TOWARD A DEFINITION OF LEGITIMATE RELIGIONS

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ABSTRACT

This article explores the manner in which individuals, organizations, and institutions of civil society can identify and distinguish legitimate faith communities from those who would use the purloined language and symbols of religion to advance non-creedal and illegitimate objectives. This article provides a basis for according religious organizations and their adherents, rights and recognition without granting concomitant authorization to organizations that may promote hatred, illegal activities or vexatious objectives.

What is a religion? Should a so-called "new church" promoting a pure-race Aryan philosophy be extended the same rights, freedoms and protections as, say, an institution like the Roman Catholic Church? If a Canadian founds a religious belief system in 2011 and claims he and his adherents demand the right to suspend work every Thursday, is that a legitimate expression of belief and is the society compelled to accommodate it? How does a society separate the crime of a so-called "honour killing" from its perpetrator's claim to some form of religious immunity?

What can we do when faced with the growth of groups seeking the borrowed legitimacy of the language and terminology of faith and belief to further narrow, illegitimate and, perhaps, even illegal ends?

Many organizations of civil society have been loath to wade into this area. This is largely because there is little knowledge of the criteria for identifying and distinguishing "religion" and sincere religious claims. However, without the application of a working definition of what defines an expression of faith or creed, Canadian courts run the risk of inadvertently extending *Charter* protections and rights to abhorrent practices that contradict existing laws, and abnormal observances, which might have unintended consequence of abridging the real rights, freedoms and intentions of *Charter* 2 protections.

With clearly established criteria, each backed by a rationale, one can define religion rationally without presenting any grounds for an accusation of arbitrariness or favouritism. Without some criteria in place, one might be compelled to resort to arbitrary decisions or, conversely, be prepared to accept potentially racist and extremist groups as equally entitled to protections and freedoms.

WHAT IS A FAITH?

When an esteemed group of faith leaders from many world religion traditions came together in 1984 to form Canada's Interfaith Network, the first multifaith TV service, they grappled with this issue and they arrived at what have proven to be workable criteria. They affirmed the status of the established faiths while acknowledging that many people do not follow the so-called established religions. The four criteria they enunciated are still the most reliable for determining what is a faith: longevity, universality, charitable status, and the right to solemnize unions. To these four, this article proposes a fifth criterion: legitimacy.

Longevity

Trends in faith and belief come and go but religions and religious systems endure through generations. Genuine faith communities stand the test of time; but cults of personality die out soon after their founders pass away, and quasi-religious groups evolve or fade away. Often, it is the length of existence that separates cults and mere new trends from faith communities that have a long-term and pervasive worldwide influence. The 1984 group reasoned that since the average lifespan of a healthy human is 75 years, for any faith to be regarded as "established", it would need to demonstrate that in the corporate sense it had existed for, at least, 75 years.

Legitimacy

Obviously, individual churches, synagogues and other congregations that have existed for much less than 75 years, cannot independently meet the longevity threshold. In such cases, an organization can prove its legitimacy through a

letter of certification or authorization of legitimacy and authenticity from an established and recognized parent or umbrella organization. So then, until the "Aryan" Church can obtain a letter of certification from either the Canadian Council of Churches or the Evangelical Fellowship of Canada or other certifying body, then it cannot be regarded as a legitimate Christian church or sect. It is not Christian. The same applies for the Nation of Islam. If no council of imams or widely recognized group like the Islamic Society will certify it as genuinely within the Islamic tradition, then it cannot claim that it has the same root as all Islam, which goes back over 1,300 years. Such groups would have to 'fly on their own ticket', counting their legitimate origins from the date of their own incorporation.

Let's examine this test of legitimacy more closely. In recent years, all over the Western world groups of self-described "Messianic Jews" have emerged. They claim they are Jewish, yet they accept Jesus (who they refer to as "Yeshua") as the promised Messiah. This runs in the face of the traditional Jewish definition of 'who is a Jew'. In 1999, I adjudicated such an issue. I relied upon a test of legitimacy in my decision; the question of legitimacy in its purest form becomes: "By whose authority can you lay claim to being a legitimate branch of the (name) religion?". In other words, just because someone lays claim to a name or claims to represent a given creed – in this case *Judaism* – it does not necessarily and immediately mean that claim is legitimate.

This is an important distinction because sometimes, cults and fringe organizations will appropriate the language of faith in an attempt to "manufacture legitimacy". Fringe groups looking for legitimacy regularly use the word "church" in their name, and address their leaders as pastors or ministers. The mere titles are a façade and without substance unless we can ascertain what recognized and accepted theological course of study these 'ordained' leaders pursued. Legitimacy must be earned.

Universality

Without proof of a certain number of adherents, one person's self-proclaimed "church" gains the same authority and rights and protections as an established faith community with millions of adherents – and that's problematic.

In Ontario, there is a small band of acolytes that belong to a so-called "church" that eschews the wearing of clothing and promotes the use of illegal drugs as a sacrament. Without some numerical means test of universality, this handful of people would have the same rights and authority as the hundreds of thousands of Roman Catholics in the community and, by extension, the one billion Roman Catholics worldwide.

A numerical test of universality, prevents small, yet active, localized quasi-religious groups from changing the face of the society at large to accommodate abnormal practices. However, the numerical test is not a sufficient stand-alone criterion. Otherwise, one might fail to accord recognition to the practices and beliefs of faiths that have universality and international acknowledgment, yet are few in numbers in a given local community, like Zoroastrianism or the Baha'i Faith in Canadian communities.

Registered Charitable Status & Articles of Incorporation

One of the generally accepted tests of religious organizations is whether they have charitable status. While the ultimate power to authorize, certify and extend recognition to legitimate religions cannot be yielded to the Canada Revenue Agency or any other nation's national taxation and revenue service, it is true that most developed nations' governmental taxation departments exercise a range of stringent tests of their own before they will grant this special status.

Groups that maintain charitable status must demonstrate that the funds they collect from their general membership are used for purposes that are clearly defined in their letters of incorporation, e.g. religious activities. Charitable status usually means the operations of the organization are for a common good or purpose rather than for personal gain, self-aggrandizement or to enrich a handful of privileged members. The provision of charitable status also means that the group's objectives are not in contravention of the laws of the land.

Solemnizing of Marriage

The right to solemnize marriage, as extended by civil authorities to faith communities, is another useful test of what constitutes a legitimate religious organization. Here again, one cannot arbitrarily subjugate good judgment and the *final* right of acceptance to civil authorities. Nevertheless, governments generally apply tests before they will extend to any faith community the right to conduct officially recognized weddings.

This right expresses more than just the right to conduct a lawfully recognized wedding. It indicates an "organized" faith community governed by rites of passage, a body of laws, and a framework of revealed scriptures and teachings. These are at the core of what historically has defined a religion. An organization without scriptures, sacred texts and laws governing personal conduct and relations is not a religion. After all, when we examine the traditional definition of religion, we find it is about "commitment or devotion to religious faith or observance; a personal set or institutionalized system of religious attitudes, beliefs, and practices" leading individuals to live lives of moral rectitude. The codes of laws can be as precise as the 613 laws in the Torah, or as all-encompassing as the Buddhist Dhammapada: they all provide prescriptions and laws for proper conduct.

Other Criteria

Over and above the five criteria listed above, a religious community in good standing will endorse, uphold and act in accordance with the following:

1. The principles enunciated in the Universal Declaration of Human Rights governing the equality of all peoples regardless of race, creed, religion, sex, income, etc.
2. The laws of its host nation and other jurisdictions.

The first of these other criteria is a safeguard against racist supremacists cloaking themselves in the purloined legitimacy of faith. Moreover, the second criterion will eliminate such groups that claim illegal substances as sacraments and such fringe organizations that stockpile weapons, kidnap or harm people or openly seek to overthrow the government in the name of faith. There are people and organizations that conceal their nefarious and anti-social objectives in religious terminology and the trappings of ritual and faith as did the Branch Davidians and The Peoples Church of Jonestown.

With appropriate criteria in place, such extremists are denied the opportunity to seek religious protections under the law or to flourish and appropriate the rightful place of legitimate religion and creed in our society.

QUASI- AND PARA-RELIGIOUS ORGANIZATIONS AND MOVEMENTS

By their very nature, some of the so-called "new religions" and philosophical movements are among the most outspoken. Many of them actively seek to expand and find new members. Some are infused with the enthusiasm that accompanies new-found belief. Others are interested in the borrowed legitimacy of appearing in the same forums as the world religions which genuinely meet the criteria listed earlier in this article. Still others are new strains and offshoots of the established world religions and would presume, without permission, to speak on behalf of the main corpus of the faith tradition from which they claim to have emerged.

There are many, many such quasi-religions and movements. Each one presents a distinctive case. Each will have different problems with the five criteria listed earlier in this article. Clearly, determinations in such cases will need to be made on a case-by-case basis. Some movements may not be universally well regarded or embraced by the respective mainstream faiths with which they identify, but are still accorded recognition. However, the converse is also true: such organizations as the Nation of Islam or Messianic Judaism – are rejected by the established umbrella organizations in the faiths to which they purport to belong.

CONCLUSION

The application of a working definition of an expression of faith or creed, will allow Canadian courts to avoid inadvertently extending *Charter* protections and rights to abnormal practices masquerading as religious observance, which could have the net effect of diluting the intent of *Charter* 2 protections.

NOTES

[1] Vision TV, Code of Ethics, Section D. **Mosaic Programming.** http://www.visiontv.ca/about-vision/code-on-ethics/.

[2] Church of the Universe. http://en.wikipedia.org/wiki/Church_of_the_Universe.

[3] *Charitable Purpose, Advocacy and the Income Tax Act.* Andrew Kitching. Library of Parliament. 28 February, 2006. http://www.parl.gc.ca/Content/LOP/researchpublications/prb0590-e.htm.

[4] "Religion". *Merriam-Webster Dictionary.* http://www.merriam-webster.com/dictionary/religion.

[5] Universal Declaration of Human Rights. http://www.un.org/en/documents/udhr/.