

Carmen Meinert, Hans-Bernd Zöllner (eds.)
Buddhist Approaches to Human Rights

Being Human: Caught in the Web of Cultures
Humanism in the Age of Globalization

Volume 3

Editorial

Globalization demands for setting up new cultural orientations. Different traditions and forms of life struggle for recognition throughout the world and have to meet the necessity of values and norms with universal validity. Similarities and differences in understanding the world have to be analyzed and recognized which requires a new reflection on what it means to be a human being concerning its anthropological universality, but also its diverseness and changeability.

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CARMEN MEINERT, HANS-BERND ZÖLLNER (EDS.)

Buddhist Approaches to Human Rights

Dissonances and Resonances

[transcript]

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Foreword

It is an immense pleasure to see that the revised lectures delivered at the international symposium *Buddhism and Human Rights: Theory – Practice – Outlook* that took place here in Hamburg in November 2008 have now been made accessible in printed form. The Center for Buddhist Studies at Hamburg University is proud to have been chosen to host the meeting and support the event in various ways in cooperation with the project “Humanism in the Era of Globalization – an Intercultural Dialogue on Culture, Humanity and Values” at the Institute of Advanced Studies in the Humanities (KWI) in Essen, Germany.

Promoting the kind of intellectual exchange that was facilitated by this symposium by bringing together individuals from quite different fields and disciplines is desirable in many ways. Yet such gatherings are far from common at academic institutions in Central Europe. In the field of Buddhist Studies this observation rings particularly true, given that from its pioneering moments in the 19th century until today the textual dimension of research on Buddhism has dominated the field in Europe. Little attention has been paid to Buddhism’s contemporary manifestations or its reactions to the massive social and political challenges of the modern world across Asia and the West. Consequently, one of the foremost aims of the Center for Buddhist Studies at Hamburg is to address this trend and function as a platform for cross-disciplinary dialogue involving all aspects of research on Buddhism. In this spirit, the title of this volume, *Buddhist Approaches to Human Rights*, reflects a concern with some of the most urgent questions of our day: whether there is a

trans-cultural and universal entitlement to individual inviolability and freedom; whether religious, doctrinal and ethical standards promote such rights; and, whether this concept of individual entitlement can and should be extended beyond human existence to the realms of other living beings and even ecological systems such as the earth itself. Certainly we cannot expect to find straightforward and ready-made answers to these challenging questions. Buddhist traditions are manifold and their positions have developed and changed over the ages. Some of them have come under the strong influence of Western ideas and practices, whereas others have preserved the specific flavor of their origins.

Buddhism and Human Rights: Theory–Practice–Outlook was a first attempt to become aware of this variety of positions and to reflect on the role Buddhist ideas might or might not play in the political landscape and the issue of human rights in modern Asia. Even if one of the outcomes of this symposium was, in fact, the realization that in many respects Buddhist thinkers over the centuries have not been particularly interested in the political and social dimensions of Buddhist teachings, it is nevertheless true that at the bottom of the search for liberation — the central aim for all Buddhists — we encounter the ideal of individual freedom from the bondage of *samsāra*. Many of the contributions included in this volume suggest that this quest for liberation is not necessarily limited to an inner psychological dimension but includes striving to be unimpeded by outside factors as well.

My thanks and deep appreciations go to the organizers of the symposium, Carmen Meinert and Hans-Bernd Zöllner, both fellows at the Center for Buddhist Studies at Hamburg University. It is due to their commitment and tireless efforts that this symposium could take shape and finally be realized. I am extremely grateful that the fruits of their work is now available to the broader public.

MICHAEL ZIMMERMANN

Center for Buddhist Studies, Hamburg University

Introduction

CARMEN MEINERT AND HANS-BERND ZÖLLNER

In September 2007, not only human rights activists were shocked when the protests of Buddhist monks in Myanmar against their government — also composed of Buddhists — were brutally put down. Some months later, Chinese soldiers forcibly suppressed demonstrations by Tibetan monks. For the editors of this book, both events provided the initial impulse to once more reflect upon the relationship between Buddhism and human rights. How is it, we asked, that there are obvious human rights violations in places with such a long Buddhist tradition as Burma, China and Tibet?

A quick look into the literature on the theme showed that Buddhism and human rights do not fit together as easily as conventional wisdom might assume. Both realms have their own reasoning — a particular non-theistic religious reasoning, and a secular reasoning, respectively. Whereas the former is based on 2500 years of traditions that developed in various Buddhist schools and are even within Asia embedded (or not embedded) in at least ten different legal systems, the latter is often referred to as a result of a certain breaking with traditional cultures and is thus described as a phenomenon of modernities, most often developed in stable democracies.¹ Although there appears to be quite a gap that needs to be bridged in order to bring Buddhism and human rights together at one table, a very prominent interest is already shared in both dis-

1 See the article of Alfred Hirsch in this volume, p. 33.

courses, namely the wish to eliminate *suffering*. Whereas in the former this very wish to remove suffering is contextualized within an *other*-worldly soteriological aim, namely the very attainment of Buddhahood, the latter is confined to the protection of the individual against any form of oppression in *this* world. What happens when these two perspectives meet was a further question for us.

From the Buddhist point of view of “ultimate truth” (Skr. *paramārtha-satya*, P. *paramattha-sacca*), the concern of human rights activists to eliminate suffering appears rather limited, namely to the freedom of a *human* being in a specific social setting in *this* world. It neither takes into account *all* sentient beings, which is the scope of the Buddhist concern, nor the *ultimate* elimination of suffering, which entails cutting the ties to worldly existence (Skr. *saṃsāra*) for all sentient beings and the attainment of peace (Skr. *nirvāṇa*, P. *nibbāna*). In this regard, to secure human rights may be seen as an “expedient means” (Skr. *upāya*) to provide through legal codes a setting that is conducive for the individual to develop “wisdom” (Skr. *prajñā*, P. *paññā*) which may lead to higher spiritual attainments. Thus the Buddhist concerns by far exceed the jurisdiction of any legal system.

However, on the level of “conventional truth” (Skr. *saṃvṛti-satya*, P. *sammutti-sacca*), worldly reality proves that adherents of both discourses, Buddhist and human rights, do meet or seem to meet. In recent years not only Burmese and Tibetan, but also Thai and Sri Lankan monastics started demonstrating against various forms of human rights violations in the countries concerned. One feature that unifies all of these groups is the experience of some kind of injustice, so that their demand for protection of human rights is an answer to this very experience. Admittedly, one cannot be sure if the term “human rights” adequately represents what a Buddhist monastic in Asia has in mind when he or she is protesting against what he or she regards as unjust actions of the authorities. Likewise, one may argue that within the global village there is no other choice than to answer to experiences of injustice in a “modern” way — if only to be heard and understood by other people around the world.

Anyway, the very fact that Buddhist monastics, *the* representatives of the various Buddhist traditions, call for the observance of human rights, also alludes to the insight that in modern societies it is not sufficient any longer to demand justice solely on the basis of

particularistic religious, in this case Buddhist, ethical norms. And, perhaps more importantly in some respect, such norms prove to be an insufficient means to establish equality *within* Buddhist traditions as well — for example, to provide equal rights for nuns when monks in power often still act to preserve an unequal *status quo* in their own interest. Therefore, human rights discourses among Buddhist communities are discovered as an expedient means to protect individuals against powerful institutions threatening or suppressing from the outside and from within. Although in this way, rights may create a conducive culture, through this process there may also develop another non-conductive culture, for example one that is overloaded with false claims of universality coded in the form of legal rights. Thus the big task that still needs to be accomplished in a Buddhist approach to human rights is to find a middle way between these two extremes. And this is, in fact, where Buddhism might be able to offer a great deal and possibly could make a major contribution to the discussion of, and demand for, *multiple foundations* of human rights regulations.²

We, the two editors of the book, have over the years separately observed developments in Buddhist communities and human rights violations, particularly in Burma and Thailand (Hans-Bernd Zöllner) and in China and Tibet (Carmen Meinert) before we, through a series of unexpected events in the winter of 2007/08, at the time of the protests in Burma and Tibet, were bound by common destiny to share room 129 of the Asia-Africa Institute at Hamburg University. As new officemates we decided to make a virtue out of necessity and embarked on a joint project to raise concerns about major human rights violations in Buddhist communities. Our first step was the international symposium on *Buddhism and Human Rights* held in November 2008, a few weeks before the sixtieth anniversary of the proclamation of the *Universal Declaration of Human Rights*, as a joint project of the Center for Buddhist Studies at Hamburg University and the project “Humanism in the Era of Globalization” at the Institute for Advanced Studies in the Humanities (KWI) in Essen, Germany. The second step in our endeavors is this volume, *Buddhist Approaches to Human Rights*, which

2 For a discussion on multiple foundations of human rights see Gutmann 2001: pp. xviii ff.

gathers some topics discussed during the symposium as well as later contributions.

The story of the book's genesis, the "room-129-story", might be taken as metaphor alluding to the contents of this book: namely a selection of contingent case studies contributing to a necessary debate within a general context. We see this publication as a continuation of research in this important yet still neglected field, which was first opened up by the publication *Buddhism and Human Rights* edited by Damien V. Keown, Charles S. Prebish and Wayne R. Husted in 1998.

The contributors of the present volume are either rights theorists, regional or political scientists, practicing Buddhists, or specialists who have studied Buddhism as a living tradition in Asia. Thus the perspective is generally not only that of a theorist of Buddhism. Rather, most of the authors look at these issues in living contexts and try to analyze how Buddhists have actually reacted to human rights problems.

In other words, this volume attempts to look at our topic of interest in an interdisciplinary manner. Besides the variety of the authors' scholarly specialisation, this book brings together case studies from, and remarks on, the three major Buddhist traditions — Theravāda, Mahāyāna, and Vajrayāna — as they are practiced in different parts of Asia, and thus provides some insight into the differences and similarities between and within the Buddhist *oikumene* that is as global and diverse nowadays as within the world's Christian population.

This interdisciplinary and "ecumenical" aspect has its price. This volume does not claim to be exhaustive neither in respect of discussing the variety of Buddhist traditions, nor in regard to the inclusion of all countries with large Buddhist communities that suffer or deplore human rights violations. As such, this book does not cover, for example, Sri Lanka, Burma, Nepal, Singapore, Japan or Vietnam.

Even this small selection of articles, however, points to a central problem inherent in the attempt of looking at the variety of Buddhist approaches to human rights, namely the important question: Who is authorized to put forward an "official" Buddhist position towards human rights? In fact the problem of reaching consensus among a group of *saṅgha* elders was obvious at the First International Conference on Buddhist Womens' Role in the *Saṅgha* held in Hamburg in

2007. Here a large number of representatives of all Buddhist traditions worldwide gathered for discussions on how to legitimately ordain women. Yet a formal consensus remained elusive even when there was broad agreement about what should be done. In a volume like this we must not propose any type of “official” Buddhist answers to human rights, as was offered in the above-mentioned volume *Buddhism and Human Rights* by means of a Buddhist *Declaration of Interdependence* — no doubt a remarkable and thoughtful objective, graced with an ingenious title pointing to a core conviction of Buddhism, namely, the interdependence of all sentient beings and phenomena.³ However, we would like to invite the reader to look at the following articles as eye-openers for new questions that could be as valuable as the finding of (semi-)final answers in the promotion of both worldly justice and peace of mind based on other-worldly, transcendental insight. In this sense, each of the contributions assembled here — both in itself and as part of a greater ensemble — is a thrilling walk into still widely unexplored territory.

The contributions to this book can be compared to a collection of snapshots approaching the greater theme from a particular perspective and portraying an appealing subject in some detail. When put together, these shots may reveal the outlines of a greater picture of the *conditio humana* at the beginning of the 21st century. It will be up to the reader to choose which portrait should be placed at the center of the whole image. And in any case, she or he will necessarily be obliged to add some of her or his own imagination to complete the patchwork of insight assembled here.

If the reader chooses Alfred Hirsch’s article as his starting point, she or he will be exposed to the great occidental discourses on how to get along with the “other,” the foreigner who despite their strangeness is part of the worldwide network to which “I” belong, and to various concepts of organizing human co-existence within the global village. Alfred Hirsch illustrates his *tour d’horizon* through the philosophical and historical-hermeneutical approaches of how to reconcile relativism and universalism, forward-looking modernization and cultural heritage, focusing on the example of how the Islamic world might have developed an allergic reaction against Western hegemony. Here, Edward Said’s challenging and thought-

3 Keown et al. 1998, pp. 221f.

provoking thesis comes into view, and can be extended by the deliberation that Western orientalism brought forth occidentalism as its twin. Enlightened by these deliberations, the reader is well-prepared to discover later that a kind of “allergy” against Western crusades for the implementation of human rights does exist in the Buddhists’ worlds as well. Nonetheless, it might be added that in comparison to Alfred Hirsch’s chosen Islamic example, the Buddhist traditions seem to be more pliable and more able to adjust their teachings to different cultural and social realities, as may be seen in the other authors’ contributions.

If Alfred Hirsch’s contribution can be compared to looking upon the larger topic of human rights through a wide-angle lens, Perry Schmidt-Leukel’s article narrows the perspective a little and thus offers a smooth transition to the variety of case studies on Buddhist approaches to human rights that form the main body of this volume. Schmidt-Leukel stresses the critical function of human rights, and thus establishes a sophisticated argument with regard both to the “relativists” and the “universalists” in the human rights debate. The “Golden Rule” put forward in different contexts, transcending cultural and religious boundaries, may be regarded as a common denominator for Buddhists of different denominations and secular Western human rights activists. It is the Buddhist version of responsibility as a moral obligation to respect and protect the freedom of others that corresponds to the *Universal Declaration of Human Rights*, but this correspondence is not without tensions. Buddhist thought contains a fundamental reservation towards the principles of Western liberal rights based on the principle of no-self (Skr. *anātma*, P. *anattā*). This concept may lead to a collectivist theory of society, illustrated by the idea of a benevolent “Dictatorial Dhammic Socialism” as conceived by the eminent Thai monk Bhikkhu Buddhādāsa and, one may add, practiced in the “Burmese Way to Socialism” with well-known disastrous effects. Such dissonances, Schmidt-Leukel argues, call for efforts for complementing instead of confronting distinct concepts of human nature and their consequences for society and environment.

With Martin Seeger’s essay, the reader is invited to take the first close-up view of how human rights are discussed in Buddhist Thailand both in practice and theory. Being a country in which Theravāda Buddhism, the “Teaching of the Elders”, forms one of the pillars of the nation’s official identity, the controversies depicted and

reflected upon are closely related to Thailand's manifold troubled internal politics. This holds true for the nun-ordination controversy and the supposedly deviant teachings of two Buddhist sects. While the latter cases touch on the issue of religious freedom, the former concerns the more direct concern of activists advocating women's rights.

Besides portraying and analyzing the respective conflicts and public controversies within the Thai intellectual community, the article provides a detailed portrait of one of the most prominent contemporary Buddhist learned monks, Phra Payutto. Like Bhikkhu Buddhādāsa, whose writings are discussed by Perry Schmidt-Leukel, Phra Payutto is also regarded by Thais and sympathetic foreigners alike as a "modernist". The presentation given by Seeger, based on an intimate knowledge of the scholar-monk's writing and public action, shows that such an appraisal is highly problematic. It seems more appropriate to make use of the Buddhist concept of the "Middle Path" to adequately assess Payutto's stance.

Like Seeger, Kenneth Fleming lived in Thailand, where he spent some time as a Buddhist monk. Fleming is, however, a theologian and involved in the Buddho-Christian dialogue to which Schmidt-Leukel has contributed as well. Fleming's contribution takes up the latter's call for an ongoing process of interaction and mutual learning. After discussing the consonances and dissonances of Buddhist approaches to human rights from a broader Theravādin perspective, his article concentrates on the challenges that become visible when representatives of both sides meet.

For the human rights activist, purification of the mind may help to deepen the understanding of their concern and to enlarge their scope of action to the "root causes" of global suffering. On the other hand, Theravādin Buddhists might be asked to consider the challenge of liberating and purifying society as a whole and not just the individual. It is interesting, one may add, that those countries in which the "Teaching of the Elders" dominate — despite many revolutions taking place — have not yet undergone a deep process of "reformation" as it for example occurred in Europe some 500 years ago.

Helwig Schmidt-Glintzer, taking up the question of whether Mahāyāna Buddhism can be called a "humanism", takes us to Thailand's large neighbor China and the "Great Vehicle" of Buddhism, which in China has a history of more than 1500 years. He

highlights the different roles of laymen according to Mahāyāna teachings and thus adds another outlook to Buddhist concepts vis à vis the global world. Schmidt-Glintzer's search for traces of humanism in Mahāyāna Buddhism is based on a reconstruction of the tradition rather than on an attempt to prove its harmony with human rights. He clearly shows that although the core ideal of Mahāyāna Buddhism — a *bodhisattva* who with his or her strong sense of compassion tries to eliminate suffering — is resonant with the human rights approach, the foundations of both discourses are, nonetheless, dissonant; for example, Mahāyāna Buddhism does not comply with Western theories of human rights based on a certain concept of the individual. His argument that in China Mahāyāna Buddhists also form a natural alliance with human rights as an expedient means — when it comes to the process of modernization and concomitant suppression of Buddhist institutions — directly leads us to the following contribution on Buddhism and state control in China by Shi Zhiru.

Shi Zhiru, a scholar-nun originally from Singapore, is well-trained in both Mahāyāna Buddhist theory and practice. Through her lucid essay, the reader may explore discussions of various paradigms followed by Chinese Buddhist leaders during the Qing-Republican transition in the first decades of the 20th century, as measures to protect religious rights, and here in particular Buddhist rights, and ensure the survival of Buddhism amid anti-religious state policies. Zhiru finds an exemplary Buddhist response to political oppression in the doctrinal and institutional reforms of the progressive Buddhist intellectual Taixu (1890–1947), who literally embodied the ideal of a *bodhisattva*. Here the reader might sense the potential of social engagement and reform that is inherent in the spirit of Mahāyāna Buddhism, and by extension in China itself. Taixu may even serve as a model example of a monk ready to break with his traditional Chinese and Buddhist culture, in a certain respect, in order to achieve higher goals for society and the survival of Buddhism in China. He might be seen as a reform-minded figure similar to the Thai monks Bhikkhu Buddhādāsa and Phra Payutto discussed by Schmidt-Leukel and Seeger above. Taixu's reputation as a “globe-trotting” monk, which he gained due to his international travels at a later stage in his life, might even make him a forerunner of the Fourteenth Dalai Lama, the Tibetan religious leader and head of the Tibetan Government-in-Exile, who

similarly travels around the globe for the cause of furthering human rights. Although China under communist rule has not yet allowed Buddhism to recover to its full former extent, this contribution of a Chinese Buddhist nun-scholar about a progressive Buddhist reformer in the early 20th century may offer a sign of hope for forward-looking movements within Chinese Buddhism.

The three remaining contributions of this volume invite the reader to explore different aspects of the relationship between Tibetan Buddhism and human rights. With the recent escalation of violence in the Sino-Tibetan conflict in Tibetan areas of the People's Republic of China, the Tibetan Buddhist response to human rights violations is formed under tremendous real-world pressures. Here the contributions of Jan-Ulrich Sobisch and Trine Brox and of Stephanie Römer discuss developments that stem from the Tibetan exile communities, whereas Jampa Tsedroen's focus is on women's rights in the Tibetan Vajrayāna tradition.

The joint contribution of Jan-Ulrich Sobisch and Trine Brox is written from the Tibetologist's perspective of a broad knowledge of Tibetan Vajrayāna Buddhism and of the situation of the Tibetan exile communities in India. Jan-Ulrich Sobisch and Trine Brox critically ask whether traditional Buddhist societies have to bring themselves into line with Western concepts at all. They approach this issue by discussing problems arising in the process of cultural translation of ideas and terms and indicate the difficulties entailed in the assumption of universal ideals and cross-cultural standards. The translation of secular terms proves particularly challenging in the Tibetan context, where the Dalai Lama and many leading politicians still exercise both secular *and* religious functions. Sobisch and Brox show that despite the public Western perception of the Fourteenth Dalai Lama as a human rights activist, among Tibetans the human rights concept is itself contested. It is the inherent predicament of an exile and the need to respond to various issues of modernity that most likely forced the Tibetan exile leadership to master the language of human rights in order to obtain recognition in the international community. The cultural translation of human rights terminology thus has clear political implications. The authors demand time for an independent autochthonous development of Tibetan (Buddhist) human rights concepts that might in fact enlighten and expand Western concepts as well. Thus their contribution may be seen as another call for multiple foundations of human rights regulations.

Stephanie Römer provides the reader with another snapshot of the intricately linked duo of Tibetan politics and human rights from a political science point of view. Her article illustrates how the concept of human rights is politicized in the Tibetan context. In a similar fashion to the modernists surrounding the Chinese scholar-monk Taixu in the first half of the 20th century, discussed by Shi Zhiru, Stephanie Römer outlines institutional reforms of the Tibetan Government-in-Exile which were implemented in order to facilitate a human rights discourse on an international level as well as a communal level. It is intriguing to read how the Central Tibetan Administration (CTA) actually managed to merge Buddhist traditional values with Western political concepts based on democracy. One important promoter of a human rights discourse is the Tibetan Center for Human Rights and Democracy, set up as an independent office, yet which closely cooperates with the Central Tibetan Administration. The so-called “universal rights strategy” of the CTA advocates human, environmental and women’s rights as a vehicle for the Tibetan struggle. Although this concept finds a lot of support in the international community, the Fourteenth Dalai Lama’s core motivation and continuous effort of *nonviolence* to settle the Sino-Tibetan conflict has not shown tangible results – even after fifty years. Is this then also a failure for the democratic voices in the international community.

With the final contribution of Bhikṣuṇī Jampa Tsedroen (Carola Roloff) the reader may gain insight into issues of gender inequity in the Tibetan Buddhist Vajrayāna tradition from the first-hand experience of a German scholar-nun in this tradition. Although the Tibetan Government-in-Exile introduced women’s rights in their political agenda, as discussed in the contribution of Stephanie Römer, they are not (yet) rigorously implemented in a religious context. For instance, in Tibetan Buddhist institutions all leading positions are held by men – even in some nunneries. Whereas in secular contexts Tibetans are largely, maybe only out of necessity, embarking on the course of modernization of a traditional society, similar aspirations in a religious context still meet a lot of resistance. In fact, Jampa Tsedroen is a vocal advocate of “equal opportunities” (Tib. *go skabs gcig pa* or *go skabs ‘dra mnyam*) for both women and men. Because of the worldwide Tibetan diaspora it is Tibetan Buddhism that is among all Buddhist traditions most widely exposed to Western modernity in all its facets, including feminism. It is from her position between two cultures that Jampa Tsedroen

challenges “the rigidities of established traditions” and asks for a reinterpretation of old texts in accordance with contemporary needs. We are very happy to conclude this volume with the view of an engaged German female “modernist” within an ancient wisdom tradition — in some respects, another voice of hope and an indication of a progressing “individualization” of the great Buddhist tradition.

This process, as with most other societal and academic trends, proceeds with ambivalence. Only if the phenomenon is accounted for can the fruits of an interdisciplinary adventure like this be reaped as the following examples may demonstrate.

The editors of this volume, to start with, gained a lot of enlightenment through the exposure to the intellectual experience and insight of the contributors and hope that the reader might similarly profit as well. On the other hand, a glance at the index at the end of the book demonstrates that a high amount of possibly confusing complexity is necessarily created when one tries to transgress the usual boundaries of academic disciplines and at the same time stick to German scholarly efficiency.

The meeting of Buddhism and human rights results, among other things, in manifold discourses within Buddhist communities challenged to come to terms with tradition in the face of new practical and theoretical challenges which in most cases are intertwined, as the case studies of this volume show. But these discourses do not necessarily point towards the same direction or, even more disappointingly, produce convergence and dissonance at the same time. Imagine how the Dalai Lama, as a virtual political leader of an imagined independent Tibet, would comment on Buddhadasa’s concept of “Dictatorial Dhammic Socialism” at a conference of the International Network of Engaged Buddhists that was chaired by both as patrons prior to the passing of the Thai monk.

Finally, the contributions of this book, besides pointing towards the spiritual needs of human rights activists, are useful for assessing the societal and political situation in many Asian countries. But such wisdom might widen the gap between the “enlightened few” and the political authorities both in East and West.

The consequence of such deliberations cannot be to stop attempts to transgress boundaries. On the contrary, such attempts and reflection on their possible results have to be increased. To this end, we would like to express our gratitude to all institutions that supported the publishing of this book and the conference preceding

it. We would like to thank the Foundation for Buddhist Studies (Hamburg), the Gustav Prietsch Stiftung (Hamburg), the Hermann und Marianne Straniak Stiftung (Salzburg), the Mikado AG (Berlin), the Stiftung Mercator (Essen), and the KWI (Essen), who facilitated the symposium, and for financial support of the Andrea von Braun Stiftung (Munich), the Stiftung Mercator and the KWI for covering costs for editing and printing of this volume.

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May the texts printed in this book and the meaning behind these texts leave some humanistic footprints on this earth, may the awareness of suffering stimulate compassion in the world of academic discourse and beyond and may the faults and shortcomings of the collection presented here be graciously tolerated and taken as motivation for trying harder.

Different Cultures and the Universality of Human Rights

ALFRED HIRSCH

The Measurement of Rights

Structures, processes and semantic categories permeate the option of the “one” narrative of the occidental *nomos*. Without doubt, at first sight there seems to be a powerful discourse within the narratives of European language and legal culture that evokes “one” rationality and “one” repeatable understanding. However, there is also the anti-discourse, those constant and consistently emerging refusals within the narrative tradition of occidental thinking to blend into the homogeneity and isolation of a single rationality. The numerous narratives of such a refusal paint a far more complex, multi-layered and more intensive picture of those constitutive processes which generate human rights anew.¹ They abandon the narrative production of catchy archetypes that allow for simple identification. They

1 These process-like, discontinuous movements become descriptive in what Lyotard calls “patchworks”: “A (yet to be defined) group of heterogeneous spaces, a great *patchwork*, composed of nothing but minor singularities, becomes apparent: the mirror, in which they should realize their national entity, cracks. The decadence of such a staging, such a “spectacle” was named politics. Europe descended to define the elementary political groups; whilst the masters tried to unify top-down, the little people renewed character bottom-up.” Lyotard 1977, pp. 37–38 (my translation).

also try to complicate and deconstruct the knowing transmission of durable oppositional pairs such as “good” and “evil”, “pure” and “mixed” or “entity” and “multitude” against every hermeneutic economy.

The *aim* of paying attention to this varied and plural genesis of the occidental *nomos* and occidental rationality denoted a decisive revision and reorientation for thinking about and implementing human rights. A human rights instrument that is inspired by universal rationality and its practical consequences calls for a corresponding centered and vertically hierarchical law enforcement. By comparison, attention may be paid to a plural and decentralized genesis of rights which, in the view of migrants and the foreign, calls for evidence, an orientation towards processes of networking, the constitution of borders and the development of trans-juridical forms of moral obligation which firstly has to be prepared and analyzed. Accordingly, the traditional forms of human rights enforcement based on the UN or national institutions would be firmly challenged and become obsolete due to human rights ethics aiming at solidarity and justice.

The intensive correlation between human rights discourse and human rights practice would no longer need a normative justification. In fact, a description of their social genesis and constitutions as well as their emergence within the juridical and ethical context would suffice. With such a *phenomenology of human rights genesis* it could be demonstrated that human rights already commence in the relationship to the other and while encountering the latter. They already seem to be in force without even having been drafted as a legal institution and the word of the law. They rather constitute a pre-legal experience that becomes apparent in the relation of the own and the foreign, the self and the other. Human rights can only form and articulate themselves in the shape of requirements and pleas directed at some other in an unrecognized and unnameable way. The formation of human rights within a law of rationality that “categorically” commands the other asks, and for this reason prevents, its early abolition by homogeneous rationality:

In this respect, not only would a precise deconstruction of Kantian practical reason, but also the philosophy of human rights, be necessary in order

to establish illustrative insights in the "Islamic" discourse on human rights, but unfortunately it remains within the borders of a certain logocentrism.²

It is particularly because of this nature of the genesis of human rights that they cannot be set at rest and deprived of their annoying power. *I have to answer* the concrete and unique demand of the foreign and I cannot avoid or return it to my *responsibility*. In Bernhard Waldenfels' words, this could be considered as an attempt to

[...] gain the commitment of the *nomos* from the core of a foreign request and not from the universal *nomos* that precedes this request and steals its uniqueness.³

The characteristic of human rights, as opposed to other rights, is that they precede and at the same time transcend them. Human rights as rights of the other turn into the constitutive condition of rights in general. Their measurement is not abstract rationality, but they themselves are "the measurement of rights"⁴, as Emmanuel Levinas says. This is precisely the reason why human rights constitute such a peculiar element that oscillates between law and ethics without enduringly fitting into one or the other. They qualify for an ethics of law which is orientated towards ethics when it wants to do justice to the other.

Human rights can always and everywhere serve as an ethics of national law for the sake of verifying and questioning justice and the legitimacy of national laws. However, we should also keep in mind that human rights certainly have to operate within law, namely national law with the separation of powers and democratic control typical for the liberal constitutional state, in order to unfold their justice. This leads to a paradoxical description of human rights as the element that simultaneously substantiates and questions national law, yet is also mandatory. In their responsibility towards the foreign, human rights precede law in general; they challenge it and fall into oblivion as soon as the first structures of solidarity and justice emerge. The true meaning of human rights lastly becomes apparent as that which *cannot yet* be named, in that it abstracts as a

2 Bielefeldt 1998, p. 56 (my translation).

3 Waldenfels 1995, p. 313 (my translation).

4 Levinas 1987, p. 176. Cf. also Delhom 2000, p. 311, on the problem of human rights in the aftermath of the "ethics of the other".

"gift" beyond exchange and predictability.⁵ Yet, it is this very withdrawal and namelessness from which human rights constitutes a constant claim for an increase, for more justice for the other. Human rights undermine the uniqueness and freedom of the human being in their movement towards anonymity and symmetry of law and state. The specialization and diversity of the foreign also speaks to us in the form of human rights and calls for a peculiar universality that never ends and has to be named time and again, a "universality" which can only be gained via the "appeal"⁶ of the foreign and the other.

It is presumably agreed that human rights constitute an achievement of culture or, in the plural form, cultures. Law and rights emerge in the course of and in the making of a cultural process. They are certainly not the first and probably not the most important products of a culture. However, there is no doubt that rights, whether they are written down as positive law or internalized as unwritten natural justice, are a compelling part of an advanced cultural stage of development. The more profoundly culture and law are intertwined, the more decisive it is to differentiate them.

A culture comprises more than just rights that apply within in a culture; a right exceeds the role that the culture has envisaged. For instance, the word "legal culture" indicates that the law that is formally and contentwise practiced in the respective culture can be inscribed in the frame of a cultural characteristic. Since we talk about different "legal cultures", it is clear that there is a variety of contents, understandings and practices of law. A "culture" becomes the specific content and form of expression of a right.

However, by talking about culture in a more comprehensive way, transcending the respective law, the specific facilitation conditions of law within a certain temporal, spatial and social context are addressed. There is — and this is indicated by the term "legal culture" — an entanglement between the specific content and forms of expression of a law, on the one hand, and the enabling conditions of the whole cultural reference point on the other. The uncovering

5 There is the "ethics of gift" for a "different" philosophy of human rights that is somehow based on Derrida. Cf. Derrida 1991; see also Wetzell and Rabaté 1993.

6 Compare the pre-judicial but nevertheless normative conception of the "appeal" (German: "Anspruch") in the thinking of Bernhard Waldenfels: Waldenfels 1994, pp. 193ff.

and analysis of such an entanglement is not insignificant, and of more than the random interest that it *prima facie* seems to be. Where rights compete and where the origin of a legal conception is contested it shows that the question of the entanglement of a specific culture of a right — that is, a legal culture — and of the general cultural conditions of rights gives some indication of the future possibilities for development and connection.

The Cultural Origin of Human Rights: Universalism versus Relativism

The question of whether there is a culture-specific origin of human rights and therefore a specific legal culture is of fundamental meaning for the transcultural acceptance that is the precondition for the continued existence of human rights institutions in the global context.⁷ The debate on cultural relativism and universalism in human rights revolves around the fact that on the one hand, there are different legal cultures, but no general and universal law that is independent from a supporting culture; on the other, there is respect for the diversity of cultures, but common rationality is turned into a legal norm.

Moreover, there is a universalistic perspective within human rights theory which states that the historical development of rights has reached a universal level in the final stage of modernization. Whilst the cultural relativistic position stands for the non-transferability of legal norms and legal traditions, the universalistic positions assume that certain legal norms have always been on hand in all cultures, or necessarily emerge in the state of modernization that occurs after traditional societies finish their historical phase. The first insist on the irreconcilable difference of cultures; the latter question whether there is such a difference at all. Both perspectives seem to agree that the structural and relational conditions of the emergence and demise of cultures as well as of their specific areas are unknown and consciously neglected.

Assuming that both cultural relativism and universalism support, as their central task, human rights as formulated in the *Universal Declaration of Human Rights* in 1948, a few questions arise. In view of the known empirical differences and the current clash of

7 See also Hamm 2003, pp. 22ff.

cultures — and special reference should be made to the confrontation between the Judeo-Christian modernized West and the Islamic East — the question arises for both parties as to how to overcome this conflict of cultures. This conflict might be rather paradigmatic in light of the current global political situation, since there is a multitude of “cultural” differences many times greater than those of the Judeo-Christian and Islamic world.

How can cultural difference, which also comprises difference in legal cultures, be bypassed so that an expansive development of human rights institutions may follow? Subsequently, it has to be asked: to what extent might it be possible to derive human rights from different legal cultures? And this leads to the question of an actual policy of human rights that operates with corresponding strategies at international level and within the framework of the United Nations. Is it possible that such a human rights policy based on numerous national and non-government organizations can meet the cultural differences of states and nations? And what about the paradigm of the political as opposed to the paradigm of the culture?

The assumption here is that considerations of relativism and universalism should aim at a broad creation of respect for human rights. If such a pragmatic intention is put at the forefront of the cultural relevance of human rights, then one will be engaged with thinking about human right norms in cultures and political systems that have explicit reservations against “Western” human rights, rather than considering a new justification for human rights. Human rights are probably regarded in a rather skeptical way in those cultures, because they seem to be just another symbol of Western culture’s quest for hegemonic power. At the same time, this pragmatic orientation also has to consider the genesis of cultures and their differences as well as their relationship to each other.⁸ Without reflecting on and understanding cultural processes, the envisaged convergence and connections cannot be made. The question of historical-cultural origin is of high importance here.

Within the course of the Western debate on human rights there have been clearly more diverging opinions of the cultural genesis of human rights. Against the broad understanding that human rights have their origin in the French Revolution, Georg Jellinek ar-

8 See also Hamm and Nuscheler (1995, pp. 21f.) on the necessary and juridical cohesion of “equality” and “difference”.

gues at the end of the 19th century that the *Déclaration des Droits de l'Homme et des Citoyens* is based on the *Virginia Bill of Rights*. His aim was to liberate human rights from the mental-national surrounding of radical French Jacobinism and to offer it to German society and politics. By tracing back human rights to the *Virginia Bill of Rights* they are at the same time connected to the Protestant tradition.⁹ The assumption that the reformatory model of the free Christian should be regarded as some kind of “ancient human right” and that human rights therefore should be ascribed to their Protestant cultural line is of importance here. Jellinek emphatically connects human rights to religious evolution:

The idea to determine indefeasible, inherent, sanctified rights of the individual is not of political but of religious origin. What has been considered as an achievement of the Revolution truly dates back to the Reformation and its battles.¹⁰

The conflicts during the Reformation were certainly much more than just religious debates, since they were accompanied, if not carried, by a social and political movement and its objectives. In this vein, Wolfgang Fikentscher develops the thesis that human rights have their origin in the campaigns of the Dutch Protestants against the Catholic Spanish. The secular origin of human rights would not carry very far and would nowadays actually lead to a “Christian mission”¹¹ in the “Third World” without one realizing it.

However, arguing that human rights are derived from a certain cultural and religious background points to the high relevance of the evolutionary thesis. The oppositional thesis follows quickly and the Protestant cultural derivation of human rights was rejected during the first half of the 20th century. The development of human rights norms from a scholastic naturalistic tradition ties to the thinking of Thomas Aquinas and was concerned with the consequent embedding within a Catholic line of reflection.¹² The Catholic interpretation of human rights that puts special emphasis on the continuity of the central content of their tradition with human rights norms presents in some ways a reversal of secularized or

9 Cf. Jellinek 1974, pp. 5ff.

10 Ibid., pp. 53f. (my translation).

11 Fikentscher 1987, p. 64.

12 Cf. Merks 1981, pp. 161ff.

Protestant moral demands. However, there is a heretical moment within the religious traditions at the end of the 19th and beginning of the 20th century, since the two Christian churches acknowledged human rights only in the 20th century, during the 1960s. This striking reluctance to embrace human rights goes back to the aspect of human rights that is not specifically directed towards Christianity. During the 70s the pontifical nuncio still complained about the *Declaration of Human Rights* and the subsequent Covenants:

Yes indeed, it is not an easy task to acknowledge that the name of God is not stated in this document.¹³

Paulus Lenz-Medoc rejects this request, but only to indicate that referring to God within the *Declaration of Human Rights* would be tantamount to blasphemy, since one would force non-believers and heathens to call upon a God they do not know or who could even be overturned. He indeed rejects the explicit naming of God in human rights documents of the United Nations; however, he still wants to derive human rights from their Christian tradition and disagrees with the efforts to find their origin within Greek philosophy, which made a distinction between the “free” and the “unfree”:

Here, Christianity breaks in and offers a different idea of man: we are all children of God, everybody is assigned to live according to their appointment to become God’s own likeness. For this reason, a term of human beings, a term of persons has entered our history that has not been preceded or followed by anything like it.¹⁴

A true universalistic approach to human rights has only become possible, according to Lenz-Medoc, in the aftermath of Christian belief and thinking. As emancipated as this argumentation seemed to be in Christian-Catholic discourse, it equally disrupts the debate between Christianity and Islam. The latter apparently feels vindicated in the assumption that the origin of human rights from a Christian tradition makes obsolete a sustainable debate on the entitlement of human rights, as they are also written down in the Covenants of 1966.

13 According to Lenz-Medoc 1981, p. 214 (my translation).

14 Ibid., p. 205 (my translation).

Yet Islamic access to human rights and their development is anything but homogenous or coherent; their proponents and opponents of human rights also fight and they again can be divided into a multitude of subgroups, of which more later.

Opening up human rights to the traditions of non-Christian cultures can only be achieved by tracing back human rights to a secular philosophical tradition; this applies at least when the tradition is clearly assigned to a closed and coherent cultural area. In this vein, Georg Picht indicates that, since he believes that human rights are deduced from stoical philosophy, the

[...] utopia of a global human rights system can only be considered as an empty delusion.¹⁵

Metaphysical requirements for the understanding of human rights are missing which would decrease the chance of global respect for human rights. Picht proves himself to be a cultural relativistic critic of human rights implementation without abjuring the project of human rights as such. It is nevertheless astonishing that a careful author such as Picht does not address cultural genesis as such and assumes the homogeneity of cultural traditions. Newer debates on the cultural problem of human rights implicitly seem to follow this cultural-theoretical paradigm, but they are concerned with avoiding the problems incurred when deriving human rights from a Western cultural tradition.

Modernization and Culture

According to Dieter Senghaas there is a need to unhinge human rights from their specific culture and to ascribe them to the result of disputes that have led to a “civilization against somebody’s will” in order to justify transcultural norms, norms that human rights should be. In other words, the relation of human rights to a culture is levelled by the fact that rights possess something contingent and deeply modernistic; they are too new to belong to a cultural tradition. According to Senghaas it should be considered that

European values, insofar as they are directed to all human beings and as such *directed towards a mass foundation*, have only recently been accepted in

15 Picht 1980, p. 127 (my translation).

the Western world; that in this respect the thinking and feeling in Europe is different to its long "prehistory," that especially the practical translation of those values into institutional provisions as they underlie the democratic and constitutional state are rather new; that "European values" are due to a modern and highly particular constellation.¹⁶

The thesis based on these considerations rejects the factor of "culture" and regards modernization as a radical break with conventions. Individual protective rights, as initially eked out with *Magna Charta* and later on with the *habeas corpus*, leading to constitutional structures with enforceable civil rights in the following centuries, constitute such a push in modernization which cannot be explained by preceding traditions, as Senghaas explains. The same is true for the separation of church and state, which could hardly be deduced from the recommendation that

The emperor should be given the things that belong to him; God should be given the things that belong to him.

The secular state as well as universal suffrage and the emancipation of women are a "late product" of modernity.¹⁷ They cannot be explained with the help of structures or the content of the preceding specific cultural history, but rather by referring to a radical break with the latter. Here, the assumption that a civilizing modernization leads to an abolition of culture or the establishment of a "non-culture" becomes apparent. The purpose behind this argumentation might ennoble this reasoning, but it does not cover it from a structural-logical perspective. The antagonistic powers that oppose certain components of a certain culture and in extreme cases even neglect them are still strongly characterized by this culture. Even emancipations and fractures with cultural traditions do not just fall into one's lap, but have arisen as antagonistic and diverging powers within a certain cultural system. The other, diverging from a culture, which only appears at the inner and outer margins of the culture, can only emerge here because its contours and its content are formed by these margins and their relation to the things lying beyond the margin.

16 Senghaas 1998, p. 19 (my translation).

17 Cf. Ibid., pp. 200–201 (my translation).

Knowing about the possibility of those dialectical objections, Heiner Bielefeldt tries to mitigate the thesis of radical break with cultural tradition, without abandoning its essential argumentative consequences. This becomes clear when he writes:

Other than in earlier times the modern human being cannot refer back to the more or less unquestioned validity of authoritative traditions, but rather has to struggle for normative orientation, as an individual person as well as within the community [...]. In opposition to traditional ideas of a given normativity, human rights can be understood as elements of a "post-traditional" normative thinking in which norms can and should be subject to critical reflection and communication.¹⁸

"To struggle for normative orientation" does not mean to jump from scratch to the "post" of a certain cultural situation. Likewise, "critical reflection" and "communication" of norms cannot completely abandon the symbols and interpretation patterns that are culturally and traditionally predefined. They need themselves within their critical alienation. They are ultimately reserved for skilful play and intelligent strategies of a post-critical thinking that settles down in the differential intervals and on the margins of the differential order to figure out to what extent it can remove itself from its own structural and semantic conditions.

Bielefeldt anticipates the consequences stemming from cultural-philosophical thinking about identity and only holds against them with reassurance and partial revision:

An abstract dichotomization of tradition and modernity would cause problems for the universality of human rights, since respect for human rights would be conceptually limited to a circle of human beings that have liberated themselves from their religious, ideological and cultural tradition (whether allegedly or actually). Such an approach may consequently lead to the loss of human rights universality within the modernistic ideology of process, which may have imperialistic effects such as the equation of universal human rights with a particular canon of occidental values.¹⁹

However, it is disputable that the thesis of modernization *qua* requirement for a universal realization of human rights entitlements can be independently thought of, detached from the "idea of pro-

18 Bielefeldt 1998, p. 125 (my translation).

19 Ibid. (my translation).

gress" for which the Western process of modernization serves as role model. How can we think independently about such a historical development of concrete changes in Western culture and the cultures they came into contact with in this specific and irreversible way? There might be salient and radical differences between "pre-modern" and "modern" systems, but it remains a difference that relates two phases of a certain cultural tradition and intertwines them. On that note, the modernization of an Arab culture unfolds in a way related to this difference, as does a pre-modern Asian or the Native American culture. The insistent rejection of an entanglement of modernity and cultural tradition nourishes the suspicion that something is supposed to be decoupled in a theoretical way, which has proved to be a conflicting network of different cultures. It is not sufficient to counter the suspicion of a "cultural essentialism" by claiming human rights to be independent of a culture in principle and by making them the final product of a break with culture and tradition that takes place in stages. Even though human rights seem to be freed of the suspicion of being ethnocentric, this is replaced by the pattern of a development and break with development that should be carried out in different cultures along the lines of the Western model.

The underlying logic here avoids the pitfalls of the universalization of one's own Western, European culture and its rationality at the cost of universalization of the "break with culture" that takes place within modernity. This is also suggested by Senghaas: This development process contains, in some parts of Europe earlier than in other parts, a historically unprecedented rebuilding of politics, society, economy and culture. Traditional societies became modern ones; societies of illiterates as well as of human beings living in poor conditions turned into societies with competent, confident human beings living in urban areas of high population density and who were sensible of their new interests and identities and who politicized and organized themselves.²⁰ Occidental rationality no longer serves as the parameter of a universal rationality, but rather the development process of the occidental societies is universalized and becomes the paradigm for an exemplary "past" and "first" for all other cultures. Suggesting this superiority of occidental devel-

20 Senghaas 1998.

opment silently implies that other cultures, ethnicities and societies are delayed in their development and are affected by social, political and economic backwardness. Assuming the necessity of a chronological passage of certain civilizing phases also implies being convinced of a coherent development of humankind that excludes aspects of non-contemporary and alternative ways of development. The foreign culture is reduced in its eigenvalue or is completely abolished.²¹

The “acting,” “confident” and “autonomous” human being enjoys an outstanding role that makes him or her the only type of a future humanity worth copying. Supposing that this type of human being is the exemplary endpoint of the development of humankind also means declaring Western individualism and subject-centrism to be the *telos* of a historical universal development process. Both the exemplariness of the process of modernization as well as the paradigmatic genesis of an autonomous and subject-centered humanity imputes that history unfolds as a story of improvement. Such thinking about history quickly reveals as a specific occidental endowment of historical processes with meaning, and also as disavowing those belligerent social, political, and ethnic catastrophes that have been and still are an integral part of modernity itself. Becoming deaf and blind to the developments and achievements of other cultures is closely connected to the arrogant assumption that the occidental progress story unfolds *qua* modernization. Its “development graph” carries no weight for occidental civilization and cannot be captured by our symbolic systems and categories of meaning, and thus escapes the perception and understanding of occidental theorists on modernization.

Cultural Hegemony and Allergy

The insight into the constitutive differences and relations that support the civilized order and the allegedly weak or non-civilized systems and their history is out of tune at the same time. One should ask about the role that the “non- or prehistoric” peoples of the former colonies play in the modernization process in Europe. It is well-known that the exploitation of the colonies led to a — carefully

21 Cf. Waldenfels 1997, p. 35.

speaking — change in development and repression in the colonized countries, whilst a development stimulus took place in the colonizing countries. The slave trade and the deployment of slaves in the American economy can hardly be separated from the associated achievements in industrialization and economic prosperity. The import and transfer of goods and products from the colonies as well as the adoption of production engineering and mass production of raw materials have led to an accelerated modernization of the economy and the civilization of the West. The contributions of foreign cultures to the Western process of modernization can hardly be enumerated or captured in any real degree.

To measure these immense achievements, one only has to bring to mind America's contribution to the civilization of the Old World. There firstly are potatoes, rubber, tobacco and Coka (the basis for modern anesthesia), which, although in very different ways, comprise the four pillars of Western culture; then there is maize and the peanut, which should have revolutionized the African economy, perhaps even before they distributed the nourishment around in Europe; then cocoa, vanilla, tomatoes, the pineapple, pimento, several kinds of beans, cotton and pumpkin.²²

However, throughout the whole of occidental history, scientific knowledge of maths, geography, physics, philosophy and botany were imported from India, Arabia and China and other advanced civilizations, without which the civilizing development of the occidental culture would not have been possible. Cultural and civilizing processes of different cultures that have been in touch in a more or less intensive way never proceed in parallel, but rather interleave, dynamize or inhibit each other, interfere with each other and lead to pointed defense reactions that only occur in certain forms of encounters of cultures.

A colonization, for example, that perceives itself as the legitimate dominance of a culturally deficient country and nation by a culturally superior society, provokes counter-reactions and defensive attitudes that are able to redirect history and the civilizing development of this country and this nation. The "barbarian" or the "savage" does by no means always reject the assigned position and role. Often the opposite case comes to pass. The "barbarian" and

22 Lévi-Strauss 1996, p. 189 (my translation).

the “savage” adopt the role they usurp by force.²³ The discrepancy that defines them promotes allergies and reactions that they develop against the hegemonic culture of allegedly civilized and culturally superior peoples.

On the contrary, numerous and complex correlations and repulsions lead to the development of differences between the interacting cultures that gain a size and complexity which is hardly manageable, especially at the level of the social and political. The long-lasting relations and differences between the Christian European and Islamic worlds constitute an especially haunting example. Warlike confrontation during the post-Roman era gave way to a time of long and peaceful co-existence between Islam and Christianity in Europe.

The reciprocal, though asymmetrical, relation between Islamic and Christian culture during the turn of the century in Spain was especially remarkable. The Islamic culture that was of high standing and widely respected in Christian Europe was looking for an active reception of and debate with occidental culture. The best known example is the reception of Aristotle by the Islamic cleric and scholar Averoes. This heyday of reciprocal respect that has left its marks in literature, architecture, arts and jurisprudence made way for enduring supremacy and the colonization of the Arabic-Islamic region through Europe and America after the hegemonic claim of the Turks during the 16th century and the occupation of Vienna.

The changing relations and differences between the Islamic and the Judeo-Christian world are particularly remarkable. Rather than attempting to indicate their scope and content, one may refer to the estimation of the Islamic-Arab culture as “backward” and “primitive” that is common in Western Europe. According to our own phylogenetic fantasies of process, the Christian West considers the Islamic-Arab world to be trapped in the “gloomy Middle Ages”. An awareness of superiority to Islamic culture is especially distinct in Europe and America and therefore constitutes the prerequisite for Western/Christian ambitions to civilize, something we are witnessing at the moment.²⁴

23 Cf. Schneider 1997, pp. 93ff.

24 The historically changeable interlacing and confrontation of the Judeo-Christian and Islamic-Arab culture has only exemplary char-

The standards that are brought to the Islamic-Arab cultural world by the West are mostly provided with the title of human rights and laid out as the primary cultural condition for recognition. Given the insistence of the Western civilizing request, the Islamic world alternates between adopting the role of a “medieval”, retarding, violent culture and asserting a normative initiative of human rights within the context of Islamic sources. Mostly, however, human rights requirements are met with skepticism. According to Udo Steinbach this is due to the fact that the West constantly impinges on its “upheld principles” and also considers

[...] the realization of Western interests and dealing with human rights [...] in one and the same context.²⁵

Additionally, international institutions, which are widely created by the West, do not possess corresponding levels of trust as found in Europe. Quite the contrary: human rights are identified with the hegemonic claim of the Christian-Western world and are therefore seldom considered very seriously. Conversely, human rights proponents of the Western hemisphere do not show any willingness to enter into an open and intercultural dialog that addresses human rights norms which are believed to be universal.

Western reservations center on the absent separation of religion and state. Secularism and the creation of a secular community is considered an important aspect for the unfolding of human rights standards. For many Islamic states this means that religious orders and norms, as they are grounded in Shari’ah, are simultaneously the legal basis of the state. This leads to the fact that Islamic law provides bodily punishments that may also include amputation. Moreover, there is no religious freedom within the Islamic legal systems and no true sexual equality. Saudi Arabia opposed article 18 of the *Declaration of Human Rights*, which provided for religious freedom and the free change of religions at an already very early stage. In some traditional Islamic codes of law the death penalty follows apostasy.²⁶ The death penalty against such persons was

acter in this context, since there is a multitude of different, possibly more terse contingencies of traditional cultural worlds.

25 Steinbach 2002, p. 111.

26 See also Aldeeb Abu-Salieh 1994.

imposed and implemented a few times in Iran and Sudan during the past decades.²⁷

Discrimination against women within Islam is expressed, for example, in the fact that a woman is disadvantaged with regard to divorce and inheritance law. From the perspective of certain Islamic circles this is not considered an obstacle to respecting human rights. They rather tend to claim human rights norms and their development for Islamic culture. The most influential attempt of this kind was the Cairo Declaration in 1990 which contained an explanation of human rights in Islam. The declaration was adopted and issued by the foreign ministers of the member states of the organization of The Islamic Conference. In many respects the declaration seems to resemble the *UN Declaration of Human Rights* but article 24 clearly reveals the main issue:

All the rights and freedoms stipulated in this Declaration are subject to the Islamic Shari'ah.

Furthermore, article 25 states:

The Islamic Shari'ah is the only source of reference for the explanation or clarification of any of the articles of this Declaration.

Without doubt, based on the *Declaration of Human Rights* from 1948 and the two Covenants from 1966, these are clearly provisional clauses, which restrict the right to live and bodily integrity in article 2 or, for example, freedom of speech in article 22 of the UN Human Rights Charter.

Furthermore, from a Western perspective, unacceptable restrictions of human rights as important as the right of "personal status" (religious restrictions on marriage – which applies to Israel as well) could be named. Western proponents of the UN Covenants are certain:

The Cairo Declaration proves to be a political document, which knowingly exposes the continuity of the United Nations' universal human right standards. At the same moment the declaration sets an example for the tendency of a one-sided Islamic occupation of the perception of human rights in the ongoing Islamic human rights debate comparable with the Western

27 Cf. Amnesty International 1997.

perception of human rights as “occidental values,” leaving no room for inter-cultural discourse.²⁸

One could object that current Islamic culture does not open up itself to the extensively universal human rights norm influenced by the West. However, if you consider that secularity is based on the political commonwealth of the Western world and that it is a requirement and validation of a trans-religious right, the extent of cultural differences between the Islamic and the Christian world become evident at this point. For a Muslim it is simply not understandable that a human by himself, as an abstract universal assumption, independent of his society’s influential culture and his religion, is led to have rights in the first place. Against this backdrop it should become apparent that the importance — for the European-influenced perception of human rights — of the independence and individuality of a human being cannot be shared by Islam.

In an Islamic dimension [...] the human being acts and is responsible to God’s light of revealed words. As a “representative” he remains subordinate to him. Human individuality does not lead to an absolutization of the individual and one’s ego. The autonomous human being, as developed in Europe’s modern era, who acts according to an inner moral law, is hardly understandable for a religious Muslim.²⁹

From a perspective influenced by occidental culture, one might complain about this and wish to change it. Nevertheless, the opposition of the Islamic world culturally and philosophically shows that a human being does not delineate its character in an abstract humankind, but takes shape in concrete cultural, temporal and spatial conditions as well as in symbolic structures and semantics.

Not until the difference of this diversity of human genesis is recognized and taken seriously throughout different cultures might an endless normative process of acquisition of qualities or knowledge, as a dialog between cultures, create universality. This would *laterally* grow and change into a concrete encounter of foreign, but politically and socially reliant cultures.

28 Bielefeldt 1998, p. 137 (my translation).

29 Steinbach 2002, pp. 109–110 (own translation).

The generation of human rights between cultures should be thought of as a greater and endless language which steadily emerges in an ongoing translation process of many different languages, in which meaningful words and minor allusions nestle together, not excluding each other as a result of their diverging backgrounds.

Buddhism and the Idea of Human Rights. Resonances and Dissonances¹

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In 1991 L.P.N. Perera, Professor of Pāli and Buddhist Studies in Sri Lanka, published a Buddhist commentary on the *Universal Declaration of Human Rights*. In this commentary Perera tries to show that in the Pāli canon, i.e. the canonical scriptures of Theravāda Buddhism, for every single article of the Human Rights Declaration a substantial parallel or at least a statement with a similar tendency can be found. Indeed, says Perera, Article 1, which affirms the dignity and rights of all humans, “is in complete accord with Buddhist thought, and may be said to be nothing new to Buddhism in conception”.² In contrast, the Buddhist Peter Junger, Professor of Law at the University of Cleveland, Ohio, judged in 1995 that

[...] though followers of Buddhist traditions do value most, if not all, of the interests underlying the rhetoric of human rights, they may not have much use for the label itself, which is, after all, a product of the traditions of Western Europe and the parochial histories of that region.³

1 This is a slightly revised version of a paper previously published in *Studies in Interreligious Dialogue* 14 (2004), pp. 216–234, and in *Journal of Buddhist-Christian Studies* 26 (2006), pp. 33–49.

2 Perera 1991, p. 21.

3 Junger 1998, p. 56.

Junger goes on to say that

[...] the *concept* of human rights is not likely to be useful in [...] following the Buddha *dharma*.⁴

Thus Perera and Junger agree that the content of the various human rights is acceptable for Buddhists. However, they disagree strongly in their evaluation of the idea of human rights in itself. In this respect Damien Keown has rightly argued that the crucial question of “Buddhism and Human Rights” is not so much whether Buddhism can accept any particular human right but rather whether the idea of human rights as such can find a philosophical justification within the “overall Buddhist vision of individual and social good”.⁵

It is this problem that I would like to pursue in this paper. In the *first* part I will sketch some basic characteristics of the idea of human rights. In the *second* part I will point out what resonances this idea finds in Buddhism or by which Buddhist concepts the human rights idea can be justified. And finally, in the *third* part, I will deal with the question of potential dissonances between the idea of human rights and Buddhist concepts.

On the Nature of Human Rights

With the United Nations’ *Universal Declaration of Human Rights* in 1948 and the various subsequent human rights conventions the rights of individuals were for the first time inscribed into international law, which had previously recognized only collectives as legal subjects. By formulating universal rights as valid for every *individual* human being regardless of race, color, sex, religion, birth, etc. the *Universal Declaration* points to the most important feature of the idea of human rights: the *protection of the individual* or, to be more precise, the protection of the individual against powerful institutions of the state, society, religion or others. It is *individual self-determination* and *free agency* that are protected through human rights. Human rights define the minimum of what is necessary in order to guarantee the freedom of individual agency and the free-

4 Junger 1998, p. 55.

5 Keown 1998, p. 24.

dom of self-determination. By the definition of inalienable rights,⁶ the idea of human rights sets limits to those collectives and institutions in which we usually live, limits which for the sake of the basic liberty of the individual are not to be transgressed. Michael Ignatieff summarizes this understanding of human rights with the words: "rights exist to protect individuals,"⁷ and "they are worth having only if they can be enforced against institutions like the family, the state, and the church".⁸ Therefore "moral individualism" is "the core of the Universal Declaration".⁹

It is true that the further development of the human rights debate, particularly within the context of the United Nations, has led to an extension of the idea of human rights to collective rights and collective legal entities by including among human rights, for example, a nation's right to self-determination, the right to peace and the right to development. However, in my opinion it would be highly problematic to take this as relativizing the understanding of human rights as essentially protecting the rights of the individual.¹⁰ Such collective human rights should be regarded rather as articu-

6 These rights include, for example, the right to life and security, the right to freedom from torture, inhuman treatment and discrimination, the right to protection against arbitrary arrest, the right to fair legal proceedings, the right to asylum, the right to freedom of thought, conscience and religion, to freedom of opinion and expression, the right to associate and assemble, to freedom of movement, to free choice of one's spouse or mate, the right to own property, to free choice of employment, etc.

7 Ignatieff 2001, p. 67.

8 Ibid., pp. 66f.

9 Ibid., p. 66.

10 The statements in von Senger 1998 do not appear to be entirely free from this tendency. Von Senger's harsh criticism of the "Western" idea "that in principle human rights should be exclusively a matter of the right of the individual to protection" (von Senger 1998, p. 73), is associated with startling restraint concerning the violation of just such human rights throughout the People's Republic of China. It must appear particularly disturbing that von Senger writes without any further commentary and seemingly approvingly of China's action — "China thus stood up 'for collective human rights, such as the right of all nations to self-determination'" (von Senger 1998, p. 73) — not even mentioning China's occupation of Tibet.

lating wider settings and conditions for the protection of the individual in the sense that, for example, the right to a healthy economic development guaranteeing the satisfaction of the basic existential needs of a state's citizens is necessary, because hunger does not restrict human agency any less than arbitrary imprisonment does.¹¹

If human rights are understood primarily as rights for the protection of individuals, then a further crucial aspect is that these rights hold for *all* individuals in an *equal* way and that therefore the claim of their validity is inevitably *universal*. It is the principle of equality through which the moral character of the human rights idea becomes particularly clear. For the principle of equality rests on the "Golden Rule," so that all others are to be protected against abuse in the same way that one would claim this for oneself.¹² And from the principle of equality follows the claim to the universal validity of the idea of human rights. For the equal validity for all individuals entails universal validity. This takes us to a problem which has moved more and more to the center of the current human rights debate: the question of how to justify the claim to *universal validity* of the human rights idea within the horizon of different cultures, religions, and ideologies.

The view that human rights apply to all individuals equally, irrespective of any particulars of sex, race, color, nationality, social position, etc., can also be expressed by saying that these rights have to be adjudicated to humans *as humans*, that is on the basis of their humanness alone and that this is the reason why they are called *human* rights. This seems to suggest that the universal validity of human rights needs to be derived from human nature or more precisely from the dignity of that nature. Although the 1948 *Universal Declaration* abstains consciously from giving any justification of human rights,¹³ it nevertheless indicates a close connection between human rights and human dignity by mentioning both in one breath in the preamble and in Article 1. However, a justification of the universal validity of human rights by having recourse to universal human dignity is not without problems. On the one hand,

11 Cf. Gutmann 2001, pp. xi–xiii.

12 Ignatieff 2001, pp. 4, 88f.

13 Morsink 1999, pp. 281–302.

there is a variety of culturally rather diverse concepts of human dignity. And, on the other, there are some clear examples to show that the idea of human dignity does not only support equality before the law, but also inequality. One has only to recall the numerous instances in which a legally restricted status of women is justified by an alleged specific womanly dignity.¹⁴ Therefore, I would support Ignatieff's suggestion that within the context of justifying human rights, dignity should be restricted sharply to the *dignity of free individual agency and self-determination*. Beyond that, it should be left precisely to this individual freedom as to how he or she wants to understand his/her dignity in more detail.¹⁵ Can the different cultures and religions agree on such a restriction? This question provides a kind of litmus test, for the freedom of men and women to decide for themselves how they want to understand their own human dignity is a central implication of the human right to religious liberty.

Ignatieff concedes that the specific association of the idea of human rights with the idea of human dignity and the idea of free individual self-determination is of Western origin. But he rightly insists that the question of origin does not necessarily determine the range of validity.¹⁶ This takes us to the center of the *relativist critique* of the idea of human rights, which has been summarized (but not approvingly) by Diane Orentlicher:

What we call "universal" human rights are, in fact, an expression above all of Western values derived from the Enlightenment. Understood in this light, the human rights idea is at best misguided in its core claim that it embodies universal values — and at worst a blend of moral hubris and cultural imperialism.¹⁷

In the discussion of the relativist critique¹⁸ two things are worth mentioning. First, in principle it is possible to base the human rights idea — even and particularly in its hard core of a "moral in-

14 Ignatieff 2001, p. 164.

15 Ibid., pp. 164ff.

16 Ibid., p. 166.

17 Orentlicher 2001, pp. 141f.

18 For a comprehensive and precise summary of all relevant argument against cultural relativism in connection with the human rights issue see Paul (2002).

dividualism” — on more than just one foundation only. One can think of philosophical justifications coming from different cultural and religious origins but nevertheless concurring in their endorsement of the idea of human rights. Second, in the face of the relativist critique it should not be forgotten that opposition is exactly what has to be expected when it comes to the idea of human rights, precisely because its point is the protection of the individual agent against collectives, institutions, traditions, religions, etc. that are too powerful. This in itself seems to be an intercultural universal. In the West the idea of human rights had to be pushed through against a fierce and persistent resistance coming from political and religious authorities. Pope Leo XIII, for instance, accused human rights of being “unrestrained doctrines of liberty”¹⁹ and Pope Gregory XVI designated the idea of a right to religious liberty as “madness”.²⁰ Hence, one should not be surprised if the idea of human rights meets with comparable resistance in other civilizations. Surprise would be rather appropriate if that did not occur, for then one should fear that the idea of human rights has become so wishy-washy that it no longer appears as something that is to be taken seriously by those powers against whom it is directed. Thus, when it comes to the universality of human rights what is at stake is also and in particular the universality of critical standards, which may have to be asserted against ancient traditions, whether of Western or of any other civilization. In this respect it is quite encouraging to see that the Fourteenth Dalai Lama — despite being himself a high representative of an ancient tradition — acknowledges exactly this critical function of human rights:

Diversity and traditions can never justify the violations of human rights. Thus discrimination of persons from a different race, of women, and of weaker sections of society may be traditional in some regions, but if they are inconsistent with universally recognized human rights, these forms of behaviour must change. The universal principles of equality of all human beings must take precedence.²¹

19 Encyclical *Immortale Dei*, 1885.

20 Encyclical *Mirari Vos*, 1832.

21 From the address of the Fourteenth Dalai Lama during *The World Conference on Human Rights* 1993 (Dalai Lama 1998, p. xix).

However, given the more recent developments within the so-called “Shugden Controversy,” it needs to be questioned to what extent the current Dalai Lama and his administration are serious about the right to religious liberty.²² This leads us to the proper topic of this paper: the relationship between the human rights idea and Buddhism, or better, the question of which resonances and dissonances the human rights idea finds in Buddhism.

Resonances

When looking for Buddhist resonances with the idea of human rights two issues need to be distinguished: firstly, can Buddhism make any positive sense of the idea of “rights” and, secondly, does it allow for the idea of rights that protect the “individual” or more precisely individual self-determination?

At least since the reign of emperor Aśoka (middle of the 3rd century BCE), Buddhism has presented itself as a politically and socially formative factor, and this was probably just about one hundred years after the Buddha’s death.²³ To my mind, this did not require a radical transformation of Buddhism, for contrary to a prejudice still widespread in the West, Buddhism was right from the beginning by no means a purely individualistic and escapist doctrine of salvation.²⁴ Rather, we find already in the Pāli canon a number of ancient texts which demonstrate not only an obvious interest in questions of common ethics but also apply specific features of the Buddhist explanation of the origin and removal of suffering to the social and political sphere, that is, to war, social discord, crime, poverty, legal insecurity, etc. The traditional Buddhist answer to these issues revolves around the idea of

22 An overview over the various aspects of this controversy and the repeated accusation of human rights violations can be gained from the article “Dorje Shugden controversy” in the English Wikipedia: http://en.wikipedia.org/wiki/Dorje_Shugden_Controversy.

23 According to the shorter chronology which is nowadays accepted by many scholars the dates of the Buddha’s life would be something like 448–368 BCE. On the problems of dating the Buddha see Bechert 1986.

24 Schmidt-Leukel 1997.

a Buddhist monarchy, i.e. around the idea of a king ruling the country according to the moral principles of the *dharma*:²⁵

[...] the king, the ruler of the world, the dharmic *dharma*-king [P. *dharmiko dhammarāja*] relies just on *dharma*; honours *dharma*, reveres *dharma*, esteems *dharma*; with *dharma* as his standard, with *dharma* as his banner, with *dharma* as his mandate, he sets a *dharma* watch and bar and ward for folk within his realm [...] for warrior and camp follower, for brahman and for householder, for town and country folk, for recluse and for godly man, for beast and bird alike.²⁶

In this context the word *dharma* has a fairly broad meaning. It is usually translated as “law” but means much more than that. In the Buddhist context it signifies primarily the teaching of the Buddha which, however, is not regarded as the Buddha’s invention but as something that the Buddha has rediscovered, like a forgotten city overgrown by the jungle.²⁷ Accordingly, Buddha’s teaching reflects a kind of cosmic law which describes the basic syntax of all life — suffering, its causes, its ultimate appeasing in *nirvāṇa* as well as the path leading to the removal of suffering and, as an integral part of this, morality and justice.

While the *dharma* has therefore a transtemporary validity, this does not, in traditional Buddhist understanding, hold for monarchy itself. According to an ancient myth, codified in the Pāli canon, monarchy is based on a kind of social contract. In primordial times the idea of private property arose among human beings due to their greed. As a result of private property and greed, theft, lies, and violence became rife and so it was resolved to appoint a king. By the power conferred on him to dispense justice, the elected king should fight the evils that had arisen and should be paid for this by the citizens of his state.²⁸ However, the powers and duties of a king

25 On the concept of the *Dharmarāja* see Chakravarti 1996, p. 150–176 and Collins 1998, pp. 414–496.

26 *Aṅguttara-Nikāya* V.133 (PTS III 149). The translation follows Hare 1934, p. 115. I have substituted the more common Sanskrit form *dharma* for the Pāli form *dhamma*.

27 *Saṃyutta-Nikāya* 12.65.

28 *Aggañña Sutta*, *Dīgha-Nikāya* 27.

are not confined to this particular form of power.²⁹ In correspondence with the basic Buddhist insight that painful phenomena are best removed by removing their causes, it also counts among the king's duties to provide financial aid for the poor³⁰ and to make sensible economic investments³¹ in order to fight poverty as one of the major causes of all sorts of social evil. The Buddhist scriptures contain several lists of a king's virtues and duties,³² among them the particularly important scheme of the ten virtues of a *dharma*-king (P. *dasa rājadhammā*), which are: generosity, morality, spirit of sacrifice, integrity, moderation, spiritual discipline, peaceableness, nonviolence, forbearance, and non-offensiveness (P. *dāna, sīla, pariccāga, ajjava, maddava, tapas, akkodha, avihiṃsā, khanti, avirodhana*).

In a symposium on "Buddhism and Human Rights"³³ Damien Keown suggested that the Buddhist concept of duties and virtues of the king determined by the *dharma* anticipates the modern idea of rights and human rights in an "embryonic form".³⁴ Underlying Keown's suggestion is the argument that justice can be expressed both ways, by rights and by duties: someone's right expresses the entitlement to be treated justly and someone's duty expresses the

29 The king's judiciary power is particularly significant since in general the moral high ethos of Buddhism demands absolute nonviolence. Therefore, the *realpolitik* considerations of ancient Buddhist scriptures on the justification of the exertion of force by the king should always be seen against the background of the Buddhist utopia of an entirely nonviolent rule; cf. the extensive evidence given in Collins 1998, pp. 419–496. If the aim of the modern human rights idea is the protection of the individual against governmental force, then one could hold that in a sense the Buddhist texts are, right from the beginning, committed to such a view and therefore do not ask when and why government force should be restricted but, on the contrary, when and why it should be permitted at all. On the more general question of Buddhism and violence see Schmidt-Leukel 2004.

30 *Dīgha-Nikāya* 26.

31 *Dīgha-Nikāya* 5.

32 Collins 1998, pp. 460ff.

33 This symposium was carried out as an on-line conference in 1995 by the *Journal of Buddhist Ethics* and was later published in print (Keown *et al.* 1998).

34 Keown 1998, p. 22.

obligation to treat others justly. From this Keown concludes that rights and duties can be mutually deduced. Therefore, even if the Buddhist *dharma* does not speak of rights but of duties, rights can nevertheless be deduced from it by the following model:

If under *dharma* it is the duty of a king (or political authority) to dispense justice impartially, then subjects (citizens) may be said to have a “right” to just and impartial treatment before the law.³⁵

Keown extends this argument to the whole of Buddhist morality, so that, in his view, different rights emerge from the various moral precepts of Buddhism: for example, the right to life from the precept not to kill, the right to property from the precept not to steal, etc.³⁶ In other words, the modern ideas of rights in general and of human rights in particular are not explicitly mentioned in the traditional Buddhist scriptures but, according to Keown, can be extrapolated from the explicitly stated *dharma*-related duties.

Against Keown Craig Ihara has argued that while it is true that from every right a corresponding duty can be deduced, the converse does not hold – that is, one cannot deduce from every duty (or Buddhist moral precept) the claim to a corresponding right.³⁷ In my mind it is true that there are forms of responsibilities which go beyond that what can be described as satisfying or respecting a particular right. Therefore, Ihara is correct in that it is not possible to deduce from every duty or responsibility someone else’s legal claim or right to that. From the moral precept to give generously, for it example, one cannot deduce the right to receive plentifully. Or from the moral obligation to speak the truth no right can be deduced never to be lied at. However, as Ihara himself has to admit, the converse is perfectly correct: legitimate rights lead to the moral duty of others to respect or not to violate these rights. So if I have in specific situations the right to learn the truth, it does trigger the duty of the other to tell me the truth. This is of crucial importance for the idea of human rights, for stating particular human rights means making a serious appeal to the duty of the powerful not to violate these rights. Therefore, in the end, Keown is right insofar as

35 Keown 1998, p. 21.

36 Ibid., pp. 31–33.

37 Ihara 1998, p. 45.

at least some specific moral duties of kings, as stated in traditional Buddhism, may be understood as expressing an appeal that would in substance correspond to the idea of rights. Regarding the Buddhist conviction that a king should rule in accordance with the *dharma*, one may indeed assume that this is backed by the feeling that such a dharmic exercise of power is highly desirable, particularly from the perspective of the subjects. In any case, it is a familiar view of the early Buddhist texts that kings are among those things from which or whom one needs protection. For, in a frequently appearing standard formula kings are mentioned in one breath with fire and water, robbers and bad heirs.³⁸ Hence, it does not seem to be totally misleading to assume that the demand for an exercise of power in accordance with the *dharma* was also motivated by the intention to protect the subject from “royal” catastrophes. This is certainly not yet the same as the modern formulation of the idea of human rights. However, it is compatible with it or – more strongly – predisposed to it. One can hardly expect much more from texts which are more than 2000 years old.

But what about the question so central to the idea of human rights, the question of justifying the worth of individual self-determination and free agency? Does Buddhism have a solid and sound basis for human dignity in the sense of the dignity of the free individual that must be respected and protected? A number of Buddhist authors,³⁹ including the Burmese Nobel Peace Prize Laureate Aung San Suu Kyi,⁴⁰ have answered the question of how to justify human dignity in Buddhism by hinting at the specific status of human beings in respect of their potential for enlightenment and liberation. One should recall first that in Buddhism human beings do not occupy an absolutely privileged position but are seen against the doctrine of rebirth as being continuous with all “sen-

38 Cf., for example, *Aṅguttara-Nikāya* V.41; *Majjhima-Nikāya* 13.

39 Keown 1998, pp. 29f; Harvey 2000, pp. 36f and 118ff; Perera 1991, pp. 21–24; Thurman 1988, p. 152f; Chamarik 1985, p. 76f.

40 Aung San Suu Kyi 1991, p. 174: “Buddhism [...] places the greatest value on man, who alone of all beings can achieve the supreme state of Buddhahood. Each man has in him the potential to realise the truth through his own will and endeavour and to help others to realise it. Human life therefore is infinitely precious.” See also Silverstein 1998.

tient beings,” that is, with all forms of existence in which rebirth can take place. Within the context of the human rights debate, Buddhists have therefore repeatedly pointed to an additional need for animal rights.⁴¹ However, the fact that the Buddhist understanding of human beings⁴² does not allocate to them an absolutely exceptional position entails by no means an indiscriminate levelling. Rebirth as a human being is regarded as particularly precious because it carries the most favourable conditions for progress on the Buddhist path of salvation. Therefore it is usually assumed that enlightenment can be achieved only in human form. Subhuman forms of existence, i.e. as animals, ghosts or beings in hell, leave no or too little room for free moral and spiritual action and the life of the gods is too pleasant for gaining full insight into the basically unsatisfactory character of *saṃsāric* existence.⁴³ The Buddhist scriptures repeatedly praise existence in human form as particularly precious with regards to its specific prospects for enlightenment and salvation.⁴⁴ And this implies the specific worth of individual self-determination and free agency. Thus the Buddha admonished his disciples shortly before he died with the words:

Be islands unto yourselves! Be a refuge to yourselves; do not take to yourselves any other refuge. See *dharma* as an island, see *dharma* as a refuge. Do not take to yourselves any other refuge.⁴⁵

This does not imply any sort of inclination to post-modern or pre-modern arbitrariness. There is no doubt that the *dharma* is objectively given and definitely proclaimed by the Buddha and is as such the “island” or “refuge”. However, what is important for individual progress on the path of salvation is nothing but personal appropriation through one’s own understanding and experience, and in this sense everyone must be one’s own “island” or “refuge”. Accordingly, the Buddha says in his well known discourse to the Kālāmas:

41 Keown 1998, pp. 34f; Harvey 2000, p. 120; Unno 1988, pp. 143f.

42 Cf. Schmidt-Leukel 1999.

43 Cf. Schlingloff 1963, pp. 42f; Harvey 2000, p. 30.

44 For example, *Majjhima-Nikāya* 129; *Bodhicaryāvatāra* VII.14.

45 *Dīgha-Nikāya* 16.

Be ye not misled by report or tradition or hearsay. Be not misled by proficiency in the collections [or scriptures], nor by mere logic or inference, nor after considering reasons, nor after reflection on and approval of some theory, nor because it fits becoming, nor out of respect for a recluse (who holds it). But, Kālāmas, when you know for yourselves: these things are unprofitable, these things are blameworthy, these things are censured by the intelligent; these things, when performed and undertaken, conduce to loss and sorrow, — then indeed do ye reject them [...] But if at any time you know of yourselves: These things are profitable, they are blameless, they are praised by the intelligent: these things, when performed and undertaken, conduce to profit and happiness, — then Kālāmas, do ye, having undertaken them, abide therein.⁴⁶

The personal responsibility of humans for their deeds and their consequences is also at the center of the Buddhist teaching on *karma* and is emphasized by the standard formula: “I myself am responsible for my deed, I am the heir to my deed,”⁴⁷ meaning that a good or bad spiritual development is rooted in the direct responsibility of the individual. The accentuation of personal responsibility seems also to be one reason for the Buddhist critique of the caste system (one’s deeds, rather than one’s birth, show an individual’s worth),⁴⁸ for the affirmation of an (at least in principle) equal status of the sexes,⁴⁹ for the critique of deterministic understandings of *karma* and deterministic versions of theism as well as for the rejection of the materialistic idea that everything happens purely by chance.⁵⁰

Moreover, for Buddhism there is no contradiction between responsibility for oneself and responsibility for one’s fellow humans or beings.⁵¹ Both are seen to belong closely together: “Protecting

46 *Anguttara-Nikāya* III.66; translation from Woodward 1932, p. 173.

47 *Anguttara-Nikāya* X.48; similarly V.161.

48 Cf. *Sutta-Nipāta* 136.

49 Cf. *Sutta-Nipāta* 609. See also Vinaya-Pitaka, Cullavagga X. 1, where the fact that women have the same spiritual faculties as men is given as the decisive reason for the foundation of the nuns’ order.

50 For the criticism of these three views see *Anguttara-Nikāya* III.62.

51 This is rightly stressed by King (2000) as a key aspect of Buddhist ethics. However, King is in danger of confounding the idea of human rights with Buddhist ethics in general and thus misses the crucial point of the protection of free individual agency. But despite the moral intuition behind the idea of human rights, having a religious

oneself, one protects others; protecting others, one protects oneself".⁵² A central foundation for this is the so-called "Golden Rule," which is also well-known in Buddhism:

For a state that is not pleasant or delightful to me must be so to him also; and a state that is not pleasing or delightful to me, how could I inflict that upon another?⁵³

And this in turn is based on the fundamental insight that all beings "[...] yearn for happiness and recoil from pain".⁵⁴

Given the high value that traditional Buddhism attributes to the direct responsibility of the individual, it is not surprising that some Buddhists commit themselves to the protection of individual freedom, also on the level of legislation, that is, to an undivided validity of those human rights which are instrumental to this protection. An outstanding example of this is Bhimrao Ramji Ambedkar, the founder of Indian Neo-Buddhism and the father of the Indian constitution. The legal abolition of caste distinctions through the Indian constitution in 1949 and the constitutional guarantee of human rights are primarily Ambedkar's work⁵⁵ and for him an expression of his Buddhist convictions.⁵⁶

The organisers of the symposium on "Buddhism and Human Rights," mentioned above, issued a *Declaration of Interdependence*⁵⁷ which seems to be meant as a kind of draft Buddhist equivalent to or endorsement of the *Universal Declaration of Human Rights*. The first paragraph of the preamble summarises the Buddhist foundations for the idea of human rights in the following way:

ethics, even a very impressive one, is not the same as supporting human rights.

52 *Samyutta-Nikāya* 47.19.

53 *Samyutta-Nikāya*, as quoted in Harvey 2000, p. 33.

54 *Majjhima-Nikāya* 51.

55 See Ambedkar's respective memorandum "States and Minorities" from 1947 with drafts and comments on the relevant paragraphs of the constitution in preparation in Ambedkar 1989, pp. 381–449. Ambedkar holds (ibid., p. 409) "that the individual has certain inalienable rights which must be guaranteed to him by the Constitution" and "The purpose is to protect the liberty of the individual [...]"

56 Cf. Jürgens 1994, pp. 222ff.

57 Cf. Keown et al. 1998, pp. 221f. and Harvey 2000, pp. 121f.

Those who have the good fortune to have a “rare and precious human rebirth,” with all its potential for awareness, sensitivity, and freedom, have a duty to not abuse the rights of others to partake of the possibilities of moral and spiritual flourishing offered by human existence. Such flourishing is only possible when certain conditions relating to physical existence and social freedom are maintained. Human beings, furthermore, have an obligation to treat other forms of life with the respect commensurate to their natures.⁵⁸

Despite the Buddhist potential for a positive affirmation of the idea of human rights, the relationship between Buddhism and this idea is not entirely free from tension. Thus, for the last part of my paper I would like to deal with some of those dissonances.

Dissonances

In the thirteenth century the poet Rāmacandra composed the following verses after his conversion to Buddhism:

When the idea of an ego arises,
it will also procreate egotism.
Soon the latter will produce the greed for being,
and that begets from moment to moment delusion.
[...]
The root of suffering is this idea of an ego.
Cut it off from me, O Jina, with the sword of your word.⁵⁹

In these verses Rāmacandra summarizes the Buddhist belief that the idea of an ego or “I” is one of the main reasons for the human predicament. Some Buddhist authors have criticized the idea of human rights using the argument that it would promote this idea of an ego and the egotism so closely linked to it.⁶⁰ Craig Ihara, for

58 Harvey 2000, p. 121.

59 Rāmacandra, translated in Otto 1917, pp. 155f.

60 Cf. Harvey 2000, p. 119: “Buddhists are sometimes unhappy using the language of ‘rights’ as they may associate it with people ‘demanding their rights’ in an aggressive, self-centered way, and may question whether talk of ‘inalienable rights’ implies some unchanging, essential Self that ‘has’ these, which is out of accord with Buddhism’s teaching on the nature of selfhood.” Harvey himself, however, defends the human rights idea against this criticism by arguing (2000, p. 119) that “[...] while aggressively *demanding* rights is

instance, says “[...] invoking rights has the inevitable effect of emphasizing individuals and their status, thereby strengthening the illusion of self. While Buddhism has a holistic view of life, the rights perspective is essentially atomistic”.⁶¹ Therefore Ihara holds

[...] that rights in the sense of subjective entitlements are conceptually incompatible with classical Buddhist ethics and their introduction would require a fundamental conceptual transformation [...] The change to a modern concept of rights is one from conceptualizing duties and obligations as the role-responsibilities of persons in a cooperative scheme to seeing them as constraints on individuals in their interactions with other individuals all of whom are otherwise free to pursue their own objectives.⁶²

Ihara's view that the Buddhist *dharma* and the associated ideal of the *dharma*-king must not be understood in the sense of the idea of rights finds a vivid illustration or even radicalization in the idea of a “Dictatorial Dhammic Socialism” from the eminent Thai Buddhist reformer, Bhikkhu Buddhādāsa.⁶³ For Buddhādāsa the first priority of every political system must be the well-being of the community. To this the freedom of the individual must be unequivocally subordinate.⁶⁴ Moreover, the concept of freedom is, according to Buddhādāsa, in itself highly ambiguous. From a Buddhist perspective, the individual is controlled by negative, selfish tendencies and

not in tune with the spirit of Buddhism, being calmly firm and determined in upholding rights, particularly of other people, is so. On the matter of what ‘has’ the rights, [...] one can simply say that living, changing, vulnerable beings are, conventionally, the ‘owners’ of rights, with the locus of their value seen as their ability to suffer, their very vulnerability, and their potential for enlightenment [...]”

61 Ihara 1998, p. 51, ft. 21. Cf. also Unno 1988, p. 144: “[...] the most difficult problem in considering the nature of personal rights is the ego-centeredness that lurks in its background.” For a similar tendency see Inada 1998, pp. 4 and 6.

62 Ihara 1998, pp. 48f.

63 Cf. “A Dictatorial Dhammic Socialism,” in Buddhādāsa 1989, pp. 182–193. On the life and work of Buddhādāsa see Jackson 2003.

64 Buddhādāsa 1989, p. 185: “If we think of politics as something that concerns groups of people living together, then the emphasis of a political system would be the well-being of the entire group. *Freedom*, on the other hand, is an individual matter. An emphasis on personal freedom shifts the focus from the group to the individual. Such a focus is at odds with the meaning of politics.”

it is precisely this with which liberalism's concept of freedom cannot effectively deal:

Liberalism cannot provide a basis for social utility because it promotes selfishness, individual benefits rather than social benefits.⁶⁵

But a liberal concept of freedom is also the basis of liberal democracy — which therefore has to be rejected too. For Buddhādāsa, true freedom consists in conquering all selfish tendencies. Socialism with dictatorial features, being opposed to the liberal ideal of individual freedom, is therefore more suitable for dealing adequately with the problem of selfishness than liberal democracy.⁶⁶ However, it is necessary that the socialist dictator follow the *dharma* and manifests — in accordance with the ancient Buddhist ideal of the *dharma*-king — the ten virtues of kingship.⁶⁷ “If a good person is the ruler the dictatorial socialism will be good, but a bad person will produce an unacceptable type of socialism. A ruler who embodies the ten royal virtues will be the best kind of socialist dictator”.⁶⁸

Such an ideal Buddhist dictator, says Buddhādāsa, will look after his people the way good parents look after their children.⁶⁹ Above all, he will “promote the common good” and “abolish the evil of private, selfish interest”.⁷⁰ But how is that to be achieved? Among Buddhādāsa's disciples some illuminating suggestions

65 Buddhādāsa 1989, p. 184.

66 Ibid., pp. 184f. and 189. In Buddhādāsa's later writings (from the 1980's on) one can find some more positive comments on democracy, but he still recommended a Buddhist dictatorship. Cf. Jackson 2003, pp. 246–251.

67 Cf. Buddhādāsa 1989, p. 191. In this connection it is worth mentioning that Aung San Suu Kyi bases the goals of the Burmese democracy movement on the traditional concept of Buddhist kingship as well. However, she emphasises (Aung San Suu Kyi 1991, pp. 172f.) that, according to the myth, the first king had been elected and she interprets the tenth of the ten kingship virtues (*avirodha* = literally: “non-opposition”) as “non-opposition to the will of the people” and thus as “a Buddhist endorsement of democracy”.

68 Buddhādāsa 1989, p. 192.

69 Ibid., p. 193.

70 Ibid., p. 191.

have been made,⁷¹ such as: the removal of capitalism in favor of an “economic structure of [...] contentment [...] moderation [...] and self-reliance,” oriented by the example of rural cultures; “healthy sexuality within healthy families;” promotion of indigenous, local entertainment, songs, and dance; promotion of healthy and creative forms of sports and play; new ways of education which – in the long run – might even render schools and universities unnecessary; removal of rich and powerful religious institutions; removal of political parties; promotion of the awareness of “the need [...] to make sacrifices, let go of self, and give up selfish interests for the good of society;”⁷² installation of a general system of monitoring, including something like “moral ombudspersons,” “empowered to [...] investigate, and sanction,” etc.⁷³

Such views take us right into the intensive and partly heated debate which has become known as the controversy on “Asian values”. During the 1990s political leaders of various Asian states, headed by Malaysia and Singapore and markedly supported by China, have repeatedly criticized the idea of human rights as being too Western and contended in particular that the individualism on which it is based is opposed to community-oriented “Asian values”.⁷⁴ For some countries like China, Vietnam, Burma (or Myanmar) and others, it is only too obvious that this argument was used to distract attention from considerable violations of human rights

71 The following examples are from Santikaro Bhikkhu, who was for many years Buddhādāsa’s interpreter and co-worker. Cf. Santikaro Bhikkhu 1997.

72 Santikaro Bhikkhu 1997, p. 126.

73 Ibid., p. 149. Buddhādāsa was also aware that a “Dictatorial Dhammic Socialism” could not be realized without force, appealing for this to the example of Emperor Aśoka: “He purified the *saṅgha* by wiping out the heretics, and he insisted on right behavior on the part of all classes of people. Aśoka was not a tyrant, however. He was a gentle person who acted for the good of the whole society. He constructed wells and assembly halls, and had various kinds of fruit trees planted for the benefit of all. He was ‘dictatorial’ in the sense that if his subjects did not do these public works as commanded, they were punished.” (Buddhādāsa 1989, p. 190) Therefore, it is not entirely correct when Donald Swearer (1996, p. 143) claims that “Buddhādāsa flatly condemns violence”.

74 Cf. Langlois 2001; Bell 1999; Paul 1998.

within their own states or to escape international criticism.⁷⁵ But underlying some of the Asian voices is clearly the genuine concern that a liberal individualistic ethos in conjunction with a legalistic, aggressive and consumerist attitude does not meet traditional values of Asian societies, i.e. social harmony, respect for family and authorities and, in particular, emphasis on duty and responsibility rather than on rights that can be claimed.

Such concerns should not be easily dismissed. Bhikkhu Parekh has rightly pointed out that, on the one hand, emphasizing "Asian values" "[...] is vulnerable to the collectivist danger and unlikely to create a culture conducive to the development of individuality and choice" but that, on the other hand, a one-sided liberal stress on rights is hardly able "to nurture the spirit of community and social responsibility".⁷⁶ This statement marks a good starting-point for understanding that both sides, the representatives of "Asian values" and the defenders of "Western Liberalism", could learn from each other and in a sense complement each other,⁷⁷ although not on the same level exactly — i.e. not on the legal level of those minimal protective rights which are meant to guard the freedom of the individual from powerful communities and institutions. It is true that emphasizing such individual protective rights is not enough for promoting moral sensitivity and social responsibility. Responsibility exceeds that which can be secured legally. Therefore, it makes a great deal of sense to identify, in addition to the *Universal Declaration of Human Rights*, an intercultural and inter-religious basis for a Univer-

75 Cf. Twiss 1998, pp. 158f; Powers 1998, p. 176; Parekh 2000, pp. 140f.

76 Parekh 2000, p. 138.

77 On this see also the view of Sumner B. Twiss: "Human rights are intended to be compatible not only with traditions that emphasize the primacy of individuals within the community (true of many Western societies) but also with traditions that may emphasize the primacy of community and the way that individuals contribute to it (true of many non-Western societies). In effect, international human rights are intended to advance a balancing and integration of individual and community interests for both more individualistic and more communitarian societies, in an attempt to avoid the pathological extremes of individual freedom without communal solidarity and communal solidarity without individual freedom [...] There can be different viable social patterns between these two extremes." (Twiss 1998, p. 162)

sal Declaration of Human Responsibilities as it had been intended within the context of the “Global Ethic Project”.⁷⁸ Human responsibilities and human rights should complement rather than supersede each other. Emphasizing social and moral responsibility must not lead to a removal of that basic intuition of human rights that seeks legal protection for the individual’s freedom of self-determination. On the other hand this right cannot prevail without any limitations. It finds its limit — as already stated in the 1948 Declaration — at the rights of others and “the just requirements of morality, public order and the general welfare”. But it must not be crushed by the latter.

This, however, seems to be the danger of concepts such as Buddhādāsa’s “Dictatorial Dhammic Socialism”. The problem, which is here particularly obvious, consists in the intention to force the high ethos of Buddhist morality on an entire society.⁷⁹ But, among other things, it is precisely a tutelage like this against which human rights ought to protect people. This is not a specific problem of Buddhism but a problem of religion and human rights in general. The crucial challenge for religions is therefore to support the key intention of the idea of human rights, even and in particular if this entails restricting the power of religious institutions. I think that in principle Buddhists could and should make this intention their own. Not only because — as the Thai Buddhist and scholar of politics, Saneh Chamarik, has rightly remarked — well-intentioned dictatorships can only too easily end up with horrendous subjugation but also because religious tutelage ultimately contradicts the Buddhist respect for the individual’s own spiritual responsibility.⁸⁰ What happens if someone living under such a *dharma* dictatorship

78 Cf. Küng 1997, esp. pp. 91–113; Küng and Schmidt 1998.

79 In his analysis of the political ideas of Buddhādāsa and his followers May (2003) has rightly seen that underlying Buddhādāsa’s “Dhammic socialism” are the ideals of the Buddhist monastic community (May 2003, pp. 96ff). But in this otherwise sensible and highly commendable study May is surprisingly uncritical about the dangers to the individual’s freedom (and hence for a key value of the idea of human rights) resulting from the attempts of religious communities to make their own specific norms compulsory for a society. I agree with Swearer (1996, p. 144) who argues that Buddhādāsa’s vision of a society founded on the norms of the *dharma* fits better with voluntary religious communities than with political systems.

80 Chamarik 1985, pp. 84f. and 87.

does not share the high ideals of Buddhism and prefers rather to be selfish and greedy? What happens if someone likes to indulge in pleasures which, from a Buddhist perspective, are inferior or “unhealthy” or enjoys different music and dances from folk music and folk dancing? What happens if someone would like to retain religious institutions, political parties and universities? Will methods of intensified education then be imposed? I think that Buddhadaśa’s and his disciples’ suggestions are as naive as they are perilous. Asia has had enough painful experiences with analogous visions from communists.⁸¹ Buddhists who accept the idea of human rights can support specific Buddhist values and ideals by the old means of preaching, the lived example and, of course, by all sorts of constructive social co-operation but not by dictatorial force. The spirit of human rights demands that Buddhists respect and try to protect the freedom of individuals even, and in particular, if they want to understand themselves other than in a Buddhist sense. That such ideas are not only modern and exclusively Western is perhaps illustrated by the following instructions from the *vinaya*, the monastic rule, of the Mūlasarvāstivādins:

If — says the *vinaya* — one has to carry out some building measure for the Buddha and if for this reason one has to cut a tree which is inhabited by a tree-deity, then one should present to this tree-deity incense, flowers and offerings and subsequently expound to the deity the wholesome forms of conduct and after that ask the deity to move into a different tree just because this tree is needed for the Buddha. If, however, the deity refuses to leave the tree then “one shall praise to the deity the advantages of generosity and explain the disadvantages of miserliness and greed”. But if even that is of no use and the deity still refuses to leave its tree, then — says the instruction — “one is not allowed to cut it”.⁸²

81 It is evident that there have been various links between the ethical ideas of Asian Communist movements and Buddhist morality. It would be worth exploring those links in more detail. For a thorough record of the relations between Cambodia’s Khmer Rouge and Buddhism see the important new study Harris 2007, pp. 57–101. Harris suggests that Pol Pot’s (who had himself been a Buddhist monk at some stage) “frequent attacks on individualism” may derive from his Buddhist past (cf. *ibid.*, p. 83).

82 T. 1428: 23.776a. I am very grateful to Professor Dr. Lambert Schmithausen, who drew my attention to this passage and kindly translated it for me from the Chinese.

Theravāda Buddhism and Human Rights. Perspectives from Thai Buddhism¹

MARTIN SEEGER

In this article I intend to pursue two major objectives. Firstly, I want to examine current debates in which ideas and practices in Thai Theravāda Buddhism² have repeatedly been perceived as being not in line with or problematic with regard to human rights. In particular “freedom of religion” has become the subject of debate in the course of various controversies that have taken place in Thai Buddhism during the last twenty years. There has been considerable dis-

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- 1 In this paper, I have adopted a standardized phoneticization of Thai script except with cases where the author’s or person’s name mentioned in this paper has an established form of transliteration. Some of the texts that I refer to in this paper are bilingual, i.e. in Thai and English. In these cases, I give the reference of the passage I quote or refer to both for English and Thai (which is indicated by using a slash between the respective page numbers). All the translations from the Thai and Pāli are mine unless otherwise stated; in cases where an English translation was available this has been consulted. I would like to thank Dr Caroline Rose, Dr Justin McDaniel, and Mr Robin Moore for their valuable comments on this article. I am also grateful to Ajarn Dhanapon Somwang who sent me a number of texts that were important sources for this article.
 - 2 When using “Buddhism” or “Buddhist” in this article, this has to be understood as referring to Theravāda Buddhism, unless it is stated otherwise.

cussion as to the extent to which this human right can be referred to in order to legitimate deviation from traditional orthopraxy and orthodoxy. Focal points of my investigation will be the Thai nun-ordination controversy and the debates revolving around the controversial teachings of the Thai Buddhist movements Santi Asok and Wat Phra Thammakai. Secondly, I will look at investigations of human rights concepts that have been put forward by influential thinkers of Thai Theravāda Buddhism. The rationale for this approach is to identify and analyse the challenges and problems of the encounter between Thai Theravāda Buddhism and human rights, both on a practical and theoretical level.

The Thai Nun-Ordination Controversy

In the course of the ongoing controversy over the possibility of a revival of the vanished ordination lineage of Theravāda nuns (P. *bhikkhuni*),³ the relationship between human rights and current “monastic law” (Th. *kotmai khana song*)⁴ and practice have repeatedly been debated in Thai society. It has been argued that the current monastic law regarding ordination of *bhikkhunis* is at variance with human rights as enshrined in the Thai Constitution.⁵ Also, it has been argued that the Thai *saṅgha*, i.e. the Thai Theravāda monastic community, should change its hermeneutical approach to the Pāli canon in order to overcome its “anachronistic structure,”⁶ for the human rights of women “is at stake.”⁷ At the same time, however, it has been opined that constitutional law cannot be im-

3 See Seeger 2006a; Seeger 2007.

4 When I use “monastic law” in this paper, I refer to the Thai *Saṅgha* Acts and all other regulations that have been promulgated by the Thai *Saṅgha* Supreme Council (Th. Mahatherasamakhom). “Canonical law,” however, refers to the monastic rules as they are outlined in the canonical texts of the *vinayapiṭaka* (“basket containing the monastic discipline” which is one of the three sections of Theravāda’s Pāli canon, the “*tripiṭaka*” or the “Three Baskets”).

5 Seeger 2006a, p. 160. All the debates regarding female ordination that I discuss in this paper took place under the Thai Constitution of 1997 which was abolished in 2006.

6 See Seeger 2007, p. 4.

7 Suwanna Satha-anand 2001, p. 290; see also Suwannna Satha-anand, 2007.

posed upon Buddhism, that the Buddha's teaching (P. *dharmavinaya*) "should be above (Th. *khuan yu nuea*)" constitutional law⁸ or that

[...] when the "rule of the *dharmma* [P. *dharmādhipateyya*]" is blended with "democracy [Th. *prachathipatai*]," society might become disunited [Th. *taek-yaek*].⁹

It has also been argued that while Buddhist Pāli canonical law was established by the Buddha, the most excellent being, constitutional law has been drawn up by un-awakened human beings (P. *puthujjana*) who

[...] still possess a great amount of defilements and cravings [Th. *yang mi kilet tanha yu mak*].¹⁰

To fully understand this summary of the arguments, it is worth recapitulating very briefly the background and major lines of disagreement in the nun-ordination controversy.

The Pāli canon recounts¹¹ that the Buddha allowed women to be ordained into his monastic community (P. *saṅgha*) only after having been requested seven times for permission. He also made eight special rules (P. *aṭṭhagarudhammā*) a condition for their ordination.¹² These eight rules not only prescribe the institutional subordination of the female *saṅgha* under the male monastic community — one of them also requires women to be ordained both by the male and the female *saṅgha* (P. *ubhatosaṅghe*).¹³ A variety of explanations have been given as to why the Buddha established these rules and seemingly only reluctantly allowed the establishment of the nun-order. Whereas some Thai scholars doubt the authenticity of these rules in their entirety, as they regard them to be at variance with major parts of Buddha's teaching, others have argued that by establishing these rules the Buddha was responding to a patriarchal socio-cultural context in order to not endanger the success of

8 Quoted in Rabiebrat Pongpanith 2546, pp. 62 and 143.

9 Senate Commission on Women, Youth and Elderly People Affairs, s.a., p. 41.

10 Quoted in Rabiebrat Pongpanith 2546, p. 62.

11 Vin.II.253–255; AN.IV.273–279.

12 See Hüskens 1993.

13 Vin.II.255.

his recently founded religion. After all, there are numerous references in the Pāli canon that clearly state that women have the potential for awakening.¹⁴

Be this as it may, Thai Theravādins have perceived themselves as guardians of the most original form of Buddhism that is believed to be described in the Pāli canon.¹⁵ Here, it is believed that the Theravāda tradition has been extremely successful in painstakingly preserving Buddha's teaching (*dharmavinaya*) by making sure that original teaching and practice have to a large extent remained unchanged for the last 2500 years. The objective of this conservatism is often expressed by quoting the words of the Buddha:

[...] the monks do not establish what has not been established, and do not abrogate what has been established [...]¹⁶

In the late 1920s, when the possibility of Theravāda *bhikkhuni* ordination was publicly debated for the first time in Thai society, the then Thai Supreme Patriarch (P. Saṅgharāja) promulgated a regulation which forbade all Thai monks and novices from ordaining women as apprentices (P. *sikkhamānā*), novices (P. *sāmaṇerī*) or nuns (P. *bhikkhuni*). He explained that a valid *sāmaṇerī* ordination procedure, as prescribed by Pāli canonical law, has to be performed with the help of a (Theravāda) *bhikkhuni*. The *bhikkhuni* order (of the Theravāda), however, he argued, ceased to exist "a long time ago" (this is believed to have happened some 1,000 years ago). Consequently, for him, the absence of the *bhikkhuni* order rendered legitimate ordination of female (Theravāda) novices impossible.¹⁷ The promulgation of the Thai Saṅgharāja is still valid today and was reportedly only recently endorsed by the current Saṅgharāja in 2001, just three months after the beginning of the most recent attempt to revive the vanished Theravāda nun order in Thailand.¹⁸

The Thai scholar of religious studies Suwanna Satha-anand perceives in the Buddha's decision to allow women's ordination in

14 See e.g. Vin.II.254–255; SN.I.33.

15 See Seeger 2005; Seeger 2006a; Seeger 2007; Seeger 2009a.

16 "[...] *bhikkhū apaññattaṃ na paññāpessanti, paññattaṃ na samucchindisanti* [...]" (DN.II.77); see also Seeger 2009a.

17 Wirat Thiraphanmethi and Thongbai Thirananthangkun 2546, p. 459.

18 For more details of this and previous attempts, see Seeger 2005, pp. 194–213; Seeger 2006a; Seeger 2007.

a patriarchal socio-cultural environment “a fine illustration of respecting women’s rights”.¹⁹ She argues that

[...] [t]he universality of Buddhist truth also required the Buddha to make the decision to support the human rights of women, at least with regards to religious practice.²⁰

In a similar vein, the Thai Senate Commission on Women, Youth and Elderly People Affairs perceives freedom of religion and gender equality, as enshrined in modern constitutional texts and the UN *Convention on the Elimination of All Forms of Discrimination Against Women*, as being in conformity with Buddha’s teaching (*dhamma-vinaya*), especially regarding the equal potential of awakening for men and women.²¹ Both Suwanna Satha-anand and the Thai Senate Commission argue that the current Thai *saṅgha* should abandon its traditional conservative practice with regards to female ordination by following the example of the Buddha, who allowed female ordination. They maintain that this approach would also be in accordance with the human rights of women.²²

For the Thai scholar of Buddhism Pathomphong Phoprasitthinan, however,

[...] to refer to modern human rights in order to cancel out [Th. *lom*] principles which the Buddha laid down as regulations [P. *buddhapaññatti*] is inadequate [Th. *phit kala thesa*], as this would not be a matter of human rights but of human wrongs.²³

According to his understanding, rights can only be invoked as long as “morality” (Th. *sinlatham*) and established laws and practices that have developed in specific communities are not undermined. For him, maintaining human rights entails respect for the principles and practices of specific communities (Th. *chumchon*). As a consequence of this, he expresses his opposition to the revival of

19 Suwanna Satha-anand 2001, p. 286.

20 Ibid., p. 285.

21 Senate Commission on Women, Youth and Elderly People Affairs, s.a., pp. 3–4, 57.

22 Ibid., pp. 57–66; Suwanna Satha-anand 2001; Suwanna Satha-anand 2007; see also Seeger 2006a, pp. 165–166.

23 Pathomphong Phoprasitthinan 2545b, p. 62. In this passage “human rights” and “human wrongs” occur in English.

the Theravāda nuns' order, as this "cannot be reconciled with [Theravāda] canonical law".²⁴ Furthermore, he argues that if the Theravāda abandons its traditional conservatism regarding this matter, the floodgates would potentially be opened to abolishing other monastic practices that some people might perceive as being in conflict with human rights. He mentions here as an example the Buddha's prohibition of the ordination of hermaphrodites (*P. ubha-to-byañjanaka*).²⁵ While apparently agreeing with the prohibition of the Saṅgharāja of 1928, Pathomphong suggests that women's rights should be interpreted on the basis of Thai culture. For him this means that in order to allow women to develop their spiritual potential more efficiently, alternative institutions for female practitioners should be supported or developed.²⁶

The Thai academic Kulavir Prapapornpipat, who describes herself as a "Buddhist feminist," however seems to have a quite different understanding in this respect. She argues that

[...] when the practical regulations of the *saṅgha* were at odds with the principles of the country's law, the Buddha had the *saṅgha* conform to the law of the state in order to avoid conflict [...].²⁷

Consequently, she suggests that

[...] those parts of the *saṅgha* regulations and laws that are at variance with the principles of constitutional law [should be reconsidered].²⁸

According to the Thai scholar-monk Phra Payutto, who is widely regarded as the foremost authority on the Pāli canon in Thailand,²⁹ women undoubtedly have the right to become ordained. For him, to refer to constitutionally guaranteed rights, however, is not valid in this matter: he argues that while the right to become ordained still exists, there is no one with the right to perform the ordination proce-

24 Pathomphong Phoprasitthinan 2545b, p. 64.

25 See Vin.I.89; Vin.II.271. Pathomphong Phoprasitthinan 2545b, pp. 62–63; see also Pathomphong Phoprasitthinan 2545a.

26 Pathomphong Phoprasitthinan 2545b, pp. 64–65.

27 Quoted in Seeger 2006a, p. 161. Bhikkhuni Dhammanandā argues similarly, see Nasak Atcimathon 2544, pp. 74–75.

28 Quoted in Seeger 2006, p. 161.

29 See Seeger 2005.

ture.³⁰ According to him, at the moment, the ordination of female Theravāda nuns (*bhikkhuni*) is simply technically not possible (due to there being no Theravāda order to provide the nuns who have to take part in a female ordination), and, as a consequence of this, he, like Pathomphong, suggests either creating an alternative institution or improving existing institutions.³¹

As for the Thai government during the time of these debates, it seemed to have found this issue too difficult to deal with and decided not to get involved in the nun-ordination controversy. In this way, in 2002 the then Deputy Prime Minister Visanu Khruea-ngam

[...] stated repeatedly that the issue of women's ordination, being a religious matter, was beyond the jurisdiction of the government.³²

In 2004 the then Prime Minister Thaksin Shinawatra

[...] said that the government was in full support of equal opportunities for women in all spheres, except for women's ordination.³³

He then continued,

The government has no idea how to deal with this issue of *phiksuni* [*bhikkhuni*] ordination. We must withdraw from the matter.³⁴

The "Santi Asok Case" and the "Thammakai Case"

During the last three decades or so, several scandals and controversies have severely unsettled the Thai *saṅgha*. For the Thai *saṅgha* arguably the most unsettling and challenging of these, though, was what has come to be known as the "Santi Asok Case" and the "Thammakai Case". In both of these cases Thai institutional *saṅgha* and what are believed to be more traditional forms of Thai Buddhism have been critically challenged by the teachings and practices of the two popular Buddhist movements Santi Asok and Wat Phra Thammakai (the latter has been far more popular in Thai society, with hundreds of thousands of followers, whereas the former

30 Phra Payutto 2544, p. 12.

31 See Seeger 2006a, pp. 171–172; Seeger 2009b.

32 Varaporn Chamsanit 2006, p. 218.

33 Ibid., p. 205.

34 Cited in *ibid.*, p. 205.

has followers in the thousands, possibly tens of thousands). Both of these cases are characterized by an enormous complexity, demonstrated by the huge number of publications, both in Thai and in Western languages, that examine various aspects of these phenomena or condemn or vindicate these two movements. Here, I will solely focus on the debates that deal with the extent to which the human right of freedom of religion can be referred to in order to legitimate deviation from what has been perceived to be traditional orthopraxy and orthodoxy of Thai Buddhism.

The Santi Asok case took place in the 1970s and 1980s and ultimately resulted in the decision of the Mahatherasamakhom to defrock Samana Phothirak, the leader of the Santi Asok movement. The Santi Asok movement is characterized by its strict practices of abstinence, its rejection of the widespread superstitious beliefs and practices in Thai Buddhism, its emphasis on anti-capitalism and community life, and its vegetarianism. Samana Phothirak has been accused of distorting a number of central Pāli canonical teachings, for example by claiming that a person can concurrently be an *arahant* (fully awakened one) and a *bodhisatta* (Buddha-to-be); that it is legitimate according to Pāli canonical law that monks proclaim their higher spiritual attainments (P. *uttarimanussadhamma*) in front of non-monastics, which he himself repeatedly did; and, in connection with this point, that only beings on an advanced spiritual level (P. *ariyapuggala*) are able to understand and propound correctly Pāli canonical teachings;³⁵ and that Theravāda monks should be vegetarians.³⁶ In addition to this, in 1975, after he “had met many obstacles” — for example, “he had been obstructed by the pedantic application of *saṅgha* rules and regulations” to which he was unable “to conform” — he declared his movement independent of the Thai *saṅgha* institution.³⁷

In contrast to the Santi Asok movement, the Wat Phra Thammakai movement has not challenged the Thai institutional *saṅgha* in a direct and overt way, but has rather been trying to establish close connections with it and other important Thai institutions, such as the Royal Family, the military, the government, and banks. This movement enjoys support from a number of high-ranking and

35 See Seeger 2005, p. 141.

36 See Sunai Setbunsang 2537, pp. 62–63.

37 Jackson 1989, pp. 161–162; see also Keyes 1999, pp. 129–130.

influential monks, some of whom are members of the *Saṅgha* Supreme Council in Thailand, the Mahatherasamakhom. The Thai sociologist Apinya Fuengfusakul wrote that

[...] Thammakai's conformist disposition enables it to synthesize consumerist competitive marketing and advertising strategy with the traditional belief of merit accumulation with ends up in the merchandization of merit [...]³⁸

At the height of the controversy, the spiritual leader of this movement, Phra Thammachayo, was charged with, amongst other things, embezzlement under secular law. At the same time, he was accused of having claimed to possess higher spiritual attainments³⁹ and of spreading teachings that have been regarded as unorthodox from a Theravāda doctrinal point of view. Severe criticism has particularly been directed against the movement's wide use of miracles (*P. pāṭihāriya*) and their teaching that *nirvāṇa* (*P. nibbāna*), the soteriological goal of Buddhism, has the characteristic of a Higher Self (*P. attā*), which is in conflict with traditional Theravāda's view that "all and everything is no-self" (*P. sabbe dhammā anattā*), including *nibbāna*.⁴⁰

Teachings and practices of both of these movements have been criticized heavily by a number of acknowledged Thai scholars, academics, monks and social critics who are concerned about the integrity and longevity of "original" Buddhism. These critics maintain that Santi Asok and Wat Phra Thammakai have distorted Theravāda Buddhism in its fundamental principles to an unacceptable extent. Phra Payutto, who has been one of the most outspoken and widely heard critics of both these movements, explains that while the Theravāda allows for a lot of interpretational freedom, teachings and practices of Wat Phra Thammakai and Santi

38 Apinya Feungfusakul 1993, p. 195.

39 According to Pāli canonical law, monks are not allowed to report their spiritual attainments to laypeople or novices. If the claim of possessing supernatural abilities or having attained transcendental states of mind is a deliberate lie, however, the respective monk has irredeemably lost his monkhood (in this case it does not matter if these claims have been made to monastics or laypeople). For more on this see Thānissaro Bhikkhu 2007, pp. 93–108 and 318–321.

40 For more on this see Seeger 2005, pp. 221–232; Seeger 2006b; Seeger 2009a.

Asok deviate from the normative and formative authoritative source of the Theravāda, the Pāli canon, to such an extent that they cannot be regarded as Theravādin. In numerous publications and public speeches, Phra Payutto has systematically and in much detail compared the Pāli canonical teachings with those of Santi Asok and Wat Phra Thammakai. For him, distorting and abrogating canonical teachings, or adding interpolations to the Pāli canon, is the “direct destruction of the essence of Buddhism”.⁴¹

For his criticism of Wat Phra Thammakai and Santi Asok, Phra Payutto has himself repeatedly been criticized not only by proponents of these movements but also by a number of Thai academics. He was accused of “being narrow-minded” (Th. *mi naeu khwamkhit khapkhap*), “attached to the scriptures”, “a dogmatist” and “a purist” who tries “to prevent religious freedom and thus promot[es] religious intolerance”.⁴²

Phra Payutto, however, explains that people have the right and freedom to disagree with the principles and teachings of Buddhism and to leave Buddhism,⁴³ but

[...] the freedom of religion doesn't mean the freedom to alter [...] or do whatever one wants with the religion.⁴⁴

He maintains that

[...] human rights and constitutionally guaranteed freedom are meant to enhance righteous practice and should not be referred to in order to justify arbitrariness [Th. *tham arai dai tam chop cai*] or [...] to destroy the essence of Buddhism.⁴⁵

For him, the voluntary decision to join the monastic community by the act of ordination implies that the new member accepts canonically

41 Phra Payutto 2533, p. 64. This statement has to be understood in the context of Theravāda Buddhism and refers only to the Pāli canon. It is not intended to criticize other Buddhist schools or their production of “new” texts, as these schools do not claim to be Theravāda.

42 Sanitsuda Ekachai, in *Bangkok Post*, January 17th, 2000; see also Olson 1995, p. 21; Seeger 2005, pp. 147–151; Wuttinantha 2548, p. 10.

43 Phra Payutto 2533, pp. 50–51.

44 Phra Payutto 2533, pp. 79–80; see Phra Payutto and Rawi Phawilai 2532, pp. 74–75.

45 Phra Payutto 2533, p. 84.

cal law (P. *vinaya*)⁴⁶ and adheres to Buddhist principles and teachings.⁴⁷ Monks have the freedom guaranteed by the Thai constitution to leave the Thai monastic community and are then not subject to *saṅgha* law any longer.⁴⁸ Phra Payutto also maintains that the *saṅgha* has the right to deal with “impostors” (Th. *bukkhon aepfaeng*) in accordance with the monastic mechanisms and regulations as laid down by the Buddha.⁴⁹

In line with Phra Payutto’s argument, the famous social critic and proponent of the 1997 Thai constitution, Dr Prawet Wasi, argued that based on their human right of freedom of religion Wat Phra Thammakai should either “split” from the Theravāda and declare themselves as a new cult (Th. *latthi*) or congregation (Th. *nikai*), or adjust their views (P. *ditthi*) and practices so that they are in line with the Theravāda.⁵⁰ The well-known *Bangkok Post* columnist Sanitsuda Ekachai maintains that Wat Phra Thammakai followers do not “have the right to call their religious belief Theravāda Buddhism, because it is not”.⁵¹ The Wat Phra Thammakai movement, however, has made clear that they do not regard themselves as a new school or congregation (Th. *nikai*) but as an integral part of “traditional Thai Buddhism”.⁵²

This raises a number of important questions, of course. For example, who is to be invested with the authority to expel monks from the Theravāda and how exactly is this to happen? Who decides what constitutes unacceptable deviation from canonical norm? What are the hermeneutical criteria to be taken in doing so? And what is the role of the Thai state in all of this? If it has/should have one, in what form and to what extent should the Thai state get involved in religious controversies specifically, and in the Thai *saṅgha* institution more generally? Streckfuss and Templeton maintain that calling upon the state, as was done by some, “to deny [Wat

46 Phra Payutto and Rawi Phawilai 2532, p. 20; see also Phra Payutto 2531, p. 11.

47 Phra Payutto 2533, p. 78.

48 Phra Payutto 2531, pp. 4 and 11.

49 Phra Payutto 2533, p. 53.

50 Prawet Wasi 2542, pp. 15 and 21–22.

51 *Bangkok Post*, January 7th, 1999.

52 Scott 2006, p. 216. Here, I will not discuss the semantic problems with regard to the use of “traditional Thai Buddhism” and “Theravāda Buddhism”.

Phra Thammakai] the right to call themselves Theravāda Buddhists" is a "solution" which "is probably unacceptable in terms of human rights".

It is not for the government to determine whether Thammakai adherents [*sic*] are actually practising Buddhism or whether they can call themselves "Buddhists".⁵³

As demonstrated by numerous academic studies,⁵⁴ there exists a closely and complexly intertwined relationship between the Thai state and the Thai *saṅgha*, and it is because of this complexity that the only thing I can do here is to hint at a few of the intricate issues that are relevant to my discussion here. While some scholars have criticized the Thai *saṅgha*-state relationship as being unfavourable for Thai Buddhism, others seem to believe that this liaison is necessary for the continuity and integrity of Buddhism, for it has been argued that the *saṅgha* on its own would not be able to secure its "purity" without support from the state, especially in terms of enforcing canonical law.⁵⁵ A number of Thai academics have defended this close relationship by arguing that it is necessary for the state to "help" the monastic community by enforcing proper monastic behavior in order to safeguard its "purity". There has been concern that without the "protection" of the state Thai Buddhism could be "destroyed" (Th. *wibat*).⁵⁶ In Thai history a number of legislative texts, such as the different *Saṅgha* Acts, regulations and resolutions, have been proclaimed with the aim to enforce "proper" monastic behavior and administer the monastic community; it has also repeatedly been noticed, though, that the *Saṅgha* Acts have had the aim of enabling the Thai state to "control" or "use" the monastic community for national-political ends.⁵⁷ At the same time, however, it has also been argued that "solely using the *dhamma* and monastic laws [*vinaya*] like during the time of the Buddha is certainly not sufficient" nowa-

53 Streckfuss and Templeton 2002, p. 77.

54 See, e.g., Jackson 1989; Ishii 1986; Swearer 1999; Tambiah 1976; Taylor 1993.

55 See, e.g., Somparn Promta 2549, p. 18.

56 See *ibid.*, p. 18.

57 See, e.g., Keyes 1971; Phiphat Phasutharachat 2549, pp. 327–330.

days for the protection of Buddhism in present times.⁵⁸ The role of the current Thai state is seen as being, or even expected to be, tied to the traditional role of Thai kings, who by proclaiming *Saṅgha* Acts or other monastic laws and expelling “impostors” from the monastic community were aiming to preserve the integrity and purity of “original” Buddhism.⁵⁹ By doing this, these Thai kings were following the paradigms of Indian kings whose endeavor to protect “authentic” Buddhism is described in post-canonical texts.

The independent Thai author Phiphat Phasutharachat argues, however, that in this respect the traditional role of Thai kings cannot be taken as a standard for the modern democratic Thai state whose role should be confined to supporting the Thai *saṅgha*. According to Phiphat, the Thai government should abstain from enforcing proper monastic conduct by law and punishment:⁶⁰

The prohibition of monks from violating canonical law [*vinaya*] is not the business of the government. This prohibition is a violation of the rights of the people.⁶¹

According to him, the current *Saṅgha* Act, which was proclaimed in 1962 violates the freedom of religion in that it prevents the emergence of new Buddhist schools in Thailand by the force of law.⁶² He argues that while the Mahatherasamakhom “has the right” to expel monks whose beliefs deviate from Theravāda principles from the Theravāda community, it would “have no right” to force monks to disrobe (as was done in the case of Samana Phothisrak). Phiphat suggests that monks whose beliefs deviate from normative beliefs and practices of the Theravāda should, however, indicate to the public that they belong to a different school. This could be done for example by wearing robes of a different style.⁶³ However, in addition to the hermeneutical problems involved, as already indicated above, the “solution” that Phiphat proposes here might also be problematic from a Pāli canonical law point of view, as the Buddha was quite

58 Wirat Thiraphanmethi/Thongbai Thirananthangkun 2546, p. 4. See also McDaniel 2008, p. 103.

59 See Seeger 2009a.

60 Phiphat Phasutharachat 2549, pp. 316–317 and 336.

61 Ibid., p. 320.

62 Ibid., pp. 351 and 396.

63 Phiphat Phasutharachat 2549, pp. 389, 390 and 394.

specific as to what styles of robes can be worn by his monks. In this way, a Buddhist monk who is wearing a prohibited color or garments of another religion (P. *titthiya*)⁶⁴ might incur what the *vinaya* regards as a minor offense or a grave offense respectively. Demanding that monks wear a different style of robes might consequently force them to breach the respective monastic rules and thus obstruct their religious practice. The proper style of wearing robes as prescribed by the Pāli canon forms an essential part of proper ordination procedure and monastic life. In addition to this, the saffron or brownish robes of Thai monks have become a powerful cultural symbol in Thailand.⁶⁵ Numerous special privileges are granted to monks simply because of the fact that they are wearing the traditional robes. Consequently, apart from being made into some “other,” monks with different robes might be precluded from this elevated social position and the privileges connected to it.

As it stands at the moment, expelling monks from the Thai Theravāda monastic community without asking them to disrobe would hardly be possible anyway because, as Phra Payutto explains, based on their ordination Thai monks are not only required to follow canonical law (*vinaya*) as outlined in the Pāli canon, but are also obliged to follow laws by the state. And according to these laws, leaving the Thai *saṅgha* can only be done by disrobing:

Once you have been ordained, and as long as you haven’t disrobed (or haven’t died), you belong to the Thai monastic community and are subject to the *saṅgha* law [Th. *kotmai khana song*; which includes the *Saṅgha* Acts].⁶⁶

For Phra Payutto, asking monks to obey secular law conforms with the approach of the Buddha who laid down numerous monastic rules complying with extant secular law and also prescribed a general practice when he said:

Bhikkhus, I ask you to act according to [the laws] of kings [P. *anujānāmi bhikkhave rājūnaṃ anuvattituntī*].⁶⁷

Phra Payutto, consequently, argues that the correct approach in this respect that would be in coherence with democratic principles

64 Vin.I.306.

65 See Seeger 2009b.

66 Phra Payutto 2531, p. 11.

67 Vin.I.138.

would be to try to change existing legislation regarding all the points with which one disagrees, without, however, infringing upon them.⁶⁸

Phra Payutto's Critical Investigation of Human Rights Concepts

In the following section, I would like to present the critical investigation of Western human rights concepts put forward by the Thai scholar-monk Phra Payutto.⁶⁹ This will be done by considering his arguments in the context of approaches and ideas of other influential Thai thinkers and Buddhist studies scholars. In this paper I have repeatedly referred to the ideas of Phra Payutto. Considering his thoughts in more detail here is an obvious choice for various reasons. Phra Payutto undoubtedly is one of the most influential thinkers in modern Thai Buddhism. Due to his manners and his widely acknowledged erudition regarding the Pāli-canonical texts, many regard him as the ideal "personification or representation of [the Theravāda] tradition".⁷⁰ Through his enormous literary output Phra Payutto not only excels in systemically and comprehensively propounding Theravāda's doctrine in Thailand, he is also widely esteemed for the way he critically analyses modern social, educational and scientific phenomena from a Theravāda Buddhist perspective.⁷¹ Likewise, in his talks and publications he has also repeatedly and to various extents discussed Western concepts of human rights from a Theravāda point of view. At the same time, however, as already mentioned above, his conservative stance re-

68 Phra Payutto 2531, pp. 18 and 23. This does not imply, of course, that Phra Payutto agrees with the content of the 1962 *Saṅgha* Act. Quite the opposite is the case, he is actually quite critical of it (see, e.g., Phra Payutto and Rawi Phawilai 2532, p. 47).

69 See also Jeffrey's article "Does Buddhism need Human Rights?" (2003) where he investigates Phra Payutto's critique of human rights in order to suggest that "grounding human rights in Buddhism is philosophically problematic". Another article in English that discusses Phra Payutto's concepts on human rights is Soraj Hongladarom 1998.

70 Olson 1989, p. 188; see also Olson 1989, p. 192; Seeger 2009a. The well-known Thai scholar of Buddhism Camnong Thongprasoeet describes Phra Payutto as: "[...] he is wholly Theravada." (Olson 1989, p. 256).

71 See Seeger 2005, pp. 24–32.

garding the “safeguarding” of the Theravāda tradition has been criticized as being problematic in connection with human rights. For Phra Payutto the

[...] concept of human rights is [very] useful in an age of fighting and contention, or when human thinking is divisive and separatist.⁷²

He sees human rights as outlined in the Human Rights Declaration as having a “similar nature”⁷³ in comparison with some elements of Buddhist teachings:

If human beings act in accordance with the [Buddhist] Five Precepts [P. *sīla*]⁷⁴ there is no need for “Human Rights” [i.e. the *Universal Declaration of Human Rights*] [...] we can find the many provisions of the Human Rights Declaration in the framework of the Five *sīlas* or [the Buddhist] principle of the Six Directions [P. *chaddisā*].⁷⁵

According to Phra Payutto, the *Declaration of Human Rights* could be regarded as an unfolding, detailing and contemporizing of these Buddhist teachings. Furthermore, he explains that

[...] [b]y translating the Five precepts [*sic*] and other teaching into precise standards such as the UDHR [*Universal Declaration of Human Rights*], the sense of ownership is created. Each individual will feel that the UDHR belongs to him or her and that it can be used as a legitimate claim to prevent oneself from being violated by others and as a legal protection. It equips oneself with a shield, a weapon to defend oneself.⁷⁶

While noticing the usefulness of human rights and their similarity to aspects of Buddhist teaching, Phra Payutto also opines that “the concepts of human rights” are “flawed” (Th. *bokphrong*) in various aspects and possess “weak points” (Th. *cut on*).⁷⁷ In this way Phra Payutto maintains that

72 Phra Payutto 2550, pp. 18/63 and 20–21/64. Translation as given in the original.

73 Phra Payutto 2541, p. 42. Translation as given in the original.

74 The Five Precepts (*sīla*) are (1) to abstain from killing; (2) to abstain from stealing; (3) to abstain from sexual misconduct; (4) to abstain from false speech and (5) to abstain from consuming intoxicants (see, e.g., DN.III.235; AN.III.203).

75 DN.III.189–192. Phra Payutto 2541a, p. 19/41.

76 Phra Payutto 2541a, p. 20/42. Translation as given in the original.

77 Phra Payutto 2550, p. 20/64.

[...] rights [ultimately] do not exist and we are not able to call upon our rights with nature [as] in nature all things operate in accordance with a system in which all things are causally related to each other [...] [This implies] that with nature humans cannot even call upon rights over their own life and body.⁷⁸

According to him, rights can only be called upon between humans in accordance with the conventional, normative system that has been created by them, but with regard to nature humans do not possess any rights at all because humans are not capable of influencing natural law (P. *dhmma-niyāma*). For example, in the case of illness, humans are not able to call upon their rights, as physical laws (P. *utu-niyāma*) will proceed on their own irrespective of humans.⁷⁹ For this reason,

[...] from a Buddhist perspective, the Western concept that postulates that humans possess natural rights represents a confusion [of natural law and convention].⁸⁰

He summarizes thus:

Human rights are a convention, a purely human invention, and do not exist as a natural condition. They are not “natural rights” [...] They must be supported by laws and they must be accepted by all parties in order to work.⁸¹

The Thai scholar of Buddhism Somparn Promta seems to have a different understanding in this respect. According to him, despite the absence of the word “right” (Th. *sitthi*) in the Pāli canon, the concept of “natural rights” (Th. *sitthi doi thammachat*) can clearly be found in canonical Theravāda Buddhism:

[...] both human rights and natural rights really do exist within the individual being. They are something that people obtain automatically at birth.⁸²

To underpin his argument, Somparn refers to Buddha’s teaching of “self-standard principle” (P. *attūpanāyika-dhamma*) to the villagers

78 Phra Payutto 2543b, p. 222; see also Phra Payutto 2541b, pp. 24–30.

79 Phra Payutto 2543b, pp. 221–222.

80 Phra Payutto 2541b, pp. 26–27.

81 Phra Payutto 2550, pp. 20–21/64.

82 Somparn Promta 2002, p. 46; see also Somparn Promta 2541, pp. 61–62.

of Veḷudvāra⁸³ in which the Buddha propounds a kind of Buddhist “Golden Rule,” which states:

For a state that is not pleasant or delightful to me must be so to him also; and a state that is not pleasing or delightful to me, how could I inflict that upon another?⁸⁴

For him this teaching can be regarded as the “basis of that part of Buddhist ethics that concerns society” (Th. *rakthan khong phutthacariyatham nai suan thi kiaukap sangkhom*). It shows the rationale that humans “do not have the right” to take another human being’s life (first *sīla*); to steal (second *sīla*); to commit adultery with someone who “belongs” to someone else (third *sīla*) and to lie (fourth *sīla*), because as a consequence of doing these actions, there will be infringement on other people’s rights to life, property and (in case of the fourth precept) to truth.⁸⁵ For Somparn the principles propounded in the teaching of *attūpanāyika-dhamma* are universally valid⁸⁶ and show that the Five *sīlas*⁸⁷ have been “laid down” (Th. *banyat*)⁸⁸ or “created” (Th. *song thuk sang khuen*) by the Buddha in order to protect “individual rights” (Th. *sitthi suan bukkhon*), i.e. the right in one’s life and in property.⁸⁹ He argues that the validity of the Five Precepts (*sīla*) is not dependent on the existence of a law-creating and law-enforcing state. The Buddha

[...] established the five precepts not only as a personal ethic for the individual [...], but also as means for demanding social responsibility.⁹⁰

Another canonical passage that Somparn refers to in order to support his argument is a conversation during which the Buddha explains to a Brahmin one of the four “virtues that lead to benefits in

83 SN.V.352–356.

84 SN.V.353–354. Translation from the Pāli as quoted in Harvey 2000, p. 33. A similar passage can be found at Dpd.130.

85 Somparn Promta 2541, p. 62.

86 Ibid., p. 62.

87 Somparn explains that the first four of the Five *sīlas* are to protect “individual rights,” whereas the fifth *sīla* does not have a direct impact on others, but is to help ensure that the first four *sīlas* are not transgressed (ibid., pp. 62–63).

88 Ibid., p. 62.

89 Ibid., pp. 59–62.

90 Somparn Promta 2002, p. 39.

the present" (P. *diṭṭhadhammikattha-saṁvattanika-dhamma*), namely the "achievement of protection" (P. *ārakkhasampadā*). Here the Buddha says that righteously acquired (P. *dhammikā dhammaladdhā*) wealth (P. *bhogā*) can lead to benefits and happiness in the present (P. *diṭṭhadhammahitāya saṁvattanti diṭṭhadhammasukhāya*).⁹¹ For Somparn, this passage shows that the Buddha acknowledged "that human beings may rightfully claim ownership of things".⁹²

According to Somparn, Buddhism is not only concerned with individual morality that is based on the natural law of *kamma*, but also with social ethics. While through the law of *kamma* reality is examined on the ultimate level of truth (P. *paramattha-sacca*), social ethics is based on conventional truth (P. *sammuti-sacca*). Here, Somparn argues rather similarly to Phra Payutto that when seen from the level of ultimate truth (P. *paramattha-sacca*), "no one is the owner of anything" (Th. *mai mi khrai pen caukhong arai*),⁹³ since according to the Buddhist principle of no-self (P. *anattā*) anything in the universe is subject to the law of causality and can therefore not really be owned:

Even though in terms of *paramattha-sacca* Buddhism maintains that human beings have no right to claim ownership of anything [...] in terms of *sammutti sacca* [sic], Buddhism concedes that human beings may rightfully claim ownership of things.⁹⁴

91 Somparn Promta 2002., p. 44.

92 Ibid., p. 43.

93 Somparn Promta 2541, p. 169.

94 Somparn Promta 2002, p. 43. According to Somparn, this interpretation has quite significant implications in connection with ethical questions: for example while from a Buddhist perspective suicide is not regarded as a breach of the first precept of abstaining from killing (P. *pāṇātipātā veramaṇi*), euthanasia always is, as the ownership of one's life is not transferrable (Somparn 2002, pp. 48–49). Somparn sees the way the Buddha designed his monastic regulations, the *pāṭimokkha*, in conformity with this principle. One of the four gravest offenses (*pārājika*) in the *pāṭimokkha* is assigned to a rule according to which a monk who kills another person who asks him to do so is immediately and irrevocably expelled from the monastic community. At the same time, however, attempted suicide entails the breaching of the mildest severity (P. *dukkata*) and only because as a consequence of such an attempt other human beings might be put into risk. Somparn states that while according to canonical texts the

For Phra Payutto, it is vitally important that humans make themselves constantly aware of the difference between conventional truth (*sammutti-sacca*) and ultimate truth (*paramattha-sacca*) in order to make sure that they develop the right and appropriate attitude and practice towards these truths. He explains that whereas human rights might be able to provide humans with peace and security on an inter-human level, these rights will not be able to sustain peacefulness (Th. *santiphap*) between humans and nature (nature here is to be understood as comprising not only the material world, but also and more importantly the human mind). Humans might “be led astray” (Th. *long*) in their conventions and neglect their study of the law of nature. This, however, might have severe consequences for humanity:

Humans might use [human] rights [in order to gratify their own needs whilst] destroying nature or causing contention amongst themselves.⁹⁵

According to Phra Payutto, in Western-influenced discourses the conception of equality is often understood to be

[...] equality in competition, which means to have equal rights to compete with each other. This is equality based on competition, mistrust and fear.⁹⁶

Consequently, according to Phra Payutto, there are two extremes that are to be avoided. That is, on the one hand, it is an extreme if no rights of others are respected and preserved at all. At the same time, however, it is also an extreme to “be absorbed [Th. *mua mokmun*] in rights”, i.e. restricting oneself to watch over one’s rights, always suspicious of others infringing on them.⁹⁷ He demands that people be aware of and pursue the “real” objectives of human rights,

Buddha criticized monks who committed suicide, he did this with rather mild words, namely that it would “not be appropriate” for a member of Buddhist monastic community to commit suicide (Somporn Promta 2541, p. 170). “However, if considered from the perspective of individual morality, Buddhism sees suicide as wrong, since it is an action that arises from one of the unwholesome mental roots of action, delusion.” (Somporn Promta 2002, p. 45). Cf. Harvey 2000, pp. 286–310.

95 Phra Payutto 2543b, pp. 225–226.

96 Phra Payutto 2550, p. 23/65.

97 Phra Payutto 2541a, p. 13/36.

namely the creation of a peaceful and virtuous society.⁹⁸ According to Phra Payutto

[...] the facilitating of moral behaviour [however] is not sufficient for the creation and maintaining of human civilization.⁹⁹

He argues that human rights gain their importance through,¹⁰⁰ and

[...] have resulted from, a background and basic attitude of division and segregation, struggle and contention [...] Human rights must be obtained through demand [Th. *riakrong thuang au*].¹⁰¹

This means that humans do not behave in accordance with human rights naturally or automatically, but only on the basis of “compromising” (Th. *prani-pranom*) their actual needs and desires. This idea becomes clear when looking at the way Phra Payutto perceives a major problem of Western ethical systems. He asserts that there is a basic assumption that

[...] human defilements like greed [P. *lobha*], aversion [P. *dosa*], craving [P. *taṇhā*] and conceit [P. *māna*] belong to human nature and cannot be resolved. Accordingly [Western] ethics is about constraining oneself and going against one’s actual desires and needs.

Buddhist ethics, however, Phra Payutto elaborates, is based on the supposition that defilements of humans can be resolved since humans are

[...] beings capable of training and developing themselves [...] which allows the converting of defilements into virtues. In this way, ethics does not necessarily have to be constraining to the mind. Real ethics is the ethics of contentment and happiness.¹⁰²

According to Phra Payutto,

[...] humans possess a special capability which allows them to train themselves [...] and develop nearly without any limit.¹⁰³

98 Ibid., pp. 13–14/36.

99 Phra Payutto 2541b, p. 51.

100 Phra Payutto 2550, pp. 17–18/63.

101 Ibid., pp. 20–21/64. Translation as given in the original.

102 Phra Payutto 2543b, p. 96.

103 Phra Payutto 2541b, p. 42.

Consequently, Phra Payutto maintains that, due to their undervaluing of humans' potential to develop, human rights in their current conception are neither able to bring about true peace, unity, harmony and happiness,¹⁰⁴ nor are they "lasting".

If human rights are to be lasting and firm they must be connected to natural reality [...] the human mind must be developed [Th. *phatthana hai mi sa-phapcit*] to a stage where people are prepared to preserve human rights. Only in this way will human rights be sustainable.¹⁰⁵

For Phra Payutto this implies that, despite being absolutely necessary, morality as described in the Five *sīlas*, the teachings of the Six Directions or the *Declaration of Human Rights* is by no means sufficient:¹⁰⁶

[It] must always be connected to mental motivation, which is both the instigator and the guiding influence of that behaviour.¹⁰⁷

As a consequence of this, Phra Payutto appeals for positive or constructive ethics.¹⁰⁸

Here, in order to understand Phra Payutto's concept of positive or constructive ethics, it becomes necessary to look at how he rather comprehensively defines basic Buddhist technical terms: while *vinaya*, which in its canonical meaning designates the code of monastic discipline, is a structure or system created by humans as

[...] a means to develop *sīla* [...] *sīla* [however] belongs to nature and is a human condition; *vinaya* denotes regulations, legislations and social rules [...] it is prescribed external rules.¹⁰⁹

104 Phra Payutto 2550, pp. 18–19/63; see also Phra Payutto 2543c, p. 50. Here, it must to be noted that Phra Payutto observes subtle, yet significant semantic differences between the English word "to compromise" and the Thai lexical equivalent "*prani-pranom*". He argues that whereas the former has a rather negative connotation, as needs have to be reduced in order to "meet the other side half way", the latter has a more positive meaning as it denotes a process during which conflict is resolved and harmonious unison is pursued (Phra Payutto 2543b, pp. 97–98).

105 Phra Payutto 2550, pp. 20–21/64.

106 Phra Payutto 2541a, p. 20.

107 Phra Payutto 2550, pp. 20–21/64. Translation as given in the original.

108 Ibid., pp. 42–43/75; Phra Payutto 2541a, p. 21/43.

Accordingly, human rights would be regarded as a form of *vinaya*. For Phra Payutto it is necessary to

[...] scrutinize carefully [...] the *vinaya* with the purpose to make sure that it always is in conformity with the natural law and allowing the realization of the objectives of the *dhamma*.¹¹⁰

He also maintains that

[...] we [humans] have to progress from *sīla* and develop our lives in accordance with [the Buddhist teachings] from *sīla* toward *samādhi* [developed mind] and *paññā* [insight].¹¹¹

When laws are training rules [P. *sikkhāpada*] to develop oneself, these rules become tools for the creation of good people. For this reason, it should be stressed that laws are to create good people instead of doing away with bad people.¹¹²

Phra Payutto argues that good legislation has to take into account human nature, i.e. human's ability to evolve.¹¹³ In this way, humans would be able to develop indiscriminating (Th. *mai camkat klum-phuak*) and unlimited (P. *appamaññā*) love (P. *mettā*) towards each other and eradicate *diṭṭhi* (wrong or dogmatic views) that are the cause of intolerance.¹¹⁴

Fundamental Semantic Differences

It has become clear that for Phra Payutto human rights have to be transcended in order to be ultimately successful. This can be achieved by integrating them into the "universal Buddhist system of human development":

As long as *diṭṭhis* are still present, lack of tolerance cannot be resolved and the use of regulations, such as those with regard to human rights cannot really resolve these problems.¹¹⁵

109 Phra Payutto 2543c, pp. 62–63. In Thai language there often seems to be a confusion between these two terms (Phra Payutto 2541b, p. 61).

110 Phra Payutto 2541b, p. 99.

111 Phra Payutto 2541a, p. 21/ 42.

112 Phra Payutto 2541b, p. 129.

113 Ibid., p. 121.

114 Phra Payutto 2550, p. 23/66.

115 Phra Payutto 2542, p. 184.

Phra Payutto explains this point further:

When seen from a Buddhist perspective, ethics is an excellent way of life that necessarily consists of the three inseparable [integrated] components [*sīla*, *samādhi* and *paññā*]. The Western understanding of ethics, however, solely concerns good behaviour, which corresponds to the Buddhist concept of *sīla* that presents only one aspect of life.¹¹⁶

Or put in other words:

True *sīla* is the behaviour that is demanded by nature.¹¹⁷

Whilst Somparn, in a similar way to Keown,¹¹⁸ extrapolates human rights from the Five Precepts (*sīla*) — in which he perceives them to be implicitly existent — for Phra Payutto they are a form of *vinaya*, a human convention. Despite these differences in views, however, both Somparn and Phra Payutto seem to share the opinion that human rights are to some extent consonant with Theravāda's teachings. Basing his arguments on Alan Gewirth's views on human rights, the Thai academic Buntham Phunsap also agrees that Buddhism and human rights are in their principles and methods to a certain extent reconcilable. However, he also argues that while Buddhism shares some objectives with Western notions of human rights, such as the creation of a peaceful society, human rights are not only absent in Buddha's teaching (*dhammavinaya*),¹¹⁹ but are also not necessary (Th. *mai campen tong asai*) for Buddhism: the Five Precepts would already be a sufficient principle based on which "society can find peace and happiness" (Th. *sangkhom yu ruam kan dai yang sangnop suk*).¹²⁰ He acknowledges, however, that due to their trans-religious, trans-cultural neutrality human rights might be useful in culturally pluralistic societies.¹²¹ In line with Phra Payutto, he further argues that from a Buddhist perspective, to demand (Th. *riakrong*) human rights might become problematic when this is done with

116 Phra Payutto 2543c, pp. 20 and 51.

117 Ibid., p. 22.

118 Keown 1998, pp. 31–33. Keown's interpretational approach in this respect has been variously criticized by other scholars. See, e.g., Ihara 1998.

119 Buntham Phunsap 2533, p. 64.

120 Ibid., p. 68.

121 Buntham Phunsap 2533., pp. 72–73.

unwholesome (P. *akusala*) motivation. This might cause exploitation, suppression and infliction of pain on animals.¹²²

The arguments and concepts of Thai Buddhist studies scholars presented above have revealed that there are fundamental differences in meaning of a number of terms that are central both to Western human rights notions and Theravāda's soteriology. Due to one of its most important teachings, that on no-self (*anattā*), which rules out the existence of any enduring substantial entity, the Theravāda does not allow for the idea that humans could be endowed with any rights on the ultimate level of truth (*paramattha-sacca*). According to the Theravāda, humans are ultimately "only" streams of causally-related events, while (human) rights are merely conventionally, not ultimately, existent. Closely related to the teaching of *anattā* is the Buddhist concept of freedom, regarding which there are also significant semantic differences with Western human rights notions. Suwanna Satha-anand nicely summarizes this problematic discrepancy:

From a Buddhist perspective, freedom is not something given, but something that has to be acquired by effort and training, mindfulness [P. *sati*], wisdom [P. *paññā*] and loving-kindness [P. *mettā*], something one has to practise for.¹²³

Generally, humans are far from being born free, but have to put in a lot of sustained effort and determination in order to attain real freedom. This freedom cannot be guaranteed or provided by any institution but has to be realized internally by each individual him-/herself. Freedom in the Theravāda is defined as the release (P. *vimutti*) from stress (P. *dukkha*) and the extinction (P. *nibbāna*) of the defilements of greed, hatred and delusion. According to Buntham Phunsap, however, in Buddhism

[...] humans possess freedom as a natural condition, in the same way that they are born with legs which enable them to walk wherever they want. Therefore, freedom is something that is given and not something they have to acquire. Using this freedom in a correct way, however, is another matter.

122 Ibid., p. 72.

123 Suwanna Satha-anand 2533, p. 128.

For Buntham Phunsap, freedom is the potential to develop oneself, release oneself from *kamma* (Skr. *karma*) and attain awakening (P. *nibbāna*). This potential is inherent in every human being.¹²⁴ Some 30 years ago, after having briefly reviewed concepts of freedom proposed by Hobbes, Locke, and Rousseau from a Buddhist perspective, the Thai human rights scholar Prof. Saneh Chamarik maintained that:

The truth is that the notion of freedom and human rights thus far comes to nothing much more than serving what, by Buddhist definition, is exactly the freedom and right to the craving and scrambling for things transient and illusory.¹²⁵

Another fundamental conceptual difference between Western human rights and central Theravāda teachings is expressed by Phra Payutto:

Humans are born equal only in some respects. In many respects, however, no human being is born equal to others.¹²⁶

While humans are equal in that they possess the same spiritual potentiality, that is, the ability to train themselves towards *nibbāna* and ultimate happiness, due to the law of *kamma* each human being is born individually unique.

Summary and Discussion

I have presented a variety of different Buddhist approaches and views on Western concepts of human rights. Some of these are rather radical and try to offer constructive criticism: they not only maintain that Western human rights concepts are “flawed” in various aspects, but also point out ways in which human rights can be integrated into a system of human development. Here it is argued that this could ensure that human rights as conceptualized in the West can overcome its “weak points” and become sustainable. Also, in Thai Buddhism there are influential thinkers who state that rights do not ultimately exist, but are solely the outcome of invention and convention. Other approaches, however, maintain that

124 Buntham Phunsap 2533, pp. 51–52.

125 Saneh Chamarik 2543, p. 20/70. Translation as given in the original.

126 Phra Payutto 2543a, p. (9)/50.

concepts of human rights can indeed be identified in fundamental Pāli canonical teachings and that according to early Buddhism “natural rights” are inherent in every human. Still others have pursued the approach of reinterpretation of culturally-relevant canonical texts in order to identify human rights principles. Here, the aim is to invoke these Buddhist texts to promote the cause of human rights.¹²⁷

While there seems to be a general agreement that Western concepts of human rights are useful and to some extent reconcilable with Buddhist teaching, influential thinkers of Thai Buddhism have argued that human rights cannot be referred to when, as a consequence of doing so, traditional practices and beliefs that are perceived as conforming with the Pāli canon are undermined. In 1996, Thai Professor of Law and winner of 2004 UNESCO Prize for Human Rights Education Vitit Muntarbhorn referred to the Bangkok Non-Governmental *Declaration of Human Rights* of 1993 which says that

[...] [w]hile advocating cultural pluralism, those cultural practices which derogate from universally-accepted human rights, including women’s rights, must not be tolerated.¹²⁸

It appears that we can identify a debate between universalism and cultural relativism in many of the discussions that I have presented, above: indeed, there are ongoing debates in Thailand as to the extent to which Buddhist monks or the monastic community should be regarded as “special,” or are to be treated as normal citizens or as a “private organization” (Th. *ongkon phak ekkachon*), respectively. At the moment, it is quite obvious that Thai monks are treated in a particular way, for example they are not allowed to vote (prescribed in the 1997 Thai constitution) and, at the same time, have been traditionally extremely highly revered in Thai society.¹²⁹

Also, Thai academics have been discussing the extent to which specific hermeneutical practices in present Thai Theravāda Buddhism, monastic legislations like the *Saigha* Acts, and particular

127 See also Suwanna Satha-anand 1999.

128 Quoted in Sulak Sivaraksa 1999, p. 195.

129 See Channarong Bunnun 2549, pp. (29)–(31); Phiphat Phasutharachat 2549, pp. (41)–(47); see also Streckfuss and Templeton 2002, pp. 82–83.

prohibitions for monks can be justified by referring to a particular socio-cultural context or simply have to be seen in fundamental contradiction to universal law. Where is the dividing line? To make it more complex, defenders of traditional practices that have been perceived as problematic from a human rights perspective have also argued that it is their right to defend and adhere to the traditional practices and principles of their religion. During the nun-ordination debate, we have seen the complexity of reinterpreting tradition and normative and formative Buddhist texts that have culturally been enormously significant. Several thinkers have attempted to root human rights in Pāli canonical texts and principles in order to ask for changes to traditional practices which they regard as sustaining inequality between genders. In this way, scholars have argued that as monastic and canonical law are conventional systems having the objective to facilitate spiritual practice, the Thai Theravāda should change its conservative hermeneutical approaches in this respect in a way that would allow female ordination. This would not only be in line with human rights but also with the very principles of the Buddha himself. While admitting that the *vinaya* could theoretically be changed as it is a conventional system that should be accommodated according to its socio-cultural context, many influential Thai thinkers are concerned that such changes could potentially critically endanger authenticity and longevity of the Theravāda. The Thai Buddhist studies scholar Watchara Ngamcitcaroen summarizes this notion as follows:

According to Theravāda Buddhist principles the monastic community [Th. *khana song*] “has no right” to change the *vinaya*, but has to confine itself to practise according to it. It can be compared to policemen who have the duty to follow the law but not the right to change it.¹³⁰

The Theravāda has developed into a complex entity that is characterized by its strict conservatism which Theravādins believe has developed and been maintained since the year of Buddha’s passing away, some 2500 years ago. This conservatism is motivated by the concern to preserve “authentic” Buddhist texts and practice. Changing these basic markers of its identity would entail changing the Theravāda into something else, and would therefore be inherently

130 Watchara Ngamcitcaroen 2550, p. 477.

contradictory for the Theravāda.¹³¹ At the same time, defenders of Theravāda's conservatism stress that they believe that the absence of *bhikkhunis* does not necessarily imply the inequality of genders in terms of Buddhist practice. For them the Theravāda tradition is flexible enough to offer other venues for equal opportunities (such as creating "*bhikkhunis* in a new form").¹³² Some would even say that this approach would provide better opportunities, as being a *bhikkhuni* would necessarily have to entail institutional subordination of the female order under the male order (see above). In the course of the *bhikkhuni* ordination controversy many have argued that emphasis should be placed rather on individual spiritual progression and the facilitating of it than on institutional change. This again seems to point at another basic and crucial difference between Theravāda concepts and Western notions of human rights. Saneh Chamarik expresses this idea nicely by stating that

[...] according to Buddhist view [*sic*], what really obstructs the attainment of freedom is not so much the social and conventional "chains" or restrictions, as one's own ego and the three poisons: lust, hatred, and delusion.¹³³

By contrast, Western human rights first of all seem to gain their importance through the possibility of referring to them as protection against governments, institutions or persons that exert power over people.¹³⁴

There is a considerable number of Thai scholars and thinkers who have investigated Western human rights concepts. Some have attempted to connect Western human rights concepts with Theravāda Buddhist teaching. However, the fundamental differences between Theravāda views and Western human rights notions concerning the concepts of freedom, personhood, rights and aspiration seem to be so enormous that Thai scholars have argued that a theoretical connection between these two thought systems is a hugely challenging undertaking.¹³⁵ This undertaking does not seem to

131 See also Seeger 2009a.

132 Watchara Ngamcitcaroen 2550, p. 478. See also Seeger 2006a, p. 172.

133 Saneh Chamarik 2543, p. 68. The original text is in English. See also Buntham Phunsap 2533, pp. 55 and 65.

134 See Thanet Aphornsuwan 2539, pp. 223–224; Junger 1998, p. 84.

135 See Caran Khotsananan 2535, pp. 200–201; Thanet Aphornsuwan 2539, p. 224.

have been very successful so far. As both the Theravāda and human rights are inherently relevant for current Thai society, the dialogue will continue.

The Purification of the Mind and the Encounter with Those who Suffer. A Christian View of Buddhism and Human Rights

KENNETH FLEMING

This article considers Buddhist critiques of the theory and praxis of human rights from a Christian theologian's perspective. It considers what Buddhism can contribute to an understanding of human rights and how Buddhism is itself challenged by human rights concerns, with particular reference to the thought of Prayudh Payutto and the Thai context. In conclusion, it considers what Christianity and Buddhism can learn from each other in their basic approach to human rights.

The Context

The secularization thesis, which predicted the decline of religion in the world, has to a large extent been discredited and rethought.¹ Even in Europe, where the forces of secularization and the predictions of doom for religion have been strongest, there is a growing awareness that what we name by the term "religion" is here to stay,

1 Peter Berger (1999) is a leading sociologist of religion who, along with others, has rethought the secularization theory he once held himself.

albeit in new and uncertain forms.² The role of religion is again at the center of political discourse.

Regrettably, it is often because religion is seen as a force behind social conflict, violence, and discrimination that it obtains a prominent place in newspaper headlines and in fields of public discourse. There is a growing recognition in political and intellectual circles, however, that religion can and must be understood as a tool for overcoming violence and prejudice on a societal level. Religion, thus, is widely acknowledged as having a central role to play in the promotion and furtherance of human rights.

Since the adoption of the United Nations *Universal Declaration of Human Rights* in 1948, there has been widespread discussion about its “universal” claims, and about how it should be interpreted and implemented in different countries and local contexts. In recent decades, there have been a number of debates, sometimes heated, about the relationship between human rights and the religions.³ It is also the case that people of religion have, increasingly, come to adopt the language of human rights when relating their religious teachings to the social sphere. This is not only true in the West, but also in other regions of the world and among Asian Buddhists.

The perception of human rights in the political sphere in Asia, where the great majority of Buddhists live, can be characterized as having shifted from one of suspicion to a more open acceptance. Soraj Hongladarom, commenting on how human rights have been viewed in the Thai context, wrote:

The concept is also generally regarded as foreign, and the Thai word for human rights — *Sitthi Manussayachon* — still rings an unfamiliar sound. For most Thais, the word simply conjures up the image of someone who disregard the traditional pattern of compromise and harmonization of social relations; someone, that is, who is quite out of touch with the traditional Thai mores.⁴

2 This is grounded in extensive sociological data gathered from the European Values Study, cf. Davie 2006.

3 Rappenecker 2004. The UN Declaration has prompted the development and adoption of various international and regional human rights legislations, but it is the 1948 document that is principally referred to in this paper when speaking of human rights.

4 Hongladarom 1998, p. 97.

Hongladarom goes on to admit, however, that the language of human rights has come to be increasingly used and accepted in Thai circles. Further afield, even the Association of Southeast Asian Nations (ASEAN), in which some of the most vociferous voices critical of human rights language were to be heard, has recently begun the process of setting up its own human rights body.

Leading Buddhist figures in Asia, who have been at the forefront of movements for peace and freedom, such as the Dalai Lama, Maha Ghosananda and Aung San Suu Kyi, have all been clear in their support for human rights legislation. In Thailand, the leading Buddhist social critic, Sulak Siviraksa, along with the various NGOs he has inspired, together with leading monks, like Buddhadasa and Payutto, have also been keen to voice their support of human rights. In the political arena in Thailand, human rights legislation was incorporated into the 1997 Thai constitution and the National Human Rights Commission of Thailand was established a few years later.⁵ There does appear to be a growing agreement, therefore, that human rights legislation is a useful, valuable, and necessary tool in today's world.

Several Buddhist commentators argue that human rights and Buddhist teachings are complementary and supportive of each other. Two basic reasons repeatedly surface to support this convergence: a recognition that human rights is concerned with the moral good, just as "morality" (*P. sīla*) is fundamental to the Buddhist path of liberation, and that human rights are concerned with reducing or overcoming suffering, the *raison d'être* for the Buddhist to undertake the religious life. The support for human rights, however, is not without qualification and criticism, and it is to this that we now turn.

The Buddhist Critique

Despite the convergence between Buddhism and human rights concerns, a number of Buddhist commentators are highly critical of how human rights are understood, formulated, and put into practice. Criticisms cover a variety of issues — the theoretical basis of human rights legislation, the language used in classical documents,

5 Harding 2007.

the socio-political interests they promote, and the scope they cover. It is possible here to cover only some of the main areas.⁶ On a philosophical level, there is much criticism of the basis upon which human rights are proclaimed. The preamble of the UN *Universal Declaration of Human Rights* describes this foundation using particular language: the “inherent dignity and of the equal and inalienable rights of all members of the human family”. This is reflected also in the German constitution, written up a few months after the UN declaration:

Die Würde des Menschen ist unantastbar [...] Das Deutsche Volk bekennt sich darum zu unverletzlichen und unveräußerlichen Menschenrechten als Grundlage jeder menschlichen Gemeinschaft, des Friedens und der Gerechtigkeit in der Welt.⁷

The influences of the Judeo-Christian tradition, with its notion of creation in God’s image, and European Enlightenment thought, with its emphasis on the role of the individual and reason, are cited here by Buddhists. It is difficult to find a direct correlation of “inherent dignity” in Buddhist texts; indeed, the concept seems to contradict or at least stands in significant tension with the Buddhist doctrines of “impermanence” (P. *annica*) and “no-self” (P. *annatā*). In response, Buddhists have sought, in various ways, to provide a religious basis for human rights based on interpretations of their key teachings. Doctrines ranging from “buddhahood”, “dependent origination” (P. *paṭiccasamuppāda*), *annatā*, and everyone being subject to *dhamma* have been put forward as possible alternatives. Another notable basis is offered in the value Buddhism attributes to being born in a human life, which is an occurrence that is considered extremely rare and, moreover, offers the precious opportunity and possibility for development towards liberation.

Some commentators, like Damien Keown,⁸ have argued that agreeing on a common transcendent reference is unnecessary, since

6 For a variety of Buddhist opinions towards human rights cf. Keown *et al.* (1998) and Schmidt-Leukel (2006).

7 Official English translation: “Human dignity shall be inviolable [...] The German people therefore acknowledge inviolable and inalienable human rights as the basis of every community, of peace and of justice in the world.”

8 Cf. Keown 1995.

human rights are widely accepted by atheists and people of different religious convictions alike and for varying reasons. In searching for an answer in this field, it does appear that we are asking questions about the basic meaning and value of human life. The difficulty is, as witnessed in our pluralist world of different religious traditions and political ideologies, that a variety of answers are given to these questions. It is also interesting to note that no explanation for the use of "inherent dignity" is proffered in the UN Declaration. While the positive exchange of views and debate within Buddhism on this philosophical plane are fascinating to follow, the outcomes will probably be, like those in other religions, of limited application. If an alternative were ever to be agreed upon and promulgated, it would come under as much critical scrutiny by the international community as that of "inherent dignity". It is, nonetheless, a significant and necessary internal debate which highlights the limitations of conceptual language in human rights documents and the need to be sensitive towards alternative approaches. What is essential, it would appear, is that there is broad agreement on the content of human rights. On this point, it is indeed remarkable that the UN Declaration has been met with such "universal" acclamation.

Buddhists, like many in Asia and elsewhere, are critical of the emphasis on the individual person in human rights language. For "socially engaged Buddhists," however, this critique has to be distinguished from that of the so-called "Asian values" school of thought. Supporters of this school, propounded by the likes of Mahathir Mohamad and Lee Kuan Yew in the past and by certain current Asian governments, like Myanmar, seek to portray human rights as a Western invention, with imperialist intentions, that are insensitive to the Asian cultural values of respecting authority and putting community needs before individuals' rights. Many Buddhists, along with Asian intellectuals like Amartya Sen,⁹ are highly critical of this Asian values approach. They criticize this Asian approach as a ruse for seeking to maintain the power of undemocratic ruling Asian elites. They argue that the desire for human rights has been as much a part of Asian history as that of the West. The threat to Asian societies does not come from a Western notion of human

9 Cf. Sen 1997.

rights, but rather from the importation of Western forms of consumerism and capitalism.

Some Buddhists, nonetheless, charge that human rights fail to adequately stress the essential collective character of people's existence and the responsibilities that come with belonging to a social group. Rights and responsibilities have to be seen together, it is argued. This is, however, not based on a hierarchical understanding of human society, as in the "Asian values" case, but rather on alternative notions like that of interdependence, particularly in relation to the doctrine of *paṭiccasamuppāda*. The interconnected nature of all reality, as understood in Buddhism, leads to the assertion that human rights abuses are often a result of rampant individualism, which fails to take note of the needs of other people and fails to appreciate that humanity is bound into an interdependent relationship with the wider natural environment. Buddhist activists, therefore, like the environmentalist monks in Thailand, have stressed the need to re-think our relationship with nature and to engage in environmental protection in order to effectively protect human rights.¹⁰

The development of human rights language is widely criticised as an ideological product of the liberal West. Without denying the Western influence on human rights formulations, the Buddhist criticisms are often, I believe, more an attack on how the UN Declaration has itself been misinterpreted and misused than on its undoubted internal inconsistencies. This abuse of the Declaration is a point made by the law professor, Mary Ann Glendon, who reminds us that the original document was shaped by people from different cultural backgrounds and that the strong social and economic aspects of the document were lost under the interpretation of liberal Western human rights organizations in the 1960s and 1970s.¹¹ The Buddhist critique, as represented briefly above, can be viewed as a part of an ongoing critical process that would have been welcomed by the original drafters of the 1948 Declaration. It was the hope of those drafters that the declaration would be adopted and adapted according to local socio-cultural circumstances; it was viewed as a "yardstick" rather than as a complete and perfect document.

10 Darlington 2000.

11 Glendon 2004.

It is in another area of criticism that a Buddhist concern, I believe, makes its most telling contribution: looking deeper into the causes of suffering. Buddhist critics claim that the language of human rights does not go far enough in explaining the underlying causes of suffering that lead to human rights abuses. Like others today, they point to the corrosive effects of consumerism and attachment to socio-economic ideologies that expect and demand ever more economic growth at the expense of the environment and social equality, but they locate the cause of these destructive forces deep within the lives and attitudes of people. It is perhaps unfair to expect a UN document written in 1948 to cover these issues, but it is here that Buddhism offers something particular, for it is here that Buddhism takes us a step further in locating the source of suffering in the untrained minds of individuals.

The Purification of the Mind — a Buddhist Contribution to Human Rights

Therefore, *bhikkhus*, one should often reflect upon one's own mind thus: "For a long time this mind has been defiled by lust, hatred, and delusion." Through the defilements of the mind beings are defiled; with the cleansing of the mind beings are purified.¹²

For some 2500 years, as the text from the *Gaddula Sutta* above reminds us, Buddhism has placed a particular focus on the training of the mind. This "cleansing" involves a detailed process of "attentiveness" or "mindfulness" (P. *sati*). It leads the practitioner, as outlined in the *Satipaṭṭhāna Suttas* and elsewhere, from mindfulness into deepened concentration, insight and wisdom. A central aspect of this mindfulness focuses on the interior thought processes, desires and intentions that arise in a person's mind and determine the actions they take in life. Discernment is employed to recognize and root out the "unwholesome" causes of suffering in the mind and to encourage those that are "wholesome". Buddhism, therefore, places a premium on the purification of the mind, because it has identified this as the key way to understand the sources of suffering and to overcome them.

12 *Samyutta Nikāya* 22:100.

It comes as no surprise, therefore, that the Buddhist concern for rooting out the “unwholesome” causes of suffering in the mind, and encouraging the “wholesome” causes that lead to inner peace and liberation, is raised in relation to a critique of human rights. One of the most articulate and challenging of Buddhist speakers in this regard is the eminent Thai monk, Prayudh Payutto. Often referred to as the most distinguished Buddhist scholar living in Thailand today, Payutto has taken a keen interest in relating Buddhist teachings to contemporary social ills, such as wealth and poverty,¹³ and to areas of contemporary thought, such as religion and science.¹⁴

Payutto has also often mentioned human rights in his writings and speeches. Notably, he developed a critique of human rights in a speech he gave to the “World Parliament of Religions” on Buddhist solutions for social problems in the coming century.¹⁵ He described human rights as important and necessary for society, but essentially limited in character. They are fundamentally flawed, he argued, in that they are built in response to a history of violence and division, are a human invention that do not exist as a natural condition, and represent a compromise in order to control social behavior and limit aggression.¹⁶

In a further talk, accepting the UNESCO Peace Prize in 1994, he said:

Our current moral education, perceiving the problems and conflicts caused by the unbridled struggle for happiness, teaches restraint based on awareness of human rights. We therefore live in societies where peace is enforced through restraint. But any ethic based on fear and obligation is negative and unreliable — its prohibitive nature is inadequate.¹⁷

13 Payutto 1992. Payutto has gone under several names, including Rajavaramuni, which denote the ecclesial titles he has received in Thailand.

14 Payutto 1993a.

15 Payutto 1993b.

16 Hongladarom sees a difference here in the approach of Sulak Siviraksa and Payutto, with the former viewing human rights as representing an ideal of human society in contrast to Payutto who stresses their conventional nature. The difference is overstated, I believe, reflecting differences in two approaches, the activist and the scholarly, to the issue.

17 Payutto 2007, p. 3.

Apart from these historical and conceptual failings, the key critique of Payutto is that human rights offer only a limited analysis of suffering. Human rights fall short, he claims, when it comes to understanding the causes of the suffering they are designed to confront and are, therefore, of limited overall value. They fail to take account of the root causes of violence and abuses, which are to be located in the unwholesome mental processes of people.

In arguing for a better basis for human rights, Payutto brings traditional Buddhist teachings into play. He stresses that the roots of human suffering in the social sphere are situated in the interior motivations of people, directed by greed, hatred, and wrong views. These sources of suffering correspond to the three "unwholesome roots" to be found in numerous Buddhist texts (P. *lobha*, *dosa*, and *moha*) though Payutto prefers to speak in terms of "views" (P. *dittṭhi*) rather than "delusion" (*moha*). From this standpoint, Payutto is able then to question even the commitment of human rights activists. He warns that if they are motivated by the above unwholesome mental factors they will be unable to achieve the social goals they profess and may add to the suffering. It is through the development of the mind, he argues, through the purification of interior motives and views, that a foundation for human rights is properly established. For Payutto, it is simply not enough to base human rights on good intentions and the rule of law; these measures must be complemented by giving human rights a more fundamental basis in tackling the internal workings of the human person.

Although Payutto seeks to provide a basis for human rights in the overcoming of the three hindrances of greed, hatred and wrong views, and points to the ways in which these are interwoven, he nonetheless places particular importance on tackling the problem of wrong views:

When greed and hatred are founded on or supported by views, be they religious, political or otherwise, they will be intensified and sustained, with far-reaching results which are very difficult to put right. As long as the views upon which greed and hatred are based are not set right, it will not be possible to remove greed and hatred.¹⁸

18 Payutto 1993, p. 2.

Diṭṭhi, when referring to wrong views in the Buddhist texts, is often associated with greed and with a variety of mistaken opinions and approaches. He states that correct views (*diṭṭhi*) need to be developed in three areas: to see that we stand in an interdependent relationship with nature, that we appreciate our fellow human being as of equal worth to ourselves and thus care for them, and that we have a proper understanding of the true aim of life. In this last category, the emphasis is on developing an interior freedom that is deeper and more far-reaching than external political freedoms. This is to be largely achieved by means of mental development, by not being inwardly attached to material possessions and sensual experiences and in seeking a truly independent sense of happiness.

In describing what constitutes wrong views, Payutto's method here is of interest, because he omits particular Buddhist teachings. Little is said of the classic Buddhist understanding, where the pre-eminent wrong view is the attachment to the notion of a lasting, unchanging, substantial "self". In his "World Parliament of Religions" speech, Payutto also bypassed any mention of how developing correct views are in Buddhism closely tied to an appreciation of the "three characteristics of existence" (*P. ti-lakkhaṇa* — *annica, dukkha, annatā*). Moreover, he spoke of correcting "views," as mentioned above, rather than using the more religiously loaded language of overcoming "delusion" (*moha*). Payutto thus presents his argument in ways that are accessible and more acceptable to people from different religious backgrounds. There is little doubt, though, that he speaks from the basis of these core Buddhist teachings and the Theravāda's interpretation of them.

It is perhaps wishful thinking to hope that such emphasis on the development and cleansing of the mind would be incorporated into internationally recognized human rights documents. On the philosophical level, the Buddhist basis for these claims would be undoubtedly questioned. Moreover, on the socio-economic level, the Buddhist critique would surely be too radical for politicians and citizens to contemplate. It would be rejected not because of its Buddhist flavor but because, when followed through, it fundamentally questions key articles of belief in modern societies — notions of freedom, consumerism, nationalism, capitalist economic development, justice, and, of course, human rights itself. Moreover, it implies a radical change in lifestyle in a world increasingly shaped by the pursuit of individual security and wealth.

Perhaps, however, in the current global financial and economic crisis that affects us all, an opportunity is presented for religious voices on controversial and significant social issues to be heard more. It is interesting to note that the *Guardian* newspaper in Britain, which often adopts a skeptical view towards religion, welcomed the intervention of the Archbishop of Canterbury, Rowan Williams, in his detailed questioning of modern-day social values that have defined citizens primarily as consumers and allowed debt to spiral.¹⁹ It seems important, in the increasingly globalized world in which we live in, that religious leaders such as Williams and Payutto enter into these debates and offer an analysis that seeks to influence not only religious insiders but also the wider social and political spheres as well.

Human Rights Challenges to Buddhism

Glendon describes the significance of the *UN Declaration of Human Rights* for the international socio-political sphere:

The Declaration, with its small core of principles to which people of vastly different backgrounds can appeal, is the single most important reference point for cross-national discussions of the human future on our increasingly inter-dependent and conflict-ridden planet.²⁰

She presents the original intention of most of the drafters: to provide a basic moral document with legal implications, not to create a fixed set of laws, which covered not only individual rights but also social, economic and cultural rights from the beginning. This is an important reason why the UN document has had such a wide, cross-national and cross-cultural appeal. In its own words, it represents a “common standard” for nations representing many different socio-economic, religious, cultural and political backgrounds. In light of this and the way in which the UN Declaration is constantly referred to by numerous international and local bodies, human rights must be seen as an essential dialogue partner, not only for those in authority and power but also for religious communities as they seek to promote efforts at establishing a more peaceful and just world. Human rights concerns have, therefore, a

19 Williams 2009.

20 Glendon 2004.

legitimate role to play in challenging the practices and beliefs held by religious communities. For religions to ignore this is to risk the indignation of public and international opinion.

The relationship between human rights and religious communities can at times appear ambiguous and controversial. This has often been noted in reference to the Roman Catholic Church.²¹ It took quite some time before the language and concerns of human rights were fully recognized and valued in the official documents and doctrine of the Church. The concept of human rights was not embraced until the Second Vatican Council, with the document *Pacem in terris* marking a significant shift in the Church's understanding. Despite being embedded in the official pronouncements of the Church since, there remains today an uneasy tension between the church's public commitment to human rights and how some of its own practices appear to conflict with them. This is often mentioned in relation to the unequal role of women in the Church, and to the secretive and autocratic ways in which the Church is hierarchically run, especially in relation to how theological dissent is dealt with. The Church, an old and powerful institution with a global reach, can at times present a picture of disregarding human rights arguments or standing above the reasonable demands of human rights, which does little for its image and public standing.

Perhaps it is unintended but, on a similar note, the impression is given by Payutto and some other Buddhists that Buddhism has little to learn from human rights. The religious tradition is presented as self-sufficient, the teacher rather than the learner in this relationship. Payutto appears unnecessarily negative in his assessment of human rights when he says things like "the concept itself is a result of division, struggle and contention" and "they are merely conventions for social behaviour".²² It is interesting that he rarely discusses the history of struggle to overcome suffering that has led to the defining of human rights and the ideals they seek to promote. The UN declaration cannot simply be understood as a reaction to the horrors of the Second World War, but should also be seen as representing human aspirations for peace and freedom. Nor does Payutto much discuss how human rights actually presents challenges to

21 Reinhardt 2004, pp. 33–34.

22 Payutto 1993, p. 3.

Buddhism. From within his own understanding of the nature of human rights they can be considered a welcome dialogue partner. In depicting their conventional nature, he describes human rights as a form of *vinaya* (discipline) and thus opens up a link to the religious institutions of Buddhism, which themselves are open to interpretation and reform.

In Payutto's native Thailand, it is possible to delineate some areas where Buddhism is challenged by human rights to rethink its position or lack of it. Take, for example, the place of women in society and within Buddhism. The equality that human rights grants women and men confronts the *saṅgha* authorities in relation to the status of nuns. Human rights asks those who block the reestablishment of the *bhikkhuni* order whether their arguments, based on tradition and the inflexibility of current *saṅgha* structures, are just and sustainable in the light of this "common standard". Moreover, they challenge religious leaders to examine the socio-economic and cultural roots of the sex trade. Within Thailand, prostitution is demanded as much by Thai men as it is by foreigners and tourists, though the latter are often the focus of public outcry. Human rights condemns this as a form of modern day slavery and, in light of this, asks whether a negative view towards sex and women in Thai Buddhism leads to turning a blind eye to sexual exploitation. Human rights are also concerned with social justice and with the essential equality of people. This challenges a popular and widespread understanding of *kamma*, in all levels of Thai society, which assigns social status and wealth to one's acts in previous lives, and thus marginalises groups of people like the poor and physically disabled. Another human rights related issue in Thailand is the recent trend towards a growing religious conservatism in Buddhism, in which Payutto is also implicated, which aligns itself with nationalist causes and negative portrayals of other religions.²³ This was reflected in the recent failed attempt by conservative Buddhist organizations to make Buddhism the official state religion. Human rights confront such trends with its calls for the protection of religious freedoms and minority rights.

These issues of concern in Thai society highlighted briefly above are not meant to portray Thailand negatively — all religions

23 Satha-anand 2003.

and societies have issues that contradict or are questionable in the face of human rights. It is also possible, of course, for Buddhists to discuss the issues and come to enlightened solutions from within the resources of their own tradition, as does Satha-anand.²⁴ However, given that human rights are widely understood as presenting a yardstick for measuring the ethical health of societies, it is inevitable that they will be used in critiquing religious views and practices. Rather than ignore or distrust them, they should, along with other external sources, be viewed as an essential dialogue partner. They enable religion to remain relevant, reasonable, and meaningful in today's world.

Buddhists and Christians, Learning from Each Other

I recall asking a Scottish man once why he had converted from being a Christian to Buddhist. The reply was brief: "Too much love, not enough wisdom." This represents a common enough critique of Buddhists when comparing their religion with Christianity. It can also be applied to their critique of human rights: lots of good intentions, not enough understanding.

In their approach to human rights, I would argue that Christians could learn from Buddhist wisdom, particularly in developing right views and on the need to purify mental states. Good intentions, well-formulated ideals and acts of mercy are in themselves not enough to ensure human rights. The Buddhist analysis calls for a reassessment of the basic attachments that we have towards material possessions. It also asks for a re-examination of the views we hold to be important and critical within society, including what we understand by key concepts associated with human rights such as peace, justice and freedom; to ensure that they themselves are not simply a front for our own selfish desires. With a clearer view of what is important in life and a commitment to eradicating our own interior selfish attachments, human rights work receives a firmer foundation, where the means meet with the intended ends of overcoming suffering.

24 Satha-anand 2003.

Buddhism, I believe, is more consistent in highlighting this need for purification of the mind than Christianity. Such a concern does, of course, exist in Christianity, which is evidenced, for example, by the teaching of Jesus in the “Sermon on the Mount” and in traditions of contemplation and discernment in various monastic orders. However, it receives a prominence and emphasis in Buddhism from which Christians could learn. Christians have indeed begun in many places to renew their spirituality through incorporating this Buddhist emphasis.²⁵ Christians, without difficulty, can define human rights abuses as rooted in sin and can point to human selfishness as the source of such horrors. Buddhism, though, offers a more thorough-going and systematic analysis of how selfish attitudes are rooted in mental states and desires. These are described in detail, to aid their recognition, and tools are provided, primarily meditative, in order for these to be rooted out.

The aim of purification of the mind is, of course, not limited to overcoming human rights abuses — they are simply the result of a deeper spiritual malaise of the mind. In the *Rathavinā Sutta*, a dialogue between Puṇṇa Mantāṇiputta and Sāriputta, the purification of the mind is described as simply one of a relay of seven chariots used for the completion of a religious journey; a journey that leads to “reaching final *nibbāna* without clinging”²⁶ — the ultimate aim in Buddhism. This aim and the underlying philosophical framework that supports it has to be recognized and appreciated by Christians involved in interreligious dialogue and social action for human rights. It is not necessary, however, I would argue, to agree with and this philosophical basis in order to learn from the Buddhist critique and integrate aspects of it into one’s own religious and social commitments.

When it comes to suggesting what Buddhists might learn from Christians in the field of approaching human rights, we could start by flipping the saying of the convert on its head: “Too much wisdom, not enough love.” How are we to arrive at the right views, which Payutto emphasizes are so important? He and other Buddhists argue for a training of the mind, which would be based on meditation, the study of religious teachings, and underpinned by a

25 Cf. von Brück and Lai 1997.

26 *Majjhima Nikāya* 24.

basic moral approach to life. I would suggest that there is another helpful way of training the mind, leading to insight and wisdom, which draws primarily on the various liberation theologies and experiences of Third World Christians. In liberation theology, it is argued that we are led into a deeper appreciation of the demands of justice and compassion through a commitment to the poor and identification with their suffering. This commitment helps to liberate us from selfish desires by placing what we value and find meaningful in life within a wider social framework, characterized by injustice and suffering; it leads to insight into the social reality of suffering and the way out of it.

As with Asian Buddhist commentators, human rights concerns have been viewed in the past by liberation theologians as representing a largely Western approach to social justice issues. As the Sri Lankan theologian, Aloysius Pieris, argues, they represent the high-point of Western spirituality, which, though good in themselves, are inadequate in a world faced by mass hunger and global inequality.²⁷ What is required is a more radical approach based on encountering the poor in their suffering and taking their side in struggling for justice. In Christian theology, this identification is based on the long tradition of God's concern for the poor and oppressed in the Hebrew Scriptures, which is intensified in the way in which Jesus Christ carries out his prophetic and healing ministry and, then, embodied in the Christology of Matthew 25, where the sufferings of the poor are identified with Christ himself. An encounter and identification with those who suffer unjustly can lead to a profound change of view and reorientation in life; in other words, it is a means of salvation/liberation.

It is possible, of course, to find aspects of this approach in Buddhism. In the Pāli canon there are stories where an encounter with those who are suffering helps or promises to bring about new insight on the path of liberation. Here, I would raise as examples two well-known sources, the *Kalama* and *Ariyapariyesanā suttas*. With regard to the *Kalama Sutta*, it is worth noting the interpretation of Bhikkhu Bodhi, who argues that the *Sutta* has been misunderstood under the influence of seeking to align Buddhism to a scientific and anti-dogmatic mindset:

27 Pieris 1996, pp. 113–126.

This interpretation of the *sutta*, however, forgets that the advice the Buddha gave the Kalamas was contingent upon the understanding that they were not yet prepared to place faith in him and his doctrine; it also forgets that the *sutta* omits, for that very reason, all mention of right view and of the entire perspective that opens up when right view is acquired.²⁸

The purpose of the Buddha was, then, to teach the Kalamas in a way which would bring benefit to them and, eventually, lead them towards discovering the right view. The Buddha enters into a dialogue where he convinces them of the need to overcome greed, hatred, and delusion by means of the Brahma Vihāra, the four divine abodes of loving-kindness, compassion, altruistic joy and equanimity. The emphasis, therefore, is on a moral way of practice — of compassion towards others — as the necessary grounding for developing the right view.

In the *Ariyapariyesanā Sutta* the Buddha recounts his earlier search for enlightenment — the “noble search [...] seeking the supreme state of sublime peace,” from leaving his family and home, through association with various teachers, to his final attainment of *nibbāna*. With *nibbāna* finally attained, however, he weighed up in his mind whether he should teach the *dhamma* to others and he tells his monks:

Thereupon there came to me spontaneously these stanzas never heard before:

“Enough with teaching the *dhamma*
That even I found hard to reach;
For it will never be perceived
By those who live in lust and hate [...]”

Considering thus, my mind inclined to inaction rather than to teaching the *dhamma*.²⁹

As he saw it, there was just too much ignorance and ill-will around; his doctrine would be misunderstood and abused. Fearful of seeing the Buddha withdraw from society, the *Sutta* goes on to recount how the Brahmā Sahampati rushed to the Buddha and sought to convince him of the need for engagement. It is an interesting point of debate — why a Buddha with a fully awakened mind needs to be

28 Bodhi 2008.

29 *Majjhima Nikāya* 26.

challenged in something so fundamental — but, putting this to one side, the tactic of the *Brahmā Sahampati* is of interest here. *Brahmā* asks the Buddha to view this world of suffering with compassion. It is, then, through surveying the world with compassion that the Buddha sees that there are those who will indeed benefit from his teaching and decides, thereupon, to engage with the world. Is it too much to say that it is an encounter with those who suffer which changes the view of the Buddha and convinces him to go out and teach for the sake of the many?

In Christianity, in any case, a particular concern is shown not just for those who suffer in general terms — which is all of us — but for those who suffer through poverty, injustice, and marginalization. This is a focus that is not so strong in the Buddhist texts. In liberation theology, in Latin America, this concern was memorably captured in the coining of the term, the “preferential option for the poor”. This is misunderstood by Christians and Buddhists alike. Thich Nhat Hanh, for example, wrote about the option for the poor:

But I do not think God wants us to take sides, even with the poor. The rich also suffer, in many cases more than the poor! [...] We do not need to take sides. When we take sides, we misunderstand the will of God.³⁰

This option cannot be correct because God’s love must be for all and unconditional! However, this is to miss the point. It does not mean that the poor are closer to God or more favoured, but that such an option reveals the true scope of God’s love for all and the extent to which we are called to participate in it. In this sense, it is emphasizing that liberation is as much a social event as individual; it is interdependent in nature. It does not deny the suffering of the rich but asserts that their liberation is intimately bound up with how they encounter and respond to those who suffer most through human injustice and cruelty.

Here, I would suggest, is something for Buddhists to learn, especially for those who emphasize achieving the right view before engaging in social action. This seems to already be happening in the movement of socially engaged Buddhists. There may be debates as to the primary sources of their social commitment, but there is little doubt that it has been influenced by contact with radical Christians who take the option for the poor seriously. Again, it

30 Hanh 1996, pp. 79–80.

is not necessary for Buddhists to agree with the underlying theology of this approach, but to be open to learn from it.

The Buddhist teachings of training the mind and the Christian “option for the poor” come out of different religious histories and, of course, different philosophical/theological perspectives lie at their roots. It is difficult to see how these differences can be harmonized but aspects of them can be intertwined within the spirituality of people. They can form a kind of basic common agreement between Buddhists and Christians when it comes to working for human rights within our world. This is nothing new. Aloysius Pieris has been arguing for such a complementary approach for many years,³¹ where the struggle to be poor, in terms of renouncing attachments and training the mind, is joined with the struggle for the poor, in a socio-political identification with their suffering and a commitment against social injustice — both aspects are necessary in today’s world. Buddhists and Christians can learn from each others’ strengths in these areas. This, of course, does not exhaust efforts at developing a common religious approach to human rights; other elements, relating to nonviolent strategies, the environment, and other religions and ideologies, need also to be considered. It does, however, show that differences in religions can provide a rich resource in the struggle for human rights — where the concern to purify the mind and encounter those who suffer interconnect.

31 Cf. Pieris 1988a.

Is Mahāyāna Buddhism a Humanism?

Some Remarks on Buddhism in China

HELWIG SCHMIDT-GLINTZER

Preliminary Remarks

As Bernard Faure recently stated, many ideas about Buddhism “stem from a refusal to take the diversity of Buddhism as a living tradition seriously”.¹ Furthermore the success of Buddhism was a result of its willingness to adapt to specific social circumstances. Thus, Buddhism in China had, and still has, many facets and faces. It stemmed first from the totality of the so-called Hīnayāna. After other texts which came from India and Central Asia along the Silk Road and had been translated into Chinese, the Mahāyāna version of Buddhism became the dominant version. Although under constant threat by the Chinese state the Buddhist doctrine permeated Chinese society on all levels, thus intensifying the culture of compassion in China. In the following reflections I will trace aspects of humanism in China which are connected with the Buddhist traditions. From its first contact with Chinese indigenous religions and philosophical traditions Buddhism became amalgamated with Confucian humanism in which natural law and respect towards every human being were not unknown.

1 Faure 2009, p. 7.

Universalistic Approach of Mahāyāna

Buddhism is seen as a universal doctrine which from its beginnings was directed at every human being. It is not exclusive, but open to everyone, laymen and clerics alike. However, its social reality was different and in the early history of the Buddhist teaching the way of the *dharma* was restricted to clergymen only. This changed fundamentally when Buddhism reached the Gandhara region in the late 4th century BCE, from where it later expanded into China and East Asia. In Gandhara the teaching of the Buddha was confronted with Hellenistic thought and particularly with the concept of individuality as it was developed in Ancient Greece. The renaissance of the original teaching of the historical Buddha Śākyamuni in the valleys of Indus and Swat during the last two centuries BCE found expression in public lectures and at the same time it was written down on palm leaves and other material. As a result Buddhist teaching found its way to many different places in Eurasia. One of the most popular Buddhist Mahāyāna texts is the *Vimalakīrti-nirdeśa sūtra* (Chin. *Weimojie jing*) which became very prominent all over Central and East Asia and China from the 5th century CE as can be seen in mural paintings as well as in treatises and commentaries on Buddhism by authors in medieval China.

The central figure is the layman Vimalakīrti who had perfected himself in every virtue and thus obtained the status of a *bodhisattva*, but for the sake of “expedience” (Skr. *upāya*) he had assumed the role of a householder:

Although a white-clad layman, he kept the rule of the śramaṇas [...] He did not stay in the formless realm [P. *arūpa-dhātu*], but possessed wife and concubines. Following what he himself enjoyed, he continually cultivated pure conduct. Although possessing family and retinue, he lived continually as if in a hermitage. Manifestly adorning his person, well clothed and fed, within himself he was continually as if in trance [Skr. *dhyāna*]. If present among gamblers or revelers, he used the occasion to save men. He accepted heretics, leading them by the Buddha’s teaching. Not forsaking the sacred scriptures, he utilized the good words of worldly and profane teachings, enjoying them through *dharma*-enjoyment.²

2 T. 4754: 14.521a. Translation by Mather 1968, p. 63.

Thus Vimalakīrti transcended all social barriers such as caste and other differentiations. In the text itself there are several instances where the similarity of *nirvāṇa* and *samsāra* is exemplified. At the heart of this is the doctrine that everything including the *dharma*s is without substance. The *Vimalakīrti sūtra* contains a dispute between Śāriputra, a disciple of Buddha Śākyamuni, and a heavenly *apsara* during which — to Śāriputra's astonishment — this *apsara* turns his body into a woman's body using her supernatural power. The *apsara* declares:

Good sir, if you can change into this woman's likeness, then all women's bodies are likewise changeable. If you, not being a woman, have nevertheless a woman's body and are invisible (as far as your original body is concerned), then all women, though possessing women's bodies, are non-women and invisible. It's just as the Buddha said: "All the *dharma*s are non-female and non-male."³

Richard B. Mather has underlined the fresh quality of this early polemical dispute in which the author sets out to ridicule the "cheerless asceticism of the *śrāvaka*s and pulverize the dessicated scholasticism of their Abhidharma," thus enabling Vimalakīrti to endear himself to the Chinese intellectuals of the third and fourth centuries.⁴ The universality of the Buddhist doctrine put forward by the Mādhyamika school as an exponent of the Mahāyāna teaching appealed to the Chinese as well as to representatives of other cultures. The saying that "Buddha with a single voice declares the law, while sentient beings, each in his own way, construe the meaning"⁵ means that Buddha's law is applicable to every culture and not restricted to the lifestyle of the Indians. This universalistic notion is reflected in a passage by Liu Xie contained in chapter 8 of the "Collection to Propagate and to Illuminate [Buddhism]" (Chin. *Hongming jī*):

The "Expedient Teaching" [Chin. *quanjiao*] is not localized; it does not, because of differences between the religious and secular, violate what is proper. Its subtle influence is not exotic; how can it, because of differences between Chinese and barbarians, go against human sensibilities? Therefore, "With a single voice it declares the Law," and variant interpretations are understood simultaneously; in a single vehicle it transports the Teach-

3 Mather 1968, p. 64.

4 Ibid., p. 65.

5 Ibid., p. 66.

ing, and the different *sūtras* all reach the same conclusion. Is the mere fact of being barbarian of Chinese a barrier?⁶

Thus Mahāyāna tradition took up the tradition of Buddha's teaching of the middle path by which liberation is provided for everybody and not just for those who join the *saṅgha*.

Another aspect of Mahāyāna is embodied in the concept of the *bodhisattva*. It is not just the fact that all sentient beings are bound to the cycle of birth and death which means that every human being must consider all living beings equal. Since they are all waiting for salvation, every sentient being is able to increase its own *karmic* account by showing compassion and helping other sentient beings, all of which are all said to be able to perfect their Buddha nature.

Buddhism versus Human Rights

Although Buddhism at first sight seems to be compatible with claims for human rights, there are many inconsistencies between Buddhism and the human rights movement. This has been already commented on by others.⁷ The fundamental difference between Buddhism and the concept of human rights is that in spite of the attitude of accommodation demonstrated in the case of Vimalakīrti, Buddhism principally renounces the world. It accepts differences and explains them as being the result of former deeds. Although in Mahāyāna the principal possibility of attaining enlightenment is well known, the teaching still accepts the theory of *karmic* retribution. Thus even attaining the state of liberation and spiritual enlightenment does not mean that one is freed from injustice, suppression or other circumstances which usually are regarded as contravening human rights. On the contrary, attaining enlightenment does not depend on being free of suppression of any kind. Thus the central conception of Buddhism in no way includes struggling against a disregard for human rights.

On the other hand, because of its strong claim for compassion Buddhism always stands on the side of the suffering creature. The rhetoric of human rights, however, is alien to Buddhism. This is due to a different attitude towards the individual in East Asia on the one hand and in the West on the other. There are even some

6 Mather 1968, pp. 66–67.

7 Chamarik 2000; Florida 2009.

scholars who argue that the human rights discourse is even deepening the gap between different cultures. Masao Abe stated:

Strictly speaking, the exact equivalent of the phrase "human rights" in the Western sense cannot be found anywhere in Buddhist literature.⁸

David Chappell is quoted as saying:

Scholars have argued that Buddhism has no doctrine of human rights and, technically, they are right.⁹

These statements refer to the different concept of man in Buddhism on the one hand and in the human rights discourse on the other.

In fact the human rights discourse can be regarded as a means of masking privilege. It is obvious that Western powers do not follow the principles set by human rights when their own interests are involved. This was neither the case in the Congo in the early 1960s nor in Vietnam, and it was also not applicable in the context of the invasion of the US and its supporting powers in Iraq. Thus it is more than reasonable that some of those who perceive themselves as guardians of the humanist tradition of East Asia are not willing just to subscribe blindly to the Western concept of human rights. This has much to do with the different concepts of state power in the West and in East Asia (as well as with the defense of authoritarian practices in Asian countries).

In spite of these fundamental differences, many representatives of present-day Buddhism tend to sympathize with advocates of Western human rights. When communism became the state ideology in countries such as China, which had long Buddhist traditions, tensions between state and religion came to a head. But even before that, as in Japan, in processes of modernization conflicts between institutionalized Buddhism and the claims of the representatives of the modern state led to conflicts and very often to suppression of Buddhist institutions and adherents of their religion, especially the monks and nuns. Mainly as a result of such experiences the idea arose that there could be a natural alliance of Buddhism and the claims of human rights.¹⁰ In this context one might even argue that

8 Florida 2005, p. 10.

9 Ibid., p. 9.

10 Florida 2005, p. 12.

throughout its history Buddhism has been adapting itself to changing situations and circumstances. Seen from this perspective, one might even claim that in a process of assimilation Buddhism has developed into a strong advocate of human rights.

Aspects of Incompatibility

In spite of evidence of processes of assimilation one cannot neglect the fundamental differences between Buddhist doctrine and Western human rights discourse. From the beginning it was the central conception and the main aim of Buddhism to foster awareness of the interplay of *saṃsāra* and *nirvāṇa*. Buddhist cosmology and its neglect of human concerns is incompatible with our understanding of human rights. Therefore any attempt to identify a central conception of Buddhism, on the one hand, and an attempt to prove that it is in harmony with the conception of human rights is doomed to failure. All that is possible is a reconstruction of the Mahāyāna traditions in order to trace elements of humanistic attitudes. We should not only pay attention to the written sources but also take the actual practice of Buddhism into consideration, especially Buddhist ritual, the *vinaya* and meditation practice.

Are there human rights in the world of *saṃsāra*? Is being reborn in the Pure Land a kind of realization of humanist ideals? What role do meritorious deeds play? And what about the relationship between the *karmic* situation and the quest for respect? It seems that from the start the issue of human rights does not concern the Buddhist because empathy and compassion are things one does not practice in order to respect other living beings' rights — they themselves are not entitled to ask for compassion — but rather to obey the precept not to harm other living beings. The status of each individual depends not on rights or restrictions but on his *karma*. In general Mahāyāna thinking is relativistic and thus stands in contrast to the universal claims of the *Declaration of Human Rights* of 1948.¹¹ Despite Buddhism's concerns for self-perfection and its lack of a social utopian vision, in practice Buddhists have shown themselves committed to an idea of social justice and even the use of force.

11 Florida 2005, p. 16.

Subjectivity

Buddha formulates his doctrine as a result of his internal insights and experiences both from his own and former lives. Thus, outside him there can be no other independent instance to which to appeal. This is another reason why it seems impossible to ground a declaration of human rights on Buddha's teaching. One must admit, however, that statutes and laws are necessary in order to prevent conflicting interests resulting in manslaughter and murder.¹² But seen from a Buddhist worldview it is questionable to demand compliance with human rights as long as the motivation for this is mingled with any interest. There is, however, the option for hoping that by spiritual practice, compassionate behavior, and cooperation human rights might be factually realized.¹³ The pursuit of happiness in a material world as defined by the *American Declaration of Independence* is, however, not of interest to the Buddhist; instead he follows his *dharma*.

The Four Noble Truths

After realizing that there is a truth of suffering on the one hand and a truth of the origin of this suffering on the other, i.e. that all suffering has its causes, there is the third truth which describes not the path to the elimination of suffering but the goal itself, i.e. the state of utter absence of suffering known as *nirvāṇa*. In this state there can be no concept of self. The fourth truth describes the path to *nirvāṇa*. Whereas the starting point for the human rights discourse is that man should be prevented from suffering, in Buddhism it is fundamental to accept that life in itself is suffering. Only with regard to the notion of equality does Mahāyāna Buddhism ("all living beings have an innate Buddha nature") come near to the human rights position, namely in claiming that all men are equal in that they have the potential to attain enlightenment.¹⁴ But whereas the human rights discourse argues in favor of the acknowledgement of particular rights, Buddhism does not seek justice but liberation. There is, as has been said, no identifiable instance in Buddhism which could guarantee rights. Only in later developments and in amalgamation with Chinese religious and bureaucratic traditions do we

12 Florida 2005, p. 18.

13 Ibid., p. 19.

14 Ibid., p. 19.

encounter the emergence of a Buddhist hell with the function of a purgatory and a judicial court to deliberate upon human fate.¹⁵

Vimalakīrti, *Bodhisattva* Ideal and Hybris

As far as humanist attitudes in Mahāyāna Buddhism are concerned the ideal of the *bodhisattva* is repeatedly brought into play. The concept evolved out of a critique of the idea of the *arhat* in the school of the Mahāsāṃghikas, and describes one who seeks to attain the state of Buddha while at the same time practicing compassion. This became the fundamental concept of the way of the *bodhisattva*. Out of empathy and compassion the liberation of the individual is thus regarded as being tantamount to the liberation of all living beings. Thus a *bodhisattva* was one who postponed his own redemption, the entrance into *nirvāṇa*, in order to save others or to lead them to salvation. It was presupposed that one's own *karma* could be transferred to others. Thus hope was engendered that salvation could be reached through deeds by others, thus leaving the wheel of reincarnation.

The *bodhisattva* protects all living beings, subduing all evil and practising the six "perfections" (Skr. *pāramitā*) which are the cardinal virtues:

- (1) "generosity" (*dāna-pāramitā*),
- (2) "morality" (*śīla-pāramitā*),
- (3) "leniency and forbearance" (*kṣānti-pāramitā*),
- (4) "vigor" (*vīrya-pāramitā*),
- (5) "contemplation" (*dhyāna-pāramitā*), and
- (6) "wisdom" (*prajñā-pāramitā*).

In some lists the following four are added:

- (7) "skilfulness in transmitting the teaching" (*upāya-kauśalya-pāramitā*),
- (8) "decisiveness" (*pranidhāna-pāramitā*),
- (9) "magic power" (*bala-pāramitā*),
- (10) "knowledge" (*jñāna-pāramitā*).

Correspondingly, these perfections are realized in ten stages or layers or realms (Skr) *bhūmi*:

15 Teiser 1994; Keown *et al.* 1998.

- (1) joy,
- (2) purity,
- (3) radiation,
- (4) blazing Wisdom,
- (5) unmatched,
- (6) alertness,
- (7) unexhausted skill,
- (8) quietude,
- (9) perfect understanding,
- (10) cloud of the *dharma*.

Whereas in the first six stages a *bodhisattva* remains bound to concepts and reality, from the seventh stage onwards he no longer concerns himself with the material world. After he has finally reached the tenth stage he is consecrated with encompassing wisdom by Buddha himself. Equipped with unlimited miraculous power, he is graceful towards all living beings and helps them to salvation. By this process, in the Mahāyāna the Buddha Śākya-muni is accompanied by a number of similar divine beings, such as e.g. Amitābha, Maitreya and Avalokiteśvara, the *bodhisattva* of mercy, who in China transmutes into the female Guanyin (Jp. Kannon) as well as Mañjuśrī, the amicable and majestic *bodhisattva* of wisdom. According to Étienne Lamotte these are just manifestations of the wisdom and the mercy of Buddha. Thus these Buddhas are all identical in their “body of reality” (Skr. *dharma-kāya*) which is the teaching itself. According to Mahāyāna teaching one finds numberless Buddhas and *bodhisattvas* filling an increasing infinity of worlds.

The most prominent among the *bodhisattvas* in East Asia is Amitābha or Amitāyus (“immense light” or “immense lifespan”). He is the lord of the “Western Paradise,” the “Pure Land” (Skr. *Sukhāvātī*), who saves all who pray for help and mercy. These Mahāyāna teachings are contained in the *Prajñāpāramitā* literature as well as in the *Diamond Sūtra*, the *Heart Sūtra* and the *Lotus Sūtra* (Skr. *Saddharma-puṇḍarīka*).

The concept of the *bodhisattva* is illustrated in the parable of the burning house in the *Lotus Sūtra* (chapter 3), where Buddha instructs his follower Śāriputra on the power of “expedient means” (Skr. *upāya*):

I tell you, Śāriputra,
 you and the others
 are all my children,
 and I am a father to you.
 For repeated *kalpas*
 you have burned in the flames of manifold sufferings,
 but I will save you all
 and cause you to escape from the threefold world.
 Although earlier I told you
 that you had attained extinction,
 that was only the end of birth and death,
 it was not true extinction.
 Now what is needed
 is simply that you acquire Buddha wisdom.
 If there are *bodhisattvas*
 here in my assembly,
 let them with a single mind
 listen to the true Law of the Buddhas.¹⁶

Small and Great Wisdom

There are, however, different kinds of people, those with great wisdom and others who are not yet able to emancipate themselves from falsehood and delusion. But the Buddha as the *Dharma-King* will “bring peace and safety to living beings”.¹⁷ At first sight modern promises such as Kang Youwei’s “great community” (Chin. *da-tong*) or the program issued by Hu Jintao propagating a “harmonious society” (Chin. *hexie shehui*) are reminiscent of these Buddhist ideals. Even the *Declaration of Independence* issued on July 4, 1776, may function in the same way.

To come to a conclusion, humanism and human rights do not contradict the central teachings of Mahāyāna, but they have different intellectual and spiritual conditions. The ideas of humanism and human rights may function as “expedient means” (*upāya*) which help people find the path to salvation. On the other hand the Mahāyāna doctrine does not speak of “equally born” and thus from the perspective of Western theories of human rights Buddhism does not conform to the standard of its concept of the indi-

16 Watson 1993, p. 71.

17 Ibid., p. 72.

vidual. In the end, however, Buddhism might prove to be a better means to promote the goals of the human rights movement than Western individualistic concepts.

After a long history of folk Buddhist movements in late imperial China on the one hand and of the adaptation of Tibetan Tantric Buddhism by the Manchu emperors, China saw a Buddhist revival from which new forms of Buddhism emerged such as e.g. the Ciji group originating in Hualian in Taiwan, a Buddhist charitable organization founded in 1966 by “master” Zhengyan (born 1937), a nun hailed by some as “the Mother Teresa of Asia”.¹⁸ One of her central messages reads:

Buddha is not a god. However, all living beings in the world have the Buddha-nature. The Buddha has transcended his human nature and become a saint. He is the most respected of those who are enlightened and who enlighten others. He is the guide of true human life. [...] The truly inspiring Buddha can only be found in our hearts.¹⁹

She teaches the ability to reach perfection of everyone:

All of us can strive for enlightenment. Once enlightened, you and I can be just like Sakyamuni, Kwan-yin, and Ti-tsang.²⁰

Thus Buddhism has the potential to support humanism or it might even itself be called humanism. Nevertheless at certain times it accepted, even acclaimed the suppression of counterrevolutionaries. Holmes Welch transmitted a report on a forum in Peking in which a nun remarked

[...] that the nation’s resolve to shoot counterrevolutionaries was like coping with spinal meningitis or tuberculosis: unless one killed it quickly, one’s own life was in the greatest danger.²¹

Therefore although we might accept Buddhism as peaceful and nonviolent, in reality, “Buddhism has a complex relationship with war” and violence in general.²²

18 Zhiru 2000, p. 85.

19 Ibid., p. 92.

20 Ibid., p. 94.

21 Welch 1972, p. 287.

22 Faure 2009, p. 95.

List of Chinese Terms

Guanyin 觀音
hexie shehui 和諧社會
Hongming ji 弘明集
Hu Jintao 胡錦濤
Kang Youwei 康有為
Liu Xie 劉勰
quanjiao 權教
Weimojie jing 維摩詰經
Zhengyan 證嚴

Buddhist Responses to State Control of Religion in China at the Century's Turn

SHI ZHIRU

We recall the fate of the Lung-hua Ssu [Longhua si], an ancient and famous monastery in the western suburb of the city of Shanghai. In pre-Republican days it enjoyed wide popularity, not only on account of its architecture but also of its beautiful surroundings. In the spring its courtyards were thronged with pilgrims and children who came to worship and to enjoy the many colored peach blossom [...] Then came the revolution of 1911 and with it the battalions of new soldiers in khaki uniforms. Some were dispatched to Shanghai for its protection. But there were no barracks and the government had no money to build them. Someone with a business mind, but little capacity for spiritual values, suggested that the commodious equipment of the [Longhua si] was available and the army could have it for a song, for the monks were powerless to resist. And so one morning soldiers came, turned out the monks, and established themselves there. That was eight years ago and the khaki-uniformed soldiers are still there. The droning voices of the bonzes in their chanting, the temple bells, and the footsteps of the pilgrims in spring time have all disappeared and in their place one hears the mingled notes of bugle and drum and their measured thud of soldiers' boots resounding in the yards as they practiced the goose-step to the rhythm of the "left-right" of the leader. A sight which one can hardly forget on entering the hall is to see, in place of the beautiful tapestries, candle sticks, kneeling stools, and burning lamps — the paraphernalia of worship and adoration — the entire floorspace crowded with stacks of rifles with shining bayonets, soldier-kits, and camp-beds — the paraphernalia of war and destruction. But in the center there remains the majestic image of Buddha, seated on a raised platform, with the serene and

unperturbed face, looking down upon the strange sight with infinite pity for poor humanity thus gone astray.¹

This passage describes the Longhua Monastery (Chin. Longhua si, “Dragon-flower Monastery”) in the aftermath of the Revolution that established Republican China following the last Qing emperor Puyi’s (1906–1967) abdication in February 1912. The author, Bishop Tsu, furnishes a fascinating glimpse of Buddhism in China during her transition to political modernization as the Qing imperial state finally crumpled under the weight of external foreign powers (the West and Japan) and internal civil uprisings to give birth to the Republic of China (1912–1949). Besides Longhua Monastery, other monasteries and temples possessing extensive facilities suffered similar plights during this era.²

As further evidence of heightened state intervention in religious activities, in 1915, the Republican Parliament headed by Yuan Shikai (r. 1912–1916) passed a bill titled “Regulations for the Control of Monasteries and Temples” (Chin. *Guanli simiao tiaoli*). Comprising thirty-one articles, the bill imposed state censure on ordination, public speaking, reception of guests, and even allowed the government to dismiss those abbots deemed to have violated monastic precepts.³ While the bill was actually in effect for too short a duration to have real impact in practice, it did index the mounting political pressures under which the *saṅgha* lived out their religious practices at the turn of the century. In other words, prior to the reli-

1 Tsu 1921, pp. 497–512.

2 Holmes Welch’s (1967, 1968) works are still the best sources in English on this topic. Note that much of my information on Buddhism in this period is based on Welch (1968). His research suggested that revolutionary forces occupied Guangxiao monastery (Chin. Guangxiao si, in northern Jiangsu) and Jinshan monastery (Chin. Jinshan si, in Zhejiang) at different junctures in the Republican period. See Welch 1968, pp. 145–152. For a study in Chinese on Buddhism in this period, see Shi (1974). For a detailed study in Chinese on the modern Buddhist persecution, particularly in relation to state policies on monastery landholdings, see Huang 2006.

3 For a close analysis of these policies, see Huang 2006, pp. 208–254. Cf. Welch 1968, pp. 38–39 and 137–138. This bill was further revised in 1921 into a document of twenty-four articles titled “Revised Regulations for the Control of Monasteries and Temples” (Chin. *Xiuzheng guanli simiao tiaoli*).

gious persecution that took place under Communist rule, Buddhists already felt a spiraling urgency as to the fate of their religion, given the historic transformations brought by the encounter with modernity.

The overwhelming sense of a growing Buddhist crisis engendered salient expressions of Buddhism during the Republican period that would be crucial for Buddhist survival under the threat of religious persecution during Communist rule. This paper analyzes two different kinds of Buddhist responses generated by a religious crisis that was profoundly embedded within the social and political restructuring of the state at the turn of the twentieth century. The modern Buddhist crisis really began with state violation of monastic property rights, and rapidly expanded to other areas of religious life like the rights to ordination, to perform particular religious services, and ultimately to practice the religion. This paper thus contributes to the understanding of "Buddhist Approaches to Human Rights" (the theme of this volume) by discussing an important facet of human rights, namely, religious rights. It examines the different paradigms religious leaders undertook during the Qing-Republican transition as measures to protect Buddhist rights against antireligious state policies and to ward off the possible extinction of their religion in the encounter with modernity. While the two Buddhist paradigms appear, on the surface, to be dichotomized, there really exist significant overlaps and a certain degree of fluidity between them, so that it is more useful to see them as prominent tendencies in a continuum, rather than sharply demarcated polarities. During this critical phase Buddhist leaders came forward to sow the seeds for formative visions of Buddhism that have continued today to inspire the practices of Chinese Buddhist communities outside China, most prominently in Taiwan, as well as the current resurgence of Buddhism in mainland China.⁴

Buddhism and State Relations

As already indicated, the modern Chinese Buddhist crisis really began with state confiscation and borrowing of monastic land, the full impact of which can only be understood against the long his-

4 On the current resurgence of Buddhism in mainland China, see Zhe 2004.

tory of Buddhist institutional dependence on the imperial court and state for patronage and protection to ensure its prosperity. In India, the religious vocation was privileged as a sphere beyond secular law and rule so that all religious institutions were naturally exempted from taxation, criminal law, or paying obeisance to the ruler and his court. Arriving in China at the turn of the Common Era, the practices and assumptions of Indian Buddhist monasticism immediately ran headlong against a different concept of religious-political rulership: for the Chinese people and the predominantly Confucian court members, their sovereign (or monarch) was the "Son of Heaven" (Chin. *tianzi*) whose political rule was divinely mandated by Heaven (Chin. *tianming*), so that the ruler naturally commanded respect from all classes of people, even religious clerics. The clash of Buddhist practices with Sinitic political ideology is particularly documented in a court petition titled "Treatise On Why The Monk Need Not Bow To The Ruler" (Chin. *Shamen bujing wangzhe lun*), composed in 404 by the aristocratic, learned monk Huiyuan (334–416).⁵

To facilitate state vigilance over Buddhist activities, a hierarchy of monastic officials was introduced during the Northern Wei rule (386–585), which perpetuated through the centuries with occasional revisions until the Qing period (1644–1912).⁶ State *saṅgha* officials administered a range of religious affairs such as the dispensing of ordination certificates, the registration of monasteries, temples, and monks, as well as the issuance of travel permits for monastic travel, all of which were conduits for policing and limiting religion. With state control the religion also received patronage and protection. From time to time, the state also took steps to downsize, and even confiscate, properties belonging to Buddhist monasteries and temples, often redirecting the assets to state use in order to curb the growth of the Buddhist institution. Throughout Chinese history, the state powers oscillated between a deep-rooted paranoia of Bud-

5 The *Shamen bujing wangzhe lun* is collected in the "Records to Propagate and Clarify (the Teachings)" (Chin. *Hongming ji*), compiled by Sengyou (445–518); see T. 2102: 52.1a–95b. For an English translation of this treatise, see Hurvitz 1957, pp. 2–36. For further discussion of its role in church-state relations of the early medieval period, see Zürcher 1972, pp. 231–239. For a study of modern developments, see Zhe 2004.

6 For a study of the *saṅgha* official institution, see Shi 1981.

dhism as a breeding ground for sedentary movements and parasite on the state's resources, on the one hand, and on the other, an equally strong desire to endorse Buddhist activities, if only to secure spiritual protection for the state's prosperity and the ruler's welfare.

While state patronage was certainly one of the reasons for the flourishing of Buddhism in China, it also inevitably placed the monastic establishment at the mercy of state policies that often operated against its favor. The most important examples are indubitably the Four Buddhist Persecutions, which were wholesale suppression of Buddhists carried out on four occasions from the fifth through the tenth century by four Chinese emperors. Later Buddhist historians called them "The Buddhist Persecutions by the Three [Emperors] Wu and the One [Emperor] Zong" (Chin. *sanwu yizong fa'nan*), named after the emperors who decreed the persecutions.⁷ A variety of factors contributed to these persecutions of Buddhists, among which were economic reasons (fear of the growing power of the Buddhist monasteries, or a perceived need to strengthen the state monetary and land assets), as well as anti-Buddhist sentiments incited by religious rivalry, especially from the other two great traditions, religious Daoism and Confucianism. Very often, the anti-Buddhist measures, couched in phrases like "to abolish Buddhism" (Chin. *fei fo*) or "to exterminate Buddhism" (Chin. *mie fo*), included the destruction of Buddhist texts, Buddha images, and a forced laicization of the monastic community that was intended to reduce the Buddhist population, sometimes simply to acquire more labor or military resources for the state. Consequently, for Chinese Bud-

7 Historians refer to these infamous persecutions as the "Four Great Buddhist Persecutions" (Chin. *si da fa'nan* or *sanwu yizong fa'nan*). Zhipan (fl. 1258–1269) discusses the persecutions in his work "Genealogy Record of Buddha Patriarchs" (Chin. *Fozu tongji*), T. 2035: 49.392–393. The first three persecutions were decreed by emperors with the name of Wu: first in 446–452 by emperor Wudi of Northern Wei; the second in 573–578 by emperor Wudi of Northern Zhou; the third in 845–847 by emperor Wuzong of Tang Dynasty. The fourth persecution happened in 955 during the reign of emperor Shizong of Latter Zhou during the Five Dynasties. As J.J.M. de Groot (1903, vol. 1, p. 16) has pointed out in his classic study of sectarianism and religious persecutions in China, "Buddhism has always had much more to suffer from the anathema of the State than Daoism".

dhists, a religious crisis was incontrovertibly bound to adversarial political circumstances and state persecution.

Another related concept was the neologism “Final *Dharma*” (Chin. *mofa*), which describes the demise of Buddhist teachings in an era when the Buddha had long since entered *nirvāṇa* and all semblances of the monastic community had disappeared. According to modern scholarship, while references to the decline of Buddhism were present in Indian literature, the systematization of this decline into a threefold periodization — “Correct Teachings” (Chin. *zhengfa*), “Counterfeit Teachings” (Chin. *xiangfa*) and “Final Teachings” (Chin. *mofa*) — particularly the final phase of *mofa* — was most likely articulated in medieval China, particularly the final phase, *mofa*.⁸ These teachings of the decline of Buddhism were prompted no doubt by an overwhelming spiritual urgency felt by early medieval Buddhists who suffered and mourned the deplorable destruction the consecutive state persecutions brought to their religion.

Strictly speaking, the persecution of Buddhists in modern China in the sense of *fā’nan* (like the “Four Buddhist Persecutions” in the medieval period) only happened during Communist rule. But prior to this, waves of land confiscation by the state as well as spreading socio-political instability in the face of modernism and external threats from the West and Japan already augmented the crescendo which culminated in scenes of mass religious persecution. In the name of Cultural Revolution the Communist government, convinced that “religion is opium,” took on massive anti-religious measures: not only did they destroyed Buddhist architecture, images, and texts, they further implemented land reforms to abolish monastic ownership of land, and reinforced the laicization of monks and nuns.

8 In the translations of *sūtras* by the Central Asian monk Dharmarakṣa, the term “Final Age” (Chin. *moshi*) is used to translate the Sanskrit word *paścimakāla* which means “latter age”. However, the term “Final *dharma*” (Chin. *mofa*) does not occur in these translations of Indian works. Hence modern scholarship argues that the concept *mofa* was most likely coined in China in response particularly to the massive state persecutions. On the appearance of the term *mofa*, see Nattier 1991; Hubbard 1996.

From Land Confiscation to Antireligious Measures

State expropriation of monasteries and landholdings were to definitively shape the Buddhist crisis, and the Buddhist responses discussed later are in fact originally linked to the threat of the state seizure of monasteries and landholdings. Land confiscation actually began in the waning years of the Qing dynasty (1644–1912). In 1898, a proposal to the Qing court composed by the Hunan Province governor-general Zhang Zhidong (1837–1909), titled “Essay on Exhortation to Learning” (Chin. *Quanxue pian*), argued for governmental confiscation of up to seventy per cent of landholdings and assets belonging to Buddhist and Daoist monasteries for state educational reform.⁹ The court adopted the proposal and pronounced a decree permitting local authorities to convert into “schools” (Chin. *xuetang*) those temples that no longer performed ancestral rites. Records suggest that religious sites were deployed for setting up not only modern schools, but factories as well. Although this decree was briefly retracted in 1905, the policy was reinstated later in the same year when official abolition of the civil examination meant local authorities had to bear the institutional and monetary provisions for public education in a rapidly dwindling state economy.¹⁰ Again, religious sites with extensive landholdings and vacant architecture invited preying eyes! This state violation of religious rights to properties and land ownership must have greatly alarmed the monastic communities, since it would have signaled to them that the government increasingly viewed Buddhism as possessing negligible social utility in a modern world. In

9 Zhang basically echoed sentiments that were already voiced by others, for example Kang Youwei. Zhang’s contribution was to work out a precise calculation of the distribution of income, proposing that seven out of ten “Buddhist monasteries” (Chin. *fosi*) and “Daoist temples” (Chin. *daoguan*) should be turned into modern “learning academies” (Chin. *xuetang*), with seven tenths of the income from their agricultural fields redirected to subsidize the costs of running the schools. The monks should be left with only three tenths of their landed income. See Huang 2006, pp. 75–132.

10 For example, in his biography, the monk Xuyun registered a wave of confiscation of Buddhist monasteries during the winter of 1905–1906 (Luk 1988, p. 67).

fact its extensive landholdings and assets might have seem to impede the modernizing of Chinese society since they occupied badly needed ground space and resources for building public economic and social institutions, or modern transportation. Qing-Republican Buddhist leaders would have felt particularly dismayed given that these land and asset troubles were coming on the heels of the repeated blows Buddhism recently suffered from the widespread civil rebellions against Qing rule, the most severe of which was the Taiping rebellion (1850–1864), a millenarian movement which ingeniously amalgamated traditional Chinese eschatology with Christian messianism.¹¹

When the revolutionary armies entered the scene in 1911, the military seizure of monastic buildings and landholdings described by Bishop Tsu became all too common and perpetuated throughout the Republican era (1912–1949). After the founding of the Republic warfare did not cease. Instead, the nation was plunged into consecutive wars: further revolutions, the return of Warlords, the Sino-Japanese War (1927–1937), and the Chinese Civil War (that is, the Nationalist-Communist War, 1927–1950) with the Communists emerging as the final victors who founded the People's Republic of China in 1949. All through the Republican Era, confiscation or borrowing of Buddhist properties was widespread, especially in the outlying provinces, notably in Canton (Guangdong Province), the seat of revolutionary thought, where Sun Zhongshan (1866–1925, also known as Sun Yat-sen) urgently needed resources to fortify and maintain his troops. Moreover, Sun's accomplices and followers, who were frequently antireligious in outlook, were especially fervent in stamping out superstition. One description of the situation in Guangdong tells us:

In the ensuing years most of the large monasteries and small temples of the city were confiscated, sold, or demolished. Heavy taxes were imposed

11 The Taiping rebellion was headed by Hong Xiuquan (1813–1864), a frustrated scholar of the Hakka minority who repeatedly failed the imperial examinations. Converting to Christianity, he had visions of himself as the younger brother of Jesus Christ and formed a religious movement, an ad hoc mixture of indigenous Chinese eschatology and Christian salvation, and soon after put together an army to challenge Qing rule.

on the fees charged by monks for mortuary rites and even on the tinfoil used in making the paper images that were burned for the benefit of the deceased. These antireligious levies became so pervasive that in 1924 an Italian flag was seen on a paper automobile to save it from confiscation in hell. The government was indifferent to religious sensibilities. For example, in order to free land for agriculture, a mass exhumation of graves was ordered in the countryside around [Guangdong Province]. Despite the popular reluctance to disturb ancestral bones, this was ruthlessly carried out.¹²

As the revolution army marched northward to take over the rest of China, the troops continued on this path of destroying religious culture wherever they went. Monasteries were demolished; "idol" images were smashed; and religious buildings and land were seized to make way for schools, police stations, agricultural projects, or other public welfare establishments.

In 1928, the first Society to Abolish Superstition was established in Beijing, and soon after, similar societies appeared in Zhejiang, all of which had the agenda to cause the government to laicize the monastics, abolish Buddhist rites for the dead, and ban the use of talismans, amulets, and such type of "superstitious" objects.¹³ Factionalism occurred in the revolutionary army that resulted in the expulsion of the Communists by the conservative strand in the Nationalist government. Although the surge to suppress superstition gave way in 1929 to policies of religious tolerance and protection of religious architecture, destruction and infringement of Buddhist properties and images persisted in those regions outside Nationalist rule. Moreover, the Sino-Japanese War (1927-1937) brought yet another tide of large-scale destruction throughout the country. Metal images were melted down to make bullets; Buddhist monasteries and lands were again borrowed by the state for various administration or military purposes. For example, the Longhua monastery, in Bishop Tsu's description, remained in the hands of one batch of troops or the other until the end of the Sino-Japanese War. The Jinshan Monastery (Chin. Jinshan si, "Golden Mountain Monastery"), a renowned Buddhist monastery in Zhejiang, was evidently occupied by Nationalist troops who even used the facilities to house Japanese prisoners at one juncture.¹⁴ Monasteries and temples were also ravaged

12 Welch 1968, pp. 147-148.

13 Ibid., p. 151.

14 Ibid, p. 145.

by the wars. Japanese bombing particularly targeted and inflicted severe damage upon religious buildings that were converted for state purposes.

Under imperial rule, the Buddhist communities had enjoyed state protection while subjecting itself to state regulation. However, with the birth of modern China in the Republican Era, absence of state protection critically undermined the stability of the religion. Under Nationalist rule, the government repeatedly issued policies (for example, 1931, 1936, and 1946) to ensure some degree of protection for Buddhist monasteries, especially against the frequent land encroachment by local authorities or sometimes even selfish abbots. Moreover in 1930, 1935, and 1946, the government passed a law to prevent local authorities from levying taxes on the performance of Buddhist rites for the dead. Despite these state laws, the actual situation was usually more in the hands of the local authorities since the centralized government was undermined by the incessant warfare of that period. Local officials were faced with the real pressure of finding space to set up schools and other public institutions in their areas, very often with minimal assistance from the central government; hence they frequently chose to ignore the revised policies and continued the borrowing and confiscating of monastic properties for public use.

In short, the Buddhist communities in the Republican period faced a religious crisis that included state encroachment on monastic properties, threats of laicization and persecution, all of which were compounded by the ravages of incessant warfare. While violation of property and religious rights are not yet as serious as they would become during the Cultural Revolution under the Communist rule, the Republican Buddhist leaders must have felt a profound urgency to locate means to ascertain the survival of their religion in the changing circumstances of modernity. Throughout this period, China endured intense political turmoil, social conflict, and cultural clashes. In the late Qing period, the expansive presences of Western and Japanese powers already signaled the tides against the collapsing imperial authorities.

As Western economics, knowledge, rationality, and science infiltrated Chinese society, China had to rapidly redefine itself in a modernizing world after centuries of deep entrenchment in the traditional cultural, ideological, and social practices of imperial rule. Exhortations to transform "an Old China" into "a New China" echoed throughout intellectual, literary, and political discourse, as leaders

emerged in multiple spheres to articulate new visions of a progressive China which would assume a critical role on the global landscape, while still preserving its traditional strengths. In this fermenting environment, one controversy that was repeatedly debated was the place of religion in modern China. Revolutionary thought in general, particularly pro-Marxist thought, tended to see religion as superstition or even opium that ultimately numbs the faculty of rational discrimination. Nonetheless, during the Qing-Republican transition, Chinese intellectuals like Kang Youwei (1858–1927), Liang Qichao (1873–1929), and Tan Sitong (1865–1898) remained partial to Buddhist thought, considering it to be more favorably disposed to modern, objective rationality while possessing Asian habits of mental cultivation and moral behaviour.¹⁵ For several thinkers, given Buddhism's long history in China and (for them) its relative compatibility with modern society (over and against Christianity, the religion of the West), it had true potential to become the unique Chinese contribution to global cultural and intellectual conversations in a modern world.

Buddhist Responses: Progressive Intellectuals and Modernist Visions

In response to the tenuous intellectual and political climates, there arose in Qing-Republican period a cluster of lay and monastic advocates for reforming and modernizing Buddhism for a “New China”. To a greater or lesser extent these leaders readily incorporated modernist tendencies, frequently Western elements, into their visions of a new Buddhism. Among the laymen the most representative is Yang Wenhui (1837–1911), who spearheaded the “Jinling Sūtra Publishing House” (Chin. Jinling kejing chu), and also brought back from Japan three hundred *sūtra* texts which had been lost in China.¹⁶ In addition, he was very active in establishing centers for modern studies of Buddhist texts, such as the “Jetavana Hermitage” (Chin. Zhihuan jingshe) built in 1908 at the site of his Publishing House and the “Buddhist Research Society” (Chin. Foxue yanjiu hui) founded in 1910. Yang was therefore a pivotal figure in the beginnings of modern Buddhist studies in China, and his centers of modern Buddhist

15 Chan 1985, pp. 37–49; Pittman 2001, pp. 67–68.

16 For Yang Wenhui's biography and work, see Lou 1996; Zhang 2004.

learning attracted students who would become major thinkers in modern Chinese intellectual history like Zhang Taiyan (1868–1936), Tan Sitong, and the reformist monk Taixu (1890–1947).¹⁷ On account of Yang's Buddhist publishing and learning enterprises, major figures in the intellectual and political thought came into contact with Buddhist philosophy. A resurgence in the study of Chinese Yogācāra, including interest in comparing the Buddhist Mind-Only teachings with Western philosophy of Idealism, documents the intellectual creativity and energy that arose from Buddhist efforts to find a place for the religion in a volatile intellectual and socio-political environment. Comparative efforts to align Buddhist thought with science also occurred as part of this type of intellectual endeavors. These publishing missions and study groups kept alive and even reinvigorated Buddhist intellectual history during the challenging times.

Among the monks who advocated reforms, a group of revolutionary monks appeared during the late Qing who supported the anti-imperial sentiments and joined the revolutionary forces, much to the chagrin of the Buddhist orthodoxy. This circle of monks were versed in the so-called “new learning” of the time, particularly the political writings of modern Chinese intellectuals like Kang Youwei, Liang Qichao, Tan Sitong, and Zhang Taiyan, and even Chinese translations of Western writings such as Yan Fu's (1854–1921) translations of Thomas Huxley's *Evolution and Ethics*, Adam Smith's *Wealth of Nations*, John Stuart Mill's *On Liberty*, and Herbert Spencer's *Study of Sociology*.¹⁸ However, this phenomenon was ac-

17 For all these reasons, Yang Wenhui has been frequently hailed as the “Father of the Modern Buddhist Renaissance”. On Buddhism in intellectual circles and the political thought of the Qing period, see Chan 1985.

18 Yan Fu was a Chinese scholar and translator who studied at the Fuzhou Navy Administration Academy (Chin. Fuzhou chuanzheng xuetang) in Fuzhou at Fujian Province. He also spent two years (1877–1879) studying at the Navy Academy in Greenwich, England. After 1896, he supervised several translation institutes operating under central and local government authority, and following the fall of the Qing dynasty in 1911, he was appointed president of the Capital Municipal University, later known as the University of Beijing. For a study of Yan Fu, see Schwartz 1964.

tually short-lived. More lasting contributions would come from the monastic reformers who envisioned new expressions of Buddhism, particularly institutional changes, to ensure that Buddhism did not become outmoded and irrelevant within the emerging "New China" in a new world order. Among these figures is the activist and reformer monk, Taixu from Zhejiang, one of Yang's students at the Jetavana Hermitage.¹⁹ In his early days as a monk, Taixu joined the activities of the revolutionary monks and for a time held a firm conviction that anarchism was compatible with Buddhism and should be implemented as *the* political system for the emerging "New China".²⁰ Reading Tan Sitong's "Learning of Benevolence" (Chin. *Renxue*), Taixu was persuaded that the world must rely on "Buddhist learning" (Chin. *foxue*) for its liberation; thereon he dedicated himself to a lifelong cause of reforming Buddhism "to save the world" (Chin. *jiu shi*).²¹ He would in time become disillusioned with political revolutionary thought, and after three years of "secluded retreat" (Chin. *biguan*) at Mount Putuo, reemerged to propound Buddhist reforms across the spheres of doctrine, education, and institution in order to prevent Buddhism from the fate of becoming obsolete at the dawn of modernity in China.²²

Taixu and other reformer monks all had to address the intellectual, institutional, and political problems that Buddhism encoun-

19 Among the works in English on Taixu, the most important is a book-length monograph by Pittman 2001. For a study in Chinese, see Guo 1996.

20 Yinshun 1998, vol. 29, p. 194. Also see Jiang (1993) for his discussion of Taixu's early days. The most popular standard source for Taixu's life is the biography compiled by Yinshun (1950).

21 Taixu, for instance, declared: "At that time I firmly believed that my accomplishments in Buddhism together with the 'new' knowledge would be adequate for me to save the world. The next year Master Eight Fingers and I worked on the *Saṅgha* Education Association." (Yinshun 1998, vol. 21, p. 348). Taixu (1978, pp. 115-125) also delivered a lecture titled "The Spirit of Salvation in Buddhist Teachings" (*Fofa jiushi zhi jingshen*). For an English translation of the *Renxue*, see Chan 1984.

22 Unable to win the Buddhist community over to his ideas, and further devastated by the outbreak of the First World War and the war-torn state of China, Taixu retreated in October 1914 to Mount Putuo where he remained for three years in self-imposed reclusion.

tered during the Qing-Republican period. Institutional and educational reforms were particularly key components that very often were really introduced first as counter measures to state expropriation of Buddhist properties. The “public monasteries” (Chin. *conglin*) drew up four strategies to halt the government from seizing monastic land to set up secular education: (1) voluntary provision of funds and space to reduce the extent of confiscation; (2) establishing secular schools of their own initiative in the hope of diverting confiscation; (3) implementing schools for monastic education, including those created with the help of Japanese missionaries; (4) provision of funds and space for a secular school, while sending monks to Japan to learn Japanese monastic education in preparation for setting up their own monastic schools.²³

Up to the Qing period, monastic education had been fairly loosely conceived, and the study of Buddhist texts was really built around a tradition of apprenticeship where younger monks would learn “*sūtra* lecturing” (Chin. *jiang jing*) from a senior, experienced monk.²⁴ Buddhist teachers traditionally specialized in one or more Buddhist *sūtras*, or a particular set of Buddhist literature like the *vinaya*, the code of monastic discipline. In this format the agenda was to train and prepare preachers for proselytizing and lecturing on *sūtras* to lay and monastic audiences. The aspirant usually sought out eminent masters for teachings, or went for intensive training at renowned monastic centers. Young monastics aspiring to teach would travel from site to site to listen to sermon expositions by eminent specialists and study under them. The modern “Buddhist seminary” (Chin. *foxue yuan*) with a fairly comprehensive curriculum that taught foreign languages and secular subjects was thus really an invention of this period; it was conceived as part of a re-

23 Huang 1991, pp. 300–301. For example, in 1904, the Japanese Buddhists Mizuno Baigyō and Itō Kendō helped the Kaifu Monastery (Chin. Kaifu si) in Changsha (Hunan Province) to set up the “*Saṅgha* Normal School” (Chin. Seng shifan xuetang), which was structured after Japanese Buddhist schools. Another similar school, also based on the Japanese model although not explicitly affiliated with Japanese missionaries, is the “Normal *Saṅgha* School” (Chin. Putong seng xuetang) at Tianning Monastery (Chin. Tianning si) in Yangzhou. See Huang 2006, pp. 101–121; Welch 1968, p. 13.

24 For a more detailed description of this traditional system of training Buddhist preachers, see Welch 1968, pp. 105–109.

structuring of *saṅgha* training under the influence of Western and Japanese models of public education. This new educational system was designed to train monks to spread the faith, to fortify a lay Buddhist movement, and also to persuade a broader audience that Buddhism was a component of Chinese culture worth preserving. The re-visioning of monastic education included physical renovation: the monasteries installed modern facilities for the seminary, often fashioned after the Western classroom with chalkboards, chairs, and tables. In many ways, the new *saṅgha* schools could be traced to the kind of “new” Buddhist education introduced by Yang Wenhui at his Jetavana Hermitage, and resonated with the kind of new secular schools associated with the modern educational reforms that arose following the disintegration of the traditional imperial system.

Taixu strongly argued for revolutionizing *saṅgha* education and introduced educational reforms to radically revise the curricular and organizational structures of monastic learning.²⁵ As part of these grand schemes of educational reform, he proposed reducing the size of the monastic population, the number of which he continuously adjusted over the years. By 1930, he proposed the ideal size to be twenty thousand, five thousand of whom would be students, with twelve thousand *bodhisattva* monastics and three thousand elders.²⁶ He designated specific roles to the *bodhisattva* monastics: five thousand to propagate Buddhism through public preaching and teaching; three thousand to serve as administrators in Buddhist educational institutions; fifteen hundred to engage in Buddhist charitable and relief work; fifteen hundred to serve as instructors in the monastic educational system; and one thousand to participate in various cultural affairs. Moreover, Taixu envisioned a *saṅgha*-operated nationwide system of Buddhist schools to replace the secular education that was taking shape in modern China. He mapped out a statistical distribution of schools of different grades for counties and provinces, ranging from a Buddhist primary school in each county to a Buddhist university in every three

25 Taixu's own writings on monastic educational reforms are mostly collected in vol. 9 of “Complete Writings of Master Taixu” (Chin. *Taixu dashi quanshu*). For a discussion of the background to Taixu's proposed reforms on Buddhist education, see Jiang 1998, pp. 439–471. For a treatment in English, see Pittman 2001, pp. 229–236.

26 Yinshun 1998, vol. 9, p. 479.

provinces.²⁷ The precise specification of statistical and geographical distribution, as well as the occupational roles, most likely imitated the style of proposals for reforms in secular education like Zhang Zhidong's "Essay on Exhortation to Learning" which was mentioned earlier.

Furthermore, in order to combat state infringement on religious rights, the Buddhist monasteries, which until the Qing period had stayed fairly independent of each other, rallied together to form national associations as a forum to lobby against detrimental government policies. Early in his career, while he was still in the company of revolutionary monks, Taixu was already involved in forming the "*Saṅgha* Education Association" (Chin. Seng[qie] jiaoyu hui), which promoted systematic education for the monastics.²⁸ After the founding of the Republic of China, Taixu and other progressive monks attempted to set up the "Association for the Advancement of Buddhism" (Chin. Fojiao xiejin hui) with plans to make the well-endowed Jinshan Monastery its headquarters and to set up a modern monastic school as part of *saṅgha* educational reform.²⁹ These plans were made on the socialist assumption that monastic properties and landholdings should be considered the common property of all Buddhists, and should therefore be employed for the public welfare and for the education of Buddhist communities. However, the residential monastic community at Jinshan saw Taixu and his affiliates as staging an illegal seizure of their monastic landholdings, reminiscent of the hostile military and government officials' actions, so they rioted against what they took to be an intrusion on their property rights.³⁰ Taixu commented on the failure:

The Association's charter did contain the socialist revolutionary notion of using Buddhist property to operate a public Buddhist enterprise but it was supposed to be a peaceful, progressive step.³¹

27 Taixu 1998, vol. 9, pp. 481–482.

28 Yinshun 1998, vol. 21, pp. 348.

29 For Taixu's views on national Buddhist associations, see his essays (Yinshun 1998, vol. 9, p. 328–459). For a general discussion of the role of Buddhist associations, see Welch 1968, p. 26–27.

30 On the Jinshan incident, see Jiang 1993, p. 114; Pittman 2001, pp. 74–77; Welch 1968, pp. 33–34.

31 Yinshun 1998, vol. 29, p. 201.

This incident earned Taixu the implacable ire of the conservatives among the Buddhist ecclesiastics. Besides this Jinshan incident, there were several other attempts to establish national Buddhist associations but it was not until 1912 that a "Chinese Buddhist Federation Association" (Chin. Zhonghua fojiao zonghui) was successfully formed which collaborated with Sun Zhongshan's government.³²

Taixu's doctrinal reforms tackled yet another major criticism of Buddhism in this period – the accusation that Buddhists, rather than engaging actively with the living world, were preoccupied with only the realm of the dead. Revolutionary and Communist leaders often frowned on ritual and images as "superstition" which ought to be eradicated. Reformist Buddhists reacted by sharply demarcating a true Buddhist core from a degenerate, ritual Buddhism, in a manner parallel to the Lutheran reforms in the history of Christianity which distinguished a text-based Protestantism from a ritual-centered Catholicism. Taixu, for instance, argued that over the course of its history in China, Buddhism lost its original purpose and became inextricably associated with death and after-life rites, particularly preparation for rebirth in the Western Pure Land of Amitābha Buddha. Just as the intellectual, political, and social orders in China had to rearticulate themselves for a new era, Buddhism would need to revolutionize in order to retain critical roles in a "New China". Toward this goal, Taixu introduced "Buddhism for the Human Life," a teaching designed to re-orientate the locus of Buddhism away from death and the afterlife to the living world of human society.³³

A cornerstone in Taixu's doctrinal framework is his interpretation of the "Human Vehicle" (Chin. *rensheng*) for modern society. He adopted the traditional division of Buddhist history into three periods, to which he then assigned different teachings and practices.

32 Yinshun 1998., p. 203; vol. 26, p. 260.

33 On *rensheng fojiao*, see Taixu's 1928 lecture "Discourse on Buddhism for Human Life" (Chin. "Rensheng fojiao de shuoming") in Yinshun 1998, vol. 2, pp. 205–216; also his 1946 lecture "Buddhism for Human Life" (Chin. "Rensheng de fojiao"; Yinshun 1998, vol. 2, pp. 238–242).

- During the period of the “True *dharma*” (Chin. *zhengfā*), one relies on the practices and attainments of the “Hearers’ Vehicle” (Skr. *śrāvaka*, Chin. *shengwen sheng*) to progress to the “Great Vehicle” (Skr. *Mahāyāna*, Chin. *dasheng*).
- During the period of the “Counterfeit *dharma*” (Chin. *xiangfā*), one relies on the practices and attainments of the “Heavenly or Deva Vehicle” (Chin. *tian sheng*) to progress to the “Great Vehicle”.
- During the period of the “Final *dharma*” (Chin. *mofā*), one relies on the practices and attainments of the “Human Vehicle” to progress to the “Great Vehicle”.³⁴

Taixu thus identified modernity as the period of the Final *dharma* and the “Human Vehicle” the expedient (*upāya*) teaching for this era. It is not coincidental that Taixu equated the age of modernity in secular history to the period of *mofā* in Buddhist history as previously indicated, *mofā* was introduced in the medieval period in connection with state persecution of Buddhists, so that the association would have appeared natural given the threats the state posed to the religion in early modern China. In pre-modern usages, the “Human Vehicle” and the “Heavenly Vehicle” are lower teachings emphasizing the accumulation of good *karma* toward rebirth either as human or god. But in Taixu’s usage, “Heavenly Vehicle” refers specifically to otherworldly Pure Lands and Esoteric Buddhist paradises. Taixu was convinced that the “Lesser Vehicle” (to which the *śrāvaka* Vehicle belongs) and the “Heavenly Vehicle” are no longer attractive to the modern world, since practices of the “Lesser Vehicle” come across in the modern era as negative and escapist, and those of the “Heavenly Vehicle” as superstitious.³⁵ In other words, Taixu classified Buddhist teachings and practices with the goal to subordinate, or even exclude, those Buddhist elements that would potentially subject Buddhism to antireligious charges from intellectual and political thinkers in his day.

Since the core of the “Human Vehicle” really lies in the moral practices of the five precepts and ten virtuous deeds, its ethical thrust

34 Vol. 7 of Taixu’s Complete Writings presents each type of teaching according to this threefold division.

35 The dangers of these two vehicles parallel the problems he perceived in Chinese Buddhism of his times.

makes the “Human Vehicle,” or “Buddhism for Human Life” (Chin. *rensheng fojiao*), the most conducive teaching for a modern world that prized pragmatism, rationality, and scientific objectivity.³⁶ For Taixu, the ethical foundation of the “Human Vehicle” can transform this world into a “Pure Land for Humanity” (Chin. *renjian jingtu*), a social utopia in which each individual serves and benefits one’s community and nation.³⁷ Within this framework, the place to inaugurate the *bodhisattva* path is the “Human Vehicle,” the teachings of which can lead directly to the “Great Vehicle” (Mahāyāna) and ultimately “buddhahood”. Taixu referred to this *bodhisattva* paradigm as the “*bodhisattva* of Humanity” (Chin. *renjian pusa*), who is profoundly engaged with society and renders altruistic service to society as *bodhisattva* practices.

The ethical orientation of the “Human Vehicle” is essentially a social one in Taixu’s view. It is perhaps intentional that the emphasis on humanism corresponds to the ideas of Western philosophers like Bertrand Russell and John Dewey. Moreover, the roots of humanist thinking can be traced to the early Chinese concept of “humanness” (Chin. *ren*) in Confucian thought, which located human cultivation within the context of human relationships in the social realm.³⁸ The concept of “humanness” is fundamental to the Confucian rendition of the ethic of “reciprocity” (Chin. *shu*) which states: “Do not impose on others what you do not want to be done to one-

36 The five precepts prescribe abstinence from killing, stealing, sexual misconduct, and imbibing intoxicants. The ten virtuous deeds are divided into three physical actions (not killing, not stealing, and not engaging in sexual misconduct); four verbal deeds (not lying, not backbiting, not speaking evil words, and not engaging in frivolous speech); and three mental actions (lack of greed, anger, and deviant views).

37 See his 1930 lecture “Establishing an Earthly Pure Land” (Chin. *Jianshe renjian jingtu lun*), Yinshun 1998, vol. 14, pp. 431–456.

38 The Chinese character for *ren* combines the radical for “person” with the number two; as such, the character aptly signifies the meaning, that is, the common ground of humanity shared by two persons. Many of the important virtues (“filial piety” or chin. *xiao*, “reciprocity” or chin. *shu*, “patriotism” or chin. *zhong*) which the *Analec*s exalts are basically founded on *ren*, and may even be viewed as the concrete manifestation of *ren* within a particular familial or social relation.

self”.³⁹ The practice of “humanness” thus distinguishes human from brutish and other non-human behavior, and is therefore reiterated as a defining trait of humanity.⁴⁰ The innateness of “humanness” made the realization of humanism always theoretically possible. Thus Taixu’s teaching of “Buddhism for Human Life” effectively reoriented Buddhism toward the new intellectual trends of modernity while still preserving continuities with traditional Chinese morality.

Ultimately, Taixu’s progressive reforms aimed to produce a class of elite monastic leaders who, with their new learning and skills, would be best able to represent the religion, argue for and demonstrate its continued relevance in modern society. Embracing the tenets of Buddhism for the Human Life, these elitist *saṅgha* would be deeply engaged in daily society where they would provide social leadership for an increasingly learned laity.

Buddhist Responses: Spiritual Cultivation and Restoring Tradition

Besides the modernist, progressive approach, another strain of Buddhist responses approached the mounting religious crisis in the Qing-Republican period through a discourse of traditional practices and teachings often pared down to one particular method, the choice of which varied for each proponent. This category is largely made up of eminent monks, all of whom had claims to traditionally constituted training and spiritual realization, which earned them the deep respect of both lay and monastic communities. Among them the most prominent figures included the Chan master Xuyun (1840–1959), the Pure Land master Yinguang (1861–1940), and the *vinaya* master Hongyi (1880–1942). For Yinguang, Pure Land practice was the “singleminded recollection of the Buddha” (Chin. *yixin nianfo*); for Xuyun, Chan practice was the silent contemplation of “Who is the one recollecting the Buddha?” (Chin. *nianfo shi shui*).⁴¹ For Hongyi, rigorous observance of the monastic discipline was his criti-

39 *Analects* 12.2 and 15.23.

40 Comparable, for instance, to Epicureanism in ancient Greece, which extended brotherly love to embrace all humankind, manifesting in a love of the human race known as *philanthropia*.

41 For Yinguang’s Pure Land method, see Jiang 1998, pp. 417–427.

cal practice. It should be noted that like other periods in Chinese Buddhist history, the Qing-Republican eminent practitioners were syncretic in their religious observances; Xuyun and Yinguang, for instance, drew on and combined both Pure Land recitation and Chan meditation into their practice.

Unlike the progressive intellectuals who promoted worldly engagement and sought to “modernize” Buddhism with new knowledge and resources coming from outside of China, eminent renunciate monks adamantly insisted on returning to “tradition” and steadfastly reiterated how traditional Buddhist teachings and practices still had a place within the fast changing society and historical circumstances. Monasticism was still at the core of these visions, although they were adapted to an expanding laity who usually congregated around and relied on distinguished monastic practitioners for teachings and guidance. These visions rhetorically endorsed the traditional Buddhist rejection of the world that was the basis for monasticism. Although it is tempting to polarize the two groups into progressive versus conservative, it should also be noted that the seemingly “conservative” approach did not totally reject modern innovations and changes, despite its strong rhetoric on the preservation of “tradition”. Despite their rhetoric of world withdrawal, they participated, for instance, in founding national Buddhist associations which provided a forum for safeguarding Buddhist interests and lobbying against those governmental policies that violated Buddhist rights. Some of these monks also endorsed and participated in *saṅgha* educational reforms.

Through his life and work the eminent monk Xuyun embodied the range of diverse activities undertaken by members of this group. A salient component of Xuyun’s contribution is his restoration of dilapidated monasteries during this critical period of history. Besides the natural toll of time, the protracted borrowing and confiscation for state use, as well as the consecutive wars beginning from the late Qing, meant that the monasteries and temples endured much damage and urgently required repairs or even full scale restoration. Xuyun’s first major restoration work happened in 1904 when he was visiting at Jizu Mountain (Chin. Jizu shan, “Cock’s Foot Mountain”) in northern Yunnan Province. At that time, all the temples and monasteries had become hereditary temples that were passed on by individual monks in the same lineage; the big public monasteries, traditionally regarded as the common

property of all the *saṅgha*, no longer existed so that pilgrims had no place to stop and rest for the night. To remedy the problem Xuyun tried to build a shelter for the pilgrims, but the hereditary temples vehemently opposed the plan. Eventually with help from the laity in Dali, including some high-ranking officials, Xuyun was able to obtain rights to a ruined temple, the Boyu Hermitage (Chin. Boyuan, “Alms Bowl Hermitage”), which he began to restore. On completing the restoration, he opened the temple’s doors to pilgrims who were welcomed to take shelter there for the night. He further drew up a code of rules, instituted meditation, delivered *sūtra* lectures, and held an ordination ceremony for about seven hundred postulants.⁴²

The struggles between the hereditary and public monasteries was one of the religious institutional problems which changes in state policies on monastery landholdings in the Qing-Republican period aggravated. Due to the lack of state protection, as well as the widespread mobility within monastic communities on account of the constant warfare and impoverished conditions, numerous public monasteries had fallen into hard times and were no longer able to sustain communal life, so that opportunist abbots and other individuals in the community, looking to acquire property rights during the uncertain economic and political times, usurped the rights to these public religious properties and transformed them into hereditary temples. As Xuyun’s biography reveals, the state of Buddhist institutions was an acutely sore point for this eminent monk who associated the golden age of Buddhism with the flourishing of public monasteries which functioned as major centers of monastic training and religious practice, or even great academies of Buddhist learning. In this respect his views differed substantially from his contemporary Taixu who strongly advocated restructuring traditional monastic education in alignment with the modernization (mostly Westernization) taking place in secular education.

The next restoration project was the Huating Monastery (Chin. Huating si, “Floral Pavilion Monastery”) in the Western Hills of Kunming (capital of Yunnan Province) in the year 1920. The resi-

42 See the 65th year (1904/05) of his biography (Luk 1988, pp. 54–58). For the original Chinese biography, see <http://www.jindingsi.com/text/xuyunheshangnianpu.htm>.

dent monks of this monastery were planning to sell the dilapidated monastery to Europeans who had the desire to renovate and convert it into some kind of club. It was again Xuyun's intervention that convinced the local authorities to preserve and restore the Buddhist site. The officials agreed and appointed Xuyun as the abbot to oversee the restoration, a position he accepted.⁴³ After its restoration, he renamed the monastery from Huating Monastery to Yunqi Monastery (Chin. Yunqi si, "Clouds Perching Monastery") in honor of the great Ming monk, Yunqi Zhuhong (1535–1615), who promoted the amalgamation of Chan and Pure Land practices at the original Yunqi Monastery in Hangzhou (Zhejiang Province). Other major restoration projects Xuyun supervised included the Gushan Monastery (Chin. Gushan si, "Drum Mountain Monastery") in Fujian Province, the site of the master's ordination. Here he restored not only the physical environment, but also its former rigor and moral character; he instituted a seminary for ordained monks and converted it back to its original status as a public monastery and implemented rigorous discipline. In short he frequently extended the task of material refurbishing to further encompass institutional reform.

But his most outstanding restoration projects are indubitably the Nanhua Monastery (Chin. Nanhua si, "Southern Floral Monastery") and Yunmen Monastery (Chin. Yunmen si, "The Gate of Clouds Monastery") both major Buddhist sites in the Chan lineage which are located in Guangdong Province. The Nanhua Monastery was where the famous sixth patriarch, Huineng (638–713), had lived during the Tang period and where his relic body had been enshrined until then. It was last restored by the Ming monk Hanshan Deqing (1546–1623) in the early seventeenth century, but had once again fallen into ruins. Another major project, one of Xuyun's last restoration works, was the Yunmen Monastery, the seat of the Yunmen Chan Buddhism, at Mount Yunmen, also in Guangdong Province. When he undertook the rebuilding of Yunmen Monastery (1944–1945), Xuyun was already 105 years old. This massive rebuilding involved the cooperation of several networks from the local patrons and monastic communities to the secular and religious governing officials, at times extending to overseas communities. Moreover, his

43 Luk 1988, p. 101. See his 81st year (1920/21).

biography records his receiving patronage from Chinese immigrants abroad in places such as Burma, Hong Kong, and Singapore. In other words, Xuyun was hardly reclusive, but actively traveled and interacted with domestic and international Chinese Buddhist communities to raise funds for his restoration work. As his biography suggests, wherever he went, he taught *sūtras*, administered precepts, converted lay followers, and set up lay associations. Moreover, under the rubric of restoration projects, he also revitalized monastic training centers.⁴⁴

Xuyun's life also demonstrates how eminent Buddhists deployed religious practices in response to political violations of religious rights during the Republican period. Given Xuyun's standing and his close ties with officials in the government, Xuyun often became a major negotiator and spokesman for local Buddhist communities whenever their religious rights were threatened. In this vein, when the revolutionary army marched from Wuchang to Yunnan Province in 1912, Li Genyuan, one of the commanding officials, issued a warrant for the arrest of the renowned Xuyun who, instead of attempting to escape, stayed to confront the commander. Xuyun convinced Li through his teachings so that the latter withdrew his armies and stopped demolishing monasteries in the region. Subsequently Li even attended vegetarian feasts at the monasteries.⁴⁵ This was only one of several instances whereby Xuyun asserted considerable sway over potential enemies of the religion, so much so that in submitting to his holy charisma, they became patrons of the faith.

After rebuilding the Nanhua Monastery in northern Guangdong Province, the Sino-Japanese War broke out. The editor for Xuyun's biography inserts a description of an incident during this war at Nanhua Monastery:

[...] The Japanese intelligence learned that the temple was used as a meeting-place for Chinese officials. In the seventh month, when a large number gathered there, eight enemy bombers came and circled over it. The master knew of their intention and ordered the monks to return to their dormitories. After all the guests had taken refuge in the Hall of the Sixth Patriarch, the Master went to the main hall, where he burned incense and sat in

44 For example, at the Nanhua Monastery, he helped set up a monastic discipline for novices. See his 104th year (Luk 1988, p. 129).

45 See his 72nd year (Luk 1988, pp. 86–88).

meditation. A plane dived, dropping a large bomb which fell in a grove on the river bank outside the monastery without causing damage. The bombers returned and circled over it when suddenly, two of them collided and crashed to the ground at Ma-ba, some ten miles to the West. Both planes were destroyed with their pilots and gunners. Since then the enemy planes dared not come near the monastery and always avoided flying over it on their bombing missions to the hinterland.⁴⁶

The account shows that Xuyun deployed meditation — which for him meant “recollecting the Buddha” (Chin. *nianfo*) — as a means to achieve singularity in mental focus. Renowned practitioners like Xuyun evidently believed in the “otherworldly” powers of cultivation. In responding to the exigencies of war and political oppressions, his actions reflected the traditional Chinese Buddhist cosmology based on the concept of *ganying*, a causal theory of stimulus (Chin. *gan*) and response (Chin. *ying*). A synthesis of indigenous Chinese cosmology and Buddhist *karmic* causation, *ganying* explains how the power of spiritual action brings about the miracle of religious protection.⁴⁷ Moreover, by virtue of his holy attainments, Xuyun provided miraculous protection for the local community, just as the state had always counted on the supernatural powers of Buddhist saints and monks to render protection for the court and the nation at war.

Xuyun also experienced the more intense religious persecution under Communist rule. When he was 112 years old (1951/52) and living at Yunmen Monastery, a hundred Communists seized the monastery and ransacked the place for two days:⁴⁸

46 Luk 1988, p. 128.

47 In addition, from the Chinese Buddhist perspective, a “miraculous experience” is in some sense always bound to the principle of moral causation insofar as the spiritual efficacy or “numinous verification” (Chin. *lingyan*) — however strange or inexplicable at first glance — is always *caused*, so to speak, through the observance of some form of religious practice, such as by the worship of a deity, scripture, a holy person or object. Several scholars have discussed the Chinese Buddhist concept of *ganying* and similar usages; see Birnbaum 1986, p. 137; Kieschnick 1997, pp. 97–101.

48 Although the biographical text only calls them “bad people,” it is clear from the context that this was probably a Communist inquisition. In the introduction to the English translation, the editor Richard Huhn also refers to them as Communist cadres (Luk 1988, p. xiv).

[...] They also put the registers, documents, correspondence and all the Master's manuscripts of explanations and commentaries on the *sūtras* – and his recorded sayings during a whole century – in gunny bags which they carried away. They then accused the community of all sorts of crimes, but in reality they had wrongly believed groundless rumors that there were arms, ammunition, radio transmitters, gold bars and silver bullion hidden in the monastery [...]⁴⁹

As the search did not yield any result, the thugs roughed up the resident monks and then isolated Xuyun for interrogation. They locked him up, starved him, refused him drink, and hammered him with steel batons.

He was interrogated while being attacked, but sat in the meditation posture to enter the state of *dhyana*. As the blows rained down mercilessly, he closed his eyes and mouth and seemed to be in the state of *samadhi*. That day they beat him brutally four times [...] A little later [...] the Master's attendants carried him to a bed and helped him sit in the meditation posture.⁵⁰

Xuyun survived two rounds of such brutal beatings and lived to describe to his disciples his visionary encounter with the Future Buddha Maitreya in the *Tuṣita* heaven during one of these semi-unconscious states following the harassment. The lives and spiritual attainments of eminent teachers like Xuyun served as critical sources of inspiration for Buddhists during the troubled times of political oppression in the modernization of China. They were beacons who embodied the resilience and strength of the “tradition” in difficult times.

Diverging Paradigms, Converging Paths?

On the surface there exist stark contrasts between the two sets of Buddhist responses to political oppression that took shape in early modern China. In fact, the seemingly conservative Buddhist monks were quite often openly critical and skeptical of the progressive Buddhist reformers, and there are reports of Yinguang frowning on Taixu's engagement with society.⁵¹ Progressive Buddhist intellectuals like Taixu advocated doctrinal and institutional reforms to modernize Buddhism in the hope that the religion would survive

49 Luk 1988, pp. 138–139.

50 Ibid., p. 139.

the process of China's modernization without being discarded as irredeemably obsolete. They enthusiastically incorporated modern knowledge and resources from the West and Japan into their visions of a new Buddhism, and often presented Buddhism as an ideal candidate for representing Chinese society in global exchanges of thought and culture. It is no coincidence that for the latter half of his life Taixu participated actively in global conversations, allied himself with international forces, and visited different countries in the West and Asia, so much so that he earned himself the (somewhat disdainful) reputation of a "globe-trotting" monk.⁵² As Taixu's career demonstrated, these progressive Buddhist intellectuals often derived their original inspiration from the revolutionary thought in secular politics that would eventually topple over the age-old system of imperial rule and traditional culture with Western notions of democracy, liberalism, and pragmatism. For example, it was contact with Sun Zhongshan's political ideology which persuaded Taixu that "Buddhism would need to undergo a revolution in the same way as China's political revolution".⁵³ However, ultimately, Taixu returned to the Buddhist

51 Pittman (2001, p. 237) cited oral interviews with Yinguang he had gathered from different sources, in all of which Yinguang seemed to have expressed dissatisfaction with Taixu and his companions.

52 For his own descriptions of his travels to England, France, and Germany, see Taixu 1978, pp. 1-91.

53 Yinshun 1998, vol. 29, p. 192. Taixu was subsequently introduced to Sun Zhongshan's *Revolutionary Alliance* and his "Three Principles of the People" (Chin. *sanmin zhuyi*), and in 1910 would become implicated in revolutionary activities to overthrow the Qing dynasty. The "Three Principles" are "People's Welfare" or "Government for the People" (Chin. *minsheng*), "People's Rights" or "Government by the People," (Chin. *minquan*), and "People's Relation" or "Government of the People" (Chin. *minzu*). People's Welfare refers to social welfare and is sometimes identified with socialism; Sun, under the influence of the American thinker Henry George, understood it as an industrial economy and equality of land holdings for the Chinese peasant farmers. People's Rights really refers to democracy, which for Sun, represented a Western constitutional government. People's Relation is simply nationalism which, for Sun, meant freedom from imperialist domination, the need to foster "civic-nationalism" as opposed to "ethnic-nationalism".

sources for inspiration, and introduced a form of modern Buddhism, the “Buddhism of Human Life,” which deliberately reinterpreted traditional elements to make them compatible with modernist insistence on rationality, empirical objectivity, and an explicit humanitarian thrust, just as their Tang, Song, and Ming predecessors too had reimagined Buddhism for their historical times. In other words, Taixu and the progressive Buddhist intellectuals hardly discarded Buddhist traditions, but instead reimagined them for the age of modernity. In terms of relations with the state, the modernist, progressive visionaries promoted active Buddhist participation in the secular spheres of economics, politics, and society. The strategy was to present the *saṅgha* as no longer reclusive and otherworldly, but as useful agents in modern Chinese society who could make invaluable social contributions as community leaders in education and social welfare.

On the other hand, the seemingly more conservative, practice-oriented eminent monks portrayed themselves as restoring and perpetuating “tradition” during the troubled social and political times. But “tradition” here refers really to the teachings and practices of the four major Buddhist reformers in the Ming period (1368–1644) like Hanshan Deqing, Ouyi Zhixu (1599–1655), Yunqi Zhuhong, and Zibo Zhenke (1543–1603).⁵⁴ Both Hanshan and Zhuhong were important proponents who synthetically linked Chan meditation to the Pure Land practice of “recollecting the Buddha” (Chin. *nianfo*) through the “one mind” (Chin. *yixin*) — an innovative amalgamation which both Republican monks Xuyun and Yinguang adopted and promulgated.⁵⁵ Zhuhong, in addition, was particularly renowned for his reform of monasticism, something with which Xuyun was also engaged, in addition to his physical restoration of dilapidated great monasteries. Zibo was known for his numerous restorations of Buddhist sites, again a practice that was widely adopted in the Republican period, Xuyun being a stellar example. In other words, this cluster of Republican eminent practitioners styled them-

54 On Buddhist reforms in the Ming period, see Jiang (2005).

55 For Hanshan’s understanding of Chan and Pure Land, see Hsu 1970, pp. 127–136; for Zhuhong’s interpretation of the one mind, see Hurvitz 1970. For a book-length study on Zhuhong, see Yü 1981. For an overview of Ming Buddhism with a special focus on Zhixi, see Shengyan 1975.

selves as “transmitters of tradition,” thereby placing their endeavors within a distinct historical trajectory that Confucius began in the *Analects* with an exhortation to return to the golden era of early Zhou Dynasty. The quest to recover a lost golden era is a familiar, recurrent theme in religious history and in the guise of reinstating “ancient tradition” religious innovations are introduced, authorized, and allowed to flourish.⁵⁶

Although Republican monks like Xuyun and Yinguang rhetorically presented themselves as restoring traditional monasticism — both its physical architecture and moral fabric — as a lifestyle understood to transcend the secular world, particularly familial, political, and social ties, the historical realities were far more complex. The Chinese term for becoming ordained as a *bhikṣu* or monk is *chujia*, which literally means “leaving the household,” that is, withdrawal from the affairs of the world. From the perspective of Buddhist relations with the state, this rhetorical assertion of the transcendence of the monastic vocation is double-edged. On the one hand, since the *saṅgha* is withdrawn from society, they could be deemed to have little impact and therefore pose no threat to the central government. On the other hand, given that its lifestyle and values are deliberately counter to normative society, its very existence is a powerful critique and always potentially a threat to political stability. As previously discussed, Xuyun was hardly a naive spokesman of the “tradition,” but evidently capitalized on both these strands in his relations with the state during the tumultuous times. He certainly withdrew from the secular world insofar as he remained singularly focused on Buddhist propagation and practice, and functioned mostly among Buddhist circles. However, he repeatedly employed his moral and religious charisma to challenge government officials and military bandits so as to protect local

56 The quest for the pristine origin is found in different aspects of religion. Mircea Eliade (1907–1986), the famous Romanian historian of religion, called attention to this theme in myth and ritual by coining the phrase, “the eternal return”. By this, he was pointing to an almost compulsive urge to return to the mythical age, to become so to say contemporary with the events described in one’s myths — a belief often expressed in religious behavior, particularly through ritual (see Eliade 1971). Eliade’s model and the quest for origin in religion have been critiqued in more recent scholarship; see Masuzawa 1993.

communities and his religion during the civil wars and the Japanese invasion. Given his numerous ties to official patrons, it is not surprising that Xuyun emerged as a major negotiator for Buddhist rights playing a role reminiscent of the fourth-century aristocratic monk Huiyuan who was mentioned at the beginning of this essay. Interspersed throughout his biography are anecdotes of how Xuyun's religious attainments so impressed potential military or official persecutors of the religion that they spared the Buddhist monasteries and local communities from further violation of Buddhist properties and religious rights.

Moreover, in real life, eminent monks like Xuyun actually engaged in a broad spectrum of activities that embraced worldly participation. Like Taixu, Xuyun had an amazingly extensive network of Buddhist patronage and support domestically in China as well as internationally around Asia. His international activities, however, were always couched within the traditional Buddhist framework and circuits of cleric-laity patronage and instruction. Eminent practitioners like Xuyun also actively participated in Buddhist reformative activities such as revitalizing *saṅgha* education, forming national Buddhist associations, and establishing Buddhist or secular schools, and social charities on the monastery's premises. Like the progressive reformers, the more conservative wing was also very active in helping to train a broadly based lay movement to which the *saṅgha* could look for support, patronage, and protection. Educating the laity was deemed especially important in a time when Buddhist rights, especially those of the monastic communities, were frequently transgressed upon by the state. In other words, these eminent practitioner monks were never rigorously conservative, or even totally reclusive.

The progressive modernists and traditional conservatives were in short never really as sharply polarized as modern scholarship would have us believe.⁵⁷ Rather than an irreconcilable dichotomy,

57 Studying Pure Land in Taiwanese Buddhism, Charles Jones (2003, p. 128) sets up a dichotomy between the modernists and the denouncers of modernist interpretations, tracing them back to early twentieth-century figures like Taixu and Yinguang. He bases this approach on Welch's (1968) characterization. There are indeed some salient distinctions, for example, in the academic study of Buddhism: the modernist group embraced scholarship while the conservative traditional

there existed a continuum of voices which fluidly overlapped in their concerns, practices, and enterprises to secure the survival of Buddhism during the social and political transitions in early modern China. Both these forms of Buddhist responses are still very much alive in Chinese-speaking Buddhist communities. In Taiwan, Buddhist modernism has been recreated for the Taiwanese audience and under the name of “Humanistic Buddhism” (Chin. *renjian fojiao*) is now accepted as one of the mainstream expressions of Buddhism.⁵⁸ In mainland China, the two groups of Buddhist responses were unable to halt the destruction to their religion under Communist rule, particularly during the Cultural Revolution.⁵⁹ Nonetheless they remained important sources of inspiration, particularly in the contemporary scene, where a robust resurgence of Buddhism has taken place in recent decades. Supported in part by the central government, this revitalization of Buddhism is organized around the two different Buddhist paradigms that first arose in the Qing-Republican period.⁶⁰ How these paradigms may be used to apprehend modern concepts like religious rights and human rights is a topic that awaits further ethnographic research.

expression was quite often anti-intellectual and adhered to traditional *sūtra* and commentarial studies. See Jones 1999, p. 124.

58 *Renjian fojiao* is a teaching espoused by Yinshun (1906–2005), one of Taixu’s monastic students, who fled from Communist China and finally settled down in Taiwan. Deriving inspiration from Taixu’s *rensheng fojiao*, Yinshun introduced the concept of *renjian fojiao*, so coined to highlight the human realm as opposed to the other realms of rebirth. The rise of “Humanistic Buddhism” (*renjian fojiao*) is linked to the flowering of independent Buddhist organizations which flourished in the late twentieth century challenging the hegemony of the Buddhist Association of the Republic of China, after the lifting of military law in 1987. They yield new, divergent formulae for adherents to realize the *bodhisattva* path right here and now by creating a better society for all beings. The most powerful Taiwanese Buddhist groups, “Compassionate Relief” (Chin. *Ciji*, more commonly spelled *Tzu Chi*), “Dharma Drum Mountain” (Chin. Fagushan), and “Buddha Light Mountain” (Chin. Foguangshan) all present themselves as *renjian fojiao*.

59 For Buddhism under the Communist rule, see Welch 1972.

60 See Zhe 2004.

List of Chinese Terms

<i>biguan</i> 閉關	<i>Kaifu si</i> 開福寺
<i>Boyu an</i> 鉢盂庵	<i>Kang Youwei</i> 康有為
<i>chujia</i> 出家	<i>Gushan si</i> 鼓山寺
<i>Ciji</i> 慈濟	<i>Li Genyuan</i> 李根源
<i>conglin</i> 叢林	<i>Liang Qichao</i> 梁啟超
<i>daoguan</i> 道官	<i>lingyan</i> 靈驗
<i>fei fo</i> 廢佛	<i>Longhua si</i> 龍華寺
<i>Fagushan</i> 法鼓山	<i>minquan</i> 民權
<i>Fofa jiushi zhi jingshen</i> 佛法 救世之精神	<i>minsheng</i> 民生
<i>Foguangshan</i> 佛光山	<i>minzu</i> 民族
<i>Fojiao xiejin hui</i> 佛教協進會	<i>miefa</i> 滅佛
<i>Foxue yanjiuhui</i> 佛學研究會	<i>mofa</i> 末法
<i>fosi</i> 佛寺	<i>Nanhua si</i> 南華寺
<i>foxue</i> 佛學	<i>nianfo</i> 念佛
<i>foxue yuan</i> 佛學院	<i>nianfo shi shui</i> 念佛是誰
<i>Fozu tongji</i> 佛祖統紀	<i>Ouyi Zhixu</i> 藕益智旭
<i>Fuzhou chuanzheng xuetang</i> 福州船政學堂	<i>panjiao</i> 判教
<i>ganying</i> 感應	<i>Putong seng xuetang</i> 普通僧學 堂
<i>guan</i> 觀	<i>Putuo shan</i> 普陀山
<i>Guangxiao si</i> 廣孝寺	<i>Puyi</i> 溥儀
<i>Guanli simiao tiaoli</i> 管理寺廟 條例	<i>Quanxue pian</i> 勸學篇
<i>Hanshan Deqing</i> 憨山德清	<i>renjian fojiao</i> 人間佛教
<i>Hong Xiuquan</i> 洪秀全	<i>renjian jingtu</i> 人間淨土
<i>Hongming ji</i> 弘明集	<i>renjian pusa</i> 人間菩薩
<i>Hongyi</i> 弘一	<i>rensheng</i> 人乘
<i>Huating si</i> 華亭寺	<i>Rensheng de fojiao</i> 人生的佛教
<i>Huineng</i> 慧能 (also 惠能)	<i>rensheng fojiao</i> 人生佛教
<i>Jiang jing</i> 講經	<i>Rensheng fojiao de shuoming</i> 人 生佛教的說明
<i>Jianshe renjian jingtu lun</i> 建 設人間淨土論	<i>Renxue</i> 仁學
<i>Jinling kejing chu</i> 金陵刻經 處	<i>sanmin zhuyi</i> 三民主義
<i>Jinshan si</i> 金山寺	<i>sanwu yizong fa'nan</i> 三武一宗法 難
<i>jiu shi</i> 救世	<i>Seng shifan xuetang</i> 僧師範學 堂
<i>Jizu shan</i> 雞足山	<i>Seng[qie] jiaoyu hui</i> 僧[伽]教育 會

Sengyou 僧祐
Shamen bujing wangzhe lun
 沙門不敬王者論
shengwen sheng 聲聞乘
 Shizong 世宗
si da fa'nan 四大法難
shu 恕
 Sun Zhongshan 孫中山
 Taiping 太平
 Taixu 太虛
 Tan Sitong 譚嗣同
 Tianning si 天寧寺
tiansheng 天乘
 Wudi 武帝
 Wuzong 武宗
xiangfa 像法
xiao 孝
Xiuzheng guanli simiao tiaoli
 修正管理寺廟條例
xuetang 學堂

Xuyun 虛雲
 Yan Fu 嚴復
 Yang Wenhui 楊文會
 Yinguang 印光
 Yinshun 印順
yixin nianfo 一心念佛
 Yuan Shikai 袁世凱
 Yunmen si 雲門寺
 Yunqi Zhuhong 雲棲祿宏
 Yunqi si 雲棲寺
 Zhang Zhidong 張之洞
 Zhang Taiyan 章太炎
zhengfa 正法
 Zibo Zhenke 紫柏真可
 Zhihuan jingshe 祇洹精捨
 Zhipan 志磐
zhong 忠
 Zhonghua fojiao zonghui 中華
 佛教總會

Translations of Human Rights. Tibetan Contexts¹

JAN-ULRICH SOBISCH AND TRINE BROX

Introduction

In the announcement of the symposium “Buddhism and Human Rights,” the participants had been invited to look for elements and aspects of Buddhism that could contribute to a discussion of the principles of universal human rights. The implication was, according to an accompanying letter, that we should search for such elements within the traditional, doctrinal foundation of Buddhist traditions that would allow traditional Buddhist societies to approach Western standards of human rights. The academics among the participants were invited to contribute from a theoretical perspective. In accordance with these directions, we would like to begin our contribution with a critique of methods. In a second section we will deal with some general aspects of the contemporary efforts of the Fourteenth Dalai Lama to embed modern ideas in the Tibetan exile community. Finally the focus will be on the question of whether and possibly how one might find concepts and ideas in the Bud-

1 The first part of the article, focusing on contemporary issues, and the final conclusion were largely contributed by Trine Brox. The second part with an inquiry into history and a suggestion of an approach to Buddhism as a source for inspiration in the human rights debate was largely written by Jan-Ulrich Sobisch.

dhist intellectual sphere from which one might be able to derive a contribution to the discussion of universal human rights.

Methodological Remarks

Some methodological remarks are indeed necessary. Certainly, in a collection of articles seeking to locate within Buddhism a dominant discourse regarding fundamental and universal rights, which has a specific life trajectory in the West, it is important to remind ourselves of troubling issues regarding the construction, translation, and manifestation of culturally determined concepts.

The Concept of Human Rights

Human rights are based on the assumption that humans are universally bound together by moral rules that are intrinsic to all human beings (i.e. *fundamental*) irrespective of their culture (i.e. *universal*).² The term “human rights,” as it is commonly used, as it is used in political discussions, and as it was largely used in the conference panels, is based on *The Universal Declaration of Human Rights* issued on December 10, 1948, at the General Assembly of the United Nations. That declaration, in turn, refers in its contents chiefly to European and American traditions. Explicit forerunners and masterminds of the UN declaration were the *Magna Charta* and the *Bill of Rights* in England, the *United States Declaration of Independence*, the *Déclaration des Droits de l’Homme et du Citoyen*, and in general the thought of John Locke, Jean-Jacques Rousseau, Immanuel Kant and so forth. In other words, human rights as they are commonly referred to are deeply embedded in Christian and occidental traditions. This, then, is the intellectual sphere that must be approached by traditional Buddhist societies.

Human rights have become a universalizing moral project to “humanize” the world, and, especially after the Cold War, there has been no escape from this project. Though far from a triumphant idea, people all over the world are forced to relate to human rights. The normative project of universal human rights is disregarding what several scholars have seen as its Euro-American origin and promo-

2 Asad 2003, p. 129.

tion of Christian values.³ Skepticism towards *The Universal Declaration of Human Rights* also stems from the assumption that universalism equals imperialism, in the sense that societies are forced to conform to ethnocentric ideas, disregarding or even denying cultural differences.

Though it is clear that *The Universal Declaration of Human Rights* is a historically bounded construction, there are those who nevertheless see it as the result of different cultures coming together with the common goal of identifying fundamental rights applying to all of them. For example, Hastrup does not deem human rights as a primarily Western construction nor as a priori imperialistic.⁴ For instance, the delegates who ratified the *Universal Declaration of Human Rights* were of different nationalities, and when they decided upon the wording of the declaration, Hastrup argues, they asserted their culture. One example is the first article of *The Universal Declaration of Human Rights*, stating that

[...] All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.⁵

The word “reason” was a suggestion of the Lebanese delegate and “conscience” a suggestion of the Chinese delegate as a translation of a Confucian concept of “mindfulness of another person”.⁶ Thus the declaration is not exclusively of Western origin.

Leaving the question of origin aside, the main point is that the globalization of a discourse on human rights does not simply equal Westernization. This, we argue, is because traveling ideas like human rights are not unequivocally constructed, translated and manifested: there is always room for interpretation. Thus, we do not assume that Tibetans relate to human rights in a uniform way, and they do not invoke its language in the same way. Instead, human rights are contested. Nevertheless, we strongly encourage that ideas and discourses on rights, liberties and obligations are analyzed as constructs, translations and manifestations that are not only culturally bound but also influenced by the surges felt from

3 Eg. Asad 2003.

4 Hastrup 2004.

5 UN 1948.

6 Hastrup 2004, p. 142.

global discourses. These not only put pressure on translation efforts, but also influence the ways in which human rights are understood and appraised in different locales.

For these reasons we find it disturbing that the conveners have asked us to identify a traditional doctrinal basis within the Buddhist traditions “in order to approach the Western understanding of human rights”. Why do traditional Buddhist societies have to bring themselves into line with Western concepts? And does a unified Western conception of human rights exist at all?

To touch briefly on the second question first, it seems at present rather questionable that we could find much common ground between contemporary North American and European practice regarding the treatment of prisoners of war, the purpose of prisons in general, or the justness of the death penalty. It even seems problematic to come to a unified interpretation of human rights between such countries as Poland and Sweden. Human rights are defined differently and take various forms in different cultures.

More general is the first point: Can we be sure that a Western conception — if such a thing exists — is in principle better than other concepts in the world, so much better in fact that other civilizations have to bring themselves in line with it? Even at the risk of oversimplification, if we briefly look at only two examples, we should at least begin to have second thoughts. If we consider, for instance, the worldwide export of Western ideas of economy with its multiple side effects such as the inherent destruction of nature and livelihood in many areas of the world, or the pushing through (with the force of weapons) of the principle of majority rule in so-called “traditional societies” that are built on concepts of consensus, we must begin to realize that ideas that have grown over centuries or even millennia in our cultural sphere are not by default the best solutions for the rest of the world.

But let us put our methodological bellyache in more concrete words. The point is that we have constructed a world of ideas in which we operate with culturally determined terms and concepts, such as “freedom,” “justice,” “nature,” “democracy,” and “religion,” that often have evolved over long periods of time in specific historical contexts. In discussions, it is frequently overlooked that these are not universal ideas that can be easily codified as universal, cross-cultural standards. Instead we have to notice that such concepts, if they are employed in Asian cultures, are often constructed in a completely different manner and have histories that are quite

distinct from what we might expect. From that observation ensue, in the broadest sense, multiple *problems of translation*.

Problems of Translation

Translating foreign concepts poses huge challenges, not only in pinpointing what original terms such as “human rights” mean, but also in identifying its equivalent in (or translating its contents into) other languages without reducing the cultural premises that are infused in the concepts. For instance, the Tibetan counterpart to “human rights” and its key values and ideas does not contain exactly the same implications that the English words and ideas do. The immediate problem is that the texts and practices within which we seek to locate human rights may not have such a concept, and if we find similarities, there is the danger that we force those concepts to suit our understanding.

Furthermore, we attach specific understandings to these English concepts, a bias that potentially can inhibit a clear look at the Tibetan reality. There are many good examples of this. Take for instance the concept of religion. Trying to locate which practices, words, ideas and institutions belong to this signifier is problematic. If one were to carry out an opinion poll on a German street and ask for the most important aspect of religion, it is quite certain that the term “faith” would range among the top answers. A similar poll among Tibetans would certainly produce a different result. But it is not only thus that concepts such as “religion” have different emphases and priorities in the diverse cultures of the world. Some concepts cannot even be found at all in other cultures as we understand them, and sometimes — and that is an additional difficulty — the term for it is nonetheless in use. In such a case — for instance in the case of the terms *dharma* and “religion” — a one-to-one translation would only be a phantom translation. And that is true even though the Tibetans commonly use the English term “religion” when they mean *dharma* (Tib. *chos*). In reality, when they use the English term “religion”, they actually mean *Buddhism*. In fact, they often have obvious difficulties including even their indigenous (non-Buddhist) religion Bön within their concept of *dharma*.⁷

7 It is true that in their statements official Tibetans take extra care to include *Bön* within their conception of *dharma*, but it is often obvi-

When, for instance, the Dalai Lama uses the Tibetan concept of “merged religion and politics” (Tib. *chos srid zung ’brel*), which stems from the 13th century, close analysis reveals that what he actually has in mind when using the term “religion” in this context is not Buddhism as such, but “conduct according to ethical rules (or laws)”.⁸ A further complication is that the different Tibetan political groups all have their own understanding of the Tibetan concept “merged religion and politics”. For example, some understand it as “Buddhist principles and politics hand in hand,” some as “mixing of religion and politics,” or as “politics guided by Buddhist principles”. Regarding the actual practice of this maxim, Tibetans often refer to the person of the Dalai Lama, who, as head of the state and as a religious leader, embodies both aspects of religion and politics, or they point out that the Tibetan Government-in-Exile has important religious agendas such as the state-guaranteed maintenance of religious institutions, or that government institutions are occupied by monks and lay people according to a certain ratio, or, with a negative flavor, that certain monasteries have often interfered with government politics in the past. The Tibetan Government-in-Exile still calls itself “Ganden Phodrang,” which has its historic roots in the fact that key-positions in the government have been occupied by leading monks from the Gelugpa monastery Ganden.

These are some of the many problems that arise when we try to transfer the term “religion” to a Tibetan context. Let us provide a second example. In 1991, a heated debate took place within the Tibetan Parliament-in-Exile in Dharamsala on whether the Tibetan polity should be defined as secular.⁹ In the course of the debate it became obvious not only that the term “secularism” was translated differently into Tibetan, but that a number of diverse concepts went along with it. One of these concepts was an idea of secularism where the religious was to be completely removed from the political. Another concept sought parity between religion and politics. A third group of members of the Tibetan Parliament-in-Exile disapproved of all kinds of secularism and wanted to maintain the “tra-

ous that this is forced or needs a conscious effort. For some earlier remarks on the “syzygy of Dharma and Regnum,” see Seyfort Ruegg 1995b, esp. p. 150.

8 The term “ethical” is certainly also problematic in this context.

9 A detailed account of this debate has been provided by Trine Brox; Brox 2008, chapter 8 (forthcoming).

ditional Tibetan way” where, according to their understanding, religion and politics went hand-in-hand.

During that spring session of 1991, the draft of the Charter of Tibetans-in-Exile was under discussion. In his introductory speech, the Dalai Lama mentioned that it would be appropriate for any polity to be secular in essence — and when he said that, he used the English term in his Tibetan language speech. In the draft of the charter, however, the term was translated as *chos lugs ris med*, which means something like “impartiality towards the religious traditions” and was to describe the nature of the Tibetan polity. The Dalai Lama supported this as a correct translation of the English “secular” because it was embedded in Tibetan culture and appropriate in the particular situation of the Tibetan exiles. In the course of the debate, other translations and interpretations were discussed, such as “free personal decision with regard to religious inclinations” (*chos dad rang mos*), or “non-observance of the religious” (*chos la ltos med*), or “free from religion” (*chos med*), to mention only a few. Some members of the Tibetan Parliament-in-Exile feared that secularism would even mean “anti-religious” in a communist or revolutionary sense. In the end, none of the terms expressing an idea of secularism were mentioned in the final charter. Instead, the parliamentarians voted in favor of defining the Tibetan polity as “merged religion and politics” without any reference to secularism, no matter how it was translated into Tibetan. It is quite obvious that many of these concepts have nothing to do with the way the term is defined and used in our own Western context.

* * *

From the above examples it becomes clear not only that there are many problems related to translation, but that the act of translation involves more than simply identifying linguistic equivalents.¹⁰ In fact, it may be useful to talk about it as an act of *cultural translation*. Cultural translation is more than mere language. It involves revising one’s own understanding of reality and of oneself. When, for instance, Tibetan exiles culturally translate “democracy,” it is trans-

10 Many scholars have made the point that translation is not simply an issue of producing linguistic equivalents as found in bilingual dictionaries, but is appropriately studied as a multilayered process (e.g. Howland 2003; Richter 2005).

formed into something new: it is a gift from the Dalai Lama, and as it is manifested in their institutions, procedures and political culture it has obtained a cultural dimension, i.e. democracy is embedded in Tibetan culture.¹¹ Thus, although something might be lost with translation, something is also gained.¹² Therefore, when we want to understand a concept such as “human rights” in Tibetan contexts, it should be investigated in its cultural embeddedness and as historically situated. We argue that there is no idealized universal scheme about human rights that can easily be implemented into a Tibetan location and culture. Instead, we view human rights as an unfinished product. We have to focus on the many forms that human rights can take since it is an idea construed and constructed differently.

Translating Modern Ideas in the Exile-Tibetan Community

Another question is why the Tibetans at all felt the need to implement or discuss difficult concepts that originated in the West, as we have seen above in the Tibetan Parliament-in-Exile’s debate on secularism. This is a complicated issue, and it must suffice here to say that one factor must have been the realization that lasting support of the Tibetan freedom movement from the West is only possible when Tibetans do engage in such discourses as those concerning democracy, secularization, and human rights. It is nonetheless undeniable that the Dalai Lama and many other Tibetans have demonstrated on many occasions their genuine interest in these issues of modernity.¹³

Although we do not argue that an instrumental motivation was the main drive for translating human rights into Tibetan, it is important to remember that mastering the language of human rights can function as a strategy to acquire diplomatic recognition in the international community. In short, it has political implications.

Exile-Tibetans have had to relate to new knowledge and competing discourses pouring in from every corner of the world, forcing them to reflect on what can enable them to be modern and still

11 Brox 2008.

12 Gimpel and Thisted 2007.

13 For a more detailed treatment of this matter, see Brox 2006 and 2008.

be Tibetan. In general, the exile-Tibetan leadership, headed by the Dalai Lama, began, in the mid-eighties, to translate global issues that were placed high on the international agenda. In order to translate these global issues, new discourses were construed in familiar cultural settings, old terms were given new meaning, and new terms were coined. They began to speak the languages of democracy, human rights, cultural heritage, environmentalism and feminism, and they also translated and constructed these issues in a culturally sensitive way to make Tibetans understand, accept and hopefully also value the ideas involved in these concepts. The exile leadership showed its willingness to negotiate with the world community on its terms by using the language of a universalistic discourse of human rights, and it can be interpreted as a strategy to mobilize sympathy and international support.

On the 10th of December 1989, the Dalai Lama was awarded the Nobel Peace Prize. This proved that he successfully spoke a language that the world appreciated: dialogue, pacifism, human rights, cultural heritage and the like were issues that the global community listened to. In the Tibetan diaspora, December 10th is a national holiday that is celebrated not only because of the awarding of the Nobel Peace Prize to the Dalai Lama, but also as Human Rights Day.

In short and to repeat: Of course the Tibetans have coined a term as a translation for “human rights,” namely *‘gro mi’i thob thang*, but in the worst case this is because many of them have realized that they have to engage in the human rights discourse to be accepted in the West as a legitimate political exile group.

* * *

Out of a certain arrogance or lack of thought we (in the West) lay claim to the right to define the course of the discourse (i.e. that an Asian contribution to the universal human rights is to be developed from Buddhism) and its goal as well (i.e. demanding an approach to Western standards). In this way we press peoples such as the Tibetans to accept fixations that have developed in our cultures over hundreds or thousands of years, while we will not allow them time for an independent autochthonous development. In addition to that, we close our minds to any discourse that might develop from the Tibetan and Buddhist cultures, since it is *they* who have to approach *us*.

In the end we may be left with our Eurocentric ideas and are surprised why no one else is enthusiastic about them.¹⁴

A Tibetan Human Rights Discourse

The Tibetan exiles understand the value of being able to handle a human rights discourse. The Dalai Lama was no stranger to the concept of human rights and had experienced that this was a discourse that could strategically be applied in the Tibetan struggle. One instance was in 1959 when the Dalai Lama sent delegates (his brother Gyalo Thondup and Tsipon Shakabpa) abroad to mobilize international support. The delegates were to bring the Tibetans' case before the United Nations, with the issue of independence being the most important and urgent one. The lawyer-diplomat (and deputy US representative to the UN in 1950) Ernest Gross served as the counsel to the Tibetan delegates arriving in New York. He advised the Tibetans to make a plea to the world community to protect human rights in Tibet, and via that discourse generate mass-support which later could be transformed into support for the po-

14 During the discussion of the conference in Hamburg, our approach was at one point criticized as "relativism". With regard to this, see Seyfort Ruegg (1992a, p. 155), who had the following to say in the context of the place of philosophy in the study of Buddhism: "But when saying that it is historically and culturally conditioned, I most certainly do not mean to relativize it or to espouse reductionism — quite the contrary in fact. The often facile opposition relativism vs. universalism has indeed all too often failed to take due account of the fact that what is relative in so far as it is conditioned in its linguistic or cultural expression may, nonetheless, in the final analysis have a very genuine claim to universality in terms of the human, and hence of the humanities. It seems that this holds true as much when we postulate some 'Western' or 'Eastern' philosophy of this or that period as when we consider what is now termed human rights, which by definition must transcend specific cultures in time and place." In our own context, we hold that just because we criticize that something that is declared "universal" by one culture is uncritically forced upon another, we do not espouse a form of relativism or reductionism. We do agree that any concept of human rights should have to have a claim to universality, but criticize the intercultural process through which the status of universality is supposed to be achieved.

litical issue of sovereignty in Tibet and recognition of the Tibetan Government-in-Exile.¹⁵ Gross wanted the Dalai Lama to appear before the UN Human Rights Commission but not press the issue of independence. Gross presented the Tibetan case before the UN. In the end the UN General Assembly, on October 21, 1959, approved a resolution¹⁶ that noted that the Tibetans, like other human beings, were entitled to fundamental human rights and freedoms, which were denied them in Tibet. It also emphasized that the Tibetans' rights to have a cultural and religious life had to be respected. The UN General Assembly's resolutions of 1959, 1961, and 1965¹⁷ concerning Tibet were noncommittal on the question of whether Tibet was an independent nation occupied by a foreign power, but instead expressed concern over violations of fundamental freedoms and rights. In this way the violations of human rights in Tibet were put on the international agenda.

The Dalai Lama has, in many of his speeches since, both in the English language and in the Tibetan language, related to the concept of human rights. He talks not only of universal rights belonging to humans, but expands his view to that of all sentient beings, who have the right to pursue happiness and live in freedom. On numerous occasions he refers to fundamental human rights and its twin "universal responsibility". He believes that there are universally binding standards of human rights, which are the foundation of every society irrespective of culture. A "right" in Tibetan language is *thob thang* or *bdag dbang*. Human rights, translated into Tibetan as *'gro ba mi'i thob thang*, are the rights held by humans (Tib. *'gro ba mi*), but the universal rights that might be extracted from Buddhist philosophy, and which the Dalai Lama also speaks about, apply not only to human beings, but to "[sentient] beings" (Tib. *sems can*). The Dalai Lama recognizes that humans have a range of different kinds of "spiritual and temporal rights" (Tib. *chos dang 'jig rten kyi thob thang*) and that there are "fundamental rights and freedoms" (Tib. *gzhi rtsa'i thob thang dang rang dbang*).

The Tibetans' political case is also voiced by the Dalai Lama within discourses well-known in the West by talking about the Ti-

15 Knaus 1999, pp. 203ff.

16 Resolution 1353 [XIV].

17 DIIR 1997.

betans' struggle in terms of fighting for "inalienable rights" (Tib. *thabs med pa'i thob thang*). Tibetan exiles are also asking for "equal rights" (Tib. *thob thang 'dra mnyam*) or "fundamental rights" (Tib. *gzhi rtsa'i thob thang*). Furthermore, they have also translated the various categories of rights, like "civil rights" (Tib. *spyi mang thob thang*), "political rights" (Tib. *chab srid thob thang*), "democratic rights" (Tib. *mang gtso thob thang*), "economic rights" (Tib. *dpal 'byor thob thang*), "social rights" (Tib. *spyi tshogs thob thang*) and "cultural rights" (Tib. *rig gzhung thob thang*). Furthermore, the Dalai Lama often mentions human rights issues together with other globally promoted values, placing "human rights" in a line with "democracy" (Tib. *mang gtso*), "freedom" (Tib. *rang dbang*), "peace" (Tib. *zhi bde*) and "autonomy" (Tib. *rang skyong*).

Another important promoter of a human rights discourse is the Tibetan Center for Human Rights and Democracy (Tib. Bod kyi 'gro ba mi'i thob thang dang mang gtso 'phel rgyas lte gnas khang) in Dharamsala, North India. It was founded in 1996 as a desk under the Tibetan Government-in-Exile's Department of Information and International Relations. Today, the Tibetan Center for Human Rights and Democracy functions as a research center, which provides reports and introductory material in Tibetan and English on different aspects of human rights and democracy. Its main purpose is to monitor, document and analyze the human rights situation inside Tibet. It has also publicized the *Universal Declaration of Human Rights*¹⁸ and translated it into Tibetan under the title *rGyal spyi'i 'gro ba mi'i thob thang gi yongs khyab gsar bsgags*.¹⁹ Furthermore, this Tibetan research center has produced a booklet on human rights for use in Tibetan secondary schools,²⁰ has published numerous booklets and reports on the human rights situation in Tibet, and continuously provides news updates on its website (<http://www.tchrd.org>). Human rights have become an important concept, and through their commitment to the human rights discourse, Tibetan exiles not only have to prove that they master its language, they also have to prove that they are its protectors and the Chinese its violators.

18 TCHRD 2003.

19 TCHRD 2000.

20 TCHRD 2004.

Searching for a Tibetan Culture of Rights

The Tibetans are well into the beginnings of the discourse and it may well be that they only got into it because they were forced to do it, without having the real chance to develop the discourse within their own cultural context. If we want to proceed in a fair manner — and if we perhaps want to retain the chance to learn something ourselves — they should be given the chance to construe their ideas carefully within their own cultural context. Only then can something like a *fair translation* happen between our cultures, which would presuppose that there exists something that is of similar *value*, and not necessarily of similar *meaning*.

We may indeed speak, as is perhaps somewhat fashionable today, of a problem of *cultural translation*. Let us look at another problem of cultural translation, which might afford us the chance to return to (and may contribute to) our actual theme of universal human rights. The remaining part of this article will first point to an interesting debate about the application of certain economic-political terms to issues in the history of Tibet. Then the inquiry focuses on some problems and possible starting points in the search for a culture of rights in the Buddhist-intellectual sphere.

Between 1968 and 1973, Melvyn Goldstein published a number of articles in which he described the relationship between the common people of Tibet and the landowners, the state and the local monasteries as that between *serfs* and *feudal lords*.²¹ Articles of other authors at that time avoided terms such as “serfdom” and “feudalism,” and some others openly criticized Goldstein for its use. From that developed in the second part of the 1980s an interesting public debate, in the course of which Goldstein was severely attacked for his “self-serving political naiveté [*sic*] regarding Communist China”²² and (wrongly) denounced as having “received many special privileges” by the Chinese government,²³ indicating that such special treatment had caused him to have a pro-Chinese leaning. And yet Goldstein had offered a careful and interesting analysis of

21 Goldstein 1971a, 1971b, 1971c, 1973, 1986, 1988 and 1989.

22 Jamyang Norbu 1992, p. 19.

23 Phintso Thonden 1991, p. 12.

legal relationships. From his analysis followed, among other things, that the Tibetan serfs²⁴ owned a number of important *rights*:

- The duties the serfs had to carry out for their feudal lords were legally binding for both sides.
- The serfs were legal persons; they could sue their lords and could appeal a judgement at a higher court in Lhasa.
- If they had capacity beyond their duties, they could work for other serfs for a wage; within that framework they could make their own economic decisions.
- Anything they earned was their legally secured property.
- They could buy themselves temporarily out of their duties (e.g. to go on a pilgrimage).

This is not intended to be an exhaustive analysis of the relationship between the serfs and the feudal lords, but it clearly shows that serfs were considered to be legal persons.²⁵ In other words, a concept of *rights* becomes tangible here; Tibetans, even if serfs, had rights that could be enforced through legal action. These were, however, not “human rights,” since they were chiefly economic, and certainly not civil rights and liberties, and it remains unclear whether there is any document that officially formulated these as the fundamental rights of a citizen.

24 We use the technical term “serf” here only as an approximation and imply no political or moral judgement with this usage. We are aware that there existed some fundamental differences between Tibetan *mi ser* and European serfs. Yet it cannot be denied that the Tibetan social system was one of great social inequality.

25 That serfs are considered to be legal persons is an important issue, because this is one of the features that distinguishes them from slaves, a fact that not everyone seems to be aware of. When a Chinese-Tibetan delegation visited Copenhagen University in 2008, I pointed out that their use of the word “slave” was for this reason incorrect. As a reply I was quickly assured that this was the fault of the Chinese translator (the Tibetan members of the delegation spoke to us in Chinese). In a discussion on *Deutschlandradio Kultur* (29.3.2008), Eberhard Sandschneider, director of the research institute Deutsche Gesellschaft für Auswärtige Politik, who otherwise argued very prudently, called the Dalai Lama a “representative of a former slaveholder society” and his exile government “far from human rights and democracy”.

Similar rights were sometimes enjoyed by medieval European serfs. The much further-reaching European civil and human rights, however, were chiefly developed from a philosophical perspective, in particular as a “natural right” by Locke (having a subsequent influence on Thomas Jefferson and the *American Declaration of Independence*), as the moral freedom to restrict desires according to Rousseau, and as the civil rights derived from reason according to Kant. When we are supposed to search within the traditional, doctrinal foundation of Buddhist traditions for elements and aspects of Buddhism that could contribute to a discussion of the principles of universal human rights, the implication clearly seems to be that the focus should be on Buddhism as a source of philosophical systems.

Concepts of Rights in the Buddhist Intellectual Sphere?

If Tibetans were searching for a source of further-reaching rights that could possibly be developed and construed from their own culture, Buddhism is an obvious choice. But that is — and this should not be overlooked — not completely unproblematic, since there exists among Tibetan exiles a group of people that is to be taken seriously, whose protagonists are not altogether happy to have to embed modernity by default in the Buddhist tradition (as the majority of lamas and elder politicians certainly prefers — if modernity is an agenda for them at all). They feel uncomfortable in being only perceived as carriers of the Buddhist gene or as in some other way exotic beings, and instead would favor the freedom to shape their culture as Tibetans — not necessarily as Buddhists. Does the source of the human rights concept have to be rooted in Buddhism? Is Buddhism the proper guide for a culture of rights? Another unspoken problem is that we have no clue as to whether or not (or to what degree) the Tibetans in the so-called “Autonomous Region” in China would prefer to derive their civil rights and liberties from Buddhism. In any case, the demand that the Tibetans develop something from Buddhism in order to approach Western standards is in two ways normative: we define the course of the discourse and also its goal.

* * *

If now a suggestion regarding the general theme of “Buddhism and human rights” is presented here, this should not be understood as a normative demand. These are the thoughts of a Western academic, and they are meant for our own discourse.²⁶ If, parallel to the development of human rights in Western philosophy, we search within Buddhist thought for stimulus, we will soon realize that the Mahāyānistic philosophy of Tibetan Buddhism has some problems and challenges in store for us.

Among the problems of Mahāyāna philosophy in this context is certainly first and foremost the fact that the people for whom the rights are to be developed — as, by the way, all beings — are from the perspective of “ultimate truth” (Skr. *paramārtha*) only an illusion. It should hardly be possible, therefore, to develop rights from those elements of Buddhist philosophy that make statements about the absolute. It appears to be a constant problem to derive rights from Buddhist ideas that are concerned with the nature of existence. How could a special right (i.e. special in the sense of being for persons) be derived from a concept that includes the idea that the ones who obtain it are an illusion?

In fact, we have to ask first where within Buddhism something like “rights” are discussed. This is certainly the case in the *vinaya*, although the discussion there focuses chiefly on certain legal arguments concerning transgressions of the rules for ordained persons, in particular the establishment of the fact of the transgression and the question whether the transgression can be excused or must lead to a punishment. Investigating the purpose of these rules, we find that

- certain acts are *karmically* negative to such an extent that a continuation of ordination is unthinkable;
- other acts disturb the peace of the community of ordained ones;
- and some acts would ruin the reputation of the community.

It appears to be difficult to develop civil rights etc. from this complex. Nevertheless, the *vinaya* could be an interesting starting point, for we also find within its literature ideas that are formulated in a much more fundamental manner. An often-quoted principle says that it is the nature of the *prātimokṣa* not to harm other beings and to

26 The following suggestion in particular is a personal contribution by Jan-Ulrich Sobisch.

cultivate a corresponding mental attitude. Such an attitude may well be described as the foundation of all of Buddhist ethics.²⁷ This basic disposition of avoiding harm to others and to cultivate a corresponding mental attitude is also expressed in the “Golden Rule,” which can be found also within Buddhism at many places: As oneself wishes to live and to avoid suffering, so should this be admitted for others. From this, one could develop a claim for *dignity*, namely the dignity to be perceived as a sentient being and to have the right to avoid vulnerability.

In derivation from that, the “Golden Rule” could also be seen as containing an ethical-normative element in the sense that there also exists the *duty* not to harm others, if it is agreed that such a duty for all could be derived from the claim of the individual.

The moral principle of the golden rule has the advantage of being free from any metaphysical assumptions, i.e. it does not matter whether the other being is an illusion or not – I myself am not different from that and I do feel pain, and thus others feel pain as well. The fact, however, that a psychological element has replaced the metaphysical creates new problems, since the call for compassion presupposes that everyone is *capable of empathy*. And even if such a capability is presupposed as something innate, as the optimistic Mahāyāna Buddhists believe, one has to acknowledge the fact that this innate ability is liable to be impaired by outside manipulation, or in some cases can even be completely suppressed. The general call for an education that fosters the capability to empathize is such a fundamental demand that the whole idea must perhaps be categorized as utopian. And that is a category within which we do not want to find anything that is fundamental to human rights.

On the other hand, utopian ideas can definitely exercise an inspirational influence. The following suggestion may thus appear to be even more utopian.

Perhaps the most interesting challenge from Mahāyāna Buddhism is that it does not allow an exclusive focus on human beings,

27 The term “ethics” is used despite the many implicit problems. We prefer, however, not to discuss them here. The abovementioned principle says that it is the nature of the *prātimokṣa* not to harm other beings and to cultivate a corresponding mental attitude. This thought is identified and contextualized in Sobisch 2002, pp. 36, 41, 99, 133 ff., 187 f., 203, 419 and 429.

as the Christian-occidental tradition does.²⁸ In other words, if we try to derive human rights from the ideas of Mahāyāna Buddhism, then these must be the *rights of beings*, and not *human* rights alone. At least, if we want to get involved in our context with Mahāyāna Buddhism, we seriously have to tackle the problem of why certain rights are only for human beings, and not for other beings.

One thing is clear: Buddhism concedes that human beings have greater abilities than most other beings (in particular: animals), but, as far as we can see, nowhere greater rights. It may be objected that the killing of human beings is considered more grave than the killing of animals, but in our opinion this has, in the context of the *vinaya*, to do with the socially greater taboo on the killing of human beings (which the community of ordained persons had to acknowledge as it depended on the goodwill of society), and in the Abhidharma and related literature with the greater amount of negative *karma* that ensues from it. But deriving greater *rights* for human beings appears to be unfounded.

Thus when human beings, as the Dalai Lama (consistent with the Mahāyāna teachings) often points out, aim to avoid suffering and strive for happiness just like any other being, then we can, due to the certainly higher abilities and faculties of human beings, only derive special duties for them, but not greater rights. The greatest challenge from Mahāyāna Buddhism is, therefore, that we would have to develop *rights of beings* along with human rights, or that we at least combine human rights with the duty to include sentient beings within our striving for happiness.

Why Search for Similarities between Global Values and Ancient Cultures?

Several Tibetan Buddhists have already gone out to look for similarities between acceptable global values and Tibetan Buddhism. For instance, there are Tibetans arguing that the Buddha's teachings conform to democracy. The Dalai Lama and Prime Minister-

28 As the idea of natural law and inalienable rights developed in the Christian-occidental tradition, a sharp distinction was made between animals and humans: only humans had natural rights, or only those who possess rights can be regarded as humans. See Asad 2003, p. 131. By the very concept of rights-bearing human beings, human rights distinguish humans from animals.

in-Exile Samdhong Rinpoche are among the prominent Tibetans who see Buddhism and democracy as compatible.²⁹ Making such comparisons and translating, in this case the concept of democracy, in a culturally sensitive way may well have a productive effect in the sense that it may facilitate the Tibetans' understandings and acceptance of such a new and foreign concept as democracy. Thus, global issues are made less foreign to Tibetans by addressing the issues in ways they are familiar with and that are embedded within Tibetan culture. Global issues can thereby become a part of the Tibetans' property. For instance, when the Dalai Lama, at the beginning of his exile, introduced the concept of democracy to his Tibetan followers, he explained that Tibetans were not really strangers to democracy because the Buddha's teachings essentially complied with the principle of democracy. Many Tibetans have adopted this reasoning and argue that the core values in Buddhism and democracy are common. A popular expression of this is when Tibetans say democracy is for the benefit of the people and Buddhism is for the benefit of all sentient beings. The two share egalitarian values and the belief in the potential of human beings. The same exercise could easily be carried out with the concept of human rights.

However, such exercises of comparing cultures, identifying similarities in concepts as if they share the same meaning, are problematic. Wilson once remarked how scholarly work on interacting legal and normative orders had become too wrapped up in discussions of whether traditional societies possessed a concept of human rights in their own legal codes.³⁰ He thought that some scholars went about the problem in the wrong way, and his argument can fruitfully serve as a warning to the project of identifying human rights in Buddhist societies. Instead of looking for conceptual similarities in different non-Western traditions, one should rather see how concepts are implanted in new contexts from which they did not originate. Wilson argued that of course we may very well find similarities, but we cannot predict how they, in numerous ways, are articulated and manifested. Additionally we may ask, how do we know what to compare in order to find parallels to human rights? Can we agree on what constitutes human rights? Of course,

29 Dalai Lama 1999; Samdhong Rinpoche 1996, 1999a and 1999b.

30 Wilson 1997, pp. 13–14.

ideas of rights, liberties and duties are not alien to Tibetans, and in comparing human rights with Buddhism, one can easily argue for their shared egalitarianism, tolerance, value of freedom, and so forth. The question is, however, what new insights do we gain from such an exercise and what new insights do we gain into ourselves and our concept of human rights? Is the goal to better understand Buddhism or to better understand rights that are universal and fundamental? If we follow the advice of Wilson, it is more interesting to investigate how the knowledge of human rights is transmitted to the Tibetans, how they are taught the language of human rights, and how they negotiate a culture of rights that is Tibetan. How do they construct, translate and manifest human rights? And even more importantly, why do we not invite Tibetans to present to us values concerning rights in order to enlighten and expand our own concept of inalienable rights?

Human Rights and Exile-Tibetan Politics

STEPHANIE RÖMER

Nowadays politics, the topics of human rights and Tibet are inseparably connected. Even though the issues are not always on our screens, since the 1980s the international media report at regular intervals about human rights abuses in Tibet. Documentary films, radio programs, reports in magazines and newspapers and speeches by Tibetan former political prisoners give evidence of human rights violations in Tibet. Data on the human rights situation that are used in these reports are provided by international nongovernmental organizations (NGOs) like Amnesty International, Tibetan Support Groups (TSGs) — for instance Students for a Free Tibet — or exile-Tibetan NGOs, foremost the Tibetan Center for Human Rights and Democracy. Especially during the Tibetan mass demonstrations before the 2008 Olympics in Beijing and the subsequent detentions of protesters in Tibetan-populated areas, the topic of human rights in the People's Republic of China (PRC) in general and in Tibet in particular has risen to the next level.

However, the topic of human rights is not just communicated to prove the violations themselves, but also serves political interests. While the Tibetan exiles in India are emphasizing the topic of human rights violations, the Chinese communist government in contrast is constantly downplaying the conditions in Tibetan-populated areas. This paper will look from a political science point of view at the question: how is the concept of human rights politicized in the Tibetan context? After a brief description of the Tibetan political structures in exile, I will look at how human rights are communicated by

Tibetan exiles and how this topic is taken up by the international community. To conclude, I will give a portrayal of the Tibetan Center for Human Rights and Democracy, one of the main voices of human rights in Tibet.

The Tibetan Exile Political System

After the arrival of the Fourteenth Dalai Lama in India in March 1959, more than 122,000 Tibetans have followed him into exile until the present day.¹ The majority of the exiled Tibetans live in India, Nepal and Bhutan where they found a new home in one of the 53 Tibetan permanent settlements. With help of the host countries, and also with international operational and financial assistance, these settlements were established during the 1960s. Apart from the Tibetans in South Asia there is also a considerable number living abroad: in the USA, Canada, Switzerland and other European countries.

Despite the scattered distribution of their present places of living, all exiled Tibetans are politically represented by the so-called Central Tibetan Administration of His Holiness the Dalai Lama (CTA), the present Tibetan Government-in-Exile. This exile administration, which was founded in 1959, is set up in the northern Indian town of Dharamsala and can be described as the center of Tibetan exile politics. The entire administrative infrastructure, including the Dalai Lama's private residence, is located in and around Dharamsala, but mostly in the governmental district, called Gangchen Khyishong. In addition to the exile government, many exile-Tibetan NGOs and radio stations call Dharamsala their headquarters or have at least a branch office there. Because of Dharamsala's political importance and its being home to the Fourteenth Dalai Lama, this former British hill station on the southern edge of the Himalayan mountain range has changed rapidly over the last decades. The town developed into a tourist center; today the streets are jammed with traffic and the town has been changed with foreign funding; schools, medical and handicraft centers have been set up; Indian and Tibetan shopkeepers are in line with movie halls, restaurants, hotels and guest houses; monasteries and museums attract the tourists.

1 CTA 1969, pp. 95-120; CTA 1994, p. 3.

The Tibetan Government-in-Exile struggles from its base in exile to return to a free or at least autonomous homeland, meaning the entire territory populated by Tibetans, comprising of three large Tibetan regions Ü-Tsang, Amdo and Kham, i.e. today's Tibetan Autonomous Region (TAR) and parts of the Chinese provinces of Qinghai, Gansu, Sichuan and Yunnan. Furthermore, the exile administration claims to represent the entire Tibetan nation, i.e. all Tibetans living both inside and outside of Tibet. But these representative claims are internationally not recognized. Rather, the Tibetan exile government receives all of its international moral and operational support from governments, transnational organizations, NGOs and individuals.

The CTA's structure and policies are characterized by the main principles of Buddhism and democracy, which indicate a combination of traditional values of the past with Western political concepts. This combination was outlined by the Fourteenth Dalai Lama in the beginning of the 1960s and later determined by two exile charters. In regard to the combination of politics and Buddhist religion the exile administration is set up as followed:

At the top of the Tibetan Government-in-Exile is the Fourteenth Dalai Lama. He is the ruling institution and holds, at least theoretically, ultimate legislative, executive and judiciary powers within the CTA — competences that are still determined by their Indian hosts. That is, despite the Fourteenth Dalai Lama's position of superior power within the CTA structures, all political decisions need to be approved by the Government of India. The Dalai Lama is serviced by a private office that handles all affairs that regard his person, from the management of thousands of visitors annually to the organization of his daily schedule.

Even though the Fourteenth Dalai Lama is being vested with sweeping powers, the CTA has a legislative organ, which fulfils the demands of a democratic system. 46 Tibetan deputies stand at the moment for the regionally and religiously heterogeneous Tibetan community: Each region of the national territory of Greater Tibet — Ü-Tsang, Kham and Amdo — is represented by ten deputies, out of whom at least two have to be women. On the religious side, the major Tibetan Buddhist schools, Nyingmapa, Kagüpa, Sakyapa and Gelugpa, provide each two deputies. Since 1976 there have been two Bön delegates as well. There are also two deputies who represent the interests of the exiled Tibetans in Europe and one for those

who live in North America. In this regard, the composition of the assembly emphasizes the CTA's claim to stand for all Tibetans despite their differences in regional heritage, religious affinities or current place of residence. The CTA deputies meet twice a year to discuss financial and political matters, while in emergency cases they can be called for extraordinary sessions, as well.

The Tibetan executive is subdivided into the Tibetan cabinet, its subordinate departments, and constitutional bodies. The cabinet, the *kashag*, is the main executive body of the CTA, which strongly relies on the traditional structure of the Lhasa government, as indicated by its name, structure, and function. The *kashag* consists of four ministers, or *kalons*. One of the *kalons* acts as prime minister. The four ministers head the following exile-Tibetan departments: security; information and international relations; health; religion and culture; education; finance; and home affairs. There are also three constitutional bodies, namely the Tibetan Election Commission, the Tibetan Public Service Commission and the Tibetan Audit Commission.

The Supreme Justice Commission represents the Tibetan judiciary, a new invention in the Tibetan political context. It adjudicates all civil disputes within exile-Tibetan communities and settlements, but in all court decisions it is subordinate to Indian law.

To summarize, one can state that through an elaborate structure, which is subdivided into numerous units and highly specialized sections, the Tibetan Government-in-Exile is able to reach all exiled Tibetans in India, Nepal and Bhutan and also those who live abroad. Furthermore, the administrative setup emphasizes its representative claims regarding the Tibetan territory and people.²

Additionally, there are different exile-Tibetan NGOs, which have their head office in Dharamsala and also maintain local offices in the major Tibetan settlements. Despite their independence, all exile-Tibetan NGOs act within the CTA political framework and support its official policy through their high specialization in various fields, as will be seen later when looking at the topic of human rights more closely. The most important exile NGOs regarding their political relevance and numbers of members are the Tibetan Youth Congress, the Tibetan Women's Association and the Tibetan Center for Human Rights and Democracy.

2 Cf. Roemer 2008.

Talking about Human Rights in the Tibetan Exile Community

Since 1959 there has been a steady flow of new Tibetan arrivals in India and Nepal. One can estimate that between 2,000 and 3,000 Tibetans cross annually the borders. Most of them are Buddhist monks and nuns who flee religious persecution, young Tibetans seeking better education and job opportunities in exile than they have at home, and former political prisoners who were tortured while being jailed.³ With the constant number of newly arriving Tibetans the matter of human rights violations in the homeland has been always visible in the host countries. But in the context of Tibetan exile politics, the human rights issue was not highlighted in the international community until the 1980s. The political developments that led to the international promotion of the human rights situation in Tibet can be described as follows:

Right after the flight of the Fourteenth Dalai Lama the topic of human rights already became important for the Tibetans with respect to two reports of the International Commission of Jurists (in 1959 and 1960). This commission charged China with a genocide in Tibet that targeted Tibetans' religious beliefs. Furthermore, one can see that immediately after the Dalai Lama's arrival in India, the Tibetans profited from wide international media coverage by promoting worldwide the plight of Tibetans through press articles and TV reports. The Tibetan exile political elite used this interest to lobby the United Nations (UN), which finally passed three resolutions: in 1959, in 1961 and in 1965.⁴ There, the UN General Assembly expressed its concern about the human rights violations in Tibet.⁵ But the initial expectations of the exile-Tibetans, that the UN would be in a powerful position to help them, was disappointed by the fact that China was in such an internationally strong political position that the resolutions had no consequence. The opportunity for exile-Tibetan efforts to raise awareness in the UN became even worse in 1971. First, the US Nixon administration altered its focus in the Cold War and stopped struggling against China. This deci-

3 CTA 1994, pp. 41–42; Hoppe 1997, pp. 95–96.

4 Resolutions 1353/14 (1959), 1723/16 (1961) and 2079/20 (1965). Cf. CTA 1997, pp. 4–6

5 Morris and Scoble 1990, p. 177.

sion had the side-effect that the USA lost interest in Tibetans and withdrew its support from them.⁶ Second, in 1971 China was conferred its own membership in the UN. The permanent seat in the UN Security Council in particular provided the Chinese leadership with a powerful instrument to block any resolution on Tibet.

Besides appealing to the UN, Tibetan exiles have always sought to resolve the Tibetan issue themselves, including efforts to improve the living conditions for those Tibetans left at home, on a bilateral basis between Dharamsala and Beijing. These efforts were officially represented by numerous negotiations between the PRC and the exile-Tibetans at a high political level, but without noteworthy success.

Realizing that the UN would not act in the interest of Tibet, nor would the bilateral negotiations with the Chinese leadership bring the desired results, the exile government shifted its political focus in the 1980s to the international grassroots level. From now on, international NGOs were the main focus of the political activities of the Tibetans. In this context, Tom Grunfeld points out that Jimmy Carter's election to the presidency of the United States in 1977 influenced the decision of the exile-Tibetan elite to focus on human rights issues, because Carter was "[...] pledging to carry out a foreign policy based on the principles of 'human rights' around the world." This led Tibetans to declare that "it is his special emphasis on the human rights issue that makes him a potential Messiah for Tibetans".⁷ Thus, the CTA realized that the human rights discourse was an important tool for any displaced and indigenous people in particular to change the political situation in their home territories — a relevance that had its beginning with the *UN Declaration on Human Rights* in 1948 and became important in the 1970s anew. Because the topic of human rights is still one of the key concerns of the UN, it brought the Tibetans unexpected hearings in the USA and Europe. This fact has since the 1980s provided the Tibetans with the opportunity to communicate its political objectives through the language of the Western world, using terms like "human rights" and "injustice".⁸

6 Xu 1997, p. 1066.

7 Grunfeld 1987, p. 198.

8 Mountcastle 1997, p. 296.

According to an interview with the present exile-Tibetan prime minister, human rights and environmental issues are regarded by the CTA as more important than the topic of Tibetan independence itself.⁹ Such a statement is at first sight surprising because Tibetans since entering exile have aimed to return to a free homeland. But looking at the political situation of the exile-Tibetans and international political circumstances in general one can understand the reason for such emphatic weighting. Starting with the political position of the exile government in India one has to realize that the CTA was never in the situation to act independently from the political will of the host country, India. Apart from political benefits in their domestic agenda, India hosted the Tibetans because of a deep sympathy for the Tibetan people based on the Buddhist religion. But to limit its own security risks, India forbade the CTA to struggle against the PRC from Indian soil. This meant that the exile government had to focus on topics that are in the first place easier to communicate than a direct encounter with China in order to regain the homeland. This served as one reason among others for the exile-Tibetans to decide that the preservation of Tibetan religion and culture was going to be one of the top priorities of the CTA politics. In this cultural and religious orientated frame the human rights topic fits as well as the promotion of eco and women's rights. All three topics are promoted internationally and are known among Tibetan and Western pro-Tibet activists as the so-called "universal rights strategy". This term combines Tibetan cultural protection and nonviolence with the advocacy of human, environmental and women's rights as a vehicle to campaign for the exile-Tibetan struggle.¹⁰

Moreover, the destruction of thousands of religious sites in Tibetan-populated areas in the PRC, in addition to the ongoing detentions of compatriots at home, had a deep impact on the Tibetan exiles' decision to focus on human rights. Furthermore, the human rights-based approach contributes to the limitation of potential conflicts between Tibetans in exile and those who are left behind. This can be explained by the fact that in comparable exile situations, the exiles' geographical distance from their home territory, their absence from important happenings and limited ability to re-

9 Interview with Mr. Tenzin Norgay, Dharamsala, 24.04.2002.

10 Pike 2001, p. 14.

tain a foothold at home may result in a break between the exiles and the nationals at home. This gap is even widened by different social, political and economical living conditions, ideological goals and views on how the present political system at home should be changed or overthrown. In the worst case both groups, the exiles and their compatriots at home, may fight each other instead of concentrating their energies to struggle against the present alien power in their homeland.¹¹ Coming back to the Tibetan exiles, one can argue that through a public articulation of the human rights situation in Tibet and efforts to improve circumstances in their homeland, at least temporarily, their compatriots at home are shown that they are not forgotten. Moreover, they are often at the center of exile-Tibetan politics.

For an explanation of exiles' promotion of human, ecological and women's rights, one can also look at the Tibetan exile government's role in the international community. Certainly, Tibetan exiles attempt to mobilize and expand international support through the combination of Tibetan Buddhism and universal rights. The key figure in this course is the Fourteenth Dalai Lama himself. Through his extensive traveling around the world he is able to highlight the topic of human rights in front of different audiences, e.g. in front of Tibet activists, Buddhists or even economists: "I do not see any contradiction between the need for economic development and the need for the respect of human rights".¹²

The universal rights approach is useful for many different kinds of pro-Tibet activist, as the representation of each specific right provides a symbolic and ideological package that is utilized in Western activists' discourse in order to categorize and promote the Tibetan exiles' claims of Chinese abuses in their homeland. Such a categorization of the exile-Tibetan struggle provides activists all over the world with a clear organizational framework, which makes a quick and efficient classification of Tibet-related issues possible. Each key right demands its own audience and forum for articulation and therefore appeals to a wider range of potential supporters than the exile-Tibetan political struggle would do alone. While the Tibetan Government-in-Exile is able to expand international support with

11 Shain 1989, pp. 146-147 and 154-155.

12 Dalai Lama 1993, p. 14.

such policy, international NGOs profit from the satisfaction of having contributed something to the attainment of a worthwhile cause: the Tibetan freedom struggle.

But the “universal rights strategy” has not only Western advocates but also exile-Tibetan supporters in the head Tibetan NGOs that actively participate in the discourse. In the Tibetan exiles’ search for outside support, they have learned the language of the Western world and adopted Western ideas, skills and methods to navigate within the international political arena. Consequently one can state that Westerners and exile-Tibetans hand-in-hand fashion new spaces in the global process, which are accompanied by a certain success in the implementation of the new skills, which in turn make these Western perceptions even more popular among the exile-Tibetan elite. Especially important symbolic events and conferences are used to promote issues and to build networks “[...] even when their connection appears somewhat tangential to the Tibet issue”.¹³

The success in communicating the Tibetan exile struggle in this specific way is also the result of the existence of a market for universal rights in Western liberal societies. Upendra Baxi states:

Human rights movements at all levels (global, national, and local) have tended to become capital-intensive. The praxis of protecting and promoting human rights entails entrepreneurship in raising material resources, including funding, from a whole variety of governmental, intergovernmental, international, and philanthropic sources. These sources are organized in terms of management imperatives, both of line management and upward accountability.¹⁴

In this regard, the promotion of human rights improves the international NGOs’ positions within a market of human rights. Through the highlighting of human rights in the Tibetan context they are able to expand their own network of supporters and improve their own organizational position.¹⁵

Universal rights, including human, women’s and environmental rights, have become political symbols that promote the notion of justice, which provides the Tibetan Government-in-Exile with a powerful instrument against China. But this strategy con-

13 Pike 2001, p. 85.

14 Baxi 2002, p. 123.

15 Bob 2002, p. 44.

tains, according to Upendra Baxi, also a situation of overproduction of human rights in the international sphere.¹⁶ In this regard, the exile-Tibetan struggle movement risks over-employing this topic, which may lead to the result that the Tibetan cause becomes just another human rights issue among others in the eyes of the international community. Furthermore, the communication of the exile-Tibetan struggle in human and other rights-based discourses may

[...] fundamentally alter the sites in which the Tibet issue is heard, or even subsumed by a larger human rights rhetoric. In the long run then, the universal rights strategy as it is currently employed may be counterproductive to Tibetan nationalist interests.¹⁷

In this context international TSGs can be called opportunistic in making use of the various universal rights as soon as appropriate or possible.¹⁸ The effects of such strategy can be summarized in two points: firstly, the so-called universal rights strategy legitimates the exile-Tibetan struggle because it becomes concordant with international agreements on human and other rights; and secondly, it provides all international actors with an argument to express their dissatisfaction about the Tibet issue despite the PRC's growing strength in international economics and politics.

Because of the policy shift towards the international grassroots level, since the 1980s the Tibetan exile struggle has been transformed into a dynamic and multidimensional organizational movement, including a growing number of non-Tibetan supporters who are able to work on different fronts by using highly skilled methods of communication, such as reports and lobbying, to publicize worldwide a litany of suffering and pain. Already by the year 1997 more than 350 TSGs placed morality, nonviolence, truth and justice on the agenda of the international community.¹⁹

TSGs focus generally in the following fields: They try to raise awareness in the international arena through intellectual, financial and technical resources that are not available to Tibetan exiles. Additionally, they are actively engaged in the Tibetan exiles' struggle through lobbying and putting pressure on politicians and

16 Baxi 2002, pp. 67–76.

17 Pike 2001, p. 74.

18 Ibid., pp. 56–57; Mountcastle 1997, pp. 307–308.

19 Tsering 1997, pp. 18–19.

officials while rallying the sympathetic public. Furthermore, TSGs create new and expanding links between the Tibetan exiles' struggle and other NGOs. And finally, they provide the Tibetan exiles with models and methods of effective activism. This new set of skills fundamentally altered the whole exile-Tibetan struggle in such a way that the traditional concept of state has been widened to include transnational political action.²⁰

If Tibetans abroad lacked diplomatic recognition, [official] embassies, or representation in important international organizations, they were gaining crucial access to power, money, and the media through their newly forged partnership with these unofficial and ardent American groups and supportive celebrities. Thanks to the appeal of these organizations' cause, the compelling personality of the Dalai Lama, and the shrewdness of their tactical planning, they had managed to circumvent many of the conventional structures of intercourse between nation-states.²¹

The Tibetan Government-in-Exile reacts ambivalently to the involvement of TSGs. Robert Pike points out that the CTA regards the work of the international TSGs as important because these non-Tibetan activists are able to successfully lobby local and federal governments. They are by nature more skilled in navigating within the international community than most of the exile-Tibetans and more familiar with established communication mechanisms of the international community, which enables the activists to communicate the exile struggle within a legal framework in the international arena.²² Moreover, the Fourteenth Dalai Lama states in that context: "... the non-governmental organizations have a key role to play. You not only create awareness for the need to respect the rights of all human beings, but also give the victims of human rights violations hope for a better future".²³ At the same time the CTA also keeps a distance from global activism because the TSGs focus more on Tibetan independence than on the Fourteenth Dalai Lama's future idea of a genuinely autonomous Tibet.²⁴

20 Pike 2001, pp. 35–44.

21 Schell 2000, p. 38.

22 Pike 2001, p. 38.

23 Dalai Lama 1993, p. 14.

24 Dalai Lama 1991, p. 11.

While the TSGs have so far been successful in legitimizing their work through growing support around the world by following the “universal rights strategy,” many Tibetan exiles remain in confusion about the initial goal of regaining the homeland.²⁵ Some, especially the young exile generation, which are represented by the Tibetan Youth Congress feel that the “universal rights strategy,” including the topic of human rights, is ineffective and does not lead to any concrete step towards the a free homeland. It rather offers international agents a way to evade the Tibetan exiles’ struggle by paying lip service to it. Furthermore, they disagree about whether universal rights-based discourse will affect the likelihood of China engaging itself in a meaningful dialogue, either with the Western activists or with the Tibetans. Robert Pike states in this context:

While many Tibetan activists and young Tibetans increasingly question the efficacy of the Dalai Lama’s moderate approach and opt to demand full independence, the universal rights strategy — crystallized in the campaigning of Tibet activists — is at odds with their radical goals. While the group of radical Tibetans is still a minority, there is allegedly growing friction among Tibetan youths who are increasingly disposed toward adopting an independence approach. In addition, some TSGs are thinking of radicalizing their demands for independence.²⁶

This shows that the Tibetan Governments-in-Exile focus on promoting the Tibetan exiles’ struggle in the international sphere under the guise of universal rights is not uncompromisingly accepted by the exile-Tibetan community, and the young generation in particular. Furthermore, the international TSGs increasingly shape the whole debate, which puts the CTA on edge. This new activist paradigm in combination with Tibetan Buddhist nationalism has been predominantly articulated in the world arena by transnational TSGs, meaning by more non-national activists, in this case non-Tibetans, than in any other nationalist movement.²⁷ This in turn illustrates the high importance of international supporters for the CTA in functioning as a government-in-exile.

25 Pike 2001, p. 72.

26 Ibid., p. 75.

27 Ibid., pp. 18–21.

The Tibetan Center for Human Rights and Democracy

The main Tibetan exile voice that promotes the topic of human rights is the Tibetan Center for Human Rights and Democracy (TCHRD). As already mentioned, human rights is to a large extent promoted among the international community to raise awareness for the Tibetan exile struggle to free the homeland.

The TCHRD was founded in 1996 from a former Desk for Human Rights and Democracy that had worked under the CTA Department of Information and International Relations (DIIR). The change to a new judicial status was carried out in order to expand the possibilities of political action, because as an NGO the center was expected to have more room to act in the international sphere and to have higher credibility among Western human rights activists. While the CTA may be excluded from conferences because of its representative claims to be the sole government of the Tibetan nation, an NGO may not. In turn, the CTA is able to act as an authentic and credible governmental organization and has more opportunities for action in the international political sphere while not dealing with sensitive issues like human rights, which could harm ongoing Sino-Tibetan negotiations. Nevertheless, despite the official separation, the contact between the TCHRD and the CTA is very close. For instance the center works hand-in-hand with the Department of Security, as they both monitor the political situation in Tibet and exchange information on human rights abuses.

The international promotion, highlighting and protection of human rights in Tibet is carried out by the TCHRD through numerous English-language publications, annual participation in international human rights-related conferences, campaigns and lobbying activities. Furthermore, the center takes up requests relating to particular issues and political prisoners, networks and shares information, organizes workshops, applies for funding and conducts briefings on the human rights situation in Tibet. Special campaigns and commemorations are annually organized on the occasion of the Panchen Lama's birthday (25th April) or the World Human Rights Day (10th December). To sum up, one can say that the number of annual publications and the extent of organization of workshops, discussion rounds etc. is unmatched in the exile NGO scene. Most activities and publications are especially designed to attract

an international audience. In this regard, one has to mention that through all these activities the TCHRD maintains a wide network of cooperation with international NGOs, governmental bodies and transnational organizations. It is interesting to note that the TCHRD is almost exclusively financed by Western agents, who themselves have a vital interest in promoting the topic of human rights.

For a successful promotion of human rights violations, the TCHRD needs internationally acceptable data of tortured and imprisoned compatriots through which it is able to emphasize the cultural differences between Tibetans and Chinese. Since the Chinese takeover, the monastic segment of the Tibetan population in particular has been repeatedly involved in Tibetan resistance activities that caused imprisonment, torture or even death due to the tight control in the TAR.²⁸ As soon as the monks and nuns are free they flee with the help of international human rights activists to the Western world, where they report about their imprisonment, ranging from terrible torture methods to the plight of other prisoners and their health. In this regard, one can say that there is an interrelation between Western human rights activists and the Tibetan former political prisoners.

Despite knowing much about the human rights situation in the homeland, the TCHRD has no direct contact with compatriots at home. Only through the broadcasting of radio stations like Radio Free Asia (RFA), Voice of America (VOA) or Voice of Tibet (VOT), telephone calls, and frequent cross-border movements is TCHRD informed about conditions in the homeland. People within Tibet are informed from the same communication channels about political activities in exile. TCHRD staff even state that Tibetans in Tibet are encouraged to struggle for their rights continuously, even though only a limited number of them know about the concept of human rights at all. In this regard, one can say that TCHRD gives these Tibetans a voice in the international sphere. Thus, TCHRD builds a bridge between those left at home, the Tibetan exiles and international agents.

28 Schwartz 1996, pp. 74–108.

Conclusion

One can conclude that exile-Tibetans successfully promote human rights within the international community. The Fourteenth Dalai Lama plays an important role in this context as he is able to convincingly promote human rights through his extensive traveling around the globe. Since the 1980s the exile-Tibetan struggle has been subdivided into different specific rights that are placed in different global arenas. The topic of human rights is embedded within the so-called universal rights strategy. The promotion of specific rights, including human, women's and ecological rights, provides the international activists with symbolic and ideological instruments that are utilized to categorize and support the exile-Tibetans in their struggle to stop human rights violations in their homeland. In this context, the concept of human rights is applied to mobilize international NGOs to participate actively in the Tibetan exiles' struggle to free the homeland. Such a strategy has positive effects on the position of the Tibetan Government-in-Exile because it legitimizes its political claims to act on behalf of the national cause, which is represented in the exile struggle. Furthermore, the "universal rights strategy" is beneficial for the organizational survival of the many TSGs.

In addition, human rights are communicated so as to bridge the present and potential gaps between exiles and the compatriots at home. They are linked to the exiles' struggle and their hardship is promoted in the international sphere. In this regard, both national and international support can be created by the exile-Tibetan political elite.

The most important exile-Tibetan voice that is specialized in human rights is the Tibetan Center for Human Rights and Democracy. This Tibetan exile NGO, and not the Tibetan Government-in-Exile itself, creates wide recognition and moral support from international human rights activists, NGOs and TSGs. In this regard, TCHRD works successfully in raising international awareness through the issue of human rights. Moreover, the center overcomes the limitations of the Tibetan Government-in-Exile in maneuvering in the international sphere and consequently expands the exile government's access to the international community. In summary, the issue of human rights is highly politicized in the exile-Tibetan community as it is indistinguishable from the efforts that are spe-

cifically designed to assist repatriation. Human rights in combination with Buddhism became a vehicle for both Tibetan and non-Tibetan activists to promote the Tibetan struggle worldwide.

Women's Rights in the Vajrayāna Tradition

JAMPA TSEDROEN (CAROLA ROLOFF)

As a Buddhist nun practicing in the Tibetan tradition I would rather prefer to speak on Human Rights in Tibetan Buddhism than in the wider Vajrayāna tradition, because on the one hand the Vajrayāna is also practiced in Japanese Shingon and Nepalese Newar Buddhism, neither of which I am familiar with. On the other hand this gives me the opportunity to approach the topic from a broader perspective without restricting myself to tantric Buddhism. Thus I will approach the topic of human rights from a Tibetan Buddhist perspective, showing how the universalism of human rights can be deduced from traditional theories that constitute the doctrinal basis of Tibetan Buddhism. Furthermore, since the organizers of the symposium have asked me to link the topic of human rights in Vajrayāna to the First International Conference on Buddhist Womens' Role in the *Saṅgha*,¹ which took place at the University of Hamburg in 2007, I will show that in the context of discussions of human rights, from a Western understanding, it cannot go unmentioned that these theories are not always rigorously applied. This will be made clear using the example of women's rights, which are not consequentially observed in any Buddhist tradition so far. During the Hamburg conference H. H. the Fourteenth Dalai Lama, among

1 Skr. *saṅgha* (Tib. *dge 'dun*) has here the meaning of monastic order. A selected proceedings of the conference will be published under the title *Dignity and Discipline. The Evolving Role of Women in Buddhism* by Wisdom Publications (Boston) in 2009.

other outstanding speakers, spoke on "Human Rights and the Status of Women in Buddhism", while the Protestant bishop Maria Jepsen presented a paper on "Women and Religion: The religious competence of women".² The discussions during the conference showed that if Buddhism in the 21st century is to remain credible, it must soon reposition itself on this issue. Although it is important to respect various cultures and religions, women's rights can not be relativized, but rather the world community needs to follow the universal principles already laid down and ratified by all the Asian countries where Buddhism is widespread.

Ways of Approaching a Western Understanding of Human Rights From a Buddhist Perspective

For the 60th Anniversary of the *Universal Declaration of Human Rights*, the Dalai Lama wrote:

Internationally, our rich diversity of cultures and religions should help to strengthen fundamental human rights in all communities. Underlying this diversity are basic human principles that bind us all together as members of the same human family. The question of human rights is so fundamentally important that there should be no difference of views about it. We all have common human needs and concerns. We all seek happiness and try to avoid suffering regardless of our race, religion, sex or social status. However, mere maintenance of a diversity of traditions should never justify the violations of human rights. Thus, discrimination against persons of different races, against women, and against weaker sections of society may be traditional in some regions, but if they are inconsistent with universally recognized human rights, these forms of behavior should change. The universal principle of the equality of all human beings must take precedence.³

On what should a potential universalism of human rights be based? In June 1993, during the Human Rights Conference of the United Nations in Vienna, H.H. the Fourteenth Dalai Lama explained before a gathering of NGOs that for him, the key to creating a better and more peaceful world is the development of love and compassion for others. He stated that "universal responsibility is

2 For the detailed program of the conference see <http://www.congress-on-buddhist-women.org> (accessed on August 12, 2009).

3 Dalai Lama 2008.

the best foundation for world peace".⁴ Tibetan Buddhism offers a variety of approaches to conflict resolution and respect for human rights and women's rights.

Universal Responsibility, a Key Notion of Buddhist Mind Training

"Universal Responsibility" has come to define the Dalai Lama's sense of human interrelatedness and compassion, which goes beyond all national borders. He reminds us that we are all members of a large human family and encourages human beings to develop a sense of responsibility for each and every member of this community. This advice is based on a central concept of the Buddhist mind training in the Mahāyāna: the "exceptional attitude" (Tib. *lhag bsam*). By developing love and compassion, one comes to the decision to take upon oneself the responsibility to strive for the well-being of others and relieve their suffering. Thus arises *bodhicitta*, the aspiration for enlightenment for the benefit of all beings. In Tibetan Buddhism, two methods for developing *bodhicitta* are explained. Both are based on "equanimity" (Tib. *btang snyoms*; Skr. *upekṣā*), an impartial, unwavering attitude that is free from attachment and aversion, and beyond distinctions of friend and enemy.⁵

Equanimity, Respect and Appreciation for Others

Equanimity is the sense that all beings are of equal value. This attitude is free of hostility towards others, or strangers, and free from attachment or fixation based solely on one's own interests and the interests of those close to one. Based on the theory of "dependent origination," one should consider how dependent human beings

4 Dalai Lama 1993.

5 A similar method, closely related to universal responsibility, that is taught by all Buddhist traditions, is meditation on the four boundless attitudes: equanimity, love, compassion, and joy. Cf. Ngawang 1995, pp. 78–91. One can use this technique to prevent tendencies to violence, as well as to strengthen tolerance, respect, appreciation, and sympathy.

are on one another and therefore how much one owes to others. In this way, one develops respect and esteem for them. This is difficult to practice when others do harm in the world, for example, through violence and torture. Nevertheless, attempts are made not to give up even on these people and to make oneself aware that they are similar to oneself in their desire to gain happiness and avoid suffering. It is just due to ignorance that they think and act wrongly. This does not mean that one simply sits back and tolerates their actions. But one strives to see things from the other's perspective and tries not to react with hatred and violence. In a spirit of dialogue, one recognizes the problem and attempts to respond in an altruistic and skillful way. The aim is to minimize harm and maximize the benefit for all parties involved.

Exchanging Self and Others

These abilities can be developed through a meditation method called "exchanging self and others". One tries to imagine oneself in the place of others, and behaves accordingly. This meditation can be combined with mindfulness of one's own breathing. With each inhalation, one imagines breathing in the sufferings of others and the causes of their suffering. With each exhalation, one imagines sending them well-being, prosperity, and the benefit of all one's positive factors actions. This technique is called "giving and taking" (Tib. *gtong len*). Generosity is one of the most important Buddhist virtues. It is not limited to material generosity, but also includes broadminded thinking, the sharing of knowledge, and personal social engagement, e.g., working for human rights and women's rights.

Tradition versus Modernity

These practices, all based on the traditional doctrinal foundations of Mahāyāna Buddhism, are suitable points of entry in dialogue with Western understandings of human rights. From the perspective of research on Buddhism, however, it is notable that neither the term nor the concept of human rights is explicitly found in Buddhist texts. In Asia, the concept is often associated with "modernity" and may be regarded as a "threat to the tradition" from a conservative point of view.

Nevertheless, according to the website of the United Nations,⁶ all the countries where Buddhism is widespread have already ratified the most important documents on human rights, such as the *Universal Declaration of Human Rights* of 1948 and the *Convention on the Elimination of All Forms of Discrimination against Women* of 1979. Hence, the question of whether human rights are universal is, in fact, too late. All human beings have these same rights, regardless of race, origin, social status, gender, or other characteristics, and I assume that we all want to keep them. These documents are not much help, however, if their implementation is insufficient or lacking altogether.

The Tibetan translation of “human rights” in modern Tibetan is *mi'i thob thang*. Although the term *thob thang* here means “right(s),” it implies something else, namely, a certain social position or privilege that is obtained. As in the rest of the world, in Tibetan society words such as *thob thang 'dra mnyam* (“equal rights”) or *bud med thob thang* (“women’s rights”) are only used in the secular context, not in a religious context.

In Tibetan Buddhist institutions, all the leading offices are held by men. There are no female monastic academic titles equivalent to *geshe* (Tib. *dge bshes*, lit. “friend of virtue, spiritual guide”) or *khenpo* (Tib. *mkhan po*, lit. “teacher, preceptor”), and classes in Buddhist philosophy even at the Central Institute of Higher Tibetan Studies in Sarnath, India, are taught only by monks. In 2005, at a meeting of the *Tibetan Nuns' Project*, twenty novices from eight Tibetan nunneries decided to pursue their efforts to follow through with full ordination. Tibetan Buddhist novice nuns at Jangchub Choeling Nunnery in Karnataka State, India, were supposed to receive the same title as monks receive after receiving education and training for up to 17 years. So far about fourteen nuns successfully completed their studies in the years 2006 to 2009, but they have not received any final academic title yet. Earlier, some high-ranking monks stated that they would do everything to ensure that the nuns’ accomplishments were recognized, while others stated that they will know to avoid them as long as they are alive. More recently, however, there have been allegations that religion and politics are being mixed and that women who seek full ordination or

6 <http://www.ohchr.org>, accessed on November 28, 2008.

monastic academic titles are no longer seeking religious goals, but are after purely secular goals, such as fame and glory, which contradict monastic mores.

The situation is very different in Korea. There, nuns teach Buddhism at universities alongside monks and lay scholars. The statutes of the Jogye Order, the largest Buddhist congregation in Korea, are supposed to state in a figurative sense that monks may bow to nuns.⁷ In contrast, gender distinctions are still found in the Vietnamese and Chinese traditions, expressed in the different colors of their robes. Changes are rapidly occurring, however. The Australian *Saṅgha* Council, for example, includes gender equity in its statutes.

Equal Opportunities and Buddha Nature

In Tibetan circles, I personally decided only to speak about “equal opportunities” (Tib. *go skabs gcig pa* or *go skabs 'dra mnyam*) and not about “equal rights” or “equality”. Nobody can blame women for expecting the same opportunities that men have for following the spiritual path towards liberation. In the *Perfection of Wisdom Sūtras* (Skr. *Prajñāpāramitāsūtra*), a genre of Mahāyāna Buddhist scriptures, wisdom is designated the “mother of all Buddhas”. Iconographically, the female *bodhisattva* Prajñāpāramitā embodies the completion of highest wisdom and knowledge. Already in early Buddhism, the Buddha ensured that women can attain enlightenment in the body of a woman. He taught the same path to awakening for women and men. The minds of all sentient beings are said to equally possess Buddha nature, the potential to become a Buddha. In this regard, all human beings are equal, whether female or male. Buddhists of all traditions agree that the nature of the mind is the same for all, regardless of race, color, sex, language, religion, political ideology, nationality, social origins, property, birth status, or other distinc-

7 During the 2009 *International Conference for Buddhist Sangha Education – Exploration on the Education for Contemporary Buddhist Ordained Women* organized by the Luminary Buddhist Institute, Chia-I Hsien, Taiwan, in Taipei, May 30th to 31st of 2009, a leading Korean nun-scholar explained to me that the statutes rather state that the *bhikṣuṇīs* observe the precepts of *bhikṣus* to enable them to take over the same offices monks do. This needs further research.

tions. Sometimes sentient beings are born female and sometimes male. The concept of evolution from a lower form as a woman to a higher form as a man does not exist. There is also no guarantee when one dies as to where one will be reborn. The Tibetan *lam rim* teachings ("Stages of the Path") speak of a precious human birth, not of a precious female birth or a precious male birth. Such a distinction would be seen as an obstacle on the way to liberation.

In general, religious identity is largely decided by where one is reborn. For example, one can be born in a "central country" (Tib. *yul dbus*; Skr. *magadha*) where the teachings of the Buddha flourish or in an isolated, uncultured country where there is no living *dharma* tradition. But being born into a religious tradition does not mean that one is necessarily a religious person or a follower of that religion. In order to become a Buddhist, one needs to take refuge in the Buddha, his teachings, and his community.⁸

Attachment to rigid religious views is considered a danger to spiritual development, especially for monastics. Attachment to views is considered a common reason for disputes. At the 10th Sakyadhita International Conference on Buddhist Women in Mongolia (2008), the American nun Karma Lekshe Tsomo said that religious identity or identification is potentially harmful if it creates attachment or aversion to specific religious traditions, in which case it becomes a potential source of conflict and violence. Therefore, from a Buddhist perspective, attachment, aversion, conflict, and violence are all to be avoided.

Nonviolence and the Universality of Human Rights

"Nonviolence" (Tib. *mi 'tshes ba*; Skr. *ahiṃsā*) and "dependent origination" (Tib. *rten cing 'brel bar 'byung ba*; Skr. *pratītyasamutpāda*) are the two main pillars of Buddhism. Nonviolence is the basis for the ethics of love and compassion. It includes not only non-violation, but also altruism and self-sacrifice. The Dalai Lama defines nonviolence as the wish that beings be free from suffering and actively take responsibility for the welfare of others. For decades, the Dalai Lama has advocated the universality of human rights. Considering what has

8 Tsomo 2008.

happened to his people in Tibet, one is surprised that the People's Republic of China has ratified the *Universal Declaration of Human Rights*. Not only has China received massive criticism for its lack of implementation of the Declaration, but China also holds the world record as the country that carries out the most executions. In Tibet, arbitrary arrests, mistreatment, and torture are the order of the day.

Women's Rights Can Not Be Relativized

If the human rights of a nation or state are violated, it does not necessarily mean that its government or its citizens are always well behaved or respectful of human rights. The *Universal Declaration of Human Rights* seems to function as a kind of legal counterbalance that enables world citizens to address violations of human rights. The same goes for the *Convention on the Elimination of All Forms of Discrimination against Women*. Both, without exception, are violated in all countries where Buddhism is widespread, even though their governments have signed onto the Convention. One need only think of domestic violence or child trafficking in Thailand. Therefore, particularly at the Fourth World Conference on Women in Beijing in 1995, the culturally and historically different understandings of women's rights were fiercely contested. Gender equity is still not self-evident in the politics, economics, and societies of the world. This is partly the fault of the world's religions. For example, it is known that the Vatican often concurs with Islamic conservatives when it comes to the definition of women's rights.

In the fields of political science, philosophy, and sociology, there are many studies on women's rights. But there are still very few in the field of religious studies, including Buddhism. One observes with concern how religious fundamentalist activities increase worldwide. Certainly not only religions, but philosophies, ideologies, and political theories put forth claims to ultimate truth. But nowhere is the conflict as great as between the advocates of women's rights and certain religious traditions. Each tradition has its priorities concerning human rights, women's rights, and religious rights. What can be done when the world's religious traditions lag behind in their understandings of human rights and assign women a position subordinate to men? Many women are denied equal participation in religious life, the study and practice of their religion, espe-

cially when ritual is involved. But to deny women the right to exercise shared responsibility for their religions is archaic.

This problem became particularly significant in the framework of the Vienna Declaration on the Elimination of Violence against Women of 1993. Although it should actually be a matter of course, it was noted that women's rights are an inalienable and indivisible aspect of universal human rights, and, in any case, cannot be relativized with reference to cultural and traditional mores. Acts of violence against women were explicitly condemned as human rights violations, including physical and sexual violence in the household and the family. Until then, women were accorded their "privacy,"⁹ which according to Article 18 of the *Universal Declaration of Human Rights* needs to be protected, together with religious freedom.

The 2007 International Congress on Buddhist Women's Role in the *Saṅgha* at Hamburg University

It is interesting to observe how Western women react when they have converted to a religion that has been imported from a foreign cultural environment and have taken gender equity for granted, but slowly note that theory and practice differ from each other, for example, in Buddhism. The International Congress on Buddhist Women's Role in the *Saṅgha* ("Order") at the University of Hamburg in 2007 was concerned with the full ordination of nuns (Skr. *bhikṣuṇī*). This level of ordination has only survived in some countries, such as Korea, Taiwan and Vietnam, but not in the Theravāda and Tibetan traditions. In a world that aims for gender equity, Buddhism is compromised if it does not take a clear and positive position on this issue. During the Congress, the Dalai Lama "outed" himself as a feminist, who has advocated for the equality of women since the 1960s. He made clear that he supports the revival of the full ordination for women as *bhikṣuṇīs*, but cannot move forward alone, without a consensus among the majority of the monks. The Tibetan Prime Minister, Samdhong Rinpoche, who is also a monk, has said that all previously proposed solutions by competent bodies have been rejected.

9 Cf. Klingebiel 1995.

Buddhist Feminism

Today, the Buddhist traditions have no choice but to acknowledge that the social roles of women have changed over millennia. It is not acceptable that in the 21st century Buddhism fails to live up to what the Buddha himself allowed a long time ago. But that is exactly what has happened. Some monks argue that the Buddha did not want an order of nuns and only agreed because his favorite disciple Ānanda pushed him to establish it. Another claim is that Asian women are not interested in equity and that even the Dalai Lama only advocates it because some Western feminists have pressed him on the issue. Already during the First Council held shortly after the death of the Buddha, Ānanda was criticized because he had favored the founding of the order of nuns. The effects of this criticism have been handed down until today.

However, senior representatives of the Buddhist traditions do not deny that conflicts have arisen between ancient traditions and lived secular conventions. The Buddha always paid attention to prevailing social views. During the Hamburg Congress, on a number of occasions, people asked what the Buddha would say about the role of women if he were interviewed today. The answer is clear. Already around 2500 years ago, the Buddha declined to support the caste system in India. Women belonged to all castes, in which they always took a back seat. Although the Buddha was not explicitly a social reformer, he certainly did not want to create two new castes of women and men. Discrimination is an issue for those who consciously experience it and it always entails suffering. Whoever causes suffering to others is no longer a follower of the Buddhist principle of nonviolence.

Buddhism is a religion that has canonical support for equality between women and men, so gender equity is in the spirit of the original teachings of the founder. At the time of the Buddha, the social freedom of women was very limited. Compared with men, they were considered to be of minor value, and both physically and socially inferior. Their purported inferiority was increasingly interpreted as a spiritual inferiority. Speculation about the limitations of female nature arose. The problem lies not in the doctrinal basis of Buddhism, but with those who are responsible for its practice. They

have the obligation to apply the doctrine as it was intended, even if that means challenging the rigidities of established traditions.¹⁰ Ultimately it is a matter of going back to the roots, the earliest sources, and reinterpreting the texts in accordance with contemporary needs. A clarification would suffice, explaining how certain statements of the Buddha are to be understood in specific contexts. In keeping with the key concept of personal responsibility that is stressed in Buddhism, it is essential to consider the sources in their historical, social, cultural, and political contexts. A good approach is offered by Alan Sponberg in his essay "The Female in Early Buddhism".¹¹

Statements of the Buddha on Women and Their Potential for Enlightenment

Sponberg suggests that the attempt to reconcile the various Buddhist sources with each other be abandoned, along with any attempt to justify contradictory and ambiguous statements of the Buddha. Instead, he emphasizes the importance of understanding the social and intellectual dynamics of the early Buddhist community. For him, the diversity of sources reflect diverse attitudes towards women and the feminine. The early canonical literature includes some statements about women attributed to the Buddha, but it is difficult to determine which statements actually originate from him.

It is important, nevertheless, that the Buddha is credited with clearly acknowledging women's potential for enlightenment, in the body of a woman, and taught both women and men, the same path to liberation. Gender and caste are no criteria. Already at the time of the Buddha, women had proved that they are equally capable of liberation as men. Buddhist texts tell of many female *arhats* (fully liberated beings). The Buddha praised laywomen and nuns as outstanding teachers and as highly realized beings. But it soon became necessary to regulate the rapid development of the order of nuns according to prevailing social standards and to legalize it through institutional structures.

10 Bodhi 2007.

11 Sponberg 1992.

Loss of Authority on the Part of the Order of Nuns by Institutional Suborder

Women in ancient India lived under the protection of their father, brother, or son. Accordingly, the order of nuns was finally put under the “protection” of the order of monks. Sponberg suggests that the often-quoted passage on Mahāprajāpatī, the first woman who asked the Buddha to admit her to the order and who founded the order of nuns, not be taken literally, as a historic source, but be understood as a symbolic and mythical summary of an ongoing process. To become a nun, Mahāprajāpatī had to accept eight difficult rules. One of them says that a *bhikṣuṇī*, even if already ordained one hundred years, must bow to a *bhikṣu*, even if he has been fully ordained only a day. The establishment of an independent order of nuns had come under criticism and consequently was brought under the control of the order of monks. As a consequence, the order of the nuns lost prestige and material support. Soon it was deemed more meritorious to donate to monks than to nuns. In vain, Mahāprajāpatī asked the Buddha’s permission for monks and nuns to render mutual respect to each other. In 2008, during the Annual Meeting of the American Academy of Religion in Chicago, Janet Gyatso, a Tibetologist at Harvard, made it clear that Mahāprajāpatī’s attempts to ensure gender equity in the *saṅgha* demonstrate that feminist approaches are already evident in the Buddhist canon, not an innovation by Western women.

Can Women Become Buddhas?

Women were increasingly seen as a threat to male celibacy. But instead of identifying the source of the problem as the male renunciants themselves, responsibility was projected onto women. This misogyny is so evident in the tradition that it has been more carefully scrutinized than the androcentric view that led to the institutionalized subordination and devaluation of women in the first place. Sometime in the first century CE, a dispute erupted as to whether women were equally capable as men in the achievement of “buddhahood”. All Buddhist schools concurred that women were not. According to the Theravāda school, although women can obtain *arhat*ship, the state of a Buddha like Śākyamuni can only be attained in the body of a man. And according to some Mahāyāna

sources, women, at the time of attaining “buddhahood”, by virtue of their achievement, must transform themselves into a man.¹² Only from the 5th/6th century onwards, in Vajrayāna literature, is it explicitly stated that women can achieve the full enlightenment of a Buddha in the body of a woman. This capability is very clearly elucidated in the *Tārā-tantra*, for instance. The tantric teachings derive from both the early explication of the Buddha’s teachings, which portray women and men equally travelling the path to liberation, as well as on the *Perfection of Wisdom Sūtras*.

International Pressure is Increasing

In his essay “The Tyranny of Transcendence: Uses and Abuses in the Development of the Will,” the Australian Theravāda monk Sujato points out that “equality for women” usually means that women should have equal pay or the right to vote.¹³ People are happy when they are given equal and fair treatment. But in a religious context, women meet strong resistance when they demand equal rights. Some Buddhist teachers advise them to be content and let go of such “worldly” concerns. One should not covet; therefore, one should not talk about obtaining rights. Emptiness and *nirvāṇa* (P. *nibbāna*) are beyond all these considerations. Nuns and monks have abandoned the worldly life and therefore should not be attached to property, titles, and entitlements. Such advice is egotistical and, in certain contexts, may even create and justify totalitarianism.

Allison Goodwin (2007) demonstrates parallels between the racial segregation of blacks and whites, and the separation of women and men.¹⁴ She reports from her own experience that in monasteries in Taiwan, she always had to sit behind men and was only allowed to speak after them. Based on psychological and social science research, she documented the impact that gender discrimination has on women’s self-esteem. The effects are evident when women explicitly or implicitly are regarded as inferior and denied full equality, including the right to full ordination. The view that women are weak and *karmically* inferior to men is current not only in Taiwan, but throughout the Buddhist world.

12 Paul 1979.

13 Sujato 2008.

14 Cf. the film: “A Class Divided” (<http://www.pbs.org/wgbh/pages/frontline/shows/divided/>), accessed November 28th, 2008.

Buddhist practitioners typically meditate extensively. During intensive practice sessions, their teachers advise them not to think and not to study. This can lead to the perception that practitioners in the Buddhist community increasingly escape from ordinary responsibilities and almost maintain a cult of servility. Therefore, it is important to understand that there is no vow of obedience in Buddhism. This principle cannot be inferred even from the eight difficult rules for nuns. Sujato encourages women to take responsibility for themselves and for the teachings of the Buddha by actively opposing attempts to subordinate women, even if it becomes necessary to shift convent.

The Dalai Lama calls upon Buddhists to support human rights and women's rights. In a message to the 4th Sakyadhita Conference in Ladakh 1995, he declared:

Our rich diversity of cultures and traditions should help to strengthen fundamental human rights in all communities. Mere tradition can never justify violations of human rights. Thus, discrimination against persons of a different race, against women, and against weaker sections of society may be traditional in some places, but because they are inconsistent with universally recognized human rights, these forms of behaviour should change. The universal principle of the equality of all human beings must take precedence.¹⁵

A comparison with the Dalai Lama's statement given above¹⁶ shows that he has not changed his mind on this essential point. But it is still made very clear that human rights and women's rights must be universal and should go beyond cultural and religious barriers.

Practical Implementation on a Political Level and Impetus by Buddhism

If one accepts that human rights are universal, these rights must also be valid in the field of religion.¹⁷ Here I would like to stress that

15 Dalai Lama 1995, cited by Goodwin 2007.

16 See p. 196 above.

17 Cf. the recent statement by 'The Elders' that "the justification of discrimination against women and girls on grounds of religion or tradition, as if it were prescribed by a higher authority, is unacceptable";

women's rights are not a matter of ensuring the protection of a minority, but of protecting the rights of 51% of the world's population. Now is the time for the world's religions to recognize that their traditions have contributed to and at least partially continue to ensure that women are disadvantaged in religions and in human society. For example, Bhikkhuni Dhammananda (formerly Chatsumarn Kabilsingh, a professor of philosophy at Thammasat University in Bangkok), contends that Buddhist attitudes support girl trafficking and prostitution in Thailand.¹⁸

Buddhism accepts that all suffering originates in the mind. Accordingly, the solution to gender inequities can just come from within. Whether we regard women and men as equals is a factor of our own thinking and religions still have an important influence on peoples' thinking. Were the world's religions to offer women equal opportunities in their institutions and provide them with equal responsibilities, this would go a long way in signalling to society that the subordination of women is no longer acceptable and would contribute to a rethinking of outmoded attitudes. Buddhist societies can contribute significantly to this rethinking.

On a political level, governments can organizationally include religious communities, but cannot dictate their contents. On the other hand, it is the duty of the state to ensure human rights for all its citizens. The observance of human rights cannot and should not be enforced with violence, but the control and monitoring of the observance of human rights statutes should not be left solely to the United Nations and human rights organizations. Most importantly, it should not spare religious institutions. Even if the claim to universal acceptance of human rights still does not correspond to social realities, this must not lead to their relativization, making out that human rights violations are justifiable due to cultural differences or religious preferences.

Furthermore, it is important to understand how religious thought and practice influence cultural activities and social developments in the course of history, and how social and historical developments influence religious thought and practice. On the one

online resource: <http://www.theelders.org/media/mediareleases/religious-and-traditional-practices-discriminate-against-women-and-girls>, July 2nd, 2009, accessed August 13th, 2009.

18 Tomalin 2006.

hand, religious practices inevitably change in new cultural contexts, which is a sign of the vitality and responsiveness of a tradition. This does not necessarily challenge the authenticity of the doctrine. On the other hand, uncritical acculturation of a tradition may transform it into something entirely different, indeed compromising its authenticity. This, of course, raises questions about how authenticity can be gauged, whether tradition is intrinsically valuable, and what is at stake in preserving tradition. For example, some Buddhist teachers in the West are teaching “feelgood Buddhism,” minus any mention of ethics, death, rebirth, discipline, control of the mind, etc. On the other hand, the Buddhist orthodoxy of some schools renders them almost unapproachable and irrelevant, for example, on gender issues.¹⁹

Comparative cultural, historical and religious scientific considerations can help to strengthen this knowledge and build mutual understanding between East and West. Active dialogue between representatives from the fields of science and religion on human rights and women’s rights in world religions and dialogical religious education in schools are needed. In the long term, on both the local and global levels, this can lead to a rethinking and consistent observation of human rights. Buddhism has proved to be flexible and useful in linking ideas in interfaith dialogue. It offers a variety of doctrinal foundations to approach the Western understanding of human rights and, in many respects, could have a stimulating effect.

19 Partly based on a personal communication with Ven. Karma Lekshe Tsomo, dated April 19th/20th, 2009.

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Vin. *Vinaya Piṭaka*

DN. *Dīgha-nikāya*

SN. *Saṃyutta-nikāya*

AN. *Aṅguttara-nikāya*

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Index

This index is intended to be used as a glossary as well. The main entries are arranged according to English terminology. Corresponding terms in Chinese (Chin.), Pāli (P.), Sanskrit (Skr.), Thai (Th.), and Tibetan (Tib.) occurring in the texts are added as well. They are listed in the order of the Latin alphabet together with a reference to the main entry of the index. This does not apply to the words *dharma/dhamma*, *karma/kamma*, *nirvāṇa/nibbāna* and *sūtra/sutta* which are used interchangeably with their Anglicized equivalents.

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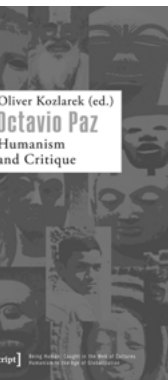
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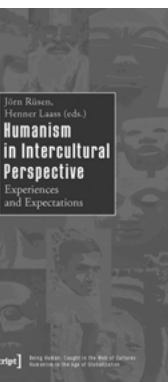


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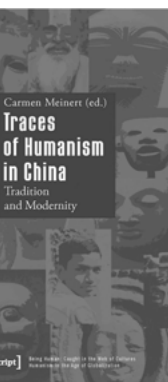
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