EARLY TIBETAN LAW
CONCERNING DOG-BITE
- HUGH RICHARDSON

The Tibetan Chronicle from Tunhuang shows that by the eighth or ninth century Srong-btsan 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-btsan's death the Chief Minister legs Srong-btsan Yul-bzang wrote the text of the laws-bka'-grims-gyl yul-po bris (p 13 (6). There is no contemporary evidence about their content but in later tradition the sixteen laws attributed to Srong-btsan 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 co-pa who decides the cases. Another document in the Stein collection (10 no.753) deals with the law of theft, and Pelliott 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 Tsipun Sharabpa 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 TIBETAIN 1073

Pelliot Tibetan 1073 is a fragment of 28 lines in rather crude calligraphy; the punctuation is occasionally by double tshigs instead of the usual single; there are a few instances of the ds-frag. 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 TIBETAIN 1073

..... if the g-yar, or whatever, he is riding aides 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 gchig) and as penalty a good 'og-rtu' 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 rgyu-l-yi ge-ga-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 zba-sam phre-sen gyi yi-ga-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 'bya 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 ('tshang and 'brun) 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 sbyod?) 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 damags mtha-'sa sets a dog on to a zhang-lon phra myla men gyi yi-go-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 (smed) 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 t. 322, 406, 401. Dictionaries give no specific help towards its meaning. Yar-ma is Das and Deyab, referring to some sort of cow is inapposite. Gyar-bal, "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 TLD, t. 115, "an incomplete passage reading... tshug ba'i g-yar'og rta.... ma byor ma 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. yas-btags something attached on top; bandage?

7. gi or go ze ma the reading is not clear: "mehul?"

8. Official ranks were distinguished by insignia of different precious substances—turquoise gold, phra-lun (Silver-gilt), silver, copper and brass. The Chinese Tang hymns describe them as strings of beads hanging from the shoulder. Perhaps the letter, yi-go, was a diploma on a metal plate entitling the holder to wear the appropriate decoration.


10. stong mnyam-pa of equal status in matters of compensation, penalties and so on. I have abbreviated it to "equal".

11. lan 'don gya chu. lan-ldon. I take this "to give a reply" rather than to making retribution.

12. 'ha shig blo, of which the etymology is uncertain, is seen from Pell T. 1071 to be a death penalty in which unlike the harsher agor rabs gcad the offender's sons did not also suffer execution.

13. ba smad. In its appearance in Pell T. 1071 this seems to mean "family", "children" (Jaeschke, and Das) rather than "mother and daughter" (Deyab, and Goldstein).
14. bang za dang nor phyugs, "treasure store and cattle wealth" are the personal property of the offender and his family.

15. khoi-yul. Land with its complement of bondsmen and subjects (bran and 'bangs granted by the btsan-pa 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 steald is not preceded by a particle such as la or tu.

18. phu na bo drung, A. Rons Tas in "Social Terms..., in the Tshangpa Chronicle", Acta Orientalia Hungarica, 1955, concludes that this term covers a clan, specifically the progenies of the male line. The meaning of drung here is uncertain. In Pell T. 1071 it is contrasted with gyang 'dor-pa (bdur-pa  mduro-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 khoi-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 khoi 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 khoi 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. btsangs, 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. 1371 it is seen that the damngwa who ranked below the atsang-chen and above the soldiery (rgod), could hold whol-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 i 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 rkuan-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 smong as in thun smong "together, jointly".

27. In the reading dgu-ma/so/smongs/sm/b.yung na I take the construction as dgu ma so/smongs rather than dgu ma so/smongs etc.

28. smad here seems to be "wife, womenfolk" as the song have been accounted for in the previous sentence.

ABBREVIATIONS

Dagyeo. I.S. Dagyab, Tibetan Dictionary, 1966
Das. Sarat Chandra Das, Tibetan-English Dictionary, 1952
Tibetan Amala, Tibetan Chronicle. J. Bocot, F.W. Thomas, Ch Toussaint, Documents de Touen-hoang relatifs à l'histoire du Tibet, Paris, 1940.

10