

EARLY TIBETAN LAW CONCERNING DOG-BITE

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The Tibetan Chronicle from Tunhuang shows that by the eighth or ninth century Srong-brtsen sgam-po was regarded as having established "a great code of supreme law"-**gtsug-lag bka'-grims ched-po** (p.118); and the Annals record that six years after Srong-brtsen's death the Chief Minister Mgar Stong-btsan Yul-zung wrote the text of the laws-**bka'-grims-gyi yi-ge bris** (p 13 (6)). There is no contemporary evidence about their content but in later tradition the sixteen laws attributed to Srong-brtsan sgam-po are no more than a series of moral precepts. However, documents from Tunhuang reveal the existence of several specific legal codes and regulations. One long document in the India Office Archive collection of the Stein **mss** (10 no, 740) gives details of the proper decision, according to a new set of regulations, in cases concerning such matters as loans, taxation, marital disputes and so on. Many other Tunhuang documents refer to the law regarding contracts, sales, taxes, land-holding etc. and often mention the judge, **zhal ce-pa** who decides the cases. Another document in the Stein collection (10 no.753) deals with the law of theft, and Pelliot Tibetain (Pell T.) 1075 is a fragmentary copy of part of a similar **mss**. Other matters regarded as criminal, are the subject of Pell T. 1071 which records at length the penalties, graded according to the status of the victim and the offender, for causing death or injury in the hunting field by an arrow aimed at a wild animal and also in cases where someone fails to rescue another who has fallen under a yak or '**bri**. Although in such accidents there is no suggestion of the deliberate causing of death, they are dealt with under the law of homicide and in several cases the death penalty is imposed. It may even be inflicted on the highest ranking ministers if they falsely deny responsibility for an accident or fail to pay blood money imposed on them. Death is the penalty also in some instances of failure to rescue the victim of a yak, and a further— and peculiarly Tibetan — punishment may be imposed by hanging a fox's

tail, signifying cowardice, on to the offender. This is described in the Tang Annals where it is said that it was deemed so shameful that death was held to be preferable; and that bystanders would kill the wretched coward. I have prepared an edition of that document as a contribution to a memorial volume for the late Tsipon Shakabpa but it is unlikely to be published for some time. Meanwhile, I have studied another document (Pell T. 1073) setting out the law where someone sets a dog on to another and death or injury results from the attack. Here too the death penalty may be imposed, which is not surprising any more than it is for major thefts— it continued for even quite small thefts in Great Britain into the 19th century; but for those offences in the hunting field it illustrates the very stern demands of honour and discipline in a rugged, warlike society.

Pelliot Tibetan 1073 is a fragment of 28 lines in rather crude calligraphy; the punctuation is occasionally by double tshegs instead of the usual single; there are a few instances of the **da-drag**. These are possibly but not necessarily signs of a comparatively early date. As in Pell. T. 1071 there are many obscure words and phrases and it is probable that some readings are suspect. Below, I have attempted a translation and notes, the number and length of the latter indicate how many difficulties I have been unable to solve; and it is hoped that others may provide more satisfactory answers.

PELLIOT TIBÉTAİN 1073

..... if the **g-yar**, or whatever, he is riding shies and he is thrown whether he is killed or not, on account of the wounds, if there is someone who set on the dog he will be punished by banishment for a term (**ring res gcig**) and as penalty a good 'og-rta' and dressings for the wounds according to their number shall be imposed. If the offender is a woman, the fine is a quantity of good foodstuffs and dressings in proportion, to be given to the complainant. If a **rngul-gyi yi-ge-pa** (holder of a silver letter) down to a **zangs-gyi-yi-ge-pa** (holder of a copper letter) himself or his equal for the purpose of compensation sets a dog on to a **zhang-long phra-men gyi yi-ge-pa** (a minister who holds a silver-gilt letter) or his equal and he is bitten and dies; or if by setting on a dog, the

g-yar he is riding shies and he is thrown and dies whatever excuse the man who set on the dog may give, if the victim is killed and if someone set on the dog he himself shall suffer the **'bra shig** death penalty, his family shall be banished and whatever treasure and cattle they have shall be given as compensation for the killing; as for the landed property (**khol-yul**), if there is a son living in a separate family it shall be given to him; if there is no such son it shall be given to the father; if there is no father, even if there is a close clan relation (**phu nu bo drung**) it shall not be given to him but shall be shared among those who are the subjects and bondsmen (**'bangs** and **bran**) of the **person** executed. If there is no separate household and the one who set on the dog has been executed, whatever treasure and cattle the father and sons (**spad spun**) possess that has not been divided up, shall be divided and the whole share of the treasure and cattle that would have gone to the one who has been executed shall be given as compensation for the killing. If a married woman sets on a dog and causes death, whatever was given as dowry 20 by the original paternal family of that woman shall be given as compensation for the killing. If an unmarried sister sets on a dog and causes death her bondsmen and cattle and spun yarn (**kud** for **skud**?) shall be given as compensation for the killing. If by setting on a dog the **g-yar** he is riding shies and he is thrown, whether he is killed or not the one who set on the dog shall be banished and a quarter of his treasure and cattle shall be given as penalty for the wounded. If it is a woman, in addition to banishment for her, half of the treasure and cattle whatever she has shall be given as penalty for the wounded. If someone from **gtsang-chen** to **dmangs mtha-ma** sets a dog on to a **zhang-lon phra myin men gyi yi-ge-pa** upwards, himself or an equal, and if by setting on the dog the person is bitten and dies, or if the **g-yar** he is riding shies and he is thrown and killed, whatever excuse the one who set on the dog may make, if the person is killed, for the offence of setting a dog on to a **zhang-lon** or **dge-ba** the offender and the sons who live with him downwards, shall be put to death; if there are no sons living with him his womenfolk (**smad**) shall be banished and his treasure and cattle shall all be given as compensation for the dead **zhang-lon**. If someone in an undivided household has been executed for setting on a dog all the treasure and cattle that has not been divided between father and sons shall be divided.....

NOTES

1-3. **g-yar** : also in Pell T. 1071 11. 322,400,401. Dictionaries give no specific help towards its meaning. **Yar-ma** in Das and Dagyab, referring to some sort of cow is inapposite. **Gyar-ba**, "Borrow, hire" also seems inappropriate because persons concerned in 11.7,17 and 24 are high-ranking ministers who would be presumed to own their riding animals. Thomas TLTD. Iip 273, an incomplete passage reading.... **tshal ba'i g-yar'og rta..... ma byor na** may introduce the idea of a comparison between **g-yar** and **'og** -the better quality and the **less** good quality horse: **'og rta** appears frequently in **pell T. 1071** as well as in 1.2. here. In view of the uncertainty I leave both words untranslated.

4. **dkod**. For **god**, "punishment"?
5. **'og-rta**, see note 1. See **Pell T.** where it appears in several contexts.
6. **ya-btags**. something attached on top; bandage?
7. **gi** or **go za ma** the reading is not clear? "useful?"
8. Official ranks were distinguished by insignia of different precious substances—turquoise gold, **phra-men** (Silver-gilt), silver, copper and brass. The Chinese Tang Annals describe them as strings of beads hanging from the shoulder. Perhaps the letter, **yi-ge**, was a diploma on a metal plate entitling the holder to wear the appropriate decoration.
9. **zhang-lon**. The general body of ministers; to be distinguished from **zhang-blon**, **blon-zhang**; see "Names and Titles in Early Tibetan History" H.E. Richardson. Namgyal Institute of Tibetology Bulletin No. IV 1967.
10. **stong mnyam-pa** of equal status in matters of compensation, penalties and so on. I have abbreviated it to "equal".
11. **lan 'don gyis cis. lan-lon**. I take this "to give a reply" rather than to making retribution.
12. **'bra shig bkum**, of which the etymology is uncertain, is seen from **Pell T. 1071** to be a death penalty in which unlike the harsher **sgor rabs gcad** the offender's sons did not also suffer execution.
13. **bu smad**. In its appearance in **Pell T. 1071** this seems to mean "family", "children" (Jaeschke, and Das) rather than "mother and daughter" (Dagyab, and Goldstein)

14. **bang za dang nor phyugs.** "treasure store and cattle wealth" are the personal property of the offender and his family.
15. **khol-yul.** Land with its complement of bondsmen and subjects (**bran** and **'bangs** granted by the **btsan-po** to a family. It was heritable but could be resumed for disloyalty or misdemeanour.
16. **sdum-pa bub-pa** of **khyim-phub** of a son who has set up a separate household.
17. In this document and in 1071 **stsald** is not preceded by a particle such as **la** or **tu**.
18. **phu nu bo drung.** A. Róna Tas in "Social Terms.... in the Tunhaung Chronicle", Acta Orientalia Hungarica, 1955, concludes that this term covers a clan, specifically the progenies of the malee line. The meaning of **drung** here is uncertain. In Pell T. 1071 it is contrasted with **gang 'dur-pa (bdur-pa mdure-ba)** which applies to persons who may receive the property in default of closer relatives of the deceased.
19. I have hesitated for a long time before accepting that this passage means that the bondsmen and subjects may share the **khol-yul**. If my interpretation is correct here and in Pell T. 1071 it represents a surprising departure from what appears to be the principle that **khol yul** to which the bondsmen and subjects are attached is held by persons of rank; but I can see no easy interpretation to indicate that the **khol yul** and **bran** and **'bangs** in this case should be assigned to anyone else. It may be noted that in the early days of the kingdom persons of high rank who had been conquered by some rival could become **bran** (Tibetan Chronicle p. 103. 1 20-24) but that would not appear to apply to later centuries.
20. **brtsangs.** for **brdzangs.**
21. **The text** is probably corrupt and **bran** should be **bang za as in other cases**; it may also be that mention of **banishment**, as in 1. 21. has been omitted.
22. I am doubtful about the reading **kud-pa, gud-pa** "what she has privately" might be an alternative.
23. **gtsang-chen,** an official of lower rank than those who held letters of various degree.
24. **dmangs mtha-ma.** "the lower commoners". It is not clear who might be covered by this description. From Pell

- T. 1071 it is seen that the **dmangs**, who ranked below the **gtsang-chen** and above the soldiery (**rgod**), could hold **khol-yul** and so had a recognized place in the social hierarchy, perhaps as minor officials attending on those of higher rank.
25. **dge-ba** appears to have no religious connotation. It is contrasted in Pell T. 1071 1 260 with **ngan-pa**- "the good and the bad". In a Tunhuang **mss**, I.O. no. 506 quoted by R.A. Stein in *Tibetica Antiqua* II p. 268 **ngan-pa** is equated with **rkun-ma**, "thief". From its occurrence several times in Pell T. 1071 **dge-ba** seems to be an honorific epithet of very high-ranking officials, perhaps similar to **ya-rabs**.
 26. **bu-smongs** : an obscure word perhaps for **mong** as in **thun mong** "together, jointly".
 27. In the reading **dgum/mo/smongs/ma/byung na** I take the construction as **dgum mo/smongs** rather than **dgum/mo smongs** etc.
 28. **smad** here seems to mean "wife, womenfolk" as the sons have been accounted for in the previous sentence.

ABBREVIATIONS

- Dagyab. L.S. Dagyab, *Tibetan Dictionary*, 1966
- Das. Sarat Chandra Das, *Tibetan-English Dictionary*, 1902
- Goldstein. M.C. Goldstein, *Tibetan-English Dictionary of Modern Tibetan*, 1975
- Jaeschke. H.A. Jaeschke, *A Tibetan-English Dictionary*, 1881/1934.
- Pelliot *Tibétain* (Pell.T.) *Inventaire des manuscrits Tibétains de Touen-houang conservés à la Bibliothèque Nationale (Fonds Pelliot Tibétain)* Paris 1939-1961.
- Thomas TLTD. F.W. Thomas, *Tibetan Literary Texts and Documents concerning Chinese Turkestan*, London 1935-1963.
- Tibetan Annals, Tibetan Chronicle*. J. Bacot, F.W. Thomas, Ch Toussaint, *Documents de Touen-houang relatifs à l'histoire du Tibet*, Paris, 1940.
- Tibetica Antiqua*. R.A. Stein, *Bulletin de l'École Française d'Extrême-Orient* Paris 1983, 1984.
- Tunhuang I.O **mss**. La Vallée Poussin, *Catalogue of the Tibetan manuscripts from Tun-huang in the India Office Library*, Oxford 1962.