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Echoes of Nalinika: A Monk in the Dock

by

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Abstract

How can Nalinika, one of the Buddhist *Jataka* tales, be used in the Perth District Court in Perth, Western Australia, as an illustration in the defence of a Buddhist monk from Sri Lanka? In the dock sat Pannasara Kahatapitye, a high-ranking monk from Colombo, facing eleven charges of sexual assault. Was this a case of cultural, religious, and political bias and misunderstanding -- or of a monk breaking monastic vows and practising immorally? Was this man a charlatan, or a genuine monk being framed by dissident Sinhalese groups in Australia? Over ten days the drama developed as evidence was given before judge and jury. Throughout, the accused sat motionless in the dock, smiling benignly at all in the courtroom. Innocent or guilty? This paper describes how the issues were resolved as seen from the author's role as a consultant to the crown prosecutor, and examines their implications for the general Buddhist community in Western Australia.

Echoes of Nalinika: A Monk in the Dock

Religions include a code of ethics to guide the conduct of their followers. They also tend to have an in-built means to discipline any member who fails to respect the principles enshrined in the code. But what happens when a religious leader of one country establishes a centre in another country and appears then to defy not only the ethics of the religious tradition he claims to represent, but also the general code of behaviour required by his adopted country? Such a case occurred in Perth, Western Australia, when a Sri Lankan Buddhist monk established a centre for his compatriots, and then used it to build his own prestige and to gratify his sexual appetites. Could a civil court in a predominantly Christian country hope to administer justice to an immigrant of different race and religious tradition? This paper describes the way in which the court handled the case, and the outcome.

In September 1995 I received a phone call from the office of the Criminal Investigation Branch (CIB) in Perth. Detective Sergeant Kylie Whitely needed to see me urgently. Mystified, I awaited her arrival, mentally reviewing recent events and wondering which could possibly be of interest to the CIB. To my surprise, she and her detective colleague requested a lesson in Buddhism. In particular, they wished to know about the proper behaviour of Buddhist monks, the vows they had taken, and the lifestyle they were expected to lead. I explained the ten basic precepts and gave an outline of monastic discipline based on the Vinaya. But they needed more specific detail. If a monk were practising alone in his own temple, how could the police tell whether he were following the accepted practice of the Sinhalese tradition? A strictly-practising Theravaadin monk, I told them, would sleep on the floor, not eat after midday, not store food, and certainly not be alone in the presence of a woman. In the temple there would be a Buddha statue, Buddhist texts and possibly incense and flowers. The detective sergeant recorded this information and, armed with it, went to search the temple and living quarters of a monk who had come to Australia from Sri Lanka.

Finding conditions quite the opposite of those I had described, the police arrested Pannasara Kahatapitiye, a fifty-two year-old monk in yellow robes, on the basis of complaints two women had made against him. They charged him with five counts of sexual penetration without consent and six counts of indecent assault. Pannasara was taken into custody. After spending one night there, he was remanded on \$50,000 bail with a similar surety, and ordered to surrender his passport. He was to report daily to the police and not to contact the two women who had laid the complaints against him.

Sixteen months later, in January 1997, Pannasara appeared before the Chief Judge of the District Court, Kevin Hammond, in a bid to delay his trial. The monk's lawyer, John Quigley, said that his client had instructed him that as a monk he could not stand trial on his oath during the months of January, February or March. Quigley told the judge that he had been unable to determine the exact reason for his client's direction, but that the monk had appeared distressed at the very thought. Quigley's own education at the hands of the Christian Brothers had failed to equip him with an understanding of such intricacies of Buddhist practice! No independent witness was provided to give evidence of the religious significance of those months. Mr. Quigley added a plea of hardship as the monk had suffered assault, break-in, and involvement in another current court case in the Supreme Court challenging his ownership of the Sinhalese Buddhist temple where he practised. The community's resources were depleted. The judge, however, was not swayed by these considerations, nor was he convinced of the need to delay the trial for religious reasons. Judge Hammond maintained that the trial starting date of February 17 should be retained, even though Quigley would not be available and another lawyer would have to represent Pannasara.

Shortly before the trial date, I was asked by the CIB to act as consultant for the crown prosecutor, Gail Archer, who knew nothing about Buddhism. No money was available to pay me but I agreed, as Archer obviously needed help and it could be an interesting experience. It cer-

tainly was! As soon as I arrived at the District Court I was locked away in an interview room to read and comment upon a thick sheaf of papers, the evidence of the two complainants. The two women of twenty-seven and twenty-nine were well-educated and worked in responsible positions in a government department. As I read through their evidence, I became alarmed by the violations they had suffered, and was impressed by the detail they were able to provide. If their evidence were true, then it was apparent that the monk had broken at least seven of the ten Buddhist precepts that apply even for young Buddhist novices. But were their accounts valid? I looked forward to hearing their evidence.

The first woman, an eloquent university graduate, described how she had heard of Pannasara Kahatapitiye through a respected Malaysian colleague at work. This world-renowned Buddhist monk, her colleague explained, had the ability to read astrological charts. From details of a person's birth -- the date, time, and place -- he could determine the position of the planets and so predict the person's future in considerable detail. Although the young woman was nominally Christian, she was open to New Age ideas and practices and asked her colleague to introduce her to the monk. During the first visit Pannasara recorded details of her birth and agreed to draw her astrological chart. A few days later the two called to collect it. Pannasara presented the chart but explained its significance through her colleague, the monk's friend. Her future, he said, was not good, but this should not alarm her unduly. The chart showed that by the age of sixty she would have developed life-threatening ovarian cancer. She was naturally alarmed by this revelation, but Pannasara warned her not to go to a doctor as it was too early for anyone to detect signs of the cancer's presence. That was not the only bad news. Her Tamil boyfriend was being unfaithful. He was having a relationship with two other women, and she should not trust him. Pannasara offered to help her through her problems. If she agreed to visit him on seven consecutive days he could save her by using prayer, chanting and anointing with holy oil. During that time she must abstain from meat, fish, alcohol, and sex.

Appointments were made for the early morning or late at night when the monk would be free from other duties and could give the woman his undivided attention. The next day at 5:30 a.m., she returned and was given tea to welcome her. The monk then locked the door. Oil was being heated for the anointing. Pannasara explained that monks were not supposed to know about women's medicine, but as she was special and her need of help was great, he would risk his reputation for her. Prophetic words! She felt privileged to receive his care. The oil, he said, had to be applied to all of the nine orifices of her body. He would start with her stomach. Tentatively she lowered her slacks a little but he was not satisfied until he had ripped these and her underclothes off her body. Pannasara rubbed the oil over her stomach, located her ovaries and massaged there. Unexpectedly he inserted fingers into her anus until he gouged the walls with his knuckles, chanting as he did so. She cried out in pain; he chanted more loudly. Pannasara had said that this was the first time he had seen a woman's naked body -- he had expected to find the vagina at the front. In probed his fingers as he pressed on her ovaries. In these areas the cancer would develop. A tear of compassion rolled down his cheek. When she protested, he told her not to be afraid. Was he not a monk, her brother? When he offered to use his penis to insert the oil further into her body she refused and he laughed it off. To reassure her, he showed her a white cloth he wore to restrain any erection. He massaged her stomach again, before lifting her bra and rubbing her breasts. Again she protested, saying his behaviour was not right. He promised not to touch her sexual organs again if she would bring some cotton wool to insert instead. He repeated his concern for her well-being. The woman dressed and went to work.

The next day Pannasara phoned her early to say that he was waiting. Believing his promise not to touch her, she went, resolving to keep an open mind. She wondered whether his unexpected treatment was the result of cultural and religious differences. This time Pannasara put oil on the cotton wool before inserting this into her vagina. Using his considerable weight, he pinned her to the bed and then massaged the en-

trance to her vagina and her stomach and breasts. He told her he was thinking of leaving his order, taking a wife and having children. Their astrological charts were compatible. To aid her understanding of Buddhism he gave her books in English, and she left. Confused and disillusioned, she felt her trust in the monk had been abused. She had been naive and was too ashamed to tell and warn others, apart from her mother who had seen her distress.

With the second woman the monk's behaviour showed a similar pattern. She asked for her astrological chart to be read and Pannasara gave her a terrifying prognosis: she already had advanced cancer, as shown by the abnormal color of her vaginal discharge. As a student of botanical health medicine and aromatherapy, she had been conscious of health issues but was totally unaware of any personal health problems. The monk assured her that he would help her and would "fix" the cancer. With holy oil he massaged her stomach and then her nipples. Although it was late at night he asked her to eat with him. When she did so, he attempted to feed her and offered her whisky. To check the color of her vaginal discharge the monk offered to insert cotton wool into her vagina. Being a "private person," she refused and did it herself. He wished to remove the cotton wool but she did so. Pannasara also recommended a seven day course of treatment with dietary restrictions. The monk asked her for her help in improving his English vocabulary. His interest lay in specific terms: penis, spermatozoa, vagina and pervert. The monk asked her to sleep the night there but she refused, promising to return later with a urine sample. She was shocked by the encounter.

When the second woman returned several days later with a urine sample, another woman was there. She drank tea with the monk but made a quick exit. The presence of the other woman proved to be a catalyst for action. Was he about to abuse her also? When she confided her concerns to her friend, who had also been to the temple, they exchanged accounts of experiences there and realized that they had both been victims in the monk's search for sexual gratification. Without delay they went to the police and told their stories. The CIB believed them

and took appropriate action.

But what of the monk who faced their accusations? While they gave evidence, he sat motionless in the dock. His serene expression and occasional smile supported his plea of "not guilty." The jury inspected the stocky, robed figure with the shaven head with interest. Here was a man who, at the age of twelve, had joined a monastery in Sri Lanka. There he had completed his primary education before going for a year to a Buddhist temple where he became a novice, taking the ten precepts and learning the practice of meditation and Buddhadharma. In a sangha school he received his high school education. At the University of Colombo he gained a Bachelor of Arts degree with honours in Buddhism. Pannasara had then taught in various schools, including a girls' high school. He studied for a Master of Arts degree at the University of Lucknow in India but did not complete that degree. Instead, as a service to Buddhism, Pannasara took a position as adviser to the Ministry of Education in Colombo. During the 1970s he became adviser to the president, Junius Jayawardene. This was a time of social unrest, during which he survived a Tamil invasion. In 1988, Pannasara was shot twice by communist guerrillas, who then stamped on his head. Monks were common targets: of the 20,000 monks who resided in temples, 6,000 were shot by various dissident groups. As a close associate of the president, Pannasara was a prime target. Later, President Wickramasingh took the monk into his own home for protection. After two prime ministers had been killed -- one shot and the other killed with Defence Minister Wijayaratna by a bomb -- Pannasara was strongly advised to leave the country. He went to Singapore, Malaysia, Thailand, and then Hong Kong, where he lived in Sinhalese communities.

In 1993, Pannasara came to Australia on a three-month visitor's visa. For the first year he lived in Brisbane with a Malaysian Tamil named Alexander. He then travelled to Sydney and Melbourne before coming to Perth in 1994. In September of that year, while still holding a visitor's visa, he had illegally purchased a house in Balga, a suburb of Perth. Financed by money the monk brought with him and a bank loan

arranged by Alexander, the property was converted into a temple by Sinhalese Buddhists in Perth. They also undertook to make the payments on the bank loan.

Of the 500 Sri Lankan Buddhists in Perth, 150 supported Pannasara and his temple, the only one run by a Sinhalese monk. The other Sri Lankan Buddhists continued to support the Buddhist Society of Western Australia and its Bodhinyana Monastery run by Thai-trained monks. Pannasara lived alone at the temple where he performed his religious duties. In 1995 a large number of books were donated to the temple by the president of Sri Lanka, Sirimavo Bandaranaike. A life-sized statue of the Buddha was donated by supporters in Melbourne, and a smaller one by followers in Sri Lanka. Supporters in Sydney sent a religious relic, while others in Brisbane donated a large lamp. The jury was shown photographs of these furnishings.

Pannasara told the court that he was no sooner settled in his temple than he became aware of opposition from Tamils in Perth and Sinhalese members of the rival Theravaadin Buddhist Society. There followed a series of events which sought to discredit him through associations with women. How could such a campaign succeed? The monks' disciplinary code not only demanded sexual abstinence but even restricted friendship between monks and women. Monks were forbidden to preach to women in private, to spend a night in a house where a woman lived, or even to walk with an unaccompanied woman. Monks were continually reminded of the need to be watchful when confronted by an attractive woman. A monk who was guilty of sexual intercourse was regarded as "defeated," and banned from the monastic community forever. Buddhist scriptures are explicit in these matters:

Monks were not allowed to ask a woman for permission to have sexual intercourse with her (*Sanghadisesa* 4), to speak with a woman on obscene matters (*Sanghadisesa* 3), or to touch a woman, even the edge of her clothes, with desire (*Sanghadisesa* 2).¹

The particular example quoted in court by Pannasara was the story of Nalinika told in the *Nalinika Jataka*. This story was told by the Buddha to a monk who had been led away from mystic meditation and thus destroyed by his former wife. In the kingdom of Kasi, said the Buddha, there was a three-year drought and the people were suffering. The king was told that the drought was due to an austere ascetic in the Himalayan country. The ascetic, Isisanga, could control the rain. Only by breaking down his virtue could the drought be broken. The king's daughter, Nalinika, could do this. Accordingly, Nalinika dressed as a male ascetic and went to Isisanga's hermitage. There he had sport with her and lost his virtue. Nalinika left and it rained. When Isisanga's father returned and realised what had happened, he said:

Beware my son!

He that is wise should not consort with such;

Virtue herself is blasted at their touch.

(*Nalinika Jataka*, 526)²

Isisanga asked for forgiveness, his father proclaimed the attainment of the Perfect States, and once again Isisanga developed mystic meditation. His fall had come about through the initiative and wiles of a woman. In court Pannasara referred to his own case as being the result of visitations by unscrupulous women seeking to ruin his reputation. One of his first visitors, he claimed, was a call girl who arrived, unsolicited by him, to offer her services for twenty dollars. Pannasara gave her tea and an explanation of the celibate life led by monks, and she left. Two Chinese women came next and worshipped with him. On their return visit they began to touch him and became nuisances. He asked them to leave. When teenage girls came to visit him he needed the assistance of a neighbour to evict them. Even when he was walking in the park, girls approached him, pointing a knife, while women in the distance took photos. Tamils brought more teenage girls to the temple and photographed him with them. Pannasara regarded the two women who

had brought the court case against him as the last in this series of encounters with women arranged by Tamils. He said that one had a Tamil boyfriend and both had wanted to have sex with him.

When Pannasara's barrister asked why anyone would go to such lengths to discredit him, the monk was quite certain that several dissident groups regarded him as a supporter of the government of Sri Lanka. Their aim was to have him deported to his homeland where he was on the hit list of their organisations. Their motives were political, but these groups were willing to use religious ends to achieve them.

Pannasara's evidence was less than convincing. Although he assured the court that a monk on oath could not lie, the crown prosecutor had evidence that he had already lied in the Supreme Court, where his ownership of the temple was being challenged. The monk's recall of dates was inaccurate. The crown prosecutor challenged him about his behaviour with the complainants, his being alone with them, touching them, feeding them (and himself) after midday, and having whisky in the temple. Was he not aware of Vinaya rules which forbade such conduct? Pannasara rarely gave direct answers to her questions. Instead, he attempted to hide behind language difficulties and cultural differences. His performance was so frustrating that everyone became restless. Throughout, he maintained his complete innocence: the events the two young women described had never taken place.

Pannasara's claim of innocence was supported by four friends and followers at his temple. They had known the accused for an average of three years and during that time they had found him to be honest, helpful to others, well-respected, learned, and a competent religious leader in their own tradition. None believed the charges he faced: their loyalty had not diminished.

In his summary, the defence barrister Tom Percy endeavoured to undermine the evidence of the complainants, describing their accounts as uncorroborated, well-rehearsed, theatrical stories. These articulate, intelligent, assertive women with an interest in New Age ideas claimed that their naivete had made them victims of Pannasara's sexual activi-

ties. Instead, he suggested to the jury, they were not as naive as they pretended to be. If their evidence were true, why did these intelligent young women make return visits? Why did they not warn others of the dangers of sexual abuse at the temple? Their evidence was certainly colored; one had even written to Pannasara as "a man of God" and thanked him for his care!

The accused, on the other hand, had impeccable credentials and he strongly denied that any such offences had occurred. In such a man, if the offences had occurred, they would have been the result of momentary weakness, not the work of a scheming rapist. Percy asserted that in this case both political and religious overtones were irrelevant. This view was strongly refuted by the crown prosecutor, who described Pannasara as a man who no longer kept his monastic vows and had betrayed the trust of two women who had merely asked for their astrological charts to be read. The offences were the result of a carefully calculated plan to take advantage of his position as a monk for his own sexual gratification. Pannasara had shown no mercy; neither had he indicated any remorse, as shown by his plea of "not guilty."

Judge Jackson addressed the jury, instructing them to consider each of the eleven counts separately and warning them that their decision had to be unanimous. The defence did not have to prove that the accused was innocent. It was the crown prosecutor who had to prove the accused guilty beyond reasonable doubt. In this case the jurors had to decide whether to believe the complainants or the accused. Jurors in today's multicultural society were not to be swayed by any racial or religious bias of their own. I looked at the jury of twelve, seven men and five women, a very varied group of Australian citizens. With their contrasting backgrounds, interests and values, how could they reach a unanimous verdict on each of the eleven counts? They took just four hours to find Pannasara guilty of each offence. The crown prosecutor and CIB were jubilant, the defence resigned, and the monk's supporters totally disillusioned.

A week later the court assembled to hear Judge Jackson sentence

Pannasara. The defence barrister described the trauma already suffered in custody by his client. Being disrobed for the first time in twenty years had been punishment enough for Pannasara, who had been required to wear green prison garb while in custody. He advocated clemency. The crown prosecutor, however, considered that Pannasara should be punished according to the serious nature of his crimes so that he could not repeat such offences. Judge Jackson sentenced Pannasara to four years in jail followed by compulsory deportation. Justice appeared to have been done. Pannasara now languishes in prison. Presumably, when he returns to his home country, the sangha to which he belonged will voice its own reaction.

It was interesting to note the effect of the trial on the broader Buddhist community in Perth. For ten days the local daily newspaper, the *West Australian*, ran blazing headlines such as:

Monk For Trial on Eleven Sex Charges
Court Told Monk Massaged Breasts
Monk Forced to Leave Home: Lawyer
Monk Wanted Wife: Witness
Monk Tried Jezebel Defence: Lawyer
Monk Gets Four Years

These headlines certainly created doubts in the community's response to Buddhism, one of the fastest-growing religions in Western Australia. In particular, the monks at Bodhinyana, the Theravaadin monastery, were concerned. The deputy-abbot of Bodhinyana had been helpful with the CIB's enquiries, saying that Pannasara had never been part of that monastic community. After Pannasara had been sentenced, a long-term lay member of the Buddhist Society was interviewed on television. She contrasted the highly disciplined life of the monks at Bodhinyana Monastery with the behaviour of Pannasara. The deputy-abbot of the monastery granted a long interview to a West Australian reporter, assuring her that Pannasara had operated alone, outside the

authority of other monks. He said that true monks performed a religious role. "They did not tell fortunes, did not accept money, were not involved in politics, did not act as doctors, and were not permitted to be alone with women" (*West Australian*, February 28, 1997, p. 5). The Bodhinyana community had been concerned by rumours surrounding Pannasara, but as they were merely rumours the monks had been powerless to take action. Nor did they have the authority to do so, since it is the practice for each monastery to stand on its own merit.

It is too early to tell whether the trial and conviction of Pannasara Kahatapitiye will have an adverse effect on Buddhism in Western Australia in the long term. It appears that non-Buddhists regard the religion with greater scepticism, whereas Buddhists themselves know that the deviant monk reflected little of the true nature of Buddhism, and their commitment has not wavered. Perhaps the next Australian census figures will indicate whether this rapidly growing religion has suffered a setback through the actions of Pannasara Kahatapitiye in Western Australia.

Notes

¹ M. Wijayaratna, *Buddhist Monastic Life* (Cambridge: Cambridge University Press, 1990), p. 95.

² H. T. Francis, *The Jataka, or Stories of the Buddha's Former Births, Vol. 5* (London: Pali Text Society, 1973), p. 106.

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