

Writing Oaths: Embodied Evidence in Fifteenth-Century Japan

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This article examines the role of written oaths in preventing and resolving disputes in central Japan during the fifteenth century. It examines the circumstances in which probatory oaths were used and the characteristics that made them effective. Probatory written oaths, which established facts of past and present rather than making promises for the future, both depended upon and were constitutive of community cohesion. They were public performances that could accommodate a broad array of distinctions in social status, from imperial prince to temple servant. Written oaths were united by one shared danger – increased vulnerability to the sanction of deities. Conversely, different status groups had access to different methods, such as the prince writing on a talisman or the servant pulling a stone from boiling water, to lend weight to their oaths, which both humans and gods could then use equivalently. The disparities in effort helped to compensate for status differentials among disputants and witnesses.

After establishing the functioning of probatory written oaths in Japan – a function treated more sparsely than promissory oaths in the existing literature – this article analyzes the use of such oaths in resolving one type of dispute – accusations of adultery. Adultery was treated with increased severity as the century progressed. This example demonstrates how written oaths were used to investigate, proclaim innocence, and navigate status in public. Written oaths created factual consensus in disputes but left room to negotiate outcomes. Fifteenth-century Japan produced a rich array of records that reveal the negotiations that took place behind official action, particularly diary-chronicles – individuals' daily records (diary) that were intended to guide posterity in official actions (chronicles) – as well as meeting notes from the governing council of a major temple. Such records make it possible to capture some of the experience of using written oaths.

Keywords: Oaths, ordeals, kishōmon, medieval Japan, Muromachi era, ritual and writing, construction of community, juridical proof

One winter day near the end of the year Eikyō 10 (1438), someone broke into a storehouse of Tōji, a great temple in the south of the capital city of Kyoto, and stole a small fortune in goods, as well as a sword from the private possession of one of the temple's administrators. Within days, the temple's ruling council ordered lower-level monks and staff to gather before the bathhouse for a hot water oath, in which an oath-taker signed an oath and reached into boiling water to lift out a rock using the hand with which he had signed. Oath-takers who did

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so without injury had written truly, while those whose hands festered had lied. The temple's denizens gathered together, and it was determined that three men seemed suspicious: two serving attendants and one gate guard. The council invited a shrine priestess to preside, and with ceremony the men took their oaths. All passed the test, without burns or other mark of failure, and all three went free as the investigation continued.¹

Handwritten oaths, one form of which was the hot water oath, were important tools for establishing the facts upon which to base decisions in the fluid circumstances of fifteenth-century Japan. These oaths (*kishōmon*) boasted a place within most of the legal regimes that held sway during the Muromachi era (1336-1573). They appeared among estate documents certified by the imperial court and its bureaucracy, in the warrior law code that the Muromachi shogunate had inherited from the Kamakura shogunate, and among the practices of shrines and temples. The testimony established through a successful oath was accepted as valid by ruling shoguns, temples' governing councils, and village leaders alike, which made oaths invaluable for agreeing upon what circumstances existed. Oaths could establish a person's guilt or innocence of a specific crime, who had visited a particular temple during a particular span of time, or how devastating a localized disaster had been to crops. They could not alone determine what disputants should do about these realities.

Oaths invoked divine and community sanction, as well as the power of the written word to fix a statement in time and imbue it with a person's character, a potent combination. The deities who judged oaths included both grand, distant figures and the specific gods and buddhas of individual communities. The powerful – with access to knowledge, money, or weapons – were in a stronger position to buttress their oaths by writing in their own fine handwriting on paper consecrated in shrines, or to force others to swear difficult oaths and risk the wrath of deities and pain of physical injury. Yet both powerful and weak were bound by the outcome of an oath that was successfully sworn. Occasionally, powerful people avoided allowing their victims to swear oaths that might establish unpalatable truths.

Though the exact ceremony was rarely recorded directly, written oaths were not solely documents preserved for archives. They also lived in the public gatherings where people saw their neighbors write oaths and could watch for signs of deception; in the gossip that spread beyond the document when an important person wrote an oath; in the destruction or consumption of the paper upon which some oaths were written, to strengthen the connection between the words and the bodies that wrote them. Adaptable to the resources and exigencies of those who produced them, written oaths were experiences as much as they were documents; the experience of *writing* the oath was central, even when the ceremony producing and using it dictated that the *document* would not be preserved. While some oaths were preserved as original documents, many more are attested in diary-chronicles (*kiroku*), which recorded ceremonies and negotiations, or in other records of discussions, such as the minutes of a temple's ruling council. Few of these include the oaths' exact wording, but they fill in the circumstances under which people reached for oaths, particularly in denying accusations.

1 *Tōji nijūikkū kusōkata hyōjō hikitsuke*, Eikyō 10.12.26, ed. Itō *et al.*, vol. 3, 238-239. At least one unnamed person was tortured as part of the investigation, a reminder that a hot water oath was not the most dangerous threat a suspect faced. Ordeals by fire or water were practiced in western and central Europe until circa 1200, often in cases where oral oaths did not suffice. See Bartlett, *Trial by Fire and Water*. In medieval Japan, however, hot water oaths were not sharply distinguished from oaths written on a particular shrine's paper: they were different types of the same fundamental thing. I use the term »oath« throughout, even for actions that resemble European ordeals.

Written Oaths and Community

While traces of oaths date back to the seventh century and the document format remained in use through the early modern period, written oaths had their heyday during the medieval era. The earliest surviving proto-written oath dates to the twelfth century, and the format was codified in thirteenth-century Kamakura law and used ever more widely through the sixteenth century.² Written oaths in their mature form were composed of a content clause and an invocation clause: the first laid out what the writer was affirming and the second called down the wrath of the gods if the writer lied.³ Some or all of the oath was often written on a talisman or sacred paper from a shrine, to strengthen the presence of deities as witnesses.⁴

The medieval era saw the height of the administrative and conceptual combination of Buddhism and worship of local gods (*kami*) in Japan. Most major Japanese shrines and temples were in fact shrine-temple complexes, large administrative systems that encompassed both Buddhist temples and shrines to *kami*. One fractious institution, led by a Buddhist head monk and with a network of dozens of shrines and temples in the mountains north-east of Kyoto, was often-interchangeably called Mount Hiei (underlining the mountain), Sannō (the shrine), and Enryakuji (the temple).⁵ Smaller sites also blurred the institutional edges; Buddhist monks served in or led pilgrimages through mountain shrines, and most temples contained shrines to *kami*. The invocation clause at the end of one oath from Gen'ō 2 [1320] shows this multiplicity of deities in action, invoking the power of:

Bonten, Taishaku, the four Deva Kings and the various Great Deities who protect the capital, and especially of Tenshō Daijin (Amaterasu) in Ise, the three Gongen of Kumano, the Princes [along the route to Kumano] and their retainers, the two shrines of Mishima that protect the East (i.e. the Kantō), and particularly the Great Deity of the storehouse of this shrine estate, the Yakushi Nyorai of this temple.⁶

Bonten, Taishaku, and the Deva Kings were all Buddhist transformations of Hindu deities, imported into Japan by way of Chinese texts and rituals. Amaterasu was the sun goddess of Ise, whose priests were among the few who deliberately enforced a separation between their worship and Buddhist practices. Gongen were manifestations of buddhas as local *kami*, a practice common in East Asian Buddhism.⁷ The Princes and their retainers were the tutelary deities along the route of the Kumano pilgrimage (over 150 kilometers south of Kyoto),

2 Chijiwa, *Chūsei no seiyaku monjo*, 1-3. The Kamakura law code was the *Goseibai shikimoku*, also called the Jōei Formulary. The core code was issued in 1232, and is available in English in Conlan, *Samurai and the Warrior Culture*, 42-60, or transcribed and annotated in *Chūsei hōsei shiryōshū*, ed. Satō Shin'ichi and Ikeuchi, vol. 1, 3-55. The addenda specific to the use of oaths were issued later, and the most important can be found in *ibid.*, Addenda 73, 157, 294, 350, 635, vol. 1, 94-95, 127, 175, 199, 288.

3 Satō Hiroo, *Kishōmon no seishinshi*, 17-20.

4 For a vivid explanation of the most common talisman used, see Moerman, *Shugendō as social practice*, 219-230. He also traces oaths written on talismans into the early modern period.

5 Allan Grapard pioneered the use of the term »shrine-temple complex« to describe the Kasuga-Kōfukuji complex in the former capital of Nara (Grapard, *Protocol of the Gods*).

6 Satō Hiroo, *Wrathful deities*, 100. Parentheses in cited translation. For the original oath, see *Kamakura ibun: Komonjo hen*, Document 27394, ed. Takeuchi, vol 35, 328.

7 See Tyler, *Miracles of the Kasuga Deity*, for an assessment of how one Gongen cult (that of Kasuga Gongen) functioned, with a translation of a fourteenth-century account of the activities of the deity.

whose small shrines were generally staffed by hereditary shrine priests, priestesses, and Buddhist monks who specialized in serving *kami*.⁸ Finally, Yakushi Nyorai was the Medicine Buddha (Sanskrit Bhaiṣajyaguru), popular throughout East Asia, here conceptualized as both the central buddha image in the temple (which had multiple statues and painted images of buddhas and bodhisattvas) and the primary divinity of the estate on which this oath was being sworn. The oath incorporated deities from many backgrounds.

Satō Hiroo, examining deities in invocation clauses from across the archipelago, argues that only localized deities – gods connected to the land of Japan and specific buddhas housed in individual temples – could enforce oaths.⁹ Christopher Mayo uses the idea to show that sixteenth-century oath writers modified their invocation clauses to include gods and buddhas connected to their native lands and families, which implicitly transformed oaths into statements of the oath-takers' relationships to local deities and institutions.¹⁰ Thomas Keirstead emphasizes that, in fourteenth-century peasant protests, the same language was used and the same gods invoked in the oaths that proprietors used to control peasants and those that peasants used in their oath-sworn protests.¹¹ In all of these analyses, as in many of the other articles in this volume, oaths and the deities called to witness them were fundamentally connected to community, its creation, and the position of the speaker within it.

Maintaining communities often involved coercion, both forcing people to make oaths and using oaths to control behavior. Philip Garrett shows that the powerful temple of Mount Kōya (between Kyoto and Kumano) required lay administrators of its estates to write oaths that they would not intrude upon monks' residences or harass villagers, reducing the power of administrators vis-à-vis the temple. These oaths were retained as leverage, to make the temple the highest court to which locals had access and to protect its monks from intrusion for tax collection, investigation of theft, or anything else.¹² Elizabeth Oyler, in her book on fourteenth- and fifteenth-century tales about the late twelfth century, notes that being compelled to sign an oath was apparently common enough that rationalizations had developed: »This is not an oath that I write from my heart,« one warrior justified himself. He hoped that the deities invoked would forgive him but still sent his liege – a child living in his house – to another's home to insulate him from potential divine retribution.¹³ Like Garrett's estate administrators, Oyler's character had to choose between writing the oath and losing everything. The compulsion affected the perceived binding power of the oath but did not invalidate it entirely.

8 Moerman, *Localizing Paradise*, 16.

9 Satō Hiroo, Wrathful deities, 96-105; a longer treatment appears in Satō Hiroo, *Kishōmon no seishinshi*.

10 Mayo, *Mobilizing Deities*, 204-206.

11 Keirstead, Theater of protest, 370-379.

12 Garrett, Crime on the estates, 79-112.

13 Oyler, *Swords, Oaths, and Prophetic Visions*, 69-70. The quote is from the *Genpei jōsuiki*, a set of tales compiled in the fourteenth-fifteenth centuries, covering the same war (late twelfth century) as the more famous *Tale of the Heike*. Harm coming upon one's family and household was an important sign of a failed oath.

Much of this scholarship focuses on promises of future behavior: Mayo's warriors vowed obedience, Garrett's administrators not to interfere with the temple's monks, and Oyler's character to turn over his lord. However, to thus emphasize the oath as a constraint upon *future* behavior – a »promissory oath« – distorts its form and function in medieval Japan. Most oaths operated in the present, based upon the oath-taker's current knowledge. They were »probatory oaths« that were more effective in establishing facts on the ground than binding action far into the future. Garret's administrators were, from a different perspective, affirming their knowledge and acceptance of the rules of the temple's estates, rather than binding themselves forever. Most of their oaths did not invoke the gods' punishment if the oath-taker violated these rules; punishment descended »if I speak falsely« at the moment of swearing.¹⁴ While some of Keirstead's peasants swore to abscond in the future if their demands were not met, most instead laid the groundwork for the future by attesting to their prior experiences and current situation. They reinforced the weight of their petitions to their monastic overlords by invoking the wrath of the temple's buddha and other local deities if they had lied about their grievances.¹⁵

In other words, the deities judging the oath did not need to be prescient or to watch for eternity: they judged based upon the oath-taker's honesty at the moment of writing and for the short span thereafter as all interested parties watched for signs of failure. The most dramatic oaths promising unambiguous future action appear in tale literature, such as the fourteenth-century *Taiheiki* account of one general reneging on his vow to support another »for seven generations,« whereupon the betrayed general used the broken oath as a battle flag and the oath-breaker suffered defeat.¹⁶ Promissory oaths binding future behavior appeared more often in fiction than quotidian reality.

14 Garrett cites many oaths swearing to what he calls a »code of conduct,« including Documents 1546 (Shōkei 1 [1332].07.12), 1590 (Shōō 4 [1291].09.18), 1593 and 1594 (Shōō 4 [1291].09.19), 1599 (Kengen 1 [1302].12.15), 1600 (Kengen 1 [1302].12.14), and 1614 (Shōō 4 [1291].09.18) in *Kōyasan monjo*, ed. Tōkyō Teikoku Daigaku Shiryō Hensangakari, vol. 7, 131-136, 192-197, 200-210, 216-223, 241-246. Each ends, before its invocation clause, with a slight variant on the same phrase: »此條構申虚言者,« essentially »If I falsely speak a lie ...«

15 Keirstead, Theater of protest, 359, 375. For one petition from Yano Estate in Harima Province to Tōji, see »96. Harima Yano-shō bandō-ra rensho kishōmon«, in: *Tōji monjo*, ed. Tōkyō Daigaku Shiryō Hensanjo, Meitoku 4.09. xx, v. 11, 217-218. Editor hereafter abbreviated TDSH.

16 Kikuchi ikusa no koto, in: *Taiheiki*, ed. Hyōdō, vol. 5, 248-250, discussed in this volume by Conlan.

Most written oaths preserved as originals documented multiple parties mutually swearing to something in the present but relevant in the future, such as the location of a property's boundary, or membership in an organization. Oaths in diary-chronicles were more often one-sided and ephemeral, such as when a suspect swore innocence of a crime.¹⁷ Some were part of an official inquiry, while others were made to avoid a formal accusation. In both cases, those demanding and volunteering written oaths were trying to determine the truth, or at least *a* truth acceptable to all stakeholders. Rather than mandating future behavior, probatory oaths helped patch over breaches created by violations or confrontations.

The Public Experience of the Oath

Many oaths were as public and visible as the oath before the bathhouse of Tōji that opened this article. Most lacked the immediate temporal violence of injury by boiling water.¹⁸ Instead, the worldly cost might be confinement, waiting for the gods' verdict within a shrine or building. It might be the literal expense of obtaining sanctified paper on which to write. It might, at the most advantageous end of the scale, simply be the reputational cost of having put a statement in writing. All cases, however, entailed a special vulnerability to the divine for some span of time.

A ruler reassuring an underling of his sincerity could simply add an invocation to a letter: the significance of his position ensured that word would spread. When Ashikaga Yoshimitsu wrote to Shiba Yoshiyuki in Ōei 9 (1402) to assure him that Yoshimitsu did not intend to attack the Shiba, despite rumors to the contrary, a ritual expert visited to congratulate Shiba

17 Shimizu, *Nihon shinpanshi*, 236-247. Shimizu compiles a list of 87 incidents in which one type of oath (the *yugishō*, or hot water oath) was used during mid-Muromachi (1400-1570). He distinguishes between 1) inquiries wherein an investigator had suspects and/or witnesses write the oath (54 examples), and 2) two-party dispute resolutions, wherein both sides wrote oaths (33 examples). Of the criminal investigations, well over half of the 54 incidents are attested only in diary-chronicles (*kiroku*); almost all of the rest were copied by unusually rigorous record keepers at Tōji. By contrast, two-thirds of the two-party oaths survive as originals or officially authenticated copies. While hot water oaths are an unusual type of written oath, the disproportionate appearance of two-party dispute resolution in preserved originals versus criminal inquiries in diary-chronicles suggests the two types of sources capture different uses of oaths. Though I have not collected surviving *kishōmon* exhaustively for contrast, I have found a similar preponderance of investigative goals in the use of *all* types of written oaths mentioned in fifteenth-century diary-chronicles.

18 In Peter Brown's classic, *Society and the supernatural*, 307-317, he emphasizes the function of the ordeal in ending a dispute and healing the community. By contrast, oaths were used with less fanfare in investigations. As examined later in this article, written oaths in the Muromachi era (1336-1573) had the probatory finality of Brown's ordeals – establishing unquestionable facts – but what the parties chose to do with those facts remained up for discussion. They did not have the same finality of outcome as ordeals.

Yoshiyuki on this indication of safety. The expert noted that not only had Yoshimitsu sworn he had no lethal plans against the Shiba, but he had more importantly written the oath in his own hand.¹⁹ Yoshimitsu followed up this oath with an ostentatious visit to Shiba Yoshiyuki – for which Yoshimitsu provided the money for refreshments – to further highlight his generosity and goodwill.²⁰

Yoshimitsu had transferred the office of shogun to his son nine years earlier, but he retained both control of the government and the ability to give orders to the warrior governors (*shugo*) and their armies.²¹ Shiba Yoshiyuki, too, had retired from his post as shogunal chancellor (*kanrei*) and taken vows as a Buddhist lay monk, but he retained authority over his family. His son in turn held the office of shugo in three provinces. A few years earlier, in 1399, Shiba armies had been crucial to Yoshimitsu's victory against another powerful *shugo* family, the Ōuchi. This victory was a mere one year after Yoshimitsu had visited the head of the Ōuchi in a display of amity to quell rumors that Yoshimitsu planned to dispose of his *shugo* ally. Thus, while Yoshimitsu unquestionably had greater status and power than Shiba Yoshiyuki, Yoshimitsu did need to convince him not to (justifiably) panic and attempt rebellion.²²

The combination of divine invocation, writing, and public gesture was persuasive, with elements of both reassurance and coercion in each component.²³ The visit highlighted both Yoshimitsu's gift-giving and his inexorable physical access to Shiba Yoshiyuki, since they both lived in the capital. The writing bound Yoshimitsu to his word and reinforced the value of his handwriting. Finally, the invocation opened Yoshimitsu to the gods' wrath and increased the pressure – helpfully spelled out by the ritual expert in his visit – upon Shiba Yoshiyuki to believe him. The social, material, procedural, and sacral elements were entangled and mutually reinforcing.

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- 19 *Yoshida-ke hinami-ki*, Ōei 9.12.02 (更不被知食之旨及御誓言、剩被染御筆、仍無為之珍重也), suggested and transcribed by Horikawa Yasufumi, *pers. comm.*, 12 January 2020. Ashikaga Yoshimitsu did not swear never to move against the Shiba; he swore that he had no intent or was making no moves to do so: a promise in the form of a probatory oath. It should also be noted that the ritual specialist and author of this diary-chronicle entry, Yoshida Kaneatsu, enjoyed significant patronage from Yoshimitsu. Documentary note: this letter probably should not qualify as a *kishōmon* by the standards of modern diplomatics; Yoshimitsu is unlikely to have adhered to a format, and the diary-chronicle describes it as a spoken oath (*seigen*) written in his hand (*hitsu*), rather than a strict »written oath.« It was, however, an oath that was written and thus falls within the scope of this paper.
- 20 *Yoshida-ke hinami-ki*, Ōei 9.12.20 (今日御所入御右衛門督入道、是去七日被送遣一獻料足、万疋、彼身上事有荒説等之間、可有渡御之由被仰了).
- 21 For a brief political overview of events under Ashikaga Yoshimitsu, Yoshimochi, and Yoshinori, see Souyri, *The World Turned Upside Down*, 143-148. For a more detailed account of how Yoshimitsu wielded power, see Conlan, *From Sovereign to Symbol*, 171-186. For more detail on Yoshimochi's power, see Ishihara, Ashikaga Yoshimochi.
- 22 For the Ōuchi uprising (Ōei no Ran, in Ōei 6 [1399]), see »Ōeiki« in Tyler, *Iwashimizu Hachiman in War and Cult*, 107-130. Ashikaga Yoshimitsu's gestures toward Ōuchi Yoshihiro appear in *Yoshida-ke hinami-ki*, Ōei 5.07.23 and 07.26, transcribed by Horikawa Yasufumi, who generously shared his transcription and some of his analysis in *pers. comm.* 12 January 2020. The original is held in the central library of Tenri University.
- 23 Examples – like this – of people of high social status and significant power writing oaths to those with less are rare and generally carried a similar blend of concession and coercion. For an example by Ashikaga Takauji, Yoshimitsu's grandfather, in which he required a warrior to remain part of his army, see »#572: Ashikaga Takauji kishōmon-an«, in *Shimazu-ke monjo*, Jōwa 2 [1346]. Intercalary 9.14, ed. TDSH, vol. 1, 598-599, discussed in this volume by Conlan. For an earlier, translated example of an imperial lady disturbed by receiving a letter vowing love from her probably-highborn former lover, see Nakanoin Masatada no Musume, *Confessions of Lady Nijō*, trans. Brazell, 89-91, with thanks to Brian Steininger for suggesting it.

Just as a ruler could use a written oath to persuade his underling, so too could villagers use a written oath to persuade their overlords. When the people of Yano Estate faced bad harvests, they appealed to their landlord, Tōji, for a reduction in taxes. Representatives from the estate journeyed to Tōji in the capital, bearing a written oath attesting to their circumstances. There, they appealed to the governing council of Tōji for a greater reduction than the monks were initially inclined to give them: two times Tōji's original suggestion. The representatives argued that, having gone so far as to submit a written oath, they would find it difficult to accept a smaller reduction.²⁴ The temple's records do not specify exactly why the petitioners and the council considered the written oath such exceptional effort. The fact that the villagers were in the capital, standing before the Tōji council and refusing to leave empty-handed, surely had an impact, but Tōji records make no reference to travel, or to the number of representatives who had come, only to the presentation of the written oath. Most likely, the act of the oath itself was a risky one: every person who signed it and potentially all of their dependents had put themselves squarely within the sight of divine powers, vulnerable to divine punishment. By swearing successfully, they had enlisted on their side the very deities that the monks of Tōji honored.²⁵ The council delegated one of their number to negotiate with the representatives, accepting the Yano representatives' basic assertions but arguing about the significance of the fact that only part of the estate was directly impacted by flooding and bad harvests. They eventually split the difference in taxes.

Villagers who affirmatively chose to swear a collective oath about their own circumstances were in perhaps their strongest position. When a theft wracked an estate, the local notable could demand that everyone concerned gather at the local shrine to write out oaths, and absence might carry a strong whiff of guilt.²⁶ In many cases, there was some fact-finding beforehand, perhaps in the form of interviews, or gossip, or anonymous written accusations, to narrow down the pool of suspects and witnesses. In other cases, the net was wider, encompassing everyone in the area of a certain rank or age. Even the priests of the shrine where the oaths would be sworn were not immune to this pressure, though they might be in a stronger position to refuse and survive the consequent presumption of guilt. With everyone on shrine grounds and under the eye of investigators and deities, people wrote their oaths. Usually a hereditary shrine priest or priestess supervised, though they did not have to be directly tied to the location where the oaths were held. The oaths were marked by ceremony and often observed by interested members of the local community. If there were few enough oath-takers,

24 *Tōji nijūikku kusōkata hyōjō hikitsuke*, Eikyō 7.09.28, 11.21, 11.24, ed. Itō *et al.*, vol. 3, 117, 120-121.

25 This commonality between Tōji landlords and Yano peasants is Keirstead's argument in *Theater of protest*, 370-379, though he puts less emphasis on the inherent metaphysical danger of the oath.

26 The following description is a composite, drawn primarily from incidents in *Kanmon nikki* and *Tōji nijūikku kusōkata hyōjō hikitsuke*, as well as codification in Kamakura and Muromachi law. For examples, see Gosukō-in, *Kanmon nikki*, Eikyō 3.06.04-05 and Eikyō 8.05.19, ed. Kunaichō, vol. 3, 291; vol. 5, 268-269; *Tōji nijūikku kusōkata hyōjō hikitsuke*, Eikyō 7.02.07 and Eikyō 10.12.26, ed. Itō, *et al.*, vol. 3, 100-101, 238-239; 73. Kishōmon shitsu jōjō, in: *Chūsei hōsei shiryōshū*, ed. Satō and Ikeuchi, vol. 1 (*Kamakura bakufu hō*), 94-95; 319: Sakai sōron yugishō no koto, in: *ibid.*, vol. 2 (*Muromachi bakufu hō*), 276.

they could be confined on the grounds of the shrine for three or seven days, or a maximum of two weeks. Larger groups might return home, but they would remain vulnerable and visible to each other for up to two weeks as everyone awaited the outcome of the oaths. Observers awaited signs of failure (*shitsu*), which were primarily negative bodily changes after swearing an oath and could include falling ill, bleeding, or choking.²⁷ These are a reminder that swearing an oath was a dangerous thing, even without direct involvement of physical pain in the process. The gods could kill, and if they did not, developing a fever at an inopportune moment could condemn a suspect.

The greater the power of those making accusations, the higher the status of those they could force to swear an oath. An imperial prince of a disinherited branch, Sadafusa (1372-1456), lived on his Fushimi Estate just outside the capital, where he recorded the details of many oaths, both those in which he was embroiled and those that he observed. A prince and estate proprietor with strong social ties to the capital, he was also an active observer of life in the villages of Fushimi. He lacked significant wealth and authority outside the estate, however, and thus failed to force an antagonistic local warrior family on his estate but backed by powerful allies in the capital, to swear the oaths he demanded. By contrast, the shogun Ashikaga Yoshinori, in his fourth year as ruler and grown into his power, forced aristocrats of the third and fifth ranks to swear oaths and remain confined under monitoring for first three, then another seven days.

Hot water oaths (*yugishō*) like the one that began this article were not significantly different in circumstances from other oaths. Like other probatory oaths, they often happened in reaction to thefts or other crimes that angered an authority. Investigation or community consensus determined who would have to swear the hot water oath, though authorities seem to have been more particular about narrowing down the pool. All surviving records of hot water oaths document small numbers of oath-takers: usually one or two, and no more than six, in contrast to the population-wide sweep of some less painful probatory oaths.²⁸ When two villages feuded, an irritated arbiter could suggest that they each select a representative to swear a hot water oath, a threat that often drove the villages to greater compromise. Both circumstances – the limited use in criminal investigation and its role as a goad to compromise in negotiations – suggest that hot water oaths were uniquely frightening, above and beyond the fear of making oneself vulnerable to the gods. The tangible threat of scalding water had its impact, even when the form and purpose were otherwise the same as other oaths.

Like other oaths, hot water oaths were marked by ceremony and supervised by priests or priestesses. The signs of failure for a hot water oath were rapid and straightforward: burns or scalds, especially infected ones. These could take a few days to appear, but seldom more than three, and the verdict was often clear the same day. Calculating from surviving references, about half of those subject to hot water oaths went free, even when authorities emphatically suspected them and wanted someone to blame. In a world in which torture was a valid tool of investigation, hot water oaths were a mixed blessing: a painful and terrifying experience on both a sacred and worldly level, but also a shield against the anger of the powerful.

27 73. Kishōmon *shitsu jōjō*, in: *Chūsei hōsei shiryōshū*, ed. Satō and Ikeuchi, vol. 1, 94-95. See also Shimizu, *Nihon shinpanshi*, 17-20. The character for *shitsu* (失) is a flexible one meaning mistake, loss, or failure. It is clearly negative, but lacks a sense of intentional error.

28 Shimizu, *Nihon shinpanshi*, 236-246.

Written Oaths and Status Distinctions

Diary-chroniclers were exquisitely aware of status distinctions, and their descriptions of the circumstances surrounding different types of written oaths highlight the flexibility that oaths had to accommodate disparate statuses, as in the late medieval towns discussed by Olivier Richard in this volume. A ruler addressing a subordinate could append an invocation to an otherwise normal letter, while a noble could obtain sacred paper from a powerful shrine and write the oath upon that for added force. Commoners faced with the wrath of a shogun or landlord could ingest their oaths or perform a more painful hot water oath, putting not only their handwriting but their bodies visibly in jeopardy to prove their truthfulness.

The fifteenth century saw a sharp spike in hot water oaths.²⁹ Most of those permitted or compelled to take such oaths were of lower status: no courtier highly ranked enough to meet the emperor, for example, took a hot water oath. These oath-takers were not without status, however: very low-ranked courtiers, monks who headed small temples, village representatives, capital merchants, and retainers of powerful *shugo* were all subject to such oaths if the case was serious enough.³⁰ Courtly writers referred to villagers (*hyakushō*) or those below courtiers (*jigenin*) writing hot water oaths, but even the most observant among them seldom noted status distinctions within villages, so it is difficult to be certain whether »writing« a hot water oath required more than just inking one's assent. Unfortunately, hot water oaths were often destroyed in the process of using them.³¹ Very few originals survive: most are attested only in reference or copy, making it impossible to evaluate the original handwriting.

A body of oaths written by rural commoners do survive as original documents, however: collective oaths swearing to join a village, estate, or family coalition, or confirming agreement to a multi-party settlement. A number of these multi-party originals have signatures in different hands from that of the main text of the oath, suggesting that oath-takers perhaps needed only to sign for the oath to be valid and the power of writing to take hold.³² Some

29 Shimizu, *Nihon shinpanshi*, 2-6, 48-49.

30 For a list of *yugishō* between 1400-1600, see Shimizu, *Nihon shinpanshi*, 236-247. See also Chijiwa, Daishi kanjō kishōmon, 170-174 for an example of sharp status distinction between members of the Yotsutsuji family (third and fifth rank courtiers) and their retainers and intimates (*aosamurai* and *nakama*): the former swore *daishi kanjō kishōmon* (without immediate physical pain) and the latter swore *yugishō*. This incident is discussed in greater detail later in this article.

31 Gosukō-in, *Kanmon nikki*, Eikyō 3.06.07 and Eikyō 8.05.19 (includes significant detail about the process), ed. Kunaichō, vol. 3, 292; vol. 5, 268-269.

32 For an example of multiple signatures (on the left), see the Eiroku 6 Kishōmon translated and further discussed in this volume by Horikawa. It was signed not only by a disputing family, but also possibly by those mediating the conflict. Available at Kishōmon 2. Eiroku 6 (1563), arks.princeton.edu/ark:/88435/n009w555s, retrieved from Princeton University East Asian Library Rare Books on 31 October 2020.

villager coalition oaths were even signed with simple x's and circles, suggesting that several participants might not even have been literate enough to write their own names.³³ Thus, while one might assume that only the literate could swear written oaths, people who were, if not illiterate, certainly not fully literate did sign oaths that have been preserved in their original form. It is thus reasonable to assume that such people may have signed probatory oaths that were disposed of in the process of investigation. Most likely, hot water oaths applied to those below the level of high court nobility (aristocrats of the fifth rank or above, *shugo* warrior lords, or comparable religious officials) but with some status within their community: such oaths were painful but useful leverage.³⁴

At the other end of the scale of pain and effort, when a powerful person transformed an otherwise ordinary letter into an oath by adding an invocation clause, the value of their writing in itself was great enough to give force to the oath. Yet both an imperial prince and a villager accused of theft »wrote« their oaths, in the words of contemporary observers, which emphasizes the continuity that lay between them. Written oaths in medieval Japan thus existed on a spectrum of severity that relied simultaneously on social and divine sanction. The heightened value placed upon writing in one's own hand as an act of truth gave well-educated – usually higher-status – individuals preferential access to proof without pain.³⁵ Less extreme rituals, such as the burning and consumption of an oath or the use of consecrated paper to increase the presence of deities, were options midway between the ease of a letter and the pain of hot water. The expectation that a false oath would result in damage to the body, such as illness or nosebleeds, also extended physical risk to those of the highest status in the case of falsehood.

Relative status was not static and sometimes depended on the seriousness of the charge. In Ōei 25 [1418], rumors began to circulate that a palace lady (*naishi*) had become pregnant at a drinking party in Fushimi, the home estate of Prince Sadafusa and a popular spot for short trips away from the capital. The matter escalated over the course of weeks: while at first only the emperor was upset, the shogun eventually became involved in trying to discover the truth. Not only Sadafusa himself, but also several of his closest retainers – including a former high minister and the head of the Fushimi temple where the lady was supposed to have gone for retreat – sent blunt oaths to the shogun attesting that they had not attended a party with the lady, nor even interacted with her.³⁶

33 Several examples are available from the Kyōto furitsu Kyōtogaku [Kyoto Prefectural Library]'s online Tōji Hyakugo Archives. See »Hōshōgon'in terabe satanin hyakushō-ra rensho kishōmon,« box *ke*, item 45 (Bunna 4 [1355].10.19), hyakugo.pref.kyoto.lg.jp/contents/detail.php?id=10908; »Wakasa-kuni Tara-shō daikan kenka-ra rensho kishōmon,« box *shi*, item 90 (Ōei 22 [1415].11.21), hyakugo.pref.kyoto.lg.jp/contents/detail.php?id=27208; »Yamashiro-kuni Kamkikuze-shō Inoue Ujijoshi-ra rensho kishōmon,« box *wo*, item 163 (Kakitsu 2 [1442].07.08), hyakugo.pref.kyoto.lg.jp/contents/detail.php?id=20612, retrieved from The Hyakugo Archives WEB on 31 October 2020. The monogram signatures in the last example range from simple bisected circles to sophisticated characters.

34 Shimizu, *Nihon shinpanshi*, 110-141.

35 Creamer, *Imperial Scribal Network*, 153-174. Creamer emphasizes the social value of Prince Sadafusa's handwriting throughout, but in this section (»Truth is in the Hand«), he extends the idea, showing how writing added probative value to the statements of others faced with accusations as well; Shimizu, *Nihon shinpanshi*, 101-103.

36 For the events, see Gosukō-in, *Kanmon nikki*, Ōei 25.07.02, 25.07.11, 25.07.14-22, ed. Kunaichō, vol. 1, 214-222. For a summary in English, see Creamer, *Imperial Scribal Network*, 158-162. Note that Creamer used the *Gunsho ruijū* version of the *Kanmon nikki*, while I use the more recent Kunaichō version cited above. There are occasional differences.

Prince Sadafusa wrote his initial denial as a letter with an invocation clause, enclosed with the sworn statements of his retainers. The shogun – not the emperor – was handling the investigation, and Sadafusa was communicating directly with Jōsō, the shogun’s trusted intermediary, who had retired from his court rank and his office as the shogun’s tutor but held greater influence than when he had been tutor. Sadafusa’s letter might reach the shogun, but it was not addressed directly to him. Later, in response to Jōsō’s advice and on the understanding that the shogun wished it, Sadafusa obtained an ox-king talisman (*goō hōin*) from Kitano Shrine in Kyoto to write a new, more formal oath denying the accusation. The new oath was not addressed directly to anyone, though Sadafusa expected the shogun to see it. This oath satisfied the shogun.³⁷ The exact choice of oath level thus becomes a complex negotiation of factors: the status of writer and recipient, the severity of the accusation, and ultimately the likelihood of recipient disbelieving oath-writer and the dangers that could follow such disbelief.

Subject of Investigation: Adultery

Adultery – or unspecified misbehavior with women – was not an unusual reason to demand oaths. Policy regarding rape and adultery changed over the course of the Muromachi era, until in the end a man was permitted to kill anyone for sleeping with or raping his wife as long as they were inside his house.³⁸ While this had deadly implications for women, it also weaponized sex against other men. In the above incident concerning Prince Sadafusa in 1418, the accusation of adultery roused the emperor’s fury and gained force in rumor because the emperor had no heir and was periodically ill. Sadafusa, by contrast, was healthy and married to a woman who had already given him a daughter and would bear a son the next year. He was also descended from a deposed emperor. Sadafusa was quiet but persistent in his view that the throne should revert to Sadafusa’s line if his cousin Emperor Shōkō (r. 1412-1428) died without issue.³⁹ He finally succeeded in having his son placed on the imperial throne a decade later. The subject of Sadafusa’s relationship with one of the palace ladies, who could bear heirs to the emperor, thus became a flash-point, and adroit use of written oaths proved necessary to quiet suspicions.

In Prince Sadafusa’s case, the shogun wanted to minimize the disruption caused by the accusation of adultery, but in other cases disruption proved a potent weapon for the powerful to wield against men whom they could not otherwise target. The years 1428-1429 saw the elevation of both a new shogun and a new emperor, neither of whom were their predecessor’s sons or obvious heirs. The new shogun’s predecessor (and elder brother) did not name an heir, instead leaving the selection between his four surviving brothers to a sacred lottery drawn at a powerful shrine-temple in the capital. Ashikaga Yoshinori took pride in

37 Gosukō-in, *Kanmon nikki*, Ōei 25.07.14-17, 07.22, ed. Kunaichō, vol. 1, 219-222.

38 Tonomura, Sexual violence against women, 135-152.

39 Creamer, *Imperial Scribal Network*, 22-24.

ascending due to divine choice, but he had spent most of his life as the head of a Buddhist temple, and ambitious figures – including warrior governors (*shugo*), imperial aristocrats, major religious institutions, and even wealthy merchants – jockeyed for power during the rocky transition. That same year, the retired emperor⁴⁰ adopted Prince Sadafusa's son as his heir after the death of his own son, who was the emperor. He probably did so under pressure from the newly-empowered Yoshinori, with whom Sadafusa had a cordial, if distant, relationship. Yoshinori had, for example, visited Sadafusa's Fushimi estate several times to enjoy theatrical performances with him long before anyone realized he might become shogun.⁴¹

Retired Emperor Go-Komatsu's⁴² relationships with both Sadafusa and Yoshinori were, by contrast, distinctly frosty. When one of Yoshinori's close friends and aristocratic allies, Sanjō Sanemasa, allegedly impregnated one of Go-Komatsu's ladies – specifically a lady of the Hino family, which had supplied wives as well as ladies-in-waiting for both emperors and shoguns – Go-Komatsu seized the opportunity. He sent a trusted messenger to the new shogun to demand severe consequences.⁴³ The shogun refused to do anything beyond removing Sanjō from guard duty at the palace, citing the recent pardon of another courtier for the same offense.⁴⁴

Go-Komatsu therefore drafted an oath that he wanted everyone – from imperial princes through any courtier of rank down to the doctors and prognosticators – to write. The oath specified that any incidents of crimes with women (*nyoban*) in the palace or retired emperor's residence should be strictly punished with banishment and/or seizure of property and privileges, regardless of the social status of the accused. Sadafusa was uneasy about the demand, particularly since some of his own retainers who had been caught up in the 1418 incident still had occasional guard duty at the palace and might get entangled in future incidents.⁴⁵ The entire project seems to have been an ostentatious exercise of Go-Komatsu's power as retired emperor and senior living member of the imperial family, while Sanjō suffered no significant penalty and eventually reached high ministerial rank.

40 The classic treatment of retired emperors as the dominant figures in the Japanese imperial court is Hurst, *Insei*. For later developments in the role of retired emperors, see Conlan, *From Sovereign to Symbol*, 32-35. Even after the Heian era, while the imperial court increasingly shared power with the Kamakura and Muromachi shogunates, the retired emperor remained the dominant figure within the imperial family, more influential than the emperor himself.

41 See Gosukō-in, *Kanmon nikki*, Ōei 27.03.09, ed. Kunaichō, vol. 2, 25 for one example.

42 Go-Komatsu (1377-1433) reigned as emperor around the turn of the fifteenth century (1382-1412), but he dominated the imperial court until his death. After resigning the throne in favor of his son, who became Emperor Shōkō, Go-Komatsu exerted authority as an *in*, or retired emperor. Though vulnerable to the monetary and martial power of the Ashikaga shoguns, Go-Komatsu's moral and social power waned only at the end of his life, after his son died without an heir and Go-Komatsu had no choice but to adopt a member from another line of the imperial family as his successor.

43 Gosukō-in, *Kanmon nikki*, Eikyō 2.05.11, ed. Kunaichō, vol. 3, 197-198.

44 Madenokōji, *Kennaiki*, Eikyō 1.03.29, ed. TDSH, vol. 2, 27; Nakayama, *Sakkaiki*, Eikyō 2.04.23, ed. TDSH, vol. 4, 256. The pardoned courtier was Tōin Sanehiro, who had been censured and dismissed from office in Eikyō 1 [1429] for an affair with one of the retired emperor's ladies (of the Wake family). He was restored to court rank and guard service within the imperial palace sometime before Eikyō 2 [1430].04.22, when he appeared on a duty roster. How this happened is unclear.

45 Yokoi, *Kanmon gyōki*, 254-256.

The shogun held a grudge, however. Rumors arose in 1432 that Go-Komatsu's messenger, Yotsutsuji Sueyasu, who had delivered that accusation two years before, had committed adultery (*mittsū*) with one of the retired emperor's ladies.⁴⁶ Perhaps Yoshinori felt strongly about the lady's honor: she was likely the blood sister of one of his own messengers, and Yoshinori learned of the matter through one of his ladies. More likely, however, he saw a chance to punish Go-Komatsu for having used the accusations of adultery two years earlier.⁴⁷ As was Yoshinori's custom, he exploited a crack in the Yotsutsuji family and used Sueyasu's nephew to make the accusation that several of Sueyasu's attendants and intimates had told him that Sueyasu had committed the crime. When the retired emperor tried to brush the matter aside, Yoshinori pointedly noted that such acts were »great crimes,« in Go-Komatsu's words, and insisted on elaborate written oaths. He sent two of his official messengers to supervise and would have sent a third, but the man objected that he was too senior for criminal fact-finding; Yoshinori substituted another high-ranked courtier with strong shogunal ties.⁴⁸

Initially, Yotsutsuji Sueyasu, a third-rank aristocrat, and his nephew, a fifth-rank one, wrote ordinary oaths, while Sueyasu's attendants wrote hot water oaths: a direct demonstration of the importance of status. The results were inconclusive; no one suffered any signs of failure, but the shogun refused to leave the matter. Two months later, he demanded that the Yotsutsuji men swear »Daishi Kanjō« oaths, a form particularly associated with Mount Hiei, where Ashikaga Yoshinori had served as head monk before returning to lay life and taking the shogun's office.⁴⁹ They were confined for three days to a single temple building, monitored for signs of failure, and guarded by an official court-shogunate messenger, who was too highly ranked for such menial duty. The Yotsutsuji uncle and nephew again came out clean, but Sueyasu's attendants had fled, so the shogun ordered the Yotsutsuji to confine themselves for a further seven days in the messenger's home.⁵⁰ Three days was normally the maximum time to confine a courtier for monitoring, so adding seven more was more punitive than investigative; as courtiers, uncle and nephew at least escaped the pain of the hot water oath. Their attendants might have feared another hot water oath or seen no good outcome for themselves in this battle of he-said, he-said. Finally, in the last days of Sueyasu's confinement, Go-Komatsu sought and received permission from the shogun to pardon both Sueyasu and his nephew. The record is smudged, so it is difficult to be certain, but Go-Komatsu seems to have acknowledged that some inauspicious sign for Sueyasu had appeared, giving Yoshinori the appearance of rectitude.

46 Gosukō-in, *Kanmon nikki*, Eikyō 4.08.06, ed. Kunaichō, vol. 4, 81-82.

47 Chijiwa, Daishi kanjō kishōmon, 170-174.

48 Gosukō-in, *Kanmon nikki*, Eikyō 4.08.15, ed. Kunaichō, vol. 4, 84-85.

49 Chijiwa, Daishi kanjō kishōmon, 175-177.

50 Gosukō-in, *Kanmon nikki*, Eikyō 4.10.11, 10.14, ed. Kunaichō, vol. 4, 102-104.

The incident shows the tensions involved in trying to wield the power of written oaths, especially as it interacted with the more blunt power of physical force. A successful oath meant that even the shogun could not demand someone be punished for a crime. It did not, however, necessarily save oath writers from being required to swear again, if an authority was willing to expend enough effort, and this shogun was. The demand for oaths became a genteel imprisonment, as the capital waited for one of the Yotsutsuji men to slip. Such action was deeply irregular, however. Sadafusa described Ashikaga Yoshinori's abrupt demand for a second, harsher oath, guarded for days by the official court-shogunate messenger, as »unheard of,« though exactly which element he objected to is ambiguous.⁵¹ Perhaps this defiance of custom – not only forcing Sueyasu to swear again, but keeping him imprisoned by his fellow courtiers while doing so – helped to protect Yotsutsuji Sueyasu when the retired emperor sought a compromise. Misuse of written oaths had not given the shogun leverage to banish or kill.

Yoshinori was not the only shogun to use accusations of misconduct with women as a political weapon, though he was the first to do it so obviously and unilaterally. Ashikaga Yoshimochi was more circumspect than his younger brother (and successor), so when he faced a politically-motivated accusation in Ōei 34 [1427] that his friend and close retainer had committed some heinous misdeed with a woman, Yoshimochi did not defend him. He refused even to allow his friend to write an oath declaring his innocence. The friend had become a political liability, and his death would solve a number of problems; the alleged act itself, though never recorded, also seems to have been infuriating. Had the accused successfully sworn a denial, Yoshimochi would have had to accept it. Instead, he *himself* swore an oath that he would never speak to his friend again, to forestall reconsideration. He claimed that the accuser, the respected Lady Takahashi, dowager concubine of his father Yoshimitsu, had already done all necessary investigation and that his one-time friend would only incur the deities' wrath if he tried to write a false oath of denial. Yoshimochi demanded the accused commit immediate suicide.⁵² The sacred power of oaths was respected, and the inconvenient friend who was not permitted to use that power died.

51 *Gosukō-in, Kanmon nikki*, Eikyō 4.10.11, ed. Kunaichō, vol. 4, 102-103.

52 *Manzei, Mansai jugō nikki*, Ōei 34.11.11-13, ed. Hanawa, vol. 1, 459-461.

The Finality of Oaths

Oaths, when no powerful and mercurial figure was doing something outrageous, had a sense of finality. Yoshimochi used an oath to bolster his resolve in 1427, but it also provided final answers in more mundane, less politically-charged cases within Kyoto and on estates. Theft was a problem that diarist-chroniclers faced regularly, as some of the wealthier members of their society, and Sadafusa in particular, watched the handling of such cases with interest.

One theft accusation recorded by Sadafusa in the sixth month of Eikyō 3 [1431] involved multiple hot water oaths written two days in a row. Both the main suspect, Uchimoto Hyōgo, and his three brothers were required to give testimony, due to some local animosity that Sadafusa as an outsider did not know in detail. The first day resulted in no signs of failure. On the second day, however, all four were forced to take another hot water oath, and this time one came away with burns on his hand and was arrested. Another fled, and the final two, including Hyōgo, took successful oaths without any sign of failure and were returned to their village.⁵³ Ironically, Hyōgo was forced to leave his home and killed a month later in another village for stealing a sword, an outcome Sadafusa regarded as vindication: he had not believed in Hyōgo's innocence, though he accepted the outcome of the oaths.⁵⁴

Sadafusa himself was an observer here, not an investigator, for all his strong opinions, and his observations suggest a few notes about the judicial use of oaths. First, being forced to repeat an oath immediately, as Hyōgo and his brothers were, was not unprecedented, though it was rare. Part of the shock of Yoshinori's behavior toward Sueyasu may have been the long gap in time between the initial, successful oath and Yoshinori's subsequent, more extreme demand. Nonetheless, repetitions were not unlimited: Hyōgo went free after his second successful oath, though Sadafusa was not the only one skeptical of his innocence. This was partly because Hyōgo's brother had failed his oath and thereby provided a culprit, but there were implicit limits on how many times suspicious investigators could demand a hot water oath from the same man. Second, a successful written oath spared Hyōgo direct punishment, but it did not clear his name entirely: he left his village and died some distance away. He might have been more vulnerable there to the charge of theft either because he was a stranger or because word had reached them of the earlier accusation. Finally, even those of relatively high local status were subject to hot water oaths. Sadafusa noted the suspects' names and professions in his record: Hyōgo's brothers Zen'yū and Sukeroku both served within his Fushimi mansion, and the final brother was a monk of Kōdaiji, named Toshii.⁵⁵ All three were more deeply embedded in the Fushimi Estate than their brother but were still subject to the same hot water oath, which could condemn or exonerate.

53 Gosukō-in, *Kanmon nikki*, Eikyō 3.06.04-05, ed. Kunaichō, vol. 3, 291.

54 Gosukō-in, *Kanmon nikki*, Eikyō 3.07.14, ed. Kunaichō, vol. 3, 301; for a summary of the entire affair, see Yokoi, *Kanmon gyoki*, 286-287.

55 Gosukō-in, *Kanmon nikki*, Eikyō 3.06.04, ed. Kunaichō, vol. 3, 291. For other examples of seeking thieves via hot water oaths on Fushimi Estate, see also *ibid.*, Eikyō 8 [1436].11.02, 11.23, in vol. 5, 327-328, 333, when they attempted unsuccessfully to find a statue of Fudō stolen from a local temple, and *ibid.*, Eikyō 9 [1437].06.05, 07.22, vol. 5, 51-52, 62, when witnesses swore hot water oaths, after which a man accused of theft and his servant fled, leaving behind his wife and a home that was seized by the authorities.

Hot water oaths were only one kind of oath used in theft investigations. At the end of Ōei 25 [1418], for example, thieves invaded a storehouse at Sadafusa's father's mortuary temple. Luckily or perhaps prudently, they did not penetrate the treasure house. An irritated Sadafusa grumbled that not a single thief was caught and the temple's residents did not even seem to notice. Two days after the attack, the people of the estate gathered at the central shrine of Fushimi to write out sworn statements (*kōmon*) regarding the theft. None of their oaths resulted in signs of failure. Though Sadafusa was frustrated, he accepted the verdict of the oaths.⁵⁶

Oaths justified action as well as inaction. At the end of the fifth month of Ōei 24 [1417], Prince Sadafusa learned that a group of thieves had broken into one of his favorite small temples, Sokujōin, and made off with the prince's fine clothing. The theft seemed to have involved inside help, so members of the community were brought to the main Fushimi shrine and required to write out oaths attesting to their ignorance of the affair. Investigators moved quickly: many unnamed, lower-ranking individuals, including aristocratic attendants, monks, and local residents wrote their oaths mere days after the theft. Eleven days later, they determined that the culprit was one Sōgi Saburō, a younger son of a minor family living on Fushimi Estate, in service to the powerful Hatakeyama warrior clan. Sadafusa demanded that Saburō's elder brother have Saburō detained, to which the brother responded that Saburō's location was unknown. The search for Saburō's accomplices continued, and Sadafusa repeatedly requested the shogunate help him settle the matter, but nothing came of it. Finally, Sadafusa sent his people to burn down the Sōgi family home.⁵⁷

Sadafusa faced demands from the Hatakeyama and their allies that his retainers be punished for destroying the Sōgi home. The head of the Hatakeyama family was not then the shogunal chancellor, second-ranking official of the shogunate, but he had held the post five years earlier and would resume it less than five years later. The Hatakeyama were influential, but their demands that Sadafusa be punished ultimately came to nothing. The crime was resolved with the burning of the Sōgi house, which the shogunate accepted in lieu of imposing its own punishment upon the criminal. Though the Sōgi family were hereditary heads of the very shrine where witnesses wrote oaths accusing Sōgi Saburō, they did not or could not derail the process or write their own oaths claiming innocence. The oaths became part of the evidentiary record with which Sadafusa first appealed and then justified his actions to the shogunate, as well as the wider community. While Sadafusa's relations with the Sōgi and Hatakeyama thereafter remained cool, they never spiraled to destruction. Over a year later, when the Sōgi attempted to demand that Sadafusa rebuild their house for them, they found no traction, though neither did Sadafusa succeed in demanding the personal subordination of the head of the Sōgi family to his authority.⁵⁸ The Sōgi continued to participate in important ceremonies on the estate in later years, and the Hatakeyama never used their greater access to fighting men to attack Sadafusa directly. While relations between the Sōgi and Sadafusa in the future remained up for discussion, the oaths had established the fact of Sōgi culpability in the theft as a factor to be taken into consideration.

56 Gosukō-in, *Kanmon nikki*, Ōei 25.12.04-06, ed. Kunaichō, vol. 1, 246-247. For another set of regular oaths at the shrine regarding an administrative dispute, see *ibid.*, Eikyō 5 [1433].10.13, vol. 4, 231-232.

57 Gosukō-in, *Kanmon nikki*, Ōei 24.05.27, 06.02, 06.13-18, ed. Kunaichō, vol. 1, 129-134; for a summary in English, see Creamer, *Imperial Scribal Network*, 162-163. The Hatakeyama family was one of only three families that could provide candidates for the second-highest position in the Ashikaga shogunate. The others were the Shiba (who received the reassuring oath from Ashikaga Yoshimitsu earlier in this article) and the Hosokawa.

58 Gosukō-in, *Kanmon nikki*, Ōei 25.09.08-15, ed. Kunaichō, vol. 1, 233-236.

Conclusion

Written oaths provided a concrete way of attesting to someone's sincerity, or of putting a decisive stamp upon a decision. They worked in high-profile cases – courtiers defending themselves against a shogun's accusations – because common villagers could also use them to defend against courtiers' accusations: i.e., written oaths were widely acknowledged as useful to anyone trying to resolve a dispute. Written oaths were valuable enough that even someone who privately doubted oaths in a few contexts would easily rely upon their fact-finding power in others: isolated failures could not overcome all the other reasons to believe in them.

Oaths reached out across status distinctions, simultaneously reinforcing separation by providing different forms determined by the status of the oath-taker and smoothing the disjuncture by providing an overarching act in which those of many statuses could participate. Satō Shin'ichi, discussing written oaths as a documentary form, argues that swearing out a statement enhanced the credibility and persuasive power of the words, and every speaker-writer willing to put themselves at the mercy of gods and buddhas had access to that power.⁵⁹ Like other tools of persuasion, oaths did not redound unambiguously to the benefit of anyone. They could be a goad to collective action; they could also permit individuals to challenge a collective decision. They could protect the weak against wild accusations; they could also allow the strong to torment their victims with the pretext of a fact-finding process. Everyone might have potential access to the power of a written oath, but those with education and money could exercise that power far more easily. Written oaths, supervised and interpreted by those who served deities, gave gods and buddhas space to act in the world; they also gave laypeople access to deities that could be used against those who served them. In their use of both writing and divine invocation, the sacred and pragmatic were intimately entwined in Muromachi written oaths. Oaths guaranteed truth not only because deities were present at their writing, but also because they strengthened the connection between words and physical reality: a statement inked onto paper, drunk into the body, or scalded onto the skin. Written oaths seldom promised a specific outcome, but they established a basis upon which everyone could move forward.

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59 Satō Shin'ichi, *Komonjogaku nyūmon*, 230-232.

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