

## The Tang Code and the Early Social Development of the Tang Dynasty

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**Abstract:** The Tang Code is not only one of the most important law codes of ancient China, but also exerted a great influence on the legislations of subsequent feudal dynasties in China as well as on those of some East Asian countries of that time. It is therefore generally regarded as representative of the Chinese legal system. The importance of the Tang Code is seen not only in its relatively complete provisions, but also in its constructive role in the early social development of the Tang Dynasty, and that role was effectively reflected in the fields of the country's politics, economy and culture.

**Key words:** Tang Code social development early Tang Dynasty

The Tang Code is one of the most important law codes of ancient China, and it is also the first unabridged law code existing in the country. First issued in 624 AD and finalized in 637 AD with few modifications afterwards, the Code exerted a great influence on the legislations of subsequent feudal dynasties in China as well as on those of some East Asian countries of that time. It is therefore generally regarded as representative of the Chinese legal system.

The importance of the Tang Code is seen not only in its relatively complete provisions, but also in its constructive role in the early social development of the Tang Dynasty, and that role was effectively reflected in the fields of the country's politics, economy and culture.

### 1. The Role of the Tang Code in the Early Political Development of the Tang Dynasty

In various ways the Code helped maintain national security and political stability. It gave severe punishment for crimes that caused damage to state and imperial power. It also ensured social stability by means of strict management of bureaucracy and by relieving social tension and conflicts.

The Code attaches great importance to state power. Any action that jeopardized state power was criminal and the relevant punishment was the severest in the entire Tang Code. Provision 248, for example, stipulates that any criminal that conspires to overthrow the government shall be beheaded and others implicated; the criminal's father and his/her sons over 15 shall be hanged, his/her sons below 15, mother, daughters, spouse, brothers, sisters and servants, assets, land and houses shall be confiscated and his uncles and nephews shall be exiled three thousand miles away. Any betrayer of the country will also be severely punished. Provision 251 stipulates that anyone who conspires to betray the country shall be hanged and the actual betrayer be beheaded.

Since the Tang Dynasty was autocratic with imperial power and state power related to each other, any infringement of imperial power would mean violation of state power and would therefore bring severe punishment. According to the Tang Code, any action of destroying imperial palaces, ancestral temples, tombs or endangering

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personal safety of the emperor was regarded as infringement of imperial power and would be given a harsh penalty. Provisions 6 and 248 prescribe that any action of attempting to destroy imperial palaces, ancestral temples, tombs and the personal safety of the emperor shall be regarded as severe infringement of imperial power and punished in the same way as the crime endangering national security by which the criminal shall be beheaded with his family members punished. Provisions 6, 102, 103 and 104 prescribe that actions which may endanger the emperor's personal safety such as providing the emperor with wrong medicine, banned food and insecure vehicles such as carriages and ships shall also be regarded as damage to the emperor's personal safety and therefore as infringement of imperial power. The persons involved shall be hanged.

The Tang Code's role in protecting imperial power can also be seen in the fact that punishments for crimes violating imperial power is much harsher than those for similar cases involving non imperial figures. For example, doctors giving wrong medicine to patients other than the emperor shall be imprisoned for only two and a half years, a penalty much more lenient than if the emperor is involved. The rationale behind the discrepancy in punishment here is that any harm done to the emperor is seen as damage to imperial power while damage to an ordinary patient involves nothing but public health.

In an autocracy like the Tang Dynasty, the emperor saw his orders carried out through various levels of bureaucracy, in which government officials were of vital importance and effective management of bureaucracy was indispensable. Most provisions in the Tang Code are concerned with management of officials and abuse of power will be punished. Provision 138 prescribes that officials accepting bribery with the value of about one foot of thin silk shall be flogged one hundred strokes, and officials accepting bribery with the value of fifteen bolts of thin silk will be hanged. Provision 167 states that officials using their power to get private land below about 0.07 hectare shall be flogged sixty strokes and maximum penalty is two years' imprisonment. According to the Code, punishment for government officials guilty of power abuse is severer than on other people. Provision 164 prescribes that punishment for embezzlement of one *mu*<sup>1</sup> of private land is ten bamboo cane strokes and maximum penalty is imprisonment for one year, which is obviously much less severe than if an official is involved, which in part reflects the importance of the management of bureaucracy in the Tang Dynasty.

## **2. The Role of the Tang Code in the Early Economic Development of the Tang Dynasty**

Emperors in the early Tang Dynasty paid close attention to economic development and to the role of the Tang Code in the country's economic development. The Code played an active part in protecting ownership and use of land, maintaining the national tax and conscript labor system and cracking down on crimes of cheating and destroying public and private property.

In the Tang Dynasty China was an agricultural country with agriculture as its main means of production. Land was the main production resource and played an important part in the country's economic development. The Tang Code ensured a steady development of agriculture by protecting ownership and use of land. In the early Tang Dynasty, land was classified into Yong Ye Land and Kou Fen Land, with the former as privately owned land which owners could buy and sell, and the latter as state-owned on which land users did not claim ownership and could not buy or sell. Buying or selling Kou Fen Land would therefore bear criminal responsibility. Provision 163 prescribes that selling one *mu* of Kou Fen Land shall get ten bamboo cane strokes and maximum punishment is flogging one hundred strokes. At the same time, the Tang Code allowed no liberty of farming on other people's

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<sup>1</sup> One *mu* is approximately 0.07 hectare.

land and violation should be punished. Provision 165 prescribes that anyone farming one *mu* of other people's land shall get ten bamboo cane strokes with maximum punishment of flogging one hundred strokes.

Tax and conscript labor were the main financial sources of the Tang Dynasty and also the economic mainstay of the country. The Tang Code was written to maintain the tax and conscript labor system of the Dynasty and violators would be punished. Provision 174 prescribes that anyone who delays taxpaying shall get forty bamboo cane strokes. Provision 173 prescribes that officials who violate the law shall be flogged sixty strokes. Provision 246 prescribes that anyone who postpones conscript labor for one day shall get ten bamboo cane strokes and the maximum is flogging one hundred strokes.

Cheating and destroying public and private property are regarded as crimes in the Tang Code as they would disturb the economic order and do harm to the economic development of the country. The offenders shall be punished. Provision 373 prescribes that anyone who commits cheating and illegally takes public or private property for their own use with the value of about one foot of thin silk shall be flogged sixty strokes. With the value of one bolt of thin silk added, the punishment will go up by one level. Provision 442 prescribes that anyone who destroys public or private utensils, trees and crops with the value of about one foot of thin silk shall be flogged sixty strokes. With the value of one bolt of thin silk added, the punishment will go up by one level.

In addition, the Tang Code was aimed at creating a sound economic environment by cracking down on unofficial coin minting, smuggling and debt dodging. Provision 391, specially concerned with the crime of unofficial coin minting, prescribing that anyone who attempts to make coins privately shall be imprisoned for two years and anyone who has coined privately shall be exiled three thousand miles away. Provision 87, written specially against smuggling, prescribes that anyone who smuggles goods with the value of one foot of thin silk shall get twenty bamboo cane strokes and maximum punishment is three years of imprisonment. Provision 398, specially laid down against debt dodging, prescribes that anyone who refuses to pay a debt over the value of one bolt of thin silk for more than twenty days shall get twenty bamboo cane strokes and will still be held liable for the debt.

### **3. The Role of the Tang Code in the Early Cultural Development of the Tang Dynasty**

The Tang Dynasty was one of the Chinese dynasties enjoying a prosperous culture. Emperors of the Tang Dynasty attached much importance to the country's cultural development, and they tried to develop the orthodox culture of the Dynasty by fighting against heresy, unorthodox culture and crimes that did harm to religion.

Since the Han Dynasty Confucianism had been established as the mainstream culture in the country and there were restrictions on all the other cultural practices. In particular, any school of culture that would jeopardize imperial dictatorship was regarded as heterodox culture and would therefore be suppressed. This heterodox culture is called heresy in the Tang Code and anyone who creates this heresy shall be severely punished. Provision 268 prescribes that anyone who creates heresy is punishable by hanging.

Religions such as Buddhism and Taoism existed as early as in the Tang Dynasty in China. Emperors of the Tang Dynasty tolerated religion and treated it as a supplement to the orthodox culture. Actions that would seriously damage religious worship are prohibited in the Tang Code. These actions include bringing a false charge against the secularization of Buddhist and Taoist clergy, stealing or destroying Buddhist and Taoist statues and raping or seducing by Buddhist and Taoist clergy and so on.<sup>2</sup> Anyone who commits these crimes shall be

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<sup>2</sup> Chinese Buddhism classifies clergy into monks and Taoism classifies clergy into Taoshi and Nugan with Taoshi being male and Nugan female.

punished. Provision 23 prescribes that anyone who brings a false charge against the secularization of Buddhist and Taoist clergy shall be imprisoned for one year. Provision 276 prescribes that anyone who steals or destroys Buddhist and Taoist statues shall be imprisoned for three years. Provision 410 prescribes that any Buddhist and Taoist clergy who commits raping or seducing shall get severely punished and imprisoned for three years.

#### **4. The Role of the Tang Code in the Early Social Development of the Tang Dynasty**

The Tang Code is noted for the following aspects that promote social development:

First, the Tang Code fitted neatly into the social situation in the early Tang Dynasty. The Tang Code was a legal product of the early Tang Dynasty. It was written to promote social development and reflected the social reality of that time. For instance, the Dynasty ran the system of equal allocation of land, by which the government gave land to peasants. Twenty percent of the land was Yong Ye Land, which became private land, and 80% of the land was Kou Fen Land, which, still state owned, went back to the government after the peasants died. To maintain this land system, the Tang Code protected public and private land and prohibited buying or selling of Kou Fen Land and using of land belonging to other people. Moreover, during the establishment of the Tang Dynasty, Buddhist and Taoist clergy once helped the emperors seize the power and establish the Dynasty. In return, the early emperors of the Tang Dynasty provided legal protection for those two religions. More importantly, the two religious cultures supplemented the orthodox Confucian culture and influenced its development favorably, which was another important reason why emperors in the early Tang Dynasty protected Buddhism and Taoism with law.

It is because the provisions of the Tang Code fitted into the social situation in the early Tang Dynasty that effective implementation of the Code in the early stages of the Tang Dynasty was possible. On one hand, people abided by the Code and violations were few. On the other hand, law-officers passed court judgments according to the Tang Code and seldom went against it.

Second, the Tang Code promoted social development by means of criminal penalty. The Tang Code was a major law code in the Tang Dynasty, but it was also a penal code, provisions of which are similar to the general principles and sub-provisions of modern penal codes. Articles in sub-provisions are composed of charges in an indictment and relevant punishments. Public law carried weight in ancient China and criminal law was prevalent and use of penalty prevailed. And that is also true of the Tang Dynasty. The Tang Dynasty applied criminal law to regulate social relations. Actions such as debt dodging, which falls under the civil category today, were treated with criminal law in the Tang Code. Many accusations were set up to punish criminals. As a result, regulation of social development was drastic and effective.

And there is reason why there was a tendency toward the widespread use of penalty in the Tang Dynasty in order to promote social development. The Tang Dynasty was an agricultural society, in which a self-sufficient economy was dominant and exchange of commodities was rather undeveloped, which in turn provided little chance for the development of civil law but much room for the development of criminal law. The Tang Dynasty was at the same time a centralized autocratic society with a strong government power. Promoting social development with government power proved effective and, as a result, criminal law became the major law to be used to regulate various social relations and to boost social development.

In the meantime, development of legal systems in the West is believed to have followed a different course, in which both Greece and Rome experienced prosperous trade, making it necessary and possible for civil law to

develop. Civil law there became the major branch law and became an important means to promote social development.

Lastly, the Tang Code helped ensure social development by formulating appropriate penalty against various crimes. The Tang Code is a penal code with exercise of penalty as its basic content. One of the differences between the Tang Code and previous ones is that in the Tang Code penalty is comparatively appropriate and basically consistent with crimes. Previous penal codes, influenced by the doctrine of severe punishment, often overpunished criminals. In the Warring States Period and the Qin Dynasty, for instance, if someone picked up lost property of other people, his cruses will be chopped off regardless of the value of the property. Things didn't change much in later dynasties. When the Tang Code was being written, lawmakers tried to alter the doctrine of severe punishment and make penalty consistent with crimes, severe punishment for felony and light punishment for misdemeanor. According to the Tang Code, crimes of great harm received severe punishment, otherwise light punishment. The severity of punishment varied with crimes. Take homicide for example. Provision 256 prescribes that anyone who attempts to commit homicide shall be imprisoned for 3 years only; anyone who commits homicide shall be hanged even if the victim doesn't die; anyone who commits murder shall be beheaded if the victim were killed. Therefore, the severer a crime, the harsher the penalty would be. Penalty was kept consistent with crimes.

The fact that penalty was consistent with crimes shows the appropriateness of penalty in the Tang Code. It embodies the role of punishment and education of law and the principle of equality and helps reduce or avoid crimes and promote social development.

### **5. The Impact of the Tang Code on the Early Social Development of the Tang Dynasty**

The establishment and implementation of the Tang Code greatly promoted the social development of the early Tang Dynasty. The country went through a rare period of time when people enjoyed social and political stability, economic development and cultural prosperity.

Firstly, political stability. The Tang Code was well implemented and the rights and interests of people were practically protected. Social tension was eased, especially the tension between landlords and peasants. Consequently, there was no large-scale peasant uprising in the early Tang Dynasty and the political situation was relatively stable.

Secondly, social stability. Crimes were few in the early Tang Dynasty and there was law and order. People could leave their doors open when they were out and they didn't have to worry about thieves. Prisons were often empty and people were seldom condemned, let alone be condemned to death. In the fourth year of Zhen Guan, 631 AD, only 29 persons were sentenced to death all over the country, and only 58 in the 22<sup>nd</sup> year of Kai Yuan, 735 AD.

Thirdly, economic development. National economy was in poor shape in the last years of the Sui Dynasty. Land was left unplowed and harvest small. By the time of the early Tang Dynasty, however, things were greatly improved due to economic development. Peasants who fled their hometowns came back one after another and took an active part in farming. There were bumper crops in successive years and the country was affluent, so affluent that Emperor Tang Xuan Zong actually waived land rents several times during his reign from 712 AD to 756 AD. Commodities were abundant and prices were reasonable. One bolt of thin silk could be exchanged for a horse.

Fourthly, population increase. With the country's political and economic conditions improved, living standards

were greatly improved too. Registered permanent residence kept increasing with population. During Tang Gao Zu's reign from 618 AD to 626 AD, there were more than 2,000,000 households, 3,000,000 during Tang Tai Zong's reign from 627 AD to 649 AD, 3,800,000 during Tang Gao Zong's reign from 650 AD to 655 AD and 8,900,000 during Tang Xuan Zong's reign. The number of households increased at a high rate throughout all those periods.

Lastly, cultural prosperity. Culture, especially Confucianism, was prosperous in the early Tang Dynasty. During the Zhen Guan period from 627 AD to 649 AD, people who had a good understanding of Confucianism were invited to give lectures and thousands, even tens of thousands of people often showed up at those lectures, among whom some came as far away as from Japan and other East Asian countries. The cultural prosperity at that time was unprecedented.

In conclusion, the Tang Code played an important and effective role in the social development during the early stage of the Tang Dynasty, which made it a valuable research subject, and its successful experience can be learned for reference in China's legal construction today.

**References (omitted)**

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