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# Crime, Punishment and Socio-Economic Status in Mustang (Nepal) in the Early 19<sup>th</sup> Century

Charles Ramble  
(EPHE – PSL, CRCAO)

And it won't make one bit of difference  
If I answer right or wrong;  
When you're rich, they think you really know.<sup>1</sup>

## *Introduction: parallel hierarchies*

**T**ibetan societies feature a wide range of hierarchies, with variations over time and from one region to another. Among these are the well-known vertical ordering of society represented in Imperial-era legal schemes, the ranks and honours that structured the army and aristocracy at the same and at later periods, the range of grades found everywhere among the clergy, and the more generalised, *varṇa*-like stratification comprising royalty and/or aristocracy, priesthood, commoners and artisans that has been documented for numerous agrarian enclaves. In addition to these relatively formal schemes there are others of a more informal, though no less influential, character. One of these is the cluster of qualities that we may characterise as “scholarly and spiritual excellence”, and another is material wealth. There is no series of clearly defined rungs in either of these two; the scale is rather a continuum from “less” to “more”, while in the former case the status that is accorded may have as much to do with reputation and consensus than any measurable criteria.

While each hierarchy has its specific terminology to designate positions, there are also certain pairs of contrasted terms that may be used to denote the opposite ends of any of the schemes listed here. Some of these evoke the image of vertical space, as in *ya-/ma-*, “up, down”, and *mtho/dman*, “high, low”. Most commonly, however, we find the opposition *drag/zhan*, which may be translated as “powerful/weak”, or “great/lowly”, among other things, according to the context. The widespread use of such nonspecific oppositions to designate all these

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<sup>1</sup> Sheldon Harnick, “If I were a rich man,” from *Fiddler on the Roof*, 1964.

sets may be related to an important feature of this spectrum of hierarchies: they are not hermetically sealed from one another, but betray a certain amount of horizontal leakage, as it were, so that the position a person occupies on one may affect his or her ranking in another, especially when the hierarchies concerned are of the more informal kind. Later in this article I will examine a few cases in which financial “weakness” of certain people affected not just their position in parallel hierarchies, but even undermined a principle of egalitarianism in which they would normally have been included. First, however, let us consider two cases in which a change in economic circumstances dramatically affected the lives of two well-known religious figures.

The first of these is *bsTan 'dzin ras pa* (1646–1723), a *bKa' rgyud pa* monk who also happened to be a scion of the most important aristocratic family in South Mustang. The origins of the family are recounted in his autobiography, according to which the founder of the lineage was a certain *Byams pa thob rgyal*, a minister of the semi-mythical founder of the Tibetan dynasty, *gNya' khri btsan po*. A more authoritative source has it that the first member of the family to come to Lo—at the instigation of the king—was a certain *Khro bo 'bum*, who settled in a place called *sKye skya sgang*, a short distance to the east of *Monthang*. It was *Khro bo 'bum's* son, *Khro bo skyabs pa*, who was sent to the *Mukthinath Valley* to rule southern Lo on behalf of the king in the first half of the 16<sup>th</sup> century.<sup>2</sup>

*bsTan 'dzin ras pa's* early childhood was overshadowed by a personal tragedy as well as by the outbreak of war between Mustang and Jumla:

When my eldest brother *Tshe dbang rnam rgyal* was eleven, I was seven and the youngest two, my father *'Byor ra rgya mtsho* died at the age of thirty-two. We were like the children of hungry ghosts, barely able to speak and walk, and we haunted people's kitchens. [...] A conflict erupted between the king and his ministers [resulting in a war] [...] The enemies took away all our cattle and the king's mules took whatever household property there was as provisions for the troops. There was no food or clothing, and all of us, mother and children, were desperate. Although I was a high-born boy, I had no wealth, and everyone despised us, [saying that] we were insignificant and powerless, and of inferior status. [...] Then one day the rich Brahman [who had given us a loan] said he needed the money we owed him, and he came to get it, but we could not find the means to pay him. The Brahman said, “If you do not give me what I'm owed I shall take two of the boys with me.” [...] My brothers and sisters and I did not even dare to go outside the door, but sat for a long time in

<sup>2</sup> Schuh (1995: 42–43; 52–53).

hunger. At that, I thought of the proverb which runs, “Without wealth you have no friends; without teeth you cannot eat”.<sup>3</sup>

This excerpt contains as explicit an assessment as we could hope to find about how a sharp decline in one’s financial position might also affect a hereditary rank that, in theory at least, is independent of economic status. In the event, the family were bailed out by a wealthy uncle who paid off the loan; but, as we shall see, not everyone had a rich relative who might come to the rescue.

A century and a half later, dKar ru grub dbang bsTan ’dzin rin chen, who would later become a major Bon po scholar and author, experienced a very similar reaction among his peers to the collapse of his own family fortune. dKar ru’s family was a wealthy one, and his father was known as a scholar and a generous donor. Born in sTeng chen, in Eastern Tibet, in 1801, dKar ru was inducted at an early age into the nearby Nor gling monastery, where he applied himself to his studies with exemplary dedication. He was a model student, and his brilliance and application were praised by his teacher in front of the entire monk body.

I became a student of a tutor named gYung drung ’od zer, [...] and was delighted by the general consensus that “’Od zer’s little monk” was both studious and well-disciplined, and that others were advised to follow my example. In my joy and mounting self-confidence, I thought there was no one like me. I was as full of myself as the proverbial old goat who made it to the top of the cliff; as stylish as the old dog with the decorated tail, and strutting like the old horse in all its trappings—ah, what a marvel!

[My teacher] gYung drung ’od zer, who held the position of proctor, presented me with a congratulatory scarf and addressed the gathering in these words: “You, our lama, who are seated in the centre, and you assembly of monks, hear me! Since he joined the community, this young monk of mine, the son of dKar ru Bris pa, has donned full monastic robes, and within three years he has passed his examinations. He is without equal in the Khyung

<sup>3</sup> *sras che ba tshe dbang rnam rgyal gyi lo bcu gcig / nga lo bdun tha gcung gis lo gnyis lon dus / pha ’byor ra rgya mtsho lo so gnyis la tshe’ dus byas / smra shes ’gro shes tsam gi dags bu ’dras thab ’tshang ’khangs / de’i dus rgyal blon gnyis ’khrugs nas [...] / [...] phyi nor thams cad dgra’i khyer nang nor yod tshad rgyal po’i kha tsa dmag rgyags la khyer / lto gos ma ’byor ma bu thams cad sdug bsngal gyi non pa yin / ya rabs bu tsha yin yang nor med kun gyi brnyas bcos kha zhan dbang chung la mig rtsa dma’ bar yong ’dug / [...] / de nas nyin gcig bram ze phyug po gcig gi bu lon dgos zer len du byung spad rgyu ma ’byor bas / bram ze na re nga’i nor mi sprod na bu lon la bu gnyis tsam khrid ’gro zer / [...] / nged ming sring tsho ni sgo phyi la yang thon mi nus par rgyags med ltogs par du zhing bsdad / de dus nor med gnyen dang bral / so med zas dang bral zhes pa’i dpe de nged la byung [...] / rNal ’byor gyi dbang phyug: fols. 1v–2v.*

clan. His father is endowed with great personal qualities, learning and great wealth; he is well-spoken and courageous and ranks among our foremost leaders. I have similar hopes for his son. May he be of service to the doctrine of the enlightened one! If, henceforth, all young monks are like him they, too, will be worthy sons of their fathers! Since this monastery was founded many novices have joined the brotherhood, but never yet has one donned full robes within three years; nor," he concluded with a laugh, "has anyone passed the test of reciting from memory in less than eight or nine years!"  
[...] People were really very happy, and would tell others, "You should be like that monk".<sup>4</sup>

Within a few years he would learn the bitter lesson that the scholarly reputation for which he enjoyed such popularity among his fellow-monks was actually harnessed to some of his less cerebral attributes:

Some time after that my father passed away. [...] Then, in the nature of impermanence, our livestock were afflicted by an epidemic and we lost our herds, and my family broke up and dispersed. Following my father's death we were impoverished and humbled, and my monk friends no longer seemed to hold me in such high regard as in the past. They catalogued faults of mine that they claimed to know about and held me in contempt, calling me dreadful names. Everyone treated me with antipathy and hatred.<sup>5</sup>

The Tibetan Buddhist attitude to wealth is such that it would be

<sup>4</sup> *g.yung drung 'od zer zhes pa'i dge phrug byas / kun gyi 'od zer grwa chung 'di lta bu / slob gnyer bzang zhing sgrig du bsodod tshug pa / de ltar zer zhing bdag la yid rang bskul / gzhan la 'di bzhin dgos zhes bslab bya bston / de bzhin bdag kyang dga' spro spob ba che / nga rang lta bu su yang med mod bsam / ra rgan brag thog sleb pa'i snang ba mthong / khiyi rgan rnga tshom rgyan pa'i 'gying bag ldan / rta rgan chas kyi rgyan ltar phyar phyol 'gro / a la la ho e ma ngo mtshar che / [...] de la dge skos g.yung drung 'od zer gyi / dpal dar skon zhing 'tshogs gtams 'di ltar zhus / bla ma dbus bzhugs grwa tshang kun kyang gson / nga yi grwa chung ka ru bris pa'i bu / 'di nas bsgrig sgyug dus nas grwa chas tshang / lo gsum dus nas 'tshogs rgyug thams cad 'phrod / (42) dkar nag gser gsum mi dang gzhan mi 'dra / pha ni yon tan kun mkhas rgyu nor phyug / gtam mkhas snying che dpon gyi blon gyi che / de'i bu la 'di ltar re ba yod / sangs rgyas bstan la phan thog 'byung bar 'gyur / da phyin grwa' chung kun gyi 'di ltar du / byung na pho rgod a pa'i bu pho yin / dgon 'di chags nas da lta thug bar du / grwa chung grangs mang bsgrig du rgyug yod kyang / lo gsum thug bar grwa chas mi 'grub cing / de bzhin lo grangs brgyad dgu rgyug mi 'phrod / he he zer zhing 'tshogs gtam de ltar byas / [...] / de la kun gyi grwa pa 'di bzhin mdzod / zer zhing rjes su yi rang kun gyi byed / Autobiography: 41–42.*

<sup>5</sup> *de phyis rang gi pha yang dus 'das nas / [...] (56) phyugs nor mi rtag nad yams byung phyir stongs / nang tshangs mi rtag so sor dbye zhing song / pha yang dus 'das dbul 'phong nyam chung tshe / gra' rogs kun gyis sngar gyi dag snang med / rus 'bod mngan mtshang 'don nas khyad gsod kyis / ka ru'i bes ring skabs bcu 'byams par zer / kun gyi yid du mi 'gro sdang sdang byed / Autobiography: 55–56.*

impossible to characterise it in a single general formulation. Tibetan Buddhism itself is of course not a homogeneous entity, but embraces a diversity of registers that have different perspectives on the value of material prosperity. The spectrum of attitudes that a religion might offer is amply illustrated by Christianity, which accommodates dogmas ranging from the idealisation and enactment of poverty exemplified by the Franciscan order, through the contradictions of high-church ecclesiastical opulence cohabiting with the execration of Mammon, to the respectability endowed by Calvinism on worldly wealth, and finally to the more extreme reaches of Prosperity Theology that has enjoyed such success since the 1960s.<sup>6</sup>

While poverty is respected as one of the components in the complex of antinomian features that make up the profiles of certain Tibetan saints, it does not seem ever to have been revered as the foundation for a particular way of life as it is in some branches of Christianity. It is considered admirable only to the extent that it is a visible badge of the saint's insouciance about worldly considerations and is by no means a necessary condition of sanctity. Even those Tibetan masters who were the direct heirs of the great Indian *mahāsiddhas* were often indisputably wealthy, and though they may certainly have earned the animosity of their political rivals, there is no suggestion that their contemporary devotees or even the modern bearers of their legacies ever considered their spiritual integrity to have been compromised in any way by their conspicuous materialism. Far from being opposed to spirituality, worldly wealth in a Tibetan Buddhist context is both a tangible sign of acquired merit—the crystallisation of good karma—and also the wherewithal to acquire spiritual advantage by enabling the performance of culturally sanctioned pious deeds, such as the restoration of sacred monuments and the endowment of religious establishments. The conflation of this-worldly and other-worldly value is nowhere more succinctly expressed than in the term *bsod nams*, which may be translated according to the context as either “merit” or “material wealth”.

That there is nothing inherently reprehensible about material prosperity is made clear from the following part of the dedication text for the sponsor of various religious works, written around 1500.<sup>7</sup>

Our devout sponsor, our patron 'Dzom brtan, beautifully ornamented with his glorious wealth; intelligent, striving after virtue in his splendour, with the heroic strength to defeat his strongest foes, and protecting even his lowest subjects with his intellect;

<sup>6</sup> For a historical overview of Prosperity Theology in America and Africa respectively, see Bowler (2013), Nel (2020).

<sup>7</sup> For the full text and translation of this dedication, see Ramble (2018: 195–200).

having defeated his powerful enemies one after another, causing our lord ruler great gladness; Homage to you, our patron gYung drung 'dzom brtan! Ornamented with a vast intellect and wealth, you have the power to compete with Vaiśravaṇa. I rejoice in your deeds of supporting virtuous actions! Hail to our intelligent patron!

Of course we would not expect to find anything but words of praise in a dedication to a generous patron, but the point is that material wealth is explicitly extolled as part of the complex of virtues that are incarnated in the good gYung drung 'dzom brtan. To be sure, we could find many instances, in the writings of clerics over the centuries, of the disparagement of riches, but the target in such cases is not wealth itself as much as attachment to it. In one particularly interesting account, wealth is condemned not as an accessory of samsaric clinging, but because it is associated with a type of individualism that undermines the integrity of a community; correspondingly, poverty is praised as the symptom of an important virtue: the spirit of collectivity.<sup>8</sup> The story is an oral account that relates the origin of a number of clans inhabiting the large village of Te,<sup>9</sup> in South Mustang. Before migrating to Te, the clans in question inhabited a large settlement called Kog. The people of this village were very rich, but all they could think about was becoming even richer, and they were so intent on this project that they would not even bother to attend funeral ceremonies. On one occasion a certain lama, named Bichuwa,<sup>10</sup> came to Kog. Lama Bichuwa was reputed to have used magical means to destroy a settlement with which he had a contretemps, and the villagers of Kog asked him to destroy their village too, since impoverishment was the only way they could be brought back to participating in funeral ceremonies. But Lama Bichuwa demurred, saying that it was really not such a bad thing to be wealthy, and continued on his way. Since he had not acceded to their request, the villagers turned instead to another lama, named Tragten,<sup>11</sup> the new priest of a neighbouring village. However, he, too, suggested that it was really quite good to be rich. But the villagers continued to entreat him until eventually he gave in. By magical means he induced a landslide that resulted in the collapse of the main irrigation system. The people continued to live for a few more years on their supplies, and when these ran out, went to fix the broken canal. The young men and women tried to build an aqueduct where the tunnel had

<sup>8</sup> An extended version of this account may be found in Ramble (2007: 229).

<sup>9</sup> The name appears with various spellings, including gTer, lTe, and sTod.

<sup>10</sup> The name Bichuwa is probably derived from the Nepali *bijuwā*, "sorcerer", see Ramble (2007: 228).

<sup>11</sup> Since I have not encountered this name in any written work, it is presented here in roughly phonetic form.

disappeared, but were all killed in a second landslide. The village was abandoned shortly thereafter.

Neither lama in this story is distinguished by unworldly spirituality, and neither is impressed by the virtues of poverty: the desire of the wealthy people of Kog to be brought low for religious reasons is not something that either regards as a particularly sensible attitude. The main theme of the story is an ideological conflict: individualistic prosperity versus collective virtue. People's obsession with wealth keeps them from attending funeral feasts. These funeral feasts are ideally held forty-nine days after someone's death, a period that marks the end of the passage of the departed consciousness to rebirth. The family of the deceased invite all the members of the community to eat and drink, and the merit that is accumulated in this way is transferred to their late relative. It is for this reason that the funeral feasts are referred to as *dge ba*, a term that properly means "virtue" but is used in many Himalayan regions as a synonym for *bsod nams*, "merit", perhaps precisely because of the alternative meaning of "material wealth" that this term can have. Funeral feasts are above all community affairs. The participants make a consolatory offering to the bereaved family and in return receive food and drink that they share with all the other members of the village. A *dge ba* ceremony is a collective act of non-profit-making exchange, and this seems to be the moral of the story: material prosperity is an individualistic pursuit that is opposed to the interests of the collectivity. The village is impoverished, most of its members die, and the settlement is abandoned; but the implication is that this outcome is preferable to the alternative. The community lives on in the settlements to which the survivors migrated, whereas the rifts created by prosperity would have resulted in the annihilation of the group.

While the quest for wealth is represented in this story as something inimical to community spirit, disparity of means is even more widely seen as a threat to the social fabric. In such settings, the terms *drag* and *zhan* discussed above are generally understood to be synonyms for "rich" and "poor". The point that is being made is that local laws and civil rights are applicable to everyone irrespective of how well off they might be. This egalitarian ideal is expressed, for example, in a letter from the 17<sup>th</sup> century in which the same village, Te, reassures the local ruler that public resources have been shared equally:

This, too, is an instance of how we, the Tepas, have honoured you. We would like to say a few things about the way in which we have been looking after our dependents. Even the dung from the hillsides has been measured out in baskets and divided up equally without consideration of status (*grag zhan yed [drag zhan med]*). If it happens that someone is left behind as the orphan of a poor man, we have stipulated that no [poll] taxes need be paid



for such a person before he or she reaches the age of thirteen.<sup>12</sup>

*Social stratification in Tibetan societies*

As observed above, numerous agrarian Tibetan communities are characterised by stratification into four or more ranks or “castes”: aristocracy (royalty is sometimes partitioned off as a separate category), priests, commoners, and artisans. Further ranking may take place in each of these. The best known is the stratification of the Central Tibetan nobility that has been documented by numerous authors.<sup>13</sup> Commoners may also be susceptible to such divisions, though the categories in question are locally variable. The commoner population of South Mustang is divided into two levels, the lower of which is referred to as *'u lag*, because they used to perform transportation duties for local rulers, but originally perhaps because they were an indigenous non-Tibetan population that was Tibetanised. Certain *'u lag* villages have their own purely local stratification schemes that play no part in interaction with other communities. An example of this is the hereditary category of “mouths” that until recently underlay a tripartite hierarchy of the clans comprising the village of Te (Ramble 2007: 121–123).

In another settlement, dGer lung—which will be the focus of the remainder of this article—there was until a few decades ago a stratification into ordinary commoners, *zhungba* (*gzhung pa?*) and a few households of higher rank, known as *gyawa* (possibly derived from *rgyal po*, “king”). This bipartition cuts across more conventional caste or divisions and is based on wealth; or more accurately, on the use of one’s wealth for the public weal. This is illustrated by the case of a certain *hrewo* (*sras po*, “nobleman”), named Nyi mthu.<sup>14</sup> Nyi mthu was relatively wealthy, and during the annual circumambulation of the fields, when the monks and nuns process around the village territory accompanied by most of the laity carrying books from the monastery, one of the halting places on the route was Nyi mthu’s house. Here the visitors would be provided with milk, curd or beer as they preferred, before continuing on their way. In recognition of his generosity, Nyi mthu was accorded the status of *gyawa*. This annual display of largesse continued for many years until he ran into financial difficulties and was forced to discontinue it. As a consequence, Nyi mthu’s household was demoted from the status of *gyawa* to that of *zhungba*.<sup>15</sup>

<sup>12</sup> *Tibetan Sources 1*: 202, HMA/Te/Tib/36.

<sup>13</sup> See for example Petech (1973), Goldstein (1993), Travers (2008).

<sup>14</sup> The spelling of the name given here is conjectural, based on the possibility that it is an abbreviation of Nyi ma mthu stobs.

<sup>15</sup> This anecdote was recounted to me in dGer lung by Shes rab bstan 'dzin, the husband of Nyi mthu’s granddaughter, September 4, 2019.

*Criminal records of dGer lung*

The archive of dGer lung contains a dozen or so documents that record minor criminal cases.<sup>16</sup> Typically, the documents describe the nature of an offence and specify the punishment that was meted out to the culprit, usually by the village council. Through a close examination of these documents it may be possible to discern just how far the ideal of equality under the law—*drag zhan med pa*—was translated into reality. It is clear that there are disparities in the penalties given for apparently similar offences, but a note of caution should be sounded about the interpretation of these differences. The case histories are generally quite brief, and it may well be that there were unrecorded mitigating or aggravating circumstances that were factors in the severity of the punishment.

The types of offences for which we have records may be grouped into different categories. The dGer lung archive is unusual among other such local collections in that it contains several instances of women being penalised for promiscuity. The men involved in these cases are also named, but there is no indication that they were punished unless they were monks, in which case the authority in charge was not the village council but the monastery. None of the seven other village or community archives I have so far been able to examine contains a record of any such offence. Marital disputes and infidelities are sometimes recorded, but in such a way that they are incidental to the main topic of the document, and we should probably conclude that, in most villages, such matters were regarded as private affairs that were not in themselves the concern of the community.

Other recorded offences for which fines were levied include a failure to attend meetings, defaulting on tax payments, allowing livestock to enter fields, and dereliction of duty when holding a civic office. However, the largest number of recorded offences are related to cases of theft, and it is among these that we should look for possible indications of whether the economic status of the perpetrators might have been a factor in the severity of their punishment. Two cases in particular appear to have incurred exceptionally harsh penalties. Before examining them, however, I would like to summarise a number of other episodes, since they involve certain similar circumstances that we may then be able to eliminate as factors underlying the harshness of the reprisals involved in two particular cases that will be examined closely.

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<sup>16</sup> All the documents from dGer lung (locally pronounced both as Gelung and Geling) cited in this article may be found on the website of the projects SHTS and TibStat (see introduction to this volume): <http://tibetanhistory.net/documents/mustang/>, Geling part 1 and Geling part 2. Photographs of the documents are accompanied by edited transliterations, translations and commentaries.

Accusations of theft were not made lightly, and the evidence suggests that suspects were to be considered innocent until proven guilty. In January 1922 a Tibetan nomad named rDo rje visited dGer lung with eight of his yaks and penned them in one of the village fields. He woke next morning to find that all the yaks were missing their tails: someone had entered the field in the night and cut all the hair from them (probably for making rope or sacking). During the investigation that followed, a villager named Ming 'brigs<sup>17</sup> admitted that he had been out that night, having gone to the fields to look for a missing bullock. On the way back he had met another villager, named Chos skyabs, sitting at the edge of a field. When Ming 'brigs asked him where he was going, he replied that he was on his way to look for a donkey. During the investigation, Chos skyabs insisted that he was not the one who had stolen the tails, and that he had no idea who the thief might be.<sup>18</sup> The village nevertheless felt that the nomad—probably a regular seasonal visitor—ought to be compensated for a loss that had occurred on its territory. In spite of the improbable nature of their accounts—villagers do sometimes wander around at night looking for livestock that they fear might stray into crops, but this was mid-January—neither Ming 'brigs nor Chos skyabs was actually accused of the theft. The conclusion of the council was that “While there is uncertainty about the identity of the thief, because they were unable to give a clear account of what they were doing in the proximity of rDo rje’s yaks, Chos skyabs should pay 16 Nepalese *ṭam* and Ming 'brigs should pay 8 Nepalese *ṭam*.”<sup>19</sup> Since they had not been caught red-handed they were not found guilty of the crime, in spite of the high probability that at least one of them was the perpetrator, and were instead fined because of the unconvincing nature of their alibis. The owner of the field voluntarily added a further 8 *ṭam* to make a total of 32, and rDo rje was satisfied with this compensation of 4 *ṭam* (2 rupees) per tail.<sup>20</sup>

Suspicion of theft could sometimes lead to robust methods of extracting a confession. In 1879, for example, Kun bzang chos skyabs was accused of stealing grain from the village granary. When he denied the accusation, a certain bSam gtan tried to make him confess by flogging him on the buttocks with a willow switch. When this failed to extract

<sup>17</sup> Here, as in a few other cases below, when it is uncertain what the orthodox spelling of a name might be, I have simply reproduced the orthography given in the document.

<sup>18</sup> Geling 155.

<sup>19</sup> *rkun mo'i lda rci med pa la rdo rje'i dbyags gi sar bleb nas brtaṃ shad ma shes pa'i skyen gi kho po chos skyab la go ṭaṃ 16 ming 'brigs la go ṭaṃ 8 [...]*/ Geling 161. Excerpts from the Geling archives are given here in unedited form; emendations and discussions of the text of the documents are given in the corresponding entries in <http://tibetanhistory.net/documents/mustang/>, Geling part 1 and Geling part 2.

<sup>20</sup> Geling 161.

an admission of guilt, it was concluded that he was innocent, and was compensated with 88 measures (*'bo*) of grain. The method may have been crude, but the point again is that a guilty verdict would have been impossible without either conclusive evidence or a confession.<sup>21</sup>

The principle of equality under the law extended to the clerical body of the village. In 1915 a monk named Gro skyabs (*sic*)—who had the reputation for being an unruly drunkard—stole a number of animal hides from the cattle pen belonging to the headman, sTag lha. As would have been the case with a lay offender, he was required to pay the requisite fine for the theft (*kun 'jal*) in addition to making prostrations to the civil and religious authorities of the community.<sup>22</sup>

A few years later there was another robbery in Headman sTag lha's household. A young man named bsTan 'dzin stole a pair of agate (*gzi*) stones and a turquoise belonging to sTag lha's wife, bSod nams dbang mo. bsTan 'dzin had to pay the fine for theft, while his parents and siblings declared that, if he should do any such thing in the future, they would disinherit him. Although it is not stated, the implication is that the family were also the guarantors of the compensation and the fine. As we shall see, the fact that bsTan 'dzin had a family who would ultimately take responsibility for him was no small matter.

Whether or not a thief was a citizen of dGer lung does not appear to have made a difference. In 1908 a villager from Marpha, in south Mustang, stole and slaughtered a goat belonging to a dGer lung ba named 'Phrin las. Whether or not he had to pay a fine or compensation is not recorded, since the document in question merely states that if he should ever again steal from anyone at all, "whether it be the lord or the lama on high, or any cleric or layperson, or any traveller or pilgrim who might be passing through the territory," he would have to pay a fine of 50 rupees.<sup>23</sup> Whatever the case, there is nothing to suggest that, even as an outsider, he was treated any differently from a member of the village.

In 1902 a far more serious theft was perpetrated by three outsiders: two men from Chos tson,<sup>24</sup> a pastoral community in northeast Mustang, and one Tibetan. They broke into the chapel of the palace and stole a statue of Sa skya Paṇḍita and two gilt images. They were caught in the act, "but even though they were apprehended, like a fire that you blow on only to have it come back and burn your moustache, as the saying goes, on top of committing the theft they fought back against us villagers with rocks and weapons like warrior bandits from

<sup>21</sup> Geling 094.

<sup>22</sup> Geling 160.

<sup>23</sup> Geling 089.

<sup>24</sup> Different spellings of this name, including Chos rdzong, are to be found in other documents and texts.

the Northern Plateau.”<sup>25</sup> They were eventually overpowered, however, and would have been subjected “to dGer lung’s traditional law and the law of the country”<sup>26</sup> had an eminent lama not earnestly interceded on their behalf.

In the examples cited above, there is no indication that any of the guilty parties was unable to pay the fine imposed, though in the last case the perpetrators seem to have escaped all punishment thanks to the lama’s intervention. In several other instances, however, we see that there was doubt about whether offenders had the wherewithal to pay the fines themselves, and as numerous documents testify, in such situations it was common for the person to designate a guarantor who would stand security for him or her.

### *Crime and poverty*

What might happen to a convicted thief who lacked the means to pay the required fine, and who had no one to stand security or to intercede on his or her behalf, is illustrated by the next two cases that will be examined here. At some point in the late 19<sup>th</sup> century a young man named Gar rgyabs<sup>27</sup> built himself a fine house on dGer lung’s territory. We do not know where he came from, but he is likely to have been a younger brother who had decided that he did not wish to be part of a polyandrous household. Having thereby forfeited his inheritance he would have had no land and became a servant in the household—the “palace” (*mkhar*)—of the hereditary ruler, the *sde pa*. He married a woman named dPal bzang mtsho mo, with whom he had a son, rDo rje, who supplemented the family’s income by working as the community’s goatherd. In 1902, rDo rje was found guilty of stealing five goats belonging to two different owners. Since he had no means to pay the fine, the responsibility was passed on to his family. But the family itself could not pay and were accordingly forced to part with the only thing of value that they owned. The details of the case are recorded in the following document.

rDo rje, the son of Gar rgyabs who “eats in the palace”, has stolen three of ‘Ba’ krug’s and two of Headman sTag lha’s goats. Following an investigation, because Gar skyabs was completely lacking the means to pay the compensation, the steward dPal

<sup>25</sup> ‘dzin chang byed kyang / me phar bus kyang sma ra tshur tshigs pa’i spe zhin / skun byung pa’i ma tshad nged yul mi rnam’s la byang thang gis dmag jag nang zhin kyis dgra tshas krad nas rdo dang tshon cha sogs kyi tshur rgol byung [...] Geling 052.

<sup>26</sup> dgi lung yul pa’i nyes chad bka’ khrim mdzad cing rgyal khrim spyi dang mthun pa’i bka’ khrim mdzod / Geling 052.

<sup>27</sup> This is the spelling that is given in the document. It may stand for something like mGar skyabs, an apotropaic name that would mean “Protected by the Artisans”.

ldan and the supervisor Tshe ring said: “When you were young and able, you built a three-room house on dGer lung’s land. Now you should make your apologies to the ruler, his wife and their son, and also the abbot (*chos rje*), and explain what has happened.” It has been agreed that from now on, the three-roomed house, with sixty-three beams and three doors, is to be given to the community of dGer lung to sell or to do with whatsoever we wish. Gar rgyabs and his wife dPal bzang mtsho mo agree to this.<sup>28</sup>

The value of the house far exceeded that of the stolen goats, but in the absence of any cash, land or trees—which were sometimes given in lieu of cash or grain—they might have used to pay the penalty, they lost the entire property.

As harsh as this episode might seem, the severity of the penalty is eclipsed by one that was imposed in a case that occurred five year later. The events, as far as it is possible to reconstruct them from three documents,<sup>29</sup> were as follows. A woman from dGer lung named rNam rgyal had a thirteen-year old daughter called sGrol ma. We do not know if Namgyal had ever been married, but in 1907 she was living with a Tibetan man named An chung (Lan chung in one of the documents). With rNam rgyal’s knowledge or active participation, An chung committed a major theft from the protectors’ chapel of dGer lung’s monastery. The items taken included a famous gilt copper image of Tārā, various items of ritual paraphernalia and a quantity of grain. An investigation by dGer lung’s council found An chung and rNam rgyal guilty of the crime. They were unable to pay the (unspecified) penalty, and in spite of mediation by two respectable outsiders, one an official (*’go ba*) from Tibet, and the other an inhabitant of Te, An chung was sentenced to have his hand cut off. As someone who was probably a vagrant wage-labourer, An chung did not have the means to pay whatever fine was demanded to avoid this punishment, while rNam rgyal, a single mother, would also have been in no position to help him financially. The only asset of value she had was her daughter, sGrol ma:

<sup>28</sup> *dge lung ’ba’ krug gis ra gsum dang / rgan stag lha’i ra gnyis dge lung mkhar nang zan gar rgyabs bu rdo rje yi rkus nas / da lam dge lung ka’ khrim bdu bdag shar cad nas / dge lung gar rgyabs la rkun ’jal rtsa nas ’bul rgyu med pa’i thogs la bzhu na / gnyer dpal ldan dang sdo ram tshe ring rnam byas nas / rang gzhon nyus bdus su / lung pa’i sa cad thogs la mkhang pa phu mdo 3 zos nas nga ris dbang rtsan bang/ cang rang dpon lcam nyi ma dbang mo dang sras chos je la dgong sprol grnang nas / bdus ’di nas gzung bde mkhang pa phu mdo 3 la mdung ma 63 dang mgo 3 thags rtsang chod nas skal pa byi srid bar la / dge lung rgan lha rtsos lung pa cis la phul nas nyo tshong dag tshong gang byed kyang / nga gar rgyabs dang za mi dpal zang tsho mo 2 slo sem rang thad rtags / Geling 113.*

<sup>29</sup> The three documents are: Geling 033 (1907), Geling 048 (1908), and Geling 084 (1914).

Even though An chung is not sGrol ma's father, her mother rNam rgyal earnestly pleaded with the village not to carry out the punishment of amputating his hand, and offered to give her daughter in compensation for the theft [to serve the community] for the rest of her life. It has been decided that she shall give her daughter [to the community] from today.<sup>30</sup>

In a later document sGrol ma is referred to as "the common servant of the community" (*yul spyi'i g.yog mo*),<sup>31</sup> but the use of the innocent-sounding term "servant" (*g.yog mo*) should not mislead us into thinking that sGrol ma was anything but a slave, a commodity like any other item of public property that might be sold or exchanged: the following year, when she was fourteen, dGer lung sold her to a wealthy trader from Tukche, named Rin chen 'bar ma, for 115 rupees. Slavery would be abolished in Nepal only in 1925, following a declaration made by the Prime Minister, Chandra Shamsheer Jang Bahadur Rana, on 28 November of the previous year.<sup>32</sup> So even if dGer lung was acting within the law when it sold sGrol ma, the monastic body intervened in the transaction, insisting that it was improper to sell people.<sup>33</sup> Discussions with various parties followed, leading to a conclusion that was ambiguous, to say the least:

She should not be sold to anyone [inside or?] outside the village and should be kept where she is; [even] if [there is a proposal to?] sell her within the village, she may not be sold to anyone, whether powerful or weak; but if she is sold at all, it has been requested that she may be sold only to Rin chen 'bar ma for 107 rupees. If her parents come and offer to pay the money and ask her to be returned, the above shall hold true (i.e. her parents may not buy her back).<sup>34</sup>

And so sGrol ma remained in dGer lung as public property until, in 1914, an ordained monk named Ngag dbang blo ldan paid 36 rupees in order to become a part owner. Unfortunately the document in

<sup>30</sup> *rkun 'byal la bu mo grol mis a ba / an chung man kyang/ a ma rnam rgyal dgis ka' khrim lags cad med pa mkhyen mkhyen bzhus nas / bu mo grol ma bur rtsa pa rtsa la phul pa yin pas / bdus 'di ring bzung blte / bu mo phul bzin pa'i thags tsang chod pa yin / Geling 033.*

<sup>31</sup> Geling 048.

<sup>32</sup> Whyte (1998). For the full English text of the declaration, see Regmi (1972).

<sup>33</sup> Geling 048.

<sup>34</sup> *yul dang mzhan yul sogs gzhan su la'ang tshong rgyu med cing de khar bzhag rgyu yin cing / gal sri yul nang du brtsong pa dang / gzhan brag shos tha zhan su la'ang tshong mi chog cing ci nas tshong rgyur bas tshe rin chen par pa nyid rang la dngul 107 la tshong chog zhu pa yin / kho rang gi pha ma sleb pa byung tshe dngul phyir logs byas nas bu mo phyir log mdzad rogs zhush pa re la gong gsal chod don [...] / Geling 048.*

question<sup>35</sup> is not clear about the terms of the transaction, and it is difficult to know whether this payment represented an equal share or a third of sGrol ma's commercial worth—36 rupees is about one third of the 107 rupees at which she had been valued in 1908. Furthermore, we do not know what being part-owned by the monk implied. It may be that the monastery required a menial servant, or, in the light of the monks' earlier disapproval of her being trafficked, she may have been recruited as a nun for her protection. The life of a nun would certainly not have been a sinecure, but it may have spared her some of the more arduous drudgery, and perhaps other forms of exploitation, that she would have been likely to experience as a full-time village slave.

### *Conclusion*

A visitor to dGer lung's monastery nowadays can ask the caretaker monk to be admitted to the protectors' chapel, the scene of at least two thefts recorded in the documents considered above, and of several others in more recent times. As is well known, such chapels generally contain imagery and objects of a "wrathful" character, in keeping with the nature of the divinities that reside there. These may include charnel ground scenes, assorted weaponry and armour, stuffed carnivores and real or figurative human body parts. If specifically requested, the caretaker will untie a neatly wrapped cloth bundle to reveal a human hand, severed at the wrist. Villagers are unsure about the exact provenance of this hand, but the general consensus is that it belonged to a thief who was caught stealing from the temple. Measures of this sort would have been consistent with those that were widespread in Central Tibet,<sup>36</sup> and serve as a reminder that the sentence of amputation that the council of dGer lung handed down to An chung was not an idle threat.

How are we to explain the severity of the punishments imposed on Gar rgyabs for the theft of five goats perpetrated by his son, which cost him the house he had painstakingly built in his youth; and on rNam rgyal, whose daughter lost her freedom to spare her stepfather the loss of hand? Before pursuing this question further, we must recall the caveat mentioned earlier: that the brevity of the documents at our disposal means that we do not know all the circumstances of the cases concerned, and cannot therefore take into consideration factors that might have determined the course of events, such as bribery or personal friendships and animosities. The cases considered earlier do at least enable us to eliminate other variables: the mere fact of An chung's being an outsider is unlikely to have been a consideration, since other

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<sup>35</sup> Geling 084.

<sup>36</sup> For a graphic account of different forms of corporal and capital punishment that were applied in Tibet, see Hummel (1958).



outsiders were treated no differently from citizens of dGer lung. Nor can we attribute the confiscation of Gar rgyab's house to his son's being so injudicious as to steal from sTag lha, a most formidable force in dGer lung over several decades: we have seen at least two other thefts from sTag lha's household that did not result in unusually harsh reprisals. The one thing that marks out the last two cases is that the guilty parties were unable to pay the fines for the thefts they had committed and had no one to stand security for them. They were both poor, and the only assets they had were valuable but indivisible commodities: Gar rgyab's house in one case, and rNam rgyal's daughter sGrol ma on the other.

The topos of the wealthy patron whose resources are translated into social and spiritual benefits is well founded in the social ideology of Tibetan Buddhism; material wealth is not something to be deprecated as a symptom of worldliness but rather valued as the raw material for the production of merit. Wealth becomes a problem only when it risks creating rents or unevennesses in a social fabric that should be both continuous and flat. According to the dogma that no distinction should be made in law between "the powerful and the weak", effectively a metonym for rich and poor, just as the wealthy should not be favoured, so poverty should not be penalised. The number of cases we have examined here are too few in number to enable us to formulate any confident generalisations concerning the application of this ideal, but such evidence as we have seen suggests that a lack of means did put the indigent at a disadvantage, insofar as their inability to pay fines resulted in the loss of possessions of far greater value. In principle, everyone may have been equal under the law, but in practice some were clearly less equal than others.

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