

## **Translations of Human Rights. Tibetan Contexts<sup>1</sup>**

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### **Introduction**

In the announcement of the symposium “Buddhism and Human Rights,” the participants had been invited to look for elements and aspects of Buddhism that could contribute to a discussion of the principles of universal human rights. The implication was, according to an accompanying letter, that we should search for such elements within the traditional, doctrinal foundation of Buddhist traditions that would allow traditional Buddhist societies to approach Western standards of human rights. The academics among the participants were invited to contribute from a theoretical perspective. In accordance with these directions, we would like to begin our contribution with a critique of methods. In a second section we will deal with some general aspects of the contemporary efforts of the Fourteenth Dalai Lama to embed modern ideas in the Tibetan exile community. Finally the focus will be on the question of whether and possibly how one might find concepts and ideas in the Bud-

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1 The first part of the article, focusing on contemporary issues, and the final conclusion were largely contributed by Trine Brox. The second part with an inquiry into history and a suggestion of an approach to Buddhism as a source for inspiration in the human rights debate was largely written by Jan-Ulrich Sobisch.

dhist intellectual sphere from which one might be able to derive a contribution to the discussion of universal human rights.

## Methodological Remarks

Some methodological remarks are indeed necessary. Certainly, in a collection of articles seeking to locate within Buddhism a dominant discourse regarding fundamental and universal rights, which has a specific life trajectory in the West, it is important to remind ourselves of troubling issues regarding the construction, translation, and manifestation of culturally determined concepts.

## The Concept of Human Rights

Human rights are based on the assumption that humans are universally bound together by moral rules that are intrinsic to all human beings (i.e. *fundamental*) irrespective of their culture (i.e. *universal*).<sup>2</sup> The term “human rights,” as it is commonly used, as it is used in political discussions, and as it was largely used in the conference panels, is based on *The Universal Declaration of Human Rights* issued on December 10, 1948, at the General Assembly of the United Nations. That declaration, in turn, refers in its contents chiefly to European and American traditions. Explicit forerunners and masterminds of the UN declaration were the *Magna Charta* and the *Bill of Rights* in England, the *United States Declaration of Independence*, the *Déclaration des Droits de l’Homme et du Citoyen*, and in general the thought of John Locke, Jean-Jacques Rousseau, Immanuel Kant and so forth. In other words, human rights as they are commonly referred to are deeply embedded in Christian and occidental traditions. This, then, is the intellectual sphere that must be approached by traditional Buddhist societies.

Human rights have become a universalizing moral project to “humanize” the world, and, especially after the Cold War, there has been no escape from this project. Though far from a triumphant idea, people all over the world are forced to relate to human rights. The normative project of universal human rights is disregarding what several scholars have seen as its Euro-American origin and promo-

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2 Asad 2003, p. 129.

tion of Christian values.<sup>3</sup> Skepticism towards *The Universal Declaration of Human Rights* also stems from the assumption that universalism equals imperialism, in the sense that societies are forced to conform to ethnocentric ideas, disregarding or even denying cultural differences.

Though it is clear that *The Universal Declaration of Human Rights* is a historically bounded construction, there are those who nevertheless see it as the result of different cultures coming together with the common goal of identifying fundamental rights applying to all of them. For example, Hastrup does not deem human rights as a primarily Western construction nor as a priori imperialistic.<sup>4</sup> For instance, the delegates who ratified the *Universal Declaration of Human Rights* were of different nationalities, and when they decided upon the wording of the declaration, Hastrup argues, they asserted their culture. One example is the first article of *The Universal Declaration of Human Rights*, stating that

[...] All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.<sup>5</sup>

The word “reason” was a suggestion of the Lebanese delegate and “conscience” a suggestion of the Chinese delegate as a translation of a Confucian concept of “mindfulness of another person”.<sup>6</sup> Thus the declaration is not exclusively of Western origin.

Leaving the question of origin aside, the main point is that the globalization of a discourse on human rights does not simply equal Westernization. This, we argue, is because traveling ideas like human rights are not unequivocally constructed, translated and manifested: there is always room for interpretation. Thus, we do not assume that Tibetans relate to human rights in a uniform way, and they do not invoke its language in the same way. Instead, human rights are contested. Nevertheless, we strongly encourage that ideas and discourses on rights, liberties and obligations are analyzed as constructs, translations and manifestations that are not only culturally bound but also influenced by the surges felt from

3 Eg. Asad 2003.

4 Hastrup 2004.

5 UN 1948.

6 Hastrup 2004, p. 142.

global discourses. These not only put pressure on translation efforts, but also influence the ways in which human rights are understood and appraised in different locales.

For these reasons we find it disturbing that the conveners have asked us to identify a traditional doctrinal basis within the Buddhist traditions “in order to approach the Western understanding of human rights”. Why do traditional Buddhist societies have to bring themselves into line with Western concepts? And does a unified Western conception of human rights exist at all?

To touch briefly on the second question first, it seems at present rather questionable that we could find much common ground between contemporary North American and European practice regarding the treatment of prisoners of war, the purpose of prisons in general, or the justness of the death penalty. It even seems problematic to come to a unified interpretation of human rights between such countries as Poland and Sweden. Human rights are defined differently and take various forms in different cultures.

More general is the first point: Can we be sure that a Western conception — if such a thing exists — is in principle better than other concepts in the world, so much better in fact that other civilizations have to bring themselves in line with it? Even at the risk of oversimplification, if we briefly look at only two examples, we should at least begin to have second thoughts. If we consider, for instance, the worldwide export of Western ideas of economy with its multiple side effects such as the inherent destruction of nature and livelihood in many areas of the world, or the pushing through (with the force of weapons) of the principle of majority rule in so-called “traditional societies” that are built on concepts of consensus, we must begin to realize that ideas that have grown over centuries or even millennia in our cultural sphere are not by default the best solutions for the rest of the world.

But let us put our methodological bellyache in more concrete words. The point is that we have constructed a world of ideas in which we operate with culturally determined terms and concepts, such as “freedom,” “justice,” “nature,” “democracy,” and “religion,” that often have evolved over long periods of time in specific historical contexts. In discussions, it is frequently overlooked that these are not universal ideas that can be easily codified as universal, cross-cultural standards. Instead we have to notice that such concepts, if they are employed in Asian cultures, are often constructed in a completely different manner and have histories that are quite

distinct from what we might expect. From that observation ensue, in the broadest sense, multiple *problems of translation*.

## Problems of Translation

Translating foreign concepts poses huge challenges, not only in pinpointing what original terms such as “human rights” mean, but also in identifying its equivalent in (or translating its contents into) other languages without reducing the cultural premises that are infused in the concepts. For instance, the Tibetan counterpart to “human rights” and its key values and ideas does not contain exactly the same implications that the English words and ideas do. The immediate problem is that the texts and practices within which we seek to locate human rights may not have such a concept, and if we find similarities, there is the danger that we force those concepts to suit our understanding.

Furthermore, we attach specific understandings to these English concepts, a bias that potentially can inhibit a clear look at the Tibetan reality. There are many good examples of this. Take for instance the concept of religion. Trying to locate which practices, words, ideas and institutions belong to this signifier is problematic. If one were to carry out an opinion poll on a German street and ask for the most important aspect of religion, it is quite certain that the term “faith” would range among the top answers. A similar poll among Tibetans would certainly produce a different result. But it is not only thus that concepts such as “religion” have different emphases and priorities in the diverse cultures of the world. Some concepts cannot even be found at all in other cultures as we understand them, and sometimes — and that is an additional difficulty — the term for it is nonetheless in use. In such a case — for instance in the case of the terms *dharma* and “religion” — a one-to-one translation would only be a phantom translation. And that is true even though the Tibetans commonly use the English term “religion” when they mean *dharma* (Tib. *chos*). In reality, when they use the English term “religion”, they actually mean *Buddhism*. In fact, they often have obvious difficulties including even their indigenous (non-Buddhist) religion Bön within their concept of *dharma*.<sup>7</sup>

7 It is true that in their statements official Tibetans take extra care to include *Bön* within their conception of *dharma*, but it is often obvi-

When, for instance, the Dalai Lama uses the Tibetan concept of “merged religion and politics” (Tib. *chos srid zung ’brel*), which stems from the 13th century, close analysis reveals that what he actually has in mind when using the term “religion” in this context is not Buddhism as such, but “conduct according to ethical rules (or laws)”.<sup>8</sup> A further complication is that the different Tibetan political groups all have their own understanding of the Tibetan concept “merged religion and politics”. For example, some understand it as “Buddhist principles and politics hand in hand,” some as “mixing of religion and politics,” or as “politics guided by Buddhist principles”. Regarding the actual practice of this maxim, Tibetans often refer to the person of the Dalai Lama, who, as head of the state and as a religious leader, embodies both aspects of religion and politics, or they point out that the Tibetan Government-in-Exile has important religious agendas such as the state-guaranteed maintenance of religious institutions, or that government institutions are occupied by monks and lay people according to a certain ratio, or, with a negative flavor, that certain monasteries have often interfered with government politics in the past. The Tibetan Government-in-Exile still calls itself “Ganden Phodrang,” which has its historic roots in the fact that key-positions in the government have been occupied by leading monks from the Gelugpa monastery Ganden.

These are some of the many problems that arise when we try to transfer the term “religion” to a Tibetan context. Let us provide a second example. In 1991, a heated debate took place within the Tibetan Parliament-in-Exile in Dharamsala on whether the Tibetan polity should be defined as secular.<sup>9</sup> In the course of the debate it became obvious not only that the term “secularism” was translated differently into Tibetan, but that a number of diverse concepts went along with it. One of these concepts was an idea of secularism where the religious was to be completely removed from the political. Another concept sought parity between religion and politics. A third group of members of the Tibetan Parliament-in-Exile disapproved of all kinds of secularism and wanted to maintain the “tra-

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ous that this is forced or needs a conscious effort. For some earlier remarks on the “syzygy of Dharma and Regnum,” see Seyfort Ruegg 1995b, esp. p. 150.

8 The term “ethical” is certainly also problematic in this context.

9 A detailed account of this debate has been provided by Trine Brox; Brox 2008, chapter 8 (forthcoming).

ditional Tibetan way” where, according to their understanding, religion and politics went hand-in-hand.

During that spring session of 1991, the draft of the Charter of Tibetans-in-Exile was under discussion. In his introductory speech, the Dalai Lama mentioned that it would be appropriate for any polity to be secular in essence – and when he said that, he used the English term in his Tibetan language speech. In the draft of the charter, however, the term was translated as *chos lugs ris med*, which means something like “impartiality towards the religious traditions” and was to describe the nature of the Tibetan polity. The Dalai Lama supported this as a correct translation of the English “secular” because it was embedded in Tibetan culture and appropriate in the particular situation of the Tibetan exiles. In the course of the debate, other translations and interpretations were discussed, such as “free personal decision with regard to religious inclinations” (*chos dad rang mos*), or “non-observance of the religious” (*chos la ltos med*), or “free from religion” (*chos med*), to mention only a few. Some members of the Tibetan Parliament-in-Exile feared that secularism would even mean “anti-religious” in a communist or revolutionary sense. In the end, none of the terms expressing an idea of secularism were mentioned in the final charter. Instead, the parliamentarians voted in favor of defining the Tibetan polity as “merged religion and politics” without any reference to secularism, no matter how it was translated into Tibetan. It is quite obvious that many of these concepts have nothing to do with the way the term is defined and used in our own Western context.

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From the above examples it becomes clear not only that there are many problems related to translation, but that the act of translation involves more than simply identifying linguistic equivalents.<sup>10</sup> In fact, it may be useful to talk about it as an act of *cultural translation*. Cultural translation is more than mere language. It involves revising one’s own understanding of reality and of oneself. When, for instance, Tibetan exiles culturally translate “democracy,” it is trans-

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10 Many scholars have made the point that translation is not simply an issue of producing linguistic equivalents as found in bilingual dictionaries, but is appropriately studied as a multilayered process (e.g. Howland 2003; Richter 2005).

formed into something new: it is a gift from the Dalai Lama, and as it is manifested in their institutions, procedures and political culture it has obtained a cultural dimension, i.e. democracy is embedded in Tibetan culture.<sup>11</sup> Thus, although something might be lost with translation, something is also gained.<sup>12</sup> Therefore, when we want to understand a concept such as “human rights” in Tibetan contexts, it should be investigated in its cultural embeddedness and as historically situated. We argue that there is no idealized universal scheme about human rights that can easily be implemented into a Tibetan location and culture. Instead, we view human rights as an unfinished product. We have to focus on the many forms that human rights can take since it is an idea construed and constructed differently.

### **Translating Modern Ideas in the Exile-Tibetan Community**

Another question is why the Tibetans at all felt the need to implement or discuss difficult concepts that originated in the West, as we have seen above in the Tibetan Parliament-in-Exile’s debate on secularism. This is a complicated issue, and it must suffice here to say that one factor must have been the realization that lasting support of the Tibetan freedom movement from the West is only possible when Tibetans do engage in such discourses as those concerning democracy, secularization, and human rights. It is nonetheless undeniable that the Dalai Lama and many other Tibetans have demonstrated on many occasions their genuine interest in these issues of modernity.<sup>13</sup>

Although we do not argue that an instrumental motivation was the main drive for translating human rights into Tibetan, it is important to remember that mastering the language of human rights can function as a strategy to acquire diplomatic recognition in the international community. In short, it has political implications.

Exile-Tibetans have had to relate to new knowledge and competing discourses pouring in from every corner of the world, forcing them to reflect on what can enable them to be modern and still

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11 Brox 2008.

12 Gimpel and Thisted 2007.

13 For a more detailed treatment of this matter, see Brox 2006 and 2008.

be Tibetan. In general, the exile-Tibetan leadership, headed by the Dalai Lama, began, in the mid-eighties, to translate global issues that were placed high on the international agenda. In order to translate these global issues, new discourses were construed in familiar cultural settings, old terms were given new meaning, and new terms were coined. They began to speak the languages of democracy, human rights, cultural heritage, environmentalism and feminism, and they also translated and constructed these issues in a culturally sensitive way to make Tibetans understand, accept and hopefully also value the ideas involved in these concepts. The exile leadership showed its willingness to negotiate with the world community on its terms by using the language of a universalistic discourse of human rights, and it can be interpreted as a strategy to mobilize sympathy and international support.

On the 10th of December 1989, the Dalai Lama was awarded the Nobel Peace Prize. This proved that he successfully spoke a language that the world appreciated: dialogue, pacifism, human rights, cultural heritage and the like were issues that the global community listened to. In the Tibetan diaspora, December 10th is a national holiday that is celebrated not only because of the awarding of the Nobel Peace Prize to the Dalai Lama, but also as Human Rights Day.

In short and to repeat: Of course the Tibetans have coined a term as a translation for “human rights,” namely *‘gro mi’i thob thang*, but in the worst case this is because many of them have realized that they have to engage in the human rights discourse to be accepted in the West as a legitimate political exile group.

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Out of a certain arrogance or lack of thought we (in the West) lay claim to the right to define the course of the discourse (i.e. that an Asian contribution to the universal human rights is to be developed from Buddhism) and its goal as well (i.e. demanding an approach to Western standards). In this way we press peoples such as the Tibetans to accept fixations that have developed in our cultures over hundreds or thousands of years, while we will not allow them time for an independent autochthonous development. In addition to that, we close our minds to any discourse that might develop from the Tibetan and Buddhist cultures, since it is *they* who have to approach *us*.

In the end we may be left with our Eurocentric ideas and are surprised why no one else is enthusiastic about them.<sup>14</sup>

### **A Tibetan Human Rights Discourse**

The Tibetan exiles understand the value of being able to handle a human rights discourse. The Dalai Lama was no stranger to the concept of human rights and had experienced that this was a discourse that could strategically be applied in the Tibetan struggle. One instance was in 1959 when the Dalai Lama sent delegates (his brother Gyalo Thondup and Tsipon Shakabpa) abroad to mobilize international support. The delegates were to bring the Tibetans' case before the United Nations, with the issue of independence being the most important and urgent one. The lawyer-diplomat (and deputy US representative to the UN in 1950) Ernest Gross served as the counsel to the Tibetan delegates arriving in New York. He advised the Tibetans to make a plea to the world community to protect human rights in Tibet, and via that discourse generate mass-support which later could be transformed into support for the po-

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14 During the discussion of the conference in Hamburg, our approach was at one point criticized as "relativism". With regard to this, see Seyfort Ruegg (1992a, p. 155), who had the following to say in the context of the place of philosophy in the study of Buddhism: "But when saying that it is historically and culturally conditioned, I most certainly do not mean to relativize it or to espouse reductionism — quite the contrary in fact. The often facile opposition relativism vs. universalism has indeed all too often failed to take due account of the fact that what is relative in so far as it is conditioned in its linguistic or cultural expression may, nonetheless, in the final analysis have a very genuine claim to universality in terms of the human, and hence of the humanities. It seems that this holds true as much when we postulate some 'Western' or 'Eastern' philosophy of this or that period as when we consider what is now termed human rights, which by definition must transcend specific cultures in time and place." In our own context, we hold that just because we criticize that something that is declared "universal" by one culture is uncritically forced upon another, we do not espouse a form of relativism or reductionism. We do agree that any concept of human rights should have to have a claim to universality, but criticize the intercultural process through which the status of universality is supposed to be achieved.

litical issue of sovereignty in Tibet and recognition of the Tibetan Government-in-Exile.<sup>15</sup> Gross wanted the Dalai Lama to appear before the UN Human Rights Commission but not press the issue of independence. Gross presented the Tibetan case before the UN. In the end the UN General Assembly, on October 21, 1959, approved a resolution<sup>16</sup> that noted that the Tibetans, like other human beings, were entitled to fundamental human rights and freedoms, which were denied them in Tibet. It also emphasized that the Tibetans' rights to have a cultural and religious life had to be respected. The UN General Assembly's resolutions of 1959, 1961, and 1965<sup>17</sup> concerning Tibet were noncommittal on the question of whether Tibet was an independent nation occupied by a foreign power, but instead expressed concern over violations of fundamental freedoms and rights. In this way the violations of human rights in Tibet were put on the international agenda.

The Dalai Lama has, in many of his speeches since, both in the English language and in the Tibetan language, related to the concept of human rights. He talks not only of universal rights belonging to humans, but expands his view to that of all sentient beings, who have the right to pursue happiness and live in freedom. On numerous occasions he refers to fundamental human rights and its twin "universal responsibility". He believes that there are universally binding standards of human rights, which are the foundation of every society irrespective of culture. A "right" in Tibetan language is *thob thang* or *bdag dbang*. Human rights, translated into Tibetan as '*gro ba mi'i thob thang*, are the rights held by humans (Tib. '*gro ba mi*), but the universal rights that might be extracted from Buddhist philosophy, and which the Dalai Lama also speaks about, apply not only to human beings, but to "[sentient] beings" (Tib. *sems can*). The Dalai Lama recognizes that humans have a range of different kinds of "spiritual and temporal rights" (Tib. *chos dang 'jig rten kyi thob thang*) and that there are "fundamental rights and freedoms" (Tib. *gzhi rtsa'i thob thang dang rang dbang*).

The Tibetans' political case is also voiced by the Dalai Lama within discourses well-known in the West by talking about the Ti-

15 Knaus 1999, pp. 203ff.

16 Resolution 1353 [XIV].

17 DIIR 1997.

betans' struggle in terms of fighting for "inalienable rights" (Tib. *thabs med pa'i thob thang*). Tibetan exiles are also asking for "equal rights" (Tib. *thob thang 'dra mnyam*) or "fundamental rights" (Tib. *gzhi rtsa'i thob thang*). Furthermore, they have also translated the various categories of rights, like "civil rights" (Tib. *spyi mang thob thang*), "political rights" (Tib. *chab srid thob thang*), "democratic rights" (Tib. *mang gtso thob thang*), "economic rights" (Tib. *dpal 'byor thob thang*), "social rights" (Tib. *spyi tshogs thob thang*) and "cultural rights" (Tib. *rig gzhung thob thang*). Furthermore, the Dalai Lama often mentions human rights issues together with other globally promoted values, placing "human rights" in a line with "democracy" (Tib. *mang gtso*), "freedom" (Tib. *rang dbang*), "peace" (Tib. *zhi bde*) and "autonomy" (Tib. *rang skyong*).

Another important promoter of a human rights discourse is the Tibetan Center for Human Rights and Democracy (Tib. Bod kyi 'gro ba mi'i thob thang dang mang gtso 'phel rgyas lte gnas khang) in Dharamsala, North India. It was founded in 1996 as a desk under the Tibetan Government-in-Exile's Department of Information and International Relations. Today, the Tibetan Center for Human Rights and Democracy functions as a research center, which provides reports and introductory material in Tibetan and English on different aspects of human rights and democracy. Its main purpose is to monitor, document and analyze the human rights situation inside Tibet. It has also publicized the *Universal Declaration of Human Rights*<sup>18</sup> and translated it into Tibetan under the title *rGyal spyi'i 'gro ba mi'i thob thang gi yongs khyab gsal bsgrags*.<sup>19</sup> Furthermore, this Tibetan research center has produced a booklet on human rights for use in Tibetan secondary schools,<sup>20</sup> has published numerous booklets and reports on the human rights situation in Tibet, and continuously provides news updates on its website (<http://www.tchrd.org>). Human rights have become an important concept, and through their commitment to the human rights discourse, Tibetan exiles not only have to prove that they master its language, they also have to prove that they are its protectors and the Chinese its violators.

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18 TCHRD 2003.

19 TCHRD 2000.

20 TCHRD 2004.

## Searching for a Tibetan Culture of Rights

The Tibetans are well into the beginnings of the discourse and it may well be that they only got into it because they were forced to do it, without having the real chance to develop the discourse within their own cultural context. If we want to proceed in a fair manner — and if we perhaps want to retain the chance to learn something ourselves — they should be given the chance to construe their ideas carefully within their own cultural context. Only then can something like a *fair translation* happen between our cultures, which would presuppose that there exists something that is of similar *value*, and not necessarily of similar *meaning*.

We may indeed speak, as is perhaps somewhat fashionable today, of a problem of *cultural translation*. Let us look at another problem of cultural translation, which might afford us the chance to return to (and may contribute to) our actual theme of universal human rights. The remaining part of this article will first point to an interesting debate about the application of certain economic-political terms to issues in the history of Tibet. Then the inquiry focuses on some problems and possible starting points in the search for a culture of rights in the Buddhist-intellectual sphere.

Between 1968 and 1973, Melvyn Goldstein published a number of articles in which he described the relationship between the common people of Tibet and the landowners, the state and the local monasteries as that between *serfs* and *feudal lords*.<sup>21</sup> Articles of other authors at that time avoided terms such as “serfdom” and “feudalism,” and some others openly criticized Goldstein for its use. From that developed in the second part of the 1980s an interesting public debate, in the course of which Goldstein was severely attacked for his “self-serving political naiveté [*sic*] regarding Communist China”<sup>22</sup> and (wrongly) denounced as having “received many special privileges” by the Chinese government,<sup>23</sup> indicating that such special treatment had caused him to have a pro-Chinese leaning. And yet Goldstein had offered a careful and interesting analysis of

21 Goldstein 1971a, 1971b, 1971c, 1973, 1986, 1988 and 1989.

22 Jamyang Norbu 1992, p. 19.

23 Phintso Thonden 1991, p. 12.

legal relationships. From his analysis followed, among other things, that the Tibetan serfs<sup>24</sup> owned a number of important *rights*:

- The duties the serfs had to carry out for their feudal lords were legally binding for both sides.
- The serfs were legal persons; they could sue their lords and could appeal a judgement at a higher court in Lhasa.
- If they had capacity beyond their duties, they could work for other serfs for a wage; within that framework they could make their own economic decisions.
- Anything they earned was their legally secured property.
- They could buy themselves temporarily out of their duties (e.g. to go on a pilgrimage).

This is not intended to be an exhaustive analysis of the relationship between the serfs and the feudal lords, but it clearly shows that serfs were considered to be legal persons.<sup>25</sup> In other words, a concept of *rights* becomes tangible here; Tibetans, even if serfs, had rights that could be enforced through legal action. These were, however, not “human rights,” since they were chiefly economic, and certainly not civil rights and liberties, and it remains unclear whether there is any document that officially formulated these as the fundamental rights of a citizen.

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24 We use the technical term “serf” here only as an approximation and imply no political or moral judgement with this usage. We are aware that there existed some fundamental differences between Tibetan *mi ser* and European serfs. Yet it cannot be denied that the Tibetan social system was one of great social inequality.

25 That serfs are considered to be legal persons is an important issue, because this is one of the features that distinguishes them from slaves, a fact that not everyone seems to be aware of. When a Chinese-Tibetan delegation visited Copenhagen University in 2008, I pointed out that their use of the word “slave” was for this reason incorrect. As a reply I was quickly assured that this was the fault of the Chinese translator (the Tibetan members of the delegation spoke to us in Chinese). In a discussion on *Deutschlandradio Kultur* (29.3.2008), Eberhard Sandschneider, director of the research institute Deutsche Gesellschaft für Auswärtige Politik, who otherwise argued very prudently, called the Dalai Lama a “representative of a former slaveholder society” and his exile government “far from human rights and democracy”.

Similar rights were sometimes enjoyed by medieval European serfs. The much further-reaching European civil and human rights, however, were chiefly developed from a philosophical perspective, in particular as a “natural right” by Locke (having a subsequent influence on Thomas Jefferson and the *American Declaration of Independence*), as the moral freedom to restrict desires according to Rousseau, and as the civil rights derived from reason according to Kant. When we are supposed to search within the traditional, doctrinal foundation of Buddhist traditions for elements and aspects of Buddhism that could contribute to a discussion of the principles of universal human rights, the implication clearly seems to be that the focus should be on Buddhism as a source of philosophical systems.

### **Concepts of Rights in the Buddhist Intellectual Sphere?**

If Tibetans were searching for a source of further-reaching rights that could possibly be developed and construed from their own culture, Buddhism is an obvious choice. But that is — and this should not be overlooked — not completely unproblematic, since there exists among Tibetan exiles a group of people that is to be taken seriously, whose protagonists are not altogether happy to have to embed modernity by default in the Buddhist tradition (as the majority of lamas and elder politicians certainly prefers — if modernity is an agenda for them at all). They feel uncomfortable in being only perceived as carriers of the Buddhist gene or as in some other way exotic beings, and instead would favor the freedom to shape their culture as Tibetans — not necessarily as Buddhists. Does the source of the human rights concept have to be rooted in Buddhism? Is Buddhism the proper guide for a culture of rights? Another unspoken problem is that we have no clue as to whether or not (or to what degree) the Tibetans in the so-called “Autonomous Region” in China would prefer to derive their civil rights and liberties from Buddhism. In any case, the demand that the Tibetans develop something from Buddhism in order to approach Western standards is in two ways normative: we define the course of the discourse and also its goal.

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If now a suggestion regarding the general theme of “Buddhism and human rights” is presented here, this should not be understood as a normative demand. These are the thoughts of a Western academic, and they are meant for our own discourse.<sup>26</sup> If, parallel to the development of human rights in Western philosophy, we search within Buddhist thought for stimulus, we will soon realize that the Mahāyānistic philosophy of Tibetan Buddhism has some problems and challenges in store for us.

Among the problems of Mahāyāna philosophy in this context is certainly first and foremost the fact that the people for whom the rights are to be developed — as, by the way, all beings — are from the perspective of “ultimate truth” (Skr. *paramārtha*) only an illusion. It should hardly be possible, therefore, to develop rights from those elements of Buddhist philosophy that make statements about the absolute. It appears to be a constant problem to derive rights from Buddhist ideas that are concerned with the nature of existence. How could a special right (i.e. special in the sense of being for persons) be derived from a concept that includes the idea that the ones who obtain it are an illusion?

In fact, we have to ask first where within Buddhism something like “rights” are discussed. This is certainly the case in the *vinaya*, although the discussion there focuses chiefly on certain legal arguments concerning transgressions of the rules for ordained persons, in particular the establishment of the fact of the transgression and the question whether the transgression can be excused or must lead to a punishment. Investigating the purpose of these rules, we find that

- certain acts are *karmically* negative to such an extent that a continuation of ordination is unthinkable;
- other acts disturb the peace of the community of ordained ones;
- and some acts would ruin the reputation of the community.

It appears to be difficult to develop civil rights etc. from this complex. Nevertheless, the *vinaya* could be an interesting starting point, for we also find within its literature ideas that are formulated in a much more fundamental manner. An often-quoted principle says that it is the nature of the *prātimokṣa* not to harm other beings and to

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26 The following suggestion in particular is a personal contribution by Jan-Ulrich Sobisch.

cultivate a corresponding mental attitude. Such an attitude may well be described as the foundation of all of Buddhist ethics.<sup>27</sup> This basic disposition of avoiding harm to others and to cultivate a corresponding mental attitude is also expressed in the “Golden Rule,” which can be found also within Buddhism at many places: As oneself wishes to live and to avoid suffering, so should this be admitted for others. From this, one could develop a claim for *dignity*, namely the dignity to be perceived as a sentient being and to have the right to avoid vulnerability.

In derivation from that, the “Golden Rule” could also be seen as containing an ethical-normative element in the sense that there also exists the *duty* not to harm others, if it is agreed that such a duty for all could be derived from the claim of the individual.

The moral principle of the golden rule has the advantage of being free from any metaphysical assumptions, i.e. it does not matter whether the other being is an illusion or not – I myself am not different from that and I do feel pain, and thus others feel pain as well. The fact, however, that a psychological element has replaced the metaphysical creates new problems, since the call for compassion presupposes that everyone is *capable of empathy*. And even if such a capability is presupposed as something innate, as the optimistic Mahāyāna Buddhists believe, one has to acknowledge the fact that this innate ability is liable to be impaired by outside manipulation, or in some cases can even be completely suppressed. The general call for an education that fosters the capability to empathize is such a fundamental demand that the whole idea must perhaps be categorized as utopian. And that is a category within which we do not want to find anything that is fundamental to human rights.

On the other hand, utopian ideas can definitely exercise an inspirational influence. The following suggestion may thus appear to be even more utopian.

Perhaps the most interesting challenge from Mahāyāna Buddhism is that it does not allow an exclusive focus on human beings,

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27 The term “ethics” is used despite the many implicit problems. We prefer, however, not to discuss them here. The abovementioned principle says that it is the nature of the *prātimokṣa* not to harm other beings and to cultivate a corresponding mental attitude. This thought is identified and contextualized in Sobisch 2002, pp. 36, 41, 99, 133 ff., 187 f., 203, 419 and 429.

as the Christian-occidental tradition does.<sup>28</sup> In other words, if we try to derive human rights from the ideas of Mahāyāna Buddhism, then these must be the *rights of beings*, and not *human* rights alone. At least, if we want to get involved in our context with Mahāyāna Buddhism, we seriously have to tackle the problem of why certain rights are only for human beings, and not for other beings.

One thing is clear: Buddhism concedes that human beings have greater abilities than most other beings (in particular: animals), but, as far as we can see, nowhere greater rights. It may be objected that the killing of human beings is considered more grave than the killing of animals, but in our opinion this has, in the context of the *vinaya*, to do with the socially greater taboo on the killing of human beings (which the community of ordained persons had to acknowledge as it depended on the goodwill of society), and in the Abhidharma and related literature with the greater amount of negative *karma* that ensues from it. But deriving greater *rights* for human beings appears to be unfounded.

Thus when human beings, as the Dalai Lama (consistent with the Mahāyāna teachings) often points out, aim to avoid suffering and strive for happiness just like any other being, then we can, due to the certainly higher abilities and faculties of human beings, only derive special duties for them, but not greater rights. The greatest challenge from Mahāyāna Buddhism is, therefore, that we would have to develop *rights of beings* along with human rights, or that we at least combine human rights with the duty to include sentient beings within our striving for happiness.

## **Why Search for Similarities between Global Values and Ancient Cultures?**

Several Tibetan Buddhists have already gone out to look for similarities between acceptable global values and Tibetan Buddhism. For instance, there are Tibetans arguing that the Buddha's teachings conform to democracy. The Dalai Lama and Prime Minister-

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28 As the idea of natural law and inalienable rights developed in the Christian-occidental tradition, a sharp distinction was made between animals and humans: only humans had natural rights, or only those who possess rights can be regarded as humans. See Asad 2003, p. 131. By the very concept of rights-bearing human beings, human rights distinguish humans from animals.

in-Exile Samdhong Rinpoche are among the prominent Tibetans who see Buddhism and democracy as compatible.<sup>29</sup> Making such comparisons and translating, in this case the concept of democracy, in a culturally sensitive way may well have a productive effect in the sense that it may facilitate the Tibetans' understandings and acceptance of such a new and foreign concept as democracy. Thus, global issues are made less foreign to Tibetans by addressing the issues in ways they are familiar with and that are embedded within Tibetan culture. Global issues can thereby become a part of the Tibetans' property. For instance, when the Dalai Lama, at the beginning of his exile, introduced the concept of democracy to his Tibetan followers, he explained that Tibetans were not really strangers to democracy because the Buddha's teachings essentially complied with the principle of democracy. Many Tibetans have adopted this reasoning and argue that the core values in Buddhism and democracy are common. A popular expression of this is when Tibetans say democracy is for the benefit of the people and Buddhism is for the benefit of all sentient beings. The two share egalitarian values and the belief in the potential of human beings. The same exercise could easily be carried out with the concept of human rights.

However, such exercises of comparing cultures, identifying similarities in concepts as if they share the same meaning, are problematic. Wilson once remarked how scholarly work on interacting legal and normative orders had become too wrapped up in discussions of whether traditional societies possessed a concept of human rights in their own legal codes.<sup>30</sup> He thought that some scholars went about the problem in the wrong way, and his argument can fruitfully serve as a warning to the project of identifying human rights in Buddhist societies. Instead of looking for conceptual similarities in different non-Western traditions, one should rather see how concepts are implanted in new contexts from which they did not originate. Wilson argued that of course we may very well find similarities, but we cannot predict how they, in numerous ways, are articulated and manifested. Additionally we may ask, how do we know what to compare in order to find parallels to human rights? Can we agree on what constitutes human rights? Of course,

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29 Dalai Lama 1999; Samdhong Rinpoche 1996, 1999a and 1999b.

30 Wilson 1997, pp. 13–14.

ideas of rights, liberties and duties are not alien to Tibetans, and in comparing human rights with Buddhism, one can easily argue for their shared egalitarianism, tolerance, value of freedom, and so forth. The question is, however, what new insights do we gain from such an exercise and what new insights do we gain into ourselves and our concept of human rights? Is the goal to better understand Buddhism or to better understand rights that are universal and fundamental? If we follow the advice of Wilson, it is more interesting to investigate how the knowledge of human rights is transmitted to the Tibetans, how they are taught the language of human rights, and how they negotiate a culture of rights that is Tibetan. How do they construct, translate and manifest human rights? And even more importantly, why do we not invite Tibetans to present to us values concerning rights in order to enlighten and expand our own concept of inalienable rights?