

# Land Reform and Colonial Land Legislation in Korea, 1894–1910

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## Abstract

*This article aims to identify how Japanese colonial land legislation was established through the use or exclusion of the Korean government's autonomous land reforms. In order to set up the legislation of modern land ownership in Korea, it was necessary that the government grapple with several problems: confirming the concept of modern land ownership, resolving the multilayered land ownership system, and identifying the principal subject of ownership to guarantee safe land transactions. First, the Korean government accepted the concept of modern land ownership in the Japanese Civil Code. Secondly, while attempts by the Korean government to resolve multilayered land ownership were unsuccessful, the Japanese Residency-General of Korea forcefully took away the rights of multilayered landowners without compensation. Thirdly, although the Korean government created a land register and issued land ownership deeds, the subject of ownership remained unclear and thus the real estate registration system of Japan was introduced. Existing traditions and customs in Korea were combined with new legislation from Japan in order to create colonial land legislation.*

**Keywords:** land survey, modern land ownership, state land, multilayered land ownership, colonial land legislation

## Introduction

This study aims to identify how Japanese colonial land legislation was established through the use or exclusion of the Korean government's autonomous land reforms, by examining how existing traditions and customs were combined with new legislation in order to create colonial land legislation. Within the context of “modern land ownership,” this study discusses the establishment of legislation enforced to resolve the issue of “multilayered land ownership,” identify the real owners of land, categorize land into state-owned and private-owned, and guarantee safe land transactions.

Since the Reform of 1894 (Gabo Gaehyeok 甲午改革), the Korean government had attempted land reforms through surveys of *yeokto* 驛土 (post-station lands) and *dunto* 屯土 (public office lands), and launched a project to investigate the lands and issue land ownership deeds (*gwangmu yangjeon jigye saeop* 光武量田地契事業) between 1899 and 1904. However, Japan, which made Korea its protectorate with the Eulsa Treaty in 1905, divided up all the land of Korea into state land and private land by conducting research on real estate customs, and subsequently investigated both types of land. Modern land legislation aimed to commercialize lands that were suitable for use in capitalist economic system, use lands without intervention of others, enable unhindered investment of land for industries including agriculture, and leave the lands at the owners' disposal. This land legislation was based on the modern principle of land ownership, which can be summarized as “exclusive ownership by a single owner per given area of land with the right of use, profit, and disposal.” In a broader sense, it can be said that the Korean government also pursued land legislation founded upon this modern principle of land ownership.

While there have been previous studies that serve as precedents for this study,<sup>1</sup> very little has been written on the transition process of land leg-

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1. Representative writings are as follows: Shin (1982), Yong-Sup Kim (1984), Miyajima (1991), Organization of Korean Historians (2010), Yangsik Kim (2000), Jung (2002), Bae (2002), and Cho (2003).

isolation between the Reform of 1894 and the Annexation of Korea in 1910.<sup>2</sup> Therefore, this study focuses on understanding the overall flow of land legislation and its process, with a particular focus on the issue of land taxes and rent.

In the late Joseon dynasty, private land ownership was stable and considered to be the modern form of land ownership. However, the continuance of multilayered land ownership hampered the development of private land ownership. This practice originated from the royal palaces or government public offices' cultivation of wastelands. The palaces and public offices divided land ownership and shared the produce with those who financed the wasteland cultivation or provided labor. This distribution of land produce created several partial owners, resulting in multilayered land ownership. Specifically, the state permitted the cultivation of wastelands, the palaces or public offices had the right of cultivation, the intermediary landowners paid all expenses, and tenant farmers supplied labor and were in charge of cultivation.<sup>3</sup> This type of multilayered land ownership was reflected in produce distribution through rent/taxes, and thus kept disputes over ownership at a minimum. However, the multilayered system was not compatible with modern land ownership, which recognizes only a single owner per given acre of land. Therefore, it was necessary to resolve the issue of multilayered ownership in order to reform the land ownership system in Korea.

Another condition for the modernization of the land ownership system was the establishment of a legal system that could guarantee private land ownership. In late Joseon, private ownership was guaranteed not by the state, but by private transaction documents (*samungi* 私文記) signed by private witnesses. In addition, it was acceptable for landowners to use a proxy name rather than their real name, which, to some extent, allowed

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2. Choe (2012) approached the issue of land by focusing on the dispute over state land. His viewpoint that "the intermediary land owner" (*jungdapju* 中番主) possessed "the real right of cultivation" is different from that of the author of this study, who considers "the real right of cultivation" as a part of multilayered ownership.

3. Existing research on multilayered land ownership is as follows: Ahn (1975), J. Park (1984), Doh (1985), Rhee (1988), and Miyajima (1991).

land ownership to be kept private (B. Park 1974). This was far from a modern land ownership system, in which land ownership is clear and transactions are guaranteed. In this premodern system of land ownership, it was not possible to perform safe transactions and commercialize land.

## Land Reform in Korea, 1894–1904

### *Land Tax and Rent in Yeokto and Dunto*

The land reforms by the government started with the Reform of 1894. The Ministry of Finance (Takjibu 度支部) received the land taxes from all the arable lands including *yeokto* and *dunto*.<sup>4</sup> The government made the following decision on August 26, 1894:

It is necessary for each palace to control the harvests of royal lands as before, but under the new law, they must pay land tax. Tenant farmers must also pay land tax under the new law for a very low tax/rent levied on *yeokto*, and no tax but rent levied on *dunto*.

First, the Ministry of Finance levied land taxes on *yeokto* and *dunto*, as well as on the “royal lands of palaces” (*gungjangto* 宮庄土). Tenant farmers had previously been exempt from such taxes, but this privilege was abolished and taxes began to be levied on all arable lands across the country.<sup>5</sup> The public offices had secured a large portion of their operating funds through independent farm management. Now this income was incorpo-

4. For research on *yeokto* and *dunto*, refer to: Yong-Sup Kim (1984), Bae (1979), C. Park (1983), Yangsik Kim (2000), and J. Park (2010).

5. According to the “Gyeolhohwabeop sechik 結戶貨法稅則” (Regulations of Levying Taxes on Land, House, and Currency), written during the Gabo Reform, the total land area of *yeokto*, *dunto*, and *gungjangto* was 87,483.485 *gyeol* 結. With the total amount of arable land measured at 817,915 *gyeol* in 1894, the percentage can be roughly estimated to be about 11%. *Gyeolbu* (結負) is a unit used to measure the land based on yield, with four times the difference in size between the first level (the most fertile soil) and the sixth level (the least fertile soil). One *gyeol* of land at the sixth level (app. 39,700 m<sup>2</sup>) is four times larger than a unit of land at the first level.

rated into national finances, and the expenses were provided under a separate budget system. Each palace maintained its previous methods of appropriating the income of royal lands for its finances. During this period, these royal lands were excluded from reforms.

Secondly, tenant farmers were required to pay land taxes for *yeokto* and *dunto*. In the late Joseon dynasty, tenants paid rent and were exempt from paying land taxes that were levied by the state. In other words, technically speaking, rent had included land taxes. However, the Reform of 1894 separated land taxes from rent, and the Ministry of Finance designated tenant farmers as taxpayers. *Yeokto* and *dunto* were unified under the management of government agencies, to which tenant farmers were required to pay land taxes in addition to rent. The imposition of new land taxes inevitably conflicted with the existing rent regulations. Tenant farmers opposed the new system, arguing that adding land taxes to the existing cost of rent, which had previously included land tax, would mean “double taxation.” Since the burden of more land taxes was not simply an increase in the tax burden, but also a change in the scope of rights to lands, it ultimately influenced land ownership. Furthermore, since tenant farmers already considered the existing rent as a tax and the existing rent was lower than that of normal private lands, they refused to pay the “new rent.”

The numerous disputes over land tax represented the internal intensification of conflicts over land ownership. When extra land taxes were levied, tenant farmers could be in danger of losing ownership of their land—the reason for their strong opposition. It is difficult to compare the results of disputes among the various cases because of the differences in the ownership structures of farms, customs in the regions where the farms were located, and the farmers’ ability to oppose. However, on the whole, it did not seem that the tenant farmers were losing the battle. As a matter of fact, the Ministry of Finance did not find it easy to collect extra land taxes in addition to the existing rent.

However, the imminent issue was not only levying land taxes, but also fixing the rents. As the government began to uniformly manage *yeokto* and *dunto* after the Reform of 1894, it attempted to create a set of standards. Between 1895 and 1896, the government conducted a great survey of *yeok-*

to and *dunto*, called Eulmi Sapan 乙未查辦, through which rent-charged lands were investigated, tenant farmers were identified, and rent payments in money were arranged. These investigations not only divided each lot of fields into three levels according to fertility, but also fixed different rents for each province. In particular, the government attempted to expand its finances by adjusting the rent—which had previously been set low—upward for every plot of land.<sup>6</sup>

This policy to increase rent was conceived on the premise that all farms belonged to the state, regardless of their origins and ownership structures. Thus if this policy had gone well, each farm managed by public office would be entirely owned by the state, and tenant farmers, who used to pay low rent as land tax, would lose their rights of ownership. Therefore, these tenant farmers resisted for their lives.<sup>7</sup> As a result of their efforts, in many cases the existing level of rent was maintained practically as it had been prior to the new policy.<sup>8</sup>

After the proclamation of the Constitution of the Great Han Empire in 1897, which stipulated the autocracy of the emperor, the Great Han Empire (Daehan Jeguk 大韓帝國, 1897–1910) wanted to expand its royal finances. The emperor established Naejangwon 內藏院, the Office of Crown Properties, which incorporated the lands of *yeokto* and *dunto*, and conducted a new land survey called Gwangmu Sageom 光武查檢 from 1899 to 1904. Under this survey, the Emperor introduced a policy that stipulated that “higher rents are to be levied on lands with a very low rent.”<sup>9</sup> But despite the conduct of the Gwangmu Sageom survey, the Great Han Empire failed to increase rent prices.<sup>10</sup>

6. *Yeokto sogwanmuncheop geoan* 驛土所關文牒去案 (Documents on Post Station-Owned Lands) (1895).

7. The research explains that the strengthening of management of land owners (government agencies) for *yeokto* and *dunto* encouraged tenant farmers to resist. This is thought to emphasize the aspect that the new land tax payment and increased burden of rent eliminated certain of the tenant farmers' land rights.

8. For example, the rent level was maintained in *dunto* in Ansan, Gyeonggi-do province and the royal land in Changwon, Gyeongsang-do province (Young-ho Lee 2010a, 2011).

9. *Naejangwon jangjeong* 內藏院章程 (Regulations of the Office of Crown Properties) (1905).

10. See footnote 8.

While levying new land taxes and raising rates did have a significant impact on land ownership, it failed to resolve disputes, as the old standard of land tax and rent was still maintained. If the rents were successfully raised in line with the surveys, it would be difficult for the intermediary landowners to continue to exist because the intermediate rent that they had previously collected would be absorbed by the government agencies. In August 1904, the Naejangwon imposed a strong regulation that excluded intermediary landowners from having a position over the farms, as approved by Emperor Gojong 高宗 (1852–1919).<sup>11</sup> However, even this tightened prohibition was not able to remove the intermediary landowners altogether. As people came to have clear perceptions about land ownership, it was impossible to unilaterally determine the reversion of land ownership to the state without legal action being taken, even though the land in question was part of palace properties and public offices. Thus, it was deemed necessary to examine the original ownership of farmlands, and to either recognize the land ownership of intermediaries or to compensate them financially.

### *Land Survey and Ownership in the Great Han Empire*

Between 1898 and 1904, the Great Han Empire carried out projects to measure the farmlands and issue land ownership deeds. When planning its first land measurement in 1898, the government of the Great Han Empire had intended to survey not only the farmlands, wildernesses, streams, ponds, forests, seaside, and houses, but also soil and road conditions (Y. Kim 1984, 270, 286; Wang 1995, 51-64). This was done for the purpose of creating not only land registers, but also geographical or geological maps. The intention to measure all of the land in the country, including the forest, which had never been systematically measured before, suggests that the government had a modernized system of national land management in mind. However, the Great Han Empire was not yet ready to practically implement such a project. Therefore, Emperor Gojong ordered that the land measurement only be conducted in a limited way, according to the

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11. *Hullyeong johoe jonan* 訓令照會存案 (Documents of Order and Inquiry) (1904).

circumstances. Since the devastation of arable land was leading to annual reductions in government finances, the government was obliged to change the objective of land measurement in order to expand the land tax revenue, that is, to expand the total number of units of currently cultivated farmlands.<sup>12</sup> In other words, the change in policy was aimed at only measuring the arable lands on which tax was levied—excluding the wastelands<sup>13</sup>—which meant that “currently cultivated farmlands” (*sigi jeondap* 時起田番) were the target of the survey. The survey rules required that devastated farmlands should not be registered in a given year, even if they had been cultivated up until the previous year. In the end, the total of surveyed land units in 203 counties, or approximately two thirds of the country, amounted to 705,178 *gyeol* 結, a 133,651 *gyeol* increase from 571,527 *gyeol*.<sup>14</sup> The amount of taxable land was increased by approximately 23 percent.

When the names of current landowners (*siju* 時主) and tenant farmers (*sijak* 時作) were recorded for each plot of land in order to survey the currently cultivated farmlands, *si* 時 referred to “present.” The “names” of the current landowners were not important, since the current owners of farmlands were often changed due to transactions and inheritance of lands. This could mean that the real names of landowners were not being used, and generally, recording the real names of the landowners in the land register was not a priority in the Joseon period. Since the land register was used as a basic book for receiving land taxes, it can be said that the government of Joseon was not interested in who the real owner was as long as it could secure taxpayers for the lands. It was the same with the land survey of the Great Han Empire.

Public opinion criticized the government for ignoring land ownership in its efforts to expand the current total of arable lands, and was hostile to the expansion of Japanese land ownership by borrowing names of Koreans

12. “Toji cheungnyang cheonguiseo 土地測量請議書,” in *Nongsanggongbu geocheop jonan* 農商工部去牒存案 (Documents of the Ministry of Agriculture, Commerce, and Industry) (1898).

13. “Eunghaeng jorye 應行條例,” in *Sisa chongbo* 時事叢報 (Current Affairs) (1899).

14. “Sin yangan joje yeonhyeok josaseo 新量案調製沿革調查書,” in *Jise yegyul cheol* 地稅例規綴 (Documents of Land Tax) (1904).

to avoid the law prohibiting foreigners from owning land. In this regard, there was a lively discussion over the adoption of the deed system already used in open port areas to issue land ownership deeds to landowners. The Great Han Empire abolished the Bureau of Land Survey (Yangji Amun 量地衙門), which had managed land surveys, and established the Bureau of Land Deeds (Jigye Amun 地契衙門), where both land surveys and the issuance of land ownership deeds were processed. The deeds were issued for private farmlands, as well as forests, streams, ponds, and houses.<sup>15</sup> Even though they were not targeted at the entire land of the country, the ownership deeds were issued to the owners of wild lands as well as cultivated lands. Of course, the deeds were also issued to palaces and public offices, applying the same standard for private lands to *yeokto*, *dunto*, and *gung-jangto*. As the focus was on issuing land ownership deeds, called *jigye* 地契, only the names of current owners were recorded in the *jigye*, not the names of current tenant farmers.

In land transactions, the deeds that had been previously issued were collected and new ones were reissued—a system that was modeled after the Japanese issuance of land ownership deeds. The back of a Japanese deed issued in 1872 stipulates, “A citizen of Japan who owns land is to have this deed. A citizen of countries other than Japan does not have the right to own the land” (Miyakawa 1978, 178). The back of the land ownership deed (*jigye*) issued by the Bureau of Land Survey “A Korean citizen who owns farmland is to have this certificate, and the previously issued document is not valid and is to be returned to the Bureau of Land Survey. A citizen of countries other than Korea has no right to become the owner of farmlands.” The Japanese and Korean land ownership deeds have similar notes and the same instruction prohibiting foreigners from owning lands. By prohibiting foreigners from owning land, both countries attempted to manage their own national land as modern nation-states. By guaranteeing land ownership with a deed, the Great Han Empire intended to recognize “the landowner” from the Joseon dynasty as “the owner of land” in modern

15. “Jigye gamni eunghaeng samok 地契監理應行事目,” in *Wanbuk surok* 完北隨錄 (Documents of the Jeolla-do Province) (1903).

society. In this regard, the system of land ownership deeds in the Great Han Empire could be described as a system that aimed to confirm modern land ownership and guarantee safe transactions.

However, the land register and land ownership deeds in the Great Han Empire were flawed, in that measurements of the areas were inaccurate, the cadastral map was not completed, and the names of the owners on the deeds were often false. Under the modern state system, the principal subject, who should legally exercise land ownership as guaranteed by the land register and deed, was not confirmed as a substantial subject. According to a report by Japanese authorities<sup>16</sup> that evaluated the Korean project to measure lands and issue land ownership deeds, many people did not follow the instructions even though signposts were set up in each area of land specifying the name of the landowner. As confirmed by village leaders, there were many cases where the registered names of landowners were different from their actual names. The survey, which focused on receiving land taxes by the Bureau of Land Survey, neglected the authenticity of the names. If the names of the landowners were not legally confirmed in the issuance of land ownership deeds by the Bureau of Land Survey, the legal format itself should have been invalid. Although the Great Han Empire compiled a family register, it was not obligatory to record names from the family register in the land register. There was an absence of integrated legislation to manage citizens and lands in the Great Han Empire.

Therefore, if “the current land owner” became the “owner” through the registration of the land and a deed, what did the term “ownership” mean during that time? If there was no opposition, the ownership of private lands could be considered a modern form of land ownership. However, as intermediary landowners also existed, who then should be registered as the landowner? Should palaces or public offices be registered, or the intermediary landowners? Should an intermediary landowner be registered as a current landowner or a current tenant farmer? Since the Bureau of Land Survey was only interested in receiving high land taxes, it was not of great relevance to them whether the palace, public office, or intermediary landown-

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16. See footnote 14.

er was registered as the current landowner.

For example, a *seokjangdun* in Ansan-gun, Gyeonggi-do province, which belonged to a public office, was initially registered as a *seokjangdun* 石場屯, which later dropped the title *seokjangdun*. This meant that the right of the public office to *seokjangdun* was repealed, and that only the “current landowners” were recognized as the owners of the land (Young-ho Lee 2010a). However, in Yongin-gun, Gyeonggi-do province, the Bureau of Land Survey registered the data in the form of “*dungyeol* 屯結 + the name of the landowner (*jeondapju* 田番主) + the name of the tenant farmer (*jagin* 作人),” while the Bureau of Land Deeds used the form of “the name of the landowner (*siju* 時主 or *dungyeol*) + the name of the tenant farmer (*sijak* 時作).” The “landowner” in the former was registered as “tenant farmer” in the latter, and could be regarded as an intermediary landowner (Young-ho Lee 2010b).

In the principles of the Bureau of Land Survey, there is a provision that “if there is a person who has used public lands as private over a long time, it is required that the person be investigated and the truth recorded.” This provision meant that the government would not approve intermediary landowners, and is the reason why the intermediary landowners became tenant farmers in Yongin. Although the government of the Great Han Empire disapproved of the intermediary landowners in the land register because the issuance of land ownership deeds was invalidated, intermediary landowners were able, in accordance with existing practice, to participate in the process of distribution and maintain partial rights over production ownership.

## **Land Survey and Legislation by the Japanese Residency-General of Korea**

### *Research on Real Estate Customs and the Division of State and Private Land*

In January 1906, Korea became a protectorate of Japan and the Japanese Residency-General of Korea was established; the first Resident-General,

Ito Hirobumi 伊藤博文, controlled internal affairs. Ito Hirobumi invited a professor of law from Tokyo University, Ume Kenjiro 梅謙次郎, to survey the real estate customs of Korea and establish land legislation based on the results of his research. Ume organized the Real Estate Law Investigation Committee (Budongsanbeop Josahoe 不動産法調査會), and began to research real estate customs in each region. He developed questionnaires for both Korean and Japanese people in each region. The results of Ume's research revealed that the practice of "land ownership" definitely existed in Korea.

Ume suggested that the first proposition of land law for Korea should be "to certify citizens' land ownership" through the investigation of real estate customs over the period of a year.<sup>17</sup> Private land owned by Korean citizens could be recognized based on the concept of modern land ownership in Japan. According to Ume's "Report of Customs Investigation," which was based on a survey of 206 questionnaires (S. Lee 2009), the rights of land included ownership, leasehold, easement, right of common, preferential right, and pledge or mortgage right, just as in the civil code of Japan. It states, "As they have been allowed to own land without using the term of 'ownership,' the owner can use, make profits with, or dispose of his own land within the confines of laws or customs. In addition, the owner can have the right of ownership or transfer the land to others."<sup>18</sup>

However, there were some problems with the land managed by the royal palaces and public offices. The Real Estate Law Investigation Committee conducted a survey on the subject of land ownership through questionnaires, which were then used as "evidence for making a distinction between public land and private land and making divisions between state land and royal land." The Committee examined whether or not public and private land existed in Korea, on the premise that public lands meant lands

17. Japanese Government-General of Korea, "Fudosanho yoshi 不動産法要旨" (Real Estate Law Summary), in *Kankoku rippo jigyo tannin atariji nio keru kian shorui* 韓國立法事業担任當時ニ於ケル起案書類 (Drafts of Korean Legislation Projects).

18. Japanese Government-General of Korea, *Kanshu chosa hokokusho* 慣習調査報告書 (Report of Customs Investigation) (1912), 62-64.

belonging to the state or royal palace and private lands referred to lands owned by individuals or social organizations. The Committee then investigated whether public land was divided into state land and royal land, and the standards by which the lands were divided.<sup>19</sup> This terminology is very different from that of today, in that it made a distinction between public land and private land, and divided public land into state land and royal land. In today's terminology, it may be reasonable to consider public and royal land as belonging to state land.

According to the committee's research results, land could be regarded as private if land tax was paid and transaction documents existed as evidence of ownership. Although there was no clear standard to divide state land and royal land, the Committee determined that "state land" was that which was managed by the Ministry of Finance and "royal land" was anything managed by the Ministry of Royal Household (Gungnaebu 宮內府).<sup>20</sup> While the Great Han Empire had recognized the land managed by the Office of Crown Properties (Naejangwon 內藏院) within the Ministry of Royal Household as "public land," and the land managed by each palace of the Ministry of Royal Household as "royal land." Ume considered the land that was managed by the Ministry of Royal Household to be "royal land," and the other lands of the central and local government offices that were controlled by the Ministry of Finance to be "state land." Considering that "public land," including *yeokto* and *dunto*, which were managed by the Office of Crown Properties, was originally the land of the central and local government offices, Ume's concept of "state land" seems very perplexing.

What Ume defined as "public land" was clarified under the concept of "state land." In June 1908, the Japanese Residency-General of Korea integrated *yeokto*, *dunto*, and the royal lands, and commonly called them *yeok-dunto* 驛屯土 or *gugyuji* 國有地 (state land). According to the concept proposed by Ume, "royal land" was gone, and "state land" remained. The tran-

19. Japanese Residency-General of Korea, "Chosa jiko setsumeisho 調査事項説明書" (Paper of Investigation Items) (1906).

20. Japanese Residency-General of Korea, *Fudosanho chosa hokoku yoroku* 不動産法調査報告要録 (Summary of Investigation of Real Estate Law) (1908).

sition of royal land to state land was no more than part of the process of implementing colonial policies to weaken the economic foundation of the Korean royal family.

### **The Disposal of Royal Land and the Survey of *Yeokdunto***

The continued existence of multilayered land ownership, including the rights of the *dojang* 導掌 (rent agents in the palace lands) and intermediary landowners, was squarely against this concept of state and private land. Therefore, the Japanese Residency-General of Korea intended to readjust the notion of state land, which was based on the concept of modern land ownership, with a single owner per land unit.

Royal land was divided into land under direct control and land under the management of a *dojang*. The *dojang* made a decisive contribution to the establishment and management of farms, and was entirely in charge of farm management. Since the tax/rent that the *dojang* was obliged to pay to the palace was remarkably low, and the produce collected from the tenant farmers was as great as the rent, the *dojang* served as *de facto* landlords. In exchange for protecting the management rights of the *dojang*, the palace was actually receiving only partial rent. The Japanese Residency-General of Korea examined the contributions of the *dojang* in the formation and management of state farmlands, refunded the amount that they had invested, or compensated them with corresponding lands. However, because this policy could have the effect of creating great Korean landlords and reducing the size of the state lands, which would obstruct the implementation of the colonial land policy, Japan removed 236 *dojang* as a way of compensating for three-year net profits. Thus, in June 1908, the Japanese Residency-General of Korea integrated all royal lands into “state land” (Bae 1980).

The removal of *dojang* rights in Korea was similar to Japan’s revocation of landlords’ ownership through land tax reform in Japan and Taiwan’s removal of the ownership of *dazuhu* 大租戶 (households of big rent) through financial compensation. As a result, Japan was able to entrust the

lands to farmers, and Taiwan was able to secure land tax revenues by recognizing land ownership of *xiaozuhu* 小租戶 (households of small rent) (Jiang 1974, 225-227; Young-ho Lee 2004). In Korea, however, the state became the landowner of nationalized lands and managed the tenant system for government revenue.

Meanwhile, the intermediary landowners participated in the process of distributing produce, either by maintaining the status quo or engaging in the disputes over rent or land ownership. The Great Han Empire would not recognize these intermediary landowners, nor had it prepared an effective policy to resolve the issue of multilayered ownership. The Japanese Residency-General of Korea did not validate the right of intermediary landowners, nor had it attempted to assess land ownership. Rather, all intermediary landowners in *yeokdunto* were considered illegal. The Japanese Residency-General of Korea purposefully did not acknowledge the rights of intermediary landowners, so that the state could obtain the ownership of *yeokdunto*. Unlike with the *dojang*, Japan intended to exclude the intermediary landowners without compensation.

The Japanese Residency-General of Korea removed the position of intermediary landowners by managing *yeokdunto* under a landlord system. In August 1908, the Ministry of Finance adopted the policy of operating a state tenant system.<sup>21</sup> Through applications submitted by the tenant farmers, contracts were made with tenancy periods of less than five years. This meant that a permission certificate was required in order to cultivate the registered *yeokdunto*. In this way, tenant farmers were reduced to the status of a contracted tenancy of state land, and lost their customary rights to cultivate these lands. The intermediary landowners fell into a predicament as their real rights were reduced down to leasing rights. They were allowed to cultivate only when they recognized themselves as tenants and submitted applications.

The farm rents were set by the Ministry of Finance, based on an investigation by village leaders, an alteration which would lead to the separation

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21. Japanese Government-General of Korea, *Chutondo minoruchi chosa gaiyo* 驛屯土實地調査概要 (Summary of Practice Investigations of *Yeokdunto*) (1911).

of the rent regulations made from the establishment of farms in the late Joseon dynasty—in other words, the end of the farms themselves. Each farm, which had previously had a unique name, was changed into a part of the homogeneous state lands. Although the low rents had led them to believe that they had rights to the land, the rights of intermediary landowners and tenant farmers were now completely abolished. In order to replace the multilayered land ownership with the concept of single ownership per given land, either the Great Han Empire or the Japanese Residency-General of Korea had to establish legal procedures for compensation, transaction, and transfer. However, neither of the two had prepared such legislation. The Great Han Empire had only banned the intermediary landowners' existence, but had failed to establish a procedure to solve the issue of compensation, while the Japanese Residency-General of Korea simply aimed for the exclusion of intermediary landowners.

The goal of the Yeokdunto Land Survey, conducted from June 1909 to September 1910, was particularly to remove intermediary landowners.<sup>22</sup> This survey summoned tenants to appear using a signpost with their registered names on it, with which the intermediary landowners were sorted when they appeared. If an intermediary landowner did not show up, his rights would automatically disappear; otherwise, his existence would eventually be identified as a tenant farmer. The Japanese Residency-General of Korea did not assess private lands in order to distinguish state-owned lands from private lands, nor did they take any action to correct ill-integrated state lands. To fulfill the concept of a single owner having ownership of one land unit, they simply intended to confirm state land ownership by removing the intermediary landowners. In this way, “the state became no different from landowners of ordinary private lands, as a landlord of the state lands” (Miyajima 1991, 336, 338). The results of the Yeokdunto Land Survey were ratified in the Land Survey Project in Colonial Korea (*joseon toji josa saeop* 朝鮮土地調査事業, 1910–1918), and *yeokdunto* was confirmed as “state land.” The resulting disputes between state and private lands rarely led to intermediary landowners obtaining land ownership.

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22. See footnote 21.

“The register of *yeokdunto*,” made in the second half of 1908, and “the tax-levied land register for private lands” served as criteria for dividing state land and private land. The lands listed in the register of *yeokdunto* became state land, while the lands in the tax-levied land register became private land.

### The Legal Recognition of Private Land Ownership

Resident-General Ito thought it was necessary to establish long-term land legislation in Korea in order to secure the financial foundation of the colony and guarantee the investments of Japanese people. Since Japan had already conducted a land survey in another colony—that is, Taiwan—it was regarded as natural to also conduct a land survey in Korea.

However, Ito faced a more pressing issue than surveying land: how to handle Japanese land ownership in Korea. The Great Han Empire had banned foreigners from obtaining their own land, but Ito decided to guarantee land ownership and promote safe land transactions for Japanese people entering Korea and making capital investments. To that end, on October 26, 1906, Ito established the Land and House Certification Regulation (*toji gaok jeungmyeong gyuchik* 土地家屋證明規則) in order to allow land ownership by foreigners.<sup>23</sup> After the village leaders’ certification of contract documents, the ownership and mortgage were to be notarized through the magistrate’s verification, and previous private documents that recorded land transactions or land ownership deeds were no longer recognized. Instead, new contract documents for land transactions were to be drawn up and verified by local public officers. In this way, safe land transactions were temporarily guaranteed for foreigners.

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23. Ito pushed ahead the establishment of the Land and House Certification Regulation despite opposition from the Korean government and Ume. There were robust discussions over the Land and House Certification Regulation, which may be regarded as the starting point of the colonial land legislation (see Chung 1995, Choe 1996, and Yeong-Mi Lee 2005, ch. 2).

Another issue was that many Japanese people already owned Korean land under the names of Koreans, despite the Korean government's prohibition of this practice. Ito decided to legally recognize even the lands that had been illegally secured by Japanese people. The Land and House Ownership Certification Regulation (*toji gaok soyugwon jeungmyeong gyuchik* 土地家屋所有權證明規則), which was enacted on July 16, 1908, was an action to retroactively recognize illegal land ownership by Japanese people.

In the meantime, Ito ordered Ume to research Korean customs on real estate in order to establish “permanent” colonial land legislations. With the Act of Land and House Ownership Deed (*jigwon gagwonbeop* 地券家券法),<sup>24</sup> Ume mapped out permanent land legislation for Korea. Under this act, land ownership, including ownership by a foreigner, was to be recognized upon issuance of a land ownership deed for private real estate. The criterion of recognition was the payment of land taxes. Ume aimed to create registers of land and house ownership for verifying and transacting land ownership and to provide owners with a mortgage book. This aimed at guaranteeing safe and quick land transactions.

In fact, although this act was not enacted, the principle of the “issuance of land ownership deed just after land survey” in the act was applied to the Land Survey Act (*toji josabeop* 土地調査法) in August 1910. Article 10 of the Land Survey Act stipulated, “the government is to make the land register and map, register land-related information, and issue the land ownership deed.” This system of land ownership deeds was modeled after the Torrens System, which was convenient for fast land transactions and already in operation in colonies of the United Kingdom, France, and the United States. In order for capitalists from imperialist countries to invest in Japan's colonies, the Japanese imperialist government had to guarantee land ownership and the convenience of mortgages. As a result, the land ownership deed system was introduced to replace the certification system, which had been established as temporary land law by Ito in October 1906. Therefore, after conducting extensive research on each region across

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24. See “*Jigwon gagwonbeop* 地券家券法” (Act of Land and House Ownership Deed), in Young-ho Lee (2008).

Korea, Ume concluded that an independent civil code should be established based on Korean customs. However, as his opponents supported the application of the Japanese Civil Code to colonial Korea, and Ume passed away unexpectedly in August 1910, the idea of an independent civil code was dropped.

As a result, through the introduction of the Joseon Civil Regulation (*joseon minsaryeong* 朝鮮民事令) in 1912, land ownership in colonial Korea became based on the Japanese Civil Code. The Japanese Civil Code, enforced in 1898, stipulated, “The owner has the right, within the confines of laws, freely to use, to take profits from, and to dispose of land” (Article 206). It can be concluded upon analysis of the land survey project that the legally approved land ownership represented the new and exclusive ownership based on the Japanese Civil Code. As a result, a single owner having exclusive ownership over one land unit came to be recognized as the norm for the entire area of colonial Korea. On March 18, 1912, as the Government-General of Korea abolished the land ownership deed system and proclaimed the Real Estate Registration in Colonial Korea (*joseon budong-san jeungmyeongryeong* 朝鮮不動產證明令), the transference of land ownership came to be guaranteed. With the registration system of Japanese imperialism transplanted to and adopted in colonial Korea, Japanese landowners and capitalists could invest in land more conveniently. Furthermore, conditions were secured for commercializing land that would be suitable for the capitalist economy.

## Conclusion

The establishment of legislation for modern land ownership in Korea faced the following problems: confirming the concept of modern land ownership, resolving the issue of the multilayered land ownership system, and identifying the principal subject of ownership and guaranteeing safe land transactions. Like the Korean government, the Japanese Residency-General of Korea encountered similar problems. However, there was a wide discrepancy in the measures they took to implement these policies and their

end results.

Although it is difficult to find documents from the Korean government relating to the land reforms that defined the concept of land ownership, it seems that their reforms had already reflected the modern concept of land ownership. However, the actual establishment of modern land ownership in Korea was accomplished by Japanese colonial land legislation which was based on the regulation of land ownership specified in the Japanese Civil Code, in which the concept of land ownership involved a single owner per given area of land unit with the right of use, profit, and disposal of the land.

Private land ownership in Korea had exhibited the defining and exclusive characteristics consistent with the concept of modern land ownership. However, the rights of intermediary landowners, which originated from the process of the reclamation of wasteland, and the rights of *dojang*, who held ownership or management rights over palace lands, demonstrated the attributes of multilayered land ownership. The existence of these groups was not compatible with the concept of modern land ownership. The Korean Empire disapproved of intermediary landowners, and the Bureau of Land Survey registered them as tenant farmers. However, because the removal of the right of intermediary land owners was suspended from enactment, the intermediary landowners had remained. The land tax and rent adjustment that were levied on *yeokto* and *dunto* were compromised, and thus failed to threaten the foothold of intermediary landowners.

Nevertheless, the Japanese Residency-General of Korea disapproved of—and ultimately illegalized—intermediary landowners. This forced intermediary landowners to become tenants of the state lands of *yeokdunto*, and entirely eliminated their role during the land survey process. Those intermediary landowners who were resistant to the new policy could hardly regain their rights, although they engaged in tough disputes over the land survey project. While the rights of *dojang* were similar to those of landlord ownership, the Japanese Residency-General of Korea did not approve their right of ownership, but compensated them with public bonds. By confirming state land in this way, the distinction between state land and private land became clearer.

The Great Han Empire created a land register and issued land owner-

ship deeds in order to confirm the principal subject of ownership and to guarantee safe land transactions. However, its major limitation was that accurate measurements were not provided and that the principal subject of land ownership often remained unclear. The Residency-General established the Land and House Ownership Certification Regulation in order to guarantee Japanese land ownership and safe land transactions. The land survey project of 1910 intended to guarantee ownership and transactions by registering the real name of the owner from the family register surveyed in 1909, and issuing a land ownership deed. However, to reduce discrepancies with the Japanese land ownership system, the Joseon Civil Regulations was introduced which was modeled after the Japanese Civil Code. Consequently, the land ownership deed system was abolished and the real estate registration system of Japan was introduced to Korea. With this, the conditions were established for land commercialization in Korea, which was the goal of colonial land legislation.

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