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RESTRAINT IN WARFARE AND APPAMĀDA: THE CONCEPT OF COLLATERAL DAMAGE IN INTERNATIONAL HUMANITARIAN LAW IN LIGHT OF THE BUDDHA'S LAST WORDS

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ABSTRACT

In international humanitarian law (IHL), collateral damage to civilians caught in warfare is restrained through the rule of proportionality. The first part of this chapter explains how this increasingly controversial area is dependent on the perceptions, values and good faith of the military commander in the specific instance. In determining which Buddhist teachings can guide the mind in this grey area, the quality of *appamāda*, 'heedfulness', is significant. The Buddha refers to it several times in his sermons (*suttas*) and, most importantly, included it in his final words before his demise. The second part explores what the Buddha meant by *appamāda* and argues that the concept has a moral dimension useful in decision-making for Buddhists engaged in warfare. The third part discusses Emperor Ashoka to whom the monk Nigrodha preached the *Appamāda Vagga*. The change in Emperor Ashoka's manner of ruling and conquering as manifested in his many edict inscriptions proves that Buddhist values can be practically applied by the laity, not just monastics. The fourth analyses how *appamāda* could guide the minds of Buddhists engaged in warfare, and proposes that this could be done through sermons (to transform intention) and meditation (to aid such transformation).

KEYWORDS appamāda; Ashoka; intention; karma; laws of war; international humanitarian law; mindfulness; proportionality; reasonable military commander

Introduction

International humanitarian law (IHL) has made great strides in regulating the conduct of hostilities. However, implementation of IHL is not wholly successful without genuine commitment to its ideals. This necessitates establishing that IHL is not a foreign body of law but that its core principles of humanity and reducing suffering are also found in local religions. With this broad aim in view, this chapter seeks to build a dialogue between IHL and Buddhism by examining how the Buddha's teachings can ensure greater compliance with

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IHL among Buddhist communities. This article is presented in four parts. The first discusses collateral damage, its controversial nature and the issue of subjectivity from an IHL perspective. The second deals with the concept of *appamāda*, 'heedfulness', and how it can guide decision-making in instances of potential collateral damage to civilians. The third part discusses the positive impact of Buddhism in times of war in relation to the conversion of Emperor Ashoka to whom the monk or novice Nigrodha famously preached the *Appamāda-vagga*, and the fourth explores how in modern times, Buddhist monks could play a role in influencing Buddhists engaged in warfare through sermons and discussions. This analysis is based on the teachings and practices of Theravāda Buddhism as it is practised in Sri Lanka.

The broad aim of this article is to identify how a particular Buddhist concept or teaching can be interpreted in warfare to reduce suffering. Despite certain limitations in this study, one necessarily finds that the two disciplines can meet on some plane, because both have the aim of addressing human suffering, albeit from different perspectives.

Collateral damage

The concept

In this section, I shall first explain collateral damage, which is an increasingly controversial concept in IHL. The International Committee of the Red Cross (ICRC) glossary of terms used in IHL defines 'collateral damage' as

the incidental damage, loss or injury that is caused to civilians and civilian objects in the course of an attack against a legitimate military target despite the taking of all necessary precautions to prevent or to minimise such damage, loss or injury. (ICRC 2009, 5)

The rule of proportionality in *jus in bello* restrains collateral damage. It is a principle of IHL that requires that the expected civilian deaths, injuries to civilians and damage to civilian objects incidental to an attack on a military objective must not be excessive compared to the military advantage anticipated from that attack (ICRC 2009, 11). At the diplomatic conference leading to the adoption of Additional Protocol I (AP I) to the Geneva Conventions, several states expressed concern that the principle of proportionality contained a danger for the protection of the civilian population because it meant that incidental loss of civilian life could be justified in some instances, but conceded that there was no workable alternative solution (ICRC 2005, 46–47).

AP I codifies the rule of proportionality. It provides that one should refrain from launching any attack that may be expected to cause incidental loss to civilian life, injury to civilians, damage to civilian objects or a combination thereof which would be excessive in relation to the concrete and direct military advantage anticipated (Article 51(5) b). Relatedly, Article 57 of AP

I elaborates on the manner in which all feasible precautions should be taken to avoid and, in any event, minimise incidental loss to civilians (ICRC 1977). With regard to non-international armed conflicts, there is no express reference to the principle of proportionality in Additional Protocol II to the Geneva Conventions (AP II). However, it has been argued that it is inherent in the principle of humanity explicitly mentioned in its provisions (ICRC 2005, 48). Apart from this, recent treaty law (e.g. Amended Protocol II to the Convention on Conventional Weapons) and military manuals (e.g. of Canada, Croatia, Germany, South Africa) also reiterate the applicability of the principle to non-international armed conflicts (ICRC 2005, 48).

Further, Rule 14 of the ICRC Customary IHL Study affirms that the provisions of AP I Article 51(5) b reflect the state of customary IHL, applicable in both international and non-international armed conflicts (ICRC 2005, 46). This is important because customary IHL is binding on all parties to a conflict, independent of treaty law. The customary nature of the rule has also been mentioned in some jurisprudence of various international tribunals. For instance, the *Military Junta* case judgement by the National Appeals Court of Argentina and the *Martić* case of the International Criminal Tribunal for Yugoslavia (ICTY) can be considered. In the latter case, Martić was charged with wanton destruction of villages and attacks on civilians among other charges. The Trial Chamber in this instance emphasised that disproportionate attacks could not be justified in relation to such concepts as distinction and collateral damage (ICTY 2007, 29, 35).

In the 'Advisory Opinion of the International Court of Justice (ICJ 1996a) on the Legality of the Threat or Use of Nuclear Weapons', the opinion of the Court considers the concept of proportionality in determining the legality of the use or threat of use of nuclear weapons. The dissenting opinion of Judge Weeramantry (the Sri Lankan-born jurist Christopher Gregory Weeramantry, 1926–2017, who has also written about Buddhism and IHL) is based on the proposition that the use or threat of use of nuclear weapons is illegal in any circumstances whatsoever (ICJ 1996b, 433). This opinion maintained that the principles of humanitarian law governed this situation and that from the very beginning, humanitarian law took into account a realistic perception of the brutalities of war, and the need to restrain them in accordance with the dictates of humanity. The opinion of Judge Weeramantry concludes with a reference to the appeal in the Russell–Einstein Manifesto to 'remember your humanity and forget the rest', without which the risk arises of universal death (ICJ 1996b, 554).

Nevertheless, whether the principle of proportionality is customary international law is debated by some scholars, and therefore its effect on states that have not ratified AP I is uncertain.

Controversies and new standards

The concept of collateral damage has been described as perhaps the most puzzling and subjective concept in IHL (Sloane 2015, 301–302). This article looks to Buddhist teachings, which can be made relevant to this area due to three main factors. First, while IHL offers guidelines in the practical application of the rule of proportionality, some inadequacy remains. Secondly, unforeseen developments in modern warfare add complexities. Thirdly, there is an inherent issue which is that claiming innocent lives are collateral damage is ethically unacceptable.

If the first factor is considered, it is clear that experts have attempted to reduce the subjectivity embedded in the concept mainly through the introduction of the ‘reasonable military commander’ standard. This standard first seems to appear in the ‘Final Report to the Prosecutor by the Committee Established to Review the NATO Bombing Campaign Against the Federal Republic of Yugoslavia’ (ICTY 2000, 15). In black and white cases, it would be very easy to decide whether the incidental loss is acceptable or not, but most instances are not black and white. When we add into the equation the fact that the speculation of incommensurables has to be done *ex ante* (before the event, based on forecasts rather than actual results) and under pressure, assessment of acceptable loss is not easy (Sloane 2015, 312). Further, as the Final Report mentioned above states, ‘commanders with different doctrinal backgrounds and differing degrees of combat experience or national military histories would not always agree in close cases’ (Fenrick 2009, 279). The implication is that the standard of reasonableness introduced to reduce subjectivity is itself subject to some subjectivity.

Even experts cannot agree on an exact definition for collateral damage or what amounts to collateral damage in a given situation. At the International Experts Meeting 2016 on the Principle of Proportionality, in Quebec, it was agreed that there are definitional problems with regard to when damage is concrete and direct and in what circumstances damage could be said to be excessive. There are also difficulties in defining and identifying instances of reverberating effects and dynamic targeting, as opposed to pre-planned deliberate targeting (ICRC 2016, 224). Reverberating effects are consequences that are not directly and immediately caused by an attack but which are nevertheless a result of the attack. Dynamic targeting occurs when a target was not anticipated, such as when targets are passed to aircraft already airborne as hostile forces are identified, thereby limiting the opportunity for comprehensive target analysis. In contrast, pre-planned deliberate targeting, as the term conveys, occurs when a target is anticipated beforehand and information on it is comprehensively analysed within a longer time frame (Schmitt 2009, 337; Roorda 2015, 158).

Secondly, the changing face of modern warfare increases the possibility of civilian losses. Perhaps the main factor contributing to this is that warfare is shifting from ‘traditional battlefields’ to densely populated urban areas. One need only look at the recent conflict in Syria to fully grasp the gravity of this fact. Another reason is the prevalence of non-international armed conflicts (NIACs) and other internal armed conflicts (rather than international armed conflicts) with the result that in most instances, the non-state belligerent parties resort to such tactics as guerrilla fighting and the use of human shields, all of which make the civilian population caught in the midst of the battle more vulnerable (ICRC 2017).

Thirdly, at issue is whether death, injury and other losses to civilians are justifiable even as collateral damage. In IHL too, civilians and civilian objectives have been granted considerable protection, most notably in the principle of distinction, which states that civilians and civilian objectives may never be directly targeted in attack (ICRC 2005, 3). While there are widely differing opinions on this, the short answer would be that while it is not morally acceptable or justified, in practical terms it is acceptable.

Determining the practical application of the rule of proportionality is difficult as it offers no binary answer. The example of a soldier who decided to fire a weapon that could malfunction and so detonate before reaching the target 5% of the time, and might therefore kill numerous civilians, is illustrative of this situation. Here there is a low risk of a high amount of collateral damage. The reverse situation could also obtain, where there is a high risk of a low amount of collateral damage (Sloane 2015, 314).

Notwithstanding the controversial aspect of the concept of collateral damage, this article does not attempt to address any of these controversies. Instead, it will examine the subjectivity embedded in the concept. It cannot be denied that there is an element of subjectivity in decision-making in the practical application of the rule of proportionality, and in many instances proportionality could be a value judgement. The Commentary to AP I, referring to this, states:

it seemed necessary to leave a *fairly broad margin of appreciation* to those who will have to apply the rules. Thus, their effectiveness will depend to a large extent on the *good faith of the belligerents* and on their *wish to conform to the requirements of humanity*. (ICRC 1987, 589, emphasis added)

While this leeway is necessary, it could in reality transform itself into a grey area for decision-making, which in turn means that collateral damage (justifiable in IHL) could easily become ‘wanton destruction’, which is never acceptable. The concept of collateral damage itself is controversial, but what is more problematic is that the subjectivity inherent in the concept makes way for increasing ‘wanton destruction’ in the guise of collateral damage (Bica

2007). Wanton destruction can be defined as violence that is not justified by the principle of military necessity in IHL. However, there have been instances where belligerents attempt to justify such violence by trying to pass it off as collateral damage (Bica 2007). In an area rife with such controversy there is a need to explore which Buddhist teachings might guide combatants in their decision-making.

Appamāda – heedfulness

The concept of appamāda

An exploration of the concept of *appamāda* demonstrates that it was an integral idea in early Buddhism. It has been variously rendered as heedfulness, conscientiousness, care, non-complacency and sometimes mindfulness (Glossology s.v. *appamāda*), and Bhikkhu Bodhi renders it ‘diligence’ in his *Samyutta Nikāya* (SN) translation (Bodhi 2000, 77, 179). These different terms highlight the fact that it is hard to find an exact equivalent of the term in English. Something is lost in translation. Buddhologist Ernst Steinkellner renders the concept into German as ‘*wachsame Sorge*’, ‘watchful/vigilant care’ (cited in Batchelor 2005, 8). When broken into the constituent parts, it is ‘*a + (p)pa + māda*’. The prefix ‘*a*’ is a negative signifying the absence of the quality described (when the negative ‘*a*’ is added before the ‘(p)pamāda’, it signifies that the quality of ‘pamāda’ is absent). The root word is ‘*mad*’ which means intoxication. Some related words are ‘*matta*’ (maddened, intoxicated) and ‘*majja*’ (intoxication). ‘*Pa*’ is a prefix signifying that the action is carried to extremes (Jayarava 2009). Thus *pamajja* would be not only ‘drunkenness’ but ‘blind drunkenness’ to an extent that it is delinquent and is a source of danger to others. *Appamāda*, then, is the opposite of this and is further elaborated as the vivid, clear watchfulness one might have when confronted with a poisonous snake or a hungry tiger (Jayarava 2009). This metaphor is significant as it shows the standard of heedfulness one needs to exercise at all times and especially before making decisions that could impact on oneself and others. Metaphorically, the ‘dangerous beast’ is the passions, prejudice, hatred, lack of clarity and rashness that can cloud one’s mind.

Why appamāda?

But why is *appamāda* being considered in the context of this article? Why not any other Buddhist teaching? The quality of *appamāda* is clearly a skill vital in our daily actions, as the Pali Canon refers to it repeatedly. For instance, the *Appamāda Sutta* (SN 3.17, Thanissaro Bhikkhu 2013) recounts

the tale of how King Pasenadi asked the Buddha whether there was any one quality which could bring benefit in both this life and the lives to come. The Buddha replies by saying that this one quality is *appamāda*, which, just as the footprint of the elephant can encompass the footprint of all other animals, contains and is supreme among all qualities (Batchelor 2005, 9).

The *Dhammapada* (v. 21), in the chapter called *Appamāda-vagga*, says that heedfulness is the path to deathlessness:

By sustained effort, discipline and self-control, the wise man makes for himself an island, which no flood overflows [An island on a higher level cannot be flooded by the floods of sense desire – (*kāma*), false beliefs (*ditthi*), craving for existence (*bhava*) and ignorance (*avijjā*)]. (*Dhammapada* v. 25, translation by Narada Thera 1954, 27)

Monk Nigrodha preached the *Appamāda-vagga* to Emperor Ashoka and the concept seems to have made a deep impression on him, as will be discussed later. Further, the *Samyutta Nikāya* contains an *Appamāda-vagga* (SN.45.139–148) as well as many scattered *suttas* on *appamāda* (SN.1.36; 3.17–18; 12.22; 20.1–2; 35.97; 35.134; 46.31; 48.56; 55.40).

While the *Mahā-parinibbāna Sutta* does not elaborate on this quality, despite being the longest *sutta* in the canon, and covering the final three months of the Buddha's life, it further heightens the significance the Buddha gave to the concept in recording his last words as follows:

Handa dāni bhikkhave āmantayāmi vo:

Vayadhammā sankhārā appamādena sampādetha

Behold now, bhikkhus [monks], I exhort you:

All compounded things are subject to vanish. Strive with earnestness!

(*Mahāparinibbāna Sutta* v. 324, DN 16, 6.8 (DN.II.156), translation by Sister Vajira and F. Story 1998)

As Batchelor comments, the Buddha, as an experienced teacher of almost 45 years, was aware of the impending end of his life, and would have looked for a unifying concept embracing all that he had preached to be part of his last words (Batchelor 2005, 9). *Appamāda* is, then, a rich and significant concept that Ven. Nārada justly sums up as the ethical essence of Buddhism (Narada Thera 1954, 24).

Appamāda is also associated with the quality of restraint and therefore is possibly the most relevant quality one could cultivate for awareness of one's actions and their consequences:

If one dwells with restraint (*saṃvara*) over the eye faculty, the mind is not soiled among forms cognizable by the eye. If the mind is not soiled, gladness is born. When one is gladdened, rapture is born. When the mind is uplifted by rapture, the body becomes tranquil. One tranquil in body experiences happiness. The mind of one who is happy becomes concentrated. When the mind is concentrated, phenomena become manifest [*dhammānaṃ pātubhāvā*], one is reckoned as 'one who dwells diligently'. (Jayarava 2009)

As maintained throughout this article, the issue with the concept of collateral damage is that it leaves a margin of discretion for those applying the rule of proportionality. Thus, restraint over the sense organs and mind in decision-making is necessary and *appamāda* as a quality could guide individuals for their own betterment in terms of merit (good karma) and benefit both themselves and others through reduced suffering.

Since the control of the mind is central in decision-making, analysis of the thought process in Buddhist metaphysics is relevant. As shown in Table 1, there are altogether 52 mental factors (*cetasika*) which can, in different combinations, go into the making of a given consciousness (*citta*). Out of these, seven are called 'universals' or 'essentials' because all of them are present in all states of consciousness. Then there are six more that are called 'particulars' because they are not invariably present in consciousness. They can be part of a wholesome or unwholesome consciousness, and their presence intensifies its strength. Next there are 14 unwholesome mental factors, and these associate with the 13 factors mentioned above (the universals and particulars) in various combinations to give rise to an unwholesome consciousness, as shown in Figure 1 (Baptist 2008, 2–5).

Then, there are 19 beautiful or wholesome mental factors and six additional beautiful or wholesome factors. All the 19 factors have to be present to give rise to any beautiful or wholesome consciousness. As we can see in Figure 2, when these 25 wholesome mental factors (with the 19 wholesome factors necessarily present) combine in different ways with the 13 factors ('universals' and 'particulars') mentioned before, they can give rise to a wholesome consciousness (Baptist 2008, 2–5).

It is important to observe that this analysis indicates a beautiful consciousness requires more mental factors to go into its making than the number of mental factors needed to form an unwholesome consciousness. A necessary implication of this would be that doing what is good or wholesome is harder and requires more effort, whereas it is easier for an unwholesome consciousness to arise.

Appamāda can be translated and understood as 'mindfulness' and as a mental quality that is related to *manasikāra*, *ekaggatā*, *virīya*, etc., but it does not appear in the list of *cetasikas* (52 mental factors), given in Table 1. Rather than a separate state of mind, *appamāda* might be best seen as a quality with which one might try to imbue *sati* (Lomas 2015). *Appamāda* is thus, a quality that must be carefully cultivated to control one's mind through

Table 1. The 52 mental factors (*cetasika*) listed in Theravāda *Abhidhamma*.

The seven essentials or universals (<i>sabba-citta-sādhāraṇa</i>)	<ol style="list-style-type: none"> 1. Contact (<i>phassa</i>) 2. Feeling (<i>vedanā</i>) 3. Perception (<i>saññā</i>) 4. Volition (<i>cetanā</i>) 5. One-pointedness (<i>ekaggatā</i>) 6. Psychic life (<i>jīvitindriya</i>) 7. Attention or mental advertence (<i>manasikāra</i>)
The six particulars (<i>paṇṇaka</i>)	<ol style="list-style-type: none"> 1. Initial application (<i>vitakka</i>) 2. Sustained application (<i>vicāra</i>) 3. Deciding (<i>adhimokkha</i>) 4. Effort (<i>viriyā</i>) 5. Interest, joy (<i>pīṭi</i>) 6. Desire-to-do or intention (<i>chanda</i>)
The 14 unwholesome mental factors (<i>akusala cetasika</i>)	<ol style="list-style-type: none"> 1. Dullness or delusion (<i>moha</i>) 2. Lack of moral self-respect (<i>ahirika</i>) 3. Lack of concern for consequences of actions (<i>anottappa</i>) 4. Restlessness (<i>uddhacca</i>) 5. Greed (<i>lobha</i>) 6. Wrong view (<i>ditṭhi</i>) 7. Conceit (<i>māna</i>) 8. Hate (<i>dosa</i>) 9. Envy (<i>issā</i>) 10. Sloth (<i>thīna</i>) 11. Torpor (<i>middha</i>) 12. Selfishness (<i>macchariya</i>) 13. Sceptical doubt (<i>vicikicchā</i>) 14. Worry (<i>kukkucca</i>)
The 19 essential beautiful (wholesome) mental factors (<i>sobhana cetasika</i>)	<ol style="list-style-type: none"> 1. Faith (<i>saddhā</i>) 2. Mindfulness (<i>sati</i>) 3. Self-respect/sense of moral integrity (<i>hiri</i>) 4. Concern for consequences of actions (<i>ottappa</i>) 5. Non-greed (<i>alobha</i>) 6. Non-hate, amity (<i>adosa</i>) 7. Equipoise (<i>tatra-majjhataṭṭā</i>) <p>The six pairs:</p> <ol style="list-style-type: none"> 8. and 9. Composure/tranquillity (<i>passaddhi</i>) of mental properties and of mind 10. and 11. Buoyancy (<i>lahutā</i>) of mental properties and of mind 12. and 13. Pliancy (<i>mudutā</i>) of mental properties and of mind 14. and 15. Fitness to work (<i>kammaññatā</i>) of mental properties and of mind 16. and 17. Proficiency (<i>pāguññatā</i>) of mental properties and of mind 18. and 19. Rectitude/straightforwardness (<i>ujjukatā</i>) of mental properties and of mind

(Continued)

Table 1. (Continued).

The six additional beautiful mental factors	The three abstinences: 1. Right speech (<i>sammā-vācā</i>) 2. Right action (<i>sammā-kammanta</i>) 3. Right livelihood (<i>sammā-ājīva</i>) The two illimitables (<i>appamañña</i>): 4. Compassion (<i>karuṇā</i>) and 5. Appreciative joy (<i>muditā</i>) 6. Wisdom (<i>paññā</i>)
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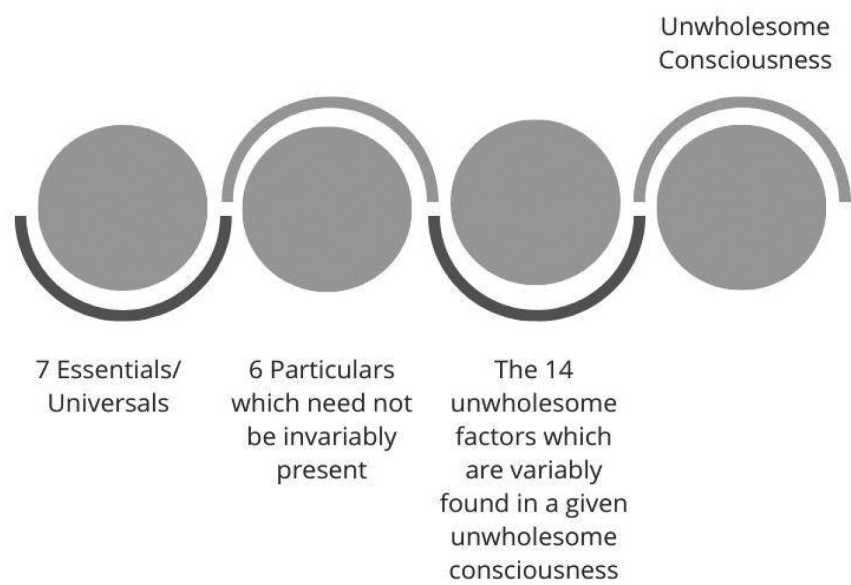


Figure 1. The combination of mental factors in an unwholesome consciousness.

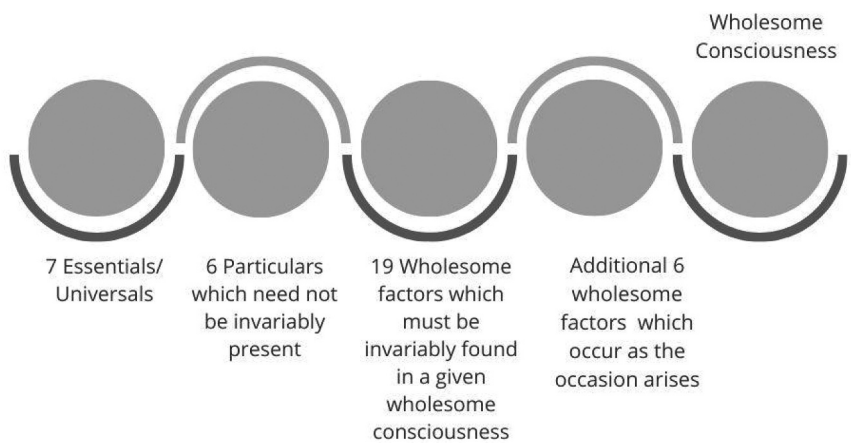


Figure 2. The combination of mental factors in a wholesome consciousness.

heedfulness of *cetasikas*. It has been said that the prime importance of *appamāda* is that it introduces an ethical dimension to mindfulness practice. One is not just aware of what is happening (i.e. *sati*); one explicitly connects it to Buddhist teachings on ethics and morality (Lomas 2015). Hence, the quality of *appamāda* (heedfulness) would be vital in energetically guarding one's consciousness against the arising of an unwholesome consciousness.

Emperor Ashoka – a character study

Conversion to Buddhism (transforming intention)

None would deny that Ashoka (mid-third-century BCE) was one of those Buddhist rulers who left his mark on the religion that had influenced so many aspects of his political vision. His own inscription records that he sent missionaries – termed messengers of Dharma – to outlying regions and countries, while the Sri Lankan chronicles relate how he sent his own son Mahinda Thera to the island as one such missionary (Guruge 1993, 157–160).

Some scholars believe that there was a subtle political design in these attempts to propagate Buddhism – or at least Dharma in a broader sense – in neighbouring regions. This seems to be especially pertinent in Sri Lanka, to which country he also – again, according the island's chronicles – sent the Mauryan regalia inviting his friend Tissa, the king of Sri Lanka, to perform a second coronation according to the Mauryan tradition and embrace Buddhism as he himself had done (Guruge 1993, 407). If the significance of the powerful Mauryan emperor instructing the ruler of the neighbouring island in this manner is examined critically, one would have to agree that the above view, namely that there was political design in Ashoka's attempts to spread Dharma, is not so far off the mark. However, the approach taken by Ashoka also indicates the influence Buddhism had on his character and worldview. Where earlier he would have set off with armies to conquer regions, here he is sending missionaries. Instead of following his previous policy of conquest through violence and intimidation, he had in the course of a few years shifted to a policy of conquest by Dharma (*dharmma-vijaya*) (Guruge 1993, 490–491). One could argue that Ashoka had come to a position from which he could influence neighbouring rulers with such non-violent methods because of the terrible wars he had launched earlier and the fierce reputation he had built upon them. This article does not present the view that wars should be prevented altogether, but that violence and suffering should be minimised during armed conflicts that are to some extent inevitable. This makes Ashoka an important figure in our consideration of Buddhism and IHL.

In assessing the impact Buddhist teachings could have on Buddhists engaged in warfare, one could look to the conversion of Emperor Ashoka and the influence it had on his world view. According to the *Mahāvamsa* (v. 189), Ashoka was earlier called *Candāsoka* 'Ashoka the Wicked' because of his evil deeds (Guruge 1993, 74). Other sources explain that this epithet was conferred on him for fratricide, the killing of 99 half-brothers in his wars of succession (Guruge 1993, 78–81). Ananda Guruge mentions that there is a difference between the portrayal of Ashoka in the Northern Buddhist sources (the *Divyāvadāna* and Chinese and Tibetan Buddhist sources) and that provided in the Pali sources of Sri Lanka. The former portrays Ashoka as ruthless and vicious, recounting his many evil deeds, perhaps in order to accentuate the saving grace of Buddhism. However, as many scholars including Guruge argue, these accounts are so incredible (with numerous supernatural embellishments) as to be improbable (Guruge 1993, 81–87). In contrast, the Pali sources depict Ashoka as having committed low deeds but also as an individual with a consciousness about right and wrong. For instance, the Sri Lankan chronicle, the *Dīpavamsa* describes the years after his ascension to the throne as a time when Ashoka actively searched for truth in religion. In his search for Dharma he invited many religious persons to the palace and questioned them. According to the *Samantapāsādikā*, this was also a search for persons with *antosāra* (inner essence) (Guruge 1993, 99). It was at this time that Ashoka came upon the monk Nigrodha, and there are two versions describing the manner in which Ashoka was converted by him. The first explains that Ashoka took refuge in the *Buddha*, *Dhamma* and the *Saṅgha* on the same day following a sermon on *Appamāda-vagga*, the Chapter on Heedfulness:

Hearing the king's spirited words, Nigrodha who was well-versed in the comprehension of the nine-fold doctrine pondered over the precious Tripiṭaka. He saw the excellent discourse on Heedfulness: 'Heedfulness is the path to immortality. Heedlessness is the way to death.'

The heedful never die and the heedless are like the dead'. (*Dīpavamsa* VI.52–53, cited in Guruge 1993, 101)

The second version, in contrast, portrays Nigrodha as a young novice whom the king saw through a palace window and, pleased by his calm demeanour, invited to the palace for a meal.

At the end of the meal, the king asked, 'Do you know any advice given to you by your teacher?'

'I know, Great king, from one sermon'. (*Samantapāsādikā*, cited in Guruge 1993, 104)

It then describes how he expounded the *Appamāda-vagga* of the *Dhammapada* and how Ashoka, pleased with Nigrodha's manner and conduct, was introduced to other senior monks who could discourse on

Buddhism at length with the king. The *Mahāvamsa* (vv. 71–72) too does not describe the king's conversion as taking place on the same day (Guruge 1993, 102).

Dr Guruge states that in considering these sometimes contradictory accounts, what is closer to the truth and more probable is that, first, Ashoka was not wholly evil as some sources portray him to be, and, secondly, he was not miraculously converted in one day upon hearing one sermon by a young novice. In this regard, Guruge writes 'the text that a *sāmanera* of tender years is most likely to know is the *Dhammapada*. Nigrodha's statement that the verse he recited was all that he knew from one discourse is quite understandable' (Guruge 1993, 105–108).

This fact is quite important for the furtherance of the idea presented in this article because it shows the effect that Buddhism has had on ordinary individuals, much like the average individual one would find in military forces in modern times – a person who is neither wholly evil nor saintly but something in between. Secondly and more importantly, it shows that Ashoka did not in one day convert to Buddhism but that it was a gradual process beginning from his growing consciousness about right and wrong, which aspect will now be examined as a character study for the quality of *appamāda* in the context of his edicts and inscriptions. It is best to analyse the impact of Buddhist teachings on Asoka through what he has expressed in these, rather than any other historical source, because they show who he was, or aspired to be, in his own words (it should be noted that in his inscriptions, Ashoka describes his own conversion as owing mainly to the carnage he witnessed during the Kaliṅga War).

Appamāda as manifested in Ashoka inscriptions

One cannot conclusively state that *appamāda*, the quality described in the first sermon preached by the monk Nigrodha to the emperor, made a significant change in the emperor's character. It is more likely that a combination of teachings by the Buddhist monks that the emperor began to associate with would have been instrumental in transforming his character. However, it can be argued that this particular Buddhist concept made a deep impression on Ashoka as ideas similar to heedfulness appear quite often in his inscriptions.

For instance, in his first Major Rock Edict, Ashoka recounts how he reduced the number of animals killed for food in the palace kitchens, manifesting how Ashoka heeded the consequences of his own actions and restrained the killing of living beings, even though it was killing done for the purpose of sustenance. The ninth Major Rock Edict also advocates restrained behaviour towards all living beings. His fourth Major Rock Edict reflects an idea that is embedded in the concept of heedfulness: one must

be always watchful of one's intentions and where one fails to guard against bad thoughts, one must not be complacent but strive again and again. In a similar vein, the fifth Major Rock Edict states that doing good is difficult. It was discussed earlier how a wholesome consciousness takes much more effort to develop than an unwholesome consciousness. This inscription captures that idea succinctly.

Further, the first Separate Edict (at Dhauli and Jaugada) to the officers and city magistrates at Tosali/Samapa states,

you are in charge of many thousands of living beings. You should gain the affection of men. All men are my children ... You should strive to practice impartiality. But it cannot be practiced by one possessing any one of these faults – jealousy, shortness of temper, harshness, rashness, obstinacy, idleness or slackness. You should wish to avoid such faults. The root of all this is to be even tempered and not rash in your work ... (Thapar 1961, 257)

This inscription is important as it admonishes rulers and administrative officers against unwholesome thoughts. Such strenuous guarding against unwholesome thoughts would be important for belligerents to prevent them from taking hasty decisions out of unwholesome motives such as anger, obstinacy and hatred.

Buddhist concepts in practice

How can appamāda guide decision-making?

In this section, we will examine the manner in which *appamāda* can guide decision-making during warfare, by navigating with skill and care the subjectivity present in the practical application of proportionality. The concept of proportionality could in practice very easily be abused by belligerents due to wanton disregard or because of negative states of mind such as anger, hatred, prejudice or revenge.

The standards that have evolved so far in the legal sphere to guide decision-making with regard to the application of proportionality are the requirement for good faith, the desire to conform to the requirements of humanity and the 'reasonable military commander' standard. Scholars agree that while these standards might be nebulous, they are the best acceptable standards for now (Sloane 2015, 318). In contexts where compliance with legal requirements is not satisfactory and laws are flouted, we are also interested in whether Buddhism can be a compulsive force in relation to Buddhist communities in encouraging heedfulness of one's own actions. Firstly, one could ask the question, what does good faith mean to Buddhists? As good faith in belligerents is important in deciding difficult questions of proportionality, and given the emphasis on the quality of *appamāda* in summing up Buddhist teachings, the concept of *appamāda* could be used in defining

good faith for Buddhists. One could argue that it means an awareness of one's own intentions and whether such intentions are bad or good, or whether one is thinking in such a way as to give rise to a wholesome consciousness.

Secondly, how would Buddhists be compelled to conform to 'the requirements of humanity'? In this instance, the compulsion to conform to an acceptable standard of conduct would be both an internal one (arising from one's own understanding of Buddhist teachings and need to adhere to such teachings) and a social one. It is here that the role of Buddhist monks and the influence they exert over the laity is crucial. When Buddhist monks advise on the manner in which one engaged in warfare should conduct himself, this creates public opinion and carries considerable weight. Belligerents who act in contravention of the requirements of humanity at both the political and military command levels would be subject to social judgement, which could also have politically adverse effects for them.

Thirdly, it has to be considered how the reasonable military commander standard would apply to Buddhists. Reasonableness, even though it is an acceptable and often used criterion in both domestic and international legal spheres, can also be subjective. Sloane writes, 'as every first-year law student learns, the number and variety of questions begged by the legal device of the reasonable person are legion, and there is a sense in which it restates rather than answers those questions' (Sloane 2015, 318). It could be said that this standard requires a commander to act with good faith and within reason in a rational manner. In acting rationally, too, the heed paid to one's intention would guide the decision maker to think with a calm mind, unclouded by negative thoughts, and of course to be careful to ascertain the facts of the situation as far as possible in the given circumstances. In this regard, it is also important to pay attention to a new theory, the *as if* theory, which dictates that a military commander should determine the acceptable levels of collateral damage *as if* the civilians at risk were civilians of his own state/group (Sloane 2015, 323–331). In the context of conflict between two belligerents belonging to two ethnic groups, for instance in the civil war between the Sri Lankan government and the Liberation Tigers of Tamil Eelam (LTTE), the Sri Lankan army, the majority of which is Sinhalese, would have to treat Tamil civilians the same as Sinhalese civilians. In Sri Lanka, this duty applies to the government in any case, since it has a responsibility towards all citizens regardless of ethnicity.

Sloane writes that while there is value in this theory, no military has ever conducted armed conflict in this manner, or even aspires to do so (Sloane 2015, 326). Perhaps, but this theory is in consonance with the high ideals of IHL, as well as Buddhist teachings such as *mettā* (loving kindness – 'just as a mother would protect her only child with her life

even so let one cultivate a boundless love towards all beings') taught in the *Karaṇīyamettā Sutta* (*Karaṇīyamettā Sutta*, translation Piyadassi Thera 1999).

This article has discussed how *appamāda*, if cultivated, could guide decision-making to reduce suffering during conflict. Indeed, the importance of *appamāda* for combatants was already recognised by the third-century CE Buddhist philosopher Nāgārjuna, who in his *Ratnāvalī*, addressed to a king, refers to heedfulness (*appamāda*, Sanskrit *apramāda*) as a requirement for commanders, using the term *nityāpramatta*, meaning ever (*nitya*) heedful (*apramatta*):

*akṣudrāṃs tyāgināḥ śūrān snigdhan sambhogināḥ sthīrān kuru nityāpramattāṃs
ca dhārmikān daṇḍa-nāyakān.*

As army commander, appoint someone who is magnanimous, free of attachment, courageous, gentle, reliable, ever-conscientious and is a follower of dharma. (translation by Tamas Agocs, in Harvey 2018, chapter 4, v. 12)

However, the question remains how this quality can be cultivated, especially in soldiers whose focus admittedly needs to be more on intensive military training rather than the training of the mind on the Buddha's path. For this, one needs to understand the significant role Buddhist monks play in their interactions with military forces before, during and after warfare. Secondly, one needs to examine the value of sermons and meditation in inspiring a Buddhist way of thinking and transforming intention.

The role of Buddhist monks

Buddhist monks play an important role during warfare. While this is sometimes considered an 'anomaly' because some believe that monks should lead a secluded life and not associate with military men, others believe that monks have the potential to play an active role in advising and guiding those engaged in warfare (Kent 2008, 77, 105). Perhaps there is a duty for Buddhist monks to advise and guide those who genuinely attempt to take refuge in the *Buddha*, *Dhamma* and *Saṅgha* (i.e. practising Buddhists) regardless of their profession (Kent 2008, 121–122). Regardless of which position one would adopt, monks have and will continue to influence Buddhists who fight. The role of Buddhist monks in reducing unnecessary violence and promoting calmness and intentionality in a soldier's mind has great potential to reduce suffering during conflict. A combatant's mind must be calm during conflict because he has a deadly weapon in his hand that can inflict great suffering on others, and must not be used heedlessly (Kent 2008, 129–134).

Most of the conclusions drawn in this part of the article are based on practical research done in Sri Lanka by Daniel Kent in *Shelter for You, Nirvana for Our Sons: Buddhist Belief and Practice in the Sri Lankan Army*, through interviews with Buddhist monks and soldiers during the years 2004–2007 – so, two years before the end of the civil war in 2009 (Kent 2008).

The role of the Buddhist preaching tradition is often underestimated by historians of religion and Buddhologists (Deegalle 1997, 429). It is easier to comprehend the value of sermons if one looks to them ‘*as actions meant to produce intended effect rather than didactic pronouncements*’ (Kent 2008, 93, emphasis added). However, the performative aspect of Buddhist sermons depends on three aspects: firstly, the original authority or the source of the sacred words – that is, the Buddha and the veneration accorded to him; secondly, the way in which doctrine becomes a sacred object symbolising cultural heritage; and, thirdly, the authority of the religious expert who is reciting them (Kent 2008, 79). If the first of these factors is considered, *appamāda* would have considerable appeal to all Buddhists simply because the concept is emphasised in the famous last words of the Buddha, found in the *Mahā-parinibbāna Sutta* (see above). Any Buddhist reading this *Sutta* would not fail to be moved by the demise of the great teacher, and the last address of the Buddha to the monks around him would make a deep impression. The use of narrative and stories in sermons can also increase their appeal to the laity (Kent 2008, 91–125). With regard to the authority of the religious expert, it is important to note that the appearance, demeanour and conduct of Buddhist monks preaching would play a role in commanding the respect of the laity (Kent 2008, 115). As discussed earlier, this was one of the reasons why Emperor Ashoka was so impressed with the monk Nigrodha.

Apart from these three factors, the ideal sermon has to be *kālina* and *uccita* (timely and appropriate) (Kent 2008, 95). Amidst the uncertainty in the battlefield, the immediate need is not for nirvana but for mental stability and protection. The topic of a sermon for those entering battle therefore should look at both aspects of Buddhism, though primarily the worldly (*lokika*) rather than the transcendent (*lokuttara*). The attainment of nirvana is a long-term goal; progressing on the Buddhist path is a gradual process and, as such, making mundane topics relevant to this life is also important in sermons (Kent 2008, 80–81, 126).

Having observed the value of sermons, how exactly could one develop *appamāda* or heedfulness in a soldier through them? This is done by transforming intention, as will be discussed now.

The judgement of the International Military Tribunal at Nuremberg states that ‘crimes against international law are committed by men, not by abstract entities’ (United Nations 2005, 374). From a Buddhist perspective, one might

expand on this to say that crimes begin in the minds of men. Similarly, in his study of the use of sermons in relation to soldiers, Daniel Kent cites the monk Maduluwawe Sobhitha Thero's explanation:

'according to the Buddhist position, all wars are fought within the hearts of people . . . there are no conflicts where there is no greed, hatred and ignorance. No matter how terrible the reality of a war may be, every single war has one of these unwholesome roots at its core'. (Kent 2008, 10)

It is not to be denied by anyone, even those who justify Buddhists engaging in warfare, that negative karma is created when one engages in warfare with blatantly negative emotions such as anger, hatred and revenge. Kent also cites the monk Ven. Dhammalankara as saying, 'on the battlefield there is a war between two groups and people from both sides die. However, we can't condone the killing of innocent Tamils, Muslims or Sinhala. We tell them never to do such things' (Kent 2008, 131).

Thus, we find to some extent a dichotomy between Buddhism in theory and Buddhism in practice. Theravāda Buddhism in theory preaches non-violence and loving kindness towards all. But in practice, when advising soldiers, monks are compelled to acknowledge the reality of war and preach accordingly. In the difficult task of reconciling these aspects, Buddhist monks preach about the 'ideal' in 'Buddhist *practice*', the selfless soldier fighting without mental defilement only because he needs to fight to protect himself and others from harm and not out of anger or feelings of revenge (Kent 2008, 73). What is interesting is that the IHL ideal, based on the balance between military necessity and humanity, is the same. IHL envisages a soldier fighting only to the extent that military necessity requires, and cognisant always of humanitarian considerations. Perhaps this is where the two concepts can meet in practice.

In practice, then, Buddhist monks, when preaching to soldiers, do not concern themselves with whether war is justified or not. The focus, rather, is on the individual karma of one's actions (Kent 2008, 134). The majority of Buddhist monks and soldiers believe that some negative karma is necessarily created when engaged in battle and therefore monks, for the greater part, make an effort through their preaching and sermons to reduce unnecessary violence and the resultant bad karma. This is done by transforming intention, so that one does not kill with a mind clouded by unwholesome emotions or thoughts (Kent 2008, 59). This is in consonance with the quality of *appamāda* which cautions care with regard to our intentions, unwholesome intentions being the 'hungry tiger' and the 'poisonous snake' that cause self-harm by the infliction of unnecessary suffering on others which generates negative karma.

Meditation – training the mind

As a practice familiar to Buddhists from all over the world, meditation has a significant role in shaping the understanding and behaviour of persons from Buddhist communities. In addition to sermons, mindfulness meditation could be used as a means of training the mind, complementing the function of sermons in transforming intention.

Buddhism identifies three forms or levels of mindfulness which can be developed through mindfulness meditation practice. The first is *sati*, or awareness suffused with the spirit of recollection. This constitutes awareness of one's present moment or being mindful of one's own thoughts, feelings and actions. The second level of mindfulness is *appamāda* – that is, awareness suffused with a spirit of ethical care. The third level of mindfulness is *sampajañña*, or awareness suffused with a sense of spiritual development. It is the second of these, the development of *appamāda* in order to improve the standard of decision-making by combatants during armed conflict, which is of interest to us here. According to Buddhist teachings, *appamāda* (mindfulness infused with a spirit of ethical care) can be developed through mindfulness meditation practices (Lomas 2015). In order to develop the quality of *appamāda* through meditation, one must go beyond a mere awareness of what is happening and connect it to Buddhist teachings on ethics and morality. Mindfulness meditation training to develop the quality of *appamāda* must therefore go beyond simply being aware of one's thoughts, feelings and actions, to reflecting on whether one's actions are ethically sound. From such training emerge behavioural guidelines that engage mindfully in positive *karma* rooted in positive intentions (Lomas 2015).

Research has demonstrated with empirical data that mindfulness-based meditative training results in improvements in moral reasoning and ethical decision-making, mindful attention, emotion, and well-being. According to psychologists, there are four key components of moral reasoning, namely moral sensitivity, moral judgement, moral motivation and commitment, and moral character and competence. The first component, moral sensitivity, is defined as the awareness a person has regarding their actions (or inactions) and the potential effects their behaviour has on others (Shapiro, Jazaieri, and Goldin 2012, 2). Therefore, the foundation for moral reasoning lies in awareness or *appamāda*. The first step on the path to making moral judgements and moral commitment and thus developing one's moral character is awareness. Thus, meditation would help the mind think with clarity, be unclouded in urgent situations and respond with a clear awareness of one's own intentions. It could be successfully employed to guide the ethical reasoning and decision-making of combatants from Buddhist communities and give them practical training in practising the quality of *appamāda*.

Conclusion

It would be too idealistic to imagine that Buddhist teachings could prevent unnecessary suffering in warfare wholly and at all times. However, as the above discussion makes clear, it is possible that Buddhist teachings can exert a strong restraining force in instances where laws sometimes fail to exert influence.

Firstly, this is because religion is close to people's hearts and is something on which their faith, belief systems and cultures are founded. Thus, even where one thinks that something is not particularly illegal, if it is prohibited by one's religious teachings then the moral opprobrium attached to such action would deter belligerents from carrying it out. Secondly, even where one expects to escape the grasp of the law, Buddhists believe that there is no escape from the karmic results of one's intentions and actions.

In this article, I have focused on the quality of *appamāda* – heedfulness – showing its significance as a fundamental Buddhist teaching, both at the time of the Buddha and in transforming the character of Emperor Ashoka. By looking at the *Abhidhamma* analysis of the components of thought processes, I have demonstrated that wholesome thought processes in fact require more effort and more wholesome factors, meaning that it is easier to act with negative intentions and negative consequences than positive ones. This makes *appamāda* particularly important in guarding against the presence of negative intentions. Due to the fundamental nature of *appamāda* in Buddhist teachings and in safeguarding against unethical and ill-considered action, I have then argued for the importance of *appamāda* in combatants. I have proposed that *appamāda* can be developed in belligerents from Buddhist communities through sermons by Buddhist monks, identifying four factors that make sermons effective. These four factors include the high regard Buddhist communities hold for Buddhist monks and sermons conducted by them. Additionally, meditation on mindfulness could enhance *appamāda*, training the minds of soldiers and commanders to act according to the ethical values expressed in such sermons. Thus, the presence of the quality of *appamāda* in the decision-making of belligerents can to a certain extent fill the gap caused by the subjectivity and definitional problems inherent in the IHL rule of proportionality, and potentially reduce unnecessary suffering of civilians during conflict. This would reduce the problem of wanton destruction, allowing military decision makers at all levels to make better assessments of proportionality. It would also help judges assess the nature of what constitutes a reasonable commander within a Buddhist context, since *appamāda* can be understood as a quality to be expected of a reasonable commander from a Buddhist background. This would not be the first time that Buddhist principles have been used in such a context. For instance, in his dissenting opinion to the Advisory Opinion on the Legality of the Threat or Use of Nuclear Weapons, Judge Weeramantry uses religious principles to argue against the

use of nuclear weapons. The opinion recognises that the pacifist tradition of Buddhism could under no circumstances lend its sanction to weapons of destruction – least of all to a weapon such as the nuclear bomb, which destroys without any consideration as to principles of proportionality and distinction.

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