



THE CHULALONGKORN JOURNAL OF
BUDDHIST STUDIES

Volume 10, 2016 ❖ ISSN 2229-1229

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PUBLISHED BY

CENTRE FOR BUDDHIST STUDIES
Chulalongkorn University
Bangkok, Thailand

Teaching Buddhism in Thai *Saṅgha* Universities*

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Introduction

The Buddha had spent four *Āsaṅkheyya* and eons of years perfecting the virtues before he became the Enlightened One and liberated humankind from suffering during his short span of 80 years on earth. Through his compassion, the world was fortunate to experience another *Sammāsambuddha*, albeit for only 45 years. The short span of time posed no problem in the dissemination of his teachings, for, like other Buddhas before him, he had arranged everything in its proper order. Instead, the problem has been how to best preserve this most valuable *Dhamma* and pass it on to future generations, ensuring its authenticity in essence and spirit, as mentioned in one of the Buddha's sayings:

O, Bikkhus, as long as the Buddha or his Vinaya remains in the world, they will bring benefit to a multitude of people, bring happiness to many people, and help the world, all for the good, benefit, and happiness for all celestial and human beings.

(Suttantapaṭṭakā [Translation], Vol. 35, 2009: 397)

* This article is a part of an MA thesis in Buddhist Studies entitled "Teaching Buddhism in Thai *Saṅgha* Universities", Faculty of Arts, Chulalongkorn University, 2010.

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Learning and teaching have played a crucial role in passing the *Dhammavinaya* from generation to generation since the Buddha's time. Today, Buddhist studies have become more systematic. There are two Buddhist universities offering a variety of Buddhist courses and programs in Thailand. It does not come as a surprise, therefore, that whenever there is an issue or question related to Buddhism, Buddhist followers will turn to them for answers and opinions. When few – monks or laypersons – venture forth with satisfactory answers, one begins to wonder about the state of the affair. Why are so few experts of Buddhism ready to come forward? This is especially intriguing in view of a great number of graduates produced by both *Saṅgha* universities. One university offers the following explanation:

As the security of Buddhism is closely related to the quality of the four *Buddhaparisā*, it must be admitted that a lack of knowledge and understanding of Buddhism has led to a crisis in the *Saṅgha* and Buddhism as a whole. When a crisis occurs, it is difficult to find monk experts in the *Dhammavinaya* to resolve the issue. This surely reflects the shortage of experts in Buddhism both in number and in quality. The problem is also found in the shortage of teachers of Buddhism at the *Saṅgha* universities and in the dissemination of Buddhism to the general public as well as the shortage of Buddhist missionaries abroad.

(Graduate School, Mahachulalongkornrajavidyalaya University, 2008: 12)

Such shortage of Buddhist experts does not benefit the *Saṅgha* or the religion itself, as the existence of true knowledge of Buddhism is crucial to its sustainability in the long term.

How important is Buddhist expertise?

The Buddha's enlightenment has brought much delight to the world in his lifetime. After his *Nibbāna*, his *Dhammavinaya* has remained and continued to benefit the world. The continued existence of the *Dhammavinaya* presupposes a continuation of conscientious and proper

studies, teaching and dissemination to all generations, past, present and to come, as well as a pool of expertise in the subject matter. Only thus can Buddhism continue, as the Buddha himself says:

O, Bhikkhus, how are these two principles of Dhamma, these two truths of Dhamma, here to stay firm, unadulterated, and unabandoned? For expressions well established and meanings well put, as well as the contents of the well-established expressions, will only bring about good things. O, Bhikkhus, for that reason these two principles of Dhamma are here to stay, untarnished and unabandoned.

(*Suttantapiṭaka* [Translation], Vol. 33, 2009: 303)

Bhikkhus in Dhamma will study the Sutta well studied, equipped with well established texts and expressions. The well-established meanings of the texts and expressions are good in intent ... are here to stay firm, unaltered, and unspoiled in their truths.

(*Suttantapiṭaka* [Translation], Vol. 36, 2009: 323)

The above two passages help us to better understand that the Buddha's Dhammavinaya, whether text, expression, or meaning, cannot be allowed to go astray, hence giving rise to the issue of the stability of Buddhism. For something to remain "firm, unaltered, and unspoiled", the presence of expertise seems to be required. One may therefore say that in asking about the existence or whereabouts of the experts, one is indirectly also concerning himself with the stability of Buddhism.

***Etadagga* and expertise in Buddhism**

When expertise is mentioned, we naturally think of *Etadagga*. The word signifies a person who is expert in some field. However, the two words are slightly different in meaning.

The word "*Etadagga*" derives from Pali *Etadaggaṃ* which in turns is formed from *Etaṃ* + *Aggaṃ*. "*Eta*" means this or that, while "*Agga*" means the beginning, the end, the best part. The word "*Etadagga*",

therefore, means the top or the best (from *Suttantapiṭaka*, Vol. 36, translated by Manorotpurani, 2009: 193).

Etadagga is a title bestowed by the Buddha on his disciples for their specialization in certain skills. According to Pali commentaries, when the Buddha appointed his *Buddhaparīsā* as *Etadagga*, he would praise them for their most outstanding qualities based on the following four criteria:

1) Ability to handle incidents (*Atthapapati*): A person is praised for his/her outstanding ability to solve problems.

2) Accumulated virtues (*Āgamana*): A person is praised for his/her accumulated virtues in the past lives and for his wish to attain the title.

3) Expertise (*Cinnavesī*): A person is praised for his/her expertise in certain matters.

4) Surpassing quality (*Guṇātireka*): A person is praised for his/her quality surpassing all others.

Based on the above four criteria and rationale, the consideration of an individual *Etadagga* is not merely a matter of expertise, but also includes other qualities. Expertise is only one of the criteria for a person to be awarded the title of *Etadagga*. There are very few persons on whom the Buddha awarded such title. According to *Manorathapūraṇī Aṭṭhakathā Aṅguttaranikāya*, they include 41 *Bhikkhu*, 13 *Bhikkhunī*, 10 *Upāsaka*, and 10 *Upāsikā*.

“Expert”, on the other hand, means “having specialized knowledge, being well-versed, being very skillful” (the Royal Institute, 2003: 372). In this sense, a Buddhist expert is a person with specialized knowledge of Buddhism, well-versed in Buddhism, or very skillful in Buddhist matters, e.g. an expert in the *Sutta*, *Vinaya*, or *Abhidhamma*. Comparing the two terms, one can see subtle but significant differences. *Etadagga* refers to a person specifically awarded the title by the Buddha as being foremost in a certain area based on one of the four criteria above, and there are a fixed number of *Etadagga*. Experts, on the other hand, refer to those well-versed in Buddhism and may be unlimited in number.

Thus, Buddhist experts do not refer only to *Etadagga* but also to non-*Etadagga* knowledgeable persons. For instance, the person most

skillful in *Vinaya* with the title of *Etadagga* is Ven. Upāli and nobody else, while there were other monks who were also very knowledgeable about the subject. In the modern time they would be called experts.

It would not be right, therefore, to equate experts with *Etadagga*, for that would only signify a handful of experts in the Buddha's time. There were a lot of monks well-versed in *Vinaya* but not conferred the title. So, experts and *Etadagga* are not quite the same.

Buddhist Studies in Thai *Saṅgha* Universities

As it is rather difficult to study the entire scene of Buddhist Studies in Thai *Saṅgha* universities comprehensively, this study wants to focus on aspects that have direct impacts on the quality of education. For ease of comparison with the modern education system, the researcher has adopted the CIPP Model as a basis for analysis within the following scope:

1) Context: The study deals with both the external and internal environments, including the objectives of the courses/programs, their structures, and contents.

2) Input: It analyzes the composition of primary factors, i.e. instructors, learners, and other components that lend support to education management.

3) Process: It looks at the functionality of the work process, including pedagogical management, assessment, and evaluation.

4) Product: It considers the characteristics of graduates from various programs of studies.

The study reveals the following findings:

1. Context

1.1) Course objectives

Both Thai *Saṅgha* universities focus on the students having an expert knowledge of Buddhism. Some programs even have clear specific objectives. For instance, the Bachelor's Degree Program at Mahachulalongkornrajavidyalaya University is designed with the following objective:

To produce graduates with Buddhist knowledge and abilities, competent enough to analyze, comment on, and conduct research in Buddhism intelligently.

(Mahachulalongkornrajavidyalaya, 2009: 54)

The Master's Degree Program at Mahamakut Buddhist University lists as its objective the following:

To produce masters in Buddhism with the knowledge and abilities in Pariyatti (theory) and Patipatti, able to carry out religious responsibilities for the advancement of Buddhism and the happiness of society at large.

(Mahamakut Buddhist University, 2009: 4)

Yet, some programs do not have such clear objectives. For example, the Bachelor's Degree Program of Mahamakut Buddhist University simply mentions the following:

To enable students to solve religious problems and correct misunderstandings in light of Buddhist principles.

(Mahamakut Buddhist University, 2008: 13-14)

Although some programs do not specify "expertise" in their objectives, a look at the context will indicate the intent for the learners to have expert knowledge of the *Dhammavinaya*.

Assistant Professor Suthep Phromloet, Faculty of Buddhist Studies Mahachulalongkornrajavidyalaya University, had this to say:

It is true that the objective of the program is to produce graduates with expert knowledge, but the learners do not have enough incentives, e.g. what would they do after graduation? Most do not expect to stay in monkhood for the rest of their lives. If there are jobs that require their expertise, they will be more motivated to study seriously, thus fulfilling the program's objective.

(Interview, 15 March 2011)

Phra Rajavaramuni, Dean of the Faculty of Buddhist Studies, Mahachulalongkornrajavidyalaya University, commented thus:

Setting an objective for the learners to have an expert knowledge of the subject is the right and proper thing to do. The extent to which they are able to do so will depend on themselves and on other factors.

(Interview, 7 March, 2011)

This view corresponds to that of Phra Khru Siripanyamethi, Head of the Department of Buddhist Studies, Mahamakut Buddhist University, who said the following during the interview:

It is proper to set such an objective. To attain it will depend rather on how the process is carried out.

(Interview, 9 March, 2011)

The evidence gleaned from the Program documents and interviews indicates that each program intends to make the learners experts in the subject. There seems to be a common agreement, however, that in reality this cannot be achieved for a number of reasons to be addressed later.

1.2) Course structure

The Bachelor's Degree Program at Mahachulalongkornrajavidyalaya University has two options: one in which students can choose to study Buddhism as a major or minor subject, the other only as a single major. Both programs require the total number of 140 credits of study, out of which 30 credits are in general studies, representing 21.42%. This leaves only 78.58% for the study of Buddhism.

At the Master's Degree level, there are three programs available: Plan A (1), Plan A (2), and Plan B:

a.) Plan A (1)

Students will focus on completing a thesis which accounts for 38 credits, while still being required to accumulate credits in other subjects. In this manner, the program largely depends on individual interests of the candidates.

b.) Plan A (2)

Students will take a variety of courses to fulfill the requirements of 38 credits – 8 for compulsory courses, 12 for major courses, not less than 6 units for electives, and 12 for the thesis.

c.) Plan B

Students are required to fulfill credit requirements by course work without having to write a thesis.

At the Doctoral level, there are four programs available: Type 1.1, Type 1.2, Type 2.1, and Type 2.2:

a.) Type 1.1 (English program)

This is an English Doctoral Program with thesis (54 credits). Students are required to take other necessary courses. In Type 1.1, the choice of a thesis title will depend on individual interest.

b.) Type 1.2

The program structure consists of 78 credits by thesis only.

c.) Type 2.1

The program consists of 54 credits: 6 from compulsory courses, 6 from major subjects, 6 from electives, and 36 for the thesis. There are no general courses.

d.) Type 2.2

The program consists of 78 credits: 9 from compulsory courses, 12 from major subjects, 9 from electives, and 48 for the thesis. There are no general courses.

As for Mahamakut Buddhist University, the Bachelor's Degree offers two programs: regular program and continuing education program. Mention will be made only about the regular program here. The entire program consists of 132 credits. No less than 30 credits are from general courses comprising four different subject groups: social sciences (6 credits), humanities (6 credits), languages (12 credits), and science and mathematics (6 credits). Students are also required to take no less than 96 credits in three specific areas comprising 30 credits from religious courses, 51 credits from major subjects, and 15 credits from minor subjects, as well as no less than 6 credits from free electives.

Students, therefore, are required to study general courses, representing 22.72% of the total program, leaving only 77.28% for Buddhist studies. If they choose other free electives that have nothing to do with Buddhism, the percentage will be down to 72.72%.

At the Master's Degree level, there are three types of programs: Plan A (1), Plan A (2), and Plan B:

a.) Plan A (1)

A thesis is required, accounting for 48 credits. Students are also required to take other necessary courses. In this plan, the choice of a thesis title will depend on individual interest.

b.) Plan A (2)

This is a program by coursework constituting 48 credits, including 24 credits from compulsory courses, 12 from electives, and 12 for the thesis. The focus is not as much on the thesis as in Plan A (1).

c.) Plan B

This is also a program by coursework constituting 48 credits, out of which 42 credits are taken from compulsory courses (27 credits) and from electives (15 credits). An independent study accounting for 6 credits is required instead of a full thesis.

At the Doctoral level, there are two programs: Type 1 and Type 2.

a.) Type 1

The program consists of 63 credits from four different subject groups: foundation courses, major subjects, electives, and a thesis. The students may be required to attend some non-credit foundation courses, in which case the weight of the credit requirements is given to the thesis.

The choice of a thesis title for this program will depend on individual interest.

b.) Type 2

The program consisting of 63 credits has the same structure as Type 1 above, except that all the courses taken are given credits together with the thesis. In this way, the students are obliged to pay attention to both the coursework and the thesis.

The information gleaned from the above programs may not be evident enough to decide how or in what ways the course structure has an impact on the expertise or mastery of the subject of the students. For this reason, a series of interviews were arranged with a number of faculty members. There are three issues under consideration.

Issue 1: Are general courses necessary?

There are arguments for and against general studies in sciences that have nothing to do with the Buddha's teachings or have no direct bearing on Buddhism. Some argue that the studies of these subjects adversely affect the students' mastery of Buddhism, for the time spent on them could have been devoted to their major interest. Besides, general studies tend to be broad-based and are more concerned with modern sciences, while the students have little or no basic understanding about them (Interview, Suthep Phromloet, cited above). Others argue that general studies will lay necessary foundations and preparations for students to pursue their majors. This will ensure that those without necessary basic knowledge will have no problem when they continue their studies elsewhere (Interview, Phra Rajavaramuni, cited above).

It is apparent that the arguments on both sides are reasonable and credible. However, when it comes to the issue of expertise or mastery, they are in agreement that general studies, despite their usefulness, do affect the students' mastery of Buddhism, as they take away a substantial portion of their study time.

Issue 2: Framework of the Office of the Higher Education Commission (OHEC)

This relates to the above issue. If all parties agree that general studies affect the students' mastery, there seems to be no reason to keep them in the curriculum. This, however, cannot be so easily achieved, because the course structure needs to follow the framework set by the Office of the Higher Education Commission. So, it is not possible to remove them from the program and concentrate only on Buddhism (Interview, Phra Rajavaramuni, cited above). To do so would mean that

Saṅgha universities as state institutions do not meet the assessment criteria set by the State (Interview, Phra Maha Somsak Yanaphotho, 9 March 2011).

Hence, if *Saṅgha* universities believe that this is a real cause for concern with enough evidence to reason with the Office about the issue and possible solution, they should come forward rather than maintain that they have to follow the framework of the OHEC. On the other hand, if they cannot independently come up with their own curricula because of the said framework, they could at least make the courses more intensive or find more dynamic instructors to teach them, thereby strengthening the intellectual capacity of the learners (Interview, Phra Thepwisutthikawi, 10 March 2011).

Issue 3: Lack of specialization in programs of studies

Again, this matter relates to Issues 1 and 2 above, contributing to the problem in that the programs of studies are not sufficiently specialized. Phra Suthithammanuwat, Dean of Graduate School, Mahachulalongkornrajavidyalaya University, commented that programs of studies must be really specialized to create expertise in students. The State must give the university a free hand in its management, while providing the same budgetary support, to make it possible for the institution to develop some kind of specialization. At present, the programs of studies cannot make learners experts or masters of the subject. Students learn mostly only to pass the examination (Interview, 8 March 2011).

The above comments reflect how courses tend to be broad-based without a specific focus due to time limitation. The programs are mostly designed to ensure that students reach the required standard without much concern for specialization. What they learn is, therefore, only a part of the expertise (Interview, Phra Khru Palat Samphiphatwiriyan, 7 March 2011).

This lack of specialization has to do with the general studies courses and the OHC framework which do not allow students to seek depth in any one particular area. Such a problem does not arise in *Abhidhamma*

studies programs (Interview, Phra Maha Somboon Wutthikaro, 5 March 2011), which are specialized programs recognized by *Saṅgha* universities.

1.3) Contents

An observation is made about the contents of each course that students are not expected to study in depth the Buddha's teachings, as the program is broad-based in its approach. For instance, the Bachelor's Degree Program in Buddhism at Mahachulalongkornrajavidyalaya University requires students to take 30 credits. The 30 credits are broken down into 6 for Pali language courses, consisting of Pali composition and translation, Pali literature, and Advanced Pali Grammar, and 24 for Buddhist Studies consisting of 17 courses. Of the 17 courses, 11 are directly related to the Buddha's teachings, i.e. *Tepiṭaka* Studies, *Vinayatepiṭaka*, *Suttantapiṭaka*, *Abhidhammapiṭaka*, and *Dhamma* in Practice 1-7. Each above course covers a lot of ground; for example, the contents in *Vinayatepiṭaka* are extensive. In the former time, it would be treated as an entity in its own right and studied in detail section by section, and it would take several years to complete. The same can be said for *Suttantapiṭaka* and *Abhidhammapiṭaka*, but here at the Buddhist universities each course lasts for only one semester.

According to the interviews, the course contents are designed merely to provide basic knowledge without going into any great depth (Interview, Suthep Phromloet, cited above). It is up to each student to pursue a more advanced study at a Master's or Doctoral level. Meanwhile, the fact that each course covers so much ground is admittedly part of the reason why the students cannot pursue the subject in greater depth, thus leading to the lack of expertise thereof (Interview, Phra Rajavaramuni, cited above). However, some may argue that the breadth of the subject matter is more suitable and desirable than a narrow approach as it gives the instructors a free hand to delve into certain areas of their choice and prevents them from teaching too little content (Interview, Phra Maha Somsak Yanaphotho, cited above). All agree that no matter how much ground is covered, time is always a constraining factor. It is, therefore, up to the instructors to decide what and how much to teach (Interview, Phra Khru Palat Samphiphattawiriyachan, cited above).

The interviews reveal that the instructors and administrators all agree on the broad nature of the course. They can be divided in two groups:

One group views that the course needs to be broad to lay foundation knowledge for the learners, while admitting that it accounts for the students' inability to be expert in the subject and that the matter should be addressed.

The other group feels that the breadth of the course is the right approach, for it gives the instructors the freedom to teach whatever they think appropriate. It has nothing to do with the issue of expertise.

The arguments put forward by both sides can be summarized as follows: Nobody objects to the broad nature of the course. However, their views differ regarding whether or not it affects the expertise issue. Those that argue that it has no adverse effect insist that it is the duty of instructors to get the message across in a manner they think appropriate. Phra Thepwisutthikawi commented:

It is possible that the broad scope of the subject matter and time constraint can make it difficult for the learners to be experts in the subject. This would especially be so if they do not have enough potential and if the instructors are not expert enough to deliver the contents in a comprehensible manner (Interview, cited above).

Thus, it can be concluded that the broad nature of the course can affect the expertise issue. Meanwhile, the reference to the instructors can be treated as another variable to be considered further in the section "Input" below.

2. Input

2.1) Instructors

Instructors at *Saṅgha* universities consist of religious and lay persons, some being regular faculty members, others visiting or invited guest lecturers, as follows:

- a.) Mahachulalongkornrajavidyalaya University:
At the Bachelor's Degree level:

Regular faculty members consist of religious persons (53.33%) and laypersons (46.66%). 93.33% have Pali-scholar level education, and 60% have general education in Buddhist studies, while 42.85% hold academic titles.

Visiting lecturers consist of religious persons (15.15%) and laypersons (84.85%). 66.66% have Pali-scholar level education, and 50% have general education in Buddhist studies, while 39.39% hold academic titles.

At the Graduate level:

Regular faculty members consist of religious persons (92.30%) and laypersons (7.70%). 61.53% hold academic titles, 100% have Pali-scholar level education, while 46.15% have general education in Buddhist studies.

Visiting lecturers consist of religious persons (6.25%) and laypersons (93.75%). 81.25% hold academic titles, 56.25% have Pali-scholar level education, while 6.25% have general education in Buddhist studies.

b.) Mahamakut Buddhist University:

At the Bachelor's Degree level:

Regular faculty members consist of religious persons (70%) and laypersons (30%). 90% have Pali-scholar level education, and 50% have general education in Buddhist studies, while 60% hold academic titles.

Visiting lecturers consist only of laypersons (100%). 16.66% have Pali-scholar level education, 0% with general education in Buddhist studies, while 66.66% hold academic titles.

At the Master's Degree level:

Regular faculty members consist of religious persons (53.84%) and laypersons (46.16%). 53.84% have Pali-scholar level education, and 38.46% have general education in Buddhist studies, while 46.15% hold academic titles.

Visiting lecturers consist of religious persons (18.18%) and laypersons (81.82%). 27.27% have Pali-scholar level education, and 18.18% have general education in Buddhist studies, while 45.45% hold academic titles.

At the Doctoral Degree level there are four categories of instructors: regular faculty members, visiting lecturers, qualified persons, and foreign guest instructors.

Regular faculty members consist of religious persons (66.66%) and laypersons (33.34%). 33.33% hold academic titles, 50% have Pali-scholar level education, while 50% have general education in Buddhist studies.

Visiting lecturers consist of religious persons (33.33%) and laypersons (66.67%). 58.33% hold academic titles, 41.66% have Pali-scholar level education, while 33.33% have general education in Buddhist studies.

93.75% of qualified persons hold academic titles, while 100% of foreign instructors have qualifications in Buddhist studies.

As a whole, instructors at both *Saṅgha* universities are well qualified according to the State standard. More importantly, most are Pali scholars with general education in religion and philosophy, while some are holders of academic titles that testify to their expertise in specific areas. Thus, it can be assumed that they are knowledgeable enough to make their students experts in the subject. Interviews with instructors and the administration throw an interesting light as follows:

Of all programs at Mahachulalongkornrajavidyalaya, instructors in the Buddhist Studies programs seem to be the best qualified, most being graduates in Buddhist studies (Interview, Phra Maha Somboon Wutthikaro, cited above). This view is in line with Mahamakut Buddhist University in that there are more regular teaching members at the Faculty of Religion and Philosophy than other faculties, equipped with direct qualifications in Buddhist studies (Interview, Phra Khru Siripanyamethi, cited above). So, instructors have more direct qualifications than other faculties (Interview, Phra Maha Somsak Yanaphotho, cited above). In this light, there is no problem concerning the instructors' qualifications, as they fall under the State's framework (Interview, Phra Khru Palat Samphiphathwiriyan, cited above). Rather, the problem may be related to their teaching techniques, methodologies or delivery styles.

There is some commonality in the above comments that despite the instructors' qualifications, they may not all have teaching expertise. This is partly due to the way they are recruited. Some are engaged through a patronage system, while real experts in the subject may be very expensive to recruit. As a result, the recruitment process consists of a combination of different engagements (Interview, Phra Rajavaramuni, cited above).

Hence, there are not enough expert instructors to turn students into experts in the subject (Interview, Phra Suthithammanuwat, cited above). Today, although instructors may be equipped with good qualifications, they are still lacking in some other qualities. Besides, it is difficult to find persons really adept at teaching. On the other hand, there are people who are real experts but lack the qualifications required. These are some of the problems arising from the regulations on quality assurance set by the Commission Office of the Higher Education (OHEC) and the Office of National Education Standards and Quality Assessments (ONESQA) (Interview, Phra Thepwisutthikawi, cited above).

According to the interviews, instructors of the Buddhist Studies programs are most suitable in terms of education qualifications compared with other programs of studies. Most are graduates of Buddhist studies and Pali scholars. On the other hand, the administrators feel that despite the fact that instructors have directly relevant qualifications, there is still a shortage of people with good teaching techniques and skills. In other words, there are not enough experts in teaching.

All these comments bring us back to the earlier statement that it is the duty of the instructors to deliver the subject content in a profound manner. In fact, it turns out that there are not enough instructors capable of such delivery, leading to the students' inability to master the subject.

2.2) Students

There is a large variety of applicants to both *Saṅgha* universities, in terms of education qualifications, age, and careers. Their knowledge background is different, although they all have to pass the same university admission criteria. These criteria, however, are different from those used by general universities. The latter have stricter and narrower requirements, and their students have similar characteristics, e.g. same age group. They can conduct their studies at more or less the same pace. The *Saṅgha* universities, on the other hand, aim at providing educational opportunities to disadvantaged people to begin with, thus the competition is not that high.

Here, the situation affects the ability to inculcate expertise in the students in two ways:

a.) Admission process

The *Saṅgha* universities have diverse admission requirements in terms of education qualifications (e.g. Pali scholars/secondary school graduates/monks without any education qualification) and age (no age limit). This can create a lot of education problems (Interview, Suthep Phromloet, cited above). Besides, they do not join the general entrance examination scheme, as they want to allow more disadvantaged people into the university educational system and admit all applicants to the programs. As a result, there are fewer students with promising caliber (Interview, Phra Rajavaramuni, cited above). The admission requirements have become increasingly less demanding. In the past, only those with Pali Studies level 5 were admitted to the university; today no such qualification is required. As a result, the quality of the students is lower (Interview, Phra Suthithammanuwat, cited above). The reason for doing away with such admission requirements is that there are fewer students applying for the Buddhist studies programs; hence those who are admitted tend to be smaller in number and less qualified (Interview, Phra Khru Siripanyamethi, cited above).

b.) Students

Students vary – some are more studious than others, each has their own reasons for attending university (Interview, Maechi Kritsana Raksachom, 8 March 2011). Each has a different talent and inspiration. To become an expert in the subject is a matter of individual ability (Interview, Phra Maha Somboon Wutthikaro, cited above). There seems to be a common agreement that the number of students is getting smaller and they are less qualified. Worse yet, they are not interested in the pursuit of knowledge. They choose the course of studies, believing that it is easier to graduate in Buddhist Studies than in other subjects. Besides, the knowledge thereof will not be of much use in the secular world (Interview, Phra Khru Siripanyamethi, cited above). Despite the effort by the university and faculty to provide education grants for the entire program of Buddhist Studies, very few students apply, because they do not believe that there are job opportunities for them after graduation (Interview, Phra Maha Somsak Yanaphotho, cited above).

It can be inferred that because the *Saṅgha* universities have opened up educational opportunities to disadvantaged students, the admission process is rather easy-going. It is hoped that this will be an incentive for more students to join and expand this small program, for any strict admission requirements will deter them. In addition, the students' backgrounds are very different in terms of education qualification and age.

In the university administrators' view, besides all the above differences, the students' faith, determination and goals are also determining factors, for very few students actually want to attain *Nibbāna*. They merely seek an educational qualification as a passport to employment in the secular society. Expertise in the subject matter is not their ultimate goal. For them it is good enough to pass the degree requirements.

2.3) Other components that lend support to education management

Other components include educational material, texts, and other classroom facilities. Compared to the olden days, the two *Saṅgha* universities are much better equipped with regard to study and research facilities. Although they are not yet on the same par as other universities in general, they are good enough for students to master what they learn.

3. Process

3.1) Course management

Here mention will be made only about factors that do not facilitate the students' mastery of the subject matter at both *Saṅgha* universities. There are two aspects:

a.) Establishment and organization of the Department

As far as the establishment of the Department of Buddhist Studies is concerned, it is the researcher's observation that the scope of the study is too broad, compared to more intensive teaching of Buddhism in former times. Even in the Buddha's time, learning was divided into areas or sections, as can be testified from the following evidence:

Behold, Thera Dabba-Mallaputta, monks who are ordained will have their seating and sleeping quarters arranged in separate proper order. Bhikkus who are good at Suttas are grouped together, partly in order for them to practice the Suttas together. Bhikkus who are good at Vinaya are also grouped together, partly in order for them to examine the Vinaya together. Bhikkus who are good at Abhidhamma are grouped together, partly in order for them to converse about the Abhidhamma...

(*Vinayatepiṭaka* (Translation), Volume 3, 1999: 426)

Another statement of the Buddha mentions how the subject was divided into separate categories in his time:

There are Bhikkus who are Bahusutta, who have completed their study of the canons, Dhamma, Vinaya, and Mātikā, but are not interested to teach the Sutta to others. When they pass away, the Suttas have no ground to take root in or live on. This is the third Dhamma of truth that accounts for the loss of Saddhamma.

(*Suttantapiṭaka* (Translation), Vol. 35, 2009: 398)

All this goes to show that even in the distant past Buddhist studies were divided into *Sutta*, *Vinaya*, or *Abhidhamma*. Monks were divided into groups according to their lines of study, making it possible, in the researcher's view, to better attain expertise than the attempt to study the subject in its entirety at once. The latter approach does not make the students experts in the subject.

The interviews reveal that the division into *Vinaya* and *Sutta* is not commonly adopted for fear that students will not want to enroll to take the courses. The *Vinaya* course might attract only student monks. Besides, the objective of the *Vinaya* studies nowadays is different from that of the past when it was designed to promote dissemination of Buddhism. It was important then to divide the teachings into *Sutta*, *Vinaya*, and *Abhidhamma*. Today, the *Tepiṭaka* is in written form, and there is no

longer the need to follow the old method (Interview, Phra Maha Somboon Wutthikaro, cited above). The old practice does not accord with the university system which is based on a more holistic approach, aiming to ensure that students learn about Buddhism from a number of perspectives. The focus is rather on its application to society or organizations (Interview, Suwin Raksat, 7 March 2011). The division into separate courses, therefore, follows the central standard practice. If a large enough number of students make a special request for a specific subject, it is possible to open a new course. Of course, the number of students will still be small (Interview, Phra Khru Palat Samphiphattawiriyachan, cited above). If the universities want to offer specialized courses, say, in *Sutta*, *Vinaya*, or *Abhidhamma*, they will have to choose to focus on a specific sect just like in the past, but they also have to think about who will be their possible students. Very few will enroll due to the impression that there will be no demand for them and their skill in the job market after they graduate (Interview, Phra Thepwisutthikawi, cited above).

Thus, it may be observed that, in a way, the division of the subject matter into various general courses today is partly responsible for the lack of expertise among the students. The argument is that there is no need for specialized courses as in the past for the reasons cited above, such as little or no enrollment by the students, or no demand in the job market. Besides, such broad approach of study is in line with the central standard set by the Commission Office of Higher Education.

b.) Teaching methodology

The pedagogy of the *Saṅgha* universities, naturally, is different from the oral approach of the past. The use of texts, or the *Poṭṭhakaropana* method, as a basis for learning differs according to historical periods. Both approaches have their strengths and weaknesses. For instance, the oral tradition helps the learner to memorize texts better than reading, while reading texts and listening to lectures are more convenient, faster, and easier to understand. In the Buddhist tradition, learning is meant to develop the Five Aggregates, one of which is *Saññā* or memory, a faculty that needs to be developed alongside others (Interview, Phra Thepwisutthikawi, cited above). Modern teaching, on the other hand, relies a lot on the application

of technology for greater efficiency. Yet, studying Buddhism still requires memorization, and this could pose a problem for many students who find it difficult (Interview, Phra Khru Siripanyamethi, cited above). Furthermore, despite the availability of the learning media, students do not learn as much as expected and are not eager to pursue the subject further. This is one of the reasons why students today are not able to master the subject as well as those in the past (Interview, Phra Rajavaramuni, cited above).

3.2) Measurement and assessment

Educational measurement and assessment by the *Saṅgha* universities follow the same standard criteria set for higher education, i.e. using grades and credits. In view of the students being monks, there is a tendency to overgrade in the students' favor, thus accounting for a large number of graduates with honors. This may be a weakness that needs to be redressed (Interview, Suthep Phromloet, cited above). Measurement and assessment are satisfactory to a certain extent, yet there is room for improvement. Ultimately, it is up to the discretion of the instructors (Interview, Phra Khru Palat Samphiphawatwiriyan, cited above).

This reflects how the measurement and assessment of the *Saṅgha* universities, despite following the set standard, do not produce the desired effect. The instructors have important roles in student evaluation.

4. Product/Output

All of the above factors evidently affect the education system provided by the *Saṅgha* universities. This can be seen in the output of graduates who cannot be called experts in their subject. The *Saṅgha* universities cannot claim to produce graduate experts in *Dhammavinaya* to serve the Buddhist world as in the past.

The following consists of interviews with students on why it is difficult to be experts on the subject:

Phra Thanaphat Nitisakko:

At the Bachelor's Degree level, students cannot hope to become experts in the subject as set in the objective, because there is no in-depth study and little critical approach. The

effectiveness of the program depends partly on the instructors' dedication and partly on the students' level of interest.

There are too many general courses, leaving little time to more specialized subjects. Most students feel that these general education courses are not necessary, especially for those who major in Buddhist Studies. More time should be spent on *Tepiṭaka* studies so that they can become experts in the subject.

To reach such an objective, it is imperative to focus on *Tepiṭaka* studies alone without other subjects which can take up a lot of time in view of the assignments given. Courses should be narrower in scope with built-in continuity from Year 1 to Year 4. This will make it possible for the students to be experts in the subject matter.

The instructors are different from one another. Some have a lot of knowledge and teach with passion, others not as much. Sometimes they have other engagements or meetings to attend and do not turn up for the class. So, teaching and learning are interrupted. If learning is done on a more regular basis, things should be better. If the instructors are stricter with their rules and regulations, things will also be much improved. Some are too lenient, allowing absentee students to sit for the examination. This could be a problem.

Some students are not responsible. For example, they are late for class. A number of students are conscientious, like those who want to be *Pariyatti* teachers. They show more responsibility and attention. Unfortunately, this kind of system is not of much help, for too much depends on individual learners.

There are enough educational materials, e.g. books and texts, in the library for students to do research, including

canons of various kinds. So, it is all about how much they want to learn.

With regard to teaching methodologies, the instructors should encourage the students to do more research and present their findings. They should look for the strength of the students and encourage them to pursue further studies.

Evaluation and assessment are good and appropriate. However, to become experts, much will depend on individual willingness to study further (Interview, 8 March, 2011).

Chanatda Phasukrit:

From the set objective the students do not expect much. It is all up to the instructors to do what they want. At least, at the end of the course the learners feel that they know something more than they did at the beginning, but nobody expects to become an expert. The course structure touches on many areas and covers a lot of ground, so it is suitable for those without a background in Buddhism. This is how things are at the Bachelor's Degree level.

The courses provided so far are also rather general without specific details in Theravāda Buddhism. They are concerned with more general knowledge. If you want to be a specialist, you need to focus on *Tepiṭaka* studies, e.g. *Tepiṭaka* 1, *Tepiṭaka* 2, and *Tepiṭaka* 3. Some courses are not necessary and should be left out. General knowledge education is useful for those without a background in Buddhism. If the students can choose, they will rather study Theravāda Buddhism in great depth.

Regular instructors are knowledgeable and very kind to the students. They are always willing to give advice. So, it all depends on the students to approach them.

It is good to allow applicants from other fields to study the course, but the effects are soon felt by those with

no background knowledge. They will be unable to follow the contents at the same pace as those with a strong background. As a result, they would often find themselves lost and could not quite follow the course. It is not possible to expect them to have expert knowledge when they struggle to survive and merely try to get by.

To create Buddhist Studies as a separate department and allow students from other departments to register show the university's open-mindedness appropriate for the Bachelor's Degree level. For a Master's Degree program, however, Buddhist Studies should be more specific and studied in depth as far as the timeframe allows. The courses offered, therefore, should not be too general. Students also need to pay greater attention. Meanwhile, teaching methodology is in the hands of the instructors. They can use lectures, research assignments, and study visits to promote students' learning and expertise in the subject.

Evaluation and assessment for the most part rely on writing assignments. This method is better than the multiple-choice question approach but still is not as effective as the recital method by which the instructors ask the students to recite part or all of the texts. The latter method can be taxing, but it should push the students to pay more attention and become more knowledgeable in the process.

In my studies so far, I am confident that I can pass the examination. I can teach myself and give advice to others in some areas. I can give a basic explanation and advise others where and what to look for in the *Tepitaka* text, but I do not have expert knowledge. (Interview, 5 March 2011).

Phra Pariyattithada:

The course structure of the Doctoral program is not really conducive to the students gaining an expertise, as they come from different backgrounds in Buddhism, some even

have no background at all. They cannot be expected to get the same result. Those with strong background knowledge in Buddhism often rely on memory with little or no textual criticism, as the purpose of *Dhammavinaya* studies is to keep the scripture as pure as possible. It does not come as a surprise that those who have undergone the Pali scholar or Pali language systems are better at what they remember than at critical analysis. On the other hand, those from the secular background may be trained in analytical thinking but lack the desired memorized knowledge of *Dhammavinaya*. The university program is designed to integrate both components, thereby giving rise to a host of problems. Those with a memorization background cannot analyze, while those with analytical training do not know what to analyze. Their solution is to focus on a few manageable clusters of the knowledge. Therefore students know the subject in bits and pieces, whereas *Dhammavinaya* is supposed to be interconnected throughout the body of knowledge. The Buddha's teachings in some *Sutta* may not always have the same objectives. Therefore, this kind of partial approach to the program structure cannot lead to any profound knowledge.

The contents of the courses tend to be broad. Only a selected number of points receive special attention because of time constraint. It is up to each student to do what they like with what they learn.

Instructors for the Doctoral program are knowledgeable. They can advise the students in areas that need further studies. In Phra Pariyattithada's view, the university should set Pali scholar qualifications as part of the admission requirements to ensure that the applicants have adequate knowledge of Buddhism. Some even think that the Doctoral program is too broadly designed and cannot deliver what they want. This broad-based approach may in part account for the students' inability to specialize. If more specialized courses are made

available, e.g. *Sutta* studies, this will more likely pave the way for some kind of expertise. He is confident that there will be students who want to take specialized courses. In the past, the university was afraid that there would be no applicants, but today the admission is based on a more competitive examination system.

The program timeframe as set by the the university is good enough for students to learn about general principles of each course. It can be used as a roadmap for further expansion. Teaching methodology involves several forms, including lecture, discussion, and seminar. How effective each form is will depend on the teaching technique of individual instructors.

Evaluation and assessment at the Doctoral level largely depend on academic or research work of the students. They are appropriate.

If the graduates remain in the academic circle, they will likely develop their own expertise. Otherwise, their academic development may be stunted. Continuous improvement should enable the graduates to become experts in some form (Interview, 5 March 2011).

Phra Palat Chamnan Sophano:

It is possible to impart knowledge but it will be difficult to make students experts unless they are really interested and pursue further studies.

The course structure does not make it possible for the students to master the subject during the program. It only serves to spur their interests, although it can be of some help for students in choosing a subject area for their thesis. The help, however, is minimal.

The course contents do not provide in-depth knowledge. Topics are mentioned and taken up, with the instructors'

guidance. The courses only provide general guidelines for further pursuit and cannot be expected to lead to any expertise.

The teaching faculty is very helpful to the students, giving clarifications when students encounter certain problems. So, in a way, instructors can help students master the subjects.

Today students do not possess the same qualifications as those in the past when Pali studies qualifications were required. In view of fewer student enrollments, the university decided to lower the requirements, thus accounting for the lower quality of applicants.

With regard to teaching methodology, each instructor has to come up with their own style and technique to stimulate student interest. The use of lecture, Q & A sessions, and discussion, for example, is appropriate.

Presently, evaluation and assessment are just tools. They may not be the best, but they are of good standard. The graduates today are not experts in the subject for a number of reasons. For example, they have inadequate background knowledge; the study is not very intensive compared to the past; the courses are not specialized; and some students simply want to have a degree to further their current career. So, true expertise seems to be out of the question (Interview, 9 March 2011).

Phra Maha Wichai Dhammavijayo:

The objective of the program is quite clear, i.e. to promote expertise in the students. However, the courses are not intensive enough to make that happen.

The university's course structure today is not vigorous enough to enable any in-depth study. Most courses are taught following the general guidelines and do not allow students to do much further study.

The delivery of the course contents is constrained by time, thus making a comprehensive or in-depth exploration of the subject unlikely. Some courses cover a lot of ground and are rushed through to meet the time challenge. Consequently, the students do not learn much, and most instructors do not set additional assignments for further analysis. So, the students do not learn as much as they should.

The instructors are appropriate as far as their education qualifications are concerned. However, sometimes their teaching techniques and methodology leave much to be desired. For example, they do not usually assign the students to do research with a view to further discussion. Those who do so find that the time constraint and a large scope of study make it almost impossible for students to ask for clarification. Several students are frustrated with the situation. Besides, some courses are not interesting, and the students attend the class just to meet the course requirement. So, the situation does not warrant a true pursuit of knowledge. Most of the Doctoral students are professionals who attend the program to advance their careers. At the same time, there is not much interaction between students because of such factors as age difference, different work positions, and different religious and secular statuses. All this is not conducive to an exciting learning environment, for the comradery among students is lacking.

Course management is constrained by time and does not allow for in-depth research. Pedagogy relies, on the most part, on lecture, which is rather boring and not very useful. A better approach should be for the instructors to give individual students some research assignment and ask them to present the findings to the class. This will stimulate discussion and create a greater learning environment than listening to the lecture, thus encouraging the students to do research and move toward the goal of expertise.

The university's evaluation and assessment standards at the Doctoral level do not really reflect the desired goal set for the students. In other words, the standards are not high enough.

Most students do not hope to be experts in the field. They join the program for self-improvement purposes. Very few aspire to become experts. When they graduate and enter into a different field of work, the interest in pursuing further studies tends to disappear. So expertise seems to not be attainable (Interview, 10 March 2011).

Summary and recommendations

In the past, Thai *Saṅgha* universities were obliged to design programs of study in line with the secular practice, partly in order to provide opportunities for educationally disadvantaged monks and novices, and partly to ensure that their students can continue their studies elsewhere. Later, when they became public universities, they have to adhere to the Ministry of Education's framework. Today, more education institutes admit monks and novices to their programs of study, while their education fees are not much different from *Saṅgha* universities, e.g. Sukhothaithammathirat University and Ramkhamhaeng University. The *Saṅgha* universities themselves today have seen a proliferation of faculties and departments offering non-Buddhist courses that the students find useful for their secular careers.

Therefore, Buddhist Studies need not worry about secular concerns like in the past for a number of reasons cited above. A change should be made in the program objectives, from producing graduates for the job market to producing them for the continuance of Buddhism, in line with the primary image of the *Saṅgha* universities. If Buddhist Studies programs can be made more specialized and intensive, if the focus is changed from the disadvantaged group to those who are qualified and truly seek to pursue and attain knowledge of Buddhism, the researcher believes that the number of students will not decline. Instead, there will be more

motivated students as they will be the ones truly driven by faith and the desire to learn.

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Monks and Just Wars*

*Phra Maha Somboon Wutthikaro (Phanna)***

Introduction

After the Buddha's time, Buddhism has spread to places in and outside India. As carriers of religious messages, Buddhist monks would invariably find themselves in different social, cultural and political environments. Some places were embroiled in war. There is substantial evidence that a number of monks were directly and indirectly involved in the conflict. For example, they were known to give blessings and motivating sermons to soldiers headed into war, explaining the rationale of warfare, while some even volunteered to fight alongside the force or set up an army of monk warriors. Here are some examples:

1. In Sri Lanka, King Dutthagamani Abhaya waged war against the Damilas (Tamils). Before going into battle, he would attach the Buddha's relics to the spearhead and then go to the monastery to persuade 500 monks to fight with him, believing that this would boost the morale of the army. After his accession to the throne, he was filled with remorse about the high number of casualties inflicted in the war until he heard the following sermon from a monk:

* This article is based on a thesis in Buddhist Studies entitled "Monks and Just Wars", Faculty of Arts, Chulalongkorn University, 2014.

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“...killing with intent to preserve the religion does not bar the killer from entering Heaven. To kill an immoral person is a sin, the weight of which is equal to killing a half-human, for a person who does not respect *Tisaraṇagamana* or a person without *Pañca-sīla* has lost his humanity. He is an imperfect being. His death is akin to the death of a *Tiracchāna*”. (Mahanamathera, et al. 2010: 60-61)

2. After the former Thai capital of Ayutthaya fell to the Burmese army for the second time, an army of monks was organized by Chao Phra Fang (Maha Ruean), a senior Thera of the *Saṅgharāja* level of the city of Sawangkhabori (Fang), and fought alongside other groups of Thai soldiers to re-capture the city (Dr. Bradley, 2008: 25:50).

3. During the reign of King Rama I, a Burmese army invaded the southern region of Thailand and was about to enter the city of Nakhon Si Thammarat. A group of Thai citizens, led by Phra Maha Chuai, was able to drive the enemy away. (Phra Brahmaganaphorn (P.A. Payutto), 2011: 12-13).

4. During the rule of Korean King Sonjo (1567-1608), Korea was invaded by the Japanese army, and the king fled. Seeing the country at a loss, about 600 Korean monks formed their own army and were able to drive the Japanese invaders away (The Korean Buddhist Research Institute, 1993: 191-192).

5. In China and Japan there were incidents in which the Mahāyāna Buddhist monks formed an army of monk-warriors to defend their temples against anti-Buddhist authorities. Some examples include the Shaolin Temple in China and the Enryaku-ji Temple in Japan (Turnbull, 2003: 4-11).

These incidents raise an interesting question. The Buddha never approved of war or the use of force. He did not allow the *Saṅgha* to meddle with the affair of the armed forces. Why is it, then, that after his time there were increasing accounts of monks engaged in discordant situations? They were seen giving blessings to the belligerents, motivating them, rationalizing the war in religious terms, joining the army, and forming an

army of monk-warriors. What then is the true position of Buddhism in relation to warfare? What is the Buddhist attitude toward just wars or wars waged to protect the good and the righteous? An example that comes to mind is the attempt to protect Buddhism against destructive and hostile forces. When monks became involved in war-like activities, how did they justify their actions? Consideration must also be taken for events that have an impact on their survival or the survival of Buddhism. Will such consideration be enough to justify the monks' involvement in warfare?

“Just wars” in the Western world

The Western thinker who first raised the issue of war in moral and philosophical terms, which gave rise to the idea of “just wars”, is St. Augustine. He is often called “the father of the just-war theory”. This does not imply that there were no other such thinkers before Augustine. The Greek philosopher Plato and the Roman thinker Cicero had addressed this issue before. In what follows, the researcher wants to present the Greek, Roman, and Christian backgrounds of “just wars” in the Western tradition.

1. Plato

Long before Augustine, Plato discussed the concept of just wars, saying that “the State is set up to justify its use of force in the lawless world” (Mattox, 2006: 1). His view is that during wars, the matter at hand is between the State and its citizens (2006: 1). In the *Laws*, Plato considered warfare the duty of the State and not the duty of any individual (1961: 1500). The same point was raised by St. Augustine several times. In *The Republic*, Plato maintained that both Greek citizens and residents should not be the target of wanton destruction. When the war ends, no Greek who lost the war should be made a slave (1961: 710). This is also another point that Augustine later took up.

2. Cicero

Cicero (106 BC-43 BC) was a Roman thinker who had considerable influence on Augustine. He praised Cicero as being “one of the most

learned orators of humanity” (reference in Mattox, 2006: 14). Augustine also cited Cicero’s *City of God* at least 18 times and remarked how reading Cicero’s *Hortensius* led him to the world of philosophy. Augustine admired the Roman orator, referring to him as a thinker of just wars (2006: 14).

The just war theory has evolved over several centuries thanks to a series of Roman thinkers. According to John Brinsfield (1991: 25), a Cicero scholar, in the 4th century the Roman just war theory was part of warfare thinking. Components of a just war were just cause, just conduct, proper authority, and intent to establish peace and justice. A just war was waged as the last resort. Cicero suggested that innocent non-combatants be separated from perpetrators, and that punishment should be proportional to the crime. These rules did not apply to rebellion, guerilla warfare, and war against the uncivilized (1991: 25).

Cicero discussed the principle of a just war, focusing on the just cause and the just act. Bainton (1960: 42-43) suggested that Cicero’s just war was based to a certain extent on the ancient Roman practice. For example, a just war must be waged by the state. Warriors who had not given their oaths were not legally allowed to fight. A state should not enter into war against another without formal declaration. Treatment of the enemy must adhere to the principle of good faith. Efforts must be made to separate innocent persons from enemies. Actions of the ruler and the public should follow the humanitarian principle, because humanity is characterized by excellence and dignity, qualities that deserve respect.

In short, Cicero’s just war theory is centered on the State as the authoritative and legitimate entity that can wage a just war. The following are some of the important principles:

- 1) Only the State can wage a just war. A just war cannot be initiated by an individual.
 - 2) Combatants have declared their oaths.
 - 3) War must be waged with the right intention.
 - 4) Fighting must not cause harm to innocent non-combatants.
- Humanitarian principles must be observed. Attempts must be made to separate innocent persons from perpetrators.

5) War is waged to maintain peace and to benefit the people of the State.

6) War is waged to protect the people of the State from destructive aggression of the enemy.

7) War is waged primarily to ensure the survival of the State against the destructive force of the enemy.

8) Punishment must be proportional to the crime of the perpetrators.

3. Christianity

Most academics are in agreement that early Christianity was based on Jesus Christ's teachings about love, peace, and refusal to use violence in any form, especially war. The Christian God was not a warrior against the enemy of the Jews. Christ was presented as having nothing to do with the traditional sacred warfare of Ancient Jews. However, after Emperor Constantine I (272 AD-337 AD) was converted to Christianity, it became the dominant religion of the Roman Empire. With this the approach to war underwent a complete change from emphasis on love, peace, and non-violence to acceptance of the use of force in what is known as a "just war". The researcher wishes to present some Christian approaches here.

3.1 Clement of Alexandria

Clement of Alexandria (c. 150-c. 215) is considered to be the first Christian thinker to introduce the just war theory into the Christian world. Although the evidence about his thought is rather scarce, he is recognized for defining just wars in two ways: 1) the war is waged to defend the empire; this is known as just cause, and 2) the emperor's authority is the right authority (Bruce Duncan, www.socialjustice.catholic.org.au).

3.2 St. Ambrose

Aurelius Ambrosius, better known as St. Ambrose (339-397), ruled a province in northern Italy. He was appointed a bishop of Milan who exerted tremendous intellectual influence on St. Augustine. He wrote a book *On the Duties of the Clergy* based on Cicero's *De Officiis*. It may be said, therefore, that his treatment of just wars was influenced by the Roman author, especially the idea that war is waged to protect the State.

It must be remembered that the Roman Empire was under threat from foreign invaders whom he called heretics.

According to St. Ambrose, the use of force are of two kinds: force used in self-defense and force used to protect the State. He did not approve of the first kind of violence but condoned the latter. The war in defense of the State or its allies would be undertaken in the name of the common good and was, therefore, brave and just (Mattox, 2006: 20-23).

3.3 St. Augustine

In St. Augustine's view, waging war or using force could be either a just or an unjust action. If force was used for self-interest, say, killing a neighbor in self-defense or to protect one's own property, the act would be unjust. On the other hand, if war was waged to maintain peace or to defend the State from destructive forces, it would be just. He said that "a just war is not one which avenges injuries on the perpetrators, but an act to restore what was unjustly taken" (<http://www.unitypublishing.com/Government/JustWarCatholic.htm>).

St. Augustine believed that intention is a crucial component, saying "The desire for harm, the cruelty of avenging, the unruly and implacable animosity, the rage of rebellion, the lust of domination and the like – these are the things which are to be blamed in war" (<http://www.unitypublishing.com/Government/JustWarCatholic.htm>).

To Augustine, the attempt to restore peace was also an important motivating factor. He said, "For peace is not sought in order to rekindle war, but war is waged in order that peace may be obtained. Therefore, even in waging war, cherish the spirit of the peacemaker, that, by conquering those whom you attack, you may lead them back to the advantages of peace" (<http://www.unitypublishing.com/Government/JustWarCatholic.htm>). Thus, Augustine's just war is defined by the following three factors:

- 1) Purpose
- 2) Authority
- 3) Conduct

To him, war was the greatest physical evil on earth, but we could justify it if it was waged to protect the vulnerable or innocent victims. He weighed the rights of innocent victims against the rights of the aggressors. Evidently, in cases of illegitimate aggression, the rights of the former prevail. In such situations a war could be waged in self-defense. It is not to be waged to pose a threat against others. The declaration of war must be made by lawful authorities, e.g. monarchs. Furthermore, war must be waged on the principle of love, which was considered one of the most important components. Humans are dignified beings, even our enemies are dignified. War should be waged with the motive of peace. He said, “We do not seek peace in order to be at war, but we go to war that we may have peace. Be peaceful, therefore, in warring, so that you may vanquish those whom you war against, and bring them to the prosperity of peace” (<http://unitypublishing.com/Government/JustWarCatholic.htm>).

3.4 St. Thomas Aquinas

In 1096 the Crusade began. This was a religious war between Christians and Muslims. The conflict started when a group of Muslims occupied Jerusalem, a sacred site for Christian pilgrimages. Pope Urban II, the supreme Roman Catholic leader in Rome, gave an eloquent speech in favor of a crusade against the Muslim aggressors. He promised to purge the crusaders of the sin and cancel all the debts. At the Council of Clermont in the south of France, on 18-28 November 1095, the crusade or the Holy War was declared, “as God wills it”, to win back the city of Jerusalem. Following the Pope’s sermon, many Christians joined the Crusade. The Pope’s declaration of war started off a war that lasted for 196 years.

Towards the end of the Crusade, St. Thomas Aquinas wrote the *Summa Theologica*. The treatise was built on St. Augustine’s just war theory. Aquinas proposed that a just war be made on the following three principles (Jones, 1998: 30).

a.) Authority of the ruler

War is not the business of a private citizen. The authority to summon the people in wartime is in the hands of those who hold supreme authority. It is their legitimate business to protect the common good of

their people against threats. In his *Summa Theologica*, he asserts that in the just war, the legitimate authority “bears not the sword in vain, for he is God’s minister, an avenger to execute wrath upon him that doth evil” (www.catholiceducation.org/articles/politics/pd0051.htr), and urged the said authority “to rescue the poor and deliver the needy out of the hands of the sinner” (www.catholiceducation.org/articles/politics/pd0051.htr).

b.) Just cause

Those who are attacked are attacked because they deserve it on account of some wrongdoing. This was also mentioned by St. Augustine that “a just war is one that avenges wrongs, when a nation or state has to be punished, for refusing to make amends for the wrongs inflicted by its subjects, or to restore what it has seized unjustly” (reference, Mattox, 2006: 46).

c.) Rightful intention

Participants in the war should have rightful intention in the sense that they intend to bring about the good and avoid evil. Hence, St. Augustine proposed that the legitimate just war is not waged for aggrandizement purposes. Fighters should not rejoice in waging war, but consider it an unavoidable necessity. They must not engage in war as an act to provoke further aggression (The Just War Tradition, www.south-alabama.edu/history/faculty/sirmon/Just%20War.ppt).

Monks and just wars in Theravāda Buddhism

What is the Buddhist attitude towards just wars? In what ways can Buddhist monks’ involvement in just wars in a number of countries be justified in light of the Buddha’s teachings? Is it possible that in unavoidable situations Buddhism allows the waging of war as a necessary sin? In what follows, the researcher attempts to address these questions.

1. *Dhammavinaya* and just wars

In the Buddha’s time, there was no evidence of a monk or group of monks taking part in war whether directly or indirectly. There were incidents, however, in which the Buddha was present in the conflict but only to act as

the conciliator to prevent the conflicting parties from going to war. Some examples include the Buddha's relatives quarreling over the use of water the Rohinī, the incident of King Vidūdabha and Brahmin Vassakāra. It could be said that the Buddha's conduct reflects his position that he did not support war or the use of force in any form. This position is based on *Dhammavinaya* that he taught. In *Vinaya*, for example, Precept 1 of *Pañca-sīla* is about abstaining from killing. In Dhamma, e.g. in *Kūṭadanta Sutta* (D.I 9/199-237), he radically changed the animal-sacrifice ritual practiced by old-school Indians to that of a non-killing kind. Again, in *Cakkavatti Sutta* (D.III 11/33-50) he taught *Kusala-kammaṭṭhāna*, comprising ten precepts about refraining from harmful action mentally as well as physically. In addition, there are a lot of other teachings on loving kindness, compassion, and forgiveness (Hatred is never appeased by hatred. By non-hatred alone is hatred appeased). These principles of *Dhamma* are the opposite of war and the use of force.

In the researcher's view, the Buddha's position towards war is consistent with the rest of his teachings. All of his teachings, at the *Sīla* level, *Samādhi* level, or *Paññā* level, are incompatible with war. War is considered an evil act or "*Akusala-kammaṭṭhāna*". This is something to be abandoned, as shown in the teaching on *Kilesa* in the *Akusalamūla* group, the three roots of evil, i.e. greed, anger, and delusion or *Kilesa* in the *Papañca* group of *Taṇhā* (craving), *Māna* (conceit), and *Diṭṭhi* (speculation). All these are impurities that lie behind the use of force. They are inner enemies that need to be purged through the practice of *Dhamma*. Thus, it can be said that the use of force in the form of war is an act under the influence of *Kilesa*, as found in *Dhammapada*: "Mind precedes all mental states. Mind is their chief; they are all mind-wrought. If with an impure mind a person speaks or acts, suffering follows him as the wheel follows the foot of the ox that draws the carriage" (Dh. 25/11). If one thus analyzes war in the human context, it means that war is driven by the human mind. If there is no such intent in the mind, war will not occur. If the mind is impure or dominated by *Kilesa*, the action that follows is also impure. War is an external behavior which in Buddhism is

called “impure act” (*Akusala-kamma*), so the mind that drives the action must also be impure or dominated by *Kilesa*.

So, it is the position or principle of Buddhism not to support war or the use of force in any form, because it is an evil act (*Akusala-kamma*) not conducive to the moral growth of an individual or a society. This position is in line with the natural law (*Kammaniyāma*) and cannot be compromised or bent to suit the social value system. According to Buddhism, the intention to use physical, verbal, or mental violence is an evil act (*Akusala-dhamma*). It does not matter when, where or why the action is done, for it is always an evil act. The severity of the act depends on the inherent conditions of each individual.

2. *Dhammavinaya* and just wars in socio-political contexts

If we apply the Buddhist principle of not supporting war or the use of force to socio-political contexts, we begin to see that problems may arise. Socio-politically speaking, people live together in the form of a State or a nation. In the State, a group of people will govern or exercise the State authority on the people’s behalf. This state of affairs is called “government”. One of the duties of the State is to provide protection to its citizens against internal and external threats, including invasion by another group or country. If the State fails to do so, its citizens will not be able to continue their existence, and the State will inevitably come to an end. For a sovereign State to be able to provide such protection, a military army equipped with the necessary weaponry is usually required. In such cases, the question may arise how it will be possible to implement the Buddhist principle of no-war? Does the State’s duty to provide safety to its citizens conflict with the Buddhist principle?

Before answering these questions, the researcher wants to refer back to the socio-political background in the Buddha’s time. The Buddha spread his teachings in 16 provinces ruled under diverse forms of government. Each province had its own army to protect its citizens. Evidently, the Buddha did not encourage these provinces to wage war against one another. Yet, there is no evidence that he taught them to give up armed forces either. This might be because a) he thought that in the

socio-political context of the time, it was necessary for these provinces to have armies to provide safety for their people; or b) he did not approve of the military preparedness but did not admonish them to cast aside their military might because the conditions were not right for him to do so.

How would Buddhism view the situation in which the State needs to wage a just war to protect its sovereignty, religion, and people against the enemy's aggression? It is the researcher's belief that this is an ethical dilemma not unlike such issues as abortion, capital punishment, and euthanasia. Any position one takes will have an upside and a downside. For example, if one opts for self-defense, one may guarantee the safety of the nation, religion and people, while losing out on Buddhist ethics regarding abstention of killing and violation of *Kusala-kamma*. On the other hand, if one takes a non-war option, no Buddhist ethical principles are violated, while the nation, religion and people suffer the aggression of a foreign army. If the State was to face this dilemma, what would Buddhism do? In the researcher's view, consideration must be taken at two levels:

2.1) At the *Sacca-Dhamma* level

Admittedly, war involves the use of destructive weapons. Buddhism regards taking someone's life for whatever reason as an immoral and sinful act. The severity of the act depends on the extent to which the killer is influenced by *Kilesa* as well as how valuable the killed person is. For instance, if Mr. Daeng's intention to kill is driven by a revengeful motive, the act will be more sinful than the executioner's pulling the trigger out of duty. Killing a person with high morality like an Arahant is, naturally, more sinful than killing an immoral bandit. Buddhism regards this principle as the law of nature (*Kammaniyāma*). Therefore, if the State chooses to wage a just war to defend the nation, its religion and people against hostile aggression, the argument may be validated. Yet, war entails killing, and that is against the *Sīla* and, therefore, sinful.

2.2) At the *Paññatti-Dhamma* level

Paññatti refers to the rules, regulations, criteria, traditions, and government systems that a society agrees to follow. In Buddhism these

social provisions are not the laws of nature, for they can be modified or cancelled if need be. Be that as it may, Buddhism proposes that for the *Paññatti* to benefit human development, they should be as consistent as possible with the *Sacca-dhamma*. If the State feels that a just war is the only way to benefit most people, it may claim to commit a “necessary sin” to protect the nation, religion and people; at any rate, in Buddhism the choice taken is immoral and sinful.

3. Theravāda monks and just wars

The researcher wants to focus the discussion on four groups of Theravāda monks here: monks in the early period of Buddhism, monks in Sri Lanka, monks in Myanmar, and monks in Thailand.

3.1) Monks in the early period of Buddhism

If one uses the *Tepiṭaka* as evidence for what went on in early Buddhism, especially *Vinaya* or the 227 rules of *Sīla*, no permission was given to Theravāda monks to engage in a just war either directly or indirectly, or in any activity that might have been somehow related to war. For example, monks would not go to watch the war procession of the army; they may not spend the night in the army camp without a proper reason; or they may not visit the sights around the battlefields. All this is against the *Vinaya* and unbecoming to the status of monks which is relatively higher than laypeople.

In *Brahmacariya Sutta* (D.I 9/1-90) there is another set of *Sīla* practiced by the Buddha. Although they are not part of the usual 227 rules of *Sīla* of the monks, Theravāda monks need to observe them all the same, because their essence is no different. For instance, “the Gotama refrains from killing, lays down allarms and punitive instruments, is ashamed to do a wrongful act, has compassion, and wants the best for all beings” (D.I 9/3), and “the Gotama refrains from cutting up (organs), killing, imprisoning, robbing and extorting people” (D.I 9/8). These two rules of *Sīla* are intended for the monks to refrain from killing and hurting all beings. The adherence to these two rules of *Sīla* will make it most

unlikely for Theravāda monks to become involved in wars whether directly or indirectly.

In terms of *Dhamma*, statements from *Ovādapāṭimokkha* to “not talk ill of others” (*Anupavādo*), to “not harm others” (*Anupaghādo*), and “those who hurt others are not considered Pabbajita and those who exploit others are not considered Samana” [*Na Hipabbajito Parūpaghāti, Samaṇo Hoti Paraṃ Viheṭṭhayanto*] (D.II 10/44) can be used as criteria for the legitimacy of Buddhist monkhood. In other words, no Buddhist monk will hurt or talk ill of others, and those who do so are not considered *Pabbajita*. In addition, monks are required to adhere to other *Dhamma* principles such as loving-kindness and forgiveness.

As mentioned earlier, society tends to put monks on a status higher than ordinary people. The higher status comes with certain social expectations that their moral behaviors be above the normal standard. In this regard, it may be acceptable for the laity to get involved in a just war to protect the nation, religion, and people, even though the act is considered against *Sīla* and sinful. On the other hand, there is no possible ground for monks to do so whether directly or indirectly. Perhaps the only way that that they may do so is by following in the Buddha’s footsteps, i.e. by acting as a mediator for the warring parties with the aim of putting an end to the hostility.

3.2) Monks in Sri Lanka

Historically, the only Buddhist text used in Sri Lanka is the *Mahāvamsa* in which some passages could be interpreted as supporting the waging of a just war:

Killing with intent to preserve the religion does not bar the killer from entering Heaven. To kill an immoral person is a sin the weight of which is equal to killing a half-human, for a person who does not respect *Tisaraṇagamana* or a person without *Pañca-sīla* has lost his humanity. He is an imperfect being. His death is akin to the death of a *Tiracchāna*.

You have helped the Buddha's *Dhamma* to prosper in all directions. Do not let this burden your heart.

(Mahanamathera, et al. 2010: 60-61)

The above statement is what an *Arahant* told King Dutthagamani Abhaya who felt unhappy about causing a heavy loss of life in the war against the Damilas (Tamils). The monk's sermon eased his mind.

The above statement can be broken down into three parts for further analysis:

a.) The part about the intent to wage war: "Killing with intent to preserve the religion does not bar the killer from entering Heaven." Here the *Arahant* justified the Lankan king's waging war as an act to preserve the religion.

b.) The part about the victims (of war): "To kill an immoral person is a sin the weight of which is equal to killing a half-human, for a person who does not respect *Tisaraṇagamaṇa* or a person with out *Pañca-sīla* has lost his humanity. He is an imperfect being." Here the *Arahant* apparently wanted to convey that the dead or the victims do not have enough worth to warrant the "abstaining from killing" principle of Theravāda Buddhism, because they did not adhere to the Triple Gems and did not practice *Pañca-Sīla*.

c.) The part about the effect of the war: "You have helped the Buddha's *Dhamma* to prosper in all directions." It seems that the *Arahant* here wanted to say that as a result of the war Buddhism had prospered and spread in all directions.

As can be seen, such justifications are in line with the Western just war theory in view of its four components:

a.) Just cause

Although the cited passage does not touch on the cause of the war, it is common knowledge that King Dutthagamani Abhaya went to war because of the Tamil invasion.

b.) Legitimate authority

As the ruler of Sri Lanka, King Dutthagamani Abhaya had a rightful authority to declare war against the Tamils.

c.) Rightful intention

The cited statement indicates rather clearly that it was not the Lankan king's intention to kill the Tamils but to preserve the religion.

d.) Positive expectation

Evidently, the Lankan king succeeded in his venture. The success did not lie in the killing of many Tamils but in the attempt to make Buddhism prosper far and wide.

Although the just war argument in the *Mahāvamsa* can be compared against the Western model, there are still significant differences. The *Mahāvamsa* admits that waging war for whatever reason is a sin. The extent of the sin depends on the main intention of the doer and on the worth of the enemy. In the researcher's view, although the *Mahāvamsa* can be said to deviate from Theravāda Buddhism in its essence and can be used by some as a pretext to wage a just war, its main argument follows the traditional Buddhist concept that killing is sinful and immoral, and that the extent of the sin depends on the moral quality of the victims.

The question whether the *Arahant's* preaching to the Lankan king indirectly supported the idea of a just war needs to be treated in its proper context. The sermon took place after the war had ended. The king felt distressed over the killing and requested the monk to ease his mind. The monk explained the situation in light of the Buddhist principle with the advantages and disadvantages of waging a war. The advantages included the king's intention to preserve the religion and the effect of the war causing Buddhism to prosper far and wide. The disadvantages included loss of lives, the sin of which was minor compared to the king's intention to preserve the religion rather than to take life.

3.3) Monks in Myanmar

The researcher would like to present the case of Burmese monks and just wars at the time when Burma was under the British

rule, for there were a lot of monks involved in the struggle against it. According to Donald Eugene Smith in his *Religion and Politics in Burma*, monks came forward as the first group of nationalists in the anti-colonial movement (Smith, 1965: 85).

Originally the role of Burmese monks did not go beyond the teaching of *Pariyatti*, just like Theravāda monks in other countries. With the British rule (1824-1938) modern education was introduced to reinforce its colonial ideals and trade. Monks were told to teach general subjects, which they declined, not willing to be part of the colonial indoctrination. Besides, it was against the Burmese custom to let general teachers teach in the monastery. The British policy went against the Burmese tradition and was viewed as a threat to and interference with the ecclesiastical affairs. Furthermore, the British authorities allowed Christians to run general schools and employed their graduates in the public sector, thus causing considerable resentment among students of the monasteries.

An incident leading to a series of conflicts between British rulers and the Burmese was over the wearing of shoes in monasteries. The Burmese strictly adhered to the practice of taking off their shoes before entering the monastery, especially in the area around the Shwedagon Pagoda – a custom the British did not follow. The Young Buddhist Association submitted a letter requesting the British authorities to issue instructions forbidding the wearing of shoes in the sacred area, but to no avail. The shoe issue became one of the first incidents that caused much anger and resentment to the British rule. On 4 October 1919, a group of Buddhist monks angrily used violence against some Westerners who wore shoes on the premises of the Eindawya Pagoda in Mandalay. Four monks were arrested. Their leader, Ven. U Kettaya, was charged with attempted murder and given a death sentence (1965: 88).

A Burmese activist monk, Ven. U Ottama, led an anti-colonial movement and was proclaimed the father of the country's independence movement. He was educated at Calcutta University in India and was influenced by Indian nationalist movements and Mahatma Gandhi. Upon his return to Burma in 1921, he became concerned with the plight of

Buddhism and started an anti-British movement. With much public support, the movement grew into a strong armed force, attacking and occupying Sagu Town. When it was later re-taken by the Burmese forces, the authorities put a price of 200 rupees on U Ottama's head. The monk was captured and was also given a death sentence. He was given a chance to appeal, which he declined because he did not want the Burmese history to record that he bowed to foreign authority.

A noteworthy point is that although U Ottama was a leader of the movement to free Burma from the British rule, he was opposed to its separation from India. He felt that Burma should be part of India, the birthplace of Buddhism. He wrote an article entitled "The Case Against the Separation of Burma From India", stating that Burma must preserve its friendship on an equal footing with India and China for political and economic survival (Human Rights Watch, 2009: 30-31).

Another Burmese monk by the name of U Wisara was imprisoned on several occasions for speaking against the colonial rule. He died in prison in 1929 after 163 days of hunger-strike. His picture appeared on the front cover of the October 2007 issue of the *Irrawaddy Journal*, and he was hailed as the monk who led the protest in Burma: "Two monks (U Ottama and U Wisara) inspired political activists and student activists in the movement for independence"(Aung Zaw, 2007: 25). Academics like Michael Mendelson wrote in his report on "Monks and States in Burma" that monks who were involved in political activities were often labeled by the colonial rulers as political instigators in saffron robe, and that it is interesting to note that a similar statement is now being issued by current Burmese leaders against protesting monks.

3.4) Monks in Thailand

The discussion on Thailand will include the three following cases: Phra Thammachot, Chao Phra Fang's gathering, and Phra Kittiwuttho.

a.) Phra Thammachot

Phra Thammachot was a monk that lived towards the end of the Ayutthaya period. Known for his mystic power, he resided at Wat

Khao Nang Buat in the province of Suphan Buri. When the Burmese army besieged the former capital of Ayutthaya and captured many Thais in the process, a group of Thai patriots gathered at Bang Rachan Village, Wiset Chaichan District, and waylaid the Burmese troops. They asked Phra Thammachot who had already moved from Wat Khao Nang Buat to Wat Pho Kao Ton to hand out talismans and good luck charms and give blessings to the villagers. Significant village leaders included Khun San, Village Headman Phanruang, Nai Tong Men, Nai Chan Nuatkhaio, Nai Thong Saengyai, Nai Thaen, Nai Chot, Nai In, Nai Mueang, Nai Dok, and Nai Thong Kaeo. For five months the villagers put up a brave fight against the Burmese on five separate occasions, but their stronghold was eventually captured in 1767 (Fine Arts Department, 1962: 277).

The case of Phra Thammachot is an example of a monk who became involved in a war not as a combatant but as a moral support to the fighting villagers. There is no evidence about his motive in giving out the talismans. One of the reasons for his presence may have been the villagers' requests for his blessings. Another possible reason is that as a citizen of Ayutthaya who was affected by the Burmese invasion, he may have sensed, similarly to his compatriots, an impending danger to the nation and religion. He may have witnessed people and monks killed during the invasion. His sense of patriotism may have spurred him on to do something, which may explain why he obliged, as far as a monk could, when asked by the villagers for his blessing.

b.) Chao Phra Fang's gathering

Chao Phra Fang and a group of monks in the north of Thailand gathered to drive away the Burmese troops after the second fall of Ayutthaya. This group has usually been presented in a negative light. For instance, they were portrayed as *Alajjī* or immoral monks who formed a militia in peacetime. Sometimes, they were said to be the rebels who were put down by General Tak (who later became King Taksin). However, in view of the turmoil and trouble the nation was experiencing then, when there was no central authority or a group of individuals strong enough to withstand the Burmese force, it should not come as a surprise that a number of Thai citizens, whether ecclesiastical or lay, would gather to form some

kind of force. Some such examples were the gatherings of Phraya Tak in the Central Region, Chao Phraya Phitsanulok in the Lower Northern Region, Chao Phra Fang in the Upper Northern Region, Governor of Nakhon Si Thammarat Province in the south, and Chao Phimai in the northeast¹.

It must be borne in mind, however, that the incident of Chao Phra Fang's gathering was connected not only to the fall of the capital but also to the virtual demise of the *Saṅgha*. In the absence of any order, the monks under Chao Phra Fang might be recorded as having acted inappropriately, but one can by no means conclude from that that they did not possess a sense of nationalism or did not intend to recover the country's sovereignty and religious order. In the researcher's view, during the time when the people were deeply suffering from the effects of wars, it would be inadmissible for a group like Chao Phra Fang's to exploit the situation. Chao Phra Fang's gathering was different; its force was strong enough to defeat Chao Phraya Phitsanulok's group. This indicated that it must have received much public support from the north, hence attesting to its commitment to recovering the nation and religion.

c.) Kittiwuttho Bhikkhu

Phrathep Kittipanyakhun (Kitsak Kittiwuttho) or Kittiwuttho Bhikkhu was one of the most talked about Thai monks in the aftermath of the 6 October 1976 student uprising. The interview he gave to *Chaturat*, a weekly magazine, dated 17 June 1976, was often quoted as him saying that "killing communists is not sinful." This was, however, not what he actually said, at least not directly. The following is the transcript from the interview:

Chaturat: Is killing the left wing or communists a sin?

Kittiwuttho: I think such an act should be done. Although Thai people are followers of Buddhism, they should still do it. Such an act is not regarded as killing. Whoever is bent on destroying the nation, religion and monarchy is not a

¹ For detail, see Prince Damrongrajanubhap. n.d. (399-400).

complete person. Bear in mind that we are not killing a person but a *Māra*, an act which every Thai citizen has a duty to do.

Chaturat: Does it violate the rules of *Sīla*?

Kittiwuttho: Of course, it does. But it is less wrong and more right. To kill a person to preserve the nation, religion and monarchy is more right. The soldiers who carry out their duty have no intention to kill. Their primary intention is to preserve the nation, religion and monarchy. The fact that they dedicate their life to preserving them is a meritorious act. Here killing is a minor sin; rather, they gain more merit. This can be compared to killing fish for food as offering to a monk. It is, of course, sinful to kill fish, but what we offer to the monk fetches more merit.

Chaturat: So, if several left-winged persons got killed at this time, the killers would earn merits.

Kittiwuttho: Killing a person who is bent on destroying the nation, religion and monarchy is beneficial.

Chaturat: So, those who killed left-winged elements are not caught and brought to justice because the merits come to their rescue.

Kittiwuttho: That is possible, thanks to their good intention for the nation (laughs).

(*Chaturat Magazine*, 1976)

Here, Kittiwuttho Bhikkhu confirmed that, according to the Buddhist principle, killing a communist was wrong but it was less wrong and more right.

Nevertheless, on subsequent occasions Kittiwuttho Bhikkhu offered further explanation. What he meant by “killing a communist” was “killing an evil ideology and not a person who is communist” (Suksamran, 1982: 153). Again, in a speech delivered to a group of soldiers, he re-affirmed that it was the monks’ duty to kill communism but the soldiers’ duty to kill communists when the nation, religion and monarchy were facing serious threats. He himself would be willing to leave monkhood to kill

them. However, this clarification was at odds with another speech given to another group of soldiers when he said that killing 5,000 persons to ensure the happiness of 40 million Thai people was a legitimate act, because it was meritorious and would not cause the killers to go to hell (1982: 155). He said: “If we want to preserve our nation, religion and monarchy, sometimes we may have to sacrifice *Sīla* for the survival of these institutions” (reference in Suksamran, 1982: 155), and “Let’s make a resolution to kill all communists and purge Thailand of these insects ... Those who kill these communists will earn a big merit ... If we Thai people do not kill them, they will kill us” (1982: 155).

Of the above three cases, only those of Phra Thammachot and Chao Phra Fang may be considered to fall under the category of a just war according to the Western theory, because they happened at the time when the nation was under threat. Be that as it may, in light of the *Dhammavinaya* of Theravāda Buddhism, Chao Phra Fang’s monks clearly violated both the *Vinaya* and *Dhamma* because they were actually engaged in the fight. In *Vinaya* terms, a monk who kills is said to commit a grave ecclesiastical offense and thereby loses his monkhood. They also violated the *Dhamma* anti-war principle as well as those of loving kindness and no hatred. In the case of Phra Thammachot, it was not clear what *Vinaya* rule he had violated.

So, as far as the *Dhamma* rules are concerned, Chao Phra Fang’s group violated the Buddhist principles of no violence, loving kindness and forgiveness. For Phra Thammachot’s group, it was not clear what *Vinaya* rules were broken, although in *Dhamma* terms the fact that he gave talismans to those about to fight indicated his intent and therefore his indirect involvement in the fight. This goes against Theravāda Buddhism. In the case of Kittiwuttho Bhikkhu, it was not clear what *Vinaya* rules were broken. His encouragements to use violence against communists were made out of concern for national security under communist threats. Still, the fact that he, as a monk, encouraged the use of force against another group of people for whatever legitimate reason did not correspond well with the *Dhammavinaya* and practice of Theravāda Buddhism.

Monks and just wars in Mahāyāna Buddhism

The researcher will here discuss two components: the concept of just wars as propounded in the Mahāyāna scriptures and the cases of Chinese monks.

1. Just wars as propounded in the Mahāyāna scriptures

In Mahāyāna scriptures such as *Mahāparinirvāna Sutta* and *Upāyakosala Sutta*, it is evident that Mahāyāna Buddhism condones just wars when it is necessary to protect *Dhamma*, the ecclesiastics, and Mahāyāna Sutta. In *Mahāparinirvāna Sutta* one reads: “When I heard that some Brahmins attacked Vaipulya Sutta, I brought death unto them immediately. For that act, I will not go to Hell in my next existence” (Yamamoto, www.shabkar.org) or “to protect *Dhamma*, they come to protect the *Saṅgha*, the protector of *Dhamma*” (Yamamoto, www.shabkar.org) or “those who adhere to *Dhamma* should carry arms and sticks to protect the *Saṅgha*” (Yamamoto, <http://www.shabkar.org>). Although the Mahāyāna Sutta allows for a just war in necessary cases, like the Theravāda tradition it admits that killing is a sin. Yet, committed to protect *Dhamma*, an act of great merit, it is considered a minor offense.

Like *Mahāparinirvāna Sutta*, *Upāyakosala Sutta* mentions how Buddhists can go to war if necessary. It narrates one of the following incidents. Some long time ago a boat carried 500 *Bodhisatta* merchants under the navigation of the boat captain who was to become the Buddha later in another life. There was a bandit on the boat who planned to rob and kill those *Bodhisatta*. When the *Bodhisatta* captain knew of the evil plan, he had three options open for him:

- 1) Do nothing and let the bandit kill all 500 *Bodhisatta* merchants,
- 2) Warn them about the bandit, or
- 3) Kill the bandit himself to save 500 lives.

If he chose Option 1, his *Sīla* would be kept intact, but 500 merchants would lose their lives, and the bandit would go to Hell for eternity. If he chose Option 2, the 500 *Bodhisatta* would violate their *Sīla*, for they would kill the bandit and go to Hell when they die as a result.

If he chose Option 3, he alone would violate his *Sīla* and would go to Hell alone, while saving the 500 *Bodhisatta* and preventing the bandit from committing one of the most serious offenses, i.e. killing 500 *Bodhisatta*. After careful consideration, the captain chose Option 3, because it led to the least loss and the most gain.

2. Chinese monks and just wars

The researcher wishes to present three cases here: those of Ven. Taixu, Ven. Leguan, and Chinese monks waging war against the Japanese. All these monks claimed to wage just wars to protect the nation, religion and people from the Japanese invasion. Although they did not cite the scriptures in support of their action, it could be assumed that they were influenced by the two Mahāyāna Suttas mentioned above. For instance Ven. Taixu said, “the Bodhisatta should kill them out of loving kindness to protect a multitude of people and prevent them from doing evil ... to stop their foolish acts, it is right to join in the war against Japan” (reference in Xue, 2005: 83). Another Chinese monk, Ven. Leguan, said, “Although the Buddha’s teachings are pervaded with loving kindness, we cannot use it toward evil-minded people. We have to conquer them, for they are big *Māra* bent on destroying the wisdom and life of the people” (2005: 52-53). Other monks who joined the war said: “We will kill those evil people who bring misery to the Chinese people. This killing is done not only without a desire to cause trouble but also with intent to do merits” (Xue, 2005: 89-90). All this shows that the Chinese monks’ idea of just wars against the Japanese invaders was charged with compassionate killing to protect the multitude of the people and to stop the invaders from committing further evils.

In conclusion, this study of Buddhist monks and just wars both in the Theravāda and Mahāyāna traditions reveals that there is clear evidence from early Buddhism that Buddhism did not support any involvement in war and use of violence in any form for any reason. If monks adhered to the *Dhammvinaya* of early Buddhism, they would never be allowed to engage in a just war. They were not allowed even to watch the army or stay overnight in the army camp. After the Buddha’s time, Theravāda

monks in several countries were known to get involved in fighting both directly and indirectly, e.g. Burmese and Thai monks. They might have an intention to protect the nation, religion and people, but good intention alone was not sufficient to cancel out the provision in the *Dhammavinaya*.

In the Mahāyāna tradition, on the other hand, there is evidence in the scripture that lends support to the waging of a just war. The statements in *Mahāparinirvāna Sutta* and *Upāyakosala Sutta* state that if necessary, Buddhist people can resort to the use of force or wage a just war. Cases that warrant such action include the protection of *Dhamma*, protection of Mahāyāna Sutta, and protection of *Dhamma* practitioners. The action must be accompanied by compassion, but such use of force is against the *Sīla* and is considered a sin.

Conclusion

The study of monks and just wars in both Theravāda and Mahāyāna traditions reveals that in early Buddhism the *Dhamma*, *Vinaya*, and the Buddha's conduct fall along the same line. They did not support violence in any form, especially warfare. If society finds no other means than war, in the Buddhist view, that society has the right to decide what is best for it, but waging a war for whatever reason is still against the *Sīla* and therefore a sin.

The researcher also finds that for Theravāda Buddhism after the Buddha's time there are statements only in Mahāvamsa scripture that could be interpreted in favor of waging a just war. Nevertheless, the scripture seems to adhere to the principles of early Buddhism when it says that waging a war means killing, which is against the *Sīla* and therefore a sin, the extent of which depends on such factors as the intention (to protect the religion or to kill the enemy) and the worth of the enemy killed (of much or little worth, moral or immoral). In the researcher's view, the criteria set out in Mahāvamsa scripture are also generally acceptable in Theravāda Buddhism.

With regard to the role played by Theravāda monks in just wars in various countries, it is found that in general they adhered to the Buddha's

Dhammavinaya as set in the *Tepiṭaka*, but they also found themselves in abnormal situations in which the nation was caught in a war or invaded. As a consequence, there would be groups of monks who decided to enter into just wars, whether directly or indirectly. Of course, such an act was unprecedented in the history of early Buddhism.

As for Mahāyāna monks, it is found that they hold similar ideas to those of their Theravāda counterparts. In other words, when the nation was engaged in a war or invaded by hostile forces, a group of Mahāyāna monks would directly join the fight or indirectly provide support in any other way.

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Adinnādāna in *Pañcasīla* and the Infringement of Academic Works

*Phra Khru Sangkharak-amnat Khemapañño (Yot Thong)**

Introduction

The layperson's *Vinaya* in general covers five precepts or *Pañcasīla* which forms the basis for good conducts. The five precepts are 1) *Pānātipātā veramaṇī* - to abstain from killing, 2) *Adinnādāna veramaṇī* - to abstain from stealing, 3) *Kāmesumicchācārā veramaṇī* - to abstain from sexual misconduct, 4) *Musāvādā veramaṇī* - to abstain from false speech, and 5) *Surāmweyamajjapamādatṭhānā veramaṇī* - to abstain from intoxicants causing heedlessness (D.III 11/315, Vbh. 35/703).

Of the five precepts, the second precept addresses the issue of the property of others, i.e. to abstain from taking what is not given by stealing. The property here consists of two types: movable property, or property that can be moved from one location to another, e.g. instruments, animals, and vehicles. Immovable property includes property that is fixed or cannot be moved, e.g. land, buildings, and trees (Text Committee, Mahamakut Buddhist University, 2007: 16). With the evolution of the world, however, we are now dealing with a new kind of property, i.e. “intellectual property,” which refers to the creation of the mind and intellect, especially

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copyrighted work, including books, pamphlets, writings, or printed matters (Copyright Act, Section 4).

Academic works in formats such as research, thesis, book, or academic text all involve intellectual efforts and knowledge of their authors. Problems may arise when another person makes use of a part or all of an author's work without citing references and/or claiming it as his/her own. Could this be called *Adinnādāna* in Buddhist terms? Originally, the term was used to refer to movable and immovable properties and did not cover intellectual property of copyright or academic nature. What are the criteria in Buddhism to decide whether or not the copyright of an academic work is violated? These two problems form the topic of this study which consists of five parts:

- 1) Definition and meaning of academic works
- 2) Legal infringement of academic works
- 3) Definition and meaning of academic works in Buddhist terms
- 4) Infringement of academic works in Buddhist terms
- 5) *Adinnādāna* in *Pañcasīla* and the infringement of academic works.

Definition and meaning of academic works

Academic works are considered a kind of intellectual property. In general, there are two kinds of intellectual property: 1) copyrighted materials which covers, among others, literary work, artistic work, dramatic work, musical work, cinema, and photography; and 2) industrial property which covers, among others, inventions, trademarks and industrial designs (World Intellectual Property Organization, Reference in Chaiyot Hemaratchata, 2007: 18-19). Academic works are considered literary works with copyright in the intellectual property scheme of things. In the Copyright Act B.E. 2537 (1994), literary work is defined as “any kind of literary work including books, pamphlets, writings, printed matters, lectures, sermons, addresses, speeches, and computer programs”.

Academic works have two senses. The first is the one we are often familiar with, such as ideas, inventions, and poems. The second sense is

a legal one. Academic works¹ are rights that come with products of the mind rather than the products themselves. These are legal rights to the intellectual products/creations, and they are exclusive rights (Phillips and Firth, 1990: 3-4).

Evidently, the first sense of academic works focuses on the products or objects that come into being as a result of the intellect or creativity of the academics in such forms as books, poetry, and pamphlets. Admittedly, academic works are not directly tangible products, but they are the result of the intellectual processing of information or knowledge. We can even call them “concrete forms of the intellect” or “intellectual expression” or “mental products”. The second sense, on the other hand, focuses on the legal rights of the ownership of information, knowledge, ideas or intellect resulting in academic products or works rather than the products per se. These are the exclusive rights of the creation of the mind together with the commercial rights that come with it (Wikipedia, intellectual property). For example, Mr. A. wrote a book on Buddhism entitled *Adinnādāna and the Infringement of Academic Works*. All the information, ideas or knowledge in that book constitute an academic work, the copyright of which belongs to Mr. A. alone. He is, therefore, the owner of that piece of academic work, and is entitled to all the legal rights as a result of his intellectual effort. Such rights include the right to exploit his academic work in any form he wants, such as turning it into a book form, reproducing, adapting, and communicating it to the public. He can sell, grant, or transfer the right to another individual or agency for further exploitation. He also reserves the right to stop or prevent another person from any violation without prior permission. All these rights come with the created academic works.

Thus, academic works as concrete results of information, knowledge, idea and intellectual creativity are protected as copyrighted literary works that belong to their rightful owners for a certain period of time as prescribed by the law. Within the prescribed time, no one can violate this right. The

¹ The researcher has taken the definition and meaning of “intellectual property” from Jeremy Phillips and Alison Firth (1990) and applied them to “academic works”.

essence of the academic works is idea and intellectual creativity, something intangible but resulting in a product that the law recognizes as an intellectual property.

An academic work that earns the intellectual property right as a literary work is characterized by four features:

1.) Expression of idea: An idea must be communicated to others. It must not remain just an idea in the mind of the owner. For example, Mr. A is an academic in Buddhism. He has an idea to write a book on *Adinnādāna and the Infringement of Academic Works*, but does not put anything down on paper or in other forms of record. The book plan is in his mind. It is only after he has recorded the material on paper or other mediums, e.g. tape recorder, or has communicated it to the public, say, in a lecture or presentation that the action can be considered to constitute an expression of idea, thus earning the right to be protected (Oraphan Phanatphatthana, 2006: 38).

2.) Originality: As the copyright of the academic work is a reward for its creator, the work must reflect his knowledge, expertise, skills, labor, judgment and initiative. It must not be copied from another source. This principle is known as “originality” (2006: 33).

3.) Legally recognized type of work (2006: 43): The work must be recognized or protected by the Copyright Act, Sections 4, 6)². Under the Thai law, an academic work is a type of literary work to be protected by the Copyright Act, B.E. 2537 (1994).

4.) Non-illegal work: Although the Thai Copyright Act B.E. 2537 (1994) does not specifically mention whether or not the work that is prohibited by law, goes against law and order or good moral conducts, e.g. work that instigates unrest in the country or is pornographic in nature, will be protected by the law, there is a verdict No. 3705/2530 given by the court that the video tape showing part of a sexual intercourse between a man and a woman is pornographic and not a creative work under the Copyright Act B.E. 2521 (1978) (Oraphan Phanatphatthaa, 2006: 38).

² For details, see Phinit Thipmani (2008).

This indicates that for an academic work to be recognized as intellectual property and given a copyright it must not contain elements prohibited by the law or go against the law and order or good social moral conducts.

Therefore, an academic work lacking any one of the above features shall not enjoy the copyright as legally prescribed.

Legal infringement of academic works

When an academic has created his work in any field and has it recorded in one form or another, e.g. computerized, typewritten, or recorded on paper, he is legally recognized as the author with ownership of copyright of the work (Copyright Act, Section 8) without the need to have it registered, express the reservation of the right, or follow any formal procedure (Somkhit Bangmo, 2006: 194). The author's right in the ownership of his academic work covers two aspects:

1.) Moral rights

Moral rights are individual rights of creators to have their reputation protected from any possible negative action (Phillips and Firth, 1990:205). In the Berne Convention for the Protection of Literary and Artistic Works 1886, revised in Paris 1971, or Berne Convention or Paris Act, Article 6 *bis* mentions two kinds of moral rights: 1) the author has the right to be named as the author or creator, and 2) the creator gets to prevent any action likely to distort, shorten, adapt or do any other action that would damage his reputation and dignity (1990: 207). The Thai law offers similar protection. In Copyright Act B.E. 2537 (1994), the provision of Section 18 reads:

The author of a copyright work by virtue of this Act is entitled to identify himself as the author and to prohibit the assignee or any person from distorting, shortening, adapting or doing anything with the work to the extent that such act would cause damage to the reputation or dignity of the author. When the author passes away, the heir of the author is entitled to litigation for the enforcement of such right through the term of copyright protection, unless otherwise agreed in writing.

Besides the moral rights, the Thai Copyright Act also provides economic rights at the same time. It can be observed that these rights enjoy the same privileges as other properties in general. In other words, the author can give authorization to another person to exploit his rights through selling or transferring of copyright as well as through inheritance. The transfer of copyright, if not as inheritance, must be done in writing with signatures of the assignor and the assignee (Copyright Act, Section 16-17).

2.) Economic rights

Copyright owners have the exclusive right in the commercial exploitation of their works as prescribed by law (Phillips and Firth, 1990: 205). The owners have the exclusive right to do anything with their work in two ways:

2.1 Positive rights

The copyright owners or copyright holders have the exclusive right to do anything with the works as prescribed by law. In Copyright Act B.E. 2537 (1994) Section 15 specifies such exclusive rights to include:

- a. Reproduction or adaptation
- b. Communication to the public
- c. Letting for hire of the original or the copies of a computer program, an audiovisual work, a cinematographic work and a sound recording
- d. Giving benefits accruing from the copyright to other persons
- e. Licensing the rights mentioned in (a), (b) or (c) with or without conditions, provided that the said conditions shall not unfairly restrict the competition.

For instance, Mr. A. wrote an academic book on writing pads. He would be its copyright owner and have the exclusive rights to do the following:

- i.) Reproduce, e.g. photocopy the text, or adapt, e.g. having it translated in another language.

- ii.) Communicate to the public, e.g. read it to an audience or have it published for sale or for distribution.
- iii.) Give benefits deriving from the copyright to another person, e.g. transfer the copyright to another party.
- iv.) Give authorization for others to reproduce, adapt or disseminate the work on his behalf (Oraphan Phanat-phatthana, 2006: 25-26).

2.2 Negative rights

Negative rights refer to the rights to prohibit, prevent or keep away people from committing infringement except when they are authorized by the right holder or the law (exceptions specified by law), including the right to receive compensation for damages in civil and criminal litigations. All the actions listed in Section 15(5) without proper authorization are regarded as infringements. So, reproducing and adapting someone else's work, including communicating it to the public, are infringements of copyright (Copyright Act, Section 27).

In addition, economic rights are in evidence when the author utilizes the copyright work for commercial purposes in two ways. First, the author reproduces the academic work in a book form and sells the product himself. Second, if the author does not want to do this himself, he can enter into an agreement authorizing another interested party to make use of it through reproduction or publication on his behalf. The author can ask for a certain fee for the use of such right as remuneration (Chakkrit Khuanphot, 2001: 4). In other words, this involves a selling of right for production and distribution to another individual or organization to use the right instead.

Thus, legal infringement of academic works refers to any action by an individual that the law says causes damage to the reputation or dignity of their author through such acts as adaptation, inordinate shortening, or claiming it as his own (moral rights). On the other hand, such action can result in lost benefits or revenue that the author is entitled to have from his copyrighted work when it is reproduced, adapted, or communicated to the public without authorization (economic rights).

In view of a number of infringements of academic works according to the Copyright Act B.E. 2537 (1994), it is useful to show what form the infringement can take by comparing it to general property (2001: 5-8):

a.) Intent of copyright protection:

In general, protection of property is a moral obligation of the State to provide for its citizens. The protection of academic works as copyrighted intellectual property is also necessary for moral and economic reasons. Today the economic consideration seems to be more prominent than the moral argument.

b.) Object of right:

In general, property may be tangible or intangible. An academic work as copyrighted intellectual property is an object of right with no physical form. It is manifested in the form of idea, expression of idea, or information of some kind. In addition, it must be an intellectual creation by an individual or group of individuals, while property in general could come into being by individuals, animals or natural means.

c.) Nature of right:

For physical property, the right of ownership is tied to the property concerned. Whenever the property (object of right) is lost or destroyed or has disappeared for whatever reason, the right to ownership will come to an end. This is different from an academic work as copyrighted intellectual property, an object of right without a physical form. The right of the academic work is a legal right separate from the property right. For example, the fact that Mr. Daeng owns a copyright to a book does not make him the owner of the right to a specific book. Rather, his ownership is in the contents and the expression therein. Let's explore the situation further. Mr. A. wrote a book which was published for commercial purposes. Mr. B bought a copy from a bookstore. He owned that particular copy, but the right of ownership still belonged to Mr. A. In legal terms, this means that Mr. B. had the right to read, use, resell or destroy that copy, including the right to take action against another person who stole it from

him. However, he had no right to re-publish the book. If someone had the book re-published for commercial purposes, Mr. B had no right to complain about him, as the right to ownership was with Mr. A, the author. The fact that an object of right under the copyright law has no physical form implies that the legal right is separated from the object that takes shape from it. The fact that this object is destroyed or lost does not have any effect on the right to the copyrighted academic work. In other words, the right to an academic work will not be lost with the object under which the work takes shape.

d.) Term of protection:

The ownership of property in general has no fixed term of duration. The owner has the right to the property until it no longer exists. As far as time is concerned, the only way that the owner will lose the right to ownership is when it is taken by someone else through adverse possession (Civil and Commercial Code, Section 1382). The copyright law, on the other hand, fixes the term of copyright protection of the academic work for the life of the author and fifty years after the author's death (Copyright Act, Section 19). The reason for fixing the term of protection for academic works is that it shares the characteristic of the exclusive right to the knowledge contents. If the exclusive right has no fixed term, it will adversely affect the public. The protection of the academic works is provided to enable the exchange of interests between the right holder and the society. The exclusive right that the society is willing to offer in exchange for certain gains should not last too long, but it should be long enough for the right holder to be willing to disclose his knowledge for the purpose.

Thus, the infringement of academic works is different from infringement of property in general in four ways: intent of protection, object of right, nature of right, and terms of protection. Such infringement does not constitute an act of stealing or robbery of copyright; it is called "infringement of copyright" or "infringement of academic works".

Definition and meaning of academic works in Buddhist terms

Before giving the definition of academic works in Buddhist terms, one must be clear about one thing. Academic works are a type of intellectual property. Both terms are modern coinages and do not exist in the Buddhist scriptures. The attempt to find the definition can be done by comparing it to something similar, especially in the context of modern Thai society. First, let's consider a general meaning of "property", intellectual property, and finally academic works in Buddhist terms.

The word "property" or "asset" is equivalent to Pali *Dhana* which means wealth, treasure, money, property. The word can be analyzed (Krommaphra Chanthaburinaruenat, 1977: 377) thus: "*Dhanitabbaṃ Saddāyitabbanti Dhanam*" meaning "what one should utter (appreciatively) that it belongs to one". In other words, one should proclaim with pride one's ownership of things or *Dhana* (*Dhana* means to utter) (Phra Mahā Moggallāna, 2004: 608, and Phra Thammakittiwong, 2007: 333). Property here covers a wider sense, because it means everything that is joyful and brings joy to a person. The *Tepiṭaka* mentions two kinds of property:

1.) Public property – refers to general things, including fire, water, kings, bandits, and heirs unworthy of love.

2.) Non-public property – refers to non-general things, including fire, water, kings, bandits, and heirs unworthy of love, i.e. *Saddhhā* (*Saddhhā-Dhana*), *Sīla* (*Sīla-Dhana*), *Hiri* (*Hiri-Dhana*), *Ottappa* (*Ottappa-Dhana*), *Sutta* (*Sutta-Dhana*), *Cāga* (*Cāga-Dhana*) and *Paññā* (*Paññā-Dhana*). These are collectively called "*Ariya-dhana*" (A.IV *Sattakanipāta* 23/7). It puts human information, knowledge, idea or intellect in two categories:

2.1 *Sutta-Dhana*: *Dhana* is listening: listening to a lot of *Dhamma*, accurate memory, fluency, internalization, and insight into the knowledge by virtue of *Diṭṭhi*. Buddhism calls a person with this kind of *Dhana* a *Bahussuta*.

2.2 *Paññā-Dhana*: *Dhana* is *Paññā*, i.e. right knowledge and understanding, insight into *Tilakkhaṇa*, and ability to destroy *Kilesa* and bring an end to *Dukkha* (A.III *pañcakanipāta* 22/47).

In *Aṭṭhakathā* to *Dhaniya Sutta* attempts were made to differentiate *Dhanain* to five types:

1.) *Thavara-Dhana* or immovable property, e.g. land, farm, plantation and building

2.) *Jaṅgama-Dhana* or walking property, i.e. property that can move by itself, e.g. male and female slaves, elephants, horses, poultry, and pigs

3.) *Sanhārima-Dhana* or movable property, e.g. money and gold

4.) *Aṅgasamadhana* or property with all organs intact, the source of art³

5.) *Anugāmikadhana* or property that accompanies a person in every life and every *Bhava*, e.g. merits or *Kusala* that a person makes from practicing *Dāna*, observing *Sīla*, and doing *Bhāvanā* (*It. A* (Pali) 21/38, *It. A* (Thai) 41/60). It categorizes information, knowledge, ideas or human intellect in two ways: (1) *Aṅgausama-sabhāva* (*Aṅgasamadhana*) i.e. property with all organs intact, the source of art or property that a person carries on himself, e.g. knowledge and arts, and (2) *Anugāmika-sabhāva* (*Anugāmikadhana*) or property that accompanies a person in every life and every *Bhava*, e.g. merits or *Kusala* that a person makes from practicing *Dāna*, observing *Sīla*, and doing *Bhāvanā* (*It. A* (Pali) 21/38, *It. A* (Thai) 41/60).

It can be seen that non-public property, known as *Ariya-Dhana*, separates knowledge gained from study (*Sutta-Dhana*) from *Paññā*-based knowledge (*Paññā-Dhana*). The Commentary to *Dhananiya Sutta* also differentiates knowledge-based property (*Anugāmikadhana*) from moral or *Kusala* property (*Anugāmikadhana*). However, when one synthesizes the contents, one finds that *Aṅgasamadhana* and *Sutta-Dhana* have the same meaning. They refer to knowledge of all fields. On the other hand, *Paññā-Dhana* can be synthesized with *Anugāmikadhana* except that the word *Anugāmikadhana* covers a wider meaning. *Anugāmikadhana* means

³ Thai Tipitaka of Mahachulalongkornrajavidyalaya version translates *Aṅgasamadhana* as “property that one carries on oneself,” e.g. knowledge and arts (Kh.A (Pali) 8/194) (reference in Footnote 2 Kh. (Thai) 25/1).

property in the form of merits or *Kusala* that accompanies a person in every life and every *Bhava*, while *Paññā-Dhana* refers specifically to correct knowledge in line with morality. Here, only some merits or *Kusala* can be called *Paññā*. *Paññā-Dhana* also includes *Paññā* of *Lokuttara* type, which is able to put an end to *Bhava* and *Jāti*. This goes to show that Buddhism recognizes knowledge and intellect as a kind of property, calling it “*Ariya-Dhana*” or most noble treasure, because it leads to all kinds of property (D.III A. (Thai) 16/378), i.e. wealth (*Bhoga-Dhana*), happiness (*Sagga-Dhana*), *Brāhmaṇa-Dhana*, and *Nibbāna (Nibbāna-Dhana)*, the supreme of all the *Dhana (Sumangalavilāsinī, 3/2/378-379, reference in Panya Chaibangyang et al, 2005: 147).*

Knowledge and intellect as part of *Ariya-Dhana* are different. *Sutta-Dhana*, knowledge gained from study, has two levels (D.III A. (Thai) 16/739):

1.) Knowledge at the *Lokiya* level (worldly *Sutta*), i.e. knowledge gained from listening, attending lectures and sermons, reading, and study, including learning arts, sciences, and crafts that are related to earning a livelihood and conducting other worldly enterprises.

2.) Knowledge at *Lokuttara* level (*Dhamma Sutta*), i.e. knowledge becoming the *Ariya-Sāvaka* or knowledge necessary for every individual to live a virtuous life and be able to make good use of what they know, including vocational skills, in such a way that benefits self and others. This kind of knowledge will help the person to keep away from all bad things and fill in the gaps of other sciences. It is a knowledge that makes an ordinary individual a noble being (Phra Dhammapitaka, 2003: 420-1).

Paññā-Dhana, on the other hand, is wisdom, correct and complete understanding of the truth. It too has two levels:

1.) Knowledge at the *Lokiya* level, i.e. all-round comprehension, understanding, or insight into what is going on in the world, including a clear understanding about one’s career, politics, and economy. A person with this kind of knowledge is able to differentiate, sort out, and decide right from wrong.

2.) Knowledge at *Lokuttara* level, i.e. understanding of the world according to the truth (*Ariyasacca*), reasoning faculty not governed by *Kilesa* or *Nivaraṇa*, wisdom to appreciate *Tilakkhaṇa* and the nature of all things that occur, stay, and eventually decline, or awareness of common perception of the world and life. This knowledge can lead to a temporary and permanent end of *Kilesa*, practically leading to the end of suffering (2003: 422-33).

There lies a clear difference between *Sutta* and *Paññā*. *Sutta-Dhana* is knowledge gained from study or experiences, including seeing, reading, writing and listening. Though based on certain understanding, the knowledge is obtained from memorization and understanding based on the opinion or experience of other people or sources. Such process involves external factors bringing in knowledge and understanding of things. In his *Visuddhi-Magga*, Buddhaghosa Thera puts this kind of knowledge at the levels of *Saññā* (perception) and *Viññāṇa* (consciousness) below the *Paññā* level. For comparison purposes, let's say, we have three people looking at a coin. At the *Saññā* level, it is as if an innocent child sees only its shape, length, roundness, color and patterns, and at the *Viññāṇa* level, it is as if a villager sees not only its patterns and shape but also its significance as a medium for exchange of goods. Still, he cannot tell whether it is a genuine or fake coin or what it is made of. At the *Paññā* level, the knowledge is complete and clear as far as *Saññā* and *Viññāṇa* are concerned, including the ability to differentiate and decide right from wrong, leading to the path of *Magga*. The person with this kind of knowledge is like a treasurer who knows everything there is to know about the coin whether by sight, sound, smell, taste, or touch, including the maker of the coin or the place where it is made (Buddhaghosa Thera, 2003: 711).

Paññā as used in intellectual property refers to all human creative works as products for commercial purposes protected by law. It includes all intellectual or mental products, such as knowledge, ideas, inventions, literary works, and arts, with commercial or economic benefits recognized or protected by law. They are all *Paññā* in the sense of intellectual property.

A close look at knowledge and wisdom used in *Ariya-Dhana* and intellectual property reveals that Buddhism recognizes knowledge (*Sutta-Dhana*) and wisdom (*Paññā-Dhana*) as property or noble treasure. It may not actually use the term “intellectual property” but call the matter “*Ariya-Dhana*”. With regard to academic works as copyrighted intellectual property today or, more specifically, all knowledge and academic ideas created by academics, some can be called “*Sutta-Dhana*” and “*Paññā-Dhana*” at the *Lokiya* level. These include academic products in various fields created for commercial purposes as part of good and honest modes of livelihood. Academic works as intellectual property in Buddhism are characterized by two important elements:

Firstly, academic works mean knowledge and ideas from study or experience; they are referred to as *Sutta-Dhana* at the *Lokiya* level. Some of academic works with intellectual property right belong to this category. They differ from the Buddhist tradition in that they are more specific, with concrete manifestation of contents, or in the form of products for commercial purposes, protected by law (Hornby, 2001: 623). Such specificity does not turn correct and good academic knowledge in a specialized field into *Micchādīṭṭhi* (not *Sutta-Dhana* at the *Lokiya* level). On the contrary, it helps to make knowledge more concrete and more beneficial to society. On the other hand, if what is presented is not correct knowledge, causing damage to self and society, in Buddhism it will not be considered *Sutta-Dhana* at the *Lokiya* level. In addition, *Sutta-Dhana* at the *Lokiya* level must be governed by *Paññā* to ensure that the knowledge is put to good use. Such *Paññā* is called *Sutamayapaññā* (wisdom resulting from listening) (D.III 11/305); otherwise, the academic work will become *Ariya-Dhana* at the *Lokiya* level, while *Sutta-Dhana* at the *Lokuttara* level is beyond the scope and meaning of academic works in various fields as seen today.

Secondly, academic works mean morally correct knowledge and ideas leading to *Kusala* or virtue; they are referred to as *Paññā-Dhana*, or more specifically *Paññā* at the *Lokiya* level (knowledge at the *Kilesa*-related level). Modern academic works that enlighten the reader, enabling him to differentiate right from wrong, sort out his daily problems,

understand life and the world as they are to the extent that he can stop *Kilesa* even temporarily, or live a happy life in the world, are considered *Paññā-Dhana* at the *Lokiya* level. *Paññā-Dhana* at the *Lokuttara* level (*Paññā* that can permanently put an end to *Kilesa*) is *Paññā* as found in *Aṭṭhaṅgika-magga*, *Phala*, and *Nibbāna* (*Kvu.* (Pali) 37/587, *MIII A.* (Pali) 9/563, *MIII A.* (Thai) 22/123). They are considered *Ariya-Dhana* that is beyond the scope and meaning of academic works in various fields as seen today. Of all *Ariya-Dhana*, Buddhism considers *Paññā-Dhana* as the most noble, because when all beings are well-established in *Paññā* and fully observe the three aspects of *Sucārita*, five precepts of *Sīla*, and ten precepts of *Sīla*, they will attain to *Sagga*, equipped with *Sāvaka-Pāramī-Ñāṇa*, *Paccekabodhoñāṇa*, and *Sabbaññutañāṇa* (*DIII A.* (Thai) 16/378-379).

Thus, those correct and virtuous (*Kusala*) academic works in one's field of specialization that can promote a correct and virtuous way of life or can be turned into commercial products for the good of society in such forms as books, bulletins, journals, research works, and publications, are all considered *Ariya-Dhana*, especially as they are not incorrect, harmful and damaging to self and others. They could be *Sutta-Dhana* or *Paññā-Dhana* at the *Lokiya* level, the level that gives rise to happiness, commercial prosperity, and social good.

Infringement of academic works in Buddhist terms

Having established that academic works may be recognized by Buddhism as intellectual property, we now turn to consider whether Buddhism recognizes any right to that property. When a person has the right to his works, other persons may not violate it. More simply put, the issue is whether a person has the right to own his intellect, knowledge or ideas when Buddhism considers that everything that exists has always been there in nature. It does not matter whether or not the Buddha came to this world, everything has always been there. Only after His birth was He enlightened about the nature of things or *Dhamma* (*A. Dukanipāta* 20/137). This shows that all *Dhamma*, whether *Lokiya* or *Lokuttara*, already existed.

They are called “*Dhammaniyāma*”⁴, i.e. all things are in nature and are owned by nobody. Only after the Buddha was enlightened did he propagate them. He discovered and owned all the knowledge. This can be compared to philosophers and scientists who discovered theories and announced them to the world, e.g. Plato’s theory of Form, Sir Issac Newton’s law of gravity, and Albert Einstein’s theory of general relativity. All these ideas and laws already exist in nature and were discovered by these philosophers and scientists who made them known to the world. The society, therefore, agrees that the first persons to discover them should be their owners. Similarly, the Buddha is looked up to as the owner of the *Dhamma*, the result of his Enlightenment and an insight into all *Sacca*.⁵ This is simply an act of respect for the person who discovered the truth and made it known to the world. Anyone who holds a different view than that of Buddhism may be regarded as holding an incorrect view (*Micchādiṭṭhi*). For instance, in the Buddha’s time there were six famous schools of thought. e.g. Pūrana Kassapa, Makkhali-Gosāla, and Ajitakeskambala⁶ who held contrary views to the Buddha’s *Dhamma Vinaya*. When his disciples preached sermons to the people, they would cite the Buddha as their reference – “the Buddha says ...”. When other doctrines wanted to

⁴ *Dhammaniyāma* is the general natural law consisting of five types: (1) *Utu-niyāma* referring to physical inorganic order, e.g. breeze, rain, sunshine, and night, (2) *Bija-niyāma* referring to physical organic or biological order, e.g. wheat giving rise to wheat products, sweet plants giving rise to sweet products, and bitter plants producing bitter fruit, (3) *Cita-niyāma* referring to psychic law governing the work of the mind and senses, (4) *Kamma-niyāma* referring to the moral laws of *Kusala* and *Akusala*, (5) *Dhamma-niyāma* referring to the natural law of all the Buddha’s, e.g. all the worlds and elements shook when the Buddha was conceived in his royal mother’s womb (*DII A. (Pali) 5/44-45, DII A. (Thai) 13/100-1*). Specifically on *Dhamma-niyāma*, Phra Brahmagunaphorn (P.A. Payutto) (2008: 166) adds further explanation to the Commentary that it is the natural order of relationship and general law of cause and effect of all things.

⁵ i.e. *Dhammasāmi* (M.I 12/203, S.I 18/116) and “Nobody in the world can deny that the Buddha, the owner of *Dhamma*, came by the righteous means to the enlightenment and that *Dhammacakka* is the most noble of *Dhamma*” (*Nett.A. 9/63, Nett.Vbh. (Pali) 9/93*, reference in Footnote 3 to *Vin.M. (Thai) 4/17/24*).

⁶ For more details, see D.I 9/165-181.

refer to the Buddha's teachings, they would say "Samana Gotama teaches thus ...". This is how respect and honor were paid to the Buddha's *Dhamma*. So, infringement of academic works in Buddhism means violation of the *Dhamma Vinaya*, the Buddha's teachings.

With regard to the protection of academic works as intellectual property, there is clear evidence in Buddhism. The religion came into being in ancient India at the time when so many doctrines were propounded, each with its own approach. Buddhism was another approach. When someone else preached it to others, claiming that it was theirs, or mistakenly referring to it, the action was called "making a false claim of the Buddha's words" (*Vin.M. 5/290*) or "falsification of the *Dhamma* (reference in Footnote 2 to *Vin.Mahāvagga* (Thai) 2/423). In modern parlance we could call such act as "infringement of the Buddha's academic works (*Dhamma Vinaya*)". There was an incident in which a Buddhist monk by the name of Ariṭṭha believed that he completely understood the Buddha's teachings, saying "I have understood the *Dhamma* taught by the Buddha. I know that even the *Dhamma* that He has declared harmful cannot cause harm to those who indulge in them". When other monks heard this, they tried to warn him against such a belief, but he would not listen or renounce such incorrect view. The monks then reported the matter to the Buddha who summoned a meeting, admonished the culprit, and imposed a disciplinary provision.⁷ Evidently, Ariṭṭha's words falsified the teachings of the Buddha who

⁷ Ariṭṭha was a learned person and a preacher who partly understood *Antarayikkadhamma*. Since he was not proficient in the *Vinaya* matter, after a series of retreats he came to a conclusion that a number of lay people who still indulged in sensual pleasures could become *Sotāpanna*, *Sokadāgāmī*, or *Anagāmī*. On the other hand, monks who can perceive *Rūpa* through sight ... and physical touch are allowed to use soft clothes. If this is allowed, why can't one touch a woman through all the senses? This surely must be right. He then developed a misguided notion in contrary to *Sabbhaññutañña*, saying that "Why did the Buddha prescribe a strict rule of *ukkhepanīyakamma* in something that is harmless?" In this way, he pulled down the aspiration of noble people, objected to the wisdom of those with perfect knowledge of things, put thistles and thorns in the way of *Ariyamagga*, and destroy the realm of the Buddha's disciples, saying that "*Methunadhamma* is no wrong" (*Vin.Mahāvagga A. 2/417*, M.I (Pali) 2/234, reference in footnote 3 to *Vin.Mahāvagga* (Thai) 2/417).

never said that sensual pleasure or sexual intercourse was not sinful. The measures that He adopted to protect His teachings is *Vinaya* rules. He, therefore, prescribed the eighth *Sikkhāpada* (a disciplinary rule) of *Sappāna Vagga* concerning the *Pācittiya* that “When a monk falsifies the *Dhamma Vinaya*, other monks should warn him against it. If he refuses to listen, even after the monks had requested him to do so three times, he is given a *Pācittiya*” (*Vin.Mahāvagga 2/418*).

Monks or individuals who falsified the Buddha’s teaching are considered to hold a wrong doctrine and commit a sin. There was the incident of Sāti Thera who held a false view that a man’s consciousness was *Attā* and continued without break of identity, contrary to the Buddha’s teachings that consciousness is *Anattā*. The Buddha admonished him thus:

Foolish man, if this is the *Dhamma* that you know, how can you teach it to others? Consciousness or *Vīññāṇa* needs certain conditions or *Paccaya* for existence. I have said earlier that ‘without *Paccaya* there ceases *Vīññāṇa*.’ You have misquoted me and made this yourself. You will not encounter much good because of your false belief. Foolish person, your view is not meant for good things but for long suffering.

(M.I 12/398)

In this incident Sāti Thera committed two offenses: falsifying or infringing the Buddha’s intellectual works and holding a false belief. Holding a false belief is considered an unwholesome act, a sin, a spiritual misconduct, leading to a low spirit. This is one of the measures taken to protect the *Dhamma Vinaya*, the Buddha’s intellectual work.

There are other similar incidents that we see today. Claiming the Buddha’s *Dhamma* as one’s own is an infringement of his intellectual property of the *Dhamma Vinaya*. The Buddha called such a person “a big thief”, saying:

Bhikkhu, there are some bad monks who studied the *Dhamma Vinaya* that I taught and claimed to be theirs. Bhikkhu, such persons belong to the second category of big thieves in the world.

(*Vin.Mahāvagga* 1/195)

The Buddha uttered such words when there were cases of *Uttarimanussadhamma*, giving rise to the fourth *Sikkhāpada* concerning the *Pācittiya*. The point here is that in Buddhism a person who claims another person's knowledge or intellectual idea as his own is called a "big thief". He can be likened to a monk who stole the villagers' food to eat for himself, for his was a way of life based on deception, trickery and false livelihood, designed to deceive the faith and religious people. He, therefore, acted like a big thief who plundered the *Dhamma Vinaya*, religion and faith. Of course, the word "big thief" was used figuratively. It did not refer to a real thief who stole things from others. Rather, he was a "big thief of *Dhamma*". Although the *Vinayatepiṭaka* covers only Buddhist monks, in the researcher's view, it can be applied to people in general. Anyone who claims the *Dhamma Vinaya* as his own has a mind of a thief, whose act will be considered an "infringement of academic works as intellectual property".

Apparently, a misrepresentation of the Buddha's teachings is considered a show of disrespect for the Buddha, an infringement or a falsification of his intellectual work. Claiming the Buddha's teachings as one's own does not only constitute a violation but also an act of a "big thief". The Buddha's right to his teachings would be called today "a moral right" (Phillips and Alison, 1990: 205), something that needs to be protected in honor of the author. This is a matter of spiritual value and has nothing to do with commercial interests. A person who copies someone else's work deserves to be condemned by the rightful owner (Wat Thingsamit, 2008: 123). Of course, the situation is different from the Buddha's time when his teachings were not put in writing. At any rate, what he preached to the public was as important as the written word, for it was his intellectual manifestation and affirmed his ownership.

Memorization or oral tradition has long been a method that Buddhists use to review *Dhamma Vinaya* for verification purposes. *Tepiṭaka* Studies are divided into three groups: *Vinayatepiṭaka*, *Suttantapepiṭaka*, *Abhidhammapiṭaka* (*Vin.Mahāvagga* 1/380-382). Although they were different from the Ancient Greek and Roman recording traditions, they shared some common traits, especially the honor and respect accorded to the authors and their intellectual creation. This is the right based on the relationship between society and the author and between the author and his creative work (Black, 1990: 4971). Returning to the *Dhamma Vinaya*, the Buddha's intellectual work, one can see how he is the holder of the moral right in two ways: 1) he attained Enlightenment by himself and presented it to the public; he was, therefore, the owner of the *Dhamma Vinaya* and 2) he had the right to forbid the distortion, abridgement and claim made by others and to admonish them accordingly. Any infringement of academic works as intellectual property in Buddhism is equivalent to an infringement of moral right. An interesting observation is that the Buddha considered an infringement of *Dhamma Vinaya* a violation of *Dhamma* only and not of *Vinaya* or *Sīla*, especially not *Adinnādāna*, whether committed by a religious or lay person.

***Adinnādāna* in *Pañcasīla* and the infringement of academic works**

In *Pañcasīla*, the second precept states “*Adinnādāna veramaṇī*”, the intention to abstain from taking things not given by their owners through the act of stealing. The saying can be further elaborated as follows:

“Property or things not given by their owners” means anything that another person cherishes or possesses (*Vin.Mahāvagga A.* (Pali) 1/437, *Vin.Mahāvagga A.* (Thai) 2/105), i.e. 1) property that the owner does not physically or verbally give away, 2) property that the owner does not give up or leave behind, 3) property that the owner does not throw away as he still likes to keep it, 4) property that the owner keeps, 5) property that is still in the owner's protection, 6) property which the owner holds the right to or clings to by desire as belonging to him, and 7) property

that the owner guards dearly (*Vin.Mahāvagga* 1/92, *Vin.Mahāvagga A.* (Thai) 2/105).

“Taking things not given by the owners” means taking them with an act of a thief by any one of the following 14 fashions: 1) stealing, i.e. taking something away from the owner without his knowledge, 2) snatching, i.e. taking something away from the owner when he does not pay attention, 3) extortion, i.e. taking something from the owner by force or threat, 4) robbery, i.e. going in a group to take something away from the owner by force, 5) claiming something from another that does not belong to one, 6) embezzlement, i.e. taking something in one’s hand that belongs to someone else, 7) deceiving or lying to get something from another, 8) trickery, i.e. take something that belongs to another by enticement, 9) faking, i.e. fabricating something to make it look valuable or genuine, 10) welching, i.e. borrowing something from another but refusing to return, 11) filching, i.e. taking small things from another, 12) changing, i.e. replacing something good with an inferior item, 13) smuggling, i.e. bringing in prohibited items, and 14) hiding, i.e. putting something that should be taken away in some safe place (Somdet Phra Maha Somana Chao Krommaphraya Vajirañānavarorasa, 1992: 17-24).

To take things not given by the owners through the act of stealing means taking the property loved or possessed by the owners by such acts of stealing as carrying off, plundering, embezzling, and robbery. It does not matter if the act is done by the person himself or by a third party. The accomplished act is considered a violation of *Adinnādāna Sīla*.

The point is that *Adinnādāna* in *Pañcasīla* refers only to the movable and immovable property, as can be seen in the 14 acts of stealing above. It does not cover copyrighted intellectual property including literary and academic works. Hence, it is debatable whether an infringement of academic works is *Adinnādāna*.

There are two types of infringement of academic works – moral right and economic right – as follows:

1.) Infringement of moral right

In general there are two types of moral right infringement:

Type 1: This refers to citing references to another person's work by distorting, abridging, adapting, causing damage to it by any other way, or mutilating it.

Type 2: In general this refers to the person concerned making no reference to the owner, with an implication that the idea is his own, and presenting another person's work, claiming that it is his own.

These two types share some general characteristics of repeating, copying, imitating or citing part of another person's work in one's academic work. In order to make such infringement even clearer, let's turn to legal consideration before touching on the Buddhist perspective.

Under Copyright Act B.E. 2537 (1994) three criteria are used to determine which act constitutes an infringement of copyrighted academic works:

First, consideration is given to whether academic works in the form of information, images or texts incorporated as part of the textbook are copyrighted (Manit Chumpa, 2006: 51). In general, books published by publishing houses are considered copyrighted, as they are concrete manifestations of abstract ideas. Even though there is nothing in the work to indicate who the copyright owner is, the law states that the author or the publishing house concerned holds that right. If the author wants to grant the copyright to the public, it must be done in writing, and that work will then lose its copyright. Any use of such work is not an infringement.

Second, consideration must be given to whether the work is still under protection of the law. If it is, any unauthorized use is an infringement. If the period of protection has expired, any use of such work is not an infringement (2006: 52).

Third, if the copyrighted work is still under the protection of the law, consideration must be given to whether any use of another person's work in one's text or academic work is covered in the exception clauses (2006: 52), e.g. a reasonable recitation, quotation, copying, or emulation

with an acknowledgment of the copyright owner⁸ is not an infringement. Acknowledgment can be made in the form of reference in the bibliography, and no part is adapted or changed to the extent that damage is done. An act that does not unreasonably prejudice the legitimate owner of the copyright is not deemed an infringement.⁹ However, if it is not covered in the exception clauses, it is an infringement.

When an infringement of the moral right of the academic works occurs, the author can demand the infringer to pay for the damages appropriate to the gravity of injury. Section 64 of the Copyright Act B.E. 2537 (1994) states: “In the case of infringement of copyright or performer’s rights, the court has the authority to order the infringer to compensate the owner of copyright or performer’s rights with damages the amount of which the Court considers appropriate by taking into account the gravity of injury, including the loss of benefits and the expenses necessary for the enforcement of the right of the owner of copyright or performer’s rights”. Section 438 of the Civil and Commercial Code calls such an infringement “a civil infringement” and calls the damages “compensation” (Wat Thingsamit, 2008: 133). The infringer is obliged to return the property to the person injured by his wrongful act. Compensation may include the institution of the property or its value as well as damages for the injury caused. The infringement of the copyright (moral right) can be redressed by other means including advertisement in the newspaper and destruction of the copied work (Manit Chumpa, 2006: 52).

In Buddhist terms, the first type of infringement is equivalent to “falsification of another person’s work”. The second type, claiming

⁸ Section 33: A reasonable recitation, quotation, copying, emulation or reference in part from a copyright work by virtue of this Act with an acknowledgment of the ownership of copyright in such work is not deemed an infringement of copyright; provided that Section 32 paragraph one is complied with (Copyright Act).

⁹ Section 32: An act against a copyright work by virtue of this Act of another person which does not conflict with a normal exploitation of the copyrighted work by the owner of the copyright and does not unreasonably prejudice the legitimate right of the owner of copyright is not deemed an infringement of copyright (Copyright Act, Section 32, Paragraph 1).

another's work to be one's own, is an act of "a *Dhamma* big thief" or "a sin". Evidently, the infringement of both types is classified under the violation of *Dhamma*. Despite the gravity of the act against His *Dhamma Vinaya*, the Buddha considered it only a sin. Therefore any act against another person's academic work is merely a big thief of *Dhamma*. It is an evil act, *Akusala*, a sin, driven by greed or *Abhijjhā*, a covetous desire to obtain another person's work. Yet, it is not an *Adinnādāna* or cannot be classified as *Adinnādāna* probably for two reasons. First, a moral right is an abstract entity and cannot be commercially sold or transferred. Second, an infringement of right is an act that causes damage to one's reputation and dignity. It is not an infringement of property, for the damage is not clearly seen in the property itself or in property-related interests (Chaiyot Hemaratchata, 1997: 83). Legally speaking, it is only a civil infringement, which is in line with the Buddhist approach that considers it a *Dhamma* offense or a sin and not an infringement of property or *Adinnādāna*. Rather, it is more like an act of lying when claiming another person's work as one's own, the fourth *Sikkhāpada* of *Pañcasīla*.

2.) Infringement of economic right

An infringement of economic right is different from that of moral right. An economic right in an academic work results in financial interests for the author or in the right to exploit commercial gains for the author through the permission to use, transfer, or cancel the right or any other similar act. The right may be considered as a kind of goods. The economic right of the copyrighted academic work can be infringed through reproduction, adaptation, communication to the public¹⁰, selling, or offering it for sale.¹¹ Such economic right is protected by law only when the author or right holder exercises it. For instance, for the work that is produced and sold in the market, if the author or right holder does not exercise his right, no infringement is considered to take place, as in the case in which an act is

¹⁰ An infringement under Section 27 is called "primary or direct infringement". For detail see Copyright Act B.E. 2537 (1994), section 27.

¹¹ An infringement under Section 31 is called "secondary or indirect infringement". For detail see Copyright Act B.E. 2537 (1994), section 31.

done to the book that is no longer produced or out of print. In general, an infringement of economic right can take two forms:

Type 1: citing part of another person's academic work for more than 25%, whether or not acknowledgment is made to the author, or claiming it to be one's own is an infringement. If an acknowledgment is made to the author, there is only an infringement of economic right. However, if it is not made or a claim is made to own the work, there are infringements of both moral right and economic right.

Type 2: citing the entire work or idea of another person, whether or not acknowledgment is made to the author, or claiming it to be one's own, is an infringement. If acknowledgment is made to the author, there is only an infringement of economic right. However, if no such acknowledgment is made or a claim is made to own the work, there are infringements of both moral right and economic right.

“Reproduction” and “adaptation” (Copyright Act, Section 27) have different meanings. Reproduction refers to any technique of copying, imitating, duplicating, molding, sound recording, video recording or sound and video recording of the essential part of an original copy or publication whether in whole or in part and, regarding computer programs, duplicating or copying the program from any medium of the essential part with any method in a manner in which no new work is created whether in whole or in part. Adaptation, on the other hand, refers to a reproduction by transformation, improvement, modification or emulation of the essential part of an original work without creating a new one, whether in whole or in part. In particular, literary works include translated works, translation, a transformation or a compilation by means of selection and arrangement (Copyright Act, Section 4). Thus, citing another person's academic work in either manner is a direct infringement of copyright known as “reproduction” or “adaptation” under the Copyright Act. To illustrate what is meant by the economic right and infringement of property more clearly, one may consider a case of photocopying a commercially available book for study or research purposes. Legally speaking, such an act constitutes a “reproduction” of the entire academic work and, therefore, an infringement of academic works of Type 2 mentioned above, as follows:

Mr. A wrote a textbook entitled *Infringement of Property Rights in Buddhism* and sold the copyright for publication and distribution to Company D as an executing agency. Mr. A received remuneration for the publication and distribution, and the Company sold the book for 300 baht a copy.

In this case Mr. A has the right to information on both counts:

a.) Economic right arising from the copyright in the publication and distribution takes the form of remuneration per book sold (the amount depending on the agreement made between the author and Company D. Evidently, in this case the right will not occur if there is no publication and distribution. Only the company holds the sole right to the publication and distribution; no one else has the right to infringe it. If another company wants the right to publish and distribute the book, it needs to have a prior permission from Mr. A and Company D. Alternatively, it has to buy the right from Company D or wait until Company D's right expires before it can buy the right from Mr. A. Anyone who wants the book can pay for the copyright by buying it from Company D or from the shop that Company D granted the right to. In other words, the price of the book is an economic right as well as a moral right.

b.) Moral right is reflected in the way the publishing house has the book published without any abridgement or modification and, more importantly, puts in print the name of the author in due respect.

To illustrate a case of infringement, let's consider an example in which an individual photocopied the entire book without authorization. Legally speaking, it was an infringement of the economic right of Mr. A, the author, as well as an infringement of the economic right to publication and distribution owned by Company D. The damage that occurred was equal to the value of the property or the price of the book on sale in the market at the time. In other words, if the book was photocopied for study or research purposes, the act would still affect both rights at a value of 300 baht. The law calls this infringement: "a reproduction that conflicts with a normal exploitation of the copyrighted work by the owner of the copyright and unreasonably prejudices the legitimate right of the owner

of copyright. This is deemed an infringement of copyright” (Copyright Act, Section 32). The penalty for reproduction of the copyrighted work for personal use but not for profit-oriented exploitation for the offending person is a fine from 20,000 baht up to 200,000 baht (Copyright Act, Section 69). The object of infringement, here the photocopied book of the offender, will belong to the copyright owner, and all things used for committing the offense shall be forfeited (Copyright Act, Section 75). One half of the fine thus paid shall be disbursed to the owner of the copyright. However, if the fine imposed does not cover the damage, the copyright owner can take a civil action for damages for the amount which exceeds the fine (Copyright Act, Section 76). In the event that the book that was photocopied was out of print, unavailable in the market, or sold out, the law does not deem the act an “infringement of intellectual property” (Manit Chumpa, 2006: 66-70), because it does not conflict with the exploitation of the author and the publishing and distributing company, i.e. not in conflict with the economic right.

The example of photocopying an entire book can be compared to an infringement of an academic work. If one takes all the information from another person’s entire book which is on sale in the market and claims it as one’s own, this act constitutes a copy or reproduction of another person’s work. In the eye of the law, it is no different from photocopying the entire book. In terms of infringement of property, it destroys the interests or opportunity for economic exploitation of the owner who stands to lose earnings from the intellectual work he is entitled to.

The above examples are examples of reproduction of the entire academic work. What about partial reproductions?

Citation of some information in one’s academic work will be considered an infringement of an economic right when it exceeds 25% of the original work (Type I of infringement of academic work mentioned above). As stated in a Court’s judgment (No. 5843. 2543), partial reproduction must not exceed 25% of the copyrighted book (Manit Chumpa, 2006: 63). Therefore, if an academic work is 200 pages long, 25% equals to 50 pages. Any citation of more than 50 pages is an infringement of another

person's copyright. No offense is committed if the citation does not exceed 50 pages. A decision was made by the Central Intellectual Property and International Trade Court on the issue as follows:

There were 43 reproductions: 20 taken from 5 chapters of "Organization Behavior" representing 25% of the book and 19 from 5 chapters of "Environmental Science" representing 20.83% of the book. The Court views this as a reasonable act done for educational purposes and not as an infringement of the copyright as it comes under the exception clauses as stated in Section 32, Paragraph 1, and Section 32, Paragraph 2(1).

... A study needs to use information which exists in a lot of texts and articles. To require students to copy only one article from a journal or a chapter from a book may not sufficiently help them understand the ideas or thoughts behind the writing of the book. A requirement that they buy every book or subscribe to every journal without legally reasonable exceptions would be an obstacle to the progress of education and academic discipline in society.

(Manit Chumpa, 2006: 69-70)

The Court's judgment shows that it recognizes the need to copy or cite parts of the book for study or research purposes without unduly prejudicing the right of the copyright owner, i.e. not more than 25% of the entire book. Such an act is an exception to the infringement, universally known as "fair use". However, there are cases in which copying or citing less than 25% could be legally considered unreasonable when it covers the essence of the book. Then, the act will constitute an infringement, as could be seen in another Court's judgment, No. 1908/2546:

The accused copied or imitated about 30 pages out of 150 pages of the literary work of the plaintiff (representing 20%). Although only some parts were taken, they were all essential contents. Therefore, the plaintiff was considered to

unreasonably copy or imitate a copyrighted work of another person.

(Oraphan Phanatphatthana, 2006: 128-9)

With regard to copying or citing academic works that are unpublished, commercially unavailable, or sold out, the law does not consider the act as an infringement of another person's intellectual property, as it is not in conflict with the exploitation of the author and the publishing and distributing company (as far as the economic right is concerned).

In Buddhism, however, an infringement of the economic right to the academic work is an offense against property, especially when there is clear damage done to the property. It can be classified under *Adinnādāna* of *Pañcasīla*, for this precept was created out of human natural law. Every person loves and feels attached to the property that he owns or holds; naturally, he does not want another to steal, take away or destroy it. Such a feeling is natural to the owner. If we hold such a feeling as an owner, others should feel likewise. So, we should abstain from *Adinnādāna* and respect and recognize another person's property (S.V. (Pali) 19/1003). When we do not infringe another person's property and ownership, he would reciprocate in kind. If one infringes another's property, one implicitly does not recognize the other party as being human or having the same natural quality as oneself, i.e. cherishing what one owns. When everyone respects the right of one another, their property will be protected in the process. Thus, the intent of the second precept, *Adinnādāna veramaṇī*, is to prevent an infringement or destruction of the right to property of each other (Pin Muthukan, 1993: 273). The idea behind the protection of academic works as intellectual property is the same, the only difference being in *Adinnādāna* the object is confined to only two types of property: movable and immovable property, as can be seen from the 14 acts of a thief above. Nevertheless, Buddhism has a set of principles that can be applied to what was not originally contained in the disciplinary provisions. It is known as *Mahāpadesa* consisting of four principles:

1) Whatever has not been objected as “not allowable”, if it fits in with what is not allowable and goes against what is allowable, is not allowable.

2) Whatever has not been objected as “not allowable”, if it fits in with what is allowable and goes against what is not allowable, is allowable.

3) Whatever has not been permitted as “allowable”, if it fits in with what is not allowable and goes against what is allowable, is not allowable.

4) Whatever has not been permitted as “allowable”, if it fits in with what is allowable and goes against what is not allowable, is allowable.

(*Vin. Mahāvibhaṅga* (Pali) 5/305/)

The infringement of the economic right corresponds to the first principle of *Mahāpadesa*: “Whatever has not been objected as “not allowable”, if it fits in with what is not allowable and goes against what is allowable, is not allowable”. In other words, an academic work may not directly be the property that Buddhism forbids to do *Adinnādāna* against, but something of a similar nature. The copyright law considers an academic work an intellectual property and a legitimate intellectual product. Whatever commercial benefits that occur belong only to its creator. Anyone who wants to make use of it needs to pay certain royalty for the (economic) right and receive prior authorization from the right holder. An attempt to cite more than 25% of the creation or all of it brings about loss to financial benefits, something similar to *Adinnādāna*. The principle is intended to encourage honest livelihood and stop the infringement of another person’s property. Such an act, therefore, goes against the Buddhist teaching of abstaining from taking another person’s property. In light of *Adinnādāna*, an infringement of academic works should never be committed.

Here there are two important criteria that support the inclusion of academic works in the *Adinnādāna* principle: 1) an infringement of the economic right of an academic work in financial terms, and 2) *Mahāpadesa* principles that allow property not included in *Adinnādāna* to be included.

Now we will consider how an infringement of an academic work fulfills the five requirements of *Adinnādāna*. If all five requirements are not fulfilled, such an act is not *Adinnādāna*: 1) *Parapariggahitaṃ*,

something that the owner cherishes, 2) *Parapariggahitasaññitā*, knowing full well that it is cherished by the owner, 3) *Theyyacittam*, intention to steal, 4) *Upakkamo*, making an effort to steal, and 5) *Ten haraṇam*, taking it by exertion of an effort (*It.A.* 20/359). Applying these five criteria to the infringement of an academic work, one can come up with the following argument:

1.) An academic work is something that its “owner” cherishes, i.e. an economic right of the creator (or author) and another company or person responsible for producing and distributing it. In general, it is legally recognized that a book published by a publishing house is copyrighted regardless of whether or not it bears any sign of ownership. However, this requirement is not fulfilled if the author decides to grant the copyright to the public, which must be done in writing, or if the protection expires 50 years after the author’s death, or the author no longer commercially exploits the intellectual property in such instances as when the book is out of print, no longer sold in the market, or sold out and not re-published. If the academic work is granted to the public, what is granted is only the economic right. The moral right, on the other hand, cannot be sold, transferred or granted to anyone. For example, every work of Phra Brahmaganaphorn (P.A. Payutto) does not reserve the copyright for re-printing and re-distribution, but those who want to publish and distribute it need to inform him first. In this case, the economic right belongs to the public. Any person or organization can have his work re-printed, and the previous person or organization has no right to stop or prevent it, although the author needs to be informed about it first. The right to be informed each time a person wants to have the work reprinted and distributed is called “a moral right”. Academic works of this nature does not fall under this requirement.

2.) Knowing full well that the work is cherished by the owner or is owned by someone. It is not difficult to know which academic work is copyrighted, since every book bears the names of the author and the publishing house indicative of its creator, copyright owner, or right holder. An author who does not want to keep the work as copyrighted will declare his intention in it. Today, publication and distribution are done through a publishing house, printing house or any other organization. In the event

that the author does not intend to exercise his right to do the publishing and distributing himself, he can do so through a publishing house, printing house or any other organization by an agreement allowing another party to exploit his intellectual property, while the author will receive certain fees from it. In this case, the other party has become the right holder. Every right holder cherishes his right. So, a person committing an infringement of the academic work concerned cannot claim that he has no knowledge about it. The actual words used in the Act are “Any person who knows or should have known” (Copyright Act, Section 31).

In every book, if there is no declaration of intent to grant the right to the public, it implies that by law, the author or publishing house that holds the right cherishes the work. Any act that goes against the law is done by someone “who should have known” about the infringement. He cannot claim that he does not know about it. In Buddhist *Vinaya* this is not necessarily the case. A person who has committed an infringement may claim that he did not know about the rule. Admittedly, he may have come across a statement of copyright somewhere but was not aware of doing something against the law. In this case, the act of infringement does not take place under the second requirement. However, if subsequently he knows about the infringement, he must stop immediately. Otherwise, his act will come under this requirement.

3.) Intending to steal another person’s academic work while knowing full well that it is cherished by its owner or protected by law. The law requires that a person who wants to make use of another person’s intellectual property will have to buy it from the right holder. For instance, if the work is published or distributed by the author, one should buy it from him or from a person to whom the author grants the right. Any other act would be considered “*Theyyacittam*” intending to commit an infringement. For example, instead of buying or borrowing it from the library, one chooses to photocopy the book to save money, or photocopy more than is actually needed. In addition, one can cite or quote passages for reference without causing an infringement if the citation does not exceed 25% of the work, with an acknowledgment of its author. This can easily be complied with.

If one does not do so, the offense is considered to have been committed with a mind full of greed.

4.) Taking action to infringe the academic work through reproduction or adaptation and communication to the public or copying the contents in one's own work in print or in writing.

5.) An act of infringement is complete through a series of efforts, e.g. copying as much of the contents as one wants to, or making as many photocopies of the copyrighted work as one wishes.

The cases below are examples of how the requirements of *Adinnādāna* are fulfilled in the infringement of copyright (economic right) as far as two types of academic works are concerned:

Case 1:

Mr. A wrote an academic work entitled *Buddhist Ethics* but copied 60 pages of Mr. B's 200-page book currently on sale in the market (representing 30% of the book) without any acknowledgment.

This is an example of the infringement of the moral and economic rights. It was an infringement of moral right because no acknowledgment was made of the author of the intellectual work while he had full knowledge that the work belonged to another person. It was an infringement of the economic right of Mr. B and the company granted the right to publish and distribute the work because more than 25% was reproduced or copied. The act also fulfilled the five requirements of *Adinnādāna*.

1.) An academic work was something that its "owners", Mr. B and the publishing and distributing company, cherished, as it was their sole rights. If Mr. B did not want to keep the right, he must have declared his intention to grant it to the public.

2.) Knowing full well that the work was cherished by the owner, knowing that it was owned by Mr. B and the publishing and distributing company, knowing that the reproduction or copy exceeded 25% of the entire book. This constitutes an infringement of the copyright law. (If Mr. A did not know this information, the act would not fulfill this requirement and the intention requirement.)

3.) Intending to infringe another person's academic work, committing the offense while knowing that it was against the law. The act could be done out of the wrongdoer's desire for a quick and easy fix or out of covetousness for another person's work. This was a case of *Theyyacitta*, a desire to unduly violate the property of others, for without the influence of *Theyyacitta*, a person could legally make use of the author's work by copying for reference purposes not more than 25% of the work.

4.) Taking action to infringe the academic work through intentional reproduction or adaptation.

5.) An act of infringement was complete through a series of efforts, e.g. copying or reproducing another person's academic work into one's own work.

Thus, Mr. A's act met all the requirements of *Adinnādāna*, a violation of *Sīla* and *Dhamma*, and therefore a sin. A person who infringes another person's academic work commits *Adinnādāna*, violating both *Sīla* and *Dhamma*. All five requirements must be fulfilled, otherwise no *Adinnādāna* can be said to occur. In the case of Mr. A, another *Sīla* was broken when a moral right was infringed through lying "*Musāvādā*", the fourth precept of *Pañcasīla*. He copied excessively from another person's work without acknowledgment and claimed it to be his own. His act violated two precepts of *Pañcasīla*: infringing a moral right being equivalent to committing *Musāvādā*, and infringing an economic right committing *Adinnādāna*.

Whether partial photocopying of an academic work constitutes *Adinnādāna* also needs some analysis. When a partial copy, done by whatever means, exceeds 25% of the work, it is legally considered an infringement of copyright in the category of "reproduction" under Section 27 of the Copyright Act. Mr. A might socially acknowledge in some way or another the author of the work, but the law would still regard the act as an infringement of the economic right and the copyright, although he might violate only one precept of *Sīla* of *Adinnādāna* but not *Musāvādā*.

Besides, a person can infringe only the moral right. For instance, Mr. P completed a thesis on *Intellectual Property in Buddhism*, and its copyright went to the Graduate School of the University. Here, the moral right belonged to him, while the Graduate School was the sole right holder with regard to the economic exploitation of the work. However, the School might not exercise that right, i.e. the work was not published and distributed or disseminated to the public in any way. Instead, it stored the information and work in the library. If another person copied all or more than 25% of the work with or without acknowledgment or with a claim that it was his own, in the eye of the law he did not commit any infringement of the moral or economic right. In Buddhism the act is not *Adinnādāna* either, but may be considered *Musāvādā* for claiming another person's work as his own.

Case 2:

Mr. C wrote an academic work entitled *Buddhist Ethics* and sold the copyright to a publishing and distributing company, Company D. The book is 400 pages long, and he received 30% of the price for each copy sold, while the book was sold in bookstores. Mr. E was doing a Master's Degree thesis and wanted to use 1-2 pages of the book. However, he did not want to buy the book, as the price of 500 baht a copy was too high for him. So, he chose to photocopy the entire book instead.

This is a case of an infringement of the economic right of Mr. C and Company D. Mr. E did it, being fully aware that the book was commercially available and protected by the copyright law. He did it for economic reasons. The law, however, considers the act adversely affecting the legitimate right of Mr. C and Company D, an infringement of the copyright. Now, let's review the incident in light of the requirements of *Adinnādāna*:

1.) This was a copyrighted book cherished by the owner, Mr. C, and the publishing and distributing company, Company D. The book was protected by the Copyright law, as the right belonged solely to Mr. C and Company D. If Mr. C did not want to possess it, he needed to inform his intention to grant the right to the public. Although Mr. E's act was intended

for study or research purposes, it was considered a reproduction of the copyrighted work, and, therefore, an infringement of another person's property.

2.) Knowing full well that the work was cherished by the owner or protected by law: Mr. E knew that the book's copyright belonged to Mr. C and Company D and that reproducing more than 25% or the entire book by photocopy was an infringement of copyright as well as an illegal act. If he was not aware of all this, this requirement of *Adinnādāna* was not fulfilled.

3.) Intending to infringe another person's book by photocopy: Despite knowing that the act was wrong, he did it because he wanted to possess another person's work without paying for the right as required by the law. This was a case of intention to infringe or *Theyyacitta*, for without the influence of *Theyyacitta*, a person could legally make use of the author's work by copying for reference purposes not more than 25% of the work.

4.) Taking action to photocopy the copyrighted book himself or asking another party to do on his behalf, e.g. instructing one of his subordinates, relatives or photocopy shops to do it for him. All this constituted an attempt to commit infringement.

5.) An act of photocopying the entire book was complete through a series of efforts, e.g. photocopying it himself or instructing another to do it for him. The act must be completed; otherwise, this requirement of *Adinnādāna* was not fulfilled. For example, the instruction was to photocopy the entire book, but only half of the book was photocopied. Or the instruction was to photocopy the book and have the copied version bound, but the person who was instructed only made a photocopy of the book but no binding was done.

In this case, Mr. E's act completely met all the requirements of *Adinnādāna*, a violation of *Sīla* and *Dhamma*, a sin. An act of photocopying another person's academic work constituted *Adinnādāna*, violating both *Sīla* and *Dhamma*. If the person was under the influence of *Theyyacitta* but did not carry out the act, there was no *Adinnādāna* committed. No *Sīla* was broken. In addition, copying or claiming another person's work

as one's own with or without acknowledgment was an infringement of copyright in the category of "reproduction" under Section 27 of the Copyright Act. The case of photocopying the entire book was done under the pretext of making use of another person's work while acknowledging the presence of the author. If the act was not permitted by the author, it was still an infringement of the economic right. Buddhism would consider the person to violate not *Adinnādāna* but also *Musāvādā* when he claimed the work as his own.

Conclusion and recommendations

An infringement of academic works is an act that, under the law, causes damage to the reputation or dignity of the author or creator of the intellectual work through adaptation, undue abridgment, or claim that it is one's own (moral right) or leads to loss of interests or revenue that the author is entitled to through reproduction, adaptation or communication to the public (economic right) without proper authorization or legal exceptions. In Buddhism infringement of academic works, i.e. the Buddha's *Dhamma Vinaya* can take two forms: misrepresenting it, or "misquoting the Buddha" or "falsifying *Dhamma Vinaya*" and claiming the Buddha's teaching as one's own. The Buddha calls such a person "a big thief". Infringement of both types is classified by the intellectual property law as an infringement of "moral rights". However, in the Buddha's time, there were no such things as economic rights, and no such infringement was available. Furthermore, the infringement of moral rights, such as not acknowledging the author or claiming another person's work as one's own is a civil offense. The wrongdoer is obliged to pay damages. In Buddhism, the act is not *Adinnādāna* but rather *Musāvādā* on the grounds of claiming another person's work as one's own. It is sinful and immoral. An infringement of the economic right through reproduction, adaptation, production or selling, is legally considered an infringement of property, causing financial damage to the author or producer. It is an infringement of a copyrighted academic work the offender of which is liable to civil and criminal punishment. In Buddhism such an act is also an infringement of *Adinnādāna* of *Pañcasīla* if it meets the five criteria: 1) *Parapariggahitam*,

something that the owner cherishes, 2) *Parapariggahitasaññitā*, knowing full well that it is cherished by the owner, 3) *Theyyacittaṃ*, intention to steal, 4) *Upakkamo*, making an effort to steal, and 5) *Ten haraṇaṃ*, taking it by exertion of an effort. A person who commits *Adinnādāna* is said to violate both *Sīla* and *Dhamma*. If the person is under the influence of *Theyyacitta* but does not carry out the act, or if the act does not meet any one of the criteria, there is no *Adinnādāna* committed. In *Dhamma* terms, the person is still guilty. If no *Theyyacitta* is involved, whatever is done does not constitute *Adinnādāna*. No *Sīla* is broken.

In practice, however, when a person wrote an academic work and was known to infringe the work of another person or accused of doing so whether intentionally or unintentionally, an opportunity would be provided for him to come to some agreement with the copyright owner. A copyright case can be settled out of court. If both parties are willing to do so, they will save a lot of time and money and do not have to go through the judicial proceeding (Manit Chumpa, 2006: 54). In Buddhism, if the author of the academic work has no intention to commit the infringement, no wrong is done in both *Sīla* and *Dhamma*. If there is an intention to infringe or *Theyyacitta*, and if the act meets one or more requirements of *Adinnādāna*, he is said to violate both *Sīla* and *Dhamma*. If no requirement is fulfilled, except the case of *Theyyacitta*, the act may not be against *Sīla* but rather against *Dhamma*. In other words, it is still a sin. Therefore, when one wants to write an academic work and needs to use information or contents of another person's work, even in parts, due acknowledgment should be made to show respect and honor to its owner. Then the act would be legally and morally acceptable.

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