

Before Written Oaths (*kishōmon*): Oaths (*sensei*) in Ancient Japan

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In medieval and early modern Japan, a style of written oath, called *kishōmon*, came into existence. Recent archaeological excavations have made it possible to prove that the *kishōmon* appeared in the twelfth century at the latest. This article recounts the process through which these sources originated and developed into the *kishōmon* format.

Divinatory curses, called *ukei*, existed in Ancient Japan (already in the third to sixth century CE), and they provided the basis for requesting divine judgment or swearing oaths. During the seventh through eleventh centuries, the Japanese state consolidated its authority and a new type of political oath came into being. Initially, these oaths resembled those employed in China, although oaths in this format may also have been used in Japan for diplomacy. Next, oaths influenced by Buddhist prayers came to the fore whereby the oath-taker cursed himself if his statements were untrue. Finally, Buddhist oaths became prominent, in which other persons than the oath-taker were cursed as well. After the ninth century, the Chinese-style political culture withered within Japan, and only Buddhist oaths remained. Although oaths cursing others would remain, the self-curse would become the foundation for standard contracts in later times. As medieval society emerged in Japan, and predicated upon these customs and beliefs, the *kishōmon* came into being.

Keywords: *Kishōmon* (written oaths), *ukei* (divinatory curses), *shinpan* (divine judgments), Chinese style oaths, Buddhist oaths, standard contracts

In premodern Japan, people offered a variety of oaths for different goals. Although there are differences between the practices attested in ancient, medieval, and early modern Japan, one can observe commonalities and continuities.

This article will focus on the process by which the written oath, or *kishōmon*, that was so common in medieval and early modern eras, came into being. It suggests that during the ancient era, which preceded the medieval era, a society which had merely engaged in the simple practice of vocalizing spells adopted the more elaborate culture of oaths drawn from continental Asia. It became popular and widely used, and a distinct culture of oaths arose. Considerable research already exists in the fields of history, legal studies, literature,

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and religion. This article will build on that research to explore oaths in Ancient Japan.

The organization of this article is as follows: first I will explain the original format of the *kishōmon* and its characteristics, and explore the high-water mark of ancient oath culture. Based on that understanding, I will explore ancient Japanese oaths, but most saliently, I will connect this analysis to »*Kishōmon*,« or section two of the paper, highlighting how divinatory curses, or *ukei*, originally had no connection to oaths. In section three, I will discuss how a continental culture of oaths gained influence in Japan during the sixth through eighth centuries. Moreover in the fourth section, I will reveal changes in the culture of oaths, and explain how the basis for medieval *kishōmon* came into being.

First, let me explain the meaning of »Ancient Japan.« During the second century of the Common Era, the Wa or Yamato confederacy was formed, and it expanded its authority throughout most of the archipelago during the third through sixth centuries. Over the course of the seventh century, great changes took place in East Asia, as a series of powerful dynasties arose in China, starting with the Northern Wei (386-534) and continuing with the mighty Sui (581-618) and Tang Dynasties (618-907), leading to a process of secondary state formation in Korea and Japan. In Japan, the state was reorganized along the lines of the administrative practices of the Chinese dynasties. Ancient Japan reached its heyday in the early ninth century, but was buffeted by major changes in Asia. Epidemics caused its administrative system to function less effectively. The Tang dynasty collapsed in 907 as too did Silla, the winner in the struggles for control of Korea control, in 935.

Japan witnessed social and political mutations during the ninth and tenth centuries. The imperial regime survived, but was decentralized, becoming what I would describe as a medieval state. One can divide Ancient Japan into two periods, an Early Ancient Period from the third through the sixth centuries, and a Later Ancient Period from the seventh through the tenth/eleventh centuries, which witnessed the transformation of Japan into a medieval form. Traditionally, the event marking the break between the Early and Later Ancient Periods is the palace coup of 645, which led to the destruction of the ambitious Soga clan and initiated the rise of the Fujiwara family as the dominant force in court politics, a position they maintained into the twelfth century. Soon after the coup, the imperial court initiated the so-called Taika reforms, centralizing Japan via the importation of Chinese administrative models.¹ I also consider the tenth/eleventh century to have been the beginning of Japan's medieval era.

1 For the international context, see Batten, Foreign threat and domestic reform.

The Origins of the Written Oath (kishōmon)

There has been much research regarding the rise of written oaths (*kishōmon*) in Japan's medieval and early modern periods. As the format and function of these documents has been described in Thomas Conlan's article, I shall confine myself to a basic overview².

Written oaths, when they became formalized in the thirteenth century, were written on a type of paper named Ox-head paper (*go-ō shi* 牛玉紙). These oaths have an opening, which is a statement (A), to be followed by an anathema clause, which serves as an appeal to the gods (B). The statement (A) constitutes the content of the oath, while the appeal to the gods (B) lists their names and then states that, if the oath is broken, divine punishment will ensue, a kind of self-cursing. As far as the statement (A) is concerned, two types exist, assertory oaths and promissory oaths:

- (1) Oaths as statements of fact. Oaths given stating that in the past or the present, something did or did not occur (»assertory oaths«).
- (2) Oaths as contracts. Future promises to do something (»promissory oaths«).

Both types aim to prove the veracity of what is stated, and then contain provisions for punishment in case the statement is demonstrated to be false or the promise is broken. The use of Ox-head paper had this same function as well – it served as a potential vehicle for punishment. In addition, oaths were sometimes written by individuals, and at other times by groups of people.

During the twelfth century, the standard written oath format, known as a prayer for heavenly judgment (*tenpan saimon*), developed. It served as the forerunner of the written oath (*kishōmon*) format. This type of document contains a clause that requests heavenly judgment, »heaven« (*ten*) referring to the gods and the buddhas. Let me provide an old example of such a document, with its distinct sections demarcated with [A] and [B]:

Miyoshi Koreyuki respectfully requests heavenly judgment.

[A] The Tōdaiji monk Kakkō complains that that Koreyuki seized one horse. That is absolutely false. He has no documents proving possession, but still asserts rights of ownership [to some undisclosed lands] and so I took the horse [as a form of compensation]. I explicitly told Kakkō this and he did not respond.

[B] If what I state is false, then may the Great Buddha of Tōdaiji, the Yakushi Tathāgata (*nyorai*), the twelve divine generals, the Chinju Hachiman Bodhisattva, and starting with the spirits of the eight areas, may all the gods and buddhas from throughout Japan inflict punishment on me. In this world, may I become poor, and suffer ill fortune, and in my rebirth may I never become a buddha.

Respectfully stated thus.

1148 (Kyūan 3) Fourth Month Fifteenth Day Miyoshi Koreyuki³

2 Satō, *Komonjogaku nyūmon*, 225-241, Chijiwa, Kishōmon.

3 *Heian ibun*, doc. 2644.

Here, A is the statement, and B is the anathema clause. The term *kishō*, or oath, appears nowhere, and no special paper is used, but in terms of content and format, this meets the conditions for a written oath. As this document survives at Tōdaiji, it seems likely that the writer of this document was the defendant, and he used this document, an appeal to heavenly judgment, to prove that he was innocent. Fourteen of these documents are known to exist from the latter half of the twelfth century. Most of them begin with the clause »I seek heavenly judgment,« while others with »I submit this *saimon* (documents to be presented to the gods). Still others say »I submit this *kishō* (a written oath) or refer to themselves as *tenpan kishōmon*. Therefore, it appears that, by the middle of the twelfth century, documents requesting heavenly judgment (*tenpan saimon*) and written oaths (*kishōmon*) became functionally the same.

Nevertheless, as is mentioned in Professor Conlan's article, in 2007 at Shiotsu, a place located on the northern shore of Lake Biwa, some 55 wooden documents were discovered, which have been described as wooden oath documents (*kishōfuda mokkan*).⁴ I would like to emphasize three features of these documents. First their age: the oldest document dates from 1137, but similar wooden documents have been excavated, although they are not legible. Thus, this type of oath might be as old as the late eleventh century. Second, these documents first open with an appeal to the gods, and then set out B, the anathema clause, before ending with A, the statement of fact. This shows that written oaths (*kishō*) arose from distinct appeals to the gods (*saimon*). Some *kishōmon* follow this same B to A format,⁵ which reveals that this old style survived. The third feature is that these wooden oath documents (*kishōfuda mokkan*) were discovered within the remains of a shrine precinct. Thus, these wooden oath documents were presented to the shrines, most likely attached to either the walls of the building itself or its surrounding fence, so that the gods' heavenly judgment could be revealed. It would have been impossible to know that written oaths, regardless of their material, could be displayed publicly if we had only focused on paper oaths.

The Shiotsu wooden documents are faded because of exposure to the elements and so many are difficult to read. Still the anathema clause (B), with the names of many gods, reveals much about the beliefs of the people of Shiotsu, who resided some 40 miles from the capital. As for the statements of fact (A), most concern theft, with the oath-taker swearing that he or she was not a thief. It is hard to know if this is a promise henceforth not to steal, or an attempt to proclaim that theft had not taken place. However, as some oaths are concerned with avoiding punishment, most of the documents should be classified as statements of fact.⁶ It follows that those suspected of theft wrote these oaths to prove their innocence. If a punishment from the gods was to appear in response to this self-cursing, it would become the basis for the secular adjudication of disputes. Some people who wrote anathemas stated that they would suffer punishment on the 84,000 pores of their body within three or seven days were they to have sworn falsely. This phrase would become formulaic in written oaths (*kishōmon*).

4 Azuchiō, *Shiotsukō iseki hakkutsu chōsa seika ten*; Hama, *Shiotsu kishōmon no sekai*.

5 Chijiwa, *Chūsei no seiyaku monjo kishōmon no futatsu no keiretsu*.

6 Chijiwa, *Shiotsu kishōmon mokkan no komonjogaku teki kōsatsu*, 6-8.

The discovery of wooden oath documents reveals that prayers for heavenly judgment were widely used in the twelfth century. These documents represent the true origins of written oaths (*kishōmon*), with the only difference being their name. The name *kishōmon* (»written oath«) derives from a verb, *kishō*, which represents a request from someone of lower status to one of higher status.⁷ This term had come from China and had been used with this meaning in the eighth to ninth centuries. In response to a petition from below, those above would decide, and the specific law or regulation so promulgated in response would also come to be called *kishō*. Building on this, in the tenth and eleventh centuries, those in authority decided to describe their rules as *kishō*. Here, *kishō* meant regulations or prohibitions for groups, and for these rules to be enforced, the group of people impacted by them had to consent. Thus, the meaning of the term changed from meaning »a request to authorities,« to »a rule,« to »a promise« (between rulers and the ruled). The word *kishōmon* came into use because of the final, contractual, meaning but, through the medieval period, the meaning of *kishō* as »a rule« persisted.

Scholars commonly portray *kishōmon* as being drawn from merging of *saimon* (prayer) offered to the gods and buddhas and a verbal contract or *kishō*.⁸ In practice, however, *saimon* prayers requesting judgment by the gods appeared first, and then the contractual *kishō* language was added. To understand the link between *tenpan saimon* and *kishōmon*, the meaning of »heavenly judgment«, or »*tenpan*«, and »prayer«, or »*saimon*« require further analysis.

As we have seen, both assertory oaths and promissory oaths already existed by the twelfth century. As to the latter, a variety of documents discuss issues such as loyalty, or prohibitions on drinking. The former (assertory oaths, oaths as to facts) are by far the more common, as these were needed and required for judicial decisions.

We know of *tenpan saimon* documents that were offered to the Tōdaiji temple and the Usa Hachiman shrine as documents of proof, with the most interesting records coming from an Usa Hachiman priest's archives.⁹ In 1129 two shrine attendants named Sadakata and Tomonari had long been involved in a land dispute, and each submitted a *tenpan saimon*.¹⁰ As Sadakata thereupon suffered a variety of misfortunes, Tomonari stated that this was proof of a heavenly judgment. Officials at Usa investigated and recognized that Tomonari's assertions were correct. Nevertheless, Tomonari had eight months to find proof of divine punishment, and Sadakata disputed this judgment, appealing during the following year. As a result, Sadakata received a partial return of some of his lands. In this case, initially, no proof for either claim had been sufficient and, in the absence of such decisive evidence, one had recourse to »divine judgments« to settle this case. Nevertheless, subsequent, appeals to »divine judgment« alone did not influence the decision. Thus, *tenpan saimon* and *kishōmon* served as only one piece of evidence for judicial decisions. Divine judgments left room for interpretation.¹¹ One should not overestimate the potency of these divine judgments in this period.¹²

7 Hayakawa, *Nihon kodai no monjo to tenseki*, 210-267.

8 Maki, *Kishōmon no kigen to sono honshitsu*; Satō, *Komonjogaku nyūmon*, 225-232.

9 Kobayashi, *Waga chūsei ni okeru shinpan no ichikōsatsu*.

10 *Heian ibun*, doc. 2158.

11 The flexibility in interpreting is key to Peter Brown's explanation of ordeals in early medieval Latin Europe; see Brown, *Society and the supernatural*, 316.

12 Shimizu, *Nihon shinpan shi*.

One further caveat is in order. The decision to curse oneself in an oath in order to prove that one is blameless is not a practice confined to *tenpan saimon* and *kishōmon*. It is also common in petitions, known as either *ge* or *mōshijō*. Some documents submitted to those in authority list the names of the gods and include a curse upon oneself if anything should prove untrue. These clauses strengthened petitions. One can be found in a record dating to 1138 (Hōen 4).¹³ In the twelfth century, in a variety of documents, written requests for »heavenly judgment,« or punishments from the gods and buddhas became common. *Tenpan saimon* arose out of this type of custom because this format was best suited for such requests.

Divinatory Curses (ukei) in Early Ancient Japan and Divine Judgments

In their analysis of the origins of medieval *kishōmon* and of the practice of writing »heavenly judgments«, historians have long recognized that the custom, present in Japan's early Antiquity, of stating *ukei*, or »oaths and vows«, was related to these.¹⁴ Historians considered that, prior to Japan's adoption of Chinese institutions and norms of government, thus in very ancient times, there existed a similar »simple« custom. The Chinese character used for »ukei« can mean either oath/vow, or alliance. Based on this character's polysemy, one may mistakenly infer that ancient oaths existed, but that is not the case. Let me introduce a famous myth about Amaterasu, Goddess of the heavens, whose younger brother Susano-o concomitantly ruled the lands below. He came to her, but Amaterasu, fearing his intentions, greeted him armed with weapons. Susano-o responded. »Sister, we should perform an *ukei* by conceiving children. The birth of girls will prove ill intent, while the birth of boys will prove innocence.«¹⁵

At a spring called Amanomanai, they performed curses of prognostication (*ukei*). Susano-o was a male god, but by using magic, he could give birth to five children, all males, which proved that he harbored no malice. This myth exists in many variations, but for the sake of this argument, there is no point to go into their details here. Suffice to say the key question remains as to the meaning here of *ukei*.

Susano-o spoke. He did not protest his innocence, but rather stated the rules of prognostication. That is the meaning of *ukei*. *Ukei* is, in other words, prognostication serving to determine truth. It is a kind of spoken magic.¹⁶ The words of the gods, spoken in a holy place, such as the bank of a spring, and accompanied with gestures, produce what some scholars have seen as magical powers.¹⁷ This power should not be conceived of as any kind of divine will to change reality, but rather the power to use words to understand the past and or the future. That which is spoken, and becomes true, is »real«. The gods cannot make things happen; they can only speak of things which may or may not become true. That is the meaning of *ukei*.

13 *Heian ibun*, doc. 5005.

14 Miura, *Zoku hōseishi no kenkyū*, 525-529; Maki, *Kishōmon no kigen to sono honshitsu*, 220; Nakada, *Hōseishi ronshū*, 929-932.

15 *Nihon shoki*, Kamiyo, Section 6.

16 Tsuchihashi, *Ukei kō*.

17 Uchida, *Ukei no ronri to sono shūhen*.

Ukei appear in a variety of situations in the eight-century mytho-histories known as the *Kojiki* (Record of ancient matters) and the *Nihon shoki* (Chronicle of Japan). In some cases, these *ukei* clarify doubts, while in others, they serve as a means of prognostication. These statements are not appeals to specific gods. The magical power inherent in people's words served as it were as »a law of nature« that allowed hidden truths to be known.

If truth can be known through *ukei* prognostications, they could be used in courts of law. For example, Japanese chronicles mention the actions of a Yamato general in Southern Korea in 530.¹⁸ The general, tiring of attempts to govern the peninsula, became embroiled in multiple disputes concerning the custody of a children born from relationships between Yamato (Japanese) people and locals. He stated, »The person who states the truth here will not be burned, but the one who lies will suffer«. Then, he had the two parties put their hands in boiling water, causing them to suffer. One can infer that this is (or was) a boiling water *ukei* (*ukei-yu*). His use of ordeals was, however, roundly condemned.

This type of *ukei-yu* was also known as *kukatachi*, or the »boiling water ordeal.« The fifth-century emperor Ingyō tried to adjudicate disputes among competing families regarding their respective ranks and titles,¹⁹ and this episode is often mentioned in Japanese high school history textbooks. He had water boiled on a hill called Amakashi and stated: »Those who tell the truth will not feel pain, but those who lie will«, and the guilty parties would not approach the vat of boiling water.²⁰

The emperor spoke the words mentioned here but the magical power of the rites was enhanced by the ritual purification of the participants, as well as by the fact that these words were spoken at the holy site of Amakashi. This process is described by the phrase using the word for »god« (*kami*), and other references to *kukatachi* describe it as »prayers for the gods of the heavens and earth«. It is important to note that the Chinese characters used to write the word *kukatachi* include that for »god« (*kukatachi* 盟神探湯). Thus, many scholars believe that *kukatachi* were a kind of divine judgment. Nevertheless, if one compares this to the *ukei* of Susano-o, it seems clear that prayers to the gods were a secondary aspect of performing *ukei*. As time passed, belief in the magical properties of the spoken word weakened, and this practice became a way of serving as proof or enhancing written statements.²¹ In other words, the idea that the spoken word provoked »a natural process« that revealed the truth gave way in time to the gods being invited to serve as guarantors or witnesses.

The *ukei* should not be considered as a type of divine judgment. Ancient examples of *ukei* served as demonstrations of the magical power of the spoken word, and even if gods were mentioned, this was not how truth was asserted or demonstrated. There is no satisfactory English phrase to express this, but a »judgment through the magical power of words« may best describe this process. Likewise, even if an *ukei* was performed, it did not mention punishments by the gods, as is common in *tenpan saimon* and *kishōmon*. This is significant: *ukei* are merely a simple type of divination.

18 *Nihon shoki*, Keitai 24 (530).

19 *Nihon shoki*, Ingyō 4 (early fifth century).

20 *Nihongi*, trans. Aston, vol 1, 316-17. Aston romanizes Amakashi as Amagashi.

21 Tsuchihashi, *Ukei kō*, 16-20.

Some scholars of legal history have suggested that the magical power of the *ukei*'s words derived only from the gods in the myths, or special people from the imperial or very powerful families.²² Certainly, the figures who appear in the myths are special gods or people, but that does not at all mean that average individuals could not engage in *ukei* in their daily lives. In one eighth-century poem, a woman lamented: »In spite of the fact that I did an *ukei*, you did not appear in my dreams – you must not be thinking of me.«²³ Thus, *ukei* devolved into sort of folk belief concerning small prayers.²⁴ This may be a trace of the widespread practice of prognostication through *ukei* in Ancient times – closer to the era imagined in the *Kojiki* and *Nihon shoki* myths.

To conclude about the nature of oaths in Ancient Japan, it seems clear that they were used to ascertain truthfulness, or to prove one's innocence. Nevertheless, in political venues, it is striking how often words of praise are directed toward those in authority. The use of these words, spoken to one's betters in a particular way was a ritualized method of expressing political allegiance. It seems to be the case, however, that, save in a few special circumstances, the act of swearing oaths did not commonly exist in early Ancient Japan.

The Dissemination of a Culture of Oath Making from Abroad:

The Sixth through the Eighth Centuries

During the sixth to eighth centuries of the Common Era, Chinese political culture and Buddhism became influential in Japan. Both Confucianism and Buddhism were introduced over the course of the sixth century and, by the seventh century, they had taken root in Japanese society and had become the ideological foundation of the centralized system. It was at this time that the foreign culture of oath taking spread throughout the archipelago.

Let us first look at an oath taken by those »barbarians« known as Emishi to the Yamato court in 581. The Emishi had been defeated by the Yamato state and their leader brought to the Yamato capital as a captive. Threatened with execution, the captured leader, Ayakasu, stated that he humbly accepted [Yamato rule]:

Trembling with fear, he entered the Hatsuse River, faced Mt. Mimoro, sipped water and stated: »We Emishi from now on, and for the generations of our sons and grandsons, will hold a pure heart and abide by the rule of the emperor. If we should break this oath, may the gods of heaven and earth, and the Imperial ancestral gods annihilate our children and grandchildren.«²⁵

Mt. Mimoro was a site where a military protector deity, Ōmonnushi, was thought to reside. As for the Hatsuse River, it flows from that mountain's foothills. Ayakasu selected a holy area close to the palace, where he sipped water, and cursed himself, stating that the gods and ancestors of the emperor would punish him were he to rebel. It was therefore an oath of allegiance to the emperor.

22 Ishii, *Nihonjin no hō seikatsu*, 425-457.

23 *Manyōshū*, maki 11, no. 2589, ed. Gomi, Ōno and Takagi

24 Uchida, *Ukei no ronri to sono shūhen*, 35-37.

25 *Nihon shoki*, Bidatsu 10, 2nd intercalary month.

These rites have been shown to correspond accurately to historical practice.²⁶ In the latter half of the sixth century, just before administrative and penal law (*ritsuryō*) became widely promulgated in Japan, these rites most likely reflect the earlier form of oath-taking on very special occasions. The pattern of cursing oneself could be regarded as an abbreviated type of *ukei*, with the exposition of a statement and its direct consequences omitted. Arguably, this ritual of oath taking is based on a classical Chinese model. It does betray ample signs of such influences.

In ancient China as well, alliances were forged by oaths, which functioned as contracts for future action;²⁷ the participants read them out loud, and enumerated punishments for breaking them. Some physical punishments were stipulated, but often in addition to the threat of punishment by the gods or by one's ancestors. In oath ceremonies, participants in order of rank, from highest to lowest, would swear to gods or their ancestors and sip sacrificial blood. In the time of the Qin (221-206 BCE) and Han dynasties (206 BCE-220 CE), oaths were relied upon to formalize the lord-retainer relationship both within the Chinese Empire, and between Chinese rulers and leaders of tributary states. Emperors would, as persons of authority, issue oaths, state that if they spoke a falsehood they would be punished, and drink blood with other participants. Of course, these were unilateral demands by emperors for loyalty.²⁸ These oaths continued throughout the Tang Dynasty (907) but they now served as a tool of diplomatic protocol.

The *Emishi* oath closely resembles the Chinese style of oath taking. One vows obedience by threatening oneself with punishment by the gods or by one's ancestors. The absence of sacrifice represents a difference vis-à-vis China, but the sipping of liquids (either water or blood) is present in both cultures. Nevertheless, there is one major distinction: in Japan, the emperor does not participate; only the lower ranking person – the *Emishi* – performs this rite. This deeply reflects Yamato political practices. As the Wa/Yamato state had engaged in diplomacy with China for two centuries, its officials must have known of these oath ceremonies. They influenced Ancient Japanese political rituals; prominent locals used them to establish clientage ties with Yamato rulers. Still, in the sixth century, this process was only in its infancy.

26 Kumagai, *Emishi to ōkyū to ōken to*, 2-12.

27 Yoshimoto, *Shunjū saisho kō*.

28 Kurihara, *Fūshaku no sei ni tsuite*.

The palace coup of the year 645 constitutes the traditional dividing point between Japanese Ancient history's Early and Later Periods. The ensuing policies – commonly known as the Taika Reforms – strengthened the state.²⁹ The recently introduced Confucianism and Buddhism became mainstream and, with the establishment of a new political regime, new oath-taking rituals took place. Emperor Kōtoku, who acceded to the throne after the coup of 645, hosted these oath rituals by gathering magnates under a sacred tree in the capital. The words of their oath appear in the *Nihon shoki* chronicle as follows:³⁰

Heaven covers us; Earth upbears us: the Imperial way is but one. But in this last degenerate age, the order of Lord and Vassal was destroyed, until Supreme Heaven by Our hands put to death the traitors. Now, from this time forward, both parties shed their hearts' blood [e.g. show their sincerity] the Lord will eschew double methods of government, and the Vassal will avoid duplicity in the service of the sovereign! On him who breaks this oath, Heaven will send a curse and earth a plague, demons will slay them, and men will smite them. This is as manifest as the sun and moon.

Nothing is known about the participants' gestures involved in this oath, but it is much more Chinese in style than the *Emishi* oath. The emperor is at the center; he swears an oath along with ministers; and, as in China, it is more of an order than a bilateral oath. The appeal to the gods of heaven and earth, and the threat of receiving punishments makes it a personal curse. The reference to blood suggests that the Chinese practice of sipping blood might be involved, or something analogous. This ritual reflects a ritual practice of Chinese oaths.³¹

This imported Chinese oath of alliance appears occasionally in the seventh to ninth centuries of the Common Era. Emperor Tenmu's successor, Jitō, and her allies, wrote an oath promising to cooperate with each other (679,) and Fujiwara Hirotsugu, who was thought to be plotting rebellion, swore allegiance by means of an oath (740), although he did rebel, and was defeated and killed.³² The highly powerful courtier Fujiwara Nakamaro (706-764), great-grandson of a key architect of the 645 coup, swore to uphold the orders of Retired Emperor Shōmu (750).³³ All of these were oaths to the gods of heaven and to earth. They stated that, if the oath-taker were to lie, he would be punished. In normal times, oaths of loyalty or cooperation were not used, as court ritual alone served to confirm the hierarchical relations between lord and retainer. At important political moments, these court rituals or oaths were performed. In 757, the plotters in Tachibana Naramaro's ultimately unsuccessful coup congregated at night in the palace grounds, praying to heaven, earth, and the four cardinal directions, drinking salt water – they were clearly pledging mutual support according to the Chinese model for oaths.³⁴

29 See in English Mitsusada, *Century of reform*, 193-201.

30 *Nihon shoki*, Taika 1 (645).6.9; Mitsusada, *Century of reform*, 194. Translation from *Nihongi*, trans. Aston, vol. 2, 197-198.

31 Kurihara, *Fūshaku no sei ni tsuite*, 31.

32 *Nihon shoki*, Tenmu 8 (679).5.6; *Shoku Nihongi*, Tenpyō 12 (740).10.9, ed. Kuriota.

33 *Nihon ryōiki*, maki 3, 38, ed. Izumoji.

34 *Shoku Nihongi*, Tenpyōhōji 1 (757).7.4, ed. Kuriota. For more on this, see Bender, *Changing the calendar*.

It seems likely that the self-curse »to receive the punishment of the gods of heaven and earth,« was borrowed from ancient Chinese political culture. Thus, during the latter half of Japan's Ancient Period, the Japanese studied the Chinese oath of alliance, and conjoined it to their native *ukei*, developing a new oath rituals.

New types of rites for creating oaths arose. They were from Buddhist oaths (prayers).³⁵ When one, or people close to one, fell into danger, one could promise meritorious Buddhist acts (such as building temples or commissioning Buddhist statues) in order to protect oneself or achieve salvation. The most famous such incident comes from the civil war of 587, when a key issue was whether Buddhism should be officially recognized.³⁶ The chief partisans of Buddhism, Prince Shōtoku (574-622) and Soga no Umako, made a vow to the Four Guardian Kings (*shitennō*), stating that, if they won in battle, they would construct a temple for them.³⁷ These types of Buddhist oaths occurred more often in the seventh and eighth centuries. Countless people prayed to recover from illness, promised to dedicate Buddhist rites to secure Buddhist merit, and had their health restored. Some made vows to build temples to accumulate future merit. Ishii Kōsei, a historian of Buddhism, states that such vows were rare in China. The various Korean peninsula states were more influential in inventing this kind of practice.³⁸

Buddhist oaths request aid and salvation through the power of prayer, by the Buddha, or the Four Guardian Kings. No self-curse was prepared to apply when the vow was broken. However, prayers to the buddhas used common oaths, and in some cases, people added curses against themselves. In 671, when Yamato was under military pressure from the triumphant Tang (who had soundly defeated a Japanese expedition into Korea at the Battle of Hakusukinoe (Kr. Baekgang 663), and now feared a Chinese invasion, Emperor Tenji fell seriously ill. A succession dispute arose between Tenji's son Ōtomo in 671 and his crafty and skilled brother, who ultimately became Emperor Tenmu after defeating and killing Ōtomo in the Jinshin war of 672.

In this succession crisis of 671, it was decided that the power of the crown prince should be rapidly enhanced. The crown prince Ōtomo, and major ministers gathered at a Buddhist site in the palace and made vows, each holding incense burners:³⁹

The crown prince stated »Make my thoughts the same as the emperor's and let me uphold his orders.⁴⁰ If I break this vow, I will inevitably endure the punishment of heaven.« The ministers then said: »We will all follow the crown prince and uphold the emperor's orders. If we break this vow, may we be punished by the Four Guardian Kings and the gods of heaven and earth. Let this vow be known to the Thirty-Third Heavenly Deity of Mt. Sumeru [the center of the Buddhist universe], and our children and grandchildren go extinct, and our houses be destroyed.

35 Ishii, *Jōdai Nihon Bukkyō ni okeru seigan ni tsuite*, 645-648.

36 *Nihon shoki*, Yōmei 2 (587).7th month. See also Inoue, Mitsusada, *Century of reform*, 172-176, for context.

37 Como, *Shōtoku*, 18-20.

38 Ishii, *Seigan no iryoku ka kame no ongaeshi ka*, 276-279.

39 *Nihon shoki*, Tenji 10 (671) 8th month. For an English translation, see *Nihongi*, trans. Aston, 2.298.

40 Meaning, I will rightfully take over the throne.

This may seem to be an oath (alliance) between the crown prince Ōtomo and the ministers, but it served as an oath of loyalty to the beleaguered crown prince. As this oath was taken in front of the Buddha, incense was burned. This is the first case in Yamato (Japan) where Buddhist curses are directed against the oath-taker's self. The punishers are not merely the gods of heaven and earth, but Buddhist spiritual powers including the Four Guardian Kings and the Thirty-Third Heavenly Deity of Mt. Sumeru. This fact deserves attention.

Buddhist oaths which adopted this format do not otherwise appear. During the mid-seventh century, when some Emishi would show subservience to the Yamato state, they would be led to a sculpture of Mt. Sumeru, so that they could experience the majestic power of the Four Guardian Kings⁴⁰. In the latter part of the seventh century, Buddhism became less prominent in political rituals at the court,⁴¹ as a result, Buddhist oaths and examples of self-cursing disappeared. Nevertheless, examples of Buddhist oaths and prayers without punishment frequently continued.

In the mid-eighth century, however, Buddhist oaths came to include references to the punishments of the gods and buddhas. In 741, Emperor Shōmu ordered that Kokubunji temples be built in each province of Japan.⁴² As a result, Buddhist oaths too became more common. For the Emperor, the Kokubunji (literally, »Provincial Temples«) were designed to provide refuge for people suffering from plague and illness (rampant in these decades) and so the construction of these temples may also be linked to a Buddhist vow. At that time, Shōmu prayed for the realm to be at peace and for the welfare of the people. However, clause 5 of the oath states, »In the future if an evil lord or ministers appear, and they break my vows, those people and their descendants will suffer misfortune, and even if they are repeatedly reborn, may they be born in a place where there is no buddha.« Shōmu, in other words, cursed others in his vow, to strengthen the power of his words.

In Shōmu's Buddhist oath from the year 750, Shōmu stated that if anyone should violate the oath, Bonten, Taishaku, the Four Guardian Kings, the Dragons of Heaven and the Deities of the Eight Legions (八部衆 who protect Buddhism), along with the gods of heaven and earth, and the imperial ancestors will punish them, and destroy them.⁴³ Buddhist spiritual authority was combined with the gods of Japan and the ancestral spirits of the imperial family to make a much stronger curse. Emperor Shōmu's oaths cursing others deserve further thought regarding their rationale, but regardless, the oath represents one of the final noteworthy transformations of Buddhist oaths from the sixth through eighth century.

41 Yoshikawa, *Ritsuryō taisei shi kenkyū*, 3-33.

42 *Ruijū sandai kyaku*, maki 3, Tenpyō 13 (741) 2.14 *Daijō kanpu*. See also Piggott, *Emergence of Japanese Kingship*, 256-257; Sonoda, *Early Buddha worship*, at 397-400.

43 *Dainihon komonjo Hennen monjo*, vol. 2, 749. (Tenpyōkanpō 1).5.20 Shōmu *tennō chokusho*, 240.

*Oaths during the Period of Administrative Decentralization of the State:
The Ninth through the Eleventh Centuries*

From the mid-ninth century onward, Japan's administrative state, known as the »*ritsuryō* state« for its penal and administrative law-codes (*ritsu* 律 and *ryō* 令), underwent a process of decentralization.⁴⁴ The state weakened, as did Chinese political culture. Nevertheless, Buddhism spread, incorporating belief in Japan's gods.⁴⁵ These social circumstances impacted both the Chinese style of oaths of the seventh and eighth centuries and Buddhist oaths.

Several factors led to the total disappearance of this Chinese genre of oaths: first, people now ignored Chinese political ideals; second, foreign relations changed with the waning of the Tang threat; third, the bonds between leaders and ministers mutated.

Nevertheless, Buddhist oaths continued to be performed, and so did the process initiated by Shōmu, in which others were cursed in oaths. The early tenth-century »Legends of Prince Shōtoku« contains a reference to such a curse in the tenth-century *Shōtoku taishi denryaku*.⁴⁶ It also appears in the following documents and on temple steles or inscriptions:

1. A Jōsuiji stele (790) states that those who steal from this temple will endure punishment from the »North Star Myōken Bodhisattva and 1700 good gods«.⁴⁷
2. The inscription on a temple bell at Saikōji (839) states that those who steal will be punished by the »18 good gods and the Deep Sand General«.⁴⁸
3. In a document of commendation (958), the final clause states that those who break the vow will suffer the punishment of »the heavenly and earthly gods and the Four Guardian Kings«.⁴⁹
4. Enryakuji regulations (970) state that, if the rules are broken, »the good gods of protection« will punish the oath breaker.⁵⁰
5. Tōdaiji's regulations (1056) state that that, if anyone disobeys, »Hachiman Bodhisattva and other gods« will punish the wrongdoer.⁵¹
6. Zentsūji's regulations (1056) state that, if anyone disobeys, the »Three treasures, the spirits of previous masters, and the Deity who protects the law« will punish that person.⁵²

These steles, commendations and regulations reveal that both groups and individuals could curse others with oaths. Those who oppose the building of temples or their maintenance must be punished by the gods and buddhas. In other words, the practice initiated by Emperor Shōmu continued, and gods and buddhas continued to be perceived as those who could punish others.

44 Yoshikawa, *Ritsuryō taisei shi kenkyū*, 72-88. For a historiographical panorama on the *ritsuryō* state in English, see Sakaue, *Ritsuryō state*.

45 For the combinations between the local *kami* and the buddhas, see the articles in Rambelli and Teeuwen, *Buddhas and Kami*.

46 *Shōtoku taishi denryaku*, Suiko 27 (619) 4th month.

47 *Heian ibun kinsekibun hen*, no. 2.

48 *Heian ibun kinsekibun hen*, no. 17.

49 *Heian ibun*, doc. 271.

50 *Heian ibun*, doc. 303.

51 *Heian ibun*, doc. 801.

52 *Heian ibun*, doc. 824.

I have already argued how, in the year 671, self-cursing oaths of loyalty were offered at a Buddhist institution in the palace. I have also argued that Buddhist oaths ceased to be performed. Does that mean that after ancient Chinese oaths disappeared, self-cursing oaths disappeared in ancient Japanese society? Furthermore, with the formation of a medieval Japanese society, did *tenpan saimon* and *kishōmon*-style oaths arise anew?

Here, I would like to explore an underutilized source – works of literature – to see if any significant changes arose regarding oaths over the course of the tenth and eleventh centuries. They have not been well researched, but they are critical for our understanding the origins of written oaths (*kishōmon*). I have not explored these source genres in detail, but I do want to mention the following passages. In modern Japanese schools, the medieval collections of waka poems, »Hundred Poets' Poems« (or »100 Poems by 100 Poets«) are taught to and known by nearly every pupil. Many people remember all the poems in this popular anthology. One of them reads as follows: »I don't care about myself, forgotten as I am by my lover, but I regret that he had to lose his life for breaking his own oath.« (*Wasuraruru mi o ba omowazu chikai te shi hito no inochi no oshiku mo aru kana*).⁵³

Here, a woman named Ukon resents a lover who had vowed that he would never forget her, but then no longer came to visit. This poem appears in the mid-tenth-century *Yamato monogatari* (»Tale of Yamato«) section 84. In this tale, the lover had vowed to the many gods that, if he failed to abide by the oath, he would be placed in mortal danger. One could evidently take this poem as a reflection on the transience of love, but the vow itself shows that one offered self-curses and the corresponding oaths in daily life.

If one searches further in poems, one finds that many people wrote poems attesting that, if their love were to change, they would die. Many are addressed to the gods of Kasuga and Sumiyoshi. One meets the same pattern in the *Tale of Genji*, in which a man discusses writing an oath in front of the buddhas.⁵⁴ When petitioning the gods and the buddhas, one customarily had to compose a written oath. However, the *Tale of Genji* presents vows of love as promises (*chigiri*), that will continue in the next lives of the lovers. Therefore, in the *Tale of Genji* relations in this world are described as the continuation from the characters' previous lives, based on the idea of *chigiri*.⁵⁵

The expression to »enact an oath« (*seigen o okonau*) occurs six times in the *Konjaku monogatari* (A Collections of Tales of Times Now Past), and not all of these vows concern love. The *Konjaku monogatari* was compiled in the twelfth century, but it contains some much older stories. One, for example, discusses how when a man who wanted to learn mathematical calculation from a Chinese merchant he vowed in an oath to go with him to Song China. The names of the gods and buddhas and the content of the self-curse are not known, but the Japanese partner broke the oath, was cursed, and was struck dumb.⁵⁶ Another tale speaks of a village where a spring of sake flowed like water. A monk was told not to tell anyone about it, and took a variety of oaths, but he let word of this slip, and disappeared.⁵⁷

53 *Shūiwakashū*, maki 14 no. 870, ed. Masuda Shigeo.

54 *Genji monogatari*, Agemaki. For the best translation, see Tyler, *Tale of Genji*.

55 Uesaka, *Genji monogatari no chigiri*.

56 *Konjaku monogatari*, maki 24 no. 22.

57 *Konjaku monogatari*, maki 31 no. 13.

Of course, these are all just anecdotal tales, but there are also some historical examples. In the mid-tenth century, Emperor Murakami (r. 946-967) wrote a Chinese poem, and had a courtier review it. When the noble tried to mask his criticism with flattery, the emperor ordered him to take an oath if what he said was true. The noble was afraid and could not take the oath; instead, he fled.⁵⁸ This incident is also mentioned in the *Godanshō*, which dates from the twelfth century.⁵⁹ These accounts must have been told and retold in court society. Here again, the names of the gods and buddhas invoked are not known, but one should understand it as a sign of the importance attached to the offering of an oath.

In poems, tales, and anecdotal stories from the tenth to eleventh century, these kinds of oaths often appear. The significance of oaths varies depending on the situation, but all express confidence that oaths or vows to the gods are true facts (oaths as statements of fact, »assertory oaths«) and promised future deeds with self-cursing (oaths as contracts, »promissory oaths«). They could be called Buddhist vows, but this assimilation deserves more thought. Buddhist vows of loyalty in the seventh century cannot be directly linked to such oaths or vows found in the literature. But in tenth-century aristocratic society, oaths were certainly taken in a variety of quotidian circumstances. Emperor Shōmu started the practice of using oaths to curse others, and fear of the punishments of the gods and buddhas probably continued to resonate from the eighth and ninth centuries through the tenth century. The people of Ancient Japan seem to have continued to offer oaths for a variety of circumstances in everyday life, mostly cursing themselves to solemnize a promise of better deeds in the future. Admittedly, at this stage of research, this is only a hypothesis and a variety of sources will have to be scrutinized in order to arrive at a better understanding of whatever the actual process was.

Even so, it was from such usages and beliefs that the customs of *tenpan saimon* and *kishōmon* arose. During the eleventh and twelfth centuries, medieval estates appeared, with their own laws and legal precedents, as well as local courts. In that emergent legal and social context, it is easy to imagine that there was a need for the judgment of the gods (*shinpan*) to be invoked in complicated cases. Likewise – and I have not discussed this in detail – medieval oaths differ greatly from the *ukei* of the Ancient period, in that writing them down became an essential element. One should consider this to be a new and different element not appearing in the ancient oaths. In short, it is not that divine judgment or *ukei* from the Early Ancient period were simply revived during the medieval period. Rather, one can conclude that the unique style of oaths and the custom of cursing oneself, both of which were formed in the latter Ancient period, and the dissemination of the culture of writing together allowed for the birth of the medieval type of written oath (*kishōmon*).

58 *Konjaku monogatari*shū, maki 24 no. 27.

59 *Godanshō*, maki 5 no. 57, ed. Gotō, Ikegami and Yamane.

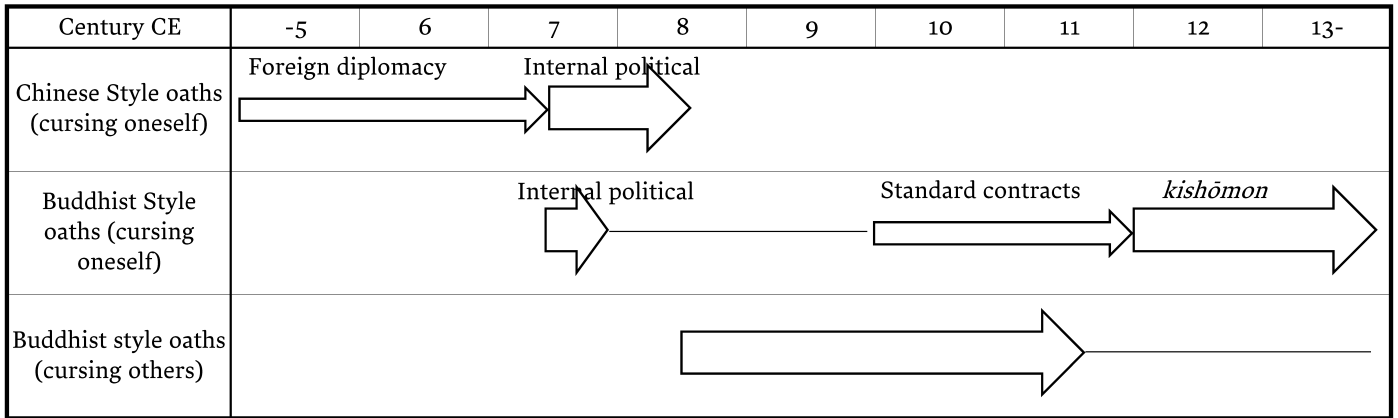


Diagram 1: Changing styles of oaths and proclamations

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