KOREAN JUSTICE

*Eastern cruelty - Responsibilities of magistrates - Korean penalties - Usual reforms - Purchase of judges - Torture - Prisons - Executions – Martyrdom of Bishop Berneux - Drum of complaints*

Particularly refined cruelty is a marked characteristic of all the peoples of the Far East. Chinese methods of torture are now famous all over the world, and the cruelties of the Japanese, although little talked of now, are much in evidence in the old histories of Japan; the monument of the hundred thousand noses cut off Korean prisoners during Hideyoshi’s expedition, is a striking example, but by no means the only one. Inferior in many respects to their eastern and western neighbours, the Koreans were their equals when it came to cruelty, as the unfortunate victims of the first religious persecutions in the peninsula were well aware.

Given such special aptitudes, it was natural for the system of justice in Korea to rely heavily on torture in trial proceedings, and on corporal punishment as a penalty for breaking the law.

As a general rule, magistrates in the individual towns and villages administered the law in the provinces, deciding ordinary cases of theft, assault with bodily harm and complaints, while murder cases were reserved for the governor of the province. The governor would send a trusted official to the scene of the crime; after the necessary examination of the body, the official ascertained the guilt of the presumed murderer and, if there was no doubt that he was guilty, ordered his execution without more ado. In disputed cases, one or two other officials were despatched to the crime scene and a detailed report on the case was sent to the *Court of Penalties* in Seoul, which was responsible for making the final decision.

However, all offences committed by government officials, and all charges of treason brought against private citizens, were dealt with exclusively by the aforementioned court, *Sa-hyien Pa*. The governor of the province where the guilty official or the person accused of treason resided, began by sending a memorandum to the throne setting out the details of the case; the King then drew up the indictment, *cioi-ciang*, and sent it to the Court which, by means of one of its couriers, *na-ciang*, arranged for the arrest of the accused. The trial then took place, and the minutes of the proceedings were sent to the sovereign, who by another special act authorized the Court to pronounce the sentence, which had to be approved by the sovereign before it could be considered as final.

The main penalties decreed by the Court were dismissal, imprisonment, flogging, banishment, and execution.

Dismissal could also be decreed, without the need for a special procedure, by an *An-heung E-sa*, a Secret Royal Commissioner, a sort of high-ranking official who, by order of the sovereign, travelled incognito through the provinces and, wherever he observed disturbances, was empowered to dismiss the responsible officials, provided they were of a lower rank than that of governor. In order to be recognized when they needed to be, these *E-sa* were equipped with a special copper seal engraved with the figure of a horse, *ma* o *mal*, hence the name of *ma-pai*.

*Imprisonment* took place in Seoul's two main prisons, *Nam Kam* and *Puk Kam*, the first being used almost exclusively for prisoners awaiting trial, and the second as a place of punishment.

 *Flogging* could be inflicted in different ways, with the *ci* (rod), or with the *kon-ciang* (a wide flat stick), and the number of lashes, variable according to the greater or lesser severity of the crime, could even be over one hundred. However, the remission of all or some of them was allowed, upon payment of 7 *yup* each, about two cents per beating! It cannot really be said that the taxman was demanding! Still, the vast majority of the condemned preferred to take their ration of lashes in peace rather than pay that small sum.

*Banishment* was divided into three categories, depending on the distance to which the condemned was to be deported, the greatest distance being 3000 *li*. Since Korea, according to Korean geographers, was 2373 *li* long and 1073 *li* wide, the peninsula itself was not long enough to apply the maximum penalty, so they resorted to the expedient of embarking the guilty person on a ship and after covering the necessary number of *li*, landing him on the first island they came to. Generally these exiles all ended up in Quelpart.

The death penalty was also divided into three categories: strangulation, beheading and quartering, each of which was then subject to many variants, intended to exacerbate the suffering of the condemned according to the gravity of the case or the whim of the magistrate presiding over the execution.

Now, after the reforms, some changes have been made to the organization of the judicial system as well as to the application of penalties. A whole system of Courts of First Instance, Courts of Appeal, and Special Courts, capped by a High Court of Justice, with related Judges, Prosecutors and Presidents, was devised, and the relevant decrees subsequently appeared in the *Official Gazette* of 1895-96; but as they appeared on paper, so they have remained on paper and they have not been applied in practice. Some slight changes can be observed, introduced perhaps in material terms, since in moral terms the system of buying judges is still the most popular.

If Korea, unfortunately, is not the only country in the world where justice, let us call it that, can be bought, it is nevertheless one of those where the practice is most blatant. In the past this was not the case, at least the Koreans claim it was not, maintaining that this deplorable custom only became widespread in very recent times. During the reign of Ciung-giong, at the beginning of the sixteenth century, an unfortunate official who was vice-president of the *Court of Penalties* was struggling to make ends meet and at a loss to know how he could feed himself and his numerous offspring. A devoted friend, wishing to help him in some way without offending his dignity, broke into his office one day and left a silver statuette, on which he had engraved his own name, in a corner of the room. As was to be expected, the gift was received with great jubilation, and the vice-president was thus able to put his affairs in order. Years passed, and one day the friend's father, involved in a terrible conspiracy, was arrested, and was about to find himself in mortal danger, when his son went to see our official and reminded him of the old favour his father had done him. When he remembered it, the old man was moved and promised that he would do everything he could to help. The friend's father was indeed acquitted, on one of those specious pretexts that the representatives of the law never fail to find to exempt themselves from observing it. But the affair ended up reaching the King's ears and provoked a serious scandal among the people. The vice-president in question was naturally dismissed, but by then the people had learned the surest way to get what they wanted, and from that day the use of *bakschish* became general.

Thus the good judge has his way ahead clearly marked out: favour those who pay him and condemn those who do not pay him – clearly not a difficult profession.

As for the penalties, the main changes made were, first of all, the abolition of the age-old custom of holding all the relatives, close and distant, of a guilty party jointly responsible for the offence committed, confiscating their assets and exiling them as well as the offender. Likewise, the distinction between the treatment of officials and the treatment of private citizens was abolished, proclaiming for Korea too what has been called the greatest lie of the whole legal system: *the law is the same for all*. Flogging with the stick was forbidden and the price for reducing the penalty was raised to one day’s wage for every stroke remitted.

The different categories of banishment ceased to be fixed in terms of the distance to the place of exile, but reflected instead the length of the sentence to be served, from five to fifteen years, in addition to exile for life, still in use today.

Some changes were also made to the death penalty, which in future was to be carried out only by hanging for civilians and shooting for the military.

However, the worst of all these horrors remained: torture. It was too deeply rooted in the minds, not only of Koreans, but of all the peoples of the Far East, for its abolition to be expected. Even after several years of feverish Europeanisation, torture was still being used in Japan, and the meticulous and exact bureaucrats of that empire were still preparing everything necessary for the monthly publication of the statistics relating to it! And if it was finally abolished in 1876, this was largely due to the energetic work of Mr. Boissonade de Fontarabie, then Legal Advisor to the Mikado Government.

It should be noted that in Korea torture is used not only on the accused, to force them to confess their crime, but also, and in equal measure, on witnesses, to force them to reveal everything they know both for and against the accused.

This is perhaps due to the perennial habit of telling lies, a habit which is second nature among many peoples, and which has led to the belief that exceptional methods have to be used to discover the truth. There is no doubt that any Korean would laugh his head off at the idea of ​​an interrogation that did not begin with a preventive session of torture, the only way, in his view, to achieve any worthwhile result.

In past times there existed a great variety of methods of torture - nothing could better illustrate the inventiveness that cruelty fosters among these people. Many of these methods were abolished at the beginning of the current dynasty, and still others, such as crushing of the knees, application of red-hot iron and dislocation of the bones, were proscribed at the end of the 13th century by King Yong Giong, as already mentioned.

The systems still in use are roughly the following:

1 ° *Flogging with rods*. The “patient”, after being partially stripped, is stretched flat on a bench and tied to it by two ropes, one round his waist and the other round his feet. Then one of the guards of the *a-mun*, using a flexible rod about one metre long, inflicts the number of lashes prescribed by the magistrate. The number fixed for each interrogation, both of the accused and of the witnesses, is thirty; in the past, when the stick was still in use, and had to break with each blow for the stroke to be considered valid, there were always thirty new sticks ready for use next to each of the unfortunate people due to be interrogated.

2 ° *Bending the bones*. There are two methods in use: the first, *ka-sai-tsu-roi*, consists in tying the big toes and the knees of the accused tightly together, after which two solid sticks are planted in the ground between his legs and pulled by two guards in opposite directions, until the bones begin to bend; the guards then slowly return the sticks to their original position, and immediately repeat the manoeuvre. The other method, *tsul-tsu-roi*, is much the same except that only the feet are tied together, a large block of wood is placed between the legs, and two ropes, each tied round one knee, are pulled in opposite directions to try to bring the knees together.

 The use of other and more terrible systems of torture, such as dislocation of the arms and suspension, is now only permitted for truly extraordinary crimes. Dislocation of the arms is performed by tying the patient's elbows behind his back and placing two sticks between them, which are then pulled by two executioners, using the shoulders for leverage, until the shoulder blades are forced out of position. The unfortunate man is then untied and laid on the ground where one of the executioners, placing a knee on his chest, grabs his arms and with skilful movements pushes them back into place. The whole operation is then repeated. Suspension is performed by tying the wretched man’s hands behind his back and holding him up by the arms while four villains whip him until he bleeds. Care must be taken to lower him in time because in that uncomfortable position the patient may very well not survive the operation. A variant can be obtained by having the guilty person kneel on top of glass fragments and then pulled up and suspended by his hair, which is easy in Korea where everyone wears their hair long, while two wretches, armed with powerful clubs, beat him on the legs.

As can be seen, the paths of justice in this country are not strewn with roses, and the sessions of these courts can be very disturbing. The representatives of the Powers in Seoul periodically send the government their most formal protests at the continued use of such a barbaric system; they get promises of reforms, but that is all. At most, instead of being inflicted in public, torture is used for a time in secret, when it is very probably even more severe.

I shall not dwell on the state in which the prisons are kept, because just to see them is horrifying. It is hard to believe that those poor filthy creatures, covered with sores and mud, devoured by insects, some chained, others tortured by *canga*, emaciated, veritable living skeletons, are human beings and that other men keep them in such a state. On entering those places one cannot help but feel a very deep sense of pity for the unhappy inmates, and it requires an effort not to break down at the sight of them. But what is most surprising is not so much the indifference with which the Koreans consider these things, as the quiet calm with which the prisoners themselves endure what for others would be terrible sufferings. It is not uncommon to see them chatting amiably among themselves, laughing loudly and cracking jokes - yet another example of the continuous contradictions one comes across among these people.

And now, before leaving this unpleasant subject, a few words on the executions which, until very recently, plagued the Korean capital with great frequency.

Death by poisoning was reserved for nobles and senior officials, but for the others there were various kinds of torture, the most common of which was this one, described by Fr Dallet in his *Introduction* to the *History of the Church of Korea*. When the hour of execution arrived, a cart pulled by two oxen drew up in front of the prison, and the condemned man, carried on the shoulders of one of the executioners, was suspended by the arms and hair from a cross a little more than two metres high erected in the centre of the cart, with his feet resting on a stool so that his hair was not supporting his whole weight. The procession, which included a number of officials and many onlookers, then set off for the Little West Gate. After passing through the Gate, where the road descends very steeply, the driver of the cart whipped the oxen into a run, while one of the executioners, with a rapid movement, pulled the stool from under the feet of the crucified man, who thus remained suspended by his hair: it is easy to guess what agonies he must have suffered with the constant shaking of the cart on that uneven and rocky road. When they finally reached the place of execution, the unfortunate man was taken down, an executioner undressed him, tied his hands behind his back, made him kneel, placed a log of wood under his chin and then beheaded him. If the sabre was sharp and the executioner skilled, a single blow was enough.

Since these were great criminals, the head was then hung on a kind of tripod, to which a sign was sometimes attached bearing the criminal’s name and the crime he had committed. The limbs were quartered and sent to the provinces, where some villains carried the shreds of human flesh around for several days, extorting money from those they met on the roads of the peninsula.

Finally, here is how the same author narrates the martyrdom of Bishop Berneux and his three companions, the first victims of the great persecution ordered by the Tai Uen Kun: On the 22nd day of the 1st moon, the four missionaries were taken from prison to be led to their death. Each of them was laid on a wooden litter carried on the shoulders of two men, their legs and arms were solidly tied and their head secured by their hair, which those fathers wore long, in the Korean fashion. Behind the head a placard bore the victim's name and the words "rebellious and insubordinate, condemned to die after various tortures." Four hundred soldiers accompanied the procession, which was made up of the worst scum of the capital, who rushed to see and insult those barbarian propagators of a new doctrine. Once they reached the place of execution, the soldiers arranged themselves in a semicircle in front of the tent specially erected for the magistrate who supervised the executions. The victims, stripped of almost all their clothes, were laid in the centre of the circle, at the foot of a large tree surmounted by a white flag. The bishop was called first, and while one of the executioners tied his hands behind his back, another folded back his earlaps and drove a long arrow into each ear. His face was smeared with quicklime, two sticks were passed under his armpits, and he was lifted up and carried round the semicircle eight times for the crowd to see. Finally he was made to kneel with his chin resting on a stump, while a soldier pulled his hair, and six executioners armed with long knives danced a macabre dance around him, blindly striking the wretched body. At the third blow, the head fell off. It was lifted up by means of the arrows stuck in the ears, shown to the magistrate, and then hung on the tripod to which the placard bearing the sentence had been attached. The same atrocious ritual followed for the other three unfortunate priests. The most terrible fate of all was reserved for Father Dorie who, as the last to fall, had to witness those bloody scenes three times - a terrible torment for someone forced to see his companions, who shared the same faith and the same ideal, put to death in this way, knowing that their suffering would be his too.

Enough of this catalogue of horrors; a cheerful note to finish. In observance of an ancient custom, established I believe by Tai Giò himself, a huge drum always stood at the main entrance to the Sovereign's Palace. It was called the "drum of complaint," *shin-mun ko*; any individual who had not had been given a fair hearing had the right to bang it, and his case, brought at once to the attention of the King, was promptly given due consideration. Similar drums were found in the provinces near the gates of each *a-mun*.

This use has not been abolished. The drums are still visible, both at the entrance to the Palace and at the gates of the *a-mun*. But anyone who tries to bang them will be arrested on the spot, tried and eventually thrown into prison. Given Korea’s legal system, it is better to resign oneself to not wanting justice at all costs. Korea is one of those countries where the law is expensive, and it is not clear why it continues to be called justice.