

The United State in Kamakura Law

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Abstract

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What did the Kamakura bakufu (c. 1180-1333), Japan's first so-called "warrior government" actually do? How did its "warrior" authority and role in governance change and expand over time? This dissertation examines the administration of the Kamakura bakufu through the its legal and administrative documents. It finds that these sources are critical to understanding how the warriors of the bakufu governed themselves, and to the process of expansion of "warrior" authority well beyond military matters. From 1199, the bakufu began to formalize and systemize its political, legislative, and judicial processes. By 1249, it had issued the List of Precedents on Judgment (*Goseibai shikimoku*), which outlined and standardized the basic principles of Kamakura justice in the vernacular, as well as 265 supplemental laws (*tsuika-hō*) to update and expand Kamakura policy. It had established new conciliar structures for governance and judgment, and added procedures and supporting organizations to increase the efficacy and reliability of the legal process as Kamakura's jurisdiction expanded.

These sources show that the Kamakura bakufu consistently adapted to changing circumstances, taking on more authority and responsibilities as required by political exigency. This pattern of slow, uneven expansion further provides insight into the bakufu's relationship with the imperial court and government. This dissertation argues that the bakufu operated as part of a "united state," working as an (increasingly powerful) agency within the imperial government and under imperial authority. The bakufu actively worked to maintain the structures of the united state, and frequently reinforced the authority and jurisdiction of the imperial court and major religious institutions while limiting its own authority and the powers of its warriors. This arrangement allowed for the bakufu to continue to enjoy imperial legitimacy, and for undertaking sometimes substantial reforms without fundamentally altering or separating from the state. The bakufu was thus a complex and dynamic organization that resists easy categorization. It was not a separate or independent "warrior government," nor merely one of several cooperative "powerful houses" (*kenmon*). The bakufu adapted and expanded to fill the space left by a retreating imperial court and provincial governments, drastically enlarging and refining its administration over time, changing to fit the needs of the moment. These findings further challenge the traditional conception of "warriors" as a distinct and separate social category, as well as the periodization and meaning of Japan's "medieval" era. This work argues that overlooking the nature of the early development of the Kamakura bakufu obscures the broader development of "warrior" authority over the next 400 years, as the legal order originating under

Kamakura became the basis for total warrior rule as later warrior administrations completely eclipsed the imperial government.

For Shoelace the Shelter Cat,
my constant dissertation companion

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A Note on Translations and Dates

All translations are by the author unless otherwise noted. Any mistakes are my own. I have largely preserved dates as they were written in the texts. Sources at the time used a lunar calendar and relied on a system of era names. In general, I have converted the years to their equivalents in the Gregorian calendar, but maintained the months and days as in the original. For example, 8/10/1232 as the tenth day of the eighth month, 1232 (which was September 3rd, 1232).

Chapter One

Introduction

Minamoto Yoritomo (1147-1199), the progenitor and first shogun of the Kamakura bakufu (c.1180-1333), died abruptly in 1199 after falling from his horse at the dedication ceremony of a bridge. His death lowered the curtain on the opening act of the bakufu, during which he raised an army of rebel warriors, led them to victory in battle, and then transformed them into officials serving both himself and the imperial government. Over the next fifty years, the bakufu continued to rely on such adaptive genius as it faced a variety of challenges, ranging from the momentous (famine and imperial rebellion) to the mundane (overburdened courts and ambiguous laws). The bakufu responded to crises with many different methods, but most of them were quite unwarlike. They included the development and systematization of legal and administrative structures as central pillars of Kamakura governance. The innovations usually resolved the problems at hand; they also legitimized expanding warrior authority over the longer term.

The bakufu morphed, haltingly, from an autocratic instrument of Yoritomo into a consultative body of decision makers, who relied on councils of top warriors under the hegemony of the Hōjō family regents. It would defeat opposing forces of the imperial family in battle, assert new controls over the imperial court, and pervasively expand its network of officials. It would assume more power in more places. In 1232, the bakufu promulgated the List of Precedents on Judgments (*Goseibai shikimoku*), which established standard principles of justice in warrior law and included—remarkably—substantial limitations on its own jurisdiction and warrior membership. Another 265 supplemental laws (*tsuika-hō*) over the next eighteen years clarified, modified, and extended those initial principles (notably in the domain of judicial procedure). The bakufu also added administrative and judicial offices to manage its expanding operations.

Yet all such expansion, I argue, took place within a “united state.” The Kamakura bakufu worked not just with but also within the imperial government, as its warrior housemen served as increasingly specialized agents in an integral administration. Kamakura laid the foundations for subsequent, more assertive bakufu regimes. However, during the first half-century of their ascendancy, the Hōjō regents integrated the Kamakura bakufu into pre-existing state structures and advanced distinctly limited notions of the warrior role. National warrior hegemony would not occur until the early modern era (c.1590-1868). In the following chapters I trace the early activity of the Kamakura bakufu, its vision of rule, and its exigent but always contained expansion within a state that neither anticipated nor led in any linear fashion to the radical reinventions of later centuries.

What was the Kamakura Bakufu?

This dissertation accepts the well-established usage of “bakufu” as the Kamakura administration. The term was used contemporaneously, but not as modern scholars employ it. It was adopted by later historians as a shorthand for the conglomeration of offices that took on various functions of the state under the leadership of successive shogun. There is no evidence to suggest that, when he began recruitment to attack his political rivals, Yoritomo envisioned the

administrative organization that would develop under his leadership and long thereafter. Even as he assembled a rebel army, Yoritomo quickly made clear his intention to incorporate new powers vested in himself within the imperial state.¹ The term “bakufu,” borrowed from Chinese, originally meant a general’s field camp during a military campaign. In classical Japan, it came to designate the General of the Palace Guards (*konoefu*), the highest regular military officer, or his residence.² It was first used in this way in the quasi-official history of the Kamakura bakufu, *Azuma kagami*, which states, in an 1189 entry: “[Ōe] Kintomo informed the Former Governor of Inaba [Ōe Hiromoto, Kamakura’s top bureaucrat] that he had arrived as a messenger for the Retired Emperor [Go-Shirakawa]. Inshū [Hiromoto] first invited him into his home, then left to report to the bakufu,” that is, to the residence of Minamoto Yoritomo, the Great General of the Right Palace Guards.³ It was because of Yoritomo’s (subsequent) appointment from the imperial court that this term was used.⁴

Only centuries later did “bakufu” come to mean “warrior government.” This shift came under the Edo “bakufu” (c.1603-1868), a national regime composed entirely of warriors under the authority of a shogun. With the introduction of modern historical methodology in the late nineteenth century, the term was applied retrospectively as Japanese scholars crafted a historical narrative for the origins of their modern state: hence the term “Kamakura bakufu” was birthed centuries after the death of the actual administration.⁵ Similarly, later scholars sought to define recognizable historical eras named for their geographic centers of political power. The “Kamakura period” (c.1180-1333) was the first of three periods defined by an eponymous bakufu.⁶ This periodization has remained the standard for Japanese history ever since. While useful for making generalizations, it applies the same term “bakufu” equally to very different institutions of different eras, and glosses over the substantial evolutions of governance that arose during each period.

Interpreting the Kamakura Bakufu

Modern Japanese scholarship has been largely dominated by two main schools of thought regarding the Kamakura bakufu. The first, the “eastern state” (*tōgoku kokka*) school, conceptualizes the Kamakura bakufu as an independent state, distinct from the imperial and aristocratic authority of Kyoto. This theory is best represented by the work of historian Satō

¹ Uwayokote Masataka, “Kamakura bakufu to kuge seiken,” in *Iwanami kōza nihon rekishi* vol. 5 Special ed., ed. Asao Naohiro, Ishii Susumu, Inoue Mitsusada, Ōichi Kaichirō, Kano Masanao, Kuroda Toshio, Sasaki Junnosuke, Toda Yoshimi, Naoki Kōjirō, Nagahara Keiji, Bitō Masahide, Fujiwara Akira, and Matsuo Takayoshi (Tokyo: Iwanami Shoten, 1982), 44-45.

² Uwayokote Masataka, “Kamakura bakufu,” in *Kokushi daijiten* vol. 3, ed. Kokushi daijiten henshū iinkai (Tokyo: Yoshikawa Kōbunkan, 1983), 549.

³ Kuroita, Katsumi and Kokushi taikai henshūkai comp., *Azuma kagami*, vol. 1, rev. ed. (Tokyo: Yoshikawa Kōbunkan, 1989), 6/5/1189; Masuda Takashi, “Azuma kagami,” in *Kokushi daijiten* vol. 1, ed. Kokushi daijiten henshū iinkai (Tokyo: Yoshikawa Kōbunkan, 1979), 212.

⁴ Yoritomo was appointed Great General of the Right Palace Guards in 1190, the year after this entry. This retroactive application is common in *Azuma kagami*, however, which is thought to have been compiled from the 1260s into the early fourteenth century.

⁵ The first academic reference to “Kamakura bakufu” came in or around 1887. Uwayokote, “Kamakura bakufu,” 549.

⁶ The first uses of “Kamakura period” came in 1885 and 1889, and marked a break in modern historical periodization, as historians moved away from relying on imperial reign eras. Nuki Tatsuto, “Kamakura jidai,” in *Kokushi daijiten* vol. 3, ed. Kokushi daijiten henshū iinkai (Tokyo: Yoshikawa Kōbunkan, 1983), 544.

Shin'ichi, which emphasizes the rupture implicit in the emergence of the Kamakura bakufu.⁷ Satō argues that when Yoritomo raised an army in rebellion in 1180, he began a process of separation. By 1183, Yoritomo had established his own de facto authority in the east, leaving the imperial court little choice but to recognize this new reality; Yoritomo was given sweeping public powers in a geographically-defined area in exchange for fulfilling certain police and military functions previously managed by the imperial state. Although the bakufu was in this way sanctioned by the imperial court, it was not under imperial control; warrior and aristocratic authority and governance were separate, competitive, and destined for conflict that would steadily erode imperial jurisdiction.⁸

In contrast, the “powerful houses” (*kenmon taisei*) school rejects the traditional view of a warrior bakufu opposed to an aristocratic court in separately evolving states. Introduced by Kuroda Toshio, this second theory conceives of the bakufu as a *kenmon*, a “powerful house” or elite institution. It worked as one part of a combined ruling class, along with the imperial court and top temples and shrines. The three *kenmon* shared similar organizational hierarchies, issued similar documents, and operated through similar personnel structures to carry out their duties. Their cooperation centered on the maintenance of a complex landholding system (combining public jurisdictions and private estates), in which all three *kenmon* were stakeholders. These three elite groups thus had a “mutually complementary relationship” or “structural [inter]dependence:” each operated as one leg of a tripod that made up the ruling class. Their shared goals were oversight of land and control of people.⁹ The three *kenmon*, scholars in the school argue, were united in a countrywide system under the authority of a retired emperor. The Kamakura bakufu simply stepped into the role of military *kenmon* through imperial edicts that recognized a changing of the guard resulting from the Genpei Conflict of c. 1180-85. Previously, members of both the Taira and Minamoto families had served the court as military aristocrats and “capital warriors,” connecting their political patrons in Kyoto to their own networks of warriors in the provinces.¹⁰ Indeed, in 1108, the prominent aristocrat Fujiwara Munetada counted the Taira and Minamoto alongside officially titled defense forces such as the imperial police (*kebiishi*).¹¹ In the wake of mounting conflict, and by imperial order, first Taira Shigemori in 1167, and then Minamoto Yoritomo in 1190, were authorized to fulfill certain police and military responsibilities of the state, including the capture or destruction of bandits, pirates, rebels, and other major criminals across the country.¹² The Kamakura bakufu was thus a continuation of the previously established system of cooperative elite governance under imperial authority.

The English-language scholarship has continued this debate. Mikael Adolphson introduces and elaborates on Kuroda's theory of ruling class collaboration in *Gates of Power*. There he underlines the continued importance of the traditional powers of the imperial court and

⁷ Most notably, *Nihon no chūsei kokka*, the culmination of years of work and refinement of this theory. Satō Shin'ichi, *Nihon no chūsei kokka* (Tokyo: Iwanami Shoten, 1983).

⁸ Satō Shin'ichi, *Nihon no chūsei kokka*, 8th ed. (Tokyo: Iwanami Shoten, 2000), 63-78. Kondō Shigekazu, “Chūsei zenki no seiji chitsujo,” in *Nihonshi kōza* vol. 3, ed. Rekishigaku kenkyūkai and Nihonshi kenkyūkai (Tokyo: Tokyo Daigaku Shuppan, 2004), 161-165.

⁹ Kuroda Toshio, *Nihon chūsei no kokka to shūkyō* (Tokyo: Iwanami Shoten, 1975), 5-12.

¹⁰ Takahashi Masaaki, *Bushi no seiritsu bushizō no sōshutsu*, 4th ed. (Tokyo: Tokyo Daigaku Shuppankai, 2004), 135.

¹¹ Fujiwara Munetada, *Chūyuki* 4/1/1108, as in Uwayokote, “Kamakura bakufu to kuge seiken,” 38.

¹² Takahashi Noriyuki, “Kamakura bakufu-ron,” in *Iwanami kōza nihon rekishi* vol. 6, ed. Ōtsu Tōru, Sakurai Eiji, Fujii Jōji, Yoshida Yutaka, and Sōng Si-Yi (Tokyo: Iwanami Shoten, 2013), 107-108.

major religious institutions, even as they competed and lost ground to the bakufu.¹³ English-language research has been dominated, however, by Satō's theory of a separate eastern state as elaborated in the many works of Jeffrey P. Mass.¹⁴ Mass understands the bakufu as perhaps not wholly independent but still distinctly separated from Kyoto and the imperial court. He postulates a “dual state” or “dyarchy” that maintained these boundaries. His work focuses on the wartime origins of the bakufu, the development and roles of its main officials (jitō and shugo), and the litigation in its courts. (Mass translated many documents of the early bakufu for the first time.) This research laid the foundation for a generation of study of the Kamakura bakufu in English.

In recent years, however, Japanese scholars have begun to challenge the two competing conceptualizations of the Kamakura bakufu—as either part of a collaborating ruling class or a separate state in a dyarchy. Historians Irumada Nobuo, Kawai Yasushi, Takahashi Masaaki, Takahashi Noriyuki, and Uwayokote Masataka essentially view both schools as partly correct but, in each case, in need of more nuance.¹⁵ In particular, they have reexamined the initial years of the Kamakura bakufu to clarify the nature of its developing authority and its relationship with the imperial court. They emphasize longer historical trends, as opposed to sharp ruptures at specified dates, and they understand the emergence of the bakufu as part of processes: the growth of private landholding, the rise of the retired emperor's power, and the growing prominence of warriors in politics. These scholars recognize the importance of the bakufu's origins as a rebel army as well as the independence Yoritomo's earliest organization enjoyed. This understanding is complemented by an appreciation of the continued connection with the imperial court and the significance of official recognition of bakufu authority (as it took on the role of military *kenmon*). The scholars conclude that both this independence and connection were vital components in the very early development of what became the Kamakura bakufu. Their work examines the process of evolution, with a particular emphasis on personnel systems—the creation of the housemen (*gokenin*) system, and the placement of jitō and military governors—through the Northern Campaign of 1189-90 and Yoritomo's ongoing negotiations with the imperial court in the 1190s.

The United State

In this work, I adopt this more recent, balanced view of Kamakura's nature, and extend it beyond the bakufu's early years. The prior theories of the bakufu have clear merits. The early bakufu was indeed characterized both by a qualified autonomy and the traditional deference of a military *kenmon*. But conceptualizing the bakufu based on these qualities alone is reductive and fails to account for the complexity of the bakufu's evolution, which was contingent on changing

¹³ Mikael Adolphson, *The Gates of Power: Monks, Courtiers, and Warriors in Premodern Japan* (Honolulu: University of Hawaii Press, 2000).

¹⁴ Most notably Jeffrey P. Mass, *Warrior Government in Early Medieval Japan* (New Haven: Yale University Press, 1974) and *Yoritomo and the Founding of the First Bakufu* (Stanford: Stanford University Press, 1999).

¹⁵ For example, Takahashi Noriyuki, “Buke seiken to bakufu-ron”, in *Nihon no jidaishi* vol. 8, ed. Gomi Fumihiko (Tokyo: Yoshikawa Kōbunkan, 2003); Irumada Nobuo, “Shugo, jitō to ryōshusei,” in *Kōza nihon rekishi* vol. 3, ed. Rekishigaku kenkyūkai and Nihonshi kenkyūkai (Tokyo: Tokyo Daigaku Shuppankai, 1984); Takahashi Masaaki, *Bushi no seiritsu bushizō no sōshutsu*; Kawai Yasushi, “Jishō-Juei no nairan to kamakura bakufu no seiritsu,” in *Iwanami kōza nihon rekishi* vol. 6, ed. Ōtsu Tōru, Sakurai Eiji, Fujii Jōji, Yoshida Yutaka, and Sōng Si-Yi (Tokyo: Yoshikawa Kōbunkan, 2013); and Uwayokote Masataka, Motoki Yasuo, and Katsuyama Seiji, *Insei to heishi, kamakura seiken* (Tokyo: Chuō Kōron Shinsha, 2002).

political, economic, and social developments. The independent state school looks forward, to bakufu with greater authority more akin to the “warrior rule” of the early modern era. But the Kamakura bakufu did not seek to replace existing structures with innovation, but strove to operate within them. Meanwhile, the powerful houses school looks backward, to an organization that did not and could not account for the growing role of violence and “warriors” in politics. Rather, the Kamakura bakufu accepted aspects of the traditional role of a military *kenmon*, but repeatedly adapted and expanded this position to meet the changing needs of the state. Quickly, the bakufu was much more than a *kenmon*.

This dissertation investigates the complexity of the evolution of the Kamakura bakufu. What did the bakufu and its warriors actually do? How did Kamakura’s authority and role change over time? It investigates how Yoritomo’s nascent warrior band became an institution capable of weathering crises and exercising greater authority. It finds that legal administration was critical to how the warriors of the bakufu governed themselves, and to understanding the process of expansion of “warrior” authority well beyond military matters.

The “united state” is central to this understanding. I contend that the bakufu operated within a united state: it served as an agency within the imperial government and under imperial authority. It continued the traditional responsibilities and deference of a military *kenmon*, but quickly added new powers and governing mechanisms to fill the vacuum left by a retreating imperial court and provincial governments. The bakufu was at pains to preserve the united state, repeatedly reinforcing the authority and jurisdiction of the imperial court and major religious institutions while limiting its own authority and the powers of its warriors. The united state was something to be protected—it had real value to the leaders of the bakufu. In addition to accommodating a respect for imperial authority and identities tied to aristocratic society, the framework of the united state provided tangible benefits to the leaders of the developing bakufu. It allowed the bakufu to take on new responsibilities and powers without the need to reinvent the wheel of governance. Kamakura’s rather conservative support for imperial and religious authority within the united state aided its ability to adopt sometimes radical reforms without the need for revolution. The bakufu could maintain peace, public order, and its own legitimacy without recourse to arms or remaking the state. Rather, the bakufu relied on a conservative dynamism, adapting policy and administration in concert with the imperial court.

The bakufu was thus different at different times—a complex institution that adapted to fit political exigency. The dynamism of the early Kamakura bakufu was so striking that, even after decades of modern research and debate, there is no scholarly consensus as to when the bakufu was “founded.”¹⁶ One might better say that it evolved from the raw force demonstrated on the battlefield to the legal legitimacy granted by incorporation into the united state. This dissertation chronicles such flexibility as a central characteristic of the bakufu for the next fifty years. The bakufu continued to adapt to changing circumstances: it took on more responsibilities and powers, altered its relationship with the imperial court, and expanded and improved its day-to-day and legal administration. Kamakura leadership saw good governance as a pillar of its legitimacy, along with respect for the traditional authority of the imperial court and religious institutions. This willingness to change thus had its limits: once formally incorporated, the

¹⁶ The definitive *Cambridge History of Japan* describes it ambiguously as “founded in the 1180s.” Kozo Yamamura, “Introduction,” in Yamamura ed., *The Cambridge History of Japan* vol. 3, ed. Kozo Yamamura (Cambridge: Cambridge University Press, 1988), 1.

bakufu never sought to operate outside of the united state, but remained beneath the umbrella of the imperial government.

Similarly, bakufu administration and expansion must not be interpreted as a unified “warrior” project. Scholars have traditionally accepted “warriors” as a distinct social group. “Warrior” status was indeed recognized by contemporary observers, including the leaders and housemen of the bakufu, most of whom identified as warriors. But its meaning, membership, and boundaries were porous. “Warrior” status was largely defined by one’s pedigree, martial proficiency, and post. Belonging to a “warrior house” with a storied lineage was one way warriors were distinguished from “low people without ancestors.”¹⁷ Under the Kamakura bakufu, more families claimed warrior heritage and status, and the conception of who belonged became more expansive. Written genealogies emphasized descent from the great warrior families: the military aristocratic Minamoto, Taira, and Fujiwara. Their lines boasted direct descent from the imperial family itself. Prestigious official positions conferred by the emperor, most importantly *chinjufu* and later *sei tai* shogun, further enhanced the legitimacy and prominence of top warrior lineages. Serving in more regular, lower posts—usually guard duty at the palace and in the capital—as well as the requisite rank for such positions, further helped to differentiate warriors from commoners, while strengthening their connections and roles in aristocratic society and court politics. These performances combined confirmation of warrior status from above—their appointment by the court or bakufu—with acceptance from their peers.¹⁸ Such positions were highly sought after; being a warrior—and being recognized as such—mattered to these people.

“Warrior” is thus a useful concept for understanding and describing members of the Kamakura bakufu. However, the bakufu cannot itself be described as a “warrior government.” First, although a majority of its leaders and housemen were warriors, others were not. Aristocrats and monks also received appointments and other holdings from the bakufu. The top bureaucratic officials of the bakufu were not considered warriors either; they were primarily drawn from aristocratic families that had served for generations as clerks in Kyoto. Second, there were a great many warriors beyond the rolls and reach of the bakufu.¹⁹ In addition to these “non-housemen” (*higokenin*) warriors, there were still more who fought and otherwise participated in military efforts, but were generally not considered warriors.²⁰ Next, the unofficial nature of warrior status meant that the boundaries of who belonged were changeable; more and more people claimed and were accepted as warriors, within and without the bakufu. Finally, Kamakura did not operate solely in a military capacity or act only on military issues. The bakufu worked as

¹⁷ This was observed by a widow of the Ōtomo, a prominent Kamakura houseman family. Takahashi Noriyuki, “Bushī ni totte no tennō,” in *Iwanami kōza tennō to ōken wo kangaeru*, ed. Amino Yoshihiko, Kabayama Koichi, Miyata Noburo, Yasumaru Yoshio, and Yamamoto Kōji (Tokyo: Iwanami Shoten, 2002), 47.

¹⁸ Takahashi Noriyuki, “Bushī ni totte no tennō,” 47-54.

¹⁹ When Yoritomo first formalized his housemen, there were only 311. *Azuma kagami*, 12/12/1180.

²⁰ These could include commoners, who were employed as porters, builders, and various attendants, as well as more prominent individuals. Takahashi Masaaki, *Bushī no seiritsu bushizō no sōshutsu*, 17-18, 147. *Konjaku monogatari*, a collection of tales thought to have been compiled in the late twelfth century, describes a high-ranking noble, Fujiwara Yasumasa, “as strong, skillful, and thoughtful as any man from a military family;” “the imperial court used him in the field of military affairs, where he was perfectly reliable. People everywhere respected him deeply for his military skills. It has been said, however, that because he was not from a military family, his descendants did not become samurai.” Naoshi Kōriyama and Bruce Allen trans., *Japanese Tales from Times Past: Stories of Fantasy and Folklore from the Konjaku Monogatari Shū* (Tokyo: Tuttle Publishing, 2015), 184-185.

an agency within the united state and managed an increasing array of responsibilities. It relied whenever possible on civil measures, preferring laws and precedent over military intervention.

The development of Kamakura's legal and administrative systems tells this story—an uneven and limited expansion of warrior authority. Although long conflated with “warrior government,” connoting full powers, Kamakura, in fact, persistently limited its rule. Indeed, expansions came largely in response to crises that demanded action to preserve the status quo. The transition to “warrior government”—to warrior institutions that fully controlled national decisions—was a long one, only completed with Toyotomi Hideyoshi's unification of the country in 1590. The Kamakura bakufu represents the genesis of a 400-year history of lurching movement toward a radically new system of rule. Its development was an important step in the process, but by no means definitive or determinative of a “warrior government.”

Organization of Chapters

This dissertation is organized around critical turning points in the early development of the Kamakura bakufu. Each chapter addresses an important shift in Kamakura authority and administration.

Chapter Two examines the transition from the bakufu's early autocratic rule to the more corporate forms of governance that emerged in the aftermath of the 1199 death of bakufu progenitor, Minamoto Yoritomo. His son and heir, Yoriie, quickly alienated his father's top men, and their opposition fueled reforms, notably what is here termed Kamakura's “Magna Carta moment:” the imposition of a deliberative council to “advise” on judicial matters, where so many policy and personnel matters were resolved. The council circumscribed shogunal authority and vested power in a corporate body of top warriors—a new pattern of governance that would characterize the Kamakura bakufu throughout its tenure. Judicial authority remained a central issue, as the limits of power continued to be tested in a series of coups and counter-coups within the bakufu leadership. As purges narrowed their numbers, two factions came to dominate the conciliar membership, then after a final struggle for control, partisans of the Hōjō family established a Hōjō regency that dominated the bakufu for over a century. The occasionally despotic tendencies of the Hōjō led to more dissent and intrigue, but reinforced the utility of conciliar bodies of rule.

The Jōkyū Disturbance of 1221 forms the backdrop for Chapter Three. This was the military challenge of an imperial “rebellion” which forced the bakufu to respond. The bakufu prevailed on the field of battle quickly, but institutionalizing the victory proved the greater challenge. With the balance of power between Kamakura and Kyoto irreversibly altered, the bakufu was compelled to act to somehow address the vacuum of power left by a defeated court. Rather than take over completely, the bakufu redefined its relationship with the new leadership of the imperial court. That is, Kamakura took on a broader authority but still remained within the united state. Key new bakufu prerogatives included the power to intervene in imperial succession and to appoint warrior officials across the country. Only at this stage did the bakufu become a national institution. But expansion necessitated further adaptation, as the appointment of new warrior officials led to widespread confusion and abuse of power by men posted to lands never before familiar with bakufu jurisdiction. The bakufu issued its first written laws for its members to counteract this growing disorder, beginning a process of systematizing warrior law.

Chapter Four analyzes Kamakura's response to the historic Kangi Famine (c. 1226-1232). The famine plunged the country's people into starvation and exacerbated existing problems with crime, non-payment of rents and taxes, and abuse by warrior officials. The bakufu promulgated the List of Precedents on Judgment in 1232, outlining the fundamental principles of Kamakura justice and standardizing rules for its warriors. The List of Precedents counteracted the near-term threats posed by the famine, while simultaneously laying the foundation for the long-term stability and success of the Kamakura legal system.

The solidification of this legal order becomes the subject of Chapter Five. In a period of relative quiet, the bakufu issued over 200 supplemental laws interpreting and updating judicial precedents. The chapter offers a comparative case study of Kamakura legal administration in three parts. It examines legal administration in the city of Kamakura, under direct and complete bakufu control; in the city of Kyoto, under the authority of the imperial court; and in Bungo Province, governed in part by a Kamakura military governor. These case studies offer exemplary examples of how Kamakura implemented its foundational formulary and went on to legislate new provisions to fill in the blanks. We find substantial efforts to improve and expedite the judicial system. We also find the addition of a final judicial organ, the *hikitsuke*, as Kamakura justice matured and grew more routinized.

Implications

This work has several important implications for the study of medieval Japanese history. First, a careful investigation of Kamakura's administrative records provides fresh insight into the nature and expansion of warrior authority. These sources demonstrate a consistent but measured pattern of growth: Kamakura warriors extended their power and jurisdiction in response to a variety of crises, but primarily through the creation of new legal and political structures—not through martial law or warrior authoritarianism. That is, Kamakura operated within a united state. The bakufu worked with and under the umbrella of an imperial government to which it deferred, acting as an arm of the state (albeit an increasingly powerful arm).

Second, this revised understanding of the nature of warrior authority necessitates a broader reconsideration of "warriors" as a social category. Kamakura warriors were indeed that: they identified as warriors and were recognized as such. They won their initial position within the united state through force of arms. They continued to perform military duties for the state, as well as patronizing and practicing the martial arts. Violence remained a critical tool in intra-warrior disputes, and as a mechanism for (illegal) aggrandizement and predation. But the leaders and housemen of the bakufu were not warriors alone: they shared important ties and relationships with the aristocracy and pursued policies to minimize the use of military force.

Kamakura warriors especially prized their aristocratic *bona fides*. On nearly all extant Kamakura documents, warriors chose to represent themselves with their civil titles granted by the court, rather than their positions in the bakufu. In *Azuma kagami* as well, top warriors are referred to by their civil posts rather than their names.²¹ Successive shogun and their confidants studied stereotypically aristocratic arts, such as poetry and *kemari*, as well as archery, which was performed in official ceremonies in both Kamakura and Kyoto. Many warriors boasted

²¹ For example, Hōjō Yasutoki is called Bushū, in reference to his position as *Musashi no kami*, Governor of Musashi.

aristocratic bloodlines—real and imagined—and others married into them. Warriors on the land served both as warrior and civilian officials, and cultivated relationships with their civilian superiors and counterparts. Above all, Kamakura warriors valued aristocratic culture and society, and the bakufu consistently exerted its authority to maintain the status quo of a (nominally) ascendant imperial authority, not overturn it.

Ultimately, Kamakura warriors governed more as civil authorities than as warriors. With the exception of disputes within warrior society, Kamakura eschewed military force whenever possible, relying on it only as a last resort, not a *modus operandi*. Instead, Kamakura pursued policies designed to limit violence and bakufu involvement. When bakufu leaders did expand their jurisdiction, they did so primarily through laws and administrative orders. Kamakura instituted conciliar, joint decision-making and established rules to constrain aggrandizement by its own men. It sought to establish governing principles and to follow precedents in its judicial decisions, including clear recognition of the rights of imperial aristocratic, and religious authorities. Kamakura leaders chose to bolster their legitimacy not only through this deference to the existing and traditional powers at court, but by striving to provide just and good government through consistent decisions handed down from a judicial system open and understandable to everyone. To be sure, when their rule was threatened, they acted with force and some brutality to quash rebellion or invasion. But that was the exception, not the rule. They were far more often warrior-administrators than warriors-combatants.

Finally, these findings encourage the continued reinterpretation of the medieval period in Japanese history. Traditionally, historians have cited the “founding” of the Kamakura bakufu as an epochal event, marking the transition from the classical to medieval eras. The emergence of “warrior government” is central to this interpretation, as warrior ascendancy is the typically seen as the hallmark of the period. My research, however, suggests that this transfer of authority was very slow, hardly definitive, and characterized more by continuity than rupture. The development of the Kamakura bakufu and its expanding warrior authority are indeed important steps in the ultimate development of a true warrior government in the sixteenth century. However, there was no such “warrior government” in Kamakura. Even as the bakufu took on a larger role within the united state, its authority grew slowly and unevenly, and never completely replaced the existing government and imperial structures of rule. The transition to “warrior rule” was not as clear cut as a triumph of warriors over aristocrats and the replacement of the civil with the military, but was characterized by compromise and adaptation, complexity and connection. The study of “medieval” Japanese history must be reexamined with a better understanding of the nature and development of warrior authority, and of warriors in their larger context.

Chapter Two

The Birth of Conciliar Rule and the Hōjō Regency

The shogun was dead. In late 1198, Minamoto Yoritomo, the founder and shogun of the Kamakura bakufu, left Kamakura for the dedication of a bridge over the Sagami River in honor of the recently deceased wife of one his top housemen, Inage Shigenari. On his return home, he fell from his horse; he died shortly thereafter on the thirteenth of the first month of 1199.²² Yoritomo's demise at age fifty-one was sudden and unexpected. He left a designated heir, but also a host of questions about his regime. How would succession operate in practice? Would master-retainer relationships be heritable? How would the administration operate? Who would hold judicial authority to interpret and apply the law? In the years following Yoritomo's death, challenges to bakufu administration emerged from within. The next shogun, his various relatives, and other top warriors jockeyed and fought to contest and determine the shape of warrior authority and administration.

Legal legitimacy was at the center of this ongoing struggle. Yoritomo, in negotiating his and the bakufu's place in the united state, acquired substantial legal rights to manage his housemen: judicial authority, and as well as the powers of appointment and attainer. In the fifteen years following his death, the top warriors of Kamakura fought to shape and manipulate this legal authority. These contests led to repeated purges and consolidations of Kamakura leadership, as well as the beginnings of the institutionalization of social control and the creation of a legal system.

Three episodes illustrate this process of remaking the bakufu for the post-Yoritomo world. First, Minamoto Yoriie (1182-1204), Yoritomo's elder son and chosen successor, reaffirmed the Kamakura bakufu's position in the "united state," working with and within the imperial government, as he confirmed and legitimized his succession and powers through imperial edict. Yoriie pursued autocratic policies in the shape of his father's, alienating a growing number of Kamakura housemen, who pushed back against what they saw as shogunal tyranny. They established what historians refer to as the "Council of Thirteen" (*jūsan'nin gōgi*), designating prominent Kamakura housemen to control access to judgments, thereby circumscribing shogunal judicial authority.²³ This was the Kamakura bakufu's "Magna Carta moment:" the shogun was constrained by this group of powerful warriors. This nascent system was put to the test in the Kajiwara Kagetoki Incident of 1200, when a member of the Council sought to manipulate or sidestep this new arrangement with an appeal to direct shogunal judgment and action to eliminate a rival. But the attempt failed as much of Council and Kamakura warrior society rallied against a return to unpredictable, autocratic judicial rulings.

²² *Azuma kagami*, 2/28/1212. Brown, Delmer Myers and Ichirō Ishida J. trans. *The Future and the Past: A Translation and Study of Gukanshō, an Interpretive History of Japan Written in 1221* (Berkeley: University of California Press, 1979), 161. Contemporary accounts largely agree that the cause of Yoritomo's death was a fall from his horse, though some offer additional supernatural and medical explanations for the fall. Okutomi Takayuki, *Kamakura Hōjō ichizoku* (Tokyo: Shinjinbutsu Ōraisha, 1983), 65; William H. McCullough, "Shōkyūki: An Account of the Shōkyū War of 1221," *Monumenta Nipponica* 19, no.1-2 (1964): 176; Brown and Ishida trans., *The Future and the Past*, 161.

²³ The Council of Thirteen, or Council, is not to be confused with the later High Council (*hyōjōshū*), which institutionalized the role of a consultative body in Kamakura administration.

The triumph of this coalition marked an end to shogunal autocracy and demonstrated that no one man or family could dominate the politics of Kamakura without broad support.

Second, one family, the Hōjō, asserted itself as the first among equals of the new ruling class of top warrior clans. The uneasy stability that prevailed after 1200 was broken in the 1203 Hiki Incident, pitting Yoriie's mother's family, the Hōjō, against his wife's family, the Hiki. The Hōjō emerged victorious, destroying their rivals for power and compelling Yoriie to abdicate. With the elevation of their preferred shogunal candidate, Yoriie's younger brother Sanetomo, and the convenient murder of Yoriie, the Hōjō consolidated their power. Hōjō Tokimasa (1138-1215), the family patriarch, became the de facto regent of the Kamakura bakufu, the preeminent power behind the shogun. But in 1205, there was a struggle within the Hōjō, resulting in a change of leadership.

Third, the Hōjō regency was put through a trial by fire. Politics under the Hōjō continued relatively quietly at first, as a new generation of leaders presided over their coalition with a compliant shogun under their new regency. However, resentment grew among housemen who were not a part of the Hōjō's inner circle. This simmering tension boiled over in 1213, when the Wada family, formerly a prominent member of the ruling clique, resented and resisted recent developments that left them on the outside looking in. The Wada sought to topple the Hōjō regency in an attempted coup known as the Wada Battle, which saw fighting in the streets of Kamakura and the shogunal palace. The Hōjō survived, though changed by their narrow escape. The near success of the coup attempt underlined the still precarious nature of their position, and the importance of both having supporting allies and a mechanism to offer them a stake in governance. But the fall of the Wada also presented the Hōjō with a unique opportunity to consolidate their power within the bakufu with the accumulation of new lands and administrative positions. Together, these legacies contributed to a more stable and durable regime developing under the Hōjō regency.

The Magna Carta Moment: Limiting Shogunal Authority

For all the uncertainty in the wake of Yoritomo's passing, succession was remarkably clear. Yoritomo had two sons by his wife, Hōjō Masako (1157-1225), Yoriie and Sanetomo (1192-1219). Yoriie, the elder son, succeeded his father without (open) dispute within the Kamakura warrior community.²⁴ The imperial court too wasted no time in backing Yoriie, promoting him to Middle General of the Left Gate Guards within days of his father's passing. News of Yoriie's appointment reached Kamakura on the sixth of the second month of 1199, along with an imperial proclamation. Yoriie was "to inherit the legacy of the former *seii tai shogun* Minamoto [Yoritomo] *ason*, and command his housemen and followers and administer the military governors of the various provinces as before."²⁵ This is a particularly significant document, as it makes plain the relationship between the imperial court and the Kamakura bakufu. The legitimacy and authority of the bakufu itself—seized first in rebellion against the imperial government, but solidified through incorporation into it—were again confirmed by imperial command. The shogun served by imperial appointment and functioned as the head of the military arm of the imperial state, pursuing its program of peacekeeping and policing

²⁴ This was in stark contrast to Yoritomo's own path to power, in which he had a number of close relatives, including his brother Yoshitsune, killed.

²⁵ The promotion was made on 1/20/1199 and the succession confirmed on 1/26/1199. *Azuma kagami*, 2/6/1199.

pursuant to the rights granted by the emperor and now reaffirmed. Rather than attempt to challenge or dismantle warrior authority, the court sought to aid its transmission and continuation to another generation. In short, the bakufu served the imperial government in Kyoto, and Kyoto was satisfied to continue this arrangement. Kamakura shared this sentiment and accepted this position with deference. Indeed, such a swift succession was unusual: *Azuma kagami* observes that “Although twenty days had not yet passed since the death of the late shogun, these ceremonies were held as an imperial edict must be strictly obeyed.”²⁶

Thus, Yoriei’s tenure was officially secure, ostensibly free of challenge from Kyoto and Kamakura alike. However, the smooth transfer of power belied a growing wariness among the top warriors of Kamakura, who had sworn themselves to Yoritomo, not Yoriei. They waited, perhaps apprehensively, to see how Yoriei would style his administration. Would he continue the dictatorial rule of his father? Would he honor the rewards, customs, and relationships Yoritomo had made in uniting his network of warriors? Would he be open to allowing for greater involvement of more experienced men in decision-making? Yoriei quickly gave definitive answers to these questions. Not only would he strive to continue the dictatorial rule of his father, vesting in himself ultimate authority over his housemen, but he took steps beyond what his father had done, abandoning prior precedents and agreements and establishing new norms for governance. This behavior quickly fomented resistance from the most powerful of the housemen, who pushed back against what they deemed tyrannical rule.

Indeed, extant sources on Yoriei’s rule, most notably *Azuma kagami*, paint a picture of tyrant. We must take this depiction with a grain of salt, however, as the compilation of *Azuma kagami* was tied to the bolstering of the historical legitimacy and justice of the Hōjō family, which came to oppose and depose Yoriei. Unfortunately, there are often few other sources which shed light on Yoriei’s policies and administration, and these are primarily courtly accounts, which mostly confirm major events and report rumors coming from Kamakura. Ultimately, while *Azuma kagami* accounts must be viewed skeptically and understood to very likely embellish and elide certain facts, they provide important insight into representations of Yoriei’s politics and at a minimum reflect the changing balance of power within the Kamakura administration.

Within one month of becoming shogun, Yoriei had begun to test his new authority. The shogun was vested with substantial powers over his housemen. Most importantly, he controlled their livelihood the land rights that were attached to their official appointments and held ultimate legal authority to award and rescind these as he saw fit. On the fifth of the third month, Yoriei revoked Gotō Motokiyo’s appointment as military governor of Sanuki as punishment for his alleged participation in a criminal plot in Kyoto. Of itself, this may not have been remarkable—this had been a traditional prerogative of the shogun under Yoritomo as well. However, *Azuma kagami* singles out this event as “the beginning of the changing of the decisions made in the time of the former shogun.”²⁷ The moves were politically motivated, and an inauspicious sign for warriors who had been close to Yoritomo but now found themselves without a patron.

Yoriei inherited many relationships and alliances from his father. Yoritomo had inserted himself into courtly politics several times, most recently in 1196, when he aligned with a faction led by Minamoto Michichika to remove Kujō Kanezane, Yoritomo’s former ally, from power, due in part to a budding rivalry between the shogun and former chancellor over marriage

²⁶ *Azuma kagami*, 2/6/1199.

²⁷ *Azuma kagami*, 3/5/1199.

connections to the imperial family. Michichika went on to become the most influential figure at the imperial court by 1198, when his grandson took the throne as Emperor Tsuchimikado (1195-1231), replacing the abdicating Go-Toba (1180-1239). When Yoritomo died, Michichika saw value in preserving his cooperative relationship with Kamakura, and was the driving force behind Yoriie's rapid promotion and succession.²⁸ Michichika arranged for appointments and promotions for his allies at court, as well as for Yoriie's top supporters and confidants. These changing winds in Kyoto disillusioned those who were left out of such arrangements. According to contemporary political observer Jien (1155-1225) (himself a member of the Kujō Fujiwara), Gotō Motokiyo and his warrior compatriots Nakahara Masatsune and Ono Yoshinari voiced their displeasure at being passed over for courtly appointments. Word of their discontent spread, and fearing reprisal from the Michichika-Yoriie faction, they sought refuge in the villa of Retired Emperor Go-Toba, who was not tied to either leader. Michichika contacted Ōe Hiromoto (1148-1225), the bakufu's top official, and who maintained connections in Kyoto (where he began his career), to work with Yoriie to find a solution to the problem. The three were exiled and Gotō stripped of his Kamakura appointment on the grounds of participating in a criminal conspiracy. Others who had served Yoritomo were held under house arrest.²⁹

This episode is significant in a number of ways. First, it highlights the importance of the connection and cooperation of the leaders in Kyoto and Kamakura. Though some were clearly at odds, generally, the relationships of those in power were positive, if pragmatic: Michichika and Yoriie sought to bolster their own practicable authority by working with each other. Kamakura helped to maintain the position of the leaders of the imperial court and law and order in the capital, and Kyoto reinforced shogunal legitimacy and the administration of warrior authority. Second, this incident suggests some of the limits to that cooperation. Any shift in appointment priorities was bound to leave sore losers; those who no longer received the preferential treatment of their patron would of course resent this as the renegeing of past agreements. So too, those on the outside looking in at the imperial court would harbor resentment against the prevailing factions. In this case, Retired Emperor Go-Toba harbored the aggrieved warriors, perhaps in part as a way to undercut the legitimacy of Michichika. As Go-Toba consolidated his own power, he was able to recall these warriors from exile and ultimately recruit them as allies for his later military challenge to Yoriie's successors in Kamakura in 1221.³⁰ In short, factional disputes produced winners and losers, and the losers would naturally seek an avenue to regain their former privileges. Finally, this case served as a warning to other potential losers: anyone who was not a member of Yoriie's inner circle could suffer the same fate as Gotō and his compatriots. The security of their tenure of landholdings—the very lever by which Yoritomo was able to recruit his warriors in the first place—was again called into question. Housemen who had faithfully served Kamakura in exchange for this security were alarmed at the prospect of returning to the status quo ante.

They had good reason to worry. Yoriie took further action to revise warrior official appointments, in the process depriving housemen of the means of their livelihood. That same month, he terminated six jītō appointments as part of a donation to the Ise Grand Shrine. Yoriie's order stipulated that “the Shrine is to apprehend those who commit rebellion or outrages,”

²⁸ Kawai, “Jishō-Juei no nairan to Kamakura bakufu no seiritsu,” 90.

²⁹ Brown and Ishida trans., *The Future and the Past*, 162.

³⁰ Brown and Ishida trans., *The Future and the Past*, 162.

effectively replacing his own housemen with shrine officials.³¹ Such donations were common; patronizing shrines and temples was a fundamental bakufu policy. However, these did not usually necessitate the removal of warrior officials. This unorthodox donation was additionally provocative for its inclusion of the Kaba estate (*mikuriya*) in Tōtōmi Province, as the jitō terminated there was Hōjō Tokimasa, a top Kamakura warrior and Yoriie's maternal grandfather. Tokimasa had been Yoritomo's first supporter, as he abandoned his charge of guarding Yoritomo in order to support his rebellion and arranged for Yoritomo's marriage to his daughter, Masako. This maneuver made it plain that Yoriie would not continue this close relationship.

This proved a step too far. Tokimasa, now armed with ample evidence to make the case that no appointment was safe under Yoriie, mobilized support among other powerful warrior families against shogunal tyranny. Their target was judicial authority. Within three weeks of Tokimasa's removal as jitō of Kaba estate, and before Yoriie reached his 100th day as shogun, the group successfully stripped their leader of the traditional judicial authority of the shogun:

Regarding various lawsuits, the direct judgment of Palace Guard (*urin*) [Shogun Yoriie] shall cease. Henceforth, on matters large and small Hōjō-dono [Tokimasa], Hōjō Shirō-nushi [Yoshitoki], Head of the Armory [Ōe] Hiromoto *ason*, Master Secretary Novice Zenshin [Miyoshi Yasunobu], Head Caretaker [Nakahara] Chikayoshi (in Kyoto), Miura Deputy Director Yoshizumi, Hatta Captain of the Right Gate Guards Tomoie, Wada Captain of the Left Gate Guards Yoshimori, Hiki Captain of the Right Gate Guards Yoshikazu, Tō Kurō Novice Rensai, Adachi Captain of the Left Gate Guards Tōmoto, Kajiwara Heiza Kagetoki, and [Nikaidō] Master of the Ministry of Popular Affairs Yukimasa shall have a discussion (*dangō*) and make a considered judgment. It has been established that those beyond these shall not handle cases without authority.³²

This was Japan's Magna Carta moment: powerful political stakeholders forcing their nominal superior to assent to relinquishing some judicial authority. This arrangement meant that Yoriie could no longer judge suits directly, and that this new body, which historians refer to as the Council of Thirteen, would control access to the Kamakura justice system, such as it was, and guide decision-making within it.³³ The establishment of this semi-formal committee had substantial effect in shaping the direction of the Kamakura bakufu. First, it minimized the potential for drastic changes in judicial rulings; the shogun was no longer to accept or judge disputes alone. The Council's strictures would help to standardize rulings, as at least in theory, no one party's preferences could shift bakufu jurisprudence. Standardization in turn rendered the nascent system of Kamakura justice more predictable, and this predictably reassured concerned housemen that commitments made to them under Yoritomo would be honored, and that any allegations against them would be heard by a collection of their warrior peers (or superiors, as was more often the case). Second, the Council provided an avenue for involvement for the top warrior families of Kamakura. This was a more corporate form of justice that ultimately came to define Kamakura's judicial and governing approaches.

³¹ *Azuma kagami*, 3/23/1199.

³² *Azuma kagami*, 4/12/1199.

³³ Satō Yūki, "Chūsei no hō to saiban," in *Iwanami kōza Nihon rekishi* vol. 7, ed. Ōtsu Tōru, Sakurai Eiji, Fujii Jōji, Yoshida Yutaka, and Sōng Si-Yi (Tokyo: Iwanami Shoten, 2014), 160.

This kind of conciliar approach was not new, but drew on a long tradition at the imperial court. Councils were institutionalized in the Council of State (*daijōkan*) from at least the eighth century, in which a body of powerful aristocrats served to balance the power of the emperor. Drawing on this tradition, Yoritomo and Kujō Kanezane imposed a council of “consultant nobles” (*gizō kugyō*) to temper the actions of Go-Shirakawa in 1185.³⁴ References to councils (*hyōjō*) of the Records Office (*kirokujo*) of the imperial government began shortly thereafter.³⁵ This judicial system at court became a direct model for bakufu jurisprudence, as Miyoshi Yasunobu (1140-1221), a former Records Office official, came to Kamakura and served as the premier legal official, performing similar duties to those he had in the capital.³⁶ The Hōjō and their supporters may well have returned to this model for inspiration as to how best limit sovereign authority and providing avenues for their own, and other top warriors’, input.

While these reforms are presented in the historical record as a *fait accompli*, Yorie did not accept this constraint on his authority without protest, nor did all warriors under him respect the newly outlined judicial procedure. Only a week after *Azuma kagami* records the establishment of the Council, Yorie pushed back against the restrictions put upon him by his most powerful housemen. Kajiwara Kagetoki (?-1200), a top official and member of the Council, and Nakahara Nakanari, a top bureaucrat, posted a shogunal order at Administrative Office. It ordered the people of Kamakura to obey without question five of Yorie’s closest confidants, including Ogasawara Nagatsune, Hiki Munekazu, Hiki Tokikazu, and Nakano Yoshinari. Further, the order stipulated, these five alone would have direct access to the shogun without special permission.³⁷ Yorie drew an even clearer line of showing where his loyalties lay, and distancing himself further from the new Council.

Yorie continued to pursue his own goals without consulting the Council. In the seventh month, a messenger arrived from Mikawa Province, midway from Kamakura to Kyoto. He reported that the province was plagued by a band of robbers and thieves led by Muro Shigehiro, who used the network of post stations and roads to prey on commerce, “imposing a great cost on the common people who come and go on the roads.”³⁸ This sort of banditry was exactly the sort of problem the bakufu was meant to police. Yorie sent Adachi Kagemori, the son of long-time Yoritomo retainer Adachi Morinaga, as his representative to subdue the criminals and return stability to the province. However, Yorie had ulterior motives. Yorie had for some time harbored romantic feelings for Kagemori’s mistress, and had sent her many letters and messages in the past, but had always been rebuffed. Yorie now used the opportunity of disorder in Mikawa to force Kagemori’s absence and make his move. While Kagemori was away pursuing criminals in the name of the shogun, Yorie had Nakano Yoshinari forcibly take Kagemori’s mistress to Ogasawara Nagatsune’s house.³⁹ Yorie then had her brought to the palace, and

³⁴ Satō Yūki, “Chūsei no hō to saiban,” 160; Sasaki Fumiaki, “Kamakura bakufu hyōjōshū no seiritsu katei,” *Shigaku zasshi* 92, no. 9 (Sept. 1983): 45.

³⁵ The earliest such reference appears in *Gyokuyō*, the diary of aristocratic leader Kujō (Fujiwara) Kanezane, on 5/21/1187. *Dai Nihon shiryō*, compiled by Tokyo Daigaku Shiryō Hensanjo, part 4 vol. 1 (Tokyo: Tokyo Teikoku Daigaku, 1902-), 949.

³⁶ Satō Yūki, “Chūsei no hō to saiban,” 160.

³⁷ *Azuma kagami* specifically references five people, but gives only four names. The fifth was likely Wada Tomomori, who was included among this group of confidants in later entries. *Azuma kagami*, 4/20/1199.

³⁸ *Azuma kagami*, 7/10/1199.

³⁹ *Azuma kagami*, 7/20/1199.

restricted access to her quarters to his five trusted confidants, the same group that he had granted special legal privileges.⁴⁰

Adachi Kagemori returned from his mission in Mikawa in the eighth month to unhappy news in Kamakura: Yoriie had stolen his woman.⁴¹ Things escalated quickly. The next day, Yoriie convened a meeting with his five confidants on the grounds that he had been informed that Kagemori was resentful of his treatment. The group decided that Kagemori must be executed immediately. That night, Ogasawara Nagatsune raised his battle flag and proceeded to Kagemori's father's house in the Amanawa area of Kamakura, where he assembled a large group of warriors. But word of this martial turn of events had reached Masako, Yoriie's mother, who sought to intervene before blood was shed. She arrived just in time in Amanawa and sent a message to Yoriie asking for restraint. She began with an appeal to family: "Since the death of the shogun [Yoritomo], not much time has passed and our daughter [Yoriie's sister Otohime] has also died young... Now, to indulge in fighting will be the cause of disorder in the world." If Yoriie were a dutiful son and brother, he would respect the deceased by not indulging in violence so soon after their passing. Further, Masako argued, "Kagemori is popular." Attacking him would further raise dissent against his burgeoning rule. But ultimately, Masako made the case that this was not how shogunal authority ought to operate: "Your predecessor [Yoritomo] had mercy. If you have heard of a crime, I will look into and punish it. If, without investigating the matter, you were to execute a death sentence, it will surely be a cause for regret later. If he [Kagemori] still is to be pursued and destroyed, then you must strike me with the first arrow."⁴²

Masako purportedly staked her life in pushing her son to accept limits on his judicial authority. Yoriie reluctantly accepted her plea and dispersed his troops, though the climate in Kamakura remained tense.

Masako spent the night safeguarding the Adachi residence. The next day, she sought a settlement. She explained to Kagemori how close he had been to execution, and how she had convinced Yoriie to relent. She asked that if he indeed was innocent of treacherous ambitions, he submit a written oath to Yoriie promising such. Kagemori did so. With Yoriie, Masako was blunt and upbraided her son for his impetuosity in exercising shogunal authority:

Your intention to execute Kagemori yesterday was rash. It was extremely unjust. If you look at the recent state of affairs, it will be very difficult to protect the whole country. The reason is that you grow tired of government, do not know the unhappiness of the people, cavort in brothels, and do not reflect on people's criticisms. And furthermore, those who serve you are not wise men; many are wicked.⁴³

Again, Masako highlighted both the injustice of his approach, as well as the practical consequences of such a path. In her reckoning, Yoritomo had managed these relationships carefully, aimed to balance the wishes of his men and the need for maintaining order, and was often merciful in his judgments against them. Yoriie's ill-considered slights and attacks had led

⁴⁰ *Azuma kagami*, 7/26/1199.

⁴¹ Kagemori's work had been a qualified success: although word of his approach led Muro to flee, Kagemori was able to put an end to the violence and disorder that had disrupted the province.

⁴² *Azuma kagami*, 8/19/1199.

⁴³ *Azuma kagami*, 8/20/1199.

to a situation in which there were “rumors that they all harbor resentment” against the shogun.⁴⁴ Though this rose-colored view of Yoritomo is at odds with the historical record, as he often and quickly turned against loyal housemen and relatives alike, it is worth noting that his memory is invoked to promote a standard of shogunal authority that respects judicial process and considers the feelings of Kamakura housemen.

The Adachi Kagemori episode offered more evidence of dissatisfaction with Yoriie and arbitrary judgments. But legal reform and the Council were not able to save Kagemori; his popularity did. He had many—and well-connected—friends who were willing to stand up for him against direct and arbitrary shogunal judgment, to the point of risking their own lives. And even as Masako made some headway in convincing her son of the moral and practical benefits of changing his ways, there was as yet no clear, widely accepted standard for judicial procedure. Accusations and attacks between housemen continued.

The most high-profile case came only two months after Kagemori escaped execution in what is known to historians as the Kajiwara Kagetoki Incident. Once again, a houseman was accused of a capital crime. Yūki Tomomitsu (1168-1254) had long been a faithful servant of the Kamakura bakufu, “a peerless retainer” who had pledged his loyalty to Yoritomo in the early days of his rebellion. While talking with other housemen in the bakufu compound, Tomomitsu described a dream he had had, in which everyone chanted “*Namu Amida Butsu*” 10,000 times as an offering to Yoritomo. Tomomitsu went on to remark, “I have heard that a loyal retainer cannot serve two masters. I have received particular favors from the shogun [Yoritomo]. As there was a testament at the time of his death, I did not take Buddhist orders and retire from the world... [but] looking at the world now, it is as though we are walking on thin ice.”⁴⁵ Tomomitsu’s reminiscence on serving Yoritomo reportedly brought his audience to tears, and what he said soon spread around Kamakura, reaching Kajiwara Kagetoki.

Kagetoki, another prominent houseman and member of the Council, had a history of defamation and dirty dealings. He had slandered Yoshitsune, Yoritomo’s half-brother and general, in the midst of the Genpei Conflict, fanning Yoritomo’s fears that Yoshitsune was plotting against him.⁴⁶ Ultimately, Yoshitsune became estranged from his brother and was killed for opposing him. Kagetoki, meanwhile, continued to enjoy the trust of Yoritomo and to rise in his service, developing a reputation for skill in both literary and martial arts.⁴⁷ Kagetoki received appointments as military governor of several provinces, and was promoted to the top post in the Board of Retainers.⁴⁸ Following Yoritomo’s death, he became an important pillar of support for Yoriie.⁴⁹ He was a member of the Council of Thirteen, but his inclusion represented more his stature among Kamakura warriors than any antipathy toward the shogun (Yoriie’s father-in-law, Hiki Yoshikazu (?-1203), who was Yoriie’s strongest supporter, was also on the Council).

⁴⁴ *Azuma kagami*, 8/20/1199.

⁴⁵ *Azuma kagami*, 10/27/1199.

⁴⁶ Hosokawa Shigeo, *Hōjō-shi to Kamakura bakufu* (Tokyo: Kōdansha, 2011), 63.

⁴⁷ Sakai Kōichi, “Chūsei zenki no bunka” in Iwanami kōza Nihon rekishi vol. 6, ed. Ōtsu Tōru, Sakurai Eiji, Fujii Jōji, Yoshida Yutaka, and Sōng Si-Yi (Tokyo: Yoshikawa Kōbunkan, 2013), 291-292; Okutomi, *Kamakura Hōjō ichizoku*, 70.

⁴⁸ Satō Shin’ichi lists Kagetoki as military governor of Harima and Mimasaka. Satō Shin’ichi, *Kamakura bakufu shugo seido no kenkyū: shokoku shugo enkaku kōshō hen* (Tokyo: Tokyo Daigaku Shuppankai, 1971), 158-159, 163. *Azuma kagami* states that Kagetoki was also military governor of Mino, *Azuma kagami*, 1/25/1200.

⁴⁹ Okutomi, *Kamakura Hōjō ichizoku*, 71.

Two days after waxing nostalgic, Tomomitsu received troubling news. Awa no Tsubone, Masako's younger sister and a lady-in-waiting at the shogunal palace, alerted him that Kagetoki had informed Yoriie of Tomomitsu's remarks, implying, if not explicitly alleging, that Tomomitsu was disloyal and a traitor. Yoriie was determined to make an example of Tomomitsu: he was to be executed. Flabbergasted, Tomomitsu looked to his close friend Miura Yoshimura (?-1239) for help. Yoshimura was an influential warrior of his own right as part of the Miura family, but his father, Yoshizumi, served as the family head as well as on the Council. Tomomitsu explained the circumstances to his friend, who understood the danger Tomomitsu faced:

Since around the Bunji era [1185-1190] there are countless people who have lost their lives and appointments to slanders from Kagetoki. There are many who harbor resentments against Kagetoki for themselves or their ancestors. And Kagemori was only recently almost executed. These have all come from Kagetoki's slanders. We should expose these misdeeds to Yoriie. For the sake of the world and the shogun, he must be stopped. But if we move to challenge them by bows and arrows, it will result in the provinces being thrown into disorder again. We should consult with the elders.⁵⁰

Yoshimura saw Kagetoki's slander not only as an assault on his friend, but as part of a broader problem within the Kamakura administration. Kagetoki was clearly abusing the system, asserting baseless accusations in order to eliminate rivals and curry favor. The judicial system, such as it was, was upholding and acting on these allegations, leading to the ruin and death of upstanding warriors. And the shogun did nothing to rein in this abuse; in fact, he was at the center of it, rewarding these accusations with the sentences the accusers hoped for, without consulting the Council. Yoshimura also understood the potential consequences of pushing to reform the status quo: if they were unable to prevail by words, it would come to violence and the country could again slip into violence. Many of Kamakura's warriors had sworn loyalty to Yoritomo in the first place precisely to secure their tenure on landholdings and to protect themselves from arbitrary decisions to remove them.

Yoshimura and Tomomitsu sought to build a broad coalition in order to best make their case against Kagetoki and unjust punishments. They began with two they were confident would be sympathetic: Adachi Morinaga, whose son, Kagemori, had been similarly ill-served by Kamakura justice, and Wada Yoshimori (1147-1213), who had been tricked out of his position as head of the Board of Retainers by Kagetoki.⁵¹ The two suggested that they circulate a petition and gather signatures in support of their cause. This would be essential in winning over the shogun. If they could not do so, they would have no recourse but force. They recommended Nakahara Nakanari to write the petition, as he too had been wronged by Kagetoki. Nakanari agreed and prepared the document. Sixty-six warriors gathered at Tsurugaoka Hachiman Shrine at the heart of Kamakura to take an oath that they would be steadfast and not waver in their campaign against Kagetoki. Nakanari read the letter to the group, which included a line that Yoshimori especially liked: "One who raises chickens does not raise wolves." If the shogun hoped to cultivate the loyalty of his housemen, he must cast Kagetoki out. They signed the

⁵⁰ *Azuma kagami*, 10/27/1199.

⁵¹ Wada Yoshimori was appointed the inaugural head of the Board of Retainers in 1180. In 1193, Kagetoki asked Yoshimori that he be made head, if only in name and for only one day, but when Yoshimori was confined to his home mourning, Kagetoki appealed to Yoritomo and was made the permanent head. *Azuma kagami*, 2/5/1200.

petition and entrusted it to Ōe Hiromoto to submit to the shogun, in accordance with the new procedure that petitions for judgment go through the Council.⁵² But Hiromoto did not deliver it right away. He did not doubt the veracity of the accusations against Kagetoki, but felt that the ruin of a man of Kagetoki's stature and history of loyal service would be lamentable. Yoshimori cornered Hiromoto and demanded he inform the shogun: "Many years have passed with you serving as the teeth and claws and eyes and ears of the Kantō. To fear the authority of one man, Kagetoki, and to make light of the feelings of many others—how is that just?"⁵³ Hiromoto delivered the petition to Yoriie, who read it and ordered Kagetoki to respond to the charges.⁵⁴ Kagetoki was given the document, but offered no rebuttal. Instead, he retreated with his family to Samukawa Shrine in Sagami Province and left his son, Kagemochi, to defend him in Kamakura.⁵⁵ Over drinks after a game of *kemari*, Yoriie confronted Kagemochi (without irony): "Kajiwara Kagetoki's recent use of his authority was an insolent, selfish act. Accordingly, various people have offered a petition in agreement." Kagemochi rebutted suggesting that *these* charges were slander, and driven by the pursuit of advantage following a shift in politics: "Although Kagetoki surpassed nearly all his colleagues in affection from the prior shogun, since there is no such favor now, injustices are imposed at any opportunity. However, we restrain ourselves at Nakanari's brush and ink [because] we fear the bows and arrows of the distinguished [cosigners]."⁵⁶ Both sides now framed their cases as issues of justice—of being protected against baseless claims of rivals and arbitrary punishments.

In contrast to Kagetoki's charges against Tomomitsu, the case against Kagetoki was reviewed. After a month had passed, a punishment was suddenly handed down: Kagetoki was exiled from Kamakura. Kagetoki again left for Samukawa Shrine and his house was dismantled and donated to a monk.⁵⁷ Early in the new year, word reached Kamakura that Kagetoki had barricaded the shrine in preparation of battle, but took his family and fled for Kyoto as his actions began to raise suspicion. This turn of events was discussed at the palace, with Council members Hōjō Tokimasa, Ōe Hiromoto, and Miyoshi Yasunobu taking the lead. They decided that Kagetoki must stop and sent troops after him. However, before the Kamakura forces could catch up, the Kajiwara party had a chance encounter with the warriors of Suruga Province, who happened to be practicing archery when they arrived. Finding the circumstances of the Kajiwara's journey odd, the local warriors confronted Kagetoki and ultimately opened fire on him and his family, killing most by the end of the day.⁵⁸

Kamakura informed its warriors in Kyoto of the incident, explaining that Kagetoki had been found and punished as a traitor, and ordered them to scour the capital for any potential Kajiwara allies there.⁵⁹ Meanwhile, in Kamakura, Kagetoki's holdings and positions were confiscated and reassigned, and friends and potential co-conspirators of Kagetoki were arrested and punished. A narrative emerged of a grand conspiracy, that Kagetoki had colluded with the imperial court in order to legitimize a coup, in which he would recruit the warriors of Kyushu to

⁵² *Azuma kagami*, 10/28/1199.

⁵³ *Azuma kagami*, 11/10/1199.

⁵⁴ *Azuma kagami*, 11/12/1199.

⁵⁵ *Azuma kagami*, 11/13/1199.

⁵⁶ *Azuma kagami*, 11/18/1199.

⁵⁷ *Azuma kagami*, 12/18/1199.

⁵⁸ *Azuma kagami*, 1/20/1200.

⁵⁹ *Azuma kagami*, 1/24/1200.

turn on Kamakura and remove Yoriie as shogun.⁶⁰ Though concern of further imperial meddling in bakufu affairs remained, the incident ended there. The spontaneous construction of a large coalition of Kamakura warriors to oppose slander and arbitrary justice had prevailed, and seen its short-term opponent ruined and murdered.

The establishment of the Council and the Kajiwara Kagetoki Incident were thus landmarks in the development of Kamakura judicial authority and procedure. The former stripped the shogun of unilateral judicial authority, though it preserved his ultimate right to pass judgment. It represented a decisive move by a politically diverse group of influential warriors, including those like Kajiwara Kagetoki and Hiki Yoshikazu, who were strong supporters of Yoriie. The actions of this Council, as well as the relative diversity within it, speak to both the growing dissatisfaction among Kamakura housemen with Yoriie's rule and the relative fragility of the shogunal position: the right coalition could overpower it.⁶¹ By creating a more corporate body, the Council was able to effectively challenge shogunal authority and ultimately regularize judicial procedure. The Kajiwara Kagetoki Incident reinforces the importance of broad support, as the coalition that formed in defense of Yūki Tomomitsu was able to prevail against one of the most decorated and powerful warriors and the shogun himself. Yoriie once again conceded to the pressures of an interest group. He rescinded his prior order for Tomomitsu's execution, and, after consultation with the Council, ordered the punishment of Kagetoki instead. Through these events, a standard for the exercise of judicial authority was being formed.

Yoriie abided by this new standard following the Kajiwara Kagetoki Incident. Prior to it, Yoriie had continued to issue direct judgments, despite their explicit prohibition. For example, just before moving against Adachi Kagemori, Yoriie had confiscated the holdings and military governorships of Sasaki Tsunetaka after he displeased the Retired Emperor Go-Toba by marshaling forces in the capital. No consultation with the Council was recorded.⁶² But nine months later, when Tsunetaka petitioned for the return of one of these posts on the grounds that he had been punished though he had committed no crime, having only brought warriors to the city in response to rumors of rebellion, Yoriie held a meeting (*hyōgi*) to deliberate.⁶³ The petition followed procedure as it was submitted to the shogun through the Council; Hōjō Tokimasa and Miyoshi Yasunobu offered it and likely their opinions on the matter as well.⁶⁴

Also in 1200, we begin to see changes in how Kamakura courts were accessed. A monk from the Imakumano Shrine in Mutsu Province sought a judgment regarding a boundary from the supervisory *jitō* (*sō-jitō*) of the holding, Hatakeyama Shigetada. But Shigetada recused himself, citing a potential conflict of interest given the shrine's role in offering prayers for the prosperity of the Kamakura bakufu. Instead, Shigetada appealed through Miyoshi Yasunobu, a Council member, for a judgment from the shogun. Yoriie ruled on the case and drew the boundary line himself.⁶⁵ This case illustrates the continued exercise of judicial authority by the shogun, but through the new mechanisms adopted by the Council, and that this procedure was applied even at a more local level.⁶⁶ By the middle of 1201, changes in the nature and application

⁶⁰ *Azuma kagami*, 1/25/1200, 1/26/1200, 2/2/1200, 2/5/1200, 2/6/1200, 2/20/1200, 2/22/1200.

⁶¹ Uwayokote, "Kamakura bakufu to kuge seiken," 51.

⁶² *Azuma kagami*, 8/2/1200.

⁶³ *Azuma kagami*, 5/6/1201.

⁶⁴ Sasaki, "Kamakura bakufu hyōjō no seiritsu katei," 43.

⁶⁵ *Azuma kagami*, 5/28/1200.

⁶⁶ Sasaki, "Kamakura bakufu hyōjō no seiritsu katei," 44.

of judicial authority were clear. Ultimate judicial authority was still held by the shogun, but a Council of powerful warrior housemen would control access to and provide advice on shogunal judgment. This move toward a new standard procedure addressed some of the basic uncertainties undermining the bakufu's first transition of power, but a core question remained: who would be the ultimate power in Kamakura? The events 1199 and 1200 made clear the importance of having allies and building coalitions, but it was still unclear which coalition would prevail: Yoriie and his supporters, or those coalescing behind his in-laws, the Hōjō? Despite the promising developments in judicial procedure, factional opposition continued and intensified and once again brought claims and counter-claims of rebellion and violence to the fore.

The Hōjō Regency: Rise and Reorganization

The Council settlement on judicial authority brought a brief reprieve from the cycle of accusations, counter-accusations, and executions. But the broader struggle for power within Kamakura continued. In practice, this power was exercised through legal authority: the power to appoint officials and to guarantee landholdings, and the power to interpret and enforce the law. The establishment of the Council of Thirteen had allowed for the inclusion of voices from Kamakura officials and housemen—at least those of high status and influence—and had confirmed that the shogun held the ultimate legal authority, but it had not, and perhaps could not have, provided an answer as to how that power would be influenced and utilized. In the wake of the founding of the Council and the Kajiwara Kagetoki Incident, the balance of power between the shogun and top warriors was still in flux. Two families emerged as contenders to tip the scales: the Hiki sought to utilize their position as Yoriie's in-laws to ally with the shogun and enhance their influence; the Hōjō, Yoriie's spurned maternal relatives, continued to oppose the shogun and maneuvered to increase their support among the housemen. The opposition of these two clans led to conflict, coups, and counter-coups. This violence removed contenders for power and led to the consolidation of Kamakura authority under a Hōjō regency. But the early returns on Hōjō leadership were much the same: baseless accusations and the elimination of rivals. It would take another existential challenge and victory to stabilize the administration in Hōjō hands.

The Hōjō family had positioned themselves as the champions of housemen rights and the leading figures in opposition to the free exercise of shogunal authority. This was a pragmatic choice. In the immediate aftermath of Yoritomo's death in 1199, the Hōjō family had been left adrift, suddenly without their patron and his protection. The foundation of Hōjō power had been the family's relationship with the late shogun. Prior to Yoritomo's rebellion and founding of the Kamakura bakufu, there is no record of a "Hōjō" family.⁶⁷ They were a minor branch of the Taira clan with only small landholdings in isolated Izu Province. They led a mid-sized warrior band, with a strength of tens of riders. Tokimasa's in-laws, the Itō, could field about 300, and larger bands up to 1000 mounted archers.⁶⁸ It was only through good fortune and careful cultivation of their relationship with Yoritomo that the Hōjō rose to prominence. Yoritomo was exiled to Izu following his father's defeat and execution in the 1160 Heiji Disturbance and put in

⁶⁷ Uwayokote Masataka, *Hōjō Yasutoki* (Tokyo: Yoshikawa Kōbunkan, 1981), 6.

⁶⁸ Hosokawa, *Hōjō-shi to Kamakura bakufu*, 25-27.

the custody of Hōjō Tokimasa.⁶⁹ Tokimasa became Yoritomo's earliest supporter, advisor, and father-in-law. After encouraging Yoritomo to raise his flag and rebel against Tokimasa's relative and supposed ally, Taira Kiyomori, Tokimasa served Yoritomo as a leader on the battlefield and later in negotiations with the imperial court. By 1190, the formerly minor Hōjō family had become one of the leading families in Kamakura with major holdings and appointments across the country.⁷⁰

But this success was premised on the family's personal ties to Yoritomo. The vulnerability of their post-Yoritomo situation was underlined when Yoriie terminated one of Tokimasa's appointments soon after ascending as shogun. As discussed above, Tokimasa was able to use this attack against him to pivot, shifting his position from shogunal insider to outsider, now representing himself as a defender of housemen's rights against shogunal overreach. His leadership of this movement led to the creation of the Council of Thirteen, and a seat for him and his son, Yoshitoki, on it—the only warrior family with two members.⁷¹ But despite their achievements, the Hōjō were not unchecked, as even on the Council Yoriie had supporters in Kajiwara Kagetoki and Hiki Yoshikazu.

With Yoriie as shogun, the Hiki now enjoyed the ascendancy the Hōjō had once enjoyed as Yoritomo's in-laws. The Hiki were buoyed further by their pedigree as influential warriors in the Kantō and their own close ties to the Minamoto family. In addition to Yoriie marrying Yoshikazu's daughter, Wakasa no Tsubone, Yoriie and his father both were raised with Hiki wet nurses; in this role Yoshikazu's adoptive mother and wife, respectively, helped to form a special relationship between the two families.⁷² Yoshikazu and his brother, Tomomune, had also served Yoritomo faithfully and ably, as wartime administrators and later as military governors.⁷³ The Hiki were also well connected in the broader warrior community, with marriages tying them to many supporting warrior families in Kamakura's vicinity, as well as to those with appointments farther afield like the Shimazu, who served as military governors for three provinces in Kyushu.⁷⁴ The Hiki even had a marriage tie to the Hōjō: Tomomune's daughter, Hime no Mae, married Yoshitoki (1163-1224), Tokimasa's son and heir.⁷⁵

Connections and alliances to other warriors were increasingly important, as illustrated by the accusations and counter-movements in the first two years of Yoriie's reign. While a settlement had been reached for judicial authority and procedure, the opposition of Yoriie and the Hiki toward the Hōjō continued to simmer. Yoriie increasingly aligned with his in-laws rather than his maternal family, and increasingly made his feelings known publicly. In 1201,

⁶⁹ Ishii Susumu, "Jūni-jūsan seiki no Nihon: kodai kara chūsei e," in *Iwanami kōza Nihon tsūshi* vol. 7, ed. Asao Naohiro, Ishii Susumu, Hayakawa Shōhachi, Amino Yoshihiko, Kano Masanao, and Yasumaru Yoshio (Tokyo: Iwanami Shoten, 1993), 43.

⁷⁰ Okutomi, *Kamakura Hōjō ichizoku*, 64.

⁷¹ Hōjō Tokimasa and Yoshitoki both sat on the Council, the only father-son pair. They were joined by Ōe Hiromoto and Nakahara Chikayoshi, brothers from a Kyoto bureaucratic family, as well as the heads of other powerful warrior and bureaucratic families.

⁷² Okutomi, *Kamakura Hōjō ichizoku*, 66; Hosokawa, *Hōjō-shi to Kamakura bakufu*, 56, 64.

⁷³ Satō Shin'ichi documents that Yoshikazu held the military governorship of Shinano and likely also Kōzuke, and postulates that Tomomune likely served as military governor for five provinces up until 1191. Satō Shin'ichi, *Kamakura bakufu shugo seido no kenkyū*, 87-91, 102-29.

⁷⁴ Okutomi, *Kamakura Hōjō ichizoku*, 66. Beyond Yoriie, the Shimazu family was the Hiki's most notable marriage alliance for the Hiki. The Shimazu held military governorships in Hyūga, Ōsumi, and Satsuma. Satō Shin'ichi, *Kamakura bakufu shugo seido no kenkyū*, 231-239

⁷⁵ Okutomi, *Kamakura Hōjō ichizoku*, 91.

Hōjō Yasutoki (1183-1242), Tokimasa's grandson, ran afoul of Yoriie when the shogun received a (purportedly slanderous) report that Yasutoki was impertinent, and Yasutoki was advised to absent himself from Kamakura for a few weeks.⁷⁶ Hōjō Tokitsura (1175-1240), another of Tokimasa's sons, had been an active member of Yoriie's social circle. In 1202, at a banquet following a day of *kemari*, Tokitsura was bullied by Taira Tomoyasu: "Though Hōjō Gorō [Tokitsura] is preeminent in appearance and action, his real name is indecent. The character 'tsura' in Tokitsura means to go through money...the shogun should order him directly to change it immediately." Tokitsura relented and changed his name to Tokifusa.⁷⁷ The Hōjō took these slights in stride, but continued to cement and improve relations with other important warrior families. Shortly after Tokitsura became Tokifusa, Yasutoki married the daughter of Miura Yoshimura, binding the Hōjō to the Miura, perhaps the most important warrior family in the contests of early Kamakura politics.⁷⁸

Yoriie continued to be suspicious of Hōjō machinations against him, reinforced not only by the public actions of the Hōjō, but by rumor and suggestion as well. A particular (and prescient) concern was that he would be removed and replaced as shogun. Such a theory spread after Kagetoki's downfall, and Kagetoki had previously whispered to Yoriie that the Hōjō had planned to replace him with his younger brother, Sanetomo.⁷⁹ These suspicions were reinforced by an inauspicious beginning to 1203. *Azuma kagami* records that on a New Year's visit to Tsurugaoka Hachiman Shrine with his son and heir, Ichiman, Yoriie was confronted with a startling message: a shrine maiden, said to be channeling the spirit of the god Hachiman himself, warned Yoriie that "Within this year, an incident will occur in the Kantō. The young lord [Ichiman] will not inherit the family headship."⁸⁰ His apprehension was compounded when his rivals Hōjō Tokimasa and Yūki Tomomitsu accompanied Sanetomo to the shrine the next month.⁸¹

We cannot know to what extent Yoriie was moved by these (perhaps apocryphal) suspicions, or whether he felt more confident in his improved position within the Kamakura administration, but in the fifth month of 1203, Yoriie returned to his strategy of open attacks on political rivals. This time he targeted Ano Zenjō, his paternal uncle and Yoritomo's half-brother, having him arrested on suspicion of treason.⁸² More important, Zenjō posed a threat: he had married Awa no Tsubone, Hōjō Masako's sister, who also served as wet nurse to Sanetomo.⁸³ Yoriie sought to question Awa no Tsubone, who had taken refuge at Masako's residence, but Masako refused her son, proclaiming her sister ignorant of any plot.⁸⁴ Masako succeeded in

⁷⁶ *Azuma kagami*, 10/2/1201.

⁷⁷ *Azuma kagami*, 6/25/1202.

⁷⁸ *Azuma kagami*, 8/23/1202. Although this very much fit the agenda of the Hōjō at the time, this was the product of arrangement suggested by Yoritomo to Miura Yoshizumi at Yasutoki's capping ceremony in 1194. *Azuma kagami*, 2/2/1194.

⁷⁹ Uwayokote, Motoki, and Matsuyama, *Insei to heiji, kamakura seiken*, 195.

⁸⁰ *Azuma kagami*, 1/2/1203.

⁸¹ *Azuma kagami*, 2/4/1203.

⁸² *Azuma kagami*, 5/19/1203.

⁸³ Okutomi, *Kamakura Hōjō ichizoku*, 74.

⁸⁴ *Azuma kagami*, 5/20/1203.

protecting Awa no Tsubone, but Zenjō was exiled and later executed for his rumored plans of rebellion.⁸⁵

On the heels of this success, Yorie fell suddenly and gravely ill.⁸⁶ The shogun's incapacity presented an opportunity for the Hōjō and their allies to strike back and reroute succession within the shogunal family. Yorie had planned for Ichiman, his son by his Hiki wife, to inherit his position as head of the family as well as his assorted holdings and rights as jitō and military governor. The Hōjō, however, opposed this shift in influence toward the Hiki, and preferred Yorie's brother, Sanetomo, to inherit the family headship, hoping that as maternal relatives they could once again exercise influence through the shogun.⁸⁷ In the eighth month, a decision was made in the shogun's absence. Shogunal rights would be divided: Yorie's jitō rights in the western half of the country would be transferred to Sanetomo, while his jitō and military governor appointments in the eastern half would be assigned to Ichiman. This was a bold and provocative action—effectively a coup—and predictably outraged the Hiki. Hiki Yoshikazu, the maternal grandfather of the shogunal heir, Ichiman, was infuriated and purportedly began to plan a counter-attack, “intending to ruin Senman [Sanetomo] and his maternal relatives,” the Hōjō.⁸⁸

Tensions in Kamakura heightened as Yorie's condition worsened. The shogun soon appeared to be on the verge of death.⁸⁹ Warriors flocked to the Kamakura and a general unease arose at the uncertainty of another shogunal succession and the apparent friction between the factions of Yorie and Tokimasa.⁹⁰ A day later, that friction erupted in violence. According to *Azuma kagami*, Hiki Yoshikazu sought to put a plan in motion to eliminate Hōjō Tokimasa. He purportedly sent a message to Yorie that outlining the grave threat that the Hōjō represented to Yorie, the Hiki, and the country:

Hōjō-dono [Tokimasa] should be pursued and destroyed. In his division of jitō appointments [to those who are] not the [shogunal] family head, there can be no doubt that he challenges [shogunal] authority, dividing it in two. Although this may appear to be peaceful consideration for a child and his younger brothers, on the contrary, it will be the cause of a disturbance to the country. As long as the family of Enshū [Hōjō Tokimasa] exists, it is undeniable that [the authority of] the family headship will be usurped.⁹¹

Yoshikazu accused Tokimasa and his allies of overstepping their bounds and interfering in shogunal family matters to expand their political influence—exactly what Yoshikazu was doing. Control over shogunal authority was again the main issue.

After discussing the matter with Yoshikazu, Yorie agreed to order Tokimasa's execution. But once again, a plan to arrange for the elimination of a political rival was supposedly overheard by a member of the opposing faction. This time it was Masako herself, who was said to be hiding behind screens, and quickly informed her father of the plot against

⁸⁵ Zenjō was exiled to Hitachi on 5/25/1203 and was executed on Yorie's order on 6/23/1203. Yorie also ordered the execution of Zenjō's son, Raizen, who was found and killed on 7/25/1203.

⁸⁶ *Azuma kagami*, 7/20/1203.

⁸⁷ Brown and Ishida trans., *The Future and the Past*, 178.

⁸⁸ *Azuma kagami*, 8/27/1203.

⁸⁹ *Azuma kagami*, 8/29/1203.

⁹⁰ *Azuma kagami*, 9/1/1203.

⁹¹ *Azuma kagami*, 9/2/1203.

him. Word reached Tokimasa while on the road, and he immediately moved to shore up support for a counter-coup. His first stop was Ōe Hiromoto's residence. There, Tokimasa worked to recruit Hiromoto, the bakufu's most essential official and key tie to the imperial court and bureaucracy, to support preemptive action against the Hiki. Tokimasa claimed, "It is well known that in recent years Yoshikazu exercises authority and views people with contempt. Moreover, I have been informed that now, at the shogun's sickbed, taking advantage of his incapacitated state, he seeks to plot rebellion while deceitfully calling it a shogunal order." Little matter that this was precisely what Tokimasa had done (and would do again); it was pretext enough for a charge of treason. Hiromoto, who had once hoped for lenience for Kajiwara Kagetoki when he faced similar charges, again highlighted the contributions Yoshikazu had made to Kamakura administration. But he ultimately relented, agreeing that "in this martial tact, he does not discern right from wrong. There should be consideration as to whether or not he should be executed." Later that day, as Tokimasa began to plan for the murder of Yoshikazu and his family, he asked Hiromoto to consult with him once more. Hiromoto was understandably wary at the invitation. Against the advice of his housemen, he went accompanied by only one armed retainer. On the way to Tokimasa's residence, Hiromoto shared his concerns for what these events meant for the realm and himself, and instructed his man to kill him should things take a turn for the treacherous. But they did not; Hiromoto and Tokimasa met for a long time, and Hiromoto left in one piece. There is no record of their conversation, but we can surmise that Tokimasa obtained at least Hiromoto's tacit support. Now confident of his political backing and his military might, Tokimasa laid a trap, inviting Yoshikazu to join him for the consecration of a Buddhist image and a discussion. Yoshikazu felt compelled to attend, and to go unarmed, despite the cautions of his family: "If I, Yoshikazu, were now to bring armored warriors, the people of Kamakura would make a clamor in a panic. This would not do." Further, any show of force by the Hiki could be misconstrued as illegal aggression, and could be used against them. Tokimasa had no such compunction, and had his men lie in wait for Yoshikazu's arrival. As Yoshikazu entered the building Amano Tōkage and Nitta Tadatsune fell on him, dragged him out, and executed him without hesitation. Tokimasa walked out to watch.⁹²

Word of this wanton violence reached the Hiki family and their followers, who moved to Ichiman's residence, the small palace, and prepared a defensive barricade. But soon armed troops were dispatched to put down this "rebellion" on Hōjō Masako's order. A large group including important political figures Hōjō Yoshitoki and Yasutoki, Hatakeyama Shigetada (1164-1205), Miura Yoshimura, and Wada Yoshimori, descended on the hasty fortifications. Defeated, the last defenders set fire to the palace and killed themselves in front of Ichiman, the young shogunal heir, who also perished.⁹³ The carnage was such that when mourners searched for Ichiman's remains, they were said to be long unable to distinguish them for the mass of other charred corpses.⁹⁴

The Hōjō coalition's victory was made complete with the purging of remaining Hiki family members, supporters, and sympathizers. In the days following the battle, victor's justice saw these men exiled or executed. These included Yoshikazu's father-in-law, Shibukawa Kanetada, who was executed, as well as Yoshikazu's widow and young children, who were

⁹² *Azuma kagami*, 9/2/1203.

⁹³ *Azuma kagami*, 9/2/1203.

⁹⁴ *Azuma kagami*, 9/3/1203.

exiled to Awa Province.⁹⁵ Shimazu Tadahisa, Yoshikazu's ally and relative through marriage, was stripped off his three military governorships. Shogunal confidants Ogasawara Nagatsune and Nakano Yoshinari were jailed and the latter then exiled.⁹⁶

Yoriie recovered from his illness and awoke to a new and terrible reality. His wife and son were dead, murdered by his rivals, and his main pillars of support—his in-laws and loyal confidants—had been either killed, imprisoned, or exiled. Overcome with grief and anger, he ordered Tokimasa executed at once. His choice of agents for this endeavor, however, betrayed how the circumstances had turned against him: Yoriie ordered Nitta Tadatsune and Wada Yoshimori to enforce the extrajudicial sentence. Tadatsune and Yoshimori were already very much a part of the coup; Tadatsune had executed Yoshikazu, and Yoshimori had participated in the attack that killed Ichiman. Their lots were cast with the Hōjō, and upon receiving the shogunal order, Yoshimori presented it to Tokimasa. Yoriie was left without any options for recourse. The next day, he was compelled to take resign his post as shogun and take the tonsure, and within the month was made to leave Kamakura.⁹⁷ He was killed under suspicious circumstances the next year.⁹⁸

With the elimination of the shogun, the Hiki, and their allies, the Hōjō had once again claimed substantial additional authority for themselves. Although violence had always been an implicit factor in Kamakura political rivalry—and indeed had been very real for Kajiwara Kagetoki and others—it became the central component of the Hōjō's coup. Legal authority—the power to adjudicate disputes and award and rescind appointments as warrior officials—remained the prize, and the Hiki Incident made it clear that force was the mechanism to get it. The Hōjō, through careful plotting, good timing, and savvy coalition building, had prevailed, and now stood preeminent among Kamakura warrior families, though they could not rule alone. They would need to retain the support of their coalition if they hoped to exercise their new authority for long.

The Hōjō moved quickly to replace Yoriie. Their preferred candidate was Sanetomo, Yoriie's younger brother and Tokimasa's grandson. Tokimasa does not seem to have considered taking on the position himself, not least because the Hōjō lacked the pedigree for such a high office and such aggrandizement would risk alienating their better-bred allies. More important, there was no need to take such brazen action: Sanetomo would be an ideal figurehead. By the time of Yoriie's coerced retirement, Fujiwara Teika (Sadaie) (1162-1241) and other observers in Kyoto record that reports of the shogun's death had already arrived, and the imperial court had moved to appoint his successor. Sanetomo was promoted to Junior Fifth Rank Lower and made the next shogun that same day.⁹⁹ Even before the imperial edict arrived in Kamakura, Tokimasa sought to tighten his control over the future shogun, and had him moved to his own residence in Nagoe, on the outskirts of Kamakura. There he began to issue edicts (*kudashibumi*) and orders

⁹⁵ *Azuma kagami*, 9/2/1203, 9/3/1203.

⁹⁶ *Azuma kagami*, 9/4/1203, 11/7/1203.

⁹⁷ *Azuma kagami* records that Masako brokered this arrangement, perhaps as a way to save her son's life. Tokimasa and Hiromoto made the decision that Yoriie should not remain in the city. *Azuma kagami*, 9/7/1203, 9/21/1203.

⁹⁸ *Azuma kagami*, 7/19/1204.

⁹⁹ Teika recorded these events in his diary on 9/9/1203. *Dai Nihon shiryō*, part 4 vol.7, 908-911.

This rank gave him the eligibility to be appointed *sei tai* shogun. Naoki Kojiro, "The Nara State," trans. Felicia J. Bock, in *The Cambridge History of Japan* vol. 1, ed. Delmer M. Brown (Cambridge: Cambridge University Press, 1997), 237.

(*gechijō*) drawing on shogunal authority, but in his own name.¹⁰⁰ This first “official” action—before Sanetomo had formally become shogun, and even before word had reached Kamakura of his promotion—shows the importance Tokimasa assigned to the orders. He wrote to many Kamakura housemen to assure them of the security of their tenure, that “You shall possess your holdings as before.” These letters offered clear incentive to warriors to accept the new status quo of Hōjō preeminence in an attempt to preclude the main uncertainty with shogunal succession.¹⁰¹ Sanetomo’s capping ceremony was held a month later, and, now having become an adult (at age twelve), Sanetomo began his tenure as shogun.¹⁰²

Behind the young shogun, Tokimasa continued to consolidate his power. At Sanetomo’s inauguration, Tokimasa joined Ōe Hiromoto as Co-Director of the Administrative Office. Historians have traditionally taken this appointment as marking the beginning of a Hōjō regency, with Tokimasa as the first regent (*shikken*). A regent, as defined by the fourteenth-century Kamakura legal primer *Sata mirensō*, was “the shogun’s deputy for administrative affairs,” offering advice to the shogun and exercising governing authority as directed.¹⁰³ In practice, however, this meant that the regent was the de facto ruler of the bakufu. Although the term had been used previously for officials at the imperial court, and was later used within the Kamakura bakufu, it is unlikely that it was applied to Tokimasa at the time.¹⁰⁴ Historians choose to apply the term to Tokimasa (or to his successor, Yoshitoki)¹⁰⁵ to underline the shift in the exercise of authority within Kamakura: Tokimasa, as regent, exercised real power while the shogun ruled in name only.¹⁰⁶ His confirmation edicts illustrate this relationship nicely. One, written the day after word of Sanetomo’s promotions reached Kamakura, reads, “Shōdai Yukihiro: The above person shall hold these rights [to a landholding]. By the command of the Kamakura-dono, the order is thus,” and was signed solely by Tokimasa.¹⁰⁷

While Tokimasa confirmed the lands of those whose support he sought, he confiscated the holdings and income rights of his enemies, greatly expanding the Hōjō power base. Tokimasa took for himself the Shimazu’s eponymous estate in Hyūga, as well as holdings in Sagami, Harima, Echizen, Izu, and other provinces. Tokimasa’s son and heir, Yoshitoki, was given holdings in Kōzuke, Echigo, and Owari Provinces, among others.¹⁰⁸ The Hōjō also took on

¹⁰⁰ *Azuma kagami*, 9/10/1203. Murai Shōsuke, “Jūsan-jūyon seiki no Nihon: Kyoto, Kamakura,” in *Iwanami kōza Nihon tsūshi* vol.8, ed. Asao Naohiro, Ishii Susumu, Hayakawa Shōhachi, Amino Yoshihiko, Kano Masanao, and Yasumaru Yoshio (Tokyo: Iwanami Shoten, 1994), 6. *Kamakura ibun* has a several of examples of such edicts in the first weeks of Tokimasa’s ascendance, including one from even before Yorie had retired. *Kamakura ibun* vol. 3, compiled by Takeuchi Rizō (Tokyo: Tokyodō Shuppan, 1984-1997), 102, doc. 1378-79; 103, doc. 1381; 106, doc. 1388.

¹⁰¹ *Azuma kagami*, 9/10/1203.

¹⁰² *Azuma kagami*, 10/8/1203, 10/9/1203.

¹⁰³ Carl Steenstrup, “Sata Mirensō: A Fourteenth-Century Law Primer,” *Monumenta Nipponica* 35, no. 4 (Winter 1980): 417; Hashimoto Yoshihiko and Uwayokote Masataka, “Shikken,” in *Kokushi daijiten* vol. 6, ed. Kokushi daijiten henshū iinkai (Tokyo: Yoshikawa Kōbunkan, 1985), 882-883.

¹⁰⁴ Ishii Ryōsuke, *Hōseishi* (Tokyo: Yamakawa Shuppansha, 1964), 126. The first use in *Azuma kagami* and *Dai Nihon shiryō* is intercalary 7/20/1205, when it is used as an object, rather than a post.

¹⁰⁵ Others take Yoshitoki’s 1213 joint appointments as the Director of the Administrative Office and the Board of Retainers as the beginning of the regency, as will be discussed below.

¹⁰⁶ Nuki Tatsuto, “Kamakura jidai,” 544; Murai, “Jūsan-jūyon seiki no Nihon: Kyoto, Kamakura,” 5; Uwayokote, *Hōjō Yasutoki*, 15.

¹⁰⁷ *Kamakura ibun* vol. 3, 102, doc. 1379.

¹⁰⁸ Okutomi, *Kamakura Hōjō ichizoku*, 80.

military governorships in at least four provinces.¹⁰⁹ And more locally, they sought to bolster their position in and around Kamakura, as Yoshitoki was appointed provincial governor of Sagami (*Sagami no kami*) in 1204 and Tokimasa acquired the Hiki's former lands and influence in Musashi Province.¹¹⁰

This aggressive expansion of Hōjō authority was not always welcome among Kamakura housemen. In the midst of confirming housemen holdings, an order was issued—once again, nominally from the shogun—to the housemen of Musashi to not oppose Tokimasa as he expanded his power base in the province.¹¹¹ Though the cause was not recorded, Tokimasa's later behavior in the province provides insight into the type of intervention the housemen resented. Tokimasa was father-in-law to both the provincial governor of Musashi, Hiraga Tomomasa (through a daughter by his current wife, Maki no Kata), as well as the province's chief official and powerful housemen, Hatakeyama Shigetada (through a daughter by his first wife). The two came into direct competition with the fall of the Hiki, as each sought to fill the vacuum in the provinces the Hiki had dominated. Finally, in 1205, the tension gave way to violence, as Tokimasa and his allies prepared a very familiar tactic to eliminate Shigetada. Maki no Kata came to Tokimasa, alleging that Shigetada's son, Shigeyasu, had slandered Tomomasa. The two had a history, and were rumored to have almost come to blows in a quarrel at a drinking party in the capital the year before.¹¹² Now, Maki no Kata lobbied for the Hatakeyama father and son to be executed for treason. Tokimasa consulted with his sons Yoshitoki and Tokifusa on the matter, who were upset by the allegation. They reminded their father of Shigetada's loyalty, including his support in the Hiki Incident: "This was because he values the duty of a son for a father [in-law]. But now he plots treason because he has some kind of resentment? Even if we ignored his frequent and distinguished service and hastily had him executed, we would certainly regret it." They advocated for a more cautious approach of investigating the charges before taking action, but when pressed by Maki no Kata, relented.¹¹³

The next day, Kamakura was awakened to rumors of an army marching to Yuigahama, the coast to the south of the city. Hatakeyama Shigeyasu, who had come to the city on the invitation of Inage Shigenari, responded to calls to put down the rebellion and rode to the beach with several followers right away. He was met by warriors sent by Miura Yoshimura, likely at the behest of Tokimasa, who surrounded and killed Shigeyasu and his men. Then a report arrived that Shigetada was fast approaching the city. Bakufu leaders decided that he should be killed on the road before reaching Kamakura and dispatched Yoshitoki to lead an army against him. Meanwhile, Ōe Hiromoto and Miyoshi Yasunobu discussed precedents for fortifying the palace. Soon, 400 men kept watch over the shogun under Tokimasa's command.¹¹⁴ Tokimasa was careful to protect his connection to legitimate authority and would not allow for a small force to remove him as he had Hiki Yoshikazu.

¹⁰⁹ It may have been as many as seven. In addition to Shinano, Ōsumi, Hyūga, and Satsuma, the Hōjō held the military governorships of Echigo, Etchū, and Noto by 1210 for the former and 1221 for the latter two. Satō, *Kamakura bakufu shugo seido no kenkyū*. Hosokawa, *Hōjō-shi to Kamakura bakufu*, 43.

¹¹⁰ Okutomi, *Kamakura Hōjō ichizoku*, 81, 87.

¹¹¹ *Azuma kagami*, 10/27/1203.

¹¹² *Azuma kagami*, 11/20/1204.

¹¹³ *Azuma kagami* 6/21/1205.

¹¹⁴ *Azuma kagami*, 6/20/1205, 6/22/1205.

Yoshitoki's forces intercepted Shigetada at Fukumatagawa, to the north of Kamakura, to find that he was ill-prepared for a rebellion, having only 134 riders with him. But Shigetada had heard that his son had been killed that morning and that an army was coming to destroy him, and prepared his men to fight a much larger force, rejecting calls to retreat and wait for more favorable circumstances on the grounds that he did not want to lend credence to the charges that he was plotting rebellion, as Kajiwara Kagetoki had done. Shigetada, his family, and followers faced their former friends in battle, fought, and died.¹¹⁵ Yoshitoki returned to Kamakura the next day and was debriefed by Tokimasa. Yoshitoki offered a sharp rebuke, pointing out that the Hatakeyama were not in rebellion—Shigetada's brother, as well as most of his relatives and followers were elsewhere. "That being the case, the plotting of rebellion was a lie. If this was based on false charges, should it have resulted in execution? This is exceedingly improper. I removed his head and carried it to the front of the army. Seeing this, I could not forget the times I had looked into his eyes in the past and it was hard to stop the tears of sadness." Tokimasa made no reply.¹¹⁶ With this confrontation, Yoshitoki made his displeasure with his father, and his flippant use of judicial authority, public.

Azuma kagami reports that the initial slander and desire to eliminate the Hatakeyama came from Hiraga Tomomasa, who through Maki no Kata, was able to convince Tokimasa to act. Inage Shigenari was the instrument of these machinations, meeting secretly with Tokimasa to plot, then conniving to create the circumstances for the killings. Yoshitoki was not alone in his growing outrage at the abuse of power. On learning of this deceit, Miura Yoshimura took direct action, killing Shigenari and his brother for their role in the conspiracy.¹¹⁷ Yoshimura's action is remarkable, especially considering his own prominent role in killing Hatakeyama Shigeyasu. While Yoshitoki and Yoshimura did not directly attack Tokimasa or his close relatives, the public insinuation that he had abused his power coupled with the vigilante killing of his co-conspirator by two of his most high-profile and influential supporters marked a drastic change. These men would no longer accept Tokimasa's underhanded tactics. This shift was indicative of a larger trend, as news and gossip of Tokimasa's renegade use of judicial authority spread, it reminded many of Yoriie and he lost support among Kamakura housemen.¹¹⁸

Dissent against Tokimasa had been brewing since he first took power. Even among his children, there were concerns about his exercise of power, but more important to them were his designs regarding his children by his second wife, Maki no Kata. Within a week of Sanetomo's move to Tokimasa's house after the Hiki Incident, *Azuma kagami* presents a foreboding episode in which Tokimasa's daughters by his first wife, Awa no Tsubone and Masako, spoke together about their apprehensions of Maki no Kata's intentions for Sanetomo, who was now in her care. They quickly intervened, sending Hōjō Yoshitoki, Miura Yoshimura, and Yūki Tomomitsu to retrieve the young shogun, who would be raised under Masako's roof instead.¹¹⁹

Within two months of the Yoshitoki's and Yoshimura's public acts of opposition, Tokimasa was unceremoniously removed from power. The tipping point for his children and other top supporters came in the 1205 Maki Incident, when a threat to the stability of the status quo and the Yoshitoki's and his sibling's political inheritance pushed them to take direct action.

¹¹⁵ *Azuma kagami*, 6/22/1205.

¹¹⁶ *Azuma kagami*, 6/23/1205.

¹¹⁷ *Azuma kagami*, 623/1205.

¹¹⁸ Okutomi, *Kamakura Hōjō ichizoku*, 85.

¹¹⁹ *Azuma kagami*, 9/15/1203.

In a familiar pattern, *Azuma kagami* reports that rumors spread that Maki no Kata plotted treason, conspiring to overthrow Sanetomo and replace him as shogun with her son-in-law, Hiraga Tomomasa. Hearing these rumors, Masako dispatched a group of warriors to retrieve and protect Sanetomo, again including Yoshitoki, Miura Yoshimura, and Yūki Tomomitsu. After moving the shogun to safety at Yoshitoki's residence, Tokimasa added his own strength to these forces, arriving with his own cadre of warriors and "protected the shogun." But that night Tokimasa "suddenly took the tonsure (at age sixty-eight). Those who retired from the world at the same time cannot be counted."¹²⁰ The next day Tokimasa departed for Izu, and Yoshitoki took over the management of government affairs as regent.¹²¹ The new leadership held a meeting (*hyōgi*), after which they sent a messenger to Kyoto to command the housemen of the capital to arrest and execute Hiraga Tomomasa.¹²²

Azuma kagami offers only a brief summary of this episode—a few scant lines—but the impact of these events was significant. Tokimasa, the regent and de facto leader of the bakufu, was removed from power less than two years after he had orchestrated a similar plot against the Hiki. Indeed, the move followed a familiar pattern: Tokimasa was accused of abusing his power—in particular, his exercise of shogunal judicial authority on false charges—and overthrown with (the threat of) violence by a coalition of influential warrior families (including his own). The Maki Incident again highlighted the fragility of the political and legal order in Kamakura: it was the second coup and the third instance of a top politician removed by these means in the five years since Yoritomo's death. As such, it posed a substantial risk to the nascent institutionalization of social control and violence—the development of a system of warrior law. With recourse to violence such a quick resort, and the reward for successful coups so great, the stability and sustainability of the Kamakura bakufu was very much in doubt. However, this fragility also served to underline the importance of support. Each of the Kajiwaru Kagetoki, Hiki, and Maki Incidents pitted individuals or small factions against a greater coalition of top warrior houses. In this light, the removal of Tokimasa and the Maki can be seen as a defeat of autocratic power and the continuation, or even strengthening, of the norms of the more corporate and representative rule first introduced in the Council in 1199. Ultimately, however, the coup produced limited change in the workings of Kamakura leadership in the short term. Yoshitoki replaced his father as regent, and with the support of Masako, managed Kamakura administration in much the same way. Once again, a Hōjō champion of housemen rights changed his tune on coming to power.

The Challenge to Consolidation

The bakufu under Yoshitoki and Masako continued much as it had under their father. They sought to bring a measure of stability to Kamakura politics, in part by extending policies to cultivate support of the housemen. In early 1206, the new leaders established a new legal principle to protect housemen landholding interests: "Lands received in the time of the late

¹²⁰ *Azuma kagami*, intercalary 7/19/1205. *Azuma kagami* notes that Sanetomo at this time was staying at Tokimasa's residence, but it is unclear when or how this move happened, or if it was temporary. Sanetomo had made a visit to Masako on 1/4/1205, potentially indicating that he had moved out, perhaps due to his marriage to Bōmon Nobuko, who arrived in Kamakura on 12/10/1204.

¹²¹ This is the first instance of the term "shikken" in *Azuma kagami* and *Dai Nihon shiryō*. It is not a title or position, but rather used as the management of governmental affairs.

¹²² *Azuma kagami*, intercalary 7/20/1205.

Shogun, shall not be confiscated as long as no major crime has been committed.”¹²³ This was a landmark policy, which simultaneously reassured housemen of the security of their tenure while lightening Kamakura’s judicial burden as such holdings were made much less likely to be challenged. Indeed, the policy proved popular and effective, and was extended repeatedly by subsequent leaders. Also in the first year of the new regime, Kamakura offered a limited opportunity for its housemen to appeal a number of confiscations made two years before, publicly righting a wrong from Tokimasa’s leadership.¹²⁴

However, in tandem with these maneuvers to retain and strengthen their support, Yoshitoki and Masako pursued policies that alienated many housemen. In 1205, Utsunomiya Yoritsuna and his allies were rumored to be plotting rebellion. Yoritsuna had answered the Hōjō’s call to arms against Hatakeyama Shigetada months before, but was viewed with suspicion due to his marriage to a daughter of Tokimasa and Maki no Kata. It is unclear if the rumors were true, but such suspicions make clear that either some number of housemen were dissatisfied enough to seek regime change, or Yoshitoki and Masako continued the familiar mechanism of alleging treason to remove rivals. Based on these rumors, Yoshitoki, Masako, Ōe Hiromoto, and Adachi Kagemori held a meeting (*hyōgi*) and summoned Oyama Tomomasa to order him to attack the alleged rebels. But Tomomasa refused, citing his close, familial relationship to Yoritsuna. The leaders accepted his declination, and Tomomasa withdrew, having effectively vetoed capital punishment for his friend and family member.¹²⁵ Tomomasa then informed Yoritsuna of the charges against him, and Yoritsuna wrote to Yoshitoki, professing to know nothing of a rebellion. He then took the tonsure and came to Kamakura to reassure Yoshitoki in person that he had no rebellious intentions and had retired from the lay world. Hiromoto pocketed the letter and Yoshitoki refused to see him.¹²⁶ Though the regency was successful in removing Yoritsuna from Kamakura politics, Hōjō accusations of treason were not as efficacious as they had been previously. Rather, these events resembled more Kajiwara Kagetoki’s efforts to slander Adachi Kagemori, which earned him only the condemnation of his housemen compatriots.

Support from top warriors further eroded in 1209, when the bakufu established a new policy regarding its military governors. Citing petitions from civil officials of the provincial governments that military governors were derelict in their duties, and the provinces were plagued by gangs of robbers, uprisings, and uncollected or usurped taxes, bakufu leaders held repeated meetings (*gunji*), and proposed two ideas: to install a system of alternation, in which military governors would serve a fixed term and be changed regularly, or to carefully inspect the provinces and remove under-performing and disloyal military governors. They did not reach a final decision, but settled on a tentative plan to for reform. They would begin by ordering the military governors or their equivalents in the provinces near Kamakura to submit their original appointment edicts. These documents would allow the bakufu to differentiate between those who had historical positions and holdings confirmed (and therefore had stronger claim to them) and those who had received grants more recently as rewards (and could therefore be more easily revoked).¹²⁷ Those targeted by this policy—the most influential warriors and peers of the Hōjō—

¹²³ *Azuma kagami*, 1/27/1206.

¹²⁴ *Azuma kagami*, 7/1/1206.

¹²⁵ Hosokawa, *Hōjō-shi to Kamakura bakufu*, 68.

¹²⁶ *Azuma kagami*, 8/7/1205, 8/11/1205, 8/16/1205, 8/17/1205, 8/19/1205.

¹²⁷ *Azuma kagami*, 11/20/1209.

did not take this threat to their bases lightly. The next month, Chiba Naritane, Miura Yoshimura, and Oyama Tomomasa made their cases to the shogun, to explain the provenance of their appointments in lieu of documentation, each noting that Yoritomo himself had confirmed the positions of their predecessors. The military governors of the remaining provinces all provided edicts from Yoritomo confirming their appointments. Faced with such strong evidence and opposition from housemen, the bakufu scrapped its policy proposals for revamping the military governor system.¹²⁸

Opposition against the Hōjō's use of shogunal power continued. The most notable example was Wada Yoshimori. Yoshimori was the head of the Wada family, a branch of the Miura, and quite influential both in the provinces surrounding Kamakura and the bakufu. Yoshimori was an early supporter of Yoritomo, and went on to serve as the inaugural Director of the Board of Retainers (until he was displaced by Kajiwara Kagetoki), and a founding member of the Council of Thirteen. He was at the center of the coalition against Kagetoki, fought in the Hōjō's campaign against the Hiki, and informed Tokimasa when Yoriie had ordered Yoshimori to kill him. He accepted Tokimasa's orders to lead the men who killed Hatakeyama Shigeyasu, joined Yoshitoki's opposition to the attack after the fact, and killed Inage Shigenari himself. Yoshimori was an elder statesman: a long-serving and incredibly important military and political leader, without whom the Hōjō may well never have achieved such heights. He was well versed in the workings of Kamakura politics, and knew how easy it could be to fall out with allies and family and to be removed or killed on spurious charges.

Yoshimori's first inkling of Hōjō opposition came in 1209, when he privately requested a recommendation from the shogun for appointment as lieutenant governor of Kazusa, a civil title.¹²⁹ Sanetomo consulted Masako about the request, and Masako denied it, on the grounds that it a precedent had been established under Yoritomo that samurai were not to serve as provincial governors.¹³⁰ Indeed, in 1185, Yoritomo had forbidden his housemen from accepting appointments from the imperial court without his approval under penalty of confiscation and even death.¹³¹ This precedent was reaffirmed later as an article in *Goseibai shikimoku*, The List of Precedents on Judgment, that outlined the basic principles of Kamakura law in 1232.¹³² However, Kamakura was uneven in its application of this rule. At the time Yoshimori was denied approval, several members of the Hōjō family served as provincial governors: Tokimasa in Tōtōmi, Yoshitoki in Sagami, and Tokifusa in Musashi.¹³³ Masako may have considered her family not samurai, but a higher stratum of warrior—for example, *ie no ko*, “children of the house”, who usually had some relation or other close tie to the leader of a war band, in this case the shogun.¹³⁴ Indeed, Yoshitoki had served as an *ie no ko* to Yoritomo, one of several who guarded his room while he slept.¹³⁵ But Yoshimori could make a similarly impressive case: he was a close ally of the Hōjō, with a strong family history of service and connection the shogunal

¹²⁸ *Azuma kagami*, 12/15/1209.

¹²⁹ Kazusa was one of three provinces, along with Hitachi and Kōzuke, which had imperial princes as governors and so the highest available title to non-royals was lieutenant governor.

¹³⁰ Hosokawa, *Hōjō-shi to Kamakura bakufu*, 56; *Azuma kagami*, 5/12/1209.

¹³¹ Takahashi Noriyuki, “Kamakura bakufu-ron,” 120; *Azuma kagami*, 4/15/1185.

¹³² *Goseibai shikimoku*, Article 39, in *Chūsei hōsei shiryōshū* vol. 1, 15th ed., comp. Satō, Shin'ichi, Ikeuchi Yoshisuke, and Maki Kenji (Tokyo: Iwanami Shoten, 2001).

¹³³ Hosokawa, *Hōjō-shi to Kamakura bakufu*, 56.

¹³⁴ Hosokawa, *Hōjō-shi to Kamakura bakufu*, 56; Okutomi, *Kamakura Hōjō ichizoku*, 89.

¹³⁵ Okutomi, *Kamakura Hōjō ichizoku*, 50; *Azuma kagami*, 4/7/1181.

house. Both his brother, Wada Yoshimochi, and his uncle, Miura Yoshitsura, served as Yoritomo's *ie no ko*. After this denial, Yoshimori asked again, submitting a petition to Ōe Hiromoto, recounting his many achievements in service to Kamakura and asking for only this one position.¹³⁶ He was told to wait for a ruling, but it never came.¹³⁷

Yoshimori continued to serve Kamakura—he was, incidentally, one of the magistrates in charge of the proposed new military governor policies—while shouldering this continued disrespect. In 1213, outside events pushed Yoshimori to make a calculation, and he decided to cast his lot against the Hōjō, leading an uprising known as the Wada Battle. The confrontation began once again with an accusation of treason: Chiba Naritane reported to Yoshitoki that the monk Annen had come to him as a messenger to recruit him for Izumi Chikahira's plot to overthrow Yoshitoki and replace Sanetomo with Yoriie's third son, Eijitsu. Yoshitoki reported this to the shogun and held a meeting (*hyōgi*) with Ōe Hiromoto. They then ordered Nikaidō Yukimura to investigate the matter. His work bore fruit quickly. By the next day, Annen had produced a written confession, naming his co-conspirators in a plot that he claimed included over 134 warriors and 200 followers. Two of Wada Yoshimori's sons, Yoshinao and Yoshishige, as well as his nephew, Tanenaga, were implicated, and along with ten others were taken into custody in Kamakura.¹³⁸

The next month, Wada Yoshimori came to Kamakura from his home in Kazusa, responding to a rumor of fighting in the city. Taking this opportunity, he arranged an audience with the shogun to plead for clemency for his sons. Lamenting their involvement in the plot and reminding Sanetomo of his own record of achievement and loyal service, Yoshimori received a pardon. The next day, Yoshimori returned to the palace again, this time bringing ninety-eight of his family members with him, in order to appeal on behalf of his nephew. But Yoshitoki, supported by Ōe Hiromoto and Nikaidō Yukimura, opposed this clemency, and Tanenaga was brought out before the assembly as a criminal, with his hands bound behind his back.¹³⁹ Tanenaga was exiled to Mutsu Province and his Kamakura residence was confiscated, initially awarded to Yoshimori.¹⁴⁰ But instead, Yoshitoki arranged to receive it himself. His men expelled Yoshimori's followers from this prime real estate near the shogunal palace.¹⁴¹ According to *Azuma kagami*, this treatment “was the cause of Yoshimori's treachery.”¹⁴²

This disrespect may well have figured prominently in Yoshimori's decision to rebel, but it was likely not the only factor. Certainly, the parading of his nephew as a criminal in front of his family and the rejection of his customary right to receive a relative's confiscated holdings were personal affronts, but this episode also clearly demonstrated that Yoshimori was no longer a member of the inner circle of Kamakura leaders who exercised legal authority—he could no longer arrange for special treatment for his family.¹⁴³ The exclusion of Yoshimori from *de facto* legal power despite his *de jure* membership in the Council and appointment as Director of the Board of Retainers was not a new tact—this was precisely what the Hōjō had done to precipitate

¹³⁶ *Azuma kagami*, 5/23/1209.

¹³⁷ *Azuma kagami*, 11/27/1209, 12/20/1211.

¹³⁸ *Azuma kagami*, 2/15/1213, 2/16/1213.

¹³⁹ *Azuma kagami*, 3/8/1213-3/9/1213.

¹⁴⁰ *Azuma kagami*, 3/17/1213, 3/25/1213.

¹⁴¹ *Azuma kagami*, 4/2/1213.

¹⁴² *Azuma kagami*, 3/9/1213.

¹⁴³ Okutomi, *Kamakura Hōjō ichizoku*, 95.

the Hiki Incident. The Wada Battle, however, was fundamentally different from its predecessors. Unlike the other purported plots previously chronicled in *Azuma kagami*, the Wada actually put their conspiracy into action and posed a major threat to Hōjō survival.

Yoshimori recruited other powerful families to join him in revolt, including his relatives, the Miura, who had the largest forces in the Kamakura area, as well as the Yokoyama, Tsuchiya, Shibuya, Doi, Yamanouchi, Mōri, Ōba and other families from the southern Kantō. This was a formidable force and one capable of overthrowing the Hōjō. The Hōjō, however, were given advanced warning and spared its full force. Hatta Tomoshige, Yoshimori's neighbor, observed the Wada's military preparations, and informed Ōe Hiromoto, who abandoned the drinking banquet he was hosting to hurry to the palace.¹⁴⁴ Meanwhile, Miura Yoshimura, the head of the Miura family—the lynchpin of Yoshimori's conspiracy—and his brother Taneyoshi, reconsidered their options.¹⁴⁵ Supposedly, while writing their oath to swearing loyalty to the plot, they had a change of heart inspired by fear of divine punishment for betraying their ancestral patrons, the Minamoto.¹⁴⁶ They decided instead to quit the uprising and inform Yoshitoki. Yoshitoki, in the midst of hosting a *go* party, treated this as a credible threat; he went to the palace and removed Masako and Sanetomo's wife, sending them to safety at Tsurugaoka Shrine. However, he otherwise did not consider the plot an immediate concern, issuing no alert and posting no extra guards. But the Wada were determined; despite the defections, they would attack.

The Wada forces, said to be 150 warriors after the Miura's desertion, divided into groups to attack three specific targets. The first began an attack on the palace from the south, while the other two diverted to Yoshitoki's and Hiromoto's houses. But they were too late; the two targets, alerted of the plot, had already left and were at the palace. The Wada forces quickly overwhelmed those left behind, destroying the residences. They then moved toward the palace, overcoming resistance on the way at the Administrative Office, and by the late afternoon had the shogunal compound surrounded with Sanetomo, Yoshitoki, and Hiromoto trapped within it. Wada forces broke through the outer defenses and set fire to the palace. The shogun, regent, and top official somehow managed to retreat to the Hokkedō, Yoritomo's memorial hall behind the palace, as the Hōjō forces formed a last line of defense. Though the Wada forces pressed on, and Yoshimori's son, Asahina Yoshihide fought "like a god," the Wada were unable to break through. As darkness fell, the Hōjō were reinforced and counterattacked the undermanned and exhausted Wada, driving them through the streets of Kamakura and out of the city to the south.¹⁴⁷ The Wada were joined by a contingent of Yokoyama warriors and fresh horses and mounted another attack, fighting through the streets of Kamakura and reaching the entrance to Tsurugaoka Hachiman Shrine, but were finally repulsed and defeated.¹⁴⁸ The Wada ringleaders were killed, and 234 heads were put on display at Yuigahama.¹⁴⁹

¹⁴⁴ *Azuma kagami*, 5/2/1213.

¹⁴⁵ Hosokawa, *Hōjō-shi to Kamakura bakufu*, 70.

¹⁴⁶ This lineage of service and connection, especially when tied to an early shogun—in this case *chinjufu* shogun, General of the Pacification of the North—served an important role in warrior society. This heritage of martial service often defined one as a warrior as much as martial skills themselves. Takahashi Noriyuki, "Bushī ni totte no tennō."

¹⁴⁷ *Azuma kagami*, 5/2/1213.

¹⁴⁸ *Azuma kagami* records that the combined Wada-Yokoyama army was over "3000 riders;" a more likely result is 300. *Azuma kagami*, 5/3/1213. Okutomi, *Kamakura Hōjō ichizoku*, 97.

¹⁴⁹ *Azuma kagami*, 5/4/1213.

The Hōjō solidified their position in the wake of the Wada Battle. The holdings and appointments of the rebels were seized and redistributed. Yoshitoki and Hiromoto oversaw the process, and made sure to reward their loyal allies.¹⁵⁰ Twenty-three holdings were awarded in total, given in part to those who had fought for the Hōjō, including Miura Yoshimura and Taneyoshi. However, the Hōjō leadership made sure to reserve many for themselves. The Hōjō family took three of these holdings for themselves (one each to Yoshitoki, Tokifusa, and Yasutoki), while their in-laws (Iga Mitsumune, Iga Tomomitsu) and bureaucratic allies (Nikaidō Yukimitsu) received others.¹⁵¹ Yamanouchi estate, which Yoshitoki received, was of particular strategic importance, as it lay just to the north of Kamakura. With its addition to the family's portfolio, Yoshitoki completed his domination of Sagami Province, and the Hōjō were able to control access to the city of Kamakura and to replace the Miura as the strongest local power.¹⁵²

Yoshitoki was also appointed to replace Yoshimori as Director of the Board of Retainers.¹⁵³ This was a notable increase in Hōjō authority on its own, but along with Yoshitoki's position as Director of the Administrative Office, it marked the completion of Hōjō takeover of the two agencies that managed housemen, further institutionalizing and legitimizing Hōjō authority.¹⁵⁴ This enhanced power, the demonstrated willingness to use it against perceived rivals, combined with the Hōjō's recent experience of the necessity of reliable allies, contributed to a more stable and peaceful Kamakura bakufu. For the next six years, the administration operated without significant personnel or structural shifts, and had no substantial challenges to its leadership until 1219. And even then, when the sitting shogun was assassinated, the bakufu administration had reached a level of stability such that it was able to weather the storm of succession and even more direct military challenges.

¹⁵⁰ *Azuma kagami*, 5/5/1203.

¹⁵¹ *Azuma kagami*, 5/7/1213.

¹⁵² Okutomi, *Kamakura Hōjō-shi ichizoku*, 99-100. For the maps of Kamakura environs, see Takeuchi Rizō, *Shōen bunpuzu* (Tokyo: Yoshikawa Kōbunakan, 1975), 72-73.

¹⁵³ *Azuma kagami*, 5/5/1213.

¹⁵⁴ Uwayokote, *Hōjō Yasutoki*, 19.

Chapter Three

The Jōkyū Disturbance and Aftermath, 1221-1224

“The Governor of Mutsu [Hōjō] Yoshitoki *ason* goes against imperial orders and disturbs the governance of the realm. He shall be pursued and destroyed.”¹⁵⁵ So ordered the Retired Emperor Go-Toba, the *de facto* leader of the imperial court in the fifth month of 1221. In Go-Toba’s view, Hōjō Yoshitoki, had usurped the shogunal authority granted by the emperor. Yoshitoki, the *de facto* leader of the Kamakura bakufu, a warrior management organization that shouldered the state’s police and defense responsibilities, had indeed taken on the authority of the shogun, acting as the unofficial regent. This disparity of power and position was put into particularly stark relief after 1219, when Shogun Minamoto Sanetomo was assassinated. Since then, Yoshitoki ran the bakufu without a shogun at all. Go-Toba sought to put an end to Yoshitoki’s upstart leadership, calling not only for his head, but also for any “who yet have designs for rebellion despite this imperial decision,” to “be made to forfeit their lives quickly.”¹⁵⁶ Go-Toba would go to war.

The result was the Jōkyū Disturbance, a military conflict between the forces of Go-Toba and those of Yoshitoki. Though there was no love lost between the two leaders, this was not a conflict based on personal enmity. Nor was it to rehash past battles in an attempt to unmake or abolish the Kamakura bakufu. Rather, it was a power struggle over warrior authority: Go-Toba sought to revive a system of more direct imperial authority over warriors in line with the “capital warrior” traditions of the eleventh and twelfth centuries.

Jōkyū thus began with a limited purpose. It ended, however, with much broader implications. The Kamakura bakufu, buttressed by a tested and capable leadership, new, more corporate structures of rule, and strong connections between the administration and its housemen, easily prevailed over the imperial court. The bakufu’s victory forced a rebalancing of the relationship between Kamakura and Kyoto as the former as the bakufu took on an expanded role in the “united state.” It maintained the structures of and its deference to the imperial court and government, and continued in its position as the military and police arm of the imperial government. But the bakufu fundamentally altered the operation of the united state: it asserted new authorities, and punished its imperial adversaries and remade the court into a more pliable ally, filled the vacuum of the reduced court and placed warrior officials countrywide, and created new positions and offices to manage this growth.

But Kamakura’s new position within the united state engendered new conflicts and complications. Its introduction of officials into new political, economic, and geographic spaces, in particular, led to confusion and often violence, and threatened to undermine the stability they were meant to protect. These growing pains once again forced Kamakura to adapt: to address these new concerns, the bakufu issued its first written laws, known as supplemental laws (*tsuika-hō*). These laws demonstrate how Kamakura operated within the united state, and are indicative of the broader pattern of development of the early bakufu. First, these laws were reactive: the bakufu intervened explicitly in response to changing conditions. Second, they were also conservative: these laws were careful to limit, rather than expand, the authority of the bakufu and

¹⁵⁵ *Dai Nihon shiryō*, 5/14/1221, part 4 vol. 15, 917.

¹⁵⁶ McCullough. “Shōkyūki,” 203.

its housemen. And third, they were not systematic: supplemental laws addressed only the problems at hand, and did not include broader legal provisions. Nevertheless, these laws were a part of a broader systemization of Kamakura administration. Building on the earlier conciliar reforms, these first laws created the first clear, written standard for rules regarding Kamakura officials. While narrowly tailored to pressing concerns, they created a legal framework capable of handling similar problems in the future, developing a more durable and routinized mechanism for legal administration. These laws represented an important early step in a long process of refining Kamakura governance and developing warrior law.

Prologue

The relationship between the Kamakura bakufu and the imperial court became increasingly strained following the assassination of Shogun Minamoto Sanetomo, the nominal leader of the bakufu. Sanetomo was murdered by his nephew, Kugyō, in 1219. He was the last of his line of Minamoto shogun and left Kamakura without a formal leader. Retired Emperor Go-Toba took this symbolic weakness for a strategic one, and plotted to reclaim Kamakura's authority over warriors for his own. He hoped to revive *insei*, rule by retired emperor, and return to the former “capital warriors” model in which warriors were organized and commanded by their aristocratic and imperial patrons. The Kamakura bakufu, which held the authority to appoint, command, and discipline its warrior housemen, stood in his way. But these powers had been vested in the shogun by imperial edict; now without a shogun, Go-Toba sought to reclaim them from the usurping Hōjō regents and reassert direct imperial control over warriors.

For roughly a century preceding his reign this had been the norm. From the mid-to-late eleventh century, retired emperors ruled while their sons or grandsons reigned. This was the era of government by retired emperors. The foundation of their power were vertical alliances, establishing patron-client relationships with various levels of officials, and most importantly, warriors (though the two overlapped). Capital warriors—those able to navigate aristocratic society of the capital—acted as the bridging figures that held these networks together, by both providing muscle on the ground and connecting the capital to this sort of local power. Retired emperors established and expanded such networks across the country. The capital warrior arrangement—never a proper system, really—was the driver of this success. Retired imperial factions emerged as the dominant power at court, ending the era of independent aristocratic imperial regents.¹⁵⁷

This organization soon became a victim of its own success: the imperial family turned on itself, with rival factions forming around retired emperors, emperors, and their wives. Retired emperors and their allies began bringing their warrior clients into the capital; martial power became indispensable to the preservation of political authority. Predictably, this ended in violence. The Hōgen and Heiji Disturbances of 1156 and 1160¹⁵⁸ were the result—first factions fought over the succession of various houses, and then the members of the winning group turned

¹⁵⁷ Many historians now consider this to be the beginning of Japan's “medieval” period. Hongō Keiko, “Insei-ron,” in *Iwanami kōza nihon rekishi* vol. 6, ed. Ōtsu Tōru, Sakurai Eiji, Fujii Jōji, Yoshida Yutaka, and Sōng Si-Yi (Tokyo: Yoshikawa Kōbunkan, 2013), 41.

¹⁵⁸ 1159, by the traditional lunar calendar.

on each other. Warriors fought in the streets of Kyoto and capital punishment—unseen for 350 years in the capital—resumed, as high-ranking heads rolled.¹⁵⁹

This has typically been regarded as a critical turning point; for Jien, the author of the 1219 historical polemic *Gukanshō*, it was the beginning of the “Age of the Warriors” (*musa no yo*) in which warriors were the primary political actors.¹⁶⁰ Warriors grew in stature and authority until one, Taira Kiyomori, had upended the order and grew more powerful than his patron, Retired Emperor Go-Shirakawa. Kiyomori presided over his own capital warrior organization spanning much of the central and western provinces, arranging for prominent and lucrative appointments for his family and supporters, thereby bolstering the economic, political, and recruiting power of his organization. But he naturally also bred resentment. Ultimately, it was the fissure opened by this aggrandizement that led to Yoritomo’s rise in the east and the eventual establishment of the bakufu. The bakufu, as a new locus of warrior command, stamped out the “capital warrior” mechanisms in the areas under its control. And with the death of Go-Shirakawa in 1192, there were no retired emperors under which it could re-form.

Go-Toba’s opposition to the Hōjō needs to be considered in this larger context. Even while Yoritomo lived, Go-Toba made his ambitions clear. He was active in the wake of Go-Shirakawa’s death, playing different factions off of each other, beginning a pattern of political opportunism that saw his patronage switched from the Kujō and Konoe branches of the regental Fujiwara family. Even Yoritomo, the cautious strategist, was outfoxed. Yoritomo had supported the Kujō family from the 1180s, and had helped arrange for Kujō Kanezane’s appointment as Imperial Inspector (*nairan*). The two formed an alliance against Go-Shirakawa and his followers. But in 1196, Yoritomo turned on his Kujō allies and cast his lot with their Konoe rivals in a bid to marry his daughter to Go-Toba (who was already married to a daughter of Kujō Kanezane).¹⁶¹ Go-Toba abdicated in 1198, while still a young man of seventeen, but remained active in politics—a clear indication that he may then have harbored aspirations to revive the tradition of rule by retired emperor. Yoritomo was not pleased.¹⁶² The bakufu now faced resistance to its agenda from a retired emperor and an imperial regent with no blood ties or obligations to the Minamoto.

The tensions and rivalries in Kamakura that followed Yoritomo’s death only further encouraged Go-Toba’s ambitions. He had already begun to recruit warriors to form a new imperial guard corps, and with the uncertainty and discontent in Kamakura, he was able to enlist even powerful housemen pledged to the bakufu. These warriors could be marshaled directly by imperial or retired imperial order—reenergizing the “capital warrior” organization suppressed by Yoritomo.¹⁶³ He further attempted to rebuild imperial strength through marriage alliances—he took wives from three top aristocratic houses—and expanded imperial estate holdings.¹⁶⁴ Go-

¹⁵⁹ Hongō, “Insei-ron,” 46-47.

¹⁶⁰ Jien, *Gukanshō*, 204.

¹⁶¹ Brown and Ishida trans., *The Future and the Past*, 158-159, 408.

This was a proven method to gain political legitimacy and influence; the Fujiwara pioneered the strategy in the early days of the Japanese classical state, and it remained effective centuries later when Taira Kiyomori married his daughter into the imperial family and his grandson by this marriage became Emperor Antoku. Yoritomo was less successful; he engineered the removal of the Kujō, but found himself cast out of the faction shortly thereafter

¹⁶² Brown and Ishida trans., *The Future and the Past*, 160.

¹⁶³ Kawai, “Jishō, juei no nairan to Kamakura bakufu no seiritsu,” 91; Ishii, “Jūni-jūsan seiki no Nihon: kodai kara chūsei e,” 64.

¹⁶⁴ Ishii, “Jūni-jūsan seiki no Nihon: kodai kara chūsei e,” 64.

Toba refined his strategy in 1203, tailoring it to the new shogun, Sanetomo. In place of resistance, he now offered political, social, and cultural patronage to the young shogun, reinforcing the court's authority through diplomatic and cultural means.

Go-Toba's motivations came into sharper relief following Sanetomo's death. He judged the Hōjō to be in a vulnerable position and began planning for their removal from power. To do so, Go-Toba aimed to isolate the Hōjō and undermine their authority and legitimacy. He began actively pursuing this strategy in talks with the bakufu regarding shogunal succession. Kamakura requested that an imperial prince be sent east to become the next shogun.¹⁶⁵ Go-Toba demurred; he was reluctant to lend the Hōjō the legitimacy and prestige of his family. In reply, he demanded the removal of the jitō from the Nagae and Kurahashi Estates in Settsu, on the grounds that they did not obey the orders of the estates' proprietor, his dancing girl mistress, Kamegiku.¹⁶⁶ The jitō in question was Hōjō Yoshitoki himself. For Kamakura, this was beyond the pale.

Jitō, Kamakura's local law enforcement officials, were perhaps the most important post under the bakufu. They functioned both as Kamakura's boots on the ground, maintaining law and order and ensuring the payment of rents and taxes, but also as a key reward for faithful service to the administration. Appointment as jitō represented a heritable livelihood and a certain social distinction to the housemen who received them. Consequently, the power of appointment and removal was pivotal to Kamakura authority. For the Hōjō to accede to Go-Toba's demands would be tantamount to sublimating all bakufu appointments to (retired) imperial control, alienating Kamakura housemen who depended on the bakufu to protect their rights. To refuse would be to eliminate the possibility of a princely shogun and the legitimacy he would bring to the bakufu. Go-Toba had his lever.

Go-Toba had his order to remove Yoshitoki delivered to the estates. Yoshitoki's local deputies rejected it: "This land was received by Magistrate Yoshitoki from the late Captain of the Right Yoritomo. Therefore, I wouldn't obey even an imperial proclamation to leave it, so long as there wasn't an order to do so under the seal of the Magistrate."¹⁶⁷ Go-Toba then sent his own warriors to displace those loyal to Yoshitoki, but they again refused to move. He then sent repeated decrees to Yoshitoki, that he might keep all his other holdings, but must cede those that he had ordered revoked. Yoshitoki reportedly bristled at this:

How could the retired emperor send me such an order? Although he might confiscate hundreds and thousands of my other lands, even at the risk of my head I could never accede to his demand for the Nagae Domain, since it was granted to me by the late Captain of the Right Yoritomo, when I first began to enjoy his largesse.¹⁶⁸

Yoshitoki went further, explaining that bakufu custom and precedent would not allow it: "Those who were appointed [as jitō] as a reward for meritorious service in the time of the Shogun [Yoritomo], may not be changed as long as there has been no negligence."¹⁶⁹ Yoshitoki had Tokifusa march with 1000 horsemen to give Go-Toba his answer.¹⁷⁰ Yoshitoki defended not only

¹⁶⁵ *Azuma kagami*, 2/19/1219.

¹⁶⁶ *Azuma kagami*, 3/9/1219. Jōkyūki only mentions Nagae. McCullough, "Shōkyūki."

¹⁶⁷ McCullough, "Shōkyūki," 181.

¹⁶⁸ Adapted from McCullough, "Shōkyūki," 182.

¹⁶⁹ *Azuma kagami*, 5/19/1221.

¹⁷⁰ *Azuma kagami*, 3/15/1219.

his direct interest as the official in question, but also his interest in preserving Kamakura's right of appointment and the rules and practices that bound the social and legal community of warriors.¹⁷¹

The two sides returned to the negotiating table, and eventually reached a compromise: Kujō Mitō (later Yoritsune), a son of the regent Kujō Fujiwara family and distant relative of Yoritomo, would become the next shōgun. Born only the year before Sanetomo's murder, he arrived in Kamakura a young child and would not be formally made shōgun until six years later.¹⁷² Although the active antagonism between Go-Toba and Yoshitoki cooled with this agreement, the fundamental conflict went unaddressed. Go-Toba "felt it intolerable that Yoshitoki, who had never served the court in any way at all, should now be governing the state as he pleased and even violating the imperial will."¹⁷³ But he now had pretext to punish the Hōjō. He soon began planning for Yoshitoki's ouster by force.

Go-Toba appointed Fujiwara Hideyasu, a former palace guard and provincial governor, as his primary commander and ordered him to formulate a plan to kill Hōjō Yoshitoki. Go-Toba's other close warrior allies, many also tied to his imperial guard system, joined Hideyasu on the retired sovereign's war council. Hideyasu quickly moved to enlist warriors, including and especially those with ties to the bakufu or the east. Miura Taneyoshi was among those at the top of the list. Taneyoshi, the younger brother of Yoshimura, had been in this position before. The Wada had counted on the Miura brothers to support their coup in 1213. It was their deliberation and ultimate loyalty to the Hōjō that had tipped the balance against the rebellious Wada. Since then, however, Taneyoshi had come to harbor resentment against the Hōjō. According to *Jōkyūki*, his wife, widow of Yoriie, blamed Hōjō Tokimasa for the late shōgun's death. Further, she held Yoshitoki responsible for the execution of their son.¹⁷⁴ Taneyoshi cited his heartbreak at watching his wife's grief over the years as the reason for forsaking Kamakura and his ancestral home.¹⁷⁵ Such sentiments were no doubt common among those ruined under the Hōjō. It was precisely this constituency that Go-Toba meant to tap, to harness warrior discontent and split the bakufu's warriors.

In addition to this strategy of divide and conquer, Go-Toba and his war council planned to take the bakufu by surprise. They would strike first in Kyoto, killing Iga Mitsusue, Yoshitoki's brother-in-law and one of two Kyoto military governors, the bakufu's ranking officers in Kyoto. The other, Ōe Chikahiro, along with fourteen of the sixteen other military governors in the capital region sided with Go-Toba.¹⁷⁶ Meanwhile, Go-Toba arranged for the clandestine transmission of a message to the most valuable and susceptible Kamakura housemen in an attempt to win their allegiance. Then, when the remaining Hōjō forces were sent to engage imperial troops in the field, Miura Yoshimura, convinced by his brother Taneyoshi to betray the Hōjō, would raise the garrison in Kamakura against the Hōjō and kill Yoshitoki. Taneyoshi even went as far as to encourage Yoshimura to execute Taneyoshi's own children in order to

¹⁷¹ McCullough, "Shōkyūki," 180.

¹⁷² Mitō was born in 1218, but was considered two years old when this deal was struck in 1219. He arrived in Kamakura on 7/19/1219, but was only capped in 1225 and made shōgun in 1226. *Azuma kagami*, 7/19/1219.

¹⁷³ McCullough, "Shōkyūki," 180.

¹⁷⁴ It is unclear which son she meant: one son joined the Wada plot in 1213 and killed himself after a failed anti-bakufu conspiracy in Kyoto in 1214, while another, Kugyō, was executed for his role in the Sanetomo assassination.

¹⁷⁵ McCullough, "Shōkyūki," 186.

¹⁷⁶ McCullough, "Shōkyūki," 191. Uwayokote, "Kamakura bakufu to kuge seiken," 54.

demonstrate his loyalty before turning his cloak.¹⁷⁷ But this confidence was misplaced; even before hostilities commenced, things began to unravel for the imperial conspirators.

The Disturbance

Go-Toba's activity in the capital roused the suspicion of Kamakura loyalists. Iga Mitsusue, the military governor loyal to Kamakura, took note of the massing troops and got word to the bakufu on the fifteenth of the fifth month of 1221. Go-Toba, hoping to maintain the element of surprise, launched his attack, but Mitsusue was tipped off and forced his killers into an embarrassingly protracted fight (purportedly 1,000 against thirty-one).¹⁷⁸ Mitsusue died, but his message got through to Kamakura. Its arrival all but sealed the fate of the imperial conspiracy. The conflict would be over within weeks.

On the nineteenth, four different messages arrived in Kamakura. Iga Mitsusue's arrived first, warning the bakufu that Go-Toba was amassing troops in the capital. Next came a message from an assistant to Saionji Kintsune, Kamakura's aristocrat ally who had warned Mitsusue of the coming attack. Kintsune and his son had been detained by imperial forces, but still managed to send a messenger to Kamakura to alert the bakufu of Go-Toba's actions, including that the retired emperor had dispatched messengers to the Kantō with an order calling for Yoshitoki's head.¹⁷⁹ The bakufu sent men out to search for these messengers, catching one just to the south of Kamakura. In the message, Go-Toba declared that Yoshitoki

Usurp[ed] the power of rule from the court's authority. How may one conclude that such a way of government is proper? Now, therefore, the appointment of Yoshitoki as regent is henceforth suspended. All things will be decided by the will of the retired emperor. If there are those who yet have designs for rebellion despite this imperial decision, they must be made to forfeit their lives quickly. To those with particular merit, honorariums will be granted.¹⁸⁰

Go-Toba now labelled Yoshitoki's exercise of power in the place of the future shogun—whom he had agreed to send to Kamakura—illegal and treasonous. Drawing on a (imagined or embellished) tradition of imperial authority, he appealed to top power-holders in the Kantō—Hōjō Tokifusa, Miura Yoshimura, and Ashikaga Yoshiuji, among other men and women—in the hopes of splitting off some the bakufu's key supporters. Instead one of his messengers was intercepted and apprehended, and Go-Toba's message, including a register of names, was forwarded to Hōjō Masako, Yoshitoki's aunt and governing partner.¹⁸¹

At the same time, a personal message arrived for Miura Yoshimura from his brother Taneyoshi. As had been the case in previous coup attempts, Yoshimura's support was critical to the success of Go-Toba's plot. And once again, Yoshimura proved loyal to the Hōjō, despite his brother's promise that Go-Toba would let him name his reward if he killed Yoshitoki. Instead, Yoshimura arrested the messenger and took the letter directly to Yoshitoki and reaffirmed his allegiance to the Hōjō: "Despite slanderous accusations of some that I betrayed Left Gate Guard

¹⁷⁷ McCullough, "Shōkyūki," 187.

¹⁷⁸ McCullough, "Shōkyūki," 201-202.

¹⁷⁹ *Azuma kagami*, 5/19/1221.

¹⁸⁰ Adapted from McCullough, "Shōkyūki," 203.

¹⁸¹ *Azuma kagami*, 5/19/1221.

Wada Yoshimori to you when he revolted one year, since I've always vowed that there must never be a breach between you and me, I've acted as you see."¹⁸²

Masako, according *Azuma kagami*, took charge and convened and addressed an assembly of housemen, including Hōjō Tokifusa and Yasutoki, Ōe Hiromoto, and Ashikaga Yoshiuji. She was blunt and confirmed the swirling rumors of imperial military action:

These will be my final remarks. The late Shogun [Yoritomo] subjugated the court's enemies, and since beginning [his administration] of the Kantō, the favors of posts, ranks, and rewards have been higher than mountains and deeper than the sea. His intention to repay such obligation was not shallow. But now an unreasonable (*higi*) imperial edict (*rinji*) has been issued on the basis of the defamations of treacherous retainers. Those who hold their names dear, must take [Fujiwara] Hideyasu and [Miura] Taneyoshi and protect the legacy of the Third Shogun. However, those who wish to go to the Retired Emperor's side should say so and separate now.¹⁸³

All the housemen remained and reaffirmed their loyalty to Kamakura. Many reportedly did so with tears in their eyes.¹⁸⁴

Jōkyūki adds that after Masako's confrontation, many housemen came to Yoshitoki unbidden, in full armor. Yoshitoki told them to take his head if that was their will, but none moved. Instead, they all professed their loyalty: "The forty-eight great landholders and eminent houses [of the Kantō] pledged themselves long ago to guard the Minamoto down to the seventh generation, and it makes no difference, therefore, whether it is you or Minister Sanetomo who is our master."¹⁸⁵ In these sources, it is clear that the Hōjō were in control, that they offered their housemen the option of joining the capital's side, and that the housemen chose to stay under the Hōjō. While both these texts have an outspoken pro-Hōjō bias, that the housemen in Kamakura chose to stand by the Hōjō at all represents a significant vote of confidence; they had proven willing to turn on their own before. Many were dissatisfied with Hōjō corporate hegemony or at least their position beneath it—the imperial forces counted many eastern warriors among them—but the Hōjō-led administration retained sufficient support of their fellow members and their housemen.

The Council, the bakufu's de facto governing body, gathered for a conference (*hyōgi*) at Yoshitoki's residence. Tokifusa, Yasutoki, Ōe Hiromoto, Miura Yoshimura, and Adachi Kagemochi attended. They exchanged opinions, and a defensive plan of erecting barriers around Kamakura gained support. But Hiromoto suggested that such a strategy could prolong the conflict, sap the commitment of their men, and ultimately end in their defeat. Instead, he suggested an immediate assault on the capital, putting the imperial forces on the defensive. Yoshitoki considered these two options, but remained undecided, and turned to Masako for advice. Masako supported Hiromoto's plan, and an order was drawn up and dispatched to housemen family heads in fourteen provinces. Tokifusa and Yasutoki would lead the main force

¹⁸² *Azuma kagami*, 5/19/1221; McCullough, "Shōkyūki," 206.

¹⁸³ *Azuma kagami*, 5/19/1221. According to *Jōkyūki*, Masako asked "If you gentlemen who received the shogunal largess now join the court's attack on Kamakura and trample under your horses' hooves the tombs of Yoritomo and Sanetomo, can you expect to have divine favor for your bows and arrows? Tell me plainly, gentlemen: will you join the Kyoto attack on Kamakura, or will you adhere to Kamakura and attack Kyoto?" McCullough, "Shōkyūki," 205.

¹⁸⁴ *Azuma kagami*, 5/19/1221.

¹⁸⁵ McCullough, "Shōkyūki," 207.

west from Kamakura along the Tōkaidō, another force would take the Tōsandō, and Hōjō Tomomasa would gather the strength of the northern provinces and move toward the capital along the northern Hokurikudō.¹⁸⁶

But Yoshitoki hesitated. Two days later, the bakufu's assembled forces still remained in Kamakura. The bakufu's housemen began to doubt the wisdom of leaving their homes to face an imperial army. The Council met for another conference (*hyōgi*) to discuss their options. Ōe Hiromoto advised that "Waiting for forces from Musashi Province is a bad plan. Days will pass and the plan will circulate among the Musashi men, and some will certainly have a change of heart." He argued that decisive action would win doubters over: "even if it is only Bushū [Yasutoki] who cracks the whip [and departs], the eastern warriors will follow all together like clouds to a dragon."¹⁸⁷ Miyoshi Yasunobu, a veteran bureaucratic official of the bakufu, could not attend the conference due to illness, so Masako visited him to hear his thoughts. Yasunobu concurred with Hiromoto, underlining the urgency of the matter: "The safety of the Kantō is being decided now. To go over opinions is a natural impulse. However, the dispatch of troops to Kyoto is what I want most. If days pass, it can be said that we are negligent. We should send one Great General first."¹⁸⁸ Once again, facing a crisis, the Hōjō leaders turned to their colleagues in the Council. Led by two non-warrior members, they doubled down on their support of Hōjō leadership and pushed for military confrontation with the coalition of retired emperors. Yoshitoki gave the order for Yasutoki to depart immediately.

Once Kamakura's forces entered the field, the conflict moved quickly. By the end of the month, Yasutoki and Tokifusa had reached Tōtōmi and secured the bakufu's first victory. A messenger reached Go-Toba from the first battlefields, reporting that he did not "know how many tens of millions of eastern warriors are coming to face the imperial army;" they were too many to count.¹⁸⁹ This report was no doubt tinged with the hyperbole of terror, but bakufu forces had indeed grown considerable. Although Yasutoki had left Kamakura with only eighteen riders, his host soon numbered in the thousands, or tens of thousands, if *Azuma kagami* and *Jōkyūki* are to be believed. The two sources estimate Kamakura's total forces to have been 190,000. Though this figure is very likely inflated, they no doubt outnumbered their imperial foes, tallied by *Jōkyūki* at 19,326.¹⁹⁰

Imperial strategy further skewed this ratio. The numerically inferior imperial forces had been divided in order to defend roughly a dozen bottleneck entries into the capital region. But bakufu forces prevailed, repeatedly driving imperial forces to flight (sometimes without an arrow

¹⁸⁶ *Azuma kagami*, 5/19/1221, 5/25/1221; McCullough, "Shōkyūki," 211.

¹⁸⁷ *Azuma kagami*, 5/21/1221.

¹⁸⁸ *Azuma kagami*, 5/21/1221.

¹⁸⁹ *Azuma kagami*, 6/1/1221.

¹⁹⁰ *Azuma kagami*, 5/22, 5/25/1221; McCullough, "Shōkyūki," 211, 423. These numbers need to be taken with a large grain of salt. Per Jien in *Gukanshō*, thirty-seven mounted warriors amounted to "a strong force" in the context of the 1160 Heiji Disturbance. Brown and Ishida trans., *The Future and the Past*, 110. Meanwhile, the population of Japan was approximately 6 million by the late thirteenth century. Within that, Kyoto, the largest city held about 100,000 people and Kamakura somewhere between 60,000-100,000. 190,000 would be as much as 3.8% of the TOTAL population of the country, and roughly 8% of all men. William Wayne Farris, *Japan's Medieval Population: Famine, Fertility, and Warfare in a Transformative Age* (Honolulu: University of Hawai'i Press, 2009), 25.

loosed), and killing and capturing those who remained.¹⁹¹ Bakufu forces did not lose a single battle. Despite Go-Toba's success in recruiting the monks of Mt. Hiei to join his fight, by the fifteenth of the sixth month, bakufu forces had broken the last line of imperial defense and were poised to enter the capital.¹⁹² Go-Toba's generals fled the city. Go-Toba himself sent a message to Yasutoki, capitulating and blaming the whole thing on "treacherous advisers."¹⁹³

Go-Toba concluded his message with a command, in truth a plea, that Yasutoki "Order the eastern warriors to commit no outrages in the capital."¹⁹⁴ The Retired Emperor had given his cause and himself up, and sought only to preserve order and prevent bloodshed. Yasutoki's response and his subsequent orders are not extant, though there are powerful accounts of the violence unleashed on and in Kyoto following the bakufu's victory. Miura Yoshimura split from the Hōjō leaders to search for his brother, Taneyoshi. Taneyoshi fled the city and took his own life. Yoshimura tracked down Taneyoshi's remaining retainers to claim his brother's head for presentation to Yasutoki. Meanwhile the bakufu army entered the city and set fire to the homes and barracks of the imperial warriors. They then scoured the city and its outlying areas, searching for the remnants of the imperial army and Go-Toba's supporters. The court's advisers, retired imperial guards and retainers, as well as all other suspicious aristocrats were taken into custody. Warriors, especially those without courtly connections or ties to the bakufu, were not so lucky. These were all beheaded without ceremony. The Kamakura warriors were so busy taking heads that "there was no time to wipe their swords. The corpses of horses and men filled the streets so that one could not walk easily."¹⁹⁵ Kyoto had never seen such violence or on such a scale. Even Yoshitoki blanched at such "lawless behavior."¹⁹⁶

These were not the warrior-bureaucrats of later periods. These men were valued precisely because of this capacity for violence. Indeed, this violence was at the heart of the dispute. Not only was the outcome determined by force of arms, but it was at its core a contest over control of them. Go-Toba sought a renaissance of the "capital warrior" organization of Retired Imperial governance in part premised on the supreme right of command of (certain) warriors. The bakufu's organization, which put that right in the hands of the shogun (or his regent and Council), obviously represented a challenge to the former model. In this sense, the two models could not coexist. When Yasutoki and Tokifusa conquered the capital and made their base of operations at Rokuhara, in eastern Kyoto, for an indefinite military occupation, the matter was settled. Direct imperial control over the use violence was gone. The Jōkyū Disturbance was over. The bakufu had won. Its place in the united state was secure, but new questions loomed.

The Jōkyū Settlement

On the fifteen of the sixth month, 1221, Hōjō Yasutoki and Hōjō Tokifusa entered Kyoto at the head of a bakufu army. The Retired Emperor Go-Toba capitulated, ending his bid to kill the Hōjō and restore direct imperial control over the military. In so doing, he surrendered the

¹⁹¹ *Jōkyūki* reports that imperial forces fled at the sound of water fowl, mistaking them for an overwhelming bakufu force, much as the Taira forces had done in the Genpei Conflict. McCullough, "Shōkyūki," 433-434.

¹⁹² At this point, *Azuma kagami* reports Yasutoki to have had 5,000 men under his command according to *Azuma kagami*, and 1,800 per *Jōkyūki*. *Azuma kagami*, 6/15/122; McCullough, "Shōkyūki," 439.

¹⁹³ *Azuma kagami*, 6/15/1221.

¹⁹⁴ *Azuma kagami*, 6/15/1221.

¹⁹⁵ *Azuma kagami*, 6/15/1221.

¹⁹⁶ McCullough, "Shōkyūki," 440.

imperial court and state to the will of the Kamakura leadership. The bakufu was now militarily unchallenged, and had subdued its only rival political institution. The possibilities for radical reform and warrior aggrandizement were vast: in another milieu, it would be easy to imagine a victorious military organization supplanting a civil, aristocratic court with its own warrior dynasty. And yet, this did not happen in Japan. The bakufu had no designs on the throne, and indeed did not have any standing plan for victory. Instead, Kamakura crafted policy in response to rising needs on an ad hoc basis.

The reality of victory raised new questions for the bakufu. Some were familiar: how would the bakufu put an end to lingering violence and restore order? How would it reward its housemen who faithfully fought for their Hōjō leaders? But even these questions took on new meaning in the context of imperial defeat. Kamakura would have to address the “rebellion” by the imperial court—did the bakufu have the authority to punish the imperial family? There was little precedent to guide the decision. So too, the retreat of the imperial court would leave administrative needs unmet—how would Kamakura address this need? In short order, Kamakura addressed these questions and more, establishing a new balance within the united state.

This short period marked a defining phase for the Kamakura bakufu. Victory fundamentally shifted its place within the state: its relationship with the court was forever altered; what had once been a roughly equitable relationship was now definitively unbalanced as the bakufu could impose its will on the court. The bakufu enhanced its authority within the state, expanded its jurisdiction and powers, created new organs, staff, and rules to manage them, and continued to systematize its administrative structures. Overnight, Kamakura became the dominant force behind policy and governance. And yet Kamakura remained within the united state, committed to the continuity of the imperial court and government even as it assumed more of its authority. Though the bakufu had no master plan as its armies occupied Kyoto, it adopted policies for pacification, including the fundamental remaking of its relationship with the imperial court, and to fill the growing political vacuum with an expansion of its administration countrywide.

The bakufu’s first actions in Kyoto reveal much about its leaders’ goals and motivations. The very first step was to retake the physical space of Kyoto. As we have seen, Hōjō Yasutoki and Tokifusa led bakufu troops into the city and purged it of rebel warriors and partisans, but while their men killed and ravaged the city, the Hōjō scions established themselves at Rokuhara, a site of great historical, political, and economic significance. Rokuhara lies to the east of the Kamo River, between the Gojō and Shichijō avenues, near Rokuharamitsuji temple, from which the area derived its name. It was the site that Taira Masamori had chosen for his family’s temple by 1113, which was subsequently expanded by later generations to include family residences and military barracks, eventually becoming the Taira stronghold for the capital. Following the path of other prominent political powers—Retired Emperors Shirakawa, Toba, and Go-Shirakawa (at Shirakawa, Toba, and Hōjūji respectively) and the regental Fujiwara (at Uji)—the Taira chose the site deliberately. Its location on the Kamo River and proximity to routes east and south offered economic and military advantages for the Taira, whose main military and economic foundations were in Ise Province to the south.¹⁹⁷ The Taira compound burned in 1183 amid the Genpei Conflict and the site was awarded to Minamoto Yoritomo following the cessation of

¹⁹⁷ Takahashi Shin’ichirō, “Chūsei toshi-ron,” in *Iwanami kōza Nihon rekishi* vol. 7, ed. Ōtsu Tōru, Sakurai Eiji, Fujii Jōji, Yoshida Yutaka, and Sōng Si-Yi (Tokyo: Iwanami Shoten, 2014), 262-263.

hostilities. Under bakufu control the compound was rebuilt, and the first Kyoto military governor—Hōjō Tokimasa—was sent to reside there. He used Rokuhara as his headquarters for keeping order in the capital. But with his return to Kamakura, Rokuhara fell into disuse as subsequent Kyoto military governors used their own or friends' residences in the city instead. The arrival of a new generation of Hōjō to this site marked a transition, much as Tokimasa's arrival had nearly forty years earlier. This was at once both a bold extension of bakufu power—a greater presence in the capital and the west—while simultaneously a confirmation of its “capital warrior” heritage. This move is representative of the “conservative expansion” that was the hallmark of the Kamakura bakufu.

At the end of formal hostilities, Yasutoki and Tokifusa “both moved into Rokuhara mansion and resided there. They were to be the teeth and claws and eyes and ears for Capital Officer of the Right [Yoshitoki], considering the management of the main points of governance and seeking the security of the warrior houses.”¹⁹⁸ This was the establishment of a new position, the Rokuhara *tandai*, replacing the previous Kyoto military governor as the bakufu's top representatives in the capital. The *tandai* inherited and expanded the former military governors' responsibilities, as they took on political, judicial, military, and police functions.

The first priority of the *tandai* was to restore order. Bakufu forces had unleashed widespread violence within the city, ridding it of their foes, but unleashing fear, uncertainty, and the potential for great disorder in their place. Yasutoki and Tokifusa moved to end this swiftly, making it known that punishments would be lenient in the hope of reaching a reconciliation with their rivals. The other side of the coin was the apprehension and punishment of enemies who would not submit peacefully. Bakufu warriors continued to capture (or kill, for the lower-status) holdout loyalists.¹⁹⁹ From the first, bakufu leadership in Kyoto placed the need for order above all else.

Next, they turned to the administration of the bakufu housemen. Yasutoki and Tokifusa spent their first full day at Rokuhara investigating the achievements of their men, on which they drafted a report for Kamakura. The “meritorious deeds” so recorded were the lifeblood of the housemen; it was by performing these acts—and being seen doing so—that they were issued rewards. The promise of such rewards was thought to encourage brave and loyal service (though it could just as lucrative to turn one's cloak and side with the winner). Consequently, such inquests could be highly charged affairs. And in fact, on this day, a dispute arose between two housemen, Sasaki Nobutsuna and Shibata Kaneyoshi, as to who had had the honor of leading the charge at the battle of Uji River days before. The dispute was complicated, and heated, enough that it was decided that the Yasutoki and Tokifusa would hold a trial (*taiketsu*) to evaluate the rival claims, another important facet of the Rokuhara *tandai's* job description.

The *tandai* had each litigant present their argument. Nobutsuna contended that while Kaneyoshi may have been the first in the water, he was the first to reach the opposite shore. Kaneyoshi countered that Nobutsuna's crossing of the river was “solely due to my leadership.” Yasutoki and Tokifusa were unable to decide the case on these arguments alone. So they sought eyewitness testimony, collecting written oaths from numerous veterans detailing their recollections of the event. The witnesses agreed: Kaneyoshi had been slightly ahead of

¹⁹⁸ *Azuma kagami*, 6/16/1221.

¹⁹⁹ *Azuma kagami*, 6/16/1221.

Nobutsuna. After reviewing this evidence, the *tandai* made their ruling, asking Kaneyoshi to name his preferred reward for the report to Kamakura.²⁰⁰

The *tandai* concluded their investigation into achievements and compiled their report of the victorious campaign, including a register of battle-by-battle casualties and those deserving of rewards, as well as some specific requests from these individuals.²⁰¹ Yasutoki also raised another critical question: what was to be done with the court? Specifically, Yasutoki asked, “Who should be made the retired emperor, and who should be placed on the imperial throne?” What was he to do with Go-Toba and the other retired emperors? Their nobles and retainers? He asked Yoshitoki and the Council for instructions.²⁰²

The bakufu, triumphant and militarily unrivaled, had *no plan* for victory. Despite the tenacity with which the Hōjō had defended their position atop Kamakura politics, this suggests that the bakufu leadership did not anticipate nor desire this confrontation with the court. It seems very likely that even the most robust Hōjō ambitions did not extend to Kyoto or countrywide. In facing this unexpected challenge, the bakufu was once again forced to adapt on the fly. Just as Yoritomo had to repurpose and reorganize administrative structures to keep up with his unlikely martial success, the post-Jōkyū bakufu had to improvise and innovate to fit changing needs.

When Yasutoki’s messenger reached Kamakura, everyone rejoiced. But quickly celebrations gave way to careful consultation, as the bakufu elders met to discuss the next step. Having had no prior plan, they “promptly [began] to make decisions on the charges for the nobles and courtiers. Director of the Imperial Kitchen (*taikanrei*) Zenmon [Ōe Hiromoto] researched the precedents set in Bunji first year [1185] and prepared a summary.”²⁰³ In order to ensure the legality and legitimacy of their actions, the leaders looked to the past for precedent. Meanwhile, important aristocrats and warriors were rounded up and sent to Rokuhara, where they were put into the custody of high-ranking warriors, who would hold them prisoner until Kamakura rendered judgments. After a day of deliberation, Yoshitoki sent a messenger to Rokuhara with the bakufu’s verdicts.²⁰⁴

Yoshitoki’s message reaffirmed the need for order in the face of uncertainty. He commanded them “to punish the rebels in and around the capital,” according to *Azuma kagami*.²⁰⁵ *Jōkyūki* confirms this priority with a more detailed rendition of this missive: “Send the nobles and attendant courtiers down to the Bandō Provinces [i.e. to Kamakura], but show no further compassion toward their followers: decapitate them all. You must put a halt to the lawless behavior in the capital immediately. There must be absolutely nothing of this kind in the neighborhoods” of the houses of the aristocratic leaders of Kyoto. “Anyone who disregards this command and creates disorder is to be summoned and decapitated, even if it is one of our own Kamakura men.”²⁰⁶ Yasutoki and Tokifusa, as Rokuhara *tandai*, were tasked with keeping the peace and assuring that the powers that be in Kyoto, at least those who had not participated in the

²⁰⁰ *Azuma kagami*, 6/17/1221.

²⁰¹ *Azuma kagami*, 6/18/1221.

²⁰² Adapted from McCullough, “Shōkyūki,” 439.

²⁰³ *Azuma kagami*, 6/23/1221.

²⁰⁴ *Azuma kagami*, 6/24/1221.

²⁰⁵ *Azuma kagami*, 6/29/1221.

²⁰⁶ McCullough, “Shōkyūki,” 439-440. *Azuma kagami* agrees: “He told them at length of the orders to punish the rebels in and around the capital.” *Azuma kagami*, 6/29/1221.

campaign against Kamakura, were protected, even at the cost of disciplining their own men, including with capital punishment.

Fundamentally, this was, or had become, the purpose of the bakufu: to keep order. The warriors—under the bakufu and in lingering “capital warrior” arrangements—served essentially as police, keeping order, apprehending and punishing criminals, and ensuring the continued stream of wealth to government officials and estate proprietors and guarantors. They provided critical services that the state could no longer provide. But warriors often acted counter to this purpose, extorting goods and services from civilians at the point of a sword, starting and continuing feuds with each other, and disobeying their civilian superiors, threatening the viability of the state and its supporting economic systems. In short, they were at once the guarantor of order and its biggest threat: it had been the addition of warriors to courtly disputes that led them to violence, and ultimately plunged the country into vast conflict. The bakufu was borne of this clash, precisely to administer warriors. The bakufu soon cooperated and became a part of the state, utilizing and managing its men for the state’s interests (as well as its own). Even in 1221, when the imperial court itself had in essence declared war on the Hōjō, the bakufu leadership, led by the Hōjō, sought to continue their role in the united state. But the balance of power within it shifted.

It seems very likely that the bakufu leadership had no prior intentions to expand its authority or challenge the court, and certainly not to abolish or replace it. Indeed, all evidence suggests that successive bakufu leaders from Yoritomo forward held the institutions of the government, if not always its personnel, in high regard. Courtly titles and rank remained an important part of warrior identity—it was after all, with these titles that the leading warriors used to sign their orders, oaths, and other documents. The court was also an important fount of legitimacy—the bakufu functioned as a part of the united state, not as an alternative to it. Though it may have been possible to abolish or replace the court, or to push for an independent east, the bakufu leaders had no apparent desire to do so. That being the case, they would have to work with the existing power structures and holders. The leading aristocrats and the system that supported them had to be preserved. But not all of them.

On receiving their marching orders, Yasutoki and Tokifusa held a conference with Miura Yoshimura and Mōri Suemitsu, Ōe Hiromoto’s son, forming a Kyoto counterpart to the Council in Kamakura. They discussed Yoshitoki’s letter and additional directions on punishments.²⁰⁷ They then initiated a purge of the imperial court and government officials, eliminating those who had opposed them. At first, the court signed off on this, even issuing an imperial proclamation demanding the conviction and punishment of the rebel ringleaders.²⁰⁸ The *tandai* began with their own. The next day, four members of Go-Toba’s guards, Kamakura housemen, were brought to Rokuhara for execution. The court tried to intervene on the guards’ behalf, but the bakufu held firm. “The law [requiring] execution [applies] regardless of the court’s council.”²⁰⁹ Although these were not the “ringleaders” the court had demanded be brought to justice, for the bakufu they could not be overlooked, as they had violated a central tenet of the bakufu’s management. *Azuma kagami* explains,

²⁰⁷ *Azuma kagami*, 6/29/1221.

²⁰⁸ *Azuma kagami*, 7/1/1221.

²⁰⁹ *Azuma kagami*, 7/2/1221.

All of these were made officials by the Kantō. They received the favors of the house of the Great General of the Right [Minamoto Yoritomo], receiving multiple estates to manage [as jitō]. On the recommendation of the Minister of the Right Shogun [Sanetomo], they were promoted to Fifth Rank. Even if imperial decisions pile up, how could they show such disrespect for their spirits? Suddenly they turn away from such favors and hope to wipe away that legacy. People loathe this, saying it is very much not the way of the bow and horse.²¹⁰

They were not only enemy fighters, but traitors to the bakufu and the ideal warrior society the bakufu leadership hoped to engender. As partisans and examples, they had to go.

Having dealt with the immediate danger of the remaining rebel forces, the bakufu turned to the aristocracy, beginning with its most prestigious member, Retired Emperor Go-Toba. Go-Toba, accompanied by armed Kamakura guards, was compelled to take the tonsure, and was exiled to the Oki Islands, remote specks of land in the Sea of Japan. Yoshitoki observed that this was as far away as he could send him while keeping him in the country.²¹¹ Retired Emperors Tsuchimikado and Juntoku, both sons of Go-Toba and willing co-conspirators—Juntoku had abdicated precisely so he could better devote himself to their cause—were also sent into exile, their destinations left to the discretion of the *tandai*.²¹² Imperial Princes Masanari and Yorihiro, the remaining sons of Go-Toba who had not taken monastic vows, were exiled as well to ensure Go-Toba's imperial line would end.²¹³ Kujō Michiie was removed from his position as imperial regent and replaced with his rival, Konoe Iezane. Finally, the reigning emperor, Chūkyō, was removed from the throne. Yoshitoki ordered the *tandai* “to install the Jimyōin Prince [the future Go-Takakura, Go-Toba's older brother] as the retired emperor and have his third son [the future Go-Horikawa] accede to the imperial rank.”²¹⁴ Go-Horikawa was only ten years old, so his father would serve as the power at court. Go-Takakura, however, had never reigned as emperor—the first retired emperor with that distinction. The bakufu's complete sweep of court leadership was seemingly without precedent.

How could the leaders of the bakufu, a collection of eastern warriors and lower-ranking bureaucrats so baldly interfere in imperial affairs? By what authority could they punish retired sovereigns, much less unseat a reigning emperor? It is unclear what the bakufu saw as its justification, but there remain some clues as to the process and potential arguments. *Azuma kagami* is largely silent on the issue, but reveals something of the decision-making procedure. That Ōe Hiromoto quickly began research on precedents and drafted a brief strongly suggests that the committee convened to discuss their options. No doubt this was largely to determine the best course of action—not necessarily from a legal perspective, but in terms of what would best suit their practical interests and how such a course could be justified. Interestingly, Hiromoto only searched for antecedents in the early days of the bakufu, declining to expand his search to

²¹⁰ *Azuma kagami*, 7/2/1221.

²¹¹ *Azuma kagami*, 7/6/1221, 7/8/1221, 7/13/1221; McCullough, “Shōkyūki,” 439-440.

Go-Toba wrote of Oki:

“Even winds [i.e. news] blowing from the capital fail to reach these lonely isles,

But the surging waves from the sea visit me constantly”

McCullough, “Shōkyūki,” 443.

²¹² McCullough, “Shōkyūki,” 439-440. They were ultimately sent to Tosa (and later Awa) and Sado, respectively.

²¹³ *Azuma kagami*, 7/20/1221, 7/25/1221.

²¹⁴ Adapted from McCullough, “Shōkyūki,” 440.

broader history. No doubt he sought to find a standard practice in the actions of Yoritomo, though there was nothing to match the gravity of the aftermath of the Jōkyū Disturbance.

In contrast, Jien actively argued for the justification of certain curtailments of imperial power, even up to the murder of an emperor. In his seminal work, *Gukanshō*, which he wrote in the years before the conflict, Jien presented a novel view of Japanese history. Drawing on the Buddhist concept of *mappō*, the Latter Age of the Law, Jien argued that the world was in inexorable decline, made manifest in the rule of Japan. However, there were periods of temporary improvement when leaders of ability acted in accordance with the principles of the age. It followed then that though individual rule by emperors was superior when it aligned with the principles of ancient Japan, it became a positive necessity to add Fujiwara Regents to slow the inescapable decay of governance. Similarly, when Japan entered the “Age of Warriors” in 1156, it was natural and beneficial to incorporate warriors into government. Jien advocated for a continued unity of the imperial family, Fujiwara Regents, and leading warriors—in this case the shogun. Jien was personally and profoundly invested in such a united front. He was born a Kujō Fujiwara, and his relatives had served as imperial Regents, including Fujiwara Michiie, the grandson of Jien’s late brother Kaneyane and Regent in 1221. Jien envisioned a future in which the young shogun, Fujiwara Yoritsune—another member of Jien’s family—firmly united the regency and warriors and led Japan to the best governance that the forces of decline could allow.

For Jien, principles shaped the march of history. One such principle was that emperors cannot be dethroned. However, Jien notes exceptions to this principle, most notably the “three meritorious acts of the Fujiwara.”²¹⁵ In 645, Fujiwara [Nakatomi] Kamatari, the founder of the Fujiwara line, arranged for the “death penalty” to be imposed on Soga no Iruka, his rival and the dominant force at court.²¹⁶ Iruka was assassinated on the pretext of treason, and his family killed by their own hands or those of a coalition force against them. These tactics would have fit in among the warriors of Kamakura; the Hōjō followed this strategy closely in their 1203 bid to eliminate the Hiki, for instance. The eradication of the Soga was not a direct assault on the throne, but it removed the power behind it and affected significant political change—a new emperor and a new political regime through the Taika Reform. The Fujiwara intervened in imperial affairs more directly in 770, when top ministers, led by Fujiwara Momokawa, chose the successor to Emperor Shōtoku. Jien sanctioned this action, noting that Shōtoku had not selected an heir and claiming that she approved of the choice of the future Emperor Kōnin. However, Jien did not go as far to endorse an attempted coup by Fujiwara Nakamaro against the influence of Emperor Shōtoku, who was then the Retired Emperor Kōken, in 764 (she reigned twice, as Emperor Kōken 749 from to 758, and as Shōtoku from 764 to 770). Finally, Jien cited the Fujiwara Mototsune’s enthronement of Emperor Kōkō in 884.²¹⁷ The throne in this instance was not vacant; Emperor Yōzei reigned, a young man (he ascended at age nine) who did “unspeakably bad things.”²¹⁸ Mototsune, the maternal uncle of the emperor and who served as imperial Regent and Prime Minister, “consulted with various nobles about the situation. Concluding that the Emperor’s bad behavior was due to the rough treatment of an evil spirit, they decided that Yōzei should not continue to govern the country.”²¹⁹ Mototsune and his coalition

²¹⁵ Brown and Ishida trans., *The Future and the Past*, 211.

²¹⁶ Brown and Ishida trans., *The Future and the Past*, 211.

²¹⁷ Brown and Ishida trans., *The Future and the Past*, 211.

²¹⁸ Brown and Ishida trans., *The Future and the Past*, 40.

²¹⁹ Brown and Ishida trans., *The Future and the Past*, 41.

forced the abdication of Yōzei and chose his successor. Jien confronted the principle of imperial sovereignty:

So long as His Majesty did not voluntarily say that he wanted to step down from the throne, no one would be justified in forcing him to abdicate. Doing so would constitute “rebellion.” And yet, had anyone ever said that Fujiwara Mototsune was engaged in an unjustifiable rebellion when he forced Yōzei to abdicate? No one has said, or even thought of, such a thing!²²⁰

Jien went on to argue that principles change; one needed only look to Mototsune’s meritorious service of the emperor and the state to see that his actions were just. And not only had Mototsune served loyally, he did so in a new capacity: as imperial chancellor—regent to an adult emperor. Mototsune’s triumphant intercession marked a critical point in the growing Fujiwara dominance at court. For Jien, this was a positive development—Fujiwara regents and chancellors helped the sovereigns better rule the state. Retired Emperor Go-Sanjō was similarly justified in establishing governance by retired sovereign in 1072. Go-Sanjō observed that the regents and chancellors selfishly dominated the state and “concluded that it would be bad if an Emperor did not, after abdicating, administer state affairs as Retired Emperor.”²²¹ Jien held reservations about some of Go-Sanjō’s intentions, but agreed that the retired sovereign was appropriate in his actions based on changing principles.²²²

It is not clear to what extent the bakufu was aware of, or swayed by, Jien’s argument. Go-Toba plainly found it unpersuasive. But in addition to its own precedents and Jien’s historical political philosophy, bakufu leaders likely considered the facts on the ground. Regardless of legal precedents and political philosophy, their victory afforded them a strong position. Given the lack of explanation in the quasi-official history *Azuma kagami*—a silence shared by the pro-bakufu *Jōkyūki*—it seems reasonable to evaluate the bakufu’s stance as something akin to “might makes right.” With or without justification, the bakufu had won a victory and could not be militarily challenged. In the past, bakufu leaders had shown themselves to be overwhelmingly concerned with legitimacy and working with the court, compromising and cooperating, and this conservatism and caution continued in many ways—in the expansion of bakufu administrative power, for example. But Go-Toba’s challenge was an ultimatum and a direct threat to the ruling clique—amounting to a demand that they surrender their power or die. Perhaps it was this stark choice that ultimately forced the bakufu’s decision. Bakufu leaders may have done their best to follow precedent when possible, for instance, searching for guiding precedents and preserving the structures of the court, while taking new measures as necessary. But punishing the imperial family had become a necessity: it was vital to the bakufu’s continued survival, at least in its current, Hōjō-dominated iteration. An intervention in courtly affairs had, in this sense, become inevitable.

No matter the rationale, the bakufu executed far-reaching reform measures. After removing the offending retired and sitting emperors, their supporting cast of aristocrats were next on the chopping block. Kamakura ordered the execution of those who were in Kyoto, but left those outside of it to Yasutoki’s discretion.²²³ Some chose suicide: Fujiwara Norishige drowned

²²⁰ Brown and Ishida trans., *The Future and the Past*, 209-210.

²²¹ Brown and Ishida trans., *The Future and the Past*, 72.

²²² Brown and Ishida trans., *The Future and the Past*, 73.

²²³ *Azuma kagami*, 7/5/1221.

himself, acting on the belief that those missing limbs (including the head) could not enter nirvana.²²⁴ Others were beheaded on their way to Kamakura. Hamuro Mitsuchika was headed east for judgment in the custody of Takeda Nobumitsu, when a messenger arrived with an order for his execution. He was killed on the spot. His crime had been to write the order calling for Yoshitoki's head, even though he had opposed it and advised Go-Toba against it. *Azuma kagami* praised his loyalty and genius, and noting that even Yasutoki regretted his execution.²²⁵ Others were luckier. Often on the appeals of the prisoners' relatives, Masako intervened and obtained pardons for several of the condemned. For example, Masako advocated for Bōmon Tadanobu, Go-Toba's first cousin and a general for the imperial forces, due to his family connection to the Minamoto: his sister had married Sanetomo. Minamoto Arimasa was less fortunate. His relatives pleaded with Masako, but her intervention came too late.²²⁶ The children of rebels were sentenced to death as well. Yasutoki intervened in several cases to grant clemency, but even this was not always a guarantee, as in at least one instance involving Sasaki Seitaka, the son of the Hirotuna, military governor of Iwami and Oki and an imperial supporter, the *tandai* was compelled to rescind his pardon as the young man's uncle, upset at a perceived slight from the boy's father, insisted that he be punished to the fullest.²²⁷

After removing threatening personnel, the bakufu turned to the economic and institutional support of the rebels: their land rights. Yasutoki "investigated and made a report on the holdings of the rebel nobles and brave warriors. These were roughly 3,000."²²⁸ Confiscating the holdings of the vanquished had become standard practice, but this was an unprecedented scale. To put things in perspective, about 500 holdings were confiscated from the Taira partisans following the Genpei Conflict—hitherto the largest such attainder.²²⁹ This marked a significant departure spatially as well, as even Yoritomo had never confiscated lands in the western provinces.²³⁰

The Hōjō, naturally, received a great deal of holdings. Yasutoki and Tokifusa, the primary leaders in the field, were rewarded particularly handsomely. Tokifusa received sixteen holdings in Ise alone.²³¹ Meanwhile, Yoshitoki took very few holdings for himself. *Azuma kagami* emphasized this point: "The Capital Officer of the Right [Yoshitoki] implemented [Masako's orders regarding reward appointments], but did not obtain for himself as much as a pinhead. Everyone found this a moving story."²³² This was not out of the goodness of his heart, but rather a strategic political decision; Yoshitoki had other ideas for this windfall.

Confiscation represented a great opportunity. It placed a significant check on the power of the (surviving) rebels by crippling their economic support, but it also represented the means for the bakufu to expand and strengthen its authority—through rewarding its constituents.

²²⁴ *Azuma kagami*, 7/18/1221.

²²⁵ *Azuma kagami*, 7/12/1221.

²²⁶ *Azuma kagami*, 8/1/1221, 7/29/1221.

²²⁷ McCullough, "Shōkyūki," 449-451; Uwayokote, "Kamakura bakufu to kuge seiken," 55.

²²⁸ *Azuma kagami*, 8/7/1221.

²²⁹ Ishii, "Jūni-jūsan seiki no Nihon: kodai kara chūsei e," 55; Okutomi, *Kamakura Hōjō ichizoku*, 105.

²³⁰ Irumada, "Shugo, jitō, ryōshusei," 96.

²³¹ Akiyama Testuo, *Hōjō-shi kenryoku to toshi Kamakura* (Tokyo: Yoshikawa Kōbunkan, 2006), 160; Okutomi, *Kamakura Hōjō ichizoku*, 106.

²³² *Azuma kagami*, 8/7/1221.

Kamakura created and awarded new jitō appointments on confiscated holdings, in one fell swoop expanding their purview and providing economic bases for its loyal supporters. The bakufu thus situated dependable housemen exactly where Go-Toba had drawn his support. Eastern warriors loyal to Kamakura were transplanted to the central and especially the western provinces.²³³ For some families, these positions became the basis for centuries-long domination of these areas and beyond; the Mōri and Ōtomo later became daimyo while others survived as notable local proprietors.²³⁴ They would fulfill the jitō's typical duties—police functions and ensuring the payment of taxes—as well as acting as a check on further attempts to finance or recruit for anti-bakufu efforts in their new localities. The bakufu now had a countrywide network of jitō.²³⁵

To manage these new jitō, and further entrench bakufu authority in recently rebellious provinces, the bakufu expanded its network of military governors, filling the gaps left in the central and western provinces from Yoritomo's initial appointments.

The bakufu also granted extensive holdings to non-warrior allies. Among the first rewards given were offerings made to the Ise shrines: two holdings each for the Inner and Outer Shrines drawn from the confiscations from Retired Emperor Tsuchimikado. Kamakura patronized many other shrines in similar fashion: Tsurugaoka Hachiman Shrine in Kamakura was furnished with a holding in Musashi; Suwa Shrine was endowed with another in Echizen.²³⁶ Confiscated lands were the currency of bakufu coalition building. The bakufu not only provided for its own, but sought to maintain and expand its support among powerful local institutions.

However, counter-intuitively, confiscation was not a one-sided affair. The bakufu had stripped the imperial family of its extensive holdings, which effectively destroyed its economic foundation and undercut its power to recruit and reward warriors. The bakufu attached jitō rights to these holdings, awarding the appointments to its loyal followers, further extending its authority. But once it had inserted its men into these holdings, the bakufu returned the confiscated rights to the imperial family.²³⁷ Rather than absorbing or abolishing this tremendous economic power, the bakufu *gave it back* to the court. The bakufu once again found a creative yet conservative solution to a new problem.

This remarkable turnaround was part of a broader project to repair relations with the court. Previous court-bakufu relations had largely been cooperative. But Jōkyū had forced a shift in the balance of power. Even in taking unprecedented steps to punish the imperial family, the bakufu encountered no resistance, with the exception of requests for qualified clemency.²³⁸ And yet the bakufu's actions demonstrate a clear intent to preserve imperial institutions, rebuild the imperial family, and to rehabilitate a cooperative, working relationship with the court and imperial government. The bakufu sought to maintain the imperial institution, yet its relationship to it and the larger united state shifted irreversibly with Kamakura's victory in Jōkyū; the bakufu was now clearly in control.

²³³ Murai, "Jūsan-jūyon seiki no nihon: Kyoto –Kamakura," 4.

²³⁴ Murai, "Jūsan-jūyon seiki no nihon: Kyoto –Kamakura," 4; Kumagai Takayuki, "Mongoru shūrai to Kamakura bakufu," in *Iwanami kōza Nihon rekishi* vol. 7, ed. Ōtsu Tōru, Sakurai Eiji, Fujii Jōji, Yoshida Yutaka, and Sōng Si-Yi (Tokyo: Iwanami Shoten, 2014), 4.

²³⁵ Ishii, "Jūni-jūsan seiki no Nihon: kodai kara chūsei e," 67.

²³⁶ *Azuma kagami*, 8/7/1221.

²³⁷ Ishii, "Jūni-jūsan seiki no Nihon: kodai kara chūsei e," 65.

²³⁸ Murai, "Jūsan-jūyon seiki no Nihon: Kyoto –Kamakura," 1.

The imperial court was remade to Kamakura's specifications. The newly installed emperor and retired emperor joined the network of Kamakura allies at court, including the Saionji, regental Fujiwara, and newly appointed officials, and quickly redefined the Kamakura-Kyoto relationship. The new court powers knew whence they came and followed bakufu instructions. Kamakura ensured continued obedience through surveillance by the Rokuhara *tandai* and the constant presence of Kamakura guards.

It was in this context that the bakufu returned the confiscated imperial holdings. The imperial family once again held immense economic resources, but had become beholden to the bakufu for their continued exercise; the bakufu had set an important precedent. But bakufu intervention and remaking of the court went even further, as the bakufu removed a ruling emperor and anointed their own successor. Such a maneuver had historical precedent: Jien pointed out the classical iterations in *Gukanshō* and Taira Kiyomori had taken similar actions in living memory. Yet, they represented an important new step for the bakufu, unequivocally establishing bakufu authority in affairs of the imperial court, a precedent that would return to haunt the later Kamakura bakufu.

Despite Kamakura's victory and the restoration of cooperation with the court, opposition continued. For months after their army's defeat, two of Go-Toba's top commanders, Fujiwara Hideyasu and Hidezumi, remained at large. Word reached Tokifusa in Kyoto that the two were in hiding in Nara, but by the time the *tandai* mustered men to search for them, they had fled. But the bakufu men encountered hostile Nara monks, who attacked and killed some of Tokifusa's men. After consulting Yasutoki, Tokifusa raised a force and dispatched them to Nara. Learning of this larger force's approach, the Nara monks sent out an envoy, who, invoking the disaster that befell the great Nara temples when Taira troops entered the city (and burned it) nearly forty years before, beseeched the bakufu men to turn back, promising that they would turn over the guilty parties who had abetted the fugitives. The *tandai's* men withdrew and a week later a man was presented to the *tandai* in Kyoto, purportedly the only abettor in the Nara ranks. A confession was procured from him, and he was punished.²³⁹ Acting on the information in the confession, the bakufu caught up to Hideyasu and Hidezumi in Kawachi Province two weeks later. They were apprehended and taken to Kyoto, where they were executed.²⁴⁰

Despite the capture and castigation of the rebels' remaining martial leadership, resistance to the bakufu continued in more insidious capacities. Within weeks of the restoration of Rokuhara as a Kamakura stronghold, several of its outer buildings burned down. Just after the *tandai* concluded their dealings with Nara, the residence of Kujō (Fujiwara) Michiie, a sometimes ally of the bakufu and father of the shogun, was also burned. According to *Azuma kagami*, these were acts of arson. The rebels continued to work against the bakufu.²⁴¹ Four months after the conflict, these difficulties compelled the Council to meet again to discuss the security of the capital and punishment for rebels and their sympathizers.²⁴² The bakufu maintained vigilance in the capital, placing guards at particularly important residences, while continuing to hunt down rebels across the country. Pacification would be a process, not an event.

²³⁹ *Azuma kagami*, 10/2/1221.

²⁴⁰ *Azuma kagami*, 10/16/1221.

²⁴¹ *Azuma kagami*, 9/17/1221; 10/2/1221.

²⁴² *Azuma kagami*, 10/13/1221.

A Legislative Solution

The most enduring threat to Kamakura, however, was not pacifying those who had rebelled against it, but managing those who fought for it. The bakufu's own housemen, many of whom were newly appointed and empowered across the country as jitō, consistently created challenges for Kamakura administration. Of itself, this was nothing new. The presence of armed men on the land had often led to problems in the past. Indeed, it was in large part the uncertainty of the position of such men that led them to join Yoritomo's forces in rebellion in the first place. But from the first appointments of Kamakura housemen as jitō, when Kamakura formally incorporated local warrior officials into its administration, the nature of this problem changed. Jitō were inserted into the existing land-holding structures of public and estate lands, and tasked with enforcing the law, preserving order, and above all ensuring the continued payment of taxes and rents. But the special nature of a Kamakura appointment kept jitō outside of existing structures of control. Their loyalty and obeisance were owed to the shogun in Kamakura, not the local manager, proprietor, or guarantor of the estate. Even local government officials often found themselves powerless to stand up to these warriors. While the local officials were appointed and empowered by the imperial government, in many cases they had no recourse to discipline warrior officials; it was the warriors themselves who served as the usual vehicle for enforcement of government orders. The imperial government retained the power to issue laws and judgments regarding land-holding, taxes, and the use of violence—including granting Kamakura military and police authority, but Kamakura had ultimately won total control of its housemen's appointments—it was this very point that had so angered Go-Toba and helped foment the Jōkyū Disturbance.

This was a coup for the bakufu. It held the unquestioned authority over the security of tenure of its constituent warriors, which had been their most important concern. However, with this power came significant obligation. Kamakura was responsible for policing its own men. In early negotiations with Retired Emperor Go-Shirakawa, Yoritomo himself had pledged to honor and enforce the customary payments from the lands where he appointed jitō. The continuation of the existing land-holding systems, by which income was channeled to the imperial government, its officials, and quasi-private individuals and institutions with tax-exempt privileges, had been a cornerstone of bakufu policy almost since its foundation. This was part of a compromise which suited all actors: those in power continued to collect their incomes in exchange for recognizing the authority of Kamakura and its officials; warrior officials secured their tenure on holdings in exchange for the performance of police functions. The bakufu would continue to exist in order to manage and discipline its men with the authority of the imperial state. As a result, the bakufu sought to preserve order—the maintenance of this system was a primary goal. It was both a part of the grand bargain made with the court, but also a central policy blank in the bakufu's continued efforts to advertise its legitimacy. The latter became a more pressing concern with the death of Yoritomo and the rise of the Hōjō-led committee, and even more so after Sanetomo was murdered and Yoritomo's line ended entirely. The Hōjō had no particular authority to lead the bakufu—their role as regents was invented and contested, and their actions in trying to secure an imperial shogun suggest that legitimacy was a significant concern. In 1221, having now fought against a cadre of sitting and retired sovereigns, the bakufu needed to refurbish its legitimacy beyond the point of a sword, and ensure that the economic system brokered under Yoritomo could continue to function successfully.

In an attempt to control and counteract the growing instability and disorder in the aftermath of hostilities and the unchecked power of its own housemen, the bakufu sought to impose new controls. These were *tsuika-hō*, supplemental laws. The bakufu issued these laws as needed, to confront new or unforeseen situations. They are considered supplemental due to their complementary role vis-a-vis *Goseibai shikimoku*, or List of Precedents on Judgments, the foundational bakufu legal text, which outlined the guiding principles of Kamakura jurisprudence in 1232 (this document will be discussed at length in the next chapter). However, Supplemental Law compilations (*tsuikahōshū*) have long included laws from before the promulgation of this foundational legal text. “Supplemental laws” are consequently understood as any legislation issued by the bakufu beyond its founding rules. Supplemental laws were just that: they were issued both singly and in bunches in response to specific cases, administrative questions from Rokuhara, or when otherwise needed, rather than as part of the any systematic framework. In the aftermath of the Jōkyū Disturbance, no such structure existed, but the early supplemental laws represented a pivotal step in the regularization of bakufu rules, precedents, and customs, paving the way for more complete subsequent legislation—a significant development in making a Kamakura legal system.

The earliest extant supplemental laws were issued in 1222. This is no coincidence. While there are ample examples of bakufu orders and legal decisions before Jōkyū, the shift in the nature and scope of bakufu authority in the aftermath of the conflict necessitated a new approach. The bakufu had significantly increased the number and distribution of its housemen as military governors and jitō, still sought the capture and punishment of rebels, and strove to minimize the disorder and instability caused by the former. Supplemental laws addressed these concerns.

Fourteen supplemental laws remain from Yoshitoki’s bakufu. These offer important insight into the priorities of the bakufu under his leadership. For the most part, these laws sought to establish clear rulings on the rights and obligations of Kamakura’s appointees in order to eliminate much of the disorder of the period. Given their relative scarcity and outsized importance in establishing the bones of the Kamakura legal system, they warrant individual attention.

The first six were issued together, explaining the “judgments prohibiting lawlessness of military governors and new jitō of the various provinces.”²⁴³ Yoshitoki himself signed the order, using his civilian title Governor of Mutsu (*Mutsu no kami*). Laws One and Two concerned the exercise of new bakufu duties, (expanded) guard duty in the capital and “the pursuit and destruction of rebels.” Housemen were instructed to “Investigate truth and falsehood and exercise authority in accordance with what is true.”²⁴⁴ In other words, the bakufu sought to limit the damage that was being done by false reports of rebel sympathies, which were likely utilized by parties to smear and eliminate rivals in other disputes. Given the harsh punishments for rebels, successfully painting one’s adversary as such offered great benefits, often allowing warriors to petition to gain the coveted holding. While these were hardly thorough instructions, that they were issued as laws demonstrates the weight the leadership of the bakufu assigned them. False claims and duplicitous uses of authority seem to have been common, or at least

²⁴³ *Tsuika-hō* 1-6 (1222), in *Chūsei hōsei shiryōshū* vol. 1, 15th ed., comp. Satō, Shin’ichi, Ikeuchi Yoshisuke, and Maki Kenji (Tokyo: Iwanami Shoten, 2001).

²⁴⁴ *Tsuika-hō* 1-6 (1222).

common enough to merit a response. The bakufu sought to establish that such actions would not stand, even if a particular punishment was not specified.

Law Three established a more detailed standard procedure for criminal investigations of major crimes such as battery and murder, one of the three main responsibilities of military governors. Housemen were instructed to first contact the local officials where the alleged crime took place, and to investigate whether there had been in fact any wrongdoing. If there had, the criminal was to be arrested and submitted to the higher bakufu authorities in Kamakura or its subordinates in Kyoto or Kyushu, and the submitting housemen was to obtain a receipt documenting the transfer of the prisoner. These instructions suggest that there was not a clear protocol, or more likely a lack of discipline among Kamakura appointees. In this law, the bakufu outlined proper procedure, then elaborated on the restrictions on military governor power. First, military governors were forbidden to send messengers or deputies into lands without reason. Next, military governors were commanded to follow precedent, and respect the jurisdiction of the officials of the imperial police (*kebi*) and not pass judgment on lesser crimes such as theft, arson, and kidnapping over which they had no authority. The bakufu had not only defined military governor power and procedure, but strictly limited it in order to preserve the functions and authority of the imperial government's existing police organs. In essence, the bakufu curtailed the powers of its own men to preserve those of the court. Further, it did so on the basis of precedent. Supplemental laws were new, but the traditions they drew from and built on were not; precedent was one of the main pillars of bakufu legal thought. This is the first instance a cited precedent in supplemental law, and shows that even as the bakufu implemented administrative changes, it strove to maintain the established order as far as possible.

Law Four delineated the limits of managerial land rights. It prohibited *jitō* and *geshi*, a civilian manager position sometimes held by warriors, from aggrandizing their share of income from a holding. *Jitō* who were dissatisfied with their compensation had taken to various means to increase their share of the holding's revenue, including the seizure of neighboring holdings, expulsion of estate or public officials, and embezzlement of incomes meant for the (absentee) proprietor, guarantor, or other officials. The bakufu demanded that these practices cease and added that any transgressions would be treated as criminal acts.²⁴⁵ Not only would Kamakura warrior officials, *jitō* and civilian managers alike, be expected to conform to existing practices, they would be held accountable to by warrior law for any transgressions. But the bakufu did not only limit (and potentially antagonize) its housemen; Law Four also outlined a plan for expanding *jitō* income. Rather than taking unilateral action, throwing the landholding system into disorder and increasing uncertainty in the capital and from there Kamakura, *jitō* would follow new procedures to report insufficient income, and the bakufu would investigate and issue orders concerning an expansion of the *jitō* on a case by case basis.²⁴⁶ Yet again, the bakufu relied on precedent—that *jitō* would inherit the existing pay structures of their holdings—but supplemented it with new procedures for adaptation that could be applied and amended according to changing circumstances. An approach that combined both precedent and particularity became a defining aspect of the bakufu legal system.

Laws Five and Six established accounting requirements for regarding *jitō* income shares. In the aftermath of Jōkyū, new *jitō* were appointed across the country, primarily replacing rebel

²⁴⁵ Tsuika-hō 1-6 (1222).

²⁴⁶ Tsuika-hō 1-6 (1222).

local managers or inserted into other confiscated holdings. The bakufu relied on resident civil provincial officials (though these positions could be and were held by warriors in parts of the country) and a network of messengers to report the extent and income of rebel holdings in the provinces. These laws reasserted that these men must do their jobs and report what income share, if any, the new jitō and civil managers have inherited, and alert the bakufu to confiscated lands that have not yet been assigned to jitō. Although recent, these rules were by 1222 standard operating procedure. However, these practices were reaffirmed and formalized due to “rumors that although the rights and holdings of those who followed the capital at the time of last year’s disturbance were reported, there are many estates and public lands hidden by deputy military governors. However, resident provincial officials are afraid of the deputy military governors and do not make full reports.”²⁴⁷ Warriors intimidated these officials from fulfilling their duties in order to conceal holdings from the bakufu, in effect making their own confiscations and guaranteeing their own tenure. Once again, the bakufu needed to restrain its own men from abusing their authority—a prevailing theme in supplemental laws. And again, the bakufu made another provision for exceptions, allowing those who had their holdings erroneously confiscated could appeal for an investigation and reparation.

This group of laws was closed with a stern warning: “If there is one who disobeys the prohibitions and willfully illegally aggrandizes himself, his military governor or jitō rights shall be rescinded and reassigned.”²⁴⁸ For warriors appointed as military governors and jitō, these rights were their livelihood. Their attainder was the one of the most severe punishments meted out to warriors, short only of exile and the death penalty. The bakufu had established serious stakes to give force to its new laws.

Only one month later, Yoshitoki issued his next law, once again tackling the misconduct of his housemen. In Law Seven, Yoshitoki observed that “The military governors of the various provinces and the jitō of the various estates, ardently seize authority as though on tax-exempt private lands, and either expelling the civil estate manager (*azukari-dokoro*) and local officials (*gōshi*) or otherwise interfering with the higher authorities, do not make payment of their taxes. On top of this, they harm the locals through excessive censure.”²⁴⁹ In the aftermath of Jōkyū, the proliferation of new jitō and military governors on lands that had not before had bakufu representatives frequently led to friction with local and estate authorities. The bakufu and court both had previously commanded the housemen to abide by the traditional rules governing landholding and taxation, but disputes were common. Yoshitoki sought to rectify the situation first by reiterating the commands in a supplemental law, and further by establishing a new system of checks on housemen power. Yoshitoki empowered the Rokuhara *tandai* to select and appoint inspectors to visit the locations of such transgressions, to investigate the truth of the matter. These inspectors would be chosen for their ability rather than their birth or connections, but the local officials, not central or local warriors, would hold the authority over the inspectors’ dispatch. In other words, Yoshitoki established a class of semi-independent auditors to check the abuses of power by bakufu appointees.

Kamakura’s interest in suppressing the illegal actions of its men can and has been seen in a humanitarian light—that the bakufu sought to protect the weak and care for the people. And indeed, the bakufu did seek to halt the abuse of cultivators and civil officials at the hands of jitō.

²⁴⁷ Tsuika-hō 1-6 (1222).

²⁴⁸ Tsuika-hō 1-6 (1222).

²⁴⁹ Tsuika-hō 7 (1222).

Jitō, emboldened by their largely unchecked local power, at times abused their authority to extort and coerce the people under their nominal protection. These jitō would use their police powers to seize assets from cultivators on the pretext of that they had committed some unlawful action. This was a persistent problem for the bakufu, as it remained a significant problem a decade later, when it was included in *Goseibai shikimoku*. However, while the cessation of such illegal aggrandizement was a goal for the bakufu, humanitarian interest was a secondary concern at best. Indeed, the inclusion of these crimes only follows the more serious offenses of denying the rights of estates and their powerful patrons; the attacks on the common people are prefaced by “on top of this”—that is, they were not the main priority concern. The bakufu focused on the friction between its men and estate and local civil officials because of the political fallout it caused. In order to continue to work with the court—even its consistent allies—the bakufu needed to guarantee the security of the individuals’ landholdings, just as it had done to win over its warrior constituents. This was a balancing act; the interests of the civilian landholders and bakufu appointees were frequently in opposition. By enacting and enforcing clear rules, the bakufu hoped to keep the landholding system running, all of its stake-holders satisfied, and maintain its own legitimacy and power.

In the following year, 1223, at least seven further supplemental laws were issued. The first, a standalone piece of legislation differed from prior laws. Law Eight was more directly framed as stemming from the shogun—even though the next shogun was a child of five and had not yet been officially appointed. It had two main goals. The first was to fight corruption in litigation. For the bakufu to be successful—both in enforcing its policies and in maintaining its legitimacy among both its constituent warriors and at court—the smooth operation of its judiciary was imperative. Law Eight came in reaction to rumors that those involved in litigation regarding landholdings were speaking with and making donations to the warriors tasked with investigating the facts of the case. This corruption had the potential to corrode the entire judicial system—it was “extreme misconduct” for housemen to participate (though bakufu jurisdiction did not extend to the actions of civilian litigants). The bakufu promised to add checks, but for the meantime formalized the illegality of this behavior and ordered that anyone disobeying orders be reported.²⁵⁰

The second goal of Law Eight was to curb usurious lending by the housemen. Law Eight framed both issues as resulting from the shogun hearing of and being displeased with recent events. Still a child, this seems unlikely, but serves as a reminder of the necessity of shogunal legitimacy even for the actions of Yoshitoki. This time the shogun had supposedly heard of abuses regarding warrior lending practices. The bakufu again turned to precedent, citing both imperial commands and repeated orders from generations of shogun: interest was not to exceed “one share”—100% in addition to the principle. Warriors who violated this order were to be reported.²⁵¹ Taken together, the two-headed Law Eight curbed further warrior abuses. Interestingly, these abuses—corruption of the judicial process and predatory lending—are ones not often associated with warriors. Though hardly reluctant to use the threat or exercise of violence, Kamakura warriors participated in systems far beyond the battlefield, inserting themselves into complicated existing economic systems and pioneering new ways to profit from new legal structures.

²⁵⁰ Tsuika-hō 8 (1223).

²⁵¹ Tsuika-hō 8 (1223).

These rulings were the product of a meeting (*hyōgi*) of the bakufu leadership. *Azuma kagami* records the decisions as written in the laws, but adds a qualifier: the bakufu would not intervene in such actions beyond its housemen.²⁵² Once again, the bakufu cautiously curated the limits of its own jurisdiction, ensuring that it did not violate the established authority of the imperial courts and established civilian authorities. Its purpose was to protect and police its housemen; it would only expand this authority when necessary.

Law Nine is likely the most famous, and arguably the most important supplemental law. It established uniform terms for new jitō: “Henceforth, for the income share of jitō on public and estate fields, one *chō* [2.94 acres] of exempt fields shall be granted for every ten *chō* and a five *shō* [of rice²⁵³] additional levy shall be set aside for every *tan* [one-tenth of a *chō*, or .294 acres].”²⁵⁴ This built upon Law Four, in which the bakufu established precedent as the ultimate guide for jitō income and rights. For jitō who were awarded holdings that had such legacies, they must respect precedent, though they could appeal for additional compensation. Law Nine provided the other half of the equation, establishing a ratio for the income of new jitō appointed to holdings that had never before had such a position. Citing confusion, the law provided clear guidelines for jitō income, known as the *shinpo*, or new appointment, rate—no longer would jitō and estate proprietors be able to dispute the jitō’s share. Not only would this eliminate confusion, it held the potential to greatly reduce the strain put on the Kamakura judiciary in a disordered, and highly litigated, period.

It is worth noting the balance struck between the bakufu’s housemen and civilian proprietors, guarantors, and their officials. “To discard either the literary or marital way is an unacceptable proposition,” the bakufu proclaimed in this law, and strove instead to “follow the principle of compromise to determine the laws” to both “satisfy the complaints of the estates and public lands” and continue to reward the service of its housemen.²⁵⁵ This was the tight rope that bakufu would walk for the majority of its existence: it existed simultaneously to guarantee the security of tenure for its housemen and to guard against their predations on the rights of civilians. And yet this ratio—elegant as it was for balancing competing interests and forestalling jams in the courts—was not of bakufu design: it came from the court. According to the law, it was the Minister of the Left, Fujiwara Iemichi, who presented the imperial edict ordering that this ratio be put into effect. *Azuma kagami* records that the bakufu enacted the law once the imperial command was received in Kamakura.²⁵⁶ The recognition of common interest and the necessity of concessions allowed the court to proffer a solution to a mutual problem that all sides found amenable. Private estates had had emerged as the dominant pattern of land-holding through a similar process, built on the winking cooperation of all parties. This new agreement was just the next step in their development, adjusting these fluid arrangements to fit new circumstances—a host of new warriors on lands that had no systemic organization. The only requisite for this shift was the willingness of all actors to recognize problems and compromise in mutual interest. Indeed, this evolution continued throughout the Kamakura period and well beyond (estates were only finally eliminated in the late sixteenth century).

²⁵² *Azuma kagami*, 8/3/1223.

²⁵³ *Shō* was a measure of volume, but due to the lack of standardization the medieval period, it is unclear how much this would have been. Kozo Yamamura, ed., *Cambridge History of Japan* vol. 3, p.698

²⁵⁴ Tsuika-hō 9 (1223).

²⁵⁵ “Literary or martial” is literally “the way of *bunbu*,” or the literary and martial arts. Tsuika-hō 9 (1223).

²⁵⁶ *Azuma kagami*, 7/6/1223.

Laws Ten through Fourteen were also issued as a set, and represent the last extant laws of Yoshitoki's regime. As a group, they concerned the authority of the new jitō appointed since the Jōkyū Disturbance. Issued only weeks after Law Nine, Law Ten picked up where its predecessor left off, addressing gaps that emerged in the establishment of the new appointment ratio. Confirming the imperial command that established the rule, the bakufu expanded its explanation to except certain appointments from the ratio: jitō who had been appointed prior to the disturbance, inherited an established position, were awarded a confiscated position, or were appointed as replacements were not subject to this rule, for better or worse. Whatever precedent there had been for jitō income—whether more or less than the new appointment ratio—was the law; to change that, even if it had been reduced, was beyond bakufu jurisdiction. All other holdings—any without a precedent of jitō income—would follow the ratio in accordance with imperial command. Any jitō found to have aggrandized his income share without the proper documentation—a strong indication of the importance of such texts—was to be reported and punished.²⁵⁷ In this way, Law Ten was a true supplemental law, rounding out the details of a more general guideline. In defining the limits and exceptions to the established laws, it also faced the specter of retroactivity—of particular concern to warriors who had inherited better arrangements. In this case, the bakufu denied most such applications, drawing a firm line at Jōkyū. This practice, effectively creating a sort of statute of limitations on its own legislation, grew in importance in the Kamakura legal system with time.

Laws Eleven and Twelve continued the theme of jitō limitations. Eleven concerned the holdings of shrines and temples in Kyoto. The law deemed these private possessions, likening them to the familial shrines and temples of jitō. As such, there were to be no “new practices” undertaken on them.²⁵⁸ This represented an entrance into an important realm for bakufu legislation—religious institutions— even though it remained in line with bakufu tradition. This was an early instance of a common trope in Kamakura laws: the demonization and potential criminalization of the “new.” This was yet another example of the conservative core of the bakufu's outlook—“new practices” represented a move away from precedent and the status quo, and were therefore a threat to order and the Kamakura regime.

Law Twelve regulated various bakufu, estate, and provincial government officials. The bakufu faced a considerable challenge in managing its housemen who were appointed across a patchwork of estates and public lands, which could have considerable regional deviations, and even significant differences between neighboring holdings. This law recognized the irregularity as it sought to regulate it: “Depending on the place, the above positions may or may not exist. But though they are of course not uniform, in short, they shall follow precedent. As for positions under the control of the proprietors and provincial governors, the jitō shall not interfere.” If a warrior and civilian were appointed to the same post in the confusion following the Jōkyū Disturbance, then “the administration of the proprietor and provincial governor shall be obeyed as of old.”²⁵⁹ Just as the bakufu had recognized the rights of and to temples and shrines, here it reaffirmed the authority of officials who predated its jitō. Again, relying on precedent, the bakufu supported the rights of civil authorities at the expense of its housemen.

In the final two laws, the bakufu established more compromise rules regarding the sharing of authority between warrior and civilian officials. Law Thirteen divided rights to non-

²⁵⁷ Tsuika-hō 10 (1223).

²⁵⁸ Tsuika-hō 11 (1223).

²⁵⁹ Tsuika-hō 12 (1223).

field lands—mountains, pastures, rivers, and coasts—equally between them. Tax precedents, however, took priority over this rule. Law Fourteen divided the rights to assets confiscated from criminals two to one in favor of the civilian authorities.²⁶⁰ Like Law Nine, these laws established clear lines for the rights of jitō, limiting their income in compromises with civil authorities. This package of laws culminated with a stern warning for warriors and assurances to their civilian colleagues: warriors who violated these laws (without written permission) would be punished; lawsuits brought to Kamakura by civil authorities would be heard and warrior abuses stopped.²⁶¹ Kamakura would be the arbiter of warrior lawlessness and guarantor of civilian rights.

The Jōkyū settlement fundamentally altered the Kamakura bakufu. Kamakura's ascendant position vis-a-vis the imperial court, country-wide administration, and nascent legal system all marked the beginning of trends that would continue throughout the existence of the Kamakura bakufu and beyond, shaping the political landscape dominated by warrior authority that prevailed until the nineteenth century. These changes marked an important transition not only for the Kamakura bakufu, but for the history of warrior rule and the broader history of Japan.

And yet this transformation occurred within the framework of the united state. Emerging victorious, Kamakura had virtually limitless opportunity to pursue radical policies, including the wholesale abolition of the imperial regime. But the leaders of the bakufu chose to remain within the united state, taking care to maintain the imperial court, and the political and economic structures that supported it. This loyalty to the status quo ante is remarkable itself, but is particularly telling in light of the continuing development and expansion of the bakufu. The weakening of the imperial court and the expansion of bakufu authority and administration fit a pattern of reactive and conservative growth. Yet again, warrior authority grew abruptly and unevenly, in response to changing circumstances that necessitated bakufu action; these changes were not systematic, but gradual, extending warrior administration on an ad hoc, as needed basis. Indeed, arriving in Kyoto, Kamakura forces had no plan for its occupation, let alone for expansion or retribution. And even after this crucial turning point, warrior authority still remained very much involved and intertwined with civilian authority and the imperial government.

The first supplemental laws are perhaps the best representation of these characteristics. They reveal what Kamakura leadership saw as its primary challenges, and the bakufu's conservative and pragmatic responses. The bakufu faced continued resistance from the remaining rebels and their sympathizers, a myriad of land-related problems, confusion of new appointments, and outright abuse by appointees who took advantage of the disorder for personal gain. The supplemental laws were the bakufu's direct response to a continued state of crisis, shifting bakufu policy and administration to confront these new challenges. First, the laws themselves represented a new mode of governance—along with the Rokuhara *tandai*, supplemental laws marked a significant step in the regularization and systemization of the bakufu administration across the whole of Japan. Although most supplemental laws were just that—issued to provide the details of broader existing rules, these first laws were remarkable for

²⁶⁰ Tsuika-hō 13-14 (1223).

²⁶¹ Tsuika-hō 10-14 (1223).

their scope: they not only addressed a variety of issues, but established standard practices applicable throughout the country. Indeed, the new appointment rate in particular was so successful in its application that there was no need to revisit it when establishing the regime's foundational guidelines in the List of Precedents on Judgment a decade later. Further, these laws—even regarding issues that were revisited time and again, like warrior abuse—communicated a clear message about what the bakufu was and what its leaders sought to do: the bakufu would maintain the (new) status quo. It would guarantee the holdings of its constituents, but only if they abided its rules. It would protect precedent above (nearly) all else—the traditional rights of civilian authorities would be respected and actively protected. To that end, the bakufu promised to adjudicate any disputes regarding its appointees. Kamakura's judicial system was therefore of paramount importance. These rules helped to ease the potential strain on bakufu courts as well, by making clear rules that applied to all new appointments and reduced the number and complexity of lawsuits.

The Jōkyū Disturbance marked the continuation of a pattern of conservative and reactive expansion, but more important, it became the precipitating event for the development of a legal system. The laws issued in the aftermath of Jōkyū sought to address specific problems, but served as an important step in building a foundation for what would become a more formal, sophisticated legal order. These laws introduced written statutes to a legal tradition that had previously centered on custom and informal arbitration, creating the first clear, written, and universal standards for a regime that came to be known for its administration of justice.

Chapter Four

A New Standard: The Kangi Famine and The List of Precedents on Judgment (*Goseibai Shikimoku*), 1226-1232

The Kamakura bakufu emerged from the Jōkyū Disturbance ascendant. It prevailed over the imperial court on the field of battle, and expanded its administration and authority to fill the space left by retreating imperial governance. Kamakura asserted new power in courtly affairs, extended the range of its appointed officials countrywide, and added new administrative structures and strategies to manage its new responsibilities and personnel, including issuing the first written bakufu laws. But the honeymoon of this triumph was short-lived. A distinctly different challenge than a military campaign was on the horizon: the Kangi Famine (c. 1226-32), one of the worst disasters in Japanese history. Kamakura was once again forced to respond to a crisis, adapting and developing its legal and administrative systems to maintain the operation of the “united state” and its place within it.

Kamakura responded to the Kangi Famine in stages. Its initial measures were ad hoc and local, offering relief to the hungry and sponsoring religious ceremonies to bring an end to the inclement weather. When these proved insufficient, the bakufu initiated a program of centralized regulations aimed at introducing and reinforcing rules for the behavior of its men who served as military governors and jitō across the country. Finally, when these efforts still were still unable to contain the growing disorder, bakufu leaders sought to strengthen their legal administration, promulgating The List of Precedents on Judgment (*Goseibai shikimoku*), standardizing the principles of Kamakura justice in a short list, applicable only to Kamakura warriors and added to the system of classical (*ritsuryō*) law.

These efforts consolidated, rather than expanded, Kamakura administration. Indeed, many of them limited Kamakura’s authority and the rights of its housemen. In the fifty years since its founding, Kamakura leaders and officials had learned what problems the bakufu faced, what solutions were viable, and what would be sticking points with the existing establishment. With this knowledge, they chose to impose limits on their own administration.

Nevertheless, this seeming conservatism belies important developments. Along with the principles outlined in the List of Precedents, the writings of Hōjō Yasutoki, the regent and de facto leader of the bakufu, present narrow, limited reforms in response to trying circumstances exacerbated by the famine. But within these changes lay the seeds for a much stronger, more durable Kamakura administration. Bakufu leaders addressed the short-term problems caused by the famine: the List of Precedents established clear, enforceable standards for warrior officials, providing an easier and more reliable method for disciplining officials undermining public order; standardization also reduced the number of cases and the time required to decide them, helping to clear backlog in Kamakura’s courts. But at the same time, Kamakura seized the opportunity of the crisis to build the foundation for a stronger administration: universal standards and guarantees of impartiality and due process reassured their housemen that their interests would be protected, bolstering Kamakura’s relationship with its men; legal systematization created the framework for expansive future legislation, enhancing Kamakura’s ability to anticipate and preempt problems; and Kamakura’s increased ability to maintain order and dispense reliable justice greatly enhanced bakufu legitimacy.

The Kangi Famine

From the mid-1220s, there was a substantial shift in weather patterns across the Japanese archipelago, inaugurating a series of poor harvests. Inclement weather—heavy or poorly-timed rains, drought, high winds, as well as snow and hail—were regular features of the early 1200s and caused substantial if localized damage. However, from 1225, these weather patterns became more frequent and afflicted larger and larger segments of the country. The summer of 1226 was far wetter than the norm, as larger storms repeatedly hit the archipelago. By the fifth month of 1227, parts of the country had fallen into famine, and reports to the emperor cited the exhaustion of the people and their crops to explain the coming shortfall in levies for construction at Ise Shrine. The rains continued throughout the summer and into 1228, and complaints proliferated in the capital and eastward, from Kii to Aizu provinces.²⁶² These heavy rains led to failed harvests in much of the country.²⁶³ This wet weather was punctuated with a drought in 1229, further disrupting the usual agricultural cycle which relied on rain in the early summer. Instead, the heavy rains returned in the eighth month, ruining crops still in the fields and deepening the growing food crisis.²⁶⁴ The country was in a precarious position by the end of the year, and the specter of mass famine loomed as many began going hungry.²⁶⁵

The following year transformed what had been local, though growing, concerns into countrywide disaster. In the sixth month of 1230, a series of thunderstorms hit Kamakura. The wind, rain, and lightning were severe enough to prompt the top levels of bakufu leadership to debate whether to temporarily evacuate the shogunal palace.²⁶⁶ Compounding their own experience with extreme weather, in the days before and after these storms Kamakura received reports of unseasonable and foreboding weather. First, a letter from the resident officials of Musashi Province warned that Kaneko-gō had experienced heavy storms and hail.²⁶⁷ Two days after the meeting, an express messenger arrived from Mino Province to report that snow had fallen there.²⁶⁸ These were troubling reports indeed. *Azuma kagami* notes that Mino and Musashi were ten days' travel apart, and that a weather event spanning two regions had the potential for a tremendous impact: "Usually rain falls throughout the sixth month. Although this is a sign of a fruitful year, if it is too cool, the five grains will not grow. If the wind and rain are not timely, then there will be a famine." The compiler offered historical precedents for this unseasonable weather, though there were only three such instances recorded: the most recent was 300 years prior and all three were inauspicious. The *Azuma kagami* entry concluded, "This is no ordinary matter... The above, even in antiquity, was strange, to say nothing of it now."²⁶⁹ The famine that resulted came to be known as the Kangi Famine, perhaps the worst in Japanese history.²⁷⁰

The poor weather persisted. Kamakura froze in the seventh month before experiencing large storms and flooding worse than any in living memory in the next month, drowning those

²⁶² Farris, *Japan's Medieval Population*, 34.

²⁶³ Farris, *Japan's Medieval Population*, 34.

²⁶⁴ *Azuma kagami*, 8/16/1229, 8/17/1229.

²⁶⁵ Farris, *Japan's Medieval Population*, 34.

²⁶⁶ *Azuma kagami*, 6/14/1230.

²⁶⁷ *Azuma kagami*, 6/11/1230.

²⁶⁸ *Azuma kagami*, 6/16/1230.

²⁶⁹ *Azuma kagami*, 6/16/1230.

²⁷⁰ Farris, *Japan's Medieval Population*, 33.

residing near rivers and destroying many more homes.²⁷¹ The battering continued, causing further property damage, including to the shogunal palace, but more importantly to cultivated fields: *Azuma kagami* observed that “The leaves of plants are withered. It is truly a winter climate. The grains will be lost.”²⁷² In Mino Province, where the strange weather was first recorded, it snowed again in the eighth month. Shinano Province, too, saw frozen precipitation in summer. Across the country, winter conditions were reported out of season and it became increasingly clear that the autumn harvest would fail.²⁷³

In Kyoto, Fujiwara Teika recorded rumors, reports, and his own observations of the weather and the following famine in his diary, *Meigetsuki*. His entries for the fall of 1230 testify to the scope and severity of the disaster:

There are losses in Hokuriku (said to be a result of cold weather). In recent years, there has never been anything like it. Express messengers come from all directions reporting that plants wither while standing in the fields. Novice Tadahira came to speak with me and said that Shikoku is also experiencing losses. In the near provinces (*kingoku*), although there are pending lawsuits, they are cancelled as there is nothing remaining after these losses.²⁷⁴

Teika reported widespread bad weather, as well as disasters in Kyushu and bandit (*akutō*) activity across the country. These reports—and the non-receipt of rents from his estate holdings—made it clear to him that the harvest had failed. Fearing the worst, Teika ordered his garden dug up and replanted with wheat.²⁷⁵

In contrast to the cold summer, the fall and winter of 1230 proved incredibly warm. Teika wrote in disbelief as flowers bloomed in midwinter, cuckoos sang and cicadas droned, and people ate bamboo shoots “just as in summer.”²⁷⁶ Although such phenomena were undoubtedly unsettling, the unusual heat proved a boon for the crops; winter wheat proved a successful and popular option, as crops ripened quickly and yields were good. However, the respite from the prevailing hunger that the unseasonable grain provided was temporary. The winter grain merely delayed the full brunt of famine to late winter and spring.

The effects of deprivation were devastating. Some people turned to crime; from the second month of 1231, there were repeated reports of roaming gangs of robbers in Kyoto. Many more suffered a worse fate; *Azuma kagami* recorded that “the world is in famine,” and predicted that “many cultivators will likely die of starvation.”²⁷⁷ By the third month, the bodies of those felled by disease and hunger began to appear across the country, with the numbers peaking in the summer of 1231. Teika recorded in the seventh month that “day by day, corpses fill the streets,” their number “beyond counting.”²⁷⁸ Malnutrition left those who survived weak; in Kyoto, palanquin bearers were unable to carry their noble passengers.²⁷⁹ Malnourished people were also

²⁷¹ *Azuma kagami*, 7/16/1230, 8/6/1230.

²⁷² *Azuma kagami*, 9/8/1230 and 8/8/1230.

²⁷³ Isogai Fujio, “Kangi no kikin to jōei shikimoku no seiritsu,” *Rekishi to chiri* 276 (September 1978): 4.

²⁷⁴ Fujiwara Sadaie, *Meigetsuki* vol. 3. (Tokyo: Kokusho Kankōkai, 1969), 238.

²⁷⁵ Fujiwara, *Meigetsuki* vol. 3, 243.

²⁷⁶ Fujiwara, *Meigetsuki* vol. 3, 259.

²⁷⁷ *Azuma kagami*, 3/19/1231.

²⁷⁸ Fujiwara, *Meigetsuki* vol. 3, 300.

²⁷⁹ Farris, *Japan's Medieval Population*, 36.

particularly vulnerable to disease: “epidemics spread inside and outside the capital and many people, high and low, died.”²⁸⁰

Relief was among Kamakura’s first responses upon official realization of the magnitude of the famine. In 1227, Emperor Go-Horikawa had ordered that a levy (*yakubukumai*) (rice in lieu of labor) be imposed to fund construction at Ise Shrine. Kamakura dutifully transmitted these orders to the provinces.²⁸¹ But by the fifth month, it was apparent that famine had left the people “exhausted” and rendered the collection of these funds near impossible. A report was issued to Go-Horikawa to this effect, but even before the court responded, Yasutoki took action. He volunteered his own funds, received as interest on rice loans, to cover the shortfall in revenue.²⁸² This was a deft maneuver, as Yasutoki was able to aid his allies at court in a time of need and to reinforce Kamakura’s support for one of the most powerful religious institutions, while offering some relief to cultivators who would thus be spared the pain of the full levy (and probable harassment in the event that they were unable to pay).

It would be anachronistic and inaccurate to depict Yasutoki’s objectives as wholly humanitarian. Yasutoki portrayed himself and his administration as paragons of good governance – as benevolent and just rulers.²⁸³ Yet his actions, as well as those of his predecessors, contemporaries, and successors in Kamakura were more often pragmatic and reactive than models of governmental planning; they formed ad hoc solutions in response to new challenges rather than part of a larger agenda to rival or to replace imperial government. As we have seen, this more focused approach was characteristic of the expansion and development of Kamakura authority. That is not to say that there was no place in this philosophy for concern for the common people, but appeals to this sort of moral authority required some measure of care, if they were to repay Kamakura by further legitimizing its administration. Kamakura’s responses to the Kangi Famine thus lay at the nexus of self-interest and earnest attempts to help. To that end, Yasutoki’s 1227 relief program did not directly aid cultivators, but it spared them additional tax burdens and collection while simultaneously affording Yasutoki an avenue to ingratiate himself with the imperial court. As conditions worsened while the famine wore on, Yasutoki drew from the earlier relief experience and applied it to further measures.

By 1231, the outlook was grim. Many people had already died and many more were left without sufficient resources to survive. Yasutoki again offered relief through the existing system of rice loans. However, this time he ordered that this rice be given directly to those in need as emergency loans: “This year the world is in famine and people will die of starvation. This is most unfortunate. Now, it is said that as a result of relief not being offered, those who [normally] enter [into loans] in both Izu and Suruga Provinces will lose their livelihood. It is ordered that [reduced-interest] loans be entered into immediately.”²⁸⁴ All Kamakura men who had granaries in Suruga and Izu Provinces were ordered to donate their loan stores; any who resisted were to be reported and punished.²⁸⁵ These loans were vital to cultivators not only as relief from hunger,

²⁸⁰ *Azuma kagami*, 7/16/1231.

²⁸¹ Uwayokote, *Hōjō Yasutoki*, 80.

²⁸² *Azuma kagami*, 5/2/1227.

²⁸³ Yasutoki succeeded in cementing this narrative; he has been hailed as a paragon of the virtues of good government from his death to the present.

²⁸⁴ *Tsuika-hō* 20 (1231).

²⁸⁵ *Tsuika-hō* 20 (1231); *Azuma kagami*, 3/19/1231; Okutomi, *Kamakura Hōjō ichizoku*, 134.

but especially as seed rice for the next crop.²⁸⁶ The next year, Yasutoki intervened in Izu again, this time to secure emergency loans for the residents of Nishina Estate.²⁸⁷

Yasutoki's mediation between cultivator and creditor was critical. In the pervading uncertainty of a historic famine, many lenders feared they would not be able to recoup their investments and opted to offer fewer or no loans: and with good reason. By the end of 1232, one Yata Rokurō had loaned over 9,000 *koku* of rice in obedience to Yasutoki's orders, but was unable to collect even the principal as the borrowers were unable to repay.²⁸⁸ He sought redress from Yasutoki, suggesting that the original order implicitly gave lenders a guarantee of repayment.²⁸⁹ Yasutoki committed to repayment, but ruled that the terms of the loan would be amended and cultivators given another year to repay it.²⁹⁰ When these extended deadlines passed unmet, Yasutoki repaid the loans himself.²⁹¹ Elsewhere, Yasutoki offered relief as he could, waiving taxes on over 1000 *chō* (about 2450 acres) in Mino Province, and dispatching a relief mission to care for and provision cultivators wandering the roads in search of sustenance and find places for those wishing to return to work.²⁹²

Regardless of the intentions or effectiveness of Yasutoki's ad hoc relief measures, they necessarily had a limited impact because Yasutoki took these actions as an individual, not as the leader of the bakufu. Though he relied on his relationships with Kamakura housemen, his authority over loan rice was limited to the two provinces where he served as governor and military governor, Suruga and Izu, respectively. Yasutoki could not and did not order other Kamakura officials of other provinces to take the same action, let alone civilian authorities (i.e. government and estate officials).²⁹³ Meanwhile, his other relief programs were funded out of his own coffers, and not Kamakura's, as Kamakura had no financial reserves or treasury. When Yasutoki initiated public works through the network of Kamakura officials, for instance ordering the repair of a river embankment in Musashi Province in 1232, *jitō* and cultivators impressed into service were expected to provide their own materials.²⁹⁴

Perhaps in light of these limitations, Yasutoki resolved to set a moral example of benevolent government, not only limiting demands on the common people and helping them where he could, but demonstrating his own suitability for the authority he held through upright personal behavior. When news of wintry weather arrived in Kamakura in the summer of 1230, Yasutoki's first response was purportedly to declare that "virtuous government" (*tokusei*) be performed: "At this time governance will not be abandoned" as Yasutoki "will persist [even] while fearful. As he will make clear the good virtue and despise the bad and rescue the world while forgetting himself, he has been entrusted with the realm."²⁹⁵ Beyond such public proclamations and heroic depictions, Yasutoki held himself to a high standard for personal conduct, beginning a program of sumptuary abstinence. In his daily activities, Yasutoki forswore fine clothes, gave up his midday meal, refused to burn oil for light, and renounced drinking

²⁸⁶ Consultation with Takahashi Noriyuki, Spring 2015.

²⁸⁷ *Azuma kagami*, 3/9/1232.

²⁸⁸ *Azuma kagami*, 11/13/1232.

²⁸⁹ Consultation with Takahashi Noriyuki, Spring 2015.

²⁹⁰ *Azuma kagami*, 11/13/1232.

²⁹¹ Uwayokote, *Hōjō Yasutoki*, 80.

²⁹² *Azuma kagami*, 11/13/1232.

²⁹³ Uwayokote, *Hōjō Yasutoki*, 82.

²⁹⁴ *Azuma kagami*, 2/2/6/1232.

²⁹⁵ *Azuma kagami*, 6/16/1230.

parties and banquets.²⁹⁶ He likely held himself to these strict standards out of a sense of moral culpability, drawn from the Confucian tradition, for the continuing natural disasters. For similar reasons, the bakufu leadership as a whole took such matters seriously, and in early 1231 ordered that all bakufu men serving in Kamakura also forgo unspecified extravagances.²⁹⁷ This order, however, did not match Yasutoki's asceticism, which stood out among his contemporaries. Fujiwara Teika noted in his diary that "Even if he is not ill, it is a difficult way to live."²⁹⁸

Somewhat predictably, Yasutoki fell victim to sickness in the summer of 1231 as an epidemic spread across the country, and Kamakura turned to prayer in response to this latest crisis.²⁹⁹ With the regent ill, the remaining leadership arranged for thirty priests to read the Great Perfection of Wisdom Sutra at Tsurugaoka Hachiman Shrine. The ceremony sought not only succor for its stricken leader, but "the tranquility of the realm and a fruitful harvest from the land."³⁰⁰ Commissioning religious services afforded Kamakura opportunities not found in other policies. For one, prayer constituted direct action—this was the only way, it was presumed, to end the weather that created and prolonged the famine. Second, these services were pursued as policies by Kamakura as an institution, not solely the actions of individuals like Yasutoki's grain relief program. These prayers were governance, official actions undertaken to protect the country. And finally, these efforts, though often undertaken locally, were meant to have a countrywide effect, as the prayers requested prosperity for the realm, not just the Kantō. Prayer was one of few bakufu responses on a countrywide scale; relief and discipline measures were handled on a provincial or case-by-case basis.

But not only did prayer fulfill a sense of obligation to act on behalf of the realm, it allowed Kamakura other distinctly worldly advantages, as the bakufu dispatched representatives to shrines and temples and invited religious specialists to the city throughout the duration of the famine.³⁰¹ Although these invitations may well be interpreted as good-faith efforts to reverse the trend of catastrophes, they also represented opportunities for Kamakura to reinforce its legitimacy and to strengthen its connections with other powerful institutions. Consequently, Kamakura's religious efforts were largely confined to the Kantō during the famine, as Kamakura officials were tasked with organizing religious responses in its constituent provinces.³⁰²

These activities deepened existing patronage relationships between Kamakura and these regional institutions, which Kamakura had sought to cultivate since the Genpei Conflict nearly fifty years before; when the opportunity arose, Kamakura leadership was quick to coordinate with the imperial court and larger efforts, as when Yasutoki personally stepped in to help raise funds for Ise Shrine in 1227.³⁰³ And at the peak of the famine in 1231, when the court called for provincial temples to pray for the end disasters, Kamakura relayed and enforced the command within the Kantō.³⁰⁴ Later that year, Kamakura commissioned rites for the god of wind, a ceremony that had never before been performed in the Kantō, but was imported from Kyoto at

²⁹⁶ Uwayokote, *Hōjō Yasutoki*, 78-79.

²⁹⁷ *Azuma kagami*, 1/29/1231.

²⁹⁸ Fujiwara, *Meigetsuki*, as quoted in Uwayokote, *Hōjō Yasutoki*, 79.

²⁹⁹ *Azuma kagami*, 5/17/1231.

³⁰⁰ *Azuma kagami*, 5/17/1231.

³⁰¹ For example, *Azuma kagami* 12/10/1229, 11/22/1230, and 5/9/1231.

³⁰² *Azuma kagami*, 12/10/1229.

³⁰³ *Azuma kagami*, 5/2/1227.

³⁰⁴ *Azuma kagami*, 4/19/1231 and 5/5/1231.

Yasutoki's request.³⁰⁵ In arranging a religious response to the continuing catastrophe, the Kamakura bakufu, imperial court, and religious institutions worked together.³⁰⁶

As harvest time approached in 1231, there was hope that it would bring an end to the famine. Initial reports in Kamakura in the eighth month celebrated the fact that the high winds had subsided, the fields were finally harvested, and the number of emaciated corpses had declined.³⁰⁷ But the year's harvest yields still suffered from the summer's drought and the continuing devastation of the farming population. In dire straits, many resorted to eating their seed grain—the most desperate act in agricultural societies.³⁰⁸ The policies pursued by the government, the imperial court, bakufu, and estate proprietors and guarantors, had failed. The Kangi Famine thus exposed the reality that the government was incapable of providing an adequate response to a crisis of such magnitude. The absence of clear, countrywide leadership and decisive action proved costly as the famine's deleterious effects on agricultural production continued to be felt for another decade.³⁰⁹

There are no precise mortality figures for the Kangi Famine. However, demographic historian William Wayne Farris has calculated a death rate of 37.2% for two well-documented estates in the central provinces.³¹⁰ This number of course cannot be taken as representative for the country as a whole; in addition to the limited sample size, there was profound regional variation across the country in terms of the famine's effects. Unlike the Yōwa Famine (1180-82), which hampered martial efforts in the western provinces during the Genpei Conflict, the Kangi Famine most affected the eastern portion of the country. That said, even if Farris' rate is not exact, it does well to illustrate at least the potential human toll of the famine. Even at half of Farris' figure, over one million people may have died out of a population of roughly six million.³¹¹

The Kangi Famine was no doubt a humanitarian disaster of historic proportions, but its historical significance goes well beyond the tremendous human suffering it inflicted. As the famine continued despite the relief efforts of the bakufu, imperial court, and religious institutions, the effects of deprivation compounded and cascaded, extending beyond problems of mere resource allocation. Fields fell fallow as those still strong enough to labor left their farms to seek better options elsewhere. These refugees overwhelmed new areas, straining tensions further. Reports of lawlessness and crime grew in frequency as people across the country became quicker to resort to violence, potentially fraying the Kamakura-housemen relationship and jeopardizing Kamakura's ontological foundation.

Many cultivators, unable to even feed themselves, did not pay their taxes and rents in full or at all. By 1231, only half of fields were sown, the remainder fallow for lack of cultivators.³¹² The next year, Nishina Estate in Izu Province reported that the local people were unable to farm

³⁰⁵ *Azuma kagami*, 6/15/1231.

³⁰⁶ Sakai, "Chūsei zenki no bunka," 302.

³⁰⁷ *Azuma kagami*, 8/1/1231.

³⁰⁸ Isogai, "Kangi no kikin to jōei shikimoku no seiritsu," 7; Murai, "Jūsan-jūyon seiki no Nihon: Kyōto-Kamakura," 10.

³⁰⁹ Isogai, "Kangi no kikin to jōei shikimoku no seiritsu," 8.

³¹⁰ Farris, *Japan's Medieval Population*, 41.

³¹¹ Isogai, "Kangi no kikin to jōei shikimoku no seiritsu," 7; Farris, *Japan's Medieval Population*, 4.

³¹² Isogai, "Kangi no kikin to jōei shikimoku no seiritsu," 7.

at all due to starvation.³¹³ The lack of cultivators reduced the incomes of proprietors and guarantors like Fujiwara Teika, as well as of local estate and governmental officials (i.e. those appointed by the imperial government, estate holders, and Kamakura). Though these officials were guaranteed a certain income share—which Kamakura had standardized for new jitō in 1223—there simply was not enough food to go around; someone (or more likely, everyone) would be shorted. Even the imperial family and top religious institutions quickly felt this loss of revenue, as when construction of Ise Shrine was nearly delayed in 1227.³¹⁴

Below the clouds, most other people faced more pressing needs than shrine reconstruction. Year after year of inadequate harvests bred frustration and desperation, prompting people to turn to crime to feed themselves. Outlawry became a grave concern, even in provinces under the direct supervision of Kamakura. In Ise Province, where Hōjō Tokifusa (1175-1240) served as military governor, bandits caused trouble and evaded Kamakura's local forces throughout the summer of 1227.³¹⁵ Other criminals were less organized, but equally problematic for the forces of law and order; Kamakura continually received word that thefts, armed robberies, arson, night attacks, and murder were on the rise “in the cities and countryside.”³¹⁶ Gangs of armed robbers roamed the capital.³¹⁷ Even the shogunal palace—the center of Kamakura's administration—was not safe. In 1230, in the middle of the night “a burglar entered the palace and stole the shogun's sword and clothes.” Bakufu forces failed to catch the thief, who made off with the personal possessions of the (nominal) head of the country's military and police agency.³¹⁸

With shortages and violence rampant, society was on edge. Rumors of attacks and rebellion, already taken seriously in the aftermath of the Jōkyū Disturbance, garnered more credence from the bakufu leadership and their rank and file. In 1227, a man claiming to be the third son of Retired Emperor Go-Toba was apprehended on suspicion of plotting rebellion against Kamakura. However, under interrogation, he soon confessed to being a former governor who had become a local cultivator. As he revealed his plans to the Kamakura's agents, it became increasingly clear not only that his designs were clearly unachievable but that he was mentally unstable.³¹⁹ But the gravity of treason, compounded by the increasing tension of a society beset by famine, exacerbated such concerns.

Even several years later, the men of Kamakura remained on edge. One night in 1230, a mob of “men with armor and helmets on, and battle flags raised, gathered outside the palace and Bushū's [Yasutoki's] residence. Even though they were ordered to desist, since there were several hundred of them, they did not settle down quickly.” Yasutoki, concerned by a prolonged gathering of armed and anxious men, observed that these circumstances were what led to outrages and moved to defuse the situation: three of his men emerged from the palace, yelling about rebels and leading the mob out of Kamakura toward the beach. But once they had led the men out of the city, the retainers turned to chastise them: “There are no rebels. This was merely

³¹³ *Azuma kagami*, 3/9/1232.

³¹⁴ *Azuma kagami*, 5/2/1227.

³¹⁵ *Azuma kagami*, 7/12/1227.

³¹⁶ *Azuma kagami*, 11/6/1230, 1/25/1231, 4/21/1232.

³¹⁷ Isogai, “Kangi no kikin to jōei shikimoku no seiritsu,” 5.

³¹⁸ *Azuma kagami*, 5/5/1230.

³¹⁹ *Azuma kagami*, 3/9/1227, 3/19/1227.

to suppress the riot next to the palace.” Some twenty senior warriors were forced to turn over their battle flags while the rest dispersed.³²⁰

Yasutoki was able to prevent massive warrior upheaval in Kamakura itself, but smaller instances of warrior abuse persisted across the country. Armed men had long been a menace to provincial society; it was in fact this problem that led to the creation of various titles and positions for warriors within the imperial government in the first place. The bakufu had developed into a government agency to supervise a new set of officials, who were positioned across the country to enforce the law and keep the peace. These officials were largely a source of stability, ensuring that rents and taxes were paid, apprehending criminals, performing guard duty, and functioning as a reserve army. Nevertheless, these officials proved to be a main source of conflict and violence, often leading to proprietors and cultivators alike filing complaints and petitions with Kamakura. The 1220s saw the rate and range of such incidents spike dramatically.

Damage Control

Faced with rising violence and a growing threat of disorder in the wake of the Kangi Famine, Kamakura took action. Since famine was not a military threat, it necessitated a different sort of response. Kamakura’s initial ad hoc and local relief efforts proved insufficient. Consequently, rather than use military means to subdue the unrest, Kamakura turned to its legal system. Sensibly, the leadership returned to strategies that had proved effective in the past: regulation. Kamakura had two main tools at its disposal for regulating behavior of its housemen: judgments and supplemental laws, that is, traditional court rulings and legislative enactments. The administration issued both throughout the famine in an effort to preserve order as conditions worsened.

By the 1230s, Kamakura had adjudicated lawsuits for over fifty years. From its wartime inception, the Kamakura administration rendered judgments on disputes regarding its housemen. Although its jurisdiction was not yet formalized, Kamakura courts addressed only cases against its officials and housemen, both accusations from civilians and disputes between warriors. Disputes were judged according to customary law, complemented by a growing body of precedents established by Minamoto Yoritomo and his successors.

Judicial authority had initially been the sole prerogative of the Lord of Kamakura, but following the death of Yoritomo, the elder statesmen of the administration imposed substantial limitations on shogunal judicial authority, installing the deliberative Council of Thirteen to consult on matters of justice. By rendering a judgment, Kamakura intervened to punish warriors guilty of infringing on civilian plaintiffs. However, the winning litigants of intra-warrior disputes were expected to enforce their own victories through “self-power” (*jiriki*); the court had no enforcement powers of its own. Further, judicial decisions were typically narrow—tailored specifically to the case at hand—rather than intended to set precedent, and there was no centralized, systematic record of decisions. Even as some precedents were incorporated into a common law tradition, it was difficult for legal experts to master a complete understanding of the law, let alone ordinary litigants. Early Kamakura justice was highly informal; it served important social and administrative functions, but did so without the trappings or structures of a more developed legal system.

³²⁰ *Azuma kagami*, 2/30/1230.

Kamakura employed an adversarial system, with the judge acting as a neutral arbitrator; all cases were essentially treated as civil matters, and lawsuits were the primary method to bring warrior official malfeasance to the bakufu's attention.³²¹ Plaintiffs submitted petitions to Kamakura or its regional headquarters detailing warrior abuses and requesting intervention. Anyone so wronged by a Kamakura official could file suit, though plaintiffs were usually the proprietors or guarantors of estates, acting in the interest of the estate's members from cultivators to management. If Kamakura accepted the petition, the accusations would be transmitted to the defendant, a responsibility which fell to the plaintiff. The defendant then had the opportunity to refute the charges against him and submit a rebuttal to Kamakura and the plaintiff. This back-and-forth process could be repeated up to three times, after which the case would go to trial. Several years could pass before a ruling was rendered, and cases often continued even longer on appeal. The long, complex process of initiating a suit suggests that those that were adjudicated were of significant importance to both the litigants and to Kamakura.

A case from the early 1230s illustrates the legal process and the problems Kamakura officials faced during the Kangi Famine. In 1232, Kongōbuji, the head temple of Kōya-san in Kii Province, submitted a petition to Rokuhara regarding the behavior of the jitō appointed to its Ōta Estate in Bingo Province. According to the temple, Miyoshi Yasunobu was the original jitō assigned to the estate. Yasunobu was an elder statesman of the bakufu and a veteran bureaucratic official, born of a Kyoto family of hereditary clerks. True to form, he had recorded the rights and duties of the position in 1217. But since then, the temple alleged, "his son, Yasutsura, and grandsons, Yatsutō and Yasutsuna, have inherited the holding, [and] have committed violations one after another."³²²

Kongōbuji issued a second petition in 1233, enumerating the counts of jitō lawlessness. First, Kamakura personnel had multiplied and imposed new costs on the estate. There were now three men serving as jitō instead of the original one, and these multiple jitō had each appointed multiple deputies, who in turn had their own sub-deputies, bringing the total jitō staff to twenty, not including dependents. The original 1217 document, the temple claimed, allowed for one jitō and one deputy jitō only. Providing for this extensive an administration was a heavy (and unlawful) burden for the estate and its patrons. The petition held that although "the whole of the realm was starving, those starving to death [at Ōta Estate] exceed that of other places."³²³

Second, the temple claimed that not only was the jitō presence too large, it was also predatory. The petition cites one instance in which a jitō stole the cultivators' harvest directly out of the fields, forcing the cultivators to borrow from another estate to survive. In another case, the jitō misappropriated resources earmarked for other ends, claiming them as part of their income. And while the civil estate manager (*azukari-dokoro*) had been moved to sympathy by the pleas of the cultivators in such difficult times, opting to not press them on their mulberry levies, the jitō insisted on a strict imposition. The jitō extracted excessive labor from the estate's cultivators, conscripting them to work in jitō fields. Jitō also treated cultivators like domestic servants, summoning them to serve in jitō homes day and night. The jitō's misdeeds implicated the bakufu, both indirectly in its role as the ultimate supervisor and guarantor of their men's conduct,

³²¹ In Kamakura justice, the distinction between civil and criminal law was porous. Criminal cases were pursued and adjudicated by its men, in their capacity as law enforcement officials; civil cases and accusations against these officials were brought to Kamakura courts.

³²² Seno Seiichirō comp., *Kamakura bakufu saikyojōshū* vol. 1 (Tokyo: Yoshikawa Kōbunkan, 1970), 53-54, doc. 57.

³²³ *Kamakura ibun* vol. 7, 51, doc. 4534.

but also directly, as the jitō inflated the labor levies undertaken in the bakufu’s name. For the Kantō labor levy, the estate was to provide resources for four laborers per year, yet the jitō had demanded payment for many more. Ultimately, jitō impositions grew so onerous that cultivators were forced to neglect their duties as farmers and to leave their own fields unsown, causing many to flee the estate in 1233.³²⁴

The jitō rebutted these allegations. In 1234, one jitō countered the offenses attributed to him with a detailed list of “illegal new practices” perpetrated by the deputies of the civil estate manager. The jitō contended that the “violent behavior” of his civilian colleague violated his own rights and those of the cultivators. He alleged that the civil estate manager had unjustly taken cultivators’ houses and possessions, commandeered and starved to death the cultivators’ ox, and extorted cloth from the cultivators assigned to the jitō’s fields.³²⁵

Both litigants in the case sought to protect their own rights to labor, land, and a share of the production. And while both no doubt took some liberties in presenting their best case, they made clear that their rights had been infringed upon not only by the other party’s aggrandizement, but also by nature itself. With the Kangi Famine growing increasingly severe, cultivators and materials were in short supply. As their numbers dwindled, competition between the various forces on the land became more pointed and increasingly harmful. Not only were relations between Kamakura and estate and local officials strained, but violence became a more likely resort and the accumulating effects on the cultivators led to more flight and fallow fields.

In 1234, after hearing the repeated accusations and disavowals of both sides, Rokuhara called for a trial (*taiketsu*) to be held, while ordering the cessation of any interference in the payment of rents to Kōya-san in the interim.³²⁶ The bakufu finally issued its judgment in 1235, three years after the suit began, ruling that all violations of the administration of estate affairs established in the original 1217 document must cease, and that “both sides shall exercise authority following this document.”³²⁷

This dispute in Bingo was not an isolated incident. Rather, it serves as a particularly useful and well-documented example of a number of trends in Kamakura administration. In hearing lawsuits against its officials, Kamakura leadership worked to curb disorder and to ensure the stability of landholding structures, issued rulings settling border disputes, sorted through contested inheritances within the families of Kamakura housemen, and disciplined its housemen.³²⁸ These judgments had salutary effects. In many instances, the case in question was resolved and the Kamakura verdict obeyed, though perhaps only for a time. Given the gaps in the documentary record, it is difficult to gauge the efficacy of judgments, but even when bakufu officials continued illicit behavior, the lawsuit at least provided the plaintiffs with documentary support to press their claims on the ground and a substantial advantage in future litigation.

Given the value of a positive judgment and the time and effort necessary to obtain one, litigants went to extremes to protect their interests in court. Litigants sought every advantage, and at times their actions called into question the validity of Kamakura justice. *Azuma kagami* details one high-profile incident in late 1226 in the trial of a dispute between two relatives, a

³²⁴ *Kamakura ibun* vol.7, 51, doc. 4534; Isogai, “Kangi no kikin to jōei shikimoku no seiritsu,” 11-12.

³²⁵ *Kamakura ibun* vol.7, 92, doc. 4605.

³²⁶ *Dai Nihon shiryō*, part 5 vol. 9, 513.

³²⁷ *Kamakura bakufu saikyōjōshū* vol. 1, 53-54, doc. 57.

³²⁸ For instance, *Kamakura bakufu saikyōjōshū* vol. 1, 36-39, doc. 45; 43-44, doc. 48; and 48-49, doc. 52.

Kamakura houseman, Nakahara Yasusada, and Ōya Ieshige, a retainer of Miura Yoshimura, a pillar of the Kamakura leadership. The two had disputed a holding for some years, and the Kamakura council was poised to finally settle the issue, with all parties, including Miura Yoshimura, attending. Concerned about Yoshimura's influence tipping the balance in favor of his retainer, Yasusada snuck behind the council's chambers and eavesdropped on their deliberations. Claiming to have heard Yoshimura say that Ieshige should prevail, he leveled a charge of bias against the Council. Ieshige vehemently rejected the charge, claiming that "from the beginning he had no support" from Yoshimura. The argument grew heated, adding to an already tense environment, and the council had both men forcibly ejected from the bakufu compound.³²⁹ Three days later, Kamakura ordered that litigants would henceforth be prohibited from approaching council members during the course of trial and deliberation, and awarded the land to Ieshige due to Yasusada's "outrageous behavior."³³⁰

Many would-be litigants never made it to trial at all. Kamakura courts were often overwhelmed by petitions, and struggled to hear complaints in a timely fashion, as the judicial apparatus lacked the infrastructure to accommodate increased caseloads in times of uncertainty; there simply was not enough administrative manpower. But Kamakura justice also lacked predictability. Although premised on custom and a common law of warrior precedents, prior to 1222, there were no written laws to set a clear standard that could settle countless disputes around the few same principles. Delays, ineffectiveness, and inconsistency left many litigants dissatisfied.

Kamakura relied on legislation when limited judicial rulings failed to meet its goals. Unlike judicial rulings, laws were prospective, in that they looked ahead in anticipation of future problems. However, many laws were simultaneously reactive: most were drawn from important court cases and responded to existing problems. Ultimately, laws allowed Kamakura leaders to expand their reach far beyond individual rulings and to adopt provisions that could be applied to Kamakura's broader membership. Specifically, laws established standards for behavior, payment, and procedure for Kamakura housemen; they did not and could not apply to civilians, with limited exceptions.³³¹ These pieces of legislation are typically known as "supplemental laws," in reference to the 1232 List of Precedents on Judgment, though the first supplemental laws were issued a decade earlier in the aftermath of the Jōkyū Disturbance. By complementing judicial precedents with positive legislation, Kamakura became proactive.

Together, judgments and supplemental laws proved effective in managing the crises of the 1220s. Trials responded to specific grievances; they brought accountability to warrior officials and assured civilian power-holders that their rights would be protected, though trials were limited in their ability to aid Kamakura in achieving its governing objectives. Conversely, laws served to increasingly standardize and routinize the administration of warrior officials, thereby minimizing the risk of disruption and potential threats to the public order, buttressing the power and legitimacy of Kamakura's leaders. And though these judgments and laws were issued on an ad-hoc basis, their accumulation represented a significant step toward building a more developed legal system.

³²⁹ *Azuma kagami*, 10/9/1226.

³³⁰ *Azuma kagami*, 10/12/1226.

³³¹ Although Kamakura laws were nominally committed to this standard in the 1232 *Goseibai shikimoku*, additional laws were issued for non-warriors who resided in areas directly administered by Kamakura, for instance, monks and townsmen in and around the city of Kamakura.

Fourteen supplemental laws are extant from Yoshitoki's final years as bakufu regent, from 1222 to his death in 1224. His successor, Yasutoki, long famed as a just jurist and signatory to the vast majority of early Kamakura laws, did not begin his regency with particular legislative activity: only five supplemental laws are extant from the first six years under his leadership. However, as with his relief activities, Yasutoki worked quickly to blunt the impact of the famine. At the height of the crisis, the years 1231 and 1232, we have a much larger legislative record: thirty-five supplemental laws remain. Although most were not explicitly linked to the famine (only Supplemental Laws Twenty and Twenty-Eight explicitly refer to it), many of the problems these laws addressed were likely connected to the ongoing crisis.

Some problems were familiar. While findings of warrior misconduct like that of the Ōta Estate case are common, they should not necessarily be taken as evidence of wanton or ubiquitous warrior criminality: case files were awarded to the prevailing litigant as proof of their victory and rights. Consequently, records drawn from temple, shrine, and aristocratic collections were by design kept to document wins over warrior officials and orders that they cease their lawlessness and are not necessarily representative. Furthermore, Kamakura courts had authority only over warriors and in limited other circumstances; losing a case had no punitive consequences for civil litigants, save the continuing presence of warrior officials. As a result, frivolous lawsuits bringing specious accusations against warriors were fairly common, becoming enough of a problem that Kamakura issued a supplemental law in 1235 to discourage them, arranging for the imperial government to rescind the land rights of perpetrators.³³²

The income rights of warrior officials remained a central point of contention in many suits. Early supplemental laws had established a standard ratio for all new jitō appointed after the Jōkyū Disturbance. This principle was revisited in 1231 in Supplemental Law Twenty-Three, confirming that for every eleven *chō* of fields in a holding, new jitō would receive one *chō* of grant land, an additional levy of five *shō* of rice per *tan*, and split revenues from tax-eligible non-field lands in the holding (mountains, pastures, forests, littorals, and seas) with their civilian counterparts.³³³ The need to repeat and clarify this foundational rule strongly suggests that adherence remained a problem, though later legislation implies that the standard was well known.³³⁴

Other supplemental laws testify to jitō overstepping these bounds. Supplemental Laws Thirty-Six through Forty-One ordered the cessation of illegal actions, bringing more specificity into the body precedents for unacceptable jitō behavior. Demanding additional special levies, for example, was ruled illegal; jitō were not to make extra demands of the cultivators on the pretext of land surveys.³³⁵ Similarly, jitō were not to exploit local festivals as opportunities to extort gifts and foods.³³⁶

Supplemental Laws Forty and Forty-One addressed jitō efforts to expand their rights beyond their grant lands. The latter gently reiterated the standing law that income from

³³² Tsuika-hō 87 (1235).

³³³ Tsuika-hō 23 (1231). The earliest iteration of this rule was in Tsuika-hō 9 (1223) and further refinements in 10 and 13 (1223).

³³⁴ The “new jitō rate” was not included among the fifty-one articles of *Goseibai shikimoku*, for example, but continued to be relied upon as precedent, suggesting that knowledge was sufficient at the time of the list's promulgation to not require inclusion.

³³⁵ Tsuika-hō 38 (1232).

³³⁶ Tsuika-hō 37 and 39 (1232).

mountains was to be shared evenly, but added the specification that this provision included swidden fields, as opposed to only scrubland or forests.³³⁷ The former provision addressed actions undertaken by new *jitō* to expand their holdings more directly, establishing that new fields “surveyed and registered” by new *jitō* would not necessarily fall under their control, and that rights to these would instead be “as original fields,” i.e. would follow local customs.³³⁸ Such new fields were common; cultivators often expanded the areas they farmed as part of broader efforts to boost production and to avoid taxation. If these new fields were not registered, officials—whether of the provincial government, *bakufu*, or of the estate—could not legally collect taxes, rents, or levies. This loophole incentivized cultivators to expand covertly and officials to conduct frequent surveys.³³⁹ Some *jitō*, when recording these fields before their local governmental and estate counterparts, attempted to bring them entirely under their own control, effectively expanding their grant lands beyond the standard apportionment. This law sought to curtail such aggrandizement but offered *jitō* an important concession: by establishing “original fields” as the guiding rule in such cases, Kamakura allowed *jitō* to share a portion of the revenue of new fields if they were extensions of fields to which the *jitō* had existing rights.

Jitō were not the only members of estate communities to push or to violate the limits of the law. When Supplemental Law Twenty-Three reaffirmed the standard for new *jitō* income, it did so in the context of competition between new *jitō* and estate management, confirming the *jitō*’s rights to half the income collected from sources other than fields excluded from the annual tax. Though this provision bears a strong resemblance to other rulings that attempted to restrain *jitō* overreach, this law was in fact the opposite. According to the law, estates had attempted to reclassify income collected for civil managers (specifically the civil estate manager and *jōshi*, another type of estate official) as part of the annual tax, and therefore outside the portion to be shared with the *jitō*. But if this income, along with that designated for the guarantor and proprietor (which the *jitō* recognized as part of the annual tax), were not included in the shared portion, “over what,” the law asks, “can one exercise half authority?” The law ruled that the *jitō*’s complaints had merit and that these practices to deny new *jitō* their income rights must cease.³⁴⁰

In other legislation, Kamakura addressed more overt criminal acts, seeking to discourage increasing crime while bringing a measure of restraint and consistency to punishment administered by its warriors. Supplemental Law Twenty-One, issued in 1231, clarified the consequences for theft. It maintained that “The severity of punishment for the illegal procurement of property has already been established” in classical law (and possibly in unwritten warrior common law) and offered as an example the penalty for minor offenses: recompense of double the amount of the stolen goods. The law did not specify new sentences for major crimes, but provided limits on lawful punishment. Regardless of the severity of the theft, “punishment will not be extended to the three types of relatives:” that is, the offender’s parents, siblings, and dependents (wives and children) would not be held accountable if they were not involved. So too, residents of the same house would be safe, provided they had no clear intent to aid in the crime.³⁴¹ These stipulations reflected nascent notions of fairness in warrior legal thinking, though

³³⁷ Tsuika-hō 41 (1232).

³³⁸ Tsuika-hō 40 (1232).

³³⁹ Consultation with Shin’ichirō Takahashi, USC Kambun Workshop Summer 2017.

³⁴⁰ Tsuika-hō 23 (1231).

³⁴¹ Tsuika-hō 21 (1231).

left tacit in this instance, that those not involved in the crime should not be punished. Fairness and predictability were important considerations not only for the judgment of warriors, but the application of punishment by warriors through their positions as law enforcement officials.

Kamakura revisited these rules within two weeks of issuing Supplemental Law Twenty-One. Supplemental Law Twenty-Nine again specifically confirmed the existing punishments and the denied the practice of guilt (and punishment) by association. Twenty-Nine touched on several other issues as well, as variations on a theme of reaffirming existing rules. Coming on the heels of a string of laws, and combined with the decidedly familiar content, the timing strongly suggests that Twenty-Nine was primarily an attempt to maintain existing rules. Indeed, the authors of the law made their motivation explicit: “Although it has been repeatedly commanded and issued that lawlessness shall cease, things remain unsettled. This is altogether improper.”³⁴² To ameliorate these conditions, the law revisited a number of pertinent regulations, enumerating established precedents such as the standard new jitō income share, the even division of non-fields outside the annual tax, and jitō’s rights to one-third of goods confiscated from criminals in addition to the principles of punishment for theft. Night attacks were a much more serious offense and threat to the public order: these “shall not be forgiven” under any circumstances. Offenders were to be pursued and captured, and any jitō found to be participating in such illegal attacks would be relieved of their appointments.³⁴³

Some jitō implemented more innovative tactics. Supplemental Law Thirty-One targeted the practice of jitō throughout the country of preying on distressed ships. The law cited rumors that jitō pounced on any vessels blown near the shore, claiming them as shipwrecks and unlawfully seizing them and their cargo. This disruption of trade and violation of private property was yet another danger to the public order: “Even if there were a precedent” for such behavior, the law theorized, “it is a grievance for many people” and was to cease immediately.³⁴⁴

Jitō were not alone in overstepping the limits imposed by Kamakura. Military governors, Kamakura’s middle management, created similar if less pervasive difficulties. Supplemental Law Thirty-One reiterated that the military governor authority was limited to the “recruitment of the capital guards, rebellions, and murderers” and that they were not to infringe on the “miscellaneous small matters” outside of this jurisdiction. This, the text explains, had been settled law since the time of Yoritomo, whose invocation was the hallmark of the strongest precedents in bakufu justice. And yet, “in recent years it is said that [military governors] constantly interfere within their jurisdictions on small matters.” “How,” the law asks, “could the proprietors and jitō, the offices of public lands and the imperial police exercise authority” with this kind of interference? Military governors were again prohibited from intervening in local affairs outside of their three main responsibilities. Further, any alleged to have violated this order, including those accused by civil and estate authorities, would be summoned to Kamakura for judgment and could potentially have their appointment revoked.³⁴⁵

Many estates continued to exercise considerable autonomy. Some possessed rights of non-entry such that government officials, including military governors and jitō, could not legally enter the premises, even in pursuit of criminals. These rights, formally recognized by Kamakura,

³⁴² Tsuika-hō 29 (1231).

³⁴³ Tsuika-hō 29 (1231).

³⁴⁴ Tsuika-hō 32 (1231).

³⁴⁵ Tsuika-hō 31 (1231).

were a substantial concession to and a considerable power granted to estate management. Kamakura's Supplemental Law Thirty-Five reinforced the authority of estates broadly, ordering that from 1227 onward the landholdings of robbers would not be confiscated even if they were found guilty; instead, these lands would be returned to the estate guarantor. This rule refined Supplemental Law Fourteen, issued in 1223, which established a standard division of goods confiscated from criminals: estate proprietors or provincial governors would receive two-thirds and the warrior official one-third, offering further concessions to estate management. However, the latitude estates enjoyed (doubtless expanded by the famine), led some to engage in criminal activity. To minimize this tendency, the law, while guaranteeing the estates' rights with one hand, circumscribed them with the other: "If bandits are hidden [by estate officials] within a holding [without a jitō], even though the details [that the bandits must be surrendered] were announced [to the estate] ... a jitō shall be appointed."³⁴⁶ Estates that did not respect Kamakura's public order would be brought into the Kamakura police system.

Religious institutions and practitioners also emerged as loci of concern for Kamakura on account of their potential to upset public order. According to Supplemental Law Twenty-Eight, festivals became a flash point in the midst of the famine in 1231: at some shrine festivals, stone-throwing was a part of the event, an offering to the gods, much like a sumo exhibition, but these rituals often descended into brawls and reportedly even led to murders.³⁴⁷ Kamakura imposed "tough restrictions" on this ritual practice to contain the baser impulses of the crowd, prohibiting fights and other attacks. The law took aim at a "rumor among the lower classes in the capital that prohibiting and suppressing these things has led to the famine," labeling those who spread this misinformation as "pugnacious individuals" who offered it as pretext for their violent schemes. The law underlined the fact that when Yasutoki served in the capital as Rokuhara *tandai* from 1221 to 1224 he pursued these policies successfully to keep the peace and the people did not suffer from want or shortages. Kamakura explicitly stated that this regulation would not affect ritual stone-throwing; this practice continued, though those escalating into non-ritual violence would be punished.³⁴⁸

This respect for religious liberty—that is, the liberty of the religious institutions, not necessarily the practice of religion—was typical of Kamakura administration. From the early days of Yoritomo's rebellion, Kamakura sought the support of the major temples and shrines in the Kanto and across the country. Kamakura had long made it clear that it would respect the customs and authority of religious institutions. Beyond these protections, Kamakura confirmed and defended the rights of temples and shrines as estate guarantors and proprietors, repeatedly accepting their petitions and finding in their favor in subsequent lawsuits. In written law as well, Kamakura delineated clear limits for warrior authority regarding religious institutions. Supplemental Law Eleven, for instance, prohibited "willful new practices," such as warrior impositions or assertions of authority, over temples and shrines in Kyoto in 1223.³⁴⁹ Kamakura upheld this principle time and again in subsequent litigation and legislation.³⁵⁰ Even when jitō were not at fault, Kamakura sought to support religious institutions; for example, in 1228,

³⁴⁶ Tsuika-hō 35 (1231).

³⁴⁷ Consultation with Noriyuki Takahashi, Spring 2015.

³⁴⁸ Tsuika-hō 28 (1231).

³⁴⁹ Tsuika-hō 11 (1223).

³⁵⁰ For example, in 1227, Kamakura ruled that the "disruptive new practices" of a deputy jitō must cease immediately, protecting the income rights of Kashima Shrine, which had received them as a gift from Minamoto Yoritomo himself. Tsuika-hō 40 (1227).

Kamakura terminated the appointment of a jitō in Sanuki Province in response to complaints from the temple Zentsūji that with the introduction of the jitō, its funding was now insufficient.³⁵¹

Kamakura also made a point to make offerings—of both material and martial support—to major institutions. Yoritomo wrote to Ise Shrine in 1182, introducing himself as the protector of the Shrine and the state (*kokka*) and drawing a sharp contrast with the Taira clan whose forces had burned Tōdaiji. He offered the Shrine his political support along with a donation of gold, silk, and horses.³⁵² Following the Jōkyū Disturbance, some of the first estates granted as rewards went to Ise Shrine and Tsurugaoka Hachiman Shrine.³⁵³ These large donations were fairly common, as the bakufu sought both to establish and maintain good relations with the religious powers as well as to establish itself as a patron of religion to bolster its legitimacy. Smaller donations also became a staple of Kamakura policy. Supplemental Law Thirty-Four, issued in 1231, is the earliest record of bringing this practice into the nascent legal system. The Law stipulated that Kamakura housemen who allowed prisoners to escape from their custody would be punished. If the fugitive were a major criminal, the offending housemen would have his holdings confiscated, while the loss of minor criminals warranted a fine in line with the severity of perpetrator's offense. These fines would be set aside for "the maintenance and repair of temples and shrines."³⁵⁴ This was the earliest extant supplemental law to incorporate this custom, and it was replicated repeatedly in subsequent legislation that regularized Kamakura contributions to religious institutions.

Despite Kamakura's typically cordial position toward religious institutions, certain actions by these major political players elicited a less favorable response. Another 1231 Supplemental Law declared Kamakura's support of the imperial government against religious institutions. At issue was economic interference: the major temples and shrines in and around Kyoto had long relied on physical intimidation as a trump card in pursuing their political and economic interests. These institutions marshaled their own priests and monks, as well as associated servants, cultivators, and occasionally mercenaries to march into contested areas or even to the heart of Kyoto itself to insist on the recognition of their claimed "rights." These groups at times applied a veneer of legitimacy to their actions and assertions by carrying a religious icon, most commonly a portable shrine (*mikoshi*), or underlined the menace of their threats by coming fully armed. A saying attributed to Retired Emperor Shirakawa (1053-1129), the dominant force at the imperial court in his day, illustrates the power of religious institutions: "Three things refuse to obey my will: the waters of the Kamo River, the fall of the backgammon dice, and the monks of Enryakuji Temple."³⁵⁵ The quotation is very likely apocryphal, but regardless of the veracity of the attribution, it evidences the popular perception of the power of religious institutions in the late Heian and Kamakura periods.³⁵⁶

Supplemental Law Thirty-Three explicitly outlawed shrines and temples from trespassing with portable shrines to advance false claims: "Intruding on an unrelated estate claiming it as

³⁵¹ *Azuma kagami*, 3/13/1228.

³⁵² *Azuma kagami*, 2/8/1182.

³⁵³ *Azuma kagami*, 8/7/1221.

³⁵⁴ *Tsuika-hō* 34 (1231).

³⁵⁵ Helen Craig McCullough trans., *The Tale of the Heike* (Stanford: Stanford University Press, 1988), 50.

³⁵⁶ Adolphson, *Gates of Power*, 3. The texts attributing this saying to Shirakawa (*Heike monogatari* and *Genpei seisuiiki*) were written roughly two centuries after Shirakawa's death, the products of oral traditions used to entertain.

shrine land, or harassing houses near and far, declaring [residents'] goods to have been offered for the use [of the shrine or temple] is shameful conduct. Further, there are people it has brought to ruin. For the sake of the world and the people, it shall be forbidden."³⁵⁷ Kamakura commanded its officials to work in tandem with their civilian governmental counterparts to investigate all violations of this order. Anyone caught contravening it, from shrine and temple officials to menials, would be held accountable according to imperial commands: transgressions would merit the confiscation of the offender's holdings. The financial activities of religious institutions came under scrutiny as well: the extortion of loans or the seizure of goods on the roads would be considered robbery and treated as such. Despite the bakufu's preference to maintain an amiable relationship with religious power centers and its own position as religious patron, the threat to the established order of landholding, along with legislation from the imperial government in Kyoto, was enough to tip the scale and push Kamakura to act against the major religious institutions in this case.

As Kamakura sought to balance its support for religious institutions with the need to keep their more assertive and avaricious tendencies in check, it faced a starker challenge. Even as it issued judgments and laws, the judicial "system" was coming up short as contempt of court limited the effectiveness of Kamakura law. Litigants rejected or ignored summonses to trial, disobeyed rulings, and continued to disrupt the public order. Supplemental Laws Eighteen and Thirty, issued in 1227 and 1231 respectively, reflected the continuing problem of defendants refusing to report to court after receiving summonses. The former addressed deputy jitō. In the course of trials between estates and jitō, bakufu courts in Kamakura and Rokuhara often sought the testimony of the individuals involved, often the jitō's deputies and the estate's officials. However, although the deputies receive a summons, they "oppose this and will not go for judgment." Kamakura found this refusal "exceedingly unjust," and mandated heavy punishment for those declining to appear in court. This was not the first time such recalcitrance had posed a problem; the law stipulates that this principle shall be "announced again and understood," implying both repetition and wide transmission of the law.³⁵⁸ The issue remained a problem four years later, as Supplemental Law Thirty observed that "It is said that there are those among the military governors, jitō, [either] original members or deputies, that have not consented to the order given to stop lawlessness and the summonses dispatched by Rokuhara to call them to trial." The law outlined the procedure for unanswered summonses, citing recent orders mandating further summonses and a report to Kamakura if a third summons became necessary. However, rumors had reached Kamakura that even these reports were not being filed, concluding, "If this is true, how can violent acts be suppressed?" But Kamakura had no new answer for the growing problem of uneven administration, opting to and once again order its men to follow procedure.³⁵⁹

Contempt of court was just one issue that continued to plague the bakufu. Without additional legal records, it is difficult to say what other problems persisted. Whatever they may have been, bakufu leaders deemed them serious enough to redouble their efforts to control the men under their administration. The List of Precedents on Judgment was the culmination of this recalculation, establishing the principles of Kamakura law and justice and creating an effective standard for its housemen across the country.

³⁵⁷ Tsuika-hō 33 (1231).

³⁵⁸ Tsuika-hō 18 (1226).

³⁵⁹ Tsuika-hō 30 (1231).

A New Standard

The List of Precedents on Judgment resists easy categorization. It seems to present a very conservative agenda: to synthesize the basic principles by which Kamakura courts would operate, based on precedent and “reason” (*dōri*), thereby establishing legal standards for Kamakura’s warriors as amendments to existing classical law and cementing Kamakura’s place within the legal order of the united state. But despite its conservative goals, the document was quietly revolutionary in its methods. For the first time, it collected basic warrior legal principles into one text, bringing the core rules of warrior law into clear, accessible focus. In addition to its countrywide distribution, the use of the vernacular marked it as the first major legal text that was specifically intended to be read by a non-specialist audience. In short, its standardization and systematization of inconsistent jurisprudence constituted a substantial achievement in the development of the rule of law in warrior society, and it laid crucial legal groundwork for the eventual expansion of warrior authority.

This choice was pragmatic, but also self-interested and profoundly forward-looking. The administrative consolidation of the List of Precedents was a practical and effective way for Kamakura leaders to protect and enhance their power: by improving its judicature, Kamakura created a more capable administration and a more durable legitimacy. Improved efficiency and a perception of fairness in judgments in turn strengthened Kamakura’s ties to its housemen while addressing many of the persistent problems exacerbated by the Kangi Famine. Kamakura was able to make these gains without alienating other power holders or invoking its military capacities by continuing its strategy of pragmatic policies, designed with the benefit of decades of experience. Yasutoki and his legal team knew what problems there were, what sort of solutions worked best, and what areas could further Kamakura’s authority, and they relied on this experience in choosing to pursue and package the Precedents as a conservative legal reform.

Yasutoki explained these reforms in correspondence with his younger brother Hōjō Shigetoki (1198-1261) in the month following their promulgation. Shigetoki served as one of two Rokuhara *tandai*, the top Kamakura officials in Kyoto. It is impossible to know the exact motivations and intentions of Yasutoki’s letters, but given Shigetoki’s prominent position, it is reasonable to surmise that these texts were written for multiple audiences: the bakufu’s managers and leaders, Kamakura’s rank-and-file members, and aristocratic society in Kyoto.

First, these were instructions to a fellow leader and ally. Shigetoki had already served as *tandai* for two years, and would continue in this capacity for another fifteen, as was common for Hōjō men before assuming a higher leadership role. Shigetoki waited until 1247, when he was promoted to *rensho*, the regent’s co-signer. Yasutoki wrote to Shigetoki to enlist him as the face of the reforms in the capital and western provinces: it would be through Shigetoki that Yasutoki would offer his initial defense of his legislation. That defense was partly about educating Shigetoki on the reforms and their impact.

Second, these were orders to a regional manager of Kamakura’s housemen. In his capacity as Rokuhara *tandai*, Shigetoki was tasked to extend Yasutoki’s words to further audiences. As *tandai*, he was the regional head of all housemen in the central and western provinces, acting as Kamakura’s representative and empowered with broad authority. For instance, Rokuhara acted as a circuit court for Kamakura, issuing judgments on disputes from the central and western provinces, and had Kamakura’s full authority to enforce law and discipline

housemen.³⁶⁰ Yasutoki ordered Shigetoki to see that the List of Precedents was “publicly announced to the Kantō housemen, military governors, and jitō,” “copied and distributed” to each,” and that these housemen “bear this command in mind.”³⁶¹ Shigetoki was responsible for conveying the principles outlined in the List of Precedents to the housemen of his jurisdiction.

Third, these documents outline an explanation for rival power-holders. Representing Kamakura to the imperial court, aristocracy, and influential religious institutions in and around the capital was the other major responsibility of the Rokuhara *tandai*. In his letters, Yasutoki suggests that the likelihood of criticism from these spheres was high, and commands Shigetoki to answer questions and to alleviate concerns. Put differently, Shigetoki was to manage public perceptions of the new legislation in the capital.

In his first letter to Shigetoki, Yasutoki focused mainly on the benefits of judicial standardization. Specifically, he lamented the absence of fairness in justice, observing that in deciding lawsuits, the claims of “the strong are realized while those of the weak go ignored.”³⁶² That is, verdicts were determined not on the merits of evidence, but on the litigants’ social status and political influence. Yasutoki explained that the List of Precedents was drafted specifically to provide a new metric for judgment and end this reliance on social position. As middle managers on estate and public lands and the frequent subject of lawsuits, this provision was tailored to the needs of housemen.

Yasutoki’s letter identified a major shortcoming of the existing legal practice. Kamakura officials were not directly accountable to their estate or provincial government superiors; only Kamakura held the legal authority to appoint and discipline its officials. Consequently, petitions to Kamakura were the only legal avenue to compel Kamakura officials to desist unlawful or undesirable behavior. However, as Kamakura courts had no authority over most plaintiffs, typically aristocrats and religious institutions, those in competition with Kamakura officials were incentivized to bring as many complaints as they could in the hope of a single victory. As we have seen, this propensity remained a problem for Kamakura through its first few decades, and was finally addressed in 1235.³⁶³

But even legitimate lawsuits in an otherwise impartial court carried substantial risks for Kamakura housemen. Classical law was written for and by legal specialists, and was difficult for rank-and-file warriors and most others to understand. When housemen were accused of misdeeds and taken to trial at an imperial government court, they floundered “as one wandering into a mountain with deer pits,” falling into legal traps they could neither anticipate nor understand. Under these conditions, warrior defendants could seldom hope for success, and the likelihood of failure further empowered those who sought to file frivolous suits to extract concessions. Yasutoki claimed that this disadvantage had contributed to Yoritomo’s decision to issue “no judgments based on [classical] law,” instead relying on customary law and precedent.³⁶⁴

³⁶⁰ Rokuhara did not necessarily try *all* disputes from these regions, but bore much of the burden, reducing the caseload for Kamakura, though appeals still went to Kamakura. However, Rokuhara regularly consulted Kamakura on difficult cases, often asking for guidance on difficult cases. Kamakura’s response to these questions often became supplemental laws.

³⁶¹ *Hōjō Yasutoki shōsoku*, in *Chūsei hōsei shiryōshū* vol. 1, 15th ed., ed. Satō Shin’ichi, Ikeuchi Yoshisuke, and Maki Kenji, ed. (Tokyo: Iwanami Shoten, 2001).

³⁶² *Hōjō Yasutoki shōsoku*.

³⁶³ Tsuika-hō 87 (1235).

³⁶⁴ *Hōjō Yasutoki shōsoku*.

Yasutoki argued that the List of Precedents took these measures a step further, making clear what principles and precedents guided Kamakura's judgments. An explicit rubric for the standards of judgment would be a major victory for warrior litigants: if there were a standard for official conduct, and it was well known by them, they could better abide by its terms and avoid the pitfalls of an arcane court.

The benefits of the Precedents did not stop at Kamakura housemen. Yasutoki explained that they were drafted so that “followers devote their loyalty to their masters, children have filial devotion for their parents, and wives obey their husbands, then those with crooked hearts will be rejected and the upright will be rewarded, and the people naturally will be at peace.”³⁶⁵ Put differently, with a set of standards outlining proper behavior, the whole of society would improve. But alongside this grand social vision, Yasutoki was careful to reassure those who might fear such a legislative shift and an increasingly assertive Kamakura: “Although I am apprehensive and embarrassed that there will surely be those around the capital who will scorn this, scoffing that it was compiled by an ignorant country bumpkin, it shall be implemented if [such principles] are not established in advance, [judgment] will depend on [the strength or weakness of] the parties.”³⁶⁶ The List of Precedents would simply make clear the standards for judgment so that all litigants would understand the rules of the game before they played. Should new rules become necessary, supplemental articles would be issued. These additions were the supplemental laws, updating and clarifying the more general principles of the List of Precedents.

In closing, Yasutoki provided the mechanism to ensure that the Precedents would go beyond Kamakura's prior legal efforts. To ensure that Kamakura housemen would be familiar with the new guiding principles of Kamakura courts, he ordered Shigetoki to ensure that their promulgation be publicly announced to all Kamakura officials and housemen, and that Rokuhara provide copies of the text for them to study.

Only one month and three days later, Yasutoki wrote to Shigetoki again. In his second message, Yasutoki tailored his remarks more specifically to Kyoto's critics. Yasutoki asked his brother “to be knowledgeable of these principles” and to answer the questions of those skeptical of the List of Precedents.³⁶⁷ He then explained how the Precedents related to existing law and why their addition was necessary. Yasutoki anticipated that “There will surely be those [in the capital] who will criticize the making of this List of Precedents and ask what legal principles serve as its foundation,” and concedes that “In truth, it does not rely on any original text.”³⁶⁸ The Precedents were not based on classical law, or on the amendments and customs adopted in the courts operated by aristocrats and religious institutions. Instead, the Precedents had been written “only in keeping with reason.”³⁶⁹ Critically, this was not meant as a rival or separate set of laws; the Precedents were “only for the judgment of warriors (*buke*)” and “would not in any way alter the authority of Kyoto's courts or the rules of classical law.”³⁷⁰ Yasutoki held that while “the teachings of [classical] law are certainly to be exalted,” “it would be rare to find even one or two in hundreds and thousands” who could apply it to the customs of warriors and the ways of the

³⁶⁵ *Hōjō Yasutoki shōsoku.*

³⁶⁶ *Hōjō Yasutoki shōsoku.*

³⁶⁷ *Hōjō Yasutoki shōsoku.*

³⁶⁸ *Hōjō Yasutoki shōsoku.*

³⁶⁹ *Hōjō Yasutoki shōsoku.*

³⁷⁰ *Hōjō Yasutoki shōsoku.*

common people.³⁷¹ The Precedents, therefore, served as amendments to classical law, introducing rules specifically covering matters not subject to formal legal statutes in a way that everyone could understand.

Direct access to the law would also bring accountability to judgments. As things were, judges often “ignore the right and wrong of the matter and proceed based on the strength and weakness of those involved, or forget prior decisions and rule [on the same matters] again.” Other times, judges consult imperial court officials, but these experts were unreliable and “inconsistently cite texts on the severity [of punishment], and so legal opinions are not uniform.” Verdicts thus depended on the character of judges and the legal experts, leaving them inconsistent and vulnerable to corruption—a situation “troublesome for everyone.” Not only would the List of Precedents grant access to those previously excluded from legal society, but it would ensure that all judgments would be made according to the same basic principles. The Precedents would create a reliable, impartial rule of law that would inspire confidence in government authority and serve the people themselves.³⁷²

The List of Precedents itself is short, containing only fifty-one articles and a concluding oath signed by the members of Kamakura’s High Council (*hyōjōshū*). It was compiled by a committee drawn from legal experts in Kamakura’s administration, working at Yasutoki’s direction. The three chief drafters, the monk Jōen (1197-1239) and the brothers Miyoshi Yasutsura (1193-1256) and Miyoshi Tomoshige (1190-1244), all served on the High Council.³⁷³ *Azuma kagami* records that Yasutoki began these efforts in the fifth month of 1232:

It was recently arranged informally that Bushū [Yasutoki], having devoted himself to governance, would attempt to draw up *Goseibai shikijō*; he had it begun today. He consulted third-level manager of the Bureau of Monks and Foreigners [Miyoshi] Yasutsura throughout, and Dharma Bridge Enzen recorded it. As there are not yet many set principles for suits by people of the Kantō [i.e. Kamakura housemen], at times, judgments have been made both ways without consistency. For this reason, they will set these principles to eliminate the causes of frivolous lawsuits.³⁷⁴

Under Yasutoki’s guidance, the committee organized a working standard for warrior common law, highlighting important precedents and outlining the principles that should guide judicial decisions. The final product was a first several times over: it represented the first comprehensive review of the common law that had developed in warrior society; the first written and distributed standards for Kamakura housemen; and the first addition to classical law to incorporate the new class of Kamakura military officials.

The List of Precedents covers many topics, though in a sequence that confounds modern analysis. There is no discernable method to the order, as there is frequently no clear connection from one article to the next. This disjuncture is compounded by a number of articles combining topics that have no discernable relation within them. Historian Satō Shin’ichi argues that the surviving list of fifty-one articles is the product of additions and consolidations in the decade following its promulgation. He suggests that the first thirty-five were originally fifty-one, but by

³⁷¹ *Hōjō Yasutoki shōsoku*.

³⁷² *Hōjō Yasutoki shōsoku*.

³⁷³ Jōen’s lay name was Saitō Nagasada; Miyoshi Yasutsura was also known as Ōta Yasutsura.

³⁷⁴ *Azuma kagami*, 5/14/1232.

1243 had been combined to make room for amendments while maintaining the total number.³⁷⁵ While this speculation is interesting, we simply do not know what the text originally looked like, nor why the compilers chose this format. There is certainly a legal logic to the document, which was the product of expert legal specialists, approved by the drafting committee, the regent, and the High Council; it was not merely thrown together. Further, this style of writing continued well into the early modern period. Still, its underlying pattern, if any exists, eludes this modern observer. In order to focus on the content and connections between items on the List of Precedents, I roughly divide the articles into four main thematic categories: authority, crime and punishment, judicial procedure, and land rights.

Regardless of how we consider its structure, the stated purpose of the List of Precedents was to guide judgment, not to exhaustively outline an entire system. It was after all only a short list, not a comprehensive legal code. Many provisions are vague, and they often leave substantial leeway for judicial discretion, a practice that was very much in keeping with a broader Japanese legal tradition: systemic juridical texts are entirely absent since the introduction of classical law codes in the eighth century until the modern Meiji Constitution in the nineteenth. Kamakura's eschewing an attempt at systematizing may have been motivated by a shared identity with the united state, but was more likely the product of practical politics. By framing the List of Precedents as non-systematic and as an amendment to classical law, Kamakura was able to visibly preserve the existing legal structures and authority of other power-holders while quietly making groundbreaking reforms.

Kamakura's patronage of and respect for religious institutions took pride of place in the List of Precedents. Articles One and Two articulated Kamakura's commitment to the continued material support and funding of temples and shrines to ensure the continued performance of important rites and rituals and the physical upkeep of the institutions themselves, while affirming the administration's spiritual support as well. The first line of Article One reflected this symbiotic relationship: "The majesty of the gods increases through the reverence of men; the fortunes of men are fulfilled by the virtue of the gods."³⁷⁶ Kamakura would continue to support religious institutions, and religious institutions would continue to offer their spiritual expertise and lend further legitimacy to the Kamakura regime.

That Kamakura supported religious institutions is notable, but in very much in line with Kamakura's established practice of seeking to ally itself with temples and shrines in the Kantō as well as with the more powerful institutions across the country. When Yoritomo chose Kamakura to be his base of operations in 1180, one of his first actions was to worship at Tsurugaoka Hachiman shrine, which he subsequently relocated next to his residence at the heart of the town.³⁷⁷ And even before he had been redeemed from his rebel status by the imperial court, Yoritomo sought to establish himself as a patron and protector of the Ise Shrine. This relationship with religious institutions continued after Yoritomo's death as Kamakura routinely provided offerings to temples and shrines and upheld the rights of religious institutions in court cases and supplemental laws. Even the form used in the Precedents' declaration of support drew from a prior example, as the first two articles of the List of Precedents closely followed the first

³⁷⁵ Satō, Shin'ichi. *Nihon no chūsei kokka*, 112-113. The number fifty-one was considered significant as a representation of seventeen, in honor of Prince Shōtoku's Seventeen-Article Constitution, three times.

³⁷⁶ *Goseibai shikimoku*, in *Chūsei hōsei shiryōshū* vol. 1, 15th ed., ed. Satō Shin'ichi, Ikeuchi Yoshisuke, and Maki Kenji, ed. (Tokyo: Iwanami Shoten, 2001).

³⁷⁷ *Azuma kagami*, 10/7/1180.

two articles of the *Kangi shinsei*, the New Imperial Laws of Kangi, which were issued by the imperial court the year before.³⁷⁸ Many other roughly contemporaneous documents also began with a testament of support for the gods, which was to some extent pro forma.³⁷⁹

Kamakura's respect for other authorities went far beyond lip service. Indeed, as seen in Yasutoki's letters to Shigetoki, the Kamakura regent was at pains to underline that the List of Precedents would not alter or replace existing law, but bring the realities of warriors within it as a necessary update. Its guidelines would act *only* to inform the judgment of Kamakura housemen. Article Six made this non-interference explicit: "there will be no Kantō interference in the judgments of provincial governors and [estate guarantors.]" Not only would Kamakura respect the jurisdiction of courts under other authorities, but it pledged not to intervene at all "on public, estate, shrine, and temple lands, where guarantors have control and exercise authority."³⁸⁰ This significant limitation on Kamakura authority was adopted voluntarily. The bakufu leadership saw no need to extend its judicial authority beyond the scope of its housemen, and instead preferred to reassure the other agencies of the imperial government, aristocracy, and religious institutions that Kamakura would continue to work cooperatively and to respect traditional rights.

This jurisdictional delineation was meant to be definitive. Article Six prohibited Kamakura courts from accepting any cases from other jurisdictions, "even if [officials] petition" for intervention. Even for cases that cleared this bar and fell in Kamakura's jurisdiction, Kamakura would not accept any without the written permission of the top authority of the landholding in question. Though this article confirmed that aristocrats, religious institutions, and provincial government officials held no direct authority over Kamakura officials, their existing powers were not only untouched by Kamakura courts, but actively enhanced: they now had legal basis to contest any interventions within their jurisdictions.

As Kamakura delineated its jurisdiction, it set clear limits for the powers of its officials and their subordinates. The rights and powers of Kamakura officials had been the frequent subjects of disputes, as officials overstepped the bounds of their appointments in pursuit of personal gain. Prohibitions of and punishments for these transgressions are among the oldest extant documents to have come from Kamakura. Such offenses continued to feature prominently among lawsuits and supplemental laws up to (and beyond) the promulgation of the List of Precedents. But the Precedents provided an invaluable first step in creating a universal standard for the legal authority of its representatives, that was written clearly and available publicly. It went on to form the background, if not the basis, for all future suits against Kamakura officials.

Article Three revisited the authority of military governors. The article confirmed that since their first appointments under Yoritomo, military governors were confined to three major responsibilities, the so-called "three regulations for great crimes" (*taibon sankajō*): the recruitment of capital guards, the suppression of rebellion, and the capture and punishment of murderers. But, the article acknowledged, abuse of authority was common: "in recent years, deputies have been appointed to districts (*gun*) and villages (*gō*), who impose [illegal] taxes on estates and public lands. Though not military governors, they hinder the administration of the province; though not jitō, they covet the profits of the land." Similarly, there were rumors that

³⁷⁸ *Dai Nihon shiryō*, part 5 vol. 7, 69-70.

³⁷⁹ Consultation with Joan Piggott, USC Kambun Workshop, Summer 2017.

³⁸⁰ *Goseibai shikimoku*.

estate officials “assume the mantle of houseman and oppose the orders of provincial governors and proprietors.” The article found that “the plotting of such deeds is extremely unreasonable.” Citing the precedents of Yoritomo’s rule, the article prohibited military governors from interfering in any matters beyond their original three duties. It further imposed strict restrictions on the appointment of deputies. First, military governors were limited to one deputy. Second, military governors were forbidden to appoint anyone misrepresenting themselves or illegally disobeying provincial or estate officials. And third, the pool for deputies was limited not only to Kamakura housemen, but housemen with current holdings from Kamakura.³⁸¹ These brought accountability to military governors’ behavior; any governor or deputy found in violation would have their appointment and holdings revoked.

Though Article Three drew a specific line for the limits of military gubernatorial behavior, the substance of authority was of less importance than the drawing of a clear line itself. As the article acknowledged, the three responsibilities were not new. Nor was this standard monolithic; at some point—it is unclear when—the List of Precedents was modified and an addendum inserted, adding “night attacks, robbery, banditry, and piracy” to military governors’ jurisdiction.³⁸² Given the uncertainty of the timing, what might have prompted this action remains impossible to know, but it bears noting that it *was* amended, rather than replaced or forgotten, as many judicial decisions and supplemental laws had been before. The List of Precedents continued to act as the legal standard for regulating Kamakura officials’ behavior; even as their jurisdiction expanded, the Precedents continued to offer a clear line for the limits of their authority and the basis to legally challenge actions beyond that.

The List of Precedents was thus flexible in fulfilling the needs of Kamakura justice. This flexibility took the form of later additions, whether the narrow insertion of provisions as in Article Three or the wholesale addition and omission of articles: Article Three articulated the powers and limits of military governors, but the equivalent article for jitō was conspicuously absent. Legal historian Kasamatsu Hiroshi suggests that the standards established by the first Supplemental Laws in the aftermath of the Jōkyū Disturbance and revisited in numerous court cases were successful in establishing a universal standard for the rights and limits of new jitō, such that further legislation was unnecessary.³⁸³ This exclusion, likely based on the assumption of broad knowledge of the rules for jitō, reinforces the interpretation that the List of Precedents was not a systematic code—it did not include all statutes relevant to Kamakura law—but was rather a guide to jurisprudence, aiming to improve the process of justice while continuing to build on the growing tradition of warrior common law. Indeed, research by Satō Shin’ichi suggests that the List of Precedents was amended somewhat substantially at least once, as the original fifty-one articles were consolidated to make room for new additions.³⁸⁴

Although the compilers of the Precedents could rely on familiarity with regulations on new jitō income rights, for example, other aspects of jitō authority were the subject of standardization. Article Five, for example, forbade jitō from withholding tax payments from estates: all embezzled funds would be repaid, and more serious offenders would have their holdings confiscated. Article Forty-Six stipulated the procedure for transition of Kamakura

³⁸¹ *Goseibai shikimoku*.

³⁸² *Goseibai shikimoku*.

³⁸³ Kasamatsu Hiroshi, *Nihon chūsei hōshiron* (Tokyo: Tokyo Daigaku Shuppankai, 1983), 32.

³⁸⁴ Satō Shin’ichi, “Goseibai shikimoku no genkei ni tsuite,” in *Nihon chūseiishi ronshū*, ed. Satō Shin’ichi (Tokyo: Iwanami Shoten, 1990).

officials: the incoming official was confirmed in holding full authority of his new jurisdiction—specifically the collection of taxes and levies—but was prohibited from interfering with the personal property or staff of the outgoing official. Article Thirty-Eight meanwhile took aim at supervisory *jitō*, a distinction made for *jitō*, primarily in Kyushu, who were tasked with the oversight of holdings that had other *jitō* appointed within them. Supervisory *jitō*, like their non-supervisory brethren, were evidently prone to aggrandizing their jurisdictions, claiming lands beyond their assignment as under their administration and taking them illegally and often with the threat if not the fact of force. Article Thirty-Eight specifically forbade this practice, instead providing for an alternative avenue for the payment of taxes, thereby allowing the local headman to bypass the *jitō* entirely.³⁸⁵ The specificity of these articles further suggests that the body of common law known to the (court-going) public was substantial; without the underlying basis of *jitō* rights—their income and powers—such detailed legislation would be out of place.

The demarcation of authority confirmed the rights not only of other powerful institutions—provincial officials and estate guarantors—but also, to some extent, of the common people. Article Forty-Two prohibited Kamakura officials from extorting or otherwise harassing cultivators who sought to move. “When the residents of the provinces relocate,” the *jitō* “interns the [cultivator’s] wife and children and seizes his property” on the basis of “claiming this to be flight.” If cultivators left while in arrears, i.e. behind on their taxes or without paying a fine for criminal activity, the local authorities had legal right to property left behind. However, if cultivators were in good standing, they had the legal right to relocate and the authorities could make no claims to their goods or persons. Kamakura judged the infringement of this right to be “against benevolent government.”³⁸⁶ Kamakura leadership, through the List of Precedents, sought not only to assure its partners in government that their rights (and those of their subordinates) would be protected, but that Kamakura would work to uphold the existing laws and practices across social groups.

Naturally, the social group that most interested Kamakura leadership was its housemen, and the List of Precedents devotes several articles to reaffirming and delineating its authority over them. Articles Thirty-Seven and Thirty-Nine regulated housemen’s interactions with other authorities: estate proprietors and the imperial court. The former article established punishment for housemen who entertained the “excessive wishes” of top estate positions outside of the Kamakura organization. The practice of appealing to estate proprietors for these positions had been prohibited and eliminated under Yoritomo, the article claimed, and those now reviving it would be punished with the confiscation of a landholding. Similarly, the latter article issued regulations for housemen desiring appointments and ranks in the imperial bureaucracy: Kamakura would no longer provide recommendations for promotion, regardless of the status of the applicant. Applications for custodial provincial governors (*zuryō*) and the imperial police would be allowed to continue, but Kamakura’s permission would be required and no recommendations given. However, Kamakura left notable exceptions, recognizing the solicitation of donations in exchange for appointments as beyond its jurisdiction and excepting those who were newly given rank or who continued to “bathe in imperial favor” from these restrictions.³⁸⁷

³⁸⁵ *Goseibai shikimoku*.

³⁸⁶ *Goseibai shikimoku*.

³⁸⁷ *Goseibai shikimoku*.

Competition for position and rank were such a perceived threat to Kamakura's preservation of order that even the religious community was regulated. Kamakura by and large continued to respect the authority of religious institutions as promised in Articles One and Two, but privileged stability and its own authority over this respect when it came to its own backyard. Article Forty required that any monks in Kamakura must receive official permission to accept promotion from the imperial court. The compilers explained that "arbitrary and selfish appeals" to the imperial court swell the ranks of the Buddhist officials and squander the resources of the institutions, preventing them from carrying out their duties (as described in Articles One and Two). This competition for rank "opposes Buddhist principles" and led to unjust results as "Elders with wisdom are passed over by young men without ability." In regulating the promotions of these monks, the List of Precedents extended its concept of fairness in justice, as well as its social control, to the clergy. Those who accepted promotions without Kamakura's permission would have all rights granted by Kamakura terminated, regardless of their religious affiliations or personal connections to the leadership. Zen monks, however, were given leniency, with a "gentle admonition" in place of complete attainder, perhaps due to their closer relationship to Kamakura and relative distance from the traditional religious power centers in and near the capital.³⁸⁸

Another set of articles enumerated the most serious crimes, offered guidelines for their punishments, and established the extent of culpability. The list of offenses was not exhaustive; this was not a code detailing every conceivable crime. Rather, as with other the categories of the List of Precedents, it should be understood as a guideline for jurists and litigants outlining the standards of Kamakura courts, and as a reflection of the priorities of Yasutoki and the legal experts who compiled the text. The authors likely highlighted these offenses and not others because they posed the biggest perceived risks to Kamakura—threatening public order and stability, clogging Kamakura's courts, or creating confusion—all of which diminished Kamakura's ability to pursue its main functions of keeping the peace, managing its housemen, and maintaining its legitimacy. Establishing guidelines for crimes, punishment, and culpability created a standard for accountability, potentially functioned as a deterrent, and streamlined the legal process by eliminating confusion.

The types of crimes selected by the compilers reveal Kamakura leadership's gravest concerns, which can be roughly divided into three sub-categories: violence, fomenting violence, and fraud. Acts of violence directly challenged the public order Kamakura sought to preserve. As a result, the List of Precedents clearly prohibited them, from simple battery to armed robbery, murder, and treason. These crimes were straightforward; the compilers did not provide a justification for their inclusion. Instead, the Precedents paid more attention to crimes that had the potential to engender violence. For example, battery, the subject of Article Thirteen, was considered a serious crime as "the person who was struck will reveal evil intentions to cleanse his shame." In other words, any attack, even a drunken brawl, could lead to a cycle of potentially escalating violence—a scenario that Kamakura hoped to avoid above all else. Similarly, abusive language was regulated for its capacity to provoke. Article Twelve ruled that "The origins of fights and killings arise from abusive language," which would be treated as a crime. Adultery, too, was cause for concern as motivation for violence, "regardless of whether it was rape or consensual," as confirmed in Article Thirty-Four. And even excessive martial spirit could cross

³⁸⁸ *Goseibai shikimoku.*

the line into crime: Article Fifty criminalized recklessly rushing to the scene of violence.³⁸⁹ The latent potential to engender or to exacerbate violence was in many cases a graver offense than the act itself. With these articles, Kamakura leadership sought to prevent further disorder before it began.

Attacks on the legitimacy of the legal system could be just as damaging to Kamakura; the legal system was the fulcrum in its balancing act between its obligations to its housemen and its public responsibility to keep the peace. But Kamakura could only achieve these goals with a functioning judicial system that kept the trust of housemen and the litigating public. Integral to earning and maintaining this trust were standards, (perceived) fairness, and speed. The List of Precedents provided the first major written standard for warrior law, and outlined principles that were to ensure the proper administration of courts, i.e. that cases would be heard fairly and that fewer cases would need to be heard at all. Actions that hindered these goals were consequently considered grave offenses.

Fraud was chief among these crimes. Documents were at the heart of the Kamakura legal system: written evidence was the primary determination in suits; it was only when reliable texts were not available that oaths and eyewitness testimony were relied upon, and even then, they were presented in written form. Given this preference for and dependence on the written word, it is unsurprising that forgery constituted a major crime for which warriors would lose their holdings, landless warriors would be sentenced to distant exile, and commoners, including professional legal scribes, would be branded on the face. Accusations of forgery could be just as damaging as the real thing, undermining faith in the courts. As such they were to be treated very seriously: each charge would be investigated, and if the allegations were correct, punishments would be meted out as above; but if the allegations were false, the accuser would be subject to substantial fines (put toward the maintenance and repair of shrines and temples) or exile.

The weight Kamakura gave to concerns about fraud was demonstrated most clearly in Article Thirty-Six. It observed that there are those who “either exceed old boundaries and obstruct them with newly devised schemes, or disregard the practices of recent years and offer some old document to make their case” for control over neighboring lands. “Because they suffer no loss even when they lose a case, such nefarious people are prone to plotting such trumped-up suits. This is no small trouble for the courts.”³⁹⁰ For Kamakura courts, keeping up with incoming cases had proved a constant challenge. Especially since the expansion of Kamakura jurisdiction in the aftermath of Jōkyū, Kamakura courts saw their caseloads expand drastically, and sorting through even the earnest cases was proving difficult for the overtaxed judiciary. Indeed, this was a main motivation in drafting the List of Precedents: the Precedents streamlined the judicial process and precluded the need for many cases to go to trial at all.

But the added burden, and danger, of a significant number of fraudulent cases was sufficient to spur further regulations. Faced with ambitious litigants filing frivolous suits without consequence, Kamakura established a cost for doing so: if the court found the accusation unjust, an amount equal to that claimed would be confiscated from the plaintiff and awarded to the defendant. In addition to this deterrent, the article stipulated a process for investigation, standardizing procedure and minimizing interference in the judicial process. Kamakura would now dispatch its own investigators in border disputes as a matter of course.

³⁸⁹ *Goseibai shikimoku.*

³⁹⁰ *Goseibai shikimoku.*

Other misrepresentations came in for similar treatment, especially those that could potentially lead to violence. Land rights were central to many disputes as they were the lifeblood of Kamakura housemen. As such, many were willing to go to extreme lengths to defend or to expand their rights. Some housemen sought to do so by guile, submitting petitions to Kamakura to confirm their rights to landholdings to which they had no claim. Article Forty-Three established that any confirmations granted under such false pretenses would be rescinded and the perpetrator punished with confiscation or exile. Given the potential for abuse of the confirmation system, Kamakura would accept no applications for confirmation of lands, even those in one's possession, unless there was a substantive reason for the claim (inheritance, attainder from another holder, war, et cetera). Commendation of income rights came under similar scrutiny, as there were those who tried to transfer rights they did not possess. Article Forty-Seven strictly prohibited such maneuvers: commending parties would be exiled and recipients fined (with proceeds again put toward the religious fund).³⁹¹

Finally, fraud could act as the basis for outright violence between litigants. The final article, Fifty-One, condemned the “malicious fraud” of using writs granted by the court as a pretext for physically assaulting one's opponents.³⁹² Writs of inquiry were a standard part of judicial procedure, the first step in the pre-trial process following the acceptance of a petition. A writ would be issued by the court to inform the defendant of the suit and to order their response to the accusation. These writs did not necessarily recognize the validity of the accusations, but were merely the first step in adjudicating them. However, they were not delivered by the court, but were given to the plaintiff to present to the defendant.³⁹³ This practice created a tempting opportunity for abuse, as some plaintiffs misrepresented the writs as proof of victory in court and proceeded to enforce their claims at the point of a sword; some fabricated claims just to receive such a writ. According to the article, it was “impossible to escape blame” for making such a mockery of Kamakura justice.³⁹⁴ Taken together, these articles represent a reform of Kamakura justice that insulated it from fraud and ensured that only housemen with the proper paperwork and authorization could exercise the rights of their (claimed) appointments.

Punishments for the crimes outlined in the List of Precedents varied. The majority of crimes covered in the Precedents were quite serious; their gravity was the reason for their inclusion in the first place. Those violating Kamakura law were subject to fines, imprisonment, confiscations, and exile. For some crimes, there were specific punitive provisions. For example, adulterers—both the man and the woman—would have half of their holdings confiscated and any administrative positions terminated; if they had no holdings, they would be exiled. Some punishments were tied to social status. Kamakura housemen convicted of forgery would be punished with confiscation or exile; commoners would be branded on the face. Housemen who abducted women off of the roads would be suspended from their administrative positions; their followers would have one half of their heads shaved; Buddhist monks, already shaved, would receive other punishments. Other articles drew on the classical legal tradition, invoking unspecified “precedents for punishment,” as in the case of robbery, burglary, and arson. But still more left things entirely to the discretion of the judge. Rushing to the scene of violence, for example, could be mitigated or forgiven entirely depending on the “conditions at the time” as “it

³⁹¹ *Goseibai shikimoku*.

³⁹² *Goseibai shikimoku*.

³⁹³ Kasamatsu Hiroshi, *Hō to kotoba chūseishi* (Tokyo: Heibonsha, 1993), 175-176.

³⁹⁴ *Goseibai shikimoku*.

is impossible to establish a rule in advance.” Even for treason, the most serious offense, the compilers demurred, again explaining that “The substance of such a law is difficult to establish in advance;” judgment should instead “be carried out in accordance with precedent and the present circumstances.”³⁹⁵

With crimes defined and punishments identified, the Precedents next addressed whom should be punished along with the criminal. The extension of culpability and punishment was a longstanding legal concept in Japan, dating to the implementation of the *ritsuryō* codes: classical law drew a distinction between the extension of responsibility for a crime to a perpetrator’s family and the joint responsibility of a criminal’s accomplices. The List of Precedents built on this tradition while making some adjustments and accommodations. For the family, Article Eleven reaffirmed the classical precedent of spousal culpability for major crimes (treason and murder) and updated the list with “banditry, piracy, night attacks, and robbery.” However, intent mattered; if “an assault or murder was the result of a spontaneous quarrel,” guilt would not be extended. The List of Precedents recognized that spontaneous acts of violence could not be prevented entirely, as they were by definition crimes of passion. But they could be contained. Article Ten offered protections for the fathers of those who committed murder or assault: if the crime was “committed without premeditation, either in a spontaneous dispute or as the result of drunken transgressions at a banquet... culpability shall not extend to his father, as long as the father did not cooperate in the act.” Even for premeditated crimes, fathers could avoid punishment as long as they were unaware of the plots; these protections sought to shield individuals not involved and discourage escalation of violence, just as other articles sought to prevent behavior that bred such situations. But for those who were even tangentially involved, punishment would be extended. For example, murders committed in service of a family vendetta were automatic grounds for extension to fathers and grandfathers “even if they were not privy to the act.” In killing “the enemy of his father or grandfather,” the motivation for the crime was “the gratification of the father or grandfather’s anger” and “the sudden execution of a longstanding desire.”³⁹⁶

Though the guidelines of the List of Precedents (mostly) applied only to Kamakura housemen and their families, it also provided guidelines for the administration of justice *by* its housemen officials. Of note here is the position on extension of guilt to the families of commoner criminals. Article Four protected the rights and property of commoners, and limited the jurisdiction and powers of Kamakura officials. When a major crime was committed, a military governor had the authority to investigate, after which he was to report to Kamakura, whereupon, if necessary, a trial would be held. Though the military governor had the right to confiscate a certain portion of a criminal’s property, he could not do so without following the proper procedure. Furthermore, the family of the criminal was protected, at least from Kamakura officials: they were prohibited from apprehending criminals’ wives and children, even in the case of a major crime. Similarly, the property of the criminal—his fields, house, and tools—were not to be touched by Kamakura officials until further orders were given. Finally, the article insulated other commoners from extended guilt; even if they were named in a written confession, if there was no physical evidence of their involvement in the crime (specifically, if they did not have the stolen property in question), they were not under Kamakura’s jurisdiction.³⁹⁷ This article echoed

³⁹⁵ *Goseibai shikimoku.*

³⁹⁶ *Goseibai shikimoku.*

³⁹⁷ *Goseibai shikimoku.*

Supplemental Law Twenty-One from the year before, which had itself cited classical law prohibiting the extension of punishment for theft to uninvolved family members.³⁹⁸

Kamakura pursued a similar line of thinking with regard to punishing its own members and their subordinates. These sub-followers, the retainers of Kamakura housemen, often posed problems for Kamakura, as they abused the authority of their master's appointment from Kamakura to aggrandize their own positions. As discussed above, Article Three set strict rules on the number and necessary qualifications for deputy military governors in response to these repeated problems. Article Fourteen went further, establishing the principle of a master's accountability for his deputies. If, when a deputy committed a crime, the master arrested him and submitted him for trial, he would not be held liable. However, if the master "report[ed] that the deputy is innocent in order to aid him" and it was discovered that there had been a crime committed, the master would have all his holdings confiscated while the deputy would be imprisoned. If a deputy did not respond to summons to a trial or to conscription orders, or violated the law of apportionment (i.e. claimed more land than allowed), the master would again be held liable, and be made to surrender all his holdings: "The master shall be held responsible even though these were the actions of his deputy."³⁹⁹ Kamakura relied on this joint responsibility in order to compel its housemen to police their own deputies, judging the increasing incidents of abuse and corruption among its own men to be worthy of formal consideration.

When charges were filed against a Kamakura housemen or his subordinates, a fact-finding process began to ascertain the truth of the allegations, which moved from initial writs of inquiry through an exchange of accusations and rebuttals and eventually to trial if necessary. To maintain impartiality in this process, the judiciary needed to be insulated from charges of favoritism and corruption, just as its growing burden of cases needed to be eased. A number of articles in the List of Precedents therefore sought to regulate, protect, and streamline the Kamakura courts. This judicial process allowed Kamakura to police its police while assuring housemen due process and effectively functioning as the showcase of the good governance that Yasutoki sought to develop.

The first step toward a trial was an accusation. In theory, anyone could file a petition with Kamakura against one of its officials, from aristocratic estate guarantors to a temple's estate manager, cultivators, and other Kamakura housemen.⁴⁰⁰ This open access, coupled with the limited jurisdiction of Kamakura—it could only punish its own housemen—created a flurry of frivolous lawsuits from civil authorities looking to press any advantage on the newly inserted Kamakura officials. These were stemmed over time, in large part due to Kamakura's changed relationship with the imperial court following the Jōkyū Disturbance. However, false charges within the community of Kamakura housemen continued. Article Twenty-Eight harkened back to the Chinese classics to condemn the crime: "It is recorded in the *Classics* that those who soften their faces and scheme with words, deceive their masters and injure others are guilty of a most serious crime. For the sake of the world and for the sake of men, this must be punished." If a plaintiff brought false charges in the hope of gaining another's holding, his own holdings would

³⁹⁸ Tsuika-hō 21 (1231).

³⁹⁹ *Goseibai shikimoku*.

⁴⁰⁰ In practice, social status had strong bearing on one's access to Kamakura courts. Cultivators on estates, for instance, typically needed written permission from the estate's guarantor or proprietor to initiate a suit.

be confiscated; if one fashioned falsehoods about another to obstruct his administrative career, the slanderer would be barred from official service.⁴⁰¹

Kamakura courts were further burdened by “duplicitous suits” (*ichiji ryōyō uttae*). These suits, prohibited in Article Twenty-Nine, involved the duplication of properly filed charges in order to increase the likelihood of a favorable ruling for the plaintiff: rather than waiting for the judge assigned to his case to rule, duplicitous plaintiffs pursued advantage by filing the same suit again with another judge. Not only did this add to the caseload of the courts, but it inevitably created “unintended contradictions” in judgments. How could the judicial system function properly if one case had two different verdicts? Such maneuvers were outlawed, and those found in violation of the order would have the judgment of their dispute suspended and the second judge prohibited from ruling on the case. That is, plaintiffs caught trying to game the system would be made to wait, a considerable punishment if their case truly had merit. However, the article established an important caveat: if judges were negligent and did not begin pre-trial procedure within twenty days, plaintiffs could make a direct appeal to the supreme court of Kamakura, the High Council. Obvious duplicity would be rooted out and punished, but earnest attempts to make the wheels of justice turn would be accommodated and rewarded.⁴⁰²

Once an accusation was made against a Kamakura official, it was imperative that Kamakura investigate the allegation carefully and thoroughly. Such diligence would not only help expose false charges but would also support the public perception, of both civilians and Kamakura’s housemen, that the court’s decisions were just. If instead there were “a judgment without proper investigation,” Article Forty-Five explained, “resentment will linger, whether in fact there was a crime or not.”⁴⁰³ When a housemen’s appointment and holdings were on the line, the maintenance of justice and its appearance were critical to Kamakura’s ability to sell this system of accountability and discipline to its constituents. Their commitment to bakufu rule was critical to its continued operation and success. In effect, Kamakura adopted provisions that gave housemen a reason to support the reforms. Though their powers and prerogatives would be limited as officials, they would be called to court less frequently. When they did go on trial, they could rest assured that Kamakura would handle their cases justly, according to the rules and procedures standardized for all housemen. This further incentive to support legal reform helped to reinforce the connection between Kamakura and its housemen, which improved Kamakura’s administration locally and greatly bolstered Kamakura’s position vis-à-vis other power-holders, an important assurance for those who lived through the Jōkyū Disturbance. In essence, Kamakura protected itself from all sides by making its administration of justice not only appear just, but structured to actually operate justly.

This standardization of justice also served to maintain the judicial system by helping to reduce caseloads. In the process of pre-trial investigation and back-and-forth between plaintiff and defendant, the strength of the case often became clear. Article Forty-Nine provided that if there were “a discrepancy in the merit of the various pieces of written evidence, there shall not be a trial, though a judgment should be made immediately.”⁴⁰⁴ This provision allowed for more summary judgments, offering decisions to litigants faster and lessening the caseload burden.

⁴⁰¹ *Goseibai shikimoku.*

⁴⁰² *Goseibai shikimoku.*

⁴⁰³ *Goseibai shikimoku.*

⁴⁰⁴ *Goseibai shikimoku.*

If, however, there was no such disparity in the strength of evidence, the process would continue toward a trial. The litigants would be summoned to appear before a judge either at Kamakura or a regional headquarters. Absenteeism, however, posed a substantial problem, as it brought proceedings to a standstill, exacerbating the existing strain on the courts and delaying, if not preventing, justice. To combat this problem, Article Thirty-Five formalized procedure, establishing not reporting to court after three summonses as a crime. A litigant—necessarily the defendant, as suits were only initiated by the plaintiff—who remained absent would forfeit the case. If the other party had “right on his side”—that is, if they presented any evidence in support of their claim—the court would automatically find in their favor and award them the property in dispute. Even if the other party had no evidence, the disputed property would still be confiscated and either, in the case of landholdings, be awarded to a deserving third party, or, in the case of personal servants, livestock, or miscellaneous goods, donated toward the maintenance of temples and shrines.⁴⁰⁵

When both parties appeared at court, trials could begin. But the next stage in the judicial process seemingly did little to discourage those who sought every advantage. Article Thirty targeted those who, before a judgment was rendered, made appeals to influential allies to tip the scales in their favor. In such cases, the prevailing party “rejoices at the strength of his powerful connection,” while the losing party “laments the influence” of the elite families and institutions. But more importantly, while the victor “repeatedly boasts of his powerful patron,” the vanquished “distrusts the fairness of judgments.” The compilers reasoned that “It is mainly in this way that government is polluted.”⁴⁰⁶ In short, bringing patronage into the courtroom corrupted Kamakura’s efforts to administer a fair judicial system. Not only did these interventions undercut the ability of the courts to provide fair decisions, they completely undermined the legitimacy of the courts in the eyes of the public, specifically the Kamakura housemen who stood to lose their main sources of income and status.

Kamakura took these perceptions very seriously. Yasutoki made plain in his letters to Shigetoki that a main objective for the List of Precedents was to establish a fair system for judgment, one that everyone could understand and rely upon. The perception of unfairness in the system undercut Yasutoki’s core goals, and indeed the very legitimacy of his administration, which was increasingly laid on a foundation of stability and justice. The List of Precedents included several articles designed to prevent the corruption, fraud, and bias that could so badly damage public perceptions. Charges of favoritism and unfairness more broadly, however, could do as much if not more damage to the reputation of Kamakura justice as any actual infraction. Article Thirty-One addressed such allegations: anyone levelling false charges of favoritism would be punished, by the confiscation of one-third of their holdings or exile. Again, punishments for challenging judicial procedure were complemented by regulating the judiciary itself. Not all claims of favoritism would be unfounded; if substantiated, implicated judges would be removed from service. Kamakura sought to protect its judiciary from both the perception and the reality of favoritism.⁴⁰⁷

Housemen relied on Kamakura courts to protect their land rights more than anything else. Given the frequency of these cases and the high stakes for its constituents, Kamakura naturally sought to regulate these rights, establishing clear standards and protections for its constituents.

⁴⁰⁵ *Goseibai shikimoku.*

⁴⁰⁶ *Goseibai shikimoku.*

⁴⁰⁷ *Goseibai shikimoku.*

The first step was to create clear bounds for litigation. Article Seven prohibited challenges of any land rights granted under the Minamoto shoguns and Hōjō Masako, from 1180 to 1225. Kamakura recognized that these landholdings “do not lack historical claims” (i.e. a history of prior ownership), as they were granted either for distinguished martial or administrative service and were typically drawn from recent confiscations. Although, if trials were allowed, it might be a “joyous relief” for plaintiffs who had lost their holdings erroneously to win them back, the possibility of these suits would render it “difficult for [their] comrades to have any sense of security” in their holdings. Thus, the original holders of these lands would not be allowed to sue for their return unless the current holder committed a crime. This hard boundary on litigation needed a complementary rule going forward. This was Article Eight, perhaps the most famous and long-lived of the Precedents. The article, known as the “Twenty-Year Law,” established a standard statute of limitations for all cases of land rights going forward. If one did not occupy a holding and exercise its rights in this period, possession of the holding could not be challenged “regardless of the merits of the case,” though an exception was made for those falsely claiming to have been in continuous possession. Even those who held written edicts of confirmation granting them legal title to the rights could not file suit if they let this period lapse.⁴⁰⁸

The compilers had good reason to include these provisions. The creation of these bounds—anything before 1225 or more than twenty years before the present—provided key benefits to the legal system. First, it limited the number of cases brought to court, ensuring that cases would be heard faster and given proper attention. Second, it offered security for Kamakura housemen and made plain the advantages for them in a legal system that was also used to discipline them. Finally, these provisions created a universal standard that was accessible to everyone. Indeed, the “Twenty-Year Law” was so successful that it not only outlasted the Kamakura administration and was adopted as the standard in Muromachi law, but became the norm in aristocratic and estate law as well, profoundly influencing the medieval conception of land rights overall.⁴⁰⁹

The use of such a statute of limitations was justified as “in accordance with the practices of the house of the Great General of the Right,” drawing legitimacy from a connection to Yoritomo himself.⁴¹⁰ Yet this practice was not unique or even new during Yoritomo’s reign; such rules arose on estates from the mid-Heian period onwards. However, there seems to have been no precedent for twenty years specifically. In imposing this new limit, the compilers refined existing practices within and without the warrior community and appended Yoritomo onto them to justify their inclusion.⁴¹¹

The Jōkyū Disturbance posed a challenge to these chronological restrictions. The event marked not only a drastic expansion in Kamakura’s administration and jurisdiction, but resulted in the largest number of landholding confiscations to that point in Japanese history. Kamakura housemen were among those who lost their land rights and positions as a result of siding with the capital over Kamakura. But in the midst of the conflict and its lingering consequences, there was a great deal of confusion as to individuals’ loyalties and the specific histories and rights of each

⁴⁰⁸ *Goseibai shikimoku*.

⁴⁰⁹ *Chūsei seiji shakai shisō* vol. 1, ed. Ishii Susumu, Ishimoda Shō, Kasamatsu Hiroshi, Katsumata Shizuo, and Satō Shini’ichi (Tokyo: Iwanami Shoten, 1970), 431.

⁴¹⁰ *Goseibai shikimoku*.

⁴¹¹ Murakami Kazuhiro, Nishimura Yasuhiro, Hatakeyama Ryō, and Kita Yasuhiro, *Shiryō de yomu nihon hōshi* (Kyoto: Hōritsu bunkasha, 2016), 50-51.

landholding. These problems were exacerbated by those looking to take advantage, for instance by concealing confiscated lands from Kamakura in attempts to add them to their own holdings. There were also outright mistakes: some housemen suffered confiscation even though they had not betrayed Kamakura, while others who had turned their swords escaped punishment. Article Sixteen dealt with the legacies of the conflict. First, it allowed for those who had erroneously had their holdings confiscated “on the basis of rumors heard that they had fought on the side of the capital,” to petition for their return. “If the evidence is clear that there was no truth to such rumors,” their holdings would be restored and the current holder (likely awarded the holding for service in Jōkyū) would be awarded another holding in its place. If the rumors were true, however, and the penalty had been just, Kamakura forbade any further action. There were “many” who sought the return of familial holdings on the “principle of hereditary possession,” but Kamakura was unmoved. The holdings were confiscated from traitors and awarded to those who fought *for* Kamakura; how could Kamakura now “disregard the present holders and investigate historical claims of long ago?” While this article offered narrow exceptions to these limitations, these exceptions operated only when the judicial system had acted improperly.⁴¹²

Other rumors alleged that there were those who had “by some chance escaped” punishment at the time. The cost of joining the imperial “rebellion” was high: rebels had their holdings confiscated and were executed. But over a decade later, the List of Precedents took a conciliatory tack: “as the time of conflict has already passed, this will be treated with leniency.” Formerly rebellious housemen would now forfeit only one-fifth of their holdings and would keep their heads (the article notes that Kamakura lacked the authority to discipline non-housemen).⁴¹³ Though treason transcended the statutes of limitations, Kamakura sought to minimize the potential disruption that might follow more draconian discipline after such a long delay.

With bounds for litigation established, the List of Precedents devoted another ten articles to the substance of common disputes: the transfer of landholdings. A majority of these focused on inheritance within a family. Four articles were dedicated to the specifics of managing testaments (*yuzurijō*). Testaments, or documents of transfer, were issued to one’s heirs effectively as a contract stating that they would inherit upon the issuer’s death. Under classical law, testaments were inviolable; they could not be amended or rescinded once granted. Kamakura law, however, allowed for greater flexibility. Article Eighteen established the right of parents to revoke documents of transfer to daughters. The bakufu presented this as the conclusion of reason and pragmatism: “Although men and women differ in name, they are the same in the obligation to their parents.” By allowing daughters to enjoy irrevocability, parents who granted transfers to their daughters disincentivized them fulfilling their filial commitments. Meanwhile, parents who withheld transfers from their daughters to maintain their flexibility created a distance between them and planted the seeds of disobedience. Instead, Kamakura established that parents could issue and rescind documents of transfer at will. Based on this principle, “daughters will strive to behave filially in order to preserve their inheritance,” and parents, reassured of their right to disinherit, “will balance their affections” between their sons and daughters and maintain family unity. The inheritance of sons was subject to the will of parents as well. Article Twenty-Six continued the logic of Eighteen, establishing the right of parents to revoke holdings granted to sons, even if these transfers had already been approved by Kamakura, confirming the principle that matters of inheritance “shall proceed in accordance with

⁴¹² *Goseibai shikimoku*.

⁴¹³ *Goseibai shikimoku*.

the will of the parents.” Any inheritance could be revoked at the parents’ discretion, and only the most recent documents of transfer had any legal legitimacy.⁴¹⁴

Although Kamakura enshrined substantial parental powers, it circumscribed these with a guaranteed minimum inheritance for sons. In Article Twenty-Two, Kamakura took up the defense of sons who served their parents and Kamakura faithfully, conjuring a scenario in which a son is recommended to Kamakura by his parents and serves with distinction, yet is disinherited through “the slander of a stepmother or as the result of deep love for an illegitimate child.” Having committed no fault, he is not disowned, merely passed over by his parents. Kamakura decried such treatment as “most unjust,” as it would bring these men “to ruin.” To safeguard the prospects of young housemen, Kamakura established a minimum proportion for bypassed sons: they would receive no less than one-fifth of the holdings going to the new heir. Although this stipulation could be seen in a humanitarian light, Kamakura made its practical motives clear: the guarantee was extended only to those who had performed service for Kamakura; those who had not or who were found to be unfilial were ineligible for this protection.⁴¹⁵

With the death of a rights-holder, usually a family patriarch, testaments would be executed and inheritances received if they had not been already. However, some household heads died intestate, having made no arrangements for inheritance. This was often the case for those who met an early end and had not yet made end-of-life considerations. Disease and accidents took many in these ways, including prominent members of the Kamakura leadership. The smooth functioning of a legal system, however, demanded that order be imposed on such surprises. This came not in the form of a one-size-fits-all mandate, but with a return to the guiding principles of reason and pragmatism: Article Twenty-Seven provided that “undivided legacies” would be distributed “in accordance with the circumstances of each case and following the depth of service [of the claimants] and an investigation of their ability.”⁴¹⁶ In short, Kamakura established a standard process for the division of intestates’ property, though this process allowed ample room for discretion by Kamakura’s judges.

In other cases, family heads died without children and their widows became their principle heirs; these women were then without heirs themselves. Kamakura law allowed for the adoption of heirs in such cases, breaking from the precedents of classical law. Article Twenty-Three cited the practice under Yoritomo as justification: “from the time of the house of the Great General of the Right to the present, it has been the immutable rule that women without children may grant holdings to adopted heirs.” In reality, this practice had a much longer history going back centuries, and was practiced widely both in warrior culture and more broadly. Indeed, the article further supports its case with “evidence of this practice in capital and countryside” so abundant that “It is unnecessary to enumerate,” and adds that this right has been recognized in judicial decisions by the council of top Kamakura leaders.⁴¹⁷ In addition to formalizing what had long been popular practice by turning custom into law, allowing widows the freedom to adopt heirs helped assure the continuity of family lines, and with them the performance of obligations attached to landholdings granted by Kamakura.

⁴¹⁴ Article Twenty rhetorically asks in the case of children predeceasing their parents, “Even if the child were alive at present, what is there to hinder the revocation?” *Goseibai shikimoku*.

⁴¹⁵ *Goseibai shikimoku*.

⁴¹⁶ *Goseibai shikimoku*.

⁴¹⁷ *Goseibai shikimoku*.

However, Kamakura also strongly regulated the behavior of widows in the service of these same interests. The very next article, Twenty-Four, declared that widows “should abandon all other matters and devote themselves to their husband’s welfare in the next world.” Any widows who “forget their chastity and remarry” would forfeit any holdings inherited from their late husband, which would be awarded to his sons when applicable or otherwise apportioned by Kamakura.⁴¹⁸ This regulation has a strong moralistic tone and indeed set a strict bar on acceptable behavior for housemen women, but served another purpose as well: to control land rights granted by Kamakura. Though Kamakura allowed widows to inherit and to adopt heirs, these practices preserved Kamakura’s authority over landholdings by keeping them within the community of housemen who provided service. Widow remarriage posed a threat to this authority by raising the possibility that landholdings could leave Kamakura’s purview through marriage to a non-houseman. Kamakura then risked not only losing the service provided by the holder of the land (more on this below), but also authority over the landholding itself: it would not be able to grant this holding in the future, a permanent blow to its authority.

Article Twenty-Five further regulated this risk, addressing marriages to nobles and courtiers. Specifically, it stipulated that when daughters of housemen who had been granted transfers from their fathers married outside of the Kamakura network, the obligations on their holdings would continue unabated. So, if a daughter received a portion of her father’s Kamakura-granted holdings, the attached obligations would follow; she would be obligated to provide the same services (scaled to the portion of the holding) that her father had. Even if the lands were exempted from service for the life of the father, these requirements would be (re)imposed after his death. If the daughter or her in-laws refused to fulfill these obligations or even delayed in providing them, the holdings would be revoked.⁴¹⁹ Through these efforts Kamakura sought to maintain the integrity of its authority over land rights, though the enforcement of these provisions proved difficult.

Sales, as the other major category of transfers, accounted for a good deal of this challenge. Housemen were allowed, though discouraged, to buy and sell hereditary family holdings that they possessed independently of Kamakura. Holdings granted by Kamakura for service or as a special favor, however, were not saleable: those participating in their “selfish sale and purchase are by no means without blame.” Article Forty-Eight prohibited these transactions entirely, establishing culpability for both the buyer and seller.⁴²⁰ These restrictions further policed the membership of those obliged to Kamakura, ensuring that housemen maintained the holdings granted them by Kamakura and performed their required service. Not only did this regulation improve the likelihood that Kamakura would maintain its authority over these holdings and receive its demanded service, but it also functioned as a check against poor decision-making in that these holdings represented income not only for the housemen, but for their offspring. Selling these was in some cases literally mortgaging the future of their families. By establishing that these holdings could not be sold, Kamakura scaled up its existing paternalistic protection of its housemen. This principle helped support efforts to undo transactions that had robbed housemen of their economic base later in the Kamakura administration.

⁴¹⁸ *Goseibai shikimoku.*

⁴¹⁹ *Goseibai shikimoku.*

⁴²⁰ *Goseibai shikimoku.*

Finally, the List of Precedents closed with an oath, binding the members of the High Council, its deliberative body and highest court, to the principles of the List of Precedents and outlining the additional standards for judgment in their chamber. While the High Council represented the systematization of the long development of conciliar rule, the exact date of its establishment is debated. Traditionally, it has been traced to the entry for the twenty-first day, twelfth month, 1225. Per *Azuma kagami*, “Sōshū [Tokifusa], Bushū [Yasutoki], University Assistant [Nakahara Morokazu], Former Governor of Suruga [Miura Yoshimura], and Novice Oki [Nikaidō Yukimura] visited the palace. They held their first meeting (*hyōgi*).”⁴²¹ But this record does not explicitly refer to the establishment or founding of the High Council, and in fact uses a different term for the meeting (*hyōgi* rather than *hyōjō*). More likely, the “first” used here was in reference to the installation of the new shogun, Yoritsune, in the new shogunal palace the day prior. In his study of *Kantō hyōjōden*, a thirteenth-century text that records the appointments of Kamakura’s major positions, historian Sasaki Fumiaki further problematizes the 1225 theory. Although *Hyōjōden* also relies on this starting point for the High Council, Sasaki notes that it records nothing between its first entry in 1225 and the promulgation of the List of Precedents in 1232. Furthermore, the members of the High Council were unchanged over these seven years, and three of them (Miyoshi Yasutsura, Fujiwara Nagasada, and Fujiwara Naritoki) do not otherwise appear in the historical record until 1227, 1230, and 1231 respectively—an unusual coincidence for prominent members of the High Council, to say the least.⁴²² Sasaki concludes that the author of text had no information on membership for 1225, and so simply projected the 1232 group backward.⁴²³

As with the founding of Yoritomo’s Kamakura administration, this focus on the exact date of the founding of the High Council obscures larger developments. The High Council may not have been formalized and systematized until 1232, but it drew on at least two generations of experience with conciliar deliberations. Yoritomo, though he held himself as the top judicial authority for his housemen, utilized a type of war council (*gungū*) to discuss strategy and other martial affairs with his top advisors.⁴²⁴ It was after his death, however, that a system of conciliar justice began to take shape. The first major step came with the removal of absolute judicial authority from the new shogun Yoriie in 1199 and the establishment of the Council of Thirteen to moderate the judgments of the shogun. As the Hōjō consolidated their power following Yoriie’s outright removal, the tradition of Council meetings continued, functioning as a high court that convened to offer its advice on cases before the shogun rendered an official verdict.⁴²⁵ The new regents increasingly relied on Council meetings to weigh policy options as well: the Hōjō sought the input of other top housemen families especially in times of crisis, as in the midst of Jōkyū.⁴²⁶ It was likely the generational shift in 1224-25, with the passing of Yoshitoki and Masako, that led to the “first” High Council meeting in 1225. Understood in this larger context, the 1225 gathering was another in a longer line of deliberative meetings to gauge the thoughts of the top members of the Kamakura coalition, and in this case, to establish the new generation of Hōjō leaders. The 1225 meeting also likely inaugurated the new venue for the council: the Office

⁴²¹ *Azuma kagami*, 12/12/1225.

⁴²² Sasaki, “Kamakura bakufu hyōjōshū no seiritsu katei,” 42.

⁴²³ Sasaki, “Kamakura bakufu hyōjōshū no seiritsu katei,” 48.

⁴²⁴ Sasaki, “Kamakura bakufu hyōjōshū no seiritsu katei,” 42.

⁴²⁵ Sasaki, “Kamakura bakufu hyōjōshū no seiritsu katei,” 45.

⁴²⁶ *Azuma kagami*, 5/19/1221.

of the High Council (*hyōjōsho*), first mentioned in *Azuma kagami* in 1226.⁴²⁷ The 1232 promulgation of the List of Precedents similarly marked another step in the development of conciliar administration, formalizing and systematizing a tool of government which Kamakura increasingly relied upon. From 1232, *Kantō hyōjōden* kept regular records of the appointment of High Council members, and the High Council's role in the judicial process was more clearly defined.⁴²⁸ Just as the List of Precedents (mostly) relied on the past experience for guidance, the High Council was built on a foundation of precedent and refined as part of a broader push towards systematization.

As the ultimate authority of Kamakura's legal system, the High Council required dutiful and diligent management of its members. The Oath was designed to guarantee that Council members would comport themselves in line with the values enshrined in the List of Precedents. Members were encouraged to reach "considered judgments," but to speak openly and honestly. Offering an honest "flawed opinion" was not ideal, but did not mean that the jurist "had a twisted heart" and sought to undercut justice. But just as the List punished falsehoods and duplicity by litigants, it set a strict standard for its top jurists: dishonesty of any form would not be tolerated.

Claiming something unjust while knowing it to be just; claiming that there is evidence for a baseless accusation; refraining from pronouncing a judgment despite knowing the particulars so that another's flaws will not be exposed; confusing fact and feeling; will these not be case for criticism in the future?⁴²⁹

Once again, perpetrating falsehoods was doubly damaging; not only could the infraction tip the scales toward injustice in the case before the High Council, but these actions could undermine the legitimacy of Kamakura justice itself. Unfairness itself was a central concern, but criticism—based even on the implication or misguided perception that Kamakura justice was unjust—was an existential threat for Kamakura. As Yasutoki had advertised in his letters to Shigetoki, Kamakura promulgated the List of Precedents to ensure fair trails; any hint of impropriety from its highest court would defeat this purpose and imperil the validity of Hōjō and Kamakura authority in toto.

In order to preserve its reputation, Kamakura's high court went further to ensure that it was free from bias and above rebuke. High Council members would reach judgments with "no regard for [personal] relationships, and no regard for personal preferences." Subsequent legislation issued specific regulations regarding when members would be forced to recuse themselves—primarily when cases involved their family members or retainers. Further, members were expected to serve honestly and to remain aloof from outside forces. They were to "speak only what is supported by reason and the thoughts of our minds, without regard for companions and without fear of powerful houses (*kenmon*)."⁴³⁰ Again, personal ties and political or economic connections were to be set aside in the interest of justice. The bakufu leadership was willing and able to go to great lengths to impose restrictions on its own exercise of power, a main part of the basis for the continued operation of the united state.

Finally, the High Council would act as one; a divided bench posed a similar risk to the court's integrity. If in speaking with litigants, one member "is heard to say that although he knew

⁴²⁷ *Azuma kagami*, 10/9/1226.

⁴²⁸ Sasaki, "Kamakura bakufu hyōjōshū no seiritsu katei," 48.

⁴²⁹ *Goseibai shikimoku*.

⁴³⁰ *Goseibai shikimoku*.

reason,” his colleagues overruled him, “We will have already lost the solidarity of the group” and be subject to public criticism and vulnerable to dissent within the court’s ranks. So too “if one among the Council members writes a letter of recommendation” for a litigant making a direct appeal, “it will appear that one member is saying that the judgments of all the others are unjust.” Again, the appearance of impropriety was as bad as the act. And so, the oath demanded that the Council members unite behind their verdicts: “judgments, even if they do not differ from reason, are the justice of us all. Even if they are made unjustly, they are the error of us all.” There was room for dissent in the Council chamber, but once a decision was made, the Council would unite behind one joint front and own its decisions as a group.⁴³¹

Members who took the oath were bound to these ideals. The oath concluded by invoking the gods:

If, even in a single instance, we consider deviation or violate these, may we, as well as our families and companions, receive the divine punishment and retribution of Bonten, Taishaku, the Four Great Heavenly Kings, and all the gods great and small of heaven and earth of the sixty-some provinces of Japan, especially the two incarnations of Izu and Hakone, the Daimyōjin of Mishima, the Hachiman bodhisattva, and the Tenman Daijizai Tenjin.⁴³²

The appeal to higher powers parallels the respect shown by Kamakura’s leadership for the practices and authority of religious institutions across the country. Of particular note is the inclusion of regional religious figures (Izu and Hakone) and the Hachiman bodhisattva, affiliated with Kamakura’s foremost shrine, Tsurugaoka Hachiman Shrine, which had become the Minamoto family shrine after Yoritomo’s arrival in the city. The thirteen High Council members swore to uphold the oath of their office and signed their names to the document. The magistrates of the Board of Inquiry (*monchūjo*) were similarly made to swear the oath.

Conclusion

With these general categories in a scant fifty-one articles, the List of Precedents standardized judgments for Kamakura courts. Its promulgation has long been hailed as an epochal moment, as the foundation of “warrior law.” Indeed, the List of Precedents did create a separate body of law for Kamakura’s warriors, and they were tremendously influential on subsequent laws and judgments across the medieval period and beyond. It had an immediate impact on legal society across the country, as knowledge of Kamakura’s legal principles, and the text outlining them, proliferated, and were incorporated into other legal customs and cultures. Broader incorporation was aided by principles, like the “Twenty-Year Law,” that expanded beyond warrior society into aristocratic and religious law. The founding laws of the Muromachi bakufu (1336-1573) were modelled after the List of Precedents; they were known as the *Kenmu shikimoku*, the Kenmu (1333-36) List of Precedents. The structure, content, and especially the intent to standardize and legitimize in the List of Precedents can similarly be seen in the family codes of later medieval warrior houses. The Ashikaga School, the premier medieval warrior

⁴³¹ *Goseibai shikimoku*.

⁴³² *Goseibai shikimoku*.

academy, lectured on the List of Precedents.⁴³³ Even when a new legal philosophy emerged in the early modern period, the Precedents remained an important touchstone in warrior culture—they were routinely assigned in temple schools for samurai and commoner students alike.⁴³⁴

Standardizing and systematizing warrior law was no small feat. Nor did it stand alone; it represented an important step in the ongoing legal and administrative development of the Kamakura bakufu. As with other important steps in this process, it came in response to crisis; Kamakura leaders addressed the problems exacerbated by the Kangi Famine, while instituting reforms that would long outlast them. The bakufu consolidated its administration so that it could act when no other body could or would, while it simultaneously worked to enhance its power and legitimacy, all within the framework of a united state. The List of Precedents underscores this point: the bakufu was able to systematize its legal administration with a new body of written law while preserving the continued functioning of existing political and economic systems—a shrewd maneuver. It represented not only the standardization and systematization of Kamakura jurisprudence, but a substantial turning point for warrior authority, establishing written, universal law and a clear warrior legal authority, one that would continue for over 600 years.

⁴³³ Machi Senjurō. “The Evolution of ‘Learning’ in Early Modern Japanese Medicine,” in *Listen, Copy, Read: Popular Learning in Early Modern Japan*, ed. Matthias Hayek and Annick Horiuchi (Leiden: Brill Press, 2014), 166.

⁴³⁴ Murakami et al., *Shiryō de yomu nihon hōshi*, 51. Koizumi Yoshinaga, “Learning to Read and Write—A Study of *Tenaraihon*,” in *Listen, Copy, Read: Popular Learning in Early Modern Japan*, ed. Matthias Hayek and Annick Horiuchi (Leiden: Brill Press, 2014), 102.

Chapter Five

Solidification, 1233-1249

In the years following the 1232 promulgation of the List of Precedents on Judgment, the Kamakura bakufu continued to refine and expand its authority and legal administration in response to new needs. This period, though not without challenges, was not marked by the existential threats of prior years. Two new regents took the reins of the bakufu and political consolidation saw violence return to the streets of Kamakura. Yet these events had limited effects, primarily consolidating power within the existing leadership and structures. Throughout there was little change in the overall direction of bakufu policy. The bakufu interpreted and implemented the general principles outlined in the List of Precedents, developing the legal specifics necessary to put them into practice in disparate contexts. This maturation of jurisprudence was complemented with efforts to improve the judicial process. During these two decades, the bakufu pursued these goals by continuing to build a body of case law and improve its judicial processes, and issuing over 200 new supplemental laws to reinvigorate old rules and establish new precedents.⁴³⁵

This chapter approaches these developments in two ways. First, it investigates how implementation varied in different locations. Bakufu laws and administration in Kamakura, Kyoto, and Bungo Province exemplify how the same political-legal goals were met differently across Japan, but adapted to accommodate other legal authorities, distance from the bakufu, and other local concerns. These three locales also offer the best representation of Kamakura legal documents, providing the clearest picture of how bakufu policy was put into practice. Second, it explores the substantive topics of expanding authority — precedential and procedural updates, as well as the creation of new structures for governance. In both local and systematic reforms, the bakufu continued to follow a pattern of gradual expansion of its authority, issuing new laws and tailoring existing ones in response to changing needs. The bakufu remained a part of the “united state,” working cooperatively as a part of the imperial government even as it took on an even bigger role within it.

Local Implementation

The List of Precedents on Judgment established standards for Kamakura justice. However, these principles had to be implemented, monitored, and enforced. As a result, the bakufu needed to apply and alter them to fit different and changing circumstances. The bakufu also amended them and added new principles to respond to newly perceived needs. Specific circumstances and needs naturally varied by location. The city of Kamakura, under the direct and uncontested administration of the bakufu, had stronger and far more regulations than elsewhere. Legal provisions and orders for Kyoto, still the domain of the aristocracy and religious institutions, took other perspectives and limitations into account. Farther afield, on remote Kyushu, over 500 miles of mountains and seas from Kamakura, Bungo Province was formally exempted from the List of Precedents, but implemented its own version of Kamakura standards, incorporating local concerns. These three examples of implementation reveal how the Kamakura

⁴³⁵ This figure includes the forty-five supplemental laws issued by the Ōtomo discussed below.

bakufu flexibly adapted its policies to local conditions, notably by extent of presence of other sources of authority and by the sheer distance from Kamakura when travel was slow and expensive.

Kamakura

The city of Kamakura was in a unique position under the Kamakura bakufu, as the only sizable city directly governed by the warrior administration. As such, the bakufu had complete authority over the residents, including a growing population of commoners and a considerable collection of monks and priests. Legislating Kamakura therefore entailed a (continuing) expansion of warrior law to increasingly incorporate these other groups. In the years 1233-1249, the bakufu issued twenty-two supplemental laws explicitly referencing the city of Kamakura or specific areas within it, as well as dozens of orders and directives not compiled in legal collections. Together, they demonstrate how the bakufu addressed local and urban concerns that were particular to the city of its headquarters, implemented its legal principles into practical policy, and invented new mechanisms to enforce the law.

The main mechanism for implementation in Kamakura was a system of wards (*hō* or *ho*). Wards had been used in Kyoto for nearly a century, introduced by the imperial court after the Hōgen Disturbance in 1156. In the capital, there were ten wards, each an east-west rectangular area between the large avenues (e.g. between Hachijō and Kujō). Each was headed by a ward imperial policeman (*hō no kebiishi*) or ward official (*hō no kanjin*).⁴³⁶ Drawing from this model, the bakufu implemented its own ward system in Kamakura in the 1230s, which was in operation by 1235 at the latest, when “ward magistrates” (*hō no bugyōnin*) first appear in extant Kamakura law.⁴³⁷ These magistrates were low-level bakufu officials, appointed for their familiarity with administration and law and tasked with enforcing the laws and orders of the bakufu over the residents, warrior and commoner alike.⁴³⁸ Little is known about the composition of Kamakura wards—their number, names, and shapes are lost—but the documentary record clearly demonstrates that they became a central part of the bakufu’s governance of the city of Kamakura.⁴³⁹

Ward magistrates were tasked with enforcing a broad spectrum of Kamakura policies. One of the central aspects, and certainly the most visible, was the surveillance of those in the city. The bakufu repeatedly issued orders to magistrates to police entrance into the city, ordering them to pay careful attention to travelers and other non-residents who were not known to them,

⁴³⁶ Takahashi Shin’ichirō. *Bushi no okite: “michi” wo meguru Kamakura, sengoku bushitachi no mou hitotsu no tatakai* (Tokyo: Shinjinbutsu Ōraisha, 2012), 20; Takahashi, “Chūsei toshi-ron,” 268.

⁴³⁷ Tsuika-hō 74-75 (1235).

⁴³⁸ Magistrates (*bugyōnin*) were first adopted by the bakufu in 1191, when Minamoto Yoritomo appointed official magistrates (*kuji bugyōnin*) to manage his Administrative Office (*mandokoro*), Board of Inquiry (*monchūjo*), and Board of Retainers (*samurai dokoro*). This was a position unique to Kamakura, with no earlier records of its use. Magistrates performed a variety of official duties, including issuing reports and judgments and handling other administration. Gomi Fumihiko, “Kuji bugyōnin,” in *Kokushi daijiten* vol. 4, ed. Kokushi daijiten henshū iinkai (Tokyo: Yoshikawa Kōbunkan, 1984), 761; Ōmiwa Tatsuhiko, “Hō no bugyōnin” in *Kokushi daijiten* vol. 12, ed. Kokushi daijiten henshū iinkai (Tokyo: Yoshikawa Kōbunkan, 1991), 646.

⁴³⁹ It is speculated, however, that wards in Kamakura were different in shape from those in Kyoto, given Kamakura’s non-grid city structure. Takahashi Shin’ichirō, *Bushi no okite*, 20; Yoshie Akio, “Chūsei zenki no toshi to bunka,” in *Kōza Nihon rekishi* vol. 3, ed. Rekishigaku kenkyūkai and Nihonshi kenkyūkai (Tokyo: Tokyo Daigaku Shuppankai, 1984), 221.

notably keeping an eye out for bandits.⁴⁴⁰ Of particular concern was that anyone in the city be publicly identifiable in public—that their face be visible as they went through the streets. The earliest extant directive to the magistrates did exactly this: it prohibited the wearing of *kashirazutsumi*, robes which covered everything but one's eyes, in the city.⁴⁴¹ This set a longstanding bakufu policy in Kamakura, which was reiterated and expanded in later years to include *amigasa*, conical hats, and other headgear that obscured one's face.⁴⁴² Magistrates were ordered to surveil all other Kamakura residents as well, and at times were required to submit registers of suspicious segments of the population. In 1247, the bakufu had magistrates catalog all unattached people (*rōnin*) and expel them from the city.⁴⁴³ Several years later, another order had magistrates forcibly relocate vagrants from the city to the countryside, and to put them to work farming.⁴⁴⁴ Though the bakufu was motivated and acted to secure the space around its headquarters, these policies were not new: along with the introduction of wards themselves, they can be traced to the imperial court's management of Kyoto in the 1150s.⁴⁴⁵

Beyond responsibility for individuals, ward magistrates also oversaw the maintenance of the physical spaces of Kamakura—and the maintenance of public order within them. The prime concerns were the local streets and thoroughfares connecting Kamakura to the rest of Japan. The majority of the (extant) laws issued to ward magistrates in this period dealt with these, demonstrating the importance assigned by Kamakura leadership.⁴⁴⁶ Streets of course had a practical importance as the infrastructure of transportation, and their being clean, clear, and visible aided the magistrates' jobs of surveillance and crime prevention. In addition, the bakufu ordered the construction of new streets, including connections to Yamanouchi and Rokuura in 1240, and legislating contributions from its housemen to other structural improvements and monumental undertakings.⁴⁴⁷ But streets had a strong symbolic aspect as well. In Kamakura, they could act as a monument of warrior administration: a marker of the authority of the bakufu, and a demonstration of its ability to govern well—clean, orderly, peaceful streets reflected the virtuous rule of the warriors. This street symbolism was hardly new, or limited to Kamakura, Japan, or the medieval period. The imperial court repeatedly legislated the maintenance of the streets of Kyoto from as early as 819, and continued to do so within the living memory of the bakufu leaders.⁴⁴⁸ Farther afield, Napoleon utilized very similar ideas, remaking Parisian boulevards as monuments to his power.⁴⁴⁹

The practical and symbolic importance the bakufu assigned to maintaining its streets was made manifest in its orders to its magistrates. Magistrates were to ensure that roads were maintained, and to protect them from predations from private homes. Commoners built and extended their houses (*machiya*), slowly claiming more and more of public streets, narrowing

⁴⁴⁰ Tsuika-hō 123, 125 (122-129) (1240); *Azuma kagami*, 2/2/1240.

⁴⁴¹ Tsuika-hō 74 (74-75) (1235).

⁴⁴² For example, Tsuika-hō 388 (1261).

⁴⁴³ *Azuma kagami*, 8/20/1247.

⁴⁴⁴ *Azuma kagami*, 3/16/1250.

⁴⁴⁵ Takahashi Shin'ichirō, *Bushi no okite*, 25.

⁴⁴⁶ Eight of fifteen laws referencing ward magistrates relate to streets.

⁴⁴⁷ *Azuma kagami*, 10/10/1240, 10/19/1240, 11/30/1240. For instance, housemen were summoned for preparations for an (aborted) move and reconstruction of the palace, and were disciplined with forced contributions to the building of the Kamakura Daibutsu. *Azuma kagami*, 7/24/1247, 4/29/1241.

⁴⁴⁸ Takahashi Shin'ichirō, *Bushi no okite*, 163-164.

⁴⁴⁹ Takahashi Shin'ichirō, *Bushi no okite*, 187.

passages and obstructing traffic and lines of sight.⁴⁵⁰ Other homeowners took a subtler approach, simply extending their eaves over the streets, thereby laying claim to the areas beneath them.⁴⁵¹ A third method involved the construction of structures over the drainage ditches that flanked Kamakura's streets, obscuring boundaries, hampering maintenance, and increasing the likelihood of problems with drainage and waste management.⁴⁵² These issues were revisited repeatedly in later legislation, strongly suggesting both that this remained a priority for bakufu administration of Kamakura, and that the bakufu struggled to consistently rein in the expansion of the commoner population and residences as the city grew.

Bakufu legislation also focused on crime on the streets, most notably abduction and human trafficking. Kamakura had worked to quell these illicit activities for some time. The earliest record is a supplemental law in 1226. This law cited a 1225 imperial command at length, which defined these actions as unlawful by classical law and custom. Obeying imperial instruction, Kamakura transmitted the command to its housemen and ordered them to arrest anyone involved in the trade.⁴⁵³ Kamakura reaffirmed its commitment to prohibiting roadside abduction by including it in the List of Precedents on Judgment in 1232.⁴⁵⁴ However, Kamakura relaxed its prohibition on buying and selling people the year before, in an attempt to reduce the death toll of the Kangi Famine. By allowing men to sell wives, children, and themselves into servitude, the bakufu hoped, starvation could be avoided as their new masters would feed them.⁴⁵⁵ By 1239, the bakufu sought to end this policy and restore the full prohibition, instructing its officials to once again enforce the 1225 imperial command.⁴⁵⁶ The next year, 1240, Kamakura ward magistrates were instructed to ensure that there were no abductions off of their streets, suggesting that the practice not only continued, but did so in the shadow of the bakufu headquarters.⁴⁵⁷ Three months later, the bakufu issued yet another law: "Regarding the cessation of the buying and selling of people, generations of new regulations and Kantō relay orders have piled atop one another. However, during the time of the Kangi Famine, the sale of descendants or the disposal or sale of followers was to protect their lives. This was because if it were prohibited, it would conversely lead to grief for the people." And though the crisis was over and the prohibition restored, the trade in people continued. Kamakura reaffirmed the 1239 order, and instructed the military governor of Izumi that "signs shall be erected in these markets and it shall be announced in the provinces."⁴⁵⁸ This order is notable for its public notification—the posting of laws was not typical—but also for its targeting markets, including the growing markets in Kamakura. A 1249 lawsuit offers insight into this trade in the city. Kamakura houseman Sagara Yorishige was accused of apprehending two menials in distant Higo Province with the intention of selling one of them in Kamakura. The veracity of the allegations is unclear, but it is telling

⁴⁵⁰ Tsuika-hō 128 (1240), 247 (1245); *Azuma kagami*, 2/2/1240, 4/22/1245.

⁴⁵¹ Tsuika-hō 246 (1245); *Azuma kagami*, 4/22/1245. Takahashi, *Bushi no okite*, 35.

⁴⁵² Tsuika-hō 248 (1245); *Azuma kagami*, 4/22/1245. For example, Kamakura's main street in this period (and now), Wakamiya Ōji, was roughly thirty meters wide, with drainage ditches of about three meters on either side. Many other streets in Kamakura—large and small—had similar drainage systems, though there was variation in their sizes. Takahashi Shin'ichirō, *Bushi no okite*, 36-37.

⁴⁵³ Tsuika-hō 15 (1226).

⁴⁵⁴ *Goseibai shikimoku*.

⁴⁵⁵ Oka Kuninobu, *Chūsei bushi no hō to shihai* (Tokyo: Shinzansha, 2004), 157.

⁴⁵⁶ Tsuika-hō 110, 112 (106-122) (1239); *Azuma kagami*, 4/14/1239; Then again in Tsuika-hō 114 (1239), 115 (1239).

⁴⁵⁷ Tsuika-hō 124 (1240); *Azuma kagami*, 2/2/1240.

⁴⁵⁸ Tsuika-hō 142 (1240).

that the bakufu weighed the complaint seriously, obviously finding it credible that someone would cross the country to sell a person in Kamakura. There was very likely a market for trafficked humans there, one which the bakufu continually sought to extinguish.⁴⁵⁹

Licit trade was also a focus of bakufu legislation, again as a part of maintaining order within public space. Commercial activity developed wherever people congregated in Kamakura. This meant that the natural meeting points in the city, especially forks in and intersections of streets, became congested sites of business and leisure. The 1240 laws instructing ward magistrates included a prohibition of trade at intersections, and a ban on performances by blind biwa-players and sumo wrestlers. Where trade was allowed—in designated markets—the bakufu took a similarly large role in creating rules. These same 1240 laws prohibited *oshikai*, the practice of facilitating a purchase through intimidation for less than market value.⁴⁶⁰ In 1248, the bakufu mandate a fixed limit to the number of tradesmen allowed in the city, likely in an attempt to ease congestion.⁴⁶¹ The bakufu continued to issue similar regulations beyond this period, including establishing (and abandoning) official prices, and designating areas for the construction of new townsmen homes, but the repetition and gradual moderation of these laws suggest that Kamakura came to accept the commercial practices of commoners, provided that their risks to public space and local security could be minimized.⁴⁶²

Bakufu policing policy followed a similar trajectory. The city of Kamakura was the center of warrior administration, but most warriors spent little of their time there. Many warrior families kept residences in Kamakura as part of a broader family network, but most warriors instead spent much of their time in their traditional family home, overseeing their holdings, or even in Kyoto. While absent, warriors would rent out portions of their residences to commoners, especially those which could function as storefronts, and had followers serve absentee guards for the remainder. When warriors were present, they often had duties at the shogunal palace, preventing them from serving as city police.⁴⁶³ By this point, Kamakura was becoming a sizable city: by 1252, it boasted 10,000 commoner homes, with a total population several times that.⁴⁶⁴ Kamakura was one of the few cities in the country, its growth as a commercial and recreation center driven by its role as headquarters of the bakufu. As the center of warrior administration, Kamakura was the main destination for warrior incomes, which were primarily paid in kind (usually rice.) Kamakura had a high concentration of storehouses to accommodate these shipments.⁴⁶⁵ And increasingly, Kamakura served as something of a financial hub, where rice could be exchanged for cash, goods, and services in its markets. As discussed above, the bakufu sought to regulate this growing trade, out of concern for potential disorder. Indeed, the greater the population and economic activity, the greater opportunities there were for crime. In 1246, for example, while delivering the revenues of houseman Kii Shigetsune from Tango Province, a porter absconded with them and made for the Komemachi area of the city, where he likely hoped to exchange the rice for cash and live the good life in the city. Though he was recognized in the street, he was not apprehended and was only later arrested when he accidentally fled into the

⁴⁵⁹ Takahashi Shin'ichirō, *Bushi no okite*, 59.

⁴⁶⁰ Tsuika-hō 127-129 (1240); *Azuma kagami*, 2/2/1240.

⁴⁶¹ *Azuma kagami*, 4/29/1248.

⁴⁶² Takahashi Shin'ichirō, *Bushi no okite*, 48-50.

⁴⁶³ Takahashi Shin'ichirō, *Bushi no okite*, 31; Akiyama, *Hōjō-shi kenryoku to toshi Kamakura*, 84.

⁴⁶⁴ This figure is drawn from an investigation of ward magistrates into sake; they purportedly found 37,274 jars (*tsubo*). *Azuma kagami*, 9/30/1252; Takahashi, *Bushi no okite*, 72.

⁴⁶⁵ Takahashi Shin'ichirō, *Bushi no okite*, 55-56.

bakufu kitchens to hide and ran into a warrior guard.⁴⁶⁶ Given the growing population of the city and the relative anonymity it provided, combined with the lack of a reliable warrior force in permanent residence, the bakufu turned to commoners to police the city.

Organizing this civilian force fell to the city magistrates. Kamakura ordered each to press the residents of their wards into mandatory service as needed for temporary police duties, somewhat akin to the posses formed by sheriffs in popular depictions of the American frontier. The earliest record of such temporary conscription comes from a 1240 bakufu order: “for the prevention of crime in Kamakura, braziers shall be lit at intersections.” Ward magistrates were ordered to draft rosters assigning shifts to the commoners of their jurisdictions to tend them.⁴⁶⁷ In 1245, this rudimentary neighborhood watch system was expanded in a set of supplemental laws, the last of which mandated that magistrates organize night patrols.⁴⁶⁸ Only two months later, every household in Kamakura was ordered to prepare torches and to respond immediately to neighborhood alarms by bringing them outside in the event of a nearby robbery or murder.⁴⁶⁹

These provisions provided the framework for the warrior city to be policed primarily by commoners. It was not perfectly effective: thefts were common, there was an active market for stolen goods in the city, and ward magistrates struggled to manage their commoner conscripts. Later laws chastising magistrates for negligence suggest that magistrates failed to complete the patrols as ordered, perhaps due to residents’ resistance.⁴⁷⁰ A 1250 order, however, offers a contrasting glimpse of over-enthusiasm among the commoner night watchmen, as the bakufu ordered that they may not equip themselves with swords or bows and arrows for their patrols.⁴⁷¹ This disarmament served not only to reduce the likelihood of violence on patrols, but also to differentiate these commoners from the warriors they served, and to remind them and onlookers of this distinction.

The resident monks of Kamakura were another class marked as distinct by bakufu law. Kamakura was not only the headquarters of the bakufu and a growing commoner city, it was also a significant religious center. Since the founding of the bakufu, warriors—led by the regental Hōjō—had constructed temples across the city to pray for the spirits of their ancestors, an important Buddhist consideration for families who were professional killers. With this proliferation of temples came a growing population of monks. Though the upper echelons of the religious community often shared family and other ties with top warrior and aristocratic circles, the majority of the monks were former commoners. These monks, and their potential for disorder, became a central concern of Kamakura law.

The main focus of bakufu laws regulating monks was to have them behave as proper monks. In 1235, Kamakura issued a law regulating the behavior of “those chanting the *nenbutsu*,” or those who presented themselves as monks through their chanted invocation of the Amida Buddha. Kamakura made plain that “there is no quarrel with those of firm faith and strict practice,” but addressed rumors that others who “eat fish and fowl and invite women over, or form groups and selfishly indulge in drinking parties.” The bakufu ordered these activities to cease at once, and for the ward magistrates to destroy the houses of any who violated this

⁴⁶⁶ *Azuma kagami*, 12/28/1246; Takahashi Shin’ichirō, *Bushi no okite*, 23-24.

⁴⁶⁷ *Azuma kagami*, 11/21/1240.

⁴⁶⁸ *Tsuika-hō* 249 (1245); *Azuma kagami*, 4/22/1245.

⁴⁶⁹ *Azuma kagami*, 6/7/1245.

⁴⁷⁰ Takahashi Shin’ichirō, *Bushi no okite*, 32-33.

⁴⁷¹ *Azuma kagami*, 4/20/1250.

prohibition.⁴⁷² This regulation was expanded beyond the city in 1244 with regard to attendant priests of shrines, who had emulated the poor behavior of “those chanting the *nenbutsu*.” These attendants often failed to attend their shrines on important ceremonial occasions, but conversely did attend when they were stained with ritual pollution (*shokue*).⁴⁷³ The bakufu not only proscribed behavior it deemed unbefitting of clerics, but ordered and cajoled them to positively perform their religious duties as well. In 1238, the High Council imposed conditions on the benefits of priests who directly served the shogun with their prayers: granted land rights could not be transferred at will, but would be recalled at the death of the original holder and granted only to those who actively provided service.⁴⁷⁴

The bakufu also sought to differentiate monks from warriors, just as it had with commoners: by forbidding them weapons. Such a prohibition was issued in 1235 for all monks in Kamakura, the capital, and across the country.⁴⁷⁵ In 1239, another supplemental law was issued, explaining that continued violations would be treated as “willful misconduct” given how frequently the order had been issued.⁴⁷⁶ The Kamakura bakufu continued to be a frequent and willing patron of religious institutions, but worked to ensure that monks and priests maintained overt distinctions from townsmen and especially warriors. Though highly symbolic of identity, weapons also posed a more predictable risk: violence. In 1242, the bakufu responded to recent incidents in a series of three supplemental laws. The “frequent brawls in the monks’ quarters of Shōchōju-in,” and the resultant deaths caused by the escalation of such fights when the monks’ followers joined in, angered the leaders of the bakufu. They opined, “The followers of warriors do not commit such outrages. Why should the followers of monks?” and again issued laws forbidding monks weapons, but now expanding this prohibition to specifically include a variety of other people who might serve at temples and shrines, including accompanying warriors. Further, the bakufu extended accountability for followers to their masters, legislating that the latter would be punished for the crimes of the former. On its face, this represented a deviation from the principle established in the List of Precedents that unknowing masters would not be held accountable for murders and major crimes committed by their followers. However, this was not the extension of the same punishment, but rather a separate admonition and perhaps a monetary fine in line with established jurisprudence. Further, to prevent such disorder, bakufu officials were ordered to confiscate on sight any weapons held by those affiliated with temples and shrines, to be donated to the construction of the Kamakura Daibutsu.⁴⁷⁷

Finally, the bakufu continued to cordon off monks and priests in Kamakura from the imperial court through restrictions on ranks and appointments. This issue had been important enough to feature in the List of Precedents on Judgment, in which Article Forty prohibited all monks and priests from accepting such promotions without specific permission from the bakufu—on penalty of complete termination of land rights.⁴⁷⁸ In one high profile case, the new system worked. In 1236, Teigō, the head of Tsurugaoka Hachiman Shrine, was selected by the

⁴⁷² Tsuika-hō 75 (1235).

⁴⁷³ Tsuika-hō 235, 236 (1244).

⁴⁷⁴ Tsuika-hō 94 (1238). These priests had a direct relationship with the bakufu similar to Kamakura housemen, through which they were granted holdings, but they were not housemen.

⁴⁷⁵ *Azuma kagami*, 1/27/1235; Tsuika-hō 70 (1235).

⁴⁷⁶ Tsuika-hō 102 (1239).

⁴⁷⁷ Tsuika-hō 200, 201, 202 (1239).

⁴⁷⁸ Zen monks were given a lesser punishment, but still forbidden to accept positions without authorization. *Goseibai shikimoku*.

imperial regent Kujō Michiie (the shogun's father) to become the next head of Tōji, a prestigious temple in the capital. The High Council convened to discuss whether to allow the appointment to proceed. "As it was an honor for Kamakura for him to be appointed, and he wanted to go, it was decided that he would accept the position."⁴⁷⁹ However well the bakufu was able to regulate acceptance of such appointments, competition among monks remained a problem. The bakufu issued a supplemental law in 1239 reiterating that such contention was prohibited.⁴⁸⁰ In 1242, Kamakura asserted its right to appoint the heads of the temples in the city, banning the prior practice of current heads transferring the position themselves and instead vesting the power in the hands of the High Council, and later limited religious officials to one position only.⁴⁸¹

Kyoto

The bakufu also implemented and adjusted its legal principles in the capital. However, in Kyoto, bakufu leaders could not simply issue orders for the entire city, but had to navigate a complex network of competing and cooperating authorities as they sought to enforce legislation. The imperial court, aristocracy, and religious institutions continued to exercise considerable influence in and around the city, making legal implementation in the capital a different calculation. Ultimately, bakufu leadership opted to continue its policy of cooperation, tailoring its legislation for the capital to fit within and around existing laws, customs, and power structures.

Kamakura had several reasons to accept this shared authority. For one, it was already well established as the status quo: why upend laws that had competently governed the city for centuries, and even served as inspirations for the laws for Kamakura? More important, however, was the relationship between the bakufu and the other powerholders in the state. Kamakura would continue to work within the framework of the united state, expanding its authority only gradually and in response to specific developments, and consistently while attempting to maintain good relations with other elites.

This cooperative policy meant that there would be less Kamakura legislation for the capital, and what there was would be more focused on Kamakura warriors and preserving relationships. Bakufu laws and orders shifted focus for the capital city, as more attention was paid to regulating warriors in the capital, preventing and containing crime and violence, and mediating disputes between and within other powerholders. Although Kyoto was a city dominated by aristocratic society, warriors had been increasingly present and prominent over the past century. Beginning with the introduction of "capital warriors" into imperial and aristocratic succession disputes in the mid-1100s, this trend accelerated as warriors established their own authority in capital and countryside thereafter. Top warrior families frequently maintained residences in Kyoto as part of a broader network, connecting the major centers of power—Kyoto and Kamakura—and their own power bases, their ancestral homes and holdings.⁴⁸² In addition to these resident warriors, the bakufu had its official representatives, the Rokuhara *tandai*, at its Rokuhara compound in eastern Kyoto. It was the *tandai* who received orders from Kamakura

⁴⁷⁹ *Azuma kagami*, 11/15/1236.

⁴⁸⁰ *Tsuika-hō* 109 (1239).

⁴⁸¹ *Tsuika-hō* 203 (1242), *Azuma kagami*, intercalary 12/25/1248.

⁴⁸² Akiyama, *Hōjō-shi kenryoku to toshi Kamakura*, 111-112.

and were responsible for implementing bakufu law and policy in Kyoto and overseeing administration and justice in the central and western provinces.

Kamakura directives to Rokuhara, in the form of supplemental laws and other orders and letters, outlined bakufu policy objectives, as well as some specifics, for warrior administration in the capital. The obligations and limitations of Kamakura housemen in Kyoto were a main focus of bakufu legislation. Housemen's main duty, and often their official reason for being there, was capital guard duty (*oban'yaku*). Imperial appointment of warriors as guards of the imperial court and capital predated the bakufu. It originated around the time of the administration of Retired Emperor Shirakawa (1053-1129, abdicated in 1087), as warriors from each province were called to court to serve and protect the palace in exchange for political patronage: the granting of ranks, titles, and positions. With the ascent of the Taira in the 1160s and '70s, warriors came to administer the management of capital guard duty themselves, an arrangement the young Kamakura bakufu inherited after displacing its predecessors. The bakufu willingly accepted the traditional warrior obligations of serving the court: capital guard duty was added to the list of services required of Kamakura housemen. However, this was not an ordinary detail; it was both considered one of the most onerous of Kamakura duties, as well as one of the most prestigious—guards enjoyed the distinction of serving the imperial court. For housemen and the bakufu as a whole, this relationship to the court was an avenue for burnishing legitimacy and currying favor. Furthermore, as it was required of every houseman (with few exceptions), it became an important marker of membership in the houseman community.⁴⁸³

Considering its centrality in Kamakura society, it is no surprise that the bakufu sought to regulate and routinize capital guard duty. Kamakura enjoined its military governors to be diligent in their recruitment of guards from their provinces, one of the key responsibilities outlined for the position in the List of Precedents.⁴⁸⁴ For those ambitious to become housemen, working their way onto the capital guard roster and performing this important duty was a popular way to demonstrate their membership in the houseman community. This service established a vertical connection between the guard and his would-be master, the shogun, by fulfilling a central duty of housemen, but it also bound him horizontally to his colleagues—serving together as a guard unit represented a mutual recognition of status and connection.⁴⁸⁵ Military governors were reminded not to include non-housemen and other “unlawful people” on the rolls.⁴⁸⁶ Rather, they were instructed to make sure that the housemen in their jurisdiction all provided this service, reaffirming their ties to Kamakura. Military governors were required to submit reports to Kamakura documenting the fulfillment, or dereliction, of the duties of the housemen in their provinces.⁴⁸⁷

The timely performance of capital guard duty was a recurring concern. A 1234 supplemental law established rotations for guard duty beginning the next year, stipulating twelve shifts per cycle, with each lasting six months.⁴⁸⁸ When the new rotations began, the bakufu addressed those who arrived late: for every month they were late, they would serve an additional

⁴⁸³ Takahashi Shin'ichirō, “Bushi ni totte no tennō,” 57-58.

⁴⁸⁴ *Goseibai shikimoku*, Article 3.

⁴⁸⁵ Takahashi Noriyuki, “Bushi ni totte no tennō,” 60-61.

⁴⁸⁶ Tsuika-hō 68 (1234), *Azuma kagami*, 3/21/1237.

⁴⁸⁷ *Azuma kagami*, 6/20/1237.

⁴⁸⁸ Tsuika-hō 66 (1234).

two months.⁴⁸⁹ In 1235, and again in 1240, the bakufu imposed monetary fines for latecomers, to be put toward the costs of repairing bridges and policing the city, respectively.⁴⁹⁰ Some housemen, especially those in more remote provinces, proved intransigent. Kamakura issued orders in 1243 that there would be no exemptions for housemen, except for those already serving in other public capacities, specifically those acting as officials at Rokuhara.⁴⁹¹

On receiving word from military governors or Rokuhara that housemen had failed to report for capital guard duty, Kamakura investigated cases and ordered those delinquent to fulfill their obligations. In 1244, for example, Nitta Masayoshi arrived in Kyoto for his term as part of his obligations for holdings in Kōzuke Province. However, rather than serve, he claimed ill health, suddenly took the tonsure and renounced his worldly ties and responsibilities. When Rokuhara reported his absence to Kamakura, the High Council convened to hear the case and ruled that his holdings should be confiscated (a more extreme punishment than for simple dereliction of duty due to his unauthorized retirement).⁴⁹²

Beyond guarding the palace, warriors in the capital were instructed to remain more broadly vigilant, and to prevent and punish crime across the city when appropriate. To aid prevention, the bakufu ordered the construction of small edifices across the city, so-called torch houses (*kagariya*), to serve as a type of police boxes, small structures for the stationing of police and the storage of weapons and other supplies. These efforts resemble and were roughly contemporaneous with the security measures undertaken in Kamakura. There, the establishment of neighborhood watches centered on braziers at intersections and night watches required residents to prepare torches. As in Kamakura, the bakufu selected important junctures in the capital as sites for these stations, and created a system for rising an alarm.⁴⁹³ However, unlike in Kamakura, the bakufu had limited authority in the city, both with regard to public space and residents. Though Kamakura records refer to these stations as early as 1239, by 1243 only “one or two” had been built due to a lack of available land.⁴⁹⁴ The bakufu did not have the authority to build as it pleased, and was restricted to lands to which it held title. Ultimately, the Rokuhara *tandai* were commanded to make arrangements to swap holdings confiscated in 1221 for more suitable locations.⁴⁹⁵ Funding for construction represented another hurdle. The costs of erecting the stations was passed on to housemen, while military governors were tasked with supplying the weapons.⁴⁹⁶ However, payment was frequently delinquent, and the bakufu was forced to assign lands to cover the costs.⁴⁹⁷ When stations were established and provisioned, the bakufu had no option but to staff them with housemen as well—the residents of Kyoto were not under Kamakura authority. The bakufu could not compel the commoners of Kyoto to serve as it did those of Kamakura; they were not bound to the bakufu, but instead had long been under direct imperial administration.⁴⁹⁸ So, it was Kamakura warriors who manned these stations, bringing a warrior police presence to the streets.

⁴⁸⁹ Tsuika-hō 88 (1235), *Azuma kagami*, 7/23/1235.

⁴⁹⁰ Tsuika-hō 69 (1235); Tsuika-hō 153 (1240), *Azuma kagami*, 11/28/1240.

⁴⁹¹ *Azuma kagami*, 11/10/1243.

⁴⁹² *Azuma kagami*, 6/17/1244.

⁴⁹³ *Azuma kagami*, 11/29/1240, 12/12/1240.

⁴⁹⁴ Tsuika-hō 105 (1239), *Azuma kagami*, intercalary 7/6/1243.

⁴⁹⁵ *Azuma kagami*, intercalary 7/6/1243.

⁴⁹⁶ *Azuma kagami*, 11/29/1240, 4/13/1239.

⁴⁹⁷ Tsuika-hō 152 (1240), *Azuma kagami*, 12/12/1240, 9/11/1241.

⁴⁹⁸ Takahashi Shin'ichirō, *Bushi no okite*, 31.

The powers of such warrior policemen, as well as all other Kamakura warriors in the capital, were similarly circumscribed out of respect for imperial administration. In 1233, as part of a set of responses to questions from Rokuhara on law, Kamakura answered definitively that “the office of the imperial police (*kebiishi*) shall have authority” over robbers and murderers in the capital.⁴⁹⁹ Two years later, Kamakura reaffirmed this deference, reminding Rokuhara that all criminals in Kyoto, including warriors, fell under the jurisdiction of the imperial police, who were to be obeyed.⁵⁰⁰ When Kamakura ordered the installation of drums in police stations (as a means to raise the alarm), return messages from Rokuhara included acknowledgment of the order, and copies of letters from the imperial regent, who had commanded the imperial police to follow Kamakura’s policies and to take the lead in pursuing criminals in the city.⁵⁰¹ For confiscations or destruction of criminals’ houses (the latter a punishment for gambling), the High Council instructed Rokuhara to recognize the authority of Kyoto’s ward magistrates, who were under the supervision of the imperial police.⁵⁰² Thus, even as Kamakura time and again supported the jurisdictional authority of Kyoto city and imperial court officials as a legal principle, the realities of enforcement on the ground necessitated more warrior involvement. In 1241, for example, Kamakura leaders discussed the handling of murders in the capital. They reaffirmed that the imperial police were the authority on the matter, but instructed Rokuhara to punish murderers as necessary.⁵⁰³

The bakufu had formalized its policy of non-interference in the List of Precedents. Family membership of children born to bound servants, for example, would follow classical law: daughters would be attached to mothers, and sons to fathers. Still, a ten-year statute of limitations modified the old rule, based on the warrior precedent, which recognized the practical difficulties of adjudicating long dormant claims.⁵⁰⁴ Even so, a later supplemental law narrowed this limitation, making it applicable only to servants attached to Kamakura housemen; “for those in Kyoto,” it provided, “there will be no interference” by Kamakura courts.⁵⁰⁵ Even the use of military power was held to be beyond the jurisdiction of Kamakura officials within Yamashiro Province, including the capital, its outskirts and hinterlands. The High Council ruled in 1244 that if a non-houseman warrior there disobeyed the imperial government, the bakufu would not intervene even if the imperial court requested assistance, very much in line with the promise made in Article Six of the List of Precedents. As a final wrinkle in the complexity of overlapping rules, the bakufu softened its deference to imperial authority somewhat, allowing that if disputes escalated to battery, murder, or other “violent outrages,” Kamakura would act to restore order.⁵⁰⁶

By separate rules, Kamakura housemen in the capital were required to abide by standards for their personal behavior. They were instructed to live simply, and to observe the rules and customs set by the imperial court for city administration. They were prohibited from riding in carriages in the city, a regulation which would later be applied in Kamakura as well.⁵⁰⁷ They

⁴⁹⁹ Tsuika-hō 63 (1233).

⁵⁰⁰ Tsuika-hō 85 (1235), *Azuma kagami*, 7/23/1235.

⁵⁰¹ *Azuma kagami*, 1/19/1241.

⁵⁰² Tsuika-hō 100 (1239), *Azuma kagami* 4/13/1239.

⁵⁰³ Tsuika-hō 162 (1241); *Azuma kagami* 6/10/1241.

⁵⁰⁴ *Goseibai shikimoku*, Article 41.

⁵⁰⁵ Tsuika-hō 214 (1243), *Azuma kagami*, 12/22/1243.

⁵⁰⁶ *Azuma kagami*, 6/29/1244.

⁵⁰⁷ Tsuika-hō 136 (1240), 137 (1240), *Azuma kagami*, 5/19/1233. These regulations were adapted for Kamakura in 1261.

were to be mindful of the number of followers they kept and how they presented themselves, and were to abide by various prohibitions including falconry, gambling, and impressing commoners and horses for their own ends.⁵⁰⁸ Finally, Kamakura mandated that all housemen who had imperial appointments must fulfill ceremonial obligations to the imperial court that came with their positions. In 1240, the High Council ruled that those who were absent from required imperial processions would be fined.⁵⁰⁹

Despite this respect for the authority of the imperial court in Kyoto, the bakufu was determined to maintain its position as middle management between the court and warrior housemen. In 1241, the High Council decided that all housemen who had the “favor” (appointments and holdings) of Kamakura would not be allowed to permanently reside in the capital.⁵¹⁰ Warriors were permitted, and required, to travel to Kyoto to fulfill their various obligations, but they were not to linger, lest the imperial court reestablish direct ties as it had had in the “capital warrior” system. Kamakura reiterated its requirement of bakufu approval for housemen to receive appointments from the imperial court, as established in the List of Precedents, and ordered Rokuhara to investigate the would-be patrons of housemen at court.⁵¹¹ Other laws went farther, banning direct appeals to the imperial court for appointment and requests to the bakufu for recommendations for imperial office and rank.⁵¹² These strictures were later relaxed, however, allowing for appointments to be negotiated (and paid for) through Kamakura.⁵¹³ Kamakura also revised its policy on marriages with high-ranking nobles. Such unions were allowed according to the List of Precedents, but with the provision that any obligations coming with land holdings transferred to non-housemen still be fulfilled; if they were not, the lands would revert to Kamakura control. In 1240, Kamakura banned the transfer of holdings to royal intimates (*unkaku*) through marriage to women of housemen families.⁵¹⁴

Kyoto’s many powerful and rivalrous religious institutions were another main focus of Kamakura legislation and administrative action in and around the capital. Temples and shrines had long played an important role in Kyoto politics and sought to continue to exercise this traditional influence into the era of the bakufu. Unlike in Kamakura, the major religious institutions of the Kyoto were not in the city itself, but in the surrounding region, most notably Mt. Hiei to the northeast of the city, and Nara, the former capital in neighboring Yamato Province. The religious institutions around the capital were larger, had more personnel, and enjoyed more political and military power than those in Kamakura. Kyoto and Nara shrines and temples had for some time flexed this muscle, most visibly in public demonstrations in the capital. Typically, armed supporters would carry a symbol of their home institution, usually a portable shrine or altar, into the streets of Kyoto and to the residence of the person sought to be swayed. These icons alone were powerful symbols of religious authority, and were augmented by low-ranking religious affiliates who were prepared to intimidate the target into making concessions.

⁵⁰⁸ Tsuika-hō 133-134 (1240), 137 (1240); *Azuma kagami*, 7/23/1235, 9/16/1239, 11/3/1241.

⁵⁰⁹ *Azuma kagami*, 9/30/1240.

⁵¹⁰ *Azuma kagami*, 11/17/1241.

⁵¹¹ Tsuika-hō 130 (1240).

⁵¹² Tsuika-hō 106, 108 (1239), *Azuma kagami*, 9/27/1238, 4/14/1239.

⁵¹³ *Azuma kagami*, 2/25/1243.

⁵¹⁴ Tsuika-hō 144 (1240); *Azuma kagami*, 5/25/1240; *Goseibai shikimoku*, Article 25.

The bakufu sought to mitigate this unruly behavior, which it saw as unruly for two main reasons. First, threatening crowds posed a threat to the peace and stability of the city prized by the bakufu; violence might easily escalate. Second, the imperial court, long the target of intimidation tactics, hoped to curtail these quasi-religious incursions into Kyoto politics. This shared agenda was important, as Kamakura lacked the jurisdiction to regulate the city alone.

Kamakura began by establishing protocols for its housemen in the capital. A 1235 supplemental law responded to rumors that armed monks “swagger about the capital” even though “strict rules have been issued one after another” since the Jōkyū Disturbance in 1221 to end “the mountain monks’ militancy.” The bakufu required its Rokuhara administration to stop and question all armed monks in Kyoto on sight, observe and record their movements, and submit reports to Kamakura.⁵¹⁵ Another of the same year observed that “that those who claim to be chanters of the *nenbutsu*” continued to cloak themselves in black and roam Kyoto unchecked, leading to violent incidents, despite “repeated imperial commands on this matter.” Kamakura sought to put an end to this, but stopped well short of taking direct action. Instead, Rokuhara was instructed to contact Nijō Sadataka, an ally at court, to convey that further imperial commands were necessary.⁵¹⁶ Meanwhile, Kamakura clarified its stance on religious interference in bakufu lawsuits, prohibiting demonstrations by “the people of the various shrines” at the residences of its officials, housemen from making “mountain temple monks” their deputies, and the extension of lawsuits to include religious institutions when they were not directly involved.⁵¹⁷

The main impetus for this regulation came from the imperial court, which took the initiative to involve the bakufu in managing religious affairs. One particular incident served as the foundation for many of the above laws. In 1235, the Rokuhara *tandai* received an imperial command ordering them to intervene in a dispute between Iwashimizu Hachiman Shrine and Kōfukuji, both very prominent and influential institutions. At issue was water. Takigi Estate in Yamashiro Province was a Iwashimizu holding which provided firewood for the shrine. When it confronted its neighbor to the north, Ōsumi Estate, held by Kōfukuji, over the rights to water in the area, the dispute escalated as the leadership of both sides got involved.⁵¹⁸ The imperial court ordered the bakufu to intervene, hoping to deescalate a situation that looked bound for violence. The bakufu abided by the imperial command, and ordered Rokuhara to send men to investigate and reach a decision on the dispute.⁵¹⁹ However, before Rokuhara concluded its investigation, violence returned. Residents of Takigi attacked and killed cultivators in Ōsumi. In response, armed monks from Kōfukuji attacked Takigi Estate, burning down over sixty houses and killing several Iwashimizu supporters. Iwashimizu responded by demonstrating in the capital, taking a portable shrine to campaign for an imperial decision in their favor against Kōfukuji. The court dispatched officials to ascertain the particulars of the situation, but they did not return with answers. Instead, at least one of them was beaten badly by the assembled shrine supporters. Following this display of force, the imperial court received the shrine’s petition and gave it

⁵¹⁵ Tsuika-hō 70 (1235).

⁵¹⁶ Tsuika-hō 90 (1235).

⁵¹⁷ Tsuika-hō 103 (1239), *Azuma kagami*, 4/13/1239; Tsuika-hō 116 (1239), 120 (1239); Tsuika-hō 266-267 (1250).

⁵¹⁸ Izumiya Yasuo, “Takigi no shō,” in *Kokushi daijiten* vol. 9, ed. Kokushi daijiten henshū inkai (Tokyo: Yoshikawa Kōbunkan, 1988), 95.

⁵¹⁹ *Azuma kagami*, 5/23/1235.

official sanction. Iwashimizu was also granted authority over the entirety of Inaba Province in order to secure an agreement that the shrine would not bring an altar back into the capital.⁵²⁰

The bakufu condemned these actions and sent notice to the head of Iwashimizu that these strong-armed appeals were improper. But as the shrine had already achieved all of its goals for the demonstration, these words rang hollow. The bakufu then issued a report to the imperial court, cautioning that these displays would not stop as long as the instigators were rewarded for bad behavior. Instead, Kamakura advised, the court should punish temples and shrines for bringing portable altars into the capital. Temple and shrine heads should be made to acknowledge that going against imperial orders would result in their dismissal, and thereby responsible for the “unjust violent behavior” of their men.⁵²¹

Having rarely encountered resistance, the shrine and temple were predictably not dissuaded and the animosity between them continued. Iwashimizu sent officials to the border between the estates in the twelfth month of 1235 and reignited the conflict, killing several servants from Kasuga Shrine, Kōfukuji’s ally. Reports reached Kamakura that Kōfukuji was would demonstrate in Kyoto with the sacred sakaki branch of Kasuga Shrine. These Kōfukuji monks pressed the claim that Iwashimizu forces had attacked and wounded many Kasuga Shrine members and sought a ruling against their rivals. But on imperial orders, warriors in the capital intercepted and stopped the monks before they could enter the city. This intervention was successful in preventing further advocacy under threat of violence, but it created new problems. Kōfukuji and Kasuga had powerful friends. As the family temple and shrine, respectively, of the Fujiwara family, they were well connected in aristocratic society. In response to the treatment of their monks, the branches of the Fujiwara family, including the imperial regental Kujō, shut the gates of their capital residences to signal their disapproval. In Kamakura, Regent Hōjō Yasutoki convened the High Council to discuss what he considered a very serious problem. The High Council sent a report to the emperor, recommending the immediate arrest of the instigating priest, the return of Inaba Province, and oaths from both sides to not cause any further disorder. Gotō Mototsuna would be sent to Kyoto to mediate the dispute.⁵²² By the second month of 1236, Mototsuna succeeded in ending the standoff, convincing the Kōfukuji monks to accept the bakufu’s settlement and to return to Nara. Days later, the Fujiwara nobles again opened their gates in Kyoto.⁵²³

This settlement prevailed for a time, but within six months, Kōfukuji monks had again taken up arms, upset that Iwashimizu had not been adequately punished.⁵²⁴ Gotō Mototsuna was again dispatched to put an end to the uprising, but his efforts through the Rokuhara office had only strengthened the monks’ resolve and numbers. The monks then began to fortify their positions in Nara in preparation of a battle.⁵²⁵ Kamakura’s efforts to advise the imperial court and mediate and deescalate disputes was no longer proving effective. In Kamakura, the High Council met to discuss a new strategy. In response to the tenacious militarism in Nara, the

⁵²⁰ The initial attack was said to have occurred on 6/4/1235 and the demonstration in response on 6/19/1235. *Azuma kagami*, 7/24/1235. Adolphson, *Gates of Power*, 218-219.

⁵²¹ *Azuma kagami*, 7/24/1235.

⁵²² *Azuma kagami*, 12/29/1235. Adolphson, *Gates of Power*, 219-220.

⁵²³ *Azuma kagami*, 2/28/1236. The settlement is unspecified in extant Kamakura documents, but may have included concessions like that made to Iwashimizu Hachiman Shrine later in 1236, when the bakufu terminated the jitō on Motoyama Estate, returning full control to the shrine. *Azuma kagami*, 7/25/1236

⁵²⁴ Adolphson, *Gates of Power*, 220.

⁵²⁵ *Azuma kagami*, 8/20/1236, 10/2/1236.

bakufu opted to expand its power to appoint: Kamakura installed a military governor in Yamato Province, which had previously been left to the authority of the Nara temples and shrines, and appointed a number of jitō to estates which had harbored armed monks. Kamakura instructed these new appointees to surround Nara and blockade all roads into the city, stopping all movement of goods and people. The warriors were not to attack the monks, but were licensed to kill if the monks demonstrated any hostility.⁵²⁶ These tactics quickly paid dividends. Within two weeks, the monks, cut off from supplies, reinforcements, and information, disassembled their fortifications and dispersed.⁵²⁷

Despite the success of this expansion of authority, the bakufu continued to approach relations with religious institutions with great care. The High Council relieved the military governor and all jitō in the province of duty and dissolved the positions dissolved. *Azuma kagami* reports that this decision was pragmatic: the deployment had returned stability to Yamato and so was no longer necessary.⁵²⁸ However, the High Council may have also been swayed by new subtler protests from Kōfukuji, such as cancelling important lectures and ceremonies.⁵²⁹ Regardless of the reasoning behind it, bakufu policy retained its consistent conservatism: even as it established a precedent for expanding its traditional jurisdiction for appointing officials, Kamakura treated it as a temporary emergency measure, and sought to return to the status quo ante as soon as reasonable. Even as the bakufu was pushed to take on new or expand existing powers, it looked to maintain its place in and the balance of the united state.

Kamakura was willing to go to great lengths to respect the rights of other authorities within the united state. As seen above, it was only when the bakufu was issued an imperial command that it intervened in religious disputes, and even then, did only as much as was necessary for resolution. Another example, a dispute between a shrine and a Kamakura housemen, further illustrates this attitude, as the bakufu proved once again willing to discipline its own to preserve its relationships with courtly and religious society. While tensions between Kōfukuji and Iwashimizu heated up, Kamakura received a report that one of its jitō, Sasaki Takanobu, the son of a High Council Member, had killed an attendant of Hiyoshi Shrine, a powerful shrine at the base of the far side of Mt. Hiei and part of the greater religious complex of the mountain. The shrine voiced its displeasure in a petition to the imperial court. Then, claiming that a ruling on this petition was taking too long, a group of priests left for Kyoto with the from Hiyoshi's portable shrine. Again, warriors were dispatched by imperial order to stop the priests, and the ensuing skirmish led to many injuries.⁵³⁰

Kamakura investigated the cause of the initial violence, and found that it arose from a labor dispute and the rash actions of Takanobu's deputy jitō.⁵³¹ Aided by its allies on Mt. Hiei, Hiyoshi Shrine filed suit for the violence done to it both by Takanobu and the warriors defending the capital. The imperial court agreed to punish the warriors. The bakufu acquiesced to the court's decision to exile not only Takanobu, a jitō and scion of a powerful Kamakura family, but the warriors who defended the capital as well, even though they were acting as "government defense forces in accordance with custom for when a portable shrine was brought into the

⁵²⁶ *Azuma kagami*, 10/5/1236.

⁵²⁷ *Azuma kagami*, 11/1/1236.

⁵²⁸ *Azuma kagami*, 11/14/1236.

⁵²⁹ Adolphson, *Gates of Power*, 221.

⁵³⁰ *Azuma kagami*, 7/27/1235.

⁵³¹ *Azuma kagami*, 7/27/1235

capital.” Kamakura’s leaders were not pleased with the handling of the situation. *Azuma kagami* editorializes that “although there is precedent for bringing portable shrines into the capital, this situation completely surpasses the outrages of ancient times” and explains that the housemen were given this punishment, not because they had committed a crime, but only to placate the clamoring from religious institutions.⁵³²

The bakufu continued to defer to the imperial court, even as it took on a larger role in mediating disputes with and between religious institutions. But the memory of the treatment of the Sasaki lingered. In a report to the emperor later that year—in the midst of the Iwashimizu-Kōfukuji dispute—the bakufu reminded the court of its treatment of the warriors who had served as its defenders. Warriors who followed imperial orders should not be punished for crimes, “even if they were heavy-handed” in reciprocating the violence of rioting monks. Rather, warriors should be encouraged to fulfill these obligations, and the monks’ petitions should be rejected and their attempts to disrupt the capital discouraged. Otherwise, the letter implied, warriors might not report for duty and defend Kyoto.⁵³³

The bakufu thus was increasingly involved in affairs in and around the capital and taking on new powers at the behest of the imperial court, while maintaining at least nominal deference to imperial authority. Kamakura’s expansion into prerogatives of the imperial court and government had continued from the bakufu’s inception, but had drastically changed after the Jōkyū Disturbance in 1221. That year, a coalition of retired emperors ordered the destruction of the shogunal regent, Hōjō Yoshitoki. The bakufu rejected this order in what amounted to open rebellion, and defeated the imperial forces in battle. In the aftermath, Kamakura took radical action, punishing the imperial instigators with compelled abdication and exile under the nominal logic that *they* were the rebels.⁵³⁴ This unprecedented intervention continued as the bakufu supervised imperial succession to secure a more malleable monarch, Emperor Go-Horikawa.

When Go-Horikawa’s imperial line ended with the death of his son, Emperor Shijō, in 1242, the bakufu returned to this logic and precedent. Kujō Michiie, the most influential aristocrat and father of shogun Yoritsune, joined by allies elsewhere in the imperial family and at court, including friend to the bakufu Saionji Kintsune, sought to elevate Prince Tadanari, a son of Emperor Juntoku.⁵³⁵ Kamakura was wary of this choice given Juntoku’s prominent position against the bakufu in Jōkyū—he had issued the order to attack Yoshitoki. Taken aback by this proposal, Yasutoki sent an envoy to Kyoto with an order to dethrone Tadanari if necessary.⁵³⁶ The bakufu preferred instead a son of Emperor Tsuchimikado, the future Emperor Go-Saga, on the grounds that his father, though exiled for his role in Jōkyū, had not actively supported the imperial rebellion.⁵³⁷ Kamakura ultimately prevailed and Go-Saga ascended the throne. This set a further precedent for Kamakura intervention in imperial succession, but it had not come quickly; for eleven days, there was no emperor or designated heir. Kamakura’s hesitation, and

⁵³² *Azuma kagami*, 7/29/1235.

⁵³³ *Kamakura ibun* vol. 7, 236, doc. 4881.

⁵³⁴ Momosaki Yūichirō, “Kenmu seiken-ron,” in *Iwanami kōza nihon rekishi* vol. 7, ed. Ōtsu Tōru, Sakurai Eiji, Fujii Jōji, Yoshida Yutaka, and Sōng Si-Yi (Tokyo: Iwanami Shoten, 2014), 44-45.

⁵³⁵ Uwayokote, “Kamakura bakufu to kuge seiken,” 60.

⁵³⁶ Kumagai, “Mongoru shūrai to Kamakura bakufu,” 10; Uwayokote, “Kamakura bakufu to kuge seiken,” 61.

⁵³⁷ Go-Saga’s father, Tsuchimikado, was exiled just after he was born and his maternal grandfather, Minamoto Michimune, died long before. As a result, he was largely raised by Tsuchimikado Sadamichi, who was married to Hōjō Yoshitoki’s daughter, the sister of Yasutoki and Shigetoki. Kumagai, “Mongoru shūrai to Kamakura bakufu,” 10.

the negative response to its delayed decision among the aristocracy, suggests that the bakufu did not have complete control over imperial succession.⁵³⁸

The bakufu had set an important precedent after Jōkyū, but a peacetime intervention was different and had significant consequences. By inserting itself into imperial succession in response to an unfavorable candidate, the bakufu expanded its authority and jurisdiction. The bakufu was more a part of the united state than ever: it was now responsible for approving imperial successors, and would have to adjudicate disputes between aspiring sovereigns and their factions. In the decades that followed, retired emperors competed to control the path of succession and actively sought Kamakura's intervention to adjudicate their disputes. Following precedent, Kamakura heard the cases and provided rulings, but failed to end the rivalry between branches of the imperial family. Ultimately, Kamakura sought to enforce an alternating succession, actively prolonging the division of the imperial line in a prelude to an era of two courts (Nanbokuchō) in the fourteenth century.

Bungo Province

Outside the major centers of authority, Kamakura law was administered by its military governors in their provinces. Their powers and responsibilities were defined first by custom, then standardized and formalized in the List of Precedents on Judgment. They were tasked with policing major crimes, including rebellion, murder, banditry, and others, and managing the housemen in their jurisdiction, ensuring that they abided by and responded to Kamakura's orders. The military governors were supervised themselves either by Kamakura, for those in the eastern provinces, or Rokuhara, for those in the central and western provinces. Kyushu, however, was an exception. As Japan's westernmost main island, its distance from Rokuhara and Kamakura posed challenges for administration, prompting the bakufu to make special allowances, granting the military governors of the island greater power and autonomy. Though the bakufu continued to issue and transmit orders to its housemen on the island, an important part of this policy was an exemption: Kyushu military governors were licensed to promulgate and enforce their own laws, independent of the List of Precedents. This policy was clarified in a 1245 supplemental law, explaining that because these were distant provinces, "authority shall be exercised in accordance with the time of the house of the Great General [Minamoto Yoritomo]. They need not rely on the List of Precedents (*shikimoku*)."⁵³⁹

In Bungo Province, on the eastern side of Kyushu (roughly modern Oita Prefecture), the Ōtomo family had served as military governors since Ōtomo Yoshinao was appointed by Yoritomo in 1196. In 1242 and 1244, Ōtomo Yoriyasu, the third-generation Bungo military governor, issued laws to govern the province. These forty-five supplemental laws offer a rare glimpse into how Kamakura's principles and policies were put into practice at a local level on the periphery of Kamakura's administration, away from central supervising authority.⁵⁴⁰

In the 1242 laws, the Ōtomo established basic principles for justice in Bungo. Of the twenty-eight issued in this set, the first eighteen established standards for justice within the province, faithfully replicating many of the principles of Kamakura law, especially those

⁵³⁸ Uwayokote, "Kamakura bakufu to kuge seiken," 61.

⁵³⁹ Tsuika-hō 250 (1245); *Azuma kagami*, 2/16/1244, 2/16/1245.

⁵⁴⁰ Historians generally consider these supplemental laws, although they were not issued by Kamakura.

outlined in the List of Precedents. Indeed, the 1242 set was titled “The New Text on Judgment” (*shin goseibai jō*). It borrowed the opening subject matter as well: its first law combined Articles One and Two of the List of Precedents, mandating the maintenance of temples and shrines and the observation of important festivals and services.⁵⁴¹ Seven other laws explicitly invoked the List of Precedents while setting standards for the province. For the most part, these simply affirmed Kamakura’s rulings in Bungo, as was the case for major crimes (murder, banditry, assault, etc.), the payment of rents and taxes, provocative crimes (verbal abuse, adultery, forgery, etc.), the management of children of bound servants, the handover of holdings for incoming officials, roadside abduction, and punishments.⁵⁴²

Additional laws reflected principles from the List of Precedents without direct attribution, including the prohibition of sales of grant lands and rules for the handover of official positions.⁵⁴³ Still more referenced and affirmed various other rules and regulations issued by Kamakura, including regulation on the buying and selling of people, the observation of Buddhist prohibitions on killing living things, a ban on (most) falconry, and capping interest on rice loans.⁵⁴⁴ Only three of these eighteen laws do not have extant equivalents in legislation from Kamakura, two of which centered on destruction wrought by loose horses and cattle (owners would be held liable for damages), and the last regulating intermediaries who recruited women for prostitution.⁵⁴⁵

The final ten laws of the 1242 set regulated the area surrounding the seat of the Ōtomo administration, the military governor’s office (*shugodokoro*). The Ōtomo had established this office in an existing town, known as the *fuchū* or *funai*, modern Oita City, which had formed around the provincial government (*kokufu*), installed by the imperial government centuries before as part of broad governmental reforms in the seventh and eighth centuries.⁵⁴⁶ These towns were common in the provinces and tended to be their political and economic centers, holding the offices of the provincial government, government officials and their residences, shrines and temples for the protection of the province and country, as well as the merchants, craftsmen, and servants who provided supplies and labor for the town. The military governor had substantial powers in this town and throughout the province, but he did not govern Bungo alone; the provincial government continued to operate, though the Ōtomo’s laws suggest that they were able to dictate the bulk of provincial policy.⁵⁴⁷ The Ōtomo were thus central figures in Bungo and its administrative center, but military governor Ōtomo Yoriyasu was not in the province when he issued these laws—he was in the Kantō, the region encompassing Kamakura and the ancestral homeland of the Ōtomo. The Ōtomo family also had experience in Kyoto, and

⁵⁴¹ Tsuika-hō 172 (172-199) (1242); *Goseibai shikimoku*, Articles 1-2.

⁵⁴² Tsuika-hō 175, 176, 179, 181, 184, 186, 187 (172-199) (1242); *Goseibai shikimoku*, Articles 1-2, 5, 10, 11, 12, 13, 15, 32, 34, 41, 46. Some small changes were made regarding punishments. For example, a provision was added for commoners who abduct people off the roadside: they would be imprisoned.

⁵⁴³ Tsuika-hō 182, 183 (1242); *Goseibai shikimoku*, Articles 42, 48.

⁵⁴⁴ Tsuika-hō 173, 174, 178, 180 (1242).

⁵⁴⁵ Tsuika-hō 185, 187, 189 (1242).

⁵⁴⁶ Hirano Kunio, “Kokufu,” in *Kokushi daijiten* vol. 5, ed. Kokushi daijiten henshū iinkai (Tokyo: Yoshikawa Kōbunkan, 1985), 676-677.

⁵⁴⁷ Historians speculate that the Ōtomo only came to completely dominate provincial administration in the Nanbokuchō period (1336-1392).

potentially in towns elsewhere. They relied on this exposure to city administration when designing the laws for their base.⁵⁴⁸

The Ōtomo sought to pass laws to keep their town peaceful and stable. To do so, they relied on many of the same techniques used in Kamakura and Kyoto. They utilized the same conceptual and administrative divisions: one law references wards, suggesting a division of the town into these administrative units.⁵⁴⁹ The Ōtomo also imposed similar regulations to manage public space. People walking through the town were to be publicly identifiable; hats that obscured the wearer's face were prohibited, except when raining.⁵⁵⁰ Streets were to be kept clear and in working order; it was forbidden to narrow streets for farmland or houses or to erect birthing partition huts within them.⁵⁵¹ The marketplace was also a focal point, as the Ōtomo extended the bakufu's 1240 ban on the practices of facilitating a purchase for under-market value through intimidation and impressing craftsmen for personal labor.⁵⁵² Finally, various types of gambling were forbidden, at least for Bungo housemen, who would forfeit their appointments if they indulged in the vice.⁵⁵³

The Ōtomo continued to regulate the land of the provincial town beyond the clear influence of Kamakura and Kyoto. In one law, the unlicensed construction of shrines to local gods was prohibited.⁵⁵⁴ Another banned the erection of birth partition huts "in public streets."⁵⁵⁵ In a third, the building of graves within the town was forbidden.⁵⁵⁶ Although there is no record of these specific regulations for the city of Kamakura, they show a shared philosophy in both in the goal of protecting public space and method of management. They also illustrate a sensibility common across medieval Japan to protect public space not only from congestion, but from pollution. Most contemporary cities and towns, from Hakata to Kyoto to Hiraizumi, also banned graves within their borders. Archaeological evidence from another provincial town in Tōtōmi Province suggests that residents there likely also subscribed to this custom. Kamakura was an outlier in that it had no such law—indeed, the graves of both Minamoto Yoritomo and Hōjō Yoshitoki were near the city center. However, a similar custom likely prevailed as most warriors and monks were buried at temples on the outskirts of the city and in the surrounding mountains, while commoners were primarily buried at the seaside outside the city's borders.⁵⁵⁷

Most important, the Ōtomo attached conditions to the holding of provincial government lands. Those who were negligent in paying taxes or who interfered in the process would have their holdings and residence confiscated.⁵⁵⁸ Though it was common to have obligations attached to land rights—this was the fundamental tie that bound the Kamakura bakufu and its

⁵⁴⁸ Takahashi Shin'ichirō, *Bushi no okite*, 93-95.

⁵⁴⁹ Tsuika-hō 195 (1242).

⁵⁵⁰ Tsuika-hō 193.

⁵⁵¹ Tsuika-hō 194, 195 (1242). The narrowing of streets in Kamakura was mostly due to new and expanded construction, but in Bungo it was more likely caused by the claiming of streets as part saleable private property—either a house or a field. By this time, there was already a term for this kind of real estate (*kōsho*) in Kyoto, where the practice was well established. Takahashi Shin'ichirō, *Bushi no okite*, 101-102.

⁵⁵² Tsuika-hō 192, 197 (1242).

⁵⁵³ Tsuika-hō 199 (1242).

⁵⁵⁴ Tsuika-hō 191 (1242).

⁵⁵⁵ Tsuika-hō 195 (1242).

⁵⁵⁶ Tsuika-hō 196 (1242).

⁵⁵⁷ Takahashi Shin'ichirō, *Bushi no okite*, 106-110.

⁵⁵⁸ Tsuika-hō 190 (1242).

housemen—this law is particularly notable as this applied not only to housemen who held rights from Kamakura, but to *anyone* who received holdings *from the provincial government*.⁵⁵⁹ This means that the Ōtomo, though not entirely in control of the province, had by 1242 made substantial in-roads to the point that they could tax and confiscate holdings granted by the civil provincial government. This had the potential to, at least nominally, put any resident of the province—including civil officials—under the authority of the military governor. Legislation both marked this process of gradual expansion, and was the main method for formalizing it. Warrior authority was expanding in the provinces, as military governors and their laws took on more of the responsibilities once held by civil officials.

This law thus demonstrates that warrior authority in Bungo went beyond warriors themselves and could extend to civil officials. It also strongly suggests the presence of a significant merchant population, who, as in Kamakura, would rent space from the recipients of grant lands, providing the requisite funds for the military governor's taxes.⁵⁶⁰ Bungo's laws were conspicuously quiet on monks, especially when compared to the frequency of legislation and intervention in Kamakura and Kyoto. Though this absence may be striking, it does not mean that the monks were beyond the reach of warrior law. Rather, it is more likely that monks were held accountable to the same standards as other civilians, but were few in number and therefore not a main focus of legislation. There were no doubt temples and shrines in Bungo (and too many shrines to local gods, evidently), but their number paled in comparison to the high concentration of religious institutions and their staff in and around Kyoto and Kamakura. Even as the Ōtomo localized the principles of the List of Precedents, they opted not to include the existing provisions for the punishment of monks who abduct women from the road; they were not necessary.⁵⁶¹

The second set of Ōtomo laws, issued in 1244, built on the foundations set in the New Text on Judgment and continued to draw on Kamakura's examples. The first in the compilation instructed the military governor's officials to render justice impartially, echoing sentiments expressed by Hōjō Yasutoki in his letters explaining the List of Precedents.⁵⁶² The Ōtomo also implemented a statute of limitations for appeals, specifying that they would not revisit cases judged by the prior three generations of judicial officials.⁵⁶³ Two further laws regulated frequent causes of disputes and violence, slander and abusive language, replicating standards established in the List of Precedents.⁵⁶⁴ Jitō were also commanded to perform their police duties in accordance with Kamakura directives, especially with regard to bandits and pirates, common problems in the far western provinces.⁵⁶⁵

Other laws derived inspiration from prior supplemental laws. The Ōtomo adopted standards for judicial procedure put forth for the bakufu's courts. Judicial officials were required to provide full reports and copies of evidence, litigants who did not respond to summons three times were to be punished, and judges were to recuse themselves when cases involving their

⁵⁵⁹ Takahashi Shin'ichirō, *Bushi no okite*, 99.

⁵⁶⁰ Takahashi Shin'ichirō, *Bushi no okite*, 99.

⁵⁶¹ Takahashi, *Bushi no okite*, 98; Tsuika-hō 186 (1242).

⁵⁶² Tsuika-hō 217 (1244).

⁵⁶³ Tsuika-hō 220 (1244).

⁵⁶⁴ Tsuika-hō 222, 228 (1244).

⁵⁶⁵ Tsuika-hō 227 (1244).

families were brought to the court.⁵⁶⁶ Yet, the Ōtomo diverged from Kamakura precedents in some areas, tailoring legislation to fit local circumstances. Jitō were commanded to not seize goods from the liminal areas of estates: mountains, plains, rivers, and seas. They were to follow prevailing customs and to compensate local proprietors in the event of illegal appropriation.⁵⁶⁷ In an early supplemental law, Kamakura had issued similar restrictions on jitō, enjoining them to not infringe on locals' rights, but also providing jitō with an equal stake in these areas, dividing the proceeds in half between them and proprietors.⁵⁶⁸ As in Kyoto and Kamakura, a variety of gambling games were outlawed for warriors and commoners alike, though the Ōtomo made a special provision for samurai to enjoy *sugoroku*.⁵⁶⁹

Implementation and Improvement

In the nearly two decades after promulgating the List of Precedents, the bakufu focused on implementing these standards into practical administration and rule and streamlining the process of judging disputes. Expansions of authority were modest, and the overall impact was to develop a more durable legal administration, and thereby solidify Kamakura's pre-existing authority. Kamakura devoted considerable effort to institutionalize local controls, tailoring legislation to fit the needs and limitations of the locality. Simultaneously, Kamakura applied the standards of the List of Precedents on a broader scale. This meant implementing standards in a variety of circumstances, and interpreting the more general standards for application in specific cases. The bakufu highlighted the more important of these shifts in supplemental laws, introducing mostly small, incremental changes to Kamakura jurisprudence. Improving the court process was the other main focus of Kamakura policy in this period. The bakufu issued laws to reduce burdensome caseloads and expedite judgments at all levels of Kamakura courts. These policies were pursued consistently across regents, despite some political upheaval, and culminated in the 1249 establishment of new intermediate courts, the *hikitsuke*, the final legal structure institutionalized in the Kamakura bakufu.

Incremental Substantive Changes

The List of Precedents provided an outline for justice in the courts of Kamakura, but was not a complete set laws; rather, it was intended to be a guideline for judgment. Regent Hōjō Yasutoki wrote that he intended for the List of Precedents to create a new legal standard for warriors, which would be easily understood and produce fair, predictable results.⁵⁷⁰ But as these principles were put into practice, the bakufu was forced to interpret them in different and changing contexts. Specific cases demanded interpretation of broad principles, and unforeseen developments required new regulations. The bakufu responded to these needs first in supplemental laws, through which it issued instructions modifying and introducing policy to its officials.

⁵⁶⁶ Tsuika-hō 219, 229, 230, 232 (1244).

⁵⁶⁷ Tsuika-hō 226 (1244).

⁵⁶⁸ Tsuika-hō 13 (1223).

⁵⁶⁹ Tsuika-hō 233 (1244).

⁵⁷⁰ *Hōjō Yasutoki shōsoku*. See Chapter Four for translation and analysis.

Many of these laws revisited and reinterpreted principles enshrined in the List of Precedents. Article Twenty-Four, for example, prohibited widows who inherited their husbands Kamakura holdings from remarrying, rescinding the land rights if they did so.⁵⁷¹ A 1238 supplemental law confirmed that such inheritance by widows had become common practice and was sanctioned by Kamakura. However, enterprising widows discovered a loophole: after receiving confirmation of their holdings, a widow would transfer them to a son or other relative, and then remarry. No longer holding the land rights herself, she could not be punished according to Kamakura law. For the bakufu, this new practice represented a threat to Kamakura's control over its landholdings and thereby its housemen. The law went on to declare this "grave misconduct," and prohibited such transfers by widows except in the case of terminal illness.⁵⁷² Similarly, the List of Precedents had established that widows "should abandon all other matters and devote themselves to their late husband's welfare in the next world," yet a 1239 lawsuit led to a supplemental law to clarify this position. A widow who followed this prescription and became a nun was not to take an active role in managing her late husband's holdings, and would be punished for issuing judgments or handling administrative affairs.⁵⁷³

Land holdings could also be alienated from bakufu control through sale. Article Forty-Eight of the List of Precedents banned the "selfish" sale of holdings granted by the bakufu, and specified that both buyer and seller would be punished, though no single action was mandated. Sales of lands obtained independently of the bakufu, however, including those confirmed by Kamakura, had long been allowed. But in 1240, the bakufu tightened these regulations in a supplemental law, limiting the transfer or sale of any holdings from housemen to other housemen. That is, commoners and moneylenders were explicitly blocked from obtaining any land rights from Kamakura warriors. The bakufu gave teeth to these restrictions, specifying that any holdings transferred illegally would be confiscated. This was couched as being "in accordance with precedent," but it did not appear in the List of Precedents nor in any extant supplemental laws. Once again, the bakufu masked legal innovation with a veneer of historical legitimacy. These provisions were also presented conservatively: they were not to apply to the holdings of non-housemen, "even though they are samurai."⁵⁷⁴ That is, the limits on Kamakura authority outlined in the List of Precedents would still be observed. Rather than attempting to regulate the broader economy of land holding, Kamakura instead sought to insulate its housemen from the risk of losing their livelihoods. By banning these transfers, Kamakura attempted to ensure that its housemen would not lose their main source of income, and perhaps more important, their main connection to the bakufu.

Land holdings were indeed very important to both Kamakura and its housemen, and were the typical currency exchanged for loyal service. Many housemen were recognized as having provided this service and expected rewards in return, but often did not receive them in a timely fashion. In the absence of confiscations from a vanquished enemy, there simply were not adequate resources to provide them. Even for those who fought in the Jōkyū Disturbance, which

⁵⁷¹ Kamakura courts upheld this principle, though often keeping the holdings in the family. In a 1245 case, for example, reviewed a widow's remarriage and ruled that holdings inherited from her late husband should be transferred to their son. *Azuma kagami*, 10/6/1245. The principle was not applied retroactively, however, as a 1241 ruling validating a remarriage due to its preceding the promulgation of the List of Precedents. The widow was allowed to remarry and continue to possess her inherited holdings. *Azuma kagami*, 6/28/1241.

⁵⁷² Tsuika-hō 98 (1238).

⁵⁷³ Tsuika-hō 121 (1239); *Azuma kagami*, 9/30/1239.

⁵⁷⁴ Tsuika-hō 145 (1240).

purportedly netted the bakufu over 3,000 confiscated holdings, rewards were not always forthcoming.⁵⁷⁵ In 1236, bakufu leaders met to discuss those who had not yet received holdings, but as there was “no suitable land at the moment and the grants were again put off.”⁵⁷⁶ In 1241, at least one housemen finally received a reward for his service in Jōkyū, but only after the intervention of the future regent Hōjō Tsunetoki on his behalf.⁵⁷⁷ So when a holding was confiscated, there was often some competition to receive it. Article Forty-Four of the List of Precedents forbade housemen making requests for their colleagues’ holdings in anticipation of a confiscation following a judgment against them.⁵⁷⁸ These requests persisted, however, and in 1243, the bakufu reiterated its policy: all appeals before a confiscation was decided were still disallowed and would not be heard, but there was no restriction once a ruling for a confiscation had been made.⁵⁷⁹

The bakufu also modified its punishments in response to practical experience and changing conditions. In one case, Kamakura sought to close another loophole, as thieves made the restitution required of them by a 1231 law, but soon began to plot their next crime. In 1248, the bakufu ordered its officials to treat repeat offenses as major crimes.⁵⁸⁰ In another instance, the High Council exercised the discretion Kamakura had afforded itself in the List of Precedents. Article Fourteen stipulated that masters would not be held accountable for the crimes of their subordinates, except if they were aware of wrongdoing and did not move to report and submit them to the bakufu, or if their deputy violated the land or tax rights of civilian authorities or did not respond to Kamakura summons.⁵⁸¹ In a 1241 supplemental law, the High Council ruled that it would not extend culpability to the master of a thieving follower, creating and communicating a precedent.⁵⁸²

The bakufu had clearly defined the duties and rights of its housemen in their roles as military governors and jitō by 1232, in the List of Precedents and earlier supplemental laws. However, policing this police force proved problematic, as seen in the frequent laws and lawsuits regarding abuse by warrior officials. Kamakura not only punished misdeeds, but also acted to compel its housemen to actively enforce the law. A 1245 law reveals the bakufu leaders’ frustration at the continued violence in the provinces: “It is recorded in the List of Precedents that the jitō and military governors of the various provinces shall exercise this authority” to suppress “thieves at sea and on land, banditry, piracy, night attacks, and robbery” and that the housemen were required to submit oaths that they would fulfill these obligations. “And yet, [these crimes] are not eradicated.” The bakufu again commanded all jitō and military governors to act swiftly and punish these criminals severely. Those who failed to do so—even those whose jurisdictions were rumored to have criminal activity—would have their appointments revoked.⁵⁸³

Kamakura also revisited one of its most important principles, the twenty-year statute of limitations for asserting claims to land. Following its promulgation, this standard had a profound impact and provoked a strong response. Within five years, a Kamakura law observed that there

⁵⁷⁵ *Azuma kagami*, 8/7/1221.

⁵⁷⁶ *Azuma kagami*, 9/3/1236.

⁵⁷⁷ *Azuma kagami*, 9/3/1241.

⁵⁷⁸ *Goseibai shikimoku*, Article 44.

⁵⁷⁹ *Tsuika-hō* 206 (1243).

⁵⁸⁰ *Tsuika-hō* 263 (1248). The referenced precedent was in *Tsuika-hō* 21 (1231).

⁵⁸¹ *Goseibai shikimoku*, Article 14.

⁵⁸² *Tsuika-hō* 161 (1241).

⁵⁸³ *Tsuika-hō* 252 (1245).

were “many who complain that the List of Precedents should not be followed” in regard to the “Twenty-Year Law,” hoping to advance their own interests through claims of illegal seizure and forgery. In 1237 and again in 1238, Kamakura stood firm against this attempt to undercut its new standard: “The letter [of the law], that right and wrong shall not be argued, fits this case. Henceforth, even if there is an error in the documents, if twenty years pass, in abidance of the principles of the List of Precedents, right and wrong shall not be revisited and there shall be a judgment based on the years of possession.”⁵⁸⁴

The bakufu proved willing to make one exception to this otherwise rigid statute of limitations. The law of apportionment was established in 1223 to create a standard set of land rights for jitō appointed after the Jōkyū Disturbance. It mandated that all such “new jitō” would receive land rights based on fixed ratio: for every ten *chō* the civilian authority (whether estate proprietor, guarantor, or public official) received, the jitō would receive one, as well as a small additional levy of one *shō* per *tan*.⁵⁸⁵ Apportionment cut down on confusion, diffused and prevented potentially violent interactions, and reduced the number of land disputes brought to Kamakura courts. These priorities were compatible with the goals of the statute of limitations, and so in 1247, Kamakura clarified that cases in which jitō violated either the law of apportionment or the individual arrangements grandfathered in for “original jitō” (appointed before 1221) would be heard no matter when the violation occurred.⁵⁸⁶ This underlines the importance that Kamakura leaders assigned to the law of apportionment: they were willing to make an exception to the statute of limitations and accept more lawsuits in order to preserve it. The law of apportionment was one of Kamakura’s main mechanism for limiting abuse by its housemen and for offering supporting and accountability to the other authorities within the united state. Bakufu leaders calculated that this exchange was worth it.

Court Process

Improving judicial procedure was another main focus of Kamakura policy in this period. Overwhelmingly, this meant that Kamakura acted to reduce the number of cases brought to its courts and minimize the time and manpower needed to judge them. One method was to directly prevent would-be litigants from filing suit; the bakufu issued a swath of legislation limiting standing. Judicial decisions and supplemental laws barred suits against one’s parents and grandparents, instead establishing this filial impiety as a major crime.⁵⁸⁷ Similarly, another made clear that “without regard for right and wrong, there shall not be standing” for disputes between masters and retainers.⁵⁸⁸ Kamakura courts would not accept any accusations for hierarchical household matters. Further, Kamakura ruled that trials were unnecessary for cases that passed these standards, if the evidence made the matter clear.⁵⁸⁹

When Kamakura courts did accept lawsuits, the bakufu worked to contain them. Only the litigants involved in the dispute would participate, and powerful patrons were not to exert

⁵⁸⁴ Tsuika-hō 92 (1237), 95 (1238). See also Tsuika-hō 208 (1243) which specified that “there was no need for a trial” regarding “judgments from long ago.”

⁵⁸⁵ Tsuika-hō 8 (1223), 9 (1223).

⁵⁸⁶ Tsuika-hō 261 (1248).

⁵⁸⁷ Tsuika-hō 138 (1240), 143 (1240), 159 (1240); *Azuma kagami*, 5/4/1240, 5/14/1240.

⁵⁸⁸ Tsuika-hō 265 (1248).

⁵⁸⁹ Tsuika-hō 93 (1238), 208 (1243); *Azuma kagami*, 7/10/1243.

influence on the proceedings. A 1234 law cited recent violence in the west that had led to lawsuits involving housemen. One perpetrator, when confronted, claimed membership with a shrine and sought to bring the shrine into the suit to advance his case. The bakufu refused this extension, setting and announcing the precedent that lawsuits could not be extended to include peripheral actors.⁵⁹⁰ A law from the next year continued this trend, limiting the kinds of appeals the bakufu would hear from these outside authorities. Kamakura would accept no petitions from guarantors opposing land surveys for public and estate lands that had not had one performed since the Jōkyū era (1219-1222).⁵⁹¹

The bakufu also arranged to protect housemen from predatory civilian authorities. In his letters explaining the List of Precedents, Yasutoki made it plain that the principles were “only for the management of warriors” and would “not in any way alter Kyoto’s authority or classical law.”⁵⁹² However, limiting warrior powers and holding them accountable to well-known standards left them vulnerable to speculative lawsuits. Kamakura had battled specious claims since well before 1232, and finally took action to create more lasting protections in 1235. Supplemental Law Eighty-Seven reaffirmed the standing principles that when an accusation was leveled at a jitō, “both sides will be investigated and judged, and any lawlessness on the part of the jitō shall be treated as a crime. As for the civil estate manager (*azukari-dokoro*) and other estate officials, even if they have committed an injustice, it is beyond our jurisdiction.” However, it noted that Kamakura’s limitation of warrior powers and principle of non-interference into aristocratic and religious affairs created an incentive for civilians to file frivolous lawsuits without end: there was no mechanism to hold them accountable in Kamakura courts. This was another potent threat for the bakufu: it directly endangered the rights and livelihoods of its housemen and threatened to overload its judiciary with frivolous suits. In response, the bakufu reached an understanding with its allies at court. Kamakura arranged through Nijō Sadataka for an imperial command to order that officials who bring false charges or otherwise break the laws and precedents of their estates would have their appointments rescinded.⁵⁹³ The bakufu worked within the united state to simultaneously protect its housemen and their relationship to Kamakura, reduce caseloads, and improve the quality of justice, while honoring the principle of non-interference outlined in the List of Precedents. However, Kamakura pressed the protection of housemen further in 1248, undercutting this principle somewhat by allowing housemen to send reports to the bakufu of any “unjust judgment” issued by an estate guarantor.⁵⁹⁴ Though no intervention was explicit, this demonstrated a growing bakufu interest and involvement in matters beyond the reach of its earlier jurisdiction. Warriors were increasingly assertive in their relations with their civilian counterparts and superiors, and bakufu policy adjusted to support them, even as it continued to impose limits to their powers.

After cases had been accepted, a variety of other problems hindered litigation. Two supplemental laws from the 1240s regulated lawsuits of commoners. Kamakura chastised its magistrates for continually issuing special directives when a defendant did not arrive for trial, resulting in the plaintiff having to make the trip to Kamakura repeatedly.⁵⁹⁵ The List of Precedents had already established that if a defendant did not appear at court after three

⁵⁹⁰ Tsuika-hō 67 (1234).

⁵⁹¹ Tsuika-hō 91 (1235).

⁵⁹² *Hōjō Yasutoki shōsoku*.

⁵⁹³ Tsuika-hō 87 (1235).

⁵⁹⁴ Tsuika-hō 264 (1248).

⁵⁹⁵ Tsuika-hō 146 (1240); *Azuma kagami*, 6/11/1241.

summons, a summary judgment would be issued against him.⁵⁹⁶ Supplemental laws expanded on this, ordering magistrates to limit themselves to the normal announcements, reducing the burden on the plaintiff, and to punish defendants who had not responded after three summonses.⁵⁹⁷ Years later, absenteeism remained a problem, and the bakufu issued further laws establishing a timeline for the judgment summary (twenty days after the final summons) and reiterating that absent litigants would forfeit their case and given additional punishment.⁵⁹⁸

Litigants who attended, but otherwise obstructed proceedings were also highlighted in legislation. Reinforcing the principle established in the List of Precedents that false charges and slander had no place in Kamakura law, the bakufu added provisions in a supplemental law regarding harassment and falsehoods perpetrated during court proceedings. If, after investigation, such charges were proved true, the harasser would have his holdings confiscated or face further punishment if he had none.⁵⁹⁹ Similarly, those who invoked the aid of influential shrines to delay proceedings or otherwise interfere in judgment were to be reported to Kamakura and if found guilty, relieved of their appointments.⁶⁰⁰

To combat false charges, expedite judgments, and improve the overall function of the courts, Kamakura increasingly employed oaths. In 1232, the List of Precedents on Judgment famously concluded with an oath cosigned by all High Council members, in which they pledged to administer justice impartially, in line with “reason,” and as a united body. Two years later, the bakufu required seventeen important bakufu legal officials to take a similar oath, “that as magistrates each will carry out his duties justly, without regard for personal relationships or status.”⁶⁰¹ Increasingly, Kamakura imposed similar conditions on litigants. A 1238 supplemental law laid out rules for the use of evidence: if submitted documents were clear, there was no need for further testimony; if they were not, the court would invite statements from witnesses; if the case was still unclear despite written evidence and witness testimony, both parties would be made to submit an oath.⁶⁰² An oath was a written affidavit or contract, in which the affiant invoked the gods and Buddhas and pledged that their written statement was true or that they would uphold the promises made therein under threat of divine punishment.⁶⁰³ Kamakura established clear standards for disqualification in a 1235 supplemental law. If the affiant avoided these disqualifications during the specified period—two weeks, with one in seclusion at a shrine per this law—then their oath was considered valid and a judgment would be made accordingly. In the words of the law, oaths would be considered broken if the affiant experienced any of the following:

- The appearance of a nosebleed
- Illness, after writing the oath (however, this excludes prior illness)
- The urination of kites or crows [onto the affiant]
- The eating of one’s clothes by mice

⁵⁹⁶ *Goseibai shikimoku*, Article 35.

⁵⁹⁷ *Tsuika-hō* 146 (1240).

⁵⁹⁸ *Tsuika-hō* 260 (1247), 262 (1248); *Azuma kagami*, 5/20/1248.

⁵⁹⁹ *Tsuika-hō* 76 (1235); *Azuma kagami*, 7/2/1235.

⁶⁰⁰ *Tsuika-hō* 113 (1239).

⁶⁰¹ *Azuma kagami*, 7/6/1234. As rumors of bias by magistrates persisted, the bakufu began keeping a record of their assignments and established punishments for such breaches. *Azuma kagami*, 3/30/1245.

⁶⁰² *Tsuika-hō* 93 (1238).

⁶⁰³ Ogino Minahiko, “Kishōmon,” in *Kokushi daijiten* vol. 4, ed. Kokushi daijiten henshū iinkai (Tokyo: Yoshikawa Kōbunkan, 1984), 85-87.

- The discharge of blood from within one's body (however, this excludes when one uses a toothpick, as well as menstruating women and hemorrhoids)
- [The wearing of] heavy and light mourning clothes
- The occurrence of a crime by one's father or son
- Choking when eating (however, if it is to the extent that one is slapped on the back, this shall be deemed a disqualification)
- The illness or death of one's riding horse⁶⁰⁴

These oaths played central roles in litigating lawsuits. For instance, a litigant was cleared of charges of harassment during a trial based on oaths submitted by witnesses in 1245.⁶⁰⁵ A case the year before similarly hinged on the validity of an oath. Ichikawa Takamitsu had married a woman known only as “the Fujiwara woman” and signed a contract at their marriage which promised to grant her specific holdings in the event of a separation. When they separated, she sued to enforce this agreement, but he countersued and alleged that she had committed adultery with Ochiai Yasumune, thereby voiding the contract. His wife disputed this. As this was a serious allegation and “impossible to disregard,” Kamakura ordered that Yasumune submit an oath and spend seven days in seclusion at Egara Shrine, and tasked two officials to supervise each. After the seven days passed without incident, the bakufu ruled in favor of Yasumune and Takamitsu's ex-wife, and awarded her the holdings stipulated in the original contract, including the Ichikawa residence itself.⁶⁰⁶ By 1241, Kamakura had institutionalized this sort of arrangement, requiring plaintiffs to have a stake in lawsuits they initiated. This took the form of an oath, as plaintiffs were required to pledge to cede a holding if they lost the suit. Without such an oath, officials were commanded to not hear the case, regardless of prior orders issued.⁶⁰⁷ These rules mandated stakes for both parties in an effort to curtail speculative or frivolous lawsuits and to continue to reduce the caseload.

Kamakura and litigants alike put a premium on papers produced by the courts and their supporting officials. In 1235, the bakufu responded to appeals from litigants for documentation of proceedings in a supplemental law issued to Rokuhara: “Plaintiffs say that when Kyoto [i.e. Rokuhara] conducts an inquiry, [all] words should be recorded, even if it is an unimportant detail. These unimportant details have no value. Be that as it may, plaintiffs will feel grieved if these are not written down. The plaintiffs' statements shall be recorded.”⁶⁰⁸ As the parties involved knew, any documentation could prove crucial in future litigation, and consequently were kept as prized heirlooms by families and religious institutions. Many documents (though evidently not those referenced above) were important for the administration of justice as well. In 1241, the bakufu chastised Rokuhara for its failure to forward necessary documents regarding inquiries and evidence in a timely manner.⁶⁰⁹ Kamakura went on to establish strict protocols for the Board of Inquiry regarding the composition of investigative reports and their use at trials at the High Council. Board of Inquiry magistrates were to scrutinize documents submitted as evidence by the litigants, prepare copies and an inventory of all documents for use by the High

⁶⁰⁴ Tsuika-hō 73 (1235); *Azuma kagami*, intercalary 6/28/1235.

⁶⁰⁵ *Azuma kagami*, 12/25/1245.

⁶⁰⁶ *Azuma kagami*, 7/20/1244, 8/3/1244.

⁶⁰⁷ Tsuika-hō 168 (1241), 211 (1243), 212 (1243); *Azuma kagami*, 8/28/1241, 8/26/1243. The requirement was in practice by 1245 at the latest, when *Azuma kagami* records the transfer of such a holding on the verdict of a lawsuit. *Azuma kagami*, 5/7/1245.

⁶⁰⁸ Tsuika-hō 89 (1235).

⁶⁰⁹ *Azuma kagami*, 3/20/1241.

Council, and take care that these parcels arrive in Kamakura on time, when they would be checked in a monthly review session (*hikitsuke*) and a receipt sent in return.⁶¹⁰

For the act of judgment itself, Kamakura refined procedure for the High Council. A 1247 law established seating assignments according to status. Samurai were permitted to sit in the main hall, while their followers were to remain on the veranda, and commoners were left outside in the garden.⁶¹¹ High Council members were regulated as well. In 1248, they were divided into Juniors and Elders, and given precise seating arrangements.⁶¹² However, they were not to take the bench for cases in which a personal relationship might influence their judgment. Three laws in 1235 and 1240 cataloged the litigants that required recusal: grandparents, parents, wives, children, adoptive children, siblings, uncles, nieces and nephews, paternal cousins, close in-laws, and cap-children.⁶¹³

These efforts to routinize, expedite, and improve the judicial process were consistent across regents. In 1242, the long-serving Hōjō Yasutoki died, and his grandson, Hōjō Tsunetoki took the position of shogunal regent. In his first year as de facto leader of the bakufu, he initiated procedural reforms much in the same vein as his predecessor. Dissatisfied with the continued clogging of Kamakura courts, Tsunetoki established an explicit timetable for the compilation of judicial decisions, allowing two months for major cases, one month for intermediate affairs, and twenty days for minor suits.⁶¹⁴ However, delays remained a problem as only three months later Tsunetoki made a personal visit to Miyoshi Yasumochi, the head of the Board of Inquiry, to voice his dissatisfaction with the delayed production of court records and to order his officials to streamline the process.⁶¹⁵ Tsunetoki also brought reforms to the High Council. He implemented a new system for High Council judgments, which divided the body into three groups and assigned each set days of the month to judge disputes.⁶¹⁶ Months later, the High Council agreed on another small, but highly symbolic, step to expedite the process of enforcing judgments: they cut out the shogun. Though shogunal involvement in judgment had declined over the preceding decades, the shogun remained the nominal head of the bakufu and rubber stamped the judgments made by the High Council before they were enforced. The law explains that because the shogun would inspect the summary brief before any orders were drafted or executed, “judgments are delayed. This is most improper.” Rather than waiting for shogunal sanction, the brief would be sent directly to a magistrate, who would write the necessary orders immediately. “Then, this order will be compared and verified at the Board of Inquiry, and if there are no discrepancies with the summary brief,” it would be distributed and enforced.⁶¹⁷ And with that, the final fig leaf of shogunal judicial authority was removed.

⁶¹⁰ Tsuika-hō 163-167 (1241).

⁶¹¹ Tsuika-hō 260 (1247). This law contains notes referencing “Mutsu trials,” which is somewhat ambiguous, but most likely relates to the administration of that province, for which the Hōjō held hereditary control of the Provincial Governorship.

⁶¹² *Azuma kagami*, 1/7/1248.

⁶¹³ Tsuika-hō 72 (1235), 140 (1240), 141 (1240); *Azuma kagami*, 4/25/1240. “Cap-children” (*eboshigo*) were those who one had capped at their coming-of-age ceremony, having a godchild-like relationship to the capper.

⁶¹⁴ *Azuma kagami*, 2/15/1243.

⁶¹⁵ *Azuma kagami*, 5/23/1243.

⁶¹⁶ Group One, for example, convened on the third, ninth, thirteenth, seventeenth, and twenty-third of each month. Tsuika-hō 205 (1243); *Azuma kagami*, 2/26/1243.

⁶¹⁷ Tsuika-hō 213 (1243); *Azuma kagami*, 9/25/1243.

These measures came in the midst of a slightly different climate. Tsunetoki's succession led to a rebalancing within the leadership of the bakufu, and there was at least perceived resistance to his elevation in 1242, with suspicions centered on the now adult shogun, Kujō Yoritsune.⁶¹⁸ It was in this context that Tsunetoki formally removed Yoritsune from the Kamakura judicial process. However, while no doubt influenced by these misgivings, the move was in many ways a formality. The High Council had exercised ultimate judicial authority since its inception (in 1225 or 1232), and a semi-formal coalition led by the Hōjō had done so before that, including a period without a shogun at all. And while Tsunetoki was clearly eager to remove Yoritsune from even the trappings of power—he had Yoritsune replaced as shogun by his young son in 1244—Yoritsune had never exercised any practical authority within the administration of the bakufu.⁶¹⁹ This maneuver also fit a broader pattern of policies to improve the judiciary and served to bolster Tsunetoki's own legitimacy at a time when he felt his hegemony of Kamakura politics was threatened. By eliminating this unnecessary and time-consuming step, Kamakura courts would be better able to finalize judgments and quickly enforce them. Improving the speed, reliability, and justice of judgments was central to solidifying his relationships with Kamakura housemen and his underlying legitimacy within the united state.

Political Consolidation under the Regency

Greater turbulence came under the early regency of Tsunetoki's brother, Tokiyori, who became regent after Tsunetoki's early death in 1246. Once again, succession presented opportunities for dissent and challenge. Tokiyori faced strong opposition from within the Hōjō and other powerful warrior families, as well as the former shogun, who remained a critic of the administration in Kamakura. Though such challenges were common—no Hōjō had taken over the family headship without them—the movement against Tokiyori was unusually broad and powerful. An anti-Tokiyori conspiracy allegedly emerged, which schemed to replace Tokiyori as regent with Nagoe (Hōjō) Mitsutoki, his second cousin once removed. Mitsutoki was the head of the Nagoe branch of the family, also a decedent of Hōjō Yoshitoki and a generation older than Tokiyori; he considered himself to be the rightful leader of the family.⁶²⁰ *Azuma kagami* reports that there was great commotion in the city, as local housemen donned their armor and more warriors came from neighboring provinces in response to swirling rumors of rebellion. But order prevailed. Mitsutoki turned himself in to Tokiyori, cutting his top knot and offering it and a loyalty to oath to the new regent.⁶²¹ Mitsutoki retired and was sent into exile; his warrior allies, including four members of the High Council, were removed from positions of power; Yoritsune sent back to Kyoto.⁶²²

Upheaval returned the next year, 1247, as the Hōji Incident saw the Miura family, powerful and longtime allies of the Hōjō, eliminated through a plot led by the Adachi, their rivals who sought to replace the Miura as the second family of Kamakura. According to *Azuma kagami*, the Adachi publicly slandered Miura Yasumura and his supporters, privately and

⁶¹⁸ Satō, *Nihon no chūsei kokka*, 122.

⁶¹⁹ Yoritsugu, Yoritsune's son, was capped at age six, just before the bakufu formally requested the imperial court to appoint him as shogun. *Azuma kagami* records that word arrived two weeks later of his promotion to nominal leader of the bakufu. *Azuma kagami*, 4/21/1244, 5/5/1244.

⁶²⁰ Okutomi, *Kamakura Hōjō ichizoku*, 155-156.

⁶²¹ *Azuma kagami*, intercalary 4/18/1246, intercalary 4/20/1246, 5/24/1246, 5/25/1246.

⁶²² *Azuma kagami*, 6/7/1246, 6/13/1246, 7/11/1246.

indirectly accusing them of treasonous ambitions, tarring them with the same brush that had been used by the Hōjō in the years following Minamoto Yoritomo's death. Despite Tokiyori's displays of public support, mediation, and reconciliation with Yasumura, violence became all but inevitable as the Adachi stirred up the crowd of warriors who had massed in the city, whipping them into a frenzy and prompting the Miura to fortify their residences. Fighting broke out and the Miura were forced from their defensible compound when bakufu forces set fire to a neighboring residence. They fought through the streets of Kamakura, bringing major bloodshed back to Kamakura for the first time in thirty-four years. Their forces made for the Hokkedō, Yoritomo's memorial hall, where they made their last stand in front of Yoritomo's portrait, chanting sutras and reminiscing about their service to the shogun. When they ran out of arrows, Yasumura and the 276 men under him took their own lives.⁶²³ In the aftermath of this attack, those who had close ties to the Miura were removed from their posts, ranging from the High Council to palace guards to the head priest of Tsurugaoka Hachiman Shrine.⁶²⁴ The Miura had been well connected, including to the regent and his family; cutting them out removed a wide swath of Kamakura's ruling society.

Historians largely agree that the latter decades of the Kamakura bakufu were characterized by a more hegemonic, even “despotic,” Hōjō main line (*tokusō*). Many identify Tokiyori's reign as regent, and this violence in particular, as a turning point. From this point forward, they argue, the Hōjō regents began to increasingly accumulate authority and lands in their own person, reducing the input of other powerful families, including Hōjō branches.⁶²⁵ However, these shifts were made manifest decades later; the immediate impact was primarily a shift in personnel. Tokiyori filled the High Council vacancies with more loyal replacements, but he did not expand the number of seats held by the Hōjō family (five), and kept some seats within traditional High Council families.⁶²⁶ These decisions were made without consulting the High Council, as prominent members had plotted against the regent. Instead, they were made in private deliberations and the first “secret discussion” (*shinpi no sata*) recorded in *Azuma kagami*. This inner circle included Tokiyori's great uncle Hōjō Masamura, his second cousin once removed Kanetsuna (Hōjō) Sanetoki, Hōjō in-law Adachi Yoshikage, and eventually top bakufu clerical official Miyoshi Yasumura.⁶²⁷ These meetings came to be known as the Hōjō's family meeting (*yoriai*), an unofficial body that later came to dominate Kamakura administration—a main instrument of the Hōjō despotism described by historians.⁶²⁸ But for the time being, the High Council remained the top decision-making body in Kamakura.

These events had a rippling effect in Kyoto, as Yoritsune's natal ties to the Kujō family implicated them in the plot and marked the aristocratic leaders as hostile to the new regent. Although Kujō Michiie, Yoritsune's father, disavowed any knowledge of the plot, the bakufu

⁶²³ *Azuma kagami*, 3/3/1247 through 6/4/1247.

⁶²⁴ *Azuma kagami*, 6/7/1247, 6/9/1247, 6/11/1247, 6/13/1247, 6/17/1247, 6/18/1247, 6/20/1247, 7/1/1247; Tsuika-hō 255, 256, 257 (1247)

⁶²⁵ Akiyama, *Hōjō-shi kenryoku to toshi Kamakura*, 3-4; Uwayokote, Motoki, and Matsuyama, *Insei to Heiji, Kamakura seiken*, 32-33; Murai, “Jūsan-jūyon seiki no Nihon: Kyoto, Kamakura,” 11.

⁶²⁶ Satō Shin'ichi, *Nihon chūsei kokka*, 135. On the Miyoshi, *Azuma kagami*, 6/10/1246, 8/1/1246.

⁶²⁷ *Azuma kagami*, 5/26/1246, 6/10/1246. Okutomi, *Kamakura Hōjō ichizoku*, 152.

⁶²⁸ *Azuma kagami* begins to refer to these meetings as “yoriai” in the midst of the Hōji Incident. *Azuma kagami*, 6/22/1247, 6/26/1247. Historians differ on their definitions of “tokusō despotism,” but the *yoriai* has been frequently been a central component, seen as an instrument solely of the Hōjō, in dichotomous comparison with the more inclusive High Council. Akiyama, *Hōjō-shi to toshi Kamakura*, 5.

found new allies at the imperial court, and moved against the former shogun's family. Ichijō Sanetsune, Yoritsune's younger brother, was dismissed from his position as imperial regent and the Saionji family replaced the Kujō as the bakufu's official liaisons with the court (*kantō mōshitsugi*). The bakufu approved the abdication of Emperor Go-Saga and he began his retired imperial administration with Kamakura's support, as his son, Emperor Fukakusa, ascended the throne. Kamakura also petitioned Go-Saga for *tokusei*, virtuous acts of government. In practice, this meant the establishment of a Retired Imperial High Council (*in no hyōjō*). The Retired Imperial High Council would be modelled after Kamakura's. It would be headed by the Saionji family, the bakufu's newly elevated aristocratic ally, but include other influential aristocrats, with Kamakura holding veto power over the appointment of new members and the right to consult on important matters. The body would meet every six months to hear cases and ease the judicial burden on Kamakura. Although it was nominally tied to the retired emperor, it retained a good deal of independence from the court, and so provided a further check on imperial power. With these new arrangements and the bakufu controlling ever more of courtly affairs, court-bakufu relations continued to improve, and when the last Kujō shogun was removed from office in 1252, Go-Saga sent one of his sons to be the next figurehead in Kamakura.⁶²⁹

The final addition to the bakufu's legal administration, the *hikitsuke*, or intermediate courts, were added in 1249. The *hikitsuke* were derived from an existing practice going back to the Heian period, in which legal officials compared documents.⁶³⁰ The bakufu had been employing the procedure for some time, and specifically referenced it in a 1241 supplemental law.⁶³¹ As intermediate courts, these bodies gathered the accusations and rebuttals from litigants, compared them against the List of Precedents, supplemental laws, and other bakufu records and precedents, then issued judgment for review by the High Council, though over time, the intermediate courts increasingly ruled without oversight. The High Council still acted as the supreme legal authority, but the intermediary courts helped to reduce its caseload and to reduce the time needed for an average trial. Indeed, the intermediate courts began their work in the twelfth month of 1249 "because the lawsuits of the various people were not proceeding apace."⁶³² Later orders from the bakufu struck familiar chords, reminding the intermediate courts to avoid spending unnecessary time on cases in which the facts were clear and to make judgments in accordance with the List of Precedents and without inconsistency.⁶³³ Initially there were three such courts, each headed by a High Council member, with three or four other members, and four or five magistrates assigned to clerk for them. One magistrate would handle the administrative affairs of the court, while the others would serve as clerks for individual cases, checking documents, keeping records, and writing recommendations and summaries. Over time, the number of intermediate courts fluctuated, though the magistrates steadily increased, and the system was abolished and reestablished twice.⁶³⁴ Beginning in the 1260s, the intermediate courts lost much of their legal significance, but postings remained important stepping-stone positions

⁶²⁹ Satō Yūki, "Chūsei no hō to saiban," 165; Takahashi Noriyuki, "Kamakura bakufu-ron," 121; Satō Shin'ichi, *Nihon chūsei kokka*, 124-5; Uwayokote, "Kamakura bakufu to kuge seiken," 68-71.

⁶³⁰ Kosawa Naohito, "Hikitsuke," in *Kokushi daijiten* vol. 11, ed. Kokushi daijiten henshū iinkai (Tokyo: Yoshikawa Kōbunkan, 1990), 858.

⁶³¹ Tsuika-hō 166 (1241).

⁶³² *Kantō hyōjō-den*, as in Kosawa Naohito, "Hikitsukekata," in *Kokushi daijiten* vol. 11, ed. Kokushi daijiten henshū iinkai (Tokyo: Yoshikawa Kōbunkan, 1990), 859; *Dai nihon shiryō* part 5 vol. 31, 345.

⁶³³ *Azuma kagami*, 4/2/1250, 9/10/1250.

⁶³⁴ Kosawa Naohito, "Hikitsukekata," in *Kokushi daijiten* vol. 11, ed. Kokushi daijiten henshū iinkai (Tokyo: Yoshikawa Kōbunkan, 1990), 859.

for Hōjō family members, and the expansion and contraction of the bodies reflected internal family politics.⁶³⁵ With the additions of the Hōjō family meeting and Kamakura intermediate courts in the late 1240s, the legal administrative structure of the bakufu was complete. No other bodies were introduced before the fall of Kamakura in 1333.

The years following the promulgation of the List of Precedents were marked by a gradual and flexible expansion of bakufu authority. Kamakura leaders determinedly, if incrementally, extended their authority as they sought to maintain order and respond to challenges, but always within the framework of the united state and adhering to the principles outlined in the List of Precedents. In applying these principles across the country, the bakufu tailored administrative and legal policy with regard to the practicalities of operating far from Kamakura and with some deference to the authority of the imperial court and religious institutions that still provided legitimacy for Kamakura. The complexity of interactions between the bakufu, the imperial court, and religious entities across areas and over time illustrates the incompleteness of traditional paradigm of Kamakura as the “warrior government” in a “dyarchy.” Kamakura had become the dominant force in the united state in 1221, and continued to expand its hegemony within it in this period, but never intended nor achieved complete conquest of or separation from the united state.

⁶³⁵ Kumagai, “Mongoru shūrai to Kamakura bakufu,” 16; Kosawa, “Hikitsukekata,” 859.

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