

## Women and Inheritance in Japan's Early Warrior Society

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In the second half of the Kamakura age (1190–1333), Japan's elite warrior society began to undergo a gradual but radical structural transformation.<sup>1</sup> The outline of this change was the shift from a divided to a unitary inheritance practice, with a progressive consolidation of family property and authority into one "chief" (*sōryō*), to the exclusion of his brothers and sisters. Kinship relations changed accordingly. As in the twelfth-century Mâcon described by Georges Duby,<sup>2</sup> there was a progressive emphasis on lineal solidarity, along with a trend toward multiplication of independent branch lines. Through this shift, each warrior family sought territorial and organizational cohesion—a requirement for survival in an atmosphere of intensified social unrest and competition.

The precise process of transformation was complex and differed according to each family's situation, but its broad implications and consequences were country-wide and far-reaching. At the most visible level, dominant warrior families evolved from members in the national network of feudal relations centered on Kamakura to territorially specific independent organizations with their own lord–vassal relationships. The consolidation of warrior families under the military chiefs laid the structural foundation for the rivalry and alliances among territorial magnates—the *daimyo*—in the context of severe political decentralization that was to come in the warring (*sengoku*) period (circa 1480–1580).

The change in inheritance practice had a grave impact at another level: the

All Japanese names are written with the family name preceding the given name.

<sup>1</sup> This paper is a condensed and revised version of my M.A. thesis, "Women and Property in a Warrior Society: Patterns of Inheritance and Socio-Political Change in Early Medieval Japan," which was completed at the University of Oregon (Michigan: University Microfilms, 1979). The author appreciates the helpful comments and suggestions received from Kate Wildman Nakai, Umezama Fumiko, Kurushima Noriko, Sally Humphreys, Diane O. Hughes, and the members of the Midwest Japan Seminar.

<sup>2</sup> Georges Duby describes "... a double trend that affected kinship relations, a trend that involved both the spreading of the family tree into divergent branches and the drawing together of lineages through marriage alliances. . ." ("Lineage, Nobility, and Chivalry in the Region of Mâcon during the Twelfth Century," in *Family and Society: Selections from the Annales, Économies, Sociétés, Civilisations*, Robert Forster and Orest Ranum, eds. [Baltimore and London: The Johns Hopkins University Press, 1976] 16–40, especially p. 19).

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lives of the female half of the warrior class, whose voices in historical records grew increasingly faint as time went on. Often ignored in standard histories,<sup>3</sup> this was a process of deterioration in women's property rights and their subsequent subjugation to the increasingly male-centered social structure. By the end of the fifteenth century, the process of transformation was nearly complete. Women's property, which had generated independent income and personal prestige for the holder, was now subsumed under the corporate interest of the family unit and organized ever more tightly under the authority of the house head, who was also a military chief.

This article focuses on the changing contours of the property-holding pattern of women in the warrior class. It examines the nature of initial rights enjoyed by women as well as the social and political significances of these rights for the holders themselves, their respective warrior houses, and the warrior government. Included in this discussion is an analysis of the kinship structure and its relevance to the various social positions of women. It then turns to the causes of disentanglement and the processes leading up to it.

Underlying this investigation is a historical question of greater magnitude that extends beyond this article's particular chronological framework and subject matter: What were the causes and processes of women's subordination to the progressively ossified patriarchal structure, which culminated in Japan's last shogunal phase under the centralized Tokugawa regime (1600–1868)? In that period, with the help of appropriate Confucian norms, the state institutionalized economic, sexual, and ideological subordination of women in the ruling warrior class.<sup>4</sup> Perpetuation of the house (*ie*) through a line of vertically transmitted male successors became the highest social value, rendering women peripheral except in their reproductive capacity and as an article of exchange to boost alliances. Concomitantly, men appropriated female sexuality and legislated against extramarital relationships—even rape—with the punishment of death for wives. Women's economic dependency assured their subordination, and Confucian ideology added personal and social worth to the condition of subordination. This was a great contrast to the earlier situation in the Kamakura period.

Questions of changing relations of the sexes require consideration of multiple factors and processes. In this sense the present article has a modest aim: It focuses on only one of the complex strands of possible causes for the deterioration of women's status. But it is a worthwhile exercise. The implications of

<sup>3</sup> This situation is changing rapidly, especially among works by Japanese scholars. In English, see a recent survey by Wakita Haruko, "Marriage and Property in Premodern Japan from the Perspective of Women's History," *Journal of Japanese Studies*, 10:1 (Winter 1984), 77–99. Also Jeffrey P. Mass, *Lordship and Inheritance in Early Medieval Japan: Study of the Kamakura Sōryō System* (Stanford: Stanford University Press, 1989) includes discussions on inheritance by women.

<sup>4</sup> Women in the merchant class enjoyed greater economic and personal rights, often inheriting the family's business.

the changes described here were as profound and clear-cut as the disappearance of women from documentary traces and the transformation of written history into an arena of men.

Three types of sources give direct references to female property holding in the Kamakura period: (1) vehicles of conveyance, such as letters of devise and articles of testament; (2) court settlement edicts issued by the Kamakura *bakufu* (the warrior government located in Kamakura) and its branch offices; and (3) the *Goseibai Shikimoku*, a body of warrior codes originally issued in 1232, numbering fifty-one articles at first but with over 700 revisions added throughout the Kamakura period.

Women appear both as alienators and as recipients in the records of property transmission kept by warrior families. Such records usually list the date, names of the grantor and grantee, their relationship to each other, type of property, its specific location and dimensions, history of its transmission, and occasionally the reasons for transmission or encumbrance. Because alienation records empowered the holders legally against intruders, they were carefully preserved and are abundant among early medieval documents.

Court settlement edicts are useful in their detailed citation of arguments presented by both the litigants and the defendants, often providing not only the history of the property in question but also references to intimate details of the women's backgrounds and activities. In approximately 15 percent (ninety-four cases) of 610 surviving cases from 1187 to 1332,<sup>5</sup> women were involved in the suit, a testimonial to the importance of property rights to the holders and contestants as well as to the *bakufu* which willingly adjudicated these confrontations.

The provisions of the *Goseibai Shikimoku* also reflected this governmental concern over women's property. Of the original fifty-one articles, one-third, or eighteen, were devoted to the question of vassal property and, of these, seven dealt with the property of women. The codes at first tended to uphold existing social practices, and addenda set normative but flexible guidelines in response to new circumstances and issues brought to adjudication. They seldom took initiatives to regulate women's behavior.<sup>6</sup> The sources used in this paper, then, came from the warrior class itself and directly portray the needs, concerns, and mentalities of its female and male members, families, and government.

<sup>5</sup> The count is based on the two-volume compilation of litigation documents by Seno Seiichirō, *Kamakura bakufu saikyōjō shū* (jō) and (ge) (Tokyo: Yoshikawa kōbunkan, 1970), hereafter cited as *KBSS* (jō) and (ge). In assessing these statistics, one should keep in mind that the total number of cases itself reflects the documents' chances of survival, as well as a possibility of unintended omission by the compiler of *KBSS*.

<sup>6</sup> Kasamatsu Hiroshi and Haga Norihiko, "Chūsei hō," in *Iwanami kōza Nihon rekishi*, 2 (Tokyo: Iwanami shoten, 1963), 335–7. For examining the *Shikimoku* codes, I have used, in the main: Kasamatsu Hiroshi, ed., "Goseibai Shikimoku," in *Chūsei seiji shakai shisō* (jō) (*Nihon shisō taiki*, 21; Tokyo: Iwanami shoten, [1972] 1976), 8–176 [hereafter cited as *CSSS*].

PART I: THE MODE OF INHERITANCE AND WOMEN'S STATUS  
IN KAMAKURA JAPAN

Women entered the "age of warriors" with secure legacies from the previous eras. In Heian Japan (ninth to twelfth centuries), property rights of elite women were customary and unquestioned, whether in the form of land, residences, or movables. Women won property most commonly through inheritance, although occasional cases of acquisition resulting from their own initiatives—such as the development of new land or a reward for nursing the sick—were also recorded.<sup>7</sup> As William McCullough demonstrated, aristocratic daughters in the capital typically received the parents' residence to begin their uxorilocal marriage in the tenth through twelfth centuries.<sup>8</sup> Meticulous examination of all extant records from Heian times allowed Fukutō Sanae to conclude that approximately one-half of the testators and the recipients of land grants were women.<sup>9</sup> Jeffrey P. Mass also noted a country-wide pattern of property transmission in which women occupied a visible place.<sup>10</sup>

This tradition of female inheritance continued into the Kamakura period, laying the foundation for female economic rights at the levels of the upper peasants, capital aristocrats and elite warriors—each with its own particularities in rights and limitations.<sup>11</sup> For the warrior class, the transition from the Heian to the Kamakura period embodied unprecedented historical signifi-

<sup>7</sup> Nishimura Hiroko, "Kodai makki ni okeru josei no zaisan ken," in *Nihon josei shi*, Josei shi sōgō kenkyū kai, ed., 5 vols. (Tokyo: Tokyo daigaku shuppan kai, 1982), I: 211–16.

<sup>8</sup> William McCullough, "Japanese Marriage Institutions in the Heian Period," *Harvard Journal of Asiatic Studies*, 27 (1967), 103–67. This well-known article reenforces some of the findings in the pioneering studies by Takamura Itsue. See, for example, her *Bokei sei no kenkyū* (Tokyo: Kōseisha, 1948); *Shōseikon no kenkyū*, 2 vols. (Tokyo: Rironsha repr., 1966); and *Nihon kon'in shi*, 2 vols. (Tokyo: Shibundō repr., 1963). According to Sekiguchi Hiroko, uxorilocal marriage was widespread among provincial elites and upper-level peasants alike in the Heian period. "Nihon kodai no kon'in keitai ni tsuite—sono kenkyū shi no kentō," *Rekishi hyōron*, 311 (March 1976), 46.

<sup>9</sup> Fukutō Sanae, "Heian jidai no sōzoku ni tsuite—toku ni joshi sōzoku ken o chūshin to shite," *Kazoku shi kenkyū*, 2 (October 1980), 157–73. Fukutō adds that titled property (*shiki*) with implied rights and duties remained outside the purview of women, with only two percent of them being female donors and six percent female donees. She attributes this pattern to the "public" character of Heian *shiki* shaped by the influence of Chinese-inspired patriarchal principles adopted during the period of centralization in the seventh and eighth centuries. In the Kamakura period, *shiki* progressively gained a "private" character and became divisible, similar to stock shares.

<sup>10</sup> Jeffrey P. Mass, "Patterns of Provincial Inheritance in Late Heian Japan," *Journal of Japanese Studies*, 9:1 (Winter 1983), 67–95.

<sup>11</sup> According to Tabata Yasuko, peasant couples held property jointly, unlike warrior couples. See her *Nihon chūsei no josei* (Tokyo: Yoshikawa kōbunkan, 1987), 58–60. Although peasant women had property rights, only male names appeared on tax registers. See Wakita Haruko, "Marriage and Property," 94–95. Courtier women enjoyed inheritance, but this came to be curtailed in a similar pattern to that of the warrior-class women. Tabata Yasuko, p. 97. The prevalence of intermarriage and other forms of interaction between the warrior and courtier classes probably explain this parallel pattern.

cance; the traditional property-holding system came to acquire a new political dimension as Minamoto no Yoritomo, the future founder of the first bakufu (literally, "tent government" or *shogunate*), reshaped it to build up his camp in the 1180s. Rewards in the form of the confirmation of land rights secured vassals for him, and after the victory in the celebrated Gempei War, something in the order of a feudal political structure emerged with Kamakura as its central seat.

The new political order aimed to transform traditional land rights into matters for state authorization, although it was usually careful to uphold, confirm, and add formal prestige to them, instead of interfering with them. Land grants from Kamakura most notably took the form of "land stewardship" (*jitō-shiki*) with implied rights to profits and duties to obligations. They were distributed along with written certification of the recipients' prestigious vassal (*gokenin*) status.<sup>12</sup> In return, the vassal pledged to fulfill civil, military, and financial obligations to the feudal overlord. These grants quickly became part of the family assets and were transmitted as inheritance, but each vertical transaction required an official confirmation (*ando no gechijō*) from the bakufu to possess legal power.<sup>13</sup> As with any other landed assets, these grants did not remain whole for long; for they were subject to the customary rule of divided inheritance among all children. If this property division tended to disaggregate the family by fragmenting both the rights and the duties attached to the land, the principle of central authority in the person of the *sōryō*, the lineage's military and ceremonial head, counteracted it. Though the nature and the extent of the *sōryō*'s authority is hotly debated, he was nevertheless ultimately accountable to the bakufu for the family's required dues and services.<sup>14</sup> The superimposi-

<sup>12</sup> Calling someone "non-gokenin" was tantamount to insult, even causing some warriors to lodge suits against the offender. For an example of this type of suit, see "Chinzei gechijō an," 1314/4/16, *Hizen Matsuura tō Ariura monjo*, document 17, pp. 42–43. Seno Seiichirō discusses this issue in *Chinzei gokenin no kenkyū* (Tokyo: Yoshikawa kōbunkan, 1975), 159.

<sup>13</sup> According to Satō Shin'ichi, the bakufu differentiated the type of confirmatory documents, depending on the importance of the recipients: They issued *shōgunke mandokoro kudashibumi* for the *sōryō* (chief) and *Kantō gechijō* for *shoshi* (other brothers); but this distinction disappeared by 1303, when one form (*ando no gedai*) came to be used for everyone. See his classic article "Bakufu ron," in *Shin Nihon shi kōza* (Tokyo: Chūō kōron sha, 1957), 21.

<sup>14</sup> Some of the debated issues are: (1) the extent of the control exercised by the *sōryō* over *shoshi*; (2) the origins of the *sōryō* system; (3) its stage in historical development, and whether it was an early form of feudalistic lord–vassal relationship, a more primitive patriarchal kinship structure, or a nonpatriarchal and still matrilineal kinship structure; (4) comparability with French *parage*, English gavelkind, and German *gessammelhands*, and many more. Literature on this topic is abundant. Apart from Satō Shin'ichi's work above, several examples include Toyoda Takeshi, "Sōryō-sei oboegaki," *Hitozobashi ronsō*, 38:4 (October 1957), 49–64; Akutagawa Tatsuo, "Kyūshū ni okeru sōryō sei no henshitsu katei—Bun'ei Kōan zengo no Shiga shi," *Hōsei shigaku*, 9 (January 1957), 37–56; Suzuki Hideo, "Sōryō-sei ni kansuru ni san no mondai," in *Nihon hōken sei seiritsu no shozentei*, Yasuda Motohisa, ed. (Tokyo: Yoshikawa kōbunkan 1960), 365–405; Nagahara Keiji, *Nihon hōken sei seiritsu katei no kenkyū* (Tokyo: Iwanami shoten, 1961); Suzuki Kunihiro, "Chūsei zenki ichizoku ketsugō no kenkyū shikaku—sōryō sei o dō mondai ni suruka," *Nihon rekishi*, 281 (October 1970), 13–33; Abe Seikan, "Sōryō sei kenkyū

tion of a political dimension to the customary property relations naturally had an immense impact on women as well, now that their inheritance frequently included "stewardship" with specific duties attached to it.

#### WOMEN AS DAUGHTERS

In the early Kamakura period, daughters had as good a chance of being included in the division of family property as did sons, to the extent that a father would grant land with the stewardship title to "Nagaharume [daughter]'s child in her womb, whose sex is unknown."<sup>15</sup> From the viewpoint of inheritance, women functionally remained daughters throughout their lives, maintaining ties to the natal family regardless of their marital status. The lifelong use of the original lineage name symbolically expressed this tie. Examples of daughters' portions are numerous, but the following negative case from 1287 perhaps suggests most forcefully the general social recognition of the daughters' rights. A daughter who had naturally expected an inheritance from her father was excluded in a letter of devise supposedly written by her father. She challenged its validity by accusing her three male kin of forging the document to eradicate her name.<sup>16</sup>

Within a given family, often one daughter had greater value to the parents than other daughters. When designated as a "primary daughter" (*chakujo*), such a daughter frequently received the family's prime piece of property.<sup>17</sup> The label of *chakujo* was assigned to a daughter in a variety of circumstances: as the only child,<sup>18</sup> as the oldest daughter among other daughters and sons,<sup>19</sup> as a favored daughter alongside a favored son with the designation of "primary son" (*chakushi*),<sup>20</sup> and so forth. The primary daughter's portion was often much larger than those of her brothers or sisters, but it did not undermine the still large portion of the primary son.<sup>21</sup>

Other daughters received equal or smaller inheritance portions in comparison with their secondary (*shoshi*) brothers. Some historians have suggested that there was a standard proportional allocation of one, one-half, and

nōto—Sagara shi no baai," *Sundai shigaku*, 30 (March 1972), 133–50. For explication in English, see Jeffrey P. Mass, *Lordship and Inheritance* in note 3.

<sup>15</sup> "Taira no Sueyasu yuzuri jō utsushi," 1260/7/15, *Kobayakawa ke monjo* 2, 318–9, document 510.

<sup>16</sup> 1287/9/1, *Nakajō Atsushi shi shozō monjo* in *KBSS* (jō), 217–8, document 163.

<sup>17</sup> For example, the daughter Himewakame appearing in 1305/9/26, *Sogi monjo*, *KBSS* (ge), 135–38, document 20.

<sup>18</sup> *Ibid.*

<sup>19</sup> "Myō'amidabutsu yuzuri jō," 1231/3/25, *Tōji hyakugō monjo* in *Kamakura Ibun* 6, p. 251, document 4118 for a *chakujo* with another daughter in the family. For a *chakujo* along with at least one son not designated as *chakushi* and three other daughters, see "Madarashima sōden keizu" (n.d., estimated 1360s), *Hizen Matsuura tō Ariura monjo*, p. 94, document 91.

<sup>20</sup> "Fujiwara no Nakako atebumi," 1278/10/20, *Kōyasan monjo* 3, p. 566, document 718.

<sup>21</sup> *Chakujo* continued to receive special considerations even in the late medieval period. This topic is discussed below.

one-fourth for a primary son, secondary son(s) and a daughter, respectively;<sup>22</sup> but in fact no set pattern existed. Relative parity prevailed—as, for instance, in the proportion of land distributed among five sons and two daughters of Ōtomo in 1240, except for the special provision made for the primary son, who received the hereditary domain with which the name, Ōtomo, was associated.<sup>23</sup> In contrast, Sagara Nagayori's daughter received about one-ninth to one-tenth, an adopted son (biologically a nephew) about one-seventh; and another son received a bit less than half of the portion given the primary son in 1246.<sup>24</sup>

Daughters' inheritance rights had no relationship to marriage, which did not undermine their tie with the natal family. A mother invested titled land (*jitō-shiki*) in 1210 with her second daughter, who was also identified as a wife of Yorisada.<sup>25</sup> Inasmuch as a daughter's position in the family's inheritance pool stood securely independent of her marital status, warrior families entertained no concept or practice of dowry.

By the same token, husbands gained no claim to their wives' property upon marriage, unless this was expressly stated. The bakufu's official chronicle, *Azuma kagami*, is explicit in this regard: "[T]he property of a deceased wife should be held by her children, should there be children. If childless, her property will return to her natal family without becoming the husband's."<sup>26</sup> The bakufu's codal provision also takes the separation of the couple's property for granted: "[T]he property of a wife can be confiscated (by the bakufu) in case the husband commits a serious crime, such as theft, murder, etc. But in case of injury or murder resulting from an unpremeditated quarrel, there will be no confiscation."<sup>27</sup>

<sup>22</sup> Ōtake Hideo, *Ie to josei no rekishi* (Tokyo: Kōbundō, 1977), 198. It is extremely difficult to assess the comparative value of inheritance portions. They not only included various types of land, residential structures, mulberry trees, and so on, but the actual productivity of each land parcel and the percentage of profit accrued from it is also often unknown.

<sup>23</sup> Assessment of this property division is based on "Ama Shinmyō sō haibun jō," and so forth, 1240/4/6, *Bungo no kuni Ōno no shō shiryō*, pp. 9–11, documents 13–15; and Table 2 in Akutagawa Tatsuo, "Kyūshū ni okeru sōryō sei," 40. Warrior families usually had at least two "surname" equivalents: (1) a name such as Taira, Minamoto, Fujiwara, or Tachibana, which denoted their origins of prestige (that is, a link to an offshoot of an imperial family member); and (2) a name associated with the location of the most important family holding. "Ōtomo" was the latter. Women were usually identified by the former type of name—for example, "Taira uji no nyo (a Taira-line female)."

<sup>24</sup> "Sagara Renbutsu Nagayori yuzuri jō," 1246/3/5 and 1251/3/22, *Sagara ke monjo*, 1, pp. 26–34, 40; documents 7, 8, 9, 12.

<sup>25</sup> "Tachibana Kinnari yuzuri-jō," 1239/6/n.d., *Ogashima monjo* in *Saga ken shiryō shūsei*, 17, pp. 254–5, documents 34 and 35.

<sup>26</sup> Nagahara Keiji and Kishi Shōzō, comp., *Zenyaku Azuma kagami*, 6 vols. (Tokyo: Shinjinbutsu ōrai sha, 1976–79), V (1977), 44; an entry dated 1248/7/10. Noted in Takamura Itsue, *Shōseikon*, 2, p. 1050. The Chinese-inspired and more conservative law for the courtiers (*kuge-hō*) prescribed the opposite: A deceased wife's property belonged to her husband. Gomi Fumihiko, "Josei shoryō to ie," in *Nihon josei shi* 2, Josei shi sōgō kenkyū kai, ed. (Tokyo: Tokyo daigaku shuppankai, 1982), 31–38.

<sup>27</sup> Shikimoku no. 11, CSSS, p. 14.

It follows from this that the husband had no right to distribute his wife's property to their children without her explicit instruction. Thus the husband Dōsei put a disclaimer in releasing her property to a daughter in 1308: "[T]he said property is Myō'a (wife)'s hereditary domain. Myō'a's last words on Tokuji 2 (1307)/11/14 conveyed that although she should have distributed the property to the sons and daughters while she was alive, Dōsei should do so because we have been close as wife and husband."<sup>28</sup>

#### WOMEN AS WIVES

Women's second and less frequent source of inheritance came from their husbands, who sometimes explained the motive behind the bequest, demonstrating a human side of the couple's relationship. Ōtomo Yoshinao addressed a grant in 1223 to his wife, stating: "Shinmyō is the mother of a number of children and we have been wife and husband for long. . . ."<sup>29</sup> Some husbands granted land to their wives even if separation was anticipated, as in the case of Kakua, who did so in 1300 with a pledge not to revoke the assignment in case of separation. As it turned out, they did separate in 1306; and Kakua did subsequently interfere in his ex-wife's rights to the original bequest. The bakufu reconfirmed her rights in a settlement edict of 1324<sup>30</sup> in accordance with the Shikimoku provision that upheld a divorced wife's continued claim to the former husband's bequest if she was blameless.<sup>31</sup>

Wives, in contradistinction to husbands, rarely granted property to their spouses, a customary pattern suggestive of the women's weaker social position caused by the stronger claim the natal line held over women's property, the generally weaker economic position of women, coupled with (possibly) a longer life span for women. Moreover, when inheritance did take place in this fashion, the wife, unlike her husband, had no power to revoke the grant. In one case, a wife, Tsuruishi, made a bequest to her husband Suenaga but wrote another device in the following month that transferred a portion of the same piece to a third person identified as a widow nun. Subsequently, Suenaga and the widow nun clashed over the claim to the parcel. Apparently, Tsuruishi and Suenaga became separated in the interim, as they refer to each other as "former" husband and wife. The court settled that "legal principles and precedent dictate that any land devised to one's husband is irrevocable. Thus the widow nun has no claim."<sup>32</sup>

<sup>28</sup> "Dōsei yashiki denchi yuzuri jō," 1308/3/17, *Chikugo Kondō monjo* in *Kamakura ibun* 30, pp. 245–6, document 23202.

<sup>29</sup> "Ōtomo Yoshinao yuzuri jō an," 1223/11/2, *Shiga monjo* in *Bungo no kuni Ōno no shō shiryō*, pp. 8–9, document 10.

<sup>30</sup> 1324/8/13, *Tashiro monjo*, in *KBSS* (ge), p. 80, document 63.

<sup>31</sup> Shikimoku no. 21, *CSSS*, pp. 20–21. If divorce occurred due to her misconduct, she had no claim to it.

<sup>32</sup> 1264/10/10, *Yūki monjo*, in *KBSS* (jō), pp. 145–46, document 112. The logic behind the argument of the court was that a former wife had no kinship ties to a former husband.

## PATTERNS OF KINSHIP AND MARRIAGE

Women's rights to inheritance are indisputably apparent in documents; the precise status of "daughter" or "wife" within the larger kinship structure is more obscure. A fuller knowledge of the descent system, marital practices, and other related questions would enhance our understanding of inheritance and its relevance to the social position of women, but the medieval kinship system is elusive precisely because of its customary nature and the absence of requirements for documentation. There was no registration—such as that required under the centralized governments of *ritsuryō* (in the seventh and eighth centuries) and Tokugawa (in the seventeenth through nineteenth centuries) times—for birth, death, marriage, or divorce, nor did the medieval laws directly address issues of kinship relations. The bakufu codes touched upon kinship arrangements, such as the problem of "remarriage" or the issue of parent-child relationships, but almost all of them invariably dealt only with the property-holding aspects of such kinship ties. Marriage fell outside the realm of juridical concern, and no prescription was made regarding the kinship arrangements themselves. There was no institutional equivalent of the Western church which would dictate the sacrament of marriage or control its appropriateness. Marriage indeed fell outside the realm of moral concern.

Therefore, we are left to rely on documents dealing with property holding which do occasionally shed light on kinship ties. Our investigation of property-holding patterns, then, must serve as the medium through which we analyze kinship relations, instead of the reverse. Finally, our difficulty is compounded by the seemingly ambiguous, transitional, and flexible nature of kinship relations. What evidence there is suggests a structure with a strong cognate orientation—a complex system that is difficult to define—which progressively rigidified around agnatic interests. Here, then, is an attempt to reconstruct social phenomena that defy neat description.

At the beginning of the Kamakura period, the mother and the father could each reproduce his or her own descent line separately, just as they held and transmitted property independently. Despite the gradual erosion of the earlier practice of matrilocal marriage and raising of children,<sup>33</sup> the initial Kamakura codes (1232) legislated in favor of "adoption by women . . . because the practice is common both in cities and in the country."<sup>34</sup> The use of *nyonin*, a general term for "women" at large without reference to kinship or marital status, is significant in the wording of this provision. The taking of an heir was an independent variable, whose primary function was to insure the continuation of succession in the woman's line.<sup>35</sup>

<sup>33</sup> In the Heian period, courtier men commonly visited women at whose residences children were raised.

<sup>34</sup> Shikimoku no. 23, CSSS, pp. 21–22. Courtiers' law (*kuge-hō*) did not allow the practice of women adopting heirs.

<sup>35</sup> Such independent actions, it seems, ran counter to the interests of some husbands. An entry

Documents demonstrate that women were both the adopting mothers and adoptees, in clear contrast to the male-centered adoption practice of a century later. Examples are abundant.<sup>36</sup> In the mid-thirteenth century, a female recipient of her father's land adopted a son to inherit the property.<sup>37</sup> Another woman, bearing the designation of "primary daughter" and legatee of her father's property, adopted a daughter in the absence of any other child. Before death, she instructed her husband (also named the "adopting father") to alienate the said property to this child. The bequest came to be challenged later by (most likely) a distant relative of the adopting mother but was upheld in court in 1305.<sup>38</sup> Finally, a case from 1325, which vividly shows the close connection between adoption and inheritance, involved succession through name-taking and the forfeiture of a claim to the property of the natal family. "Shigena, as is known to all the family, from his infancy was adopted and brought up by *Taketsurume*, now known as the nun . . . , widow of . . . , wherefore his boyhood name succeeding the name of his adopting mother was *Takeo*. How should he entertain hopes concerning his real father's estate?"<sup>39</sup>

From an economic viewpoint, a woman's primary bond remained with the natal line, whereas conjugal relations held considerably less significance. Falling outside institutional or legal concerns, "marriage" was a customary practice that people had not felt the need to label or define. Instead of the concept of "marriage" per se, what we see in documents is the designation for *yome* (bride) or *tsuma* (wife) and *muko* (groom) or *otto* (husband). "Remarriage" was expressed as "renewing a yome" or "becoming a yome again" (*kaika*), and "divorce" as "separating" (*ribetsu*). Tabata Yasuko has noted that the verb form of "bride," *kasu*, meant "to marry into" the spouse's household and residence and was used by both women and men, with the latter decreasing its use as time went on.<sup>40</sup> This is a finding with important ramifications in considering residence patterns, a subject to which we shall return below.

The use of these terms suggests an underlying emphasis on sexual union: *Yome* and *otto* in premodern times frequently meant "a female (or male, in the case of *otto*) with whom a sexual act is committed," applied even to a rapist or a rape victim.<sup>41</sup> This sexual orientation—as opposed to rigidly

of 1248 in *Azuma kagami* admonished against the female practice of adoption without the consent of the husband, a governmental view perhaps reflecting the chronicler's bias but unaccompanied by a related legal measure. See *Azuma kagami*, p. 44, note 26 above.

<sup>36</sup> According to Takamure Itsue, Hōjō Masako, the famous wife of the first shogun, adopted many children. *Shōseikon*, 2, p. 1050.

<sup>37</sup> 1265/int.4/18, *Ichikawa monjo*, KBSS (jō), pp. 150–3, document 114.

<sup>38</sup> 1305/9/26, *Sōgi monjo*, note 17, above.

<sup>39</sup> 1325/6/n.d. Asakawa Kan'ichi, comp. and trans., *The Documents of Iriki* (New Haven, CT: Yale University Press, 1929; rpt., Westport: Greenwood Press, 1974), 213–4, document 64. Also in CSSS, pp. 65–66, reference document 44. *Taketsurume* was the younger sister of Shigena's real father, that is, his aunt.

<sup>40</sup> Tabata Yasuko, *Nihon chūsei*, 6–9.

<sup>41</sup> See the twelfth-century collection of tales, *Konjaku monogatari* 4 (*Nihon koten bungaku*

political or economic orientations—is relevant to the way in which the matrimonial relationship took shape.

Conjugal unions were formed casually without any reference to civil authority and, as far as I have found, without a formal contractual agreement between the parties involved. "Separation" and the possible subsequent "remarriage" took place as casually as "marriage" itself. This flexible norm can be illustrated by the history of a mid-thirteenth century woman who was "secretly co-married (*ai-yome*)" to two men, and then became "wife (*tsuma*)" to one of them. After bearing the other man's biological son (who became "the primary son" to the current husband) and other children, she was eventually separated.<sup>42</sup>

The vagueness characteristic of the marriage custom is nowhere so evident as in the series of Shikimoku provisions issued in connection with the widow's rights to the bequest from her late husband. The original provision of 1232 admonished that

. . . as long as a widow has received the husband's property, she should devote herself exclusively to praying for his afterlife. Should she quickly forget chastity and remarry, the deceased husband's bequest should pass to his children. . . .<sup>43</sup>

Seven years later, the bakufu was obliged to clarify the condition of "remarriage":

. . . should the widow manage the property or miscellaneous household duties, and thereby the fact of remarriage becomes publicly known, then the previous admonition [of 1232] will have force. If "remarriage" is only a secret matter, then the law will not apply even if there is a rumor to that effect.<sup>44</sup>

Another change followed in 1286, apparently due to the problems resulting from the ambiguities of previous clauses:

. . . since [the time of the previous admonition], widows have declared the secrecy of their marriage even if it was public knowledge, rendering the regulations unenforceable. Henceforth, due punishment will be imposed if there is any unfavorable rumor [of remarriage], even without the widow's actual involvement in property management or household duties.<sup>45</sup>

taikei 25; rpt., Tokyo: Iwanami shoten, 1979) 469–71, ch. 26, Tale 21, for an example of the use of "otto" as it relates to rape. For examples of "yome" used in the meaning of a sexual act, see articles 162 and 163 in "Jinkai shū," the house law of the Date family, which dates from 1536 (CSSS, p. 237).

<sup>42</sup> See note 37.

<sup>43</sup> Shikimoku no. 24, CSSS, p. 22.

<sup>44</sup> Shikimoku addendum 121, 1239/9/30, CSSS, p. 60. This emphasis on household management seems to parallel the function of women in medieval West who "characteristically supervised the household's 'inner economy'," allowing their husbands to pursue war and expansion. See David Herlihy, "Land, Family, and Women in Continental Europe, 701–1200," in *Women in Medieval Society*, Susan Mosher Stuard, ed. (University of Pennsylvania Press, 1976), p. 24.

<sup>45</sup> Shikimoku, addendum 597, 1286/7/25, CSSS, p. 63.

Thus skirting around the problem of defining "marriage," the bakufu made the punishment more arbitrary.

Regardless of the definition, people did enter into conjugal unions. What form did they take and what did they mean to women?<sup>46</sup> The variations are suggested in documents: monogamy, serial monogamy, polygyny (multiple wives) and polycoity (one wife and multiple concubines). The codes made no restrictions as to the number of spouses that one man or woman could take nor any distinction between "tsuma (wife)" and "mekake (concubine)." According to Ōtake Hideo, the socially approved custom was for the nobility to have up to three proper tsuma and for the warrior to have only one tsuma but any number of mekake.<sup>47</sup> Minamoto no Yoritomo, for instance, had two wives in succession. The second (Masako) became his primary wife (*chakusai*) and also became famous for her anger regarding Yoritomo's mekake.<sup>48</sup>

From the perspective of property-holding, however, it seems that a clear distinction existed between a wife and a concubine. Testamentary devises and court settlement edicts are consistent in identifying the recipient of the husband's bequest as tsuma, not mekake, strongly suggesting that women to whom husbands granted property were tsuma, at least in the eyes of the husbands. The codal wording supports this pattern. Regarding "whether or not a wife/concubine (*saishō*)<sup>49</sup> should hold the bequest of the former husband upon separation," the provision legislated that "if the said tsuma [the mekake is not mentioned] has been separated for her own grave misdeeds, she should not hold the property even if there is a written contract. . . ." <sup>50</sup> Tsuma then were the potential beneficiaries of their husbands' property, perhaps with responsibilities for its management and for household duties. Women without the promise of the bequest and without these functions may have been "married secretly" or considered mekake. It follows from this that we would encounter very few "concubines" in our documents, which were concerned mostly with the passage of property. As a result, medieval marriage appears as overwhelmingly monogamous. The prevalence of adoption practices and the consequent absence of need for extra childbearers admittedly would have

<sup>46</sup> On this question Takamura emphasizes the role passion played in wife-husband relationships in early medieval times. A man might reject pressure to acquire a new woman by threatening to take a religious vow because of his love for the current wife. This was, according to Takamura, an attitude that would be viewed as cowardly by late medieval times (Takamura Itsue, *Shōseikon* 2, pp. 1024-7). In a well-known legend Hōjō Masako walked all night in the rain to pursue Yoritomo, the first shogun (Tabata Yasuko, *Nihon Chūsei*, 157-8).

<sup>47</sup> Ōtake Hideo, pp. 78-79.

<sup>48</sup> *Azuma kagami* records an incident in which Masako ordered a Yoritomo's vassal to destroy the house in which Yoritomo's favorite mekake was staying. Masako was in advanced pregnancy when Yoritomo had "increased fondness" for this woman. Entries for 1182/6/1, 10/17, 11/10, 11/12, *Azuma kagami* 1, pp. 127, 133, 134.

<sup>49</sup> "*Sai-shō*" is a compound of the two Chinese characters for tsuma and mekake.

<sup>50</sup> *Shikimoku* 21, *CSSS*, pp. 20-21.

promoted monogamy; yet we must not overlook the possibility of an underlying documentary bias.

Practically speaking, women were generally monogamous or serially monogamous, although we encounter variations, as in the example cited above of "secretly being a bride to two."<sup>51</sup> The mother of the Soga Brothers, the protagonists in a celebrated twelfth-century revenge story based on a true event, was married three times. The second one took place after the first husband left the region and the third, after the death of the second.<sup>52</sup> Remarriage was considered normal and received no social stigma. Widows were admonished to stay chaste, but remarriage was rampant whether widowed or not.<sup>53</sup>

Scholars generally agree that it was men who had the prerogative in initiating divorce in all classes and often cite a famous anecdote from *Shasekishū*, a collection of Buddhist stories compiled in 1283. In the story, a male steward (*jito*) reprimands a peasant woman wishing to separate from her husband: "It is husbands who leave wives. What do you mean that you, as a wife, want to leave your husband?"<sup>54</sup> To what extent the steward's words reflected the norm or Buddhist didacticism is difficult to determine. On the other hand, some women, like this peasant woman, did initiate divorce. According to an entry of 1233 in a courtier's diary, a daughter of Hōjō Tokimasa (the bakufu's first regent) declared separation by personally sending a message to her first husband after having run away from him to be with another—an "abominable" act, states the author.<sup>55</sup>

Nonetheless, we may assume that separation had more serious consequences for a woman and her family than for a man, as suggested by the measures—such as an oath of non-separation—sometimes taken by the wife's family. Hōjō Yoshitoki was forced to write an oath of non-separation in marrying the daughter of Hiki Tomomune at the end of the twelfth century.<sup>56</sup>

<sup>51</sup> Note 37.

<sup>52</sup> Tabata Yasuko, *Nihon Chūsei*, 54–55. Also see Thomas J. Cogan, trans., *The Tale of the Soga Brothers* (Tokyo: University of Tokyo Press, 1987), genealogical charts on pp. 301–2. Of the three husbands, however, the charts only show the two relevant to the story.

<sup>53</sup> Another example would be the fight by two daughters with two different fathers over the property of their common mother. See *Miura Wada monjo*, 1325/9/7, KBSS (jō), p. 381, document 307.

<sup>54</sup> Ishii Ryōsuke, "Chūsei kon'in hō," *Hōgaku kyōkai zasshi*, 60:12 (December 1942), 22–23.

<sup>55</sup> Imagawa Fumio, ed., *Kundoku Meigetsuki*, 6 vols. (Tokyo: Kawade shobō, 1977–79) especially v. 6 (1979), 49. See the entry dated 1233/5/18 and noted by Ōtake Hideo (*Ie to josei*, p. 124) and Takamura Itsue (*Shōseikon* 2, p. 877). This statement, which was made by the high-ranking courtier and author Fujiwara Teika, may have contained an implied criticism of the "uncivilized" behavior of warrior-class women, who were regarded as more self-willed and unruly than courtier women at this point in history.

<sup>56</sup> *Azuma kagami* 2, p. 257, an entry of 1192/9/25. It is cited in Ishii Ryōsuke, p. 29. The shōgun family recommended the bride-to-be to obtain this pledge. The entry describes the daughter as "a woman with unparalleled power" in addition to being a "considerable beauty." The husband, on the other hand, "had been engaged in many love affairs in the last year or two."

Protection against the possibly reduced circumstances involved in the daughter's separation and the potential loss of the daughter's land to the husband's line via children—a problem discussed later—probably prompted the initiation of such measures.

The location of marriage and the descent pattern are two status-defining variables for married women. Takamura Itsue has argued that Kamakura Japan was a transitional period during which new virilocal principles mixed with the traditional uxrilocal principles characterized by the taboo against hearth-sharing among patrilineal kin. The result was a "pseudo-patrilocal" pattern: uxrilocal *in symbolic form* (the wife received the husband) and virilocal *in essence* (she did so in the husband's house);<sup>57</sup> but diversity prevailed, as demonstrated by the following examples—albeit they are conditioned by the unique circumstances pertaining to the shogun's household. Yoritomo's marriage to Masako took place at her house. Their oldest daughter received a groom of a higher social status and continued to live in the residence built by her parents. But the wives moved into different parts of their son Yorie's home.<sup>58</sup> The Shikimoku provision that defines "marriage" by the management of the husband's property, on the other hand, suggests a virilocal pattern. At any rate, hindsight helps us to conclude that society was definitively moving toward a virilocal norm in which women may have faced a growing degree of insecurity as newcomers, even though endogamous arrangements were also becoming more widespread.<sup>59</sup>

Sources demonstrating the mode of descent in Kamakura times are scarce. What we can glean shows that it was variable or in flux, displaying both cognate and patrilineal elements. While a large majority of daughters are identified through their fathers in trial records, Amino Yoshihiko has found a genealogy of a warrior family in Wakasa province tracing descent consistently through both the daughters and the sons.<sup>60</sup> The practice of female adoption also suggests a possibility of succession along the woman's line.

Looking at society more broadly for other possible clues, we find that for household "slaves" (*nuhi*, subjects bound to servitude), a Shikimoku code legislated the sons to belong to the father and the daughters to the mother.<sup>61</sup> According to Maki Hidemasa, the same rule held for all the people—"slaves"

<sup>57</sup> Takamura Itsue, *Josei no rekishi* (jō), 10th reprint (Tokyo: Kōdansha, 1977), 389–90. Also *Shōseikon* 2, pp. 940–1.

<sup>58</sup> Takamura Itsue, *Shōseikon* 2, pp. 976–7.

<sup>59</sup> According to Takamura Itsue, marriage ceremonies became more formalized and public in the mid-fifteenth century with the advent of more firmly established virilocal principles. *Josei no rekishi* (jō), pp. 394–5. The subject of endogamy is discussed later.

<sup>60</sup> Amino Yoshihiko, "Chūsei ni okeru kon'in kankei no ichi kōsatsu—Wakasa Ichinomiya shamu keizu o chūshin ni," *Chihō shi kenkyū*, 107 (October 1970), 1–24. Genealogies of other warrior houses often show descent via females if they held important jitō-shiki, such as the daughter of a Mongol battle victim, confirmed in the jitō position in 1279. See *Hizen Matsuura tō Ariura monjo*, p. 286 (genealogical chart) and "Kantō gechijō," 1279/10/8, pp. 34–37, document 10.

<sup>61</sup> Shikimoku no. 41, CSSS, p. 31.

and others—since the Nara period (710–84).<sup>62</sup> In literary evidence of the Tokugawa period, Nakada Kaoru noted the same customary practices for divorced couples—sons to the father, daughters to the mother—despite the official prescription placing all the children with the father.<sup>63</sup> Can this possibly imply that society practiced a gender-distinct bilateral mode of succession from the ancient through the Tokugawa periods, including Kamakura age? We cannot be certain, although kinship patterns in Kamakura Japan seem to have been generally organized around bilateral kindreds, whereby rules of residence were unpredictable, exogamous marriages impractical, conjugal relations relatively unstable (polygyny and remarriage making up for separation), and individuals had links to both patrikin and matrikin and recruited temporary groups of supporters from both according to need and availability.<sup>64</sup> The evidence is clear, however, that the patrilineal descent pattern was advancing—as was demonstrated by the warrior families' increasing concern over the leakage of property through the children of daughters, a problem discussed below.

Upon the death of the husband, some wives' familial status improved considerably. The widow, who was called *goke* (literally, "after-house"), often substituted in the late husband's role, gaining his authority and prestige. They not only defended their husbands' premortem intentions but sometimes chose to reverse them. Documents vividly illustrate *goke* in action. They exercised their extensive power, especially that pertaining to inheritance, by devising the husband's land to the daughter (1284);<sup>65</sup> revoking and redirecting the husband's previous assignment designated to a son, due to alleged disloyalty to his later father (1292);<sup>66</sup> disinheriting a son designated "primary" by the late husband and reassigning the position and the attendant property to another son (as late as the mid-fourteenth century);<sup>67</sup> or even taking charge of military equipment for the family after the husband's death (1245).<sup>68</sup> This power, to a large extent, explains why so many suits involved *goke*, these indomitable presences who governed the lives of their children.<sup>69</sup>

<sup>62</sup> CSSS, p. 437. "Notes" for *Shikimoku* 41.

<sup>63</sup> Nakada Kaoru, *Tokugawa jidai no bungaku ni mietaru shihō* (1925; rpt. Tokyo: Iwanami shoten, 1984), 139–40.

<sup>64</sup> Descriptions by Robin Fox and comments from Sally Humphreys were helpful in formulating this statement. Robin Fox, *Kinship and Marriage: An Anthropological Perspective* (New York: Penguin, 1967; rpt. Cambridge: Cambridge University Press, 1983) 138–9, 146, 150.

<sup>65</sup> "Jōen bō goke ato shobun jō," 1284/2/last day, *Kōyasan monjo* 6, p. 293, document 1278.

<sup>66</sup> "Ama Myōgo yuzuri jō," 1292/10/24, *Kutsuki monjo* 1, pp. 57–58, document 107. We do not know if she was the son's natural mother. Subsequently, this jitō-shiki went first to her nephew, then to his daughter. "Yokoyama Yorinobu yuzuri jō," 1304/8/5, p. 59.

<sup>67</sup> "Ama Ryōkai Kikkawa Tsuneshige goke yuzuri jō" 1349/8/15, *Kikkawa ke monjo*, pp. 179–80, document 1005. Also see: 1334/2/10, pp. 176–7, document 1001 and 1351/6/11, pp. 181–2, document 1006.

<sup>68</sup> "Shibuya Jōshin okibumi," 1245/5/11, CSSS, pp. 370–72, especially item 13.

<sup>69</sup> *Goke* were involved in approximately one-third of the extant suits related to women.

When compared to fathers, how did mothers rate legally? Some scholars contend the two sexes were equal as parents, as the use of the compound "father/mother (*fubo*)" in *Shikimoku* provisions might suggest.<sup>70</sup> "Father/mother," for instance, had the legal sanction to disinherit daughters equally with sons.<sup>71</sup> Indeed the parents' powers were equally absolute in this regard as they could be used to cut off any financial ties and abjure their responsibilities to take the joint blame for any crimes committed by the children. In practice, disinheritance occurred frequently, which prompted many court suits in which the victim sought to regain a lost inheritance, sometimes resorting to counterfeiting documents in order to reverse the situation.<sup>72</sup> Parents were, of course, free to rewrite testaments at any time and rearrange the distribution of property among various children. Therefore, the children's true security in property rights came only with the death of both parents.

But codes did make distinctions between the two parents. For example, if the child grantee predeceases the parents, "the property should be redesignated according to the father or grandfather's discretion."<sup>73</sup> Codal wording aside, there is also psychological significance in the kinship relations, which were bound to influence the ways in which children perceived the mother. Since the chief of the kin unit, the *sōryō*, was always male,<sup>74</sup> it went without saying that he would command the greatest recognition and respect from the family and the public. A progressive emphasis on patrilocal marriage and patrilineal descent also would tend to enhance paternal authority. The patterns of plural marriages—more frequent among men—combined with patrilocal

<sup>70</sup> Endō Motoo, "Chūsei no bushi sō jōsei ni tsuite," *Nihon rekishi*, 212 (January 1966), 35. The term "father/mother" alone demonstrates the historical distance traveled from the more female-centered ancient period (circa seventh century) in which "mother/father (*omo-chichi*)" was used, as well as "wife/husband (*me-oto*)" and "sister/brother (*imose*)." See Ōtake Hideo, *Ie to jōsei*, p. 22.

<sup>71</sup> *Shikimoku* 18, *CSSS*, p. 18. According to the courtiers' law, grants to daughters could not be rescinded.

<sup>72</sup> For example, a son who had been disinherited due to "his love of gambling" contrived a forged document, committing "layers of unfiliality." In another, a disinherited son challenged his brother, sister, and his father's goke over his father's property but lost. Finally, a disinherited daughter, who had sought to reverse this dishonor earlier, lodged a losing suit against her father's goke over his property. See 1308/3/17, note 28, above; 1279/12/23, *Iriki-in monjo*, *KBSS* (jō), p. 199–200, document 151; 1238/10/27, *Matsuura Yamashiro monjo*, *KBSS* (ge), p. 16, document 8.

<sup>73</sup> *Shikimoku* no. 20, *CSSS*, p. 20. It is unclear if the code refers only to the father's grant. If it includes the mother's grant as well, it would go against the practice of the wife's autonomy in handling her property. A trial document, dated 1328 and found by Nagahara Keiji, demonstrates the discrepancy in codal provisions and actual practice. It describes how a mother, instead of the father (who was the son's real father and his mother's second husband) took possession of the land of a deceased son. See "Josei shi ni okeru Nanboku chō-Muromachi ki," in *Nihon jōsei shi* 2, *Joseishi sōgō kenkyū kai*, ed., 147–8.

<sup>74</sup> A possible exception is the self-claimed "Sōryō goke Jimyō," a signature which could be interpreted as either "sōryō's goke Jimyō" or "Goke Jimyō, the sōryō," "Goke Jimyō denbata yashiki chūbun jō an," 1320/6/1, *Sagara ke monjo* 1, pp. 88–92, document 44.

residence patterns, would have influenced the relationship of mothers to children, deepening the bond between a biological (or adopting) mother and children while making the relationship between a mother and step-children diffuse and tense, not to mention adding rivalry among step-siblings.<sup>75</sup> The high incidence of trial suits between the children of either sex and a mother—in many cases, a goke who was a “stepmother”—confirms the latter pattern of prevailing antagonism.<sup>76</sup>

#### WOMEN'S PRODUCTIVE ROLE

Due to their property rights, warrior women of Kamakura Japan asserted a considerable degree of public presence. What did this mean in terms of women's productive role in society? In this connection, historians have asked to what extent women held land in name only, being uninvolved in the land's productive processes, tax-collecting duties, or in guarding it from outside interference. Ishii Ryōsuke suspects that management of wives' property fell into the hands of their husbands—a speculation derived from his premise that husbands handled suits concerning wives' property.<sup>77</sup> My findings show that out of approximately 600 court settlement edicts that have survived, of which about 100 involve women directly as litigants or defendants, only about 35 percent were represented by someone other than themselves. About 65 percent, therefore, did not use a proxy but handled their own cases.<sup>78</sup> Moreover, I could find only two clear-cut cases of husbands representing the wives.<sup>79</sup> Most proxies were the women's children, who were in a position to benefit as heirs.

It must be noted here that a personal appearance in court cases often involved a long trip to Kamakura or Kyoto; for instance, the widow of Yamashiro Katashi, a Kyushu resident, went to Kyoto to defend her case in 1239.<sup>80</sup> In clear contrast to the image presented by Ishii, independent par-

<sup>75</sup> A point suggested by Jack Goody in *Production and Reproduction: A Comparative Study of the Domestic Domain* (Cambridge: Cambridge University Press, 1976), 61.

<sup>76</sup> For instance, an accusation against a widow-nun lodged by her stepson cost her the penalty of banishment. 1328/7/23, *Kumagai ke monjo*, KBSS (jō), pp. 390–3, document 313. The bakufu's attitude toward the practice of accusing parents was one of disapprobation. One confrontation between a man's widow and his son led to the proclamation of a codal addendum in 1240 that proscribed suits against parents or grandparents. See *Shikimoku* addendum 143, CSSS, p. 60. Although the wording of the provision referred to both parents, its practical application was with mothers, as Kasamatsu Hiroshi explains: “In a warrior society where patriarchal authority was absolute, father–son confrontations could not have occurred in practice, irrelative to legislative measures.” See CSSS, p. 440.

<sup>77</sup> Ishii Ryōsuke, “Kon'in hō,” p. 19.

<sup>78</sup> I counted thirty-four cases in which women used proxies. Many men were also represented by proxies, though here I lack precise figures.

<sup>79</sup> 1298/7/13, *Sagami monjo*, KBSS (jō), pp. 279–80, document 215 and 1302/12/1, *Ichikawa monjo*, KBSS (jō), pp. 307–8, document 237. In this latter instance, the husband took over the suit only after the wife (defendant) had died.

<sup>80</sup> “Rokuhara gechijō,” 1239/1/27, *Matsuura Yamashiro monjo* in *Kamakura ibun* 8, p. 18, document 5375.

ticipation of women in suits suggests the women's personal and direct interest in property, as well as their active and mobile lifestyle. The following account from 1322 provides a glimpse of one female activity: a woman identified as the wife of one Kawamura was accused by her nephew of having "brought a large number of people into his field and harvested the crop from it."<sup>81</sup>

The evidence of women's active role in litigation, however, does not necessarily deny the husbands' involvement in their wives' property. Gomi Fumihiko has found examples of a husband managing his wife's property, along with other examples of the reverse situation.<sup>82</sup> The evidence, therefore, is inconclusive and suggests diverse degrees and patterns of female involvement in land management.

Many of the female property holders held the particularly prestigious title of stewardship (*jitō*). Unlike women without this title who were identified by their surname and association with a relative—often father, but also mother, husband, and so forth—these female stewards were frequently identified in government documents by their official title: for example, Bingo province. . . . *ichibu-jitō* (type of position) nun Ken'a.<sup>83</sup> They held a more clear-cut public role—the fulfillment of duties attached to the titled land. A mother's testament granting the titled land to her primary daughter in 1318 included an order to perform the services for the bakufu without negligence, as before.<sup>84</sup>

In fulfilling these obligations, the women, like their non-sōryō brothers, fell under the direction of the sōryō who coordinated the family's dues and obligations. Thus admonitions to submit to the sōryō's order also accompanied many of the testaments issued to daughters and non-primary sons. The significant point here is that the sōryō did not make any distinction—at least on paper—between female and male grantees in the expectations related to dues and services. The size of the land, not the gender of the recipient, determined the amount of duties imposed, as the following statement of 1223 makes clear:

. . . as for the various services (pertaining to this *jitō-shiki*) in accordance with the size of each holding, the primary son Ōinosuke Chikahide as sōryō will have the control over them. All should follow the orders of the primary son and be considerate to each other. Should anyone disobey the primary son's order, then he will confiscate the offender's land. . . .<sup>85</sup>

What specific responsibilities did the land stewardship entail? How did women fulfill them? In analyzing women's relationship to these duties, it is instructive to classify them into (1) those which involved payment in the form

<sup>81</sup> 1322/7/7, *Miura Wada monjo*, KBSS (jō), pp. 366–8, document 292.

<sup>82</sup> Gomi Fumihiko, "Josei shoryō," pp. 42–43.

<sup>83</sup> 1317/12/12, *Yamanouchi Sudō monjo*, KBSS (jō), pp. 346–7, document 273.

<sup>84</sup> "Sagara Nagayori nyo Ama Myōa dai Dōgan mōshi jō narabi ni gusho an," 1318/4/26, *Sagara ke monjo* 1, pp. 99–104, (esp. p. 104), document 48.

<sup>85</sup> See note 29.

of products or money and (2) those which required actual physical labor, such as police duties or military watch duties. Fulfillment of the former by women was taken for granted, and negligence resulted in suits, such as the accusation brought against a female steward in Tōtomi province, who lost the case.<sup>86</sup> The bakufu code implicitly reenforced this expectation in addressing the problem of negligence related to women at the vassal level who married with nobles and considered themselves "above warriors."

Though their fathers try to cover the payments due, these women will be divested of the property in question in case of negligence in the fulfillment of dues.<sup>87</sup>

Extant sources reveal little about the precise nature of the steward's military and civil responsibilities or how they were performed by either men or women. The scarcity of relevant information, however, may reflect how mild these demands were. In peacetime, regular national duties typically came around only once every six years, according to the calculation made by Gomi Katsuo.<sup>88</sup> On the local level, duties occurred irregularly, stewards being called upon by the region's military governor (*shugo*) whenever disturbances erupted. In performing these tasks, it seems that both women and men employed proxies so widely that, in summoning one Kyushu vassal to Kyoto in 1262, the government added a clause forbidding their indiscriminate use.<sup>89</sup> There is also evidence that such duties were commuted to cash payment; a land grant dated 1260, for instance, was encumbered with obligation in the form of "Kyoto-guard-duty-cash" (Kyoto *ōbanyaku sen*) in the amount of 1 *kan* 500 *mon*.<sup>90</sup>

If cash payment was not an alternative, the use of proxies was unavoidable for many. The nationally based guard duties in Kyoto and Kamakura could require long-distance travel—inconvenient for those directly involved in productive management and uncomfortable or impossible for the elderly, infant, and pregnant property holders. The local duties, which could demand direct military assistance, may have also proved unsuitable for many property holders. Indeed, only one piece of evidence has been found of a woman performing service (guard duty in Kyoto). This, however, was the previously cited widow from Kyushu, who harbored a personal motive to be in Kyoto—to defend herself against the accusation by her late husband's child regarding his bequest to her.<sup>91</sup>

From the viewpoint of the bakufu and the *sōryō*, female avoidance of direct

<sup>86</sup> 1330/10/27, *Katsura monjo*, KBSS (jō), pp. 394–5, document 316.

<sup>87</sup> *Shikimoku* 25, CSSS, p. 22.

<sup>88</sup> Gomi Katsuo, "Kamakura gokenin no banyaku gonshi ni tsuite," *Shigaku zasshi*, 63:9 (September 1954), 33.

<sup>89</sup> *Ibid.*, 34.

<sup>90</sup> "Minamoto Yorinaga shotai yuzuri-jō," 1260/3/15, *Manzawa ke monjo* in *Kamakura ibun* 11, p. 390, document 8488.

<sup>91</sup> See note 80.

involvement in military duties mattered relatively little in peacetime. Nobody made a specific complaint about it. But this turned out to be a precarious situation that the coming of a true military threat could upset. The attempted Mongol invasions of the late 1200s constituted such a threat, testing the balance of rights and duties which hitherto had only limited practical meaning. The whole issue of women, property, duties and rewards came to be reconsidered realistically and practically for the first time with the first advent of external attack in Japan's history. But the transformation in women's property-holding patterns was gradual, proceeding through uneven and varied forms, and attaining only at some time in the fifteenth century the basic shape which would last for the rest of the feudal age.

## PART II: TRANSFORMATION

The second half of the Kamakura period saw the beginning of a decline in women's property rights. This took place in the atmosphere of economic hardship and increasing rivalry among warriors, caused in part by the parcelization of property over generations.<sup>92</sup> Vassals were seen selling or pawning land for income, and this was a source of consternation for the bakufu, which in turn issued a series of provisions to halt this traffic starting in the 1240s.<sup>93</sup> Meanwhile, the dispersion of a family's land tended to generate a proliferation of independent collateral lines with new *sōryō*, each with his own cohesive territorial associations and lord-vassal relationships,<sup>94</sup> a trend which tended to undermine the nationwide feudal structure built by Kamakura. As inter- and intra-lineage rivalry escalated, a new warrior society was emerging, with a stronger military orientation and tighter kinship and inheritance principles. The Kamakura bakufu collapsed in 1333, a relatively insignificant event in the context of an ongoing radical social transformation.

One index of mounting social tension was the sharp rise in the number of suits brought to the bakufu in the last four decades of its existence: about 400 cases compared to about 200 from its first century. In this atmosphere, problems related to women were both the source and the target of the force of change. Women's property frequently undermined the economic interest of

<sup>92</sup> Other possible causes include population growth, devaluation of rice as a result of rapid commercialization, bad climatic conditions affecting harvest, inefficient modes of surplus extraction from cultivators, and unfavorable policies instituted by the Hōjō regime in Kamakura, among others.

<sup>93</sup> For example, *Shikimoku* addenda 139 (1240/4/20), 145 (1240/5/25), 433 and 434 (1267/12/26), 530 (1284/5/27), 598 (1286/8/n.d.) and 662 (1297/7/22, first issued on 1297/3/6, which ordered the return of all previously sold or pawned vassal land to its original owner). See CSSS, pp. 111–2, 115, 117, 118–9.

<sup>94</sup> This was particularly true of (native) eastern warriors with additional land grants located elsewhere. It took only two generations of the Ōtomo house (of Sagami province in the east), for instance, before the collateral members with land in Kyūshū (Bungo province) had their own *sōryō* system. See Akutagawa Tatsuo, "Kyūshū ni okeru," 42–43.

the granting family, whether the natal family, with respect to daughters' portions, or the husband's family, with respect to wives' portions.

The two forms of female inheritance received differing kinds of attention from the bakufu. Daughters' rights received no new legal restrictions until the Mongol invasions, just as those of the sons did not. If such rights came to be curtailed, it was done only on the part of the grantors, not the bakufu. The bakufu did impose a series of ever-tightening legal restrictions on the wife's portion which were probably issued in response to charges brought against widows.

The provisions from 1232 sustained the wife's right to the husband's bequest upon a separation caused without fault on her part,<sup>95</sup> and ordered forfeiture of a deceased husband's bequest to his children upon the widow's remarriage.<sup>96</sup> Six years later, the bakufu instituted a revised measure to regulate the activities of widows (*goke*). Apparently some widows transferred their late husband's land to their chosen heirs prior to their remarriage so as not to lose claim over it. Regarding this gesture as "outrageous," the bakufu restricted "the *goke*'s right to alienation [to] be exercised at deathbed only."<sup>97</sup> Added to this was yet another addendum of the following year, quoted earlier, which linked the fact of "remarriage" to the management of the husband's property.<sup>98</sup> As of 1239, a *goke* could hold her late husband's property as long as her remarriage remained secret but had no power to alienate it unless she were mortally ill.

One case study illuminates the workings of *goke* rights at this juncture. In 1239, a complaint, lodged against a *goke* by her late husband's daughter, claimed that she had not released his bequest despite remarriage. The *goke* won the case by swearing in a religious oath that she had not remarried, in addition to presenting the original testament conferring the bequest. Her marital status continued to be an issue and was brought up again five years later by the daughter now represented by her son. In order to clarify the *goke*'s marital status, the bakufu went to great lengths to interrogate and collect affidavits from local residents, including resident Kamakura vassals and some personal servants. Still, only rumors and uncertainties could be gleaned, leading to a decision that the son had filed a false suit.<sup>99</sup> The bakufu nonethe-

<sup>95</sup> *Shikimoku* 21, CSSS, pp. 20–21.

<sup>96</sup> *Shikimoku* 24, CSSS, p. 22. The power of this rule was tested in 1241 when a remarried *goke* was accused of keeping her deceased husband's property. The bakufu upheld the *goke*'s right because she had remarried prior to the issuance of the above provision in 1232. See *Azuma kagami* 4, p. 336, in an entry dated 1241/6/28.

<sup>97</sup> *Shikimoku* addendum 98, 1238/12/16. See CSSS, p. 59.

<sup>98</sup> See note 44 above.

<sup>99</sup> 1239/5/25 and 1244/4/23, *Matsuura Yamashiro monjo*, KBSS (jō), pp. 55–56, document 60 and p. 74, document 75. See the English translation, as well as the discussion of these and related documents, in Jeffrey P. Mass, *The Development of the Kamakura Rule: 1180–1250* (Stanford: Stanford University Press, 1979), 270–6.

less continued to tighten its standards for punishing remarried women; as of 1267, it codified the confiscation of the wife's portion applied to women remarried after a separation.<sup>100</sup>

The social environment was growing increasingly unsupportive of women's property rights at this point. A military crisis of unprecedented scope—the threat of invasion by the Mongols in the latter part of the thirteenth century—finally brought to the surface the tension latent in the various strands of the property distribution pattern. Geographically, the attacks by the Mongols directly affected only the residents of Kyushu, but they served as a national litmus test for the durability of the familial and social structure that sustained the Kamakura system.

The attacks, which took place in 1274 and 1281, and the continued possibilities of further incursions, shook the economic, social and political equilibrium of Japan in many ways. First, the crisis aggravated the financial insolvency of the warrior families obliged to furnish equipment, food, and soldiers,<sup>101</sup> eventually affecting the bakufu's own treasury. Second, it wreaked havoc on the feudal structure based on the exchange of services and rewards. To mobilize as many fighters as possible, the bakufu made promises of land rewards to encourage non-vassal warriors and even peasants to join the battles.<sup>102</sup> Such promises proved shortsighted, for the victory over a foreign seapower yielded no land for distribution but only seeds of dissatisfaction among combatants.

Third, the need for flesh-and-blood soldiers awakened the realization that the right to hold land was connected, in practical terms, with the performance of military services. Women were no exception. "As for the Mongol watch duty and other services, follow the order of the sōryō and carry out your obligations," stated a father to his daughter in 1308.<sup>103</sup> To what extent did women participate? The list of rewards issued to the Tachibana in Satsuma Province in the years following the invasions marks five out of seven women property holders as having sent proxies.<sup>104</sup> But women were not the only ones

<sup>100</sup> *Shikimoku addendum* 435, 1267/12/26, CSSS, p. 61.

<sup>101</sup> One example was the Sagara family, which was unable to pay its tax. It owed the bakufu 135 kan 560 mon out of 165 kan 866 mon in 1315. See Abe Seikan, *Sōryō sei kenkyū*, p. 146.

<sup>102</sup> Seno Seiichirō, *Chinzei gokenin*, pp. 317, 327–8 (note 8).

<sup>103</sup> "Moribe Michimasa yuzuri jō," 1308/1/16, *Chikugo Kondō monjo*, in *Kamakura Ibun* 30, p. 223, document 23150; cited by Aida Nirō, "Ikoku keigo banyaku no kenkyū," in his *Mōko shūrai no kenkyū* (Tokyo: Yoshikawa kōbunkan, 1982 ed.) p. 403, which was originally published in *Rekishi chiri*, 58:1, 3, 5 (1931).

<sup>104</sup> "Tachibana Satsuma ichizoku shoryō shihai chūmon," n.d., *Ogashima monjo in Saga ken shiryō shūsei* 17, pp. 262–70, document 47. Hattori Hideo approximates the date of the document to be around 1337. See his "Kaihatsu, sono shinten to ryōshu shihai—Hizen no kuni, Nagashima no shō no Tachibana Satsuma ichizoku," *Chihōshi kenkyū*, 152 (April 1978), 11–38. The pattern of reward was extremely complex. Rewards came mostly from land held by the Hōjō themselves. See Aida Nirō, "Mōko shūrai gassen no onshō ni tsuite," in *Mōko shūrai*, pp. 527–39, which was originally published in December 1936 in *Kokushigaku* 29. Seno Seiichirō, *Chinzei gokenin*, 352–5, adds to and reinterpretes Aida's findings. In English, we have, Kyotsu Hori, "The

staying home. Men also used proxies during the Mongol invasions: Twenty-three out of fifty-one male vassals studied by Aida Nirō did so, although no proxies were noted for men among the Tachibana in the case just mentioned.<sup>105</sup>

For women, however, the timing of this event was crucial; for society was already beginning to view female land rights as problematic for other reasons. In this atmosphere, the bakufu took upon itself to restrict female property holdings by two measures concurrently issued on 1286/7/25. The first proscribed inheritance by women of the Kyushu vassal families as long as the Mongol military threat prevailed; if no son was available, the holder was to adopt the son of a kinsman or woman as the heir-designate.<sup>106</sup> Along with inheritance, the previous legal right of a woman to adopt an heir of her own choosing came to be curtailed, now that only males were considered legitimate successors. The actual practice of the bakufu was contradictory, however. In 1291, for example, a Kyushu woman's right to the titled land of her late grandfather, a Mongol battle victim, was reconfirmed and continued.<sup>107</sup> Moreover, individual families continued to follow their own discretion in making bestowals on their daughters. For instance, a mother granted land and buildings in perpetuity to her daughter in 1289.<sup>108</sup> The second measure stipulated that any unfavorable rumor of remarriage of a goke as a basis for the divestment of the wife's portion.<sup>109</sup> Ambiguities in the evidence and definition of remarriage now became a basis for prosecutable burden of guilt.

Meanwhile, such problems as impoverishment, family disunity and an unsatisfying political order were beginning to compel warrior families to seek remedies at the domestic level. As did twelfth-century Mâcon, which was experiencing the shortage of new spoils, Japanese warrior society also increased its dependency on "the resources of patrimony and . . . the hereditary power to exploit the land and men."<sup>110</sup> Inheritance and kinship ties were restructured so as to stabilize property and to unify members under the sōyōrō. Specific mechanisms adopted to accomplish these goals and the timing of

Economic and Political Effects of the Mongol Wars," in *Medieval Japan: Essays in Institutional History*, John W. Hall and Jeffrey P. Mass, eds. (New Haven and London: Yale University Press, 1974), 184–98.

<sup>105</sup> Aida Nirō, "Ikoku keigo banyaku," p. 416.

<sup>106</sup> *Shikimoku* addendum 596, 1286/7/25, CSSS, p. 62.

<sup>107</sup> Her father and his two brothers also died in battles along with the grandfather. Her right was contested by her cousins. "Kantō gechijō an," 1279/10/8 (for the bakufu's earlier confirmation) and "Kantō migyō sho an," 1291/4/26 and "Hōjō Sadamune segyō jō an," 1291/6/29 (for the reconfirmation after the passage of the code in question), *Hizen Matsuura tō Ariura monjo*, pp. 34–37, document 10; p. 39, document 14; p. 40, document 15.

<sup>108</sup> "Takerube uji nyo yuzuri jō," 1289/2/10, *Ōsumi Ikenohata monjo* in *Kamakura ibun* 22, p. 186, document 16879.

<sup>109</sup> *Shikimoku* addendum 597, 1286/7/25, CSSS, p. 63.

<sup>110</sup> Georges Duby, *Medieval Marriage: Two Models from Twelfth-Century France* (Baltimore: The Johns Hopkins University Press, 1978), 9.

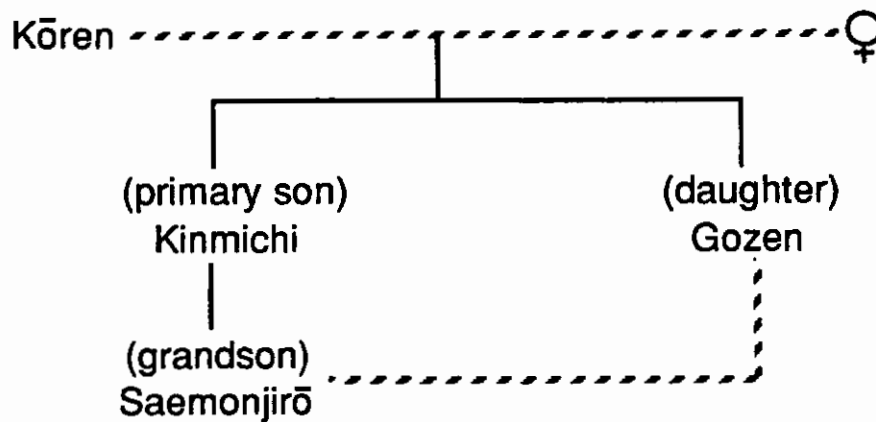


FIGURE 1. Method of transfer to keep family land intact by tying a grandson to a daughter of Tachibana Kōren.

their application varied from one family to the next, precisely because this was a family affair; but historically, major trends to which we now turn, were in the making.

#### ENDOGENY

Anthropologists have observed that one way to limit the negative consequences of the property transmission through women is to practice endogamy.<sup>111</sup> We can see that the warriors of the late Kamakura period also manipulated marriage ties to prevent outsiders from becoming heirs. Japanese society could easily foster marriage with close kin. Japan, unlike Europe, had no religious sanctions against it and, unlike China, had no customary bar to surname endogamy. Tachibana Kōren released his property to two generations of heirs—son, grandson—and a daughter, among others, and married his grandson to his daughter and stipulated in his testament of 1341 that the former should not divorce the latter. In case separation did occur, the grandson's property was to be transferred to his wife (Kōren's daughter), and he would, in addition, lose the right to the land of his father, who was Kōren's primary son.<sup>112</sup> By tying down the grandson to his daughter, the family land would remain intact and be protected against loss to either an outsider's children or the introduction of a wife from another lineage (see Figure 1).

A diagram of the Shibuya of Iriki-in, Satsuma Province, illustrates how a skillfully arranged endogamous marriage, together with the practice of adop-

<sup>111</sup> Jack Goody, *Production*, 21.

<sup>112</sup> Tachibana Satsuma Kōren shoshiki yuzuri jō, 1341/9/6, *Ogashima monjo* 17, pp. 222–4, document 8. Cited in Okada Akio, "Chūsei buke shakai ni okeru josei no keizai teki chii (jō)," *Rekishi chiri*, 60:3 (September 1932), p. 241.

# THE SHIBUYA CASE OF ENDOGAMY

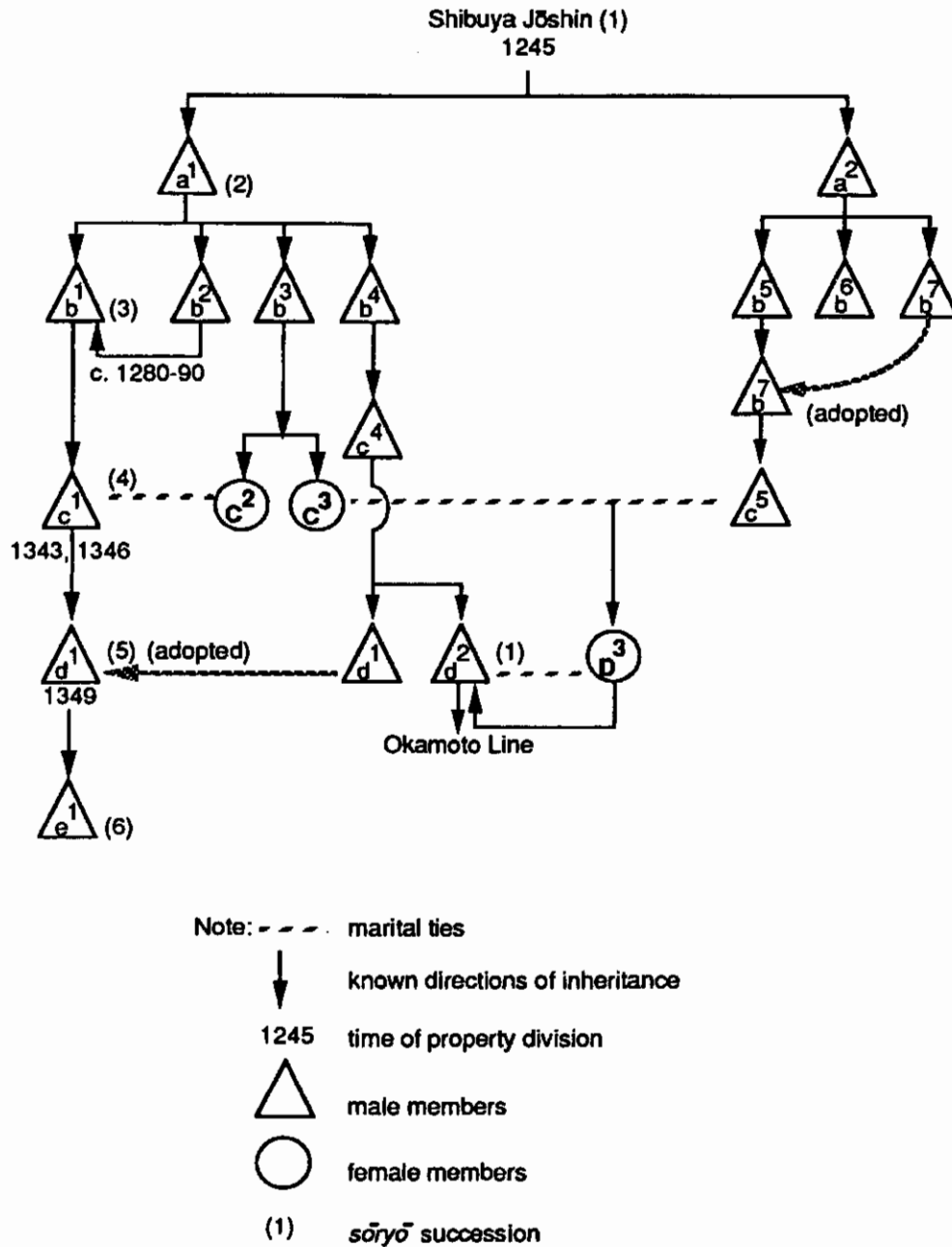


FIGURE 2. An illustration as to how skillfully arranged endogamous marriage, together with the practice of adoption, could successfully concentrate family property over several generations, as in the case of Shibuya of Iriki-in, Satsuma Province.

tion, could successfully concentrate the family property over several generations (see Figure 2).<sup>113</sup>

Shibuya Jōshin divided his land in 1245 among his children, including his primary son Akishige (a<sup>1</sup>) and another son Shigetaka (a<sup>2</sup>). In the subsequent three generations, a large portion of Jōshin's original holding was not only kept intact within the family but also was consolidated under the control of two men—the fifth sōryō Shigekatsu (d<sup>1</sup>) and his younger brother Shigeoki (d<sup>2</sup>).

In this process, three married pairs were made out of this group: Akishige (a<sup>1</sup>)'s granddaughter (SD) Midadō (C<sup>2</sup>) married his grandson (SS) Shigemoto (c<sup>1</sup>) who became the fourth sōryō; Akishige (a<sup>1</sup>)'s granddaughter (SD) Tatsudō (C<sup>3</sup>) married Shigeuji (c<sup>5</sup>) who was Akishige (a<sup>1</sup>)'s brother's (a<sup>2</sup>) grandson (SS); Torasan (D<sup>3</sup>), who was the daughter of Tatsudō (C<sup>3</sup>) and Shigeuji (c<sup>5</sup>), married Shigeoki (d<sup>2</sup>) who was Akishige (a<sup>1</sup>)'s great-grandson (SSS). Two instances of adoption were also evident: Shigetsugu (b<sup>5</sup>), Shigetaka (a<sup>2</sup>)'s older son, adopted his own younger brother, Shigemura (b<sup>7</sup>); Shigekatsu (d<sup>1</sup>), the son of Shigetomo (c<sup>4</sup>), was adopted by his father's cousin (FFBS), Shigemoto (c<sup>1</sup>), and became the fifth sōryō. Once the property became concentrated under Shigekatsu (d<sup>1</sup>) and Shigeoki (d<sup>2</sup>) in the mid-fourteenth century, the original house branched into two lines: Shigeoki (d<sup>2</sup>) became the founder of a new house known by the name of Okamoto, while the line of Iriki continued through the sixth sōryō Shigekado (e<sup>1</sup>), the son of Shigekatsu (d<sup>1</sup>).

#### LIFETIME TENURE

Another method, more practicable in many ways, was to impose lifetime tenure (*ichigo*) by eliminating the alienation rights of property holders and by stipulating the future heir typically one generation in advance. Life tenures, by far the most common and efficient means of preventing the leakage of property, were given to both men and women. Women, however, were affected by this to a greater degree.

Most letters of devise from the early half of the Kamakura period lack specific designations indicating the length of tenure, precisely because the norm was a grant in perpetuity. Some historians have interpreted this absence as an indication that life tenure was the norm for women, stating that "property given to women on a permanent basis was rare" or that "sons generally received . . . hereditary interests in the land, but the widow and the daughters, usually only life interest."<sup>114</sup> The holders of this view erroneously applied

<sup>113</sup> See Asakawa Kan'ichi, *The Documents of Iriki*, p. 175 for a diagram in English; documents 87, 93, 97 on pp. 49, 51–53, for related documents (in Japanese); pp. 114–5 for a genealogical chart (in Japanese); and also Okada Akio, "buke shakai," 240–1.

<sup>114</sup> See Ishii Ryōsuke, "kon'in hō," 19; and Asakawa Kan'ichi, "Iriki," 122. The contrasting (and more correct) view comes from Okada Akio and Fukuo Takeichirō. See "buke shakai," 228, and "Kamakura jidai ni okeru josei no zaisan ni tsuite," *Yamaguchi daigaku bungaku kai shi*, 4:1 (1953), especially page 9, respectively.

findings based on the late thirteenth and fourteenth centuries, when lifetime tenure became increasingly common, to the entire "Middle Ages."<sup>115</sup> Inherent in such errors is the biased assumption that women's economic rights were always insecure and minimal in Japanese history.

In the early Kamakura period, grants of lifetime inheritance were mostly limited to goke, who were outsiders to their families. The previously mentioned case in which a goke portion was disputed in connection with the women's remarriage status, for example, was a lifetime portion granted in 1229, with the son named as future heir.<sup>116</sup> The goke of Jōsei received two letters of devise—in 1205 for a grant in perpetuity "because we have been wife and husband for many years" and in 1208 for her lifetime only, with a daughter (perhaps born in the interim) as the next heir designate to this property.<sup>117</sup>

These early cases were different from later cases in two important ways: Life tenure was mainly given to goke, and the subsequent heir designate was often female. Later cases of life-tenure holdings, which began to grow common in the latter half of the thirteenth century, pertained to grants given to daughters and non-primary sons as well as to goke; and the future heir designate was increasingly a male—most likely the primary son or the future sōryō, sometimes described simply as "the person of ability."<sup>118</sup> The granting of lifetime portions to daughters was clearly a consequence of the handicap inherent in the descent system. As Jigan explained to his daughter in 1302, the grant was for lifetime only, ". . . for property inherited by daughters becomes that of another family."<sup>119</sup> The same reasoning would have applied to the goke portion. But the inclusion of secondary sons in life-tenure grants testifies that the consolidation of the family fortune was the ultimate goal; this required the prevention of property "leakage."<sup>120</sup>

<sup>115</sup> For most historians, "the Middle Ages" extend from the end of the twelfth to about the mid-sixteenth centuries.

<sup>116</sup> A reference to this grant is made in the trial document from 1239/5/25. See note 99 above, document 60. The "son" in this case was an adopted son (*yūshi*) of the late husband.

<sup>117</sup> "Sō Jōsei yachi yuzuri jō," 1205/3/18 and 1208/3/7, *Yamato Tsutsui Kansei shi monjo*, in *Kamakura Ibun* 3, p. 233, document 1528 and p. 342, document 1719.

<sup>118</sup> For example, "Shibuya Shigemasa okibumi," 1349/int.6/23, *Iriki monjo*, p. 22, document 6.

<sup>119</sup> "Fukabori Jigan Tokinaka okibumi," 1302/6/1, *Hizen Fukabori ke monjo* in *Kamakura ibun* 28, p. 12, document 21090. This is cited by many authors, including Nitta Hideharu, "Chūsei no sōzoku sei," in *Kazoku seido no kenkyū* (jō) (Tokyo: Yūhikaku, 1956), 48.

<sup>120</sup> By 1274, life grants had become common enough that the bakufu was compelled to legislate on the stipulated rights of the future heir in case of criminal conduct committed by the lifetime holder. When the guilty lifetime holder was a direct vertical relation of the future heir, the punishment would fall on the entire house, and the government would confiscate the property. In other words, if the future heir-designate was the stepmother, brother, or non-kin to the lifetime grant holder, the property could descend as planned; but if the life grant was being transmitted vertically from a grandparent to a parent to a child, then the property would be confiscated by the government. See *Shikimoku* addendum 462, 1274/6/1, *CSSS*, pp. 61–62.

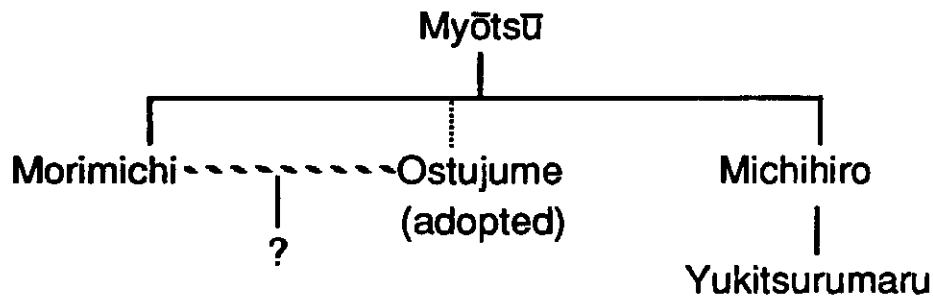


FIGURE 3. How the adopted daughter of Yamanouchi Myōtsū, who was also the wife of his son Morimichi, received a life portion of property stipulated to pass to Myōtsū's grandson by a different son.

Thus in 1363 Kobayakawa Saneyoshi passed on to his daughter a lifetime grant assigned to her brother after her death.<sup>121</sup> In 1327 the wife of Shibuya Shizushige received land from her husband that was to be divided after her death among three children—in perpetuity to two sons and for lifetime only to the daughter.<sup>122</sup> Kiyotsuna's primary son received a lifetime holding in 1259 with the specific proviso for it to pass to the primary son of the subsequent generation.<sup>123</sup> Yamanouchi Myōtsū's adopted daughter, who was also his son Morimichi's wife, received a life-portion stipulated to pass to Myōtsū's grandson by a different son (see Figure 3).<sup>124</sup>

How did the lifetime grant affect property holders? As a variation from rights in perpetuity, it actually affected the recipients only slightly. They still received inheritances and were able to enjoy the fruits of land, although they had lost the right to look after the interests of an heir they might have chosen and perhaps the power and authority that accompanied that right. Other variants in the pattern of property transmission, executed with the same ultimate end of accumulating property under the *sōryō*, had a more drastic impact on the position of women. In one pattern, the *goke* was designated as an intermediate holder of property between two generations of *sōryō*, until the younger became mature enough to take on the full function of chieftainship. This was a position more of responsibility than of rights. Such was the case with Shōnin, the *goke* of Yamanouchi Michimune, who defended her position in

<sup>121</sup> "Kobayakawa Saneyoshi jihitsu yuzuri jō," 1363/3/18, *Kobayakawa ke monjo* 1, p. 47; however, the secondary brother received only "sustenance" out of sympathy.

<sup>122</sup> "Shibuya Shizushige yuzuri jō," 1327/8/18, *Iriki monjo*, p. 166, document 14.

<sup>123</sup> Takerube Kiyotsuna's testament dated 1259/int.10/5. Described in 1323/11/29, *Nejime monjo*, *KBSS* (ge), pp. 238–41, document 147.

<sup>124</sup> If Morimichi and his wife should bear a son, however, the land in question was to be divided between Myōtsū's two grandchildren (SS and SS). See "Yamanouchi Myōtsū Michisue yuzuri jō," 1355/7/16, *Yamanouchi Sucō monjo*, pp. 504–6, document 534.

court in 1325 after retrieving the child heir from the house of her husband's father's goke, who had abducted him on the street.<sup>125</sup>

Other variations in female inheritance included the allotment of fixed income, such as the ten *koku* (1 *koku* equalled 4.95 bushel) of an annual rice stipend promised to the daughters of Sagara Nagauji in 1311 and the assignment of a sustenance block located on their brothers' land, such as that set up for the daughters of Sagara Hironaga in 1342.<sup>126</sup> These assignments sought to meet the lifetime financial needs of the grantees, but they also turned the beneficiaries into family dependents. Because women were now supported by the possession of another family member, they were thus isolated from the processes of land management and active social involvement. Why did they receive anything? Sagara Nagauji explained: "Women would properly inherit nothing because there is so little to begin with and because the *sōryō* has the obligation to pay taxes . . . , but because it would be miserable not to be self-sustaining . . . [they should receive an allotment]."<sup>127</sup> His plans to bar females from property-holding extended into future generations: "If there are no sons, adopt a brother's child; if there is a daughter, let her take a brother's son as husband and devise to him."<sup>128</sup>

#### THE SIGNIFICANCE OF TRANSFORMATION

Once devoid of independent economic means, women were transformed into appendages of the family with no public responsibilities, no need to adopt an heir, no reason to sue other property holders or to defend themselves against the challenges of others in court. The general trend toward delegitimization of female property rights was promoted at the governmental level as well. Women were losing suits with more frequency than in the earlier period. Of the thirty-nine unsuccessful cases brought up by or against women from the entire Kamakura period, twenty-nine (76 percent) were from the last forty years, between 1293 and 1333.

This is not to say, however, that the pattern of change was smooth and uniform. Variations were abundant and extended into post-Kamakura times. We see a female steward still active in the 1380s,<sup>129</sup> granddaughters inheriting

<sup>125</sup> 1325/6/12, *Yamanouchi Sudō monjo*, KBSS (jō), pp. 378–80, document 305. The senior goke even demanded that the junior goke forward clothing for the child in the former's "custody."

<sup>126</sup> "Sagara Rendō okibumi," 1311/2/25 and "Sagara Hironaga okibumi," 1343/3/12, *Sagara ke monjo* 1, pp. 77–84, document 39 and pp. 151–52, document 114.

<sup>127</sup> "Sagara Rendō okibumi," *ibid.*, p. 82.

<sup>128</sup> His command was not, however, strictly carried out. His *chakushi* (the next *sōryō*) granted, in 1333/2/26, lifetime property to his granddaughter (the daughter of his *chakushi*), explaining that "despite female [sex], . . . she is the daughter of Sadayori," and stipulated the next *sōryō* as the future heir. See "Sagara Yorihiro yuzuri jō," *Sagara ke monjo* 1, pp. 106–17, document 52.

<sup>129</sup> "Imagawa Ryōshun kakikudashi," 1387/10/10 and a few other documents are addressed to this "onna (female) jitō." See *Hizen Matsuura tō Ariura monjo*, p. 122, document 141, as well as 142, 143, and the genealogical chart on p. 288, in which she is a carrier of the line.

land in perpetuity in 1413,<sup>130</sup> or, as late as 1485, a daughter receiving a small grant—albeit with the proviso that the sōryō would administer the land's obligations.<sup>131</sup> In this context, the "primary daughter" became an ever more important category that distinguished the favored daughter from all the others. In 1341, a primary daughter received inheritance in perpetuity as did her sōryō and other brothers, while her sisters' portions were limited to their lifetimes.<sup>132</sup>

Nonetheless, female names are gradually but surely extinguished in the course of every document collection—a testimonial to the arrival of an entirely new type of warrior society. Accommodating the changes in inheritance patterns, the kinship structure also solidified along the male line. The shift in the descent system is graphically illustrated by the sudden change in the format of the genealogy in Wakasa Province, mentioned above. Succession had been traced through both daughters and sons. As of the early part of the fourteenth century, descent began to be traced only through males, obliterating women as the carriers of the family line.<sup>133</sup> As in Duby's Mâcon about three hundred years earlier, "it had become clear that a tightening of the lineage structures was the most reliable means of safeguarding the patrimony."<sup>134</sup> The hereditary power to exploit the patrimonial land came to be concentrated in the person of the chief. As French nobles had sought to strengthen the house (*domus*) through the heightened authority of the "head of the house" (*caput mansi*) or "head of the clan" (*caput generis*),<sup>135</sup> Japanese warriors also consolidated the lineage and resources of the "house" (ie) around the sōryō. As the concept of vertical descent ossified, the lineage also became more tightly associated with the lineage name [*myōji*], transmitted from one chief to another. "Should [the sōryō-designate] be without a son," Kumagai Naotsune instructed in 1346, "the sōryō title and land shall be

<sup>130</sup> "Shami Gishū yuzuri jō," 1413/6/25, *Minagawa monjo* 2. Noted by Tsujimura Teruo, "Chūsei buke josei no ichigo jōyō," *Shinshū diagaku kyōiku gakubu kenkyū ronshū* 10 (1959), p. 44, note 50.

<sup>131</sup> Tabata Yasuko, *Nihon chūsei*, 88. "Nagai Toyosato okibumi," 1485/2/9, *Tabusa monjo in Hiroshima ken shi: kodai chūsei shiryō hen*, V, pp. 157–8, document 16.

<sup>132</sup> "Settsu Chikahide yuzuri jō," 1341/8/7, *Dainihon shiryō* 6:6, pp. 881–8. Cited in Nakada Kaoru, "Chūsei no zaisan sōzoku hō," *Hōsei shi ronshū* 1 (Tokyo: Iwanami shoten, 1926), p. 234, note 22. The jitō in note 129 was also a chakujo.

<sup>133</sup> See note 60 above, especially page 21. A subtheme of this evolutionary trend is the fate of secondary sons (shoshi) whose property rights also diminished or disappeared. Apart from seeking to set up their own bases of power, they most commonly became incorporated into the territorially based feudal structures under a kin or non-kin sōryō. Some went into religious orders as well. There was no social group equivalent to the "bachelor" community of the West, since marriage was never forbidden. See Georges Duby, *La Société aux XI<sup>e</sup> et XII<sup>e</sup> siècles dans la région Mâconnaise* (Paris: Touzot, 1971), ch. 5, pp. 215–33. Whatever the case might be, the relative social positions of the two sexes differed greatly: A vassalized male under the subjection of a lord still held control over their wives.

<sup>134</sup> Georges Duby, *Medieval Marriage*, p. 10.

<sup>135</sup> *Ibid.*

assigned to the daughter's [the sōryō's sister's] son who, *because of his different surname, should adopt our family name* [emphasis mine]."<sup>136</sup>

As the families sought to master new exigencies, they gradually institutionalized the strategically most advantageous modes of property transfer and kinship relations. A transformation in the social meaning of landed property and the associated valuation of women underscored the course of this structural change. Women's property rights, firmly established in the ancient past, acquired new political and military dimensions as they became tied to Kamakura's vassalage system. Public functions attached to titled land raised its female holders to a social position of significant prestige. Ironically, some of the responsibilities entailed in such titled land also helped to devalue the women's social worth: They were deemed inferior in performing the bakufu's military duties compared to men. Realistic wars with alien enemies fertilized the ground on which formal delegitimization of female economic rights could easily occur.

The onset of stronger martial values provided a rationale for divesting female property rights in yet another way. As families vied with each other for greater territorial control, property itself became the basis and object of military action. Now only the coordinator of such action for the family could claim the title to the property. The instruction of Kumagai Naotsune from 1346 illuminates this point:

... regarding the stewardship pertaining to Miiri no shō in Aki province, held by the Kumagai family since 1221: although [this portion] should go to Toratsuru gozen for being the primary daughter, I grant this sōryō land to Torakumamaru [her brother] on account of the military and civil responsibilities involved.<sup>137</sup>

As property fell under the sole control of the chief, women were disqualified from holding it, for they had long been categorically excluded from assuming the headship. For Japan's warrior women, this was a historical development with a foregone conclusion. As the desired stability for cohesive territorial units demanded a singular descent system with fixed residential bases, the earlier signs of cognatic grouping necessarily vanished. Reproduction for the perpetuation of the lineage dictated a clearly articulated concept of marriage, and measures designed to insure calculated stability in conjugal relations—including emphasis on chastity among women and definitive removal of their divorce rights. The new patrilocal and patrilineal kinship arrangements diluted the daughter's previously lifelong ties to the native family and reinforced the exclusion of women from the inheritance pool, a pattern simultaneously justified on the grounds of women's inferior ability as well. A new institution of dowry, appropriately called the "cosmetic portion," would soon enhance the

<sup>136</sup> "Kumagai Naotsune okibumi," 1346/6/1, *Kumagai ke monjo*, p. 107, document 91.

<sup>137</sup> *Ibid.* The Chakujo was not entirely disintitled in this case and nonetheless received a small portion.

exchange value of the bride-to-be, but usually this was for the primary daughter only. The other daughters simply disappeared into historical obscurity.

The major transformation in inheritance and kinship patterns discussed here provided an important structural foundation for an emerging decentralized society capable of embracing intensified martial values borne by localized, strictly male, lord-vassal relationships. Excluded from "public" functions, women served in the domestic sphere; while men cultivated their network of feudal relations and strategized territorial expansion. As a crucial stage in the greater consolidation of patriarchal systems, this transformation brought warrior women under sharpened sexual asymmetry that implied progressive subordination to, and protection by, the powerful male, his ideology, and his institutions. Eventual unification by the Tokugawa shogun in the seventeenth century insured formal incorporation of these patriarchal principles into the country-wide structure of political control. Subordination of women in the ruling warrior class became a state matter inscribed into law. This was a culmination of historical processes which had begun some three hundred years earlier and which gradually but definitively reversed the previously unquestioned norms regarding female rights to economic independence.