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**The Adoption Dilemma in Traditional Korea**

by Mark Peterson

In the Confucian classic Mencius, it states:

There are three ways that a man can be unfilial to his parents and ancestors. The most serious of these is not having an heir.

In Korea it is axiomatic that a man must have a son. The origin of the concept is assumed to be ancient, and the validity of it is not even challenged. But when did Koreans come to believe it? In this paper, the development of the ideology of son preference will be traced through an examination of the practice of adoption, the alternative that came to be the most common way of dealing with the problem of not having a son.

The idea that a man must have a son is a concept that is inextricably linked with Confucianism. It is Confucianism that states that a person must carry out ceremonies in honor of the ancestors. It is Confucianism that insists that those who perform the ceremonies must be males.

Confucianism, however, developed in China. When did Confucian concepts enter Korea, and when did they come to permeate the Korean social order? It is said that the Koreans “out-Chinese the Chinese” If Confucius himself were to come back to earth at any time in the history of the world and at any place, he probably would have been most pleased with the society of the late Yi dynasty. No other society at any other time was more thoroughly Confucian than the Korea of the eighteenth and nineteenth centuries. By examining the dilemma of those who did not have sons born into the family, and by examining the history of the practice of adoption, one can observe the assimilation of Confucianism in Yi dynasty Korea (1392-1910).

The term “adoption” must first be defined. In its connotation, the Korean term differs from the English term in two ways- In English the word implies a child-centered phenomenon. The primary consideration is the child, not the parents. If childless Westerners wish to adopt, they will often adopt more than one child. The need they feel is not necessarily fulfilled by adopting only one child. Also, the adopted child is usually an [page 60] orphan. Whether it has been abandoned or given up for adoption at birth, the child can be said not to have parents.

In Korea the connotation of the term is exactly the opposite. The motivation is parent-centered. It is for the sake of the parents, and the ancestors, that a child is adopted. The child must be male, and only one need be adopted. One male child fulfills the need of a sonless man. In fact, historically it was illegal for one foster father to adopt more than a single child. In Korea, the child is usually not only not an orphan, but his biological father is related to the adoptive father. In ideal circumstances, the adoptive father and the biological father are brothers or close cousins. With this explanation of the Korean definition of the term “adoption” in mind, let us examine the alternatives that were open to a sonless man during the Yi dynasty.

A man without a son had four alternatives. He could do nothing about it, he could divorce his wife and remarry a (hopefully) fertile woman, he could take a concubine or secondary wife to bear a son for him, or he could adopt. The first alternative was most common at the beginning of the Yi dynasty, and the fourth alternative was most common during the latter part of the dynasty.

Although a few cases of adoption were recorded early in the Yi dynasty, the most common reaction to the situation of being without a son was to do nothing. Even prominent men did not adopt or take an extra wife to produce a son. Evidence for this can be seen in lineage genealogies and inheritance documents. In the early Yi dynasty portions of most published genealogies many lines of descent suddenly end. Where a descendant son’s name should be entered, there is simply the comment, “there was no heir.” In the later portions of the genealogy, however, there are numerous entries that indicate adoption. Inheritance documents of the early dynasty reveal an interesting custom: property was divided equally between sons and daughters. Where there were only daughters, they received the property and were charged with the responsibility of carrying out ancestor ceremonies. If a man had a daughter, apparently he felt no need to adopt a son.

The second option for the sonless man, divorcing his barren wife, was a legal alternative, but it was seldom practiced In Confucian dogma there are seven bases for divorce: at the top of the list is the “offense” of not bearing a son. The other offenses are disobeying the father-in-law or mother-in-law, jealousy, chronic illness, adultery, thievery, and talkativeness. These were more than mere aphorisms. There are cases of divorce listed in the Yi Dynasty Annals based on each of these offenses. [page 61] On the other hand, there were three saving provisions, any one of which would guarantee the wife’s position in the home. If she had gone through the three years of mourning for one of her parents-in-law, or if she had married her husband when he was poor and he had since become wealthy, or if she had borne him a son, he could not divorce her.

Cases of divorce, however, were not common for whatever reason. Marriage and divorce were serious matters in traditional Korea and the problem of not having a son was not easily solved by the alternative of divorce and remarriage. Improperly sending a wife away was a crime. There are cases in the Annals where men were given as many as eighty lashes, and the wife reinstated in the home, when a divorce was attempted on improper grounds.

The third alternative was to take an additional wife. During the Koryo period (918-1392) a man could have several wives, but in the Yi dynasty the marriage law was changed so that a man could have only one legitimate wife. It was possible, however, for a man to have a secondary wife (or, as some say, a concubine). The Chinese character for secondary wife, 妾 , has an interesting etymology. In ancient China it originally meant a female prisoner of war. Later it came to mean a female slave or servant. Then it came to mean a serving girl who bore the master a child. During Koryo, when a man could have several wives, a woman designated as a secondary wife was dennitely a lower-class woman living in an upper-class home. When Yi law decreed that a man could have only one wife, the new ruling also discriminated against the sons of secondary wives. These sons, called soja, occasionally petitioned for repeal of the restrictions placed on them. There were liberalizations from time to time, but the prejudice against them lingered beyond the end of the dynasty.

It took time for the example set by the early Yi dynasty Confucians to affect the rest of society. For example, in the first laws of the dynasty, under the heading “Adoption” it says, “If a man does not have a son by his wife or his concubine, then he can request permission from the government to adopt a nephew.” The implication is that if a man did have a son by a concubine then there were no grounds for adoption. That was in fact the practice up to the seventeenth century for most Koreans. The great Confucian sage Yi Yul-gok (whose likeness is on the 5,000 won note) did not have a son by his wife, but he did have two soja sons. He did not adopt, but rather the older of the two soja was promoted to the special category of heir for the sake of carrying on the ancestor ritual.

Although Yi Yul-gok opted to have a soja son carry on his line, his disciples chose to handle the problem in a different way. Kim Chang-[page 62] saeng, who studied under Yi Yul-gok, lost his eldest son in the Japanese invasions of the 1950s. Rather than adopt a son to replace the deceased boy, Kim formally petitioned the government to have his second son, Kim Chip, promoted to principle heir. Perhaps his decision can be interpreted as following the precepts of his master—do not adopt if there is any alternative. Kim Chip did not have a son by his legitimate wife, but he did have a soja. The soja son appears to have been a capable young man; he was one of the few soja to pass the civil service examination. (He did not pass the highest exam, but the prestigious saengwon exam.) And yet, in spite of that, Kim Chip adopted a nephew to carry on his line and perform the ancestor ceremonies.

From the time of Yi Yul-gok in the mid-sixteenth century to the time of his disciple’s son in the early seventeenth century, the social ideal seems to have changed. These three men were not only prominent scholars and officials of the Yi dynasty, but they are also among the eighteen Korean sages enshrined in the Songgyungwan, the National Academy of Confucianism. They were the moulders of the tradition.

Before the seventeenth century, as indicated by the case of Yi Yul- gok, a soja son was preferred over an adopted son. In the latter half of the Yi dynasty adoption was preferred. One reason that the preference swung away from soja offspring was the discrimination against them. Manuals of ritual specified that soja should perform the ceremonies outside the building in which the other children were performing. They were not allowed to take government examinations in some cases and there were limitations on their promotions in government offices. At times soja banded together and petitioned for more rights and a removal of discriminatory practices, but only occasionally was their situation improved. There are three surviving compilations of the petitions sent to kings at hundred-year intervals, and each one contains all the arguments included in the earlier one and then adds more.

Perhaps the most popular novel, indeed the first novel, to come out of the Yi dynasty, The Tale of Hong Kil-tong, is the story of a soja. The novel paints a sympathetic picture of the young man and can be interpreted as a tract urging reform and sympathy for these outcastes. In the beginning of the story the young boy, as the soja son of a high government official, is not allowed to call his father “father” or his brothers “brother”; a paradigmatic case of discrimination. In frustration over his treatment, the young Hong Kil-tong leaves home and becomes a sort of Robin Hood. Significantly, in the end, rather than change society, Hong leaves Korea and sets up a Utopian society on an island off the coast of [page 63] China. In a sense, the conclusion of the novel is pessimistic—there was no hope for fair treatment in Korea, so he had to leave.

Although it is doubtful that all or even a majority of parents treated their soja children badly, the stereotype has been set forth as a rule. The conception of the plight of soja offspring among most Koreans even today is similar to that portrayed in The 丁ale of Hong Kil-tong. In actuality, the situation for soja was not quite that bleak. It is generally believed that soja sons could not take the civil service examination. This examination was important in that about ninety percent of all high government officials gained access to their positions through the examination system. Soja could, in fact, take all of the examinations, including the prestigious munkwa, the highest level examination. During the Yi dynasty 14,602 men passed the examinations and of that number nearly two hundred have been positively identified as soja. It is likely that another fifty or one hundred were also of soja status.

Another mistake regarding soja appears in the Encyclopedia of Korean History. The article on soja gives the names of three soja who were prominent during the Yi dynasty. They were Yi Kung-ik, O Suk-kwon and Han Ch’i-yun. In tracing Yi Kung-ik’s genealogy, however, it is evident that he was not of soja descent. The reason he is listed as such is probably that he held a government office that came to be known as an office reserved for men of soja descent.

Although conditions for soja sons were not as bad as popular conceptions would have us believe, still the fact they were generally discriminated against is undeniable. The law that limited the level of officialdom to which they could be promoted was in effect throughout most of the dynasty. It has been said that the prejudice against soja sons and their descendants that was such an integral part of the traditional social system led many to become pioneers for modernization, reform, and Westernization at the end of the Yi dynasty. It is also reported that many of the activists in the proletarian movements of recent history were of soja descent. Throughout the dynasty they had problematic status, but generally their position was better at the beginning of the dynasty and gradually worsened as the dynasty progressed.

In the early dynasty, as seen in the case of Yi Yul-gok, the soja son could serve as a man’s ritual heir, but as time went by the preference for an adopted son grew. The law written at the beginning of the Yi dynasty states:

“If a legitimate first son has no heir, then a subsequent son (can be the ritual heir). If there is not a subsequent son, then a concubine’s [page 64] son can perform the rites for him who is without heir.

If by neither the legitimate wife nor by the concubine there is a son, then one may request (authorization from) the government to adopt a brother’s son or a cousin’s son from within the clan to be the heir.”

This was the ideal for adoption in the Yi dynasty. One adopted a nephew. The potential adoptee had to be in the proper generational level regardless of his age. The generational level was so important that at times a man adopted a “son” who was only five years younger than he. In other cases the “son” was more than sixty years younger. Regardless of the adopted son’s age, he had to be in the proper generational level of the genealogy. This is different from adoptions in Japan and China.

In Japan, the preferred method was the mukoyoshi system, the adopted son-in-law, where a man who had no sons adopted and gave his name to the young man who married his daughter. The Japanese also adopted younger brothers or grandsons as heirs, but that was not considered appropriate among the respectable families of the Yi dynasty.

In China there were some cases of son-in-law adoption, but generally intra-clan adoption was preferred. The adoption of a nephew who was of the proper generational level was considered important; but unlike the situation in Korea, one son could serve as the heir for several fathers. There are cases where one son so served five or six uncles as well as his own biological father. For a Korean, if close cousins did not have “extra” sons, then he would have to go to more and more remote cousins to find a son. Cases of adoption between cousins of extreme remoteness have been common in Korea. Each son could have only one father; the principle of having more than one father, as among the Chinese, was not accepted in Korea.

By examining adoption documents—and there are two different types: government adoption records and genealogical records—the growth in the acceptance of intra-lineage adoption can be traced. Once adoptions begin to appear in the middle of the dynasty, they occur in every possible situation. Seldom is a man indicated to be without heir. Furthermore, as time goes by there appears to have been a tendency for adoptions to be contracted between more and more distant kinsmen. The same tendency is evident in the civil examination rosters. In the early Yi dynasty, say the fifteenth and sixteenth centuries, an adopted son is seldom listed as having passed an examination. In the seventeenth century the rate begins to rise, and finally in the nineteenth century close to fifteen percent of all who passed the examinations were adopted sons.

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The Yi dynasty code states that any planned adoption had to be reported to the government. The Yejo (Board of Rites) was responsible for issuing an authorization certificate and keeping a register of all such authorizations. A few of the certificates have surfaced recently and several of the registers are extant. It is interesting that it was the Board of Rites and not the Board of Taxation, Board of Justice, or Board of Personnel that was charged with the responsibility of overseeing adoptions. The certificate authorizing an adoption was written on a large sheet of paper, usually over a square meter in size, with explicit details of the circumstances of the adoption and abstracts of affidavits from the several people who were party to the adoption. Those who had to submit affidavits in support of an adoption included both the biological father (or his wife if he were deceased), the adoptive father (or his wife), the son himself (adoptions usually took place when the son was already grown), and representatives of the lineages involved.

The certificate issued to the adoptive parent was filled with detail, but the government register merely recorded an abstract of the case. By examining the registers of adoptions several trends are revealed. The registers cover the time from 1618 to the end of the dynasty. The tendency observed in the genealogies of men going to more and more distant kinsmen to contract an adoption is also seen in the registers. In the early portion of a register, the majority of adoptions were contracted between brothers and close cousins. Further along in the document the adoptions were contracted between more and more distant cousins. In the final portion of the register it is not uncommon to see adoptions between men whose common ancestor lived fifteen or even twenty generations earlier.

Another tendency that is seen in the adoption registers is a diminua- tion of the woman’s role in the process. The Yi dynasty codes specify that if a man died without an heir, then his wife could petition the government for an adopted son to carry on the man’s ceremonies and family line. There are numerous cases in the registers where the wife is listed as the petitioner. In the early part of the record just over fifty percent of the applications were made by wives asking for posthumous adoptions for their husbands. At the end of the dynasty the percentage of women petitioners drops to just under fifty percent.

The law also states that representatives of “both sides of the family” should discuss the matter and submit affidavits if they concurred that the adoption should take place. It is interesting that in the early portion of the record, the representatives of the two sides of the family have different names. One shares the surname of the husband; the other has a [page 66] different surname. If the husband was deceased, the wife’s surname was recorded and her name usually matches the surname of the man representing one of the “sides of the family.” In other words, the phrase “both sides of the family” meant the husband’s side and the wife’s side. Gradually through the seventeenth century the wife’s side of the family was excluded from the process and the decision became a matter for the man’s lineage to decide. The phrase “both sides of the family” continued to be quoted from the codes, but the interpretation changed, coming to mean both sides of the lineage—the adopting side and the donor side. After the seventeenth century the names of the two lineages’ elders given in the documents have the same surname and represent the adopting father and the biological father. Finally, in the later portion of the record, it became common for only one lineage elder to be listed as party to the adoption. In records dated after the seventeenth century, the representatives of the wife’s side of the family are rarely involved in the procedures.

In addition to revealing the way the adoption system functioned and the trends that developed in the Yi dynasty, the government adoption registers and the lineage genealogies, used together, disclose other aspects of the adoption practice. Genealogies alone give the birth and death dates of an individual, but not the date of an adoption. The government registers give the date of the adoption, but not the date of birth or death (or the age) of the parties to the adoption. It is not easy to find the same person in both the lineage genealogy and the government adoption registers. In those cases that have been found in both types of documents, the average ages of fathers and sons is quite surprising. The fathers averaged over sixty years old. Some were in their fifties, some were in their seventies, and many were already dead. The sons were full-grown adults who were usually in their twenties or thirties. In some cases the son had already passed a government examination. In fact, one of the reasons for the tendency to transfer sons between more and more distant kinsmen seems to be related to the status of the two individuals. A man who had passed the examination and who had had an illustrious career seems to have preferred to adopt a son who was equally worthy, even if it meant skipping over the less suitable sons of closer relatives.

The system of adoption described here can be said to be the ideal system practiced by the Yi dynasty yangban, or upper class. Commoners also practiced adoption, but in the beginning the ideal was different for them. Since commoners and slaves did not have the extended family or lineage organization to work through, it was more difficult for them to adopt nephews. Government registers contain the records of commoners [page 67] who made adoptions. Often a son-in-law or an orphan was adopted, and in some cases a slave’s child was adopted. Gradually, however, there seems to have been a growing desire to emulate the ideals of the yangban. Commoners began to keep track of relatives and make adoptions in line with the intra-lineage form of adoption practiced by the upper class.

In conclusion, the dilemma of a man who did not have a son was handled differently at different stages of the dynasty. In the early years, if a man had daughters he did not need to adopt a son. In other cases a son by a secondary wife, a soja, was acceptable. But as time went on, and as the influence of Confucian dogma grew, it became a widespread perception that a man must have a son. Thus adoption became the preferred manner of solving the problem in the latter half of the Yi dynasty. The motivation for the growth of the practice seems to have been Confucianism, with its emphasis on the father-son relationship and ancestor ceremonies.

It is well known that neo-Confucianism became the state-sponsored philosophy of the Yi dynasty at its outset, but it is not generally recognized that it took many years for the principles of Confucianism to be assimilated by the people. There were debates concerning to what degree the Koreans should accept the Chinese-Confucian practices that were alien to their own. The debates continued through the first two centuries of the dynasty. It was the third century of the dynasty that saw drastic social change. In the final two centuries of the Yi dynasty the practice of adoption, one measure of the Confucianization of Korean society, became so firmly entrenched that it was no longer questioned. It was assumed that a man without a son would adopt a nephew.