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# Weighing in on Evidence: Documents and Literary Manuscripts in Early Medieval Japan

**Abstract:** To many scholars, Japan's twelfth century represents of decline of imperial authority and disorder, representing a transition into the medieval age of warrior rule and an increasing reliance on resolving disputes with arms. And yet, this era also appears to represent an increased reliance on literary manuscripts and historical documents rather than a move away from them. Such a conclusion is borne out by an analysis of Taira no Kiyomori (1118–1181), the first warrior-aristocrat to control the imperial court, and of Japan's first warrior government, the Kamakura shogunate (1185–1333). Both were newcomers to the national political scene, but they also made extensive use of existing manuscript traditions, resulting in an increase of written. Indeed, it would be no exaggeration to state that the more competitive and tumultuous the socio-political context, the more important was the possession of prescriptive and culturally valuable manuscripts.

## 1 Introduction

To many scholars, Japan's twelfth century reflects a decline of central authority and increasing disorder, culminating with the Genpei War of 1180–1185 and the establishment of the Kamakura shogunate (1185–1333). As such, it has come to represent a transition into the age of warrior rule and an increasing reliance on resolving disputes with arms. And yet, while violence was indeed common, this era also appears to represent an increased reliance on documents and books rather than a move away from them, as one might expect. Indeed, sales deeds and transfer documents became more important in demonstrating rights to land, Buddhist scriptures were commissioned by warrior aristocrats to accrue merit in this life as well as in the next, Chinese books were highly valued and Japan's first warrior government (shogunate or *bakufu*), founded in 1185, even issued its own set of laws in 1232. Unsurprisingly, these objects had to be stored somewhere so we find at this time also a proliferation of archives. And while archives in the modern sense of the word did not exist, we find the beginnings of documents and literary manuscripts being collected. The question then becomes why that is. Would not raw strength be what

dictated control of land and governance in an age where warriors rose to national prominence? Not necessarily, as we shall see, and for good reasons.

In this essay, I will examine the role played by written artefacts during what we might call ‘early medieval Japan’ (roughly 1100–1400), by paying special attention to the written customs of two newcomers: Taira no Kiyomori (1118–1181) and the Kamakura shogunate (1185–1333).<sup>1</sup> Whereas these are two different entities, they were both upstarts in a court-centered society and they both left legacies that would affect Japanese society for centuries. Kiyomori was a warrior-aristocrat who rose through the ranks during the tumultuous times of the mid-twelfth century when the headship of the imperial family was at stake and armed men were for the first time brought to the capital to solve tensions between disputing factions. Eventually, he would eclipse his own master, Retired Emperor Go-Shirakawa (1127–1192; r. 1155–1158, retired emperor, 1158–1192), to become the *de facto* leader of the imperial court in the late 1170s. Kiyomori’s rule was, however, short-lived as the outbreak of the Genpei War in 1180 soon spelled the end of the Ise Taira and its leader.<sup>2</sup> It was following the Taira defeat in 1185 that we find a new warrior leader in charge, Minamoto no Yoritomo (1147–1199), the founder of Japan’s first shogunate. Contrary to what used to be the view, however, Yoritomo did not set out to undermine or replace the authority of the imperial court, but rather to complement it. Thus, he focused on containing the ambitions of local warriors and their aristocratic commanders, and on maintaining peace.<sup>3</sup> What is noteworthy is that both Kiyomori and later the Kamakura shogunate pursued their agendas by enforcing and mimicking laws and precedents of the imperial court, not by subverting them. In this process, legal documents and literary manuscripts were integral not just to these actors, but in fact to medieval Japanese society in general, severe political changes at the top notwithstanding.

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1 Thomas Keirstead cautions against the use of ‘medieval’ (as well as ‘feudal’) in the Japanese context. While I agree in principle that there are issues with such a transference, for the sake of convenience, I have retained it in this essay. See Keirstead 1998, 47–71.

2 The Taira were imperial offshoots who had been eliminated from imperial succession, but while they had a common ancestry, the many families stemming from this tree were too diverse to be thought of as a coherent clan. Kiyomori’s family were commonly known as the Ise Taira after the province where they developed their stronghold. Following Kiyomori’s rise to power, contemporary sources sometimes use the Chinese reading with the added suffix of ‘house’ to refer to his family as the Heike, which has been adopted in most literary sources as well, such as the *Heike monogatari*. For a discussion of this naming practice, see Masaaki 2009, 12–13. Note also that I follow Japanese naming practices, whereby surname comes first followed by the given name. For large, high ranking families, a genitive ‘no’ is inserted between the two, rendering the meaning ‘of’. Thus, Taira no Kiyomori might be translated as Kiyomori of the Taira. This practice is no longer used.

3 This was the argument of Jeffrey P. Mass (1940–2001), who spent his academic career exploring the Kamakura *bakufu* and its founder. See for example Mass 1999.

## 2 Precedents and document traditions

Following the implementation of the statutory laws (known as the *ritsuryō*, or ‘penal and administrative’ codes) in the seventh and eighth centuries, the early Heian period (794–1185) saw gradual adjustments to the envisioned imperial bureaucratic state based on the model of the Chinese Tang dynasty (618–907). Beginning with the emergence of non-imperial regents from the Northern Fujiwara family in the late ninth century (earlier regents had all been members of the imperial family),<sup>4</sup> we find a trend of privatization of political power, economic resources, state administration and even religious ceremonies, where family assets were used to conduct court affairs. These developments took centuries and are accordingly too complex and extensive to deal with comprehensively here.<sup>5</sup> Yet, they are essential for understanding an increasing reliance on documents, precedents and other written records that developed concomitantly with this process of privatization. For example, as land was given to temples and nobles for their services, and later made tax exempt and perpetually private, deeds and proofs of rights to land naturally became essential. Importantly, such records were not held by the central government, but rather each beneficiary of a donation, sale or bequest was expected to maintain proof of their rights to the property in question. Consequently, the storing and the occasional presentation of such documents were an important part of ownership, so it is not difficult to understand the salient place of archives for each noble, temple and even for provincial elites.

This reliance on documents has led to an astonishing number of sources available to researchers of Japan’s premodern age. One major group is commonly referred to as *komonjo*, which literally means ‘old documents’. They include both legal and private documents, such as letters, decrees, charters, codicils, all produced for an intended recipient or audience.<sup>6</sup> In Japan, *komonjo* are generally his-

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4 Like the Taira, the Fujiwara consisted of a set of branches and sub-branches. Stemming from the founder, Fujiwara no Kamatari (614–669), four branches emerged in the seventh century as the most prominent at the imperial court. Among those, the Northern Fujiwara came to exert more influence than any other family throughout Japan’s history.

5 For a concise argument about the Heian privatization process, see Adolphson/Kamens/Matsumoto 2008, 9–10.

6 The *Nihon rekishi daijiten* (Tokyo: Kawade shobō shinsha, 1985) notes 139 different categories of *komonjo*, ranging from imperial edicts, appeals, verdicts, various land and temple records to private land transfers and letters. For the most comprehensive treatment of *komonjo*, see Satō Shin’ichi 2003, especially chapter 1, ‘Komonjo to komonjo gaku’.

torical documents of legal character, dealing with matters related to property, especially land, often appearing as orders and edicts as well as judicial verdicts. And yet, not all were issued by the state. As property and other assets were privatized, noble, religious and military elites began issuing edicts concerning their own properties. Moreover, appeals and complaints filed by officials and farmers also belong to this category, as well as deeds, wills and various transfer documents. As a result, the total number of *komonjo* for the Heian and Kamakura periods alone are counted in the tens of thousands, likely rivaling any area in Western Europe for the same period (794–1333).<sup>7</sup>

The need for written texts goes well beyond the confinements of *komonjo*, as we also see an increase in the production of religious and literary manuscripts during this age. For example, as new rituals were added to sanctify individuals as well as the state itself, documentation on how to perform them was created and saved for future generations in chronicles, new ritual collections (such as the *Engi shiki*, *Procedures of the Engi Era*, of 918) and ritual manuals. Even the writing of noble diaries, which became more proliferate from the mid-Heian period, was a reflection of a need to keep records of customs and procedures in a society where new forms were often invented and where competition for power engaged numerous strong players. Finally, legends were produced and written down to lend historical and spiritual legitimacy to institutions and individuals throughout the Heian and Kamakura ages.

Looking at this vast collection of written artefacts, one can broadly divide them into categories based on content, function and form: legal and administrative documentary texts, diaries, literary works (poetry collections and various stories, including the well-known *monogatari*, or ‘tales’), chronicles and Buddhist scriptures. Other categorizations are plausible and not everything may fit neatly in one of the groups, but they are useful for the purposes of this essay. Among these categories, documents related to land easily represent the largest in terms of remaining numbers. During the time that private estates (*shōen*) were present (roughly from the eighth through the early sixteenth centuries), more than 40,000 documents remain covering some 600 known estates throughout Japan.<sup>8</sup> Of course, many more were likely produced but the sheer number of those that survive attests to their importance. In fact, their value prompted proprietors to make copies, and when considered salient in legal proceedings, documents were frequently quoted

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7 The highest number of documents in Europe can likely be found in Italian trading cities for the twelfth and thirteenth centuries, where tens of thousands of documents were produced for a variety of transactions. See Esch 1985, 532–534.

8 Mass 1976, 9–10 briefly discusses the documents of the Kamakura age.

in verdicts and lawsuits. It is no wonder that all students of medieval Japanese history are exposed to these documents in Japanese universities, where *komonjo* classes are frequently taught focusing almost exclusively on *shōen* documents.

Since these private estates were exempt from taxation and judicially immune, they were beyond the statutes of the penal and administrative codes (the Ritsuryō Codes) that had been put in place in the preceding centuries. For that reason, documents were needed for the creation of each private estate, not just to establish its existence as an immune and exempt unit, but also to create necessary ties between the different levels of administration from land managers to proprietors and patrons in the capital area. In fact, much of the ingenuity of the *shōen* lay in this arrangement, where a land manager might negotiate shares depending on local customs and the patron might receive various degrees of rent, reflecting the estate system's flexibility and inclusiveness. In other words, it allowed for revenues to be shared by different stakeholders with the rate of revenues for each levels tailored to individual demands and the specific powers of the people involved. The very nature of these documents therefore reflects a condition where few universal laws were in place, and each area could have a variety of rules, as they relied heavily on precedent. Such a lack of consistency naturally led to conflicts over harvests and borders, which in turn necessitated more documents to prove rights to properties and establish legacies. Numerous examples exist throughout the Heian and Kamakura eras, but allow me to just quote one here:

Agreement cosigned by the farmers of Yokawakami Estate

Regarding the foregoing, the intent is that no one shall be faithless to Hōkōji. In the event of unforeseen difficulties, whether involving mountains, plains, or lamp oil paddy and uplands, estate officers and monks, acting as one, will direct their lament to the court. The agreement is thus.

Third year of Kennin [1203], eighth month, fifth day.

Signed for the temple: Monk Ryōzen (monogram), monk Sōzen (monogram)

Signed for the estate: Takamukō Yukitoshi (monogram), Hayashi Morishige (monogram)<sup>9</sup>

This is the first known document pertaining to the Yokawakami Estate in Harima Province (corresponding to the western part of modern Hyōgo Prefecture), so we cannot know what exactly prompted this agreement. However, the context is that

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<sup>9</sup> Translation of 'Yokawakami no shō hyakushōra keijō' (*Kamakura* ibun 3, doc. #1373) in Mass 1976, 77. I have made minor adjustments based on more current readings, and shortened the document slightly.

the farmers, who were likely quite influential based on their status as estate officials and their ability to sign the document, vowed to deliver taxes as promised to the temple-proprietor. The monks, for their part, agreed to join the farmers in potential complaints against any intrusions. What is not readily visible here is that there was a third party that caused the agreement to be signed in the first place. Following the war of 1180–85, many warrior-administrators took liberties in their appointed areas, obstructing tax payments to the proprietors while at the same time making life difficult for farmers. The document thus expresses an ad-hoc agreement between farmer-officials and representatives of the proprietor to maintain status quo, and to have a potential dispute with local warriors settled by the court, should such an occasion arise.<sup>10</sup> It reflects not just the problems of the time, but also the need to find solutions where written laws and codes were insufficient.

The importance of documents notwithstanding, other forms of communication were additionally part of the establishing of precedents, judicial boundaries and contracts. The boundaries of some estates were recorded not only in documents but also with maps, which have been invaluable for scholars in tracing the composition of villages in landed properties. Some scholars also argue that there was a strong aspect of orality in documents pertaining to estates and edicts, whereby the reading out loud of the texts served to spread knowledge to those who had limited reading abilities or were entirely illiterate.<sup>11</sup> Naturally, such claims can only be confirmed in a few cases and it is difficult to assess how general such practices were, or when they were prominent for that matter since practices in the twelfth century were quite different from those in the sixteenth. Nevertheless, it needs to be recognized that orality was an important part of judicial proceedings but also that primacy was given to written documents and that oral testimonies and readings enhanced judgments and texts rather than competed with them.<sup>12</sup>

While widely considered highly private and personal, diaries in the early medieval age served much the same function as *shōen* documents albeit solely at the court level. Noble diarists certainly recorded their own perspectives and added commentary on events, so on the surface such diaries therefore resemble those in the West, but they served additional purposes in Japan. In short, they were meant to be used by descendants of the diarist as manuals for proper procedures

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<sup>10</sup> Mass 1976, 77.

<sup>11</sup> See for example Fröhlich 2007.

<sup>12</sup> Thomas Conlan's book review (2008, 161–163) of Fröhlich's work raises some of the problems in assuming typicality of practices based on a case study of one estate.

and rules, not mainly as they had been recorded in the statutory codes, but rather as they had developed during the changes that occurred in the Heian and Kamakura periods. Indeed, all major courtiers, and some of middle rank as well, kept diaries that stayed within the families. The earliest remaining diaries date to the tenth century, where perhaps the *Teishin kō ki* (*The Diary of Lord Tadahira*) by Fujiwara no Tadahira (880–949) stands out as one of the most informative.<sup>13</sup> About a century later, the greatest courtier of the Heian age, Fujiwara no Michinaga (966–1029), wrote in his diary, the *Midō kanpaku ki*, about procedures, codes and customs.<sup>14</sup> No other courtiers could rival Michinaga in terms of power and influence in the entire Heian age, as indicated by a famous statement attributed to Michinaga from a different contemporary diary: ‘When I reflect, this world is indeed mine’.<sup>15</sup>

But it is in the twelfth century that we find the largest number of diaries remaining and likely for good reasons. This was a century of dramatic changes, of upheavals, of battles in the capital and of intense factionalism that started when the imperial family returned to the stage of competition for power. It was the beginning of what the Japanese historian Kuroda Toshio described as an age of shared rulership, where elites from three different blocs (the aristocracy, religious institutions and the warrior elites) enjoyed both the privileges and responsibilities of ruling the state. In general, the different blocs did indeed collaborate, but within each bloc, the competition for control was fierce. Thus, temples competed with one another for rights to land and appointments, courtiers vied for favors and positions, and warrior-aristocrats competed with one another for governorships and land appointments.<sup>16</sup> The challenge was that none of these elites was strong enough to dominate on its own accord, and so alliances were essential. It is this context, of course, that commanders and their military retainers were brought into the capital, and it was, perhaps somewhat ironically, those leading figures that continued the promotion of written records.

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<sup>13</sup> *Teishin kō ki*, *Dai Nihon kokiroku* 8 (Tokyo: Iwanami shoten, 1956). Parts of the diary have been translated into English by Piggott/Sanae 2010.

<sup>14</sup> *Midō kanpaku ki*, *Dai Nihon kokiroku* 1 (Tokyo: Iwanami shoten, 1952).

<sup>15</sup> The quote comes from a poem written by Michinaga in celebration of his daughter being elevated to the position of imperial consort. See *Shōyuki*, 11 vols. *Dai Nihon kokiroku* (Tokyo: Iwanami shoten, 1959–86), Kannin 2 (1018) 10/16.

<sup>16</sup> This is the gist of Kuroda’s *kenmon* theory, which I have dealt with extensively elsewhere. See Adolphson 2000, 10–19.

### 3 Kiyomori's cultural capital

Though of imperial descent, Taira no Kiyomori was the first of many secularized descendants who had turned to land management and warrior leadership to reach the pinnacle of the court hierarchy. Like his father and grandfather, he made his career as a commander serving the retired emperor's household, receiving appointments to land and provincial governorships in return. As violence increased and numerous contenders used military might to challenge for family headships in the capital, the role of warriors and their commanders naturally increased. It was such a conflict over the imperial throne in the so-called Hōgen Incident of 1155–56 that opened up new doors for Kiyomori. Go-Shirakawa, whose right to the throne had been challenged by a relative, benefitted the most from Kiyomori's victory and he promptly expressed his gratitude by bestowing governorships and court titles to the Ise Taira. While Kiyomori's father and grandfather had also dealt with local uprisings and ensuring a flow of income to the capital in return for lucrative appointments, it was only with Kiyomori that a member of the Taira reached the upper echelons at court, owing to his continued protection of Go-Shirakawa's interests in the 1160s and 1170s.

But Kiyomori was more ambitious than perhaps even his master realized. After having risen to the top of the court hierarchy in 1167 when he became Grand Minister of State (*daijō daijin*), he also managed to have his daughter become imperial consort. By the late 1170s, Kiyomori's aspirations had put him on collision course with his own master. At that time, the tables had turned in Kiyomori's favor, and so he took the unprecedented step of putting a retired emperor (Go-Shirakawa) under house arrest shortly before having his own grandson ascend the throne early in 1180. While emulating the great Fujiwara of the past in his control of the imperial family, Kiyomori was in fact attempting to establish a new imperial line through his grandson. This was accompanied by numerous initiatives, including appropriating religious rituals and spaces, as well as the creation of a new capital close to his own estate in Fukuhara in present day Kobe. The move of the capital was without any doubt the biggest enterprise, and though generally neglected in Western scholarship, was a shocking development to many courtiers.<sup>17</sup> One of the leading courtiers lamented as a procession of nobles left Kyoto for Fukuhara:

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<sup>17</sup> Two very recent essays that came out within months of one another have finally brought the Heike capital to light. See Adolphson 2015, 17–38; Wakabayashi 2015, 1–39.



Sixth month, second day [of 1180]. The emperor travelled to Kiyomori's villa in Fukuhara at the hour of the rat (5–7AM). The senior retired emperor [Go-Shirakawa] and the retired emperor [Takakura] also departed. It is difficult to find examples in the distant past when the emperor temporarily resided outside Kyoto. Indeed, ever since the Enryaku age [782–806], there has never been an example like this. How can we not call these events strange? There are surely no people who know of any precedent for this.<sup>18</sup>

That the diarist, Fujiwara no Kanezane (1149–1207), was opposed to the move is beyond doubt, but what is important here is his argument, which hinges on precedent. And while the precedent itself would have been well known to his contemporaries, it seems abundantly clear that Kanezane also means to leave a written record of the events for later generations. In fact, when the move eventually failed and Kiyomori was forced to return to Kyoto just five months later, Kanezane was quick to point out what he considered the main reasons, most of which note Kiyomori's failure to act appropriately within the context of the state. When he does so, he is not simply recording things for himself but also reminding later readers of the importance of not violating precedent and of not upsetting the gods.<sup>19</sup>

Kiyomori's efforts to legitimize his new regime included a number of strategies, one of which was a heavy emphasis on books. The best known manuscript is undoubtedly the *Heike nōkyō* (*Sutras Dedicated by the Heike*), produced by Kiyomori and many of his male relatives. A custom that dates to the eighth century in Japan, but goes back to the Indian origins of Buddhism, sutra-copying was believed to accrue merit to the copyist, but it also became a point of pride and competition for status.<sup>20</sup> Fujiwara no Michinaga used this practice extensively, and Kiyomori quite purposefully imitated someone who was already by then known as the courtier par excellence in order to legitimize his ambitious claims.

The *Heike nōkyō* consists of thirty-three scrolls mainly copied from the *Lotus Sutra*, but also four additional sutras in addition to a dedication vow by Kiyomori himself. And Kiyomori spared no expenses in its production, which is especially notable seeing how early in his career it was commissioned just after his rise in the court hierarchy. The manuscript is an exquisite work of art lavishly decorated with gold, silver and indigo, and with hand-painted polychrome images and Japanese poetry in the background design. It is the oldest extant manuscript of the *Lotus sutra* showing both text and images, and one of the best preserved sutras

<sup>18</sup> *Gyokuyō*, 3 vols (Tokyo: Meicho Kankōkai, 1993), Jishō 4 (1180) 6/2.

<sup>19</sup> *Gyokuyō*, Jishō 4 (1180) 11/29; Takahashi Masaaki, *Fukuhara no yume* (Tokyo: Kōdansha, 2007), 260.

<sup>20</sup> For a brief introduction of the *Heike nōkyō*, see Kornicki 1998, 88–90. See also Meech-Pekarik 1976.

from the Heian age, so it is hardly surprising that it has been designated a National Treasure.<sup>21</sup> The sutra set was meant not just to create a firm bond between the copier, the deities and the shrine, but also to unite relatives over whom Kiyomori claimed leadership, since each member had been put in charge of one scroll each. As such it served as a symbolic expression of the unity of the Ise Taira under Kiyomori's leadership, while establishing the sutra set as a 'signature artefact,' which was used to display the power and cultural erudition of its creators. As such, it was a form of cultural capital that served Kiyomori well as he competed with other houses for social status.<sup>22</sup> Upon completion in 1164, it was donated to Itsukushima Jinja, the shrine that Kiyomori patronized on the island of Miyajima close to present-day Hiroshima as the main religious centre of his regime. For a warrior-aristocrat, the *Heike nōkyō* was an unprecedented production designed to augment the chieftain's status above the foremost nobles of the time, on the level of the most paramount of all nobles, such as Michinaga. Kiyomori obviously wanted no doubt as to his status and to the legitimacy of his grandson's and those of his descendant to the imperial throne.

In sharp contrast to the *Heike nōkyō*, Kiyomori used a different set of sutras (the *Issai kyō*; the complete Buddhist canon), as a material and spiritual foundation for a new quay in the harbor just next to Fukuhara. This new structure was meant to provide additional space for ships to dock at Kiyomori's port, Ōwada no tomari, where traders arrived from numerous provinces as well as from China via the main port in Kyushu, Hakata. It is also possible that the quays themselves were meant to stabilize the area from waves and other obstacles, so the sutras were likely meant to give spiritual protection to the new construction. Needless to say, while some text was carved into the rocks that were sunk, no manuscripts remain from this pier, which was named Sutra Island (Kyōgashima).<sup>23</sup> From the perspective of the imperial court, however, it was probably the import from Song China of the *Taiping yulan* (*Imperial Readings of the Taiping Era*), completed in 983, that stood out the most among Kiyomori's textual enterprises. He obtained this printed multi-volume set—a rarity in Japan at this point—known as the *Taihei gyoran* in Japanese, in the second month of 1179, presenting it to Emperor Takakura (his son-in-law), while also having an exquisite copy made for his young grandson, the future Emperor Antoku (1178–1185, r. 1180–1185).<sup>24</sup>

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<sup>21</sup> Dix 2015, 99–100.

<sup>22</sup> Heather Blair uses the term 'signature text', but for the purpose of manuscript studies, 'signature artefact' is more appropriate. See Blair 2015, 61–63.

<sup>23</sup> Adolphson 2015, 17–20, 32–33.

<sup>24</sup> Adolphson 2015, 33.

The significance of this textual artefact should not be underestimated. The *Taiping yulan* was the most magnificent and massive encyclopaedia in China, consisting of 1,000 volumes but also, it was said, a text that the Song rulers were highly reluctant to send abroad. For example, the Korean court had repeatedly asked for copies but it had been rejected until 1100. Kiyomori, on the other hand, seemed to have had no problem in securing a copy of this set.<sup>25</sup> Seeing the challenges with acquiring such a treasure, one has to conclude that Kiyomori specifically ordered it through the many Chinese traders who frequented Japan's main import town of Hakata, and that he somehow played his cards right or offered enough in exchange to convince sellers in China to go through with the transaction. Again, this was not a new practice but rather established among ranking courtiers. Michinaga had acquired books from China and a contemporary of Kiyomori, Fujiwara no Yoronaga (1120–1156), was also known to be an avid collector of such prized items. Accordingly, it seems apparent that Kiyomori intended for this object to be another example of a signature artefact, or a hallmark, for the new imperial line.<sup>26</sup> While scholars today may find Kiyomori's commitment to such objects surprising because of his background as a commander, it was entirely in line with the spirit of the time, and with his status as both a warrior and a noble.

Finally, I would be remiss if I did not mention aristocratic poets, who were equally committed to, if not obsessed with, literary traditions. Kiyomori's father, Tadamori (1096–1153), made strong efforts to master court poetry, though he was not as acknowledged for his production as he might have wished. Instead, it was above all Kiyomori's brothers, Tsunemori (1124–1185) and Tadanori (1144–1184), and his nephew Tsunemasa (Tsunemori's son, c.1147–1184), who became the pillars in what Anne Commons has labelled an Ise Taira 'poetry circle', patronized by the well-known poet Fujiwara no Shunzei (1114–1204).<sup>27</sup> Tadanori's commitment has become legendary as he is described in the war tale *Heike monogatari* in an episode bearing his name: 'Tadanori's Flight from the Capital'. In it, Tadanori returns to the capital in the midst of his kinsmen's flight during the tumultuous retreat in 1183 in order to leave with his patron Shunzei some poems in the hope that they would be included in an imperial anthology. Tadanori's wish was

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25 *Sankaiki, Zoku Shiryō Taisei*, vols 26–28 (Kyoto: Rinsen shoten, 1965), Jishō 3 (1179) 2/13, 12/16; Ōyama, 'Heishi seiken to Ōwada no tomari,' in *Hyōgo ken shi* 2 (hyōgo: Hyōgo ken shi henshū senmon iinkai, 1975), 24, 28; Takahashi, *Fukuhara no yume*, 197–198; Takahashi, 'Fukuhara sento o meguru seiji shi: Jishō ninen kara dō yonen hachigatsu made,' in *Rekishigaku kenkyū* 816 (2006), 3; Kornicki 1998, 287.

26 Adolphson 2015, 33; Blair 2015, 63; Kornicki 1998, 287.

27 Commons 2015, 78–79.

only partially fulfilled as several poems were indeed included, but without noticing his name.<sup>28</sup> This narrative has been interpreted in various ways, most commonly as evidence of the aristocratization of the Heike, but the belief in poetry compilations and literary legacies must not be overlooked. By the twelfth century, they had become essential to sustain or create exalted positions for any ambitious aristocrat or aristocrat within the context of the imperial court in Kyoto.

## 4 Documentary foundations for warrior rule

Born out of war and representing a class of military men, the shogunate was nevertheless committed to written records, though more for their judicial than their cultural value. For example, in adjudicating land conflicts, it was written evidence that carried the most evidence. As Jeffrey Mass has shown, beginning with its founder, Minamoto no Yoritomo, the shogunate took as its main task not to promote the interests of warriors, but rather to contain their ambitions.<sup>29</sup> This was necessitated by self-preservation as much as a commitment to the old order since Yoritomo's own position as leader of the warrior class would be undermined if he were unable to restrict illegal activities by his retainers. Warriors, who had challenged the authority of central landholders as part of their campaigns during the Genpei War, felt entitled to violate contracts and precedents when it came to paying dues from private estates, where they served as land managers. Proprietors and patrons soon realized that the only way to preserve or even retain *some* rights to land was to appeal to the *bakufu*. As a result, the shogunate was inundated by complaints from nobles, shrines and temples throughout the 1190s and beyond. As is clear from these appeals, the culprits were mainly warrior-managers who intruded into estates, refused to pay agreed upon rent or harassed local farmers, thereby challenging proprietors' right to revenues from the estates. The document quoted above from 1203 represents an attempt to solve such a situation through collaboration between the proprietor and farmers without engaging the shogunate.

Remarkably, the shogunate quickly established advanced methods for adjudicating disputes, putting most weight on written evidence, which of course further reinforced the emphasis on documents. But since even ranking members of the warrior class had little training in reading, much less in legal matters, mid-

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<sup>28</sup> Commons 2015, 89.

<sup>29</sup> Mass 1999, 7–8.

ranking courtiers were brought to Kamakura to help with the establishment of a judicial system, which developed over the first few decades after 1185. Ōe no Hiromoto (1148–1225), a ranking aristocrat and legal specialist, was perhaps one of the most outstanding of those choosing to make the move.<sup>30</sup> The system that developed was in either case quite sophisticated for its time, shunning any form of witch trials. In case of an appeal from a civil proprietor, the *bakufu* would ask the accused party to respond in writing, requesting documents that might support why intrusions or the lack of payments due to the central elite had occurred. Failing at that, the *bakufu* would normally judge in favor of the aggrieving party, but more frequently, the conflict continued until a trial confrontation occurred, where oral testimonies might also be taken into account. Since land managers often lacked documentary support for their activities, they would on occasion ‘induce’ a local farmer of some standing to support him via an affidavit, or by simply referring to precedents.

Considering the ambitions of the warrior-manager class, it is hardly surprising that the shogunate was preoccupied with lawsuits over land for most of the thirteenth century. Like the imperial court, it did not retain records of its own judgments, which meant that the onus was upon the winners of a trial to retain evidence for their future rights. Needless to say, this was a major inducement for central elites to produce and preserve records. To offer two examples from a verdict already in English translation, we might consider the actions of the land manager (*jitō*) in Shimōsa Province (modern Chiba and Ibaraki Prefectures in the Kantō) in 1209:

Ordered: To the *jitō* and officers of [Katori] Shrine, Shimōsa Province

[...]

Item: The enlistment of shrine officials for Kyoto and Kamakura labor services shall cease. At the trial confrontation, the statement presented by the shrine administrator and various other shrine officials was not without justice. Forthwith, in accordance with precedent, labor services by shrine officials are to cease.<sup>31</sup>

[...]

Item: The willful seizure of paddy, upland and homestead areas from among vacated holdings of shrine officials who have fled shall cease.

At the trial confrontation, the statement of shrine administrator Hirofusa was just. Likewise, the edict from the Fujiwara chancellery is clear in urging that seizures by the *jitō* shall cease

<sup>30</sup> Mass 1979, 66; Hall 1906, 5; Varley 1982, 147–148.

<sup>31</sup> The *jitō* had, in other words, forced officials at the shrine to work for him, calling it labor service for Kyoto and Kamakura. As an exempt shrine, there should be no such service.

in regard to the vacated lands of deceased or departed shrine officials.<sup>32</sup> Henceforth, the *jitō* seizures are to stop.

[...]

By command of the Lord of Kamakura, the foregoing matters are thus decreed. Wherefore, it is so commanded.

Third year of Jōgen [1209], third month, seventeenth day.<sup>33</sup>

While it is beyond this essay to judge typicality, disputes such as the one in the document above were far from rare as most adjudications by the shogunate indicate. Indeed, what the military land steward had done reflects common strategies among local warrior-managers to extend their influence well beyond agreements they had often signed off on themselves. And as is clear from the two articles (out of nine in the original document) above, the shogunate had little to go on except previous contracts and precedents, all of which it was up to the proprietor to prove since the shogunate rarely had any knowledge of local conditions. Absent such knowledge, it made effective use of trial confrontations by carefully weighing testimonials. In this way, the *bakufu*'s verdicts became a piecemeal way of handing down judgments and establishing a legal foundation for what eventually became the first set of principles for adjudication in land disputes involving the warrior class. Known as the *Jōei shikimoku* (the *Jōei Formulary* after the era, alternatively *Goseibai shikimoku*, or The Formulary of Adjudication), it was compiled by the shogunal regent Hōjō Yasutoki (1183–1242) and proclaimed in 1232. Necessitated by a dramatic increase of disputes following the failed attempt to overturn the shogunate in 1221 by Emperor Go-Toba (1180–1239, r. 1183–1198, retired emperor, 1198–1221), it was also meant to establish principles based on three decades of adjudication. Despite sparse attention from non-Japanese scholars, the code is a valuable source containing clauses that offer unique insights to conditions well beyond the shogunate's judicial dealings.<sup>34</sup>

The *Jōei Formulary* consists of 51 articles designed, just like the shogunate itself following the Genpei War of 1180–85, not to promote the ambitions of warriors and land managers under its rule, but to maintain status quo by supporting

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<sup>32</sup> Farmers who were subject to extreme demands from a local warrior-manager had few options except to leave the land they cultivated. The *jitō* may have made excessive demands exactly to drive them away. The Fujiwara chancellor's involvement indicates that the family served as patron (*honke*) of the estate, while the shrine was the local proprietor (*ryōke*), representing the two highest levels in the *shōen* order.

<sup>33</sup> Mass 1976, 118–120. The original document can be found in *Chiba ken shiryō, chūsei hen: Katori monjo* (Chiba: Chiba ken shi hensan shingikan, 1962), 68–69.

<sup>34</sup> An early translation and introduction by John C. Hall has garnered little attention in current scholarship and studies of the law code are all but non-existent since then. See Hall 1906, 1–46.

the property rights of the traditional capital elites among nobles and religious institutions. Thus, we find articles explicitly prohibiting local managers from taking control of land and from withholding rents due the proprietors, as we saw in the verdict quote above. But there is in addition a range of articles that reveal other concerns and challenges of a growing warrior class, where patterns of inheritance were of particular concern. Nine clauses deal specifically with the transfer of property, which was the foundation for the livelihood of warrior families. That loyalty even within the family was also a concern is abundantly clear from the text, as it proclaims the rights of parents to revoke land already given to sons and daughters should they misbehave.<sup>35</sup> Another theme is the rights of daughters and wives within the warrior class. Article 16 is fascinating enough to deserve a translation:

Item. Regarding the matter of whether or not parents may revoke property transferred to a daughter because of discordant behavior.

Although names for women and men differ, their filial obligations are the same. This has been stated by legal experts. However, if a daughter were able to rely on an irrevocable letter [of transfer], then there would be no reason for her to fear unfilial deeds.<sup>36</sup> Thus, if mothers and fathers have reason to think that it may lead to adversarial disputes, they should surely not transfer property to their daughters. It would mean the beginning of the severing of the parent-child relationship. It is also the foundation for violations of the proper code of conduct. If a daughter wavers in her behavior, parents should be prudent in their course of action. If these principles are understood, daughters will surely perform their duties of filiality in order to obtain a transfer deed, while parents will, for the sake of giving their loving care, evenly give affection and love [to their children].<sup>37</sup>

As should be obvious, this article addresses conditions facing the warrior class, but above all informs us of the need for documentation at this time. Precedents were not enough to steer clear of chaos and disruption, but neither were individual verdicts or notions of familial loyalty, causing the shogunate to promulgate a code of behavior for the warrior class. As if there were any remaining doubts, the very writing itself also makes it clear of the audience. The *Jōei Formulary* was written in a simpler style than the regular Sino-Japanese used in court documents, using a heavy dosage of *kana*, the Japanese syllable script. The difference between the two styles was substantial; while Sino-Japanese only employs Chinese characters that need to be rearranged to be read out in Japanese, the insertion of simplified *kana* syllables representing phonemes enabled a straight reading of

<sup>35</sup> Mass 1989, 69–71.

<sup>36</sup> In other words, she would have no reason to be filial.

<sup>37</sup> Shin'ichi and Yoshisuke 2002, 13. The translation is mine. For an older version, see Hall 1906, 28.

the characters.<sup>38</sup> In fact, Yasutoki himself remarked to his younger brother, Hōjō Shigetoki (1198–1261), that ‘This will be often used among those who only know *kana*. Therefore, it will be generally understandable to as well as appeal to warriors’.<sup>39</sup>

At the same time, it is worth noting that in contrast to leading figures at court, the shogunate did not seem interested in producing signature artefacts to set it apart from other institutions. While Kamakura patronized and supported temples from the time of Yoritomo, there are few signs of sutra-copying, poetry compilations or the acquisition of expensive Chinese books. Legitimacy was, on the other hand, a much bigger concern for the shogunate. This had come to the fore in the Jōkyū War of 1221, when Retired Emperor Go-Toba challenged the Hōjō family’s control of the *bakufu*. As is well known, the Hōjō were Yoritomo’s in-laws, who took control of the *bakufu* following the deaths of Yoritomo’s youngest son in 1219. It was under the Hōjō that the shogunate developed its judicial procedures, but only later that it created a chronicle to justify their position. Known as the *Azuma kagami* (*Mirror of the East*), the chronicle covers the history of the shogunate, starting in 1180 with Yoritomo joining the uprising against Kiyomori. The last entry is dated 1266, and it is therefore believed that the chronicle was written at that time or shortly thereafter.<sup>40</sup> The purpose of the chronicle is abundantly clear as it favors the Hōjō extensively, while criticizing the Minamoto, from whom they took control of the *bakufu*. Thus, it has limited value as a narrative of the late twelfth and early thirteenth centuries, even when it comes to dealings among elite warriors, but it does reflect the importance placed on a written record even 80 years after the shogunate’s founding.

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38 While Chinese has straight word order like English (S-V-O), Japanese has reversed order (S-O-V).

39 Letter dated Jōei 1 (1232)11/9, cited in Ishii Susumu, ed., *Chūsei seiji shakai shisō* vol. 1 (Tokyo: Iwanami shoten, 1972), 41. I have borrowed the translation from Howell 2002, 55. Howell in turn cites Yoshihiko 1990, 341. The letter itself has been printed in *Nihon shisō taikēi* (Tokyo: Iwanami shoten, 1990–), vol. 21, 40–41. See also Fröhlich 2007, 22.

40 The *Azuma kagami* remains untranslated into English, but was used extensively and partially translated by Shimoda 1960. It was the standard account of the Kamakura *bakufu* in English until Jeffrey Mass’s work were published in the mid-1970s. Mass pointed out the obvious biases and inventions in the account in many of his works, but for an example, see Mass 1999, 7.



## 5 Archives in the Japanese medieval context

Needless to say, the survival of such a large quality of documents and literary manuscripts from Japan's medieval age hails not just from their importance in the political and cultural contexts, but also from good storage practices. Ultimately, the need for storing documents and manuscripts generally stemmed from one of two purposes: either to keep evidence of proprietorship of land or to safeguard manuscripts that were seen as cultural assets. Foremost among institutions storing records were especially temple and shrine complexes, such as Tōdaiji, Kōfukuji, Tōji, Enryakuji and Itsukushima Shrine. These institutions were naturally prone to preserve Buddhist scriptures both for usage in rituals but often more for their importance as cultural products, a custom that began as soon as temples were built from the seventh century. The above-mentioned *Heike nōkyō* is an obvious example, as Taira no Kiyomori understood and used the value of such an object, but gave it to his main shrine complex at Itsukushima Jinja. Most temples and shrines maintained separate storages for documents, likely because of the high risk of fire in the main halls, where incense and candles were used. The structures themselves were of course wooden, but in addition, important storages were commonly raised off the ground to prevent damage from flooding, though insects remained a problem in Japan's damp climate. By and large these practices were successful, but while the collections at temples such as Tōdaiji, Kōyasan and Daigoji yielded some of the most extensive collections of premodern documents, others were less fortunate. The imperial temple Tōdaiji and the influential Kōfukuji, both located in Nara, were destroyed on numerous occasions, but the latter also lost its document collections. Nevertheless, the most poignant case of document destruction is that of Enryakuji, which vehemently and violently opposed the efforts of the great warlord Oda Nobunaga (1536–1582) to submit to his rule. With little fear of the Buddhas as well as of the temple's protective native deities, Nobunaga launched an all-out attack with some 30,000 warriors, killing residents on the mountain indiscriminately and burning the vast monastery to the ground in 1571, along with it all the Buddhist treasures and written artefacts.

Needless to say, the need for scriptures in Buddhist monasteries has been instrumental since the very introduction of Buddhism in Japan, so it can hardly be surprising that there was an emphasis on production and storage of manuscripts for most of their history. What is perhaps of more interest are the documentary practices of noble houses. Those who held titles as patrons and proprietors of estates not only needed to keep records to support any claims to land, but in fact also needed administrative headquarters where scribes kept records and issued edicts from the head of the house. In most cases, we do not know where

these headquarters were located, but when it comes to the influential Northern Fujiwara, we do know that the Kangakuin, which was originally established in as a university for members of the Fujiwara in Kyoto, was from the mid-Heian period used as the official secretariat.

As noted above, diaries in Heian and Kamakura Japan were not wholly private. Rather, they were intended to be used as guidelines for following generations but also as a repository of precedent. Thus, we frequently see references to various diaries by later writers when there were controversial discussions at court. It is not surprising then that various noble lineages kept diaries closely guarded, occasionally making copies for safekeeping. In fact, such families were described with a specific term that means 'houses of diaries' (*nikki no ie*). In other words, though there was nothing restricting specific families or individuals from keeping diaries, it was the ranking families with higher titles that were expected to keep records that could serve future generations. Hence, the term 'houses of diaries' emerges. Importantly, the term itself is mainly restricted to the very period under examination here, that is from 1100 to around 1400, providing further evidence that in those specific times of change, the keeping of written records was perhaps even more important than in the periods preceding it.<sup>41</sup>

To note one example of how such diaries were used, one of the leading members of the Northern Fujiwara, Yōrinaga, sent out a call in 1148 to his noble colleagues to inquire about proper procedures for the pending installation of his daughter as imperial consort. Yōrinaga noted not just who had diaries in their possession, but also whose diaries they had in a neat list, reflecting the importance of such texts. Moreover, we learn as well that while these assets were kept by individual houses, they were shared for the purpose of discussing and establishing precedent.<sup>42</sup> Another example of more poignant proportions can be found at the time of the Great Angen Fire (*Angen no taika*) of 1177, when large parts of the Inner Imperial Palace, including the Enthronement Hall, the imperial university, the Fujiwara family's administrative headquarters as well as dozens of noble residences were damaged or entirely destroyed. One of the leading courtiers at the time, Fujiwara no Kanezane, sent messengers to the most prominent 'diary houses', not just to enquire which records had survived but also to ask what had been recorded about the fire itself so that he could get a better sense of the extent of the damage, which turned out to be the most serious since the construction of Kyoto in the late eighth century. The importance of these manuscripts

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<sup>41</sup> Matsuzono Hitoshi, *Nikki no ie: Chūsei kokka no kiroku soshiki* (Tokyo: Yoshikawa kōbunkan, 1997), 9–10.

<sup>42</sup> Matsuzono, *Nikki no ie*, 27–29; *Taiki*, Kyūan 4 (1148) 7/11.

to the various noble houses is obvious in Kanezane's diary, as he equates the loss of a diary to the decline of the house itself.<sup>43</sup> In fact, for these houses, ancestral diaries were similar to the signature artefacts noted above, and thus essential for the continued prominence of the diary houses.

Regardless of where we look for medieval archives—among temples, shrines or noble houses—it cannot be denied that their importance increased at the very time when the imperial court's overall and direct control of religious and political spheres was relaxed in favor of a more decentralized top, where individual elites maintained their own cultural and political assets. Indeed, the very survival of so many diaries undoubtedly owe much to this particular setting. Because of the risk of fires and need to be able to consult diaries, copying became a crucial enterprise. And, of course, those records that were considered especially important were likely subject to more copying than less useful diaries, so the survival of specific manuscripts is less a coincidence than one might assume. In fact, it is notable that there is a correspondence between surviving diaries and the number of times they have been referred to or quoted in later manuscripts.<sup>44</sup> In a sense, such noble diaries were used in a similar way to land documents, substituting for laws and customs that were not written and proving, through records and precedence, what was appropriate and accepted within different cultural and political settings, be they at the level of the imperial court or in public land or private estates in the provinces.

## 6 Conclusions

Many scholars have argued that the move away from the statutory codes reflected a decline of imperial authority and centered rule. Others have viewed the adjustments as a necessary process of privatization to both ensure the survival of the imperial throne and the centrality of the court. In fact, through privatization, the elites, though increased in number compared to the early Heian age, actually improved their control of estates and revenues, done by including rather excluding other groups of power, such as local landholders. It is hardly surprising that in this context of change and competition between elites, new procedures and precedents were established, which in turn needed to be recorded. But not all texts held equal value to all elites. For the capital elites, the copying of sutras went

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<sup>43</sup> Matsuzono, *Nikki no ie*, 33–35; *Gyokuyō*, Angen 3 (1177) 4/29; *Hyakurenshō*, Angen 3/4/28.

<sup>44</sup> Matsuzono 1997, 41, 47.

hand in hand with patronage of monks from various temples. For instance, Kiyomori's sutra production was accompanied by the promotion of Itsukushima and numerous attempts to create a close relationship with Enryakuji through the head abbot Myōun (1115–1183).<sup>45</sup> By the same token, other books, such as the *Taping yulan*, held enough cultural and political capital to be used by Kiyomori as a signature artefact in support of his efforts to establish a Heike imperial line. In contrast, while the Kamakura shogunate also supported monks, we do not find the same commitment to books as cultural treasures and social capital. Its main goal was above all to ensure that the established temples could continue their activities of sanctifying the imperial court, and the idea of signature texts does not seem to have been a high priority. Precedence and legitimacy did on the other hand play a major role, as indicated by the Jōei Code and the *Azuma kagami*.

Both Kiyomori and his adversary, Yoritomo, were military aristocrats and as such well acquainted with the customs and procedures of court life. What separates them was that while the former made his career in the capital region, the latter spent most of his adult life in the Kantō area, which undoubtedly influenced his decision to establish the shogunate away from and in parallel to Kyoto. Thus, while they both can be described as warrior leaders, their ultimate goals were different. Kiyomori dreamed of using his command of warriors to establish a new imperial line within existing structures, whereas Yoritomo seemed to be satisfied with being at the top of a growing class of warriors. His need for traditional courtly written texts was thus less than that of Kiyomori, whose family produced not just books containing sutras and iconic texts but also poetry. Kiyomori did not, on the other hand, produce a diary, and if the ones that remain today are any indication, very few members of his family did. A couple of Taira diaries by other branches exist, but Kiyomori, who was highly effective in using rituals and cultural objects to gain status, needed to create new precedents to replace the Fujiwara as the most powerful family behind the imperial throne. A Heike diary depicting how he and his descendants had circumvented traditions may not have been high on his list of priorities.

In contrast, to maintain order of provincial warriors, the shogunate required a legal foundation for warrior behavior, which began with edicts and verdicts and culminated with a unique warrior law code. Missing from this context are the 'feudal bonds' that modern scholars long sought in Japan. Loyalty and ties of fealty were conspicuous only insofar as they were utterly missing from warrior behavior, despite ideals to the contrary portrayed in later war tales. Indeed, it was the very absence of common understandings of behavior and propriety that prompted the

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<sup>45</sup> See Adolphson 2000, 157–160.

production of both new and old types of written artefacts. The emergence of military commanders on the national scene did not result in a decline of written needs but it signaled instead the beginning of a shift in the character of records and literary manuscripts needed to rule effectively. This rule was neither courtly nor military, but a little bit of both.

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