

ACTA ORIENT. HUNG.

*Separatum*

Tomus XXXIV. Fasc. 1–3.

E. I. KYČANOV

BUDDHISM AND STATE IN HSI HSIA FROM JURIDICAL  
ASPECT

1980

*Acta Orientalia Academiae Scientiarum Hung. Tomus XXXIV (1–3), 105–111 (1980)*

## BUDDHISM AND STATE IN HSI HSIA FROM JURIDICAL ASPECT

BY

E. I. KYČANOV (Leningrad)

The Buddhist communities in the territory of the Tangut state Hsi Hsia operated under strict government control. Their activity was regulated by the laws enacted in the Codex.

The law prohibited the spreading of tenets without supervision. The Buddhist missionaries, who came to Hsi Hsia from India and Tibet, were forbidden to teach without the knowledge and consent of the authorities. A Buddhist was forbidden to say things that could lead the people into error, that did not comply with the law and did not contribute to the maintenance of true peace.» The authorities were obliged to arrest any missionary who did not observe this rule. The offender could be sentenced to three years' hard labour.<sup>1</sup> The law also prosecuted soothsayers, who bore the grace of God. «It is forbidden for everyone to deliver an inciting speech and say: 'I can see the rays of Divine light emanating from Buddha' and thus mislead the people of the houses and the common folks.» If a soothsayer — alleging divine grace — delivered a stirring speech with an unusually grave anti-state attitude, the magnitude of the sentence was specially determined by the authorities. If he was a blackmailer he was condemned to one year's hard labour.<sup>2</sup>

In the Tangut state the permission of the authorities was necessary to perform the duties of a monk. If a breach of the law occurred «from those who consecrated a monk and those who were consecrated, the moral perpetrator was sentenced to death by hanging, the others were condemned to twelve years' hard labour.»<sup>3</sup> State employees who were personally not free, were not allowed to engage in religious activity; «it is forbidden for servants and all those who belong to the category of 'special commission', for members of the reserve troops and the old and the feeble to join a community and become a monk.»

<sup>1</sup> New Laws, ch. XI, pp. 4a–6a. All the Tangut historical sources cited below can be found in the Manuscript Department of the Leningrad Branch of the Oriental Institute of the Academy of Sciences of the Soviet Union.

<sup>2</sup> Altered and newly sanctioned Codex. Divine prosperity (1149–1169), ch. XII, pp. 3a–3b. In the following: Codex.

<sup>3</sup> Codex, ch. XI, pp. 37b–38a.

The sentence was death.<sup>4</sup> Similarly, servile people subject to private persons could not become monks without the consent of their lord. In addition, «*phingas* (non-free males, the possession of a private person), belonging to anybody and reserve troopers (state employees without freedom) are forbidden to become monks seeking their salvation in the *dharma*, without the document containing the voluntary consent of the owner in the case of the former and without a written permission in the case of the latter.<sup>5</sup> From among the women only widows and maidens were allowed to engage in religious activity under the condition that no man would have a claim on them. «If a woman — a widow or a maiden — who devotedly performs the laws of Buddha with all her heart, who is not subject to a claim by anybody and is determined to become a nun, must gain the permission controlled by the reviser, [and afterwards] she may become a nun by 'remaining at home' or by 'leaving her family'.»<sup>6</sup> Any female in bondage who illegally, though by her free will, became a nun, provided she had an owner, received four years' imprisonment, but in case her owner was not within easy reach and nobody could dissuade her from her decision, she was sentenced only to two years' hard labour.<sup>7</sup>

A law regulated the punishment of barbers who shaved the heads of those fraudulently intending to engage in religious activity. «If the barber shaves the head of a person who became a monk by fraud, knowing that the person is not a monk, he [the barber] will receive one third of the sentence decreed by the law for the main perpetrator. If the barber did not know he was [a pseudo-monk], he has to pay a penalty of three bags of coins if he holds a rank and ten strokes if he is a commoner, because he failed to thoroughly clear up the circumstances.»<sup>8</sup>

The major crime was that he who became a monk without permission evaded being entered on the tax registers, and was enrolled on separate lists of the monks. Therefore, a commoner who had no permission to become a monk, yet secretly engaged in religious activity, thus evading tax payment, was condemned to be hanged. If he simply pretended to be a monk without being excluded from the registers of those rendering tax and labour, he received six years' imprisonment. The council of the community drew up the lists of male commoners who became monks in a totally legal manner, and sent them to the department for civil affairs of the Chief Imperial Bureau. The law stressed: «Monks who obtained permission to become monks 'leaving their family' are forbidden not to enroll on the lists of the community, thereby staying in unknown places. Within 100 days of being ordained, a monk is bound to appear

<sup>4</sup> Codex, ch. XI, pp. 36a–36b.

<sup>5</sup> Codex, Ch. XI, p. 33a.

<sup>6</sup> Codex, ch. XI, pp. 38a–38b.

<sup>7</sup> Codex, ch. XI, pp. 38b–43a.

<sup>8</sup> Codex, ch. XI, p. 44a.

before the official he is subject to. If he breaches the law and does not enroll, [the offender] is liable to one-year's hard labour . . . If he fails to appear after the verdict, he must be deprived of his profession.» It was also prohibited to change orders arbitrarily. The punishment was 12 years in prison.<sup>9</sup>

The Draconian nature of the above regulations is explained by the fact that the state had an interest in registering all persons — especially males and the active population — who paid land tax and other taxes, rendered labour services or served in the army. A general system, therefore, prevailed throughout all over the Tangut state: the active population was divided into administrative-economic, territorial, productional or military units and the consequence of changing the residence formerly recorded in the rolls was sentence of death. This system also applied to the Buddhist communities. Twelve years' hard labour for changing communities, instead of a death sentence reflects the operation of the law that enacted: anything a monk commits is to be punished a grade lighter. «If a monk . . . commits a crime his punishment is one grade lighter than that of a commoner [who has committed the same crime].»<sup>10</sup>

When a monk without a rank had served his sentence, he returned to his monastery as a novice. The punishment of a monk who had a rank was mitigated according to the degree of his rank, and having served his sentence, he retired as a monk within five or six years.<sup>11</sup> The juridical codexes in use had jurisdiction over the crimes committed by monks against each other, that is, they were punished by the state authorities instead of special church courts.

Judged from the codex, monks had only two legal privileges: exemption from labour service and taxes and a grade lighter punishment compared to that of the lay population.

At the same time, exemption from labour and taxes was regulated under certain conditions. As D. Twitchet correctly recognized, even if monks were legally excluded from the rolls of tax payers in China, it did not by any means signify that the state did not control the economic activity of the Buddhist communities.<sup>12</sup> In Hsi Hsia the temples and monasteries reported to the state authorities on the property of the temple, the people belonging to the temple (*ch'ang-chu*), and the peasants bound to the temple or monastery by any sort of labour. The number of *ch'ang chus*, the people belonging to a temple or monastery, was set by law and depended on the amount of allowances obtained by the church or monastery. A newly built or restored temple or monastery that received 1,000 bags of coins\* was allowed to have two *ch'ang chus*, one with

<sup>9</sup> Codex, ch. XI, pp. 38b–43a.

<sup>10</sup> Codex, ch. II, pp. 15a–15b.

<sup>11</sup> Codex, ch. II, pp. 15a–15b.

<sup>12</sup> D. Twitchet, *The Monasteries and China Economy in medieval times: BSOS XIX* (1957), p. 546.

\* One bag of coins = 1,000 coins.

2,000 bags 3, and 5 *ch'ang chus* were permitted for more than 3,000 bags of coins.<sup>13</sup> The *ch'ang chus* were not totally exempt from state duties — they paid land-tax for a year, delivered hay in the second year and rendered their labour service. Namely, the basic obligations of every farmer towards the state included: land-tax, hay delivery and labour service, they were subject to half of what was rendered to the benefit of the temple or monastery, and the other half to the state.<sup>14</sup>

The temples and monasteries paid partial tax to the state in accordance with the area of land they had. The «Help to the State» and «Overall Sanctity» monasteries each had over 400 *kas* of arable land (131 *ch'ins* 59 *mus*, or about 835 *kas* for the two monasteries). By the beginning of the 13th century, 327 *kas* of the estate belonging to the «Help to the State» monastery were exempted from labour service and hay delivery, but land-tax was collected from it. From 1212 onwards 584 bags and 950 coins were levied on these lands, two bags of coins per 1.5 *ch'ins* (9.15 *kas*) of land. The same regulation decreed that the «Overall Sanctity» monastery was obliged to pay 624 bags of 850 coins for its 320 *kas* of arable land. The «Treasury of the Sea» monastery had 348 *kas* of land, 130 of which was free from the duty of hay delivery and labour service; it paid 257 bags and 500 coins for the rest of its land.<sup>15</sup> To my mind this tributary system did not overburden the monasteries. The law evaluated a day's work of an adult male as 70 coins and the monastery paid 2 bags of coins, i.e. 2,000 coins as tax for 9 *kas*, which amounted to the monthly wage of an adult male. The light taxation levied on non-cultivated lands is confirmed by the income of the order as well. In the «Codex» the orders are classified according to their incomes, which could be 1,000–30,000, 30,000–50,000 and over 50,000 bags of coins.<sup>16</sup>

Thus, the state levied tax — even if not the regular tax — on the monasteries in Hsi Hsia, demanded hay delivery and labour service, the magnitude of which depended on the size of the land. From 1181, monastic communities could not obtain total exemption from services towards the sovereign.<sup>17</sup>

In this way, the state could not only control the personnel, but the financial activity of a Buddhist order as well.

In Hsi Hsia, three administrative bodies controlled the Buddhist institutions, and their significance placed them directly below the highest executive organs of the state — the Chief Imperial Bureau for Civil Affairs (Chin. *Chung-shu*) and the Secret Council dealing with military affairs (Chin. *Shu-mi*). These

<sup>13</sup> Codex, ch. XI, pp. 33b–34b.

<sup>14</sup> New laws, ch. XV, pp. 1–5.

<sup>15</sup> New laws, ch. XV, pp. 5–12.

<sup>16</sup> Codex, ch. XV, pp. 12b–13a.

<sup>17</sup> New laws, ch. XV, pp. 20–25.

organs were the «Office of the deserving and honourable *sangha*», the «Office of the deserving and honourable [monks] who left their family», and the «Office of the deserving and honourable, who seek their salvation in the *dharmā*». Although the codex does not prescribe the functions of these offices precisely, it seems to me that the first office dealt with the affairs of the Buddhistic *sanghas*, the second with the affairs of the monks and monasteries, and the third with the matters of Buddhists in the broadest sense of the word.

The state protected the *sangha* and its members, all the monasteries, temples, ritual buildings and images and holy places by the force of law. For stealing, destroying or damaging sacred objects or places a layman was sentenced to six years' imprisonment, and a monk to eight years. The sentence was aggravated if the damage was not only symbolical, but substantial as well — the sentence was set according to the loss.<sup>18</sup> It was forbidden to slay cattle, kill wild animals or catch birds in and around temples and monasteries (sentence; six months' in prison), to ride in the court of the temple on horseback, to take and keep domestic animals, for strangers to stay overnight, for the servants of the temple to take women there, for anyone to relieve nature in the temple (sentence for a commoner: 13 strokes, for someone with a rank: a mare). A well could be bored, the land could be dug and hoed, and a wall could be pulled down only with the permission of the authorities.<sup>19</sup>

A Buddhist order, located at a temple or a monastery, had its own administration confirmed by the authorities. It was headed by the general, who had assistants (deputies). The inspectors and clerks of the «Decisive matters» also belonged to the leadership of an order. There was a post for «Decisive matters» in every major Tangut administrative bureau, for which the senior clerks were responsible. The community was divided into groups, each group headed by a senior. The «Council of the *Great sangha*» is also mentioned. It is obvious from the context that it arranged the matters of the communities, e.g., it elected the generals and their deputies.<sup>20</sup> It is as yet obscure whether this body was unique for the country, or a territorial organ.

Considering the extensive publishing activities of the Tangut emperors, who either personally or formally took part in publishing Buddhist texts and taking into account the addresses to the emperors in the Tangut odes such as «human emperor-bodhisattva», and «Buddha — the son of the Heaven», N. A. Nevskij assumed that the Tangut emperors «at least in the age of Emperor Jen-hsiao (1139—1194) were obviously semi-spiritual rulers.»<sup>21</sup> There is, however, no Tangut document from the administrative spheres that mentions

<sup>18</sup> Codex, ch. III, pp. 36a—36b.

<sup>19</sup> Codex, ch. XI, pp. 44a—45a.

<sup>20</sup> Codex, ch. XI, pp. 33a—33b.

<sup>21</sup> N. A. Nevskij, *Tangutskaja filologija*, kn. I, M., IVL, 1960, p. 82.

the clerical dignities of the emperors. The emperor controlled the activity of Buddhist communities (*sangha*), not in the capacity of a supreme religious authority, but as «a ruler by the grace of God», «the son of Heaven», the supreme judge and lawgiver, whose concern was peace and to whose will everything was subject that belonged to the territory under his dominion. Buddhism rendered ideological support to the state. It advocated that the status of a person was determined by his *karma* and not by social conditions: «A nobleman or a commoner, a free person or a slave, they are determined by once committed deeds (the *karma*). We receive rewards in this life, but should the amount of merits be slight, you will become a serf or a servant.»<sup>22</sup> «What man you will become, rich or poor, is determined by the *karma*.»<sup>23</sup> In a xylograph of the Hermitage collection, the explanations to the graphic representations of incarnations, point out that those will become animals who «do not like to listen to the moral teaching of officials,» who «do not follow orders,» and «do not abide by the law.» Those will get into the hell who «do not bow before their superiors,» «do not differentiate between superiors and inferiors» and «do not preserve their faithfulness to the state.» Those will be reborn in the world of hungry demons «who were not respectful,» «did not believe in the Buddhas and the dharma,» and «saw, but did not follow the example of others who made a sacrifice.»<sup>24</sup> In this way, the placard in question is an outstanding document of an agitative-propagandist character of the 12th century. It directly explains social discrimination with extra-social causes and urges support for the state power.

Thus, the life of the Buddhist institutions was under the permanent control of the state. Wandering monks who freely teach, a temple or a monastery built in a quiet corner of nature on the initiative of the lay people and monks, or a layman urged by the moment to engage in religious activity, who wants to live up to his best aspirations in religion by joining the spiritual life of monks — all these were unthinkable in the Tangut state. The state had permanent control over the members and economic activity of the *sanghas*. It collected taxes, but at the same time gave them significant privileges. And although there was no connection between these privileges and the ideological activity of a *sangha*, the *sangha* was subjected to more favourable treatment than the lay population, which — after all — proved to be beneficial as the *sangha* demanded the services of the faithful as set by the state. The pious and the humble could expect a better rebirth on their way to salvation, while

<sup>22</sup> The sea of menings, set by the saints, p. 32b.

<sup>23</sup> *ibid.*, p. 35b.

<sup>24</sup> State Hermitage, USSR. Department for non-Russian territories in the East (*Otdel zarubežnogo Vostoka*).

the impious and the sinful were to suffer the pains of hell. And the sinful were much more numerous. A Tangut text from 1094 stresses the following:

In the noble world of utmost delight  
They proceed one by one,  
And few are those who arrive.  
To the utmost torture in hell  
Millions hurry  
And many are those who arrive.<sup>25</sup>

<sup>25</sup> Tatsuo Nishida, *A study of the Hsi Hsia language*, vol. I, Tokyo 1964, p. 162.