IMPROVING ‘CONSUMER PROTECTION’ WITH BUDDHIST ETHICS: NECESSITY, POSSIBILITY AND CHALLENGE¹

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Abstract

This article primarily aims to draw attention to the concept of consumer protection in health care and the drug regulatory system. Consumer protection originated in the Western tradition and later it became a consumer protection model adopted by countries all over the world. However, it has been challenged when consumers have encountered the various unethical drug marketing strategies of the pharmaceutical industry. Modern advertising and aggressive drug marketing have considerably contributed to and stimulated mixed feelings of greed, fear

and delusion so that consumers’ minds have become weak and vulnerable. Meanwhile, the minds of physicians and the drug regulators have been more or less influenced. National drug regulatory systems have been inevitably undermined. Consequently, this concept needs to be reexamined and improved. Overall, the article provides a theoretical investigation of two fundamental moral principles of consumer protection, one based on Western ethics as the foundation of the original concept and the other a new approach applied from the principles of Buddhism. This article is designed to discuss the advantages and limitations of a moral foundation to the concept for consumer protection and to propose possible Buddhist ways of improvement, particularly in strengthening the mind in order to prevent patients, consumers, physicians, regulators, producers and others related to the drug regulatory system from mind manipulation by consumerism in a consumer society.

Introduction

Consumer protection is a concept first introduced by the famous President John F. Kennedy of the United State of America because of the problems in the quality and safety of consumer products and consumer rights. The following speech aimed to express his concern and to celebrate the first Consumer Rights Day on March 15, 1962.³

Thousands of common household items contain potentially harmful substances. Every year new chemicals

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³ <http://www.ncf.org.za/docs/pr/2006/pr0314.html>

are being added to our food and sprayed on crops. Ninety percent of the prescriptions written are for drugs which were unknown twenty years ago. Unless the housewife is an expert dietician, mathematician, chemist and mechanic, she cannot properly and economically run her house and shop for her family

Consumers by definition include us all. They are the largest economic group, affecting and affected by almost every public and private economic decision. Yet they are the only important group [...] whose views are often not heard

Consumer protection was thus developed to respond to the remarkable changes in the pattern of consumption in modern society. Most people do not consume what they produce, they consume what they buy. However their knowledge of the products available is often found to be inadequate. Consumer rights are required as 'an instrumental tool' to empower consumers to take better control of products they consume or, in the other words, to encourage consumers to be smart purchasers, who can buy any kind of product wisely. These rights, the right to be informed, the right to choose, the right to safety and the right to be heard and to redress, have been invented to support a competitive society in the capitalist world.

According to the simple model based on this concept, a society is composed of interest groups; consumers and producers are interest groups. They exist together to maximize their own interests through negotiation. Competition is believed to be the best regulator of the

marketplaces. When a market is competitive, it attracts more businesses offering their products and services to consumers. Subsequently, as a greater number of products and services become available, the price is reduced. This concept gives most benefit to consumers letting them consume what they want and in the qualities they desire at a lower cost. Whenever consumers have any problems over the quality of products or services, consumer rights can help them to solve these problems through fair negotiation. Ultimately, it will lead consumers to happiness, convenience and a better quality of life, and likewise benefit the economic development of a given country.

Unfortunately, the facts of the contemporary health situation have reflected the opposite reality. The World drug market is imperfect and it is dominated by the pharmaceutical industry. Consumer rights are often violated in countries even in the USA. The information generated by advertisements and the marketing activities of these industries is not only imbalanced but is also disguised as essential knowledge for good health. Consumers all over the world are being overwhelmed with unethical advertisements which encourage them to consume more and more. Their minds are destabilized by the basic truths of life: birth, growing old, pain and death. The two examples of drug ads in figures 1 and 2 show a strategy to motivate irrational consumption by arousing mixed feelings i.e. 'fear of death', 'anxiety about growing old' or being 'unhealthy' and then fascinating medical products with latest technology are introduced as the best ones manufactured. If minds are not properly

protected, consumers will find it so difficult to make a rational decision. Therefore existing consumer rights, particularly the right to be informed and the right to choose, will not be able to work well as meant.

Fig. 1: Promotion through Fear of Death

Source: Mintzes B (2006) Disease Mongering in Drug Promotion: Do Governments Have a Regulatory Role? *PLoS Med* 3(4): e198

Fig. 2: Promotion through Fear of Unhealthiness

Source: Home and Lady, August 2003, p.168.

Furthermore, even medicine and some health care products available in developed countries have been found to be harmful to health. Vioxx® (Rofecoxib), the latest serious case, occurred in 2004 showing that the right

on safety was being challenged. Vioxx® is a COX-II inhibitor which was once advertised as the best medicinal drug for arthritis sufferers.

Vioxx[®] was first approved by the Food and Drug Administration of the United State of America (US FDA) in 1999 and widely prescribed in over 80 countries. Its annual sales in 2003 reached 2.5 billion US dollars.⁴ However its side effects increased by more than double the risk of heart failure and stroke. It was estimated that at least 80,000-140,000 American patients would have been seriously affected (see Graham et al., 2005). Due to the number of drug users and affected patients simply in the USA, the case of Vioxx[®] was classified as the most severe drug disaster in the world history of modern drug utilization.

Not only did the number of patients injured or dying indicate the severity of the problems but the unethical practices of the regulators and drug manufacturers were of much concern as well. David Graham, an associate director for science and medicine at the Office of Drug Safety, Food and Drug Administration (FDA) and a deeply religious Catholic was the only member of staff of the FDA who disclosed an account of Vioxx[®]. He addressed this case as an example of a failure in the US drug regulatory system.⁵ The unethical practices of drug regulators appeared after the clinical report on the harmful side effects reached the US FDA in 2000, but it was kept secret until 2004,

⁴http://www.vioxx.com/vioxx/documents/english/vioxx_press_release.pdf.

⁵<http://multinationalmonitor.org/mm2004/122004/interview-graham.html>. Accessed on 29 April 2006.

the year that Merck, the manufacturer, announced the voluntary withdrawal of Vioxx[®] (see Horton R. et al., 2004). During the 2000-2004 period, the US FDA only required Merck to add warnings in its labelling while Merck continued sending around 3,000 medical representatives to clinics and hospitals in the USA to reassure physicians of the product's safeness (see also Waxman, 2005). The limited budget of the federal government was involved and more than half of the FDA budget came from the drug registration fee paid by the pharmaceutical industry. Some US FDA staff recognized the companies as clients to whom they had to offer the best service (See Lenzer, 2005). This situation revealed that the role and responsibility of the US FDA staff as drug regulators was confused and conflicting.

After the scandal occurred in the USA, the Executive Director of the European Medicines Agency, who was responsible for the drug regulatory system in 25 European countries, Thomas Lönngren, accepted that it was a problem with the world regulatory system as detailed the following interview:

Once again, history has shown that we do not have a sufficient system in place. More and better communication on the safety of medicines is the key, and here we are a little disappointed in pharmaceutical industries [...] they are focused more on the stock market sometimes (Lönngren, 2004).

In fact, Vioxx[®] is only the tip of the iceberg of World health care system but it is evidence that reflects how the world health situation and drug regulatory systems are being undermined. Since

this case was revealed in 2004, the drug regulatory systems of the USA and countries in Europe have been undergoing major changes. No matter what and how these regulatory systems are going to be altered in the near future, this article aims at drawing attention to the Western moral thought underlying the concept of consumer protection because any efforts to improve health care and the drug regulatory system will not be sustainably accomplished unless these moral precepts are reexamined and improved.

The purpose of this article is not to minimize the value of the Western concept of consumer protection. This Western concept has offered a model for consumer protection that has been recognized worldwide since the late nineteenth century. The model not only brought about consumer movements which have later become active consumer organizations (see Davis, 1996: 76-91) but it has contributed to the development in methods of protection which have appeared in various forms of legal measures, regulatory systems and consumer rights (see Hermann, 1970). When the concept is explained in this light, the notion of empowering consumers is paramount. However it would have been considered inadequate if the Western model has paid little attention to mind protection. This is because mind manipulation has become a main marketing strategy of the pharmaceutical industry to stimulate irrational consumption as was earlier shown in figures 1-2. Consequently, Buddhist ethics which mostly stress mind development are a necessity.

In fact, Buddhism is a religion that focuses on mind development in order to

reduce human suffering. Buddha devoted his life to developing experiments on the mind so that he could thoroughly understand its working processes and finally he proposed a means of developing the human mind which can be scientifically verified. His teaching can thus be called a tested theory. Buddha insisted that the mind of each individual can be trained so that it frees itself from cravings that are in the forms of greed, hatred or delusion. When greed, hatred and delusion are diluted, compassion, and *paññā* or wisdom to understand everything as it is, will emerge. The mind with compassion, *paññā* and mindfulness is stronger and less likely to be distorted or misled. As the mind is internally safeguarded, the Western methods, as external protection tools, will work effectively. The application of Buddhist principles is then a prerequisite for Western consumer protection improvement.

Consumer Protection as Ethics

As the concept of consumer protection was originally constructed to protect consumers and its concern is mainly on the proper conduct of producers, importers or sellers in the business sector, it can be interpreted as a branch of ethics. However, this concept has been developed in a capitalist society under Western moral thought which promotes competition and negotiation among interest groups. Any action interpreted as ethical practice can be primarily relevant to the principles of capitalism. Even though compassion, one of moral foundations of Buddhism, may be generally recognized as an ethical principle it is unlikely to be accepted for implementation due to a belief that compassion is irrelevant to the competitive situation of businesses in the real capitalist world. The most interesting thought is why capitalism and consumerism are understood to be relevant to modern living. This may be an example of an oversight in Western thought from the Buddhist perspective.

Fig. 3: Western Philosophy of Ethics: In Brief

The following section will discuss what principles have been developed in Western moral thought and then propose on what Buddhist principles can do to improve the moral thought of consumer protection concept.

Western Philosophy of Ethics: In Brief

Western moral theories or ethics can be studied in three areas: *meta-ethics*, *normative ethics* and *applied ethics* as shown in fig. 3. Meta-ethics basically examines the origins or sources of ethical principles and provides definitions of ethical concepts in order to understand what can motivate moral conduct, whereas normative ethics takes a practical role in forming theoretical moral standards to regulate right and wrong conduct. Applied ethics is quite a new branch which was developed to examine and resolve specific controversial issues by using the conceptual tools of meta-ethics and normative ethics. Contemporary examples of applied ethics are abortion, euthanasia, environmental concern, animal rights, gays in the military, a public vs. private health care system and capitalist vs. socialist business practices. It is necessary to note here that the distinction between these three areas is often blurred.

Meta-ethics: Origins of Western Morality

There are two broad approaches in the origins of moral principles, *other-worldly* and *this-worldly*. The *other-worldly* approach holds moral values to be objective, absolute, eternal and universal. The moral views are reached by common agreement on the legitimate

authority of God. An all-powerful God is the only one who controls everything. God's will becomes moral principles. On the other hand, the *this-worldly* approach rejects the idea that God's mind is in possession of divine commands. All moral values are *human inventions*, thus origins of morality are in individuals or came from cultural adoption. When considered by any moral agreement regardless of the legitimacy of God, it is hard to claim them as being absolute or universal. Moral values are subjectively changed throughout time from society to society. Thus, the *this-worldly* approach tends to promote the principle of moral relativism, which may be considered to be either individual or cultural relativism.

The problem that immediately arises is how an individual will take responsibility for his own or her actions if society holds to the *other-worldly* approach. Alternatively, if a society accepts the *this-worldly* view instead, that person will have authority to create his or her own moral standards, but there is less likelihood that a common morality in a society will be achieved.

Many Western moral philosophers appear to have been successful in resolving the problem of the two rival claims. *They invented moral rules based on assumptions about the nature of humans and the state of nature.* These assumptions were not only convincing but influential in both groups believing in God and non-believers. Until recently, some of these assumptions have been misunderstood as the reality of human nature. It could be said that these assumptions have been treated as reality and have given unexpected privileges to

humans, or more precisely, Western moral philosophers to formulate universal or absolute moral principles regardless of God's authority. The three following assumptions have been chosen to describe the nature of humans and these assumptions have become the important moral foundation of mainstream thought in contemporary society.

Egoism and Altruism

Thomas Hobbes (1588-1679) was a 17th-century British moral and political philosopher who first proposed that the nature of humanity is inherently selfish. His theory, *psychological egoism*, is based on the assumption that selfishness or selfish desires are behind all human actions, even selfless charity. This view is very important because he treated self-interest as the foundation of morality and then he developed a normative theory known as the *social contract* based upon that moral foundation. According to Hobbes, due to purely selfish reasons, everyone is better off living in a world with moral rules than one without moral rules, where property, family and even life are at considerable risk. Selfishness alone therefore motivates each of us to adopt a basic set of rules which will allow for a civilized community. These rules, if enforced, will ensure safety for everyone. It must be noted that Hobbes developed his theory during the English Civil War and he was one who defended the right to do whatever was judged necessary for self-preservation. Thus, since Hobbes's moral principle implies that only the strongest can survive in the world, it then seems unlikely for vulnerable individuals to live happily.

In fact, there was another British philosopher of the 18th century, Joseph Butler, who argued that humans have other inherent capacities, particularly benevolence; unfortunately, his assumptions based on benevolence termed *psychological altruism* were less popular in Western thought.

In contrast, Buddhists recognize both selfishness and compassion as attributes of human beings that are acquired rather than inherent. As selfishness is a hindrance to living with others happily and to the peaceful mind of both individuals and society, it has to be reduced. Meanwhile, compassion must be enhanced otherwise selfishness will lead human beings to a state of self destruction. The case of Vioxx[®] is an precise example showing the negative result of the selfishness of the pharmaceutical industry. Buddhists not only refuse to make use of selfishness in adopting moral rules but also propose a strategy to reduce the selfishness of individuals and society. One of the most effective ways is to observe the changes of the mind with mindfulness and *paññā* at every moment so that selfishness fades away and compassion appears. Furthermore the well-trained mind will be able to identify and guide proper conduct in the individual and society.

Reason and Emotion

The second powerful Western assumption came from the German philosopher of the 18th century, Immanuel Kant (1724-1804). Kant constructed his argument in response to the assumptions of David Hume (1711-1776), a British philosopher of the 18th century. Hume indicated the importance of emotion in moral judgment. He

argued for emotion over reason. All reason is essence but only emotional reactions can be used to make a moral decision. He concluded,

[...] reason is, and ought to be, the slave of passions.

Kant actually recognized the influence of emotional factors on conduct, though he insisted that true moral action is motivated only by *pure reason* when it is free from emotion and desire. In fact, he could not prove that human beings are free. Rather, he presumed that if we act morally, it is possible for us to be free. Thus, we firstly have *good will* or good intentions to do good things for others but what is good in his thought is not good in itself, but rather good for using reasons. He then developed his theory of moral conduct based on internal duty to overcome emotions with *pure reason* or reason without emotion. Therefore, Kant's meta-ethics gave rise to human dignity with rationality. The human is a rational being.

One of the differences between Buddhist thought and Kant's theory is that Buddhists believe in reason that can be empirically verified rather than using reason in terms of logical relevance. The Kalama sutra is a Buddhist guiding principle determining what and how to believe as follows:

Do not go upon what has been acquired by repeated hearing; nor upon tradition; nor upon rumor; nor upon what is in a scripture; nor upon surmise; nor upon an axiom; nor upon specious reasoning; nor upon a bias towards a notion that has been pondered over; nor upon another's

seeming ability; nor upon the consideration, 'This is our teacher.'

When you yourselves know: 'These things are good; these things are not blamable; these things are praised by the wise; undertaken and observed, these things lead to benefit and happiness, enter on and abide in them. These things are bad; these things are blamable; these things are censured by the wise; undertaken and observed, these things lead to harm and ill, abandon them.

According to the Kalama Sutra, reasoning is counted as one of ten principles but it must be proved in terms of benefit to both individuals and the public before being accepted and followed by them. Meanwhile, emotion stimulated by greed, hatred and delusion in Buddha's teaching is what has to be thoroughly understood in order to lessen its impact for benefit and happiness of all. From the Buddhist perspective, consumers must have a right understanding of how emotions emerge and disappear. This understanding will help them build up an immunity to protect themselves from suffering initiated by consumerism. Therefore, all consumers can develop themselves as rational beings through a self-reexamination of what and how to believe and practising the Kalama Sutra is one of the best guiding principles.

Natural Rights or Conventional Rights

The third assumption but the most powerful in politics and business was proposed by John Locke (1632-1704), a British philosopher of the 17th century. Closely related to Hobbes' views, Locke

believed in natural law and natural rights. He claimed that all men have a natural right to 'life, liberty, and estate' in the pre-political state of nature and these natural rights put limits on the legitimate authority of the state. He also argued that the law of nature mandates that one should not harm anyone's life, health, liberty or possessions. Locke's influence on natural rights: is evident even in the United States Declaration of Independence authored by Thomas Jefferson, which recognizes three foundations of rights; life, liberty and the pursuit of happiness. Jefferson and rights theorists indicated that other specific rights are derived from these natural rights, including the right to property, the right to movement, the right to speech or the right to religious expression, including the rights of consumers. His claims for natural rights legitimate issues and have become tools instrumental in empowering the disadvantaged.

Locke's natural rights also contributed to the adoption of the Darwinian Grand Theory – the 'survival of the fittest' – which successfully promotes competition as the moral foundation of the political and economic system throughout the world. Unfortunately these natural rights are often abused as the right to do or consume anything as desired, including the right to protect the property of the wealthy, at the cost of the poor's survival.

In Buddhist reality, there are no natural rights to put limits on the state's authority. What is called 'natural right' is actually a convention initiated by a Western group of philosophers that has become now widely accepted. Thus, it depends upon the people of each society

to choose and adopt any principles to develop a moral basis for their political and economic system. So, it is necessary to understand the reality of natural rights as they are, otherwise these rights will lead to misguided practices.

According to the three frameworks of meta-ethics above, it can be seen that the free will of Western society is an intention to strengthen individuals in a competitive society by promoting *egoism*, *reason* and *right* not *altruism*, *emotion* and *caring* in order to let them express their potential as much as possible. These moral foundations are basically important in saving human life and empower individuals; however only the stronger or the fittest can survive while the weaker or the losers will suffer and pass away. The meta-ethics chosen and adopted in contemporary societies have contributed to discouraging the vulnerable and preventing people from living happily with others. They suggest that not all consumers are safeguarded and the main challenging question is how we take care of the others.

Normative Ethics as Criteria

This part will discuss how Western moral standards regulate right and wrong conduct in order to find the solution to living happily with others. According to the normative ethics theory, there are three key strategies proposed as a criterion for judging the moral conduct of an individual in a society: virtue theory, consequentialist theory and deontological theory.

Virtue theory: Which Is Right or Better

Virtue theory is one of the oldest normative traditions, having its roots in ancient Greek civilization and it stresses the importance of personal character traits. Plato emphasized the four virtues called cardinal virtues: wisdom, courage, temperance and justice. Aristotle proposed specific virtues as good character traits. Christianity delineated another set of theological virtues: faith, hope and charity, for example. It is praiseworthy to develop virtuous characteristics but which one is right or better? This seems to depend on differences in the social context of each society at different times. Furthermore, how can we cultivate or develop these virtues? And what are their driving forces? The other two normative ethical theories may answer these questions.

Consequentialist Theory: Greatest Is Right

Among normative ethics, consequentialist ethics or utilitarian ethics theory has had most influence on the modern world. This is because the basic principle of the theory called the principle of utility is less complicated; moral conduct is judged by the consequences that follow an action. The principle of utility also asserts the balance between good and bad or greater and lesser or favourable and unfavourable consequences.

The principle of utility is also focused on impartiality or universalism. It promotes the maximization of consequences for *all* people rather than *oneself*; it could be said that the principle stands in contrast with *ethical*

egoism. As ethical egoism promotes self interest for individual's benefit, this principle is judged as less morally right.

Jeremy Bentham (1748-1832) and John Stuart Mill (1806-1873), two philosophers who proposed this theory, were hedonists and they believed in the *Greatest Happiness Principle*. Mill also explained his principle in terms of moral judgment:

Actions are right in proportion as they tend to promote happiness, wrong as they tend to produce the reverse of happiness, i.e. pleasure or absence of pain.

The statement above also implies the Good is defined as whatever brings about the greatest happiness. When the Good is interpreted in this sense, the utilitarian can promote his moral principle of utility in the pursuit of pleasure and the avoidance of pain. It should be noted that the utilitarian believes pleasure or happiness is intrinsically good and there is no significant difference in quality among the various kinds of pleasure and happiness.

The consequentialist theory certifies happiness in terms of its consequences and the amount is the criterion. Right livelihood in Buddhism or earning a living with honesty is recognized as morally right for it can produce a greater amount of happiness to a greater number of people. Stealing is morally wrong because it produces a lesser amount of happiness and a number of people will have pain or suffer bad consequence from this action. However raising money for charity or consuming more and more as desired are both judged as

good actions for they could bring happiness to individuals and society. The most important problem of this theory is therefore the inability to identify various kinds of happiness in terms of quality.

Buddhists actually recognize the importance of happiness but disagree on the method of judging any conduct with the degree of happiness. There are at least two kinds of happiness from the Buddhist perspective. The first or lower one is not real happiness for it is happiness at the level of self-satisfaction or pleasure which results from a mind dominated by desires due to greed, hatred and delusion. If there is a lack of *paññā* or right understanding of everything as it is, when a change emerges, suffering will be replaced. This kind of happiness is unsustainable. The higher level of happiness is free from desires due to greed, hatred and delusion. Consuming more or less but irrelevantly to physical needs are both morally wrong in Buddhist ethics. Mind development directed towards a state freed from greed, hatred and delusion is the key principle for individual decision and doing the right thing. This Buddhist principle is then quite similar to Kant's deontological theory which will now be explained.

Deontological Theories: Duty Is Moral Right

Unlike the two moral theories mentioned earlier, Kant did not believe that having good character traits or performing an action to fulfil personal desire including the degree of happiness is morally right. Rather, he argued that all rational beings are ends in themselves and should never be treated purely as a means to an end.

This principle of moral duty is to *treat everyone as an end and never solely as a means*. Stealing, for example is wrong because it is an action to treat one as a means for the benefit or the ends of the other. Suicide is wrong for treating one's life as a means to alleviate misery.

Kant classified conduct into two groups, one is called *hypothetical imperatives*, and the other is *categorical imperatives*. The first is not morally right because it is driven by personal goals or desires. The second is morally right as a result of the individual's determination to set his own laws and act regardless of external coercion. This is what Kant called rational duty.

Kant also stressed that a moral agent will treat his laws as universal law which implies he must apply his laws to everyone, including himself with no exceptions. What he does with others must be the same thing that he does or plans to do with himself. Kant's moral theory is then interpreted as far beyond self-interest and it is recognized as the ultimate virtue. However, the main problem of Kant's theory is how to put his theory into real practice and decide what is the driving force for an individual heading towards rational duty.

The consequentialist theory has become well-known because it has been implemented in the contemporary world. As most human beings are not self-protected, they are easily stimulated by desires in order to pursue their happiness. Desire is used as a tool to stimulate consumption for the benefit of the business sector. It is interesting that this theory is the moral foundation of thoughts in social sciences, particularly

in Economics. Moreover, the theory has contributed to creating an international standard to measure the economic growth of a country through a concept called Gross Domestic Product or GDP. Consumption is then not only linked with happiness but the economic growth of a country. If consumption is increased, the GDP will be higher. Unfortunately it also means that the world's natural resources will be reduced. On a similar track in the health care system, if drug consumption is driven by advertisement or drug marketing promotion, not by the real health need, the amount of consumption and GDP will be increased, but the burden on the patients and the health care budget of a country will also be increased. Safety problems due to the overuse and misuse of some groups of medicine may follow as well. The challenging question is again whether or not the consequentialist theory actually brings about real happiness to everyone as claimed.

Applied Ethics: A Western Challenge

Applied ethics concentrates on resolving specific controversial issues or specific problems of sensitive significant groups by using conceptual tools of meta-ethics and normative ethics, however what is counted as progress in this area arrives at a short list of representative normative principles. This is both challenging as well as damaging because original principles should not be reduced until they lose their full meaning, otherwise what applied ethics has done may not be considered as morally beneficial to society. It also implies that each principle chosen will have the potential to represent the others so that it covers

all aspects or nearly all of any issues studied.

Among applied ethics, Bioethics is the most related and relevant to modern public health; it is thus proper to examine the moral concepts of consumer protection in health care and drug regulatory systems via the principles of Bioethics. Tom Beauchamp and James Childress (2001) offer three main moral principles as a framework of Bioethics. They are respect for autonomy, beneficence and justice. Non-maleficence was once the fourth, but recently incorporated with the principle of beneficence (See Beauchamp and Walters, 2003).

Respect for Autonomy as Pride

Among the various principles of modern Bioethics, *respect for autonomy* is chosen as the first and most important principle of modern Bioethics. This is due to its values rooted in the liberal moral and political tradition of Western philosophy. The principle of autonomy gives great pride to humankind or more precisely, the Western world as most principles are bound with this principle.

Considering this principle as a representative of various ethical concepts, we can refer to two competitive normative ethical theories: Kantian ethics and Utilitarian ethics. In terms of Kantian ethics, *respect for autonomy* refers to the self-rule of autonomous persons to determine their own destiny without external constraints and the critical mental inability to understand and to make decisions. Meanwhile, to respect an autonomous agent is to recognize their own rights to pursue personal goals or desires based

on their values and beliefs, including letting them pursue their own pleasure or happiness. This principle is then approved as being morally right according to utilitarianism.

The interpretation above shows how to integrate two entirely different ethical theories in one approach. The principle of autonomy begins with self-determination and it is followed by the right to head towards personal goals as desired. Considering its potential, if the principle is applied when patients encounter *paternalism* in the health care services, it will protect them from being dominated by physicians or other health care professionals, including health care officials and drug regulators. This principle will empower a group of patients to become free to make their own rational decisions according to any information available.

It is laudable that many modern Western societies have made numerous efforts to solve problems by providing as much information and choice possible to increase the capacity of consumers to make the right decision. However, there are differences among groups of people, especially since some groups seem to be vulnerable and weak due to the lack of an ability to make decision rationally.

Moreover, the real problem of today is actually not only a problem of paternalism between patients and physicians. Even though the relationship between patients and physicians is still the core of the health care system, other relationships are contributing to tremendous changes. For example, drug regulators contribute to reducing health risks and promoting the safety of modern medicines through the legal

control of the pharmaceutical industries' sales strategy. Additionally, the industries have taken the greater role in supporting modern medicines and health care technology in several ways, such as (through) research and development in clinical trials, continuing medical education, new technologies in pharmaceutical production, and the establishment of drug information centres. It has ironically been found that pharmaceutical registration fees have unexpectedly become principal financial sources for the Office of Drug Safety at the US Food and Drug Administration.

It is interesting to note that the pharmaceutical industry is simultaneously acting in both an academic and business role. While the industries contribute to produce more knowledge and new technologies on products for physicians, health care professionals and consumers, they produce irrational desires driven by greed and delusion through advertising and marketing. In addition, they encourage consumers to make their own decision based on pride as the information and choices available are mostly inadequate and biased. The challenging question is how consumers can identify the quality of information and choose by themselves according to the principle of autonomy since pharmaceutical industries provide the most influential source of information.

As the principle of autonomy has developed under two competitive normative ethics, what the principle of autonomy can do is to let patients, physicians and other health care professionals, including drug regulators, perform their duties and enjoy their personal goals or desires often provided

by pharmaceutical industries. More information may increase correct awareness in some groups but it hardly helps a group of vulnerable people to understand and overcome impulse in their minds manipulated by the arousal of desire by greed and delusion. When it comes to this, it can be seen that the principle of autonomy will not work well enough to protect all consumers as claimed if irrational desires are not properly managed.

From the Buddhist perspective, the problems caused by irrational desires are too complicated to be solved effectively by providing as much information and choice. Only self exploration with right understanding or *paññā* and mindfulness can help to identify and decide which information or choice comes from greed or delusion, after this, the possibility of being dominated will be reduced. Consumers finally can then protect themselves.

Beneficence: Above All, Do No Harm

The principle of beneficence has its deep roots in medicine as can be seen in the Greek history of medical ethics: 'Above all, do no harm'. Currently, this commitment has been preserved but modified in order to expand the principle to protect patients from harm and meanwhile promote patients' welfare.

Since in every treatment health care professionals may do harm to a patient, the question of how this principle of beneficence should be applied is a great concern in Bioethics. If it is applied as an obligation, it will mean all duties of health care professionals will be

conducted with the principle of 'do no harm' with no exceptions which is often not true in practice. So, if this principle is applied in terms of roles and responsibility, it will achieve the balance of benefits over inflicted harm. This interpretation implies a new role and responsibility for health care professionals, which includes practices to reduce the degree of health risk as much as possible.

Thus, the principle of beneficence can be expressed in four components: (1) one should not injure or harm others; this is actually the principle of nonmaleficence, (2) one should prevent evil or harm, (3) one should remove evil or harm and (4) one should do or promote advantages, as in the original principle of beneficence.

Due to the increasing awareness of patients on paternalism, the principle of beneficence is actually less attractive in Western ethics. Most academics in Bioethics believe that physicians must not act with *beneficence* while making any decision on behalf of their patients, otherwise this may be interpreted as not respecting the patient's autonomy and moreover as violating the patient's dignity. This interpretation implies the principle of beneficence in itself can do harm to the human mind. Moreover, the principle of autonomy has an influence on Western ethics greater than the principle of beneficence. Therefore, it could be said that the principle of beneficence is losing its potential to protect consumers within its own traditional meaning.

In fact the principle of beneficence and the principle of nonmaleficence are close to compassion and *ahimsa* (to do

no harm to others) which are the key moral foundations of Buddhism. Both principles have influences on practices in the everyday life of most Buddhists due to their application and implementation in the form of a well-known guiding principle for living together happily called 'the five precepts'. The five precepts are as followings.

to refrain from killing or hurting all living things, to refrain from stealing, to refrain from misbehaviour in sexual relationships, to refrain from lying, and to refrain from causes that impair mindfulness i.e. addicting to drugs.

The first three precepts express compassion and *ahimsa* by caring for all life, belongings and endeared ones. The fourth concerns reliable communication. The last one focuses on mindfulness as a tool to better control all the actions, speech and mind of individuals. However, it could be said that the principles of compassion and *ahimsa* are losing their potential to protect consumers within its own traditional meaning when the number of Buddhists that understand the principles as a whole is declining.

Justice: Egalitarianism Is Right

While Buddhists focus on compassion and *ahimsa* as the moral basis for living together happily in a society, Westerners turn their attention to the principle of justice. Beauchamp (Ibid.), a well-known professor of Bioethics, has argued that justice is a principle which gives rise to social cooperation while *beneficence* and *respect for autonomy* are principles of social order. Whether

his argument on social cooperation is true or not, he reflects that justice is not only the moral foundation of Western thought but it is also a condition that must be established and achieved for happiness in a society.

Beauchamp also insists that the principle of justice is important in Bioethics but what he is most concerned with is the application of justice theories in allocating health care resources. He explains that there are three theories of justice: *egalitarian theories* which emphasize equal access to primary goods; *libertarian theories* which emphasize the equal right to social and economic liberty; and *utilitarian theories* which stress a mixed used of such criteria so that public and private utilities are maximized. The utilitarian perspective looks rather good; however it is unlikely to be implemented in real practices since it is less popular.

Beauchamp agrees with egalitarian theories although libertarians place a premium on the principle of respect for autonomy and free choice. Libertarians argue that egalitarian patterns of distribution represent a normative ideal; moreover it would be a violation of justice to regard people as deserving of equal economic returns. Beauchamp claims the principles that libertarians hold may be fundamentally wrong because economic value is not generated by each individual, but through a communal process of society.

The egalitarian theory is often claimed to be based on natural rights, therefore it seems to be the most morally right among the competitive theories of justice mentioned; however, all these three theories fail to succeed in terms of

justice for all. It is hard to believe that a principle of justice derived from these theories can bring about sustainable happiness or even social cooperation. In addition, the Buddhist approach called Buddhist Economics proposes to bring happiness to individuals and society regardless of the principles of justice.

Indeed, this approach is close to egalitarian theories of equal access to basic goods but Buddhist Economics places little emphasis on rights or equality in terms of *equal access* and *equal share*. Rather, it draws attention to right consumption which means consuming the things essential to life at an adequate level with a concern or compassion to share with others as much as possible. Social cooperation is thus possible for the underlying moral foundation, that is, life depends upon each other.

When considering the Western concept of ethics as the moral foundation of consumer protection at this point, it is clearly shown that Buddhist principles can improve the concept and fulfil some of the missing principles of consumer protection, particularly the principle for mind development. So, the next part will propose what Buddhist principles can do to improve the concept of consumer protection.

Buddhist Principle as Ethics: A Necessity

Buddhist ethics is a term often used for a set of practices called '*Sila*' or morality, but in this article it stands for Buddhist principles in order to be considered within the same context of Western ethics. This part will examine the origins of Buddhism, normative ethics and

applied ethics. After that it will discuss on how to integrate Buddhist principles in the consumer protection model. It must be noted again that the three areas are overlapping.

Buddhist Origins: Why Must It Be Moral?

Buddhism was originated by Buddha, an ordinary human being who devoted his life to the study of human suffering. After being reminded of the unavoidable emergence of suffering: birth, ageing, sickness and death, Buddha started to search for the truth of life and finally he announced his discovery which was later termed Buddhism. Therefore the actual origins of Buddhist principles came from Buddha's thorough understanding of suffering or *dhukka* in everyday life and he insisted such suffering is common to all living things and everybody has the potential to manage and terminate this suffering through training or practice. These practices involve a true understanding of how to protect oneself from suffering and the principle of protection is to be found in the following speech of the Buddha.

[...] by protecting oneself (e.g., morally), one protects others; by protecting others, one protects oneself' (See Phra Dhampidok (P. A. Payutto), 2000)

The principle above indicates that an individual has two moral duties, that is to protect oneself and others, but only following Buddha's teachings will help to protect both oneself and others at the same time. The five precepts are a good example. If an individual practises the first three precepts by refraining from killing, stealing or sexual misconduct, he

will protect himself by not increasing the opportunity of being killed or hated by others while others will be protected from killing or stealing as well as sexual misconduct. Furthermore, if he practises the fifth one - keeping mindfulness in all actions and speech he will not commit any crimes to increase others' sufferings and then he will be happy with peaceful mind. All are then protected. These examples show that the real objective of Buddhism is not only to promote ethical practices but to promote happiness for all. From the Buddhist perspective, morality is therefore a tool to promote happiness or a peaceful mind for the benefit of an individual and finally it will lead to a peaceful society. However, morality alone is not enough to force everyone to be moral in Buddhism. So, it is necessary to understand the other key principles, including the moral foundations of Buddhism, that can force Buddhists to be moral.

The Moral Foundations of Buddhism

This part will explain the basic principles of Buddhism in terms of moral foundations in order to compare Buddhist ethics with the Western ethics discussed earlier. Firstly, it focuses on the nature of human beings. The nature of human beings explained by Buddhism is entirely different from Western concepts for it is not constructed upon any assumption about human attributes. From the Buddhist perspective, a human being is not a selfish or a rational being or one who has been born with natural rights and freedom. It is a human being who can be trained with effort until he or she can attain the ultimate goal. Therefore, everyone has the potential to learn to overcome suffering but there are

different levels of success, depending on effort and ability, to understand reality as it is or *paññā* in Buddhist terms.

The second moral foundation explains the law of nature which is again different from the Western concept. This explains that life depends upon others or all lives are interconnected. No one can live without any help from others. This principle is very important because it leads to the mutual commitment of everybody to take care of others' lives rather than to live competitively.

The third foundation describes the law of nature concerning the three universal characteristics of all things, phenomena or life as follows: *anicca* or impermanence, *dukkha* or suffering and *anatta* or no-self. *Anicca* or impermanence is easy to understand through life experiences, the other two principles need a greater insight. Impermanence or change originates in conflicts or contradiction and these conflicts lead to an unsatisfactory mode of being. Suffering emerges when one lacks understanding on impermanence and believes in the permanent self. In other words, the mind without practices, will be easily stimulated by desire or greed, hatred and delusion to form an identity or temporary self but the mind grasps it as a permanent one despite its being irrelevant to the reality of change. If the mind finds changes are unrealised, suffering emerges. On the other hand, the trained mind will not grasp things permanently. Even the self is recognized as an invention constructed temporarily. Suffering does not therefore emerge and finally disappears.

The fourth moral foundation is actually the same concept as the third but

developed to show the dynamic process of a model on how twelve conditioning links produce suffering at the beginning until the end, called *dependant arisen*. Likewise, there is another dynamic process called *dependant cessation*. This shows how a human being can take care of his and her own suffering and at what stages that suffering can be terminated. In addition, happiness and suffering are actually in the same spectrum of life at two extremes. If an individual wishes to reach happiness, it is necessary to begin with reducing the causes of suffering otherwise it is unlikely that he/she will attain real happiness. However, in order to terminate suffering through this process requires great determination and considerable effort. Therefore, Buddha proposes the Noble Eightfold Path as the guiding principle for practice which is less difficult; moreover this principle can merge into modes of everyday life. It is possible to improve the Western concept of consumer protection with the Eightfold Path as will be explained later.

Buddhist Normative Ethics: Practice Is Vital

A number of Buddhists often misunderstand that *Sila* or morality is a standard of practice to judge right or wrong conduct in spite of the fact that Buddha hardly paid any attention to judging what conduct is right and wrong. Instead, Buddha asserted that everyone should learn until thoroughly understanding what suffering is, what causes suffering, what is suffering's cessation and how to end suffering in order to practise effectively. This knowledge for practice is well known as the Four Noble Truths which are the ultimate teaching of Buddha that everyone should know. It also implies

that practice in Buddhism is based on knowledge and both practice and knowledge in Buddhism cannot exist separately since this will not lead to a reduction of suffering.

Buddhist Applied Ethics: the Eightfold Path

Damien Keown, a professor of Buddhism from the University of London has proposed a short list of three principles entitled 'the basic good' as a concept of Buddhist bioethics (see Keown, 2001: 43). He believes that respect for life (*ahimsa*), wisdom (*paññā*), and friendship (*kalayanamittata*) are of benefit to the medical sphere: Pinit Ratanakul professor from Thailand has developed his Buddhist bioethics theory from the Western philosophical and medical traditions, not Buddhist tradition. Firstly he claims fidelity, autonomy, beneficence, non-maleficence and justice as Buddhist medical ethics. Later, he turns to Thai Theravada Buddhist tradition, a new formula constructed from veracity, non-injury to life, justice, and compassion. In the latest version, in order to correct the old versions, he disagrees with autonomy due to its narrow meaning as 'responsible individualism' and he adds to his new formula the principle of dependent arisen.

Fig. 4: Buddhist Philosophy of Ethics: In Brief

Robert Florida, a Canadian professor of world religion admits that not all four principles of Western bioethics fit into a Buddhist framework; however non-maleficence and *ahimsa* seem identical. Additionally, he finds that beneficence and compassion (*karuna*) are fairly similar as well. He insists that Western autonomy is acceptable as part of Buddhist bioethics but only with a meaning close to self-reliance and there is no principle of egalitarian justice in the Buddhist view.

Florida claims that the four principles are not actually Buddhist ethics in their own ethical system and then he develops a set of Buddhist medical ethics from Lotus Sutra and proposes his three principles of wisdom, compassion and skilful means (*upaaya*) to both the theory and practice of bioethics, instead. However, it is difficult to apply this formula in real situations.

This article prefers to choose the Noble Eightfold Path as Buddhist applied ethics to examine the concept of consumer protection. This Buddhist applied ethics is different from the Western one for it is not the proposition of a set of representative principles as in

Western ethics, rather it focuses on the Noble Eightfold Path which consists of the eight principles needed to practice concurrently. Furthermore, it is the principles for practice that the Buddha proposed to be the right one for suffering cessation. Also the Noble Eightfold Path can produce three kinds of real happiness as well, which will be discussed later.

These eight principles of the Noble Eightfold Path can be divided into the three categories. The first two principles, *right view* and *right thought*, are in the category of proper view or '*paññā*'. The next three principles, *right speech*, *right action* and *right livelihood* are combined together in the category of proper conduct or '*sīla*'. The last three, *right effort*, *right mindfulness* and *right concentration*, fall under the category of mind development or '*samādhi*'.

Paññā: Happiness for Knowing the Truth

Right view provides a two set understanding of reality. The first one is a reality relevant to what the whole World has agreed in common, including what the World assumes as the Good. Law and regulation as legal measures, belief and cultural tradition, for example are included in this group. If an individual refuses to follow this reality, he or she will encounter many problems. Traffic laws may be the best example for they force both drivers and pedestrians to adopt conducts relevant to this reality.

The second type of reality is the truth in Buddhism. Due to an untrained mind this is often distorted by irrelevant desires. The reality produced is then biased by greed, hatred and delusion.

Right view is necessary to understand the truth of life as it is. It reminds everybody of the three universal characteristics of life or phenomena, *anicca*, *dukkha* and *anatta*. Thus, nothing deserves to be grasped. The principle of *right view* not only prevents the mind from suffering but brings happiness as well. Happiness emerges through a true understanding of life.

Right thought is the second principle to bring the Good back to society. This concept offers two fundamental modes of thought. The first one is a way of thinking indicating the disadvantages of materialism, maleficence and revenge. The second emphasizes thinking over the advantages of non-materialistic happiness, compassion, loving kindness, and not being vengeful. *Right thought* is the moral origin of thought that leads to proper conduct or '*sīla*'.

Sīla: Happiness in Doing Good

Right speech, *right action* and *right livelihood* are principles that can empirically show benefits in society if an individual follows them. Furthermore the practitioner will be happier for he or she will receive the positive impact of the Good.

Samādhi: Happiness for a Purified Mind

The last three principles, *right effort*, *right mindfulness* and *right concentration* contribute to mind development. *Right concentration* assures an important role in empowering the mind so that it is strong, and not prone to attachment to greed, hatred and delusion. When the mind realizes it is purified, happiness emerges. However

this happiness is temporary unless it is supported by the other two principles. *Right effort* is needed to make *right concentration* and *right mindfulness* sustainable. *Right mindfulness* means an active mind with the role of watching over actions, speech and thoughts in order to do what should be done relevant to the principles of ethics. The more the mind is watchful, the more it is purified and the happiness is sustained.

Integration of Consumer Protection Model: An Ethical Analysis

This part shows how a concept of consumer protection can be explained if applied within two different moral foundations, Western ethics and Buddhist ethics. This application may begin with considering a simple model of consumer protection prior to applying each ethical theory. Indeed, the consumer protection model is often described as consisting of consumers and producers whereas regulators are the third party responsible for the protection of both consumers and producers.

If the model applies Western thought as a moral foundation, the nature of human beings is explained as self interested hedonists. Each group will search for pleasure or happiness and respect for the autonomy from others. Consumers and producers are bound together to maximize their own interests through competition and negotiation. What the regulators should do is to balance the interests of both groups. Legal measures are the most effective method of monitoring, controlling and sanctioning the producers. Consumers are encouraged to exercise their consumer rights.

This model in figure 5 demonstrates that good producers are ones who comply with the law and regulations; meanwhile their products are assured by the latest scientific standards. In a similar way good consumers are rational beings who have access to the information and have the ability to exercise their rights by themselves. Good regulators are competent with the scientific and legal knowledge to perform their duty as best they can.

If the model is applied to Buddhist ethics, the nature of humans can be explained differently. Buddhist ethics will stress compassion which leads to a different relationship between consumers and producers. Each group has a different role and responsibility as shown in fig. 5. Good producers not only comply with laws and regulations, but their actions are driven by their morality as well. They ensure the quality of products with their wish to prove their own Good. Good consumers are defined by their mindfulness and freedom from greed, hatred or delusion. The legal control and monitoring system of advertisements is supplemented the mind analysis of each consumer. Good regulators are both competent in knowledge and Buddhist ethics or *pañña*.

Fig. 5: An Integration Model

When we come to this point, an important question arises, particularly in cases where producers are unethical pharmaceutical companies. Is it still right to apply Buddhist ethics to the concept of consumer protection? The answer is both 'yes' and 'no'. It is 'no' if they are multinational companies without the grassroots of citizens being in the country and are independent from the laws and regulations of a particular country. It should be noted that *paññā* or an ability to understand the reality as it is can identify the difference between the two groups. The answer is 'yes' for small companies with roots. These are a number of drug companies who have concerns on life. Some are local companies, some are not, but they are either loyal to their country or humanity; however the important element is not the companies but their staff. No matter what companies or country they belong to, their conscious minds, cultivated by religion, may help to remind them as human beings to have mutual responsibility for others.

Closing Remarks: A New Beginning

This article began with the question of how to improve the concept of consumer protection and tried to indicate that the existing one is not the only model that can ensure that consumers are well protected. There are some problems of consumer protection that have emerged through its own moral foundations and limitations.

If the concept of consumer protection is based on competition alone, (for example) it is less likely to transform the minds of producers, consumers and regulators. Not only will producers focus on self-interest but so will consumers and society become unpleasant. Therefore, the introduction of consumer protection model based on Buddhist ethics may be the beginning of a change to challenge the original concept and lead to a better one.

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