

Chapter VII

Commendation of Land in Medieval Japan and Its Social Function

TAKAHASHI Kazuki

1. Commendation in the Medieval Period and Differences in Social Class

The commendation (*kishin* 寄進, endowment) of immoveable property like land in which people have certain rights and interests has been an activity seen over the centuries in the Japanese archipelago. Besides secular figures, the recipients of the commendation might be the deities, temples and shrines, and high-ranking Buddhist priests. Of particular note is that the commendation of land in Japanese medieval society (approximately 11th–16th centuries) closely resembles the waqf of Islam and so provides a suitable subject for comparison.

Specifically, I would like to examine cases where land was commended by lay people as an income source to support temple activities. The vast majority of documentation concerning commendation in medieval Japan that has survived has been handed down within Buddhist temples. We should be aware though that the word “temple” covers a broad spectrum of institutions, from the ancient great temples of the area around the capital to small temples patronised by local powerholders and village communities. The commendation of land to all of these institutions was entwined in a variety of ways with the expectations of the people who were involved in it, and with the fulfilment of a variety of social functions. In this paper I would like to present a number of points for discussion based on examples from medieval Japan, including the redistribution of wealth and other questions taken up at this symposium.

Before discussing land commendation itself, I will give a brief outline of the medieval land system in Japan. In medieval Japanese society, the base for tax collection by the state through local administrative organs was the registration of the land holding (by location and area) and of the tax payer and the tax receiver. This was a product of the breakdown of the system of a head-tax levy based on the household (*ko* 戸) as the unit for allocating land and collecting taxes under the legal and administrative (*ritsuryō* 律令) codes introduced in the seventh century.

From the tenth century, the way the state was involved in the ownership of land and the rights to it was delineated by social class [Akamatsu 1972; Satō 2001].

Naturally enough it was the rights and interests of the nobility (*kizoku* 貴族) that were legally protected and regulated by the state. In the medieval period, “nobility” refers to the noble-bureaucrats of the central government resident in the capital, Kyoto, and by extension, in terms of social class, the Buddhist priests of the great temples in Kyoto and its environs. In the main, those who actually cultivated the land (farmers, etc.) autonomously evolved various rights and interests in it, and practised an independent system of tenure with no official involvement [Yamada 1983; Kanno 1990]. This happened because in medieval Japan rights and interests in the same piece of land were linked to different social classes, allowing many layers to coexist.

These rights and interests can be differentiated, among others, into cultivation rights, tax collection rights, and proprietary rights. All could be granted, traded, or commended. Modern historians have acquired knowledge of this phenomenon through the large amount of surviving documents that were written up when such rights were transferred. They of course concerned the nobility living in the capital, but as time passed documents were also issued from the capital and its environs related to the transfer of rights of persons like cultivators who were outside state control, which were exchanged independently among the parties concerned [Nakada 1943; Hōgetsu 1999; Kasamatsu 1979; Kanno 1986]. When we consider the commendation of land in medieval Japan as a case for comparison with the waqf, it is necessary to differentiate the historical situation both qualitatively and in terms of social class, that is, the person involved and the land itself.

2. The Establishment of Medieval *Shōen* by Sovereigns, and Their Commendation

The commendation of land within medieval aristocratic society is closely related to the development of *shōen* 莊園 (estates outside direct state control, with immunity from state taxation and direct supervision by state officials) that had their origin in the dismemberment of the right of the state to levy and collect taxes, and to the later transfer of that right. State taxation was part of the civil administration system that had been introduced in the seventh century modelled on that of Tang China, and under it, the emperor and his officials had received stipends from the tax revenue brought to the capital from the provinces. The imperial court also officially guaranteed the income source for the temples that the emperor and his relatives sponsored. As the system stagnated, the nobility and the great temples linked themselves directly with specific tracts of land in the provinces, exchanging the arrears of their state stipends for official recognition of their acquisition of all or part of the rights to the taxation of that land and to its collection [Nagahara 1961; Sakamoto 1985]. This was the medieval *shōen*. Linking the nobles in the capi-

tal and the land in the provinces were local powerholders who collected taxes in the various regions, as well as middle-ranking nobles who had been appointed as senior provincial officials by the central government, and their subordinates [Murai 1965; Kudō 1992].

Between the end of the eleventh century and the twelfth, the period when a fully-fledged medieval society developed, emperors, their fathers and grandfathers (retired emperors), and their relatives enthusiastically involved themselves in having new temples built in the vicinity of the capital. These were large institutions where state rituals were performed, and they were intended to house the patron's tomb after his death. Members of the ruling group developed large numbers of new *shōen* as a source of income, and commended them for their temples' support.

Under the *ritsuryō* system, the government would have granted a revenue source from its tax income to provide financial support of the temples. Since this was however no longer a possibility by the beginning of the medieval period, *shōen* were commended to temples after having been set up through a number of procedures between the court and the provincial authorities to gain official approval.

The sovereign and his relatives set up *shōen* at their own initiative [Kawabata 2000; Takahashi 2004a]. Officially though, this took the form of the commendation of a *shōen* already in the possession of a court noble to the sovereign and others, and then to the temples of which they were patrons. This was in line with the political ideal, in existence since around the seventh and eighth centuries, that the sovereign received petitions and applications from those of lower rank and then responded in an appropriate way.

The *shōen* already in the possession of nobles or which had been commended to them were in fact small scale affairs, constituting in actuality no more than certain tracts of land under cultivation. In most cases senior provincial officials, who were appointed from among the urban nobility and sent out from the capital, were allowed a partial right to levy taxes personally, but only during the period of their appointment, and immediately lost this prerogative when their term was up. It was an instable situation, compounded by the fact that there was no coordinated management of the land and the cultivators on *shōen* owned by the nobles, because supervision of residents, like the farmers who actually cultivated the land, had not been sufficiently established.

In the course of the twelfth century, new *shōen* established by the sovereign and those around him to commend to temples came to extend over a very wide area, though the land that had been in the possession of nobles remained at their core. These new *shōen* included not just tracts of cultivated land but also waste land intended for reclamation, forest land to supply lumber for the maintenance of the temple to which it had been commended, and rivers and streams that produced items for tax-in-kind, other than agricultural products [Kawabata 2000; Takahashi 2004a; 2010]. This expansion was in part spurred by the aim to bring both the land

and its residents under a unified system of control by incorporating the livelihood of the people and the site of production within the bounds of the *shōen* [Ebara 2000].

Commendation by nobles to the sovereign and his relatives occurred following the conclusion of negotiations regarding the formation of this substantially new type of *shōen*. Papers concerning the commendation were drawn up and then passed through the sovereign to his temple. A document dating from the middle of the twelfth century commends an already existing *shōen* to the sovereign's wife by a noble retainer. However, the boundaries of the projected new, extremely large, *shōen* have already been recorded, which clearly displays the fabrication that tinged commendation documents [Takahashi 2002].

Despite the establishment of this new type of *shōen*, there were a number of reasons why the small existing *shōen* commended by nobles were used. However small and unstable they might be, they had the advantage of having been officially authorised in the past by provincial officials. In addition, from a management point of view, the ties between the powerholders in the locality of the *shōen* and the nobles in the capital could be utilised even on the new *shōen* [Kawabata 2000].

In exchange for commending their small *shōen*, the nobles acquired status from being entrusted with the management of a new extensive *shōen* and from the income based on it. Since both position and income were hereditary within the household of the noble concerned, it was necessary to have the consent of the sovereign. As a result, the nobles sought increasingly to pledge their service as retainers to the sovereign and his relatives who possessed extensive *shōen*. Commending land in the provinces to the sovereign and his retainers could also be a useful way to create and strengthen new human relationships, as did men of warrior status who became increasingly influential in the political circles of the centre from the end of the eleventh century.¹ In other words, the *shōen* that were established and commended by the sovereign and his circle to temples became the base for a new personnel structure among the ruling class, where the nobility was organised according to a logic different to the bureaucratic system of the earlier period.

Though *shōen* commended by the sovereign and others to temples were recognised as such by the central government, the temples lacked the power to enforce the collection of taxes because of their weak administrative structure. Thus, even after commendation, those *shōen* continued to be administered in real terms by the house organs of governance of the person who made the commendation. When the original commender died, the temple and its *shōen* were inherited as a set by his

¹ For example, Taira no Masamori 平正盛 who became close to the retired sovereign Shirakawa 白河, commending his property to the temple of Rokujōin 六条院, which Shirakawa had founded at the beginning of the twelfth century, and establishing Tomoda no shō 鞆田莊 in Iga 伊賀 province [Ryū 1957].

descendants (including the next sovereign) and regulations providing for the uninterrupted preservation of the *shōen* were issued [Kondō 2016; Hotate 2015]. Some such documents are imprinted with a handprint in vermilion or black ink, as if to symbolise the person of the sovereign himself [Ueshima 2015].

All the same, the state did maintain in part its traditional right to levy taxes through the provincial governor on the medieval *shōen* that had been formed anew through this chain of commendation [Takahashi 2004a; Kamakura 2009]. Thus the sovereign and his relatives and the temples they had founded did not necessarily receive all of the tax revenue from the *shōen*, with their extensive agricultural and forest land. However, though local administrative organs retained some taxation rights, it did not mean that provincial officials had the right to enter these *shōen* directly in order to collect tax. It was the responsibility of the noble to whom the management of the *shōen* had been entrusted by the commender (the sovereign, etc.) to collect from it the portion of tax revenue retained by the provincial administration and its governor and pass it on to them [Takahashi 2004a]. Thus even though there were multiple rights associated with levying tax for each tract of land, its collection was unified. This was convenient for the local residents since if the tax belonging to each interest was collected separately, further expenses would be involved, such as for the entertainment of the officer, which were really an additional tax. On the *shōen* commended by the sovereign to a temple, such trouble could be resolved before it occurred, and so having all the taxes collected together by one person received the support of the local powerholders as well [Takahashi 2004b]. In this sense, the medieval *shōen* was not simply a private holding but maintained a role as a new administrative unit for those residents on it.

From the second half of the thirteenth century, when there was the establishment of new *shōen* fell away and there was buoyant growth in the trade of commercial products, commendations to temples by the sovereign expanded to include the right to collect tariffs at ports and other places [Aida 1943; Shinjō 1994; Nagamura 1989]. Tax revenue based on the flourishing mercantile activity became very important as a more stable and valuable tax source than the *shōen* and their agricultural produce.

3. Commendation of Land at the Residents' Level

Let us now look at the commendation of land by cultivators and others not of the nobility, whom I have thus far treated as “residents.” If the piece of land, a limited tract of agricultural land, was located within the *shōen*, it of course was taxed as agricultural land belonging to the *shōen*. Different to this was the commendation or endowment by residents of cultivation or tax collection rights to a temple they were closely associated with for the performance of memorial services for their

relations or for themselves after their death. Legally it took the form of securing a service through recurrent payments (Ger. Reallast; Eng. land charge) [Nagamura 1989; Arai 2001]. While this represents a broadening of land commendation, based on religious motives and the performance of ancestral rites, the role performed by the commendation of land does not stop there.

To take an example, agricultural land was commended to maintain the bathhouse at Tōdaiji 東大寺, one of the great medieval temples that had been built in Nara in the eighth century by the then emperor. The cessation of state financial support, as described above, forced the temple to create an independent community of priests and develop new *shōen* to sustain itself. This was the basis on which it entered the medieval period [Inaba 1997; Nagamura 1989; Hisano 1999].

From around the twelfth century, we find mention of the bathhouse at Tōdaiji. It occupied an important position, both as a place for the priests to purify themselves and as a meeting place for the clerical body as a whole. Commendations of small pieces of land were made by cultivators and priests to the temple community to gain a fixed income to cover the costs of heating a day's worth of water [Nagamura 1989; Arai 2001; Nishio 2004]. The agricultural land to cover this cost for about half a year (not everyday) was determined and it was the commender himself or his descendants who actually paid the expenses to Tōdaiji, while in actuality continuing in most cases substantially to manage the land that had been commended. In other words, the income from the agricultural land commended belonged to the community of priests but the commender reserved to himself the roles of managing the fields or collecting the tax [Takahashi 2004c]. This right could be sold to others. It was also not unusual for a designated piece of cultivated land on a *shōen* to be commended to a temple completely unconnected the one that was its proprietor. This was because in medieval Japan various rights concerning the same piece of land and the income based on them were differentiated.

When there was any infringement of rights or other kind of trouble concerning the land, the greatest possible weapon of the commanders who continued manage the land and collect taxes from the actual cultivators was that it was a revenue source for the Tōdaiji bathhouse. This was because with Tōdaiji's backing, they stood in a very favourable position when it came to lawsuits. Such commendation was an attempt to stabilise and regularise even to a small degree the uncertain control and income associated with cultivated land in provincial society, using the religious authority and political power of the temple. It was not simply inspired by voluntary religious concerns [Nishio 2004].

If there were any breaches of the contract, such as the non-payment of the funds so essential to the bathhouse, the priests of Tōdaiji would bring the commended land under their own direct control. Contract documents specifying this have been found at Tōdaiji, preserved together with the commendation documents. Reacting to non-payment, the temple would declare forfeit the rights held by the

commendors and send an envoy to the land in question, where he would set up a wooden notice to the effect that Tōdaiji had sequestered the piece of land and that the commendors were not allowed to enter it [Takahashi 2004c].

Such instances increased after the fourteenth century, with the kind of measures described above being taken in a large number of tracts of cultivated land commended to the Tōdaiji bathhouse and other places. This may have in part been influenced by changes in the natural environment and their effect on agricultural production (natural disasters occurred frequently at this time) but it is also possible that they were due to modifications to the basic principle about land commendation towards the end of the medieval period, the principle of the redistribution of the excess obtained from direct production such as agriculture.

4. Changes in Commendation Activity through the Agency of the Tenure System

I have been speaking about the situation in medieval Japan where the same piece of land could be commended by people of different classes without any contradiction. This was a time when a new system of administration was evolving, different to that brought from China in the eighth century. By the tenth century discrepancies between the existing administrative law (*ritsuryō* system) and actual social conditions had gradually heightened and this new system represented an adjustment of the Chinese-derived system to the realities in Japan. The action of commendation can be regarded as an important process in this reorganisation, representing the development of a new mechanism for the appropriation and redistribution of the wealth gained through land.

In conclusion, I would like to mention that there is a commonality in the commendation of land to the deities, temples, and shrines in medieval Japan that goes beyond differences in social class. While such commendation had as its purpose a demonstration of faith in the kami and the buddhas, the veneration of the dead, and the performance of good actions in this life, it was also a way to stabilise and perpetuate as greatly as possible the tenure and management of land by particular secular family lines, given that the landholder might cancel the transaction, whether it was a grant, a sale, or even a commendation.

At some point during the medieval period, the idea emerged that there was a clear distinction between what belonged to the deities and what belonged to human beings. Grants, sales, and commendations between people could be cancelled but land commended to the deities could not be taken back [Kasamatsu 1984]. As a result, often land that was in danger of being taken back was commended to the kami and buddhas and the commender would continue to manage it [Muraishi 2013].

Another way to achieve this result was to purchase land and commend it

immediately to the deities. When local people bought or sold land, the seller would normally pass a prepared sales document to the buyer. However, when the buyer informed the seller in advance that he was going to commend the land to a temple or shrine, the sales document and the commendation document would be prepared at the same time and both were passed to the religious institution as proof of the commendation. The seller too would thus be included in the orbit of the commendation, with the understanding that the land he had sold already belonged to the deities and could not be returned. Following the commendation, there was no problem about the buyer (that is, the commender) being involved in the management of the land. In fact, this method of commendation was clearly a means of self-protection as far as the buyer was concerned.

Despite the land being ostensibly in the possession of the deities, there are many cases of changes in tenure from the commender to other people, including priests. By the end of the thirteenth century, ideas about the inviolability of what belonged to deities had weakened. Once organs of government came to deliberate in settling disputes among members of the ruling class, both the nobility and the military elite, the social efficacy of land commendation seems to have been undermined [Jinno 2013].

After the fourteenth century, endowment by the sovereign to the great temples generally took the form of new tax revenues derived from the growing circulation of commodities (for example, taxes on merchant shipping at ports and single commodity taxes), rather than from land, like *shōen*. Furthermore, another form of commendation appeared that was time specific. While there was on the one hand a continuation of commendation to local temples of the segmented rights in cultivated land that had been purchased by local powerholders and communities, we get glimpses of a type of commendation that seems more like a financial system making use of religious ideology [Yuasa 2007]. We can see that the function of commendation to temples by people from all social classes was changing in parallel to changes in wider social attitudes.

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