

PREFACE

Buddhism is a universal philosophy of love, compassion and brotherhood. It is based on man's capacity to rise above selfish pursuit and lead a life of austerity and fellow-feeling. Buddhism is a rationalistic humanistic philosophy of this world rather than another world. It has more ethics than religion in the conventional sense.

Every religion has its legal, judicial and penal aspects in its own way. So has Buddhism. The whole of Vinaya pitaka is almost a legal treatise. The present thesis entitled "A Critical Study of the Buddhist Philosophy of Penal Justice - With Special Reference to Vinaya Pitaka" is an attempt to analyse the Buddhist legal philosophy and to bring to focus all its salient features. We have done this in the light of the Hindu legal philosophy as also the Western legal philosophies.

In order that a straight argument might emerge from the whole work - we have used quotations as less as possible. Sometimes the point of enquiry gets lost in the jungle of extracts. We had to do a lot of recasting of the materials in order to make the thesis as plain as possible. This explains the occasional free writing, without reference, in

the thesis.

The thesis has in all seven chapters. The first chapter is introductory and the last chapter has our conclusions. The remaining chapters form the core of the work. The first chapter introduces Buddhism and Buddhist legal and penal philosophy. Here we have discussed the origin and development of Buddhism, its ramification into several sects and sub-sects, the social milieu responsible for the formation and development of Buddhist code of conduct etc. We have dealt with the Buddhist Sangha life also, with reference to the training of the monks.

In the second chapter entitled "The Concept of Law and Morality in Buddhism and Hinduism", we have tried to understand the concept of law as available in the Hindu Shastras, the Buddhist scriptures and the Western law books. We had to do this because, the Western concept of positive law is so pervasive these days, that it is always easier to understand any concept of law in its light. And the Buddhist law, naturally, has to be understood by comparing and contrasting it with the Hindu concept of law. We have referred to various Silas, the backbone of Buddhist discipline, in this chapter.

The third chapter is entitled, "Buddhist Concept of Crime and Punishments". The materials here are largely drawn from Patimokkha sutta. Various crimes and the punishments meted out to the criminals have been discussed.

The fourth chapter is "Origin and Growth of Buddhist Code of Conduct". Material for this chapter has been drawn from the Vinaya pitaka. How starting with the formulation of code of conduct for the regulations of monks' life, Buddhism came to have possibly the first codified laws of the world has been traced.

The fifth chapter is entitled, "The Buddhist Code of Conduct with Special Reference to the Patimokkha". The Patimokkha is the best example of codification of law. In this chapter, we have tried to understand the influence exerted by Patimokkha sutta so far as the Sangha life is concerned. Various offences and the punishments have been discussed.

The sixth chapter is entitled "The Buddhist and the Hindu Views of Penal Justice". The concepts of punishment in Buddhism and Hinduism have been delineated. There are definite points of difference between the two concepts. In the process of their growth, both Hinduism and Buddhism had been influencing each other, in so far as legal issues were

concerned. We have tried to understand this aspect of the matter also. At the same time, we have shown that, unlike in Hinduism, Buddhism did not interfere with the secular life of a man. Buddhist laws were for the monks. The king was enough for the secular activities.

The seventh chapter has our conclusions.

I take this opportunity to acknowledge my gratefulness to some persons, but for whose help I could have hardly completed the work.

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