

The Historical Development of Early Korean Immigration to Hawaii and its Legal Structure*

Tae-Ung Baik** and Duk Hee Lee Murabayashi***

Abstract

The Joseon dynasty opened its doors to the United States of America in 1882 and gradually to other western countries giving up its isolation policy. One of the dramatic results of this policy change was that Emperor Gojong granted permission to allow Korean emigration to Hawaii in 1902. The first group of 102 Korean immigrants, including 21 wives and 26 children under the age of 18, arrived at Honolulu Harbor on January 13, 1903. Approximately 7,400 Korean laborers immigrated to Hawaii in the next two and one half years until immigration ended in August 1905. The purpose of this paper is to review the legal structures that supported Korean immigration to Hawaii from 1903 to 1910, when the Daehan Empire lost its sovereign power. This article first reviews the socio-economic and legal conditions leading to importation of Chinese and Japanese laborers to the Kingdom of Hawaii prior to the arrival of Koreans. Then, Korea's diplomatic and legal arrangements for the immigration of Korean laborers are examined. American legal policies and structures for Korean immigrants are also reviewed.

I. Introduction

The Joseon¹⁾ dynasty opened its doors to the United States of America in 1882 and gradually to other western countries giving up its strong isolation policy. One of the dramatic results of this policy change was that Emperor Gojong granted permission to allow Korean emigration to Hawaii in 1902.

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** Visiting Assistant Professor, William S. Richardson School of Law, University of Hawaii at Manoa.

*** Associate Member, Center for Korean Studies, University of Hawaii at Manoa.

1) This paper uses the 2006 Romanization System by the Ministry of Education instead of the McCune-Reischauer Romanization System. According to this system, for example, Chosun or Chosen is Joseon.

The first group of 102 Korean immigrants, including 21 wives and 26 children under the age of 18, arrived at Honolulu Harbor on January 13, 1903. Approximately 7,400²⁾ Korean laborers came to Hawaii in the next two and one half years until immigration ended in August 1905. Of the 7,400 Korean immigrants, about 2,000 Korean immigrants moved from Hawaii to the U.S. mainland, and about 1,000 returned to Korea before 1910. As a result, only 4,533 Koreans were counted in the 1910 census, along with 79,674 Japanese and 21,674 Chinese.

There are a number of books or articles covering early Korean immigration history,³⁾ but little is known about the legal structure that made the immigration possible. A very limited introduction to the legal arrangements for the early immigration exists, and no proper study has been conducted concerning the legal status of the early migrant workers from Korea to Hawaii. Korea is now accepting increasing number of migrant workers into its society, and there are great Korean Diaspora living all over the world. Therefore, the study of early Korean immigration to Hawaii is greatly relevant and it is even demanded for the development of Korea as a multi-cultural society.

The purpose of this article is to review the legal structures that supported early Korean immigration to Hawaii from 1903 until 1910, when Daehan Empire ("Empire of Korea")⁴⁾ lost its sovereign power to Japan effectively depriving Korean immigrants of their homeland to return.

2) The total number of Korean immigrants varies from 7,291 to 7,600 depending on the sources. Duk Hee Murabayashi has identified 7,415 passengers arriving at Honolulu harbor from January 13, 1903 through August 8, 1905. See DUK HEE LEE MURABAYASHI, *KOREAN PASSENGER ARRIVING AT HONOLULU, 1903-1905* (2004) (last visited on Oct 26, 2011) <<http://www.korean-studies.info/pdf/pass200a.pdf>>.

3) For example, see KIM WON YONG, JAEMI HANIN OSIBNYEONSA (*50-year History of Koreans in America*) (Reedley, Calif. 1959); WAYNE PATTERSON, *THE KOREAN FRONTIER IN AMERICA: IMMIGRATION TO HAWAII 1896-1910* (University of Hawaii Press, 1988); WAYNE PATTERSON, *THE ILSE, FIRST GENERATION IMMIGRANTS IN HAWAII* (University of Hawaii Press, 2000); DUK HEE LEE MURABAYASHI, *HAWAII IMIN 100 NYEON: GEUDEULEUN EODDEOKE SARATNA? (Immigration to Hawaii 100 year: What Lives Had They Lived?)* (2003). DUK HEE LEE MURABAYASHI, *A HISTORY OF THE KOREAN CHRISTIAN CHURCH, KOREAN CHRISTIAN INSTITUTE, AND DONGI HOI* (2008); EDWARD TAE-HAN CHANG, *KOREAN AMERICAN COMMUNITY IN THE MULTIRACIAL SOCIETY* (National Institute of Korean History) (2007).

4) Joseon has changed its name into the Empire of Korea, and the king became emperor after October 1897.

In order to provide the background for the Korean immigration, this article first reviews the socio-economic and legal conditions leading to importation of Chinese and Japanese laborers to the Kingdom of Hawaii prior to the arrival of Koreans. Then, Korea's diplomatic and legal arrangements for the immigration of Korean laborers are examined. American legal policies and the changes in the status of the Korean immigrants are also reviewed.

II. Chinese and Japanese Immigration to the Kingdom of Hawaii⁵⁾

In 1840, there was only one sugar plantation (Koloa in Kauai) in the Kingdom of Hawaii, although sugar cane was grown in all parts of the kingdom. Soon, progress was made in the sugar industry and large scale sugar plantations started to sprout up. Sugar exports rose from 180 tons in 1840 to 300 tons in 1847. The burgeoning sugar industry demanded more laborers during a time when the native population was rapidly decreasing. Native Hawaiians, who numbered 125,000 in 1831, decreased to 84,000 by 1850.

In order to solve the labor shortage, the Kingdom of Hawaii government passed An Act for the Government of Masters and Servants on June 21, 1850.⁶⁾ This act provided the legal basis for the contract labor system in the Kingdom of Hawaii. Although the Act's provisions were more humanitarian than those governing slavery, the Act nevertheless shared the economic goal of slave laws to harness labor.⁷⁾ Subsequently, the Royal Hawaiian Agricultural Society was established to deal with the growing agricultural issues and appointed a committee in August 1850 to devise means for procuring more labor. One way was by bringing Chinese coolies for a period of five years. The first shipment of nearly two hundred Chinese

5) For a history of the Kingdom of Hawaii, see RALPH S. KUYKENDALL, *THE HAWAIIAN KINGDOM* VOL. 3 (University of Hawaii Press, 1938, 1953, & 1967).

6) Master and Servant Act (An Act for the Government of Masters and Servants) (1850).

7) Wilma Sur, *Hawaii's Masters and Servants Act: Brutal Slavery?* 31 *HAWAII LAW REVIEW*. 87 (2008).

arrived on January 3, 1852 and another hundred were brought later the same year. They were paid \$3 per month in addition to transportation from China, food, clothing and housing for five years. This was the beginning of imported foreigners to work as contract laborers on the sugar plantations of Hawaii.

The American Civil War (1861-1866) raised sugar prices higher and improved the market situation for Hawaiian sugar. The Hawaiian sugar industry enjoyed a period of extremely rapid expansion that continued until 1866. Many new plantations were established and sugar exports increased from less than 750 tons in 1860 to more than 8,599 tons in 1866. The question of labor supply was resurrected and required serious consideration.

On December 30, 1864, An Act to Provide for the Importation of Laborers and for the Encouragement of Immigration was passed creating the Board of Immigration⁸⁾ to supervise the importation of foreign laborers, to regulate the contracts to be made with such laborers, and to promote and encourage the introduction of free immigrants. The Board of Immigration proceeded to bring 522 Chinese, including 95 women and 3 children in October 1865. These Chinese laborers were engaged for a term of five years, at wages of \$4 monthly plus a bonus of \$2 at Chinese New Year, and food and lodging.

Having thus provided, temporarily at least, for the labor needs of the planters, the Board of Immigration directed its attention toward the other phase of its work, the supplying of human materials for building up the permanent population of the kingdom. It was recognized that some of those who were brought in primarily for labor would remain and become part of the permanent population, and, on the other hand, those brought in primarily to replenish the population were expected to fill part of the need for laborers. In the running discussion, much stress was laid on the importance of bringing in people who were of the same racial stock as the Hawaiian or people who would readily amalgamate with Hawaiians.

On June 19, 1868, a group of 148 Japanese (including 6 women and 2 children) arrived in Honolulu. They were brought to the islands as contract

8) It consisted of the Minister of Interior Affairs and five advisors to the king.

laborers. R. C. Wyllie, Minister of Foreign Affairs and Eugene M. Van Reed, the Hawaiian consul in Japan, initiated this enterprise. The Japanese laborers worked for three years for a wage of \$4 a month plus food, lodging and medical attention. For some of them, adjustment to the strange environment was difficult and there were a few troublemakers among them. It was not long before complaints came to the Board of Immigration from employees and employers alike. Adverse reports were sent back to Japan, and the Japanese government took steps to protect its subjects in Hawaii, sending an ambassador to make an investigation of their condition and to demand the return to Japan of those who were dissatisfied. Although the problems were solved for the Japanese laborers, it was a long time before the Japanese government again permitted any of its working class subjects to go to Hawaii.

In the fall of 1872 with the native Hawaiian population dropping to less than 52,000, the dual problem of labor supply and re-population was still unsolved. In December of 1874 the government entered into agreements with several companies to bring some 1,400 Chinese, including women, into the kingdom from China. The government paid \$25 for each man and \$30 for each woman. The differential indicated the importance attached to the recruitment of women. During the biennium, a little more than 200 Chinese entered the kingdom, about three-fourths coming directly from China, the others from San Francisco and Portland.⁹⁾

The Reciprocity Treaty of 1876 between the Kingdom of Hawaii and the United States allowed Hawaiian sugar to enter the United States completely free of tariff duties. The treaty gave sugar its biggest boost, expanding production tenfold in the following decade. With the new demand for sugar came an increased call from the planters for laborers, and the decade between 1876 and 1885 witnessed the greatest influx of Chinese laborers.

Meanwhile, the political elite in Hawaii became aware of the United States Chinese Exclusion Act of 1882, which was a result of anti-Chinese agitation in California. Planters also saw the need to control the reliance on Chinese labor. The Hawaii government tried to control immigration of Chinese, although Chinese labor was the only available source for adequate

9) Kuykendall, *supra* note 5 at 119.

labor at reasonable rates. Finally, on March 25, 1884, the Minister of Foreign Affairs issued new regulations in regard to Chinese immigration. They provided that any ship arriving at Honolulu may land not more than twenty-five Chinese immigrant laborers, in addition to any Chinese who had passports entitling them to enter the country. Under these regulations, passports could be issued either from the Foreign Office in Honolulu or by the consul general in Hong Kong 1) to Chinese residents of Hawaii who visited China and wished to return to the islands, and 2) to wives, female relatives, and children of Chinese residing in Hawaii or who were about to emigrate to Hawaii. The passport system became a major instrument controlling Chinese immigration. Under these regulations, the consul general in Hong Kong began issuing passports in May 1884, and in the next fifteen months issued more than 1,300 of them. In the same period, about 1,500 were issued from the Foreign Office in Honolulu.¹⁰⁾ Through all these efforts, Chinese immigrants from 1852 to 1898 are variously estimated at from 50,000 to 56,000. These numbers, however, includes multiple entries and the number of separate individuals is estimated to be from 30,000 to 40,000.¹¹⁾

Meanwhile, owing to the friendly relations between King Kalakaua (r 1874-1891) and the Japanese government, the Hawaiian government appropriated \$300,000 for encouraging Japanese immigration and made \$50,000 available immediately in 1884. The first lot of 943 Japanese immigrants (676 men, 159 women, and 108 children) arrived at Honolulu harbor on February 8, 1885. A second lot of 930 men, 34 women, and 14 children arrived on June 17, 1885. The cost of transportation was set at \$55.50 per person and all of it was to be paid by the Hawaiian government. The Japanese immigrants had a 3-year agreement with the Hawaiian government and monthly wages were set at \$9 per month for men and \$6 for wife plus a food allowance of \$6 for man and \$4 for wife. In addition, free lodging, free good medical attendance and medicines and fuel for cooking were provided.¹²⁾ From February 1885 through June 1894, twenty-six lots of Japanese immigrants came to Hawaii, a total 28,691 individuals

10) *Id.* at 150.

11) *Id.* at 152.

12) *Id.* at 166.

(23,071 men, 5,487 women, 133 children). By the end of 1894, 1,422 children were born among these Japanese immigrants, adding 30,113 to the population of the kingdom. In the same period, however, 1,671 persons died, 717 moved to mainland America, and 7,454 returned to Japan. Thus on December 31, 1894, there were 20,271 Japanese in Hawaii, about 20 per cent of the total population of the kingdom. Of this total only 8,502 were under contract. The 12,631 Japanese then employed on sugar plantations comprised approximately 64 per cent of the total labor force.

Although under the contract-labor system, strikes were illegal, Japanese workers began to act collectively and frequently resorted to work stoppages. Between 1890 and 1897 there were twenty-nine Japanese-inspired work stoppages. Keenly aware of the predominance of Japanese laborers, the Hawaii Sugar Planters' Association had to look for a different source of labor supply. Korean laborers were considered as an alternative. The first proposal from the planters to import Korean laborers was made in the fall of 1896.¹³⁾ Six years later, Horace Allen, U.S Minister in Seoul succeeded to obtain permission from Emperor Gojong (r 1864-1907) for Korean immigration to Hawaii on November 5, 1902.

III. Legal Structure for the Korean Immigration to Hawaii

When Emperor Gojong granted permission for Korean immigration to Hawaii on November 5, 1902, he awarded the power to oversee this immigration to *Dongseo Gaebal Hoisa* (East-West Development Company) established by David W. Deshler. At the same time, Gojong established *Yuminwon* (유민원, 綏民院, or the Department of Emigration)¹⁴⁾ under the wing of the *Suryunwon* (수륜원, 水輪院, or the Department of Water Affairs)

13) For the detailed plans to bring Korean laborers to Hawaii, see Patterson, *supra* note 3.

14) The Chinese character 綏 is pronounced either su (수) or yu (유). However, in the case of Yuminwon (the Department of Emigration), it was pronounced as Yu. See THE DIARY OF YUN CHI HO (*Yun Chi-Ho Ilgi*) Vol. 5, (National History Compilation Committee ed., 1975) at 370. Yun states that the reason for creating the Department of Emigration in the Gungnaebu was to have the revenue from the passport (Haeoi Yeogwon) belong to the Gungnaebu rather than to the *Oibu* (외부, 外部, or Foreign Ministry), which has been collecting revenue from issuing jibjo. *Id.*, at 371.

of the *Gungnaebu* (궁내부, 宮內部, or the Palace Household Department) on November 16, 1902.¹⁵⁾ The Department of Emigration (*Yuminwon*) Rule provided that the mandate of the Department was to issue passports to Koreans traveling to foreign countries for the purpose of study, sightseeing, agriculture, and commerce, and to manage these travelers.

In fact, before the Department of Emigration was established, there was a type of government-issued document that was called *Jibjo* (집조, 執照).¹⁶⁾ *Jibjo* was an official document that Joseon issued to Koreans who traveled outside its boundaries. The treaties with imperialist countries or relevant actors such as Great Britain (Oct 27, 1883), Bongcheon City, China (Dec 3, 1883), and China (Sep 1, 1899)¹⁷⁾ carried provisions that a *jibjo* issued by the Korean government gives a holder the right to travel in the contracting country.¹⁸⁾ Joseon also pledged to respect the *jibjo* (passport) of Great Britain's granting its nationals the right to travel in Korea.¹⁹⁾ There are earlier records that the Joseon government, specifically Hamkyung Province officials, issued *jibjo* to those crossing the Korea-China border in 1880. *Jibjo* seems to be the document that was generally used to control international travel to China and functioned as a form of passport in Joseon.

The Department of Emigration on the other hand started issuing newly adopted passports called *haeoi yeogwon* (해외여권, 海外旅券, or passport for international travel) for those immigrating to Hawaii through the Deshler's East-West Development Company in December 1902. While the Department of Emigration was operating, there were cases where both *jibjo* (old passport) and *haeoi yeogwon* (new passport) were issued for the same person. There was a power struggle in the Palace Household Department

15) GOJONG SILLOK (*The Annals of Gojong*), Promulgated the Establishment of Yuminwon under Gungnaebu system, November 16, 1902, the Second Article [高宗 42卷, 39年(1902 壬寅 / 光武 6年) 11月 16日(陽曆)].

16) Author Murabayashi is in possession of multiple original *Jibjos*.

17) GOJONG SILLOK (*The Annals of Gojong*), Executed the Korea-China Trade and Commerce Treaty, Sep. 11, 1899, the Fourth Article [高宗 39卷, 36年(1899 己亥 / 光武 3年 9月 11日 (陽曆)].

18) The treaties also provide that, for the visitors from the opponent country, a *Hojo* will be issued by Korean government to grant a right to travel on Joseon.

19) GOJONG SILLOK (*The Annals of Gojong*), Adopted the Treaty between The Empire of Korea and Great Britain, Oct. 27, 1883, The Seventh Article [高宗 20卷, 20年(1883 癸未 / China 光緒 9年 10月 27日(甲戌)].

concerning the role of the Department of Emigration and the related procedure for issuing passports. Apparently the Department of Emigration lost the battle, and it was eventually closed in 1903. Originally the seal that was used for the newly adopted passports was that of the head of the Department of Emigration, but it was replaced by the seal of the Foreign Ministry. Yi Yong-Ik, who was in charge of financial affairs in Gungnaebu, insisted this change. In fact he opposed the idea of Korean emigration to Hawaii in general. He successfully persuaded Gojong to close the Department of Emigration in the fall of 1903 and the power to issue haeoi yeokwon (passport) reverted to the Foreign Ministry. Eventually the Foreign Ministry issued the jibjo that had an extended portion of English translation as an official form of passport of the Empire of Korea.

On the other hand, there was *Hojo* (호조, 護照),²⁰⁾ which was issued to foreigners who wanted to travel in Joseon. *Hojo* listed the title of business, names of travelers and the destination of the trips, and was issued to each person traveling, but when two or more persons travel together, one document could cover several persons at the same time.²¹⁾ It was also called *Yeohaenggwon* (여행권, 旅行券, or the Travel Certificate) or *Haengjang* (행장, 行狀) meaning travel certificate.²²⁾ *Tongrikimuamun* (통리기무아문, 統理機務衙門, or Office of General Affairs)²³⁾ issued *Hojo* from 1880. *Hojo* was used until the end of the Empire of Korea. The fee was 15 yang²⁴⁾ of coins per person. From a modern point of view, it could be called the equivalent of a visa rather than a passport.

20) See generally GOJONG SILLOK, *supra* note 15. The authors are in possession of copies of *Hojos* including one issued to Germain Mousset in 1901.

21) See James Herbert Veitch, *A TRAVELLER'S NOTES* (1896).

22) GATOLIC SIBO [*Catholic Newsletter*] vol. 1151, Apr. 22, 1979; GYOHOEWA YEOKSA (*The Churches and History*) vol. 60, Aug 15, 1978.

23) This was succeeded by *Tongrigyoseoptongsangsamuamun* (통리교섭통상사무아문 統理交涉通商事務衙門 Office of Commerce) in 1882, by *Oimuamun* (외무아문 外務衙門 Office of Foreign Affairs) in 1894, and by the Foreign Ministry in 1895.

24) A Yang was a silver coin issued by the Empire of Korea. 5 Yangs were exchanged for 1 Whan.

1. *The Examples of Haeoi Yeogwon (passports)*²⁵⁾

The oldest surviving haeoi yeogwon which was issued by the Department of Emigration, numbered 41, is for Ye (Lee) Kyung Do who arrived at Honolulu harbor on January 13, 1903. The languages used in the single-page haeoi yeogwon were Korean combined with Chinese characters, and both English and French translations. It is believed that the Japanese passport format was replicated. Kim Sun Geon, however, received his single-page jibjo issued by Foreign Ministry in March 1903. More confusingly, the Foreign Ministry issued a jibjo to Ko Young Hyu on August 23, 1903 on the same day as a haeoi yeogwon by the Department of Emigration.

Yi Sun Yil's jibjo was issued by the Foreign Ministry on April 10, 1905 and it was a family jibjo for Yi Sun Yil, his wife (no name) of age 38, son Seung Pil of age 17 and a half, and another son Seung Sin of age 3. Another of Yi's sons, Seung Mu, age 19 was issued his own, individual jibjo on the same day. By this time, the passport system was well in place at the Foreign Ministry and a fee of gold 10 was charged for each jibjo and its revenue belonged to the Foreign Ministry. The format of the jibjo was changed to that of haeoi yeogwon, which was written in Chinese characters, with both English and French translations.

2. *Treaty between Joseon and the US*

The granting of Korean emigration to Hawaii by Gojong was possible because the representatives of Joseon and the United States of America had signed the Treaty for Peace, Amity, Commerce, and Navigation ten years earlier on May 22, 1882.²⁶⁾ The Hermit Kingdom's door was cracked open to the Western world and Korea soon made treaties with Germany and Great Britain (1883), Italy and Russia (1884), with France (1886), Austria-Hungary (1892), Belgium (1901) and Denmark (1902).

25) Authors are in possession of the electronic copies of the passports that are discussed in the article.

26) Treaty for Peace, Amity, Commerce, and Navigation, U.S.-Kor., May 22, 1882.

The Joseon-American treaty²⁷⁾ of 14 articles (written in English with Chinese translation) established mutual friendship and mutual assistance in case of attack; and the treaty also addressed such specific matters as extraterritorial rights for American citizens in Korea. The treaty's range of subjects is as follows:

- Article 1: provides for perpetual peace and friendship between Korea and the United States, and provides for the "good offices" of either government in the case of oppression by a third power
- Article 2: stipulates the exchange of diplomatic and consular representatives at the ports
- Article 3: protects US vessels wrecked on the coast of Korea
- Article 4: provides US extraterritorial jurisdiction over its citizens in Korea
- Article 5: stipulates merchants and merchant vessels reciprocally pay duties
- Article 6: provides reciprocal rights of residence and protection of citizens of both nations
- Article 7: prohibits export or import of opium
- Article 8: prohibits export of Korean rice and breadstuffs, and Americans purchasing Korean red ginseng
- Article 9: regulates importation of American arms and ammunition
- Article 10: stipulates reciprocal rights to employing native labor
- Article 11: allows student exchanges
- Article 12: stipulates possible further negotiation after an interval of five years
- Article 13: states the use of the Chinese language and English with Chinese translation as official languages
- Article 14: contains the "most-favored-nation" clause

Of the 14 articles of the treaty, Article 6, in particular, paved the way for Korean immigration to Hawaii.

27) *See Id.*

“Subjects of Chosen (Joseon) who may visit the United States shall be permitted to reside and to rent premises, purchase land, or to construct residences or warehouses, in all parts of the country. They shall be freely permitted to pursue their various callings and avocations, and to traffic in all merchandise, raw and manufactured, that is not declared contraband by law.”

The treaty, however, does not specify the administrative procedure concerning the issuance of passports or visas. Emperor Gojong, without revisiting the provisions of the treaty, bestowed his permission to his subjects to emigrate to Hawaii. The Empire of Korea did not or could not see the necessity to promulgate provisions to protect its citizens in Hawaii. Koreans were simply allowed to go to Hawaii with passports.

3. Entry system in the US

The American visa system was not yet in place when Korean immigrants arrived in Hawaii in 1903. The Immigration Act of 1924²⁸⁾ enacted the contemporary American visa system. In the absence of a visa system, the entry of Korean immigrants to Hawaii was documented in the “List or Manifest of Alien Immigrants for the Commissioner of Immigration.” This is a large columnar form, completed by hand. The form included name, age, marital status, last residence, ship and date of arrival. Also included in the form are columns for a variety of information about each passenger, including occupation, ability to read or write, residence, landing port, and final destination. The form also has columns to indicate whether the passenger held a ticket to the final destination; who paid the traveler’s passage; whether the passenger carried money; whether the passenger had been in the United States before; whether the passenger was joining relatives, and whether the passenger had ever been supported by charity or was a polygamist. In addition, there are columns for notes about the

28) Immigration Act (An act to limit the immigration of aliens into the United States, and for other purposes), H.R. 7995; Pub. L. 68-139; 43 Stat. 153 (1924).

passenger's physical and mental health or any physical deformities.²⁹⁾

4. *Validity of Korean Immigrants in Hawaii*

When Korean immigrants arrived in Honolulu, Hawaii had become a territory of the United States. On January 17, 1893, Honolulu businessmen and politicians composed primarily of American and European residents overthrew the queen of the Kingdom of Hawaii, her cabinet and her marshals, and took over the government of the Kingdom of Hawaii. The sovereignty of the Kingdom of Hawaii was lost to a Provisional Government, which shortly became the Republic of Hawaii (1894). The Republic of Hawaii was eventually annexed by the United States in 1898. With the 1900 Organic Act,³⁰⁾ the constitution and all the laws of the United States began to have the same force in Hawaii. One particular law affecting the supply of needed laborers on sugar plantations in Hawaii was the 1885 Contract Labor Law. It prohibited the importation and migration of foreigners and aliens under contract or agreement to perform labor in the United States, its Territories, and the District of Columbia.

Korean immigrants arriving three years after Hawaii became a territory did not, or more precisely, could not carry contract papers with them to work in the sugar plantations, although they had committed to work in the sugar plantations for a minimum of three years. This stratagem was designed such by E. Faxon Bishop, a member of the Labor Committee of the Hawaii Sugar Planters Association (HSPA), to avoid violating the Contract Labor Law. Korean laborers' passages and other expenses were advanced by the East-West Development Company. The East-West Development Company was able to pay for the passages with advancements from the HSPA. In early 1904, A. W. Taylor, a local collector for Deshler Bank (in Korea), which advanced expenses for the immigrants, tried to

29) Murabayashi, *supra* note 3. The Passenger List is a subset of the information contained on the original manifests, including name, age, marital status, last residence, ship and date of arrival.

30) Hawaiian Organic Act (An Act to Provide a Government for the Territory of Hawaii), Act of Apr 30, 1900, c339, 31 Stat 141 (1900).

collect the money.³¹⁾ Taylor was partially successful in collecting the advance passages. A majority of Korean immigrants, who by now had realized their “free” status, refused to pay and the issue was soon dropped. Some Koreans, who realized that they were not legally bound to work in the sugar plantations, chose to stay in Honolulu city rather than going to the sugar plantations, or left the sugar plantations no sooner than they had settled in the plantations.

Frederick V. Berger in federal court challenged the legality of Korean immigration, but the charges were dropped eventually.³²⁾ Just prior to Berger’s filing, federal Immigration Commissioner Sargent arrived in Honolulu to investigate the importation of Korean laborers. He also found that Korean laborers were not in violation of the Contract Labor Law in coming to Hawaii.³³⁾

IV. End of Korean Immigration to Hawaii

Three years after Korean immigration started, in August 1905, Japan converted Korea into a protectorate after securing the secret Taft-Katsura Memorandum with the United States in July. United States Secretary of War William H. Taft conveniently breached the diplomatic relationship established in 1882. Specifically, the part of the Article 1 that was violated or ignored reads, “If other powers deal unjustly or oppressively with either government, the other will exert their good offices, on being informed of the case, to bring about an amicable arrangement, thus showing their friendly feelings.” Taft agreed that Japan had a right to establish protectorate power over Korea in return for Japan’s promise not to infringe on American rights in the Philippines. Although it is debatable whether Korea could have maintained its sovereign power even if the United States had backed Korea’s independence, Korea’s trust in the United States was

31) *Rioters Go to Jail, Lindsay Sent Eight Koreans to Reef*, THE PACIFIC COMMERCIAL ADVERTISER, Feb. 19, 1904 at 8.

32) *Sue for a Large Sum, Case of Korean in the Federal Court*, THE PACIFIC COMMERCIAL ADVERTISER, May 26, 1903 at 2.

33) *Investigated the Koreans*, THE PACIFIC COMMERCIAL ADVERTISER, May 23, 1903 at 7.

nevertheless shattered. No one at the time foresaw that the Taft-Katsura Memorandum would three decades later make Korean immigrants “enemy aliens” in America.

Even before the official protectorate status, the Empire of Korea was more or less controlled by Japan. The situation was so pathetic that a director of one of the largest Japanese emigration companies complained about Korean immigration to Hawaii. Morioka Makoto sent a letter to Japanese Foreign Minister Komura Jutaro on July 5, 1904, urging that Korean immigration to Hawaii be stopped.³⁴⁾ Morioka’s letter asserted that the history of Japanese immigration from 1885 has been successful and it had contributed to the growth of Japanese trade and economy as well as to the individual emigrant’s well being. Morioka stated that this success was threatened by Korean immigration and that the national interest of Japan was being injured. Morioka’s campaign against Korean immigration to Hawaii was successful and the Japanese government pushed the Korean government to halt the emigration to Hawaii temporarily in May 1905. Nevertheless, some Koreans were still emigrating to Hawaii due to the efforts of David W. Deshler, president of the East-West Development Company. When a Japanese official asked Korean Vice Foreign Minister Yun Tchi Ho about the continuing Korean immigration, he rationalized that those Koreans were already permitted to emigrate before May. Ninety-two Korean immigrants arrived in June 1905 at Honolulu harbor and another 109 Koreans followed them in July. Finally, Kim Woo Chai, together with returning Moon Kyung Ho, who originally immigrated in March 1904, became the last Korean immigrants landing at Honolulu harbor on August 8, 1905. In November 1905, the Empire of Korea decided, at the news of abusive treatments of Koreans in Mexico,³⁵⁾ to completely discontinue the

34) Morioka Makoto, *Appeal on the Korean Emigration to Hawaii*, JUHAN ILBON GONGSAKWAN GIROK (*Records of the Japanese Consulate in Korea*) (1904). Komura sent Morioka’s letter to Hayashi Gonsuke, Japan’s Minister in Korea on July 26, 1904.

35) A group of 1,033 Koreans left Jemulpo Harbor on April 4, 1905 and reached Merida, the capital of Ucatan state, Mexico around May 20. This one-time immigration group faced a slave-like, hard working life in the henequen plantations. A Japanese immigration company in coordination with the henequen plantation owners association in Ucatan arranged their immigration.

emigration to both Hawaii and Mexico.³⁶⁾

The government of the Empire of Korea was not able to provide proper support and protection for the Korean people in Hawaii. They could not establish a consulate office in Hawaii to assist the Korean emigrants. When the government heard of the news that Korean emigrants were seriously mistreated in Mexico, it was considered an important issue. Emperor Kojong personally expressed his serious concerns on the sufferings of the emigrants in Mexico, and ordered to find measures to get the Korean immigrants in Mexico back to the Empire of Korea. As a solution, the government decided to dispatch Vice Foreign Minister Yun Tchi Ho to Hawaii and to Mexico to inspect their conditions. Yun actually arrived in Hawaii in September 1905. During his 26 days stay in Hawaii, he had visited 32 sugar plantation. He met almost 5,000 Koreans from September 8 to October 3, 1905. However, because of the insufficient travel expenses, Yun could not go to Mexico. He just returned to Seoul in November 1905. After returning, Yun submitted his report on his Hawaiian trip, part of which was published in the *Daehan Maeil Sinbo* (Daehan Daily News).³⁷⁾ Yun suggested the following policy recommendation to improve Korean emigration practice:

1. The government should develop emigration rules;
2. The government must guarantee the transportation fare that was advanced by the emigration coordination company so that the sick person's returning trip fare will be covered once the consul verifies his or her illness or inability to work;
3. The government must check in advance the weather, atmosphere, residential areas where emigrants will live before allowing their emigration;
4. The number of annual emigrants should be controlled. Otherwise, as we have seen in the case of Hawaii, if too many emigrants are sent, errors may occur in the selection procedure.

36) GOJONG SILLOK (*The Annals of Gojong*), *Orders to Find Measures to Get the suffering Korean Immigrants in Mexico Back to the Empire of Korea*, Aug. 1, 1905, the First Article [高宗 46卷, 42年(1905 乙巳/光武 9年/8月 1日 (陽曆)].

37) DAEHAN MAEIL SINBO (*Daehan Daily News*) January 10-19, 1906.

Furthermore, the emigrants' annual salary level may go down.³⁸⁾

After Yun's visit to Hawaii, the Empire of Korea promulgated the Emigrant Protection Act in August 1906, which provided: "The emigrants who are already in foreign country to work as laborers will be operated by the approval of the Minister of Agriculture and Commerce."³⁹⁾ However, with the incident, the coordinated emigration to Hawaii did not resume. Furthermore, since Korea lost its sovereignty to Japan in August 1910, those Korean immigrants in Hawaii and in the continental U.S. could not enjoy any protection or assistance from their motherland throughout the colonial period.

1. Korean Immigration under the Gentlemen's Agreement

In 1908, the United States and Japan signed a Gentlemen's Agreement, prohibiting Japan from issuing passports to Japanese laborers bound for the United States and thus halting Japanese labor immigration. The United States in turn agreed to block legislation designed to harass Japanese Americans. With the Gentlemen's Agreement, President Roosevelt was able to maintain good relations with Japan, while satisfying the demands of anti-Japanese groups. President Roosevelt, by an executive order, issued a regulation preventing Japanese persons in American insular possessions [Hawaii] from migrating to the mainland United States. A provision in the agreement, however, allowed the parents, wives and children of laborers already in residence in the United States to immigrate. Inadvertently, women benefited most from the agreement and so-called "picture brides" were able to arrive as "wives" invited by single males in Hawaii. At the beginning of the picture brides' arrival, in order to make their conjugal relationship valid, instant wedding ceremonies were performed at the immigration station prior to the release of "wives" to their husbands. This practice, however, did not last long, not because Hawaii was tolerant towards Japanese but mainly due to the large number of brides arriving.

38) *See Id.*

39) Gojong Sillok (*The Annals of Gojong*), Ratifies Emigrant Protection Act and Mining Act, June 29, 1906, The Third Article [高宗 47卷, 43年(1906 丙午/(光武 10年) 6月 29日 (陽曆)].

From 1908 through 1913, a total of 14, 276 Japanese picture brides arrived.

Since the signing of the Japan-Korea Annexation Treaty in August 29, 1910, Korea became Japan's colony, and Koreans became Japanese subjects. Because of the change, some of the Korean wives and children who were separated from husbands in Hawaii still immigrate to Hawaii as Japanese citizens with Japanese passports. There were Korean "picture brides" as well, who married their arranged husbands at their arrival at Honolulu harbor. The first Korean picture bride arrived on December 12, 1910, who was followed by some 680 picture brides until July 1924. Around 200 families members have also arrived during this period. The passports for the picture brides and family members were generally issued through the Japanese Consulate Office in Honolulu. The husbands or would-be husbands, after obtaining the passports for them at the Japanese consulate, sent them along with transportation fare to their family members in Korea. There were, however, very rare cases, where passports were directly issued to the women in Seoul who subsequently traveled to Honolulu.⁴⁰⁾

The arrival of 200 family members and 680 new wives (picture brides), and subsequent births caused an increase in the Korean population from 4,950 in 1920 to 6,461 in 1930. Despite their political status caused by the annexation, the U.S. census still identified Korean nationals as Korean, not Japanese. According to the 1930 census, the Korean population numbered 6,461 or 1.8 % of the total Hawaii population of 368,336.

2. Legal Status of Koreans in Hawaii Until 1952

The increased flow of Japanese into the United States in the form of family members and new wives outraged the exclusionists in the

40) Chun Susan received her passport in Seoul. Interestingly, Chun Susan's passport which includes the name of her 2-year old daughter Ok-hee, reveals the following information: stamped "Admitted June 21, 1916, Honolulu, T. H." and Immigrant Inspector's signature. It also includes hand-written in pencil "a5491695, June 19, 1916, Shinyo Maru." Stamped note of "10 Jun 1916" appears on the other half side of passport. From these stamped and hand-written notes, one can learn that Susan Chun arrived on board the Japanese ship Shinyo Maru which left Yokohama, Japan on June 10, and docked at Honolulu harbor on June 19, 1916. Susan Chun's admission into the Territory of Hawaii on June 21, 1916 was serialized according to some system. Susan Chun's entry to the Territory of Hawaii was recorded in such a manner prior to the establishment of the American visa system in 1924.

continental United States. Feeling that they were deceived by the Gentlemen's Agreement, the exclusionists clamored for a stricter immigration policy. Their efforts resulted in the adoption of the 1924 Immigration Act. The 1924 Immigration Act virtually stopped immigration from Asia. It also prohibited all Asians from becoming naturalized citizens.

By the Immigration Act of 1924, the visa system started to be used in America. Beginning July 1, 1924, everyone arriving at a U. S. port of entry needed to produce some sorts of entry documents. United States citizens needed their birth records or their naturalization certificates. Non-citizens needed to show relevant documents according to their entry purposes. Immigrants who wanted to live permanently in the United States should have provided Immigrant Visas.

The U.S. Congress passed the Alien Registration Act (also known as the Smith Act) on June 29, 1940.⁴¹⁾ The law made it illegal for anyone in the United States to advocate, abet, or teach the desirability of overthrowing the government. The law also required all alien residents in the United States over 14 years of age to file a comprehensive statement of their personal and occupational status and a record of their political beliefs.

Under the Alien Registration Act, the Koreans residents registered themselves as Koreans not as Japanese nationals. There were 6,851 Koreans residing in Hawaii according to the 1940 census. Among them, 2,100 Koreans were born in Korea, and accordingly carried alien registration cards. However, the total number who had Japanese citizenship documents issued by the US counted almost a half of these alien Koreans. Korean picture brides and other members of family who arrived in Hawaii with Japanese passports were given the Japanese citizenship registration cards upon their return to Hawaii. Those children who were born in Hawaii, if they were taken back to Korea by their parents, were forced to be registered as Japanese citizens upon their return. According to a population estimate prepared by the Bureau of Health Statistics of the Department of Health, 6,881 Koreans resided in Hawaii in 1941. Of these, 4,628 were American citizens and 2,253 were aliens.⁴²⁾

After American entry into World War II following the Japanese attack

41) Alien Registration Act (Smith Act) 18 U.S.C. § 2385 (1940).

42) Thomas G. Thrum, HAWAIIAN ANNUAL FOR 1941 at 293.

on Pearl Harbor on December 7, 1941, the Koreans faced a confusing and complicated situation. From the onset of the war U.S. Attorney General Francis Biddle and the Department of Justice made a distinction between the citizens and subjects of Germany, Italy, and Japan. On January 26, 1942, the Department of Justice announced that Austrians, Austro-Hungarians, and Koreans – all enemy aliens by virtue of their mother country's colonized state – were exempt from having to apply for a Certificate of Identification if they had registered as their native citizenship under the Alien Registration Act of 1940⁴³⁾ and “provided that such persons have not at any time voluntarily become German, Italian, or Japanese citizens or subject.”⁴⁴⁾ Thus, Koreans were exempt from the restrictions on enemy aliens after February 9, 1942. Such a favorable status, however, was not allowed for Koreans in Hawaii. Because Hawaii was under martial law immediately after the attack on Pearl Harbor, and the final word on Hawaiian affairs belonged to the military governor of Hawaii.

In Hawaii, the military governor classified Koreans as enemy aliens for the purpose of the curfew law, the possession of explosives, arms, and ammunition and radio transmitting sets, etc. On March 10, 1943, Korean alien Syung Woon Sohn, an officer of the Dongji Hoi, which was organized by followers of Syngman Rhee, was arrested for curfew violation. On March 29, 1943, Lt. Col. Moe D. Baroff, provost judge, ruled Sohn guilty and fined him \$10, and suspended payment on April 30, 1943. Korean leaders rushed to file complaints regarding Sohn's case and tried to use this incident as propaganda for repealing enemy alien status for all Koreans. Syngman Rhee sent a letter to Secretary of War Henry Stimson on May 17, 1943, calling for U.S. officials to devote “urgent attention to the legal status of the Korean people in the United States, including Hawaii.” Nevertheless, the Hawaii military governor's office and U.S. officials maintained the enemy alien status of Koreans in Hawaii.

Because Koreans were treated as Japanese in the public's eyes as well as in the court of law, it became imperative for Koreans to identify themselves

43) Alien Registration Act, 18 U.S.C. § 2385 (1940).

44) Department of Justice, FOR RELEASE (1942); quote available in Lili M. Kim, *Koreans Repealed Their 'Enemy Alien' Status*, in FROM THE LAND OF HIBISCUS, KOREANS IN HAWAII (Yong-ho Choe ed., 2007).

physically as not of Japanese ancestry to protect themselves from both the American public and government officials. The United Korean Committee (UKC) issued identification cards certifying Koreans in America to be citizens of the Republic of Korea. UKC was organized by representatives from nine Korean organizations in Hawaii and the mainland, including the Korean National Association, and held an All-Korean Overseas Convention in Honolulu from April 19 through 29, 1941. Koreans, however, were not able to wear the cards on the outside of their clothing due to the prohibition of the Public Morale Section of the Territorial Office of Civilian Defense, which was established in Hawaii to monitor the attitudes and behaviors of different ethnic groups. Nevertheless, carrying the identification cards proved to be a handy and effective tool for Koreans when they needed to prove their ethnic background to evade hostility. On December 4, 1943, General Orders No. 45 exempted Koreans from curfew restrictions and finally, on May 6, 1944 Koreans became "friendly aliens" by General Order No. 59.

In 1951, the Korean population in Hawaii had reached 7,268, including 1,502 aliens.⁴⁵⁾ The decrease of alien Koreans from 2,253 in 1941 was mainly due to the death of Korea-born immigrants. In 1952, the U.S. Congress enacted the Immigration and Nationality Act (McCarran-Walter Act), which dropped racial and ethnic barriers to naturalization while preserving the race-based National Origins Quota System. Aging Korean immigrants, who have been living in Hawaii as alien residents, were at long last able to apply for U. S. citizenship. *50 Years of Progress*, which was published on the occasion of the Hawaii-Korean golden jubilee celebration (November 1953), includes 42 names who became naturalized U.S. citizens under the McCarran-Walter Act. It also includes 40 names that were in the process of naturalization.

While a majority of Koreans in Hawaii applied for American citizenship after 1952, a few did not. Chang Soo Kim arrived in Hawaii when he was 18 years old in 1904. Alien resident Kim had to file a "U.S Departing Alien Income Tax Information Return" when he traveled to Korea in October 1955. (His passport, presumably issued by the Republic of Korea, cannot be

45) Thomas G. Thrum, HAWAIIAN ANNUAL FOR 1951 at 95.

found.) When Chang Soo Kim traveled to Korea for a second time in September 1961, the Korean Consulate General in Honolulu issued a 60-day “Temporary Passport’.” Kim had to obtain a Yeohaeng Jeungmyeongseo (여행증명서 旅行證明書 Travel Certificate) from the Republic of Korea when he attended the funeral of Syngman Rhee, former president of Republic of Korea, in Seoul in July 1965.

V. Conclusion

The Treaty for Peace, Amity, Commerce, and Navigation between the United States and Korea in 1882 preceded Korean immigration to Hawaii in 1903. However, Korean immigration proceeded without clear policies of both the Empire of Korea and the United States. The 1882 treaty was of a general nature and did not promulgate immigration policies. Since U. S. Labor Contract Law prohibited immigration of contracted laborers, Korean laborers were transported to work in the sugar plantations without any contracts provided by the Hawaii Sugar Planters Association, employing agency or the Hawaii territorial government.

Korean immigration lasted less than three years from its beginning. U.S. Secretary of War William Taft, in ignoring the diplomatic conditions of the 1882 Treaty, insured Japan’s dominance of the Korean peninsula from 1905. Korea eventually lost its sovereign power to Japan in 1910.

Early Korean immigrants traveled with their Korean passports. However, after Korean government lost its sovereign power, they had to endure a humiliating status of being treated as Japanese subjects in Hawaii. They had to carry Japanese passports to visit Korea and had to register as Japanese subjects upon their return to Hawaii. Some of the Korean family members and new brides continue to immigrate to Hawaii as Japanese subjects during 1910 and 1924. Tragically, however, the United States government treated them as enemy aliens during WWII. The enemy alien status was inconveniently ironic for Korean immigrants, because they struggled against Japanese colonialism throughout their lives in America.

Overall, the immigration of Koreans to Hawaii was managed by a very weak legal structure in many respects. It is amazing to see the current Korean immigrants who successfully overcome the lack of clearly

established immigration policy for Korean emigrants in both of the countries, the ad hoc base administration of the immigrants, and the virtually non-existing governmental protection of Korean immigrants in the early days.

KEY WORDS: Korea, Hawaii, Joseon, Korean immigration, contract labor, passport, visa, yuminwon, Jibjo, Hojo

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