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### ON THE COVER:

A page from the newly discovered Tangut xylograph *Essential Selection of Mixed Homonyms Often-Transmitted*. Private collection.

Kong Xianghui

## **Kychanov's Study of the Tiansheng Law from the Perspective of Vocabulary Translation and Interpretation**

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*Abstract:* Kychanov's translation and interpretation of the *Tiansheng Law* is the accumulation of decades of his research and a landmark work in Tangut scholarship. Working with a legal code without any reference text, the author faced the biggest challenge from numerous Tangut technical terms. Kychanov's profound scholarly skills are evident in the Russian translation of the vocabulary, his grasp of the East Asian medieval laws and his comparative study of the Chinese legal code texts. On the whole, the author's translation of legal texts is groundbreaking, even though his translation contains some problems of mistranslation. However, the defects do not outweigh the merits, and this work is still worthy of study and reference by current scholars.

*Key words:* Kychanov, *Tiansheng Law*, legal vocabulary, translation

### **Preface**

Professor Evgeny Ivanovich Kychanov (1932–2013) was one of the founding fathers of the Tangut scholarship, and his work in collating and studying the *Khara-Khoto documents* in Russian has contributed greatly to the development of Tangut studies.<sup>1</sup> Especially after the World War II, he maintained the earlier focus on the documents obtained by P.K. Kozlov, and studied by N.A. Nevsky, A.A. Dragunov and others, and continued to work on the collation of Tangut documents, transforming Tangut studies into a truly international discipline.

Kychanov worked diligently in the fields of *Khara-Khoto documents* and the history of the Dangxiang and Xixia, and has written extensively.<sup>2</sup> If these achievements are a treasure trove of Tangut research, then his translation and

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<sup>1</sup> SHI 2012.

<sup>2</sup> POPOVA & NIE 2013.

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interpretation of the *Tiansheng Law* is undoubtedly the brightest jewel of them all. The author was formally involved in the study of the *Tiansheng Law* since 1968, and over a period of nearly twenty years, he has made the pioneering study of this code with a unique perspective and high level of scholarship. From 1987 to 1989, Russian translations of the *Tiansheng Law* were published, together with 51 numbered documents of the original plates.<sup>3</sup> It is no exaggeration to say that this was a major sensation in Tangut scholarship at the time, and his most outstanding work.<sup>4</sup> After this work was introduced into China, Chinese scholars translated the first seven chapters of the translation into Chinese, and these works contributed to the rapid development of Tangut studies in China.<sup>5</sup>

During the 1990s, Chinese scholars began to translate the *Law* into Chinese, using the material provided by Kychanov, so the scholarly translation of the work came to a halt.<sup>6</sup> Because of language constraints, the results of the other three volumes of his work have long received little scholarly attention, and it is a pity that this published material cannot be used for Tangut research. From the point of view of scholarly history, his work directly influenced the two Chinese translations of the *Tiansheng Law*, and some of the provisions in the Chinese translations made direct references to the Russian translation. Therefore, both in terms of the value of the work itself and in terms of sorting out the lineage of the study of the *Law*, the scholars need to have a complete understanding of Kychanov's publication.

At the end of 2017, Professor Meng Xia embarked on a Chinese translation of the Russian translation, with the plan of providing a referenceable translation of Kychanov's work. The translation was fully completed in 2020 and is still being revised and improved. The first volume of the original work, as seen in this edition of the translation, is the essence of Kychanov's study. The author likewise considered it to be the culmination of his more than twenty years of research on the Tangut code and the Xixia society. In helping to proofread this edition of the translation, the author has appreciated the importance of this part of the work for the interpretation of the *Law* and related research. This article will focus on Kychanov's study of the *Tiansheng Law* from the perspective of the translation and interpretation of the vocabulary in the Russian translation.

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<sup>3</sup> KYCHANOV 1987–1989.

<sup>4</sup> Kychanov was awarded the Oldenburg Prize of the Russian Academy of Sciences in 1997 for the pioneering work on Tangut subjects.

<sup>5</sup> LI 1988.

<sup>6</sup> SHI et al. 1994; 2000.

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## 1. Deep knowledge of Chinese studies

The *Tiansheng Law* is a vast and diverse collection of texts covering criminal law, administrative law, military law, economic law and much more. As such, it is not only a dynastic legal code, but also an encyclopaedia of the history and society of the Xixia. This is especially true given the paucity of Chinese sources on the history of the Xixia, which has become even more prominent in the study of Tangut. Kychanov was formally introduced to the *Khara-Khoto documents* in the early 1960s, he collaborated with Gorbachëva to compile the catalogue, *Tangut Manuscripts and Blockprints*, and registered all the original documents of the *Law* in 1963.<sup>7</sup> In 1965, he published the results of his interpretation of Volume X of the *Tiansheng Law*. He had already acquired a basic understanding of the Tangut legal texts in his collection prior to his research.<sup>8</sup> Since this section deals with the government offices and institutions of the Xixia, later this material became important for the completion of his PhD thesis, *Outline of the History of the Tangut State*.<sup>9</sup> It is easy to see that the author has tried to clarify the state apparatus of the Xixia and the administrative system that ensured its functioning before translating the *Law*. The first breakthrough in this endeavour was undoubtedly his accurate interpretation of the names of the offices and institutions in the *Tiansheng Law*.

Kychanov studied Chinese history and language at the University of Leningrad and went as far as Beijing University in the 1960s. These experiences have given Kychanov an in-depth knowledge of Chinese history and Sinology. In 1978, Huang Zhenhua 黃振華 commented on this part of Kychanov's work arguing that there were many mistranslations and omissions in these studies, which cast doubt on the standard of Kychanov's scholarship.<sup>10</sup> Objectively speaking, Kychanov was, after all, a "non-native" translator, and from the very beginning he dealt with the most difficult part of the translation and interpretation of the Tangut law. As Kychanov has repeatedly mentioned, the special institutions and titles of the Xixia state were different from those of the Song dynasty, which are difficult to document in the available sources, and many of the names are still unclear even today (in the 1980s). Although many of the Tangut offices and institutions in the *Law* are entirely transliterated into Chinese, the author was unable to find exact

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<sup>7</sup> GORBACHËVA & KYCHANOV 1963.

<sup>8</sup> KYCHANOV 1965.

<sup>9</sup> KYCHANOV 1968.

<sup>10</sup> HUANG 1978.

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Chinese equivalent after restoring the Tangut language, and he also needed to find appropriate words in Russian to convey the meaning of the words being interpreted. The inevitability of interpreting and translating between multiple languages poses many problems. For example, he translated the term “醫人院” as “人住司”, and now this clearly appears as a mistake in his translation.

Scholars can easily imagine that the root cause of these problems was that the study of the Tangut language was still at a relatively low level during the 1970s. For example, Kychanov translated the word “都磨勘司” as “一院磨勘司” because he did not know that “撝斲” could be used to mean “都” in Chinese, in addition to “一齊” in the Tangut language. In his review of his own research, he mentioned that there were only a handful of original Tangut texts that had been translated and were available for reference, and that it was very difficult for him personally to navigate through the vast amount of Tangut literature. It was not until the normalization of diplomatic relations between China and the Soviet Union after the mid-1980s that he had full access to the research of many Chinese scholars. It is easy to see from the translations that, with the accumulation of research and improvement in understanding of the Tangut language, his study of Tangut legal texts has improved very significantly compared to the 1960s and 1970s. For example, the quality of the translations of the last ten volumes of the *Law* is significantly higher than that of the first ten volumes.

Particular offices and titles that appear in the *Law* are an important part of the study of Tangut history, and translating these terms is not simply a matter of finding a counterpart in Chinese historical sources, because many of the difficult terms require one to deduce their meaning in the original documents. On the whole, it seems that although Kychanov was unable to accurately translate most of the proprietary terms in the *Law*, his understanding of the Tangut administrative and bureaucratic system was generally accurate. The author argued that the Xixia offices were more streamlined than those of the Tang and Song, because daily affairs handled by the Xixia were not as complex as those of the Song. For example, in the “*Divisional Order and Official Documents*” 司序行文門, many of the divisions are preceded by the names of places, suggesting that the basic administrative organization of the Xixia was relatively homogeneous, and that they combined military and civil affairs. The author also mentioned that the Xixia Zhongshu 中樞 and Shumi 樞密 were modeled on the Northern Song Zhongshu Menxia 中書門下. Influenced by the Song dynasty’s emphasis on the civil rather than the military, the function and scope of power of the Xixia Zhongshu was greater than that of the Shumi.

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The author argued that the way in which the officials who compiled the laws were presented in the Xixia inherited the tradition of the Tang and Song. The title contained several parts, such as the official of office, the official of power, the title of the seal and the rank of the order. In the translation, the first nine officials in the *Law* are given the name “Prince of the Southeast”, because Kychanov identified these words as the “東南親王” and believed that these officials came from one of the great families in the Southeast of Xixia. Professor Sun Bojun has pointed out that the titles in the table of the *Law* should be translated phonetically, while some of the officials should be translated by meaning.<sup>11</sup> It is thus clear that there is no single principle of translation for the special titles in the *Law*, and that all the names of officials in the Tangut language cannot be treated phonetically. It is impossible to tell nowadays how the author came to these understanding, but Kychanov always approached similar terms with his own understanding as well as the literal meaning of the Tangut words. For him, translating these unknown Tangut documents into a text that could be understood by the general public was the main task at the time, and so his translation was not meant to provide word-for-word correspondences. As Professor Meng Xia noted, if one examines all the translations, Kychanov was first a translator and then a scholar of Tangut.

Kychanov made the most of the available Chinese historical sources to interpret the *Law*, but some details of his study are still incomprehensible to us. Discussing the history of the compilation of Tangut legal documents, he accurately cited a large amount of material from early Xixia history, but then made inaccuracies in many Tangut historical facts. It is undeniable that the author’s level of Chinese constrained his interpretation of the *Law*, but his research has also surpassed that of all “non-Chinese” scholars of the same period who were engaged in Tangut studies. Without his deep knowledge of Chinese and Sinology, the author could not have relied on this collection of Tangut documents alone to restore the Tangut kingdom and its unique history that has disappeared from Chinese historical sources.

## 2. Broad research horizon

Kychanov was the first to realise that the Tangut code was the most worthy medieval manuscript in the *Khara-Khoto documents* to be studied and

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<sup>11</sup> SUN 2021.

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published. From the outset of his study, he constructed the legal status of the code in ancient China as a whole. He traced the historical origins of the subordination of Tangut law to the Chinese legal system and argued that there were two important factors in the formation of Tangut law. One is the acceptance and use of the regulations of Chinese dynasties for their own needs, and the other is the inclusion of a series of customs and practices of the Dangxiang tribes in the legal code. The *Law* was written by the Tanguts on the basis of a code modeled on that of the Tang and Song dynasties and adapted to their own reality. This statement corrected the earlier simplistic understanding by Nevsky. The author has accurately grasped the legal and social evolution of ancient China and the surrounding region, and has interpreted all the texts in the light of specialized law, reflecting a high level of legal history research.

Influenced by modern jurisprudential theory, Kychanov first discussed the objects in the law. The author pointed out that, in much the same way as other medieval hierarchical societies, the Tanguts restricted legal capacity of natural persons through hierarchical divisions. In his discussion in this section, he presents a breathtaking vision referring not only to the law of the Tang and Song, but also comparing Tangut laws horizontally with the literature of Goryeo, Japan and Central Asia. In addition, he explored the penal system of the Tanguts. As early as 1970, he compared the “*Ten evils*” 十惡 with the Tang and Song code. The author argued that the Tangut motivation for a punishment was the will to commit a crime, rather than the fact of a crime itself.<sup>12</sup> This is the underlying reason for the law’s constant emphasis on the degree of conduct that has been planned but not yet planned completely, gained but not yet gained fully. At the same time, he also found that the Dangxiang did not refer to the Confucian classics in defining the “*Ten evils*”, as they did in the Tang or Song code. They broke with the previous tradition and placed the corresponding legal provisions directly after the “*Ten evils*”, making them applicable to the realities of Xixia society. However, the author is puzzled by the fact that inclusion of the crimes of intentional injury and intentional homicide in the Xixia code under Misdemeanours 不道 inadvertently breaks the theoretical premise that the “*Ten evils*” cannot be pardoned, since the punishment of such criminals usually takes into account the “official rank” 官階 factor. Even though we now have a systematic understanding of this, Kychanov’s research done forty years ago cannot be ignored.

Kychanov found that the Dangxiang did not codify any new doctrines that were different from Chinese jurisprudence, and that all the differences in legal

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<sup>12</sup> KYCHANOV 1974.

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texts were simply due to differences in form. He confirmed in many ways that the jurists of the Xixia did not follow the jurisprudence of the Tang and Song to the letter. For example, the concept of negligence had existed in ancient Chinese law since the Han dynasty, but the law of the Tangut did not distinguish between “actual negligence”, “legal negligence” and “Negligence”. He found that the Tangut laws were mainly based on the *Five punishments* 五刑, with flogging becoming an additional punishment, while the essence of the punishment by exile was imprisonment. In the translation, he consistently pointed out that the punishment was hard labour for life, but confusingly limited to thirteen years. The author suggested that the term “*鞫*” did not originate in the Tang and Song code, but rather in the law of the Liao and Jin, and that the punishment may have been obtained from the Khitan.

The nature of the text and the evolution of the Tangut law are the focus of Kychanov’s research. He argued that the *Law* is a formal collection of the legal format of the *Tang lü* 唐律 and was influenced by Song dynasty edict-making activities. The author mentioned that as Tangut society developed, some of the original laws could no longer be applied to judicial needs, so some special cases that could not be adjudicated had to be submitted to a superior or the emperor for a ruling in order to turn them into official laws that could be referred to. Combing through the documents, Kychanov found that ИHB. No. 4189 records a selection of cases from the Tiansheng period. After interpreting this document, he concluded that these dated materials record the orders of the Tangut emperor and the judgments of higher authorities in proceedings, in which the cases described are directly related to the *Tiansheng Law*. In addition, the author noted the fact that cases of judgment also appear in the *New Law* 新法 written in the late Tangut period. The *New Law* was not a separate code to replace the old law, but rather a supplement and amendment to the *Tiansheng Law*. These understandings will undoubtedly provide an important reference for the study of Tangut legal literature.

Grassroots officials and functioning of society in the Xixia are also important topics in Kychanov’s research. He quoted jurist Dai Yanhui’s argument that “the official is the most important part of the code”.<sup>13</sup> The author discussed the special group of Tangut bureaucrats known by the term “*鞫*” 待命. He argued that all those who were at the side of the Tangut emperor and served his various needs, regardless of rank, were referred to as

<sup>13</sup> DAI 1964.

“鞮鞢”, a term that is an imitation of the Tang and Song “待詔”. At the same time, the author also reviewed the evolution of the nomadic dynastic “內侍官”, arguing that the Tangut “待命” resulted from a fusion of steppe peoples’ culture with agricultural civilization. In addition, he discussed the “童僕” 童僕 of the *Law* as the “youthful attendants” of the *Kievan Rus Chronicle*. He made an analogy between the term and the “侍從門童” of the Northern and Southern Dynasties, arguing that child servants of the *Tiansheng Law* were attendants of Tangut nobles and officials. By working alongside their masters, some of the servants of senior officials had opportunities to become subordinate officials. He also translated the term “敝獄” 司吏 in the *Law* as “clerk”. He considered these people to be intermediaries between officials and common people, and it was these people who actually handled much of the business work and many of the civil disputes. Through his knowledge of the Tangut system of appointment of officials and selection of military cadets at the grassroots level, he suggested that most Tangut officials were chosen by inheritance and heredity, and that the imperial examination was not the main method of selecting officials. It also shows that Tangut society in the twelfth century was largely run by clan tribes and that this system of selecting officials created a closed class of people mutually guaranteed by kinship, so that corruption became the most common offence in the *Tiansheng Law*.

It is easy to see that Kychanov attempted to take a single term as the starting point in his discussion, and this approach has become the main tool for interpreting the *Tiansheng Law*. In the early 1980s, he had largely completed his translation of the *Tiansheng Law*, and this led to a thematic study of the Tangut history. In the following years, relying on new materials, he published a series of articles such as *The Storage Services in the Tangut State*<sup>14</sup> and *The Legal Status of Buddhist Communities in the Tangut State*,<sup>15</sup> which demonstrate a significant rise in his research level. For example, when Kychanov wrote about Buddhism and monastic orders in the Tangut state, he discussed the monasteries in the Dunhuang documents in a comprehensive manner together with those in the Xixia, showing a broad academic vision. As his research accumulated, he also conducted interpretative studies of legal texts such as the *New Law* and the *Zhenguanyujingtong* 貞觀玉鏡統 in the late 1980s. In practical terms, although the author mixed in his study of the law and ordinances a number of elements that originally belonged to the *New Law*, he often compared the legal texts of the Tiansheng period with the late

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<sup>14</sup> KYCHANOV 1982a.

<sup>15</sup> KYCHANOV 1982b.

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Xixia code in his thematic studies, a rare research approach for the time. Kychanov also attempted to explore the evolution of Xixia law, which is, of course, a major trend in the study of Tangut legal literature today.

### 3. Exploration of the Tangut legal language

A large amount of legal vocabulary and terminology in the *Tiansheng Law* is both difficult to interpret and an important part of current scholarly research. In Kychanov's study, he mentioned that, as a code written in the Tangut language, the *Law* brings together the customs and characteristics of many non-Dangxiang peoples. In 1980, he noted that the Xixia expressions for “蕤歿” 西州 and “肅纒” 大食 are derived from Chinese.<sup>16</sup> The author argued that the Tanguts borrowed many legal doctrines and terms from the Tang and Song, and that the two are very closely related in terms of legal language. He noted that, although the Xixia Code has its own characteristics, its legal language is heavily influenced by the Chinese legal system, for example, the word “駭纒” 有官 is an imitation of the *Tang Law*. Recently, combing through high-frequency words of the *Tiansheng Law*, we have also found that most of the legal terms in the *Tiansheng Law* are loanwords derived from the Tang and Song. The large proportion of terms common to the Tang and Song jurisdictions shows that the *Tiansheng Law* is systematic and comprehensive in its inheritance of the Chinese legal system.<sup>17</sup>

Kychanov also mentioned that the legal language of the Xixia did not exactly copy Chinese terminology, but that the Xixia also created new legal words or forms of expression based on their own understanding. He found no further examples of this in the *Tiansheng Law*, although there are some terms directly translated from the Chinese. For example, the Dangxiang people borrowed the law system of “official pawn” 官當 completely from the Song dynasty, but no similar terminology can be found in the entire code. In fact, the number of legal terms in the entire text of the *Tiansheng Law* is not as significant as one might expect. This phenomenon was first mentioned by Kychanov, but not studied in depth. We find that while the Xixia absorbed the terminology of the Tang and Song, they also adapted the complex jurisprudential system of the Chinese state according to their own understanding and the customary law of ethnic minorities. Due to the transitory and metaphorical nature of legal terminology, the compilers of the Code

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<sup>16</sup> KYCHANOV 1980.

<sup>17</sup> KONG 2021.

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transposed some of the meanings of words in writing the code and created a large number of rewritten and imitated words. The Dangxiang people incorporated the terminology of other cultures into their codes by writing legal documents, and the borrowing of terms was not the only way. Recent research also suggests that the Tangut legal literature contains a large number of words in Xixia created by the Dangxiang as a result of their assimilation and fusion of multiple cultures. This part of the vocabulary is the linguistic expression of the contact and intermingling between the Xixia and other diverse cultures.

It is well known that the *Tiansheng Law* was not only influenced by the Han culture, but also contains evidence of the intermingling of the languages and cultures of the Tibetan, Huihu and Nüzhen. The multiculturalism of the Xixia code was noted early on by Kychanov, who argued that official names of the Tangut were created by the Dangxiang themselves, and even though some were borrowed from other ethnic groups, they were completely Dangxiangised. For example, the term “𪛗𪛘”, the lowest-ranking of the officials with the right to exoneration, may have been borrowed from the Chinese word “什長”, but it has also become the Tangut term for Chao 抄. The author also mentioned that some of the official titles in the *Tiansheng Law* are of Tibetan, Khitan or Huihu origin. For example, he suggested that the official title of “𪛗𪛙” 末驅 may be related to the nomadic marching line, in which the last person in the line was the “押尾官”. Kychanov compared the word “farmer-owner” in Xixia and Tibetan texts, and suggested that the term “𪛗𪛚” 家主, which appears in the *Tiansheng Law* and the *New Law*, may have come from the Tibetans. There were also the “𪛗𪛛” 議判 who, he argued, were basically relatives of the king of the state whose main role was that of strategists. There were similarly skilled advisers belonging to the upper nobility of the state among the Tubo zanpu 吐蕃贊普, and the position always belonged to a few families with strong marital ties to the zanpu clan, as was also the case in Xixia society. Although the author did not delve into the relationship between these words and the intermingling of multi-ethnic languages, these examples show that Kychanov has correctly grasped the pluralistic and hybrid nature of the legal language of the Tanguts in the 1980s.

In addition, Kychanov has accurately documented the provisions of the *Tiansheng Law* that deal with the principle of “保辜”. He divided legal liability of the Xixia into two types of liability: family liability and collective liability, which he expressed in the translation by the terms “连坐” and “缘坐”, which he believed derive from the meaning of “只关” as expressed by fellow

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officials. Kychanov's interpretation of the legal language of the *Tiansheng Law* is of a high standard, he placed the *Law* in the context of the entire legal system of the Middle Ages and, in general, translated most of the legal terminology accurately. It is very admirable that the author was able to do this very challenging work under the conditions of the 1980s.

#### 4. Concluding remarks

Objectively speaking, in the first translation and interpretation of the *Tiansheng Law*, Kychanov's understanding of some of the translations is rather limited. Some of the translations are in the opposite direction, and this has led to errors in the text's interpretation. Despite these inevitable problems, the author was always modest and cautious in his translations and interpretations, and published the plates of this part of the document before its publication in 1996, which is an invaluable asset to the Tangut scholarship, and shows his high personal qualities.

The author also mentioned that, rather than seeking excuses, he objectively assessed the results of years of work and informed the reader in advance of errors or inaccuracies in the research. There are many reasons for errors, such as his incomplete knowledge of the extinct Tangut language. The study of the *Tiansheng Law* took a great deal of effort, for often his discussion of a single detail takes up a great deal of space. The author strove to handle this unknown collection of Tangut documents with care, and today we can still sense Kychanov's struggles with these texts, as well as his desire to find the truth. The author felt that it was his duty to give a new life to this historical work that had survived the catastrophe. He also foresaw that countless others would continue to translate the *Law* in the future. It is for this reason that contemporary researchers of Tangut studies should not forget to acknowledge that the major credit goes to Kychanov for the study of the *Tiansheng Law*, but should also examine his research objectively and fairly. It is only on this basis that we can truly promote the development of Tangut studies by removing falsehoods and preserving the truth.

In memory of E.I. Kychanov, a great scholar of Oriental and Tangut studies.<sup>18</sup>

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<sup>18</sup> This article is based on the speech presented at the International conference in memory of Evgeny I. Kychanov (1932–2013) “Tangut studies: Prospects and problems for the 21st century” (IOM RAS, Saint Petersburg, June 23–24, 2022). The Chinese version of the speech has already been published with slight changes.

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