

A Court Case of Frog and Snake: Rereading Korean Court-Case Fiction from the Law and Literature Perspective

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Abstract

This article focuses on textual analysis of the Wasa ogan (A Court Case of Frog and Snake), a fabulous court-case story written in the late Joseon period. The emergence of the genre of court-case fiction was inseparably linked to the wide diffusion of litigation culture and the growth of popular interest in law and justice in late Joseon society. Fabulous court-case fiction, in which the courtroom of the animal world is depicted rather than a setting for human justice, is an ingenious blend of two separate narrative traditions—court-case fiction and fable. Of these types of stories, the Wasa ogan is truly remarkable in that it ingeniously incorporates the form of an inquest record (Geomam) into the genre of fable. Inquest records are highly formulaic legal documents, in which the processes of inquest (Geomheom) consisting of autopsy and interrogation are recorded in Idu writing. By combining the precision of legal writing with the pleasure of fiction, the text demonstrates how the convergence of law and literature and of fact and fantasy is possible. As for the relationship between law and literature, the text is a prominent example illustrating the perspectives of law as literature as well as the law in literature.

Keywords: *Wasa ogan*, *A Court Case of Frog and Snake*, court-case fiction, fabulous court-case fiction, inquest record, law as literature, Joseon legal culture

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Introduction

The term *Songsa soseol* 訟事小說, or court-case fiction, is used by students of Korean literature to refer to the genre of traditional crime fiction centering on law cases brought to the courtroom.¹ One distinctive feature that draws our attention in the evolution of Korean court-case fiction is the unlikely combination of two separate narrative traditions that include court-case stories and fables (*Uhwa soseol* 寓話小說). Although many court-case stories focus on a realistic representation of law and crime, fantastic court-case stories that feature animals seeking justice in otherworldly courtrooms also hold a significant place in Korean literary history. Among them, the *Wasa ogan* 蛙蛇獄案 (A Court Case of Frog and Snake) is quite unique in that it ingeniously incorporates the form of an inquest record (*Geoman* 檢案) into the fable genre.

Being precise legal drafts reporting the results of an official inquest (*Geomheom* 檢驗), inquest records are a far cry from fictional narratives. *Geomheom* is the process of investigating an unnatural death, to include murder and suicide. While the inquest process includes not only the thorough examinations of the corpse, but also the magistrate's interrogations and oral testimonies, the autopsy procedure is considered the most crucial aspect of the investigation process. In Joseon Korea, the overall inquest procedures were regulated in the 18th century in accordance with the *Muwollok* 無冤錄 (Coroner's Guide for the Elimination of Grievances). During the reign of King Jeongjo 正祖 (r. 1776–1800), the inquest record form was strictly standardized.²

Inquest records are drafted in “clerk’s writing” (*Idu* 吏頭), as were a wide

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1. The term was not widely used until Yi Heonhong proposed it to describe the genre in his own book. See H. Yi (1997, 14).
 2. Concerning King Jeongjo's order, see MOLEG (1975, 173–174). The *Chugwanji* (Records of the Board of Punishments), containing legal provisions, edicts, and procedural guidelines along with illustrative case summaries, was a legal handbook compiled and published by the Board of Punishments in 1781. Regulations concerning inquest procedures were provided in this book as well. See MOLEG (1975, 166–193) for further inquest procedure details.

variety of official documents in the Joseon 朝鮮 period (1392–1910). Clerk's writing is a mixture of literary Chinese and certain Chinese characters borrowed for particular Korean vernacular expressions. It was widely used in various types of legal documents, including case reports, petitions, and certificates. Despite its complexity in usage, clerk's writing was never formally taught at school or in manuals until the publication of the *Yuseo pilji* 儒胥必知 (Essential Knowledge for Elites and Clerks) in the 19th century.³ No doubt, it was barely used for fiction, with the bulk of traditional Korean fiction written in either vernacular Korean or literary Chinese. The *Wasa ogan*, however, is an inventive departure from conventional fiction of the period because it is written in clerk's writing, the same language as formal inquest records.

As such, the *Wasa ogan* is remarkable in that it blurs the boundaries between law and literature, between fact and fiction, reality and fantasy, and legal and popular culture. Of course, the text raises many questions, including: Who was the author? Who was the intended audience? And how widely was it circulated? As far as philological information is concerned, the *Wasa ogan* by and large remains a mystery. The original manuscript was found bound together with a copy of the *Jongok jeon* 鍾玉傳 (Story of Jongok, 1838) by Mok Taerim 睦台林 (1782–1840). Based on this, it is estimated that the manuscript was written sometime between the late 18th and early 19th centuries. This was a time when the Joseon government attempted to standardize various forms of legal writing as well as to publish a wide range of legal literature, including legal codes, case records, and legal manuals. With regard to authorship of the *Wasa ogan*, nothing has been discovered since the manuscript was first introduced to Korean academia in 1970.⁴ It is conjectured that the text was written by a legal clerk because the author is clearly someone who was not only familiar with legal proceedings, but also

3. For more philological background to the *Yuseo pilji*, see Jeon (2006, 367–405).

4. The original text is held in the Nihon Tōyō Bunko 日本東洋文庫 (Asia Library of Japan). In fact, in his *Jeungbo Joseon soseolsa* (Expanded History of Korean Fiction, 1939), Kim Taejun refers to the *Wasa ogan* as a court-case story written in *Idu* (T. Kim 1990, 150). However, the manuscript itself was first introduced to Korean academia in the *Joseon hakbo* 朝鮮學報 (Journal of Korean Studies). An annotated version of the story is available in Jang (2007).

very skilled at clerk's writing.⁵

As for the relationship between fiction and legal education, the *Wasa ogan* is no isolated example of the incorporation of technical aspects of law into fiction. In fact, a few court-case stories comparable to the *Wasa ogan* have been found. These lesser known stories in the *Yoram* 要覽 (Compendium of Writings) also suggest the possibility that fiction was far more widely used for legal education in late Joseon society than has been surmised.⁶ Thus, this study examines how the *Wasa ogan* represents the diffusion of legal culture into popular culture in the late Joseon period—in other words, I explore the little studied interaction between legal and popular realms. Through textual analysis, we can appreciate the *Wasa ogan* as a prominent example of the popular interest in law and justice and the close link between law and literature in the late Joseon period. Before analyzing the text, I will first reconsider the significance of the *Wasa ogan* in Korean literary history by examining the historical background of the development of the genre of “fabulous” court-case fiction and the *Wasa ogan*.⁷

Fabulous Court-Case Fiction and the *Wasa ogan* in Korean Literary History

The term *Songsa soseol* replaced *Gongan* 公案, a term originally derived from

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5. Jeong Seonhui, who has studied Mok Taerim and his literary works, argues there are plenty of indications that Mok Taerim authored the *Wasa ogan* (S. Jeong 2000). Mok was not from the intermediate, or *Jungin*, class but from the *Yangban* class, but judging from his writings, despite his *Yangban* status, Mok worked as a legal clerk at the local court, perhaps due to his family's downfall.
 6. The *Yoram* is a collection of various writings of anonymous authorship. The original text is held in the National Library of Korea. The sixteen texts in the collection comprise different literary genres, including fiction, biography, and diary records, as well as legal writings such as complaints, petitions, and verdicts. Not unlike the *Wasa ogan*, these legal writings rely on the literary tradition of fables. A Korean translation of the *Yoram* has been published. See D. Yi et al. (2012).
 7. Herein, “fabulous” is used to denote “fable-like.” Fabulous court-case fiction is an English translation of the term *Uhwahyeong Songsa soseol* 寓話型 訟事小説 (or *Songsahyeong Uhwa soseol* 訟事型 寓話小説) introduced by scholars of Korean literature.

Chinese court-case fiction. Prior to this, *Gongan* was the only term available to designate this genre of crime fiction in Korean literary history (T. Kim 1990, 183). This suggests that Korean court-case fiction was likely developed under the heavy influence of its Chinese counterpart, *gongan*, which was introduced to Korean audiences in the early 17th century. Contrary to expectations, however, there are no clear genealogical ties between Chinese and Korean court-case fiction in terms of thematic concerns or narrative structures. Instead, we find that the genre of Korean court-case fiction was developed within indigenous Korean literary traditions, despite the fact that Chinese court-case fiction attracted a Korean readership due to interest among Korea's elite in Chinese law and legal cases.⁸

According to previous studies on Korean court-case fiction, slightly over 30 stories belong to the genre (H. Yi 1997, 20–21). The origin of court-case fiction may be traced back to early Korean literature, such as in the legend of King Talhae 脫解王 (r. 57–80), in which a lawsuit is filed over house ownership in order to secure an auspicious gravesite for the king (H. Yi 1997, 313). It seems reasonable to assert, however, that the genre of court-case fiction was firmly established in the Joseon dynasty insofar as most of the surviving stories depict Joseon society. Except for a few stories about court cases in Buddhist hell, the majority of court-case fiction was produced from the 17th century onward. Court-case stories that draw on traditional fables, in particular, emerged as late as the 18th century. The emergence of the court-case fiction genre in Korea is also consistent with a period when fiction

8. The Judge Bao story collection (*Bao gongan* 包公案; *Po gongan* in Korean) was the first Chinese court-case story collection to be introduced to Korean readers. The first reference to the Judge Bao collection is found in a private letter written by King Seonjo 宣祖 (r. 1567–1608) to his married daughter, Princess Jeongsuk 貞淑, in 1603. With reference to the circulation of Judge Bao story collections in late Joseon Korea, see J. Park (1999, 39–70). Although the popularity of Judge Bao stories in Joseon Korea is difficult to determine, we can find some specialist interest in Chinese court-case fiction in relation to Chinese law. A prominent example is that of Jeong Yak-yong 丁若鏞 (1762–1836), an author who introduced 19 Chinese court-case stories in his work, *Heumheum sinseo* 欽欽新書 (Toward a New Jurisprudence, 1819). For more details, see S. Park (2013, 5–28). Concerning general discussions of the relationship between Chinese *Gongan* fiction and Korean legal culture, see S. Park (2011, 65–75).

in general was gaining immense popularity among both elite and popular audiences. Concurrent with this trend, the diffusion of legal culture was also increasing with the publication of a wide variety of legal literature ranging from law codes to legal manuals. The link between court-case fiction and legal culture seems evident in that the genre of court-case fiction references laws and courts, although often inaccurately or superficially.

In governments based on the tenets of Confucianism, such as that of the Joseon dynasty, law was usually downplayed as a necessary evil in accordance with the Confucian doctrine in which a state of “no lawsuits” (*Musong* 無訟) is highlighted as a necessary condition for social harmony (*Lunyu* 12:13). Nevertheless, the Joseon government was far from being inattentive to law. The government maintained a regular interest in the publication of a wide array of legal literature, as well as legal codification, since the adoption of the Ming Code as the dynasty’s model law code by the founder of Joseon, King Taejo 太祖 (r. 1392–1398).⁹

It was during the reign of King Jeongjo that government efforts to rationalize laws and standardize legal procedures culminated. A wide variety of official and unofficial legal literature was published during this period in order to assist judicial officials and legal experts in dealing with various legal matters. Government policies aimed at the wide diffusion of legal norms never discouraged popular interest in the law, and these policies facilitated understanding on the part of ordinary people of basic law codes and legal proceedings. It was also during this period that magistrates often pointed out the people’s tendencies to “love litigation” (*Hosong* 好訟), and strove to reduce the numerous unnecessary lawsuits brought before local courts (Y. Cho 2002, 251–259). Many late-Joseon records attest to “a flood of lawsuits” and the state’s struggle to control them (Sim 2013, 109). Contrary to the widely accepted notion of traditional Korean society that people largely tried to avoid litigation at all costs, historical records prove that the people were never reluctant to have their grievances heard in court (Jisoo M. Kim 2015, 22–41).

Thus, in considering late Joseon legal culture, the rise of the genre of court-case fiction during this period was no coincidence at all. Institutional

9. For more details, see Shaw (1981, 29–42) and Hanguk gukak jinheungwon (2008, 423–470).

conditions, such as the standardization of legal proceedings, easy access to courts, and the profusion of legal literature, greatly facilitated popular interest in the law, which eventually led to the emergence of the genre.

According to H. Yi (1997, 27–28), Korean court-case fiction may be divided into three subgenres: domestic, biographical, and the fabulous. Among these court-case subgenres, “fabulous” court-case fiction depicts the courtrooms of the animal world rather than settings for human justice, in line with the literary traditions of fables. The factors that prompted the fusion of court-case fiction and fables in Korean narrative tradition remain unclear.¹⁰ Based on the fact that court-case fiction was not widely popular until the late Joseon period, a time when litigation was common practice and legal information accessible to laypersons in various ways, we conjecture that the wide diffusion of legal culture inspired the emergence of the new narrative genre of fabulous court-case fiction. Undoubtedly, the genre would not have emerged without a popular interest in law and justice.

Drawing upon a rich fable tradition, fabulous court-case fiction relies on humor, satire, and irony to create an imaginary world of animal characters. The animal-world setting is reminiscent of the real human world insofar as it is full of institutional deficiencies, social injustice, and corruption. Many of the contending animals in a fictitious courtroom are common species, such as mice, squirrels, toads, frogs, crows, and storks, thereby evoking common people and rural communities.

Fabulous court-case fiction may be divided into two subcategories according to how the legal system is represented. One subcategory aims at scathing satire of the dysfunctional aspects of the legal system, while the other aims to depict legal proceedings in detail or to show how to draft a legal document. In the latter subcategory, a fictional narrative is neatly incorporated into legal writing that is technical and accurate, as seen in the *Wasa ogan* and the *Yoram*.

The former subcategory tends to see the legal system through a critical lens. For instance, the famous fable, *Hwangsae Gyeolsong* 황새 決訟 (Stork

10. The fable genre itself has a rich narrative tradition in association with longstanding traditions of oral storytelling (Sin 2008, 13–31).

Decides a Case), serves to greatly highlight critical views of a corrupt legal system and the abuse of judicial power.¹¹ Among quite a few fabulous court-case stories featuring mice, the *Seook gi* 鼠獄記 (A Case Record of Mouse) draws our attention by its dire sarcasm regarding the justice system itself.¹² It does not seem odd, therefore, that oversimplification or hyperbole is frequently used in the former subcategory in order to emphasize social criticism and satire. Precise and detailed accounts of legal procedures or descriptive instructions on how to draft legal documents are what we least expect to encounter in these court-case stories.

Accordingly, we can discern the uniqueness of the *Wasa ogan* in its convergence of legal literature and fiction, of fact and fantasy. Indeed, it is the only surviving text adopting the inquest record form for fiction writing. Of course, previous studies have highlighted the uniqueness of the *Wasa ogan* as well.¹³ But as far as the significance of the *Wasa ogan* in Korean literary history is concerned, it seems that previous studies have failed to shed light on the broad cultural context of the text, in particular, its close connection with contemporary legal culture, in which reading law as literature was common practice.

Considering that the emergence of the court-case fiction genre was inseparably linked to the diffusion of late Joseon legal culture and the interaction between the legal and popular realms, we should rethink the general assumption that the *Wasa ogan* belonged solely to a limited group of legal experts or their professional culture.¹⁴ On the contrary, in accordance with the spread of litigation culture, even ordinary people were not completely unfamiliar with various forms of legal writing, such as petitions, complaints, and verdicts.

Recent studies have even pointed out the influence of court-case fiction

11. For the story, see Yu and Sin (1998).

12. For the story, see Sin (2008).

13. For previous textual studies of the *Wasa ogan*, see Junyeong Kim (1995), Jaehwan Kim (1997), and Jeong (2000).

14. On this assumption, see Junyeong Kim (1995, 3) and Jaehwan Kim (1997, 5). Only Jeong (2000) has questioned the assumption by claiming that a frustrated *Yangban* elite Mok Taerim was the author of the text.

on the representation of law and justice in the *Sinsoseol* (New Novel).¹⁵ Interestingly enough, in parallel to court-case fiction such as the *Wasa ogan*, the depiction of the modern legal system in the *Sinsoseol* can be so detailed and realistic that some novels can even be read as popular legal handbooks (G. Kim 2015, 349–359).

Further, focusing on the *Wasa ogan*, Cho Hyeong-lae points out how the truth of an event (or a crime) is established, that is, how a past event (usually a criminal act) is reconstructed, in the *Wasa ogan*, is very much akin to the manner the past is reconstructed in the modern realist novel (H. Cho 2018, 54). In particular, Cho argues, the inquest official portrayed in the *Wasa ogan* resembles the narrator of the realist novel, who attempts to depict an event from a neutral and objective point of view. Not unlike the narrator of a novel, we see that the inquest official endeavors to reconstruct the coherent story of a crime by assessing conflicting testimonies and statements through a seemingly unbiased and thorough investigation process. Although Cho does not fully explain how “the pursuit of realism” is compatible with the fable form, it is quite remarkable to find a missing link between the *Wasa ogan* and the New Novel, or between the indigenous narrative form and the newly adopted modern narrative form.

Accordingly, these recent studies suggest that we still need a deeper reading of the *Wasa ogan* in order to clearly understand the entangled interrelationship between law and literature. The relationship between law and literature is not just a literary concern, but rather a reemerging topic that contemporary legal scholarship utilizes to resist the scientism and abstraction of law.¹⁶ In interpreting the relationship between law and literature, however, there are two different views: law in literature and law as literature. The former refers to representations of the law in literature, while the latter involves “employing the techniques and principles of literary criticism, theory, and interpretation to better understand the writing, thought, and social practice that constitute legal systems” (Binder and

15. For more details, see H. Cho (2004) and G. Kim (2015).

16. The Law and Literature Movement emerged in the 1970s in the United States and Great Britain in an attempt to counteract the rival Law and Economics Movement. For more details, see Brooks and Gewirtz (1996).

Weisberg 2000, 3). The latter is a relatively recent trend, while the former reflects our conventional understanding of the law-literature relationship. As far as the premodern East Asian legal culture is concerned, we may notice that reading law as literature—or more specifically, reading law as narrative and rhetoric—was not an unconventional practice at all.¹⁷ Although many fabulous court-case stories represent the former point of view, the *Wasa ogan* may appear more intriguing from the point of view of the latter. Thus, both the law in literature and law as literature perspectives will be used in my analysis of the *Wasa ogan*.

Frog versus Snake: Representation of Law and Justice in the *Wasa ogan*

Fictional Representation of Law in the Wasa ogan: Reading Law in Literature

As the first inquest official (*Chogeomgwan* 初檢官), chief commander of Toad Port conducted an investigation of the body. Around eight in the morning (*Jinsi* 辰時) on the sixteenth day of the month, Frog (Baek Gaegol 白介骨) who currently lives in Pond Village, Green Grass District, rushed to report a death: “My son Tadpole (Baek Olchang 白兀昌) was bitten by Snake (Jin Daemaeng 陳大萌) near his house in Pond Woods Village. Afterwards, he died. Please, I beg for requital for a life in accordance with the law (*Uibeop sangmyeong* 依法償命) by conducting an investigation of the body.”

Around ten in the morning (*Sasi* 巳時) on the same day, the chief commander rushed to depart in the company of his assistants. After traveling south from the port to Dragon Rock Harbor for about 50 *li* 里, the day had become dark. We could not travel any longer so that we spent the night there. We departed again at cockcrow the next day, the seventeenth. After traveling for about 20 *Li* 里, we arrived in Pond Woods Village, where the corpse of the deceased Tadpole lay. The interrogation was conducted first.

17. Recent studies draw our attention to the fact that a convergence of law and literature was common in late imperial China. See Hegel and Carlitz (2007).

On the seventeenth day of the fourth month in the year of *Eulsa* 乙巳, Frog, the close relative of the deceased (*Sichin* 尸親), a diving soldier (*Jamsugun* 潛水軍), fifty-six years in age, rushed to report, and registered in the household register.

[Commander] “When and why did your son Tadpole fight with Snake? Where did they fight? Which part of your son’s body was bitten? How long did it take until he died? Describe in detail the root cause of the fight, where they fought, how serious the bite was, the medical treatment he was given on the day when he died, if there was an old grudge, and who the eyewitnesses were. Also, how old was Tadpole? Did he have any scars on his body? All must be told clearly.” In such a way, the interrogation was conducted. (Jang 2007, 656)

From the outset, we notice that the *Wasa ogan* is an ingenious blend of serious legal writing and playful fictional writing. Although we may find amusing the description of the frog as “a diving soldier,” the text strictly adheres to the form and style of an inquest record.¹⁸ Undoubtedly, inquest records are a far cry from imaginative writing—the style is highly formulaic and unfamiliar to those who are not technically trained and knowledgeable about inquest procedures.

Accordingly, like an inquest record, the *Wasa ogan* depicts all the stages of the inquest in order. In the *Wasa ogan*, the narrative begins with a death report filed by the close relative of the deceased, accompanied by an opening statement explaining how the commander (usually a district magistrate) initiated an investigation as the first inquest official. Second, the first round of interrogation occurs, involving the plaintiff, eyewitnesses (*Ganjeung* 看證), close neighbors (*Gyeorin* 切隣), and the principal offender (Jeongbeom

18. Most surviving inquest records are held in the Gyujanggak Archive. Most of these records involve death cases in the 19th and early 20th centuries. For general information on inquest records provided in English, see the “Introduction” to the work of Kim and Kim (2014, 3–22). This book also contains the only English translations of eight selected inquest records produced in the late Joseon. This book has been extremely helpful in translating the *Wasa ogan* into English herein, inasmuch as its format and literary style by and large conform to those of inquest records.

正犯). Third is the examination of the corpse (*Geomheom*), fourth are the second-round interrogations of all the people involved in the death case—often prolonged by face-to-face cross-examinations of conflicting witnesses. Finally, the story concludes with the inquest official's closing statement to explain the true cause of death (*Sirin* 實因) and identify the principal offender. In particular, autopsy scenes tend to exactly conform to autopsy procedures prescribed in the *Muwollok*: a coroner's assistant thoroughly examines the body (seventy-six body parts in total) from head to toe and front to back right after measuring the size of the room where the corpse lies.¹⁹

In the *Wasa ogan*, Frog files a death report about his son, Tadpole, who died shortly after he was bitten by Snake. The chief commander immediately embarks on an investigation of the case. He examines the body in the company of his assistants and administrators at Snake's house, where the corpse rests, following a brief interrogation of the plaintiff, the offender, eyewitnesses, and close neighbors. In the process of conducting the autopsy, all the pertinent figures are summoned—not only the plaintiff and the offender, but also eyewitnesses, close neighbors, a staff of attendants such as a legal clerk (*Hyeongbang* 刑房), the coroner's assistant (*Ojak* 仵作), a medical specialist (*Uisaeng* 醫生), and a legal assistant (*Yulsaeng* 律生), as well as administrators such as a district administrator (*Myeonsu* 面首) and a subdistrict administrator (*Ijeong* 里正), and many other figures. The postmortem examination of the body reveals that the cause of Tadpole's death was Snake's venomous bites to his groin and buttocks. Accordingly, ten-odd characters who constitute the community—in fact, various creatures living near the pond, from a quail to a fly, one after another—are summoned one by one for testimony in the autopsy procedure and the ensuing interrogation process.

Although both the postmortem result and the testimony clearly indicate the fact that the victim died from snake bites, the offender keeps professing his innocence through convincing counterarguments. He claims: first, it was

19. For more details, see Wang (2013). For the autopsy scene in the *Wasa ogan*, see Jang (2007, 666–667).

Tadpole, not Snake, who started the fight; second, he never intentionally bit Tadpole, though he probably bumped his head against the victim during the fight; third, Tadpole actually died from bloat (in other words, he had been sick before the incident).

Despite the irrefutable postmortem result indicating that Snake is guilty, the inquest official never uses torture or even verbal threat to extract a confession from the blatant offender. Instead, he continues the painstaking interrogation procedure by repeatedly questioning the key witnesses and checking every detail of the incident with them.

Yet, the offender continues to fiercely deny his guilt. Therefore, the eyewitnesses, Shrimp (Ha Sawi 河士魏), Crayfish (O Gajae 吳可才), and Dr. Stingray (Heo Gaori 許加五里), who treated Tadpole after he was bitten by Snake, are summoned for face-to-face cross-examinations.

Shrimp and Crayfish testify against Snake:

“When you and Tadpole got into a brawl, you rolled over grabbing his waist. When Tadpole ran away, you pursued and bit him, didn’t you? Besides, when Tadpole was bitten, he shouted out, ‘Snake bit me!’ I can see this well, even if my ears are not so sharp. How dare you deceive us, however stubborn and foolish you may be?”

Doctor Stingray testifies against Snake:

“I examined Tadpole. He did not have any other disease except poisoning by snake bites. The dead body is over there. How dare you make excuses? Even if you are good at escaping, does Tadpole not hold a deep grudge against you in the grave?”

Snake heaves a deep and tearful sigh, and replies:

“These are all lies! You all want me to die! I never bit him. You all are trying to set me up. Why do you harbor such enmity for me? I have been insulted without reason. Yet, the heavens remain silent with no single word on my behalf. In this situation, I cannot but die!” (Jang 2007, 670)

The eyewitnesses consistently testify that the offender intentionally bit the victim to death. Nevertheless, the offender flagrantly refuses to confess, instead blaming the eyewitnesses for plotting against him. After all is said

and done, the inquest official reaches a rational conclusion with strong confidence. In his final statement, based on all evidence and testimonies, the inquest official concludes that Snake is guilty:

“Generally speaking, in order to decide a court case, of the utmost importance is examining the wounds [of the dead body], and the next most important is eyewitnesses. Now I performed careful postmortem examinations several times, and also interrogated the involved individuals with circumspection. There is a blood clot and bruising under the testicles [of the body]. Moreover, many tooth marks are found in the groin area. Now that the testimonies given by the witnesses are exactly consistent with the postmortem results, no more testimony is needed to determine that Snake is guilty. ...In the beginning, [I conjectured] Snake pretended to ask for food in an attempt to eat Tadpole and satisfy his appetite. All the more, his craving to murder the victim must have become stronger due to an old grudge he had against the victim’s family. From the offender’s point of view, the victim was nothing but a piece of meat. Thus [I can imagine], he initially rolled over while grabbing the victim’s waist, and afterwards bit the victim violently. Judging from the circumstances, Tadpole was not so different from a piece of meat thrown in front of a tiger or an egg put beneath a huge mountain. Apparently, the victim was unable to escape such calamity. The eyewitnesses already testified. You [Snake] cannot deceive everyone. Nevertheless, at first, you tried to escape by lying about the victim’s disease. During the face-to-face cross-examination, however, you were nearly dumbfounded. If you are not the principal offender, then who?” (Jang 2007, 671)

At the end of the story, the involved characters, including the principal offender and the eyewitnesses, are held in custody for the second inquest. This ending corresponds with how most authentic inquest records conclude.

Even though the story exactly follows the form of an inquest record, it does not completely overlook the delights of fiction, but on the contrary enhances them. What may amuse the reader most in this text is the way “loan characters” (*Gacha* 假借) are used for the names of various animal characters, including the main characters of Frog (Baek Gaegol) and Tadpole

(Baek Olchang).²⁰ In the case of Byeol Jaerae 鰲再來 (that is, Turtle), who appears as a district administrator, the Chinese letter meaning a turtle 鰲 is used for the surname, while the given name 再來 sound like *turtle* (that is, *Jara*) in vernacular Korean.

This inventive method of combining Chinese letters with vernacular Korean is the main characteristic of *Idu* writing, as Jaehwan Kim (1997, 15) has correctly pointed out. *Idu* writing, also known as “clerk’s writing,” was originally used for drafting official and unofficial documents in the Joseon dynasty. Compared to literary Chinese, we see that *Idu* writing is even creative in reflecting Korean vocabulary, phraseology, grammar, etc. For instance, “哀苦” in the phrase “哀苦一聲” in the *Wasa ogan* not only means “a scream of pain,” but also imitates the sound “*ego*” or “*aigo*” (Junyeong Kim 1995, 129), a typical utterance of exclamation in Korean.

On the other hand, however, this use of *Idu* for naming animal characters is not just designed for amusement; it is directly related to the main function of *Idu* writing, that is, the transcription of vernacular Korean, including both transliteration and translation. Indeed, the accurate recording of colloquial speech is of key importance in inquest records, in which a series of dialogues between the inquest official and the involved individuals in the interrogation process should be recorded verbatim from beginning to end.

However, the complexity of *Idu* writing, with its use of numerous technical jargons, made it difficult for ordinary people to learn, and consequently, was used exclusively for specific purposes.²¹ This is the reason *Idu* writing was called “clerk’s writing.” Nevertheless, the increased use of *Idu* writing for fiction, or any other popular genre, in the 19th-century Korea indicates a changing situation, wherein *Idu* writing was not necessarily associated with a limited group of professionals or “middle people” (*Jungin*),

20. For instance, loan characters, on the basis of Korean pronunciation, are used for the names of the eyewitnesses, Ha Sawi (Shrimp), O Gajae (Crayfish), and Heo Gaori (Stingray). In this way, loan characters are used for the names of more than twenty animal characters in the *Wasa ogan*. For a complete list of the names of the characters, see Junyeong Kim (1995) and Jaehwan Kim (1997, 15).

21. There are 244 *Idu* vocabulary items listed in the “*Idu* hwipyeon” 吏頭彙編 (Vocabulary List of *Idu* Writing) of the *Yuseo pilji*. See Jeon et al. (2006, 298–334).

but rather was appreciated as a literary language (beyond literary Chinese or the Korean script) available for a general audience, who sought entertainment as well as basic learning through the form of fiction.

Furthermore, in line with the rise of the fiction genre in the late Joseon period, the use of the fictional writing for educational purposes became very common. According to Yi Ok 李鈺 (1760–1815), for instance, Chinese fiction, such as the *Jiǎndēngxīnhuà* 剪燈新話 (New Tales for the Trimmed Lamp Wick), was commonly read for elementary learning in village schools. This particular text was also deemed useful for clerks and clerks-to-be, who had to deal with a large amount of paperwork on a regular basis. In fact, clerks were avid readers of Chinese fiction, because “the literary style was comprehensible and easy to learn even though it was so vulgar and frivolous” (O. Yi 2009, 2:129). Interestingly enough, introducing a couple of petitions in his collection of writing entitled *Bongseong munyeo* 鳳城文餘 (Remnants of Literature in Bongseong), Yi Ok also attests to the fact that petitions were read, copied, and memorized by pupils at school: “What pupils want to learn in the remote countryside is how to write petitions. Therefore, this kind of writing is by and large what they would copy, circulate, and memorize” (O. Yi 2009 2:149).²²

If this is true, the emergence of the court-case fiction genre at the time was no coincidence at all. Judging from the widespread litigation culture during this period, the use of the genre for legal education, that is, utilizing the texts as kind of legal textbooks, would be plausible as well.

As far as the *Wasa ogan* is concerned, the text may be primarily intended for legal education for general audiences in that it not only exactly conforms to the form of an inquest record, but its depiction of inquest procedures is also precise and realistic. Nevertheless, we should note that the author is by no means inattentive to creating various animal characters, each of which comprises a part of the imagined animal community. In this respect, we can say, the author is not so much a legal writer as a self-conscious fiction writer.

Herein, each animal character is given a proper social status or occupation in accordance with its physical appearances, habits, or behaviors.

22. For more details, see Jeon (2016, 237–265).

For instance, Frog is characterized as a diving soldier, Fly (Seung Supal 蠅水八) as a toilet watchman, or Terrapin (Gwi Namseong 龜南星) as an astrologist.²³ Most characters fill their social roles as faithful community members in inventive ways. The local community where the crime occurs is depicted as an orderly and harmonious one beyond the individual perpetrator. In bringing this seemingly innocent community into social disorder, Snake becomes the sole problem the community needs to be rid of.

Furthermore, it is in the courtroom scenes that the delights of fiction are most accentuated. Here each witness reveals his/her own personal history as self-introduction before giving testimony. This particular narrative convention is derived from the fable tradition rather than from inquest records. More interestingly, each personal history is in fact an ingenious adaptation (or intertextualization) of a wide variety of narrative types, such as fables, folktales, and proverbs.

For instance, the key eyewitness Shrimp tells that he has been living temporarily with his uncle Crayfish, because, sadly, his father was killed in a battle against Whale (Jang Gorae 張骨愛) in the South Sea (Jang 2007, 658). Shrimp's story about his father is likely to remind readers of an old saying about a poor shrimp killed inadvertently in a battle between whales. Turtle tells a story about the Dragon King and Mr. Hare and about how he had been banished to this town (Jang 2007, 664). His story, of course, is based on the famous folktale *The Story of the Turtle* (*Byeoljubu jeon*). In this way, even minor characters are fully personified through careful naming, realistic characterization, and multilayered intertextualization.

At this point, a question may be raised. For what is this fanciful representation of inquest procedures and the unlikely combination of fiction and the inquest-record form in the *Wasa ogan* intended? Is it really instructive to draft an inquest record or inform readers of inquest procedures? Judging by its explicit playfulness, is it not simply an attempt at parodying such highly formulaic legal writing as the inquest record?

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23. For more details, see Jaehwan Kim (1997, 20–21).

In terms of learning how to draft an inquest record, a very authoritative guide was available—namely, the *Muwollok*. The significance of inquest procedures in investigating death cases is appropriately highlighted in the *Muwollok*: “If a criminal case is about human life, autopsy becomes the most critical work to do. This is because life and death can hinge on the tiniest discrepancy. Even a good judge who is capable of adjudicating difficult cases is helpless if the inquest investigation is not precisely conducted” (Wang 2013, 51). Because “the dead can never come back to life, as what is cut off can never again be reconnected” (Wang 2013, 49), inquest procedures were handled with great seriousness. It goes on:

An insignificant error in inquest procedures can lead to serious resentment or injustice. How could one not be cautious? The officials adjudicating criminal cases are required to refer to the annotations contained in this book for details and grasp the essence so that they may put into practice His Majesty’s intention of operating the law with circumspection, show compassion for the people, and respect the dignity of life. (Wang 2013, 49)

Judging from this, it is apparent that inquest procedures or the drafting of inquest records were not subjects for literary sarcasm or jest.

It is worth noting that Dasan Jeong Yak-yong 茶山 丁若鏞 (1762–1836) also highlights the significance of autopsy and inquest procedures in his *Heumheum sinseo* 欽欽新書 (Toward a New Jurisprudence). In this work’s chapter 2, “Bisang juncho” 批詳雋抄 (Excellent Examples of Judicial Opinions and Case Reports), wherein various Chinese legal writings are introduced as case examples, the first entry is a general introduction to criminal investigation. Herein, the primary concern is with autopsy and inquest procedures, not only because murder cases are the most urgent among criminal cases, but also because “the truth of a murder case totally depends on autopsy and inquest procedures” (Y. Jeong 1999, 1:133). Therefore, in this view, a genre intended for entertainment (fiction) seems incompatible with inquest records, wherein there is no room for vulgarity or sarcasm.

However, we should note that Dasan never entirely dismissed the genre

of fiction. On the contrary, he was sufficiently tolerant of the genre to have referenced Chinese *Gongan* in the aforementioned chapter 2 (Y. Jeong 1999, 1:230–285).²⁴ Herein, *Gongan* fiction is referred to as “precise and skilled” in stylistic aspects (Y. Jeong 1999, 1:230), and at the very least, is deemed useful for learning different forms of legal writing (Y. Jeong 1999, 1:256).

Indeed, in considering the way that actual events were reconstructed in narrative form, the drafting of legal documents (such as petitions) was not entirely incompatible with writing fiction. Legal writings did not simply relate the truth of an event, but rather *packaged* events through the use of complicated narrative tactics. According to Yasuhiko Karasawa, this packaging includes “specific patterns of plot development, legal terminology, and the inevitable legalistic clichés that appear constantly in written complaints” (Karasawa 2007, 66). We may apply this analysis of Qing legal complaints to written petitions produced in Joseon litigation culture as well. In this way, it seems that petitioners became storytellers who presented their stories in a convincing manner to persuade their audiences—that is, for the most part, their judges.

Further, Robert E. Hegel points out the prevalence of an effective rhetorical tool—namely, “skillfully used rhetorical questions”—in the writing of crime reports in late imperial China. These unanswerable rhetorical questions were similar to those that appeared in fiction or other prose because they were drawn from the same rhetorical pool (Hegel 2007, 81). Accordingly, we may assume that both Chinese and Korean legal writers clearly understood the affinities between legal writing and fiction writing (as well as their stylistic differences), thereby feeling free to utilize fiction for legal education.

Without a doubt, the *Wasa ogan* can be viewed as a literary product that reflects the broad context of a contemporary Korean legal culture featuring the convergence of law and literature. Of course, we should take into account differences between inquest records and other forms of legal writing such as

24. Nineteen court-case stories introduced in the *Heumheum sinseo* are originally contained in the *Liánmíng gōng'àn* 廉明公案 authored by Yú xiàngdòu 余象斗 and published in 1598. For more details, see S. Park (2010, 229–250).

petitions. According to Korean legal culture at the time, only inquest officials were allowed to draft the former. Moreover, autopsy reporting requires factual accuracy by strict elimination of oversight or fabrication in writing. No exception to this standard is made in the *Wasa ogan*, wherein the autopsy scene exactly conforms to the *Muwollok*. Perhaps for this reason, the *Wasa ogan* remains the only surviving text adopting the form of an inquest record among fabulous court-case stories in Korean literary history. As distinct from the *Muwollok*, whose sole function was to instruct the reader on the inquest procedure, what are the text's other intended uses?

Above all, despite its explicit playfulness, it is certain that the text is not intended for moral skepticism or any criticism of legal mechanisms or the Joseon legal system itself. This is particularly apparent in the idealistic representation of the literary judge (the chief commander of Toad Port), who faithfully performs the role of an inquest official. Unlike in many court-case stories (the main focus of which lies in leveling criticism against a perceived dysfunctional legal system), in the *Wasa ogan*, the justice system is depicted as in ideal accordance with the law, with no interventions by highhanded judges or corrupt underlings to undermine or pervert the entire system. Justice prevails again in the village, by and large, due to both the upright judge and the cooperative villagers, who have together successfully eliminated the evildoer Snake simply by abiding by the law and procedural rules. Thus, in an ideological and moralistic aspect, the text might be appreciated as an allegorical primer for general audiences as well as legal experts-to-be, without any slight possibility for moral ambiguity or ideological confusion.

Most remarkably, the judge is distinct from any other literary judges in court-case fiction, such as the famous Judge Bao in Judge Bao stories (*Pogongan* 包公案). Here the judges more often than not appear as superheroes representing the spectacle of judicial power. Literary exaggerations, unrestrained emotionalism, and narrative devices for literary fantasy are frequently used in court-case fiction in an attempt for the dramatic (rather than realistic) depiction of the extreme confrontation of good versus evil or right versus wrong. For instance, one of the most popular narrative themes in court-case fiction is that of the cosmic retribution of justice as represented

by the supernatural power exercised by a clairvoyant judge. Between inexorable enmity towards the evildoer and overflowing compassion for the innocent victim, the judge in much court-case fiction often displays a schizophrenic persona. In this context, the use of torture to extract a confession from the evildoer is always justifiable in the name of justice.

On the contrary, with well-restrained emotions, the inquest official in the *Wasa ogan* is the embodiment of judicial rationality, a quality rarely represented in other court-case stories. What makes the flagrant evildoer finally surrender in the *Wasa ogan* is not the coercive use of judicial power, but the exercise of judicial rationality that relies solely on forensic evidence, testimony, and legal reasoning. Through the interrogation process, in which the inquest official painstakingly evaluates all the competing narratives of the involved characters until all logical contradictions have been resolved, the inquest official reconstructs the single coherent story of the crime from an objective and impartial point of view. As previously noted, according to Cho Hyeong-lae, this “judicial neutrality,” free from personal bias and favor, is also found in the narrator of the modern realist novel: “The inquest official who recorded the testimonies of the involved individuals from a neutral point of view resembles the narrator of the modern novel, in which an event (or an object) is objectified by keeping a distance from it. Even if it is nothing but a coincidence, it seems remarkable that the inquest official reflects the narrator of the modern realist novel, who supposes impartial neutrality as a precondition for objective perception” (H. Cho 2004, 48).

In terms of judicial neutrality, one might see that the inquest official also reflects “the judicious spectator,” initially conceptualized by Adam Smith (1723–1790) in his *The Theory of Moral Sentiments*. According to Martha C. Nussbaum, “She [the literary judge] should not be swayed by any personal connection or any partisan goal. Her emotions should be those of the judicious spectator, not personal emotions bearing on her own profit or loss in the case at hand, or any other personal taste or goal that is grounded in her own situation rather than the situation of which she is the spectator” (Nussbaum 1997, 90). Of course, it would be farfetched to consider the inquest official in the *Wasa ogan* as a symbol of modern realism or modern rationalism. However, we may at least assume that it indicates a trend in

19th-century Korean legal culture, a shift from Confucian moralism to rational and practical thinking.

In this way, the *Wasa ogan* is a prominent example of the convergence of law and literature, more specifically, how to read law as literature. It reaffirms the fact that fiction need not be incompatible with legal literature, indeed, it may even be more helpful than legal manuals when it comes to teaching the art of legal writing. Had Dasan encountered the *Wasa ogan*, would he not have appreciated it as “precise and skilled,” just as he lauded Chinese *gongan* fiction?

Conclusion

The genre of fabulous court-case fiction is remarkable in Korean literary history insofar as it was developed in association with the longstanding indigenous fable tradition. The genre of fable, both oral and written, was widely popular among Korean audiences, including both educated elites and the common people. It is also worth noting that the genre of fabulous court-case fiction would not have emerged outside of the context of legal culture and the widespread popular interest in law and justice. Accordingly, fabulous court-case stories emerged in the legal culture of the late Joseon, in which litigation was a common practice.

Among fabulous court-case stories, the *Wasa ogan* is truly unique in being the only court-case story composed in the form of an inquest record. In this respect, this rare text warrants our attention. Furthermore, it is inventive in its illustration not only of how reading law as literature is possible, but also of the significance of the convergence of law and literature. Indeed, the *Wasa ogan* is sufficiently accurate and technical to have been read as a text for legal education, particularly, for legal specialists such as judicial officials and legal clerks. Its value as a learning resource is not just in its adoption of the form and style of an inquest record, but more importantly its clear demonstration of how to make morally convincing arguments and establish legal authority by discerning the good narrative in a contest of conflicting narratives. Unlike many fabulous court-case stories that reflect

a deep skepticism about, or even make a mockery of, legal authority, what distinguishes the *Wasa ogan* is its representation of an idealistic vision of law and justice—that is, the affirmation of legal truth. Indeed, for all the humor and laughter generated by the text, we should note that legal order is firmly established in the narrative order of the *Wasa ogan*.

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