Author/s:
Kovacic, Martin Alexander

Title:
The Buddhist ethics of killing: metaphysics, phenomenology, ethics

Date:
2018

The Buddhist Ethics of Killing:

metaphysics, phenomenology, ethics

Martin Kovacic

https://orcid.org/0000-0001-7459-5359

January 2020

School of Historical and Philosophical Studies
Faculty of Arts
University of Melbourne

Submitted in total fulfilment of the requirements of the degree of Doctor of Philosophy

Abstract

Significant media interest and academic scholarship has in recent years brought attention to the normative status of killing in Buddhism, concurrent with the worst genocidal event since the last century, committed by apparent Buddhists, in Rakhine State in Myanmar, in August-September 2017. This event, the culmination of some five years of Buddhist aggression, was preceded by a concerted trend in academic Buddhist Studies to re-frame the textual, historical and cultural-anthropological account of violence and killing in classical and modern Buddhist sources. A normative schism appeared to be one of the results of this revisionary project, summarised by the question: are some cases of intentional killing actually or conceivably permissible in Buddhism?

Popular media and academic specialists appeared to belie the orthodox claims of senior Buddhist representatives, contributing to a possibly equivocal understanding among Buddhists themselves, as well as the general public. While working in 2011 in humanitarian contexts in Thailand-Myanmar, I soon became concerned to engage this question on a properly philosophical footing. Seeking to provide a robust account of the normative status of killing in Buddhism, this study theorises on relevant Buddhist philosophical grounds the metaphysical, phenomenological and ethical dimensions of the distinct intentional classes of killing, in dialogue with some elements of Western philosophical thought.

The thesis pursues this philosophical explanation and justification for the Buddhist-ethical prohibition of killing in two main sequential stages. First, in Part I, *Foundations*, I examine and assess canonical modes of reasoning and criteria for the ethical evaluation of lethal acts, available in canonical Nikāya, Vinaya, Theravāda, and some classical Mahāyāna texts, and their modern commentaries. Second, in Part II, *Constructions*, with reference to these and other early Buddhist sources, including those available in Abhidhamma/Abhidharma, Sautrāntika and Pramāṇavāda texts, I analyse four major intentional categories of lethal action.

This engages the domains of killing as (1) preventive, deterrent and retributive punishment; (2) as a form of mercy-killing (including relevant cases of euthanasia, suicide and assisted-suicide, and abortion); (3) as ideological-religious contestation (relevant to terrorism, religious and political violence, and

ideological militarism among other forms of symbolically-constituted action); and (4) as existential self-defence.

In sum, the study engages a broad theoretical spectrum of lethality in the Buddhist-textual and cultural context, with a view to establishing a philosophical groundwork for the Buddhist-ethical theorisation of the many intellectual quandaries that emerge around killing in the different domains of Buddhist normative and applied ethics. In doing so, the study offers explanation for why killing in these domains is fundamentally wrong, by exposing what specifically in each intentional domain makes it so. In accounting for these differentiated cognitive-affective causes of killing, we come to understand how the acquisition of philosophical insight into such causes cognitively enables the Buddhist-ethical project of the extirpation of human-caused suffering.

Declaration

This is to certify that:

(i) The thesis comprises only my original work towards the PhD
(ii) Due acknowledgement has been made in the text for all other material used
(iii) The thesis is fewer than 100,000 words in length, exclusive of bibliography

Acknowledgements

The author would like to express gratitude to: Jay L. Garfield, for a tireless commitment (and hitherto-undiscovered form of transcendental *kṣānti*) to the supervision of the work produced; Graham Priest, for braving a query from the Burmese borderlands and taking a punt on a philosophical novice; Roy Perrett, for assisting at the very early stages of research for the thesis; Toby Mendelson, for much-appreciated philosophical and academic comradeship; Sebastian Job, for manifesting the authentically universal *kalyāṇamitra*. The research herein, and its writing, could not have been completed without the much-valued support and generosity especially of my mother Flis Andreasen, and of generous and patient friends between Sydney and Singapore, Bangkok and Bristol, Paris and Prague.

The Buddhist Ethics of Killing:

metaphysics, phenomenology, ethics

*

Contents

General Introduction

*

i. *The purpose of the thesis*

This thesis addresses the question of why in Buddhist ethics and religion intentional killing is held to be fundamentally wrong. Buddhism's first precept (P. *pāṇātipātā;* Skt. *prāṇātipātaḥ*) does not suggest killing is only in most cases wrong, or interpretable otherwise, or dependent on historical-cultural conditions. It asserts that intentional killing is to be universally rejected by Buddhists, inasmuch as to *be* Buddhist requires at the least upholding the five precepts (*pañcaśīla*) and general injunction to non-harm (*ahiṃsā*) that pervades the Buddhist canon, and indeed the religion across its diverse doctrinal and historical contexts. The variation of interpretations between Buddhist traditions, similarly, does not signify the attenuation of the first precept as central to Buddhist normativity and practice.

It is thus unarguably true that Buddhist ethics unequivocally prohibits killing; the rare and distinctly antinomian exceptions, that pertain specifically to the soteriological normativity of transcendental Mahāyāna Buddhist wisdom-realisation (*prajñā*) and not that of the unenlightened worldling (*puthujjano*), I address in greater detail throughout the thesis. At the same time, however (and sometimes backgrounded by this antinomian precedent), a number of contemporary theorists of Buddhist ethics and Buddhist studies scholars (Perrett 1996, 2000; Jenkins 2010/2011; Keown 2016, 2014; Barnhart 2018) theorise permissible killing in some cases. While the prohibition is recognised as the normative Buddhist position, it appears secondary in these cases to the more realistic human contingencies of, for example, negotiating intolerable suffering, unwanted pregnancy, defensive and just war, counter-terroristic combat, legitimate lethal self-defence, and so on.

Given this fairly broad spectrum of cases of apparently justified killing, the Buddhist ethics of killing comes to appear not dissimilar to a secular ethics of permissible lethality. Indeed, significant secondary scholarship argues for or against these cases in much the same conceptual register as non-Buddhist applied-ethical theory does (with the addition of such well-known Buddhist qualifiers as altruistic compassion, forbearance, or selflessness) (for example in Keown 2001, 2005, 2014, 2016; Schlieter 2014; Perrett 1992), or in the descriptive terms of cultural anthropology and the sociology of lethal practises in Buddhist societies (Florida 2000; Keown 2018; Perret 1996; LaFleur 1992).

Moreover, some Buddhists themselves, including monastic exemplars of traditional doctrinal formation, even promulgate justifications for killing in serving their various religious, political, ethnocentric or ideological purposes (for example, in Myanmar, Thailand, or Sri Lanka; see Jerryson and Juergensmeyer 2010). This issue is becoming more than a pressing one in contemporary Buddhist polities, as we see it played out to tragic effect in recent South Asian history. Some traditional Buddhists have in recent years been guilty of the most heinous and cruel acts of killing it is possible to conceive (most obviously in Myanmar, noted in Part II of this thesis). How are these and other acts of killing that may be religiously motivated to be understood from a Buddhist perspective, beyond being judged, rightly but facilely, as more or less impermissible and morally regrettable? Addressing this question is the central purpose of this thesis.

There is a range of scholarship that in varied ways engages the question of lethality in Buddhism. In the broadest context, cultural-anthropological, historical, religious and textual studies in Buddhism and violence represent a burgeoning academic industry (see for example Bond 2009; King 2009; Jerryson & Juergensmeyer 2010; Jerryson 2013, 2016, 2018; Nelson 2009; Zimmerman 2006; Deegalle 2006 (ed.); Victoria 2006; Bartholomeusz 2002; Tikhonov & Brekke 2013). Secondary literature in Buddhist Studies has also grown in response to empirical and textual research regarding specific classes of killing, particularly in studies of Buddhism and abortion, euthanasia and suicide, and bioethical contexts in general, to which might be recently added capital punishment and just war, for which there is now a broad and varied literature (see Keown 1998 (ed.), 2001, 2005, 2014, 2018; Barnhart 1998, 2018; Koike 2006; Florida 2000; Hayes 1994; LaFleur 1992; Ratanakul 1988, 2000, 2009; Perrett 1992, 1996, 2000; Delhey 2006, 2009; Anālayo 2010, 2011, 2014; Schmithausen 1999; Kovan 2009, 2013, 2014, 2016, 2018, 2019).

This is not yet to mention scholarship detailing violent or lethal action in Buddhist Tantric tradition (Broido 1993; Gray 2007; Dalton 2011), medieval Chinese Buddhist religious suicide (Benn 2007), or the religious, political and ethical dimensions of contemporary Tibetan Buddhist self-immolation (Kovan 2014, 2018; Davis, 2016). Last, but not in any sense least, there is an important new theoretical focus on the killing of animals and animal rights (Stewart 2014, 2015; Waldau 2000, 2018); as I explain in Chapter 2 this area of enquiry entails conceptual and ethical problemata distinct from intrahuman lethality and so is conceived here as analytically separable from the prior domains, but no less significant than those.

Some aspects of the area-specific literature overlap with theoretical issues raised in Buddhist bioethics in general, and on this common ground important dimensions of the Buddhist ethics of killing have received attention in respect to both textual and normative analysis. Keown's extensive work in bioethics (2001) and texts by Harvey (2000) and Tsomo (2006) are notable here, along with variedly-focussed monographs and papers on textual and theoretical issues (Schlieter 2014; Jenkins 2010, 2010/2011; Gethin 2004a; Keown 2016; Ratanakul 2004).

Much of this pioneering work in Buddhist studies is rarely systematic across a range of disparate areas in the applied ethics of killing, and so leaves open theoretical problems of a more directly philosophical nature. Most obviously, if *all* lethal acts are by definition just acts of taking life, and the Buddhist general prohibition on taking life tells us they are thereby wrong, this conclusion does not offer analytic purchase on why such acts *are all* wrong, in what ways, or why some among others conceivably *aren't* always wrong. Accepting (or indeed denying) the impermissibility of killing in general does not allow for understanding why some modern theorists hold that the prohibition doesn't always apply, or provide the analytical means by which we are able to differentiate between them as constitutively quite different, rather than constitutively uniform, kinds of act.

Killing may, by taking life, achieve many varied goals. While killing is always normatively problematic, many argue that its negative normative valence may be mitigated by such subjective factors as intention or compassionate motive, or the comparative grounds of positive benefit, the amelioration of a worse suffering, the obviation of other forms of violence, and so on. The rationales and normative status of lethal acts are in general assessed by virtue of their putatively valenced intentions (*cetanā*) giving rise to morally-laden action (*kamma*) and probable consequences (*vipāka*)—these three related categories summarising much of the conceptual ground for classical and modern Buddhist-ethical theorisation. However, neither the primary literature nor secondary scholarship articulates a Buddhist-philosophical theorisation of killing *per se*, in its metaphysical, ontological, cognitive, psychological and phenomenological dimensions.

When we begin to theorise killing in these latter terms, the very broad spectrum of classes of killing becomes more precisely differentiated beyond its merely thematic differences. Instead of killing being conceived immediately through a normative lens (whether good or bad, permissible or impermissible), it is conceptually re-framed by a comprehension of its cognitive provenance. The analytic focus turns to what agents take themselves to achieve in engaging any particular lethal act, as both a type or class of more or less rational act, and as a more or less rational token of such a class. The rationales and normative status of lethal acts can then be assessed not merely by the moral calculus of their putatively valenced intentions or probable consequences, but more directly through understanding their intentional constitution with regard to the fundamental ontology of the person (as object) and the agent (as subject) in the metaphysical context of co-arising interdependence (*paṭiccasamuppāda*/ *pratītyasamutpāda*) in which such acts are undertaken.

When we have the analytic means for differentiating the intentional and cognitive structure of different types and tokens of acts, then we can also theorise different lethal acts in a much more fine-grained and nuanced manner. In assessing the relations between the cognition and phenomenology giving rise to killing, and the concrete effects that do or do not arise therefrom, we can gauge whether the various lethal projects are rationally coherent and so to that degree defensible. It is to provide such analyses that Part II of the thesis engages in-depth the preconditions for the major intentional classes of killing (the purposes for which it is undertaken), a hitherto unprecedented philosophical project in Buddhist ethics and philosophy.

ii. *Textual studies and philosophy: difference and complementarity*

In addressing the question of why the various Buddhist traditions uphold the first precept prohibiting killing (and all Buddhist doctrinal schools do), two important findings emerge.

(1) The first finding is that on consulting the canonical Buddhist corpus, and its relevant textual recensions, in search of a philosophical explanation for the prohibition, no philosophically explicit account is to be found. The canonical (Suttanta, Vinaya and Abhidhamma) sources identify *that* lethal acts are prohibited, and provide some evaluative criteria for how they are to be judged and punished, but not directly *why* the various acts are wrong—apart of course from the fact that they are all acts of harm that contravene the first precept.

Similarly, no single major Buddhist school of doctrine provides an exhaustive account of intentional lethality, even though texts of these schools (such as the Theravāda, Sarvāstivāda or Indian Mahāyāna) do variously include significant comment that could be interpreted as potentially, if partially, constitutive of such an account.[1] This means the theorist of killing in Buddhism must consult a range of primary sources for relevant Buddhist statements contributing to a potential, and plausible, explanation.

Finally, the statements about killing by such individual thinkers as Buddhaghosa, Vasubandhu and Nāgārjuna are not always consistent with one another. To ascertain the badmakers of different classes of killing, then, we must appeal to philosophical premises these and other Buddhist thinkers

[1] Damien Keown has made a similar, more general point with regard to the absence of a normative theory of Buddhist ethics (in 2005, 2017).

employ in their philosophical and ethical reasoning more generally. In this way, the contemporary interpreter of Buddhist philosophy can engage the same rational norms and premises, values and desiderata, which the traditions (through these thinkers and their writings) abundantly provide. Indeed, there is no other discursive means to philosophically engage the traditions; (I will put to one side, without denying its psychological and cognitive import, the kind of intuitive knowledge involved in meditative practice).

(2) The second finding, and perhaps more significant for the present context—and even when the contemporary theorist has engaged these central figures and the philosophical traditions they represent—is that it is not possible to identify Buddhist positions regarding *all* contemporary ethical issues of intentional killing, especially considering the very wide range of classes of lethal action as such. The aforementioned Buddhist thinkers do not provide argued accounts of, for example, religiously-inspired killing, terrorism or counter-terrorism, or even some forms of mercy-killing.

Until a hypothetical classical Buddhist treatise on the ethics of killing is unearthed, we must rely on primary textual scholarship, and judicious reasoning, respecting the extant sources and deriving what we substantively can from them. Moreover, even should such a treatise be discovered, it is not at all certain that what, for example, a sixth-century Buddhist commentator might assert is straightforwardly germane to the context and questions of our own time. (Indeed, we run into this problematic with regard to Buddhaghosa, who provides one of the more substantial accounts to which we can refer.)

Again, we are driven back on our own capacity to engage not merely a would-be *re*constructive ethics from the Buddhist claims to which we can reliably turn (such as those repeated through the Suttanta and Vinaya and their commentaries); rather, we are necessarily compelled to engage in constructive philosophy, grounded explicitly on as much of the classical corpus available to us, its subsequent commentaries, primary textual scholarship concerning both of these, recent secondary scholarship, and on robust standards of philosophical and ethical reasoning. Constructive philosophy in the context of Buddhist ethics is thus not merely a hermeneutical option; it is an intellectual necessity.

This thesis recognises that necessity and proceeds, with caution and constant reference to historical precedent, accordingly. To repeat, this project cannot be undertaken by further *interpretation* of what classical or commentarial sources may have said (but generally didn't) concerning the analyses of these classes of killing, simply because this was not the kind of philosophical task Buddhaghosa, Vasubandhu or Nāgārjuna explicitly undertook, even though they and others might make more or less tantalising if isolated statement of one kind or another, usually of a metaphysical nature. Taken as a whole, these disparate statements on killing, conceptually embedded in distinct metaphysical doctrines, do not amount to a fully-fledged theory.

The reasons should now be clear for why this study is primarily a philosophical exposition, rather than a work of textual scholarship. In order fully to engage the constructive project just described, the discursive focus must be on argument which seeks to determine the truth and coherence of any given normative claim in any given ethical context. Elucidating the claims of a single doctrinal school, or comparing canonical or other relevant texts between schools, allows only for the clarity of knowing *what* such texts and thinkers have said, not whether their claims are comprehensible or cogent for a succeeding era (again, Buddhaghosa is a case in point).

iii. *Structure of the Thesis*

Because this study asks *why* Buddhist traditions prohibit killing, it must focus on the philosophical project described above. The textual-hermeneutic and descriptive task of identifying just what the relevant Buddhist claims concerning the question *are*, across time and traditions, is essential to this project, and is taken up in the first part of the thesis: *Foundations*. But no single Buddhist source or school provides an exhaustive or unequivocal set of relevant statements; we must therefore seek these across a reasonably wide range of sources. Hence, this study is necessarily synoptic in its range of textual reference.

Moreover, no single text can provide us in every case with an exhaustive *explanation* for the normative status of such statements in a given

Buddhist context, either. Hence, the analyses that seek to secure this explanation must be primarily interrogative, probative, and normative, the central philosophical terms entailed in them undergirded by their Buddhist-metaphysical contexts. The discourse is thus guided by a conceptual rather than textual-hermeneutic analysis, even where the latter remains foundational (in Part I) as primary source-material for the philosophical task (of Part II).

To do justice to the Buddhist record we must also include in any theoretical explanation those anomalous cases—arhat and bodhisattva suicide in the Theravāda and (Chinese) Mahāyāna, and bodhisattvas as agents of killing in the Indian Mahāyāna—that appear to permit intentional killing, in those highly specific contexts. Again, note that because this is primarily a philosophically rather than empirically grounded thesis, not every historical phenomenon of Buddhist lethality—such as that famously in evidence in some schools and history of Japanese Zen—is addressed, even where the conceptual grounds for some of those phenomena might be engaged. Hence, a fairly heterogeneous array of source material is required to be surveyed for its conceptual content and philosophically engaged on its own terms, assessed for coherence and consistency with other claims, and then evaluated for its contemporary relevance. All of these hermeneutic and reconstructive tasks are taken up, in depth, in Part I of the thesis: *Foundations*.

Part II of the thesis, *Constructions*, turns to the task of engaging the findings and conclusions of Part I in a constructive project of Buddhist-philosophical theorisation, with constant reference to doctrinal premises of the relevant Buddhist schools. What then are the fundamental intentional classes of killing noted earlier, the analyses of which form the body of Part II? Obviously a vast range of reasons are brought to bear on killing (including potential non-reasons, or purely irrational killing, such as that evidenced in pathological psychiatric conditions) by its many agents. On consideration, however, these can for analytic purposes be grouped under four main headings, each of which forms a distinct basis for discussion as a chapter of Part II.

Again, some contemporary Buddhist theorists, and some cultural Buddhists, explicitly hold, or have held, that: (1) lethal punishment is permissible or justified in some criminal cases;[2] (2) some cases of incurable illness, or undesired, unintended or clinically unfortunate pregnancies, or states of intolerable suffering in general, justify the taking of life (Perret 2000; Barnhart 2018); (3) the killing of specified others can in principle be justified to defensively serve various religious, political, ideological or even ethnocentric-nationalist goals (Keown 2014, 2016; Gyatso 2001); and (4) that in circumstances of unprovoked attack, lethal self-defence can be a justified response (Keown 2016; Gyatso 2001).

I will refute these views. Each chapter of Part II thus provides philosophical explanation for why each one of these normative positions fails a properly Buddhist interrogation, on the basis of premises that represent an uncontroversial consensus of Buddhist views on sentient beings, affect, justified cognition and belief, the metaphysical status of selves, persons, abstract identities, consciousness, ideation and much else besides, entailed in the analysis of lethal acts. The rational cogency as well as causal efficacy of killing vis-à-vis its specific intentions, is explicitly shown to be mistaken.

Demonstrating this mistakenness is the analytic burden of Part II, and it can *only* be demonstrated by virtue of analytically distinguishing the intentional complex by which each class of killing is mentally constituted. I will argue that in very many cases Buddhist-ethical theorisation that argues for a norm of justified killing in Buddhism is misguided. Even in those domains where the case for justified killing seems strongest (as in some cases of abortion or euthanasia), the arguments of Part II demonstrate that, at least in the Buddhist case and in the first instance, they fail robust justification.

This conclusion however does not mean that this study intends to be an exercise in applied-ethical theory. Rather, it should now be clear that it is an exercise in the fundamental Buddhist metaphysics, ontology and phenomenology of lethality *per se*. Its focus lies in interrogating intentional cognition as a causal basis for lethal acts, rather than disputing one or other existing justification for them, thereby explaining why a Buddhist might hold

[2] Harvey (2018, 401) references multiple Buddhist polities such as Taiwan, Vietnam and Singapore, and to a lesser extent Thailand, where the death penalty is in use. Singapore, a secular state with a majority Chinese Buddhist population, has the highest rate per capita in the world.

the prohibition against intentional killing to be indefeasible. Throughout the course of Part II I demonstrate how, in each major domain, this might be understood to be so.

iv. *Summary and textual note*

With this philosophical groundwork in place, it might then be possible to reframe the applied-ethical context in such a way as to take into account fundamental Buddhist concerns around the acquisition of rational insight into the unmistaken nature of persons, selves, and action, intention as cause, and its effects and moral consequences. In that event, the Buddhist applied ethics of killing might have more rigorously philosophical, and indeed properly Buddhist, underpinnings.

That, in short, is the purpose of the study, and what I take it to engage as its central analytic task. Having provided these underpinnings in each domain of killing, however, it is not yet clear in every case how, or the degree to which, they might modify any given area of normative Buddhist discourse on killing. As suggested, that may require a separate enquiry. The purpose here is to treat rigorously the essential grounds and terms unoptionally required for that subsequent discussion.

This raises a related question of what such a discussion might mean for a community of thinkers who do not normally entertain Buddhist thought or ethics in general. To the degree that a non-Buddhist audience finds some or any Buddhist metaphysical or psychological premise in the discussion persuasive, and identifies their effective deployment in the argumentation of Part II, then they might also find some of its conclusions worth consideration, either as novel forms of explanation or as normative critique.

A final note on conventions for the use of Pāli and Sanskrit terms in this thesis: it will be noticed that terms in both languages may appear in proximity, or cognate forms of the same term used interchangeably, in different contexts, sometimes appearing to lack consistency. (An example is in the first two paragraphs of the Introduction, above, where Pāli and Sanskrit terms are both used.) This does not indicate an arbitrary use of terms, and both forms are usually given on their first appearance; however, some forms of

Buddhist terms (such as the Pāli *kamma, dukkha,* or *puthujjana,* or the Sanskrit *saṃskāra-skandha* or *saṃvṛtisatya*) are more familiar in general use than their cognate forms (in this case, the Sanskrit *karman, duḥkha* or *pṛthagjana,* or Pāli *sankhāra-kkhandha* or *sammuti-sacca*).

Though sometimes deferring for convenience to comparatively familiar usage in general discussion (as in the Introduction above), I also specify alternate forms when doing so marks a significant distinction of doctrinal reference (for example, the Mahāyāna framing of *karman* in those cases where its comparatively antinomian doctrinal understanding would, in the Śrāvakayāna[3] context of *kamma,* render it quite other to the Pāli sense of the word). Hence, while consistency remains the desideratum, the use of terms is in general determined by the doxographical context in which they appear, and so any appearance of inconsistency usually a result of the juxtaposition of differing contexts.

[3] From here on the term Śrāvakayāna or "vehicle of hearers" will be used in the same sense as the better known (but pejorative) appellation Hīnayāna, and is intended to collectively refer for convenience to both Pāli Abhidhamma and Theravāda, and Sanskrit Abhidharma and Sarvāstivāda, teachings which relevantly share the same or similar doctrines regarding killing, even where their metaphysical commitments differ.

Part I

Foundations:

The Nature of the Problem

*

Introduction

Text and Tradition: an overview of sources

As noted above, the normative status of intentional killing in the Buddhist context has, in recent years, attracted critical attention. Often lauded as perhaps the most peaceful of world faiths, a bastion of quietism within a welter of religiously-inspired violence, the first Buddhist precept prohibiting the intentional taking of life is virtually synonymous with the religion itself. Writing in 1957, Demiéville noted that “No other precept is followed so strictly by all Buddhists, even now. Not-killing is a characteristic so anchored in Buddhism that it is practically considered a custom.” (2010, 18) How true does this remain over a half-century later?

The purpose of this Part I introduction is to provide a general background to Demiéville’s claim: how the meaning and import of the first precept is embedded in Buddhist texts and traditions, and of how modern Buddhist Studies scholarship has engaged that understanding in research on primary textual sources and interpretation thereof. The subsequent chapters of Part I consider in depth the central dimensions of this received Buddhist conception of intentional lethality.

Prominent scholars of Buddhist ethics (Cozort and Shields 2018; Keown 2005; Harvey 2000; Kalupahana 1995; Sadhatissa 1997, among others) consistently interpret the first precept unequivocally, noting that it is backgrounded by the more general value of universal *ahiṃsā* or non-violence (itself deriving from and shared with other of the Indic religious traditions).[4] The paracanonical *Milindapañha* has the monk Nāgasena quoting the Buddha to the effect that non-injury or *ahiṃsā* is "approved by all the Tathāgathas as conducive to one's welfare." (cited in Ronkin 2005, 106) Nāgasena even informs the king that the defining characteristic (*lakkhaṇa*) of the *dhamma*, indeed its own-nature (*sabhāva*), is non-injury.

Extensive scholarship of recent decades, however, has also charted the many minor (and not so minor) historical lapses of this ideal through Buddhist traditions, and rationalizations for it in some of their, generally non-canonical, texts. This textual and ethnographic terrain is large and diverse, undermining the possibility of a wholly consistent or uniform account. Killing in the historical Buddhist lifeworld, as elsewhere, functions in ambiguous and multiple ways, strongly inflected by other (religious, ethnocentric, political) facets of moral action.

Indeed, Buddhists from different cultural backgrounds approach the problem of permissible killing in different ways. It shouldn't be surprising then, though it is still disturbing, that public Buddhist figures—including both Theravāda and Mahāyāna monastic exemplars—have engaged in activities ranging from hate speech to racial and ethnocentric vilification that have been used to justify civilian violence and murder, in which, at worst, those exemplars have been more or less directly implicated (see a range of examples in Jerryson & Juergensmeyer 2010; Fortify Rights 2018).

Nor is such animus especially recent, and a range of examples have been detailed of similar tendencies through Buddhist history (Jerryson & Juergensmeyer 2010; Jerryson 2013, 2018; Bond 2009; Gethin 2007; Victoria 2006; Zimmerman (ed.) 2006; Batholomeusz 2002). Clearly there is a deep rift, in these and other cases, between Buddhist normativity and some facts of Buddhist religious and social culture. The majority of these more or less pressing tensions have not culminated in intentional killing, but some have,

[4] Bodhi writes, "Though the precept's wording prohibits the killing of living beings, in terms of its underlying purpose it can also be understood to prohibit injuring, maiming, and torturing as well." (1994, unp.)

and in some cases Buddhists implicated in lethal violence have sought public forms of self-exoneration (see Harvey 2000, 255*ff*.).

His Holiness the 14th Dalai Lama has claimed that the intentional use of force is justifiable in Buddhist terms as a form of constraint. While he stops short of endorsing intended killing, he has also expressed an apparent tolerance of premeditated homicide in the context of modern warfare and counter-terrorism (Gyatso 2001; Peralta 2011); on other occasions he has arguably condoned killing with intent (Flanagan 2012; Park 2017, 87). These views, equivocal as they are, must be taken seriously as guiding normative discourse for many Buddhists in the current period of the growth and assimilation of Buddhism, in particular, in the West.

In this broad context, then, recent scholarship in Buddhist Studies has been devoted to unearthing the evidence for violence in the canonical and other corpus, and to what degree one or another condition might apply to its rationalization. Major distinctions within the domain of killing are generally not systematized in the primary literature, where instead singular cases of killing illustrate a normative rather than theoretical point about, most often, its cause and consequence. Indeed, some categories of killing are not considered as such, or only equivocally, and thence attended with hermeneutic dispute (especially around, for instance, suicide, for a general synopsis of which see Kovan 2018, in Cozort and Shields).

Nevertheless, the unifying feature of the relevant acts evidenced in both primary and secondary literature is that they are acts of violence that lie open to the charge of transgressing the first precept, even though they do so with differing intentional, philosophical and normative presuppositions, and vary in the kinds of consequence and culpability that ensue from them. Some senior scholars (Jerryson 2013, 2018; Jenkins 2010/2011) of the primary literature and historical record also casually conflate physical violence with killing in a broad brushstroke, as if there were no morally salient difference between them, and claim normative conclusions on that basis—a misconstrual that compromises important textual and anthropological research. I return to this issue in detail in Chapter 3, arguing that there is a crucial distinction to be drawn between the descriptive project of religious studies hermeneutics and normative ethical argument, with regard to the ethical discussion of killing in Buddhism.

As we are concerned with the philosophical grounds for the first precept, rather than the degree to which it is actually observed, Part I will not survey the full extent of textual and historical variation that could be brought to bear on an analysis of killing in Buddhism. For example, some traditional moral-homiletic literature, including canonical material such as some of the narrative biographies of the Buddha's past lives as recounted in the *jātaka* tales (birth stories), those of his disciples and devotees in the *avadānas* (glorious deeds), and hortatory or hagiographical literature generally, has not generally been included where it does not meet a requirement for, comparatively-speaking, "the kind of systematic explanation and practical instruction that characterizes so much of the *Nikāyas*." (Adam 2018, 85)

The narrative structures of the *jātakas* and *avadānas*, fertile in normative content as they are, function nonetheless in an imaginatively metaphoric, fabulous and therianthropic mode. Interspecies killing is framed in transpersonal and translife moral terms that go well beyond the empirical understanding of interspecies or even intrahuman behaviour. Mining their abundance of often unrealistic contexts in which killing occurs, would fail to elicit the propositional content needed for a conceptual analysis of the putative ethics *of killing* in the canon, as opposed to moral instruction more generally, and amount (as argued in the General Introduction) to an essentially descriptive task where we are engaged on an interrogative one. I analyse the same point in depth, in the Mahāyāna context, in Chapter 3.

In sum, the primary and secondary discussion of killing in Buddhist texts is context-specific, often contested and, in some cases (as argued in Chapters 2 and 3) possibly specious. Some of the scholarship is germane to the contemporary philosophical and secular context; much of it is significant only to the interests of academic Buddhist or religious studies. Sorting out the philosophical wheat from the chaff of this discussion is the main concern of Part I. Its chapters will, in part, be an attempt to make distinctions explicit where they have remained opaque, which might then be deployed, in Part II, to theorise philosophical interpretations that have lain dormant in Buddhist ethical discussion. Buddhist hermeneutics meets a very complex, contested and deeply violent 21st-century moral landscape, and requires new resources—its own, reconfigured—to find new ways of philosophically engaging it thereby.

The central focus of Part 1 thus lies in assessing the philosophical foundations of conflicting Buddhist claims, either of the earlier textual and historical record, or of the recent and present time. Hence, in surveying the canonical Buddhist record relevant to the first precept, we first need to understand the cultural and conceptual context of its original terms, available most generally in the canon, and particularly in the Buddha's discourses and code of his monastic order (*saṇgha*).

The Nikāyas, Vinaya and Abhidhamma

The Buddha's discourses (*suttanta*) in the Nikāya-piṭaka or first basket of the canon (some of which with the Vinaya forms the earliest textual strata of the canon) provide an initial framework for interpretation. In these putatively original discourses of Śākyamuni Buddha, reference to intentional violence is variously made, often in response to the questions of interlocutors. These references to killing, often embedded in a larger iteration of the paradigmatic kinds of unwholesome action (*akusala kamma-pathā*) (for example at AN. II.234), are generally framed in terms of its causes in affective affliction such as hatred (DN. II.276-277) and fear (DN. III.182), in associated cognitive delusion and the reified sense of I or mine (DN. I.3), and in fixed and dogmatic moral, religious or social views (even where these are correct).[5] These among other factors are identified as the mistaken causes for the extremes of violence, of which killing is the limit-point, and which thus make it wrong to the extent that these factors are themselves morally and affectively unwholesome (*akusala*). I take up the analysis of the discourse of killing in the Nikāyas in greater depth in Chapter 1.

[5] See Sn. 766-975; cf. the *Brahmajāla Sutta* in D I.3-4; *Cūḷa-Kammavibhaṅga Sutta*, M III.203; Sn.V.394.

The second major canonical source for enriching our understanding of the early Buddhist conception of killing is the Vinaya-piṭaka[6] (or *vinaya*). This early stratum of the Tipiṭaka presents legalistic reasons for the expulsion (*pārājika*) from the *saṇgha* of its members having committed, abetted or encouraged lethal acts. This case law asserts the varying circumstances requiring a *greater or lesser* punitive response, pertaining to monastics. While crucial to a fuller portrait of the precept, the explanatory content of the third *pārājika* rule leaves the original question unanswered: what are the fundamental grounds by which Buddhism prohibits *any* lethal acts as such, performed by *any*, and not just a monastic, agent?

One response to this question could lie in turning to the third collection of the Tipiṭaka, the Abhidhamma. This psychologically-oriented discourse taxonomizes the universal mental-affective conditions giving rise to certain classes of behaviour and so theoretically provides the analytic means to describe the constitution of mind and probable conditions causally responsible for lethal acts. Identifying such states and conative tendencies might similarly allow for developing a third-personal account of the likely psychological effects, for the agent, of any lethal act in generic terms (the most central of these in respect of affectivity are addressed in Chapter 4).

But as noted above, all lethal acts have a specific intentional constitution and so require quite different affective and psychological analyses (even before their putative reasons and justifications are considered); compare for example in this sense the great difference between murderous homicide and compassionate euthanasia. Moreover, appealing to Buddhist-scholastic theorisation to explain the *prohibition* of killing highlights the difference between a descriptive analysis of the mental-affective constitution and phenomenology of *akusala* (unwholesome or unskilful) acts, and the explication of normative master-terms that guide Buddhist-ethical thought in this case. It is not certain that even a philosophically sophisticated Śrāvakayāna exegete, such as Buddhaghosa, would seek that high degree of theoretical explanation for the first precept, beyond more accessible Nikāya

[6] The second of three main baskets (*piṭaka*) of canonical Buddhist teachings originating from the Buddha's guidance to the monastic order concerning its legal rules, but including also hagiographic and narrative episodes.

norms and their interpretation, and considering the broader religious and ethical lifeworld, and even the irrational folk explanations attending it.

Moreover, causal factors for killing such as those typically identified in the Abhidhamma as hatred, anger, unskilful consciousness, wrong view and delusion (all detailed in Chapter 4), are not synonymous with an explanation for why the actions issuing from them are wrong. To see a causal account as a complete explanation for the badmaker(s) of killing would be a fairly natural, but misleading, case of the genetic fallacy that identifies the wrongness of actions or things in their origins. To grasp the fundamental wrongness of lethal acts we need to look still deeper than Buddhist claims around the inherent badness of unwholesome affect and its necessarily unwholesome moral-psychological effects.[7]

There are also a very large number of lethal cases which could be and are arguably conceived, including by Buddhist theorists themselves, as not grounded in hatred or aversive affect (such as in compassionate euthanasia, assisted suicide, abortion, self-defence or counter-terrorism), in which cases the causal basis of unwholesome affect as explanation for the prohibition has only limited or no application. Keown (2016) challenges Gethin (2004a) on just this point, to the end of claiming that some psychologically select forms of mercy-killing could, contra Gethin's Abhidhamma argument, be conceived, if not rendered permissible, in Buddhist ethics.

If affect is not the only Buddhist badmaker for killing, then what can be considered as guiding master-terms informing the prohibition in the canon? Most broadly, anything that gratuitously produces or contributes to suffering (*dukkha*) in its various forms is not to be countenanced. Among these, and most relevant to killing, death itself is suffering, as are sorrow and lamentation, sadness and distress. Being separated from loved ones is suffering, as is not getting what one wants, and getting what one does not want.[8]

---

[7] Gethin (2004a) argues this theme in a study of the Abhidhamma and Pāli commentarial sources on the norm against killing. See Chapters 2 & 4 for in-depth discussion.

[8] *Mahāsatipaṭṭhāna Sutta* (DN II.306-307; in Walshe 1995, 344).

Hence, if people seek not to die then (1) the possibility or probability of being killed produces anticipatory anxiety for them and their loved ones, and prohibiting killing obviates such suffering. Killing (2) minus this factor of anticipation (such as in unexpected or sudden murder) also causes suffering for those still living, who were significantly related to its victim. Moreover, killing (3) from negative psychological causes, which (for example, Gethin argues) is always the Buddhist-psychological case, produces (more) suffering for its agent.

Any lethal act thus appears, by this basic threefold generation of suffering, to contradict the fundamental desiderata of the earliest bases of Buddhist ethics. (Of course, this simple schema can be challenged on other normative grounds, but it serves here merely a heuristic purpose.) Moreover, these Buddhist criteria for suffering are substantially in accord with Eric Cassell's prominent notion in contemporary Western ethics of suffering as "the state of severe distress associated with events that threaten the intactness of the person." (1991, 33)[9]

In sum, the prime normative concern of canonical texts is with the amelioration of suffering (*dukkha*) and the means for doing so: the capacity for moral agency to engage that kind of action (*kamma*) that ensures positive or skilful (*kusala*) consequences. In the canonical discourses, *kamma*[10] is thus the

---

[9] Schlieter sees this accord between early Buddhist criteria and Cassell's as "less fitting" inasmuch as "the intactness of the person" is not a desideratum in the Buddhist case because "According to the Buddhist concept of personhood, the very idea of a substantial "self" is a prominent source for suffering" (2014, 311). But person (*puggala*) and self (*attā*) are distinct ontological concepts, and Schlieter appears to unhelpfully conflate the legitimate conventional existence of the former with the non-existence of the latter. Otherwise, the supposed Buddhist devalorization of the person would have to justify the precept against killing (especially) persons in terms that contradict the sense of the individual *as* a self-conscious sentient being possessing both ontological and psychological integrity (or intactness).

[10] *Kamma* is the Pāli term, *karman* the Sanskrit, and *karma* the Romanised non-technical word (derived usually from Hindu contexts) that has now entered the lexicon of English and other modern languages to signify any number of notions only tenuously related to its Buddhist use. In much of what follows I will maintain the Pāli *kamma*, unless the Sanskrit cognate is required for the Mahāyāna context. On other occasions, I will conform to the current convention of *karma* where it is prevalent in the secondary scholarship being discussed, with the proviso that in every case it refers only to the varying Buddhist senses of the term.

master explanatory term determining the degree of suffering for the recipient, and its further effects for the agent, of action.[11] These two principles of mitigating *dukkha* by means of skilful *kamma,* as a partial explanation for the first precept, are considered in-depth in Chapter 1. As the most general conceptual underpinnings for the precept, they extend into the commentarial discussion of killing in Śrāvakayāna schools, most notably in Buddhaghosa's commentaries on canonical sources.

Buddhaghosa and the Theravāda

Buddhaghosa's extensive transmission of early oral and written Pāli and Sinhala texts made him the exegetical authority for the later Theravāda tradition.[12] His commentaries on relevant claims found in the *Majjhima-nikāya, Vinaya* and its commentaries, and the Abhidhamma *Dhammasaṅgaṇi*, present a normative Theravāda view regarding killing, oft-repeated by his own commentators. Because his summary explanations of these claims constitute a pervasive evaluation of killing in the early Buddhist traditions, they deserve a particular focus.

The criteria Buddhaghosa offers for judging the gravity of lethal acts are based principally on the notion of the physical quality (also virtue) (*guṇa*) of the human objects, but *also* agents, of killing: what I will schematise as a third major early Buddhist principle undergirding the prohibition, insofar as it is what first determines *the degree of* ethical fault of any homicidal act (rather than the human killing of animals for which, as we will note, Buddhaghosa presents different evaluative criteria). Furthermore, where agent and object can be apparently determined as equal (in this sense of quality), the degree of mental defilement and of intensity of effort on the part of the lethal agent also indicate degrees of culpability.

[11] Cousins (1996) and Harvey (1999) survey the canonical and commentarial contextualisation of *kusala* and action more generally, in normative and legal-punitive applications, respectively. Keown notes that "In the sermons [*suttanta*] of the Buddha, belief in karma is presupposed, although not articulated as a formal doctrine." (1996b, 335)

[12] Established around the Lankan Mahāvihāra monastery and teaching tradition flourishing in the 5th century CE (see Heim 2013, 9*ff*.).

These three related evaluative criteria (of *dukkha*, *kamma* and *guṇa*) indicate what, in the early Buddhist context, is ethically salient for identifying the *greater or lesser* moral gravity of lethal acts and the effects, or *kammic* quotient, they incur. But again, indicating only reasons for *degrees* of moral fault is not coterminous with an explanation of its relevant badmakers, and so these three principles cannot be seen as exhaustive of that explanation. Their apparent salience, moreover, suggests significant problems of interpretation, and then of evaluation: they are in important senses obscure to a modern ethical (and even Buddhist) audience, and their most intelligible appropriation depends on how questions of their interpretation are determined. These questions, and the criteria and conceptual context that give rise to them, are considered in Chapters 1 and 2, below.

Mahāyāna criteria

Mahāyāna traditions explicitly extend the criterion of *guṇa* or quality, here of an ethico-soteriological kind, exemplified in *ārya* (noble) beings such as bodhisattvas and Buddhas. This extension of the criterion subverts, by radicalizing, the sense of the precept: the lethal act is, counter to much earlier exegesis, theoretically permissible for such realized beings *because* their *guṇa* is infallible.[13] According to Buddhaghosa, any such act committed *against* these beings of superlative *guṇa* entails the greatest *kammic* effect (by reason of the prior grounds of *kamma* and quality) so that the intended killing of a Buddha cannot be surpassed as an evil or grossly unskilful (*akusala*) act. (Here we see all three principles of *dukkha*, *kamma* and *guṇa* operating as explicit criteria, but in a comparatively rarefied manner.)

However, by the same token, an *ārya* being possesses the cognitive (and sometimes clairvoyant) powers to ascertain that the most compassionate course of action may require an intentional lethal act (for summary see Harvey

[13] A significant pre-emption of this is in the Śrāvakayāna cases of Arhat suicide in which (in three reported cases at least) any moral fault appears to be exonerated by the Buddha. Suicide in general, especially of a pathological or normal kind, is considered in terms of the discussion of Chapter 6; exceptionalist Arhat and Mahāyānist religious-altruistic suicide are addressed in detail in Kovan (2013, 2014, 2018).

2000, 135*ff*). In that case it does not incur the negative ethical consequences that the same act would when committed by a so-called ordinary or unawakened person (*puthujjana*). The Mahāyāna thus presents a fourth major criterion for the first precept: the ethical supererogation of *prajñā* or wisdom, engaged in depth in Chapter 3.

This criterion supersedes, by sublating, all three prior criteria as also an exception to them: a noble being *can* be the efficient cause of local suffering, and of a (nominal) *kammic* demerit, if the greater global good of averting a larger suffering is certain to result. Such utility is, nevertheless, a normative wild-card: it is predicated on the existence and attainment of an episteme internally salient to the pre-modern Mahāyāna world-view, but not necessarily beyond it.

This summarises the conceptual territory informing the traditional Buddhist evaluation of lethal acts in the obviation of *dukkha* (PD), the optimisation of skilful action or *kamma* (PK), with regard to the quality or virtue (*guṇa*) of persons as objects and agents of lethal acts (PG), and as acts instantiating transcendental wisdom (*prajñā*) (PP). There are of course other organising values or concepts (such as the putatively inherent unwholesomeness of hatred, or the ubiquity of delusion in unskilful acts) significant for an explanation of the aetiology of killing; they will all be considered as part of its general account.

But again, the many related causes of ill-action are not always explanations for its wrongness, especially considering the wide range of lethal acts that, having different mental-affective causes, might have their own badmakers as well (which however is not to imply that causes and badmakers are identical). The four principles adumbrated in this introduction act only as heuristics, or compass-points of a map of the territory, by which in their explanatory function we can navigate through a large body of heterogeneous discourse, in the chapters of Part I which follow.

CHAPTER ONE

Canonical Buddhist Discourse of Lethality

*

I. §1. The first precept in its typical schema

We have noted that the first precept, proscribing the taking of sentient life, is characterised in the *Milindapañha*[14] as "the distinguishing mark of *dhamma*", confirming its status as the most important of the five precepts (*pañca-sīlāni*),[15] particularly in view of its *kammic* gravity. Its transgression is also among the five heinous crimes (*ānantarya*)[16] which result in a rebirth in a hell-realm (especially when its object is a so-called *ārya*-being). The Burmese meditation master Ven. Mahāsi Sayādaw provides a useful gloss on an important temporal dimension implied in its etymology: "*Pāṇa* means a living being or life; *ati* means "very quickly" and *pāta* means to make something fall. So *pāṇātipātā* literally means to cut off a life prematurely." (1997, 29)

Hence, inscribed in *pāṇātipātā* is the idea of the taking of a life before the ripening of its natural span (*āyus*).[17] The precept is repeated in varying

[14] A para-canonical Theravāda text of *c*. 1st century C.E.
[15] Proscribing killing, stealing (and cheating), sexual misconduct, lying, and the use of intoxicants.
[16] These five are: parricide, matricide, killing a saint, breaking up the Saṅgha, and causing, with evil intent, the Tathāgata (or Buddha) to bleed. (Note that the English saint may refer to any of a Buddha, bodhisattva or arhat.)
[17] The pre-Buddhist sense of *āyus* is extensive and in the post-Vedic *Śatapatha Brāhmaṇa* aligned to the notion of *amṛtam*, or the undying, which in the context of mortal men signifies a full life (*sarvam āyus*) of a hundred years. Hence the later Buddhist injunction against killing is not merely a valorisation of life per se, but

forms throughout the Nikāyas, such as in the *Sutta-nipāta* which claims of a Buddhist that

> Laying aside violence in respect of all living beings in the world, both those which are still and those which move, he should not kill a living creature, not cause to kill, nor allow others to kill.[18]

The proscription is universal with regard to sentient life, and implicates three modes of action: *direct*, *indirect*, and that *by omission or persuasion* (of discouraging or encouraging others respectively). In all the Buddhist traditions particular destructive acts are excluded from the category of killing (and therefore lack the *kammic* weight of the conditions given above) where: 1) non-sentient living beings such as micro-organisms (and in many cases plants) are destroyed in the processes of living (see Vin. IV.125; Miln. 166) 2) a sentient being is mistaken for an inanimate object and killed without intent (see Vin. IV.125;) and 3) any act accidentally results in the death of a sentient being (see Vin. III.78; II.91).

The intended lethal act is one of forty-four kinds of unwholesome physical act, speech and thought (*akusala kamma*) that must be avoided for the permanent overcoming of mental pathologies or cognitive dysfunctions (P. *kilesa* Skt. *kleśa*) central to the Buddhist path of mental-affective purification. The Vinaya defines homicide as the third of four offenses that result in irrevocable exclusion (*pārājika*) from the monastic order. The Pāli text of the first precept reads,

> *Pānātipātā veramaṇī sikkhāpadaṃ samadiyāmi;* (I undertake the training rule to abstain from taking life.)[19]

carries the much older connotation of the value of such a full life, seen as a worldly desideratum, rooted in the eschatology of rebirth into more fortunate (or eternal) lifetimes as highly-placed men or gods (see Collins, 44-47).

[18] Sn. 394: *pāṇaṃ na hane na ca ghātayeyya na cānujaññā hanataṃ paresaṃ/ sabbesu bhūtesu nidhāya daṇdam ye thāvarā ye ca tasanti loke*. (Cf. also MN. I.345; DN. I.4.)

[19] Harvey's (2000, 67) more literal rendering is "I undertake the training-precept to abstain from onslaught on breathing beings."

This formulation invokes two main considerations. First, it leaves relatively undetermined the *degree and kind of life* signified; second, it implies, by reference to abstention (*veramaṇī*), that its object is the *intentional* taking of such life. The precept is thus a proscription of intentional killing, not a value-judgement about preserving life, though these appear mutually implicative.[20] The two large areas of Buddhist discourse thus signalled—*life*, and its sentience, and *intention*—are central to any analysis of what is ultimately valorised in the first precept. As noted above, most generally that discourse fills out the following schema by identifying:

(i) the *intentional circumstances* (*kamma-patha*) that qualify the different gradations of a full lethal act;
(ii) the *qualitative* natures (*guṇa*) of the *agent* and *recipient* of the act; and so
(iii) the kinds of *ethical consequence* (*vipāka*) entailed in those different gradations.

True to this schema, the legalistic framework of the Vinaya focuses on (i) degrees or kinds of intention such that, for example, the will to harm differs from the will to relieve suffering (typically through good works or teaching the *dhamma*), whereby (ii) a wisely compassionate mind will intend these with more virtue than one characterised by ignorant hatred. Any lethal act, constituted by one or other of these broad features, will produce better or worse merit (*puṇya*) respectively (iii).

Psychological (or somatic) motives and moral (or thetic) intentions of the same intentional act are often enmeshed as well as morally heterogenous, so that *intention* as a hold-all category for moral evaluation is likely in practise to be fuzzy. For instance, Gethin (2004a, 183) explains that an overtly compassionate motivation (*hetu*) (for example, to relieve suffering) need not preclude comparatively covert or subconscious dimensions of aversion (such

[20] The distinction is important when it comes to conceiving the morally relevant ending of life. For example, Buddhist discussion of euthanasia concerns identifying the morally salient difference between its active and passive forms, insofar as the first precept is clearly implicated in the former, but the latter possibly not (Ratanakul 2000, 176). If however these two forms are not morally distinguished (e.g. by Keown 2018, 613) then the Buddhist-ethical status of passive euthanasia is reconfigured.

as towards the source of suffering in the person) as a decisive intention (*saniṭṭhāpaka-cetanā*) determining the same act.

Moreover, given the range of intentional factors characterising typical acts of abortion, euthanasia, suicide or even normal homicide, as well as their differing senses of life as the object of deprivation (as disposable, intolerable, meaningless, obsessively significant, etc.) a straightforward binary evaluation of intention between wholesome or unwholesome (*kusala* or *akusala*) seems to mistake their moral multivalence. If so, the schema above can only function as a broad heuristic for value-judgement, rather than a basis for enquiry into the referent for undertaking abstention central to the precept: there are all too many ways to do something as well as not to, but if intention is to morally adjudicate these it requires significant finessing. Moreover, focusing almost exclusively on what makes lethal acts *better* or *worse* does not address what it is about *life* that makes its privation wrong as such.

§2. Life, and sentience; the principle of *dukkha* (PD)

Living, breathing, and conscious beings

The Pāli word *pāṇā* (in *pāṇātipātā*) denotes that which breathes and so the capacity to sustain consciousness, and so sentience. As the Sanskrit *prāṇa* connotes breath as life or a universal life-force, so the semantic range of the Pāli term connotes breath (actual or potential[21]), the property of being alive, and life or vitality as a substantive faculty or principle (*jīvitindriya*) of both physical (*rūpa*) and mental (*nāma*) kinds.[22] Importantly, the latter *nāma-jīvitindriya* is one of the mental factors associated with all forms of

[21] For example, the embryo is alive but not yet breathing, though it carries that intrinsic capacity as it develops *in utero*.

[22] The pre-Buddhist origins of this equivalence between breath (or the capacity to breathe) and a universal life-force are of course extensive and evident from the Vedic scriptures to the *Brāhmaṇas* and *Upaniṣads* and beyond. Collins (1982, 50) observes the function of *prāṇa* in the metaphysical formation of the *ātman* concept and the growth of Brahmanical rebirth theory, which itself forms the origin for the Buddhist appropriation of rebirth as an ethical eschatology.

consciousness (P. *viññāṇa*; Skt. *vijñāna*).[23] Not all living things are conscious, so what property determines the possession of life, if it is not the capacity for being conscious?

The Buddhist understanding of the biological extension of the life-faculty includes all animals, denoting centrally *homo sapiens* and all primate and other animal, but also insect, species.[24] But both ends of this spectrum become vague or rhetorical—from jealous and delightful gods and goddesses at one end to so-called one-facultied life (perhaps unicellular organisms) at the other.[25] Kingdom *Plantae* is generally excluded from living beings pertaining to the first precept on the basis of lacking respiration and thence the capacity for consciousness.

More generally, however, the Buddhist description of living beings anecdotally appears to include organic species which exhibit a reliance on fundamental biological requirements for survival (sunlight, oxygen, water, mineral nourishment and so on), and the Buddha is described as avoiding harm to seed and plant life (DN I.3-5; cf. MN I.345).[26]

---

[23] See for example SN XII.2., where the mental factors of *nāma* are listed as feeling (*vedanā*), perception (*saññā*), intention (*cetanā*), contact (*phassa*), attention (*manasikāra*).

[24] See MN III.167-9; SN II. 1890-90; for reference to human, animal and insect sentience particularly in relation to rebirth and *kammic* relations between them in past lives. (AN I.161 describes human consideration shown to insects in feeding them.)

[25] H.H. the Dalai Lama considers amoeba (kingdom *Protoctista*) to be the simplest form of sentient life, while bacteria (kingdom *Monera*) is not sentient at all, because (he suggests) unlike the former they move about not with some degree of autonomy but by virtue of chemical processes alone. (He qualifies this view with the admission that it is his own educated guess as to how the demarcation could potentially be drawn).

[26] If life is not in the precept more narrowly signified by *pāṇā/prāṇa*, where plants *are* conceived as sentient this would clearly entail that destroying any living entity, including plants, is wrong (as the Buddha's behaviour just noted suggests). Schmithausen notes that such in *practice* was the case, at least for monks, with regard to the prohibition against intentional harm (1991, 6-7). Thus, some versions and readings of the Vinaya include plants among the class of living beings, the intentional destruction of which requires mental purification to counter-act its psychological and *kammic* demerit (Vin. IV.32-5; I.137; Demiéville 2010, 18). The Buddha also recognises (Vin. III.156) that 'the people' (*manussā*) perceive one-facultied life in a tree cut down by a monk (cf. Vin-Pat. 265, where monks are forbidden to build huts from mud for fear that firing bricks will kill minute living

Bhikkhu Bodhi writes “The word *living being* is a conventional term, an expression of common usage, signifying in the strict philosophical sense the life faculty.” (1994) Yet we have just seen that living being (which in practise includes non-breathing but animate plant species) and life-faculty (which does not) are not identical terms inasmuch as the set of the former includes but exceeds the latter. Moreover, this very conventionality of usage suggests that the notion of life-faculty itself functioned even in a philosophical sense in this early context as a placeholder for a fuzzy concept than a proto-biological entity, bringing together a number of related life-concepts of which breath is only one, and sentience and consciousness significant others.

Vasubandhu makes use of the centrality of the relation between *pānā* and *jīvitindriya* with regard to lethal acts, in an important subsequent metaphysical appropriation of these terms. The *Abhidharmakośa* specifically defines the murderer as he who puts an end to vital breath by inhibiting it from recurring; the murderer thus annihilates the very organ that enables the life-faculty by preventing the arising of a new moment of existence (AKB. IV.154). But which here is the primary valued object: the host organ of the breath or the life-principle it animates? Moreover, according to the doctrine of momentariness articulated in this text, individual life and the aggregates of the person animated by it, are in truth only series of ultimately momentary psychophysical events, of which vital breath is one crucial, but not ontologically foundational, kind.

If living beings are impermanent and momentary, why is the interruption of a certain configuration of this series of events so strongly

---

beings). That ‘the people’s’ perception confirms its real existence could be countered by the view that the Buddha is in this case deploying the skilful means that defers to the commonfolk’s pretheoretical faith in *dhamma* (but not necessarily their philosophical acumen). As Harvey notes (2000, 175) the one-facultied life the faithful appear to perceive in some plants is neither endorsed nor denied by the Buddha, and it does not appear in the extensive typologies of simple or complex reals of the Abhidhamma. Though plants can be safely assumed to lack the kind of consciousness true of animal sentience, the question of plant sentience was left *theoretically* undetermined (Schmithausen 1991, 69). (It is also not clear whether the disapprobation of harm in these limit-cases is grounded primarily on a wish to obviate felt suffering in its objects, or to protect human agents from their worst tendencies which, in less ambiguous cases, will have graver consequences.)

prohibited? The life-principle itself cannot die in this interruption, for it continues post-mortem to animate another putative individual (as the so-called intermediate being); all that dies is the illusion of an inherently self-subsisting individual that never existed as such anyway. Killing merely interrupts a causal series always perishing in a determinism that trumps all merely human forms of intervention such as murder (AKB IV.8). If the precept prohibits killing it can't be with reference to these momentary micro-events in the causal series identified as the perdurant macro-event known as a sentient person (*puggala*).

Vasubandhu raises (as we will see Nāgārjuna does also) the moral as much as metaphysical question of what it is in the series of psychophysical moments, lacking all intrinsic self, that early Buddhist texts and traditions (surveyed here across *suttanta*, *vinaya* and related commentarial texts) uphold as a, or *the*, cardinal value implied in the precept. If it is the life-principle, what is uniquely valuable about it? What preeminent purpose does it serve, and is that purpose self-evident? Or, is it something it produces? Is that object contingent or telic? A quality or a capacity, a unitary state or a process? Is it a combination of elements of, for example, breath, consciousness, sentience, the awareness *of* sentience, and the potential for self-aware cognition they give rise to?

These questions are fundamental to Buddhist soteriology and the foundations of its philosophy of mind, and will be addressed in particular in Chapters 3 and 5, below. From a related, more constructive vantage, addressing them goes some way toward accounting for the meaning and purpose of life in the Buddhist worldview. Equally significant in this context is that whereby the emphasis in the precept on breathing beings means that killing animal sentience is categorically worse than destroying plants, and killing human sentience worse than both. What then distinguishes degrees of sentience, if it is not the breath of life, or even the life-faculty, which they all conceivably share?

The attribution of sentience

The 14th Dalai Lama confirms the global importance of the criterion of sentience in determining the moral valence of acts, seeking its concrete limit-point in these terms:

> […] in the Buddhist context […] when you take the life of a sentient being, that constitutes a wrong deed. So is it wrong to kill an amoeba? Buddhists would say that if an amoeba feels pleasure and pain, wishes to be […] free of suffering, then it is wrong to kill it, and otherwise it is not wrong. (Hayward and Varela 1992, 67)

At issue here is not so much whether the sentience of amoeba or other candidates for the limit-point of sentience can in practical terms be determined (as suggested by the Dalai Lama, that is likely to remain at best a hypothesis). The point of the Dalai Lama's claim is that the registration of *suffering* of whatever local configuration determines a fundamental Buddhist reference-point for morally-valenced acts. But even when the Dalai Lama's heuristic of amoeba sentience is accepted as a limit-point, and thus makes killing amoeba wrong just because it contravenes the first precept, this still does not answer the question of what it is about *sentience*, and its presumed kinds across species, that makes destroying it (more or less) wrong.

Indeed, we have already seen Vasubandhu suggest that inasmuch as consciousness perdures, then it is conceivable that its accompanying sentience in some potential configuration can't be destroyed either. Moreover, the proto-embryonic *gandhabba* or disembodied intermediate being that descends into the womb at conception is already conditioned by *kamma* and "hence bound to suffering." (Schlieter 311) In the Theravāda context Buddhaghosa describes in lurid detail foetal excessive suffering *in utero* and during abortion (Vism. 500). There are also references in the Prātimokṣa-Sūtra of the Mūlasarvāstivādan Vinaya to a proto-embryonic being that possesses human-like form (Skt. *manuṣyavigraha*), existing according to some texts (Huimin Bhikkhu 457-470) for the first forty-nine days of post-conception development, that is, before that stage of its development at which it is fully capable of the consciousness of suffering (*duḥkhasaṃjñā-prapanna*).[27]

[27] Cf. the *Garbhāvakrāntyavadāna*. Barnhart (2018, 601ff.) discusses the proto-biological relations between the Pāli Buddhist notion of intermediate being

Schlieter notes that killing even this being is "explicitly forbidden" (313) presumably because of the sentience that entails this nascent capacity. Sentience could be said, in these texts, to manifest all the way down at least in the case of human being.

Yet as Schlieter points out "There is […] no classical text that explicates how the victim's capacity to feel pain should guide ethical decision making in regard to human beings." (313). This point is important, especially with regard to the applied-ethical criteria for Buddhist bioethics: there may be other principles guiding ethical decision-making (such as privileging epistemic access to the real conditions of a given case, in Buddhist terms the acquisition of insight) that may override a narrow concern to avoid pain. And Schlieter has already established that, in distinguishing between pain and suffering, for the Buddhist the former is

> unavoidable, while regarding the latter to be completely overcome by the spiritually advanced practitioner. The anthropological […] basis of Buddhist views on suffering lies in the capacity of sentient beings to recoil if they experience aversion (e.g. pain, violence) and seek situations in which they are secure, happy, and at ease. (312)

In other words, where the *avoidance of pain* is not a global criterion for the moral evaluation of acts, the larger category of the *obviation of suffering* is (ie. whatever enables such obviation takes precedence over but does not exclude the relief of pain in moral evaluation). This distinction relates to the Dalai Lama's formulation, above, which conflates the two by making the possession of sentience equivalent to the experience of suffering (in his claim that of amoeba). But does an ascription of sentience *necessarily* entail the attribution of suffering? As we have seen, the Buddhist attribution of sentience (and thus who or what suffers) is, like the possession of a life-faculty, not univocal; where humans are distinguished from other animals (including insects) in the

(*gandhabba*) and the embryo. Schlieter notes that "Tibetan embryological texts stress the homogeneous continuity of the development [between intermediate being and embryo] with the fact that the karmic "consciousness principle" may even "experience" entering the womb." (2014, 313) context of kinds of rebirth (MN. III.167-9), so too are their kinds and qualities of sentience, which has implications for the normativisation of suffering.

Human and non-human sentience

The sense of human sentience derives from the mental factors ensuing on the rebirth of consciousness in a new physical form (SN. II.3-4).[28] Of these, most sentient species would seem to share varied capacities for feeling, sensory contact with and attention to stimuli, if not the same kind of volition or perception-conception, but these presumably necessary differentiations are vague. Harvey claims that "it is clear that there is a gradation among animals as regards their relative degree of freedom, or capacity for virtue (AKB. IV.97b-c.) Insects would seem to have little, if any, of either." (Harvey 2000, 150)

These are claims about functional capacity. Another way of approaching the same point may be by qualitative considerations. The biological hardwiring that impels an intrepid ant and a curious human alike to avoid burning by fire, is registered by the one as a value-neutral stimulus provoking avoidance, whereas for the other it is a sign of mortal danger. That latter sign includes the complex mental and affective functions of aversion and fear, and only then, a value-judgement of undesirableness that informs a biological resistance to both pain and the imminent potential for death signalled by its worst case.

It is not certain that the ant faced with fire does any more than sense a biological threat: it is, then, sentient, but possibly not in the richly complex conscious (let alone self-conscious) sense that the human registration of the same stimuli is. While insects are classified as sentient, it isn't clear in what sense they, among other sentient species, potentially *suffer*. Buddhists class both humans and insects as sentient, but it is not yet clear what is indicated in the understanding of *human* sentience that objectively renders it the most

[28] DN. II.62-3 describes the conditionality of consciousness for the birth of a sentient body.

highly-valued form of animal sentience implicit in the precept (MN-a. I.198; Harvey 2000, 29).

Sentience (as the Latin *sentire* suggests) is the capacity to feel sensation and emotion, which in the Buddhist context significantly implies (as the Dalai Lama explicitly suggests) the capacity to register pleasure and pain, and thus tend by virtue of an apparently innate hedonic propensity to *seek* pleasure and *avoid* pain.[29] If pleasure and pain are no more than sensory or psychological phenomena, something else must render them axiological categories. The doctrine of *paṭiccasamuppāda* or dependent origination (in its diachronic or causal sense) identifies[30] feeling as consequent upon the contact of senses with sensory objects. Feeling is the capacity to comprehend a sensum as being a source of either pleasure or pain and so is a condition for the key cause of suffering in craving for pleasurable or non-aversive states (and by the same token, aversion to non-pleasurable ones). Inasmuch as craving identifies pleasurable states and their objects as primordial goods it endows them with value, and the further conditioned link of *upādāna* or attachment to such objects arises.

While this causal conditioning characterises all unawakened sentient beings, human sentience is characterised by its capacity to introduce a normative and so to some degree less conditioned response to sensory experience, and it is this capacity to cognise (and *re*-cognise) such sensa as valuable or not by virtue of being productive of desirable or undesirable states, that determines the presence of human sentience (and possibly some if not all forms of animal sentience as well.)[31]

Every sentient being that can register pain may theoretically also be able to experience an aversion *to* pain, and so (as Schlieter suggests, above) seek states opposite to it: those that produce ease. But presumably only some

[29] The contrary possibility, present in some pathological conditions, to seek pain and avoid pleasure, would not qualify sentience *per se* but would question its hedonic configuration as generally presupposed.

[30] DN II.33; Walshe 211

[31] Again, the *jātakas* in particular narrate accounts of a shared sense of the normative between humans and some (linguistically as well as morally gifted) animals, but this idea tends mainly to bolster an account of the *kammic* continuities of virtuousness between transspecies lifetimes, rather than of animal sentience per se (indeed most animals in the same tales do not share the same virtue).

developed sentient kinds, and pre-eminently the human, will recognise that attachment to pleasure and the craving it produces is ultimately a form of suffering also.[32] In particular, a philosophically virtuous suffering extrapolates first-personal pain and suffering to its pervasive nature, as the apprehension of the first noble truth or fact of *dukkha* (Skt. *duḥkha*) as *universal* suffering, and such suffering as unsatisfactory and so something to be extirpated. The canonical *Dhammapada* provides a *locus classicus* for the same principle undergirding the early Buddhist sense of intentional lethality:

> All tremble at violence, to all life is dear. Comparing (others) with oneself, one should not kill or cause to kill. When a man considers this, he does not kill or cause to kill. Whoever injures with violence creatures desiring happiness, seeking his own happiness he does not gain happiness when he has passed away. Whoever does not injure with violence creatures desiring happiness, seeking his own happiness he gains happiness when he has passed away. (Dhp. 130-132, in Norman 2000, 20)[33]

Hence, if intentional killing engenders anticipatory and subsequent suffering (for its object and related others, as well as its agent), then the first precept presupposes:

> *the universal fact of* dukkha*, and the concomitant fact that sentient beings with the capacity to experience and recognize such suffering experience it as intrinsically undesirable*

and thus a principle of suffering (PD) that recognises suffering-producing acts as intrinsically undesirable. The first three sentences of the quotation from the *Dhammapada* clearly encode the same principle (the remaining two encode the subsequent principle of *kamma*, PK, below). But this claim also suggests a blunt objection to at least one aspect of it: it is

[32] Elsewhere in the canon (e.g. DN III.216), suffering is conceptualized in a threefold differentiation as: *dukkha-dukkhatā* (suffering due to pain), *saṅkhāra-dukkhatā* (caused by conditioning), *vipariṇāma-dukkhatā* (caused by change). Inasmuch as pleasure as an object of biological desire or craving and thence psychological attachment is impermanent, then the hedonic value of pleasure soon provides the condition for an anhedonic form of the suffering of change, as well as conditioning, if not of pain.

[33] Cf. MN III.203

arguably possible to kill with negligible or no subjective suffering for its direct object, if the latter is wholly unaware of it before or when it occurs.

This, for example, is what for some defenders of the ethical killing of animals exonerates the animal-slaughter industry from moral culpability: animals are believed not to suffer at all, or to suffer much less, in efficiently instant execution. Parallel (if somewhat perverse) claims could be raised regarding legal human killing, for example in the case of capital punishment (addressed in detail in Chapter 5) among other forms of state-sponsored execution; however arguable such claims are it appears the PD as an exclusive criterion for not killing requires rescue, at this point, in the Buddhist account. Integral to that account (and to the quotations from the *Dhammapada,* and Schlieter and Harvey, above) is understanding how *intention* constitutes a conscious agency that modulates human sentience by producing or obviating the suffering (*dukkha*) central to its definition, as well as to the precept, we have noted in the PD.

II. §3. *Cetanā* as intention and volition

The notion of *intention,* a common translation for the *cetanā* (in both Pāli and Sanskrit) has important conative, psychological, ethical and legal-punitive dimensions all of which become relevant to analysing the precept. The commentarial *Khuddakapāṭha-aṭṭhakathā* defines the basic intentional conditions for killing as follows:

> The taking of life is the volition of killing expressed through the doors of either body or speech, occasioning action which results in the cutting off of the life faculty in a living being, when there is a living being present and (the perpetrator of the act) perceives it as a living being. (Khp-a. 26)

Intention initiates verbal or bodily action, the former indicating an obeyed command. It is important (as it was for the notion of sentience) to recognise the conceptual flexibility of *cetanā* because the mental, verbal and physical acts it references engage multiple kinds of determination. Buddhaghosa, in the *Manorathapūraṇī*, thus glosses *cetanā* as “taken in the sense of arranging, in that it collects everything together.” (Mp. III.408) Affect, motivation, cognition and its elements, kinds of consciousness, and unconscious volitional factors all function in any given intentional act.

By unifying disparate functions *cetanā* focusses a range of conative forces that would otherwise lack mutual cohesion and the capacity for actualization. In *undertaking to abstain* from a range of physical, verbal and mental acts, the precept encodes a complex configuration of *cetanā* in reverse: more than one constitutive factor is required to be intentionally resisted for abstention from such acts to occur. If some of those factors are unavailable to a singular conscious agency, then intention needs to be understood in a plural sense.

Indeed, many commentators (Bodhi 1994; Guenther 1976; Devdas 2008; McDermott 1984; Heim 2014) conceive *cetanā* in terms of a conative volition which conveys the comparatively non-agential nature of the motivation of action. *Volition*, another frequent translation of *cetanā*, expresses multiple conscious and less conscious factors that question the assumption of a self-determined and autonomous agent. Hence, appropriate terms for that desire or aim of the agent (I want to become a millionaire; I will go to Spain) conceived in terms of an egoic, as opposed to impersonal, volition, are different from *cetanā*: *adhippāya*, or *chanda*.

As Heim notes, “*Cetanā* is not a process of making autonomous and deliberate choices, but rather is the psychological drive that projects and sustains human activity in the world.” (2014, 20) The distinction between intentional freedom and volitional determinism guides the larger discussion of motivations for killing (premeditated and unpremeditated, respectively) and the culpability attached to the intentional sliding-scale they represent (Harvey 2000, 52-57). For our purposes *cetanā* can carry this twofold reference: *intention* when it refers to its more cognitive, deliberative or goal-oriented aspects, and *volition* with respect to conative, impulsive or comparatively unpremeditated ones. Heim summarises this range of reference by suggesting that:

> *cetanā* does not act as a sovereign will or decision-making process, but rather as a volitional process that intends, initiates, and directs action toward fulfilling a goal. It has both cognitive

> and conative functions, but it always operates with and through the myriad factors at work in dependent origination. (2014, 21)

That *cetanā* has both cognitive and non-cognitive semantic reach is in keeping with the sense in the Abhidhamma, and Buddhist metaphysics generally, of many functional terms having contextual definition as well as ontological indeterminacy on a spectrum between the mental and material. For example, speech-acts (as we noted, also culpable in lethal acts) conflate both mental and bodily intentional acts, with corresponding intentional features that require *cetanās* of mental and material, cognitive and non-cognitive status. *Cetanā* thus engages in conscious, thematized, and abstract or moral terms those volitions that engage comparatively less-conscious, heterogenous, and embodied or non-moral impulses.

Where intention requires an intentional object, this object may be of abstract or concrete kinds. Similarly, where *cetanā* as it pertains to killing references acts of mind, speech and body, then *nāmarūpa* (the psychophysical dyad of name-and-form or mind-and-body) is necessarily its adjunct constitutive concept. Consciousness too, a necessary condition for *cetanā*, is exemplified in the five sense-consciousnesses (visual, auditory, olfactory, gustatory, tactile) which require the sense-organs and their sense-objects for their specific functioning; as forms of *sensory cognition*, their ontological status as mental or material is indeterminate (*avyākata*), but it is significantly *cetanā* which mediates the conscious capacity and what it is conscious of.

C*etanā* is also conceptually linked to important causal factors in killing. Firstly, it is the mental factor responsible for all intended action (*kamma*) (which links it functionally with the PK). Heim writes,

> It is important to note that a mental action (*mano-kamma*) is not identical to *cetanā*; rather, one has *cetanās* for each of the three actions […] mental actions, though considered complete actions, can also (though they need not) have motivational force leading to bodily or verbal actions in addition to the mental activity. But they are not to be conflated with *cetanās*, which are the central component of all three types of action. (42)

A question arises here. If all three types of action (body, speech and mind) are motivated by *cetanā*, why is it the case that, as Bhikkhu Bodhi writes, "identification of the transgression with volition implies that the ultimate responsibility for the act of killing lies with the mind, since the volition that brings about the act is a mental factor"? (1994) The act requires, as he suggests, mental intention as its first cause: it cannot come to existence (and *kammic* fruition) without that founding *cetanā*. He writes,

> The body and speech function merely as doors for that volition, i.e., as channels through which the volition of taking life reaches expression. Killing is classified as a bodily deed since it generally occurs via the body, but what really performs the act of killing is the mind using the body as the instrument for actualizing its aim. (*ibid*.)

Bodily (or verbal) acts consequent on mental ones thus entail their own intentional factors, but it is the mental *cetanā* determining *the entire sequence* that can be said to ultimately cause their collective effect. Hence, we have seen that a subsidiary dimension of *cetanā* with regard to the precept is that a purely written, verbal, or gestural intention to command others to kill is *morally* fully equivalent to the bodily act itself (Heim, 43-44). The only reason this is possible is because it is the originating cause of the final effect (the death of a sentient being), and not its efficient cause, that is ethically responsible, and hence primarily, if not exclusively, culpable.[34]

There are further aspects to the role of *cetanā* in the understanding of the first precept. Chief among these is its major role in determining culpability: the *will* to take life, even unsuccessfully, overrides the *fact* of having taken life, or nearly doing so. The act itself incurs blame, but only very negligibly (or not at all) when it is wholly unintended (Vin. IV.125). Secondly, its role in the gathering together of subjective affect; thirdly, its functional

[34] A reasoning that echoes the traditional attenuation (even exoneration) of combat soldiers' guilt from killing. However, the Buddhist sense of primary intention modifies this causal reasoning in a different direction, such that the guilt of one member of the group pertains to all members sharing a collective intention. (See Vasubandhu's claim at AKB IV.72c-d, which holds the guilt of one soldier committed to killing as the guilt of all, no matter which of them acts on their shared intention.)

relation to global and local forms of ignorance (*avijjā*), constituting many types of action but especially that which is unwholesome or unskilful, will all be considered in more depth in subsequent chapters.

These last two causal aspects of affect and ignorance point toward the entire synchronic structure of the person as the five aggregates and, diachronically, as determined by dependent-origination, in which case *cetanā* functions as an agent of the *sankhāras* or volitional formations causally determining action as value-laden (Vism. 462). Thus, how *kamma* is able to signify as a theoretical quotient of soteriological value, rather than the various popular but misleading notions of just desert, will also emerge in the (Part II introductory) discussion, below.

Finally, the consideration of how intention in these Buddhist contexts of action and its effects relate to the more technical understanding of *intentionality* as a directedness of consciousness to its objects of awareness, needs to be considered in the Buddhist case as it informs moral phenomenology generally. As suggested, intentions entail accompanying affects and dispositional constructions that contribute to the cognition of external and internal objects of perception, and their moral evaluation (Heim 46-50). Western theorizations of consciousness often conceive of intentionality as an epistemically and axiologically neutral or unconditioned feature of perception and apperception: conscious awareness just registers intentional contents as such, before those contents enter into higher order cognitive appropriations.

In its Buddhist theorisation, however, any apparently pure function of consciousness is conditioned by others that erode the assumption of an autonomous capacity to register intentional objects without cognitive distortion.[35] Intentionality is thus determined by more or less error-prone forms of cognition, affect, sensory illusion and larger cultural formations of

[35] Note that while according to the Pramāṇavāda school perceptual objects are in theory perceived veridically, it is also the case that perception-conception (*saṃjñā*) perceives only mental representations (*ākāra*) of intrinsically real specifically-characterised phenomena, and entails complex conceptual superimpositions on them before they are cognizable as such.

pretheoretical belief, all of which are relevant to a Buddhist analysis of the role of intentionality in the construction of the object of lethal action.

In the Buddhist moral-psychological context of killing, in which as we have seen the intensity of volition is morally central, this raises the question of whether, for example, the strong presence of a merely abstract or imaginary intentional object (the enemy or them) significantly differs morally from an intentional consciousness only weakly directed to a unique and real worldly object (the particular person in front of me). Many otherwise apparently normal people (such as those who enjoy horror-films or extreme video-games) may fantasise fiercely violent acts they suppose they will never commit; while gunmen responsible for mass-killings or perpetrators of genocide may conceivably commit similar kinds of acts in indifferently dissociated states.

Intentionality can be attenuated in other ways relevant to a Buddhist-ethical context. Medically, brain injury or mental disturbance may compromise the intentional functions of consciousness. Convicted criminals sometimes speak of acting in a blur, others that 'It wasn't really me' who was acting. If it wasn't 'me', a Buddhist ethicist might be tempted to remark, perhaps it was no-one at all, in which case what kind of moral intentionality or *cetanā* can be legally associated with that *absence* of intentional agency?

Indeed, Buddhist no-self theory needs to confront the problematic issue of the de-centred or diminished self, insofar as it encodes a positive soteriological role in one of its most important but elusive doctrines: *anattā*. The Buddhist can plausibly claim that the so-called de-centred self is not metaphysically or psychologically equivalent to *anattā*, and that to conflate them misses the sense in which a weakened sense of self (including a weakened sense of responsibility) is rather an effect of the inherent dysfunction of the reified sense of self—that will *as* reified and so to that degree illusory always suffer from a sense of its own groundlessness and thus also of a constitutive dis-ease.

In a medical or legal context, however, it's not at all clear how the realization of non-self valorized by (all) Buddhist metaphysics differentiates itself *ethically* from borderline or pathological conditions recognized by legal and penal systems of justice, even if it might do so metaphysically or psychologically. Ascertaining how a contemporary Buddhist philosophy of mind could make the right kinds of distinction, with respect to a Buddhist psychology of the conventionally-real self, to serve potential ethical judgments is a necessary part of a deeper discussion of Buddhist intentionality.

These examples merely serve to illustrate provisionally what kind of dilemmas a generic Buddhist philosophy of mind faces when its dominant morally-determinative trope of subjective intention and volition is brought into the 21^{st}-century ethical context. For now, we can summarize the role of *cetanā* by observing how it is a function of every morally-laden (ie. *kammic*) action and in every case aligned with one or more types of action of body, speech and mind. While the lethal act will in every case be ultimately caused by a mental *cetanā*, the full course of action giving rise to it will involve a complex of intentional and other elements. If *cetanā* is the actualization, in three different kinds of act, of intentional *kamma*, we now need to summarise what the early tradition communicates about how *kamma* constitutes (and is constituted by) lethal human action.

§4. The Buddhist ethical economy; the principle of *kamma* (PK)

As noted above, an extension of the principle of *dukkha* (PD), in important ways coterminous with *cetanā* in what could be called the presentation of the Buddhist ethical economy, is *kamma*: simply, action. As observed in the latter part of the quotation from the *Dhammapada* above, *kamma* engages *dukkha* because any intentional commission of an unwholesome action for Buddhist ethical causality entails a concomitant suffering for its recipient (externally) and its agent (internally). The larger sense of *dukkha* thus amounts to the familiar notion, across religious and ethical borders, of recognizing malign consequences as a deterrent to committing malign actions, and mutatis mutandis as an incentive for benign actions.

Speaking of the negative *kammic* causes and effects attaching to action that is ‘dark and with a dark ripening’ (*kammaṃ kaṇhaṃ kaṇha-vipākaṃ*), AN II.234 exemplifies killing as paradigmatic. In similar terms, killing is ubiquitously framed throughout the canon in terms of its function in an economy of moral cause and effect, illustrating not so much the unique nature *of killing* as a specific act among other similarly 'dark' acts but rather the *kammic* psychological-moral consequentialism in which they all participate: as these acts are *all* so constituted, then so will their effects be.

Harvey however makes clear that *kammic* cause and effect is not itself what makes such dark action or its effects dark. He writes that "Its having dark karmic results is a *sign* of its dark, afflictive, unwholesome nature, but not the *criterion* for its being unwholesome in the first place." (2018, 11; italics original) If so, we can't assign a consequentialist basis as explanation for the wrongness of killing (that it is wrong because its causal function is dark or unwholesome). Rather, as Harvey suggests, if negative *kamma* is essentially symptomatic of a dark act like killing, the criterion for its moral unwholesomeness must lie otherwise than in its *kammic* constitution, which is essentially an effect.[36]

This indirectly confirms other normative evidence around killing in the canon. On three occasions the Buddha's responses *exonerate* lethal acts, specifically in the case of arhat suicide.[37] Arhats by definition have purified all cognitive-affective afflicted intention and its attendant negative *kamma*. If arhat suicide is the result of a wholly wholesome intention this could legitimately explain the absence of any moral ill-*effect* of arhat suicide, on its face a plausible explanation for the Buddha's exoneration of the arhat's action as blameless (*anupavajja*) because it will not result in a rebirth determined by *kamma*.[38]

But this seemingly plausible *kammic* explanation for the moral permissibility of killing (here suicide) would also suggest that killing is in fact *not* paradigmatically exemplary of unwholesome action, and would moreover suggest that other cases of killing are wrong only because of their negative

---

[36] Similarly, with reference to the three poisons of greed, hatred and delusion as the causal roots (*mūla*) for all unwholesome acts more generally, Harvey writes "Greed, hatred and delusion are presented here [at MN. I.46-47] as the inner *causes* of the unwholesome, though not the *criteria* for labelling something as the unwholesome. They are, though, themselves unwholesome (AN. I.201)." (13; italics original)

[37] See *Channovāda Sutta* (MN. III.263-6, n.144; SN. IV.55-60); *Vakkali Sutta* (SN. III.119-24); *Godhika Sutta* (SN. I.120-2). See Delhey (2006, 2009); Anālayo (2010); Kovan (2013, 2018) for discussion.

[38] I have surveyed elsewhere alternative accounts of the Buddha's exoneration of arhat suicide (in Kovan 2013, 2018).

kammic constitution: if all sentient beings were arhats they would be free to engage in mass-slaughter! But in fact canonical sources predicate of arhats just the opposite: that they are constitutively unable to kill with intention (DN III.133).

In short, *kamma* may be a necessary condition but not a sufficient reason for what makes killing in canonical Buddhism wrong, in accord with Harvey's claim that *kamma* is a sign of and not a criterion for its wrongness. This illustrates the kind of conceptual puzzle—disparate norms and notions which require independent putting-together—which the *sutta* discourses leave to the theorist to decipher, where a systematic theory of killing is not explicitly given. It is also important to understand how *kammic* consequence is to be conceived, because while certain effects are in the canon repeatedly claimed for certain kinds of *kamma*, it is not clear *how* they are effected, and indeed current senses of the nature of *kammic* causation differ.[39] These can be construed, very broadly, as *psychological* or *metaphysical*. Keown describes the distinction between them this way:

> The emphasis placed upon intention and the fact that the same action can have different results for different individuals both suggest that the connection is to be explained in terms of psychology rather than by reference to a transpersonal chain of cause and effect. There seems, however, to be some evidence that the consequences attributed to karma are not purely of a psychological nature. The distinction between these two is made using the term *phalas* to denote the future "fruit" of action and *saṃskāras* to designate the transformative effect that moral action has upon the character of the agent. (1996b, 336)

The psychological version of *kamma* as variant but consistent observable local effects of like intended actions carries minimal metaphysical baggage: few would dispute that the commission of malign, or benign, action is a frequent condition for more or less malign, or benign, effects in its agents as well as in the responses of their recipients, especially when both share a psychological or cultural formation. Similarly, the regular commission of such acts will tend to

[39] See for example Keown 1996b; Goodman 2017; Coseru 2007; Finnigan (forthcoming, 2020).

the likely repetition, and habitual cultivation over time, of similar courses of action of body, speech and mind.

To conceive of *kamma* in this weak, and comparatively naturalised, sense of psychological-empirical causation pertaining to both individual and social psychology is not to claim that it is a literal rendering of its original Pāli Buddhist signification: it is, rather, a philosophical interpretation for purposes of ethical discourse. The aim here is not to map the complex semantic terrain pertaining to the historical conceptualisation of *kamma* across a vast range of Buddhist (as well as other Indic) traditions.[40] It is only to engage a transparent conceptual model for the functional equivalence of *kamma* with intention as given by the historical Buddha in the *Aṅguttaranikāya*: "it is intention (*cetanā*) that I call action (*kamma*); intending, one acts by body, speech, and mind." (AN III.415)

Kamma in this weak sense is then a heuristic concerning some sense of psychological and interpersonal continuity between the causes of action and their effects.[41] If moral agency operates on this level of the individual vis-à-vis the other then it also entails an intersubjective form of social conditioning where agents habitually effect probable behavioural dispositions in others, and thus causal interactions between larger structures of collective agency and its effects (a straightforward negative example is the tendency to violent flare-ups between disputing social groups).[42]

The strong version of *kamma*, on the other hand, more literally views it as a global metaphysical claim concerning the consequences of moral action by which all sentient and even insentient life is conditioned. That is, wholesome intentions *necessarily* produce wholesome effects (though these

[40] That task is undertaken in McDermott 1984, Reichenbach 1990, O'Flaherty (ed.) 1980, Prasad 1989, among others.

[41] It should be noted that such effects of *kammic* action are themselves kammically neutral and hence are not *kammic* causes of new action (even if they are among psychological conditions for it), which instead require the volition to committing some morally-laden act. Similarly, physical objects produced from *kammic* causes (such as a sentient being) are not themselves *kamma-vipāka*, which refers only to mental phenomena.

[42] Ricard & Singer (2017, 181-182) discuss the intersubjective causation of moral phenomena in both Buddhist-psychological and neuroethical terms (cf. Coseru 2017). Coseru (in 2007) also develops a naturalized model of *kamma*.

can be mitigated by other factors), and mutatis mutandis with unwholesome intentions, and so to that degree is causally deterministic. This core of causal necessity makes *kammic* causation a putative law and not just the observation of contingent regularities. A causal law is only possible because, in this case, the *kammic* fruit of any given *intention* is in principle causally invariant (all other things being equal), even where the effect(s) of *action* can ostensibly be modified by other conditioning circumstances. Moreover, this invariant relation between intention and effect expresses a universal law of inherently *rightful* normative consequence, thereby also providing a theoretical explanation for the perception of opaque moral phenomena, in particular.

Of course, all other things are very often not equal, and so what results in any explanation for such complex phenomena is an infinitely variable *kammic* effect of intended acts, the epistemic access to which is limited to enlightened beings such as arhats and Buddhas (e.g. at MN III.178-79), and thus remains a knowledge of moral causation otherwise inaccessible to normal moral agents.[43] For now, it is sufficient to observe that a broadly-construed principle of *kamma*—interpretable in either the weak or strong sense—serves dialectically with the PD as justification for the precept:

> *lethal acts produce psychological, social and cosmological malign and like effects that cause suffering for their agent, given a more or less consistent regularity between such causes and such effects, by which the Buddhist tradition conceives of all intentional action, or* kamma.

This formulation of a principle of *kamma* (PK) carries more potential persuasive force than the PD on its own terms, if the sense of the precept refers to lethal action rather than the more general category of harm: with the PK, negative effect *always* ensues even where suffering consequent on acts appears negligible. (This persuasiveness would of course also depend on how

[43] See e.g. MN III.202-03; SN I.91-93. Reichenbach (1990, 27) rejects a purely *saṃskāra*-based or 'subjective' theory of *kamma* as inadequate to addressing the objective wrongness of acts and not merely the intentional dispositions which give rise to them. Keown counters this claim by correctly asserting that "A *saṃskāra* theory of karma is not a normative theory but a theory about moral causation. It says nothing about moral axiology and does not require a commitment to the view that normative principles are reducible to psychological states." (1996b, 338)

kamma is assessed, and whether the strong version is as philosophically tenable as the weak.) Hence, we might claim that the PD aligns more naturally with the interpretation of the precept as prohibiting all kinds of *harm*, and the PK with the aspect regarding *killing*, and that the PD is intrinsically altruistic, focused as it is on mitigating the suffering of the other (as well as the self), while the PK (at least in the Śrāvakayāna context) is comparatively agent-oriented, prudentially focused on averting future negative *kamma* attached to the acting subject.

As we will see, Mahāyānist ethical universalism sublates the individualist orientation by making the *kamma* of the other the primary concern, over the *kamma* of the self. However, before continuing to summarize the grounds for the precept with regard to the extensions, and exceptions, to them that arise with the Mahāyāna, we need to consider in depth the ways in which the PD and PK are further elaborated, in this context, by the Theravāda exegete Buddhaghosa and the wider Śrāvakayāna traditions.

CHAPTER TWO

Conceiving the first precept: evaluative criteria in the Śrāvakayāna

*

I. §1. Framing the precept: transgression or systematisation

In Chapter One we surveyed some of the terms central to the canonical formulation of the first precept: in particular suffering, life as breath, the living being, life-faculty, sentience or the elements of *nāma*, intention, volition or intentionality, and action. We established the grounds for two broad heuristics in the canonical justification for the precept summarised in the principles of *dukkha* (PD) and *kamma* (PK). This chapter provides further early Buddhist context for the precept by engaging the norms evident in Theravāda commentarial texts by Buddhaghosa and other Pāli Buddhist exegetes, and introduces a third major heuristic as a ground for the moral evaluation of killing before summarizing the conceptual transition of all three grounds into the Indian Mahāyāna context.

We also noted the broadest basis for the precept in the pan-Indian value of *ahiṃsā* (non-injury or non-harm), dominant in Hinduism and Jainism, and taken into the Buddhist world with emphases reflective of a particularly Buddhist ethical ideal.[44] Its ethical extensions are woven throughout the canonical corpus and its commentaries, as well as in *jātakas* concerning the Buddha and other awakened beings, in stories even of the compassionate doings and spiritual progress of animals and lower-realm beings.[45]

The first of the five precepts or rules of training (*sikkhapadā*) for the ordained and lay-people alike, is one of the three forms of right action. As the paradigmatic unwholesome act, and given the central normative concern to avoid both unwholesome acts and extended courses of unwholesome action, the taking of life is prohibited. The *Cūḷa-Kammavibhaṅga Sutta* warns that:

> Some man or woman kills living beings and is murderous, has blood on his hands, is given to blows and violence, is without pity for living beings. Because of performing and carrying out such action, at the breaking up of the body, after death he reappears in a state of misfortune, an unhappy destiny, a state of affliction, hell. (MN III.203)

Like the earlier quotation from the *Dhammapada*, this is a direct statement of the strong version of PK: the *kammic*-causal status of the act, for Buddhist soteriological purposes, is clear. The wholesome or skilful action to refrain from violence is a function of intention (*cetanā*) also. The ethic of non-harm pervades many of the norms central to Buddhist praxis and soteriology: in care (*karuṇā*), loving-kindness (*mettā*), sympathetic joy (*muditā*), equanimity or impartiality (*upekkhā*) and, foundational for the Mahāyāna, the altruistic aspiration to awakening (*bodhicitta*). The same ethic is often described as integral to the attainments of the three paths of morality (*sīla*), concentration or meditative stabilization (*samādhi*) and insight (*paññā*).

The meditative practices of one-pointed concentration, mindfulness, calm-abiding and analytical insight are all conceived as dependent on the absence of hatred and of impulses to violence, in even a purely mental sense;

---

44 Parakh (2000) provides a useful overview.

45 Stewart (2014, 631; *passim*) and Schmithausen (1997) discuss interspecies ethical attitudes between animal and human agents in sutric and *jātaka* texts.

in turn, those meditative attainments significantly attenuate the same physical and mental impulses. It is then not surprising that early Buddhist formulations of the precept view being the cause of another's intentional lethal act, and even approving of another's act, as morally equivalent to performing the act oneself (e.g. Sn. 394). A scale of moral gravity attending any violent act emerges based on degrees of agential intention and cognisance, vis-à-vis its object, of the action (Harvey 1999; Gethin 2004a, 170).

The potential mastery of the precept by virtue of intention thus invokes one of the most critical formulations of the Buddha repeated throughout foundational texts: "It is intention that I call action (*kamma*); having formed an intention one acts."[46] By the same token, offensive bodily injury not intending death, while not condoned (AN III.213), and accidental death resulting from offensive and defensive attack (Uss. 171), do *not* transgress the precept (Harvey 2000, 69; 53-54). However, the moral weight of the injury, or the effect of any intended act, also depends upon the nature of its object, even where its recipient fails to die. Hence, killing a person worthy of respect is worse, just as giving to them is better, than those actions would otherwise be (DN I.85; AN IV.237-78; Vibh. 378).

A subsidiary criterion that qualifies both intention (*cetanā*) is its *intensity*: if volition is weak or mild the *kammic* effect is similarly weak; if strong or intense so too is its moral effect (MN-a. I.98; Harvey 2000, 52). A crucial aspect of this intensity criterion is that the force of such intention leaves a corresponding *kammic* imprint in its agent's mental continuum. Intensity of intention is thus a cause of the secondary criterion of *mental defilements* or pathologies, as well as determining their moral effects. Such pathologies exacerbate *kammic* effect, notably in the case where they inform an action directed against a being (typically a Buddha or bodhisattva) which comparatively or absolutely lacks them (MN-a. I.98).

These qualifications are telling inasmuch as the introduction of auxiliary grounds for moral evaluation suggest heterogeneous responses to a

[46] AN III.415: *cetanāhaṃ bhikkhave kammaṃ vadāmi* | *cetayitvā kammaṃ karoti*. As this paradigmatic quote indicates, *kamma* refers to all intentional action, which being intended generates wholesome, unwholesome, or indifferent, psychological and ethical effects.

natural diversity of intentional circumstance; qualifications often respond to ambiguous circumstances which by their nature require some level of moral interpretation.[47] To illustrate this we can return to the case of accidental death resulting from offensive attack, and assume that such attack intends grievous bodily harm. Acts entailing intended bodily injury are precluded from the judgement of the precept because, it would seem, while producing possibly severe suffering for its object (PD) they do not result in the very grave *kammic* effect ensuing from *intended* death (PK).

However, the moral evaluation of such intended action could theoretically be seen to invoke the PK in its extension to a hypothetical worst case: if someone is beaten severely enough to be hospitalized or put in a coma, and possibly dies or is taken off life-support, then death has in fact occurred as a consequence of intended bodily injury and, it would seem, have to incur some *kammic* effect. Yet by canonical reasoning the original intended action does not entail transgression of the precept because (by virtue of PK) death was not intended.

Nonetheless, the death surely results in the gravest residual effects of suffering, for the loved ones of the deceased and perhaps also the agent of the accidental act. Yet this criterion of suffering (PD), even at its extreme, does not carry anything approaching the same moral-evaluative strength as the PK, whereby, by contrast, the mere *approval* of another’s lethal act warrants *full transgression* of the precept. But it seems morally counter-intuitive that the fault of the unintended commission of a lethal act, consequent on intended grievous violence, should incur such negligible culpability compared to that of a mere passive approval of killing.

If the moral effect of life *unintentionally* taken is held to be *kammically* neutral, then intention as the guiding criterion for evaluation in the early Buddhist code of ethics under-determines the full moral constitution of a common and probable case, in contemporary Buddhist experience as outside

[47] It might be noted here and in general that to explore the logical implications of Buddhist-ethical evaluative norms is just to focus on their conceptual content. The brief analysis that follows is therefore intended as neither textual exegesis nor reconstructive revision of the norms it engages, but rather as a rational clarification of the discursive context in which they appear.

it. What is the moral cost that the violent agent pays for having taken life?[48] If this question is not meant, in the Buddhist context, in terms of punitive desert but rather in terms of impersonal ethical effect, and if that effect is not otherwise made explicit by the authority of case law, how then might a Buddhist ethics of lethal action account for it in causal *or* moral terms?

Popular Buddhist teaching presents one ubiquitous response: that a law of *kamma* registers caused suffering, including the effects on others of a life taken, as sufficient cause for some corresponding moral effect reflecting the moral valence of the initial act. Thus, the law of *kamma* also militates against the moral nihilism that a rejection of *kammic* determinism would entail.[49] The agent will *necessarily* suffer unwholesome consequences but it is not clear what they will be, and when they will be suffered, and they will remain uncodified in the Vinaya. On this account a *kammic* causality of the normative consequence of intentional action is necessarily presumed, even where the legalistic sense of the precept and its criteria for transgression has seemingly failed to honour a case of the commission of grievous harm and, indeed, the death or *indirect killing* of an innocent.

Hence, early Buddhist ethics does not provide overt moral judgement for all cases of lethal action, but it does maintain a doctrine of the universal determinism of ethical effect in *kamma*. Suffering consequent upon intended acts does not vanish into moral inconsequence; in the popular Buddhist worldview, its concomitant psychological and social effects generate moral meaning, resolution and closure. In its lifeworld, there is no ontological distinction between a causal and moral explanation where any intentional action always has a congruent effect.

We have just seen how ambiguous or borderline cases question the hermeneutic of a transparent correspondence, or assumption of coherence, between an event, its effects and their reciprocal interpretation. This also illustrates a further hermeneutic point about Buddhist-ethical reasoning

---

[48] The same question applies to real cases of collateral damage in military warfare, as well as torture.

[49] See the Buddha’s forceful rejection of the alignment of his own teaching with the annihilationism of the Ājīvika’s a-*kammic* doctrine of causeless and meaningless suffering, at MN II.140.

generally: that, broadly speaking, a foremost concern in the early literature, and most obviously the Vinaya, is to establish how, and under what circumstances, the precept is *transgressed,* rather than to establish systematic criteria for the moral judgement of cases in and of themselves. But providing the required conditions for moral judgement in case law, or stipulating a limit-case beyond which moral interpretation does not venture, does not provide moral reasoners with criteria for evaluating causal-intentional complexes of circumstances for action. If an innocent party dies from my fully intended acts of aggression, how can I fail to be morally responsible for their effects?

The Buddhist moral emphasis on the intentionality of acts rather than objective norms and reasons by which to systematically evaluate them perhaps derives in large part from the institutional prerogative of the ordained body: the Vinaya spells out the first-order explicit conditions for behaviour directed to its members, not a second-order theory systematising all possible conditions. However, differing social, institutional or even soteriological emphases modify normative univocity, not least given the implicitly contrasting natures of the lay, monastic, and solitary renunciate lifeworlds. Collins notes that:

> the difference in status between monk and layman is clear enough; we must, however, interpret a body of heterogeneous texts which both uses such simple ideological distinctions, and at the same time reflects more complex social reality. (1982, 66)

The complex social conditions Collins points to as implicitly present in ethical and legal reasoning are not a neutral ontological background for otherwise independent ethical evaluation; they are the *only* context within which ethical judgement generates meaning, and so its proper purpose, and monastic standards implicitly reflect and refer to it (we have seen this, for example, in the monastic deference to public but pretheoretical notions of sentience). Borderline circumstances thus require nuanced attention (Gethin 2004a, 170-171) as they come to be recognized as problematic dimensions of broader social and institutional interdependencies—evident in solitary monastic, and non-monastic, suicide, or assisted-suicide and euthanasia, the procuring and consumption of meat, and (with more reference to the laity) abortion, criminal punishment, incarceration, and local warfare, among many other domains for the exercise of moral judgement potentially involving cases of intentional killing.

Yet, these very distinct areas of ethical concern, in their heterogeneous forms, all fall equally under the jurisdiction of the first precept. All lethal acts in these contexts are wrong however different they are, but they also incur sometimes widely divergent kinds of moral demerit by reason of intention as well as object. If moral evaluation is to be determined by agential intention, then intention as a complex phenomenon requires interpretation in terms of its contextual phenomenological psychology, but also the kinds of wider social conditions that produce, or fail to produce, its optimal expressions. The demand of the injunction might be more or less transparent within any given Buddhist culture, but the conditions for its application, formed by individual agents across cultures, very often may not be. It follows from this complex context of moral evaluation that observances of the precept will be heterogeneous even where they share wholesome intentional features with other such observances.

In sum, they are constituted by virtue of unique volitional, affective and cognitive mental factors that condition their apprehension and appropriation, which are themselves conditioned by larger and particular social and cultural factors. Any such observance thus entails, in other Buddhist terms, a unique dependent-arising of specific social-cognitive and other causes and conditions, any reading of a norm engaging both personal and social senses. We can in passing compare this Buddhist-metaphysical grounding for a particularist reading of rule-following with contemporary Western moral particularism. Following what Bernard Williams (1985) has called the *thickness* or saturation with socio-cultural meanings of the morally relevant descriptions of actions, Garfield claims these “cannot be cashed out in culture- or context- neutral terms, but rather implicate[s] a rich set of values and commitments, which inform, guide and motivate action." (Garfield 2000, 180)[50]

Moral particularism thus draws attention to how universal descriptions of normative action "necessarily fail to be morally relevant or action-guiding precisely because they abstract from the very semantic connections that render moral descriptions relevant to action and to criticism." (*ibid.*) By the same token, however, and as always so conditioned, the ineliminable ubiquity of semantic connections gives rise to a potential conflict of interpretations of the relevant norm, especially between unlike (but even within like) cultures.

§2. A Buddhist hermeneutics of action

Thus, in many pre-modern or agrarian cultures (many of which can be numbered among traditional Asian Buddhist communities) it can be doubted whether the senses of "killing" in the killing of animals for sustenance, or as pests,[51] the killing of invading foes (which can confer a social honour),[52] or killing as ordinary suicide (which doesn't)[53] or as religious suicide (in many East Asian Mahāyāna cultures it does)[54] are commensurate with each other. Killing itself, in these and other cases, signify significantly different things.

Contemporary post-traditional Buddhists, both East and West, might and do read still other senses into these referents for killing, as well, referring not so much to pre-modern cultural-religious tropes as to modern biomedical or secular-ethical ones.[55] Scholarly discussion of the respective conceptions of killing between cultures in areas such as euthanasia and abortion also betrays the degree to which the interpretation of norms and referents is crucial to

[50] Garfield points out however that the distinction between thick and thin description is not always relevant to the debate between particularism and universalism, and that the debate hinges not on the ontological status of moral descriptions but their epistemological function in the acquisition of moral truth/s, and how that knowledge is deployed in context.
[51] See for eg. Harvey (2000, 166*ff*.). Cf. Stewart (2014, 2015).
[52] Harvey (2000, 255*ff*.) Cf. Schmithausen 1999, Keown 2016, Deegalle (ed.) 2006.
[53] See Delhey 2006, Ratanakul 2000.
[54] See Benn 2007; Yün-hua 1965.
[55] See Keown 2001, 2005, 2014; Perrett 1992; Finnigan 2017.

ethical resolution.[56] Differing readings signify distinct intentional objects, subsumed under the same normative concept: that killing is wrong.[57]

The same can be said of wholesome and unwholesome properties, so central to Buddhist-ethical discussion. What is wholesome for one may be less so for another—for example, debates ensue in Buddhist Studies, as among Buddhists themselves, over non-offensive standards for the public placement of sacred imagery, a seemingly minor question to which much cultural heat is brought (Gindin 2018; Faure 1998). Similar hermeneutic conflicts flourish around meat-eating by Buddhists (Stewart 2010; Waldau 2018), sexual and gendered normativity (Collett 2018; Langenberg 2018), the relations between renunciate and politicised Buddhist praxes and identities (King 2018; Queen 2018; Shields 2013), and so on. Such disagreement both around which categories of judgement apply to certain norms and whether certain practises are acceptable by their lights, can only arise failing univocal interpretation, just because different hermeneutical agents have social-cognitive criteria for interpretation that express specific forms of social-cognitive conditioning.

Determining the nature of Buddhist-ethical justification thus to some degree entails theorizing a form of moral particularism: the *specificity* of any morally-laden situation in the first instance formally conditions the possibility of action-guidance. This in itself depends upon normative judgments constituted by specific and varying forms of larger cultural-religious traditions regarding the interpretation of moral rightness. Indeed, the very history of the Buddhist religion, and its ethical-philosophical tenets, is a literal demonstration of the cultural-historical variation through space and time of individuals and social groups *interpreting*, and very often transforming, the putatively univocal and original teachings of Śākyamuni Buddha. Thus, many scholars now refer to literal plural "Buddhisms" rather than any actually-existing univocal Buddhism (Ling 1993).

[56] The same hermeneutic tension is constitutive of the moral evaluation, between interlocutors East and West, of Tibetan Buddhist self-immolation (see Kovan 2013, 2014, 2018; Davis 2016).

[57] Similarly, it is not clear even for many Buddhist Studies scholars and anthropologists whether suicide, in the context of the first precept, carries the sense of being a lethal act; some tend to the view that it doesn't (Delhey 2009).

Three related observations thus emerge. First, a hermeneutic assumption of coherence between an evaluative criterion such as intention and the event by which it is identified, is vulnerable to simplification or analytic displacement, fixing a complex of conditions and effects in a univocal, and even false, interpretative frame. Second, an ethical injunction, and the norm it expresses, is more broadly determined by the contingent social-cognitive context in which it generates meaning. Third, Buddhist thinking about the moral mind is concerned to pay close attention to the intentional terms by which the successful observance of any injunction authentically or rightfully functions. This all suggests that the judgement that killing is in every case wrong—despite the variety of circumstances in which it might occur—is grounded in the Śrāvakayāna conception of the prohibition as psychological.

§3. The precept in its psychological context

Sīla as a class of wholesome comportment embraces an inter-related structure of habituated action for body, speech and mind, encoded in the Noble Eightfold Path. We have seen that intentional action, such as killing, is conceived in virtue of a network of mutually-determining non-cognitive as well as cognitive psychological and normative factors. Morally-valenced intention, the psychological presence or absence of mental pathologies[58] and 'corruptions' or obsessive fixations (*āsavas*),[59] of skilful or unskilful modes of conscious awareness, and the effects of certain deep-volitional dispositions in individuals and their social groupings, among other factors, provide a putatively universal moral-psychological framework for evaluating action.[60]

---

[58] These include 1) greed (*lobha*) 2) hatred (*dosa*) 3) delusion (*moha*) 4) conceit (*māna*) 5) speculative views (*diṭṭhi*) 6) sceptical doubt (*vicikicchā*) 7) mental torpor (*thīna*) 8) restlessness (*uddhacca*) 9) shamelessness (*ahirika*) 10) lack of moral dread or unconscientiousness (*anottappa*).

[59] Traditionally four: those of sense-desire (*kāmāsava*), of desiring eternal existence (*bhavāsava*), of (wrong) views (*diṭṭhāsava*), and of ignorance (*avijjāsava*).

[60] Especially evident in the *Sutta Nipāta,* which for some scholars represents "a very early stage of Buddhist literature." Its verses "represent the summation, in Theravāda literature, of the style of teaching which is concerned less with the content of views and theories than with the psychological state of those who hold them." (Collins 129)

As one of the five heinous crimes *(ānantarya)* the moral status of the lethal act is constituted by virtue of its unwholesome causes and effects (for example, at MN III.203). But is killing a moral wrong only because its causes, conditions and effects are unwholesome? As we noted in Chapter 1, Harvey claims that the canonical descriptions of the effects of unwholesome (and wholesome) acts "makes clear that while the nature of an action's karmic ripening corresponds to the nature of the action, it does not determine its nature." (2018, 11)[61] The effects of killing are unwholesome because something else about it, and its causes, is wrong. What is not clear is whether, like intention and unwholesomeness, this is a valenced psychological quality or something objective to phenomenal experience.

Discussing the relation between Abhidhamma psychology and the ethical injunctions it sustains in the case of killing, Gethin suggests that Theravāda Buddhist normativity is not in the first instance cognitive (that one acts rationally on certain principles because they inscribe recognised truths). Rather, it can be read as phenomenologically motivated, since the constitutive nature of the intentional mind is analytically prior to the determinations of value encoded in the norm:

> *Abhidhamma*—and hence I think mainstream Buddhist ethics—is not ultimately concerned to lay down ethical rules, or even ethical principles. It seeks instead to articulate a spiritual psychology focusing on the root causes that motivate us to act: greed, hatred and delusion, or non-attachment, friendliness, and wisdom. Thus that intentionally killing a living being is wrong is not in fact presented in Buddhist thought as an ethical principle at all; it is a claim about how the mind works, about the nature of certain mental states and the kinds of action they give rise to. It is a claim that when certain mental states (compassion) are in the mind it is simply impossible that one could act in certain ways (intentionally kill). (2004a, 190)

This claim in effect removes the normative from the ethical: the real reason one acts skilfully is just because given certain mental states one *cannot* act otherwise. But it also preserves intrinsic unwholesomeness as a master criterion for the badmaker of killing: where a mental state is inherently

[61] Appealing to MN I.389-391, DN I.163, SN V.104, AN II.234.

wholesome (e.g. compassionate) then killing is impossible. Hence, only unwholesome states make killing possible. This essentially causal account of how the mind ideally functions and is then interpretable as achieving *kusala* moral status, according to Gethin provides the Abhidhamma answer to why 'intentionally killing a living being is wrong'.

Since the intentional state to be morally evaluated is defined in the Abhidhamma in terms of 'kinds' of consciousness and their respective mental factors, any action is determined by non-cognitive as well as cognitive factors. Following the precept, and thus avoiding wrong, hence entails a synergy of mental, intentional and affective elements. The Buddhist-psychological context of the prohibition against killing thus provides an implicit theoretical basis for understanding ethical failure or transgression, or what it means to act wrongfully. That is, where the positive observance of ethical precepts requires non-intentional mental states (e.g. equanimity, care, or non-grasping, among others) as well as intentional ones (not to steal *this* object, lie to *that* person etc.), then their failure or non-observance will be also due to the absence or weakness of one or more of those non-intentional states, just because right action is morally compromised, or at worst cannot even occur, without them.

If following the first precept is the cause of abstention from lethal action, then the mental act of abstention must involve forbearance (*khanti*), the absence of hatred (*adosa*), one of the five forms of overcoming (*pahāna*) or resistance, and must reflect wisdom (*paññā*). Hence, to abstain from a violent physical act when the mind remains dominated by a will to violence is to abstain falsely; we have noted the Buddhist-psychological claim that a purely mental aggression is still causally unwholesome even where no physical act results from it, and ultimately culpable when it does. A heavily afflicted mind in which pathologies are strong, is *ipso facto* that much less capable of sustaining the precept authentically. Merely to abstain from any given action (for example, from fear of the law) would not entail the positive mental-affective qualities able to perceive the virtues and benefits of abstention, lacking which it is morally hollow.

This congruence between conscious intention and the psychology that subserves it is what underlies efficacious relations between right view, action, intention, and their moral effects. In other words, intention is only one, relatively late, element in the causation of action, and perhaps given causal prominence just because it is the point at which conscious agency ‘gathers together’ pre-conscious aspects of volition. As we have seen Heim note (2014, 21 quoted above) the Theravāda Abhidhamma analysis of mind precludes an autonomous volitional agency for the observance of a norm: for it, there is no purely ethical faculty of the will. (This will become significant in Chapter 5, for instance, in a Buddhist analysis of a Kantian notion of the sovereign will.)

This also has notable consequences for broader Buddhist analyses of action. First, as we have seen, ethical injunctions are implicitly psychologised, thickening their content as cognitive motivators of action. Second, actions and their intentions are viewed as the effects of covert subjective *and* intersubjective processes. Third, actions represent interdependent levels of hermeneutic sensitivity: to the nature of the self, the human or non-human other, the larger social context and cultural worldview in which they occur. All these dimensions background Gethin’s remark, above, which emphasizes psychological and pre-theoretical actuality over normative reasoning of the kind more familiar, for example, in much Western ethical discourse.[62]

A crucial aspect of abstention from action is thus *how* intention is held in the mind, which might be more significant than its normative force alone: what determines the ethical status of the latter is the causal robustness of the former—a psychological, affective, and conative datum. Gethin (2004a) summarises the same point in these terms:

> For the *Theravāda* Buddhist tradition there is in the end only one question one has to ask to determine whether an act is wholesome (*kusala*) or unwholesome (*akusala*): is it motivated by greed, hatred, and delusion, or is it motivated by nonattachment, friendliness, and wisdom. So if one were to respond to the *Abhidhamma* claim that an act of intentional killing motivated by compassion is a psychological impossibility, that it simply runs counter to actual experience, then what the *Abhidhamma* analysis offers is a kind of psycho-ethical puzzle or riddle. If you can intentionally kill out of compassion, then fine, go ahead. But are you sure? Are you sure that what you think are friendliness and compassion are

[62] See Heim (2014, 17*ff.*) for discussion of differing Western and Buddhist conceptions of ethical agency.

> really friendliness and compassion? Are you sure that some subtle aversion and delusion have not surfaced in the mind? In the end ethical principles cannot solve the problem of how to act in the world. If we want to know how to act in accordance with *Dhamma*, we must know our own minds. (190)

In allowing for this lack of closure the Abhidhamma suggests a theoretical sophistication if also a practical quandary. While Gethin, with the Abhidhamma, pictures the intentional mind polarized between the wholesome and unwholesome, we have also considered how intentional states are often intentionally, qualitatively and contextually heterogeneous, characterised by potentially inconsistent *cetanās*. The Abhidhamma asserts that killing can be avoided because, as we have seen, it claims *cetanā* for its partial cause, manifested in mental and physical action, therefore allowing for a partial mastery over its arising as well. This is, however, a question of degree, and perhaps much killing occurs where all practical possibility of abstention has lapsed, irrespective of the maximal intention afforded the precept itself.

Gethin's Abhidhamma-psychological framing of the criterion of intention re-introduces the hermeneutic dimension noted above: it requires introspectively interpreting the fundamental grounds for one's action, entailing, moreover, a quite profound degree of insight into the sub-conscious as well as conscious motivators for it. But what kinds of agent possess this level of insight, and the wholesome psychological status that, on this account, guarantees morally positive intention? Answering this question partly addresses understanding why, before religious or legal judgement imputes moral crime to action, early Buddhist moral evaluation calibrates the judgement of action to its mental-intentional context.

Agents with a greater capacity for knowing their own minds *ipso facto* possess a greater capacity for deliberately not acting upon a less than exemplary intention, just because they are *able* to. This presents a plausible reason for why the moral fault of a crime committed by a virtuous agent such as, presumably, a monk or nun, is judged worse than the same crime committed by a less virtuous agent. This is so not merely because of a probable breaking of religious vows, but because of the betrayal of a greater moral virtue, which is to say a putative capacity *not* to commit it (see also

Harvey 2000,51).[63] As putatively *capable* of sustaining a much greater range of precepts than less virtuous agents, monastics err that much more than others by violating them in committing crime.

In this way the capacity for wholesome moral agency is correlated with moral value per se. Hence also, a harmful act committed against a more virtuous agent incurs a worse moral effect (DN I.85; Vibh.378) than against a less-virtuous one. It is thus not surprising that one of the five intentional acts of the gravest *kammic* consequence is killing an arhat, the superlative object of moral agency and value. Thus, physical and virtuous quality of the agent and object of killing refers not simply to conventionally virtuous character but also the potential for or actual attainment of the realizations of wisdom, the Buddha or other awakened being in the spectrum of sentience being of the highest quality.[64] By introducing the quality of the agent and object of killing as a determinant of its moral status, early Buddhism enriches but also problematises its determination as such.

II. §4. A third evaluative criterion: the principle of quality (*guṇa*) (PG)

Buddhaghosa, in his 5th-century commentary on the Majjhima Nikāya (*Papañcasudani*) offers a summary exegesis of the moral evaluation of killing. It appears in similar form at least five times in commentarial texts and appears to derive from canonical discussion of the third *pārājika* in the canonical Vinaya (Vin. III.68-86):

[63] By contrast, witness the difference of moral gravity, for example, of abuse committed by an ordained minister, and a lay repeat-offender. In Western ethics, the culpability of the crime is equivalent even where the degree of moral transgression can be seen to be unequal.

[64] This would also imply that, within the human scale of quality, the *icchāntika* or irredeemable person incapable of achieving Buddhist realization, is the polar opposite in quality from the Buddha (and is in some texts described as being able to be killed with *kammic* impunity (see Harvey 2000, 138). See also Chapter 7.II.3, below.

> ‘Onslaught on breathing [living] beings’ is, as regards a breathing being that one perceives as living, the will to kill it, expressed through body or speech, occasioning an attack which cuts off its life-faculty. That action, in regard to those without good qualities (*guṇa*-)—animals etc.—is of lesser fault when they are small, greater fault when they have a large physical frame. Why? Because of the greater effort involved. Where the effort is the same, (it is greater) because of the object (*vatthu*-) (of the act) being greater. In regard to those with good qualities—humans etc.—the action is of lesser fault when they are of few good qualities, greater fault when they are of many good qualities. But when size or good qualities are equal, the fault of the action is lesser due to the (relative) mildness of the mental defilements and of the attack, and greater due to their intensity. Five factors are involved: a living being, the actual perceiving of a living being, a thought of killing, the attack, and death as a result of it (MN-a. I.198).[65]

The five factors Buddhaghosa lists describe killing as a fully unwholesome course of action where, to paraphrase: i) the object is a living being ii) there is conscious awareness of the object as living iii) there is intention to kill iv) there is physical effort to kill as in hitting or striking v) such effort results in the destruction of life.[66] If any one of these factors is lacking, the concomitant *kamma* of the act is qualified, depending also on the kind or quality of its recipient; it is not a fully unwholesome course of action, though it is still to be avoided.[67]

To summarise Buddhaghosa’s account:

i) regarding non-human animals, where there is a physical distinction between them, size and hence agential *effort* decides the *kammic* gravity of the act. Where

[65] Tr. Harvey (2000, 52). Cf. As. 97; Spk. II.144; Nidd.-a. 115; Khp-a. 28-29; Sv. 69-70; AKB IV.73a-b.

[66] Buddhaghosa, in addition, suggests six methods applicable: “with one’s own hand, by instigation, by missiles, by contrivance (trap or poison), by sorcery, by psychic power.” (Harvey 2000, 52)

[67] The Tibetan Mahāyāna, based on Indian sources, adds a further, sixth, factor involving the *delusion* (*moha*) that refers to the presence of greed, hatred and ignorance as also constitutive of a fully *kammic* act of killing (Williams 2000, 250 n. 23). Williams suggests that this inclusion deliberately allows for the ethically permissible killing performed by a realized being *lacking* these delusions, thereby not driven by unwholesome intention. In Chapter 3 we see how the Mahāyāna makes *wisdom* (*prajñā*) an integral dimension of its own framing of the precept, below.

ii) such effort is equal, the physical substance of its object decides its gravity, in some apparently objective sense. Regarding

iii) human persons who possess intrinsic virtuous quality (*guṇa-*), its greater or lesser degree decides the moral gravity or mildness of the act respectively; where this is

iv) indistinguishable or apparently equal between persons, the intensity or lightness of action and mental defilements *of the agent* determines its gravity.

Buddhaghosa's evaluative focus judges comparative degrees of moral gravity in intentional lethal acts. It also assumes value-claims for human sentience and its intrinsic quality, ie. *qua* human, sentient beings are necessarily constituted by a sum of such quality. The measures divide worse wrong-doers from lesser ones, imply the moral importance of the volitional intensity of intention, the presence or absence of mental pathologies in its agent, the superiority of human over non-human quality, and the significance attached to size as an index of volitional effort.

But, again, neither the measures by quality in the human (and sometimes, animal) case, and size in the animal case, make clear what is explicitly *wrong* in the act beyond their incurring degrees of *kammic* demerit for these related reasons. However, the pervasiveness of the measure of quality of both the object of killing, and the nature of the mental pathologies of the agent, in judging the gravity of the act warrants it being classed as a third major criterion for the first precept, the principle of *quality* (PG):

> *qualitative states of virtuousness objectively predicated of animal, human and divine objects, are objects of primordial value. Where these subsist in living beings, their value renders the intentional killing of those beings prohibitive.*

§5. The Buddhaghosan criteria for evaluation

The evaluative categories Buddhaghosa adumbrates require some comment. We are here concerned with exegesis not merely to ascertain how these determinations of moral status might be rationalised from within the

Śrāvakayāna lifeworld, but also whether exegesis renders the salience of the criteria, and so their normative appropriation, transparent to a contemporary understanding. It is not clear that the criteria are intended as a more or less precise means for calibrating moral culpability (see Keown 2001, 96-100); nor does Gethin's suggestion (2004a, 172) that they are analogous to the kind of common sense attitude that informs contemporary legal judgements elaborate on how they might inform the very different purposes of Buddhist religio-ethical justification.

In the following section I argue that their utility relies on a sense of justification quite alien to that of 21st-century ethical or rational discourse.[68] To start with, implicit in Buddhaghosa's claims is the assertion of a hierarchical order of explanation whereby properties of both objects and agents of killing determine the moral gravity of a lethal act, entailing distinct modes of judgement. That is,

1) a *sensory* judgement of the comparative size of animal objects, and where they are judged equal
2) a *phenomenological* judgement regarding the degree of (human) effort entailed in killing them. Where such effort is similarly judged equal, the criterion reverts to a judgement regarding
3) the physical 'substance' of the animal.

The relevant arbiter of ethical judgement moves from the *object* of action in (1) to the agential *subject* in (2) and back to the object in (3). Similarly, in the intra-human context, where

4) an *axiological* judgement of the virtuous and aesthetic quality of human objects is neutralized due to a judgement of equivalence between them, then a
5) *psychological* judgement regarding the intensity of mental pathologies of the *agent* is what determines the moral gravity of the lethal act.

[68] Their justification being alien in that limited sense, however, need not imply the criteria as being inherently misguided or false; they are embedded in a cultural context for which they are, or were, appropriate.

The ethical gravity of killing is judged by these criteria. These might be conceptually or axiologically connected, but Buddhaghosa does not thematize the connections; rather, they are stipulated. Gethin argues that these categories accord with "what is in many ways a "common sense" attitude towards the relative blameworthiness of different unwholesome acts" (2004a, 172-173). It is not, however, at all clear why or how these diverse kinds of judgement function *morally,* or what the principle is that lies behind this list. These modes of judgement engage highly diverse objects: physical entities, volitions, virtue and beauty, and cognitive-affective pathologies. There is no clear relation between them or justification for their inclusion on the same list; in short, they are indices for an axiological hierarchy determined by no clear overarching principle or moral value.

Most simply, one set of criteria concerns objective properties, while another concerns subjective properties. On the other hand, the central criterion of *volition* functions in this passage in both objective *and* subjective senses: objectively, as the purely *physical effort* required to kill large versus small animals; subjectively, as the *intensity* of mental pathology entailed in killing a person.

There may however be a straightforward metaphysical reason underlying what appear to be somewhat arbitrary or at least unexplained claims. Buddhaghosa's criteria *en groupe* move between objective judgements of the comparative objects of killing, to judgements regarding the subjective condition of the agent most simply because it is the morally-valenced interaction *between* a particular kind of subjective intention *and* the objective nature of a particular kind of recipient *of* that intention, that ostensibly decides the ethical gravity of the lethal act for Buddhist-evaluative purposes. In this way, the central Buddhist-ontological principle of subject-object interdependence metaphysically underwrites the moral interdependency of the criteria as a whole.

Hence, we've noted that to kill an Arhat or a Buddha is the worst possible breach of the precept, especially when committed by the ordinary layman, because the Arhat by definition possesses no mental pathology of any kind, while the unenlightened worldling does. Conversely, for a Buddha to kill a heavily defiled worldling incurs much less fault—indeed, effectively almost none, given the qualitative disproportion of the subjective nature of the agent's action and the nature of its object.[69] Of course, the moral soundness of this conclusion is another matter—one addressed in §6.2, below.

In sum, neither subjective nor objective evaluative judgements alone are sufficient to decide the degree of moral gravity of killing and, given the relations mutually determining them, their implications are less morally transparent than a contemporary Buddhist ethics of killing might assume. There is, moreover, a final point to be made in this regard: the criterion of mental pathologies doesn't match with other canonical evidence regarding the punishment of crime. Harvey (2000, 53) notes that the Vinaya (Vin. III.78) clearly states that there is no defeat (permanent exclusion from the order), and so no transgression of the first precept, in cases of homicide where its agent is out of his mind, aligning this case with others in which "it was unintentional, if he did not know, if he were not meaning death" (*ibid.*); clearly, madness here is morally equivalent to a total absence of intention.

Harvey (2018, 399) draws attention to the Theravāda *Milindapañha* which similarly claims (Miln. 221) that acts of the mentally disturbed should not be punished (disturbed to what degree, is not clear). Yet madness, psychologically construed as an extreme of mental pathologies, could as equally be understood as a limit-point of *akusala cetanā*, at which intention can be no more morally grave. It is not clear at what point *kamma*-apt intention turns into *kamma*-free insanity, for this early Buddhist criterion for the moral gravity of killing.

Are we to understand these clear signs of the exoneration of killing in cases of psychotic or other psychiatric conditions to refer only to legal, or do they extend to moral *kammic*, effect? The alignment of insane lethal acts within a range of non-intention and ignorance of their effect tends to the conclusion that *kammic* effect is similarly inoperative in this case. If so, this would seem to undermine at least one construal of what the *kleśas*, and the criterion crucially based on them, psychologically signify.

---

[69] Jenkins discusses these generally held ideas which travel in a shared metaphor from the Nikāyas (in for example the *Loṇaphala Sutta*, AN) through, inter alia, the *Abhidharmakośa* to Asaṅga and then Bhāviveka (2010/2011, 308).

In the following section I consider other significant hermeneutical implications of Buddhaghosa's criteria, in order to gauge the extent of their philosophical salience.

§6. Buddhaghosan problematics

§6.1. Semantic implications

We've noted above that reading canonical Buddhist texts is not unlike doing a jigsaw: their various parts betray explanatory lacunae that obscure a full picture of the reasons underlying the normative behaviour of the ideal Buddhist community. We have seen that Buddhaghosa's criteria for the evaluation of killing potentially evidence a metaphysical rationale without spelling out a systematic explanation. Another important instance of a claim requiring some justificatory grounding, but only touched upon above, involves distinctions Buddhaghosa implies between degrees of *quality* in persons.

The lexical bases of the compound *sarīra-guṇa* (physical virtues or qualities) in the Pāli (Sk. *śarīra-guṇa*) are textually and historically complex.[70] Giustarini (2014) suggests that *sarīra-guṇa* "plays a key role in the Buddhist analysis of the first precept, but its function is not immediately clear, and the English translations available may not convey satisfactorily its meaning and nuances."[71] Ronkin (2005, 128 n. 104) notes an unusual use of *guṇa* to mean *special quality* in the para-canonical *Milindapañha*, where it appears compounded with *sabhāva* (essence) in place of the more typical *lakkhaṇa* (defining characteristic). The referent for *guṇa* in this case describes the specially valorised nature of the Buddha Mettaya: *puna ca metteyyassa bhagavato sabhāvaguṇaṃ paridīpayamānena bhagavatā evaṃ bhaṇitaṃ* ("Moreover, this was said by the Blessed One when he was illustrating the

[70] *Guṇa* functions as an umbrella concept between Buddhist and non-Buddhist (notably Nyāya) contexts, though the appearance of the compound in Pāli exegeses of the first precept is limited to those of Buddhaghosa in his commentaries, and their sub-commentaries. The passage of Buddhaghosa (MN-a I.8, PTS I.198) quoted above, is quoted almost verbatim by Dhammapālācariya (It-a. PTS II.49) and by Mahānāma (Paṭi-a. I.220).

[71] Unp. MS. textual note "Assessment of kamma in *pāṇatipāta* in Pali commentarial literature", Giustarini (2014). The relevant passage is at As. 97 (PTS 129).

essence and special qualities of the Buddha Metteyya." *ibid*.). It is not implausible that the temporal proximity of the latter parts of this text with Buddhaghosa's possible flourishing in the 4th-century (Ronkin, 128 n. 97) suggests a common cultural source for this elevated understanding of the term, and that his use of *sarīra-guṇa* implies superlative soteric qualities as well.

Giustarini's analysis supports this reading of the term in a sense often under-theorised in extant secondary scholarship[72] on the first precept and Buddhaghosa's discussion of intrahuman killing:

> The text seems to reveal that the *sarīraguṇa*s are visible marks that indicate the spiritual accomplishment of an individual; specifically, they may consist of qualities of the body of a victim of murder, and thus represent one of the two factors that determine the specific degree of gravity of killing a human being—the other being the defilements of the murderer.
>
> In the sub-commentary of the Janapadakalyāṇīsutta of the Satipaṭṭhāna Saṃyutta, the *sarīraguṇa*s are said to be tantamount to the "five beauties" (*pañcakalyāṇa*), opposites to the six flaws; they are listed in the commentary (Sāratthappakāsinī) of the same sutta: *chavikalyāṇaṃ*, *maṃsakalyāṇaṃ*, *nahārukalyāṇaṃ*, *aṭṭhikalyāṇaṃ*, *vayakalyāṇanti* (PTS III.127), "the beauty of flesh, the beauty of muscles, the beauty of bones, the beauty of skin, the beauty of youth."
>
> In the commentary of the Dhammapada "the beauty of muscles" is replaced by "the beauty of hair" (*kesakalyāṇa*), which is the first of this list (Dh-a. PTS I.387), and in the commentary to the Udāna Nandasutta (Ud-a. PTS 170) it is replaced, in the same order, by "the beauty of fingernails" (*nakhakalyāṇa*). This latter commentary offers a detailed description of each beauty. Particularly noteworthy in terms of kamma and morality, the commentary to the Dhammapada also connects these beauties to the accumulation of great virtue/merit (*mahāpuñña*). (Giustarini, 2014)

Thus, *sarīra-guṇa* indicates a simultaneously aesthetic and moral value, and might include a semantic reach that involves capacities for fine-grained perception, virtue, understanding, inferential cognition and the qualitative states these higher-order processes facilitate: specifically, knowledge and wisdom. Yet important secondary scholarship on the status of *sarīra-guṇa* as

[72] See however Powers (2009) and Mrozik (2007) for studies focused on the socio-cultural and religious dimensions of virtuous bodies in Buddhist religious studies and ethics.

a moral criterion for killing subsumes its aesthetic and soteric dimensions in the more general notion of *guṇa*- as mere positive quality (Harvey 2000); elsewhere it is not noted in the context of the early Buddhist moral evaluation of killing at all (Gethin 2004a; Keown 2016).

But the understanding of virtuous quality as a specifically physical sign does not necessarily render exegesis transparent. How a reliance on this "nonfalsifiable set of physical attributes" (Powers 90) aligns with early Buddhist epistemology in general is uncertain. Giustarini reports that:

> The term *sarīra* may refer to a dead or alive body, and here both possibilities might be intended. It could be a dead body since by looking at the marks/qualities of the dead body one may assess the spiritual development of the victim, and thus determine the level of negative kamma accumulated by the murderer. And it may refer to a living body for at least two reasons: it could be necessary to identify those marks before acting; the compound *mahāsarīra* is used in the same passage to indicate the large body of a big (living) animal (e.g. an elephant), the killing of which would require a bigger effort.
>
> When the *sāriraguṇa*s of the victims are the same, the Atthasālinī uses another element to understand and normatively compare the consequences of killing for the perpetrators: this consists in detecting the gentleness (*mudutā*) or severity (*tibbatā*) of the defilements (*kilesa*) and of the attacks (*upakkama*). In the sub-commentary of the same passage occurring in the Papañcasudanī (M-ṭ III.88), this is glossed as the intention (*cetanā*) of murdering (*vadhaka*), which also paraphrases one of the five requisites (*sambhāra*) i.e. the *vadhakacitta*. (unpag. 2014)

Giustarini here confirms the evaluative objective-subjective dialectic already addressed, assuming the possibility of epistemic access to both measurements, as well as the measure of equality. Powers (2009) persuasively demonstrates that "The body is particularly important as a marker of morality. In Indian Buddhism, virtue is beautiful, and the most morally advanced beings are also those with the most attractive physiques" (71), and Buddhaghosa's passage indubitably confirms the same.

But *sarīra-guṇa* as a criterion of gravity is above all problematic because its ascription to persons appears to be perhaps *the most significant criterion* for ethical judgment in early Buddhist dogmatics on the subject of intra-human killing. In what sense can the proposition that "a person's outward appearance is *generally a reliable guide* to his moral stature" (69, my italics) be taken as normative for Buddhist ethics when, as suggested above and as Powers confirms, "Such concerns are commonly dismissed by contemporary commentators on Buddhist ethics" (90)? At this point, critical exegesis enters into normative philosophical critique.

§6.2. Normative implications

It is one thing to assert the claims of PG in its cultural life-world. To assert its truth, however, is more problematic. We can for exegetical purposes separate Buddhist value-claims from the epistemological concern regarding how such claims provide moral knowledge, but at risk of losing insight into their deeper justificatory structure. The value-claims described in the evaluation of *sarīra-guṇa* rely directly on ostensible causal relations between the moral value of acts and the physical attributes of agents of those acts. But to have moral knowledge requires having epistemic access to at least the most significant of those causal relations, failing which we possess not knowledge but mere opinion.

We have seen that Buddhaghosa suggests that we know that a human object of killing is more or less valuable, and so the commission of the act more or less culpable, depending on the physical virtue or qualities of that being. In contemporary terms, a person's quality is not substantively defined by physical attributes but rather by his or her status as an embodied *person*. More precisely, we value personal virtue, just as Buddhaghosa does, but we locate virtue in attributes of character, psychology, and behavioural integrity, none of which for the modern moral mind are physical properties.

If this is so, contemporary moral judgement of persons ineliminably requires some familiarity with, or socially-accessible knowledge of, those attributes of mind. But the early Buddhist criterion of *sarīra-guṇa* for the moral fault of killing presupposes the *direct* congruence of character and physical attributes. It is hence not clear how that criterion can be appropriated by a contemporary Buddhist ethical discourse, a hermeneutic problem to which Powers points, but which he does not address. The following sections illustrate ways in which a philosophical engagement with Buddhaghosa's criteria sheds light on the rationality and coherence of the norms which the criteria, ostensibly, undergird—first with regard to the moral evaluation of the killing of animals and then, in preliminary terms, with regard to that of intrahuman killing.

III. §7. The human killing of animals

We have seen that physical size itself, the most baldly objective measure suggested by Buddhaghosa, is a measure for the relative ethical fault in killing large(r) and small(er) animals. However, this is because, Buddhaghosa claims, size implicates the relative level of *effort* required on the part of the (human) agent to kill an animal, which is where determinate moral fault lies. However, agents may differ in strength, which compromises the original calculation: a weak agent requires intense effort of attack (*upakkama*) in killing an elephant, where a strong one does so with significantly less effort. This raises an obvious question: does a comparison between each effort potentially modify their respective ethical gravity?

That is, if I must labour to kill an animal that my friend kills with ease, is my act intrinsically worse than his, and so his only negligibly bad, though they have the same result? Buddhaghosa's measure of effort would insist it is. But if so, then the original determinant of animal *size* is irrelevant because the only measure that counts is a relational one obtaining between the weak(er) and strong(er) efforts of respective agents. If not, a relevantly similar conclusion applies: it is just unique isolated efforts that morally count, contingently depending on individual strength and relative to different acts of *that same agent*, again irrespective of animal size. For Buddhaghosa's claim for animal *size* as a measure of the gravity of killing animals to work, it has to presuppose lethal agents are of uniformly equal strength or fitness, so their degree of effort will be equal as well.

Whether or not we accept this hidden premise, this conclusion appears to confirm PK as a measure for the intensity of *intention*, where more intense effort implies a greater will to kill and thus worse *kammic* effects. By doing so, however, it also anthropocentrically focuses on a purely human criterion (intensity of effort) for the moral status of killing animals, rather than one pertaining to the animal *qua* animal (whether as object or agent) in its own right.[73] (By extension, it is not clear that the same measure applies for animals killing other animals.) Any objective measure pertaining to animals (once the relative objectivity of their different sizes vis-à-vis their human executioner is put aside, as above) is only possible when they require an equal strength and thus effort to be killed.

Pāli commentarial *aṭṭhakathās*, however, claim that "even when the effort is the same, [killing a large animal is still more blameworthy] because of its greater physical substance." (Gethin 2004a, 171)[74] It might be noted that since the invention of firearms, and the animal slaughter industry that mechanises killing, the equal effort condition is now moot: animals of any size can in theory be killed with roughly equal facility.[75] This contingency undoes the anthropocentric criterion (as above) by reverting the argument to a claim about animal substance—that simply, for example, it is worse to kill a horse than a mosquito (see Gethin 172-173). If this conclusion is accepted, so might be Buddhaghosa's claims. If not—and many tend to this view, including practicing Buddhists (Gethin 173)—Buddhist ethics then requires an alternative objective measure for animal value other than size or substance, if it is assumed to measure the moral gravity of killing animals.

Buddhaghosa doesn't provide a further objective measure for determining animal quality, but we can assume it would remain a function of the *human* valuation of animals, perhaps in Buddhist terms as potential enlightened beings (for example, how the worth of animals is contextualized in the *jātaka* tales). Animal quality as such would then not be a function of the valuation of animals qua *animals*, in which their status as potential enlightened

[73] And this despite the many canonical expressions of compassion for animals, and exhortations to their non-harm, noted in Chapter 1.
[74] Gethin (2004a, 172-3) also claims that this same belief is "taken for granted in contemporary society."
[75] It is not clear that *intention* as an ethical index would play any appreciable part in the apparently intentionally neutral context of industrial animal slaughter. The question of the desensitization of affect in human genocidal contexts is relevant here too, where a dissociative intentionality could theoretically modify a Buddhist-intentional account. See Chapters 4 and 7 for further discussion.

Arhats is not overtly at issue, it appears, either for them or for their inter-species predator. Their independently animal status appears to hold little or no value apart from the degree to which sentience might at best be ascribed to it (see again the discussion in Chapter 1). Apart from the injunction against harming sentient beings animality in itself is not, in these Śrāvakayāna criteria, afforded specific ethical status in the discourse around killing, contrary to so much of the canonical framing of non-harm to animals (Stewart 2014).

Whether Buddhaghosa's claims are persuasive for an ethics of killing animals is a question this study will have to forego. It is however relevant to the degree that it is a salient part of the early Buddhist conceptualization of norms of killing. The important Buddhist and other debate surrounding the putative necessity and justification for industrial animal slaughter, for purposes of human consumption and commerce, concerns problems essentially distinct from those of the enquiry that follows, because they do not entail the cognitive and intentional conditions relevant to intrahuman killing that are its specific concern.

In general, humans kill animals for reasons that express a straightforward causal relation between a nutritional and material need or exploitation and the securing of its corporeal objects. In that sense killing animals is at best a rational and in some cases arguably justified human practice, at worst a gratuitously contingent one, but its ethical import will not be considered further here.[76]

§8. The human killing of humans

In summary, we have seen that the measurement of virtuous *quality* or *sarīra-guṇa* is central to the evaluation of intrahuman killing, its moral gravity depending explicitly on claims for the identifiable physical qualities of compared people.[77] Where that judgment of relative quality of the objects[78] of

[76] See Stewart (2010), Finnigan (2017) and Waldau (2018) for recent Buddhist accounts.

[77] To the degree that our former reading of the *sarīra-guṇa* can be taken at face-value, then the five (physical) beauties (*pañcakalyāṇa*) straightforwardly express the

lethal acts proves either equal or indeterminate,[79] then the subjective measures of *mental pathologies* and the *intensity* of volition in their agents measure degrees of culpability. These two criteria are again psychological in a sense which, as we've seen, also implicates the ethical and axiological: mental pathologies imply a diminished and thence unskilful agency. This raises the probability of unwholesome intention, the increased intensity of which exacerbates the valence of such action.

This confirms that the comparative absence of mental pathologies, and hence a reduced intensity of unwholesome volition, raises the probability of skilful agency. Elevated to a superlative level, *guṇa* or virtuous quality becomes the basis for a post-Śrāvakayāna valorisation of the (more or less) enlightened soteric activity of bodhisattvas. As a radical extension of PG, this development ultimately radicalizes the PD and PK as well, just because it serves the radical amelioration of suffering, and optimisation of *kammic* merit and universally beneficent effect, thereby justifying an *exception* to the first precept. Despite being an overt exception to the norm of *ahiṃsā*, its justification hyperbolises Buddhaghosa's evaluative criteria, with the result that some intentional killing is even regarded as meritorious. This also introduces new, and otherwise problematic, features that reflect an importantly different metaphysical and moral landscape.

This chapter has examined early Buddhist norms concerning the evaluation of animal and human objects of killing and thus the moral gravity of those acts, and their elaboration in the Theravāda commentaries of Buddhaghosa and Pāli exegesis in general. Having considered the hermeneutical and analytical constraints and quandaries involved in engaging this framework in a contemporary ethical idiom, we can now focus on how these claims significantly inform the subsequent development of the Buddhist

---

great positive *kamma* and thence merit (*mahāpuñña*) that, for example, the Dhammapada explicitly associates with them.

[78] The use of the word "object" for human person (*passim*) is purely in order to facilitate a distinction from the agent of action, also a person. It is not to inadvertently render the person objectified as a thing.

[79] As when Buddhaghosa (As. 97; PTS 129) suggests that the bodily qualities (*sarīraguṇa*) of two or more victims, perhaps through having already been killed, do not show clear evidence of quality beyond purely external signs because they are dead (Giustarini 2014).

evaluation of intentional lethality. This requires more closely examining the sense in which the central among these early evaluative norms, and the evaluative criteria of PK and PG in particular, are developed and transformed in their socio-historical reconfiguration in the classical Indian Mahāyāna conception of auspicious killing—a notion that has no moral place in the earlier Buddhist corpus.

CHAPTER THREE

Mahāyāna Exceptionalism and the Lethal Act

*

I. §1. An exception to the precept: textual and doxographical context

Demiéville, in his survey of Buddhist warfare, suggests that, paradoxically,

> The Lesser Vehicle, which tends to condemn life, remains firm in its interdiction of killing; the Great Vehicle lauds life, and it is the Great Vehicle that will in the end find excuses for murder, and will even glorify it. (2010, 20)

While in broad terms not false, Demiéville's formulation obscures the degree to which there is more of a relevant continuity between the two vehicles than it would suggest. The Pāli record is ambiguous with regard to the first precept in only very few isolated cases, that of the normative status of arhat suicide (specifically autothanasia) in particular (Delhey 2006; Kovan 2018). Homicide in warfare or any other deliberate lethal violence is unequivocally condemned, particularly as it implicates Buddhist exemplars (Demiéville, 18-19; 46). The general prohibition of killing is sustained throughout the Nikāyas and their commentaries, but anomalies to this received picture emerge.

In discussing the Abhidhamma doctrine of the impermanence and momentariness of the psychophysical series of five aggregates, we noted above that Vasubandhu questions the justification for prohibiting the truncation of that selfless series in a lethal act: if it is true that the integrity of a person might be interrupted, then it is also true that the causal series of simple events ultimately constituting the *skandhas*, and especially consciousness, perdures in any case. Yet the *Abhidharmakośa* also offers an unambiguous list of *karmapathas*, just as the Theravāda does: ten kinds of action that as well as being unethical will incur unfavourable effects (AKB IV.68-74), the first of which (as in the Pāli list) is unsurprisingly the killing of sentient beings.

The Pāli tradition had already prepared for this theme by reference to the non-existence of self in the conventional-existent person (*puggala*). For example, the nun Vajirā answers Māra the god of death regarding the nature of a being: "This [the idea of a being] is a prejudice [*diṭṭhigataṃ*] on your part; there is no being here, purely a heap of conditioned elements" (SN I.135; cited in Collins 132). Buddhaghosa, in the *Visuddhimagga* (XV.III.32), similarly disclaiming any notion of a personal selfhood that could be the object of genuine assertion or refutation, offers a zombie metaphor that could be seen to have nihilistic implications:

> Just as a puppet is empty, soulless (*nijjīvaṃ*) and without curiosity, and while it walks and stands merely through the combination of strings and wood, yet it seems as if it had curiosity and interestedness; so too this [human] name-and-form is empty, soulless and without curiosity, and while it walks and stands merely through the combination of the two together, yet it seems as if it had curiosity and interestedness. (Collins 132-33)

Buddhaghosa suggests that any valorisation of a personal self, and its interiorization of an external world available for its own purposes, is based on a falsehood: such individuality only "seems" to have personal, self-directed or -interested intentionality; in truth that self exists only as an illusion, just as the animation of a puppet is only make-believe.

Buddhaghosa and Vasubandhu suggest that where intentional killing entails the belief in a person as its object, and that person is conventionally real, a negative *kammic/karmic* effect necessarily still ensues. If so, negative *kammic* effect still justifies the precept on that conventional level. After all, one can presume that the Buddhist audience to whom it is directed can perceive other persons both as *real* and as *persons*. The normative force of the precept depends on the conventionally real status of the person.

Vasubandhu suggested a potential normative loophole generated by the atomistic reduction of the person to his constituent *dharmas*. If the *dharmas* per se are not killed, then what is? Mahāyāna thinkers such as Nāgārjuna suggest similar normative problems given the emptiness of the *dharmas* themselves. This tradition ups the ante by questioning what it is in the person that requires moral protection by the first precept, when the person is ultimately not even reducible to momentary impermanent real entities. Hence, in the *Mahāprajñāpāramitopadeśa*[80] (in a disputed and probably false attribution[81]) Nāgārjuna makes a claim that persists, as we will see, into the later Mahāyāna:

> [S]ince the living being [*sattva*] does not exist, neither does the sin of murder. And since the sin of murder does not exist, there is no longer any reason to forbid it […] In killing then, given that the five aggregates are characteristically empty, similar to the visions of dreams or reflections in a mirror, one commits no wrongdoing. (Lamotte 864. Cited in Demiéville 20).

This passage (extant no earlier than the 2nd-3rd-century C.E.) anticipates subsequent justifications by Mahāyāna exegetes of auspicious intentional killing on the part of superlative moral agents such as bodhisattvas. The living being, the author of this text argues, *does* exist, but only conventionally as a person constituted by the five aggregates which, being ultimately empty of intrinsic existence, also exist only conventionally. But since killing a conventionally real sentient being remains karmically negative, the precept, which is applied to karmically-constituted intentional action committed or intended by conventionally-real sentient beings, is to be observed.

The mind of a Buddha or *ārya*-being will perceive the ultimately empty nature of this entire proceedings and might with that knowledge, and with unimpeachable compassion, therefore act beyond conventional good and evil. In this sense only is it true that, ultimately, he commits no wrongdoing. But clearly the work of Śākyamuni Buddha has historically been to aid

[80] A text that tradition attributes to Nāgārjuna, preserved in the Chinese translation (*Ta-chih-tu-lun*) of Kumārajīva, completed in 404 or 405 C.E.
[81] See Seyfort Ruegg (1981, 32*ff.*) for discussion of the contested nature, and possible plurality, of this attribution.

sentient beings in mitigating and ultimately extirpating the causes of their suffering.

And we have already established the justificatory function of the PK and PQ, as well as PG, for the precept. The canonical and commentarial literature in which these heuristics are encoded, as detailed above, disprove the notion that permissible homicide committed by normal living beings, or even *ārya*-beings, is in any sense *normative*. The theoretical exceptions, in which possible cases of permissible homicide involve exclusively *ārya*-being agents, positively weigh the benefit of the norm of compassion, dominant in the bodhisattva's moral economy, against the cost of potential negative moral effects brought upon lethal action.

Hence, an ordinary agent, holding both sentient beings and his act of murder to be real events, necessarily incurs whatever robust karmic effect ensues from intentional action pursuant to these conditions. The point for the author of the *Mahāprajñāpāramitopadeśa* is that the emptiness of these events and their constitutive objects does not entail an axiological claim about their conventional existence. So, certain value-claims (such as the *prāṇātipātaḥ*) remain true with regard to the conventionally-real lifeworld, where conventional truths remain conventionally *true*.

In the *Abhidharmakośa* the ethic of non-harm extends even to those, such as soldiers, commissioned to kill. Soldiers must accept the inevitable karmic stain incumbent on obeying state orders, unless they have resolved to put all other life before their own, which alone absolves them of it (Demiéville 18-19). Yet, paradoxically, and in a way that will become typical of Mahāyānist argument, the superlative moral force of altruistic resolve is the causal factor that *also* exonerates intended killing on the part of sublimely motivated *ārya*-beings, such as those former lives of the Buddha as a bodhisattva featured in the *Upāya-kauśalya Sūtra,* the *jātakas* and other Mahāyāna hagiography.[82]

[82] There is growing scholarship that interrogates Theravāda and Mahāyānist exceptionalism with regard to the first precept, by close textual readings of lesser-known canonical and other literature (Jenkins 2010; 2010/2011; Zimmerman (ed.), 2006; Delhey 2006, 2009; Anālayo 2010, 2011).

We have seen that intention is the master term of Buddhist-ethical argument, usually identified in general terms as wholesome, unwholesome, or neutral.[83] The extensive Mahāyāna record valorising *superlative* altruistic intention invites a more explicit descriptor of what the value mediating these moral valencies is, by virtue of the nature of the *exception* to the earlier understanding of the precept it introduces.

§2. The principle of wisdom (*prajñā*) (PP)

In considering in Chapter 2 the five-fold conditions[84] for killing as a fully-completed unwholesome course of action, I noted that a sixth is on occasion added in the Mahāyāna understanding of these five conditional factors: this requires the presence of ignorance summarised collectively in the three poisons of greed, hatred and delusion. The Abhidhamma also recognises the last two of these as the combined root of the lethal act.[85] A lethal act lacking these factors is less than fully constituted and is therefore less karmically serious. While this possibility is excluded in the Abhidhamma on psychological grounds (Gethin 175), a claim we will explore in greater detail in Chapter 4, in the Mahāyāna context the only sentient being psychologically capable of, and so theoretically able to commit, such an act is a highly-realised bodhisattva or Buddha.

The Mahāyāna thus brings two new related approaches to normative evaluation in the theorization of the first precept, in addition to PD, PK and PG:

[83] The threefold division belongs to the Abhidhamma matrix of triplets *(tika-mātikā)* set out for example at the beginning of the *Dhammasaṅgaṇī*. Some scholars (such as Heim 2014) simply use the English good and bad for *kusala* and *akusala* respectively.

[84] Namely the existence of a living being, cognizance of it, a mental intention to kill, the effort to do so, death of the living being as its effect (see Vin. III.68-86).

[85] Gethin (2004a, 175). The Abhidhamma analysis of such action by way of its causal basis or root is only one of five analytic means of defining it; the others are by way of its intrinsic nature or essence (*dhamma*/*sabhāva*), its grouping (*koṭṭhāsa*), its object (*ārammaṇa*), and feeling (*vedanā*). This last in particular is considered in greater depth in Chapter 4.

> *i) lethal acts are prohibited where they are directed against* ārya *beings such as Buddhas and bodhisattvas possessing the highest value or perfection of transcendental virtue and wisdom. ii) where transcendentally understood by such wisdom beings as compassionately imperative, and where their omission results in overall reduced utility, their lethal acts are exceptions to the prohibition of the first precept.*

This *principle of prajñā* (PP) extends PG, PK, and ultimately PD in two ways: *ārya*-beings, Buddhas and bodhisattvas are, firstly, the exemplary prohibitive objects of the lethal act due to their superlative quality (PG-PP), and secondly (in the Mahāyāna context) its valorised active agents, where such agency suspends the prohibition.

We saw that the PG relied on the identities of the objects and agents of killing. It deployed comparative measures with regard to hierarchies of more or less static respective quality between animals and humans, and then ordinary humans and highly-realized Buddhist exemplars. The PP similarly recognizes the relation between the status of the agent and that of the object, evaluating ethical action on the basis of that relation, but with a difference congruent with that we have already noted: it exploits differences of quality between agents and objects in order to *augment* rather than gauge comparative negative moral valencies of the action.

For example, a Buddha or bodhisattva supererogatively gives his or her own life for the sake beings of inferior *guṇa* the sacrifice benefits, even where they are by the earlier criterion (PG) of inherently less moral value: a superogation the PG itself does not justify, and even contradicts. In the same case the PG would insist that the intentional killing of a being of higher quality for the sake of a lower one *must* produce negative moral effect: its poles of *kammic* evaluation are in that sense fixed. In the terms of the PP, however, this negative effect is reversed just because the higher being altruistically wills to subordinate higher *guṇa*- to lower—a theme of the abnegation of self to other that, by virtue of the continuing development of a moral exchange-economy of *karma*, becomes central to Mahāyāna Buddhist ethics.

II. §3. Auspicious violence in the Mahāyāna

Thus, in the 3rd-century C.E. Āryadeva in the *Catuḥśatakam* extends the master term of *cetanā* by claiming that "Because of their intention both bad and good actions become auspicious for a bodhisattva." (cited in Jenkins 2010/2011, 309) A bodhisattva's altruistic intention reconfigures all previously morally-inflected action to its own norm: depending on the degree of compassionate altruism, even previously proscribed action becomes meritorious. Moral valencies previously attached to *kamma-pathā* as 'dark' or unwholesome because of their constitutive nature, are made comparatively wholesome because of the nature of their agent.

The prioritization of both wisdom and great care (*mahākaruṇā*) in a bodhisattva's progress to awakening produces a teleological suspension of the ethical, sublating conventional norms of *kusala* and *akusala* in a bodhisattva's agency transcendentally rendering their acts beyond good and evil. Similar claims are echoed in other Mahāyāna *sūtras* and *śāstras* and at least "Asaṅga, Vasubandhu, Śāntideva, Āryadeva, Bhāviveka and Candrakīrti agree on the basic point that a bodhisattva may do what is normally forbidden or inauspicious." (Jenkins 310) The normative force for the Mahāyāna of such an illustrious roll-call can hardly be minimized. Characteristic among them might be Asaṅga's claim in the 4th-century *Mahāyānasaṃgraha* that "even if a bodhisattva in his superior wisdom and skilful means should commit the ten sinful acts of murder etc., he would nevertheless remain unsullied and guiltless, gaining instead immeasurable merits." (319)

In the same century the theme is repeated in the *Yogācārabhūmi Śāstra*, reproducing the narrative familiar from the *Upāya-kauśalya Sūtra*. Nāgārjuna conceives of violence as a potential form of skilful means (*upāya-kauśalya*) in his advice to a Buddhist king in the *Ratnāvalī,* such that "the Buddha says to even cause extreme pain, if it will help another" (312); and Candrakīrti (in the early 7th-century) extends the theme to the point that "If an act of killing may make merit, then it is neither a necessary evil, nor merely value free, but is clearly auspicious" (310)—clearly the superlative extension of PK, even in its overt contradiction of the first precept.

It also signals the *topos* of skilful means which might include otherwise forbidden action, including lethal acts, legitimated by the wisdom perceiving emptiness. While the six perfections of the Mahāyāna cohere with the focus on compassion and non-harm already familiar from the Śrāvakayāna traditions, the sixth perfection of *prajñā* throws a hermeneutic wildcard into the otherwise consistent, if sometimes equivocal, textual history around the moral evaluation of killing. Vasubandhu's and Nāgārjuna's earlier metaphysical provocations are now explicitly normative, at least for *ārya*-beings.[86] Jenkins indeed suggests that the causal justifications for compassionate killing by bodhisattvas are "double-edged in opening the possibility for murder precisely to prevent its horrific karmic outcome." (2010/2011, 323)

In this way, however, Mahāyāna discourse on compassionate violence suggests that while a Buddha or bodhisattva possesses the transcendental insight and skilful means to justify a blameless intention in killing, someone else who kills *to prevent the negative consequences of killing* is caught in a double-bind: forestalling one act of killing now justifies committing the very act whose consequences it is meant to neutralise.[87] But even for a bodhisattva the reasoning becomes paradoxical. Śāntideva commenting in the 8th-century *Śikṣāsamuccaya* on the oft-cited *Upāyakauśalya-sūtra* says "Behold, son of good family, the very action which sends others to hell sends a bodhisattva with skill in means to the *Brahmaloka* heaven realms." (319) As Jenkins claims,

> the more pure a bodhisattva's intention is to go to hell [upon committing a willed murder] the less likely she is to do it. The bodhisattva dramatically shortens the path to buddhahood, precisely because of being willing to sacrifice his or her own spiritual progress […] In fact the motivation can produce the opposite of what is intended; those who intend to endure hell realms do not, precisely because they are willing to do so. (319)

[86] Jenkins notes this Mahāyāna shift largely with reference to the Madhyamaka, but even here it is not universal. He writes that "Nāgārjuna and Āryadeva do not explicitly allow for deadly violence, but do allow for inflicting pain or performing normally inauspicious action based on intention." (2010/2011, 299)

[87] We will encounter a similar performative contradiction in Chapter 5, with reference to the notion of securing retributive justice in capital punishment.

This reasoning can be extended: if I compassionately kill with the explicit and religiously-sanctioned intention to suffer hell-realms as a result, and know I thereby will *not* enter hell-realms, then I can only *actually* enter hell-realms by killing without that intention. But then I would be killing in the samsaric mode of ignorance, which defeats my compassionate purpose in killing at all. It appears that, unlike the ordinary man (*puthujjano*) who *can* still deceive himself by imagining his compassion is not self-serving, and thereby genuinely risk going to hell as a result, as a non-self-deceiving compassionate bodhisattva I can only successfully (try to) kill by not killing.

The casuistry of *karman* with which this moral calculus is pursued is thus a large part of the conceptual means whereby the Mahāyāna contextualises a putative ethics of auspicious violence and, indeed, killing. As Jenkins notes, “Allowances for compassionate violence, even killing, are found among major Buddhist thinkers across philosophical traditions and in major scriptures.” (299) The following discussion considers how this claim might be conceived in terms internal to Buddhist religious studies discourse, and thence with respect to the broader philosophical project of a normative Buddhist ethics of killing.

§4. Lethality in religious studies discourse: a *modus vivendi*

The work of Jenkins (2010/2011; 2010); Jerryson & Juergensmeyer (eds. 2010); Gethin (2007); Gray (2007); Harvey (2000); Schmithausen (1999); Demiéville (2010); Tatz (1986) among others, explores in exemplary detail the descriptive and normative dimensions of violence evident in both the Nikāya and Mahāyāna textual record, and we have just surveyed the abundant evidence for the notion of a morally auspicious violent, and even lethal, agency in the latter. A summary statement of Jenkins concerning the Mahāyāna record claims that:

> Both allowing and preventing murder is validated. No specific outcomes or actions are essentially evil. Killing, preventing murder, and allowing a murder are all auspicious within one narrative context. (318)

If so, in these narrative contexts killing per se does not bear value: as Jenkins makes clear, it can be an auspicious activity in certain circumstances. As a *literal* act killing thus remains normatively under-determined. That is, bodhisattva agents kill not because a situation absolutely calls for the death of its object, but because by doing so their superabundant compassion apparently garners superlative karmic reward, for both altruistic agent and misguided or ill-intentioned object. Where karma is the value that regulates the moral consequence of acts, so too is intention the regulator for the karma attaching to them. Hence, it is not something about killing in itself which determines the auspicious valency Jenkins identifies, but rather that: (1) intentional killing is always an act that mediates its more morally significant wholesome (*kusala*) and unwholesome (*akusala*) (karmic) consequence.

The Mahāyāna cases of killing thus function as a foil for illustrating these master terms of Buddhist-ethical discourse, rather than engaging the many potential moral quandaries of real-world killing. One case related by Candrakīrti (cited in Jenkins 315), for example, has a father *accidentally* kill his only son in vigorously, but lovingly, embracing him, due to the latter's extremely poor health (something the father cannot perceive!). The moral message here is that even unequivocally wholesome intention can result in killing without moral ill-effect. As a lethal case that apparently escapes the karmic consequence of intended killing, it pointedly illustrates the ethical significance of *intention* in action, as Jenkins notes, but not at all that of the moral consequence of *killing*—unless, as the broad context suggests, there is simply none at all outside that determined by intention.

But the implausibility of the case also serves to underline the point that the signifier "killing" in these many canonical examples serves an essentially performative and rhetorical purpose.[88] That is, pointing to something other than itself this sense of "killing" signals not that these are cases in which

[88] Jenkins notes that "even the portrayal of compassionate murder is used to discourage murder by malicious people" (322-323), which portrayal is not thereby a persuasive reason for the permissibility of compassionate killing (as Jenkins appears to suggest in his ensuing remarks).

killing is really permissible, but rather these are cases in which *even* killing is auspicious *because of its superlative provenance*.

It is then not surprising that the Mahāyāna cases of auspicious killing do not concern the putative ethical effects of different conditions of real-life killing (such as homicide, abortion, war combat etc.), rarely explicitly distinguished in the Mahāyāna record. Why then do these cases consistently invoke killing, if the great range of real lethal behaviours are not their primary concern? After all, the causal functions which killing apparently serves, in the examples repeatedly cited in secondary literature, could as easily be secured by a form of bodily restraint. But in that case, of course, the rhetorical force that invoking killing exploits would be diminished, if not lost.

Killing as an instance of a bodhisattva's moral action is thus deployed as a paradigm of high-moral behaviour, in an often hyperbolic or unrealistic depiction of homicide—indeed, involving the killing of many hundreds of *ārya*-beings (such as bodhisattva merchant seamen) at a time, by a single benighted attacker![89] Killing in these cases thus serves a rhetorical function of persuasion—as opposed to, for example, the comparatively sober and forensic register of Vinaya discussion of different lethal behaviours.[90]

This is further evident in considering a counter-factual case, suggested above. What kind of karmic consequence might follow from merely restraining an aggressor, perhaps with only minor injury, and would this karmic case be pedagogically compelling? The rational response is that such action would accrue presumably fairly negligible karma, in which case the doctrine of karmic effect impresses a sense of only minimal moral relevance, and barely worth remarking on. But then it would seem that karma, as a doctrine especially of ethical judgement, is not overly persuasive in assessing perhaps a majority of real-world cases such as those pertaining to the *averting* (rather than altruistic commission) of lethal injury: itself surely an outcome of considerable ethical value. Unsurprisingly, the texts Jenkins analyses do not

[89] See Jenkins' discussion of the *Upāyakauśalya Sūtra* (2010/2011, 315*ff*.). Cf. Gethin's (in 2004a, 188*ff*.) For a different analysis of this case, with reference to contemporary Buddhist violent resistance, see Kovan (2009).

[90] See for example cases that calibrate moral judgement to varying realistic intentions noted at Vin. IV.125; III.78; II.91.

celebrate, for example, innumerable instances of the great karmic boon of altruistic pacifist *resistance to killing* in realistic and probable lethal contexts.

Moreover, because they ostensibly possess the cognitive insight to more or less perceive the karmic cost-benefit analysis that underwrites their permissibility, *only* the morally superlative bodhisattva and Buddha agents in these lethal cases *can* so act. Hence, also, the frequent pitting of diametrically unalike protagonists (e.g. Buddhas vs. malefactors): realistic portraits of the usual parties to lethal acts would not only be more descriptively nuanced, but *ipso facto* render karmic distinctions considerably more opaque.

In sum, Mahāyāna narratives of auspicious killing do not concern the real, and thus often ambiguously justified, killing of people who are typically multi-valenced morally. Rather, they illustrate an exceptionalist teaching of *karma* by exploiting "killing" as a rhetorically potent example of action. The broader context for this pedagogy, beyond the text, is thus faith in both the soteriological emphasis on *bodhicitta* and its exemplification in saintly agents such as bodhisattvas and Buddhas.

Indeed, the examples of auspicious bodhisattva killing appear to be predicated on the cognitive (and in some cases clairvoyant) powers that warrant pre-emptive action, most commonly in knowing *what has not yet occurred, which unseen ethical effects will devolve from it*, *what is in the mind of a would-be murderer, and what kind of mind it is*. While these conditions entail the PK, as well as the PG, and while the Mahāyāna examples of killing involve plausible examples of *bodhisattva* behaviour coherent within the translifetime ethical economy of karma that sustains it, these are *not* examples of the demonstrably familiar knowledge, and its privation, with which a normative ethics is concerned. A second major point then concerning auspicious killing in the Mahāyāna record is that once the properly rhetorical function of its discourse on killing is exposed, it becomes clear that: (2) auspicious killing is possible *only* for Buddhas and bodhisattvas, rather than ordinary people.

If so, are Mahāyāna theorists saying that ordinary people are justified in appealing to those arguments purporting to justify compassionate violence, and so to themselves claim that compassionate killing in general is permissible?[91] If some ordinary people (Jenkins mentions "doctors, leaders, parents or pilots", 323) must sometimes face circumstances of engaging in "common sense" (*ibid*.) compassionate killing, then they do so *ipso facto* as persons more or less cognizant of the uncertainties, exigencies, and inevitable suffering, as well as putative benefits, incumbent on that course of action. Apodictic confidence in the supernormal knowledge that logically underwrites *bodhisattva* normativity is precisely the feature that disenables its relevance for a normative Buddhist ethics of killing.

That claim does not imply the irrelevance of a bodhisattva's skilful means to the *aspirational* dimensions of that ethics; on the contrary (as I argue in Kovan, 2014). Moreover, individuals can and do act upon their private religious beliefs and compassionate or other convictions, for the better or worse, and not merely publicly sanctioned ones. Perhaps some of them, in Buddhist terms, are even bodhisattvas. But the distinctions between what an agent might be or could become (e.g. a Buddha) and what they actually are, and between acts justified by reason and those justified by some articles of faith, is critical for Buddhist epistemic and normative purposes.

This general claim seems borne out by the fact that a straightforward ethics of auspicious killing is *not independently developed*, anywhere, in the Buddhist canon; as we have seen above, quite to the contrary. We can plausibly conclude that *auspicious* killing, karmic or otherwise, is not obviously applicable to ordinary people—a claim with which Gethin, Keown, Harvey and Jenkins, with their differing interpretive emphases of the textual record on killing, would surely concur. However coherent or morally compelling a karmic-transcendental justification of killing might appear *within* Mahāyāna textual discourse and the religious studies discipline focussed upon it, we are here immediately concerned to speak not of the ethics of more or less clairvoyant bodhisattvas but of the actual persons who commit the lethal acts we seek to ethically understand and evaluate as fellow normal persons.

Whether such normal persons *are* or *are not* actual or potential bodhisattvas is entirely irrelevant to that end: as we have just seen, bodhisattva

[91] See Jenkins (2010/2011), from the section "Compassionate violence as common sense" (323*ff*.), though *violence* and *killing* are distinct ethical categories whose semantic conflation (311), as here, leads to considerable equivocation.

behaviour is antinomian because by its own lights it functions morally by virtue of standards and measures of superlative wisdom and compassion transcendental to comparatively conventional ones, so that whatever moral effect it generates is *ipso facto* transcendental to whatever appropriate moral judgement accrues to it in the conventional lifeworld (*saṃvṛtisatya*) in which it occurs.

That is, bodhisattva agency necessarily partakes of the karmic economy of that lifeworld, but it does so only in transcendental terms. One can thus envision, for example, that the hypothetical bodhisattva lethal agent sentenced to life-imprisonment (or even the death-penalty) by a conventional court of law for the homicide of a *would-be* murderer of, say, a bus full of bodhisattva day-tourists, will not resent such a punishment: the authentically altruistic bodhisattva's superlative karmic compensation is always already assured him, in prison or out, as a social pariah or not, irrespective of the necessarily ignorant worldly conditions he seeks to transcend. Thus, the putative soteric auspiciousness of bodhisattva killing *within* the conventional moral economy of ordinary folk is not precluded.

Where Jenkins notes that "Studies so far have been reluctant to accept that compassionate killing may even be a source of making merit" (299) this might be simply because there is a normative tension between distinct senses of acceptance: it may be that professors of religious studies simply disagree with Buddhist ethicists about this matter. Similarly, when Jenkins (2010) discusses Mahāyāna notions of karmic merit-making through warfare and torture, this is surely relevant for a Buddhist religious-studies hermeneutics. By the same token, however, it is not clear how merit-making as a form of putative causal explanation, in the context of that hermeneutics, could feature in a *justificatory* discussion of the Buddhist permissibility of torture, even where aligned notions such as utility might do. But this is not because the karmic explanation for the rightness of action might be false. Indeed, it may be hypothetically granted that it is wholly true, without altering the discursive and normative predicament a Buddhist ethics of killing faces.

This predicament was recognised by those Buddhist philosophers of epistemology, such as Dharmakīrti, who addressed the issue of karmic justification in moral argument. His scepticism concerning a public appeal to karmic explanation suggests that a contemporary bracketing or suspension of *kamma/karman* as a form of philosophical justification, at least in its most arcane modes of operation, need not be seen as anachronistic. The following section explores in more detail classical Buddhist scepticism about karma as probative in ethical debate. It offers Buddhist-philosophical grounds for the moral evaluation of killing eschewing an appeal to karma as a primary mode of justificatory explanation.[92] This discussion is epistemically significant for how the remainder of the thesis argument proceeds, into Part II.

III. §5. Karmic consequence and ethical discourse: a Pramāṇavāda view

Jenkins' (2010/2011) study of Mahāyāna sources for the theme of auspicious killing suggests that any attempt to comprehend the ethical economy of karma in that context results in discursive aporia:

> The ethics of compassionate violence are a complex matrix of multiple interrelated and competing concerns, including proportionality, intention, virtue, situation, and consequences conceived from a multiple-life perspective. The basic principle that the auspicious is defined by that which leads to positive karmic outcomes only increases the level of ambiguity by removing the possibility that any action is essentially inauspicious. Although there are many warnings of hell and promises of heaven for specific acts in Buddhist ethical rhetoric, there are as many reminders that the workings of karma are ultimately inconceivable. If karma is inconceivably complex, then the auspicious is equally inconceivable, and so follows Buddhist ethics. (326)

In confronting the Mahāyāna record regarding killing, we can concur with Jenkins that "this makes the application of Western metaethics especially challenging, since it tends to function in the opposite way, that is, by clarifying narrative through systematic analysis" (*ibid.*). The Buddhist theorist of killing

[92] Nor does this imply the need for a wholly naturalized karma, which would itself assume that an essentially symbolic conceptual function need be scientifically or otherwise literalized to better serve the same rationalizing purposes; see Coseru 2007, and Finnigan 2020 (forthcoming).

therefore confronts a problem: if I seek to engage Buddhist-philosophical analysis of the very many and distinct contexts of intentional killing, then an appeal to the "ultimately inconceivable" workings of karma will be unable to provide epistemic access to the means of moral judgement, and thereby rational conviction in my judgements concerning those contexts.

Much as I might as a Buddhist-ethics theorist prefer to, I can't confidently or usefully appeal to the inconceivably complex workings of karma in morally evaluating lethal acts. Is there a way to proceed that generates an epistemically transparent Buddhist-philosophical discourse theoretically available to all rational moral reasoners? One such philosophical resource might be found in the Pramāṇavāda appropriation of epistemological norms that involve an appeal not to karma but to reasons agents *actually and identifiably* do have for their acts. This possibility is a focus of Tillemans' (2010/2011) study which summarises the general problem he sees arising from the ambiguous utility of karmic claims in Buddhist-ethical discourse:

> While some karmic consequences will be accessible to ordinary reflecting individuals […] many will be completely unfathomable by any ordinary human beings, in that they are supposedly unobservable and not inferable from anything observable. These so-called "radically inaccessible facts" (*atyantaparokṣa*) […] are thus supposedly only understandable through scriptures authored by individuals with extraordinary understanding. (366)

In other words, such facts remain unavailable to either of the two Buddhist epistemic instruments (*pramāṇas*) of perception (*pratyakṣa*) or inference from it (*anumāna*). Instead, they have to rely for their warrant on a separate *pramāṇa* of testimony or scriptural authority (*śabda*), not entertained by the Pramāṇavāda school of Dignāga and Dharmakīrti. Because of this, Tillemans effectively rejects (376-373) the karmic justification for acts as a basis for Buddhist metaethical theory.

He grounds his view in a Dharmakīrtian concern to arbitrate between public and private uses of the ethical economy of karma in ethical reasoning:

> Dharmakīrti, in *Pramāṇavārttika* I and IV, maintained that this type of faith-based reasoning about the specifics of karma

> would *not* be persuasive to non-believers; not only is the reasoning extremely uncertain, but many opponents would simply refuse to recognize its subject matter (*dharmin*), ie., Buddhist accounts of the details of karmic causality. […] While scripture may provide direction (albeit very fallible) in a closed context of believers, it is not at all probative (ie., a *sādhana*) in a public context when appeals to authority are contested. I think that some such distinction between private and public is indeed important to the Buddhist. On the one hand, Dharmakīrti would steer clear of outright denial of karma—which no scholastic Buddhist writer can just flatly deny—but on the other hand he knows that he cannot and should not use scriptural descriptions of karmic consequences to clinch debates in the public domain, where rebirth and the causality between lives are either contested issues or too obscure to be admitted in "fact-based" (*vastubalapravṛtta*) debates. (371-372)

This study is similarly concerned not only to present epistemically transparent argument for its ethical conclusions, but also to be of intellectual relevance to a philosophical audience for whom an appeal to karma is not a live option just because it is not rationally available. We must then ask which register of argument is appropriate for understanding and evaluating lethal acts, if that is not served by a karmic casuistry the "unfathomable complexity" (Jenkins 326) of which

> will not enable scriptural argumentation about karma to be used convincingly in an adversarial debate on ethics […] this would be an illegitimate […] attempt to promote certain Buddhist ethical ideas in the public domain all the while insulating them from criticism by stressing people's epistemic incompetence. (Tillemans 373-374)

If Dharmakīrti "cannot and should not use scriptural descriptions of karmic consequences to clinch debates in the public domain" then no Buddhist-philosophical ethicist concerned to address issues of public moral import can intelligibly exploit karma as an analytic tool.[93] This appears to have been the

[93] This could take in Buddhist-praxiological means as well, such as the insights of meditative experience into the causal nature of the mind and its effects, independent of a karmic belief per se. As we have seen, Buddhist practice involves the self-interrogation of intention, its psychological inflexions, and observation of its psychosocial effects in lived intersubjective life. That privately-gained insight might

case in the Pramāṇavāda school and some of its Madhyamaka fellow-travellers. "There is", Tillemans writes:

> a recurring insistence, by […] authors aligned with Dharmakīrti's school […] that ethical argumentation should be accessible to an open-minded rational being who provisionally suspends religious commitment; this is the so-called "judicious person" (*prekṣāvat*) who represents an ideal figure in that she adopts positions, ethical or otherwise, purely on the basis of sound justificatory reasoning alone. It is thus incontestable that there were such rational strategies for justification in non-Madhyamaka and Madhyamaka Buddhist ethics alike. Mādhyamikas not only thought they were important, but that they functioned unproblematically on the level of conventional truth/reality. (362-363)

This suggests that a contemporary Buddhist-ethical theorist should justify her account on a basis other than that of karma. An epistemically respectable generic Buddhist account of killing would therefore require, first, describing relevant metaphysical, psychological, phenomenological and intentional dimensions of a given class of intentional lethal act and then, second, identifying the problems that analysis presents with regard to the philosophical commitments of that Buddhist account.

This procedure allows the Buddhist-ethical theorist to juxtapose the putatively rational status of lethal acts with her own philosophically adequate understanding of them. The philosophical critique emerging from a comparative analysis of the metaphysical conditions of lethal acts and their putative justification can then be mobilised to respond to the conceptual and normative contentions Buddhist-ethical discourse must attempt, as a social project, to publicly address if not resolve. As Tillemans summarises:

> I think it is clear that in a critical approach to ethics appeals to humanly unfathomable facts […] fail[s] to conform to what the world on reflection, values and demands in debate on contested issues, namely, that a discussion, if not between the already convinced, must be open for both parties to criticize and evaluate on the basis of publicly accessible information. (374)

---

well displace a non-cognitive belief in karmic causation; it may, on the other hand, affirm it.

Hence, the above-noted position of the judicious person "who represents an ideal figure in that she adopts positions, ethical and otherwise, purely on the basis of sound justificatory reasoning alone" (362) can be seen as an apt Buddhist model for the discourse which follows, in particular in Part II. If a critical enquiry into the moral evaluation of killing is to rely on rational argument that demonstrates sound justification, then it will respond to and deploy reasons that in being cognitive feature propositional content that can be so engaged by rational others.

We have seen in previous chapters that a large part of the causes of killing according to the early Buddhist traditions, as beyond them, lies in unwholesome affect and the associated mental states and factors that sustain and cognitively reinforce it. These cognitive features of intentional killing can theoretically form a preliminary basis for interrogating the thinking supposed to justify it. Is there an exegetical mandate for focussing on the cognitive, as much as affective, provenance of intentional lethal acts?

The following chapter will chart the Abhidhamma account of the *psychological* basis for the moral evaluation of killing we have already encountered in previous chapters: most simply, that killing is unwholesome because it *always* entails a conscious intention dominated by the root motivation of aversion (Abhidh-s V.23, in Bodhi 2012, 208) and so is to that degree morally compromised. Chapter Four thus turns to ascertaining how the cognitive factors associated with this unwholesome root of aversion provide an ineliminable preliminary context for the interrogation of reasons for killing, pursued at length in Part II.

CHAPTER FOUR

Affect and Cognition: Unwholesome Consciousness, Hatred, Wrong View, Delusion, and their Relations

*

I. §1. Consciousness, affect, and cognition

This chapter examines early Buddhist claims concerning the affective and cognitive causal bases for killing, available in Abhidhamma/Abhidharma textual resources. These provide the most explicit statement of its psychological-causal dimensions. My concern is to demonstrate *whether* and *to what degree* early Buddhist texts take cognitive factors to be as significant causally in the aetiology of lethal acts. In doing so, we can gauge the truth of the claim that cognitive variables are at least as morally relevant as affective ones, preliminary to developing the arguments of Part II which engage metaphysical and ontological analyses of the person, and intentional killing in the context of those analyses.

Our primary concern is with the mental constitution of agents who entertain a putatively *rational intention* to kill, and do not do so through acts of wholly impulsive passion or extreme affect, or psychotic illness, though those cases are not in principle irrelevant here.[94] It is telling that the Abhidhamma[95] explicitly exemplifies the two types of hatred-rooted consciousness—one 'unprompted', the other 'prompted'—with *spontaneous* (or impulsive) and *premeditated* murder, respectively. The focus of the chapter therefore concerns the causal nexus of hostility with delusion as the cognitive wellspring of *akusala kamma*.

In this chapter I will take a primarily exegetical rather than an interrogative approach: the philosophical *justification* of the Abhidhamma premises relevant to the relations between affective and cognitive causes for killing is not the concern of this chapter. Inasmuch as Part I reconstructs a generic Buddhist account of intentional lethality, it does not also provide probative argument for all its relevant Buddhist claims; instead, I will just set them out as they are represented in the traditions. Moreover, philosophical justification for tangential claims is orthogonal to the task of explaining, internal to the traditions, how cognitive variables importantly feature in the lethal case.

Finally, as I argued in the Introduction, investigating generic Buddhist grounds for the prohibition of killing requires a doxographically synoptic survey. Our examination of primary canonical texts shows that these require either substantiation or supplementation by associated elements of the tradition(s). Hence Buddhaghosa's elaboration of canonical claims have in Chapter Two provided a more detailed basis for investigation just as, in Chapter Three, Pramāṇavāda sources provided an important philosophical counterpoint to some Mahāyāna claims. Similarly, in this chapter, while the

---

[94]As they entail more inaccessibly unconscious, as well as biochemical, mental causes they are comparatively less transparent cases of *cognitively*-mediated killing, but there may be some overlap between the two. If the fundamental Buddhist cause of delusion (*moha*), mediated by hatred and its cognitive effects, applies to the former cases their analyses would demand a different kind of (usually neuropsychiatric or genetic) episteme. With regard to the biochemical processes that putatively explain psychosis, Buddhist terminology and theory can only describe a phenomenology of conscious (and potential senses of unconscious) mentation.

[95] Reiterated in the para-canonical *Abhidhammatthasaṅgaha* (see Bodhi 2012, 39).

primary exegetical focus on the canonical and Theravāda Abhidhamma continues, I juxtapose these claims with, and supplement them by, claims drawn from Sautrāntika and Vaibhāṣika sources.

This is all the more pertinent inasmuch as the Pramāṇavādin Dharmakīrti, whose views noted in Chapter Three provided an epistemic model for a probative Buddhist methodology, wrote largely from a grounding in Sautrāntika doctrine, including that philosophically evident in or critical of the Sarvāstivāda-Vaibhāṣika Abhidharma.[96] Attention to this range of doctrine thus provides a fuller picture of the relevant Buddhist conceptual context, philosophically enriching both the present account as well as a Buddhist understanding of the phenomenon of killing more generally. To focus solely on one tradition of thought arbitrarily forecloses the possibility of that understanding. The methodology engaged here is syncretic and conceptual rather than exclusive and exegetical-historical.

In brief, then, we have seen that early Buddhist ethics and psychology, and especially the Abhidhamma theorists, take unwholesome action to be integrally tied to certain kinds of consciousness in virtue of the intentions they embody. But we have not yet detailed what these kinds are, what consciousness itself is taken to be, or how it functions. Here then we are concerned to delineate the relevant Abhidhamma consciousnesses with a view to establishing their relation to the primary causes of intentional lethality—in brief, hatred-rooted consciousness conditioned by delusion and motivated by (but not occurring simultaneously with) wrong view.

§1.1. Consciousness (*viññāṇa*/*citta*)

[96] See Coseru (2012, 9), Tillemans (2016), Dunne (2004) for discussion. Of relevance to the tension between realist and idealist construals of Pramāṇavāda thought, Tillemans notes that "Dharmakīrti's metaphysics […] is largely unaffected by the choice of [Sautrāntikan] external realism or idealism. [...] he goes to great length[s] to show that the Yogācāra idealist can use the same arguments for other minds […] as the Sautrāntika realist, and just as the realist can avoid solipsism so the idealist supposedly can too." (5)

In the Theravāda Abhidhamma the 89 kinds or modes of consciousness[97] include the unwholesome consciousnesses, partly constitutive of the 54 'sense-sphere' consciousnesses. These latter forms of consciousness[98] are themselves partly constitutive of the larger category of mundane consciousnesses (*lokiyacittas*) which also includes the 15 fine-material-sphere *cittas* and the 12 immaterial-sphere *cittas*.

First, we must consider the understanding of consciousness presented in the Abhidhamma. Consciousness (*viññāṇa*), or mind (*citta*),[99] is the first of the four ultimate realities,[100] the other elements of which comprise ii) mental factors (*cetasikas*) iii) form, or matter (*rūpa*) and iv) *nibbāna*.[101] Bhikkhu Bodhi states that consciousness comprises the first consideration in much Abhidhamma discourse because "the focus of the Buddhist analysis of reality is experience, and consciousness is the principle element in experience, that which constitutes the knowing or awareness of an object." (2000, 27)

The Pāli-Sanskrit word *citta* derives from the verbal root *citi*, to cognize, or to know. The commentarial tradition offers three main definitions of *citta* as i) agent ii) instrument and iii) activity. The first is active; as agent *citta* cognizes an object (*ārammaṇaṃ cintetī ti cittaṃ*). As the instrument, *citta* is passively used by its accompanying mental factors to cognize the object

[97] In an optionally expanded sequence there are 121.
[98] The 18 rootless *cittas* and 24 sense-sphere beautiful *cittas* complete the set of sense-sphere *cittas*, but will only be referenced where relevant, insofar as the discussion is largely concerned with the hatred- and delusion- rooted *cittas*.
[99] Collins writes that "Although for some purposes the terms *viññāṇa*, consciousness, and *citta*, mind are differentiated in Buddhist thought [here] they amount to the same thing. Indeed, they are explicitly said to be synonyms: that which is called 'mind', 'thought' [*manas*], 'consciousness'"(1982, 214, citing SN II.94). Vasubandhu frequently conflates all three (see AKB II.34: *cittaṃ mano tha vijñānam ekārtha*). There are some analyses of mind (for example of unconscious or dream states) where functional distinctions should be drawn between consciousness and mind.
[100] These are ultimately real because according to the Abhidhamma they are *dhammas* (even where they are conditioned, or dependently-arisen). According to philosophers in the Mahāyāna tradition, such language is ultimately false, if all *dhammas* are empty of intrinsic (or ultimately real) existence. What consciousness, mental factors, form and *nibbāna* do have is the kind of existence that serves as a nominal foundation for Buddhist analyses of that which is causally or mereologically dependent on, or conceptually constructed from, them.
[101] Of the four, the first three are all conditioned ultimate realities; *nibbāna* is unconditioned.

(*etena cintentī ti cittaṃ*). As activity, *citta* is the process of cognizing the object (*cintanamattaṃ cittaṃ*).

This third definition importantly conveys the sense in which *citta* is simply the capacity for, and enaction of, the processes of cognition; it is not an autonomous entity or agent that exists above and beyond those processes. Heim writes that:

> Buddhaghosa says that the Abhidhamma is taught expressly for those who falsely hold onto a sense of self in what is really just a collection of changing factors […] It dismantles a static and enduring sense of selfhood in favour of a dynamic system of constantly changing and interrelated events. With the Abhidhamma […] a complex sense of agency […] is explored through lists and classifications of mental factors. (2014, 87)

Indeed, the first two definitions above of *citta* as agent and instrument pertain to the refutation of non-Buddhists who hold that an autonomous and permanent self or ego is the agent of cognition. According to their Buddhist opponents, it is *citta* and not an intrinsic self (*attā*) which performs cognitive acts. They argue that *citta* is nothing other than the occurrence of cognition, which is itself impermanent and conditioned by, for example, the existence of sentient *rūpa* elements such as healthy or unhealthy sense-faculties.

The Abhidhamma definition of ultimate reality is fourfold: in its defining characteristic (*lakkhaṇa*); essential function (*rasa*); manifestation (*paccupaṭṭhāna*); and proximate cause (*padaṭṭhāna*). The defining characteristic of consciousness is the *knowing of any object*. Phenomenologically, *citta* is the noesis that cognizes its intentional object. It is the active conjunction of the seven universal mental factors in any state of conscious awareness—particularly contact (*phassa*), one-pointedness (*ekaggatā*) and attention (*manasikāra*)—that in early Buddhist terms collectively summarises intentionality. Its essential function is to prefigure and pre-empt (*pubbangama*) its mental factors insofar as *citta* is always accompanied by and directs them. The manifestation of *citta* in experience is as a continuity of processes, and its proximate cause is *nāmarūpa* because consciousness is interdependent with psychophysical factors.

A singular *citta* is not unitary, for two reasons. First, since *dhammas* are momentary, what we perceive or presume to be a unified synchronic identity (*this citta* or generic moment of conscious awareness) is in fact a series of minutely momentary occurrences of conscious experience in which, secondly, each separate occurrence is differentiated from its precedent in quality and intensity of mental factors and their specific affective, cognitive and conative functions. It is the causally dominant quality of mental factors (or combination of *cetasikas*) whose force (*satti*) will characterize any local series, but any series is always a complex of unique combinations of occurrences and types of consciousness and mental factors, including the ethically-charged or *kammic* dimensions of intentional *citta*.

The universal 'ethically-variable' *manasikāra*, or attention, has the characteristic of drawing or conducting (*sāraṇa*) associated mental factors to the object. It can be unwise (*ayoniso*) or wise (*yoniso*),[102] depending on whether those mental factors constitute the *cetasikas* of delusion and wisdom, respectively. In being dominated by one or other of these forms of attention, even apparently neutral cognitive functions entail a moral valence before the 'occasional factors' of initial application actively apply or mentally attach them to the object. All these are constitutive of being-conscious, well behind the scenes so to speak, and before the curtain is even raised on intentional action per se.

The Abhidhamma also classifies episodes of consciousness with respect to their category (*jāti*). Different forms of consciousness fall into four broad classes: unwholesome, wholesome, 'resultant' and 'functional'. As the Abhidhamma claims hatred (*dosa*) to be a necessary causal and constitutive feature of all lethal acts (Abhidh-s V.23), and hatred is an unwholesome root cause, the wholesome *jāti* (which must *ipso facto* lack hatred) is not importantly relevant to the Abhidhamma analysis of killing. The latter two

[102] This qualification of wisdom would relate to the degrees of wholesome consciousness, but especially volition, informing the act of being conscious. As a universal 'ethically-variable' mental factor, *cetanā* is likened to a chief pupil who recites his own lessons and also makes the other pupils (*cetasikas*) recite theirs as well, as a ringleader who sets the agenda for all. Bodhi writes that "it is the most significant mental factor in generating *kamma*, since it is volition that determines the ethical quality of an action." (2012, 80)

categories, above, can be summarised, before focussing on the unwholesome *jāti*.

The *cittas* that arise through the effect(s) of *kamma* are called 'resultants'. All resultant-consciousnesses are themselves neither wholesome nor unwholesome. *Kamma* and its effects are purely mental properties; they do not directly cause the arising of physical properties or objects (even if they can contribute to the causation of subsequent physical acts). The *cittas* caused by *kamma* are causally related to the *cittas* that produced that *kamma*, but the critical causal link between them is *kammic* or intended action, not whatever kind of consciousness happens to be dominant in the preceding causal series. As these *cittas* are 'rootless' they lack the stability or firmness of those rooted in one of greed, hatred or delusion, and are hence weaker in force and effect than these latter.

The fourth and final class of consciousness is *kiriya* or *kriyā*, known as 'functional-consciousness'. It is neither productive of *kamma*, nor *kamma*-resultant. It gives rise to voluntary activity but not of a kind either charged by *kammic* content or capable of giving rise to *kammic* results. These resultant and functional consciousnesses are neither wholesome nor unwholesome and are thereby classified as 'indeterminate' (*avyākata*), or axiologically neutral. They will however be significant when we consider the function of delusion-rooted *cittas* in our analysis of mental factors implicated in killing, below.

The classes of consciousness germane to our analytic purposes are the *akusala-cittāni*, and secondarily, potentially the *unwholesome-resultant* forms, since whatever is generated by unwholesome intention will generate unwholesome effects, and as we have seen this is a primary canonical criterion (PK) undergirding the prohibition of killing.

§1.2. Unwholesome consciousnesses (*akusala-cittāni*)

As our enquiry here concerns those Abhidhamma consciousnesses implicated in acts of intentional killing, we can limit our focus to the 12 unwholesome *cittas* (especially the two hatred-rooted *cittas*, and 2 delusion-rooted *cittas*), and indirectly and only derivatively, the 7 unwholesome-resultant *cittas* of the 'rootless' *cittas*. The Abhidhamma groups the unwholesome *cittas* according to their most dominant root of greed, hatred and delusion.[103]

To say that an action is unwholesome is to say that it is dysfunctional, dis-eased, or disordered; that is, that it also produces painful and distressing effects. To say that an action is wholesome is to say that it is motivated by non-greed or generosity, non-hatred or loving-kindness, or non-delusion or wisdom. Where there is wholesome consciousness or action there is mental health or clarity, moral blamelessness and inevitably somatically pleasant or beneficent effects. Therefore, since any intentional lethal act entails *kamma*, any such action, with a constitutive basis in unwholesome consciousness, will also produce mentally unhealthy, morally blameworthy and malign effects.

Hatred is universally classed as unwholesome in Buddhist thought and so accompanied by unpleasant feeling (*domanassa*), classed under the aggregate *of feeling* (*vedanākhandha*).[104] It is associated with aversion (*paṭigha*), a mental attitude ranging from intense rage to subtle irritation, classed under the aggregate *of mental formations* (*saṃkhārakhandha*). This latter association is central to any (Abhidhammic) Buddhist analysis of the affectivity of killing. Meaning literally "striking against" *paṭigha* signifies at its extreme, which the lethal act exemplifies, "a mental attitude of resistance, rejection, or destruction." (Bodhi 2012, 37)

The unwholesome consciousnesses central to the Abhidhamma analysis of killing are thus those rooted in hatred and accompanied by

[103] The contrary possibility, of killing committed by *ārya*-being such as bodhisattvas clearly presents intriguing tasks of *psychological* justification (as opposed to the metaphysical grounds considered in Chapter 3). According to the Abhidhamma, "when certain mental states (compassion) are in the mind it is simply impossible that one could act in certain ways (intentionally kill)." (Gethin 2004a, 190) However, a bodhisattva by definition acts only and always from a mind of profound compassion (*bodhicitta*), *including* a resort to killing. Gethin goes on to suggest that the Abhidhamma-psychological account leaves theoretic room for such a possibility (not, however, available to non-*ārya*-beings). For present purposes we can assume that the Mahāyāna claim is not justified by reason of Abhidhamma psychology, but would require additional grounds possibly inaccessible (in view of the discussion of Chapter 3) to mundane analysis. Cf. however Keown (2016) who explicitly claims that Mahāyānist antinomianism derives directly from Abhidhamma action theory and its doctrine of moral evaluation by motivational root (*mūla*) rather than intention (*cetanā*).

[104] See Sv. 1050; Ps. I.202; Spk. II.148; Paṭis-a. I.223; As. 102.

unhappiness. Greed-rooted *cittas* are excluded because *they are categorically exclusive of hatred*: these roots cannot coexist within the same *citta*, and it is clear that hatred is the major causal factor in killing on any Abhidhamma/Abhidharma Buddhist view.[105] Greed-consciousnesses, as manifestations of desirous covetousness, are taken to be accompanied by joy or equanimity,[106] rather than aversion. Why might this be so? If greed and hatred are understood to manifest similar opposite degrees of attachment to and aversion against their object respectively, then it might be supposed they represent contradictory simultaneous states, at least with respect to a single object.

The mutual exclusivity of greed and hatred in a conscious episode is canonically stipulated, not explained, but it does not exclude the possibility that greed-rooted consciousness plays a significant causal role in the development of the full intention to kill.[107] A Buddhist-psychological account would not discount greed as a causal factor, particularly in its Theravāda Abhidhamma construal as facilitating an association with wrong view (Bodhi 2012, 34-5). The Sanskrit Abhidharma, for its part, would also understand greed as a general cause (*hetu-samutthāna*) generating relevant preliminary (*sāmantaka*) or preparatory (*prayoga*) acts (AKB IV.68d. See also Gethin 2004a, 188).

Perhaps not so coincidentally, the first part of Dostoyevsky's *Crime and Punishment* offers a fictional synopsis of just this causal sequence: the impecunious Raskolnikov initially seeks to murder the old moneylender purely for economic benefit, as an ostensibly rational motivation. Well before the act, he proceeds to justify "the idea" by specious utilitarian argument (so Dostoyevsky assures his reader, without fully spelling out his "razor-sharp casuistry"): "kill her, take her money, and with its help devote yourself to the service of humanity and the good of all … One death in exchange for a hundred lives—why it's a simple sum in arithmetic!" (Dostoyevsky 84) A

[105] Bodhi (2012, 33). See Dhs. 83 (§413), 85 (§421); Vism. 454 (xiv 92); Abhidh-s 1, for a range of canonical and commentarial references.

[106] Bodhi (2012, 33). Cf. multiple citations from Asl., Vism., Dhs. given in Bodhi (app.1, 376).

[107] Hobbes in *Leviathan*, independent of any Buddhist context, notably draws attention to greed as a causal factor in killing.

basic covetousness is unmixed here with overt hatred—quite to the contrary, at least to Raskolnikov's conscious mind.

Raskolnikov, however, is also described as overwhelmed with aversion the closer he comes to actually committing the crime: "having found the woman, he at once, though he knew nothing about her, conceived a violent aversion for her." (82) There is no rational or justified reason for this. The further from its genesis in greed Raskolnikov moves to carrying out murder, Dostoyevsky details its increasingly irrational, compulsive and even fore-ordained quality, and these latter appear as the efficiently decisive affective mindset for being able to *complete*, rather than merely project the possibility of, the act: "he could not understand where he had got such cunning from, particularly as his reason seemed to stop functioning altogether from time to time, and as he had almost lost the feel of his body." (94)

A similar trajectory is sketched in the Abhidhamma analysis, where greed may be a prime motivator, but not a sufficient cause, fortified by the false consciousness of wrong view (for example, that personally possessing such a sum will necessarily benefit humanity at large). In both contexts, however, it is hatred that tips these forces over into the actual taking of life. On its face this appears counterintuitive: obviously greed can and does form a major causal element in lethal crime where something in the possession of another is its object, and killing is rationalised as the most efficient means of gaining it. In such cases greed, taken as a sufficient cause for killing, and thus associated in Abhidhamma terms with either joy or equanimity, might conceivably be part of a sociopathic profile, and killing a merely transactional means to other, non-lethal ends.

Nonetheless, on the Abhidhamma view greed is not typically a causal factor in killing, although it might not be that unusual for it to be so.[108] However, inasmuch as the psychological factors constitutive of intention are the most psychologically relevant as causes, greed is directed to some other object only contingently related to the object of killing, per se: the agent does

[108] This would accord with Keown's conclusion (in 2016, 77-78) concerning "everyday counterexamples such as euthanasia and other homicidal scenarios where there is no reason to assume that hatred plays any part."

not greedily covet *the person* he kills, but only something he might subsequently obtain by killing that person.

So, even if greed can act as an initial part of the motivational complex for killing, the object of greed here is not a wish to kill a particular person (here essentially an obstacle); hence, greed does not constitute the intentionality of *killing* as such, but rather a significant but prior condition for it. For the lethal act per se, according to the Abhidhamma, a specific intentional affect is required, most obviously provided by some sense of hatred or aversion, as Dostoyevsky pointedly describes. Greed-rooted consciousness can thus be seen as a contributing prior motivation, but not a necessary or sufficient, efficient cause of killing (Gethin 2004a, 178).

The third unwholesome root of delusion is present in every possible state of unwholesome consciousness (Bodhi 2012, 33). That is, delusion is also found as an underlying or subordinate determinant in all greed- and hatred-rooted *cittas* (*ibid*.). There are, however, two unwholesome consciousnesses where "sheer" delusion (*momūhacitta;* the Pāli *momūha* is an intensification of *moha*) is exclusively determinative, without greed or hatred being present (*ibid*.). Again, according to the Abhidhamma these two consciousnesses are in causal terms *only distally and not efficiently* relevant to killing, inasmuch as they exclude hatred as a co-present factor;[109] we can call this the distal cognitive role thesis (DCR) for further reference.

Now, unlike consciousness rooted in greed, consciousness rooted in hatred does not arise in association with *wrong view*.[110] Again, this is canonically stipulated, not explained, in the Abhidhamma. It is however relevant to the current exegesis, which seeks to clarify the differing senses in which cognitive (including thetic) phenomena, such as those manifest in

---

[109] The two consciousness rooted in "sheer delusion" comprise "those cittas in which the two other unwholesome roots—greed and hatred—are absent. Usually delusion leads to the arising of greed or hatred as well. But though delusion is always present as a root in cittas *accompanied* by greed and hate, its function there is subordinate." (Bodhi 2012, 38, my italic)

[110] The Abhidh-s. is explicit: "unlike consciousness rooted in greed, consciousness rooted in hatred does not arise in association with wrong view. Although wrong view can motivate acts of hatred, according to the Abhidhamma the wrong view does not arise simultaneously with hate, in the same citta, but at an earlier time, in a different kind of citta." (Bodhi 2012, 36-37)

delusion, feature as causes of killing. Although in Abhidhamma accounts wrong view can motivate acts of hatred, *occurrences* of wrong view are never simultaneous with feeling-states of hatred (or consciousnesses rooted in hatred) in the same *citta*, but only in a preceding and numerically distinct *citta* (Gethin 2004a, 178). That is, wrong view can and does causally inform consciousnesses rooted in hatred, but *is never* simultaneous with them; we can call this the wrong view thesis (WV) for further reference.

In sum, on an Abhidhamma account lethal acts are neither (1) caused by *simultaneous* hatred and wrong view, nor (2) *exclusively* by consciousness rooted in delusion. This is despite the fact that, in this system, delusion is always present to some degree in any unwholesome consciousness. We need then to survey the role of hatred as *the* dominant causal factor in the unwholesome forms of consciousness giving rise to lethal acts, in the absence of immediate association with wrong view. This will ground a further account of the relations between (ubiquitous) delusion, (occasional) wrong view, and their differentiated consciousnesses relevant to those same acts, and so confirm the specific sense in which mistaken cognition and *thus delusion* is, in the Abhidhamma/Abhidharma context, constitutive of them.

§2. Feeling (*vedanā*) and cognition of the object of consciousness

§2.1. Affect and the representation of the object

We have seen that consciousness is defined by its being directed to an object. Only after initial and then sustained applications to the object have grasped it, does the interpretation of the object by way of its apprehended features occur, but this apprehension does not occur in a cognitively neutral context. That is, this apprehension of the object is not a ‘view from nowhere’ unconditioned by specific cognitive factors; rather, these more or less pre-conscious elements constituting the micro-processes of intentionality frame its object in determinate ways.

Consciousness is moreover accompanied by other mental factors (including feeling) and by the material bases (one or more of the physical sense-organs) which condition its functioning. These factors influence the sense in which an object is perceived and conceived. Although the essential characteristic of *citta* is the knowing of an object, by virtue of its root-forms and associated mental factors consciousness also *constructs* its objects.

Feeling is the most phenomenologically robust of the universal factors because, unlike the other mental factors, which experience the object via derived perceptual and cognitive processes, feeling as sensation has comparatively unmediated sensory access to the object.[111] As one of the unwholesome 'occasionals' (*akusala pakiṇṇaka*) of the fourteen unwholesome factors, and as the two modes of consciousness discussed above, hatred also functions as that basic feeling that is one of the (seven) universal 'ethically-variable' mental factors that are common to all consciousness. Bodhi writes that "these factors perform the most rudimentary and essential cognitive functions, without which consciousness of an object would be utterly impossible." (2012, 78) They are 'ethically variable' inasmuch as their moral valence is changeable in dependence on the kind of *citta* positively, negatively or indeterminately inflected by other *cetasikas* or mental factors, particularly the associated roots such as hatred.

Hence, on an Abhidhamma account, consciousness constituted by feeling states such as hatred, already prior to and independent of the cognition of an object, has a potent force in the directedness of awareness to that object: hatred is not added on to the object after its perception, it is present in the initial stages of the perceptual process. A person might be perceived as a dangerous threat, for example, and one might need to identify the danger in order to devise the best means of defusing, subduing or escaping it. But what feeling tone this perception takes is "ethically variable", attended by more or less negatively-inflected mental and intentional conditions for action that could be, but often are not, unmotivated by any felt sense of rancour and the cognitions to which it gives rise.

---

[111] Bodhi in his translation of the *Abhidhammatthasaṅgaha* writes that "whereas the other mental factors experience the object only derivatively, feeling experiences it directly and fully. In this respect, the other factors are compared to a cook who prepares a dish for a king and only samples the food while preparing it, while feeling is compared to the king who enjoys the meal as much as he likes." (2012, 80)

Hatred-rooted consciousness, rooted as it is in delusion, necessarily cognizes its antagonist in this case in terms of the mental factors that subserve that consciousness. The cognitive processes of conceptual designation of the object *as* a dangerous threat includes affect as a cause for the conceptual proliferation which elaborates the correctly-designated object as not merely 'a dangerous threat' but also as inherently 'an enemy and thus inherently bad'. Deluded cognition is constitutive not just of intentionality, but also of acts determined by it, insofar as consciousness is always embodied in and *as* a person. A different consciousness, lacking the root factor of hatred (such as that of an *ārya*-being), might conceive the person perceived as an antagonist as a sentient being lacking inherently dangerous properties, including those functioning *as a putative cause* for one or other affective response.

In the psychological analysis of the Abhidhamma, kinds of mental states and their associated mental factors thus constitute the conscious perception-conception of any object. The same is true of the conscious apprehension of an object which, with co-constitutive cognitive and conative processes consolidating that apprehension, culminates in lethal action. Foremost among the significant mental factors which contribute here are those of the (universal and unwholesome) fearlessness of wrong-doing (*anottappa*), and one or more of the nine grounds for annoyance, or causes of malice (*aghātavatthu*) which are the proximate causes for the factor of hatred or aversion.

The absence of the so-called 'beautiful factors' (*sobhanacetasika*) are also relevant here: the fear of wrong-doing (*ottappa*), the abstinence (*virati*) that leads to right action (*sammākammanta*), and the factor of the wisdom faculty (*paññā*) that would obviate the universal element of delusion which, caused proximally by unwise attention, is merely the beginning of the concatenation of factors that together contribute to a full course of unwholesome action. We won't enter here into an Abhidhamma analysis of action.[112] Instead, we need to consider how the mental factor of hatred as a

[112] A Buddhist theory of action is also problematized by the metaphysics upon which it should rely. We have already seen an example of this in Vasubandhu and Nāgārjuna's differing reasons for their questioning of the deep sense of the first precept: for the former warranted by the ultimate momentariness and *dravyasat* of

mode of consciousness and affect is in the Abhidhamma and Buddhist psychological context generally related to cognition as a causal factor in killing.

§2.2. Hatred (*dosa*) and habitual cognition

Hatred is not spontaneous: it is stimulated by any number of causes and conditions. The foregoing account of unwholesome consciousness shows that hostility induces a negatively-valenced internal representation of the relevant object in subsequent cognitions concerning that object. Once hatred has been mentally established in this way as an habitual response to occurrences of similar conditions, that very habituation enables seeing hatred as justified, and so its object as righteously deserving of aggression, and even annihilation.

In the terms of the Abhidhamma account described here, the additional and gratuitous cognition of a righteous justification for killing is an effect of the misguided relation between affect and the cognition of its object. Different people will perceive similar conditions differently, and will react to similar situations with different affect, leading to different judgments and actions. This is well illustrated in a limit-case: someone suffering a paranoid psychotic episode might feel affectively justified in killing in virtue of voices that predicate 'evil demon' of a person innocent of that property. For the psychotic, hostile feeling has all the reality required to catalyse a lethal act, and so affect feeds directly into a sense of cognitive justification. To normal society that cognition is itself regarded as insane.

Nonetheless, some cognitive and affective responses are relatively universal. There persists a conventional but relatively stable range of affective

---

dharmas, while for the latter those *dharmas* have no absolute ontological or temporal status, and it is just that ultimate emptiness of persons and *skandhas* that casts doubt on the precept. It follows that any number of metaphysical positions on different issues will variously entail a differently-argued action theory (of which Vasubandhu's *Karmasiddhiprakaraṇa* is a prime example). We will, however, develop *inter alia* those premises that are accepted in all Buddhist accounts: no-self, dependent-arising and the emptiness of all conceptual constructions (*prajñapti*); this strategy has the virtue of encompassing the fundamental metaphysical concerns of any normative Buddhist theory.

norms pertaining to the cognition of a relevant object, by and within which lethal response is rendered more or less appropriate. While a disease-carrying mosquito is more or less irritating to a water-buffalo and a jungle-explorer, it does not warrant rage; hence, the Asian Buddhist sangha take ubiquitous mosquitoes, for example, as training objects to gauge inappropriate anger, and thus set an ideal range of affective norms for its radical reduction.[113] The possibility of such radical reduction of habitual affective and behavioural responses confirms that relevant stimuli (whether they be mosquitoes, queue-jumpers, car-drivers or terrorists) do not themselves warrant hatred. Irritation, or murderous aversion, are dependently-arisen affects only contingently grounded on a psychologically (or *kammically*) determined intersubjective and social causal complex.

This is significant for a Buddhist theorist of killing who wants to argue that consciousness dominated by delusion, along with the affective causes explicitly identified in the Abhidhamma, is also a cause of the lethal act. The following section considers affect as a function of mistaken cognition in terms of the specifically cognitive mental factors of wrong view and delusion, and the delusion-rooted *cittas* and *cetasikas*, described in Abhidhamma sources. This is all the more pertinent inasmuch as, as Gethin suggests, “If we consider the general use of the term *diṭṭhi/dṛṣṭi* in Buddhist thought, we see that it combines two logically distinct dimensions: the cognitive and the affective.” (2004b, 20)

II. §3. Wrong view (*micchā-diṭṭhi*) as a function of cognitive delusion

Diṭṭhi means view, which unless qualified with the prefix *sammā* (right) refers in the Theravāda Abhidhamma to wrong view (*micchā diṭṭhi*).[114]

[113] The Vinaya commentary the *Samantapāsādikā* treats the example of offending bedbug eggs for a similar purpose (Sp. 864-865). Cf. Cozort (1995) for a Tibetan Gelug contextualisation of the training on anger; see also Chapter 5.

[114] The Theravāda Abhidhamma and Vaibhāṣika Abhidharma contextualisations and construals of *diṭṭhi/dṛṣṭi* are importantly different, particularly with regard to associated categories of *paññā*/*prajñā* and *moha*/*avidya*. Some of these will be

With regard to the greed-rooted *cittas*, in which *diṭṭhi* exclusively occurs (Dhs 75, 80–2), it introduces the notion of conviction or belief, opinion or the rationalization of opinions held. Bhikkhu Bodhi writes that “the view may either reinforce the attachment from which the consciousness springs by providing it with a rational justification, or the view itself may be an object of attachment in its own right. Wrong view as a mental factor is associated with four types of [greed-rooted] consciousness in all—two accompanied by joy and two accompanied by equanimity.” (2012, 34) Gethin spells out more closely the relation between wrong view(s) and the affective attachment that allows for their reification:

> On the one hand, certain specific views, ways of understanding that can be expressed in terms of formal propositions about the way things are, are characterized as false views (*micchā-diṭṭhi*) […] On the other hand, in certain contexts what seems to be significant about *diṭṭhi* is not so much the cognitive content of a view, but the fact that we cling to it as a dogma […] Thus, even so-called right views can be views (*diṭṭhi*) in so far as they can become fixed and the objects of attachment. (2004b, 20*ff*.)

The cognitive dimension of view concerns truth-claims about the world; affective mental factors in feeling, but also the so-called ‘occasionals’ of energy (*viriya*), zest (*pīti*), and desire (*chanda*), also register the degree of subjective attachment to such views. Thus, many a religious zealot has passionate conviction in his claims but may, according to the Abhidhamma, be both deluded and ill-willed in so holding them. The Abhidh-s. summarises: “*Diṭṭhi* here means seeing wrongly. Its characteristic is unwise (unjustified) interpretation of things. Its function is to preassume. It is manifested as a wrong interpretation or belief. Its proximate cause is unwillingness to see [or heed] the noble ones (*ariya*).” (in Bodhi 2012, 84)

The metaphor of seeing is deployed frequently in the Abhidhamma Piṭaka, such that the mental blindness (*citassa andhabhāvo*) and not-knowing (*aññāṇa*) that characterize *moha* result in a failure to penetrate (*appaṭiveda*) and get below the surface (*apariyogāhanā*) to the true nature of the object. Again, the proximate cause of *moha* is unwise *attention* (*ayoniso manasikāra*).

highlighted later in the chapter, which otherwise focuses on the Theravāda context. See Gethin (2004b) and Fuller (2005) for discussion.

This again points to its establishment in the quality or kind of intentionality vis-à-vis the relevant object. Delusion as a universal mental factor thus characterises mundane cognition, but in signifying the ignorance of ultimate truth it also, more positively, invokes its potential extirpation in transcendent insight, epistemically thematized in conventional terms as 'right view'.

In denoting knowledge (*ñāṇa-sampayutta*) associated with wholesome consciousness, implicit distinctions are drawn (already in the Nikāyas, as at MN III.72) between different senses of right view as *paññā*. These senses are dependent also on such factors as the presence or absence of *sāsava* ('defiling cankers'). In turn, their absence determines that right view is noble and thus potentially world-transcending and a factor of the path. Gethin notes that:

> for the *Dhammasaṅgaṇi* a moment of ordinary sense-sphere consciousness accompanied by knowledge constitutes a real occurrence of wisdom [*paññā*] and right view [*sammā-diṭṭhi*], yet it is only at the moments of attaining stream-entry, once-return, non-return or arahatship that wisdom is strong or intense enough to constitute the awakening factor of investigation of *dhammas*. (2004b, 18)

Diṭṭhi thus in broad terms connotes an epistemically conventional relation to right and wrong views, associates these views with a cognitive-affective grasping, and invokes the relations of views to the ultimate truth, the acquisition of which reconfigures their epistemic valence. This measures the cognitive function of right view not merely in terms of its conceptual status but of whether it is efficacious in enabling, and not merely conducive to, progress on the path to awakening, and so to the freedom from suffering. Gethin continues:

> the Theravāda Abhidhamma is clearly working with an understanding of *paññā/sammā-diṭṭhi* that allows distinctions of degree to exist: some instances of wisdom or right view amount to a fuller or more complete understanding and knowledge than others, despite the fact that all instances represent manifestations of the one and the same kind of *dhamma*. (*ibid*. 19)

Conversely, the determination of suffering by delusion or ignorance, and of attachment by wrong view, would also explain the senses in which, while functionally distinct (as 'universal' and 'occasional' unwholesome mental factors respectively), delusion and wrong view are epistemically equivalent even where (1) wrong view is associated *only* with the greed- and not the hatred- or, especially, the delusion-rooted *cittas*. We have also seen that delusion is the root of all that is unwholesome, and an underlying factor in all the unwholesome *cittas*, but (2) by Abhidhamma posit (Bodhi 2012, 37-38) does *not* feature as a mental factor in the delusion-rooted *cittas*. This dichotomy should be addressed before proceeding further.

§4. Delusion-rooted *cittas* (*mohamūlacittāni*)

I indicated above that given the Abhidhamma requirement of hatred-rooted consciousnesses for intentional killing, neither of the two delusion-rooted *cittas* are its *proximate* cause (DCR, above). Both delusion-rooted *cittas* are accompanied by the mental factor of equanimity. One of these two *cittas* is associated with doubt, and the other with restlessness. Bodhi writes that:

> Even if a desirable object is present when a delusion-rooted consciousness arises, it is not experienced as desirable and thus pleasant mental feeling (*somanassa*) does not arise. Similarly, an undesirable object is not experienced as such and thus unpleasant mental feeling (*domanassa*) does not arise. Moreover, when the mind is obsessed by doubt or restlessness, it is not capable of forming a determinate positive or negative evaluation of the object, and thus cannot be associated with either pleasant or painful feeling. (2012, 38)

Unpleasant mental feeling, however, accompanies both *cittas* rooted in hatred, which in the Abhidhamma context as we have seen must be taken as the efficient causal site for intentional lethal acts. The possibility of dispassionately willed killing entirely lacking hatred is not entertained in this literature.[115]

[115] See Gethin (2004a) and Keown's (2016) reply for exegetical debate. Gethin's interpretation is here taken as authoritative with regard to the *Abhidhamma* analysis of the affective bases for killing. Further discussion in Chapter 5 considers the

DCR is the claim that the delusion-rooted *cittas* might have only distal causal import for the lethal act, and thus suggests that the thesis that delusion has a morally relevant causal role in killing appears moot. Nonetheless, some cognitive process, typically of reasoning or justification, must precede and so cognitively condition the development of a series of mental-affective states culminating in a volitional complex of *kammic* action rooted in hatred-rooted consciousness.

The primarily affective cause of killing is therefore itself caused in part by some cognition. Bhikkhu Bodhi indeed suggests that "usually delusion leads to the arising of greed and hatred as well" and that "delusion is always present as a root in *cittas* accompanied by greed and hate" but "its function there is subordinate." (2012, 38) The two delusion-rooted consciousnesses however are described as instantiating sheer delusion with no *other* root-cause or kind of consciousness characterising its function. Hence, on an Abhidhamma account a delusion-rooted *citta* might arise as a preceding cause for hatred-rooted consciousness, in the form of deliberative justification for consequent action (consider the witch-burning zealot, revolutionary assassin, or anti-Communist counter-revolutionary, etc.).

But the Abhidhamma maintains that deluded consciousness is not itself sufficient to cause the local series of unwholesome consciousnesses and mental factors directly giving rise to intentional killing. The Abhidhamma claim appears to be that the causal significance of delusive cognition would remain attenuated, compared to that of the hatred-rooted *citta* (with or without prompting) designated in the Abhidhamma sources as decisive for the lethal act. The same is true in the case of the mental factor of wrong view in WV, which doesn't occur in hatred-rooted consciousness at all, and so similarly doesn't inform killing as a proximate cause.

Perhaps one could imagine an alternative account of the two delusion-rooted *cittas* accompanied by equanimity. This alternative Abhidhamma reconstruction would characterise intentional killing as a dispassionately sociopathic act where pleasurable or unpleasurable mental feeling is absent,

affectivity of lethal punishment, and Chapter 7 the psychological conditions for ostensibly dispassionate genocidal killing.

and a purely instrumental focus is dominant.[116] This psychological dynamic could be individualized in the lone, affectless gunman who experiences murderous acts as a mere instrumental means to a more significant (perhaps ideological or political) end—or indeed no particular end at all. Here killing, and its moral evil, become phenomenologically, if not ethically, flattened in a sense that deprives it of any affective causal basis, not being somatically driven by hatred (or greed) *per se*.

This is of course a very broad characterisation of highly complex psychosocial causal conditions, but the claim for affective vacuity would nevertheless be rejected by Abhidhamma psychology. This is not to suggest that cases of a predominant affectlessness never occur in lethal acts, but their occurrence can be qualified by the claim that some initial motive-force of aversion, as discussed above, must contribute to their generation, or they would be unlikely to occur.[117]

Thus, the possibility of a completely affectless unwholesome motivation and intention is untenable in the context of Abhidhamma psychology.[118] It is clear in these texts that the mental factors of wrong view and delusion can function as conditioning and subordinate causes for cognitive

[116] The *locus classicus* for such a case is the Nazi genocide of European Jewry executed with an industrial efficiency that ostensibly minimized personal affect—the very affectlessness of which prompted Arendt (with reference to Adolf Eichmann) famously to characterize it in terms of the 'banality of evil'.

[117] Cases of atypical murder triggered in severe psychosis (or as a rare but apparent side-effect of anti-psychotic medications), are psychologically interesting as examples of apparently unmotivated killing, but lie (as does the general category of the psychiatric) beyond our analytic purview. From a Buddhist-theoretical perspective, the psychotic conditions lie at the (unconscious) extremes of the aetiology of killing, which themselves lie at an extremity of consciously volitional (often rationally-mediated) cases, and it is towards these latter cases that (it appears) the Abhidhamma psychological matrix, and the present analysis, are directed.

[118] This seems borne out by the empirical record. Genocidal Nazism, for example, obviously didn't enact an arbitrary selection of the Jewish people as its victims; it was the culmination of a centuries-long historical scapegoating of the Jew-as-other whereby collective aversion was socio-culturally bred in the heart of the entire phenomenon. Not only was aversion a contributing motivation and thus (at the least) an indirect cause, but so was the delusion, and wrong view, that essentialised Jewishness (including Jewish self-essentialisation) as another cause, both of which conclusions again confirm DCR and WV, above, in this real case and theoretical others.

and physical acts accompanied by the hatred-rooted *cittas*. Nonetheless, if it remains plausible that these factors play an ineliminable causal role in the cognitive processes *immediately* determining lethal acts, then another exegetical means to its approach is still available.

III. §5. Wrong view and aversion with reference to hatred-rooted consciousness

We saw above that the mental factor of wrong view can contribute to a cognitive habituation to the affects, attitudes and beliefs stimulated by and about their relevant objects, such as persons as the objects of intentional acts. We also saw that that cognitive habituation could inform other significant thetic grounds for lethal acts (such as cultural and religious convictions). Nonetheless, if such acts are immediately conditioned by *hatred*-rooted consciousness, then wrong view, according to the Theravāda Abhidhamma, plays no immediate causal role.

We've also seen in WV that wrong view can antecedently motivate lethal acts of hatred, but that its causal strength may be insufficient to be determinative. Cognitive conviction either operates as a decisive form of intention (*saniṭṭhāpāka-cetanā*), and thus efficient cause (*tatkṣaṇa-samutthāna*), or not. The Abhidhamma in this case analytically temporalises the function of, and thus assigns less causal strength to, wrong view. So, if cognitive content is a cause for killing, its causal relevance, according to this analysis, appears to be comparatively attenuated.

However, to understand the cognitive determinants of lethal action one must also consider more deeply the causal function of wrong view. In considering the two *cittas* rooted in hatred, we saw that the Abhidhamma details their association with two different mental properties: displeasure and aversion. The former is a *mental* feeling that is always unwholesome (unlike the displeasure of *bodily* feeling, which is *kammically* indeterminate) and categorised with the feeling-aggregate of the *vedanā-skandha*. The latter is synonymous with hatred, though *paṭigha* semantically takes in "all degrees of aversion, from violent rage to subtle irritation."

To repeat, the word "means literally "striking against," which includes a *mental attitude* of resistance, rejection or destruction." (Bodhi 2012, 37; my italics) Aversion is thus, unlike the feeling basis of displeasure, a mental attitude of ill-will generated by the aggregate *of volitional formations*. The paradigmatic Abhidhammic examples traditionally offered for the two hatred-rooted consciousnesses both concern acts of murder: one "in a spontaneous fit of rage," and one committed only "after premeditation." (Bodhi 2012, 39) Hence, a lethal act that occurs after premeditation, involves explicitly cognitive aspects: views concerning its object, reasons, deliberation, and possible justification—that is, mental phenomena plausibly pertaining, consciously or not, to *diṭṭhi*.

Moreover, according to the Sautrāntika tenet school *volition* can be classified into three aspects: deliberation (*gaticetanā*), decision (*niścayacetanā*), and impulsion (*kiraṇacetanā*) (Skorupski 1987). The first two summarise the intentional action of thinking (*cetanākarma*): volition manifest as reflection (*manasikāra*) or thoughts (*citta*), and so mental action (*manaḥkara*). (Impulsion is twofold: impelling bodily movement and speech.) Deliberation and decision, manifest in reflective thought, clearly entail cognition of a putatively rational kind.

In sum, we know that aversion is always associated with both prompted or unprompted hatred-rooted consciousness. Thus it either directly (in the former premeditated case) or indirectly (in the Sautrāntika construal of volition) depends on the specifically cognitive impetus for the *akusala-cetanā* intentionally giving rise to lethal acts. Indeed, the Sarvāstivāda-Abhidharma makes this association between deliberative cognitions implicated in aversion, and potential root motivations for killing in wrong view, still more overt.

§5.1. Corroboration in the Sarvāstivāda-Abhidharma: *mithyā-dṛṣṭi* as a primary cause

The Abhidharma of the Sarvāstivāda-Vaibhāṣika agrees in large part with the characterisation of killing evident in the Theravāda Abhidhamma, discussed above. The former Abhidharma has seventy-five *dharmas*, of which three are unconditioned, and some of which are unique to it, though these do not include the (wrong) view of the Theravāda. *Dṛṣṭi* (*diṭṭhi*) is according to the Vaibhāṣika significantly rather a mode of occurrence of a different *dharma*, *prajñā/mati*, one of the ten *caittas* (mental factors) common to all occurrences of *citta*.[119] *Dṛṣṭi* forms one of the two basic sub-classes of *prajñā* (wisdom), that which involves the capacity for judgment (*santīrika*), as opposed to those forms of *prajñā* that transcend judgment (*asantīrika)*.

The former sub-class can be divided into wrong views (*mithyā-dṛṣṭi*) and right views (*samyag-dṛṣṭi*). It follows that, unlike the view developed in the Abhidhamma sources, wrong view in the Abhidharma is conceived not as a conceptually-inflected cousin of delusion, but on the contrary as a form of wisdom compromised by a *local* conditioning by delusion. Gethin contrasts this with the Theravāda account: "the most striking and significant aspect of the Theravāda Abhidhamma treatment of *diṭṭhi* is the fact that it is considered to be exclusively a concomitant of *citta* rooted in greed (*lobhamūla*): *diṭṭhi* can only be present in the mind when greed or attachment occurs." (2004b, 20)

Wrong view by definition plays a significant role in the cognitive reification of the person. Similarly, the cognitive presuppositions informing the intention to kill are conditioned by perceptual acts and propositional attitudes that belong under the rubric of wrong view (we will detail specific instances of these in Part II). Gethin describes the Abhidarmic divergence from the Theravāda Abhidhamma in this regard:

> the *Abhidharmakośa* distinguishes two types of "origin" for acts: the general cause (*hetu-samutthāna*) and the immediate cause (*tatkṣaṇa-samutthāna*); the latter seems to correspond more or less to the *Theravāda* notion of the decisive intention (*saniṭṭhāpāka-cetanā*). The *Kośa* also distinguishes between the courses of action (*karma-patha*) proper and preliminary (*sāmantaka*) or preparatory (*prayoga*) acts. On this basis the *Kośa* goes on to point out that the acts that form the preliminary to each of the ten *akuśala-karma-patha* may be motivated by any of the three basic unwholesome causes: greed (*lobha*), hatred (*dveṣa*), or **wrong-view** (*mithyā-dṛṣṭi*), and gives examples of this in the case of killing a living being. However,

[119] This is not the case for the Theravāda, where far less than being a universal *cetasika* of all mental events, *paññā* is in the sense-sphere consciousnesses limited to the four types of skilful consciousness associated with knowledge, and their corresponding resultant and functional consciousnesses.

> the *karma-patha* proper of killing a living being is exclusively accomplished by hatred. (2004a, 188; my bold)

Vasubandhu, presenting Vaibhāṣika ideas from a critical Sautrāntika perspective, substitutes wrong view for delusion, when we have just seen that in the Theravāda Abhidhamma the two categories are conceptually related but functionally distinct in the case of killing, and that wrong view is even mutually exclusive of hatred-rooted consciousness. In the *Abhidharmakośa*, however, wrong view becomes as significant an unwholesome root for unwholesome acts as delusion itself, a subtle but salient specification for exposing the thetic motivations for premeditated and cognitively deliberated, and so putatively justified, lethal acts: the very theme of this critical study of killing from Buddhist sources.

Abhidharma literature (for example, at AKB IV.36c-d) is thus committed to the view that the third unwholesome root of delusion understood as wrong view is a secondary but prominent causal factor in the unskilful paths of action proscribed in the first precept. So, if we combine the relevant statements from Abhidhamma/Abhidharma sources, we can conclude that most, if not all, intentional lethal acts foundationally if not proximally entail the unwholesome root-cause of delusion. We can even take the Abhidharma analysis to reveal implications of the earlier Abhidhamma account not explicitly drawn out in that literature. It thus follows that, in the Śrāvakayāna Buddhist context, wrong view and other cognitive afflictions are taken to be causally significant, despite the dominant role of the affective basis for killing in hatred or aversion.

At the outset, I asked *whether* and *to what degree* primary and canonical Buddhist texts take cognitive factors to be significant causally in the aetiology for lethal acts. We confirmed that, according to these texts, an intentional consciousness dominated by hatred remains causally foremost. I was not, however, seeking decisive textual confirmation that cognitive factors are causally as prominent as affective ones; rather, in seeking a more fully-rounded picture of the generic early Buddhist account of the aetiology of killing, the basis of the question was to query whether affective factors ought to be understood (as they often are in secondary Buddhist-ethical literature[120]) as the sole causes.

We have seen that a hermeneutic comparison and analysis of related claims regarding the aetiology for killing in hatred-rooted consciousness unequivocally allows us to conclude that (1) with regard to the Theravāda Abhidhamma, delusive cognitions can and do function as distal causes, and thetic elements of volitional factors as more proximate causes. Indeed, the example of murder is consistently referenced in Abhidhamma texts as an example of an act, dominated by these kinds of consciousness, that potentially implicate preceding cognitive causes. In addition, and confirming this conclusion, we also observed that (2) with regard to the Sarvāstivāda Abhidharma, delusive cognitions can themselves constitute a potential preliminary motivation; indeed, Vasubandhu (as above) explicitly associates the potential cause of wrong view—a thetic intensification, and so a subset, of delusion—with the series of mental events issuing in a lethal act.

The texts do not allow us to conclude more than this. Nonetheless, the causal, constitutive and potential relations between hatred-rooted consciousness, aversion, volitional factors, and the thetic dimension of wrong view are sufficiently explicit that we can conclude that, in a Buddhist framework, they are plausibly regarded as cognitive causes of lethal intention. Indeed, Buddhist moral psychology is most broadly concerned with understanding and surmounting the mistaken views of self and other as persons, including their contingent property relations, that generate personal and intersubjective suffering, gratuitously compounding the suffering already inherent in conditioned existence. The Introduction to Part II, below, accordingly presents a generic Buddhist analysis of the person, preliminary to its specific representations in each of four major classes of killing.

[120] See again the exegetical dispute between Gethin (2004a) and Keown (2016), which in large part revolves around the question of whether intentional killing in the Buddhist-scholastic context can ever be considered as motivated by any affect other than aversive ones. Despite their differing conclusions, the explanandum of both arguments is limited to the affective domain. Yet Keown's conclusion that hatred need not be exclusively constitutive of killing seems to require cognitive causal factors for its substantiation, if the affective bases which supplant hatred are in fact justified (see 2016, 61).

PART II

Constructions:

The Nature of the Act

*

Introduction

Personhood and the other: property ascription and the conventional identity of persons

I. §1. Introduction: Buddhist-metaphysical analysis of the person

Chapter Four discussed Abhidhamma/Abhidharma accounts of affective causes of the lethal act, including hostility and aversion, as well as accounts of their role in the apprehension of its object, and the sense in which they are badmakers for killing. Causes are not *ipso facto* badmakers; in the Buddhist case of affect, however, we have seen that hatred always entails the moral valence of unwholesomeness: it is on a generic Buddhist account intrinsically negative, and so functions in that account as a badmaker for intentional acts.

On the other hand, not all causes are necessarily badmakers in this way. Some causes, such as cognitive ones, can be more or less axiologically neutral. If, however, those cognitive causes can be understood in some way to function irrationally, or in conceptual tension with their own presuppositions, or in contradiction with larger cognitive or philosophical accounts of the nature of the entities engaged in the acts to which they give rise, then such causes may constitute moral badmakers.

Here I introduce a generic Buddhist account of such cognitive badmakers, implicated in how lethal agents conceive the object of, and reasons for, killing in various contexts. An account of these badmakers requires: (1) understanding how a generic Buddhist metaphysics conceives the person as the object of killing, an essentially descriptive task undertaken in order to (2) establish what it is about agents' conceptions of the person, as the object of different kinds of and reasons for killing, that in the context of the prior Buddhist understanding makes their acts wrong.

In the remainder of this section I consider a Buddhist metaphysical account of the person (relevant across Śrāvakayāna and Mahāyāna schools). This generic account of the person is then considered, in section II, with respect to the rational sense-making of killing in the most general metaphysical terms. In other words, we need to ask to what degree typical justifications of killing are consistent with the Buddhist ontological understanding of persons *qua* persons.

In section III, I consider the general philosophical conditions informing the representation of a person as an apt object of killing. All of this discussion is a propaedeutic to the more specific analyses of subsequent chapters Five to Eight. Each of those chapters will investigate the cognitive-affective content of different intentional modes of lethal agency and how they presuppose adequate justificatory grounds for the causal projects they are supposed to enable. We will then see, on a relevant Buddhist account, whether they are in fact justified.

Buddhist-metaphysical analysis of the person

In the context of Brahmanical-Upaniṣadic religion of the fifth-century BCE, from which Buddhist conceptions of the person evolved, the source of religious transcendence (*Brahman*) lay in a divine entity ontologically distinct from the individual person (*puruṣa*). The religious task of the renunciant of worldly life was to disidentify absolutely with the impermanent objects of bodily and mental experience that failed to instantiate transcendent liberation (*mokṣa*) from ubiquitous phenomenal enchantment or illusion (*māyā*). Whatever element of the individual that failed to metaphysically pertain to the divinely unconditioned Self (*Ātman*), by the sole knowledge of which the person could attain liberation from the repetitive cycle of rebirth (*saṃsāra*), was thereby soteriologically disvalued: "it is the search for the contentless self, and denigration of the constituents of the phenomenal person which […] gave the theoretical parallel of, and justification for, the self-mortificatory practices of asceticism (*tapas*)." (Collins 80-81)

According to Buddhists, on the other hand, the same denigrated impersonal psychophysical constituents are all that the phenomenal person (*purisa*/*puggala*) is, lacking any intrinsic self either internal or external to those constituents. However, common to both Brahmanical and Buddhist conceptions of these constituents is a twofold and fourfold analysis: as *nāma* (name, or immaterial phenomena) and *rūpa* (form, or matter); and (things) seen, heard, thought, cognized, respectively (Collins 82).

In the Pāli suttas *nāmarūpa* is further analysed into the five heaps (*pañcakkandhā*), in which *nāma* comprises the four *khandhas* other than form.[121] The five *khandhas* (Skt. *skandhas*) are thus form, feeling (*vedanā*), perception-conception (*saññā*), volitional formations (*saṃkhāra*) and consciousness (*viññāṇa*). Other equivalent designations include the six-fold sense bases (*āyatana*) (the five senses plus mind as a sixth sense) that are further analysed into the theoretical classifications of mental states, mental factors (*cetasikas*), and irreducible property-particulars or tropes (*dhammas/dharmas*) central to the analyses of the Abhidhamma/Abhidharma.[122]

The *khandhas* were regarded by early Buddhists as being "like sandcastles, to be knocked down and abandoned when no longer desired" (Collins 125; see SN III.189*ff*.). But with the Buddhist negative posit of *anattā*, the failure to attain to *Ātman* (P. *attā*) was not anymore the soteriological problem: rather, it is the vain cultivation of its *pursuit* that obscures the ontological truth of non-self.[123] According to Buddhists, views of self or personality beliefs (*sakkaya-diṭṭhi*) as the first of the Ten Fetters all suffer heavy *kammic* demerit, and permanently surmounting them guarantees achieving the first Streamwinner (*sotāpanna*) status in the progression through the ranks of the four noble persons.[124] How then are the constitutive properties of personhood valued in the Buddhist soteriological scheme, if the Brahmanical distinction between the superlative value of Ātman and its worldly 'impostures' (in the *khandhas*) ceased to obtain for it?

On its face, any devaluing of the psychophysical aggregates would seem misplaced because Buddhist-soteriological value lies not in some more highly-valued object *other* than them, but in just the recognition that they are all the empirical person is or can be. What then motivates Buddhaghosa's

---

[121] SN II.3*ff*. specifies properties of *nāma* as "feeling, apperception, intention, contact and attention" ie. *vedanā*, *saññā*, *cetanā*, *phassa*, *manasikāro*.

[122] Gethin (1986) provides a thorough overview.

[123] In fact, everything, *nibbanā* included, is not-self: "Like all other things or concepts (*dhammā*) it [*nibbanā*] is *anattā*, not-self. Whereas all conditioned things (*saṃkhāra*—that is, all things produced by *karma*) are unsatisfactory and impermanent (*sabbe saṃkhāra dukkhā…aniccā*) all *dhammā* whatsoever, whether conditioned things or the unconditioned *nibbanā*, are not-self (*sabbe dhammā anattā*)." (Collins 82)

[124] The *sotāpanna* is, by definition, also incapable of murdering his parents, an Arhat, or maliciously drawing the blood of a Buddha.

deprecation of the *khandhas* (e.g. at Vism. XX.19)? Rather than evaluate the psychophysical constituents in terms of their potential relation to a putative Ātman, Śrāvakayāna Buddhists empirically concluded that like all compounded phenomena the *khandhas* are impermanent and so a psychophysical source of the suffering of change.

Moreover, the *khandhas* are the objects of *upādāna-khandhā* or the mental appropriation of them as self. More specifically, as the psychophysical experiences falsely identified as "mine", they are necessary conditions for suffering (as Gethin 1986, 41*ff*. notes). They are, however, also the necessary positive condition for the early Buddhist soteric scheme, insofar as the apprehension of their emptiness of self is the basis for the achievement of *nibbāna*, and non-self, in its thetic sense as right view, the doctrinal basis of the teachings to that end. The Buddhist understanding of the person thus draws away the veil of a transcendental metaphysics of the Brahmanical person, revealing nothing other than the sensed and known data of empirical experience that constitutes the person.

§1.1. An implicit metaphysics of value

In the Buddha's universal ethicisation of *karma*, a new sense of value is implicitly read into the moral status of the Buddhist person: all persons possess the potential to achieve personal liberation as *nibbāna*. This potential is what makes the Buddha's path *possible* for sentient beings: more probably than any other such beings, persons are able to achieve transcendental liberation on their own moral-*kammic* merits. The potential for awakening is thus a crucial fact about the person.

Hence, the fact of birth into human material and sentient form comes to be viewed as a rare soteriological boon in a sense that mere human personhood in itself had not signified in the Brahmanical lifeworld hitherto. A devout exegete such as Buddhaghosa might undervalue the *khandhas* as mere name and form by comparison with the value that renders them ultimately meaningful, because as the objects of sensation and mental grasping that mediate false views, and the craving and suffering that grasping to them entails, they are *ipso facto* without value.

The potential for sentient beings to awaken, in Buddhist theory, is hence the value that lies at the very heart of what it is to be a person. This value constitutes part of what the Buddhist understanding of the human person (most systematically in the Abhidhamma) comes to centrally valorise: its capacity for self-cultivation towards the awakening of *nibbāna*. This goal then grounds the teleology of the early Buddhist metaphysics of the person and comparative descriptions of its degrees and kinds of achievement to that end.[125] Thus, to kill a sentient being, and still more a person, is prima facie to deny them the opportunity to realise the primary good of their lives.

§1.2. The non-intrinsic value of life

It might however be useful to briefly distinguish between possible senses of the value of this good, as broadly understood in contemporary ethics. Agar, for example, distinguishes between intrinsic and instrumental value:

> Intrinsically valuable things are usually held to be those things that have value regardless of any benefit they bring to other objects. Advocates of this interpretation often cite individual human beings as paradigms. Conclusive proof that a human is utterly incapable of bringing about some other desirable states of affairs would not void her or him of value. With this rough understanding of the concept, we can set up a contrast with the concept of *instrumental* value accorded a starring role in many anthropocentric ethics. Instrumentally valuable things are supposed to possess worth by virtue of their propensity to bring about some other valuable state of affairs. (2001, 4)

We have seen that in a broadly Buddhist framework, sentient life in general, and human life in particular, is afforded fundamental respect. Human life, and perhaps on some readings all sentient life, would thus seem to possess a basic, and so in some (axiological if not metaphysical) sense an intrinsic, value, just because it possesses the valuable property of sentience.

[125] The *Aṅguttara Nikāya* and the *Puggala-Paññatti* of the Abhidhamma in particular develop these descriptions, particularly in terms of characterologies of kinds of persons and of the differences between them (*puggala-vemattatā*) (see Kuan 2015 for a recent study).

On the other hand, we also know that on the canonical Buddhist account sentient life is inherently suffering life, failing the attainment of Buddhist awakening. Therefore, human life would seem to possess instrumental value as a means to the greater Buddhist end of awakening and solving the problem of the ubiquity of suffering. This suggests that we should ask whether the first precept is a prohibition of *all* cases of human killing because all human sentient life is of *equal* value, or whether its value is tied to some lives more than others—as the PG especially, but also the PP, imply.

In Chapter One we noted, in canonical attributions of sentience, and more pointedly in the principles of *guṇa* (quality) and *prajñā* (wisdom) (the PG and PP) grounding the prohibition of intentional killing (as well as its exceptions), that these strongly suggest that conscious sentient life is valued in the Śrāvakayāna through Mahāyāna contexts to the degree that 1) sentient beings manifest physical quality and so virtue, and 2) they manifest degrees of transcendental compassion and wisdom as bodhisattvas and Buddhas. We saw that intentionally killing these latter exemplars is in general unequivocally *worse* than killing those sentient beings failing to manifest these qualities.

Hence, the Buddhist textual record strongly suggests that sentient beings do not possess intrinsic value merely as sentient, but rather insofar as sentience enables them to manifest these valorised properties. If so, sentient life is, on the evidence of the canonical Buddhist record we have noted, an instrumental rather than intrinsic good. While life is deserving of respect and care, this is primarily because it is the condition for a much greater good in Buddhist awakening, and the path thereto.

Most contemporary theorists of Buddhist ethics draw similar conclusions (Keown & Keown 1995, 266). Perrett unequivocally rejects the notion that Buddhists espouse the sanctity of life by claiming that "Buddhism does not value human life as an *intrinsic* good. It is true that the extreme rarity and preciousness of a human birth is often emphasised […] But the preciousness of a human birth is because only as a human is it possible to practise the *dharma* successfully and [to] achieve the goal of the elimination of suffering." (1996, 311) Others, such as Harvey (2000, 326), reluctantly admit some cases of abortion where killing may be permissible as a necessary evil, drawing on some of the Buddhaghosan criteria (316, 318). Barnhart

(2018, 597) echoes these Buddhist claims and caveats while bringing them into discussion with contemporary arguments for the permissibility of early-foetal abortion (605*ff*.).

Keown (2001, 2018) objects to comparatively permissive Buddhist views of abortion on the basis that given the presence of sentience at conception, intentional killing in cases of abortion simply violates the first precept. However Keown, perhaps the single theorist most consistent in arguing against the Buddhist permissibility of euthanasia and abortion, also claims that sentient life in the Buddhist-ethical context is not "an absolute value to be preserved at all costs" (1998-1999, 405). In short, none of the claims of these theorists either for or against euthanasia or abortion in the Buddhist context appeal to a Buddhist notion of an intrinsic value of life.

On the other hand, we saw in Chapter One that all sentient life down to insect and even amoebic existence is to be considered to be worthy of care, treated respectfully and even protected on pain of penalty. In this general sense, sentient life is for Buddhists a basic or primary good, even though it is qualifiable by consideration of the PK, PG and PP. How literally, though, are we to conceive these three principles as means for determining the Buddhist value of life in the contemporary context? After all, in Part I we saw that the intelligible grounds for these principles are questionable, and are not in general endorsed in contemporary ethical theory. They are also, we saw, in tension with other Buddhist commitments, such as the importance of the *brahmavihāras*.

First, in Chapter Two, we found reason to question the cultural assumptions of PG, which functioned to determine the relative worth of different sentient beings and persons, and so to judge thereby the comparative gravity of lethal acts. Second, in Chapter Three we considered why the PP presented problems for a contemporary Buddhist ethics seeking to engage moral interlocutors in rational discourse. This was because the PP relied crucially upon the capacity of bodhisattva agents to acquire supernormal knowledge putatively informing the justification for lethal acts: knowledge that, *as* supernormal and so otherwise inaccessible to ordinary epistemic agents, could not feature in probative and public ethical argument.

Moreover, both principles were justified by the role the PK (principle of *kamma*) plays in the causal explanation for moral acts and consequences, which again in many cases was seen to function in inconceivably complex and so epistemically opaque terms. Hence, both the PG and PP, underwritten by the PK, functioning as potential *Buddhist* qualifications of the value of life of persons, themselves require qualification inasmuch as they present methodological, and thence ethical, dilemmas in the contemporary Buddhist understanding of a person's life-value.

If so, we can ask whether contemporary Buddhist-ethical theorists *should* formulate a Buddhist position concerning the varying life-values of persons on the bases of the PK, PG and PP, or perhaps of cognate non-Buddhist norms. If we consider the former case, then the problems I have just enumerated remain, perhaps irresolvably. If we consider the latter case, for example most obviously in the naturalisation of one or other of PG or PP, then both principles might entail an explanation for quality and transcendental wisdom in genetic rather than karmic terms: genetic inheritance being in broad terms the causal loci for the transmission of physical and intellectual capacities.

For example, the value of quality targeted in PG presupposes that the beauty or physical perfection of a person is karmically determined by an ostensible moral virtue. But if we reject the implausible metaphysics assumed by that relation, and a naturalised version of *guṇa* as physical beauty or quality is instead construed as determined by genetic properties, then what really determines a person's empirical value can be reduced to purely physical causes. If Buddhist ethics valorises the mentality and acts of exemplars of superlative quality over those deficient in it, then eugenic principles could justify both the production and valorisation of persons so genetically determined, as well as justify the lesser moral evaluation of those less well favoured, and so their greater moral aptness for being killed. The same account could be made mutatis mutandis of the justification for the PP, whereby the intelligence of so-called 'noble beings' is genetically—rather than karmically—determined, and *prajñā* only an effect of selective breeding, and thus the value of life calibrated according to such genetic inheritance.

These conclusions are fundamentally at odds with Buddhist (and extra-Buddhist) values of universal compassion, moral self-cultivation, cognitive-affective training and the cultivation of transcendental insight. In determining fundamental Buddhist criteria for variable values of life, we are faced with a choice either to retain the irresolvably problematic presuppositions of the PK, PG and PP, or accept some equally problematic naturalised version of them. On the other hand, however, inasmuch as the PG and PP only describe *comparative* valuations of life, they do not thereby repudiate a theoretical Ur-principle in which the value of the potential for awakening applies across the sentient board, and so stands as a fundamental basis for the Buddhist prohibition of killing. That principle entails the conclusion that, no matter how karmically compromised (as per PK, PG or PP), sentient life *per se* manifests a potential the deprivation of which is an abuse of its fundamental soteric value, and thereby a global badmaker for intentional killing in Buddhism.

The problem with this most general Buddhist badmaker for killing is that it returns us to the position noted at the very outset of Part I: it provides little or no analytic purchase on understanding those cases where killing was or is potentially permissible in Buddhist terms. Moreover, inasmuch as we have seen that Buddhist ethics often requires a particularist analysis, the badmakers for lethal acts may also require a particularist, rather than universalist, understanding. In other words, every intended lethal act is in actuality *not* merely a generic act of taking life, but rather a specifically-constituted intentional event determined by identifiable causes and conditions for its occurrence. This means that there are necessarily reasons of some nature, beyond that merely of an abstracted desire to take life, that constitute its cognitive causes.

While we can readily acknowledge the normative point that *any* intentional lethal act is on a Buddhist account wrong because sentient life is a basic *and* instrumental but *not* intrinsic good, we cannot thereby ascertain why one such act is worse than another, and thus what the badmaker is that distinguishes between these. We need rather to understand the particular constitution of the given lethal case to ascertain its wrongness, if the badmakers of different lethal cases can be understood to be analytically distinct, and if some cases can, even in the Buddhist-emic context, be claimed to be more or less wrong than others.

We can develop this account, in the remainder of this section, by considering in more depth the Buddhist ontological sense of the person as a mereologically decomposable and causally linked series of psychophysical events, described in canonical and Abhidhamma analyses of persons. This will provide the basis for an account of killing that, in section II, offers a Buddhist metaphysical explanation for why killing *itself* makes prima facie universal sense for a range of different reasons and for different agents, and so to that degree succeeds in being a rational project. In section III we will consider how the person as a socially-constructed conventional entity functions as an intentional object for lethal agents: that is, how different kinds of person present such agents (and groups of them) with pretheoretical and putatively justified reasons for killing them.

§2. Early Buddhist claims for a dualist account of the person

What then more specifically is the person according to canonical Buddhist accounts? As we have seen in Chapter One, the person is that living sentient being which, in its capacity to breathe, evidences a life-faculty and sentience: it is endowed with six sense-organs (including mind as the sixth) which cognize their respective sense-objects. These in turn entail the six kinds of sense-consciousness that cognize their sense-capacities and sense-objects. The person is entirely devoid of a Self (*attā*) that subsists independent of these aggregates, sense-bases or elements.

The Abhidhamma *Paṭṭhāna*[126] lists a number of conditions constituting the mutual dependency of mental and physical properties or events. Buddhaghosa (Vism. 535) explicates these as of four kinds:

i) conascent (*sahajāta*) condition, where *nāma* and *rūpa* events mutually support each other in their simultaneous arising

ii) mutuality (*aññamañña*) condition, where they stimulate and consolidate each other (like the sticks of a tripod)

[126] Last of the seven books of the Abhidhamma Piṭaka.

iii) support (*nissaya*) condition, where they are foundational for each other (as earth is to tree)

iv) presence (*atthi*) and non-disappearance (*avigata*) conditions, where each constituting state must initially arise and remain for the other.

Consciousness (*viññāna* or *citta*)[127] for example illustrates iv) as the presence condition, where a moment of conscious awareness "is dependent on concurrent [and persisting] physical states, but *also* on previous states of consciousness and other mental states." (Harvey 1993, 33) Presence and non-disappearance conditions thus allow for the ongoing possibility of acts of perception, introspection (including memory), and further moments of consciousness that sustain, for example, personal identity as *this* embodied person.

While they constitute the macroscopic person, the individual elements also make possible and sustain the micro-state functions of sensation and cognition. Capacities such as feeling register the phenomenal experience of pain or pleasure; the grasping of characteristics by the discriminative function is able to distinguish between them and their objects; the introspective mental consciousness unifies psychological and somatic contents that together constitute experience thereby made comparatively discrete. Psychophysical integrity is thus experienced on the one hand as somatic well-being and on the other as cognitive-psychological sanity.

§3. Dependent conditions: functional interactionism of *nāma* and *rūpa*

In subsequent chapters, much of the argument refuting reasons for killing on Buddhist metaphysical grounds will in various ways hinge on this global Buddhist understanding of the person as in some senses—

[127] In the Abhidhamma *citta* is generally employed to refer to different classes of consciousness distinguished by their concomitants, reifying the qualitative objects that *viññāna* as the active awareness of states and events knows as a mental continuity. This echoes the passive and active senses of *saṃkhārā*, *citta* (formed of the same Pāli verbal root as the active terms meaning 'to will') being closely related to volition generally: the kind of mind (*citta*) that perdures depends largely on the kind of intention (*cetanā*) by which it is motivated.

conventionally, functionally, trope-theoretically—dualist. We have seen in the foregoing how the ontological distinction between *nāma*- and *rūpa-dhammas* is drawn in terms of how they are experienced and the function they perform for a perceiving consciousness. Griffiths writes:

> It is not that each mental event (or physical event) is a property of a substance […] Instead, the substantiality of each event, physical or mental, is definable in terms of its functions. What a given event is, is (usually) reducible to what it does. On this model, then, the broad overarching distinction […] between physical and mental is constructed phenomenologically and refers to different kinds of function. (56-57)

Griffiths point to the notion, implicit in much early Buddhist discourse, that the five *khandhas* are expressions of distinct functions and capacities rather than the component *ens* of a person.[128] If the *khandhas* are then psychophysical functions that as *nāmarūpa* function together, it is not surprising that on an Abhidhamma view mental and material events are mutually dependent: psychophysical events function in mutual concordance, and each require the other to exist or to effect change. By extension, the person could not exist apart from that mutual dependence, where there is no separately existing person above and beyond the constitutive aggregates of psychophysical *dhammas*.

Early Buddhist formulations of *nāmarūpa* thus appear to assert some form of non-substantialist or trope-theoretic mind-body dualism, and Griffiths (1986), Harvey (1993, 29*ff*), and Hamilton (1996; 2000) among others[129] emphasize an intimate, organic unity of physical and mental states in the context of the Abhidhamma and broader Buddhist philosophy of mind. On this view there is an unambiguous non-identity of mental and physical factors of

[128] Confirmed in Gethin's qualification of a purely mereological analysis of the person. For him "the *khandhas* are presented as one way of defining what is *dukkha*" (1986, 41); (cf. Hamilton, 2000 *passim*). Their multiple correspondences with other modes of embodied existence "represent different ways of characterizing the given data of experience or conditioned existence, and are also seen as drawing attention to the structure and the sustaining forces behind it all […] the *khandhas* begin to take on something of a wider significance than is perhaps appreciated when they are seen merely as a breaking down of the human individual into constituent parts." (42) The person qua *khandhas* is/are then a synecdoche for all suffering existence.

[129] See Lin 2013; Spackman 2012; MacKenzie 2015.

the person, where nonetheless a close relationship obtains between them. Harvey (1993) disengages a Buddhist account of the person from the familiar polarities of physicalism (and/or materialism) and idealism that historically polarize Western theorization of the relation (or its absence) between body and mind. Other accounts of Buddhist theories of the person have followed a similar course (Hamilton 1996, 169-170).[130]

The person in this ontological context is thus also a universal conceptually imputed on the basis of a functional concordance of psychophysical events, and not a particular or a substance.[131] Neither *puggala*/*pudgala* nor *nāmarūpa* constitute the self, the existence of which all Buddhist schools deny ultimately and conventionally. *Nāma* and *rūpa* properties cohere in or as the imputed person only because of the causal properties of each that in being functionally differentiated enable their ability *to* cohere. It is just that cohesion that is destroyed in the lethal act, and with it the local instantiation of the putative value of sentient life we have seen evidenced in the canonical and larger Buddhist record.

In the last two sections I have surveyed the way Śrāvakayāna (and Mahāyāna) Buddhist metaphysicians characterize how mental and material factors are the mutually determining, independently necessary and jointly sufficient conditions for the existence of the person as a living being. This has been important to establish inasmuch as the Buddhist-metaphysical constitution of the person will in section II be juxtaposed with the pretheoretical understanding of the person that undergirds—however non-thematically or even unconsciously—the pretheoretical sense-making of lethal acts.

The question the following section thus answers is: why might it make sense in general for agents to kill given an intuitive grasp both of psychophysical interdependence, and of the life of the person construed in some pre-theoretical sense as valuable? Having established an answer to that

[130] Griffiths' formulation of the relation is of "a non-substantivist event-based interactionist psycho-physical dualism." (1986, 112)

[131] On Abhidhamma/Abhidharma views, the *dhammas/dharmas* to which the *khandhas*/*skandhas* reduce express the ultimate truth of what the person is, whereas for the Mahāyāna even these are conceptually constructed. Hence, the property of personhood is only conventionally real in each case.

question, we will go on to interrogate whether this most general metaphysical sense-making is sufficient to withstand accounts of Buddhist badmakers in each of the classes of intentional killing to follow in chapters Five to Eight.

II. §4. Making sense of killing: an explanation from interdependence

I will now consider the cognitive bases for killing as understood in the context of the foregoing Buddhist theory of the person. These condition *any* inter-human lethal act. As I noted above, lethal agents do not conceive killing as ending someone's life *simpliciter*, just for its own sake. Rather, agents engage more or less coherent reasons. These reasons are analytically but not psychologically separable from the intention to kill. Such reasons for lethal acts (even if erroneous) often make reference to putative psychological-mental features of their objects. These in turn largely map onto the *nāma* properties of persons.

The intention to extirpate deep-volitional properties of persons (such as, for example, their presumed evil nature) also plausibly motivates many lethal acts, though not every intention to kill necessarily entails this metaphysical kind of intention. Rather, a lethal agent may seek to disable volition, by taking a person's life, for a very wide range of transactionally practical reasons (such as counter-terroristic or military measures for purposes of collective defence). It is equally evident that lethal action in these cases succeeds in its transactional aim of immobilising its victims, *irrespective* of its normative status, and so also represents a generic causal congruence between its cognitive and intentional content, and its overt effect.

Given this apparent congruence between intention and effect, we can also ask why in some cases there is a dramatic incongruence between what agents pretheoretically take themselves to achieve in lethal acts, and their actual effect. For example, a psychotic agent might fully succeed in a transactional lethal act—he too intends to take life—but for wholly spurious reasons: he believes his victim is a hundred-armed extra-terrestrial invader.[132] The psychotic killer then is very right about one intention while being very wrong about another. His being right is because there must be some fundamental metaphysical condition(s) for why killing makes sense to so many different human agents, with such different purposes and reasons for engaging it.

The intentional object of killing is the person. While the person is conceptually imputed on the basis of the *khandhas*/*skandhas*, killing cannot be achieved through non-physical means. Nonetheless, while the person's body is an obvious intended object for lethal acts, it is only a *mediating* object for volitional acts that also, and perhaps fundamentally, intend something non-material about the person: identified in the *nāma*-*skandhas*. Given the interdependence thesis detailed above, a generic Buddhist-metaphysical account of the doxastic rationale for killing can be stated formally as:

P1 Lethal acts intend to eliminate persons.

P2 Persons are constituted by psychophysical properties.

P3 Properties of *nāma* are interdependent with properties of *rūpa.*

P4 These properties instantiate physical, dispositional, psychological, or ideological-symbolic objects with reference to which the lethal act is in every intentional case engaged.

E1 As a modification of *rūpa* properties, the lethal act also modifies dependent *nāma* properties of the person.

P5 The property of life of the person is instantiated in the interdependent function of the relevant *rūpa* and *nāma* properties of that person (namely vitality,[133] heat, and consciousness).[134]

[132] This example can of course be multiplied with the substitution of different agents and their various more or less spurious reasons, from Nazi genocidal agents to indigenous elders or mediaeval Christian priests lethally punishing the sin of witchcraft.

[133] The Abhidhamma specifies *vitality* (*āyu*) as consisting of one physical and one mental life-faculty. In the MN-a Buddhaghosa stresses the identity of vitality with the life-faculty and heat with the energy generated by action, where each is a necessary condition for the existence of the other.

[134] Harvey writes: "the life-principle accepted by the *Suttas* is a complex of vitality, heat and consciousness. Heat is a physical process, vitality consists, according to the

E2 As the disaggregation of the *nāma* and/or *rūpa* properties of the person, killing entails the cessation of the interdependent function of the relevant *nāma* and *rūpa* properties of the person.

E3 The cessation of the interdependent function of the relevant *nāma* and *rūpa* properties of the person entails the cessation of life.

C Therefore the intention to eliminate persons is ontologically consistent with ending the life of that person.

Thus, on this Buddhist account, killing persons may appear prima facie to be rational. However, this Buddhist account is not an attempt to justify killing. Rather, it is presented as a descriptive account of what human agents take themselves to achieve in killing. P4 thus emphasises that there is, in every intentional case of killing, cognitively encoded in the person as its intentional object personal descriptions *in virtue of which* the act is undertaken.

Hence, it is *never* the person simpliciter, or the life of the person, that is in the first instance the justificatory basis for the reason to so act. The taking of life (as per E3) rather must always entail a notion of the ending of *something about* the person which renders the consequences of that taking of life significant to its agent. If so, and we have seen that persons are in ontological terms constituted exclusively by psychophysical properties, we might ask whether it is primarily physical or primarily mental properties of persons which answer to what it is about persons that for its agent justifies their being killed.

Physical, mental and intentional properties relevant to the intention to kill

First, a merely physical sense of human killing is unthinkable because the person is not merely physical. For instance, when a clinician makes the

---

Abhidhamma, of one life-faculty which is physical, and one which is mental, and consciousness is mental. This complex consists of conditionally arisen changing processes, which are not identical with the mortal body (except for heat and the physical life-faculty), nor totally different from it, but partly dependent on it." (1993, 31) One of many Nikāya expressions of this formulation is at DN II.334-335.

decision to shut down the life-support of a brain-dead patient, life is not thereby deprived of a lump of matter, but rather of a person who has suffered inoperable brain damage; even a corpse is not a lump of matter, but a dead body. (An animal of prey, perhaps, takes sheer physical life, but the notion that the human taking of human life is equivalent in any sense to a sheer animal taking of life is implausible.)

Second, inter-human killing is always motivated by the meaning which its intentionality *discloses,* e.*g.* that this person is a terrorist, a murderer, a drug trafficker, a Communist, a traitor, a Royalist, a triple-offender, an infidel, an apostate, a late-stage cancer patient, a witch and so on. To take an overtly physical example, a late-stage embryo manifesting profound organic deformity might be aborted on the basis of that biological property. Organic deformity is a pathological condition that might produce inevitable biological deterioration, but is also understood in manifold senses; in rural India, for instance, a baby born with eight limbs might be perceived as a divine emanation of a Hindu deity (for example a multi-limbed Shiva) and worshipped in the village and beyond accordingly (see Nelson 2015).

There is no doubting the facticity of the biological case, but there is no intrinsic relation between that case and its suitability as an object for the termination of life. The purely physiological fact is only justificatory when it is *given* meaning. Hence, the deformed foetus is aborted because the suffering that degenerative disease is *believed* to visit upon its living bearer is deemed unacceptable by the clinical killer, his professional fraternity, and the broader society in which those meanings find their necessary context.

That belief is a property of *the lethal agent*, *not* the object of his act. Hence, the relevant property of the object-person is itself mediated from the side of the agent by a sense or intension, under which the person is conceived as an intentional object of killing. In Buddhist terms, both mental properties themselves, but also the intentional phenomena mediating their evaluation as the apt objects for killing, fall under the *nāma* rubrics of conscious, affective-cognitive contents and volitional formations.

If we seek to establish universal Buddhist badmakers for killing, our task is then to describe the distinct senses in which, on a Buddhist metaphysical account and thus for *its* lifeworld, rational claims for justified killing within *and* outside its lifeworld are incoherent. In order to do so, we need to consider how the intentional structure of lethal acts can be characterized as a cognitive relation between the agent and the person conceived as a conventionally real, intersubjectively constructed social entity.

§4.1. Social-cognitive construction of the person as apt for killing: selves engaging others

The same process of appropriation applies for those mental acts, also owned by and thereby constituting the subject, regarding properties ascribed to others: *I* conceive the *other* as the intrinsic bearer of, for example, mental states as part of *their* identity. Although different subjects will appropriate different psychophysical objects to their self-construction, in each case the *other* is, definitionally but still more phenomenologically, a subset of precisely what is *not* conceived as the self in its subjective experience.

This cognitive reification of self, and of other, thus gives rise to a dualistic field of experience in which killing, for example, is enabled as an act causally relating two (or more) putatively real selves, and which produces suffering that is held, in Buddhist-psychological terms, to be its universal effect. In this global Buddhist sense, then, the reification of self and other is also a global badmaker for killing. This however requires an obvious caveat: there are of course similarly reified phenomena, and acts pertaining to them, which while *ultimately* mistaken are not necessarily *conventionally* ethically unwholesome.

For instance, cognitive reification shows up when some scientific endeavour conceives its own theory as metaphysically substantive in the representation of objective reality, or when creationist theologies claim historical mythology as equally real; or when groups of people identify as essentially belonging to one or another ethnic and cultural heritage, or when professional athletes compete on the basis of nationality. These are all, usually, benign human phenomena, though they evidence a pretheoretical confidence in the intrinsic existence of their various claims. But killing is not benign, and is prohibited as such: hence, we require an account of its badmakers that does not rely on an analysis of the *ultimate* nature of its agents and objects.

Thus, the intentional object of killing is most broadly the person, instantiating a mistakenly reified duality between the subject and its intentional object: the object of killing is believed to be wholly distinct from its agent even though intentional features wholly imputed to the other are cognitively constitutive of the subject. Intentionality (among other psychological functions) thus formally sustains a self—a ‘me’ as well as an ‘us’—for whom others appear represented on a spectrum of more or less hyperbolic malign import, vis-à-vis the subject and its extensions. The other is made, by the reifying/reified self, that much more ‘other’ to the subject than it actually is.

Where these cognitive-affective, intentional and projective relata of subject, reified self, and other, exist in sufficient intensity the conditions for killing are present, and it might well occur. On a Buddhist account (as noted in Part I) the causes and conditions for the intentional commission of the act lie at an extreme of requiring a full course of unwholesome intention. In otherwise like circumstances the lethal act, perhaps adventitiously, fails to occur; for atypical subjects, such as *arhats*, it *cannot* occur, but this is *despite* the ambient presence of the typical conditions for its arising. The reification of self and other, which characterizes the cognition of normal lethal agents in focus here, prompts two preliminary, but nonetheless central, claims.

Two claims about killing as a function of the reified self/selves

It is important at this point to clarify the concealed relation between two facts about killing as an effect and function of the reified and reifying self, who kills others vis-à-vis that putatively real self. The first concerns that sense in which the intentional lethal act indubitably achieves one desired outcome, with reference to its agent *as actor*; the second concerns how it does so at the cost of a delusion built into its very enaction, with regard to the agent *as thinker*. The first fact, noted above, is obvious: in the lethal act life is successfully taken and a person dies. Inasmuch as this effect is clearly intended, the act surely succeeds in its aim.[135]

The second fact is almost wholly occluded by the first: what does not *necessarily* occur thereby is the amelioration of the causes ostensibly justifying lethal action (a metaphysical rather than empirical point). This is because, on a Buddhist account of the person, the cognitive *causes* (as opposed to more or less justified and articulable *reasons*) for killing always already entail fundamental misconceptions of the person, the self, and the other, as cognitively imputed psychophysical entities. An ethics of killing grounded on those misconceptions is at best deeply flawed if not incoherent, and can, for Buddhist-philosophical purposes, be theoretically revised *within the sphere of the conventional understanding* of the person. In this context we can recall the possibility already signalled (in Chapter Three, above) in Tillemans' reference to Dharmakīrti and the Pramāṇavādan commitment to prescriptive epistemological argument that seeks "largely to change what the world thinks in order to better conform to entities." (2010/2011, 364)

We have seen that the lethal agent takes himself to kill a person. We've also noted the sense in which an Abhidhamma account of the ontology of the act qualifies that truth: what occurs on the level of the fundamental ontology of the relevant *dhammas* is distinct from what the agent (who is not thinking of constitutive *dhammas*) conceives. Simply, on this account there is an ontological distinction entailed between what the agent believes is occurring and what really is occurring, even when the commission of his intention adventitiously, and as we have seen explicably, results in its expected effect.

This marks an important formal Buddhist distinction between a veridical description of the *cognitive phenomenology* of the agent and the *ontology* of the act, whereby a Pramāṇavādin, for example, who distinguishes between these two forms of truth, would conceive the former as at best only conventionally true, and the latter as an ultimately true description of the same

[135] Note, however, that the cessation of life again necessarily signifies something much more than the mere fact of death, for its agent and his social milieu. The taking of life ineliminably, and in the first instance, represents any number of intensional states, such as the relief of subjective suffering, the vindication of revenge, the removal of an obstacle, the vanquishing of an enemy, and so on.

event. According to the Pramāṇavādin, then, the conventionally true rationale for killing in the pretheoretical sense described in the previous section, is based on doxastic premises that in being ultimately false express a fundamental ignorance of the epistemic status of their own presuppositions.

In general Buddhist terms *avidyā* or primal confusion denotes a deep misapprehension of the world, perceived as a totality of objects relative to an illusory substantive self. One of these objects is the person that is the material object of killing, which as that person engages a range of worldly roles. The *other person* is, to *me* (or to *us*) a traitor, a terrorist, a trafficker, a resistance fighter, an enemy of one or another kind, *who I am thereby justified in killing*. In other words, social and cultural sanction reifies the normative status of the person as the embodiment of those roles in a more or less consensual, and more or less putatively humane, ethics of killing.[136]

On the foregoing Buddhist account, all persons are experienced *as* persons just because the person is so conventionally designated. Hence, all intentional acts pertaining to persons and lacking insight into the ontological emptiness of persons are conditioned by ultimately deluded cognition. Moreover, there are also conventional cases which are entirely mistaken *even on the conventional level* of justification. If so, it will be important to identify when and how that is the case. Nonetheless, some such acts are less conventionally delusive, and more compassionate, than others, as are those who commit them.

For example, we might assume that most acts of euthanasia or abortion are less irrational, and more compassionate, than indiscriminate murderous homicide. It is in this sense that the empirical spectrum of lethal acts evidence *conventional* degrees of the two foundational Buddhist values of wisdom and compassion. While for these reasons different kinds of intentional object will entail different ethical judgments regarding killing, they all require at least a robust degree of rational, and rationally cognisable, relations to be sufficiently *justified*. For instance, the irrational ascription of malevolence to a non-aggressor is not a rational justification for killing in any sense, but a real and

[136] I address this condition of reification in more depth with respect to actual Buddhist and other cases in Chapter 7, below.

proven terrorist threat may be. A Buddhist account of killing needs to evaluate not merely the normative justification of lethal acts but also the cognitive content that renders a particular kind of person a putatively apt object for killing.

In the following section I consider the conventional status of the person as the object for the apt ascription of properties pertaining to the very different intentional objects of lethal acts. Here we need to consider, not the Buddhist-metaphysical universal features of the socially-constructed person *qua* person prioritised hitherto, but the person's social-empirical conventional status, inasmuch as all ascriptions of identity are contingently made of persons, by other persons, in dependence on culture-specific norms and values.

§4.2. Anthropological conditions for the conventional social constitution of the person

We have seen that according to Buddhist metaphysics conventionally-existent persons are the referents of proper names and descriptions. We've also noted that the person is a unity of psychophysical properties, and that it is persons who are intentionally killed. It is also evident that ascriptions of personhood, in some Asian Buddhist contexts as elsewhere, are often socially determined in ways that violate Buddhist metaphysical theory. We can identify one infamous example in the Thai Theravāda monk Kittivuḍḍho who in 1976 denounced Communists as non-persons, ostensibly thereby incurring only negligible or no negative *kamma* for their just assassination (Harvey 2000, 260-261). That claim has textual precedent in a Mahāyāna source such as the *Mahāparinirvāṇa-sūtra* which describes the murder of the irredeemably morally depraved (*icchāntika*) as having less karmic effect than killing an ant (138; also notoriously echoed in the non-canonical *Mahāvaṃsa*, 256-257).[137]

[137] Even in dependence on that source an unlikely case is at best assumed for the sub-bestial moral depravity of all Communists merely in virtue of *being Communist* (which assumption amounts to a travesty of the *kammic* intuition of embodied virtue). Moreover, if an ignorant worldling is not qualified to infallibly distinguish the genuinely irredeemable *icchāntika* from the morally-depraved but still reformable agent, what authorizes their permissible homicide?

These variations in the spectrum of what is and is not robustly a real or full person are less metaphysically and more anthropologically determined. Where the metaphysics of the person in the same Buddhist traditions[138] has not over centuries undergone conceptual modification, the cultural-anthropological conceptions of norms and judgements of kinds of personhood held by most Buddhists would reject the claims of sub-personhood just noted (as well as Kittivuḍḍho's modern throwback to them). Yet these moribund cultural resonances around the apt extensions of personhood continue to inflect pretheoretical norms of what is and what isn't, by virtue of that Buddhist bias, fit to qualify for it.

Similarly, and beyond the Buddhist context, most men, women or children are human persons; nonetheless, some of those persons (whether they are clinicians, bioethicists, or political ideologues) also maintain that among them are sub-persons; still others hold that yet another class of human sentient beings lack personhood altogether. Judgements about personhood can extend across human and nonhuman, and even real and fictional referents. Agar notes that "Fictional Daleks and Vulcans seem to count as nonhuman persons, and anencephalic babies are good candidates for human nonpersons." (2001, 15) All three ascriptions of person, sub-person and non-person, are sustained across a spectrum of the conventional and metaphysically contingent construction of the person *qua* person. Therefore, persons can also get it *conventionally* right or wrong about personhood: for example, most would arguably agree that a neonate with Down's Syndrome is not less a person than an otherwise normal patient suffering brain death, and hence no more suitable a candidate for euthanasia than the latter.

We've seen in Part I that Buddhist ethics is concerned with intention as determining the ethical status of acts. We also saw that intention entails an epistemic dimension, as much as affective and volitional ones, and that the adequate acquisition of knowledge concerning the intentional object of any act is as significant a factor in its moral adjudication. We saw this was the case as much with Buddhaghosa's moral exemplars as with those of the Mahāyāna

[138] At least since the demise of the Pudgalavāda school, but that historical point is orthogonal to the present discussion.

whose very excellence is dependent on the possession of super-normal knowledge; if so, a normal epistemic competence would seem all the more pertinent in determining the ethical status of acts.

Affectively wholesome intention is thus in itself not sufficient as an ethical good-maker. We need to consider the intentional constitution of different kinds or classes of the killing of persons in terms of their respective truth-claims, and how they are represented by their intentional agents. These varying kinds in turn rely on specific constructions of persons (as, for instance, deserving punishment for heinous crime, as a malign threat, as ethnically intolerable etc.). To this end, in Chapters Five to Eight we will evaluate whether those differing constructions of person entail conventionally valid objects (*prameyas*) of the act or not, and so render the relevant cognitions (*pramāṇas*) putatively justifying killing them also valid.

What then are the conventional constructions of the person that putatively justify lethal acts? If these constructions differ, does that difference entail different forms of justification? If such justifications rely on a notion of kinds of persons, is it something about the constructedness of persons, and thus what they represent, that determines the conventional bad-makers for killing? That is, if persons are the persons they are inasmuch as they represent something other than their bodily facticity, how or do they validly represent it? To engage these questions in more depth in area-specific cases, we first need to review the nature and function of representation in the intersubjective construction of the person as the epistemically, socially and morally apt object for lethal acts.

III. §5. The place of representation: intentional content in the intersubjective field of the lethal act

To call something a person is to make an evaluative judgement, often driven by a specific ideology; it is to ascribe both normative and psychological properties to the being so described. The metaphysical account of a universal cognitive basis for killing considered, in section II above, how some of the properties by which persons are described are physical, others mental, but all are symbolic. Moreover, these symbolic properties are often relational: for a Muslim, I (as a non-Muslim) may be an infidel; to a Christian or atheist I am not. A champion of secular rights, I may thereby be a moral terrorist in terms of the values held by a religious fundamentalist, who from his perspective fights for a truth still greater than mine. For the French resistance, as a collaborator I am the enemy; for my Nazi colleague, I am a valuable ally, and vice versa.

If persons ostensibly possess or are identified by relational properties in this way, their identity-conditions depend on the determinations of different epistemic agents. This means that their relational properties are not intrinsic to the person, and that the person is at all times the nexus of intersecting sets of identity-conditions that subtend the interests of ascriptive agents as much as persons themselves.

The distinction between the body and the properties that determine personhood may be occluded in many contexts. When considering properly biological properties relevant to justifying killing (such as pathological pre-natal or other conditions) we saw above that the decisive object of such judgement frequently pertained to the personal *suffering* that its bearers (or indeed their carers) are believed likely to experience post-natally.[139] Other normative agents, such as the Hindu villagers who conceive neonate abnormality as an auspicious boon of the gods, conceive the same phenomenon in diametrically opposite terms. Neither of these evaluative conceptions is strictly right nor wrong, because there is no ultimately objective judgement against which they can be measured.

That is, they are just conventionally determined imputations signifying the polarised normative valences of abject suffering and divine manifestation, respectively. Suffering is conceived in the former case as necessarily concomitant to biological properties, and so the termination of those physical states (in death) as able to achieve the termination of that prospective suffering. However, as we have seen, the ascription of suffering to the body and person of the other is an intentional mental content *of the ascriptive agent*,

[139] Relevant to arguments for and against many cases of abortion, and pertaining to the discussion of Chapter 6.

just as the judgment of abnormality or of divinity are aesthetic-normative mental senses (or intensions) that refer to the same physiological condition or referent. Whether or not each ascriptive agent is *justified* to hold their respective views is a logically distinct question—whatever that question turns on, each is as likely to be perplexed by that of the other!

Hence, the normative judgment that probable future suffering should be obviated in lethal acts refers *stricto sensu* to what a physical property *represents* (a grievous pathology) not to what it *is* (a physiological condition). Even an ostensibly intrinsically undesirable physiological property such as pain is not ontologically equivalent to suffering, which requires a subject to represent it as such: because *I* am in pain, *I* suffer. Other 'I's might experience the same pain-stimulus in such incongruent ways (compare say child and adult responses to the same minor injury) that the state of pain per se is unable to explain or justify them: something quite other than physio-biological stimulus alone renders pain a state of suffering. Moreover, while the ascription of suffering generally relies on perceiving apparent signs of pain in others, perception alone is not a certain means of gauging degrees of suffering. A state of pain might well be universally an inherently undesirable biological datum, but the ascription of some quotient of *suffering* to *another in pain* is again *stricto sensu* presumptuous.

The point here is not that the ascriptive agent may not have good reasons to so ascribe suffering; such ascription might be more or less defensible, especially when corroborated by subjective report of the person in pain. But that is not what is at issue here, which is that the ascription of suffering nonetheless remains an *intentional* act of the agent, in a sense that is not *by that very fact* necessarily justified (even where it might be informed by otherwise good reasons). It is, rather, justified at best by the person who claims that their experience of suffering has, for example, become intolerable to them.

For this reason, for example, we identify a crucial moral distinction between voluntary and involuntary euthanasia as the terminal relief of suffering, whereby the latter is unjustified as morally aligned with intentional homicide, inasmuch as it is not sanctioned by the subjective representation of subject-relative suffering. Otherwise, the reasonable ascription of intolerable suffering to a person would be morally sufficient to justify killing them.[140] Whether the person to be killed actually suffers, or whether such suffering itself warrants euthanasia, and other related questions, are analytically distinct from identifying the intentional basis for action, which is again something pertaining to the intentional-normative contents of the agent's mind.

For example, we have noted the case where the lethal agent might kill (as in the common case of psychotic derangement) on the basis of the ascription of a property (e.g. of a person being an alien invader) which does not pick out a real property *even conventionally*. The imputed malign terrorist might be a real physical threat or, on the other hand, a harmless prankster with a rubber knife or fake bomb. In *all three* of these cases, the imputation of mortal threat, an intentional act of the ascriptive lethal agent, is the decisive mental cause for the intention to kill its intended object, yet they all express quite distinct intentional states with radically varying epistemic status.

Hence, not only can such agents be corrigible in terms of those contents; as noted above, their construction of the person as apt for killing might get it conventionally wrong (as, arguably, did the Thai monk Kittivuḍḍho). Understanding agential intention also allows us to explain why agents kill at all, moving our analytic concerns from the objective metaphysical and ontological conditions for killing, surveyed above, to the cognitive phenomenology of intentional acts. If we seek to know what their intentional structure tells us about the person as a putatively apt object of killing, then each such structure requires analytic attention.

None of this, however, implies that some imputed intentional properties are not conventionally real: the identity-conditions of persons might well include the properties ascribed to them for the various purposes of conventional categorization. Hence, the point is not that there is no physical

[140] As noted in Kovan 2018 (637, n.4), Śrāvakayāna Buddhism makes the transcendence of personal suffering, even despite states of pain, a sure sign of spiritual accomplishment. The *Milindapañha* (44-5) "insists that terminally-ill *arhats* do not suicide because they are indifferent to both the pain of continued life and the putative pleasure of release from it in death." (Kovan *op. cit.*) However inherently undesirable, pain in this context provides a basis for transcending, rather than guaranteeing, states of suffering.

suffering, or pathologies, or that physical properties ontologically reduce to mental ones. Rather, these data are always and ineliminably *mediated* by the intentionalities that render their status *as* physical properties the more or less apt basis for intentional killing. We have seen that a physical property is rarely 'physical' *simpliciter*; those associated especially with human embodiment usually come endowed, as do mental properties, with valuations and interpretations. In examining the various intentional constructions of the person, we need then to focus on the cognitive mediation of persons' properties, rather than the properties *per se*.

Having surveyed these basic representational conditions for the intentional construction of the person as the apt object of lethal acts, we can consider the distinct groups into which those constructions appear to fall. Distinguishing these is meant heuristically, ordered in terms of family resemblance among a very wide range of unique acts, many of which might and do overlap in terms of their intentional structure.

The aim here is not to be taxonomically exhaustive. It is to provide a schematic map of the territory by which intentional lethality is justified as rational, cogent, and so, in some presumptively philosophical sense, justified. In surveying this terrain in the following chapters, the analytic task is to demonstrate the ways in which each intentional category, on a Buddhist-epistemological, metaphysical and normative account, is in fact mistaken. Where we have up to now considered ontological, metaphysical, and universal conditions undergirding the rationality of intentional killing in general, from hereon we consider the forms of error unique to distinct senses of person underwriting its commission.

§6. Four intentional groupings of person as object of the act

The person, despite being conceptually constructed, is conventionally real. The conventional existence enjoyed by persons thus presents us *as* persons with social constructions of other persons. These are constructed inasmuch as descriptive and behavioural properties are picked out, from a wide possible range, that define *this* person as male or female, a mother, a teacher, a criminal, a soldier, a President and so on. Hence, properties determine personhood, not the other way around. A street crowd, for example, does not present merely a sum of persons in the conceptual abstract, but rather individuals whose determinate properties conventionally satisfy current identity-conditions for personhood.

Apart from this conventional designation, there is no person. Persons, then, are the more or less apt objects for lethal acts because of their conventional identity with some among *the properties they instantiate or are held to instantiate*. A taxonomy of such properties is theoretically limitless, but major discriminations can be identified between them. For analytic purposes they can be categorised in four main ways. They constitute persons:

(I) who have committed heinous crime and so deserve retributive punishment;

(II) who seek to die at their own or another's hand because they are unwilling to, or should not, endure intolerable psychological or physical suffering, including that due to painful terminal illness; or they are embryonic persons whose continued existence is undesired by their parent;

(III) who, identified racially, or who in maintaining ideological or religious principles represent complexes of political, religious, ethnocentric, or ideological belief that are judged an existential threat, warrant extermination.

A final (less symbolically mediated) category concerns those persons:

(IV) conceived as an immediate mortal threat, and so killed in the context of self-defence.

All these constructions of the person as apt for killing (including the derivative notion of a sub-person with reference to both embryonic or vegetative persons relevant to II, above) are in their different senses considered justificatory of the lethal act to which the persons so represented are subject. That is, these constructions of person *encode the reasons* by which intentional lethal action is given sense, and thereby made putatively rational. Persons as the objects of lethal acts can thus be broadly classed as relevant objects of *punishment* (preventive, deterrent and retributive), of *existential-compassionate decision*, of *ideological-symbolic representation*, and of apparent *mortal threat*. In Chapters Five to Eight we consider each of these in turn.

CHAPTER FIVE

Persons as the objects of lethal preventive-retributive justice

*

I. §1. Introduction

In the Introduction I noted that Buddhist philosophical and normative claims constitute only one moral universe. If we seek to establish universal Buddhist badmakers for killing, our task requires describing the distinct senses in which, on a Buddhist-metaphysical account, rational claims for justified killing are mistaken whether or not they are advanced by Buddhists. This chapter thus engages the social construction of the person as an object of lethal punishment as understood both by Buddhists and non-Buddhists. It identifies the reasons Buddhists can offer for the wrongness of capital punishment and how they can be addressed to Buddhist and non-Buddhist alike.

A classical Buddhist attitude towards lethal punishment is textually evident in the *Rāja-parikathā-ratnamālā,* in which the second century C.E. Mahāyāna philosopher Nāgārjuna advises king Udayi with regard to the death penalty:

> Once you have analysed the angry
> Murderers and recognised them well,
> You should banish them without
> Killing or tormenting them. (v. 337; cited in Harvey 2009, 54)

Nāgārjuna describes at some length (verses 330 to 336) how "punishment should be enforced with compassion" (v. 336); indeed, he advises to "[e]specially generate compassion/ For those murderers, whose sins are horrible" (v.332). Nāgārjuna presents a view that underlines the general ethic of *ahiṃsā* characterizing the inception and growth of Buddhism, and confirming the first precept in its prohibition of harmful acts. Echoing texts such as the *Ārya-bodhisattva-gocara*, Nāgārjuna's view typifies the Mahāyāna extension of care (*karuṇā*) in the context of punishment to a degree that, for proponents of capital punishment, might be seen as unreasonably charitable and misjudged for the worst crimes.

While an appeal to a superlative compassion is laudable in a Buddhist context, it does not present obvious grounds for the exercise "[o]f compassion from those whose nature is great" (v. 332) beyond the cultivation of the bodhisattva norms Nāgārjuna would endorse. There is thus reason to look for additional arguments to Nāgārjuna's advice to the king. I intend to offer philosophical ballast to his claim by assessing preventive arguments for capital punishment with special reference to one prominent justification of capital punishment: lethal retributivism (hereafter LR).

The justificatory claims of LR centrally rely on the principle of just requital (or desert) for lethal crime, and the death penalty as the proportionate satisfaction of requital. Both claims feature in recent Western as well as Buddhist-ethical accounts (Bedau 2005; Fink 2012; Glover 1990; Harvey 2009, 2018; Loy 2000; Sitze 2009) of retributive (including lethal) punishment. After distinguishing between forms of preventive punishment—that is, as deterrent and obstructive—below, in section II I examine the claims by which proponents of lethal retribution, on the other hand, defend its case, considering a plausible neo-Kantian retributivist defence (Sorell 1987) of capital punishment as justified punishment.

From section III, invoking sources in the canon, their commentaries and recent secondary scholarship, I contextualise and criticize those claims on generic Buddhist grounds. That discussion converges in conclusion with a common concern for a Kantian emphasis on the moral-legal sovereignty of the just state as well as with the Buddhist qualification that, in Nāgārjuna's words, "unworthy sons are punished/ Out of a wish to make them worthy/ So punishment should be enforced with compassion." (v. 336, *op. cit*., cited in Harvey 2009, 54)

§1.1. The legal sanction of state execution

Killing by sanction of the state (as punishment, war-combat or for other purposes) is not legally or ethically equivalent to criminal killing. The first honours and enforces state law, the second disregards or repudiates it. The first aims to redress or deter crime and so uphold the good of justice while the second defies justice by wrongful misadventure. Both lethal acts fully intend, despite these differing conditions, to take life, yet one is punished while the other is not. This appears on its face to present at least an axiological tension; how is it that one and the same act of the deprivation of the primary good of life is condemned in the one case, but sanctioned in the other?

Firstly, only the legally-constituted government of a legal state can sanction capital punishment in the name of the citizens it governs. The state exercises power to prosecute capital punishment by means of a legal proxy whose individual lethal actions are thereby legal acts of state justice. Secondly, the state legislature, which passes statutory law recommending capital punishment for some crimes must justify that legislation.

Capital punishment is irreversible and so requires a degree and kind of justification not necessary for non-lethal punishment. The claim that capital punishment is justified as a means of prevention is defended on some or all of the following grounds (among possible others).

1. That a heinous wrong has been committed by the agent to be punished.
2. That this wrong should not be committed by this or any agent.
3. That capital punishment will prevent or discourage (in others) its recurrence.

These premises are central to the notion of capital punishment as a form of social *deterrence*. The first two also contribute to punishment as *retribution,* inasmuch as the latter takes itself to be an appropriate response to such a wrong, irrespective of its deterrent effect.[141] In especially deterrent but also retributive cases, the wrongdoer is punished not merely because of the commission of the relevant act, but because it is in the interests of society that neither that agent, nor any other, should repeat it. Bentham expresses a general preventive justification of punishment in a classically utilitarian sense, that also denies a positive valence to punishment per se, and thus its retributive form:

> General prevention ought to be the chief end of punishment as it is its real justification. If we could consider an offence which has been committed as an isolated fact, the like of which would never recur, punishment would be useless. It would only be adding one evil to another. (Honderich, citing Bentham, 1976, 51-52)

§1.2. Punishment as prevention: "reformative" and "obstructive"

Preventive punishment thus presupposes the possibility that the agent, or other agents who may be aware of it, might perform similar punishable acts in the future. Deterrent punishment hence also presupposes that actors respond

[141] See Sorell (30 *ff*.) for summary discussion of the empirical claims that are frequently brought to bear in support of capital punishment as deterrence and retribution. The content of these reasons may vary between cultures, often very widely (for instance, lethal punishment for the "wrong" of witchcraft is still common in the Papuan highlands). However, it is unlikely that the intentional structure pertaining to and between these reasons, as detailed above, significantly varies.

to acts of punishment. Capital punishment, however, removes the possibility of the recurrence of the wrongdoing which warranted punishment in the first place, and this gives rise to an important distinction between two concepts of prevention. It is the first sense, which I will call its *reformative* sense, wherein (as Bentham suggests) punishment is made meaningful as reforming the agent's own character, and thus obviating repeat crime. But that sense can only refer to *non-lethal* punishment, applicable to actual and potential agents. Absent that reformative meaning, capital punishment can be meaningfully preventive only in a second, purely instrumental sense—as terminally *obstructive*, to simply stop an actual or potential agent from acting in any way at all.

That is still prevention, no doubt. But prevention as reformation and as obstruction are not intentionally equivalent: a person or committee is prevented from acting; a boulder or a building is obstructed from falling.[142] In obstructive prevention, the inculcation of the self-directedness of responsibility on the part of the offender which constitutes the social meaning of reformative punishment is denied by a purely instrumental sense of preventive "punishment" as destruction: a denial of punishment's putatively social and inculcative purpose. The point here is *not* that prevention as obstruction lacks all justification: a terrorist gunman is lethally obstructed from shooting, in order to prevent further carnage. If, however, the priority is to sustain the possibility of reform, then the gunman should be taken alive, and not killed. If that possibility is not at issue, as is only ambiguously the case with lethal prevention, then the counterfactual is irrelevant and the gunman accordingly killed without scruple, but this is neither reformation nor punishment.

§1.3. Prevention as deterrence

Lethal punishment can, then, still be conceived as intended to *reform* behaviour *only as deterrence*. In this case, the witness to capital punishment is

[142] Of course, in general usage "prevention" can apply to all these instances. But this distinction is to identify the contrasting forms of intentionality that remain opaque in that usage.

expected to be deterred from committing similar acts. The claim that capital punishment is justified as deterrence can therefore only be verified empirically. At best, however, empirical findings suggest an indirect and minimal contribution of capital punishment to psychological effects of deterrence, against which counter-examples always co-exist. Research and theoretical literature consistently tend to a uniformly negative appraisal of the causal efficacy of deterrence, and even conclude that there is no determinate means of securing or replicating efficacy in such a way as would render lethal punishment deterrent in every case.[143]

Sorell, a neo-Kantian and so non-utilitarian defender of capital punishment, concludes: "I do not see how utilitarian arguments in favour of the death penalty can be completely detached from a deterrence argument, and it seems to me that no one knows how to make such an argument conclusive" (1987, 99).[144] I am not concerned here to decisively refute the case for deterrence, understood as a means to influencing the behaviour of the witness to lethal punishment, inasmuch as the onus is on that case to make its claim indubitable.

Its problem is that a consensus of empirical research concurs in the conclusion that it cannot be decisive in every, or even any, given case (Bedau 706). This raises a deeper problem, which involves two related points. First, the intention of deterrence is necessarily projected into a future in which it *may* achieve its intended result, but it has been strongly suggested it might not, and in any case cannot guarantee that it will.[145] It follows, second, that if the empirical claim regarding ends cannot be justified, then nor can the means be justified either.

The claim for deterrence is then a weak moral wager, which intends to potentially deter (or even reform) its witness precisely by *not* intending to deter (or reform) its actual and certain object. A merely potential deterrence succeeds only at the absolute cost of that object—one demanding the highest

[143] For two recent surveys see ABC "Fact Check" (2015); Donohue (2015). Cf. Nagin and Pepper (eds.) (2012), also Donohue and Wolfers (2009).
[144] For a still stronger general statement, cf. Honderich (ed.) 1995, 120-121.
[145] Nor is infallibility per se a sufficient condition for permissibility; the point here is that the evidence does not support even a fallible claim for deterrence.

grade of epistemic warrant, which by empirical reckoning it cannot secure. Moreover, it is undeniable that the crime that putatively deserves capital punishment could be punished by non-lethal means, and thereby also sustain a potential for reform of *both* criminal agent and witness, without paying the heavy price of both life and uncertainty incurred in the lethal case.

The moral onus then lies on the proponent of capital punishment as deterrence to demonstrate that taking the risk of its failure is *still* justified even at the cost of taking life. If doing so cannot guarantee even the probability of deterrence of crime by potential agents, it can at best only claim the prevention of further crime by its actual agents. The proponent could then suggest that the potential recidivism of perpetrators should be lethally prevented irrespective of deterrent effect, but that is already a different normative claim, suggesting that absolute obviation of repeat heinous crime serves an end in itself, whatever the cost.

If this justification does not still rely on deterrence, it approaches but is not yet explicitly that of lethal retribution. Absolute obviation of repeat crime emphasises the putatively absolute undesirability of its repetition, rather than its punishment per se. But to separate these justificatory emphases appears arbitrary; what is the moral difference between a response to a crime that demands its lethal prevention, and one which demands its lethal punishment?

The moral significance of both is that they hold a normative premise in common—some crimes are morally grave enough to require an equally grave response. Thus, the case for capital punishment is often justified on the grounds that the state holds the right to respond to such crime as a matter of legal (or religious-legal) justice. Accordingly, we can turn to an examination of fundamental reasons often presented for capital punishment as the just retribution for such crime.[146]

[146] Again, these reasons can take varying form across cultures, but it could be argued that they philosophically translate into those examined below, or that where subsidiary reasons support them, or could be substituted by others, these do not in themselves undermine the critique that I make of the arguably universal primary reasons.

II. §2. Lethal punishment as retribution: a neo-Kantian defence

Capital punishment as retribution is conceived as the fulfillment of justice:

> The [retributivist] appeal to justice usually takes the following form: people deserve to suffer for wrongdoing. In the case of criminal wrongdoing the suffering takes the form of legal punishment; and justice requires that the most severe crimes, especially murder, be punished with the severest penalty—death. (Honderich 1995, 120)

The claim that capital punishment is justified just because it is a legal act under statutory law is not a justification for lethal retribution. State legislation is only the means of judicial authorization for the *reasons* underwriting LR, where those reasons justify capital punishment. Note again that we are concerned here specifically with *lethal* retribution and what justifies it;[147] the right to *retributive punishment* is not at issue.[148] Two fundamental, descriptive features of lethal retributivism (LR) follow.

First, according to LR lethal punishment is an appropriate or just desert for certain crimes. But it is in fact only one option for appropriate punishment. So, a rational principle must determine *when* lethal punishment is appropriate. As Sorell (consciously echoing J.S. Mill before him) puts it "retributivist arguments [. . .] depend on the principle that the punishment should match or be proportional to the crime" (106). Hence, for instance, in *The Metaphysics of*

[147] Note also that while *lex talionis*, or the law of "an eye for an eye" is popularly understood as a form of retributive justice (central for instance to Kant's theory of punishment), its reasoning is more narrowly distinct from the broader sense of retribution given here.

[148] There are of course strong conceptual links between any justification of non-lethal and lethal retribution, but the discussion and refutation of the former, with reference to a Buddhist theory of punishment, would shift the focus of the present discussion. However, some of the argument following will apply to retributivism more broadly, as there specified, even while the target of its critique is the *lethal* dimension of LR and only secondarily retributivism per se.

Morals Kant suggests the punishment for the crime is determinable under a "principle of equality" where:

> no possible substitute can satisfy justice. For there is no *parallel* between death [in the course of crime] and even the most miserable life, so that there is no equality of crime and retribution unless the perpetrator is judicially put to death. (Reiss and Nisbet 156)[149]

Second, LR also implies the normative claim that it is a social *good* to legally exact proportional retribution. Sorell notes, "Retributivism, by way of its Principle of Just Requital, says that it is *right* for suffering to be returned for suffering, that this is how things *ought* to be" (157). This claim underwrites the cogency of LR. But before returning to this point, we must consider which agents of lethal crime, in virtue of the determination of the Kantian principle of equality (hereafter the PE), are fit to be punished by death. Kant states the principle as follows:

> But what kind and what degree of punishment does public justice take as its principle and norm? None other than the principle of equality in the movement of the pointer on the scales of justice, the principle of not inclining to one side more than to the other. Thus any undeserved evil which you do to someone else [. . .] is an evil done to yourself [. . .] if you kill him, you kill yourself. (Reiss and Nisbet 155)[150]

Sorell summarizes Kant: "According to the principle of equality the punishment should consist in a loss to the criminal equal to or in keeping with the loss to the victims; a relation other than equality would be arbitrary" (138).

---

[149] It is thus also by virtue of this self-understanding of retribution, that any crime not-equivalent to murder, and however grave, is not appropriate to *lethal* retributive, but rather only to non-lethal, punishment. (Kant's own uncertainty regarding the relevant identity-conditions of murder for retribution in its borderline cases, such as infanticide and lethal duels, tends to confirm the same; see Sorell 142). Hence, all *non*-lethal (such as religious, ideological or political) crimes to which capital punishment is sometimes applied (including by Kant) are not relevant to this analysis of LR.

[150] This statement also formulates the equivalent Kantian principle that in committing intended murder, the murderer forfeits the right to (his own) life. All three principles (of Just Requital, of Equality or just proportionality between crime and punishment, and the forfeiture of life) can be understood as related aspects of the same general doctrine of right requital, and they are so taken in what follows.

Hence according to Kant, *lex talionis* appears to apply in the case of murder, and it appears he has good reason to think so; many would not question that the heinous rape and murder of a minor, for instance, deserves capital punishment. But on inspection the PE[151] requires modification (as we have already seen) once it is put to work, and can finally only be applied to a single, *sui generis* case.

Hence, many modern retributivist commentators on Kant restrict lethal punishment to aggravated murder, in order to recognize different degrees of severity or intention, and thus culpability. Sorell writes:

> If there is any crime which the death penalty fits uncontroversially, it is more likely to be what Mill calls aggravated murder than murder plain and simple. Kant's theory is not changed drastically if one restricts the murders that automatically receive the death penalty to first degree or perhaps aggravated first degree murders. (142)

The restriction to aggravated first-degree murder would thus for Sorell represent the very best case for LR, where "different murders seem to display different degrees of seriousness" (151). If aggravated murder is the sole crime "uncontroversially" eligible for lethal punishment, then its seriousness is what makes it so: a judgment not only of rightness (of objectively just proportion), but of an independent criterion. That is, whatever is required for a murder to rightly meet the identity-conditions for aggravatedness now requires a secondary principle: for instance, the degree of intention to inflict suffering.

It is on these jointly necessary but not individually sufficient bases that murder is properly proportional to lethal punishment: *intentional severity* qualifies proportionality. But if the justification of lethal retribution does not rely only on PE, there must be another reason that justifies capital punishment. Sorell offers the following justification:

> Kant's principle of equality between crime and punishment [. . .] when it is taken together with certain assumptions about the value of life and the harm involved in murder [. . .] gives a

[151] Note that the determinative function of the PE in cases of proportional punishment *in general*, relevant to jurisprudential theory and practice, is *not* at issue here. As noted above, the distinction is an ethically salient one; we are concerned to identity what LR deems, via the reasoning of the PE, appropriate *lethal* punishment.

> reason for punishing murder with death. The assumptions are that life itself, whatever its quality, is a good, and that the harm in murder consists at least of the loss of this good to the victim. (139)

If life itself is a good, then suffering its loss in murder is wrong because it deprives its victim of this good. And if suffering ought to be returned for suffering, then the murderer should suffer equally. But this does not yet explain *why* suffering should be exacted for suffering. Nor can the answer to that, and the case for LR, rest essentially on its qualification of *heinous* lethal crime. The identity-conditions for heinousness are vague and can only be stipulated (Bedau 710). They could apply to the death penalty itself (frequently botched and often torturous). What LR finally identifies as capitally culpable is the severity of the *intention* of a moral agent to inflict the worst suffering. On that basis, it demands that the criminal expression of that intention be punished by the legal infliction of *not more than an equal* degree of suffering on its agent. These claims can now be considered in their Buddhist contextualisation.

III. §3. A Buddhist contextualization of lethal retributivism

No Buddhist interlocutor can accept the principle of just requital: first, it contravenes the principle of obviating *dukkha* or suffering (PD) we have seen informing the first precept; that is, no act should wilfully intend to cause harm or suffering to another. Second, it entails the generation of malign moral effects consequent on the intention to act lethally. Such consequences entail the principle of *kamma* (PK) which recognizes that action engendering malign effects for its actor (here the agent of LR) should be avoided. We can first consider what it means on a Buddhist account, in dialogue with Western accounts of capital punishment, to intend to return suffering for suffering.

§3.1. Returning suffering for suffering: the contravention of PD

§3.1.1 Surfeit and consequences

If suffering is returned for suffering, as the principle of just requital requires, then it prima facie implies a doubling of the sum of human suffering. Glover writes that:

> This view [Kant's] of punishment, according to which it has a value independent of its contribution to reducing the crime rate, is open to the objection that acting on it leads to […] *pointless suffering*. To impose suffering or deprivation on someone, or to take his life, is something that […] needs very strong justification in terms of benefits, either to the person concerned or to other people. The retributivist has to say either that the claims of justice can make it right to harm someone where no one benefits, or else to cite the curiously 'metaphysical' benefits of justice being done. […] there is already enough misery in the world […] adding to it requires a justification in terms of non-metaphysical benefits to people. (229; my italics)

We can leave the question of non-metaphysical benefit aside for the moment. But first, if *dukkha* is precisely what a Buddhist seeks to obviate, he must agree with Glover that the intentional doubling of suffering cannot be justified in the absence of its putative benefits. But what might appear to be gratuitous ('pointless') suffering is rather, for the proponent of LR, what ultimately serves the end of securing the respect for human life that has been abused in lethal crime, and further risks becoming more common failing its proper punishment. Indeed, the social preservation of justice as a function of categorical moral duty itself confers value on human life.

Kant makes the point clear in the *Philosophy of Law*: "The Penal Law is a Categorical Imperative; […] For if Justice and Righteousness perish, human life would no longer have any value … Whoever has committed murder must *die*." (cited in Glover 228) Moreover, overlooking a single just case of capital punishment is already one too many; Kant in the *Metaphysics of Morals* famously illustrates this concern in the hypothetical event of a civil society that in a state of consensual dissolution is required to execute beforehand "the last Murderer lying in the prison […] in order that […] blood-guiltiness may not remain upon the people; for otherwise they might all be regarded as participators in the murder as a public violation of justice." (cited in Glover 229)

Thus the proponent is able to object to the charge of gratuitous suffering on the ground of a non-metaphysical benefit to people framed in terms of the socially concrete significance of justice. The moral loss incumbent on the failure of justice, and potential erosion of civil law thereby, could globally outweigh in seriousness the comparatively uncommon local suffering of a life *deservedly* taken. (A parallel justification for the intentional loss of enemy life in war is not far away.) This justification might seem to run into, but is importantly distinct from, the practical deterrent concern to prevent the commission of violent crimes, whereby the death penalty is a putatively important factor in controlling crime and criminals.[152]

Rather, the proponent of LR has the broader moral concern of the *good* at heart; he wants to preserve the right of justice for all by the sacrifice of the few willing to defy it and so, as Kant asserts, secure the inviolability of *the value* of just human life, if not life itself. Compared to the perspective of private individuals concerned with mitigating personal suffering, the proponent has an arguable claim to a greater moral responsibility.

Canonical Buddhist sources, indeed, express the same concern for the maintenance of justice. There are numerous instances of warning against a failure or even laxity of punishment. At D III.67, the *Cakkavati-sīhanāda Sutta* criticizes the soft treatment of thieves; the early Mahāyāna *Ārya-satyaka-parivarta* similarly says that "[i]f a ruler is too compassionate, he will not chastise the wicked people of his kingdom which will lead to lawlessness and, as a result, the king will be unable to remove the harm done by robbers and thieves" (Harvey 2000, 347). Rather, "A righteous ruler 'with compassion should root out wicked people just as a father disciplines a son'" (348). The *Suvarṇa-bhāsottama Sūtra* urges that the king "must not knowingly without examination overlook a lawless act. No other destruction in his region is so terrible." (cited in Harvey 2009, 56)

[152] It should be noted in this context that in thus ostensibly serving the *protection* of state subjects, LR also serves the end of state control, including by authoritarian or totalitarian power. This arguably informs why China consistently executes more people on average than all other countries combined. Enforcement of efficient crime-control does not *ipso facto* guarantee the promulgation of citizen freedoms and rights under protection of the state.

The Buddhist then is also clearly attentive to the maintenance of justice, as to the value of life. Nonetheless, the Buddhist must also ask how a surfeit of suffering guarantees justice in a way that serious but non-lethal punishment cannot. After asking this question, Nāgārjuna writes, "once you have analyzed the angry/ Murderers and recognised them well,/ You should banish them without/ Killing or tormenting them" (v. 337, cited in Harvey 2009, 54). If the Buddhist rejects the notion of a *return* of suffering for suffering, this might not only be because a second quotient of suffering putatively equals and so unacceptably doubles the first. Another way of conceiving the notion of surfeit it entails is to ask what it means to say that a unique event of suffering, suffered by one person, is qualitatively equivalent to another event suffered by another.

§3.1.2. Qualitative considerations

Each event of suffering is unquestionably suffered by someone, but in differing conditions, and if none can occupy others' experience, then they are for that very reason not qualitatively commensurable. For example, is the kind of suffering of the murder victim even broadly like the suffering of the condemned killer? Glover suggests the difference is one not merely of degree but of kind:

> What seems peculiarly cruel and horrible about capital punishment is that the condemned man has the period of waiting, knowing how and when he is to be killed. Many of us would rather die suddenly than linger for weeks and months knowing we were fatally ill, and the condemned man's position is several degrees worse than that of the person given a few months to live by doctors. He has the additional horror of knowing exactly when he will die, and of knowing that his death will be in a ritualised killing by other people, symbolising his ultimate rejection by the members of his community. The whole of his life may seem to have a different and horrible meaning when he sees it leading up to this end. (231-232)

In comparing events of suffering, Glover claims that LR entails a unique kind of moral pain qualitatively inequivalent to that which might characterise sudden or unexpected death, plausibly suggesting that many would prefer to suffer the latter over the former. If so, LR appears to stretch its warrant for a *proportional* suffering between lethal crime and punishment in a way that undermines its own equitable principle. On the other hand, one might argue this is a virtue, not a problem, for capital punishment: that 'extra' suffering is in truth what is justly deserved for lethal crime. If so, this raises another problem, which returns to Glover's point regarding the *pointlessness* of such suffering, above.

At this juncture we need to recall the Buddha's rejection (at MN II.140) of Ājīvika so-called annihilationism: an a-*kammic* doctrine of causeless and meaningless suffering that denies a telos to the recognition and gradual surmounting of suffering states. A fundamental, if instrumental, meaning of suffering in Buddhism thus lies in prompting its extirpation in the moral-psychological program of the cultivation of insight and virtue, conducive to acts expressive and productive of *kusala* mental states. Hence, in general Buddhist terms, if a (gratuitous) suffering is effectively intended by its constitutive conditions to be suffered just *for suffering's sake*, it is *ipso facto*, as Glover suggests, pointless, or futile.

The suffering intended by LR as a finite but extreme punishment consequently registers nothing more than itself, pending a putatively just death. The condemned, kept in secure and isolated confinement, can merely suffer privately until the moment of forced demise (Loy 146), with no anticipatory incentive of the exercise of moral value, rendering his suffering empty even of that minimal meaning. If, however, on a charitable reading, LR in its extreme degree of suffering even minimally allows for the redeeming of the sufferer's criminal character, what opportunity does the condemned have to enact that moral redemption, in his person and relations with a social context, knowing only that he is imminently forced to die?

Even, still further, granting the *kammic* notion that moral reflection and remorse in this life might provide for a better rebirth in a subsequent one, and so provide for some redeeming of this-life suffering in the dead time of waiting for execution, still the reflection does not have to *necessarily* end in execution. Any substantial period of life-preserving punishment might provide the context for such repentance, so LR as such is not justified thereby, and LR needs a justification that makes its form of punishment exclusively necessary.

The value that a redemptive meaning in extreme suffering might endow LR, but that its formal commitment to objective desert doesn't require, is not conditional on LR. This renders the punishment of LR, but still worse the suffering that is its object, morally gratuitous at best. For a Buddhist, this amounts to a denial of the fundamental moral-causal telos of *kamma* inherent in intention and the possibly redemptive intersubjective acts engendered thereby. Offending against PK, this denial presents to the Buddhist not merely a moral-psychological vacuum or positive evil, but in broader terms an error of wrong view that denies the very means of potential liberation from the nihilistic construal of moral causation it implies.

§3.2. That suffering ought to be returned: the contravention of PK

There are two main issues that arise for a Buddhist account with regard to this denial. One of these pertains to the *kammic* consequence for the criminal person as the object of LR; the other pertains to its agent, whereby the incentive to lethally punish is also *kammically* laden and productive of further (negative) moral consequence for the intentional actor. In the first case, the denial of *kammic* causation puts the work of securing appropriate desert for lethal crime into the hands of the state and its proxies, rather than the natural law of moral consequence attending intentional acts. In the second, the moral-psychological conditions of anger or indignation that give rise to the putative necessity for just requital in LR generate not only further *kammic* consequence but also reproduce those conditions in its commission.

Where LR purports to close the circle of intentional lethal action by resolving retribution in a *legally* justified form, it also reiterates the moral-intentional grounds that on its view makes LR imperative: namely, that grievous suffering ought to be inflicted on the intentional inflictor of grievous suffering. By construing grievous suffering as gratuitous and rejecting the intention to inflict it, the Buddhist seeks to break this economy of the exchange of suffering at its justificatory point of lethal requital.

§3.2.1. Assuming the moral work of *kamma*

If someone has intentionally committed lethal harm, its negative *kammic* consequence is ineluctably incurred, irrespective of the justice or kind of its proportionate punishment, including by death. On this view, the proponent of LR gratuitously determines and bestows the apparent moral consequence of murder, thus over-determining its natural effect and incurring the negative *kammic* consequence of *his own* action.[153]

The proponent has an obvious objection to this claim: the legal consequence as a social effect of crime must be distinguished from the personal ethical consequence of ill-action. The latter secures the internal or private justice of the moral law, arguably pertaining to individual salvation alone, while the former secures the public social-cultural determinations of penal law, pertaining to all those who live under its jurisdiction. Does the proponent of LR gratuitously over-determine the moral or *kammic* law by taking criminal life, and isn't its penal function to be importantly distinguished from the moral one?

A Buddhist might be tempted to think that the exercise of penal justice is itself only another form of *kamma*—in this case socially hypostatised and institutionalized *as* the law. Harvey notes that:

> One could see execution as simply a karmic result of a past bad deed—but in principle this might even be the case if the person executed were actually innocent of the specific action for which he was being "punished"—so this does not help us with the question of the justice of capital punishment. (2009, 50)

---

[153] We can note here a possible quandary given a Buddhist claim for post-mortem *kamma*, which might theoretically hold that capital punishment *serves* the cause of moral reform of the rebirth of the same consciousness. The most obvious problem with this claim is one of epistemic access which, failing a Buddha's omniscience, remains indeterminable. But there are two other, related, problems. First, it is unclear whether, given *kamma* as constituting impersonal, *a*-subjective causal processes, the *subjective* comprehension of (current life) wrong-doing would be translated into a (next life) personal appropriation of such fault, and thence a possible commitment to reform. Rather, second, any subjective apprehension (as "mine") of being imminently executed for wrong-doing could more plausibly result (via *im*personal *kammic* imprints) in a *subsequent* ego-centred resentment and thirst for vengeance (and so more intended violence). As an index of ignorance, *kamma* is functionally understood as *habitual* willed action. It is difficult to see where grounds for even minimal insight (and so reform) lies in this conditioned series: such insight, for Buddhist soterics, is not a product of moral coercion, but of self-understanding.

In identifying an epistemic distinction between *kammic* result and judicial guilt, Harvey rightly suggests that the moral law of *kamma* and the criminal law do not serve the same social explanatory interests: the former universally explains and ineluctably functions in causal distinction from the local socio-historical reasons and reasoning that justify the latter. Hence, *kamma* can only provide putative explanation of some causes for, and effects of, the commission of punition; it can't justify penal law on its own terms.

The Buddhist objection to LR in this instance thus proves unfounded but doesn't exclude at least one *kammic* dimension, noted above. The Buddhist argues that, by intending to punish lethally, the agent of LR does two misguided things: he actively engages the constitutive *kamma* of lethal intention that leads to LR, and by actually enacting that intention generates constituting *kamma* as its inevitable effect.[154]

The Buddhist might concede that the purely judicial sanction of LR can't be challenged in its own terms, but that the commission of LR cannot thereby neutralize its *kammic* effects—not a penal concomitant but a moral-psychological causal one. This conclusion is not undermined by the legal status of the death penalty; indeed, this is especially the case where, as Harvey suggests, the fallible means of human justice is mistaken and a would-be criminal is wrongly executed for a misattributed crime. *Kamma* is supposed, in such cases, to deliver the consequence attending intentional action including where that action is unjustified but still legally sanctioned.

In the same way, the Buddhist might object that the judicial apparatus of legal sanction in the case of LR at a deeper register expresses a morally unskilful motivation. To make that point, the Buddhist returns to a focus on the moral-psychological conditions of possibility for the will to just requital.

§3.2.2. Moral-psychological preconditions for just requital

[154] Compare this to the constitutive-constituting function of the *saṃskāraskandha* which, in constructively engaging its cognitive-affective volitions, creates the conditions for the experience of the self and its suffering states.

What explains the putative *necessity* for LR? This question turns analytic focus from the justification of the punitive act per se, to what undergirds Kant's inflexible conviction that "if Justice and Righteousness perish, then human life would have no more value in the world", such that "the murderer *must* die." This is a statement concerning something about the moral-psychological constitution of the proponent of LR, rather than the criminal, or even his crime (as discussed in the Introduction, above). As we have seen, Kant's conviction appears to express the axiological assumption that the value of human life in general is *necessarily* secured by the sacrifice of human life in the particular criminal case. What else might it express?

In a discussion of reconciliation (*paṭisāraṇiya*) in the Buddhist ethics of punishment, Charles Fink suggestively highlights the role of resentment in the motivation to punish:

> The [reconciliation] model assumes not only that it is appropriate for offenders to be remorseful for their crimes, but that it is appropriate for victims to resent offenders. Resentment is recognised as appropriate, first, because it is an expression of self-respect. (389)

The resentment of abuse is a plausible element of what might prompt the positively valenced indignation of the Kantian moral agent *on behalf of* the victim of lethal crime. That is, the proponent of LR psychologically presumes that indignation or justified resentment justifies taking life. Resentment and indignation could arguably be conceived as forms of anger, and the rectitude of a justified anger is frequently summoned to the cause of LR (Bedau 717). But Bedau sees an important distinction between the former and latter:

> The feeling and expression of resentment—seeing oneself as an undeserving victim of another's immoral conduct and objecting to it—is understandable. So is moral indignation—seeing another as an undeserving victim of someone's immoral conduct and objecting to it. But both resentment and indignation are moral emotions—that is, they are regulated by moral considerations, in contrast to anger and revenge. These latter know no bounds; thus it might be said that they are always inappropriate, even if they are often excusable. (717)

We have seen that anger is, with hatred, unequivocally identified in Buddhist sources as one of the most morally destructive of emotions, and counter-indicated in the Buddhist program of aretaic mental-affective cultivation. Cozort writes that:

> Among the six root afflictive emotions (*kleśa*) identified in the Buddhist Abhidharma literature as the causes for episodes or entire lifetimes of suffering, anger (Skt: *pratigha*) holds a singular place. It is one of a few mental states that not only establish "seeds" or "roots" of non-virtue, but also nullify the seeds or roots of individual virtue planted by exemplary actions such as giving and patience. Among these states, anger is uniquely destructive. (1995, 1)

On the Buddhist's, and Bedau's, and even his own terms, the proponent of LR needs to preserve the moral valence of justified indignation in order to avoid a charge of basely emotive revenge, something that the proponent explicitly denies as a justificatory motivation. How might he do so?

A plausible reason for indignation on Fink's account lies with the psychologically harmful and immoral reduction of the dignity of the victim to an instrumental means for criminal purposes. He continues:

> To be victimized by crime is to be treated as a thing rather than a person. Crime can and typically does inflict physical or emotional suffering upon the victim, but it is also a communicative act. It communicates to the victim that he or she is not a person but a thing to be used or abused. To resent the offender is to counter this communication with an affirmation of one's inherent worth as a person. (390)

The victim's right to autonomy and to life are each violated by the lethal crime, in virtue of their absolute subordination to the malign will of the lethal agent. The abuse of the crime therefore consists not only in the base physical heinousness of taking life, but crucially for the proponent the moral heinousness of the instrumentalization of the victim. The agent of LR thus seeks restitution for that moral abuse and, in order to avoid a like abuse of the moral worth of the criminal person, *not* the base instinct for revenge.

In explicitly rejecting revenge as justificatory, the proponent requires that LR be morally and affectively motivated only by disinterested indignation, grounded in a recognition of injustice and a motivation to virtue. We have seen Kant insist that LR (and only LR) *necessarily* succeeds in actualising these latter values in the case of heinous crime, just because it *preserves* the moral value of the criminal person in his execution. But how does it do so? Adam Sitze paraphrases Kant:

> If a person is, as Kant will say, "a subject whose actions can be imputed to him" […] then the death penalty is an apparatus for treating the criminal like a human: it imputes to the criminal a faculty for pure reason, a capacity for freedom and autonomy in the strict and purely human sense, and *therefore*, on this same basis—out of respect for the criminal personified as a human, out of respect for what the pure reason "in" the criminal will have willed—it ends his life. (234)

Hence, the agent of crime, recognising the categorical moral duty of that punitive restitution of abuse, must will *his own* punishment thereby. But what, for the Kantian retributivist, allows a criminal-moral agent to simultaneously both value his own inherent worth as a person, as his status as a moral agent of the categorical imperative requires, *and* to will the sacrifice of his life as the ontological basis for that very worth?

We will address these questions, below. Moreover, even if the Buddhist charitably grants the proponent the best case of justified indignation and not anger on behalf of the killed victim, problems remain. These above all concern *how* the proponent of LR ensures the moral sovereignty of the criminal person, as LR itself insists it must. The first main Buddhist objection to this sense of the person (in §3.3, below) concerns *whether* the Kantian person and moral agent so understood can withstand Buddhist critical analysis. A second main objection (in §3.4) concerns the qualitative nature of moral indignation as disinterested, and interrogates whether its putative function in enacting justice preserves the affectively and intentionally neutral valence it presupposes. Taken together, these Buddhist objections to these constitutive elements of LR refute its best-case assumption of indignation as adequate justification.

§3.3. The Kantian division of the person

Quoting Kant in *The Metaphysics of Morals*, Sitze notes the distinction he draws:

> between the *homo noumenon* (the "moral personality" who is the locus of "pure reason within me" […] and the *homo phaenomenon* (the "sensuous being" who is the locus of my desire to preserve myself in my "animal being") […] When I consent to suffer the penalty of death at the hands of the sovereign […] It is that "I" am the locus of two distinct beings, a *person* (the *homo noumenon*) and a *living being* (the *homo phaenomenon*) and that the *person* within me (which is to say, the nameless force of pure reason, which "desires" nothing other than universality and necessity itself) dictates a perfectly consistent set of penal laws to which I then subject my own living being. (233)

By subordinating his animal living being to his purely rational moral person, the condemned corroborates the moral law of duty and the civil law of appropriate punishment for lethal crime. But this subordination is in turn predicated upon another Kantian premise:

> Kant considers the right of self-preservation to be a merely *conditional* duty—a duty, in other words, that is grounded not in the necessity of pure reason, but merely in inclination, in a desire to avoid pain and achieve happiness. As such, the duty of self-preservation possesses less dignity and necessity than does the unconditional duty of conformity to the categorical imperative. To the extent that we are governed by our desire for self-preservation, we are not "persons" (which is the name Kant gives in the *Groundwork* to "rational beings"), but merely "things" […] In cases where our conditional duty of self-preservation comes into conflict with our unconditional duty of preserving the state […], the latter thus easily prevails over the former. (232)

Hence, the neo-Kantian can logically justify the preservation of the inherent worth of the criminal person by virtue of the sacrifice of animal life that he willingly submits to the maximal punishment of its deprivation. This justification is predicated on the moral acumen and will of the criminal agent in general, and his valorisation of noumenal moral being over sensuous animal being, in particular. Even if the first of these is granted, on a Buddhist account the metaphysical division of the sentient being between noumenal and phenomenal existence is incompatible with its own understanding of the person.

If so, the Kantian distinction between conditional and unconditional duties with regard to oneself as a person, or to the state, is not for the Buddhist tenable as an account of moral obligation. First, we have seen that Buddhist metaphysics of the person does not entail that a moral agent is an entity ontologically distinct from the psychophysical properties of the living body on the basis of which personhood is conceptually imputed. Moreover, *cetanā* as moral intention is not ontologically equivalent to a sovereign will or self. That would violate the Buddhist doctrine of no-self. *Cetanā* is not—as *Wille* is on Kant's view—some faculty distinct from embodied existence: rather, *cetanā* is a constitutive function of that very existence. To take it otherwise would be incoherent on a Buddhist view. As Dunne puts it:

> *satkāyadṛṣṭi*, according to which there exists an […] absolute self that, while fully autonomous, is somehow related to or residing within the constituents of the mind and body. All Buddhist philosophers seek to eliminate *satkāyadṛṣṭi* and any beliefs, such as the notion of a whole, that are corollaries of it. Hence, this level of description is never accepted, even provisionally, by any South Asian Buddhist philosopher. It is mentioned only so as to refute it. (Dunne 57)

Rather than a noumenal Kantian moral agent, the mental-volitional bases for moral action are engaged as *cetanā*, or the intention directing the action of the conventionally real person. The singular noumenal personality that for Kant reigns supreme over all other subordinate elements of volition is distributed in the Buddhist case across multiple properties that functionally cohere to endow personhood with moral agency, including its governing ethical conditions, affective qualities, kind of consciousness and mental factors, and moral valence on a range between *kuśala* and *akuśala* volitional intensities.

In the case of the moral exercise of justice, Loy makes explicit the psychological connection between intention as *kamma* and its mediation in and by the *saṃskāraskandha*:

> Intention is also the most important factor in the operation of the law of *karma*, which […] is created by volitional action. *Karma* is essential to the Buddhist understanding of justice […]

> One modern approach to *karma* is to understand it in terms of what Buddhism calls *saṅkhāras*, our "mental formations," especially habitual tendencies. These are best understood not as tendencies we have, but as tendencies we *are*: instead of being "my" habits, their interaction is what constitutes my sense of "me." But that does not mean that they are ineradicable: unwholesome *saṅkhāras* are to be differentiated from the liberatory possibilities that are available […] if we follow the path of replacing them with more wholesome mental tendencies. (Loy 156-157; *saṅkhāras* = *saṃskāras*)

This Buddhist project can be highlighted in a psychologically more plausible best case of punishment than the ideal Kantian one: the criminal agent, by acknowledging his abuse of his victim, recognises his own moral humanity, and seeks to atone for wrongdoing. The proponent cannot easily object in this case that LR sustains the inherent worth of the person in virtue of its metaphysical benefit of absolute justice, when the condemned seeks *as an autonomous person* to preserve his life, in order to repent of his crime thereby.

If the proponent fails to honour this claim morally, this compromises the personhood—i.e., reason, freedom, autonomy—of the condemned, especially with regard to his moral agency, explicitly recognised by LR in its expectation of the criminal's recognition of moral duty, and exploits his life to the end of a metaphysical benefit of absolute justice which many a moral witness, such as the Buddhist, might not recognise. Moreover, to putatively preserve *its* moral integrity, LR must in its own terms explicitly avoid treating the condemned as an object rather than a person, by affirming *in its commission* his inherent worth as a person.[155] Is it plausible to hold that LR *necessarily* secures these required features in the very commission of LR?

§3.4. Lethal intention and the infliction of harm

Recall that the proponent of LR justifies this exploitation on the affective basis of his own moral indignation and supposes that such indignation is sufficiently justificatory. But even if this claim were on a

[155] Sitze notes Kant's agreement with Beccaria whereby "the rights of the person are inviolable (or, to be precise, that liberty ends and tyranny starts at that point when law begins to treat the man no longer as a *person* but now as a *thing* […]" (234)

charitable view defensible, there is for the Buddhist a final concomitant to it that, on top of the objections already surveyed, renders disinterested indignation as an affective justification for LR otiose.

The Buddhist objection undermines the plausibility of the claim that indignation, as a morally appropriate affective spur to the greater end of justice, can justify LR, by focussing again on the nature of moral-affective intention. Fink writes of retributive punishment more generally:

> Punishment involves the infliction of harm—typically some form of suffering. This by itself is morally problematic, but what renders punishment especially problematic is that it involves the *intentional* infliction of harm. The retributivist, for example, believes that offenders should be punished simply because they deserve to suffer, as an end in itself […] For a form of treatment to count as punishment, it must not only be harmful, it must be intended *as* harm; it is in this sense that punishment involves the intentional infliction of harm. (2012, 374)

LR intends an absolute punishment in the loss of life, and so intends a maximal infliction of harm and the suffering of it. Intention as the primary Buddhist criterion of ethical evaluation also signifies that identifying *how* the agent acts, and not merely why or what she does, confers a normative force on action. Intended action is not merely something which its agent believes ought to be done; Buddhist ethical evaluation attends to the affect or motivation of the "ought". In weighing the moral valence of intention in both criminal and retributivist senses, it is certainly possible to see these as different. A passionate murderer kills in desire or rage; a cold-blooded retributivist kills ostensibly for the sake of an affect-free conviction in upholding absolute justice, disclaiming the anger of revenge as a personal expression of the grievance of resentment.[156]

On the other hand, it is plausible to hold that a prime motivation for LR lies with the justified moral outrage provoked by murder, genocide, war crimes, heinous abuses of innocents and similar cases. While such outrage

[156] Sorell (for our purposes somewhat ironically) notes that, "Surely the reason for making murder a crime is some reason for punishing murderers, and surely the reason for making murder a crime can be the evil of violent loss of life, whether or not the violent loss of life *is attended by feelings of grievance*." (158, my italics)

need not be driven by anger, as indignation it also entails an affect the moral valence of which is equivocal. Even with respect to salient cases of arguably justified and sober legal retribution—such as the 1945-46 Nuremburg trials and executions of Nazi enablers of genocide—it is plausible to describe moral outrage as both affectively multivalent as well as tacitly motivated by a desire to restitute an abused moral-juridical power of the state or governing body, as much as of the moral dignity of the deceased on whose behalf it prompts action.[157]

It is hard to conceive how such cases could ever be divorced from some degree of rationalised revenge. But let us be clear about the case for LR to this point. The proponent, we have seen, claims that in order to dignify legal killing as a form of justified punishment, it must not be motivated by the base emotion of revenge (and so, morally, be a homicidal act). Hence, on its own account lethal retribution is not an act of anger; to the degree that it is, then it fails its own conditions for justification.

Now, whether any given case of LR in fact *does* implicate anger as one of its decisive causes (as it surely does in at least some cases) is an empirical question that requires empirical means of answering. But, even apart from this question, what morally decides the case on the Buddhist view developed here is not an empirical datum, but the a priori ethical status of *any* case of LR. In taking life, the proponent we consider here, who advocates disinterested judicial killing in some circumstances, holds that LR is justified when the deliberate infliction of such harm is affectively disinterested, and so equanimous.

This will not, however, save the case for LR. In Chapter Four we have seen that equanimity affectively implicated in the intention to kill is *only* possible with respect to causally distal delusion-rooted mental states or consciousness, and is not otherwise countenanced as a *sole* affective-causal

[157] Much subsequent criticism of the legal prosecution of the Nuremberg trials focused on the degree to which due process was a function of the exercise of political power rather than justice per se. Associate Supreme Court Justice William O. Douglas, for example, claimed that the Allies were guilty of "substituting power for principle" at Nuremberg. "I thought at the time and still think that the Nuremberg trials were unprincipled […] Law was created *ex post facto* to suit the passion and clamor of the time." (in Thompson, Jr. and Strutz, 1983)

condition for it, as LR requires. Moreover, the possibility of dispassionately-willed killing entirely lacking hatred is not entertained in the Abhidhamma literature: any and every ordinary agent of killing is constitutively incapable of the intention to take life without some degree of hatred or aversion as a causal factor in that intention.[158]

For the Buddhist, as we saw in Chapter Three, and this is true only of the Mahāyāna, the only agent at best theoretically capable of taking life without hatred is a bodhisattva or Buddha. And, apart from the esoteric and antinomian nature of that possibility, it is untenable to hold that any Buddhist agent would take life on the normative basis of the intention to lethally punish from a sense of disinterested justice. Indeed, we have at the outset of this chapter seen Nāgārjuna explicitly repudiate the very idea. The unequivocal intention to inflict the greatest harm cannot on the Buddhist view be separated from some constitutive degree of hatred.

But let us for argument's sake grant that there are cases where the collective intentions giving rise to LR are in fact relatively free of hatred, and consciously motivated by equanimous volitions to kill with a view to the proper execution of justice. The notion that such cases of the commission of lethal action with equanimous affect could conceivably be understood as determined by skilful or wholesome consciousness is belied by the fact, as I've noted already, that killing (both prompted and unprompted) is taken as a paradigmatic example of unwholesome consciousness throughout all iterations of the Abhidhamma/Abhidharma. Note that in Chapter Four we also saw Vasubandhu indicate the same in the *Abhidharmakośa*.

[158] This raises a curious question. It could be plausibly held that the consciousness of the executioner, who as the proxy of the state does the actual killing, is not obviously characterised by hatred in the commission of the efficient cause of death. But on the Buddhist causal account developed above, the primary cause(s) for the execution are collective intentions in the form of the volitional deliberations of a judge and jury (and antecedently a state legislature that authorises the legal right to exercise those intentions). Hence, the Buddhist claim of constitutive hatred in the intention to kill refers to this primary, rather than the efficient, cause of killing, of the individually given case of LR. Inasmuch as the agent of the efficient cause is causally linked to the (here collective) intention of other decision-makers, he is not exonerated from the moral (*kammic*) effects of his individual action determined by those decisions.

We have in Chapter Four also seen that according to the Abhidhamma typology of unwholesome *cittas* or consciousnesses, and putting aside those consciousnesses rooted in greed (which appear in any case, and again by its own lights, irrelevant to the case of LR), there are only two other consciousnesses accompanied by equanimity: the two consciousnesses rooted in sheer delusion (*mohamūlacittāni*). Thus, on an Abhidhamma account, were a consciousness engaging the intention to kill accompanied *exclusively* by equanimous affect, as LR itself requires in its minimal best case, then that consciousness must be characterised by delusion also.

If so, in what cognitions would such delusion consist in the case of LR? I have described them, and argued for their normative valence, above. They amount to the cognitive errors of assuming: 1) that returning suffering for suffering can ever be morally justified; 2) that the surfeit of suffering that results from such a payback has morally edifying, rather than morally deleterious, effects; 3) that the infliction of the greatest harm as a punishment can have positive (*kusala*) moral effect; and 4) that, in the case of the (neo)Kantian justification for LR, the philosophical understanding of the moral agent is metaphysically congruent with the true nature of the conventionally real person, who lacks an ontologically independent faculty of the will, as described above. The moral wrongness of LR does not hinge on a single datum. These aggregate instances of mistaken cognition are *en groupe* the badmakers of LR on the Buddhist account, and it is clear that they represent cognitive rather than affective error, and so confirm the Abhidhamma posit that minds engaging intentional action in this case are rooted in delusion.

This conclusion rings intuitively true in a broader sense, insofar as other hypothetical cases of the equanimous motivation for lethal action—notoriously in some cases of gun massacre or psychotic homicide—where the agent expresses an affective disingenuousness or unawareness of the wrongness of his action, similarly neatly fit the Abhidhammic psychological model of the alignment of equanimous affect with delusion in the unskilful consciousnesses. Despite an overt intention to preserve an apparent absolute justice (to what ultimate end is not clear) LR, in explicitly seeking to inflict the greatest harm on deluded grounds, on a Buddhist account fails a fundamentally rational and so justified intention. The Buddhist account thus views the morally indignant, and even disinterested, intention to inflict a maximal harm and suffering as morally wrong, and so rejects the premise that execution is *the sole appropriate response* to lethal crime.

§4. Civilising norms: restorative justice and aretaic cultivation

In virtue of this rejection of the intention to kill under any circumstance, a Buddhist might instead propose that the most severe punishment for the most severe intentional killing is life imprisonment without the possibility of parole (LWOP) (Bedau 706).[159] Using this potential Buddhist claim as a plausible premise, we can consider the following argument:

1. Agents of lethal crime deserve to be punished.
2. Execution, justified by lethal retributivism (LR), is a possible punishment of lethal crime.
3. LWOP is another possible punishment of lethal crime.
4. Hence, execution is a contingent punitive response to lethal crime.
5. A Buddhist categorically rejects the intention to kill as punishment.
6. But LR serves to uniquely express a (metaphysical) benefit unavailable in non-lethal forms of punishment: lethal just requital as the expression of absolute justice.
7. If so, the lethal element of LR necessarily serves the expression of that (metaphysical) benefit.
8. If so, execution serves an end supplementary to punishment per se, which could (by 4) have been otherwise.
9. A Buddhist accepts LWOP as sufficient punishment of lethal crime.
10. Hence, for the Buddhist, execution justified by LR is a gratuitous punishment for lethal crime.

[159] In practice LWOP would in this most severe Buddhist case of punishment be conceived as life imprisonment that allows for interpersonal relationships, productive work and reformative opportunities: that is, a life in prison that actively engages the means and effects of personal rehabilitation.

This conclusion is in accord with the premises of what Bedau describes as "the best argument for abolition." (728) The first of these is that "Governments ought to use the least restrictive means—that is, the least severe, intrusive, violent methods of interference with personal liberty, privacy, and autonomy—sufficient to achieve compelling state interests" (*ibid*.). If reducing lethal criminal violence is a compelling state interest (Bedau's premise 2), and LWOP is a less severe and restrictive penalty than penalty by death (his premise 4) and "sufficient to accomplish (2)" (his premise 5), then on both Bedau's and the Buddhist's grounds, "therefore, the death penalty—more restrictive, invasive, and severe than imprisonment—is unnecessary; it violates premise (1)." (*ibid*.)

Thus, both Bedau and the Buddhist argue primarily against LR as justifying a gratuitous punishment. But this argument is not exclusive of the moral value that LR in the first place rightfully recognized as having been abused in lethal crime: the inherent worth of the person. The agent of LR reasoned that the best and proportionate means to seek restitution for the abuse of the inherent worth of the victim, was to take the criminal's life. But, as already noted, the Buddhist wants to ask: is another act of lethal aggression the best or only means to affirm the inherent worth of the person? She might revise the motivation of the agent of LR, in addressing the criminal in these revised terms: 'I could kill you as punishment. But instead I'll affirm *your* inherent worth, the very thing you failed to honour in your victim by taking his life, and by so doing resist repeating your error.'

By affirming the inherent worth of *the criminal* in resisting his execution, the Buddhist retroactively affirms, in the person of the criminal, the original worth that was abused in his victim—just as the agent of LR retroactively assumes the moral injury of that abuse of the person as victim. In essence, the proponent of LR existentially emphasises the privation of worth, while the Buddhist emphasises its preservation, with respect to the very same event. Failing this affirmation of the sovereign worth of the moral autonomy of the person *qua* individual (as detailed in §3.3., above), lethal aggression again objectifies the individual as a generic member of that heterogeneous class of persons who *deserve* at all costs (recall Kant) to be killed. In Buddhist terms this is a moral-psychological intention that in itself inevitably results in a predisposition to ill-motivated action. Loy writes:

> The state's violence reinforces the belief that violence works. When the state uses violence against those who do things that it does not permit, we should not be surprised when some of its citizens feel entitled to do the same. […] The emphasis on nonviolence within so much of the Buddhist tradition is not because of some otherworldly preoccupations; it is based upon the psychological insight that violence breeds violence. This is a clear example, if anything is, of the maxim that our means cannot be divorced from our ends. […] If the state is not exempt from this truth, we must find some way to incorporate it into our judicial systems. (153-154)

There is, moreover, a specifically Buddhist concern built into its preference for an ideally restorative rather than retributive justice. I argued in the Introduction above that the foundational value inherent in the person *as* a person lies in an implicit eligibility for the telic program of the Buddhist cultivation of compassion, wisdom, and ultimate awakening from ignorance. As noted at the outset of the chapter, unlike all other forms of reparative punishment which entail the deprivation of one or another good, LR *uniquely* intends the absolute foreclosure of the possibility of those goods, and even the possibility of possibility, and ostensibly does so on behalf of its object person, in their name as a legal member of the state.

The absolute deprivation of life has central relevance to the Buddhist (especially Mahāyāna) project in its soteriological purpose. Its concern is with a universal *liberation from suffering*, for which as we have seen all sentient beings possess the intrinsic potential (Loy 49). It aims to achieve that end via interconnected atheistic, but aspirationally ambitious modes of rational, affective, intentional, and social life that together cultivate its possibility. On this basis it becomes clear that, as Fink describes (387*ff.*), a Buddhist conception of punishment can only be predicated on a basis of restorative and not retributive justice.

The maintenance of any ethic that prioritizes the deprivation of life can only be one that, in presuming to preserve the inherent worth of persons, actually problematises that value and repudiates the intentional cultivation of virtue at its core. When Nāgārjuna speaks of "*banishing* angry murderers" we might in the 21st century take him to refer to compassionately excluding such agents from the very economy of grievous harm, for their own and others' sakes alike.

CHAPTER SIX

On Killing and Oblivion: the obviation of suffering in acts of lethal mercy

*

I. §1. Introduction: suffering and the post-mortem state

The person as apt for lethal retribution (LR) entails an intentional feature also true of the understanding of the person as apt for killing to the end of mercifully terminating suffering. Both punitive and compassionate lethal acts conceive of the life of the person as something *of value* that is at the same time the object of willed termination. Suicide is not obviously compassionate, although the sense in which self-terminated life is valued can also vary—for example, in political or altruistic religious protest wherein the selflessness constitutive of the sacrifice bestows a putative moral value.[160] This chapter focuses on the feature all these cases most broadly share, irrespective of their compassionate valence: killing with the fundamental intention to end the life of the self or other on the grounds that certain conscious states, entailing more or less acute physical or psychological suffering, justify its ending. Two truth- and value-claims undergird this general intentional structure. In brief, the intentional basis for existential decisions involving euthanasia, suicide, assisted-suicide, and many cases of abortion (vis-à-vis both object and agent) is that:

1) certain degrees of psychophysical suffering are intolerable to their subjects, and
2) that in ending a life, such states of suffering are ended also, and that this termination of suffering is preferable to that life continuing.

I will argue that, in the context of a Buddhist account, the second of these claims cannot be justified, bolstering the Buddhist prohibition of these intentional acts. As in the previous chapter, our task requires describing the distinct senses in which, on a Buddhist-metaphysical account, rational claims for justified killing within *and* outside its lifeworld are mistaken. I will thus interrogate both non-Buddhist folk claims concerning the post-mortem state, as well as some ostensibly Buddhist-ethical claims concerning the permissibility of mercy-killing, to the end of advancing a Buddhist-theoretic argument. I will defend a Buddhist position that, though possibly implausible for a non-Buddhist audience, might nonetheless refute other ostensibly Buddhist views.

I will set aside much recent Buddhist Studies enquiry concerning the culture-specific and regional norms around euthanasia, abortion and suicide (for which see references in the General Introduction). Unlike the great majority of those studies, in this chapter I am concerned with fundamental and universal metaphysical grounds for the Buddhist-philosophical coherence of mercy-killing, and only secondarily the normative conclusions that might emerge from that enquiry. We have already noted cases in which Buddhist

[160] See Kovan (2014) for argument defending the intrinsic moral value of altruistic self-immolation in the contemporary Tibetan Buddhist context.

cultural-religious beliefs may not be in accord with some Buddhist philosophical commitments. Philosophical reasoning is not always the basis for more contingently and popularly determined norms (noted for example in the case of Buddhist-cultural understandings of sentience, or personhood), though both forms of justification and explanation may on occasion converge (as they do, for example, in a reasoned concern to obviate suffering). While what we could call the popular religious bases for normative beliefs can provide the context of cultural practices, I am here concerned with the comparatively restricted context of probative argument grounded on classical sources and the primary and secondary commentary associated with them.

The view of Keown and other scholars (Florida 2000, Koike 2006, Ratanakul 2000, 2009) is that a Buddhist-normative position does not permit passive or active euthanasia, though not all theorists share it (Becker 1990; and, more ambiguously, Perrett 1996 and Hayes 1994). Keown articulates a Buddhist view of euthanasia which nuances existing professional medical practice with the Buddhist desideratum of explicit resistance to any intention to *cause* (as opposed to allow) death, even where such an outcome is inevitably foreseen.[161] Keown's conclusion in this case accords with my own in this chapter, but as we will see I offer substantially different reasons for it. Beyond corroborating Keown's conclusion that euthanasia contravenes the first precept, I am concerned, rather, to offer argument for why the precept itself is justified in this case. Parallel points can be made regarding abortion and suicide, as well.

Likewise, I do not here engage or dispute Buddhist-bioethical justifications for clinical practice in which the withdrawal of artificial life-support is commonly undertaken (excluding cases of passive euthanasia, where such withdrawal intends the death of a terminally-ill patient).[162] While the following regards Keown (2018), Barnhart (2018), and Kovan (2018) to have argued persuasively for what best Buddhist-bioethical practice might

[161] The principle of 'double effect' (Cavanaugh 2006) where death is foreseen but not intended, relevant to medical and military ethics, and the law.

[162] See Keown (2018) who both argues against a Buddhist permissibility of any form of euthanasia, while recognising *therapeutic* rather than homicidal acts whereby "the refusal or withdrawal of medical treatment […] incidentally leads to the patient's death […] within the normal parameters of his medical care." (613)

amount to in the contexts of euthanasia, abortion and suicide, respectively,[163] it also provides philosophical enhancement, and perhaps some revision, of the reasons for their respective conclusions.

The relevant general distinction here is essentially between the exoneration and prescription of intentional acts. That is, I understand best practice in these contexts to refer to the optimal, and to that degree only pragmatically justified, conditions in which people and clinicians actually engage intentional lethal acts in their differing psychological, social and clinical dimensions. But pragmatic exoneration is not equivalent to the ethical prescription of such acts, a claim that on these grounds they *should* be committed even when they appear a best recourse. The context-specific reasons for exonerating some cases of compassionate killing (abortion is the most prominent case in point) are to be distinguished from the universal philosophical grounds examined below, which generate metaphysical rather than pragmatic forms of justification and so distinct ethical norms regarding such acts, including the claim that ultimately they *should not* be committed at all. I will therefore question some of the philosophical presuppositions informing both bioethical and medical understanding of the permissibility and practice of mercy-killing in these varying forms.

In brief, Buddhist bioethical accounts tend to leave crucial philosophical ground under-explored by not usually distinguishing ending suffering from ending a life. Here I focus on the theoretical question of what it means, in the context of Buddhist philosophy of mind, to say that a life can end in a state of oblivion, thereby ending subjective suffering, and that choosing to end individual suffering could be a moral priority. Schlieter notes that:

> claiming the existence of suffering [in the first noble truth], Buddhist texts emphasize that the overall, long-term goal can be neither to mitigate nor to endure (or adapt to) suffering, but instead to accept it—in order to enter the path of Buddhist

[163] Schlieter (2014) also considers all three domains of abortion, euthanasia and suicide, with an emphasis on the Buddhist sense of the mitigation of suffering. His conclusions, too, largely engage applied Buddhist-bioethical questions and concerns, rather than the metaphysical ones of the present chapter, and on which the former supervene.

> practice, which is intended to fully overcome suffering. Pursuing strategies to prevent a priori any kind of *anticipated* suffering for sentient beings would—assuming that these strategies would work—preclude the motivation to search for efficient ways out of the "ocean of suffering." (2014, 314)

This consideration is germane for Buddhist philosophy of mind and soteriology, as well as belief and practice, because if Buddhist-metaphysical claims for post-mortem continuity are true then Buddhists have no choice *but* to accept, rather than evade, suffering in the sense Schlieter highlights. Nonetheless, the following argument does no more than assume the *possibility* of post-mortem sentient states. The more probative part of the discussion engages the rational analysis of claims regarding the metaphysics of mental causation, to arrive at a conclusion consistent with properly Buddhist commitments.

I first focus on the notion of the post-mortem contentless state, with respect to the nature of mental states more generally, including suffering mental states, the suffering subject and the evaluation of these states. I then consider the putative ending of such states in a widely-assumed folk-theoretical, as well as philosophical, assumption that death entails a permanent state of oblivion. The aim of the chapter is to decide whether mercy-killing in the Buddhist-philosophical context is ultimately justified, in the case that it produces a post-mortem state of oblivion in which *all possibility of suffering is permanently annulled*.

As noted, canonical and subsequent traditions of Buddhism *prima facie* reject the possibility of this post-mortem state.[164] But it is theoretically possible that, on its own terms, it might be wrong to do so. This is because a sole Buddhist candidate for a very similar state of oblivion is available, inasmuch as the state of cessation (*nirodhasamāpatti*) is a non-conscious state of non-suffering. If this state is unequivocally possible for Buddhist philosophy of mind, as it is, then perhaps a Buddhist account of postmortem

[164] Such a materialist view is described at length (and later rejected) at DN I.55. Westerhoff (2017) provides a recent philosophical discussion of the canonical rejection of materialist nihilism, in favour of a non-naturalised Buddhist account of mental continuity such as the one offered here.

oblivion is also. If the Buddhist state of cessation meets on its own terms all the conditions for a postmortem state of oblivion, this may raise a problem for some Buddhist ethical theory. Hence, we must assess whether this state meets all the conditions for a post-mortem state of oblivion, and so suffices to theoretically justify some potential cases of mercy-killing.

In section I, I will show that on no Buddhist account can mercy-killing per se *produce* post-mortem oblivion. I then argue, in section II and again on generic Buddhist grounds, that while the state of cessation satisfies the condition for non-suffering, it only partially satisfies the requirements for post-mortem oblivion. Moreover, I will argue on Buddhist grounds that the state of non-suffering entailed in the state of cessation is insufficient for a soteriologically valuable ending of suffering. I conclude that there is no ultimately satisfactory Buddhist-philosophical justification for killing on the grounds that it decisively eliminates suffering.

§1.1. The post-mortem contentless state

In the first decades of the 21st century, many members of secular and scientific society, as well as atheist or agnostic philosophers, conceive of the post-mortem condition as a state lacking all content, as not-conscious and so not experienceable by a subject.[165] On this view, there is no conscious state of being dead. It would follow from this that where there is suffering in the living state, this will simply cease upon the advent of death. We must, however, distinguish between *un*-conscious states, which have mental content (dreams, etc.), and *not*-conscious states, which definitionally do not. The states with which we are concerned here are theoretically not unconscious, but *not*-conscious; they are not even states of subjects, as those subjects no longer exist.

It is, however, possible that the post-mortem condition is otherwise; hence, the assumption of post-mortem oblivion cannot be presumed to be true without argument. I won't rehearse here the many reasons informing this

[165] Jacquette (1994, 156) for example, writes that "at the moment of death there is only oblivion."

argument in either (neuro-)scientific or philosophical terms; to do so would be orthogonal to the task of the chapter, which is to elucidate the Buddhist position for mental continuity in the context of the elimination of suffering, rather than for why it may or may not be plausible with respect to some reductive and physicalist accounts of mind.[166] Briefly, however, on the one hand, if a materialist account of consciousness is true, and mental facts are both fixed and explicable by physical ones, then we ought to be able to have full explanation of all mental phenomena in virtue of having third-personal access to and knowledge of all the physical facts pertaining to the subject of such mental experience. But the resistance of many mental facts to such expalanation gives rise to an "explanatory gap" between explanandum and explanans.

The problematic of this gap can be found expressed at least as early as by Leibniz in the *Monadology* (§17) of 1714, who conceives of it in terms of a distinction between physical facts as expressing the structure and function of entities, and some mental facts (now often summarised as phenomenal experience) which resist physical or mechanistic explanation because they do not entail structure or function. When I am deeply moved by Mozart's music, for example, there are modes of sensory, emotive, aesthetic, intellectual, and even quasi-religious experience that are not captured by physical explanations.

On the other hand, if such mental facts cannot be explained by the physical causes identified in experimental neuroscience, then another gap results, an ontological-causal one, between the physical and mental explanations for the same phenomenon. The dualist holds that the mental explanation refers to an event ontologically distinct from that described by the physical explanation. This view renders all physical explanation irrelevant to that mental phenomenon, a result which appears on its face epistemically and scientifically implausible, inasmuch as there are clearly some physical causes at work in most mental phenomena. If mental causation is ontologically distinct in this way, it also renders the mind powerless to causally affect the physical universe science is otherwise impressively able to explain without

[166] Stoljar (2010) and Pereboom (2011) engage the state of physicalism in recent decades. Arnold (2015) discusses the "hard problem" of consciousness in the context of Buddhist idealism.

assuming the existence of mental causation. While the Buddhist view, as we have seen, is in some senses closer to the dualist view, it also presupposes only a restricted non-supervenience of a very subtle dimension of consciousness, recognising as it does an otherwise high degree of mutual determination between psychophysical processes.[167]

While on the one hand neuroscientific theory and experiment increasingly maps the neural activity corresponding to sensory and related cognitive experience, it lacks the conceptual and experimental means to neurologically account for such experience *as* first-personally and consciously experienced. Some theorists, such as McGinn (2004, 72), argue that these means will always in principle be inaccessible to us. Bitbol similarly writes that:

> Scientists who believe that solving many such "easy problems" [neural correlates to cognition] about consciousness will finally clear up the harder problem of its physical origin, look like somebody who believes one can finally reach the horizon by walking far enough. In the same way as the walker ignores the *category gap* between a line *in* space and an apparent line seen *through* space, these scientists ignore the category gap between the exclusively structural connections provided by science and the absolute of experience analyzed through a structured framework. (2008, 10; italics original)

The "hard problem" of the origin and location of consciousness shows little sign of resolution. The 20th-century near-consensus regarding an ontological supervenience of all mental on material phenomena, in the 21st evidences a wide range of divergence from that hitherto physicalist orthodoxy.[168] In brief, neither the biological sciences nor research on the neural bases for consciousness, nor arguments in the philosophy of mind, provide certainty that consciousness does *not* exist after the dissolution of the body (Restak 18). The best neuroscientific evidence for the neural bases of consciousness describes plausible correlations, but an incomplete account of the dependency, obtaining between some mental and neural functions in a living nervous system (Bitbol

[167] See Gethin (und. p.20*ff*.) for discussion of the *bhavaṅga* consciousness in the process of death and rebirth.

[168] Among others, see Chalmers 1996; Crane, 2001; McGinn 2004; Bitbol 2008; Brogaard 2015; Nagel 2012; Strawson G. 2006, 2017.

12*ff*.). Having plausible evidence for some relations of dependence is still not yet an explanation of the ontogenetic or phylogenetic *origin* of consciousness: we can as yet only assume its absolute termination at biological death.

Buddhist views of post-mortem continuity offer an alternative perspective. While Buddhist soteriology asserts that there is a post-mortem continuity of consciousness, this thesis as well is only a possibility for which there is little or no empirical evidence. In assuming the Buddhist view of continuity in what follows, I presuppose no partisan position: philosophically engaging its posit does not require that it be believed as true or even probable. My purpose is rather to clarify, for Buddhist-philosophical reasons, the position that must, at least in this case, unequivocally inform the *Buddhist* understanding of voluntary killing for the purposes of ending suffering.

§1.2. Buddhism and the consensus view

Where contemporary Buddhist scholarship has engaged the question of voluntary euthanasia and other relevant forms of supposedly beneficent killing, it has often tacitly presumed the consensus view that ending a life sometimes relieves intolerable suffering. The theorist must then ask *which* cases of such suffering would qualify for killing on these grounds, if not all cases do, and why. This approach is reasonable inasmuch as its assumptions in large part cohere with those held by the secular society for which the ethical question is pertinent. However, in this case the Buddhist view of continuity ought to be neither assumed nor side-stepped, but rather engaged.

Why is this required? If intentionally killing people were, from some Buddhist perspective, a solution to the problem of their suffering, then euthanasia—as well as suicide and abortion—might be consistent with or even enjoined by the Eightfold Path.[169] Yet the Buddha forcefully castigates the very idea,[170] and on only three occasions suggests that the suicide of *ārya*-beings is a lethal act that does not incur negative moral consequence (Delhey 2006; Kovan 2018). Is it nevertheless reasonable to hold that there might be

[169] See Westerhoff (2017) for discussion of this theme.
[170] See for example the mass-suicide of monks at Vin. III.65 and SN V.320.

some cases where the lethal relief of suffering is permissible?[171] And if there are such cases, however exceptional, what is the principle that in their case overrides the more fundamental principle of non-killing? Moreover, if there is such a principle, is the first precept still fundamental if it can be justifiably over-ridden for reasons of this principle, if not for others?

In other words, is intentional killing prohibited for some general Buddhist-justificatory reasons (such as its malign effects in *kammic* demerit, consequences for rebirth, ill intention) and the first precept essentially a heuristic to be negotiated by the more or less intolerable individual case—as indicated by some advisory statements of H.H. the Dalai Lama (Bainbridge and Baines 66-69) and Kalu Rinpoche (Sogyal Rinpoche 374), and in other terms, by Harvey (2000, 319*ff*.) and Perrett (2000, 112) among others? Or, does Buddhist thought imply other reasons that make the prohibition in theory *non*-negotiable, so that a maximally 'natural death' is preferable just because it is *prudential* in this, as well as any possible future, existence.

I will defend the latter view. Again, this defence doesn't imply that medical practice fails in its duty of care by rightly desisting from futile palliative treatment. But it does question some of the presuppositions that might inform the justification for positive acts (including acts of omission) that appear to constitute lethal mercy. My argument focusses on the problems that arise when the consensus view meets with Buddhist conceptions of the necessary conditions for the ending of suffering, grounded in a theory of mental causation. Buddhists dispute the consensus view not only because of differences regarding the transcendental status of the post-mortem state, but more importantly because it theorizes different *immanent* conditions of possibility for the ending of suffering, and of conscious experience itself. Because these conditions imply that from a Buddhist perspective post-mortem oblivion is theoretically improbable, many popular conclusions regarding the post-mortem termination of suffering can't be unproblematically assumed.

[171] Reasons for bypassing the prohibition importantly differ in the varied contexts of euthanasia, abortion and suicide; Harvey (2000; *passim*) summarises these with respect to the Buddhist-textual and anthropological record. However, a discussion of the modal status of post-mortem suffering remains globally relevant to all of these.

§1.3. The person as subject and object of states of suffering

Buddhist philosophy of mind conceives of the mental continuum of the ordinary person as determined by deep-volitional formations. These collect mental functions which ontologically reduce to mental *dharmas*. As reals the *dharmas* are the locus of causal efficacy. Our concern is not so much with these causal capacities per se, than with the ontological and causal conditions for their continuity or cessation, and their susceptibility to change or ability to effect it, particularly where these concern the *rūpa-dharmas* with which they are functionally and causally imbricated.

A Sautrāntika account of causally efficacious *dharmas* admits most Theravāda Abhidhamma classifications of the psychophysical properties of persons we have surveyed to this point. If the person just is a unitary nexus of causal networks of psychophysical properties as this view would have it, then the relevant causal series constituting discrete mental states can be analytically reduced to mental tropes or *dharmas*.[172]

Moreover, persons exist only in virtue of our unconscious reification of these sequences *as* conventional *persons*. And we *conventionally* reify mental properties of persons as ultimately physical, both spontaneously and in philosophical and scientific discourse. This is thus a pretheoretical *and* theoretical default understanding of the ontology of the mind for a large portion of scientific, and scientistic secular-rational, society. Hence, if this plausibly characterises the cognitive conditions undergirding an agent's act, then it makes sense *to that agent* to kill in order to relieve suffering, just

[172] McGinn (2004, Chapter 6) postulates an atomic (or trope-theoretic) model of mind or consciousness, entirely independent of Buddhist *dharma* theory yet sharing many of its hallmarks (including a compatibility with psychophysical dualism). He aligns his schema with aspects of physical atomism, in which "Conceivably, the correct atomic theory of consciousness might make the psychophysical divide look even more unbridgeable, and some quite new conceptual framework be needed in order to get a unified picture." (133) Moreover, McGinn (apparently unaware of the over two-millenia history of such a theory in the Buddhist Abhidhamma) is confident that an atomic theory of mind "is the best bet in the current state of knowledge" (117) and that "it seems like a theory-form that *might* actually be true." (135) Cf. Brogaard (2015) for an uncannily similar prospective tropic theory of mind.

because destruction of the (reified) person entails destruction of his constitutive properties, including seemingly mental ones.

But again this physicalist default position is one that we have already noted in the Buddha's rejection of annihilationist theories of the person as expressing a major instance of wrong view. That is, for as long as primordially ignorant self-construction constitutes the mental continuum, causal bases exist for the pre- and post-mortem continuity of that mind, and the unsatisfactory state of *saṃsāra* that is ineluctably its issue. Only *nibbāna*, achieved through the extirpation of the causes of ignorance, can permanently end the causal-constructive process that underwrites mental continuity in the usual sense. The following considers the nature of that continuity.

§1.3.1. Conscious mental states and events

A mental state is part of a conditioned process of cognitive contents, experienced with reference to the subject of that experience and conditioned by preceding, and conditioning future, states.[173] Coseru writes of canonical and subsequent Buddhist conceptions of mental states that:

> Abhidharma traditions […] operate with the assumption that all cognitions are inherently intentional. Indeed, […] all types of consciousness are intentional: they are about an object that must necessarily exist. However, a detailed account of intentionality is only found in later philosophical developments associated with the Buddhist logico-epistemological school of Dignāga and Dharmakīrti (2017)

We are here concerned with mental states identified by their subjects as states of suffering; that is, that take as their intentional object the cognized experience of suffering.

§1.3.2. Mental states as states of suffering

[173] Note that not all mental states are introspectable. Many subpersonal mental states and events cannot ever be subjectively conscious. Nonetheless, those that constitute mental suffering are in theory accessible inasmuch as the given state instantiates suffering *for* someone, so is *ipso facto* intentional.

Neither states of suffering nor of non-suffering have uniform causes; what makes a state a cause of suffering includes the way it is experienced. While there are clear causes of pain, they are not *ipso facto* causes of the various kinds and degrees of suffering of painful states: the very same cause, especially of moral-psychological suffering, can and does produce widely divergent, even contradictory, reports of suffering in different subjects.

Two implications of this fact will bear on subsequent argument. First, the removal of the causes of physical pain does not in itself guarantee the alleviation of suffering, though it may contribute to it. The experience of suffering involves a complex of psychologically reflexive feelings regarding the subject who suffers, many of which might have an only limited basis in physiological states per se.[174] Second, suffering can thus only be a mental state *of a subject*, and not of a biological organism per se. Without the subject-who-suffers it is impossible to speak of the suffering of the person, or its variable and putative causes. Inasmuch as there is a cognitive process both constructing and witnessing such experience, phenomenologically construed as 'me' (Garfield 2015, 92-94), this process necessarily consists in causal relations temporally obtaining between, in particular, mental states. These relations determine how mental states arise, their distribution over time, and what allows them to continue in pre- and potential post-mortem conditions alike—a generic Buddhist account of which I will detail, below, to refute the very possibility of post-mortem oblivion.

On this Buddhist account, a *subject* of suffering need not require or be coterminous with the ontological substrate of a substantive *self*. The empirical subject is just that subjective locus of present conscious experience, or causal series of mental events which *as* conscious registers the felt and cognized qualities of contentful psychophysical states. If there are contentless states of mind, such as deep sleep, coma, brain-death or death itself, as well as the Buddhist *nirodhasamāpatti*, they could neither be known or experienced as such, nor be constituted by any content by which they could be characterized, including an absence-of-content. They wouldn't be *about* anything, *for*

[174] One of the signs of a growing maturity in Buddhist psychophysical cultivation is the ability to experience pain without disproportionate attendant suffering (see Miln. 445).

anyone. On this intentional reading of mental states, these non-intentional states would not in fact be mental states, and certainly not states of suffering.

§2. The Buddhist case for post-mortem mental states and the freedom from suffering

We can summarize the Buddhist position for continuity in the following terms. Post-mortem sentient states may relieve pre-mortem suffering; but they also may not (for example, they may involve involuntary experience of one of the hell realms). Hence, post-mortem relief is uncertain in this first basic sense. Moreover, the Buddhist commitment to post-mortem continuity entails a causal basis for post-mortem states in pre-mortem mental states, so that even where the post-mortem relief of suffering is possible, it *must* have a causal basis in pre-mortem relief. But even where post-mortem relief is in theory independently possible, this may be compromised by other factors. Buddhist soteriology speculates on intermediate states where mental agency, as such, is more or less determined by conditioned mental factors that lie outside the potential for agency.[175]

Given this twofold uncertainty regarding post-mortem mental agency, the pre-mortem relief of suffering, where this is possible, is the most reliable route to post-mortem relief, and *a fortiori*, the relief of pre-mortem suffering. Hence, the preservation of conscious mental states, where these are possible in the course of a natural lifetime, is preferable to their radical interruption through mercy killing. That is, suffering can be most reliably relieved through the conscious cultivation of relief. Prior to natural death, and despite the presence of physical pain, the experience of suffering itself may be more or less within the voluntary control of its subject.[176] Taking that subject's life,

[175] Indeed, it proposes that post-mortem continuity is in most cases determined by wholly unconscious mental structures that can only be qualified by rare achievements of mental discipline, reflexive control and so causal agency (these mental continua being understood to be highly-realized bodhisattvas, *ārya*-beings, or, ultimately, Buddhas). See Harvey (1995, 102-104) for early Buddhist context.

[176] Moreover, the alleviation of even intractable physical pain does not require euthanasia. Ratanakul (2009) notes, "The Buddhist objection to the experience of unbearable pain as the reason for euthanasia is justified. The hospice movement has

however, takes mental control out of her hands.[177] Moreover, for the Buddhist, the state of mind at the moment of death is causally significant in determining the quality of subsequent states and the succeeding embodiment of life itself. We can formalise this account, as:

1. On this account, killing a person does not result in the non-existence of any states whatsoever; rather, the post-mortem condition is characterized by potential sentient states, including conscious mental states.
2. Post-mortem mental states might include mental states of suffering, and states of non-suffering.
3. Killing a person on this account cannot determine which of these states characterizes his/her post-mortem mental states.
4. Hence, on this account, killing a person cannot be guaranteed to obviate his/her states of suffering.
5. Hence, his/her post-mortem mental states might be states of suffering.
6. Hence, killing a person to alleviate suffering might fail to do so.
7. The best way to guarantee the alleviation of suffering if there is post-mortem consciousness is to do so while a sufferer is alive.
8. Hence, refraining from killing a suffering person is a more effective way than killing him/her to alleviate suffering, providing that there are post-mortem conscious states.

This argument demonstrates that on a Buddhist view only pre-mortem mental states can reliably secure the cessation of suffering, and thereby serve the central Buddhist purpose of the cultivation of mental states free from suffering. We now turn to situating these claims for post-mortem continuity in their broader philosophical context so that we can see how Buddhist philosophy of mind entails that neither death nor any other state of oblivion can serve this purpose.

---

shown that we already possess the means to control [physical] suffering and the knowledge to maintain people without severe pain."

[177] This of course assumes a minimal degree of voluntary control and cognitive capacity. Where these are lacking, it is not clear that the relevant suffering is of a kind that the subject *could* identify as apt for mercy-killing, again a subject-relative *sine qua non* for its very possibility.

II. §3. Buddhist-philosophical refutation of the possibility of oblivion

We know that Buddhism rejects the oblivion account of death. But it is not clear whether it is entitled to do so. If Buddhist theorists presuppose post-mortem continuity, why might that continuity not be characterized by a potential oblivious state if, in living conditions, we empirically observe some persons' minds effectively lost in coma or cataleptic states from which they do not emerge? If there are Buddhist grounds for a notion of post-mortem oblivion as a state that plausibly ends suffering, then a Buddhist argument *against* post-mortem oblivion will need to show why this option is untenable.

Accordingly, §3.1 examines the closest theoretical candidate state for a Buddhist correlate to the state of oblivion, which candidate state Buddhist theorists themselves already propose as near-identical with their *own* understanding of death. This section elucidates how this post-mental *nirodhasamāpatti* could be analytically aligned with the purported state of oblivion and thus could be a candidate for a state of post-mortem oblivion. In §3.2 I consider how the purported state of oblivion might be understood as the possible culmination of a sequence of mental causes leading to death, and whether, given the Buddhist model of mental causation, the state of oblivion can be said to thereby relieve suffering. I will argue that it does not. In §3.3 I then ask whether the state of cessation is a state that can nonetheless relieve suffering in Buddhist terms. I argue that it cannot. For these reasons, even the state of oblivion that Buddhists consider nearest to death cannot be used to support the idea that post-mortem oblivion could constitute the obviation of suffering.

§3.1. Post-mortem oblivion, cessation (*nirodhasamāpatti*) and the Buddhist understanding of death

While Buddhism rejects the claim that death is oblivion, by examining the Buddhist understanding of death we can differentiate it from significantly similar states, including purported oblivion. The most basic and among the earliest canonical definitions of death is:

> The physical [*kāya-*], verbal [*vacī-*] and mental [*citta-*] functions [*-sankhārā*] of the dead person […] have ceased and subsided; his vitality [*āyu*] is destroyed, his heat [*usmā*] is extinguished and his sense organs are scattered. (MN 1.296.11-23)

This definition would appear to be compatible with an empirical notion of death as a state of oblivion. In order to see why this is not so, we need to identify a more accurate Buddhist understanding of death and of states that approximate oblivion. In the passage quoted, the Buddhist understanding of death is specifically contrasted with a state in which all sensory, verbal and mental functions have entirely ceased: *nirodhasamāpatti*. Harvey explains:

> This is an anomalous state that, by the combination of profound meditative calming, and of meditative insight, all mental states come to a complete halt. The mind totally shuts down, devoid of even subtle feeling and cognition […] In this state, the heart and breathing stop (M. I.301-02), but a residual metabolism keeps the body alive for up to seven days. (1993, 38)

Hence, in both death and the state of cessation "the physical, verbal and mental functions […] have ceased and subsided." (*op. cit.*) Only the autonomic maintenance of vitality (*āyu*), heat (*usmā*) and purified and intact physical sense-organs (*āyatana*), preserves the possibility of re-emergence from this state into the normal living state. On the Buddhist view, as we have seen, death is that condition in which the disaggregation of these latter three conditions entails the *impossibility* of such emergence (at least for the same person, or psychophysical organism).

However, putative oblivion and *nirodhasamāpatti* are similar in another respect: they are each contentless, subject-less, non-intentional and devoid of conscious experience. The contentlessness of the state of cessation is emphasized by Buddhaghosa, in his commentary[178] on the Nikāya passage quoted above. Harvey continues:

> In the Theravādin view, as expressed by Buddhaghosa in chapter 23 of Vism. (pp. 702-9), cessation is the non-occurrence of *citta* and mental states as a result of their successive cessation (p. 702). A person in this state is without *citta* (p. 707). Not even the latent form of mind present in dreamless sleep, *bhavaṅga*, is said to be present. A person in this state is seen as *only a* body, with *no* mental states whatever. (38)

The state of cessation is an important state for Buddhist philosophy of mind because it is the only living state which completely lacks mental-intentional content. This is why it is so similar to the purported state of oblivion, and why it is important to ask whether the achievement of this state could be a legitimate soteriological goal. If there is a *Buddhist* post-mortem state of oblivion capable of absolutely relieving suffering, this might constitute a potential Buddhist justification for mercy-killing, providing that it could reliably be attained.

The state of cessation is the only available state in the very extensive Buddhist taxonomy of mental phenomena that could constitute a state of oblivion. Indeed, Buddhaghosa claims that the state of cessation is not merely contentless, but intrinsically non-mental:

> He implicitly suggests—and it is hard to disagree—that the intentions of the canonical text's description of the attainment of cessation are clearly to state that nothing mental exists in this condition, and that the use of the term 'mental functions' is therefore meant to exclude not only mental activity but also mind itself, if indeed this is to be considered as something other than its activities. […] For the Buddhist the attainment of cessation suggests not only that there is no reaction to stimuli and no initiation of action, but also that there is no internal mental life of any kind. (Griffiths, 8-11)

[178] MN-a 2.351.14—352.4. Note that the canonical account of death does not ever appear to be contradicted by that of any later body of Buddhist literature. While discussion of *nirodhasamāpatti* is marginal, the basic conditions for it and for death (as the end of the continuum of the organism) remain consistent through the relevant theoretical discussion.

Griffiths' account of Buddhaghosa's reading of the canon, corroborates an alignment of the Buddhist analysis of a definitionally non-mental state with the notion of death-as-oblivion.[179] However, it is important to note a significant difference between the accounts of the arising of these states. As suggested by Harvey, *nirodhasamāpatti* is a state that arises only following a sequence of increasingly rarefied stages of absorption in which intentional

[179] A caveat needs to be noted in the context of Buddhist discussion of the state of cessation, before this alignment is carried further. The theorization of *nirodhasamāpatti* requires explaining how mental continuity is possible following immersion in cessation, if it is characterized by an absence of *all* mental phenomena and if mental continuity requires contiguous temporal-causal relations between mental events and episodes of the same psychophysical continuum. This was a problem for the classical theorists of cessation, who had to consider whether it was plausible to conceive of a non-conscious but nevertheless mental substratum that could qualify as the causal link between pre- and post-cessation mental phenomena. The theorization of subliminal or nonintentional consciousnesses (notably the *bhavaṅga-citta* and *ālaya-vijñāna*) arose to account for *post*-cessation mental continuity in the absence of direct mental causation during cessation. The classical discussion of this problem, among Buddhist theorists of different schools, is complex and contentious, but its details need not detain us here. Our problem might be that permitting the existence of such a substratum in the state of cessation would appear, if the state of oblivion is utterly non-mental, to threaten its analytic alignment with that of cessation. However, a non-conscious but causally efficacious mental substrate that allows mental function to re-occur explains the emergence of *post*-cessation mentality, not the state of cessation as such and how it arises, which is our sole concern here. The theory of *subliminal* mental continuity does not qualify our own discussion of a synchronic state of mindlessness (this is true even if cessation is not a permanent state). For purposes of conceiving death-as-oblivion in Buddhist terms, we need not be concerned with the *post*-cessation continuity problems of *nirodhasamāpatti* that ancient commentary and modern scholarship articulates. As Griffiths (1986) notes of the wider Buddhist context:

> if consciousness is identified with empirically perceptible mental events, and if all mental events must be intentional in the sense of possessing an object—*which is, in essence, the canonical view*—then there are clearly many states in which there are no mental events. (38, my italics)

If an intentional model of mind is the Buddhist canonical view of the mental (the view also of Arnold, 2014; and Coseru 2012) then we can take it, as Griffiths does, that these many non-intentional states must uncontroversially include at least the state of cessation. If there is no sense in which cessation allows for intentionality then the theoretical posit of quasi-mental continuity *during* cessation (arguably entailed by the Buddhist theorization of *post*-cessation continuity) can be safely put aside without compromising what follows.

content is progressively withdrawn from conscious experience.[180] The state of cessation is the final (eighth or ninth, depending on the account) culminating stage, no longer a properly mental state, and *cannot* be attained otherwise.

Before returning to these causes of *nirodhasamāpatti*, we need to ask what the causal bases for death-as-oblivion might be hypothetically. That is, we already know *that* sheer oblivion is rejected given the posit of postmortem continuity, but we have not determined why Buddhists reject it. It is only by understanding how *pre*-mortem events might cause oblivion that we can understand why this is impossible in Buddhist terms. We will then be able to ask whether *nirodhasamāpatti* is a possible postmortem state for the permanent relief of suffering, and so whether mercy-killing could be potentially justified on its basis. Finally, we can ask whether that relief of suffering is of a kind that Buddhism considers soteriologically valuable. We now turn to the first of these considerations.

§3.2. The temporal-causal constitution of mental states approaching death, and the termination of suffering

On a Buddhist view, each psychological state is caused by a precedent complex of psychological states, and gives rise to a subsequent complex of states. As the Buddhist view assumes post-mortem continuity, then the immediate state of death cannot be one of oblivion, but must entail some degree of continuity between pre-mortem and post-mortem states. If the Buddhist view conceives of a possible, if uncertain, state of post-mortem relief of suffering, how could this occur?

Coseru summarizes the background to any Buddhist understanding of the causal function of consciousness:

> cognitive awareness (*vijñāna*) plays a double role: it is both the stream of conscious episodes that characterize the life of the mind and, at the same time, the principle of continuity of

[180] These stages are most typically classified as the nine successive abodes (*anupubbavihāra*) or attainments (*anupubbanirodha*), or alternately, the eight liberations (*vimokkha*). The former include the four *jhānas* of form plus the four of formlessness ending with the final state of cessation. The latter replaces the first set of four *jhānas* with a threefold set of meditative visualisations (see DN 2.71.2-17).

> awareness, by virtue of which some sense of identity is maintained over time […] Thus cognitive awareness provides the basis for further cognitive activity, while also supporting the formative karmic activities (*saṃskāra*) of sensation, perception, volition, etc. that perpetuate the life cycle.
>
> The double function of this cognitive awareness as a conditioned and conditioning factor within the overall dynamics of the five aggregates is explained in causal terms by means of an analysis of the underlying factors that play a role in the arising of each cognitive event. The lists of the types of causes, conditions, and results in the Abhidharma discourse of causality vary only slightly from school to school. (2012)

In the case of the ending of pre-mortem suffering states *at the moment of* death, the first of the dual functions Coseru notes above (a *passive* dimension of the mental), consists in momentary *cittas* subtending those cognitive-affective mental factors that instantiate afflicted tendencies (Sk. *kliṣṭa-manas*). These tendencies, and the states they constitute, are the mental objects of the subjective sense of suffering. These states are conditioned by previous such states. Nonetheless, the mental objects constitutive of this sense of suffering are modifiable by their subsequent appropriation, enabling the incremental revision of their subjective aspects. The afflicted tendencies are the mental objects that, by virtue of the second of the dual functions identified by Coseru (an *active* dimension of the mental), form the cognitive-affective basis for a possible extirpation of the suffering they instantiate.

A causal account of the termination of suffering mental states might thus run as follows: first, the afflicted tendencies can be identified by higher-order states of awareness that take them as their objects; second, a combined awareness of them *as* afflictive and the conscious cultivation of their antidotes in self-correcting subsequent mental states could attenuate the suffering these former states produce.

The oblivion thesis holds that purely physical causes (the cessation of respiration, heartbeat and brain-function) cause death-as-oblivion, and thus the termination of states of suffering through the complete elimination of the possibility of thoughts. Buddhist philosophy of mind, however, rejects the possibility of the series of mental processes ending in a moment following an ultimate moment of consciousness, *except for* the immanent arising of *nirodhasamāpatti*.[181]

But we have seen that the attainment of the state of cessation can only interrupt that causal-constructive process of mental continuity by virtue of extraordinarily skilled psychophysical control, and so to that degree eliminate the occurrent experience of suffering. Although *nibbāna* also ends the constructive activity of the *saṃkhārakhanda* and all possible further causes for the *suffering* mind, if not consciousness per se, the state of cessation ends only the function of the conscious mind, and so only the possibility of occurrent suffering. It does not eliminate the *saṃkhārā* that cause the conscious mind to re-emerge from its immersion in non-consciousness, and so does not eliminate *future* suffering.[182]

As Coseru notes, "on the model of the homogeneous and immediately antecedent condition […] a particular *dharma* conditions that arising of a *dharma* of a similar type: a moment of joy, therefore, may only give rise to another moment of joy." (2012, 19) Hence, on a Buddhist view of mental causation, the homogeneous and immediately antecedent condition (*samanantarapratyaya*) for the continuity of the mental continuum, determines the possibility of radical mental privation leading to, ultimately, the cessation of all mental phenomena, and not purely physical causes, as the oblivion thesis holds.

In the context of Western discussion of the person and personal identity, McMahan (2002) also describes in highly similar terms two necessary and sufficient conditions for personal mental-psychological continuity:

> The concept of a psychological connection […] is usually held to set two criteria that a later mental state must satisfy in order to form a psychological connection with an earlier mental state. One is that the later state must be causally dependent on the

[181] The attainment of *nibbāna* cannot be understood as a possible analogue of this immanent causal process, as it (both with and without 'remainder') is unique in being a state by definition transcendental to the conditioned field of causality.

[182] However, according to Vism. (XXIII) the attainment of cessation is such that its subject is either an Arhat or near to one, so only minimally conditioned by volitional formations of an unwholesome kind.

> earlier one. The other is that the later state must have the phenomenological character and behavioral consequences appropriate for a normal successor state. The characterization of what is appropriate may differ from one type of psychological state to another. […] I will use the general term "qualitative similarity" to express this second requirement. Thus the usual view is that, for example, a later belief forms a psychological connection with an earlier one if the later one is qualitatively similar to and causally dependent on the earlier one. (60)

These are criteria for *psychological and causal connectedness* between mental states that clearly agree with the Buddhist one of the homogeneous and immediately antecedent condition for mental continuity. The difference between McMahan's account and the Buddhist model of psychological continuity is that the Buddhist holds that the purported state of death-as-oblivion is impossible as an effect of *immediately precedent* states of pre-mortem suffering.

§3.3. Oblivion, cessation and *nibbāna*

If *nirodhasamāpatti* is a state of occurrent non-suffering, could this state be achieved postmortem, and be a permanent relief of suffering like *nibbāna*? We have seen that in *nirodhasamāpatti* the three vital functions of heat, life-principle, and the sense-faculties are still present in the living body of the (non-)'subject' of cessation, and that precisely the 'dispersal' of these is what defines a person as having died: hence, the presence or absence of these is what distinguishes the former from the latter. Indeed, Buddhaghosa claims that the subject of cessation must, in order to successfully attain it, ascertain that he will not die during immersion in the state:

> The monk should consider very carefully the limit of his life's duration. He should attain [cessation] only after thinking: Will my vital functions continue for seven days [ie. the standard length of time that a practitioner remains in the attainment of cessation] or not? For if he attains [cessation] without thinking whether the vital functions will cease within seven days, then since the attainment of cessation is not able to prevent death and, because there is no death within the attainment of

> cessation, he then emerges from the attainment of cessation. (in Griffiths, 39-40)

Clearly *nirodhasamāpatti* is not in practice permanent in the sense that the oblivion thesis holds postmortem oblivion to be. Buddhaghosa claims, without explaining why, that it does not last much beyond seven days, and he is not contradicted in other accounts. It is clear then that the state of cessation is, according to the Buddhist tradition, an impermanent state of non-suffering, so fails the condition for a permanent state of oblivion. However, it remains unclear whether a purely 'mental' cessation is theoretically re-attainable *after* death, given the postmortem continuity thesis, and given that Buddhaghosa only claims that death cannot occur *within* it. Is the arcane possibility of a (highly trained) consciousness voluntarily ceasing postmortem, even if granted, equivalent to the relief from suffering denoted by *nibbāna*? Answering this question addresses the third and final condition for a Buddhist state of oblivion which might conceivably justify mercy-killing, even if that case has by now become more than highly theoretical and, practically, negligible to this-worldly ethical concerns.

According to Buddhists, to assert the equivalence of *nibbāna* with *oblivion* is to commit the grave error of annihilationism. That is, it would be to assert that when, at death, psychophysical processes cease, so too does all possibility of mental continuity (*cittavīthi*), and hence also the possibility of the attainment (through more than one lifetime) of the salvific project of achieving a permanent freedom from the primordial causes of suffering.

Early canonical discussion of *nirodhasamāpatti*, and subsequent commentary, however, often suggested its qualitative equivalence with *nibbāna*. Buddhaghosa argues that as the state of cessation necessarily lacks "the occurrence and dissolution of formations" (Vism. 1673.5-7) which are both caused and impermanent, then it also lacks the mental bases for suffering, given also that purely physical causes of pain might be assumed to be insensible to the person in cessation. Buddhaghosa asserts that cessation utterly obviates occurrent causes of suffering, and so entails, during the period of cessation and while the person immersed in it is still alive, a state of mindless happiness, which he compares with *nibbāna*.

Unsurprisingly, this apparent aligning of *nirodhasamāpatti* with *nibbāna* was also vulnerable to charges of annihilationism, just because of the potential correlation of their 'mindless non-suffering' with a purported state of postmortem oblivion, noted above. Hence, Buddhaghosa's commentator Dhammapāla qualifies Buddhaghosa's claim by suggesting that 'happiness' in this context signifies only a mere absence of suffering (*sukhaṃ ti niddukkhaṃ*),[183] and not a psychological affect the positive content of which by definition distinguishes *nibbāna* from all other possible mental or non-mental states. Griffiths (29) too recognizes that the state of cessation is not psychologically identical with *nibbāna*, or any kind of cognitive-affective intentional states at all, including happiness, but rather their radical absence.

Dhammapāla also pointedly qualifies Buddhaghosa's claim by observing that cessation could only at best approximate to post-mortem *nibbāna* (without remainder) rather than pre-mortem *nibbāna* (with remainder) because the latter is also characterized by an arhat's or Buddha's mental and physical activity. According to Dhammapāla, if cessation is definitionally a living state it can only be likened to *nibbāna* without remainder, and if this only refers to a *post*-mortem enlightened state then the equivalence between cessation and *nibbāna* cannot be literal. For him, Buddhagosa's likening of cessation to *nibbāna* can only be metaphoric, as though they were the same state, not *that* they are. Dhammapāla's qualification of Buddhaghosa clearly suggests, for our purposes, both that a postmortem state of cessation is untenable, even if one were to hold a *nibbāna*-cessation equivalence, and that such equivalence could not be literal.

Even though cessation and *nibbāna* each constitute an extinction of occurrent suffering, three uncontroversial criteria disqualify their equivalence: explicit Buddhist claims regarding which there is no other authority to doubt. *Nibbāna* is permanent, conscious and soteriologically absolute. Cessation, on the other hand, is an impermanent, non-conscious and soteriologically limited (if remarkable) state. Apart from the fact that they are non-suffering states, they have nothing else in common. For these three basic reasons any

[183] Vism-t. 1673.22. Further quotes from Dhammapāla refer to the same text.

substantive alignment of cessation with *nibbāna*, and thus a potential postmortem state of oblivion, fails.

III. §4. Conclusion: cessation of the mental, and the cessation of suffering

Despite this failure of cessation as a potential Buddhist candidate for postmortem oblivion, some implications emerge from the preceding discussion that bear on reasons for exceptions to the prohibition of killing. We noted that the only reason *nirodhasamāpatti* can be a contentless state at all is because the virtuoso meditator, who alone is able to achieve it, has already attained those mental states characteristic not of ordinary people but of those who to a very high degree have already extirpated the mental causes for suffering, *before* entering into cessation. As Griffiths writes:

> Buddhaghosa's answer [to the question why an increase in depth of analytic knowledge of Buddhist truth-claims leads to the attainment of cessation] is that the necessary conditions for entering the attainment of cessation are […] first, that one has reached one of the two highest stages on the Buddhist path […] the idea here is that anyone less spiritually advanced than this would be hindered by the continued existence within the mental continuum […] of various passions and defilements. Second, that one be fully adept at the cultivation of both insight and tranquillity, which is to say that one must be master of both the enstatic and the analytic methods of meditative practice and that one must therefore have eradicated all passion and all ignorance or intellectual misapprehension. (24)

Three consequences are noteworthy. First, Buddhaghosa's description of the necessary conditions for cessation suggests that only the mental continua of very highly-attained meditative practitioners qualify for it. Failing the high-meditative qualifications Buddhaghosa identifies, a Buddhist state of oblivion is untenable for those ordinary beings who seek the alleviation of suffering in death.

Second, Buddhaghosa's response confirms the prominent function of subjective introspection in the arising and identification of suffering mental states, and the normative centrality of *cetanā* in the ethical evaluation of the class of lethal acts concerning not merely the existential decision entailed in suicide, euthanasia, and abortion, but Buddhist normativity in general. Significantly different kinds and degrees of subjective intention, and the qualities of mind that inform them, for Buddhist ethics morally qualify the normative force, and culpability, of those lethal acts.

Third, both these points recall my argument elsewhere (Kovan 2018) regarding *ārya*-suicide, where a similar soteriological qualification theoretically exonerates the *autothanasia* of *arhats* but thereby *excludes* ordinary suicide from that justification (Vin. A.467; see Kovan 2018, 646-648). The canonical record expressly prohibits the *euthanasia* or *assisted suicide* of any sentient beings (see Vin III.*68ff.*, 71-72, 79, 85-86), including those incurably ill or virtuoso monk-meditators who are initially discouraged from suicide by intermediaries of the Buddha.

These meditative adepts are not eligible for permissible euthanasia or assisted suicide just because the only persons qualified to know that they are in fact *ārya*-beings are by definition themselves *as ārya*-beings, and not those who do not possess that status, and who would be presuming wilfully to cause or assist at the death of beings with whose mental continua they are epistemically unacquainted, and so unable to asses qualitatively. Buddhaghosa's claims regarding the necessary conditions for entering cessation thus confirms the significant causal and soteric differences between *nirodhasamāpatti* and the purported state of death-as-oblivion, despite their functional similarities.

Acts of lethal mercy prove misguided, on this Buddhist view, inasmuch as they presuppose that it is possible thereby either to produce a complete cessation of all mental states, which on this view is impossible, or a permanent state of *nirodhasamāpatti*, which we have seen to be untenable and would not in any case be regarded as a soteriologically definitive cessation of suffering. We cannot know the facts of post-mortem continuity; however, given a generic Buddhist understanding of consciousness, mental states and their continuity, and their causal constitution, there can be no philosophically justified Buddhist grounds for mercy-killing on the ground of ending mental states of suffering.

CHAPTER SEVEN

The person as representation: the identity of persons as symbolically-constituted objects of killing

*

I. §1. Introduction: the ascription of identity

In this chapter I turn to a third major category of the person as the intentional object of killing: cases where, in professing or putatively instantiating determinate properties, persons *represent* ethnic, political, religious, or ideological identities. On this basis, these persons are judged an existential threat, intrinsically bad, or otherwise unworthy of staying alive, and so warrant being killed. These reasons are more abstract than those we considered earlier. They appealed to comparatively more concrete causal relations between killing and the physical body per se: as the object of hostile somatic affect or hatred (Chapter 4), of retributive punishment (Chapter 5) and of intolerable suffering (Chapter 6).[184]

Unlike those, in what I will call cases of representational killing (RK), persons stand in for any number of abstract values and goods, beliefs, symbolic objects and properties, or ideological and religious truth- and value-claims. They represent an abstract property that can be summarized under one or other racial, ethnic, religious or political-ideological identity. For instance, a person represents being Caucasian, Buddhist, atheist, anarchist and so on. This sense of representation informs Thomas Nagel's broad claim for the justified grounds of lethal war-combat in endorsing

> the principle that hostile treatment of any person must be justified in terms of something *about that person* which makes the treatment appropriate. Hostility is a personal relation, and it must be suited to its target. One consequence of this condition will be that certain persons may not be subject to hostile treatment in war at all, since nothing about them justifies such treatment. (1979, 64; italics original).[185]

Nagel claims a property-predication ("something *about*") of the person as the justified basis for hostile treatment of that person. Any number of beliefs, desires, intentions, hopes and other intentional modes might be constitutive of identity. Only persons can represent these, but because identity as such is an abstract property it requires *qua* person association with something perceptible, specifically that person's perceptible body, to be represented concretely to concrete others.

The person's body thus functions as a concrete token in a cognitive act of symbolic substitution for one or more of these abstract objects. In the

[184] The first of these three categories entails predominantly negative or unskilful, the second ostensibly neutral, the third compassionate or positive, intentional affect, together representing a sliding scale of highly negative and determined to (in theory) positive and voluntary psychological-affective motivation. However, we saw that the latter two intentional categories were also compromised in Buddhist terms by essentially unskilful intention.

[185] Nagel's claim is mediated by the conceptual apparatus of just-war theory and the international law of war, but its observation of a fundamental principle holds across the intentional range of RK, particularly as it bears on the notion of justification.

remainder of §1 I first explain the object of RK; second, how the lethal exploitation of the living body is RK's causal nexus; and third, how the co-ascription of identity is the social-cognitive context for RK's putative achievement. In §2 I consider these features of RK in terms again of a mainstream Buddhist-philosophical account[186] and develop a critique RK as a whole.

§1.1. Abstract objects and persons

Abstract aspects of identity bear a transactional or instrumental, and not intrinsic, relation to the persons who, *as the body-that-represents*, represent them to the wider cultural-symbolic order. Different persons can instantiate an identity (being Australian, an Officer of the 5th Regiment, an Anzac) in order to serve the various kinds of abstract function (such as citizenship, or military and historical status) that persons, in their various kinds of lifeworld, happen to enact. Bearing this identity does not rely on something intrinsic to the psychophysical properties of the person; it is imaginatively endowed, or ascribed, to given persons fulfilling the relevant roles (political-cultural, military, historical) it designates, and the concrete serving of these abstract roles can be substituted between persons and contexts, through time and place, depending on the time-relative state of affairs.

Many of these abstract functions of persons depend on the context of larger abstract objects (a nation, an army, a history). Those things are

---

[186] To summarise: this account takes in foundational Śrāvakayāna tenets and canonical (Nikāya and Vinaya) claims (for which see Part I *passim*); their formalization in the psychological and phenomenological accounts of the Abhidhamma, and their commentarial elaboration in Theravāda and Sautrāntika schools and exegetes such as Buddhaghosa and Vasubandhu; the specifically epistemological emphasis of the Pramāṇavāda in Dharmakīrti; and, less directly, where these otherwise intersect with Mahāyāna tenets in the Madhyamaka. What is then excluded from this account are specific doctrines that mark out the Vaibhāṣika Abhidharma (and to which Sautrāntika is opposed) as well as idealist claims of the Yogācāra (despite their variable presence in aspects of some works of Vasubandhu and Dharmakīrti). This account is thus representative of a large and central body of Buddhist doctrine, and hence the basis for a Buddhist account of intentional lethality as described.

constituted or populated by persons (or fictional personages) but are not themselves concrete, and if there is no concrete object denoted by the nouns *nation*, *army*, *history* or *fiction* then the identities of persons that themselves represent or constitute these abstract nouns are similarly not concrete.

In the Buddhist analyses of the person we have considered above, we have also seen that persons *qua persons* are not concrete, but merely imputed upon the aggregates of *nāmarūpa* (another abstract object) that heuristically designates the living being in terms of its physical and sentient-conscious properties. Ascribed beliefs or identities conceived as universals are thus ontologically encoded *in* and *as* the embodied person in a newly symbolic sense. This ascription of symbolic identity is explicit for example in acts of war, terrorism, and counter-terrorism, where offensive action is engaged on the basis of such universals unilaterally or mutually ascribed to persons. Peculiar to RK however is that even before such action is inaugurated, existential threat is predicated of the relevant persons merely because of the identity they represent and not always because of prior offensive actions their constitutive beliefs and values may have prompted. This causal and justificatory point distinguishes RK from lethal acts of self-defence: in RK *symbolic representation alone* is in theory sufficient as a reason to engage and thence kill the (often mutual) enemy, even where individual persons so representing the enemy may not have acted aggressively to justify offensive action.

Hence, the person as the object of killing in these cases is cognitively engaged as an individual *qua* instance of a universal. But universals are ontologically separable from this or that person who contingently represents them at any given place and time. By killing the individual person, what happens to the abstract object so represented? As causally inefficacious cognitive phenomena that can only conceptually function *as* universals by not being susceptible to modification or change,[187] the abstract objects of identity causally implicated in lethal acts cannot themselves be killed or causally modified, but the persons who represent them can be.

[187] Dharmakīrti's discussion at PVSV *ad* PV 1.144a (Gnoli 69.21ff.) details how universals cannot change reference because direct reference to them allows thought and language to indirectly refer to the individuals instantiating them.

Is this relation of representation between universals and embodied persons a necessary relation? Despite the causal bases for successful predication, the relation of representation between (the bodies of) persons and the relevant belief or value ascribed to them that is exploited in RK, is itself arbitrary: it is not ontologically necessary that beliefs and values take the concrete human body as their proxy. They could conceivably exist as purely abstract objects, and be contested via other non-physical means of negotiation.

Identity is thus identified with persons' bodies in lethal conflict in something like the way words of natural languages linguistically represent things: the relata of representation might have been otherwise than they are. (We will have reason, below, to qualify this claim.) In Buddhist terms this is understood as a contingent semiotic convention (*saṃketa*) of the symbolic order of linguistic-significatory systems. As it is, however, human cultures are willing to exploit the living body as a performative means of symbolic contestation: the cognitive *and* existential feature that uniquely defines RK.

§1.2. Exploiting the living body

Neither party to any grave dispute would have reason to feel coerced by the beliefs and values of the antithetical other if they didn't also mutually value something neither wants threatened: being alive itself. While this valorisation of life is the mutually-held value by means of which the symbolic dispute of RK is mortally engaged, it is nevertheless *as* that value *subordinate* to those abstract beliefs and values in virtue of which it is sacrificed. As noted in earlier chapters, in a Buddhist context that value of life takes the specific soteriological form of an inherent potential for the extirpation of ignorance. Hence, it is also the primary value that on a Buddhist account is sacrificed in RK, a fact that, as we saw in the Introduction, *prima facie* contravenes the first precept prohibiting taking life.

While it might seem obvious that, in representing abstract objects, persons cannot already *be* what they represent, there are many cases of this representation relation that are not so straightforward. Persons can change their religion, political beliefs, even ethnic affiliation, and even some biological properties—from hair colour to hearts to gender, via cosmetic or medical technologies. Non-intrinsic ascriptions are by definition mutable, and this is still more true of properties that seem to be determined by mental or psychological criteria.

But ascriptions of self-identity, or those of other persons, can also be thought to supervene on a more primary conception of personal properties. For example, many normative representations of identity pertaining to race or ethnicity depend upon biological-genetic properties that might be thought to be intrinsic to their bearers. These are of a kind that implicit bias theory, for instance, recognizes as frequently informing cognitive constructions of the person as *inherently* other to the self.[188] Are some represented properties intrinsically physical so that, for example, ethnic or associated religious identity can arguably be claimed to be inseparable from racial identity?

In the Part II Introduction I argued that all intentional objects of the lethal act are directly or indirectly mediated by mental contents which serve as motivating reasons for those acts. This includes cases where their referents exhibit overtly physiological or racial-biological properties, understood as significant for killing because they instantiate normative claims entailing propositional attitudes not unlike those we have encountered earlier: that criminals of a certain kind are inherently *worthy* of execution, that intolerable suffering is inherently *unacceptable*, and so on. In a case of identity-predication such as being congenitally disabled, for instance, we saw that the intentional object of killing refers to its normative re-constitution such that being congenitally disabled is inherently undesirable.

Without taking these physical properties to be at the same time normatively valenced, there would be no basis for the reasons agents have (in this case) for intentional lethal acts. While the intentional object of RK can entail reference to a person's physical properties, these are in every case normatively re-constituted by intentional attitudes such as evaluative judgement, which are cognitive and normative functions *of the ascriptive agent* not necessarily entailed by their ascriptive referents. These attitudes might and do differ considerably among ascriptive agents, including in the synchronic sense whereby a person represents multiply at the same time.

[188] For an ethical discussion see Appiah 2005.

§1.3. Co-ascriptive asymmetry

The ascription of personhood requires determinations on the basis of which beings are understood to *be* persons. As we have seen, minimal Buddhist identity-conditions for personhood include the five *skandhas* functioning as a self-conscious sentient being. Likewise, the intentional object of RK is variously constituted by 'something about' its object-person, and necessarily entails the sense in which the person is in every case conceived *as* this particular person for *this* particular agent of ascription. The ascription of identity is thus a relation between ascriptor and object of ascription, and this relation can also be reflexive. To be who I conventionally am in the intersubjective context of RK in which I can determinately be a person at all, requires that my identity be *co*-ascribed by myself and by others, and for those ascriptions to mutually agree at least in some cases to retain conventional validity. Some identity ascriptions, however, are simply false or inaccurate (I may not be the collaborator I am believed by my persecutors to be).

This reflects the distinction between the referent as the entity (*bhāva*) external to the mind (its 'engaged' object) and to which it is intentionally directed, and its status as the intentional object of thought (*ālambana*), or 'appearing' object. Different epistemic agents will refer to the same object under different descriptions, or engage the same object by means of different appearances. RK thus ineliminably involves cognitive features determined by reflexive ascriptions of the self and extrinsic ascriptions of others, with regard to the same referent of self or other. This entails a potential inconsistency between intentional ascriptions and their value-assignments, and these are implicated in the wider social construction of the person-object of RK as a necessarily public abstract *and* concrete entity.

Intensions co-constituting the intentional object cognised by the agent-subject of RK are thus potentially and actually constitutive of the agent's reasons for killing. But this latter implication of the *intensional* object might falsely constitute the person as apt for killing, contrary to the sense in which it is taken by the ascriptive agent to correctly represent who the person really is. This dissonance between what is thought to be, and actually is, the case about the person, is significant for a critical Buddhist account of RK. The following provides a fuller explanation for this critical account of how the universal that represents in RK is to be best understood, in its cognitive origin as well as its cognitive function.

§2. Relativisation and reification of identity

The ascription of identity serves as a more or less successful means to various social ends. As we have seen, however, the person whose identity is ascribed thereby may be taken to represent various and conflicting identities. It does not follow from the fact that the person *represents* one or more of those identities that those identities are actually *instantiated* in the person.

This is a claim about the ontology of any person *qua* person: that it is not the case that the person as a concrete individual (*vyakti*) occupying a portion of space-time in reality *is* or can *be* all of the intentional-intensional ascriptions predicated of her. Rather, they exist as cognitive superimpositions on the person and are only mistakenly reified *as* the person, who as their referent is merely their *intentional* nexus, not their ontological substrate. For example, the person designated a Taliban fighter will represent properties mutually ascribed by any number of ascriptive agents (such as being Muslim, bearded, male, mid-aged, of medium height and so on). But only some of these agents will ascribe the property *being an enemy* to the same referent, where others won't, and might rather ascribe the property of *being a friend* to the same person. That is, there is nothing about the person that makes him inherently 'an enemy', and thus inherently worthy of being killed as one.

Buddhist nominalists argue that the universal (such as *being a person*) is a conceptually constructed entity which has no real existence beyond its function as a linguistic convention: my being a Democrat is a purely conceptual posit and the inference I can draw from it that I am also a person is similarly purely conceptual. The degree to which universals conceptually engage reality at all is the degree to which they depend ontologically on the exclusively real particulars that constitute the individual. But there is a cost to be paid in terms of the ontological occlusion of the real. Manorathanandin paraphrases Dharmakīrti to describe what this is:

> Existents that are intrinsically distinct appear as though non-distinct, with some form [not really their own. This is because] their plurality is obscured by that veil (*saṃvṛti*) which is thought—which is based on distinct existents, but whose phenomenal content (*pratibhāsa*) is a unitary object—that obscures with its own form a form that is other than it. Based on the intention (*abhiprāya*) of that [thought], a generality (*sāmānyam*) is said to exist; but that [general form] ultimately doesn't exist in the way imagined by that thought. (in Arnold, 134)

Universals are not only unreal, they also occlude the true existence of the particulars which alone provide them epistemic warrant.[189] The case of lethal action in RK, which founds its putative justification in the conventional relation between the person and the person-representing-a-universal, specifically entails this distinction between real particular and unreal universal by *exploiting the particular for the sake of the universal*. But that exploitation is also problematized by the same distinction, inasmuch as RK extends beyond a mere representation of the universal to actually destroy the individual on whose behalf the former can even be posited.

That is, cognition of the object only seems to engage real particulars, leading the perceiver to believe that the real object exists as it appears to *as perceived*. This mistaken cognitive substructure forms the condition of possibility for even being able to perceive persons as those abstract identities which, as we have seen, form the crucial part of the intentional objects of RK. Moreover, despite seeming in this way to perceive an individual in the mental cognition of what is actually a universal concept, this cognitively entrenched imputation of the universal leads the subject to conceive of its real object as similarly unified, constant, and enduring (Prueitt 320).

---

[189] The constructedness, and so ultimate unreality, of universals need not for that reason be epistemologically impotent. Dharmakīrti (in his Sautrāntika guise) accepts that there can be more or less non-deceptive conceptual constructions on the basis of paradigmatically true perceptions of an externally existent supporting-condition (*ālambana pratyaya*), in virtue of its real perceptual representations (*ākāras*). It is in virtue of this degree of the reality of representations that human cognition is for Dharmakīrti able to engage and manipulate worldly items with a commensurate degree of success. But this might not be the case in all worldly transactions involving the assumption of universals in causal operations with real objects.

Taking up Manorathanandin's image of a veil (in Arnold's translation), we could analogically imagine the referent person as *simultaneously* wearing multiple imaginary costumes representing multiple different identities, depending on differing ascriptions of identity. However, the ascriptive agent does not perceive the referent person as *merely costumed* by that identity in an agent-relative or merely conventional sense; that would require the epistemic recognition that one's social identity is just the sum of contingent abstract properties instantiated in or as one's singular personhood.

But to *perceive* someone I take to be my enemy correctly, as *merely relatively* my enemy, does not characterise the sense in which in RK the person is ascribed that identity. For the ascriptive agent the costume of identity qualifies the person not in properly agent-relative terms but as ontologically instantiating that identity as something inherent to the person as such. In other words, the ontological fiction, enabled by the imputation of the universal, of merely conventional identity is not for the ascriptive agent of RK in any sense fictional. Rather, killing the concrete individual on the sole basis of the abstract property ascribed to him, explicit and even performatively emphasised in RK, demonstrates a cognition of the spuriously real, or reified, and not merely relative instantiation of the universal in the object-person of RK.

Who a person 'really is' is relevant if we are concerned with the veridical and not spurious ascription of conventional identity. Valid ascriptions of identity must satisfy objective criteria, e.g. that person *p* has red hair. But perhaps an epistemic agent has always held the superstitious belief that red hair has extra-terrestrial origins. In that case, the property-predication *p* is a redhead, the associated premise that redheads are aliens, and the resultant inferential ascription of *p*'s identity *as alien*, have differing truth-values. The agent's correct ascription to *p* of an actual property gives rise to an inferential ascription that is false: *p* is not an alien because redheads are not aliens.

Holding *p* to be a redhead is not an example of erroneous awareness when *p* has red hair, but holding *p* to be therefore an alien is an error. We have seen that on a Pramāṇavāda account knowing whether cognitions engage or refer to causally efficacious objects makes a difference to knowing whether an intentional act is predicated on a sound cognitive basis, and its effects congruent with what is intended thereby, so that if for example I intend to kill *p* I will thereby rationally kill a conventionally-existent person rather than a non-existent alien. Identity-ascription must also join with an attitude, feeling, and normative judgement, to provide some reason for the commission of RK.

Indeed, it is by virtue of the *normative* ascription of identity that RK is given sense and enters into the space of reasons: the agent of RK so acts just because its object represents something he judges *ought* to be attacked, which normative judgement other agents do not entertain. In sum, to impute the universal to an individual for purposes of the ascription of identity, which ascription then renders that individual apt for killing, the agent of RK does three main things:

(1) ontologically *reduces* the individual to the ascriptive identity relevant for purposes of RK (equivalent to reifying the individual as the universal) and thereby

(2) *valorises* the conventional existence of the universal over the ultimate reality of particulars by which any individual is constituted. By killing the individual RK

(3) absolutely *subordinates* the person ethically to a social-cognitive project of reifying the universal as a dominator value.

These can be taken *en groupe* as Buddhist badmakers of RK, at least in a metaphysical register. As noted, all three elements are in *prima facie* tension with primary Buddhist claims concerning the real and unreal, the true and erroneous, the skilful and unskilful. However, the cognitive reification of the intentional object of identity as such is not limited to RK; it explicitly occurs in many areas of human endeavour (for example, in sports competition, politics, and bureaucratic organisations involving fixed hierarches of power and thus systemic control over others). In the sense purely of the reification of identity, RK is not altogether unique. We could even grant that an agent of RK is potentially cognisant of the ontological and epistemic caveats summarised above, but commits acts of RK in spite of this awareness.

What then makes RK unique in terms of its cognitive grounds for enaction[190] is that unlike these other cases the reification of identity serves the specific end of killing persons *because of* that identity. In the context of the Buddhist project of the extirpation of suffering, whatever value RK putatively represents in killing the individual-*qua*-universal cannot, however, be seen to be ethically commensurable with the person's capacity to engage this liberating project—Buddhism's very *raison d'être*—as a person-*qua*-individual. In light of these claims, why does the proponent of RK in this way valorise the conventional existence of the universal over and above the unique existence of the individual? We can answer this question by considering in broader terms what the proponent intends to achieve in the commission of RK.

II. §3. Valorising the universal (*sāmānyalakṣaṇa*) over the individual (*vyakti*)

§3.1. What RK intends: social power and its reconfiguration

Mediated by the beliefs, values and other abstract objects the identities of both agent and victim signify, agents of RK kill persons for purposes that we might identify in three related senses. First, they kill in response to a belief that certain identities are intrinsically bad or evil, and so must be attacked in the form of the living persons who represent them; second, in order to demonstrate thereby that the ascribed identity is weaker or inferior to their own; third, to persuade, coerce or blackmail living witnesses into thinking, believing or behaving as the agent wills they should (for which the example of ideological terrorism is salient).

[190] Though not dissimilar to the intentional structure of ideological warfare. This differs intentionally from war waged as national defence, which does not necessarily entail conflict over antithetical ideological identities. (In practice these can overlap or merge so that, for example, the Second World War was fought defensively against German territorial ambitions, but also against Nazi ideology as anathema to liberal-democratic values.) *Defensive* war in a Buddhist context is briefly considered in Chapter 8, below.

The end that summarizes all these, and so can provide a working global answer to the question, is that RK serves the purpose of *social domination by its representation of identity, by means of securing power, and by representing others who the agent represents as other*. That is, RK is the putative means to secure social dominance over those whose identities, beliefs and values are presumed incompatible, irreconcilable or otherwise in intractable conflict with their own.[191] RK is an attempt to resolve such conflict by reducing the dominated party to a degraded status or indeed by exterminating it *in toto*.

Unlike other forms of social-cultural contestation (e.g. debate, democratic process, deliberation) RK operates by realising its claims in lethal action. RK engages homicide in order to achieve a properly cultural-symbolic function of power by virtue of its exercise of brute domination. That is, killing relevant persons is the specific means by which agents of RK seek to both interrupt a social status quo, and having done so, reconfigure power relations in their own favour. Hence, in RK normative conflict seeks to engender

1. the social dominator status of its agent, and by extension,
2. the domination of the value or belief represented in the identity of the agent vis-à-vis the
3. absolutely dominated identity represented by the victim of RK.

Indeed it is often the case that the contexts for RK are occasions in which a radical shift of existential affairs has without question occurred: hence, they usually register serious and often disturbing modifications of the personal and collective lebenswelt. This is also the pronounced difference of RK from the representationalism of linguistic, cultural, aesthetic and other comparatively abstract forms of social-symbolic discourse.

We can also grant that RK sometimes represents an acceptable value. Nonetheless, this capacity to represent such values does not ipso facto justify RK: as we have seen above, it does so only to achieve the *non-representational* ends just identified, so that RK is itself teleologically

[191] If in some cases of RK, such as ideological warfare (e.g. the Vietnam War), lethal agency is intentionally mutual, then this structure is symmetrical. In others, such as those pertaining to colonialism or genocide, it is not. I will for convenience assume an asymmetrical relation that can be applied from either side of the dual structure.

superseded by them, its justification at best hanging on how the ends are to be evaluated. However, it is the means to these ends that, in *all* cases of RK, remain on their face unacceptable to a Buddhist ethics, and so render the substantive ends immaterial. The following considers why this is so.

§3.2. Normative reasons and a Buddhist global objection

On a Buddhist account, even where resort to RK might have a morally laudable end in view (such as the self-determination of an oppressed people) the very means it exploits to attain it is indefensible. A Buddhist might concur that opposing a tyrannical state is appropriate, but would hold that doing so by means of RK is not. While a Buddhist analysis of RK could continue to pursue an understanding of its causes in a complex of cognitive-affective and possibly unconscious psychological conditions, and conceivably account for its wrongness thereby, it is implausible that causal explanation alone suffices to explain the normative status of RK on a Buddhist view.

This is because, in addition, RK intentionally offends against a fundamental Buddhist value of life in a sense other modes of intentional lethality do not, and so exemplifies a paradigmatic case of the violation of a right to that life, as much in Buddhist as non-Buddhist contexts. The most appropriate register for ethically interrogating RK is then by recourse to the language and theory of human rights, evidently pertinent to the lethal *exploitation* of persons that explicitly defines RK. For this reason, we need to engage a Buddhist-ethical discussion of the notion of a human right to life, with reference to its violation in RK.

§3.3 A Kantian caveat?

There is, however, another reason we can first consider, in preliminary terms, as the basis for a global objection to RK, concerning the independent value of the person otherwise explicitly misused by its commission. This is the familiar Kantian categorical imperative that persons ought not to be exploited as mere means to agential ends, but should be conceived as instantiating the autonomous value of being ends in themselves. This would make persons unavailable to the kind of exploitation upon which RK explicitly trades: that the individual as such is irrelevant to his capacity to represent a universal, which alone determines his demise.[192]

Buddhist ethics does not explicitly theorise or valorise a moral imperative that recognizes an inviolable value of personal autonomy. Much traditional Buddhist discourse has rather tended to attenuate the notion of personal sovereignty both psychologically and socio-culturally, conceivably grounded in its pivotal posit of no-self. A great deal of commentary on the cross-cultural philosophical analysis of the Western understanding of the freedom of the will with respect to its putatively Buddhist and Indic contexts has in recent years appeared, resulting in a large range of more or less unreconciled views.[193] Some of this scholarship has however provided valuable accounts of how volition, psychological and causal determinism, and moral intention and consequence is to be best understood in Buddhist-emic terms (see especially Meyers 2010; Devdas 2008; Heim 2014).

But that discussion is orthogonal to the present account, because the denial of the value of autonomy just noted in RK is not associated with an implicit question regarding the putative existence of a unitary and self-willed self, or even the empirical ego that might in purely prudential terms desire to stay alive rather than be lethally exploited for the purposes of RK. Buddhist *anātman* neither condones nor undermines the Kantian imperative with respect to its repudiation in RK. This is because a Buddhist could agree that the autonomy of the person ought to be respected, but for reasons different from those offered by Kant.

In Chapter Five I addressed the significant differences between Kantian and Buddhist metaphysical conceptions of the person, and mobilised those in a Buddhist critique of the presuppositions informing neo-Kantian

---

[192] Yet we have also seen, in Chapter 5, how Kant was willing to conceive of the agent of lethal crime as thereby qualifying for being the representational object of a transaction of *justice* intrinsic to the authority of the state. So even according to Kant there were exceptional cases where the autonomy of the person (however apparently self-legislating) must bow before an abstract value enacted, and represented, in the putatively just taking of life.

[193] See Repetti (ed.) 2016; Davis (ed.) 2017; Dasti and Bryant (eds.) 2014; *Journal of Buddhist Ethics*, Special Issue 25, 2018.

justifications for lethal retributivism. There I was concerned to highlight the constitutive features of personhood that for a Kantian account metaphysically and morally sanction a sovereign will to sacrifice one dimension of the person (the phenomenal) to that noumenal part that both cognises and actualises moral (and legal) justice through intentional action. The Buddhist objection turned on its distinct account of personal and moral agency, and on a Buddhist critique of Kant's account of autonomy.

In the present context, however, we must ask what it is about the person *qua* person that determines how moral *dignity* accrues to persons, and demands recognition from others. Kant's moral philosophy is of course one of the most prominent progenitors of the modern Western conception of human rights, grounded in particular on a notion of the inherent dignity (*Würde*) of persons. But the metaphysical and metaethical basis for the Kantian derivation of dignity can't be simply correlated with whatever allows a comparable moral function in the Buddhist context, though we see at least one Buddhist ethics theorist attempting just that.[194]

Most recently Kelley (2017), for example, argues that there is a metaphysical (and psychological) compatibility, rather than tension, between the emptiness of persons and their *inherent* dignity and inalienable rights, effectively seeking to appropriate these Lockean and Kantian natural-right claims for all human beings, and the human capacity to discern them as such (302), to a classical Madhyamaka two-truths epistemology (299, 303) that distinguishes globally between conventional and ultimate truth-clams. However, Kelley's Madhyamaka conclusion (via Tsongkhapa) for the "*conventional* intrinsic existence but not an ultimate intrinsic existence" (301-311) of human rights is true of many conventional phenomena and thus adds nothing new to a *Buddhist-conventional* theorisation of the conventional status of the dignity of persons.

That is, beyond refitting Western rights claims for dignity to a Madhyamaka epistemology, a Buddhist account would require internally examining from where or what such dignity is derived, how it entails universal

[194] Hershock (2000, 13*ff*.) however has useful discussion of the assimilation of Kantian moral epistemology and its effects in modern human rights discourse to a Buddhist or non-Western paradigm.

rights, or how it is to be rationalised with respect to the very real conventional-evaluative sliding-scale pertaining to different kinds of real persons in the real, conventional world. According to Kelley, in that world

> Significance or meaning exists only in relation to a host of public frameworks. In the context of human rights, the UDHR [Universal Declaration of Human Rights] represents one such framework. Thus rights, albeit devoid of intrinsic nature, can be said to have meaning and significance within that particular veridical framework. (308)

This formulation, and the essay in which it features, offers no further interpretation of a specifically Buddhist-*conventional* construal of that framework beyond the refutation of reified phenomena all Madhyamaka ultimate analysis entails. Kelley does not explain what endows the UDHR framework with meaning with respect to a properly Buddhist conception of persons, nor how it does, nor what it is about it that renders it conventionally *veridical*. The shortcomings of Kelley's appropriation of Western human rights to the theoretical Buddhist case by means of Madhyamaka epistemology are significant because, beyond their putatively universal status as the objects of an equal and inviolable dignity, persons are also, as we have seen in with respect to the Buddhist lifeworld itself, unique individuals importantly distinguishable from others.

We have seen throughout how a consistent feature of the Buddhist conception of the empirical, rather than metaphysical, person is that persons are *qualitatively* distinct between the so-called ordinary *puthujjana*, aspirant monk, awakened Arhat, bodhisattva Buddha-to-be, and Buddha, from which many normative effects ensue. It is not clear that, in a Buddhist-emic sense, they possess an equal birthright in human dignity, either due to or despite these differences. In Chapter Two we noted how each of these kinds of person is situated on an axiological scale explicitly entailing value-claims where different kinds of person are qualified by virtuous and physical quality (*guṇa*), determining differing degrees of moral consequence concerning, for example, their being intentionally killed. As Martin Adam notes:

> According to Buddhist teachings, there is a *natural hierarchy*—a hierarchy that is not socially defined, but rather based on

> spiritual development or purity. […] Simply put, some people are more virtuous and wise than others. And in this respect they stand closer to the end-goal of liberation from suffering, which is to say to the goal of spiritual freedom. One's possession of these qualities corresponds to the level of one's inner purity, measured in terms of one's freedom from mental defilements. (2013, 434)

If it is true that all persons are ultimately empty of self, this metaphysical datum in no way qualifies their putatively conventional-objective status as such: Buddhist religious norms traditionally position persons as the objects of value- and truth-claims in terms that calibrate much of canonical Buddhist ethics. In this case, more hermeneutic work is required to ground Buddhist human rights in conventional and universalist claims for a birth-right in dignity, and they need to be firmly situated, at least in the first instance, in norms and claims around the status and soteriological nature of persons given the Buddhist world-view, of the kind I have provided in Part I and the Part II Introduction, above.

To be clear, we are here concerned principally with isolating the plausible feature of conventionally-construed persons that can function as a basis for a Buddhist to take them as having dignity. The point is not to present a full-blown Buddhist account of the autonomy and political liberty of empty persons, a distinct if related task that would require a separate study.[195] Clarifying the Buddhist basis for the dignity of persons is then preliminary to its mobilisation in a Buddhist theorisation of human rights, below.

III. §4. Buddhist human rights: the dignity of persons and a paradigm case of RK

In this section I 1) contextualise a basis for a Buddhist human rights in dignity, 2) confirm a Buddhist grounding for dignity in the potential in persons for Buddhist awakening (discussed in the Introduction), and 3) identify empirical cases of Buddhist human rights violations that belie the dignity of

[195] For an account see Mendelson (2013), "Nāgārjuna's Philosophy of Emptiness and Political Philosophy: *Liberty in Action".* PhD. thesis, University of Melbourne.

persons. This theoretical and empirical context provides the background to subsequently consider (in §4.1 and §4.2) what might constitute a robust Buddhist theorisation of human rights as such.

Buddhist Studies scholarship of recent decades has increasingly addressed the question of providing philosophical grounds for human rights in Buddhism, given the lack of their explicit theorisation in classical and orthodox sources[196] (Abe 1986; Adam 2013; Perera 1991; Inada 1998; Hershock, 2000; Keown 2000, 2018; Keown, Prebish and Husted 1998; Garfield 2002; Sevilla 2010; Meinert & Zöllner 2010; Likhitpreechakul 2013). Keown notes that one possible reason for the absence of a Buddhist notion of human rights, but also for its potential positive basis, is that:

> Buddhism originated in a caste society, and the Asian societies where it has flourished have for the most part been hierarchically structured […] The preconditions for the emergence of the concept of rights would seem to be egalitarianism and democracy, neither of which have been notable features of Asian polity before the modern era. On the other hand, a justification for the rejection of hierarchical social structures is not hard to find in Buddhism—one need look only at the Buddha's critique of caste. (2000, 64)

Seeking a basis for human rights in a specifically Buddhist notion of dignity, Keown rejects this basis with respect to either metaphysical-existential, or affective, considerations (Inada 1982, 1998) or prudential-hedonic ones (Perera 29), and instead locates it in a Buddhist vision of the good summarised in the third and fourth noble truths (that an end to suffering is possible and the means for its achievement in the Noble Eightfold Path). He writes:

> Human rights cannot be derived from any factual non-evaluative analysis of human nature, whether in terms of its psycho-physical constitution (the five aggregates which lack a self), its biological nature (needs, urges, drives), or the deep structure of interdependency (*paṭicca-samuppāda*). Instead the most promising approach will be one which locates human

[196] At least until, for example, the 1993 Declaration towards a Global Ethic, emerging from the Chicago Parliament of the World's Religions, which included Buddhist commitments to human rights, and prompted discourse from figures such as H.H. the 14th Dalai Lama (see his 1993 Vienna statement in Keown, Prebish and Husted 1998, xvii*ff*.).

> rights and dignity within a comprehensive account of human goodness, and which sees basic rights and freedoms as integrally related to human flourishing and self-realization. This is because the source of human dignity in Buddhism lies nowhere else than in the literally infinite capacity of human nature for participation in goodness (70-71, 78)[197]

Keown's grounding of human dignity in an ultimate valorisation of the potential for human awakening in Buddhahood, corroborates my own argument for an *Ur*-value in this potential: in the Introduction, above, I contextualised this claim as a metaphysical conclusion from preceding analyses of fundamental criteria for the first precept.[198] Here we consider two more hermeneutic facts that give credence to Keown's, and my own, proposal for a Buddhist foundation for human dignity.

The first concerns the *qualitative* nature of dignity. It is clear that there is no being conceived in Buddhist terms that attracts more veneration and respect than an awakened *ārya*-being, or Buddha, and by association a bodhisattva. Both in Śrāvakayāna and Mahāyāna terms, the potential awakening of the prospective *ārya*-being and bodhisattva, themselves mortal human beings, makes them archetypes of human dignity, worth and value. The awakened Buddha represents the superlative human achievement, embodying the perfected state of human existence. Although this state may be merely ideal, its symbolic function does not undermine its value as a basis for human dignity.

Secondly, all sentient beings are regarded as having the potential for awakening. Thus, by definition, all sentient beings partake in dignity, as dignity derives from this potential. The basis for human dignity implicit in

[197] In a footnote (55, p. 78) Keown summarises this: "A more familiar way of making the same point in Buddhist terminology would be to say that all beings are potential Buddhas or possess the Buddha-nature."

[198] Cf. Perera (1991, 24) and again Keown (2018, 545-547). Junger (1998, 61) also appeals to this ground, as does Sevilla (2010) in a Zen account. Some among these writers however appear confident of founding a notion of rights within Buddhism *directly* on an appeal to a universal Buddha-nature as an assumed posit concerning all human beings. My own claim is importantly different: that a plausible basis for human *dignity*, but not directly for human *rights*, lies in an immanently universal *potential* for liberation from suffering central to the Buddhist traditions, rather than in a positive transcendental nature as such.

Buddhism, then, is universal. It is present in all human, as well as non-human, sentient beings.[199]

At the same time, of course, these two claims entail a profoundly different origin for the concept of human rights as it has developed in the modern European era (Junger 1998), in the historical intersection between "foundations in Christianity, Stoicism and Roman law with its *jus gentium*, but which gains force and direction only with the contractual and pluralist nature of European feudalism, church struggles, the rise of Protestantism and of cities." (Kamenka 1978, cited in Junger 53) If it seems plausible to suggest a fundamental Buddhist basis for human dignity in its moral-soteriological telos, this is not to imply that this can be plausibly aligned with anything grounding the Euro-American development of the norm of the inviolability of such dignity as a *right* absolutely beholden to its bearer.

The latter entails a legal and contractual imperative quite distinct from a Buddhist *sensus communis* dedicated to the mutual cultivation of virtues and modes of understanding that potentially undermine rather than reify, as a legally actionable right does, the extra-moral entitlements of the individual *qua* individual. But is it unreasonable to suppose that Buddhist ethics is able to or should recognise such an entitlement as a legitimate mode of respect for persons—however ultimately empty of self and intrinsic identity, however embedded in causal networks variably subsuming individuality, and however ontologically determined by impermanent causes and conditions?

It is I think appropriate to situate the question of how the dignity of the Buddhist person is to be understood with reference to a contemporary Buddhist context in which such a conventional universal value has been egregiously unrecognised. Nominally Buddhist actors have in recent years been responsible for the most grave genocidal event so far of the twenty-first century.[200] Constituting heinous lethal acts against civil non-combatants on the

---

[199] Adam (2103) in particular focusses on the non-anthropomorphic feature of a Buddhist theorisation of equality and rights.

[200] In northern Rakhine state, Myanmar, beginning in 2012 but especially through 2016-2017, perpetrated by Buddhist Bamar and Rakhine military and civilian actors against civilian Muslim Rohingya unrecognized citizens of that state. The ethical and legal ramifications of widespread heinous rights violations are ongoing, likely to

basis of religious and racial identity, this series of events can be squarely classed as a case of RK at its worst.[201]

In light of this worst case, is it plausible to sustain the notion that the dignity of the person, requiring the moral-legal protection a right affords, is somehow attenuated or negligible in the Buddhist case due to some uniquely Buddhist moral-philosophical consideration? It is disingenuous to suggest[202] that because a Buddhist cultural context has not originarily enjoyed the same cultural-philosophical roots that inform the Euroamerican theory and practice of human rights, then such rights are in some sense inapposite to the Buddhist case, alongside or in a complementary relation to those local moral norms already relevant to it.[203]

That claim might at best form part of an explanation for why an explicit recognition of human rights is historically *lacking* in those Buddhist cultures. But that historical datum alone does not answer to why that recognition is not as germane to the Buddhist as to any other case of the violation of some construal of human dignity and requires properly Buddhist philosophical inculcation.[204]

---

culminate at the International Criminal Court in convictions of Myanmar military, and some of its state enablers, of the crime of ethnic cleansing.

[201] The following draws on background detailed in two documents reporting ethnic-cleansing in Rakhine state: *Flash Report of the OHCHR Mission to Bangladesh*, 3rd February 2017 provided by the U.N. Human Rights Office of the High Commissioner; and *"They Gave Them Long Swords": Preparations for Genocide…* (July 2018), prepared by Fortify Rights.

[202] See for example Ihara in Keown, Prebish and Husted (eds). (1998, 51, n. 21); cf. Junger (56, 60-61) in the same volume.

[203] A substantial historical catalogue of Buddhist abuses includes Japanese military atrocities in the Second World War, Sinhalese Buddhist abuses against Tamils during the Sri Lankan Civil War (1983-2009) and since, and Burmese military atrocities against minority religious and other ethnicities during periods of dictatorship (from 1962 to 2012). Human rights abuses otherwise notably continue unabated, in particular, in China (Tibet), Myanmar, Vietnam, Sri Lanka, and Cambodia.

[204] Keown (2018, 531) points out that a number of traditionally Buddhist states or polities (including those of Cambodia, Thailand, and Tibet) have initiated institutions dedicated to human rights, alongside those ASEAN members (Thailand, Myanmar, Laos, Cambodia and Vietnam) signatory to the Intergovernmental Commission on Human Rights (AICHR) founded in 2009. However, the aspiration to engage human rights has, at least in some cases, not always translated into robust implementation.

As noted by Keown, “Incorporating human rights more formally within Buddhism, however, will require some doctrinal expansion and reconfiguration.” (2018, 547) To that end, we need to identify appropriate conceptual or other resources from within its own textual, pedagogic and praxiological traditions to avoid the imposition of a conceptually alien justification for an equally alien set of norms and propositions.[205] We will take our cue from how Garfield (2002) pursues this end by locating such a resource in the affective roots of Buddhist practice in a universal value and norm of compassion (*karuṇā*).

§4.1. Buddhist human rights: a basis in compassion

Having considered a Buddhist basis for the dignity of the person, and its associated requirements, we can now turn to considering a possible Buddhist theory of human rights given that theorisation of dignity as the universal human value enshrined therein. In doing so, we can keep the foregoing in view, as well as the empirical case just noted. Our aim is to ascertain on what basis a Buddhist critique of RK, exemplified in a recent Buddhist case of grave rights violations, could appeal to an inviolability of the human right to “life, liberty and security of person” enshrined, most representatively, in Article 3 of the Universal Declaration of Human Rights (1948).

That is, such an appeal would be required to function as a means ideally for the prevention of grievous abuses of the kind we have seen agents of RK perpetrate, or failing prevention, the inculcation of a moral status quo whereby such abuses would be unequivocally condemned in theory and undermined in practice. However, to be clear, this and the following section engage only the theoretical normative dimension of this task; analysing the empirical case in order to suggest how the theory might most practically succeed in that work of prevention would require a separate enquiry I will not pursue here.

[205] See Hershock (2000, 15*ff*.) for an account of some of the still-relevant ill-effects of the same imposition.

As it stands, Buddhist morality or *śīla* clearly does not accept the commission of RK for the broad reasons noted above: its repudiation of human dignity, contravention of the principles of *dukkha* and *kamma-niyāma* (moral causation) underwriting the first precept, and for instantiating a malign intention. These can be understood more fully by considering the Buddhist value of compassion conceptually imbricated in them. Accordingly, this section engages one normative account for why, as Garfield claims, despite "the prima facie tension between liberal and compassion-based approaches to morality […they] are in fact *not* incompatible, but that fusing them into a coherent whole requires a particular ordering: compassion must be taken as fundamental." (2002, 189)

More recently Keown, responding to Garfield, questions the moral primacy of compassion in a Buddhist theory of human rights inasmuch as "individual teachings may be unnecessarily exclusive: approaches that emphasise compassion, for example, have little to say about wisdom." (2018, 547) Discussion will therefore be steered towards elucidating how Garfield's claim for a universal ground for human rights in compassion is theoretically adequate to engender a Buddhist human rights that can encompass a range of moral and epistemic concerns.

Garfield is concerned to address the criticism that regards liberal moral theories focussed on rights and duties as both inadequate to much of "our morally most important circumstances—matters of interpersonal relations where sentiments, attitudes and behaviours are of moral significance" (188) as well as incompatible with those sentimentalist theories grounded in "compassion and attention to interpersonal relations" (*ibid*.), a combination of which views H. H. the Dalai Lama espouses in frequent public statement and moral writings over decades (for example, in 1992, 6-7). Garfield's broad view is that:

> Rights can be coherently formulated and advanced in the context of a moral vision incorporating compassion only if they are grounded in compassion. It is when we attempt to subordinate compassion to rights and duties, or to give these considerations equal status that incoherence looms. (189)

The means of bridging the two, and thus averting incoherence, is by way of the "fundamental Buddhist insight that compassion is the foundation of moral life as well as the liberal vision of human rights as universal." (*ibid.*) Hence, according to Garfield, not only Buddhist *śīla* but non-Buddhist morality as such, as well as the universalist aims of liberal theories of rights, are *all* dependent on a proper recognition of the primacy of compassion in human life.

§4.2 That which is violated in RK: values, rights, relations

It is uncontroversially true that RK can be characterised as a case in which "individuals or groups are threatened with abuse or actually abused […]—when people are hurt physically." (Garfield 2002, 189) We have already noted the Buddhist value violated in RK as being the inherent dignity of the person *qua* the potential agent and realiser of the Buddhist-soteriological project. But does such offense yet amount, in the Buddhist-theoretic case, to *a right* abused? Garfield writes that "just what rights are […] is best answered by noting when they are asserted. That, of course, is when they are violated or threatened with violation." (189)

However, if a right is identified by cases of its imminent or actual abuse, this does not explain what it is about the abuse that warrants the expression of a putative right thereby infringed upon, which infringement can be of many kinds: deprivation of some cherished value, commission of some undesired act, omission of some expected intervention or provision, and so on. Rather, each case of a potentially abused right relies upon a specific loss, deprivation, commission, omission, and so on, which in the case of RK is the deprivation of a primary good in the value of life, which then warrants a protest against its actual or potential *deprivation*, rather than the violation of a pre-existing and presumptive right as such. It is primary deprivation (etc.), and then resentment of the fact, that warrants protest, and only then, more formally, recognition of a right violated. Only once the deprivation is mutually recognised can the resentment expressed signal, as Garfield says of rights, an implicit demand that "can hence be seen as fundamentally *protective*" (189) against any such further deprivation (etc.).

Crucially, the protest borne by the witness to such deprivation, or a survivor of its attempt, entails an expectation that it be taken seriously by morally-significant others. Only then can it function, given that recognition, *as* a right properly-speaking: a relation of recognised obligation between person and other, individual and society, subject and state, that when abused incurs legal penalty. Hence, Garfield correctly concludes,

> They [rights] protect individuals against interference. Rights such as this can be called “negative.” The right to life is such a right. It is a right *not to be killed*. Fundamental rights typically have this character […] Fundamental negative rights are rights against *everybody*. […] my right to life is satisfied by all who do not kill me and can be violated by any assailant. (189-190)

It is thus evident that acts of RK, waged for whatever reason, fall within those that violate the fundamental negative right not to be killed. Moreover, inasmuch as protest against life unjustly taken pertains to all human beings, irrespective of race, religion, or ideological creed, such a demand registers a universally *human* right, another feature that, as Garfield notes, defines “the discourse of rights” inasmuch as it “presents itself as a universal discourse in an important sense. It makes claims that transcend cultural difference” so that “a social structure that abrogates them is […] morally wrong.” (192)

The question that remains, for Garfield and a Buddhist account of a *Buddhist* “social structure that abrogates” that right, is how such a universal right might be parsed in the Buddhist context, *qua* universal and *qua* right, both of which can at best (as Kelley argues) have only conventionally-warranted existence, lacking putative metaphysical or axiological foundation in an absolute or intrinsically self-justificatory posit. Even where such a right pertains to all human subjects and entails both the universality and responsibility so often articulated by H. H. the Dalai Lama,[206] in what precisely are both to be grounded? This is where Garfield’s contextualisation of compassion dialectically enters his account:

[206] Among other statements, see again his 1993 Vienna statement “Human Rights and Universal Responsibility” (in Keown, Prebish and Husted eds., 1998, p. xvii*ff*.).

> compassion has as a defining characteristic an intention and aspiration to benefit even those to whom we have no particular duties, and who have no particular rights against us. We act compassionately […] precisely when we act not from duty, and precisely when we do not simply respect the rights of others, but when we positively benefit or refrain from harming where there are no rights and duties. (192-193)

In disengaging a moral focus on duty, and in this way raising compassion to a seemingly supererogatory suspension of duty's binding moral force, Garfield reconfigures the typical basis for liberal rights theory altogether: he identifies a moral basis for action (or its omission) precisely where rights and duties are absent from or not relevant to the given moral domain. He situates his account of compassion as a ground for human rights with the straightforward observation that:

> Speaking in terms of compassion significantly broadens the sphere of morality to encompass more of what we pretheoretically place in that domain, and more of what is recognisably foundational even to issues that liberalism locates at center stage. (196)

On this view, the pretheoretical terms of compassion represent a larger class of moral discourse than that of liberal rights theory, which rather supervenes upon the former as a larger field for the personal and social inculcation of values informing and shaping respect for self and others, virtues and the exercise of duty. Garfield uncontroversially locates these in a familial and social conditioning inseparable from a private as much as public context of the intersubjective formation of virtuous character:

> For children learn modes of interaction and attitudes to which they are exposed in childhood. Those brought up compassionately learn to be compassionate. And it is these children who grow to moral maturity by any standards. They are precisely the individuals who respect the rights of others and who discharge their duties. Grounding that moral maturity in their compassion makes moral development comprehensible. (197)

On this view, a transition between moral inculcation in the terms of a socially-learned compassion, and its extension to respecting others' rights, functions as the bridge between existing Buddhist cultural norms and the possibility of a universalist human rights in the Buddhist context. This transition in turn provides for an understanding of human rights as naturally emergent from practices in which private preferences are not in conflict with those of the public realm because, at least in terms of their evaluative status, they are understood to be largely coterminous. As Garfield summarises:

> once one regards one's character, attitudes, and relations to others as topics of moral discourse, one allows morality and moral criticism to intrude into the most intimate realm of personal life; once one subjects one's view of the good to moral evaluation, there is no sphere of thought and action protected from such scrutiny by a demarcation zone of privacy (202-203).

This observation of the sense in which a Buddhist grounding of human rights in compassion undermines the public-private distinction at the heart of liberal rights theory also has a prudential dimension, but in a different sense. This is that, to the degree that a society committed to human rights fails the cultivation of compassion towards others, then the sense of individual entitlement the expectation of rights otherwise induces generates an egotism likely to exacerbate the negative imperative for rights in the first place: the protection from others from whom respect or compassion is otherwise not forthcoming.

Garfield describes the consequences of a tightly atomistic moral realm in which intense loyalty, and the limitation of compassion to those immediately related to the circle of one's own self-centric concerns, ultimately undermine a more intelligently prudential self-interest. Thus, the exercise of universal compassion here entails an epistemic dimension:

> We perpetuate an unstable and dangerous hostility that keeps all of us in a state of peril. But moreover, it runs against both reason and another component of human nature—our capacity for imaginative exchange of our own situation for that of others. For reason urges that drawing distinctions in the absence of genuine difference is arbitrary, and that doing so in ways detrimental to the interests of all concerned is downright stupid. And that is precisely what the narrow limitation of compassion does. For this reason compassion must be deliberately given a public, social face. (199)

The commission of RK clearly represents a particular extremity of the "unstable and dangerous hostility" to which Garfield points, as well as frequently a justification in an overriding concern for one interest group over another. As Garfield emphasises, this represents a properly epistemic failure, compounding on a social-cultural level the fundamental cognitive error described above. On this view, it makes little sense to ground an effective human rights, as liberal rights theory does, on a concern for the protection of the sovereign individual when the respect for self constitutive of that concern is not made universal, not merely in theory but in social practice.

Moreover, the compounded error of a limited prudential concern for

the self and its private interests, manifest at its most pathological in acts of RK, reflects a larger socio-cultural and historical dysfunction. In the following section, I theorise this constitutive dysfunctionality of RK more broadly with reference to a Buddhist understanding of society in and *as* history, and its guiding soteriological norms, thus describing a final badmaker for its commission.

§5. The dichotomy between RK and the normative Buddhist lifeworld

The problem with RK more generally for the Buddhist anti-realist about selves and persons is that RK can only succeed in entrenching the illusory dualism of self and other, reified identity and its enemy, that inevitably gives rise to the social-cognitive conditions which allow RK to recur, and hence perpetuate that same nescient but dynamic structure as detailed above. It is only the illusorily reified self that *can* assume that the causal efficacy of RK has any basis in truly-existing conditions of the self and its identity, but that is precisely its hubris.

If Buddhist thought and ethics were concerned to keep the status quo of the *falsely* conventional in place, then there would be no need for its exhaustively described eightfold path, and its philosophical bases, at all. RK is the kind of conventional human practice which that path is *in the same conventional context* intended to contest. The cognitive ability to disabuse those truly-existing conditions of any true existence would necessarily undermine the efforts of RK to (unconsciously) reinforce them precisely through the resort of killing living beings as a form of conventional-symbolic, but ultimately spurious, causation.

Hence, a theoretical Buddhist justification for *ideological* warfare, as a larger social case of RK as the representation of group identity, could only at best amount to the pragmatic but regretted acknowledgement of the lack of any other option if a tolerable peace is to be secured. To claim a putatively *Buddhist philosophical* justification for such war as in any sense more robust than this purely pragmatic one would compromise the philosophically truth-apt Buddhist analysis of RK I have elaborated above; whatever ideological or other justification for RK as warfare that might be sufficient for the cowherd or Burmese nationalist, or a Stalin or a Churchill, is still not sufficient for the reflective Buddhist.

Thus, the Buddhist response to the status quo regarding which RK has a contestatory function, is that if the cessation of social conflict by means of RK appears to ensue from the defeat of one side and victory of the other, then this also entails other probable effects: the hatred and resentment of the former for the latter, and an unstable sense of security of the identity of both.[207] Where RK presumes a decisive resolution of its causes of contestation, this presumption must be in large part illusory if acts engaged in hatred and ignorance (as RK typically is) on the Buddhist account inevitably entail like effects. Constitutively essential to RK, as we have seen, is the notion that the belief, reason or value sustained by the self which resorts to RK is as non-trivial as it must be to justify taking others' lives *not* for the preservation of the belief, reason or value per se, but essentially for the sake of the fortification or power of the self, and thus represents itself as having its very identity contingent on the social supremacy of represented values in any given socio-cultural context.

For the Buddhist those two things—the fortification of the identity of the self by lethal means, and the social dominance of its constitutive identity

[207] It is of course a hermeneutic truism, claimed even by historical actors themselves, that the causal seeds of World War Two were planted in the conditions of the end of World War One. (However, the same effect has not obviously applied for the end of the former war.)

by that means of force—entrenches and perpetuates the very problem Buddhist thought and practice seeks to deconstruct: the reified identity of the self, and the social hegemony of one universalist view over and against another. That desideratum is built into not merely the Buddhist metaphysics of non-self, but also the Buddhist commitment to the idea that such propositional assertion (*pratijñā*) as a putatively veridical concordance with the real is globally mistaken.[208] Similarly, the implicit basis of RK that asserts that its represented normative view *ought* to prevail by the existential aggrandizement of its power through killing its enemy, manifests just the failure of right view common to all Buddhist tenet schools: that aggrandizing the power of that self defining itself by its constitutive wrong view, is just what is at global fault.

We have earlier seen that other forms of intentional killing are not cognitively structured in this way: mercy-killing, for instance, concerns a sentient person being willing to end intolerable physiological-mental suffering. That individual is not representing a view or abstract value ontologically other to its own condition. Its aversion is not of the kind evident in the active reification of self we have observed in RK. The supposed beneficiary of RK, on the other hand, is that self whose identity is psychologically fortified thereby. The crucial point here is that even where the value or belief constitutive of that identity is in itself an acceptable or even laudable one, it cannot justify its symbolic aggrandizement in the self's identity. It just remains of more or less conventional value and utility in an intersubjective economy of values of which the presumed existence of a self *so* constituted is not an essential part. Persons can function freely in this economy without the gratuitous superimposition of selves who so aggrandize those values; that gratuitousness is what Buddhist anti-essentialism seeks to expose.

[208] It is also true of Mādhyamikas who see their own global anti-realist thesis not as a view that stands outside, or at the foundations of, the constructedness of views, but is itself just that view which allows *all views* (including its own) to comprehend their foundationless nature—its epistemic advantage being that the Mādhyamika specializes in *reflexively* demonstrating just how that is the case. For both Mādhyamikas and Pramāṇavādins whatever fails even conventional validity manifests a conventional deceptiveness or irreality (*alokasaṃvṛtisatya*) that cannot be taken as real in any sense, or only as a sheer falsehood.

We have seen, above, that if there is no metaphysical necessity in the resort to RK, then it is essentially a willed habit, conditioned volition or dysfunctional cognitive state, not an imperative function of the conventionally-existent person who happens to sustain this or another belief or value in a normative lifeworld of conventionally-existent others. RK can only temporarily and not conclusively resolve the problem of the conflict of values that *by that very resolution* it considerably contributes to sustaining as an ongoing tension inherent in selves and their constructions of personal identity vis-à-vis other selves. The reified self *must* perpetuate reificatory acts in order to falsely assure itself that its ongoing existence, as a self in its privileged identity, might be existentially secured beyond its conventional linguistic and classificatory needs of self-representation.

§6. Conclusion: from the conventionally true to the merely conventional

While a Buddhist account of lethal acts in RK proscribes them in terms of conventional *Buddhist* cognitive-affective norms, it tacitly acknowledges the symbolically potent intersubjective construction of reality in which such acts function both successfully, as transactional means to an end, and mistakenly, as an implicit ignorance of their gratuitousness. The foregoing analysis has identified merely transactional efficacy as instantiating moral ignorance with regard to the Buddhist understanding of the conventionally real conditions productive of an authentically coherent and compassionately-constituted lifeworld.

While that Buddhist position follows from its metaphysical critique and project of moral reform, it remains an ideal aspiration: moral agents (including Buddhist ones) of course continue to engage metaphysically gratuitous and ethically counter-productive lethal acts as a form of coercive blackmail and leverage of power, in pursuing religious, political, and ideological ends. The civilizing task of resisting the expedience of lethal exploitation, by cultivating the non-lethal amelioration of its cognitive-affective causes, raises a deeper, ethico-religious question. Do individuals and social groups, in their socio-symbolic forms of identification, ultimately *will* to resort to RK to gain leverage over perceived enemies, if they are not utterly determined by prior cognitive-volitional causes of irrationally hostile action?

This question goes to the heart of Buddhist ethical thought and practice as a means of addressing the primal confusion of which RK is perhaps most visibly emblematic. A pragmatic objection to the Buddhist critique of RK might persist with the claim that, despite its rational and axiological objections, killing indisputably succeeds in simply removing from the field of consensual symbolic contestation its various abstract objects *qua volitional persons*, and so is to that degree efficacious. In that case a historical consensus renders RK justified as a conventional, even if in Buddhist terms conventionally mistaken, practice for the resolution of conflict.

It thus appears that even though conventional error informs these cases of killing, a Buddhist analysis must concede that in the *saṃsāric* lifeworld that lethally sustains a conventional symbolic order of abstract means and ends, killing has in its instrumental function an arguable necessity in the sui generis case of killing *in self-defence*. This final category of lethal action is sui generis because it is neither an effect of hostile motivation (in the first instance), nor of symbolically-determined cognition, but of instinctual self-preservation. If self-preservation, and hence in some cases lethal self-defence, is in general conventionally non-erroneous and so arguably permissible, and demonstrates the most obviously successful means of protection from the depredations of hostile and/or representational killing, then this suggests an important ethical distinction between gratuitously unnecessary and appropriately necessary such cases.

In the terms of the foregoing analysis, the prudential utility of lethal self-defence inaugurates, for this Buddhist account, a *uniquely rational* reason for killing that might, in a very limited sense, be implicated in the Buddhist's relation with the conventionally-constituted lifeworld—at least for those agents Buddhism considers exclusively capable of acting lethally, with intention, but without consequent moral fault or ill-effect.

CHAPTER EIGHT

Conclusion:

Buddhist Violence, Self-defence, and the End of Life

*

I. §1. Generic Buddhist violence: descriptive and normative

At the end of Chapter Seven I noted that a Buddhist response to unprovoked and mortally threatening attack, such as that evident in cases of RK, might entail purely defensive measures. If this is so in the Buddhist case, as it is in the typical non-Buddhist case of justified self-defence (see for example McMahan 2002, 236), we need to ask whether, *contra* the prohibition in the first precept, intentional killing in these cases is permissible on a Buddhist view or not, and why. I address this question as a preliminary to a possible theory of sanctioned Buddhist violence, lethal or otherwise. Inasmuch as fully addressing it takes us into the domains of applied ethics, political and punitive theory, and the ethics of war among others, I have no space to develop such a theory here. It is however important to again engage the topos of Buddhist violence (examined as such in Chapter Three) inasmuch as it has in recent years received intense disciplinary attention that yet suggests some theoretical opacity.

Extensive scholarly and cultural attention has in recent years been paid to the subject of Buddhist engagement in military, religious and structural violence, whether offensive or defensive, in historical and contemporary, empirical and theoretical contexts; (see Jerryson and Juergensmeyer (eds.) 2010; Tikhonov and Brekke (eds.) 2013; Zimmerman (ed.) 2006; Deegalle (ed.) 2006; Harvey 2000; Keown 2014, 2018; Jerryson 2018; Dalton 2011; Jenkins 2010; King 2009; Nelson 2009; Victoria 2006; Bartholomeusz 2002; Schmithausen 1999; Demiéville 2010).

As Jerryson notes of these contexts, "It would be a Herculean task to present Buddhist-inspired conflicts, wars, and the ethical debates and decisions surrounding them […] This historiography is meant to show that the phenomena of Buddhist decisions to go to wars and engage in conflict are not anomalies, but part of a historical continuity." (2018, 454) However, the project of demonstrating a Buddhist-inspired propensity to violence in its historical agents—or perhaps just acts of violence committed by people who are Buddhist but not necessarily inspired by Buddhism to commit them—has tended to incur hermeneutic and normative conflations. Jerryson claims he

> approaches the subject of Buddhist ethics not from the basis of scriptural analysis and the subsequent hermeneutical exercises. Instead, [he…] examines Buddhist ethics from the wider field of lived choices, and the doctrine that relates to those choices. Ethics pertains to the choices that people make. In the past, Buddhists have made choices to go to war and commit various acts of violence. It is important to explore their decisions and the relative material on which they based their decisions. (*ibid*.)

This is an important task, and we are right to ask how some nominally Buddhist agents have engaged Buddhist doctrine, to better or worse effect, in violent or lethal acts. Whether or not these agents have accurately or successfully engaged such doctrine is a separate and often ignored question; *that* they do is often conflated with an implicit claim that they are also justified in the manner that they do. For example, as noted in Chapter Three, a first conflation arises when a generic notion of Buddhist violence subsumes the morally salient distinction between forceful restraint and intentional killing.

Rich descriptive accounts represent valuable contributions to religious studies, Buddhist studies, historical and historiographical studies, and the anthropology of violence in general. Jerryson and Jenkins, however, implicitly claim that descriptive textual or historical accounts, in all their variety and heterogeneity, represent a substantive investigation of normative Buddhist claims concerning the ethics of violence, killing and war. But this generates the familiar Humean dichotomy between the is and the ought: that what people *do* and what they *ought to do* are distinct analytic categories, and to conflate them causes us to lose focus in each domain. The first enquiry seeks to know the full extent of Buddhist engagement in violence; the second to know what Buddhists should do given their philosophical and normative commitments. The raw data of historical choices made by nominally Buddhist agents cannot provide the basis for a normative account.

There are a range of reasons for this. First, there is a preliminary issue of setting parameters for the appropriate data set: how are *universal* norms to be extracted from a body of empirical data that is neither wholly documented historically, nor determinable by reference to future extrapolations from the past? Second, even if the empirical record were exhaustively determinable, what is it about the record per se that compels normative persuasion? On what principle can it be claimed that the choices people make, no matter how many of them or how consistent, thereby recommends those choices as the ones they *should* have made in those circumstances?

No amount of evidence of Buddhist violence can ipso facto demonstrate a normative basis for violence in Buddhist doctrine, or that such violence is thus Buddhist-inspired. Moreover, the normative context for intentional violence established in the Pāli canon and subsequent theoretical discussion (evident in commentaries of Nāgārjuna, Buddhaghosa, Āryadeva, and Śāntideva among others) overtly belies the claim that there is a robust basis for intentional lethality in the foundational and classical texts of the various traditions, and the tenets and norms expressed in them.

Jerryson, among others, does not develop a Buddhist *ethics* of killing, but rather an anthropology of Buddhist-cultural violence. It is probable that the large catalogue of Buddhist violence to which Jerryson refers will grow into the future, and has in recent years even evidenced a moral nadir. But that fact does not compromise otherwise unequivocal normative Buddhist teachings on intentional lethality. Rather than extend Jerryson's program of descriptive ethics, I have in the foregoing been concerned to ascertain Buddhist-normative positions on the basis of the ethical choices Buddhist actors should make given *the global Buddhist metaphysical, normative and soteriological doctrines and principles* theorised throughout this study.

I have argued that psychological-affective, judicial-retributive, compassionate, and ideological-representational, classes of killing all entail distinct intentional modes engendering subsequent specific ethical effects. We can similarly proceed in ascertaining the status of individual self-defence, and whether it demands lethal extension in those cases where no other possibility of self-preservation appears possible. To do so, we need to consider briefly the broader frame for that discussion, by clarifying the conventional status of potentially justified lethal Buddhist practice given the critique of its intentional forms in foregoing chapters.

§2. The conventionalist objection: instrumental efficacy

At the end of Chapter Seven I noted that the conventional construction of the person in lethal acts, and the generic misconceptions generated thereby, is ubiquitous among human communities. However, I also suggested that the causal efficacy of killing may be engaged with differing, or even diametrically opposed, quotients of cognitive competence and thus moral confidence. This is reflected in the empirical fact that some national legislatures, with their legal subjects, popularly sanction intentional killing (such as the death penalty and euthanasia) where others just as keenly don't.[209] Moreover, where judiciaries potentially and actually resort to legal killing, its function often serves very different moral ends (compare for example a zero-tolerance war on drugs and liberal euthanasia laws).

Despite these differences, the ubiquity of legal killing across a normative spectrum amounts to what I have called a 'conventionalist' paradigm of killing whereby its efficacy is variably justificatory across a range of cases. For example, few modern polities question the philosophical and ethical validity of killing in warfare (including some among its otherwise revisionist critics; see McMahan 2009; Keown 2014 in the Buddhist context argues for the justified role of military deterrence in peace-building). *Conventionalist* thus signifies the conventional in its doxastic rather than

[209] See *The Economist* (2015) for comparative statistics for capital punishment.

Buddhist-epistemic sense: the stance that few normative agents and even theorists see any fundamental reason to question, even where it is, as we have seen in Buddhist-conventional terms, at best mistakenly and not rationally or ethically justified (as each of Chapters Four through Seven have variously demonstrated given their focal philosophical concerns).

Terrorists, for instance, identify their acts as serving any number of conventionally legitimate political or other goals, to be publicly understood as such. Their antagonists in government-sanctioned counter-terroristic operatives do the same and ground their justification in a public consensus that largely concurs with their reasons and goals for so doing. Moreover, even if the goals of such killing can be understood in Buddhist terms (as we saw in Chapter Seven) to entail fundamental constitutive error, the terrorist remains to all practical purposes a pernicious menace.

The Buddhist might object that, by the same token, it appears indubitable that executing numberless terrorists does not eradicate the human propensity to RK, or determine that human agents cease engaging terrorism. We have seen that states of belief, and the volitions and acts motivated by them, are not intrinsic to persons in their material or mental existence. Beliefs and the propositional attitudes associated with them as it were inhere, rather, in processes of cognitive reification which transmit collective linguistic-symbolic phenomena: identities and structures of self and meaning. As reified, these cognitive processes can be not only qualified and transformed with respect to other views and beliefs, but in terms of Buddhist theory and practice, also divested of their reified status.

Killing is thus *au fond* nothing but an instrument of power. From a Buddhist perspective, it can be justified neither ultimately nor conventionally. Ultimately, the properties represented in killing do not inhere in those killed; conventionally, they emerge only in relation to the more or less mistaken cognitive states of those who ascribe them. But the Buddhist has not yet adequately addressed the fact of the sheer *efficacy* of killing as opposed to its rational *justification*.

Hence, the conventionalist in this case might legitimately press the purely instrumental point: if, for example, an armed assailant is about to murder one’s family, what response is appropriate for a Buddhist? The

Buddhist answer will again presuppose a distinction between appropriate and justified response, where appropriateness does not entail justification thereby. As we have seen, whatever makes an act morally appropriate or skilful is at all times framed within an open field of possibility marked by conscious intention, and its constitutive psychology.

II. §3. The person as imminent lethal threat: killing in self-defence

Self-defence is plausibly motivated by a biological instinct to survival, and thus an expression of the desire to extend life. On any Buddhist account, however, in all sentient beings apart from *ārya*-beings such a biological desire also implicates the psychological desire to preserve the self, perceived as threatened along with the threat against physical life, just because ordinary beings by Buddhist definition are constituted as reified selves which seek to preserve that spurious sense of self just as they do their nature as a living organism.

This is not yet a Buddhist argument against lethal self-defence, but it is a crucial aspect of any Buddhist description of it. It follows that it is impossible for an unawakened individual to act to the end of self-preservation in non-reified terms (only an arhat, bodhisattva or Buddha can do that). The unawakened person by definition always reifies himself as *a self*, which seeks to survive simply to further its own interests in the world, whatever they may be. If so, the self-defence of ordinary persons is always a defence of a self, which he intends to preserve, *against* the aggressor other.

Killing in self-defence thus evidences a reciprocal volitional dynamic between its agent and object: it is more or less justifiably predicated on a pre-emptive incapacitation of the threat of an *intentionally congruent* volition to kill the other. Hence, the initial volition to aggression (in the aggressor) triggers a secondary volition to aggression (in the would-be victim). The Buddhist wants to note that the volitional nature of the would-be victim of attack ineliminably enters into a Buddhist psychological analysis of the ethics of lethal self-defence. Having noted that, the psychological state of the wrongfully attacked becomes as significant an evaluative factor in determining the wrongness of lethal self-defence, as is that of the attacker.

In earlier chapters we observed that cognition is conditioned by volitional structures, as well as by affect. We saw that intentional consciousness is thus not a neutral lens, but rather the conditioned medium by which any event is disclosed: the lethal act no less than any other. Moreover, that intentional action is also constituted by the combined effect of endogenous mental-psychological contents such as the *āsavas*, *kleśas* and specific *saṃskāras* we have considered above, as well as by the kinds of *cittas* that mediate these as subpersonal forces in action. Such contents are not unique to killing per se. An acute imagining, especially a dream-event, of murder could be theorised as psychologically comparable to the real, waking case.[210] But when these contents provide the psychological impetus for agency, including in putatively rational acts of self-defence, and especially with regard to the mental factors of hostility, delusion, conceit, shamelessness, and lack of moral dread, these causes of action acquire a specific moral valence.

The Buddhist ethical doctrine that insists on the absence of hatred or anger[211] as a necessary condition of justified violence, is germane to this enmeshed intentional structure of self-defence. Similarly, as noted in Chapter Five, one of the problems with the intentional structure of retributive lethality is that in expressing retribution for a prior lethal act, retribution might itself be generated by degrees of *conscious or unconscious* aggression in the retributivist motivated by anger or aversion. If so, the psychological causes of lethal aggression, apart from their putative justification, remain not pacified but fortified. The same potentially applies to self-defence.

As we have seen in Chapter Four, the Abhidhamma/Abhidharma does not countenance the notion that lethal acts committed by ordinary persons can lack a quotient of hatred, even if other mental afflictions (such as fear or

[210] Some Tibetan Buddhist traditions entertain the notion of depth-psychological agency, and Tsongkhapa follows Candrakīrti by including dream-conduct in the full spectrum of morality (*sīla*).

[211] See for e.g. Dhp. 42; AN IV.94; Vism 300; Śāntideva's *Bodhicaryāvatāra* is a *locus classicus* in the Mahāyāna context.

greed) might be absent. Hence, on this view *no* such lethal act, even of comparatively justified self-defence, lacks a degree of aversion. Hence, the defensive killing of an aggressor by an ordinary lethal agent is at best a purely pragmatic measure that is in every case to be regretted because it is ineluctably determined by unskilful intention and its concomitant negative *kammic* consequence.

Of course, an ordinary agent might quite naturally obey his impulse to self-preservation, but on the Buddhist account that will accrue effects which ineluctably militate against a Buddhist justification of lethal self-defence. Here we can recall Gethin's Abhidhamma account which suggests that engaging such an impulse implicates self-directed psychological insight rather than prescription or proscription, where the rightness or wrongness of action is not justified by rational argument but rather determined by self-understanding *in situ* irrespective of such judgement, and so in that sense an essentially subjective datum. Gethin asks: "Are you sure that some subtle aversion and delusion have not surfaced in the mind? In the end ethical principles cannot solve the problem of how to act in the world. If we want to know how to act in accordance with *Dhamma*, we must know our own minds." (2004a, 190)

This is where the rubber of Buddhist psychological-ethical theory hits the road of Buddhist practice, and there is no other definitive moral argument with reference to which lethal self-defence can be adjudicated. In the context of a very wide spectrum of possible intentional grounds for such action, the only putatively justified Buddhist case for lethal self-defence requires that a recipient of unprovoked violence is *not* motivated by any degree of hostility and aversion, and that mental states characterised by those affects do not at all factor in the psychological causes of a responsive lethal act: in other words, an agent of *justified* lethal self-defence must be a bodhisattva or *ārya*-being.

Given this very high Buddhist-psychological standard determining a potentially justified act of lethal self-defence, let us for argument's sake assume that an ordinary agent is sufficiently lacking even a minimal quotient of aversion, and so in this sense at least is virtually indistinguishable from the ideal bodhisattva agent. Killing in this very best case of ordinary self-defence still does not escape a second Buddhist concern. This is because the very instinct to even aversion-less self-preservation evidences an attachment to ongoing existence, which in ordinary beings extends to a desire for its permanence (*bhavāsava*), noted in Chapter Two.

As conditioned propensities for the mental defilements of sensual pleasure (*kāmāsava*), the craving for existence (*bhavāsava*), and ignorance (*avijjāsava*), the *āsavas* perpetuate the beginningless *kammic* cycle of rebirth and suffering: they "defile, bring renewal of existence, give trouble, ripen in suffering, and lead to future birth, aging and death." (MN 36.47; I 250; trans. Bodhi 2005, 229) Inasmuch as the *āsavas* are also definitively ended only with the achievement of Arhatship, the affectively best-case act of ordinary self-defence falls short of precluding the *bhavāsava*.

Again, the ordinary agent of lethal self-defence might well engage the defensive volition to kill in order to preserve his or her own life, but will generate thereby both subjective and objective causes and conditions for further suffering. And inasmuch as extirpating the fundamental causes of suffering is the *raison d'être* of Buddhism, and killing engages some of the most morally grave causes of such suffering (see again discussion of the PD or principle of *dukkha*, in Chapter One), then lethal self-defence in this second case also fails robust Buddhist justification. Finally, both these Buddhist concerns for the role of *kleśas*, and suffering-perpetuating *āsavas*, including the *bhavāsava*, entail that it is always preferable to intend to neutralise a dangerous threat by non-lethal means, instead of lethal ones.

Hence, the Buddhist desideratum in this intentional case is to disable real threat, not to end a life. On that basis, a Buddhist will be justified in seeking the effective restraint of an aggressor by means of, for example, injury to the means of mobility. Practically speaking, inasmuch as the attacked party might be in a position to respond *lethally* at all (with a firearm or other weapon) then by the same token they are also in a position to respond with force, which may indeed injure, but without entailing the death of the aggressor. Hence, H.H. the 14th Dalai Lama, for instance, has spoken of shooting at the legs, not the vital parts, of an aggressor, in self-defence (Bernton 2001). That intention is prudential, whereby varying degrees of restraint might achieve what is required, and no more. On the basis of all of the foregoing argument, there is otherwise no justifiably Buddhist reason to intend to kill to the end of preserving one's life.

The early Buddhist ideal of 'non-reactive' action—action not characterized by impulsive aggression—might also imply passivity in the face of hostile aggression. Indeed, I've noted that in the Śrāvakayāna context the Arhat is paradigmatically incapable of intentionally killing a sentient other. Whether the non-Arhat agent is capable of the same incapacity is moot, even where he does not kill in self-defence. The Mahāyāna however, as we have seen, in this context expresses the realization of selflessness otherwise, in the case of bodhisattva agents who, like the Arhat, are free of the *āsavas*, *kleśas* and volitional dispositions typical of ordinary agents.

This theoretically allows bodhisattvas to positively exercise lethal self-defence, but more often the defence of others, just because they are *not* so motivated. This appears to underwrite the Buddhist exceptionalism, noted in Chapter Three, in which bodhisattvas are, at the least, exonerated from blame in killing from purely compassionate, yet still defensive, motives: only they can act lethally with positive moral impunity. This re-confirms both principles of *guṇa* (quality) and *prajñā* (wisdom) (PG and PP) discussed in Part I as justificatory of—in this case rare exceptions to—the first precept prohibiting killing.

§4. A conclusion: Buddhist ethics and the soteriological value of life

Given the foregoing, it is unsurprising that the highest value in the Buddhist lifeworld attaches itself to the figure of the awakened Buddha: that sentient being which has transcended any experience of suffering, all nescience, and any lack of unconditional and universal compassion (*bodhicitta*). Hence also, the primordial value identified in terms of the fundamental valorisation of *kusala-cetanā* and *kusala-kamma-pathā* (all courses of action informed by wholesome intention) is confirmed: *that intention is wholesome which expresses and bears witness to the metaphysical* Ur-*value inherent in sentient being, epitomized in the awakening of the historical Śākyamuni Buddha.*

However, the proper basis for this value should be emphasized: the Buddha only is the awakened Buddha because of the properties of consciousness that render him awakened and that are only conventionally predicated of *this* body and person and not another. It is not the Buddha's body or person as such that guarantees their absolute value, but the consciousness they mediate; Buddha Śākyamuni asserts that as *anattā* he is not his body at all. Body, person and their value are conventional posits metaphysically empty of inherent value, just as their ontology is empty of inherent existence or *svabhāva*. Hence, the absolute value predicated of a Buddha as the exemplar of absolutely achieved wisdom and *bodhicitta*, is only relative to those comparatively less-enlightened minds which predicate it.

This means there is in this framework no *absolute* value because all value depends ontologically and epistemically on the conventional posits of ordinary sentient beings. The value posited of the historical Buddha is the *ne plus ultra* of the conventional lifeworld of *saṃvṛtisatya*; causally identified in *kusala-cetanā* it inaugurates the *potential* for the transcendental value of Buddhahood as such, immanently manifesting insight and compassion as evidence of the fruition of the Buddhist path. On the Buddhist view, to be born human means to possess the great and extremely rare good fortune of that potential gaining, and its ultimate realisation in awakening; the Buddhist life-path is the means to its achievement.

But not all human persons have yet recognised that fortune; hence, taking human life absolutely forecloses their rare potential *as* individual human births. While individual life remains, other obstacles to the gaining of the path can be potentially overcome; but death uniquely *cannot* be overcome in the conventional context of *saṃvṛtisatya*. Those who are Buddhists but not yet Buddhas might already conceive that in terms of transcendental *paramārthasat* there is ultimately no gaining, no value, and no Buddha, but that to realize that truth crucially requires an absolute respect towards *the means of its realization*: embodied existence in a unique, living and sentient human body. This, also, is why the first Buddhist precept is a proscription, perhaps above all, against the abuse of that absolute respect.

This also means that instead of justifying pacifist non-violence by appeal to transcendental values, Buddhist soteriology points to the cognitive-affective causes that enable a respect for and full recognition of the inherent *potential* for absolute freedom—that is, the absolute extirpation of suffering—

that is its telos as *nirvāṇa*.[212] That recognition includes the realisation that the efficacious site for such extirpation is *absolutely* not the eradication of external threat. Rather, it lies with the realisation that intersubjective conflict is ultimately, and fundamentally, engendered by the mind that misperceives the self and other, then constructs intrinsically real *Ur*-values *as* absolute and thereby justifies killing in the service of those values.

Hence, Buddhist martyrdom is not an exercise in self-abnegation expressed by a Christian turning of the other cheek or the salvific faith expressed in Martin Luther King Jr.'s phrase that "unearned suffering is redemptive." (1986, 18) Rather, the Buddhist martyr dies not merely in terms of unconditional compassion for his aggressor, but also, and primarily, with attention to her own mind. The critical aim for the Buddhist adept is to focus on whatever insight, even on the level of transcendental wisdom, is available in a situation of possibly terminal crisis—as, indeed, embodied existence already is. Rather than kill in a state of confusion or mere reactivity, the Buddhist adept seeks either non-lethal self-defence or, *in extremis*, surrenders willingly to death.

In doing so she maximizes her will to insight, compassion for the other, and the amelioration of further suffering, which suffering being self-willed inevitably continues for her aggressor, but in her own will to liberation and its certain happiness not herself. In potentially accessing states of superlative wisdom and compassion, she renders still more acute her exemplary status: in such a gracious death, she could not be a more noble being, and the human as such never reaches higher. Its archetypes are, of course, as much Christic as Buddhist, if for symbolically different reasons.

A Zen Buddhist might rhetorically ask, Why survive? when life is impermanent and death certain. A Buddhist high-adept might perceive that should her end be near, the surest mental action embodying the culmination of a lifetime of Buddhist practice, is to greet death—in *all* its guises—without reserve, knowing that in any circumstance it is the unknown and the means of dying arbitrary. Life then is not something that can be held onto; a great part of its value, and wonder, derives from the knowledge of that fact. Were it

[212] Confirming the theorisation of human dignity in Chapter 7, above.

otherwise we also would not, paradoxically, have the power of life and death—and much else inbetween—in our hands.

Recapitulation and a coda

I have surveyed the prominent textual sources and philosophical bases for understanding and evaluating the moral status of intentional lethality, available in the classical Śrāvakayāna and Mahāyāna Buddhist contexts. My goal has been to develop a cogent rational reconstruction of Buddhist ethics as understood by the tradition, and as applicable today. As noted in the General Introduction, it was essential to engage a range of foundational classical sources in order to do philosophical justice to the norms, values and ideas structuring the Buddhist ethics of killing, and to situate and appropriate these in the context of contemporary Buddhist reflections on the ethics of killing. This approach requires rejecting some of the epistemic assumptions of some contemporary Buddhist Studies scholars, who propose to derive unconventional norms governing permissible Buddhist killing not from rationally accessible and probative modes of argumentation, but from non-rational modes of faith in the contemporary interpretation of antinomian Mahāyāna norms concerning so-called auspicious intentional killing.

I examined and assessed the affective bases for the evaluative criteria of killing, but also their relation to the cognitive bases identified, so to speak, between the lines. This required identifying implicit and explicit canonical criteria for evaluation that, in their textual reiteration and commentarial development, emerged as heuristics for systematising a would-be Buddhist ethics of killing: the principles of *dukkha* or suffering (PD), of *kamma* (PK), of *guṇa* or quality (PG) and particular to the Mahāyāna context, of *prajñā* or wisdom (PP). While the classical Buddhist sources were reasonably clear about the affective dimensions ineliminably involved in judging lethal acts, the cognitive dimensions of kinds and acts of killing were comparatively obscure. The philosophical task was thus to bring these dimensions into explicit view, to the end of clarifying their rational and normative status.

These principles provide a conceptual schema to analyse more specific canonical normative claims concerning different classes of killing, and different agents and objects of acts pertaining to those classes. This allowed us to uncover the justificatory strategies informing fundamental Buddhist norms. We saw that these evaluative criteria could be varyingly applied to the 21st-century Buddhist and extra-Buddhist ethical context. For example, the PD could be understood as a foundational norm able to be extrapolated from ancient sources to present-day concerns for suffering and its obviation. On the other hand, certain classical Buddhist assumptions concerning sentience, and how suffering should be construed given those assumptions, demand qualification.

Some criteria, such as the PK, can be naturalised psychologically or socially, while other associated claims, such as the broadly soteric beliefs that inform religious-cosmological theories of moral causation, were seen to be conceptually problematic. In Chapter Three, I noted epistemological and normative limitations of some aspects of the Mahāyāna transcendental contextualisation of *kamma*/*karman*, and found a classical Buddhist precursor in this concern in Dharmakīrti, whose notion of a judiciously rational moral agent could provide a Buddhist model for contemporary ethical theorisation. I subsequently engaged the analyses developed in Part I to also address in Part II more broadly Mahāyāna modes of analysis, especially as represented by the Madhyamaka school. This allowed me to develop a more general, global Buddhist account of the evaluative criteria for the assessment of intentional lethal acts.

In this study I hope to have helped fill a lacuna in a viable Buddhist bioethics, and that my analysis provides a philosophical propaedeutic for that project. My intention has been to elucidate the moral status of killing as it is understood in classical Buddhist sources and philosophical schools, to assess and to systematise that understanding, and to mobilise it critically to develop a Buddhist ethical approach that makes sense in the contemporary world.

Abbreviations

AN	*Aṅguttaranikāya*
Abhidh-s	*Abhidhammatthasaṅgaha*
AKB	*Abhidharmakośa-bhāṣyam*
As.	*Atthasālinī* (*Dhammasaṅgaṇī*-a*ṭṭhakathā)*
Dhp.	*Dhammapada*
Dhp-a	*Dhammapada-aṭṭhakathā*
Dhs.	*Dhammasaṅgaṇi*
Dhs-a.	*Dhammasaṅgaṇi-aṭṭhakathā*
DN	*Dīghanikāya*
Dīp.	*Dīpavaṃsa*
It.	*Itivuttaka*
It-a.	*Itivuttaka-aṭṭhakathā*
Khp-a	*Khuddakapāṭha-aṭṭhakathā*
Kvu	*Kathāvatthu*
MMK	*Mūlamadhyamakakārikā*
MN	*Majjhimanikāya*
MN-a.	*Majjhima-nikāya-aṭṭhakathā* (*Papañcasudani*)
M-ṭ	*Papañcasudani-ṭika*
MNd.	*Mahānidessa*
MNd-a	*Mahānidessa Aṭṭhakathā*
Mp.	*Manorathapūraṇī (Aṅguttaranikāya-aṭṭhakathā)*
Mil	*Milindapañho*
Mvn.	*Mohavicchedanī*
Nett.	*Netti-pakaraṇa*
Nidd-a	*Niddesa-aṭṭhakathā*
Pati.	*Paṭisambhidāmagga*
Paṭis-a.	*Paṭisambhidāmagga-aṭṭhakathā*
Ps.	*Papañcasūdanī*
PV	*Pramāṇavārttika*
PVSV	*Svavṛtti*
SN	*Saṃyutta-nikāya*
Sn.	*Sutta-nipāta*
Spk.	*Sāratthappakāsinī*
Sv.	*Sumaṅgala-vilāsinī (Dīghanikāya-aṭṭhakathā)*
Thag.	*Theragāthā*
Ud.	*Udāna*
Ud-a	*Udāna-aṭṭhakathā*
Uss.	*Upāsaka-śīla Sūtra*
Vibh.	*Vibhaṅga*
Vin.	*Vinaya Pitaka*
Vin-Pat.	*Vinaya Pātimokkha*
Vism	*Visuddhimagga*
Vism-ṭ	*Visuddhimagga Ṭīkā*

BIBLIOGRAPHY

Classical Sources

Abhidharmakośabhāṣyam. (Vasubandhu) (tr.) L. de la Vallee Poussin (1971), L'Abhidharmakośa de Vasubandhu, Bruxelles: Institut Belges des Hautes Études Chinoises; L. Pruden (tr.) *Abhidharmakośabhāṣyam*, Asian Humanities Press: Berkeley, 1988.

Abhidhammattha Saṅgaha: A Comprehensive Manual of Abhidhamma, (gen. ed. & trans.) Bhikkhu Bodhi, (tr.) Mahāthera Nārada, (Intro. & guide) U Rewata Dhamma and Bhikkhu Bodhi, BPS Pariyatti Editions: Seattle, 2000.

Aṅguttara Nikāya, I-IV. Morris, R., Hardy, E. and Rhys Davids, C.A.F. (eds.). Pāli Text Society: London, 1999.

Dhammapada. *The Word of the Doctrine. Dhammapada.* Norman, K.R. (tr.), Pāli Text Society: Oxford, 2000.

Dīghanikāya. *Thus Have I Heard. The Long Discourses of the Buddha.* Walshe, M. (tr.) Wisdom Publications: London, 1987.

Mahāprajñā-pāramitāśāstra. (Nāgārjuna). Lamotte, E. (trans.) *Le traité de la grande vertu de sagesse de Nāgārjuna.* Volume 2. Bureaux du Muséon: Louvain, 1949.

Mūlamadhyamakakārikā (Nāgārjuna). *Fundamental Wisdom of the Middle Way: Nāgārjuna's Mūlamadhyamakakārikā*. (tr. with comm. Garfield, J.) Oxford University Press: Oxford & New York, 1995.

Pramāṇavārttikam: *The First Chapter with the Autocommentary*. (*Dharmakīrti*) ed. R. Gnoli. Serie Orientale Roma, Rome: Istituto Italiano per il Medio ed Estremo Oriente, 1960.

Śikṣā Samuccaya, A Compendium of Buddhist Doctrine (Śāntideva). Bendall, C. and Rouse, W.H.D., (tr.) Motilal Barnarsidass: Delhi, 1999.

Suttanipāta. Anderson, D. and Smith, H., (eds.), Pali Text Society: London, 1997.

Vinaya Piṭaka. The Book of the Discipline, 6 vols., I.B. Horner (tr.), Pali Text Society: London, 1938-66.

Modern Sources

ABC News (Australia). “Fact Check: No proof the death penalty prevents crime”, May 4, 2015, at: https://www.abc.net.au/news/2015-02-26/fact-check3a-does-the-death-penalty-deter3f/6116030 (accessed 21.12.2019)

Adam, M. “Buddhism, Equality, Rights.” *Journal of Buddhist Ethics*, Vol. 20 (2013): 421-443.

_____ . “Moral Development in the *Jātakas*, *Avadānas*, and Pāli *Nikāyas*” in Cozort, D. and Shields, J. (Eds.) pps.77–95. *The Oxford Handbook of Buddhist Ethics*. Oxford University Press: Oxford, 2018.

Agar, N. *Life's Intrinsic Value: Science, Ethics and Nature*. Columbia University Press: New York, 2001.

Anālayo. “Channa's suicide in the Saṃyukta-āgama.” *Buddhist studies review*, 27 (2), (2010): 125–137.

_____ . “Vakkali's suicide in the Chinese Āgamas.” *Buddhist studies review*, 28 (2) (2011): 155–170.

_____ . “The mass suicide of monks in discourse and Vinaya literature.” *JOCBS*, 7, (2014): 11–55.

Appiah, A. *The Ethics of Identity*. Princeton University Press: Princeton, 2005.

Arnold, D. *Brains, Buddhas and Believing: the Problem of Intentionality in Classical Buddhist and Cognitive-Scientific Philosophy of Mind*. Columbia University Press: New York, 2014.

_____ . “Philosophy of Mind's “Hard Problem” in Light of Buddhist Idealism.” In *Philosophy's Perennial Questions: Comparing Buddhist and Western Approaches*. (unpublished) Ed. Steven Emmanuel, University of Chicago, Dec. 2015.

Bainbridge, W. and Baines, E. “Insight into Palliative Care: An Audience with the Dalai Lama”. *European Journal of Palliative Care* 8(2) (2001).

Barnhart, M.G. “Buddhist Perspectives on Abortion and Reproduction” in *The Oxford Handbook of Buddhist Ethics*. Cozort, D. and Shields, J. (Eds.) pps.592-610. Oxford University Press: Oxford, 2018.

Bartholomeusz, T. *In Defense of Dharma: Just-war Ideology in Buddhist Sri Lanka*. Routledge Curzon: London, 2002.

Becker, C.B., “Buddhist views of suicide and euthanasia”. *Philosophy East and West* 40 (1990): 543–556.

Bedau, H.A. “Capital Punishment” in *The Oxford Handbook of Practical Ethics*. La Follette, H. (ed.) Oxford University Press: Clarendon, 2005.

Benn, J. A. *Burning for the Buddha: Self-Immolation in Chinese Buddhism*. University of Hawai’i Press: Honolulu, 2007.

Bernton, H. “Dalai Lama urges students to shape world”. *The Seattle Times*: May 15, 2001: http://community.seattletimes.nwsource.com/archive/?date=20010515&slug=dalai15m0 (accessed 21.12.2019)

Bitbol, M. “Is Consciousness Primary?” *NeuroQuantology* Vol. 6, No.1 (53-72): 2008.

Bodhi, Bhikkhu. *A Comprehensive Manual of Abhidhamma: The Abhidhammattha Sangaha of Ācariya Anuruddha*. 1st BPS Pariyatti ed. Seattle: BPS Pariyatti PDF Edition, 2012.

_____ . "Going for Refuge & Taking the Precepts: The Five Precepts” *Access to Insight*, 1994: https://www.accesstoinsight.org/lib/authors/bodhi/wheel282.html (accessed 21.12.2019)

_____ . (ed.) *In the Buddha’s Words: An Anthology of Discourses from the Pāli Canon.* Wisdom Publications: Boston, 2005.

Bond, G. “Buddhism, War and Peace in Sri Lanka” in *Destroying Māra Forever: Buddhist Ethics Essays in Honor of Damien Keown*. Powers & Prebish (eds.). Snow Lion Publications: Ithaca, 2009.

Brogaard, B. “The status of consciousness in nature” in *The Constitution of Phenomenal Consciousness: Towards a science and theory*. Miller, S. (ed.) John Benjamins Publishing Company, 2015, at: https://www.academia.edu/25149938/The_status_of_consciousness_in_nature (accessed 21.12.2019)

Broido, M. "Killing, Lying, Stealing, and Adultery: A Problem of Interpretation in the Tantras", in *Buddhist Hermeneutics*. D.S. Lopez, Jr. (ed.). Motilal Barnarsidass Publications: Delhi, 1993.

Cassell, E.J. *The Nature of Suffering*. Oxford University Press: Oxford, 1991.

Cavanaugh, T. *Double-Effect Reasoning: Doing Good and Avoiding Evil*. Oxford University Press: Oxford and New York, 2006.

Chalmers, D. *The Conscious Mind.* Oxford University Press: Oxford, 1996.

Collett, A. "Buddhism and Women" in *The Oxford Handbook of Buddhist Ethics*, eds. Shields and Cozort. Pps. 552-566. Oxford University Press: Oxford, 2018.

Collins, S. *Selfless Persons: Imagery and Thought in Theravāda Buddhism*. Cambridge University Press: Cambridge, 1982.

Coseru, C. *Perceiving Reality*: *Consciousness, Intentionality, and Cognition in Buddhist Philosophy*. Oxford University Press: Oxford, 2012.

______ . "Breaking Good: Moral Agency, Neuroethics, and the Spontaneity of Compassion" in *A Mirror Is For Reflection: Understanding Buddhist Ethics*. (ed.) Davis, J. H. pps. 109-128. Oxford University Press: Oxford, 2017.

______. "Mind in Indian Buddhist Philosophy", *The Stanford Encyclopedia of Philosophy* (last ed. 2012, Spring 2017 Edition), E. Zalta (ed.), at: https://plato.stanford.edu/archives/spr2017/entries/mind-indian-buddhism/ (accessed 21.12.2019)

______ . "Karma, Rebirth and Mental Causation" in Prebish, Keown & Wright (eds.), *Revisioning Karma*. *Journal of Buddhist Ethics* Online Books. pp. 133-154 (2007).

Cozort, D. "'Cutting the Roots of Virtue': Tsongkhapa on the Results of Anger". *Journal of Buddhist Ethics* Vol. 2 (1995).

Cozort, D. and Shields, J. (eds.) *The Oxford Handbook of Buddhist Ethics*. Oxford University Press: Oxford, 2018.

Crane, T. *Elements of Mind: An Introduction to the Philosophy of Mind.* Oxford University Press: Oxford and New York, 2001.

Dalton, J. *Taming the Demons: violence and liberation in Tibetan Buddhism.* Yale University Press: New Haven, 2011.

Dasti, M. & Bryant, E. (eds.) *Free will, agency, and selfhood in Indian philosophy*. Oxford University Press: New York: 2014.

Davis, J. (ed.) *A Mirror is for Reflection: Understanding Buddhist Ethics.* Oxford University Press: NY, 2017.

Davis, L. "Enacting the Violent Imaginary: Reflections on the Dynamics of Nonviolence and Violence in Buddhism". *Sophia* (2016).

Deegalle, M. (ed.) *Buddhism, Conflict and Violence in Modern Sri Lanka*. Routledge: Oxon and New York, 2006.

Delhey, M. "Views on Suicide in Buddhism: Some Remarks" in *Buddhism and Violence* M. Zimmerman et. al. (ed.). 25-63. Lumbini International Research Institute: Lumbini, 2006.

_______ . "Vakkali: a New Interpretation of his Suicide." *Journal of the International College for Postgraduate Buddhist Studies*, 13 (2009): 67-108.

Demiéville, P. "Buddhism and War" in *Buddhist Warfare* (eds. Jerryson & Juergensmeyer), 18-57. Oxford University Press: New York, 2010.

Devdas, N. *Cetanā and the Dynamics of Volition in Theravāda Buddhism*. Motilal Barnarsidass: Delhi, 2008.

Donohue, J. "There's no evidence that death penalty is a deterrent against crime." *The Conversation* (online), August 5th, 2015, at: https://theconversation.com/theres-no-evidence-that-death-penalty-is-a-deterrent-against-crime-43227 (accessed 21. 12.2019)

Donohue, J. and Wolfers, J. "Estimating the Impact of the Death Penalty on Murder." *American Law and Economics Review* (2009) 11 (2): 249-309

Dostoyevsky, F. *Crime and Punishment*, (tr.) D. Magarshack, Penguin: Middlesex, 1966.

Dunne, J. *Foundations of Dharmakīrti's Philosophy*. Wisdom Publications: Boston, 2004.

Faure, B. "The Buddhist Icon and the Modern Gaze". *Critical Inquiry*, Vol. 24 (3) (768-813): 1998.

Fink, C. “Buddhism, Punishment, and Reconciliation.” *Journal of Buddhist Ethics* Vol. 19 (2012): 369-395.

Finnigan. B. “Buddhism and Animal Ethics.” *Philosophy Compass*, 2017;12:e12424.

_____ . “Karma, Moral Responsibility, and Buddhist Ethics”, in Manuel Vargas & John Doris (eds.), *Oxford Handbook of Moral Psychology* (forthcoming 2020), at: https://www.researchgate.net/publication/332739709_Karma_Moral_Responsibility_and_Buddhist_Ethics (accessed 21.12.2019)

Flanagan, O. “The Bodhisattva’s Brain: Buddhism Naturalised”, London School of Economics (LSE) lecture, The Forum for Philosophy (2012), at: https://blogs.lse.ac.uk/theforum/the-bodhisattvas-brain-buddhism-naturalized/ (accessed 21.12.2019) and http://richmedia.lse.ac.uk/publiclecturesandevents/20120111_1830_theBodhisattvasBrain.mp3 (accessed 21.12.2019)

Florida, R. “Buddhism and Abortion” in *Contemporary Buddhist Ethics* (ed.) D. Keown, Curzon Press: Richmond, 2000.

Fortify Rights. *“They Gave Them Long Swords”: preparations for genocide and crimes against humanity against Rohingya Muslims in Rakhine State, Myanmar*. Documentary report; July 2018, at: https://www.fortifyrights.org/downloads/Fortify_Rights_Long_Swords_July_2018.pdf (accessed 21.12.2019)

Fuller, P. *The Notion of Diṭṭhi in Theravāda Buddhism: the point of view*. Routledge Curzon: London and New York, 2005.

Garfield, J. L. *Engaging Buddhism: Why it Matters to Philosophy* Oxford University Press: Oxford & New York, 2015.

_____ . *Fundamental Wisdom of the Middle Way: Nāgārjuna’s Mūlamadhyamakakārikā*. (Tr. & comm.). Oxford University Press: Oxford & New York, 1995.

_____ . “Particularity and Principle: The Structure of Moral Knowledge” in *Moral Particularism*, eds. Hooker and Little, Clarendon Press: Oxford, 2000.

_____ . “Human Rights and Compassion: Toward a Unified Moral Framework” in *Empty Words: Buddhist Philosophy and Cross-Cultural Interpretation*. Oxford University Press: Oxford, 2002.

Gethin, R. “Can Killing a Living Being Ever Be an Act of Compassion? The analysis of the act of killing in the Abhidhamma and Pali Commentaries” *Journal of Buddhist Ethics* 11, (2004a),167-202.

_____. “Wrong View (*micchā–diṭṭhi*) and right view (*sammā-diṭṭhi*) in the Theravāda Abhidhamma”. *Contemporary Buddhism: An Interdisciplinary Journal*, 5:1 (2004b) 15-28.

_____. “Buddhist Monks, Buddhist kings, Buddhist violence: on the early Buddhist attitudes to violence” in *Religion and Violence in South Asia: Theory and Practice*, ed. John R. Hinnells and Richard King, Routledge: London and New York, 2007.

_____ . “The Five Khandhas: Their Treatment in the Nikāyas and Early Abhidhamma”. *Journal of Indian Philosophy*, 14 (1986): 35-53.

_____ . “*Bhavaṅga* and Rebirth According to the Abhidhamma.” Undated (35 pp.), at: https://www.academia.edu/24142507/Bhava%E1%B9%85ga_and_Rebirth_According_to_the_Abhidhamma (accessed 21.12.2019)

Gindin, M. “Does Buddhism Need a Blasphemy “Army”? *Tricycle: the Buddhist Review*: July 3rd, 2018, at: https://tricycle.org/trikedaily/buddhism-blasphemy-army/ (accessed 21.12.2019).

Giustarini, G. “Assessment of kamma in *pāṇatipāta* in Pali commentarial literature.” Unpublished MS. textual note, Mahidol University, Bangkok, October 2014.

Glover, J. *Causing Death and Saving Lives* Penguin Books: London, 1990.

Gray, D. B. “Compassionate Violence?: On the Ethical Implications of Tantric Buddhist Ritual”. *Journal of Buddhist Ethics* Volume 14, 2007.

Griffiths, P. J. *On Being Mindless: Buddhist Meditation and the Mind-Body Problem.* Open Court Publishing Company: La Salle, 1986.

Guenther, H. *Philosophy and Psychology in the Abhidharma*. Berkeley, CA: Shambhala, 1976.

Gyatso, T. (His Holiness the 14th Dalai Lama). *The Global Community and the Need for Universal Responsibility*. Wisdom Publications: Boston, 1992.

_____ . “Relevant Comments by HH The Dalai Lama Subsequent to the Sept. 11, 2001 Terrorist Attack on the US”. 2001, Dalai Lama Website: https://www.dalailama.com/messages/world-peace/9-11 (accessed 21.12.2019)

Hamilton, S. *Early Buddhism: A New Approach. The I of the Beholder*. Richmond: Curzon Press, 2000.

_____ . *Identity And Experience: The Constitution of the Human Being According to Early Buddhism.* London: Luzac Oriental, 1996.

Harvey, P. *An Introduction to Buddhist Ethics: Foundations, Values and Issues.* Cambridge: Cambridge University Press, 2000.

_____ . *The Selfless Mind: Personality, Consciousness and Nirvana in Early Buddhism*. Curzon Press: London, 1995.

_____ . “The Mind-Body Relationship in Pāli Buddhism: A Philosophical Investigation” *Asian Philosophy*, Vol. 1. (3) 1993.

_____ . “Buddhist Perspectives on Crime and Punishment” in *Destroying Māra Forever: Buddhist Ethics Essays in Honor of Damien Keown*. Powers, J. & Prebish, C. (eds.) Ithaca: Snow Lion Publications, 2009.

_____ . “Karma” in *The Oxford Handbook of Buddhist Ethics*. (eds.) Cozort, D. & Shields, J.M. Oxford University Press: Oxford, 2018.

_____ . “Vinaya Principles for Assigning Degrees of Culpability.” *Journal of Buddhist Ethics* Vol.6 (1999): 271-291.

Hayes, R. “Euthanasia in Early Indian Buddhist Thought” (1994), at: https://www.unm.edu/~rhayes/suicide.pdf (accessed 21.12.2019)

Hayward, J. and Varela, F. (eds.) *Gentle Bridges: Conversations with the Dalai Lama*. Random House: Boston/London, 1992.

Heim, M. *The Forerunner of All Things: Buddhaghosa on Mind, Intention, and Agency*. Oxford University Press: Oxford, 2014.

Hershock, P. “Dramatic Intervention: Human Rights from a Buddhist Perspective”. *Philosophy East and West.* 50.1 (2000): 9-33.

Honderich, T. *Punishment: the Supposed Justifications*, (2nd ed.) Harmondsworth: Penguin, 1976.

_____. (ed.) *The Oxford Companion to Philosophy*. Oxford University Press: Oxford/ New York, 1995.

Huimin Bhikkhu. "Buddhist Bioethics: The Case of Human Cloning and Embryo Stem Cell Research", in *Chung-Hwa Buddhist Journal* 15 (2002): 457-470.

Inada, K. "The Buddhist Perspective on Human Rights" in A. Swidler (Ed.) *Human Rights in Religious Traditions*. Pilgrim Press: New York, 1982.

_____ . "A Buddhist Response to the Nature of Human Rights" in *Buddhism and Human Rights*, Keown et. al. (eds), Curzon Press: Richmond, 1998.

Jacquette, D. *Philosophy of Mind*, Prentice Hall, Englewood Cliffs, 1994.

Jenkins, S. "On the auspiciousness of compassionate violence" in the *Journal of the International Association of Buddhist Studies* (JIABS) (2010/2011) Vol. 33 (1-2)

_____ . "Making Merit through Warfare According to the *Ārya-Bodhisattva-gocara-upāyaviṣaya-vikurvana-nirdeśa Sūtra*" in Jerryson & Juergensmeyer (Eds.), 59-77, 2010.

Jerryson, M. & Juergensmeyer, M. (eds.) *Buddhist Warfare.* Oxford University Press, Oxford: 2010.

Jerryson, M. "Buddhism, War and Violence" in *The Oxford Handbook of Buddhist Ethics*, (eds. Cozort and Shields), Oxford University Press, Oxford, 2018.

_____ . "Buddhist Traditions and Violence" in *The Oxford Handbook of Religion and Violence*, (eds. Juergensmeyer, Kitts & Jerryson), Oxford University Press, Oxford, 2013.

Junger, P. "Why the Buddha Has No Rights" in *Buddhism and Human Rights* (eds. Keown, Prebish and Husted). Curzon Press: Richmond, 1998.

Kalupahana, D. J. *Ethics in Early Buddhism* University of Hawai'i Press, Honolulu: 1995.

Kelley, C. “The Inherent Dignity of Empty Persons”, in J. Davis (Ed.), *A Mirror is for Reflection: Understanding Buddhist Ethics*. pp. 297-314. Oxford University Press: New York, 2017.

Keown, D. *Buddhist Ethics: a very short introduction.* Oxford University Press: Oxford, 2005.

_____ . *Buddhism and Bioethics.* (2nd ed.) St Martin’s Press: London and New York, 2001.

_____ . (ed.) *Contemporary Buddhist Ethics*. Curzon Press: Richmond, 2000.

_____ . (ed.) *Buddhism and Abortion*. University of Hawai’i Press: Honolulu, 1998.

_____ . “Buddhism and Suicide: the case of Channa” *Journal of Buddhist Ethics* Vol 3, (1996a): 8-31.

_____ . “Karma, Character and Consequentialism”. *Journal of Religious Ethics*, 24 (1996b): 329-350.

_____ . “Suicide, assisted suicide and euthanasia: a Buddhist perspective.” *Journal of law and religion*, 13 (1998–1999): 385–405.

_____ . “Buddhism and Human Rights” in *Contemporary Buddhist Ethics* (ed. Keown) Curzon Press: Richmond, 2000.

_____ . “The Role of Deterrence in Buddhist Peace-Building”. *Journal of Buddhist Ethics*, Vol. 21 (2014): 655-678.

_____ . “On Compassionate Killing and the Abhidhamma’s ‘Psychological Ethics’”, *Journal of Buddhist Ethics*, Vol. 23 (2016): 45-82.

_____ . “‘It’s Ethics, Jim, but Not as We Know It’: Reflections on the Absence of Moral Philosophy in Buddhism” in *A Mirror is for Reflection: Understanding Buddhist Ethics*. ed. Davis, J. Oxford University Press: Oxford, 2017

_____ . “Human Rights” in *The Oxford Handbook of Buddhist Ethics*. Cozort, D. and Shields, J. (eds.), Oxford University Press: Oxford, 2018.

Keown D. & Keown J. “Killing, karma and caring: euthanasia in Buddhism and Christianity.” *Journal of Medical Ethics* (1995) 21: 265-9.

Keown, D., Prebish, C. and Husted, W. *Buddhism and Human Rights*. Curzon Press: Richmond, 1998.

King, S. *Being Benevolence: the social ethics of engaged Buddhism*. University of Hawai'i Press: Honolulu, 2005.

_____ . "Buddhism, Nonviolence, and Power." *Journal of Buddhist Ethics*, Vol. 16 (2009): 101-135.

_____ . "The Ethics of Engaged Buddhism in Asia" in *The Oxford Handbook of Buddhist Ethics*, eds. Shields and Cozort. Oxford University Press: Oxford, 2018.

King Jr., M. L. *A Testament of Hope: The Essential Writings of Martin Luther King Jr.*, James Melvin Washington (ed.), Harper and Row: San Francisco, 1986.

Koike, K. "The Philosophical Argument against the Right to Die, from a Buddhist Viewpoint". *Journal of Philosophy and Ethical Health Care and Medicine* 1 (2006): 27–42.

Kovan, M. "Thresholds of Transcendence: Buddhist Self-Immolation and Mahāyānist Absolute Altruism, Part One." *Journal of Buddhist Ethics*, 20 (2013): 775–812.

_____ . "Thresholds of Transcendence: Buddhist Self-Immolation and Mahāyānist Absolute Altruism, Part Two." *Journal of Buddhist Ethics*, 21 (2014): 385–430.

_____ . "Being and its Other: Suicide in Buddhist Ethics" in *The Oxford Handbook of Buddhist Ethics*. Oxford University Press: Oxford, 2018.

_____ . "Violence and (Non-)resistance: Buddhist *Ahiṃsā* and its Existential Aporias". *Journal of Buddhist Ethics*, Vol. 16 (38-68): 2009.

Kuan, T. "Abhidhamma Interpretations of "Persons" (*puggala*): with Particular Reference to the *Aṅguttara Nikāya*." *Journal of Indian Philosophy* 43 (2015): 31-60.

LaFleur, W.R. *Liquid Life: abortion and Buddhism in Japan*. Princeton University Press: Princeton, 1992.

Langenberg, A.P. “Buddhism and Sexuality” in *The Oxford Handbook of Buddhist Ethics*, eds. Shields and Cozort. Oxford University Press: Oxford, 2018.

Lamotte, E. (trans.) *Le traité de la grande vertu de sagesse de Nāgārjuna* (*Mahāprajñā-pāramitāśāstra*). Volume 2. Louvain: Bureaux du Muséon, 1949.

Likhitpreechakul, P. “The Kantian Dhamma: Buddhism and Human Rights”. *Journal of the Oxford Centre for Buddhist Studies*, 5 (2013): 161-169.

Lin, Chien-Te. “Rethinking Mind-Body Dualism: A Buddhist Take On The Mind-Body Problem.” Contemporary Buddhism. 14 (2) (2013): 239-264.

Ling, T. “Introduction.” In *Buddhist Trends in Southeast Asia*, (ed.) Trevor Ling. Institute of Southeast Asian Studies: Singapore, 1993.

Loy, D. “How to Reform a Serial Killer: the Buddhist Approach to Restorative Justice”. *Journal of Buddhist Ethics*, Vol. 7 (2000): 145-168.

MacKenzie, M. “Physicalism and Beyond: Flanagan, Buddhism and Consciousness”, at: https://www.academia.edu/12034205/Physicalism_and_Beyond_Flanagan_Buddhism_and_Consciousness (accessed 21.12.2019)

McDermott, J. *Development in the early Buddhist concept of kamma/karma*. Motilal Barnarsidass: Delhi, 1984.

McGinn, C. *Consciousness and its Objects*. Clarendon Press: Oxford, 2004.

McMahan, J. *The Ethics of Killing: problems at the margins of life*. Oxford University Press: Oxford, 2002.

_____ . *Killing in War*. Oxford University Press: Oxford, 2009.

Meinert, C. and Zöllner, H.-B. *Buddhist Approaches to Human Rights*. Transaction Publishers: Piscatawny, 2010.

Mendelson, T. *Nāgārjuna’s Philosophy of Emptiness and Political Philosophy*: *Liberty in Action.* PhD. thesis. University of Melbourne, 2013.

Meyers, K. *Freedom and Self-control: Free Will in South Asian Buddhism*. PhD. thesis. University of Chicago, 2010.

Mrozik, S. *Virtuous Bodies: the physical dimension of morality in Buddhist ethics*. Oxford University Press: Oxford, 2007.

Nagel, T. *Mortal Questions*, Cambridge University Press: Cambridge, 1979.

Nagin, D. and Pepper, J. (eds.) *Deterrence and the Death Penalty*, National Research Council, 2012; available at: https://www.nap.edu/catalog/13363/deterrence-and-the-death-penalty (accessed 21.12.2019)

Nelson, D. "Eight-limbed Indian baby 'worshipped as Hindu god'" in *The Telegraph*, April 24, 2015, at: https://www.telegraph.co.uk/news/worldnews/asia/india/11561245/Eight-limbed-Indian-baby-worshipped-as-Hindu-god.html (accessed 21.12.2019)

Nelson, E. "Virtue and Violence in Theravāda and Sri Lankan Buddhism" in *Buddhist Roles in Peacemaking*. Mun, C. and Green, R. (eds.) Blue Pine Books: Honolulu, 2009 (199-233).

O'Flaherty, W. D. (ed.) *Karma and Rebirth in Classical Indian Traditions.* University of California Press: Berkeley and Los Angeles, 1980.

Parakh, D. "The Origins and Conceptions of *Ahimsa* in Jainism and Buddhism". *Malaviya Centre for Peace Research,* Banaras Hindu University: Varanasi, (July) 2000.

Parfit, D. *Reasons and Persons* Oxford University Press: Oxford, 1985.

Peralta, E. "A Symbol Of Compassion, Dalai Lama Hints Bin Laden's Killing Was Justified". (May 4, 2011, NPR.org) at: https://www.npr.org/sections/thetwo-way/2011/05/04/135987717/a-symbol-of-compassion-dalai-lama-hints-bin-ladens-killing-was-justified (accessed 21.12.2019)

Pereboom, D. *Consciousness and the Prospects of Physicalism*. Oxford University Press: New York, 201.

Perera, L. *Buddhism and Human Rights: a Buddhist commentary on the Universal Declaration of Human Rights*. Karunaratne and Sons: Colombo, 1991.

Perrett, Roy. "Valuing Lives", *Bioethics* 6(3) (1992): 185-200.

_____ . “Buddhism, euthanasia and the sanctity of life” *Journal of Medical Ethics* 22 (1996): 309-313.

_____ . “Buddhism, Abortion and the Middle Way”, *Asian Philosophy: An International Journal of the Philosophical Traditions of the East*, 10:2 (2000), 101-114

Powers, J. “You’re Only as Good as You Look: Indian Buddhist Associations of Virtue and Physical Appearance” in *Destroying Māra Forever: Buddhist Ethics Essays in Honour of Damien Keown*. Powers & Prebish (eds.). Snow Lion Publications: Ithaca, 2009.

Prasad, R. *Karma, Causation and Retributive Morality.* ICPR Series in Contemporary Indian Philosophy, ed. R. S. Rajan. Munshiram Manoharlal: New Delhi, 1989.

Prueitt, C. “Karmic Imprints, Exclusion, and the Creation of the Worlds of Conventional Experience in Dharmakīrti’s Thought”, *Sophia* 57 (2018): 313-335.

Queen, C. “The Ethics of Engaged Buddhism in the West” in *The Oxford Handbook of Buddhist Ethics*, eds. Shields and Cozort. Oxford University Press: Oxford, 2018.

Ratanakul, P. *Bioethics and Buddhism*. College of Religious Studies, Mahidol University: Bangkok, 2004.

_____ . “To save or let go: Thai Buddhist perspectives on euthanasia”, in Keown, D. (ed.), *Contemporary Buddhist Ethics*. (pps. 169–182). Curzon Press: London, 2000.

_____ . “Bioethics in Thailand: The Struggle for Buddhist Solutions”, *Journal of Medicine and Philosophy* 13 (1988) 301-312.

_____ . “Compassion, Health Care, and Buddhist Monks.” *Dharma World* pp.14–18, 2009.

Reichenbach, B. *The Law of Karma: A Philosophical Study.* Macmillan: London, 1990.

Reiss, H. (ed.) and Nisbet, H.B. (trs.). *Kant’s Political Writings*, 2nd ed., Cambridge University Press: Cambridge, 1991.

Repetti, R. (ed.) *Buddhist Perspectives on Free Will: Agentless Agency?* Routledge/Francis & Taylor: London, 2016.

Restak, R. *Mind: The Big Questions*. Quercus Editions Ltd.: London, 2012.

Ricard, M. and Singer, W. *Beyond the Self: Conversations between Buddhism and Neuroscience.* Allary Editions/The MIT Press: Cambridge and London, 2017.

Ronkin, N. *Early Buddhist Metaphysics: the Making of a philosophical tradition*. RoutledgeCurzon: London and New York, 2005.

Rosenthal, R. "What's the connection between Buddhism and ethnic cleansing in Myanmar?" *Lion's Roar: Buddhist wisdom for our time* (online), Nov. 13th, 2018: https://www.lionsroar.com/what-does-buddhism-have-to-do-with-the-ethnic-cleansing-in-myanmar/ (accessed 21.12.2019)

Ruegg, D. Seyfort. *A History of Indian Literature: The Literature of the Madhyamaka School of Philosophy in India.* Otto Harrassowitz: Wiesbaden, 1981.

Sadhatissa, H. *Buddhist Ethics*. Wisdom Publications: Somerville, 1997.

Sayadaw, Ven. M. *Sallekha Sutta (A Discourse on the Refinement of Character)* 2nd rev. ed. (tr. U Aye Maung), Buddhadhamma Foundation, Bangkok: 1997.

Schlieter, J. "Endure, Adapt, or Overcome? The Concept of 'Suffering' in Buddhist Bioethics". In *Suffering and Bioethics*, Green, R.M. and Palpant, N.J. (eds.). Oxford University Press: Oxford, 2014.

Schmithausen, L. "Aspects of the Buddhist Attitude towards War." In: J.E.M. Houben and K.R. Van Kooij. (eds.) *Violence Denied: Violence, Non-Violence and the Rationalization of Violence in South Asian Cultural History*. (pps. 39-67) Leiden and Boston: Brill, 1999.

_____ . *The Problem of the Sentience of Plants in Earliest Buddhism.* The International Institute for Buddhist Studies: Tokyo, 1991.

Shields, J.M. "Liberation as Revolutionary Praxis: Rethinking Buddhist Materialism", Journal of Buddhist Ethics, Vol.20 (2013): 459-499

Shields, J. and Cozort, D. (eds.) *The Oxford Handbook of Buddhist Ethics*. Oxford University Press: Oxford, 2018.

Siderits, M. *Studies in Buddhist Philosophy* (ed. J. Westerhoff). Oxford University Press: Oxford, 2016.

_____ . *Buddhism as Philosophy: an Introduction*. Ashgate: London, 2007.

_____ . "Buddhist Reductionism." *Philosophy East and West*. 47.4 (1997): 455-478.

Sitze, A. "Capital Punishment as a Problem for the Philosophy of Law." *CR: The New Centennial Review*, Vol. 9/2 (Fall, 2009): 221-270.

Skorupski, T. "Sautrāntika", in M. Eliade et. al. (eds.), *The Encyclopedia of Religion*, Vol. 13. Macmillan Publishing Company: New York, 1987.

Sogyal Rinpoche. *The Tibetan Book of Living and Dying*. Rider: London, 1992.

Sorell, T. *Moral Theory and Capital Punishment*. Basil Blackwell/Open University: Oxford, 1987.

Spackman, J. "Contemporary Philosophy of Mind and Buddhist Thought". *Philosophy Compass* 7/10 (2012): 741–751.

Stewart, J. *Vegetarianism and Animal Ethics in Contemporary Buddhism*. Routledge: London, 2015.

_____ . "Violence and Nonviolence in Buddhist Animal Ethics." *Journal of Buddhist Ethics*, Vol. 21. (2014): 623-655.

Stoljar, D. *Physicalism*. Routledge: London, 2010.

Strawson, P. *Individuals: An Essay in Descriptive Metaphysics*. Routledge: London and New York, 1996 (orig. 1959).

Strawson, G. "Consciousness never left", in *The Return of Consciousness*, ed. K. Almqvist and A. Haag. pp. 89–103. Axel and Margaret Axson Johnson Foundation: Stockholm, 2017.

_____ . "Realistic Monism: Why Physicalism Entails Panpsychism." *Journal of Consciousness Studies* 13 (2006): 3-31.

Tatz, M. *Asaṅga's Chapter on Ethics with the Commentary of Tsong-kha-pa*. Edwin Mellen Press: New York, 1986.

The Economist. "Capital Crimes", The Data Team, April 1st, 2015, at: http://www.economist.com/blogs/graphicdetail/2015/04/daily-chart?fsrc=scn%2Ftw%2Fte%2Fpe%2Fed%2Fcapitalcrimes (accessed 21.12.2019)

Thompson, Jr., H. and Strutz, H. *Dönitz at Nuremberg: A Reappraisal*. Torrance: California, 1983.

Tikhonov, V. and Brekke, T. (eds.) *Buddhism and Violence: Militarism and Buddhism in Modern Asia.* Routledge: New York, 2013.

Tillemans, T. "Madhyamaka Buddhist ethics." *Journal of the International Association of Buddhist Studies* (JIABS) 33.1-2 (2010/2011)): 359-378.

______. (2016) "Dharmakīrti" *Stanford Encyclopedia of Philosophy*, PDF version from the Winter 2016 edition: http://plato.stanford.edu/archives/win2016/entries/dharmakiirti/ (accessed 21.12.2019)

Tsomo, K. *Into the Jaws of Yama, lord of death: Buddhism, bioethics and death*. State University of New York Press: Albany, 2006.

United Nations. Human Rights Office of the High Commissioner. *Flash Report: Report of OHCHR mission to Bangladesh. Interviews with Rohingyas fleeing from Myanmar since 9 October 2016*. 3rd February, 2017, at: https://www.ohchr.org/Documents/Countries/MM/FlashReport3Feb2017.pdf (accessed 21.12.2019)

Victoria, B. *Zen at War*. Rowman & Littlefield: USA, 2006.

Waldau, P. "Buddhism and Animal Rights", in *The Oxford Handbook of Buddhist Ethics*. Shields, J. and Cozort, D. (eds.). Oxford University Press: Oxford, 2018.

______ . "Buddhism and Animal Rights" in *Contemporary Buddhist Ethics*. Keown. D (ed.). Curzon Press: Richmond, 2000.

Williams, B. *Ethics and the Limits of Philosophy*. Cambridge University Press: Cambridge, 1985.

Williams, P. (with A. Tribe). *Buddhist Thought: A complete introduction to the Indian tradition*. Routledge: London and New York, 2000.

Yün-hua, J. "Buddhist Self-immolation In Mediaeval China." *History of Religions*, 4.2 (1965): 243-68.

Zimmerman, M. (ed.). *Buddhism and Violence.* Lumbini International Research Institute: Lumbini, 2006.