FIELDS AND ARMOR: A COMPARATIVE ANALYSIS OF
ENGLISH FEUDALISM AND JAPANESE HOKENSEI

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*Fields and Armor* is a comparative study of English feudalism from the Norman Conquest until the reign of King Henry II (1154-1189) and Japan’s first military government, the Kamakura Bakufu (1185-1333). This thesis was designed to examine the validity of a European-Japanese comparison. Such comparisons have been attempted in the past. However, many historians on both sides of the equation have levied some serious criticism against these endeavors. In light of these valid criticisms, this thesis has been a comparison of medieval English government and that of the Kamakura-Samurai, because of a variety of geographic, cultural and social similarities that existed in both regions. These similarities include similar military organizations and parallel developments, which resulted in the formation of two of most centralized military governments in either Western Europe or East Asia, and finally, the presence and real enforcement of two forms of unitary inheritance in both locales.
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CHAPTER 1

INTRODUCTION

“Feudalism” is an obscure term that appears in the historians’ lexicon in both Western Europe and Japan. The use of this single word to describe all aspects of society that existed to in Western Europe from the eleventh until the fifteenth century is highly problematic, because there is no standard definition for this term. Likewise, the same term, “feudalism” has been used to describe Japanese society as it existed from the twelfth century until the mid-nineteenth century. Furthermore, Japanese medievalists also encounter the same problems as their European counterparts due to this loaded term’s lack of a widely accepted definition.

Historiography

Reginald Allen Brown, John Beeler, and Philippe Contamine have described Western European feudal society as a purely military system where an agrarian economy supported a class of professional cavalrymen, who held their lands from high-ranking lords and kings in exchange for service on the battlefield. These high-ranking soldiers enjoyed both political power and wealth, because of their social status, which was based on their family lineage. These warrior-nobles fortified their holdings using residential fortifications known as castles.¹ Others such as Susan Reynolds, Marc Bloch, and F.L. Ganshof have described feudalism as a socio-political organization governed by a complex hierarchy of personal relationships that also entailed various degrees of dependence at all levels of society.² Frederick William Maitland,


George Caspar Homans, and Bryce Lyon have viewed feudalism through judicial and legal lenses, highlighting the large institutions of both land tenure and feudal justice that have been observed in Western European feudalism and its Anglo-Norman counterpart.3

Historians of medieval Japan can also be divided into similar groups based on this flexible definition of the term, “feudalism.” Karl F. Friday, Thomas D. Conlan, and William Wayne Farris have examined medieval Japanese society from a purely military perspective, citing the existence of landed professional cavalry and the eventual development of residential fortifications, which are similar to European castles in the 17th century, within the Samurai’s military organization.4 Ikegami Eiko and Paul Varley have discussed the personal relationships the governed the Japanese ie or “warrior-house.”5 Lastly Jeffrey P. Mass, Carl Steenstrup, and Mikael S. Adolphson have focused their efforts on discussions pertaining to the political and legal developments of Samurai society, placing special emphasis on judicial procedure, land tenure, and the ruling classes.6


Problems in European-Japanese Comparative Studies

While the majority of medievalists can agree on the military nature of feudal societies based on the various similarities previously discussed, comparative studies based on Western European and Japanese warrior-societies have generated copious amounts of controversy. Some historians have greeted these comparisons with an open mind, and are more than willing to take part in these cross-cultural dialogues, not all historians have received these comparisons quite so graciously. For example, John Whitney Hall has accused comparative historians, who have sought to compare medieval Europe with Samurai Japan, of being far too general in the characteristics of the societies that are examined in each of these comparative endeavors.

Although many would cite the vast amount of cultural diversity throughout the world as a major obstacle that diminishes the utility of these sorts of studies to the academic community, the major problem, which confronts comparative medieval historians who engage in these cross-cultural endeavors, is the lack of a standard definition for the term “feudalism.” This is the largest problem that Japanese medievalists such as John Whitney Hall find in these comparisons.

While Hall has chastised the comparative historians for taking an approach which is, in his view, either far too broad or far too narrow to be of any real utility to either the Japanese medievalists or his counterparts in the West, his major problem with European-Japanese comparative studies are the use of the supposedly indefinable word “feudalism” within European,

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American, and Japanese historical circles.\textsuperscript{9} Hall has levied some valid criticisms against those historians who wish to illuminate the universality of feudalism as a worldwide societal phenomenon and stage of societal development. Historians, particularly those who ascribe to the Marxist view of history, are at fault here. At the same time, he has also asked a very valuable and pertinent question to another group of comparative historians who also wish to make comparisons between medieval Europe and its Japanese counterpart. That question is, “has Japanese society at any time in its history exemplified a pattern of social development, which along with that of Europe may be properly labeled as “feudal”?”\textsuperscript{10}

It is this question that has motivated the creation of this thesis. However, previous studies that have grappled with this question have one major flaw in their methodologies. The problem is that these previous comparisons have attempted to enumerate similarities between the nation of Japan and the whole of Western Europe. Although European medievalists use the words “feudal” and “feudalism” to describe an overarching societal concept that was assigned the Middle Ages by 18th-century historians, this is a far too simplistic view. Western Europe is a conglomerate of many different countries, and each country has been influenced by its own linguistic, legal and cultural traditions. These influences also were at work on the European continent during medieval times. Therefore, to compare the entirety of Europe to the islands of Japan at any time, medieval or otherwise is to deny these locales their own unique cultural identities.

Although, it has been previously stated that the purpose of this comparative study is to test the validity of applying the term “feudal” to the realm of Japan, by making comparisons between military, legal, and judicial structures present in European warrior governments and its

\textsuperscript{9} Hall, “Feudalism in Japan: A Reassessment,” 16-20.

\textsuperscript{10} Hall, “Feudalism in Japan: A Reassessment,” 20.
Samurai-counterpart, this comparison will only involve two regions. Due to their geographic, cultural, and social similarities, Japanese society as it existed under the Kamakura Bakufu or “tent-government,” which held increasing levels of political and military power throughout the Japanese islands from its establishment in 1185 until its collapse in 1333 will be compared with English society as it developed under the Anglo-Norman and later the Angevin monarchs who, like the Kamakura shogun, ruled England with steadily increasing powers from 1066 until 1194.

Geographical, Cultural, and Social Similarities

When examining English and Japanese culture, the observer may be hard pressed to see any similarities between these two peoples. For instance, these societies are based on totally different cultural precepts and foundations. The Japanese have inherited their written language as well as some of their social mores from mainland China. The same can be said of Japanese religion, excluding the native religion of Shinto, while England has been impacted by Judeo-Christian ethics, as well as Greco-Roman learning. Despite the fact that on the surface these two cultures appear to have absolutely nothing in common, there are some similarities which have impacted the governmental styles of both regions.

First among these is the most obvious. Both England and Japan are islands. While England is roughly the same size as the state of Alabama and Japan is nearly as large as California, the size of these realms allowed the English monarchs and the Samurai to establish judicial procedures and courts that could be easily and uniformly employed throughout each of their territories. At the same time, the fact that both areas are classified as islands meant that both the English and the Japanese were forced to work with scarce resources in all aspects of society. This is particularly true when discussing the formation of England's feudal armies and
Japan's Samurai bands or bushidan. The scarcity of resources in both locales would lead the English and the Japanese to develop their own unique styles of warfare, which are completely different from those observed in continental Europe or mainland China. The formation of these unique military organizations as well as their armaments, tactics, and command structures will be the subject of detailed discussions in chapter two.

Chapters three and four will illustrate yet another parallel development that has been observed by legal historians specializing in medieval English and Japanese history. As has been previously discussed, the size of each respective locale was of great importance to allowing the development of centralized governing structures in both England and Japan. However, size was not the only contributing factor to allow the shogun and the English monarch to hold so much sway over their subjects. Throughout the Anglo-Norman and Angevin periods, England was in a constant state of legal development, which eventually created standardized laws in judicial procedures, which gave each prince a greater degree of control over their territories, then has been observed in Japan's Heian era, or any other Western European medieval society. However, the development of a truly centralized government in either place was a work in progress and an arduous undertaking. Therefore, chapters three and four will provide ample place for discussion of these aforementioned developments.

There is another development within both of these locales that is much more difficult to trace. Thanks to the development of central government, both England and Japan experienced the development and the real enforcement of a unique form of property conveyance, which is only observed in medieval England and Japan. This is the development of stable systems of unitary inheritance. The first form of this type of inheritance is known as unigeniture, which affected all lands held in military tenure. Borough English and its Japanese variant Masshi
Sozoku allowed for the passage of landed property to be passed from the original holder to the youngest male. All of these factors coalesced to create two of the most centralized and powerful warrior governments to rule over the island-realms. These factors have also allowed both the areas to be special and unique when compared to other regions’ variants of warrior government. Turning first to the failure of the warrior governments’ predecessors, which allowed the nobility to reach political prominence in both regions, we began our study.
CHAPTER 2
THE INADEQUACY OF THE ANGLO-SAXON AND HEIAN REGIMES

The arrival of feudalism to the shores of England in 1066, and the creation of its Japanese variant, Hokensei, under Minamoto Yoritomo in 1185 can be traced to the failure of the centralized governments that ruled each locale before the professional soldiers’ rise to prominence. Despite the fact that both the Anglo-Saxon leaders, beginning under Alfred the Great (871-899) and their Japanese counterparts, the Tenmu emperors (668 - 800) codified laws, created central bureaucracies and standing armies, the weakness of both Anglo-Saxon and Japanese kingship made these central institutions largely ineffective. Gradually both the Anglo-Saxon and Ritsuryo rulers lost all control of land, resources, and their militaries, due to the growing power of regional magnates and members of the nobility in each place.

The Loss of Central Control Over Land

Land was the basis of the Anglo-Saxon and Ritsuryo administrative systems, directing taxation and military conscription. For example corvee labor and payments in produce were levied against the peasantry in both Anglo-Saxon England and Ritsuryo Japan. We turn first to the Anglo-Saxon system and the problems associated with it. C. Warren Hollister maintains that both taxation and military conscription, beginning under Alfred the Great, were based on the amount of property held by the payee. While this is true, there is no evidence of a uniform land tenure system in England prior to the Norman Conquest. This means that there was no standard measurement of land. Therefore, land measurement and taxation under the Anglo-

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Saxon princes were based on local custom rather than a uniform tax law that applied across the island.\textsuperscript{13} Anglo-Saxon taxation was further complicated by the retention of Scandinavian land measurements and customary regulations in the Danelaw or Northern England. Anglo-Saxon taxation also involved the payment of labor to the king. These labor-obligations took the form of the Trimoda Neccesitas. The Trimoda Neccesitas was a cultural custom that mandated that all male Anglo-Saxon subjects were responsible for military service, bridge work, and upkeep of fortifications.\textsuperscript{14}

While the Trimoda Neccesitas seems, to modern historians, simple enough, due to the weakness of Germanic kingship the enforcement of labor-obligations varied from one ruler to another. Alfred, the Great was able to mobilize labor and resources for the construction of some thirty urban fortresses, or burghs throughout his reign.\textsuperscript{15} However, the control of the populace was an issue for Alfred’s successors. According to an entry in \textit{The Anglo-Saxon Chronicles} dated to 892,

\begin{quote}
[T]he great force of which we spoke before [the Danes] went again from the east kingdom westward to Boulogne, and there got ships, so that in one trip set out with horses and all, then came up the mouth of the [River] Lympne with two-hundred and fifty ships. This river mouth is in East Kent at the east end of the great wood we call Andred, The Weald. This wood is by east and west one-hundred and twelve miles long, or longer and thirty miles broad. The river of which we have spoken runs out of these woods, and on the river they [the Danes] took their ships up to the forest for miles from the outward mouth, and there broke into a fort [a burgh]; in the stronghould there were only a few peasants staying, and it [the burgh] was only half-built. (…)\textsuperscript{16}
\end{quote}

Due to the various regional customs governing land and the weakness of the kings of

\begin{flushleft}
\textsuperscript{15} Richard P. Abels, \textit{Alfred the Great: War, Kingship, and Culture in Anglo-Saxon England}, 200 – 204.
\end{flushleft}
Anglo-Saxon England, the central government could neither exact regular equal taxes from the populace nor, could the kings continuously enforce the labor-obligations that were demanded of their subjects.

The systems of land tenure, taxation and military recruitment functioned similarly in Ritsuryo Japan, and suffered from some of the same problems. Emperor Tenmu (673-686) created a national land-allotment system known as the Jori system early in his rule. Under this system, a national census was to be taken at six year-intervals, and taxes as well as military service were to be assessed from the data collected. Despite the presence of such a sophisticated system, problems abounded due to the weakness of the central and local organs meant to administer it. William Wayne Farris holds that the court-officers dispatched to oversee the administration of this system, did not possess the staff or political power needed to force the peasants to remain on their assigned plots, or to keep accurate records. Imperial edicts from the eighth and ninth centuries regularly mention the problems caused by illicit migration of farmers from one region to the next.

Farris also points out that natural catastrophes, particularly smallpox epidemics, depleted Japan’s labor-pool throughout the eighth and ninth centuries. He sees a direct relation between these pandemics and the illegal movements of peasants across the archipelago. While the imperial court did take steps to reform land tenure and taxation policies during these trying times, the administrative organs that were at the sovereigns’ disposal were too small and ineffective to make good on new policies. With the failure of the Jori system in the eighth century (743), the


imperial court turned to aristocrats and monastic institutions to bring larger areas under cultivation, by privatizing land. This plan, created the *shoen*, or private estate, which was intended to increase agricultural production and tax revenues throughout Japan. However, the continued employment of the *shoen* would have disastrous effects on the central government’s power. This system would allow prominent local families and monastic houses to politically reassert themselves in local and regional matters at the center’s expense.²⁰ The *shoen* also siphoned both monetary and labor-resources from the land into private citizens’ and organizations’ coffers, depriving the central government of much needed revenues. This trend gave rise to the establishment of the Kennmon Taisei, or, “influential families,” who would hold a high position in Japanese government until the Ashikaga period (1336-1467). The Kennmon would be composed of Kyoto-based elites, the military aristocrats, and the religious leaders who ruled co-operatively until the Enryakuji Incident during 1369.²¹

The *shoen* would remain in operation from the eighth until the twelfth century, and would also diminish the effectiveness of the central government’s legal and judicial policies. The rise of local and regional nobles is discussed in the next section. What is most important to the argument here is that the Anglo-Saxon and Ritsuryo governments’ administrative organizations did not possess enough strength or manpower to enforce the systems of land allocation and taxation in either region. Although the failure of Tenmu’s Jori system was resulted from two major factors not present in our English examples pandemics and illegal migrations of farmers both rulers’ were not strong enough, politically make their policies into realities. The failure of


land-allocation and taxation systems at the center in both Anglo-Saxon England and Ritsuryo Japan allowed local strongmen and regional magnates to gain copious amounts of political, economic and martial power, crippling the sovereigns’ ability to rule.

The Rise of Local Notables and Warriors

Land allocation and military conscription in both Anglo-Saxon England and Ritsuryo Japan were hampered by the weak nature of kingship and natural conditions. While the failures of these policies did diminish each central governments’ ability to rule, one of the largest factors that caused the eventual collapse of the Anglo-Saxon and Ritsuryo regimes was the seizure of authority by local and regional magnates. The imperial court in Japan was marginalized by courtiers and provincial warriors such as the Northern Fujiwara and the predecessors of the Samurai Anglo-Saxon England became divided among regional nobles like the House of Godwine in Wessex. Each of these groups was allowed to usurp legal, political and martial power from their respective governments.

Both the Godwines and Northern Fujiwara were known for their military prowess, but both of these prominent families also exhibited great political skill. Although both of these families began as mere members of the massive nobilities that existed under the Anglo-Saxon kings and the Ritsuryo emperors, the Godwine- patriarchs as well as their Fujiwara fellows were eager to arrange marriages between their daughters and members of their respective royal families. As early as the ninth century, Fujiwara daughters served as imperial consorts to the crown princes, and imperial princesses were married off to the ambitious Fujiwara clan.

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23 Morita Tei, “Toward Regency Leadership at Court,” 217.
Godwines also used their daughters as political leverage against their rulers. For example, Godwine, father of Harold II, married his daughter, Edith, to Edward, the Confessor in 1045.\textsuperscript{24} The use of daughters, gifts, military power, and political support ingratiated the Godwines and the Fujiwara to the Anglo-Saxon kings and the Japanese emperors respectively. By creating such robust links between the royal families and themselves both the Godwines and the Northern Fujiwara gained appointments to key political offices within each regime. Godwine and his sons, Swien and Harold, were appointed to lucrative earldoms in various parts of England, while the Northern Fujiwara were granted key positions within the imperial bureaucracy, including the offices of the imperial regent, Minister of the Right, and Head of the Council of State. Each family would use their new posts to further their own interests, rather than support their superiors.

For example, Godwine was ordered to attack the city of Dover in 1051, following an altercation between local residents and members of the king’s Norman entourage. Godwine would not attack his own territory, and destroy his political powerbase. He also gathered other prominent earls to his support against the king. War was avoided, and the House of Godwine was exiled to Flanders and Ireland. One year later, the family returned, and marshaled their loyal supporters against Edward. Rather than fight, Edward forgave the Godwines and reinstated them to their former offices in 1052.\textsuperscript{25}

The Fujiwara also relied on violence and confusion to cement their hold over political power at the center. Beginning in 858, warfare, intrigue and assassination were common occurrences in Japanese imperial politics. These altercations occurred over the rights of imperial succession, and were also made more frequent due to the presence of young

\textsuperscript{24} Hugh M. Thomas, \textit{The Norman Conquest, England After William the Conqueror}, 15.

inexperienced rulers on the throne. These two factors, a violent atmosphere at court and inexperienced sovereigns, allowed the Fujiwara to dominate imperial policy and politics until the twelfth century.  

Another serious problem confronted the Ritsuryo emperors throughout the ninth and tenth centuries. The emperors were little more than figureheads who were hostages within their own court. This problem was also caused by the Fujiwara’s seizure of power and the proliferation of the *shoen*. An angered courtier once wrote of the Fujiwara’s power, “If one is not backed by the Fujiwara, then one’s lineage cannot succeed.”

Due to the fact the Fujiwara dominated access to imperial offices, many members of Japan’s court-nobility left the capital for the provinces and the autonomy of the *shoen*. This is not to say that the nobility abandoned the court entirely. Instead, a patron-client relationship developed between courtiers in Kyoto and provincial families. The courtiers offered political and legal legitimacy to the extralegal policies of the *shoen*-administrators, who were granted the power to tax and police their holdings using privately funded and trained armed forces. These shifts from a reliance on national to one on provincial authority that historians have observed in the late eighth and ninth centuries created the Samurai-class.

The existence of privatized taxation and judicial regulations such as the *shoen-ho* and *kakun* eroded the imperial court’s legal authority and political power. Local strongmen in both England and Japan used a combination of military force, legal maneuver, and local political power-blocks to erode royal power at the center. The Anglo-Saxon kings and their imperial

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27 Ibid.


29 *Shoen-ho* were customary law codes that were maintained and enforced on individual *shoen*. *Kakun* were codes maintained and enforced by provincial warrior-clans, particularly in the Kanto region.
Japanese counterparts could neither muster large enough forces to bend the local magnates to their will through force of arms, nor could the centralized bureaucracies legally impose the royal will on provincial families in either region for fear of rebellion.

**Failure of the *Fyrd* and the Imperial Army on the Field**

Despite the fact that local magnates controlled vast amounts of territories, and politically dominated provincial government during the late Anglo-Saxon period and the Heian era, the central authorities in each nation continued to be potent political forces. In 1066, England was still ruled by an Anglo-Saxon king, and even in the early decades of the Kamakura Bakufu, the court at Kyoto still commanded respect. What finally ended Anglo-Saxon rule in England and imperial rule in Japan? It was the defeat of each region’s peasant-soldiers at the hands of another military force. The Anglo-Saxon *fyrd* and the Japanese *heishi* were wholly ineffective when compared with the feudal armies that replaced them in terms of recruitment, tactics and fixed fortifications.\(^{30}\)

The systems that governed Anglo-Saxon and Ritsuryo military recruitment were the same systems used to facilitate land-allocation and taxation. Therefore, the same problems that impeded taxation in each locale also proved detrimental to the formation of large standing armies. The presence of regional customs throughout England meant that each region’s military contingent was recruited according the region’s regulations rather than those of the king. Japanese military recruitment, during the Ritsuryo period was also impeded by the same illegal migrations and pandemics that sapped the nation’s labor pool. That is not to say that each region was left defenseless. The Anglo-Saxon rulers of England did demand martial services from

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\(^{30}\) *Fyrd* can be best translated from the original Anglo-Saxon as “army.” *Heishi* can be translated from the Japanese as imperial soldier.
their subordinates that included thegns and the Scandinavian Huscarl that entered the ranks of the Anglo-Saxon army following Cnut’s seizure of power in 1016. These royal subordinates did possess their own groups of armed men, but the regional construction of the Anglo-Saxon military meant that a central command-structure rarely existed. *The Anglo-Saxon Chronicles* contain numerous examples of sections of the *fyrd* giving up the fight, or refusing to march despite royal orders to attack the enemy.³¹

The imperial court also had its own type of soldiers that could be called into service. These were the provincial warriors from the Kanto, but these highly trained men were usually rotated into the officer corps as commanders. These early Samurai would remain in strictly a leadership role until the late Heian and Kamakura periods. The Samurai was intended to serve as a small part of a larger military designed to engage and defeat the massive levee en masse Tang armies of the continent.³² Therefore, large units of foot soldiers were the desired outcome of the Ritsuryo Codes’ military reforms.

Both the *fyrd* and the Ritsuryo armies were largely conscripted infantry-forces that fought pitched battles in tightly packed cumbersome formations. While these tactics were well-suited for open-field engagements against the Vikings and the Tang Chinese, these tactics proved to be disastrous against the cavalry widely used by the Normans at Hastings in 1066, and the Emishi of northern Japan throughout the eighth century. An examination of the Battle at Hastings (1066) and the Battle of Koromo River (789) will demonstrate how each army’s tactics worked, and also illuminate several weaknesses. Commentary on the formation and tactics of cavalry

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³¹ See the Chronicler’s discussions of Godwine’s actions at Dover in 1051, and the refusal of royal units to fight in 993, 998, 999, 1003, and 1004.

forces in England and Japan has been reserved for chapter 3, and is not discussed here. We turn first to the Battle of Hastings. According to the writings of William’s chaplain,

The English were greatly helped by the advantage of higher ground, which they held in serried ranks without sallying forward, and also by their great numbers and densely packed mass, and moreover, by their weapons of war, which easily penetrated shields and other protections. So, they strongly held or drove back those who dared attack them with drawn swords. They even wounded those who were hurling missiles at them from a distance.  

Although the fixed formations appear to have worked in this particular instance, later in the engagement William of Normandy ordered his archers to fire volleys of arrows into the Anglo-Saxon ranks. William of Poitiers, a witness to the carnage at Hastings, also writes of a feigned retreat by the Normans, and the Anglo-Saxons’ reaction to the ruse. The Anglo-Saxons, tired from deflecting missiles with their heavy shields, broke ranks, and pursued their attackers, only to be easily routed by a Norman counterattack.

Where the Battle of Koromo River is concerned, there is only the slightest literary evidence available that discusses the engagement from the Japanese perspective. However, historians of Japan, like their English counterparts, see a total failure of Japanese military forces when faced with enemy cavalry for the same reasons. According to primary sources, an army of 52,800 men was dispatched to the northern provinces of Mutsu and Dewa to subdue what the Heian Japanese called the “Eastern Barbarians” in the fifth month of 789. The Ritsuryo commander, Ki no Kosami, divided his forces into three separate units. Two armies would make the initial advance across the river, and attack Emishi- villages. These preliminary units would

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35 These “Eastern Barbarians” are thought to have been the Emishi.
be met by the third unit at Subuse, and then continue to press the attack. However, Emishi-cavalry counterattacked on both sides of the river, cutting off the first two armies that had crossed the river and their reinforcements. Unit cohesion disintegrated and the undisciplined Japanese infantry fled dropping equipment and abandoning supplies as they went. According to an after-action-report filed in the capital, two-hundred and forty-five men fell to Emishi-archers, while over one-thousand troops drowned in the river under the weight of their own equipment.  

In both examples, the benefits and pitfalls inherent in the employment of large-scale infantry armies can be observed. If the units maintain close proximity to one another, and commanders completely explain their strategy to their soldiers, then these large cumbersome formations can be quite effective. However, if these great fixed formations encounter a loosely organized, maneuverable enemy, who may or may not be supported by their own infantry, which is able to break their opponent’s lines of supply and communication, then numerical advantage of such tightly-packed formations will be nullified, resulting in the eventual defeat of infantry-armies.

Pre-feudal fortifications also proved to be ineffective in defending both Anglo-Saxon England and Ritsuryo Japan. Both Alfred the Great and Emperor Tenji sought to fortify their territories against the Vikings and Tang Chinese respectively. Despite the defensive nature of the Anglo-Saxon burgh and its Japanese counterpart, the ki, to describe these compounds as military defenses is overly generous. Both compounds served as economic and political centers for the Anglo-Saxon and Ritsuryo governments. These defensive structures can be best

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described as fortified settlements. The designs of both the burgh and ki entailed the construction of large ditches that bordered mostly wooden palisades. These palisades were supported by massive earthworks and entrance was achieved by the addition of wooden gates in the wooden walls. While archeologists do observe the use of masonry in English burghs such as, London, Bath and Malmesbury, the use of stone was not common in Anglo-Saxon military architecture. In fact Keene and Abels have suggested that the presence of masonry in the ruins of a burgh could be explained by Alfred’s occupation of much older Roman settlements such as London, which was taken and repaired in 866. The Ritsuryo government did not possess the logistical structure to move the materials and men necessary to construct stone fortification from the interior provinces to Northern Japan. Therefore, archeologists in Japan have found no stone walls in any ruins of a ki.

The construction of fortified settlements in both Anglo-Saxon England and Ritsuryo Japan sapped each region’s financial, natural and human resources. The economic structures of both of these regions were unable to offer the monetary support needed for such large building projects. Earlier in this chapter, we examined an entry from The Anglo-Saxon Chronicles that detailed the seizure of a half-built burgh. Abels also holds that the communities that were held

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responsible for the construction, maintenance and staffing of these walled enclosures often needed quite a bit of royal prodding to meet these obligations.\(^42\)

The fortified settlements in both locales were also ineffective for military reasons as well. It is an undisputed fact that the Vikings raided the majority of the Western European kingdoms including Francia were large fortifications were already in use. It is obvious from primary sources that the Viking raiders who attacked the British Isles were well-acquainted with siege warfare. For example, a Viking-force supported by Irish auxiliaries laid siege to a burgh at Chester in 919. According to the Irish Annals, the Scandinavians mined the walls, and withstood repeated bombardments of boiling water and stones from the beleaguered defenders by reinforcing their tunnels with columns, and stretching animal hides over them. Eventually, the Anglo-Saxons hurled beehives at their attackers, and broke the siege. Although this example was a victory for the English, it demonstrates that the burgh was vulnerable to sieges, and that the Vikings knew how to attack a fixed fortress.\(^43\)

The Emishi, unlike the Vikings, were not practitioners of siege warfare. However, the \(ki\) was totally constructed of wooden materials. There are numerous records of Emishi-raiders burning these defensive compounds to the ground prior to and during the punitive campaigns (774-812).\(^44\) Despite the presence of fortified settlements in both Anglo-Saxon England and Ritsuryo Japan, these defenses were not hearty enough to deter the Viking or the Emishi who used their own experiences and the fortifications’ inherent weaknesses to bring them down. Neither the Anglo-Saxon kings, nor their Ritsuryo counterparts possessed enough money and resources to construct durable defensive fortifications. The weaknesses of both regions’ styles

\(^42\) Richard, P. Abels, \textit{Alfred the Great: War, Kingship, and Culture in Anglo-Saxon England}, 198 - 199

\(^43\) Jim Bradbury, \textit{The Medieval Siege}, 41 – 42.

of kingship also meant that both governments could not always muster enough men to complete these massive compounds.

Conclusion

The centralized governments that ruled Anglo-Saxon England from the ninth century until the Norman Conquest and Japan during the Nara and Heian periods were wholly inadequate to provide for the proper control and employment of men, economic resources, and armed forces. Weak kingship in both areas is the major culprit that eventually destroyed the Anglo-Saxon kingdom and the Ritsuryo state. Anglo-Saxon and imperial princes lost total control of their kingdoms due to the rise of local strongmen who could, due to the flaws in each system, take control of existing land, economic infrastructures and military systems, which were obsolete due to their very designs.

The failure of Anglo-Saxon and Ritsuryo rule can be attributed to each sovereign’s inability to effectively centralize economic, human, and military resources firmly under their own control. Instead, due to a variety of political and natural conditions present in England’s late Anglo-Saxon period and Japan’s Ritsuryo as well as Heian era, historians observe the privatization of these resources under local magnates. The military tactics and fortified settlements intended to safeguard each region from foreign attacks were also largely useless, because of the sovereigns’ inability to effectively marshal resources for military purposes, and to adapt to enemy tactics. Only the centralizing policies, in these areas as well as the unitary systems of inheritance-primogeniture-employed under the Angevin kings and the Hojo regents, could centralize political power in England and Japan. Furthermore, only the professional,
landed knights, Samurai and their castles supported by feudalism ensured an ever-present and ready defense for England and Japan throughout their medieval periods.
CHAPTER 3
THE KNIGHT, SAMURAI, CASTLES, AND FEUDAL ARMIES

The Anglo-Saxon *fyrd* and the Imperial armies both proved to be ineffective in providing the island-wide defense their designers sought. Both of these armies suffered tactical, logistical, and financial deficiencies that their enemies, the Norman and Emishi, easily exploited both at Hastings in 1066 and on the banks of the Koromo River in 789. The knight arrived in England with William I in 1066, while the Samurai, who had served as commanders in the old Imperial armies, replaced the infantry forces that they had commanded by the ninth century.

The reasons that these large-scale conscript armies had been replaced by smaller professional cavalry-units can be linked to three characteristics of a professional military. These characteristics are: recruitment, tactical versatility, and the construction of true military fortifications. The success of the mounted warrior can also be more securely linked to the presence of truly military structures, rather than the mostly wooden fortified settlements found in Anglo-Saxon England and Heian Japan, because these medieval fortresses were placed strategically vital points such as the mouths of rivers, coastal cities, and along crucial Royal highways and other vital thoroughfares.

Recruitment in Feudal Armies

Both medieval Europeans and the Japanese lords created a system of mutually exclusive personal contracts between themselves and their followers. Historians such as Marc Bloch, F. L. Ganshof, and Reginald Allen Brown have used the term “vassalage” to describe these personal relationships. Historians of medieval Japan such as Karl F. Friday, Ikegami Eiko and William Wayne Farris have also observed a similar although much more gradual development in late ten-
century Japan. However, Japanese vassalage does contain some characteristics that demonstrates a very subtle difference between European and the Japanese vassalage. In Samurai society, there were two types of warrior. The Samurai who enjoyed the highest social rank within warrior-society were the “Housemen.” The second type of Samurai that was present in Kamakura society was the higokenin. The main difference between the social status of the “housemen” and the higokenin was based on their degree of relationship with the Kamakura shogun. Gokenin enjoyed the direct financial, political, and military protection of the Minamoto, while the higokenin were denied the previously mentioned protection, due to the fact that he and his family were not allowed within the Minamoto’s inner circle.  

Higokenin were particularly common in Western Japan, because of the slow process through which these Western Samurai and territories came under the control of the Kanto, which was the Minamoto’s home-region, and the location of Kamakura. Western provinces gradually came under Kamakura’s direction following the Mongol invasions.

These types of contractual relationships, present in both England and Japan, usually entailed grants of lands in exchange for service in the field. This does not mean that the European knight or the Samurai owned their lands outright. In feudal Europe, all lands were legally the property of the sovereign. However, socially and politically lands were controlled by the feudal lord who possessed said land. On the other hand, it is a well-known fact that the Kamakura Bakufu did not control the entirety of the Japanese archipelago, the government that Kamakura did propagate laws and regulations which allowed the Samurai to have legal claim to their ancestral lands as well as those that had been received from Kamakura for service against

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45 Farris, Heavenly Warriors: The Evolution of Japan’s Military, 500-1300, 311-320, Friday, Hired Swords, the rise of Private Warrior Power in Early Japan, 35-40.

the Taira or the Mongols. Despite these differences, historians of both medieval England and those of Japan observed that the leaders of each locale were the grantors of land to their warrior-subordinates. As has been previously claimed, neither the knight, nor Samurai owned their land. Each warrior possessed his lands at the pleasure of their respective rulers. What is meant by the term, “possessed” is that each warrior and their families were allowed certain economic and judicial rights over their territories.47 These grants of land from the English monarch, or their subordinates as well as those given to the Samurai ensured that the possessor of rights to the lands was financially able to train and equip not only himself but also his private troops who also held portions of the lord’s estate in exchange for military service on the field.

These arrangements created by each region’s unique systems of vassalage allowed military expenditures, which had so depleted the Anglo-Saxon’s and Ritsuryo state’s economic resources to be shared between each region’s rulers and their military subordinates, while simultaneously fielding the most technologically advanced and successful warriors available during England’s and Japan's medieval periods. Furthermore, this diffusion of military costs did not unnecessarily damage the agrarian economies that supported the knight and the Samurai.

The economic benefits of vassalage can be easily demonstrated by examining some of the documents that have survived from some of Normandy's and Japan's most violent historical episodes. At the same time, the developments in Normandy and the Gempie no Ran would motivate both rulers to gradually move towards the formation of centralized regimes within their realms. Turning first to the Wars of Norman Unification (1047), beginning in 1047 William of Normandy’s domination of his own duchy was hotly contested by Normans, who sought to exploit their lord’s bastardy, and take the duchy for themselves. According to primary sources

and modern historical research, William should not have remained the leader of Normandy, because his holdings were constantly placed under duress by many of his own subordinates, who sought to expel their lord from his rightful holdings. Chief among these offenders were the Viscount of Bessin and also the Viscount of Cotentin, who “hated the duke. [They] took and seized his lands. (...) [They] took so much from William that he could not do anything about it.”48 Vassalage is one of the key factors that allowed William the ability to destroy his attackers. According to the same chronicle, William fled to the kingdom of France, seeking an audience with the sovereign, whom he held the Duchy of Normandy from in exchange for his military service. Following the meeting, both the French king and William of Normandy summoned to them their forces. Likewise, the would-be-usurpers, Bessin and Cotentin, also summoned their own troops to repel the imminent Franco-Norman invasion. On the plains of Val-es-Dunes, in 1054, William and the king routed enemy-forces on the banks of the river Orne. The details of the battle are unimportant to this current discussion, but what is in important is that when William’s own men deserted him and reneged on their feudal obligations, William could approach the king, who theoretically owned the entirety of Normandy and France for financial, judicial and martial aid.49

In fact, the victory Val-es-Dune, allowed William to place his house in order, making Normandy one of the strongest principalties on the continent. Eventually, this would worry the French king as well as Jeffrey, the Count of Anjou. This would result in a state of civil war between William’s Normans and the French Crown. By 1060, Normandy, under its bastard-

49 The History of the Norman People, Wace’s Roman de Rou, Glyn S. Burgess (trans.), 133 – 138 See also,
leader would expel both French and Angevin forces permanently from their territories, allowing William to make the necessary preparations for the seizure of England a mere six years later.

While the development of vassalage in the Kamakura age is much more difficult to trace, there are records which to illustrate that vassalage was a part of Samurai-society despite the fact that it was clearly still very much in a state of development during the early decades of the thirteenth century. The greatest example of Samurai-vassalage during this period is found in the Jokyuki, or the Jokyu chronicle. This chronicle tells of a massive political dispute which erupted between the retired Emperor, Go-Toba, as well as his ministers in Kyoko, and the Kamakura Bakufu. While this dispute is discussed in greater detail in chapter four, it is important to understand that this conflict resulted from a succession-dispute. Both sides marshaled their own forces to destroy their “rebel”-opponents. Kamakura, under the leadership of the famous Hojo clan, handily put down the Imperial rebellion in 1221.50

What is important here is not the prosecution of the battles, but the great amount of political and economic changes that were enacted following Kamakura's victory over the Imperial court. Following the cessation of hostilities, Kamakura immediately exiled the retired Emperor and many of his ministers, while also confiscating imperial estates. These estates were awarded to those Samurai who had served with distinction, and brought about a speedy end to the civil unrest in the Imperial capital. These awards, like the arrangements seen in both Normandy and the rest of medieval Europe, allowed Japan's mounted warriors the legal, economic, and financial security to train and equip themselves to serve in combat at the behest of the Kamakura government, should it have ever been needed. Although, the Kamakura shogun was not a king, the “tent-government” bequeathed awards as well as propagated laws and

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50 Farris, *Heavenly Warriors: The Evolution of Japan’s Military, 500-1300*, 320-327
regulations, which protected their subordinates’ legal rights to their holdings. Therefore, like their European counterparts, the Samurai were required to serve the shogun and their superior lords in the field.  

Although the knight of medieval Europe and the Samurai of medieval Japan are the major players in much of the primary sources that still exist, these professional soldiers were not the only troops to see service in English or Japanese armies. Military obligations under the Normans and later the Angevins, as well as their Samurai-counterparts were influenced cultural, political, and economic factors. First of all, the English feudal army contained not only the feudal magnate and his subordinates, but English forces were further supplemented by the old Anglo-Saxon militia, as well as mercenaries. Such a great selection of troops is the main reason that the minute English medieval armies were forces to be afforded a great deal of respect by foreign commanders after such famous engagements as Tenchebrai (1106), Crecy (1346), Tours (1356), and Agingcourt (1415). Although the political and military events surrounding these battles is outside the scope of this current study, the importance of them is the fact that they demonstrate the Norman practice of adapting successful aspects of conquered peoples into new governmental systems, and the major role of infantry in medieval English strategy.

William I retained the old Anglo-Saxon tradition of *fyrd*-service following the Conquest. William and his successors were forced to constantly make treacherous journeys between England and their continental holdings in Normandy. Therefore, William as well as his Norman lieutenants, stationed in England, often employed English infantry to help secure and defend strategically important areas. Successive English kings, likewise, retained the service of infantry –units as well. However, as will be observed later, the development of centralized

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51 Varley, *Warriors of Japan as Portrayed in the War-Tales*, 160-161  
bureaucracies, and the standardization of judicial procedure lessened warfare's utility in England's internal politics. However, the infantryman's place within the English army was assured and continuous throughout the Middle Ages.

Furthermore, historians also observe drastic changes to England's military organization that are concurrent with England's transition from a totally agrarian economy to a cash-driven economic system, beginning under Henry II. English armies during this period, not only contained the feudal magnate, but also relied heavily on the services paid foot soldiers. As has been previously claimed, the development of a stable monetary economy allowed for the payments of rents to feudal lords. Beginning in twelfth and thirteenth centuries, English lords sent money to Royal officials such as the sheriff, who used this income to hire mercenaries and to extend the service of fyrd-worthy men beyond the required forty- day term of service. Custom allowed for this transition, because under English law all free men were liable to the sovereign for military service in either domestic or foreign campaigns.53

However, the presence of unitary forms of inheritance such as primogeniture also ensured that there were as a steady supply of subsequent sons, who had received the same martial training as their elders. This gave rise to the institution of the knight-errant. These men were nobility, but since English law forbade them to own any lands, they were allowed to serve in armies of other unrelated feudal lords, further increasing the amount of professional troops available for deployment. The most famous of these knights-errant is William, the Earl of Pembroke, also known as William Marshall, who rose through the ranks to be the right-hand of the Angevin monarchs, and the protector of the boy-king, Henry III.54

54 George S. Duby, Richard Howard (trans.), William Marshall, the Flower of Chivalry, New York, New York: Pantheon Books, 1985, 8-9
Likewise, military and social historians of Japan also observe a similar, much more gradual trend during the entirety of Japan's experiment in military government until the seventeenth century. The armies fielded by Samurai warlords, including the Kamakura shogun, contained not only the horsemen of myth and legend, but also contained vital infantry-based units known as nobushi or skirmishers. The ranks of the nobushi-units were filled with both peasant-conscripts and those Samurai who were not as financially fortunate as their commanders. Although, the systems of recruitment for these foot soldiers varied from one region to the next, many of these troops were drafted from villages and hamlets for military service. This is one of the most striking differences between medieval English military organization and its Kamakura counterpart. Due to the development of a unique warrior culture in medieval Japan, the employment, and activities of these infantrymen have been widely overlooked in primary sources. However, archaeological evidence and the limitations of cavalry illustrated to historians that the Japanese, like the English, also desperately needed the services of foot soldiers in war.

Although medievalists in both the East and West have claimed that cavalry ruled the battlefield, physical limitations of the horse and battlefield conditions also necessitated the employment in both regions. For example, urban and nautical combat negated the speed and maneuverability that the cavalry enjoyed in the open field.

Military historians of Japan have also observed a similar, albeit a much more gradual economic trend in Japan. The development of a cash-driven economy, and the arrival of the first Europeans to Japanese shores on September, 23 1543, allowed the infantrymen to become a major part of Japanese military strategy. Despite the fact that the infantry would become instrumental in battlefield successes during battles of the sixteenth century such as Nagashino,

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Japanese foot soldiers was developing into an effective military force much earlier even during the Kamakura period. This information suggests that both the knight and the Samurai never went into combat without a large amount of supporting infantry and dismounted mobile artillerymen. Primary sources on both sides of the equation support these claims.

For example, Wace’s Roman de Rou provides a detailed description of William of Normandy’s landing party.

The archers disembarked first and reach land first, at which time each of them stretched his bow, with their quivers hanging at their sides. They all shaven and tonsured and all dressed in short garments, ready to attack, ready to flee, ready to turn and ready to escape; they traveled the length of the store and found no armed men there. When the archers disembarked, the knights did also, all armed and wearing hauberks, with their shields around their necks and their helmets laced on.

Furthermore, William of Poitiers’ The History of William, Duke of Normandy and King of England, and also provides evidence of the infantry’s importance to William’s invasion of England.

The Normans move forward as follows in a well-ordered line of battle, marching behind the standard which the pope and given them. In the first line William placed his infantry, armed with bows and arrows. In the second line the placed more infantry, better armed and wearing hauberks. Behind them came the squadrons of cavalry, with William in the middle surrounded by the elite of his knights, so that he could send orders in all directions. (…)

While the accounts written by Wace and William of Poitiers provide scholars with evidence of the heavy involvement of infantry-based forces in Norman Conquest, The Bayeux Tapestry also provides pictorial evidence, which corroborates these sources. Panels sixty-one

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57 *The History of the Norman People, Wace's Roman de Rou*, Glyn S. Burgess (trans.), 162

through eighty deal primarily with Battle of Hastings. In the majority of these panels, the mounted knight figures prominently. However, even the most casual of observers will note that many of the English infantrymen are holding shields that have been riddled with arrows. Furthermore, the tapestry’s depiction of King Harold’s death shows that the tool of his destruction was an arrow, which pierced his eye. Wace also recounts this fortuitous occurrence in his own writings saying,

The arrows flew through the air thicker than wind-driven rain. The English call them billets, and the air was full of them. Then it happened that, as it whistled down out of the sky, one of the arrows struck Harold just above his right eye. In great anguish he dragged it out, snapping it in half, and throwing it to the ground; but it had put his eye out. He was in great pain from this wound in his head, and he collapsed forward on his shield.59

While the particulars of the last Anglo-Saxon king’s death are debated by modern historians and contemporary sources, the evidence in the written record and the most famous artist’s rendering of the battle, lends credence to the claim that infantry and dismounted artillerymen played a greater role in at least Anglo-Norman feudal warfare than previous scholars have allowed.

Historians of medieval Japan also observe the same trend in their own investigations. The best example that can be used to illustrate the importance of infantry and other supporting personnel within the Japanese military is the conduct of the Battle of Dan no Ura, which does bear some similarity with the battle fought at Hastings in 1066. On April 28 1185, the Minamoto destroyed the last remnants of the anti-Minamoto forces, securing the Kamakura’s status as Japan's supreme military organization. The Taira were quite experienced with naval combat, due to their suppression of the Wako, pirates who terrorized Western Japan, while the Minamoto had cut their teeth against the previously discussed Emishi.

Despite the fact that both Minamoto and their subordinate troops were best acquainted with, and best equipped for the prosecution of terrestrial campaigns, they were quite skilled in the fields of strategy and, most importantly, military logistics. The commander of Minamoto-forces at Dan no Ura, Minamoto no Yoshitsune, who fortified his positions at Yashima, and recruited prominent dissatisfied Western Samurai-families and other prominent officials, who were experienced in naval operations.

For one month, Yoshitsune hired competent crews, requisitioned ships in preparation for this pivotal battle.\(^{60}\) This information suggests that the Minamoto, like the Normans, relied heavily on non-cavalry personnel in battles where the horse was of little or no use due to battlefield and environmental conditions.\(^{61}\) The previous paragraphs have proven that the knight and the Samurai entered into combat supported by infantry, and other non-specialist-personnel, because of the horses’ tactical limitations. The reasons behind the professional cavalrymen's high social and political status in both regimes stemmed from their military versatility, and their use of state-of-the-art military technology, which transformed the horse from a beast of burden into one of the most deadly war-machines ever to take the field.

Technology and Tactics, the Creation of Professional Shock-Troops

As has been previously suggested, the knight and Samurai were nothing without their horses. The advent of the saddle and stirrup in both Northeast Asia and Western Europe caused a military evolution of sorts in both locales. The large formations of infantry employed by both the Anglo-Saxon and Ritsuryo governments can be best described, in tactical terms, as one-trick

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ponies. The examinations of the Anglo-Saxon *fyrd* and the Ritsuryo *heishi*, in Chapter II, have demonstrated that these infantry-based armies were ill-suited for offensive campaigns and the pursuit of enemy forces. It was the design and adoption of the stirrup and the saddle that allowed both areas’ professional warriors to successfully employ the horse as a weapon. The horse allowed a greater amount of tactical flexibility and greater mobility to feudal armies, which replaced pre-feudal forces in England and Japan.⁶²

As previously discussed, feudal armies in both England and Japan were made of a variety of units. Rather than a field where armored men and their mounts fought one another in single combat, the medieval battlefield was a place where infantry, cavalry, and artillery worked in conjunction with one another to accomplish their commanders’ objectives. Therefore, today’s medieval historian is forced to conclude that medieval militaries behaved in a fashion that was not all that different from the orders of battle observed on modern battlefields. The use of various types of units in unified operations is referred to as “combined-arms-theory” by modern military historians and military professionals.⁶³ Although such tactics greatly improved the feudal armies effectiveness in pitched engagements, battle between members of each regions military aristocracy in the open field was an infrequent occurrence, despite the fact that warfare seems to of been a fairly common part of both medieval European and Japanese society. The use of “combined-arms-theory” by English and Japanese armies during the medieval periods allowed

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the central governments that were created by the Angevin monarchs and the Hojo-regents an
ever-present defensive-network that could be used to defend their respective territories against all
enemies, foreign and domestic.

The majority of engagements between feudal magnates were small, localized affairs. The
interpersonal relationships that were intrinsic parts of continental European feudalism are the
major factors that contributed to the small size of the and regional nature of military
engagements on the continent and in England during the eleventh century. Samurai also had
similar military experiences throughout the Heian and Kamakura periods, due to the formation of
Samurai-houses, and their subordinate warbands.

Because of these interpersonal relationships, and the regional organizations of the
military in both Western Europe and Japan, historians observe that feudal lords often
commanded their own subordinates in the field. European Kings and clan leaders in Japan often
delegated regional command-authority to their most trusted subordinates. This means that the
assembly of single unified large armies was not unheard of, but very uncommon in these two
regions. Instead, smaller units confronted one another in any place where the aggressor deemed
that his troops held the advantage. The speed and maneuverability of the horse also allowed
feudal warriors to attack one another with all deliberate speed and surprise. These technological
and sociopolitical conditions made the ambush a favorite tactic among knights and Samurai
during each locale’s early medieval period.

An examination of William’s Wars of Norman Unification (1045-1060) and personal
disputes among Samurai during the Heian era illustrates this point. Furthermore, these
examinations also show the types of military tactics used in England and Japan following the
Norman Conquest and the Gempei no Ran respectively. As has been discussed, William, the
Duke of Normandy, did not enjoy total control over the entirety of his holdings, but he was proving himself to be one of the most able commanders in all of Western Europe throughout the late 1040s and 1050s. In light of these developments, the king of France and the Count of Anjou attacked Normandy with three armies. Outnumbered by French and Angevin forces, William elected to avoid direct confrontation with his enemies. Instead, he would make them fight on his terms. According to the Roman de Rou, William developed a shrewd plan that preyed upon the logistical weaknesses of the advancing feudal army. Matthew Strickland has described medieval European warfare best as “war against the land.” This means that feudal forces on the offensive regularly sacked defenseless hamlets and villages taking everything of material value, as well as food and drink.

Being aware of this military practice in the geographic situation of his holdings, William ordered the Norman peasants who lived along the suspected French avenue of advance to move all foodstuffs and other supplies into the surrounding woods. At the same time, small detachments of Norman cavalry were ordered to seek out and destroy all Franco-Angevin units that were tasked with foraging. Wace reports that, “they [the Normans] move from wood to wood and hid the [French] corpses.”

Despite the success of William's strategies, French soldiers did enter some Norman towns, and fatten themselves on civilians’ supplies. This is particularly true in the town of Mortemer which was attacked during the same period that William’s forces were surprising enemy-detachments in and around Pays de Caux. Being informed of French depredations in Mortemer by escapees, Norman knights from surrounding area as well as their auxiliaries absconded into

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65 *The History of the Norman People, Wace’s Roman de Rou*, Glyn S. Burgess (trans.), 154.
the outlying woods at night. According to Wace, the French who had sacked Mortemer awoke to quite a horrifying surprise.

In the morning, at daybreak- they [the French] were still sleeping- suddenly the Normans surrounded the town and set it alight. The fire took hold of one lodging, then another, and the flames spread throughout the town; throughout their lodgings Frenchmen stirred, [and armed themselves.] [However,] Normans guarded the doors and paths at the end of the streets, (...) From morning, at sunrise until nones [That is nine o’clock in the morning or thereabouts.] (...) [T]he full-scale fighting in fierce battle continued on. The French could not escape, and the Normans would not leave them.66

Following the news of the slaughter of sleeping Frenchmen at Mortemer, and the loss of foragers to William’s own ambushes, which have already been discussed, the French and Angevin troops were forced into full retreat. They returned home empty handed without incident. The use of the ambush allowed the numerically outmatched William to expel greater enemy forces from his holdings. This was accomplished through the proper application of the horses’ increased speed, surprise, knowledge of the Norman terrain, and the logistical weaknesses inherent in a feudal army on the offensive. The conduct of the Norman Conquest suggests that William I used all of the lessons learned on the French and Norman battlefields to devastating effect against the Anglo-Saxons in 1066.

Samurai also employed similar tactics, but the command structure that dominated military operations until the late Kamakura era was controlled by the clan. Therefore, command was even more decentralized and localized in the command structures associated with continental European feudalism. During the late Heian in early Kamakura periods, warfare among Samurai could be, and often was, the product of personal disputes. During the ninth century, two Samurai, Taira no Koremochi and Sawamata no Shiro, disputed the ownership of land in Mutsu province. The judicial organs had attempted to settle the matter, but lacked

66 Ibid.
sufficient evidence to issue a verdict. These warriors then decided to settle their grievances through battle.

The dispute between these two men and the battles between them has been recorded in Samurai literature. These stories provide modern historians of Japan with a window into Samurai battle tactics. According to Sato Hiroaki’s translation of this epic, both men mustered forces, and met in the open field. However, Sawamata elected to forego battle and retire from the field, because of a numerical inferiority.67

Despite the fact that the Taira clan’s men had the advantage, battle did not ensue. Therefore, the dispute was left unresolved for the moment. Both commanders attacked their adversary while he was unaware. Sato’s translation demonstrates two types of ambush that were commonly used by Samurai. Sawamata, who had denied the Taira battle previously, attacked first. According to the story, Sawamata’s troops waited until Taira-forces had thinned, to surround Taira’s home. Sawamata ordered his men to burn the domicile to the ground and shoot down anyone who attempted to escape throughout the night.68 In the morning, Sawamata and his soldiers searched the rubble looking for the Taira-commander’s corpse. However, the poor condition of the badly burned bodies hindered attempts at proper identification. Sawamata assumed that his plan had succeeded, and began boasting of his deed to neighbors. Taira Koremochi, however, had escaped the house and instantly sought retribution. He recalled his men and began to search for his enemy.

Yogo [Taira Koremochi] sent a man running ahead of the group with strict instructions to check out closely where Sawamata was. The man ran back and said, “In the marshy field on the south side of the hill. Some are eating or drinking, some lying down, some looking ill. Yogo was pleased to hear this. Giving the order to attack at once, he galloped ahead as though flying (...) shouting at the top of their lungs and whipping their horses as

68 Sato Hiroaki, Legends of the Samurai, 40.
though in a kasagake, fifty or sixty men charged. It was at this moment that Sawamata no Shiro and his soldiers [who had been resting after the previous night’s attack on the Taira-household.] rose to their feet and saw this. Some tried to put on their bows and arrows, some their armor (...) [Their] horses, alarmed and upset, ran about whinnying, so that no one could get a hold of them. (...) During the confusion thirty or forty [of Sawamata’s] soldiers were shot to death. Sawamata was shot and his head cut off.69

Here again, historians observe that the speed and maneuverability of the horse allowed the Samurai, like the knight, to attack their enemies in any place at any time. These examples also demonstrate that the knight and Samurai were able, due to technology and knowledge of warfare to quickly adapt to battlefield conditions, and the enemy’s strategy, only attacking when their victory was assured. Furthermore, these examples also illustrate that medieval warfare may not have been as romantic as previous literary and historical authors have assumed. These professional soldiers were not subject to any codes of behavior or morals where battle was concerned. The ferocious deeds illustrate that victory was the only thing that mattered to feudal warriors, and they would employ any means necessary to secure. These means included attacking an indisposed enemy without warning.

The feudal armies that were the institutions to European Japanese government during the Middle Ages could succeed in confrontations in the open field using infantry to support cavalry. These armies also used the horse to great effect by ambushing unsuspecting enemies at a moment’s notice. Despite the feudal army’s ability to dominate European Japanese battlefields, no government that has ever ruled has done so by the application of force alone. Feudal military organization contains one final piece of the puzzle that was instrumental in allowing both the English and Japanese warrior-nobility to fully politically control their respective territories. This feudal institution was neither a type of armor, nor was it a weapon. This highly visible feudal institution was the castle.

69 Sato Hiroaki, Legends of the Samurai, 45.
Siege Architecture: the Castle and the Jo

The castle and the jo were of vital importance to the Normans’ and the Samurai’s political and military domination of their respective realms. However, historians of medieval Japan have noticed a striking difference between the emergence of the English castle and the Japanese jo.

The while the Norman invaders who subdued the Anglo-Saxons and 1066 brought the castle with them, the Samurai’s jo did not reach the apex of its development until the Sengoku era (1475-1600) and the Edo period (1603-1868). The Kamakura age was a period of experimentation and development in the realm of siege architecture. Instead of the mature Japanese castle, historians observe construction of a much smaller, less permanent yamashiro or “mountain-top fortress.” The Japanese, unlike their English counterparts, had no need of such large fortifications.

The reasons that siege architecture, in Japan, failed to mature as quickly as it did during England's medieval era is due to the personal nature of Samurai combat, and a lack of centralized control over Japan's scarce resources. Although the Minamoto developed a central military government in 1185, the Lords of Kamakura only exerted a great deal of control over the Eastern regions of Japan. Furthermore, the family was the center of Japanese finances and economics during the Kamakura era. Therefore, it was impossible for the Kamakura shoguns and their Hojo successors to muster the supplies and manpower needed to construct a widespread network of yamashiro and other defensive structures.

Despite the fact, that European as well as English siege architecture developed a much faster rate than their Japanese counterparts, there are several similarities between the Norman motte-and-bailey castle, which dominated the English countryside until the end of the Anglo-

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Norman period (1066-1154), and Kamakura's yamashiro. First and foremost, the construction of both these types of structures greatly improved the effectiveness of fortifications following the collapse of the Anglo-Saxon and Ritsuryo governments.⁷²

For example, the importation of castles in England was of vital importance to the success of William's seizure of power and 1066. These private residential fortifications were of the utmost importance to both Royal and baronial government throughout England. The possession of castles allowed the nobility in the English kings not only to protect troubled areas such as the Anglo-Scottish border and the Welsh marches, but these fortifications also allowed the ruling class to stave off domestic rebellions as well as foreign invasions.⁷³ Secondly, construction of these types of fortresses allowed each realm’s feudal magnates to exercise a greater level of control over political events and resources in their respective regional territories. These attributes of medieval fortifications are the focus of this section.

The importance of the castle to William I’s success cannot be denied or disputed. It is common knowledge that the Normans, at William’s direction, constructed motte- and- bailey castles at Pevensey and Hastings following Norman victories in those regions. It is also widely known that the Normans also seized one of England's few native castles at Dover early in the campaign.⁷⁴ While William I’s Army advanced towards London following the victory at Hastings, dwindling supplies and disease made all attacks unsuccessful. Owing to the fact that his army was so stretched, and also ravaged by disease, William, who had learned the true value of castles during his wars in Normandy, devised a less daring plan to take London. Rather than

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⁷³ Strickland, *War and Chivalry, the Conduct of War in England and Normandy 1066-1217*, 204-208

attacking the city head-on, he maneuvered his forces around his intended target, taking cities such as, Canterbury, Guilford, Winchester, Wallingford, and Berkhamsted.  

Once each of these towns was firmly under Norman control, castles were constructed using conscripted Anglo-Saxon labor under Norman supervision. With these fortifications in place, London was surrounded by a hearty ring of castles. William had accomplished two military goals with one action. First by constructing this ring of castles, William ensured that his lines of supply and adjudication were secured against Anglo-Saxon attacks. Secondly, Norman strategy had completely isolated London for the remainder of England, denying Londoners access to much-needed supplies and reinforcements. Any sorties from the city would be contained, and eventually end in Anglo-Saxon defeat. Based on this information, it is obvious that William imported several tactics from his confrontations with Anjou and the French crown. London surrendered to William, Duke of Normandy, in December of 1066. Thanks to the castles defenses and often to purposes, William I and his Norman successors would be able to quell the Anglo-Saxon rebellions, which occurred between 1066 and 1075. The political purpose of these imposing structures ensured that England would be dominated by the island’s first feudal monarchs.  

As has been previously discussed, the Kamakura era was a time of intellectual experimentation and development. During the Kamakura regime, the Japanese countryside was protected by three types of fortifications. These types of fortresses were: the walled city, the pre-

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77 Ibid.
78 Strickland, *War and Chivalry, the Conduct of War in England and Normandy*, 208.
feudal *ki*, and, the Samurai's *yamashiro*. Walled cities could fall to treachery, starvation, and other problems associated with siege warfare.

The *ki*’s total reliance on wooden defenses rendered it extremely vulnerable to incendiary attacks. The mountain-top fortresses constructed during the Gempei no Ran and during the Kamakura era, were strategically planned and built to protect regions from enemy attacks. The selection of mountains for the sites of these defenses was militarily important for two reasons. First of all, the *yamashiro*’s first line of defense was the natural terrain around it. Second, the natural position of the fortress allowed its defenders an excellent vantage point. Because of the fortress’s use of natural terrain, garrisons were able to observe the approach and movements of the enemy, and to adjust their defensive strategies accordingly. Like the *ki*, the *yamashiro* incorporated ditches, walls and palisades, as well as towers. Movable obstacles such as shields were heavily used by Samurai infantry to further impede the attackers’ progress.

The development of the mountain-top fortifications was made possible by the dissolution of the Ritsuryo-era military, which only provided defensive fortifications for the troubled areas in northeastern Japan. As the Kamakura shogun gained a greater degree of control over their realm’s military resources, and delegated command-authority to regional magnates, resources could be mobilized in every local area, where Kamakura’s power extended. Therefore, the construction and maintenance of mountain-top fortresses was controlled from the regional level rather than a central level, which was controlled by a still developing central bureaucracy.

While the design and purpose of the *yamashiro* bears only a superficial resemblance to the Anglo-Norman motte-and-bailey castle, Kamakura Samurai’s fortifications were only temporary, and could be constructed in a very short time. William's castles were permanent and ensured that the Normans could continuously dominate the whole of England economically,
militarily, and politically. Despite this difference, the *yamashiro* should be considered the first major step in Samurai siege architecture, which resulted in the construction of large residential fortifications throughout Japan during the Sengoku period and the Edo era.

The information presented here demonstrates the multiple functions fulfilled by the castle and the *jo*. Both types of structures employed strategically important sites, terrain, wooden palisades, ditches, and moats for defensive and offensive purposes. The presence of these structures throughout each region’s rural areas also allowed each locale’s warrior-aristocrats to exercise a greater deal of control over the peasantry for economic and political reasons.

**Conclusion**

The feudal militaries created under William I and Minamoto no Yoritomo following the Norman Conquest (1066) and the Gempei no Ran (1180-1185) were far more effective than their Anglo-Saxon and Ritsuryo counterparts. The reasons for this increased effectiveness stemmed from several factors. These were: were reliable systems of recruitment based on vassalage, tactical flexibility, and the construction of true for fortifications, rather than fortified settlements.

The creation of economic infrastructure brought about by in the Norman Conquest and the Gempei no Ran created armies of professional mounted soldiers, who use their horses’ speed, strength, and maneuverability to great effect against enemies in the open field and in quick violent ambushes. The presence of the castle and the mountain-top fortress also allowed the warrior-class in both English and Japanese society greater ease of both military and political control on a regional and local level. The military characteristics of English feudal and Samurai military organizations have provided the bulk of material for this chapter. However, the methods employed by the mounted warriors and the governments that they represented have only been
discussed in the most basic way. This chapter has shown that the granting of heritable sections of land enabled both the English knight and the Samurai to have the financial support needed for all feudal societies to function properly. This type of economic arrangement is present in some form in many feudal societies.

As shall be seen in the third and fourth chapters, the Norman monarchs and their Angevin successors, as well as the Minamoto and the Hojo regents who took power in the early 1200s would take feudalism a step further. Both English feudal monarchs and the Kamakura shogun would use imported Norman customs, familial codes, and well-developed centralized bureaucracies to standardize judicial procedure and property conveyance. Thus, the internal strife over inheritance observed by continental medieval historians who are familiar with Carolingian Europe would be arrested. Historians of Japan’s Heian era will also see a similar trend from the Heian era through the 1330s. These crucial centralizing legal, social, and political developments are subjects of chapters three and four, while discussion of unitary inheritance in both locales is reserved for the fifth chapter.
CHAPTER 4

ANGLO-NORMAN AND KAMAKURA CENTRALIZATION

Although William of Normandy claimed the exclusive right to inherit the kingdom of England from Edward the Confessor, the events of November and December of 1066 demonstrate to historians that William I was not given the realm of England by any sort of moral mandate. England was not his by virtue of any sort of election. It was his by virtue of a fastidious, sanguine and brutal conquest. While the Minamoto of Japan had no illusions of a “mandate of heaven,” they too came to rule over their own islands through military ventures and campaigns. Both the Normans and the Kanto-based Samurai used the technology and tactics discussed in the previous chapter to achieve dominance over the ailing predecessors both militarily and politically.

The following two chapters serve as a study of the formation of centralized government under the Norman kings, their Angevin successors and their Kamakura fellows. This study has been thus divided, because the creation of these centralized bureaucracies which characterize the regimes of both Henry II and the Hojo regents were the end-products of two phases of legal and sociopolitical development within each kingdom. This first chapter discusses the formation of central government under the Normans and the Minamoto. The creation and empowerment of offices for the expressed purposes of direct rule serve as a major focus for chapter three. Both the Norman monarchs of England and the Minamoto shogun employed several subordinate governmental organs in an attempt to enforce their political and economic will over each island-realm’s population.

In England, the offices of the Magna Curia, Curia Regis, the Chancery, and the Exchequer were meant to assist Norman leaders in effectively governing the whole of England.
Historians of Japan’s medieval period also observe the development of a much less complex system of administrative offices under Japan's first ruling shogun. These offices included the Monchujo, or “court of inquiry,” the Samurai-dokoro, which can be translated as “the bureau of military affairs”; and, finally, the Mandokoro, or “the council of state.”

Despite the creation of these administrative organs, the very nature of feudalism created obstacles that were difficult for both the Normans and the Minamoto to overcome. Feudalism and other forms of warrior-government were based on personal bonds. This allowed rulers to delegate both military and political authority to families. One of the dangers of this sort of arrangement was that private interests and central urgent interests often diverged. Because of this the central governments created by the Normans and the Minamoto were made ineffective by private interests, which dominated provincial administration and hindered the development of truly centralized government in both England and Japan. These claims are supported by examining the growing prestige and power of local officers such as the sheriff and the estate steward or, jito.

**Early Warrior-Government: An Amalgamation of the Old and the New**

Anglo-Norman and Kamakura government cannot be considered entirely developments of William the Conqueror or Minamoto no Yoritomo. The governments created by William I and Minamoto were conglomerates based not only on warrior traditions but also on the previously existing Anglo-Saxon and Heian era institutions. As has been previously discussed, the Normans retained the old Anglo-Saxon institution of the fyrd out of military expediency and necessity. At the same time, civil institutions such as the Anglo-Saxon councils and the Imperial court at Kyoto were allowed to continue to exist by Norman and Minamoto conquerors for
political and legal reasons. This is not to say that the Anglo-Saxon organization and the Imperial court remained totally unchanged.

In fact the Anglo-Saxon Witan was irreversibly changed by the importation of feudal traditions from Normandy. Under William's hegemony, this ancient institution was co-opted by the Normans as the Magna Curia, or the Great Council. During the Anglo-Saxon period, membership in this Council was restricted to persons who held high political status in the Catholic Church or the King's martial entourage. At the same time, membership in the council was an honor to be had only by the king's most intimate and trustworthy companions. Likewise, the Kamakura Bakufu’s founder also relied heavily on his closest retainers, as well as bureaucratic families from Kyoko for support, rather than his own kin. Mikael Adolphson and others have suggested that the support structures used by the Minamoto to politically, economically, and militarily dominate Eastern Japan had been in various stages of development from the late eleventh and early twelfth centuries, when Imperial power began to wane in the face of growing power of the Kyoto-elites, monastic orders, as well as provincial warriors.

The development of these regional power blocks led to the development of Kenmmon Taisei. This system, which developed during the late Heian period was centered on land tenure and estate administration, overseen by Kyoto-elites, monastic houses, and the Samurai. This information seems to suggest that these political leaders, local organizations, and warriors provided a sort of administrative and political stability to the various regions of Japan that each

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aforementioned organization controlled, and that these local powers cooperated with the center. This is not the case. In fact, Adolfson has claimed that, “the distinction between public [rights] and private [rights] became increasingly blurred. (...)”82 This “blurring” of public and private jurisdiction would create one of the greatest legal obstacles that slowed the development of truly centralized authority in Kamakura era Japan, because it allowed familial interests to take precedence over the central government’s prerogatives.83

What is most striking about the differences between England's Magna Curia and the institutions created by the Minamoto throughout the first half of 1180s is the requirement for membership in these conciliatory bodies. In England, membership in the Magna Curia was a feudal obligation that was required of any person who was in vassal of the monarch. The Norman kings, beginning with William I, convened the council several times annually including the Christmas season and Easter. Despite the fact this was a feudal obligation, the actual attendance policies governing the council during the Norman period, were lax because of natural and economic conditions that influenced each regional magnate.84 For example, it is probable that the March-lords, those vassals who guarded the Welsh and Scottish borders, were excused from attendance due to the vital and inflammatory nature of their military and political duties within their respective territories.85

On the other hand, membership in the Kamakura -era administrative councils was not only based on vassalage, but also the members’ merits. While the retention of political power by Kyoto-based elites, and monastic orders has already been discussed, the previously mentioned

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84 Lyon, _A Constitutional and Legal History of Medieval England_, 142.
appointments of jito and the later shugo were not given by either the Kyoto-aristocrats, or the Buddhist leaders in each region. These appointments were granted to loyal Eastern Samurai by the Minamoto and only the Minamoto. In fact, the legal problems associated with the Bakufu’s men and women on the estates, which will be discussed later on in this chapter, resulted directly from legal conflicts between the shogun’s officers’ as well as their central directives, and customary law-codes, sho-en-ho, which varied from one estate to the next. Despite the presence of four competing leadership groups, the Imperial Government, Kyoto-elites, the monastic houses, and the warriors within Kamakura society, the vassals under Kamakura's leadership were beholden to the Minamoto for the security of both their ancestral holdings, and the legality of their jito-appointments. This situation allowed the Bakufu to exercise a greater deal of control over their Kanto subordinates.

Another drastic difference between the previously discussed English feudal institution and its Japanese counterparts is that the Minamoto divided authority between each ruling body. In the Magna Curia, the Norman kings had an institution which enjoyed the privileges of both the legislative and judicial body. The Magna Curia of the Norman era was both the king's own feudal court, and a venue for military, political, legal, and diplomatic deliberation. On the other hand, Kamakura government was divided. The Mandokoro served as the main avenue for

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political as well as diplomatic affairs, and the monchujo served as the shogun’s judicial arm. Leaving military matters to the members of the Samurai Dokoro.89

The preceding paragraphs have illustrated the ways that the Normans and their Kamakura counterparts organized the highest levels of their warrior governments. Despite the presence of these previously discussed organizations, the princes of both regions would have been unable to rule their territories effectively without creation of subordinate offices at regional and local levels. However, this process mitigated against the central government’s power.

Bearing this fact in mind, the next objects discussed in this section are the offices of the sheriff as well as the itinerant justices in England, and Kamakura’s jito. The office of shugo, which rose to prominence in Japan during the early thirteenth century, is also discussed at some length. The creation of these offices was an attempt by each ruler to extend their authority from their governments’ capitals into both the English and Japanese countryside.

Turning first to the post of sheriff, historians have long held that this political position, like the Anglo-Saxon king’s council, was a vital part of Anglo-Saxon governance that was retained by the Normans following the conquest. While the Anglo-Saxon sheriff and his Norman successor do share the similarity of being the monarch’s local representative in the County and local levels who was responsible for taxation, labor details, and local law enforcement, William I greatly enlarged the Norman peace officer’s jurisdiction, placing him in charge of local militia in times of local and realm wide trouble.90


Unlike William I, Minamoto Yoritomo had no local offices that could be readily absorbed into the Bakufu in 1185. Therefore, the lord of Kamakura created both central offices and local administrative organs to suit his own purposes. At the local level, Japan was ruled by the old shoen- estate-holders who were part of the previously discussed Kennmo Taisei, and officers of Kamakura's own making, the jito, or estate stewards. Although the jito was the first local officer created during the Kamakura age, the similarities between its Japanese office and that of the Anglo-Norman Sheriff can be described as superficial at best. For example, like the Sheriff, the jito was responsible for local tax collection, labor details, and some police duties as well. The difference between the jito and the Sheriff can be seen in the jurisdictional reach enjoyed by both officers. As has been previously discussed, the Anglo-Norman Sheriff controlled tax collection, labor, and military command at the local level in the shire and county.

On the contrary, the jito was Kanto Samurai who was placed within shoen in eastern and western Japan at the behest of Kamakura. While the jito were also responsible for tax collection, supervision of labor details, and local law enforcement within the shoen, they enjoyed no jurisdiction outside of their assigned area. While the sheriff can be considered a royal officer who was not subject to local custom or ordinances, the Samurai who held jito-status were obliged to conform to the local laws, or shoen-ho, which governed the estate where they were assigned. These arrangements created a massive amount of legal and jurisdictional problems between the Bakufu’s representatives and estate-holders.

The reason for this disparity between the English sheriff and the Kamakura jito stems from the irregular formation of judicial tradition, which dominated Japanese law until the rise of the Hojo clan following the Jokyu no Ran of 1221. The irregularity of Japanese law during this period can be observed by examining the products created by the development of Kenmmon
As has been previously discussed, the Kennmon were conglomerates of Kyoto-based elites, monastic leaders, and Samurai. Each section of this governmental triumvirate created their own forms of local and regional legal traditions, which superseded the old Ritsuryo Codes that only applied to locales within the Kinai region. Suzanne Gay’s research adds credence to the theory that Japanese legal tradition during the late Heian and the early Kamakura periods was irregular, due to the existence of the Kennmon-system claiming that, “with the rise of the shoen-system, in the eighth century, that began to emerge elite families, or family-like groups, such as temples, derived their income from shoen-lands. These groups, called kenmon, had an informal voice in governing matters because of their prestigious status, often codified in defunct offices of the ancient Imperial state. [However], they were essentially private in nature, with a house [clan]-organization that handled internal and external affairs through the issuance of documents.”

Furthermore, historians of medieval Japan have observed further evidence, which suggests that Japanese law was a disjointed collection of local and regional customary legal codes during the late Heian and early Kamakura periods. For example, Carl Steenstrup and Jeffrey P. Mass have described three separate types of traditional legal codes in the early Kamakura age. These are the previously mentioned Ritsuryo Codes, the shoen-ho, as well as well as the warriors’ familial codes, or kakun. The employment of these separate types of legal traditions depended on the group or organization that dominated the landholding question.

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92 Ibid.

93 Steenstrup, A History of Japanese Law until 1868, 86-87 and Steenstrup, Hojo Shigetoki (1198 -1261) and His Political and Ethical Ideas in Japan, 24-26.
For example, the following documents, which are dated to 1000 and 1247 respectively, illustrate this point.

Receipt Issued by the Office in Charge of Lamp Oil of the Todaiji. Examining six quarts of oil donated. Three quarts were contributed by Hiromi Shoren and the other by Taguchi Shunin. The said lamp oil was contributed as a year’s fee [payable to the temple], for the recognition of their rights to the myo [land-holder], by the name of Tamate Yasukichi. It is submitted to us in good order, and for this reason, this receipt is given. 11/22/1000 94

The previously quoted document, details the obligations exacted from those people who lived on lands that were under the Todaiji’s jurisdiction. There is no mention of any obligations owed to the Bakufu. Furthermore, Jeffrey P. Mass’ studies show a wealth of evidence, which demonstrates why the existence of private jurisdiction was detrimental to the establishment of centralized government under the Kamakura Bakufu. According to a case that the Hojo regents adjudicated in 1232, “(…) the jito-shiki (rights granted to Samurai by the shogun) of Fukuda Estate, Izumo province, a Kamowake Ikazuchi Shrine land, held by Igita Matataro Tokitane, shall be canceled as per an utaisho house order and previous judicial decree [dated 1186].”95 Based on this evidence, and the receipt, which was previously cited, it is clear that the monastic houses, which were given kenmon-status could legally deny the Bakufu and its appointees entry into the lands under their control.

At the same time, military families could also use their own codes to protect their own holdings from the central authorities. The following is an excerpt from one such familial code, penned in 1234 by Hojo Shigetoki.

The lord’s will was absolute. Against it, one had the right of remonstrance, but not resistance. In case of conflict, the lord’s will took precedence over the father’s. Obedience to one’s lord was a religious duty, whereas obedience to one’s father is based on fear of being disinherited and on pity for him in his decrepitude. Towards one’s

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followers, one has the duty of benevolence, but towards outsiders, considerations of expediency prevailed. Tenants belonged to the latter category, but prudence dictated that they be treated with consideration. There were strict barriers between the various classes of followers (...). Within each class hereditary function gave precedence.\textsuperscript{96}

The main reason that these \textit{kakun} proved to be such an obstacle for even the resourceful Hojo to overcome was that the family was a major fixture of Japanese society well into the Ashikaga period. As is discussed in chapter five, inheritance practices, finances, training and military command were not the province of the central authority. Rather these previously mentioned functions and a host of others were the domain of the individual clan leaders and clan councils within Japanese society. This point is best illustrated by the outcome of a court case, which was brought before the Bakufu just months prior to the second Mongol invasion in 1281. According to research, a member of the Shima branch-family petitioned the Hojo with a request to serve under another commander who was not the head of his clan. The request was denied, and the petitioner was forced to fulfill his obligations to his original lord.\textsuperscript{97}

This information suggests that so long as the clan leader met his obligations to his followers, the central authority could do nothing to interfere with the day-to-day operations of a Samurai-clan-house. The previous paragraphs have demonstrated that government during the Kamakura era was highly privatized. Therefore, the office of \textit{jito} was unable to exercise complete and total jurisdiction in legal and police matters, unless they were dealing with problems within their assigned areas.

While the \textit{jito} were hampered by the previously discussed private types of legislation, which dominated Japanese society throughout the Kamakura era, the estate-steward was not the only office created by Kamakura in an attempt to extend their power into the provinces. This

\textsuperscript{96} Steenstrup, \textit{Hojo Shigetoki (1198 -1261) and His Political and Ethical Ideas in Japan}, 76.
\textsuperscript{97} Mass, \textit{Lordship and Inheritance in Early Medieval Japan, A Study of the Kamakura Soryo System}, 96- 97.
higher ranking office was that of the shugo, or provincial constable. Like the sheriff Anglo-Norman England, the thirteenth century shugo was charged with tax collection, watch-duty, the capture and prosecution of criminals, as well as command of regional Samurai in times of war.\(^9\) Despite the fact that the shugo was a provincial officer, which can be roughly equated to the Anglo-Norman post of sheriff, Kamakura’s lack of a uniform judicial tradition, judicial experience, and the fact that Japan's first military government can best be described as an ad hoc system meant that the shugo was not created until the need for provincial oversight presented itself in the first decades of the thirteenth century.\(^9\) Like their local counterparts, the shugo were also susceptible to local influences from the Kenmon Taisei. In fact, many shugo who were assigned to Kyoto often sided with the Kyoto- elites and the retired emperor's ministers against the Bakufu until the Jokyu no Ran(1221).

Although there is nothing in feudal English culture that resembles the Kenmon Taisei, Anglo-Norman rule was also impeded by the private nature of feudalism and its associated governmental structures. Where Kamakura-era society’s kenmon-system was composed of Kyoto-based elites, monastic houses, and warriors, Anglo-Norman government can be divided between only two groups, excluding the king. The Catholic Church which was the only legal religion in Western Europe during the eleventh century and afterwards, maintained its own independent courts throughout Western Europe, including the British Isles was one of these groups, while the families who held land from the king created the second group.

At the same time, the Normans who invaded England in 1066 also brought Norman feudal traditions with them. Chief among these was the feudal or manorial court. This court gave the lord total jurisdiction over all secular disputes and crimes, which occurred in his

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99 Steenstrup, *Hojo Shigetoki (1198 -1261) and His Political and Ethical Ideas in Japan*, 37- 40.
holdings, while also allowing the same lord to collect revenues from these judicial operations. These were not treated as awards for services, but as feudal rights by the Anglo-Norman lords. This privatized type of judicial arrangement, which was a key feature of feudalism in England led to a revolt in 1075, when the sheriff began to adjudicate cases that were earmarked for the territory’s feudal lord. Furthermore, the post of sheriff was also treated as though it was a feudal office, rather than a royally appointed office. Based on this information, the office of sheriff was often a victim of simony, where money rather than administrative and legal talent mattered most.

The previous sections of this chapter have illustrated that both Anglo-Norman and early Kamakura government were hampered by local customs, including legal traditions, which allowed for the preservation of private, meaning organizational or familial interests at the center’s expense. The existence of privatized judicial systems within each locale caused several problems that stymied the development of centralized rule in either island-realm. Both the Anglo-Norman monarchs and their Kamakura fellows suffered from several problems, which can be directly linked to the presence of the previously discussed privatized governmental systems. These problems are, disputes over succession, a lack of central oversight and legal uniformity, and widespread provincial rebellions.

Disputes over Succession

The previous sections of this chapter have demonstrated that warrior governments in both Anglo-Norman England and Kamakura-era Japan were heavily influenced by the formation of

privatized governmental organs at the local and regional levels. This privatization was caused by two factors. First, Anglo-Norman government and the feudal customs, which influenced its formation were social importations from the European continent.

The formation of a truly centralized government in either region was further hampered by the prominent ecclesiastical establishments of the English Roman Catholic Church, and Japan’s Shinto shrines as well as the plethora of militarized Buddhist sects, which included the Nichiren. Furthermore, Kyoto-based elites still retained a great deal of their own wealth and power following the creation of the Kamakura Bakufu.

Based on this information, the European part of this section not only discusses the detrimental facts of privatization on English government, but also on Carolingian and Norman government as well. At the same time, historians of Japan have also observed a high status in involvement of the Japanese clan in civil as well as military governance during the Kamakura period. Turning first to England, historians have observed a great deal of political and legal centralization under the Angevin monarchs. However, the Angevins’ innovations, like those of the Hojo, were the end-products of centuries of political and legal development.

Therefore, government as it existed under the Anglo-Norman and the Minamoto shoguns can be characterized as highly decentralized, and shares a great deal of similarities with Anglo-Saxon England as well as Carolingian France, especially after the death of Charlemagne. In all three regions, that is, Norman England, early Kamakura Japan, and Carolingian Europe, historians observe a lack of strict regulations governing royal as well as feudal succession, a lack of princely oversight at the local and regional strata within each society, as well as the primacy of familial interests over royal prerogatives. All three of these factors coalesced to make it
nearly impossible for the Carolingians, the Normans, and the Kamakura Samurai to rule each of their territories effectively.

The following section elaborates on these points, and their detrimental effects on the formation of centralized warrior-governments in each locale, and the developments of hazardous legal rifts between each region's central authorities and their local subordinates. These crippling disconnections that arose between each area’s princes were direct results of the supremacy of familial or private interests and weak kingship.

Turning first to the matters royal and feudal succession in Carolingian Europe and England, which receives fuller treatment in chapter five, historians such as Bryce Lyon, George Caspar Homans, and Jeffrey P. Mass have observed that the nature of succession in England, France, and Japan was so flexible that disputes at the local level often resulted in spontaneous outbreaks of civil war. During the Carolingian period, following the death of Louis the Pious on June 20, 840, the Carolingian Empire disintegrated into three separate entities. Middle Francia was ruled by Lothar, while East Francia was held by Louis the German, and West Francia was ruled by the Emperor's final issue, Charles the Bald. The dissolution of the mighty Carolingian Empire was a product of the Frankish practice of partible inheritance.102

Although England is considered to be the only region of Western Europe where succession was governed by the strictest rules and regulations, the widespread acceptance of unitary inheritance such as primogeniture was only achieved during the Angevin period.103 Historians of England's Norman period have observed events, which suggest that partible inheritance also played a role in Anglo-Norman succession.

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For instance, William's holdings were divided among his two children, William Rufus and Robert upon their father's death in 1087. William Rufus received for this portion, the entire kingdom of England, while Robert was awarded the Duchy of Normandy. Like the children of Louis the Pious, William's children were involved in sporadic outbreaks of warfare from 1087 until the seizure Normandy by Henry I in 1106. While the Normans who ruled England following 1066 embraced some aspects of Anglo-Saxon government and Anglo-Saxon law, the presence of feudal customs from Normandy necessitated sporadic mobilizations of English auxiliaries and Anglo-Norman lords under the royal banner to ensure that Normandy and England remained politically linked in the figure of the English king. The reasons behind these foreign campaigns lie in the problems associated with feudal loyalty. Once William I divided his holdings, giving England to William II and Normandy to Robert, Norman barons as well as some English viewed their feudal obligations to the Duke of Normandy, and not the English Crown. Based on this information, only defeat at the hands the English king and his troops could repair the political rifts that William’s division created in 1087.

Likewise, historians of Japan have observed that members of the Samurai class were also highly involved in resolving disputes over Imperial and Bakufu-succession throughout the late Heian and early Kamakura periods. There are at least three major conflicts in this era of Japanese history, which are directly related to Imperial and Bakufu-succession. Conflicts relating to succession included the Hogen no Ran (1156), the Gempei no Ran (1180-1185), and the Jokyu no Ran(1221). While it appears that Japan seems to have undergone more outbreaks of civil war than England, these more sporadic and short-lived violent episodes did have the

same detrimental effects on Japanese government that the Anglo-Norman wars of 1087-1106 had on English rule. Furthermore, both of these conflicts were motivated by the same factors, and resulted in similar moves toward true centralized government, which will be discussed in chapter four.

Despite the fact that Henry I, last legitimate Norman king of England, took steps to solidify his daughter’s claims to the English throne in 1130, the English and Norman barons would again be divided between dueling Royal claimants Matilda, Stephen I, and Henry of Anjou. Again feudal loyalties would divide England and lead to nearly two decades of civil war, until Henry II’s coronation in 1154. This period of civil war has been termed as the “feudal anarchy” by historians of medieval England. This twenty-year period of civil war does not demonstrate that primogeniture was enforced, despite the fact that Henry I’s coronation oath is the first legal mention and description of English primogeniture in the period. The contents of this legal document is addressed in the fifth chapter.

At the same time, the Japanese also experienced an event, which can be compared to the “feudal anarchy.” This event is often referred to as the Jokyu no Ran, which erupted in 1221 when the retired-emperor, Go-Toba attempted to create division and dissent within the Kamakura-based military government, by reneging on a succession-agreement he had entered into with Hojo Masako in 1219. Go-Toba wished to eliminate the effective Hojo from the Bakufu, thereby making the Samurai more agreeable to a re-instatement of rule from Kyoto. Disaffected Samurai, who had been denied vassal-status by the Minamoto, flocked to the imperial banner. So here again, historians observe the division of the professional military men between rival factions, making the Jokyu no Ran comparable to England’s “feudal anarchy.”

The particulars of both of these conflicts receive a fuller treatment in the third section of this chapter.

The motivations of these dueling royal claimants can be concretely linked to the previously established inheritance practices that historians have observed in continental European societies, particularly France. According to Fritz Kern, “The early medieval king did not come to the throne through a simple right or personal right. He did, it is true, as a rule possess a certain revisionary hereditary right or privileged “throne-worthiness. [He was selected from the members of ruling families] next in title or fittest [candidate].”\textsuperscript{107}

Although historians of medieval Japan do not use the term “kingship” to discuss military rule, they do observe trends which are eerily similar to those of the previously discussed Western European societies. As Kern suggests, medieval European kingship was not simply based on blood, but also on the claimant’s military and leadership abilities. Samurai clans as well as organizations, which were considered to be members of the Kenmon Taisei, functioned in a similar manner.\textsuperscript{108} Based on this information, it is safe to say the early Kamakura Japan and Anglo-Norman England were prone to the same outbreaks of violence over matters of succession.

The previous section has discussed matters of succession through the eyes of the rulers. Historians in both locales have suggested that the right to rule is based on a claimant’s ability in both political and military arena. However, every bid for power involves most members of society, not simply the claimants themselves. Bearing this in mind, the next few paragraphs will discuss these succession disputes from the regional and local levels of each society. Furthermore,


\textsuperscript{108} Steenstrup, \textit{Hojo Shigetoki (1198 -1261) and His Political and Ethical Ideas in Japan}, 12- 13 and Steenstrup, \textit{A History of Japanese Law until 1868}, 53. See also, Mass, \textit{Lordship and Inheritance in Early Medieval Japan, A Study of the Kamakura Soryo System}, 11- 12.
these paragraphs will also illustrate the detrimental facts of local familial and organizational interests on the formation of truly centralized forms of government under both the Anglo Normans and their Kamakura counterparts.

Private Government, the Fatal Disconnect Between Central and Local Authorities

While the failure of Anglo-Norman and Minamoto rule in England and Japan respectively can be linked to disputes over succession, another factor which also bears the blame for these failures is vassalage, which is a key characteristic of Anglo-Norman feudalism and Japanese warrior-government. According to Marc Bloch, William Wayne Farris, and Karl F. Friday, both Western European feudal societies, including England, as well as Japan were ruled by personal, mutually exclusive, familial contracts between warriors and their lords. As has been discussed in the second chapter, these contracts were based on the exchange of land and political legitimacy for service in the field. This is a common feature of European feudalism and other similar forms of government found in the East. These arrangements were intended to provide both the feudal kings of Europe and the leaders of Japan with a ready and willing supply of professional soldiers for the purposes of defense as well as offensive campaigns. However, without a strong leader at the apex of the military and political hierarchy, these contractual arrangements allowed regional magnates to establish private armies, and garner political power at the center's expense.

The Normans co-opted the previously existent office of Sheriff into their own administered networks. Men selected for these positions were empowered by the crown to collect taxes, administer justice, and lead military forces in times of trouble. Likewise, Japan's

*jito* and *shugo* were also charged with tax collection, police duties, and military command duties at both the local and regional levels of society.\textsuperscript{110}

While these offices were intended to the appointments which were awarded to deserving people by the center, feudal custom, in England, and the heavy involvement of Samurai clans in Bakufu-governance allowed certain families to have a vested interest in the retention of these aforementioned offices. While neither William I nor the Minamoto intended these offices become heritable, they did.\textsuperscript{111} The reliance of private family-based military units in Anglo-Norman and Kamakura military strategy meant that individual interests of subordinate families were often taken into account by both English and Japanese leaders. The fact that English offices and estates, as well as those held by their Samurai counterparts were considered familial property via custom, did much to weaken central authority sought after by Anglo-Norman monarchs and Minamoto shogun. This custom proved detrimental to the center in both a military and political sense, because it allowed local and regional nobles in each locale the ability to become irrevocably intertwined with the lands they held, thereby opening avenues for graft and the creation of local power bases, which served at the behest of their feudal lord, rather than the monarch or shogun.

On the European continent, historians have observed the disastrous effects of such policies of Capetian monarchs from 1047 until 1060. During this period several families including the counts of Anjou, the dukes of Normandy, and the Belleme fought against each other and the French king over the political and economic rights to land.\textsuperscript{112} Historians of


medieval England and Japan have observed similar trends, relating to the previously discussed offices of the sheriff, the *jito* and the *shugo*. What is at issue here now is a much more detailed examination of these problematic officers as they related to the central authorities they represented in the lower echelons of their respective regions.

Turning first to England, WA Morris observes that, “with the exception the Curia Regis, the greatest institution at the King’s disposal was now the shrievalty”\(^{113}\) The fact that this office was treated as heritable property, and the fact that these offices were often prone to simony meant that Anglo-Norman monarchs, prior to the reign of Henry I, could do little to appoint or dismiss these officers from their duties without the threat of rebellion. Examples of this overly crucial familial interest in the post of sheriff can be illustrated by examining the local government in Gloustershire and Worcestershire during the Anglo-Norman period.

Roger de Pitsi and of Baldwin of Exeter as well as their descendants dominated their assigned areas for the majority of the Anglo-Norman period. Eventually, the Pitsi and descendants of Baldwin retained their posts as sheriff, achieving baronial status. These families were not exceptions to rule. Rather, the situations were emblematic of others’ situations throughout England by 1100.\(^{114}\) The sheriff’s status in his assigned areas was further enhanced, because there was no local officer that could supersede him. In terms of local and regional matters, the sheriff was second only to the king. The only areas where the sheriff held no jurisdiction during the Norman period were the feudal court and the English Marches. Since the Royal person was required to make annual treks between London and his Norman holdings, the sheriff enjoyed a great deal of freedom in his attention to duties.\(^{115}\) Because these offices were

\(^{113}\) Morris, “The Office of Sheriff During the Norman Period,” 145.


treated as feudal property, which could be transferred from father to son, Anglo-Norman Sheriff often led feudal revolts against both William I and William Rufus, using all political, economic, and military means available to them.\textsuperscript{116}

Although Henry I did devise roving groups of local officers, which were intended to oversee the local sheriff’s behavior, these itinerant justices were often employed at the Royal insistence, and were not regularly used until the Angevin period. Upon Henry I’s death in 1135, both the sheriff and the feudal lord would experience a relapse, falling back into their old habits, until the end of feudal anarchy.

Historians of medieval Japan, including Jansen, Mass, and Adolfson have noticed similar trends in the Kamakura Bakufu’s development following the Minamoto’s victory over the Taira clan in 1185.\textsuperscript{117} One of the major reasons that private interests were allowed to take precedence over the Bakufu’s own policies was the Samurai’s lack of judicial experience and judicial tradition. This is a major difference, which is not observed by English medievalists, due to the fact that the Norman conquerors, who occupied England after 1066, brought with them a legal tradition, which had been previously established in Normandy. Furthermore, the Normans’ legal situation was further improved by the presence of a well-developed corpus of Anglo-Saxon law and political offices.

Both the jito and much later the shugo ran into constant conflicts with the local estate-holders and temple-administrators. However, these problems were lessened by Yoritomo’s creation of Japan's first military court-system, which employed trained Kyoto-based elites such


as, members of the Oe, Miyoshi, Nakahara, and Nikaido families. These four families continued to provide well-trained scholar-bureaucrats to the shoguns throughout the Kamakura era.\textsuperscript{118} Therefore, many estate proprietors sought legal restitution against those officers, who had abused their powers. However, the \textit{monchujo} gradually drowned under the deluge of complaints and court cases, which confronted it during Yoritomo’s tenure.

At the same time, Minamoto used written documents to confer \textit{jito} as well as \textit{shugo}-appointments to their most loyal retainers. However, due to the lack of manpower at the local level, and the dissolution of court’s legal powers, forged documents commonly appeared in the hands of Samurai, who had ambitions of seizing lands and powers from their neighbors. This meant that \textit{shoen} and temple-administrators clamored for the Bakufu’s intervention in land disputes based on real illicit incursions and false accusations.\textsuperscript{119} These complaints eventually overwhelmed the Bakufu’s military court system, despite the fact that \textit{jito} were not appointed to every estate. The fact that these complaints overwhelmed Kamakura's emerging judicial system, also retarded the development of standard judicial procedures. Justice relied less and less on evidence, and more and more on rumor, portents, and personal whims.\textsuperscript{120} For example, an effort to restore order to the Kinai region, Minamoto instated a wartime tax, called a \textit{hyoromai}, as well as \textit{jito}-appointments throughout the region. However, religious centers, which were part of the \textit{kenmon}-system, offered so much resistance that Yoritomo was forced to rescind these appointments as well as the tax system following the cessation of hostilities.\textsuperscript{121} This


\textsuperscript{119} Adolfson, \textit{The Gates of Power, Monks, Courtiers, and Warriors in Pre-Modern Japan}, 172.

\textsuperscript{120} Mass, \textit{The Early Development of Kamakura Rule, 1180-1250}, 67 – 70.

\textsuperscript{121} Adolfson, \textit{The Gates of Power, Monks, Courtiers, and Warriors in Pre-Modern Japan}, 173.
information illustrates that private interests proved to be great obstacles to the formation of any centralized military government during the Kamakura era.

Furthermore, the Kyoto-based elites who frequented the still existent and powerful Imperial court maintained a wide variety of ancient Imperial offices, which could be awarded to any Samurai for services to the court. This particular aspect of the dual governance that dominated Japanese politics throughout the early years of the Kamakura Bakufu was perfectly troublesome for the Hojo clan, which took power from the Minamoto in the 1220s. These awards proved to be too tempting for the Kyoto-based shugo, who lent their services to Go-Toba and his ministers during the Jokyu no Ran. The best example of the families who profited from awards and Imperial offices is the So clan of Aki province. This family and other Western Samurai clans profited from Imperial awards, which gave them access to lucrative trade agreements with mainland China, as well as other forms of landed wealth. This exposed a weakness in the Minamoto's recruitment strategy, which did not allow Western Samurai to become vassals of the Kamakura regime.\textsuperscript{122} Here again, the primacy of private interests among warriors, and other members of the kenmon-establishment were detrimental to the lord of Kamakura’s overall authority.\textsuperscript{123}

Conclusion

This chapter discussed the weaknesses in both Anglo-Norman kingship and Kamakura policies, which were in place prior to the Jokyu no Ran. The major problem, which resulted in open civil war, political infighting, and the creation of a wholly ineffective warrior government in each locale was the primacy of private interests over those expressed by the center. In

\textsuperscript{122} Steenstrup, \textit{Hojo Shigetoki (1198 -1261) and His Political and Ethical Ideas in Japan}, 35.

\textsuperscript{123} Ibid.
England, these private interests arose because of the very nature of Western European feudal customs, particularly those observed in the Carolingian empire and the Duchy of Normandy. These customs, along with those associated Anglo-Saxon government and law, heavily influenced the formation of Anglo-Norman policies. One of the greatest examples of these competing but overall detrimental influences can be seen in the office of the Anglo-Norman sheriff, which became heritable shortly after the Norman Conquest of 1066. This heritable office, coupled with the absence of superior local officers allowed the sheriff to have complete control over all economic, political, and military resources placed at his disposal by the virtue of his office. Furthermore, these appointments were considered to be the holder’s feudal property. Therefore, the shrievality was contested and guarded as part of a family’s individual interests.

At the same time, the development of Kenmon Taisei during the Heian era, and its continued existence well into the Ashikaga period, allowed monastic houses, Imperial elites, and Samurai to aggrandize themselves and their families with financial wealth and political power at Kamakura's expense. Due to the fact that some members of the kenmon-system resisted the military government’s attempts to enter and oversee their individual estates successfully, the development of a centralized regime under the Minamoto was hindered until 1221.

Furthermore, the presence of overriding private interests and political power, coupled with the lax rules of succession meant that both England and Japan were often the scenes of violent unrest, civil war, and political upheaval in various times throughout the Anglo-Norman and early Kamakura periods. As is seen in the next chapter, it would take many years of political and legal innovation on the part of both the Angevins and their Hojo counterparts to the begin the process of centralization, which would reach fruition in England and Japan during the high Middle Ages and the Edo period.
In the following chapter, the political rebellions which are emblematic of England's “feudal anarchy” and Japan's Jokyu no Ran sae discussed at length. The legal innovations, which characterize Angevin and Hojo rule also figure largely in this discussion. The formation of standard judicial procedure, political oversight, and ease of access to each realm’s judicial systems is discussed as well. The importance of these innovations is that they empowered each region’s princes, and allowed for the gradual development, and actual enforcement of law at all levels of society. At the same time, the ability to enforce royal/Bakufu policies also allowed for the instantaneous acceptance of the rule of unitary inheritance in England, while the Hojo’s innovations began the Samurai’s gradual march towards an inheritance system based on primogeniture, which would the widely accepted in Japan during the Ashikaga period.
CHAPTER 5

THE DEVELOPMENT OF CENTRALIZED RULE (1154-1189) AND (1221-1333)

The previous chapter discussed the detrimental effects of privatized interest and government had on the formation of centralized government under both England's feudal kings and Japan's shogun. In both regions, feudal lords and ecclesiastical officials were allowed to conduct their own economic and judicial policies within their own territories. These two groups were joined by the Kyoto-based elites in Japan, creating what Japanese historians as well as some of their Western counterparts referred to as the Kenmon Taisei. These groups in both regions used their economic, judicial, and military powers to often interject their own views into political policy and succession disputes in both realms. The greatest examples of this type of intervention can be found in England's “feudal anarchy” (1135-1154) and Japan's Jokyu no Ran (1221).

Despite the fact that strong rulers, Henry II and the Hojo clan, took power in each region following the end of these two periods of civil unrest, the development of truly centralized warrior governments in either realm was an arduous undertaking. Although neither the English king, nor the Japanese shogun ruled their territories absolutely during either the Angevin or Kamakura eras, historians in both fields have suggested that the innovations of the Angevins and the Hojo laid a solid foundation they would be used by subsequent leaders including Edward I and Tokugawa Ieyasu to dominate the majority of their subjects.\(^\text{124}\) These first great strides towards the formation of centralized governments and standardized judicial procedures in either island-realm are the topics of this fourth chapter.

The Establishment of Central Authority, A Work in Progress

Following the Henry II’s coronation (1154) and the rise of the Hojo regents (1221), England and Japan were still suffering from the break-down of central authority experienced during “the Anarchy” and the Jokyu no Ran. Henry II only held authority in various portions of England including Warwick, Salisbury, and Cornwall, while the midlands remained loyal to Stephen and his heirs. The majority of Northern England was not heavily involved in this confrontation, because this territory had been promised to David, King of Scotland in exchange for his support of Henry’s cause, which he received from the Scot in 1149.

However, death cleared Henry’s avenues to power. Many of the new monarch’s rivals died during the 1150s without viable heirs, including: King David of Scotland; Stephen I; Prince Eustace; and Earl Ranulf of Chester. The weakness of heirs in their minorities allowed Henry II to renege on his promises to King David’s grandson, Malcolm, and also on the arrangements between the crown and the flamboyant Earl of Chester.

The fortuitous passing of these rivals meant that Henry was able to seize their property, thereby increasing royal revenues. The escheating of property in the absence of heirs was a common occurrence in Western European feudal society, and in Henry’s case acted as a springboard which allowed the Angevins to achieve a great degree of centralization. At the same time heirs in their minority were easily disposed of, because it was common for fathers to build a local power-base to the support their sons upon the elder’s death. Without such a power-base many inheriting sons lost the support of their subordinates, who could be easily convinced to join the king’s vassals. Ultimately, although the confiscations were not enough to allow Henry to

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became the undisputed ruler of England, the aggrandizement of the royal fisc was nevertheless a critical step towards Henry’s absolute rule.

Historians of medieval Japan have observed an equally irregular process of centralization which recurred prior to the rise of the Hojo. Whilst England experienced only two major outbreaks of civil war during the Anglo-Norman period, the warriors of Japan went to war four times during the Kamakura period. These engagements were the previously mentioned Gempei no Ran (1180-1185), the Jokyu no Ran (1221), and the Mongol invasions (1274 and 1281). Following each of these disturbances, Japanese society was beset by periods of severe disunity, economic hardship and banditry.\

Primary sources describe feelings of apprehension and pessimism among the Kyoto-elites. According to the Azuma Kagami, the official Kamakura chronicle, the Imperial court and the Tang inspired bureaucracy were unable to maintain order following the cessation of hostilities in 1185. The Kamakura-era historian, possibly a Kyoto-based aristocrat, “the country has fallen into decadence. Men possessed of the devil run rampant. There are rebels in our land whom it has not been possible to destroy.” There is no doubt that the widespread violence and disorder discussed here were some of the motivating factors behind the development of the office of jito and later that of the shugo.

However, this does not mean that the country fell into complete disarray during this period of transition. For example, the members of the Kenmon Taisei, which were discussed in chapter three, still maintained a great deal of control in those estates associated with them. Chief

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129 Lu, Japan, A Documentary History, 108 – 109 All brackets are Lu’s additions.
among those who were able to secure their holdings from bandits would be the monastic complexes, many of which fielded their own contingents of warrior-monks during this period.

In fact many major temple-complexes such as Koyasan, Enryakuji, and others chose to avoid confrontations keeping both the Taira and the Minamoto at an arm’s length. This information suggests that these temples’ military assets remained intact for later use. At the same time, further research suggests that the large temples maintained hearty military organizations. For example, both the imperial court as well as Yoritomo issued directives, which limited the amount of servants that could be employed by scholar-monks. These laws also listed the types of garments that monastic leaders were allowed to wear, and also forbade the ownership of arms and armor by monastic communities.

However, these regulations were designed to target temple-complexes in the Kinai region, but these commands did little to change daily lives of monastic orders. Furthermore, some Samurai were also able to defend their ancestral holdings, and those of the elites they supported with their own men as well. However, many of these secular establishments sought legal legitimacy for their rights from the emerging Bakufu.

The economic turmoil worsened, following the invasions of Kyushu by the Yuan dynasty in 1274 and 1281. For example, Samurai and shrines that had pawned lands or had lost their holdings because of a failure to repay loans had their properties returned to them at the expense of the merchant class which had seized the land as collateral.

133 Mass, Lordship and Inheritance in Early Medieval Japan, A Study of the Kamakura Soryo System, 39.
The fact that the Mongol invasions were an existential threat meant that the Samurai deserved financial compensation. However, the process was clearly irregular and placed a greater burden upon other classes in society, which in turn led to an increase in crime, banditry, and the rise of the disaffected Samurai and peasants, which are referred to in sources as *akuto*.\(^{135}\)

Unlike the Angevin polity that arrived with Henry II in 1154, the Hojo polity which directed the Kamakura Bakufu after 1221 is best described as an ad hoc government that created new organs, regulations and procedures to address problems as they arose. The Angevin monarchs seem to have been of a more proactive nature, creating flexible laws, procedures and offices which could be made to fit a wide variety of circumstances. This great degree of flexibility is particularly evident in the development and use of writs which is discussed in detail later.\(^{136}\)

An underdeveloped legal system that made litigation was also problematic in both societies. The root of the problem stemmed from the absence of a comprehensive judicial network to expedite and adjudicate cases. In England, this lack of organization was a product of the itinerant nature of the king’s court, which oscillated between London and Rouen. Consequently, those seeking the king’s judgment were obliged to follow the king at great expense.\(^{137}\) The Japanese were similarly stymied in legal matters, due to the absence of regional seats outside of Kamakura. Therefore, like their Anglo-Norman counterparts, Japanese litigants were forced to make costly treks form the provinces.\(^{138}\)

\(^{135}\) Ibid.


The irregularity of the Japanese system is suggested by two cases heard by the Bakufu in 1187 and 1191. In the first case, the Bakufu ruled that, “the relative merits of both parties have been investigated and judged...”\(^{139}\) This certainly indicates that the Kamakura conducted formal investigations during legal disputes. However, the defendant in the second case was summarily convicted without any investigation or deliberation whatsoever.\(^{140}\) Jeffery P. Mass convincingly argues that this latter case was not an aberration, and that the judicial system was frequently capricious. With no semblance of a stable judicial process, governance based on truly centralized authority was only a fantastic ambition in the minds of Japanese and English leaders.\(^{141}\)

Both Henry II and the Hojo regents of Kamakura Japan struggled against local traditions and private interests throughout their reigns. The creation of stable regional government was necessary to gain access to regional infrastructure and to administer provinces via legal, rather than the military, means. The presence of a robust judicial system was also necessary for the enforcement of unique English and Japanese systems of unitary inheritance, such as primogeniture. These systems of unitary inheritance were prevalent only in England after the reign of Henry II. Japanese unitary inheritance was only widely accepted among Samurai following the Ashikaga period. However, this system of unitary inheritance was developing in the last decade of the Kamakura era.

**Central Administration and Conciliatory Rule**

The extension of regal power from London into every English shire, hundred and hide was facilitated by several factors. First of all, posts within the English government that had been


\(^{140}\) Ibid.

discontinued under Stephen I returned to political prominence under Henry II. First among these, the post of justicar was reinstated in 1155. The office of justicar was of such importance that Bryce Lyon refers to the Angevin period as “the age of the Justicars.”  

Although the title of this officer does alert medievalists to his judicial duties, the justicar was far more than a royal jurist. As noted, the continual movement of the royal court undermined due process. Therefore, in order to alleviate some of these difficulties, the justicars of Henry I and Henry II were imbued with the king’s authority. This allowed powerful men such as Leicester and Glanville to influence the development of English government. The best example of the justicar’s authority during the Angevin period can be observed within the Councils of Clarendon (1164) and Northampton (1176). Robert of Leicester, probably the more powerful of Henry’s justicars, has been credited with forming the Constitutions of Clarendon. Evidence of Leicester’s seniority can be seen in the fact that his name appears first among the prominent laymen mentioned in the preamble.  

Ultimately, these sixteen regulations allowed Henry II and his ministers to enlarge regal authority, as evident within the preamble of the constitution, agreed on by all present excepting the Archbishop of Canterbury, Saint Thomas a’ Beckett. The justicar’s authority is also apparent within the Council of Northampton. It was during these proceedings that Leicester convicted Beckett of defying Henry at Clarendon and embezzling.  

The Hojo, who sat atop the Bakufu’s power-structure after 1221, also created an institution similar to that of the justicar, this being the office of shikken, or “regent” and his deputy the rensho, or “co-signer.” The regents governed nearly the entirety of Japan’s warriors following the final Mongolian onslaught of 1291, and were initially the legal arbiters for the

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military caste, but had gained authority over the secular populace, excluding the Kyoto-based elites, who served as governmental officers within the Bakufu long after Kamakura’s collapse in 1336. Ecclesiastical establishments throughout Japan, particularly the Buddhist monasteries, would not be completely brought under the Bakufu’s jurisdiction until the deliberate and complete destruction of the temple-complex at Mount Hiei during the Sengoku era. The purpose of having a “co-signer” was to offer support to the regent, but also to ensure that the regent’s obligations were met in the event of prolonged absence or illness.

The government of early medieval Japan was divided in half. One power-center was that of the military, which was well-established in Kamakura following the Minamoto’s meteoric rise to power during the mid-1180s. Meanwhile, the traditional seat of power remained within the imperial court, which was ensconced in ritual and ceremony at Kyoto. Despite the fact that historians of Japan have claimed that warrior-rule was the only true political force in Japan following the disturbance in 1221, the Imperial court, thanks to tradition, still possessed political legitimacy which was at least nominally recognized by the Bakufu, who were all theoretically blood relations of the Minamoto. This dual-government posed serious political problems, as did the fact that the Hojo were only related to the Kamakura government’s original founder by way of marriage. In an effort to address this issue, while still maintaining a grip over Kamakura, the Hojo sought young imperial sons to fill the post of shogun.

This practice was begun by Hojo Masako in 1219. The presence of imperial progeny at the supposed head of Kamakura’s governmental machinery accomplished two things. First, it meant that the Kamakura government had the legitimacy of royal blood behind it, which did

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146 Steenstrup, Hojo Shigetoki (1198 – 1261) and His Role in the History of the Political and Ethical Ideas of Japan, 114.
much to quell court-officers’ ambitions to revolt against the Bakufu. Second, these shoguns were far too young to pose any sort of political or military threat to the Hojo at the time of their arrival in the Kamakura, and these young leaders were also thoroughly indoctrinated by their Hojo-assistants once they passed into their majority.147

One event which demonstrates the increased power of the Hojo, thanks to the appointment of minors as shogun, occurred in 1244 when an imperial prince turned lord of Kamakura was forced to resign and return to the imperial city after attempting to supplant the Hojo regents. He was quickly replaced by his seven-year old son. There is no evidence that the Hojo desired the title of “lords of Kamakura” for themselves. By reducing the shogun to the status of a mere puppet, the Hojo clan of Japan was thus able to take the first steps toward centralized rule.

Councils and Central Government

Angevin England and Kamakura Japan were both governed by powerful councils. Historians have observed the creation of two councils in each locale which served the same functions. Bryce Lyon discusses two major assemblies which were meant to assist the monarch. These were the Magna Curia (Great Council) and the Curia Regis (King’s Council, or the Privy Council).

Carl Steenstrup one of Japan’s greatest legal historians in the West has likewise observed the existence of the Hyojoshu and the much larger Hikitsukeshu beginning in the mid-1220s.148 These councils, particularly the Curia Regis and the Hyojoshu, which are discussed shortly, were

147 Steenstrup, Hojo Shigetoki (1198 – 1261) and His Role in the History of the Political and Ethical Ideas of Japan, 11- 18.

intended to truly assist the central leaders in judicial, legislative, and diplomatic matters. While the much larger councils were really intended to function as a training-ground for younger members who sought advancement, both councils were intended to and did provide central authorities in both locales to have a measure of control over local and regional elites. The diagram below illustrates the hierarchical arrangements associated with Angevin and Kamakura central government, as well as showing correlations between each region’s councils and offices.

These conciliatory bodies were composed of the rulers’ inner circles, and were directly responsible for the formation of policy and the administration of justice. Despite the fact that the Curia Regis and the Hyojooshu were composed of each leader’s closest confidants and family members, other councils existed beneath those already discussed, within each region’s political organization. These lesser councils were intended to create ‘Concordia’ between the princes and their subordinates. In discussing the later Roman Empire, Walter Roberts has defined the term Concordia as “the concept that [leaders] used in an effort to forge alliances with what they
perceived as key elements of society, [namely the elites]." This concept applies equally to both medieval England and Japan.

Despite the fact that membership in England’s Magna Curia was a feudal obligation, this particular council was rarely used during the Angevin period (in contrast to the Anglo-Norman period, when it had served as a major venue for the resolution of legal disputes between members of the nobility). The amount of people who were entitled to sit on this lesser Great Council and the fact that it was seldom convened would have made it impossible for the expedient functioning of royal justice and political deliberation. Attendance in the Magna Curia was by no means mandatory, and the council usually sat at court with the king only during the holiday seasons, particularly Christmas and Easter. These conditions coalesced to make the Magna Curia a politically impotent institution, when compared with the much smaller Curia Regis.

As for the Hikitsukeshu, despite the fact that the Hikitsukeshu was a council with both judicial and political duties, it was nevertheless meant to serve as an incentive for those gokenin (or ‘vassals’) who were outside the Hojo’s political circle. The Hikitsukeshu was intended to assist the Hyojoshu in both adjudication and policy-making. However, this lesser body was divided into three separate organizations that were directly supervised by senior Hyojoshu-members, who were also the Hojo’s most trusted retainers, as well as Kyoto-based elites, which allowed the kenmon-establishment to have a voice within the warrior-government. This served to ensure that the council was never able to gain significant political power. Furthermore, most members of the Hikitsukeshu hoped to be promoted to the superior council after completing their

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terms of service. Consequently, these aspirants had little incentive to engage in dissent and the Hikitsukeshu was thus as politically impotent as the Magna Curia.

The use of both real and symbolic councils in both England and Japan demonstrates the highly irregular process by which English and Japanese princes sought to gain an unprecedented degree of control over regional elites.

Legal Procedure and Stationary Administrative Offices

There is one significant difference between the judicial systems employed in England and Japan prior to the arrival of the Angevins and the Hojo. With regard to the Anglo-Norman system, historians have observed that the most prevalent venues of justice were the feudal or “manorial” courts. These regional courts were not the king’s, but instead they were technically under baronial authority. Unfortunately, the feudal court was a source of revenue for the lord associated with it, which posed some difficulty for those seeking justice. Indeed, because the baron was the ultimate arbiter of justice, such irregular factors as graft, bribery, secret testimony, and hearsay were all frequently employed.

The Kamakura justice-system suffered from similar problems. This was exacerbated by the deplorable state of the Bakufu’s judicial system following the Gempei conflict and the death of Minamoto Yoritomo in 1199. The lord of Kamakura did rule autocratically, but he also created the first military court-system in Japan, the Monchujo. This court was originally intended to adjudicate cases between Samurai and shoen-estate holders. Despite the the

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150 Steenstrup, Hojo Shigetoki (1198 – 1261) and His Role in the History of the Political and Ethical Ideas of Japan, 35 – 38.


152 Mass, The Development of Kamakura Rule, 1180 – 1250, 63 -64 See also, Steenstrup, A History of Japanese Law Until 1868, 94.
Minamoto’s efforts to allow the imperial bureaucracy to assert dominance over legal matters that did not involve military personnel, the court’s jurisdiction was merely a façade, because it lacked the manpower and political clout necessary to enforce verdicts. Indeed, because the Kamakura Samurai were soldiers and not jurists, members of the Monchujo lacked sufficient experience in legal matters, despite the fact that several Kyoto-based nobles were recruited into the Bakufu during the 1180s and 1190s. Manpower was also a problem for the monchujo, but the Kamakura shogun possessed the power to end the outbreaks of violence, which rocked the islands after 1185. Therefore, soldier and civilian alike turned to Kamakura for resolution. This leads Mass and Steenstrup to suggest that the Monchujo was far too underdeveloped to fill the void left by the antiquated imperial institutions.

Henry II and the Hojo regents met these problems head on, developing their own judicial procedures and courts. Henry developed his own rules and regulations, but he also reinstated and improved upon Norman traditions as well. This is a great difference between Angevin legal innovations and those created by the Hojo regents. However, along with the royal writ, the widespread use of the jury, and the fruits of numerous assizes including those at Clarendon and Northampton must be added to the list of important Angevin legal innovations.

The most important legal procedural innovation that led to the rise of a strong centralized monarchy under the Angevins was the royal writ. Writs were royal documents that could be issued by several entities within the English government. These included the Chancery, the royal courts or, the royal person itself, as well as a host of other royal officers.

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One of the most famous examples of the king issuing a writ to facilitate resolution in a dispute between English nobles comes down to modern scholars from the Abingdon Chronicle (1164). According to this document, the leader of the monastic house there dispossessed one Walter fitz Hingam and his father-in-law, Simon of lands, because they had supposedly reneged on their feudal obligations. Under English feudal law, this was a fitting punishment for the crime. However, this occurred in 1153, when the English nobility had been divided between dueling royal claimants, Stephen I and Henry II. The chronicler explains that Turstin, son of Simon approached Henry, bringing money and demanding royal intervention in the matter on his behalf. Henry II merely sent a writ to the abbot, and Turstin’s land was summarily returned to him without incident. Although the righteousness of plaintiff’s cause is in doubt, this story does illustrate the purpose and power of a royal writ.

These documents were not intended to rob the English baron of his well-earned place within England’s feudal hierarchy. Rather, the royal writ was a sort of regal warning shot that was designed to prevent the feudal magistrate from succumbing to bribery, rumor, personal whims, and coercion in matters of justice. If he did, then the offended litigant could and would have the right to request that his dispute be removed from his lord’s local jurisdiction, and be heard and judged by the King’s Bench, earning the feudal lord the legal wrath of the Crown.

At the same time, a writ could be issued to the offending party or the local peace-officer (ie, the Sheriff) ordering that whatever the claimant had been stripped of or denied be returned or granted to him post haste. These types of documents were a favorite tactic of knights, who found themselves embroiled in an inheritance dispute with their overlords. These particular writs, Novel Deseisin and Mort d’ Ancestor, will receive a more detailed treatment in chapter five.

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The writ also did much to standardize justice throughout England. The reason that the standardization of royal justice throughout all of England can be linked to the writ-system is that these writs were based on formulas that were meticulously adhered to by English notaries. The use of notaries within the Angevin judicial system, allowed for the free English to live under a system where judicial procedure and the law was uniformly applied in all regions. Legal historians of medieval England such as A.W.B Simpson have suggested that the writ-system was in existence earlier than the reign of Henry II, and that formulas were in use even in William I’s time. The best illustration of such a formula can be gained by examining the oldest type of writ found in English archives, the Breve de Recto, or the Writ of Right.

The King to Lord X, greetings! We order you that without delay you do full right D concerning one messuage with its appurtenances in the Manor of Dale which he claims to hold of you by the free service of a rose at midsummer for all service, of which T deforces him. And unless you do so, the sheriff of … will do so, lest we hear further complaint on the matter for want of right.157

Upon studying the formulary quoted above, it is plain that this was a royal order to the lord of the manor at Dale. However, this document also lists all the particulars of the dispute. First, the document is addressed to the king’s local subordinate, lord X, and instructs him in regards to the dispute. Second, the demandant, or in modern legal parlance, the defendant, “D,” is named, and his feudal obligation, a rose at midsummer, is listed. Third, the offending party is also listed by the name of “T.” Finally, the regal warning shot that was discussed earlier is observed, explaining that if lord X does not attend to this matter expeditiously and correctly, then royal officers will be tasked with the resolution of the case.

It is clear from the diction used in this document that the names of the places and parties involved could be changed to suit the demandant’s individual circumstances. Similar diction and

157 Qtd. In, A.W.B Simpson, An Introduction to the History of Land Law, 25
syntax are observed in the examples of Novel Disseisen and Mort d’ Ancestor that appear in the fifth chapter. Simpson and Lyon have claimed that the presence and widespread use of these writs forced seigniorial, that is feudal, justice into a steady decline as royal jurisdiction increased throughout the Angevin dynasty and subsequent periods.\(^{158}\) Owing to the fact that these writs were designed to fit a variety of circumstances suggests that the free Englishmen and the vassals, began to view royal justice as an impartial avenue to solve disputes and achieve resolution.

Like the Angevin justices, those officers employed by Kamakura also used documents to record and carry out verdicts in their own developing judicial system. The documents cited below detail one of the most common legal confrontations that took place throughout the first era of military rule. This extremely common type of dispute revolved around land-rights between *shoen*-estate proprietors and the *jito* assigned to their holdings.

Concerning Kyoku Village, a holding of Munakata Shrine. An order was previously given that the ukesho [right] of the jito be maintained in accordance with precedent. Nevertheless, local notables and peasants have reportedly ignored this order, claiming a [contrary] instruction from a shrine officer [sashi]. If this is true, it is most unseemly. The essence of this ukesho shall continue without change. Let authority be administered forthwith, pursuant to the prior order. By this command it is so conveyed.\(^{159}\)

Concerning the petition of Iekado, chief priest of Takeo and Kurokami shrines, Hizen province alleging that the jito of Nagashima estate, Hyuga Taro, has seized four indentured persons upon the pretext that the shrines lie within Nagashima. An order has been given to the Suruga governor, Suetoki, that the matter should be judged at Shugo headquarters [that is the provincial seat]. Forthwith, let it be so executed. By this command, it is so conveyed.\(^{160}\)

The two documents cited above illustrate that the Kamakura Bakufu also issued

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\(^{159}\) Mass, *The Development of Kamakura Rule, 1180 – 1250*, 243 The addition of the word “right” is my own. The original text translates *ukesho* as “authority.” However, *ukesho* can be translated as, “a written contract or petition.” Based on the modern definition “right” seems to be a closer description of the actual arrangement that was under contention in this incident.

documents instructing local officers to settle disputes. However, these decrees were usually
issued following the issuance of a verdict in a case. The structure of the documents suggests that
the Japanese may have used the services of notaries. While the diction of these two separate
documents coupled with the presence of a cadre of trained judicial professionals within the
government lends credence to the view that the judicial officers of post-1221 Kamakura
government did use some sort of formula to allow a greater degree of uniformity in their legal
documents, evidence does not suggest that the Hojo developed a system of writs.

This is a major difference between Angevin judicial procedure and that observed in
thirteenth and fourteenth century Japan. Despite the absence of writs in Kamakura Japan, there
are two more types of procedures developed by both rulers that further centralized and
standardized justice.

At the Council of Clarendon, Henry and his ministers decreed that trial by jury was to be
the standard under English Common Law. The medieval constitution of an English jury was
nothing like its modern successor in terms of its function within the confines of court. Medieval
English juries that appeared during the Angevin period did not determine a defendant’s
innocence or guilt. Rather, the jury was a collection of twelve to fourteen free men from the local
area, who “swore to the truth and authenticity” the validity of a demandant’s claim. This
means that those selected to serve presented the facts of the case to the best of their knowledge.
The justice’s decision was based on their presentation of documentary and anecdotal evidence.

Henry ordered that all litigation should be conducted by jury in a court of law, for
military and financial reasons. Trial by Combat was widely used under the Anglo-Normans. This

161[A.W.B Simpson, An Introduction to the History of Land Law, 31].
162 Lyon, A Constitutional and Legal History of Medieval England, 290 See also, Simpson, An Introduction to the
History of Land Law, 26.
was, in the minds of medieval men, the surest way to allow the Christian god free reign to decide the winner of a dispute, and to punish the guilty.\footnote{Strickland, \textit{War and Chivalry, Perception of War in England and Normandy, 1066 – 1217}, 59 and Paul R. Hyams, \textit{Rancor and Reconciliation in Medieval England}, Ithaca, New York: Cornell University Press, 2003, 58 – 70.} Such practices were costly to the participants and the king in terms of life, limb and money. The risks involved were seen by Henry and other prominent legal thinkers as a detriment to the overall military preparedness of the realm.\footnote{Lyon, \textit{A Constitutional and Legal History of Medieval England}, 448 See also, Hyams, \textit{Rancor and Reconciliation in Medieval England}, 156 – 158.}

Legal vendettas, or kenka, were also common-place among the Kamakura Samurai. However, violence was not the condition that led to the creation of a more personal judicial procedure under the Hojo regents. The development a standard adversarial procedure was necessitated by the monchujo’s reliance on rumor, omens, and personal feelings, rather than concrete evidence. For instance, many verdicts were issued based on natural occurrences and personal misfortunes. These natural mishaps included, a bird defecating on one claimant or the death of a mount during the proceedings.\footnote{Steenstrup, Carl, \textit{A History of Law in Japan Until 1868}, 94.} Like Anglo-Norman law, early Kamakura justice was hampered by the divine. Such irregular deliberations meant that verdicts could easily be repealed through the bringing of counter-suits.\footnote{Steenstrup, Carl, \textit{A History of Law in Japan Until 1868}, 95- 96.} Therefore, the early Kamakura legal system was caught in a cycle of suits followed by counter-suits, slowing legal progress.

Beginning in 1226, the Hyojoshu commanded that all lawsuits be tried by taiketsu. This term can be best translated as “personal confrontation.” Under this procedure both parties in a dispute or trusted retainers, would make arguments to the tribunal, and present documentary
evidence in favor of their claim. The court would then weigh the evidence, and issue a verdict.167 Through the developments of more personal types of judicial procedures such as the English jury and the taiketsu, both rulers solidified their control over the courts. However great the rulers’ command of their courts was, these innovations alone could not have guaranteed that the king or the regent could legally control his common subjects.

Permanent Access and Oversight

The most important legal innovations found in the Angevin and Kamakura periods allowed both leaders to maintain permanent access and oversight of government at the regional and local levels of society. This was accomplished by the creation and empowerment of several offices in each region’s political superstructure. Henry reinstated many of his grandfather’s legal reforms, and improved upon them. These refurbished institutions were the Chancery, the itinerant justices and, the Exchequer. Likewise, the Hojo also created and invested two new offices with the regent’s political power. These were the Rokuhara Tendai and the Agent of Virtuous Rule. Historians of Japan will note that the second office was created to stop the chaos following the last Mongol invasion. Despite the fact that the Agent of Virtuous Rule was created to alleviate a later difficulty, it was also used to extend the Bakufu’s power into Western Japan.

A supporting bulwark of central authority found in the institutions to be discussed here is that all members of these offices had proven themselves to be capable administrators, and were hand-picked by the king or his justicar. Therefore, royal interests and those of the subordinate officials were one in the same. This condition severely undermined the personal ambitions of

167 Ibid.
the nobility that had crippled the monarch’s ability to rule during the Anglo-Norman period and “feudal anarchy.” 168

The main engine of Angevin government was the Chancery. Despite the fact that the writ-system gave the king legal authority to intervene in any legal dispute, the Chancery was the agency responsible for the drafting and dissemination of all diplomatic, political and legal documents throughout the whole of the island. Therefore, it is correct to surmise that the Chancery functioned as a direct line of communication between the monarch and the local authorities. Without the well-trained members of this office, who also sat on the Curia Regis, the ever-expanding jurisdiction created by the writ could not have encompassed the entirety of the realm. 169

While the Chancery, which Lyon claims “the most efficient secretariat in Western Europe” was responsible for the drafting and distribution of government documents, the itinerant justices were the cogs in the machine that eased the populace’s access to royal justice and informed the monarch of the day-to-day operations of government in the countryside. 170 Although the title “itinerant justices” implies mobility rather than permanent seats of judicial power, these officers are important to this discussion because they had a standardizing effect on English justice. Henry II inherited the institution of the itinerant justices from Henry I, but Henry I only dispatched these roving judicial officers to troubled areas when the need arose. On the other hand, Henry II created a system to allow for the regular employment of the itinerant justice within the counties. Between 1176, when the itinerant justices were fully reinstated and

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169 Ibid.
1179, twenty-one officers made annual treks to every county in England, hearing cases and dispensing the king’s justice in four predetermined circuits.

Despite the fact that these men moved between the king’s court and their assigned counties, their periodic journeys standardized judicial procedures and eased the free man’s access to royal justice.\textsuperscript{171} The king’s law, which was the Common Law, was successfully enforced over the whole of England.\textsuperscript{172}

The final office to be discussed is that of the Exchequer, which was charged with the collection and tabulation of all English taxes, and was also the first permanent court of law in England when it was commanded to be hold regular sessions at Westminster in 1178. While this court could hear any case in the realm, it is most famous for functioning as the king’s financial clearing house.

The Exchequer was divided into two separate bodies, the upper and the lower. The lower Exchequer was permanently moved to the confines of Westminster in 1172, where it constantly received and dispersed monies, while the upper Exchequer, which was overseen by professionals, who sat on the Curia Regis as well, met only at Michaelmas and Easter. The entire Exchequer was meant to dissuade local officers, especially the problematic sheriffs, from committing graft and embezzlement. While the lower chamber of this institution received and dispersed funds to and from the counties, its members kept written accounts of all transactions between the local and the central government. These records also gave detailed information such as failures to pay the amounts owed in full, and attempts to debase the currency by adding lead or other basic metals to the coinage.\textsuperscript{173}

\textsuperscript{171} Lyon, \textit{A Constitutional and Legal History of Medieval England}, 283.
\textsuperscript{172} Ibid.
\textsuperscript{173} Lyon, \textit{A Constitutional and Legal History of Medieval England}, 258- 259.
During its Michaelmas and Easter sessions, these records, more commonly known as tallies, would be handed over to the upper chamber, where they would be compared and checked. If any discrepancies were found at either the local or central level, then the problems would be remedied. If, however, the offender could not offer a satisfactory explanation, or pay the difference outright, then he could be brought to book for his wrong-doing in the Exchequer’s court.174

While the English enjoyed a robust but complex administrative system that allowed the monarch to oversee and control nearly all aspects of society, the Hojo created many of their central institutions from scratch. There is a major difference between Henry’s governmental institutions and the Hojo regents’. Historians of Japan will be hard pressed to locate an institution within the Kamakura Bakufu that is analogous to the English Exchequer. The reason behind this stemmed from Japanese culture. Each clan was responsible to the Bakufu for providing men, munitions, and provisions for military engagements. The maintenance, collection and distribution of finances was left largely to each individual clan’s leader, or soryo, who was assisted by clan-councils that functioned outside the central government’s sphere of influence.175

Despite the absence of any centralized office that resembles the Exchequer, the Hojo did development regional administrative centers that adjudicated judicial disputes, and implemented Kamakura’s directives at the local level. First among these subordinate centers was the Rokuhara Tendai. Created shortly after the cessation of hostilities in 1221, the Rokuhara Tendai was headed by one member of the Hojo family and a trusted retainer. The purpose of this office was to give Kamakura total control over those Samurai assigned to Kyoto, the imperial court,

174 Ibid.
175 Steenstrup, Carl, A History of Law in Japan Until 1868, 89 -91.
and the villages in the Kinai region. The Azuma Kagami alerts historians to the purpose and power that this new institution enjoyed over the old imperial city claiming that those appointed to it would become Kamakura’s “eyes, ears, teeth, and nails.”\(^\text{176}\) Despite the vicious description of the Tendai’s duties, documentary evidence suggests that the Kyoto-based headquarters as well as Samurai stationed in that location were quite subservient to its masters in Kamakura, exercising its powers only when instructed to do so.

Concerning the petition of the acting head priest of Usa Shrine, Kimimasa sukune, that Kimitaka, elder brother of [the same] Kimimasa, had seized Inamitsu myo paddy in Kyoto Estate, Buzen province, a holding of the shrine, under the claim that he [Kimitaka] was deputy for the Takashina family. The accusation letter is being sent and the details appear therein. In essence, upon completion of the trial confrontation [taiketsu] you [the Rokuhara Tendai] should forward your report along with the proof documents. By this command it is conveyed.\(^\text{177}\)

The inferior position of the Rokuhara Tendai to Kamakura is readily visible in the document cited above, because of the strict step-by-step instructions contained in the final lines. However, documentary evidence further demonstrates that matters which fell under Rokuhara Tendai’s jurisdiction were also easily influenced by pressure from Kamakura as well.

The petition of the deputy of Nobe Estate, Yamato province, an Angamon-in land, is being sent, and details are recorded therein. In brief, a trial confrontation has been held regarding the incursions of the former custodian, Kanrembo, and his agent Nobumori. The record of the inquiry shall be forwarded to the Kanto [Kamakura], where a fair and just disposition shall be made. Nevertheless, before a final Kanto [Kamakura] judgment is made, estate administration shall remain under the direction of the current custodian, with authority conforming to the precedent. It is commanded thus.\(^\text{178}\)

While the document above does offer details suggesting that Rokuhara could make its own judgments in legal disputes that arose in the Kinai region, it is also clear that this regional office’s authority could be, and at times was, superseded by that of Kamakura. Although the

\(^{176}\) Steenstrup, *Hojo Shigetoki (1198 – 1261) and His Role in the History of the Political and Ethical Ideas of Japan*, 35, and Mass, *The Development of Kamakura Rule, 1180 – 1250*, 84.


evidence presented here has illustrated Rokuhara’s judicial capacities within the Bakufu’s political structure, legal developments observed in 1232 also show that this regional office worked legislatively in conjunction with the Hojo regent to affect a standardization of Japanese law. In 1232, Hojo Yasutoki, then regent of Kamakura, created and dispatched copies of Japan’s first codified legal code penned by Samurai, rather than Chinese-style bureaucrats across the realm. This fifty-one article code is referred to as the Gosebai Shikimoku.

While the monarchs of twelfth century England had employed the writ to greatly expand the prince’s legal authority, enlarging the Pleas of the Crown, which is any crime that fell under the auspices of regal jurisdiction, the Hojo used the Gosebai Shikimoku to accomplish the same aims. This code contained a list of fifty-one offenses that either a Samurai or free man could bring to Kamakura or the Tendai for legal satisfaction.179

In fact, this portion of Hojo-legislation is so similar to the Angevin Pleas of the Crown that Steenstrup has made open references to these similarities, even referring to the code as Japan’s “Common Law” and referring to Henry II by name in his dissertation, “Hojo Shigetoki (1198-1261) and His Role in the History of the Political and Ethical Ideas of Japan.”180

The king, chancellor, and justicar were instrumental in the continuous development of the writ-system and its effectiveness at removing cases from the lesser courts in favor of the king’s courts. Likewise, Kamakura also relied heavily on the opinions of Rokuhara, in regards to the Gosebai Shikimoku’s formulation, generating copious amounts of correspondence between the two centers of power.

179 Shigetoki (1198 – 1261) and His Role in the History of the Political and Ethical Ideas of Japan, 28 – 29.
180 “Hojo Shigetoki (1198 – 1261) and His Role in the History of the Political and Ethical Ideas of Japan,” 28-29. See also, Lyon, A Constitutional and Legal History of Medieval England, 288 and Van Caenegem, The Birth of the English Common Law, 29 for a full explanation of the employment of the writ to increase the scope of royal jurisdiction.
For example, the following excerpt is taken from a letter from the Hojo regent to
Rokuha. In this communiqué the regent informs his subordinate of his aims in disseminating
the document throughout the islands.

[The Gosebai Shikimoku has been devised] to combat the prevailing lawlessness and
ignorance of the law, to inculcate moral principles in the people under the sway of the
warriors, to make it clear that the warriors’ law [does] not intend to encroach upon the
ritsuryo [that is Nara and Heian legal precepts] but only to supplement it where its rules
do not tally with new organization of the government.181

An examination of this document suggests that like Henry II, the Hojo sought to extend
Kamakura’s and its subsidiaries’ influence over the entirety of the Japanese populace. Despite
the gigantic political and legal strides towards centralized rule taken by the Hojo through this
document, historians will note that the Hojo regent did not intend to replace the traditional
power-structure present in Japan. The document explains that this warrior-legislation was meant
to supplement the Ritsuryo Codes. This is obviously an admission by the regent to maintaining
the Kenmon Taisei’s status following the passage of these articles.182 However, during the
1270s and 1280s, war would again place a great deal of strain on Japan’s society and warrior-
government.

As has been previously mentioned, the Mongol invasions (1274 and 1281) caused a great
deal of upheaval throughout Japan, taxing all pre-existing institutions. One of the gravest
concerns Bakufu-advisers was the promotion of those Kyushu-Samurai, who had more than
fulfilled their martial obligations, denying Qiblai’s troops a beach head on Kyushu. These
families had not only put themselves in harm’s way, but had also incurred massive debts,
because of the conflict, many pawning their feudal holdings and rights to the emerging

181 Steenstrup, Hojo Shigetoki (1198 – 1261) and His Role in the History of the Political and Ethical Ideas of Japan, 28.
merchant-class in the process. Two regulations were enacted to assuage the Samurai’s clamors for well-deserved awards and their financial problems. First, all pawned lands were to be returned to the original holders and their debts were to be rescinded. Second, small tracks of land were to be redistributed to those families, who had rendered service in the war.183 Three men were dispatched to Kyushu to oversee these regulations implementation, under the auspices of the Tokusei no Ontsukai or “agents of virtuous rule.” Although these three agents were originally dispatched to enforce economic measures in Kyushu, the lawlessness experienced there in the three-year period following the conflict had outstripped the original judicial institutions responsible for order on the island, the Chinzei Bugyo.184

Therefore, disaffected Samurai and commoners flooded into the Kamakura and Kyoto courts. To allow for the speedy adjudication of cases in Kyushu, the Chinzei Bugyo was absorbed into the Tokusei no Ontsukai. This regional agency was divided into three separate organs. Each division was tasked with the resolution of both criminal and civil disputes in three of Kyushu’s nine provinces.185 Therefore, this organization suggests that Kamakura employed regional officers that functioned in a fashion similar to Henry’s itinerant justices.

Conclusion

Chapters three and four have examined the crucial shifts from the ineffective governments and judicial systems observed in the Anglo-Norman and early Kamakura periods to more uniform and robust centralized administrative systems under the Angevins and the Hojo regents. Through the creation and empowerment of central authority figures such as the justicar

185 Ibid.
and the Hojo-regent as well as both politically potent and symbolic councils, both rulers achieved alliances with their social elites. Thanks to the development of a sort of concordia, Henry II and the Hojo regents were able to enlarge their legal jurisdictions to encompass both warrior and civilian, while also increasing the number of offenses that were to be tried under their auspices.

Secondly, through the creation of uniform personal civil procedures such as the jury-system and the taiketsu, both the English and the Japanese were placed under the protection of more regular judicial process, which did not allow for personal feelings, superstitions, local customs or bloodshed to enter into the equation. These systems ensured that both England and Japan would be ruled by law rather than the customary rules found in various feudal locales throughout both regions, thereby protecting the rulers’ abilities to defend themselves against foreign and domestic usurpers.

Lastly the addition of regional centers of judicial and political such as the itinerant justices, the Chancery, and the Exchequer, as well as the Rokuhara Tendai and the Tokusei no Ontsukai, both groups of leaders gained an unprecedented ability to oversee and direct judicial and political matters throughout their territories. These types of institutions are only observed in England and Japan, and allowed these two regions to become home to the two most centralized feudal polities observed in either Western Europe or East Asia.

Most importantly, I have suggested that the uniform enforcement of unitary inheritance such as primogeniture and ultimogeniture were the key factors in allowing England and Japan to be one of the most feudal societies on their continents as well as home to two of the world’s best medieval armies. However, the innovations discussed in this chapter such as standardized judicial procedure and a reliance on documentary evidence are of crucial importance to the
development of unitary forms of property-conveyance. Without the legal and judicial developments discussed here, unitary inheritance would have been impossible for either the Kamakura Bakufu or the English monarchs to begin the transition from divided inheritance to the complete enforcement of said practices under the Ashikaga house and the Angevin dynasty.
In 1066 and 1185 William I and Minamoto no Yoritomo found themselves at the heads of the strongest military forces in their respective locales. They also needed to reward their loyal supporters whose support had made their conquests possible, and ensure that their armies were financially ready and able to stave off any internal rebellions as well as foreign incursions. The most lucrative economic asset present in any feudal society was land. The knights fee and the Japanese chigyo were the economic basis of the both the knight’s and Samurai’s martial superiority.

However, the decentralized nature of continental feudal inheritance and Japanese soryosei meant that control over land was both legally and militarily contested on a regular basis. These facts were thoroughly discussed in Chapter three, which also discussed the detrimental effects of private interests on the formation of truly centralized polities in each locale. These divisive conditions defeated one of the central purposes of instituting a feudal government for several reasons: land was constantly divided among multiple heirs, which shrunk and limited the amount of resources available to warrior-magnates, the feudal command-structures were so decentralized that they often disintegrated into mutually exclusive alliances, and these opposing alliances often fought against the sovereign or lord, and left both Japan and Western European feudal states vulnerable to regional insurrections as well as foreign invasion. The best examples of these detrimental situations can be observed in the collapse of the Carolingian empire under Louis the Pious, the civil wars that erupted between England and Normandy from 1087 until 1106, and the period known as the “feudal anarchy.” The poor performance and logistical
problems of Samurai against the Mongols in 1274 also illustrates this point on the Japanese side of the study as well, and can be blamed on the clan-based system known as soryosei.\textsuperscript{186}

George Homans has suggested that “The most familiar and perhaps the commonest of the rules of impartible inheritance of villagers’ holdings was primogeniture”\textsuperscript{187}. England was home to a virtual cornucopia of diverse cultural groups including the Celtic peoples, the Anglo-Saxons, the Scandinavians, and, after 1066, the Frankified Normans. Therefore customary rules and regulations varied from one region to the next. Bearing these facts in mind, it is no small surprise that feudal England was home to several different systems of unitary inheritance, which all achieved the same purpose in different ways. The two most prevalent of these systems were primogeniture and borough English.\textsuperscript{188}

Although westerners have historically viewed Japan as a homogeneous society, Japan also employed similar systems of land tenure throughout the Kamakura period. Primogeniture was widely practiced on a realmwide level by the Ashikaga era, but historians have observed that this trend developed during the late Kamakura era.\textsuperscript{189} Masshi souzoku, which could be a Japanese variant of Borough English, was confined to the island of Kyushu and neighboring areas as early as the seventh century.\textsuperscript{190}

However, the English speaking historians have done little work on masshi souzoku, and sources are still being located. Therefore, the legal and historical correlations between this


\textsuperscript{187} Homans, English Villagers of the Thirteenth Century, 123

\textsuperscript{188} Ibid.

\textsuperscript{189} Mass, Lordship and Inheritance in Early Medieval Japan, A Study of the Kamakura Soryo System, pg. 94, and Steenstrup, A History of Law Until 1868, pg. 90

\textsuperscript{190} Alan MacFarlane. “Heirship” unpublished paper, King’s College, Cambridge University, 2002, 21
particular Japanese system and borough English are still in the theoretical stages. The concepts that are at issue in this final chapter are unitary inheritance’s establishment in both locales, and the standard judicial procedures used to enforce these methods of conveyance in both regions. This chapter discusses the establishment of unique systems of unitary inheritance in either location, their benefits, and will also provide examples of these systems in operation.

Primogeniture: a Definition and Its Establishment Under Feudalism

Primogeniture is “the state of being the first-born among several children of the same parents; seniority by birth in the same family; the superior or exclusive right of the eldest son and particularly, his right to succeed to the estate of his ancestor, in right of his seniority, to the exclusion of younger sons” 191 Primogeniture entered the English countryside with William I’s expeditionary forces in 1066. By 1070, the last vestiges of the conquered Anglo-Saxon nobility had been erased from English territory. William I rewarded his supporters with English territory and the customs of feudal Normandy, particularly inheritance via primogeniture, became the standard method of conveyance for lands held in military tenure. 192 Despite the myth that primogeniture was associated with knights only, 1066, historians observe that primogeniture was also employed in the Champion Country, and directed the conveyance of civilian-holdings. 193 The custom was gradually given legal and social legitimacy by the Crown through the use of the writ system and standardized judicial procedure under the Angevins.

The first royal mention of primogeniture in Medieval English legal history is found in Henry I’s Coronation Oath (1100), which has been reproduced here.

193 Homans, English Villagers of the Thirteenth Century, 121 - 125
Section I: Henry king of the English to Samson, Bishop and Urse d’ Abetot and all his barons and faithful men both French and English in Worcestershire greeting (…) Know that by God’s mercy and the common counsel of the barons of the whole kingdom of England I have been crowned king of that same kingdom. And because the kingdom has been oppressed by unjust exactions, I, out of respect for God and the love which I bear towards you all, in the first place make free the holy church of God (…) And I abolish all evil customs whereby the realm of England has been unjustly burdened, the which evil customs here I set down:

If one of my barons, earls or tenants should die, his heir shall not buy back his land as was done in the time of my brother but he shall pay a just and lawful relief for it. And similarly the men of my barons shall pay a just and lawful relief for their lands to their lords.”

Section II: And if one of my barons or other men wish to give in marriage his daughter, sister, niece or [other] female relative, he will discuss it with me; but I will neither take anything from him for this permission nor forbid him to bestow her, unless he wishes to marry her to my enemy. And if a baron or other man of mine, being deceased, has a daughter as an heir, I will give her [in marriage] together with her lands by the counsel of my barons. And if after the death of her husband a wife survives and has no children, she shall have her dower and marriage portion, and I will not give her in marriage except with her consent.”

Section III: If however a wife survives with children, she too, shall have her dower and marriage portion, so long as she keeps herself chaste, and I will not give her [in marriage] without her consent. And the guardian of the children and land shall be either the wife or some other close relative who has a better right. And I command that my barons shall similarly act with moderation towards the sons, daughters, and wives of their men. (…)”

Section IV: To knights who serve for their lands by the hauberk I grant my own proper gift that the lands which they hold in demesne shall be quit of all gelds and work, so that, released from this great burden, they may thus fully equip themselves with horses and arms, that they may be fit and ready for my service and for the defense of my realm (…)”

Section V: Witnessed by Maurice, bishop of London, William, bishop elect of Winchester and Gerard, bishop of Hereford and earl Henry and earl Simon and Walter Gifard and Robert de Muntforte and Roger Bigod and Eudo the dapifer and Robert fitz Hamo and Robert Malet At Westminster when I was crowned.195

This oath is significant to the discussion at hand, because it legally removed the rule of primogeniture from the realm of feudal custom, and placed it firmly within the confines of English feudal law. Henry I also addressed common problems ascribed to feudal inheritance,

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194 To hold one’s land “by the hauberk” refers to all knights and other men, who hold their fiefs in exchange for military services to the king.

and prescribed remedies to combat them, thereby ensuring that land was peacefully transferred from the original tenant to the first born heir. Problems corrected by this legal document include, the presence of heavy payments for the right to inherit, the lack of a male heir, the premature death of an original holder, while the heir was in their minority, and the rights of widows and wives as well. Although, the use of primogeniture as well as other legal institutions created by Henry I would fall out of use during the period of “feudal anarchy” (1135-1154), Henry I’s reforms would be reinstituted under his grandson, Henry II, and primogeniture would become further entrenched in English law, particularly under the Writ of Mort’d Ancestor and The Writ of Novel Disseisin. These judicial procedures further protected an Englishman’s holdings against illicit confiscation by a superior. The writ-system was discussed in Chapter Four. What is most important now is to understand how primogeniture functioned in both England and Japan.

The establishment of primogeniture in Kamakura Japan is much more difficult to trace than its arrival in feudal England. The Hojo regents of the thirteenth and fourteenth centuries left no edicts or other documentation that heralded the onset of primogeniture in Japan. Despite the absence of proclamations dealing with primogeniture, legal historians have observed the adoption of primogeniture by individual Samurai families beginning in the early twelfth century through careful examinations of court cases from that period. However, all Samurai did not embrace primogeniture during the Kamakura regime. Partible inheritance did continue to be a viable option for warriors after the Mongol Invasions. Primogeniture was not a standard part of Japanese law until the Ashikaga period. However, as has been previously suggested, Kamakura Samurai did choose to operate under this particular system of unitary inheritance.

Primogeniture in Operation

While primogeniture can be simply defined as, “the right of the first born son to inherit property to the exclusion of other siblings,” the actual application of this system was a far more complicated feat. As previously discussed, the institution of primogeniture contended with and was influenced by local customs of the manor where the disputed land lay. Records of a case that took place in King’s Ripton (1307-1308) are most instructive on this particular point.

The whole village is saying that Tomas Arnold, clerk, who acquired a messuage of fourteen acres from the village of King’s Ripton, has died seised of the whole of the aforesaid holding. And they say that after his death a certain Ralph Arnold, is the nearer heir by blood, but they say that by the custom of the manor Nicholas, son of John in Le Hyrne, is near heir of the said Thomas to have the aforesaid holding according to the custom of the manor, in that said John Le Hyrne, father of the said Nicholas, who was of blood of the village, married Margret, sister of the said Thomas, born at Bury by Ramsey, upon whom he begot Nicholas, who now sues.197

Thomas Arnold died without a son, and left his land vacant. Therefore, based on the basic rule of primogeniture, his next eldest brother, Ralph, should have paid the fine, the heriot, done fealty, and then taken possession of the land. Why was there a dispute involving the son of Thomas Arnold’s sister? The reason for this suit can be found in the customs of the village at King’s Ripton. Thomas was an outsider, who acquired holdings within the village, and the villagers placed a great deal of importance on the “blood of the village.” “Blood of the village” refers to great families that had held land in and around King’s Ripton for generations. Therefore, since Thomas and Ralph were outsiders, Ralph was seen as an inappropriate heir. The villagers saw Nicholas Le Hyrne as a more suitable successor to Thomas’ estate, because his mother had married into a native family.198

However in 1310, the Abbot of Ramsey, lord of the village confirmed Ralph Arnold’s claim, disinheriting the nephew. Primogeniture had triumphed over local custom. The final outcome of the case discussed above demonstrates the main reason behind the prevalence of primogeniture and Borough English in England. The royal institutions of primogeniture and Borough English offered the best protection for the Englishmen’s military and economic assets, because of the fact that English land conveyance was fixed. No person could inherit a fief or other piece of land held by Villienage except the first born heir. In the presence of no progeny, lands were always transferred to the original holder’s next closest male relative. So, based on a system of primogeniture, Nicholas LeHyrne was ineligible to gain Thomas Arnold’s inheritance, due to the fact that he was not Thomas’ biological offspring, but a distant relation by marriage.

As demonstrated by the case above, the English king and feudal lords ensured the supremacy of strict primogeniture over the customs of local village traditions through their rulings in legal disputes. The institution of primogeniture in Kamakura Japan was not enforced under any Hojo policies. Rather, it was enforced by decisions of key members within independent Samurai families. Therefore, partible and unitary inheritance coexisted for a time, but throughout the centuries of Samurai-rule, primogeniture and other forms of unitary inheritance became the rule, supplanting partible inheritance by the Ashikaga period.

An examination of two Bakufu documents will illustrate the point that primogeniture was becoming a factor in Japanese inheritance, but that matters of succession were still under the auspices of the family, not the Bakufu. The two cases cited below demonstrate that the

199 Ibid.
Samurai’s adoption of unitary inheritance was based on the clan heads wishes rather than legal precedent during the Kamakura era.

Conveyed: landholdings of Kashima Shrine, Hitachi Province. Tachibana go of [Namekata] District, with these boundaries (…) plus Oga village of Namekata District — [Kanto] edict appended. Private paddy and upland within the precincts of Kashima Shrine, including two parcels of land — to the right and left of the gate.
The said Tachibana go, a land [originally] commended to the utaisho house, is a generations old hereditary holding of Tomochika. Nevertheless, in accordance with the admonition of the original holder, Masachika, the present conveyance does not apportion tan or bu.201 Exclusive and permanent release is hereby made to our principle heir, Yoshichika, along with the full sequence of proof records. As for holdings of this shrine, now and ever more let no release take place - for as much as a tan or bu – to a youngest son, a daughter, a widow, or to any different-surnamed outsider. Obligations to the shrine shall be discharged pursuant to the precedent. Thus as proof for the future, our conveyance is as above.202

Based on the last section of the document above, it is plain to see that the original holder of the lands in question, Yoshichika, did not wish his family’s holdings surrounding Kashima Shrine divided for any purpose whatsoever, even denying daughters and widows the protections afforded their English counterparts under Henry I’s Coronation Oath.

The following case is dated to 1330, and also illustrates the fact that the adoption of primogeniture in Japan was based on the wishes of family leaders, rather than on the Bakufu’s views.

Conveyed: landholdings.
One locale: the jito shiki for Hon go, within the Jibi estate, Bingo Province – minus the Takayama residence fields, ect.
One locale: a partial jito shiki for Taga village, the same estate.
One locale: the jito shiki for Tomishima estate, Settsu Province.
One locale: the jito shiki for Lower Hirata go, Shinano Province
One locale: Peasants, paddy and upland, service households, residence compounds in Ittoku myo, Hayakawa Estate, Sagami Province.
One locale: land within Kamakura’s Amanawa [ District].

201 Tan and bu are measurements of lands, usually seen in conveyances calling for divided inheritance of assets among co-heirs.
The aforesaid places are hereditary possessions of Chokai (…). Accordingly, they are conveyed to my principal heir, Hikosaburo Michitoki, along with the succession of proof records. Although portions ought to be allocated to my other children, these would be very small in size, and thus release is to Michitoki alone because of the need to avoid a crisis involving allotments. Although the future is unending, Chokai’s estate shall be succeeded by one person among his descendants [in each generation]. However as the Takayama residence fields, etc. within Hon go, Jibi Estate, Bingo province, these have been commended in perpetuity to the Kan’onji Temple. Exact specifications have been recorded in a separate document. Moreover, because the present conveyance was prepared by someone else, a statement written in our own hand – in Japanese letters will be added to the reverse side as proof for the future. Forthwith, possession shall be exercised pursuant to this document. Wherefore, our conveyance is thus.203

These two examples illuminate several interesting characteristics of Kamakura land tenure. First, the adoption of primogeniture was based on decisions made by the original holder of the property that was the object of conveyance. Second, these documents like those of the English land charters did not grant ownership of the land, but legal rights to percentages of the produce, rents, and judicial authority.204 Like the feudal knights’, the Samurai’s holdings were not confined to one region, but could be spread over all Japanese territory. Lastly, the structural similarities in the 1301 will and its 1330 counterpart as well as the evidence presented in chapter four lends further proof supporting the view that the Japanese Samurai, like feudal Europeans, may have enjoyed the services of a class of professional notaries.

Benefits of Primogeniture

The Anglo-Norman kings, their Angevin successors and their Samurai fellows instituted primogeniture in different ways, but both of these feudal rulers turned to primogeniture to solve similar problems. These were: incessant disputes among family members as well as cadet

branches led to legal and real battles on the European continent, in England and Japan; the constant division of land among multiple heirs depleted the economic resources of the feudal magnates, thereby diminishing the effectiveness of the feudal military; and this same division of civilian holdings under partible inheritance made it difficult for civilians to meet their tax obligations to their lords. Disputes were still frequent among potential claimants. However, these problems became much easier to solve via legal means, because of the use of documentary evidence and the acceptance of primogeniture throughout the whole of England during the reign of Henry II. This acceptance was more gradual in the realm of Japan, but the evidence presented here illustrates the employment of unitary inheritance on a familial basis during the late Kamakura period. Second, with succession stabilized under a single heir, England’s and Japan’s natural and human resources could be focused in sufficient quantities to meet the lords’ obligations to their leaders for military and civilian purposes such as the construction of churches or temples. Ecclesiastical establishments built by William include an abbey at Hastings (1066) and Bermondsey Abbey (1082). While the lords of Kamakura built monuments such as the Daibutsu or Great Buddha, which sits in Kamakura to this day.

However, certain parts of the British Isles, particularly East Anglia, Wales and Ireland practiced partible inheritance. The existence of partible inheritance in Kentish holdings is illustrated by this excerpt from a charter from the time of Edward I.

According to an ancient custom of the county of Kent, concerning the division and partition of lands and tenements which are accustomed to be held in gavelkind, it often happens that lands and tenements which in certain hands, undivided, were accustomed decently to suffice for the subsistence of many men, to the great stay of the realm, afterwards are separated and divided into so many parts and parcels among coheirs, that none of them does his part then provide for his subsistence.205

The charter above is actually an explanation of why partible inheritance was frowned

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upon by both English leaders and civilians alike. At the same time, it also explains how Kentish
ingheritance functioned. The word “gavelkind” denotes a situation where a tract of land was held
by a great number of coheirs.\footnote{Ibid.} However, this charter also demonstrates the fact that Kentish
holdings were only divided upon the original holder’s death.

Although Kent’s policies are the most famous examples of continued use of partible
inheritance practices in English legal history, records demonstrate that partible inheritance was
also practiced in other parts of East Anglia. For example, the following two documents
demonstrate that partible inheritance was in operation in Ely from 1222 until 1277.

Richard, son of Hildebrand and Adam, his brother, and Richard, their nephew hold sixty
acres for ten shillings.
Mayner, son of John Gocelin, and Adam and Peter, his nephews, hold one messuage.\footnote{Homans, \textit{English Villagers of the Thirteenth Century}, 115.}

The continuous existence of partible inheritance is a perplexing problem for legal
historians who specialize in medieval English land tenure. The records provide scholars with no
explanation as to why the East Anglians’ retained this custom. However, the fact that the
populations in East Anglia, Wales, and Ireland raised different types of crops and livestock,
including sheep, which were not produced in great numbers by other English farmers, may have
influenced the people’s decision to remain committed to partible inheritance.

However, culture may have also played a major role in the continued use of partible
inheritance in the eastern regions of England. For example, there are several types of land
holdings, which are commonly observed in Wessex, Northern England, and the Midlands. These
include the ooxgang and yardlands. The names given to land holdings in East Anglia included
\textit{eriungs}, \textit{plenae terrae}, and \textit{tenementa}. \textit{Plenae terrae}’s translation is quite ironic when it is
translated into English as “the Earth’s abundance.” \textit{Tenementa} is much more general, which can
be translated into English as “tenement.” However, it is important to be mindful of the fact that the use of partible inheritance was confined only to Wales, Ireland, and Eastern England. While unitary inheritance was among the most common forms of property conveyance in the whole of England, particularly when dealing with any land held in military tenure. Bearing these facts in mind is crucial to discuss how the judicial procedures were used to provide the ultimate protection for forms of unitary inheritance in both medieval England and Japan.

Protection for Primogeniture in England and Japan

There are four types of procedures that deal with the possession of lands and rights under Angevin feudal law: the Assize of Utum, which was called beginning in 1164 to decide whether land was held in feudal tenure or in alms; the Assize of Novel Disseisin (1166); the Assize of Mort ‘d Ancestor (1176); and the Assize of Darrein Presentment (1179).208 The Assize of Utum is of little importance here, because it was designed to legally discern by what manner of tenure disputed land was held, by feudal or ecclesiastical, while the Assize of Darrein Presentment saw to the selection of priests to replace those recently deceased. However, the remaining two types Novel Disseisin; and Mort’d Ancestor, are crucial to the present discussion. These possessory assizes deal with protecting the heritable rights of the holder from other claimants. These assizes also meant that no free tenant could be dispossessed of their lands, rights pertaining to said land, or movable properties unless there were no heirs remaining in the original holder’s line to succeed to the land, or the original holder failed to meet their assigned feudal obligations. This process is referred to as escheating. Dispossession of a tenant’s holdings for any other reason was illegal under English law. Those people who believed that

their lord had treated them unjustly could purchase one of these two types of writs, and seek retribution before the King’s Bench.

The following is a formulary that is associated with one type of a Writ of Novel Disseisin or “recent dispossessions.”

The king to the sheriff, Greetings! “D” [has complained to us that “T” has disseised [dispossessed] him of his free tenement in the Manor of Dale unjustly, and without judgment since. (…) And so, we order you that, so long as “D” shall give you security for prosecuting his claim you should cause the tenement to be reseised [returned] with all the chattels which were taken in it, and that the same tenement with the chattels to be at peace until the first assize when our justices shall come into those parts. And meanwhile, you should cause twelve free and lawful men of the neighborhood to view the tenement [to ensure that “D” has returned to his holdings, and that his movable property is intact and accounted for.], and cause their names [those of the jury] to be put into the writ. And summon them by good summoners that they be before the justices at the assize aforesaid ready to make recognition thereupon [of the plaintiff’s claim] And put by gauges and safe pledges the aforesaid “T, or if he shall not be found, that his bailiff be there to hear that recognition. And have there the names of the summoners, the pledges, and this writ.209

Although this is only a basic formula for a Writ of Novel Disseisin, not an actual court case, medievalists can still observe the reasons for this writ being issued, and the way that any number of scenarios would play-out in an English court. First, “T” has obviously taken the tenant “D” off his holdings for some reason, but “D” was not taken before the lord’s court, and has been barred from his lands “without judgment.” “D” viewed his superior’s actions as illegal, and has procured the writ. The royal officer, who prepared the document, has ordered the sheriff to return the land and chattels to “D,” and to convene a jury of recognition. The jury’s purpose here is to state the facts of the dispute. Questions put to the jury might include, “Of whom or how does ‘D’ hold this tenement?” or “Has ‘D’ not fulfilled his obligations to ‘T’ in exchange for possession?”

If the jury swears under oath that “D” held his tenement from his father, who held it from “T”’s father, and that “D” has fulfilled his duties owed to “T,” then regardless of whether the land in question is held by primogeniture, or by Borough English, the land will be permanently restored to “D” by royal order.

The second document is an example of Mort d’Ancestor, or The Dead Man’s Assize.

The king to sheriff “X,” Greetings! If “D” shall give you security ect. Then summon by good summoners twelve free and lawful men from the venue of County “X” prepared to recognize upon oath if A, (father, mother, brother, sister, aunt or uncle) of the aforesaid “D” was seised [possessed] in demesne as of fee of one messuage with its appurtenances in [County] X on the day upon which he died, and if he died since the last passage of the king into Normandy, and whether the aforesaid “D” is his next heir. And in the meantime let them view the aforesaid messuage.\footnote{210}

An examination of this formulaic example of a Writ of Mort d’Ancestor illustrates the way that this particular document functioned under an English royal court. Again, a jury of recognition would be called from the surrounding area, and would be placed under oath. The questions asked of the jury would be, “Who held this land while the recently deceased ‘A’ lived, and who held it on the day of ‘A’s death?” If the jury claimed that “A” held the tenement in question inter vivos, and on the day of his death, having passed the land to “D” as his heir via primogeniture or Borough English, then “D” would be granted possession of the land. It did not matter if a person with a more concrete claim contested “D’s” succession. If his family member possessed the land in question, and passed it to “D,” then “D” would be confirmed by the court as sole heir. The previous paragraphs have described the methods used by the Angevin justices to enforce primogeniture throughout their territories. There is a major difference between the methods employed by the Angevins and the Kamakura Samurai. This is the subject of the following section.

\footnote{210} Simpson, \textit{An Introduction to the History of Land Law}, 27.
The Samurai and their clan-heads directed inheritance policies within their own spheres of influence. Despite the absence of something similar to the Angevin writ that illustrate the Bakufu’s direct support of Japan’s unitary inheritance systems, an argument can be made that the courts supported this trend away from partible to types of unitary inheritance through willful neglect and inaction. According to Jeffrey P. Mass and Tonomura Hitomi, of all cases leveled against first born sons by co-heirs between 1293 and 1333, seventy-six percent of those cases found the first born son’s claim to be without fault. This is a most interesting observation since the trend from partible inheritance to unitary inheritance among Samurai clans was occurring during this same period.211

Customary Forms of Impartible Inheritance

While the benefits of primogeniture did solve many of the problems associated with continental European feudalism, England and Japan also employed customary laws that differed from one area to the next. This retention of custom created yet another type of unitary inheritance that was used by both the English and the Japanese. This type of inheritance is referred to as ultimogeniture. Like primogeniture, ultimogeniture ensured that property was conveyed to a single heir. Except under this system, the youngest male inherited to the exclusion of his elder siblings. The English variant of this system is referred to as Borough English, while the Japanese system, outlawed during the Meiji era, was known as masshi souzoku.

There is one major difference between Borough English and masshi souzoku. Borough English was as widely spread as primogeniture was in England.212 However, masshi sozoku was

212 Homans, English Villagers of the Thirteenth Century, 127.
a regional practice limited to the island of Kyushu.\textsuperscript{213} Charles Yuu Horioka of Osaka University discusses the presence of the system of \textit{masshi sozoku}. According to the study, by the middle of the Edo period, both merchants and farmers, who held non-military tenures, bypassed the eldest son in favor of the youngest. The youngest male was given the majority of the family’s assets, control over political matters, and the duties of caring for his parents as well as continuing the family line.\textsuperscript{214} Based on this information, it is apparent that non-military classes in both of these regions developed a system of unitary inheritance to suit their own purposes.

However, Horioka provides no cases to prove the existence of this customary mode of unitary inheritance. Despite the absence of translated court-cases, it is quite possible that \textit{masshi souzoku} functioned in a similar fashion to Borough English. Due to the extremely small area that this custom was confined to during the Edo period, it is also possible that this custom was in place during the Kamakura age or earlier. However, these statements are hypothetical, and access to primary sources is needed to test the validity of these suggestions.

While the English commentary on and analysis of \textit{masshi souzoku} is not large enough to make any conclusive statements, the historians of England have generated a copious amount of commentary and supporting evidence to discuss the application of Borough English in feudal England. Borough English was confined to the manor, and cases in manors where inheritance was governed by ultomogeniture, cases functioned like the case used to prove primogeniture’s supremacy to the customs and wishes of the prominent villagers of King’s Ripton. There is an interesting development that is observed when studying inheritance of civilian-tenures at the village level in England. Primogeniture and ultomogeniture where interchangeable where land

\textsuperscript{213} Charles Yuu Horioka, “Are the Japanese Selfish, Alturistic, or Dynastic?”, Lecture to the Japanese Economic Association at Hitotsubashi University, October 7 - 8, 2001, 9.

\textsuperscript{214} Ibid.
held in non-military capacities. There were two ways to shift between modes of inheritance. These were a village’s request to their lord, and a cash payment between claimants.\textsuperscript{215}

In 1339, men of Bookham, Surrey approached their lord, and claimed, “Of old it was the usage in the manor that after the death of each holder, the youngest-born son was accustomed to succeed his forefathers to the grave hurt and detriment of the whole homage of their holding.”\textsuperscript{216} After receiving a payment of forty shillings, the lord changed the mode of inheritance of that manor to primogeniture. During the year 1316, the eldest brother of the Le Koc family returned to his lands, after being absent without leave for some time, and found that the lord had changed the mode of inheritance from primogeniture to Borough English, and demanded an inquest.\textsuperscript{217}

The payment of cash to the heir could also result in a transfer from one mode of unitary inheritance to the other.\textsuperscript{218} This ability to change modes of inheritance used to convey civilian tenements via monetary payments or legal requests are absent from Kamakura land law. From the late thirteenth century until the close of Japan’s final episode of warrior-rule, the Edo period (1600 -1868), primogeniture would become the major system that dictated the conveyance of military tenure.

Conclusion

The establishment of systems of unitary inheritance at all levels of society in both England and Japan during each region’s medieval era was socially, militarily and historically significant. The English and their Japanese counterparts shared an interest in the lands they held.

\textsuperscript{215} Homans, \textit{English Villagers of the Thirteenth Century}, 125-126.
\textsuperscript{216} Homans, \textit{English Villagers of the Thirteenth Century}, 126.
\textsuperscript{217} Ibid.
\textsuperscript{218} Homans, \textit{English Villagers of the Thirteenth Century}, 124.
The development and employment of primogeniture, Borough English, and masshi sozoku allowed both military and civilian-families to retain their holdings for generations, so long as there was a suitable heir of either body or blood to ascend to their predecessor’s holdings, and all parties fulfilled their obligations demanded of them. This mutual interest in the lands would gradually lead from possession of rights on the land to full ownership at all levels in both Japan and England. The effects of primogeniture and the other forms of unitary inheritance stabilized the conveyance of property from one generation to the next, lessening the frequency and severity of civil and martial disputes among families and neighbors. At the same time, the integrity of the English and Japanese holdings was retained due to a reliance on unitary rather than partible inheritance. Therefore, a greater percentage of each region’s natural, human, and economic resources were available for the defense of each area, government upkeep, and improvements. These improvements included roads, bridges, as well as civic and religious buildings.

Primogeniture, Borough English, and masshi souzoku developed as regional and familial customs in both England and Japan. English primogeniture was not formally recognized by royal mandate, in England, until 1100.

At the same time, the various systems of unitary inheritance that were developed in England under the Anglo-Norman and Angevin monarchs, as well as the variant of unitary inheritance that had begun to play a major role in Japanese society during the late Kamakura era were protected under the standardized judicial procedures and laws enacted by the Angevins and the Hojo in their respective regions. These legal innovations allowed both primogeniture and ultomigeniture to function for the remainder of both England’s and Japan’s medieval periods. Although, historians of Japan will be the first to admit that the development of unitary
inheritance developed at a much more gradual rate than the English development, due to the heavy involvement of the clan in Japanese politics and inheritance.

The institutions of unitary inheritance discussed in this chapter were unique to English feudalism and its Japanese variation, *hokensei*, as were the legal innovations, which offered them the ultimate form of protection, creating the most robust and centralized examples of warrior-government observed in world history. However, it is questionable as to the effectiveness of primogeniture without the creation of legal documents and procedures that were specifically designed to protect unitary inheritance at the local and royal and Bakufu levels of each society.
CHAPTER 7

CONCLUSION

Summary of the Problem

The word “feudalism,” a word coined by nineteenth century European medievalists to
describe the types of government observed during the European Middle Ages, which, the
purposes of the study, encompasses span of time between 1000 and 1500 A.D. can be best
described as a loaded term. Even today, historians of medieval Europe quibble and argue over
the meaning of this word. Some historians such as RA Brown, Philippe Contamine, and John
Beeler have described European feudalism as a completely military form of government, citing
the existence of professional landed cavalrmen and castles, which are supported by an entirely
agrarian economy.219

Still others such as Frederick William Maitland, Bryce Lyon, F.M. Cantor, and Emilie
Amt have viewed European feudal societies, particularly English society, through both judicial
and legal lenses. These historians have used law codes, court records, and political
commentaries written by some of Europe's greatest legal thinkers, which include Bracton and
Glanville their points.220

Furthermore, other historians including Marc Bloch, Susan Reynolds, and F.L. Ganshof
have elected to highlight the existence of personal, exclusive, familial contracts between man
and lord. This particular group also suggests that these contractual arrangements extended to
every level of society from the king and feudal magnate down to the lowliest peasant. While
these historians’ theories highlight certain aspects of feudalism, all of these theories have

220 See Maitland, Domesday Book and Beyond, Three Essays in the Early History of England, 150-172 and 168-170
See also, Homans, English villagers of the Thirteenth Century, 109-12.
coalesced to provide both specialists and non-specialists with a more detailed depiction of medieval society as it existed in Western Europe.\(^{221}\)

The term “feudalism” has created more controversy, since the end of the Second World War, when Americans and other Europeans, who returned from the Pacific theater, began to study Japanese history, particularly the medieval period. Although, both Europeans and Americans have seen similarities between Europe’s feudal past since Japan first opened her borders to Westerners in the nineteenth century, these historians who wrote during the 1950s, 1960s, and 1970s reintroduced “feudalism” into medieval Japanese historiography. Therefore, those historians who are presently studying medieval Japanese history in the West can, like their Western counterparts, divided into various groups based on their view of feudalism.

For example, Karl F. Friday, William Wayne Farris, Stephen Turnbull, and Thomas D. Conlan have noticed the presence of armored cavalrymen, and jo, which are analogous to European Knight's and castles. However, these historians admit the development of these military technologies and Japan, as well as the Samurai's rise to political prominence within their society was the far more gradual trend than those similar trends, which have been observed by students of European medieval history.\(^{222}\)

Furthermore, historians of Japan such as Carl Steenstrup, the late Jeffrey P. Mass, and Mikael S. Adolfson has seen fit to view Japan's medieval period for the same judicial and legal lenses used by Maitland and his fellows. The same time, these scholars and Japanese history of

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\(^{222}\) Brown, Origins of English Feudalism, 21 –23. See also, Beeler, Feudal Warfare in Europe 750 –1200, 1, and Contamine, Michael Jones (trans.), War in the Middle Ages, 30-32 and Friday, Hired Swords, the Rise of Private Warrior power in Early Japan, 70-121. Conlan, Weapons and Fighting Techniques of the Samurai Warrior 1200-1877 A.D., 26-58. See also, Conlan, State of War, The Violent Order of Fourteenth- Century Japan, 4-8 and Farris, Heavenly Warriors: the evolution of Japan's military, 500-1300, 204-241.
elected to use the same types of law codes, court cases, and other records to discuss the legal and judicial evolutions of Japanese medieval law and political thought.223

Like Bloch, Ganshoff, and Reynolds, Japanese historians such as Ikegami Eiko, Paul Varley have conducted a great deal of research into the development of the Samurai ie, or house, and development of gokenin, which has been translated into English as “vassal.” Like the European vassal, the gokenin’s status was determined by personal, exclusive, and familial contracts between man and lord. Furthermore, both Europeanists and Asianists have observed that these contracts usually involved the exchange of specific possessory rights to lands for service on the battlefield. Therefore, all historians who study medieval societies, which exhibit these traits, can agree on the military nature of feudal government.224

One of the greatest opponents of the European-Japanese feudal comparison has been John Whitney Hall. Hall has openly criticized historians who attempt to compare medieval Europe and the Japan in a historical, economic, or social fashion. One of his greatest points of contention is the fact that many comparative scholars speak of feudalism in terms that are, in his view, are far too vague, or far too exact. These are valid points of criticism, and it has been this criticism, which led to the completion of this thesis. While the criticisms posed to the historical community, which are cited above have played a role in the research that was done in preparation for this project, Hall has asked one question, in particular, that has provided the main driving force behind this thesis. That question is, “has Japanese society at any time in its history exemplified a pattern of social development, which along with that of Europe, may be properly


224 Ikegami, The Taming of the Samurai, Honorific individualism and the Making of Modern Japan, 81-94 , and Varley, Warriors of Japan as Portrayed in the War-Tales, 19.
labeled as “feudal”\textsuperscript{225}. This question has proven a difficult one to answer. However, this thesis has made a valiant attempt at addressing the issue. While this thesis is in no way definitive, it has accomplished two tasks, which have been put forth by Hall and those who subscribe to his theories. For example, William Wayne Farris and Karl F. Friday are two modern scholars of medieval Japanese history who, like Hall, question the use of the word “feudalism” within Japanese medieval historiography. Both historians have cited the development of certain Japanese, socio-political organizations such as the Kenmmon Taisei as evidence that casts doubt on the validity of the European-Japanese feudal comparisons.\textsuperscript{226}

First of all, Hall is correct, comparative historians have been far too general or too complex in their comparisons of Europe and Japan. The methodology used in previous comparisons has been flawed. Europe is a conglomerate of nations, which all exhibit their own unique linguistic and cultural influences, which have been making each region unique when they are compared to one another. Based on this information, it is unfair to compare the nations, which comprise the continent of Europe to a single country in East Asia, because such a comparison denies both Europeans and Japanese their own unique cultural identities. However, such comparisons can be attempted, as long as the scholar limits their inquiries to specific regions of Europe and Asia, or any other regions in the world. Bearing this in mind, England was selected to be Japan's European counterpart in this study. The reasons for these selections were based on geographic, social, and cultural similarities that were observed in both locales.

\textsuperscript{225} Hall, “Feudalism in Japan: A Reassessment,” 20.

Supporting Evidence

Although many people may find it difficult to see any cultural similarities, between countries, which are based on different ancient cultures as well as linguistic families, there is one major similarity that exists between these two regions. Both English and Japanese cultures were continuously and heavily influenced by cultural, legal, and linguistic practices found on the European and Asian continents respectively. At the same time, these two regions are geographically similar to one another for several reasons. First of all, both places are islands. Therefore, both the Japanese and English were forced to build societies using a lesser amount of natural and human resources than their continental neighbors. These factors are particularly important when discussing the formation of these two regions’ military forces prior to and during their medieval periods. Chapters one and two have proven that both the English and Japanese feudal military organizations developed along separate but parallel lines. Both the Anglo-Saxons and the Ritsuryo Japanese armies were based on conscripted infantry forces, which failed due to poor leadership and the supremacy of enemy tactics, particularly the use of armored cavalry.

Furthermore, historians in both have observed the adoption of armored cavalry in England and Japan thanks to the presence of the Normans and the Samurai respectively. Furthermore, due to a lack of resources, both regions also relied on large numbers of supporting infantry during open field engagements such as Agincourt(1415) and Nagashino(1575).

Further similarities can be observed in the legal history of both regions. Prior to the medieval period, both realms were rule by both codified laws from the center, and customary legislation, which varied from one locality to the next. Examples of this can still be observed in England well after 1066. For instance, feudal courts were based on the customs within the English village. At the same time, Japanese law during the Heian and Kamakura periods
contained two types of customary law, *kakun* and *shoen-ho*. The presence of these customary laws, as well as continental feudal customs under the Normans, allowed for the privatization of local government, military forces, and economic resources by local lords, ecclesiastical establishments, and, in Japan, imperial elites. The problems associated with privatized government in each locale, were discussed at length in the third chapter, while the Angevin monarchs’ and Hojo’s attempts at centralization provided the fuel for discussion in chapter four.

Chapter four also exposed another cultural similarity that exists between Angevin England and Kamakura Japan. First of all, both Angevin monarchs and the Hojo regents used conciliatory rule to develop a sort of Concordia, which allowed the rulers to implement policies, while defeating the personal interests, which had plagued both the Norman kings and the Minamoto.

Both Henry II and the Hojo regents developed codified laws, which enumerated the types of crimes, and disputes that could be brought before the royal and Bakufu courts. Furthermore, both princes are regarded by legal historians in both fields as legal innovations. These innovations included the jury trial in England, and the personal confrontation in Japan. Each ruler also developed stationary seats of justice throughout their respective territories, which eased their subjects’ access to the central authorities’ justice systems.

The final similarity, which was discussed in chapter five is the most unique social development seen in both the Angevin and Kamakura periods is legal protection and enforcement of unitary forms of inheritance such as primogeniture and ultimogenture. These unitary forms of inheritance were made possible by the legal innovations discussed in chapter four.
Closing Statements

In conclusion, this thesis may not provide an answer to all of the questions relating to the feudal nature of Japanese medieval society, when it is compared to its European counterpart. However, this thesis has shown that similarities that were present in medieval English society and Kamakura era Japan coalesced to make two types of warrior government, which were the most unique and centralized forms of warrior government that has ever been observed in either Western Europe or East Asia.
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