

Tibetan Folk-law

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TIBETANS inhabit three major regions, Tibet proper, Khams, and A-mdo. Tibet is the region so marked on the maps; Khams is the province marked as Sikang; A-mdo does not exist as a political entity, but is divided into a number of Hsien (counties) in the north-western part of Szechwan, the south-western part of Kansu, and the area inhabited by Tibetans in Ts'inghai or Kokonor. My four years' field experience of Tibetan culture was in A-mdo on the Kansu-Ts'inghai border. My study of Tibetan folk-law, therefore, is based on conditions in A-mdo. The appended translation of "Rules of Punishment for Tibetans" (promulgated by the Manchu Imperial Court in 1733) applies mainly to Tibetans in A-mdo and secondarily to those in Tibet and Khams.

As Tibet, Khams, and A-mdo have a culture different from Chinese and other cultures, folk-law, like other aspects of Tibetan culture, irrespective of its predominance in any particular region, is always traced to Tibet's culture hero, King Srongtsan Gampo, who married in A.D. 641 the Chinese Princess Wench'eng. And however different it may appear to us, it is supposed to have its origin in the "Sixteen Articles of Law" of Srongtsan Gampo. These sixteen articles are as follows:—

1. Take refuge in the Buddha, in the Dharma (law), in the Sangha (monks).
2. Practise persistently the Dharma of these Three Treasures.
3. Observe filial piety.
4. Preserve morality.
5. Respect the aged and the noble.
6. Get rid of selfishness in friendly relations.
7. Give assistance to neighbours and the helpless.
8. Rectify the mind without being influenced by gossip.
9. Imitate the behaviour of the superior ones (monks).
10. Go to no extremes in taking food and in personal conduct.
11. Never forget the favours done by others.
12. Use standard measures for outgoing and incoming goods.
13. Harbour no grudge against anybody.

14. Phrase words so as to please others.
15. Pay no attention to the words of women and those of bad company.
16. Be patient and determined, for neither the code of the mundane world nor that of the supramundane world is easy.

These sixteen articles of law remind us of similar codes reported from Korea and Japan¹ about the same time, when the T'ang dynasty had its widest contact with non-Sinitic cultures. Whether or not they have a common origin in the outflow of Chinese culture is not our concern here, but the coincidence is worth noticing for further comparative study.

1. HISTORICAL BACKGROUND OF TIBETAN FOLK-LAW IN A-MDO

In comparison with Tibet and Khams, A-mdo is more semi-independent and disunited because it has never been under direct rule either of the Chinese government or of Lhasa. Even in the heyday of the Manchu dynasty it was only during active military operations that any direct control was possible. Lacking unified rule, A-mdo consists of more or less unrelated tribal communities and monasteries. The people under tribal or monastic control are predominantly nomadic and secondarily sedentary.

Only within a "we-group" are the rules of morality observed. In dealings with an "other-group" justice can be maintained only

¹ Though the eight-item regulations in Korea are attributed to Chitze in 1121 B.C., the most frequent contact between China and Korea was in the seventh century A.D. Of the eight items, only three are mentioned by Ma Tuanlin in his famous study of *Institutional History* (Wenhsien T'ungk'ao): capital punishment for murder, compensation in grain for injury, slavery for theft. But Japanese histories attribute "Seventeen Articles of the Constitution" to Prince (taishi) Shotoku in the seventh century A.D.; they may be summarized thus: (1) harmonious relations among men; (2) refuge in the Buddha, Dharma, and Sangha; (3) obedience to imperial orders; (4) propriety among ministers; (5) just litigation without greediness; (6) punishment and reward to deter the wicked and encourage the good; (7) proper division of labour to suit individual qualities; (8) early attendance at the court and late adjournment; (9) sincerity as the basis of righteousness; (10) tolerance for individual differences; (11) discernment of merit and demerit in making rewards and punishments; (12) no unauthorized taxation by officials; (13) as colleagues know each other's duties, there should be no neglect of affairs if an official is ill or absent on leave; (14) no jealousy among officials toward one another; (15) friendly co-operation as a result of unselfishness; (16) timely employment of people in order not to hurt their occupation; (17) consultation with the many in affairs of importance.

if a wronged party can enforce it. Even then responsibility is not individual but collective. For example, when A of tribe X has done some injury to B of tribe Y, it is not A who is accountable to B individually; rather it is X that is accountable to Y collectively. Suppose A kills B and Y is strong enough to demand redress, all the members of X will have to contribute towards an appropriate "life-price" to be paid to Y; A as an individual does not have to pay the whole of it. If X declines to pay for loss suffered by Y from the death of B, blood feuds will result. Then an agreement may or may not be reached between tribes X and Y. Without agreement feuds will start afresh if either tribe is strong and bellicose. When agreement is reached the deaths in both tribes should cancel one another. The balance will have to be paid for in terms of "life-prices" to the tribe that suffered more deaths. As one individual may have a greater social value than others, the "life-price" for him, as we shall see, may be higher.

Recurrent feuds are not uncommon, and outside people who live among Tibetans without tribal protection of their own are easily abused without possibility of redress. Under the Tibetan system of folk-law a person wronged will take direct action himself, employ a mediator, or resort to litigation.

2. DIRECT ACTION

Direct action is the logical result of the lack of government protection. The ignorance and incompetence of officials expected to introduce reforms may partly explain the present lack of government protection. But historically the cause of it goes deeper. For during the Manchu dynasty the policy was to divide one ethnic group against another and to split groups into as many units as possible to remove the possibility of united revolt. It was unlawful for the Chinese to study Tibetan or Mongolian and for Tibetans and Mongols to study Chinese. As we may see in the ruling of Article 59 in the appendix mentioned above, the travel of Tibetans among faraway tribes was also restricted. Having been long denied the opportunity of wholesome cross-culture contact, Chinese and Tibetans alike need more time to correct a situation caused by an undesirable policy.

Direct action may be divided into (a) preparatory self-defence and (b) the handling of affairs afterwards.

(a) Even walking on the street Tibetans always carry swords and

rifles. Travelling on open plains they go in large caravans for mutual protection, accompanied by fearsome mastiffs. These precautions are against possible attack and robbery. Robbers are seldom professionals. Any Tibetan may be a robber. For robbery is accepted as a way to acquire prestige. In the social scale of Tibetan life to be born an aristocrat or a Living Buddha is desirable ; but this cannot be secured by individual effort. The only way to gain prestige by one's own effort is to become a lama with both religious and scholastic distinctions or to become a robber with all the glory of a warrior. The popularity of the lamas is proverbial. Robbery too is attractive. And it is encouraged by the insurance of collective responsibility, the idea that it is not wrong to harm another tribe, the urge of a poverty due to primitive economy and the not uncommon practice of giving alms to a monastery as a means of acquiring merit. On thus bankrupting oneself there is ironical comment in Buddhist teachings. In fact, robbery may not only be due to religion but make a man more religious. As a Buddhist, a robber will certainly repent of his sin of robbery, and he will more frequently attend the monasteries for purifying ceremonies. Of course he has to pay. He may even give up everything and take to robbery again.

So to deter robbers travellers are equipped for self-defence. As a rule, when two caravans approach from opposite directions they will try to ascertain the names and business of one another. Should mutual friends be discovered nothing will go wrong. Should there be no mutual friends they keep a respectable distance when passing. For it is not uncommon for the stronger party, on discovering the weakness of the other, to start a sudden attack, even though it was not originally meant to be a marauding party. Here is a vicious circle common in international politics. Unless you are well prepared you do not feel safe. Once you are well prepared, strength may tempt you to become involved in warfare under some pretext or other.

(b) Now suppose fighting starts among these Tibetans. What happens ? If the defeated party is too weak to demand redress or the attacking party is not identified, no action is taken. Otherwise one of three courses may be followed.

(i) The tribe to which the attacking party belongs may be approached for compensation. Should it refuse peaceful settlement there will be fights on an inter-tribal scale. (ii) If it is conciliatory,

compensation in terms of " life-prices " may be arranged through mediation. (iii) A third course is followed when both parties belong to the same chieftain or monastery authorities. For the aggrieved party will appeal to the chieftain or the monastery for a trial. Mediation and litigation are both contrary to the spirit of Article 33 of the ruling of the Manchu Imperial Court, as they are not handled by central authorities but " privately " by chieftains or monasteries.

There are other occasions for direct redress besides robbery. If one's field is damaged by another family's cattle, the cattle may be seized by the watchman of the crops or by the owner of the field. As a watchman comes from each family in turn he gets no pay. If he seizes animals their owner has to pay for damage they have done and the payment goes to the watchman. If the proprietor of the field gets hold of the animals the owner of the animals pays him directly.

Pastures to the nomads are what fields are to the agriculturist. Tribe A cannot pasture animals in places belonging to tribe B and vice versa. Should this rule be broken the trespassing animals will be taken by the tribe that has right to the land and their owners will have to pay for the trespass before they can be claimed. Chinese authorities have constantly erred by concluding that, as nomads roam about, there is no proprietorship of grasslands. The Manchus were better informed, as we may see from Article 7.

A caravan travelling through tribal territories inevitably presents a gift to the chieftain whose tribe claims the pasture-land by way of " grass money ", to acknowledge his tribal authority and to pay for grass consumed. It is also a gesture to solicit his protection. No tribesman will then attack the caravan, and in case of attack the chieftain will help identify the marauders and be useful in mediation.

The caravan maintains order among its members. For example, every day there is a chosen leader for the road. On the second day the unit that led on the first will be the last in the train ; the unit that was second on the first day will take the lead, and so on for the succeeding days. Any breach of the order will be punished by the representatives of the different units. The exact fine is determined at a conference at the end of the day. Absence of any representative from this conference entails loss of the right to speak. The keeping of watch over animals and goods at night is arranged in a similar manner. Nobody would dare to go against the ruling of a caravan

ouncil, which would entail expulsion from the party. Expulsion means loss of group protection and consequently starvation.

Direct redress or compensation may also accompany divorce and adultery. For Tibetans marriage and divorce are largely matters of mutual consent. On separation any rich wedding gifts should be returned to the family that gave them. If the family of a divorced woman is very poor, compensation is expected. The settlement of these cases involves a great deal of bargaining. A third party may arbitrate. Article 58 in the appendix may be read together with this as a recognition of Tibetan folk-law.

In the case of adultery, husband and wife may just separate. If the husband is particularly jealous and strong he may kill his wife and her lover on the spot and then take refuge for a while till their families have calmed down. Or the woman may be tortured by the cutting of her hair, her face, the tip of her nose, or a combination of these. In A-mdo particularly separation without further ado is more usual than not. Article 9 in the appendix is no doubt due to a mixture of Tibetan and Chinese influence.

3. MEDIATION

The most important matter for mediation is the settlement of "life-prices". The official explanation of this system stresses the value of human life. To have one person killed is bad enough. Why kill another to maintain justice? This explanation and actual practice differ from area to area, nor does it accord with capital punishment as promulgated by the Manchu Imperial Court. But by and large in A-mdo the family or tribe of a murdered person are generally content with his "life-price".

The exact amount of such a price for a commoner was sixty strings of copper coins, each string containing twenty-five coppers. With the money price becoming less dependable, the "life-price" is paid in kind, namely the equivalent in animals, a combination of horses and cattle (*v.* Article 39 in the appendix). As a horse is more valuable than a cow, for every horse there must be two cattle.

The "life-price" for a woman is only half that for a man. And different walks of life make a great difference. For instance, the "life-price" of the steward of a small monastery at Khagya is more or less the total of the following:—

- (a) price of his head: horses, *dso* (mongrel-breed of the yak-bull and common cow), yaks, cows, to make a total of 40;

- (b) price of his two hands : 80 animals ;
- (c) price of his legs : 80 animals ;
- (d) price of his body : 7 ingots (one ingot is equal to 50 taels of silver).

Of course the price for a Living Buddha is much higher, according to his rank.

Before the discussion of any " life-price " begins the following must be handed over as a preliminary peace gesture :—

- (a) weapons used in the killing ;
- (b) horses used by the killer ;
- (c) one yak for the purpose of carrying the dead to the place to feed the vultures (a form of burial) ;
- (d) an equal weight of butter to balance the dead body on the yak for transportation.

Theoretically the " life-price " for a robber killed in robbery is only half the usual amount, unless his tribe or family is strong enough to demand more. If a party is strong and persuasive there is much in its favour. When the value of a dead person admits of arguments there is no end of bargaining and even the threat of armed force. If arguments are even the only way out is to swear an oath in the temple of the Protector of the Faith. Once an oath is sworn the balance will be entirely in the favour of the swearer. Even the Manchu Imperial Court had to take cognisance of such oaths, as illustrated by Articles 12, 13, 14, 19, 22, 23, etc., in the appendix.

If a person is killed unintentionally, in theory there is no compensation. But in practice half of a " life-price " is always demanded. If persons are injured in a fight the less injured should pay for the cost of medicines and for any religious performance for the cure of the more seriously injured (*v.* Articles 28, 29).

Very curious to any outsider is the folk-law for mastiffs that guard a tent. If one is attacked and hurt by them there is no redress. But if they are hurt seriously by a person in self-defence then he must pay for the injury. For it is the duty of the dogs to guard against intrusion and their life is as valuable as a human life. It is natural for them to attack an intruder (*cf.* Article 30).

4. LITIGATION

A monastery official or chieftain may fine a person for any breach of custom. For instance, no commoner may have the eaves of his

house made of shales or his door painted ; no woman may wear trousers or put on Chinese stockings and shoes. Any offender will be heavily fined by the monk in direct charge of the people (gñerpa). Failure to appear in statute labour or to contribute one's share of fuel and fodder to the traditional authority is similarly punished.

To start a lawsuit a Tibetan has first to offer enough presents to the judge. For a Tibetan official is not to serve but to be served by his people. During the hearing of a case the judge remains silent, while the two parties keep on reciting historical happenings that have led to the suit. This recitation may go back for generations and continue for many days. When the hearing is concluded and the judge is about to proclaim his decision, "mouth-opening money" (kha-hbyed-rdsas) of one to twenty silver dollars should be paid to him or his proxy (gzug-pa). One convicted of homicide would be sentenced to pay the "life-price" as given above, a penalty with an element of compulsion not following arbitration. In suits as to property rights and the like winner and loser have both to pay fines to the authority for the trouble caused to the judge.

After the sentence the parties involved should pay "conclusion money" or "mouth-closing money" (gzu-tshar) to balance the "mouth-opening money".

In addition to the fixed amount of the fine there is usually a demand for so many *Khathos* ; each *Khatho* may range from 40, 60, to 80 strings of copper coins. The fixed fine cannot be changed. But the number and the size of *Khathos* is open to bargain. This system of *Khatho* accompanies not only litigation but also mediation.

Fines and presents go to the authority, either a chieftain or monastery. "Mouth-opening" as well as "mouth-closing" money and the *Khathos* are put together to be equally divided between the proper authority and the judge.

Besides fines there are the punishments of incarceration in a pit or of exile from the community. A criminal may be fettered and manacled and kept in a pit, both before trial and afterwards by sentence of the court or for failure to pay a fine. An exiled criminal wears a paper hat, puts on woman's clothes, and receives so many stripes before he is driven out.

The examples and rules here cited represent the norm. As in any other branch of culture, there are all sorts of deviations from the norm in Tibetan folk-law. The "Rules of Punishment" promulgated in 1733 by the Manchu Imperial Court may be taken as an attempt

to standardize this folk-law by removing authority from the local chieftains and monasteries. Many sections try to reconcile this law with legal conceptions prevalent in other parts of China. As these "Rules" were at least sporadically observed during the Manchu dynasty, it is not without interest to compare them with folk-law existing to-day.

RULES OF PUNISHMENT FOR TIBETANS

(announced in 1733 by the Manchu Imperial Court)

1. *Failure to Participate in Military Expedition when Ordered.*

The punishment for *Ch'ienhu* (chieftains over 1,000 families) is a fine of 50 *dso* (*dso*, Tibetan name for mongrel-breed of the yak-bull and common cow); for *Paihu* (chieftains over 100 families), 40 *dso*; for centurions, 30 *dso*; and for elders in direct command of tribal forces the penalty provided by military law. For failure to appear at an appointed place and time the punishment for one day's delay is a fine of 7 *dso* for a *Ch'ienhu*, 5 *dso* for a *Paihu*, and 3 *dso* for a centurion. Delay for more than one day is punished by fines calculated on the same basis.

2. *Failure to Muster for Attack when Enemy Forces Come.*

When enemy forces come to a territory all chieftains and elders in charge should take cattle, sheep, and other properties to a safe spot and order their military forces to appear at the place invaded. Failure to do so is fined on the same scale: 50 *dso* for *Ch'ienhu*, 40 *dso* for *Paihu*, and 30 *dso* for centurions. As soon as these forces have gathered where the territory is encroached upon, their leaders shall devise means and tactics to surround and attack the invaders. Should the elders in direct charge of tribal forces under these chieftains fail to appear, similar fines are levied against them accordingly.

3. *Tribal Desertion.*

All other tribes in the neighbourhood shall send forces, in appropriate proportion as for military operations, to drive back the deserters. Failure to do so is fined similarly: 50 *dso* for *Ch'ienhu*, 40 *dso* for *Paihu*, and 30 *dso* for centurions.

4. *Group Desertion with Arms.*

When an armed group of less than twenty people desert their tribe, the other tribesmen should pursue them. Should the deserting group be larger than twenty people, neighbouring tribes shall

co-operate in the pursuit by sending people in proportion to the number of deserters and by equipping their pursuers with rations, horses, etc. Failure in such a matter is punished by fines in terms of *dso* : 15 for *Ch'ienhu*, 10 for *Paihu*, and 5 for centurions. At the same time the reasons for such desertion should be reported to higher authorities. Failure to report same is punished by fines in terms of *dso* : 7 for *Ch'ienhu*, 5 for *Paihu*, and 3 for centurions.

5. *Pursuing Deserters.*

When deserters are pursued, if their leader is killed all his forces and properties belong to the pursuers. If deserters have taken other people's horses away with them half of the booty shall go to the pursuers. If deserters escape the properties taken from them in the pursuit go not to the pursuers but to the masters of the deserters. If the deserters have taken other people's horses and have left their wives and other properties behind the loss should be made good out of the latter. If nothing is left behind there can be no compensation for the loss and the masters of the deserters shall be held responsible for other people's loss.

6. *Failure to Attend an Appointed Meeting.*

Failure so to attend after due notice is to be fined in terms of *dso* : 13 for *Ch'ienhu*, 10 for *Paihu*, and 5 for centurions. Delay beyond the appointed date is punished by fine according to the number of days, on a similar scale in terms of *dso*.

7. *Pasturage Trespass.*

Trespass upon the pasturage of other tribes is punished by fine in terms of *dso* : 7 for *Ch'ienhu*, 5 for *Paihu*, and 3 for centurions. If the trespass is committed by commoners the fine is 1 *dso* for one family.

8. *Going beyond one's tribal Allotment for Pasturage.*

Such roaming is punished by fine in terms of *dso* : 50 for *Ch'ienhu*, 40 for *Paihu*, 30 for centurions, and 10 for elders immediately in charge. In the case of commoners, anybody who sees the offence is entitled to seize their livestock and other properties.

9. *Adultery.*

For a commoner committing adultery with a commoner's wife the fine is 5 "nines" (nine animals, of horses, *dso*, and cows in various combinations being the unit; see Article 39; 5 "nines"

means five times so many animals). The adulteress should be handed to her husband to be put to death. Unless she is killed, her husband cannot get the benefit of the fine, which should be handed to the elder in charge. One guilty of flirting with another woman is fined 3 "nines".

10. *Depriving a Commoner of His Betrothed.*

For depriving a commoner of his betrothed by marrying her an elder in charge of the community shall be fined 3 "nines"; a commoner 1 "nine". The girl thus married should be returned to her original fiancé.

11. *Whipping in lieu of Payment of a Fine in Animals.*

In the case of inability to pay a fine in so many head of cattle 25 strokes count for one head, 50 for two, 75 for three, 100 for four.

12. *Oath in lieu of Delivering Animals and Fine for Perjury.*

If unable to meet a fine in animals the criminal should on his request be taken by the elder in charge to a man of standing to take an oath to this effect. But after the oath, should it be discovered that he did have the required animals, he should pay the number fined as well as 1 "nine" to the person before whom the oath was taken.

13. *Discovery of Stolen Animals.*

If their original owner discover his stolen animals, should the thief say that among them there are others given by other people, the latter must be brought to testify. Failing such evidence, the thief should swear an oath. After this oath the original owner may take back whatever belonged to him, without fining the thief.

14. *The Sheltering of Robbers by Tribal Chiefs Implying Partnership.*

For this crime the *Ch'ienhu* shall be fined 5 "nines", *Paihu* 4 "nines", centurions 2 "nines". For actual robbery the fines are respectively 5 "nines" and 3 "nines" for *Paihu* and centurions. In case robbery or the harbouring of robbers is not confessed, the paternal uncles of those suspected should be required to swear an oath. If such uncles are dead their sons should swear. When chieftains have actually committed robbery they should be deprived of their rank and the people in their charge transferred to other authorities. This being done their property shall not be confiscated (see Articles 17, 50).

15. *On Discovering Lost Horses in a Military Expedition.*

When lost horses are discovered in a military expedition under government authorities and it is proved that the horses their owner has at the present are other than those he lost, he should be compensated and get back the original animals.

16. *To Testify to the Commission of a Crime from Personal Grudge.*

For doing this in order to take advantage of a person by getting more animals, *Ch'ienhu* are fined 2 "nines", *Paihu* 1 "nine", and centurions 5 animals. The animals so got should be returned to their owner.

17. *Failure to Reveal Robbers.*

For failure to reveal robbers to proper authorities in order to protect the criminal the fine is 3 "nines" for *Ch'ienhu*, 2 "nines" for *Paihu*, and 1 "nine" for centurions (cf. Articles 14, 50).

18. *Refusal to be Searched.*

To search for theft is to look for evidence and witnesses. If a person refuses to be searched, theft is considered proved.

19. *On Discovering Suspicious Traces.*

When responsibility for territory is handed over and suspicious traces are discovered within three days' pasturage, the person who has handed over responsibility should swear an oath.

20. *Theft of Domestic Animals.*

For the theft of such domestic animals as dogs and pigs, the fine is 5 animals (*v.* Article 39); for the theft of fowls, a three-year old cow. The animal stolen should be returned. (Tibetans do not keep fowls as domestic animals. This item must be either an oversight on the part of the Manchu authorities or a reference to dealings with non-Tibetan neighbours.)

21. *Theft of Other Articles.*

For the theft of gold, silver, sable, otter-skin, hides, money, cloth, food, etc., there should be a return of equal value. Fines for these thefts are to be regulated according to the value of the goods—3 "nines" for a two-and-half years' old cow; 1 "nine" for a sheep; and a three-year-old cow for any animal of less value than a sheep.

22. *Other Suspicious Traces.*

When any other suspicious trace is within one arrow's distance

of the residence of the suspect he should swear an oath. When it is beyond that distance no oath is required.

23. *On the Secret Slaughtering of Animals.*

When somebody has killed another's animals and removed them the guilty person should pay in compensation their exact value. When it is within the range of suspicion the elder in charge should swear an oath. Refusal to swear is to be taken as a proof of guilt and the offender is fined.

24. *On Informing the Proper Authority of Other Person's Crime.*

One who does this voluntarily is entitled to get half the value of the fine imposed.

25. *False Report of Theft.*

One falsely reporting the theft of animals discovered to be hidden is fined 3 "nines". This fine is to be divided equally between the elder in charge and the person falsely charged (cf. Article 61).

26. *Making Fire to Burn Wild Animals out of Their Lairs.*

Whoever discovers anyone making a fire to drive wild animals out of their lairs as a form of hunting may fine the hunter 1 "nine". Damage to other animals because of such fires should be compensated similarly. Loss of life should justify a fine of 3 "nines". For fires caused by carelessness anyone in sight is entitled to fine the guilty 5 animals (*v.* Article 39). Full compensation is to be paid for animals killed by such careless fires. For the loss of one human life the fine is 1 "nine" (cf. Article 39).

27. *On the Careless Handling of Arms.*

Fines for the careless handling of arms without justifiable causes are: 2 "nines" for *Ch'ienhu*, 1 "nine" for *Paihu*, 7 animals for centurions, 5 animals for lesser centurions, and 3 animals for lesser elders and commoners.

28. *Injury in Personal Fights.*

The fine for injury to the eye, hand, foot, etc., in personal fights is 3 "nines"; if the injury is slight enough to be cured the fine is 1 "nine". There is the same fine for injury caused by abortion. For injury caused by stick, whip, and fists the fine is 5 animals. There is no fine when the fight is mutual. If teeth are broken the fine is 1 "nine". When hair is torn off the fine is 5 animals (cf. Article 68).

29. *Death Caused Unintentionally.*

When death is caused from unintentional injury, such as in play, the family of the victim shall receive a fine of 3 "nines" from the person who caused it.

30. *Injury to Other People's Animals.*

When an animal is injured to death one is fined 1 "nine", in addition to paying the full value of the beast to its owner. If a horse is shot and killed unintentionally two horses should be given in compensation. If the horse be injured but does not die the compensation is a two-year old cow.

31. *On Reporting Loss of Animals to Community Elders.*

One should report three days after the loss of animals to the community elders, who will try to recover them and receive one sheep for every horse, yak, or *dso*. Anyone riding such a lost animal shall be fined three animals. One who falsely claims possession of such an animal is to be fined 3 "nines"; for a mistaken claim the fine is 1 "nine". The finder of stray animals is entitled to their keep. Should one try to hide them, however, the fine is 1 "nine".

32. *Catching Stray Animals.*

A passer-by cannot seize a stray animal. Should he do so he is to be fined for theft. So for every twenty sheep kept overnight the fine is one sheep. For any number above that the amount of fine is increased proportionately.

33. *On the Private Settlement of Crime.*

A criminal and the tribe in which he takes refuge cannot settle a crime privately. For disobedience to this rule a *Ch'ienhu* incurs a fine of 3 "nines"; a *Paihu*, 2 "nines"; a centurion, 1 "nine"; a lesser centurion, 7 animals; a lesser elder or commoner, 5 animals. On discovering the criminal the tribal authority should have him sent to the tribe in which the crime was committed for proper trial. Failure to send him after two days incurs a fine of one three-year-old cow for every day, to be exacted from the guilty tribe. If there is failure to deliver ten days after settlement, the fine for *Ch'ienhu* is 7 *dso*, *Paihu* 5 *dso*, and centurions 3 *dso*. If the animals delivered as a fine are forcibly taken back by the guilty party he shall be fined double the original amount. Failure to settle a case shall be reported to higher authorities.

34. *Failure to Give Hospitality.*

For refusal to give shelter to travellers, who in consequence starve or freeze to death, an offender in addition to responsibility for the loss of life is to be fined 1 "nine". If the traveller does not die the offender is fined one two-year old cow.

35. *Contagious Disease.*

A traveller with contagious disease may not sell personal articles to a landlord. For any such sale he is fined : a sale which results in the death of the purchaser justifies a fine of 3 "nines" ; if the purchaser falls ill the fine is 1 "nine" ; if he does not the fine is one animal.

36. *Insult to Tribal Authorities.*

A commoner who insults a *Ch'ienhu* to his face is fined 2 "nines" ; a *Paihu*, 1 "nine" ; a centurion, 7 animals. If insult behind his back is proved the fine should be on the same scale. Insult to a lesser centurion justifies a fine of 5 animals ; to a lesser elder, 3 animals.

37. *Failure to Appoint an Elder for Every Ten Families.*

For every ten families an elder shall be appointed. Failure by the *Ch'ienhu* to do this incurs a fine of 7 *dso* ; by a *Paihu*, 5 *dso* ; by a centurion, 3 *dso*.

38. *On Unjustified Ula Service.*

For officers with proper permits, free transportation by horses and yaks called *ula* and a supply of barley and peas for fodder should be offered in accordance with the stages. For failure to supply fodder a fine has to be paid in cattle. Failure to supply *ula* is fined 3 "nines". Should horses be hidden to avoid this service the fine is 1 "nine". If people without proper permits make such demands the tribal elders shall arrest them and hand them over to the authorities at Siningfu for punishment. Should the tribal elder maltreat certified officers the fine is 3 "nines". If a commoner maltreats such officers the fine shall be 1 "nine".

39. *Official Proportion of a Fine in Different Animals.*

One "nine" means a combination of nine animals such as 2 horses, 2 *dso*, 2 cows, 2 three-year-old cows, 1 two-year-old cow. "Five animals" means 1 *dso*, 1 cow, 1 three-year-old cow, and 2 two-year cows. The person who comes to demand these fines is entitled to receive as his fee 1 three-year-old cow from the guilty.

In places where horses are not plentiful *dso* may be offered in their stead.

40. *On Returning Home from an Expedition without Awaiting Proper Turn.*

In a military or hunting expedition each band should await its proper turn to withdraw. A *Ch'ienhu* who returns home without awaiting his proper turn is to be fined 7 *dso*; a *Paihu*, 5 *dso*; a centurion, 3 *dso*; anyone accompanying them, his own riding horse.

41. *Military Discipline.*

For defeat in a military expedition *Ch'ienhu*, *Paihu*, and centurions are to be deprived of their respective rank. A commoner shall suffer capital punishment and the loss of his family and property. Anybody, whether chieftain or commoner, who advances to defeat an enemy is to be rewarded. When a chieftain of any tribe is about to lose a fight, any elder coming to his assistance to save the situation shall be rewarded by being given fifty families to rule which formerly belonged to the chieftain he rescues from defeat. In a joint undertaking, when others are still engaged in fighting, those *Ch'ienhu*, *Paihu*, and centurions who withdraw first shall be stripped of their titles and become commoners, and their subjects shall be given as a reward to those who continue to fight. When a tribe loses half its forces and cannot advance the tribal chieftain is not punished for defeat. But defeated elders shall be stripped of their titles and become commoners and their subjects shall be given as a reward to elders undefeated. Should one tribe be ready and start to fight while other tribes are not ready at the proper time, the tribe first ready shall be rewarded for merit. In advancing to meet enemy forces in the open those *Ch'ienhu*, *Paihu*, centurions, and lesser elders who do not observe the order of advance, or seeing the enemy forces not strong advance rashly without ascertaining the real situation, shall have their riding horses taken away and shall not get any share of the victor's booty. All forces should keep the order of march, slow or fast, in accordance with the demand of the situation. For hiding behind another column, or leaving one's own column to join another, or standing by without assisting those busily engaged in fighting, capital punishment, confiscation of one's family, the loss of titles, or fine is the penalty, according to circumstances. When all columns are together, any question as to whether one was ahead or another behind shall not be investigated.

When enemy forces are retreating, mounted soldiers should be sent in pursuit, but the leaders in charge, whose duty is to keep the flags in order to direct the operation, should not go ahead in pursuit. If the pursuing force meets with an ambush or enemy reinforcements these leaders should rally other soldiers for the attack. All commanders shall instruct their subordinates to keep their place in any military advance by punishing any uproar, anybody going back for things forgotten, or any drunkard. Anybody seeing this sort of disorder may arrest the guilty and report to the commander in charge to receive a reward of one *dso*. Those who cause a fire shall be beheaded. Those who steal saddles, reins, and the like shall be whipped. During a military march by night no shout or bugle-blowing is allowed. Any disobedience of this sort shall be punished. Those who keep secretly in custody an enemy's wives shall bring upon their commander a proper punishment. No monastery shall be destroyed or looted. Orderly travellers should be cared for and the disorderly killed. The clothes of captives shall not be taken away. Married couples shall not be separated. No commander or commoner shall allow captives to keep watch over horses, and anyone violating this rule shall be punished as if the horses were stolen. A commander shall make every effort to maintain peace and order, to pacify the natives, and to keep his subordinate officers from doing any harm to the common people. To keep this rule brings upon him reward if a memorial is sent to the Imperial Court, but violation of this rule for self-aggrandisement shall be heavily punished. When anybody falls in battle and another pulls him to safety on his horse, there shall be a reward from the person thus saved. The reward differs according as the saviour is a *Ch'ienhu* or a *Paihu*, etc. A *Ch'ienhu* gets 10 *dso* ; a *Paihu*, 8 *dso* ; a centurion, 5 *dso* ; lesser elder or a commoner, 2 *dso*.

42. *Failure to Arrest a Fugitive (from Justice or Military Service).*

For seeing a fugitive and allowing him to escape without arrest, a *Ch'ienhu* is deprived of 7 families in his domain ; a *Paihu*, of 5 families ; a centurion, of 3 families ; a lesser centurion is fined 4 "nines" ; a lesser elder or a commoner, 3 "nines". Should one get killed in an attempt to arrest a fugitive, one's family gets the benefit of a slave and 3 "nines" from the fugitive, if he has any. Failing this the tribal chief in charge of the fugitive shall pay a fine of 3 "nines" to the victim's family.

43. *Supplying a Fugitive with a Horse.*

Any tribal chieftain, whether in direct charge or not, who supplies a horse to a fugitive to facilitate his escape shall be deprived of his titles and his subjects. Lesser centurions and elders shall have their titles taken away and their family property confiscated. A commoner shall suffer capital punishment and confiscation of his family property.

44. *On Capturing Fugitives.*

When a fugitive is captured his master shall pay the captor a two-year-old cow and give the fugitive 100 stripes. A person who harbours a fugitive shall be fined 1 "nine", to be given to his master; the family head of the person who has given this refuge shall be fined 1 "nine", to be given to his immediate elder of ten families.

45. *On Delivering an Arrested Fugitive.*

When a fugitive is arrested irrespective of the tribe in which the arrest has been made, he should be sent to Siningfu within two days of arrest. Any delay beyond two days on the part of a *Ch'ienhu* shall bring upon him a fine of 7 *dso*; a *Paihu*, 5 *dso*; a centurion, 3 *dso* (cf. Article 64).

46. *On Killing a Fugitive without Reporting to the Proper Authorities.*

Should an outside fugitive be killed without report to the proper authorities, a *Ch'ienhu* shall be deprived of 7 families in his domain; a *Paihu*, of five; a centurion, of three. If a tribesman reveals the offence a *Ch'ienhu* shall be fined 7 *dso*; a *Paihu*, 5 *dso*; a centurion, 3 *dso*; and these animals shall be given to the informant, who shall be free to choose any other tribe to live in. Should a chieftain not confess, his paternal uncle should swear to his innocence. Should a lesser elder or a commoner kill the fugitive the principal criminal shall be beheaded, together with a fine of 3 "nines"; his partners shall each be fined 3 "nines"; and these animals shall go to the elder who gives the information. If an informant is not a tribal elder half the fine goes to the government and half to the informant. If a tribal elder kills a fugitive the principal criminal shall be hanged and his partners shall be deprived of their titles and be each fined 3 "nines".

47. *Robbery by Tribal Chieftains.*

For robbery a *Ch'ienhu* shall, in addition to the return of things robbed, be fined 50 *dso*; a *Paihu*, 40 *dso*; a centurion, 30 *dso*. If the person robbed is also hurt with weapons he should receive

half a "life-price", namely 2 "nines"; and the chieftain is also fined in addition, as indicated above. Such a fine goes to the person robbed, whether injured or not. When robbery involving murder is committed by a lesser elder or a commoner in partnership with others, the robbers, irrespective of dominant or secondary roles, shall be beheaded, and their families and properties confiscated for the benefit of the victim's family. Should a lesser elder or a commoner in co-operation with several partners try to rob and should this be discovered, so that a party start to drive the robbers away and any of the pursuers gets hurt in the fight, the robbers, irrespective of dominant or secondary roles, shall be beheaded and their families and properties be confiscated for the benefit of the injured. If a lesser elder or a commoner starts a robbing party in co-operation with others without hurting any person, the leader of the party and his friend who has given him the idea shall be hanged and their families and properties shall be confiscated; their followers shall each receive 100 stripes and be fined 3 "nines" for the benefit of the family robbed (cf. Article 67).

48. *On Stealing Four Kinds of Animals.*

When horse, camel, sheep, or cattle are stolen by anyone, whether master or servant, he shall be hanged. When the theft is committed by two people, one shall be beheaded; when by three, two shall be beheaded; when by many, two of the leaders shall be beheaded. The rest shall be given 100 stripes and be fined 3 "nines". When a thief is captured by a householder or any other person he may be beheaded and his wife, children, and property be confiscated for the benefit of the victim of the loss. When there is any doubt as to identity the suspect shall swear an oath. If he swears it shall be proof of his innocence, and there shall be no punishment. If the suspect refuses to swear he shall be beheaded, his wife shall not be enslaved, but his livestock shall be confiscated for the benefit of the victim of the loss. If a master voluntarily report the theft of his servant he is held to be innocent. The thief is beheaded, his wife is not enslaved, but all his livestock shall be handed over to the victim of the theft.

49. *Non-participation in the Pursuit of a Detected Criminal.*

For such non-participation resulting in the criminal's escape a *Ch'ienhu* shall be fined 5 "nines"; a *Paihu*, 4 "nines"; a centurion, 3 "nines".

50. *On Harbouring Robbers after Denial on Oath.*

When after his denial on oath evidence of looting is discovered in a tribal chief's place and he does not admit harbouring, his paternal uncle should swear to his innocence. Failing such an oath a *Ch'ienhu* shall be fined 5 "nines"; a *Paihu*, 4 "nines"; a centurion, 2 "nines"; and elder of ten families, 1 "nine".

51. *On Loot Taken from a Robber by Another Person.*

When loot is taken from a robber by another the original owner shall pay him a reward of one animal for every 2-10 animals recovered. Should only one animal be recovered no reward is required. If an owner would escape payment by saying that his animals were not stolen or robbed his immediate tribal elder shall affirm on oath the truth of his plea and quit him of liability to pay. Failing an oath the reward must be paid. If a person falsely claims a reward for recovering from a robber animals he only found, he shall be punished for theft.

52. *On the Custody of Thieves in the Hands of Their Tribal Chiefs.*

When thieves are captured they shall be given to their tribal chiefs for custody. Their immediate elders of ten families shall be fined one *dso*. If these elders voluntarily reveal a theft they shall be rewarded with the fine exacted from the thieves.

53. *On the Escape of Criminals from Custody.*

Should a criminal to be beheaded escape from the custody of a lesser centurion the fine is 3 "nines"; if from the custody of lesser elders, 2 "nines" and the deprivation of titles; if from a commoner, he gets 80 stripes. If the criminal is not to be beheaded, a lesser centurion shall be fined 2 "nines" for his escape; a lesser elder, 1 "nine"; a commoner shall get 60 stripes. When an escaped criminal is captured by anybody, the fine to be exacted from the custodian shall be his captor's reward. If a fugitive criminal is not captured the fine exacted from his custodian shall be given to the tribal chief.

54. *On Forcibly Removing a Criminal from Custody.*

When a criminal to be beheaded is taken by force from custody by a group of people, the leader shall be beheaded and his partners shall each be fined 1 "nine". For forcibly freeing lesser criminals a leader shall be fined 3 "nines" and his partners each 1 "nine".

55. *On Arson for a Personal Grudge.*

Should a tribal chief set fire to property to cause death for personal vengeance he shall be hanged, and his family with the exception of his wife shall be confiscated for the benefit of the victim's family. Should the guilty be a commoner he shall be beheaded and his family similarly confiscated. If the fire caused the death not of man but of animals a guilty chief shall be deprived of titles and his family similarly confiscated. Should the guilty person be a commoner he shall receive 100 stripes and his family be similarly confiscated.

56. *On Torturing Slaves and Servants.*

When a slave or a servant is tortured with shots of arrows, cuts of a sword, or mutilation of ear or nose, the guilty *Ch'ienhu* shall be fined 4 "nines"; a *Paihu*, 3 "nines"; a centurion, 1 "nine"; a lesser elder or commoner, 7 animals. If a slave or a servant is tortured to death punishment shall be meted out according to the scale for wilful murder.

57. *False Claim of Horses.*

Whoever falsely claims the horses of a traveller as his own stray animals shall be fined 5 animals to be given to the traveller.

58. *On Divorcing a Wife.*

When a wife is divorced all her dowry, except articles worn out during cohabitation, shall be returned to her.

59. *On Restricting Travelling among distant Tribes.*

No Tibetan should travel far beyond the frontier into the territory of Mongolian, Mohammedan, and other barbarian tribes for the purpose of trade or visits to relatives. Knowing this rule and doing nothing to stop such travel, a *Ch'ienhu* in charge shall be fined 50 *dso*; a *Paihu*, 40 *dso*; a centurion, 30 *dso*; a lesser centurion, 2 "nines" being deprived of his titles; an elder of ten families shall be fined 1 "nine" and suffer 100 stripes. The leader of the party shall be hanged and his property confiscated. Other members of the party shall each receive 100 stripes and be fined 3 "nines". The confiscated properties go to the treasure of the government. Failure of frontier guards to arrest such a party, if reported, entails loss of titles and property for their commander; his subordinates shall each receive 100 stripes and be fined 3 'animals'. Their property also goes to the government treasure. The person who reports such

a misdeed to the authorities shall be rewarded with half the animals exacted as fines and shall be free to choose a place to live in.

60. *On Arresting an Escaped Slave.*

When a slave has escaped to other territory and is arrested there, a captor who sends him back to his master shall receive as reward half the things found with the slave. The other half goes to the master, and the slave shall receive 100 stripes.

61. *On Secretly Reporting the Whereabouts of Lost Animals.*

When there is a secret report of the whereabouts of lost animals which are later found at the spot stated, the informant shall be tried as a thief (cf. Article 25).

62. *On Serious Crime not Confessed.*

When a crime involving capital punishment is not confessed by a suspect and there is insufficient evidence to convict him he should swear an oath.

63. *On the Murder of a Master by a Slave.*

When a master is murdered by a slave the murderer shall be put to death by mutilation.

64. *On Forwarding an Arrested Criminal.*

The transfer to the proper authority of an arrested criminal from another territory entitles the person performing the task to a piece of brocade and six pieces of cloth (cf. Article 45).

65. *On Importing Arms from Chinese Territory.*

When a customs officer finds arms bought from Chinese territory without report to the proper authority, the offender, if a *Ch'ienhu*, shall be fined 3 "nines"; if a *Paihu*, 2 "nines"; if a centurion, 1 "nine"; if a lesser centurion, 7 animals; if a lesser elder, 5 animals; if a commoner, he shall receive 80 stripes. The arms thus discovered shall be confiscated by the government.

66. *On Stealing the Animals of a Lama.*

The thief who has stolen the animals of a lama shall have his family property confiscated by the government.

67. *On the Killing of his Pursuer by a Thief.*

Should a thief kill his pursuer he shall be fined 9 "nines" (cf. Article 49).

68. *On Killing in Personal Fights.*

When one kills another in a fight the offender shall be fined 9 "nines" (cf. Article 28).

