

Considering Justice in Contemporary Buddhist Thought

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The idea of justice is one with a long history of contested articulation and debate in the Western philosophical canon dating back to Plato (and Socrates) and continuing through the writings of such noteworthy thinkers as Locke, Hobbs, Mill, and Rawls among many others. In addition, the notion of justice is also inextricably tied theologically with the great monotheistic religious traditions where variations of a divine command theory of justice – the notion that an action is just because God commands it, or conversely that God commands it because it is just – have been articulated and defended for many centuries. With rapid changes in our avenues of communication and global dialog increasingly being the norm, Buddhists have begun to enter global discussions concerning justice and a host of related issues including human rights, environmental sustainability, war and peace, colonialism in all its forms, crime and punishment, and so forth. Obviously Buddhists have much to say on these issues and the Buddhist traditions have enormous resources to draw from to contribute in important and meaningful ways to these discussions. Interestingly however, there is not a specific term in Buddhist technical vocabulary that precisely mirrors the Western notion of "justice". I have argued elsewhere¹ that the time has come for Buddhists to clearly articulate what we mean by the term justice if we wish to participate meaningfully on the world stage in discussions of these important issues. Clearly the term *justice* is no longer solely restricted to its Western contexts and has become a global term - one that Buddhists rightly want to, and do use frequently in thinking through and discussing issues mentioned above like human rights, environmental sustainability, and so forth. And yet with meanings that are so deeply entrenched in Western philosophical and theological discourse in the minds of native English speakers, use of the term in Buddhist contexts such as the activities of Engaged Buddhists or in their dialogs across cultures requires well thought-out articulation of its meaning to Buddhists in Buddhist contexts.

While I would not argue that Buddhist discussions of justice need only take place with reference to its canonical Western counterparts, I do think that Buddhists would be well advised to be reasonably familiar with resonances that contemporary Buddhist formulations of the idea might have with longstanding discussions of justice in its millennia old indigenous context. Many ideas that were once specific to particular cultures are now clearly global in scope and the perhaps clearly definable contours of cultures and civilizations are far more ambiguous in our post-modern contexts than they were in modern and pre-modern eras. One need look no further than the Buddhist idea of *mindfulness* to see how a term and idea indigenous to Buddhism (and many forms of Hinduism) is now fully integrated – often in ways less immediately familiar to Buddhists – into Western psychology and therapeutic models for mental health, as well as education, and so forth. Sharing, considering, and applying ideas and practices across once disparate contexts and cultures may indeed be a hallmark of our time that can be

¹ Blumenthal, James. (2009) "Towards a Buddhist Theory of Justice". *Journal of Global Buddhism*. Vol. 10, pp. 321-349.

broadly beneficial for all concerned. And yet I think it is important to engage in this sort of work with both caution and rigor. We need to be careful not to throw non-indigenous terms around too lightly. We need to be cognizant of their indigenous meanings and uses if we are to be good partners in dialog and not merely recklessly co-opting important ideas in a process of misappropriation.

Though it usually is brought up without cognizance of the resonance such an idea might have with their Western counterparts advocating for justice as a sort of natural law such as Locke did, many Buddhists articulate a version of justice as natural law when they argue that karma is *the* Buddhist theory of justice. The Buddhist version of this is that we need not worry about articulating a theory of justice because karma insures that justice plays itself out. We get what we deserve. I believe that there are a number of presumptions, many of which are mistaken from a Buddhist perspective in this view, not the least of which that karma is about punishment and reward. This Western way of thinking about karma is, I believe, deeply rooted in retributive notions of justice that are simply not present in Buddhism. Retributive justice presumes that there are just punishments for actions that contradict cultural values or norms or the socially constructed laws of a society. And yet Buddhist notions of karma and its results do not seem to be about punishment. Punishment requires a judge and punisher. Karma does resemble a natural law in its matter-of-fact descriptions of the effects certain intentions and actions have for the continuum of consciousness and associated body engaging in them, but I do not think it is apt to think of it as punishment or some sort of execution of justice. I also think that such a perspective lends itself to a sort of fatalism that serves to undermine much of the entire project of engaged Buddhism. This is so because it seems to suggest that everything sort of works itself out justly and that we need not do anything to try to create a better situation for a suffering world, that in fact such efforts would be a waste of time and energy. I think that if we look to traditional Buddhist sources for insight into this, we find that the message of much early Buddhist literature actually is a rejection of retributive forms of justice and this sort of understanding of karma as the totality of Buddhist thinking on justice, and supports a wide variety of the sorts of thinking and activities that are common place among engaged Buddhists.

I am thinking specifically of the *Angulimāla Sutta*. The *sutta* recounts the story of the encounter between the Buddha and Angulimāla, a serial killer who had been terrorizing the local countryside in the state of Kosala by going on a murderous rampage, earning his name (Angulimāla, Finger-Garland) by wearing a garland around his neck made of the fingers of his victims.

One morning, as the Buddha went on his alms round, despite repeated warnings about Angulimāla's presence in the area, he encountered him on the road. The Buddha kept walking as Angulimāla ran after him, intending to kill him. The Buddha continued to walk calmly as he was chased, but due to his supernatural powers, no matter how fast Angulimāla chased after him, he could not catch up. Finally, Angulimāla shouted at the Buddha to: "Stop," to which the Buddha replied, "I have stopped, Angulimāla, you stop too." A confused Angulimāla goes on to question the Buddha's statement to which he replies, "Angulimāla, I have stopped forever, I abstain from violence toward living beings; but you have no restraint towards things that live: That is why I have stopped and you have not." (Ñāṃamoli, Bhikkhu and Bhikkhu Bodhi [Trans.], 1995, 771). When he heard these words spoken by the Buddha, Angulimāla was immediately struck by the

Buddha's wisdom and became his disciple, requesting and receiving ordination as a bhikkhu at once.

Upon hearing that Angulimāla was with the Buddha in Jeta's Grove, King Pasenadi led a cavalry of 500 men to go arrest Angulimāla. When the king arrived, he had an audience with the Buddha and respectfully asked about the whereabouts of Angulimāla. The Buddha asked the king what he would do if Angulimāla were transformed and now leading the life of a virtuous bhikkhu of good character. The king replied that he would honor and pay homage to him in an assortment of ways. The Buddha then pointed out the transformed Angulimāla, former serial killer, to the king who was amazed. The king, indeed, paid homage to Angulimāla. It was not long after that, that upon further teachings from the Buddha that Angulimāla achieved arahantship.

The following morning, when on his alms-collecting rounds, Angulimāla was attacked by townspeople who, knowing of his previous deeds as the killer of their kinsmen, threw various objects at him, drawing blood and breaking his begging bowl. When he discussed this with the Buddha, the Buddha told him to bear it, for he was experiencing the results of previous karmic deeds. The *sutta* closes with a verse recitation by Angulimāla rejoicing in his transformation due to following the teachings of the Buddha.

I would like to offer a few comments here on this *sutta* which I hope provides some food for thought in initial Buddhist thinking about justice and what justice might mean for Buddhists. There is no denying that Angulimāla's actions earlier in his life were unethical and that they violated the laws and social agreements of his time, not to mention any Buddhist perspective on ethics. They caused a tremendous amount of harm, both physical to his victims, and emotional harm to the loved ones of his victims.

How ought a Buddhist or Buddhist society deal with crime, with the violation of laws? Most nations, modern and ancient have utilized some form of retributive justice – to exact some form of retribution on the violator of the laws. Some have argued that it is just in and of itself for people to be punished for violation of laws agreed upon by the community. Others have argued it serves as a deterrent. I do not think either of these are particularly "Buddhist" ways of thinking or compelling arguments from a Buddhist perspective. Punitive or retributive justice entails judging and exacting harm on criminals. Causing unnecessary harm for anybody, even a criminal, seems to me to run utterly contrary to the most fundamental ideas of Buddhism. After all, did the Buddha not leave the palace in search for a cure for suffering? Are Buddhists not charged with having compassion for all living beings, even the worst among them? It is common at the ceremony for taking refuge in the Three Jewels that new Buddhists are urged to do their best to avoid causing harm or suffering to all living beings. It is hard to imagine the Buddha advocating the overt execution of suffering on individuals out of revenge or spite, or in the name of some notion of justice. The Buddha did not seem to be advocating this with King Pasenadi in relation to Angulimāla in the *sutta* discussed above. He seemed to be doing the opposite. Even the argument that claims that punishment is a deterrent to greater and more future crimes and suffering seems to have logical holes if one were to presume some Buddhist philosophical basics, like the notion of dependent-arising. Nothing arises without dependence on related causes and conditions. Effects, according to the Buddha have a direct relation to causes. Just as it is counter-intuitive on a large scale to bring lasting peace through war and violent means, so too is it counter-

intuitive, from a Buddhist perspective, to think that threats of extreme punishment will undermine the root causes of law-breaking in society. There may be relative or short-term success, but since the root causes will not be destroyed, it would be deluded to think that deterrence would actually be successful at eradicating crime on a large scale. And given the millennia-long experiment with this method and the lack of decline in crime, this Buddhist analysis seems to be proven correct. Rather than retributive or punitive justice, I think the Buddha would probably advocate a form of a new model of justice known as restorative justice (about which I will say a few words below) in this respect and I think this can, in part, be gleaned from the *Angulimāla Sutta*.

It does not seem that the Buddha, or the tradition as it represents itself in the *Angulimāla Sutta*, advocates a retributive or punitive form of justice. King Pasenadi does not see any reason to exact punishment upon Angulimāla for revenge, retribution, to create a deterrent to future crime, or for any other reason. This is due to Angulimāla's transformation into a virtuous and sincere bhikkhu who was fully reformed and posed no threat to society. Given Angulimāla's present virtuous state as a contributing member of society, for the state to exact punishment would not only be unnecessary; but also be an immoral cause of suffering. Buddhism is first and foremost concerned with alleviating suffering and eradicating the roots of suffering. I think that a Buddhist take on the issue of societal responses to crime would be to advocate for some model that would aim to both create a resolution and peace between the criminal and victim, and would aim to heal the root cause of the crime and the damage inflicted in its wake would be a much more fitting Buddhist approach. In a sense, Buddhism would ideally like to see criminals transformed, as Angulimāla was. Such an approach would fit well into newly formulated understandings and approaches to justice being widely discussed globally under the overarching banner of "restorative justice" as an alternative to retributive and punitive models for dealing with crime. The Buddhist intuition to heal the cause or go to the root of the matter rather than continue a cycle of causing harm lines up perfectly with more current thinking on restorative justice.

Restorative justice is an overarching idea that takes many shapes both in theory and application, but the underlying idea is that contrary to retributive models there is no absolute need to exact payback or punishment for wrongdoing to achieve some kind of balance or justice. Restorative justice theorists argue that retributive models fundamentally deny the dignity of human agents, both criminals and victims. Rather than focusing on laws that have been broken, the focus is on the harm that has been created both to victims and victimizers and to search for ways to heal those harms. Restorative justice aims to restore well-being and heal the wounds inflicted by the crime through a variety of means. Rather than view offenders and victims as adversaries in criminal proceedings, open communication that sees them as partners in a healing process tends to be a much more effective perspective according to advocates for restorative justice. One of the prime examples often cited for this process was the use of the Truth and Reconciliation Commission in South Africa in the wake of Apartheid which gave voice and ultimately greater comfort and healing to both victims and perpetrators. Dullah Omar, former South African Minister of Justice explained that the commission was a, "necessary exercise to enable South Africans to come to terms with their past on a morally accepted basis and to advance the cause of reconciliation."² There are a variety

² Truth and Reconciliation Commission homepage, <http://www.doj.gov.za/trc/>

of shapes and forms restorative justice might take in varied circumstances. No advocate of restorative justice views it as a one-size-fits-all solution.

The details of prison reform and the nuts and bolts of what shape restoration of the criminal and the victim might take are beyond the scope of this paper. Suffice it to say for now that I think this is an area where Buddhists could both learn from those with more experience in restorative models and offer unique contributions as well.³ Angulimāla had a wholesale psychological transformation that rendered him no longer a threat, and actually a benefit to society. Buddhism has tremendous resources geared towards actualizing the kind of transformation Angulimāla made. It will take a great deal of creative and enlightened work to think through the best ways to go about this, but to me it seems clear that, generally speaking, this sort of approach seems much more Buddhist and much more in alignment with the message of the *Angulimāla Sutta* that would be a version of retributive justice.

Karma is, of course, a dimension to any Buddhist theorizing on justice that needs to be considered. Doesn't karma, although meant to be a descriptive doctrine aimed at explaining the affect of intentions and actions of body, speech, and mind on our future experiences and states of consciousness, also describe the negative consequences of unethical behavior from a Buddhist perspective? One might ask if there is any need for state imposed punishment at all if one holds the idea of karma. Isn't karma *the* Buddhist theory of justice? Though teachings on karma have been used successfully and probably ought to continue to be used as a motivator and teaching device on ethical behavior, its technical understanding is that it functions as a causal relationship between our actions and our consciousness and future experiences than specifically as a form of reward and punishment under the control of any third party such as a government or god. If karma were taken to be the beginning and end of discussion of a Buddhist theory of justice with the presumption that karma takes care of everything with regard to justice, then the Buddhist position would be a quite fatalist or determinist doctrine. It would undermine attempts to create a society that is better for the welfare of all (as is the engaged Buddhists' overarching project) because karma would be the sole factor determining outcomes. Perhaps more importantly, it might even suggest that efforts towards one's own transformation and efforts to become enlightened would be pointless. If future experience is entirely determined by past karma, it would undermine any real agency, which in turn would undermine karma doctrine itself. I think this reflects a partial understanding of karma that misses the key component of agency that really is at the heart of karma theory in the first place.

Though there are teachings on the purification of karma (for example, Tsongkhapa's *Byang chub lam rim chen mo* [*The Great Treatise on the Stage of the Path to Enlightenment*]), generally speaking it is taught in texts like Vasubandhu's *Abhidharmakośa* (Chapter 4) that individuals will infallibly experience the fruits of their karmic acts at some future point. We see this illustrated in the *Angulimāla Sutta* when, even after achieving arahantship, Angulimāla is stoned by the townspeople and the Buddha tells him to bear it, for it is the fruit of his previous negative karma. But such a display of "justice" made manifest through karma is not, from the Buddhist perspective, reason not to engage in what contemporary writers might refer to as restorative models of

³ One such unique contribution that immediately comes to mind is the success of the Vipassana retreats held in prisons by S.N. Goenke. For an excellent documentary on this, see Menahemi and Ariel (1997).

justice. Angulimāla still strove for spiritual restoration, despite the inevitability of his karma. His restraint at this point was essentially an act of restorative work in that he was, in affect, hearing the grievances of those who suffered in the wake of his crime, an acknowledgement of his wrong doing, an expression of regret, and an apology. A Buddhist might still aim to establish a system to help to reform and heal the criminal as well as the victims out of compassion for the suffering of all. Though it may not have been called for in Angulimāla's case due to his rather remarkably rapid transformation, that is not to say that prison, appropriately conceived and implemented, might not be necessary for yet-to-be-reformed criminals.⁴ Fundamental to a Buddhist approach to crime must be the recognition of an individual's capacity to transform (as Angulimāla did). I would think that the (Buddhist influenced⁵) state would want to want to encourage some sort of transformation through the implementation of various programs. "Punishment" ought to include measures that engender such transformation. This Buddhist-type thinking is all in line with restorative justice thinking as well.

It seems to me that to seek punitive retribution for a crime committed is an intention and act grounded in anger, one of the three poisons (e.g., greed, anger, and ignorance) that keep individuals rooted in the sufferings of samsara according to Buddhism. This is not to say that Buddhists might not advocate for a form of imprisonment for some crimes for the dual purpose of the safety of society and a period of reformation/restoration/transformation of the prisoner. But contrary to most prison systems today that are so horrendous that criminals usually come out worse than when they went in, I believe a Buddhist model would emphasize healing the root causes behind the crime, some of which are related to material conditions in the world, but more importantly for this aspect of our discussion, are related to the mental and psychological states (or one might say, 'karmic predispositions') of the criminal. David Loy pointed out quite insightfully that,

The Buddhist approach to punishment, like any other approach, cannot really be separated from its understanding of human psychology and its vision of human possibility. (Loy, 2001, 81)

For the Buddhist, there is both a faith in the possibility of transformation and a responsibility to work towards it. I think this sentiment can be applied on secular grounds as well. In most countries this would probably take the shape of some sort of serious prison reform where the focus would be on the psychological rejuvenation of the criminal and the creation of a process for healing any antipathy between the criminal and the victim. The particular details of what such a system would look like in application can be left for further consideration.

There is much to consider and think through in the formulation of Buddhist theories of justice. My point here is not to draw conclusions, but to encourage discussion and more work on this important topic. In fact, punitive vs. restorative justice is but one

⁴ The specifics of what shape such a reform-oriented prison would take is, of course, an enormous topic that is outside of the scope of this paper.

⁵ Ideally it would not require an explicit "Buddhist" influence on the state. By participating in a global conversation, Buddhists can have an impact without an exceedingly imposing use of Buddhist language. The Dalai Lama is quite skillful at this in his recent book, *Ethics for the New Millennium*, which discusses his views on ethics in purely secular language.

dimension to justice work. The issue of how a society, Buddhist or otherwise might justly distribute the goods of society (distributive justice) is another discussion that needs serious attention in the Buddhist world. Leading engaged Buddhist thinkers such as Sulak Sivaraksa and Samdhong Rinpoche⁶ have made great strides in bringing these issues to the table. But more needs to be done. We are in a global situation where voices from many traditions and cultures are coming together to voice views and concerns, and to suggest solutions to our shared global problems such as the environmental crisis and many others. It is imperative that Buddhists be able to contribute in meaningful ways. I believe that since the language of justice is the language through which much of the global discourse is taking place, it is one that Buddhists need to be sophisticated about when engaging in this arena. I hope this paper offers a small contribution to an ongoing dialog within the Buddhist community around the world.

⁶ See Samdhong Rinpoche. (1997) *Satyāgraha: Truth Insistence: A Proposal* (Unpublished Translation by John Dunne) and (2006) *Uncompromising Truth for a Compromised World: Tibetan Buddhism and Today's World*, World Wisdom.