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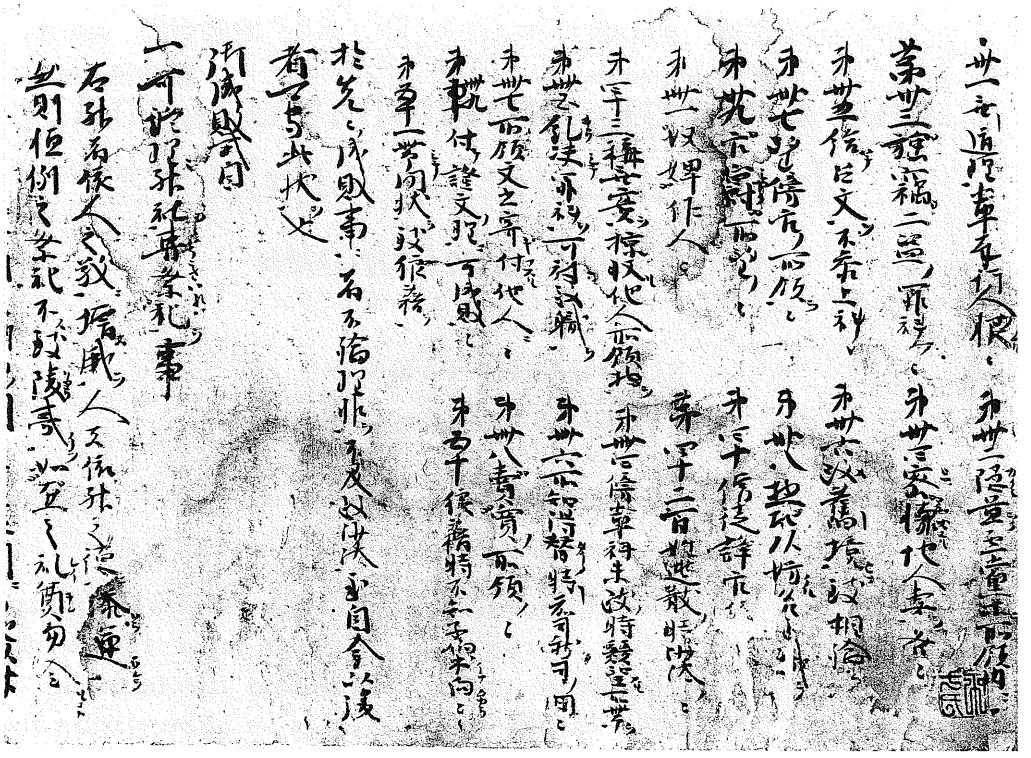
The Origin, Proclamation, and Implementation of the *Goseibai Shikimoku*

SUGIHASHI TAKAO

[TRANSLATED BY RONALD FRANK]

The *Goseibai Shikimoku*, enacted in 1232 by the Kamakura shogunate (1192–1333), is the first warrior code of laws in Japan. In the title of the code, "*go*" is an honorific prefix, "*seibai*" has the meaning of "judgment," and "*shikimoku*" can be interpreted as an abbreviation for "*hōshiki*" (laws) and "*jōmoku*" (regulations). The title can thus be roughly translated as *Laws and Regulations for Judgment in the Honorable (Shogunal Court)*.[1] It is also known as the *Laws and Regulations of the Jōei Reign Period* (*Jōei shikimoku*) since the code was enacted during that period.

At the time of its proclamation, a large number of transcriptions of this code of laws was prepared. Through the "military governors" (*shugo*), the transcriptions were delivered to the "stewards" (*jitō*) and "retainers" (*gokenin*) of the provinces under their respective jurisdiction. Regent Hōjō Yasutoki (1183–1242), author of the *Goseibai Shikimoku*, described the distribution of the code in a letter dated the eighth day of the eighth month, 1232, to his younger brother Hōjō Shigetoki (1198–1261), then emissary of the shogunate to Kyoto.[2] The code, however, not only represented the legislation of the Kamakura shogunal government, it

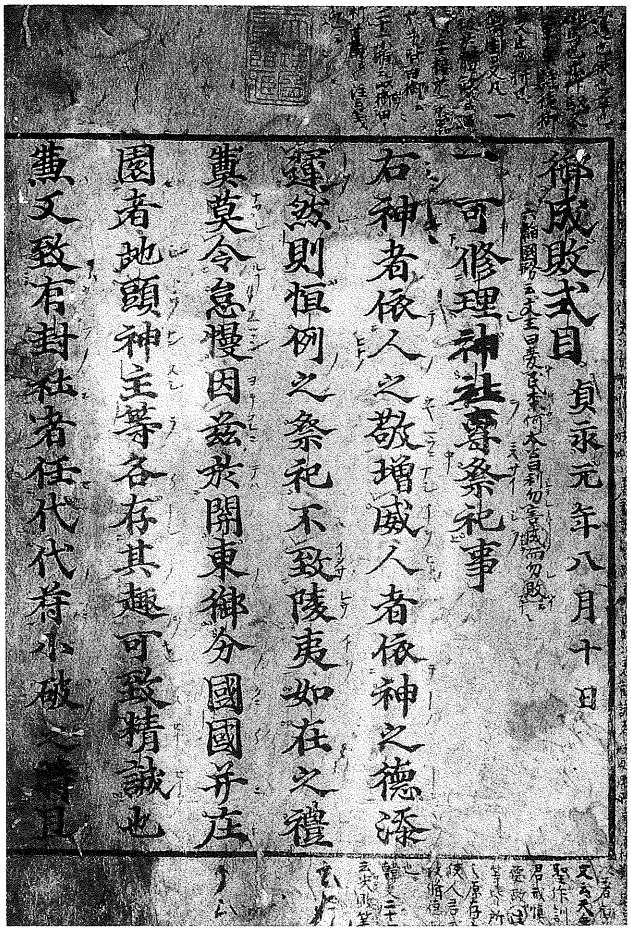


1. Opening paragraph of the *Goseibai Shikimoku*, Suga (Kan) edition. It contains no postscript, and the exact year of publication is therefore unknown. Judging from the writing style, however, it appears to have been written in the mid-Kamakura period. It is considered the oldest extant exemplar of the work. Although it has been used as the master copy for the collated version published in the *Dai Nihon shiryō* (Tokyo: Tokyo Daigaku shuppankai, 1931; rpt. 1970), this exemplar contains numerous mistakes attributable to its rather bold and flowing style of writing. Later, Satō Shin'ichi considered the Tsurugaoka edition, which was produced after the Suga edition, as the finest version, and used it as the master copy for the collated version published in the *Chūsei hōsei shiryōshū*, vol. 1.

served as the basis for the legal system of the subsequent Muromachi shogunate (1336–1572), and it had a pronounced influence on the laws the regional lords of the Warring States period (1467–1568) used in their domains. Moreover, its legal principles, while enhancing warriors' power, gradually influenced the laws of the imperial court in Kyoto and came to be applied to the land holdings of the civil aristocracy (*kuge*) and of temples and shrines. Consequently, the *Goseibai Shikimoku* was studied by many people, and commentaries to the code were compiled in the very early stages [of its implementation]. During the Edo period (1600–1867), the code was used by the temple schools (*terakoya*), which were educational institutions for children of commoners, as a textbook of calligraphy, and was published in a variety of woodblock editions. The oldest extant handwritten exemplar of the *Goseibai Shikimoku* is the Suga (or Kan) edition, Suga being the name of its previous owner. Although it is not clearly dated, judging from the writing style this exemplar must have been transcribed shortly after the enactment of the *Goseibai Shikimoku*. The 1524 edition is the oldest of the woodblock prints of the code, and the Tenri Library at Tenri University and the Ryūmon Collection, both in Nara Prefecture, hold copies. In the Ryūmon collection is the oldest extant commentary to the code, a book entitled *Yuijō uragaki*, with a postscript dated 1289.[3]

Study of the *Goseibai Shikimoku* had already started during the Kamakura period. After the introduction of modern historical science to Japan, studies of the code, typical of which are works by Miura Hiroyuki and Ueki Naoichirō,[4] have highly acclaimed the *Goseibai Shikimoku* not only as a development of legal principles specific to a warrior society but as the basic code of laws that later regulated Japanese society for a long time. In recent years, there have been criticism and partial revision of this assessment [of the code], but in general this assessment, which has been further refined, stands as the mainstream opinion [among scholars] to this very day.

In recent years, the publication of volume one of *Sources of Medieval Legal History* (*Chūsei hōsei shiryōshū*), as well as the first volume of the supplementary volume, *Medieval Political and Social Thoughts* (*Chūsei seiji shakai shisō*), and other works has facilitated research on the code. In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可修理神社尊祭祀事
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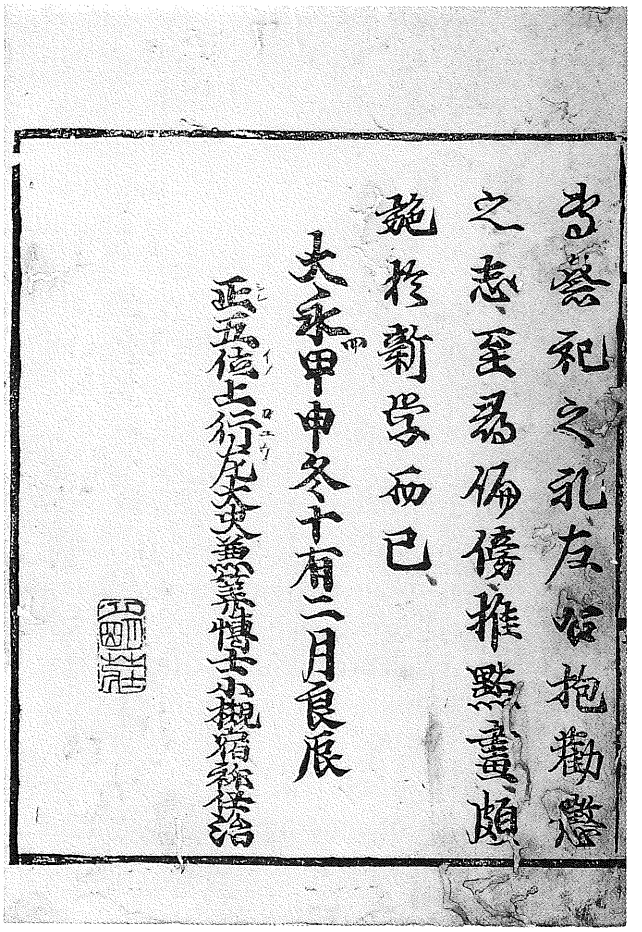
2. Opening paragraph of the *Goseibai Shikimoku*, woodblock print of the fourth year of the Taiei reign period (1524). Collection of the Tenri Library at Tenri University.

volume one, part one, of the first work is a meticulously collated version of the *Goseibai Shikimoku* by Satō Shin'ichi, who used the Tsurugaoka edition as the master copy. In part two Ikeuchi Yoshisuke offers, in chronological sequence, a collection of the "supplementary laws" (*Tsuikahō*)[5] that were promulgated by the Kamakura shogunate. Thanks to the efforts of Ikeuchi, eight different editions of commentaries to the code have been re-engraved and collected in the supplementary volume.[6] In the second work is a detailed annotation to the code and the supplementary laws by Kasamatsu Hiroshi.[7] In addition, the *Bequeathed Works of the Kamakura [Period]* (*Kamakura ibun*), edited by Takeuchi Rizō and published from 1971 to 1991, has greatly facilitated research in the field.[8] This

is an easy-to-use comprehensive collection of historical sources, which makes it possible for readers to find all the related documents.

In the meantime, new trends have emerged in the research on the Kamakura laws, including the *Goseibai Shikimoku*. In particular many young scholars are no longer satisfied with the study of individual regulation and legal principle. Taking advantage of such collections of source materials as the *Kamakura ibun*, they have adopted an approach whereby they try to look specifically into the development of laws and the legal system by examining the actual implementation of laws. Although the new results published in recent years, including the articles by those young scholars,[9] should be highly esteemed, I am nevertheless not satisfied. For one thing, compared to previous scholarship these works tend to pay less and less attention to the very process of enactment, proclamation, and implementation of the *Goseibai Shikimoku*. In particular, most of them have avoided discussion of the relationship between [the shogunal court], which now implemented the code, and the imperial court in Kyoto, which used to be the sole source of legislative authority. Their studies have indeed accorded the code insufficient treatment.

Although it is true there are few primary sources about the process leading from the enactment to the actual implementation of the code, I recently examined this process from the viewpoint of the relations between the civil and military aristocracy.[10] In my article on the process I first examine in detail accounts in the *Mirror of the East* (*Azuma kagami*) that record the enactment and the dispatch of the code to the deputy of the shogunal court in Rokuhara, Kyoto (Rokuhara tandai). I also examine two documents sent roughly at the same time [as the dispatch of the code] by Regent (*shikken*) Hōjō Yasutoki to his younger brother Shigetoki who was also in Rokuhara, Kyoto.[11] On the basis of these studies I was able to point out, among other things, that first, Yasutoki in the eighth month of 1232 enacted a fifty-article code of laws entitled "*shikijō*," a term that had been used to refer only to laws promulgated by the imperial court; second, after negotiations with the imperial court, the title of the code was changed in the ninth month to "*shikimoku*," which was a more common term [than "*shikijō*"]. In the meantime one more article was



3. The last page of the *Goseibai Shikimoku* showing a note by Ozuki Koreharu dated the twelfth month of the fourth year of the Taiei reign period (1524). Collection of the Tenri Library at Tenri University. The note indicates that this is the oldest woodblock print of the work in question. The Ryūmon Collection also possesses an exemplar of this edition. Both exemplars have punctuation marks in vermilion, a characteristic feature of books during the late Muromachi period.

added to the code, specifying the areas and cases in which the warrior code would not apply; and third, negotiations [with the imperial court] were stepped up in order to make the *Goseibai Shikimoku* applicable to Western Japan which was still controlled by the court. And this demand was gradually met in early 1233.

One part of the conclusion of my article contains my arguments supporting the three-step theory of the enactment of the code, as opposed to the two-step theory advocated by Satō Shin'ichi.[12] More important, if scholars agree with the major arguments in my article, then the traditionally well accepted assertion that the total number of articles in the code is fifty-one, three times as many as the *Seventeen-Article Constitution* promulgated by Prince Shōtoku (574–622), would be entire-

ly unfounded. In our future study we must consider the formation of the *Goseibai Shikimoku* as a continuous process, and we must also carefully investigate its relationship with the laws of the imperial court.

Unfortunately, until recently no rapid progress in this direction has been discernible in contemporary scholarship. The lack of source materials has certainly hindered progress. But most detrimental is that many topics in the related fields of research are left unexplored. For example, Ikeuchi Yoshisuke spent his lifetime working on the *Studies on the Goseibai Shikimoku*,[13] which deals with the evolution of different editions of the code. But so far there is no bibliographical study of the numerous collections of supplementary laws compiled during the Kamakura and the Muromachi periods. I hope these difficulties will soon be overcome, and appropriate results will soon appear.

NOTES

1. The title of this work has been translated as *List of Precedents in Adversary Proceedings Decided in the Honorable [Shogunal Court]* by Carl Steenstrup in his *A History of Law in Japan until 1868* (Leiden: E.J. Brill, 1991), p. 84.
2. This letter is attached to the *Goseibai Shikimoku*.
3. See Miura Hiroyuki, "Jōei shikimoku," in his *Zoku hōseishi kenkyū* (Tokyo: Iwanami shoten, 1925), pp. 868–1009; Ueki Naoichiro, *Goseibai Shikimoku kenkyū* (Tokyo: Iwanami shoten, 1930; rpt. Tokyo: Meicho kankōkai, 1976), pp. 417 ff.; Uwayokote Masataka, "Goseibai shikijō," in *Gunsho kaidai* (Tokyo: Zoku Gunshoruijū kanseikai, 1960), pp. 95–101.
4. See their works cited in note 3.
5. This term was originally used to refer to the individual regulations enacted by the Kamakura shogunate to supplement the *Goseibai Shikimoku*. But now scholars tend to use the term as a general category, which includes the laws promulgated before the enactment of the *Goseibai Shikimoku* and the entire body of shogunal legislation except the code.
6. See *Chūsei hōsei shiryōshū*, vol. 1, and the supplementary volume (Tokyo: Iwanami shoten, 1955, 1978).
7. See *Nihon shisō taikei* (Tokyo: Iwanami shoten, 1972), pp. 7–177, 429–445.
8. This collection, published by Tokyodō shuppan, consists of forty-two volumes, plus a four-volume index to personal and geographical names. It is intended to be a complete collection of source materials from the Kamakura period.
9. A case in point is Furusawa Naoto's *Kamakura bakufu to chūsei kokka* (Tokyo: Azekura shobō, 1991).
10. See my "*Goseibai shikimoku* seiritsu no keii, shiron," in *Nihon seiji shakai shi*

kenkyū, ed. Kishi Toshio kyōju taikan kinenkai (Tokyo: Hanawa shobō, 1985), vol. c, pp. 155–183.

11. See the documents dated the eighth day of the eighth month, and the eleventh day of the ninth month, 1232. These documents are attached to the *Goseibai Shikimoku*.
12. See his "*Goseibai Shikimoku* no genkei ni tsuite," *Shintei zōho kokushi taikei geppō* 15 (Tokyo: Yoshikawa kōbunkan, 1965), pp. 1–4. It also appears in his *Nihon chūseishi ronshū* (Tokyo: Iwanami shoten, 1991), pp. 305–311. Paraphrasing these works, Satō states the following: "The number of articles in the code was never changed from the original fifty-one; rather at one point after 1232 the fifty-one original articles were condensed into thirty-five, and sixteen articles of supplementary law [*tsuika hō*] were attached to the end of the main code. The *Goseibai Shikimoku* we know today is therefore the product of subsequent rearrangements of the original."
13. See his *Goseibai Shikimoku no kenkyū* (Kyoto: Heirakuji shoten, 1973).

GLOSSARY

Azuma Kagami 吾妻鏡
Chūsei hōsei shiryōshū 中世法制史料集
Chūsei seiji shakai shisō 中世政治社會思想
Edo 江戸
go 御
gokenin 御家人
Goseibai Shikimoku 御成敗式目
Hōjō Shigetoki 北条重時
Hōjō Yasutoki 北条泰時
hōshiki 法式
Ikeuchi Yoshisuke 池内義資
jitō 地頭
Jōei shikimoku 貞永式目
jōmoku 条目
Kamakura 鎌倉
Kamakura ibun 鎌倉遺文
Kasamatsu Hiroshi 笠松宏至
kuge 公家
Miura Hiroyuki 三浦周行
Muromachi 室町
Nara 奈良
Rokuhara 六波羅
Rokuhara tandai 六波羅探題
Ryūmon 龍門
Satō Shin'ichi 佐藤進一
seibai 成敗
shikijō 式条
shikimoku 式目
shikken 執権
Shōtoku 聖徳
shugo 守護
Suga (Kan) edition 菅本
Takeuchi Rizō 竹内理三
Tenri 天理
terakoya 寺子屋
Tsuikahō 追加法
Tsurugaoka 鶴岡
Ueki Naoichirō 植木直一郎
Yuijō uragaki 唯浄裏書