SELF-DEFENSE IN ASIAN RELIGIONS

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I. INTRODUCTION

For almost as long as the Western world has been encountering the Far East, many Westerners have misunderstood the East because of reliance on simplistic stereotypes. Although there has been, ever since the 1960s, a great Western interest in Eastern religions, many stereotypes about Eastern religions still persist. This Article aims to dispel two widespread misunderstandings: first the notion that Eastern religions (particularly Chinese ones) create an inclination in favor of passive submission towards unjust government. A second myth is that followers of Eastern religions, especially Buddhists, are all pacifists who would never use force to defend themselves or their community.

This Article investigates the attitudes of six Far Eastern religions—Confucianism, Taoism, Hinduism, Sikhism, Jainism, and Buddhism—towards the legitimacy of the use of force in individual and collective contexts. Although Western Judeo-Christian religious philosophy has developed, until fairly recently, with little direct influence from Far Eastern religions, the Eastern and Western religious traditions have arrived at some surprisingly similar conclusions regarding the legitimacy of the use of force.

In the West, the mainstream of religious and philosophical tradition has regarded personal self-defense and defense of innocent third persons to be a

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natural right.[1] Often, the principle of defense against unorganized criminals has been extended to include defense against criminal governments. Indeed, modern international law of warfare, including limitations on the conduct of warfare, is founded on the universal right of personal self-defense.[2]

Some extreme versions of legal positivism deny that there could be any such thing as natural law, or inherent human natural rights.[3] Supporters of natural law, including America's founders, contend that certain rights are inherent in the nature of human beings, regardless of culture.[4]

A concise expression of Western natural law can be found in the *Decretum*, which was written about 1140 A.D. by Gratian of Bologna, and which was a cornerstone of the development of the legal system in Western Europe (and therefore, in the Western Hemisphere) over the next millennium. Gratian explained: "Natural law is common to all nations because it exists everywhere through natural instinct, not because of any enactment."[5] Examples of natural law including "the union of men and women, the succession and rearing of children, . . . the identical liberty of all, . . . the return of a thing deposited or of money entrusted, and the repelling of violence by force. This, and anything similar, is never regarded as unjust but is held to be natural and equitable."[6]

Close analysis of Far Eastern religion provides some support for the existence of natural law. Self-defense is strongly legitimated in the theory and practice of the major Far Eastern religions. The finding is consistent with natural law theory that some aspects of the human personality, including the self-defense instinct, are inherent in human nature, rather than being entirely determined by culture.

Recently, the United Nations has asserted that there is no human right of self-defense.[7] Advocates of international gun confiscation have asserted that

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1. *See*, *e.g.*, David B. Kopel, Paul Gallant & Joanne D. Eisen, *The Human Right of Self-Defense*, 22 BYU J. PUB. L. (forthcoming, 2008); David B. Kopel, *The Catholic Second Amendment*, 29 HAMLINE L. REV. 519 (2006); David B. Kopel, *The Torah and Self-Defense*, 109 PENN ST. L. REV. 17 (2004).

2. *See*, *e.g.*, Kopel, *The Human Right of Self-Defense*, *supra* note 1.

3. *See*, *e.g.*, JOSEPH RAZ, THE AUTHORITY OF LAW: ESSAYS ON LAW AND MORALITY (1979).

4. *See*, *e.g.*, THE DECLARATION OF INDEPENDENCE para. 2 (U.S. 1776). "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness."

5. GRATIAN, THE TREATISE ON LAWS (DECRETUM DD. 1-20) WITH THE ORDINARY GLOSS, 1.7.2 (Augustine Thompson & James Gordley trans., Catholic Univ. Pr. of America, 1993)(12th Century).

6. *Id.* at § 3; *see also* Janet Coleman, *Property and Poverty*, in THE CAMBRIDGE HISTORY OF MEDIEVAL POLITICAL THOUGHT 617 (J.H. Burns ed., 1988).

7. *See* Human Rights Council, Subcommission on the Promotion and Protection of Human

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belief in a right to self-defense is a uniquely American value which is out of step with the rest of the world.[8] This Article offers evidence that, in fact, self-defense is an enduring value of human civilization.

Indeed, even the "well-regulated militia" of the American Second Amendment turns out to be an idea that preceded the Second Amendment by over two millennia in China. The religions which originated in China, Confucianism and Taoism, anticipate a great deal of Western thought about well-regulated militias being the most secure defense of a rightly-ordered society—that is, a society with a popularly-supported government which never engages in imperial aggression, and which is always able to defend its people from aggression.

The major Chinese religions are the subjects of Parts II through IV of this Article.

Part V addresses Hinduism, with a focus on the thought of Mohandas Gandhi. Two other religions of India—Jainism and Sikhism—receive brief treatments in Parts VI and VII. Buddhist scriptures are covered in Part VIII, while Part IX examines the actual practice of Buddhism in India, China, Korea, Sri Lanka, Burma and Thailand, Tibet (with a detailed look at the Dalai Lama's philosophy), and Japan.

Part X surveys the ethical basis of the martial arts, which were created for religious purposes by Buddhism and Taoism. Part XI looks at contemporary Buddhist attitudes towards non-violence. As it turns out, the Buddhist (and Hindu and Jaina) principle of *ahimsa*—of non-harming—is far more complex in its application than many Westerners have realized.

This Article examines political and personal philosophy as expressed in various religious traditions. Unlike, for example, the Jewish Torah, the religious documents discussed have not been considered "law" in the narrow sense. However, most of the Eastern religions have been official state religions, and in that sense have been a foundation of law in various nations.

Although this Article discusses some common beliefs shared by Eastern and Western religions, it is important for the reader to keep in mind two key differences between Western and Eastern religions. Judaism, Christianity, and

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Rights, 58th sess., agenda item 8, *Adoption of the Report on the Fifty-eighth Session to the Human Rights Council*, A/HRC/Sub.1/58/L.11/Add.1 (Aug. 24, 2006).

8. Rebecca Peters, IANSA, debate with Wayne LaPierre, National Rifle Association, Oxford Union, Oxford University, United Kingdom, Oct. 12, 2004, transcript at http://www.iansa.org/action/nra_debate.htm. Ms. Peters is the head of the International Action Network on Small Arms (IANSA). IANSA is "the organization officially designated by the U.N. Department of Disarmament Affairs (DDA) to coordinate civil society involvement to the U.N. small arms process." *IANSA's 2004 Review—The Year in Small Arms*, http://www.iansa.org/documents/2004/iansa_2004_wrap_up_revised.doc.

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Islam agree that there is a personal God who acts in the world. In contrast, Confucianism, Taoism, and Buddhism do not necessarily include a belief in a personal, intelligent, or active god, although some adherents may believe in one or more such gods.

A second difference is that Judaism, Christianity, and Islam are generally considered mutually exclusive. A person would not say "I am an Islamic Christian." There are some very small cross-over groups, such as Jews for Jesus, but such groups are tiny exceptions to the overwhelming number of followers of Judaism, Christianity, or Islam, who believe that a follower of one of the monotheistic religions cannot simultaneously be a follower of another religion.[9]

In contrast, followers of Confucianism, Taoism, and Buddhism generally consider their religions to be non-exclusive. For example, many people have considered themselves to be Confucianist *and* Taoist at the same time. Similarly, many Japanese have simultaneously been followers of Buddhism and of Shinto (a Japanese nature religion). Nor is it uncommon for Buddhists to quote the great Taoist sage Lao Tzu. Taoism is especially influential in Zen Buddhism.

For all the religions, this Article attempts to describe them from their believers' point of view. So for example, when describing a particular miracle which some Buddhists believe in, the Article simply describes the miracle, without adding the cumbersome disclaimer "some Buddhists believe that . . . ."

II. CONFUCIANISM

In the Far East, perhaps no person has had more enduring influence than the Chinese philosopher Confucius (born 551 B.C.). He is usually thought of as a strong supporter of the authoritarian state, and few people would imagine that he understood the importance of an armed, responsible populace as a foundation of a well-ordered society.

"Confucius," by the way, is an Eighteenth Century Western approximate translation of his name. So let us call him what his students called him: "Master K'ung."[10]

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9. The majority of the original Christians were also Jews, but the two groups had decisively split by the end of the First Century A.D.

10. Some scholars believe that Confucius was the best-known of a group of cultural experts who upheld proper values and involved themselves in government affairs. Jonathan R. Herman, *Confucianism, Classical*, in ENCYCLOPEDIA OF RELIGION AND WAR 81 (Gabriel Palmer-Fernandez ed., 2004). Among the other transliterations of the name are "Kong Qiu" and "Kongzi." MICHAEL LOEWE, THE GOVERNMENT OF THE QIN AND HAN EMPIRES 221 BCE-220 CE xiii (2006); MARK CSIKSZENTMIHALYI, READINGS IN HAN CHINESE THOUGHT xv (2006). To avoid

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Many of Master K'ung's teachings which have been preserved come through his *Analects*, a book-length series of anecdotes and teachings collected by his disciples.[11]

Master K'ung spent much of his time advising governments about right conduct. In contrast to the Taoists, who often chose to live as hermits to contemplate nature, Master K'ung emphasized the moral imperative of engagement in public affairs. In one passage of the *Analects*, a man asked the Master, "Can a man be called virtuous if he keeps his talents to himself while his country is going astray? I do not think so. Can a man be called wise if he is eager to act, yet misses every opportunity to do so? I do not think so . . . ."

Master K'ung replied, "All right, I shall accept an office."[12]

Master K'ung extolled moderation in all things, including statecraft. The ideal state was of middle size, and was protected by men who did not spend all their time in the military. "To govern a state of middle size," the ruler should, among other things, "mobilize the people only at the right times."[13] The advice about mobilization suggests that the state is not to be protected by a standing army, because a standing army is mobilized at all times.

The proper militia would be composed of people who were mobilized only some of the time. Such a militia would require training and cultivation, as did everything else: "The Master said: 'The people need to be taught by good men for seven years before they can take arms.' The Master said: 'To send a people to war that has not been properly taught is wasting them.'"[14]

A. Character Building Through Shooting Sports

Skill at shooting was important for much more than war. As a young man, Master K'ung made sure to master the "Six Arts" of a Chinese gentleman. These arts were ritual, music, horsemanship, literature (reading, calligraphy, and divination), mathematics and archery. The court of the Chou Dynasty followed Master K'ung in practicing the Six Arts, which aimed to make a man into a scholar warrior.[15]

Although it is Buddhists and Taoists, not Confucians, who have traditionally

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confusing readers who only read latter parts of this Article, the Article will, after the discussion of Master K'ung himself, revert to the standard Western term of "Confucius."

11. All citations to the Analects provide the chapter and the verse to CONFUCIUS, THE ANALECTS OF CONFUCIUS (Simon Leys trans., 1997) [hereinafter ANALECTS].

12. *Id.*, at 17:1.

13. *Id.*, at 1:5.

14. *Id.*, at 13:29-30.

15. DENG MING-DAO, SCHOLAR WARRIOR: AN INTRODUCTION TO THE TAO IN EVERYDAY LIFE 11 (1990).

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been associated with the martial arts, Master K'ung viewed the martial arts in a similar way: as primarily a vehicle for the development of good character. "The Master said: 'A gentleman avoids competition. Still, if he must compete let it be at archery. There, as he bows and exchanges civilities both before the contest and over drinks afterward, he remains a gentleman, even in competition.'"[16]

The shooting sports emphasized focus and control rather than strength, explained Master K'ung: "In archery, it does not matter whether one pierces the target, for archers may be of uneven strengths. Such was the view of the ancients."[17]

To Master K'ung, the point of archery, like any of the other Six Arts, was character development in a spirit of moderation. Thus, one passage records Master K'ung's ironic reply to criticism that he was not an expert in anything:

> A man from Daxiang said: "Your Confucius is really great! With his vast learning, he has still not managed to excel in any particular field." The Master heard of this and said to his disciples: 'Which skill should I cultivate? Shall I take up charioteering? Shall I take up archery? All right, I shall take up charioteering."[18]

Besides being a target shooter, Master K'ung was a hunter. A responsible one, who emphasized skill, fair play, and species protection: "The Master fished with a line, not with a net. When hunting, he never shot a roosting bird."[19]

B. The Right of Revolution

Many East Asian tyrants and authoritarians have portrayed Confucianism as a philosophy demanding that the masses submit to the government. Singapore autocrat Lee Kuan Yew did much to disseminate the theory in the late Twentieth Century.[20] The Teng regime (the Chinese dictatorship founded by

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16. ANALECTS, *supra* note 11, at 3:7. Master K'ung might have agreed with Thomas Jefferson, who advised his nephew: "[A]s to the species of exercise, I advise the gun . . . . Games played with the ball and others of that nature, are too violent, and stamp no character on the mind . . . ." Thomas Jefferson, letter to Peter Carr, 1785, in THE PORTABLE THOMAS JEFFERSON (1975).

17. ANALECTS, *supra* note 11, at 3:16.

18. ANALECTS, *supra* note 11, at 9:2.

19. ANALECTS, *supra* note 11, at 7:27.

20. *See*, *e.g.*, Kim Dae-jung, *Is Culture Destiny? The Myth of Anti-Democratic Values*, 73 FOR. AFF. (1994), http://www.foreignaffairs.org/19941101faresponse5158/kim-dae-jung/is-culture-destiny-the-myth-of-asia-s-anti-democratic-values.html; Neil A. Englehart, *Rights and Culture in the Asian Values Argument: The Rise and Fall of Confucian Ethics in Singapore,* 22 HUMAN RIGHTS Q. 548 (2000); Taku Tamaki, *Confusing Confucius in Asian Values? A*

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Mao Tse-Teng) has been doing the same in recent years.[21]

It is true that Master K'ung placed tremendous emphasis on respect for parents as the foundation for society, on benign paternalist government, on temperate and polite behavior, and on religious ritual. But the conservative values hardly mean that Master K'ung believed that people should meekly bow to rapacious government.

First of all, he stated that governors should rule by setting a good personal example, not through coercion or guile: "Lead them by political maneuvers, restrain them with punishments: the people will become cunning and shameless. Lead them by virtue, restrain them with ritual: they will develop a sense of shame and a sense of participation."[22]

Master K'ung specifically sanctioned popular revolution:

> The Head of the Ji Family was richer than a king, and yet Ran Qiu kept pressuring the peasants to make him richer still. The Master said: "He is my disciple no more. Beat the drum, my little ones, and attack him: you have my permission."[23]

Master K'ung was an admirer of the Duke of Chou (or Zhou), who is frequently shown as a good example in the *Analects*. The Chou house had wrested control of China away from the House of Yin. The Chou acknowledged that a ruling house enjoyed the Mandate of Heaven: that the ruling house had a heavenly right to rule. But as Chou's *Book of Odes* put it: "The Mandate of Heaven is not immutable."[24]

By asserting that the House of Yin fell because it had forfeited the Mandate of Heaven, the Duke of Chou was imposing a high standard of conduct on his own house. Should the Chou Dynasty fail to live up to the standards of heaven, its mandate too would be lost. The Duke's recognition of heavenly judgment on his conduct, and his acknowledgement that his own power depended on righteous conduct, made him an object of Confucian admiration.

There are notable similarities between the Duke of Chou's principles and the mainstream of Western Christian thought over the last thousand years. The Apostle Paul, in his *Epistle to the Romans*, had urged subjects to be obedient to

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Constructivist Critique, 21 INT'L REL. 284 (2007).

21. *See*, *e.g.*, Benjamin Robertson & Melinda Liu, *Can the Sage Save China? Beijing is hoping a return to Confucian values will help quell growing dissent, and inspire new loyalty*. NEWSWEEK INT'L, March 20, 2006.

22. ANALECTS, *supra* note 11, at 2:3.

23. ANALECTS, *supra* note 11, at 11:17.

24. D.C. Lau, *Introduction to Mencius*, in MENCIUS 11-12 (D.C. Lau trans., 1970) [hereinafter MENCIUS]; Ode 235, quoted in Lau, at 11. The Western Chou Dynasty ruled from 1045 to 770 B.C. The Eastern Chou Dynasty ruled from 770 to 256 B.C.

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rulers, because rulers were chosen by heaven for the good of the subjects.[25] The Catholic Scholastics and Second Scholastics set forth an interpretation adopted by Presbyterians, Puritans, and most other Protestants: because rulers were chosen by God to do good, rulers who did evil put themselves in a state of rebellion against God. Accordingly, a Christian people had the right and duty to overthrow tyrants.[26]

25.

> Let every soul be subject unto the higher powers. For there is no power but of God: the powers that be are ordained of God. Whosoever therefore resisteth the power, resisteth the ordinance of God: and they that resist shall receive to themselves damnation. For rulers are not a terror to good works, but to the evil. Wilt thou then not be afraid of the power? do that which is good, and thou shalt have praise of the same: For he is the minister of God to thee for good. But if thou do that which is evil, be afraid; for he beareth not the sword in vain: for he is the minister of God, a revenger to execute wrath upon him that doeth evil. Wherefore ye must needs be subject, not only for wrath, but also for conscience sake. For this cause pay ye tribute also: for they are God's ministers, attending continually upon this very thing. Render therefore to all their dues: tribute to whom tribute is due; custom to whom custom; fear to whom fear; honour to whom honour.

Romans 13:1-7.

26. *See*, *e.g.,* David B. Kopel, "The Catholic Second Amendment," 29 HAMLINE L. REV. 519 (2006) (Surveying the thought of John of Salisbury, Thomas Aquinas, and other medieval and renaissance Catholics); David B. Kopel, *The Scottish and English Religious Roots of the American Right to Arms: Buchanan, Rutherford, Locke, Sidney, and the Duty to Overthrow Tyranny*, 12 BRIDGES 291 (nos. 3/4, Fall/Winter 2005); David B. Kopel, *The Religious Roots of the American Revolution and the Right to Keep and Bear Arms*, 17 J. ON FIREARMS & PUB. POL'Y 167 (2005).

Perhaps the easiest way to see that *Romans* does not require unconditional submission to tyranny is to go through the passage by inserting the name of a particular tyrant, and then seeing if the passage makes any sense. For this thought experiment, I use "Josef Stalin." The same experiment could be conducted using the names of Adolf Hitler, Mao Tse-Teng, Fidel Castro, Robert Mugabe, or many others. So: "For Josef Stalin is not a terror to good works, but to the evil."We know the above statement to be false. Stalin terrified the good, and promoted the evil.

> For Josef Stalin is the minister of God to thee for good. But if thou do that which is evil, be afraid; for Stalin beareth not the sword in vain: for Stalin is the minister of God, a revenger to execute wrath upon him that doeth evil.

In fact, Stalin did not minister for the good. People who did evil under Stalin prospered, while people who did good were persecuted. Stalin wielded the sword (the coercive violence of government) not to execute wrath on evildoers, but to murder tens of millions of innocents. Thus, *Romans*' instructions about obedience cannot apply to subjects of tyrannical regimes. The *Romans* instructions by their very words can only apply to governments which protect the good and terrify the evil—not to governments which do exactly the opposite.

The same point was made by the great American minister Jonathan Mayhew in a famous 1750 sermon:

> *For rulers are not a terror to good works, but to the evil*. It cannot be ſupposed

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It is remarkable that the parallel standard in China was implemented by a ruler, the Duke of Chou, who was setting forth strict moral codes that could

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> that the apoſtle deſigns here, or in any of the ſucceeding verſes, to give the true character of *Nero*, or any other civil powers then in being, as if they were in fact ſuch perſons as he deſcribes, a terror to evil works only, and not to the good. For ſuch a character did not belong to them; and the apoſtle was no ſycophant, or a paraſite of power . . . He only tells what rulers would be, provided they acted up to their character and office . . . .
>
> Thus it is ſaid, that they are not *a terror to good works, but to the evil;* that they are *God's miniſters for good; revengers to execute wrath upon him that doth evil;* and that *they attend continually upon this very thing*. St. *Peter* gives the ſame account of rulers: They are *for a praiſe to them that do well, and the puniſhment of evil doers*. It is manifeſt that this character and deſcription of rulers, agrees only to ſuch as are rulers in fact, as well as in name: to ſuch as govern well, and act agreeably to their office. And the apoſtle's argument for ſubmission to rulers, is wholly built and grounded upon a preſumption that they do in fact anſwer this character; and is of no force at all upon the ſuppoſition to the contrary. If *rulers are a terror to good works, and not to the evil;* if they are not *miniſters for good to ſociety*, but for evil and diſtreſs, by violence and oppreſſion; if they *execute wrath upon* ſober, peaceable perſons, who do their duty as members of ſociety; and ſuffer rich and honourable knaves to eſcape with impunity; if inſtead of *attending continually upon* the good work of advancing the publick welfare, they *attend* only upon the gratification of their own luſt and pride and ambition, to the deſtruction of the public welfare; if this be the caſe, it is plain that the apoſtle's argument for ſubmiſſion does not reach them; they are not the ſame, but different perſons from thoſe whom he characterizes; and who muſt be obeyed according to his reaſoning.

JONATHAN MAYHEW, A DISCOURSE CONCERNING UNLIMITED SUBMISSION AND NON-RESISTANCE TO THE HIGHER POWERS 6 n.†, 20-21 (1750), *available at* http://ia331330.us.archive.org/2/items/discourseconcern00mayhrich/discourseconcern00mayhrich.pdf.

A similar point was made by Samuel West, preaching to the Massachusetts legislature, a few weeks before independence was declared:

> . . . it follows, by undeniable consequence, that when they [rulers] become the pests of human society, when they promote and encourage evil-doers, and become a terror to good works, they then cease being the ordinance of God; they are no longer rulers nor ministers of God; they are so far from being the powers that are ordained of God that they become ministers of the powers of darkness, and it is so far from being a crime to resist them, that in many cases it may be highly criminal in the sight of Heaven to refuse resisting and opposing them to the utmost of our power; or, in other words, that the same reasons that require us to obey the ordinance of God, do equally oblige us, when we have power and opportunity, to oppose the resist the ordinance of Satan.

Samuel West, "A Sermon Preached Before the Honorable Council and the Honorable Representatives of the Colony of Massachusetts-Bay in New-England. May 29, 1776. Being the Anniversary for the Election of the Honorable Council for the Colony" (1776), *reprinted in* THE PULPIT OF THE AMERICAN REVOLUTION 290 (John Wingate Thornton ed., 1970) (1860).

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lead to his own deposition. The American Founders did the same; after overthrowing King George, they established state constitutions and a federal constitution which enumerated certain rights that the government could never violate, and that provided mechanisms (including the right to keep and bear arms and partial sovereignty for state governments) which would facilitate the overthrow of a government which violated its compact with the people.[27]

Incidentally, the revered Duke of Chou was a recreational hunter. Records of his palace employees include guardians of the royal hunting grounds, as well as professional hunters who apparently supplied food for the court.[28]

C. Mencius

Mencius was the most influential developer of Master K'ung's thought. He lived from about 371 to 289 B.C., a period when rival Chinese states were adopting the principles of the Legalist philosophers. The Legalists favored extremely centralized governments with rigidly-applied laws. The Legalist states were very militaristic, aiming to regiment the peasants into armies made for wars of conquest. Eventually, the state of Ch'in, which had gone further than any other in adopting Legalism, conquered all of China. The Legalists, like the Utilitarian philosophers of Nineteenth-Century Britain, viewed humans as egocentrics whose only motivation was reward or punishment.[29]

Like the Jewish legal scholar Philo of Alexandria,[30] the Christian theologian Augustine of Hippo,[31] and the English political writer Algernon Sidney,[32]

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27. *E.g.*, THE FEDERALIST, NO. 46 (James Madison).

28. MICHAEL NYLAN, THE FIVE "CONFUCIAN" CLASSICS 183 (2001), discussing *Zhouli.* Wu-tzu (approx. 440-361 B.C.) was a very successful general who wrote a military strategy treatise which incorporated Confucian principles: Benevolent rule would earn the loyalty of the people, which was essential for military success; military leaders should be virtuous and self-controlled; the families of soldiers who died in combat should be honored and supported. *Wu-tzu* in THE SEVEN MILITARY CLASSICS OF ANCIENT CHINA 206-24 (Ralph D. Sawyer trans., 1993). Another military treatise, the *Wei Liao-tzu* (perhaps written around 300 B.C.) also taught Confucian virtues, such as not killing civilians, but did not specifically cite Confucian authority. Ralph D. Sawyer, *Introduction to "Wei Liao-tzu,"* in THE SEVEN MILITARY CLASSICS OF ANCIENT CHINA, at 233-41.

29. MENCIUS, *supra* note 24, at 10-11. The Ch'in Dynasty ruled China from 221 to 207 B.C.

30. ERWIN R. GOODENOUGH, THE JURISPRUDENCE OF THE JEWISH COURTS OF EGYPT: LEGAL ADMINISTRATION BY THE JEWS UNDER THE EARLY ROMAN EMPIRE AS DESCRIBED BY PHILO JUDEAUS 230-31 (The Lawbook Exchange 2002) (1929).

31. AUGUSTINE, CONCERNING THE CITY OF GOD AGAINST THE PAGANS 139 (Henry Bettenson trans., Penguin, book 4, 1984) (reprint of 1467 edition)(early 5^{tth} Century) ("Remove justice, and what are kingdoms but gangs of criminals on a large scale?").

32. ALGERNON SIDNEY, DISCOURSES CONCERNING GOVERNMENT 574 (Thomas G. West ed.,

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Mencius viewed rapacious governors as equivalent to ordinary robbers: "Now the way feudal lords take from the people is no different from robbery." Accordingly, accepting a gift from a feudal lord was like accepting stolen property from a robber.[33]

Mencius told King Hsüan of Ch'i that royal ministers should remove a king who repeatedly ignored their warnings and made serious mistakes.[34] Further, said Mencius, a good subject could banish a bad ruler, if the subject had good motives.[35]

In a discussion of two previous emperors who had been overthrown, Mencius was asked "Is regicide permissible?"

He replied:

> A man who mutilates benevolence is a mutilator, while one who cripples rightness is a crippler. He who is both a mutilator and a crippler is an "outcast." I have heard of the punishment of the "outcast Tchou" [one of the overthrown emperors; not the good Duke of Chou], but I have not heard of any regicide.[36]

In other words, killing a wicked king was not "regicide," but merely punishing a criminal. This was the same point made in the West by, among many others, the great philosophers of the Middle Ages. Manegold of Lautenbach in the Eleventh Century declared that removing a tyrant was like removing a swineherd who stole from his master.[37] John of Salisbury, the best-selling author of the Twelfth Century, wrote that "As the image of the deity, the prince is to be loved, venerated, and respected; the tyrant, as the image of depravity, is for the most part even to be killed."[38] Thomas Aquinas explained in *Summa Theologica* that overthrowing a tyrant is not sedition, but is actually removing

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Liberty Fund, 1996) (ch. 3, § 46) (being subjected to a tyrant is little different from being under the power of a pirate). Sidney was executed for treason in 1683, and later venerated by the English and Americans as one of the greatest martyrs of liberty.

33. MENCIUS, *supra* note 24, at 154 (book 5, part B).

34. *Id.* at 66-67 (book 1, part B, item 6), 121-22 (book 4, part A, item 9).

In this citation, and others, I supply the page number of the English translation, as well as the chapter number, or identifying information from the original edition. Although the latter information it not required by the Bluebook, such information is intended to be useful to readers who wish to consult other translations or editions of the cited works, including original-language versions of the works.

35. *Id.* at 188-89 (book 7, part A, item 31).

36. *Id.* at 68 (book 1, part B, item 8).

37. HAROLD J. BERMAN, LAW AND REVOLUTION: THE FORMATION OF THE WESTERN LEGAL TRADITION 614-15 (1983).

38. JOHN OF SALISBURY, POLICRATICUS 191 (Cary J. Nederman trans., Cambridge Univ. Pr., 1990) (approx. 1159) (book 8, ch. 17).

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the man who causes sedition; a tyrant subverts a properly-ordered government, because the purpose of government is to help and protect the people.[39]

As a Confucian, Mencius believed that removing a bad king was especially necessary because the king's influence would corrupt the whole people: "Only the benevolent man is fit to be in high position. For a cruel man to be in high position is for him to disseminate his wickedness among the people."[40]

Although China did not have a democracy, the ruler's continuing legitimacy depended on the support of the people:

> It was through losing the people that Chieh and Tchou lost the Empire, and through losing the people's hearts that they lost the people. There is a way to win the Empire; win the people and you will win the Empire. There is a way to win the people; win their hearts and you will win the people.[41]

In contrast to the Legalist philosophers popular in the imperial palaces, Mencius considered the people more important than the state. Quoting from the *Shu Ching* ("Classic of History," one of the Five Classics of Confucianism), Mencius wrote, "Heaven sees as the people see; Heaven hears as the people hear."[42] Thus, the dissatisfaction of the people could remove the mandate of Heaven from a ruler, and place it on another ruler. Mencius considered revolution to be morally imperative in some cases.

Compare Mencius' philosophy with the second paragraph of the Declaration of Independence, which affirmed that rights come to the people directly from the Creator, and that government which does not conform to the will of the

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39.

> A tyrannical government is not just, because it is directed, not to the common good, but to the private good of the ruler, as the Philosopher [Aristotle] states (Polit. iii, 5; Ethic. viii, 10). Consequently there is no sedition in disturbing a government of this kind, unless indeed the tyrant's rule be disturbed so inordinately, that his subjects suffer greater harm from the consequent disturbance than from the tyrant's government. Indeed it is the tyrant rather that is guilty of sedition, since he encourages discord and sedition among his subjects, that he may lord over them more securely; for this is tyranny, being conducive to the private good of the ruler, and to the injury of the multitude.

THOMAS AQUINAS, SUMMA THEOLOGICA, pt. II-II, q. 42, art (Fathers of the English Dominican Province trans., Benziger Bros. 1947), www.ccel.org/a/aquinas/summa. *See generally* Kopel, *The Catholic Second Amendment*, *supra* note 1.

40. MENCIUS, *supra* note 24, at 117-18 (book 4, part A, item 1).

41. *Id.* at 121-22 (book 4, part A, item 9).

42. Or "Heaven hears and sees as the people see and hear." "Counsels of Gao and Yao" chapter, from *Documents*, quoted in MICHAEL NYLAN, THE FIVE "CONFUCIAN" CLASSICS 155 (2001).

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people may be altered or abolished by the people, with violence if necessary.[43]

During the period of the Han emperors (202 B.C.-220 A.D.), Confucianism became the official philosophy of China, although it would not be accurate to claim that the Han emperors generally governed as benignly Mencius had urged. Yet the influence of Mencius was apparently strong enough so that when the last Han emperor was forced to abdicate in 220 A.D., his abdication letter acknowledged that the ruling family had lost the mandate of heaven.[44]

In the Western world, right of revolution had been very important to the ancient Hebrews[45] and Greeks,[46] but the right was obscured during the Roman Empire and the Dark Ages. The recovery of the right of revolution began in the West in the Eleventh Century, when Pope Gregory VII and his intellectual allies began to argue that the Church was not subservient to monarchs, and that the Church could take away an abusive monarch's authority to rule.[47]

China also lost its right of revolution. Some Chinese dynasties based their educational system and civil service exams on Confucianism.[48] But it was often a cramped and distorted version of Confucianism, with excessive emphasis on the duties of subjects, and insufficient attention to the restraints on governments. For example, when the Ming Dynasty (which would oversee

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> [T]hat they are endowed by their Creator with certain unalienable rights . . . that, to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute new government.

THE DECLARATION OF INDEPENDENCE para. 2 (U.S. 1776).

44. Loewe, *supra* note 10, at 179. A much earlier Han court, in the years 140–110 B.C., had employed as "grand historian" the first great Chinese historian, Ssu-Ma Ch'ien, who used Confucian ideas to argue for economic liberalism and against oppressive taxation. *See* Joseph J. Spengler, *Ssu-Ma Ch'ien, Unsuccessful Exponent of Laissez Faire*, 30 SOUTHERN ECON. J. 223 (1964).

45. *See*, *e.g.*, the First and Second books of Maccabees (describing and applauding a Jewish revolution against Syrian tyranny in the Second Century B.C.); ALGERNON SIDNEY, DISCOURSES CONCERNING GOVERNMENT, *supra* note 45, at 228 (ch. 2, § 24) (posthumously published book by a leading English patriot and political philosopher who justified revolution against tyranny; Sidney listed notable Jewish heroes who used violence against tyrants: "Moses, Othniel, Ehud, Barak, Gideon, Samson, Jephthah, Samuel, David, Jehu, the Maccabees, and others.").

46. *See*, *e.g*, Aristotle, *The Politics*, in 2 THE COMPLETE WORKS OF ARISTOTLE 2059, 2081 (Benjamin Jowett trans., Jonathan Barnes ed., 1984) ("As of oligarchy so of tyranny. . . Both mistrust the people and therefore deprive them of their arms.").

47. *See* Kopel, *The Catholic Second Amendment, supra* note 1.

48. *See* JONATHAN D. SPENCE, THE SEARCH FOR MODERN CHINA 46 (2d ed. 1999). *See also* KENNETH LIEBERTHAL, GOVERNING CHINA: FROM REVOLUTION THROUGH REFORM 4-9 (W.W. Norton 1995).

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three centuries of stagnation before being overthrown by the Manchus) was consolidating power in the late Fourteenth Century, the books of Mencius were censored, and the portions about the right of revolution were removed.[49]

1. Mencius and War

Mencius saw nothing good in wars. Remarking on the *Spring and Summer Annals*, which are histories of dynastic wars in which rulers brought disaster on themselves and their people by choosing expediency over right conduct, Mencius said, "In the *Spring and Autumn Annals* there were no just wars. There were only cases of one war not being quite as bad as another."[50] Punitive wars, in which an authority disciplined a subordinate, were not forbidden, but they were not regarded as glorious or constructive.[51] Mencius quoted Confucius' story in which Confucius gave permission for the people to overthrow an oppressive, overtaxing regime of Ch'iu. Mencius elaborated: because Confucius rejected unbenevolent, self-enriching rulers,

> How much more would he reject those who do their best to wage war on their behalf. In wars to gain land, the dead fill the plains; in wars to gain cities, the dead fill the cities. This is known as showing the land the way to devour human flesh. Death is too light a punishment for such men. Hence those skilled in war should suffer the most severe punishments . . . .[52]

Yet Mencius still saw war as necessary to liberate an oppressed nation. He told King Hsüan of Ch'i that it was legitimate for the King of Yen to be attacked and overthrown, because the government "practised tyranny over its people." After Yen's king was removed by King Hsüan's invading army, the people greeted their new king with "baskets of rice and bottles of drink." But King Hsüan failed to practice "benevolent government," so Mencius told Hsüan to "take your army out after setting up a ruler in consultation with the men of Yen."[53]

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49. WILLIAM THEODORE DE BARY, THE TROUBLE WITH CONFUCIANISM 52-53 (1991). The book's title is meant ironically; de Bary admires Confucianism. The Ming ruled from 1368 to 1644 A.D.

50. MENCIUS, *supra* note 24, at 194-95 (book 7, part B, items 2, 4); NYLAN, *supra* note 28, at 281-88. The Spring and Autumn period was 722-481 B.C., during the Eastern Chou Dynasty.

51. *Id.* The *Spring and Summer Annals* were believed to have been written by Confucius. CSIKSZENTMILHALYI, *supra* note 10, at 80.

52. MENCIUS, *supra* note 24, at 123-24 (book 4, part A, item 14).

53. *Id.* at 69-70 (book 1, part B, items 10-11), 90-91 (book 2, part B, item 8) (overthrowing Yen was legitimate, but Ch'i was not the proper party to do so).

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Independence was also just cause for war. Duke Wen of T'eng explained that his state was small, "wedged between Ch'i and Ch'u." He asked to which larger neighbor he should be subservient. Mencius told him to submit to neither, but to build "deeper moats" and "higher walls and defend them shoulder to shoulder with the people. If they would rather die than desert you, then all is not lost."[54]

2. Mencius and Hunting

Mencius discussed hunting in the same context as the enjoyment of music, making the point that a king should share his pleasures with the people.[55]

Like Confucius (and the Taoists, *infra*), Mencius strictly insisted that hunting had to be according to the rules. One day, a charioteer drove all morning for an archer who failed to shoot any birds; the charioteer had obeyed all the rules, and the archer blamed the charioteer for the archer's lack of success. The charioteer asked for another chance; after the second hunt, the charioteer explained, "I used underhanded methods, and we caught ten birds in one morning." Mencius rebuked the charioteer for bending himself to please others.[56] Conversely, Mencius praised a gamekeeper who refused to answer a summons from his master, because the Master had given an improper signal, by raising a pennon (a thin triangular flag) rather than by raising a cap.[57]

3. Mencius and Personal Protection

Personal protection was uncontroversial for Confucians. In a story illustrating that one should only accept gifts when there is justification, Mencius indirectly showed that the legitimacy of arms for personal protection was unquestioned:

> In Hsüeh, I had to take precautions for my safety. The message accompanying the gift said, "I hear you are taking precautions for your safety. This is a contribution towards the expense of acquiring arms." Again, why should have I refused? But in the case of Ch'i, I had no justification for accepting a gift. To accept a gift without justification is tantamount to being bought.[58]

In no way was the right of personal protection considered inconsistent with

54. *Id.* at 71 (book 1, part B, item 13).
55. *Id.* at 60-61 (book 1, part B, item 1).
56. *Id.* at 106-07 (book 3, part B, item 1).
57. *Id.* at 157-58 (book 5, part B, item 7).
58. *Id.* at 88 (book 2, part B, item 3).

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the duty to treat other people with benevolence. Indeed, Mencius formulated a Chinese version of the Golden Rule: "Try your best to treat others as you would wish to be treated yourself, and you will find that this is the shortest way to benevolence."[59]

D. Later Confucians and War

Xunzi (approx. 312-238 B.C.) is considered one of the three great Confucian philosophers, along with Confucius and Mencius. Xunzi wrote more extensively about military affairs than did Confucius or Mencius. He offered Emperors detailed guides on proper military training and strategy, agreeing with Confucius and Mencius on the importance of maintaining the people's respect and loyalty.[60]

The reign of the Emperor Yuandi (49-33 B.C.) was a great period of success for the Confucians. The Confucians convinced the Emperor that during times of war, he should wear humble clothing, to reflect the sorrow of war. Under the Confucian policies, men under the age of thirty were exempt from the draft, so

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59. *Id.* at 182 (book 7, part A, item 4).

The Golden Rule can be formulated as a negative injunction, to the effect of "Don't treat other people badly." Most religions also offer a positive version, requiring that the person act, rather than merely refrain from acting. Jesus said, "Love your neighbor as yourself." *Mark* 12:31; *see also Luke* 10:27.

The same principle applies in other religions. An Islamic *Hadith* declares, "Not one of you (truly) believes until he wishes for his brother what he wishes for himself." AN-NAWAWĪ'S FORTY HADITH, Hadith 13, at 56 (Ezzeddin Ibrahim & Denys Johnson-Davies trans., 3d ed. 1977) (attributed to Mohammed, parenthetical in original). Lao Tzu said, "Regard your neighbor's gain as your own gain and your neighbor's loss as your own loss." LAO TZU, T'AI SHANG KAN YING P'IEN (Treatise of the Exalted One on Response and Retribution) 213-18 (Teitaro Suzuki & Paul Carus trans., 1906), www.sacred-texts.com/tao/ts/. The *Mahābhārata* teaches, "This is the sum of duty: Do naught unto others which would cause you pain if done to you." *Mahābhārata* , book 5, at 1517; *see also id.* book 13 (Anusasana Parva). The Buddha said, "What is displeasing and disagreeable to me is displeasing and disagreeable to others too. How can I inflict upon another what is displeasing and disagreeable to me?" CHRISTOPHER W. GOWANS, PHILOSOPHY OF THE BUDDHA ch. 15 (2003). The Baha'i, and Sikhs agree. Bahai: "Lay not on any soul a load which ye would not wish to be laid upon you, and desire not for any one the things ye would not desire for yourselves. This is My best counsel unto you, did ye but observe it." Baha'u'lah, G*leanings,* from the WRITINGS OF BAHA'U'LAH 128 (1990) (ch. 56), www.sacred-texts.com/bhi/bahaullah/gwb.txt. Sikhs: "No one is my enemy, and no one is a stranger. I get along with everyone." GURU GRANTH SAHIB 1299 (trans. Sant Singh Khalsa, n.d.) (scripture containing over 5,000 poetic hymns) (compiled in 1604, since the early Twentieth Century, always published in standard editions of 1430 pages), http://www.granthsahib.com/index.php.

60. 1 XUNZI, XUNZI 453-99 (John Knoblock trans., 1999) (book 15) ("Debate on the Principles of Warfare").

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that young men could father children. Military campaigning was limited to a single season during the year.[61]

During the Twelfth Century, the majority of Confucian scholars believed that a scholar who mastered humanity and proper conduct could not also master military and financial subjects. Zhu Xi (1130-1200) disagreed, and wrote about military affairs, while advising the Emperors how to deal with the incursions of the Jurchen kingdom to north.[62] In the Fifteenth Century, Zhu Xi's writings were adopted as the basis of the Chinese civil service exams; the Zhu Xi exams endured until the early Twentieth Century.[63]

Wang Shouren (1472-1528) served as Minister of the Department of War during the Ming Dynasty. He wrote a military treatise which combined Confucian ideas with the teachings of Sun Tzu's *The Art of War*. He advised building up militia training, reducing the standing army, reactivating bold officers who had been forced to retire because they made mistakes, and creating small elite reserve units for special attacks at appropriate times. As governor of a troubled southern border province, Wang Shouren organized ten-family groups for mutual protection.[64]

In the Twentieth Century, Confucian scholars unanimously supported the Chinese military resistance to the Japanese invasion of China (1937-1945). In the early Cold War, the Confucian scholar Mou Zongsan (1909-1955) criticized Bertrand Russell for advocating Western surrender to Stalin.[65]

III. TAOISM

The second great world religion to emerge from China was Taoism. As with Confucianism, Taoism's historical roots are obscure; the foundation is usually attributed to a great sage named Lao Tzu, although some people argue that the Lao Tzu material was not written by a single person, and Lao Tzu's life is very obscure.[66] Lao Tzu is said to have been renowned as a swordsman.[67]

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61. Michael L. Fitzhugh, *Confucianism: Han Dynasty*, in ENCYCLOPEDIA OF RELIGION AND WAR, *supra* note 10, at 85.

62. Kirill Ole Thompson, *Confucianism, Neo-Confucianism*, in ENCYCLOPEDIA OF RELIGION AND WAR, *supra* note 10, at 93.

63. As noted *supra* note 49, the exams omitted the right of revolution, which Mencius had articulated.

64. Thompson, *supra* note 62, at 94. *The Art of War* was written sometime in the fifth to third centuries B.C.

65. Umberto Besciani, *Confucianism, Modern*, in ENCYCLOPEDIA OF RELIGION AND WAR, *supra* note 10, at 87. "Better red than dead," was Russell's aphorism. Today, Russell's vision is carried forward by the Bertrand Russell Peace Foundation, which was established in 1963. www.russfound.org.

66. Wing-Tsit Chan, *Chinese Terminology: Lao Tzu*, in AN ENCYCLOPEDIA OF RELIGION 152

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"The Tao" literally means "the way." Over the centuries, various versions of Taoism have developed; in some of these versions Taoism is a philosophy, or a way of life, but it is not what Westerners would usually call a religion. In other versions, Taoism does have the characteristics of a religion. In Chinese history, a many people have followed various blends of Confucianism and Taoism. Taoism has also mixed with Buddhism, especially Zen Buddhism.

Taoism's emphasis on cosmic harmony, on the presence of the sacred in nature, and on mysticism all helped make Taoism popular with Americans and other Westerners beginning in the 1960s. While Confucianism encouraged people to work within the system and to participate in government, Taoists often retreated from society, because of a belief that the virtues of ancient times had been lost forever.[68]

It is surprising how similar the Taoist vision of an ideal state is to that of the American Founders. In particular, the Taoists and the Founders both thought that large armies and wars of aggressive expansion were an abomination that would destroy a good society.[69] Conversely, a harmonious and ideal state was one that simply defended itself with a well-trained and well-armed citizen militia.[70] As far as we know, the American Founders had no knowledge of Taoism, but instead drew their militia vision from their knowledge of the history of Greece, Rome, Switzerland, England, and other parts of Europe. Yet the Taoists and the Americans, relying on entirely separate sources of knowledge, arrived at similar conclusions.

A. Tao Te Ching

The core of Taoist thought may be found in five major books. This Article uses the translations supplied by Harvard's Thomas Cleary.[71]

(Vergillus Ferm ed.,1945); MARK EDWARD LEWIS, THE EARLY CHINESE EMPIRES: QIN AND HAN 208 (2007) ("[S]ome modern scholars doubt that he ever existed."); Michael Puett, *Philosophy and Literature in Early China*, in THE COLUMBIA HISTORY OF CHINESE LITERATURE 77 (ed. Victor H. Mair 2001).

67. DENG MING-DAO, SCHOLAR WARRIOR: AN INTRODUCTION TO THE TAO IN EVERYDAY LIFE 11 (1990)(pursuant to Chinese style, the author's family name, "Deng," is listed first).

68. Jason Boulet, *"I believe in enmindment": Enlightenments, Taoism, and Language in Peter Dale Scott's Minding the Darkness*, 75 U. OF TORONTO Q. 925 (2006).

69. For the Taoists, *see*, *e.g.*, THOMAS CLEARY, THE TAOIST CLASSICS: THE COLLECTED TRANSLATIONS OF THOMAS CLEARY 46-47 (no. 80), "A Small State has Few People" (1999). For the Americans, *see*, *e.g.*, Williams S. Fields & David T. Hardy, *The Militia and the Constitution: A Legal History*, 136 MILITARY L. REV. 1 (1992); STEPHEN P. HALBROOK, THAT EVERY MAN BE ARMED: THE ORIGINS OF A CONSTITUTIONAL RIGHT (2d ed., 1994).

70. *Id.*

71. CLEARY, *supra* note 69. All *Te Ching* (*I Ching*) and *Wen Tzu* quotes are from Cleary's

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The foundation of Taoism is the *Tao Te Ching*, ascribed to Lao Tzu, and probably written around the Sixth Century B.C. The *Tao Te Ching* (Book of the Way and Its Power) is a collection of poems, prose, and proverbs. It is the second only to the Bible in the number of worldwide translations. Like the other classics of Taoism, the *Tao Te Ching* recognized warfare and arms as sometimes necessary, but never something to be celebrated. Thus, one poem declared that:

> Weapons, being instruments of ill omen,
> are not the tools of the cultured,
> who use them only when unavoidable.
> They consider it best to be aloof;
> they win without beautifying it . . . .
> When you have killed many people,
> you weep for them in sorrow.
> When you win a war,
> you celebrate by mourning.[72]

So although weapons, war, and killing may be "unavoidable," a person should still mourn the death of enemies. This poem evokes the Christian apostle Paul's admonition to live in peace with all people "as much as possible" (thus recognizing that peace is sometimes impossible) and Jesus's instruction to pray for one's enemies.[73]

Jesus's observation that those who live by the sword will die by the sword[74]

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translation.

72. TAO TE CHING, no. 31, "Fine Weapons." (Poems are titled by their first words). The same sentiment is expressed, at more length, in *Courses in Effectiveness and Guidance*, long-lost versions of the *Tao Te Ching* which were rediscovered in the mid-1970s. CLEARY, *supra* note 69, at 415-16, 478-79.

73. "If it is possible, as far as it depends on you, live in peace with everyone." *Romans* 12:18 (New American Bible). The King James Version puts it: "If it be possible, as much as lieth in you . . . ." Paul's conditional phrasing shows an awareness that in extreme situations, it is not always possible to live in peace. John Calvin pointed to the phrase "as much as lieth in you" (alternatively, "so far as it depends on you") to explicate that sometimes, no matter how much a peaceful Christian was willing to bear, someone else might make peace impossible. If so, wrote Calvin, a good Christian must be prepared "to fight courageously." JOHN CALVIN, COMMENTARIES ON THE EPISTLE OF PAUL THE APOSTLE TO THE ROMANS ch. 2 (John Owen trans. & ed., Christian Classics Ethereal Library, n.d.)(1539), http://www.ccel.org/ccel/calvin/calcom38.html.

74. "Put up again thy sword into its place: for all they that take the sword shall perish with the sword." *Matthew* 26:52, and "Put up thy sword into the sheath: the cup which my Father has given me, shall I not drink it?" *John* 18:11 (King James Version). Jesus was rebuking Peter for attempting to interfere with the Roman soldiers who were arresting Jesus.

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also has a Taoist parallel:

> There are always executioners.
> And to kill in the place of an executioner
> is taking the place of a master carver.
> Those who take place
> of a master carver
> rarely avoid cutting their hands.[75]

Another poem makes a similar point:

> It has been said
> that those who maintain life well
> do not meet rhinos or tigers or land
> and do not arm themselves in war.
> There is no way for rhinos to gore them;
> there is no way for tigers to claw them;
> and there is no way for weapons to get at them.
> Why? Because they have no dying ground.[76]

The Taoist philosophy of a popular militia in a non-aggressive state is encapsulated in the penultimate poem of the *Tao Te Ching*:

> A small state has few people.
> It has the people keep arms
> but not use them.
> It has them regard death gravely
> and not go on distant campaigns.
> Even if they have vehicles,
> they have nowhere to drive them.
> Even if they have weapons,
> they have nowhere to use them.[77]

The passage is a common proof-text for Christian pacifists, although the proof does not square with the full text. Jesus told Peter "Put up thy sword into the sheath." Jesus did *not* tell Peter to get rid of sword. Rather, Jesus told Peter to put the sword back in the place where swords are customarily put. As Jesus had instructed just a few hours earlier at the Last Supper (*Luke* 22:35-38), the disciples should make sure to carry swords. When Peter put his sword back in its place, Peter was not disarmed; he was no more disarmed than a man who puts his handgun back into its place in a holster.

75. CLEARY, *supra* note 69, at 44 (no. 74), "If People Usually Don't Fear Death."

76. *Id.* at 32 (no. 50), "From Life into Death."

77. *Id*. at 46-47 (no. 80), "A Small State has Few People."

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B. Wen-Tzu

The *Wen-Tzu*, also known as "Understanding the Mysteries," is attributed to disciples of Lao Tzu who wrote down his discourses.[78]

A major theme of the *Wen-Tzu* is the virtue of moderation, both in the individual and the state. Individuals with right character can accomplish tremendous feats: "If an entire army gets out of the way at a single shout of a brave warrior, that is because of the truthfulness from which it emerged."[79]

The Confucians believed that when the Mandate of Heaven was withdrawn from oppressive government, popular revolution became righteous. The Taoists offered rulers a warning which implicitly treated armed revolution as legitimate: "If you allow small groups to infringe upon the right of large masses and allow the weak to be oppressed by the strong, then weapons will kill you."[80]

The *Wen-Tzu* contains a passage which, in isolation, might be construed as a requirement for complete pacifism: "Examples of losing the Way are extravagance, indulgence, complacency . . . forming grudges, becoming commanders of armies, and becoming leaders of rebellions. When small people do these things, they personally suffer great calamities. When great people do these things, their countries perish."[81] The "master carver" poem from the *Tao Te Ching* might likewise be construed as a condemnation of the death penalty. The *Wen Tzu*, however, is lengthy enough so that themes can be explored in detail:

> To reign by means of the Way is a matter of virtue, and to reign by means of arms is also a matter of virtue. There are five kinds of military operations: military operations motivated by justice, response, anger, greed, and pride.
>
> To execute the violent so as to rescue the weak is called justice. To mobilize only when it becomes unavoidable because of aggression of enemies is called response. To contend for petty reasons and lack control over the mind is called anger. To take advantage of other's land and desire others' wealth is called greed.

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78. *Id.* at 141-42.

79. *Id.* at 179 (no. 27). U.S. Army Sergeant Alvin York, who believed that he was fighting on God's side in the First World War, almost single-handedly captured 128 Germans, killed twenty-five more, and knocked out thirty-five enemy machine guns in a single incident. *See* David B. Kopel, *Sergeant York: Great Hero of the Great War*, AMERICA'S 1ST FREEDOM, Feb. 2005, www.davekopel.com/2A/Mags/Sergeant-York.pdf.

80. CLEARY, *supra* note 69, at 192 (no. 49).

81. *Id.* at 203-05 (no. 72).

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> To be proud of the size of the country and the vastness of the population, and to wish to look smart to rival countries, is called pride.
>
> Military action based on justice results in leadership. Military action based on response results in victory. Military action based on anger results in defeat. Military action based on greed results in death. Military action based on pride results in extinction.[82]

Thus, military action which is undertaken for right purposes—justice or self-defense—is legitimate and will bring success, whereas military action undertaken for self-indulgent egoism will lead to disaster. The *Wen-Tzu* thus made the same point as Christian Just War doctrine expounded by Ambrose, Augustine, and Aquinas: a righteous soldier fights to protect for the weak, and does not fight because of anger, greed, or pride.[83]

Large armies were destructive to their own nation: "When you mobilize an army of one hundred thousand, it costs a thousand units of gold a day; there are always bad years after a military expedition. Therefore armaments are instruments of ill omen and are not treasured by cultured people."[84]

Governments which forced skeptical people to fight, or which glorified militarism were flirting with disaster:

> To arm and deploy people who do not have confidence in their government is a dangerous course of action. That is why it is said that weapons are instruments of ill omen, to be used only when unavoidable.
>
> When you win by killing and wounding people, do not glorify it . . . . This is why superior people strive for the virtue of the Way and do not set great store by the use of the military.[85]

Military force was justified only as the unavoidable necessity of the

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82. *Id.* at 209 (no. 80).

83. AMBROSE, THREE BOOK ON THE DUTIES OF THE CLERGY (391 A.D), http://www.ccel.org/ccel/schaff/npnf210.toc.html; AMBROSE, EXPOSITION OF THE HOLY GOSPEL ACCORDING TO SAINT LUKE 68 (Theodosia Tomkinson trans., 1998) (book 1, § 77); AUGUSTINE, CONCERNING THE CITY OF GOD AGAINST THE PAGANS, *supra* note 31, at book 2, ch. 17; book 4; book 17, ch. 7; book 19, ch. 7; book 19, ch. 12; AUGUSTINE, REPLY TO FAUSTUS THE MANICHAEAN (*Contra Faustum Manichaeum*) (400 A.D.), http://www.ccel.org/ccel/schaff/npnf104.iv.ix.html; Augustine, Letter to Marcellinus, letter 138, para. 15 (411-12A.D.), http://www.ccel.org/ccel/schaff/npnf101.vii.1.CXXXIII.html; Augustine, letter no 189, "From Augustine to Boniface" (418 A.D.), www.newadvent.org/fathers/1102189.htm; AQUINAS, *supra* note 39, at pt. II-II, q. 40, art 1.

84. CLEARY, *supra* note 69, at 239 (para. 15) (Wen Tzu).

85. *Id.* at 272-74 (no. 154).

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government's duty as a good shepherd to protect people from predators. Like the Western medieval, renaissance, and enlightenment scholars who admired the free Greek, Roman, and Hebrew nations of antiquity, the Taoists found their best models in China's ancient past:

> Those who used arms in ancient times did not do so because wanted territory and wealth; they did it for the survival of those who were perishing, to pacify disorder and get rid of what was harmful to the populace. When avaricious people pillaged the land, the populace was in turmoil, and no one could be secure in what they had; so sages rose up to strike down violent aggressors, pacify disorder, and get rid of the problem for the land. To bring clarity where there was confusion, to bring stability where there was danger, they had no choice but to cut off aggression . . . .
>
> . . . Those who race fish must get rid of otters, and those who race animals must get rid of wolves; how about shepherds of the people—need they not get rid of the predators? This is the reason why military operations take place.[86]

Invading a foreign country was proper, when done to rescue the foreigners from oppression. The war must be fought to replace the bad government with a benign one; the war must not harm the people who are innocent victims of a wicked regime:

> The course of ruler is considered and planned strategically. Action in the cause of justice is not undertaken for their own survival, but for the survival of those who are perishing. Therefore when they hear that the ruler of an enemy country is treating his own people with violent cruelty, they raise armies and mass on his borders, accusing him of injustice and excess.
>
> When the armies reach the countryside, the commanders are given these orders: "Let there be no cutting down the trees, no digging up the graves, no destruction of crops, no burning of granaries, no taking people captive, no wrestling of domestic animals."
>
> The directive is given out in these terms: "The ruler of that country is rebelling against heaven and earth, insulting the ghosts and spirits; his legal judgments are unfair, and he slaughters the innocent. He is to be punished by Nature, an enemy of the people."

86. *Id.* at 285-86 (no. 167).

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> The coming of the armies is to oust the unjust and enfranchise the virtuous. If there are any who dared to oppose the Way of Heaven, brigands disturbing the people, they are to die themselves, and their clans destroyed [but people and officials who surrender are to be allowed to do so, and maintain their position.]
>
> The contrary to the country is not to affect the populace, but to dethrone the ruler in change the government . . . Then the peasants will open doors and welcome the invading armies . . . [87]

A wise government earned the loyalty of the people by ruling justly. If the government armed the grateful people, the state would be secure:

> What makes a country strong is willingness to die. What makes people willing to die is justice. What makes justice possible to carry out is power. So give people direction by means of culture, make them equal by arming them, and they may be said to be sure of victory. When power and justice are exercised together, this may be said to be certain strength . . . .
>
> . . . When there is a day set for battle, if they [the people] look upon death as like going home, it is because of the benevolence has been bestowed upon them.[88]

The *Wen-Tzu* concluded by advising,

> Govern countries by regular policies, use arms with surprise tactics….
>
> . . . Calm is a surprise for the frantic, order is a surprise for the confused, sufficiency is a surprise for the hungry, rest is a surprise for the weary. If you can respond to them correctly, like supercession of a series of elements, you can go anywhere successfully.[89]

C. The Master of the Hidden Storehouse

Lao Tzu's disciple, Keng Sang-tzu, has been credited with writing *The Master of the Hidden Storehouse*, a collection of advice for rulers. However, the history of the work is obscure until the T'ang Dynasty in the Eighth Century A.D., where it was honored as part of a revival of Taoist studies. The Emperor

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87. *Id.* (no. 169). The *Huainanzi* closely echoes this statement. CLEARY, *supra* note 69, at 358.

88. *Id.* at 289-90 (no. 171).

89. *Id.* at 299 (no. 180).

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Hsuan-tsung, who reigned from 713 to 755, liked it so much he called it the "Scripture of Open Awareness."[90]

The final chapter of the book explained that warfare was necessary to rescue oppressed people in other countries. A powerful and good militia would attract so much support from liberated people that enemy armies would flee without battle:

> Warfare cannot be dispensed with, any more than water and fire. Properly used, it produces good fortune; improperly used, it produces calamity . . . .
>
> When warfare is truly just, it is used to eliminate brutal rulers and rescue those in misery . . . .
>
> Generally speaking, it is desirable to have many troops . . . .
>
> . . . if all they [opponents] will get by approaching is death, then they will consider it profitable to run away . . . .
>
> [W]hen a just militia enters enemy territory, the people know they are being protected. What the militia comes to the outskirts of cities, it does not trample the crops, does not loot the tombs, does not plunder the treasures, and does not burn the houses . . .
>
> . . . a just militia safeguards the lives of individual human beings many times over, why would people not like it?
>
> Therefore, when a just militia arrives, people of the neighboring countries join it like flowing water; the people of an oppressed country look to it in hope as if it were their parents. The further it travels, the more people it wins.[91]

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90. 2 THOMAS CLEARY, *Introduction to The Master of the Hidden Storehouse*, *in* CLASSICS OF STRATEGY AND COUNSEL: THE COLLECTED TRANSLATIONS OF THOMAS CLEARY 8 (2000).

91. *Id.* at 126-27. *Cf.* Pope Paul VI, *Pastoral Constitution of The Church in the Modern World* item 79 (Dec. 7, 1965) (if soldiers fight not to subjugate other people, but instead for "security and freedom of peoples," then they "are making a genuine contribution to the establishment of peace.")

In arguing that warfare is sometimes necessary, Keng Sang-tzu pointed that people sometimes die from drugs, but medicine is not banned; people sometimes die in boats, but boats are not forbidden. *Introduction to The Master of the Hidden Storehouse*, *supra* note 90, at 126. The Milanese scholar Cesare Beccaria made the same point in his 1764 masterwork *On Crimes and Punishments*, which founded the science of criminology:

> It is a false idea of utility that sacrifices a thousand real advantages for a single chimerical or unimportant disadvantage, that would deprive men of fire because it burns or water because it drowns . . . .

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D. Huainanzi

Around 140 B.C., the *Huainanzi* ("The Masters of Huainan") was composed. The collection of sayings elaborated on the themes expressed by earlier Taoist authors. As with other Taoist writings, the *Huainanzi* was meant for "contemplation and not indoctrination."[92] Thus, while a statement in the *Book of Deuteronomy* or the *Koran* might be read as a precise legal statute, the Taoist writings tended to express an attitude and way of seeing the world, rather than of an exact code of conduct. The *Huainanzi* extolled free, diverse society, in which individuals lived in a balanced way, including in balance with nature.[93]

Echoing the *Wen-Tzu* (and pre-figuring the Declaration of Independence), the *Huainanzi* argued that governments are instituted for the security of the people, and when a government itself destroys security, the people have a right to overthrow the government:

> The reason why leaders are set up is to eliminate violence and quell disorder. Now they take advantage of the power of the people to become plunderers themselves. They're like winged tigers—why shouldn't they be eliminated? If you want to raise fish in the pond, you have to get rid of otters; if you want to raise domestic animals, you have to get rid of wolves—how much the more so when governing people![94]

Similarly, "When water is polluted, fish choke; when government is harsh, people rebel."[95]

According to the *Huainanzi*, a society's military strength is founded on social justice. A good society is like a family, in which everyone takes care of and pays appropriate regard to everyone else. Such a society is invincible: "So you cannot fight against an army of parents, children, and siblings, because of

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> The laws which forbid men to bear arms are of this sort. They disarm only those who are neither inclined nor determined to commit crimes . . . . These laws make the victims of attack worse off and improve the position of the assailant.

CESARE BECCARIA, *On Crimes and Punishments* (*Dei Delitti e Delle Pene*), *in* ON CRIMES AND PUNISHMENTS AND OTHER WRITINGS 101 (Richard Bellamy ed., Richard Davies trans., 1995) (ch. 40).

92. CLEARY, *supra* note 69, at 303. The book was most likely composed early in the reign of the Western Han Emperor Wu (whose reign began in 141 B.C.). CSIKSZENTMILHALYI, *supra* note 10, at xvi; LEWIS, *supra* note 66, at 211.

93. CLEARY, *supra* note 69, at 304-05.

94. *Id.* at 316. *See supra* notes 30-33 and corresponding text for Confucian, Jewish, and Christian thought also expressing the idea that evil governments are nothing more than a gang of robbers.

95. *Id.* at 317.

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how much they have already done for one another."[96]

Thus, "[w]hen people serve as militia in the same spirit as children doing something for their parents or older siblings, than the force of their power is like an avalanche—who can withstand it?"[97]

Likewise, "[w]hat makes warriors strong is readiness to fight to the death. What makes people ready to fight to death is justice . . . Therefore, when people are united by culture and equalized by martial training, they are called sure winners."[98] (Later in the West, militia exponents in Italy, Great Britain, and the United States would also express confidence in the power of a militia fighting to defend its community and its liberty.[99])

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96. *Id.* at 318.

97. *Id.* at 360.

98. *Id.* at 367.

99. For example, Leonardo Bruni, writing in the early Fifteenth Century, praised the city whose inhabitants "acted by themselves without the help of any foreign auxiliaries, fighting on their own behalf and contending as much as possible for glory and dignity." Unlike foreign mercenaries, native militia, who were "fighting for the love of their city," would fight fearlessly. QUENTIN SKINNER, THE FOUNDATIONS OF MODERN POLITICAL THOUGHT: VOLUME 1, THE RENAISSANCE 76-77(2002). For Great Britain militia supporters, *see* JAMES HARRINGTON, THE COMMONWEALTH OF OCEANA (1656), in THE POLITICAL WORKS OF JAMES HARRINGTON (J.G.A. Pollock ed., 1977); ALGERNON SIDNEY, DISCOURSES CONCERNING GOVERNMENT (1698); ANDREW FLETCHER, DISCOURSE CONCERNING MILITIAS (1697); JOHN TOLAND, THE MILITIA REFORMED (1698); Anonymous (probably John Toland, Walter Moyle, and John Trenchard), AN ARGUMENT SHOWING THAT A STANDING ARMY IS INCONSISTENT WITH A FREE GOVERNMENT, AND ABSOLUTELY DESTRUCTIVE TO THE CONSTITUTION OF THE ENGLISH MONARCHY (1697) and A SHORT HISTORY OF STANDING ARMIES (1698). For the United States, *see*, *e.g.*, THE FEDERALIST NO. 46 (James Madison):

> Extravagant as the supposition [that the new federal government could become tyrannical] is, let it however be made. Let a regular army, fully equal to the resources of the country, be formed; and let it be entirely at the devotion of the federal government; still it would not be going too far to say, that the State governments, with the people on their side, would be able to repel the danger. The highest number to which, according to the best computation, a standing army can be carried in any country, does not exceed one hundredth part of the whole number of souls; or one twenty-fifth part of the number able to bear arms. This proportion would not yield, in the United States, an army of more than twenty-five or thirty thousand men. To these would be opposed a militia amounting to near half a million of citizens with arms in their hands, officered by men chosen from among themselves, fighting for their common liberties, and united and conducted by governments possessing their affections and confidence. It may well be doubted, whether a militia thus circumstanced could ever be conquered by such a proportion of regular troops. Those who are best acquainted with the last successful resistance of this country against the British arms, will be most inclined to deny the possibility of it. Besides the advantage of being armed, which the

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Conversely, if the government failed to perform its responsibilities within the national family, the nation would not be powerful. The people expected "three things from the rulers: that the hungry can be fed, the weary can be given rest, and the worthy can be rewarded."[100] If the government neglected its duties, "then even if the country as large and its people many, the militia will still be weak."[101]

Thus, "The basis of military victory or defeat is in government." If the people "cleave to those above, then the militia is strong." But when "those below turn against those above, then the militia is weak."[102]

A ruler must deploy his forces for the public good, not for his personal gain:

> When you use arms well, you employ people to work for their own benefit. When you use arms badly, you employ people to work for your own benefit. When you employ people to work for their own benefit, anyone in the world can be employed. When you employ people to work for your own benefit, then you will find few. [103]

Use of the military for aggression was contrary to the Way: "A degenerate society is characterized by expansionism and imperialism, starting unjust military operations against innocent countries, killing innocent people, cutting off the heritage of ancient sages . . . . This is not what armies are really for. A militia is supposed to put down violence, not cause violence."[104]

Similarly:

> Those who used arms in ancient times did not do so to expand their territory were obtained wealth. They did so for the survival and continuity of nations on the brink of destruction and extinction, to settle disorder in the world, and to get rid of what harms the

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> Americans possess over the people of almost every other nation, the existence of subordinate governments, to which the people are attached, and by which the militia officers are appointed, forms a barrier against the enterprises of ambition, more insurmountable than any which a simple government of any form can admit of.

In the West, citizen militias sometimes defeated professional armies (as at Concord on April 19, 1776), but sometimes were routed by them (as at Lexington on that same date); the militias were not as invincible against professional armies as the most ardent militia advocates had hoped.

100. CLEARY, *supra* note 69, at 360.

101. *Id.* at 318.

102. *Id.* at 361.

103. *Id.* at 330.

104. *Id.*

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common people.[105]

Civilized warfare principles forbade the targeting of innocents: "Sages' use of arms is like combing hair or thinning sprouts: a few are removed for the benefit of many. There is no greater harm than killing innocent people in supporting unjust rulers."[106] Likewise, "In ancient wars, they did not kill young or capture the old . . . ."[107] The same point was made by the classical founders of international law in the West, such as Francisco Suarez, Hugo Grotius, and Samuel Pufendorf—who used the personal, natural right of self-defense as the starting point for the international law of warfare, and who extrapolated from personal self-defense the principle that a just nation, like a just individual, could not lawfully kill non-threatening non-combatants.[108]

E. Ethical Hunting and Skill at Arms

1. Hunting

The *Wen-Tzu* had explained that harmony with nature is consistent with ethical hunting, but not with hunting with destroys habitat or which depletes a species:

> There were laws of ancient kings not to surround the herds to take the full-grown animals, not to drain the ponds to catch fish, and not to burn the woods to hunt for game. Before the proper seasons, traps were not to be set in the wild and nets were not to be set in the water . . . . Pregnant animals were not to be killed, birds' eggs were not to be sought out, fish less than a foot long were not to be taken . . .[109]

The *Huainanzi* contained very similar language.[110] So when society is in harmony with the Way, hunting will take place at the proper time: "In early

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105. *Id.* at 357.

106. *Id.* at 357.

107. *Id.* at 313. The military treatise *Three Strategies of Huang Shih-kung*, written about 1 A.D., incorporates a Taoist sensibility about warfare: war was nothing glorious, but could be an unhappy necessity when needed to protect life or civilization; governments which took good care of its people would be enthusiastically defended by the people. Ralph D. Sawyer, *Introduction* to *Three Strategies of Huang Shih-kung*, in THE SEVEN MILITARY CLASSICS OF ANCIENT CHINA 281-91.

108. Kopel et al., *The Human Right of Self-Defense*, *supra* note 1.

109. CLEARY, *supra* note 69, at 270-71 (no. 151) (Wen Tzu).

110. *Id.* at 325.

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spring . . . pregnant animals are not to be killed . . . . In late autumn, hunters practice with their weapons, and ceremonies propitiating animals are carried out."[111]

Because ethical hunting was part of natural harmony, the *Huainanzi* condemned excessive government interference with hunting and fishing: "In latter-day government, there are heavy taxes on hunting, fishing, and commerce. Hatcheries are closed off; there is nowhere to string nets, nowhere to plow."[112]

2. Armscraft

The possession of weapons was less important than the character development, which came from assiduous study of weapons: "So to obtain sharp swords is not as good as mastering the art of the swordsmith."[113]

The possession of arms, like the possession of political power, must be guided by a spirit of wisdom:

> In human nature, nothing is more valuable than benevolence; nothing is more urgent than wisdom.
>
> Therefore, if one has courage and daring without benevolence, one is like a madman wielding a sharp sword . . .
>
> So the ambitious should not be lent convenient power; the foolish should not be given sharp instruments.[114]

To properly wield a sharp instrument, a person must be internally balanced. To properly wield a militia, a society must be balanced.

Taoism has something to say about modern America's culture wars—about the problem of mutual disdain between ballet aficionados in New York City and bullet aficionados in Tennessee:

> In the space of one generation, the cultural and the martial may shift in relative significance, insofar as there are times when each is useful. Nowadays, however, martialists repudiate culture and the cultured repudiate the martial. Adherents of cultural and martial arts

111. *Id.* at 352-53.

112. *Id.* at 329. Among the demands of the Peasants' Revolt (1524-1526) in Germany and Austria was the right to fish and hunt. The peasants pointed to *Genesis* 1:28, in which God gave dominion over the earth to all humans, not just to a select few. DAVID MARK WHITFORD, TYRANNY AND RESISTANCE: THE MAGDEBURG CONFESSION AND THE LUTHERAN TRADITION 40 (2001).

113. CLEARY, *supra* note 69, at 326.

114. *Id.* at 369.

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> reject each other, not knowing their functions according to the time.[115]

IV. CONCLUSION ON CHINA

The Taoists were not, of course, identical to the American Founders in their social views. While the Taoists condemned high taxes, they perhaps envisioned more of a welfare state than did the Americans. Likewise, the Taoist vision of society as like a harmonious family was more paternalistic than was the Founders' vision of popular sovereignty. And while many of the Founders saw the possession and mastery of arms as a positive virtue, Taoists tended to regard arms as a necessity rather than an intrinsic good. Although the Founders sought harmony with "the Law of Nature and of Nature's God," the Taoists tended to think more literally about the natural world in their own vision of a just society.[116]

Still, the Taoists and Master K'ung and Mencius and the American Founders and the British Whigs and the Italian city-state Republicans did share similar views about the militia.[117] They all agreed that a harmonious, just society was the essential foundation of militia-centric military strength. Military strength, however, could only be used for good purposes: to protect the innocent at home and abroad, by suppressing brigands and overthrowing tyrants. To use the military for imperialist aggression would eventually ruin the aggressive society itself. A militia founded on a just society would be invincible.

Confucianism and Taoism were created in a nation that had virtually no contact with the intellectual world of the West. Both religions are original to China, and in no way derivative of Western influence. A Western writer might draw a lesson from the militia era of the ancient Hebrews,[118] while an Eastern writer might draw a similar lesson from the militia era of the ancient Chinese. The details vary, but the results are the same: humans are endowed with the

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115. *Id.* at 314.

116. THE DECLARATION OF INDEPENDENCE para. 1 (U.S. 1776).

117. *See*, *e.g.*, JOHN GREVILLE AGARD POCOCK, THE MACHIAVELLIAN MOMENT: FLORENTINE POLITICAL THOUGHT AND THE ATLANTIC REPUBLICAN TRADITION (rev. ed., 2003); JOYCE LEE MALCOLM. TO KEEP AND BEAR ARMS: THE ORIGINS OF AN ANGLO-AMERICAN RIGHT (reprint ed., 1996); HALBROOK, *supra* note 69; see also *supra* note 99 and corresponding text.

118. The Hebrew militia era is detailed in the books of *Joshua*, *Judges*, and *First Samuel.* For an analysis of the Jewish nation's transition from a militia to a standing army, the accompanying loss of civil liberty, and the lessons drawn therefrom by the American Founders, see David B. Kopel *To Your Tents, O Israel!* LIBERTY, Apr. 2007, http://www.davekopel.com/Religion/To-your-tents-o-israel.pdf.

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right and the duty to use arms for hunting, for personal defense, to overturn evil government, and to liberate their neighbors from oppression. The same source, which creates that right also creates the duty to use arms in an ethical and unselfish way, in order to live in harmony with nature and with the community of man.

V. HINDUISM

A. The Mahābhārata and the Ramayana

The *Mahābhārata* and the *Ramayana* are the two most important classics of Hinduism and of the nation of India. The *Mahābhārata* (The Great Epic of the Battle) contains an abridged version of the *Ramayana*.[119]

The *Ramayana* is an adventure tale in which the god Rama uses tremendous violence to rescue his wife, who has been kidnapped by the demon Ravana and his armies. As Hindu scripture, the *Ramayana* is second only to the *Bhagavad-Gita* (*infra*).

The *Mahābhārata* is an immense work, telling the story of great wars between two related royal families, one good and one evil, battling for control of a kingdom. A central theme is the code of conduct for warriors, the *kshatriya-dharma*. An honorable warrior fights only against foes who have similar arms. He does not attack an unprepared foe, or a foe who already engaged in combat with someone else. He never attacks noncombatants.[120]

The most famous part of the *Mahābhārata* is the *Bhagavad-Gītā* (Song of the One who is Dear to Us), and is sometimes called the "Gospel of India." It the most important book of Hindu scripture.

The *Bhagavad-Gītā* is set on the eve of a great battle. The warrior king Arjuna wonders if he should surrender rather than fight. The god Krishna appears to him as his charioteer, and the two have a long discussion. Arjuna is worried about all the killing that the battle would cause, and he feels caught in a conflict between two Hindu principles: *ahimsa* (non-harming) and *dharma* (duty to society).

Krishna, using Hindu theories of predestination, and of the immortality of

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119. THE ENCYCLOPEDIA OF EASTERN PHILOSOPHY AND RELIGION 211 (Ingrid Fischer-Schrieber et al., eds., 1994).

120. Jarrod L. Whitaker, *Hinduism, Classical*, in ENCYCLOPEDIA OF RELIGION AND WAR, *supra* note 10, at 162. There are obvious parallels with the Western code of chivalry, governing the conduct of knights in the medieval ages. *See*, *e.g.*, CHRISTINE DE PISAN, THE BOOK OF FAYETTES OF ARMES AND OF CHYVALRYE (A.T.P. Byles ed., William Caxton trans., 2002) (reprint of 1932 edition of Caxton's 1489 translation) (1409).

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the soul (even after the body is slain) convinces Arjuna that he and the other warriors are born to fight. As fighters, they must obey ethical warfare principles similar to those later expressed in China and in the West: the warrior must not to be cruel, and must fight unselfishly.[121]

B. Mohandas K. Gandhi

Hindu lawyer Mohandas Gandhi created a program of non-violent active resistance called *satyāgraha* (holding to the truth). The word was first coined in 1906 when Gandhi lived in South Africa, working against legislation that discriminated against Asians who had migrated to South Africa.[122] Gandhi began leading *satyāgraha* campaigns in India, which continued until Britain granted India independence in 1947. Shortly thereafter, a Hindu fanatic assassinated Gandhi.

After Gandhi's initial campaigns in India, some people began calling him by the title *Mahātmā*, meaning "great soul." Gandhi rejected the title as idolatrous, and wrote in 1927, "I shall gladly subscribe to a bill to make it criminal for anybody to call me Mahatma and to touch my feet."[123]

The civil rights movement in the United States studied Gandhi carefully, and used an Americanized version of his program to achieve major advances for black people in the 1950s and 1960s, culminating in the prohibition of racial discrimination by governments and businesses in the Civil Rights Act of 1964 and the Voting Rights Act of 1965.

Gandhi is the king of kings in pacifist stories of the success of non-violence. Anti-war demonstrators in the West sometimes carry signs asking, "What would Gandhi do?" What Gandhi actually did is more complex than the sign-wavers realize.

The Russian writer Leo Tolstoy was an anarchist who opposed force in any form. Tolstoy urged people not to pay their taxes, but was never able to articulate a constructive program for what people *should* do.[124] In contrast, *satyāgraha* provided a positive, effective program of action. *Satyāgraha* was non-violent, but it could be extremely coercive. A boycott, for example, could destroy a person's livelihood.

"What would Gandhi do?" about World War One—the bloodiest war which

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121. MAHABHARATA 544-60 (trans. Krishna Dharma 1999) (book 2, ch. 4).

122. Asians had to be registered and fingerprinted, and carry identification cards. JANE ARDLEY, THE TIBETAN INDEPENDENCE MOVEMENT: POLITICAL, RELIGIOUS, AND GANDHIAN PERSPECTIVES 72 (2002).

123. JOAN V. BONDURANT, CONQUEST OF VIOLENCE: THE GANDHIAN PHILOSOPHY OF CONFLICT 124 (rev. ed 1988) (citing YOUNG INDIA, Mar. 17, 1927).

124. *Id.* at 186.

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had yet been fought? The war began in 1914 with expectations of quick and glorious victories, but by 1918, all sides were bled white by the futile slaughter. Yet in 1918, Gandhi tried to recruit Indians to fight in the Great War. "I do say that India must know how to fight," he explained. "A nation that is unfit to fight cannot from experience prove the virtue of not fighting."

Gandhi's recruiting campaign failed. He complained, "do you know that not one man objected because he would not kill?" Instead, "They object because they fear to die. The unnatural fear of death is ruining the nation."[125]

Gandhi recognized the danger that pacifism could become the passivist refuge of cowards. For Gandhi, *satyāgraha* was the strongest thing in the world; but for people who did not feel the same way, Gandhi wanted them to fight with weapons rather than submit to anyone.

For example, when speaking to the Pathans (a weapons-saturated tribe of Muslims in northwest British India, now part of Pakistan) Gandhi said that if they did not feel stronger without their knives and rifles, they should take up the weapons again, and forswear non-violence. "If you have not understood the secret of this [non-violent] strength, if as a result of giving up your rifles you feel weaker instead of stronger than before, it would be better to give up the profession of non-violence. I cannot bear to see even a single Pathan turn weak or cowardly under my influence." Instead, said Gandhi, "I would rather that you returned to your arms with a vengeance."[126]

"I do believe that where there is only a choice between cowardice and violence, I would advice violence," he stated.[127] Gandhi elaborated on the distinction between true non-violence and mere cowardice:

> Non-violence cannot be taught to a person who fears to die and has no power of resistance . . . . [A] man who, when faced by danger, behaves like a mouse, is rightly called a coward. He harbors violence and hatred in his heart and would kill his enemy if he could without being hurt himself. He is a stranger to non-violence.[128]

In 1947, the British succumbed to decades of *satyāgraha* and relinquished colonial rule. British India did not become independent India, though. Instead, the colony was split into India (with a Hindu majority) and Pakistan (with a Muslim majority). Gandhi spent the night before independence fasting rather than celebrating, because of his regret at the nation being divided.

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125. EKNATH EASWARAN, NONVIOLENT SOLDIER OF ISLAM: BADSHAH KHAN, A MAN TO MATCH THE MOUNTAINS 194 (2d ed. 1999).

126. *Id.* at 156-57.

127. BONDURANT, *supra* note 123, at 28 (citing YOUNG INDIA, Aug. 11, 1920).

128. *Id.* (citing *Harijan*, July 20, 1935).

Electronic copy available at: https://ssrn.com/abstract=1022045

It had long been apparent that if the British granted independence, they would accede to the demands of Muslim League for a separate Islamic nation. In response to arguments that independence on the Muslim League's terms would lead to civil war, Gandhi replied, "Yes, but it will be *our* civil war." "Our civil war" broke out almost immediately upon independence, ending the many years of relative peace between Muslims and Hindus that had prevailed during British rule. About one and half million people were killed.[129] Many more millions fled their homes, never to return. An undeclared war between India and Pakistan has more or less continued ever since, over control of Kashmīr, a northern region with a huge Muslim majority, most of which India annexed shortly after independence.

Gandhi was consistent in his belief that violence was preferable to continued colonialism. In 1922, Gandhi declared that he had "repeatedly said that I would have India become free even by violence rather than that she should remain in bondage." Similarly, "I would rather have India resort to arms in order to defend her honor than that she in a cowardly manner become or remain a helpless witness to her own dishonor."[130]

Thus, according to Gandhi, "[a]mong the many misdeeds of the British rule in India, history will look upon the act of depriving a whole nation of arms, as the blackest."[131]

An ardent Indian nationalist who prefers "our civil war" to civil peace under colonialism is hardly a peace-at-any-price pacifist. Gandhi's writing took a very firm pacifist stance, but his actions were more ambiguous. Did his attempt to recruit Indian warriors in 1918, and his blasé attitude toward civil war suggest that perhaps Indian independence was the strategic objective, and non-violence was chosen as the best tactic?

C. Did Gandhi's Success Lead to More Violence in the Long Run?

India has done reasonably well as an independent nation. It has maintained a freely-elected government for all but twenty-one months (in 1975-77). The nation still has a terrible caste system (in practice, although not formally by law). For most of the independent era, India was synonymous with squalid poverty. In recent years, though, India has begun to improve economically, in

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129. Noor-Aiman I. Khan, *Hindu-Muslim Violence in India*, in ENCYCLOPEDIA OF RELIGIONS AND WAR CLEARY, *supra* note 61, at 176.

130. ARDLEY, *supra* note 122, at 91 (citing MOHANDAS K. GANDHI, NON-VIOLENCE IN PEACE AND WAR 1 (1942)).

131. MOHANDAS GANDHI, GANDHI: AN AUTOBIOGRAPHY 446 (1993). The British disarmament policy was not completely successful. For example, on the mountainous fringes of British India, the Pathans kept their weapons. *See* text at note 126 *supra.*

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part by relying on its English-speaking middle class (a minority of the population, but still numbering in the tens of millions) to underbid Western workers for technology-related jobs, such as computer support.

It is politically incorrect to say so, but Pakistan might be better off if it were still a British colony. The country has been a military dictatorship for much of its independent history. Attempting to suppress the independence movement in East Pakistan (which is now the nation of Bangladesh), the military dictatorship in West Pakistan (now, Pakistan) killed 1.5 million East Pakistanis, and turned another ten million into refugees.[132] The people of Pakistan know very little civil liberty, and the country has become a global terrorist threat. Pakistan is home to many of the Saudi-funded madrassas—secondary schools which teach a simplistic and extremist version Islam and which foment violent hatred against non-Muslims. Until American Secretary of State Colin Powell presented Pakistan with an ultimatum after September 11, 2001, Pakistan was the major supporter of the Taliban regime in Afghanistan—the regime that was run according to the wishes of *al Qaeda*, and provided a haven and training site for terrorists all over the world. Pakistan has exported it nuclear technology to rogue states such as North Korea, Iran, and Libya.

Pacifists like to say, "Violence begets violence."[133] At least on the Indian subcontinent, so did nonviolence.

Finally, Gandhi utterly failed to realize that his tactics of non-violent resistance, while effective against Britain—a democracy with a free press and a long tradition of respect for human rights—could not necessarily be used against more ruthless countries.

In November 1938, Zionist leaders contacted Gandhi to ask him to support Jewish immigration to the British colony of Palestine. Gandhi refused, declaring that "the cry for the national home for the Jews does not make much appeal to me." While acknowledging the unparalleled viciousness of the Nazi persecutions of the Jews, Gandhi insisted that the Western democracies should not fight Hitler, because war would bring "no inner joy, no inner strength."[134]

So if the German Jews could not emigrate to Israel, and if the western democracies should not topple Hitler, what should the German Jews do? Gandhi said that the Jews should refuse to "submit to discriminating treatment," and dare the Nazis to imprison or kill them. The "voluntary" suffering would give the Jews "inner strength and joy." What if the Germans

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132. R.J. RUMMEL, DEATH BY GOVERNMENT 315-37 (1994).

133. *See* David B. Kopel, *Two Cheers for Violence*, LIBERTY, Sept. 2004, http://www.davekopel.com/2A/Mags/Two-Cheers-for-Violence.htm.

134. David Lewis Schaefer, *What Did Gandhi Do?* NAT'L REV. ONLINE, Apr. 28, 2003, http://www.nationalreview.com/comment/comment-schaefer042803.asp.

Electronic copy available at: https://ssrn.com/abstract=1022045

killed all the Jews? Such a day "could be turned into a day of thanksgiving and joy," because "to the God-fearing, death has no terror."[135]

Letting the Germans kill the Jews, Gandhi claimed, would convert the Germans "to an appreciation of human dignity." Gandhi had the same advice for the Jews in British Palestine. Instead of fighting back against Arabs who were trying to murder the Jews, the Jews should "offer themselves to be shot or thrown into the Dead Sea without raising a little finger." Jewish submission to slaughter would, in Gandhi's view, promote positive "world opinion" about a Jewish homeland. [136]

Gandhi's fatuous and arrogant advice to the Jews was wrong in every respect. There was no Jewish "inner strength and joy" for the Jews to gain by letting the Nazis slaughter them. Jewish inner strength and joy came when the Jews started fighting back against the Nazis, and when the Jews won their homeland by fighting an anti-imperialist war in British Palestine, and then defeating the Arab armies which were trying to drive Israel into the sea.

Gandhi's lethally misguided program for Jews is a good example of the dangers of substituting pacifist platitudes for realistic analysis of the problems of people trying to survive under tyranny.

Despite Gandhi's failings, Gandhi showed, in theory and in deed, how pacifists could be active resisters. His inspiring example helped make pacifists seem less like tame victims, and more like activists for justice.

VI. JAINISM

The Jaina faith was created sometime in the Sixth Century B.C. in India. Like Buddhism, which was created not long afterward, Jaina was a reaction against Hinduism and the caste system. The founder, Lord Mahāvīra, was the last of twenty-four perfect teachers. Jainists do not believe in a separate god, but rather in the divinity in each human soul, which can be liberated by right living.

Jainists take *ahimsa* very seriously. Lord Mahāvīra said: "one should not injure, subjugate, enslave, torture, or kill any living being including animals, insects, plants, and vegetables." Jainists try to minimize the killing of all living creatures, including insects and microbes. Jain monks carry a broom or whisk, to clear away small creatures before sitting down. One sect of Jainists wears masks over their noses and mouths, so as not to unintentionally inhale insects.[137]

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135. *Id.*

136. *Id.*

137. Pravin K. Shah, *Twelve Vows of Layperson* (Jainism Literature Center, n.d.),

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It would be impossible for humans to live without, at least, killing plants. So Jainists recognize that some killing is unavoidable. Jainists do not mandate pacifism under all circumstances, but instead recognize that some defensive violence can be necessary. All Jainists must subscribe to the Twelve Vows of Laypersons. (More restrictive vows apply to priests). A Jain website explains the meaning of the first vow, regarding non-harming (*Ahimsa Anuvrat*):

> In this vow, a person must not intentionally hurt any living being (plants, animals, humans etc.) or their feeling either by thought, word or deed, himself, or through others, or by approving such an act committed by somebody else.
>
> Intention in this case applies selfish motive, sheer pleasure and even avoidable negligence.
>
> He may use force, if necessary, in the defense of his country, society, family, life, property, religious institute.
> His agricultural, industrial, occupational living activities do also involve injury to life, but it should be as minimum as possible, through carefulness and due precaution.

The four stages of violence are described:

- Premeditated Violence to attack someone knowingly
- Defensive Violence to commit intentional violence in defense of one's own life
- Vocational Violence to incur violence in the execution of one's means of livelihood
- Common Violence to commit violence in the performance of daily activities

> Premeditated violence is prohibited for all. A householder is permitted to incur violence defensively and vocationally provided he maintains complete detachment. Common violence is accepted for survival, but even here, one should be careful in preparing food, cleaning house, etc. This explains the Jain's practices of filtering drinking water, vegetarianism, not eating meals at night, and abstinence from alcohol.
>
> Nonviolence is the foundation of Jain ethics.[138]

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http://www.fas.harvard.edu/~pluralsm/affiliates/jainism/jainedu/12vows.htm. The mask-wearing sect is the Sthānalavāsī, which began in the Fifteenth Century.

138. *Id.*

Electronic copy available at: https://ssrn.com/abstract=1022045

Jainists try to structure their lives to avoid participation in violence. In India, they usually belonged to a merchant or professional caste; much of the fighting was done by the highest, Brahmin, caste.[139]

VII. SIKHISM

The monotheistic Sikh religion was founded in India by Guru Nānak (1469-1538), who synthesized Hinduism and Islam. He was the first of ten Gurus who led the Sikhs until 1708.

In response to the martyrdom of the fifth guru, Arjan Dev, in 1606, the Sikhs began militarizing. Dev told his son, Guru Har Gobind, to maintain an army.[140] He did so, and the battles of Amristar in 1634, Lehra in 1637, and Kartarpur in 1638 won the Sikhs a measure of toleration. Har Gobind explained:

> My sword and weapons
> Are for the protection,
> of the poor and the oppressed.
> They are a flame of death,
> For tyrants and oppressors,
> which they have to taste.[141]

In 1675, the ninth Guru, Tegh Bahadur, was executed by Muslims for refusing to convert.[142] The tenth and final guru, Guru Gobind Singh (1666-1708), created a military group of men and women called the *Khalsa*, to defend the Sikhs. He explained than an unarmed person is like a sheep, which can by led to slaughter by anyone who grabs its ear.[143] The *Khalsa* warriors were supposed to synthesize opposites, such as fire (sun) and coldness (moon). The *Khalsa* were instructed to be humble yet powerful, to renounce the world but to be devoted to their families.[144]

Guru Gobind Singh also created an eternal requirement of Sikhs wear or carry five physical items: uncut hair, a steel bracelet, a wooden comb, cotton underwear, and a knife called the *Kirpan*. All of the items, called K-things,

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139. Christopher Key Chapple, *Jainism*, in ENCYCLOPEDIA OF RELIGION AND WAR, *supra* note 10, at 227.

140. BIRINDER PAL SINGH, VIOLENCE AS POLITICAL DISCOURSE: SIKH MILITANCY CONFRONTS THE INDIAN STATE 42 (2002).

141. *Id.* at 43.

142. Derek Rutherford Young, *Sikhism*, *in* ENCYCLOPEDIA OF RELIGION AND WAR, *supra* note 10, at 400.

143. SINGH, *supra* note 140, at 46.

144. *Id.* at 43.

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have symbolic meanings; the *Kirpan* symbolizes bravery, fortitude, and dignity.[145]

A modern Sikh writer, Kapur Singh, describes the unrestricted right to own and carry arms as a guarantee of freedom and sovereignty.[146] The Sikh liturgy includes the prayer, "May the Sword of the *Khalsa* be ever victorious . . . May the arms and armaments be our constant allies."[147]

In the United States and Canada, many Sikh students in public schools have been persecuted and expelled for violating "zero tolerance" laws by carrying a *Kirpan*, even in the form of a two-inch symbolic knife attached to a necklace.[148]

After the Gurus, leadership passed to Banda Singh Bahadur (1670-1716), who began a series of campaigns against the Mughals, the rulers of part of India. By 1801, the state of Punjab, with a large Sikh minority, had won independence from India. The British conquered and colonized Punjab in 1845-46.

Upon Indian independence in 1947, the Punjab was incorporated into India. The Sikhs agitated for independence, and were little mollified by the creation of Sikh-majority substate. In 1983, the Indian government raided the holiest Sikh shrine, the Golden Temple at Amritsar, because it was being used to store weapons. India's Prime Minister was assassinated the next year by two of her Sikh bodyguards. Rioting Hindus, in conjunction with Hindu police and military, tortured and then killed thousands of Sikhs, including women and children.[149] Since then, Sikhs have engaged in a small-scale war; their maximal goal is an independent state called Khalistan, which would be ruled by a Sikh theocracy; the minimal goal is greater autonomy within India.[150]

VIII. BUDDHIST ORIGINS AND SCRIPTURE

A. Siddhārtha Gautama

Buddhism originated in northern India around 500 B.C., as a reaction against

145. ROWENA & RUPERT SHEPHERD, 1000 SYMBOLS: WHAT SHAPES MEAN IN ART & MYTH 293 (2002).

146. SINGH, *supra* note 140, at 46. (citing KAPUR SINGH, PRASARAAPRSNA: AN ENQUIRY INTO THE GENESIS AND UNIQUE CHARACTER OF THE ORDER OF THE KHALSA WITH AN EXPOSITION OF THE SIKH TENETS 130 (Pair Singh & Madanjit Kaur eds., 1989)).

147. SINGH, *supra* note 140, at 47.

148. *See*, *e.g.*, Multani *v.* Commission scolaire Marguerite-Bourgeoys, [2006] 1 S.C.R. 256, 2006 SCC 6 (Can.) (reversing Quebec Court of Appeals, and holding that Canada's Charter of Rights and Freedoms protects students' right to wear the kirpan).

149. SINGH, *supra* note 140, at 224-27.

150. Young, *supra* note 142, at 400-402.

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the rigidity of Hinduism. Buddhism spread to southern India over next several hundred years.[151] It came to China in about the First Century A.D.[152] Today, Buddhism has nearly vanished from India, and has been severely repressed in by the Communist dictatorship in China. It is the dominant religion in Southeast Asia, and has many adherents in Japan and Korea.

Buddhism was founded by Siddhārtha Gautama, who was born about 566 B.C, as a prince in a city-state of southern Nepal.

The *Lalatavistara Sūtra* provides a detailed and fantastic life of Siddhārtha. As a young man, Prince Siddhārtha was an outstanding archer and warrior. Once, there was a bow that belonged to Siddhārtha's grandfather, and was so heavy that only one other person could lift it, and even he could not draw it. Siddhārtha, though, picked up the bow while he remained sitting, and drew the bowstring with a single finger. As hundreds of thousands of gods and men cheered, Siddhārtha fired a tremendous shot which flew a great distance, and penetrated the earth, bringing forth a spring which is today called "Spring of the Arrow." Siddhārtha was superior to gods and men in all forms of learning, and in wrestling, archery, and chariot driving.[153]

At age twenty-nine, Siddhārtha saw poverty, sorrow, and disease for the first time. He left his home and wife, and lived as an ascetic traveling monk for six years. Still in search of enlightenment, he sat down under a tree, determined not to rise until he had found enlightenment. He sat for forty-nine days.

While Siddhārtha was meditating, the demon Māra (destruction) attacked with all kinds of different weapons. "But no sooner did he throw those weapons than they changed into garlands and canopies of flowers."[154]

Siddhārtha arose as a "Buddha"—that is, "one who has awakened." Before Siddhārtha, there had been twenty-four Buddhas, and there have been many Buddhas since Siddhārtha.

Siddhārtha taught for nearly five decades, until about 486 B.C. when he died of food poisoning. The *Mahāperinirvā Sūtra* (Scripture of the Great Decease) is the story of Siddhārtha's last three months and his final teachings. It sanctions the killing of a tyrant to save many people.[155]

Siddhārtha's followers recorded many texts, only some of which are

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151. SHIFU NAGABOSHI TOMIO, THE BODDHISATVA WARRIORS 8 (1994).

152. *Id.*

153. 1 LALATAVISTARA SŪTRA: THE VOICE OF THE BUDDHA, THE BEAUTY OF COMPASSION 231-34 (Gwendolyn Bays trans., 1983) (ch. 12).

154. 2 LALATAVISTARA SŪTRA, *supra* note 153, at 480 (ch. 21).

155. BUDDHIST SUTRAS (Sacred Books of the East, vol.11) (T.W. Rhys Davids trans., Sri Satguru Pubs., 2003) (1881), www.buddhadust.org/buddhistsuttas/rd_bs_1-intro.htm; *see also* Kenneth Kraft, *Meditation in Action: The Emergence of Engaged Buddhism*, TRICYCLE: THE BUDDHIST REVIEW 44 (vol. 2, no. 3, 1993).

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available in English. Many Buddhist scriptures were written hundreds of years after Siddhārtha lived. The two major divisions of Buddhism are *Therevāda* and *Mahāyāna* (both discussed *infra*). The latter has a much larger canon of scripture.

Siddhārtha repeatedly explained that his teachings were rafts; they should be changed or discarded when the truth was reached.[156] Buddhism—unlike Judaism, Christianity, and Islam—is not a "religion of the book." The Buddhist scriptures are guides for enlightenment, not a legal code like the *Koran* or the *Torah*. Many Buddhists do not necessarily consider the scriptures divine, inerrant, or immune from modification based on new discoveries or knowledge.

Buddhism is based on the Four Noble Truths:

1. All existence involves suffering.
2. Suffering is caused by desire.
3. Suffering can be eliminated by eliminating desire.
4. The eightfold path is the means to eliminate suffering.

The eightfold path consists of:

1. Right view.
2. Right resolve.
3. Right speech.
4. Right conduct.
5. Right livelihood.
6. Right effort.
7. Right mindfulness.
8. Right concentration.

B. The Major forms of Buddhism

Within Buddhism, the *Therevāda* ("teaching of the elders") tradition is the oldest, and the most fundamentalist. It is the religion of Buddhists in Sri Lanka, Burma, and Thailand.

Mahāyāna ("big raft" or "great vehicle") Buddhism developed around the First or Second Century A.D. in India. It might be considered easier, and more relaxed than the monastic *Therevāda*. *Mahāyāna* regards people as *already* enlightened (not just potentially enlightened); people simply need to realize their enlightenment. In contrast to the *Therevāda*'s focus on achieving *nirvāna* as fast as possible, *Mahāyāna* emphasizes selfless service to the liberation of other beings.[157]

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156. Andrew Harvey, *Foreword*, in DHAMMAPADA ANNOTATED & EXPLAINED xii (2002).

157. *Nirvāna* (blowing out) extinguishes suffering because one is no longer part of the cycle

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The *Mahāyāna* cosmology is much richer than the *Therevāda* one. *Mahāyāna* Buddhism enjoys a plethora of saints, Buddhas, gods, and other helpful beings.

Zen (meditation) Buddhism developed from *Mahāyāna*, and is considered by some to constitute a third major school of Buddhism. It is the most challenging intellectually for many Westerners. It has little interest in scripture or theory; instead, one attains sudden enlightenment through pure, selfless experience of the moment.[158] Although Zen began in India, Zen grew up in China, where it was greatly influenced by Taoism. From China, Zen spread to Japan, where it became a favorite of the warrior class. In the latter part of the Twentieth Century, Zen grew popular with some Western intellectuals.

In many respects, Zen is as remote from the main line of Buddhism as an itinerant evangelical free church street corner preacher in Tulsa is remote from a Latin Mass at St. Peter's Basilica in Rome. Winston King, a religious studies professor at Vanderbilt University, writes that Zen "was quite cavalier toward the whole Buddhist structure of infallible scriptures, hoary traditions, and an undue reverence for sacred relics and images."[159]

On the whole, Buddhists are much more tolerant of internal sectarian differences than are the monotheistic Western religions.[160]

C. The Dhammapada

Among the most important scriptures for *Therevāda* Buddhists is the *Dhammapada*, a collection of 423 (or 426 in some versions) aphorisms attributed to Siddhārtha. Although some of the aphorisms use military metaphors, their thrust resembles the Sermon on the Mount, instructing enlightened people not to be troubled by the world:

> For never does hatred cease by hatred at any time. Hatred ceases by love. This is an eternal law.[161]
>
> All people tremble at the prospect of punishment. All people fear death. Remember that you are like them, and do not strike or injure.[162]

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of death and rebirth.

158. *Zen* is the Japanese word. The Chinese word is *Chan*.

159. WINSTON L. KING, ZEN & THE WAY OF THE SWORD: ARMING THE SAMURAI PSYCHE 14 (1993).

160. TOMIO, *supra* note 151, at 36.

161. DHAMMAPADA, *supra* note 156, at 3 (no. 5).

162. *Id.* at 43 (no. 130). *See also* 5 THOMAS CLEARY, CLASSICS OF BUDDHISM AND ZEN 34-35 (2002) [hereinafter, CLEARY, BUDDHISM].

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> Not to blame, not to strike, to live restrained under the law, to be moderate in eating, to sleep and sit alone, and to dwell on the highest thoughts—that is the teaching of the awakened.[163]
>
> Victory breeds hatred, for the conquered are unhappy. Those who have given up both victory and defeat are content and happy.[164]
>
> The sages who injure no one and who always control their bodies—they will go to the unchangeable place where they will suffer no more.[165]
>
> One is not a great one because one defeats or harms other living beings. One is so called because one refrains from defeating or harming other living beings.[166]
>
> Patiently shall I endure abuse as the elephant in battle endures the arrow sent from the bow, for the world is ill-natured.[167]
>
> The ones I call indeed brahmans who, though innocent offense, endure reproaches, strikes, and bonds—who have patience as their force and strength as their army.[168]
>
> The ones I call indeed brahmans who are tolerant among the intolerant, mild among the violent, and free from greed among the greedy.[169]
>
> Do not obey evil laws![170]
>
> Like a well-guarded frontier fort, having defenses within and without, guard yourself. Not a moment should escape attention, for those who allow the right moments to pass suffer pain when they are in hell.[171]

The collective, general sense of these sayings is pacifist.

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163. DHAMMAPADA, *supra* note 156, at 59 (no. 185).
164. *Id*. at 63 (no. 201).
165. *Id.* at 71 (no. 225).
166. *Id.* at 83 (no. 270).
167. *Id.* at 99 (no. 320).
168. *Id.* at 119 (no. 399). Brahmans were the highest Hindu caste. Siddhārtha was making the point that conduct, not birth, is the true basis deserving to be honored.
169. DHAMMAPADA, *supra* note 156, at 121 (no. 406).
170. *Id*. at 55 (no. 167).
171. *Id.* at 97 (no. 315).

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D. Buddhist I Ching

The *I Ching* (Book of Changes) is a Taoist-influenced Confucian book used for divination. It contains sixty-four hexagrams, which are composed by combining two trigrams from a set of eight basic trigrams. The user casts sticks on a flat surface, and the arrangement of the sticks tells the user which of the hexagrams to consult. A Buddhist version of the *I Ching* was written by Chih-hsu Ou-I (1599-1655).[172]

The Buddhist *I Ching* contains messages about hunting,[173] military strategy and tactics,[174] self-defense in a non-military context,[175] and overturning tyrants.[176]

Although the Buddhist *I Ching* does seem to recognize that hunting, war, and self-defense are legitimate parts of Buddhist life, it should be emphasized that the *I Ching*'s messages are cryptic and symbolic. For example, one message states, "Chasing deer without preparation is following the beasts." What Buddhists mean by "following the beasts" is greedily wanting meditation

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172. CLEARY, BUDDHISM, *supra* note 162, at 96.

173. "The aim of hunting in the south is a big catch." *Id.* at 275. "Catching the third fox on a hunt, finding a yellow arrow, correctness brings good fortune." *Id.* at 289. "The lord shoots a hawk on the high wall and gets it, to the benefit of all." *Id.* at 291. "Shooting a pheasant, one arrow is lost. Ultimately one is lauded and given a mandate." *Id.* at 348. "Regret vanishes. The hunt yields three catches." *Id.* at 351. "This is not the place for persistence. How can one catch game?" *Id.* at 263.

174. "He hides fighters in the bush; he climbs the high hill. Three years without flourishing." *Id.* at 191. "It is beneficial to set up rulers and mobilize the army." *Id.* at 202. "It politics, once there is joy, it will not do to forget cultural affairs and military preparedness . . . " *Id.* at 202. "In political terms, after disarmament and development of culture, people tend to indulge in comfort, leading to the inevitable decline of the basic energy of the country." *Id.* at 228. (The same point made is made repeatedly in the Judeo-Christian *Book of Judges*, in which the Hebrews fight to liberate themselves from foreign rulers, then become lax, are conquered by someone else, and have to fight again for their self-determination.) "It is beneficial to struggle for right. Daily practicing charioteering and defense, it is beneficial to have somewhere to go." *Id.* at 242. "Advancing and retreating, it is beneficial to be as steadfast as a soldier." *Id.* at 350. "For the army to be right, mature people are good. Then there is no error." *Id.* at 164.

175. "It is beneficial to defend against enemies." *Id.* at 336. "Arms are used when there is no other choice; this is like using medicine to kill illness." *Id.* at 165.

176.

> When ancient tyrants lost their countries, this was also simply because they tried to go higher when they should have lowered themselves. If they have been willing to be "exceedingly deferential in conduct, exceedingly sad in mourning, exceedingly abstemious in consumption," how would they have turned out as they did?

Id. at 370.

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experiences.[177] So the message has less to do with hunting advice than with meditation advice.

Buddhism has a vivid sense of spiritual warfare, involving the three-way conflict of mind, speech, and body.[178] So the most important interpretations of the Buddhist *I Ching* involve spiritual, not temporal, conflict.

E. Symbols

Buddhism is replete with symbolic weapons. The sword represents Buddhist power "to cut through wrong thinking."[179] In Chinese and Japanese Buddhism, the mace symbolizes Buddha, karma, or wisdom.[180] Maces are carried by the *ni-o* sculpture warriors who guard Japanese Buddhist temples.[181] A dagger is used by Buddhist Varjrayana deities "to cut through obstacles such as hatred and demons." The blade symbolizes skill and handle symbolizes wisdom.[182] Tibetan Buddhist monks carry ceremonial three-edged daggers called *phurba* in ceremonies protecting sacred buildings.[183] Some Buddhist practice a ceremony in which the soul of demon is captured in a doll, and then the doll is stabbed with the *phurba*, compassionately liberating the demon's soul into *nirvāna*.[184]

F. Additional Buddhist writings

Like Hindus and Jainists, Buddhists believe in *ahimsa*, the compassionate principle of not harming others.[185] Many Buddhist scriptures provide examples of *ahimsa* in practice.

For example, five years after becoming enlightened, Siddhārtha returned to his hometown. His mother's tribe, the Koliyans, were at war with the father's tribe, the Shākyas, because of a dispute over irrigation water for their farms.

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177. *Id.* at 150.

178. TOMIO, *supra* note 151, at 195.

179. SHEPHERD, *supra* note 145, at 292.

180. *Id.* at 294.

181. *Id.* at 294.

182. *Id.* at 293.

183. *Id.* at 293.

184. ENCYCLOPEDIA OF EASTERN PHILOSOPHY AND RELIGION, *supra* note 119, at 271. The ceremony is practiced in *Vajrayāna* Buddhism, a derivative of *Mahāyāna.*

185. In Sanskrit, *ahimsa* literally means "non-harming." *Id,* at 5. English translators often render *ahimsa* as "non-violence." Yet as this Article details, many Buddhists have found that "nonharming" and "nonviolence" are not identical.

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Siddhārtha interposed himself as a battle was about to begin. He explained to them that water was not worth the life of even a single person, and the war ended.[186]

In *Therevāda* Buddhism, a *bodhisattva*— an enlightened being—is a monk who attains personal liberation.[187] In *Mahāyāna*, the *bodhisattva* is a heroic, self-sacrificing, enlightened person who helps others attain enlightenment.[188] In the *Samdhinirmocana sūtra*, an important *Mahāyāna* text, Siddhārtha said that bodhisattvas "do not engage in blaming, reviling, striking, threatening, or harming [others] for the sake of retaliation. They do not cling to resentment."[189]

Śāntideva was very influential in *Mahāyāna* in Tibet in the Eighth Century.[190] Born a prince, he became a monk, but was resented by his fellows. The other monks looked for an excuse to expel him from the monastery, so they ordered him to recite an entire *sūtra* (sacred discourse) at a public event. He complied, and asked if he should recite an existing *sūtra*, or a new one.[191] The rival monks asked for a new *sūtra*, and so Śāntideva began chanting the *sūtra* now known as the *Bodhicaryāvatrāra* (A guide to the Bodhisattva way of life).[192] During the recitation, he levitated into the sky, and although his body disappeared, his voice continued to recite. He eventually renounced the monastic life, and traveled around India performing good works.[193]

Some of Śāntideva's teachings imply non-resistance:

> How many malicious people, as [unending] as space, can I kill?

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186. SULAK SIVARAKSA, SEEDS OF PEACE: A BUDDHIST VISION FOR RENEWING SOCIETY 75-76 (1991).

187. JEFFREY HOPKINS, MEDITATION ON EMPTINESS 345-46 (Wisdom 1996) (1983). *Therevāda* Buddhism is also called *Hīnayāna*. The *Hīnayāna* schools "do not accept the existence of a Buddha's Enjoyment Body . . . which immortally preaches doctrine to Bodhisattva Superiors. Further, "[m]any of the Hīnayana schools do not even accept the Mahāyāna sutras as being Buddha's word . . . ." *Id.*

188. *Id.*

189. WISDOM OF BUDDHA: THE SAMDHINIRMOCANA SŪTRA 253 (John Powers trans., 1995) (ch. 9). According to the *Cullavagga Sūtra*, a man named Devadatta tried three times to assassinate Siddhārtha. Siddhārtha refused to take any revenge on him. Eventually, hell opened up and swallowed Devadatta. FRANKLIN L. FORD, POLITICAL MURDER: FROM TYRANNICIDE TO TERRORISM 82-83 (1985).

190. Vesna A. Wallace & B. Alan Wallace, *Introduction to Śāntideva*, in A GUIDE TO THE BODHISATTVA WAY OF LIFE 12-13 (Vesna A. Wallace & B. Alan Wallace trans., 1997).

191. *Id.*

192. *Id.*

193. *Id.*

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> When the mind-state of anger is slain, then all enemies are slain.[194]
>
> Those who conquer the enemy while receiving the enemies' blows on the chest are the victorious heroes. The rest just kill the dead.[195]

Other parts of the *Bodhicaryāvatrāra*, though, seem to authorize violence if necessary to stop suffering: "[O]ne should always strive for the benefit of others. Even that which is prohibited has been permitted for the compassionate one who foresees benefit."[196] Or "May I be a protector for those who are without protectors . . . ."[197] And especially: "If the suffering of many disappears because of the suffering of one, then a compassionate person should induce that suffering for the sake of others."[198]

Because so many Buddhist scriptures are tales of monks, many lay Buddhists have enjoyed the *Vimalakirti Sūtra*, whose hero is a wealthy townsman. Probably written in Chinese around 100 A.D., the *Vimalakirti Sūtra* portrays a life of the ideal layman.[199] A famous passage tells Buddhists to stop wars, first by making sure that neither side wins, and then by restoring peace:

> If during the kalpa [eon] there is a clash of arms,
> he accordingly rouses a mind of compassion,
> converting those living beings,
> causing them to dwell in a land without contention.
>
> When great armies confront each other in the field,
> he causes them to be of equal might,
> manifesting his bodhisattva power and authority,
> subduing them and restoring peace.[200]

The *sūtra* also warns that hell is "the retribution for killing living beings" and for other misconduct.[201]

One text from the *Therevāda* Pali Canon (originally written in Pali, a literary language, in ancient India) tells of a king who refused to resist invaders. He threw open the gates of the city, was captured, and thrown in a dungeon. In the dungeon, he focused his mind on kind thoughts toward his captor. As a result,

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194. *Id.* at 49 (ch. 5, para. 12) (parenthetical added by translators).
195. *Id.* at 63 (ch. 6, para. 20).
196. A GUIDE TO THE BODHISATTVA WAY OF LIFE, *supra* note 190, at 57 (ch. 5, no. 84).
197. *Id.* at 35 (ch. 3, no. 17).
198. *Id.* at 103 (ch. 8, no. 105).
199. THE VIMALAKIRTI SUTRA (Burton Watson trans., 1997).
200. *Id.* at 101 (ch 8).
201. *Id.* at 117 (ch. 10).

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the captor was seized by so much physical pain that he released the king, who regained his throne.[202]

The weight of Buddhist scriptures favors a pacifist understanding of *ahimsa*. One *Mahāyāna sūtra* teaches:

> Moreover, bodhisattvas, great beings, should not be afraid in a wilderness infested with robbers . . . [t]hey should react to danger with the thought: "If those beings take away from me everything that is necessary to life, then let that be my gift to them. If someone robs me of my life, I should feel no ill-will, anger, or fury on account of that. Even against them I should take no offensive action, either by body, speech, or mind. This will be an occasion to bring the perfections of generosity, ethics, and patience to greater perfection, and I will get nearer to full enlightenment. When I have attained full enlightenment, I will act and behave in such a way that in my buddha land wildernesses infested with robbers will not exist, or even be conceivable. And my exertions to bring about perfect purity in that buddha land will be so great that in it neither these nor other faults will exist, or even be conceivable."[203]

On the other hand, *Mahāyāna*'s *Upaya-kaushalya sūtra* (Skillful Means) tells the story of a Bodhisattva who saved hundreds of people by killing a murderous thief.[204] Other *Mahāyāna* scriptures explain that such a defensive killing prevents the murderer from bringing more bad *karma* on himself, and creates good *karma* for the defender, providing that the defender acts in the spirit of compassion.[205]

The *Brahmajala Sūtra* is a *Mahāyāna* text providing ten major rules and forty-eight minor rules of good conduct. The very first rule prohibits killing.

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202. Todd L. Lewis, *Buddhism: India*, *in* ENCYCLOPEDIA OF RELIGION AND WAR, *supra* note 10, at 45.

203. *A[[hungarumlaut]][[ogonek]]as>hasrik>prajñ>p>amit>sÒtra* (*'Phags pa shes rab kyi pha rol tu phyin pa brgyad stong pa'i mdo* 19.817.3 (1985), quoted in John C. Powers, "Buddhism, an Introduction," *in* http://www.abuddhistlibrary.com/Buddhism/F-%20Miscellaneous/Miscellaneous%20Buddhism/John%20Powers,%20editor/Selected%20Texts/Faculty%20of%20Asian%20Studies.htm (The bracket signs in the citation are in Powers' original citation).

204. Jeffrey L. Richey, *Zen, Premodern*, in ENCYCLOPEDIA OF RELIGION AND WAR, *supra* note 10, at 465.

205. *Id.* at 465; Richard D. McBride, II, *Buddhism: China*, in ENCYCLOPEDIA OF RELIGION AND WAR, *supra* note 10, at 39. *Karma* (action) is a Hindu and Buddhist principle by which a person's good or bad acts result in his reincarnation in a higher or lower state. Buddhism aims to escape the *karma* cycle of endless death and rebirth.

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But other rules require Buddhists to protect all living things and to protect the Buddha, the *Sangha* (the Buddhist community), and the *Dharma* (law or teaching). So Buddhists have interpreted the *Brahmajala Sūtra* to require them to use force when necessary to protect Buddhist temples, priests, or libraries.[206]

IX. BUDDHISM'S APPLICATION IN ASIAN NATIONS

A. India

The Emperor Ashoka, who reigned from about 269 to 232 B.C, fought a series of wars that united most of India under his rule. After conquering India, he converted from Hinduism to Buddhism, and declared an official policy of non-violence. Buddhists claim that his conversion was sincere, while cynics believe that he was trying to undermine the Hindu Brahmin power base.

Some of Ashoka's laws were proclaimed in "Rock Edicts" which were inscribed throughout India on rocks and beautiful columns. In Rock Edict 4, Ashoka declared:

> For many hundred years in the past, slaughter of animals, cruelty to living creatures, discourtesy to relatives, and disrespect for brahmins and renunciates has been increasing. But now because of King Priyadarshi's [Ashoka's] practice of the Dharma, the sound of war-drums has become the call of Dharma . . . King Priyadarshi's inculcation of Dharma has increased, beyond anything observed in many hundreds of years, abstention from killing animals and from cruelty to living beings, kindliness in human and family relations….

Rock Edict number 1 proclaimed vegetarianism, although the King was still somewhat omnivorous:

> Many hundreds of living creatures were formerly slaughtered every day for the curries in the kitchens of His Majesty. At present, when this Edict on Dharma is being inscribed, only three living creatures are killed daily, two peacocks and a deer, and the deer is not

206. 1 HARRY COOK, THE WAY OF THE WARRIOR 200 (1999). Also: "In the case of beings endowed with moral qualities, such as humans, the act of killing is less blameworthy when the being [who is killed] has low moral qualities and more blameworthy when the being has high moral qualities." (Parenthetical added.) The particular rule on killing is item 8, which states: "Having abandoned the destruction of life, the recluse Gotama abstains from the destruction of life . . . ." *The Commentarial Exegesis of the Bramajāla Sutta*, in THE DISCOURSE ON THE ALL-EMBRACING NET OF VIEWS: THE BRAMAJĀLA SUTTA AND ITS COMMENTARIES 112-13 (Bhikkhu Bodhi trans., 1978).

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> slaughtered regularly. In the future, not even these three animals shall be slaughtered . . . .

Ashoka retained the death penalty, while creating a procedure for appeals.[207]

B. Bodhidharma

Bodhidharma was a great Buddha who brought Zen Buddhism from India to China around 520 A.D.[208] He was also, according to tradition (which may be highly unreliable), the founder of the martial arts.[209]

During the journey to China, Bodhidharma, who was carrying valuable documents, learned of the dangers to travelers posed by robbers. Bodhidharma meditated, and experienced a revelation that he should study animals. So he began to do so, and from the study, eventually developed the "Eighteen movements of Lo Han."[210]

At the Shao-lin Temple in China, Bodhidharma saw that many monks fell asleep during meditation. He felt compassionate pity for the monks whose bodies were wasting away through purely mental meditation exercises. So Bodhidharma decided to teach the "bodies and minds" of the monks.[211] He invented *Kung Fu* (or *Chuan Fa*), a form of boxing used for systematic exercise.[212]

There was another benefit to the Bodhidarma's martial teachings: because the monks had undertaken vows not to use weapons, gangs of soldiers or ex-soldiers would often rob the monks who traveled outside their monastery. After learning the unarmed combat techniques of martial arts, the monks could journey safely, and so they traveled around China, Okinawa, and Japan, disseminating the martial arts.[213]

A second great martial arts center in China developed on Wudangshan, where Taoist monasteries on seventy-two mountain peaks formed an alliance.[214]

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207. KEN JONES, THE NEW SOCIAL FACE OF BUDDHISM: A CALL TO ACTION 46 (2003).

208. TREVOR LEGGETT, SAMURAI ZEN: THE WARRIOR MONKS 12 (2003) (1985). The first publication of this book was entitled *The Warrior Koans*.

209. MICHAEL MALISZEWSKI, SPIRITUAL DIMENSIONS OF THE MARTIAL ARTS 43 (1998).

210. *Lohan* is a type of Buddhist saint. ENCYCLOPEDIA OF EASTERN PHILOSOPHY AND RELIGION 204 (Gabriel Palmer-Fernandez ed., 2004).

211. TOMIO, *supra* note 151, at 229.

212. MALISZEWSKI, *supra* note 209, at 44; VERNON KITABU TURNER, SOUL SWORD: THE WAY AND MIND OF A ZEN WARRIOR 135, 147-48 (2000). Bodhidharma may have drawn on martial arts techniques which had already been developed in India. SCOTT SHAW, THE WARRIOR IS SILENT: MARTIAL ARTS AND THE SPIRITUAL PATH 12 (1998).

213. TAISEN DESHIMARU, THE ZEN WAY TO THE MARTIAL ARTS 39-40 (1982).

214. DENG MING-DAO, SCHOLAR WARRIOR: AN INTRODUCTION TO THE TAO IN EVERYDAY LIFE

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The ideal martial artist was a Scholar Warrior, a person whose mind and body were well-trained and well-integrated.

Westerners often see the martial arts appear as coming from Zen and Taoism. But *Mahāyāna* Buddhism has also promoted the martial arts, viewing them as a technique to integrate the cultural and the physical.[215]

C. China

Buddhist monasteries in China became important centers of military training, and sometimes of resistance to government.

In the Fifth Century, the Northern Wei dynasty justified its wars of conquest by claiming that its rulers were the messianic Buddha, the *Maitreya*, who would establish a Buddhist reign of peace.[216] Supposedly, Wei conquests of northern China would usher in the peaceful era.[217]

Notwithstanding the Buddhist ideology asserted by the Wei regime, Buddhist monks led at least ten uprisings against the Wei in the Fifth and early Sixth Centuries.[218] During a rebellion, in 445-46 A.D., a large stockpile of weapons was discovered at a monastery in Chang'an, leading the Emperor to persecute Buddhists nationwide.[219]

In Tibet, tantric Buddhist texts gave "formulae for killing unjust kings," but these were suppressed in China during the T'ang Dynasty (618-907).[220]

In 1368, China was under the rule of the Mongols. Aided by the Buddhist "White Lotus Society," the Chinese freed themselves from foreign and barbarian (in Chinese eyes) rule.[221] The Mongols had made it illegal for the Chinese to carry arms. Only one out of ten families was allowed a carving knife.[222] So the martial arts skills of Buddhists were doubtless of great importance.

Replacing the Mongols was the Ming Dynasty; the first Ming ruler was an ex-monk who was influenced by the Red Turbans, a Buddhist millenarian

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13 (1990).

215. TOMIO, *supra* note 151, at 194.

216. The Japanese word for *Maitreya* is *Miroku*. Miroku Firearms is a large firearms manufacturer, which builds rifles and shotguns that are sold under other tradenames by Western companies.

217. McBride, *supra* note 205, at 41.

218. *Id.* at 40.

219. *Id.*

220. CLEARY, BUDDHISM, *supra* note 162, at 96.

221. JONES, *supra* note 207, at 142; B.J. TER HAAR, THE WHITE LOTUS: TEACHINGS IN CHINESE RELIGIOUS HISTORY 114 (1999).

222. DANIEL J. BOORSTIN, THE DISCOVERERS 142 (1983).

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sect.[223] The Ming Dynasty ruled from 1368 to 1644, and was a frequent target of White Lotus rebellions. Between 1621 and 1627, there were twenty White Lotus uprisings.[224] Under the Mings, "civilian armies rallied their personal attention and group solidarity around religious ideas, such as the coming of the *Maitreya*, the messianic future Buddha, as they fought to overthrow what they perceived as corrupt and oppressive 'government.'"[225]

Martial arts training was not merely for fighting, but for preserving Buddhist knowledge. As one historian observed:

> It would seem that one of the concerns of the time, therefore, was the "deposit" of knowledge that would allow humankind to survive in the future. Geniuses everywhere from Europe to East Asia seem to have deposited part of that knowledge right in the infrastructures of conflict (such as the martial arts), and then moved to balance this by developing culture to a high pitch . . . . This whole process itself illustrates a principle of the *I Ching*, whereby waxing and waning balance each other.[226]

In the Sixteenth Century, Chinese Buddhist monks taught a simplified version of Bodhidharma's techniques to the inhabitants of the Ryuku Islands, who were resisting Japanese invasion.[227]

In 1644, the Mings were deposed by a peasant army and the Manchu Dynasty (also called the Qing Dynasty). Initially, the Manchus cut some oppressive taxes.[228] But the Manchus grew autocratic and corrupt. They centralized too much power at the imperial court in Beijing and rigorously censored books. China, which had once been one of the great civilizations, slowly decayed.[229]

The Shao-lin and Wudangshan martial arts centers became centers of resistance. The Manchus, however, had their own Scholar Warriors, including Emperor Qian-long (1735-1795), who trained at Shao-lin and Wudangshan. He successfully intrigued to get Wudangshan to attack and destroy Shao-lin.[230]

Yet Shao-lin rose again. In the late Nineteenth Century, it was a training ground for many of the Chinese revolutionaries in the Boxer Rebellion (1899-

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223. Michael C. Lazich, *Buddhism, Mahayana*, in ENCYCLOPEDIA OF RELIGION AND WAR, *supra* note 10, at 48.

224. McBride, *supra* note 205, at 41.

225. CLEARY, BUDDHISM, *supra* note 162, at 97.

226. *Id.*

227. TOMIO, *supra* note 151, at 420.

228. SANDERSON BECK, CHINA, KOREA & JAPAN TO 1875 (2005).

229. *See* JOHN K. FAIRBANK, CHINA: A NEW HISTORY 217- 99 (1991).

230. DENG, *supra* note 214, at 14-15.

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1900), an unsuccessful effort to drive all foreigners out of China.[231]

White Lotus rebellions continued. A rebellion in 1796 swept up five provinces, and took nine years to suppress. An 1813 rebellion attacked the imperial palace itself.[232]

By the early Twentieth Century, firearms fighting at a distance had supplanted the personal combat of the martial artist. Groups in China such as the Orthodox Martial Athletic Association tried to keep alive the ideal of the Scholar Warrior. They studied a modern version of the Confucian Six Arts, combing cultural skills (such as music and painting) with athletic skills such as swordsmanship.

In 1931, the totalitarian military government of Japan invaded Manchuria, a region in northeast China rich in natural resources. After setting up a puppet government in the "independent" state of "Manchuko," the Japanese invaded the rest of China. Japanese soldiers were told that the Chinese were subhumans, and the Japanese perpetrated countless atrocities against Chinese civilians. The most infamous of these was the rape of Nanking, from December 1937 to March 1938. Approximately four hundred thousand Chinese were murdered, and as many as 80,000 woman and girls were raped.[233] Many of the rape victims were mutilated and killed.

In October 1936, the Chinese government ended the exemption of monks and nuns from military service. The debate over service was carried out in three special issues of the Buddhist journal *Fohai Deng* (The Illuminator of the Sea of Buddhism). Some monks argued that they would have to give up being monks in order to serve. The majority of articles, though, argued that Buddhists were obliged to serve their country. Because Buddhist monks must be motivated by compassion, the monks could not sit idle while the Chinese people were suffering. (The same principle is expressed in the Bible's *Book of Leviticus*, 19:16, "nor shall you stand idly by when your neighbor's life is at stake.")

The monks concluded that they needed to help their neighbors by "killing with compassion." The monks were following the *Mahāyāna* Chinese adage "compassion as the basis and expediency as the way."[234]

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231. SHAW, *supra* note 212, at 13.

232. McBride, *supra* note 205, at 42.

233. *See generally*, IRIS CHANG, THE RAPE OF NANKING (Penguin Books 1997).

234. *Id.* at 43.

In 1776, Pennsylvania Lutheran minister John Peter Gabriel Muhlenberg preached his farewell sermon to his congregation in Woodstock, Virginia. He explained that there was a time to pray and a time to fight. "It is now the time to fight," he said, and he took off his black robe, revealing the blue uniform of a Virginia Colonel. EDWARD FRANK HUMPHREY, NATIONALISM

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Until the Japanese were defeated in 1945, large parts of China were under Japanese control.[235] In 1949, the totalitarian regime of Mao Tse-Teng conquered the entire nation. Neither the Hirohito nor the Teng dictatorships had any use for schools which taught Chinese to think for themselves and to act heroically on their own initiative.

During the early Communist years, the Scholar Warrior schools hung on for a while by shifting their athletic programs into volleyball, gymnastics, and other sports which did not have a long-standing cultural connection to resisting oppression. Good health, rather than martial skill, became the basis for the athletic part of the program. But the last of the schools were wiped out in the Cultural Revolution.[236] The Red Guard (a thuggish Chinese equivalent to the Hitler Youth) invaded Shao-lin in 1965, destroyed statues, arrested the 200 remaining monks, and closed the temple.[237]

Mao Tse-Teng ranks above Adolf Hitler and Josef Stalin as the worst mass murderer in history. Among the many tens of millions murdered by Mao, particular targets included intellectuals, the middle class, and teachers of the martial arts.[238] Like Stalin and Hitler, Mao was a great supporter of gun control. All three tyrants set up strict gun licensing and registration systems to ensure that only the political reliable would have guns.[239] It should not be surprising, therefore, that Mao made sure to exterminate anyone who could teach people to fight without weapons.

More recently, Shao-lin has been re-opened and restored as a tourist attraction. The Shao-lin employees go through the motions of performing and instructing in the martial arts, but skeptics view the current exercise as a way of separating foreign tourists from their money, rather than as authentic Buddhist spiritual exercise.[240]

AND RELIGION IN AMERICA: 1774-1789 114-15 (1924). One of the many ministers to fight in the Revolution, Muhlenberg entered the Continental Army as a Colonel, and rose to the rank of Brigadier General, commanding some of the American forces at Yorktown. He also served as Vice-President of Pennsylvania during the Revolution, under the Presidency of Benjamin Franklin.

235. The atomic bomb saved many Chinese lives, as well as the lives of Japanese soldiers in China, by ending the war.

236. DENG, *supra* note 214, at 16-17.

237. 1 COOK, *supra* note 206, at 204.

238. NATHAN J. JOHNSON, BAREFOOT ZEN: THE SHAOLIN ROOTS OF KUNG FU AND KARATE 214 (2000).

239. *See*, *e.g.*, AARON ZELMAN & RICHARD W. STEVENS, DEATH BY "GUN CONTROL": THE HUMAN COST OF VICTIM DISARMAMENT (2001); Stephen P. Halbrook, *Nazi Firearms Law and the Disarming of the German Jews*, 17 ARIZ. J. INT'L & COMP. L. 483 (2000); Stephen P. Halbrook, *Nazism, the Second Amendment, & the NRA*, 11 TEX. REV. L. & POL. 113 (2006).

240. 1 COOK, *supra* note 206, at 204-207.

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Although Buddhists are now only about eight percent of the population in China,[241] Buddhism in China has a long and honorable record of supporting the people in their struggles against oppressive governments.

D. Korea

Buddhism was brought to Korea in the Sixth Century by General Yi Chaadon, who had learned Zen martial arts from Master Bek Hwa. The General instructed King Pophung, and became the King's favorite councilor. Jealous rivals framed Yi Chaadon for treason. When he was executed, and his head was chopped off, clear water flowed instead of blood, thus miraculously proving his innocence. The king was so impressed that he made Buddhism the official religion.[242]

Not long after, the Buddhist education system for the Flowering Warrior (*Hwa Rang*) Path was introduced. Its precepts were compassion, loyalty, respect for parents, and courage, all of which were learned by swordsmanship.[243] The *Hwa Rang*, all male, were instructed by Buddhist nuns, who were called Original Flower (*Won Hwa*).[244]

Trained from infancy, the *Hwa Rang* warrior monks were experts in sword and bow, in *Su Bak* (a Korean martial art of unarmed combat, for striking at the opponent's vital points), and in *Yu Sul* (a softer martial art based on grappling).[245] The *Hwa Rang* served as officers in command of ordinary soldiers, and after a series of bloody wars, Korea was united as a Buddhist nation.[246]

The gates of Korean temples are guarded by statutes of armed warriors, symbolizing the fierce mental struggle that lies within.[247]

Among Korea's national heroes are the Zen Sword-Masters Whonyo, Seo Sun, and Sa Myung, who led the nation against Japanese invaders.[248]

E. Sri Lanka: Lions vs. Tigers

Sri Lanka, formerly known as Ceylon, is an island south of India.

241. Bureau of Democracy, Human Rights, and Labor, *China (includes Tibet, Hong Kong, and Macau)* in INTERNATIONAL RELIGIOUS FREEDOM REPORT 2005 (U.S. Dept. of State 2005), http://www.state.gov/g/drl/rls/irf/2005/51509.htm.

242. CHANG SIK KIM & MARIA KIM, THE ART OF ZEN SWORD 5, 23-25 (1985).

243. *Id.* at 5.

244. SHAW, *supra* note 212, at 15.

245. *Id.* at 17. Yu Sul is believed to be an ancestor of Japanese Jujitsu. *Id.*

246. *Id.* at 18.

247. KIM & KIM, *supra* note 242, at 5.

248. *Id.*

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Therevāda Buddhism is the state religion. About three-quarters of the people are *Sinhala* (of the lions) ethnicity, most of whom are Buddhist. Most of the remaining non-Buddhist population are *Tamils*, who are mostly Hindu. For the last twenty years, the Tamils have been fighting a war of national liberation, seeking either independence or autonomy. The war has been prosecuted with great brutality on both sides.

The late Tessa J. Bartholomeusz' book *In Defense of Dharma: Just-war Ideology in Buddhist Sri Lanka* investigates how the Sri Lanka's Buddhists reconcile the ostensible pacifism of their religion with their desire to fight the war and prevent Tamil independence.

The great national epic of Sri Lanka is *Mahāvamsa*, written in the Fifth Century A.D. by a Buddhist monk. Like the *Ramayana* in India, the *Mahāvamsa* in Sri Lanka is pervasive in the national culture.

Part of the *Mahāvamsa* describes Siddhārtha's three magical trips to Sri Lanka, which laid the foundation for the introduction of Buddhism three centuries later. In Siddhārtha's first visit to Sri Lanka, he rid the island of *yakkhas*, a non-human type of demon, by scaring them to death. The war against the *yakkhas* is cited by modern Buddhists in Sri Lanka as justification for war.[249]

Much of the *Mahāvamsa* describes the great Buddhist King Dutugemunu (died 77 B.C.) and his war against the *damilas*—the illegitimate non-human rulers of Sri Lanka.[250] Dutugemunu fought with a Buddhist relic on his spear, and was attended in battle by five hundred monks. His slogan was "defense of the *Dharma*."[251]

After winning the wars, Dutugemunu was beset by guilt about all the killing, but enlightened monks reassured him that he had killed only "one and a half human beings." All the rest were evil unbelievers, and their death was no loss.[252]

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249. The second paragraph of the *Mahāvamsa* describes how "the Conqueror Buddha Gotama" decided to come to Sri Lanka, based on a meeting he had with another Buddha in a previous incarnation. THERA MAHANAMA-STHAVÍRA, MAHAVAMSA: THE GREAT CHRONICLE OF SRI LANKA 45 (Douglas Bullis trans., Asian Humanities Pr., 1999) (ch. 1).

250. JONES, *supra* note 207, at 142.

251. He explained to other kings, "My effort is not for the joy of sovereignty; it is for the establishment of the Faith of the Buddha forever. By this truth, let the articles worn on the body of my troops take the color of fire." After he spoke, "It came to pass in exactly this manner." MAHAVAMSA, *supra* note 249, at 248 (ch. 25).

252. He was reassured that "The others were heretical and evil and died as though they were animals. You will make the Buddha's faith shine in many ways. Therefore, Lord of Men, cast away your mental confusion." The chapter concludes, "If one bears in mind the many myriads of human beings murdered for greed and the evil consequences thereof, and also that

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The *Mahāvamsa* also extols Ashoka, the king of India discussed above.[253]

The *Cakkavatti Sihanada sūtra* is an early Buddhist text illustrating the ideal society. It describes a good Buddhist king who rules non-violently, yet maintains a fourfold army which accompanies him everywhere. To Sri Lanka Buddhists, the text teaches that wars can be just, and that the military is necessary for national defense.[254] This is consistent with traditional *Theravādan* Buddhist teaching that a good king should possess a large four-fold army composed of elephant corps, cavalry, chariot corps, and infantry.[255]

Another cited text is the *Maha-Ummagge Jataka*, detailing an earlier incarnation of Siddhārtha, advising a king how to win a war.[256]

In the late Nineteenth Century, as the Sinhalese anti-colonialist sentiments began to rise, the Sinhala-Buddhist patriot H. Dhramapala pointed out the reason why Sri Lanka had been oppressed by the Portuguese, then the Dutch, then the English: "The Sinhalese people have submitted with silence for the simple reason that they have not had the weapons to fight against the intrusion of the scheming missionary."[257]

The Sri Lankan government has a cabinet post for Minister of Defense, and another post for Minister of the Buddha Sasana (religion). The posts have sometimes been held by the same person.[258]

In 1990, Sri Lanka's Prime Minister cited the *Dhajagga sūtra*, in which Siddhārtha explained that Sakra, the king of the gods, taught his army courage by gazing at the flag. The *sūtra* implied, said the monk, that the Buddha did not condemn militias.[259] Later that year, the succeeding Prime Minister, J.R. Jaywwardene, justified the violent suppression of a Sinhalese extremist insurgent group known as the JVP: "One cannot attain Paradise by killing people . . . You cannot sit while a snake comes and bites you. You must deal with that snake. The JVP is like that. The State must protect its citizens. . ."[260]

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impermanence is the murderer of all, one will before long attain the liberation from suffering or at least an auspicious existence." *Id.* at 252 (ch. 25).

253. *See supra* note 207 and corresponding text.

254. TESSA J. BARTHOLOMEUSZ, IN DEFENSE OF DHARMA: JUST-WAR IDEOLOGY IN BUDDHIST SRI LANKA 40 (2002).

255. *Id.* at 41-43.

256. *Id.* at 44-45.

257. *Id.* at 71 (citing H. Dharmapala, *Buddhist Processions,* THE BUDDHIST, (vol. 4, no. 42, Oct. 21, 1892)). He later changed his name to Anagarika Dharmapala.

258. *Id.* at 148.

259. *Id.* at 36 (Prime Minister D.B. Wijetunga) (citing *PM Appeals to all Lankans: Fly National Flag from Feb 1-5*, THE DAILY NEWS, Jan. 24, 1990).

260. BARTHOLOMEUSZ, *supra* note 254, at 61 (citing *Revolutions of Violence not for Me*, THE DAILY NEWS, Jan. 25, 1990 (speech on the bicentennial of the French Revolution).

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In a 1997 interview, the Venerable Piyadassi, a great Buddhist missionary, explained that Siddhārtha:

> would have known that even righteous kings would have to defend themselves if attacked. You have to defend yourself . . . . If someone goes to kill my mother, I'm going to stop him. So this could be a condition in which I am forced to kill. But still killing is killing and saving is saving. Killing cannot be justified in Buddhism but a king defending the country and Buddhism can; the Buddha never got involved in these matters.[261]

Another monk argued—in a manner reminiscent of Thomas Aquinas[262]—that defensive killing was legitimate because it did not have bad intention:

> There are five factors that have to be completed in order to make the act of killing a sin: the intention to kill, making plans to kill, and ultimately taking a life according to a plan. In most defensive postures, these five factors are not fulfilled. For instance, if a snake were about to attack you, the immediate reaction would be to feel afraid and then to kill the animal. It is not regarded as an intentional killing. Therefore it is not considered a sin. Killing in war is the same thing; it is not intentional killing, but rather defense.[263]

The monk explained that he visits Buddhist soldiers who are fighting the war against the Tamils, and tells them that they are doing "good deeds" in order "to protect the people of the country. Soldiers have to risk their lives to protect and safeguard the dharma." Because the soldiers are selfless, they can attain *nirvāna*.[264]

In contrast, Bogoda Premaratne, a civilian advocate of reconciliation with

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261. BARTHOLOMEUSZ, *supra* note 254, at 44.

262.

> *I answer that,* Nothing hinders one act from having two effects, only one of which is intended, while the other is beside the intention. Now moral acts take their species according to what is intended, and not according to what is beside the intention, since this is accidental as explained above . . . . Accordingly the act of self-defense may have two effects, one is the saving of one's life, the other is the slaying of the aggressor. Therefore this act, since one's intention is to save one's own life, is not unlawful, seeing that it is natural to everything to keep itself in "being," as far as possible.

AQUINAS, *supra* note 39, at pt. II-II, q. 64, art 7. Aquinas's teachings about double effect were formally adopted as Catholic doctrine in the 1996 *Catechism of the Catholic Church.*

263. BARTHOLOMEUSZ, *supra* note 254, at 121 (Venerable Bengamuwe Nalaka).

264. *Id.* at 122.

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the Tamils, argued that war cannot be justified for any reason. But as for self-defense, "Buddhism doesn't have to tell anyone to protect themselves; this is instinctual."[265]

Summarizing, Bartholomeusz explained the need "to free the study of Buddhism from romantic ideas about . . . South Asian non-violence. After all, if we continue to insist that the real Buddhism is the Buddhism of the texts, and only portions of the texts that comport with attitudes of non-violence, and fail to take seriously Buddhist practices that are not endorsed by certain readings of the texts, then we are complicit in the faulty production of knowledge about Buddhism . . . ."[266]

F. Burma and Thailand

Burma is seventy-five percent *Therevāda* Buddhist, and Thailand ninety-five percent. Buddhism is the state religion of Thailand. In *Buddhism, Imperialism and War*, Trevor Ling examines the military and religious history of the two nations. He concludes:

> The historical record of the Buddhist kingdoms of South-East Asia does not support the view that where Buddhist institutions and

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265. *Id.* at 133. The principle that self-defense is instinctual was articulated in the West by, inter alia: CICERO, DE OFFICIUS, book 1, ch. 4, para. 11 (Walter Miller trans, 1913) (44 B.C.) (Roman lawyer and statesman; self-defense against criminals and tyrants is based on the natural "instinct of self-preservation"); GRATIAN, *supra* note 5 (natural law, including self-defense "exists everywhere through natural instinct"); GIOVANNI DA LEGNANO, DE BELLO, DE REPRESEALIIS ET DE DUELLO 278 (Thomas Erskine Holland ed., James Leslie Brierly trans., William S. Hein 1995) (1360) (ch. 80) (Italian founder of international law); ALBERICO GENTILI, DE IURE BELLIE LIBRI TRES 58-59 (William S. Hein 1995) (reprint of John C. Rolfe trans., 1933, of 1612 edition) (1598) (book 1, ch. 13) (Italian and English founder of international law); 1 HUGO GROTIUS, THE RIGHTS OF WAR AND PEACE 183-84 (Liberty Fund 2005) (reprint of 1737 English translation by John Morrice of the 1724 annotated French translation by Jean Barbeyrac) (1625) (book 1, ch. 2, § 1.3) (the most influential international law philosopher of all time); MARCUS JUNIUS BRUTUS, VINDICIAE, CONTRA TYRANNOS: OR, CONCERNING THE LEGITIMATE POWER OF A PRINCE OVER THE PEOPLE, AND OF THE PEOPLE OVER A PRINCE 149, 172 (George Garnett ed., Cambridge Univ. Pr., 1994)(1579)(pseudonymous and very influential Western European Protestant political theorist) ("natural law teaches us to preserve and protect our life and liberty—without which life is scarcely life at all—against all force and injustice. Nature implants this in dogs against wolves . . . the more so in man against himself, if he has become a wolf to himself. So he who disputes whether it is lawful to fight back seems to be fighting nature itself.") John Adams called the last-cited book one of leading books by which England's and America's "present liberties have been established." 3 JOHN ADAMS, A DEFENCE OF THE CONSTITUTIONS OF THE UNITED STATES OF AMERICA 210-11 (The Lawbook Exchange, 2001) (1797).

266. BARTHOLOMEUSZ, *supra* note 254, at 67.

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> ideas have a prominent place in national life the consequence will be peaceful international relations. Nor is there any clear evidence that in countries where Buddhism is the state religion, national wars have been regarded as un-Buddhistic activities. The evidence suggests, on the contrary, that Buddhism in South-East Asia has been successfully employed to reinforce the policies and interests of national rulers . . . .[267]

In fact,

> [T]he list of battle honours gained by the armies of the many Buddhist kingdoms is one which would not disgrace such great shrines of military glory as Canterbury Cathedral or Westminster Abbey. As occasion demanded, and sometimes when it did not, Burmese fought Mons, and Pyus, and Thais, and Laos. Similarly the Thais fought the Laos, and the Malays, and the Khmers and the Burmese.[268]

Simply put, "The record is strikingly similar to that of the Christian nations of Europe."[269]

In the last several years, Thailand has been fighting against Islamic jihad terrorists in southern Thailand who often murder schoolteachers, peaceful Muslims, and other citizens. In response, Thailand has issued gun licenses to schoolteachers, and has attempted to suppress the insurgency through police and military force.[270]

G. Tibet

Tibetan experts have noted that the "discussion of Buddhism in the scholarly and popular literature of Tibet . . . resounds with the notion that Buddhism and its influence is the antithesis of bellicosity, notwithstanding evidence to the contrary."[271] Westerners who think about Tibet are often guilty of "Shangri-La-ism"—of the "idealized, romantic vision of Tibet as a land of enlightened, non-violent, happy and exotic people."[272] Thus, "[f]or those in the West who look

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267. TREVOR LING, BUDDHISM IMPERIALISM AND WAR 136 (1979).

268. *Id.* at 139.

269. *Id.* at 147.

270. David B. Kopel, *Follow the Leader: Israel and Thailand Set an Example by Arming Teachers*, NAT'L REV. ONLINE, Sept. 3, 2004, www.nationalreview.com/kopel/kopel200409022215.asp.

271. BARTHOLOMEUSZ, *supra* note 254, at 11 (citing DONALD LOPEZ, PRISONERS OF SHANGRI-LA: TIBETAN BUDDHISM AND THE WEST 7-8 (1999)).

272. JANE ARDLEY, THE TIBETAN INDEPENDENCE MOVEMENT: POLITICAL, RELIGIOUS, AND

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to Tibetan Buddhism for all the answers to their insecurities, the image of 'violent' Buddhists is uncomfortable particularly where Buddhism itself can be offered as a justification for their actions."[273]

The Dalai Lama is the leader of the Tibetan Buddhist religion. ("Dalai" means "oceanwide.") The current Dalai Lama, Lhamo Thondup, is the thirteenth reincarnation of the original Dalai Lama. All the Dalai Lamas are manifestations of Avalokitsehvara, the *bodhisattva* of compassion.[274] Winner of the 1989 Nobel Peace Prize, the Dalai Lama is a widely-respected, worldwide religious leader. Many Westerners are familiar with the non-violent teaching of the current Dalai Lama, such as "[t]he basis of all moral teaching ought to be the nonresponse to attacks."[275] But before Westerners take such sayings as a categorical imperative, it is essential to remember that, as the Dalai Lama emphasizes, Buddhist thought does not operate on the binary terms of Western thought.

During the *Bstan* period (600-842 A.D.), Tibet was a very powerful warrior society. Tibet's greatest victories were won during the reign of King Khri-Srong Lde-bstan (Trisong Detsen) (reigned 755-97). In 763, a Tibetan army captured the Chinese capital of Sian, and put a Tibetan prince on the Chinese throne.[276] After signing a treaty with China in 783 A.D., Tibet turned west, and conquered much of Central Asia.[277]

King Khri-Srong Lde-bstan is revered as one of the great religious kings of Tibet, who worked assiduously to spread Buddhism. In 763 A.D., the King invited Buddhist missionary teachers in China and India to come to Tibet. Around 779, he built the famous temple of Bsam-yas (Samye), which trained Tibetan Buddhist monks.[278]

The Buddhist Revolution in Tibet took place from 842 to 1247 A.D.[279] In 842, the Tibetan king's brother, Lang Darma, was killed by a Buddhist monk because Darma opposed Buddhism. Tibetan Buddhists have lauded the killing as an example of Buddhist "skillful means" (discussed above) to protect the *Dharma* (Buddhist law) and to compassionately prevent the king's brother from

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GANDHIAN PERSPECTIVES 184, n. 2 (2002).

273. *Id.* at 63.

274. *Id.* at 9. He was a monkey demon and is considered the father of the Tibetan people. *Id.*

275. DALAI LAMA WITH JEAN-CLAUDE CARRIÈRE, VIOLENCE AND COMPASSION: DIALOGUES ON LIFE TODAY 115 (1996) (originally published in France in 1994 as *La Fource du Bouddhisme*).

276. DAWA NORBU, CHINA'S TIBET POLICY 133 (2001).

277. *Id.* at 133-34.

278. ENCYLOPEADIA BRITANNICA ONLINE, ACADEMIC EDITION, BUDDHISM 31, http://search.eb.com/eb/article-68683 (last visited September 3, 2007).

279. NORBU, *supra* note 276, at 134.

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harming his soul by committing further bad acts.[280]

There were conflicts between various Buddhist sects, and for a while, Buddhism retreated in central Tibet. However, by the middle of the Thirteenth Century, Buddhism was well-established as the national religion and the center of cultural life.

During the Thirteenth Century, both Tibet and India fell under Mongol control. The Mongols ruled Tibet with a light hand, using the Tibetan Lamas to carry out ordinary governance. Tibetans were exempted from military service and taxes.[281] Instead, the Mongols provided military protection to Tibet.[282] The Mongol Khans were respected by the Tibetans as defenders of the Buddhist faith. By using Mongol warriors to defend Tibet, the Mongol Khans allowed the Tibetan Lamas to avoid involvement with violence, while still enjoying protection from Tibet's enemies.[283]

Late in the Fourteenth Century, the Chinese overthrew the Mongols, and Tibet regained independence. Thereafter, China and Tibet engaged in many wars for control of eastern Tibet. The Chinese conquered much of the provinces of Kham and Amdo, and merged them into Chinese provinces. The British dubbed this region "Inner Tibet." The Buddhist Khampa tribes of Inner Tibet were battle-hardened warriors, described by a Chinese observer in 1666 as people who "delight in wars and conflicts, not hesitant to die."[284]

Meanwhile, there were many battles and coups within Outer Tibet, as various Buddhist factions, in alliance with the Mongols, struggled for supremacy. Eventually, the winner was the faction associated with the Dalai Lamas.

In the Eighteenth Century, the Chinese replaced the Mongols as the nominal overlords of Tibet; most of the time, however, the Chinese exercised even less meaningful control than the Mongols. By the middle of the Nineteenth Century, the Chinese Empire had grown decrepit; the fierce Khampas won almost complete independence from China and from the Tibetan government in Lhasa. Nominally, they lived in Chinese territory which was claimed by Tibet. In practice, they ruled themselves.[285]

Outer Tibet was still claimed by China, although Chinese influence was small. Unlike the Mongols, the Chinese offered little military assistance. Thus, Tibet fought its own wars with the little Himalayan kingdom of Ladakh in 1842

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280. ARDLEY, *supra* note 272, at 53; text at *supra* note 204 (skillful means).
281. NORBU, *supra* note 276, at 51.
282. *Id.* at 75.
283. *Id.* at 81.
284. *Id.* at 132.
285. *Id.* at 215-16.

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and with Nepal in 1858.

In Outer Tibet during the Nineteenth Century, three large monasteries attained preeminent power over the government, and held that power until the Communist takeover in 1951. As of 1951, the three monasteries held about 22,000 monks; of them, about 10 to 15 percent were *dobdobs*, fighting monks. They carried knives, and could access the guns and ammunition stored in the monasteries. The *dobdobs* were stronger than the tiny Tibetan army and police, and so the monasteries enjoyed coercive power over the government.[286]

During the final years of the Manchu dynasty, the Chinese attempted to assert real control over Tibet, and used military force. The Thirteenth Dalai Lama fled to India. When the Chinese Manchus were overthrown by the Chinese Nationalists in 1911-12, Tibet declared independence.

Outer Tibet's independence was not seriously contested, but the Chinese eventually began to war for Inner Tibet. Tibetan troops and monks fought against the Chinese Nationalist government in Inner Tibet.[287]

The Dalai Lama at the time was Thupten Gyatso, the thirteenth Lama, who died in 1933.[288] In 1932 he left a "Political Last Testament," predicting:

> In the future, this system [communism] will certainly be forced either from within or without on this land. . . . If, in such an event, we fail to defend our land, the holy lamas . . . will be eliminated without a trace of their names remaining; . . . our political system . . . will be reduced to an empty name; my officials . . . will be subjugated like slaves by the enemy; and my people, subjected to fear and miseries, will be unable to endure day or night.[289]
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> . . . [We] should make every effort to safeguard ourselves against this impending disaster. Use peaceful means where they are appropriate; but where they are not appropriate, do not hesitate to resort to more forceful means.[290]

As the current Dalia Lama explains, Gyatso knew that independent Tibet

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286. ARDLEY, *supra* note 272, at 16-17; NORBU, *supra* note 276, at 409 n. 2. (The Tibetan army was less than 5,000 in the early Twentieth Century; there was a small police force in Lhasa only).

287. NORBU, *supra* note 276, at 94, 409 n. 4.

288. In 1935, Gyatso's soul was reincarnated in the baby who grew up to be the current, fourteenth Dalai Lama.

289. ARDLEY, *supra* note 272, at 13 (citing MELVYN C. GOLDSTEIN, A HISTORY OF MODERN TIBET 1913-1951: THE DEMISE OF THE LAMAIST STATE 205 (1989)).

290. *Id.* at 168 (citing WARREN W. SMITH, TIBETAN NATION: A HISTORY OF TIBETAN NATIONALISM AND SINO-TIBETAN RELATIONS 230 (1996)).

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could never overcome a huge nation like China or India, so Gyatso turned to Nepal and Bhutan. He proposed, "A sort of common defense: raise an army, train it as best as possible. Just between us, this isn't strictly practicing non-violence."[291] Gyatso proposed bringing young men from Kham to the capital of Lhasa. In Lhasa, they would receive "a complete military education. Politically, that was very farsighted. He was already advancing the idea that defense of a land has to be assured by the people who occupy it."[292]

Gyatso's program was never implemented. Nepal and Bhutan ignored the proposal for mutual defense. Tibetan dignitaries refused to build up the army, because they were sure that the gods would protect Tibet.[293]

Would Gyatso's defense system have saved Tibet? "I'm convinced it would have," said the current Lama.[294]

In 1950, when the current, fourteenth, Dalai Lama was only fifteen years old, Mao Tse-Teng's Red Army invaded Outer Tibet. In 1951, the Dalai Lama was forced, under duress, to sign a seventeen-point agreement with China declaring that all of Tibet is part of "the Motherland" of China. The agreement pretended that Outer Tibet retained its internal autonomy.

Armed resistance to Communism began in 1952 with numerous uprisings in eastern Tibet. Although the Chinese at first proceeded cautiously in Outer Tibet, they regarded Inner Tibet as an ordinary part of China, and pushed the Communist "reforms" (including genocide) in Inner Tibet with the same vigor with which the Communist program was enforced elsewhere in China.[295] About 68,000 Tibetans joined with approximately 12,000 fighters from the defeated Chinese Nationalist army, to war against their mutual enemy the Communists.[296] The revolt cooled down when the Chinese Communists backed away from their program to impose serfdom in eastern Tibet (that is, farm collectivization in which the government would own and control the farms, and the farmers would no longer own the land).[297]

More people joined the revolution in 1953. In 1954 the Chinese 18th Army suppressed a 25-day revolt of 40,000 farmers in Tibet.[298]

The resistance fighters were known as the "National Volunteer Army for the

291. LAMA & CARRIERE, *supra* note 275, at 148.
292. *Id.* at 148.
293. *Id.* at 146-48.
294. *Id.* at 149.
295. NORBU, *supra* note 276, at 215-17.
296. *Id.* at 218-19.
297. ARDLEY, *supra* note 272, at 28-29; NORBU, *supra* note 276, at 219.
298. Associated Press, *Tibet Revolt Reported*, N.Y. TIMES, Aug. 24, 1954.

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Defense of Buddhism" (*Tensung Dhangland Magar*).[299]

The core of the resistance was the men of Kham and Amdo, the tribesmen of eastern Tibet. It was they whom the Thirteenth Dalai Lama had wanted to turn into the foundation of a strong Tibetan army. They thrived in the thin atmosphere of the mountains, while their Chinese adversaries gasped for breath.[300]

Eastern Tibet's Kanting Rebellion began in the winter of 1955-56. It was defeated by the end of 1956, and many of the rebels fled to Outer Tibet.[301] Yet the Khampas began a new uprising in 1956-67, and Amdo rose up in 1958. More refugees and fighters from Inner Tibet fled to Outer Tibet. Many of them clustered around the capital, Lhasa, and the many disparate tribes and clans began working to form a united fighting force.[302]

The Lhasa Uprising began on March 10, 1959, in response to rumors that the Chinese were about to arrest the Dalai Lama. The Dalai Lama fled to India, and the Chinese appointed the Panchen Lama (the second-highest spiritual leader in Tibetan Buddhism) as their puppet. Participants in the Lhasa Uprising included Tibet's little army of 3,000 men; about 10,000 Khampas who had fled to Lhasa; most of the 20,000 Buddhist monks in Lhasa; and thousands of members of the general public. The Chinese had to kill more than 87,000 people to suppress the Lhasa Uprising.[303]

Unsurprisingly, in April 1959 the Chinese forbade the Tibetan male tradition of wearing swords.[304]

How could Tibetan Buddhists engage in violence? Jampa Tenzin, a former guerilla and monk, explained,

> Generally, of course, non-violence is good, and killing is bad . . . But each and everything is judged according to the circumstances of the situation, and, particularly in Buddhism, according to the motivations . . . . In order to save a hundred people, killing one person may be acceptable . . .. Individual, or self, motivation is obviously not allowed . . . .[305]
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> . . . [U]nless we did something sooner or later we couldn't practise religion . . . *Dharma* [had to] prevail and remain . . . even by violent

299. ARDLEY, *supra* note 272, at 21-22.
300. *Id.* at 29.
301. NORBU, *supra* note 276, at 219.
302. *Id.* at 220-21.
303. *Id.* at 226.
304. *Id.* at 131.
305. ARDLEY, *supra* note 272, at 53.

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means.[306]

Protests and small revolts that began in 1987 culminated in March 1989, rioting against the Chinese colonists whom the Communist government had settled in Tibet (and who now comprise the majority of Tibet's population).

China has perpetrated genocide and ethnic cleansing in Tibet, and continues to do so, having killed approximately one million Tibetans (a seventh of the Tibetan population) directly or by starvation.[307]

Living in exile in India, the Dalai Lama professes his admiration of Mohandas Gandhi. Yet like Gandhi, the Dalai Lama is not as inflexibly pacifist as some Westerners imagine. Indeed, the Lama defended what he called India's "right to nuclear weapons."[308]

According to the Dalai Lama, "if someone has a gun and is trying to kill you, he said, it would be reasonable to shoot back with your own gun."[309] Elsewhere, the Dalai Lama said:

> [I]f the situation was such that there was only one learned lama or genuine practitioner alive, a person whose death would cause the whole of Tibet to lose all hope of keeping its Buddhist way of life, then it is conceivable that in order to protect that one person it might be justified for one or 10 enemies to be eliminated—if there was no other way. I could justify violence only in this extreme case, to save the last living knowledge of Buddhism itself.[310]

The Dalai Lama has never supported armed resistance in Tibet. The non-violence of the Lama's approach has won him widespread sympathy in the West, although thus far, there has been no progress in convincing the Chinese to relax their iron grip. Today, Communist rule of Tibet is much more severe than is the rule in the ethnically Chinese portions of China.

Sometimes the Dalai Lama states that non-violence is the most important thing. Sometimes he offers broad justifications for violence—such as national defense against communist imperialism, or individual self-defense against

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306. *Id.* at 93.

307. *Id.* at 167.

308. *Id.* at 62 (quoting *Dalai Lama Defends Indian Weapon Tests*, THE GUARDIAN (London), May 19, 1998 (ideally there would be no nuclear weapons, but because big countries are conceded to have a right to such weapons, India has a right to atomic bombs, because it is a big country)).

309. Hal Bernton, *Dalai Lama Urges Students to Shape World*, SEATTLE TIMES, May 15, 2001.

310. BARTHOLOMEUSZ, *supra* note 254, at 29 (quoting R. Thuman, *The Dalai Lama on China, Hatred, and Optimism*, MOTHER JONES, Nov.-Dec. 1997 (Internet edition)).

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deadly attack. Sometimes he allows only an extremely narrow justification for violence—namely saving his own life. To puzzle over the contradictions is to miss the non-binary spirit of Tibetan Buddhism. Over the course of Tibet's long history as an extremely religious *Mahāyāna* Buddhist state, the country has not always been at war, but it has certainly not always been at peace. In Tibet, as in other Buddhist countries, conscientious Buddhists have found religious justifications for warfare.

H. Japan

Buddhism came from Korea to Japan in the Sixth Century. The religion was the gift of one kingdom to another. From thenceforward, Buddhism in Japan was closely associated with the state.

Zen, however, was of little significance in Japan until 1191, when a man named Eisai returned to Japan after studying with Zen masters in China. Shortly before, a military government headed by a *shogun* had taken over Japan (although the Emperor still sat on the Japanese throne as a figurehead). The *shogunate* and the *samurai* class of aristocratic warriors found Zen to be an ideal religion.[311]

In the Thirteenth Century, the Mongol Khublai Khan repeatedly attempted to invade Japan. The Japanese government encouraged its fighters to study Zen, which liberated them from fear of death. Japanese Zen was taught by Chinese monks who had fled the Mongols. The two main temples were at Kenchoji and Enkakuji.[312]

While the lower classes were taught other forms of Buddhism, Zen was for the warrior class. The samurai was instructed that through perfect focus, he could achieve sudden enlightenment. To focus properly, a warrior must forget his ego, and must understand that everything in the world is transient. Accordingly, there is no dread of death. Zen was all about living in the moment. The Zen ethos was consistent with Augustine's theory that a person who kills when commanded by the state, does not himself "kill"—he is an instrument, a sword in its user's hand.[313]

Although Zen is sometimes described as non-judgmental, Zen was extremely judgmental about duty to one's superiors, proper etiquette, and social hierarchy. Maintaining composure was indispensable. According to the *Code*

311. KING, *supra* note 159, at 4.

312. LEGGETT, *supra* note 208, at 15-16.

313. AUGUSTINE, *City of God*, *supra* note 31, at book 1, ch. 21; *see also* book 1, ch. 26 (a soldier who kills under command will not punished, but he will be punished if he kills of his own accord).

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of the Samurai:

> The foremost concern of a warrior, no matter what his rank, is how he will behave at the moment of his death. No matter how eloquent and intelligent you may normally seem to be, if you lose composure on the brink of death and die in an unseemly manner, your previous good conduct will all be in vain, and you will be looked down upon by serious people. This is a very disgraceful thing.[314]

Zen was not, however, judgmental about warfare. There was no such thing as a "Just War" doctrine in Zen, or any other doctrine requiring the Samurai to reflect on the merits of the cause for which they were fighting.[315] The only ethical rules addressed the details of honorable fighting against other Samurai. The non-Samurai lower classes, who were totally disarmed, could be killed with impunity, whenever a Samurai felt he had been insulted.[316] In this regard, Zen was sharply different from the just war principles in other religions—including Hinduism, Confucianism, Taoism, and Christianity—that non-combatants should not intentionally be harmed.[317]

The Book of Five Rings, a famous treatise by Miyamoto Musashi, followed the dominant, amoral approach, offering advice on strategy and tactics without regard to the justice of the fighting.[318] Another combat treatise, *The Book of Family Traditions on the Art of War*, by Yagyū Munenori, was unusual in a Japanese context, because it recognized the rulers could act wrongfully—although Yagyū tactfully laid the blame on bad advisors.[319] *Family Traditions*

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314. THOMAS CLEARY, CODE OF THE SAMURAI: A MODERN TRANSLATION OF THE BUSHIDO SHOSHINSHU OF TAIRA SHIGESUKE 60 (Thomas Cleary trans., 1999).

315. Both Luther and Augustine also put little burden on soldiers to make a personal determination about the justice of their government's cause. Augustine, *Reply to Faustus the Manichaean* (*Contra Faustum Manichaeum*) (400 A.D.), www.ccel.org/fathers2/NPNF1-04/npnf1-04-35.htm#P2017_1188097 (book 22, para. 75); Martin Luther, *A Sincere Admonition by Martin Luther to all Christians to Guard against Insurrection and Rebellion*, in 45 LUTHER'S WORKS 63-68 (A Christian should obey the magistrate declaring war, unless diligent inquiry made the Christian certain that the magistrate was wrong).

316. G. WARNER & D. DRAEGER, JAPANESE SWORDSMANSHIP: TECHNIQUE AND PRACTICE 68-69 (1982); DAVID B. KOPEL, THE SAMURAI, THE MOUNTIE, AND THE COWBOY: SHOULD AMERICA ADOPT THE GUN CONTROLS OF OTHER DEMOCRACIES? 29-33 (1992).

317. Obviously there have been some nominal adherents to these religions who did not obey the rules about not attacking the defenseless.

318. Miyamoto Musashi, *The Book of Five Rings*, in CLASSICS OF STRATEGY AND COUNSEL VOL. II: THE COLLECTED TRANSLATIONS OF THOMAS CLEARY (Thomas Cleary trans., 2000) (1643).

319. Yagyū Munenori, *The Book of Family Traditions on the Art of War*, in CLASSICS OF

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also counseled that weapons must only be used in a good cause, such as when "myriad people are saved by killing one man."[320] Then, the warrior would be following the Zen saying "[t]he sword that kills is the sword that gives life."[321]

In the late Sixteenth Century, Japan's warlord era began to end, as the Tokugawa *Shogunate* consolidated power. The Samurai were increasingly left with nothing practical to do. They faced the awful prospect of dying in bed rather than on the battlefield. So the Shogun declared "the sword and the brush are one." In other words, cultivating the art of calligraphy was just as noble as cultivating the art of the sword. The *samurai* took up calligraphy, tea ceremony, flower arranging and other non-violent Zen rituals—each of which taught lessons of grace, beauty, and oneness, as did the martial arts.

In the late Nineteenth Century, Japanese nationalists criticized Buddhism, claiming that it was a foreign religion. The only true Japanese religion, the nationalists said, was Shinto, the Japanese nature religion which believed the Emperor was a direct descendant of the sun goddess.

Buddhists tried to defend themselves by claiming that they were at least as nationalist as everyone else. And they could reasonably point to Buddhism's historic record in identifying with the state, and inculcating obedience to the state. Zen leaders played a major role in supporting the ultra-nationalist, racist, and militarist development of Japanese thought in the early Twentieth Century. Also, Zen ideals were very much present among the Japanese officer class during World War II.

After the war, among the leading transmitters of Zen to the West were D.T. Suzuki and other Zen masters who had incited Japanese belligerence, yet who, when speaking to Westerners, blandly claimed to be against war and acknowledged no responsibility.[322]

Especially prominent in popularizing the martial arts was the 1953 book *Zen in the Art of Archery*, by the German philosophy professor Eugen Herrigel. After studying in Japan in the 1920s, Herrigel returned to Germany and became a Nazi, although most of Herrigel's Western readers never knew about his actions in Germany.[323]

Historically, most of the practitioners of Zen have not been Fascists. Yet

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STRATEGY AND COUNSEL VOL. II: THE COLLECTED TRANSLATIONS OF THOMAS CLEARY (Thomas Cleary trans., 2000) (1632).

320. *Id.* at 335.

321. *Id.*; Thomas Cleary, *Schemes of the Samurai*, in CLASSICS OF STRATEGY AND COUNSEL VOL. II: THE COLLECTED TRANSLATIONS OF THOMAS CLEARY 200-209 (2000).

322. Brian Daizen Victoria, *Zen and Japanese Nationalism*, and *Zen, Modern*, *in* ENCYCLOPEDIA OF RELIGION AND WAR, *supra* note 10, at 458-64.

323. Suzuki wrote the foreword to the 1964 McGraw-Hill edition of Herrigel's book.

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Zen was readily exploited in service of Fascism, because Zen, at its worst, is a mere aesthetic sensibility devoid of compassion. Likewise, most Lutherans have not been Nazis, but much of the Nazi leadership considered itself Lutheran.[324] Lutheranism, at its worst, had very strong strains of obedience to government, and Luther himself was an extreme anti-Semite at the end of his life.[325] Perhaps any religion can be exploited for nefarious purposes, but some religions are easier to exploit for certain types of wickedness.

X. MARTIAL ARTS

Despite the degenerate morality of martial arts in martial Japan, the Zen Buddhist martial arts have often been used to build good character. While some Buddhists believe that any form of martial activity is antithetical to Buddhism, other Buddhists agree with Bodhidharma that martial arts are a "moving meditation" which is superior to static methods.[326]

One advantage of moving meditation is that it is easier for the teacher to monitor the student's progress. In sitting meditation, as long as the student maintains the correct posture, the teacher cannot see if the student is falling into error or bad habits. With moving meditation, the student's physical actions help the teacher discern if the student is able to maintain calm and to overcome fear.[327]

The Zen master Hakuin (1685-1768) concluded that:

> the advantage in accomplishing true meditation lies distinctly in favor of the warrior class . . . [m]ounted on a sturdy horse, the warrior can ride forth to face an uncountable horde of enemies as though he were riding into a place empty of people. The valiant, undaunted expression on his face reflects his practice of the peerless, true, uninterrupted meditation sitting. Meditation in this way, the warrior can accomplish in one month what it takes the monk a year to do.[328]

There is a certain amount of technique which the martial arts master can impart by direct instruction. Yet much of the learning must come through self-discovery by the student. Masters speak of "a special transmission beyond

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324. RICHARD STEIGMANN-GALL, THE HOLY REICH: NAZI CONCEPTIONS OF CHRISTIANITY, 1919-1945 (2003).

325. MARTIN LUTHER, *On the Jews and their Lies*, *in* 47 LUTHER'S WORKS 137-306 (Franklin Sherman ed., 1971).

326. MALISZEWSKI, *supra* note 209, at 137.

327. JOHNSON, *supra* note 238, at 77.

328. MALISZEWSKI, *supra* note 209, at 137.

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instruction."[329] The student studies *ji*, the techniques of the particular martial art. True mastery, though, comes from *ri*, the ineffable truths of the universe.[330]

Kyudo is Japanese ritual archery, in which the archer moves through a very formal and precise set of eight steps in raising, aiming, and firing the bow. The first level of *kyudo* is called *toteki* (the arrow hits the target). The archer is concentrating on the technique of shooting accurately. He is more concerned with hitting the center of the target than with his form. In the first level, the target is seen as a goal.[331]

At the second level, *kanteki* (the arrow pierces the target), the archer's body moves with beautiful symmetry. His breath control helps unify his mind, body, and spirit, so that his shooting is smooth and extremely powerful. True *kanteki* is much more than a technique which can be taught. In *kanteki*, the target is seen as an opponent.[332]

Finally, the true martial artist progresses to *zaiteki* (the arrow exists in the target). The target is no longer a goal or an opponent; the target is a true reflection of the archer. The archer aims to purify his thoughts and his actions, knowing that pure shooting will flow from a pure mind and body. Now, "there is no distance between man and target, man and man, and man and the universe—all are in perfect harmony."[333]

One of the essential goals of spiritual growth through the martial arts is to forget oneself. The Zen sword master Takuan explained that:

> The mind must always be in the state of "flowing" . . . When the swordsman stands against his opponent, he is not to think of the opponent, nor of himself, nor of his enemy's sword movements. He just stands there with his sword which, forgetful of all technique, is ready only to follow the dictates of the unconscious. The man has effaced himself as the wielder of the sword. When he strikes, it is not the man but the sword in the hand of the unconscious that strikes.[334]

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329. TAKUAN SŌHŌ, THE UNFETTERED MIND: WRITINGS OF THE ZEN MASTER TO THE SWORD MASTER 90 (William Scott Wilson trans., 1986).

330. KENNETH KUSHER, ONE ARROW, ONE LIFE: ZEN, ARCHERY, ENLIGHTENMENT 14-15 (2000).

331. HIDEHARU ONUMA, KYUDO: THE ESSENCE AND PRACTICE OF JAPANESE ARCHERY 2-3 (1993).

332. *Id.*

333. *Id.*

334. *Quoted in* JOE HYAMS, ZEN IN THE MARTIAL ARTS 84 (1982); *see also* DESHIMARU, *supra* note 213, at 32: Q: "How does one choose the technique of attack?" A: "There is no choosing. It happens unconsciously, automatically, naturally. There can be no thought, because

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The Correct Mind is nowhere, wrote Takuan, so that it does not dominate any part of the body, and therefore every part of the body functions appropriately.[335]

To forget one's ego is to obliterate the boundary between oneself and the world. The mind enters *mushin* ("no mind" or "original mind") consciousness—not thinking about anything.[336] Thus,

> Self-forgetfulness includes fearlessness about losing one's life:
>
> The strong are able to ignore death and suffering whilst in the midst of violent combat. The extreme sufferings and pain caused by many arrows or spears is not as great as the suffering caused by one's own faults.[337]

The martial artist must learn not to focus on one part of the opponent's body. Such a narrow focus creates blind spots which lead to the artist receiving blows. As the martial artist learns in combat to adopt a wider perspective, so should he learn in all the rest of his life to see more completely. He should transcend the visual limit which ostensibly separates mind from body, or self from universe.[338] He is no longer located in a particular sequence of time, but instead lives in the eternal present: "In sports, time exists. In the martial arts there is only the present."[339]

Like psychotherapy, martial arts training may allow the student to experience a previously unknown state of self-awareness, and the awareness can lead to terrifying experiences of shame or guilt. The existential crisis might be analogized to what St. John of the Cross called the "dark night of the soul."[340] At the crisis point, some students will turn away, while others will

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if there is a thought there is a time of thought and that means a flaw."

335. SŌHŌ, *supra* note 329, at 30-31.

336. DESHIMARU, *supra* note 213, at 98.

337. TOMIO, *supra* note 151, at 221-22 (citing ŚĀNTIDEVA, BODHICARYĀVATRĀRA, 4:17).

338. *Id.* at 222; DESHIMARU, *supra* note 213, at 21-22. *Cf.* Jerry Garcia: "To get really high is to forget yourself. And to forget yourself is to see everything else. And to see everything else is to become an understanding molecule in evolution, a conscious tool of the universe." Jann Wenner and Charles Reich, *Interview with Jerry Garcia*, ROLLING STONE, JANUARY 1972 (Issue 100).

339. DESHIMARU, *supra* note 213, at 23.

340. ST. JOHN OF THE CROSS (Juan de Yepes y Álvarez), THE DARK NIGHT OF THE SOUL ("Noche obscura del alma"), http://www.ccel.org/ccel/john_cross/dark_night.i.html (Sixteenth Century Spanish mystic poem and commentary thereon describing soul's shedding of all egoistic attachments, and the ego itself; radically detached from its old self, the soul undergoes a terrifying trial in which prayer no long seems possible; the person can go no further with his own efforts, and divine carries him the rest of the way, as he personally experiences Christ's crucifixion, and finally attains union with God).

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confront their true selves.[341]

The martial arts are superficially a form of training to fight external foes. But the true martial artist must combat the enemy within—and if he is to prevail, he must fight without greed, ignorance, or hatred. If he wins, then his internal demons can be harnessed into service of the good.[342]

Defeating self-deception is not a once-and-for-all battle. After one form of self-deception is defeated, a more sophisticated and insidious form may replace it.[343]

The psychological and spiritual struggle does not take place while a passive subject is lying on a psychotherapist's couch, paying for advice. The inner combat is experienced through physical combat:

> *Chuan Fa* used the wordless strategy of direct interpersonal encounter to teach the words of personal self-encounter. It uses the "words" of personal self-encountering to understand the wordless doctrine of interpersonal encounter. Ultimately it sought to encounter the infinity known as perfect and complete Enlightenment.[344]

The whole energy (*ki*) of the universe flows through the martial artist at a single point in his body. By staying centered on this one point, the mind and body of the artist are united with the universe and can experience its infinite energy and freedom.[345]

Because the martial arts have a spiritual purpose, their practice does not depend on the practical need for self-defense. In the United States, handgun sales often rise in response to concerns about crime. Alan Gottlieb, Vice-President of the Second Amendment Foundation, observes: "There are two things that sell guns: crime, and gun control."[346] (That is, people buy guns for protection, or because they are worried that their ability to buy a gun may be taken away.) Gottlieb's observation reflects the reality that many American gun owners own their guns for practical defensive purposes.

In the sport shooting world, one can find competitors who have skills remarkably similar to the skills developed in the martial arts. At the simpler level, the competitors have excellent breath control. At a more complex level, the distinction between the shooter, the bullet, the firearm, the target, and the

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341. TOMIO, *supra* note 151, at 262.
342. *Id.* at 270-71.
343. *Id.* at 270-71.
344. *Id.* at 279.
345. HYAMS, *supra* note 334, at 56; DESHIMARU, *supra* note 213, at 80.
346. Personal communication with author.

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space in-between them vanishes. The shooter does not place the bullet on the target; instead, he participates effortlessly in the flow of the bullet into its natural place in the center of the bulls-eye.

This is very much like Zen Archery. And it is not necessarily confined to target-shooting or archery. Golf can be experienced the same way, as can many other sports, including paintball.[347]

But the difference is that in the West, most golfers, shooters, and archers do *not* generally aim to experience their sport on a transcendent spiritual level, because they are not seeking spiritual transcendence.

And that is what separates the Western version of the martial arts from their purer Eastern forms. If newspaper stories reported that violent crime is rapidly increasing, enrollment in American schools of *Karate*, *Tae Kwon Do*, and other martial arts would probably increase.

But the experience of the East has been to the contrary. Study of the martial arts in the East does not necessarily wax during times of turbulence, or wane during times of peace. To the contrary, one of the great periods of development of *Chuan Fa* (a/k/a *Kung Fu*) in China was during the tranquil Tang Dynasty (618-907). "Though aspects of *Chuan Fa* can be applied to external conditions it is not dependent upon them and it will arise even if they do not."[348]

Some martial arts teachers in the United States specialize in empowering women, and in integrating feminist values into the spiritual instruction. Some female participants report that martial arts training has liberated them from the notion that women must always be victims, that women are incapable of resisting successfully. The principle applies to physical attacks, and in more abstract social settings.[349]

Said one woman: "If every woman in the world could defend herself, it would change the world; patriarchy would crumble . . . [p]hysical empowerment for women is critical from the start; then women wouldn't be as intimidated psychologically by men . . . ."[350]

A. Forms of Martial Arts

The martial arts with Japanese names usually end with the suffix "do"

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347. TERRY ADAMS, GUNFU: THE MARTIAL ART OF PAINTBALL (2002).

348. TOMIO, *supra* note 151, at 246-47.

349. SHIRLEY CASTLENUOVO & SHARON R. GUTHRIE, FEMINISM AND THE FEMALE BODY: LIBERATING THE AMAZON WITHIN 67-90 (1998). The Americans are not the first female martial artists. For example, a Nineteenth Century print by Yoshitori depicts the famous female budo master Oiko wrestling and capturing a thug who tried to molest her. JOHN STEVENS, BUDO SECRETS: TEACHINGS OF THE MARTIAL ARTS MASTERS 91-92 (2002).

350. CASTLENUOVO & GUTHRIE, *supra* note 349, at 85.

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meaning "way." The Japanese word derives from the Chinese word "Tao."[351] Thus, *Bushido* (the warrior's way) was medieval samurai chivalry code.

The martial art known in the West as *Kung Fu* is called *Kempo* in Japan, or *Chuan Fa* in Chinese. It is the ancestor of most of the other martial arts, including *Karate*, *Tae Kwon Do*, and Thai Boxing.[352] The name *Chuan Fa* is derived from the name of the art practiced by Buddhist monks who guarded shrines, relics, and teachers from robbers. These guardians were called "peacebringers."[353] In Japan, *Kempo* is registered as a religion, rather than a martial art.[354]

In China, the unarmed *Chuan Fa* monks often drove away predatory armies, including armies of people who had improperly been taught *Chuan Fa* as a mere fighting technique, rather than as a path of spiritual development.[355]

At the beginning of traditional *Chuan Fa* practice, the participants make a ceremonial bow called the *Kuan Kung*, which is supposed to remind them of the vastness of space, and encourage them to develop equally vast compassion.[356]

Jui Juitsu grew out of *Kempo*, and combines many different forms of combat. It is an ancestor of *Judo*, which in turn is an ancestor of *Aikido*.[357]

Aikido was founded in 1942 in Japan by Morihei Ueshiba. Called "the gentle art," *Aikido* teaches mind-body integration and non-resistance to opponents. The artist seeks harmony with his opponent, through circular movements that allow practitioners to control the attacker's momentum, thus rendering him harmless.[358] Ueshiba said that "*Aikido* is none other than the manifestation of the workings of love."[359] *Aikido*'s "principles are the laws of harmony and balance in all the elements, in the creation of life on earth. Its function is to join with the heart of the universe and give love."[360]

Aikido offers another perspective on Jesus' admonition "resist not evil."[361]

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351. TRI THONG DANG, TOWARD THE UNKNOWN: MARTIAL ARTIST, WHAT SHALL YOU BECOME (1997).

352. TOMIO, *supra* note 151, at xix. Tae Kwon Do (foot-strike fist-strike art) traces its root to the Hwarang fighters of ancient Korea. PAUL CROMPTON, THE COMPLETE MARTIAL ARTS 168 (1989).

353. *Id.* at 194.

354. CROMPTON, *supra* note 352, at 86.

355. TOMIO, *supra* note 151, at 215-16.

356. *Id.* at 51.

357. *Id.* at xix.

358. MALISZEWSKI, *supra* note 209, at 68.

359. MITSSUGI SAOTOME, AKIDO AND THE HARMONY OF NATURE 28 (1993).

360. *Id.* at 31.

361. *Matthew* 5:39. The "resist not evil" line is sometimes translated as "offer no resistance

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Non-resistance can be more than mere passivism. Non-resistance can include physical, intellectual, or spiritual action which defeats evil not by blocking force with force, but by channeling the evil force so that it defeats itself.

Pencak-Silat comes from South Asia, and fuses Tantric Hindu and Sufi Islam teachings. It is based on priestly study of animal movements.[362]

Buddhists in Thailand practice *Muay Thai* kick-boxing, which imposes many ritual and spiritual requirements on boxers.[363]

Karate is a Japanese form of empty-hand fighting derived from Okinawan martial arts. When Japan took control of Okinawa in 1609 and disarmed the people, the Okinawans practiced martial arts, which they had originally learned from the Chinese, as a means of preserving their cultural identity.[364]

Some Buddhists believe that any truly Buddhist martial art must necessarily be unarmed, because Buddhism is antithetical to weapons.[365] On the other hand, Buddhism has spawned many martial arts which do involve weapons.

Prohibited from possessing swords or bows, the Okinawans turned their farming tools into weapons. The best-known of these, the *nunchaku*, was created from a rice or corn flail. The *tonfa*, a club with a short perpendicular handle near one end, was made from a millstone handle. (American police often carry a modified version of the *tonfa*.) Half a dozen agricultural tools found a place in the Okinawan martial arts.[366] As the Jewish prophet Joel had said, "Beat your plowshares into swords, and your pruning hooks into spears; let the weak say, 'I am a warrior.'"[367]

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to one who is evil." Read in isolation, the passage would lead to absurd results. It would prohibit preaching against sin, or even resisting an individual providing sinful temptation. The passage is balanced by the *Epistle of James*, which instructs, "Resist the devil, and he will flee from you." *James* 4:7. Given that the Bible, both Old and New Testaments, is full of exhortations to resist evil, perhaps the best reading of "resist not evil" is to treat it like the "hate your family" passage: a deliberately shocking and provocative statement, which was never meant to be taken as a literal command. *Luke* 14:26 ("If any man come to me [Jesus], and hate not his father, and mother, and wife, and children, and brethren, and sisters, yea, and his own life also, he cannot be my disciple."). Jesus himself used violence to resist evil—indeed, to launch a preemptive strike against evil, when he drove the money-changers out of the Temple. *Matthew* 21:12-13; *Mark* 11:15-17, *Luke* 19:45-46; *John* 2:14-16.

362. MALISZEWSKI, *supra* note 209, at 85-86; CROMPTON, *supra* note 352, at 156-65.

363. MALISZEWSKI, *supra* note 209, at 108-10; CROMPTON, *supra* note 352, at 183-84.

364. SHAW, *supra* note 212, at 27-28.

365. TOMIO, *supra* note 151, at 216.

366. CROMPTON, *supra* note 352, at 62-69.

367. *Joel* 3:9-10. The prophet Joel foresaw a Day of the Lord in which Israel's enemies would be destroyed in a great battle. For this battle, plowshares would be beaten into swords: "Proclaim this among the nations: Consecrate for war; stir up the mighty men. Let all the men of war draw near; let them come up. Beat your plowshares into swords, and your pruning hooks

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Kyudo, Japanese Zen archery, is sometimes called "standing Zen."[368] "When the bow is extended to its maximum, it encompasses everything, the whole . . . [t]he target, bow, and arrow merge to become one with the self . . . . At this level of selflessness, *mushin* (natural mind devoid of delusions) prevails and one enters Zen."[369]

The *Kyudo* Master Hideharu Onuma was asked by some students how they should practice after they returned to the United States, and he could no longer instruct them. He replied, "your practice should always center around these six elements: truth, goodness, beauty, balance, humility, and perseverance."[370]

Kendo, "the way that cuts," is Japanese swordfighting. Founded as a school of *samurai* swordsmanship in 1346, *Kendo* later came under Zen influence.[371] In Japan, *Kendo* is considered the noblest and most Zen-like of the martial arts. A Japanese *Kendo* Zen master explains: "before a person became worthy of killing another he had first to be able to kill himself: with their swords they learned not only to cut their foes in two, but even more to cut their own consciousness in two."[372]

Kendo artists, wearing protective uniforms and wielding special wooden swords, can spar against each other. In contrast, *Iaido* is a sword martial art using "live," sharp swords. The participants wear no armor, and practice quickly unsheathing their sword to deliver a fatal thrust. Although *Iaido* preserves combat techniques from the *samurai* times, *Iaido* artists only attack straw or other safe targets, never each other.[373] *Jodo* fighters use long wooden

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into spears; let the weak say, 'I am a warrior.'"

Most scholars believe that Joel wrote after the Jewish exile in Babylon. If so, his lines about "plowshares into swords" would have been written after *Isaiah* and *Micah* had predicted "swords into plowshares." One interpretation of Joel might be as a prophecy of the Jewish resistance to Hitler. Then, the Jewish fighters had to improvise weapons from unlikely sources, and the Jewish people who had been victims and weaklings for many centuries became warriors in the Warsaw Ghetto Uprising, in guerilla actions throughout Europe, and in the re-establishment of Israel. David B. Kopel, *Armed Resistance to the Holocaust*, 19 J. FIREARMS & PUB. POL'Y 144 (2007).

Or perhaps Joel was criticizing the people who were following the *Isaiah* and *Micah* end-time prophecies prematurely—by giving up weapons even when there was still a need for Jewish self-defense.

368. ONUMA, *supra* note 331, at 147.

369. MALISZEWSKI, *supra* note 209, at 70 (parenthetical in the original). *See also* DESHIMARU, *supra* note 213, at 41 ("When body and consciousness are one and perfectly detached: then the arrow flies freely to its target."). *Kyudo* has roots not only in Zen, but also in Shinto, the ancient Japanese nature religion. ONUMA, *supra* note 331, at 6.

370. ONUMA, *supra* note 331, at 150.

371. DESHIMARU, *supra* note 213, at 71-72.

372. *Id.* at 40-41.

373. CROMPTON, *supra* note 352, at 48-55.

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sticks.[374] The *Shao-lin Wu I* Method teaches fighting with quarterstaffs.[375] A newer armed martial art is *Shim Gum Do* (Mind Sword Path), invented in South Korea in 1965.[376]

There are dozens of additional martial arts.[377]

B. The Non-Violent Martial Artist

Chuan Fa teaches that "personal defense is ultimately pointless," because even if an undesired change in one's condition can be avoided for the moment, change is inevitable. Nevertheless, "the opportunity to help or teach others exists continually. If, in the face of aggression, one can avert harm to oneself or others, an opportunity to teach the aggressor is created."[378]

Joe Hyams, American author of *Zen and the Martial Arts*, writes that there are times when a person should fight. But if a person can safely give his wallet to a mugger, he should. Hyams concludes, "I know of no martial artists who would risk their lives to save their wallets."[379]

Deng Ming-Dao, a modern Taoist author, explains that Scholar Warriors do strongly believe in non-violence. They practice their skills for fighting each other in voluntary combat, not for abusing other people. He admits that Taoist concepts such as "noncontention, yielding and softness" have been distorted to promote non-violence. "But yielding is only a single term. If one understands the concept of yin and yang, how can there be yielding without assertion? One cannot be yielding forever."

"The ideal of nonviolence has often been defined as the total refusal to do any violent act toward any living being. Even the mosquito must be spared and honored," he notes. Deng Ming-Dao thinks the definition is wrong:

> The Scholar Warrior, though a gentle person, will not hesitate to act dynamically—perhaps even violently—when appropriate. Nonviolence is only possible in personal situations, and the only when the practitioner is operating from a position of strength. In

374. *Id.* at 92-95.

375. TOMIO, *supra* note 151, at 216.

376. KIM & KIM, *supra* note 242, at Foreword.

377. Crompton's *The Complete Martial Arts* provides a fairly thorough survey. *See supra* note 352.

378. TOMIO, *supra* note 151, at 191. *Cf.* Augustine, letter no 189, "From Augustine to Boniface" (418 A.D.), www.newadvent.org/fathers/1102189.htm (War should be waged "in order that peace may be obtained. Therefore, even in waging war, cherish the spirit of a peacemaker, that, by conquering those whom you attack, you lead them to the advantages of peace.")

379. HYAMS, *supra* note 334, at 133.

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> other words, Scholar Warriors are nonviolent because they are in control of the situation. They don't need to turn the other cheek because no one is going to slap them in the first place.

Scholar Warriors should be defenders and protectors. "Who among us would not protect others?" asks Deng. "A Scholar Warrior is capable of perceiving right and wrong in an all too gray world and is just as capable of defending on the basis of that unstinting belief."

Deng explains that the Taoist maxim "A warrior is not martial. He does not exhibit his prowess" is meant to prevent showing off or bullying. The Scholar Warrior has a duty to use his power when necessary. "The Scholar Warrior would urge you to be gentle but to be prepared to defend yourself and others. Be the pacifist with a sword. Most important of all, do not be so arrogant in your non-violent beliefs that you fail to know your enemy."[380]

Mitsugi Saotome, founder of the Aikido Schools of Ueshiba, writes that "Love of the enemy is a very strict love. Sometimes, for the protection of others, that love means destruction . . . . The object of destruction must truly be a danger to social welfare."[381]

The revered late-Nineteenth Century Okinawan *karate* teacher, Gichin Funakoshi, taught his students twenty precepts, including "Karate is an auxiliary to justice." Once, Funakoshi was accosted by two men who tried to pick a fight. But he calmed them, and gave them some rice cakes. He also taught that if it is clear that a criminal opponent is determined to attack, the karate artist may strike preemptively, and his strike is considered a defensive move, for "There is no first attack in karate."[382]

Vernon Kitabu Turner was a weak and bookish American black child in the racist South. Bullies would often attack him when he sat under a tree reading. When he was nine years old, in 1964, he heard about the Kitty Genovese murder. It was reported by the *New York Times* that in Queens, New York, a young woman was stalked, attacked repeatedly, and stabbed to death outside an apartment building over the course of half an hour. Thirty-eight people heard her scream, but none of them did anything.[383]

Meditating on *Psalm* 144 ("Blessed be the Lord, my strength, who teaches my hands to make war, and my fingers to fight."),[384] Turner asked God to teach him to fight, to learn how to protect people; Turner promised that he would

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380. DENG, *supra* note 214, at 236-37.

381. SAOTOME, *supra* note 359, at 143.

382. 1 COOK, *supra* note 206, at 132-33.

383. The popular version of the case may be incorrect. "Kitty Genovese: What you think you know about the case might not be true," www.oldkewgardens.com/ss-nytimes-3.html.

384. *Psalm* 144:1 (King James Version).

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never abuse the knowledge. Turner took up the martial arts, and eventually became an American Zen master.

In church, Turner remembered, the congregants heard and believed the story of David and Goliath. Yet they refused to apply the story to their own lives. They refused to believe that, with God's help, they could "bring down Goliath."

Turner explains that the person who truly understands Zen will say, "I will do no harm to others. I will not be a person who is aggressive and violent. But neither will I sit here and watch someone be destroyed when I know I should reach out and offer a helping hand."[385]

XI. THE LAST BUDDHIST DOGMA

Sulak Sivaraksa, a well-known Buddhist and social activist from Thailand, criticized a Thai Buddhist monk who suggested that killing Communists was acceptable. Sivaraksa reported with approval his conversation with the Vietnamese Buddhist the Venerable Thich Nhat Hanh, before the end of the Vietnam War. Hanh explained that he would prefer the war to end, even if a Communist victory would mean that Buddhism would be destroyed. Hanh favored "peace at any price." Sivaraksa summarized Hanh's view that, "Even if Buddhism as such were extinguished, when human lives are preserved and when human dignity and freedom are cultivated toward peace and loving kindness, Buddhism can be reborn in the hearts of human beings."[386]

It is understandable that a Vietnamese Buddhist might feel the way Hanh did in the early 1970s. His country had been ravaged by war since the early 1940s—first the Japanese invasion, then Ho Chi Minh's war against the French colonialists, then the ultimately successful campaign of North Vietnam to conquer South Vietnam.

What is much more difficult to understand is how Sivaraksa could so blandly repeat those words in a 1991 book. Americans who opposed cutting off military aid to the Cambodian and South Vietnamese governments predicted that a bloodbath would follow a Communist victory. What did follow was much worse than what had been feared. Two million, four hundred thousand Cambodians—over a third of the population—were murdered by the Pol Pot government, after first being disarmed.[387] The genocide slowed down (but did not end until several years later) only after another war, when Communist Vietnam invaded Cambodia and installed a puppet regime.

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385. TURNER, *supra* note 212, at 135, 148-49, 155-56. Vernon Kitabu Turner is a descendant of Nat Turner, a mystic who in 1831 led the largest slave revolt in American history.

386. SIVARAKSA, *supra* note 186, at 80-81.

387. ZELMAN & STEVENS, *supra* note 239, at 33-45.

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It may be true that "when human lives are preserved and when human dignity and freedom are cultivated toward peace and loving kindness," Buddhism can be reborn. But Communist regimes do not preserve human life; they work hard to crush human dignity, freedom, peace, and loving kindness.[388]

Sivaraksa professes his belief in non-violence, yet also declares that he supports an "international peacekeeping force."[389] Actually, an "international peacekeeping force" is just a euphemism for armed soldiers who are accountable to a multi-national authority, rather than to a single sovereign nation. These soldiers carry weapons with which they implicitly threaten to kill people who defy them, and sometimes they do kill people. Supporting a multi-national army is no more non-violent than supporting a national army.

That Sivaraksa claims to advocate non-violence, yet agitates for a powerful international army, exemplifies the historic tension in Buddhism between pacifist theory, and the realistic need to maintain peace through force.

Today, some Buddhists are frankly confronting the cognitive dissonance. As Buddhism is spread in the West, some Western Buddhists are joining networks of "Engaged Buddhists."[390] Typically, Engaged Buddhists work against what they see as excessive materialism and global capitalism. While Engaged Buddhists are usually skeptical about violence, some Engaged Buddhists are adopting a more nuanced position. Ken Jones, a founding member of the UK Network of Engaged Buddhists, writes:

> moral precepts must sometimes be applied situationally, rather than literally, if they are not sometimes to be violated in spirit and intent . . . . many possible situations come to mind, in both personal and public life, wherein a lesser killing may be the means of avoiding a greater killing. These range from exterminating disease-bearing insects to shooting an armed murderer running amok in a crowded street.[391]

Jones points out that "the ultimate purpose of ethical action is to relieve suffering, not the literal enactment of the precepts." Therefore, he suggests, a "strictly literal interpretation" of the precept against killing should be re-examined.[392]

He notes that "many Buddhists" supported the U.S. war in Kosovo, which

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388. *See*, *e.g.*, THE BLACK BOOK OF COMMUNISM: CRIMES, TERROR, REPRESSION (Stéphane Courtois ed., Jonathan Murphy trans., 1999).

389. SIVARAKSA, *supra* note 186, at 115.

390. Among the leading founders is Thich Nhat Hanh.

391. JONES, *supra* note 207, at 143.

392. *Id.* at 155.

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tried to stop the Serbian ethnic cleansing. The Buddhist stance "suggests that in the Twenty-first Century, pacifism will no longer be an almost universally held Buddhist belief."[393]

Another scholar of Engaged Buddhism, Kenneth Kraft, writes that now might be "an opportune time to undertake a fresh critique of Buddhist pacifism . . . Can it be that pacifism and just-war reasoning are *equally valid* options for present-day Buddhists? The question deserves more attention than it has yet received."[394]

Jones and Kraft are still a minority in the official world of modern Buddhism. Yet as Buddhist history demonstrates, Buddhists are now and always have been entirely capable of prosecuting what they consider to be a just war, even as they make firm declarations that Buddhism is inherently non-violent. In historical perspective, some of those Buddhist wars still seem to be just, and others not so—as is the case with the wars of other religions.

Of the three major Buddhist sects, only *Therevāda* can be said to be based on unambiguously pacifist scriptures. *Mahāyāna*'s larger set of scriptures are mostly pacifist, but also include some which make the same point made by Jones and Kraft: sometimes the duty of compassion may require forceful action to stop a person who is harming others. *Zen* pays relatively little attention to scriptures.

There are still many important Buddhist spokesmen who are reliable opponents of the war on terrorism, of family self-defense, and of any other form of defensive violence. Although these spokesmen claim to speak on behalf of universal Buddhist ethics, listeners should recognize that the sweeping pacifist generalities are not necessarily representative of the main lines of actual Buddhist faith—as it has been lived and practiced for over two thousand years. Buddhist ultra-pacifists do represent important strains within their religious traditions, but it would be a mistake to confuse these voices with the vast, diverse, and polyphonous choir of Buddhism. In practice, albeit not entirely in theory, Buddhism has followed the traditions of the other religions which were born in India—Hinduism, Jainism, and Sikhism—in recognizing that compassion for other living beings sometimes necessitates the use of force to protect those beings.

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393. *Id.* at 157.

394. Kenneth Kraft, *New Voices in Engaged Buddhism*, in ENGAGED BUDDHISM IN THE WEST 485-506 (Christopher Queen ed., 2000) , *quoted in* JONES, *supra* note 207, at 154. Current Catholic teaching allows the faithful to follow either the Just War and self-defense doctrines, or pacifism, based on their personal choice.

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XII. CONCLUSION

Confucianism emphasizes proper conduct in accordance with patriarchal values. Although Confucianism, like most other religions, has been used by tyrants to claim that revolution is immoral, Confucius himself ordered a revolution against an oppressive regime. His greatest follower, Mencius, explained that the "mandate of Heaven" descends only on rulers who follow justice, and that the people have the right to forcibly remove a tyrant.

Confucianism favors non-aggressive states that rely on a militia for self-defense. Aggressive states with large and expensive standing armies are condemned. Archery and hunting develop good character, as long as the hunting is consistent with conservation of wildlife. The legitimacy of armed self-defense is uncontroversial, and Mencius himself carried weapons for protection.

Even more so than Confucianism, Taoism denounces imperial aggressive standing armies, and affirms the virtue of moderate states defended by a popular militia. Initiation of war is legitimate to rescue an oppressed people, but not for purposes of gaining wealth or territory. Ethical hunting is approved.

With origins long before the birth of Aristotle, Confucianism and Taoism may be considered the first philosophical examinations of militia theory. Although the Western world's development of militia theory was not influenced by China's, the similarity of views between the early Chinese philosophers and Western militia advocates, including the American Founders, is remarkable.

All of the four most important religions which originated in India include the principle of *Ahimsa*, of not harming living beings. All of the religions allow defensive violence.

Hindu scriptures such as the *Bhagavad-Gita* demonstrate the warrior's duty to fight selflessly for a good cause. Mohandas K. Gandhi, the great icon of Twentieth-Century non-violence, had a much more nuanced view of permissible and mandatory violence than many Westerners recognize.

Jainism takes *Ahimsa* very far, so that some adherents even try not to harm bacteria. However, Jainism states that self-defense and defense of others can sometimes be a duty.

Sikhs have often been required to defend themselves against violent persecution. Among the five items which Sikhs are required to carry at all times is the Kirpan dagger.

The Buddhist scriptures and teaching are much more supportive of pacifism than the scriptures of other religions, although they are not unanimously pacifist. Historically, Buddhists have often fought wars to defend their nation or religion.

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Zen Buddhism is the father of the martial arts. In the past, these Zen arts were used in war. Today, however, the martial arts are practiced as spiritual exercise which, like the Confucian practice of archery as one of the Six Arts, is meant to bring the martial artist into a harmonious balance with the universe.

The notion that the great religions of the East encourage passive submission to evildoers, including evil governments, is a misleading stereotype that should be abandoned. The mainstream of the religious tradition and practice of the Far East, like the religious traditions and practices of the Judeo-Christian world, recognizes the inherent right of self-defense, and the duty of defending innocents. In analyzing the religions of the East and West, we see some truth in the aphorism "Great minds think alike." That such disparate cultures share so many common beliefs about self-defense is a supporting data point for the validity and real presence of natural law.

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