



## **CRIMINOLOGICAL INSIGHTS OF THE SOCIAL THEORY UNDERLYING THE BUDDHIST FIVE PRECEPTS.**

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### **ABSTRACT**

*This structuralist analysis of the Buddhist five precepts (Pancaseela in Pali language) reveals the general social theory underlying them with reference to the origin of social life and fundamental constitution of it in terms of five major elements such as life, resource, sex, trust, and health. They act as a well-ordered basic formula of social life based on the five great social values such as respect for (1) life, (2) possession of resources for living, (3) proper sexual conduct and propagation, (4) trust, and (5) healthy body and mind. These social values address the natural desires for living long, finding resources for living, gratifying sensual pleasure and propagation, peace, avoidance of harm and pain. The fourth social value has been conducive to the origin of social life that ensures survival of people as physical beings, human beings, social beings, and healthy people. This perspective helps to develop new criminological insights with reference to the concepts of society, social life, law and order, human rights, crime, criminal justice, punishment, correction, control, and prevention of crime. The academic debates on the conceptualization and theorization of crime and criminal justice could be further enriched in line with the new social theory of the*



*Buddhist five precepts as it shows a great potentiality for knowledge building. This analysis is an initial attempt.*

**Key words:** *Buddhist five Precepts, Social Values, Criminology*

## **1.0. INTRODUCTION**

Knowledge building in all scientific disciplines occurs in terms of concepts and theories that identify subject matters with prescribed meanings and provide rational explanations respectively (Aud.2011: 298, Dillon. 2003:15. Seidman and Alexander.2001:34). The knowledge base of criminology and criminal justice is also enriched by this epistemological practice of conceptualization of relevant phenomena and theorization of them from different perspectives developed for such purposes (Morrison.1995:458, Laub.2004. Miller.2009.10).

Not only the epistemological curiosity of understanding the society, law, crime, punishment, and criminal justice, but also the felt needs of dealing with the adverse impacts of them on people and environment incessantly compel scholars and practitioners to see the same phenomenon from different perspectives and find the knowledge stemming from them (Stout and Yates. 2008:16). It is well evident from the ever-expanding literature of criminology and criminal justice that motivates and enables us to search for more criminological insights from various sources including that of religion (Johnson and Jang.2012, Ratnapala.2003.). Accordingly, this study is concerned with the social theory underlying the Buddhist five precepts and criminological insights emanating from an in-depth analysis of contents and structure of those precepts (Buswell.2003:261). It is contended that such an analysis of the five precepts can explore the



seminal formation of a social life that ensures the individual and social survival for all people sharing it against the natural life which attributed to the dominance of survival of the fittest.

## **1.2. RELIGION AS A SOURCE OF NORMS AND VALUES**

This study is not concerned with the details of historical evolution of the Buddhist Five Precepts and prevalence of similar religious teachings in other religions as the primary objective of analyzing and interpreting them from a sociological perspective is to develop a social theory that generates new insights for conceptualizing the nature of social life constructed by the major social values and norms. According to anthropological understanding religion provides a *Source of rules and norms. Continuing with this idea, religion can provide the answer to where the traditions and laws of the society came. All religions contain some element of "order-establishment" or "culture-founding." This is the charter function of religion: it acts as the "charter" or guideline or authority by which we organize ourselves in particular ways and follow particular standards.* (Ellar.2007:11). This anthropological explanation of religion is not an exception to the structure and functions of the Buddhist five precepts. Assuming that precepts are derived from social norms and values, this study first identifies the norms of each precept and then proceeds to the social values underlying those norms. The social value base on the five precepts would reveal the structural formation of social life and the accompanied social order. The basic elements of the social life and society developed by the five precepts are identified in this study as major social norms, major social values and the hierarchy of those values, social goals, social means of achieving the goals, survival outcomes of achieving social goals, human needs and a hierarchy of those needs, human rights and



responsibilities, functional prerequisites of social life and benefits of social life.

### 1.3.THE BUDDHIST FIVE PRECEPTS

The Buddhist five precepts addressed in this study refers to the precepts known as “*Pancha Sheela*” in the Theravada Buddhist discourses found in Sri Lanka (*Anguttara Nikaya*. 2009: 556., Bodhi. 2012). Even though there are number of Buddhist discourses in which the five precepts have been cited for various explanation of the Buddhist doctrine, this study considers the general use of them as mentioned in the Table.1 (Keown.2005:9).

**Table.1. The Buddhist five precepts**

1	I undertake the precept to refrain from killing
2	I undertake the precept to refrain from taking what has not been given
3	I undertake the precept to refrain from sexual misconduct
4	I undertake the precept to refrain from speaking falsely
5	I undertake the precept to refrain from taking intoxicants affecting the body and mind.

### 1.4. FIVE MAJOR NORMS OF BEHAVIOUR

As explained in the Buddhist Discourses, a set of five major social norms could be identified from these five precepts as appears in the Table 2. Social life in any society is produced by the established standards of behaviour and such standards are known as social norms (Schaefer and Lamn.1976:75). According to Hoefnagels, “*Norms are conceptions and expectations of people as to desirable behaviour, they are often concretely formulated*” (Hoefnagels.1969:75). These characteristics are well evident from the five norms of the five precepts. Seen from William Sumner’s



classification of norms as mores and folkways, these five norms fall into the category of mores which are considered highly necessary to the well-being of society (Schaefer and Lamn.1976:76). Any violation of mores is responded to by imposing severe sanctions and conformity to them by rewards that encourage the norm abiding behaviour. Buddhist discourses provide religious teachings of retribution for violating of those five norms and rewards for following them (*Anguttara Nikaya*. 2009: 556). In the following retribution for killing living beings and rewards for abstaining from killing are described in one discourse of Samyukta Nikaya.

*“Some man or woman kills living beings and is murderous, bloody-handed, given to blows and violence, merciless to living beings. Because of performing and undertaking such action, on the dissolution of the body, after death, he reappears in a state of deprivation, in an unhappy destination in perdition, even in hell..., but instead comes back to the human state, then wherever he is reborn he is short-lived. (Bodhi. 1995:1053)*

*“But some man or woman, abandoning the killing of living beings, abstains from killing living beings; with rod and weapon laid aside, gentle, and kindly, he abides compassionate to all living beings. Because of performing and undertaking such action, on the dissolution of the body, after death, he reappears in a happy destination, even in the heavenly world.... but instead comes back to the human state, wherever he is reborn he is long-lived”. (Bodhi. 1995:1054).*

**Table.2. Social norms of the five precepts**

1	Abstention from killing
2	Abstention from stealing
3	Abstention from sexual misconduct



4 | Abstention from lying

5 | Abstention from taking intoxicants affecting body and vigilance of mind

## 1.5. FIVE GREAT SOCIAL VALUES OF SOCIAL LIFE

Norms have no existence in the society without a value base that provides abstract meanings to the normative behaviour of people in any culture. The concept of value refers to “*collective conception of what is considered good, desirable and proper in a culture*” (Schaefer and Lamn.1976:78). As social values define what is good or preferred for the social life of people, they tend to follow them as long as the collective consensus over them remains intact. Social values function as general guidelines of behaviour whereas norms function as specific guidelines of behaviour in much more concrete manner. In other words, the abstract conception of behaviour as good, proper, or desirable is brought down to the concrete level of behaviour by the norms derived from the values.

It is the collective consensus and consciousness of people that provides the legitimacy for considering what is good or desirable as a social value. In line with this sociological understanding of social values a set of great social values, could be identified with reference to the above mentioned five norms. They are as found in the Table.3.

**Table 3. Great social values of the five precepts**

1	Respect for life
2	Respect for the ownership of material resources for life
3	Respect for proper sexual conduct and propagation of human race
4	Respect for trust and honesty
5	Respect for healthy body and mindfulness



These social values are well comparable with the universal values explored by the prominent anthropologists of the last century Alfred Kroeber and Clyde Kluckhohn (1952:349). According to them *“There are at least some broad resemblances in content and specifically in value content. Considering the exuberant variation of cultures in most respects, the circumstance that in some particulars almost identical values prevail throughout mankind is most arresting. No culture tolerates indiscriminate **lying, stealing, or violence** within the in-group. The essential universality of the **incest** taboo is well-known. No culture places a value upon **suffering** as an end in itself; as a means to the ends of the society (punishment, discipline, etc.), yes; as a means to the ends of the individual (purification, mystical exaltation, etc.), yes; but of and for itself, never.”* (Kroeber and Kluckhohn. 1952:349).

It is interesting to find four out of the five values of the five precepts among the universal values identified by Kroeber and Kluckhohn in their study of world cultures. Intolerance of indiscriminate lying, stealing, violence, suffering and incest clearly indicate the indispensability of underlying social values of respect for the honesty, ownership, life, nonviolence and sexual restraint for the formation of a social life beneficial to all members of the society. This anthropological research study provides the universal justification for the relevance of considering the social values underlying the Buddhist five precepts as constitutive elements of social life and culture instead of reducing them into a mere religious doctrine.

### **1.6. CONSTRUCTION OF SOCIAL LIFE**

Anthropological cum sociological significance of the five social values is well apparent from the structural hierarchy of the order of them when they are perceived from the structuralist perspective in these social sciences (Radcliff-Brown.1965:154. Turner. 2014. Dillon.2014.). As explained by



anthropologists *“Structuralism generally refers to the view that the meaning or the functioning of a phenomenon depends less on the nature of its individual “bits” than the relationships between those bits (Ellar.2007:18).* Perceived from this structuralist point of view, value of respect for the life or the acceptance of the existence of others comes first in the order of this value system for the unique significance of life for all living beings, including mankind. All living beings, love living the naturally granted without any life threat or fear of such a lethal challenge. Giving priority to life and not making it subordinate to anything else clearly reflects the supremacy of natural willingness to enjoy the whole life span without premature death. The principle of life-first in all human related affairs is identical to the first social value of this order as it itself indicates the highest position of life deserved to be ascribed. As life comes first, any form of social system needs to be developed unconditionally, pivoting on the value of respect for life.

The objective of refraining from stealing cannot be realized without adhering to the social value of respect for the ownership of resources required for the survival. Where the ownership is respected, there remains no room for stealing. This social value of respecting the ownership has a universal meaning that ensures the availability of at least the minimum quantity and quality of resources indispensable for the survival of people. Accordingly, the concept of stealing needs to be perceived from a broad perspective capable of addressing all human activities that deprive people of their due portion of resources required for meeting the basic needs of life, at least, and thereby ensuring the survival of life which is protected by the first social value. It is well understood from the Buddhist conception of the benefits of almsgiving, which is the opposite of stealing. According to the Buddhist discourses, one who offers food and other services gives the





recipient long life, complexion, happiness, physical strength, and intellectual power (*Anguttara Nikaya*. 2009: 592). If these are the gains of donation, their opposite should be the pains of any deprivation by stealing. In other words, stealing properties the victims of the universal human needs of enjoying longevity, appealing complexion, blissfulness, good health and good mindfulness. On the other hand, this social value provides an unchallengeable justification for claiming ownership of the indispensable resource for living, such as food, water, medicine, clothing, shelter, space, and ventilation etc.

The social value of respect for life becomes meaningless unless a system ensuring the provision of necessary resources for living is adopted. The availability of material resources for meeting the basic needs of life is ensured by the second value of ownership. And the dependency of the life on it is the utilitarian reason for being the second in the order of values. These two social values facilitate the survival of people as physical beings.

The social value of respect for the proper sexual conduct and propagation of the human race is found in the third position of the order referring to the reproductive need for ensuring the survival of people as human species while gratifying sexual desires. The interpersonal struggle over sexual gratification and the consequent killing of sexual rivals poses a serious challenge to the survival of people as human species. If a new member is born at the cost of two or more lives of sexual rivals, the population of that society cease to exist at the end. This problem has been solved to a considerable extent by the adopting of a social value of respecting sexual freedom and socially accepted means of sexual gratification. There are various types of crimes committed concerning to the gratification of sexual desires, and the consequent adverse impacts of them on the innocent



children, women and sexual rivals and partners have compelled societies to adopt social values of proper sexual conduct. This social value prevents the reversing of the achievements of the first and second social values by reducing the sexual struggles affecting the lives of people.

Mere adoption of these three types of social values is not going to serve the purposes of them without a social contract or bond among members of the society for ensuring the genuine respect for them. This social bond is made by the fourth social value of respecting the honesty and trust. People who respect the value of trustworthiness never lie and deceive people and violate the above values. As explained in the *Abhidharmakosabhashyam* "Because, having violated any other rule he would lie... he would lie when he violates any other rule, saying, "I have not done it." Consequently, the *Upasaka* should renounce lying, thinking, "I shall confess what I transgress." (*Abhidharmakosabhashyam*.1988:606). The core concept of any social contract or bond is trust and if relevant parties to the bond respect the value of trustworthiness they are capable of working and living on mutual trust and honesty. It creates a particular reciprocity of social interaction. It is this fourth social value that generates a social life through a social bond of being honest and trustworthy. With the adoption of this social bond there remains no need to suspect the behaviour of other members and suffer from the consequent fear and tension. As these four social values find social solutions to the burning issues inherited from the natural life similar to that of other animals, people have been able to enjoy the freedom that depends on the level of commitment to those values and consequent reciprocity.



## **1.7. FREEDOM OF SOCIAL LIFE**

The universal outcome of the adoption of these four great social values is the freedom which is expanding with the institutionalization of them and further development of more and more social values and norms. Freedom of life without serious threat and deprivation of necessary resources, freedom of satisfying sensual desires, freedom of having social relations and transactions without fraud and deception gave rise to a new life different from the fear stricken natural life existed before the adoption of the above social values. Consequently, people started enjoying this freedom expanding all possible means of satisfying the five senses. In particular, the expansion of food culture incorporated not only the healthy practices of consumption but also practices posing a serious threat to the health of individuals as well as the sustainability of the social system constructed by the four great values and their developments. Even though people enjoy the consumption of alcohol and various other intoxicants for various purposes of social life over collective consensus, the adverse impacts of severe intoxication on health of people and peaceful coexistence of them makes it difficult for them to dispense with an adoption of new social values and norms for controlling the consumption of intoxicants and thereby preventing any reversal of the social system back to that of natural. Buddhist discourses referring to the fifth precept vehemently emphasize the adverse effects of intoxication and consequent reversal of civilized behavior back to that of brutal (*Anguttara Nikaya*.2009:717). Behaving like an animal after severe intoxication has been the serious challenge to the sustainability of the restraint caused by the four major social values.

The fifth social value of respect for the healthy body and mind occupies the fifth position of the order of the five great social values because of the



inevitable need of such a social value for controlling the harmful expansion of social life resulting from the indiscriminate enjoyment of the freedom. The central principle evident from the hierarchy of the five social values is that none of them should be allowed to expand to the extent that they undermine the originally intended achievements of each social value. For example, the value of possession of resource cannot be extended to the extent of accumulation that deprives others of necessary resources as the value of respect for life dominates over other values and suggests the harmless limit on individual or collective possession, accumulation, and consumption of resources.

### **1.8. ACHIEVEMENTS OF SOCIAL LIFE**

As is evident from Table 4 these five social values ensure the survival of people referring to five significant aspects. Protection of life and availability of resources for living ensure the survival of people as physical beings and the peaceful sexual relations and reproduction facilitate the survival as human species. By being social beings, that people can guarantee these survivals at a greater rate than the uncivilized natural life. But the survival issues stemming from the complex lifestyles emanating from the freedom of living make it essential to ensure survival as healthy and vigilant beings. This need is met by the fifth social value. In this sense the fifth social value has a broader conceptual meaning than that of the norm of abstinence from intoxication and encompasses all other norms that prevent and control adverse impacts of social life on the health of the body and mind of individuals, and the order of society as well.



**Table 4. Aspects of survival ensured by the five great social values**

1	Survival as physical beings without life threat
2	Survival as physical beings without deprivation of resources
3	Survival as human beings through peaceful reproduction
4	Survival as social beings through social bonds
5	Survival as healthy and vigilant beings by means of prevention and control of harm

## **1.9. THE FUNDAMENTAL FORMULA OF SOCIAL LIFE**

In brief, the social life is originally constructed by a well-ordered set of five great elements such as life, food, sex, trust, and health if a general formula is to be articulated in symbolic terms. This formula of social life is meaningful when it constitutes the particular order of the elements as presented in the five precepts. This is the particular social theory that sheds lights on a new way of understanding human behaviour and related issues including those of crime, punishment, and justice.

### **1.9.1. FUNDAMENTAL FORMULAR OF SOCIAL LIFE**

<b>1. Life</b>	<b>2. Food</b>	<b>3. Sex</b>	<b>4. Trust</b>	<b>5. Health</b>
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In this fundamental formula of social life, the first component of life represents freedom of life without any harm on long life and quality of it, and the second element of food stands for the indispensable provision of resources for meeting physiological and other needs of people. It emphasizes the availability of sufficient means of living. The third element refers to the gratification of sensual desires including sex and the reproduction of the human species. The fourth element creates the social system based on mutual trust and honesty for ensuring the fulfilment of



basic needs of all members of society sharing the great social values. The health component provides the inevitable baseline for setting limits and boundaries on enjoying the freedom of social life and expanding its horizons. It is a universal practice in the modern world to assess, ascertain, measure, and mitigate the impacts of almost all human activities from the health perspective before they are considered from other relevant perspectives. This world trend corroborates this need of taking health as a universal parameter for directing and controlling all human activities. Furthermore, this fundamental formula of life defines the institutional organization of society in terms of five important components pertaining to each element respectively: safety, existence, propagation, assurance, and sustainability.

### **1.9.1. HUMAN NEEDS**

Accordingly, a new hierarchy of human needs comes to light in terms of this formula as given in the Table 5. It indicates the significance of safety for all people, appearing as the first need of life. It is well apparent from the behaviour of people and animals when confronted with a life-threatening incident. All naturally tend to protect their lives at any cost in such situations. It is after having a sense of safety people try to enjoy physiological needs of food, water, rest, sleep etc. This natural trend of motivation of behaviour is evident from the second position of physiological needs in this hierarchy. The third position of the sexual needs does not raise any issue as it immediately follows the physiological needs of individuals. Social needs play a vital role in the creation of a social system that ensure a satisfactory level of meeting these human needs for all the members of society.



**Table 5. Basic human needs stemming from the five great values**

1	Safety needs
2	Physiological needs
3	Sexual and reproductive needs
4	Social needs
5	Health needs

In his theory of motivation Abraham Maslow introduced the popular and widely recognized hierarchy of five needs consisting of (1) physiological needs, (2) safety needs, (3) love and belongingness, (4) Esteem needs and (5) self-actualization needs (Maslow. 1970:35). Even though some of the above needs are found in the Maslow's hierarchy of human needs, the order of them is different as Maslow considers that physiological needs come first and after meeting of them the safety needs appear in the motivation. He includes sexual needs in the category of physiological needs. Compared to Maslow's explanation, the social theory of Buddhist five precepts suggests a different perception of human needs based on the above interpretation. However, according to these two hierarchies of human needs the fundamental dilemma is that what comes first 'food' or 'life' in a critical moment of choice.



**Figure 1. Hierarchy of human needs**



### **1.9.2. FUNCTIONAL PREREQUISITES OF SOCIETY**

The social system stemming from great social values has the following functional prerequisites for its establishment and sustainability (Table 6). Therefore, proper social life becomes impossible for people without fulfilling these functional prerequisites. As the maintenance of the order of society is concerned, there emerges an important requirement for adopting cultural norms, rules and regulations including civil and criminal laws for ensuring the meeting of those functional prerequisites. On the other hand, these functional prerequisites provide the fundamental framework for the development of both cultural and formal legal systems that regulate the behaviour of individuals, groups, and organizations. The five great social values function as the central value base for the social and moral Justification of such cultural and formal legal systems and as sources of their legitimacy.

**Table 6. Functional prerequisites of society**

1	Safety of life
2	Availability and management of resources
3	Regulation of sensual desires and reproduction
4	Socialization for being honest and trustworthy members of society
5	Healthy and vigilant population

Furthermore, the five great social values reveal their social goals with reference to the functional prerequisites of social life of the people (Table 7). Being universal in the utilitarian sense these social goals provide ideal objectives for developing cultural and social systems that organize,





maintain, and regulate the behaviour of people and their organizations. Even the civil and criminal justice systems fall into such social systems in a broader sense. These social goals are to be achieved by socially adopted means within the social system leaving no room for transgressing the major values and norms.

**Table 7. Social goals of the five great social values**

1	Ensuring the safety of life
2	Ensuring the availability of resources for life
3	Ensuring the peaceful gratification of sensual desires and the survival of the human species
4	Ensuring the honest and trustworthy social functioning of people
5	Ensuring the physical and mental well-being of people

### **1.9.3. FUNDAMENTAL HUMAN RIGHTS**

These five major social goals can also be seen from the perspective of the fundamental rights of people and identify the five types of rights as mentioned below in the Table 8. It is interesting to find that right to life, right to ownership, and right to health identical to some degree to the similar rights adopted by the United Nations in the “Universal Declaration of Human Rights” in 1948 (UNESCO.1994, Morsink.1999). Even though the right to marriage and family is found in the same Declaration there is no direct reference to the sexual and reproductive rights of people. Those rights are covered by the right to privacy, marriage, and family in the Declaration. However, this social theory of the Buddhist five precepts directly refers to two important human rights; the right to sensual pleasure and reproduction, and the right to be treated in an honest and trustworthy manner.



**Table 8. Fundamental human rights**

1	Right to long life
2	Right to ownership of resources for living
3	Right to sensual pleasure and reproduction
4	Right to be treated in an honest and trustworthy manner.
5	Right to health

#### **1.9.4. RIGHT TO LIFE**

As a fundamental right the right to life in this theory has a broad meaning of freedom of life. It refers to protection from all types of direct and indirect harm to body and life. The great social value of respect for life prevents not only physical violence but also symbolic violence against persons. Those who adhere to this value cannot produce and sell goods and services that affect the well-being of people. Even environmental pollution is prevented in the sense that it poses serious life threats depriving people of the right to life.

#### **1.9.5. RIGHT TO OWNERSHIP**

The right to ownership of resources for living is the right to have a legitimate means of living in the society. It is the capacity of meeting all physiological and other needs of life. As none is born with necessary resources, there is a natural right to find resources to fulfill the basic and other needs for living after birth. This right to means of living should be perceived in terms of different categories of people such as infants, young, adult, elderly, and all who depend on others for a variety of reasons and adopt appropriate means capable of looking after each of them. Not only employment, professional and vocational training but also care systems



such as family, social welfare, social security etc. fall into the purview of this human right.

#### ***1.9.6. RIGHT TO SENSUAL PLEASURE***

Social recognition of the right to sensual pleasure including sexual gratification and reproduction is necessary to adopt legitimate means of satisfying them. Different cultures have adopted various means for this purpose. One of the universal functions of the marriage and family is the provision of legitimate means for the sexual satisfaction and reproduction of new members. A myriad of issues pertaining to these social institutions as well as value conflicts and legal issues pertaining to sexual relations seem to have deprived some people of this human right in the modern society. Sexual crimes in contemporary society need to be perceived with due attention to this right to sensual pleasure and related issues of respecting and protecting it. State interference in the right to sensual pleasure is well evident from civil and criminal laws and regulations adopted for different purposes with little respect for it.

#### ***1.9.7. RIGHT TO BE TREATED IN HONESTY AND TRUST***

The right to be treated with honesty and trust needs to be conceptualized concerning to the unprecedented dependency on social organizations for meeting the basic and other social needs of people in modern society. The transition of society from self-sufficient families, communities and nations to a society that highly depends on other families, communities, organizations, and nations on a global scale for the production, distribution and consumption of goods and services has made it a compulsory requirement for people to be treated in an honest and trustworthy manner as the recipients have no other means to personally checking the hygienic



and other qualities of goods and services than believing the brands and labels carrying some real or pseudo information on the contents of them.

When people produced goods and services for themselves in the self-sufficient mode of the economy, they had direct empirical trust in whatever they produced or the service they enjoyed. But the alienation from the production of personal needs and confinement to mere consumption depending on national and multinational corporations impels consumers to trust the content of goods and services through the symbolic brands and labels and consumption. This is non-empirical indirect trust confined to brands and labels which may be true or false. As citizens are helpless in establishing direct trust in goods and services which they enjoy in the modern world, the state bears the sole responsibility of ensuring the trust of its citizens.

Accordingly, it is on the presumption that the government has ensured the standard of productions by employing of its legitimate power; making the citizens believe in brands and labels knowing nothing about the real contents of products and services. The human right to be treated in honest and trustworthy manner emerges in this particular social context of the modern society referring to the state's responsibility, citizens' well-being, the standard of goods and services, and vigilant consumption.

Even though the economic aspect of the right to be treated with honesty and trust is emphasized here, its purview is not confined to economic well-being alone but extends to all social affairs involving trust and honesty for motivating human behaviour. Criminal breach of trust is found in all types of social transactions with a huge cost to the victims of them including the state. Even the democratic systems of governance are seriously affected by



the fraudulent practices and corruption in contemporary society. Health and medical systems, transportation systems, educational systems, entertainment and recreational systems, mass media, social media, communication, and postal systems runs on public trust in them. People believe in them for obtaining their services. This unprecedented human dependency on trust in individuals, groups, organizations, governments, states, and international communities for meeting the needs of modern life emphasizes the indispensability of protecting the right to be treated with honesty and trustworthiness.

#### ***1.9.8. RIGHT TO HEALTH***

The right to health refers to a healthy body and mind. According to the social theory of the five precepts this fundamental human right emerges in response to the adverse impacts of expanding social activities on the physiological and psychological health of persons. The historical evolution of civilizations and their diffusion is always praised for positive impacts on the development of health conditions, prevention of diseases, medical treatments and increasing life expectancy and quality. At the same time the modern development of civilization is vehemently criticized for its adverse impacts on the health and well-being of people. The increasing mortality and morbidity rates of persons suffering from communicable and non-communicable diseases are always cited as indicators corroborating the magnitude of the seriousness of health hazards caused by the same development processes. As individuals remain helpless in front of these health hazards this human right to health makes it a responsibility of society and the state to ensure the protection of health. The purview of the right to health encompasses not only the protection from health hazards



but also, protection from all human activities that directly or indirectly affect the health and long life of people.

These human rights delimit the power of the state and other social organizations while establishing a public responsibility for protecting them. The state obligation of respecting, protecting, and fulfilling human rights needs to be perceived from a comprehensive point of view for ensuring the fullest coverage of all aspects of them. These fundamental rights generate more and more human rights with the increasing complexity of modern society. For example, the right to possession of resources for living generates the right to work and leisure, the right to produce and consume, the right to invest and earn, the right to care, welfare, and social security etc. which ultimately make the resources available for living. The right to health extends to the right to preventive health provisions including the right to health education, right to vaccination, right to nutritious meals, right to a healthy environment, right to medication, right to select medical systems and right to humane treatment etc.

## **1.10. LAW, CRIME, AND JUSTICE**

### ***1.10.1. LAW***

The fundamental formula of social life suggests a five layered framework for the rational conceptualization and organization of the law, crime, and justice. Accordingly, the law of society falls into five types such as life-law, resource-law, pleasure-law, trust-law, and health-law. The life-law is intended to ensure the protection of people from all types of direct and indirect life threats posed by various individuals, groups, organizations, and the state. It is the protection of life that provides the fundamental



legitimacy for the life-law. Resource-law is predominantly economic law that ensures the economic well-being of the survival of people through the regulation of the production, distribution and consumption of goods and services. The economic law gains legitimacy from the indispensability of resources for living for all.

Regulation of the gratification of sensual desires including sexual desires remains an important social need that provides legitimacy for the pleasure-law. This law addresses the six sources of sensual pleasure as eye, mouth, nose, ear, body, and mind. Simply because these senses belong to an individual, he or she cannot be allowed to appease them causing harm on oneself or another. As the gratification of sensual desires has extreme ends of conflicts, addiction, and harmful dependence on certain sources of pleasure, the human right to pleasure needs to be protected and kept within an order of peace and healthy limits employing of the pleasure-law.

As explained, the genuine functioning of individuals, social organizations, institutions, and governments in the modern competitive society cannot be ensured unless the trust-law is adopted. As modern society runs on trust for meeting almost all the needs of people this legal instrument should be strong enough to regulate it successfully. Accordingly, the indispensability of trust and honesty for all social transactions provides legitimacy for all the trust-laws. The extraordinary expansion of social life in the modern world and consequent adverse impacts the on health of people ask for the health-law to ensure the physiological and psychological well-being of the people. The health-law gains fundamental legitimacy from the irreducible need of protecting the health of people. The interrelationships among these types of law are also important in understanding the functional significance of all laws.



### **1.10.2. CRIME**

The formula of social life makes an important contribution to the debate on the conceptualization and definition of crime. Crime is a concept that requires precise conceptualization for the purposes of the criminal justice system as well as the generation of scientific knowledge on it (Miller.2009:612). This formula invites an academic debate on the definition of crime based on the structuralist views of the five great social values of social life. As the moral aspect of crime is concerned, the debate on the moral panic of people caused by the violation of values can be taken back to the much more realistic experience of people concerning to the issues of survival addressed by the five great social values (Wright and Miller. 2005:1005). The natural right to survive as physical beings, the as human beings, as healthy beings and the social right to survive as social beings are found at the very bottom of the social life generated by these five great social values. It is the social system generated by the great values that ensure the individual and collective respect for these rights, protection, and fulfilment of these rights. Accordingly, any definition of crime needs to address the intentional violation of these survival rights and reciprocal responsibilities of members of society. Such an address reveals the significance of considering the natural, social, moral or cultural components for the conceptualization and definition of crime.

### **1.10.3. JUSTICE**

The formula of social life has the potential of contributing to the conceptualization of criminal justice in modern society. The central role of the criminal justice system is to bring down the abstract criminal laws to concrete actions as required for the administration of justice, it must





function in terms of the conceptual and theoretical knowledge underlying criminal law. No gap should be remained between the two levels of abstract law and concrete action. Accordingly, the fundamental objectives of the five types of the law conceptualized in terms of the survival requirements of people should be realized utilizing the criminal justice system. Being the elementary structure of civilization and humanity, this formula of social life does not allow any reaction to crime to transgress its five great values and challenge the survival of offenders. Punishment of offenders needs to be conceptualized within the framework of this value system. Capital punishment, corporal punishments affecting the long life, deprivation of basic needs to the lethal extent, deprivation of sensual pleasure to the extent of losing psychological equilibrium of mind and, the opportunity for the propagation of a new generation, deprivation of health and medical needs to the extent affecting the healthy body, mind, and long life, cannot be considered as punitive sanctions according to the social theory of this formula of social life. Not only the punishment but also sentencing policies and minimum standards for the treatment of prisoners are required to be conceptualized in terms of this formula.

## **2.0. SUMMARY**

The social theory underlying the five precepts of Buddhism reveals five great social values: respect for life, possession of resources for living, proper gratification of sensual pleasure and reproduction, trust and honesty, and healthy body and mindfulness respectively. It explains the structural relationship among these fundamental values which are conducive to the origin and organization of social life with universal functions of ensuring the survival of people as physical, human, social, and healthy and vigilant human beings. This social life has enabled people to



overcome serious problems of natural life affecting their survival as well as the issues stemming from the expansion of social life itself. It is interesting to find a new perspective based on this explanation for developing the conceptual and theoretical understanding of human needs, human rights, social life, social order, law, crime, criminal justice, control, and prevention of crime.

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