Title
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Publication Date
2008-02-01
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Petitions are used by private citizens to demand a favor or redress an injustice to an established authority. It is a global phenomenon for a ruler to grant his subject to approach him to exercise justice. Petitions existed in many parts of the world since pre-modern period but its mechanisms varied in accordance with its own legal system. Korea is no exception in that petitions existed throughout its long history. My paper examines how women utilized this petition system to seek legal justice in the eighteenth century of Chosŏn Korea (1392-1910). The petition system in the Chosŏn provided women an opportunity to engage in dialogue with the government authorities; this dialogue was conducted interactively between the authorities and the subjects in the legal space through the mode of communication. By analyzing the petitions presented by women, this paper focuses on women’s appropriation of the legal channel to voice their concerns and the state’s reaction to their voice. Scholars in the Korean field have assigned women during this period with merely domestic role and sought their limited agency. However, when the legal space is examined, the evidence shows that women maintained equal legal status along with their male counterpart during the Chosŏn period. In this paper, I demonstrate how women crossed their domestic boundary and actively participated in the petition system as the legal agents of the society.

The petition system was first established in 1401 under the Confucian rhetoric of benevolent rule that the king should “hear” his people’s joy and sorrow and that the purpose of institutionalization was to redress injustice. The state adopted Tang Chinese model of Sinmun’go (中聞鼓), which literally means the drum of stating and hearing, by installing a huge drum in the
vicinity of State Tribunal. In the Neo-Confucian Chosŏn society, the state believed that if the ruler failed to relieve his people’s grievance or anger, then it would ultimately bring not only disorder to the society but also natural calamity such as drought. Thus, the state paid heed to injustice through the petitioners’ voice and this concurrently allowed them to seize a stronghold of their legitimacy to preserve peace and harmony within the society by regulating those who transgress the boundary of law. Furthermore, the king was able to represent himself as benevolent ruler by checking and punishing corrupt officials through the petitioners’ appeal. Although the Chosŏn state maintained a hereditary class system, the subjects were authorized to appeal their injustices to the state, regardless of gender and class. The legal space in the Chosŏn was constructed to allow each individual to rectify injustice. This does not mean to say that the subjects were legally treated equally but rather that each person had the right to redress injustice by voicing their grievances to the state.

Women turned to the government to seek redress for broad range of topics and the stories they presented varied according to class difference. For example, elite yangban women voiced matters predominantly on issues related to Confucian norms such as protection of lineage heir, adoption, inheritance, and ancestor worship. Unlike elite women, commoner women petitioned on matters such as tax, debt, marriage practice, and social status; their concerns were more related to practical issues of daily living. Slave women also petitioned on issues such as debt and other personal grievances. Although issues varied according to one’s class, women of all the class petitioned on seeking justice on behalf of family members. In the following, I will introduce how Madam Song, who was an elite woman, engaged in the petition system and interacted with the authorities to redress injustice of her husband’s death.
In the eighth lunar month of 1794, Madam Song went to the capital, Seoul, from Changdan, Kyŏnggi province, to cry out her husband’s unjust death. Her husband, Kwŏn Chinsŏng, had been killed by the magistrate due to excessive use of torture. Kwŏn Chinsŏng was involved in legal dispute with his neighbor over the location of ancestral gravesite.¹ When Kwŏn Chinsŏng’s father passed away, his neighbors, Chŏng Sun and Chŏng Sik, gathered number of men and disrupted the funeral claiming that the gravesite Kwŏn Chinsŏng had selected was in close proximity of their ancestors’. Enraged with their cruelty, Kwŏn Chinsŏng reported to the county magistrate of Changdan, Sŏ Yuhwa, and filed suit against Chŏng brothers. The magistrate approved the suit but was slow in adjudicating the case. Wishing to hear the outcome of the case before returning home, Kwŏn Chinsŏng lodged near the county office.

Before initiating the suit, Kwŏn Chinsŏng had set another date for his father’s funeral. However, it happened that he was unable to return home by the date of the funeral and ordered his half-brother to carry on with it without his presence. When the magistrate was later informed that the funeral had taken place, he imprisoned Kwŏn Chinsŏng for having conducted the funeral without waiting for his judgment. The county magistrate sent false report to the provincial governor and the provincial governor responded to proceed with the punishment. The county magistrate needed the provincial governor’s permission in order to inflict beating by heavy stick.² When Sŏ Yuhwa received recognition from the provincial governor, he punished Kwŏn Chinsŏng by beating and further incarcerated him. Having heard about Kwŏn Chinsŏng’s situation, his seventy-year old mother and ninety-year old grandmother headed to the county office and pleaded to the magistrate for his release but it was in vain. Kwŏn Chinsŏng was finally

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¹ Gravesite litigation was one of the three major litigations in the late Chosŏn along with land and slave. It was understood as dispute of ownership over gravesites in mountain.
released when a prison warden reported to the magistrate about his severely ill condition. However, Kwŏn Chinsŏng died shortly after his release. His mother and Madam Song once again cried out their grievances but the magistrate showed no mercy. Instead, he sent his underlings to send them away. Madam Song was then determined to go to the capital to appeal to the king.\(^3\) When she arrived in the capital, she struck a gong to present oral petition. As she completed her verbal appeal, Yi Wuje sent memorial to Chŏngjo regarding the injustice addressed in the petition. After reading the report, Chŏngjo commanded provincial governor of Kyŏnggi, Sŏ Yongbo, to investigate the case thoroughly. When Sŏ Yongbo substantiated the case, Chŏngjo ordered the Board of Punishments to immediately imprison the former magistrate of Changdan, Sŏ Yuhwa, and sternly interrogate him.\(^4\)

When Madam Song’s husband died shortly after his release, she and her mother-in-law appealed to the county office about the unjustness. However, as the magistrate neglected her appeal and was unsympathetic to her husband’s death, she decided to petition to higher authority about the magistrate’s misdeed. Utilizing higher appellate system was the only legitimate way Madam Song was able to seek retributive justice. However, Madam Song refused to abide by the proper procedure of the petition system. According to the legal codes, the petitioners should initially appeal their grievance to the provincial governor; if they are unable to relieve their grievance, then they shall appeal to the Office of the Inspector-General in the capital; if they are still unable to assuage their grievance, then they shall beat the drum (to appeal to the king).\(^5\) Instead of petitioning to the provincial governor, Madam Song bypassed the intermediate court

\(^3\) Chŏngjo Sillok, 18/08/26.
\(^4\) In the record, Sŏ Yuhwa was referred to as former magistrate of Changdan. Thus, it can be inferred that by the time the case underwent its investigation, Sŏ Yuhwa’s term as magistrate in Changdan had ended. The central government normally appointed magistrates to counties for eighteen hundred days. Taejŏn t’ongp’yŏn, p. 627-8.
and directly made the capital appeal. Bypassing the intermediate court was not uncommon especially when the petitioning matters demanded emotional appeal. Although bypassing the intermediate court was illegal and the state punished those who violated it, it did not refrain from the petitioners to appeal directly to the king. As there was mushrooming of such capital appeals, the state tolerated the practice when they officially recognized the grievance of petitioners. If the state regarded the case was without merit, then the state punished the petitioners for misappropriating the system and disturbing the king for presenting frivolous petition. Despite the risk the petitioners underwent by making direct appeals to the king, in the minds of petitioners, the sovereign was “a father, judge, and reference point of justice and fairness” to whom they could rely on. Although there was distrust with delinquent officials at the local level, the relationship of trust with the king was to be always preserved and confirmed.

Madam Song claimed in her petition that the magistrate handled the case favorably to Chŏng brothers because one of them was a teacher of the magistrate’s child. Due to their intimate relationship, she argued that the magistrate unfairly treated her husband. She made specific statements concerning the magistrate’s improper usage of the punishment. She stated the following:

The magistrate and Chŏng brothers co-schemed to punish my husband. My husband was cudgelled thirty-nine times consecutively with heavy triangular-shaped stick (See Image 1.) and was further incarcerated and confined in cangue (See Image 2.). Because he was not treated properly after the severe beating and bleeding, my husband was in critically ill condition. My husband’s seventy-year old mother and ninety-year old grandmother pleaded to the magistrate for his release but it was in vain. My husband was released only after a prison warden reported to the magistrate about his severe condition. However, he died shortly after his release.

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6 Cho Yun Sŏn argues that petitioners utilized the petition system as another type of legal institution to resolve legal disputes. In the eighteenth century, people increasingly bypassed the intermediate court and utilized capital appeal in order to bring immediate settlement. For further details, see her doctoral dissertation, “Chŏsŏn hugi chŏnmilsong ŭ yangsang kwa min ŭ pŏpuisik (Legal Disputes on Land and Slaves in Late Chosŏn Korea and People’s Legal Consciousness),” Koryŏ University, 1997, 182-92.


8 Chŏngjo sillok, 18/08/26.
Yi Wuje, who made the initial report to the king, made three comments on Madam Song’s petition. First, the county magistrate violated the law by using the heavy triangular-shaped stick which was prohibited to use at the county level. The purpose of the stick was to punish robbery and military offense. Second, the magistrate committed another violation by beating her husband thirty-nine times. The law restricted the beating consecutively to thirty times. Finally, Yi Wuje criticized the magistrate for not releasing Kwŏn Chinsŏng immediately when he was well aware of his severe condition. Yi Wuje lamented the fact that the magistrate had neglected to comply with the rules for inflicting corporal punishments.

Chŏngjo promulgated special laws in 1777, a year after he succeeded the throne, on the standardization of instruments of punishment and the procedures to be used in interrogation of suspects. These laws were compiled in a volume called Codes for Treatment of Prisoners (Hŭmhyul chŏnch’ik 鈔恤典則) and it functioned as a guidance text for local officials. The central government was concerned with the local officials’ improper usage of punishment from

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9 Taejŏn t’ongp’yŏn, 589.
10 Chŏngjo sillok, 18/08/26.
early dynasty and punished officials who killed the suspects in the midst of punishments.\footnote{According to the legal codes, if an official improperly used the punishment, there would be one hundred beatings and three years of exile; if the suspects died during the punishment, then there would be one hundred beatings and he would be permanently expelled from the official post. \textit{Taejŏn t’ongp’yŏn}, 601.}

However, the local subjects were continuously victimized during the punishments and Chŏngjo considered it was imperative to compile more standardized rules for using instruments of punishments. The rationale behind promulgating the related laws was to enforce the local officials to treat the suspects cautiously during the interrogation. Such implication was manifested in the title, \textit{hŭmhyul}, which has the connotation of alleviating the suffering of suspects.\footnote{For details of \textit{Humhyuljŏnch’ik}, see Sim Chaewoo, “Chŏngjo dae ‘Humhyuljŏnch’ik’ ŭ i panp’o wa hy ŏnggu chŏngbi (The Promulgation of Codes for Treatment of Prisoners and the Standardization of Punishments),” in \textit{Kyujianggak} Vol. 22 (December, 1999), 135-53.}

When Madam Song’s petition was verified, Chŏngjo regretted about the magistrate’s misdeed because her husband’s case was not an unpardonable crime. The king pitied Kwŏn Chinsŏng even more due to the fact that he was the sole heir of the family and that he had widowed and aged mother and grandmother to take care of. What Chŏngjo deemed incomprehensible about the magistrate’s deed was his intention of incarcerating the prisoner during the torrid season of the year for more than one month. The law prohibited imprisoning prisoners during either torrid or frigid season of the year, i.e. from November through January and May through July, unless the sentence was more than sixty beatings for man and one hundred beatings for woman. For beatings less than one hundred, the prisoners were all made to pay redemption unless they preferred to be punished via beating.\footnote{\textit{Taejŏn t’ongp’yŏn}, 603.} The purpose of this law was to prevent the prisoners from dying inside the prison. Kwŏn Chinsŏng was imprisoned for more than a month sometime between May and July. Chŏngjo deplored not only about the magistrate’s failure to abide by the laws that were intended to protect the prisoners but also for his lack of
showing mercy to the victim’s family. The king criticized the magistrate’s wickedness in handling the matter. Chŏngjo stated the following:

Although the magistrate may not have intentionally killed Kwŏn Chinsŏng, how dare can he be pardoned from his crime. The magistrate was well aware of the victim’s innocence but he inflicted punishment and further incarcerated him. This ultimately led the victim to die which is even worse than the intentional killing. If officials are easily acquitted in such litigation cases, then the alienated subjects will harbor grudge against the government. The Board of Punishments should immediately capture the former magistrate of Changdan, Sŏ Yuhwa, and rigorously interrogate him. The Board of Punishments should then report his interrogation. Sŏ Yuhwa should be stringently treated by the law so that it will succor in redressing injustice of the aggrieved.¹⁴

By making emotional appeal to the king, Madam Song succeeded in punishing the magistrate. Although she was from yangban class, she presented verbal petition which was more frequently utilized by commoner women. According to Han Sangwŏn’s statistics, it shows that commoner women’s participation outnumbered that of elite women’s and commoner women’s utilization of oral petition was much higher than elite women.¹⁵ Nevertheless, literate elite women occasionally utilized verbal mode when petitioning matters related to injustice. Presenting emotional appeal verbally was more persuasive than the written mode due to its visual effect. The petitioners had merit in crying out agonizingly in front of the authorities and thereby easily gain their commiseration. Another merit in presenting verbal petitions was that the number of times the petitioners was allowed to present was unlimited whereas written petitions were limited to three times. Despite these merits, the petitioners had to risk going through interrogation process when presenting oral petitions; they were initially treated as criminals which the purpose of it was to deter its abuse by the petitioners. In order to seek legal justice for her husband, Madam Song risked going through such procedure to reveal about the magistrate’s transgression of the laws. She was well aware of the fact that using heavy triangular-shaped stick and beating thirty-nine times consecutively were both illegal; in addition, she was also cognizant of the fact

¹⁴  Chŏngjo sillok, 18/08/26.
¹⁵  Han Sanggwŏn, Chosŏn hugi sahoe wa sowŏn chedo (Late Chosŏn Society and the Petition System), p. 110.
that it was unjust of the magistrate to neglect the appeal she and her mother-in-law had made.
The investigating officials and the king determined to punish the magistrate precisely base on those three factors. Through her emotional appeal, Madam Song not only succeeded in arousing sympathy but also accomplished in conveying persuasively constructed speech to the authorities. By utilizing the highest appellate system, Madam Song was able to seek justice on behalf of her husband by ultimately punishing the magistrate.