The 22nd day of the 8th month of the 8th year of Kuang-Hsu.

Figure 5. *Left*: The memorandum known as the 1st Japan–Korea Agreement. There is neither a title to the document nor any designation of the proxy representatives. *Right*: The English version of the 1st Japan–Korea Agreement, which was translated by the Japanese government's own accord.

Source: Yi and Lee (2010, 160–161).

However, when the Japanese government translated this document into English to notify the American and British governments of the result of the negotiations (at the time, it was not a requirement to make an English translation of treaties), they added the word "agreement" to the title of the document (see the right picture of Fig. 5).

Japan disguised a mere memorandum as a treaty. Articles "promised" in a memorandum apply only to the nation explicitly mentioned in the document. However, a treaty, even if it is an "agreement," affects diplomatic relations with third-party states. In effect, based on this agreement, the United States and Great Britain signed, respectively, the secret Taft–Katsura Agreement in July 1905 and the Second Anglo-Japanese Alliance in August 1905, which acquiesced to Japan's exclusive domination of Korea. Japan's subterfuge was an act of fraud aimed at seizing the sovereignty of Korea.

Japan's falsification of documents did not stop here. In September 1905, a peace conference was held in Portsmouth, Maine in the United States to conclude the Russo-Japanese War. Soon after, the Japanese government presented to the Korean government the 2nd Japan–Korea Agree-

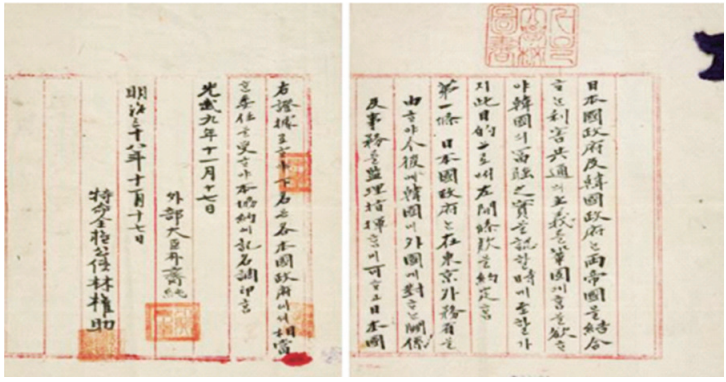


Figure 6. The first and the last pages of the 2nd Japan–Korea Agreement, also known as the Eulsa Treaty or Protectorate Treaty. The first line where the title should have appeared was left blank.

Source: Yi and Lee (2010, 166–167).

ment, a treaty to completely deprive Korea of its diplomatic rights and make it a Japanese protectorate. In this document, the space for the title was left blank (Fig. 6), but in its English version, this blank space was filled with the term "convention" (Fig. 7). Given this, who would believe that the treaty that brought about the greatest misfortune to Korea was a complete document?



CONVENTION.

(Signed, November 17, 1905.)

The Governments of Japan and Corea, desiring to strengthen the principle of solidarity which unites the two Empires, have with that object in view agreed upon and concluded the following stipulations to serve until the moment arrives when it is recognized that Corea has attained national strength :—

ARTICLE I.

The Government of Japan, through the Department of Foreign Affairs at Tokyo, will hereafter have control and direction of the external relations and affairs of Corea, and the diplomatic and consular representatives of Japan will have the charge of the subjects and interests of Corea in foreign countries.

ARTICLE II.

The Government of Japan undertake to see to the execution of the treaties actually existing between Corea and other Powers, and the Government of Corea engage not to conclude hereafter any act or engagement having an international character except through the medium of the Government of Japan.

ARTICLE III.

The Government of Japan shall be represented at the Court of His Majesty the Emperor of Corea by a Resident General, who shall reside at Seoul, primarily for the purpose of taking charge of and directing matters relating to diplomatic affairs. He shall have the right of private and personal audience of His Majesty the Emperor of Corea. The Japanese Government shall also have the right to station Residents at the several open ports and such other places in Corea as they may deem necessary. Such Residents shall, under the direction of the Resident General, exercise the powers and functions hitherto appertaining to Japanese Consuls in Corea and shall perform such duties as may be necessary in order to carry into full effect the provisions of this Agreement.

Figure 7. The English version of the 2nd Japan–Korea Agreement, containing the title "Convention," which was not present in the original document.

Source: Yi and Lee (2010, 170).

This term "convention," was a term used for official treaties, along with the term "treaty," and particularly for protectorate treaties. In order to hide fundamental flaws created by stiff resistance from the Korea's emperor and ministers, Japan again falsified the documents without hesitation. Japan had received a large loan of 700,000,000 yen from Great Britain and the United States to fight its

war with Russia.[3]

Japan risked exclusion from the ranks of the *advanced nations* and struggle as a debtor nation if the flaws in the invalid treaty were revealed. To conceal these, Japan labeled the titles of treaties after the fact with numbers, such as first and second. More of Japan's illegality was contained in the 2nd Japan–Korea Agreement: threatening the Korean monarch and ministers by military force, as well as spreading a rumor that negotiations for the treaty were carried out under Gojong's orders.

Evidence of Japanese Coercion in the Forced Protectorate Treaty

The 2nd Japan–Korea Agreement signed on November 17, 1905, deprived Korea of its diplomatic rights, one of the most important rights of any independent nation. For that reason, resistance from the Korean side was stiffer than at any other time, as was the pressure from the Japanese. Japan sent Ito Hirobumi 伊藤博文 (1841–1909), the chairman of the Japanese Privy Council and four times prime minister, to Korea as envoy extraordinary as well as minister plenipotentiary to lead the negotiations.

When Ito visited Gojong on November 15, 1905, they argued for more than three hours. Gojong was firm in his refusal to comply with the Japanese request to sign this agreement, asking whether, with this agreement, Korea would not achieve the same status as colonized nations in Africa, or Hungary annexed by Austria. In a threatening tone, Ito repeatedly pressured Gojong to order the Korean foreign minister to engage in negotiations. Gojong, however, refused on grounds that such an important matter must follow government procedure and be subject to the opinions of the Privy Council (Jungchuwon 中樞院) and ordinary Korean subjects. Ito repeatedly pressed Gojong to order the negotiations, demanding in abusive

3. Shaw (2007, 67–72) explains how bankers such as Jacob Schiff, J. P. Morgan, and John D. Rockefeller of New York, the Rothschilds of Paris and London, the Barings of London, and the Warburgs of Hamburg were involved in war loans for Japan through the good offices of President Theodore Roosevelt.

language what procedures were necessary in an absolute monarchy other than the emperor's will (Yi 2007, 175–179).

According to the Regulations of the State Council Meetings (*uijeongbu hoeui gyujeong*; the final regulations in March 4, 1904) of the Korean Empire, when a foreign country proposes a treaty, the minister of foreign affairs receives the proposal and then submits it to the State Council. The prime minister (*uijeong* 議政 or *chamjeong* 參政) then presides over a discussion, prepares the meeting's minutes following the majority opinion, and asks for approval from the emperor as well as the Privy Council. On November 16, the Japanese diplomat Hayashi Gonsuke 林權助 (1860–1939) submitted a negotiation agenda to Korean foreign minister Bak Je-sun 朴齊純 (1858–1916). Gojong and the Korean ministers quickly held a meeting and resolved not to submit this item to the State Council meeting.

On the morning of November 17, Hayashi summoned the Korean ministers to the Japanese legation to conciliate and coerce them into accepting Japan's request. As the Korean ministers did not comply, Hayashi suggested discussing the matter directly with Gojong and proceeded to the Jungmyeongjeon hall in Gyeongungung palace (known today as Deoksugung palace). In response, Gojong and the ministers held a meeting and resolved to maintain their refusal of Japan's request. Around six in the evening, Hayashi sent a messenger to Ito to request that Ito take the lead. Ito was waiting all day with Japanese Commander Hasegawa Yoshimichi 長谷川好道 (1850–1924) in the headquarters of the Japanese army stationed in Korea.[4] After receiving the message, Ito came to Jungmyeongjeon hall, accompanied by Hasegawa and the Japanese military police. The narrow entrance and the courtyard were filled with Japanese (Yi 2003; Yi and Sasagawa 2009, 167–168).

Ito requested an audience with Gojong. However, Gojong refused, stating that he had no further matters to discuss with Ito. Ito stopped the Korean ministers who were leaving the palace and interrogated them one by one as to whether they agreed or disagreed with the treaty. Through odd reasoning, he counted an even number of opposing opinions as supporting ones but

4. Japan had forcibly occupied Daegwanjeong 大觀亭, the royal guest house of the Korean Empire, across from the present-day Westin Chosun Hotel.

made supporters the majority. Yi Wan-yong 李完用 (1858–1926) suggested stipulating that the treaty will last "until Korea becomes wealthy and strong" and including a clause that "guarantees the security of the Korean royal family." This was a scheme devised the previous day between Yi Wan-yong and Ito Hirobumi. Ito stated that the only opponents were Prime Minister Han Gyu-seol 韓圭卨 (1848–1930) and Finance Minister Min Yeong-gi 閔泳綺 (1858–1927), and revised the treaty draft to reflect Yi Wan-yong's suggestion. At that time, Ito had the official translator Maema Kyosaku 前間恭作 (1868–1942) enter Korea's Ministry of Foreign Affairs with military police and confiscate the official seal.

It was around 1:30 in the morning of November 18 that Japan affixed the stolen seal to the newly revised treaty. The transfer of diplomatic rights required the Korean emperor's ratification statement just as had the Japan–Korea Treaty of Amity of 1876; however, only the official seal of the minister of foreign affairs was affixed to this document.



Figure 8-1. Comparison between the Korean and Japanese versions of the Japan–Korea Protocol. It is clear that the straps binding the documents in the Korean version are orange whereas the straps in the Japanese version are blue.

Source: Kyujanggak Institute for Korean Studies, Seoul National University.



Figure 8-2. The first pages of the Korean and Japanese versions of the 2nd Japan–Korea Agreement. The binding straps are blue in both versions.

Source: Kyujanggak Institute for Korean Studies, Seoul National University.

The Japanese side did not realize that they had left clear evidence of coercion amidst their making of unreasonable demands: the Korean version of the treaty itself, which was supposed to be written and filed by the Korean side, instead was handled by the Japanese legation. Even with the Japan–Korea Protocol that had been signed the previous year, the institutions in charge of foreign affairs for each country were supposed to respectively handle their treaty document. Korea used paper with the inscription: "Korean Ministry of Foreign Affairs" whereas Japan used paper inscribed: "Japanese Legation in Korea." In addition, they exchanged the documents after filing them with different straps. Korea used orange straps whereas Japan used blue ones (Fig. 8-1). However, for the 2nd Japan–Korea Agreement, the Japanese version used the same paper and straps as in the Japan–Korea Protocol, whereas the Korean version used red ruled paper, without the official seal of the authority (Fig. 6). Furthermore, the document was filed with the same blue straps as the Japanese version (Fig. 8-2). Figure 9 shows this difference between the Japan–Korea Protocol and the 2nd Japan–Korea Agreement. This presents clear evidence that the Japanese legation directly managed even the Korean version.

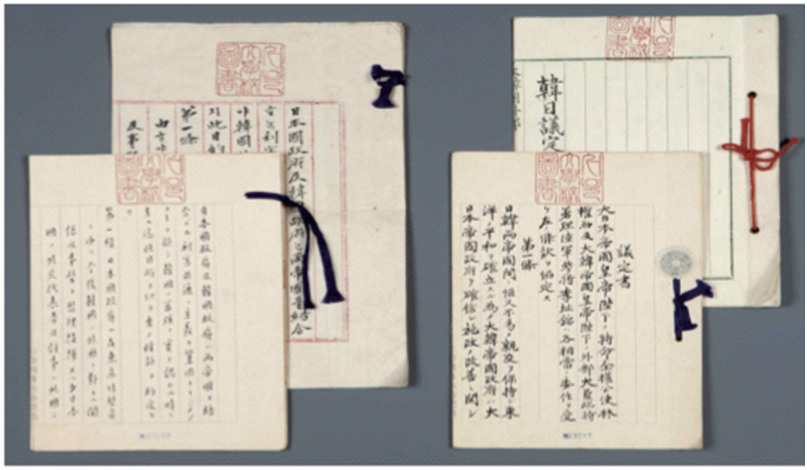


Figure 9. Comparisons between the Korean and Japanese versions of the Japan–Korea Protocol (*right*) and the 2nd Japan–Korea Agreement (*left*) clearly show the problem with the binding of the Korean version of the 2nd Japan–Korea Agreement (*left*, background).

After returning to Japan, Ito Hirobumi falsified his report to the Japanese emperor. In the first draft of the report (housed in the Modern Japanese Political History Materials Room in the National Diet Library), the chief secretary of the Japanese Privy Council, Tsuzuki Keiroku 都筑馨六 (1861–1923) noted that "the Korean emperor does not consent to this treaty" when Ito had an audience with Gojong. However, after drawing a black line across the phrase "does not consent" and amending it to "cannot but consent," Ito changed the report to say that Gojong engaged into the negotiations with a cooperative attitude from the beginning (Kang 2002, 54–55). After this fabrication, Japan perpetuated the story that Gojong ordered the negotiations, and published the treaty as the "Japan–Korea Negotiated Treaty" in the *Gwanbo* (Official Gazette) of the Korean Empire. In addition, Japan had both Korean and Japanese official records regarding the treaty written from this perspective. It was Japan's intention to completely conceal the historical truth.

Gojong's Forced Abdication and the Falsification of Sunjong's Signature

After Japan had forced Korea into the 2nd Japan–Korea Agreement, Gojong began efforts to nullify the 1905 Agreement by turning to the sovereign leaders of countries with which Korea had established treaties, such as Prussia (Germany), Russia, Italy, Austria, and France. However, in January of 1906, Japan established the Residency-General in Seoul as an organ for assuming Korea's diplomatic rights, and appointed Ito Hirobumi the first resident-general of Korea. When Gojong secretly dispatched three special delegates to the 2nd Hague Peace Conference in June of 1907, Ito used this opportunity to force Gojong to abdicate. Gojong opposed this, but the Japanese government held an *abdication ceremony* on July 20, having two eunuchs fill the roles of the old and new emperors (Fig. 10).

Following this, Ito Hirobumi and Korean Prime Minister Yi Wan-yong signed the Japan–Korea Agreement on July 24, 1907. This treaty was intended to transfer authority over domestic affairs to the resident-general of Korea. As preparations for this involved Gojong's forced abdication, the treaty could not follow the standard procedures of a formal treaty. A procedure such as the transfer of full authority over domestic affairs simply could not occur in a situation wherein Gojong refused to abdicate and the crown prince, Sunjong, also refused to comply. Although this treaty stipulated at the end of it that Ito Hirobumi and Yi Wan-yong "signed and sealed the document with authority granted from the government,"



Figure 10. The cover illustration of the Italian pictorial, *La Tribuna illustrata* (August 4, 1907). The old eunuch in the role of the "old emperor" abdicates to the young eunuch in the role of the "new emperor," who sits on the throne. A figure dressed as a Japainese officer stands in the front.

Source: Shaw (2007, fig. 15).

neither the old nor the new emperor had granted this proxy. In short, this treaty was a mere formality in which the resident-general transformed the rule of the Korean Empire into that of the Japanese Residency-General of Korea.

Gojong and Sunjong opposed the Japanese coercion for a long time. On August 2, the residency-general declared a new name for the new era, Yunghui 隆熙, but the crown prince did not attend this announcement. Japan installed Sunjong's half-brother, ten-year-old Yeongchin 英親, as crown prince, and used the young prince as a virtual hostage to put further pressure on Gojong. To "strengthen the amity between the two countries," Japan planned for the crown prince of Japan to visit Seoul, a visit that took place between October 16 and 20, 1907. Gojong could no longer withstand Japan's actions. On November 15, Gojong visited the Royal Ancestral Shrine, and on his return to the Gyeongungung palace stopped by the Changdeokgung palace where Sunjong was staying at the time. Three days later, Sunjong visited the Royal Ancestral Shine, and announced in front of the ancestral tablets of the preceding kings that he would ascend the throne. At this moment, the residency-general devised another cunning plot. The Japanese made space on an announcement document where the emperor needed to handwrite his name, and in doing so, induced Sunjong to handwrite his name, Yi Cheok 李坧, there. From that day, Japan changed the system into such that the emperor was required to handwrite his signature to authorize any changes in domestic affairs. This was the way it had been done in Japan since the Meiji Restoration. As soon as the announcement ceremony was concluded, the officials of the residency-general took the document and over the following two years, up to January 18, 1910, processed some 61 documents by forging Sunjong's signature (Fig. 11) (Yi 1995, 145–157). These documents pertained to the transfer of the Korean Empire's government structure, courts, and prison system to the control of the Residency-General of Korea. Official documents were falsified on a large scale to remove Korea's authority over domestic affairs.



Figure 11. The forging of Sunjong's signature: there are six different types of writing styles here, when there should have been only one; evidence that the residency-general's officials forged Sunjong's signature in their respective departments to process official documents.

Sunjong Did Not Sign the Annexation Treaty

After Gojong's coerced abdication and the dissolution of the Korean army in July 1907, Korean righteous armies rose up in all parts of the country. According to Japanese military statistics, there were 1,976 battles involving over 82,767 righteous soldiers. This put enormous pressure on Ito and questioned the validity of his Korea policies. The endless dispatch of troops from Japan was impossible not only economically but also diplomatically under the protectorate system. In early 1909, Ito required the Korean emperor to accompany him on special railroad tours. The first royal railroad tour to the south, encompassing Daegu, Busan, and Masan, took place from January 7 to 13. The second tour, this one to Uiju, Pyeongyang, and Gaeseong in the northwest, occurred from January 27 to February 3. These were made with the cooperation of the Korean government and the Japanese residency-general, of course. However, Ito was frightened by the huge welcoming crowds; newspapers reported the numbers in Busan and Masan to be 30,000 in each city, while the crowds in Pyeongyang and Gaeseong surpassed

100,000.[5] This demonstration of support for the Korean emperor made Ito question his own protectorate policy. On his return to Seoul, the newspapers reported Ito would leave for Tokyo. Ito went to the Changdeokgung palace to pay his farewell visit on February 7 and left Seoul for Tokyo three days later. After three months at his country house near Tokyo, he had an audience with the Japanese emperor in mid-April and suggested his resignation. In June of 1909, Ito took responsibility for the failures of his Korea policy and resigned from his position as resident-general. Ito went to Harbin to play a role in Japan's expansion into Manchuria in October 1909, and was shot there by An Jung-geun 安重根 (1879–1910), a lieutenant general of the Korean Righteous Army based in Vladivostok, Russia. The Japanese government identified Ito's support for Japan's annexation of Korea before his resignation. After a thorough investigation of the group behind An's shooting of Ito, Japan sentenced An to death in March 1910 and inaugurated the Japan–Korea Annexation Preparatory Committee (*kankoku heigo junbi iinkai* 韓國倂合準備委員會; hereafter, Preparatory Committee) in June. This committee prepared all the necessary procedures and documents. Japanese Army Minister Terauchi Masatake 寺內正毅 (1852–1919), who was in charge of the investigation of An Jung-geun, was appointed the new resident-general and took the lead in realizing Japan's annexation of Korea.

Japan sought to make the Annexation Treaty, at the very least, fulfill all the necessary conditions of an official treaty. The Preparatory Committee even prepared documents that were to be presented under the name of the Korean side. Terauchi asked Prime Minister Yi Wan-yong in advance to cooperate, and presented a proxy statement for Yi to bring to Sunjong and obtain Sunjong's signature and seal. Sunjong resisted signing the proxy statement for more than two hours while under pressure from Yi Wan-yong and other pro-Japanese ministers such as Yun Deok-yeong 尹德榮 (1873–1940) and Min Byeong-seok 閔丙奭 (1858–1940). Sunjong held a silent vigil. It was the only means of resistance left for Sunjong who was confined to Nakseonjae hall in Changdeokgung. In the end, Sunjong affixed the state seal with the

5. The Seoul newspaper *Hwangseong sinmun* reported daily details on the Korean emperor's travel schedule.



Figure 12. A proxy statement for the Korean representative included in the Japan–Korea Annexation Treaty. Sunjong's signature is above the royal seal.

Source: Yi and Lee (2010, 242).



Figure 13. The signatures and seals of the plenipotentiary representatives of the Japan–Korea Annexation Treaty.

Source: Yi and Lee (2010, 244–255).

inscription of the "Seal of the Great Han" and handwrote the character *cheok* 坧 from his name on top of the seal (Fig. 12) (Yi 2000b, 279–280). Yi Wan-yong then brought the document to the resident-general's office at the foot of Mt. Namsan in Seoul, and signed the treaty together with Terauchi (Fig. 13).

Meanwhile, Terauchi presented another memorandum. It noted that the two sides agreed to issue an imperial edict from both emperors announcing the annexation, which could be issued at any time. Since Korea

would no longer exist as a country once this treaty was concluded, there would be no time to obtain ratification of the treaty—the final step for its approval. To solve this problem, Japan prepared the memorandum to replace ratification by issuing an imperial edict announcing the annexation of Korea to Japan.

The imperial edicts from both emperors were issued on August 29. However, in the original document, the imperial edict of the Korean emperor was changed to "imperial instruction" (*chigyu* 勅諭) in its name. Furthermore, unlike the ratification statement, the document was affixed with the royal seal with the inscription "seal of an imperial order" (*chingmyeong ji bo* 勅命之寶) instead of Korea's state seal. Moreover, it did not contain the signature of the character for the name of the emperor that should have been placed over the official seal (Fig. 14). The residency-general had taken away this royal seal, a seal that the Korean emperor used for administrative approval, when they forced Gojong to abdicate. Therefore, this royal seal was not affixed to Sunjong's will.

Emperor Sunjong left his will in oral form immediately before his death on April 26, 1926 to Jo Jeong-gu 趙鼎九 (1862–1926), who remained



Figure 14. The "imperial instruction" of Emperor Sunjong (*right*) and the "imperial edict" of Emperor Meiji (*left*). The former document is affixed with the royal seal, but not the state seal, and does not have Sunjong's signature. On the other hand, the latter document contains the "State Seal of the Japanese Empire," and above the seal, the signature of the Meiji emperor as well as Japanese ministers.

Source: Yi and Lee (2010, 282–283, 290–291).



Figure 15. Sunjong's will in the *Sinhan minbo*, published in San Francisco on July 18, 1926, stated that Japan had arbitrarily ratified the Japan–Korea Annexation Treaty, not Sunjong. It concluded: "Everyone, strive for independence! My spirit will assist you."



Figure 16. Comparison of papers used in the Korean and Japanese versions of the Japan–Korea Annexation Treaty: the front covers, the first pages, and the back covers (from right to left).

Source: Yi and Lee (2010, 256–257).

at his side. In his will, Sunjong stated that he had never signed the imperial edict included in the treaty that transferred Korea's national sovereignty to Japan. Sunjong's oral will appeared in the *Sinhan minbo*, published by overseas Koreans in San Francisco (Fig. 15). This testimony confirms the status of the "imperial instruction."

Japan also left clear evidence of coercion in the Japan–Korea Annexation Treaty. As shown in Figure 16, the Korean and Japanese versions of

this treaty were written in the same writing style, on the same paper, and bound using the same straps (Yun 2011, 231–241). This is clear evidence that the treaty was forced by one side. It would be difficult to find another case like this in the history of treaties across the world. The imperial edict of the Korean emperor as a replacement for the ratification statement was not issued, and Japan thereby failed in its plan to have the Annexation Treaty contain all necessary procedural documents.

Self-Contradicting Treaties: Between *Valid* and *Illegal*

Table 1 below shows whether or not ratification statements were included in the treaties *signed* between Korea and Japan, from the Japan–Korea Treaty of Amity signed in February 1876 to the Japan–Korea Annexation Treaty signed in August 1910.

Table 1. Conditions of the Ratification Statement in Modern Treaties between Korea and Japan

Date (Month/Year)	Treaty Title	Ratification Statement (Korea/Japan)
February 1876	Japan–Korea Treaty of Amity	○ / ○
February 1876	Appendix to the Japan–Korea Treaty of Amity	Not necessary
July 1882	Treaty of Jemulpo	(Credentials) / ○
July 1883	Treaty of Tax Regulations for the Japanese Trade and the Maritime Customs	○ / ○
January 1885	Treaty of Hanseong	○ / ○
February 1904	Japan–Korea Protocol	X / X
August 1904	1st Japan–Korea Agreement	X / X
November 1905	2nd Japan–Korea Agreement	X / X
July 1907	Japan–Korea Treaty	X / X
August 1910	Japan–Korea Annexation Treaty	X / ○

As shown in this table, Japan fulfilled legal conditions for treaties when laying the groundwork of its strategy in Korea. However, when subverting Korea's national sovereignty, Japan accepted the conclusion of treaties as an established fact without the ratification statement from the head of state and without making any attempt to obtain it. In the Japan–Korea Annexation Treaty, the last between Japan and Korea, Japan did seek to obtain the ratification statement, but failed due to Emperor Sunjong's resistance. Thus, Japan published a false imperial instruction and the Governor-General of Korea then exercised sovereign power; crossing the boundary between legality and illegality is inevitable where the law is ignored.

A heavy burden has been left on Japan, not only legally but also ethically. Beginning with the Sino-Japanese War in 1894, Japan sent troops in the middle of the night to occupy the Gyeongbokgung palace, residence of the Korean monarch, in order to seize control of Korea's telegraph lines without the Korean government's permission. Moreover, an indelible and horrendous crime was perpetrated with Japan's assassination of Queen Min in response to Gojong's request for a complete withdrawal of Japanese forces following the Sino-Japanese War. Furthermore, after US President Woodrow Wilson's "Declaration of the Principle of Self-Determination" in January 1918, the Japanese Prime Minister Terauchi Masatake made the governor-general to request Gojong ratify the 1905 Protectorate Treaty even now. It has been rumored that as Gojong refused to comply, the Japanese ordered his lethal poisoning, and in light of the assassination of Queen Min, it is difficult to dismiss such rumors as unfounded.

Conclusion

The reasoning behind Japan's starting the Russo-Japanese War in February 1904 was to make the Korean Empire a protectorate state of the Japanese Empire. As the Japanese military passed through the Korean peninsula, a division of their military always resided near Seoul and was mobilized whenever a treaty with Korea was forcefully signed. Upon further study, the Agreement of August 1904, the first treaty to be forced upon the Korean

Empire, was not a diplomatic treaty, but rather a memorandum, as it lacked the original agreement that was to be shared between the two governments. However, the Japanese government inserted the word "agreement" into the English translation of the document so that they would be able to show it as an official diplomatic treaty to the Western powers. In the Protectorate Treaty of November 1905, the title was omitted in the original. However, as the Japanese government made the translation of the document, it inserted the word "convention" to add to its validity. One can also observe from the treaties that the Japanese versions of them fit international standards, having been printed on official documentation paper, while the Korean versions were not on such official paper. In addition, the straps that were used to tie the papers together in both the Korean and the Japanese versions of the treaties were identical in type and color, rather than each being distinct. The same is the case for the July 1907 treaty that allowed the Japanese resident-general to oversee Korea's domestic affairs. The most crucial disqualification for the three treaties above is that not one of them has the instrument of ratification by the Emperor of Korea, the head of state of the Korean Empire.

The Japan–Korea Annexation Treaty of 1910 has the same type of paper, the same straps and even the same font in both the Korean and Japanese versions. While the Japanese desired the instrument of ratification for this treaty, the Emperor of Korea did not sign the edict. Not a single forced treaty related to the transfer of sovereignty since the 1904 Russo-Japanese War is without flaws. It is observable that most of the documents were made and even executed by the Japanese, blatant evidence of the coercive nature of these treaties that demands further attention.

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