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**PROPERTY RIGHTS IN MEDIEVAL JAPAN:
THE ROLE OF BUDDHIST TEMPLES AND MONASTERIES**

By Mikael Adolphson & J. Mark Ramseyer*

Abstract: Medieval Japanese governments only haphazardly enforced claims to scarce resources. Necessarily, this presented landholders with a void. To obtain the enforcement the governments did not offer, many turned to institutions affiliated with the fractious Buddhist church instead. Temples and monasteries enjoyed an exemption from tax on their lands, and controlled an array of financial and human resources with which they could adjudicate and enforce claims to scarce resources. To obtain access to that exemption and those resources, landholders “commended” their land to them, and paid them a share of the harvest. In exchange, the temples and monasteries exempted them from tax, adjudicated disputes internal to the estate, and protected their estates against external threats. Effectively, the temples and monasteries competed in a market for basic governmental services.

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Economies grow when investors internalize the returns to their investments. They grow when farmers plant with reasonable assurance that they will keep the bulk of their harvest; when artisans build with the assurance that they can retain the right to use their equipment; when merchants trade with confidence that their partners will perform. Quintessentially, investors, farmers, artisans, and merchants obtain that security when a non-predatory government reliably enforces their claims to scarce resources.

Absent such a government, sometimes investors have created a private state. Sometimes farmers and artisans have hired vigilantes, and sometimes merchants have kept trades within their ethnic groups. But all too often, absent such a government investors simply have not invested, farmers have not farmed (at least not expanded), artisans have not innovated, and merchants have not traded.

Medieval Japan (ca. 1100-1600) grew -- but grew without much of a central government to enforce claims to resources. Emperors it had, along with regents, courtiers, warriors, and eventually shōgun and shōgunal regents. Yet these men seldom offered citizens much stability. Certainly, they seldom offered the security that would have induced citizens to invest scarce resources in easily appropriable investments or to undertake long-distance trade. These were not years of stability or peace. They were centuries of intrigue, murder, predation, and war.

Yet the Japanese economy grew anyway. Despite the chaos, people cleared forests. They lent money. They built elaborate and expensive irrigation facilities. They constructed sake breweries. And they traded their goods over longer and longer distances.

For the stability they needed to invest and trade, many people turned to the temples and monasteries. To obtain a secure claim to real estate, for example, a local landholder might "commend" his land to a temple (or monastery).¹ Through the process, the temple obtained an equity interest in the land (took a cut of the harvest), and the landholder obtained an exemption from tax. At least as important, the landholder obtained the ability to call upon the temple to (and the temple had an incentive to) protect his land from rival claimants. Artisans and merchants obtained analogous protection by joining temple-sponsored guilds. They paid their dues, and the temple enforced their contracts.

Besides the tax exemption, the temples and monasteries offered a landholder two sets of services. First, they adjudicated internal disputes over the property and trades within their jurisdictions. Effectively, they offered judicial services to residents and others with an interest in the area. Second, they protected an estate against outside threats and intrusions. Some private landholders could have defended their property on

¹ Here and throughout this paper, we use the term "landholder" to refer to a local magnate who made claims to land. Some of these claimants actually "held" the land in the colloquial sense of the word; others were men and women who wished to hold the land.

their own, to be sure. But in many cases the major temples and monasteries controlled the resources necessary to do so more effectively.

In effect, the temples and monasteries competed with each other to provide landholders with what we usually consider basic government services. In effect, medieval Japan maintained a market in private governments. Imperfectly to be sure, the resulting arrangements gave landholders something close to the protection they needed to improve and maintain their land.²

I. Medieval Japan

A. The Government:

Although Japan maintained a central government during the 9th to 15th centuries, it was not a government in which power flowed primarily from bureaucratic office. Instead, elites competed for power through other means. Emperors reigned from the capital. Yet manipulated by the powerful Fujiwara clan, by the 9th century they took office before age 10 and retired before 20. As a result, power in medieval Japan rarely lay with the emperors themselves. Instead, it lay with their Fujiwara regents.

These Fujiwara patriarchs had maneuvered their family into power soon after the capital moved from Nara to the new city of Kyoto (called Heian-kyō) in the late 8th century. They did so by marrying their daughters into the imperial family, appointing themselves regents, and forcing the emperors to retire early. The success of the strategy turned on the uxorilocal residence patterns among the elites. Because an emperor's consort (and her children) lived with her father, imperial princes looked to the men in their mother's family for authority -- not to their biological father. By inducing the emperors to marry Fujiwara women but resign before old enough to rule independently, the Fujiwara clan chiefs could insure that they -- rather than the emperor himself -- controlled the government.

In time, however, this Fujiwara policy begat in retired emperors the clan's most powerful rivals. Retired in the prime of their lives, by the 11th century the ex-emperors (most prominently, Shirakawa and Go-Shirakawa) began to work assiduously to augment the fortunes of their imperial family. In the process, they necessarily slashed those of the Fujiwara.

As relentlessly as these Kyoto courtiers schemed, their skirmishes became an increasingly irrelevant sideshow. By the 12th century, power had shifted to armed, provincial clans. Among these families, two would eventually dominate the country: the Taira (also called the Heike) and the Minamoto (the Genji) imperial family off-shoots.

From bases beyond the capital, the Taira and Minamoto built themselves armed private bands. In the provinces, these families attracted local warriors, who in turn brought their own retainers with them. As they did, they began to clash both with each other and with other warrior bands, and occasionally to become enmeshed in the rivalries among the Kyoto elite. Initially, the Taira -- led by Taira Kiyomori -- were the more

² An analogous phenomenon occurred in medieval Europe, with the Church declaring itself independent from local governments and playing a crucial role in the development of systematic property rights. See generally Berman (1983).

The various anecdotes given in this article are taken from Adolphson (2000, 2007b). Readers interested in fuller details of the events described, or in a richer account of the role of the temples, monasteries, and monks in medieval Japan should consult these two volumes.

successful. They captured prominent court positions while the less successful Minamoto languished in the provinces and consolidated their strength.

Tensions broke into open civil war in 1180. Through the ensuing battles, the Minamoto eventually destroyed the Taira. In Kamakura (south of current Tōkyō), Minamoto Yoritomo then established a military shōgunate (government). One might reasonably suppose power had shifted to the Minamoto family -- but one would be wrong. By systematically murdering the potentially most powerful Minamoto heirs, the Hōjō family (that of Yoritomo's wife; ironically, a Taira branch) soon maneuvered itself into power in their stead. The family eliminated the Minamoto, appointed its own men regents to child-shōgun, and ruled. Within decades, it had replaced the Minamoto shōgun with boys from Fujiwara or imperial families. For much of the 13th century, in short, a powerless emperor reigned in Kyōto and answered to a hapless shōgun in Kamakura, who in turn obeyed his Hōjō regent.

Rebellions continued, and by the mid-14th century the Kamakura shōgunate collapsed. The Ashikaga clan then established its own shōgunate, relocated the military government to Kyoto (at Muromachi), and ruled for another two centuries. By the early 16th century, this government too had disintegrated, and civil war ensued.

B. The Major Temples:

Within a fundamentally Buddhist cosmology, medieval Japan offered men and women an almost bewildering array of sects, temples, and monasteries. Shrines tied to the native (and pre-Buddhist) Shinto cult provided a complementary set of rituals as well, often in tandem with the Buddhist temples. Among these thousands of institutions (though not "corporations," many were autonomous religious bodies that held property), four dominated: the temples of Kōfukuji and Tōdaiji, and the monasteries, temples and shrines within the Mt. Kōya and Mt. Hiei complexes.

The capital elites turned to these temples for an array of rituals and ideologies. First, already from the seventh century, they had begun to exploit the "Golden Light" sutra. The Buddhas, according to the sutra, would protect those rulers who supported Buddhism, and would cause their states to flourish. Over time, the ideas would expand into an ideology (*ōbō buppō sōi*”; the mutual dependence of the imperial and Buddhist law) that bound tightly the fortunes of the secular and religious worlds: whether the secular and religious worlds flourished or declined, they would do so together. Second, the elites used the rituals provided by the temples to enhance prevailing social hierarchies. Not only was it important who could participate or attend certain ceremonies, even comparatively minute details, such as the seating order at the funeral service for an emperor, could cause major quarrels.

Last, many among the elite genuinely believed in the efficacy of Buddhist esoteric rituals. These rituals promised a wide range of this-worldly benefits, ranging from curing diseases and inducing the birth of male descendants, to securing the continued prosperity of the house. On both the abstract state-level and on a more individual level, Buddhist temples and monasteries competed with each other to offer rituals that provided important ideological and political support for the rulers and other ranking nobles.

Kōfukuji was the oldest of the four major religious institutions. Founded in the 7th century, the temple moved with the court to Nara in the 8th century. Tōdaiji was founded in the early years of the 8th century, and soon relocated to Nara as well. Within

Nara, the two temples built their complexes prominently to the east of the city. Theologically, Kōfukuji fell within the Hinayana-Mahayana blend of the Hosso sect, and Tōdaiji within the Kegon sect. Kōfukuji served as family temple to the Fujiwara, and Tōdaiji served as an imperial temple. The two temples controlled large landholdings and maintained an enormous number of staff. Largely because of their power and their opposition to Kiyomori, the Taira armies attacked and burned both to the ground in 1180.

Thirty miles south of Nara stands Mt. Kōya. There, after returning from China in 816, the legendary priest Kūkai (posthumously, Kōbō Daishi) founded a monastery and temple complex. A multifariously talented architect, painter, sculptor, and calligrapher, Kūkai built on Mt. Kōya the center of his “esoteric” Mahayana Shingon sect. To this day, the complex includes over 110 buildings and employs an enormous number of monks.

In part to undermine the growing clerical power, the imperial government moved its capital from Nara to the newly established Kyoto in the late 8th century. Kyoto lies 20 miles north of Nara, and within the city the imperial family situated itself in the north-central sector. Crucially, however, Kyoto lies in a valley, and overlooking the city to the immediate north and east sits Mt. Hiei.

On Mt. Hiei, in 788 the monk Saichō built the Enryakuji temple and monastery complex. A contemporary and rival of Kūkai, Saichō also returned from China with a theology in the “esoteric” tradition. In Enryakuji, he built what would become the center of the Tendai sect.

Because of its location, Enryakuji personnel could easily intimidate the court. Not only did the complex board an enormous number of monks and staff, its strategic location increased its ability to threaten the court. Should the court refuse Hiei’s demands, men from the complex could readily enter the city. Many courtiers were deeply religious, and when the monks (reluctant to attack the Kyoto elite militarily) came, they threatened divine retribution as well as curses by malevolent gods. Of course, with hundreds of angry and unruly men marching down the mountain into the city, courtiers might be forgiven if they also harbored a few this-worldly concerns as well.

II. The Temples and Land Tenure

A. Institutional Structure:

1. Estates. -- The 7th and 8th century Japanese government was nothing if not ambitious. It may have controlled but a small fraction of the country, but under the mesmerizing influence of the Tang court in China it sweepingly abolished private land ownership. Henceforth, the state would own all land and allocate it among its citizens. They in turn would till it and pay the government a tax.

Unworkable from the start, the system quickly collapsed. Even at the outset, the law applied only to irrigated paddy land. Obviously, it gave no one an incentive to create additional paddies. As a result, the government soon made clear that the system did not apply to land that investors newly opened for cultivation.

Although the legal structure changed often over the next centuries, it led steadily to the development of tax-exempt estates (known as shōen). In general, neither court (as opposed to provincial) aristocrats nor temples paid taxes to the government on their land. To avoid his taxes, an otherwise taxable landholder could thus commend (*i.e.*, donate) his land to a temple. He would forward to the temple a share of the harvest, and in return it

would grant him a share as well. Locally, villagers on the estate worked small alienable portions. From each, they kept their own shares of the harvest, and paid the rest to the estate manager.

Alternatively, the landholder could of course commend his land to a court aristocrat. Obviously, a temple would have found it hard to compete with the Fujiwara, or later the imperial family. Yet even against them, the major temples offered two potential advantages. First, the temples commanded a large staff. Not only did they house a large corps of monks and other religious personnel, they employed hundreds of able-bodied men in menial and administrative positions. Second, they controlled an array of branch temples. Through these branches, they wielded power in distant locations that no Kyoto aristocratic family could match.

Like the bedeviling estates in medieval English land, the rights (known as shiki) to the Japanese estates were fundamentally creatures of contract. As such, they came in a wide range of sizes, and were infinitely variable -- a fact that makes any whirlwind summary like this essay a dangerous exercise. They varied widely, and though they most commonly involved paddy fields, they could also concern produce like silk or salt.

2. Temple commendations. -- In effect, commendation involved a swap: the landholder agreed to pay the temple a fee, and the temple gave the landholder access to its tax exemption. Yet the advantages to the landholder extended beyond the tax itself. Where the government imposed the tax by fiat, a temple could charge only the market price. In any given year, many landholders sought temples to which to commend their land, and many temples competed for their commendations. Charge a higher fee than a rival temple, and a landholder would take his estate elsewhere.

The competition was intense -- sometimes to a temple's chagrin. In 1145, for example, one landholder in the Uchi district commended a field to Kōfukuji. He soon concluded that Kōfukuji charged too much, and commended it to another temple instead. Kōfukuji was not amused. When its clergy tried to arrest the commendor, he fled to the rival temple. Kōfukuji laid siege to the temple, but he escaped. That rival temple then chased him with over 500 warriors, but encountered the district administrator's warriors (himself a Fujiwara -- recall that Kōfukuji was the Fujiwara temple). Reported one account, "there were too many casualties to count" (Adolphson, 2007b: 62).

Second, a temple could more credibly commit itself to a non-predatory fee policy than local government administrators. The governors regularly tried to raise the taxes they charged. Perhaps they saw themselves (incorrectly) as monopolists. Most commonly, they served fixed six-year terms, and tried to extract as much revenue during their tenure as they could. Consciously and relentlessly, they played end-game strategies.³

By contrast, temples competed for commendations in what was effectively an iterated game. Because investors continued (especially after the 13th century) to develop new land and producers and merchants continued to trade, temples faced a steady demand for tax exemptions. Effectively, this made them repeat players, and their status as such reduced their incentive to raise the fees on the estates they already held. They hoped to

³ In 1158, for example, the local officials under the governor assessed an extra-ordinary tax on a village to pay for imperial palace facilities destroyed in 1156. The village was part of a temple estate, and the temple successfully obtained the village an exemption from the tax. See Adolphson (2007a: 166-68).

acquire future commendations, in other words, and for that needed a reputation for keeping their word. Effectively, this need to compete in the future reduced their incentive to renege on deals they had cut in the past.

Third, the temples and monasteries offered some armed protection against rival claimants. More generally, temples and monasteries offered "relief" (andō) from external threats and intrusions. In the 13th century, for example, farmers from the Tamataki estate petitioned Tōdaiji for relief from incursions from the neighboring Shigaraki estate.⁴ Although the staff at the temples and monasteries lacked the training or equipment of the professional warriors, the religious centers did employ a large corps of loyal and able-bodied men. Some were monks, the rest were part of the service staff. They may not have joined a temple or monastery to work as warriors, but their presence did sometimes give the centers an edge in the protection market. Thirteenth century documents record Tōdaiji monks excelling at horse-mounted archery contests (Adolphson, 2007b: 110). In the 16th century, Kōfukuji established itself as a training center for spear handling (Id.: 178)

As necessary, the temples also hired professional warriors. An 1151 document from one temple ordered its estates regularly to supply five warriors to serve as guards.⁵ Another 12th century manuscript complained of temples "assembling and employing warriors from nearby provinces and districts" to perform "evil deeds."⁶

And in truth, many senior temple leaders were themselves professional warriors. No one exemplified this better than the 14th century monk, Moriyoshi. Son of the emperor Go-Daigo, Moriyoshi served two short stints as Enryakuji head abbot before resigning for the last time in 1330. He joined his father's military campaign to topple the Hōjō, rose to the level of a major commander, and with Ashikaga Takauji successfully overthrew the Kamakura government. Unfortunately, his father then appointed him shōgun -- unfortunately, because Takauji wanted that post, labeled him a rival, and had him assassinated in short order (Adolphson, 2007b: ch. 4).

B. Litigation:

In two ways, temples also facilitated the peaceful enforcement of property rights. First, they provided courts to their residents. Effectively, with the tax exemption and military protection they offered, they coupled adjudicatory services over intra-estate disputes. Because the temple lands were largely exempt from government intervention (fuyu menden), when residents (or other claimants) disagreed about their rights to the harvest, they turned to the temple that held the estate.

Temples were not the only institutions to offer adjudicatory services. Under the Kamakura government, the shōgunal office sometimes posted allied warriors as representatives (known as jitō) to what had been tax-exempt estates. Sometimes, these representatives engineered disputes with the estate holders by refusing to forward the

⁴ E.g., *Heian ibun*, vol. 5, pp. 1646-47, Doc. 1822, Tōji mandokoro kudashibumi an, Eikyū 3 (1115) 4/25; *Kamakura ibun*, Doc. 2023, vol. 4, pp. 83-84, Iga kita no soma hyakuseira ge, Kenryaku 3 (1213) 8th mo.

⁵ *Gyokuyō*, Juei 2 (1183) int. 10/29.

⁶ *Heian ibun* 9, Doc. 4860, Kii no kuni Daidenbōin sōto ge an, Nin'an 3 (1168)/8/2 (p. 3771) (ital. added).

traditional share of the harvest. And when they did, the estate holder and the representative sometimes settled the dispute by splitting the estate geographically in two (shitaji chūbun).

Yet in the course of representing the government, these representatives sometimes themselves provided adjudicatory services. The medieval black-comic (kyōgen) play Okō v. Sako illustrates the process. Farmer Okō learns that his neighbor Sako's ox has eaten and trampled the rice in his paddy. When Sako refuses to pay damages, Okō threatens suit. The play proceeds as Okō's clever wife coaches him in litigation tactics, as he then confronts her about her affair with Sako, and closes with Okō's anguished plea to the audience -- recall Canio's plea in Pagliacci -- to laugh (Ramseyer, 1995).

Second, the temples enforced the estate's claims against outsiders in imperial and bakufu courts. Litigation is expensive, consumes time, and requires literacy and skills developed primarily through experience. Modest landholders had neither the resources to fund the litigation, nor the expertise to pursue it effectively. As a major repeat player with a large cadre of highly educated personnel, the temples and monasteries offered both.

C. Threats:

1. Elites. -- Landholders needed help against three groups: elites in the capital, provincial warriors and bandits, and their own local agents.⁷ Consider first the capital elites. In 1092, two prominent Fujiwara (one a grandson of the reigning regent) induced their retainers to harass and kill the officials on the estate of an Enryakuji-affiliated shrine. When Enryakuji threatened to stage a protest, the court agreed to punish the two. In fact, it imposed only light punishment, so the temple threatened again, and the court exiled the two to distant provinces.⁸ At much the same time, the governor of Ōmi province grabbed control of the estate of a Kōfukuji-affiliated shrine. The temple sent thousands of monks to the capital, and the court exiled the governor.⁹

Although the powerful temples and monasteries hesitated to attack the Kyoto elite with military force, they showed no reluctance to attack their religious rivals. In the 13th century, Kōfukuji found itself in a dispute over water rights with the powerful but independent Kyōto shrine of Iwashimizu Hachimangū. Several men from the Iwashimizu estate attacked and killed peasants on the Kōfukuji estate; in return, Kōfukuji monks killed Iwashimizu supporters and torched sixty homes; and Iwashimizu men killed several Kōfukuji servants. Simultaneously, the dispute proceeded at the court and bakufu. Yet for all the brawls and litigation, the underlying water dispute remained -- and the battle continued for at least another half century.¹⁰

⁷ Recent scholarship suggests that property rights were most likely to be guaranteed if a petitioner could obtain the acknowledgements of his neighbors.

⁸ *Go-Nijō Moromichi ki*, Kanji 6 (1092)/9/18, Kanji 6/9/22, 23, 28; *Chūyūki*, Kanji 6/9/18, 20, 28, 29; DNS 3:2, 665, 667-70; *Tendai zasuki*, 70.

⁹ *Go-Nijō Moromichi ki*, Kanji 7 (1093)/8/6, 25, 26, 27, 28; *Hyakurenshō*, Kanji 7/8; *Fusō ryakki*, Kanji 7/8/22, 26, 27; DNS 3:2, 986-88, 990-91 [Did we explain what DNS stands for? *Dai Nihon shiryō*.]; *Kōfukuji ryaku nendaiki*, Kanji 7/8/28 (p. 142).

¹⁰ *Azuma kagami*, Katei 1 (1235)/5/23, 7/24, 12/29; Katei 2 (1236)/2/28, 3/21, 7/24, 8/20, 10/2, 5, 6, 11/13, 14); *Hyakurenshō*, Katei 1/6/3, int.6/19-21, 23, 27, 28, 12/21, 25; Katei 2 (1236)/1/1, 5, 2/19, 21,

The quarrels could entangle the temples in notoriously dangerous disputes. In 1176, for instance, the governor of Kaga province and his brother stole from an Enryakuji estate and torched several homes. When the court refused to punish them, Enryakuji sent its monks (court diaries recount up to 2000) into the capital. Several people died in the melee, but the retired emperor Go-Shirakawa insisted that the land was not temple land at all. Instead, it was the court's.

Enryakuji refused to relent. Under continuing pressure from the temple, Go-Shirakawa eventually exiled the governor. Lest he appear intimidated, he also deposed the Enryakuji head abbot, confiscated his estates (including estates owned by the temple), and ordered him exiled. En route to his exile, Enryakuji monks then intercepted his entourage and freed him. When Go-Shirakawa ordered them to present the abbot for punishment, the temple refused.

For Go-Shirakawa this seems to have been one act of intransigence too many. Go-Shirakawa called in Taira Kiyomori (at this time perhaps the most powerful man in Kyoto) and ordered him to besiege the temple. Fortuitously, Kiyomori discovered a plot against him by several senior Go-Shirakawa retainers. Abandoning Enryakuji, he turned on those retainers, captured them, and executed several. The siege on Enryakuji never materialized.¹¹

2. Local warriors -- Landholders also needed protection against provincial and lower-level warriors and bandits. In 1171, for example, a guardsman attached to Go-Shirakawa tried to expropriate one of Kōfukuji's estates, and killed the administrator in the process. The temple protested to the retired emperor, and he confirmed the temple's title to the land.¹²

A more complicated dispute concerned the Satō warrior clan. In the mid-12th century, the Satō invaded a Fujiwara estate. When the Fujiwara complained, the Satō turned their depredations against a neighboring estate owned by an imperial consort. Go-Shirakawa tried to intervene, but the Satō merely ignored his orders.

Beleaguered, the consort commended her land to Mt. Kōya. What the retired emperor could not do, she apparently thought the temple might accomplish. It did -- but not without considerable effort. It first had to deal with a new predatory governor, for in 1160 a senior Taira retainer took the post and began violating the terms of her estate. When Kōya sent its representatives, the governor countered with several hundred warriors who burned homes and arrested local peasants. Not until 1163 was Kōya able to stop the attacks on its land.¹³

7/28, 10/6, 10, 16, 11/2; *Kanchūki*, Kōan 5 (1282)/2; *San'e jōichiki*, Kōan 4 (1281), Kōan 5; Tsuji (1947: 83-89); Katsuno (1966: 30-32); Hioki (1934: 156).

¹¹ *Akihiro ō ki* (unpublished), Jishō 1 (1177)/4/13, 14, 5/4, 21, 23, 6/9, 7/9; *Gumaiki*, Jishō 1/4/14, 15, 16, 20, 5/9, 11, 13, 14, 16, 23, 24; *Hyakurenshō*, Jishō 1/4/20, 6/9, 7/9; *Nakasuke ō ki*, Jishō 1/5/4, 21, 23, 6/9; *Genpei seisūki*, Jishō 1/6/9, 7/9; *Gyokuyō*, Jishō 1/3/21, 4/14, 17, 20, 5/10, 11, 20, 29, 7/9; *Tendai zasuki*, 105-06; McCullough (1990: 48-50); Inoue (1956: 275-76); Uwayokote (1978: 39).

¹² *Gyokuyō*, Shōan 1 (1171)/3/23; *Kugyō bunin*, part 1, pp. 473-76.

¹³ *Wakayama-ken shi: genshi, kodai*, p. 680-90; *Wakayama-ken shi: kodai shiryō*, 2 "Heian jidai 5," Doc. 50, Go-Shirakawa in-no-chō kudashibumi, Heiji 1 (1159)/5/28 (p. 325); Doc. 55, Bifukumon'in ryōji, Heiji 1/7/17 (p. 329); Doc. 60, Bifukumon'in ryōji, Heiji 1/11/3; Doc. 114, Tōji montora sōjō an, Ōhō 2 (1162)/11 (pp. 372-74); Doc. 115, Tōji montora mōshijō an, Ōhō 2/11 (pp. 374-75); Doc. 127, Sakyō gon

A century later, a bakufu representative (a *jitō*) on an estate owned by the temple Jakurakuji stopped forwarding its share of the harvest to the temple, and forced the local villagers to work for him (apparently cutting off their ears and noses if they refused). The temple helped the farmers file an appeal to the bakufu. Much to Jakurakuji's frustration, however, Mt. Kōya had been trying to expand its holdings in the area (it had no legitimate claim), and now allied itself with the bakufu representative family. Together, in the early 14th century Kōya and the representative family eventually obtained legal control over the area.¹⁴

3. Agency slack. -- Last, landholders needed help in forcing their own agents to pay them the proper share of the harvest. Toward that end, they could enlist (through commendation) a temple's help, but even the temples sometimes found it hard to collect the share. Agency slack is a risk in any complex organization, and it was a problem on medieval Japanese estates. Non-local claimants to the land (as principals) could only imperfectly monitor what their local agents (e.g., provincial managers and farmers) produced, and only imperfectly constrain what they did. They were several days' journey away, while their agents were on site and sometimes heavily armed. The agents could report that the harvest had been poor, they could assess new taxes for themselves, they could appropriate land for themselves, and they could simply decide not to pay.

The Sasaki family, for example, managed one of Enryakuji's estates. In the late 12th century, it started withholding the temple's fees. When the temple sent its representatives, the Sasaki responded by killing several. The temple pleaded with the Kamakura shogunate, but the Sasaki had been among its strongest supporters. Even as late as 1235, documents record the Sasaki killing an Enryakuji representative sent to collect its fees (Adolphson, 2007b: 63-64).

Mt. Kōya faced similar problems. In 1240, one of its local agents plotted with an official (a *jitō*) from the Kamakura bakufu, Taira no Nagayasu. Together, they diverted water from a Kōya estate to Nagayasu's own land -- some of which probably lay on the temple's estate. When Kōya's agent died, Nagayasu claimed Kōya's land as his own. Kōya tried a variety of tactics to recover its land and water, but none to much success.

daifu Taira Nobunori shōjō, Chōkan 1 (1163)/7/25 (p. 397); Doc. 136, Gon dainagon Taira Kiyomori ke mandokoro kudashibumi, Chōkan 2 (1164)/6 (pp. 399-400); *Kōyasan monjo* 1, Docs. 326 (p. 338), 327 (p. 339), 343 (pp. 352-55); 8, Doc. 1798 (pp. 144-47); *Heian ibun* 5, Docs. 3000 (pp. 2449-2451); 7, Docs. 3109, 3110, 3111, 3113, 3114 (pp. 2508-2511), 3264 (p. 2598); Kōya shunjū, Heiji 1 (1159)/5/28, 7/8, 17 (pp. 106-07); Eiryaku 1 (1160)/10/22 (p. 108); Ōhō 2 (1162)/4/15, 28, 5/24, Chōkan 1 (1163)/6/3, 25, 8/8 (pp. 108-09); *Heihanki*, Nin'an 2 (1167)/1/27; Inoue (1970: 24-26, 29).

¹⁴ *Kōyasan monjo* 1, Doc. 182, Ategawa no shō kami no mura zasshō Jūren gonjō an, Kenji 1 (1275)/3 (pp. 203-05); Doc. 416, Minamoto no Yoritomo kudashibumi, Genryaku 1 (1184)/7/2; *Kōyasan monjo* 5, Doc. Doc. 1125, Ategawa no shō zasshō mōshijō an, Kenji 2 (1276)/6/5 (pp. 671-72); Doc. 1130, Ategawa no shō jitō Yuasa Munechika chinjō an, Kenji 2 (1276)/6 (pp. 682-85); 1139, Kōyasan shuto gejō an, Kagen 2 (1305)/3/5 (pp. 692-94); Doc. 1152, Ategawa no shō jitō Yuasa Munechika chinjō an, Kenji 2/7 (pp. 710-713); Docs. 1154-55; Doc. 1158, Ategawa kami no shō jitō Yuasa Mitsunobu sōjō an, Shōgen 1 (1259)/10 (pp. 723-726); *Kōyasan monjo* 6, Doc. 1415, Rokuhara meshibumi mikyōjō an, Bun'ei 4 (1267)/6/30 (pp. 476-77); Doc. 1416, Rokuhara meshibumi mikyōjō an, Bun'ei 4/12/6 (p. 477); Doc. 1423, Ategawa no shō Kami no mura hyakuseira gonjōjō (pp. 486-90); Egashira (1938: 103, 138-41, 168-69); Nakamura (1978, 1985a, 1985b: 223, 227-228); Takahashi (1994: 120-25, 156-70); Inoue (1970: 22-24); *Wakayama-ken shi: kodai shiryō* 2, Docs. 583-84 (pp. 638-39).

When it negotiated, Nagayasu stole the harvest at night. When it litigated, the court took years and then decided the case against Kōya. Eventually, residents from the Kōya estate simply used force. Over two decades after the unfavorable court decision, men from Kōya's estate repeatedly invaded the neighboring lands and killed its residents. Whether Kōya eventually recovered its lands and water the records do not say.¹⁵

Some agents seem to have been flatly beyond the law. Take Kakunin, who first appears in Tōdaiji records as an estate administrator in 1127. On behalf of the temple, he expanded its lands aggressively -- causing complaints both from other temples and shrines and from the local governor. On his own behalf, however, he also stole both from the public domain and from Tōdaiji.

These complaints took Kakunin to court several times, but he seems consistently to have escaped punishment. Born a Taira, he maintained a strong powerbase among local officials and warriors, and when he invaded estates he arrived with Taira warriors. Apparently, his was a force Tōdaiji could not match. Despite stealing from the temple he steadily climbed its bureaucratic ranks. When he died, his widow (a nun) continued his tactics -- with Tōdaiji complaining that she had usurped its rights over one of the estates.¹⁶

Given the problems that agents could cause, Mt. Kōya did try to constrain their discretion. Its agents did not abandon it readily. The Sakamoto family managed a Kii Province estate for Kōya in the 11th century. When Kōya tried to reassert control, the Sakamoto head killed the Kōya representative. Kōya fought back, this time successfully. It confiscated 200 acres from his family, and when a similar event occurred 30 years later drove them out entirely.¹⁷

III. Contractual Claims

¹⁵ *Kōyasan monjo* 1, Doc. 396, Kansenji, Kenchō 2 (1250)/12/2 (pp. 427-35); Doc. 402, Rokuhara meshibumi mikyōjō, Kōchō 3 (1263)/8/18 (pp. 438-39); *Kōyasan monjo* 4, Doc. 113, Kongōbuji shuto chinjō an, Ninji 2 (1240) (pp. 247-50); Doc. 114, Kongōbuji shuto chinjō an, Ninji 2/7 (pp. 250-54); Doc. 115, Kongōbuji shuto chinjō an, Ninji 2/7 (pp. 254-58); Doc. 120, Fujiwara no Toshinawo narabi ni sōkan chūbunjō, Kenchō 5 (1253)/7/18 (pp. 264-65); Doc. 121, Mionoya mura jitō Shinagawa Kiyohisa sōjō, Shōka 1 (1257)/8 (p. 266-67); *DNS* 5:16, Kangen 1 (1243)/7/16; *Kōya shunjū*, Kenchō 2 (1250)/12/2 (p. 158); Kenchō 3 (1251)/2/16 (p. 158); Takahashi (1994: 99, 101-06); Ōishi (1977: 209-13).

¹⁶ *Heian ibun* 5, Doc. 2112, Tōdaiji kumonjo kanjō, Daiji 2 (1127)/11/20 (pp. 1818-20); *Heian ibun* 6, Doc. 2676, Kansenji, Kyūan 5 (1149)/9/12 (pp. 2256-57); Doc. 2919, Iga no kuni zaichō kanjinra ge, Hōgen 3 (1158)/4 (pp. 2393-96); Docs. 2947-48, Sō Nōe chinjō an, Hōgen 3/9/11 (pp. 2427-30); Docs. 2973, 2985, 2987; *Heian ibun* 7, Doc. 3154, Shōshin hosshi Ken'yō chinjō an, Ōhō 1 (1161)/6/9 (pp. 2532-33); Doc. 3221, Kansenji, Ōhō 2 (1162)/5/22 (p. 2569); Doc. 3520, Kangakuin mandokoro kudashibumi, Kaō 1 (1169)/11/19 (pp. 2745-49); Doc. 3547, Kōfukuji saikondō shuto ge an, Kaō 2 (1170)/intercalary fourth month (pp. 2761-65); *Heian ibun* 9, Doc. 4871, Sō Kinsai satsumon an, Kaō 2/int. 4/15 (pp. 3775-76); *Kamakura ibun* 3, Doc. 1206, Tōdaiji sangōra mōshijō an, Kennin 1 (1201)/4; *Kugyo bunin* (1984: vol. 2, 88); *Meigetsuki*, Kennin 2 (1202)/1/23; Izumiya (1997: 84); Hisano (1980: 3-4, 11-12, 14, 17-22, 26-32, 35-36).

¹⁷ *Wakayama-ken shi: genshi, kodai*, pp. 677-78; *Wakayama-ken shi: kodai shiryō*, vol. 1, "Heian jidai 1," Doc. 224; "Heian jidai 2," Doc. 407, Kanshōfu no shō jūninra ge, Tenji 2 (1125)/7/13 (pp. 897-99); Doc. 436, Kanshōfu no shō jūninra ureijo, Daiji 4 (1129)/1/29 (pp. 920-21); *Kōyasan monjo* 7, Docs. 1628, 1629 (pp. 266-73); Daijō kanpu, Kankō 1 (1004)/9/25 (pp. 474-76); Egashira (1938: 31-37); Miyasaka, 21-23.

The temples may have developed their military power to protect their estates and attract commendations, but they put it to other uses as well. More specifically, they began to use it to protect artisans and merchants. With their massive estates, the major temples were landlords not just to farmers but to merchants and incipient industrialists too. These men similarly needed protection against rival claimants, and needed the ability to force their contractual partners to perform as promised. In a variety of ways, the major temples diversified into this work.

Because of their locations, Enryakuji dominated Kyoto markets while Kōfukuji dominated Nara. In the 1280s, Enryakuji had within its jurisdiction 80 percent of all sake brewers and money-lenders (Adolphson, 2000: 328). In general, sake brewers and warehouse operators often accumulated the capital with which to make loans. Through those loans they financed much of the expansion of trade over the next several centuries.

For these lenders, Enryakuji provided contract enforcement services. Should a debtor stall on a loan to a sake brewer, Enryakuji's militia ensured that he paid. Indeed, estimates historian Hitomi Tonomura (1992: 24), the temple served as patron to a large majority of all money-lenders in Kyoto.

Kōfukuji provided a similar array of services to Nara merchants (Adolphson, 2000: 330). Given that Kyoto was the greater city, Enryakuji necessarily played a greater role. Within Nara, though, Kōfukuji acted as patron to 85 different guilds. Those guilds covered goods and services as diverse as sake, fish, tōfu, paper, and prostitution.¹⁸

If the temples used their military power regularly to extract amounts beyond the market value of the services they offered, the contemporary accounts rarely mention the problem. Although Enryakuji and Kōfukuji were the most powerful of the local religious institutions, they were not the only ones. Presumably, the presence of competitors in the government-services market restrained them from indulging their predatory instincts.

IV. Conclusions

The Buddhist church played a crucial role in enforcing property rights in medieval Japan. It was not a role born of theology, much less of devotion. It was a role born of its tax exemption, an exemption that the major temples and monasteries swapped for land commendations. With their large corps of monks and service workers, they could offer a portfolio of police, adjudicatory, and litigation services as well. In effect, temples and monasteries competed among themselves for land commendations by offering both access to their tax exemption and a more secure claim to the land commended.

This market for private government was a creature of medieval Japan -- and only of the medieval period. The temples and monasteries began receiving land commendations after the government moved to Kyoto in late 8th century. The process ended seven centuries later when the country devolved into civil war and the temples and monasteries could no longer offer the security landholders demanded.

By 1500, this market had disappeared. During the 16th century civil war, the temples and monasteries could not offer adequate security. During the peace that followed 1600, they could not promise rights as secure as those the state provided. Under the new Tokugawa (1600-1868) regime, the government in Tokyo (called Edo)

¹⁸ Adolphson (2000: 330-31). The services provided by the temples did not all promote growth, of course. The temples also protected monopolies and charged tolls on the highways.

maintained a federal structure based on domanial military governments. In turn, within their respective domains these governments kept far tighter control than had any government in medieval Japan.

By the Meiji coup in 1868, the market we describe had been gone for four centuries. Obviously, it cannot explain the spectacular economic growth that followed that coup. That explanation (or part of it) lies instead in the Tokugawa and Meiji (1868-1912) policies that protected and facilitated investments in physical and human capital: in the customs, laws, and courts that enforced claims and transactions involving scarce resources (Ramseyer, 1996). If there exists a tie between the medieval market we describe and the 19th and early 20th century growth, it cannot lie in anything so direct.

Instead, perhaps the tie between the medieval market for government services and the modern growth lies in the tradition of competition itself. The world of medieval Japanese religion was a multi-doctrinal world: a world in which a wide array of schools and sects competed for followers and patrons, and in which those followers and patrons could choose -- and re-choose -- from among the schools and sects as the situation demanded. The world of the political elite was a multi-claimant world: a world in which the imperial family remained at the center, but in which a wide array of other families and individuals competed to control the court and that imperial family itself, and turned to the temples for the cultural capital (ceremonies, prayers, art) necessary to this competition. The world of government power was a multi-provider world: as we explain in this article, a world in which temples and monasteries competed with the actual government to supply basic governmental services. And crucial to the 19th-20th century economic growth was the ruthlessly competitive character of the Japanese economy.

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