Analysis of East Asian Legal Data

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For over 35 years I have been impressed and attracted by the idea that legal data, especially East Asian law data could be used toward understanding the cultural values, family and kinship structure. This legal data offers quantifiable and measurable data on cultural values, kinship boundary, relative status of family members, and the difference between the status of men and women not to mention the legal system itself. I became aware of this in 1963-65, when I was co-teaching a seminar on East Asian Law and Society at Yale Law School, in collaboration with a lawyer. My role then was to provide essential cultural information on Asia, without which American students cannot understand some of the basic principles of Asian law.

One of the most intriguing aspects is that in the 18th century, the same crime was punished differently when the offender of the law was a relative of the victim versus a stranger. Moreover, punishment was calculated on the basis of the Chinese system of measuring kin distances, called wufu, meaning the five mourning grades. (See Table 1 - Wufu system)

There is a variety of ways to mourn the death of one’s family and relatives. For example, if the father is deceased, one will be wearing 3 years of unhemmed sack clothes. Hemmed or unhemmed, the coarseness of the fabric, wearing the garment and using a staff were all symbols of the extent of one’s grief and expression of mourning. The use of a staff symbolized the severity of one’s sorrow that you needed to have some kind of support. Unhemmed, rather than hemmed sack clothes meant one was enduring discomfort in the memories of one’s lost respected or loved ones. At any rate the important point here is that the kinship distance-measuring rule can be codified and ranked because one’s crime against his or her family and their relatives and was punished in accordance to one’s degree of mourning. This data reflected the relative status of the various kin roles in the family.
The usefulness of this legal data is due to the following reasons:

(1) The data is quantifiable,
(2) Criminal data covers information on all social strata and not only that of the ruling class. Anthropologists and historians alike resorted to a household registry, or genealogies to understand the kinship structure of traditional society. However, this data was class bound and reflected the situation of only the upper class families. The criminal punishment records, unlike the above two types of historical records, included data on slaves as well as royal families thus covered the entire range of social strata.
(3) The systematic recording of criminal data in other East Asian countries, such as China, Japan, and Vietnam became available in sufficient quantities for comparison only in 18th century.
(4) Due to the above reasons, the controlled comparison of East Asian legal data is possible. A controlled comparison promises to bring the characteristics of the culture into a sharper relief than when studied without any comparisons.

Why compare the laws of four East Asian countries?

(1) In the 8th century, the Tang Dynasty Chinese law was adopted by Korea, Japan and Vietnam thus all four countries shared a common principle of law.
(2) All this legal data is recorded in Chinese script, Japan being the only exception. Tokugawa legal documents are in a mixed text of both Chinese and their own vernacular script kana.
(3) The data lends itself to computer manipulation.

The purpose of the Paper:

To present the analysis method of 18th century East Asian criminal codes and criminal punishment records that is used in a comparative study of East Asian Law and Culture. The Japanese Ministry of Education funded this international, collaborative research project from 1996-1999. Ten interdisciplinary scholars from law, sociology, anthropology, computer ethnology and history, coming from China, Japan and Korea undertook the project. Dr. Shigeharu Sugita (Computer Ethnologist), Deputy Director of the National Museum of Ethnology, Osaka Japan, was the project representative while Dr. Hesung Chun Koh (Comparative Sociologist and Cultural Information System specialist, Chair and President of East Rock Institute, New Haven, CT, USA, was the project Director.
The methodology used in this project is further testing of the research method originally developed by Hesung Koh for Korean data and the research result was published in 1993 (See Koh 1993). However, for the economy of the time, I will be using only Korean samples today, to illustrate the principles and method of analysis of legal data of the East Asian law and culture project.

There are at least three components to our information system. Today I will only address first order analysis.
1. Zero base data, which is a complete legal data and not yet analyzed.
2. First order analysis of legal data for comparative cultural analysis.
3. A scholar who wishes to test specific types of hypothesis does second order analysis.

This paper focuses on the first order database and its analysis method utilizing Korean data. This same analysis method was used for Ching Chinese legal data, Tokugawa Japanese legal data and Vietnamese Le code as well as Choson dynasty criminal codes and cases.

See attached samples:
See East Asian Law and Culture Project: Basic Sources Processed
See Table 0-A, Sample page from the Korean legal data, Chungbo Munhon Pigo, Hyonggo
See Table 0-B, Sample of Analysis Output, Chungbo Munhon Pigo
See Table 0-C, Classification Code, East Asian Law and Culture Project

**Analysis Categories of legal data** (for both legal codes and legal cases):
“Classification Code”

A. Source Code MH = Chungbo Munhon Pigo, Hyonggo.

This is neither the code nor case but a mixture of both. It was compiled as an administrative guide for the government officials and based on actual cases. It is said to be the most comprehensive list of types of crimes punished in 18th century Korea.

The following is the list of analysis categories and its compositions.

B. Legal Material Code
   Legal code = L, legal case =C and Mixture of both = I
C. Data Identification Code

Because East Asian Legal sources were organized in a different style, we assigned codes for each component of such ordering. For example, the number of volumes, columns, lines and the components have been separately identified. In the case of Korean legal data, Chungbo Munhon Pigo, the ID number is computerized with the following four components.

C= volume number of the book, D = column and line number and section within that line where the description of one criminal case is described.

D. Culture code (OWC)
This is the worldwide culture classification code used by the Human Relations Area Files.
AA02 = Traditional Korea
AB02 = Traditional Japan
AF02 = Traditional China
AM11 = Traditional Vietnam

E. Topical code for the crime (OCM)
See attached sample “Norm Violation Related to the Family in Chosun Dynasty

F. Type of family code

Household, family or non-kin is separately identified by H, F, and O. It is due to the importance attached to all those who lived in the same household. Regardless of their kin status they were important in Tokugawa Japan, unlike Korea and in China where the definition of a functioning family was more in the line with those who were blood relatives.

G. Five Mourning Grades

See Table I. The Five Mourning Grades
(This classification is assigned only in the second order analysis.)

The Ch’ong su, Korean Indigenous System of measuring kin distances.
(This classification is assigned only in the second order analysis)
H. (Offender of the law)
JK = kin relationship with the victim
N# = Number of persons
Nn = name
Ng = gender
Nr = place of residence
NS = office title, if applicable

O (Crime)
Type of crime, See
Table 6: Choson Dynasty Crime against Family and Kin
E.g. Assault, battery and homicide?

P. (End result of the offense)
Q1 Punishment
See Table 5: Choson Dynasty Punishment Scale
Q2 Further modification of the Punishment

R (References)
The legal code that was employed for the punishment calculation,
E.g. Great Ming Code, vol. 139, 19.08-139.10.17.)

Some of the findings about Korean family and kinship system utilizing criminal
Cases are already reported in the article, Hesung Chun Koh “Persistence of Korean
Family Norms in a Confucian State: An Analysis of Eighteenth-Century Criminal Cases.”
In Shima, Mutshiko and Rogert L. Janelli, Eds. The Anthropology of Korea: East Asian
Perspectives., Osaka, Japan: Senri Ethnological Studies no. 49, National Museum of
<table>
<thead>
<tr>
<th>A</th>
<th>B</th>
<th>C</th>
<th>D</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>刑法事例 (Criminal law case)</td>
<td>法典 Legal codes</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Korea 增補文獻備考 Munhon Pigo</td>
<td>續大典 Soktaejon</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>秋官志 Ch'ugwanji</td>
<td>大明律 Taemyongyul</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>審理録 Simnirok</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>China 刑案匯覽 HsingAnHweiran</td>
<td>大清律</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>刑科題本當案</td>
<td>TaChingLu</td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>清朝各省當案</td>
<td></td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>Vietnam NA</td>
<td>唐律疏議</td>
<td></td>
</tr>
<tr>
<td>9</td>
<td>黎朝刑律</td>
<td></td>
<td></td>
</tr>
<tr>
<td>10</td>
<td>J a p a 御仕置例類集 Oshiokiruireish</td>
<td>德川禁令考</td>
<td></td>
</tr>
<tr>
<td>11</td>
<td></td>
<td></td>
<td>Tokugawa Kinreiko</td>
</tr>
<tr>
<td>序号</td>
<td>名称</td>
<td>内容说明</td>
<td>现状</td>
</tr>
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<td>------</td>
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<tr>
<td>10</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

（B）抄录”（D）版式更新”（O）图版”（G）装帧”（N）考勤”（T）资料分类”（F）参阅用（C）整理装订版式”}}
Classification code for the East Asian Law and Culture Project
For the analysis and indexing for the legal code and cases
Hesung Chun Koh
January 15, 2000

A. Legal Source number
   Munhon pigo = MH
   Ch'ugwanji = C
   Hsing'-an hui-lan
   TA Ch'ing Lu li
      Oshioki ruirishu = O
      Le Code = L

B. Page number
   Page number of the book
   (See variation of the pagination method in classical sources)

C. Source Type Code
   Legal code = l, legal cases = c, combination of both = l

G. Country/ Culture Code = OWC code
   All of 18th century
   China = AF02
   Korea = AA02
   Japan = AB02
   Vietnam = AM11

H. Time Code (all 18th century materials)
   KTG = e.g. Ch'ing
   KTS = e.g.. 1733 AD

I: Family? Household? Non-kin? Other?

J: Offender of the law
   Number of
   Name of
   Sex
   Place of Residence

K: Name of Residential location

L. Condition of Crime
M. Accomplice
N. Victim
   Number
   Name
Sex
Residential location
X: Kin distance between the Offender and the Victim
  X1 = Wufu system
  X2 = Ch’onsu (Korean indigenous way of measuring kindistance.
  Similar to Roman law,
  But used in Korea from 4th century?)
  X3 = social status (e.g. elder lineage, of younger generation)

O: Crime
  Type of Crime
  Method of injury
  OCM code for the Crime

P: Damage caused by Crime)

Q Punishment
Q1 Notes on punishment

S: Accuser
  Number
  Name

T: Legal Office

U: Trial Procedure

Y: Motivation

R: References

Z: Analyst’s Note
東洋の法と文化 Project

A；基本資料（Source Code）
（MH＝増補文献備考、C＝秋宮志、S＝審理録、大清律例、H＝刑案縦覧、x＝刑科題本、L＝黎朝刑律、O＝御仕置例類集）

B；項数（ID no.）
（例：Volume＝巻、Columnn＝項、Line＝行、Component＝号）

C；資料種類（Source Type Code ＜ST＞）
（L＝律令、C＝事例、J＝複合）

F；件名番号（Case or Code no.）、記入事例番号（原本検見指標）
（Case or Code ID）
（Volume＝巻、Columnn＝項、Line＝行、Component＝号）又件
Country Code
＝OWC Code (China＝AF02、Korea＝AA02、Japan＝AB02、Vietnam＝AM11)

I；親屬（Family）（？）
　親属（Family）＝ F, 家口（Household）＝ H, 凡人＝ NR, 其他（Others）＝ O

＊H；年代（Time Period，Specific）、事件年代
　e.g. 1732 A.D.

J；加害者（offender）首
　Jk＝親戚関係
　Jn＝名
　Jg＝性別（M,F or MF）
　Jr＝居住地
　J S＝階級 （奴婢）

＊K；居住地名 or 地域名（Residential Location）
（例＝湖南、嶺南等）

L；犯罪の状況（Crime Condition）、案情、情状、事件概要（文章形） ［（犯罪の一般状況、
具体的事実）］

M；共謀者（從）accessory

N；被害者（Victim）
　Nk＝親戚関係
　Nn＝名
　Ng＝性別
　Nr＝居住地
　N S＝階級

＊X；加害者と被害者の親族距離
　（Kin Distance between the Offender and the Victim）
　X1＝五服制
　X2＝単数
　X3＝親等
　X4＝地位（尊卑、長幼等）
　X 5＝服忌令

O；不法行為（Crime）、罪名
O 1 = 種類 例一殴・告・殺
O 2 = 傷害を与えた方法 例一以手足
P; 結果(Damage caused by Crime) (?)
例一傷・不傷・死・折一歯
Q; 刑罰(Punishment)
Q 1 = Punishment Specification
Q 2 =
Q 3
Qf = 最終の刑罰

＊ S; 告訴人(accuser)
S# = 数
Sn = 名
＊ T; 法官職名(Legal Office)、所管役人
法機関名 例一義禁府
T 1
T 2
T 3
＊ U; 訴訟節次(Trial Procedure)、e.g.
V 1; 刑罰の理由 「例..先例」
V 2
V 3
＊ Y; 動機(Motive)
R; 参考(Reference) （例一以上大明律、以上續大典）
Z; 備考、(法典引用)
1 Revision of the ANALYSIS code suggested at the 1st workshop by H. C. Koh
＊ Categories not in 増補文献備考, Code needed for legal cases
Norm Violation Related to the Family in Chosun Dynasty

1. Offenses against Persons (683.01)
   (1) Cursing or Use of Abusive Language 罵詈
   (2) Accusation 告
   (3) Assault and Battery 殴傷
   (4) Sales of Person 売身
   (5) Revenge 復讐・私和

2. Offenses against Life (682.00)
   殺害

3. Sex & Marital Offense (684.01)
   (1) 不正通婚
   (2) 婚期違反
   (3) 同姓近親婚
   (4) 重婚
   (5) 自由婚・自由改嫁
   (6) 強制婚
   (7) 犯姦 (835.03)

4. Property Offense (685.01)
   (1) 別財 (685.01)
   (2) 盜財 (685.02)

5. Illegal Succession or Adoption (597.00)
   (1) Illegal Succession 不法立嗣 (611.09)
   (2) Illegal Adoption 不法養子 (597.09)

6. Non-fulfillment of Obligation (686.02)
   (1) 奉養不謹 (577.02)
   (2) 居喪不愼 (765.00)
   (3) 葬儀違反 (764.02)
Table 1. The Five Mourning Grades (Obokche)五服制

<table>
<thead>
<tr>
<th>Grade</th>
<th>Name</th>
<th>Mourning Requirement</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>斬衰 Ch’amch’oe (Korean), or Chan-ts’u (Chinese)</td>
<td>Garb of unhemmed sackcloth, three years 斬衰三年</td>
</tr>
<tr>
<td>2</td>
<td>齋衰 Chaech’oe (Korean) or Tzu-ts’ui (Chinese)</td>
<td>Garb of hemmed sackcloth, three years 齋衰三年</td>
</tr>
<tr>
<td></td>
<td>斯 (2a) For a collateral (ki) uncle (2ai)</td>
<td>One year, with or without staff 一年</td>
</tr>
<tr>
<td></td>
<td>(2aii)</td>
<td>One year with staff 一年</td>
</tr>
<tr>
<td></td>
<td>(2b)</td>
<td>One year without staff 一年</td>
</tr>
<tr>
<td></td>
<td>(2c)</td>
<td>Five months 五ヶ月</td>
</tr>
<tr>
<td></td>
<td>3 大功 Taegong (Korean), or Ta-kung (Chinese)</td>
<td>Three months 三ヶ月</td>
</tr>
<tr>
<td></td>
<td>4 小功 Sogong (Korean), or Hsao-kung (Chinese)</td>
<td>Five months 五ヶ月</td>
</tr>
<tr>
<td></td>
<td>5 思麻 Sima (Korean), or Ssu-ma (Chinese)</td>
<td>Three months 三ヶ月</td>
</tr>
</tbody>
</table>

Note: Terms that appear in 2a, 3, 4, and 5 specify collateral relatives. Ki, taegong, sogong, sima are usually used as prefixes to designate collateral relatives, such as “ki-[uncle]” or “sogong-[brother],” or to describe the degree of a relationship.

*The staff means that there is need for support for the bereaved mourner.
<table>
<thead>
<tr>
<th>Major Category</th>
<th>Subcategory</th>
</tr>
</thead>
<tbody>
<tr>
<td>Death 死刑</td>
<td>Death by slicing 凌遲處死</td>
</tr>
<tr>
<td></td>
<td>Immediate decapitation 斬不待時</td>
</tr>
<tr>
<td></td>
<td>Decapitation after assizes 斬待時</td>
</tr>
<tr>
<td></td>
<td>Immediate strangulation 絞不待時</td>
</tr>
<tr>
<td></td>
<td>Strangulation after assizes 絞待時</td>
</tr>
<tr>
<td>Banishment 流刑</td>
<td>Banishment to 3,000 li 流三千里</td>
</tr>
<tr>
<td></td>
<td>Banishment to 2,500 li 流二千五百里</td>
</tr>
<tr>
<td></td>
<td>Banishment to 2,000 li 流二千里</td>
</tr>
<tr>
<td>Penal servitude 徒刑</td>
<td>Penal servitude for 3 years 徒三年半</td>
</tr>
<tr>
<td></td>
<td>Penal servitude for 2.5 years 徒二年半</td>
</tr>
<tr>
<td></td>
<td>Penal servitude for 2 years 徒二年</td>
</tr>
<tr>
<td></td>
<td>Penal servitude for 1.5 years 徒一年半</td>
</tr>
<tr>
<td></td>
<td>Penal servitude for 1 year 徒一年</td>
</tr>
<tr>
<td>Heavy bamboo 枝</td>
<td>100 strokes heavy bamboo 枝一百</td>
</tr>
<tr>
<td></td>
<td>90 strokes heavy bamboo 枝九〇</td>
</tr>
<tr>
<td></td>
<td>80 strokes heavy bamboo 枝八〇</td>
</tr>
<tr>
<td></td>
<td>70 strokes heavy bamboo 枝七〇</td>
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<tr>
<td></td>
<td>60 strokes heavy bamboo 枝六〇</td>
</tr>
<tr>
<td>Light bamboo 苕</td>
<td>50 strokes light bamboo 苕五〇</td>
</tr>
<tr>
<td></td>
<td>40 strokes light bamboo 苕四〇</td>
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<tr>
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<td>30 strokes light bamboo 苕三〇</td>
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<td>20 strokes light bamboo 苕二〇</td>
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<td>10 strokes light bamboo 苕一〇</td>
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<td>No punishment 無罰</td>
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<tr>
<td>Major Category</td>
<td>Subcategory</td>
</tr>
<tr>
<td>------------------------</td>
<td>-----------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Accusation 告</td>
<td>Accusation 告</td>
</tr>
<tr>
<td></td>
<td>Accusation, false 詐告</td>
</tr>
<tr>
<td>Assault and battery 殴</td>
<td>Assault and battery, no injury</td>
</tr>
<tr>
<td></td>
<td>Assault and battery, breaking teeth and more</td>
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<tr>
<td></td>
<td>Assault and battery, breaking one tooth and more</td>
</tr>
<tr>
<td></td>
<td>Assault and battery, injury</td>
</tr>
<tr>
<td></td>
<td>Assault and battery, using hands and feet, no injury</td>
</tr>
<tr>
<td></td>
<td>Accidental assault and battery, no injury</td>
</tr>
<tr>
<td></td>
<td>Accidental assault and battery using knife, breaking limb and eye</td>
</tr>
<tr>
<td></td>
<td>Accidental assault and battery, breaking bones</td>
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<tr>
<td></td>
<td>Assault and battery, injury</td>
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<tr>
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<td>Assault and battery, breaking injury</td>
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<td>Assault and battery</td>
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<tr>
<td></td>
<td>Assault and battery, causing illness</td>
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<tr>
<td></td>
<td>Assault and battery, resulting in death</td>
</tr>
<tr>
<td></td>
<td>Assault and battery, using hands and feet</td>
</tr>
<tr>
<td></td>
<td>Assault and battery, homicide</td>
</tr>
<tr>
<td>Homicide 謀殺</td>
<td>Premeditated homicide</td>
</tr>
<tr>
<td></td>
<td>Executed homicide 故殺</td>
</tr>
<tr>
<td></td>
<td>Homicide with no injury</td>
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<td>Homicide with injury</td>
</tr>
<tr>
<td></td>
<td>Homicide resulting in death</td>
</tr>
<tr>
<td></td>
<td>Malicious homicide</td>
</tr>
<tr>
<td></td>
<td>Homicide by assault and battery 殴殺</td>
</tr>
<tr>
<td></td>
<td>Accidental homicide 過失殺</td>
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<tr>
<td>Cursing or use of 罵詈 abusive languae</td>
<td>Insulting and cursing 罵詈</td>
</tr>
<tr>
<td>Sale of person 賣</td>
<td>Sale of person, kidnapping 賣身</td>
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<tr>
<td></td>
<td>Sale of person, kidnapping, slavery</td>
</tr>
<tr>
<td>Sexual violation 強姦、通姦</td>
<td></td>
</tr>
<tr>
<td>Revenge 復讐、私和</td>
<td></td>
</tr>
<tr>
<td>Other</td>
<td>Separating property 離財</td>
</tr>
<tr>
<td></td>
<td>Stealing property 盜財</td>
</tr>
<tr>
<td></td>
<td>Sale of person 賣身</td>
</tr>
<tr>
<td></td>
<td>Illegal succession and adoption 不法相続、不法立嗣</td>
</tr>
<tr>
<td></td>
<td>Illegal marriage 不法婚姻、不法養子</td>
</tr>
</tbody>
</table>