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**LAW AND SLAVERY ON THE SILK  
ROADS: HOW DID BUDDHIST MONKS  
AND NUNS PARTICIPATE IN THE  
SLAVE TRADE?**

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## LAW AND SLAVERY ON THE SILK ROADS:

### HOW DID BUDDHIST MONKS AND NUNS PARTICIPATE IN THE SLAVE TRADE?

CUILAN LIU<sup>1</sup>

#### *Abstract*

The selling and buying of human beings as slaves were highly sensitive, controversial, and profitable businesses on the trading networks along the Silk Road. Manuscripts excavated from Cave 17 in Dunhuang (敦煌) and tombs in the Astana graveyard in Turfan contain records documenting how Buddhist institutions and individual monks and nuns were involved in the slave trade as buyers, owners, sellers, and transaction witnesses between the 7th and 10th centuries. Examining lawsuits over slave ownership related to monks and nuns, this article explores the roles Buddhists played in the slave trade along the Silk Roads, and the legal implications of such involvement. It reveals that despite disapproval of slave ownership in Buddhist canon law and strict legal regulations on slave trade in the Tang Dynasty (618–907, 唐), Buddhist monks and nuns showed little concern over these restrictions when participating in the trading of slaves in the local markets in Dunhuang and Turfan. Whenever others challenged their possessions of slaves, these monks and nuns showed no reluctance in seeking legal intervention in the state court. In these practices, such Buddhist monks and nuns received evident support from the lay legal system. On one occasion, the local government ruled in favor of a Buddhist nun to protect her rights as the adoptive mother whilst ignoring her enslavement of a free commoner's daughter, a severe crime against Tang law.

#### *1. Introduction*

From the fifth century, during the Northern Wei Dynasty (386–535, 北魏) and onwards, legislators in imperial China provided three different courts

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<sup>1</sup> I presented an earlier version of this article at the 2017 Congress of the International Association of Buddhist Studies in Toronto, the 2018 Annual Conference of the Association of Asian Studies in Washington, DC, and in a BuddhistRoad Guest Lecture at Ruhr University Bochum. I thank Robin D.S. Yates, Robert Sharf, Valerie Hansen, Jonathan Skaff, Carmen Meinert, Lewis Doney, Joanna Bialek, Tanja Heilig, and many others whose comments helped improve this article. All errors are my own.



in which ordained Buddhists could litigate over criminal offences or civil disputes as plaintiffs or defendants. These included the state court in which lay persons litigated, the monastic court in which disputes among Buddhist monks and nuns were resolved in-house, and the hybrid court staffed by state-appointed officials who exclusively investigated cases of ordained Buddhists.<sup>2</sup> In legal practice, which court did ordained Buddhists choose? And what does their choice of judicial venue tell us about the legal aspect of interaction between the Buddhist clergy and the state? In this article I analyse the records of five legal cases concerning slaves in Dunhuang and Turfan in order to discuss these questions. In three cases, ordained Buddhist monks and nuns litigated as plaintiffs against Buddhist institutions, fellow ordained Buddhists, and lay persons. In the other two cases, they were defendants.

I chose Dunhuang and Turfan as sites for this case study for several reasons. They were both important hubs on the trading network of Silk Roads, and both regions had been under the control of the Tang Dynasty (618–907, 唐) before coming under Tibetan domination (probably from the 750s or early 760s until the mid 9th century).<sup>3</sup> Throughout the Tang period, China battled with the Tibetans multiple times in competition for control in these regions. In 640, the Tang took Kočo (Chin. Gaochang 高昌) but eventually lost control to the Uyghurs in 840.<sup>4</sup> During the years between 640 and 840, the governing power in Turfan alternated between China and Tibet on several occasions.

The situation in Dunhuang was even more complex. Its ruling powers shifted from the Chinese, to the Tibetans, and then to local clans of the Guiyijun (851–1036?, 歸義軍, Return-to-Allegiance Army). This turbulent period between the seventh and ninth centuries complicated the political and legal situation in Dunhuang. Frequent political interruptions caused monks and nuns in Dunhuang to find themselves in a rapidly

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<sup>2</sup> For a study on the development of the hybrid court in imperial China, see Cuilan Liu, “Hybrid Courts and Hybrid Laws: The Legal Governance of Buddhism in Imperial China,” *Journal of Chinese Religions* 47.2 (2019): 153–193.

<sup>3</sup> Horlemann argues that the Tibetan conquest of Dunhuang likely occurred between 755 and 777, several years earlier than the previously accepted 780s. See Bianca Horlemann, “A Re-Evaluation of the Tibetan Conquest of Eighth-Century Shazhou/ Dunhuang,” in *Tibet, Past and Present: Tibetan Studies I, PIATS 2000*, ed. Henk Blezer (Leiden: Brill, 2002), 49–66.

<sup>4</sup> We know little about the legal system in the kingdom of Kočo prior to 640 or post 840 when the Uyghurs took control of this region.

changing and extremely challenging social, legal, and religious environment. For this reason, Dunhuang is a perfect site in which to find interesting cases prosecuted in different periods, a place in which any confrontation between Buddhist clergy and the ruling power could have had many ramifications.

My choice to focus on material from Dunhuang and Turfan was also determined to a large extent by the availability of primary sources. Compared with the carefully composed, censored and edited official history, or the often exaggerated case stories in personal writing, raw records of legal disputes over land, property, slaves and injury in daily life are often more helpful for our understanding of the legal aspects of ordained Buddhists' life in Dunhuang. The special natural environment in the caves and tombs of Dunhuang and Turfan has helped to preserve an extensive collection of these raw records. The manuscripts excavated from Dunhuang Cave 17 and tombs in the Astana graveyard in Turfan complement each other in timeline. Most of the Turfan manuscripts date between the seventh and the ninth centuries, and those from Dunhuang between the eighth and early eleventh century. Thus, the legal documents from these two regions grant us a glimpse of local legal practice from the seventh to the early eleventh century and constitute the best primary source for our investigation.

Legal cases concerning the slave trade caught my attention because these profitable businesses were highly sensitive and controversial even then. People of various ethnic origins (Chinese, Tibetan, Sogdian, Turkish, Mongolian, etc.) became tradeable commodities in markets along the Silk Roads. They were either captives of war, victims of abduction, or free children and adults sold as slaves by their parents and family members. In theory, ordained Buddhists were dually bound by Buddhist monastic law and laws of the state. Both legal systems of the time carefully restricted or regulated an ordained Buddhist's involvement in the slave trade, whether as a seller or buyer, and yet manuscripts found in Dunhuang Cave 17 show that monks and nuns in this region not only owned slaves, but also played various roles in the local slave trade. Any monk or nun who ran into legal problems as a slave owner in Dunhuang would probably seek help and advice from legal authorities representing the state as well as from the Buddhist clergy. A study of these legal cases therefore constitutes an ideal basis for our investigation into the legal interaction or confrontation between Buddhism and the state.



## 2. Laws on Slave Trade in Tang China

From the seventh to the tenth centuries, ordained Buddhist monks and nuns in China were bound by both Buddhist canon law and state law. Upon ordination, all Buddhist monks and nuns vowed to obey hundreds of disciplinary rules listed in Buddhist canon law and, through a compulsory household registration system, the state maintained control over the clergy by continuing to place them under the jurisdiction of the Tang administration. The personal information of monks and nuns was recorded in a registry by the local county government, and three copies were produced: one copy was kept in the local county office, one was submitted to the prefecture, and the third sent to the department of monastic affairs in the central government.<sup>5</sup> Local administrators in Dunhuang and Turfan abided by these practices throughout the period of Tang control, most likely until around the mid-8th century. Registration of monks and nuns could occur in any one of three ways: they either entered the register as members of a monastery or nunnery, or as a member of their original lay family, or as an independent community of monks and nuns (Chin. *sengni buluo* 僧尼部落). The last was the case in Dunhuang when it came under Tibetan control.

In this dual legal context, one would imagine that an ordained Buddhist could have only a very limited involvement in the slave trade, a business regulated and restricted by both the religious and lay legal systems.<sup>6</sup> The

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<sup>5</sup> On the department that governs monastic affairs in the central government, see Bai Wengu 白文固, “Tangdai sengji guanli zhidu 唐代僧籍管理制度 [The Administration of Buddhist Registrations in the Tang],” *Pumen xuebao* 普門學報 [Pumen Journal] 15 (2003): 1–20.

<sup>6</sup> On slaves in the Tang, see Li Jiping 李季平, “Tangdai guansi nubi de yishi jiqi shehui yiyi 唐代官私奴婢的役使及其社會意義 [The Use of Official and Private Slaves in the Tang Dynasty and Its Social Significance],” *Qilu xuekan* 齊魯學刊 [Qilu Journal] 6 (1985): 16–27; *Tangdai nubi zhidu* 唐代奴婢制度 [Slavery in the Tang Dynasty] (Shanghai: Shanghai renmin chubanhse, 1986); Li Bozhong 李伯重, “Tangdai buqu nubi dengji de bianhua jiqi yuanyin 唐代部曲奴婢等級的變化及其原因 [Changes in the Social Status of Personal Retainers and Slaves in the Tang Dynasty and the Causes for those Changes],” *Xiamen daxue xuebao* 廈門大學學報 [Journal of Xiamen University] 1 (1985): 103–110; Li Bozhong 李伯重, “Tangdai nubi de yicheng 唐代奴婢的異稱 [The Alternative Names of Slaves in the Tang Dynasty],” *Tang yanjiu* 唐研究 [Tang Studies] 6 (2000): 321–336. On slaves in the Tang Code and Statutes, see Chen Ningying 陳寧英, “Tangdai lüling zhong de nubi lüelun 唐代律令中的奴婢略論 [A Short Study on Slaves in the Tang Code and Statutes],” *Guangxi minzu xueyuan xuebao* 廣西民族學院學報 [Journal of Guangxi Ethnic

first restriction comes from Buddhist canon law. While canon law permits Buddhist monasteries to accept donated indentured servants (Skt. *ārāmika*, Chin. *jīngren* 淨人, Tib. *zhabs 'bring ba*),<sup>7</sup> it contains no approval for personal or institutional ownership of slaves (Skt. *dāsa*, Chin. *nu* 奴, Tib. *bran*). On the contrary, canon law of the Mūlasarvāstivāda tradition explicitly prohibits ordaining a slave as a Buddhist monk or nun in order to avoid potential conflict with the owner of the slave.<sup>8</sup>

The second restriction comes from Tang law. From the seventh to the tenth centuries, the Tang government strictly regulated the slave trade. Throughout the Tang Dynasty, the law underwent several revisions before

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University] 19.4 (1997): 86–90. On slaves in Buddhist legal writings, see Pu Chengzhong, “Slaves (nubi 奴婢) in Daoxuan’s Vinaya Writings,” *Studies in Chinese Religions* 2.2 (2016): 18–44.

<sup>7</sup> In Buddhist canon law from at least seven traditions (Sarvāstivāda, Mūlasarvāstivāda, Dharmaguptaka, Mahāsāṃghika, Mahāsāṃghikalokattaravāda, Mahīśāsaka, and the *Pāli Vinaya* preserved in Sanskrit, Pāli, Chinese, and Tibetan), three of them approved the ownership of slaves by Buddhist monasteries or nunneries, three contain no discussion on the matter (Mahīśāsaka, Sarvāstivāda, and Dharmaguptaka in Chinese translations), and the *Mahāsāṃghikalokattaravāda Vinaya* explicitly prohibits ordained Buddhist nuns to own an *ārāmika*, a term that Schopen translates as “monastery attendant”. See Gregory Schopen, “The Monastic Ownership of Servants or Slaves: Local and Legal Factors in the Redactional History of Two Vinayas,” *Journal of the International Association of Buddhist Studies* 17.2 (1994): 154–156. For the story introducing the approval for Buddhist monasteries to accept lay laborers, see the tale of Venerable Pilindavaccha in the *Pāli Vinaya*, the *Mūlasarvāstivāda Vinaya* in Chinese and Tibetan, and the Chinese translation of the *Mahāsāṃghika Vinaya* (T. 1425.22, 467b20–467b27). These *vinaya* texts, however, only approve the monastery to accept such lay laborers, and still prohibit individual monks or nuns to use them. For a detailed study of Daoxuan’s (596–667, 道宣) writings on slaves, see Pu, “Slaves.”

<sup>8</sup> Schopen identified a series of questions in the ordination ritual outlined in the Tibetan translation of the *Pravrajyāvastu* and its commentaries, and the Gilgit Sanskrit manuscript on *Bhikṣukarmavākya*, in which a candidate requesting ordination must confirm that he/she is not a slave, a person who has been stolen or carried off by force from another kingdom (Skt. *āhṛtaka*, Tib. *brkus pa*), one who is given by way of a surety as pledge or pawn (Skt. *prāptaka*, Tib. *myed btson*), a person who became a slave as a result of being unable to repay a loan or debt (Skt. *prāptaka*, Tib. *rtsod pa can*), or one who is sold (Skt. *vikrītaka*, Tib. *btsons pa*). See Gregory Schopen, “On Some Who Are Not Allowed to Become Buddhist Monks or Nuns: An Old List of Types of Slaves or Unfree Laborers,” *Journal of the American Oriental Society* 130.2 (2010): 227. For discussion on prohibiting the ordination of slaves, see the case of a run-away slave whose owner criticised the Buddhist clergy for ordaining a slave in the *Pravrajyāvastu*, the chapter on matters concerning ordination in the *Mūlasarvāstivāda Vinaya*, T. 1444.23, 1033a12–1033b21.



becoming finalised in 737.<sup>9</sup> The extant *Tang lü* 唐律 [Tang Code] available to us is believed to date from either 653 or 737,<sup>10</sup> and we learn from this that the Tang government strictly regulated and monitored all trade in slaves and animals.<sup>11</sup> Selling or buying a free commoner as a slave was a crime punishable by two years penal servitude. Other major regulations on slaves focus on the slave-owner relationship. The majority of relevant articles in the *Tang Code* regulate the manner in which slaves should obey, respect, and serve their masters, and the punishments they will receive for a breach of these rules. At the same time, a few articles also regulate how an owner should treat the slave. Regardless of how reasonable or unreasonable the punishment might have been, any owner who hurts or kills a slave, guilty or innocent, without reporting the matter to the government before taking action, should in theory be punished.

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<sup>9</sup> The first edition of the *Tang lü* 唐律 [Tang Code] is dated to 624, the seventh year of the Wude (武德) period. When the Tang took Kočo in 640, the *Tang Code* in use at the time was the one promulgated in 637, the eleventh year of the Zhenguan (貞觀) period. The government published a revised *Tang Code* in 653, the fourth year of the Yonghui (永徽) period. It was further revised in 719, the seventh year of the Kaiyuan (開元) period, and throughout the remainder of the Dynasty until its fall in 907, this *Tang Code* was only revised one more time in 737, the 25th year of the Kaiyuan period. When the Tang lost Dunhuang to the Tibetans in the mid eighth century, this final revision of the *Tang Code* was still in force, having been established and circulated since the early seventh century.

<sup>10</sup> Scholarly opinions are divided on the question of which *Tang Code* was used as the basis for the current edition of the *Tanglü shuyi* 唐律疏议 [Commentary on the Tang Code]. Chinese legal scholars say that it was the *Tang Code* promulgated in 653. Zheng Xianwen 鄭顯文, “Xiancun Tanglüshuyi wei Yonghui lüshu de xinzheng: Yi Dunhuang Tulufan chutu de Tanglü lüshu canjuan wei zhongxin 現存《唐律疏議》為《永徽律疏》的新證：以敦煌吐魯番出土的唐律，律疏殘卷為中心 [New Evidence Proving the Extant Commentary on the Tang Code as the Code and Commentary from the Yonghui Era: A Study Focusing on the Fragmentary Tang Code and Commentary Excavated from Dunhuang and Turfan],” *Huadong zhengfa daxue xuebao* 華東政法大學學報 [Journal of East China University of Political Science and Law] 6 (2009): 107–123. Many Japanese scholars, on the other hand, argue that the *Tang Code* promulgated in 737 was the base text for the current *Commentary on the Tang Code*. The latest support for this Japanese proposal is found in Yue Chunzhi’s 2011 article, in which the author refutes the arguments presented by Zheng Xianwen in 2009. Yue Chunzhi 岳純之, “Suowei xiancun Tanglüshuyi wei Yonghui lüshu de xinzheng: Yu Zheng Xianwen xiansheng shangque 所謂‘現存《唐律疏議》為《永徽律疏》的新證’：與鄭顯文先生商榷 [On the So-called New Evidence Proving the Tang Code of the Extant Commentary to be the Code and Commentary from the Yonghui Era: A Discussion with Mr. Zheng Xianwen],” *Dunhuang yanjiu* 敦煌研究 [Dunhuang Research] 4 (2011): 85–93; Zheng, “Xiancun Tanglüshuyi,” 107–123.

<sup>11</sup> Private sales carried out in accordance with local customs, however, were exempted from those regulations.



The government also closely monitored the financial transaction. Once the seller and the buyer had agreed terms of sale, they must sign a contract and exchange goods and payment. Following this transaction, the seller and the buyer must draw up a market certificate (Chin. *shiquan* 市券) in the local government office within the next three days.<sup>12</sup> The process begins with a request from the seller. Upon receiving the request, the responsible governmental official will interview the seller, the sold slave, and any other individuals involved in the transaction as witnesses or guarantors, in order to verify the legal status of the slave. If the slave is confirmed to be a slave and not a free commoner, the buyer will receive a market certificate bearing the official red government seal affirming the legitimacy of the sale. Failing to procure this certificate within three days of the transaction (as specified in Article 422 of the *Tang Code*), the buyer will be punished by thirty blows with the light stick (Chin. *chi* 笞) and the seller will receive twenty blows with the light stick.<sup>13</sup> The government official to whom the request was submitted is required to process it in a timely manner. For the first day of delay, the government official will be punished with thirty blows with the light stick, increased by one degree for each additional day, up to one hundred blows with the heavy stick. This requirement apparently serves several purposes: it allows the government to collect taxes from the slave trade; it helps verify the legal status of the slave as not a forced free commoner; and it also protects the rights of the buyer in case any dispute or problems arise in the future.

### 3. Legal Literature Related to Trading Slaves on the Silk Roads

Residents of the border towns in Dunhuang and Turfan were not unaware of these legal restrictions concerning the slave trade. Copies of Buddhist canon law texts from various traditions have been found in Dunhuang

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<sup>12</sup> See Mie Xiaohong 乜小紅, “Cong Sute wen quanqi kan Gaochang wagnguo nubi maimai zhi guan wenquan 從粟特文券契看高昌王國奴婢買賣之官文券 [A Study on the Official Certificate for the Purchase of Slaves in the Kočo Kingdom based on the Sogdian Contracts],” *Xiyu yanjiu* 西域研究 [Studies on the Western Regions] 4 (2009): 37. For an English translation of Article 422, see Wallace Johnson, *The Tang Code, Volume II, Specific Articles* (Princeton: Princeton University Press, 1997), 485.

<sup>13</sup> See Mie, “Sute wen quanqi,” 37; Zhangsun wuji 長孫無忌, *Tanglü shuyi* 唐律疏議 [Commentary on the Tang Code] (Beijing: Zhonghua shuju, 1983), 500.



Cave 17 and multiple sites in the greater Turfan region, the majority of which belong to the predominant Dharmaguptaka tradition.

Laws from the ruling powers of state were also introduced to these regions immediately after the transition of power. Following their respective victory in these regions, rulers of Tang China and Tibet made earnest efforts to ensure that their most updated laws were widely circulated. So far, sixteen fragmentary manuscripts with articles from the *Tang Code* have been found in various sites in Turfan and Dunhuang. In Turfan, articles on robbery from the *Tang Code* of the Yonghui (650–656, 永徽) Era were found in a fragmentary manuscript with the official seal of the Xizhou (西州) prefecture government of the Tang. The manuscript was discovered from Toyuk (吐裕溝) near Xizhou and is now preserved in Japan.<sup>14</sup> Articles from the *Tang Code* of the Kaiyuan (713–741, 開元) Era have also been found in a fragmentary manuscript taken from Tomb 532 in the Astana graveyard.<sup>15</sup> Apart from fragments of the *Tang Code*,<sup>16</sup> statutes,<sup>17</sup> regulations,<sup>18</sup> and ordinances of the Tang have also been found in Dunhuang Cave 17.<sup>19</sup> These manuscripts attest to the promulgation of Tang law in these regions along the Silk Roads.

While most of the Dunhuang legal documents and records of lawsuits and contracts before 786 were written in Chinese, the situation changed

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<sup>14</sup> For an introduction to this manuscript, see Chen Guocan 陳國燦. *Tulufan chutu Tangdai wenxian biannian* 吐魯番出土唐代文獻編年 [A Chronology of Tang Manuscripts Excavated from Turfan] (Taibei: Xinwenfeng chuban gongsi, 2002), 54–55. For a transcription of the text, see Yamamoto, Ikeda, and Okano, eds., *Tun-Huang and Turfan Documents Concerning Social and Economic History I: Legal Texts* (Tokyo: The Tokyo Bunko, 1980), vol. 1, A6–7.

<sup>15</sup> The manuscript is presently preserved in the Xinjiang Museum, cat. no. 73TAM532: 1/1–1, 1/1–2. For additional information and existing scholarship on this manuscript, see Chen, “Wenxian biannian,” 286.

<sup>16</sup> For examples of Tang codes preserved in the Dunhuang Cave Library, see S. 9460, Dx 391, Dx 1916, P. 3608, P. 3593, S. 6138, etc.

<sup>17</sup> For examples of Tang statutes preserved in the Dunhuang Cave Library, see Dx 06521 and Dx 03558.

<sup>18</sup> For examples of Tang regulations that have survived in the Dunhuang Cave Library, see P. 3078, S. 4673, S. 1344, and P. 4978. See also Denis Twitchett, “A Note on the Tunhuang Fragments of the T’ang Regulations ‘ko,’” *Bulletin of the School of Oriental and African Studies* 30.2 (1967): 369–381.

<sup>19</sup> For example, see P. 2507, an ordinance of the department of waterways promulgated in 737 during the Kaiyuan period. For a study on this manuscript, see Denis Twitchett, “The Fragment of the T’ang Ordinance of the Department of Waterways Discovered at Tunhuang,” *Asia Minor News Series* 6 (1957): 23–79.

quickly after that date. From the mid eighth to the mid ninth centuries, Tibetan laws were also circulated and enforced in Dunhuang, while the influence of Tang law continued. Tibetan legal regulations were introduced in Dunhuang in the form of imperial edicts and codes, and via correspondence with regard to those legal regulations between Tibetan officials and legal experts from the Tibetan court. Dunhuang Cave 17 contains fragmentary texts in most of these Tibetan legal genres.<sup>20</sup> In the Tibetan tradition, divination texts might have been used to settle legal disputes.<sup>21</sup> Evidence of this practice is found in Dunhuang, where divination texts (IOL Tib J 740) were paired with legal text. After the Guiyijun took control of Dunhuang in 848, Chinese once again became the primary official language in Dunhuang, although Tibetan continued to be used in certain legal documents. Sometimes, the two languages were used together in legal documents and contracts produced in this period.<sup>22</sup>

As well as abundant evidence attesting the circulation of Tibetan legal knowledge in Dunhuang, we also find traces of Tibetan legal culture in Turfan. While Tibetan codes and official correspondences on legal consultation are yet to be found in Turfan, four Tibetan divination texts dated to the ninth and tenth centuries,<sup>23</sup> which were believed to be used for settling legal disputes, have survived in Turfan. They were found in an assortment of 114 handwritten and printed Tibetan documents collected in Turfan by a German expedition team. Sam van Schaik from the British Library, an expert on old Tibetan manuscripts, dates these documents no earlier than the ninth century for lack of any evidence that would date them back to the period of the Tibetan Empire.<sup>24</sup> He also explains that documents in the ninth and tenth centuries were probably only written in

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<sup>20</sup> For a recent survey of Tibetan legal texts concerning codes and cases from Dunhuang, see Brandon Dotson, “Failed Prototypes: Foliation and Numbering in Ninth-Century Tibetan Satasahasrika-prajñāparamita-sutras,” *Journal Asiatique* 301.1 (2015): 153–164.

<sup>21</sup> See Brandon Dotson, “Divination and Law in the Tibetan Empire: The Role of Dice in the Legislation of Loans, Interest, Marital Law and Troop Conscription,” in *Contributions to the Cultural History of Early Tibet*, ed. Matthew Kapstein and Brandon Dotson (Leiden: Brill, 2007), 3–77.

<sup>22</sup> For instance, in P. T. 1080, the petition was submitted in Tibetan and the judicial decision was also written in Tibetan, but an approval from the higher authority was written in Chinese.

<sup>23</sup> For these four manuscripts, see TibHT 31–34.

<sup>24</sup> See Sam van Schaik, “The Use of Early Tibetan Printing: Evidence from the Turfan Oasis,” in *Tibetan Printing: Comparison, Continuities, and Change*, ed. Hildegard Diemberger, Karl Ehrhard, and Peter F. Kornicki (Leiden: Brill, 2016), 171–191.



Tibetan because residents in this region continued to use Tibetan as a *lingua franca* even after Tibet lost control of the region in the mid-ninth century. These were the political, social, and legal situations in the Dunhuang and Turfan trading networks along the Silk Roads, and they provide the context in which the following cases concerning slave trade in the Buddhist monastic community took place.

#### 4. *Litigating as Plaintiffs*

Once ordained Buddhist monks and nuns became slave owners, it seems they were willing to do anything to keep their slaves. Assistance from the lay legal system was one source of legal support that they relied upon. In 425, a Buddhist monk in Turfan offered a monetary reward to anyone who could help recapture his run-away slave.<sup>25</sup> Disputes concerning the ownership of slaves were also a common cause for initiating legal procedures, and it is apparent that Buddhist monks and nuns not only litigated over slave ownership against fellow monks and nuns, but also against Buddhist institutions and lay persons.

Our first case concerns the ownership of female slaves, and it documents a litigation between several ordained Buddhists and a Buddhist institution in Tibetan-ruled Dunhuang.<sup>26</sup> In the early ninth century, two monks and a nun litigated against an unspecified Buddhist monastery over the ownership of several slaves. Eventually, the judicial officers ruled in favor of the monks and nun. In other words, a dispute over slave ownership between three ordained Buddhists and a Buddhist monastery was resolved in the lay court.

The second case records a litigation between two ordained Buddhist monks in Dunhuang during the Guiyijun period. Sometime in the tenth century, the Buddhist monk Zhide (d. u., 智德) from Sanjie Monastery (Chin. Sanjie si 三界寺) submitted a petition to the military commander (Chin. *linggong alang* 令公阿郎) of Dunhuang, suing a fellow Buddhist

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<sup>25</sup> For a Chinese transliteration of this manuscript discovered in the Kočo Tomb 96, see Guojia wenwuju guwenxian yanjiushi 國家文物局古文獻研究室, *Tulufan chutu wenshu* 吐魯番出土文書 [Manuscripts Excavated from Turfan] (Beijing: Wenwu chubanshe, 1981), vol. 1, 76.

<sup>26</sup> For a full analysis of this case in P. 1079, see Cuilan Liu, “Buddhist Litigants in Public Court: A Case Study of Legal Practices in Tibetan-ruled Dunhuang (786–848),” *Journal of the American Oriental Society* 139.1 (2019): 91–113.

monk whose surname was Fan (汎).<sup>27</sup> According to monk Zhide's statement, his father was employed by the monk whose surname was Fan to work on his estate (Chin. *zhuangke* 莊客), most likely as a personal retainer (Chin. *buqu* 部曲). His mother, on the other hand, was working for a *samgha* regulator (Chin. *sengzheng* 僧正) whose surname was Dong (董). Since birth, Zhide had lived with his mother in the *samgha* regulator's house. Later, he married a maternal cousin and they had three children. It is unclear when he became ordained as a Buddhist monk. Later, monk Fan took Zhide's wife and their three children by force. Zhide and his father tried without success to get his wife and children back. Sometime later, Zhide was ordered to station himself at a military pass but he did not have enough money to prepare food and other provisions for travel to his assigned post. He therefore submitted this petition to the military commander in Dunhuang, claiming ownership of a female slave, which was presumably in monk Fan's possession.

The manuscript does not contain a judicial decision, so we do not know the outcome of the case. What is interesting, however, is that a dispute between two monks was not internally resolved within the Buddhist order or in the hybrid court of the Buddhist controller but was brought before the highest lay authority in Dunhuang for a resolution.

We cannot know why this monk plaintiff chose to litigate in the lay court, but perhaps there were special reasons. This dispute involved three Buddhist monks: Zhide from Sanjie Monastery, a *samgha* regulator whose surname was Dong, and a Buddhist monk whose surname was Fan. In Dunhuang, Zhide was a popular religious name for Buddhist monks. Apart from this Zhide mentioned in S. 528, there were other monks by that name in Qianyuan Monastery (Chin. Qianyuan si 乾元寺), Kaiyuan Monastery (Chin. Kaiyuan si 开元寺), and Yong'an Monastery (Chin. Yong'an si 永

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<sup>27</sup> This case is recorded in the Chinese manuscript S. 528 from Dunhuang. For a detailed study on Sanjie Monastery, see Sun Xiushen 孫修身, "Dunhuang Sanjie si 敦煌三界寺 [Sanjie Monastery in Dunhuang]," in *Gansusheng shixuehui lunwenji* 甘肅省史學會論文集 [An Anthology of the Association of Historical Studies in Gansu Province], ed. Gansusheng shixuehui (Lanzhou: Gansusheng shixuehui, 1982), page unknown; reprinted in Yang Zengwen 楊曾文 and Du Doucheng 杜斗城, ed., *Zhongguo Dunhuangxue bainian wenku zongjiao juan* (1) 中國敦煌學百年文庫宗教卷 (一) [An Anthology of One Hundred Years of Dunhuang Study in China: Religion] (Lanzhou: Gansu wenhua chubanshe, 1999), 51–62. Sun listed S. 528 as a manuscript concerning the Sanjie Monastery but did not discuss it in detail.



安寺).<sup>28</sup> In Sanjie Monastery there was a *saṃgha* regulator called Dong who had been invited to attend funerals in 968 and 969,<sup>29</sup> and it seems likely that this *Samgha* Regulator Dong was the one for whom Zhide's mother worked. Further, because Zhide lived with his mother in the house of the *Samgha* Regulator Dong, Zhide most probably received ordination in the monastery of this *saṃgha* regulator, so that they were both affiliated with the same monastery. For the defendant, we only know that he was a Buddhist monk whose surname was Fan (范). In manuscripts from Dunhuang, this term might either refer to an ordinary Buddhist monk or a Buddhist official. The Buddhist official could be addressed either as buddhist controller (Chin. *jiaoshou heshang* 教授和尚) or *saṃgha* overseer (Chin. *semtong heshang* 僧統和尚). If he were an ordinary monk, it would be difficult to identify him as there were 818 Buddhist monks with the surname Fan.<sup>30</sup> Prior to 968, however, there were only two Buddhist officials surnamed Fan who had served in this position. One was Fan Guanghui (in office 944–945–951–?, 范光惠) who was the *saṃgha* overseer of Dunhuang from 945 to 951, and the other was Fan Fugao (in office 902–907, 范福高) who served in this post from 902 to 907.<sup>31</sup> If the defendant monk Fan was a Buddhist official, it makes sense that monk

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<sup>28</sup> Apart from this monk from Sanjie Monastery, there were a number of monks called Zhide (智德) in Dunhuang. A list of monks named Zhide is found in Dohi Yoshikazu 土肥義和, *Haseiki makki jūsseiki shoki Tonkō shizoku jinmei shūsei: shizoku jinmeihen jinmeihen* 八世紀末期十一世紀初期燉煌氏族人名集成: 氏族人名篇, 人名篇 [A Compilation of Clan Names and Personal Names in Dunhuang from the Eighth to the end of the Eleventh Centuries: Clan Names and Personal Names, Personal Names] (Tokyo: Kyūko Shoin, 2015), 1021. An extremely fragmentary club circular (P. 3555, B1) records a certain monk Zhide as having been called to participate in one of their events, and P. 3060 records that another monk Zhide participated in the recitation of the *Mahāratnakūṭasūtra* (Chin. *Baoji jing* 寶積經).

<sup>29</sup> Dohi records multiple *saṃgha* regulators with the surname Dong. A buddhist regulator whose surname was Dong from Sanjie Monastery is mentioned in a record of expenses in S. 5039. See Dohi, “Haseiki makki,” 544. On the 23rd day in the eighth month in the year of 969, a man named Song Cishun (fl. second half of 10th c., 宋慈順) invited many monks and nuns from Sanjie Monastery, including the *Samgha* Regulator monks Zhang and Dong, to attend the religious memorial for his deceased son two days later on the 25th of that month. Another Chinese manuscript BD 5866 also records that a *Samgha* Regulator Zhang and a *Samgha* Regulator Dong were invited to attend the memorial service marking the three-year anniversary of someone's mother's passing away on the 29th day of the ninth month during the sixth year of the Qiande (乾德) era in 968.

<sup>30</sup> Dohi, “Haseiki makki,” 6.

<sup>31</sup> Rong Xinjiang 榮新江, *Guiyijun yanjiu shi* 歸義軍研究史 [A History on the Study of the Guiyijun] (Shanghai: Shanghai guji chubanshe, 1996), 292.

Zhide would not file his complaint in the hybrid court, where the highest monastic official was the defendant himself as *samgha* overseer. Naturally, therefore, he would choose to file his complaint in the lay court of the military commander. Even if monk Fan had already retired from the post by the time Zhide filed the complaint, Zhide still had good reason to avoid seeking a judgement in the hybrid court where the retired defendant monk may still have had connections and influence.

The third case concerns a dispute between a Buddhist nun and a lay person in the lay court, at a time when Dunhuang was under Guiyijun control. This dispute is recorded in the Tibetan language manuscript P. T. 1080.<sup>32</sup> The manuscript begins with the nun's statement in which she describes having adopted a baby girl twenty years ago. This is followed by testimonies of the nun, and concludes with a judicial decision. The final judgement is not authenticated by the vermilion seal seen on other official documents, but was approved by a superior official with two Chinese characters *zhun jian* (準件), meaning "approval", written in larger size.

The nun plaintiff's petition informs us that, sometime in the early ninth century, a newly widowed man appeared at her door with his one-year-old motherless daughter in his arms. When she opened the door, the man begged her to adopt the baby and said that if I don't take her, "she may die tomorrow or the day after tomorrow."<sup>33</sup> The man continued to beg the nun and promised, "If you adopt her, you can either treat her as your daughter [(Tib. *bu mo*)] or use her as a slave girl [(Tib. *bran mo*)]. It is completely up to you."<sup>34</sup> Finally, the nun was persuaded, and she later claimed that she had adopted the girl out of compassion. Twenty-years later, the now grown up girl attempted to reconnect with her biological family. She tried to claim a certain man as her maternal uncle, and then a woman from the Tongkhyap (Tib. *mtshong khyab*) tribe as her biological mother. Her claims led to a series of quickly escalating conflicts with the nun and, eventually, the nun submitted a petition to the local lay court, positioning herself as the girl's adoptive mother and accusing the girl of not working as hard as before. Quoting the Tang law on adoption, the nun requested an official confirmation of her ownership of the girl, accused the girl of attempting

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<sup>32</sup> For a Chinese translation of P. T. 1080, see Wang Yao 王堯 and Chen Jian 陳踐 *Dunhuang tufan wenxian xuan* 敦煌吐蕃文獻選 [A Selection of Tibetan Manuscripts from Dunhuang] (Chengdu: Sihuan minzu chubanshe, 1983), 48.

<sup>33</sup> P. T. 1080, line 5.

<sup>34</sup> P. T. 1080, line 5–6.



to abandon her adoptive mother, and demanded a court order to prohibit the girl from connecting with her biological family. The verdict from the court ruled in favor of the nun, approving all her requests. The girl's voice is completely absent in this document.

This petition from the Buddhist nun cites the Tang laws on adoption multiple times: The nun plaintiff, or the legal professional writing on her behalf, referred to these laws in her complaint, and the judge referred to them when delivering his final verdict in favor of the nun. Although these laws on adoption mentioned in the complaint were not specified, they must refer to Article 157 in the *Tang Code* in which various issues concerning the transaction of the adoption and the legal relationship and responsibilities of individuals involved in the adoption are discussed in detail.<sup>35</sup> The central concern of Article 157 is to protect the male line of reproduction of both families involved in the adoption, with priority given to the family of the child's biological parents. To protect the male heirs of a child's biological family, it strictly prohibits families from adopting sons of a family with a different surname. For violating this law, the adoptive parents would be punished by one year of penal servitude and the biological parents by fifty blows with the light stick. Adoption between families bearing different surnames is only permissible when the following three conditions are met: the son is three years old or younger; he has been abandoned by his biological parents; the adoptive family line will come to an end if they cannot adopt the child. In this exceptional circumstance, if the child's parents later change their minds and want to retrieve the child, they can get him back by compensating the adoptive parents for the expenses of raising him.

In favor of the nun plaintiff in the dispute described in P. T. 1080, Article 157 regulates the duties of an adopted son towards his adoptive parents. If an adopted son rejects his adoptive parents who have no other son, the adopted son will be punished by two years of penal servitude. The son will only be excused if he returns to his biological parents who have no other son, while the adoptive parents have their own son. In a situation in which both families are without sons, the adopted son can follow his own feelings to decide the family with which he will stay. Even after the adoptive parents have decided to return the adopted son to his biological parents for any reason, the adopted son remains legally bound to support

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<sup>35</sup> For English translation of this article, see Johnson, *Tang Code*, 130–131.



his adoptive parents. This means that, once an adoption has taken place, the adopted child remains responsible for the future care of the sonless adoptive parents, regardless of whether or not they continue to live together.

It was this perpetual responsibility toward the adoptive parents that prompted the nun to specify in her complaint that she had accepted and raised the girl as her adopted daughter. She then demanded that the judge adjudicate the dispute in accordance with the law on adoption, and she won the case for this reason. What is noteworthy here, however, is that the nun had adopted a daughter, the adoption of which was regulated differently from that of a son. The entire Article 157 regulates only the adoption of sons. It makes no reference to the adoption of daughters, other than to say that adopting a daughter from a family bearing a different surname is allowed and entails no punishment. In the absence of any specific regulation concerning the adoption of daughters, we must assume that the principals for the adoption of a son also apply to the adoption of a daughter. In our case of the lawsuit between the nun and the girl she had raised, the judges in Dunhuang seem to have reached their decision based on an anomaly in Article 157: Given that the girl was raised by the nun for twenty years, she was prohibited from abandoning the nun. Thus, the verdict in favour of the nun plaintiff ruled that the girl was forbidden to seek her biological family and must continue to serve the nun as before.

Instead of celebrating her victory in this lawsuit, I read it differently as a case of hidden enslavement disguised as adoption, in which the adopted girl sued by the nun was actually the victim, and the nun and the girl's father had both violated another Article in the *Tang Code* that forbids anyone to enslave a free commoner. That the adopted girl was the daughter of a free commoner (Chin. *liang* 良) is apparent from the fact that her father was able to give the girl away, a right not enjoyed by socially inferior (Chin. *jian* 賤) persons in traditional China. The girl's legal status as a free commoner is also indirectly corroborated by the fact that adopting a non-free person is listed as a crime in the *Tang Code*. We find this ruling in Article 159,<sup>36</sup> which stipulates the illegal adoption of two types of non-freeman: bondsman and personal retainer/slave. The children of persons in these two groups will remain in the same social class. Indeed, adoption of a non-freeman is generally prohibited under Tang Law. If the illegal

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<sup>36</sup> For an English translation of Article 159, see Johnson, *Tang Code*, 132–133.



adoption of a non-freeman were to take place, both the giver and the receiver of the child would be punished. For adopting a general bondsman as a son, the punishment was one and a half years of penal servitude. For adopting a general bondsman as a daughter, the punishment was lighter—one hundred blows with the heavy stick. If the adopted child was an official bondsman, the punishment in both cases was increased by one degree. In all cases, the adopted bondsman must be returned to his or her original status.

If the nun's testimony is trustworthy, both the nun and the girl's father appear to have violated the *Tang Code* for enslaving a free commoner. According to the nun's testimony, the girl's father gave permission to the nun to treat the girl either as an adopted daughter or as a slave girl. The nun did not openly define her relationship with the girl as slavery. She never claimed ownership of the girl as her property, nor did she ever try to sell or give the girl to anyone else. Indeed, in her petition the nun claimed that she viewed the girl as her daughter. Despite all this, however, the nun had actually treated the girl as a slave: the girl worked for her without pay, and had no freedom to leave or seek to reunite with her biological family. Under Tang Law, only enslaved non-freeman were deprived of such rights. An adopted freeman would at least have a few options, depending on the combined situation of both the biological and the adoptive families. Article 157 clearly states that, if the biological parents have no son but the adoptive parents have another son(s), the adopted son could return to his biological parents. Or, in the worst case scenario, when both the biological and adoptive parents have no other son, the son could choose which parents to live with, according to his own feelings. If these principals were also applicable to adopted daughters and we assume that the nun had no other adopted children, the girl's options would then be dependent upon the situation of her biological family. If her biological family was otherwise childless, the girl would have been allowed to return to them after they agreed to pay the adoptive nun all the expenses of raising her. Thus, by suing her for, and prohibiting her from, seeking and attempting to reunite with her biological family, both the nun plaintiff and the judge who issued the verdict had treated the girl as if she was a slave, but not as an adopted daughter.

For the crime of enslaving a free commoner, both the nun and the girl's father should have been punished.<sup>37</sup> Tang law dictates that for someone who dishonestly claims a freeman as a slave (Chin. *nubi* 奴婢), the punishment is two years penal servitude. That punishment would be reduced by one degree if the freeman was dishonestly claimed as a personal retainer. If a personal retainer was dishonestly claimed as a slave, the punishment was one hundred blows with the heavy stick.<sup>38</sup> It is clear, then, that when the father told the nun that she could choose to raise the girl either as her adopted daughter or a slave (Tib. *bran mo*), he violated the *Tang Code* for enslaving his daughter who was a freeman. For treating the girl as a slave, the nun was guilty of a crime punishable by two years penal servitude. The nun and the girl's father would only have been free of guilt if the *Tang Code* granted ordained Buddhist monks and nuns the same privileges as those enjoyed by ordinary lay adoptive parents. In that case, if the girl's biological family had more children but the nun was otherwise childless, the girl as an adopted daughter would have been prohibited from abandoning the nun and reuniting with her biological family. Unfortunately, Tang law seems to have paid almost no attention to the adoption of lay children by ordained Buddhists.

At the national level, the Tang government was extremely cautious about preventing the enslavement of commoners, even in times of great difficulty. In the late seventh century, the central government temporarily granted permission for poor commoner households to give away any of their children they could not afford to raise. In 670, the tenth month of the third year in the *Zongzhang* (總章) period, a heavy snow hit the country and many people were suffering. Under that circumstance, the emperor issued an edict allowing poor families who found themselves unable to raise their children under the age of fifteen to give them away for adoption, where they must work for their owners as indentured servants. The edict, however, strictly forbade anyone from taking them as slaves.<sup>39</sup> A few years

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<sup>37</sup> For an English translation of Article 401, see Johnson, *Tang Code*, 466. Note that Article 400 also prohibits making a freeman a slave and using that person as security for a debt. The punishment for this was three degrees less than the punishment for selling a person by mutual agreement. The sub-commentary specifies that selling a person with mutual agreement was to be punished by life in exile.

<sup>38</sup> In this article, wives of personal retainers were treated as if they were personal retainers, even if they were of a higher social status.

<sup>39</sup> See Liu Xu 劉昫, *Jiu Tang shu* 舊唐書 [Old History of the Tang] (Beijing: Zhonghua



later, in the fourth year of the Xianheng (咸亨) period (673), the emperor issued another edict, offering an option to those children who had been given away during the early Xianheng period to return to their original families, provided that they properly compensated their owners for the cost of their food and clothing during the past years.<sup>40</sup>

Perhaps when the nun accepted the one-year-old baby girl from her father twenty years ago, she did indeed take her out of compassion. And the father was also just an innocent man desperately wanting to find a way for his daughter to survive, as he had apparently not asked for any compensation. In the Uyghur contracts of adoption found in Turfan,<sup>41</sup> many parents asked for a compensation expressed as ‘milk money’ (OU *süt säwinč*) from the adoptive parents, to cover the expenses of raising the child. Overall, in this case of possible enslavement disguised as adoption, the local government in Dunhuang eventually ruled in favour of the nun, completely ignoring her potential violation of the state law that prohibited making a free commoner a slave.

### 5. Litigating as Defendants

Buddhist monks continued to engage in legal practices in the later centuries, away from Dunhuang. For instance, at a much later in the thirteenth century, a Buddhist novice monk initiated a lawsuit as a defendant. In 1913, the Russian scholar Malov found a petition letter in Ürümči. In this letter, a recently ordained Buddhist novice monk who had formerly been a slave, sued a Buddhist priest for attempting to sell him as a slave.<sup>42</sup> Forty years later, three additional documents relating to the same case were discovered. These were said to have been stored in a hole on the wall of a residential building near the ruins of the Kočo city of Idiqut-šari,<sup>43</sup> and they

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shuju, 1975), vol. 1, *juan* 5, 95.

<sup>40</sup> See Liu, *Jiu Tang shu*, vol. 1, *juan* 5, 97.

<sup>41</sup> See the Old Uyghur contracts on adoption in Yamada Nobuo 山田信夫, “*uiguru bun nuhi bunshō oyobi yōshi bunsho* ウイグル文奴婢文書及び養子文書 [Uyghur Documents of Slaves and Adopted Sons],” *Ōsaka daigaku bungaku bu kiyō* 大阪大學文學部紀要 [Bulletin of the Faculty of Literature at Osaka University] 16 (1972): 161–267.

<sup>42</sup> For a recent English translation of the petition of Pintung, see Juten Oda, “A Recent Study on the Uighur Document of Pintung’s Petition,” *Türk Dilleri Araştırmaları* (1992): 35–36.

<sup>43</sup> In 1958, Tenishev and Feng published a study of the latter three documents with annotated Chinese translations, along with photos of all four documents and a Chinese

were acquired in Turfan in 1953. These documents, dated to the year 1280, consisted of a receipt of payment, a sale contract written by the seller in Chinese and Old Uyghur and stamped with four official seals, and a manumission letter to free the slave.<sup>44</sup>

These four documents inform us that sometime in the thirteenth century in Kočo, a male slave named Pintung was working for a Buddhist monk called Atay Tutung. While serving the monk, Pintung learned to read and write, and aspired to become a Buddhist monk. Sometime during the dragon year of 1280, the year in which the Mongols replaced the Uyghurs by taking over Kočo, a Buddhist priest named Siwsai Taišis offered to pay for Pintung's release, and so Pintung was able to achieve his dream of receiving ordination to become a Buddhist novice monk. On the 6th day of the eighth month in 1280,<sup>45</sup> with eleven individuals and the four *mahārāja* gods as witnesses, the priest Siwsai Taišis wrote a document in Old Uyghur language for Pintung, a document that Pintung later referred to in his petition letter as the manumission certificate. At the beginning of the document, it was stated in Chinese that the newly ordained Buddhist novice monk Pintung was the recipient of this document. The document went on to say that the Buddhist priest who paid to free Pintung promised that he and his wife would treat Pintung as their oldest son, and Pintung should take care of their possessions and their children for as long as they lived. After they have died, Pintung would be free to go anywhere he wished if he could not get along with their children.

While Pintung was working for his new owners as a newly ordained Buddhist novice monk, the priest Siwsai Taišis persuaded Pintung to let him help by safeguarding Pintung's manumission certificate. Soon after this, the priest told Pintung that his manumission certificate had been lost. Later, Pintung heard that the priest was about to sell him as a slave, even though he had previously been freed. In that situation, Pintung considered

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translation of the petition letter based on Malov's Russian translation. For a later transcription of this sale contract written in Old Uyghur language and its annotated translation in Japanese and English, see Yamada, "Nuhī bunshō," 226–233.

<sup>44</sup> For an annotated translation of the four documents, see Ėdkhiam Tenishev and Feng Jiasheng 馮家昇, "Huhuwen Bintong (Shanbin) maishenqi sanzong fu kongsu zhuren shu 回鶻文斌通(善斌)賣身契三種附控訴主人書 [Three Uyghur Language Contracts for the Sale of Bintong and A Complaint over his Master]," *Kaogu xuebao* 考古學報 [Journal of Archaeology] 2 (1958): 109–119; 163–166.

<sup>45</sup> Tenishev and Feng argue that this dragon year could only be 1280. See Tenishev and Feng, "Bintong maishenqi."



himself a freed commoner and felt that the priest had no right to sell him. Therefore, Pintung filed a complaint in Old Uyghur language and sued this Buddhist priest. The complaint was addressed to the noble officials (OU *buyanċi bäglärim qutīnqa*).

Reliance on the state legal system can be a double-edged sword. When ordained Buddhist monks and nuns chose to litigate over slave disputes in the state court instead of seeking a resolution within the monastic community, they subjected themselves to the governance of the state legal system. This meant that they faced the risk of being sued in the state court, just like lay slave owners, and of being held liable for any crimes that their slaves may have committed.

## 6. Conclusions

These cases over slaves examined in the present article reveal how little some of the Buddhist monks and nuns on the Silk Roads cared to abide by Buddhist monastic law (Skt. *vinaya*). We have read in these documents that certain monks and nuns in Dunhuang and Turfan largely ignored the monastic code that prohibited them from owning slaves, and that they showed very little concern over their transgressions in this area. Not only did they own slaves, but they also participated in other aspects of the slave trade as buyers and as witnesses in others' slave transactions. They also ignored the Buddhist monastic law that prohibits monks and nuns from litigating in the secular courts. When they were in dispute over the ownership of slaves, we have seen that these monks and nuns were willing to litigate against laypeople, fellow monks and nuns, and even Buddhist institutions in defence of their economic rights. Furthermore, instead of turning to their peers within the monastery for guidance, these monks and nuns often sought legal intervention in the lay court. Their choice of litigation venue indicates a submission to the state legal system, and in this way these monks and nuns repeatedly reinforced the state's discourse that insisted on its jurisdiction over the Buddhist establishment.

This acquiescence to state law was partly encouraged by the weakness of local law enforcement in Dunhuang and Turfan. Despite Tang law's strict regulation of the slave trade, the local courts in Dunhuang and Turfan did not punish monks and nuns for owning slaves. On the contrary, it appears that these courts and legal professionals provided them with

legal assistance. They notarised certificates for the sale of slaves (as in the case of Pintung), and they adjudicated in favor of the nun plaintiff whose claimed ‘adoption’ was virtually indistinguishable from the illegal enslavement of a free commoner’s daughter.

How do these disputes over slave ownership shed light on the legal interaction between Buddhism and the state? It would appear that the lenience and support of those responsible for the enforcement of secular law on the Silk Roads allowed monks and nuns a significant degree of freedom. Even when their acts contravened both religious and state laws, neither the state nor the Buddhist establishment responded by imposing punishment upon them. In contrast with the heightened tension in central China, between the state court and ordained Buddhists protesting over torture and excessive punishment imposed upon accused Buddhist offenders, monks and nuns on the Silk Roads seemed to have been enjoying a harmonious relationship with the local legal system. In both Dunhuang and Turfan, monks and nuns did not show any fear in the courtrooms of lay judges, instead they voluntarily sought legal assistance in these courts.

The legal manuscripts preserved in Eastern Central Asia are perhaps more valuable to us than the official records kept in Central China. These local documents provide detailed personal accounts describing the way in which people in these Central Asian regions interacted with the legal systems. Along with their records of the disputes, these manuscripts hold valuable clues that allow us to see something of the social contexts in which they were created. The fact that most of the legal manuscripts found in Dunhuang and Turfan document only minor disputes and offences indicates that the more serious criminal cases involving ordained Buddhist monks and nuns were most likely dealt with in the higher courts in the central region. This would perhaps explain why no legal records of severe crimes committed by monks and nuns have yet been found in the Dunhuang and Turfan regions.

A useful next step in the investigation of these issues would be to examine the material nature of these manuscripts: what kind of ink and paper were used to produce the documents, where did these writing materials come from, and how were they manufactured, who wrote the documents, for whom were they written, and how did they come to be stored in the places where they were found? All of this, however, lies beyond the scope of the present article.



### Abbreviations

|       |   |
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| BD    | Collection of Dunhuang Manuscripts preserved in the National Library of China, Beijing  |
| Dx    | Dunhuang Manuscripts in the Petersburg Collection in The State Hermitage Museum, St. Petersburg   |
| P.    | Pelliot Collection of Chinese Dunhuang Manuscripts preserved at the Bibliothèque national de France in Paris                            |
| P. T. | Pelliot Collection of Tibetan Dunhuang Manuscripts preserved at the Bibliothèque national de France in Paris                            |
| S.    | Stein Collection of Chinese Dunhuang Manuscripts preserved at the British Library in London   |
| T.    | <i>Taishō shinshū daizōkyō</i> 大正新脩大藏經 [Taishō tripiṭaka], ed. Takakusu Junjirō 高順次郎 et. al. Tokyo: Taishō issaikyō kankōkai, 1924–1935 |
| TibHT | Tibetan Manuscripts preserved at Berlin-Brandenburgische Akademie der Wissenschaften in Berlin  |

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