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CASE NOTE

“INALIENABLE” ARCHIVES: KOREAN ROYAL ARCHIVES AS FRENCH PROPERTY UNDER INTERNATIONAL LAW

Douglas Cox*

Abstract: In June 2011, France returned to South Korea nearly 300 volumes of Korean royal archives from the Joseon Dynasty. French forces had seized them in an 1866 military campaign, and the volumes had resided in the Bibliothèque nationale de France (BnF) ever since. The return is not a legally permanent restitution, but rather a five-year renewable loan. The compromise followed years of unsuccessful negotiations and a noteworthy decision of a French administrative tribunal that found that the seized Korean archives constituted inalienable French property. The legal debate over the Korean manuscripts illustrates the unique complexities of treating archives as a form of cultural property in armed conflict. In the end, the imperfect compromise satisfies neither side: The BnF is deprived of custody of items that have formed part of its collections for more than 140 years while technically, and perhaps uselessly, retaining formal legal title; South Korea, meanwhile, has physical custody of the archives while suffering the indignity of being denied ownership over its own national heritage.

INTRODUCTION

In June 2011, South Korea celebrated the return of nearly 300 volumes of Korean royal archives from the Joseon Dynasty that French forces had seized in a military campaign in 1866 and that had resided in the Bibliothèque nationale de France (BnF) ever since. The return of the manuscripts is not legally a permanent restitution, however, but rather a five-year renewable loan recently negotiated by France and South Korea.¹ The loan agreement followed years of unsuccessful negotiations and a December 2009 decision of a Paris administrative tribunal that re-

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jected an attempt by a Korean cultural organization to compel the return of the archives, which the tribunal determined were part of the “public domain” of France and therefore constituted inalienable French property.²

The controversy over the Korean manuscripts represents a unique clash centering on the “inalienability” of archives in war. On the one hand, the international archival community asserts the concept of “archival inalienability.” This principle posits that state archives, even those seized during armed conflict, remain inalienable state property subject to unqualified restitution and that the transfer of ownership of such archives can only occur through voluntary legislation by the state that created them.³ The Paris administrative tribunal, on the other hand, turned this concept around by holding that the seized Korean manuscripts had in fact converted into inalienable property—and indeed “national treasures”—of France and that their permanent restitution to Korea would have required their legal declassification as French property.

This article briefly describes the colorful and troubled history of the controversy over the seized Korean manuscripts and expands on the international legal issues raised by the 2009 French tribunal decision and the policy implications of the subsequent loan agreement. The end result is a lukewarm compromise that satisfies neither side of the debate over the return of the archives. The BnF is deprived of custody of items that have formed part of its collections for more than 140 years while technically, and perhaps uselessly, retaining formal legal title; South Korea, meanwhile, now has physical custody of the archives, while suffering the indignity of being denied the right of ownership over its own national heritage.

THE KOREAN *UIGWE* AND THE 1866 FRENCH CAMPAIGN

The Korean manuscripts at the center of the controversy are 297 volumes of royal protocols of the Joseon Dynasty (1392–1910) known as *Uigwe*. The manuscripts constituted official records of a government committee called a *Dogam*, which planned special state events and rituals for Joseon royalty. *Uigwe* documented royal weddings, birthdays, funerals, and palace constructions using text and colorful illustrations (Figures 1, 2). Such documentation complied with “rules and regulations for the management of state rites according to the Neo-Confucian principles of government.”⁴ Generally, five to nine copies of each manuscript were made, including one “royal viewing copy” constructed of the finest materials as well as additional copies for each of four historical archives. These archival repositories were located in remote areas precisely to protect them in the event of military attack.⁵

In 2007, more than 3000 *Uigwe* volumes were inscribed in UNESCO’s *Memory of the World* register. The nomination form noted that “*Uigwe* is a comprehensive and systematic collection of writings and paintings that provides a detailed account of the important ceremonies and rites of the Joseon Dynasty” and that “[i]ts

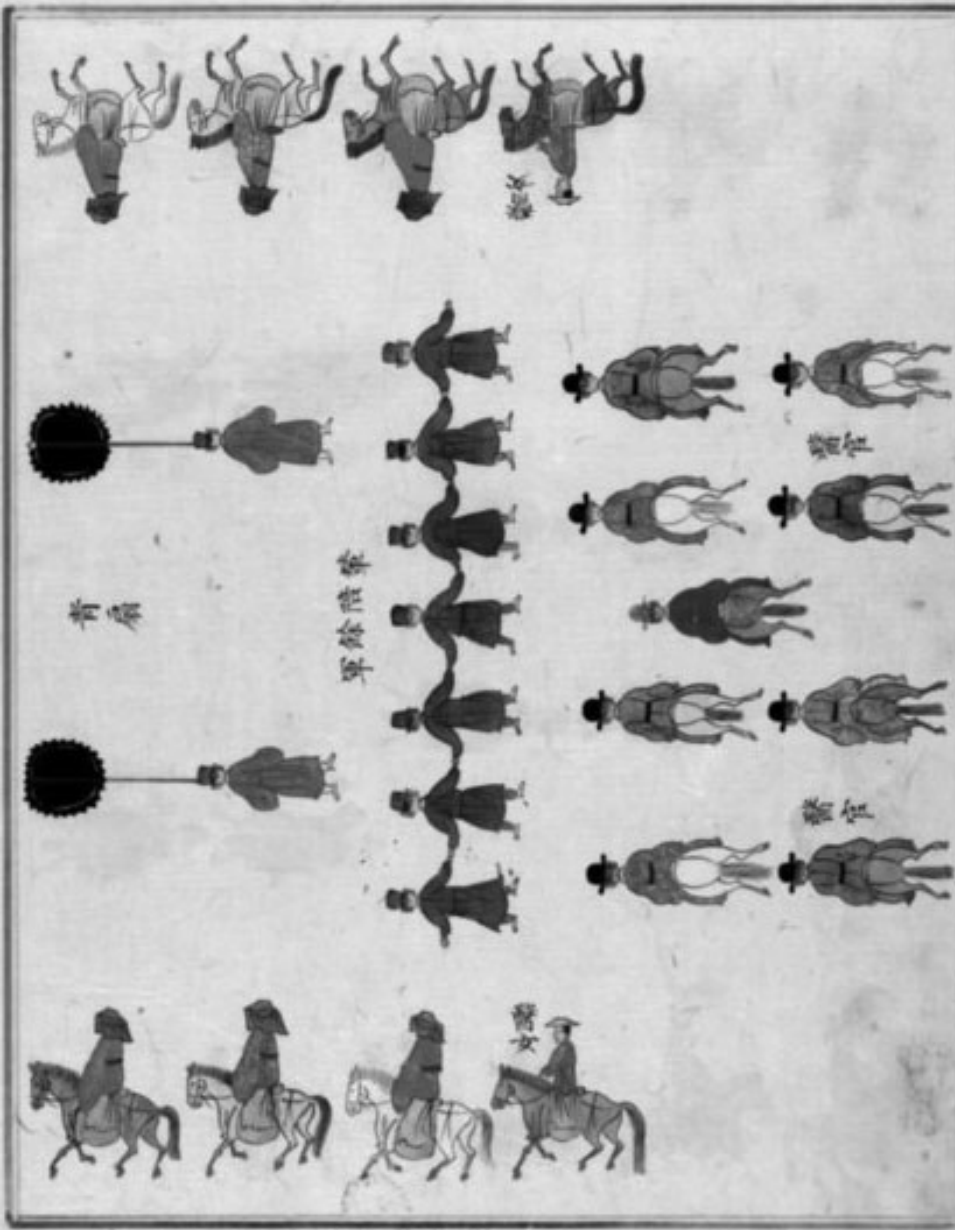


FIGURE 1. Coréen 2535, Bibliothèque nationale de France.

particular style of documentary heritage cannot be found anywhere else in the world.” While the nomination applied only to *Uigwe* manuscripts in South Korean custody, the nomination form also noted the existence of the additional 297 volumes “taken from Oegyujanggak (the Ganghwa-do branch of the Royal library Kyujanggak of Joseon) during the invasion of Ganghwa-do by a French fleet in 1866.”⁶

康熙三十三年^{甲戌}五月 日復勳都監儀軌
 五月二十九日
 上曰庚申獄事逆節不翅昭著陰謀秘計作為盟文出於三人之
 口入於三人之耳云者發於鄭元老之招辭則其間情迹極
 其巧密矣逮至己巳為權奸所欺誣終至翻案予嘗悔恨矣
 吳始壽退奪之後所當繼有處分而在外大臣未及齊會且
 鞫事方張尚此未遑到今不宜一向遲延令該府斯速 稟
 處事分付可也
 閏五月初二日義禁府
 啓曰命下矣庚申逆獄之明白情節昭在文案雖其黨與之敢
 欲營護者固難容辭於其間而逮至十年之久羣奸秉權欺
 誣

FIGURE 2. Coréen 2427, Bibliothèque nationale de France.

The 1866 French military campaign arose following the killing of several French Catholic priests who were doing missionary work in Korea. Although the exact motive behind the killings is uncertain, they occurred early in the reign of Korea's King Kojong, who was 11 years old when he assumed the throne. The episode began when Korean authorities seized and executed the Bishop of Korea, Simon Berneux, in February 1866. Following this a “dragnet was then cast for the eleven remaining French priests proselytizing in the country.” Three of the priests survived and one, having escaped to China, notified French officials.⁷

The French retaliation on behalf of Emperor Napoleon III was led by French Rear Admiral Gustav Roze, the commander of the Far Eastern Squadron. Understanding that he did not have the resources or firepower for a more significant invasion, Admiral Roze sought to “strike fear into the Korean court” by seizing Ganghwa Island in October 1866. Although there was initially little resistance, several skirmishes occurred as Korean forces sought, with significant success, to repel the French forces. On 12 November 1866, following a reversal, Admiral Roze ordered the withdrawal from Ganghwa and “the destruction of that city.” The results of the unsuccessful campaign were “a slight blow to Korean defenses,” a “serious blow to French prestige” and “a modicum of booty,” which included the 297 *Uigwe* manuscripts.⁸

A BIBLIOGRAPHER'S DISCOVERY AND A FIRST RETURN

On their return to France, the seized *Uigwe* became part of the BnF collections as early as 1867.⁹ Thereafter the archives sat largely unnoticed and mistakenly classified as Chinese manuscripts until 1975, when a Korean bibliographer, Park Byeong-seon, identified them as Korean *Uigwe*. Subsequent calls by South Korea for the return of the manuscripts led to a series of unsuccessful negotiations and other disagreements.

In 1993 French President François Mitterrand quite controversially returned one of the 297 volumes to then South Korean President Kim Young Sam as a goodwill gesture. The return was contemporaneous with France competing, ultimately successfully, for a large contract for high-speed rail in South Korea. Initially, the BnF reportedly refused to surrender the manuscript on the basis that it constituted inalienable French property; and therefore returning it, absent appropriate legislation, would be illegal. The BnF was reportedly assured, however, that President Mitterrand intended only to show the manuscript to the South Korean president. Two French curators accompanied the *Uigwe*, which was held in a locked box, to South Korea. When the curators learned, however, just prior to the presentation ceremony, that President Mitterrand in fact intended to return the manuscript, they refused to hand it over. This required an urgent call from the French foreign minister to the French cultural minister urging him to order the curators to release the manuscript. On the basis of the cultural minister's order, the curators

handed over the locked box containing the manuscript, but kept the key, which forced Mitterrand's aides to break open the box for the presentation ceremony to go ahead.¹⁰

The curators later resigned in protest stating that they were "forced to carry out an act contrary to French interests, to the law and to the ethics of our profession." The French cultural minister responded there was no law broken and "the manuscript was part of a 'long-term loan' agreement still to be worked out."¹¹ Years later the BnF noted that the "legal conditions" for the returned volume were "not interpreted the same way by both parties (long-term loan according to France . . . restitution according to Korea)."¹² Additional unsuccessful negotiations regarding the remaining 296 manuscripts followed.

THE 2009 FRENCH TRIBUNAL DECISION

In 2007 a Korean cultural organization called Cultural Action sought the return of the remaining *Uigwe* by other means. Acknowledging that France treated the Korean archives as inalienable French property, Cultural Action initially petitioned the French cultural minister to undertake efforts to have the archives declassified as French property. The request was refused. In early 2008, therefore, Cultural Action filed an action in the French administrative tribunal in Paris seeking an order to "acknowledge, principally, that the royal archives are not part of the property of the public domain of the French government" or, in the alternative, to set aside the cultural minister's earlier refusal and "direct the regulatory authorities to submit a bill before Parliament for purposes of declassification from the French public domain of the Korean Royal Archives of the Joseon dynasty."¹³

Cultural Action asserted a variety of different legal authorities to support their claim for restitution, several of which the tribunal summarily rejected. It cited Korean laws that protected the "assets of the Joseon dynasty," which the tribunal held were "irrelevant" to the French proceedings. Cultural Action also invoked the 1954 Hague *Convention on the Protection of Cultural Property in the Event of Armed Conflict*, the 1970 UNESCO *Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property*, and the 1995 UNIDROIT *Convention on Stolen or Illegally Exported Cultural Objects* as support for restitution. However, the tribunal rejected the applicability of the 1954 Hague Convention and the 1970 UNESCO Convention on the grounds that neither was retroactive and rejected the 1995 UNIDROIT Convention on the basis that France was not a party.

Cultural Action's central argument, however, which relied on both French law and an assertion of customary international law, was that "the lack of a connection between the Korean royal archives and France prevents them from qualifying as 'public property'" and that the archives therefore had "not been duly incorporated into the public domain" or "validly incorporated into French heritage."¹⁴

In addressing this argument, the tribunal first focused on French law. Property constituting part of the "public domain," the tribunal noted, includes moveable "property of public interest in terms of history, art, archeology, science."¹⁵ Moreover, any property that validly forms part of the public domain will remain so until it is "no longer specified for public service or direct use by the public" and there is an effective "administrative act establishing its declassification."¹⁶ The tribunal stated, therefore, that whether the Korean *Uigwe* constituted part of the French public domain pursuant to French law depended upon whether they were "dedicated either to public use or to public service" and upon the more basic issue of ownership. The tribunal quickly disposed of the former question by stating it was that "not disputed" that the documents within the BnF "have been, from the beginning, and continue to be dedicated to public use."

As to the ownership of the archives, the tribunal applied French law in a clever, but arguably unsatisfying, fashion by working backward. Clearly, the BnF collections are collectively part of the public domain, the tribunal first asserted. The Korean archives are "a component and essential part" of those collections. Therefore, the tribunal concluded, the archives "necessarily belong to this same domain." The tribunal thus evaded the central issue of the legality of the initial seizure by stating that the original "conditions for incorporation" of the archives into the BnF collections "are, in this case, irrelevant." That is, regardless of the circumstances of their initial seizure, that the Korean archives have become part of the public domain can be "inferred from the authority" of the BnF, that "has held them for 140 years and from their accessibility to the public."¹⁷

The tribunal also arrived at the same conclusion by consulting the French decree establishing the BnF, which states that its mission is to collect "in the name of and for the account of the Government" both "French and foreign collections of printed materials, manuscripts" and to "[e]nsure access by as many people as possible to the collections." As just such a "foreign collection," the Korean archives "remain the inalienable property of the government." Indeed, the tribunal even concluded that the Korean archives, as part of the BnF collections, also constituted "national treasures" of France pursuant to the French Heritage Code.¹⁸

The plaintiff Cultural Action, however, also asserted principles of customary international law, arguing that France's custody of the royal archives derived "from looting that took place in 1866, in disregard of the customary international rules then in effect." As evidence of such international customs, Cultural Action cited historical peace treaties that included "clauses for restitution of documents . . . looted during times of war."¹⁹ Three specific treaties in particular were cited: the Treaty of Paris in 1814, the Treaty of Vienna in 1864, and the 1866 treaty between Prussia and the Grand Duchy of Hesse. After citing Cultural Action's use of such evidence to demonstrate "the emergence of this question in the 19th century," the tribunal nevertheless concluded "in any event" that "the documents in the file do not establish that an international custom, a general practice accepted as law, prevailed

then.”²⁰ It is this last point, especially as applied to the Korean *Uigwe*, that makes the tribunal’s decision particularly noteworthy.

INTERNATIONAL LAW OF ARCHIVES IN WAR AT 1866

The status of international law as of 1866 implicates a familiar debate about the nineteenth-century development of legal protections for cultural property in war. The central question is to what extent the older law of plunder, under which “belligerents could appropriate all public and private enemy property which they found on enemy territory,” controlled.²¹ Or whether developments such as the 1813 *Marquis de Somerueles* decision exempting works of art on a captured ship from confiscation as prize and the return of works of art seized by Napoleon following his defeat in 1815 “signaled the emergence of a new norm in international relations, reversing the traditional right to plunder.”²² For the Korean *Uigwe*, this debate has added complexity as international law has often treated archives separately, and sometimes differently, than other forms of cultural property.

Napoleon’s military captures of cultural property, for example, also included “an extraordinary archival project” designed to consolidate seized archives from the Vatican, Austria, and Spain into an extensive archival repository in Paris.²³ The preliminary 1814 Treaty of Paris, on which Cultural Action relied in asserting the existence of an international custom, expressly addressed the fate of the seized archives while remaining silent on the issue of seized art and other cultural property. Article 31 provided that “[a]ll archives . . . belonging to the ceded countries . . . shall be faithfully given up at the same time with the said countries” and clarified that this “stipulation applies to the archives . . . which may have been carried away from the countries during their temporary occupation by the different armies.”²⁴

In fact, a long line of historical peace treaties had already established a practice in which records and archives relevant to an annexed territory were generally to be transferred to the sovereign that controlled that territory. The guiding principle was that “records follow the flag.”²⁵ As United Nations (UN) Rapporteur Mohammed Bedjaoui described, “All, or almost all, annexation treaties in Europe since the Middle Ages have required the conquered to restore the archives belonging to or concerning the ceded territory.”²⁶ The practice was so ingrained that such a result was arguably compelled even in the absence of a formal treaty, which might provide stronger evidence of the existence of a binding custom.²⁷

Resolutions of the International Council on Archives (ICA) relying in part on such historical practices have adopted as articles of faith the “inalienability and imprescriptibility” of public archives as state property even during armed conflict. In the view of the ICA, the practice of returning archives “captured or displaced during hostilities” once peace was concluded was a practice “implicitly respected” from the 1648 Treaty of Westphalia forward, and therefore long before 1866. Ac-

ording to the ICA, the transfer of ownership of state archives can only occur “through a legislative act of the State which created them.”²⁸

France in particular has previously both acknowledged, and expressly relied upon, the concept of “archival inalienability” as an accepted international practice in other contexts. In 1992, for example, when France and Russia entered an agreement for the return of *French* archives captured in World War II that ended up in Moscow, the parties agreed that in accordance with “international practice, the Sides recognize the inalienable nature of public archives and shall return such of these as, being in the possession of one of the Sides, ought to belong to the other.”²⁹

The use of historical peace negotiations to assert “archival inalienability” as a binding international custom, however, raises concerns given that such treaty provisions and practices may reflect the unequal bargaining positions of belligerents common during postconflict periods. As UN Rapporteur Bedjaoui cautioned, such peace negotiations “are generally based not so much on equitable decisions as on political solutions reflecting the power relationship of victor and vanquished.”³⁰ Indeed, Napoleon had sought to legitimize many of his art seizures through coerced armistice treaties designed to “cloak his acquisitions in legality.”³¹ Determining that some treaties are legitimate, for example, while others are not is an exercise fraught with uncertainty. Moreover, the ICA has acknowledged that some line must be drawn on the restitution of archives captured long ago in war. While noting, for example, that many records and archives seized prior to the twentieth century are still “missing from many archives,” representatives of the ICA nevertheless previously determined that “it was not realistically possible to reconstitute records that predated 1923”—which would obviously include the Korean *Uigwe*—and that such archives should perhaps now be considered “at rest.”³²

More broadly, the argument for special rules for archives during war and for their restitution in peace is, at the same time, both stronger and weaker than for other types of cultural property. On the one hand, archival records are even more closely tied to the nation that produced them. “Paintings and sculpture may appropriately serve as cultural ambassadors in museums throughout the world,” Patricia Kennedy Grimsted has argued, “but archives always deserve restitution to the countries where they belong as the official record.”³³ Indeed, just five years before the seizure of the Korean *Uigwe*, General Henry Wager Halleck’s 1861 treatise on international law asserted a robust status for archives in war that merits reprinting and that accurately presaged the lengthy 145-year controversy over the Korean royal archives:

There is one species of moveable property belonging to a belligerent State which is exempt, not only from plunder and destruction, but also from capture and conversion, viz., State papers, public archives, historical records . . . While the enemy is in possession of a town . . . he has the right to hold such papers and records . . . but if this conquest is recovered by the original owner during the war, or surrendered to him by the treaty of peace, they should be returned to the authorities from whom they were taken . . . Such documents adhere to the Government of the

place or territory to which they belong, and should always be transferred with it. None but a barbarous and uncivilized enemy would ever think of destroying or withholding them. The reasons of this rule are manifest. Their destruction would not operate to promote, in any respect, the object of the war, but, on the contrary, would produce an animosity and irritation which would extend *beyond* the war.³⁴

On the other hand, unlike other forms of cultural property, archives can also sometimes be of legitimate military or intelligence value, and their seizure, contrary to General Halleck's assertion, may in fact directly "promote" the "object of the war." As archivist Ernst Posner noted, "To the statesmen of the seventeenth and eighteenth centuries the archives of the enemy were the *arcanum arcanorum* that contained information on his secret policies, his resources, and his administrative techniques," and therefore "getting hold of them, especially the archives of the foreign office, was the urgent desire of the invader."³⁵ The potential value of enemy archives, therefore, both increased the likelihood and the legitimacy of their seizure in war, which complicated issues of restitution.

Moving closer to 1866, the same tension and uncertainty about the status of archives in war can be seen in Francis Lieber's 1863 instructions for the Union Army, the so-called "Lieber Code," generally considered the first codification of the laws of war expressly addressing cultural property.³⁶ While providing certain forms of protection to "libraries" and "scientific collections," terms that may encompass certain archives, the Lieber Code never explicitly mentioned that term.³⁷ At the same time, the code offered an expansive view of "military necessity" as allowing all "measures which are indispensable for securing the ends of the war" including destruction and seizure of enemy property. The Lieber Code also provided that "[a]ll captures and booty" lawfully seized pursuant to military necessity "belong, according to the modern law of war, primarily to the government of the captor."³⁸

Following the Lieber Code, and some eight years after the French seizure of the Korean *Uigwe*, the negotiations of the 1874 Brussels Declaration on the laws of war provided the first recorded and truly international debate on the status of archives seized during war and occupation.³⁹ This nonbinding declaration resulted from a conference of 15 nations, including France, organized by Russia.

In particular, article 8 of the declaration provided special protections for the property of "parishes (communes), or establishments devoted to religion, charity, education, arts and sciences" during military occupation. During the negotiations, Italian delegate Baron Blanc proposed adding "public archives" to the list of property protected by this provision. The Belgian delegate Mr. Faider responded that "it is not in the interest of any army to destroy the archives and records" of the enemy and that the addition was unnecessary because such protection "goes without saying." A Belgian military delegate, Colonel Mockel, clarified that if "one is mentioning archives, one should say 'civil records' because military records will never be treated with respect." Baron Blanc therefore modified his proposed amend-

ment to the text to provide for protection for “public archives and documents establishing the rights of citizens in civil matters.” General Voigts-Rhetz, a German delegate, however, objected to the amendment, stating that any list of protected material “will be automatically incomplete” and added that “the occupier always has the right to seize military plans that might serve the war aims, but it must provide a receipt.” The record of the 1874 negotiations noted that the “Conference shares this opinion” and that Baron Blanc concluded that it was sufficient that his proposal for adding “archives” would be reflected in the record of the negotiations together “with General Voigts-Rhetz’s explanations.”⁴⁰

In the end, the legal status of archives in war reflected in the 1874 debate and relevant, but ambiguous, provisions in the Brussels Declaration, which were later adopted almost verbatim in the 1899 and 1907 Hague Conventions, depended on the nature of the archives in question. “As regards archives,” *Oppenheim’s International Law* later summarized, “they are no doubt institutions for science, but a belligerent may nevertheless seize such State papers deposited therein as are of importance to him in connection with the war.”⁴¹

In short, the Paris administrative tribunal’s summary rejection of the existence of a prevailing international custom failed to account for the extent and complexity of the international legal developments and practices relevant to archives in war leading up to 1866. Examining the evidence more closely arguably could have provided the tribunal with sufficient authority for denying French ownership over the seized Korean *Uigwe* and supporting restitution. The available evidence, however, would not have unambiguously compelled such a result. For example, even if the tribunal had determined that the “right of plunder” had already been supplanted by 1866, given the nature of archives, a fact-intensive assessment of the circumstances of their capture and possible justifications of military necessity would have been required. Relevant questions might include, for example, whether the French forces seized the royal protocols thinking they potentially contained enemy information possibly useful for military operations or whether they were seized solely as artistic booty.

AN IMPERFECT COMPROMISE

Following the tribunal’s decision, diplomatic negotiations between France and South Korea finally reached an agreement. During the November 2010 G20 Summit held in South Korea, French President Nicholas Sarkozy announced that the two countries had at last agreed that France would return the documents pursuant to a five-year renewable loan agreement. President Sarkozy stated, “I know for Koreans, these documents are very much a part of Korean heritage” and that “the time has come to settle this.” A formal agreement was signed in February 2011 and the *Uigwe* were subsequently returned to Seoul in four separate shipments. They will be put on display at the National Museum of Korea.

Uneasiness over the loan agreement on both sides further illustrates the complexity of the legal, policy, and diplomatic calculations of resolving disputes over the fate of archives seized in war. Some argue that the loan inadequately recognizes Korea's right to its own national history. Others, including some staff members of the BnF, argue that the renewable loan is the effective equivalent of a permanent return that evades the legal inalienability of the BnF's public collections, a status designed to protect their availability to international researchers.

The compromise is also arguably an unsatisfactory result from the perspective of both cultural internationalism and nationalism. International access to cultural property of historical and artistic value is diminished by its removal from the BnF, which is left with the least useful consolation in the form of technical legal ownership. Moreover, the BnF has stressed the fact that other copies of most of the manuscripts are already available in other Korean collections. At the same time, the return of national cultural heritage to the custody of its nation of origin after so many years and efforts is accompanied by the indignity of a loan agreement and a denial of perhaps the most important acknowledgment, national ownership. An arguably more appropriate and satisfying result would have been the reverse: an acknowledgment of Korean ownership combined with a renewable loan to the BnF.

In theory, an additional unique characteristic of archives—namely, that a significant part of their value and usefulness to researchers is derived from their textual content—ought to diminish the severity of controversies over their custody. The BnF, for example, digitized all of the *Uigwe* prior to their return to South Korea and plans to make the digital files available to researchers everywhere as part of its *Gallica* online digital library. Historical controversies over captured archives have illustrated repeatedly, however, that copies are viewed as inadequate substitutes.

Regardless of the possible faults of the compromise, the June 2011 celebration of the return of the royal archives to South Korea illustrated the national importance of cultural property. The celebration included colorful processions, traditional dances, and ceremonies that would perhaps warrant documentation in their own *Uigwe*. In attendance was Park Byeong-seon, the bibliographer who had located them within the BnF in 1975, who said that Korea now had an “enormous” task “in order to make sure that the royal books never go back to France and remain here forever.”⁴² The final chapter in the controversy over the fate of these archives may perhaps remain to be written.

ENDNOTES

1. Bibliothèque nationale de France, *BnF's Korean manuscripts*.
2. Tribunal Administratif de Paris, Association for Cultural Action, No. 0701946, 18 December 2009. The author thanks Stéphane Cottin for his assistance in obtaining this decision.
3. International Council on Archives, “The View of the Archival Community.”
4. Song-Mi, “*Uigwe* and the Documentation,” 113.

5. Song-Mi, “*Euigwe* and the Documentation,” 113.
6. UNESCO, *Uigwe: The Royal Protocols*, 1.
7. Kane, “Bellonet and Roze,” 3.
8. Kane, “Bellonet and Roze,” 17.
9. Bibliothèque nationale de France, *BnF’s Korean manuscripts*.
10. Riding, Alan. “Return of Booty Protested in France,” *New York Times*, 29 September 1993, C13, C16.
11. Riding, “Return of Booty Protested in France,” C16.
12. Bibliothèque nationale de France, *Korean Manuscripts Housed at the BnF*.
13. Tribunal Administratif de Paris, Association for Cultural Action, No. 0701946, 18 December 2009. All quotations from the decision were translated by Nicole Efos.
14. Tribunal Administratif de Paris.
15. CPPP Art. L. 2112-1.
16. CPPP Art. L. 2141-1.
17. Tribunal Administratif de Paris.
18. Tribunal Administratif de Paris.
19. Tribunal Administratif de Paris.
20. Tribunal Administratif de Paris.
21. Oppenheim, *International Law*, § 133.
22. Sandholtz, “Plunder, Restitution, and International Law,” 152. The *Marquis* decision was reprinted in this journal in Merryman, “The Marquis de Somerueles.”
23. Kecskemeti, “Displaced European Archives,” 134.
24. Despite the unequivocal nature of this treaty obligation, France resisted returning some of the documents from the Simancas archives in Spain that were of French historical interest until 1941. See Kecskemeti, “Displaced European Archives,” 134.
25. Posner, “Effects of Changes,” 142.
26. Bedjaoui, “Eleventh Report on Succession,” 75.
27. De Visscher, *International Protection of Works of Art and Historic Monuments*, 828–29. Bedjaoui, “Eleventh Report on Succession,” 104.
28. International Council on Archives, “The View of the Archival Community on the Settling of Disputed Claims,” § 4(a).
29. Grimsted, “Why Do Captured Archives Go Home?” 297.
30. Bedjaoui, “Eleventh Report on Succession,” 100.
31. Marchisotto, “The Protection of Art,” 692.
32. Peterson, “Macro Archives, Micro States,” 48. Peterson, a former acting Archivist of the United States was describing discussions at the ICA’s 1994 International Conference of the Round Table on Archives, which resulted in a final resolution urging the ICA “to lend its support to bilateral and multilateral professional efforts aimed at ending disputed claims inherited from the period 1923–1989.” International Council on Archives, “Resolutions.”
33. Grimsted, *Trophies of War*, 493–94.
34. Halleck, *International Law*, 453.
35. Posner, “Public Records Under Military Occupation,” 217.
36. Instructions for the Government of Armies of the United States, 1863.
37. Lieber *Instructions*, art. 35.
38. Lieber *Instructions*, art. 45.
39. Declaration of Brussels Concerning the Laws and Customs of War Adopted by the Conference of Brussels, 27 August 1874.
40. *Actes de la Conférence de Bruxelles*, 243–44. Quotations were translated by Nicole Efos; see also Franklin, “Municipal Property Under Belligerent Occupation,” 390.
41. Oppenheim, *International Law*, § 138. In fact despite the subsequent 1954 Hague Convention, which expressly encompassed “archives,” the current standards for the protection of archives differs little from the discussions in Brussels in 1874. The U.K. Ministry of Defence’s current *Manual of the Law of Armed Conflict*, for example, echoing Oppenheim, summarizes the basic standard for archives

in war: "Official documents and papers connected with the armed conflict may be seized, even if they are part of official archives, because they will be of military significance. However, other types of archival documents, as well as crown jewels, pictures, and art collections may not be seized," § 11.89.1.

42. Ah-young, Chung. "Celebratory Events Honor Return of Royal Books," *Korea Times*, 12 June 2011.

BIBLIOGRAPHY

Actes de la Conference de Bruxelles. Bruxelles: F. Hayez, 1874.

Bedjaoui, Mohammed. "Eleventh Report on Succession of States in Respect of Matters Other than Treaties—Draft Articles on Succession in Respect of State Archives." *Yearbook of International Law Commission* 2 (1979): 67–124.

Bibliothèque nationale de France. *BnF's Korean manuscripts are lent to the National Museum of Korea (Seoul)* (http://www.bnf.fr/en/bnf/anx_bnf_en/a.korean_manuscripts_seoul.html) (11 May 2011) accessed June 30, 2011.

———. *Korean Manuscripts Housed at the BnF* http://www.bnf.fr/en/professionals/dri_partnerships/s.asia_partnerships.html?first_Art=non (10 February 2011) accessed June 30, 2011.

De Visscher, Charles. *International Protection of Works of Art and Historic Monuments* [International Information and Cultural Series 8. Washington: U.S. Department of State, 1949. (Reprinted from Documents and State Papers of June 1949)].

Franklin, William M. "Municipal Property under Belligerent Occupation." *American Journal of International Law* 38 (1944): 383–396.

Grimsted, Patricia K. *Trophies of War and Empire*. Cambridge: Harvard University Press, 2001.

———. "Why Do Captured Archives Go Home? Restitution Achievements under the Russian Law." *International Journal of Cultural Property* 17 (2010): 297.

Halleck, Henry W. *International Law*. New York: D. Van Nostrand, 1861.

International Council on Archives. "Resolutions." Adopted at the 30th International Conference on the Round Table on Archives, Thessaloniki, 1994.

———. "The View of the Archival Community on the Settling of Disputed Claims." Position Paper Adopted by the Executive Committee of the International Council on Archives, Guangzhou, China, 10–13 April 1995.

Kane, Daniel C. "Bellonet and Roze: Overzealous Servants of Empire and the 1866 French Attack on Korea." *Korean Studies* 23 (1999): 1–23.

Kecskemeti, Charles. "Displaced European Archives: Is It Time for a Post-War Settlement?" *American Archivist* 55 (1992): 132–40.

Lieber, Francis. *Instructions for the Government of Armies of the United States in the Field*. Washington: U.S. Government Printing Office, 1898.

Marchisotto, Alan. "The Protections of Art in Transnational Law." *Vanderbilt Journal of Transnational Law* 7 (1974): 689–724.

Merryman, John H. “The Marquis de Somerueles.” *International Journal of Cultural Property* 5 (1996): 319–329.

Oppenheim, Lassa. *International Law: A Treatise: Disputes, War and Neutrality*. 7th ed., edited by H. Lauterpacht, vol. 2. London: Longmans Green & Co. 1952.

Peterson, Trudy Huskamp. “Macro Archives, Micro States.” *Archivaria* 50 (2000): 41–51.

Posner, Ernst. “Effects of Changes of Sovereignty on Archives.” *American Archivist* 5 (1942): 141–55.

———. “Public Records Under Military Occupation.” *American Historical Review* 49 (1944): 213–27.

Sandholtz, Wayne. “Plunder, Restitution, and International Law.” *International Journal of Cultural Property* 17 (2010): 147–76.

Song-Mi, Yi. “*Euigwe* and the Documentation of Joseon Court Ritual Life.” *Archives of Asian Art* 58 (2008): 113–33.

UK Ministry of Defence. *The Manual of the Law of Armed Conflict*. Oxford: Oxford University Press, 2004.

UNESCO. *Uigwe: The Royal Protocols of the Joseon Dynasty*. <<http://www.unesco.org/new/en/communication-and-information/flagship-project-activities/memory-of-the-world/register/full-list-of-registered-heritage/registered-heritage-page-9/uigwe-the-royal-protocols-of-the-joseon-dynasty/#c191886>> (2007) accessed June 30, 2011.

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