An Aspect of Indian Buddhist Views of Capital Punishment and Severe Physical Punishment

SUGIKI Tsunehiko

Introduction

According to Indian classics in general, punishment (daṇḍa, etc.) is a principal function of a king and it is the reason kingship was created. The same is said in Indian Buddhism, which is typically represented in the narrative on the origin of kingship in the Aggaññasutta.¹

There are various forms of punishment, from the light ones, such as verbal reprimand, to the more severe ones, such as capital punishment. The more severe forms of punishment are carried out in the form of killing or wounding criminals. However, in Buddhism, killing or wounding others intentionally is an unwholesome karma or action, which has negative karmic effects on the killer. The Mūgapakkhajātaka says that a king who punished robbers by death, prison, physical torture, and impalement suffers rebirth in hell, even though he ordered the punishment as part of his duties.²

This paper investigates discourses on royal punishment found in two Pāli texts (Kūṭadantasutta and Milindapañha) and three Mahāyāna texts (Nāgārjuna’s Ratnāvalī, Satyakaparivarta, and Candrakīrti’s Catuḥśatakaṭīkā) and elucidates an aspect of Buddhist views of royal punishment in ancient India.³

1. A View of Punishment in the Kūṭadantasutta

The Kūṭadantasutta includes the following discourse. King Mahājīvita ruled a vast territory and was rich. However, his state (janapada) suffered from robbery and other crimes. A brahmin serving as a royal priest gave this advice to the king (summarized): If the king reacts to this crisis by punishing criminals by death (vadha), prison (bandha), confiscation (jāni), verbal reprimand (garahā), and banishment (pabbājana), those who survive the punishment will suffer the state. Therefore, instead of punishment, the king should give seeds of plants and food to farmers and cattle breeders, funds to merchants, and food and wages to government workers. By so doing,
robery will cease, they will work harder, and the state treasury will be richer.4)

The Kūṭadantasutta thus presents a view that it is not necessary to employ punish-
ment if it is not expected to be an effective means to fix the problem.

2. A View of Punishment in the Milindapañha

In some narratives, Buddhist kings are described to have punished criminals by death.5) How is this possible? An idea can be found in the Milindapañha, which allows a king to
employ death and severe physical punishment. In the Milindapañha, King Milinda asked
the Buddhist monk Nāgasena a question (summarized): The Buddha taught that those to be
“restrained” deserve “restraint” (niggaha or the like), which (according to King Milinda
and Nāgasena) indicates forms of punishment including death when those to be restrained
are robbers. Is this not contradictory to Buddha’s teaching of non-killing? Nāgasena’s an-
swer to this question in the case of capital punishment was as follows (summarized): A
robber is punished by death because of what he did (sayaṃkatena so haññati: “He is killed
by [what was] done by himself”). It is not attributable to Buddha’s words.6)

This idea used by Nāgasena is also mentioned in the Satyakaparivarta, which is dis-
cussed in Section 4 of this paper, as a theory to acknowledge capital punishment as a crim-
inal’s own karmic retribution. In this theory, it is not a point of focus whether a king him-
self, who is an executioner, acquires any negative karmic potential that may affect him in
some future because of the execution.

3. A View of Punishment in Nāgārjuna’s Ratnāvalī

In his Ratnāvalī, Nāgārjuna (2nd–3rd century CE) states that a king should have compassion
(kāruṇya) for criminals. A father trains his son, who is still unworthy of respect (apātra), to
make him a man worthy of respect (pātra); in other words, to educate or reform him.7) A
king should punish criminals in the same way out of compassion for them, not from hatred
or with a wish to take their property, even when he punishes them by imprisonment (band-
ha) and flagellation (prahāra).8)

A king should make prisoners’ everyday life comfortable by providing them with a
barber, bath, food and beverage, medicine, and clothes. He should release prisoners every
day, every five days, or at an appropriate time. If he does not release them until they die, he
is morally transgressive (asaṃvara) in relation to them, and sin (pāpa) will accumulate in
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It appears that Nāgārjuna has an idea that a king acquires a negative karmic potential by killing a criminal.

In fact, Nāgārjuna clearly shows a negative stance with regard to capital punishment. He says that a king should also be compassionate to a killer (hiṃsra). A killer deserves compassion (kṛpāpātra) because he actually killed himself (hatātman) by killing others. Therefore, having examined and judged those who killed (ghātaka) correctly, he should banish them from the state (kuru nirviṣayān) and not punish them by death or any physical torture.

Banishment is perhaps the heaviest among the forms of punishment mentioned in the tale of the origin of kingship in the Aggaññasutta. According to the Buddhist monastic rule, banishment from the saṃgha is the sentence of a monk or nun who commits any of the four pārājika or capital sins. The Brahmanical Manusmṛti includes a teaching that a king should not even think of executing a brahmin: One of the heaviest forms of punishment for a brahmin is to banish him from the state without wounding him or confiscating his property. In spite of some differences, Nāgārjuna seems to be in line with this traditional thought that punishment should not be more severe than banishment.

4. A View of Punishment in the Satyakaparivarta

The Satyakaparivarta (4th–6th century CE) prohibits a king from punishing criminals by death (gum pa, etc.), destruction of a sense organ (dbang po nyams par bgyid pa), or amputation (yan lag gtub pa) for the following three reasons.

A king should rule the state in accordance with the Ten Good Deeds (dge ba bcu’i las) starting with non-killing. This is the first reason: Death and severe physical punishment are forms of killing (srog gcod pa); a transgression of the precept against killing that produces a negative karmic effect.

The text says that heedfulness (bag mchis pa or bag yod) and compassion (snying rje) are the factors that underlie the rule by the Ten Good Deeds. A king’s compassion takes the form of punishing a criminal correctly. The purpose of punishment is to let a criminal obey the “promised” (khas blangs pa); in other words, to educate or reform (bcos pa) the criminal. The text does not define clearly what this “promised” means. However, I consider that it refers to the Ten Good Deeds or any law enacted in accordance with the Ten Good Deeds because they constitute the basic norms of the king’s rule as mentioned previously. The second and third reasons are, as explained below, related to a king’s compassion.
and the purpose of punishment.

The method of punishment should be the mildest among those by which the purpose of punishment is achieved, except for death and severe physical punishment. If a king is convinced that he can achieve the purpose only with a verbal reprimand (skyon brjod pa), he should use that as a way of punishment.\(^{18}\) A father punishes his evil son in a mild way and not by death, destruction of a sense organ, or amputation, in order to reform him out of mercy and compassion (byams pa’i sms dang snyign rje’i sms) for him, not from hatred or any harmful intention.\(^{19}\) A king’s punishment of a criminal must be like a father’s punishment of his son. This is the second reason.

Indeed, capital punishment is taught as a karmic retribution for what the condemned himself did (see the abovementioned Milindapañha). However, because of the execution, the condemned will die with his mind being in a state of hatred (khong khrd ba’i sms), which will cause him to suffer continuous rebirths in bad states of existence (ngan song rnams), such as hell. This is the third reason capital punishment should be avoided. As for the destruction of a sense organ and amputation, the organ or limb of the criminal’s body that was destroyed or taken off can never be recovered. This is the third reason these physical forms of punishment are prohibited.\(^{20}\)

5. A View of Punishment in Candrakīrti’s Catuḥśatakāṭikā

Candrakīrti (7th century CE) states that for the compassionate, the root of dharma (chos rtsa) is non-killing (’tshes med).\(^{21}\) Unlike the Ratnāvalī and the Satyakaparivarta, Candrakīrti does not articulate that punishment must be done compassionately to educate or reform criminals. However, he teaches that a king should be compassionate to criminals.\(^{22}\)

Candrakīrti maintains that a king acquires negative karmic potential by punishing a criminal by death or severe physical punishment. This is proved to be true by means of the four right measures (tshad ma), namely, scripture (lung), inference (rjes su dpag pa), analogy (nye bar ’jal ba), and immediate perception (mngon sum)\(^{23}\): Analogy—Just as a fisherman, a hunter, and others cannot remove their sins of killing creatures by thinking that fishing and hunting are their caste livelihoods created by the creator god, so a king cannot remove his sin of killing in punishment by this sort of impure thought.\(^{24}\) Scripture—It is taught in scripture: “Kings customarily employing punishment and those speaking what is not righteous and so on are not observers of precepts.”\(^{25}\) Inference—“Kings are not ob-
servers of precepts, because of hurting others, like murderers."\(^{26}\) Immediate perception—A yogin knows what the karmic effect of killing is like, by immediately perceiving it.\(^{27}\)

6. Conclusion

There are thus different views of royal punishment in Indian Buddhism. They involve issues regarding non-killing, the purpose and effect of punishment, how a king’s and a criminal’s karmic statuses are, and how their states of mind in punishment should or will be. The views investigated above can be classified into three types:\(^{28}\)

(1) A king can employ forms of punishment including death and severe physical punishment. A theory exists that punishment occurs as a karmic retribution for what the criminal did personally. In this theory, it is not a focus of discussion whether a king, who is an executioner, will suffer any negative karmic effect due to the execution.

(2) A king can employ forms of punishment except death and severe physical punishment. Death and severe physical punishment are forms of the act of killing. Therefore, a king who has employed them will suffer some negative karmic effect. In addition, the Mahāyāna texts present a view that punishment must be done compassionately to educate or reform a criminal. Death and severe physical punishment are also prohibited from this viewpoint.

(3) Although punishment is an important function of a king, it is not necessary to employ punishment if it is not expected to be effective in achieving the purpose.

This classification is not intended to be exhaustive. I have presented it as a step toward developing more exhaustive classifications to get an overview and to understand Buddhist views of royal punishment precisely, which is a future task.

Notes

1) Aggaññasutta, P ed. (Carpenter 1911), Dīghanikāya 27, 20 (p. 92, l. 23–p. 94, l. 10). See Walshe (1987: 413) and Collins (1998: 632) for translation.

2) Mūgapakkhajātaka (Jātaka 538), P ed. (Fausboll 1896), p. 3, l. 22–l. 26 and p. 171, l. 3–l. 5.

3) Zimmerman (2006) is an important previous study on this topic (in which Kūṭadantasutta and Milindapañha are not used). As for a view of punishment in the Satyakaparivarta, see also Sugiki (2018: 6–8).

4) Kūṭadantasutta, P ed. (Rhys Davids and Carpenter 1890), Dīghanikāya 5, 11 (p. 135, l. 6–l. 28, especially l. 13–l. 28). See Walshe (1987: 135–136) for the translation.

5) See Zimmermann (2006: 235–236) and Jenkins (2016). Zimmermann presents an interpretation that
authors of these narratives are influenced by the Brahmanical idea of the kṣatriya’s dharma and do not expound or question how it can be reconciled with the Buddhist ideal of non-killing. Zimmermann’s interpretation is also important.

6) *Milindapañha*, P ed. (Trenckner 1962), p. 184, l. 24–p. 186, l. 24 (especially, p. 184, l. 27–p. 185, l. 3 and p. 186, l. 13–l. 15 and l. 19–l. 21). See Rhys Davids (1890: 254–257) and Nakamura & Hayajima (1964: 157–160) for the translation. See also Schmithausen (1999: 54, footnote 41) and Jenkins (2016: 133 and footnote 14).

7) Zimmermann (2006) is the first to point out that the purpose of punishment is the reformation of a criminal in the Mahāyāna texts.

8) *Ratnāvalī*, Skt ed. (Haln 1982), 4.29–30 and 4.36.

9) *Ratnāvalī*, Skt ed. (Haln 1982), 4.33–35.

10) *Ratnāvalī*, Skt ed. (Haln 1982), 4.31–32.

11) *Ratnāvalī*, Skt ed. (Haln 1982), 4.37.

12) See note 1 in this paper.

13) *Manusmṛti*, Skt ed. (Olivelle 2005), 8.379–381.

14) *Satyakaparivarta*, D 146, 99v4–100v6 and 101r2–v4 / S 246, 52.5–55.5 and 56.2–57.6 / Tib ed. (Jamspal 2010), 65.2–68.12 and 69.4–72.4.

15) *Satyakaparivarta*, D 146, 99v4–v5 / S 246, 52.5 / Tib ed. (Jamspal 2010), 65.2–4.

16) *Satyakaparivarta*, D 146, 104v1–v5 / S 246, 65.5–66.3 / Tib ed. (Jamspal 2010), 80.17–81.9.

17) *Satyakaparivarta*, D 146, 105r2–r3 / S 246, 67.1–2 / Tib ed. (Jamspal 2010), 82.8–11.

18) *Satyakaparivarta*, D 146, 105r4–r6 / S 246, 67.3–6 / Tib ed. (Jamspal 2010), 82.16–83.4.

19) *Satyakaparivarta*, D 146, 105v2–v5 / S 246, 68.4–69.1 / Tib ed. (Jamspal 2010), 83.16–84.5.

20) *Satyakaparivarta*, D 146, 108r4–v1 / S 246, 75.7–76.5 / Tib ed. (Jamspal 2010), 91.4–16.

21) *Catuḥśatakaṭīkā*, D 3865, 82r6–r7.

22) *Catuḥśatakaṭīkā*, D 3865, 79v1–v6.

23) *Catuḥśatakaṭīkā*, D 3865, 80r1–r3.

24) *Catuḥśatakaṭīkā*, D 3865, 80r4–r6.

25) *Catuḥśatakaṭīkā*, D 3865, 80v1–v2. The text of the scriptural words is chad pas lugs byed pa po rgyal po rnams dang / chos ma yin pa ‘don pa la sogs pa rnams ni sdom pa ma yin pa can no.

26) *Catuḥśatakaṭīkā*, D 3865, 80r1–v2. The text is rgyal po rnams ni sdom pa ma yin pa dang ldan pa ste / gzhan la gnod par zhung pa nyid kyi phyir te / gshed ma bzhin no.

27) *Catuḥśatakaṭīkā*, D 3865, 80v2.

28) Zimmermann (2006: 235–237) presents a classification of Buddhist stances on punishment as follows: (1) a stance to acknowledge the employment of punishment including death, which is highly influenced by the Brahmanical idea of the kṣatriya’s dharma, (2) an “ethically fundamentalist” stance to disapprove punishment, in which punishment includes forms of the unwholesome act of killing, and (3) a stance to employ punishment compassionately, which is found only in the Mahāyāna texts. I somewhat have a sense of discomfort with this classification because types (1) and (2) focus on the use of death and severe punishment and type (3) focuses on the use of other forms of punishment. Zimmermann’s classification appears to be a classification of how kingship is described in relation to punishment in Buddhist texts, rather than a classification of stances on punishment. However, his classification is significant and suggestive as such.

**Abbreviations**

P ed.: Pāli edition.
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Skt ed.: Sanskrit edition.
Tib ed.: Tibetan edition.
D: Tibetan Tripitaka, Derge recension.
S: Tibetan Tripitaka, Stog Place recension.

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(Associate Professor, PhD, Hiroshima University)