

# Chapter X

## Donation to Religious Institutions in Medieval Japan: Legal and Social Perspectives

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### Introduction

I would like to give an overview of the activity known as *kishin* 寄進 (donation, commendation, endowment) as it occurred in medieval Japan (approximately twelfth–sixteenth centuries), particularly from the perspective of legal history.

*Kishin* in the sense of donation of goods and money to shrines and temples is still widely carried out today. In the medieval period too, it had basically the same meaning. Assets such as land and the rights associated with that land (*shiki* 職), as well as money, were donated to shrines and temples as a form of prayer request made to the kami (deities) and buddhas or as expressions of gratitude towards them. *Kishin* was both a religious activity and at the same time a legal act of donation. To put it another way, the activity can be said to combine two contracts, one a religious contract between a person and the kami/buddhas and the other a secular contract concerning the transfer of wealth from a person to a religious institution (shrine, temple).

When such a contract was made in medieval society, it was usual for the donor to draw up a document called *kishinjō* 寄進状, a donation deed, and to pass it to the grantee. This confirmed the contract. These deeds might be offered at the altars of the buddhas and kami, or read out before them. They recorded the names of the donor and grantee, the property being donated and the reason for the donation. In the medieval period, basically the same format was widely employed, regardless of the status of the individual or the region. Documents 1, 2 and 3 are examples of such deeds. Before embarking on my main theme in this paper, I would like to take a short look at these documents, to give an idea of the medieval donation deed.

The first example is dated the 9th of the tenth month, Bunna 4 (1355). It was drawn up by an individual named Kishōmaru and given to the Miedō of Tōji 東寺. Tōji is a temple in the southern part of Kyoto and at the time had a very close relationship with the Muromachi Bakufu, the warrior government. The Miedō (Founder's Hall) is a hall in its grounds and is designated as a National Treasure. The first

line of the document begins with the word *kishin* (i), clearly indicating that the document is a donation deed. Immediately below is the name of the grantee, Tōji Miedō (ii). The second line records the details of the donation (iii): the location (or rather boundaries) of the land and its extent. The land consisted of rice fields in Hachijō Ōmiya in Kyoto, an area west of the central avenue, of an area of 3 *tan*, roughly 0.87 acre. This is followed by the main body of the text which mentions that the donated land had been bought by Kishōmaru (iv), that a compilation of nine documents concerning the rights associated with the land had been passed to the Tōji Miedō (v), and that the donor wished for the profits from the land to be used to pay for memorial services annually on the 9th of the seventh month and the 2nd of the tenth month (vi). The final line contains the date the deed was drawn up (vii) and the name of the donor (viii). Underneath is the donor's hand-written monogram (ix). This is the only part of the document actually written by the donor; the rest, from the first word *kishin* to the donor's name, has been written in another hand.

Document 2 is a donation deed drawn up on the 23rd of the fourth month, Ōan 4 (1371) in the name of Minamoto no Sukekage (i), the adult name of the above Kishōmaru, concerning a donation made to the same Tōji Miedō. Insofar as the text is headed by the word *kishin* (ii), followed by the date (iii) and the donor's name, that is, Minamoto no Sukekage (iv), and ends with the donor's hand-written monogram (v), it follows the same format as Document 1. However, the name of the grantee, the Tōji Miedō, is not recorded beneath "*kishin*" but rather in the middle of the main body (vi), while the details of the land donated, 2.5 *tan* (approximately 0.73 acre) of rice fields at Karahashi Suzaku, immediately west of the Tōji precinct (vii), appear here instead. The boundaries of the land are then specified, for example, Suzaku Avenue to the east and Karahashi Avenue to the north (viii). Unlike Document 1, no mention is made of memorial services to be performed, and the purpose is simply stated as "religious aspiration" (ix). It shows that even though the same person drew up the deed, the format was not necessarily the same, though there was uniformity in the appearance of certain elements, that is, the word *kishin* at the head, the date and name of the donor, and the donor's hand-written monogram at the end. It is generally held by scholars that this basic format, almost identical throughout the country, was strongly influenced by that of the *uriken* 売券, the certificate of sale made when land was bought or sold.

Document 3 is a donation deed dated the 29th of the seventh month, Einin 3 (1295) drawn up by Nikaidō Yukifuji (v), head of the Administrative Office (*mandokoro*) of the Kamakura Bakufu. Because the brushwork is different, it might be thought that this document is completely different to the other two, but like the other two documents above, it begins with the word *kishin*, contains the date and the donor's name, and finishes with the donor's hand-written monogram. Below *kishin* (i), the second line records a statement that a piece of land was being donated and contains specifications about its borders, for example, that it lay "south of

Hachijō Avenue” (ii). Like Document 2, the name of the grantee Tōji is not written beneath *kishin*, but appears in the main body (iii). Here, the reason for the donation is given as the provision of funds to build a new hall, etc. (iv). Nikaidō Yukifuji had arrived in Kyoto the previous year as an emissary of the Kamakura Bakufu and drew up this deed while he was in the city. In fact, we know from other sources that a deed that Tōji had received from Yukifuji’s forebears had been lost sometime in the past and Yukifuji had it rewritten. This reveals how important the donation deed was as a document providing proof of rights over land.<sup>1</sup>

Since the production of donation deed was a religious activity, they exhibit a diverse range of individual differences, for example in the name of the donor, the assets being donated and the reason for the donation (the kind of services and prayer rituals requested). In Document 1, this information is contained in the sections designated ii to vi. This will be discussed in more detail below in Section 2. Though not contained in the three documents examined above, many contemporary documents contain a “guarantee clause” (*tanpo mongon* 担保文言), a term concocted by scholars of Japanese medieval and legal history, detailing how the assets donated will be protected in the event of infringement by some third party, including the donor’s descendants. One of my own research areas has been the analysis of these clauses. I will deal in detail in Section 3 with the study of donation deeds as an aspect of research into legal history.

## 1. The Formation of Private Estates through Commendation

Before looking at the actuality of donation as a religious activity and discussing research into donation from the perspective of legal history, there is another important topic that I must touch upon. The term *kishin* is used, not only in the sense of its original meaning of donation to the kami and buddhas, as we have seen, but also in the sense of commendation, the non-religious activity where an individual transferred his own land holdings to a higher-ranking authority. When such a transfer was made, a donation deed, what we should here refer to as a commendation deed, though virtually the same in format as Document 1, was drawn up. In the period following the Second World War, Japanese historians considered that the commendation of land played a central role in the development and management structure of privately-held estates (*shōen* 荘園) in the medieval period. This understanding

<sup>1</sup> These three documents are found in the Hyakugō Archives, a collection of mainly medieval documents originally preserved at Tōji that has been designated as a national treasure. They have all been digitized and are available on a website administered by the Kyoto Institute, Library and Archives. For historians of Japanese history abroad who cannot easily obtain direct access to original documents, this is an extremely valuable resource.

was introduced in detail in high school history textbooks, to the extent that if you asked any high school or university student what *kishin* was, they would generally reply with an explanation of the role of commendation in the growth of private estates. However, as we have seen, “commendation” in this sense was not the original meaning of *kishin*.

Though this commendation theory no longer holds central stage among historians, it is still a fact that commendation existed, as is clear from the historical record. I would like therefore to take the opportunity to give an overview of the theory that private estates were created through commendation and introduce the new discussion that emerged around the subject in the 1990s.

The theoretical framework pioneered by Nakada Kaoru [(1906) 1938] was substantially expanded by Nagahara Keiji and Murai Yasuhiko [Nagahara 1961; Murai 1965]. This said that between the eleventh and twelfth centuries, local proprietors (*ryōshu* 領主) of reclaimed land that represented a permanent tenancy outside the government-controlled land allotment system sought protection against incursions by government officials by commending their rights as proprietors to more powerful figures or institutions. Under the terms of the commendation, they were customarily appointed as resident estate manager, to which function was attached rights to a certain income from the land. The term referring to such rights associated with functions and income is *shiki*, a word originally meaning “office.” The resident estate managers were invested with two kinds of *shiki*, offices of estate management called *gesu* 下司 and *kumon* 公文, and so they continued to run the estate as before.

Commendation did not finish even once the private estate was established. In many cases, the person who had received the commendation further commended it to a higher-ranking figure, such as the retired emperor or a powerful court noble, while retaining certain rights to management and income. The entity making that commendation possessed *shiki* called *ryōke shiki* 領家職 while the highest-ranked noble to whom the commendation was made possessed *honke shiki* 本家職. Thus by means of a chain of commendations, ultimately powerholders in the capital—the emperor and powerful court nobles—achieved ownership of large swathes of private lands. Thus a basic hierarchy of rights associated with the land determined largely by social status came into being, forming a set of relations based on ownership, management and income. In some private estates, *azukaridokoro shiki* 預所職 (rights of bailiff) might appear in the vertical hierarchy between *ryōke* and *gesu/kumon shiki*, or in others they might replace *ryōke shiki*. Sometimes in fact the real power at local level lay in holding *azukaridokoro shiki*. Nagahara Keiji termed this stratification the “*shiki* system” [Nagahara 1961]. Estate management was thus protected by state power.

This theory, that private estates were formed through a chain of commendation from those of lower rank to those of higher rank, has been sharply challenged

since the 1990s. In particular, Kawabata Shin and Takahashi Kazuki have shown that what was important in the process of the formation of private estates was a formal process of acknowledgement through the issue of documents by the emperor and the highest-ranking court nobles, a top-to-bottom process rather than the reverse [Kawabata 2000; Takahashi 2004].

To understand these ideas, I would like to introduce the example of Wakayama no shō in Noto Province, which has been studied by Takahashi Kazuki [2004]. According to the 1221 Land Register (*Ōtabumi* 大田文) for Noto Province, which lists the size of landholdings, both private and public, and gives details of ownership, Wakayama no shō, a large private estate of 500 *chō* (1,450 acres), was formed in 1143. An extant commendation deed drawn up by an individual named Minamoto no Suekane dated the same year records that he had commended it to the household office of the empress dowager.

Analysis from the point of view of the commendation theory would suggest that (1) Wakayama no shō had been formed when the proprietor who had reclaimed the land had commended it to Minamoto no Suekane; (2) Suekane then commended it to the office of the empress dowager to gain strong protection for the estate; and (3) afterwards Suekane and his descendants held *shiki* that enabled them to hold real power as estate managers. However, Takahashi Kazuki has shown that the “Wakayama no shō” that Minamoto no Suekane commended to the empress dowager was in fact rice fields of no more than 30 *chō* (approximately 87 acres), emphasising that “Wakayama no shō” signified only these tax-exempt fields and that this estate, though of the same name, was actually completely different to the “Wakayama no shō” appearing in the Land Register of Noto Province. The process of estate formation can be explained as follows: (1) Thirty *chō* of rice fields were commended by Suekane to the household office of the empress dowager; (2) this office dispatched a representative to make a detailed on-site survey of the land, an action which represented active and independent preparation to establish a private estate; (3) eventually through the efforts of this office, a much more extensive estate was created from surrounding commended land, and new *shiki* set up, with Suekane being awarded the management rights; and (4) this was the “Wakayama no shō” that appears in the Land Register of Noto Province. Here, commendation was simply the trigger for the formation of the estate; later procedures were decisive in its establishment.

Today this top-down view of estate formation is widely held in academic circles and research concerning the significance of commendation/donation.<sup>2</sup>

<sup>2</sup> While I have used the expressions “top-to-bottom” and “bottom-to-top,” I am heedful of the alarm bells set ringing by Kamakura Saho [2009] regarding the simple understanding of these phrases in research history.

## 2. Various Types of Donation in Medieval Society

Donations were made to shrines and temples by people of all classes, in all regions, and within all aspects of life. The act of donation was typically not a frequent activity but one that expressed a long-felt desire. To understand the diverse reality of donation, its purposes and circumstances, I follow the lead of Yuasa Haruhisa who stresses the importance of understanding the relationships between people and religious institutions in various regions and examining them individually to ascertain what meaning each act of donation had [Yuasa 2000].

Donation was often made by people to fulfill a longstanding wish. Muraishi Masayuki shows that there were donors who would buy land for the purpose of donation, making the donation almost simultaneously with the purchase [Muraishi 2013]. For example, a certificate of sale in the Tōdaiji 東大寺 Archives records the sale in the seventh month of Kangen 1 (1243) of a field of one *tan* (approximately 0.29 acre) in Yamato Province by the priest Eikō to a laywoman called Shin'a. The same month, Shin'a donated this field to Tōdaiji to pay for lights for the temple. The relevant donation deed is also extant. Shin'a stated reason for her donation was to attain Pure Land rebirth for herself and to hold memorial services for her dead parents. Shin'a felt that her death was approaching and wanted to donate land to provide services for both herself and her parents. Since she did not possess a suitable piece of land, she made it known among her acquaintances that she wanted to purchase some land. Once she had bought the land from Eikō she immediately donated it to the temple.

Let us look at another example, a donation by the Serata family to the temple of Chōrakuji 長楽寺 in Kōzuke Province. This temple had been founded by the warrior Serata Yoshisue. Probably it originated as a chapel in the Serata family residence and was later developed into the family temple, when it received the name Chōrakuji. The Serata were direct retainers of the Kamakura Bakufu and Chōrakuji grew into a large and important temple with many scholar priests residing there. However, it burned down some time in the Shōwa era (1312–1317). It then looked to its patron, the Serata, for a donation towards rebuilding, but the family had lost influence after being swept up in an internal conflict within the Bakufu and it lacked the resources to do so. The head of the family at the time, Serata Mitsuyoshi, sold land to Ōtani Dōkai, a prosperous local man who had close relations with many influential men in the Bakufu, and he immediately donated it to Chōrakuji. Mitsuyoshi's certificate of sale states expressly that Dōkai would make a donation towards Chōrakuji's reconstruction and that he had bought the land in order to do so. What is interesting is that Mitsuyoshi, who we expect to have sold the land, drew up a donation deed addressed to Chōrakuji and, moreover, the original remained in Dōkai's hands while it was a copy that was passed to the temple.

This clearly shows that though Mitsuyoshi wished to make a donation to Chōrakuji his financial situation did not allow him to do so and so Dōkai helped him out.

What merit did this action have for Dōkai? He had in fact also bought land from proprietors other than Mitsuyoshi and immediately donated it to Chōrakuji, a buy-to-donate purchase. While Dōkai had bought the land itself, what he donated to the temple was a portion of the income from that land. This is why the original of the certificate of sale remained with Dōkai and was not passed to the temple (normally documents related to the rights associated with the land were all passed to the grantee). Later Dōkai seems to have managed the land according to the formula that Chōrakuji had appointed him on-site bailiff. This was the merit attached to Dōkai's role as intermediary and we see here exemplified the emergence of another type of donation, the buy-to-donate.

A third type of donation associated with land purchase is that mentioned in historical documents as *uri kishin*, literally "sale-donation." According to Suma Chikai, one portion of the land was donated and one portion sold. The contract was not made by drawing up two deeds, one of sale and one of donation, but by preparing a single document called *kishin uriken* (literally, donation-certificate of sale) or *uri kishinjō* 売寄進状 (certificate of sale-deed of donation) [Suma 1984]. For example, the *uri kishinjō* drawn up by a person called Yūkei when he sold a vegetable field to the Imabori Hie Jinja 今堀日吉神社 specified that half of the land was donated and half sold, and the price of the latter was 500 *mon*.

Let us now look at donation by the exchange of contract documents. Donation was a legal act. However, it did not finish with a transfer in one direction, since its purpose was for the grantee to engage in some religious activity, like the performance of prayer services, on behalf of the donor, or to be returned thanks for a religious activity already performed. In other words, donation was an act of reciprocity. Donation deeds drawn up by the donor contained statements about the religious activity to be performed by the grantee, but there was no custom of the grantee giving the donor something that could be used as proof that this would happen.

However, Kasamatsu Hiroshi discusses the possibility that a "contract (*keiyakujō* 契約状)" document might be passed from the grantee to the donor when the donation was made [Kasamatsu 1997]. To give an example, when an individual named Tachibana Morimasa donated an area of forest land to Kanshinji 観心寺 on the 17th of the second month, Eikyō 4 (1432), the temple handed Morimasa a "contract" stating that it would perform prayer services indefinitely, and that if it ceased to do so the donated land would be returned. In another example, a donation deed in the archives of Engakuji 円覚寺, a temple in Kamakura, that was drawn up in Kagen 4 (1306) states that the donation would take the form of an annual land tax payment of 3 *kan* 500 *mon*, that the donor would honour the "donation contract (*Kishin keiyaku* 寄進契約)," and that if the donor broke the "contract" (the donation deed), the situation would be left to the will of the grantee. Unfortunately, the

“contract” drawn up by Engakuji, the grantee, has not survived, but probably the temple had produced a “contract” that stipulated that the “donation contract” between the donor and the temple would be honoured.

Kasamatsu suggests there were three patterns of document exchange concerning donation: (1) A donation deed (*kishinjō* 寄進状) only was handed to the grantee from the donor; (2) a donation deed was handed to the grantee from the donor and a “contract” document was handed to the donor from the grantee; and (3) the donor gave a “donation contract” to the grantee and the grantee gave a “contract” to the donor [Kasamatsu 1997]. That (1) was the common practice is undeniable, based on extant documents, but further research is necessary to clarify (2) and (3).

### 3. The Legal Efficacy of Donation

I have already mentioned *uri kishin*, or “sale-donation.” This is a concept long known in academic circles, having been described by Miura Hiroyuki and Aida Nirō [Miura 1919; Aida 1949]. It differs from what Suma Chikai described as half-donation, half-sale [Suma 1984]. Rather it was a device used to avoid the application of a debt-relief ordinance (*tokusei* 徳政) to the sale of land by drawing up a donation deed as well as a certificate of sale, since this ordinance was not enforced regarding donations to religious institutions.

In the narrow sense, *tokusei* (literally “virtuous acts of government”) refers to ordinances of the Kamakura (1185–1333) and Muromachi (1333–1573) periods enacted by the Bakufu abrogating debt obligations in reference to land for sale. In the broader sense it relates to good government which restores matters to their original, correct state when necessary. In the medieval period, there was a perception that “things” returned to their original state when through some cause or other they returned to their original owner, and by the same token, “things” bought and sold were also thought to be in some way “attached” to their original owner [Kasamatsu 1979, 1983, 1984]. *Tokusei* enacted by the authorities was underpinned by this understanding, alien though it is to modern thinking about ownership.

The perception too that “things” donated to the kami and buddhas (shrines and temples) could not be returned into human hands permeated medieval society. Kasamatsu Hiroshi explains this idea coining the term “Buddha’s law” (*buddahō* 仏陀法), saying that there are three related “things” closely connected with it: things belonging to the Buddha (*butsumotsu* 仏物), things belonging to the Buddhist priesthood (*sōmotsu* 僧物) and things belonging to the secular realm (*jimotsu* 人物) [Kasamatsu 1979, 1983, 1984]. Donation is a religious contract joining a person with the kami and buddhas, an act which changes something belonging to the secular realm into the possession of the kami and buddhas. The reality was



however that the donated land became the possession of the priesthood, in other words, the priests who were intermediaries in the donation and those who held power in the temple, whatever the wishes of the donor were. In the same way, the management and administration of the land belonged to the priesthood as well. It was not uncommon in medieval times for priests to possess assets and pass them on to their disciples. Kasamatsu's landmark research capturing the essence of donation in medieval Japan from the point of view of "things" has had a great influence on later scholarship in this field.

This is why, then, donation to religious institutions could not become subject to the debt-relief ordinances. If both parties in the sales transaction wanted to avoid being subject to one in the future, a certificate of sale and a donation deed dated identically were drawn up by the same person for the same property so that superficially the sale took the form of a donation, which made it impossible for the property to be returned cost-free under the terms of the *tokusei* ordinance.

Thus, it was a principle in medieval society that once a donation had been made to the kami and buddhas it could not be returned, neither to the donor himself nor to his descendants. However, by around the middle of the thirteenth century, it had become noticeable that some donors or their descendants, disregarding this principle, were seeking ways to break it down by force. To forestall such moves and to protect the donation from them, donors and grantees sought stronger guarantees when preparing the donation deeds. One such was a clause (*tanpo mongon*) setting out the types of guarantees available if the rights associated with the donated property were infringed by third parties (including descendants of the donor). I have made a comprehensive collection of donation deeds drawn up by direct retainers (*gokenin* 御家人) of the Kamakura Bakufu and analysed the guarantee clauses found there [Jinno 2006b]. I referred above to Yuasa [2000] which recommended focusing on the relationships between people and religious institutions in various regions and examining them individually. There is reason in this paper, though, to follow the methodology he did not use amassing donation deed and studying them statistically.

There are six types of guarantee clause: (1) Non-infringement—the donor pledges that his descendants will on no account infringe the donation, but specific measures if that happened are not determined in advance; (2) Compensation—The donor pledges compensation if there is any infringement by his descendants; (3) Lawsuit—the donor pledges to guarantee the legitimacy of the rights through court action if there is an infringement by his descendants; (4) Punishment—infringement by descendants will be treated as a crime; (5) Debt-relief—the donor pledges that the donation will not be returned even if debt-relief ordinances are enacted; (6) Divine retribution—divine retribution will fall upon descendants who infringe the donation. Table 1 sets out the surviving numbers of donation deeds of Bakufu retainers of the Kamakura period and the types and numbers of guarantee clause

**Table 1. Guarantee Clauses in Gokenin Donation Deed**

Period	Extant donation deeds	(1) Non-infringement	(2) Compensation	(3) Lawsuit	(4) Punishment	(5) Debt-relief	(6) Divine retribution
-1224	4	1	0	0	0	0	0
1225-1242	13	1	0	0	0	0	0
1243-1263	14	5	0	0	0	0	0
1264-1284	17	5	0	0	0	0	0
1285-1301	18	9	0	1	1	0	2
1302-1316	14	7	0	0	2	0	1
1317-1333	32	18	1	0	1	1	0
Total	112	46	1	1	4	1	3

found in them.

Non-infringement guarantee clauses appear in very small numbers in the early years of the thirteenth century, but increase over time to reach a sudden high in the beginning of the fourteenth century, with more than half of the donation deeds studied containing them. The fact that no course of action in the face of infringement was not laid down is a measure of the donor's strong sense that his descendants would not infringe the donation. There are very few instances of other types of guarantee clause and significantly all of them appear from the late thirteenth and early fourteenth centuries, the latter years of the Kamakura period. Only the crime guarantee clause appears in any numbers; its appearance suggests that the guarantee was not sought by the parties involved but by a higher authority.

Let us look, for example, at a donation deed drawn up by Arao Sōken, a Bakufu retainer from Owari Province, in the fourteenth century. It contains both a debt-relief clause and a compensation clause, the only instance of this combination occurring. As we have discussed above, donation was not subject to debt-relief, so this clause seems meaningless. Perhaps it reflects Sōken's own feelings. This is substantiated by his use of words expressing the idea of "Buddha's law." Arao Sōken was active in the period spanning the end of the Kamakura period and the beginning of the Muromachi period and a large number of his donation deeds remain in the Myōkōji 妙興寺 Archive, all except the one described above dating from the Muromachi period (post-1333). The majority have a debt-relief clause and

words expressing the idea of “Buddha’s law.” Further, most survive as a set with certificates of sale, telling us that they took the form of “sale-donation” (*uri kishin*) in order to avoid being subject to debt-relief ordinances. We may conjecture that Kamakura-period donation deeds were probably all of this type, even where the certificate of sale does not survive. Arao Sōken sold his land to temples and drew up a donation deed to protect the sale more securely and further strengthened it by inserting a debt-relief clause and words expressing the idea of “Buddha’s law.”

The guarantee clauses were not the only devices that appeared in the Kamakura period to protect the donation. In the latter half of the period, we find a method of donation where donors, when they drew up donation deeds, they petitioned the Bakufu saying that this was the wish of the grantee, or because the donor thought there was some merit in doing so, and received a donation deed in return [Jinno 2003, 2006a]. By receiving the donation in the name of the Bakufu, the grantee would have stronger protection for the donated land, while the donor too, over and above his originally personal religious act, would want his territory protected against infringement. The Kantō donation deeds issued by the Kantō (Kamakura Bakufu) in such cases clearly state they were drawn up at the request of so and so. For example, in Bunpō 2 (1318), when a powerful retainer of the Kamakura Bakufu called Adachi Tokiaki donated an estate in Harima Province to the temple Kongō Sanmaiin on Mt. Kōya 高野山, the Bakufu produced a donation deed saying it donated the above estate to this temple based on a request by Tokiaki and was passing it to the grantee through him. Aida Nirō understood such donation deeds to have been issued to endorse the transfer of ownership through donation and saw it as a measure of territorial control of its retainers by the Bakufu [Aida 1949]. This view is however incorrect. Rather they were issued by the Bakufu at the request of donors and grantees aware of the stronger legal efficacy of donation deeds received from a superior authority.

To summarise, donation deeds had a stronger legal efficacy than a certificate of sale, since they could not be revoked. However, as it became necessary to preserve the integrity of the transaction by various specific means, it was not enough to draw up just one donation deed. This led to the appearance of guarantee clauses and donation deeds that petitioned for the protection of a higher authority. These latter appeared in large numbers in both the Kamakura and Muromachi periods. By the Muromachi period it became the practice for donation deeds to be reissued whenever there was a generational change in the donating family. Donation did not end with the transfer of assets; in many cases religious activities using the donated assets were ongoing, even after the death of the donor. Thus, the grantee devised a variety of means to ensure that these assets remained in its secure possession over the long term.

Kasamatsu argued that “Buddha’s law,” that is, the rule that property donated to temples and shrines cannot be recovered, even by the donors or their descen-

dants, was a legal principle established in medieval society. However, the occurrence of lawsuits over land that had been donated to temples and shrines suggests that “Buddha’s law” was not widely accepted as an absolute rule meaning that the Kamakura Bakufu had to go through legal procedures, such as issuing donation deed and producing a guarantee statement.

## Conclusion

There is also a considerable amount of research that studies the subject from a different viewpoint, for example the work on Atsuta Shrine by Fujimoto Motohiro. He studies the formation and development of Atsuta Shrine, both politically and economically, and explains in detail how the shrine received donations and amassed its land [Fujimoto 2003]. There is also research into how the warrior government engaged in donation, in terms both of its intentions and procedures. For example, I have examined donations carried out by the Kamakura Bakufu and the early Muromachi Bakufu, looking at, among other topics, the purpose of the donation, styles of donation deed, and the authority making the donation [Jinno 2003, 2013].

There are other topics that I have not discussed in this paper, my focus being largely upon the donation of land and the rights (*shiki*) associated with that land, and I have not been able to make any mention of the donation of personal property. In respect to the question of “gifting” and “donation” in terms the fields of law and legal history, Sakurai Eiji talks about the “gifting of land” [Sakurai 2011], but I think we must also consider the possibility that this originated in the donation of valuables and weapons.

It was the work of Kasamatsu Hiroshi that brought about a great turning point in the study of donation/commendation. Sakurai Eiji writes that Kasamatsu fluctuated between considering that a gift was a favour and that a gift was a duty, and it is putting it too simply to say that a gift was made originally as a favour to another, or from a sense of duty born of a debt of gratitude [Sakurai 2011]. I think that such a sense underlies donation, but here is not the place to discuss this point further.

I have discussed donation in medieval Japan focusing on legal points, but there are many approaches to studying this topic, which I could not refer to in this paper. I hope they may be discussed further in the future.

## Bibliography

### Primary Sources

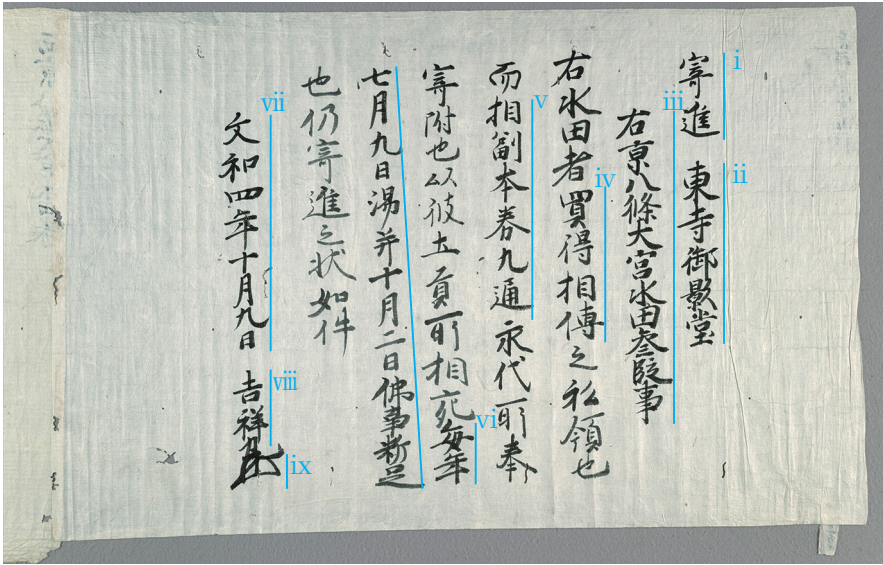
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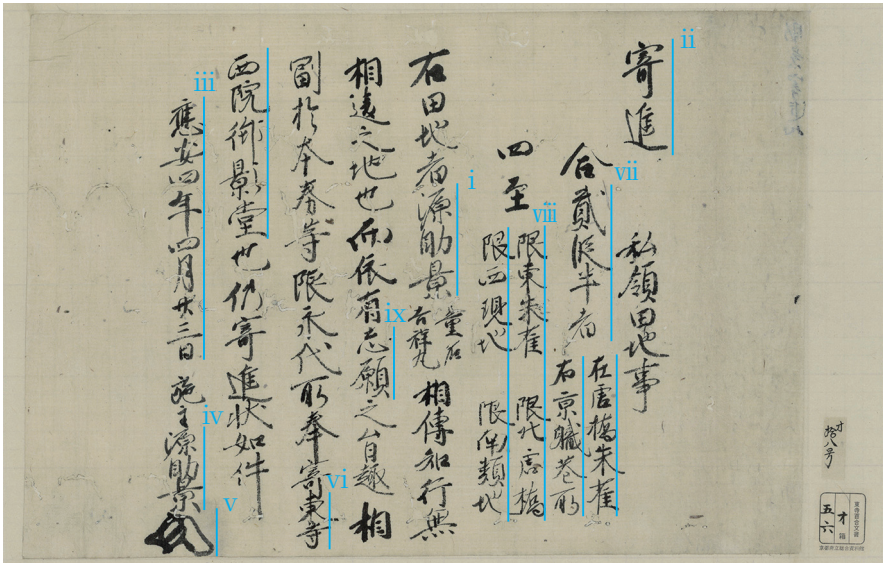
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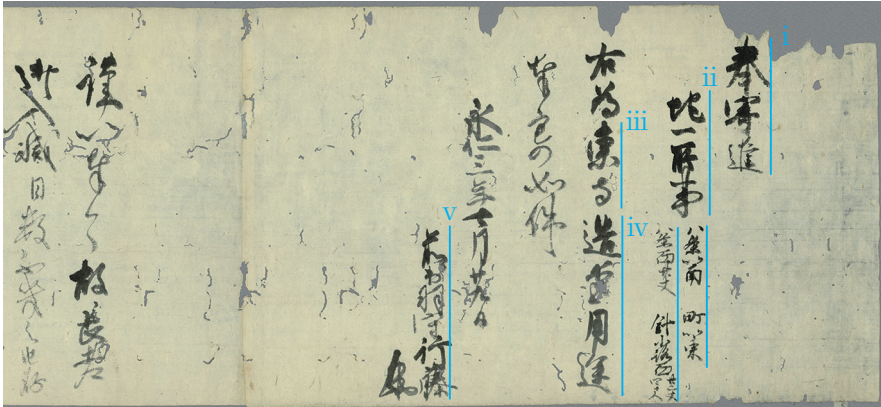


**Document 1.** Donation deed of Kishōmaru, *Tōji hyakugō monjō*, Ka hako/45/1/, Kyoto Institute, Library and Archives (吉祥丸田地寄進状, 東寺百合文書, 才函/45/1/, 京都府立京都学・歴彩館).



**Document 2.** Donation deed of rice field by Minamoto no Sukekage (Kishōmaru), *Tōji hyakugō monjō*, O hako/56/, Kyoto Institute, Library and Archives (源助景田地寄進状, 東寺百合文書, 才函/56/, 京都府立京都学・歴彩館).





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