ON CANADIAN BUDDHIST ENGAGEMENT WITH RELIGIOUS RIGHTS DISCOURSE AND THE LAW

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ABSTRACT

The contemporary 'convert-immigrant' make-up of the Canadian Buddhist population not only complicates accommodating the diversity of Buddhist-Canadian religious rights, but also challenges the very definition of "creed" as it is currently formulated in the *Ontario Human Rights Code*. This paper highlights these dynamics as they pertain to two institutional settings: the penal system and the health care system. This paper concludes by urging the OHRC to consider the unique needs of split convert-immigrant religious traditions, such as Buddhism, in order to not privilege the rights of minority convert populations over majority immigrant "cradle" populations.

If we are to broach the topic of Buddhist encounters with, and negotiations of, Canadian religious rights discourse and the law in a comparative context, even in the cursory way which time allows us here, it seems necessary to first unpack our terms somewhat. At the very least, it seems necessary to corrupt them just enough so that they lose their naturalized, 'universal' human references and begin to appear as concepts which are profoundly local, perhaps alien to many, and increasingly in transit well-beyond the territory of their production. This also allows us to appreciate the agency which will naturally spring from any legal definition of religion: such definitions will not only *protect* religious belief, practice and identity, but will also, significantly, *create and delimit* those very beliefs, practices and identities whose protection is their charge, and whose parameters they circumscribe. As other papers included here will no doubt have noted, critical reflexivity is vital, even when the goal is to instantiate and not dismantle, legal frameworks. Such reflections are particularly relevant, I believe, in relation to any religion in Canada which is both connected to immigrant populations *and* widely adopted by non-immigrant convert populations. In light of this, we must wonder just whose Buddhism is recognized and protected by provincial and national law, and whose is not.

According to Statistics Canada, in 2001 there were over 300,000 Buddhists in Canada, a figure that represented a formidable 83% growth in total population since 1991.[1] This leap was tied to trends in increased immigration from Buddhist nations in Asia, as well as a quickly growing (though comparatively small) Canadian convert community. Statistics Canada has projected that by the year 2031, Canada's Buddhist population will grow to 607,000.[2] Back in 2001, nearly half of the total population of Buddhists nationwide lived in Ontario, and a similarly heavy distribution in this province ought to be expected in the years to come. In this paper I will briefly examine the contemporary face of Canada's diverse Buddhist population in relation to two types of institutional engagement- end of life care and the penal system. I will then return to broader questions relevant to Canadian Buddhist engagements with, and representations by, "creed" in the conclusion of this paper.

END-OF-LIFE CARE

Buddhism, perhaps more than some of our more popular theistic traditions in this country, is a religion very much focused upon death and the dying process. Dying in a particular way, in a particular environment, with particular supports and preparation, is one of the most important religious experiences of one's life, and effectively constitutes a central religious practice for laity and clerics alike. Importantly, the Buddhist construction of the death process is one that extends far beyond biological death as it is defined by our medical sciences. For Buddhists, it is vital to not disturb or even touch a corpse for some time, ideally as long as a day or two, in order to ensure a positive transition

to the next life. This is so since from their perspective, someone is far from dead when the heart stops beating and the last breath is taken. The conflict should be obvious enough- it is simply impractical and against operational procedures to leave a corpse untouched and in a private setting in our large hospitals for too long. Bodies must be handled, manipulated, moved and stored. This disjuncture routinely causes Buddhists in end-of-life scenarios in Canada a great amount of hardship and stress. The answer would seem to lie in an extra-institutional support network, such as a Buddhist hospice, that could work alongside, or even within, the health system to adequately accommodate the right to die according to religious beliefs. However, a 2007 research group based in the Department for the Study of Religion at the University of Toronto found that, while in other parts of the world there are such groups who specialize in Buddhist-oriented care of the chronically and terminally ill, in Ontario such an organization is both absent, and greatly needed.[3]

In this we see a larger trend in terms of the interface between Buddhist populations and institutional settings in Canada and other traditionally non-Buddhist nations- while there certainly are legal frameworks aimed at accommodating Buddhists in, for instance, our health-care system, *in practice* the particular needs of this population are generally only met by non-governmental organizations, if at all. In California and New Zealand, for instance, we find a long and celebrated history of cooperation between regional health care systems and hospice networks to meet the rights of terminally-ill Buddhist patients to die according to tradition. In many cases, they are funded in part by the government to carry out their work. That they do so even in cases when *per capita* Buddhist populations are lower than here in Canada might give us pause.

PRISONS

Canadian institutions *in theory* accommodating the religious rights of Buddhist populations, but *in practice* requiring (largely absent) non-governmental and grass roots support to meet those rights, is a pattern that is also currently replicated in the Canadian penal system. While this is also a common situation in other nations such as America[4], the United Kingdom and Australia (details of which are in my longer paper), there we find much more developed co-operation between non-governmental bodies and the state to ensure that Buddhists can access their minimal religious freedoms while incarcerated. In Canada, there is currently no central Buddhist chaplaincy organization to provide support and resources for incarcerated Buddhists[5] (which are numbered at about 1000, though many more non-Buddhist prisoners regularly access Buddhist chaplaincy services).[6] Such services include ministering, group meditation instruction, lifecycle and calendric rituals, as well as faith-based therapy. This despite the fact that the law says that such resources must be available to those who request them, provided they do not pose security threats.[7] Buddhist chaplaincy is most commonly contracted-out on an individual basis,[8] who, along with a corps of volunteers, are heavily relied upon by the Canadian penal system to meet the barest religious needs of Buddhist inmates. In June of 2011, the University of British Columbia's Contemporary Buddhism program hosted a workshop that in part examined the current state of Buddhist religious rights in Canadian prisons. The participants, which included chaplains, prison volunteers and researchers, concluded that the system is currently woefully under-staffed by Buddhist chaplains, and that Canadian prisons in practice very rarely have interfaith facilities or proper resources to accommodate Buddhist ministering (even when a Buddhist chaplain is occasionally available). They also cited the current lack of sustained governmental support for not only adequate chaplain staffing, but for a range of interfaith resources that could greatly aide prison rehabilitation- for instance, faith-based addiction counseling.[9] We are reminded of how important such services are by McIvor's interpretation of statistical information regarding our current Canadian prison population:

> *In sum then, the typical inmate who might be served by Buddhist prison outreach is likely to be a young man with limited supports outside of prison, a social network comprised on criminal peers, low education and a possible mental illness. In addition to coping with his time behind bars, he may also be struggling with substance abuse and other pressures.*[10]

In light of the steep growth projection of the Canadian Buddhist population and new legislation[11] that promises to significantly expand the number of inmates and correctional facilities in Canada, we must expect that these numbers will rise in the near future. Faced with such increased institutional pressures, how long can Canadian prisons guarantee the religious rights of minority religious populations, such as Buddhists?

CONCLUSION

Beyond these sketches of institutional engagement by Canadian Buddhists, I would like to conclude with an observation related to our definition of "creed" in light of the particular make-up of the Canadian Buddhist population. The current Policy defines religion or creed as, "a professed system and confession of faith, including both

beliefs and observances of worship"[12] which does not include "secular, moral, or ethical beliefs or political convictions."[13] Yet, where then does Buddhism as a central organizational pillar for diaspora communities, fit in? Are their Buddhist-inflected minority identities limited to the "secular"? It is clear that "Buddhism" functions more commonly for recently arrived immigrant groups in ways more akin to dialect or costume than some sort of privatized 'faith' whose 'practice' (in the sense of some sort of private communion) must be legally guaranteed on the death bed, in the prison cell, or at the work place. The current scholarship suggests that such a definition of faith is often alien both doctrinally and sociologically outside of the normative Judeo-Christian tradition, as Prof. Seljak reminded us at the January 2012 OHRC Policy Dialogue opening keynote lecture. This is significant in terms of the Canadian Buddhist population, which you will remember is comprised of a small but vocal convert community of Judeo-Christian heritage, and a majority of "ethnic" or "cradle" immigrant or first-generation Buddhists.

The point is simply that the current OHRC definition of "religion" or "creed" in fact privileges what has long been criticized in scholarship and Buddhist circles alike as 'white, privileged, middle class' Buddhism (an individualized, faith-based tradition which draws heavily upon liberal Protestantism), and obscures significantly the more social, exteriorized and community-based experience of hundreds of thousands of "ethnic" Buddhists in Canada and elsewhere. For this majority Canadian Buddhist population, religious affiliation and identity are perhaps less about belief and practice so defined, as they are about marking a familiar social enclave in the midst of an alien Canadian society. The point, it seems to me, is whether, and how, the charter ought to accommodate "religious rights" that have little or nothing to do with belief or practice, but which foreground instead troubling dynamics of class-based asymmetries (marked in different ways by religion) in contemporary Canadian society. As the primary migratory religious tradition in Canada today comprised of both local converts and immigrants or first generation Canadians, Buddhism offers us an interesting lens by which to reconsider what types of religion our definitions require, and what types they exclude.

NOTES

[1] Exact number in 2001 was 300, 345 (1.0% of total population). "Major Religious Denominations, Canada, 1991 and 2001" (http://www12.statcan.ca/english/census01/Products/Analytic/companion/rel/tables/canada/cdamajor.cfm).

[2] Statistics Canada—Catalogue number 91-551-X. "Projections of the Diversity of the Canadian Population, 2006 to 2031." (www.statcan.gc.ca/pub/91-551-x/91-551-x2010001-eng.pdf)

[3] For research produced by this group thus far, as well as relevant scholarly resources, see http://homes.chass.utoronto.ca/~fgarrett/hospice/ and http://buddhisthospicecareproject.blogspot.com/.

[4] The Buddhist Relief Mission, one of the oldest and largest organizations involved with Buddhist prison advocacy in America, has documented how hostile American prisons have been to Buddhists or other non-Christian religionists who are incarcerated, despite laws that guarantee rights to religious practice. This stems in most cases from conservative Christians who in many cases occupy cases positions of authority in chaplaincy organizations, and who have been notoriously resistant to accommodating non-Christian religious programs. This despite successful campaigns by organizations such as The Buddhist Relief Mission and the Prison Liberation Project to have federal and state institutions guarantee basic Buddhist needs in their facilities. Internationally, Angulimala is a British-based Buddhist prison chaplaincy organization established in 1977, with chapters and affiliates in places as diverse as Nepal and Russia. In each of their affiliate countries, Angulimala works closely with the correctional system to grow proper systematic support for Buddhist inmates, and to advocate for increased religious sensitivity in prisons.

[5] Koppedrayer, Kay and Mavis L. Fenn (2006). "Buddhist Diversity in Ontario", in ed. Matthews, B. (2006). Buddhism in Canada. London, Routledge. p. 68-9.

[6] This is McIvor's estimation of the 2011 Buddhist inmate population, projected from the 2006 census data. See McIvor (2001), p. 71.

[7] For instance, "An inmate is entitled to reasonable opportunities to freely and openly participate in, and express, religion or spirituality, subject to such reasonable limits as proscribed for protecting the security of the penitentiary or the safety of persons." (*Corrections and Conditional Release Act* 1992 c20, section 25).

[8] It seems that "Awake in Action", a U.S.-based Buddhist prison chaplaincy organization, currently does provide some support and resources for contract chaplains in Canada. However, it seems that the Interfaith Committee on Chaplaincy is the Canadian organization is the most common support network for Buddhist chaplains.

[9] "Workshop Report: Buddhists working in Prison, Corrections, and Rehabilitation: Volunteers, Chaplains and Teachers". http://ubcbuddhism.wordpress.com/2011/06/22/1581/. Retrieved Jan. 8, 2011.

[10] McIvor, Paul. (2001). Outsider Buddhism: A Study of Buddhism and Buddhist Education in the U.S. Prison System. M.A. thesis: University of South Africa. pp. 71-2

[11] Such as the '*Truth in Sentencing Act,*' Bill c26, introduced in 2009.

[12] Policy on Creed and the Accommodation of Religious Observances, Ontario Human Rights Commission, October 20, 1996, pg. 2

[13] Ibid.