CHAPTER VI

THE NOTION OF CRIME AND PUNISHMENT
FROM THE BUDDHIST PERSPECTIVE

The previous chapter mention the crimes and punishments as reflected in early Buddhism, which focuses on the history, origin, the nature of crime, the circumstances leading to these crime and how the judicial process of punishment was given, the then prevailing notion of justice and judgement as reflected in the Vinaya and Sutta Piṭakas, and their commentaries. Although, the earliest Buddhism developed in the agricultural society in India yet contemporary issues might offer a good opportunity and challenge for us to re-interpret the Buddha’s teaching in the light of new problems and situations.

Thus, this chapter humbly makes an analytical appraisal of the notion of crimes and punishments from the Buddhist perspective. It is primarily focused on the increasing traits of various natures of crimes arising in and around the world currently, and the Buddhist notion with its immortal faith in the potentialities of human to raise above all evils and suffering to response effectively and constructively to the present day challenges of moral chaos and confusion. The chapter thus makes an analytical survey.

6.1. Buddhist Approaches to the Prevailing Criminal Issues

6.1.1. Crime against Person

According to the Hate Crime Statistics Program 1 of the Federal Bureau of Investigation or FBI’s Uniform Crime Reporting (UCR), under the Department of Justice, United State of America, it divided the offence types, which is related to crimes against persons, as:- “Murder and non-negligent manslaughter, forcible rape, aggravated assault, simple assault, and intimidation.” While the National Crime Records Bureau 2 (NCRB) under the Ministry of Home Affairs, Government of India, which is engaged in collection and disseminating information relating to crime, has classified the types of crimes against body or person under the Indian Penal Code (IPC) as:- “Murder, its attempt, culpable homicide not amounting to murder, kidnapping & abduction, hurt, causing death by negligence”, and crimes against children which involved the personal offenses like:- “Kidnapping and abduction of children, abetment of suicide, exposure and abandonment, infanticide,

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feticides”, 3 and other contemporary controversy criminal legal and ethical issues that are involve with crime against person such as; “abortion, capital punishment, euthanasia and suicide etc.

The statistics of murder in U.S.A and India, from 2006-2010, is given in Appendices No. 1a, and 1b, at Pages No.407-410. In this work, only two criminal issues which are involved with the personal offenses, are selected for discussion from a Buddhist’s view point, are: (1) Murder; (2) Terrorism, as follows:-

6.1.1.1. Murder

Murder means the crime of deliberately killing someone, 4 and is defined in common law as “The unlawful killing of a human being with malice aforethought.” It is the most serious of all common-law crimes and the only one that can still be punished by death. 5

Degrees of Murder: There are different levels or degrees of homicide.

First-degree: murder occurs when a person kills another after premeditation and deliberation. Premeditation means that the killing was considered beforehand and suggests that it was motivated by more than a simple desire to engage in an act of violence. Deliberation means the killing was planned after careful thought rather than carried out on impulse; Second-degree: murder requires the killer to have malice aforethought but not premeditation or deliberation. A second degree murder occurs when a person’s wanton disregard for the victim’s life and his or her desire to inflict serious bodily harm on the victim, unusually with a weapon, results in the victim’s death.

“Born and Alive”: One issue that has received national attention is whether a murder victim can be a fetus that has not yet been delivered; this is referred to as feticide. In some instances, fetal harm involves a mother whose behaviour endangers an unborn child; in other cases, feticide results from the harmful action of a third party.

The Nature and Extent of Murder: It is possible to track U.S. murder rate trends from 1900 to the present with the aid of coroners’ reports and UCR data. The murder rate peaked in 1933, a time of high unemployment and lawlessness, and then fell until 1958. The homicide rate doubled from the mid-1960s to the late 1970s and then peaked at 10.2 per 100,000 population in 1980. In 2006, about 16,000 murders were reported to police, a rate of about 5.5 per 100,000 population, half the 1980 level.

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Serial Murder: Criminologist considers a serial killer, such as Rader, to be a person who kills three or more persons in three or more separate events. In between the murders, the serial killer reverts to his normal lifestyle.

Types of Serial Killers: There are different types of serial killers. Some wander the countryside killing at random; other hides themselves in a single locale and lure victims to their death. So, serial murder experts James Alan Fox and Jack Levin have developed the following typology of serial motivations:- (1) thrill killers strive for either sexual sadism or dominance. This is the most common form of serial murderer; (2) mission killers want to reform the world or have a vision that drives them to kill; and (3) expedience killers are out for profit or want to protect themselves from a perceived threat.

Female Serial Killers: An estimate 10 to 15 percent of serial killers are women. A study by chronologist Belea Keeney and Kathleen Heide investigated the characteristics of sample of 14 female serial killers and found some striking difference between the way male and female killers carried out their crime. Males were much more likely than females to use extreme violence and torture.

Mass Murders: In contrast to serial killings, mass murder involves the killing of four or more victims by one or a few assailants within a single event. The murderous incident can last but a few minutes or as long as several hours.

Fox and Levin define four types of mass murderers as:- (1) revenge killers seek to get even with individuals or society at large. Their typical target is an estranged wife and “her” children or an employees and “his” employees; (2) love killers are motivated by a warped sense of devotion. There are often despondent people who commit suicide and take others, such as a wife and children, with them; (3) profit killers are usually trying to cover up a crime, eliminate witnesses, and carry out a criminal conspiracy; and (4) terrorist killers are trying to send a message

Spree Killers: Spree killers engage in a rampage of violence taking place over a period of days or weeks. Unlike mass murders, their killing is not confined to a single outburst, and unlike serial killers, they do not return to their “normal” identities in between killings.6

Example of prevailing criminal issues on murder may be based on the presented case study, which is as follows:

Bangkok Post online on October 11, 2012, reported at the headline “Doctor faces murder charge after skeleton DNA result”. The News in details are “Police will charge

6 Larry J. Siegel, Ibid., pp.296-301.
former police doctor Supat Laohawattana with murder after fresh DNA test concluded that one of three human skeletons found in his Phetchaburi orchard was that of a Myanmar man who worked for him. Provincial Police Region 7 police yesterday took Young, one of Dr. Supat’s Myanmar workers, to point to a spot in the Phetchaburi orchard where the doctor allegedly assaulted him. Yong is a prime witness in the case as he allegedly witnessed the doctor killing. Ta. He told police he fled the orchard after the alleged murder for fear he would be killed too. Dr. Supat, who worked at the Police General Hospital in Bangkok, Thailand, is being detained at a jail in the province, as he has been implicated in the disappearance of married couple Samart Noomjui and Orasa Kerdasp from the orchard three years ago.”

**Buddhist View on Murder**

Murder translated into the Pali word as “Manussaghātana.” The Buddhist undertakes oath to abstain from murder, cause to murder or sanctioning the destruction of living being. “Living being” implies to anything that has life, from insects up to man. In taking this precept, Buddhist realized his relation to all living creatures, a relationship which is so close that the harming of any living being is inevitably to harm himself. The Buddha advised to compare one’s own life. Comparing oneself with other:

“All tremble at punishment; all fear death. Having made the comparison with oneself, one should not kill or cause to kill.”

“All tremble at punishment; life is dear to all. Having made the comparison with oneself, one should not kill, nor cause to kill.”

The precept applies to all creatures irrespective of size. It does not exclude the killing of animals for the Vedic sacrifices or to the commandment of some religions. A Buddhist does not sacrifice living beings for worship, convenience or food but instead try to sacrifice one’s own selfish motives. The Buddha tried to stop the killing of animals or shed blood for sacrificed. One should respect all living beings equally and not kill or tell others to kill as the injunction runs: “Do not kill a living being. You should not kill or condone killing by others.”

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Having abandoned the use of violence, you should not use forces either against the strong or the feeble.”

There are five things necessary to constitute the crime of taking life. (1) Pāñjo: A living being; (2) Pāñasaññitā: The knowledge that the being is alive; (3) Vadhakacitta: The intention to kill; (4) Upakkamo: The attempt to kill, and (5) Tena maraṇam: The being is killed through the attempt. When any one of the five conditions is absent, the act of killing is not complete although death follows the act. The performer of such an act does not violate the first precept. The act of killing is considered to be a transgression of the precept only when all of these five conditions are present. This precept is based on Cetanā (intention). Intention is a psychic force which fine expression in the three ways; by thought, by speech, by physical action. Since speech and physical action both have their origin in the mind, it is the mental intention which constitutes Kamma or action. The Buddha, therefore, defines action by intention, as he says, “Intention, Monks, is what I call action. Having intended, one performs the action by body, speech or mind.” One is motivated by unwholesome intention like Dosa (hatred), which tends to performs bodily and verbal actions which transgress the precept. To be successful in the observance of the first precept, he has to purify his intention by learning to develop and cultivate loving-kindness and compassion in his mind. Because the intention is motivated by loving-kindness, and compassion, it naturally manifests itself in right action and right speech, which are in conformity with the precept. That is why precept or morality is described in the Visuddhimagga as follows: “What is precept? Such states as the intention of one who abstains from life and so forth, or of one who fulfils his set of duties.”

There are six ways in which life may be taken:- (1) By the person himself with a sword or lance; (2) by giving the command to another; (3) by the use of projectiles such as a spear, an arrow, or stone; (4) by treachery as the digging of pits and covering them slightly over, setting spring or poisoning ponds; a (5) by magical rules; and (6) by the instrumentality of demons. There are also eight causes of the destruction of life:- (1) Evil desire; (2) anger; (3) ignorance; (4) pride; (5) covetousness; (6) poverty; (7) wantonness; and (8) Law.

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12 Sn.394.
14 A.III.415.: “Cetanāham bhikkhave kammaṁ vadāmi.”
15 Vism.6.
16 Dhs.129.
According to the commentary of Sammādiṭṭhi Sutta and commentary on Brahmajāla Sutta, it may be stated that depravity is low in the case of smaller living beings and it is great in the case of bigger living beings. Also, it is low in the case of less useful living beings and it is great in the case of more useful living beings. Again, in the case of human beings, the depravity is low in the case of one who has low virtue and it is more in the case of one who has higher virtues. Further, the depravity is low in case of less defilement and endeavour and vice-versa. The Telakatāhāgāthā states, “He who destroys the life of any being may, in his next life meet death unexpectedly while in the prime of life, even though he is possessed of all the amenities of life, wealth and beauty...”. Injury to living being is stated to result in suffering in an unpleasant state for along period, and rebirth in some lower form of being. If born again as a man, he may be infirm, ugly, unpopular, cowardly, divested of companions, subject to attain a ripe age. On the contrary one who observes the precept is saved from the suffering and he enjoys a healthy, happy and peaceful life. Twenty three benefits are listed in Paramatthajotikā of the observance of this precept including a happy life here and hereafter. The precept is not only important from the human sensitivity point of view but also from the then existing economic point of view of an agrarian society. The killing of hundreds of animals means a great loss to the developing economy and therefore had to be stopped. Perhaps a religious commandment was necessary to meet the religious argument of Brāhmin priest. This was an effective step in the name of religion, in the name of human sensitivity and also in the name of economic necessity. The negative precept of abstention from killing also required the inculcation of positive ennobler of loving kindness and compassion. The Buddha advised his disciples to practice Mettā and Karuṇā.

Thus, it could be drawn from the aforementioned argument that human life is full of values. It provides the basis of all goods to whom life belongs. The best thing originates only in life. Without life, it is impossible to obtain the so-called goods. Therefore, preservation of life till the end of natural process is essentially required. Buddhism extremely holds that all kind of murder is against the first precept, and will appeal against those who support murder and desires to harm others with compassion as the main justification.

6.1.1.2. Terrorism

The political crime that many people are most concerned with is terrorism. Despite its long history, it is often difficult to precisely define terrorism (from the Latin terrere, which means to frighten) and separate terrorist acts from interpersonal crimes of violence.

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To be considered terrorism, which is a political crime, an act must carry with it the intent to disrupt and change the government and must not be merely a common-law crime committed for greed or egotism.19

According to Damien Keown, the term ‘terrorist’ was originally coined and applied in self-reference by French revolutionaries in the 1790, but few people today would welcome the epithet ‘terrorist’, preferring to described themselves as ‘freedom fighters’, ‘urban guerillas’, or even holy warriors’. The word according to the online dictionary at Princeton University defines ‘terrorism’ as ‘the calculated use of violence (or threat of violence) against civilians in order to attain goals that are political or religious or ideological in nature; this is done through intimidation or coercion or instilling fear’. The definition makes clear why terrorism is regarded as immoral in terms of just war theory; terrorist groups do not constitute a legitimate political authority (condition 1 of the jus ad bellum provisions) and they specifically target civilians in their attacks in order to spread terror among the population at large (contrary to condition 2 of the jus in bello requirements).20

Contemporary Forms of Terrorism: Today the term “terrorism” encompassed many different behaviors and goals. Some of the more common forms are briefly described here.

(1). Revolutionary Terrorists: Revolutionary terrorists use violence to frighten those in power and their supporters in order to replace the existing government with a regime that holds acceptable political or religious views. Terrorist actions such as kidnapping, assassination, and bombing are designed to draw repressive responses from governments trying to defend themselves.

(2). Political Terrorists: Political terrorism is directed at people or groups who oppose the terrorists’ political ideology or whom the terrorists define as “outsiders” who must be destroyed. Political theorist may not accept the terrorists’ views.

(2.1). Right-Wing Political Groups: Domestic terrorists in the United States can be found across the political spectrum. On the right, they tend to be heavily armed groups organized around such themes as white supremacy, anti-abortion, militant tax resistance, and religious revisionism.

(2.2). Left-Wing Political Groups: During the turmoil of the 1960s a number of left-wing political groups emerged to challenge the existing power structure. Some, such as the Black Panther Party-founded in 1966 in Oakland, California, by Bobby

Seale and Huey Newton demanded the right to control community schools, police, and public assistance programs.

(2.3). Eco Terrorism: The most active left-leaning domestic political terror groups today are involved in violent actions to protect the environment. Of these groups, the Earth Liberation From (ELF) is perhaps the best known.

(3). Nationalist Terrorists: Nationalist terrorism promotes the interests of a minority ethnic or religious group that believes it has been persecuted under majority rule and wishes to carve out its own independent homeland. In Spain, the Basque Fatherland and Liberty (Euzkadi Ta Askatasuna, or ETA) is devoted to establishing a Basque homeland based on Marxist principles in the ethnically Basque areas in northern Spain and southwestern France.

(4). Retributive Terrorism: Some terrorist groups are not nationalist, political, or revolutionary organizations. They do not wish to set up their own homeland or topple a government but rather want to impose their social and religious code on other. Retributive terrorists have a number of characteristics that are unique and separate them from guerrillas, revolutionaries, and other terrorists.

Al-Qaeda is essentially a retributive terror organization. Rather than fighting for a homeland, its message is called to take up a cause: theirs is a war of civilizations in which “Jew and Crusaders” want to destroy Islam and must therefore be defeated. Armed jihad is the individual obligation of every Muslim; terrorism and violence are appropriate methods for defeating even the strongest powers. One way of defeating the enemy is to attack their economy, which is the vulnerable “center of gravity” of Western nations. Osama bin Laden and al-Qaeda are the paradigm of the new retributive terrorist organization. His masterminding of the 9/11 bombing was not designed to restore his homeland or bring about a new political state but to have his personal value structure adopted by Muslim nations.

(5). State-Sponsored Terrorism: It occurs when a repressive government regime forces its citizens into obedience, oppresses minorities, and stifles political dissent. Death squads and the use of government troops to destroy political opposition parties are often associated with political terrorism.

(6). Cult Terrorism: In 1995 members of Aum shinrikyo, a radical religious cult, set off poison gas in a Tokyo subway, killing 12 and injuring more than 3,300. Cult members found modern society too complex to understand, with few clear-cut goals and values.

(7). Criminal Terrorism: Some terrorist groups become involved in common-law crime such as drug dealing and kidnapping, even selling nuclear materials. According to
terrorism expert Chris Dishman, these illegal activities may on occasion become so profitable that they replace the group’s original focus. Burmese insurgents continue to actively cultivate, refine, and traffic opium and heroin out of the Golden Triangle (the border between Myanmar [Burma], Thailand, and Laos), and some have even moved into the methamphetamine market.\textsuperscript{21}

**Example of prevailing criminal issues on terrorism may be based on the presented case study, which is as follows:**

The News headline, “**Iraqi authorities execute 11 inmates after terrorism convictions**” reported by Mohamamed Tesfeeq, CNN, on October 8, 2012 that “Iraqi authorities executed 11 prisoners on Sunday after they were convicted of terrorism, Iraq’s Ministry of Justice said in a statement. “They had carried out killings and explosions against Iraqi people,” the ministry said. Authorities have executed dozens of inmates in recent months despite a United Nation call for restraint. Six people were executed on Thursday after they were convicted of terrorism, official said. More than 100 people have been executed since November, according to a CNN tally. Sixty-five of them were put to death in the first 40 days of 2012. The execution of large groups of prisoners has drawn attention from human rights advocates, who have raised concerns about the fairness of trials and transparency of court proceedings. The executions come as Iraq smolders with sectarian tension and political infighting. Violence in Iraq surged last month, with 365 deaths reported, the Interior Ministry said Monday. That’s the deadliest single month since August 2010, when the toll reached 426, the ministry said. Insurgent attacks against civilians and security force persist in the country, though violence has dropped dramatically since the peace of Sunni-Shiite clashes in 2006 and 2007. Baghdad’s Shiite-dominated government has blamed the recent attacks on Sunni insurgents to al Qaeda.”\textsuperscript{22}

**Buddhist View on Terrorism**

Terrorism is equivalent to the Pāli word “\textit{Bhāyāpanena pālana}.”\textsuperscript{23}

Damien Keown has described that Buddhism responses to terrorism have tended to make three main points. They are:-

**First point:** we must try to understand fully the causes that have led to the present situation. The doctrine of dependent origination (\textit{Paṭiccasamuppāda}, Skt.:\textit{Pratītyasamutpāda}) teaches that all situation, and lasting solutions cannot be found until we fully

understanding the reasons why a situation arise. As B. Kumar has further described the principle of the dependent origination that, ‘things come to existence in our day-to-day life. The law of dependent origination explains that they come into existence; depending upon some other factors. The theory of relation explains that such dependence on the other Dhammas is possible due to some relation. In other words, Patíccasamuppāda explains the process of existence of conditioned things.

**Second point:** is responding to force with force is wrong, that we must respond to aggression with compassion as opposed to hatred. As Aung San Suu Kyi, the leader of the Burmese democracy movement and winner of the 1991 Noble Peace Prize said that;

“You know, I am a Buddhist. As a Buddhist, the answer is very simple and clear. That is compassion and mercy is the real panacea. I am sure that, when we have compassion and mercy in our heart, we can overcome not only terrorism but also many other evil things that are plaguing the world.”

It is relevant here to note Aung San Suu Kyi’s opinion supported the Buddha, who says in the Dhammapada that:

“(He) abused me, struck me, conquered me, took away mine,” who bind themselves it hatred is not appeased.”

“Here (in this world) hatreds are indeed never appeased by hatred and are appeased by non-hatred. This is the eternal law.”

**Third point:** that violence will only leads to a cycle of retaliation and make the chances of peace even more remote. The need for reflection and self-criticism was also mentioned by some, including Thich Nhat Hanh, after the attacks on 11 September 2001, he expressed that view that America would have been better off with dialogue. Identifying the key question as ‘Why would anyone hate us enough to do that?’, he offered the response ‘If we are able to listen, they will tell us.’

Whether or not pacifism is a realistic option in today’s increasingly violent world, and whether it can provide the basis for law and order and order and an effective criminal justice system are question that are being widely debated. The Buddha view that force should not be used even in self-defence is one that some people will find difficult to accept. However, Buddhist groups and other pacifist organization believers there are non-violent alternatives to the use of force in most situations. It has been wisely said that ‘pacifism does

27 Dhp.Ve.5.: “Na hi verana verāṇi samant’idha kudācanam averena ca samanti esa dhammo sanantano”. K.T.S. Sarao (tr.), Ibid., p.6.
not mean passivism’, and perhaps if the resources that have been spent on war had been put into working for peace many of the world’s most intractable disputes would either not have arisen or been solved long ago.\(^{28}\)

Furthermore, Ram Nandan Singh has pointed out that the *Mettā Brahmavihāra* propounded by Gotama Buddha is more relevant for the modern world than ever before. Mention may be made of terrorism, which is now a universal phenomenon. Almost every country is being affected by terrorism and extremism. In this situation, the *Mettā Brahmavihāra* can play a considerable and decisive role to destroy terrorism. It will cultivate love and affection instead of hatred and enmity. The cardinal message given by the Buddha for the monks is very relevant now-a-days to cultivate the *Mettā Bhāvanā* amongst disillusioned, disgruntled, and disenchanted youths and persons who profess terrorism and extremism in the world. In this way, the *Mettā Brahmavihāra* gives a sense of brotherhood and solidarity with fellow citizens in the world.\(^{29}\)

The cause of terrorism in the Buddhist view is originated from *Dosa* (hatred) which is one of the factors of *Akusalamīla* (Unwholesome Roots). The ‘*Dosa*’ in Pāli term does not refer to the feeling of anger itself but to the more complex attitude of resentment or vague hate that shapes our understanding and choices. There is a passage in the *Samyutta Nikāya* which refers to all three *Akusalamīla*, illustrating the tenacity with which they take hold of our minds when mindfulness is absent.\(^{30}\) So, the prohibition of terrorism is not on the use of force even in self-defence which also runs counter to the moral intuition of many people. Of course, any reasonable person would do well to pay heed to the three points made again and again by Buddhist, namely, the importance of seeking to understand the causes of a conflict, and terrorism, showing compassion to opponents, and endeavouring to resolve disputes by peaceful means. It has been wisely said that ‘*pacifism does not mean passivism*’, and there is much useful work that can be done to remove injustice and the causes of dissent before they erupt into violent conflict and terrorism.\(^{31}\) Obviously, the every concept of humanism is based on *Karunā* (Compassion), which is the key-stone of Buddhism, referred to as the *Mahākāruniko* (the Great Compassion) of the Buddha. It is now a well-established fact that a compassionate being cannot hurt any living being.\(^{32}\)

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6.1.2. Crimes against Property

Type of Crimes against Property as classified by the Hate Crime Statistics Program\textsuperscript{33} of the Federal Bureau Investigation or FBI’s Uniform Crime Reporting (UCR), under the Department of Justice, United State of America, divided the offences types which is involved with the crimes against Property as:-“Robbery, burglary, larceny-theft, motor vehicle thief, Arson, destruction/damage/vandalism and other which includes additional offenses collected in the National Incident-Based Reporting System”. Crimes against Property have been classified by National Crime Records Bureau\textsuperscript{34} (NCRB), Government of India, under the Indian Penal Code (IPC), namely: - “Dacoits, its preparation and assembly, robbery, theft”, and economic crimes. “Criminal Breach of Trust, cheating, counterfeiting.”\textsuperscript{35}

The offence involved with crimes against property varies from country to country and is a controversial issue. Here, only two types of offences; (1) Robbery and (2) white-collar crime are selected from the wide rage of issues for a detailed discussion from a Buddhist perspective.

6.1.2.1. Robbery

The common-law definition of robbery (and the one used by the FBI) is “The taking or attempting to take anything of value from the care, custody or control of a person or persons by force or threat of force or violence and/or by putting the victim in fear.” A robbery is considered a violent crime because it involves the use of force to obtain money or goods. Robbery is punished severely because the victim’s life is put in jeopardy. In fact, the severity of punishment is based on the amount of force used during the crime, not the value of the items taken. The FBI records about 400,000 robberies each year, a rate of about 140 per 100,000 population. As compared with most other violent crimes, there has been a significant reduction in the robbery rate during the past decade; the robbery rate is down by almost 40 percent since 1994. However, both the NCV and UCR recorded significant increases in robbery between 2004 and 2006. Whether this portray a long-term increase in the robbery rate remains to be seen. The ecological pattern for robbery is similar to that of other violent crimes, with one significant exception: Northeastern states by far have the highest robbery rate.

**Types of Robberies:** Attempts have been made to classify and explain the nature and dynamics of robbery. One approach is to characterize robberies by type, like:- (1) Robbery in

\textsuperscript{34} http://ncrb.nic.in, accesses on July 22, 2012.
an open area: These robbers include street muggings, purse snatchings, and other attacks; (2) Commercial robbery: This type of robbery occurs in business ranging from banks to liquor stores; (3) Robbery on private premises: This type of robbery involves breaking into people’s homes; (4) Robbery after a short, preliminary association; (5) Robbery after a longer association between victim and offender; (6) Carjacking: This is a complete or attempted theft of a motor vehicle by force or threat of force.

Types of Robber: Another is to characterize types of robbers based on their specialties, are:- (1) Professional robbers: These robbers have a long-term commitment to crime as a source of livelihood; (2) Opportunist robbers: These robbers steal to obtain small amounts of money when an accessible target presents itself; (3) Addict robbers: These people steal to support their drug habits; and (4) Alcoholic robbers: These people steal for reasons related to their excessive consumption of alcohol. 36

Example of prevailing criminal issues on robbery may be based on the demonstrated the cases example, which is as follows:-

BBC News online reported on September 18, 2012, on the headline “Bank robber fled to Perth after Edinburgh bank heist.” The News in details are; “a bank robber escaped by bus after threatening a teller he would detonate a bomb unless he was given money. Maxwell Taylor surrendered to police in Perth the day after the incident, still wearing the clothes he had on while robbing the Edinburgh bank. At the High Court in Edinburgh, the 29-year-old said his flight to Perth was part of his “great escape plan”. Lord Turnbull deferred sentence until next month and remanded him in custody. Taylor, 29, described as a prisoner, admitted assaulting Nat West Bank employee Sahir Hiqqash and claiming to be in possession of a bomb which he said he would detonate unless he was given money. He also admitted stealing £1,670 from the bank on 27 June this year. When he arrived at the counter at the George Street branch he slipped a note to Mr Hiqqash stating: “I’ve got a bomb in my bag, hand over the money or you go bye bye.” Police recovered £800 from Taylor and found £140 covered in pink dye in the hotel cash box. Mr Irwin said that the robber was interviewed and gave “a full and frank admission to the crime”. Defence solicitor advocate Krista Johnston said Taylor had an accident last year and part of his leg was blown off by an electric current. She said that at the time of the offence he had no money and that was his motivation for the crime. Lord Turnbull deferred sentence until next month when background reports will be prepared.37

Buddhist View on Robbery:

Robbery is equivalent with the Pāli word “Coriya; Theyya.” According to the principle of five Buddhist precepts, the second one teaches respect for their rights of possession. It is respect or regard for the right of others. Thus, second precept is related to abstention from taking another’s things that are Adinnādāna (Not Given). The Buddha explain: “There, someone avoids taking what is not given, and abstains from it. He does not take by theft any property of another in village or jungle that is not given to him.”

According to H. Saddhātissa, one who transgresses this precept is called thief. There are two modes of stealing which are recognized, the direct and the indirect. (1) The direct consists in appropriating anything, which belong to another person without securing his consent; (2) the indirect comprises frauds and deception whereby a man may cheat another out of something that rightly belong to him.

The Buddha defines Adinnādāna as “The taking, with the intention of stealing an object belonging to another person, which can be used by him as he desire without being censure or punished.” The object stolen may be anything material and in a wide sense may include even immaterial things such as infringement of another’s rights, unasked interference in another’s business, waste of time by an employee, neglect of duty, or evasion of responsibility.

In clear terms, it has been observed by Ven. Phra Medhidhammaporn that the act of stealing can be performed in various ways. One can do it by one’s own hands or cause another to steal by giving an order. Magic or psychic power and mantras can be used. One may cheat other out of something that rightly belongs to him: a trader may use false weights and measures or a false balance; a robber may use physical force. Besides, International Encyclopaedia of Buddhism has mentioned that act of stealing can be performed in various ways; it is possible through six ways, namely: (1) Stealing by ones own hands; (2) stealing by false measures and weights; (3) stealing by force; (4) stealing by concealment; (5) Stealing by design; and (6) Stealing by forgery. The Buddha states: “One should avoid
that which is not given, whatever or wherever it is. Any thing that is not given, one should avoid.\textsuperscript{46}

According to the Commentaries of \textit{Dhammasaṅgaṇī}, there are five things necessary to constitute the crime of thefts:- (1) The article taken must belong to another; (2) There must be something taken that belongs to another; (3) There must be intention to steal; (4) There must be some acts done or efforts to obtain possession; and (5) There must be actual acquirement.\textsuperscript{47} The act of stealing has less depravity if the object taken away is bad or low value. Depravity is high if the object is good or of great value. In the case of objects of equal merit, stealing has low depravity if it is taken away from one who is less in virtue when compared to the depravity in the case of one who is more virtuous. Again \textit{Adinnādāna} has low depravity when there is low defilement and low endeavour and vice-versa.

Amongst the karmic results that afflict the thief or robber are, great suffering in an unhappy state for a long period or if by virtue of other merits, the thief or robbery should be reborn as a man; he would lack possessions in this new state. He would be unable to acquire wealth, or if he did so, he would be unable to keep it, and would be subject to danger from kings, murderers, floods and fire. He would be unable to enjoy sensual pleasure and would be discontented and despise by the people. According to the \textit{Telakalāhagāthā}, “if a man in order to benefit himself beggar clad in dirty rags; with a broken begs vessel in hand, he ever begs his daily bread at the doors of his enemies while suffering a hundred insults”. One who abstains from stealing is saved from such insults and enjoys a happy life. The \textit{Paramatthajotikā} mentions eleven benefits for not stealing or non robbery. Along with the avoidance of stealing, the positive virtue i.e., the second ennobler of right livelihood is to be developed, so as to earn ones living by legitimate and lawful means as provided under the \textit{Dhamma}.\textsuperscript{48}

The Buddhist fundamental perceive that the origin of robbery is a result of \textit{Lobha} (greed), the first unwholesome root, which covers all degrees of selfish desires, longings, etc.

\textsuperscript{46} Sn.396.
6.1.2.2. White-Collar Crime

In the late 1930s, the distinguished criminologist Edwin Sutherland first used the phrase “white-collar crime” to describe the criminal activities of the rich and powerful. He defined white-collar crime as “a crime committed by a person of respectability and high social status in the course of his occupation.” As he saw it, white-collar criminal belongs to upper socio-economic class who violates the criminal law while conducting his professional qualities. Thus, misrepresentation through fraudulent advertisements, infringement of patents, copyrights and trade-marks etc., are frequently resorted to by manufacturers, industrialists and other persons of repute in course of their occupation with a view to earning huge profits. Other illustrations of white collar criminally include publication of fabricated balance sheets and profit and loss account of business, passing of goods, concealment of defects in the commodity for sale etc.

Types of White-Collar Crimes: The main crimes that have attracted attention in the USA under the head of white-collar crimes may be summarize as follows:

(1) Frauds in business relation to sale of bonds and investment; (2) adulteration of foods and drugs and misleading advertisement; (3) malpractices in the medical profession, such as illegal sale of alcohol and narcotics, abortion, illegal services to underworld criminals, fraudulent reports and testimony in accident cases, extreme cases of unnecessary treatment, fake specialists, restriction of competition and fee splitting; (4) crimes by lawyers, such as guiding criminal or quasi-criminal activities of corporations, twisting of testimony to give a false picture, fake claims (bogus liability in accidents), etc.; (5) trust, cartels, companies, syndicates, etc. formed to combat competition, or to raise prices or otherwise to interfere with the freedom of trade to the detriment of honest businessmen or the consuming public. This has now become a branch of law by itself and is usually dealt with under the topic of “anti-trust legislation”; and (6) bribery and graft of public officers.

Since, Sutherland limits the concepts to unlawful behaviour engaged in for the purpose of furthering the financial or strategic interests of legitimate cause, crime by respectable people committed for other purpose are not white-collar crimes: murder of his spouse by a businessman or bribery of a traffic officer by a motorist who happens to be a physician are not encompassed by the concept.

Example of prevailing criminal issues on white collar crime may be based on the demonstrated case, which is as follows:-

BBC News reported on September 12, 2003, on the headline “White collar crimes sweep Britain”. The News in details are; “The middle classes are turning to crime in the belief they have been victimised Research finds. More than 60% of people surveyed in England and Wales admitted they had exaggerated an insurance claim, paid cash to avoid tax or kept money when given too much change. But they would not consider themselves criminals, scientists told a science conference in Salford. Such forgery and fraud is costing Britain £14bn a year. The crimes predominately perpetrated by the middle classes also included claiming refunds to which they were not entitled or taking items from their workplace. Professor Susanne Karstedt, who conducted the survey for the University of Keele, said: “These are the citizens and consumers of the middle class who would definitely think of themselves as respectable”. “These are the citizens who would definitely reject the labels of criminals.” Yet the costs of fraud and forgery in Britain in 2000 were £13.8bn, compared to £2.7bn for burglary, she said.52

Buddhist View on White-Collar Crime

White-Collar Crime is the synonym of corruption, which is concerned with the second precept, and relates to abstaining from stealing or taking away what is not given (Adinnādāna). In view of the facts, i.e., the five conditions, which mentioned for the act of stealing to seem robbery as mentioned in above discussion. (See 6.1.2.1). It is also a kind of immoral deed. Its degree of depravity depends on the qualities, values and virtues of a thing or a being concerned. The depravity is low in the case of bad or low valued object, it may be high if the object taken away is good or great value. Further, it is stated that the stealing has low depravity in the case of an object belonging to the one inferior in virtue and the stealing of an object which belongs to the distinguished one for his virtue, entails a greater crime and the degree of depravity is also high. As result of such deeds the crooked person suffers in an unhappy state for along period and if he takes birth as man by virtue of other merits, he becomes unable to acquire wealth and remains subjects to danger by kings, murderers, floods and fire. He is also unable to enjoy sensual pleasures and gets discontented and despised by the people. It has been rightly remarked that:- “One who abstains from stealing is saved from such peril and enjoys a happy life.”53

53 H.S. Shukla, “Paṭīca Sīla”, in Mahesh Tiwary (ed.), Perspective on Buddhist Ethics, Delhi: Department of Buddhist Studies, University of Delhi, 1989, p.83
The prevention of white-collar crime signifies respect for other’s right to possess wealth and property. Observing the second precepts, one refrains from earning one’s livelihood through wrongful means, such as by stealing or cheating. This precept also implies the cultivation of Cāga (Generosity), to get rid of Loba (Greed) because the act of stealing stems from intention motivated by greed. By cultivation of generosity which on a personal level helps to free one from attachment and selfishness and on a social level contributes to friendly cooperation in the community. Generosity, in its practical application, refers to constant practice of giving and sharing. The Buddha explains the nature of the person who practises generosity as follows:

“He is one whose mind is free from the taint of selfishness, who is freely generous, open-handed and pure-hearted, who delights in giving, expects to be sought and always looks for opportunities to give.”

The practice of Cāga (Generosity), consequently, is thoughtful and generous; one should help other and perform good deeds; one relinquishes greed and pride and is able to work with others without being narrow-minded, selfish, or insisting on having things his own way. Many of the oldest and the most popular Theravāda stories are about generosity and of giving. It is an excellent case in point with information about different ideas of gift. In a number of Jātaks stories, donor, such as Dhañjaya, Sivi, and Vessantara give to all who ask without regard for their personal qualities. These givers are celebrated not for the worthiness of their recipients, but solely for the greatness of their generosity.

One should always follow the observance of the Cāga (Generosity), which is one of the factors of Gharāvāsadhamma (the Buddhist practice of according to the four qualities for leading the household life).

6.1.3. Sexual Offences

The Hate Crime Statistics Program of the Federal Bureau of Investigation or FBI’s Uniform Crime Reporting (UCR), under the Department of Justice, United State of America, divided the offense types, which relate to crimes against persons, with special reference to the sexual offences are:- “forcible rape, aggravated assault, simple assault.” On other hand,
for the crimes against women or sexual offence as the National Crime Records Bureau”59 (NCRB), Government of India has classified under the Indian Penal Code (IPC) as: - “Rape, dowry death, cruelty by husband and relatives, molestation, sexual harassment and trade of girls”, and crimes against children, which is related to sexual offenses are:- “Child rape, procuration of minor girls, selling/buying of girls for prostitution.60

Only the two prevailing legal issues of sexual offences, namely: - (1) Rape, and (2) Prostitution, are discussed here to study in details from a Buddhist perspective.

6.1.3.1. Rape

Rape has been a recognized crime throughout history. It has been the subject of art, literature, film, and theatre. Paintings, such as the Rape of the Sabine Women by Nicolas Poussin, novels, such as Clarissa by Samuel Richardson, poems such as The Rape of Lucrece by William Shakespeare, and films such as The Accuse have sexual violence as their central themes.

Incidence of Rape: According to the most recent Uniform Crime Reporting (UCR) data, about 90,000 rapes or attempted rapes were reported to U.S. police each year, rate of about 32 per 100,000 inhabitants or more relevantly 62 per 100,000 females. Like other violent crime, the rape rate has been in a decade-long decline, and the 2006 totals are significantly below 1992 levels when 84 women per 100,000 were rape victims. These data must be interpreted with caution because rape is a traditionally under-reported crime. As many as 10 percent of all adult women may have been raped during their lifetime. According to the National Crime Victimization Survey (NCVS), almost 200,000 rapes and attempted rape take place each year, suggesting that fewer than 50 percent of rape incidents are reported to police. Many people fail to report rape because they are embarrassed, believe nothing can be done, or blame themselves. Some victims of sexual assaults may even question whether they have really been raped. Research indicates that when the assault involved a boyfriend, if the woman was severely impaired by alcohol or drugs, or if the act involved oral or digital sex, the women were unlikely to label their situations as being a “real” rape.

Types of Rape and Rapists: Criminologists now recognize that there are numerous motivations for rape and as a result various types of rapists are there:-

(1) Gang rape: Some research studies estimates that as many as 25 percent or more of rape involve multiple offenders; (2) serial rape: Some rapists are one-time offenders, but

others engage in multiple or serial rapes. Some serial rapists constantly increase their use of force; others do not; (3) acquaintance rape: Acquaintance Rape involves someone known to the victim, including family members and friends; (4) date rape: One disturbing trend of rape involves people who are in some form of courting relationship; (5) marital rape: Traditionally, a legally married husband could not be charged with raping his wife; this was referred to as the marital exemption; and (6) statutory rape: The term 'statutory rape’ refers to sexual relations between an underage minor and an adult.  

The prevailing criminal issues on rape may be described with the case example, which is as follows;

The headline of CNN online on October 12, 2012 that “Indian girl seeks justice after gang rape” was reported by Sumnima Udas and Anjali Tivedi. Story highlights in details are:- “Haryana, India (CNN)-she is just 16 years old and one month ago was about to sit for her final-year exams when she says she was shoved into a car and gang-raped by eight men in a small village in the Indian state of Haryana. Police say all eight of the accused rapists have been arrested and are awaiting trial. In the past month, at least 17 other young women have reported rape in Haryana, a relatively sparsely populated state in the country’s northwest. The teenage kept her ordeal secret for 10 days before her mother noticed something was wrong. When her father heard about the rape video, he could not live with the thought of his daughter’s pain and how she would be judged by society. He committed suicide by swallowing pesticides. Local police say rape incidents have fallen in Haryana over recent months, and that recent cases have attracted ‘hype’. Women’s right groups say there is an increasing gap between the number of men and women in Haryana.”  

Buddhist View on Rape:

Rape in Pāli word is “Belenāvaharaṇa; Kaññādūsana.” According to the third moral precept as had been laid down by the Buddha is the Kāmesumicchācārā veramanī, i.e. abstaining from unlawful sexual intercourse. The word Kāmesumicchācāra has got two component parts: ‘Kāma’ and ‘Micchācāra’. The term Kāma has been referred to here in the sense of ‘lustful attachment to male or female.’ The ‘Micchācāra’ means ‘wrong conduct’. Thus, the two words combining together indicated a volition or fulfillment of lustful desire

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of male for a female or a female for a male.\textsuperscript{64} It is, in short, being called an immoral act or unchastely. In the \textit{Suttanipāta}, the Buddha says:

“A wise man should avoid unchastely as if it were a pit of burning cinders. One who is not able to live in a state of celibacy should, at least, not break the purity of another man’s wife.” \textsuperscript{65}

That sexuality is the strongest instinct of living beings yet is not widely recognized, and man is more sensitive to sexual stimulation than other living creatures, since in the animal world the incentive is periodic and seasonal while in man it is continual. So for man it is very easy to transgress the precept if he does not control his sexual desire.

The characteristic of misconduct in sexual pleasure is the volition arising through the body; with the unlawful intention of trespassing upon a woman to whom one has no right of going. It is stated that the lay-devotees may have sexual intercourse with their counter-part only; while the monks and nuns are not to have sexual intercourse with anybody including animals.\textsuperscript{66} In the \textit{Sāleyyaka Sutta},\textsuperscript{67} the Buddha states that there are eleven groups of woman to whom the observance of the precepts applies, namely:- (1) Māturakkhitā: A woman under the protection of the mother; (2) Piṭurakkhitā: A woman under the protection of her father; (3) Māṭāpitrakkhitā: A woman under the protection of her mother and father; (4) Bhāturakkhitā: A woman under the protection of her brothers; (5) Bhaginirakkhitā: A woman under the protection of her sisters; (6) Nāṭirakkhitā: A woman under the protection of her relatives; (7) Gottarakkhitā: A woman under the protection of her family; (8) Dhammarakkhitā: A woman under the protection of her religious companions; (9) Sassāmikā: A woman who is protected by her husband; (10) Saparidaṇḍā: A woman chosen by the king to be his queen, or the wife of some exalted man; and (11) Māḷāgulaparikkkhitā: A woman adorned with the garlands of betrothal.

According to the commentary of \textit{Sammādiṭṭhi Sutta} and \textit{Maṅgalatthadipani},\textsuperscript{68} twenty types of women have been mentioned with whom sexual intercourse is to be avoided by men. Similarly, various kinds of men have also been listed with whom women should avoid having sexual intercourse. The main categories are the protected and the ordained including those who have taken the vow of celibacy.\textsuperscript{69} A man who has sexual intercourse with any one of these protected women commits sexual misconduct and thereby transgresses the third

\begin{footnotesize}
\textsuperscript{64} Hamalawa Saddhatissa, \textit{Op.Cit.}, p.88. \\
\textsuperscript{65} Sn.396. \\
\textsuperscript{66} Ngendra Kumar Singh (ed.), \textit{Op.Cit.}, pp.3620-3621. \\
\textsuperscript{67} M.I.287. \\
\textsuperscript{68} This work is a masterpiece of Ven. Phra Sirimangala Mahāthera (14th A.D.) who was well known a scholar monk of the Lanna perios as the ancient Northern Kingdom of Thailand. \\
\textsuperscript{69} Suraj Narain Sharma, \textit{Op.Cit.}, p.94.
\end{footnotesize}
precept. The extent of depravity resulting from the transgression depends on virtue of the protected woman. Therefore, it has greater offence of misconduct committed with a more virtuous woman than that committed with a less virtuous woman. If a woman concerned is equal in virtue, then the gravity of the offence depends on the intensity of intention and the exertion of effort. That is why the offence of rape is considered to be greater than that of consensual sexual intercourse. In the Aṭṭhasālinī, Buddhaghosa, has pointed out that there are the four essential conditions for the crimes such as: - (1) Agamanīyavatthu: Prohibited men or women; (2) Tassamim sevanacittam: An intention to have such sexual misconduct; (3) Sevanappayogo: An attempt to have sexual intercourse; and (4) Maggana maggappaṭipatti-adhivāsanam: Indulging in actual sexual intercourse.  

This precept teaches one to respect one’s own spouse as well as that of others; it also preaches the need to be contented with one’s own spouse because in the absence of such contentment, sexual misconduct may arise. Generally speaking, marriage must be recognized as a respectable and honorable state. Breaking up any loving relationship will bear very heavy fruits for one who does it. As it is said by the Buddha: “One who is not contented with his own wife and visits the prostitutes or wife of another is sure to have his downfall.”

To achieve complete observance of the precepts, one must develop sexual restrain. Contentment with one’s own spouse will ensure the observance of the third precept.

Paramatthajotikā mentions twenty benefits of observing the third precept that is to avoid from wrong conduct. It is stated that a person who observes this precept has full control over his senses and attains perfection. He leads to counteract sexual indulgence by self-control, which needs to be inculcated while observing the precept.

### 6.1.3.2. Prostitution

Prostitution is the commercialised sex and, as such, it involves two parties-seller and buyer. It can be described as indiscriminate sexual activity without the normal motive, i.e. procreation or pleasure, but it is economically motivated so far as the seller is concerned. The seller generally is a woman and a man the buyer; the reverse roles are, however, not unknown. Also there is, though much rare, male prostitution in which gratification is provided by one male to another. In the discussion which follows, the subject is dealt with in the most usual context, the commercialised heterosexual practice. The institution of prostitution is as old as human civilisation and the hyperbolic statement, which refers to it as...
the oldest profession is the substantial truth. Prostitution has been known for thousands of years. The term derives from the Latin *prostituere*, which means “to cause to stand in front of.” The prostitute is viewed as publicly offering his or her body for sale. The earliest record of prostitution appears in ancient Mesopotamia, where priest engaged in sex to do temple duty, and passing strangers were expected to make donations to temple after enjoying its services. Modern commercial sex appears to have it roots in ancient Greece, where Solon established licensed brothels in about 500 BCE. The earnings of Greek prostitutes helped pay for the temple of Aphrodite. Famous men openly went to prostitutes to enjoy intellectual, aesthetic, and sexual stimulation; prostitutes, however, were prevented from marrying. Today there are many variations, but in general, prostitution can be defined as granting nonmarital sexual access, established by mutual agreement of the prostitutes, their clients, and their employer, for remuneration. This definition is sexually neutral because prostitutes can be straight or gay and male or female.

Prostitutes are referred to by sociologists as “street-level sex workers” whose activities are similar to any other service industry. These conditions are usually present in a commercial sexual transaction: (1) *activity that has sexual significance for the customer*: This includes the entire range of sexual behavior, from sexual intercourse to exhibitionism, sadomasochism, oral sex, and so on; (2) *economic transaction*: something of economic value, not necessarily money, is exchanged for the activity; and (3) *emotional indifference*: the sexual exchanges is simply for economic consideration. Although the participants may know each other, their interaction has noting to do with affection. Men believe that the lack of involvement makes hiring a prostitute less of a hassle and less trouble them becoming involved in a romantic relationship.

**Incidence of Prostitution:** The Uniform Crime Report (UCR) indicated that about 85,000 prostitutes were arrested annually, with the gender ratio about 2 to 1 female to male. More alarming is the fact that about 1,200 arrests involved minors under the age of 18, including about 160 kids aged 15, an unisexual transactions because no one is harmed is undermined by these disturbing statistics.

**International Sex Trade:** There is also a troubling overseas trade in prostitution in which men from wealthy countries frequent semi-regulated sex areas in needy nations, such as Thailand in order to procure young girls forced or sold into prostitution - a phenomenon known as sex tourism. In addition to sex tours, there has also been a soaring demand for pornography, strip clubs, lap dancing, escorts, and telephone sex in the developing counties.

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Every year, hundreds of thousands of women and children primarily from Southeast Asia and Eastern Europe are lured by the promise of good jobs and then end up forced into brothels or as circuit travellers in labor camps. Most go to wealthy industrialized countries. Japan now has more than 10,000 commercial sex establishments with 150,000 to 200,000 foreign girls trafficked into the country each year. India has experienced a large influx of foreign sex workers who are believed to be the source of the HIV epidemic that is sweeping the country.

Types of Prostitutes: Several different types of prostitutes operate in the United States. As you see, each group operates in a particular venue. As there are: - (1) Streetwalkers: prostitutes who work in the street in plain sight of police, citizens, and customers are referred to as hustlers, hookers, or streetwalkers; (2) bar girls: b-girls, as they are also called, spend their time in bars, drinking and waiting to be picked up by customers; (3) brothel prostitutes: Also called bordelloes, cathouses, sporting house, and houses of ill repute, brothels flourished in the 19th and early 20th centuries; (4) call girls: The aristocrats of prostitution are call girls; (5) escort services/call houses: Some escort services are in front for prostitution rings; (6) circuit travellers: Prostitutes known as circuit travels move around in groups of two or three to lumber, labour, and agricultural camps; (7) skeesers: Survey conducted in New York and Chicago have found that a significant portion of female prostitutes have substance abuse problems; and (8) massage parlors/photo studios: Some “working girls” are based in massage parlors and photo studios. Although it is unusual for a masseuse to offer all the services of prostitution, oral sex and manual stimulation are common.

Becoming a Prostitute: One recent survey of street level sex workers in Phoenix, Arizona, found that women engaging in prostitution have limited educational backgrounds; most did not complete high school. They had experienced high rates of physical and sexual abuse in childhood, as well as parental substance abuse. Studies conducted abroad found similar patterns: selling sex is typically associated with having an immigrant background, poverty, and limited educational achievement. Many prostitutions began their involvement in the sex trade while still in childhood. Many of these children in the sex face trade sexual trauma at an early age. Future prostitutes were initiated into sex by family members during young age between 10 to 12 years; they have long histories of sexual exploitation and abuse. Sexual abuse is not the only social problem that is a forerunner to prostitution. Girls who get into “the life” reports conflict with school authorities, poor grades, and an overly regimented school experience; a significant portion has long histories of drug abuse. Young girls who
frequently use drugs and using it at an early age are most at risk of prostitution to support their habits. Once they get into the life, personal danger begins to escalate. Girls who may be directed towards prostitution because of childhood sexual abuse are also likely to become revictimized as adults. The threat of HIV and STD is also a daily worry. While some take precautions, such as using or making their clients use condoms, many forego protection if their pimps and brothel owners forbid it or clients refuse to cooperate. Their continuous exposure to danger and violence, both as victims and as witnesses, leads to self-medication with illegal drugs. Prostitutes then find themselves in a vicious cycle of violence, substance abuse, and AID risk.74

Thus, many public order crimes are sex related. Prostitution is another sex-related public order crime. Although prostitution has been practiced for thousands of years and is legal in some areas, most state outlaws commercial sex. The international sex trade is a multibillion dollar business; it involves luring young girls from primarily Eastern Europe and Asia to make them prostitutes. There are a variety of prostitutes, including streetwalkers, B-girls, and call girls. Studies indicate that prostitutes come from poor, troubled families and have abusive parents. However, there is little evidence that prostitutes are emotionally disturbed, addicted to drugs, or sexually abnormal. Although prostitution is illegal, some cities have set up adult entertainment areas where commercial sex is tolerated by law enforcement agents.75

The prevailing criminal issues on prostitution may be demonstrated with the case example, which is as follows;

CNN online on October 11, 2012, was reported by Davinder Kumar, with the headline “India’s sex slaves face lifelong cycle of abuse”. Story highlights in details are;

“The scenes at this transit home for girls in the Prakasam district of Andhra Pradesh, India, are harrowing. Girls as young as 13 are brought here for temporary refuge after they have been rescued from sex traffickers and brothels in big cities like Hyderabad and Mumbai. Each has suffered varying degree of abuse, torture, slavery and inhumane treatment. The home, already packed to capacity, sees a new arrival every few days as the state battles to tackle large-scale child sex trafficking. Andhra Pradesh accounts for nearly half of all sex trafficking cases in India, the majority involving adolescent girls. According to police estimate, a shocking 300,000 women and girl have been trafficked for exploitative sex work from Andhra Pradesh; of these just 3,000 have been rescued so far. Organized sex trafficking

75 Larry J. Siegel, Ibid., p.431.
is so entrenched that traffickers have penetrated the remotest villages, preying on vulnerable young girls from impoverished households and pushing them into sex work and slavery across the country. Promises of marriage, employment and even food are used to lure girls from their home, only for them to find themselves into forced sex trade.  

**Buddhist View on Prostitution**

Prostitution is equivalent with Pāli terms, such as “Gaṇīkā; Vesiyā and Vaṇṇadāsi.”

Prostitution is one kind in six Agocaras (improper haunts; evil haunts) for the Bhikkhu because the Agocara causes mental distraction and the mind to wander and lack concentration. Prostitution though has been proved to be due to economical reason, has ultimately to do with psychological tendencies of desire, greed, vanity, wrong views and delusion. Sirimā and Ambapāḷi were two of the famous and high rate prostitutes connected with events of the Buddha’s life. They were popular among kings, nobles, princes, warriors and millionaires. The Buddha used the rotting dead body of Sirīmā to show the futility and dangers of physical attraction to a monk who was in love with her when she was active as a high rate prostitute. The story of Ambapāḷi is interesting in this context because she decided to become a “common wife” (i.e. prostitute), technically known in the Canon as “Gaṇīkā”, because she had too may suitors to choose from!

In the Therīgathā, we find a couple of elderly nuns who have been former courtesans and their recalling of their lives as such reveal that they once were all victims of self vanity and self-view of their beauties. Realizing the Karmic dangers of being in such unworthy social positions, they joined the monastic Saṅgha and soon became Arahanta. Their example show that prostitution, besides beings induced by social reason, is also due to how one perceived the reality of the world. The promiscuous behaviour of a man is certainly the business of prostitution. The Parābhava Sutta lists promiscuity as a cause for one’s downfall.

The Buddhist notion of Sammādiṭṭhi (Right View) is to be used with Sammāvāyāma (Right Effort), Sammā-ājīva (To transform one’s lifestyle), Saṅtuṭṭhi (Contentment), Attasamvara (self-restraint), and Bhāvanā (mind cultivation) are needed to be exercised in the pursue of sensuality in the domain of a higher life. Self indulgence, according to the Buddha,

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78 According to Pāli literature, there are six kinds of Agocaras (improper haunts; evil haunts) viz, (1) Prostitutes or places with prostitution, (2) windows (or drawn women), (3) spinsters or unmarried women, (4) Paṇḍukas (a eunuch or neuter person), (5) Bhikkhuni, and (6) liquor shops or taverns: Vbh.514.

is Hino (low), Gammo (Vulgar), Puthujjaniko (Ordinary), Anariyo (Ignoble), and Anattasamhito (Senseless). While accepting sensuality as an integral part of an ordinary life, Buddhism includes “Refraining from sexual misconduct” as its third precept but a life of complete celibacy is recommended for a higher life.\textsuperscript{80}

6.1.4. Crimes against Society

Under current federal law, crimes committed because of a person’s membership in a protected group (based on race, ethnicity, religion, or national origin) can result in more severe penalties. These crimes, called ‘Hate Crimes,’ are seen as more grievous than other because they not only harm the immediate victims but also instil fear in people with similar characteristics.\textsuperscript{81} The Hate crimes or bias crimes are violent acts directed toward a particular person or members of a group merely because the targets share a discernible racial, ethic, religious, or gender characteristic. Hate Crime can include the desecration of a house of worship or cemetery, harassment of a minority group family that has moved into a previously all-white neighbourhood, or a racially motivated murder.

Nature and Extent of Hate Crime: According to the FBI, about 7,000 hate crime incidents occur each year. About half are motivated by racial bigotry, 20 percent by religious intolerance, others 20 percent were the result of a sexual-orientation bias, and about 15 percent are triggered by an ethnicity/national origin bias; the remainder involved a bias against a disability. A recent analysis of 3,000 hate crime cases reported to the police found that about 60 percent of hate crime involved a violent act, most commonly intimidation or simple assault, and 40 percent of the incidents involved property crimes, most commonly damage, destruction, or vandalism of property. While intimidation was the most common from of hate crime, about 20 percent involve assault with a weapon and a few lead to death.\textsuperscript{82}

The Hate Crime Statistics Program\textsuperscript{83} of FBI’s Uniform Crime Reporting (UCR), under the US Department of Justice, divided the offense types, which is related to crimes against Society or Bias Motivation into two:-

First Type, the Single-Bias Incidents, as they are:- (1) Race: anti-white, anti-black, anti-American Indian/Alaskan native, anti-Asian/Pacific islander, anti-multiple races, group;

(2) religion: anti-Jewish, anti-Catholic, anti-Protestant, anti-Islamic, anti-Other religion, anti-multiple religions, group, anti-Atheism /Agnosticism/etc.; (3) sexual orientation: anti-male homosexual, anti-female homosexual, anti-homosexual, anti-heterosexual, anti-bisexual; (4) ethnicity/national origin: anti-Hispanic, anti-other ethnicity/national origin; and (5) disability: anti-physical, anti-mental.

Second Type: Multiple-Bias Incidents. On the other hand, the crimes against public order under the Indian Code (IPC) as recorded by National Crime Records Bureau (NCRB) namely: “Riots, Arson and crime against SCs, STs84, etc.85 The statistics of crime against society, particularly anti-race, and anti-religion, in U.S.A. and India, from 2006 to 2010, see Appendices 1a, and 1b, at Pages No.407-410.

For a detailed discussion, at this point only two current issues are: (1) anti-race or racial discrimination, and (2) anti-religion or religious discrimination are selected from the various issues of the crime against society.

6.1.4.1. Anti-Race or Racial Discrimination

Most scientists agree that race in a social construction with little basis in human genetics or biology. The notion that there were “type” of humans, and the use of the word “race” to refer to those types, has been described as European invention. Indeed, Wilson notes that ‘the word race’-means different human species-appeared in the English language at precisely the time when Britain began to colonize other lands. Perhaps treating people who looked different as other races made it easier to justify their exploitation.

To say that race is a social construction is not to underestimate its impact. Race has profound meaning in the United States, even if they are primarily economic, historical, and political. Ethnicity has been used in several contexts to single out groups that may not be racially distinct but are characterized by shared culture, common history, values, attitude, and behaviours. Thus, for example, ethnicity was used to marginalize certain groups of European immigrants, such as Italians and Irish, who were sometimes referred to as ‘ethnics’. It was used by Nazis in their persecution of Jews. Today the term ‘ethnicity’ has lost much of its pejorative flavour and is simply used to describe groups with distinctive cultural and historical traditions.

Of course, the United State is not the only nation in which the construct of race serve as a tool for social stratification. Throughout the Americas, social and economic

84 http://en.wikipedia.org/wiki/Scheduled_castes_and_scheduled_tribes, accesses on July 22, 2012.: The Scheduled Castes (SCs), also known as the Dalit, and the Scheduled Tribes (STs) are two groupings of historically disadvantaged people that are given express recognition in the Constitution of India. During the period of British rule in the Indian Sub-continent they were known as the Depresses Classes.
opportunities are still concentrated among those of European descent, leaving indigenous, immigrant, and mixed-racial groups at a disadvantage. This is the case in Brazil, for example, where mixed-people and African descent have shorter life expectancies, lower educational attainment, and diminished occupational opportunities. Similar patterns have been observed in other Latin American nations. Some see this inequity as the enduring legacy of colonialism.86

The Caste system in Indian society, as is well-known by a large section of the people in the Indian country, the hapless victims of the Varna system variously described as Atisudras, Harijans, untouchables, Dalits and now as belonging to ‘Scheduled Castes’, have been compelled to lead the lives of slaves or, worse still, almost of animals. Only during the last 100 years or so, the national conscience has been aroused to some extent and efforts of varying degrees and kinds have been made to eliminate the barbaric thinking and practices, which provided the basis for the uncivilised and exploitative phenomenon of perhaps the worst type ever experienced in any human society.87

The prevailing criminal issues on anti-race may be described with the case example, which is as follows:-

Anti-Caste website online on January 01, 2008 presented on the headline “Hindu right leads mass atrocity against Christian Untouchables in Orissa.” News in Details are; “Christians in India are, with very few exceptions, untouchables or oppressed tribals. They take to Christianity at least in part in order to escape their outcaste status, if only in name. The Hindu right has been on a campaign since the late 1990s to intimidate and forcibly convert this small, vulnerable religious minority. The pattern of violence includes incidents of murder, rape, and arson. In one widely reported case in 1999, an Australian missionary and his two young sons were burned to death while sleeping in their camper. That was in Orissa, and it is in that backward state, where nearly half the people live below the official poverty line, that the worst attacks ever against Christians in India were carried out last week. This took place in the district of Kandhamal, where Hindu-right activists have been organizing among the majority Kandha tribals, encouraging them to take up orthodox Hindu practices and exploiting their petty rivalry with the untouchable Panas, ninety-five percent of whom are Christians. In Kandhamal’s Bharakama village on the days leading up to Christmas celebrations, Hindu-right activists staged provocations against Christians and vandalized decorations. On Christmas Day a Hindu-right mob of thousands systematically

destroyed Christian homes, churches, and institutions, killing several people and leaving thousands more homeless.”

**Buddhist View on Anti-Race or Racial Discrimination**

Buddhism is a religion of all humankind. The spirit of Buddhism is not limited within any ethnicity and culture. Buddhism seeks to liberalize the structure of the caste, indirectly, by ignoring the caste consideration in the *Saṅgha* as well as in the lay-community. To cite, when Ānanda asked Prakṛti- a humble *Caṇḍāla* girl – to give him water to quench his thirst, she told him about her low caste. In replay, Ānanda told her that he did not know about high or low caste – she was just a human being as he was. All human beings were alike. They all belonged to the common race of mankind.

The arguments adduced in Buddhism against the caste system or anti-race can be viewed from the Ethical perspective. This argument is found interwoven in numerous dialogues. The Ethical Arguments are:-

(i). Ven Kaccāṇa further points out that if a person of any of the castes breaks into a house to steal or commits a robbery etc, he is called a thief. In the same way, if anyone of the four castes has gone forth from home to the homeless life and refrains from unwholesome acts, he is called recluse. Continuing his argument, he asks the king, Avantiputta, as to how he would behave towards two persons: the thief and the recluse. The king asserts that he would punish the first while the second would be honoured and respected and provided with the four requisites, irrespective of caste. The king is finally convinced that the four castes are identical on the ethnical grounds.

(ii). The same ethical argument is explained in the *Kannakathala Sutta* with the emphasis on striving, where the Buddha quoted the five qualities of striving to show that there is no difference of achievement by the striving person despite their caste distinction: (a) Faith in the Buddha; (b) good health; (c) not fraudulent; (d) full of energy and (e) endowed with wisdom.

(iii). The Buddha posed the question to Assalāyana in the course of the conversation: “Whom do you select to be the best to be served with offerings for the dead out of two uterine *Brahmin* brothers: one who is learned, skilled and of evil habits and the other who is not

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91 A.II. 101; Da.I.164; J.V.415; Aa.II.759; Ma.ii.692, etc.
learned, unskilled and of moral habits.” The Brahmin youth affirms that although uneducated the Brahmin of good moral habits is chosen to be served with the offering for the dead, but not the educated one who is of evil habits. The Buddha then showing the logical discrepancies of his affirmation says: “First you, Assalāyana, went on about birth, leaving birth you went on about learning, leaving learning now you have arrived at ethical purity, which is just what I lay down”.

(iv). In the Śoṇḍaṇḍa Sutta 92 the Brahmin Śoṇḍaṇḍa lays down five qualities to be a Brahmin: (a) Caste, (b) Good birth from both sides mother’s and father’s, (c) technical training in the Vedas and Vedic lore, (d) virtue, and (e) Wisdom. But in the course of the conversation with the Buddha, Śoṇḍaṇḍa is questioned in such a way that eventually eliminates the first three qualities and arrives at the recognition of a Brahmin by virtue and wisdom.

(v). The Brahmanic claim to superiority by birth is further refuted by suggesting an ethical etymology to the word Brahmaṇa: ‘Bahitapāpo’ti brahmaṇo’. One is a Brahmin because he has abandoned evil. This tendency is found even in the Aggaṇḍa Sutta where the specific role of a Brahmin is discussed. The entire Brahmaṇa Vagga of the Dhammapada follows the same trend and gives an ethical and moral twist to the word ‘Brāhmaṇa’. To quote one: “By whose body, speech, (or) mind no bad deed is done, restrained by the three means, him I call a Brahmaṇa.” 93 The Vāseṭṭha Sutta 94, too, conclusively states that the moral purity of a person should be counted as a prerequisite to be a Brahmin. The Vasala Sutta 95 totally rejects the Brahmanic claim of birth to be a Brahmin and says: “No one is by birth a Brahmin. None is by birth an Outcast. By deed one becomes a Brahmin. By deed one becomes an Outcast.” In Fact, the last stanza of the Dhammapada identifies the true Brahmin with an Arahant and says: “He who has attained all accomplishment, him I call a Brāhmaṇa.” 96

The word Brahmaṇa, by the time of the Buddha, seems to have acquired some sanctity due to its association with the pious and the sage of the past, which may have prompted the Buddha to suggest the world to denote an Arahant, the ethically Perfected One. As Prof. Rhys Davids says, “when the Buddhism is selecting a title of honour for those they valued so highly, for the best of men, for the Arahant, selected the name of Brahman, it is

92 D.I.111. ff.
94 M.II. 196 ff. Also in Sn.115 ff.
95 Sn.21 ff. : “ Na jaccā vasalo hoti, na jaccā hoti brahmaṇo, kammunā vasalo hoti, kammunā hoti brāhmaṇo.”
clear that the word in the opinion of the early Buddhist conveyed to the mind of the people an exalted meaning, a connotation of real veneration and respect.”

Buddhism in no uncertain terms speaks of the unity of humankind, over and above racial, tribal and caste distinction, which are imposed by racial prejudice. The Buddha argued for the oneness of all human beings and showed the path of realisation for all. The Abhidhamma work called Puggala Paññatti (Human Types), far from being an anthropological explanation of human races as such, analytically described human types according to ethical and moral grounds and discusses altogether twelve classes of intelligent beings. Out of the twelve, four belong to the average Puthujjana and eight to the Ariya (Noble). This classification is so fundamental it treats the entire human race inhabiting the Earth as one family.97 It may be said concluding that casteism or communalism in any form is not going to create a congenial atmosphere in the society and therefore our leaders must come out of this narrow minded approach and find out a lasting solution of equality and justice based on rationality and good will. It is pertinent to note that Buddhism puts great and unqualified faith in man’s perfectibility with no distinction as to class, race, and sex. Buddhism values the virtue of temperance and moderation-the Middle way.98

6.1.4.2. Anti-Religion or Religions Discrimination

Violence committed by secular governments and people, including the anti-religions, have been documented including some instances of violence or persecutions focused on religious believers and those who believe in the supernatural. In terms of religion, ethnicity, wars, and conflicts, Jack David Eller states: “When a pure or hybrid religious group and/or its interests are threatened, or merely blocked from achieving its interest by another group, conflict and violence may ensure. In such cases, although religion is part of the issue and religious groups form the competitors, or combatants, it would be simplistic or wrong to assume that religion is the “cause” of the trouble or that the parties are fighting about religion. Religion in circumstances may be more a marker of the groups than an actual point of contention between them.”

The prevailing criminal issues on anti-religion or religious discrimination may be demonstrated with the case example, which are as follows:-

Example: The CNN online website has reported on the news headline that “Bangladesh Muslims torch Buddhist shrines, police say”. The news in details are “(CNN)—Crowds of angry Muslims attacked Buddhist shrines and homes, torching them on Sunday in Bangladesh to protest after a photo of a partially burned Quran was posted on Facebook, police said. The protesters chanted anti-Buddhist slogans, blaming the burning of the Muslim holy book on a Buddhist Boy, district police superintendent Saleem Jahagir said. The boy is tagged in the photo but did not post it himself, Jahangir said. The boy’s account has been deleted and police are not naming him. The violence began in Ramu in Cox’s Bazar, a town south of the capital Dhaka of the coast, early Sunday and it spread in the adjacent areas through Sunday evening. At least seven temples were burned in Ramu and five others were damaged in other areas, police said. At least 50 houses were damaged or destroyed, they said. Police were not able to provide information on the number of people injured in the violence.”

Buddhist View on Anti-Religion or Religions Discrimination

Buddhist organization as well as individual scholars and activities have found an effective and useful role in interfaith peace initiatives. The Buddhist attitude towards other religions is noted with interest especially as it is not in competition with other either for conversion or recognition as the only path to salvation. It has been possible, therefore, for Buddhist participants in interfaith dialogue and cooperation to urge for the separation of strictly religious issues from economic, political and social problem, which for the most part contribute to conflict in today’s world. Increasing international involvement of Buddhists in interfaith activities for peace is an indication of the validity of the Buddhist position.

Thus, Buddhist can live and work with other religion without any discrimination. This could be possible, because Buddhist have been allowed to give respect to other religious teachers. Buddhist can visit other religious places and can join in the worship of other religions. In this respect, Asoka’s deeds and thoughts are very important. Mahinda said to Tissa that Buddhism could be deep-rooted in Ceylon only when a son born in the island of Tambraparni becomes a monk at Anuradhapura, studies the Vinaya there and recites that there. Apart from the policy of conversion, religious peace is weakened by conquests. Most of the nations inculcate the idea of conquest. There have been a large number of Buddhist

nations. After conversion Asoka hardly broke peace and he maintained and ruled a vast empire with complete success. He may be described a successful Buddhist king.¹⁰¹

The teachings by the Buddha himself were delivered to be followed by the people, not to convert the people. Conversion was a natural phenomenon, which took place after people understood the Dhamma that Buddha’s Dhamma, like a raft, is for crossing over, not for carrying over. The central objective of the Buddha’s Dhamma is not to make others a Buddhist just by their faith, but to make them a perfect human being. In the modern context, the meaning of crossing over can be taken as to get freedom from evils, inside and outside.¹⁰²

6.1.5. Criminal Issues of Physical and Mental Health

Health occupies a vital place in life. Whether it is a human or an animal or any other being, everyone wishes to remain healthy and happy with in its own way. Human being - more conscious, aware and intelligent - is the most gifted or luckiest one among all the beings. It is rather human only, who can think for its present and plan for future. This has generated a unique quality in human to think for his better hygiene and health. It is pertinent to note that health is regarded as the highest gain of life.¹⁰³ Health is something that one has to earn in life by exercising one’s own effort. An individual has to strive hard to gain it, and once he had got it, he should expend sufficient energy in order to sustain it. This involves the physical, mental as well as the social health of a person.¹⁰⁴

Health is defined by the World Health Organization (WHO) as “A state of complete physical mental, social and spiritual well-being and not merely absence of disease.” WHO further states that health is a dynamic concept and that it changes every moment. In this context, “true” health cannot be achieved by any individual in this world. The pendulum of health fluctuates between wellness, illness, disease and death. One has to strive to maintain this pendulum towards the “wellness” domain, by adopting preventive behaviour and lifestyle.¹⁰⁵ Nowadays, two issues directly involved with personal health but that causes major problem and affects both individual and society are; (1) Alcoholism and (2) Drug-addiction. Discussions on these two topics are as follow:-

¹⁰³ Dhp.Ve.204, “Ārogyparamā lābhā”
6.1.5.1. Alcoholism

Sociologists point out that though the basic needs of societies, whether primitive or advanced, remain the same, the difference lies in the means to fulfil them. The needs are: (1) a minimum satisfaction or individual needs; (2) perpetuation of the species; (3) internal unity and order; and protection from outside groups. In primitive societies, there were a limited number of primary needs fulfilled by alcohol, which is related to thirst and hunger, medicine and religious ecstasy; all of them have become practically obsolete in the complex contemporary society. There has, of course, been another function of alcohol, that of social jollification; a function, which has became of increased importance due to the peculiar demands of the individual in the modern society. Although the purchase and sale of alcohol are legal today in most U.S. jurisdiction, excessive alcohol consumption is considered a major substance abuse problem. Drinkers report that alcohol reduces tension, diverts worries, enhances pleasure, improves social skills, and transforms experiences for the better. Long-term use has been linked with depression and numerous physical ailments ranging from heart disease to cirrhosis of the liver.

Alcoholism like drug-addiction, also causes disillusionment, unhappiness and troubles in family life. An alcoholic finds it difficult to adjust with other people and so are the others uncomfortable with him due to his drinking-habit. The mental faculty of an alcoholic does not function in a normal way with the result he loses self-control and often behaves improperly at times picking up quarrels, accusing, abusing or insulting others or committing acts of aggression and violence. Thus, an alcoholic, while he is drunk is an irresponsible person faltering and pampering in many ways and prone to criminality at any moment. The acts of indecency or assault are usually committed by the persons who are under the influence of liquor or narcotic drugs.

In common parlance, anyone who indulges in excessive drinking is often referred to as an ‘alcohol addict,’ which is not an accurate expression in view of the various stages or phases one has to pass through to qualify as an addict in the medical sense. According to World Health Organisation (WHO) report, the proportion of alcoholics (addict and non-addict) varies from country to country, but does not exceed in any country 5 per cent or 6 percent of all users of alcoholic beverages. The ratio addictive to non-addictive alcoholics is unknown. Both addict and non-addict alcoholics attempt to rationalise their excessive drinking. In the case of non-addict alcoholics, the social repercussions are much less marked.

because of their ability to avoid drunken behaviour whenever the social situation so demands.  

Alcohol is another commonly abused substance. Although alcohol is legal to possess, it too has been linked to crime drunk driving and deaths caused by drunk drivers are growing national problem.\textsuperscript{109} Thus, it may be seen that abuse of drugs and alcoholism spells disaster not only for the addict but also to his family and the society as a whole. It affects the individual’s health and upsets his family life. That apart, these evils give rise to law and order problems, reduction in economic production and retards human welfare. Some of these drugs alter the senses while others cause depression.\textsuperscript{110}

The prevailing criminal issues on alcoholism may be presented with the case example, which is as follows:

The News headline on September 6, 2012 that “\textbf{Red Bull heir to face drunk driving charge}” was reported by Bangkok Post online. The news in details are; “A blood alcohol test on hit-and-run suspect and Red Bull heir Vorayuth Yoovidhya showed that he was over the legal limit to drive a car, police said on Thursday. Pol. Lt. Col. Viradal Tubtimdee of Thong Lor police station, Bangkok, Thailand, said Mr. Vorayuth’s blood sample contained 63 miligrammes of alcohol per 100 millilitres of blood, or a reading of 0.063%. The legal blood-alcohol limit in Thailand is 0.05%. “Mr Vorayuth will face an additional charge of drunk driving,” Pol. Lt. Col. Virodal said. Pol. Lt. Col. Akharawin Sukhonthawit, deputy chief of Thong Lor station, said a disciplinary committee had ruled out that Pol. Lt. Col. Pannapon acted illegally in trying to place blame on an innocent person to protect an offender. About 05.30 am on Monday, on Sukhumvit Road, a Ferrari driver Mr. Vorayuth, 27-years-old grandson of Red Bull energy drink founder Chaleo Yoovidhya, slammed into the rear of the motorcycle ridded by Pol. Snr. Sgt. Maj. Wichian Klanprasert, killing him instantly. Metropolitan Police Bureau deputy commissioner Jarumporn Suramanee said on Wednesday that a forensic investigation concluded that the Thong Lor police officer did not suddenly cut in front of Mr.Vorayuth’s Ferrari with his motorcycle, as claimed, but was hit straight on from the rear by the sports car, which was travelling at high speed.\textsuperscript{111}

Buddhist View on Intoxicants

Definition of ‘Intoxicant’ in the Pāli is ‘Majjasāra’\textsuperscript{112}, and the fifth precept deals with abstaining from taking of fermented intoxicants, liquor and drug. They were prevalent before and during the time of the Buddha. Many kinds of intoxicants are mentioned in the ancient Indian scriptures (Veda), such as Soma, Surā, Merya, or Majja. Madirā and Āsava. \textsuperscript{113} All of these terms are not synonymous\textsuperscript{114}. These are of many kinds and prepared from different materials like sugar, flour (Piḻhasarā), cooked rice (Odanasarā), flowers, fruits, honey, etc.\textsuperscript{115} Each one of the drinks differs from the others in degree of intoxication: some are more potent intoxicants, others are milder. However, the use of all kinds of intoxicants and drug was prohibited by the Buddha and the most religious teachers. The reason that Buddhism strongly emphasized the importance of Sati or mindfulness at every level of ethical conduct, because intoxicating drinks and drugs causes carelessness and becomes the basis of evil deeds. In other words, intoxication leads to commit various crimes and violate other precepts. As the Buddha says:

\textit{“The householder who delights in the Dhamma should not indulge in intoxicating drink, nor cause to drink, nor allow others to drink, knowing that it has intoxication as its end.\textsuperscript{116} Because of intoxication fools commit evil deeds, and make other intoxicated people commit them. One should avoid this on the basis of demerit, intoxication, and folly, and beloved of fools.”}\textsuperscript{117}

Like previous four precepts, it also requires the fulfillment of four conditions, which must be present in the moment of transgression of the fifth precept. They are: (1) Presence of intoxicants, liquor, drugs, (Madaniyami); (2) An intention to drink, (Pātukamyatācittam); (3) Effort to drinking, (Tajjo vāyāmo); and (4) The act of drinking, (Patiappavesanam).

In the completion of these four conditions, the fifth precept is transgressed. The transgression produced a grave offence in every circumstance with no exception,\textsuperscript{118} because taking of intoxicants and drugs cause carelessness. The Buddha accords a high value on carefulness. As the Buddha says in the Dhammapada:

\textsuperscript{116} SnA.69-70.
\textsuperscript{117} SnA.22.
\textsuperscript{118} SnA.20.
“Conscientiousness (is) the state of deathlessness, negligence (is) the state of death. The conscientious do not die; those who are negligent (are) like the dead.” 119

In this sense, Appamāda (Heedfulness or Carefulness) is used as a synonym of mindfulness. Therefore, mindfulness is regarded as a virtue necessary for observing of the fifth precept. It is a good quality to be developed in the mind, so that it facilitates the practice of the abstention from taking intoxicants. If a person places a high value on mindfulness, it will be difficult for him to destroy it by drinking liquors or taking drugs. In this context, the Sīgālovāda Sutta,120 the Buddha reveals six dangers of intoxicating drinks and taking drugs. They are: (1) actual loss of wealth; (2) an increase in quarrels; (3) spread of diseases; (4) loss of good character; (5) indecent exposure; and (6) impaired intelligence.

When any intoxication liquor has been taken with the intention that it shall be drunk and some thing is actually done to procure the liquor, and it has passed down the throat, the precept is broken that forbids the use of toddy and other intoxicating drinks.121 Buddhism sees that alcohol or intoxicants connects to Pamāda (Heedlessness), from which those who are Buddhists should abstain. The way that one of the Buddhist five precepts suggests that religious people must abstain from intoxicant agrees to the concept of Pamāda (heedlessness) mentioned many times in the Tipiṭaka. For laymen drinking makes heedless, for Bhikkhus primarily heedless and secondly concerning the unfaithful by those who do not have faith in the religion and less faithful by those who have faith.122 Therefore, the Buddha prohibited all kinds of intoxicants not only for the members of the monastic Order but also for lay devotees. If a monk or a nun drinks Śūra or any other alcohol, he or she commits an offence of Pācittiya.123 Thus, abstention from taking intoxicants is essential for all. The Buddha concludes as :-

“Who slays a living being, speaks falsely, takes whatever in the world in not given, and goes to another’s wife, and whichever man enjoys drinking alcoholic beverages, he digs out his own graves just here in this world.”124

So, it is very undoubtedly that the fifth precept in the Buddhist teaching is initiated to put the mind on proper footing or to maintain a balanced state of mind.

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120 D.III.182.


122 Chawarothe Wallayamaytee , Vice Management: Buddhist Perspective, Bangkok: Centre for Buddhist Studies, Chulalongkorn University, 2010, p.(III). (การจัดการเกี่ยวกับอบายมุขในสังคมไทยปัจจุบัน: แนวคิดทางพระพุทธศาสนา)

123 Vin.IV.108-110; BkP.Pct.,51 of Surīpāna Vagga; “Surāmerayapāṇe Pācittiya”

124 Dhp.Ve.246: “Yo pāṇam atipāreti musāvādaḥ ca bhāsati, loke adinnam adiyati paradārān ca gacchati.”
6.1.5.2. Drug-addictions

One of the main reasons for the criminalization of particular substance is the assumed association between commonly abused drug and crime. Drug-addiction is also closely interconnected with crime. Compulsion for narcotic makes every drug-addict a law-violator and criminal. Mere possession of narcotic is also an offence punishable under the law and therefore drug-addiction by itself adds to the crime-statistics.

Drugs abuse is highly complicated and multi-dimensional and is the inevitable result of a number of social, economic and cultural determinants of contemporary society. Siegel shows that almost four in ten violent crimes and fatal motor vehicle accidents involve alcohol. According to, arrestee date, the most recent National Surveys on drug Use and Health an estimate 1.2 million adults aged 18 or older were arrested for a serious violence or property offence in the past year. The survey found that of the arrestees.

1. Adults who were arrested in the past year for any serious violence or property offense were more likely to have used all illicit drug in the past year than those who were not arrested for a serious offense (60.1 percent vs. 13.6 percent).

2. Adults who has been arrested for serious violence or property offences in the past year were more likely than those not arrested for serious offenses to have used marijuana (46.5 percent vs. 10.0 percent) and cocaine, crack cocaine, hallucinogens, methamphetamines, heroin, and prescription drugs non-medically.

This pattern is not unique to the United States. Siegel’s study conducted in England found that about 61 percent of arrestees tested positively for at least one drug, a finding comparable to those arrested in the United States.

The Drug-Crime Connection: It is, of course, possible that most criminals are not actually drug users but that police are more likely to apprehend muddle-headed substance abusers than clear-thinking abstainers. A second, and probably more plausible, interpretation is that most criminals are in fact substance abusers. Although the drug-crime connection is powerful, the true relationship is still uncertain because many users have had a history of criminal activities before the onset of their substance abuse. It is possible that:

1. Chronic criminal offenders being habituated to abuse drugs and alcohol after they have engaged in crime; that is, crime cause due to drug abuse; (2) substance abusers turn to a life of crime to support their habits; that is the economic reason of drug abuse causing crime; (3) drug use

There are fourteen kinds of commonly abused Drugs: (1) Anaesthetics; (2) volatile Liquidsand; (3) barbiturates; (4) tranquilizers; (5) amphetamine; (6) cannabis (marijuana); (7) hallucinogens; (8) cocaine; (9) freebase; (10) crack; (11) narcotics/heroin; (12) steroids; (13) alcohol and (14) Club Drugs. Quoted in Larry J. Siegel, Criminology, Op.Cit., p.417.

Larry J. Siegel, Criminology, Ibid., p.423.


and crime co-occur in individuals; that is, both crime and drug abuse are caused by some other common factor. For example, risk takers may abuse drugs and also commit crime; (4) drug users engage in activities that involve them with peers who encourage them to commit crime or support their criminal activity. Kids who join gangs are more likely later to abuse substance and commit crime; and (5) drug abusers face social problems that lead them to crime. They are more likely to drop out of school, be underemployed, engage in premarital sex, and become unmarried parents. Social problems and not drug use are the cause of crime. Considering these possible scenarios, it is impossible to make a definitive statement, such as “drug cause crime.” However, while it is not certain whether drug use turns other wise law-abiding citizens into criminals, it certainly amplifies the extent of their criminal activities. And, as addiction levels increase, so do the frequency and seriousness of criminality. While the drug-crime link is still uncertain, drug use interferes with maturation and socialization.\(^\text{129}\)

In short, substance abuse is another type of public order crime. Most states and the federal government outlaw a wide variety to drugs they consider harmful, including narcotics, amphetamines, barbiturates, cocaine, hallucinogens, and marijuana. One of the main reasons for the continued ban on drugs is their relationship to crime. Numerous studies have found that drug addicts commit enormous offences.\(^\text{130}\)

The prevailing criminal issues on Drug Addiction may be presented with the case example, which is as follows:-

Bangkok Post online reported on October 13, 2012 with the headline “Drugs sweep in Udon Thani, Khon Kaen net 142 suspects”. The News in details are; “Police have conducted coordinated drug raids across Udon Thani and Khon Kaen, Thailand, arresting 142 suspects and seizing a combined 8,400 methamphetamine tablets. Officers from the Provincial Police Region 4, raided 23 locations yesterday in various communities in Tambon Tha Phra of Muang district in Khon Kaen as well as an undisclosed number of areas in Udon Thani. In Khon Kaen, police rounded up 51 suspects and also seized 3,100 methamphetamine pills and two packs of dried marijuana. Police confiscated weapons, bullets and 8,100 baht in cash from the locations. In Udon Thani, 92 suspects were taken in along with 5,200 speed pills, three packs of dried marijuana, 24 firearms and 125,000 baht in cash. Meanwhile, the Office of the Narcotics Control Board (ONCB) is seeking cooperation from the Information and Communication Technology (ICT) Ministry of Thailand, to curtail the illicit drug trade on social network sites like Facebook. ONCB Secretary-General Pol.

\(^{130}\) Ibid., pp.431–432.
Gen. Pongsapat Pongcharoen yesterday said his agency had kept a close watch on drug networks using social network sites to conduct the illegal drug trade. The Board has asked the ICT Ministry to find ways of stopping drug gangs from selling illicit drug online. The initiative follows the arrest of two Chiang Mai students who were charged with possessing speed pills and accused of selling drugs via Facebook. Arthit Khadhta, 21, and his girlfriend Darin Wanchupring, 19, were apprehended in Hang Dong District on Thursday in possession of 800 speed pills. Police tracked Mr. Arthis’s Facebook page for some time and found he used the social network to peddle drugs.¹³¹

**Buddhist View on Drug Addictions**

The Equivalent term for ‘drug addiction’ in the Pāli word is ‘Saṅkalana; Piṇḍana.’¹³² It is pertinent to the fifth precept in the Buddhist principle. Drug addiction is considered in Buddhism as a form of madness, folly and stupidity that lacks control of thought, speech and action.¹³³ The Buddhist fifth precept deals with this issue of drugs and alcoholism. The terms used are “Surā, Meraya, and Majja”. These three terms holistically refer to any form of substance that causes sluggishness and negligence. While trafficking of drugs is punishable by death in many countries, its serious effects remain confined mainly to the offender. Yet, its social repercussions are causes of serious concerns.¹³⁴ Drug addiction is one kind of six practices causing dissipation of wealth (Apāyamukkha).¹³⁵

According to the Buddhist principle, there are six dangers of intoxication and taking drugs as mentioned in *Sigālovāda Sutta.*¹³⁶ The six dangers are; (a) Actual loss of wealth, (b) an increase in quarrels, (c) spread of disease, (d) loss of good character, (e) indecent exposure and (f) impaired intelligence. These six resultant consequences are indeed pragmatic in social context so much so that marriages and families break up due to this so-called victimless crime, which in fact victimize and destabilize an entire social setup. Also in *Aṅguttara Nikāya*, the Buddha says: “Whoever does never wish in all his life to drink intoxicating drinks; he is rightly called a virtuous man.”¹³⁷ Drug addictions are the root of

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¹³³ Sn.398-399.
¹³⁵ D.III.182-184.: six Apāyamukhas are (a) Addiction to drink or using drugs addiction; (b) always visiting the streets during inappropriate times; (c) frequent enjoyment of entertainment; (d) addiction to gambling and (e) association with bad company and Being chronically lazy.
¹³⁶ D.II.182-184.
¹³⁷ A.V.174.
carelessness. The Buddha emphasizes the highest significance of *Appamāda* (Conscientiousness or Heedfulness) as mentioned in the *Dhammapada* as;

“Conscientiousness (is) the state of deathlessness; negligence (is) the state of death. The conscientious do not die, those who (are) negligent like the dead.”\(^{138}\)

In this context, the *Appamāda* (Conscientiousness or Heedfulness) is the synonym of *Sāti* (mindfulness). Therefore, *Sati* is regarded as a good value compulsory for observance of the fifth precept. For the social value of *Sati*, Ven. P.A. Payutto has brought out the quotation from the *Sedaka Sutta*,\(^{139}\) the Buddha’s words describing the value of *Sati* (mindfulness) bring out the profound concept of *Sati* in practical terms, of its nature and values of that of *Appamāda* (Heedfulness). The passage helps to further clarify our understanding of both of these *Dhammas*, and, at the same time, to demonstrate the Buddhist attitude towards life in its social dimension. It testifies that *Buddhadhamma* sees the internal life of the individual as intimately related to the external life of the society and holds that the values in the two realms are inseparably connected that they correspond, and are, in fact, identical.\(^{140}\)

Ven. Phramaha Narong Cherdsgunnoen had summarised the perspective and the benefit of *Sati* (mindfulness) as concerned with *Satipaṭṭhāna* practice in the main points as following:- (a) Physical development, such as health, sport, medical cure, mindful death, etc.; (b) social development, such as avoiding bad behaviour, activeness in social work; (c) mental development, such as training oneself and others, self-control, unshakable mind in sport-contests, etc.; (d) intellectual development, such as instruction of general courses, clear understanding on the teaching of the Buddha in scriptures, freedom from defilements and fetters, realization of truth, seeing the way of *Nibbāna*, etc. Thus, it can be summarized as the *Satipaṭṭhāna* practice is the foundation of the Enlightenment.\(^{141}\)

The precepts given by the Buddha focusing on individual should be maintained for personal development and social harmony. It enables to eradicate crimes, maintain peace among nations ultimately making the world as better place to live.

Consequently, having studied the aforementioned discussions, it can be observed that human beings commit crimes because of the three fundamental mental attitudes or

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139 S.V. 758-762.
141 Ibid., pp. 348-349.
Akusalamūla (unwholesome roots), such as Lobha (Greed), Dosa (Hatred), and Moha (Delusion), which are the vital origin and root of all controversial criminal problems. As we know that Lobha or Rāga, Dosa and Moha are the roots of unwholesome actions. Out of these, Moha (delusion or ignorance) is the greatest of all unwholesome roots of actions because; Lobha or Rāga and Dosa are caused by it. If Moha is replaced by Paññā (Wisdom), Lobha or Rāga and Dosa will cease to be or at least will be considerably reduced.142

Thus, it is the responsibilities of all social institutions to instruct the member of society to have right view, without which Moha (Delusion) enters the daily life preventing the resolve of criminal dilemmas. The Buddhist social institutions approach the problem from a different perspective and analyse the potential dangers inherent in those ‘crime’. Discussing the social implication of crime in details, Buddhism shows their contribution to an individual’s downfall. The Buddhist stand is, therefore, to prevent people from committing these crimes by educating them before they become hardened criminals.143

As mentioned earlier, all controversial criminal arguments, except anti-race and anti-religion, are incorporated with in the five precepts, which is the moral code of conduct code and is the fundamental Buddhist Principle. Other unwholesome attitude like the Papañcadhammas (Diversifications), such as Taṇhā (craving), Diṭṭhi (Dogma), and Māna (Conceit), are the root of anti-race and anti-religion. The affect of these elements involves different stages in making on individual to create life of misery, the suffering for everyone and it requires to be properly rectified in the beginning itself.

The significance of five precepts can be summarized by the words of Ven. Phra Medhīdhammaporn that; “the five Precepts bring good results to both individuals and society. They can help people to create a civilized world where they can live together in peace, harmony and economic prosperity”. According to the Buddhist thought, the basis of all improvement is self-improvement. Thus, an individual must change before society can change. Let there be peace and friendliness in the heart of the individuals first. The society, which consists of individuals, can be peaceful and harmonious only if its members, the individuals, develop a spirit of mutual understanding and tolerance. The Buddhist Pāñcasīla seeks to inculcate among men and women a spirit of restrain, of friendliness and goodwill. The five Precepts, preached to the world by the Buddhist twenty-five centuries ago, are Akāliko (Never Out of Date). We find them relevant to the present circumstances of the

143 Pategama Gnanarama, Op.Cit., p.44.
world. Most of the world problems, such as destroying life, uttering lies, taking what is not given, sexual misconduct, addiction to intoxicating drinks, wars, national conflicts, corruption, destruction of the environment, etc. can successfully be avoided by observing the principle of the five precepts. Moreover, the spread of AIDS, and drug abuse would have been solved if five precepts has been upheld and sincerely practiced in daily life by everyone. In order that the five precepts are observed throughout the world organization like the United Nations and the World Fellowship of Buddhists should persuade and encourage their member nations to uphold the spirit of the five precepts and secure its implementation. If the essence of the five precepts is upheld by people of all religions and society system, then the era of peace and prosperity will usher in the world.\textsuperscript{144} Every person, consequently, who observes the five precepts strictly will get good result in this life and next life according to the Buddha’s words in the \textit{Mahāparinibbāna Sutta}:\textsuperscript{145} “(a) the man of moral virtue gains a great mass of wealth; (b) the good reputation of such a man spread in all direction; (c) wherever he goes in the assembly of any type, he remains fearless and self-confident; (d) he never loses awareness even at the time of his death and (e) after death he is born in the realms of the \textit{Devas} (heaven) due to the accumulation of the fruition of his moral action.”

The benefits of the five precepts have been recomposed by the Thai monks acceding to Thai tradition and mentioned in a prayer-book, for easy reading and remembrance. It is as follows:

\begin{quote}
\textit{“Silena sugatim yanti, silena bhogasampadā, Silena nibbutim yanti tasmā silam visodhaye ’ti.}\textsuperscript{146}
\end{quote}

The five precepts are the fundamental code of moral conduct that is vital to all the Buddhist and as such it determines the best characteristic of a true Buddhist. To understand, appreciate and follow the five precepts is the fine peace of mind, responsible individual, homogenous society and peaceful world without crime. Peace and happiness would enable man to care and share in a pluralistic society. The highest happiness of every sentient being is peace, as the Buddha says in the \textit{Dhammapada} that “\textit{this is no happiness higher than tranquility},”\textsuperscript{147} and The Noble Eightfold Path, the only leading to \textit{Nibbāna, which is the best happiness},\textsuperscript{148} will certainly help teachable people to have rightly and will not bring them from involving in the commission of crime.

\textsuperscript{144} Phra Medhidhammaporn (Prayoon Mereak), \textit{Op.Cit.}, pp.112-113.
\textsuperscript{145} D.II.86.
6.2. Principles of Prevention and Reformation from the Buddhist Perspective

6.2.1. The Buddhist Teachings on Prevention and Resolution of Criminal Offence

Buddhism is a religion of all humankind. The spirit of Buddhism is not limited within any ethnicity and culture. The whole teachings of the Buddha may, however, be classified mainly into two levels: Lokuttara (Supramundane Level) and Lokiya (Mundane Level). The former aims at delivering the followers from worldly suffering whereas the later emphasized on the right way of belief and practice for the common masses who have not yet developed their minds up to a higher stage ready for deliverance so that they can, to some extent, have peace and progress in their lives. Everything the Buddha taught is for the pragmatic benefit to all living beings. His main concern is to remove human sickness of suffering, bringing loving-kindness, compassion, for oneself and others. His teachings to people are for the purification of their thoughts, speech, and actions, for destruction of suffering and sorrow, for overcoming of grief, for reaching the path and for the realization of Nibbāna. The whole teachings of the Buddha can be best summaries in the following triple ethic: “avoidance all evil, gathering of merit, purifying one’s own mind-this is the teaching of the Buddhas.”

He is therefore described as a person who appeared in this world for the welfare, benefit and happiness of the many, out of compassion for the world, for good and interest both of gods and human beings.

On this connection, the Buddhist teachings for prevention and reformation of criminal offence can be divided into three levels this teachings are beneficial maintenance of social harmony. The details of every level are discussed as;

6.2.1.1. The Primary Level

The Primary Level of the Buddhist teachings is the Pañcasīla (Five Precepts) and the Pañcadhamma (The Five Ennobling Virtues). It means good conducts which ought to observed by various people in society.

6.2.1.1. *Pañcasīla:* The Five Precepts

In Buddhism, the term *Pañcasīla* generally refers to the fundamental moral principle of laity. According to the Buddhist tradition, a person is suitable to be called a Buddhist only when he outwardly processes and formally undertakes to observe the *Pañcasīla* or five precepts. For who are not yet firm in these noble qualities, however, it is recommended that at least moral restraint through body and speech should first be developed by observing the five precepts, which are among the first factors of the ten principles for *Dhammacariyā* (virtuous living). The five precepts are;

1. Abstaining from killing: not taking life or doing bodily harm.
2. Abstaining from taking what is not given: not stealing, pilfering of filching; not violation [others] properties.
3. Abstaining from sexual misconduct; not violating the loved or cherished ones of others, thereby destroying their honor and dignity and confusing their family lines.
4. Abstaining from lying: not telling lies or using deceptive speech; not violating other people or their interests through speech.
5. Abstaining from alcohol and intoxicants; not taking wines, liquor, intoxicants or addictives, which are causes for heedlessness and drunkenness, and lead to damage and blunders such as accidents due to lack of mindfulness. An intoxicant person at least threatens the sense of security and well-being of fellow community members.

Every person who observes the Five Precepts strictly will get good result in this life and next life according to the Buddha’s words in the *Mahāparinibbāna Sutta*:

*“Fivefold, householders, is the gain of the virtuous person through the practice of virtue. In the first place the virtuous person, strong in virtue, acquires great wealth through his industry; in the next place, the good reports of him are spread abroad; thirdly, whatever society he enters, whether the noble, Bhāhmaṇas, heads of house, or members of the order, he enters confident and self possessed; fourthly, he dies without anxiety; and lastly, on the dissolution of the body, after death, he is reborn into some happy sate of heaven. This, householders, is the fivefold gain of the virtuous person.”*

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152 D.III.235; A.III.203,275; Vbh.285.
154 D.II.86.
6.2.1.1.2. Paññaadhamma: The Five Ennobling Virtues

The qualities of virtuous person are mentioned in the scriptures, referring to Silas (precepts) and Kalyàñadhamma (Ennobling virtues). One who has fully observed the precepts is not necessarily one who is equipped with virtue. These ennobling virtues or Kalyàñadhamma serve to ennoble those who practice them. They are five in number, each one corresponding to one of the five precepts, and being positive in nature, are more advanced than the negative prohibition. They are:- (1) Mettàkarunà: Loving-kindness and Compassion-corresponding to abstinence from killing; (2) Sammà-àjìva: Patience in the right means of livelihood-corresponding to abstinence from stealing; (3) Kàmasanàvara: Self restraint in sexual practices-corresponding to abstinence from committing adultery; (4) Sacca: Truthfulness-corresponding to abstinence from falsehood; and (5) Satisampajañña: Watchfulness-corresponding to abstinence from taking intoxicating drinks.155

6.2.1.2. The Secondary Level

The Secondary Level in the living standard of Buddhist is organizing one’s life and social relationships to build a solid foundation with normal’ code of discipline.

6.2.1.2.1. Kusalakammapatha: The Ten Wholesome Courses of Action

The doctrine of the law of Kamma, besides being the law of cause and effect, is a great asset for self-emancipation. Kamma can be performed through three ‘door’ or ‘channels’:- (1) Kàyakamma: Bodily actions or deeds; (2) VaciKamma: Verbal action a words; and (3) Manokamma: Mental action or thoughts. An action is either good or bad; a good action is called Kusalakamma (Wholesome) and a bad one, Akusalakamma (Unwholesome). Thus, Kusalakammapatha means the way of good which include ten qualities to be followed and practice for the development of good physical action, verbal action and mental action which together with the moral virtue or Manussadhamma (Qualities that make one human), who can be rightfully called civilized, if he conducts himself as follows:-

A. He has the threefold Sucarita, the three kinds of good or proper conduct:- (1) Kàyasucarita: Righteous bodily conduct; he does things that are virtuous and proper; the has good bodily conduct; (2) VaciSucarita: Righteous speech; he says things that are virtuous

and proper; he has good verbal conduct; and (3) Manosucarita: Righteous mentality; he thinks things that are virtuous and proper; he has good mental conduct.  

B. He abides by the Ariyadhamma (Noble Qualities) by practicing properly according to the ten courses of Kusalakamma (Wholesome Action):-

(1). Three of the bodily action or deed: (a) Abstaining from killing or taking life, oppression and harassment; possessing kindness, compassion and helpfulness; (b) abstain from filching, theft and exploitation; respecting the property right of others; and (c) abstaining from misconduct and violation of others’ loved or cherished ones, not abusing them, disgracing or dishonoring their families.

(2). Four of the verbal action or speech: (a) Abstaining from false speech; lying and deception; speaking only the truth, not intentionally saying things that stray from the truth out of a desire for personal gain; (b) Abstaining from malicious speech inciting one person against another; speaking only words that are conciliatory and conducive to harmony; (c) Abstaining from coarse, vulgar or damaging speech; speaking only words that are polite and pleasant to the ear; and (d) Abstaining from worthless or frivolous speech; speaking only words that are truth, reasonable, useful and appropriate to the occasion.

(3). Four of the mental action or thoughts: (a) Not being greedy; not focusing only on taking; thinking of giving, of sacrifice; making the mind munificent; (b) not thinking hateful and destructive thoughts or having a destructive attitude toward others; bearing good intentions toward others, spreading goodwill and aiming for the common good; and (c) cultivating Sammādiṭṭhi (Right View); understanding the law of Kamma, that good actions bring good results and bad actions bring bad results; having a thorough grasp of the truth of life and the world; seeing the faring of things according to causes and conditions.

The ten qualities are variously known as Kusalakammapatha (Wholesome courses of action), Dhammacariyā (Principles for Virtuous Living) and Ariyadhamma (Noble Qualities).

So, Buddhism emphasized the law of Kamma that man will be good or bad, depending on his own action. It does not down play the ability of human beings by sex, colour, nativity, tribe, ancestry etc.

156 D.III.215.
6.2.1.3. The Tertiary Level

The Tertiary Level in the Buddhism is *Aṭṭhaṅgikamagga* (the Noble Eightfold Path), it is the Sublime Path of the Holy Life when a person observed this path will attain the *Nībbāna*.

6.2.1.3.1. *Aṭṭhaṅgikamagga*: The Noble Eightfold Path

The Buddha proclaimed the Noble Eightfold Path as the only the path to *Nībbāna* (Liberation): it was the criterion by which he judged the teachings of other schools and found them wanting. His Entire teaching can be organized around the individual components of the Eightfold Path. The Eightfold Path is known as the ‘*Majjhimaṇḍaṭṭhāna*’ (Middle Path), because it avoids two extremes: one extreme being the search for happiness through the pleasures of the senses, which is ‘low, common, unprofitable and the way of the ordinary people’; the other being the search for happiness through self-mortification in different form of asceticism, which is ‘painful, unworthy and unprofitable’. Having himself first tried these two extremes, and having found them to be useless, the Buddha discovered, through personal experience the Middle Path ‘which gives vision and knowledge, which leads to Calm, Insight, Enlightenment, *Nībbāna*.’

The Eightfold Path consists of eight steps or dimensions. They are:-

(1). *Sammādiṭṭhi* (Right Understanding). Right Understanding is the keynote of Buddhism. It amounts to the knowledge of the Four Noble Truths. In other words it is the understanding of oneself as one really is. This understanding is the highest wisdom, which enables on to see the ultimate truth.

(2). *Sammāsāṅkappa* (Right Thought). When one has Right Understanding, he developed Right Thought as well. Right Thought is threefold. These are the thought of *Nekkhamaṇḍaṅkappa* (Renunciation or Detachment), which are opposed to lustful desire, *Apyāpadaṣaṅkappa* (benevolent Thought or love), which are opposed to ill-will, and thought of harmless or *Avihīṃsāsāṅkappa* (Non-violence), which are opposed to cruelty.

(3). *Sammāvācā* (Right Speech). It involves respect for truth and respect for the welfare for others. It deals with refraining from falsehood, slandering, harsh words, and frivolous talks.


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(5). **Sammā-ājīva** (Right Livelihood). Right Livelihood refers to how we earn our living in society. It deals with the kinds of trades, which should be avoided by a lay disciple.

(6). **Sammāvāyāma** (Right Effort). Right Effort means that we cultivate a positive attitude and have enthusiasm in the things we do, whether it be in our career, in our study, or in our practice of the *Dhamma*. Having this enthusiasm we can succeed in the things we do. Right Effort is the energetic will namely: (a) to discard evil that has already arise; (b) to prevent the arising of unawake evil; (c) to develop the latent good and wholesome state of mind; and (d) to promote that good and wholesome state of mind, which has already arisen.

(7). **Sammāsati** (Right Mindfulness). Right Mindfulness is fourfold. It is the mindfulness with regard to (a) the activities of the body; (b) sensation of feelings; (c) the activities of mind; and (d) the mind’s objects.\(^{159}\)

(8). **Sammāsāmādhi** (Right Concentration). Right Concentration is the last factor of the Noble Eightfold Path. It is the practice of developing one-pointedness of the mind on one single object, either physical or mental. It leads to the four stages of *Dhyāna*.\(^{160}\)

The above mention Noble Eightfold path is the way of life to be followed, practice and developed by each individual. It calls for self-disciplined in body, word and mind, self-development and self-purification. Without this Noble Eightfold Path there is no other way to get the highest goal of Buddhist life, i.e., *Nibbāna*.

### 6.2.2. Buddhist Perspective on Prevention and Reformation of Criminal Offence

#### 6.2.2.1. Internal Conditions

6.2.2.1.1. **Sammādīṭṭhi & Sammāsāṅkappa** as a major factor of the Path for Prevention and Reformation of Criminal Offence

[1]. **Sammādīṭṭhi** (Right Understanding)

The **Sammādīṭṭhi** (Right Understanding) is most familiar to us as the first stage of the Noble Eightfold Path. The Buddhist path, aiming for the eradication of *Dukkha*, begins with **Sammādīṭṭhi**. We may expect that it is the central Buddhist notions of the *Ti-lakkhaṇa* (three marks). **Sammādīṭṭhi** has knowledge of *Anicca*, *Dukkhā*, *Anattā*. When a view accords with these notions, it is a **Sammādīṭṭhi**. When we understand the nature of **Sammādīṭṭhi**, we may

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\(^{159}\) D.II.p.290

realize that Sammādiṭṭhi cannot be a simple connect of Micchādiṭṭhi, but an essential factor on the path to the overcoming of Dukkha.\(^{161}\)

Scope of Sammādiṭṭhi: From the various sources of the Pāli Canon, we can lay down the scope of Sammādiṭṭhi as follow:- (1) Understanding the Four Noble Truths; (2) knowing evil and roots of evil, knowing goodness and the roots of goodness; (3) seeing the three characteristics of existence; and (4) seeing the dependent origination.

Kinds of Sammādiṭṭhi: Right Understanding. According to Phra Dhammapiṭaka (P.A. Payutto), a Buddhist scholar, the Sammādiṭṭhi is divided into two kinds as follows:- (1) Lokiya Sammādiṭṭhi: that is the ‘right understanding’ in the lower level i.e., worldly right understanding; and (2) Lokuttara Sammādiṭṭhi: it means right understanding in level of supre-mundane or beyond the world, independent to the world.\(^{162}\)

(1). Paratoghosa: Listening to the teachings of others

In process of entering the Eightfold Path, positive guidance is essential. When analyzing the term Paratoghosa (Listening to the teaching of others) it is important to note the Pāli word Kalyāṇamitta (Having spiritual friends). Kalyāṇamittā refer to “a person who is well prepared with the proper qualities to teach, suggest, point out, encourage, assist, and give guidance for getting started on the Path of Buddhist training.”\(^{163}\) Having association with such a spiritual friend, we will gain better insight into the oath.

The term Kalyāṇamitta in the ultimate sense does not only mean “good friend;” rather refers to the Buddhist concept of spiritual friend. In Visuddhimagga, Kalyāṇamitta refers to the Lord Buddha, His disciples, and learned, wise men who are able to teach the Dhamma even though they may be younger than those whom they teach.\(^{164}\) One might ask how one is expected to know the difference between the good and the bad spiritual friend. For the persons who will act as good spiritual friends, it is imperative to be endowed with the following qualities: (1) Piyo: He is endearing, friendly to others, endowed with a heart or compassion and easily approachable; (2) Garu: He possesses good conduct which inspires confidence in others and is respectable; (3) Bhāvaniyo: He is a learned and well established in his training, his friends, respect and praise him although he does not need such praise, he gives all who meet him a good impression; (4) Vattā: He is skillful in communication, i.e., he can make others understand clearly what he wants to tell them. In others words, he can

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\(^{162}\) Phra Dhammapiṭaka, *Buddhadhamma*, Ibid.

\(^{163}\) Ibid., p.225.

\(^{164}\) See Vism.99-100.
make difficult subject easier for them to grasp; (5) *Vacanakkhammo*: He listens to others with patience, understanding and attentiveness. He endures criticism, objections and irrational speech even if the person talking is disrespectful or unkind. He responds to that person with good counsel derived from his good heart; (6) *Gambiraṇca katham kattā*: He can expound in depth on profound points, he can make these points clear to his friends and help resolve their problems or questions in the proper way; and (7) *No caṭṭhāne niyojaje*: He will definitely not mislead his friends in the wrong way or wrong direction.\(^{165}\)

(2). *Yonisomanasikāra*: Applying Critical and Systematic Reflection

The *Yonisomanasikāra* is the most important internal factor, which motivates *Sammādiṭṭhi* occurring in human mind. This teaching endows right systematic thought of real nature by understanding the conditional causes and common events in accordance with social issues as determined by situation in particular or social attitude. It has enough ability to search the causes and supporting conditions, finally it realized the events clearly.

The Buddha declared that “As an internal factor, I see not thing leads to such great benefit as *Yonisomanasikāra* (*Systematic Reflection*)”. So, what is *Yonisomanasikāra*? According to Rhys Davids interprets ‘Yoniso’ as ‘down to its origin or foundation’ i.e., thoroughly, orderly, wisely, properly. Thus, *Yonisomanasikāra* means ‘fixing one’s attention with a purpose or thoroughly’, pro attention having thorough method in one’s thought.\(^{166}\) And Ven. Phra Dhammapiṭaka (P.A. Payutto) defines the word in a very interesting manner. He says “The word *Yonisomanasikāra* is composed of *Yoniso* and *Manasikāra*. The word *Yoniso* has been derived from the word Yoni, which is interpreted as cause, origin, arising, place, wisdom, method, means or way. *Manasikāra* means acting in mind, thought, thinking of, intention, interesting or investigating. When the words are composes as *Yonisomanasikāra* it conveys the meaning of mental investigation or elaborated act in one’s mind”.\(^{167}\) *Yonisomanasikāra* is significant in both secular and ecclesiastical community, because it is the way that distinguishes right from wrong. *Yonisomanasikāra* works attentively to support *Paññā* (Wisdom), to make decision or final clear-cut judgment without doubtfulness on things investigated already; it comes to the conclusion on those things that are right by ways of systematic reflection.

The systematic reflection of Yonisomanasikāra: As mentioned, the first factor (having a spiritual friend) is the external factor which leads to the Eightfold Path. Going hand in hand with this external factor is an internal factor: systematic attention or reflection of Yonisomanasikāra. “As an internal factor, I see nothing that leads to such great benefit as critical reflection,” the Buddha declared. Internal reflection is the ability to think clearly, to look at things with critical eyes, breaking them down into their constituent factors and analyzing their causal conditions. In the Buddhist text, various methods of systematic reflections are given. Phra Dhammapiṭaka (P.A. Payutto) enumerate the ten methods on ‘how to think’ as based on Pāli Canon, which are as follow; (a) Thinking is terms of searching for cause and condition; (b) thinking by way of division; (c) thinking in the light of the characteristics of all things; (d) thinking in the light of Four Noble Truths; (e) thinking in terms of principle and aim; (f) thinking in terms of benefit and harm; (g) thinking in terms of true value and artificial value; (h) thinking by way of arousing or cultivating virtue; (i) thinking in the light of the present; which emphasized on the here and now; and (j) Thinking in the light of analysis.

This accomplishment brings about the Sammādiṭṭhi (Right Understanding). These processes of the two pre-requisites (Paratoghosa and Yonisomanasikāra) that leads to Right Understanding in the eight fold Path can be illustrate by the follow the chart: “Association with good people → attending to the study of the Dhamma → confidence → critical reflection → the Right Understanding”.

[2]. Sammāsaṅkappa: Right Thought

Accordingly, when you have critical reflection, you have proper understanding; this is, seeing and understanding everything according to its true nature. When all things are seen according to their true nature, proper thought is achieved; thoughts and views are correct, unbiased, unattached, and do not turn against you. When thought is free of likes and dislikes and is neutral in this way; this allows you to see things according to their true nature and increases proper understanding. From here, proper understanding and proper thought continue to support each other. As soon as you are able to practice critical reflection, the mind becomes clear, free, and liberated from biases (including both the positive things that have become attachments and the repulsive things that have been avoided). As with

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168 A.I.17.
170 Ibid., pp.657-727.
Micchāsaṅkappa (Improper Thought), Sammāsaṅkappa (Proper Thought) also has three types.

1. Nekkhammasaṅkappa or Nekkhammavitakka: Renouncing thoughts about sensuality-thinking without greed, without sensuality, not becoming entangled nor mixed up with things that promote desires of any kind.

2. Abyāpādasāṅkamma or Abyāpādavitakka: Not harboring, resentment nor feelings of revenge, not viewing things in a negative way; this means especially taking dhammic notions such as loving-kindness.

3. Avihimsāsaṅkappa or Avihimsāvitakka: Thinking without malice and bad intention; this means especially taking dhammic notions, such as compassion.

6.2.2.1.2. Hiri & Ottappa: Buddhist Principles for Prevention of Criminal Offence and Maintenance of Social Harmony

Living as we do in an era when we are provoked through every available channel to deviate from the norms of rectitude, and when social unrest, economic hardships, and political conflict further fuel volatile emotions, the need for extra protection become especially imperatives: protection for oneself, protection for the world.¹⁷¹ Buddhists also see the need to protect society from criminals. The Buddha points to two mental qualities as the underlying safeguards of morality, thus as the protectors of both the individual and society as a whole. These two qualities are called in Pāli, Hiri and Ottappa. The Buddha calls these two states the bright guardians (Lokapāladhamma) of the world that protect the world falling into widespread immorality as mentioned in Devadhama Jātaka of Khuddaka Nikāya, that “Those only ‘godlike’ will who shrink from sin. The white-should tranquil votaries of Good.”¹⁷² Also, they do not think of doing evil. They are manifested as the shrinking away from evil, building a channel to bring true happiness.¹⁷³

The term Hiri (Skt.: Hri) is generally translated as ‘shame, modesty; a shame, which deters a man from evil’,¹⁷⁴ or individual shame or feeling ashamed while doing the immoral action. It may be attracted whenever a moment comes for doing something immoral. Hiri allows the feeling of greatness of man. A man depending on the greatness of man to fulfill activities just like a girl from a high family. It is in this sense, regarded as conscience and put

¹⁷² J.I.126 ff.; DhA.III.74-6.: “Hiriottapasampamā, sukkadhammasamāhitā; Santo sappurisā loke, devadhammāti vuccaretā”. [Devadhama Jātaka]
in the nature of shame. It has its origin within. Truly speaking, it is a moral psychic state, which functions in arousing the sense of greatness of man as a rational being and makes him feel ashamed to do anything immoral. At the moment of doing anything immoral, it spontaneously springs up from within, and refrains him from doing so by accelerating the sense of his being the rarest creation on the earth with faculty of right understanding. It is just like a maiden of a noble family (Kulakumārī) whose each moving step has an unshakable link surcharged with the sublime tradition developed through the pious deeds of the family members, which go on reminding within and refraining her from doing anything wrong to it.

Ottappa (Skt.: Autrāpya). It means fear of wrong-doing, shrinking from evil, having a tender conscience, conscientiousness, or a feeling of social shame, social fear at the time of doing something antisocial. There are aggressions when a man finds himself on the point of doing something wrong to society. There is, on that occasion, a fear for wrong doing, inspiring force to abstain from doing the wrong deed. That inspiring force from within is Ottappa. It is another form of social shame in generic expression. It is a moral psychic factor, helps the generation of the sense of honour for the society. There are occasions, when one finds himself on the point of doing something socially immoral. Particularly on such occasion, there emerges greatness towards the social order and refrains him from doing so. It cuts down the immoral leaning, puts a restraint over the mind and vigorously stops in further proceeding. It is due to this factor, one does not do anything antisocial. The more it is developed in men, a more sound and harmonious social order develops.

Hiri makes a man recoil with moral shame from committing immoral deeds. A person, who has Hiri, recoils from evil just as a cock’s feather shrinks in front of fire. “To be ashamed of what one ought to be ashamed, to be ashamed of performing evil and unwholesome things: this is called moral shame”. Hiri opposes Ahirika which would commit any evil without the least compunction. Ottappa is moral dread or fear to do evil, because it is aware of the manifold evil consequences. As Hiri is different from ordinary shyness, Ottappa is different from ordinary fear of an individual. A Buddhist is not expected to be afraid of any individual, even a God, for Buddhism is not based on the fear of the unknown. “To be in dread of what one ought to be in dread, to be in dread of performing evil and unwholesome things: this is called moral dread.” Ottappa opposes Anottappa and can drive

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away the later. *Hiri* arises with respect to oneself whereas *Ottappa* arises with respect to others. Suppose there is an iron rod, one end of which is heated red-hot and the other end smeared with filth. The filthy end one would not touch owing to disgust, and the red hot end, one would not touch due to dread. *Hiri* is compared to the former instance and *Ottappa* to the later instance.\(^{180}\) *Ottappa*: It generates honour for society by explaining that if wrong deed like that is done, people will rebuke. Hence, out of fear of the society, one refrains oneself doing antisocial work. A man, for instance, afraid of fire, does not touch it and therefore, he is not burnt. But one who is not afraid of the fire and touches it, he is burnt. The former is just like *Ottappa* and the later is like *Aottappa*. *Ottappa* refrains one from doing something immoral. It generates fear at the moment of doing immoral. It appears from the outside and not from within.

*Hiri* & *Ottappa* can be summarized as being Supreme *Dhamma* to develop one to be possessed of good conscience, the societies to be harmonious and the nation to be a peaceful one to live in. *Hiri* and *Ottappa* differentiated man from beast not to indulge in immoral acts such as sexual relations between mother and son or between father and daughter even at the time of very low civilization. So, *Hiri* and *Ottappa* are known as *Lokapāla Dhamma*, i.e. the Guardian of the worlds,\(^{181}\) that it protected both individual and society as a whole. There is no need of laws, government, and leader of king to govern the human society; when they are have *Hiri* and *Ottappa* in their mind. Humanity will governed by itself with spirit of this pair of virtues. The person who has *Hiri* and *Ottappa* will express himself both negatively in the way of being afraid of doing an evil, bad action and corruption and positively in the way of loving goodness, having right thought and right speech, doing good action, and having sincere and right conduct. *Hiri* and *Ottappa* are the bases of good conduct and good action to improve oneself to have good environment, good societies, good mind and good wisdom. One who possesses the pair of virtues can adjust one’s life in a balance manner, and his body and mind are very strong. He can support the society by good conscience and responsibility, and with good principles in leading the family life thereby improving the societies.

Therefore, *Hiri* and *Ottappa* are the Supreme *Dhamma* (*Devadhamma*) and Guardian of the world (*Lokapāladhamma*), that are to develop and protect the sentient being to be possessed of good conscience. Given the intricate interconnections that exist between all living forms, to make the sense of shame and fear of wrong the guardians of our own minds


is to make ourselves guardians of the world,\footnote{http://www.accesstoinsight.org/lib/authors/bodhi/bps-essay_23.html, accessed on June 30, 2012.} this can make individuals more responsible the society more harmonious and the world more peaceful and without criminal problem.

\textbf{6.2.2.2. External Conditions}

Buddhism does not consider material welfare as the end of life; it is only a means to a higher and nobler end. The Buddha’s teachings are concerned with the every aspect of life as whole, not only its ethical, spiritual and philosophical aspect, but also all its social, economic and political aspects.

The external conditions for prevention and reformation of criminal offence are as follow:-

\textbf{6.2.2.2.1. Physical Disability}

Strictly speaking, ‘disability’ refers to the absence of ability. Over time, the label “person with disability” has become an accepted way to describe a large and diverse group. Some are born with a disability, some trace their disability to an accident or illness, and for some the process of aging has brought a loss of ability. With all this diversity, people with disability share a collective identity and the common experiences of vulnerability, exclusion, and discrimination.\footnote{Amanda Smith Barush, \textit{Foundation of Social Policy: Social Justice in Human Perspective}, 3\textsuperscript{rd} Edition, USA: Brooks/Cole Cangage Learing, 2009, p.263.} According to Buddhism, man is combination of \textit{Nāmarūpa} or psychological and physical components and not product of the so-called ‘creator’ of the universe.\footnote{D.I.18, M.I.327.} Buddhists believe that humanism has ultimate faith in man. It believes that human beings have power or potentiality of solving their own problems. And in solving their problems they rely mainly on reason and scientific method applied with courage and vision.\footnote{Lalan Kumar Jha, \textit{Buddhism A Humanistic Approach}, New Delhi: Samyak Prakashan, 2004, p.16.} Man is the only creator and designer of his own life and word, under the causal law of action. The Buddha establishes a society where human suffering is reduced to minimum and put to an end.\footnote{Tu,Thich Nhat, \textit{Op.Cit.},134.} Buddhism that great emphasis has been laid in rationalism. The Buddha used to say “\textit{Do not believe any thing only because it has been told by the Tathāgata but go into its nature, judge by yourself and then rely it.”} He has explained in his teachings that by “\textit{You should live as island into yourselves, being your own refuge, with no one else as your refuge.”}\footnote{D.II.100; S.III.42, V.163; “Ātadīpā viharatha, attasaraṇā, anahāsaraṇā”} Human is his own master as the Buddha says in the \textit{Attavagg} of the \textit{Dhammapada:}
“One is indeed one’s own lord. What other lord could there be indeed? With oneself well-restrained, one indeed gets the lord that is so hard to get.”

He further says that “The self is indeed the self’s own lord, the self is indeed that self’s own destiny; therefore, restrain yourself as a merchant (restraints) a good horse.”

In this way it is found that Buddhism believes in the capacity of men to progress. In some people this capacity or force remains dormant but can be awakened by training of Vipassanā. Thus, Buddhism as a philosophy and way of life is much older than the idea of humanism of the medieval period or Cote’s philosophy. Nevertheless, ethical ideal has been part and parcel of Buddhism since its birth.

On the other hand, humanism depending especially upon the laws and facts of science, believes that man is an evolutionary product of this great nature of which we are a part. So, regarding to criminal evolution as described in the Lombroso’s theory which argued that criminals are distinguished from non-criminal by multiple physical anomalies. He postulated that criminals represented a reversion to a primitive or subhuman type of man characterized by physical features reminiscent of apes, lower primate, and early man and to some extent preserved, he said, as modern “savages.” The behavior of these biological ‘throwbacks” will inevitably be contrary to the rules and expectations of modern civilized society, and he become convinced that the “born criminal” could be anatomical identified by such items as a sloping forehead, ears of unusual size, asymmetry of the face, pragmatism, excessive length of arms, asymmetry of the cranium, and other ‘physical stigmata.’ Specific criminals, such as thieves, rapists, and murderers, could be distinguished by specific characteristics that can be believed. On this point, Buddhist principles argue against the above theory of Lombroso. For supported by this reason, Buddhism believes in the action of person and results of action. Our own action, good and evil deeds, reward and punishes us. As the Buddha says in the Dhammapada:

“The evil is done by oneself; by oneself one becomes impure. The evil is undone by oneself; by oneself one becomes pure. Purity and impurity depend on oneself. No one can purity another.”
No one can make one’s life good or bad except himself. Even the Buddha is just only the person who shows the way by expressing the following phrase: “An effort must be made by you. The Tathāgatas are (only) proclaimers.” Further on, the Buddha rejected the origin of human by birth, and adopted the theory of Kamma as state in the Vasalasutta of the Sutta Nipāta, which run as follows:

“No one can make one’s life good or bad except himself. Even the Buddha is just only the person who shows the way by expressing the following phrase: “An effort must be made by you. The Tathāgatas are (only) proclaimers.” Again, adds that “Good actions bring good result, bad actions bring bad results.” Further on, the Buddha rejected the origin of human by birth, and adopted the theory of Kamma as state in the Vasalasutta of the Sutta Nipāta, which run as follows:

“By birth one does not become a great man or by birth one does not become an outcast. By deeds one becomes an outcast by deeds one becomes a great man.”

From this stanza, we can conclude that it is not the birth of the family that makes human being different, human being are different by their action. Thus, to solve this problem every one should deed good and refrain from bad action. Everyone should realize the value of a human being and should believe in the potential of humans that can be developed. Every human being has the seed of awakening and insight within his or her own mind. No one can be born by choose, but everyone have a chance to be good member in society, and could establish oneself firmly (Attasammāpanidhi) in virtue and a right way of life; to establish a clear and virtuous goal for one’s life and work, and set oneself resolutely and firmly on the right path to the goal, not wavering or being negligent.

For this reason, the human value, will, effort, potentiality, responsibility and dignity lie fully in him. One is advised to follow the Buddha’ teaching, only after a careful consideration on its nature and values, and seeing it conducing to well-being and happiness.

6.2.2.2. Family Condition

Family is an institution highly valued in the Buddhist system of thought. The nuclear family as well as the extended family is often referred to in Buddhist literature. In a family, relationships between the members are intimate, expressive and specific. The Buddha refers to parents in such respectful terms as ‘the Brahmas,’ ‘the foremost divinities,’ ‘the foremost teacher,’ those worthy of offering by their children. It is not surprising that Buddhism strongly emphasizes the needs to give the most important and highest honour and

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194 S.I.227; J.II.119;Vol.III.157. “Yādisam vapate bījam, tādisam labhate phalam. kalyānakāri kalyānam pāpakāri ca pāpakam”
195 Sn.21 f.. “Na jaccā vasalo hoti, na jaccā hoti brāhmaṇo, kammanā vasalo hoti, kammanā hoti brāhmaṇo.”
199 A.II.68; Gs.II.79.
respect to parents. In the Itivuttaka, the Buddha says: “The parents do much for their children, O, monk, give them life and love, nurse and bring them up, and introduce them to the world.”200 Family is the fundamental unit of society and a vital social institute which is the standing point to prevent, solves and eradicates crime. Decent family members have good manners, maintains virtuous condition, abide by community rules and regulations, and do not behave themselves in ways that are objectionable or damaging to the community. They are known to forgive each other, compromise each other in various areas, respect and honor each other views; they reach consensus and agree on the main principle, they adhere to the some ideals, principle of virtue for the ultimate aim. A good family contributes to the society by being responsible social members maintaining peace and harmony thereby the problem of crime is prevented, reduced and eradicated.

The Buddha taught, the family members should be dutiful and grateful to their parents by honouring rightly the service done to them. The Mañgala Sutta fulfilment of filial duties as one of the most auspicious acts.201 In the same tone it is said in the Parabhāva Sutta that the son who is competent enough, yet does not attend on his parents, who are old and advanced in years, would own his downfall by their negligence.202 In the same way, giving an ethical twist to the word ‘Vasala’ the Buddha said that a negligent person is to be known as a Vasala, a low-caste.203 The Sigālovāda Sutta,204 gives five ways in which a family members should be grateful to each other. For the parents are compared to eastern direction or forward direction by performing certain duties towards them according to the noble discipline: - (1) having been supported by them I will support them in return; (2) I will do their work for them; (3) I will keep up the honour and the tradition of my family; (4) I will make my self worthy of my heritage; and (5) I will make offering, dedicating merit to them after their death.

For parents also five duties are prescribe in Sigālovāda Sutta. They are advised to:- (1) Keep their children away from evil; (2) train their children in virtue; (3) to teach their children arts and culture; (4) arrange for their marriage to suitable spouse; and (5) hand over inheritance to them in due time.

In order to make it possible the Buddha has prescribed certain duties to be performed by each partner. By careful analysis, it is evident that the instruction of the Buddha are really, helpful and more forceful in bringing harmony between the husband and wife and

200 It.109; A.II.68; Gs.II.79.
201 Kh.136.
202 Sn.91-115
203 Sn.116-142
204 D.III.189-192.
thereby in family in particular and in society in general. From the husband side, there are a number of conditions peculiar to a woman, which a husband should take into consideration and to which he should respond with care and sympathy. According to the *Sigālovāda Sutta*, the Buddha has prescribed following duty of husband toward his wife as:- (1) by honouring her; (2) by being courteous to her; (3) by being faithful to her; (4) by handing over authority to her; (5) by providing her with proper ornaments. The wife, on the other hand, as the most intimate counterpart of her husband is obliged to reciprocate his love and concern by fulfilling the five duties. She should endeavour, so that:- (1) the household affairs are to be well managed; (2) she should be hospitable and helpful to relations and friends of both sides, (3) she should be faithful to her husband; (4) she should take care of wealth that has been acquired; and (5) she should be skillful and industrious in all her works.

The foregoing description highlights the importance of the first basic relationship between every member in the family, which is the fundamental unit of the society. It is also considered the micro unit which plays and importance role in development of the individual to adjust himself to the expectation of a society. Understanding the importance of family life, the Buddha has laid down the above set of virtues to be followed by each family member.205

### 6.2.2.2.3. Economic Condition

Economic Condition or poverty is another condition that leads to crime. Poverty has often been created by weak political administration. It is a social condition which adversely affects the equality of life of individuals in a given society. Wide-spread poverty and unemployment, unfair distribution of wealth, insufficient provision of services, lack of opportunities for personal achievement, tells us the state of poor living. This kind of living is powerful enough to press a person commit crime. The Buddha tells us that poverty makes man have false understanding that leads to commit crimes.206

According to Pāli literature, *Kūṭadaṇḍa Sutta*,207 King Mahāvīchitarach had many properties, and wanted to retain them for as long as he lived. So, he wished to offer a sacrifice in order to give satisfaction to the group of angels, who, according to his ideas, were persons who could give everything to him. In this case, the king’s chaplain, who was a Brahmin, stated that the heart of the king is his people and if the king cannot understand their needs and that therefore it is possible that some of them will protest against him, and destroy his properties. The king’s advisers said, ‘our country has enemies who persecute us


207 D.I.136. [*Kūṭadaṇḍa Sutta*]
and steals from our homes, villages, and cities; if you, as the king, perform an act of worship, this is the right thing to do. Moreover, the king’s advisers argued convincingly that suppressing enemies such as thieves by killing, confinement, fines, banishment or deportation will not completely eliminate theft, because the thieves who are not caught will continue to steal. As an alternative, the king’s adviser suggested a process of administrative science and economic development.

(1). The state should develop the economy of the poorer class by providing plants and foods to people who were diligent, so that they could practice agriculture and raise animal, subsidizing them until they could help themselves.

(2). The state should develop the economy of the middle classed by providing material and financial support, in order to permit them to buy products and goods from the agriculturists. This is an excellent way for rotating good and services.

(3). The leader of the state should motivate administrator by offering food and raising the salaries when they attempt to work very hand in order to serve people and develop the country continuously.208

The king carried out those advices and, the people begin to earn an adequate living through righteous occupations, the resort of stealing and killing out of poverty and unemployment disappears accordingly. Thereafter, the country prospers and progress in peaceful and harmonious atmosphere.209 The importance of proceeding with a dual policy to develop the country is clearly seen. The king’s adviser concluded, “whenever citizens are diligent, concentrate on their work, do not confine or take advantage of other people, the people in their country will be able to live peacefully, and people will be happy and family will have happiness”.

The Buddhist method for prevention and resolution of criminal offence in the sphere of economy follows that The Government should focus on income distribution policy without any discrimination. Especially, the state enterprise must adopt welfare state policies for the poor people, people with a disability, and old person. Within this framework of economy as a just society, every member lead Sammā-ājīva (A righteous Livelihood) with sincerity, honesty, keeps track of his income and expenditure and lives within his means so that he is neither deprived nor extravagant, and has income left over for saving,210 and devo

of all *Miccā-ajīva* (Wrong of Living) or avoid from *Miccāvanijjā*\(^{211}\) (trades which should not be plied by a lay disciple). For the individual, the objective of livelihood is to acquire the four necessities or requisite of human existence: food, clothing, shelter, and medicine. Again, the acquisition of these four requisite, be it in sufficient amount or in surplus, is not the ultimate objective. The four requisites are merely a foundation upon which efforts to realize higher objective can be based.\(^{212}\) So, everyone must earn a living or makes wealth by his own ability, effort and strength in a lawful and righteous way. In this context, the Buddha states that “*righteousness is the best thing for people in this life and the next.*”\(^{213}\)

In fact, the important characteristic of Buddhist economics is that it is a ‘middle way’ of *Majjhimaṇḍapāpadā*. It might be called a middle-way economics. The path of the middle-way in the Buddhist economy is between too much and too little. So the middle-way means ‘just the right amount’ Buddhism is full of teachings referring to the middle-way, the right amount, knowing moderation and all such economy. Knowing moderation is referred to in the Buddhist Canon as *Mattāṇṇutā* (Knowing moderation). Knowing the right amount in consumption refers to an awareness of that optimum point where the enhancement of true well-being coincided with experience of satisfaction.

### 6.2.2.2.4. Social Condition

Human beings are social animals, having a natural desire to live in communities. They depend upon society for their well-being and for their satisfaction in life.\(^{214}\) Buddhism not only looks on human beings from the perspective of individuals, but also from a second perspective, as components of society. In this sense, human beings are not separate individuals but members of communities.\(^{215}\) The social conditions that encourage crime are emphasized in Buddhism, namely through friends and association, crime victims and inefficient institution. Bad Friends and association are the factors that make a person have wrong understanding and commit crime. This view of Buddhism is identical to Sutherland’s theory of Different Association. The Theory can be concluded that Criminal behaviour is learned in interaction with other persons in a process of communication. The principle part of the learning of criminal behaviours occurs within intimate personal groups. A person becomes criminal because of excess definitions favorable to violation of law over definitions

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\(^{213}\) D.III.83.


unfavorable to violation of law. In short, differential association theory pointed out that bad association cause crime. Buddhism concluded that bad association makes false views, and false views make a person commit crime.\textsuperscript{216}

Harmony, cohesion and integration are seen in Buddhism as great qualities for social development and as the Buddhist means for prevention and resolution of criminal offence in the society. There are several social principles contributing to the strength of the social order and harmony which is without criminal problem. Among those principles, the four principles of growth known as the four Cakka (the conditions likened to the four wheels that carry vehicle to its destination) and guide life of prosperity and eminence if practice according to the teaching of the Buddha; namely:- (1) Paṭirūpadesavāsa : choosing a suitable environment; (2) Sappurisūpassaya: associating with good people; (3) Attasammapanidhi: establish oneself rightly; and (4) Pubbekatapuññatā: having a good ‘capital foundation.’\textsuperscript{217}

Other social principles for ensuring unity among community are known as Saṅghavatthu\textsuperscript{218} (foundations of social harmony), namely:- (1). Dāna: giving or generosity; (2) Piyavācā: amicable-speech; (3) Atthacariyā: helpful action; and (4) Samānattatā: Participation.

Buddhist principle of a social harmony without criminal problem is based on mutual social interest or the welfare of oneself and other. The mutual interest and responsibility according to Buddhism starts from every members of the micro unit of the society, namely, family. If society is established on the total number of family, the status of the family, whether healthy or unhealthy determines the status of the society. The mutual interest can be between parents and children, husband and wife, teacher and pupil, religious person and layman, master and servant or among friend. The concept of society bases on mutual social interest is best addressed by the Buddha in the discourse on the advice to Sīkāla as prescribed in Sigālovāda Sutta.

6.2.2.2.5. Political Condition

Buddhism views the problem in ethical and moral perspective and at the same time recommends the removal of those factors which create a breeding ground for criminals. Of course the measures to be taken have to be devised by kings and states for the good and well-being of their citizens. Therefore, being humanistic in outlook, Buddhism considers that

\textsuperscript{216} Annop Choobamroong, \textit{Op.Cit.}, pp.63-64.
\textsuperscript{217} Phra Dhammaditaka (P.A.Payutto), \textit{A Constitution for Living}, (Thai Version), \textit{Op.Cit.}, p.35. (ธรรมนูญชีวิต)
\textsuperscript{218} D.III.152-232.
life is dear to everyone. Hence to make a country secure and safe, the king or the government should take steps to maintain law and order by enforcing relevant laws and punishments for the purpose of creating a consciousness of legal procedures. The judiciary must be impartial with provisions for a just and fair trial as there was in the Vajjan kingdom 25 Centuries ago.\textsuperscript{219} According to the Pāli Texts, crime can be traced to the ethico-psychological and socio-economic origins, such as the wanton greed of the individual, and poverty or even mal-distribution of wealth by the state. Out of these causes, the former is seen as primary cause, for Buddhism considers psychological conditioning as the force producing action of good and evil. Today political intervention to prevent, resolve and eradicate criminal problem gains much significance and is of tremendous importance. With the progress of time effective policy to regulate the government machinery and the citizens is a condition more necessary than other. Politics especially in a democracy is based on the principle that legislators are the elected representative of the people, by the people of the country for running the government efficiently on their behalf. The progress of a country depends on the policy enacted and the administration of these political leaders.

Citizens and politicians who contribute to bringing about good administration should know and abide by the seven Buddhist principle of Aparihāniyadhamma. This principle of collective responsibility demands the practice of active participation in the government from both the people and politicians alike. Aparihāniyadhamma: It follow then that the strict observance of Aparihāniyadhamma guarantees for them an ideal society free of crime and other evils which leads only to prosperity. Ven. P.A. Payutto summarized the idea constituted in the following lines: - (1) To hold regular and frequent meeting; (2) to meet together in harmony; disperse in harmony, and conduct business and duties in harmony; (3) to introduce no new ordinances, to break no established ordinances but to abide by the original principles; (4) to honor and respect the elders and listen to their counsel; (5) to honor the womenfolk of the community, not to abuse them; (6) to honor the shrines worshipped by the community and not to neglect the ceremonies to be conducted for them; and (7) to provide rightful protection, shelter and support for the Arahants (Enlightened beings) and welcome them to the community.\textsuperscript{220}

Thus, according to Buddhism, although punishment can not be denounced totally, it is not considered as an effective safeguard against crime and social evils. It is the duty of the state to rehabilitate criminals by providing them proper assistance in earning a righteous


living. This includes ethical education, encourage living in suitable environment, being associated with the wise friends and encouragement of training oneself in proper conduct along with improving the quality of life to the people. This ethical and social approach is seen as eradicating permanently all unethical tendencies and their derived crime.  

### 6.2.3. Alternative Buddhist Solutions for Punishment

The assumption of rehabilitation is that people are not permanently criminal and that it is possible to restore a criminal to a useful life, to a life in which they contribute to themselves and to society. A goal of rehabilitation is to prevent habitual offending, also known as criminal recidivism. Rather than punishing the harm out of criminal, rehabilitation would see, by means of education or therapy, to bring criminal into a more normal state of mind, or into an attitude which would be helpful to society, rather than be harmful to society.  

Buddhism holds the view that a person is good as soon as he refrains from doing evil. The Buddhist attitude towards criminals is focussed in a way so that they may reform and rehabilitated to be good citizens. Buddhism does not advocate inhuman corporal punishment. The punishment has to be levied after a careful consideration of facts in accordance with the law. There should not be any motive of retaliation or revenge on the basis of a ‘tooth for a tooth’, but levied out of loving-kindness and compassion with motive to reform, correct and rehabilitate.  

In fact, the Criminal is a human being; he should be respected as a human, and not an animal. In Buddhist teaching, we have no rights to act violently even to animals, so how much we should respect our human fellows notwithstanding they are our friends whose are the Criminal.  

According to the Buddha, immoral deeds should be won through moral activities. This is a way for reformation of criminals. In the *Dhammapada* the Buddha said that:-

> “Here (in this world) hatreds are indeed never appeased by hatred and are appeased by non-hatred. This is the eternal law.”

The Buddhist teachings in the *Abhayadāna* that is the great *Dāna* which means of ‘giving no danger’ is primarly developed by *Sammādiṭṭhi* (Right Views) and *Sammāsaṅkappa* (Right Thought) which are the result of *Mettā* (Loving-kindness) and *Karunā* (Compassion). *Abhayadāna* conducted through body, speech and mind is strongly recommended as one of the Buddhist peaceful means for reformation and rehabilitation of...
criminals. It is not only reformation and rehabilitation after a criminal act is committed, but it is also the means for prevention of criminal activity. The Abhayadāna through the mind primarily plays a very important role in Mettā (Loving-kindness) and Karuṇā (Compassion). Subsequently, the Abhayadāna through speech is right Speech of saying an excuse, meanwhile the Abhayādāna through body shows respect to human beings. All these factors helps in dissolution of identity attached to crime resulting in the transformation of a criminal to a reformed person.

The Buddhist jurisprudence is also based on the Brāhmavihāra. The most important teaching of the Gotama Buddha, concerning for humanity gets a wider and distinct expression through Brāhmavihāra-the four sublime states of living as professed by the Buddha. Each of its constituents- Mettā, Karuṇā, Muditā and Upekkhā is a distinct example of practical execution of the ideals of humanity. While Muditā (Selfless joy) and Upekkhā (Equanimity) are inner feelings to be had at mental level, the former two are directed towards others. The need to practice Brāhmavihāra arises for the emergence of social order with the reign of complete harmony and universal peace in this chaotic world of today. Brāhmavihāra has four sublime or divine abode; also called Appamañña (the four Boundless States). Therefore, these four sublime states are considered to be the noblest of humanity’s qualities. Practicing these noble qualities generate peaceful living.

Consequently, the Buddhist tradition highlights the only reason that Buddhist accepts for punishing a criminals is to help reform his or her character. The Metta (Loving-kindness) and Karuṇa (Compassion) as the alternative Buddhist solutions to punishment for the criminals are to bring about a complete change of character, revolution in values and attitudes and to lead the criminal into a new life from which they never falls back.

6.2.3.1. Mettā & Karuṇā: Buddhist Solution for Reformation and Rehabilitation of Criminals

[1]. Mettā: Loving-kindness: The term “Mettā” (Skt.: Maitrī) is variously translated as loving-kindness, love, friendliness, benevolence, good will, etc. Prof. Mahesh Tiwary described the Mettā and that it is the name of the moral volition of well-being of all (Hitesitā paraḥita-kāmata). It is the boundless extension of friendly consciousness from self (Swa) to all (Sabba). All the beings become its object. There is none who remains untouched with the

224 D.II.196; D.III.220; Dhs.262; Vism.320.
soothing wave.²²⁹ Ven. P.A. Payutto had given the meaning of ‘Metta’ that it means goodwill, and amity, the wish to help all people attain benefit and happiness.²³⁰ Further, Dr. Mehm Tin Mon, has explained the meaning of Mettā in his book “The essence of Buddha Abhidhamma”, that Mettā is the sincere wish for the good and welfare of all. It discards ill-will which is its direct enemy. Its compassion enemy is affection; benevolent attitude is its chief characteristic.²³¹ And, Ven. Tuan defined that ‘Mettā’ is derived from the Pāli Term ‘Mejjati’ which means the state of love. The equivalent Sanskrit term for Mettā is Maitri meaning friendliness.²³² There is equivalent term for Mettā in English and hence it can be taken to refer ‘friendliness, benevolence, good-will, loving-kindness, amity and universal love.

The main characteristics of Mettā: Loving-kindness are:- (1) To promote the social welfare, (2) to remove hatred from mind, and (3) to regard the whole world as one’s mother and all as fellow-beings. Since anger and hatred form the obstacle of Mettā, these defects are to be dropped. The Buddha state that: “Friend, when a man hates, is a prey to hate and his mind obsessed by hate, he kills living beings.”²³³

According to the Vipassanā Āchārya Sri S.N.Goke “The world will be peaceful only when the people of the world are peaceful and happy. The change has to begin with each individual. If the jungle is withered and you want to restore it to life, you ought to learn how to be peaceful yourself.”²³⁴ Mettā (Loving-kindness) is not only a kind thought or good-will towards others without any discrimination friend or foe; rather it impels a person to perform such acts which could bring good to others. A practitioner of Mettā is ever surcharged with the emotion of good-will and guards it even at the cost of his life just as a mother saves her only son even at the cost of her own life. Then, loving-kindness is necessary for the world today, because loving-kindness can make the society happy and peaceful and in particular love can get rid of evil from the mind.

Mettā: Loving-kindness. This teaching is the main purpose of subjugating ill-will. “Loving kindness has the purpose of warding off ill-will.”²³⁵ Mettā softens heart of men toward each other in society. If one has heart full of Mettā one will do, speak and think only in the way that lead to good will for all. Mettā alone can bring people to a unity. Thus, to

²³³ Vism.321.
²³⁴ Quoted in Lalan Kumar Jha, Buddhism A Humanistic Approach, New Delhi: Samyak Prakashan, 2004, p.43
²³⁵ Vism.345.
develop Mettā is necessary. The purpose of Mettā is also to get rid of all kinds of evils in mind like narrow mindedness, selfishness and so on. By practicing Mettā in one self, one gradually extends towards all being.236 The purpose of living-kindness is to establish brotherhood, fellowship, friendship and relationship among human beings, and to get rid of ill will or hatred towards others. It may be not be out of context to conclude in the words of the 14th Dalai Lama who says:

“There are many different philosophies, but what is the basic importance is compassion, love for other, and concern for other’s suffering, and reduction of selfishness. I feel that compassionate thought is the most precious thing there is. It is something that only we human beings can develop. And if we have a good heart, a warm heart, warm feelings, we can be happy and satisfied ourselves, and our friends will experience a friendly and peaceful atmosphere as well. This can be experienced from nation to nation, country to country, and continent of continent.”237

How to practice Mettā? Love and violence or Criminal activity cannot go together, one can not have love and violence at the same time, and so one aspect of love is harmlessness or non-violence. The Buddha, always instructs his followers to be true pacifists who live a non-violent life. Any monk who uses violent means to solve conflicts is not a true follower of the Buddha.238 Dhammananda Bhikkhuni described that Mettā (Loving-kindness) can arisen when we are meditation; when we are softly breathing in and out, when our mind has become empty. Loving-kindness is the quality of our mind when it is replete with love and can wish others only good. Loving-kindness does not arise out of emotion of any kind; it can only come of a mind that has become empty and pure.239 The practice of Mettā must begin with one’s own self. Then it spreads towards the close ones; people and all living creatures. Ven. Narada Mahāthera has clearly explained this procedure that one should practice first toward oneself. In doing so a person should charge his mind and body with positive thoughts of peace and happiness. He should think how he could be peaceful, happy and free from suffering and anger. He then becomes the embodiment of loving-kindness. When one is full of peace and free from thoughts of hatred, it is easy to radiate loving-kindness towards other. He now radiate loving-kindness towards all his near and dear ones, individually and collectively…diffusing thoughts of loving-kindness towards one’s relatives and friends and natural surrounding. Finally, one should radiate Mettā in the same way towards those who are inimical to one. If one could adopt a friendly attitude towards those,

thought to be inimical towards one, one’s achievement would be more heroic and commendable. Therefore, to live in the society happily, peacefully which is without criminal problem and violence, the Buddha preaches the Sārāṇīyadhamma states of conciliation; for harmonious living in the society, they are as follows:- (1) Mettākāyakamma (Friendly action); (2) Mettāvacikamma (Friendly speech); (3) Mettāmanokamma (Friendly thoughts); (4) Sādhāraṇabhogi (Sharing of gains); (5) Sīla-sāmaññatā (Moral harmony); and (6) Diṭṭhisāmaññatā (Harmony with views).

Objectively, speaking Mettā (Loving-kindness) is one of the Buddhists teaching to spread love and friendship without any discrimination. Mettā helps us to see anti-socials, criminals and enemies as our own fellow men who needs our compassion to live in harmony and peace in a pluralistic society with diverse culture, religion and language requires compassion and tolerance.

[2]. Karuṇā (Compassion). The Pāli term Karuṇā means pity or compassion in the Aṅguttara-nikāya, it is defined as “The Desire removing the bane and sorrow (from one’s fellow men).” Damien has explained it’s meaning as the qualities that are cultivated especially through the practice of meditation and are directed toward other beings without restriction. Ven. P.A. Payutto has described the meaning of Karuṇā that it is the desire to help other people escape from their suffering; the determination of free all beings, both human and animal, of their hardships and miseries. According to Prof.Mahesh Tiwary, Karuṇā, compassion, is the name of a moral volition for eradication of suffering of others. It is not a simple verbal expression towards beings in suffering but a positive attitude to be one with the suffering of others and to make right efforts for its gradual minimization. And, for the Visuddhimagga, compassion means “When there is suffering in others it causes good people’s hearts to be moved, it is compassion. That combats other’s suffering, attacks and demolishes it, thus it is compassion, it is scattered upon those who suffer, it is extended to them by pervasion, thus is compassion.” Karuṇā does not mean helping others so as to get something back. It is helping with out the least desire or motive. It is the kind of pure mind wherein nothing selfishness or ulterior motive is inside.

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The second article of *Brahmavihāra* is *Karuṇā* (Compassion) which inspires us to help other in their suffering. This is the moral principle, which removes all kinds of violence. As is said in *Visuddhimagga*: “It functions reside in bearing others suffering. It is manifested as non-cruelty. Its proximate cause is to see helplessness in those overwhelmed by suffering. It succeeds, when it makes cruelty subside and it fails when it produces sorrow.” Compassion provides the world with the fundamental factor for peace. It is only logical to try to strike a balance between material development on one hand and development of spiritual, human values on the other. In order to bring about this great adjustment, we need to revive our humanitarian values and share our compassion along with other values as the Fourteenth Dalai Lama says: (1) Universal humanitarianism is essential to solve global problem; (2) compassion is the pillar to world peace; (3) all world religions are already for world peace in this way, as are all humanitarians of whatever ideology; and (4) each individual has a universal responsibility to shape institutions to serve human needs.

Man can live in the society peacefully only by cultivation of basic moral values. The above mentioned ideals are the way to social communication and social co-operation. One of the social service embodiments of compassion which give rise to an individual and social peace. Dr. Rajendra Rrasad, the first President of India also said that only Buddha’s teaching can solve problems of the modern world:-

“The Buddha attained *Nibbāna* leaving a deathless memory and an eternal message. That living message is still in all its truth and vitality. At time in the history of the world was it needed more than now when we are confronted by the terrible of atomic and hydrogen bombs. May this message of tolerance and compassion of the Buddha be with you in your labours.”

The main characteristics of *Karuṇā* are as follows:- (1) to help a person in suffering by ignoring one’s own suffering, (2) it takes the forms of non-violence in removing the suffering. According to Nārada Mahāthera, “the chief characteristics of compassion are the wish to remove the suffering of others.” Compassion augments the eradication of suffering. In *Mahāyāna* Buddhism it is observed that the *Bodhisattva* will help others to get rid of their sufferings in the world before getting himself out of suffering.

The purpose of *Karuṇā* is to wipe out the *Vihiṃsā*. Compassion eradicates the cruelty of violence. *Karuṇā* has the purpose of warding off cruelty, aversion (Boredom). Compassion compels one to do anything only for the welfare of others. As a matter of fact,

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247 Vism.2,122.
the compassionate person lives not for himself but for others. He tries to find the chance or an opportunity to work for others and expects nothing in return. He never longs for fame or praise from whom he helps. He spreads his compassion in the entire direction from where he dwells.\footnote{Ibid., p.166.}

How to practice \textit{Karun\=a}? Prof. Mahesh Tiwary described the practice process of \textit{Karun\=a} (Compassion) proceeds in the same way as that of the Friendliness. “Whatever beings in suffering whether they are big or small, long or short, moving or remaining in one place, staying far or near, seen or unseen, may be free from suffering; may be free from all kinds of ailments, fear, disturbance, misfortunes etc. Let there be a happy and fearless way-faring in their life. Practicing in this way, one develops the range of compassion to pervade the entire direction and make them saturated with its soothing wavelength. The radiation of compassion-wavelength proceeds from one individual to other and consummate in positive efforts for eradication of suffering. The annoyance and hatred towards such beings are reduced and in due course uprooted. To proceed with the description of the \textit{Karun\=abh\=avan\=a} as – why the being should tremble with fear? Why the disturbing forces are creating an unpleasant situation with beings? Why beings are seen in a state of helplessness? Why they are driven forcefully to misfortune? Why they are surrounded with fear just like a bird thrown in the fearful circle of wind? Let their suffering of variegated nature be eradicated, agonies to destroyed, sinful activities be minimized, fears be reduced, pollutions and impediments be drawn away. Let there be the dawn of rays of hope of getting freedom from all kinds of unpleasantness etc. Compassion with such consciousness helps one to penetrate into the suffering of others and exerts for its eradication.\footnote{Mahesh Tiwary, \textit{Op.Cit.}, p.201.} This is the practice, the basic practice, the necessary practice to keep this world going, to keep this society going. It is very much an engaged Buddhism. It is very much what the world needs. If we, each and very one of us, practice in this manner. We can help generate positive energy. We can help correct the ills of the world by raising the consciousness of people everywhere. We can help create a true Buddhist society.

To sum up, all problems have theirs solution. Wrong can be corrected and replaced by right, bad by good, ruinous by formative, decline by improvement. It is pertinent to note that, criminals are not bad by their birth, but by their action. Buddhism, obviously, does not advocate inhuman corporal punishment, an alternative attitude towards criminals is focused in a way, so that they may be reformed and rehabilitated to be good citizens. The Buddhist Jurisprudence based on the \textit{Br\=ahmavih\=ara: Mett\=a, Karun\=a, Mudita,} and \textit{Upekkh\=a}, especially
Metta & Karuṇā are the Buddhist method for solution criminal’s problems, because the suffering of human beings and social problem are the same. The reason and rational behind Buddhist solution towards crime is give in the Abhayadāna, a teaching of the great Dāna (giving no danger), primarily developed by Sammādiṭṭhi and Sammāsāṅkappa which one the result of Mettā and Karuṇā.

Therefore, Metta and Karuṇa as considered the alternative Buddhist solutions to punishment towards criminals and anti-socials in order to bring about a complete change of character, revolution in values and attitudes and to lead them a new life from which never falls back.

6.2.3.2. Parivāsa: Probation of Offender as the Essence of the Buddhist Jurisprudence

Saṅghādisesas are classified as Garukāpatti (Heavy Offenses), both because of the seriousness of the offenses themselves and because the procedures of penance, probation, and rehabilitation are burdensome by design, not only for the offender but also for the Community of Bhikkhu in which he lives. It is a rule intended to act as an added deterrence to anyone who feels tempted to transgress. The procedures for settling an offense are called Vucṭhānavidhi literally, the course for getting up. The term “getting up” plays on the literal meaning of the Pāli word for offense, Āpatti, or “Falling down” The purpose of the Vucṭhānavidhi is to enable a Bhikkhu who has stumbled in his practice to get up and continue on his way. The pattern and process of Vucṭhānavidhi see Chapter 4, (4.4.3), at Pages No.212-217.

The Value and Essence of Parivāsa

(1). Parivāsa leads to reform and rehabilitate the Criminal: Buddhism holds the view that a person is good as soon as he refrains from doing evil. The Buddhist attitude towards criminals is focused in a way so that they may be reformed and rehabilitated to become good citizens.253 As the Buddha says in the Dhammapada that “And who having been negligent in the past, afterwards does not neglect, he illuminates this world like the moon freed from a cloud.” 254 So, the probation in the Buddhist principle concerns not with punishment but with reformation. Once the probation is successfully finished, the Bhikkhu returned to his previous position and status, so that the social image of the offender was not harmed. After the penalty, he is received back and he enjoys the identical position he has

earlier without any stigma or contempt. Human dignity thus was always regarded as important in the court and in the society, while under a penalty or after rehabilitation.

(2). *Parivāsa leads to enact the Vinaya Rule:* The *Vinaya* is fundamental and comprises rules for the Buddhist monks to follow, in order to eliminate passion from their minds. However, the enactment of the *Vinaya* rules did not occur from the Buddha’s will without any history, but it was based on incandescence where a mistake was committed. The Buddha said, ‘I did not enact or establish the *Vinaya* until after monks has made mistakes in the *Saṅgha* and Society’. So, the *Parivāsa* and all procedures of getting up from *Saṅghādisesa* which are called *Vutthānavidhī* is with enacted within the *Vinaya* Rule.

(3). *Parivāsa leads to purity of the Buddhist *Saṅgha:* It is said that the rules were framed for the smooth living and rightly following the words of the Buddha by the righteous monks. There were framed for monks who abandoned the domestic life and took up the life of recluse with a clear and pious determination of spiritual gains. The Buddha thus states the path of purification and gave clear instruction on how to follow them properly. These instructions serve as the guiding principles for the monks. Had there been no such instructions the monks would have face difficulty in achieving gradual purification.

(4). *Parivāsa leads to harmony in the Buddhist *Saṅgha:* The Buddha established the monastic Order and wished that all the members should live in complete harmony. They should live their life in such a way that there is no tension or the thing as such in their day to day functioning. Keying this in mind, he thought that if the life is regulated at every step harmony will flow naturally. It is for this reason he prescribed the rules that befits a worthy life. This type of leading a life is the smooth way for a way-farer which may be understood as the prevalence of harmony in the Buddhist *Saṅgha*. On this reason, this *Saṅghakamma* needs at least twenty *Bhikkhus* for *Abbhāna* (Rehabilitation). The competent and experienced *Bhikkhus* had to move motion that the offender had successful complete the *Parivāsa*. This was all done in a grand legal and ritual style with all members agreeing as to the motion of rehabilitation. The association of the ritual process wit the legal problem obviously connected the legal dimension of law with the spiritual dimension, blending them effectively and harmoniously.

The above discussion enables us to understand that *Parivāsa* (Probation) as forming one of the and essences of those feature in the Buddhist jurisprudence is valuable and relevant to modern criminology and penology. Furthermore, the objective of presenting,

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Parivāsa leads to the development of inner peace of those Bhikkhu who have committed Saṅghādisesa, and for improvement and rehabilitation of the offender Aparādha (Criminals) to turning into Arahanta (the worthy one), it leads to purity of the Saṅgha community as well as brings the harmony for the Buddhist Saṅgha. So, it would be worthy to note here that the Buddhist perspective and response to Crime is not one of the retributive or retaliatory courses but one that is bases on Mettā (Loving kindness) and Karunā (Compassion). Parivāsa (Probation) is the prescribed Buddhist method for rehabilitation of Criminal and purifying of Saṅghādisesa Offence. The Buddhist stand is, especially in the case of the Saṅgha Community and social institutions, to prevent people from committing these crimes through training and educating of mankind in order to develop the Sammādiṭṭhi (Right View) as a major factor which is a noble way for prevention and reformation of criminal offence.

6.3. Ti-sikkhā: 257 Threefold Training of Buddhist Principles for Reformation of Aparādha (Criminals)

Buddhism is a religion of kindness, humanity and equality.258 As a well-known religion, Buddhism emphasizes on human effort, and has no faith in divine power that is why; it is called a non-theistic religion which believes in the ability of the human beings. It gives stress on the human effort in stopping the cycle of birth and death. Every human being has the seed of awakening and insight within his or her own mind. They know how to find peace in their mind, they are able to overcome mental defilements and remove frustration and confusion resulting from them; they can make their mind calm, taste happiness that emerges from the calmed mind, they can are not easily infatuated with material possession, status, or fame. Buddhism believes in man’s potential to train to better himself. A true Buddhist considers it “his responsibility to better himself. If human beings succeed in fully bettering himself then he becomes the most excellent and noble of all beings.”259 As the Buddha says in the Dhammapada that:- “(They) lead the tamed (elephant into) as assembly, the king mounts a tames one. Best among men is the tamed one who endures abuse.”

Everyone, in this regard, could distribute love and compassion and make efforts to establish an equitable society. A society in which every person can contribute his best for overall human development. The Buddhist human developmental system stands for every

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257 P.III.220; A.I.229.
human being to acquire the positive values and for complete literacy to create a better world environment. Where no one is prevented rather he is encouraged. Such trained persons in the Buddhist teaching would be in a better position of happiness and emancipation. The main purpose of Buddhist training emphasized on refinement of moral behaviour. It is also called a state of living in spiritual calm. All training should necessarily contribute to this goal. In order to reach the goal of the Buddhist teaching, one has to train himself in self-control. It is stressed that knowing oneself and controlling one’s own senses are basic to both material and spiritual progress. Human beings are special, unlike any other kind of animal. What makes them special is Sikkhā, or education, namely learning, training and development. Human beings, who have been trained, educated or developed, are called “noble beings’. They know how to conduct a good life for themselves and also help their society fare securely in peace and happiness.261

Therefore, in order to attain the highest destination, the Buddha has drawn a systematic path and suggested his disciples to go along the path, which completely educate and help them in reaching their ultimate goal. The course of Buddhist training is Ti-sikkhā (threefold training). They are as follows;

[1]. Adhisīlasikkhā: Training in the Higher Morality

The meaning of Adhisīlasikkhā is ‘learning’ and put into practice the three constituents Sīlakkhandha of the Ariyamagga: right speech, right action, and right livelihood. Adhisīlasikkhā is none other than the Pātimokkhasamvarasīla which has been taught by the Buddha only. Other virtues could be found scattered in daily life of the people and various recluses of the days. In the Brahmajāla Sutta, the Buddha preaches three kinds of Sīla that he reveals in the form of abstinence from breaching any of them. They are Cūlasīla (26 minor precepts), Majjhimasīla (5 intermediate precepts) and Mahāsīla (Advanced precepts abstaining from dishonest living against the life of Brahmacariya) Venerable P.A. Payutto gives a concise meaning of Adhisīlasikkhā as: “the training rules for higher virtue, in higher behavioral conducts, higher morality.” 262 This is similar to the meaning of Pātimokkhasamvarasīla.

[2]. Adhicittasikkhā: Training in the Higher Mentality

The meaning of Adhicittasikkhā is the training of Citta (Mind) in way of Samādhi (Concentration) which is the foundation of Vipassanā for higher level of the state of eight

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The constituents in Ariyamagga that promote higher meditation are: Right effort, Right mindfulness, and Right concentration. This training depends mainly on the Adhisīla sikkhā which brings out higher state of mind for a successful mental training. Adhicittasikkhā is the essence of learning and gaining from the proper practice of higher equality of mind which is ready for further development of wisdom.

There are two kinds of Jhānas: Rūpāvacarajhāna (Jhāna of the fine material/form sphere) and the Four Arūpāvacarajhāna (Jhāna of the immaterial/formless sphere). Each of them comprises of four stages: the 1st to 4th based on the reminders of the five mental factors: (1) Vitakka (Initial formation of an abstract thought) and Vicāra (Discursive thinking ruminations); (2) Pīti (Rapture); (3) Sukha (Happiness); (4) Upekkhāsukkhā (Equanimous happiness); and (5) Citt’ekaggatā (Concentration) in Citta while maintaining one pointed mind in concentration to the level of absorption.

The 1st Jhāna: where the mind is free from the five hindrances; all the five mental factors are present and active. The 2nd Jhāna: where rapture, happiness, concentration are present. The 3rd Jhāna: where equanimous happiness and concentration are present. The 4th Jhāna: where concentration and Upekkhā (Equanimity) are present.

The four Arūpajhāna (Immaterial absorptions) which are based on the forth absorption, are produced by meditating on their perspective objects from which they derive their names; Sphere of Unbounded Space, of Unbounded Consciousness, of Nothingness, and of Neither Perception nor Non-Perception.

The nature and development of Adhicittasikkhā comes from, for example, Sammāsamādhi or any of the forty of Kammaṭṭhāna (Meditation) out of which different kinds of these produce different kinds of absorptions. The initial absorption which develops into other different absorptions is attained from the strength of concentration. The fivefold sense activity of is temporarily suspended, detached from sensual objects and evil things; and likewise, the five hindrances are eliminated. Accompanied with the first absorption, Thought Conception and Discursive Thinking are born out of detachment. Adhicittasikkhā has the nature and quality to be attained to these eight absorptions.

With tranquillity of the highest absorption, only Ariyapuggaha of Anāgāmi and Arahanta who are keen in attaining the absorption could attain the ultimate state higher.

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263 Absorption. The attainment of Citta in each eight absorption is called Samāpatti (higher attainment). Not every enlightened one obtains Jhāna.

264 Abhidhamma divides Jhāna into five stages by breaking the first Jhāna into two.
above these eight Jhānas, called Nirodhasampatti (Attainment of extinction). Its nature of calmness could be seen from the dialogues between Pukkusa of the Malla clan and the Buddha few days before Mahāparinibbāna. The Buddha accepted that the state of calmness wherein abiding made the person to go forth from the world. The Buddha referred to his experience that even in heavy rain with thunder rolling, lightning and thunderbolts crashing that occurred near to him but with consciousness being awakened, he did not know all these happenings.

[3]. Adhipaññasikkhā: Training in the Higher Wisdom

The purpose of practicing the path of Ariyamagga is nothing but gaining Paññā (wisdom). If one properly applied wisdom, one can attain deliverance from all sufferings; which is the ultimate goal of the Buddha’s Teaching. Adhipaññasikkhā is the knowledge in the Four Noble Truths, the insight wisdom that really see the three characteristics as they are. The constituents of the Noble Eightfold Path in the Group of wisdom: Sammādiṭṭhi (Right Understanding) and Sammāsañkappa (Right Thought) maintaining the extinction of all Dukkha (Suffering) as the objects.

Paññā (Wisdom) stands for insight knowledge, gained by a moral consciousness. Paññā helps a person in two ways. Firstly, it enables him to realize the true the nature of phenomena—which has threefold characteristics of impermanence, suffering and substancelessness (Aniccā, Dukkā, and Anattā), and secondly it helps in eradication of his suffering. The further implication of Paññā is that, it helps in curtailing false desire and attachment to various things and makes the practitioner perfect or balanced in his thought and behaviour. Such a person obviously thinks, speaks and does good towards others, without any prejudice or confusion.

Thus, the ability to understanding the three characteristics is not simply made upon plain understanding and that all Pañcakhandhas (the five Groups of Existence) or any of these phenomena are by themselves impermanent, subject to suffering and without a self.

However with strong foundation of the Adhisilasikkha and Adhicittasikkhā, one who frequently practiced gains the emergence of wisdom occurring in the mind. The fruit of eight Samāpatti from both Jhānas causes no progression in the path of deliverance, if right understanding and right though have not appeared in the role of Adhipaññasikkhā. It has happened long before the enlightenment of the Buddha that the knowledge was stuck at the

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265 A.IV.410-414; Nirodhasampatti is considered the highest state of calmness and often abide in by Ariya disciples. Sometimes they abide in few days.
266 D.II.131-133.
267 “Vism.II.946.: “Kusalacittasampayuttam vipassananāṇānaṃ paññā”
highest stage of Jhāna and found nowhere to go on, e.g. Ālāra Kālāma and Uddaka Rāmaputta. However, revealing of Adhipaññāsīkhā in the Noble Eightfold Path of the Buddha through Vipassanā (insight) was first of all introduced it led the way out of the state of happiness that often trapped the person in the Jhāna. Insight in Adhipaññāsīkhā is the only way to understand clearly in the real nature of Tilakkhaṇa of Anicca, Dukkha, and Anattā. Once one has realized and turned away from all the impermanent things, he directs his mind towards the end of all Kamma-formations, to the extinction, and to Nibbāna at the final stage. In the state he reaches the ‘cessation’ of Āsavakkhaya (Passions)’ and gaining Sammāñña (Right Knowledge).

The importance of Adhisīlakkhandha, Adhisamādikkhandha, and Adhipaññākkhandha, have been much praised by the Buddha. Not long after Mahāparinibbāna, Ven. Ānanda was asked by Subha mānava todeyyaputta 268 about the most importance of all Dhammas the Buddha praised above all others; and in what Dhamma the Buddha advised the people to establish themselves. The Venerable replied and gave well explanation that they were these three Khandhas or the group of Noble Sila, Samādhi, and Paññā led by the ‘Cūlasīla, Majjhimasīla and Mahāsīla.’ The Buddha advises people to establish themselves in them firmly. Following is a brief summary for realizing the importance of these Dhammas;

“With regard to the group of Noble Samādhi, it implies sense-restraint supported by Satī (mindfulness) and Sampajañña (clear comprehension), contentment with the four requisites of the living, viz. robes, food, shelter-place and medicine according to the Vinaya. Moreover, purification of one’s mind from the five mental hindrances which culminate in the attainment of the four Jhānas. For the group of Noble wisdom, the Buddha refers to the eight kinds of Vijjā (knowledge) from Vipassanānāṇa (Insight) to the knowledge by which all latent or sub-conscious defilement would be destroys, that is Āsavakkhayañāṇa. The person is then free from all defilement and achieves his goal.”

The Buddha himself always counsels a disciple of Vajjian clan who came to him asking for counselling that there were too many rules for him to observe. The Buddha asks whether he could learn only the Ti-sikkhā, he accepts and follows the advice. Not long after that he attains the highest bliss. The words of the Buddha contain the subjective duties to deal with and their benefits that serve direct objective of the Dhammavinaya, He says:-

“Thus, Bhikkhu, should you learn the Ti-sikkhā; that are Adhisīlasīkkhā, Adhicittasīkkhā, Adhipaññāsīkkhā...one you have learnt Ti-sikkhā; Rāga, Dosa, Moha then demolished. Upon having abandoned these three Kilesas you will eventually abstain from unwholesome deeds.”

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268 D.I.10.203-206
It is clearly stated in *Mahāsatipaṭṭhāna Sutta* that the only way towards absolute purity and extinction of all suffering is the *Aṭṭhaṅgikamagga* (Noble Eightfold Path). The Noble Eightfold Path can be divided into three groups called *Sikkhā* (learning or training) as follows:

1. **Silasikkhā: training in morality.** It comprises three constituents of the path: (1) *Sammāvācā* (Right Speech); (2) *Sammākammanta* (Right Action) and (3) *Sammā-ājīva* (Right Livelihood)

2. **Samādhisikkhā: training in concentration.** It also comprises three constituents of the path: (1) *Sammāvāyāma* (Right Effort); (2) *Sammāsati* (Right Mindfulness) and (3) *Sammāsamādhi* (Right Concentration)

3. **Paññasikkhā: training in wisdom.** It consists of two constituents of the path: (1) *Sammādiṭṭhi* (Right Views or Understanding); (2) *Sammāsaṅkappa* (Right Thought).

Through the right understanding, one should guide the way throughout the course of purification, one should begin with *Sālisikkhā* for the purpose of laying down the foundation of the path. Based on Moral foundation, one shall develop concentration, and based on concentration, one shall practice *Vipassanā* (insight) to develop *Pañña* (wisdom).

The process, which is called *Ti-sikkhā*, would train every body complete in both *Vijjā* (Knowledge) and *Carana* (conduct). *Sīla* and *Samādhi* constitute *Carana*, while *Pañña* constitutes *Vijjā*. Thus, *Vijjā* and *Carana* (knowledge-conduct) constituted *Vijjā* resembles the eyes of a human being, which *Carana* resembles the limb. A person, who is endowed with morality and concentration, but lacks wisdom, is like one endowed with *Vijjā* (knowledge), but lack *Carana* (Conduct), is like one who has good eyesight but is defective in his limbs. A person who is endowed with both *Vijjā* and *Carana*, is like a normally whole person possessing both good eyesight and healthy limbs. A person who lacks both *Vijjā* and *Carana*, is like one defective in eyes and limbs, and is not one worthy of being called a living being.269 When a persons have practiced and developed themselves following the *Ti-Sikkha*’s procedure, they receive the three qualities of a trainee: (1) good knowledge and good quality and good thinking to solve many problems; (2) good manner and social behaviours; (3) happiness and peace for whole life, which are essential for humanity. The real purpose of education is to serve the people in society and this is possible only when the trainee has all of such qualities.

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