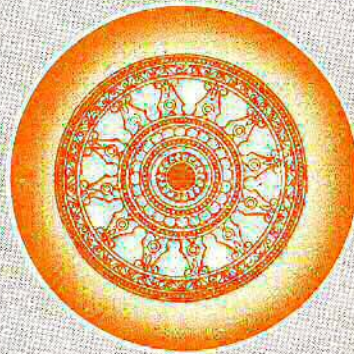


# Buddhism and Human Rights



**L.P.N. Perera**

*Ukkādhāro Manussānaṃ Niccaṃ Apacito Mayā*

“The Torch-bearer of Mankind is always revered by me”

— *Suttanipāta*, 336

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# BUDDHISM AND HUMAN RIGHTS

A BUDDHIST COMMENTARY ON THE UNIVERSAL  
DECLARATION OF HUMAN RIGHTS

BY

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## FOREWORD

In 1989, France celebrated the bicentenary of her Declaration of the Rights of Man and the Citizen - a stirring and indeed revolutionary statement of the French National Assembly of 1789 which guaranteed representation in the legislature; equality before the law; equality of opportunity; freedom from arbitrary imprisonment; freedom of speech and religion; taxation in proportion to the ability to pay; and security of property. Of course, it was amplified in 1946 with the addition of provisions for equal rights of women; right to work, join a union and strike; leisure, social security and support in old age; and free education.

The British, on this occasion, claimed greater antiquity for their efforts and achievements in this domain and argued that the Magna Carta of 1215 was the earliest known declaration of human rights. It is true that this charter which the barons extracted from King John curtailed royal prerogatives and privileges; introduced the principles of governing with consent, fair use of legal powers and punishment on the judgement of one's peers; and checked official extortion.

This controversy, however, does not detract from the undisputed significance of the Universal Declaration of Human Rights adopted by the United Nations General Assembly on the 10th of December 1948. This succinct document, encompassing the full range of rights and obligations of the individual, has rightly been described as providing

“a yardstick by which men and women can judge for themselves the extent to which their rights and freedoms are respected by their respective governments, organizations, groups and by persons and the degree to

which they themselves are respecting the rights and freedoms of others." (*Human Rights and Religions in Sri Lanka*, Sri Lanka Foundation, Colombo, 1988, p.xix).

For the first time in human history have the Member Governments of the international community, representing practically the entirety of the human race, joined together to subscribe to a universal covenant with the most far-reaching impact on the lives of every man, woman and child.

But the recognition of not only the need for such a covenant but also of the essential concerns and values it should address goes far back into the history of humankind. Tyranny and oppression, even when strongly defended and justified with tenuous doctrines of divine right of some to dictate, lead and rule and others to obey, follow and be ruled, have invited intense intellectual revolt and stiff opposition. The freedom of the individual to think and act within, of course, a framework of a co-operative spirit, engendered by obligations to match rights and fostered by mutual respect for one another's freedoms in society, has similarly been upheld.

Founders of religions and philosophical systems, thinkers, poets and writers, politicians and leaders of thought have from time to time made their voices heard against man's inhumanity to man. The ancient classical literature of both the East and West is replete with lofty expressions of and unequivocal testimony to the preoccupation of humanity with the task of safeguarding the inherent dignity and equal and inalienable rights of all members of the human family.

Much of these thoughts are embodied in the sacred literature and lore of the major religions of the world. It is therefore apposite that the Sri Lanka Foundation should have subjected each of the Articles of the Universal Declaration of Human Rights to an analysis in terms of the support which the traditions, teachings and practices of each religion could pro-

vide. It is indeed very significant that in undertaking this important exercise in the unique manner envisaged by the Foundation that every Article had to be commented upon from the view points of no less than four world religions, namely, Buddhism, Hinduism, Christianity and Islam. The only missing major traditions are those of Judaism and Jainism.

The present work of Professor L.P.N. Perera is an outcome of this exercise. He was invited by the Sri Lanka Foundation to write the commentaries representing the Buddhist view. It is a widely shared assessment that he did a superb piece of work, well researched and concisely presented. A tangible demonstration of its quality is that he was urged by many, including me, to publish his Buddhist commentaries of the Universal Declaration of Human rights as an independent work. That constitutes the genesis of this publication to which I have the honour and privilege of contributing this Foreword.

Professor Perera, an alumnus of Ananda College, Colombo and of the University of Ceylon, and a distinguished pupil of Professor Gunapala Malalasekera, has had an exceptionally brilliant academic career culminating in such important positions as the Professor of Pali and Buddhist Studies in the Vidyodaya (now Sri Jayewardenepura) University, Director of the Postgraduate Institute of Pali and Buddhist Studies of the Kelaniya University and the Vice-Chancellor of the Sri Jayewardenepura University. His many research papers published in several learned journals of Sri Lanka reveal an inquiring mind and a capacity to relate the teachings of the Buddha to modern society. There are few areas in which his erudition in Pali had not been utilized to throw new light on the degree to which the word of the Buddha could yet guide humanity through the chaos and upheavals of current society. These long years of study, research, teaching and public speaking on related themes, he brings to bear on his well

argued and thoroughly documented commentaries on each of the Articles of the Universal Declaration of Human Rights.

This timely and much desired publication delves into the rich Buddhist Canonical and historical literature for support and reinforcement of the basic principles of the Declaration. To facilitate comparison and in-depth analysis of the relevance and profundity of the Buddhist values *vis-a-vis* the terms of the Declaration, his commentary follows each Article. Each commentary is the product of a patient search for authoritative and instructive material on the subject under discussion.

If some facts and texts are repeatedly cited and elaborated, the reason stems not from a lack of discipline and rigour on the part of Professor Perera but from the structure of the Universal Declaration of Human Rights. In it certain important values and nuances recur over and over again in several Articles. Just as the Declaration has the advantage of re-emphasizing through this mechanism major concerns and values, the oft-quoted *Kālāma*, *Siṅgālovāda*, *Aggañña*, *Mahāmaṅgala*, *Kūṭadanta* and *Cakkavattisihanāda Suttas* together with the *Dhammapada* bear repetition. In no other way could Professor Perera have stressed the authenticity of the support which Human Rights receive from the teachings of the Buddha.

In his commentary on each Article, Professor Perera presents a clear exposition of the Buddhist point of view with undeniable support and reinforcement from the Canonical and Commentarial texts themselves and from two and a half millennia of Buddhist Asian history. In addition, he also clarifies interpretations and misunderstandings which abound in recent writings on Buddhism and its culture and more so on the history and society of Asia.

Professor Perera is conscious that his task has already been done for him. Few religious teachers had been as eloquent and explicit as the Buddha was in upholding values so akin to

the modern concepts of Human Rights. In summarizing his understanding and appreciation of the role of Buddhism in regard to Human Rights, Professor Perera says in his commentary on Article 1,

“This Article (which is the basis of all human rights) is in complete accord with Buddhist thought and may be said to be nothing new to Buddhism in conception. The Buddhist view of human rights emerges from two basic assumptions, one philosophical and the other ethical. The philosophical assumption - and that is what matters here - is that human beings are born with complete freedom and responsibility. Not being the creations of a Creator, they are subject only to non-deterministic causal laws, and their destinies are in their own hands. ... If one is one's own master ... one is certainly born free and if all could attain Buddhahood what greater equality in dignity and rights can there be?”

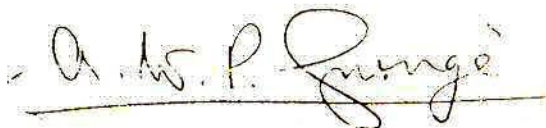
Professor Perera demonstrates that every single Article of the Universal Declaration of Human Rights - even the labour rights to fair wages, leisure and welfare - has been adumbrated, cogently upheld and meaningfully incorporated in an overall view of life and society by the Buddha.

What is most impressive in the treatment of the subject by Professor Perera is that he is not carried away by parochial or chauvinistic considerations to make claims for Buddhism which he cannot support with textual reference. So, for example, with regard to formal education, he says,

“Nowhere in Buddhist sacred literature are the aims of education stated as they are in this Article.”

He would similarly separate from the intrinsic problems of human conflict those of recent or modern origin which the life patterns of earlier days had either provided for differently or not anticipated at all. Thus he observes restraint and objectivity enhancing the cogency with which he evokes the Buddha's own counsel and exhortation in support of the Declaration.

I have read Professor Perera's commentaries with immense pleasure and profit. Many a reader will no doubt join me in expressing grateful thanks to him for making these commentaries available in the present form so that the Buddhist point of view on each Article could be better grasped.



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14 July 1991.

## PREFACE

This publication is addressed to the general reader, both Buddhist and non-Buddhist. It is also hoped that it would provide a basis for further investigation into the subject. If this publication stimulates anyone to go beyond what has been achieved in these pages, it would have more than served its purpose.

Human Rights, as a concept, is still evolving, and students of the subject are giving further thought to various aspects of the Universal Declaration of the United Nations (*vide e.g. B.G. Ramcharan, ed., Human Rights: Thirty Years after the Universal Declaration, The Hague 1979*). This is not to underestimate, even for a moment, its great value. The importance of this Declaration "as a common standard of achievement for all peoples and all nations" is now acknowledged everywhere. From the religious angle, it is possible to state that in this Declaration lie enshrined certain values and norms emphasized by the major religions of the world. Though not directly expressed, the basic principles of the Declaration are supported and reinforced by these religious traditions, and among them the contribution of the Buddhist tradition, to say the least, is quite outstanding. Hence this attempt to express the Buddhist point of view regarding the Declaration.

This Commentary originally formed part of religious Commentaries on Human Rights published by the Sri Lanka Foundation in 1988 under the title *Human Rights and Religions in Sri Lanka*, and constitutes the author's contribution to that volume. It is now revised and published separately with the kind permission of the Foundation. The introductory remarks, the list of Articles comprising the Universal Declaration of Human Rights and the General Commentary on Article 30 as published in the said volume are reproduced here almost *verbatim*.

The author is extremely grateful to Dr. Ananda W.P. Gurugé, Ambassador for Sri Lanka in France and Permanent Delegate to Unesco, for the Foreword to this publication supplied at short notice. Notwithstanding his onerous responsibilities he has given much time to these pages, the painstaking and careful student that he is, especially regarding Buddhism or anything in relation to Buddhist studies. As a scholar of wide intellectual horizons Dr. Gurugé graciously gives much of himself to others, freely sharing his knowledge and time with anyone who seeks it.

Special mention has to be made of Mr. L.H. Horace Perera, Honorary President, World Federation of United Nations Associations, Geneva, the Editor of the original publication, who was extremely helpful to me especially in the latter part of this exercise when I had very little time to attend to every aspect of the subject due to heavy official duties. His unstinted support is hereby gratefully acknowledged.

Thanks are due to the late Dr. H.W. Jayewardene, Q.C., former Chairman and Mr. E.A.G. de Silva, Attorney-at-Law, Director, Promotion of Human Rights, Sri Lanka Foundation, for the keen interest they evinced in all the religious Commentaries on Human Rights. Their interest stimulated my interest in the subject. May I also thank Mr. J.F.A. Soza, the present Chairman, for permission granted on behalf of the Foundation to revise and re-publish this Commentary, and all other friends and colleagues who assisted me in this task. And, last but not the least, Messrs Karunaratne & Sons Ltd., Colombo, Printers & Publishers, have to be thanked for their excellent work. The get up of this publication would speak for them.

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## UNIVERSAL DECLARATION OF HUMAN RIGHTS

### INTRODUCTORY

*The Universal Declaration of Human Rights was adopted by the United Nations General Assembly on 10 December 1948 without any dissentient vote. For the first time in history the peoples of the world had a document, drafted, endorsed and adopted by the Member Governments of the organised international community (i.e. the United Nations) declaring in simple and succinct terms the inherent civil, political, economic, social and cultural rights to which all peoples were entitled, irrespective of any considerations other than their being human, and which it was in no person's, no group's, no organisation's, or no government's power to take away. The Universal Declaration thus provides a yardstick by which men and women can judge for themselves the extent to which their rights and freedoms are respected by their respective governments, organisations, groups or by other persons, and the degree to which they themselves are respecting the rights and freedoms of others. The text of the Declaration is as follows:*

### PREAMBLE

**Whereas** recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

**Whereas** disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings

shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

**Whereas** it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

**Whereas** it is essential to promote the development of friendly relations between nations,

**Whereas** the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

**Whereas** Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

**Whereas** a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

*Now, Therefore,*

## THE GENERAL ASSEMBLY

*Proclaims*

THIS UNIVERSAL DECLARATION OF HUMAN RIGHTS as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of

Member States themselves and among the peoples of territories under their jurisdiction.

### *Article 1*

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

### *Article 2*

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

### *Article 3*

Everyone has the right to life, liberty and security of person.

### *Article 4*

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

### *Article 5*

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.



*Article 6*

Everyone has the right to recognition everywhere as a person before the law.

*Article 7*

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

*Article 8*

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

*Article 9*

No one shall be subjected to arbitrary arrest, detention or exile.

*Article 10*

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

*Article 11*

1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

2. No one shall be held guilty of any penal offence on

account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

*Article 12*

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

*Article 13*

1. Everyone has the right to freedom of movement and residence within the borders of each State.
2. Everyone has the right to leave any country, including his own, and to return to his country.

*Article 14*

1. Everyone has the right to seek and to enjoy in other countries asylum from persecution.
2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

*Article 15*

1. Everyone has the right to a nationality.
2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

*Article 16*

1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry

and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

2. Marriage shall be entered into only with the free and full consent of the intending spouses.

3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

#### *Article 17*

1. Everyone has the right to own property alone as well as in association with others.

2. No one shall be arbitrarily deprived of his property.

#### *Article 18*

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

#### *Article 19*

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

#### *Article 20*

1. Everyone has the right to freedom of peaceful assembly and association.

2. No one may be compelled to belong to an association.

#### *Article 21*

1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.

2. Everyone has the right of equal access to public service in his country.

3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

#### *Article 22*

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

#### *Article 23*

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.

2. Everyone, without any discrimination, has the right to equal pay for equal work.

3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.

4. Everyone has the right to form and to join trade unions for the protection of his interests.

*Article 24*

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

*Article 25*

1. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

*Article 26*

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

3. Parents have a prior right to choose the kind of education that shall be given to their children.

*Article 27*

1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

*Article 28*

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

*Article 29*

1. Everyone has duties to the community in which alone the free and full development of his personality is possible.

2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

3. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

*Article 30*

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

**This is the final authorized text adopted and proclaimed by the General Assembly of the United Nations on December 10, 1948.**

## BUDDHISM — AN OUTLINE

The Founder of Buddhism was Gautama Buddha (c.563-483 BC), who lived, taught and passed away in North-East India at a time when ancient Indian thought was questioning the validity of some of its own fundamental assumptions. His Teachings and influence, however, spread throughout central, southern, and northern Asia, where it continues to provide a common cultural bond, and His Teachings are known today in the Western hemisphere too. The schools into which Buddhism divided afterwards have preserved traditions of His life; these are mostly in the Pali, Sanskrit, Chinese and Tibetan languages. From these, modern historical enquiry has obtained a fairly stable outline of the main events in a career still celebrated after 2500 years.

The Buddha was born among the Sākya, a tribe of the ancient Indian warrior-caste (Kṣatriyas), whose capital was Kapilavastu. The land of the Sākya was situated, according to modern investigations, in the north-eastern sector of India, along the borders of Nepal. His father, Suddhodana, was a ruling noble (or king) of the Gautama clan; hence the name Gautama by which the son was later known, although His personal name was Siddhārtha. From poetic tales and legends surrounding His early life, it could be inferred that Siddhārtha was a remarkable personality, that although reared in princely comfort, He was of a serious and meditative nature and was attracted quite early to a non-worldly religious life. From this neither His young wife nor the birth of a son could divert Him. In His 29th year he renounced household life in search of the "supreme peace of *Nirvāṇa*" (= *Nibbāna*) a goal envisaging deliverance from the painful realities of life, such as birth, old age, sickness and death. He was at first an experimentalist and sought guidance from two religious teachers.

Unsatisfied, next He tried certain ascetic practices (referred to as "austere practices") for six long years and found them equally fruitless. Returning then to a natural regimen, He finally gained His Great Enlightenment through what He termed later as "right concentration". The Enlightenment He gained gave Him insight into reality, and He saw that the cause of suffering is craving due to ignorance, and through the higher wisdom He gained He discovered the path to the removal of suffering by right living and mental discipline. Thus He became the Buddha or the Enlightened one. In His Teaching He declared that deliverance is possible only through a development of the human potential. He advocated the development of supra-sensory faculties by an extension of human capacity to enable a proper appraisal of reality, as sense-perception alone is insufficient for this purpose. As He Himself declared, His method was one of "going against the current" of the times and He maintained that that was the only way to, and the surest guarantee of, human emancipation. And while the Buddha Himself claimed that His Enlightenment consisted of insight into "things unheard of before", His disciples looked upon Him as one who has made known the path "unknown before".

Through compassion towards all living beings, He decided to share His wisdom. The rest of His life He spent as a wandering teacher in North India, travelling mainly among the people of the Gangetic valley. He formed a community of monks and nuns to carry on His mission after Him. Together with the laymen and laywomen who accepted His guidance, He established the "four-fold" social order of disciples. While His followers generally referred to Him as the "Enlightened One", the "Blessed One", or the "Sage of the Sākya", non-Buddhists called Him the "ascetic Gautama, the Sākya-son, gone forth from the Sākya family".

In His eightieth year, still exhorting His disciples to

strive earnestly for what is beyond perishing things, the Buddha passed away. History attests the deep and lasting impression left by His noble spirit and His selfless devoted life.

### The Religion

Buddhism is both a religion and a philosophy. It appears that the Buddha and other contemporary religious teachers referred to every religion of the day, including their own, as a "doctrine and discipline". This clearly shows that according to ancient Indian thinking, a doctrine or philosophy cannot be practised without a corresponding discipline. In fact, the Buddha laid down a clear code of conduct for His monks and nuns and also stated how the lay followers should conduct themselves.

Buddhism is anthropocentric in outlook and therefore commences with an evaluation of the human situation. Thus, as a religion, the earliest formulation of Buddhism is found in what are known as the "Four Noble Truths", which ought to be the concern of any intelligent human being since they involve a pronouncement on the nature of the world and of man. They are (1) Suffering, (2) the Cause of Suffering, (3) the Cessation of Suffering, and (4) the Path leading to the true Cessation of Suffering. The first Truth is concerned with the true nature of life, its sorrows and apparent joys, its imperfection and unsatisfactoriness, its impermanence and non-substantiality. One should understand this as a fact, clearly and completely. The second Truth states that suffering is caused by that type of desire or thirst which is accompanied by lustful passions, defilement and other impurities. Not only should this fact be clearly understood, but an effort must be made to eliminate, to destroy and to eradicate such desires. The third Truth asserts the possibility of overcoming Suffering; it refers to the *summum bonum* of Buddhism. It is *Nirvāṇa* to be attained here and now in one's own life, and is not a

metaphysical reality as in Vedānta. One must endeavour to realise it as soon as possible. As for the fourth Truth, a mere knowledge of the Path is insufficient. An attempt must be made to follow it and keep to it.

It will be noted that the first three Truths insist on Suffering (*a*) as a fact of existence, (*b*) on a theory of its cause, and (*c*) on the possibility of its eradication. The method of eradication is spelt out by the fourth Truth; it is called the Noble Eightfold Path, and it is as follows:

1. Right Views
2. Right Thought
3. Right Speech
4. Right Action
5. Right Livelihood
6. Right Effort
7. Right Mindfulness
8. Right Concentration

These steps of the Path are discussed in detail in the Buddhist texts. This is also known as the Middle Path, since in actual practice it avoids two extremes: (*a*) the search for happiness and emancipation through the pleasures of the senses, which, as the Buddha puts it, is "low, common, unprofitable, being the way of the ordinary people"; and (*b*) the search for happiness and emancipation through self-mortification by different forms of asceticism, which is "painful, unworthy and unprofitable".

All the Teachings of the Buddha deal, in one way or another, with this Path. To different people, He explained it in different ways and in different words to suit their development and capacity to understand it and to follow Him in His instructions as to how one should tread the Path. The essence of all that he said during his ministry is found in the Path. And all the Teachings of the Buddha form an interlocking whole.

While Right Views have certainly to be the first step in the Path (for, without that the rest will not follow), it is not to be understood that the other steps of the Path are to be practised in the order they are enumerated. They are to be practised more or less simultaneously as far as possible, depending on the capacity of the individual concerned. The steps are very much interlinked and the cultivation of one would help in the cultivation of others. This Path can also be grouped under three headings: (1) Ethical Conduct, (2) Mental Discipline and (3) Wisdom. These are the essentials of Buddhist training and the Path is meant for the promotion of that training, which ultimately leads to “emancipation” in the Buddhist sense of the term.

For the perfection of the human being, Buddhism states that two qualities should be equally developed: “compassion” on the one hand and “wisdom” on the other. Compassion represents qualities of the heart. It is love, kindness, friendliness, charity, tolerance and other noble emotions, while wisdom represents the mind or intellectual qualities. Emotional development without intellectual development makes one a good-hearted fool; and intellectual development without emotional development makes one a hard-hearted intellect without love for the rest of the world. Thus among the aims of Buddhism as a religion should be counted the equal development of both. The Noble Eightfold Path is a way of life, with self-discipline in body, word and mind; it is self-purification and self-development. Belief, prayer or worship in a theistic sense has no place in it. What constitutes Buddhism as a religion is this way of release from empirical suffering, with the consequent attaining of a permanent state of repose — a way to be followed by the individual as a course of moral and spiritual training.

## The Philosophy

Buddhism, which is a soteriological doctrine, becomes a philosophy when its intellectual content has to be explained. Buddhist philosophy commences with the basic tenet that “all conditioned existence” (*sankhārā*)— the phenomenal sphere in which our existence has its context — shares three characteristics or “marks” (*lakkhaṇa*). All conditioned existence, it says, is (1) impermanent or changing (*anicca*), hence (2) ill or unsatisfactory (*dukkha*), and therefore (3) ego-less or soul-less (*anatta*), i.e., does not share the characteristics of having an “ego” or “soul”. And the third “mark” is said to be predicative of all elements (*sabbe dhammā*), which means it is a characteristic of *Nirvāṇa* too. Complete conviction of the truths of these statements requires both meditation and philosophical reflection.

It should be added here that especially through this teaching regarding soul-less-ness (*anatta*), Buddhism has made a unique contribution to the religious and intellectual thought of mankind by developing a distinctively new dimension of the concept of man. It is this doctrine of soul-less-ness or *anatta*, which marks off Buddhism more than any other, from the rest of the religio-philosophical teachings of the world.

Since “conditioned existence” (which, as noted, constitutes no happiness) comes within the law of cause and effect or the basic pattern underlying the processes of this manifold world (*vide* below), Buddhist philosophy is a search for an “unconditioned”, beyond cause and effect. This “unconditioned” is called *Nirvāṇa*; but as stated earlier, it is not a metaphysical reality. It is the *summum bonum* of Buddhism and, as already noted, to be attained preferably in this very life. “There is, O monks”, the Buddha is reported to have said, “that which is not-born, not-become, not-made, not-conditioned. If that which is not-born, not-become, not-made, not-conditioned were not, there would be no release from the

born, the become, the made, the conditioned". *Nirvāna*, therefore, is above the Law of Causality. Thus, the Buddha's mission was also to reveal to mankind this Law of Causality, which is central to Buddhist thinking.

Therefore, while the first Noble Truth is a recognition of suffering characteristic of conditioned existence, the second Truth, that this suffering has a cause, has led to those developments of thought that constitute the chief claim of Buddhism to be called a philosophy. And while the third Truth asserts that suffering can be brought to an end, the second and the third Truths have together been expanded into the Buddhist theory of Causation which is known as *Paṭiccasamuppāda* or "Origin by way of Causation", which upholds that if suffering has a cause it could be ended by eliminating its cause. This cause, in the ultimate analysis, is sensual desire (*taṇhā*) leading invariably to "re-becoming" or re-birth. (In passing, it has to be emphasized that according to Buddhism "re-birth" is due to *taṇhā* or *trṣṇā* and not due to *kamma* or *karma* as popularly understood. One's *karma* only determines the nature of the re-birth, i.e. the station, etc., to which one is re-born.) This would mean that the human predicament is the result of a causal process for which man himself is responsible, and he himself should eliminate his suffering by reversing that process, step by step. And the only method to achieve that end is spelt out by the fourth Truth.

### Buddhist Literature

The beginnings of Buddhist literature hark back to the times of the Buddha and His immediate disciples. Following the ancient Indian practice, the Buddha's disciples committed to memory His Teachings and handed them down till about the third century A.C., when they were put into writing. While the original language of the Buddha's Teachings would have

undoubtedly been the dialect of the homeland of Buddhism, the earliest written form of the Buddhist Canon (and the most complete as available today) is the one in Pali (a middle Indian Prakrit), accepted as the most authentic by the Theravāda Buddhist countries of South and South-East Asia, like Sri Lanka, Burma and Thailand. A Commentarial literature on the Canon also developed.

The other Buddhist sects also had their own Canonical and Commentarial literature, not in Pali, but in Sanskrit; and while most of their literature is now lost, a considerable portion is still available in Tibetan and Chinese translations.

The Pali Canon consists of three sections or collections of Texts referred to as *Piṭakas* or Baskets. "Basket" here means a *tradition* of the doctrine as handed down from teacher to pupil. The first is the *Piṭaka* or tradition concerning the Rules and Regulations governing the Buddhist Monastic Order, and is called the *Vinaya-piṭaka*. The second is the *Suttapiṭaka* or the collections (*Nikāyas*) of *Suttas* or Discourses. These are the main authorities for the doctrine of Buddhism. The third is the *Abhidhammapiṭaka* or the division concerned with a philosophical and psychological presentation of the Buddha's Teachings.

The texts of the Buddhist Canon constitute a voluminous literature, apart from the Commentaries on these texts. Furthermore, much secondary literature developed later, with the Canon and its Commentaries as the basis, in every country to which Buddhism spread.

### Conclusion

As will be clear from the ensuing pages, the Buddha was concerned with two spheres of human welfare: the mundane and the supra-mundane. Success in the former sphere, *if righteously achieved*, would facilitate success in the latter.

Therefore, apart from its religious (or spiritual) and philosophical aspects, Buddhist thought is having other dimensions such as the ethical and the social. In fact, Buddhism is best known for its system of ethics. Buddhist ethics lead to Buddhist social philosophy, which, in turn, branches off into further dimensions such as the cultural and the legal. And the Noble Eightfold Path is traceable in all these dimensions. This Commentary on the Articles of the Declaration of Human Rights will give the reader some insight into these dimensions which have, wherever necessary, been highlighted by us, since the concerns of the Declaration deal more with those aspects of any given religion.

It would suffice to state here that a religion and philosophy first propounded by its Founder to a small group of five monks over 2500 years ago at Benares in North India blossomed forth into a civilisation, and today is having millions of followers around the world. As a message concerned with the welfare and happiness of "all beings", Buddhism, needless to say, addresses itself to the whole of humanity. Friendliness, tolerance and understanding are the cornerstones on which the entire superstructure of the Buddha's religio-philosophical system is built. And it is the Buddha's conviction, attained through His Enlightenment, that the emancipation of humankind from the turmoils of existence lies in the upgrading of human consciousness through a development of the human potential by an extension of human capacity, which, He maintained, is within the reach of each and every intelligent human being.

## A BUDDHIST COMMENTARY ON THE ARTICLES OF THE DECLARATION



## ABBREVIATIONS FOR PALI TEXTS

cited in this Commentary

A	—	<i>Aṅguttaranikāya</i> , 5 vols.
D	—	<i>Dīghanikāya</i> , 3 vols.
DA	—	<i>Dīghanikāya Aṭṭhakathā</i> , i.e. Commentary on the <i>Dīghanikāya</i> , 3 vols.
Dh	—	<i>Dhammapada</i>
DhA	—	<i>Dhammapada Aṭṭhakathā</i> , i.e. Commentary on the <i>Dhammapada</i> , 4 vols.
It	—	<i>Itivuttaka</i>
J	—	<i>Jātaka</i> with Commentary, 6 vols.
M	—	<i>Majjhimanikāya</i> , 3 vols.
MA	—	<i>Majjhimanikāya Aṭṭhakathā</i> , i.e. Commentary on the <i>Majjhimanikāya</i> , 5 vols.
Miln	—	<i>Milindapañha</i>
Pug	—	<i>Puggalapaññatti</i>
PvA	—	<i>Petavatthu Aṭṭhakathā</i> , i.e. Commentary on the <i>Petavatthu</i>
S	—	<i>Samyuttanikāya</i> , 5 vols.
Sn	—	<i>Suttanipāta</i>
ThA	—	<i>Therīgāthā Aṭṭhakathā</i> , i.e. Commentary on the <i>Therīgāthā</i>
Vin	—	<i>Vinayaṭṭhaka</i> , 5 vols.
VvA	—	<i>Vimānavatthu Aṭṭhakathā</i> , i.e. Commentary on the <i>Vimānavatthu</i>

All references are to the standard editions of the Pali Text Society, London. Other abbreviations are those in common use.

## ARTICLE 1

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

This Article (which is really the basis of all human rights) is in complete accord with Buddhist thought, and may be said to be nothing new to Buddhism in conception. The Buddhist view of human rights emerges from two basic assumptions, one philosophical and the other ethical. The philosophical assumption — and this is what matters here — is that human beings are born with complete freedom and responsibility. Not being the creations of a Creator, they are subject only to non-deterministic causal laws, and their destinies are therefore in their own hands. The freedom of human beings as commencing from their birth itself, and the recognition of their equality in dignity and rights are reflected clearly in the Buddha's emphasis on self-reliance, which He did by extolling what He called *attakāra* (personal effort), *purisakāra* (human endeavour), *purisathāma* (human strength), *purisaviriya* (human energy), *purisaparakkama* (human valour) and *purisadhorayha* (human responsibility). These may, for instance, be noted from the *Sampasādaniya Suttanta* of the *Dīghanikāya* (D.iii,113). Furthermore, this concept is reinforced by His maintaining that Buddhahood itself is within the reach of all human beings.

If one is one's own master, as the *Dhammapada* puts it (*Dh. XII, 4*), one is certainly born free, and if all could attain Buddhahood what greater equality in dignity and rights can there be?

Reason and conscience are recognised in Buddhism although the latter as understood today appears mostly as a non-Buddhist concept. "Reason" (cf. *dharm'ādhipateyya*, A. i, 147 or *dharmavitakka*, A. i, 254) and "conscience" (cf. *ant'ādhipateyya*, A. i. 147) more or less go together, and constitute the awareness of right and wrong. Reason and conscience indicate the ability to measure the moral worth of one's own motives and actions, and opt for what is right. Together they partly constitute the "faculty of mindfulness" (*sai'indriya*) in human beings. Reason and conscience as understood in Buddhism could, to some extent, be seen from the *Kālāmasutta* (A. i, 188 ff.) which sets out criteria in distinguishing the "good" (*kusala*) from the "bad" (*akusala*). As for mutual relations between human beings, Buddhism goes beyond the "spirit of brotherhood" (a key concept in this Article) to the realm of what it calls *Mettā* (*Maitrī*) or Universal loving kindness. This is certainly broader than brotherhood embracing, as it does, every form of sentient existence. "Buddhist thought, both in the realm of religion as well as philosophy, begins with an insight into a fundamental consideration that all life has a desire to safeguard itself and to make itself comfortable and happy. In the Buddhist religious life, the philosophy of *maitrī* and *avihiṃsā*, universal love and non-violence, derives its validity from this position. Therefore, at the social level too, it is the responsibility of every member of society from the head of state downwards to contribute to the unimpaired operation of this principle." (*Religion and Culture in the Development of Human Rights in Sri Lanka*, SLF, Colombo 1982, p. 8.)

However, it has to be noted that equality has been and is being circumscribed by limitations in actual application. The claim that human beings are equal is more prescriptive than descriptive. It actually means that there are various respects in which no difference ought to be made in the treat-

ment of, or consideration given to, all persons, whatever differences (referred to as *puggala-vemattatā* in Buddhist texts) there might be in their qualities and in their circumstances in life.

While recognising such limitations, Buddhism posits a basic equality between all human beings in respect of their essential nature, and therefore recognises that all persons are equal in dignity and rights. This basic equality in respect of their essential nature stems, according to Buddhist thought, from a number of factors of which the most important are biological and anthropological. The biological argument maintains that *homo sapiens* constitute a single species in contradistinction to other species to which various kinds of fauna and flora belong. Arrived at from investigations different from present-day laboratory work, this conclusion is certainly in accord with the modern biological outlook which restores the view of the basic equality of all human beings. To speak of a difference between "man" and "man", says a Buddhist Canonical text, is to speak in popular parlance: *vokāraṃ ca manussesu samaññāya pavuccati* (*Suttanipāta*, 611). The anthropological argument is best adduced by the *Aggaññasutta* of the *Dīghanikāya*. In the beginning, says this *Sutta*, all human beings were "like unto themselves and not unlike": *Aññesaṃ sadisānaññeva no asadisānaṃ* (*D.* iii, 93) and also adds that this is the Universal Norm (cf. *dhammen'eva*) and not contrary to it: cf. *no adhammena* (*loc. cit.*). It further states that social distinctions arose in settled society through a division of labour as a necessity for its very existence, culminating in a contract of society and a contract of government. As a matter of fact, Buddhism is one of the earliest religions to recognise the fundamental equality of all human beings belonging, as they are, to one community in the sense that peoples' essential natures are the same whatever their individual differences, due to heredity, environment and other

factors, may be. This sense of equality is further reinforced by the Buddhist view that (a) all human beings, in the final analysis, face the same basic phenomena of birth, decay and dissolution, spelt out as the First Noble Truth, and (b) that at the same time human beings are capable of overcoming these problems by attaining the very highest moral and spiritual level by a development of the human potential through an extension of human capacity. Human life is so placed in the cosmic scheme of things, that human beings alone enjoy the best opportunity of transcending the unsatisfactoriness of existence into the state of *Nirvāna*—the state of Highest Happiness (*paramam sukham*) in this very life (*ditth'eva dhamme*). Human beings are equal in that they face the same basic problems and possess a common but unique potentiality to attain the highest. It is from the point of view of its goal that Buddhism evaluates all action. Hence Buddhist thought is in accord with this and other Articles in the Universal Declaration of Human Rights to the extent to which they facilitate the advancement of human beings towards the Buddhist goal, to attain which, of course, Buddhism compels none.

In this light, human rights, in the Buddhist view, are interests leading to the welfare of mankind (*cf. bahujanahita* and *bahujanasukha*)—interests arising from the individual's own needs (*attahita*) and from his sense of duty and obligation towards all sentient beings (*parahita*). These needs are justified as long as such interests are not based, as Buddhism puts it, on greed (*lobha*), hatred (*dosa*), and delusion (*moha*)—the three unhealthy mainsprings of motivation which are common among worldlings.

## ARTICLE 2

**Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.**

**Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.**

Article 2 flows from the underlying principles of Article 1, which is the foundation for all the other Articles. Article 2 is also a preamble to the rest of the Declaration—a preamble introducing the diversity in the human situation—a diversity within which all human rights need to be respected and recognised. For Buddhists, diversity is part of natural evolution and is not to be regarded as a problem. Man, as an “engineer” in nature, is expected to work out his emancipation within and through this diversity. As a philosophy concerned with “all beings” (*cf. sabbe sattā, Sn. 145 et 147*) Buddhism does not recognise the distinctions referred to in this Article.

In the Commentary to Article 1, it was stated how and on what grounds Buddhism considers all men equal. It may be added here that this equality is said to be “in accordance with” what Buddhism calls *Dhamma* or the Universal Norm (*vide below*) “and not contrary to it”: *dhammen'eva no adhammena (D. iii, 93)*. This further means that the equality implied is basic, fundamental and natural. Such a conception of equal-

ity requires that rights and freedoms should remain untrammelled by considerations such as race, colour, sex, etc.

As Buddhism sees it, the human life-process operates through "the three doors" of mind, body and speech. Human endeavour or action (whatever its moral tone be) is mental in origin and manifests itself physically or verbally. Hence, as stated by the Buddha in his discourses like *Vasala* (*Sn.* vv. 116 - 142) and *Madhura* (*M.* ii, 83), one is "heir" to one's action (*kammadāyādo*) irrespective of such factors as race, colour, national or social origin, property, birth or other status. Consequently these factors are not, in any way, countenanced in Buddhism, and rights and freedoms have to be exercised through appropriate action, i.e. through *sammākammanta*.

So it is with sex and language. With the fundamental equality of all human beings being granted, it will be superfluous to distinguish between the sexes. Woman's potentialities are similar to those of man. While one may mistakenly see a patriarchal stamp in its attitude towards the "weaker sex" (due to certain monastic rules governing the life of nuns), and while early Buddhism had also to contend with an environment which, as a whole, was prejudiced against women, Buddhism saw no reason why woman should be discriminated against, especially in matters of moral and spiritual uplift. Given the necessary pre-conditions, the Buddha asserts that a woman might do better than a man (*cf. S.* i, 86). In the Buddha's mind "there seemed to have been no real doubt ... as to the equality of the powers of man and woman" (I. B. Horner, *Women Under Primitive Buddhism* London, 1930, p. 104). Placing, as it does, man and woman on the same pedestal, Buddhism does not recognise rights and freedoms for the male which cannot be extended to the female. Indeed, as borne out by the *Therīgāthā* (a Buddhist Canonical text translated as the *Psalms of the Sisters*) women actually enjoyed a high degree of intellectual freedom under Buddhism, being able thereby to gain spiritual advancement on an equal basis.

The Buddha has also recognised one's rights and freedoms in one's quest for material (*attha*) and spiritual (*dhamma*) well-being. Looking at the matter from the linguistic angle, He enjoined that one should learn His Teachings in one's own language: *Anujānāmi ... sakāya niruttiyā Buddhavacanam pariyaṇitum* (*Vin.* ii, 139), and prohibited His disciples from presenting His Teachings through any privileged linguistic medium of the day (*loc. cit.*).

In terms of religion, Buddhism extends to followers of all other religions the rights and freedoms that Buddhists would legitimately claim for themselves. In this, as in every other respect, Buddhism expects one to treat "the other" comparing the other to oneself: *attānaṃ upamaṃ katvā* (*Dh.* X, 1 et 2).

Finally, in connection with paragraph 1 of this Article one's political or other opinion, to judge from such discourses of the Buddha as the *Kālāmasutta* (*A.* i, 188 ff.), is no bar to the enjoyment of human rights and freedoms. For instance, early Buddhist literature shows no preference for any one form of government over another. While the Teachings of the Buddha are more consonant with democratic thought at its best, Buddhism would opt for any form of polity which, under given circumstances, would best enable the practice of its social ethic, as the primary consideration was not so much the nature of the political and economic setting but the practical application of the social ethic, which, of course, has to be effected mainly through the political and economic affairs of any given people (*cf. O.H. de A. Wijesekera, Buddhism and Society*, Colombo, 1952, p.15.).

The second paragraph of this Article is intrinsically linked with the question as to where, in the Buddhist perspective, ultimate sovereignty lies. While Buddhism demands a realistic evaluation of the human situation and would acknowledge the fallibility of human institutions (for none, it would say, is imposed by an infallible external agency), Buddhism measures human affairs in terms of the Universal Norm

(*Dhamma*) or principle of righteousness referred to above. This conception of the Universal Norm means that in the Buddhist view, "ultimate sovereignty resided, not in any ruler, human or divine, nor in anybody governing the state, nor in the state itself, but in *Dhamma*, the eternal principle of righteousness" (vide K.N. Jayatilleke, *The Principles of International Law in Buddhist Doctrine*: Extract from the "Recueil des Cours", Vol. II, (Private Circulation only), Leiden, 1967, p. 478). The *Dhamma*, in this context, should not be understood as signifying "some sort of mysterious entity, but that it is only to the extent to which states conform with *Dhamma*, in their internal and foreign policy, that a human being can achieve his legitimate aspirations for peace, prosperity and happiness" (*loc. cit.*).

Since Buddhism credits the human personality with a dignity and moral responsibility, it looks upon the human being as qualified to be vested with the sovereignty immanent in the *Dhamma*, in the management of human affairs. Buddhism posits, as Jean Jacques Rousseau did much later, that the essence of human dignity lies in the assumption of man's responsibility for his own governance. Therefore, whatever be the form of polity to which a person may subscribe, from the Buddhist point of view, *for all practical purposes*, it is in man that the sovereignty inherent in the *Dhamma* lies. Thus, distinctions in the treatment meted out to persons under different forms of polity would be basically meaningless, certainly harmful, and definitely repugnant to Buddhist thought.

## ARTICLE 3

### Everyone has the right to life, liberty and security of person.

The emphasis laid in Buddhism on an individual's right to life is too well-known to be reiterated here. The right to life is recognised in the very first Precept that any Buddhist is expected to observe. In fact, the Five Precepts (*Pañcasīla*) of Buddhism, broadly speaking, constitute an assertion not only of the right to life, but of the right to property too; and all the other human rights, explicitly or implicitly, seem to fall into one or the other of these two categories. Though we are not concerned with the latter right here, it will be appreciated that the right to property goes hand in hand with the right to life since property in certain forms is necessary for the very sustenance of life.

As noted in the course of the Buddhist Commentary to Article 1, Buddhism, "both in the realm of religion as well as philosophy, begins with an insight into a fundamental consideration that all life has a desire to safeguard itself and to make itself comfortable and happy". This is the ethical assumption on which the Buddhist concept of human rights is founded. The *Dhammapada*, for instance, categorically asserts that "all beings desire happiness": *sukhakāmāni bhūtāni* (*Dh. X, 3 et 4*) and that "life is dear to every living being": *sabbesaṃ jīvitam piyaṃ* (*ib. X, 2*). It tenders the advice that "having taken one's own self for comparison (with other beings) one should neither harm nor kill": *attānaṃ upamaṃ katvā na haneyya na ghātaye* (*loc. cit.*). It will be noted then, that Buddhist thought extends the right to life to the animal kingdom as well. As stated in the Buddhist Commentary to Article 1, "in Buddhist religious life, the philosophy of *maitrī*

and *avihiṃsā*, universal love and non-violence, derives its validity from this position". Furthermore, as Buddhism looks at it, a living being's progress on the "upward way" to perfection ought not to be interfered with by not allowing its life to run its full course on earth. This has been succinctly expressed in *The Light of Asia* by Sir Edwin Arnold when he penned the words:

Kill not for pity's sake, lest ye slay  
The meanest thing upon its upward way.

Since, in the Buddhist context, the taking of life of even "the meanest thing" cannot be condoned, capital punishment is repugnant to Buddhism. Punishment, according to Buddhism, should be reformatory and not punitive. All forms of retaliation are ruled out, for, as the *Dhammapada* says, "Hatred does not cease by hatred; hatred ceases only by love; this is the eternal law" (*Dh.I,5*).

It is the Buddhist view that the right to life commences at the very embryonic stage of a being, since *māitri* or love, according to the *Mettasutta* (*Sn. vv. 143-152*) should be extended even to the embryo or "one seeking birth"—*sambhavesī* (*Sn. v. 147*). With such a recognition of the right to life it is impossible to justify any form of destruction of life.

Liberty, in the Buddhist view, has a threefold dimension: liberty of thought or conscience, liberty of speech and liberty of action. Liberty of thought is based on principles of the *Dhamma*—the Universal or Cosmic Righteousness as conceived in Buddhism. This is crucial since it is "thought" that leads to "speech" and "action". As one's freedom of thought ought to be exercised in accordance with the principles of Universal Righteousness (*Dhamma*), it is contrary to Buddhist principles to use one's freedom of speech and of action in a manner that would be harmful, verbally or physically, to

any sentient being; and in the case of human beings morally and spiritually, as well.

Security of person is generally ensured with the guarantee of the right to life. However, security of person involves much more than the right to life in that a guarantee against all forms of injury to one's person physically, mentally and emotionally (besides actual death) needs to be recognised. Expanding on the First Buddhist Precept already referred to, Buddhism insists that "one should live with friendliness and compassion towards all beings": *sabbapānabhūtahitānukampī ca viharati* (*D.i,70 passim*), "having laid aside cudgel and sword": *nihitadaṇḍo nihitasattho* (*loc. cit.*). Thus, no injury or harm, whatsoever, to a person is countenanced. This, indeed, is recognition of the right to the security of person in quite a magnanimous way.

It is the obligation of the individual and the duty of the State to ensure to all human beings the right to life, liberty and security of person.

## ARTICLE 4

**No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.**

As may be noted in the sequel, it has to be stated at the very outset that the Eastern conception of slavery is quite different from that of the West. Slavery, as understood in the West, never existed in the East.

Slavery and allied forms of servitude constitute one of the worst forms of exploitation of human beings by human beings. Basically, slavery results from an outlook nurtured on values which breed individualism and ethnocentrism and which therefore considers the world as having been given to one group to be thoroughly exploited for its own gain. This pernicious attitude is totally alien to Buddhism with its doctrine of "no soul", "egolessness" or "selflessness" (*anatta*), of universal flux or change (*aññathatta*, *aññathābhāva* or *viparināma*), of interdependence (*idappaccayāta*), and with its conceptions of welfare of the many (*bahujanahita*, *bahujanasukha*) and a "common good of all mankind" (*vide* Buddhist Commentary on Article 6). These Buddhist doctrines and conceptions would enable a people (as in Japanese economic and social behaviour) to realise their interdependence and be "group-centred" or "collective" as opposed to being self-centred. In Japan one sees well the Buddhist ethos. With such a philosophical outlook and psychological attuning, there is no justification in Buddhist philosophy for slavery in any form.

At the time of the rise of Buddhism "menials", loosely referred to as "slaves" by pioneering Western scholars, were known to exist in ancient Indian society. But there is no evidence (either in Buddhist or non-Buddhist Indian sources)

that slavery and slave-trade, in the Western sense, particularly after "European Expansion", ever existed in the Indian sub-continent. It should be noted that the term implying "slave" in both Buddhist and non-Buddhist Indian literature is the Vedic word *dāsa* (or *dasyu*), by which term the invading Āryans referred to certain original inhabitants of North India whom they conquered and to whom they assigned "menial" tasks and gave an inferior position in society. Thus, the more appropriate rendering for this term should be "servant". By the Buddha's day the *dāsas* were no doubt the lowest rung of the social ladder, and together with "workmen" (*kammakārā*) who came next, are jointly mentioned in the Buddhist texts (*cf.* e. g. *Vin.* i, 243, 272; ii, 154).

The Buddhist term *Vasala* too does not mean a slave. *Vasala* really means an inferior person, a wretch or a foul man, etc., yet a human being. The word also carried with it the connotation of "little man" (*cf.* e. g. *Vin.* ii, 221; *Sn.* 116, 136; *J.* iv, 388; *SnA.* 183). The *S'ūdras* of the ancient Indian Caste system were also not "slaves" in the real sense of the term as understood, for example, in the West. The *S'ūdras* are referred to in the early Buddhist texts (e.g. *Vin.* ii, 239; *D.* i, 104; iii, 81, 95 *passim*) which maintain that caste-distinctions arose in society with the inevitable division of labour natural to social evolution, as explained, for instance, by the *Aggaññasutta* (*D.* iii, 80 *ff.*).

Buddhist sources, especially the *Jātakas*, suggest that, on occasion, people may have been reduced to servitude due to circumstances beyond their control (*cf.* e. g. *J.* iv, 220). It did so happen, for instance, at Asoka's conquest of Kalinga, prior to his conversion to Buddhism. One may also be deprived of freedom as a penal measure (*cf.* *J.* i, 200) or one may voluntarily submit oneself to servitude as atonement for a crime, or as repayment of a debt. Children born to such persons generally acted as servants. It is important, at the

same time, to note that people could, under certain circumstances, secure “emancipation from servitude” - *dāsavyā muc-cati* (cf. *D. i, 73 passim*). Referring to the position of these so-called “slaves” Rhys Davids remarks, “We hear nothing of such later developments of slavery as rendered the Greek mines, the Roman *latifundia*, or the plantations of Christian slave-owners, scenes of misery and oppression. For the most part, the slaves were household servants and not badly treated; and their numbers seem to have been insignificant” (T.W. Rhys Davids, *Buddhist India*, 1955 ed. p. 34).

As the *Sāmaññaphalasutta* of the *Dīghanikāya* (*D. i, 47 ff.*) points out, it was possible in ancient India even for a slave of the king to join an ascetic community of the day after having obtained release from servitude, considering himself thus: “I am a man, the same as the king, why shouldn’t I be free”— and be greeted by the king with the respect due to a free man (*D. i, 73 f.*). Such persons were to be found among the Buddha’s early disciples. The servant women (*dāsīs*) were also not debarred from the Buddhist monastic order. And a number of such women are to be counted among the females who benefited from the intellectual freedom under Buddhism as observed in the Commentary to Article 2. The *Therīgāthā* bears testimony to this.

The Discourses of the Buddha (when touching on society) often harp on the need to see to the requirements of servants and other workers. For the purpose of stressing one’s obligations towards others, the well-known *Siṅgālovādasutta* of the *Dīghanikāya*, for example, groups servants, workmen and wage-labourers together with one’s parents, teachers, wives, children, friends, etc. (*D.iii,188 ff.*). Slaves or servants, it further says, “should be ‘set up’ by arranging their work according to their ability, by giving them food and wages, by attending to their illness, by sharing special enjoyments with them and by releasing them (from work) on time” (*D.iii,*

190 f.). The Commentary on this *Sutta* says that when they are so treated they will publicly proclaim thus: “Is there an equal to our master? We forget the fact that we are employees and that they are our masters. In such love and esteem do they hold us” (*DA.iii,957*). The master has no considerations of greed or limitless profit, and the servant bears no envy or hatred towards him. What prevails here is a sense of mutual love, trust and service, without theories of “exploitation” or “surplus value”. The Buddhist ideal is a non-exploitative society in which there is a sharing of the product of labour.

After coming under the influence of Buddhism, the Emperor Asoka, in his Rock Edicts VII and VIII, refers to what he calls “benediction of principle”, which he says, “is very fruitful”, and explains it, among other things, as “right behaviour towards slaves and servants”. Such an attitude, perhaps adopted from still earlier times in North India, seems to have had significant results: Arrian, in his *Indica* (Chapter X) states that Megasthenes (the Greek Ambassador to the Maurya Court in 300 B.C.) had noted “that all the Indians are free, and that not one of them is a slave”. Even if this be considered an exaggeration, what is important is the fact that this comment comes from a man who knew what real “slavery” was, and the times to which he refers are early post-Buddhist days in India when Buddhist values were perhaps fresh or still lingering in the Indian mind.

In an in-depth study of the Buddhist attitude to slavery, consideration should be given not only to the better known Buddhist doctrines such as “loving kindness” (*mettā*), “compassion” or sympathy (*karuṇā*) and “non-violence” (*avihiṃsā*), but also to the unfortunately and up to now lesser known egalitarian teachings of Buddhism spelt out in a number of *Suttas*. These should also be taken into account. Buddhism would say that all human beings should be considered equal and treated alike on anthropological (*D.iii,93 ff.*), biological



(*Sn.* vv. 600-611), ethical (*D.iii*,250 *f.*), legal (*M.ii*,84 *ff.*), moral (*M.ii*,86), religious (*M.ii*,128 *ff. et* 147 *f.*) and sociological (*M. ii*,149) considerations, in addition to all other justifiable grounds that may be adduced. Buddhist social philosophy stands for equality of all human beings and a doctrine in which some are "more equal" than others is at total variance with it.

## ARTICLE 5

**No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.**

In the Buddhist value system any injury to body and /or mind is positively cruel, inhuman and degrading since Buddhism looks upon the human being as a psycho-somatic unit (*nāma* and *rūpa*) and that he or she should be granted the optimum conditions necessary to strive for emancipation as early as possible. Cruelty by way of excessive or degrading punishment would, in the ultimate analysis, serve only to retard progress towards well-being whether conceived in physical, mental, moral or spiritual terms. Cruelty and inhuman treatment are no solutions to the misdeeds of human beings.

Treatment meted out to an offender, in the Buddhist view, should be reformatory and not punitive. In Buddhist thought, the mind is considered supreme; and cruel physical treatment, if meted out, registers its injurious effects in the mind of the receiver and the giver alike. It is not possible for one administering injurious punishment to do so with equanimity (*upekkhā*) or with compassion (*mettā*). The effects of such punishment seep into the subconscious mind and if reactions do not manifest themselves within one's lifetime, they are carried over to the "stream of becoming" (*bhavasota*), to the detriment of both in their samsāric sojourn.

In the light of the foregoing observations it will be noted that Buddhism does not see any efficacy in self-inflicted tortures or severe punishments undergone even as religious penances. In the words of the Buddha they are painful (*dukkha*), ignoble (*anariya*) and harmful (*anattasamhita*),

except for the fact that to undergo pain voluntarily is not "low" (*hīna*) nor "vulgar" (*gamma*) nor "worldly" (*pothujjanika*), as is resorting to sensual pleasures (*Vin.* i,10).

As far as punishment alone is concerned Buddhism would accept the necessity of punishment as a corrective measure for an erring individual with the objective of rehabilitating him or her within acceptable norms, and not as a lawful retaliatory measure for an offence committed or even simply as an expression of outraged feelings. From the Buddhist point of view, suitable punishment should not only enable the offender to examine himself or herself and come to terms with acceptable patterns of behaviour, but, in the ultimate analysis, should help lead the offender through the psychological process of catharsis. While degrading forms of punishment would produce the opposite effect, punishment tempered with tolerance (*khantī*), loving kindness (*mettā*) and compassion (*karuṇā*) is likely to produce a more desirable result.

Though punishment needs to be mainly viewed in the social context, at the religio-ethical level confession to an offence may also be considered as an acceptable form of punishment. While repentance and forgiveness are unknown in the Buddhist context since the Buddha is not a law-giver against whose laws human beings have sinned, Buddhism places a premium on the psycho-therapeutic value of confession, for Buddhism maintains that confession lessens the feeling of having transgressed (*āvikatassa phāsu hoti - Vin.* i, 103 *passim*). This, of course, is quite different from expiation. This is a psychoanalytic approach to the problem and involves a recognition of the principle of catharsis, not so much in the sense given it by Aristotle, Goethe or Lessing, but more in the Breuerian and Freudian sense. Buddhism recognises the general principle involved in catharsis: "What is brought out into the open weighs lightly; what is concealed weighs heavily". Thus, confession could restore an offender's

psychic life to some degree of harmonious equilibrium and help the offender at least to live upon a basis of veracity.

At the social level reasonable punishment may normally constitute the withdrawal of privileges enjoyed by the offender up to the moment of the commission of the offence, as may be inferred from the Rules laid down for the Buddhist monastic community.

Any punishment should only be to the extent to which the offender needs to make amends, and then his or her rehabilitation in society is to be considered. Depending on the nature and gravity of the offence, acceptable punishment may range from a simple rebuke to banishing from the community or country. The *Aggaññasutta* which is more prescriptive than descriptive seems to recommend that the ruler should rebuke or even banish a wrongdoer (*D.*iii, 92f.). In the Buddhist monastic community too, punishments could range from a rebuke to an expulsion from the Order. On the other hand, in dealing with a rebellious society it is better to follow a policy of conciliation, as recommended in the *Kūṭadantasutta* (*D.*i, 127 ff.). As is evident from his Kalinga Rock Edicts, Asoka had followed a policy of toleration and conciliation throughout his kingdom. In the Rock Edict describing his conquest of Kalinga, Asoka recommends to his successors "victory" by way of "toleration and light punishment". Dealing with his administrative machinery (as seen in his Pillar Edicts), Asoka says that "it is to be wished that there should (also) be impartiality of practice (especially of legal procedures) and of punishment". Such forms of advice taken together with the teaching of all the Buddhist texts, suggest that punishments should be mild, and should never be cruel, inhuman or degrading. This is an obvious corollary to the Buddha's entire doctrine and attitude and reminds one of the rules of discipline prescribed by Him for His monastic community — rules which are aimed at reforming the individual in his or her external conduct.

**Everyone has the right to recognition everywhere as a person before the law.**

This Article asserts the worth of the individual irrespective of the circumstances of life in which the individual may find himself or herself placed, and is quite meaningful from the point of view of Buddhist ethics and the Buddhist notion of justice. What matters here is the “human-ness” (Pali: *manussattam*) of the individual concerned; and, as could be inferred from Buddhist monastic law (the *Vinaya*), the idea of a person in the legal sense, whether in reference to the psycho-somatic personality of the human being or as the collective group personality of a corporate body, is also familiar to Buddhist thought. This Article, then, primarily constitutes the recognition of the worth of the individual as a human being, and as such, affirms the individual’s right to be recognised as a person before the law.

A word is necessary on the Buddhist view of the law and the Buddhist approach to the same. As the road to *Nirvāna* lies not only through sylvan solitude but also through the highways of life, law — in the Buddhist view — exists in the interests of life and its supportive agencies. Law is man-made and in Buddhism it is a binding force since the fountainhead of the law is the *Dhamma* or the eternal (*sanantano*) self-operative Cosmic Principle of Righteousness, superior to and anterior to which nothing animate or inanimate could possibly exist.

The Buddhist approach to the law demands that the law be considered in relation to Buddhist ethics and Buddhist social philosophy. Although positivists would prefer to exclude such extra-legal considerations, law becomes meaningful only on the basis of ethical ideals. Thus Buddhism

looks upon the law “as an instrument for achieving certain ends, which are held to be socially desirable. What these ends are, or should be, is a matter for ethics” (*vide* K.N. Jayatilke, *The Principles of International Law in Buddhist Doctrine*, Extract from the “Recueil des Cours”: Leiden, 1967, Vol. II, p. 447). Buddhist ethics being based on the Buddhist view of Reality which, in turn, derives its validity from the Buddhist theory of Knowledge, the conception of law in Buddhism may be said to be ultimately grounded on Buddhist epistemological teachings.

For the present purpose it would suffice to state that the Buddhist attitude towards the law in general and towards legal dispensation in particular, stems from two conceptions: (a) that of the “Rule of Righteousness” embedded in the imagery of the *Dhammacakka* or the “Wheel of Righteousness”, since sovereign authority in the Buddhist context is represented by the “Wheel”, which is a symbol of the ongoing and expanding process of law and justice in the world, and (b) that of the “happiness and well-being of mankind” (*bahujanahita bahujanasukha*), which is unique to Buddhist thought and alluded to already in the Commentary to Article 1.

Early Buddhist social teachings uphold the concept of a possessor of the “Wheel of Righteousness”, a world ruler or Universal Monarch (*Rājā Cakkavatti*), a righteous monarch (*dhammiko dhammarājā*) who rules with proper regard for the law (*dhammam garukaronto ...*). Among his duties is that of providing care and protection righteously (*dhammikam rakkhāvaranaguttim*) not only to human beings, irrespective of their level in society, but even to birds and beasts (*D. iii, 61 passim*), thus giving full effect to the “Rule of Righteousness”. This, when augmented with conception (b) above, has resulted in the idea of a “common good of all mankind” — an idea appearing for the first time in human

thought. It follows that the idea of the “common good” must necessarily involve the right of recognition of everyone everywhere, as a person before the law, leaving no room for any distinctions. From the point of view of the law this is the ideal at which all must aim. Thus, the “Rule of Righteousness” and the “well-being and happiness of mankind” are key concepts in the present context. However, if, in actual practice, there be instances where no justice is properly meted out, yet justice is to be expected in terms of “conditionality”, or the law of cause and effect as discovered by the Buddha.

Buddhist teaching constantly harps on the value and dignity of the human being. Among two planes of existence, namely, the “human” (*mānusa*) and the “divine” (*dibba*), in either of which one may work towards one’s emancipation, a premium is placed by Buddhist thought on existence as a human being (*manussattam*) which is said to be achieved with difficulty (*dullabham*). As noted in the Commentary on Article 1, human life is so placed in the cosmic scheme of things that humans enjoy the best opportunity of transcendence from the unsatisfactoriness of existence into the state of *Nirvāṇa*, or highest happiness. The human plane is to be preferred to the divine, since the former offers a better opportunity than the latter for understanding reality, which is essentially *dukkha* or suffering. While Buddhology asserts that Buddhas appear only in the human realm, Buddhist mythology refers to heavenly denizens looking forward to a “fortunate birth” (*sugati*) in the human plane (*Itivuttaka*, 3:4:4). Moreover, the Buddhist religious life had been designed to lead one “in this world itself” (*ditthe’va dhamme*) to emancipation, and not to reach a heaven. It will be appreciated then, that in the Buddhist context, one needs adequate recognition as a person before the law, for mundane matters themselves need evaluation as a means to an end.

Thus, the worth of the individual taken in conjunction

with the conception of the “Rule of Righteousness” and the idea of the “common good of mankind” demands that the problems of the weak, the down-trodden, the humble, the needy and the defenceless in society also require the care and attention of the law as extended to any other segment of society. If the rule and authority of the law are to reflect the “rolling on” (*pavattana*) of the *Dhammacakka*, recognition before the law is a basic human right, whatever the circumstances of a victim of discrimination may be.

## ARTICLE 7

**All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.**

In the Buddhist context the notion of equality before the law springs from two considerations. The first is the fundamental assumption (as referred to in the Commentary on Article 1) of the basic equality of all human beings in respect of their essential nature as a consequence of which they are equal regarding their dignity and rights. The second is based on the legal argument (as spelt out in the *Madhurasutta*, M.ii,88) that all individuals, whatever be their caste or social position, are punishable with the same kind and degree of punishment, if held liable for an infringement of the law.

This conception of legal equality was later reiterated by the Emperor Asoka who was converted to Buddhism after the battle of Kalinga. In his Pillar Edict IV he says that, "it is most desirable that there should be absolute equality for all in legal proceedings and in the punishments awarded". It is clear therefore that Buddhism recognises the importance of equality before the law, and, as may be noted from the *Jātakamālā* the law is expected to serve the best interests of the entire society, with no special privileges or immunities being granted to any specially favoured segment thereof; inequalities, such as laying heavier burdens on the poor, are never sanctioned (cf. G.P. Malalasekera and K.N. Jayatilleke, *Buddhism and the Race Question*, Unesco 1958, pp.26-28).

In the Buddhist view of social evolution, the ruler who is the real dispenser of the law is actually *primus inter pares*,

i.e., first among equals, in that all human beings, including himself, are equal. Thus the king himself is not above the law. The ideal "world ruler" (referred to in the Commentary on Article 6) is said to look upon the *Dhamma* or the Universal Law of Righteousness as his own "ruler", as the monarch's actions have to be governed by it (*Aṅgutaranikāya* i, 109; iii, 149).

Equality before the law implies equal protection by the law which in turn connotes the total absence of any form of discrimination. The entire concept of equal protection under the law is covered by the Buddhist expression *dharmikam rakkhāvanaguttim* (meaning "righteous care and protection") which is expected of the "world ruler" and spelt out in Buddhist social thought by the terms *dharmacariyā* and *samacariyā* (cf. *Mahāpadānasutta* of the *Dīghanikāya*, D.ii, 1ff.). Literally these words imply "righteous conduct" and "impartial conduct" on the part of the ruler or the State towards citizens or subjects. While the first of these terms can be said to mean equal protection under the law dispensed by righteous conduct on the part of those in power, the second conveys the concept of the absence of all discrimination in view of the claim to equal protection under the law.

In the Buddhist historical context equal protection under the law had been a concern of monarchs like Asoka of the Maurya Empire (India), Indravarman II of Cambodia and, according to the *Mahāvamsa*, of Sri Lankan Kings such as Mahācūli Mahātissa, Bhātikābhaya and the Tamil King Eḷāra — to name just a few. This is perfectly in accord with the dictum in the *Mahāvamsa* that monarchs should dispense "even justice towards friend and foe on occasions of disputes in law" (Ch.XXI).

The message of the Buddha to the world is for the good of all human beings. This Article has a similar objective, in this case related specifically to the "Rule of Law". Therefore

the denial in theory, or in practice, of the principle of equality before the law and equal protection not only under the law but also against any discrimination in the dispensation of the law, will not be countenanced by Buddhism.

## ARTICLE 8

**Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.**

In the Buddhist perspective the constitution and the ordinary laws of a country should have as the primary objective the material and the spiritual welfare of its people. As far as Buddhism is concerned this would include the freedom for Buddhists to strive, to the best of their ability, to lead the ideal Buddhist life. Any obstacle placed in their path would constitute a violation of their right to direct their lives, spiritual as well as material, in keeping with the Teachings of the Buddha. Against such violations it would be essential to have competent national tribunals which could provide appropriate remedies.

An effective remedy, in the Buddhist context, is to ensure the realisation of three objectives. These are (1) that justice should be meted out to all alike, without any distinction; (2) that any remedial measures that may be considered necessary should be consonant with the dignity and worth of the human person, and (3) that such remedial measures should enhance one's progress towards happiness and perfection in the Buddhist sense. According to Buddhist legislative thinking, particularly in the procedures laid down for monastic tribunals, these objectives are to be achieved through a critical and impartial process which has best been outlined in the *Mahāvastu* as follows: When a dispute arises, the king (or other judge) is expected to "pay equal attention to both parties", to "hear arguments of each side and decide according to what is right". Throughout the investigation the judge is

expected to scrupulously avoid the “four avenues to injustice” (*cattāri agatigamanāni*, v. D. iii, 228). These avenues are prejudice (*chanda*), hatred (*dosa*), fear (*bhaya*) and ignorance (*moha*). This warning to avoid the four avenues of injustice has left its mark on Buddhist legal thinking up to recent times. In a work entitled *Nīti Nighaṇḍuwa*, dealing with the principles of Kandyan Buddhist civil law, published in 1979, the author devotes a whole chapter to the importance, in justice, of avoiding the “four avenues” mentioned. As disputes between people generally are related to the complainant’s idea that one of his or her rights has been violated, the principles, or rather guidelines, laid down in the *Mahāvastu* and the avoidance of the “four avenues to injustice” should constitute the basic principles of a competent tribunal for providing effective remedies for violations of fundamental rights, granted by the laws and the constitution.

The Buddhist Community is a fourfold society: those in monastic orders (male and female), and lay people (male and female). As far as rights are concerned, the latter (*i.e.* the lay people) are outside the pale of monastic jurisdiction. They are subject to the national law and must seek remedies in secular courts. Matters dealing, on the other hand, with the rights of a monk or a nun can be referred directly to a monastic tribunal (*adhikaraṇa*) unless it is deemed necessary, as it happens in modern times, due to the particular circumstances of the case, to have the matter taken up for adjudication by a secular court. There are four of these monastic tribunals depending on the nature of the issue in question: *vivādādhikaraṇa* for the settlement of disputes; *anuvādādhikaraṇa* on matters and problems regarding censure; *āpattādhikaraṇa* for questions arising from misconduct, and *kiccādhikaraṇa* on issues relating to duties (*Vin.ii*, 88ff.). These four tribunals are set up in terms of monastic legal requirements, and the rules for their functioning are spelt out in the *Vinaya* — the Code of

Buddhist Monastic Discipline. It will be noted that these tribunals, particularly the first three, are expected to deal with some right or other, or rights, of members of the monastic order. As these principles and procedures may be said to have taken root they would have been gradually accepted and extended to disputes between lay people who sought their fulfilment in secular law.

The Buddhist monastic community is the ideal Buddhist community, and the laity are expected to emulate it as far as possible. Therefore legal principles and procedures adopted by the *Saṅgha* cannot be without any significance to the Buddhist laity when placed in similar circumstances.

## ARTICLE 9

**No one shall be subjected to arbitrary arrest, detention or exile.**

To begin with, two of the cardinal principles of Buddhism are the observance by all of *maitrī* (loving kindness) and *avihiṃsā* (non-injury or non-violence), not only towards men and women but towards all sentient beings. These two virtues strike at the very root of any arbitrary act, including arbitrary arrest, detention or exile, for the simple reason that their arbitrary character will, of necessity, cause physical and/or emotional suffering not only to those directly affected but also to all concerned about them.

A review of the points made in the Commentary on Article 8 will demonstrate that Buddhist legal thinking as illustrated, *inter alia*, by the tribunals recommended, and by the procedures stressed in the *Vinayapīṭaka* and in the *Mahāvastu*, has as its primary aim the saving of the human being, monastic or not, from arbitrary actions by those in authority.

The warning to avoid the “four avenues to injustice” are also relevant here. To begin with, attitudes such as hatred (*dosa*) and prejudice (*chanda*) and non-understanding or inadequate appreciation of a given situation (*moha*) are among the springs of arbitrary acts. Such an act could also be the outcome of some form of fear (*bhaya*) on the part of the authorities so acting. On the other hand such acts are, more often than not, possible because they are tamely accepted not only by the victims but even by the community because of their ignorance (*moha*) that a right has been violated, and through fear (*bhaya*) to take appropriate action and seek a remedy even if one is aware of a violation of one’s rights.

Buddhist philosophy and legal thinking are totally opposed to people being subjected to arrest, detention, etc., if these are arbitrarily carried out; but Buddhism is not opposed to such acts if they are carried out within a just legal framework: that is, in consonance with the judicial procedures referred to in the Commentary on Article 8.



## ARTICLE 10

**Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal in the determination of his rights and obligations and of any criminal charge against him.**

In the Commentaries on Articles 8 and 9 reference was made to the fact that the legal procedures laid down in the *Vinaya* for the functioning of tribunals for the monastic order could become meaningful in civil cases in which the laity were involved, although the latter came under the purview of secular law and were therefore subject to secular tribunals. Even if the application of these procedures was not widespread in secular tribunals, the rules of the *Vinaya* which deal with the work of the monastic tribunals, constitute the ideal procedures for the functioning of tribunals if a high degree of fairness, impartiality and justice were to be ensured.

Before proceeding to deal with these matters it is necessary to point out that according to this Article every single human being is entitled to a fair and public hearing. It means that the interests of the individual (as opposed to the interests of the group) have to be respected and recognised. This position is acceptable to Buddhism although, in general, the Buddhist ethos would prefer a person to be group or community oriented, rather than self-centred. Under Buddhist ecclesiastical procedures, however, (except in the case of expulsion of persons no longer deemed fit to be members of the Order) the interests of the individual are never sacrificed to the interests of the community.

In the Commentary on Article 8 reference was made to four kinds of tribunals for the settlement of matters arising

within the monastic order. The procedure that should be followed to ensure a fair hearing by an independent and impartial trial are stated in meticulous terms and further explained by examples. Included in the *Vinaya*, for instance, there are the instructions of the Buddha in regard to the procedure to be followed in dealing with the case of two erring monks, Paṇḍuka and Lohitaka (*Vin.ii, 1ff.*). Therefore one can judge the very high degree of fairness and impartiality with which Buddhist legal theory expects a trial or inquiry to be conducted. Stated in a summarized and simpler form these procedures are as follows:

1. The inquiry must be held by the Assembly of Monks, or by a monastic tribunal authorised by the Assembly and consisting of monks who have received the *upasampadā*, i.e. the higher ordination. (*cf. Vin.ii,93*).
2. The consent of the monks chosen to constitute the tribunal must be obtained and the participation of any one of them in the tribunal can be challenged by another (*Vin. ii, 93*).
3. Each member of the tribunal will have one vote.
4. An arbitrator (*salākagāhāpaka*) i.e. "a vote-taker" (*Vin.ii, 84*), known for his knowledge of the law and of voting procedures as well as for his reputation for impartiality, should be elected unanimously by a formal resolution of the tribunal to take charge of the voting.
5. The letter of the law or rule alleged to have been violated, and its moral implications should be clearly explained to the accused, who should, in order to furnish the tribunal with all the facts, be given time and be assisted to recall all the circumstances surrounding the commission of the act of which he or she is charged (*cf. Vin.ii, 2 et 94*).

6. A formal charge should only then be framed against the accused.
7. An experienced and competent monk should explain to the tribunal the charges against the accused together with all the attendant circumstances, and should advise the tribunal on the legal and moral issues involved (*cf. Vin.ii, 2 passim*).
8. The accused should have the right make his or her defence including the right to contest the points made (*vide 7 supra*) in the presentation of the case against him or her.
9. The "arbitrator" will then submit a resolution calling for a vote for, or against, the accused as the case may be.
10. If a division appears in the tribunal and its members are unable to resolve it, the matter will be referred to a Committee (*Ubbāhikā, Vin.ii,95*) which take a decision on the issue.
11. Should, however, the Committee find it difficult to reach agreement on the matter delegated to it, the Committee will report back to the *Saṅghā* which will then settle it by a majority vote (*Vin. ii, 97*).

The procedure outlined above meets in minute detail all the requirements embodied in Article 10. And, though it was primarily meant for disputes in the monastic order, it can justifiably be interpreted as the ideal procedure for a hearing in the Buddhist perspective, whether the accused be a member of the monastic order (of monks and nuns) or a lay man or woman.

## ARTICLE 11

1. **Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.**
2. **No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.**

The Buddhist concept of a fair trial is contained in the procedures laid down in the *Vinaya* and outlined, in summary form, in the Commentary on Article 10.

To begin with, it is because the accused is considered innocent that the procedure has to be so detailed. Had, for instance, the two erring monks Paṇḍuka and Lohitaka, been considered guilty from the beginning, the elaborate procedure outlined would not have been necessary at all. Secondly, as far as the members of the monastic order are concerned they all have a right to be present at the trial and it is they who chose the members of the tribunal, subject to any member chosen being challenged by another. To this must be added the fact that if the tribunal is divided on the decision, the matter is referred to a committee and if the committee also fail to agree, the issue is referred to the *Saṅgha* for a majority vote ("*Saṅgha*" meaning here the assembly as a whole). Thirdly, there is hardly any need to refer to guarantees in view of the detailed procedure which itself is a guarantee.

Nevertheless it is useful to note that the accused has to be assisted to recall all circumstances surrounding the "offence"; that a formal charge is framed only after efforts are made to collect all relevant facts; that the accused has the right to be present throughout the proceedings and that he or she has the right to make his or her defence, even to the extent of the right to pose questions to the experienced and competent monk who presents the case to the tribunal. Finally, the fact that the accused has to be informed of the rule he or she is said to have violated and that all the moral implications of his or her act have to be explained before a formal charge is framed, only demonstrates that the act, or the omission, which constitutes the charge, had to be an offence at the time it took place. Hence the question of "retroactive legislation" does not arise.

The concept that the penalty has to be appropriate to the crime is illustrated by the fact that the resolution (*ñatti*) formally calling for a vote in the tribunal has to be moved once (*ñattidutiyakamma*) or thrice (*ñatticatutthakamma*), depending on the gravity of the crime. Moreover, there are listed in the *Vinaya* a number of mitigating circumstances which have to be taken into account by the Assembly or tribunal before either body takes its final decision. These circumstances can even lead to a decision of "not guilty". Some of these are: the case of the "first-doer" (*Vin. iii, 33 passim*), the case of one afflicted with pain (*Vin. ii, 61 passim*), the case of one upset in mind (*Vin. ii, 60 f. passim*), and the case of one who is positively insane (*Vin. ii, 60 passim*).

In conclusion, it can be seen that in the rules of the *Vinaya* laying down the procedures to be followed at tribunals for settling disputes or for dealing with offences, all the requirements stated in Article 11 are either explicitly stated or are definitely implied.

## ARTICLE 12

**No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.**

In the historical context of the early growth and development of Buddhism the living conditions in the region would hardly have permitted any privacy; not only because of the congested nature of small cities but also because of the joint family system and the communal life of the people. As for correspondence, very little written communication took place as there was no special need for it and also due to the fact that there were difficulties involved in writing, which, as an art, was still evolving. Royal proclamations were generally announced by the "town-crier" (*Miln. 147*) or by the "beat of drum" (*J.v. 41 passim*). Sometimes a notice may be put up in the king's palace (*cf. Vin.i, 75*). In the large empires, whose rise and fall characterised the political history of India, the orders of rulers and their achievements were inscribed on rocks, while "deeds of gift" were sometimes recorded on copper plates. Religious philosophies and traditions were propagated by peripatetic preachers and were handed down orally from generation to generation. In these circumstances there was no need at all, even in a highly developed philosophy like Buddhism, to make any specific reference to the right to privacy in the home, family and correspondence.

With subsequent economic, social and cultural developments, ideas of privacy in the areas mentioned emerged and gradually assumed an increasing value and importance

till today privacy has come to be regarded as a fundamental right with which no one (including the State) should interfere. While the concept of privacy has developed into a right, situations in the national and international context — such as grave emergencies or wars — have sometimes made interference with these rights necessary. Unfortunately this right to interfere in very special circumstances has fairly often been used by despotic regimes generally to suppress even legitimate criticism. It has also been abused by unscrupulous people. Hence the need to assert one's right to privacy in the fields stated. It will be noticed that the emphasis in the Article is on the word *arbitrary* and it is against the arbitrary interference with a person's privacy, be it of the home, family or correspondence, that the Article declares one's right to adequate protection of the law.

Although these rights are not specifically mentioned in the Pali Canon or other ancient Buddhist literature, there is no doubt that Buddhism, with its strong emphasis on the rights of the human being, would consider abhorrent any arbitrary interference with what can be termed very personal rights.

With regard to attacks on one's honour or reputation there is no question that Buddhism would condemn those who resort to such attacks, particularly if they are deliberate and vicious attempts to ruin another's material interests or damage another's public image. There is, however, the advice given to the victims of these attacks that these are "worldly conditions" which will exist "till the world lasts" (*DhA.* 153). Hence they should be treated with equanimity as it would contribute to one's spiritual development. Buddhists are reminded that even the Buddha and His disciples were subject to slanderous attacks by heretics and their followers such as Cīncā and that it was by treating these slanders with equanimity that they were able to foil completely the vicious aims

of these people. This Buddhist attitude is effectively summarised in the *Dhammapada* in the statement that "the wise one remains unshaken by blame and praise as the solid rock remains unshaken by the wind that blows" (*Dh.* VI, 6). Buddhism is also opposed to the pursuit of honour and reputation for their own sake as that would lead to "craving" and thereby would have an adverse effect on one's spiritual life. This Buddhist attitude to attacks on one's honour and one's reputation could also have the effect of preventing retaliation by the victim, which again would be in opposition to *avihiṃsā* and *maitrī*. As for the perpetrators of such attacks there is no questioning the fact that they would be acting in direct contradiction to the Teaching of the Buddha.

## ARTICLE 13

1. Everyone has the right to freedom of movement and residence within the borders of each State.
2. Everyone has the right to leave any country, including his own, and to return to his country.

This Article pertains more to issues relating to the right in the context of the present-day world. In the time of the Buddha and the centuries which followed there was no problem in India in this connection. Taking for the present, the relevant conditions in the North-East region of India, which can be referred to as the cradle of Buddhism, the evidence is that, in the early Buddhist period, freedom of movement and residence within the borders of a State, and movement between States was taken for granted. This is confirmed by the fact that certain taxes were levied at frontier posts. It is further confirmed by the appearance in the Buddhist literature of the period of words such as customs (*suñka* — *Vin.* iii, 52; iv, 131), customs' frontier (*suñkaghāta* — *Vin.* iii, 47, 52), customs' officer (*suñkasādhaka* — *Miln.* 365) and customs' house (*sunkatṭhāna* — *Vin.* iii, 62).

The recognition of such freedom of movement and residence was essential for the propagation of Buddhism. In fact the picture of the Buddha that emerges from early Buddhist texts is that of a great preacher travelling unceasingly from village to village, city to city and even State to State, teaching all who were willing to listen to Him the philosophy of Buddhism and establishing chapters of monks. Quite early in His mission He urged His *bhikkhus* to travel "for the welfare

of the many, for the happiness of the many, through compassion for the world, for the welfare, benefit and happiness of gods and men" (*Vin.* i, 21). With this injunction the Buddha obviously imposed an obligation on His disciples to spread His Teaching. This obligation carried with it, by implication, the right of movement and residence within a country and the right to leave one's country and to travel to other territories. The propagation of the Buddha's Teaching and the establishment of monastic chapters is the responsibility of the members of the *Saṅgha* and this obligation of theirs can be fulfilled only if they are entitled to the rights listed in this Article.

About two centuries later during the reign of the Emperor Asoka, the Third Buddhist Council was held. Among the decisions taken was the momentous one to send missionaries not only to all the outlying provinces of the empire but also to the lands beyond its confines. It is in compliance with this decision that a Buddhist mission led by Mahinda came to Sri Lanka in about 247 BC, converted the king and his court and subsequently the people.

While the rights embodied in Article 13 are not specifically referred to in the Pali Canon, it is clear that the obligation to propagate the teaching of the Buddha and establish monastic chapters implies that these rights should be extended to the *Saṅgha*. Buddhism with its very strong emphasis on the principle of equal rights for all human beings is hardly the religion to claim such rights only for the members of its monastic order and not for all members of society. Hence it can be claimed that Buddhism endorses the requirements listed in this Article.

## ARTICLE 14

1. **Everyone has the right to seek and to enjoy in other countries asylum from persecution.**
2. **This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.**

Paragraph 1 of this Article asserts the right of everyone to seek and enjoy in other countries asylum from persecution. Time was when the term "persecution" was generally applied to cruel treatment, the threat of cruel treatment including torture, and even death for holding, expressing or propagating views, particularly of a religious nature, different from, or opposed to, the views of others, particularly of those who wielded political power. Today one finds persecution taking place in various countries not only for differences in religious belief and practice but also on grounds of race, language, culture, colour, political affiliation and social status. With the power wielded by governments today people who face persecution, in the broad sense now given to the term, have no other recourse but to flee their countries and, of course, seek asylum elsewhere. It is to afford protection to people in such situations that the first paragraph of this Article was formulated and included in the Universal Declaration.

Buddhism originated and developed in a *milieu* of many schools of religious thought, many of which were most antagonistic to each other. One of Buddhism's most distinguishing features is that it recognises the right of human beings to the freedom of thought and expression. Consequently its atti-

tude to other religions is one of "critical tolerance" which can be illustrated from a number of texts of the Pali Canon (*vide* D.i, 2 ff., iii, 260; M.i, 371 ff., 515 ff; S.iii,139 ff; A.i,188 ff., and iv,156 ff; Sn.268 *passim*).

The Emperor Asoka who began his reign (c.274 BC) by extending his empire in the most ruthless manner changed completely after the carnage he saw he had caused in the Battle of Kalinga. It is evident that he was attracted to, and influenced by, the humanistic teachings of Buddhism, which he subsequently embraced and then became one of its greatest patrons. His Rock Edict XII, besides the verses of the Pali Canon mentioned, is one of the most striking injunctions issued on religious tolerance and is worth quoting in some detail. His subjects are enjoined "not to deprecate other religions" but on the contrary to see that "other religions are suitably honoured, for by doing so one exalts one's co-religionists", and one "helps people belonging to other religions". It will be noted that the Emperor, inspired by the Buddhist principles which he had imbibed was urging people of all religions not merely to tolerate, but even to assist, each other.

On the principles enunciated in the Pali Canon on the dignity and worth of the human person, persecution on any grounds or in any form, is not merely contrary to the relevant teachings of the Buddha but also unreservedly and totally repugnant to Buddhist philosophy. Consequently Buddhism endorses the right of everyone "to seek and enjoy in other countries asylum from persecution".

Paragraph 2 of Article 14 is really intended to prevent an abuse of the right to seek and enjoy asylum. It stresses that this right cannot be invoked by persons fleeing from "cases of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations". The expression "non-political crimes" has been used to cover a wide range of acts (such as violations of

criminal law) which are tantamount to violations of the basic rights of human beings. Persons being prosecuted, or likely to be prosecuted, for acts of this kind, cannot invoke the right to seek asylum. With regard to "the purposes and principles of the United Nations", it must be noted that these relate to the promotion of international understanding, co-operation and peace, to the recognition of human rights and fundamental freedoms and to the responsibility of all Member States to strive together to promote the economic, social and cultural well-being of all peoples. Persons who commit acts contrary to these principles and purposes of the Organisation are really guilty of crimes not against individuals, or even groups of individuals, but of crimes against humanity; as such they do not qualify to invoke the right to seek and enjoy asylum in any country. They will have to face the consequences of their acts in accordance with the laws and judicial procedures of their respective countries, or of the countries in which such acts were committed.

In view of the depth of its humanistic principles, its stress on the dignity and worth of the human person, and its universal, as opposed to a local or national, outlook, Article 14 is in keeping with the Teachings of the Buddha, and Buddhism as such endorses it fully.

## ARTICLE 15

1. Everyone has the right to a nationality.
2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

The message of Buddhism is for the entire human race. As such its message is universal and is not meant for any group or groups of people. In fact the Buddhist concept of an ideal ruler (*Cakkavatti Monarch*) is a ruler who would hold sway over the whole world and attend to the well-being of all human beings, irrespective of frontiers and national boundaries.

By the first century AD there were two principal schools of Buddhism, Theravāda and Mahāyāna. While the former spread southwards in India and into countries like Sri Lanka, Burma and Thailand, the latter moved northwards, proceeding to countries like Nepal, Tibet, China and Japan. Buddhism was propagated predominantly by missionaries. They did not follow in the wake of conquering armies. Hence as the missionaries of both schools (Theravāda and Mahāyāna) went from country to country and encountered different cultures and traditions in each, no attempt was made by the missionaries to impose their own culture on the native inhabitants. On the other hand each school, while retaining its basic principles and core philosophy, absorbed in each country elements of its culture and general way of life, particularly in manifestations of worship, in the celebration of important religious days, and in art, sculpture and architecture. Thus due attention was paid to national characteristics and by extension to nationality. A natural corollary of this would be

to respect the right of everyone to a nationality and the right not to be arbitrarily deprived of that nationality. Of course, if anyone wished to change his or her nationality, Buddhism, with its international perspective, would not stand in the way, particularly in view of its respect for the personal rights of human beings.

While recognising the rights mentioned in Article 15 Buddhism (as stated in the *Parābhavasutta* of the *Suttanipāta*) warns against being conceited or obdurate on grounds such as nationality which is an extension of the connotation of the term “*jāti*”. Conceit or excessive pride in relation to anything, including “*jāti*”, impairs balanced judgement which is a prerequisite for mental, moral and spiritual development. World history has shown how excessive nationalism on the part of some nations has led to interference with the rights of others to a nationality.

## ARTICLE 16

- 1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.**
- 2. Marriage shall be entered into only with the free and full consent of the intending spouses.**
- 3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.**

In Buddhism there is no scriptural injunction “to increase and multiply”. It must also be noted that Buddhist literature tends to be cautious on the subject of sex, for sex is related to sensual desire (*kāma*), biological reproduction (*punabbhava*), literally ‘re-becoming’ in *samsāra* or the cycle of births and deaths, and therefore to empirical suffering (*dukkha*). This does not mean that Buddhism is silent on matters relating to human sexuality and marriage, nor does it mean that the various rights of the parties to a marriage (as stated in Article 16) cannot be deduced from Buddhist texts.

For the “Dispensation of the Buddha” (the *Sāsana*) to flourish and continue, the Buddhist monastic order and the Buddhist laity are considered to be of equal importance. Hence the emphasis laid in the Buddhist tradition on what, as referred to earlier, is called “the four-fold society”, namely, the Buddhist society comprising monks (*bhikkhus*), nuns



(*bhikkhunīs*), laymen (*upāsakas*) and laywomen (*upāsikās*). This classification is credited to the Buddha himself in the *Mahāparinibbānasutta* (D.ii,104 ff); and while it is intended that all four segments of society should follow, to the best of their ability, the Buddhist path to ultimate emancipation, the second two are expected to shoulder all “worldly responsibilities”, such as developing the resources of the earth for their well-being as well as for that of the monks and nuns who, as mendicants, depend on the laity for their sustenance and the basic amenities of life. In the rule that the members of the monastic order should be celibate is the obvious implication that sexual relations are permissible to the laity leading naturally to the birth and bringing up of children, and thus to the recognition of the family as the “natural and fundamental group unit of society” (Article 16:3). Besides this implication there are more positive references in Buddhist historical texts to the family and its place and rôle in society. For example, while Buddhism is historically recognised as a reaction to various aspects of Brahmanism as the latter had developed by the sixth century BC, one of the few elements in Brahmanism which was not rejected is the early Brahmanic attitude towards sex and the position that the primary function of marriage, as an institution, is the procreation of the human race. As a matter of fact, this is brought out in quite a few texts such as, for example, the *Brāhmaṇadhammikasutta* (Sn. vv.284-315) in which it is stated that the Brahmins did not resort to sex “except at the proper time” — the proper time being the physiologically appropriate period for the female for successful conception. The obvious implication here is that the sexual act is meant for procreation. This is further brought out in the *Āṅguttaranikāya* in which it is said that “to the Brahmin, the Brahmin woman is necessary for the sake of procreation” (A.iii, 226f.). It will be seen therefore that Buddhism accepts the Brahmanic sex-

ual mores and it may be said that it implicitly even considers it the ideal. Buddhism, however, goes further than tacitly accepting the Brahmanic attitude and lays considerable emphasis on the socio-ethical aspects of married life, such as the duties and mutual obligations of husband and wife and their relations with the rest of society, commencing with the children and the immediate family circle. These are referred to, for instance, in the *Siṅgālovādasutta* (D.iii,180 ff.), the *Mahāmaṅgalasutta* (Sn. vv. 258-269) or in the *Āṅguttaranikāya* (cf.A.ii,55 ff.). Monogamy, the Vedic ideal, is upheld; the male is told to be satisfied with one wife: *ekāya bhariyāya ca hohi tuṭṭho*, and advised against going to another’s wife: *parassa dāraṃ nātikkameyya* (Sn. v.396). Thus monogamy is recommended as the ideal, and adulterous relations with another’s wife (and by extension with other women) are condemned. Hence the positive sexual significance of the third among the five Precepts (*Pañcasīla*) for the laity which enjoins abstention “from wrongful indulgence in the passions”.

It is now left to examine whether the various rights relating to marriage embodied in the three paragraphs of Article 16 are endorsed by Buddhism. To begin with, it has already been noted (paragraph 2 of this Commentary) that in Buddhism the family is considered “the natural and fundamental group unit of society”. Secondly, according to Buddhist historical texts only “sons” and “daughters” who have attained maturity (*vayappattā*), meaning those who have reached the age of puberty, are fit to marry (cf. VvA. 120; PvA.iii,112; ThA.266). The phenomenon of child marriage is consequently ruled out and the word “maturity” can be equated with the requirement of “full age” stated in the first paragraph of this Article. Thirdly, it follows that Buddhism, with its unequivocal denunciation of caste and its ramifications, its universal appeal to the human race as consisting of people who are all equal, and its attitude of “critical tolerance” of all

religions, does not countenance considerations of race, nationality and religion as “limitations” to “the right to marry and to found a family” (paragraph 1). Fourthly, Buddhism’s recognition of the complete freedom of both man and woman (within the natural law) implies not only that marriage should be entered into only with the “free and full consent of the intending spouses” (paragraph 2), but also that men and women are entitled to equal rights as to marriage and during marriage. The right to dissolution of marriage is not alluded to in the Buddhist historical texts. In fact dissolution is a concept alien to the early Hindu and Buddhist ethos. In the Buddhist view, for instance, anything must be good at the beginning (*ādikalyāṇam*), good in the middle (*majjhe kalyāṇam*) and good at the end (*pariyosānakalyāṇam*). So should marriage be. That would be the ideal; but if dissolution is allowed it should, according to the Commentary on Article 1, be on the basis of the equal rights of the partners concerned. It will be recalled that in that particular Commentary it was stressed that Buddhism recognises that men and women are endowed with equal rights.

Paragraph 3 of the present Article also declares that the family “is entitled to protection by society and the State”. This position is accepted in Buddhism. The *Silas*, or the Rules of moral behaviour, particularly Rule 3 (mentioned above) pertaining to sexual morality in lay society, aim at the protection of the family by society. As for State policy, it is enunciated, for example in the *Kūṭadantasutta*, that the State is expected to assist the family and to extend to it its protection by ensuring economic and social well-being through an enlightened social and economic policy. The Sutta concludes on the happy note that with economic development and with social security provided by the State “the populace, pleased with one another and happy, making their children dance in their arms, will dwell with open doors” (*D.i,135*).

The phrase “dwell with open doors” means with no fear at all. It follows that, according to Buddhism, society and the State have a responsibility for the social stability, security, happiness and comfort of the family.

It is clear from what has been stated in this Commentary that Buddhist sacred and historical texts endorse, directly or indirectly, all the rights relating to marriage referred to in the three paragraphs of Article 16.

## ARTICLE 17

1. Everyone has the right to own property alone as well as in association with others.
2. No one shall be arbitrarily deprived of his property.

This Article, making as it does an assertion regarding (a) ownership and (b) protection of both private and common property, is in complete accord with the texts of Buddhism.

According to the Buddhist theory of evolution, all property, to begin with, was common or shared property. However, with changes in human nature (such as the appearance of wantonness and greed among mankind) which affected the physical and economic environment of humans, the institution of private property emerged. This is the picture placed before us by the *Aggaññasutta* of the *Dīghanikāya* (D.iii,85 ff). This *sutta* suggests that with the problems of human sustenance on the one hand, and of law and order on the other, consumption had to be limited and property rights had to be established; and this, in early human society, was effected through mutual agreement. This, it has to be inferred, is a straying away from the laudable ideal of shared property which was possible before human nature and life became more complex. However, once private property had come into being it had to be accepted as a further stage in the evolution of human society, as is suggested in the *Aggaññasutta*. As a matter of fact, nowhere has the Buddha advocated a return to, or spoken of a possibility of a return to, common property as far as the lay society is concerned.

The situation however is somewhat different with the Buddhist monastic community for whom the original ideal is

more salutary, and whose laws regarding property are accordingly formulated. The position is aptly summarised thus by an eminent Indian jurist: "The Buddhist Sangha was undoubtedly a juristic person and was capable of holding property in the same way as a private person could ... the ordinary formalities of gift were observed by the donor when he wanted to dedicate any property to the Buddhist congregation, and the gift was accepted on behalf of the Sangha by its head or representative. The property did not become the private property of the ostensible donee, nor could it be said to belong jointly to all the monks who were members of the congregation at that particular time. It was the property of the congregation itself which could not but be deemed to be a separate entity for this purpose and which continued to exist even if all its members died out or were replaced by other people" (B.K. Mukherjee, *The Hindu Law of Religious and Charitable Trusts*, Calcutta, 1952, p.24). These conclusions fully corroborate the Buddhist *Vinaya* texts. All property was vested in the universal *Saṅgha* and loaned to any particular member, at any given time, for his or her use. For instance, the Buddha is recorded as having once declared: "O monks, the *Saṅgha* is the owner of the bowl and robes of a monk who has passed away. But truly those who tend to the sick are of great service. I approve of your giving through the *Saṅgha* the three robes and the bowl to those who tended the sick and also of your distributing through the (resident) *saṅgha* and in their presence the light goods and the light requisites that are there; but whatever heavy goods and heavy requisites that there be, these belong to the *Saṅgha* of the four quarters, of the present and the future—they are not to be disposed of and not to be divided up' (*Vin.* i,305). The message here is obvious. Apart from the right to private property one may enjoy the right to property "in association with others".

It has to be stated that the *Aggaññasutta* is based on the premise that all men are born equal with equal rights, socially and politically. Property, then, if granted as a right, has to be reckoned among man's social rights. It is little realised that the second precept of the Buddhist *Pañcasīla* (Rules of Moral Behaviour), dealing, as it does, with theft, becomes meaningful only if the property rights of every individual are fully recognised. In fact, a careful study of the Buddhist *Pañcasīla* will reveal that it is one's assertion of the right to life and right to property which, in the ultimate analysis, is the concern of all human rights.

The right to private property, in the Buddhist historical context, was recognised by the time of the Buddha's day. By then ancient India had moved towards a settled agricultural economy although vestiges of the early Aryan nomadic pastoral life were still evident. And the social teachings of Buddhism deal not only with agricultural but with urban economic entrepreneurship too (cf. *D.iii*,188), because when the Buddha appeared on the scene private ownership was gathering momentum in a surplus economy built up especially by the urban mercantile class of the day. Financiers like Anāthapiṇḍika and Migāra represented this class, and are called "the moneyed men" of the day: *aḍḍhā mahaddhanā mahābhogā* (cf. *M.i*,45 f, *A.i*,117).

Private property is further described in the Buddhist texts as property "with which one could deal as one likes": *yathākāmakāritam āpajjanto* (*DhA.26*). And such property, as anything else possessed by one, had to be legally valid (*adaṇḍāraho*), and socially acceptable (*ananuvajjo, loc.cit.*). However, Buddhism is against the unnecessary accumulation of wealth which could aggravate the problems of the human being and obstruct his or her moral and spiritual uplift.

Property should also give contentment (cf. *tuṭṭhajananakam, MA.ii*,329) to the holder. In fact the highest

wealth that one could have is contentment itself: *santuṭṭhi paramam dhanam* (*Dh. XV*,8). One has no right to rob another of his or her right to contentment or mental happiness, since all beings, as the *Dhammapada* says, desire happiness: *sukhakāmāni bhūtāni* (*Dh. X*, 3 et 4). One should act towards another by comparing oneself, even in matters relating to property, with the other: *attānam upamaṃ katvā* (*Dh. X*,1et 2). To deprive one arbitrarily of one's property is to deprive one of the lawful pleasure to which he or she is entitled. One may, however, be deprived of one's property by a properly constituted legal authority. This is taken for granted in this Article. In the Buddhist monastic context, for instance, this principle is covered by certain rules (the *Nissaggiya-Pācittiya* Rules) which permit the withdrawal of certain privileges enjoyed by the monks and nuns (*Vin.iii*, 195ff. et iv,243 ff.).

It will be seen, therefore, that the right to own property alone as well as in association with others, and not to be arbitrarily deprived of property is fully recognised in Buddhism. While recognising this right Buddhism goes further and warns people that the unnecessary accumulation of wealth can be a hindrance to one's moral and spiritual development.

## ARTICLE 18

**Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.**

The Buddhist tradition, from its very inception, commenced with a recognition of the right to freedom of thought, conscience and religion. Firstly, two among six characteristics claimed by the *Dhamma* (the Buddha's doctrine) for itself, apart from everything else, prove that Buddhism stands for everyone's right to freedom of thought. The first characteristic is that Buddhism calls upon everyone to test its truth and validity before acceptance. As an oft-reiterated Canonical statement asserts, the *Dhamma* calls upon one to "see it for oneself" (*ehipassika*, *D.* ii, 217 et iii, 5, 227; *S.* i, 9; *A.* i, 158 *passim*). The *Dhamma*, having nothing esoteric about it, is open to all and is not to be accepted on faith. A doctrine calling upon the peoples of the world to test its truth for themselves certainly stands for freedom of thought for, if its claims are disproved or unsubstantiated, one is free to search the truth elsewhere, although it is the Buddhist position that the Buddha's path is the "one and only path" (*ekāyano maggo*, *D.* ii, 290; *M.* i, 63; *S.* v, 167, 185) to emancipation.

The second characteristic is the claim that the Doctrine is "to be understood individually by the wise" (*paccattam vedītabbo viññūhi*, *loc. cit.*). This is not possible without freedom of thought. And the wise, to judge by the *Suttas* (*cf. M.*

*i*, 403 *ff.*, 515 *ff.*), ought to be impartial critics at the level of commonsense capable of exercising the faculty of thinking. In the discourses of the Buddha and His disciples the *viññū puriso*, or the hypothetical rational critic, figures prominently when it seems necessary to make an impartial and an intelligent assessment of the relative worth of conflicting theories. The doctrine was therefore an appeal to such intelligentsia and is referred to as a doctrine "verifiable by the wise" (*pañḍitavedaniya*). The whole Buddhist tradition is intellectual, and this is not possible without a recognition of the right to the freedom of thought.

As already stated in the Commentary to Article 1, conscience is the moral sense of right and wrong and is recognised as such in Buddhism too. Conscience has a rôle to play in deciding the moral worth of an action. Now, Buddhism measures the moral worth of an action in terms of its consequences. Accordingly, one's conscience must be free to take all possible consequences of one's actions into account. Therefore, one is called upon, as enunciated by the Buddha to Rāhula (*M.* i, 416; *S.* iv, 159), to make sure that a proposed course of action should always lead to good and never to harmful results either to oneself (*attabyābādhāya*) or to others (*parabyābādhāya*) or to both parties (*ubhayatthabyābādhāya*). The importance of the freedom of conscience is also to be noted in the Buddha's advice to the Kālāmas—a group of highly intelligent people in the Kosala kingdom—that they should evaluate carefully any religious or philosophical claim by an appeal to their conscience. "Come, O Kālāmas", says the Buddha, "do not be led by report (*anusavena*) or by tradition (*paramparāya*) or by hearsay (*itikirāya*) or by the authority of religious texts (*piṭakasampadānena*) ... or by claims to knowledge and truth that are based on any type of theorizing or speculation ... or on the basis of appearance or possibility (*bhavyarūpatāya*), or through respect for

your teacher (*samaṇo no garu*). Rather, Kālāmas, when you know for yourself these things are unprofitable, blameworthy (*akusalā*) ... and conduce to loss and sorrow, then indeed you should reject them ... and when you know for yourself that certain things are profitable, blameless (*kusalā*)... and conduce to profit and happiness, then indeed you should accept them and abide by them" (A. i, 189 f.).

The right to the freedom of religion, which really means the freedom to practise one's religion jointly or alone, and in public or private, to manifest one's religious belief in teaching, practice, worship or observance is also recognised by Buddhism, subject to the important *proviso* that none should, while exercising this freedom (as detailed above), harm another's religion or be an impediment to religious practices of one of another persuasion. In fact, the religio-philosophical background in which Buddhism originated allowed full scope for these freedoms. The Buddhist Canon refers to a large number of "heretical schools". This only shows that these freedoms existed and dissent was tolerated.

The Buddha demanded of His adherents respect for all other religious orders as may be noted from the Canonical episode dealing with the Licchavi General "Siha", who was a Jain by faith. Siha, having had information regarding the Buddha's greatness, wished to see Him; but the Jain leader Niganṭhanāthaputta dissuaded him, alleging that the Buddha denied the efficacy of action and was not worth a visit. Finally, however, Siha went to the Buddha and after having conversed with Him discovered that the Buddha had been falsely accused of preaching wrong doctrines. He then declared himself a follower of the Buddha. The Buddha was willing to accept his adherence provided that Siha would continue to support the Jains too. This attitude of the Buddha made Siha respect the Buddha even more and he immediately invited the Buddha and the monks to a meal on the following

day. This shows clearly that Buddhism is also concerned with the social impact of religion and considers that religiousness should serve not as a divisive but as a unifying force. For spiritual uplift, the immediate happiness and well-being of people are important, and therefore there should be no conflicts in the name of, or because of, religion (*Vin. i, 233 f; A. iv, 179 f*).

That Buddhism is for an open house for all religious beliefs is borne out by the *Mahāparinibbānasutta* too. The freedom of religion that Buddhism advocates is perhaps illustrated best in this *Sutta* which recalls that the Buddha Himself once recommended this freedom to the Vajjian Confederacy—this freedom being one among "seven causes leading to the welfare" of any people (*satta aparihāniye dhamme, D. ii, 75 ff*). Says the Buddha, *inter alia*, "so long as they (the Vajjians) honour and esteem and revere and support the policies of Vajjian worship, in country or town, and allow not the proper offerings and rites, as formerly given and performed, to fall into desuetude—so long as the rightful protection, defence and support shall be fully provided for the *religieux* among them, so that the *religieux* from a distance may enter the realm, and the *religieux* therein may live at ease—so long may the Vajjians be expected not to decline, but to prosper" (*D. ii, 75*). Such contexts, when examined, show that Buddhism stands for the critical tolerance of all religions.

In the Buddhist historical context the Emperor Asoka takes pride of place in the freedom accorded to thought, conscience and religion, and his pronouncements on the subject are too numerous to be reiterated here. He practised what he preached. For example, his cave-dwellings bestowed on the Ājivaka community both before and after he embraced Buddhism confirm well his policy of tolerance and support of all religious sects of the day. Equally important is his statement that one elevates one's own religion by respecting the relig-

ions of others. Buddhist monarchs, right down the ages, maintained this tradition. In all Buddhist lands, the native religious cults were tolerated and Hindu Gods, through historical circumstances, were given a place in Buddhist Vihāras. In Sri Lanka, freedom of thought, conscience and religion were extended by Buddhist rulers to Muslims and later to Catholics who fled from persecution in the maritime Provinces and sought refuge in the Kingdom of Kandy.

## ARTICLE 19

**Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.**

This Article is closely connected with Article 18 which emphasises the right to freedom of thought, conscience and religion. The right to freedom of opinion and expression enunciated in this Article follows as a logical corollary.

As already pointed out (*cf.* Buddhist Commentary on Article 18), the Buddhist tradition is intellectual and this would imply a recognition of the freedom of opinion and expression. Opinion and expression (as well as organisation) may be described as “pluralistic” in Buddhism. There is no official interpretation of thought in Buddhism. Each person is free to give his or her own interpretation on any matter. Historically, this led to the rise of various Buddhist sects, schools of thought or Nikāyas. Furthermore, as the Buddhist Canonical Texts show very clearly (e.g. *D.i, 6 ff.*), the Buddhist attitude to other religions, as noted earlier, is one of “critical tolerance”, and the absence of “holy wars” in Buddhist history clearly demonstrates a recognition and acceptance of the right to freedom of opinion and expression. Buddhism agrees entirely with the view that these freedoms should be enjoyed by everyone without interference, irrespective of the media used for expression and regardless of frontiers.

From the Buddhist point of view the right to the freedom of opinion carries with it the obligation of ensuring that one’s opinions are formed carefully after taking all relevant

factors into consideration, for one's opinions can affect oneself and, as opinion can lead to action, they can affect others too. In the same way, the right to the freedom of expression must be exercised responsibly, so as not to cause harm either to others or to oneself. It must always be borne in mind that, in the Buddhist view, the moral worth of an action is measured in terms of its consequences (*cf. M.i,416; S.iv,159*).

The well known *Kālāmasutta* (A.i,188 ff.) may be cited as a good example to show how Buddhism upholds the freedom of opinion (*cf. the Buddhist Commentary on Article 18*). As far as these freedoms are concerned many instances could be cited from the *Vinayapiṭaka* or the Canonical section on Buddhist monastic discipline. For example, in ecclesiastical proceedings a monk is not only free to hold views different from others, but also to express them, if he wishes to record disagreement on any matter. A classic instance of freedom of opinion in a Buddhist context is the episode regarding the Buddhist monk Purāṇa, given in the *Vinaya* account of the First Buddhist Council held at Rājagaha three months after the passing away of Lord Buddha (*Vin. ii,284 ff.*). Purāṇa, coming as he did with his retinue from a Southern region of India, reached the venue of the Council only after the Canon was settled by the leading monks at Rājagaha. When invited to accept the Canon as settled by them, he politely declined saying that he preferred to preserve the doctrine as he had received it from the Buddha Himself. The Council accepted his position and no attempt was made to induce him to change his stance.

It will be noted from what has been stated in the Commentary on Article 18 and from what has been stated here that, as a system of thought advocating openness, Buddhism does not impose limitations on the freedoms expressed in Article 19.

## ARTICLE 20

1. **Everyone has the right to freedom of peaceful assembly and association.**
2. **No one may be compelled to belong to an association.**

Assemblies for business, political, religious, social, or cultural purposes existed in ancient India from pre-Buddhistic times. The Vedic "*Samiti*" and the "*Sabhā*" were well known institutions. They were assemblies where the people—especially the elders of the clan or tribe—conducted their affairs in a peaceful way. The "*samiti*" and the "*sabhā*" by the Buddha's day had developed a republican character, and all the transactions were conducted peacefully and democratically. The decision of the majority prevailed. The Buddha, on the other hand, opted for the majority vote only when unanimity was not possible, and even then only if the views of the majority were in accord with the *Dhamma* or the Universal Principle of Righteousness. Thus the right to freedom of peaceful assembly and association is a right taken for granted in the Buddhist tradition.

At the same time there is adequate evidence to prove that no one was compelled to belong to an association. Beginning with early Buddhist monks like Devadatta, who dissented from the Buddha and formed his own sect, the appearance of various sects and sub-sects within the Buddhist monastic community bears out this contention. Of course, the unity of the monastic community (*saṃghasāmaggī*) was the ideal. This, however, did not prevent the emergence of sects within the community. Within the first three centuries of Buddhism, due to the rise of prominent teachers in the



Buddhist monastic community, the community is said to have split into seventeen or, including the original body, eighteen schools. Subsequently sub-sects too appeared (*cf. Mahāvamsa*, Chapter 5).

Perhaps the earliest and the best statement on this theme is to be found in the *Mahāparinibbānasutta* of the *Dīghanikāya*. It states that, firstly, people must “assemble frequently” (*D. ii, 73*). Secondly, they should assemble peacefully or in unison (*samaggā sannipatanti*), arise peacefully (*samaggā vutthahanti*) and transact business peacefully, as in the case of the Vajjians (*cf. samaggā Vajjikaraṇīyāni karonti, loc. cit.*). The Vajjians were among the sixteen Republican clans of the Buddha’s day in North India who conducted State affairs in a very democratic manner. In the oft-quoted words of the Marquess of Zetland, “It is, indeed, to the Buddhist books that we have to turn for an account of the manner in which the affairs of these early examples of representative self-governing institutions were conducted” (G.T. Garrat, Ed., *The Legacy of India*, Reprint 1938, p.xi, Introduction). It has been assumed that Buddhism, especially in the democratic practices of its monastic community, was influenced by such republican forms of government. As the organisation of the Buddhist monastic community clearly discloses both republican and monarchical characteristics, it is possible to argue both for and against this assumption. It should also not be forgotten that the Buddha Himself was an educated intellectual hailing from an aristocratic republican clan, namely, the Sākyaans. What can be stated definitely is that it was on a very democratic foundation that He established His monastic community for its own good and for the good of all human beings.

In fact the Buddha had taken care to ensure that assemblies and associations functioned in a completely democratic way. For instance, the form of a Buddhist Ecclesiastical Act (*Saṅghakamma*), together with the various stages to be

followed in adopting it, shows that in both conception and execution it was fully democratic. Quorums, committees, resolutions, proclamations, voting (including voting by proxy) and suchlike democratic procedures were all known and referred to by their technical terms (*cf. Vin. i, 316 ff. and Vin. ii, 95 ff.*).

The history of Buddhism also shows that no one was ever compelled to belong to any association—religious or secular. There is nothing in the Teachings of the Buddha to show that a member of any given Buddhist sect is not free to join another sect, or even to give up his or her commitment to Buddhism itself.

## ARTICLE 21

1. **Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.**
2. **Everyone has the right of equal access to public service in his country.**
3. **The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.**

This Article makes certain pronouncements considered quite sacrosanct by Buddhist socio-political thinking. It obviously upholds democracy as the ideal form of government for mankind and this is fully in accord with what the Buddha had to say on an ideal human polity.

At the very outset, however, it must be stated that during the time of the Buddha two forms of government obtained in North India (namely, the republican and monarchical,) and the Buddha (as stated in the Commentary on Article 2) showed no preference for one form of government over the other. In fact, the Buddhist monastic organisation, in its structure, discloses both republican and monarchical characteristics. What the Buddha held in esteem were the democratic features of any given form of government, and in doing so he certainly preferred to vest supreme legislative power in the people as a whole, through a theory of social contract (*cf. Aggaññasutta*). Vesting of such power in the people is a

recognition of their right to take part in the government of the country. And, of the two methods of exercising this power, namely, directly or through freely chosen representatives, the Buddha seems to have opted for the former (as may be seen from the procedures in Buddhist monastic discipline), while a shift towards the latter is also to be noted in the Buddhist Scriptures, in keeping with the trend of the times. Direct participation in the government (or “direct democracy”) is possible when numbers are limited, as they were in the pre-Buddhistic Ṛg Vedic period in India, or as in the case of the ancient Greek city-states. For example, the polity governing a Buddhist monastic colony (*āvāsa*) in the early days of Buddhism illustrates the point: while the entire monastic community is referred to as the “Saṅgha of the four quarters, present and not present” (*Vin. ii, 147*), for administrative purposes each monastic colony (*āvāsa*) governed itself through its own Ecclesiastical Acts (*Saṅghakamma*), for which the rule is that all the qualified monks at the *āvāsa* should assemble to participate in the deliberations. This is acceptance of direct participation in government.

But with large numbers, as in the republics of the Buddha’s day in North India, a shift towards “representative” democratic practice also took place, as may be noted from *Suttas* with historical data, like the *Mahāparinibbāna (D.ii, 73 ff.)* which reveal that the elders of the republic represented the people, as in the case of the Vajjians. And it follows logically that in the context of present-day large and pluralistic societies, Buddhism would naturally expect one to take part in the government of his or her country through chosen representatives.

Buddhism subscribes to the view that everyone “has the right of equal access to public service in his country”. This is in consonance with its egalitarian outlook, as noted in the Buddhist Commentary on Article 1. If there is absolute

equality between human beings in respect of their essential nature, as upheld by Buddhism, every individual ought to have equal access to public service. Furthermore, Buddhism does not recognise barriers for service, such as caste and the station into which a person is born.

It is the Buddhist view that one is qualified to exercise one's sovereignty in the management of one's affairs since Buddhism credits the human personality with a dignity and a moral responsibility. This would be noted, for instance, in the *Aggaññasutta* of the *Dīghanikāya* (D.iii, 80 ff.), which reveals a democratic conception of both the State and the Law. Thus the will of the people should be the basis of the authority of government. Elections were also not new to Buddhist thinking. Universal and equal suffrage in elections is recognised, as may be noted from the voting procedures adopted by the Buddhist monastic community (cf. Buddhist Commentary on Article 10). What deserves reiteration here is that in Buddhist voting procedures a special effort is made to ensure that the majority vote is in consonance with the *Dhamma* or the Eternal Principle of Righteousness. This is cardinal to the Buddhist conception of justice, good government and democracy. Incidentally, this attitude is somewhat paralleled today by the British constitutional tradition which is conceived in moral rather than in legal terms, due to its long association with the idea of parliamentary sovereignty.

## ARTICLE 22

**Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.**

The Article, as worded, evidently refers to conditions in a modern State in which social security benefits can broadly be said to be of two kinds: namely, assistance by the State (a) to those who are destitute because of unemployment, sickness, old age or other lack of livelihood in circumstances beyond their control, and (b) to those who are employed, or are self-employed, but whose income is inadequate for their well-being and that of their families. Both forms of social security are referred to, according to the conditions of the time, in some *Suttas*, particularly in the *Kūṭadantasutta* and the *Cakkavattisihanādasutta* (D.i, 127 ff. and D.iii, 58 ff.).

It is related in the former that the "King of the Wide-Realm" who was fabulously rich wished to offer a great sacrifice to ensure "his (own) weal and welfare". The King consulted his chaplain, the Brahman Kūṭadanta, who drew attention to the fact that dacoits were abroad, freely pillaging towns and villages, making the roads unsafe for travel and causing considerable dissatisfaction among the people. The Brahman's view was that destitution was the root cause, in that some had hardly any means of livelihood while others, though employed, were inadequately remunerated. Hence his advice was that

not only the destitute should be assisted, but also those who were self-employed, or hired to carry out various functions. For instance, food and seed-corn should be supplied to those involved in farming and cattle-rearing; capital should be extended to those engaged in trade, and employees in the royal service should receive wages and food. Evidently Kūṭadanta considered the well-being of the populace more important than great and expensive sacrifices. The advice was taken and the result was twofold. On the one hand "the people were happy with one another, happy with children dancing in their arms" and, as their security was ensured, they were able to "dwell with open doors". On the other hand, the royal revenue increased and with this, and the happiness of the people, the King's "weal and welfare" was assured. This *Sutta* also draws attention to the eight qualities which the "King of the Wide-Realm" should possess. One of these is that he should be "a generous and noble giver, keeping open house, and a well-spring from which Samaṇas and Brahmans, the poor and the wayfarers, (as well as) beggars and petitioners, could draw".

In the *Cakkavattisihanādasutta* the King was also expected to perform the duty of a "Wheel-turning Monarch", who is required to lean on the Norm (The Law of Truth and Righteousness), to be himself a Norm-banner, a Norm-signal, to have the Norm as his Master, and to provide "the right watch, ward and protection" for his folk, for the nobles, vassals, brahmans, householders, town and country dwellers and (even) for beasts and birds. One can understand why Asoka established hospitals not only for humans, but also for birds and beasts. An additional admonition to the "Wheel-turning Monarch" was that "whosoever in thy kingdom is poor, to him let wealth be given".

It is related in this *Sutta* that King Dalhanemi was deeply affected by the fact that the "Celestial Wheel", whose pres-

ence indicated benevolent and just rule, "had sunk a little and had slipped down from its place". He decided therefore to abdicate in favour of his eldest son and to become a hermit. But seven days later, lo and behold, the Celestial Wheel disappeared altogether. Greatly disturbed by this, the new King sought the advice of his hermit father. He was urged not to grieve but to "act up to the noble idea of duty of the true sovereigns of the world and to carry out the Aryan duties of the Wheel-turning Monarch". The social security elements of these have already been referred to in the second paragraph of this Commentary.

According to this same *Sutta*, during the reign of the seventh in line of the "Wheel-turning Monarchs", the celestial Wheel once more began to sink. The King then did what Dalhanemi had done earlier and retired to the forest as a hermit. Seven days later the Wheel disappeared altogether. Unfortunately his son did not come to him for advice but ruled according to his own ideas and "forsooth the people did not prosper". Consequently a deputation of all classes of people called on him and drew to his attention the consequences for the people of his not ruling by the Wheel of Righteousness, but according to his own ideas. The King followed their advice up to a point only. He did not provide due "watch, ward and protection" to the destitute. Consequently poverty became widespread and many people resorted to theft. When a man accused of theft was brought before the King, he confessed to the crime but declared that he had done so because he had nothing to keep himself alive. Then the King bestowed wealth on him saying "with this wealth keep thyself alive, maintain thy parents, maintain thy children and wife, carry on thy business and keep such alms for holy men". It should be noted here that assistance was given not only for the man's well-being but also for that of his family which, according to the custom at the time, included his parents.

He was even assisted to give alms to holy men. This was, at that time, everybody's responsibility. Unfortunately, people who were not destitute considered it profitable to rob, confess, plead destitution and get "wealth". This abuse of assistance had to be stopped and so a person guilty of lying about his poverty, when accused of theft, had his head shaven, was paraded along the streets and finally beheaded. This led to the killing by robbers of people whom they robbed so that there could be no complainant. Using this story and subsequent developments the Buddha is said to have explained how a spiralling cycle of crimes followed from theft to violence, from violence to abusive speech, to covetousness, to adultery, to perverted lust, to lack of respect for holy men and the head of the clan, etc. In other words there was, beginning with destitution and spiralling through the crimes referred to, a complete breakdown of the moral and social order. There are no doubt spiritual lessons to be learnt from this *Sutta*. Besides this, there is the social implication that the absence of social security can affect not only the destitute but also society as a whole, leading not only to a breakdown of law and order but also to the erosion of moral values. As far as this Commentary is concerned the moral to be drawn is that adequate social security for all concerned is, as stated in Article 22, indispensable for one's dignity and the free development of one's personality, like all other economic, social and cultural rights.

## ARTICLE 23

1. **Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.**
2. **Everyone, without any discrimination, has the right to equal pay for equal work.**
3. **Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.**
4. **Everyone has the right to form and to join trade unions for the protection of his interests.**

In the time of the Buddha people were largely self-employed, each in an activity very much determined by his or her caste thereby participating in a sort of economic organisation of society and providing for themselves as well as contributing to the well-being of the community.

The Buddha regarded as abhorrent the entire caste system, particularly as it had developed by the sixth century BC. As a matter of fact it contradicted the very basic principle of Buddhism that all human beings are born free and equal in dignity and have the same rights, with no reservations at all, to strive along the Noble Eightfold Path to the ultimate attainment of *Nirvāna*.

The components of the Eightfold Path which the

Buddha discovered as the way to final emancipation have very deep and lasting spiritual implications, but they are not devoid of secular connotations which can be developed to suit changing conditions, keeping within the framework of their spiritual significance. In fact, the first five factors or Steps of this Path are considered to be having a special lay significance (*cf. M. iii, 72*), and two among them have a special relevance to the rights embodied in Article 23. They are "Right Action" and "Right Livelihood". The spiritual implication of the latter is that one earns one's living in a way beneficial, and in no way harmful, to other sentient beings. The former involves, among other things, abstaining from injuring any being, from killing, stealing, sexual misconduct, etc. "Right Livelihood" touches on Buddhist economics with the assumption that one needs to earn a living and therefore that everyone has an obligation as well as a "right" to work. In the present-day context with the increase of the power of the State and therefore its responsibilities to the people this would involve the right "to protection against unemployment". The principle of "Right Action" would, as far as employers are concerned (be they individuals, Corporations or the State), involve the recognition that their employees are not expected to work in conditions detrimental to their physical and spiritual well-being and that they are not to be deprived (this would also amount to stealing) of just and favourable remuneration so that they, and their families, can live in a manner in keeping with their human dignity. As a matter of fact, a very modern labour code, reflecting many of the Conventions of the International Labour Organisation, can be developed on the application of the spiritual significance of the sum total of the elements of the Eightfold Path to secular situations relating to the rights of labour.

That the points made in the previous paragraph are, in no way far-fetched can be seen from the corpus of Buddhist

Literature, especially those Commentaries on the Canonical Texts which relate to conditions of work. According to relevant sections of these Commentaries, just and favourable conditions of work and just and favourable remuneration for workers are expected to be ensured through the fulfilment of the following five basic obligations towards labour:

(a) **Work should be allocated to suit the employee's ability**

*Yathābalaṃ kammanta-saṃvidhānena* (*D. iii, 191*). This stipulation would go a long way in eliminating the requirement, prevalent at the time, that one's occupation was much determined not by one's ability or choice, but by one's birth.

(b) **Provision of food and wages**

*Bhatta-vetanānuppādānena* (*loc. cit.*). As a matter of fact, Buddhism enunciates a unique wage policy. Explaining the obligation of the employer to provide "food and wages", the Commentary states that the circumstances of each person should be separately considered and that wages should be determined according to the number of dependants in the family (*DA. iii, 956*). For instance a married man with dependent children (*khuddakaputto*) should receive more than a bachelor (*eka-vihārī*, *DA. iii, 956*). Such a policy would certainly, in accordance with Article 23.3, ensure for workers "just and favourable remuneration" so that they and their families can live an existence "worthy of human dignity". It is also stated that hardship to the worker should be avoided and the worker should never be made to work free. This was one of King Duṭṭhagāmaṇī's particular concerns during the massive task of constructing the Great Stūpa in

Anurādhapura (*Mahāvamsa*, Chapter 30, vv. 15 and 17).

**(c) Ensuring the health-care of workers**

*Gilān'upaṭṭhānena* (*loc. cit.*). Buddhism has, in this connection, been thinking centuries ahead of its time. It is only in the first half of this century that international Conventions were adopted relating to the health-care of the workers and to the protection of workers against health-risks in the course of their work.

**(d) Establishing close comradeship with employees**

*Acchariyānaṃ rasānaṃ saṃvibhāgena* (*loc. cit.*). There is no gainsaying that cordial working relations between employer and employee are dictated by a sense of a common humanity.

**(e) Recognition of the employee's right to leisure**

*Samaye vossaggena* (*loc. cit.*). This implies fixed hours of work. The "leisure element" in this obligation will be examined in the Commentary on Article 24.

Paragraph 2 of Article 23 enunciates everyone's right, "without any discrimination ... to equal pay for equal work". The statement of this right was called for in order to eliminate considerations such as those based on nationality, race, colour, or sex, which for a long time did, and in some countries still do, determine wage structures. The implied emphasis is that the only criteria for determining wages should be the kind of work, its value to the community, the ability of the worker, and the quality of his or her work. Although this right is not expressed in these terms in any Buddhist Text, it is quite clear that Buddhism, with its emphasis on the fact that all human beings are born free and equal in dignity and rights, is totally opposed to any form of extraneous discrimination in wage structures.

As for the right (stated in paragraph 4) to form and to join trade unions it is evident that in the conditions of the time the need for such a right did not exist. The society of the Buddha's day was non-exploitative. And, as noted earlier (*vide* Commentary on Article 4), "exploitation" and "surplus value" were also unknown theories. Furthermore, the majority of workers were self-employed and they, particularly the craftsmen, had their guilds to protect their special interests. In the Commentary on Article 20 it has been pointed out that Buddhism recognises "the right to freedom of peaceful assembly and association". This right coupled with the five principles mentioned above, referring to conditions of work and employer-employee relations, will demonstrate that, in present-day conditions, Buddhist teachings would certainly endorse the right of everyone "to form and join trade unions for the protection of his (or her) interests".

In conclusion it can be stated that Buddhism is in full accord with the specific rights included in Article 23 and non-compliance with these rights would be a violation of relevant Buddhist principles.

## ARTICLE 24

**Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.**

The emphasis in this Article on the right of everyone to rest and leisure cannot be contested. Excessive hours of work giving the human being no time, or inadequate time, for rest and thus for recuperating his or her strength, both physical and mental, would be contrary to the Buddhist view of the welfare of a human being, in that such demands on workers would be injurious to their physical strength and mental abilities and could ultimately be detrimental to their lives and spiritual uplift. Hence it is perfectly logical that, among the five obligations towards workers listed in the Buddhist Canon and related Texts, specific reference is made to the recognition of the employee's right to leisure (*cf.* Commentary on Article 23). Especially in view of the injurious effect of excessive hours of work, this particular obligation regarding the employee's right to rest and leisure receives greater significance by the obligation on the part of employers to ensure the "health-care" of their employees. It is clear that these obligations taken together imply a regulation of working hours to ensure for employees the physical and mental rest they need for their well-being.

The leisure referred to in the Commentary (*DA.* iii, 956) is of a twofold nature. The first is release from duties or work at specific times during working hours. There is an implication here of a concept of "fixed working hours" and that these working hours should be punctuated by periods of rest (*nīccasamaye vossajjanam* - *loc. cit.*). The second is the

seasonal leave granted, at that time, for the celebration of events such as the "six auspicious festivals", for which workers were not only released from work but also given gifts of ornaments, utensils, the usual food items and other eatables which constituted a sort of remuneration for, or recognition of, their work, in kind. Such leave is called *kālasamaye vossajjanam* (*loc. cit.*).

These are not the only indications in Buddhist literature that human beings need "time free from work" (the definition of leisure in the Oxford Dictionary) and therefore have, *per se*, a right to leisure. Reference has already been made to two of the steps of the Eightfold Path. There is also the step or precept which enjoins "Right Concentration" in order to induce certain special states of consciousness through meditation. This requires not only time free from work but also peace and tranquillity of the mind, and a body relaxed and free from physical exhaustion: an implication again against excessive hours of work.

There is, in addition to all this, the emphasis that is laid in Buddhist Texts on the socio-ethical aspects of the mutual obligations between parents and children, husband and wife, friend and friend, master and servant, laity and monks, etc. (*cf. e.g. D.iii, 188 ff.*). It is obvious that for the effective fulfilment of most of these obligations human beings must not only have the time, but also be adequately rested as far as their physical strength and mental abilities are concerned.

All considerations taken together point to a right for everyone to reasonable hours of work, not only to enable people to rest but also to give them the time and the inclination for their religious, social and cultural activities, which are as important for human development as suitable conditions of work and just and fair remuneration. With the emphasis in Buddhism not only on "the physical quality of life" but also on the mental and moral well-being of every person



one finds oneself, especially in the present-day context, in full agreement with the three elements of Article 24: namely, "the right to rest and leisure", "reasonable limitation of working hours" and "periodic holidays with pay."

## ARTICLE 25

1. **Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.**
2. **Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.**

The right to "a standard of living" as envisaged in this Article is to ensure the health and well-being of oneself and one's family. "Health is the highest wealth" (*ārogyaparamā lābhā*) says the *Dhammapada* (*Dh.XV,8*). Buddhism aims at the development of the human potential through an extension of human capacity, and needless to say this requires physical and mental well-being, in that, physical well-being, in the Buddhist view, is essential to ensure mental well-being. "The Buddha saw no reason to retreat from physical and mental well-being as long as it was not mingled with sensual pleasures. In fact, he recognised physical well-being as a basis for the other. A high premium was set on physical fitness and freedom from disease, not so much for its own sake but as forming a solid basis for mental development ..." (Jotiya Dhirasekera, *Buddhist Monastic Discipline*, p.93 f.). How

Buddhism looks at health could be easily gauged from some of the Rules for the Buddhist monastic community (as found in the *Vinaya-piṭaka*) whose way of daily living is considered worthy of emulation by the laity. While the laity are expected to support the monastic community with the Four Requisites (*cattāro paccayā*), namely, clothing or robes (*cīvara*), food or alms (*piṇḍapāta*), housing or dwelling-places (*senāsana*) and medicine or medicaments (*gilānappaccayabhesajjaparikkhāra*), as referred to in various Canonical contexts (cf. *Vin.* iii, 89, 99, 211 and iv, 154 ff; *D.* i, 61; *M.* ii, 102; *A.* i, 49; *It.* 111), the *Vinaya-piṭaka* carries a section (*Mahāvagga*, Chapter 6: *Vin.* i, 199 ff.), on medical and surgical treatment (*Bhesajjakkhanda-haka*), with sub-divisions dealing with (a) the preparation, use and storage of medicaments, (b) different kinds of food and the rules regarding them and (c) surgical operations, etc. Another section (Chapter 5 of the *Cullavagga*: *Vin.* ii, 105 ff.) gives miscellaneous details regarding the daily life of the monk in which habits of healthy living are emphasised, and yet another in the same Text (Chapter 6: *Vin.* ii, 146 ff.) deals with dwellings and furniture.

The fact that one's right to a standard of living adequate for one's health and well-being implies that social services should also be available, is borne out by the Buddhist view that human rights are interests leading to the welfare of mankind, as subsumed under the terms *bahujanahita* and *bahujanasukha* (which collectively mean "the welfare and happiness of the many"). These interests partly arise from one's sense of duty and obligation towards others (*parahita*). In Buddhist history, it is not incorrect to say that social service (together with medical care) started with the Buddha Himself. He is on record as having attended on sick monks and on having instructed His disciples to emulate Him (*DhA.* i, 319 ff.). Attributed to Him is the poignant statement: "One who wishes to attend on me should attend on the sick" (*Vin.* i, 302).

The observance of the right to security arising from circumstances beyond one's control, such as unemployment, sickness, disability, widowhood, old age or other lack of livelihood, is very much the responsibility of the State, which should "provide ward and protection righteously" (*dhammi-kam rakkhāvaranaguttim*), as noted in the *Cakkavattisiha-nādasutta* (*D.* iii, 58 ff.). At the same time, the affluent private benefactor (*dāyako dānapati*), the average citizen or even the king, in his private capacity, could "keep open house to all" (cf. *D.* i, 137; *A.* iii, 39 and iv, 79 ff; *Sn.* vv. 487-509), for they too have obligations in this connection.

The mother (together with the father) is accorded the greatest respect in the Buddhist tradition. The *Mahāmaṅgalasutta* (*Sn.* vv. 258-269) says that, amongst other things, supporting one's mother and father (*mātāpitu-upatthānam*) is one of the highest blessings that one could have (*Sn.* v. 262). The Buddhist texts carry expressions like "protector or guardian of (one's) mother" (*mātudevatā*, *J.* iii, 422), "supporter of (one's) mother" (*mātuposaka*, *loc. cit.*) and "attending on (one's) mother" (*māt' upatthāna*, *DhA.* iv, 14) etc. Such texts express directly or indirectly the special care and assistance that should be extended to the mother.

There cannot be motherhood without childhood and according to the *Mettasutta* (*Sn.* vv. 143-152) one should extend thoughts of love and compassion towards all beings "like the mother that protects her one and only child". And, in consonance with the egalitarian principles of Buddhism, in the treatment of children the question just does not arise whether a child is born in or out of wedlock. The Buddha extended the same love and compassion both to his son Rāhula and to Sopāka, the abandoned child. Thus, in the Buddhist view, there should be no distinction at all in the social protection extended to children.

## ARTICLE 26

1. **Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.**
2. **Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.**
3. **Parents have a prior right to choose the kind of education that shall be given to their children.**

It is obvious that the background to Article 26, which deals with the right to education, is the formal, organised, structured education current in 1948. The term education has today developed a much wider connotation and now includes educational programmes which are organised but not structured (non-formal education), and activities which are not organised as educational projects but which have an educational value in that they exercise, in varying degrees, an influence on the thinking and behaviour of people (informal education).

It can be said that three forms of education existed in the time of the Buddha, and there is no doubt that He made use of all three. It has been stressed in earlier Commentaries that the Buddha Himself insisted that no one should subscribe to His philosophy and to the way of life He advocated unless one is convinced of its value for one's present and future existence. This involved an intellectual and a moral judgement. This being so, the ideal would have been formal education for all in the skills that they needed, with adequate attention being paid to the Teaching of the Buddha and the practice of the way of life He proposed. But it will be appreciated that conditions were such that formal education of this kind was not possible for all and sundry. The monasteries and nunneries were centres of learning and they were open to all, particularly to those who aspired to be monks or nuns. In the earlier Commentaries reference has been made to the four groups of people in Buddhist society. These were the monks (*bhikkhus*), the nuns (*bhikkhunīs*), the laymen (*upāsakas*), and the laywomen (*upāsikās*). It is significant that the educational attainments towards which each group had to strive were described by the Buddha in identical terms (*D.* ii, 112 ff.).

This is understandable, as the acceptance of the philosophy of Buddhism and the regular and steady practice of its way of life, either as a member of a monastic order, or as a lay person in the world, required that an individual be educated and be possessed of the necessary knowledge and wisdom. It is to emphasise the need for such knowledge and wisdom that the Buddha looked with pity and compassion on those with little learning, and compared them to "bulls that grow in flesh but not in wisdom" (*Dh.* XI, 7). The education imparted and received in these monasteries and nunneries was based on the ancient Indian "teacher-pupil" (*ācariya-antevāsika*) relationship. The pupil had to enter into residence and each had his or her individual teacher whose function it

was to impart to them an education which could, according to the *Mahāmaṅgalasutta*, be said to cover both “elementary” and “secondary” education, to assist them to grow in knowledge and wisdom, and to inculcate in them the norms and values which should regulate their conduct. The teacher was therefore much more than an instructor. The teacher was a philosopher, guardian, guide and friend combined. If the “education” at these centres was restricted merely to the acquisition of certain skills it could, as the Buddha Himself stated, be compared with the tending of other peoples’s cattle (*DhA. i, 157*). It had also to be directed to the recognition of, and respect for, the norms and values of Buddhism. The pupils had to aim at being *vijjā-caraṇa-sampanna* as far as possible, meaning that they had to be educated to practice the virtues which they upheld. In other words, the moulding of character was as important as, if not more important than, the acquisition of knowledge and skills.

The aspirants to be monks and nuns naturally acquired in these institutions a deeper knowledge of the Teachings of the Buddha, and had more opportunities to practise the strict life of a monk or nun. They were also trained, by the example of the teacher more than by precept, in ways and means by which the message of the Buddha could be conveyed to all and sundry, whether they were quick to comprehend (*ugghaṭṭitaññū*), needed explanation to help comprehension (*vipaṅcītaññū*), required to be guided all the way like a child (*neyyo*), or were not capable of understanding (*padaparamo*) (*A.ii, 135; Pug. 41*).

To help monks and nuns to spread the teaching of the Buddha to these four kinds of people, the Buddha devised a methodology which was followed by the Venerable Sāriputta, who explained it to his fellow monks. There were in all six techniques: the lecture method (*desanā*), the method known as enunciating and inculcating (*paññāpanā*), the repetition

method (*paṭṭhapanā*), the analytical method (*vibhajanā*), the exploratory method, posing suitable questions to elicit correct answers (*vivaraṇā*) and the method of clarifying “obscure” points (*uttānikammaṃ, M. iii, 248; S. v, 443; Pug. 19*). In order to drive a lesson home there was considerable use of analogy and simile (*upamā*) and occasional use of what can today be called “audio-visual techniques”.

It is important to note that this formal education was not restricted by any of the extraneous factors mentioned in Article 2. It was open even to the dullard, as there was a special method to be adopted in his or her case. Furthermore, this education was completely free and the educators were not expected to receive even gifts freely offered (*cf. Sn. v. 81*). The Buddha wanted at all costs, to prevent education developing into a commercial transaction, with the educator trading his knowledge and expertise like a common salesman.

There were of course monasteries which imparted to ordained monks a very deep knowledge of the philosophy of the Buddha and called for a much stricter adherence to the Buddhist way of life. An example is the famous Buddhist University of Nālandā. This higher education was accessible on the basis of merit and it prepared monks for the Higher Ordination (*upasampadā*) and also for further studies.

Education in these institutes was oral even after the art of writing developed. It need hardly be added that the “non-formal” education given to organised groups and the informal education given in sermons for the laity at Buddhist festivals, and on such occasions as funerals, were also based on oral instruction. Hence the concept that a learned person was one who has “listened to much” (*bahussuta*). The later Buddhist monastic colleges known as Pirivenas preserved some of these educational traditions.

The *Mahāmaṅgalasutta* also refers to technical education (*sippa, Sn. v. 261*). This was not imparted in institutes. It

was more or less customary for father to train his sons in his particular economic activity and for the mother to educate her daughters in the performance of their domestic duties. As far as the males were concerned there were, in addition, the various guilds which a boy could join to learn, for example, to be an artisan, a craftsman, or a trader. Furthermore, one can be quite sure that in many families the Jātaka stories were related and the implied moral lessons brought out, thus making the home the first centre of practical and spiritual education.

Such lay people as those who did not go to the monastic establishments for education, still had opportunities for their intellectual and spiritual development. There were the itinerant monks who went from village to village conveying the message of the Buddha, and guiding those who flocked to listen to them. In addition, there were the usual sermons preached in the precincts of the temple, to which crowds of devotees flocked especially on full-moon days. These sermons would teach the social virtues, which consisted largely of one's obligations to all sentient beings.

The Buddha Himself had the habit of visiting "assemblies" of other religious groups for friendly dialogue (*cf. sākaccham samāpajjati, D. iii, 38 passim*) and with no intention at all, as He assured a listener called Nigrodha, of converting them (*cf. D. iii, 56 f.*) In this context, the fact that the *Mahāmaṅgalasutta* encourages "religious discussions at the proper time" (*kālena dhammasākacchā, Sn. v. 266*) is also worthy of note; this is a form of "continuing education".

Paragraph 2 refers to the aims of education. Nowhere in Buddhist sacred literature are the aims of education stated as they are in this Article. Nevertheless, it is evident that opportunities for education existed; and that this education was directed to the "full development of the human personality", as it was geared not only to the acquisition of skills but

also to the moulding of one's character and training for the fulfilment of one's obligations. With the emphasis in Buddhism on benevolence and non-violence, education also aimed at the promotion of tolerance, understanding and peace among peoples, and, in an expanding spiral, among clans, principalities, nations and States.

Paragraph 3 of Article 26 declares the prior right of the parents to choose the kind of education to be given to their children. In the *Vinaya* there is an account of a discussion between parents about the possible courses of education for their son (*Vin. i, 77; iv, 128f.*); they eventually decided to send him to a monastery to be ordained as a monk. This was a decision made by the family, and nowhere is there evidence of anyone or any group outside the family deciding for the family, either in this case or in any other case.

## ARTICLE 27

1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.
2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

In pre-Buddhist society in India there were a variety of religious and cultural activities which included philosophical discussions leading to different schools of religious and philosophical thought. Participation in these was, by their very nature, restricted. But some of their leaders, inspired by a kind of missionary zeal, tried to disseminate their views among average people and they did have eager listeners. However there were activities which attracted a much wider audience. These were public recitals and dramatizations of the great epics and stories of the heroic deeds of historical personages, semi-mythical and mythical beings. In addition there were the ceremonies and rituals which originated with the worship which people felt they owed to various deities. These ceremonies developed into elaborate festivals in which the images of deities were taken in procession through the streets of cities and villages accompanied by chanting, music from a variety of instruments, singing and dancing. The "dance-leader" (*naṭa-gāmaṇī*, cf. *S. iv*, 306 f.) is mentioned in the Pali Canon. A well-known ceremony of the times referred to in the early Buddhist texts (cf. *Vin.ii*, 107 *passim*) is what

was then known as "the mountain-festival" (*giragga-samajja*). These ceremonies acquired a religio-social character and together with the public recitals and dramatizations mentioned earlier attracted large numbers, thereby becoming part and parcel of the religious and cultural life of large numbers of people.

When the Buddha appeared on the scene after His Enlightenment and commenced expounding His philosophy, promoting the way of life that He advocated and establishing His monastic order, He had no objection to His lay followers attending these religio-cultural festivals, provided they did not include "wrongful participation" (cf. *micchācārā*) in sensual pleasures and did not cause physical pain and injury, or mental and spiritual anguish to themselves or to others. To the philosophical discussions of old now came to be added the consideration of His own philosophy and the way of life He advocated. He and His early disciples travelled tirelessly from city to city and village to village, and even to remote areas spreading His Teachings and stressing the need for their listeners to follow the Noble Eightfold Path which He grouped under the three headings of Morality, Concentration and Wisdom (*iti sīlaṃ iti samādhi itī paññā*, cf. *D.ii*, 123 *passim*) and which is the only path to *Nirvāṇa*. This peaceful missionary activity which He and His disciples assiduously followed had an impact on the life of the people.

It helped to take their minds away from mundane things and to concentrate on moral and spiritual issues. Soon after His passing away and in the two centuries that followed, Buddhist Councils were held to resolve differences which arose in the interpretation of His teaching (the *Dhamma*) and of the rules (the *Vinaya*) He had laid down for the monastic order which He had established. These were put into final form by the Third Buddhist Council held in the seventeenth year of the reign of the great Emperor Asoka. This Council

also took the momentous decision to send Buddhist missionaries to all outlying parts of the Empire and to the countries that lay beyond its confines (*vide Mahāvamsa*, Chapters III to V). The missions that went to the south of the Empire and the countries that lay further south took with them the Theravāda teaching in Pali, while those who went to the North and North-East and to far away lands like China and Japan propagated what came to be called the Mahāyāna school. Their teaching was mostly couched in Sanskrit. Nevertheless, in whatever direction they went, they made use of the local languages, and this is in accord with the Buddha's linguistic policy (*vide* Commentary on Article 2). This Teaching of the Buddha spread rapidly as an oral tradition and inspired a wealth of related literature which developed over the centuries in Pali, Sanskrit and various indigenous languages. Today these constitute sizeable libraries of their own.

By the time of the Third Council monasteries had come to be built more often than not with sculptural embellishments and with paintings depicting scenes from the life of the Buddha. In these scenes, the early practice was to avoid making images of the Buddha. His presence was indicated by an empty throne, a Bodhi or Bo-tree, a pair of sandals, etc. Later, probably under Greek influence in North India, images came to be made and the practice spread. His passing away (the *Mahāparinibbāna*) and subsequent cremation led to an intensification of the respect and veneration grateful followers had already begun to pay to Him when He was living. Some of the bodily relics picked up from His ashes were enshrined in huge Stūpas such as those at Sanchi. These came to be surrounded by railings with ornamental gateways. Both the railings and gateways were originally in wood and were later replaced by similar structures in stone. Devotees naturally came in numbers to these Stūpas to pay homage to the great Teacher, to meditate on His Teachings and to take in, for

their spiritual guidance, the lessons they drew from the moral discourses given by members of the Saṅgha. As this practice spread it was but natural that a simple ritual developed, and Stūpas were built and Bodhi or Bo-trees were planted in the precincts of the monasteries. With the making of images of the Buddha, shrine rooms were constructed within the monastery precincts and recumbent, seated or standing images of the Buddha came to be installed, perhaps even in public places.

These developments spread to all the lands to which Buddhist missionaries went. These missionaries took with them not only the Teaching of the Buddha and the Monastic Code but also the mainspring of a literature which developed over the ages, as well as architectural and sculptural forms together with the art of painting and also a ritual. Wherever these were introduced and took root, the religion provided the basic framework or the blue-print within which the local cultures developed. Thus the religious and cultural life of the people were in harmony.

The veneration of the relics of the Buddha became a regular feature of Buddhist life. Not only did this practice help in the homage people paid to His memory but it also facilitated meditation. These relics were of three kinds: (a) remains of the Buddha's body (*sārīrika*); (b) objects physically associated with Him (*pāribhogika*-e.g. the Bo-tree at Buddha Gayā and the Buddha's alms bowl); and (c) a likeness of the Buddha (*uddesika*). Thus it was possible for almost every temple to have a relic of the Buddha, to pay homage to which people came in numbers especially on festival days.

Buddhism was introduced into Sri Lanka in 247 BC in the reign of King Devānampiya Tissa (247-240 BC). In the same reign a collar bone of the Buddha and his alms bowl were brought to the Island and were received with great pomp and ceremony. Later they were taken in a glamorous proces-

sion to the capital city Anurādhapura. The most important relic brought to Sri Lanka was the Tooth Relic. This was brought to the island in the reign of Sirimeghavaṇṇa (301-328 AC) who received it with very great ceremony. Many festivals were held in its honour and a number of kings housed it in specially built ornate palaces, enclosing the relic itself in gem-studded gold caskets. The practice of taking this sacred relic out in procession developed and has now culminated in the Daḷadā Perahāra held during the lunar month of Āsāḷha (June/July) each year.

Religious festivals were also conducted when other relics of the Buddha were brought to Sri Lanka and also with events connected with His life, work and His passing away.

While all these ceremonies and festivals were primarily religious, they had a significant cultural component and became an important aspect of the cultural life of the people. Participation in them was open to all—rich or poor, high or low, Buddhist or non-Buddhist—and from the crowds they attracted (as they still do) it is evident that people participated quite freely.

Thus the people not only acquired “serene joy and emotion” (see the end of every Chapter of the *Mahāvamsa*) and prepared themselves for their next life but also derived considerable cultural satisfaction, firstly enriching this life.

Scientific advances were made in the fields of medicine, architecture, and later, in Sri Lanka, in irrigation. It was incumbent on members of the monastic orders (male as well as female) to attend on the sick. The Buddha Himself set the example by attending on sick monks among those who followed Him regularly. Some monks took this injunction further and not only treated the sick with known herbs and roots, but conducted research into other medicaments. The engineering skills with which irrigation works were constructed were remarkable. While this had no direct connection with

Buddhism, the fact that almost every monarch paid attention to the construction and/or repair of irrigation works is indicative of the seriousness with which they carried out the obligations of the *Cakkavatti* Monarch. Today in Sri Lanka the Stūpa (or Dāgāba) and the irrigation reservoir are symbols of Buddhist civilization.

With the development of the monastic orders kings took it upon themselves to assign parks and groves to the monks and to construct shelters for them. Larger Stūpas came to be built showing considerable engineering ability. The multiplication of monasteries, Stūpas and shrine rooms for Buddha images contributed to the peace and joy of those who frequented them. It will be noted therefore that from the advances in medicine, construction and irrigation engineering, the people as a whole reaped both material and spiritual benefits.

The second paragraph of the Article really deals with a modern problem; namely, that of the protection of one’s intellectual property. This was not a problem in ancient India and Sri Lanka. The kings were the generous patrons of learning and religion. Under their patronage these activities and the arts connected with them flourished. Hence artists, sculptors, builders, engineers, etc. did not (except probably in rare instances) attach their names to any of their works. Moreover, this is to be expected in a civilization which was more “group-centred” than “self-centred” due to its philosophy of *anatta* or soul-less-ness (*vide* Commentary on Article 4). In the final analysis, therefore, these achievements belonged to the people as a whole. Hence such issues as the protection of intellectual property did not arise. Nevertheless what is expressed in the second paragraph is covered by more than one component of the Eightfold Path (*vide* Commentary on Article 28). This is true not only of paragraph 2, but of the entire Article.



## ARTICLE 28

**Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.**

This Article can be looked at from two angles. It is true that only in a suitable social and international order can the rights and freedoms set forth in the Declaration be fully realised. The reverse is equally true: that is, only by the universal respect and observance of all the rights and freedoms set forth in the Declaration can an appropriate social and international order emerge and be maintained.

In the Buddhist perspective there is no denying what the Article states. But, at the same time, it is self-evident that unless everyone fulfils his or her obligations, which flow from the rights and freedoms mentioned in the Declaration, an appropriate social and international order cannot be established. Hence while the Article emphasises that everyone is entitled to a suitable social and international order, the Buddhist view is that everyone has an obligation to co-operate in the establishment of such an order, on the national and international levels, by discharging all the responsibilities which each right and freedom mentioned in the Declaration involves. After all it is the peoples of the United Nations who have in the UN Charter "re-affirmed their faith in fundamental human rights, (and) in the dignity and worth of the human person" *vide* p.2 *supra*. It is therefore incumbent on the people to strive to promote the establishment of a social and international order in which these rights and freedoms can be realised.

The Buddha has actually shown the way by which a relevant social and international order can be established, ultimately leading to the happiness and welfare of mankind. This way is the Noble Eightfold Path (*Ariyo Atthaṅgiko Maggo*) within which should also be counted the basic and essential Buddhist virtues of *maitrī* and *avihiṃsā vis-a-vis* all sentient beings. (Also *v. supra*, p.93 *f.*). The components of the Noble Eightfold Path are as follows:

Right Views	( <i>Sammā-ditṭhi</i> )
Right Thought	( <i>Sammā-saṃkappa</i> )
Right Speech	( <i>Sammā-vācā</i> )
Right Action	( <i>Sammā-kammanta</i> )
Right Livelihood	( <i>Sammā-ājīva</i> )
Right Effort	( <i>Sammā-vāyāma</i> )
Right Mindfulness	( <i>Sammā-sati</i> )
Right Concentration	( <i>Sammā-samādhi</i> )

These should be taken, together with the Buddhist concept of Benevolence in its social setting; for human beings live in society and have not only rights in that society but also obligations. It is in the lawful exercise of these rights and the faithful discharge of their corresponding obligations that a suitable social order can be established.

While all this will not be questioned it is incumbent on society to assist in the promotion of an appropriate social order by just and fair laws, and just and fair sanctions against those who violate those laws. After all, when the Buddha established His monastic orders of monks and nuns He did not, with the passage of time, leave it entirely to their sense of dedication and their goodwill to maintain the high standards required of members of both orders although He acknowledged (*e.g. Kakacūpamasutta, M.i,124*) that there were very good monks at the beginning of the Dispensation. He not only framed, as occasion arose, elaborate rules (the *Vinaya*) to guide the monks and nuns in their monastic life, but He

also established “judicial procedures” to ensure that the rules of the orders were strictly adhered to, in letter and in spirit. In fact in the monastic order which he established, and regulated by the *Vinaya*, one sees a model social order which, though meant for people on a higher spiritual level, could in principle be adapted to secular conditions.

The Buddha also made it quite clear that His message was not meant only for the small region in which He lived and taught. It was a message for the whole human race. The Noble Eightfold Path was for every human being of the “four quarters”—the “four corners of the globe”. The cardinal Buddhist virtues, particularly *maitrī* and *avihiṃsā*, were for each and every human being. This is why in the forty-five years of His ministry He traversed the country going from city to city, village to village, forest to forest (where hermits and recluses lived) preaching His message, establishing His monastic order and outlining, for the laity, the way of life He advocated. It is to their credit that His followers, especially after the Third Buddhist Council, braved all dangers of bandit-infested roads, dense forests, stormy seas and the rigours of different climatic conditions, to take the message of the Master to distant lands covering, in a short time practically the whole of continental Asia and also most parts of the Western Pacific region.

When the Buddha made it clear, in repeated statements, that His message was for *all* peoples, *all* nations and *all* rulers He was really stressing the fact that unless peoples the world over were inspired by the spirit of His message and unless all people could genuinely strive to adhere to the Eightfold Path, human beings could not walk in harmony and in a spirit of brotherhood along the path that leads to the “highest happiness”, namely, *Nirvāṇa*.

It is clear to us today that the full enjoyment of the rights and freedoms contained in the Declaration cannot be

achieved amidst the tensions and conflicts, the economic and social inequalities and the inadequate co-operation in various fields among the nations of the world. It is the Buddhist view that unless nations and governments can act in accordance with the Eightfold Path (*i. e.* the *Dhamma* in the ultimate analysis) to pool their resources to eliminate poverty (*dāliddiya*), hunger (*khudā*), ignorance (*moha*), disease (*roga*), fear (*bhaya*), sorrow (*dukkha*), jealousy (*issā*) and greed (*lobha*), an international order conducive to the universal respect and observance of human rights and fundamental freedoms will not emerge. Such an order can be established only by intense genuine and selfless human effort. This is the obligation that Article 28 places on everyone.

## ARTICLE 29

1. **Everyone has duties to the community in which alone the free and full development of his personality is possible.**
2. **In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.**
3. **These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.**

This Article differs from the preceding ones in that, in paragraph 1, its emphasis is on the duties of everyone to the community and on the fact that it is only in the discharge of the obligations members of society owe to each other that it is possible to realise one's material and spiritual well-being ("the full development of one's personality"). In paragraph 2 the Article lists the only factors that can justify limitations on the exercise of one's rights and freedoms. In the final paragraph (paragraph 3) the Article states very clearly that none of the rights and freedoms mentioned in the Declaration can be exercised contrary to the purposes and principles of the United Nations. The various points made in this Article are fully endorsed in the Buddhist ethic and consequently pose no problem at all for the Buddhist.

Society in the time of the Buddha was simple, and in one's day to day life the categories of people with whom one came into contact and to whom one had obligations were perhaps not numerous. They generally were one's parents, spouse, companions, servants and other workers and religious leaders. The *Siṅgālovādasutta* of the *Dīghanikāya* spells out in meticulous simplicity the duties of one category of people to another. The young householder is told that he has to protect the "six quarters". These are parents as the East, teachers as the South, the spouse and offspring as the West, friends and companions as the North, servants and work people as the nadir and the *religieux* as the zenith (*D.iii*, 188 ff.). The symbolism of the four cardinal points is deliberately chosen. Just as the sun rises in the East, life begins with parental care. Moving clockwise from there teachers are as the South, spouse and offspring as the West, and friends and companions as the North; as the nadir are the servants and other workers, and as the zenith are the *religieux*.

Following this "cycle", the householder is told that parents are expected to love their children, restrain them from vice, exhort them to be virtuous, train them for a profession, arrange a marriage for them at a suitable age and, in due course, grant them their inheritance. Children in turn are to love their parents, respect and obey them, help them (at home and outside) and take care of them in their old age. The next stage is the child's education. Here the *Sutta* deals with the mutual obligations of teachers and pupils. The former owe their pupils love, care and attention for their safety, and instruction in every art. Pupils, on the other hand, are required to respect their teachers, receive their instruction attentively and strive to learn to the best of their ability. The third stage in life is marriage for the lay person. Husbands and wives owe each other respect, courtesy and fidelity and the effective fulfilment of their mutual obligations as well as hospital-

ity to each other's kith and kin. With equal comprehensiveness and simplicity, the mutual obligations of friends and companions, of employers and employees, and of lay people and the *religieux* are outlined; and there is no doubt that if everyone discharges his or her duties as explained the full development of one's personality (meaning one's material well-being and spiritual liberation) can be achieved. It is not at all surprising to read in the *Sutta* that when the young householder Siṅgālaka heard these exhortations he is said to have exclaimed "Beautiful, Lord, beautiful" and he besought the Exalted One to receive him as a lay disciple, in which state he would like to remain "as long as life lasts" (*D.* iii, 193.).

The second paragraph of Article 29 declares that the exercise of one's rights and freedoms can be subject only to such limitations as are determined by law ensuring recognition of the rights and freedoms of others and for the just requirements of law and order, public morality and the general welfare of the community. In the Buddhist ethic, concern by everyone for the rights and security of others is of prime interest. Consequently, the exercise by a person of his or her rights and freedoms is subject to the recognition of the rights and freedoms of others. This principle is very well brought out by a series of allegorical reflections in the *Attūpanāyika-Dhamma-pariyāya* envisaged in the *Veḷudvāreyyasutta* of the *Samyuttanikāya* (*S.v.*, 352 ff.). Two of these reflections will be cited in fair detail. Reference will be made to the topics of the others and the implication of all for human rights and fundamental freedoms will be drawn. "Suppose", reflects the disciple, "someone should rob me of my life, fond as I am of life and not wanting to die, it would not be a thing pleasing or delightful to me. If on the other hand, I should rob him of his life, fond as he is of life and not wanting to die, it would not be a thing pleasing or delightful to him. For, a state that is not pleasant or delightful to me must be so to him also". As a

result of such reflection the disciple abstains from taking the life of sentient beings, encourages others to do so and speaks in praise of such abstinence. The question is also posed "What does not please me, what does not delight me, how can I inflict on another?" Similar reflections are made on taking things which have not been given to one, on sexual relations with another's wife, on damaging another's reputation, on estranging another's friends by slander, on speaking harshly to others, on treating others frivolously, etc. In all cases the conclusion drawn is put in the form of the following question: "What does not please me and what does not delight me, how can I inflict upon another?" It is true that the topic of each reflection is in itself evil. The point really made, and made quite well, is that one's freedom to act in any particular way has to be limited by the effect of such an action on another's rights and freedoms.

This Article also stipulates that such limitation must be "determined by law". The limitations implied in each of these reflections certainly are determined by law—not by secular law as implied in the Article, but by the *Dhamma* or the eternal and immutable Law of Righteousness. As an example of the implications of these reflections for human rights and freedoms, one can, following the same line of argument, state it as follows: "Suppose someone, in the exercise of his or her rights or freedoms acts in a way that infringes my rights and freedoms and is distasteful or harmful to me. If I, in turn, exercise my rights and freedoms in the same way, would it not be distasteful or harmful to him also? Therefore, I must abstain from exercising my rights and freedoms in such a way, encourage others to do the same and praise them for doing so. If the exercise by others of rights and freedoms in a particular way can be distasteful to me, how can I exercise my rights and freedoms in the same way, for to do so would be distasteful and harmful to others".

It will also be noticed that the examples have been carefully chosen. In the simple society of the times the actions mentioned would certainly have been detrimental to the "just requirements of morality, public order and the general welfare in a democratic society".

Paragraph 3 of Article 29 states unequivocally that the rights and freedoms enunciated in the Declaration cannot be exercised contrary to the purposes and principles of the United Nations. These are: to avoid or prevent war, to recognise the dignity and worth of the human person and to promote the material well-being of all peoples. The Buddha stands for all these and more. Hence the exercise of any rights or freedoms contrary to the purposes and principles of the United Nations would, *ipso facto*, be contrary to the Buddhist ethic. When the great Maurya Emperor Asoka became a Buddhist he declared (in the Fourth Rock Edict of Kālsī) that "no more shall the drums of war (*bherighosa*) be heard in my territories, but the drums of morality (*dhammaghosa*) shall reverberate throughout the empire". He took pains (Second sel. Rock Edict of Dhauri) to assure the rulers of bordering States that he had no aggressive intentions towards them. On the other hand, he was interested in inducing them to practise morality, that they may be happy in this world and the next. He went further and saw to it that medicinal herbs "for men and cattle" were not only planted throughout his empire but exported to the territories beyond (Second Rock Edict of Kālsī).

It will, therefore, be noted that the Buddhist ethic endorses fully the principles enunciated in Article 29, in their individual, national and international dimensions; and in adhering to the relevant teachings of the Enlightened One (*i.e.* the Buddha) people would certainly be complying with all the requirements of this Article.

## ARTICLE 30

**Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.**

### A GENERAL COMMENTARY

This Article does not enunciate any specific rights or values. Hence this is not a religious Commentary; this is only a General Commentary. The Article is meant to give force to each and every right and freedom set forth in the earlier Articles of the Universal Declaration in that it states, in no uncertain terms, that nothing in any part of the Declaration may be interpreted as empowering any State, group or person "to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth" in the Declaration. A concluding Article of this kind is necessary because, in view of the fact that the international community consists of people of different races, languages, religious traditions, cultures and political philosophies, there is always the possibility of interpretations being given to various Articles, sometimes quite sincerely, that would in effect result in "the destruction of the rights and freedoms" the observance and protection of which is the sole aim and purpose of the Declaration. Article 30, for example, tells us that the freedom of expression and the right to "impart information and ideas" embodied in Article 19, cannot be interpreted to justify any act or any activity designed to subvert "the just requirements of morality, public order and general welfare"

stated in Article 29 as a limitation to the exercise of any right. In the same way the rights enunciated in Article 19 cannot be interpreted to legitimise any violation of the rights stated in Article 12, according to which "No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks on his honour and reputation". The possibility of such interpretations cannot be ruled out; as a matter of fact such interpretations (or misinterpretations) have occurred and continue to occur.

It should be noted that it is not at all unusual to find Articles of this nature in international Covenants or Conventions. For example, Article 17 of "The European Convention for the Protection of Human Rights and Fundamental Freedoms" is identical, with the exception of one phrase. So are Article 5 and Article 3 of the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights, respectively, also with the exception of one phrase. This phrase, which is identical in the three Articles mentioned above, declares that any limitations to the rights mentioned shall not be applied "to a greater extent than is provided for" in the relevant Conventions.

Articles such as these are not uncommon in international legal documents. They re-affirm in a negative form, and therefore more forcefully, the overall intent of the documents and give, as far as possible, no room for interpreting various Articles in such a manner as may justify a violation of the rights and freedoms whose recognition and observance is the principal object of the documents concerned. Such Articles are also of value in that they can be used to block any loopholes by which acts contrary to the intent of the document can be made to appear consistent with its purposes. Finally it is important to realise that this Article conveys a message to all peoples: that rights and freedoms should on no account be used to undermine other, or others', rights or freedoms.

The Buddhists, together with the followers of all other Faiths, wish the complete fulfilment of the hope entertained in this Article.

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