

## THE KOREAN MANUSCRIPTS

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# INTRODUCTION.

The restitution of cultural heritage in French and English societies has been historically problematic. Questions to be asked to follow up on the claims of many peoples who feel dispossessed of their heritage.

The question of the restitution of cultural property occupies an important place in the news. The subject is fascinating because of the numerous problems it considers. The internationalization of relations, the complexity of situations, the diversity of historical, political, diplomatic, economic, or spiritual stakes are all variables to be analyzed to understand the phenomenon of the restitution of cultural property. Although there are many international, European, and national legal instruments, the law today is powerless to deal with the numerous claims.

The French heritage code, for example, is based on three major axes: inalienability\*, imprescriptibility\*\* and unsuitability\*\*\* - in short, French cultural heritage is not to be touched. For a long time, French or European museums justified their refusals by the inability of the countries claiming the rights to receive them in appropriate infrastructures. But this justification is less and less founded. Obviously, the protection and preservation of these works is a real issue, but this would only delay the return of the works.

Here, we will focus on the Korean manuscripts that have been the object of real tensions between South Korea and France since the 1990s. These royal manuscripts had been taken by the French navy during a punitive expedition in 1866.



\* That cannot be alienated; non-transferable. To assign a right or property to someone

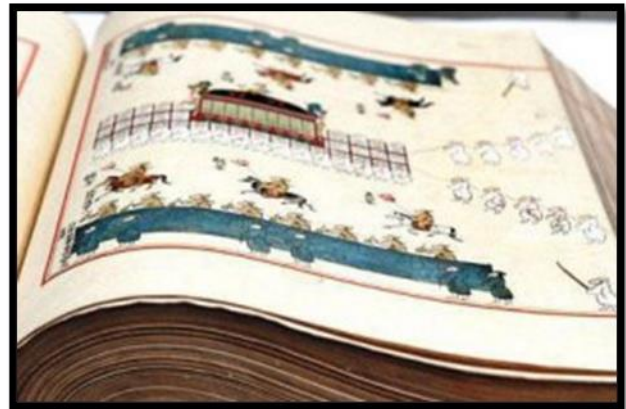
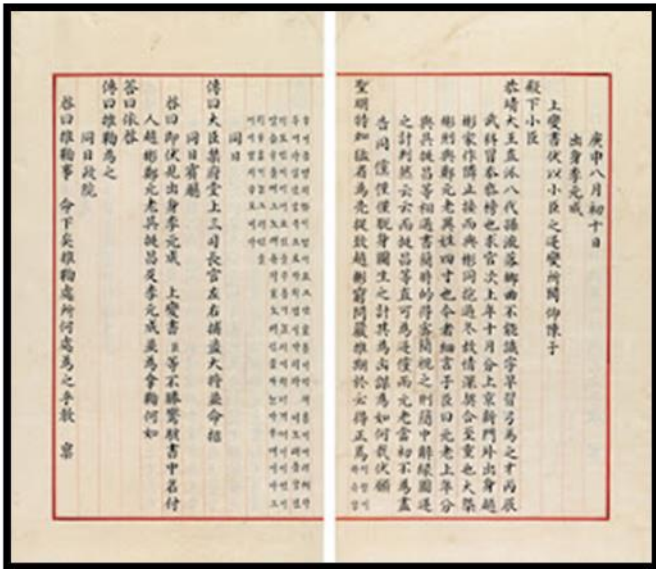
\*\* that cannot be prescribed.

\*\*\* that cannot be caught. that cannot be seized.

# CHAPTER 1

## 1. A LITTLE KOREAN HISTORY.

### A. What are the Korean manuscripts - the Uigwe?



The **Uigwe** - **의궤**, (Korean manuscript) is the name given to a large collection of books (about 3,895) that describes in detail the royal ceremonies and rituals of the Joseon Dynasty of Korea. They are the third part of Korean royal records; the collection was included in the "Memory of the World" program of UNESCO in 2007.

In the manuscript collection, we can also find:

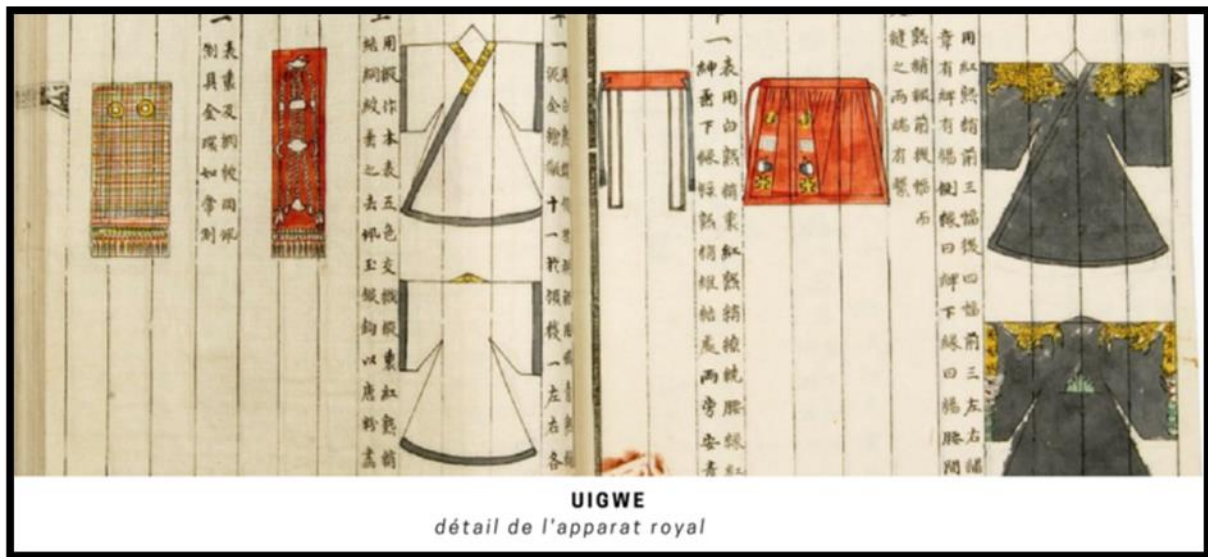
- **The Annals of the Joseon Dynasty (조선왕조실록).**

Written after the death of the king, the annals of the Joseon Dynasty were intended to transcribe post-mortem the life and actions of the deceased monarch.

- **Seungjeongwon Ilgi, the journals of the royal secretariat (승정원 정원)**

If the annals of the Joseon Dynasty transcribe the actions of the kings after their death, the journals of the royal secretariat, them, collect the day-to-day experience of the court.

Each **Uigwe** preserves the records of the Superintendency (dogam), which was temporarily set up to plan and perform special state rites. These rites included investitures, coronations, weddings, banquets, royal portrait painting, funerals, and ancestral rites. Manuscripts were either handwritten or used wooden blocks for copies and records. The uigwe had an exclusive edition for the king, with high quality materials.



The mandated scribe records and catalogues an incident and immediately sends his report to the king. A copy is kept in the state department and historical archives. The level of detail expected ranges from the royal order to the actions performed by the servants.

Versions were copied and kept in four state archives, which for most of the Joseon period were located at:



- Mount Jeongjoksan on Ganghwa-do Island.
- Mount Jeoksang in Muju-gun County, Jeollabuk-do Province.
- Mount Odaesan in Gangwon-do province.
- Mount Taebaeksan in Yeongwol-gun County.

## **B. The Joseon dynasty of Korea.**



Flag before 1882



Royal emblem of the dynasty

**The Joseon period - 조선** - is the period of Korean history during which the country was ruled by the Joseon Dynasty, sometimes referred to as the Yi Dynasty, a dynasty of Korean kings that occupied the throne from 1392 to 1910 (yet the Joseon period ended in 1897).

The Joseon dynasty was founded in 1392 by the Korean general Yi Seonggye. The Joseon dynasty also had two great periods of prosperity, during which culture flourished. The Koreans made many discoveries during this period such as:

- The first oriental sundial,
- The first hydraulic clock.
- The first printing press using metal type was invented during the Joseon Dynasty.
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The dynasty built many fortresses, trading ports and sumptuous palaces. It introduced land reform\* but was plagued by succession troubles and factional struggles.

During the Joseon period, several invasions took place, moreover Korea after the invasions never recovered from the shock of the Japanese and Manchu invasions. The kings succeeded one another, but the country stagnated, folded up on itself.

Korea then became the "Hermit Kingdom" of which one begins to speak in the West, but which nobody has yet visited except the Portuguese Jesuit Gregorio de Cespedes who, in 1592, accompanied the Japanese troops as a military chaplain. Korea isolated itself from the world. Officials were ordered to turn away all foreigners. The lands of the coasts are voluntarily left in fallow land to give the country an uninviting appearance. Korea had only sparse relations with Japan.

\* Reform covering all aspects of agrarian institutions i.e., land reform, production structure and related services, rural administration, social welfare services, etc.

# 1. A LITTLE FRENCH HISTORY.

## A. What are the reasons for the visits to Korea?

In 1792, the Pope officially entrusted the Church of Korea to the Diocese of Peking. In 1794, a Chinese Catholic priest, Father Zhou Wen-mu, entered Korea for the first time and the Koreans received the sacraments. A group of Korean scholars, after studying the principles, decided to adopt this religion. It was not imposed by any outside power, a fact that was rare enough at that time to be emphasized. It was the Koreans who asked the diocese of Peking to send missionaries.

However, the opening up of Korea to other countries was still in its infancy and in 1801, the anti-Catholic faction of the Court, which enjoyed the support of the Queen Mother, unleashed persecutions. Catholicism was considered a dangerous doctrine that threatened the state.

In 1831, the Pope decided that Korea was no longer part of the diocese of Peking and made it an independent diocese.

The Foreign Missions\* of Paris prepared to send missionaries to Korea. The first to infiltrate Korea was Father Philibert Maubant\*\*. In spite of the ban and the difficult conditions, conversions continued to take place.

In 1838, the Church in Korea already had 9,000 faithfuls. The following year, persecutions resumed. Three French priests were beheaded near Seoul. The arrival in 1846 of three French ships demanding an account from the king after the execution of the French priests. This symbolizes the irruption of foreign powers in Korea.

Despite all the internal hardships and foreign invasions, the Yi\*\*\*\* dynasty is distinguished by a very rich culture, both in the field of literature and fine arts.



\* Christian religious organization whose aim is evangelization.

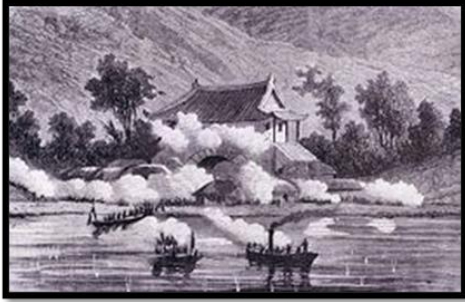
\*\* Pierre Philibert Maubant (Vassy, September 20, 1803 - Saenamteo\*\*\* in Seoul, September 21, 1839) was a Catholic missionary of the Paris Foreign Missions who was among the first missionaries to enter the Korean Hermit Kingdom. Put to death for his faith, he is recognized as a saint and martyr by the Catholic Church.

\*\*\* Saenamteo (새남터) on the right bank of the Han River in present-day Seoul was a military training camp and execution site for political opponents of the Chosŏn dynasty. In particular the six martyred ministers (or Sayuksin/사육신) executed in 1456, and many Catholic martyrs from 1838 to 1867 including nine French (seven priests and two bishops). Saenamteo is today the memorial of these Catholic martyrs.

\*\*\*\* The Joseon period (Korean: 조선, /t͡ɕo.sʌn/) is the period of Korean history during which the country was ruled by the Joseon Dynasty, sometimes referred to as the Yi Dynasty, a dynasty of Korean kings who occupied the throne from 1392 to 1910 (but the Joseon period ends in 1897).

## **B. The 1866 expedition.**

The expedition to Korea of Rear Admiral Roze was a French military expedition led in 1866 against the Korean kingdom.



Attack of the island of Gangwha.

Monsignor Simeon-François Berneux\*, appointed in 1856 to head the nascent Catholic Church in Korea, estimated in 1859 that the number of Korean faithfuls had reached nearly 17,000.

In January 1866, Russian ships appeared on the east coast of Korea to demand trade and residence rights. The native Korean Christians, having connections at court, saw this as an opportunity to advance their cause and suggested an alliance between France and Korea to repel the Russian advances, further suggesting that this alliance could be negotiated through Bishop Berneux, who was summoned to the capital, but upon his arrival in February 1866, he was arrested and executed on March 7, 1866. An attack then began against the French Catholic priests and Korean converts, (estimates are around 10,000). At the end of June 1866, one of the three surviving French missionaries, Father Felix-Claire Ridel\*\*, managed to escape via a fishing boat to Tianjin, China in early July 1866.

Upon learning of the massacre and the affront to French national honor, Admiral Pierre-Gustave Roze\*\*\* was determined to launch a punitive expedition, the French Campaign against Korea, 1866.

It was during this expedition that French troops seized 297 royal manuscripts from the 17th and 18th centuries (called Uigwe) and 43 volumes of printed books. They were deposited in the National Library of France the following year and became part of the national heritage, inalienable by French law.



Admiral Pierre-Gustave Roze

\* Simeon-François Berneux (May 14, 1814 - March 8, 1866) was a French Catholic missionary in Asia and member of the Society of Foreign Missions of Paris who was canonized as a saint.

\*\* Félix Clair Ridel European Deputy (July 7, 1830 † June 20, 1884) was a French bishop of the Paris Mission in Korea.

\*\*\* Pierre-Gustave Roze, born November 20, 1812 in Toulon, died November 1883 in Paris, was a French admiral.



## **CHAPTER 2**

### **1. DIFFICULTIES OF RESTITUTION.**

#### **A. Why is the restitution of works of art so complicated between France and South Korea?**

Contemporary Korea, caught up in the momentum of productivity, is still struggling to reconnect with its thousand-year-old practices of historiography. Still tainted by Japanese colonization, civil war and separation, the peninsula is gradually reinvesting its history. Since the 1990s, archaeology has been booming. The rediscovery of the royal registers that everyone thought were lost has contributed to this new historiographic impetus. This passion is reflected in the numerous dramas\*, manhwas\*\* and historical novels that have abounded for several years.

Today, only 654 reports, or 3,895 books, have survived the chaos of Korean history. 191 of them were stolen during the expedition to Korea of Rear Admiral Roze in 1866. They remained in France for more than a century, which paradoxically allowed to save a part of the Korean memory. They were classified as a UNESCO Memory of the World site in June 2007.

This case is actually at the crossroads of several distinct issues:

- The symbolic significance of a diplomatic initiative,
- The inalienability of public collections,
- The urgency of a doctrine capable of dealing with restitution requests that will multiply in the future.

They are also included in the Memory of the World register, UNESCO's program for the preservation and dissemination of archive and library collections worldwide, which is recognized for its international interest and outstanding universal value.

As Korea has repeatedly asked for the return of the royal manuscripts, French President Nicolas Sarkozy has responded to their expectations by committing to a loan renewable every five years.

\* Korean drama (Korean: 한국드라마) refers to television series often called kdrama for short.

\*\* Manhwa (hangeul: 만화) is the name given to comics in Korea.

## **B. What are the stages in the restitution of a work of art?**

It all started with François Mitterrand, who had already offered Korea, in 1993, the first volume of a two-volume work, in the form of a long-term loan during the negotiations on the TGV (KTX in Korean) and promised to organize their return to Korea. This promise could not be kept. Since then, their return has been regularly mentioned during official bilateral visits by Korean leaders.

In 2009, the former Minister of Culture Jack Lang asked France, during a visit to Seoul, to return these royal archives in the form of a long-term loan, stating that they "belong to the memory and heritage of the Koreans".

In early 2010, in response to a written question from Senator Michel Guerry, the Ministry of Foreign Affairs recalled a March 31, 2008 press release stating the willingness of both parties to resolve this dispute "through dialogue and in a spirit of openness.

This mutual willingness was in line with a process of digitization of 30 volumes of which no copy exists in Korea - the digitized copies having been handed over in 2008. The digitized manuscripts are available online\*.

Many curators, archivists and art historians deplore the fact that diplomatic and commercial considerations prevailed over cultural and heritage considerations. Curators at the BnF\*\* have issued a statement indicating that "this decision was taken against the advice of the Library and against the advice of the Ministry of Culture, which for years have always advocated for return formulas with reciprocity or compensation (exchange, cross-lending or rotation...)"

Although the manuscripts may be returned to France for cultural events, it is unlikely that the presidential decision will be considered anything other than a loan for an indefinite period, even if their ownership remains French from a legal point of view (it should be noted that Japan is also considering the restitution of the manuscripts looted by its army at the beginning of the 20th century).

On November 12, 2010, on the sidelines of the G20 summit in Seoul, the President of the French Republic, Nicolas Sarkozy, made a surprising announcement: France will "return" to Korea looted manuscripts.



\* <https://www.bnf.fr/fr/manuscrits-coreens-numerises>

\*\* BIBLIOTHÈQUE NATIONALE DE FRANCE

## CHAPTER 3

### 1. SOLUTIONS.

Beyond the Korean case, it is necessary to broaden the reflection on the answers to be given to the requests for restitution of cultural property to their countries of origin, whether it be South America, Asia or Africa.

However, there are rules in this field, notably the principle of inalienability, which means that each work listed in public collections cannot be removed.

#### Article L111-1 (modified by law n°2021-641 of May 21, 2021 - art. 2)

The following are national treasures

- 1° Goods belonging to the collections of the museums of France;
- 2° Public archives resulting from the selection provided for in articles L. 212-2 and L. 212-3, as well as goods classified as historical archives in application of Book II;
- 3° Properties classified as historical monuments in application of Book VI;
- 4° Other property forming part of the movable public domain, within the meaning of Article L. 2112-1 of the General Code of the Property of Public Persons, with the exception of those public archives mentioned in 2° of the same Article L. 2112-1 which are not the result of the selection provided for in Articles L. 212-2 and L. 212-3 of the present Code;
- 5° Other property of major interest to the national heritage from the point of view of history, art, archaeology or knowledge of the French language and regional languages.

#### Article L111-2

The temporary or definitive exportation out of the customs territory of cultural goods, other than national treasures, which are of historical, artistic or archaeological interest and fall within one of the categories defined by decree in the Council of State, is subject to obtaining a certificate issued by the administrative authority.

This certificate attests on a permanent basis that the property is not a national treasure. However, for goods that are not more than one hundred years old, the certificate is issued for a renewable period of twenty years.

The export of cultural goods that have been temporarily imported into the customs territory is not subject to obtaining the certificate provided for in the first paragraph.

By way of derogation and subject to the condition of compulsory return of the cultural goods to the customs territory, the certificate may not be requested when the temporary export of the cultural goods is for the purpose of restoration, expertise or participation in an exhibition.

In this case, the temporary export is subject to the issuance by the administrative authority of a temporary exit permit issued under the conditions provided for in article L. 111-7.

....

You can also find a law proposal concerning the circulation and return of cultural goods belonging to public collections: <https://www.senat.fr/leg/exposes-des-motifs/ppl21-041-expose.html>

There are many laws, many constraints, some solutions. A lot of outstanding questions.

### **A. Short-term solutions.**

The revolving loan respects, at least in form, the principle of "inalienability" of the nation's heritage, which is the case of the BnF's collections, if only to avoid the accusation of creating a precedent that could open the way to other demands for restitution.

For example, China, humiliated and deprived of part of its national treasures following the sacking of the Summer Palace by French and British troops in 1860, is now considering encouraging restitution through donations rather than through legal proceedings that would be unsuccessful under existing international treaties.

Many of these objects, which are scattered around the world, are now in public and private collections outside China.

### **B. Long-term solutions.**

There are also precedents: France "handed over" (not "returned") Maori heads to New Zealand in 2010, after the return to South Africa of the "Hottentot Venus" in 2002, in both cases following the passage of ad hoc laws\*. In these cases, the remains were human, not paintings, sculptures, archives or archaeological treasures.

In 2009, the Louvre Museum also returned to Egypt fragments of frescoes from the Luxor site, acquired in good faith between 2000 and 2003, but whose origin was tainted by illegality; it is true that the Higher Council of Egyptian Antiquities had threatened to cease "all cooperation" with the French museum, at the risk of a ban on excavations.

\* Latin expression qualifying an act especially made for a determined formality. A special mandate is an ad hoc mandate.

## CONCLUSION.

Should works of art be returned to their countries of origin?

Let us recall in this regard the visionary words of the poet Hugo:

*"One day, two bandits entered the Summer Palace. One looted, the other set fire to it (...) We Europeans are the civilized ones, and for us, the Chinese are the barbarians. This is what civilization has done to barbarism. In the eyes of history, one of the two bandits will be called France, the other will be called England (...) I hope that a day will come when France, delivered and cleaned up, will return this booty to the despoiled China".*

What can we conclude about the return of works of art to their countries of origin?

The main cause remains politics.

More and more controversy is being caused by the return of works of art. Over the centuries, many lootings have taken place around the world. The countries with the most claims in this matter are the former European colonial powers, led by the United Kingdom and France.

We can see that despite the protests of principle of museum and heritage officials in developed countries, it is our duty to reflect on the growing pressure and international public opinion to return works to their countries of origin.

As in the debate on inalienability, it is difficult to agree on principles as long as the legislation remains unchanged, but it does not seem forbidden to reflect on a case-by-case appreciation of this general principle, as some of our neighboring countries do, which in this respect proposes other solutions: by way of sale, donation or exchange, and which should not in any case be in a state of question for financial reasons.

In other words, if the principle of inalienability of public collections is relaxed, it would be better to affirm that this relaxation will never be intended to deal with budgetary difficulties, but only to enrich the collections through other acquisitions, to better manage existing funds... or to calmly address the issue of requests for restitution.

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