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## Ethical Implications of *Upāya-Kauśalya*: Helping Without Imposing

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# Ethical Implications of *Upāya-Kauśalya*: Helping Without Imposing<sup>1</sup>

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## Abstract

*Upāya-kauśalya* has been examined as a hermeneutical device, a Mahāyānic innovation, and a philosophy of practice. Although the paternalism of *upāya-kauśalya* employed in the *Lotus Sūtra* has been analyzed, there is little attention paid to bringing these ethical implications into a practical context. There is a tension between the motivation, even obligation, to help, and the potential dangers of projecting or imposing one's conception of what is best for others or how best to help. I examine this issue through various parables. I argue that ordinary people can use *upāya-kauśalya* and that the ethical implications of *upāya-kauśalya* involve closing two different gaps in

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<sup>1</sup> I presented an earlier version of this paper to the American Academy of Religion at Baltimore, Maryland in 2013. Thanks to the audience there for their feedback. My thanks also to Adam Miller, James Mark Shields, Douglas Duckworth, Grace Kuford, Ermine Algaier, Adam Valerio, Adrian Tiethof-Aronson, and an anonymous reviewer for their helpful comments.

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knowledge. This has potential applications not just for individuals, but also for organizations like NPOs or NGOs that try to assist large communities.

## Introduction

This paper examines the ethical issues that arise when ordinary beings apply *upāya-kausālya* in practical situations.<sup>3</sup> First, background is given on the term *upāya-kausālya* and its use. Next, the ethical tensions and issues that arise in *upāya-kausālya* are examined through various parables in the *Lotus Sūtra*, the *Therīgāthā*, and examples from ordinary life. After elucidating the potential problems of hubris, paternalism, projection, and failure, I raise a hypothetical example to press these concerns, focusing on the permissibility of deception. Next, I propose a solution of learning from textual uses of *upāya-kausālya* by paying attention to two epistemological gaps: knowledge of how to help, and knowledge of the audience. Finally, I argue that our responsibility to help others comes from our ability to influence others, as well as its unavoidability.

### *Upāya-Kausālya*

The Sanskrit term *upāya-kausālya* (Pāli: *upāya-kosalla*) is typically translated as “skill in means” or “expedient means” and usually abbreviated

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<sup>3</sup> I am adopting the use of the term “ordinary beings” from the scholars I engage with in this paper who juxtapose ordinary beings with bodhisattvas and buddhas. I should qualify this term is not intended to posit one type of ordinary being, or a standard group of measure where some would fall below that standard. The use is to delineate ordinary beings, to which myself as the author belong, who have limited knowledge and wisdom, from bodhisattvas and buddhas with perfected insight and wisdom.

as *upāya* (“means” or “device”) when meant to refer to the entire compound (Pye 8-12). In Sanskrit, the term has a neutral valence. According to Jay Garfield, “In Tibetan it is translated as *thab mkhas*, a term with valorizing connotations (indeed often conferred on monks as an ordination name), associated with a kind of wisdom (*mkhas pa [khepa]*), or pedagogical understanding” (272). Michael Pye proposes that English translations “tend to suggest a lower degree of ethical responsibility than should fairly be ascribed to Mahayanists” (9) and it would be misleading to associate a “pejorative sense of deviousness” (10) with it as merely a device.<sup>4</sup> The negative connotation is most prominent in the modern usage of the Japanese translation as *hōben* 方便 meaning “expedient.” The Japanese is adapted from the Chinese, where the issue is more complicated. Though typically abbreviated as *fāngbiàn* 方便 (*upāya*), the full term is *shànquán fāngbiàn* 善權方便 (*upāya-kausālya*). It is also rendered as *shànqiǎo fāngbiàn* 善巧方便, *qiǎofāngbiàn* 巧方便, *fāngbiàn lì* 方便力, *quánfāngbiàn* 權方便, *quánbiàn* 權便, and *shànquán* 善權 (Karashima 133). The word *shàn* 善 literally means “good” or “virtuous,” hence in the complete rendering of *upāya-kausālya*, the connotation is positive. However, the most commonly used abbreviated rendering *fāngbiàn* 方便 leaves this crucial word out and has a neutral valence, meaning “method,” or a positive valence, meaning “convenient.”<sup>5</sup>

These problems in translation aside, this Buddhist concept has mainly been studied as a Mahāyāna innovation used to introduce new ideas into Buddhism. Additionally, it has been examined as a hermeneu-

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<sup>4</sup> See Reeves, “Appropriate Means.”

<sup>5</sup> Although it is written the same way in Japanese and Chinese, Garfield misapplies the negative connotation of 方便 in the Japanese context to the Chinese, which is neutral, despite his footnote regarding instant noodles (方便麵) as distasteful when they are simply convenient (272n11). I agree with his larger point concerning how language is distorting but necessary, which is the context where he brings up *upāya-kausālya*.

tical device,<sup>6</sup> and a philosophy of practice.<sup>7</sup> Pye points out that *upāya-kauśalya* can refer to the teachings of buddhas and bodhisattvas that are meant to “help ordinary beings,” practices performed by ordinary beings “in order to make spiritual progress,” and much in between (158). To clarify the *upāya-kauśalya* performed by ordinary beings, Pye does not explicitly mention the use of it as a strategy to help others (which I will address in this paper), but rather he has in mind practices to cultivate oneself, such as chanting. Especially in the context of Mahāyāna, he concludes, “In short, Buddhism is skilful means” (158). Not limited to Mahāyāna, the parable of the raft in the Pāli Canon suggests that all Buddhist teachings are *upāya-kauśalya*, that is, they are provisional and instrumental constructs that are abandoned after they have served their purpose.

Another conversation on *upāya-kauśalya*, taken up by Damien Keown and Charles Goodman, involves the ethical implications of its use within the Buddhist canon.<sup>8</sup> Keown identifies the four aspects of *upāya-kauśalya* as: the Buddha as a skilful teacher (found in the Pāli Canon), *Dharma* or text as skilful means (in the *Lotus Sūtra*), a bodhisattva’s practice (in the *Vimalakīrti Nirdeśa Sūtra*), and a source that allows bodhisattvas to break precepts (in the *Upāyakauśalya Sūtra*) (“Paternalism” 202).

Keown and Goodman consider the ethical aspects of *upāya-kauśalya* in relation to issues of paternalism and potential for misapplication by teachers claiming to be bodhisattvas, which raises a need for de-

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<sup>6</sup> See Federman “Literal Means,” and McGarrity “Using Skilful Means Skilfully.”

<sup>7</sup> Schroeder, *Skillful Means*.

<sup>8</sup> Keown, “Paternalism in the *Lotus Sūtra*,” and Goodman, “Paternalist Deception in the *Lotus Sūtra*.”

fence of *upāya-kausālya*.<sup>9</sup> These are legitimate concerns, to be sure, but I wish to explore another direction and bring the conversation into the practical realm.

### Can Ordinary Beings Use *Upāya-Kausālya*?

Before that can be done, we must address a concern put forth by Peggy Morgan when she writes,

What needs to be born in mind . . . is that *upāya* is an attribute of those already perfect in ethics and insight, it is the seventh stage (*bhūmi*) of the bodhisattva path. This means that *upāya* is not presented as a normative path for all to follow but as something manifest in the activities of Buddhas and Great Bodhisattvas. (231)

Keown also shares this concern and concludes that the examples of bodhisattva usage of *upāya-kausālya* in Buddhist literature require “interpretation rather than simple imitation” (*Nature* 161). Part of his reasoning includes the end of the *Upāyakausālya Sūtra*, which warns against transmitting this *sūtra*—filled with examples of the Buddha and other bodhisattvas’s application of *upāya-kausālya*—to “inferior” sentient beings.<sup>10</sup> This *sūtra* ends with a message to keep the text a secret, which

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<sup>9</sup> For instance, what differentiates the Tibetan teacher Chögyam Trungpa’s “crazy wisdom” of forcing two students to be stripped down (see Marin, “Spiritual Obedience”) from the Chinese Chan master Linji’s shouts and seemingly random whacking of students with sticks? Both can be argued as *upāya-kausālya* to bring the person out of their attachment to a sense of self, social norms, and conventions. Yet, at least to outsiders, the former is unacceptable to most and can be grounds for a lawsuit, whereas the latter is accepted and still practiced today in Chan and Zen traditions.

<sup>10</sup> I wonder if Keown would have softened his stance if he had access to Mark Tatz’s translation of the *sūtra*, published after the first edition of Keown’s monograph on Bud-

seems like both a warning and a rhetorical device. To my knowledge, this *sūtra* has been copied and distributed openly, as it is not an esoteric text. The warning is legitimate, and “simple imitation” will not do. Yet, there still is room for ordinary beings to learn from *upāya-kauśalya* and model themselves after advanced bodhisattvas. This paper is precisely concerned with *how* to interpret these actions in order to use *upāya-kauśalya* to help others.

Gene Reeves disagrees with Morgan and Keown. Though Morgan focuses on the *bhūmi* mentioned in the *Avataṃsaka* (“Daśabhūmika” chapter), *Laṅkāvatāra*, and *Śūraṅgama Sūtras*, Reeves contends, “In the

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dhist ethics. Tatz’s translation is based on two Tibetan sources, one of which is earlier than the Chinese source that Chang et al. translates from. Keown’s work cites Chang et al.’s translation, which renders the relevant passage as, “Good man, now I have finished explaining and revealing my ingenuity [*upāya-kauśalya*]. You should keep this a secret and not speak of it to lowly, inferior people who have few good roots. Why? Because, even Sravakas and Pratyekabuddhas cannot comprehend this *sūtra*, much less can lowly, inferior, ordinary persons believe or understand it. Ordinary people cannot learn ingenuity, and so the *Sūtra* of Ingenuity is of no use to them; not a single ordinary person can accept or practice it. ‘Only Bodhisattvas can learn and teach the doctrine of ingenuity.’” Chang, *A Treasury of Mahāyāna Sūtras*, 464. Compare Tatz: “‘Son of the family: This explanation of the teaching of skill in means is to be kept secret. Do not speak of it, teach it, explain it or recite it in the presence of inferior sentient beings whose store of merit is small. ‘Why so? This teaching is not the stage of the auditors and independent Buddhas—what need to mention

[variant in Tibetan source 1] foolish common persons who are inclined to something inferior (*hīnādhimuktabālapṛathagjana*)? [end source 1]

[variant in Tibetan source 2] sentient beings whose store of merit is small (*hīnakuśalamūlasattva*)? [end source 2]

‘Why so? They are untrained in this skill in means. Why so? They have no need for it. No one but a Bodhisattva great hero is a fit vessel for this teaching of skill in means; no one else is to be trained in this teaching.’” Tatz, *The Skill in Means (Upāyakaūśalya) Sūtra*, 87.

*Lotus Sūtra*, it is not, as in some texts, just advanced or seventh stage bodhisattvas who use *hōben*” (Niwano and Reeves 251). I agree with Reeves, who sees the stories of bodhisattvas and their use of *upāya-kausālya* as examples for ordinary beings to follow. Edward Hamlin also expresses this sentiment in the context of Vimalakīrti’s use of *upāya-kausālya*: “The Buddha seems to realize that Vimalakīrti is a more approachable figure for the average disciple, a character model one can actually hope to emulate” (161). Outside of *upāya-kausālya*, Charles Hallisey and Anne Hansen provide examples of living Buddhists who derive ethical instruction from Buddhist stories. They “doubt that the configuration of ethics by such things as the limits of our knowledge about karma and its fruits can be expressed adequately in propositional form,” and instead propose that such ethical knowledge “can be learned only from narrative and life-experience itself” (321).

In addition, the parables employed to illustrate *upāya-kausālya* (especially those in the *Lotus Sūtra*), although filled with extraordinary moments, derive their force precisely from being realistic and relatable. For instance, the parable of the burning house, which will be examined in detail below, can be read as providing a practical lesson for the lay reader to emulate: if the house is on fire, one should use the best means available to save lives.

This paper will focus on the possibility of ordinary people using *upāya-kausālya* as a practical guide in everyday life. There is good reason that Keown and Morgan warn against it not being presented as a strategy for all to follow. A major portion of this paper deals exactly with the issues that arise when ordinary people try to use it to help others. However, I argue that in attempts to help, ordinary people benefit from learning how to use *upāya-kausālya* in order to better assist others. *Upāya-kausālya* can be brought into practical life by attending to two gaps in knowledge.

### Ethical Issues and Practical Tensions

Before proceeding, I should clarify my definition of ethics and the ethical stance of this paper. I simply take ethics as the English word with a Greek origin, and morality, with a Latin origin, to refer to the same thing: the concern for behavior or character as good or bad, and the distinction between right and wrong. Some have posited special distinctions between ethics and morality, with the former reserved for how an individual ought to live, and the latter concerning how one ought to treat others.<sup>11</sup> However, there does not seem to be enough agreement on this distinction, or how to separate the domains of ethics and morality. Another common practice is to use them interchangeably, but I will stick with the terms ethics and ethical for this paper.

More importantly, for Buddhist ethics, the above distinction is based on a distinction between self and other, a distinction that is ultimately illusory and leads to *duḥkha*. Rather than characterizing Buddhist ethics as virtue ethics<sup>12</sup> or consequentialism,<sup>13</sup> I lean toward the more flexible stance that Buddhist ethics does not directly correspond to any one of the three major systems of Western ethics.<sup>14</sup> Following Hallisey and Hansen, Garfield calls attention to the role of narrative in Buddhist ethics and how narrative context is vital to ethical assessment and determining actions towards others (291-294). For the purposes of this paper, ethical issues that arise from *upāya-kauśalya* are ones related to how

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<sup>11</sup> Ronald Dworkin was one such prominent philosopher who made this distinction. See his *Justice for Hedgehogs*, 13.

<sup>12</sup> See Keown, *The Nature of Buddhist Ethics*.

<sup>13</sup> See Goodman, *Consequences of Compassion*.

<sup>14</sup> Garfield argues Buddhism can contribute to Western philosophy by providing an alternative to the three major Western ethical traditions via grounding ethics in “our phenomenological orientation toward the world” (278).

one ought to behave toward others (noting that this self-other distinction is provisional, as is the case for ordinary, unenlightened beings).

The tensions and problems that may arise from ordinary beings's use of *upāya-kausālya* in practical life addressed here are: (1) hubris,<sup>15</sup> (2) paternalism, (3) the projection of needs, wants, or desires, and (4) a failure to help. These problems are not mutually exclusive, as all can happen together. A central theme that also runs throughout this investigation is the role of deception. These issues can be illustrated by parables, and we will now turn to the *Lotus Sūtra*'s parable of the burning house.

### ***Upāya-Kausālya* in the *Lotus Sūtra*, Other Parables, and Real Life**

A well-known episode makes up the core of chapter three in the *Lotus Sūtra*, titled "A Parable," and is introduced by the Buddha as a simile to clarify the doctrine of *upāya-kausālya* to Śāriputra. It begins with a father and his numerous children inside a burning house. Seeing the immediate danger, the father tells his children to exit. Yet, they do not heed as they are immersed in their play and do not comprehend the peril they are in. The father then uses his skillful knowledge of his audience to deliver the appropriate message in order to save them. Knowing they are fond of toys and carts, he tells them that outside the house are wonderful carts available for them to play with. Hearing this, the children fight to exit, and are saved. The father represents the Buddha, the children, sentient beings (specifically the pre-Mahāyāna audience), and the burning house, the *duḥkha* of *saṃsāra*. Most importantly, the use of *upāya-kausālya* in tai-

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<sup>15</sup> The use of the term hubris is meant in the modern sense of excessive pride, not the older Greek usage of causing shame to a victim. My gratitude goes to Wakoh Shannon Hickey who suggested this term.

loring the message for a specific audience is to preach the *Dharma* for soteriological purposes.

This is a commonly referenced parable in the *Lotus Sūtra*, which is one of the most popularly read, distributed, and studied Mahāyāna texts. The high popularity and familiarity of this story adds to the likelihood that ordinary people may emulate its illustrative use of *upāya-kauśalya*. The emulation in real life does not necessarily posit the agent to be as wise as the Buddha, nor do the dangers need to be life threatening. The assistance provided is likely mundane, not soteriological. Even if everyone was to heed Keown and Morgan, and not attempt to emulate the father, this does not take away from my main argument that in practical life one can benefit from a more reflective application of *upāya-kauśalya*.

To illustrate the potential problems, let us suppose that a layperson familiar with the story does attempt to emulate *upāya-kauśalya* in life. In this parable, the father has complete grasp of the situation and his audience, and uses this to predict an appropriate method of response. In life, however, perfectly certain knowledge is difficult, if not impossible to obtain. Herein lies the potential hubris: in practice, the agent attempting to help may claim the ability to see the dangers of the burning house, implying others cannot.

This is only hubristic if the attitude of the agent trying to help elevates the agent above the receiver of assistance. Parents have more experience than their children, teachers have more knowledge than their students, and buddhas and bodhisattvas have more wisdom than ordinary beings. Yet, there need not be an attitude of hubris. The issue is in the attitude of positioning oneself in such a stance that leads to the problems of paternalism. In other words, the problem with hubris, although not unethical *per se*, is that it is the necessary condition for strong paternalism. Unreflective strong paternalism is unethical, but we will deal with this issue a bit later.

To better elucidate the problem of paternalism in this context, let us turn to another parable, this time from outside the Buddhist tradition. In *Aesop's Fables*, there is a tale of *The Farmer and the Snake*:

One winter a Farmer found a Snake stiff and frozen with cold. He had compassion on it, and taking it up, placed it in his bosom. The Snake was quickly revived by the warmth, and resuming its natural instincts, bit its benefactor, inflicting on him a mortal wound. "Oh," cried the Farmer with his last breath, "I am rightly served for pitying a scoundrel." The greatest kindness will not bind the ungrateful. (Aesop and Pinkney 16)

In Jean de La Fontaine's adaption of this story, the farmer brings the snake home to warm up by the hearth. The snake wakes and threatens to attack, but the farmer manages to kill the snake with a swift chop of the ax. The message in both versions of the fable is clear: be careful *whom* you help.

The message that concerns us here, however, is slightly different, and that is: be careful *how* you help. All four of the aforementioned potential problems of ordinary beings trying to help others in practical life are shown in this story. The farmer's belief that the snake needs, or would want, his help to get out of the cold shows hubris, paternalism, and a projection of the farmer's own desires for warmth onto the snake. Although it may be the case that, *ceteris paribus*, a snake would prefer warmth to cold, the cost of being disturbed and unwittingly brought out of its environment is too high.<sup>16</sup> Ultimately, although the snake is

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<sup>16</sup> Wendi Adamek has explored the relation of La Fontaine's fable to Buddhism and the environment from a different angle in her talk "Zen and the Environment: It's Not What You Think."

warmed, this attempt to help ends in failure, in both versions, for the farmer and the snake.<sup>17</sup>

With the potential problems made more explicit, we can turn to real life examples. Ernesto Sirolli worked for an Italian NGO in the 1970s that tried to help Zambians take advantage of their fertile soil by teaching them how to grow tomatoes. After much effort spent in producing them, the crops were eaten overnight by hippos. The locals were uninterested from the beginning and explained that this is the reason they do not focus on agriculture. In effect, the good intention to help had gone to waste due to the projection of what works for one situation, onto another people in a different environment. This waste of time, labor, and resources is especially egregious when the intended recipients are in dire need of assistance. Fortunately, Sirolli learned from this experience and founded the NPO Enterprise Foundation based on a principle to “only go where invited,”<sup>18</sup> and his 2012 TED talk is aptly titled “Want to Help Someone? Shut up and Listen!”

The next example comes from a psychiatric setting, where the agent listened sufficiently and was able to help his patient. Yet, even with success, this example raises the ethical issues of applying *upāya-kauśalya*. The psychotherapist Milton Erickson treated a patient threatening suicide in a most skillful way. He convinced a woman who had a fixation on the gap between her front teeth to use that supposed defect to her advantage in a quirky manner that actually helped her win over

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<sup>17</sup> If we take these actions literally, warming the snake takes it out of hibernation, which suggests at minimum a nuisance for the animal. It is better to take these two stories figuratively, as the authors intend the snake to represent ungrateful, ignorant, or devious beings.

<sup>18</sup> Sirolli, “Africa and the first Enterprise Facilitation project in the Democratic Republic of Congo,” n.p. See also Sirolli, *Ripples from the Zambezi*.

her romantic interest.<sup>19</sup> Crucial to this success was the need for Erickson to be opaque about his intentions as a therapist. If he revealed his hand, the patient would never have gone along with Erickson's proposed plan. Though Erickson had copious clinical experience, he deceived his patient in order to help her. By deception here, I mean the broader sense of withholding information and causing another to (temporarily) hold a false belief, although therapists may not characterize Erickson's work in this way. It is precisely in situations where lack of transparency is vital to assistance that the potential problem of paternalism shows up in using *upāya-kausālya*.

Paternalism can be defined as “the interference of a state or an individual with another person, against their will, and defended or motivated by a claim that the person interfered with will be better off or protected from harm” (Dworkin “Paternalism”).<sup>20</sup> A distinction should be made between weak and strong paternalism. The former is

. . . the use of coercion or deception to get people who are for whatever reason not fully rational to do or allow what would be in their best interests. Weak paternalism is not nearly as controversial as strong paternalism, in which coercive or deceptive means are employed on normal, adult humans whose rationality is not impaired by any unusual conditions. (Goodman “Paternalist” 3)

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<sup>19</sup> For the brief and fascinating account of Erickson's brilliance with this patient, see Haley, *Uncommon Therapy*, 71-72.

<sup>20</sup> Dworkin's Stanford Encyclopedia of Philosophy entry has other useful distinctions of paternalism such as hard vs. soft, broad vs. narrow, pure vs. impure, moral vs. welfare, and an alternative to Goodman's characterization of strong vs. weak paternalism. The etymology of paternalism reflecting the relationship between a father and his children has bearing on the parables involving precisely these relationships.

Although I adopt the above distinction, a qualification is needed for the usage of rational and rationality. We risk assuming an ethnocentric definition of rationality, which may marginalize unconventional modes of reasoning and decision making, if we do not reflect on the grounds of valuing a Western, post-Enlightenment version of rationality. For some Buddhists, discursive rationality is not valued as highly as generosity, compassion, and wisdom, which are said to be beyond discursive thinking. For the purposes of this paper, I follow Goodman's usage, which suggests young children are not fully rational in the sense that they are better served by adult assistance with their decisions.

Goodman, like Reeves, and unlike Keown and Morgan, sees the potential application of the *Lotus Sūtra* in the real world, and argues convincingly to defend the text's uses of *upāya-kauśalya* as cases of weak paternalism, although they may appear to be strong paternalism. Richard Thaler and Cass Sunstein argue persuasively against misconceptions of paternalism and we will consider these later. Before that, let us return to one more parable in the *Lotus Sūtra* and then one in the *Therīgāthā* in order to set up a hypothetical case that will press the worry of paternalism and other potential problems of *upāya-kauśalya* with more force.

The parable of the physician appears in chapter fifteen of the *Lotus Sūtra*, "Duration of the Life of the Tathāgata."<sup>21</sup> A physician is the father to many children, who all become poisoned while he is away. Upon his return, he creates an antidote and those who are less clouded by the poison take it readily and are cured. However, some are too deluded by the poison to see the effectiveness of the antidote and refuse to be helped. Knowing his children, the physician departs, leaving the medi-

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<sup>21</sup> This is the chapter numeration of the Sanskrit version, with the chapter title taken from Kern, *Saddharma Pundarika*. In the Chinese version, it is chapter sixteen, see Watson, *The Lotus Sutra*.

cine with those still poisoned. He then sends a messenger to announce that he has passed away. Upon hearing this news, the rest of the children are so saddened, they snap out of their delusion and finally decide to take the medicine. They are cured and the physician returns to a household happy to see him.

The text strongly emphasizes that the physician (like the Buddha who expounded pre-Mahāyāna teachings) is not guilty of lying or falsehood. Although I understand this as doctrinal justification for Mahāyānic innovation, the physician clearly directed the attendant to lie. Yet, the message of the text is that he should not be charged with any unethical conduct in directing this lie. This is also the case in the parable of the burning house; the text emphasizes that the father there has not lied or committed falsehood. The father in the burning house has a stronger defense against having lied because he manages to bestow the carts he promised his children.

### ***Upāya-Kauśalya* in a Non-Mahāyāna Source and a Hypothetical Example**

The issue of lying and deception is even more prominent in this next parable, this time from a non-Mahāyāna source, hence without the complication of Mahāyāna's hermeneutical and religious innovation intentions.<sup>22</sup> In the *Therīgāthā* of the *Khuddhaka Nikāya* there are verses about Kisā Gotamī Therī, which are known as the (Buddhist) mustard seed parable. Dhammapāla explains this episode in his commentary. Kisā Gotamī is a nun who lost her child. Stricken with disbelief and sadness, she goes around carrying her deceased child asking for medicine and petitions

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<sup>22</sup> See Federman "Literal Means" and McGarrity "Using Skilful Means Skilfully."

the Buddha for help. In response, he says, “Go, enter the town, and at any house where yet no man hath died, thence bring a little mustard-seed” (Rhys Davids 107). Hearing this gives her hope and she goes around to various houses in town. Though the spice is common, every household has also lost a family member in the past. She begins to realize that death is inescapable, comes to terms with her loss, and petitions the Buddha to be his disciple.

Though the Buddha’s response to her request is an imperative, which may technically not have a truth value, and therefore may not be able to count as a lie,<sup>23</sup> it is clearly *intended to deceive* Kisā Gotamī in thinking her quest is at least possible.<sup>24</sup> This is a case where deception is not ethically reproachable, but instead could even be ethically laudable.<sup>25</sup>

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<sup>23</sup> For more on the problems with defining a lie, see Mahon, “The Definition of Lying and Deception.” There are multiple versions of this story, including one where the Buddha’s response is drawn out, promising her medicine if he can obtain special white mustard seeds. For a novel interpretation of this parable that mentions the ethical lessons of this narrative, see Bhushan “Toward an Anatomy of Mourning.”

<sup>24</sup> Intention (*cetanā*) plays a vital role in the Buddhist formulation of karma and in Buddhist ethics. Doctrinally, buddhas and *arhats* no longer produce karmic results from their actions, thus are ethically permitted to use deception with an intention to help. The situation gets complicated with bodhisattvas who have enough good karma to balance out negative karmic consequences from wrong actions that provide for the greater good. Still, this balance isn’t a utilitarian calculation that simply cancels out the negative karma. See Keown, *The Nature of Buddhist Ethics* 115, 152-154, 181, and Garfield, 283. See also Webber’s “Liar!” for misleading with linguistic implicatures and an ethical distinction between deception by false assertion and by false conversational implicature.

<sup>25</sup> One of the practices along the Eightfold Path is right speech, which is addressed in the *Abhaya Sutta*. In the translator’s introduction, Thanissaro Bhikkhu summarizes, “In this discourse, the Buddha shows the factors that go into deciding what is and is not worth saying. The main factors are three: whether or not a statement is true, whether or not it is beneficial, and whether or not it is pleasing to others. The Buddha himself would state only those things that are true and beneficial, and would have a sense of time for when pleasing and unpleasing things should be said. Notice that the possibility

This deception, though, comes from the Buddha, who has perfect knowledge of his audience and the situation. Although the exact term *upāya-kausālya* (Pāli: *upāya-kosalla*) is not used in the Pāli Canon,<sup>26</sup> this is a clear use of it by the Buddha. Pye's comprehensive monograph on *upāya-kausālya* has a chapter on its use in pre-Mahāyāna Buddhism and convincingly shows *upāya-kausālya* in the parables of the arrow, pith, water snake, and raft, along with the Buddha's decision to teach the *Dharma*.

After examining the mustard seed parable, we are in position to set up a hypothetical example to make more concrete the potential ethical problems in the application of *upāya-kausālya*. Suppose your close friend is a cigarette smoker, who has expressed interest in quitting. Yet, perhaps due to lack of willpower or (biochemical or psychological) attachment to the habit, your friend repeatedly postpones quitting. Her favorite New Year's resolution is "I will quit . . . the following year."

Now suppose your friend discloses a new romantic interest in a mutual acquaintance. A thought arises in your attempt to use *upāya-kausālya* to help nudge your friend to commit to quitting. You are aware that the romantic interest is not a smoker, and wonder if you should suggest to your friend something you do not know: that the romantic

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that a statement might be untrue yet beneficial is not even entertained." Thanissaro Bhikkhu, "Abhaya Sutta: To Prince Abhaya (On Right Speech)," n.p. In the context of the growing number of studies on how meditation affects a person, it would be interesting to see research on not just how meditation causes more compassion, but also how it affects lying and deception. To parallel the study done by Desteno et al. that asked if meditators or non-meditators will differ in giving up their seats to someone walking with crutches in visible pain (there was a threefold increase in display of compassion from 16 percent of non-meditators to 50 percent of meditators giving up their seats), one might design a similar experiment to put people in situations that pressure them to lie or deceive.

<sup>26</sup> The related term *upāya kosallam* is used once in a peripheral text as a list of three kinds of skill: skill in progress, regress, and in means. See Pye 118.

interest is averse to dating smokers. If you were actually sure this is true, the ethical problems will not arise. We can also modify this example to press the deception issue by positing that you have knowledge that the romantic interest is *not* averse to smokers.

Knowing your friend well, you believe there is a very high chance that this deception will push her to follow through on her desire to quit. You are motivated to try this approach because your previous urges have fallen on deaf ears, yet you know your friend goes to extreme lengths to win over romantic interests. Should you deceive your friend in your attempt to help?

The ethical issues start with a question of hubris. Though your friend has expressed interest in quitting, are you positioning yourself on higher grounds by considering it as in her best interest to quit as soon as possible, and that you are able to see this clearly, but she is not? This is related to paternalism because the action you are considering is to deceive your friend in order to achieve what you believe to be an end goal in her best interest. This would be a case of strong paternalism because she is a fully rational adult, unlike the children in the parables, or the grief-stricken and temporarily irrational Kisā Gotamī.<sup>27</sup>

Goodman argues, however, that this is not always clear-cut because we are not as rational as we like to imagine ourselves to be, or as in control of ourselves as we perceive, especially in the context of habits

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<sup>27</sup> For an argument that even some instances of *rational* persuasion can be paternalistic when such persuasion is motivated by a distrust of the other's rational capacities, see Tsai "Rational Persuasion as Paternalism."

like smoking, which are wired into our neurology in the form of unconscious cycles of cue, routine, and reward.<sup>28</sup>

A related consideration to the question of hubris is to bear in mind Sirolli's principle to only help when invited to do so. Has your friend previously asked for your assistance in committing to quit, and is your friend asking now? Kisā Gotamī actively asked the Buddha for assistance. Yet, one can avoid hubris and is ethically permitted, in fact obligated, to help others who have not asked for help if the situation is severe, as in cases with children facing dangers of a burning house or poison.

Is there a projection of your own desires for her to quit, or your own desires for yourself to quit (either putting yourself in that position or recalling your previous bouts with addiction) onto your friend?

To apply *upāya-kausālya*, we should ask if this deception, in terms of lack of transparency, is necessary, as in the case of the therapist and the parable of the physician. The physician, like the father of the burning house, used deception as a second resort, but it was necessary for those deluded by poison. Deception as lack of transparency is also necessary for the Kisā Gotamī example, and other parables in the *Lotus Sūtra* not mentioned here, including the parable of the lost son and the hidden city. In all these cases of deception, the intent to help is revealed after the target receives the assistance, thus not kept hidden forever.

Is deception the best means to achieve your desired ends? How will your friend react if and when she is made aware of your deception? Will she reproach your deception, or will she be grateful, as in the cases

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<sup>28</sup> For a host of studies that show everyday inconsistent and irrational decisions, see Ariely, *Predictably Irrational*, and for more on habit formation, see Duhigg, *The Power of Habit*.

of the children, the gap-toothed woman, and Kisā Gotamī? These are examples of difficulties that may arise when ordinary beings, without the knowledge and wisdom of buddhas and bodhisattvas, try to apply *upāya-kauśalya* in practical life. There is a tension between the ethical obligation to help your friend, and the potential problems of this particular means of assistance.

### Potential Problems as Two Epistemological Issues

Another way to formulate the tension is pitting the desire to help others against the uncertainty of the best way to help. Keown and Morgan's qualification implies ordinary beings should stay on the safe side, and not assume they can use *upāya-kauśalya* without perfecting their ethics and insight. But how realistic is it for people to attain perfect ethics and insight? In slight contrast to Keown and Morgan, I propose that ordinary beings can apply *upāya-kauśalya* if they pay attention to two epistemological issues—namely, knowledge of how to help and knowledge of the audience.

In the *sūtras*, buddhas and bodhisattvas use *upāya-kauśalya* because of a gap in knowledge. They know the *Dharma*, and ordinary beings do not. In their compassion and effort to help (perhaps an obligation to help, or from their perspective, which drops the self-other distinction, they have no live choice but to help) there is a need for some kind of *upāya*. The *kauśalya* comes in the form of how best to adjust and tailor the message appropriately for the audience to actually heed it. Involved in this is knowledge of the audience and their receptivity.

Ordinary beings without perfect insight can better help others by reflecting on how best to close these gaps in knowledge. To obviate hubris and unreflectively positioning oneself on a higher ground than the

target audience, one should ask what knowledge (usually leading to specific action) does one possess that can lead the subject to better their situation. In order to avoid projecting and imposing one's desires onto the subject, one should carefully consider the point of view of the subject. Although this may initially seem like a platitude, ordinary beings often overlook this consideration. A great example of this in action is the American Zen teacher Bernie Glassman actively asking the homeless what they needed. Rather than project that they needed jobs the most, Glassman learned they were more concerned with childcare and receiving mail and phone calls.<sup>29</sup> The One Laptop per Child project has brought attention to the need for a way to manufacture less expensive laptops to "empower the world's poorest children through education" (mission statement). However, it has been criticized for supplying kids with laptops when they would be better served with proper hygiene and nutrition. Melanie Tervalon and Jann Murry-García provide another example of how the needs of those being served can be neglected—a nurse believed she knew better than her patient whether or not the patient required attention for postoperative pain (118). They raise the important issue of paying attention to power imbalances of race, class, and gender in the setting of medical professionals helping patients, which can be extended to general attempts at assistance. Addressing these concerns will lead to dedicated efforts to understand the target audience and community and consider how best to transmit the knowledge that one has in a manner that the audience is ready to heed.

The ability to do the above is present in ideal situations, where time to reflect, if even briefly, on these issues is a possibility. Some situations demand immediate reaction: catch the falling child first, and ask questions later. The more important message of this paper is that ordi-

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<sup>29</sup> See King, *Socially Engaged Buddhism*, 114.

nary beings are ethically obligated to help *despite* their limited knowledge. Not being perfected in insight should not prevent ordinary beings from emulating the Buddha's and bodhisattvas's use of *upāya-kauśalya*. However, doing so is not a free pass to deceive others. Rather, one is urged to reflect on the intended target of assistance. This cannot be explicit enough: *upāya-kauśalya* is not for everyone, nor applicable in every situation. There may be no absolute guidelines for which situations allow for the use of *upāya-kauśalya*. Ordinary beings should not go around thinking they can break any precept or are above ethical codes, as this leads to an antinomian type of hubris. Rather, I am arguing that when one tries to help, one can benefit from modeling after how bodhisattvas do it: by considering the audience.

### **Paternalism Reconsidered**

The last issue to explore further is paternalism. Thaler and Sunstein argue against misconceptions of paternalism: that influencing others' decisions is usually avoidable, and that paternalism always involves coercion. The latter is not remarkable given our earlier definition of paternalism involving either coercion or deception. Still, Thaler and Sunstein's point is important and relevant. They use the example of a "choice architect" who has the task of placing food along the aisles of a cafeteria. The way food is displayed, such as ordering and placing on eye-level, has an effect on people's consumption and can increase selection by 25 percent. The architect has a few choices that include, but are not limited to, placing the food: randomly, in a way to maximize profit, or to nudge consumers toward healthier food choices (fruits and vegetables over junk food). They argue, in this and many other situations, influencing others is unavoidable, and thus it's better to attend to choice architecture in a way that can best help others, even if what is best may be complex and not easily agreed upon. They advocate what they call

“Libertarian Paternalism,” which is transparent and gives people options.

They also argue against the false assumption that people, most of the time, make choices that are in their best interest. Rather, people only make better choices on their own “in contexts in which they have experience, good information, and prompt feedback,” whereas they would benefit from expert help otherwise—“say, in choosing between fruit and ice cream (where the long-term effects are slow and feedback is poor) or in choosing among medical treatments or investment options” (9).

Thaler and Sunstein show that paternalism is not always unethical, hence the need for careful consideration of the audience. Transparency and the ability to opt-out are preferred, but real life ethical difficulties arise precisely in the gray areas where lack of transparency is necessary.

## **Conclusion**

Ethical tensions arise in situations where different ethical interests conflict, such as that between the intention not to deceive and the responsibility to help. To return once again to our hypothetical example of the permissibility to deceive your smoker friend, the best conclusion is: it depends on your assessment of your friend. That there is no clear-cut answer in tough situations for ordinary beings with limited insight is precisely the reason ethical cultivation is valued. It is not straightforward, and therefore, it is not easy. Few characterize Buddhist ethics as a rule-based deontological system, and for good reason, yet the lack of emphasis on duty and rules does not mean there are no ethical obligations whatsoever. Buddhist ethics lends itself more easily to virtue ethics, emphasizing traits and characteristics to cultivate, and to forms of

consequentialism, where relieving *duḥkha* trumps all. Paying attention to the narrative dimension of Buddhist ethics emphasizes the intricacies of each particular context. The best response available always depends on the unique circumstances of that situation.

This paper argues that ordinary beings can benefit from applying *upāya-kausālya* in practical situations. Although we do not have perfect insight, we can learn from those who have and from their careful application of *upāya-kausālya* by directing our focus toward the subject of assistance in a specific way. Looking at the issue in terms of how to best close the gaps in knowledge will lead to dedicated efforts toward understanding the target audience and transmission of knowledge, or delivery of assistance, without unreflectively privileging the agent over the target audience. To put this another way, we need to at least consider our fallibility in deciding what may be best for others. Although Keown and Morgan's warning is well taken, we have an ethical obligation to help others precisely in our current condition of limited wisdom. Waiting for perfect insight would be wasting opportunities to help. Again, applying *upāya-kausālya* does not necessarily permit the agent to use deception or any other such means. Rather, we must help without imposing. This has implications in the contemporary context where people with intent to help others do so without properly knowing their audience. This is especially important not only for individuals but also for NPOs, NGOs, and other organizations designed to help large communities of people whose immediate needs mean they cannot afford any unskillfully wasted, or worse, harmful attempts, no matter how good the intention.

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