

The Source of Yu Kil-chun' s Seven Rights of States: Jan Helenus Ferguson' s Manual of International Law (1884)

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The Source of Yu Kil-chun's Seven Rights of States: Jan Helenus Ferguson's *Manual of International Law* (1884)

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I. Introduction

Yu Kil-chun (1856-1914)⁽¹⁾ was one of the most influential enlightenment thinkers in modern Korea (hereafter, Chosun). He is often compared with Yukichi Fukuzawa in Japan and Liang Qichao in China. Among Yu's voluminous works, this study focuses on *Gug-gwon* and *Bang-gug-ui Gwon-li*, which introduced the rights of States

* If the works cited in this study have their own English titles, they will be used unchanged. However, if I could not find English titles for certain works or English translations for certain sentences, I made my own translations. These translations are indicated by "my translation" after the relevant sentences.

⁽¹⁾ For the main research studies on Yu Kil-chun, please see Kim Hyung-chan, "Yu Kil-chun: A Korean Crusader for Reform", *Korea Journal*, Vol. 12, No. 12 (1972), pp. 36-42; Lee Kwang-rin, "Yu Kil-chun-ui Gae-hwa-sa-sang: *Seo-yu-gyeon-mun-eul jung-sim-eu-lo*" [Yu Kil-chun and his progressive thought], *Yeog-sa Hag-bo* [*The Korean Historical Review*], Vols. 75-76 (1977), pp. 199-250; Jung Yong-hwa, *Mun-myeong-ui Jeong-chi-sa-sang: Yu Kil-chun-gwa Geun-dae Han-gug* [*Political Thoughts of Civilization: Yu Kil-chun and Modern Korea*] (2004); Kim Yong-koo, *Se-gye-gwan Chung-dol-ui Gug-je Jeong-chi-hag: Dong-yang Ye-wa Seo-yang Gong-beop* [*The Politics of Two World Views: The Challenge of Western International Law to Eastern Li*] (1997). For the current research on Yu Kil-chun, see Choi Deok-soo, "The Current State of Research on Yu Kilchun and the Search for Methodologies," *International Journal of Korean History*, Vol. 21, No. 2 (2016), pp. 1-11. For Yu's works, I used the following edition: Yu Kil-chun Jeon-seo Pyeon-chan Wi-won-hoe (ed.), *Yu Kil-chun Jeon-seo* [*Complete Works of Yu Kil-Chun*] (1971), (hereafter, *Jeon-seo*).

in international law for the first time in the history of international law in Korea. In these works, Yu emphasizes the “seven rights of States” in international law to prove that Chosun was a sovereign and independent State even though she was a tributary country of China.

Like most enlightenment thinkers, Yu borrowed much information, many concepts, and many ideas from several other works that he was able to access⁽²⁾ for his writing and *Gug-gwon* and *Bang-gug-ui Gwon-li* were not exceptions. Scholars have already found some primary sources for these works, even though they both include Yu’s own original ideas. However, the source of Yu’s seven rights of States, which is the core concept and the starting point of *Gug-gwon* and *Bang-gug-ui Gwon-li*, has not yet been identified, despite long and strenuous efforts by both Korean and international scholars. Therefore, the main purpose of this study is to identify the source of these rights.

I will briefly introduce Yu Kil-chun’s life and his works in Chapter II and the main contents of *Gug-gwon* and *Bang-gug-ui Gwon-li*, including his seven rights of States, in Chapter III. After comparing the possible primary sources published in the United States of America, Europe, China, and Japan in Chapter IV, I will argue that Jan Helenus Ferguson’s *Manual of International Law* (1884) is the only convincing source of Yu’s seven rights of States in Chapter V.

(2) For example, for the sources of *Seo-yu-gyeon-mun*, see Lee, *ibid.*, pp. 226-236; Seo Myong-il, “Seo-yu-gyeon-mun 19-20 pyeon-ui Jeon-geo-wa Yu Kil-chun-ui Beon-yeog” [The Original Text of ‘Introduction to Western Cities’ in *Seoyugyeonmun* and Yu Kil-chun’s Translation], *Han-gug-sa-hag-bo* [The Journal for the Studies of Korean History], Vol. 68 (2017), pp. 93-128. And for the sources of *Se-gye-dae-se-lon*, see Park Han-min, “Yu Kil-chun *Se-gye-dae-se-ron* (1883) ui Jeon-geo-wa Jeo-sul-ui Seong-gyeog” [References and characteristics on *Segye daese ron* written by Yu Kil-chun], *Han-gug Sa-hag-bo* [The Journal for the Studies of Korean History], Vol. 53 (2013), pp. 35-72; Lee Yea-ann, “Yu Kil-chun *Se-gye-dae-se-ron*-ui Geun-dae-jeog Gae-nyeon I-hae-wa Gae-hang-gi Jo-seon” [Understandings of Modern Concepts and Joseon in Yu-Giljun’s *General Trends of the World*], *Han-gug-hag Yeon-gu* [The Journal of Korean Studies], Vol. 64 (2018), pp. 139-168.

II. Yu Kil-chun: Life and Works

1. Who was Yu Kil-chun?

When Chosun fought to survive during the power politics struggles of the 19th and early 20th centuries, some enlightenment thinkers, especially the members of the Enlightenment Party (*Gae-hwa-pa*), made every effort to find solutions. These thinkers included Kim Og-gyun, Park Yeong-hyo, Seo Jae-pil, Hong Yeong-sik, Seo Gwang-beom, among others.⁽³⁾ However, Yu Kil-chun differentiated himself from his peers by producing a large volume of works that deeply influenced Chosun society. This body of literature leads to comparisons of Yu's works with those of Yukichi Fukuzawa in Japan and Liang Qichao in China.⁽⁴⁾ In the explanatory notes for *Yu Kil-chun Jeon-seo* [*Complete Works of Yu Kil-chun*] in 1971, Kim Yong-ho correctly concluded that "Yu Kil-chun is not just an ordinary activist, but a profound thinker as well."⁽⁵⁾

Other scholars have already introduced Yu's life many times previously, but I would like to emphasize two points again because they are essential to properly understand Yu's life and his works.⁽⁶⁾

First, when Yu was young, he had the opportunity to study in both Japan and America, which was inconceivable for the ordinary people of Chosun society during this period. In 1881, Yu visited Japan as a member of the *Jo-sa-si-chal-dan*⁽⁷⁾ [Observation Mission of Chosun]. This group returned to Chosun after 5 months, but Yu stayed behind to study in Japan until 1883.⁽⁸⁾ After his return to Chosun,

⁽³⁾ For *Gae-hwa-pa*, see the works in *supra* note 1.

⁽⁴⁾ For example, see Tatsuhiko Tsukiashi, "Jo-seon Gae-hwa-pa-wa Fukuzawa Yukichi" [Jo-seon Enlightenment Party and Yukichi Fukuzawa] (my translation), *Han-gug-hag Yeon-gu* [*The Journal of Korean Studies*], Vol. 26 (2012), pp. 307-335; Han Sang-hee, "Fukuzawa Yukichi (1835-1901) - Revisiting Fukuzawa from a Comparative Perspective", *Japanese Yearbook of International Law*, Vol. 56 (2013), pp. 37-69.

⁽⁵⁾ Kim Yong-ho, "Hae-je" [Explanatory Notes], in *Jeon-seo*, *supra* note 1, Vol. 1, p. 5.

⁽⁶⁾ See the works in *supra* note 1.

⁽⁷⁾ See Huh Dong-hyun, "1881 nyeon Jo-seon Jo-sa Il-bon Si-chal-dan-e gwan-han Il-yeon-gu" [A Study on the *Joseonjosa Ilbon Sichaldan* in 1881], *Han-gug-sa Yeon-gu* [*The Journal of Korean History*], Vol. 52 (1986), pp. 97-151; *idem*, "Jo-sa Si-chal-dan (1881) ui Il-bon Gyeong-heom-e bo-i-nun Geun-dae-ui Teug-seong" [Korean Courtiers Observation Mission's Views on Meiji Japan and Projects of Modern State Building], *Han-gug Sa-sang-sa-hag* [*The Study of Korean History of Thought*], Vol. 19 (2002), pp. 507-537.

Yu had another chance to visit America as a member of the Chosun diplomatic mission called *Bo-bing-sa*.⁽⁹⁾ After this mission, Yu stayed behind again in America to study until 1885.⁽¹⁰⁾ Yu Kil-chun was the first Korean student to study in both Japan and America with official support from the Chosun government.⁽¹¹⁾

Second, Yu encountered two people during his study in Japan and America who greatly influenced his life. In Japan, Yu met Yukichi Fukuzawa and studied at *Keio Gijuku* as its first foreign student.⁽¹²⁾ He even stayed in Fukuzawa's house for some time and received his personal supervision.⁽¹³⁾ In America, Yu was introduced by Fukuzawa to Edward Sylvester Morse, an American zoologist who first introduced Darwin's theory of evolution into Japan.⁽¹⁴⁾ During Yu's study in America, Morse provided many things to Yu, including his personal supervision,⁽¹⁵⁾ which deeply influenced Yu's worldview for the rest of his life.⁽¹⁶⁾

Yu Kil-chun became one of the most influential leaders of Chosun and played a crucial role in the process of modernization in Chosun as a politician, a government official, an enlightenment thinker, an activist, and an author until he died in 1914.

(8) Lee, *supra* note 1, pp. 204-208.

(9) For *Bo-bing-sa*, see Chang Kyu-sik, "Gae-hang-hu Mi-gug Sa-haeng-gwa Seo-gu Su-yong-ui Chu-i" [Korean Diplomatic Mission to the US and the Adoption of Western Civilization in the Late 19th Century], *Chung-ang Sa-ron [Journal of Chung-Ang Historical Studies]*, Vol. 24 (2006), pp. 63-94; Lee Han-sub, "Gae-hwa-gi Oe-gyo-hyun-jang-e-seo-ui Tong-yeog Mun-je: 1883 nyeon Pa-mi Sa-jeol-dan-ui Ye-leul Jung-sim-eu-lo" [The Problems of Translation on the Front of Diplomacy during the Enlightenment Periods: Focusing on the Case of Embassy to the U.S. in 1883], *Il-bon-eo-hag Yeon-gu [The Journal of Japanese Language]* (my translation), Vol. 25 (2009), pp. 175-194.

(10) Lee Kwang-rin, "Mi-gug Yu-hag-si-jeol-ui Yu Kil-chun" [Yu Kil-chun during His Study in the U.S.] (my translation), in *idem*, *Han-gug Gae-hwa-sa Yeon-gu [A Study on the History of Enlightenment in Korea with reference to the 1880's]* (3rd ed., 1999), pp. 308-324.

(11) Lee Kwang-rin, "The Letters of Yu Kil-chun," *Korean Studies*, Vol. 14 (1990), p. 98. See also Lee, *supra* note 1, pp. 204-205, 210.

(12) Lee, *supra* note 1, p. 206.

(13) *Ibid.*, p. 207.

(14) Yuichi Masutani, "A Study on Yu Kilchun and His Network of Acquaintances (1881-1907)", *International Journal of Korean History*, Vol. 21, No. 2 (2016), pp. 20-21.

(15) Naohide Isono, "Contributions of Edward S. Morse to Developing Young Japan," in Edward R. Beauchamp and Akira Iriye (eds.), *Foreign Employees in Nineteenth-century Japan* (1990), p. 202.

(16) See Lee, *supra* note 10, pp. 312-319. Woo Nam-sook, "Yu Kil-chun-gwa Edward Morse Yeong-gu: Sa-sang-jeog Gyo-lyu-leul Jung-sim-eu-lo" [Research on Yu Kil-chun and Edward Morse: focusing on the exchange of their ideas], *Dong-yang Jeong-chi Sa-sang-sa [The Review of Korean and Asian Political Thoughts]*, Vol. 9, No. 2 (2010), pp. 157-195. For Yu's letters to Morse, see Lee, *supra* note 11, pp. 98-118.

2. Yu Kil-chun's Works in General

During his stay in Japan, Yu was very impressed by the great volume of Fukuzawa's works and the influence of their powerful messages on Japanese society. Thus, Yu decided to write similar works for Chosun as Fukuzawa did for Japan.⁽¹⁷⁾ It was around this time that Yu began to design his masterpiece, *Seo-yu-gyeon-mun* [*Observations from Travels to the West*]. *Seo-yu-gyeon-mun* is Yu Kil-chun's most important work, which appears as Vol. 1 of *Yu Kil-chun Jeon-seo*.⁽¹⁸⁾ This work covered every aspect of the West, including politics, law, economy, history, culture, religion, and geography.

The approximately 7 years of house arrest after Yu returned from America gave him time to concentrate on his works. Yu completed his first draft of *Seo-yu-gyeon-mun* in 1889. However, it was difficult for Yu to publish it in Chosun because of his weak position in society; therefore, he brought the manuscript with him when he visited Japan in 1894 and showed it to Fukuzawa, who helped Yu to publish the text in *Kojunsha* in 1895.⁽¹⁹⁾

After *Seo-yu-gyeon-mun* was published, Yu Kil-chun continued to write many works, which were collected and published as *Yu Kil-chun Jeon-seo* in 1971.⁽²⁰⁾

3. Yu Kil-chun's International Law Works

Chosun needed to hammer out suitable solutions in the face of repeated diplomatic difficulties. One of the toughest missions for the Chosun elites was to find legal arguments to justify their measures. They basically had two options: i.e., to rely on their traditional norms, which mainly regulated Chosun's tributary relationship with China; or to use international law, which was introduced to Chosun by interaction with Western countries. Most *Gae-hwa-pa* members, including Yu, took the latter option. However, this was not an easy mission for

⁽¹⁷⁾ Lee, *supra* note 1, p. 218.

⁽¹⁸⁾ *Jeon-seo*, *supra* note 1, Vol. 1.

⁽¹⁹⁾ For this part, see Lee, *supra* note 1, pp. 221-222.

⁽²⁰⁾ *Jeon-seo*, *supra* note 1.

these *Gae-hwa-pa* members. They had heard of “international law,” but they could not fully understand its contents. In my opinion, Yu was the first person to understand the nature of international law and use it simultaneously in both theory and practice.

Scholars agree that Yu Kil-chun had already studied international law before he began to write *Seo-yu-gyeon-mun*⁽²¹⁾ because his comments on international law can be found in several works. For example, in the 14 sections of *Se-gye-dae-se-lon* [*General Trends of the World*]⁽²²⁾ (1883), Yu explained the main concepts of “international law” (*gong-beop*), such as treaty, legation, the protection of foreigners, State responsibility, and even extraterritorial rights (*chi-wae-beob-gwon*)⁽²³⁾. He divided countries into four different groups using the level of their civilizations: i.e., *ya-man* (savages), *mi-gae* (uncivilized), *ban-gae* (half-civilized), and *mun-myeong* (civilized).⁽²⁴⁾ Among others, Yu emphasized *sam-dae-gwon* [three supreme rights] of States: i.e., *ju-jae-gwon* [the right of sovereignty], *dog-lib-gwon* [the right of independence], and *dong-deng-gwon* [the right of equality].⁽²⁵⁾

However, Yu’s three most important works on international law are *Jung-lib-lon*, *Gug-gwon*, and *Bang-gug-ui Gwon-li*, which will be discussed in the following chapter.

III. Yu Kil-chun’s Seven Rights of States

1. The Right of Neutrality in *Jung-lib-lon*

Jung-lib-lon⁽²⁶⁾ is usually translated as *On Neutrality*⁽²⁷⁾ and was written at the end

⁽²¹⁾ For this part, see Kim, *supra* note 1, pp. 178-285.

⁽²²⁾ See the works in *supra* note 1. According to Huh, Yu studied international law (*Man-gug-gong-beop*) under Park Kyu-su, and in *Keio Gijuku* as well. See Huh Dong-hyun, “Yu Kil-chun-*ui* Hae-oe Che-heom (1881-1885) gwa *Jung-lib-lon* (1885) e bo-i-neun Yeol-gang In-sig” [Yu Kil-chun’s Overseas Experience (1881-1885) and Perception of Powers seen in *Neutrality*], *Han-gug-sa-hag-bo* [*The Journal for the Studies of Korean History*], Vol. 68 (2017), pp. 38-39.

⁽²³⁾ *Jeon-seo*, *supra* note 1, Vol. 1, pp. 3-121.

⁽²⁴⁾ *Ibid.*, pp. 99-101.

⁽²⁵⁾ *Ibid.*, p. 92.

⁽²⁶⁾ *Ibid.*, pp. 27-34.

⁽²⁷⁾ *Ibid.*, p. 90. However, “*gwon*” [right] is missing after *dog-lib* [independence] in the original text.

of 1885, right after Yu returned from America. Around this time, the proposal of neutrality by Hermann Budler, the German vice-consul in Korea, triggered a hot debate on the neutrality issue among the Chosun intellectuals and Yu joined this debate with *Jung-lib-lon*.⁽³⁰⁾

According to Yu, two different types of neutrality can be seen in international law. One is *jeon-si-jung-lib* [war neutrality] and the other is *hang-gu-jung-lib* [perpetual neutrality]. War neutrality is the neutrality during war time, where the neutral States should not take any side of the belligerent parties. Perpetual neutrality is the neutrality during times of peace, where small States can protect their sovereignties by concluding international treaties of neutrality, which are collectively guaranteed by the big powers.⁽³¹⁾ Yu's core argument was based on the latter.

Following the increasing threat to Chosun from the big powers, especially Russia, Yu argued that Chosun should protect her sovereignty by concluding an international treaty of neutrality. He believed that China should take the initiative to conclude this treaty using the best examples for Chosun, e.g., Belgium and Bulgaria⁽³²⁾ in Europe. Yu tried to protect Chosun's sovereignty by proposing this international treaty of neutrality, i.e., to use "international law."

2. The Rights of States in *Gug-gwon* and *Bang-gug-ui Gwon-li*

When Yu wrote *Jung-lib-lon*, Chosun's relationship with China was deteriorating. In 1888, O. N. Denny, who was an advisor of King Gojong and the Director of Foreign Affairs in Chosun, wrote *China and Korea*,⁽³³⁾ which triggered

⁽²⁸⁾ *Jeon-seo*, *supra* note 1, Vol. 4, pp. 319-328.

⁽²⁹⁾ *Jung-lib* means "neutrality," and *lon* means "theory" or "discourse." For an English translation of *Jung-lib-lon*, see Hwang In-kwan, "A Translation and Critical Review of Yu Kil-Chun's *On Neutrality*," *Korean Studies*, Vol. 9 (1985), pp. 1-13.

⁽³⁰⁾ For this part, see Jung, *supra* note 1, pp. 177-188; Kim, *supra* note 1, pp. 256-260. For *Jung-lib-lon* in general, see Huh Dong-hyun, *supra* note 22, pp. 35-65.

⁽³¹⁾ *Jeon-seo*, *supra* note 1, Vol. 4, p. 319.

⁽³²⁾ For the critiques of the Bulgarian case, see Yoo Ba-da, "Yu Kil-chun-ui *Jung-lib-lon*-e daehan Gug-je-beob-jeog Geom-to" [Yu Kil Chun's *Neutrality* from the Perspective of International Law], *Han-gug-sa-hag-bo* [*The Journal for the Studies of Korean History*], Vol. 68 (2017), pp. 67-92.

another hot debate on the legal status of Chosun in international law. In this pamphlet, Denny explained the rights of States as follows:

The unerring test, however, of a sovereign and independent state, is its right to negotiate, to conclude treaties of friendship, navigation, and commerce; to exchange public ministers; and declare war and peace with other sovereign and independent powers.⁽³⁴⁾

Yu wanted to enter this debate. In *Jung-lib-lon*, Yu only needed the right of neutrality. However, for *Gug-gwon*, Yu needed to emphasize *all* rights of States. Yu tried to clarify the inherent rights of Chosun as a sovereign and independent State under international law by writing *Gug-gwon* and later *Bang-gug-ui Gwon-li*.

Both *Gug-gwon* and *Bang-gug-ui Gwon-li* have the same meaning, i.e., “right(s) of State(s).”⁽³⁵⁾ Exactly when Yu wrote *Gug-gwon* is unknown, but scholars agree that it was written between 1885 and 1888 because *Gug-gwon* is a draft of *Bang-gug-ui Gwon-li*, which was completed in 1889 and published as one part of *Seo-yu-gyeon-mun* in 1895.⁽³⁶⁾ In my opinion, *Gug-gwon* must have been written in 1888 after Denny’s *China and Korea* was published because Yu borrowed much of his information from this pamphlet. We will return to this subject in the following section.

As both titles clearly show, the main contents of these two works concern the rights of States in international law. *Gug-gwon* has 11 sections, while *Bang-gug-ui*

⁽³³⁾ See O. N. Denny, *China and Korea* (1888). For Möllendorff’s reply to Denny, see Paul George von Möllendorff, “A Reply to Mr. O. N. Denny’s pamphlet entitled ‘China and Korea,’ in Rosalie von Möllendorff, *P. G. von Möllendorff, Ein Lebensbild* (1930), pp. 125-136. See also Kim Hyun-sook, “Gu-han-mal Go-mun-gwan O. N. Denny-ui Cheong-han-lon Bun-seog” [The Legal Basis for the Korean Independence in the 19th century; in case of O. N. Denny’s *China and Korea*], *I-hwa-sa-hag Yeon-gu* [A Bulletin of the Ewha Historical Institutions], Vols. 23-24 (1997), pp. 113-140.

⁽³⁴⁾ Denny, *ibid.*, p. 3.

⁽³⁵⁾ *Jeon-seo*, *supra* note 1, Vol. 4, pp. 25-46.

⁽³⁶⁾ *Ibid.*, Vol. 1, pp. 105-119.

⁽³⁷⁾ Both *gug* and *bang-gug* are old expressions of *gug-ga* [State], and *gwon* is an old expression of *gwon-li* [right].

⁽³⁸⁾ Some scholars, including Lee Kwang-rin and Kim Yong-koo, believe that Yu wrote *Gug-gwon* in 1885 immediately after his return from America. Other scholars, such as Takashi Okamoto, Tatsuhiko Tsukiashi, and Park Han-min, believe that it was written after the summer of 1888. Some scholars such as Jung Yong-hwa believe that it was written between 1885 and 1888. For this part, see Park, *supra* note 2, p. 46.

Gwon-li has 12 sections. The works are quite similar, but some differences can be seen in their structures, contents, vocabularies, and purposes (Table 1).

Many researchers have already explored the relationship between *Gug-gwon* and *Bang-gug-ui Gwon-li*,⁽⁴⁰⁾ but I would like to add several points here.

First, after Yu wrote *Gug-gwon*, China put more pressure on Chosun. Therefore, in this environment, Yu criticized China's rudeness and illegal behavior by refining *Gug-gwon* to be more convincing from the perspective of international law. While making these efforts, his argument was crystallized into his theory of *yang-jeol-che-je*,⁽⁴¹⁾ which is not found in *Gug-gwon*. Thus, it can be said that *Bang-gug-ui Gwon-li* is an elaboration of *Gug-gwon*.

Second, *Gug-gwon* and *Jung-lib-lon* are written in Chinese characters and their main targets were government officials. However, *Bang-gug-ui Gwon-li* was

Table 1. Comparison of *Gug-gwon* (K) and *Bang-gug-ui Gwon-li* (B)

Sec.	Main Contents	K	B
1	All States have seven rights under international law.	○	○
2	The respective meanings of the seven rights of States.	○	△
3	Big and small States have equal status under international law.	○	○
4	Both protected and tribute-paying States are considered sovereign and independent States under international law.	○	○
5	Small States must obey big States (because of their weaker positions), but this does not influence the sovereignties of small States.	○	○
6	The rights of small States are <i>inherent rights</i> provided by <i>natural reason</i> . ⁽³⁹⁾	○	○
7	Tribute-paying States are not dependent States in international law.	○	○
8	The sovereignties of small States will never change, even though their government officials <i>personally</i> accept their unequal status because of pressure from big States.	○	○
9	Both tribute-receiving and -paying States have their respective rights, which were based on their consent and should not be arbitrarily abused by the former.	○	○
10	Chosun is trapped in a unique situation (<i>yang-jeol-che-je</i>) because she is a tributary country of China, but simultaneously has equal status with other States.	△	○
11	The rulers of tribute-paying and -receiving States are equal. Therefore, the high-ranking official of the latter should not be rude to the former.	×	○
12	Education and law are the most important factors in protecting Chosun's rights of State.	○	○

Sec. = section, ○ (full sentence), △ (partly missing), × (missing)

⁽³⁹⁾ The original expression of "natural reason" is "*cheon-yeon-han jeong-li*," which is presumed to be a translation of the "natural law" in international law.

⁽⁴⁰⁾ For example, see Kim, *supra* note 1, pp. 244-253; Lee, *supra* note 1, p. 232.

⁽⁴¹⁾ Scholars translate *yang-jeol-che-je* in quite different ways, such as "double system", "dual

written in a mixture of Chinese and Korean (*hangul*) characters, and its main targets were not only government officials, but also ordinary Chosun citizens. It is well known that Fukuzawa encouraged Yu to follow a similar approach to his works in Japan.⁽⁴²⁾

Third, the Chinese and Japanese international law terminologies were mixed throughout these works. The period when Yu wrote these works was transitional in the sense that Chinese terms were slowly being replaced by Japanese versions.⁽⁴³⁾ Therefore, it is quite natural to see both Chinese and Japanese terms in Yu's works. Many core terms, such as *dok-lib* [independence], *jung-lib* [neutrality], and *pyeong-deng* [equality], clearly show the strong Japanese influence.

Finally, Yu's knowledge of international law was increasing. The definition of State, which appears right before Yu's seven rights of States, is a good example; i.e., the definition of State shows the "Statehood requirements" in international law. Thus, in contemporary terms, *Gug-gwon* illustrated quite vague requirements, such as people, territory, same history, customs, institutions and languages, same rulers, and same government.⁽⁴⁴⁾ However, *Bang-gug-ui Gwon-li* very clearly illustrated four requirements: i.e., people, territory, government, and non-intervention from foreign country.⁽⁴⁵⁾

Overall, we can conclude that Yu continuously elaborated on his three works

system", "inconsistency system", "dual cutting system" or "twice folded system." For debates on *yang-jeol-che-je*, see Jung Yong-hwa, "Yu Kil-chun-ui 'Yang-jul-che-je-lon': I-jung-jeog Jil-seo-e-seo-ui *Bang-gug-ui Gwon-li*" [On the "Double System" Theory of Yu Kil-Chun: In Search of Chosun's Independence from China During the 1880s], *Gug-je-jeong-chi-non-chong* [*The Korean Journal of International Studies*], Vol. 37, No. 3 (1998), pp. 297-318; Jung, *supra* note 1, p. 219; Park Pae-keun, "Introduction of Western International Law into East Asia - Mergence or conflict and Substitution: Yu Kil-chun's Argument of the Yangjul (Twice Folded) System", *Gug-je-beop-hag-hoe-non-chong* [*Korean Journal of International Law*], Vol. 56, No. 4 (2011), pp. 247-273; Yoo Ba-da, "Yu Kil-chun-ui Jeung-gong-gug Dog-lib-lon-e dae-han Bi-pan-jeog Geom-to" [A Critical Review of Yu Kil-chun's Theory of the Independence of the Tributary State], *Han-gug-sa Yeon-gu* [*The Journal of Korean History*], Vol. 53 (2013), pp. 101-138.

⁽⁴²⁾ Lee, *supra* note 1, p. 220.

⁽⁴³⁾ Since the translation of *Wanguo Gongfa* (1864) in China, Chinese terms of international law were widely used in Japan, Korea, and Vietnam. But Japanese terms gradually began to replace Chinese terms. See Han Sang-hee, "Guojifa Shuyi Zai Dongya de Chuanbo" [The Circulation of International Legal Terms in East Asia], in Qu Wen-Sheng, Cui Jie-zi (eds.), *Falv Fanyi yu Falv Yizhi* [*Legal Translation and Legal Implantation*] (my translation) (2014), pp. 329-361.

⁽⁴⁴⁾ *Jeon-seo*, *supra* note 1, Vol. 4, p. 25.

⁽⁴⁵⁾ *Ibid.*, Vol. 1, p. 105.

(i.e., *Jung-lib-lon*, *Gug-gwon*, and *Bang-gug-ui Gwon-li*) to include different targets and purposes, more modern terms and concepts, and more knowledge and understanding of international law.

3. Yu's Seven Rights of States and its Unidentified Source

Some sources of *Gug-gwon* and *Bang-gug-ui Gwon-li* have already been identified. Many scholars had vaguely suggested that *Wanguo Gongfa*, *Gongfa Bianlan*, and Denny's *China and Korea* were the sources of Yu's works, but we now know that the main source was *China and Korea*. For example, Yu introduced the opinions of Henry Wheaton, John Austin, and Gustav Kálnoky, respectively, in *Gug-gwon* and *Bang-gug-ui Gwon-li*, without mentioning their names, but Yu borrowed all of these opinions from *China and Korea*.⁽⁴⁶⁾

However, the source of Yu's seven rights of States in sections 1 and 2, which is the most crucial concept as well as the starting point of Yu's arguments, have not been identified yet. We cannot find its source in any works, including *Wanguo Gongfa*, *Gongfa Bianlan*, and *China and Korea*, that have been mentioned previously. What was the true source of Yu's seven rights of States?

Before we begin to search for the source of these rights of States, let us first examine Yu's seven rights of States. To avoid any confusion because of their old and vague expressions, both Chinese and Korean (*hangul*) characters are shown with my English translations and the old *hangul* characters were changed into contemporary characters without changing the meaning of the original text.

In the first section of *Gug-gwon*, Yu introduces the following seven rights of States. He calls them *Ib-bon-ji-gwon*:

(1) 自保之權亦有附屬之權

(The Right of Self-Preservation and its subordinate rights:)

1. 伸枉權 (The Right of Redress)

⁽⁴⁶⁾ See the works in *supra* notes 1 and 41. See also Park, *supra* note 2, p. 46.

2. 報応權 (The Right of Retaliation)
3. 挿理權 (The Right of Interference)
4. 宣戰及決和權 (The Right of Making War and Concluding Peace)
- (2) 獨立權 (The Right of Independence)
- (3) 護産之權 (The Right of Property)
- (4) 立法之權 (The Right of Legislation)
- (5) 交隣派使、及通商之權
(The Right of Intercourse, Legation, and Commerce)
- (6) 講和、及決約之權
(The Right of Making Peace and Concluding Treaty)
- (7) 中立之權 (The Right of Neutrality)⁽⁴⁷⁾

In addition to *Gug-gwon*, *Bang-gug-ui Gwon-li* also includes the following seven rights of States, which Yu calls *Ib-bon-han gwon-li*:

- (1) 現存과 自保하난 權利니 此를 從하야 流出하난 者난
(The Right of Existence and Self-Preservation, from which the following rights flow:)
1. 伸枉하난 權利 (The Right of Redress)
2. 報応하난 權利 (The Right of Retaliation)
3. 答搶하난 權利 (The Right of Reprisal)
4. 相争하난 物을 擒捉하난 權利
(The Right of Seizure of Disputed Objects)
5. 挿理하난 權利 (The Right of Interference)
6. 宣戰과 決和하난 權利
(The Right of Making War and Concluding Peace)
- 自保하난 權利를 因하야 平權하난 道의 轉出함

⁽⁴⁷⁾ *Jeon-seo*, *supra* note 1, Vol. 4, pp. 26-27. Yu's original text includes some very brief supplementary explanations on the four subordinate rights.

(The Principle of Balance of Power flows from the Right of Self-Preservation)

(2) 獨立하난 權利니 平均과 敬重하난 權利를 포함

(The Right of Independence, which includes the Right of Equality and Respect)

(3) 産業 (土地) 의 權利 (The Right of Property (Territory))

(4) 立法하난 權利 (The Right of Legislation)

(5) 交涉과 派使와 通商의 權利

(The Right of Intercourse, Legation, and Commerce)

(6) 講和와 決約하난 權利

(The Right of Making Peace and Concluding Treaty)

(7) 中立하난 權利 (The Right of Neutrality)⁽⁴⁸⁾

If we look carefully, the fourth, fifth, sixth, and seventh rights in *Gug-gwon* and *Bang-gug-ui Gwon-li* are identical, even though the former uses only Chinese characters, while the latter uses a mixture of Chinese and Korean characters. However, several differences can be observed in the first, second, and third rights.

First, *Gug-gwon's* first right is the "right of self-preservation," while *Bang-gug-ui Gwon-li's* first right is the "right of existence and self-preservation" (underline added).

Second, the "right of self-preservation" in *Gug-gwon* has "four" subordinate rights, while the "rights of existence and self-preservation" in *Bang-gug-ui Gwon-li* has "six" subordinate rights. Thus, the latter has two more subordinate rights, i.e., 3 (the right of reprisal) and 4 (the right of seizure), which are not found in *Gug-gwon*.

Third, one sentence explains the first subordinate right (the right of redress) in *Bang-gug-ui Gwon-li*, but it is not found in *Gug-gwon*. I will return to discuss

⁽⁴⁸⁾ *Ibid.*, Vol. 1, pp. 106-107.

this sentence in Chapter 5.

Fourth, one sentence (i.e., “The Principle of Balance of Power flows from the Right of Self-Preservation”) was added at the end of the first right in *Bang-gug-ui Gwon-li*, but it is missing in *Gug-gwon*.

Fifth, the second right in both works is the “right of independence,” but only *Bang-gug-ui Gwon-li* has the “right of equality and respect” in addition to the “right of independence.”

Sixth, the third right (the right of property) in *Gug-gwon* and *Bang-gug-ui Gwon-li* used different Chinese characters: i.e., *ho-san* in the former, and *san-eop* (*to-ji*) in the latter. *Ho-san* and *san-eop* are different translations (but with the same meaning) of “property.” However, only the latter has *to-ji* in the round bracket, which means “territory,” in addition to *san-eop*.

As a whole, in both *Gug-gwon* and *Bang-gug-ui Gwon-li*, however, Yu introduces almost the same seven rights of States: i.e., (1) the right of (existence and) self-preservation; (2) the right of independence; (3) the right of property; (4) the right of legislation; (5) the right of intercourse, legation, and commerce; (6) the right of making peace and concluding treaty; and (7) the right of neutrality.

Are these seven rights of States Yu’s original ideas or did Yu borrow them from some other works? If the latter, where did Yu borrow these ideas?

It was believed that Yu visited many countries, discussions of which were included in *Seo-yu-gyeon-mun*. Accordingly, the scope of our research appears to be very broad. However, recent research found that Yu did not visit all these countries, but he translated a Japanese book for the sections discussing these countries in *Seo-yu-gyeon-mun*.⁽⁴⁹⁾ Therefore, considering all factors, including Yu’s linguistic abilities, I consider that the scope of our research can be narrowed down to the following three literatures: (1) American and British works because Yu could read English; (2) some German, French, and Russian works that were

⁽⁴⁹⁾ See Seo, *supra* note 2, pp. 100-103.

translated into Chinese and Japanese; and (3) Chinese and Japanese works. In each case, our targets are the works published before 1888 because *Gug-gwon*, which is a draft of *Bang-gug-ui Gwon-li*, must have been completed by 1888 at the latest.⁽⁵⁰⁾

IV. Searching for the Source of Yu Kil-chun's Seven Rights of States

1. American Works

I compared the works of Henry Wheaton, Theodore D. Woolsey, James Kent, and H. W. Halleck, not only because they were most popular, but also because they were translated into Chinese and/or Japanese.

The first and the most important American work is Wheaton's *Elements of International Law*.⁽⁵¹⁾ It is the original source for *Wanguo Gongfa* (1864), which was the earliest systemic translation of Western international law in East Asia.⁽⁵²⁾ This work was later translated into Japanese.⁽⁵³⁾ In this work, Wheaton divides the rights of States into two sorts: i.e., *primitive or absolute* rights and *conditional or hypothetical* rights. Every State has *absolute* rights, "to which it is entitled as an independent moral being; in other words, because it is a State."⁽⁵⁴⁾ These rights are *absolute* because they are not limited to particular circumstances. The main examples of *absolute* rights are the right of self-preservation and independence, the rights of civil and criminal legislation, the right of equality, and the right of property.⁽⁵⁵⁾

Conditional rights are the rights that States have only under certain

⁽⁵⁰⁾ See the works in *supra* notes 1 and 41.

⁽⁵¹⁾ Henry Wheaton, *Elements of International Law* (6th ed., edited by William Beach Lawrence, 1855).

⁽⁵²⁾ Han Sang-hee, "Kindai Higashi Ajia ni okeru Kokusaiho Juyo no Shodankai: 1864-1910 Nenkanni Nihon, Chukoku, Kankoku, Betonamu de Shutpan saretu Chosaku wo Chushin ni" [How was International Law introduced in Modern East Asia?: An Analysis of Books published in China, Japan, Korea and Vietnam between 1864 and 1910], *Hosei Kenkyu [Journal of Law and Politics]*, Kyushu University, Vol. 83, No. 3 (2016), pp. 698-736.

⁽⁵³⁾ *Ibid.*, p. 722.

⁽⁵⁴⁾ Wheaton, *supra* note 51, p. 85.

⁽⁵⁵⁾ For this part, see *Ibid.*, pp. 85-86, and see the second part.

circumstances. They cease when those circumstances disappear. *Conditional* rights are divided into two groups of rights: i.e., the rights of States in their *pacific* relations, and the rights of States in their *hostile* relations. The right of legation and the rights of negotiation and treaties belong to the former, while the rights of war and neutrality belong to the latter.⁽⁵⁶⁾

It is not difficult to see that Wheaton's classifications are quite different from Yu's classifications.

The second American work is Woolsey's *Introduction to the Study of International Law*,⁽⁵⁷⁾ which was translated into both Chinese and Japanese.⁽⁵⁸⁾ In this work, Woolsey divides the rights of States into the following three groups, which are quite different from Yu's grouping:

1. Those qualities or rights which are involved in the existence of the state. These may be called rights of sovereignty simply, or may be ramified into rights of sovereignty, independence, and equality. The exercise of these rights and the right of self-protection may, together, be embraced under the head of rights of self-preservation.

2. Those rights which the state has in common with individuals or with artificial persons, as the right of property, that of contract, and that of reputation.

3. The right which arises when the free exercise of the state's powers above mentioned is impeded, that is, the right of redress, near to which lie the questionable rights of punishment and of conquest.⁽⁵⁹⁾

The third work is Kent's *Commentary of International Law*,⁽⁶⁰⁾ which was

⁽⁵⁶⁾ *Ibid.*, pp. 85-86, and see the third and fourth parts.

⁽⁵⁷⁾ Theodore D. Woolsey, *Introduction to the Study of International Law: Designed as an Aid in Teaching, and in Historical Studies* (3rd ed., 1871).

⁽⁵⁸⁾ Han, *supra* note 52, pp. 722, 731-732.

⁽⁵⁹⁾ Woolsey, *supra* note 57, p. 32.

⁽⁶⁰⁾ J. T. Abdy (ed.), *Kent's Commentary on International Law: Revised with Notes and Cases Brought Down to the Present Time* (1866).

translated into Japanese in 1876.⁽⁶¹⁾ It introduces the rights of States only in passing and does not have any classifications on the rights of States. The last work is Halleck's *Elements of International Law and Laws of War*,⁽⁶²⁾ which was translated into Japanese in 1877.⁽⁶³⁾ It also does not have any classifications on the rights of States, even though the chapters of this book are partly designed according to the rights of States.⁽⁶⁴⁾ Thus, the works by Kent and Halleck cannot be Yu's source.

2. British Works

For the British works, I checked the works of four distinguished scholars, i.e., Robert Phillimore, T. J. Lawrence, William Edward Hall, and Sheldon Amos, because they were translated into Chinese and/or Japanese.

The first work is Phillimore's *Commentaries upon International Law*,⁽⁶⁵⁾ which was translated into Chinese.⁽⁶⁶⁾ Phillimore's classifications start from two propositions: States are recognized as free moral persons and each State is a member of "a universal community."⁽⁶⁷⁾

According to Phillimore, the rights that derive from the first proposition are the rights incident to *independence*, as shown in the following, which are totally different from Yu's own classifications:

1. The right to a Free Choice, Settlement, and Alteration of the Internal Constitution and Government without the intermeddling of any foreign State.

⁽⁶¹⁾ Han, *supra* note 52, p. 722.

⁽⁶²⁾ H. W. Halleck, *Elements of International Law and Laws of War: Prepared for the Use of Colleges and Private Students* (1866).

⁽⁶³⁾ Han, *supra* note 52, p. 722.

⁽⁶⁴⁾ For example, Rights of Independence and Self-Preservation (Ch. IV), Rights of Equality (Ch. V), Rights of Property and of Domain (Ch. VI), Rights of Legislation and Jurisdiction (Ch. VII), Rights of Legation and Treaty (Ch. VIII), Rights and Duties of Public Ministers (Ch. IX), Rights of War as to Enemy's Person (Ch. XVIII), Rights and Duties of Neutrals (Ch. XXII), Right of Visitation and Search (Ch. XXV), Rights and Duties of Captors (Ch. XXX), Rights of Military Occupation (Ch. XXXII), Rights of Complete Conquest (Ch. XXXIII), Rights of Postliminy and Recapture (Ch. XXXV), etc.

⁽⁶⁵⁾ Sir Robert Phillimore, *Commentaries upon International Law* (2nd ed., Vol. 1, 1871).

⁽⁶⁶⁾ Han, *supra* note 52, p. 732.

⁽⁶⁷⁾ See Phillimore, *supra* note 65, pp. 184-185.

2. The right to Territorial Inviolability, and the free use and enjoyment of Property.
3. The right of Self-preservation, and this by the defence which *prevents* as well as by that which *repels* attack.
4. The right to a free development of national resources by Commerce.
5. The right of Acquisition, whether original or derivative, both of Territorial Possessions and of Rights.
6. The right to absolute and uncontrolled Jurisdiction over all persons and things *within*, and in certain exceptional cases *without*, the limits of territory. Under this head may be considered the status of Christians in Mahometan or Infidel countries, not being subjects of those countries, and the question of Extradition of criminals.⁽⁶⁸⁾

The rights that derive from the second proposition are the rights incident to *equality*, as shown in the following, which are not like Yu's classifications at all:

1. The Rights of a State to afford protection to her lawful subjects wheresoever commorant; and under this head may be considered the question of debts due from the Government of a State to the subjects of another State.
2. The Right to the Recognition by Foreign States of the National Government.
3. The Right to External marks of Honour and Respect.
4. The Right of entering into International Covenants or Treaties with Foreign States.⁽⁶⁹⁾

The second British work is Lawrence's *A Handbook of Public International*

⁽⁶⁸⁾ *Ibid.*, p. 184.

⁽⁶⁹⁾ *Ibid.*, p. 185.

⁽⁷⁰⁾ *Law*, which was translated into both Chinese and Japanese.⁽⁷¹⁾ According to Lawrence, it is best to divide international law into categories according to the various kinds of rights possessed by States, and their corresponding obligations. Lawrence divided the rights and obligations of States into two groups: i.e., “normal” and “abnormal” rights and obligations of States. The former belong to States during the ordinary circumstances of a peaceful international life, and the latter belongs to States during the extraordinary circumstances of belligerency or neutrality.⁽⁷²⁾

According to Lawrence, the normal rights and obligations of States are:

1. Rights and Obligations connected with Independence.
2. Rights and Obligations connected with Property.
3. Rights and Obligations connected with Jurisdiction.
4. Rights and Obligations connected with Equality.
5. Rights and Obligations connected with Legation and Negotiation.⁽⁷³⁾

While the abnormal rights and obligations of States are:

1. Rights and Obligations connected with War.
2. Rights and Obligations connected with Neutrality.⁽⁷⁴⁾

It is not difficult to see that Yu's classifications are totally different from Lawrence's classifications.

The third British work is Hall's *A Treatise on International Law*,⁽⁷⁵⁾ which was translated into both Chinese and Japanese.⁽⁷⁶⁾ Hall emphasizes that “since states exist, and are independent beings, possessing property, they have the right

⁽⁷⁰⁾ T. J. Lawrence, *A Handbook of Public International Law* (2nd ed., 1885).

⁽⁷¹⁾ Han, *supra* note 52, pp. 722, 731-732.

⁽⁷²⁾ For this part, see Lawrence, *supra* note 70, pp. 26-28.

⁽⁷³⁾ *Ibid.*, p. 27.

⁽⁷⁴⁾ *Ibid.*

⁽⁷⁵⁾ William Edward Hall, *A Treatise on International Law* (2nd ed., 1884).

to do whatever is necessary for the purpose of continuing and developing their existence, of giving effect to and preserving their independence, and of holding and acquiring property, subject to the qualification that they are bound correlatively to respect these rights in others.”⁽⁷⁷⁾

Thus, although Hall mentions the right of property, the right of independence, and the right of States to repress or punish violations of the law, the right of continuing and developing existence is most important to him. This right has the following contents:

1. To organise itself in such manner as it may choose.
2. To do within its dominions whatever acts it may think calculated to render it prosperous and strong.
3. To occupy unappropriated territory, and to incorporate new provinces with the free consent of the inhabitants, provided that the rights of another state over any such province are not violated by its incorporation.⁽⁷⁸⁾

The last British work is Amos’s *Lectures on International Law*,⁽⁷⁹⁾ which was translated into Japanese.⁽⁸⁰⁾ Amos classifies the rights of States into two groups: i.e., “Rights which States have as States” and “Rights which States make by their voluntary engagements under Treaties.”⁽⁸¹⁾ According to Amos, all these rights of States can be distributed under these two groups and “these Rights ultimately gives us International Law, strictly so called. The Law does not make the Rights; it enforces them and gives them completeness; but the Rights precede the Law which gives them true effect.”⁽⁸²⁾ Amos does not clearly mention which rights

⁽⁷⁶⁾ Han, *supra* note 52, pp. 722, 731-732.

⁽⁷⁷⁾ See Hall, *supra* note 75, p. 42.

⁽⁷⁸⁾ *Ibid.*, pp. 42-43.

⁽⁷⁹⁾ Sheldon Amos, *Lectures on International Law: Delivered in the Middle Temple Hall to the students of the Inns of Court* (1874).

⁽⁸⁰⁾ Han, *supra* note 52, p. 722.

⁽⁸¹⁾ Amos, *supra* note 79, p. 37.

belong to which group, but he emphasizes that the following rights directly flow from the description of the State itself.

- I. Rights of security against interference.
- II. Rights securing the Integrity of the National Territory.
- III. Rights relating to citizens of the State in foreign countries.
- IV. Rights to use of common things.
- V. Rights connected with diplomatic representation.⁽⁸³⁾

The works of Lawrence and Amos do not provide any clues to Yu's source. Therefore, Yu's source cannot be found among these British works.

3. Translated Works from France, Germany, and Russia

Yu could not understand French, German, or Russian,⁽⁸⁴⁾ but some works from these countries were translated into Chinese and/or Japanese. Some works by distinguished scholars such as Louis Renault,⁽⁸⁵⁾ Friedrich von Martens,⁽⁸⁶⁾ and John Westlake⁽⁸⁷⁾ were translated after 1888 in China and/or Japan,⁽⁸⁸⁾ while some other works, such as those by Jean Louis Klüber⁽⁸⁹⁾ were not translated at all in East Asia. Only two such works were published before 1888: i.e., Johann Casper Bluntschli in China and August Wilhelm Heffter in Japan.⁽⁹⁰⁾

Bluntschli's original text was in German,⁽⁹¹⁾ but it was translated into French by M. C. Lardy,⁽⁹²⁾ then retranslated into Chinese, with the title of *Gongfa Huitong* in

⁽⁸²⁾ *Ibid.*, pp. 37-38.

⁽⁸³⁾ *Ibid.*, pp. 38, 45-47.

⁽⁸⁴⁾ There is a record to show that Yu studied French for a short period of time in America, but it seems that his level of French was not high enough to be able to read French books on international law. See Woo, *supra* note 16, p. 166; Huh, *supra* note 22, p. 40.

⁽⁸⁵⁾ Louis Renault, *Introduction à L'étude du Droit International* (1879).

⁽⁸⁶⁾ Friedrich von Martens, *Völkerrecht: Das Internationale Recht der Civilisirten Nationen* (Deutsche Ausgabe von Carl Bergbohm, 1883-1886).

⁽⁸⁷⁾ John Westlake, *Chapters on the Principles of International Law* (1894).

⁽⁸⁸⁾ Han, *supra* note 52, pp. 722, 727-728.

⁽⁸⁹⁾ Jean Louis Klüber, *Droit Des Gens Moderne De L'Europe* (Tome I, II, 1819).

⁽⁹⁰⁾ See Han, *supra* note 52, pp. 722, 731-732.

⁽⁹¹⁾ Johann Casper Bluntschli, *Das Moderne Völkerrecht der Civilisirten Staten als Rechtsbuch Dargestellt* (1868).

1888, by John Fryer and his team at *Jiangnan Zhizaoju* in Shanghai.⁽⁹³⁾ According to Bluntschli, the rights of States depend on the sovereignty and there are five rights:

- a) Le droit de faire lui-même sa constitution;
- b) Le droit d'avoir pour son peuple et son territoire une législation indépendante;
- c) Le droit de se gouverner et de s'administrer lui-même;
- d) La libre nomination aux emplois publics;
- e) Le droit de désigner et d'accréditer des représentants auprès des autres états.⁽⁹⁴⁾

Heffter's book,⁽⁹⁵⁾ another German work, was translated into French by J. Bergson⁽⁹⁶⁾ and retranslated into Japanese by Arakawa and Kinoshita in 1877.⁽⁹⁷⁾ In this work, Heffter divides the rights of States into *Droits fondamentaux et individuels des États*, *Modifications des droits fondamentaux des États dans leurs rapports mutuels*, and *Droits internationaux accidentels*.⁽⁹⁸⁾ According to Heffter, *Droits fondamentaux et individuels des États* includes the following rights:

1. Droit d'existence territoriale libre et indépendante
 - a. Droit d'intégrité ou d'inviolabilité territoriale
 - b. Droit de conservation et de défense
 - c. Droit de souveraineté
2. Droit de respect mutuel des États

⁽⁹²⁾ Johann Casper Bluntschli, *Le Droit International Codifié* (traduit par M. C. Lardy, 2nd ed., 1874).

⁽⁹³⁾ See Han, *supra* note 52, pp. 731-732.

⁽⁹⁴⁾ Bluntschli, *supra* note 92, p. 86

⁽⁹⁵⁾ August Wilhelm Heffter, *Das Europäische Völkerrecht der Gegenwart* (1844).

⁽⁹⁶⁾ August Wilhelm Heffter, *Le Droit International de L'Europe* (traduit par Jules Bergson, 1873).

⁽⁹⁷⁾ See Han, *supra* note 52, p. 722.

⁽⁹⁸⁾ Heffter, *supra* note 96, pp. 51, 56, 69, 99.

3. Droit d'un commerce mutuel avec les autres nations⁽⁹⁹⁾

As we can easily see, the classifications on the rights of States in the works of Bluntschli and Heffter are totally different from Yu's classifications.

4. Chinese and Japanese Works

Only one work on international law by a Chinese author was published in China before 1888, i.e., a summary of *Wanguo Gongfa*,⁽¹⁰⁰⁾ the translation of Wheaton's *Elements of International Law*, which we have already described above. Far more works on international law were published in Japan before 1888 than in China, but they were mainly translations of Western works, most of which we have already compared above. Only four works were written by Japanese authors before 1888.⁽¹⁰¹⁾

Before we compare these works, we need to examine Shusuke Nishi's *Bankoku Koho*,⁽¹⁰²⁾ which is a translation of notes that Nishi took from a lecture by Simon Vissering in Holland. In this book, Nishi divides the rights of States into *jiyu no ken* [inherent right] and *kayu no ken* [incidental right], which correspond to *jiyu no genken* and *guyu no totken* in *Wanguo Gongfa*, as he explains in a footnote.⁽¹⁰⁴⁾ Nishi also introduces the following rights of States: *bankoku heiko no ken* [the right of equality], *naiji jishu no ken* [the right of independence (or sovereignty)], *ima no ken* [the right of interference], *kosai no ken* [the right of intercourse], *butkenjo shoken* [the rights of property], and *yosen no ken* (or *kosen no ken* or *senso no ken*) [the right of war].⁽¹⁰⁵⁾ However, these classifications differ from Yu's classifications.

⁽⁹⁹⁾ *Ibid.*, pp. 51-68.

⁽¹⁰⁰⁾ Zhu Ke-jing, *Gongfa Shiyipian* (1880). See Han, *supra* note 52, p. 730.

⁽¹⁰¹⁾ Han, *ibid.*, p. 720.

⁽¹⁰²⁾ Shusuke Nishi, *Bankoku Koho* (1868), in Toshiaki Okubo (ed.), *Nishi Amane Zenshu* [Complete Works of Amane Nishi], Vol. 2 (1960), pp. 4-102.

⁽¹⁰³⁾ See Ryoichi Taoka, "Nishi Shusuke *Bankoku Koho*" [*Bankoku Koho* by Shusuke Nishi], *Kokusaiho Gaiko Zasshi* [The Journal of International Law and Diplomacy], Vol. 71, No. 1 (1972), pp. 1-57.

⁽¹⁰⁴⁾ Nishi, *supra* note 102, p. 15.

⁽¹⁰⁵⁾ *Ibid.*, pp. 9-11.

The Japanese authors began to write their own original works in 1887. One book was published in 1887 and the other three were published in 1888. Strictly speaking, all these four works were “notes” from lectures in schools. The lectures were noted down by students and then edited and published. Many books were published in this way in Japan;⁽¹⁰⁶⁾ however, this was quite rare in other East Asian countries.

In 1887, Nakamura gave a lecture on international law, which was recorded by Numazaki and published under their two names as *Bankoku Koho Mondo*.⁽¹⁰⁷⁾ This text was edited in a question-and-answer style. In the following year, Numazaki published this text again under his name only, but he changed the text from a question-and-answer style into a normal textbook style as *Bankoku Koho Yoketsu*.⁽¹⁰⁸⁾ However, the contents of these two books are almost identical.

These two books include a brief explanation of the rights of States: i.e., there are two kinds of rights of States, where one is *koyu no ken* [inherent right] and the other is *gyuyu no ken* [incidental right]. *Koyu no ken* means *jigo jieii no ken* [the right of self-protection and self-defense] that States have since their creation and *gyuyu no ken* means the rights that States acquire incidentally, such as the rights of belligerence and neutrality.⁽¹⁰⁹⁾ In another chapter, Nakamura and Numazaki also introduce *shoyuken* [the right of property],⁽¹¹⁰⁾ but it is not clear how it was related to *koyu no ken* and *gyuyu no ken*.

Kokusai Koho, which was published by Kamenosuke Misaki in 1888,⁽¹¹¹⁾ does not have any clear classifications on the rights of States, even though his work is far more systemic, comprehensive, and concrete than the other three works. Similar to Halleck’s work, the chapters are divided according to the rights of States.⁽¹¹²⁾

The last work is *Kokusaiho Kogi*, which was published by Binzo Kumano

⁽¹⁰⁶⁾ See Han, *supra* note 52, pp. 720-723.

⁽¹⁰⁷⁾ Takeshi Nakamura and Jinzo Numazaki, *Bankoku Koho Mondo* (1887).

⁽¹⁰⁸⁾ Takeshi Numazaki, *Bankoku Koho Yoketsu* (1888).

⁽¹⁰⁹⁾ For *Bankoku Koho Mondo*, see pp. 20-22, and for *Bankoku Koho Yoketsu*, see p. 23.

⁽¹¹⁰⁾ For *Bankoku Koho Mondo*, see pp. 24-26, and for *Bankoku Koho Yoketsu*, see p. 26.

⁽¹¹¹⁾ Kamenosuke Misaki, *Kokusai Koho* (1888).

⁽¹¹²⁾ For example, *dokuritsu* [independence, Ch. 1], *zaisan* [property, Ch. 2], *kankatsu* [jurisdiction,

in 1888.⁽¹¹³⁾ Kumano does not classify the rights of States either, but he says that sovereignty is *kenri no sotaï* [the totality of “rights of States”].⁽¹¹⁴⁾ According to Kumano, if a State has the sovereignty, it will absolutely have *dokuritsuken* [the right of independence], and if a State has the right of independence, it will absolutely have *honzonken* [the right of self-preservation]. If all States have these *sanken* [three rights], there will be no difference between the stronger and weaker States because the right of equality comes from these *sanken*.⁽¹¹⁵⁾ Yu Kil-chun also emphasized *sam-dae-gwon* [three supreme rights] of States in *Se-gye-dae-se-lon*, as mentioned above, but they differ from Kumano's *sanken*.

As we can see, the rights of States in these Japanese works all differ from each other and they are not similar to Yu's classifications on the rights of States at all.

V. Jan Helenus Ferguson: The Source of Yu's Seven Rights of States

1. J. H. Ferguson's *Manual of International Law* (1884)

We could not identify the source of Yu's seven rights of States among the works compared above. What could be the source? In this chapter, I would like to prove that the true source is J. H. Ferguson's *Manual of International Law*⁽¹¹⁶⁾ (1884).

The cover of Ferguson's *Manual of International Law* shows his careers, in addition to the book title:

Manual of International Law for the use of Navies, Colonies & Consulates, by Jan Helenus Ferguson, Ministry of the Netherlands in China, Formerly of the Netherlands Royal Navy and Colonial Service.

Ch. 3), *doto* [equality, Ch. 4], *shuko tsusho* [intercourse and commerce, Ch. 5], and *joyaku teiketsu* [concluding treaty, Ch. 6].

⁽¹¹³⁾ Binzo Kumano, *Kokusaiho Kogi* (1888).

⁽¹¹⁴⁾ *Ibid.*, p. 20.

⁽¹¹⁵⁾ *Ibid.*, pp. 20-21.

⁽¹¹⁶⁾ Jan Helenus Ferguson, *Manual of International Law* (1884).

Jan Helenus Ferguson (1826-1908) worked for the Dutch West Indies and the Dutch Gold Coast. He was later appointed as the first salaried consul general in 1872 by the Dutch government in China. His official title was Consul General and Minister Resident of the Netherlands at Beijing for China (he was in office from 1872 to 1894).⁽¹¹⁷⁾ In addition to the *Manual of International Law*, Ferguson authored several works on sociology and philosophy, e.g., *The Philosophy of Civilization: A Sociological Study*.⁽¹¹⁸⁾

The *Manual of International Law* was published in three different countries: The United Kingdom (London), The Netherlands (The Hague), and Hong Kong. The book has six parts, which were bound into two volumes. Vol. 1 concerns international law in peace time, including theory, history, and a quite lengthy discussion of private international law. Vol. 2 concerns international law during war time and neutrality.

Ferguson explains the rights of States in § 17 (Rights and Obligations of States), in Chapter III (International Law and Its Jurisprudence) of Vol. 1. According to Ferguson, the civilized States have two different duties: one comes from its *national relations*, i.e., the obligations which arise between the Government and the individual subjects or citizens, and the other comes from its *external relations*, i.e., the duty of intercourse with others. All States establish *International Rights* for their *external relations*.⁽¹¹⁹⁾ Ferguson goes on to say that these *International Rights* are enumerated as follows:

1. The right of existence; from which devolve the rights of self-preservation and of self-defence, with the accessory rights of redress, retortion, reprisal, seizure, interference, and that of making war and concluding peace.

⁽¹¹⁷⁾ See Ferry de Goey, *Consuls and the Institute of Global Capitalism, 1783-1914*, pp. 79-84.

⁽¹¹⁸⁾ Jan Helenus Ferguson, *The Philosophy of Civilization: A Sociological Study* (1889). This book is dedicated to James Lorimer, a professor of law and jurisprudence from the University of Edinburgh.

⁽¹¹⁹⁾ Ferguson, *supra* note 116, p. 58.

2. The rights of sovereignty, independence, equality, and respect.
3. The right of property.
4. The right of legislation.
5. The right of intercourse and international commerce.
6. The right of legation, negotiation, and treaty.
7. The right of neutrality.⁽¹²⁰⁾

At a glance, it is not difficult to see that Ferguson's classifications are extremely similar to Yu's classifications. Interestingly, however, there is one more "seven rights of States" in Chapter V (The Sovereignty Rights of States), which is far closer to Yu's classifications.

In §26 (The Rights of a Sovereign State. Fundamental and Conditional Rights) of Chapter V, Ferguson says that "every Sovereign State is entitled to the full exercise of all the rights appertaining to a separate, distinct and independent organisation, collectively called the Sovereignty Rights."⁽¹²¹⁾ He divides these *Sovereignty Rights* into two groups of rights: i.e., *fundamental* or *absolute* rights and *conditional* or *occasional* rights. The former is the rights which "naturally belong to a State, *per se*, for the sole reason that it is a State, as being essential to its existence as such,"⁽¹²²⁾ and the latter is the rights which are "the results of particular conditions and circumstances of intercourse with other nations, or the consequences of the exercise of the absolute rights."⁽¹²³⁾

Ferguson says that sovereign States have seven *fundamental* or *absolute* rights, the first right of which includes six *conditional* or *occasional* rights:

- 1st. The Right of Existence and of Self-preservation, which involves the following conditional rights:

⁽¹²⁰⁾ *Ibid.*, pp. 58-59.

⁽¹²¹⁾ *Ibid.*, p. 88.

⁽¹²²⁾ *Ibid.*, p. 89.

⁽¹²³⁾ *Ibid.*

- a. The Right of Redress, which implies the principles of Amicable, Arrangement and Transaction or Compromise, of Mediation and Arbitration, and also of Conference and Congress.
- b. The Right of Retribution and Retaliation.
- c. The Right of Reprisal.
- d. The Right of Seizure of the Object of Dispute.
- e. The Right of Interference and Intervention.
- f. The Right of Making War and Concluding Peace.

From the Right of Self-preservation devolves the principle of Balance of Power.

2nd. The Right of Independence which includes that of Equality and Respect.

3rd. The Right of Property (Territory).

4th. The Right of Legislation.

5th. The Right of Intercourse, Representation or Legation and International Commerce.

6th. The Right of Negotiation and Treaty.

7th. The Right of Neutrality.⁽¹²⁴⁾

Even though the rights of States described in Chapters III and V are basically almost identical, four differences can be identified between them. First, Ferguson calls these rights of States *International Rights* in Chapter III, while he calls them *Sovereignty Rights* in Chapter V. Second, only the first right in both chapters III and V includes “six other rights,” which are called “accessory rights” in Chapter III, while Chapter V calls them “*conditional* rights.” Third, the first right in Chapter III includes the right of self-defense, while it is missing in Chapter V. Fourth, Chapter V has one sentence “From the Right of Self-preservation devolves the principle of Balance of Power” between the first and second rights,

⁽¹²⁴⁾ *Ibid.*, pp. 89-90.

but Chapter III does not include this sentence.

Ferguson's two categories of rights (i.e., *fundamental* or *absolute* rights vs. *conditional* or *occasional* rights) look quite similar to those of Wheaton (i.e., *primitive* or *absolute* rights vs. *conditional* or *hypothetical* rights). However, there is no doubt that the contents of their classifications are very different from each other.

2. Comparing Yu's and Ferguson's Seven Rights of States

Finally, let us compare Yu's and Ferguson's seven rights of states. Table 2 compares *Bang-gug-ui Gwon-li* and Chapter V of Ferguson's *Manual of International Law*.

Table 2 clearly shows that Yu's seven rights of States in *Bang-gug-ui Gwon-li* are almost identical to those of Chapter V of Ferguson's *Manual of International Law*. However, some differences can be observed; e.g. Yu did not translate *retribution* in the "right of retribution and retaliation" and *representation* in the "right of intercourse, representation or legation and international commerce." In addition, Ferguson's right of "negotiation" was not translated properly. However, all these differences are minor.

The sentence without my translation after the right of redress in *Bang-gug-ui Gwon-li*, which I mentioned earlier in section 3 (Chapter III of this study), is also identical to Ferguson's sentence. In addition, it is now clear that Yu's *Ib-bon-ji-gwon* and *Ib-bon-han gwon-li*, which Yu used when he defined his seven rights of States, is a translation of Ferguson's "*fundamental* rights." Thus, strictly speaking, Yu's seven rights of States concern the "seven *fundamental* rights of States."

Another piece of very strong evidence can be observed; i.e., before discussing the right of States in Chapter V, Ferguson wrote a sentence discussing international and external sovereignties:

International Sovereignty is exercised in conformity with the Constitution

Table 2. *Bang-gug-ui Gwon-li* vs. Chapter V of Ferguson's *Manual of International Law*

Yu's <i>Bang-gug-ui Gwon-li</i>	Ferguson's Chapter V		
(1)現存과 自保 하난 權利니 此 를 從하야 流出 하난 者난 (The Right of Existence and Self- Preservation, from which the following rights flow:) 1. 伸枉하난 權利 (The Right of Redress) 和平安 調停과 辦理와 互饒 며 勸和와 專斷이며 又面議 와 国会의 道를 由하야 任行 흠 2. 報応하난 權利 (The Right of Retaliation) 3. 答搶하난 權利 (The Right of Reprisal) 4. 相爭하난 物을 擒捉하난 權利 (The Right of Seizure of Disputed Objects) 5. 挿理하난 權利 (The Right of Interference) 6. 宣戰과 決和하난 權利 (The Right of Making War and Concluding Peace) 自保하난 權利를 因하야 平 權하난 道의 轉出흠 (The Principle of Balance of Power flows from the Right of Self-Preservation)	1. 伸枉하난 權利 (The Right of Redress) 和平安 調停과 辦理와 互饒 며 勸和와 專斷이며 又面議 와 国会의 道를 由하야 任行 흠	1st. The Right of Existence and of Self- preservation, which involves the following conditional rights:	a . The Right of Redress, which implies the principles of Amicable, Arrangement and Transaction or Compromise, of Mediation and Arbitration, and also of Conference and Congress.
	2. 報応하난 權利 (The Right of Retaliation)		b . The Right of Retribution and Retaliation.
	3. 答搶하난 權利 (The Right of Reprisal)		c . The Right of Reprisal.
	4. 相爭하난 物을 擒捉하난 權利 (The Right of Seizure of Disputed Objects)		d . The Right of Seizure of the object of dispute.
	5. 挿理하난 權利 (The Right of Interference)		e . The Right of Interference and Intervention.
	6. 宣戰과 決和하난 權利 (The Right of Making War and Concluding Peace) 自保하난 權利를 因하야 平 權하난 道의 轉出흠 (The Principle of Balance of Power flows from the Right of Self-Preservation)		f . The Right of Making War and Concluding Peace. From the Right of Self- preservation devolves the principle of Balance of Power.
(2)獨立하난 權利니 平均과 敬重하난 權利 를 包흠 (The Right of Independence which includes the Right of Equality and Respect)	2nd. The Right of Independence which includes that of Equality and Respect.		
(3)産業 (土地) 의 權利 (The Right of Property (Territory))	3rd. The Right of Property (Territory).		
(4)立法하난 權利 (The Right of Legislation)	4th. The Right of Legislation.		
(5)交渉과 派使와 通商의 權利 (The Right of Intercourse, Legation, and Commerce)	5th. The Right of Intercourse, Representation or Legation and International Commerce.		
(6)講和와 決約하난 權利 (The Right of Making Peace and Concluding Treaty)	6th. The Right of Negotiation and Treaty.		
(7)中立하난 權利 (The Right of Neutrality)	7th. The Right of Neutrality.		

of the State for purposes of government and internal policy; while External Sovereignty, in the exercise of its functions for the maintenance of external relations, on the principles of Independence and Equality with other States, is a subject of International Law.⁽¹²⁵⁾

Yu translated this sentence exactly as it was and put it in front of his seven rights of States.⁽¹²⁶⁾ Therefore, considering all of the evidence above, we can conclude that Yu borrowed his seven rights of States from Chapter V (but not Chapter III) of Ferguson's *Manual of International Law* (1884).

3. Why Did Yu Choose Ferguson's *Manual of International Law*?

As we have seen above, there were no standard classifications for the rights of States in the 19th century. Compared with the classifications by other scholars, Ferguson's classifications on the rights of States are quite unique and very different.

Ferguson's *Manual of International Law* is rarely cited in the works of other scholars. For example, we cannot find his name in the works of Arthur Nussbaum⁽¹²⁷⁾ and Manfred Lachs,⁽¹²⁸⁾ which introduce the major works of international law. A very short introduction appears in T. E. Holland's paper, "The Literature of International Law in 1884": i.e., "Mr. J. H. Ferguson has published at the Hague and at Hong Kong the first volume of a 'Manual of International Law'.⁽¹²⁹⁾"

However, this lack of mention does not mean that Ferguson's *Manual of International Law* was totally disregarded. Surprisingly, Ferguson appears in Oppenheim's *International Law* in 1905. This is important because this work is

⁽¹²⁵⁾ Ferguson, *supra* note 116, p. 81.

⁽¹²⁶⁾ Jeon-seo, *supra* note 1, Vol. 1, p. 105.

⁽¹²⁷⁾ See Arthur Nussbaum, *A Concise History of the Law of Nations* (1954), pp. 232-250.

⁽¹²⁸⁾ See Manfred Lachs, *The Teacher in International Law* (2nd ed., 1987), pp. 68-90.

⁽¹²⁹⁾ T. E. Holland, "The Literature of International Law in 1884", *Law Quarterly Review*, No. 1 (1885), p. 102.

regarded as the best during that period. In this work, Oppenheim introduces “the more important” 60 works from the United Kingdom (15), North America (7), France (5), Germany (12), Italy (7), Spain and “Spanish-American” (8), and the others (6). Ferguson is included on the list of “the others” as the only Hollander. Oppenheim included only one short comment on Ferguson’s book: i.e., “The author is Dutch, but the work is written in English.”⁽¹³⁰⁾

How did Yu obtain a copy of Ferguson’s *Manual of International Law*? Yu did not leave any clues about this issue. Yu might have acquired this book either through his travels or from his wide official and personal networks, including the diplomatic community, considering his important position in the Chosun government. However, no information has been found yet.

Out of many works that Yu could access, why did he choose Ferguson’s unique *Manual of International Law*? Yu did not provide any clues about this issue either. In my opinion, Yu might have chosen this work because of the following three reasons.

First, right after the seven rights of States are described in Chapter III, a sentence mentions that “A State which refutes all intercourse, places itself outside the pale of the Law of Nations and has in consequence no guarantee for its safety.”⁽¹³¹⁾ The following footnote is included with this sentence:

Thus China and Japan, and recently *Corea*, after centuries of seclusion and exclusion of foreigners, entered into the Family of Nations to secure their own interests. (Italics added).⁽¹³²⁾

At that time, Chosun was generally regarded as a half-civilized or dependent country and most works did not mention *Corea* (Chosun). Yu Kil-chun must have

⁽¹³⁰⁾ See L. Oppenheim, *International Law: A Treatise* (1905), Vol. I, pp. 87-90.

⁽¹³¹⁾ Ferguson, *supra* note 116, p. 59.

⁽¹³²⁾ *Ibid.*

been extremely happy when he found this sentence because it clearly mentions that Chosun has *already* entered into the Family of Nations.

Second, Ferguson emphasizes the freedom and the autonomy of tributary States in relation to the Suzerain State:

Tributary rights and obligations, like all other agreements among Nations, cannot be dissolved without the consent of *both* parties, and other States are bound to respect these rights and obligations. But when the Suzerain has, tacitly or expressedly, allowed his tributary to make treaties with other States independently, or to enter into any political or commercial agreements with other powers, unchallenged by the Suzerain State, the Suzerainty Right cannot subsequently be claimed at the convenience of the Suzerain State with the views of annulling the agreements in question. (Italics added)

This sentence is quite similar to sec. 9 of both ⁽¹³⁴⁾*Gug-gwon* and *Bang-gug-ui Gwon-li* ⁽¹³⁵⁾ because it emphasizes the autonomy and the freedom of tributary States, which is central to Yu's argument. Yu must have been looking for a source like this that could legally justify the autonomy and the freedom of tributary States like Chosun. It is highly possible that sec. 9 of both *Gug-gwon* and *Bang-gug-ui Gwon-li* is based on this sentence.

Third, even though Ferguson emphasizes that his book was designed to provide *practical* knowledge of international law to front-line workers, such as "Navies, Colonies & Consulates," he tried to add a great amount of his own theoretical or doctrinal thoughts. ⁽¹³⁶⁾ These ideas may have greatly appealed to Yu Kil-chun, who was a serious thinker, and sought a more profound theoretical basis for his works.

⁽¹³³⁾ *Ibid.*, p. 85.

⁽¹³⁴⁾ *Jeon-seo*, *supra* note 1, Vol. 4, pp. 39-40.

⁽¹³⁵⁾ *Ibid.*, Vol. 1, pp. 114-115.

⁽¹³⁶⁾ Ferguson, *supra* note 116, pp. 3-76.

Ferguson's *Manual of International Law* was translated by John Fryer and his team in China. The translation was published as *Bangguo Gongfa Xinlun* in 1901;⁽¹³⁷⁾ it is not a full translation, but only a summary. Ferguson's Chapter V is summarized into just three lines without touching on his seven rights of States; however, Chapter III was translated, including the seven rights of States.⁽¹³⁸⁾ Nevertheless, the translation is totally different from Yu's translation.

VI. Conclusion

In this study, I tried to prove that the source of Yu's seven rights of States in both *Gug-gwon* and *Bang-gug-ui Gwon-li* is Jan Helenus Ferguson's *Manual of International Law* (1884). In concluding I will repeat my points again.

First, Yu Kil-chun, one of the most influential enlightenment thinkers in late Chosun, left a great volume of literature. Yu wrote several works on the rights of States, especially *Gug-gwon* and *Bang-gug-ui Gwon-li*, to emphasize the legal status of Chosun as a sovereign and independent State under international law.

Second, the major sources of *Gug-gwon* and *Bang-gug-ui Gwon-li* were already identified by scholars, but the source of Yu's seven rights of States, which is the core concept as well as the starting point of his works, have not been identified yet, despite strenuous efforts by many scholars over many years.

Third, I carefully compared the works of international law that Yu could have accessed and finally found that Chapter V of Ferguson's *Manual of International Law* was the true source of Yu's seven rights of States in both *Gug-gwon* and

⁽¹³⁷⁾ See Han, *supra* note 52, pp. 731-732.

⁽¹³⁸⁾ The seven rights of States in *Bangguo Gongfa Xinlun* are:

- 一、成国之益、即保護本邦、不受他国之害、外侮偶來、勢所必報、或侵其土地、或奪其船隻、擄伐用彰、以全国体、又或他国有事、亦可與聞、或與議戰、或與修和、
- 二、管理本國能自主之益、既與他國平等、可得各國優待之益、
- 三、能置用產業之益、
- 四、能設律法施行之益、
- 五、能與他國交涉、而得通商貿易之益、
- 六、能派欵使與領事官、入他國商議公事、辦理和約等益、
- 七、能自守局外之國之益。

Bang-gug-ui Gwon-li.

Fourth, it is still uncertain when and how Yu encountered Ferguson's *Manual of International Law* because Yu did not leave any clues on this issue. However, it is highly likely that Ferguson's book was chosen because Ferguson's explanation on the legal status of Chosun, the relationship between tributary States and the Suzerain, and the rights of States in general, were most helpful for Yu to legally back up his arguments.

Finally, Yu's efforts should not be treated as a simple "cut and paste," even though he borrowed much information, concepts, and even sentences from several other works of the period. In the early modern era, not only Yu, but also all enlightenment thinkers in East Asia, including Yukichi Fukuzawa and Liang Qichao, had to borrow foreign ideas along with their own original ideas. What is important is the fact that Yu struggled to protect the sovereignty and independence of Chosun by using the European law of nations instead of traditional norms in East Asia.