

Buddhism, Free Will, and Punishment: Taking Buddhist Ethics Seriously

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Buddhist philosophy and the historical problem of free will have each been of major philosophical interest for centuries, but until recently they have been studied separately and by scholars of different traditions. In recent decades, however, there has been growing interest among philosophers in the topic of Buddhism *and* free will—i.e., what the various Buddhist traditions *have* said, *can* say, and *should* say, in response to the traditional problem of free will.¹ For good or bad, much of the focus has been on the Buddhist “no-self” doctrine (see, e.g., Siderits 2011, 2016; Repetti 2016; Thompson 2007; Wright 2017; Siderits, Thompson, Zahavi 2011; Strawson 1986, 2017; Blackmore 2013; Albahari 2006). In Buddhism (or, more accurately, the various Buddhist traditions²), the term *anattā* (Pali) or *anātman* (Sanskrit) refers to the doctrine of “no-self,” which maintains that there is no unchanging, permanent self, soul, or essence in living beings. It is one of the seven beneficial perceptions in Buddhism, and along with *Dukkha* (suffering) and *Anicca* (impermanence), it is one of the three Right Understandings about the three marks of existence. The Buddhist conception of *anattā* or *anātman* is one of the fundamental differences between Buddhism and Hinduism, with the latter asserting that *Atman* (self, soul) exists.

Given its centrality to Buddhism, many commentators have questioned whether the no-self doctrine leaves any room for the notion of free will. As Christian Coseru writes, “Buddhism is unique among the world’s great philosophical traditions in articulating a conception of action that, it seems, dispenses altogether with the notion of agent-causation” (2019: xi). But if the agent/self is an illusion, indeed the central illusion responsible for all our suffering according to Buddhism, how could the agent/self have free will? Some commentators have argued that the no-self doctrine amounts to a rejection of free will since it denies that we are autonomous moral agents (see, e.g., Strawson 1986, 2017; Goodman 2002; Blackmore 2013). Others have argued that the no-self doctrine is consistent with the control in action required for free will (Siderits 1987, 2017; Griffiths 1982; Repetti 2017, 2019; Harvey 2017; Adam 2017; Meyers 2017). Unfortunately, there is no universal agreement on this question. Others (still) argue that since Buddhism has remained mostly silent about the problem of free will for over two millennia, we should adopt Buddhist *quietism* about free will. Christopher Gowans (2017), for instance, argues

¹ See, e.g., Siderits (1987, 2003, 2008), Strawson (1986, 2017), Goodman (2002, 2009, 2017), Repetti (2017, 2019), Federman (2010), Priestly (1999), Flanagan (2011, 2017), Meyers (2010, 2014, 2017), Harvey (2007), Breyer (2013), Friquegnon (2017), Garfield (2015, 2017), Gowans (2017), Wallace (2017), Blackmore (2013), Adam (2011), Abelson (2017); Coseru (2017); Brent (2018).

² Buddhism is not a singular thing. While the earliest recorded Buddhist texts, the Pāli Canon, are authoritative throughout Buddhism, early Buddhism is restricted to these texts. The only still-active early Buddhist tradition is the *Theravāda* (the way of the elders). On the other hand, later *Mahāyāna* schools of Buddhism also accept as authoritative subsequent Sanskrit (and Chinese and Tibetan) texts. Major traditions of Mahāyāna Buddhism today include Chan Buddhism, Korean Seon, Japanese Zen, Pure Land Buddhism, Nichiren Buddhism, and Vietnamese Buddhism. It may also include the *Vajrayana* traditions of Tiantai, Tendai, and Shingon Buddhism (although some scholars consider this to be a different branch altogether), and Tibetan Buddhism, which add esoteric teachings to the Mahāyāna tradition. In what follows, when I use the term “Buddhism,” I will use it to refer to those doctrines shared by most Buddhists, unless otherwise noted. When differences among the various traditions are relevant, I will point that out.

that the main reason Buddhist philosophical analysis has not addressed the problem of free will is that it is limited to soteriological parameters—i.e., whatever promotes enlightenment. And Jay Garfield (2017) and Owen Flanagan (2017) argue that absent the Christian theodicy that generated the contemporary conception of free will, the problem does not and cannot arise in Buddhism.

In his new book, *Buddhism, Meditation, and Free Will: A Theory of Mental Freedom* (2019), Rick Repetti argues for a conception of “agentless agency” and defends a view he calls “Buddhist soft compatibilism.” With regard to the no-self doctrine, he writes, “My intuition is that regardless of how much the no-self doctrine is repeatedly asserted to be the central doctrine—if not the *sine qua non*—of Buddhism, it is an open question to what extent elements of Buddhism imply that there is agency or even an agent” (2019: 147-8). He argues that “[p]resent arguments against the agent-self and autonomy are inconclusive” (2019: 6), and that Buddhism itself can provide a coherent understanding of “agentless agency.” In fact, he argues, Buddhism presupposes the existence of agency when it claims that the master practitioner of meditation can have phenomenal meta-level control over his or her mental states, thoughts, and intentions. As Repetti describes:

The practitioner who cultivates the ability to see the origin, conditions, patterns, and causes of his thoughts, volitions, emotions, sensations, feelings, etc., is able to fully grasp their nature, detach from their kinetic potential to push and pull him into action, and thus control whether they manifest in action. (2019: 9)

This leads him to conclude:

If this sort of executive control obtains at the center of conscious agency among advanced meditation practitioners, then—at the heart of Buddhism—there are grounds for thinking there is mental autonomy, whatever the correct interpretation of the agent-self turns out to be. Even if there is no agent-self in some coherent sense, there still appears to be *agency*. (2019: 9)

After arguing that Buddhism does not exclude the possibility of agency, rather it offers a means of mastering it through meditative practices, Repetti then proceeds to argue that there are sufficient grounds to defend a coherent Buddhist theory of free will.

When Repetti talks of a “Buddhist theory of free will” he means, “a theory Buddhists *may* adopt” (2019: 145). As he puts it:

I’m more interested in what Buddhists *can* say about free will than what they *have* said...So, ‘my’ Buddhist theory of free will is ‘a’ theory I develop to map out what can be said, largely inspired by what is missing in what has been said. I *am* inclined to think most of it is credible, but I am too semi-agnostic about most of my own belief tendencies to commit to the theory. It’s more a work in progress. (2019: 145-6)

Repetti also maintains that “Buddhism and Western discussions of free will may fruitfully unite” (2019: xiii), and in developing his “Buddhist theory of free will” he freely draws on both traditions. In the end, he defends (if that’s the right word) a view he calls *Buddhist soft*

compatibilism. It maintains, first, that, despite the Buddhist denial of the self, we have the ability to increase free will through Buddhist meditation practices:

Buddhism gives sophisticated reasons for believing individuals can attain maximal mental freedom, *nirvana*, and a meditation-centered methodology for transforming oneself from a state of lesser to greater freedom. An analysis of those details reveals that as one increases mental freedom, one thereby increases free will. That is the core intuition that drives this work, and grounds a powerful Buddhist rebuttal to all the major Western philosophical arguments against free will. (2019: 7)

Second, Buddhist soft compatibilism maintains, “that Buddhist external and internal history is best understood as open to compatibilism between most if not all conceptions of free will, causation, and the self” (2019: 11). Using the categories of the contemporary free will debate, Repetti explains that “soft compatibilism” is the opposite of “hard incompatibilism”—the view defended by Derk Pereboom, myself, and others (see, e.g., Pereboom 2001, 2014; Caruso 2012; Pereboom and Caruso 2018; Caruso and Pereboom, forthcoming). As he explains:

Soft compatibilism is the opposite of hard incompatibilism. Hard incompatibilism unites two incompatibilisms, hard determinism and hard indeterminism, where free will is thought to be incompatible, respectively, with determinism, and with indeterminism. Hard incompatibilists think free will is incompatible with determinism and indeterminism, they assume these exhaust the possibilities, and they conclude there is no free will. Soft compatibilists unite two compatibilisms, soft determinism and soft indeterminism, where free will is thought to be compatible, respectively, with determinism and indeterminism, they reject the (false) dichotomy that assumes these exhaust the possibilities, and so they are open to alternative conceptions of causation, such as wiggly, Humean, and other forms of causation. (2019: 146)

Repetti’s soft compatibilism therefore maintains that, “Free will is compatible with causation, however construed” (2019: 152). It further maintains that, “Buddhist Soft Compatibilism rebuts the most powerful Western arguments for free will skepticism” (2019: 148) since, according to Repetti: “If determinism is true, choices are not random, but reliably related to [reasons for action], so they can be up to us, and we can have source autonomy, and if indeterminism is true, we have alternatives, can do otherwise, and thus can have leeway autonomy” (2019: 152).³

At the core of Repetti’s positive account of free will is his conception of “mental freedom” or “freedom of mind,” which is informed by Harry Frankfurt’s (1971) hierarchical account of freedom of the will and Buddhist meditative practices. According to Frankfurt’s famous account, an action is free when it is consistent with an agent’s higher-order, reflective desires—i.e., when the “lower-order” desire motivating the action is endorsed by a “higher-order” preference to want to have that desire. Repetti contends that the kind of “mental freedom” cultivated by Buddhist meditative practices, and the kind that grounds Buddhist free will, develops similar meta-level abilities. As Repetti describes it:

³ I should note that both of these claims are highly contentious. Source incompatibilists would strongly contest the claim that determinism is compatible with the kind of sourcehood needed for free will. And many—including many compatibilists, free will skeptics, and agent-causal libertarians—would reject the notion that indeterminism alone is capable of preserving leeway autonomy.

By approving dharmic mental contents and disapproving adharmic ones, she cultivates a dharmic hierarchical will in Frankfurt's (1971) metavolitional sense, and more broadly a dharmic hierarchical mind. For at the meta-level she approves or disapproves not only her first-order volitions, which is what Frankfurt's model of free will requires, but also the rest of her mental contents—thoughts, objects of attention, emotions, sensations, perceptions, imaginings, and various other mental states. Given that Frankfurt defines *freedom of the will* as having the sort of will (first-order) one wants to have (second-order), Buddhist Soft Compatibilism defines *freedom of mind*, or *mental freedom*, as having the sort of mind (first-order) one wants to have (second-order). Freedom of the mind subsumes freedom of the will, among other freedoms, of emotion, attention, etc. Freedom of the mind is greater than freedom of the will: The former guarantees the latter, not vice versa. *Nirvāna* is total freedom of the mind. (2019: 154)

In the end, then, Repetti's position is that the concept of free will or volitional autonomy is a species of a larger genus of mental autonomy or 'freedom of the mind,' which Buddhism aims at cultivating and which involves a variety of meta-level abilities, e.g., "to dispassionately examine, thus consciously approve or disapprove of, and thus control, non-meta-level thoughts, volitions, emotions, actions, and related mental states" (2019: 11). It is the cultivating of these meta-level abilities that constitutes, for Repetti, mental freedom and, presumably, free will.

Repetti's book is, no doubt, a major contribution to the growing literature on Buddhism and free will and a must-read for anyone interested in the topic. I highly recommend it. It integrates a great deal of material and explains how Buddhist and Western discussions of free will may fruitfully unite, it summarizes most of the extant accounts of Buddhism and free will in the literature, and it addresses what various Buddhist texts have said about mental causation, meditation, mental control, and other issues relevant to free will. But despite its many strengths, I must take issue with my good friend's account of Buddhist soft compatibilism. In the following section, I will outline some general concerns I have with Repetti's Buddhist theory of free will and his overall focus and strategy. I will then turn, in the final two sections, to a more wide-ranging discussion of Buddhism and free will—one that foregrounds Buddhist ethics and takes seriously what the various Buddhist traditions have said about desert, punishment, and the reactive attitudes of resentment, indignation, and moral anger. The thrust of my comments will be aimed at showing that, not only is Buddhism best conceived as endorsing a kind of free will skepticism, Buddhist ethics can provide a helpful guide to living without basic desert moral responsibility and free will. In particular, I will focus on three distinctly different Buddhist stances on punishment and argue that the best way to reconcile them is to adopt something like my non-retributive alternative, the *public health-quarantine model*.

Buddhist Soft Compatibilism: Some General Concerns

My first (and most general) concern with Repetti's account has to do with definitions. Repetti talks about "free will" in different senses, sometimes equating it with mind-control, other times reasons-responsiveness, autonomy, or a kind of meta-level control over one's non-meta-level thoughts, volitions, emotions, actions, and related mental states. As Repetti knows, much of the debate over free will concerns *how* to define free will and whether autonomy, mind control, or even meta-level control is *enough* to ground the control in action required for *basic desert* moral responsibility. I think it's a shortcoming of Repetti's account that he does not seriously discuss

desert or moral responsibility. There are only three mentions of *desert* in the index, mainly in connection with other people's views, and although I may have detected a few additional mentions along the way, Repetti does not explain how his account of mental freedom lines up with the issue of basic desert moral responsibility. This is unfortunate since the sense of free will that has been of central philosophical and practical importance in the historical debate is the sort required for basic desert moral responsibility—or so I have argued elsewhere (see, e.g., Pereboom 2001, 2014; Caruso and Morris 2017; Caruso 2018). As Derk Pereboom defines this kind of moral responsibility:

For an agent to be morally responsible for an action in this sense is for it to be hers in such a way that she would deserve to be blamed if she understood that it was morally wrong, and she would deserve to be praised if she understood that it was morally exemplary. The desert at issue here is *basic* in the sense that the agent would deserve to be blamed or praised just because she has performed the action, given an understanding of its moral status, and not, for example, merely by virtue of consequentialist or contractualist considerations. (2014: 2)

It's unclear to me whether Repetti accepts this definition or not, but a lot rides on it. First, if free will is defined in terms of the control in action required for basic desert moral responsibility, then a comprehensive "Buddhist theory of free will" will also need to consider what, if anything, Buddhist ethics can tell us about *desert-based* judgments, attitudes, or treatments relevant to free will—such as resentment, indignation, moral anger, backward-looking blame, and retributive punishment. This is something I will explore in detail below. Second, Repetti would be required to explain why mind control or meta-level control is enough to ground basic desert moral responsibility—something he does not seriously address. If, on the other hand, Repetti rejects this definition, then he would need to explain why a conception of "mental freedom" divorced from any and all issues related to basic desert and the justification of basically deserved praise, blame, and punishment should be considered an account of "free will" *at all* and not something else.

Second, requiring only that a "Buddhist theory of free will" be one a Buddhist *may* adopt is a rather low standard. On that standard, I see no reason why a Buddhist could not adopt a hard-incompatibilist or skeptical theory of free will. In fact, Charles Goodman (2002, 2009, 2017) has argued that Buddhism *is* hard incompatibilist in that it considers free will impossible whether determinism or indeterminism is true—though he, himself, thinks Buddhist causation is determinist. And other commentators, some of them also practitioners, have argued that Buddhism supports free will skepticism (see, e.g., Strawson 1986, 2017; Blackmore 2013; Harris 2013; Wright 2017). *Free will skepticism* maintains that what we do and the way we are is ultimately the result of factors beyond our control—whether that be determinism, chance, or luck—and that because of this agents are never morally responsible in the basic desert sense. This is not to say that there are no other conceptions of responsibility that can be reconciled with determinism, chance, or luck. Nor is it to deny that there may be good reasons to maintain certain systems of punishment and reward. Rather, it is to insist that to hold people *truly deserving* of blame and praise, punishment and reward, would be to hold them responsible for the results of the morally arbitrary or for what is ultimately beyond their control, which is fundamentally unfair and unjust. I will argue below that not only is this skeptical perspective one a Buddhist *may* adopt, it is one they *should* adopt if they wish to take Buddhist ethics seriously.

Third, while Repetti does consider the various (Western) philosophical arguments in support of hard-incompatibilism and free will skepticism, the replies he offers to them are far from conclusive. The case I favor for free will skepticism features distinct arguments that target three rival views, *event-causal libertarianism*, *agent-causal libertarianism*, and *compatibilism*, and then claims that the skeptical position is the only defensible position that remains standing (see, e.g., Pereboom 2001, 2014; Caruso 2012, 2013, 2018; Pereboom and Caruso 2018; Caruso and Pereboom, forthcoming). I maintain that the sort of free will required for basic desert moral responsibility is incompatible with causal determination by factors beyond the agent's control and also with the kind of indeterminacy in action required by the most plausible versions of libertarianism. Against the view that free will is compatible with the causal determination of our actions by natural factors beyond our control, I argue that there is no relevant difference between this prospect and our actions being causally determined by manipulators (see Pereboom 2001, 2014; Mele 2008; Todd 2011, 2013). Against event causal libertarianism, I advance the "luck" or "disappearing agent" objection, according to which agents are left unable to *settle* whether a decision/action occurs and hence cannot have the control in action required for moral responsibility (see Pereboom 2001, 2014, 2017; Caruso 2012, 2015; Waller 1990, 2011; Levy 2008, 2011; for non-skeptics who advance similar objections see Ekstrom 2000; Mele 1999, 2017; Haji 2001). The same problem, I contend, arises for *non-causal libertarian accounts* since these too fail to provide agents with the control in action needed for basic desert (see Pereboom 2014). While agent-causal libertarianism could, in theory, supply this sort of control, I argue that it cannot be reconciled with our best physical theories and faces additional problems accounting for mental causation (Caruso 2012). Since this exhausts the options for views on which we have the sort of free will at issue, I conclude that free will skepticism is the only remaining position.

In addition to these hard incompatibilist arguments for free will skepticism, I have also recently defended Neil Levy's (2011) *luck pincer* against objections by Robert Hartman (see Caruso, forthcoming; cf. Hartman 2017). The luck pincer maintains that regardless of the causal structure of universe, free will and basic desert moral responsibility are incompatible with the pervasiveness of *luck*. This argument is intended not only as an objection to event-causal libertarianism, as the *luck objection* is, but extends to compatibilism as well. At the heart of the argument is the following dilemma: either actions are subject to *present luck* (luck around the time of the action), or they are subject to *constitutive luck* (luck that causes relevant properties of agents, such as their desires, beliefs, and circumstances), or both. Either way, luck undermines moral responsibility since it undermines responsibility-level control.

For Repetti's *soft compatibilism* to be a viable option, it would need to overcome most, if not all, of these incompatibilist arguments since it maintains that free will is compatible with *both* determinism and indeterminism—as well as “alternative conceptions of causation, such as wiggly, Humean, and other forms of causation” (Repetti 2019: 146). While Repetti does his best to respond to the kinds of arguments just outlined, I find his defense of soft compatibilism inconclusive at best. His criticisms of the manipulation argument, for example, involve some misunderstandings and fail to consider important replies as well as recent expansions of the argument by Derk Pereboom (2014a, b; 2017); Patrick Todd (2011, 2013), and others.⁴ There is

⁴ In discussing Pereboom's (2001) four-case manipulation argument, for example, Repetti writes: “The manipulator has *proximal control* over the manipulated agent in the first three cases, whereas the agent has it over herself in case four, and that is a crucial, demonstrable difference” (2019: 56 [italics added]). But this is a misunderstanding (or misrepresentation) of Pereboom's four cases, since the agent in all but the first case retains proximal control. Repetti also fails to consider Pereboom's more updated version of the argument in Pereboom (2014a, 2014b, 2017a) or the

also only a passing treatment of the luck pincer, but no serious attempt to address it. Since I consider the luck pincer one of the stronger arguments in favor of free will skepticism (see Levy 2011; Caruso, forthcoming), Repetti would need to address it in much more detail if he wishes to overcome the skeptical arguments against free will. I'm also not persuaded by his replies to the disappearing agent objection or the various objections to agent-causal libertarianism.⁵ But rather than litigate all these arguments here, I will settle for making two more general points. First, soft compatibilism is an extremely demanding view, one that needs to be defended on many fronts, and it will stand or fall on its ability to defend all extant accounts of free will—compatibilism, event causal libertarianism, and agent-causal libertarianism—since Repetti wants to leave all these options open for a Buddhist to embrace. If only *one* of the arguments in support of hard incompatibilism succeeds—say the disappearing agent objection against event causal libertarianism *or* the manipulation argument against compatibilism *or* etc.—then soft compatibilism would need to be rejected. Personally, I find the arguments for hard incompatibilism persuasive (see, e.g., Caruso 2012, 2013, 2018; Pereboom 2001, 2014a, 2014b, 2017), but I will not defend them here since that would take me too far afield and require more space than is available. I leave it to readers then to judge for themselves the success or failure of these various arguments.

Second, it's unclear to me why Repetti even takes on the dual task of defending libertarian accounts of free will and trying to reconcile them with Buddhist metaphysics. I know of only one philosopher who thinks Buddhists *actually* embrace a libertarian conception of free will (Griffiths 1982). Almost all others agree that the no-self doctrine excludes the possibility of agent-causal libertarianism and there is little reason to think Buddhists embrace event causal libertarianism. Perhaps Repetti would have been better served settling on a less ambitious approach. In his efforts to preserve libertarian free will, for instance, Repetti goes so far as to embrace alternatives to determinism and indeterminism, such as “wiggly” causation, which maintains “a somewhat indeterminate form of causation that’s neither entirely deterministic nor entirely indeterministic” (Repetti 2019: 71-2). Setting aside, for the moment, the questionable coherence of wiggle causation, I find such maneuvering unnecessary—since, as Daniel Cozort correctly states, “Certainly the Buddha was a determinist, but was he a ‘hard’ or ‘soft’ one?” (2017: xvii).

Almost all scholars agree that Buddhists embrace a universal determinism of cause and effect. As Nicholas F. Gier and Paul Kjellberg write: “While the issue of free-will does not arise in Buddhism, it is indisputable that it embraces a universal determinism: every effect, without exception, has a cause. The idea that the will is uncaused or is self-caused violates the Buddhist principle of interdependent coorigination (*prattiyasamutpada*): nothing in the universe can originate itself as substances allegedly do or the will is said to do” (2004). Siderits (1987) and Goodman (2002, 2009) make similar points. Goodman, for example, argues that Buddhists “clearly affirmed a version of determinism: namely, that any psychological or physical event has a cause” (Goodman 2002: 364)—and there appears to be ample textual support for this claim.

manipulation argument defended by Todd (2011, 2013). Deery and Nahmias (2017) present, in my opinion, one of the best new replies to the manipulation argument, but for a powerful criticism of their argument see Tierney and Glick (2018).

⁵ For example, in response to the disappearing agent objection, Repetti appeals to Kane (1996) and Balageuer (2009) and argues that their event causal libertarian accounts are capable of preserving *both* leeway autonomy *and* source autonomy. He does not seriously address, however, the concern that such accounts leave agents unable to *settle* which decision/action occurs and hence cannot have the control in action required for moral responsibility (see, e.g., Pereboom 2001, 2014, 2017b; Caruso 2012, 2015; Waller 1990, 2011; Levy 2008, 2011).

For instance, *pratītyasamutpāda*, commonly translated as “dependent origination” or “dependent arising,” is a key principle in Buddhist teachings, which states that all *dharmas* (“phenomena”) arise in dependence upon other *dharmas*: “if this exists, that exists; if this ceases to exist, that also ceases to exist.” The *pratītyasamutpāda* doctrine, states Mathieu Boisvert, is a fundamental tenet of Buddhism and it may be considered as “the common denominator of all the Buddhist traditions throughout the world, whether Theravada, Mahayana, or Vajrayana” (1995: 6-7). According to *pratītyasamutpāda* teachings, there is nothing independent, except the state of *nirvana*. As Peter Harvey writes:

This [doctrine] states the principle of conditionality, that all things, mental and physical, arise and exist due to the presence of certain conditions, and cease once their conditions are removed: nothing (except *Nibbana*) is independent. The doctrine thus complements the teaching that no permanent, independent self can be found. (1990: 54; see also Harvey 2015)

All physical and mental states depend on and arise from other pre-existing states, and in turn from them arise other dependent states while they cease. The “dependent arisings” have a causal condition, and thus *pratītyasamutpāda* is the Buddhist belief that causality is the basis of ontology, not a creator God or the ontological Vedic concept called “universal Self” (*Brahman*). As Paul Williams writes:

In the *Mahatanhasankhaya Sutta* the Buddha [stresses] that things originate in dependence upon causal conditioning, and this emphasis on causality describes the central feature of Buddhist ontology. All elements of *samsara* exist in some sense or another relative to their causes and conditions.... (2002: 64)

It’s hard to see how a libertarian conception of free will can be reconciled with this doctrine of dependent origination, since it embraces a universal determinism of cause and effect for all phenomena, except the state of *nirvana*.

Repetti is, of course, aware of concerns like this, and he responds by noting (several times) that the Buddha himself rejected a kind of *inevitablism* or *fatalism* similar to determinism.⁶ But I would caution reading any strong metaphysical conclusions about determinism into the passages Repetti cites. First, I would note that the kind of inevitablism/fatalism the Buddha rejected constitutes a different set of concerns than determinism. In the key passages where the Buddha rejects inevitablism/fatalism (see fn.6), it seems that what he is most concerned with is defending the *causal efficacy* of our intentions, thoughts, and other mental states. He rejects, and even mocks, the idea that fatalism entails that our volitional agency is an illusion—asking whether legs go forward and backward of their own

⁶ He writes, for example: “The Buddha favored the idea that we possess agency, leaving aside the question whether it is reflexive in a way that reveals an agent-self of any kind. He rejected several inevitabilist contraries of agency or free will, such as the idea that actions (volitions, behavioral phenomenon) result from some sort of inevitable necessitation by gods, destiny, *prakṛti* (material substances or matter), or chance (Harvey 2007; Federman 2010: Wallace 2016; Repetti 2016b). These were among a select few ideas that the Buddha ridiculed. For example, the Buddha claims that in the previous 91 eon, no *Ājīvika* (fatalist who denies the power of volition) has gone to heaven (MN 71), barring one who serendipitously followed *karmavada* (karma doctrine) and *kriyavada* (doctrine of morally effective deeds) (MN i.483, Nizamis (2013); he also asked, *contra* fatalism, whether legs go forward and backward of their own accord (Nizamis 2013, fn.2), or by the “initiating effort” of the person (fn.3)” (2019: 97).

accord. Denying this kind of fatalism, however, is not the same as rejecting determinism or universal origination. Rather, the Buddha's concerns seem similar to what Eddy Nahmias (2011) has called *bypassing*—the concern that “our rational, conscious mental activity is *bypassed* in the process of our making decisions and coming to act” (2011: 556). Determinism, however, need not entail bypassing. And most philosophical free will skeptics (as opposed to scientific skeptics who argue that neuroscientific findings undermine free will) agree that conscious mental activity plays an important causal role in regulating thought, volition, emotion, speech, and action (see, e.g., Pereboom and Caruso 2018; Levy 2014). For this reason, I do not think we should interpret the Buddha's rejection of inevitablism/fatalism as a rejection of universal causation or universal origination.

Second, I strongly disagree with Repetti when he says, “Evitabilism alone justifies a Buddhist theory of free will” (2019: 97). Repetti seems to think that establishing a causal role for the mind is somehow sufficient for “free will”—but I don't understand why he thinks this. As I suggested above in my first point about definitions, “free will” is not the same thing as “mental freedom,” “volitional control,” or “autonomy.” Free will, as most philosophers in the contemporary debate understand it, is defined as the control in action required for a specific but pervasive sense of moral responsibility. Fischer, Kane, Pereboom, and Vargas, for example, write: “Much of the tradition has taken ‘free will’ to be a kind of power or ability to make decisions of the sort for which one can be morally responsible” (2007: 1). Vargas writes: “‘free will’ is a term of art that picks out some distinctive power or capacity characteristic of morally responsible agency” (2013: 10). Eddy Nahmias insists that, “we should be concerned primarily with free will understood as the set of powers or abilities required to be morally responsible—that is, potentially to deserve blame or praise, punishment or reward” (2014: 43). And other philosophers who define free will in terms of the control condition for moral responsibility include Pereboom (2001, 2014), Strawson (1986), O'Connor (2000), McKenna (2008), Campbell (1957), Clarke (2005), Levy (2011), Richards (2000), van Inwagen (1983), Caruso (2012), and Morris (2015), to name just a few.⁷ I think it's a mistake, then, to crudely take the Buddha's rejection of inevitablism as evidence that he believed in free will. Plus, as the arguments for free will skepticism sketched above indicate, *even if* determinism were rejected that would not guarantee free will. Indeterminism and luck seem just as much a threat to free will as determinism.

Lastly, as Repetti himself argued in an earlier work: “Determinism, it should be noted, resembles the Buddhist causal doctrine of ‘dependent origination’ (*pratītya samutpāda*). Dependent origination theory asserts the dependence of all conditioned/composite phenomena on previous (and/or simultaneous) impartite microphenomena” (2012: 113). He goes on to argue:

⁷ There are two notable philosophers who reject this understanding of free will, John Martin Fischer (1994, 2007) and Bruce Waller (2011, 2015), but I've elsewhere argued that their accounts are non-standard (see Caruso 2016; Caruso and Morris 2017). In particular, I've argued that there are several distinct advantages to defining free will in terms of the control in action required for moral responsibility: (a) it provides a neutral definition that virtually all parties can agree to—i.e., it does not exclude from the outset various conceptions of free will that are available for compatibilists, libertarians, and free will skeptics to adopt; (b) it captures the practical importance of the debate; (c) it fits with the commonsense (folk) understanding of these conceptions (i.e., the folk seem to think free will and moral responsibility are intimately tied together); and, perhaps most importantly, (d) rejecting this understanding of free will makes it difficult to understand the nature of the substantive disputes that are driving the free will debate (see Caruso and Morris 2017).

The Humean middle path option⁸ comes at too great a cost for Buddhists for two reasons. First, because it undermines the idea that dependent origination is genuinely causal, rather than a conceptual construction about event pairings that is best explained by an error theory, all of the explanatory work that causality does in the rest of Buddhism would be deflated. Second, it impales Buddhists on the other horn of the dilemma, chaotic indeterminism. (2012: 134)

Repetti now rejects these criticisms and endorses a view, Buddhist soft compatibilism, which he previously found unacceptable. He acknowledges this change of heart in his book, but here I find myself agreeing with Repetti (version 1.0). To make room for libertarian free will by appealing to indeterminism, or “alternative conceptions of causation, such as wiggly, Humean, and other,” would come at too high a cost to dependent origination and other core Buddhist doctrines and teachings. I’m also skeptical of reading any of the Buddha’s statements in a metaphysically “thick” sense, as Repetti (version 2.0) does with inevitabilism or fatalism. Whenever the Buddha discusses any metaphysical doctrine, it is usually only to the extent that it has relevance to his soteriological aims—i.e., whatever promotes enlightenment.⁹ This all brings me to my last point.

If we seek to achieve a full and comprehensive understanding of what Buddhism can teach us about the contemporary problem of free will, perhaps the best place to look is not at its metaphysical doctrines but at its ethical teachings. Repetti, along with many others who write about Buddhism and free will, tend to focus, almost exclusively, on the metaphysical aspects of the problem.¹⁰ For Repetti, this includes reconciling volition agency with the no-self doctrine, dependent origination, and the like. Very little attention is paid to Buddhist ethics and what it teaches about punishment and the reactive attitudes of resentment, indignation, moral anger, and blame. I will try to correct for this lacuna in the final two sections.

1. Buddhism and Desert

As we’ve seen, free will skepticism maintains that what we do and the way we are is ultimately the result of factors beyond our control and that because of this agents are never morally responsible for their actions in the *basic desert* sense (see, e.g., Pereboom 2001, 2014; Levy 2011; Caruso 2012). It is important to note, though, that doubting or denying basic desert moral responsibility, as skeptics do, does not mean that other conceptions of responsibility cannot be reconciled with determinism, indeterminism, chance, or luck. In fact, many free will and moral responsibility skeptics have developed and promoted other non-desert-based conceptions of

⁸ Repetti defines the “Humean middle path” option as follows: “[S]ome such Buddhists...hold that David Hume’s deflationary error theory of causation, wherein causation is no more than a conceptual construction and projection based on the perceived *constant conjunction* of contingent event types, precisely provided the middle path Buddhists would need for a Buddhist compatibilism between free will and both determinism and indeterminism” (2012: 133).

⁹ In the parable of the poisoned arrow, for instance, the monk Malunkyaputta is troubled by the Buddha’s silence on the fourteen unanswerable questions, which include queries about the nature of the cosmos and life after death. He threatens to renounce the Buddha’s teachings if the Buddha does not answer these questions. In response, the Buddha says, “Suppose a man is struck by a poisoned arrow and the doctor wishes to take out the arrow immediately. Suppose the man does not want the arrow removed until he knows who shot it, his age, his parents, and why he shot it. What would happen? If he were to wait until all these questions have been answered, the man might die first” (as told by Thich Nhat Hanh 2005: 42). The point of the parable, as Thich Nhat Hanh describes it, is that: “Life is so short. It must not be spent in endless metaphysical speculation that does not bring us any closer to the truth [i.e., liberation from suffering]” (ibid.).

¹⁰ Notable exceptions include Goodman (2002, 2009, and 2017) and Zimmerman (2006).

responsibility—e.g., Waller’s “take charge responsibility” (2011, 2014), Pereboom’s forward-looking account of moral responsibility (2014), and my defense of “attributability” and “answerability” (Caruso 2017). In this section, I will argue that Buddhist ethics is most consistent with the skeptical perspective, and that the kinds of responsibility consistent with free will skepticism are sufficient to preserve the ethical teachings Buddhists care about most. I will also argue that Buddhist ethics provides sound practical advice, and can teach us a thing or two, about living without resentment, indignation, moral anger, backward-looking blame, and retributive punishment.

I would like to begin by quoting at length Charles Goodman, since my own thinking here resembles his:

Although Buddhist scriptures and philosophical texts never explicitly confront the issue of free will, at least in the form in which we know it, there are passages in various of these texts that deal with related issues. These passages, taken from a number of texts that differ greatly in other ways, can be used to construct a Buddhist position about the problem of free will. This view about free will stems from deep features of Buddhist thought that are largely held in common by different articulations of the tradition. Therefore, most or all philosophers in the highly diverse Buddhist tradition would probably have been prepared to agree with it. This position is importantly different from what most Western thinkers say, but it doesn’t represent an entirely new answer to the problem. Rather, Buddhist writers describe a way to live with the practical consequences of the absence of free will. As Strawson repeatedly points out, Western thinkers who have denied the reality of free will have continued to apply notions of moral responsibility in their own lives. Their practice is thus inescapably inconsistent with their theory. By drawing on Buddhist ideas, however, it is possible to develop a view on which perfect people do not ascribe moral responsibility. (2002: 359)

I would just add one slight qualification to Goodman’s last sentence—i.e., it is moral responsibility in the *basic desert* sense that Buddhism teaches us to live without. It leaves intact other conceptions of responsibility, which may be used in our everyday practices to cultivate Buddhist virtues and help bring about various forward-looking benefits like future moral formation, reconciliation, and safety (see Pereboom 2014).

Is the assumption that we are morally responsible in the basic desert sense required for the sorts of personal relationships we value? The considerations raised by P.F. Strawson in his essay “Freedom and Resentment” (1962) suggest a positive answer. In his view, our justification for claims of blameworthiness and praiseworthiness is grounded in the system of human reactive attitudes, such as moral resentment, indignation, guilt, and gratitude. Strawson contends that because our moral responsibility practice is grounded in this way, the truth or falsity of causal determinism is not relevant to whether we justifiably hold each other and ourselves morally responsible. Moreover, if causal determinism were true and did threaten these attitudes, as the free will skeptic is apt to maintain, we would face instead the prospect of the cold and calculating objectivity of attitude, a stance that relinquishes the reactive attitudes. In Strawson’s view, adopting this stance would rule out the possibility of the meaningful sorts of personal relationships we value.

Strawson may be right to contend that adopting the objective attitude would seriously hinder our personal relationships (for a contrary perspective, see Sommers 2007). However, a

case can be made that it would be wrong to claim that this stance would be appropriate if determinism did pose a genuine threat to the reactive attitudes (Pereboom 1995, 2001, 2014). While, for instance, kinds of moral anger such as resentment and indignation might be undercut if free will skepticism were true, these attitudes may be suboptimal relative to alternative attitudes available to us, such as moral concern, disappointment, sorrow, and moral resolve. The proposal defended by skeptics like Derk Pereboom and myself is that the attitudes that we would want to retain either are not undermined by a skeptical conviction because they do not have presuppositions that conflict with this view, or else they have alternatives that are not under threat (see, e.g., Pereboom 2001, 2014; Milam 2017; Pereboom and Caruso 2018). And what remains does not amount to Strawson's objectivity of attitude and is sufficient to sustain the personal relationships we value.

Buddhist ethics, I contend, promotes a similar view. The Buddha, for instance, identified anger (what P.F. Strawson calls resentment) as one of the three unwholesome roots of action for all humans. The other two are greed and delusion. Their opposites, the wholesome roots, which are also present in all people, are generosity, kindness, and clarity or wisdom. All of our actions spring from one of these six sources. The family of angry emotions includes everything from minor irritation to unbridled rage. Resentment, hatred, irritation, and mild annoyance are all forms of anger. While Strawsonians believe it would be impossible or undesirable to live without moral anger and resentment, Buddhist ethics teaches us that if we take things one event at a time, we can understand anger and apply its antidotes—patiences, compassion, and forgiveness. There's a useful story from the Buddha's life about non-reactivity to anger. It goes like this (from SN 7:2, translation Bhikkhu Bodhi):

On one occasion the Blessed One was dwelling at Rājagaha in the Bamboo Grove, the Squirrel Sanctuary: The Brahmin Akkosaka Bhāradvāja, Bhāradvāja the Abusive, heard: "It is said that another Brahmin of the Bhāradvāja clan has gone forth from the household life into homelessness under the ascetic Gotama." Angry and displeased, he approached the Blessed One and abused and reviled him with rude, harsh words.

When he had finished speaking, the Blessed One said to him: "What do you think, Brahmin? Do your friends and colleagues, kinsmen and relatives, as well as guests come to visit you?" – "They do, Master Gotama" – "Do you then offer them some food or a meal or a snack?" – "I do, Master Gotama." – "But if they do not accept it from you, then to whom does the food belong?" – "If they do not accept it from me, then the food still belongs to us."

"So too, Brahmin, I do not abuse anyone, do not scold anyone, do not rail against anyone. I refuse to accept from you the abuse and scolding and tirade you let loose at me. It still belongs to you, brahmin! It still belongs to you, Brahmin!

"Brahmin, one who abuses his own abuser, who scolds the one who scolds him, who rails against the one who rails at him – he is said to partake of the meal, to enter upon an exchange. But we do not partake of your meal; I do not enter upon an exchange. It still belongs to you, brahmin! It still belongs to you, brahmin!"

The Buddha's point is that one who repays an angry man with anger thereby makes things worse for himself. But by not repaying an angry man with anger, one wins a battle hard to win—for both themselves and the other—since anger often stands in the way of reconciliation and moral formation. In fact, as is often the way in these stories, in the end Bhāradvāja is transformed by

his encounter with the Buddha, becomes a monk, and, under the Buddha's guidance, eventually achieves complete awakening.

Shantideva, the sixth-century Buddhist commentator, gives another example in *A Guide to the Bodhisattva's Way of Life*: "Suppose a person hits you with a stick. It does not make sense to be angry at the stick for hurting you, since the blows were inflicted by a person. Neither, he continues, does anger toward the person make sense, since the person is compelled by anger (or greed or delusion). Ignorance becomes the villain, overwhelming reason and creating suffering" (Boorstein 2014). We blame and criticize others because we don't like suffering. But according to Buddhist ethics, if we don't like suffering, we should not harm others and create more disharmony since this interferes with our own happiness. The following two verses from the *Dhammapada Sutta*, a collection of saying of the Buddha, capture this point nicely. In Verse 222, the Buddha explains: "Those who hold back rising anger like a rolling chariot are real charioteers. Others merely hold the reins" (translation Easwaran). And in Verse 223, we are told: "Conquer anger through gentleness, unkindness through kindness, greed through generosity, and falsehood by truth" (ibid). As Eknath Easwaran (2007) explains in his translation of the *Dhammapada*:

The Buddha is not among those who praise "righteous indignation." When he exhorts us to give up anger, he does not list under what specific conditions this should be done: it should simply be given up, and that is all. His concern is with mental states, and since an angry mind is out of control, the Buddha naturally counsels against it. Even if getting angry gives a sense of triumph or seems to ease pent-up tensions, anger is linked with *duhka*, suffering. Free yourself from anger, the Buddha says, and *duhka* cannot touch you (verse 221). Since freedom from *duhka* is the goal of his entire teaching, he puts high priority on the conquest of anger. (2007: 185)¹¹

In the *Brahmajala Sutta*, the Buddha further says:

Monks, if anyone should speak in disparagement of me, of the Dhamma or of the Sangha [the community of which they were members], you should not be angry, resentful or upset on that account. If you were to be angry or displeased at such disparagement, that would only be a hindrance to you. For if others disparage me, the Dhamma or the Sangha...then you must explain what is incorrect as being incorrect, saying: "[For this or that reason] that is incorrect, that is false, that is not our way, that is not found among us." (translation Maurice Walshe)

And the Buddha not only holds this view with regard to blame and anger in the face of criticism, he also suggests the same for praise:

But, monks, if others should speak in praise of me, of the Dhamma or of the Sangha, you should not on that account be pleased, happy or elated. If you were to be pleased, happy or elated at such praise that would only be a hindrance to you. If others praise me the Dhamma or the Sangha, you should acknowledge the truth of what is true, saying: "That is correct, that is right, that is our way, that is found among us." (Ibid)

¹¹ For more on Buddhism and anger, see McRae (2015), Harvey (2000), and Huebner (draft).

To be clear, the above should not be mistaken as encouragement of indifference to blame and praise. Rather, what the Buddha advocates is a calm, clear, equanimous, matter-of-fact recognition of the nature of others' comments and actions, followed by clarifications of the erroneous and the affirmations of the right. It is only with right mindfulness, according to Buddhism, that we can discern what needs to be addressed and respond appropriately with patient compassion.

Furthermore, none of this means that one cannot point out others' mistakes. It's just that, according to Buddhist ethics, when one does so, it should be done with loving kindness and compassion, and *only* when there is forward-looking benefit in doing so. The Buddha makes this clear in the *Aṅguttara Nikāya* when, in speaking to the monks, says:

It was said: "One should not utter covert speech, and one should not utter overt sharp speech." And with reference to what was this said?

"Here, monks, when one knows covert speech to be untrue, incorrect, and unbeneficial, one should not utter it. When one knows covert speech to be true, correct, and unbeneficial, one should try not to utter it. But when one knows covert speech to be true, correct, and beneficial, one may utter it, knowing the time to do so."

"Here, monks, when one knows overt sharp speech to be untrue, incorrect, and unbeneficial, one should not utter it. When one knows overt sharp speech to be true, correct, and unbeneficial, one should try not to utter it. But when one knows overt sharp speech to be true, correct, and beneficial, one may utter it, knowing the time to do so."

"So it was with reference to this that it was said: 'One should not utter covert speech, and one should not utter overt sharp speech.'" (MN 139, MLDB 1083–84; translation Bodhi)

This restriction of covert speech and overt sharp speech (which includes various kinds of moral criticism) to only those cases where it is warranted *and* there would be forward-looking benefit, closely resembles Pereboom's (2014) forward-looking account of moral responsibility.

As I indicated above, our moral practices feature a number of senses of moral responsibility, some of which do not invoke basic desert. Pereboom (2014), for instance, has proposed that when we encounter immoral action, we might ask the agent to consider what his actions indicate about his intentions and character, to demand apology, or to request reform, thereby having him consider reasons to behave differently in the future. Engaging in such interactions counts as reasonable in view of the right of those wronged or threatened by wrongdoing to protect themselves from bad behavior and its consequences. Our practice also features an interest in the wrongdoer's moral formation, and the address described naturally functions as a step in this process. Moreover, our practice also has a stake in our reconciliation with the wrongdoer, and calling him to account plausibly serves as a stage in securing this aim. Such interactions, because they address the agent's capacity to consider and respond to reasons, manifest respect for her as a rational being. On Pereboom's forward-looking account, then, moral responsibility and moral exchange are grounded, not in basic desert, but in three non-desert invoking desiderata: future protection, future reconciliation, and future moral formation. Not assuming basic desert, such an account is consistent with free will skepticism. It is also consistent, I contend, with Buddhist ethics since it satisfies the Buddha's restriction of moral criticism to only those cases where there is future benefit. Hence, both Buddhism and free will skepticism prohibit purely backward-looking blame, anger, and retribution.

2. Buddhism and Punishment

I would now like to turn to the question of state sanctioned punishment and whether it can be reconciled with Buddhist ethics. I will argue, once again, that Buddhist ethics favors practices and policies consistent with free will skepticism. In particular, I will argue that Buddhists not only *may* but *should* adopt something like my *public health-quarantine model* for addressing criminal behavior (Caruso 2016, 2017, forthcoming; Pereboom and Caruso 2018). I will frame my discussion around the following dilemma:

The Buddhist Punishment Problem (BPP): On the one hand, Buddhist ethics tells us that the intentional infliction of harm on another is an infringement of the principle of non-violence (*ahimsā*) and those sovereigns who engage in punishment will accrue negative consequences in this and future lives. On the other hand, we are also told that Buddhist sovereigns have the dual duties of protecting their people and punishing evildoers. But if Buddhist kings and sovereigns must occasionally engage in punishment for the purpose of statecraft, how can they remain ethical?

Following Michael Zimmerman (2006), I will identify three different Buddhist stances on punishment and explore how each attempts to resolve this problem. As we'll see, there are tensions between the various stances. But I will argue that the public health-quarantine model provides a possible way of reconciling them—and is, nevertheless, the option most consistent with Buddhist ethics. My exegeses of the three stances will follow closely the work of Zimmerman (2006) and will be centered on texts from the earlier period of Indian Buddhism.

I will begin, as Zimmerman does, by first considering the history of ancient Indian statecraft and Brahmanic kingship. As Zimmerman explains:

As in medieval Europe, so too in ancient India there existed a rich and imaginative set of customs concerning the measures to be applied when it came to punishing criminals and violators of traditional codes of behavior. The old textbooks on jurisprudence, the *dharmasūtras* and *dharmasāstras*, the composition of which began in the last centuries before the Common Era and clearly bear the imprints of a brahmanically dominated society, prescribe a wide variety of such punishments. Among them we find, just to mention a number of them: money fines, forced labor, confiscation of (all) property, banishment, imprisonment; branding, beating, whipping, mutilation of bodily parts (finger, hand, foot, nose, ear, lips, tongue, male organ), pouring boiling oil in mouth and ears; death penalty through a sharp weapon, poisoning, hanging, trampling to death by an elephant, burning or drowning, impalement, beheading, being devoured by gods, being gored by horns of a bull, being torn apart by oxen, being roasted in fire, being shot to death with arrows. (2006: 214)¹²

The relevant parts of these books prescribe detailed punishments for all different kinds of transgressions. We are also told that no one other than the king himself was in charge of dispensing justice and deciding on the punishment: “Certainly, in larger kingdoms the

¹² See also Pandurang V. Kane (1930-1962, vol.3: 399-408); Day (1982: 146-240); Mehta (1936: 439-42); Mitra (1939).

administration of justice would have been delegated to a bench of magistrates. The king, however, was at the top of this administration. It was his duty to punish evildoers as one of his two primary obligations, equally as important as the protection of his people from outside aggression” (Zimmerman 2006: 214-15). Ancient Indian texts, both Brahmanic and non-Brahmanic in nature, are in unison in charging the king with these two main obligations.¹³

Given that the guidelines for kingly governance are clearly laid down, one can only wonder how a sovereign who considered himself a Buddhist, or better, *could* such a sovereign, adopt these traditional and general rules of statecraft (Zimmerman 2006: 216)? This is the *Buddhist punishment problem*. As Zimmerman asks: “Would [a Buddhist sovereign] not have to throw overboard the first of the five precepts to be followed by all lay Buddhists—namely the abstention from intentionally killing or injuring sentient beings, one of the main tenets in Buddhist self-perception and with which Buddhism is widely identified?” (2006: 216). As I’ve already foreshadowed, there is no simple standardized answer to this question: “Indian Buddhist thinkers have been aware of the difficulties posed for their tradition and have struggled to ease the tension between an eventual need for the carrying out of punishment and their understanding of non-violence.” (Zimmerman 2006: 216-17; see also Keerthirathne 2016).

Zimmerman (2006) identifies three distinctly different stances on punishment found in texts of the earlier period of Indian Buddhism. He labels them the *idealist*, *ethical fundamentalist*, and *compassionate* stances. The idealistic view of how a Buddhist king should reign was that of the *cakravartin*, the wheel-turning king, who, as he is described in the Pāli *Cakkavatti-sīhanāda Suttanta* (DN III 58-77) and other texts (see, e.g., *Mahāśudassana Sutta*, DN II 169-98), has conquered the four quarters of the earth and established stability, rules over them without the need for punishment or other violence, and encourages his subjects to live according to the five precepts. While the story provides us with a utopian outlook of the ideal Buddhist ruler, it offers very few concrete guidelines on what to do if crimes *do* take place and if stability in the country is *not* maintained (Zimmerman 2006: 217). For this reason, Zimmerman writes, “[t]he early ideal of the Buddhist universal emperor as he is presented in the narrative thus avoids a realistic discussion of the possible need for the application of punishment, let alone its ethical and karmic implications” (2006: 217).

The *ethical fundamentalist* approach is more radical since the Buddhist ideal of non-violence is here uncompromised. According to this stance, to become a king/ruler means to break the precept of *ahimsā*, however “good” the motivation for the decision to do so might be. While this second approach is ready to confront a less ideal society than the proponents of the *cakravartin* utopia would like us to hope for, it is ethically unflinching:

[Here] punishment is uncompromisingly judged as a violation of Buddhist ethics equally as unwholesome as stealing, lying, and so on. This position offers no room for a reconciliation of the issue and rigorously rejects any kind of retrenchment at the expense of the Buddhist standard of ethics, which, in this strand of thought, is believed to be

¹³ See, e.g., Patrick Olivelle’s (2004) translation of *The Law Codes of Manu* (7.14); *Vasistha Dharmasūtra* (19:1); *Gautama Dharmasūtra* (10:7, 11.9, 12:57). According to these texts, the king must tirelessly exert his coercive authority (*danda*) over those who should be punished; otherwise, in the words of *Manusmṛti*, one of the most authoritative brahmanic writings on what was considered right and wrong, “the stronger would grill the weak like fish on a spit; crows would devour the sacrificial cakes; dogs would lap up the sacrificial offerings; no one would have any right of ownership; and everything would turn topsy-turvey...” (MDh 7.20-1; as quoted by Zimmerman 2006: 215).

universally valid and thus does not support the idea that a member of the *kṣatriya* class would have to fulfill his particular duty (*svadharma*). (Zimmerman 2006: 218)

According to this Buddhist stance, there is no viable way of combining religious practice and statecraft, and, ultimately, there would be no incentive for becoming involved in ruling. Rulers who found it necessary to punish wrongdoers would therefore not be exempt from the negative karmic consequences. And the ethical prohibition on punishment, as well as the negative karmic consequences for those who engage in it, would extend to both retributive and consequentialist forms of punishment.

Without repeating everything Zimmerman says about this second stance, I will simply note that there are plenty of representatives of this rigid approach throughout both the more conservative schools of early Buddhist and Mahāyāna writings (Zimmerman 2006: 218; see also Collins 1998: ch.6). To mention just a few, there is, for example, the *jātaka* of the prince Temīya, who knows and remembers by his own experience that the throne of a king can only lead to hell. He decides to act as if he were lame, deaf, and dumb, with the sole purpose of escaping the royal duty awaiting him, even at the expense of being put to death (*Mūgapakkha Jātaka* 538, 6: 1-30). The event that leads to his decision is described as follows:

When he was one month old, they adorned him and brought him to the king, and the king having looked at his dear child, embraced him and placed him on his hip and sat playing with him. Now at that time four robbers were brought before him; one of them he sentences to receive a thousand strokes from whips barbed with thorns, another to be imprisoned in chains, a third to be smitten with a spear, the fourth to be impaled. The Bodhisatta [Temīya], on hearing his father's words, was terrified and thought to himself, "Ah! My father through his being king, is becoming guilty of a grievous action which brings men to hell." The next day they laid him on a sumptuous bed under a white umbrella, and he woke after a short sleep and opening his eyes beheld the white umbrella and the royal pomp, and his fear increased all the more; and as he pondered "from whence have I come into this palace?" by his recollection of his former births, he remembered that he had once come from the world of gods and that after that he had suffered in hell, and that then he had been a king in that very city. While he pondered to himself, "I was a king for twenty years and then I suffered eighty thousand years in the Ussada hell, and now again I am born in this house of robbers, and my father, when four robbers were brought before him, uttered such cruel speech as must lead to hell; if I become king I shall be born again in hell and suffer great pain there," he became greatly alarmed, his golden body became pale and faded like a lotus crushed by the hand, and he lay thinking how he could escape from the house of robbers. (Jā 538, 6:3-4; translation quoted from Cowell 1990: 6:3).

Another example of this uncompromising stance, is Candrakīrti, the Madhyamaka philosopher from the first half of the seventh century. In his commentary on Aryadeva's *Catuhśataka*, its fourth chapter being a critical analysis of the king's role in the light of a universal Buddhist set of ethics, Candrakīrti reflects on the king's fulfilling his specific royal duties (Zimmerman 2006: 219). As Zimmerman summarizes it, according to Candrakīrti's commentary:

[T]he king cannot but produce negative results for his soteriological situation. The king's axiomatic guideline is the view that the fulfillment of his proper duty as a ruler—namely protecting his subjects by punishing evildoers—would come along with spiritually wholesome after-effects for himself. This, however, cannot work, say Candrakīrti, since the king punishes without empathy: and the application of such violence does counteract the *dharma* (in its universally valid Buddhist meaning), just as butchers and fishermen are unaware that they produce unwholesome effects by killing animals in the belief that they have to follow their designated lineages assigned by birth. The outcome for the ruler thus cannot be positive: “A ruler without empathy has no merit at all since [his] violence is enormous” (CTt 82a). (Zimmerman 2006: 220)

In Candrakīrti's own words:

It is just as if in order to perform a buffalo sacrifice somebody would kill [the animal] and many would eat [its meat], and this evil (*pāpa*), however, would only appertain to the killer; in the same way, for the sake of a kingdom, the king performs [protective] acts of evil and many enjoy the wealth [resulting from it], but the evil he performed, which has terrible fruits [leading] to bad existences (*durgati*), pertains alone to the king. (CTt 88b2-3; quoted from Zimmerman 2006: 220)

These are just two examples of the ethical fundamentalist Buddhist stance. Candrakīrti's commentary, for example, is clearly aimed at showing that the Brahmanic conception of kingship is utterly unacceptable from a Buddhist standpoint. It should be noted, though, that several times in his commentary Candrakīrti emphasizes that royal violence is problematic because the king acts without empathy (sanskrit: *dayā*). This leads Zimmerman to question whether violent punishment with a *compassionate* motivation could be an appropriate alternative (2006: 222)

This brings us to the third Buddhist stance on punishment. Here, Zimmerman notes that both Mahāyāna and Pāli sources stress the beneficial role of the king for his subjects:

The king provides them with internal security, protects them from external aggression, and encourages them to follow a morally sober way of life. The ideal ruler portrayed in these sources is that of the *dharmarāja(n)*, a “righteous king,” equipped with the best moral and intellectual qualities, ruling in accordance with the Buddhist moral and intellectual qualities, ruling in accordance with the Buddhist *dharma*. (2006: 224)

One of the best known sets of guidelines for such a ruler in the Pāli sources is the list of the ten so-called “royal virtues” (*rājadhamma*), which usually comprise alms-giving (*dāna*), morality (*sīla*), liberality (*pariccāga*), honesty (*ajjava*), mildness (*maddava*), self-restriction (*tapas*), non-anger (*akkodha*), non-violence (*avihimsā*), patience (*khanti*), and non-offensiveness (*avirodhana*) (see PTSD S.V. *rājadhamma*; Zimmerman 2006: 224). The virtue of non-violence in this list would appear to preclude such violent acts as warfare and punishment, yet many Pāli texts leave no doubt that punishment of evildoers is indeed part of the king's business.¹⁴ It would seem, then, that we are once again confronted with the Buddhist punishment problem.

¹⁴ “In the *Somanassa Jātaka*, for example, the king is encouraged to reflect well before arriving at a judgment and to punish with careful measure (Jā 505, 4:451). Similarly in the *Sumangala Jātaka*, a righteous king says that it is

Focusing on Indian Mahāyāna sources, Zimmerman argues that the rules for punishing in some of those texts contain an important additional element that cannot be found in the traditional brahmanic law books: compassion. He writes:

The inclusion of this element, the central notion of Mahāyāna ethics, as one of the guiding principles for the king, modified the ideas about the implementation of punishment in at least two decisive ways. One is the idea that punishment, more than satisfying feelings of retaliation, has to serve the improvement and rehabilitation of the evildoer in this life. The second is a tendency toward the application of milder forms of punishment and, in the best case, the absolute exclusion of certain forms of punishment that in their results are irreversible. (2006: 227-8)

He points to the royal policy chapter of the *Ratnāvalī*, attributed to the second-century philosopher Nāgārjuna (RĀ 4.100), as a representative of this kind of argument. In this work, Nāgārjuna advises a king on how to rule his territory based on Buddhist principles.

With regard to prisoners, he admonishes the king to treat them with compassion (especially those who have committed the most horrible deeds like murder) and to take good care of their physical needs with barbers, baths, drinks, food, medicine, and clothing. He advises the ruler to look at evildoers just as he would look at his children, whom he would punish with compassion to make them improve their behavior and not out of hatred or desire for wealth. Nāgārjuna further elaborates that the king should not kill or torment a criminal but, instead, banish a murderer from his territory. (Zimmerman 2006: 228).

Another example of the compassionate stance can be found in the *Bodhisattvabhūmi*, a part of the vast *Yogācārabhūmi*, and early Yogācara work. As Zimmerman describes it:

In the chapter on morality, it is said that the bodhisattva, whether layman or monk, has to interact with other sentient beings for the sake of their spiritual benefit. This can mean that, in order to establish them in a more wholesome state, he will occasionally have to make use of harsh words, criticism, and forms of punishment, even though this might as an immediate result cause them dysphoria or pain. There is no offense in this for the bodhisattva; rather, he attains merit. Indeed, he would commit an offense were he to leave those who would benefit from punishment unpunished. Only in specific cases would neglect of punishment not be seen as an offense—for instance, in cases where there is no hope at all that the evildoer would profit from the applied measures, where he is full of malicious feeling, where the bodhisattva's actions would lead to quarrels, turmoil and fighting, or where the evildoer has enough feelings of shame and modesty

unworthy for a ruler to punish out of momentary emotions. It is necessary to understand the case properly and to punish free of anger, caring (*anukampā*) for the evildoer. The righteous king Maitrībala is described in Āryaśūra's *Jātakamālā*, a Sanskrit collection of thirty-four birth stories of the Buddha from about the fourth century, as someone who rules without harming the *dharma*, protecting his subjects and yet submitting them to punishment (*vinigraha*) (Jā 496, 4:370). In all these cases, it appears that the act of punishment would not be considered a departure from the royal virtue of non-violence; alternatively, one would have to reckon that the conflict between the two had simply been ignored, without inquiry into the question of whether and how they could be combined" (Zimmerman 2006: 225).

that he would very soon come back onto the right track himself. The bodhisattva, while engaging in these punitive measures, has to do so with the intention of caring for and benefiting others, with his senses turned within, calm, caring and full of friendship. (2006: 229-30)¹⁵

One final example can be found in the *Bodhisattva-gocaropāya-visaya-vikurvana-nirdeśa-sūtra*.¹⁶ There we are told that: (a) if a matter can be solved without the application of “harsh forms of punishment,” the king should simply declare the crime of the lawbreaker, this could involve a simple public proclamation; (b) the king should never kill wrongdoers (hence, a prohibition on the death penalty); and (c) when punishing, the king should cultivate a mental state of “friendliness and compassion.” The text also explicitly states that a king loyal to the *dharma* should try his best to rehabilitate offenders and treat them like his children. In fact, the king is even compared to a physician who without anger applies himself to the treatment of the patient (see Zimmerman 2000: 196).

While this third stance has a number of advantages over traditional retributive punishment, and perhaps goes some distance in resolving the Buddhist punishment problem, it’s still hard to see how it can be reconciled with the ethical fundamentalism of the second stance. While the compassionate stance avoids the death penalty and other irreversible forms of punishment, as well as prioritizes the rehabilitation, improvement, and well-being of wrongdoers, it *still* condones punishment in milder forms. I propose instead that the most consistent position for a Buddhist to adopt is something like my non-retributive, non-punitive alternative: the *public health-quarantine model*.

Very briefly, the model takes as its starting point Derk Pereboom’s (2001, 2014) famous account. In its simplest form, it can be stated as follows: (1) Free will skepticism maintains that criminals are not morally responsible for their actions in the basic desert sense; (2) plainly, many carriers of dangerous diseases are not responsible in this or in any other sense for having contracted these diseases; (3) yet, we generally agree that it is sometimes permissible to quarantine them, and the justification for doing so is the right to self-protection and the prevention of harm to others; (4) for similar reasons, even if a dangerous criminal is not morally responsible for his crimes in the basic desert sense (perhaps because no one is ever in this way morally responsible) it could be as legitimate to preventatively detain him as to quarantine the non-responsible carrier of a serious communicable disease.

The first thing to note about the theory is that although one might justify quarantine (in the case of disease) and incapacitation (in the case of dangerous criminals) on purely utilitarian or consequentialist grounds, both Pereboom and I want to resist this strategy. Instead, our view maintains that incapacitation of the seriously dangerous is justified on the ground of the right to self-defense and defense of others. That we have this right has broad appeal, much broader than utilitarianism or consequentialism has. In addition, this makes the view more resilient to a number of objections and provides a more resilient proposal for justifying criminal sanctions than other non-retributive options. One advantage it has, say, over consequentialist deterrence theories is that it has more restrictions placed on it with regard to using people merely as a means. For instance, as it is illegitimate to treat carriers of a disease more harmfully than is necessary to neutralize the danger they pose, treating those with violent criminal tendencies more harshly than is required to protect society will be illegitimate as well. In fact, in all our writings

¹⁵ See Zimmerman (2006) for supporting references to the text.

¹⁶ For a study and translation of the sutra from the Tibetan translation, see Jamspal (1991).

on the subject, we have always maintained the *principle of least infringement*, something the Buddhist compassionate stance also endorses, which holds that the least restrictive measures should be taken to protect public health and safety. This ensures that criminal sanctions will be proportionate to the danger posed by an individual, and any sanctions that exceed this upper bound will be unjustified.

Second, the quarantine model places several constraints on the treatment of criminals. First, as less dangerous diseases justify only preventative measures less restrictive than quarantine, so less dangerous criminal tendencies justify only more moderate restraints. We do not, for instance, quarantine people for the common cold even though it has the potential to cause some harm. Rather, we restrict the use of quarantine to a narrowly prescribed set of cases. Analogously, on our model the use of incapacitation should be limited to only those cases where offenders are a serious threat to public safety and no less restrictive measures were available. Secondly, the incapacitation account that results from this analogy demands a degree of concern for the rehabilitation and well-being of the criminal that would alter much of current practice. Just as fairness recommends that we seek to cure the diseased we quarantine, so fairness would counsel that we attempt to rehabilitate the criminals we detain. Rehabilitation and reintegration would therefore replace punishment as the focus of the criminal justice system. This, it should be noted, is another point strongly endorsed by the Buddhist compassionate stance. Lastly, if a criminal cannot be rehabilitated and our safety requires his indefinite confinement, this account provides no justification for making his life more miserable than would be required to guard against the danger he poses.

In addition to these restrictions on harsh and unnecessary treatment, the public health-quarantine model also advocates for a broader approach to criminal behavior that moves beyond the narrow focus on sanctions. It places the quarantine analogy within the broader justificatory framework of *public health ethics*. Public health ethics not only justifies quarantining carriers of infectious diseases on the grounds that it is necessary to protect public health, it also requires that we take active steps to *prevent* such outbreaks from occurring in the first place. Quarantine is only needed when the public health system fails in its primary function. Since no system is perfect, quarantine will likely be needed for the foreseeable future, but it should *not* be the primary means of dealing with public health. The analogous claim holds for incapacitation. Taking a public health approach to criminal behavior would allow us to justify the incapacitation of dangerous criminals when needed, but it would also make prevention a *primary function* of the criminal justice system. So instead of myopically focusing on punishment, the public health-quarantine model shifts the focus to identifying and addressing the systemic causes of crime, such as poverty, low social economic status, systematic disadvantage, mental illness, homelessness, educational inequity, exposure to abuse and violence, poor environmental health, addiction, and the like (see Caruso 2017).

Furthermore, the public health framework I adopt sees *social justice* as a foundational cornerstone to public health and safety. In public health ethics, a failure on the part of public health institutions to ensure the social conditions necessary to achieve a sufficient level of health is considered a grave injustice. An important task of public health ethics, then, is to identify which inequalities in health are the most egregious and thus which should be given the highest priority in public health policy and practice. The public health approach to criminal behavior likewise maintains that a core moral function of the criminal justice system is to identify and remedy social and economic inequalities responsible for crime. Just as public health is negatively affected by poverty, racism, and systematic inequality, so too is public safety. This broader

approach to criminal justice therefore places issues of social justice at the forefront. It sees racism, sexism, poverty, and systemic disadvantage as serious threats to public safety and it prioritizes the reduction of such inequalities.

Summarizing the public health-quarantine model, then, the core idea is that the right to self-defense and defense of others justifies incapacitating the criminally dangerous with the minimum harm required for adequate protection. The resulting account would not justify the sort of criminal punishment whose legitimacy is most dubious, such as death or confinement in the most common kinds of prisons in our society. The model also specifies attention to the well-being of criminals, which would change much of current policy. Furthermore, the public health component of the theory prioritizes prevention and social justice and aims at identifying and taking action on the social determinants of health and criminal behavior. This combined approach to dealing with criminal behavior, I maintain, is sufficient for dealing with dangerous criminals, leads to a more humane and effective social policy, and is actually preferable to the harsh and often excessive forms of punishment that typically come with retributivism.

It also provides a possible resolution to the Buddhist punishment problem and helps reduce the tension between the three stances just discussed. The public health-quarantine model captures the essential components of the compassionate stance by prioritizing rehabilitation and reintegration, prohibiting the death penalty and other harsh forms of punishment, and requiring that the mental states or intentions of the punishing authority not be retaliation or retribution but instead be guided by compassion. But unlike the compassionate stance, the public health-quarantine model can *also* be reconciled with the complete abandonment of punitive practices and policies, making it more compatible with the second (i.e., ethical fundamentalist) stance. Since legal punishment requires the *intentional* imposition of a penalty for conduct that is represented as a violation of a law of the state (Boonin 2008; Zimmerman 2011), and since the public health-quarantine model does not involve punishment in this way, Pereboom and I consider it a non-punitive alternative to treatment of criminals (see Caruso and Pereboom, forthcoming). When we quarantine an individual with a communicable disease in order to protect people, we are not intentionally imposing a penalty for illegal conduct. The same is true when we incapacitate the criminally dangerous in order to protect people. The right of self-defense and protection of harm to others justifies the limiting or restricting of liberty, but it does not constitute punishment as standardly understood. This allows us to see how the second and third stances could be united and how the duty to protect public safety could be made more consistent with Buddhist ethics. Even the idealist stance can be made some sense of on the public health-quarantine mode, since it is theoretically possible (though not likely) that by adopting the right set of preventive practices, policies, and attitudes we could altogether eliminate the need for punishment and/or incapacitation. And even if this is only an ideal, it is something to strive for.

Conclusion

I therefore conclude that the skeptical perspective is not only one a Buddhist *may* adopt, it is one they *should* adopt if they wish to take Buddhist ethics seriously. While Repetti's account of mental freedom provides important and interesting insights into Buddhist meditative practices and how they can enhance degrees of mental autonomy, we should reject the idea that such "mental freedom" amounts to a "Buddhist theory of free will." For one, if free will is defined in terms of the control in action required for basic desert moral responsibility, then a comprehensive "Buddhist theory of free will" will also need to consider what, if anything,

Buddhist ethics can tell us about desert-based judgments, attitudes, and treatments relevant to free will—such as resentment, indignation, moral anger, backward-looking blame, and retributive punishment. This is exactly what I attempted to do in sections 2 and 3, where I turned to a more wide-ranging discussion of Buddhist ethics and what it has to say about desert, punishment, and the reactive attitudes of resentment, indignation, and moral anger. I argued that, not only is Buddhism best conceived as endorsing a kind of free will skepticism, Buddhist ethics can provide a helpful guide to living without basic desert moral responsibility and free will. In section 2, I argued that Buddhists, like free will skeptics, reject backward-looking blame and anger. I also discussed some practical advice on how to eradicate these harmful reactive attitudes. I then concluded, in section 3, by examining state sanctioned punishment and whether it can be reconciled with Buddhist ethics. I discussed three different Buddhist stances on punishment and argued that the best way to reconcile them is to adopt the public health-quarantine model.

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