

Only a Fool Becomes a King: Buddhist Stances on Punishment

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But what are you going to do about the fact that people will not keep the peace, but rob, steal, kill, outrage women and children, and take away property and honor? The small lack of peace called war or the sword must set a limit to this universal, worldwide lack of peace which would destroy everyone.

This is why God honors the sword so highly that he says that he himself has instituted it (Rom. 13:1) and does not want men to say or think that they have invented it or instituted it. For the hand that wields this sword and kills with it is not man's hand, but God's; and it is not man, but God, who hangs, tortures, beheads, kills, and fights. All these are God's works and judgments.

Martin Luther in *Whether Soldiers, Too, Can Be Saved* (1526),
trans. Porter, *Luther: Selected Political Writings*, 103

Introduction

The question whether it is indeed “God, who hangs, tortures, beheads, kills, and fights” and not the men who wield the sword would have to be posed differently in a Buddhist context. Aside from the fact that a Buddhist ruler would certainly not perform in person the chastisement of the culprit, the fact that he carries ultimate responsibility for the ordering of the punishment brings up an interesting issue. That is to say, what will be the karmic fruition in regard to his participation in punishment? Does he by this infringement of the principle of non-violence (*ahimsā*) accrue negative consequences in this and his future lives? Or will the fact that he is performing it for some assumed benefit for society, as an

inevitable act, absolve him of any unwholesome consequences? In the course of this contribution, I will deal with some aspects of this tension in a strictly historical perspective. I will discuss various answers given to it by the Indian Buddhist traditions themselves. It is not my aim to cover the topic comprehensively, neither in regard to available textual materials nor in terms of thematic breadth and complexity.

Ancient Indian Statecraft

As in medieval Europe, so too in ancient India there existed a rich and imaginative set of customs concerning the measures to be applied when it came to punishing criminals and violators of traditional codes of behavior. The old textbooks on jurisprudence, the *dharmasūtras* and *dharmasāstras*, the composition of which began in the last centuries before the Common Era and clearly bear the imprints of a brahmanically dominated society, prescribe a wide variety of such punishments.¹ Among them we find, just to mention a number of them: money fines, forced labor, confiscation of (all) property, banishment, imprisonment²; branding, beating, whipping, mutilation of bodily parts (finger, hand, foot, nose, ear, lips, tongue, male organ), pouring boiling oil in mouth and ears; death penalty through a sharp weapon, poisoning, hanging, trampling to death by an elephant, burning or drowning, impalement, beheading, being devoured by dogs, being gored by the horns of a bull, being torn apart by oxen, being roasted in fire, being shot to death with arrows.

The relevant parts of these law books prescribe detailed punishments for all different kinds of transgressions without, however, following a

¹ Cf., for example, Pandurang V. Kane, *History of Dharmasāstra: Ancient and Mediaeval Religious and Civil Law*, 5 vols. (Poona: Bhandarkar Oriental Research Institute, 1930–1962), 3:399–408; Terence P. Day, *The Conception of Punishment in Early Indian Literature* (Ontario: W. Laurier University Press, 1982), 146–240; for a variety of punishments mentioned in the *jātakas* cf. Ratilal N. Mehta, “Crime and Punishment in the *Jātakas*,” *The Indian Historical Quarterly* 12-1 (1936), 439–42; in respect to Jaina literature see Kalipada Mitra, “Crime and Punishment in Jaina Literature,” *The Indian Historical Quarterly* 15-1 (1939).

² On the question whether imprisonment in ancient India was thought of as a kind of punishment in its own right or whether prisons were used as a mere intermediary for transgressors waiting for their trial or the execution of their punishment see Day, *The Conception of Punishment*, 148–52.

strict and unified structure. No one other than the king himself was in charge of dispensing justice and deciding on the punishment. Certainly, in larger kingdoms the administration of justice would have been delegated to a bench of magistrates. The king, however, was at the top of this administration. It was his duty to punish evildoers as one of his two primary obligations, equally as important as the protection of his people from outside aggression.³

Ancient Indian literatures are indeed in unison in charging the king with these two main obligations. The king must tirelessly exert his coercive authority (*daṇḍa*) over those who should be punished; otherwise, in the words of the *Manusmṛti*, one of the most authoritative brahmanic writings on what was considered right and wrong, “the stronger would grill the weak like fish on a spit; crows would devour the sacrificial cakes; dogs would lap up the sacrificial offerings; no one would have any right of ownership; and everything would turn topsy-turvy. . .”⁴—thus invoking the idea that the weaker would naturally be suppressed and exploited by the more powerful, the well-known and apparently widely believed rule, called *mātsyanyāya*, that the small fish is devoured by the bigger one.

Similarly also in other strands of literature, non-brahmanic in nature, such as the *Śāntiparvan* of the *Mahābhārata*, punishment is characterized as the king’s most powerful instrument and obligation.⁵ According to

³ MDh 7.14: “For the king’s sake, the Lord formerly created Punishment [*daṇḍa*], his son—the Law [*dharma*] and protector of all beings—made from the energy of Brahman.” BDh 1.18.1: “Receiving one sixth as taxes, a king should protect his subjects.” Cf. also *Vasiṣṭha Dharmasūtra* 19.1; *Gautama Dharmasūtra* 10.7, 11.9; ŚP 12.57.42: “So, king, the lions who are kings have no other everlasting Meritorious Law [*dharma*] than protection [*rakṣā*] that is plain for all to see. Protection is the preservation of the world.” Also in the Buddhist *Aggañña Sutta* (DN III 80–98), which contains a story describing the mythological origin of kingship, the main reason for the decision to select and employ a leader is the need to bring justice and stability to a society rattled by crimes and uncontrolled retaliations.

⁴ MDh 7.20–1.

⁵ “Should there be no king in the world, no one to wield the royal rod of force [*daṇḍa*] upon the earth, then the stronger would roast the weaker upon spits, like fish. We have learned that peoples without kings have vanished in the past, devouring each other, the way fishes in the water eat the smaller ones.” (ŚP 12.67.16–7); “If the rod of force [*daṇḍa*] did not exist in this world, beings would be nasty and brutish to each other. Because they fear punishment [*daṇḍa*], beings do not kill each other,

Bhīṣma, a livelihood free of doing harm is in any case impossible, all the less for a *kṣatriya*, a member of the traditional Vedic warrior class from which the king should normatively come.⁶ The king is thought of as “the killer and the protector of creatures.” “This law of *kṣatriyas* is harsh. . . . But you have been created for fierce deeds.”⁷ Giving up punishment, “a king attains endless evil” and “dwells in the hell Naraka everlasting years.” He is a shame for all *kṣatriyas* when in his country people steal the property of others just like crows steal fishes from the water, and the fault that accrues to him when he does not execute the one who should be killed is equal to that of killing someone innocent.⁸

The guidelines for regal governance, as found in the books and sections on the *dharma* of kings, the so-called *rājadharmā*, are thus very straightforward and seem to deny any room for an alternate construction of the kingly duties. How then should a sovereign who considered himself Buddhist, or better, *could* such a sovereign, adopt these traditional and general rules of statecraft? Would he not have to throw overboard the first of the five precepts to be followed by all lay Buddhists,⁹—namely the abstention from intentionally killing or injuring sentient beings, one of the main tenets in Buddhist self-perception and with which Buddhism is widely identified?

The Ideal Buddhist Ruler

To be sure, there is no simple or standardized answer to this question. Indian Buddhist thinkers have been aware of the difficulties posed for

Yudhiṣṭhira. As they are preserved by the rod of force day after day, king, his subjects make the king grow greater; therefore the rod of force is what is most important. It puts this world into a stable order quickly, king” (ibid. 12.121.33–5); “the rod of punishment [*daṇḍa*] became the *kṣatriya* Order of society, and, judiciously decreed, it always stands watch over creatures without ever fading” (ibid. 12.121.39).

⁶ Ibid. 12.128.27–9.

⁷ Ibid. 12.128.27; 12.140.32.

⁸ Ibid. 12.70.27–8; 12.140.26–8.

⁹ For the five lay precepts see, for example, MN II 51; for a more explicit formulation of the first precept cf. MN I 287: “Here someone, abandoning the killing of living beings, abstains from killing living beings; with rod and weapon laid aside, gentle and kindly, he abides compassionate to all living beings.” [Bhikkhu Ñāṇamoli and Bhikkhu Bodhi, trans., *The Middle Length Discourses of the Buddha: A New Translation of the Majjhima Nikāya* (Boston: Wisdom Publications, 1995), 382].

their traditions and have struggled to ease the tension between an eventual need for the carrying out of punishment and their understanding of non-violence. This, however, does not mean that Indian Buddhism lacks an idealistic view of how a king should reign. The Buddhist model of kingship was that of the *cakravartin*, the wheel-turning king, who, as he is described in the Pāli *Cakkavatti-sihanāda Suttanta*¹⁰ and other texts,¹¹ has conquered the four quarters of the earth and established stability, rules over them without the need for punishment or other violence, and encourages his subjects to live according to the five precepts.

No matter how we interpret the main thrust of the story,¹² apart from its utopian outlook, it offers very few concrete guidelines on what to do if crimes *do* take place and the stability in the country is *not* maintained. As the story in the *suttanta* develops and the text describes this *cakravartin's* successor several generations later, it becomes the failure of this person adequately to punish a thief that leads to a drastic deterioration of the circumstances of human life and society as a whole. A thief is brought to him, and the king gives him money in response to the reason for the thief's deed—poverty. But when other people also decide to steal in order subsequently to receive money from him, the monarch chooses a more rigorous way of dealing with a culprit and has him executed. This, again, invites other robbers equally to make use of killing in order to prevent their victims from reporting to the officials about the crime, and the whole society is thus dragged into a disastrous cycle of violence. The early ideal of the Buddhist universal emperor as he is presented in the narrative thus avoids a realistic discussion of the possible need for the application of punishment, let alone its ethical and karmic implications. The *suttanta* illustrates perfectly that the emperor—apparently unprepared to deal with the situation—is unable to react in a more effective way to this unexpected challenge to his ideal world.

¹⁰ DN III 58–77.

¹¹ See, for example, in the *Mahāsudassana Sutta* (DN II 169–98).

¹² For one possible interpretation see Steven Collins, *Nirvana and Other Buddhist Felicities: Utopias of Pali Imaginaire* (Cambridge: Cambridge University Press, 1998), 480–6.

Ethical Fundamentalism

A different approach to the issue, ready to confront an unquestionably less ideal society than the proponents of the *cakravartin* utopia would like us to hope for, evolves from a standpoint that can be described as ethically fundamentalist: punishment is uncompromisingly judged as a violation of Buddhist ethics equally as unwholesome as stealing, lying, and so on. This position offers no room for a reconciliation of the issue and rigorously rejects any kind of retrenchment at the expense of the Buddhist standard of ethics, which, in this strand of thought, is believed to be universally valid and thus does not support the idea that a member of the *kṣatriya* class would have to fulfill his particular duty (*svadharma*).¹³ There are plenty of representatives of this rigid approach throughout both conservative Buddhist¹⁴ and Mahāyāna writings.¹⁵ There is, for example, the *jātaka* of the prince Temīya,¹⁶ who knows and remembers by his own experience that the throne of a king can only lead to hell. He decides to act as if he were lame, deaf and dumb, with the sole purpose of escaping the royal duty awaiting him, even at the expense of being put to death. The event that leads to his decision is described as follows:

When he was one month old, they adorned him and brought him to the king, and the king having looked at his dear child, embraced him and placed him on his hip and sat playing with him. Now at that time four robbers were brought before him; one of them he sentenced to

¹³ On the Indian warrior and his class-specific duties such as death on the battlefield see Minoru Hara, “The Death of the Hero,” *Journal of the International College for Advanced Buddhist Studies* 4 (2001), 1–26; cp. with SN IV 308–9 where the Buddha, asked by a soldier about rebirth in heaven after death on the battlefield, denies this perspective and predicts rebirth in hell or as animal.

¹⁴ I follow Lambert Schmithausen and others in using the term “conservative Buddhism” as a designation for the schools of Buddhism which are otherwise subsumed under the devaluating term *hīnayāna*.

¹⁵ Steven Collins speaks of two modes of *dhamma*. In mode 1 “the assessment of violence is context-dependent and negotiable” whereas mode 2 is based on an ethics of absolute values where punishment is treated just as another instance of violence (Collins, *Nirvana and Other Buddhist Felicities*, 419–23). The rigid approach of ethical fundamentalism would well correspond with his mode 2. My paper owes a lot to Collins’ chapter six in *Nirvana and Other Buddhist Felicities*.

¹⁶ *Mūgapakkha Jātaka* (Jā 538, 6:1–30).

receive a thousand strokes from whips barbed with thorns, another to be imprisoned in chains, a third to be smitten with a spear, the fourth to be impaled. The Bodhisatta [Temīya], on hearing his father's words, was terrified and thought to himself, "Ah! my father through his being a king, is becoming guilty of a grievous action which brings men to hell." The next day they laid him on a sumptuous bed under a white umbrella, and he woke after a short sleep and opening his eyes beheld the white umbrella and the royal pomp, and his fear increased all the more; and as he pondered "from whence have I come into this palace?" by his recollection of his former births, he remembered that he had once come from the world of the gods and that after that he had suffered in hell, and that then he had been a king in that very city. While he pondered to himself, "I was a king for twenty years and then I suffered eighty thousand years in the Ussada hell, and now again I am born in this house of robbers, and my father, when four robbers were brought before him, uttered such cruel speech as must lead to hell; if I become a king I shall be born again in hell and suffer great pain there," he became greatly alarmed, his golden body became pale and faded like a lotus crushed by the hand, and he lay thinking how he could escape from that house of robbers.¹⁷

Candrakīrti, the Madhyamaka philosopher from the first half of the seventh century, is another characteristic example of the same uncompromising strand. In his commentary on Āryadeva's *Catuḥśataka*, its fourth chapter being a critical analysis of the king's role in light of a universal Buddhist set of ethics, Candrakīrti reflects on the king's fulfilling his specific royal duties.¹⁸ While I am not sure whether for

¹⁷ Jā 538, 6:3–4; translation quoted from Edward B. Cowell, trans., *The Jātaka or Stories of the Buddhas's Former Births*, 6 vols., 1895–1907 (Reprint, Delhi: Motilal Banarsidass, 1990), 6:3.

¹⁸ Candrakīrti's commentary is preserved in complete only in Tibetan. I used the Derge Tanjur edition published by the Faculty of Letters at the University of Tokyo: *Byang chub sems dpa'i rnal 'byor spyod pa bzhi brgya pa'i rgya cher 'grel pa, Bodhisattva-yogācāra-catuḥśataka-ṭīkā* (dbu ma, vol. 8, Ya 30b–239a); the Tibetan is translated in Karen C. Lang, *Four Illusions: Candrakīrti's Advice to Travelers on the Bodhisattva Path* (New York: Oxford University Press, 2003). The remaining Sanskrit fragments have been edited by Haraprasād Shāstrī as "Catuḥśatika by Āryadeva" in

Candrakīrti the idea of a “righteous king” (*dharmarāja(n)*), a concept which I will deal with in some more detail below, would at all be seen as a reasonable alternative,¹⁹ the main points of his argument are fairly clear. According to it, the king cannot but produce negative results for his soteriological situation. The king’s axiomatic guideline is the view that the fulfillment of his proper duty as a ruler—namely protecting his subjects by punishing evildoers—would come along with spiritually wholesome after-effects for himself.²⁰ This, however, cannot work, says Candrakīrti, since the king punishes without empathy; and the application of such violence does counteract the *dharmā* (in its universally valid Buddhist meaning), just as butchers and fishermen are unaware that they produce unwholesome effects by killing animals in the belief that they have to follow their designated lineages assigned by birth.²¹ The outcome for the ruler thus cannot be positive: “A ruler without empathy has no merit at all since [his] violence is enormous.”²² Its consequences are described even more drastically:

It is just as if in order to perform a buffalo sacrifice somebody would kill [the animal] and many would eat [its meat], and this evil (*pāpa*), however, would only appertain to the killer; in the same way, for the sake of the kingdom, the king performs [protective] acts of evil and many enjoy the wealth [resulting from it], but the evil he performed, which has terrible fruits [leading] to bad existences (*durgatī*), pertains alone to the king.²³

Memoirs of the Asiatic Society of Bengal 3 (1910–1914). For the passages cited in this paper the Sanskrit text is only partly available.

¹⁹ Commenting on verse 4.15 Candrakīrti argues that “now kings born in the age of discord (*kaliyuga*) rely on the evil nature of their own opinions and are obsessed by their desire for wealth.” (Lang, *Four Illusions*, 198). The idea that the present age is that of *kaliyuga* would certainly hamper if not rule out the possibility of encountering a righteous ruler.

²⁰ Candrakīrti cites the following passage in order to illustrate what constitutes the Vedic background of the king’s belief system: “Even though the king has performed acts of violence, he is without demerit (*adharmā*) [since he acted] according to the norm (*dharmā*) of the warrior (*kṣatriya*), established by the Vedic seers (*ṛṣi*).” (*drang srong gis byas pa’i rgyal rigs kyi chos kyis ’tshes ba byas kyang rgyal po la chos ma yin pa med doll* CT_T 82a7).

²¹ Cf. CT_T 80a3–5; Lang, *Four Illusions*, 193–4.

²² *mi’i bdag po brtse ba med pa la ni chos yod pa yang ma yin tel ’tshes ba zal(?) che ba’i phyir roll* CT_T 82a1.

²³ The translation is from the Tibetan: *ji ltar ma he’i mchod sbyin bya ba’i phyir*

Candrakīrti, throughout his commentary, emphasizes several times that the king acts without empathy (Skt. *dayā*; Tib. *brtse ba*) towards those who cannot pay their taxes and evildoers. However, as far as I understand his argument, it remains unclear whether (1) empathy, understood as the refrain from harsh forms of punishments, is considered an attribute unsuitable for a ruler, eventually leading to the loss of authority and chaos,²⁴ whether (2) any accepted need for violent punishment is thought to be irreconcilable with empathy, or whether Candrakīrti assumes that (3) *a priori* only a person without empathy would become a ruler.

Whatever Candrakīrti's exact position on this question might have been, the main thrust of his commentary seems to be directed to prove that the brahmanic conception of kingship is utterly unacceptable from a Buddhist standpoint. He does not feel the need to formulate any ideal of royal or other forms of leadership of his own. In favor of point (3), however, there is another passage that seems to suggest he categorically denies the possibility of a king with empathy. This part of his argument belongs to the commentary on Āryadeva's verse 13 which runs as follows:

Somebody [who is] not a fool does not gain a kingdom;
A fool, however, does not have empathy.
[Such] master of men, though being the protector:
Without empathy, there is no *dharma* [with him]!²⁵

*gcig gis gsod cing mang po rnams kyis za bar 'gyur lal sdig pa de yang gsod pa po de kho na la 'gyur ba de bzhin dul rgyal po rgyal srid kyi phyir sdig pa'i las byed cing/longs spyod ni mang po zhig gis longs spyod lal des byas pa'i sdig pa ngan 'gror 'bras bu shin tu mi bzad pa can ni rgyal po de nyid la 'gyur roll CT_T 88b2–3; the Sanskrit text of this passage is shorter: *yathā mahiṣaḥ svaparārthaṃ ekena hanyate bahubhiḥ paribhujate / ghātakasyaiva pāpam / tathā rājā rājyahetoḥ pāpaṃ karma karoti, bahavaś ca paribhujate /* (CT 465).*

²⁴ Cf. e.g. ŚP 12.76.18–9 where Bhīṣma addresses Yudhiṣṭhira who has expressed the wish to retreat to the forest: “I know your mind has the quality of gentleness, but nothing great can be accomplished by gentleness alone. Also, people do not have much respect for you for being gentle, . . .”

²⁵ No Sanskrit is available for this verse. The Tibetan translation runs as follows: *blun min rgyal srid mi thob lal blun la brtse ba yod min nal bsrung po yin yang mi yi bdag/ brtse ba med la chos mi gnas//* [Karen Lang, ed. and trans., *Āryadeva's Catuḥśataka: On the Bodhisattva's Cultivation of Merit and Knowledge* (Copenhagen:

Candrakīrti elaborates the message of this verse and insists that a fool does not have empathy. If I understand him correctly, a ruler by his very job, in which “pride and negligence have become the basis of everything,” becoming intoxicated by his power and mundane pleasures, must lose sight of the right path for himself and his subjects and fall into the erroneous belief that those factors actually hindering his spiritual benefit are his proper qualities. This constitutes the foolishness that goes with a lack of empathy: “The king who has become a fool has no empathy because pride has taken hold [of him].” Candrakīrti leaves the question open whether violent punishment with a compassionate motivation, a combination which I will discuss later on, could be an appropriate alternative. In his commentary, he probably refers primarily to the factual situation of kingship as he knew and experienced it from his own times, with all its unpleasant and frightening aspects, rather than to its scriptural notion. More than once he refers to the “law of an age of discord” (*kalidharma*), in order to argue that contemporary monarchs have deviated from the norms of proper rule based on which they used to protect society just as they protected their own son. Seen from this perspective, it should not come as a surprise that Candrakīrti does not embark on a reflection about the potential compatibility of royal violence and the virtues of Buddhist ethics or spirituality. He would definitely be on the side of the prince Temīya who, as we have seen above, refused to become a fool and decided to escape from the royal office waiting for him.

When it comes to the first of the three points formulated above, the question of whether the role of a king can be consistent with a refusal to punish criminals out of empathy for them, Candrakīrti, as one can see from his commentary, would have a rather critical stand. It reminds us of an episode mentioned in the *Mahāvamsa*, the sixth-century court chronicle of Sri Lanka, where the king Siri Saṃghabodhi is said to have taken the Buddhist precept of non-violence seriously: in order to save rebels from their punishment, he only pretended to execute them. He then had them released secretly and had corpses of other persons burnt

Akademisk Forlag, 1986), v. 4.13]. The verse with minor variants is also found in CṬ_T 81b4–5 (no Sanskrit is available). Candrakīrti comments on this verse in CṬ_T 81b5–82a7. The following quotes in the main text are taken from his comment.

instead of theirs.²⁶ In a later thirteenth-century chronicle, the *Hatthavanagallavihāra-vaṃsa*, it is described that the king had to face a tragic outcome of his non-violent stance. His treasurer built an army of the released evildoers and forced Siri Samghabodhi to renounce the throne. The king later decapitated himself.²⁷ Whatever conclusions we may draw from the differences in the two chronicles, they show that among the Buddhist clerics to whom the authors of the chronicles belonged there were different ideas of whether a Buddhist king should and could rule without the application of harsh forms of violence. They further demonstrate that Candrakīrti is not alone in his judgement of kingship as an institution inescapably troublesome for oneself in a situation of political needs and continuous struggle for power dominated by the “rule of the fish.”

The Righteous King

It surely does not come as a surprise that alongside these positions we find other concepts of Buddhist kingship, concepts less radical regarding its ethical perspective and in one or another way reconcilable with different strands of thought within the multireligious society characteristic of India in those days. This is, perhaps, to be expected, in view of the fact that Buddhism from its very beginning had a strong tendency toward a pragmatism that, for the wider circle of followers, would discourage rigid theoretical positions.²⁸

These less radical concepts, furthermore, are in no way restricted to Mahāyāna developments. The Pāli sources, too, know how to treat kingship as a helpful institution; they stress the beneficial role of the king for his subjects. The king provides them with internal security,

²⁶ See *Mahāvāṃsa* verses 36.80–1; translated in Wilhelm Geiger, *The Mahāvāṃsa or the Great Chronicle of Ceylon*, 1912 (Reprint, Colombo: Ceylon Government Information Department, 1950).

²⁷ The treasurer appears also in the *Mahāvāṃsa* where no mention is made of his support by released criminals. See Collins, *Nirvana and other Buddhist Felicities*, 459.

²⁸ This aspect is thought to be one of the key elements favoring the rapid spread of Buddhism after Aśoka. In this respect, the Buddhist traditions found themselves in a better situation than other contemporary religious competitors like, for example, Jainism.

protects them from external aggression, and encourages them to follow a morally sober way of life. The ideal ruler portrayed in these sources is that of the *dharmarāja(n)*, a “righteous king,” equipped with the best moral and intellectual qualities, ruling in accordance with the Buddhist *dharma*. The same would of course also apply to the *cakravartin*,²⁹ the universal ruler I have touched upon above. However, when speaking about the *dharmarāja(n)*, the emphasis is less on far-reaching territorial ambitions, i.e., the idea that a *cakravartin* would have to conquer the whole world. The concept of the *dharmarāja(n)* seems to be also applicable to less pretentious, local rulers, and the sources offer some more information about the theoretical guidelines of his governance. Buddhist literature often refers to the ideal of the righteous king, and from these descriptions we can learn what this ideal comprised and how, for example, the king was supposed to deal with evildoers, if indeed crimes take place in his realm—a possibility that, as we have seen, was categorically ruled out in case of the *cakravartin*.

One of the best known sets of guidelines for such a ruler in the Pāli sources is the list of the ten so-called “royal virtues” (*rājadhamma*), which usually comprise alms-giving (*dāna*), morality (*sīla*), liberality (*pariccāga*), honesty (*ajjava*), mildness (*maddava*), self-restriction (*tapas*), non-anger (*akkodha*), non-violence (*avihiṃsā*), patience (*khanti*) and non-offensiveness (*avirodhana*).³⁰

While more research would be needed to understand the background of these virtues, what they originally stood for, and how they have been understood by commentators, it seems obvious that the “virtue of non-violence” in this list would preclude such violent acts as warfare and punishment without some softening of the definition of “violence.”

Many of the Pāli texts, however, leave no doubt that punishment of evildoers is indeed part of the king’s business. In the *Somanassa Jātaka*, for example, the king is encouraged to reflect well before arriving at a judgement and to punish with careful measure.³¹ Similarly in the

²⁹ The *cakravartin* too rules according to the standards laid out by the *dharma* and the idea of a “righteous king” seems from its very beginning to have been inseparable from the *cakravartin* concept.

³⁰ See PTSD s.v. *rājadhamma*.

³¹ Jā 505, 4:451.

Sumaṅgala Jātaka, a righteous king says that it is unworthy for a ruler to punish out of momentary emotions. It is necessary to understand the case properly and to punish free of anger, caring (*anukampā*) for the evildoer.³² The righteous king Maitrībala is described in Āryaśūra's *Jātakamālā*, a Sanskrit collection of thirty-four birth stories of the Buddha from about the fourth century, as someone who rules without harming the *dharma*, protecting his subjects and yet submitting them to punishment (*vinigraha*).³³ In all these cases, it appears that the act of punishing would not be considered a departure from the royal virtue of non-violence; alternatively, one would have to reckon that the conflict between the two had simply been ignored, without inquiry into the question of whether and how they could be combined.

There are, as a matter of fact, stories explicitly stating that, just as in the realm of a *cakravartin*, a king with the ten royal virtues has no need for punishment. In the *Bhikkāparampara Jātaka*, the king is described as following the ten royal virtues and therefore finds his court of justice empty.³⁴ The logic at work here implies that the governance of the ruler according to the *dharma* and his excellent moral qualities effect the likewise morally immaculate behavior of his subjects. There are numerous Buddhist narratives that testify to this correlation, worked out in both positive and negative terms and stretching even beyond the human world. In a passage of the *Aṅguttara Nikāya*, it is stated that if the king is righteous (*dhammika*) so are his ministers, priests, townsfolk and villagers; moon, sun and stars move along their correct paths; day and night, months, the seasons and the years come regularly; winds blow favorably, and the *devas*, happy with the ruler's virtuous reign, bestow sufficient rain. The crops accordingly grow perfectly, and so the people who eat them are healthy and live a long life.³⁵ Similarly, in the *Rājovāda Jātaka*, the king, by exercising his rule according to the *dharma*, ensures the sweetness of the fruits and honey in his realm; as

³² Jā 420, 3:441–2.

³³ *Maitrībala Jātaka* (no. 8); see Hendrik Kern, ed., *The Jātaka-mālā or Bodhisattvāvadāna-mālā by Ārya-ṣūra* (Boston: Published for Harvard University by Ginn, 1891), 41.9–10.

³⁴ Jā 496, 4:370.

³⁵ AN II 74–6.

soon as he stops doing so, the fruits turn bitter.³⁶

The critical point here, however, is the question by what exactly the righteousness of the king is constituted. As the examples given above have shown, administering punishment was, at least in one strand of the tradition, considered an appropriate measure at the hands of the king. A passage from the Mahāyānist *Suvarṇabhāsottama-sūtra*, similar in content to the last two passages cited above, elaborates on the correlation between the king's duties and the stability in his realm and explicitly states that devastating happenings result from his negligence in imposing punishment.

For when a king overlooks an evil deed in his territory and does not inflict appropriate punishment on the evil person, in the neglect of evil deeds lawlessness grows greatly, wicked acts and quarrels arise in great number in the realm. The chief gods are wrathful in the dwellings of the Thirty-three when a king overlooks an evil deed in his territory. His territory is smitten with dreadful, most terrible acts of wickedness, and his realm is destroyed on the arrival of a foreign army, his enjoyments and houses. Whoever has accumulated wealth, by various evil acts they deprive one another of them. If he does not perform the duty on account of which he has kingship, he destroys his own realm, just as the lord of elephants (tramples) on a lotus-pool. Unfavourable winds will blow; unfavourable showers of rain (will fall); unfavourable (will be) planets and asterisms, likewise moon and sun. Crop, flower, fruit, and seed will not ripen in due season. Famine will arise there where the king is neglectful. Unhappy in mind will the gods be in their dwellings when the king overlooks an evil deed in his territory. . . . Through the anger of the gods his territory will perish. . . . He will find himself separated from his loved ones, Or his daughter will die. There will be showers of meteors, likewise mock suns. Fear of foreign armies and famine will increase greatly. His beloved minister will die and also his beloved elephant.³⁷

³⁶ Jā 334, 3:110–2.

³⁷ Translation from Ronald E. Emmerick, *The Sūtra of Golden Light: Being a Translation of the Suvarṇabhāsottamasūtra* (Oxford: Pali Text Society, 1996), 61–2.

The text, which in its description resembles the *Aṅguttara Nikāya* passage, unmistakably calls for the king to exercise punishment. The virtue of the ruler is manifested in his heedfulness and in the appropriateness of the punishment. Non-violence remains unmentioned and we can well assume that the composer of this passage considered the royal duty of performing punishment, in this context, more important than observing *avihiṃsā*, as one of the elements of the ten *rājadhamma*. The passage is clearly in line with the brahmanic law books that, as discussed above, define the protection of the subjects from inward and outward aggression as the paramount duty of the king. In light of this, it is quite possible that the *Aṅguttara Nikāya* passage too is based on the understanding that a king, first of all, has to establish law and order; and that, should this not follow naturally from his practice of the ten royal virtues, his righteousness would consist, as the *Suvarṇabhāsottama-sūtra* describes, in his heedfulness and his impartial performance of punishment. In a wider perspective, I believe it is safe to say that, besides the utopian outlook of a Buddhist king who does not have to punish because of the perfect morality of all of his subjects, we face in this case an alternative model of Buddhist royal axioms.

Compassionate Punishing

As mentioned in the previous section, the king's obligation to punish evildoers comes very close to the positions found in the *Mahābhārata* and the *Manusmṛti* that I have given at the beginning of this piece. Proper consideration, impartiality and heedfulness as the main factors guiding his activities are equally mentioned in those non-Buddhist sources. Is this alternative model of the righteous Buddhist ruler then no more than brahmanic statecraft in Buddhist garb?

In the rest of this paper, I will deal with Indian Mahāyāna sources and show that the rules for punishing in some of those texts contain an important additional element that cannot be found in the traditional brahmanic law books: compassion. The inclusion of this element, the central notion of Mahāyāna ethics, as one of the guiding principles for the king, modified the ideas about the implementation of punishment in at least two decisive ways. One is the idea that punishment, more than

satisfying feelings of retaliation, has to serve the improvement and rehabilitation of the evildoer in this life. The second is a tendency toward the application of milder forms of punishment and, in the best case, the absolute exclusion of certain forms of punishment that in their results are irreversible.

A well-known representative of this kind of argument is the royal policy chapter of the *Ratnāvalī*, attributed to the second-century philosopher Nāgārjuna.³⁸ In this work Nāgārjuna advises a king on how to rule his territory based on Buddhist principles. The author is realistic enough not to play down the problems the king might run into and states in the last verse that if, in light of the opposition between the *dharmā* and the temporal world, the king should find it too difficult to reign, he should try to attain spiritual realization as a monk.³⁹ With regard to prisoners, he admonishes the king to treat them with compassion⁴⁰ (especially those who have committed the most horrible deeds like murder) and to take good care of their physical needs with barbers, baths, drinks, food, medicine, and clothing.⁴¹ He advises the ruler to look at evildoers just as he would look at his children, whom he would punish with compassion to make them improve their behavior and not out of hatred or desire for wealth.⁴² Nāgārjuna further elaborates that the king should not kill or torment a criminal but, instead, banish a murderer from his territory.⁴³

The rejection of particularly harsh forms of punishments is also found in Candrakīrti's commentary with which I have dealt above and which, as we have seen, is generally not aiming at formulating an alternative Buddhist mode of ruling. It nevertheless rejects the argument that a king

³⁸ For editions of the Sanskrit text and the Tibetan translation see Michael Hahn, ed., *Nāgārjuna's Ratnāvalī, Vol.1: The Basic Texts (Sanskrit, Tibetan, Chinese)*, Indica et Tibetica (Bonn: Indica et Tibetica Verlag, 1982). The fourth chapter on royal policy was translated by Giuseppe Tucci in "The Ratnavali of Nagarjuna," *The Journal of the Royal Asiatic Society of Great Britain and Ireland* (1936): 423–35. There are corrections to be made to his translation based on Hahn's 1982 editions.

³⁹ RĀ 4.100.

⁴⁰ Ibid. 30–3.

⁴¹ Ibid. 35.

⁴² Ibid. 36.

⁴³ Ibid. 37.

has to adopt harsh forms of punishment in order to become renowned⁴⁴ and, at the same time, criticizes, in contrast to what Nāgarjuna has to say about it, the practice of banishing a criminal as a harmful activity.⁴⁵

Another straightforward example of how the central role of compassion is reflected in the penal system can be found in the *Bodhisattvabhūmi*, a part of the vast *Yogācārabhūmi*, an early Yogācāra work that, in the form it has come down on us, is a product of a considerably long period of compilation and redaction.⁴⁶ In the chapter on morality,⁴⁷ it is said that the bodhisattva, whether layman or monk, has to interact with other sentient beings for the sake of their spiritual benefit. This can mean that, in order to establish them in a more wholesome state, he will occasionally have to make use of harsh words, criticism, and forms of punishment, even though this might as an immediate result cause them dysphoria and pain.⁴⁸ There is no offense in this for the bodhisattva; rather, he attains merit. Indeed, he would commit an offense were he to leave those who would benefit from punishment unpunished. Only in specific cases would neglect of punishment not be seen as an offense—for instance, in cases where there is no hope at all that the evildoer would profit from the applied measures, where he is full of malicious feeling, where the bodhisattva's actions would lead to quarrels, turmoil and fighting, or where the evildoer has enough feelings of shame and modesty that he would very soon come back onto the right track by himself.⁴⁹ The bodhisattva, while engaging in these punitive measures, has to do so with the intention of

⁴⁴ CT_T 85b3–86a4; Lang, *Four Illusions*, 202–3.

⁴⁵ CT_T 79a3–4; Lang, *Four Illusions*, 192.

⁴⁶ For more information on this work see Ahn Sung-Doo, *Die Lehre von den kleśas in der Yogācārabhūmi*, Alt- und Neu-Indische Studien 55 (Stuttgart: Franz Steiner, 2003), 1–11.

⁴⁷ *Śīlapāṭala* in Nalinaksha Dutt, ed., *Bodhisattvabhūmiḥ* (Patna: K. P. Jayaswal Research Institute, 1978), 95–129. A translation of this chapter in a Western language exists only from the Tibetan: Mark Tatz, trans., *Asanga's Chapter on Ethics, with the Commentary of Tsong-Kha-Pa, The Basic Path to Awakening, The Complete Bodhisattva*, Studies in Asian Thought and Religion 4 (Lewiston/Queenston: Edwin Mellen Press, 1988), 47–89. Most of the passages discussed in my paper are dealt with in Lambert Schmithausen, "Einige besondere Aspekte der 'Bodhisattva-Ethik' in Indien und ihre Hintergründe," *Hōrin* 10 (2003), 34–46.

⁴⁸ Bbh 97.20–5; 102.15–103.13.

⁴⁹ Bbh 123.18–25.

caring for and benefiting others, with his senses turned within, calm, caring and full of friendship.⁵⁰ Light and medium transgressions are to be punished with banishment limited in time, so that the person can, at a later time, again join the community; heavy transgressions should lead to irreversible banishment, so that transgressors would have no chance to accrue more demerit for themselves and as a deterrence for other individuals.⁵¹ Note that in this chapter of the *Yogācārabhūmi*, irreversible banishment seems to function as the most drastic form of punishment.⁵²

As a last representative of Mahāyāna texts promoting the idea of punishment with compassion, I would like to deal with the **Bodhisattva-gocaropāya-viṣaya-vikurvaṇa-nirdeśa-sūtra* (Sūtra Which Expounds Supernatural Manifestations [That Are Part of] the Realm of Stratagems in the Bodhisattva's Range of Action). The sūtra also goes

⁵⁰ Ibid. 97.22: *snigdhenā hitādhyāśayānugatenāntargatamānasena. . . .*; 103.19–20: *anukampayā praśāntair indriyair avasādayati* /

⁵¹ Ibid. 104.4–13.

⁵² Whereas the chapter on morality in the *Bodhisattvabhūmi* seems to be primarily dealing with rules which fall under the bodhisattva's *private* set of moral guidelines (though the fact that the chapter speaks also about punishment and exiling criminals could mean that these bodhisattvas were thought of as persons holding public offices), another chapter of the *Yogācārabhūmi* addresses the royal ethical code *per se*. Two versions of this section are available in Chinese: (1) *Yuqieshi di lun* 瑜伽師地論, T 30, no. 1579 (*juan* 61); (2) *Wangfa zhengli lun* 王法正理論, T 31, no. 1615. The *Wangfa zhengli lun* has been transmitted as a separate text though besides some minor variant readings it is identical with the *Yuqieshi di lun*. Both versions have Xuanzang 玄奘 as translator. Main aspects of the text in regard to punishment are the call to the king not to punish severely even in cases of grave transgressions, and to deal with the transgressor in accordance with the seriousness of the offense (雖有大愆有大違越而不一切削其封祿奪其妻妾。不以重罰而刑罰之。隨過輕重而行黜罰。T 30.639b22–4; cf. T 31.857a21–4). If crimes can be forgiven it should be done. In case they are unforgivable, they should be punished based on the facts, in a timely manner, and according to the principles [of justice] (諸有違犯可矜恕罪即便矜恕。諸有違犯不可恕罪以實以時如理治罰。T 30.641b3–5; cf. T 31.858c25–6). In contrast to Yün-Hua Jan, who in dealing with the text states that “Buddhist works fail to spell out what is the most severe or the upper limit of punishment that a king might impose upon the most wicked criminal” I would argue that the above-quoted call not to punish severely does exclude capital punishment, even more so as the king is explicitly admonished to refrain from killing (T 30.641c7; cf. T 31.859a28); cp. Yün-Hua Jan, “Rājadharma Ideal in Yogācāra Buddhism,” in *Religion and Society in Ancient India*, Sudhakar Chattopadhyaya Commemoration Volume (Calcutta: Roy and Chowdhury, 1984), 232–3.

under the title **Satyaka-parivarta*, reflecting the name of the main interlocutor of the king receiving advice.⁵³ The text, in one of its chapters, deals elaborately with the code of royal ethics. No Sanskrit version has come down on us, but the whole sūtra was translated into Chinese by Bodhiruci (572–727?) and also into Tibetan. An older Chinese translation of the work by Guṇabhadra (394–468) does not contain the chapter on royal ethics. The sūtra also deals with a rather developed form of buddha-nature theory and thus can hardly predate the fourth century CE. The chapter in question is of great importance not only because of its rejection of capital punishment and all forms of mutilation but also because it outspokenly puts forth the goal of improvement and rehabilitation of the culprit.

In broad terms, the **Satyaka-parivarta* is one of those Buddhist works that stresses, as we have encountered above, the righteousness of the king and his obligation to punish evildoers. A twofold approach is suggested. If the matter can be solved without the application of “harsh forms of punishment,” the king should simply declare the crime of the lawbreaker—a measure which could involve a public proclamation of the crime and lead to stigmatization.⁵⁴ Where verbal chastisement would not suffice, the king should inflict “harsh forms,” such as “binding, imprisoning, beating, threatening, harming, scolding, reproaching, exiling from the region, confiscating property, and so on.”⁵⁵ The text explicitly states that the king should in no case kill the culprit, injure his sense organs or cut off parts of his body, and that while punishing he should cultivate a mental state of “friendliness and compassion.”

It is as if a father, [who,] when [he] wants to cure a dishonourable son,
after [he] has brought about a mental state of friendliness and

⁵³ For a study and translation of the sūtra from the Tibetan translation see Lozang Jamspal, *The Range of the Bodhisattva: A Study of an Early Mahāyānasūtra*, Ph.D. dissertation (Columbia University, 1991). A summary and analysis of the chapter on royal ethics based on all available versions in Chinese and Tibetan is provided in Michael Zimmermann, “A Mahāyānist Criticism of *Arthaśāstra*: The Chapter on Royal Ethics in the *Bodhisattva-gocaropāya-ṣaya-vikurvaṇa-nirdeśa-sūtra*,” *Annual Report of the International Research Institute for Advanced Buddhology at Soka University for the Academic Year 1999 3* (2000).

⁵⁴ Zimmermann, “Mahāyānist Criticism of *Arthaśāstra*,” 193–4.

⁵⁵ *Ibid.*, 194.

compassion, treats [his son] harshly with [all] other kinds of harming [punishments] except killing [him], injuring [his] senses, or cutting parts [of his body]. But thereby no mental state of malignity or causing harm arises [in the father. He] rather acts in order to dispel the fault, and treats [him] harshly while thinking: ‘May faults [which yet] have not come forth not arise!’

In the same way, also a king loyal to the *dharma* brings about the conception that [all of his] subjects [are his] sons, and, when [he] cures dishonourable living beings, acting in a mental state of friendliness and compassion, [he] treats [them] harshly with harsh forms [of punishments, such as] binding . . . except killing [them], injuring [their] senses, or cutting parts [of their body]. And yet no mental state of malignity or causing harm arises [in] him towards those sentient beings. [He] rather acts in order to dispel the[ir] faults, and treats [them] harshly while thinking: ‘Other [living beings] than those [punished here] may imitate [the transgressors]; may faults [which yet] have not come forth not arise!’⁵⁶

A second analogy is offered later in the same chapter. This time, the punishing king is compared to a physician who without anger applies himself to the treatment of the patient.⁵⁷

The notion that a king should control his temper and never act out of anger or ill-will goes without saying. It is a common element of most if not all royal manuals and can equally be found in non-Buddhist sources. The exhortation to act with friendliness and compassion, however, is something else indeed. These are among the foremost Mahāyānist values and require active cultivation. One would not expect to find them in the traditional political codes of a typically Machiavellian character, where they are rather seen as hampering the unrestricted exploitation of affairs to the king’s own advantage. Truly noteworthy, finally, is the appeal to avoid the death penalty and other irreversible forms of punishment—an appeal that appears several times throughout the chapter. The comparisons to a father and a physician make it clear that the main motive behind punishment is the long-term remedial and

⁵⁶ Ibid., 194–5.

⁵⁷ Ibid., 196.

healing effect on the culprit.

There are three main arguments against capital punishment and mutilation referred to by the king's interlocutor Satyaka in response to his inquiry.⁵⁸ First, there is the prospect that the king may have reason to fear revenge from or on behalf of the injured or killed person (in the latter: his relatives or the non-human world, either here or in his next lives). The reading in this passage mentioning "feelings of aversion" is not entirely clear, and we are faced with two possibilities: either the king will have to suffer under bad circumstances after his death due to his aversion towards the culprit at the moment of ordering the killing; or the culprit himself, at the moment of his forced death, will feel aversion towards his executioner, which would entail the culprit being reborn under bad circumstances and—at least in its karmic implications—would render the punishment completely counterproductive. Secondly, Satyaka argues that to order capital punishment and forms of mutilations would undermine the people's reliance on and sympathy for the king. To apply such forms of punishment would contradict the actual duty of the king, which is to protect his subjects.⁵⁹ Finally, the last argument, already pointed out before, stresses the irreparable nature of those punishments. They would not provide the convict with the prospect of becoming rehabilitated.

This is a rare instance of an Indian Buddhist text providing reasons why the death penalty and forms of mutilation should be shunned by a Buddhist ruler. As the wider context of the chapter suggests,⁶⁰ it was likely intended to formulate a counter-position to the traditional brahmanic and *kṣatriyan* rules of statecraft, in an attempt to draw a borderline and come up with a more or less applicable alternative that could function as a guideline for a Buddhist ruler. The rehabilitative

⁵⁸ Ibid., 197–9.

⁵⁹ The dilemma of, on the one hand, having to protect his subjects and, on the other, punishing them in order to keep the inner stability in his realm functions also as an argument against the brahmanic conception of kingship in Candrakīrti's commentary (see Lang, *Four Illusions*, 191–4).

⁶⁰ The same chapter on royal ethics in the **Satyaka-parivarta* heavily criticizes what it calls the wrong law (*mithyādharmā*) as the counterfeit of the good (=Buddhist) law. The criticism is directed against the (from a Buddhist point of view) misguided evaluation of *arthaśāstra* literature as virtuous (cf. Zimmermann, "Mahāyānist Criticism of *Arthaśāstra*," 186–8).

aspect from a Buddhist perspective would weigh heavily: to take someone's life would rob the person of his or her precious existence as a human being, the only form of existence allowing for substantial advance in the direction of moral and spiritual perfection. The executed person's bad deeds might well prevent him from attaining a human form soon again. Another concern might have been the wish to keep the door open for the culprit, so that at a later point he would be able to join the Buddhist order, just as the serial killer *Āṅgulimāla* decided to do. In such a case, the person should, needless to say, be alive and (as is specified, for example, in the *vinaya* of the Theravādins) in order to become a novice, should not be deaf, blind, have missing limbs or other corporal disabilities.⁶¹

Of relevance in this context could also be the different spectrum of answers given to the question of whether karmically negative deeds can be purified by undergoing particular forms of expiation (*prāyaścitta*), an idea unreservedly affirmed in brahmanic writings while being ridiculed by Buddhist authors.⁶² Opinions today vary about the history of the relation between judicial punishment (*daṇḍa*) and the brahmanic concept of expiation as documented in the traditional law books. No doubt, however, can dismiss the fact that death and mutilation were part of this concept of penance, through which the transgressor was believed

⁶¹ Cf. Vin I 91. A more general reason for the rejection of capital punishment and forms of mutilation could also lie in the Buddhist association of cruelty and bloodshed with the accumulation of particularly unwholesome karmic after-effects. In the **Satyaka-parivarta* there is no argument against mutilation and death penalty based on *ahimsā*. Whereas this surely comes as a surprise, it also made it not impossible to apply other, less cruel forms of punishment.

⁶² On *prāyaścitta* in general see Wilhelm Gampert, *Die Sühnezeremonien in der altindischen Rechtsliteratur*, Monografie Archivu Orientálního 6 (Prague: Orientalisches Institut, 1939). For expiations leading to the death of the expiator see Albrecht Wezler, "Der Tod als Mittel der Entsühnung," in *Im Tod gewinnt der Mensch sein Selbst: das Phänomen des Todes in asiatischer und abendländischer Religionstradition*, ed. Gerhard Oberhammer, Beiträge zur Kultur- und Geistesgeschichte Asiens 14, Philosophisch-Historische Klasse, Sitzungsberichte, 624. Band (Wien: Österreichische Akademie der Wissenschaften, 1995), 97–140. For the Buddhist counter-position on purification through a particular *prāyaścitta* see, for example, Fumio Enomoto, "The Extinction of *karman* and *prāyaścitta*," in *Buddhist and Indian Studies in Honour of Professor Dr. Sodo Mori*, ed. Publication Committee for *Buddhist and Indian Studies in Honour of Professor Dr. Sodo Mori* (Hamamatsu, Japan: Kokusai bukkyoto kyokai, 2002), 235–46.

to become freed from the factor that had been caused by the offense and was keeping his positive *karman*, performed in former lives, from becoming effective. Analogous ideas can be found in the case of judicial punishment fixed by the king. I leave the complex question unanswered whether the “healing” effect of this act was believed to be based on the assumed religious power of the god-like king, or on the absolving effect of the transgressor’s suffering, parallel to the pain occasioned by a particular *prāyaścitta*. From a Buddhist doctrinal point of view, neither of the two alternatives would be wholly convincing. In general, Buddhist teachings do not embrace the idea of a “mechanical” purification from bad deeds through the endurance of pain, nor is the king assumed to be of divine nature, as documented in the well-known *Aggañña Sutta*.⁶³ Any Buddhist theory of punishment would thus appear to reject such underlying reasoning. This, again, could have led to restricting forms of punishment to those without irreversible effects, in order to enable the transgressor to repent and make good for his offense with wholesome karmic deeds and to cultivate soteriologically advantageous qualities.

Conclusion

In the course of this paper, I have tried to identify at least three distinctly different stances on punishment found in texts of the earlier period of Indian Buddhism. Whereas it is beyond doubt that the ideal of the universal emperor became a powerful and inspiring source for political and military leaders throughout Buddhist Asia, it shies away from formulating explicit guidelines for how to rule if crimes or conflicts take place. On a less grand level, the Pāli sources offer some concrete ideas underlying the model of the “righteous king” by recommending the ten royal virtues and advising the ruler to punish justly. The righteous king,

⁶³ *Aggañña Sutta* (DN III 80–98); there are, however, Buddhist sources that seem to promote the idea of divine kingship such as chapter 12 on regal science (*rājaśāstra*) of the *Suvarṇabhāsottama-sūtra* (Emmerick, *The Sūtra of Golden Light*, 59–65). It is, by any means, hardly to be expected that the *Aggañña Sutta*’s conception of Buddhist kingship as a contract model could be of great influence on *de facto* developments in Buddhist Asia where adaptations to varying cultural forms and a local mix of diverse religious traditions overshadowed more orthodox doctrinal notions.

on the one hand, finds himself still leaning toward the utopian ideal of a rule without need of violence; on the other hand, he is portrayed in the narratives as punishing justly and adequately, based on what are general brahmanic rules of governing. That the spiritual consequences of his engagement in punishing, and thus in violating the virtue of non-violence, are not being discussed in these texts leaves room for various explanations. It could perhaps mean that a genuine Buddhist formulation was superseded by the traditional and dominant brahmanic rules of statecraft, which urge the ruler to follow his specific class duties and suggest that by doing so he would also optimize results for his karmic future. The obvious tension between his class-specific and yet violent acts on the one hand and the Buddhist precept of *ahimsā* remains unaddressed in this perspective.

A radical stand in regard to political power is the second position, which I have described as ethically fundamentalist. The Buddhist ideal of non-violence is here uncompromised. To become a king and rule means to break the precept of *ahimsā*, however “good” the motivation for the decision to do so might be. No special standard that would exempt the punisher from the negative karmic consequences applies. For this strand of Buddhist thinkers, there is no viable way of combining religious practice and statecraft, and, ultimately, there would be no incentive for becoming involved in ruling. In the words of Candrakīrti, “[Such] master of men, though being the protector: Without empathy, there is no *dharma* [with him]!”⁶⁴

The third position is that of a king who punishes compassionately, a

⁶⁴ Cf. footnote 25 above. The same idea is also expressed in *Buddhacarita* 9.48-9:

As for the tradition that kings obtained final emancipation [*mokṣa*] while remaining in their homes, this is not the case. How can the *dharma* of salvation [*mokṣadharmā*] in which quietude predominates be reconciled with the *dharma* of kings [*rājadharmā*] in which severity of action [*daṇḍa*] predominates?

If a king delights in quietude, his kingdom collapses; if his mind turns to his kingdom, his quietude is ruined. For quietude and severity are incompatible, like the union of water which is cold with fire which is hot.

[Edward H. Johnston, trans., *The Buddhacarita or, Acts of the Buddha, Part II: Cantos i to xiv Translated from the Original Sanskrit Supplemented by the Tibetan Version*, 1936 (Reprint, New Delhi: Oriental Books Reprint Corporation, 1972)].

position that, as far as I can see, is representative of and limited to the Mahāyāna, where the cultivation of compassion maintains a towering importance for the follower. Once the king's job is done, has he acquired demerit from his involvement in punishing? Though in the passages of the **Satyaka-parivarta* discussed above there is no explicit mention of this, the context of Satyaka advising his interlocutor how to be a good king suggests that, if he just follows the instructions, he has nothing to fear. In the following part of the same chapter, the king is said to acquire merit even though he is allowing soldiers to be injured and killed in a war that he could not avoid, given that he is full of compassion and does not give up.⁶⁵ Compassion had also been mentioned as an essential factor when he punishes, and it is probably not mistaken to assume that in this case too it is the king's compassion that counterbalances the otherwise unwholesome effects for his future.⁶⁶

Whereas I would argue that this prominent position of compassion is a central notion of Mahāyāna ethics, I do not suggest that all Mahāyāna thinkers would grant the punishing king a clean karmic slate. We cannot assume that Indian Mahāyānists⁶⁷ are speaking with a single voice and would generally accept that the ideal of non-violence could become supplanted by a compassion that would somehow spare the ruler from

⁶⁵ See Zimmermann, "Mahāyānist Criticism of *Arthaśāstra*," 199–205.

⁶⁶ In a case study of the Theravāda exegetical tradition Rupert Gettin ["Can Killing a Living Being Ever Be an Act of Compassion? The Analysis of the Act of Killing in the Abhidhamma and Pali Commentaries," *Journal of Buddhist Ethics* 11 (2004)] summarizes the tradition's standpoint as "when certain mental states (such as compassion) are present in the mind, it is simply impossible that one could act in certain ways (such as to intentionally kill)" (167). He cites a passage from the *Samantapāsādikā* in which a king "seated on his throne enjoying the pleasure of political power responds to the news that a thief has been arrested with a smile, saying, 'Go and execute him!'" would still suffer unwholesome effects. Though he himself would not notice it, there would be unhappiness involved and his action would, in the end, have been motivated by aversion (176–8). It might be worth addressing the questions whether this is a position restricted to Abhidharma-related strands of Buddhist literature in general and whether there are more positive stances in other literary genres of conservative Buddhism (and in Theravāda practice) in cases where compassion is applied in instances that are, in terms of abhidharmic psychology, associated with aversion.

⁶⁷ On the complexity of the concept of Mahāyāna see, for example, David Seyfort Ruegg, "Aspects of the Study of the (Earlier) Indian Mahāyāna," *Journal of the International Association of Buddhist Studies* 27-1 (2004): 54–61.

unwholesome karmic effects. The wider question of how justifications of violence figure in the intellectual history of Indian Buddhism is still a relatively unexplored topic,⁶⁸ and it remains to be seen whether it is really productive to embark on this kind of research by dividing the field into two or three major doctrinal groupings, such as conservative, Mahāyāna and Tantric Buddhism, instead of looking for alternative categories that could be generative of similar stances towards violence across the borderlines between schools and *yānas*. Such alternative categories might be based on different models of interaction between Buddhist monasteries and the centers of political power, the distributive structure of power in the monastic setting between the clerics and lay followers in charge of financial and administrative directives, or the degree to which monasteries themselves were allowed to turn into centers of political power, wealth and landownership.

Taking into account these alternative factors which, to some degree, constitute the background against which the scriptural expositions came into existence, it is obvious that an approach focusing purely on the doctrinal side could greatly profit from more knowledge of the actual circumstances in which politics and religion in India interacted and from better understanding of how certain economic and socio-political settings influenced monastic life and power. The awareness of structural parallels across schools and different cultural regions might thus come to replace the standard partitions following the lines of the major schools. A spatially and temporally more differentiated approach might equally discard the linear model that sees a process through which an originally rigorous rejection of violence was gradually softened into a more willing acceptance in Mahāyāna and especially Tantric Buddhism.

Similar challenges are posed by what we know about Buddhist mainstream societies in modern times. Capital punishment has been

⁶⁸ Some important contributions in this field are: Paul Demiéville, "Le bouddhisme et la guerre: post-scriptum à l'*Histoire des moines-guerriers du Japon* de G. Renondeau," *Mélanges publiés par l'Institut des Hautes Études Chinoises* 1 (1957): 347–85; Lambert Schmithausen, "Aspects of the Buddhist Attitude towards War," in *Violence Denied: Violence, Non-Violence and the Rationalization of Violence in South Asian Cultural History*, ed. Jan E. M. Houben and Karel R. van Kooij (Leiden: Brill, 1999), 45–67; Karénina Kollmar-Paulenz and Inken Prohl, eds., *Zeitschrift für Religionswissenschaft (Buddhismus und Gewalt)* 11-2 (2003).

instituted in most of these societies, and it might be worth asking why this is the case and how Buddhist leaders have reacted to it. Questions like these could throw further light on the broader issue of how Buddhism has located itself in relation to state power. They could lead us to ask whether, from its outset, Buddhism has lacked a clear socio-political position, the formulation of which might have enabled Buddhist thinkers to participate more actively in creating societies based on what they considered relevant Buddhist principles.⁶⁹

In contrast to the quotation from Luther's letter given in the epigraph, for a Buddhist it is not "God, who hangs, tortures, beheads, kills, and fights." Justifications for violence are thus not easily discarded from the realm of human responsibility. Candrakīrti, as we have seen, would certainly be critical of the attempt to install compassion, an element of one's individual morality, as a quasi-institutionalized "white-washer" in the public sphere. And he would warn that only the self-absorbed fool, without empathy, would believe in its power to protect from unwholesome after-effects. It is probably equally true, however, that due to thinkers like Candrakīrti, the Buddhist texts discussed in the course of this article have never had a commanding impact on those with actual political power—those who are, after all, entrusted with envisioning and formulating the fundamentals of social policies and penal systems.

Abbreviations

- AN Richard Morris and Edmund Hardy, eds., *Aṅguttaranikāya*, 5 vols. (London: Pali Text Society, 1885–1900).
- Bbh *Bodhisattvabhūmi*. In Nalinaksha Dutt, ed., *Bodhisattvabhūmiḥ*

⁶⁹ There are, as a matter of fact, a legion of contemporary Buddhist individuals and groups that publicly engage in the exploration and formulation of such social, political and economic Buddhist principles. Among them are the Thai social critic Sulak Sivaraksa [see, e.g., his *Conflict, Culture, Change: Engaged Buddhism in a Globalizing World* (Boston: Wisdom Publications, 2005)], the Sri Lankan monks of the Singhalese Heritage Party who recently gained seats in the national parliament [see Mahinda Deegalle, "Politics of the Jathika Hela Urumaya Monks: Buddhism and Ethnicity in Contemporary Sri Lanka," *Contemporary Buddhism* 5-2 (2004): 83–103] and the Japanese New Kōmeitō Party (公明党) as the political arm of the Nichiren-based Sōka Gakkai 創価学会 to mention just a few of the most prominent.

- (Patna: K. P. Jayaswal Research Institute, 1978).
- BDh *Baudhāyana Dharmasūtra*. In Patrick Olivelle, trans., *Dharmasūtras: The Law Codes of Ancient India*, Oxford World's Classics (Oxford, New York: Oxford University Press, 1999).
- CT Candrakīrti. *Bodhisattva-yogācāra-catuḥśataka-ṭīkā*. In Haraprasād Shāstrī, ed., “Catuḥśatika by Āryadeva,” *Memoirs of the Asiatic Society of Bengal* 3 (1910–1914): 449–514.
- CT_T Tibetan translation of Candrakīrti's CT: *Byang chub sems dpa'i rnal 'byor spyod pa bzhi brgya pa'i rgya cher 'grel pa*. In *Sde dge Tibetan Tripiṭaka Bstan ḥgyur, Preserved at the Faculty of Letters, University of Tokyo*, dbu ma, vol. 8 (Tokyo: Sekai seiten kankō kyōkai, 1978), Ya 30b–239a.
- DN Thomas W. Rhys Davids and Joseph E. Carpenter, eds., *The Dīgha Nikāya*, 3 vols. (London: Pali Text Society, 1890–1911).
- Jā Viggo Fausbøll, ed., *The Jātaka, Together with its Commentary*, 6 vols. (London: Pali Text Society, 1877–1896).
- MDh Patrick Olivelle, trans., *The Law Code of Manu*, Oxford World's Classics (Oxford, New York: Oxford University Press, 2004).
- MN V. Trenckner and Robert Chalmers, eds., *The Majjhima-Nikāya*, 3 vols. (London: Pali Text Society, 1888–1899).
- PTSD Thomas W. Rhys Davids and William Stede, eds., *The Pali Text Society's Pali-English Dictionary* (London: Pali Text Society, 1972). First published 1921–1923.
- RĀ Nāgārjuna. *Ratnāvalī*. In Michael Hahn, ed., *Nāgārjuna's Ratnāvalī, Vol. 1: The Basic Texts (Sanskrit, Tibetan, Chinese)*, Indica et Tibetica (Bonn: Indica et Tibetica Verlag, 1982).
- SN Léon Feer, ed., *The Saṃyutta-Nikāya of the Sutta-Piṭaka*, 5 vols. (London: Pali Text Society, 1970–1976). First published 1884–1898.
- ŚP *Śāntiparvan of the Mahābhārata*. In James L. Fitzgerald, trans., *The Mahābhārata: Book 11: The Book of the Women, Book 12: The Book of Peace, Part One* (Chicago and London: University of Chicago Press, 2004).
- T Takakusu Junjirō 高楠順次郎, and Watanabe Kaigyoku 渡辺海旭, eds., *Taishō shinshū daizōkyō* 大正新修大藏經, 85 vols. (Tokyo: Taishō issaikyō kankōkai, 1924–1932).

- Vin Hermann Oldenberg, ed., *The Vinaya Piṭakaṃ: One of the Principal Buddhist Holy Scriptures in the Pāli Language*, 5 vols. (London: Williams and Norgate, 1879–1883).

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