

## 宋遼金元

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Bulletin of  
SUNG YUAN  
Studies

Maximum Security in the Sung:  
the Facilities at Sramana Island

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About ten kilometers off the north coast of Shantung, northeast of the Sung port of Teng prefecture (present P'eng-tai) begins a chain of islands which stretches toward Liaotung. Lying on the route between the Korean coast and north China they most often served in times past as waystops or guideposts for shipping, and at times produced salt, but during the Northern Sung one of them served a grimmer purpose. Here, on Sramana Island in the shallow cold waters of the Gulf of Po-hai the Sung had its maximum security facilities. Here were assembled hundreds of convicts guilty of outrageous crimes, originally sentenced to death, and then spared for the next step down the ladder of punishments, exile to Sramana.<sup>1</sup> Writers of Sung times say little about this island or the unfortunates sent here; writers of later times say almost nothing. Yet out of the scattered fragments of information in the various histories of the period, the *Sung Hui Yao Chi Kao*, and a few other works we can reconstruct at least in part their history and character.<sup>2</sup>

Use of the island as a place of exile began during the Northern Han period,

1. Although the name of the island, *sha-men* might possibly have been intended to mean literally "Sand Gate" the technical meaning of *sha-men*, "Sramana," seems more likely. When I raised the problem of translation with Professor Edward Schafer he brought to my attention the large number of place names with Buddhist associations in the immediate vicinity.
2. The principal sources for this paper are Hsü Sung (ed.), *Sung Hui Yao Chi Kao* (Collected Sung Documents), Taipei: 1965; Li Tao, *Hsü Tzu Chih T'ung-chien Ch'ang-pien*, (Rough Draft for a Continuation of the Comprehensive Mirror), Taipei: 1954; T'o T'o, et al., *Sung Shih* (History of the Sung), Taipei: 1965; Hsien Shen-fu, *Ch'ing-yüan T'iao-fa Shih-lei* (Classified Laws from the Ch'ing-yüan period), Tokyo: 1968; Ch'iu Han-p'ing, *Li-tai Hsing-fa Chih* (The Treatises on Law and Punishments from the Various Dynasties), Changsha: 1938; and Ma Tuan-lin, *Wen Hsien T'ung K'ao* (Encyclopedia of Government Institutions), Taipei: 1964.

some ten years before the founding of the Sung. Li Shang-chiao states that an officer of the Northern Han, tried for having lost a city, was "exiled to Sramana Island in Teng-chou. This was the origin of this practice."<sup>2a</sup> The Sung use of the island started in 961, when a deserter from the Army of Many Victories who had illegally carved a Guard Office seal was seized and beheaded. The emperor, concerned about apparent growing laxness among his troops, took personal note of the case. Perhaps feeling that the sentence had been excessively harsh he issued a decree that soldiers who committed crimes were to be exiled to Teng prefecture's Sramana Island.<sup>3</sup>

The island thus began as one of the places of exile for military criminals, and it continued to be so used until late in the Northern Sung. The sources note specific cases from 961, 1007, 1020, 1021, 1026, 1037, 1040, 1071, 1078, 1083, 1086, and 1088, most of which involved officers or non-commissioned officers (*chün-shih*) rather than common soldiers. (About half the cases I have located involved military personnel.)

The men so exiled had been sentenced for rapacity (primarily meaning venality in office), for killing suspected criminals without authorization, for beating subordinates to death, for provoking disorder among troops, for deserting while convoying official goods, and in one case for attempting to murder a fellow officer within the palace precincts. The number of violent crimes is striking. It may in part reveal the weaker inhibitions against violence among the military, but it probably also reflects other factors--military men had fewer opportunities for venality than did civil officials, they lived in a milieu in which physical coercion of subordinates was commonplace, and they may have been sentenced differently--members of other groups committing violent crimes being more frequently subject to execution in the cases of commoners and lesser punishments than exile in the cases of officials. The overwhelming majority of the cases on which we have information concern military officers or non-commissioned officers (*chün-shih*) rather than common soldiers. This illu-

- 2a. Li Shang-chiao 李上交, *Chün-shih hui-yüan* (Shou-shan-ko ts'ung-shu ed.) 5/9b.
3. Hsü Sung, *op. cit.*, Hsing-fa 4/1b gives the date as the second year of Chien-lung (961), and we have a specific report of exile dating from the same year. See Li Chin, *Huang Sung Shih Ch'ao Kang Yao* (Important Events during Ten Reigns of the Sung), Taipei: 1968, 1/6b. However, Hsü Sung, *op. cit.*, Hsing-fa 7/1a; T'o T'o, et al., *op. cit.*, 1/12a; and Li Tao, *op. cit.*, 3/8b give the date of the Emperor's decree as the third year. The material from Li Tao on this point speaks merely of sea islands (or a sea island), not naming Sramana Island specifically, whereas the materials from Hsü Sung name Sramana. Thus it seems highly likely that some, perhaps many, of the later references to "sea islands" are actually references to Sramana, but since this can rarely be proved I have not used such materials in this study.

minates a striking peculiarity about Sramana--the island seems to have been used exclusively for men sentenced to death and then spared. It was not a place to which men were sent under ordinary sentences of exile. Ordinary commoners and common soldiers sentenced to death were far more likely to be executed. Many of our cases say specifically that the individuals concerned were spared by special imperial order. It is not improbable in light of this that officers and NCO's formed a large proportion of the island's convict population, perhaps close to half.<sup>4</sup>

From the early years of the dynasty the island was also used for officials guilty of capital crimes. A report from 964 says that "The commissioner of the Court of Artistic Ornaments (wen-ssu shih) Ch'ang Ch'en was beaten, tattooed on the face, and registered at Sramana Island,"<sup>5</sup> and other cases of officials so punished are recorded for 966, 974, 982, 1015, 1016, 1026, 1029, 1039, 1044, 1048, 1053, 1083, 1107, and 1126. These officials came almost entirely from the low and middle levels of the bureaucracy. Although in 966 the Assistant Commissioner of Military Affairs (a very high post) was exiled, all the other cases I have seen involved officials of rank 6b or below. There are some cases with strong political overtones and a few that involve central government bureaucrats, but the majority involve local administrators guilty of various forms of rapacity. During the early part of the dynasty these officials, like military criminals, were beaten and tattooed before their exile. In 1069 it was ordered that officials should no longer be subjected to these humiliations, but in fact they continued on occasion to be tattooed.<sup>6</sup>

Officials were involved in slightly less than half the cases I have found. Again, as with military personnel, we may assume that they formed a large percentage of the prisoner population. Although we cannot prove in every case

4. For the cases see Li Chih, op. cit., 1/6b; Li Tao, op. cit., 67/12a, 96/6a, 226/9a, 340/9b, 340/10a, 373/1b-2a, 408/19a; Hsü Sung, op. cit., hsing-fa 4/13b, 6/10b, 15b, 16a, 7/17a, ping 12/12a. For the treatment of prisoners before their dispatch to Sramana see Li Tao, op. cit., 61/4a and Hsü Sung, op. cit., ping 11/5a who record a ruling of 1005 that military deserters guilty of capital offenses who were captured outside the period of an amnesty were to be beaten on the back, tattooed on the face, and exiled to Sramana Island. Many of the specific cases noted above also say that the men involved were so treated. Unfortunately it is not possible to prove absolutely that all of the men sent to the island had been convicted of capital crimes, only that in those cases where we can determine the proper sentencing it was death, or might have been death--e.g., rapacity might or might not be a capital offense, depending on the amount of money involved, and since we do not have the amounts we cannot prove those guilty were capital criminals.
5. Li Tao, op. cit., 5/16b

that the crime involved was sentenced capitally, all the crimes described were capable of such sentencing, and in the majority of cases we are told that the officials were spared for exile. The large proportion of these officials who had been in local posts when they committed their crimes is noteworthy. Local officials composed only about one-third of the total body of Sung civil servants,<sup>7</sup> but they are a clear majority among those exiled to Sramana. This disproportion probably reflects both the greater opportunities for venality afforded by service in local posts, and a concern on the part of the government about the quality of local administration.

The frequency with which venality is cited as the crime suggests not only that it was a most common crime but also that the authorities treated those who committed it with great harshness. In theory at least Sung officials could commute sentences of exile or less. Therefore to be sent to Sramana an official had to be sentenced to death first, and then have his sentence reduced. Those so spared were fortunate. Almost every chapter in the basic annals of the Sung History contains four or more instances of local officials suffering actual execution, again most often for venality.<sup>8</sup> The small number of cases of execution or exile that stemmed from civil officials' violent abuse of power--killing persons within their spheres of jurisdiction, illegally sentencing men to death, and so on--perhaps indicates that such crimes were relatively rare. At the least they did not come to the attention of higher authorities as frequently as rapacity.

6. Ch'iu Han-p'ing, op. cit., 417 reports that beating and tattooing were ordered stopped in 1069, but Li Tao, op. cit., 339/6b records a case in which an official was tattooed before exile. Unfortunately many of the reports I have used do not cite the crime, and others give only the office from which rank was derived, without giving the actual functional office occupied. For the cases used in the above see Li Tao, op. cit., 5/16b, 6/13a, 23/6b, 23/17b, 86/14a, 87/6b, 104/5a-b, 147/3a, 174/9b, 339/6b, 340/11b; T'o T'o, op. cit., 2/4a, 3/6b, 8/12b, 24/11a; Li Chih, op. cit., 17/2b, 21/2a; Hsü Sung, op. cit., hsing-fa 4/71b, 6/16a, 25a; chih-kuan 64/23a, 28a, 28b, 39a, 65/2b, 11a, 66 26a, 26b, 68/14a.
7. For the proportions of officials in local versus central posts see Brian E. McKnight, Village and Bureaucracy in Southern Sung China, (Chicago: University of Chicago Press, 1972), p.8. It is also conceivable, though I think less likely, that venal central government officials were either less likely to be caught or less likely to be sentenced to death and then spared for exile to Sramana.
8. Hsieh Shen-fu, op. cit. p. 537, says that surveillance (chien-lin) or supervisory (chu-shou) officials guilty of taking bribes worth twenty p'i to pervert the law were liable for strangulation. This figure together with those cited below, pp. 12-13, in the material on types of crimes which led to exile at Sramana give us a general indication of the amount of

The paucity of Sramana cases involving neither officials nor military personnel probably reflects the lesser chance non-privileged people had of escaping death sentences. Most of the few cases we have are recorded because of their peculiar circumstances--a son who committed armed robbery on orders from his father, a man who anonymously and falsely accused a low level official of plotting rebellion, and a violently anti-Buddhist chin-shih who wrote a tract attacking the religion, and used Buddhist writings for his bedclothes.<sup>9</sup>

Although we have only about fifty cases giving the names of criminals, their social positions, and their crimes, we do have more general descriptions of the kinds of acts for which men might be sent to the island. First, and most generally, men guilty on capital charges who were spared from death were often exiled to Sramana. Such grace almost always indicated membership in a privileged group (officials or officers) or involvement in a case with unusual mitigating circumstances.<sup>10</sup> From 1093 we have a much more detailed description of types of crimes. At that time those on Sramana were listed in two groups. The most serious offenders included those who had committed violent robbery or subordinates, who had themselves killed others, been incendiaries, masterminded rapacity involving fifty strings of cash, raped relatives with violence, been convicted on two capital counts of fighting and causing injuries, been guilty of repeated acts of rapacity with a total value of three hundred strings or one act involving two hundred or more strings, killed with premeditation, plotted or given the coup de grace in a homicide that resulted in death of the victim, committed one of the Ten Abominations where the sentence was capital, or made ku poison where the victim had died. Slightly less reprehensible were accomplices in armed robbery where a victim had been killed, and men implicated in rapacity with a value of two hundred strings but not originally involved in the plotting.<sup>11</sup>

booty that had to be involved for the sentences to be capital. "Surveillance" officials were men with administrative responsibility for a geographical unit. "Supervisory" officials had charge of a government unit--a bureau, a tax collection depot, etc. Hsieh Shen-fu says chu-ssu but this is an error for chu-shou. See Tou I, Sung Hsing T'ung, (Sung Legal Code), Taipei: 1964, 2/18a-b.

9. Li Tao, op. cit., 7/4b, 341/10a, 345/9b; T'o T'o, op. cit., 2/3a; Hsü Sung op. cit., hsing-fa 6/13b, 14a, 16b.
10. Li Tao, op. cit., 21/13b (980), 91/13b (1018), 465/11b (1088); Ch'iu Han-p'ing, op. cit., p. 415, 416; Hsieh Shen-fu, op. cit., 529; Li Tao, op. cit., 21/13b says that "from the founding of the dynasty men guilty of capital crimes who had been arrested and spared death were frequently registered at Teng prefecture's Sramana Island or T'ung prefecture's Sramana Island." I have found no other reference to a Sramana Island off T'ung prefecture. Ma Tuan-lin, op. cit., 168/1459 and Ch'iu Han-p'ing, op. cit., 415 merely say T'ung prefecture's sea island (hai-tao). Almost certainly

Other individual rulings indicate that men might be exiled there for such disparate crimes as breaking the blue-white salt laws, being ringleaders among embezzlers of granary funds worth 10,000 cash, being guilty on two counts of hiding bandits, or being recidivists among some kinds of bandits. Even non-commissioned officers who repeatedly refused to drink the imperial health and call out "ten thousand years" were threatened with exile to Sramana. There seems to be no thread on which to hang all these crimes--murder and arson standing side-by-side with embezzlement and what we might see as disobedient breaches of discipline--except that the state viewed them all as profoundly threatening to its control of society, and so declared them capital crimes. On this common ground all the criminals stood; they were dangerous.

The men sentenced to exile at Sramana Island were a group apart from the time of their convictions. They were identified differently, treated differently, and even became the objects of a distinctive system of paperwork. While most ordinary offenders seem to have borne tattoos not larger than two-tenths of an inch, and escapees and those to be registered at citadels bore tattoos of five-tenths of an inch, men sentenced to Sramana (and to other "distant evil" places) bore tattoos of seven-tenths of an inch.<sup>12</sup>

Unlike many types of Sung convicts Sramana exiles were forbidden reductions of sentence length in return for suffering fixed numbers of blows with the heavy stick. Nor could their families accompany them into exile. Indeed at the beginning of the dynasty their wives were also sent for registration, not at Sramana, but at the "needleworks" (chih-chen, presumably a capital atelier where seamstresses worked). This punishment of wives was soon stopped.<sup>13</sup> Special documents were drawn up by the convicting jurisdictions for Sramana exiles, listing the criminals' native places, ages, crimes, the statutes cited, and the judgments. These documents were forwarded to the authorities in Teng Prefecture by the relays of guards that convoyed the prisoners to their destination. Error in these, or their improper disclosure was punishable.<sup>14</sup>

we have a double confusion here. The text of Li Tao we have (and presumably the text used by Ma Tuan-lin and the editors of the Sung History) says T'ung prefecture's Sha-men Island (sha-men tao). Ma, and the Sung Shih editors, knowing there was no such place emended the text to read T'ung prefecture's sea island (hai-tao), when in fact the text of Li Tao should probably be emended otherwise, to read T'ung prefecture's Hai-men (subprefecture's) island (hai-men tao).

11. By far the fullest version of this list is given in Li Tao, op. cit., 468/6b, but there are other more or less abbreviated versions in Hsü Sung, op. cit., 4/31a; Ma Tuan-lin, op. cit., 168/1460; and Ch'iu Han-p'ing, op. cit., p. 417.
12. Hsieh Shen-fu, op. cit., p. 520.

Under the generally used Sung system for transporting criminals each prefecture through which the criminals passed was responsible for detailing soldiers and clerical personnel to convoy them from one border of the prefecture to the other. At the exchange point the criminals, and the documents concerning them, would be turned over to the party sent from the next prefectural seat.<sup>15</sup> This method of moving convicts was used for men sent to Sramana from early in the dynasty, and was clarified and re-confirmed in 1018.<sup>16</sup>

When men destined for Sramana Island or Kwangnan had completed their passage through a given prefecture the prefectural authorities were to report this to the convicting jurisdiction. When the criminals finally reached the prefecture where they were to be registered, the courier service was to be used to notify the authorities of original jurisdiction.<sup>17</sup> The convicting jurisdiction within a month of sentencing someone to Sramana Island, Kwangnan, or "distant, evil" prefectures, was to send to the Ministry of Justice a brief memorandum indicating the nature of the punishment and giving the day and month when the criminal was sent off. When the convict reached the prefecture where he would be registered the authorities there, within five days, were to inform the Ministry. If some of the men involved escaped or died en route, the prefectural authorities of the place where this happened were also expected to notify the Ministry within five days.<sup>18</sup> Such escapes among men bound for Sramana Island are said (in a report from 1025) to have been common because the guards were careless.<sup>19</sup>

A separate permanent set of guards was stationed on the island itself, possibly quartered with resident families. We do not know how many guards there were, but a decree of the early twelfth century, increasing the number by two hundred men, suggests that they must have been numerous.<sup>20</sup> Early in the dynasty these guards appear to have been under the immediate control of a Commissioner of Military Colonists (t'un-ping shih).<sup>21</sup> Later (1019) the fort on

13. Hsieh Shen-fu, *op. cit.*, 504, 521; Hsü Sung, *op. cit.*, hsing-fa 4/1a

14. Hsien Shen-fu, *op. cit.*, 529.

15. I am presently preparing a separate paper on this Sung system of prisoner transport.

16. Hsü Sung, *op. cit.*, hsing-fa 4/9

17. Hsieh Shen-fu, *op. cit.*, p. 530.

18. Hsieh Shen-fu, *op. cit.*, p. 522.

19. Hsü Sung, *op. cit.*, hsing-fa 4/12a-b.

20. Hsü Sung, *op. cit.*, hsing-fa 4/33.

21. Li Tao, *op. cit.*, 21/31b. See also Ma Tuan-lin, *op. cit.*, 168/1459; Ch'iu Han-p'ing, *op. cit.*, p. 415.

Sramana was under the control of a Military Commissioner (chien-ya). Possibly officers of this title had succeeded to the Commissioners of Military Colonists, possibly it is merely an alternative designation, or a concurrently held title.<sup>22</sup> In that year abuse of prisoners on the island led the Court to assign to the Military Intendant of the Five Islands (t'i-tien wu-tao shih-ch'en) the task of investigating such mistreatment.<sup>23</sup> The Administration of Teng prefecture and the Fiscal Intendant of Ching-tung circuit also participated in discussions of internal problems on the island.<sup>24</sup> At the capital, as befitted an area staffed by military personnel, affairs concerning the island were in the purview of the Bureau of Military Affairs, though other central judicial agencies might participate in discussions of particular problems.<sup>25</sup>

Although under the general supervision of military personnel, the criminals themselves (and their guards?) seem in practice to have been quartered on the civilian families on the island. One report, from 1058, says that there were eighty households on the island at a time when there were 180 criminals (and an indeterminate number of guards). The families (probably mostly engaged in salt production) would appear to have provided shelter and food to those prisoners quartered on them, and used the convicts as laborers.<sup>26</sup> From 1004 the resident families were freed from the burden of taxes, not in return for their services to prisoners but rather in return for taking care of the harbor facilities used by ships bringing Jurchen horses across the Gulf from Liao-tung.<sup>27</sup>

Conditions on the island and treatment of the prisoners provoked repeated protests by the more humane officials involved. Sometimes direct, personal abuse of convicts came to the attention of higher authorities. In 1018 or 1019 the then Military Commissioner in charge of the fort on Sramana Island had two convicts murdered. One of these men had been an Assistant Secretary in the Bureau of Editors (chu-tso tso-lang). His son (who given his father's position

22. Li Tao, *op. cit.*, 93/2b; Hsü Sung, *op. cit.*, hsing-fa 4/9a-b.

23. Li Tao, *op. cit.*, 93/2b; Hsü Sung, *op. cit.*, hsing-fa 4/9a-b.

24. Li Tao, *op. cit.*, 188/10a, 246/6b-7a; Hsü Sung, *op. cit.*, hsing-fa 4/23b-24a, 26b.

25. Li Tao, *op. cit.*, 188/10a (1058), 5/24b (1069), 246/6b-7a (1073); Hsü Sung, *op. cit.*, hsing-fa 4/5 (1010), 19b (1036), 23b-24a (1058), 26b (1073).

26. Hsü Sung, *op. cit.*, hsing-fa 4/23b-24a. In some places of exile salt workers were under the direction of a Commissioner of Salt Production Center Laborers (Yen-t'ing i shih) but this office would not seem to have been established on Sramana. See Li Tao, *op. cit.*, 21/13b.

27. T'o T'o, et al., *op. cit.*, 1/15a; Li Tao, *op. cit.*, 4/20a. See also Chiang T'ing-hsi, et al. (comp.), *Ku Chin T'u Shu Chi Ch'eng*, chih-fang tien 273/11 k'ao 2a.

we may assume to have been both literate and familiar with official channels) beat the message drum and submitted an accusation. The Commissioner seems to have killed the men because they offered him insufficient bribes. Unfortunately with the key figures dead, it was not possible to hold a proper investigation. In order to avoid similar problems in the future the Military Intendant of the Five Islands was made responsible for investigating abuse of prisoners, and a decree was issued that the Fort Military Commissioners were "not permitted to kill men sentenced to exile for reckless private motives." We can only assume that beating prisoners to death when no personal malice was involved was not a serious offence in the eyes of higher authorities.<sup>28</sup>

Prisoners deliberately killed by their overseers were probably greatly outnumbered by those who died of starvation and neglect. Prior to 1010 no provision had been made for giving rations to the exiles. In that year a commissioner visited the island and reported that countless prisoners had died of starvation there. A ration system was ordered established, but does not seem in practice to have been properly enforced.<sup>29</sup> In 1036 another official asked that the prisoners be allotted one pint (*sheng*) of rice per day, but in 1058 we are told that the prisoners "wholly lacked clothing and food" and that as a consequence many died.<sup>30</sup> Perhaps as a result of this enquiry, at some time during the ensuing decade the state began to provide rations for three hundred prisoners.<sup>31</sup> Unfortunately too many men were sent there for the quota of food provided.

The number of men sentenced to exile on Sramana seems to have risen slowly during the Northern Sung. We have no figures for the early years of the dynasty, but a report from 1058 says that at that time there were 180 convicts on the island.<sup>32</sup> The number continued to grow. In 1069 Shen-tsung, after discussing with the Bureau of Military Affairs the large number of convicts there, ordered the Bureau to consult with the Secretariat Department about solutions to the problem. Apparently nothing substantive was done: one report from 1073 says that 650 criminals were on the island, while another gives the figure as 401.<sup>33</sup>

28. Li Tao, *op. cit.*, 93/2b (1019); Hsü Sung, *op. cit.*, hsing-fa 4/9a-b. Abuses continued. See Hsü Sung, *op. cit.*, hsing-fa 4/19b.

29. Hsü Sung, *op. cit.*, hsing-fa 4/5b; Li Tao, *op. cit.*, 74/15b; T'ao T'ao et al., *op. cit.*, 7/24b.

30. Hsü Sung, *op. cit.*, hsing-fa 4/19b, 23b-24a, 26b; Li Tao, *op. cit.*, 188/10a, 246/6a-b.

31. T'ao T'ao, et al., *op. cit.*, 344/23b.

32. Li Tao, *op. cit.*, 188/10a; Hsü Sung, *op. cit.*, hsing-fa 4/23b-24a.

33. Li Tao, *op. cit.*, 5/24b (1069), 246/16a-b; Hsü Sung, *op. cit.*, hsing-fa 4/26b.

The size of the colony on the island was not only the product of the number of men sent there and the death rate among them but also of the numbers transferred away from the island. The report from 1058 says that two to three hundred men a year were sentenced to exile there, which would mean two to three thousand men over a decade. Yet in that year there were only 180 convicts on Sramana. Several decades later, at a time when there were between 400 and 650 convicts, only 93 men had been on the island four years or more.<sup>34</sup> The official reporting in 1058 blamed the small number on an appalling death rate among the prisoners, and certainly that is a part of the answer. Indeed the situation had already become so notorious by 1036 that an unsuccessful attempt was made to close down the facilities.<sup>35</sup>

But the high death rate alone does not explain the relatively small numbers of men on the island at any given time. Rather we must look, during the first century of the Sung, to one of the key institutions in the traditional Chinese legal apparatus, the amnesty system, and during the last half century of the Northern Sung to a combination of the amnesty system and a set of prisoner quotas. The impact of the amnesty system on Chinese penal practice is one of the most important, and least appreciated aspects of the whole interlocking structure of Chinese penology. I am presently preparing a paper on this subject but for the moment it should suffice to point out that amnesties in the Sung came with startling frequency.<sup>36</sup>

In the usual instance convicts' sentences were reduced. Exile to Sramana stood at the far end of the penal spectrum. Beyond it lay only the death sentences. If Sramana were fitted into the regular amnesty pattern, then at least some of its inmates would have been transferred following each amnesty to less fearsome places of registration. This by itself would have sufficed to keep the population on the island at a tolerable level, and would have reduced the number of old-timers (except for those whose crimes prevented them from benefiting from amnesties). But did Sramana fit into the regular system? We do know that some amnesties affected the convicts there. From 1013, for example, we have a decree that the criminals on Sramana Island, except for the ones who

34. Li Tao, *op. cit.*, 188/10a, 246/16a-b; Hsü Sung, *op. cit.*, hsing-fa 4/26a, 26b. These figures suggest that a minimum of 100 men were arriving on the island each year.

35. Ch'iu Han-p'ing, *op. cit.*, p. 416; Ma Tuan-lin, *op. cit.*, 168/1460; Hsü Sung, *op. cit.*, hsing-fa 4/19b.

36. I am using the word amnesty here in a broad sense, to encompass reductions of sentence, and so-called "inspections" (which almost automatically resulted in reductions of sentence) as well as regular amnesties.

were to be sent to the capital, should have their cases reviewed. If the circumstances of their crimes were not heinous they should be sent for registration to nearby territories (on the mainland).<sup>37</sup> Again, in 1042 it was decreed that "the Bureau of Registers of Military Chiefs (*chün-t'ou ssu*) may select strong and robust men from among the criminals being released for return from Sramana Island, and place them under the Commandancy of Stalwarts Returning from Afar in the neighborhood of the capital."<sup>38</sup> (This passage would seem to explain in passing the above cited reference to those criminals who were to be sent to the capital.) In 1060 criminals were again shifted.<sup>39</sup> There were also a number of individuals exiled to Sramana by decree which specifically declared them ineligible for amnesty. They were never to return from the island.<sup>40</sup> Taken together these reports indicate that Sramana did fall within the regular amnesty system, and that this contributed to reducing the numbers of men on the island.

From the 1070's and 1090's we have descriptions of some details of the amnesty process. The granting of transfers under amnesties was affected by the length of time that a prisoner had been on the island, by his record while there, by his age and physical condition, and by the crime he had committed. Under an amnesty granted in the early 1070's the prisoners who had been on the island four years or more were divided into two groups according to the seriousness of their original crimes. Those whose crimes had been less serious were transferred to the mainland.<sup>41</sup> In 1080 more men were freed who had been held on Sramana for number of years.

From 1093 we have our most elaborate description of the amnesty system. The decree of that year first lists those particularly heinous crimes which rendered their perpetrators ineligible for amnesty, then crimes that permitted transfer to Kwangnan, and finally crimes that permitted transfer to Ching-hu North or South, or to Fukien. If the men transferred to Kwangnan exceeded the quota for that circuit the extra men could be sent to "distant, evil prefectures." If the quotas for Ching-hu North and South or Fukien were exceeded, the extra men were to go to Kwangnan. Even those criminals ordinarily excluded from transfers might be shifted if they were sixty-years old or older, and had been on the island five years or more (they could be shifted to Kwangnan). Such

37. Li Tao, *op. cit.*, 80/6a; Hsü Sung, *op. cit.*, *hsing-fa* 4/7a; T'ao T'ao, *et al.*, *op. cit.*, 8/6b/  
 38. Hsü Sung, *op. cit.*, *hsing-fa* 4/20b; Li Tao, *op. cit.*, 12399/8a (1042).  
 39. Li Tao, *op. cit.*, 191/6b; Hsü Sung, *op. cit.*, *hsing-fa* 4/24a.  
 40. T'ao T'ao, *et al.*, *op. cit.*, 2/4a; Hsü Sung, *op. cit.*, *hsing-fa* 6/16a, 25a; Li Tao, *op. cit.*, 339/6b, 373/1b-2a.  
 41. Li Tao, *op. cit.*, 236/24b; Hsü Sung, *op. cit.*, *hsing-fa* 4/26a.

The orders issued as a result of this debate did not stop the flow of convicts to Teng prefecture, and in any case were only partly to the point (since the increased quota of convicts and guards merely meant that more men moved to the island without any corresponding improvement in the already inadequate supply of housing or provisions). In the seventh month of 1073 the Administrator of Teng prefecture submitted a new proposal. He asked that he be allowed to submit to the Bureau of Military Affairs a monthly list of the prisoners on Sramana, giving their names, native places, and crimes. The Bureau could establish a register in which it would record the information from these reports. So long as the Sramana quota was filled the Bureau would not permit further criminals to be moved to Teng prefecture. Men beyond the quota would be appropriately transferred. His recommendations were followed only in part. While the increase in guards was to stand, authorities in Teng prefecture could memorialize concerning most convicts sent there by other areas. However, those sent to the island by special imperial decree were not included in this system. Since a substantial proportion of the men on the island were originally sentenced to death and then spared by imperial order, this latter proviso must have seriously weakened the impact of the general policy.<sup>45</sup> Sometime later one more attempt was made to deal with these numbers. A system was set up under which the prefecture was to inform the Judicial Intendant when its annual quota was half full. The Intendant would investigate the report and pass it on to the Ministry of Justice. When the quota was full this was to be immediately reported to the Ministry, and at year's end the prefecture would send the Judicial Intendant a report showing the names and number of men currently held.<sup>46</sup>

According to one gruesome story these formal quotas had been preceded by an informal and brutal *de facto* quota system. At some indeterminate time prior to the reign of Shen-tsung (1067-1085), perhaps in 1058, a quota had in effect been set by providing provisions for only three hundred men. In the years just prior to the accession of Shen-tsung the Military Commissioner, Li Ching, was "solving" the problem of excess convicts by throwing all men beyond the quota into the sea. In two years he had killed seven hundred men. When Ma Mo was appointed Administrator of Teng prefecture he was appalled by the practice, criticized Li directly, and prepared to submit an impeachment. Li then hung himself, and Ma sent in a twenty item reform proposal on the running of the island facilities. In particular he suggested that when the "quota" was exceeded, the oldest convicts who had not committed any offenses since arriving should be repatriated to Teng prefecture. As a result many lives were saved.

45. Li Tao, *op. cit.*, 246/6b-7a; Hsü Sung, *op. cit.*, *hsing-fa* 4/26b. There is one rather perplexing phrase in this material but the general sense is clear.  
 46. Hsieh Shen-fu, *op. cit.*, p. 522.

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46. Hsieh Shen-fu, op. cit., p. 522.

Afterwards when Su Shih was Administrator in Teng prefecture, the elders are said to have approached him in the street to ask if he would govern them with the same care as Ma Mo.<sup>47</sup> In later times a legend grew up around this story. According to Chao Shan-liao's Collection of Personal Admonitions (Tzu Ching Pien), shortly after Ma Mo had secured Shen-tsung's assent to his proposed reforms, Ma was sitting in his hall. "Suddenly it grew dark. As if in a dream he saw a gentleman coming through the air, accompanied by a boy and girl. When the gentleman arrived in front of Ma he cried out in a loud voice, 'I am from the Eastern Peak. The Sage Emperor has a Heavenly Order for Ma Mo. You have no descendants. Now in light of this business about transferring criminals from Sramana he has especially decreed that you shall have a son and a daughter.' Then taking the two children he mounted a yellow cloud and left. Ma rose in alarm. Later, as a result, he had a son and daughter."<sup>48</sup>

In the end the problems of the island were solved not by Sung officials but by foreign invaders. When the Jurchen armies swept into Sung territory in the mid-1120s the government transferred all the prisoners elsewhere, or freed them, and ordered judges to send men who would have been sentenced to Sramana to other places, on a "temporary" basis. The Sung never returned, and the Chin do not seem to have used the island as a place of exile. The brutal chapter in the island's history was ended.<sup>49</sup>

The study of one part of the general Sung apparatus of penal control cannot safely be used as a basis for broad generalizations. Our cases are few in number, and quite possibly unrepresentative, and supporting materials are spotty in coverage. Nonetheless the material on Sramana does highlight some key facets of the Sung system of justice. Administratively the system blended civil and military jurisdictions. Actual facilities on the island and control at the capital were in military hands, but the civil administrator of Teng prefecture and the civil Ministry of Justice at the capital both played very active supervisory and advisory roles. Oversight of the island and its inhabitants required a highly centralized records system. Similar mixtures of civil and military

47. T'o T'o, op. cit., 344/23b. Li Ching's position is given as chai-chu, which is synonymous with chien-ya.

48. Cited in Chiang T'ing-hsi et al, op. cit., chih fang tien 280, tsa-lu 2a. Chao Shan-liao died after 1236, which makes this story current in the thirteenth century. We cannot be sure of the date when the event behind this story occurred, except that it was between 1067 and 1072. In 1067 Li Ching was still the Military Commissioner of Sramana. In the sixth month of that year he was active in implementing the amnesty declared on Shen-tsung's accession (suggesting perhaps that the story of his brutal behavior was exaggerated?). See Hsü Sung, op. cit., hsing-fa 4/24b-25a. By 1072 Ma Mo had come and gone, and a man named Li Shih-chung was Administrator of Teng prefecture. See Li Tao, op. cit., 236/24b (1072).

49. Hsü Sung, op. cit., hsing-fa 4/36b, 41a; Hsieh Shen-fu, op. cit., p. 526, 527.

control appear in other areas and facets of the Sung judicial system, as do equally complicated and centralized measures for documentary control. In these regards the island was typical; but it was atypical in at least five important ways--the separation of exiles and their families, the high proportion of the convict population made up of officers and officials, the restriction of convicts to pardoned capital offenders, the quartering of prisoners on commoner households, and the use by those households of the convicts as laborers. These unique features should serve to forewarn us against viewing Chinese penal systems too simply. The Five Punishments were maintained as the traditional rubric defining Chinese penalties, but within it the authorities could work with great flexibility. Exile to Sramana is only one example among many of the subtle gradations in Sung punishments.

Finally, the history of the island clearly illuminates one of the most noteworthy traits of Sung justice by revealing both the severity of sentences and the pervasive impact of the amnesty system. By handing down harsh sentences, and then (immediately in the case of Sramana exiles) mitigating them, and further by holding before those convicted a promise of progressive amelioration of their condition, the Sung authorities may have been seeking two disparate goals, the deterrence of potential criminals, and the rehabilitation of those already convicted. Their key to law and order was the judicious mixture of fear and hope.

#### Chinese Terms

<u>chai</u> 寨	<u>hai-tao</u> 海島
<u>chai-chu</u> 砦主	<u>ku</u> 壘
<u>chien-lin</u> 監臨	<u>p'i</u> 匹
<u>chien-ya</u> 監押	<u>sha-men</u> 沙門
<u>chin-shih</u> 進士	<u>sha-men tao</u> 沙門島
<u>chu-shou</u> 主守	<u>sheng</u> 升
<u>chu-ssu</u> 主司	<u>t'i-tien wu-tao shih-ch'en</u>
<u>chih-chen</u> 執鉞	提點五島使臣
<u>chu-tso tso-lang</u> 著作佐郎	<u>t'un-ping shih</u> 屯兵使
<u>chün-shih</u> 軍士	<u>wen-ssu shih</u> 文思使
<u>chün-t'ou ssu</u> 軍頭司	<u>yen-t'ing i shih</u> 鹽亭役使
<u>hai-men tao</u> 海門島	