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# An Introduction to the Conference with the Dalai Lama on Law, Buddhism, and Social Change

REBECCA R. FRENCH†

An excited silence moved through the audience in the large open atrium of the Law Library as the Dalai Lama of Tibet slowly entered. This was the first time he had been asked to speak specifically on Law and his first visit to the State University of New York at Buffalo Law School. He stopped along the way to look at display cases filled with Tibetan legal documents,<sup>1</sup> laughed, read parts, and commented with pleasure before turning to greet several people in the audience by bending forward and exchanging white scarves. Once he entered the ring of chairs—a low, mirrored table covered with fresh rose petals had been placed in the center<sup>2</sup>—he slowly continued around, greeting the twenty conversants with a large smile, holding each person's hand in both of his hands. I introduced him first to a Buddhist scholar who had been one of his monks, and then to philosophers, legal practitioners, Asian historians, a judge, scholars of American religion, legal anthropologists working in Buddhist societies, law professors, and experts

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† Roger and Karen Jones Faculty Scholar and Professor, State University of New York, University at Buffalo Law School. It would have been impossible to have staged this event without the enormous help of Laura Mangan, Kunchok Youdon, Ilene Fleischmann, Jim Milles, Tim Conti, Karen Spencer, Terry McCormack, Martin McGee, Jay Hernandez, John Wild, Karen Drass, Jennifer Howland, the entire staff of the library and the law school who helped create this event, and of course, the financial and political support of Dean Nils Olsen and Lynn Mather, Director of the Baldy Center. The publisher was unable to accommodate all of the necessary Sanskrit and Pali diacritical marks for which we apologize to the authors.

1. This was the work of Karen Spencer, the archive librarian, who spent months arranging for the translation and display of legal documents.

2. The table was an art installment created by the Toronto-based artist Chrysanthe Stathacos, who came forward to greet him with a single white rose. He then placed the white rose on the table.

on Tibetan culture and society. When he completed the circle of sixteen, the exiled leader of the former country of Tibet and leader of the Tibetan-Government-in-Exile settled into a deep comfortable chair, took off his shoes, sat cross-legged and arranged his robes. Dean Nils Olsen got up to greet the Dalai Lama formally, followed by Lynn Mather, the Director of the Baldy Center for Law and Social Policy, and the conversation began.

## I. PREPARATION

While the behind-the-scenes planning had taken several years, the year of active preparation for this moment was remarkable for those of us who were unaccustomed to large event planning for a speaker of international importance. For a full year at the University level, monthly and then bi-monthly meetings of thirty or forty administrators, academics and community members took place to iron out (some would say *ad nauseum*) the parking, security, event timing and organization, museum displays, programming, housing, ticketing, media and financial aspects of the Dalai Lama's three-day visit. At the law school level, the physical arrangement of the chairs in the library, including the placement of his chair, was rehearsed and changed several times; Tibetan documents were translated and put into display cases and also reproduced to serve as giant flags to hang from upper levels; the names, addresses and credentials of every person attending were sent to Homeland Security; lighting and recording specialists were called in; proper etiquette was discussed; postcard brochures with his picture were designed and key locks were changed to increase security. The Office of Tibet in New York, which sent a large contingent to handle the visit at Buffalo, commented that it was the smoothest university visit they had ever experienced.

## II. PARTICIPANTS

At the academic end, participants in the Law School Conference began to coordinate almost a year ahead as well. We determined that a wide range of academic disciplines plus practitioners would be a challenge to coordinate, but ultimately broaden, the range of interests

that could be included. Local participants were chosen: a judge named *George Hezel* who also runs the Law School's Affordable Housing Clinic; a well-respected practitioner from downtown Buffalo, *Jim Magavern*, who had served on many city commissions; two young philosophy professors, new to the University, *Ken Ehrenberg* in Philosophy and Law and *Ken Shockley* in Philosophy and Education; and three professors from the Law School: *Betty Mensch*, a reknown expert in the area of Religion and Law, particularly early colonial America and Christian theology; *David Engel*, a specialist in Law and Society known for his work on disabilities, community legal structures and Thailand; and myself, also an anthropologist who has worked on the legal system of Tibet and Buddhist legal systems in general.

During May and the summer months, we met in my living room or on Jim Magavern's commodious front porch. We drank wine or lemonade, ate crackers with cheese and argued points about law, governance, philosophy and Buddhism. Should we bring up abortion? Is the Dalai Lama's idea of compassion really any different from the ideas of Jesus Christ? Readings were circulated, travel arrangements were made and the participants began the process of gathering ideas that could be formulated into questions designed to focus the conversation. It was a process of mutual education, of recognizing a hundred wrong approaches, of figuring out the better questions to ask. All along, we kept the out-of-towners abreast of our latest thoughts and they in turn sent in their responses. Two months beforehand, the list of questions for the Dalai Lama was sent to the Office of Tibet and circulated to the scholars who chose one or more to highlight during the conversation. These questions are set forth in Appendix A.

A few days before the conference, other members began to arrive such as the two historians who came from long distances: *Tim Brook*, head of the Institute of Asian Research and St. John's College at the University of British Columbia who specializes in Chinese History and *Leslie Gunawardana*, a world famous expert in the early history of Buddhist Ceylon and former Vice-Chancellor of Peradeniya University in Sri Lanka. The Buddhist scholars also began to appear: *Frank Reynolds*, emeritus Professor of the History of Religious & Buddhist Studies in the Divinity School and in South Asian Languages & Civilizations at the

University of Chicago; *Vesna Wallace*, a Sanskrit and Pali expert at the University of Santa Barbara who also does annual fieldwork in Mongolia; and *George Dreyfus*, the first Westerner to receive the highest educational degree, the Geshe degree, in Tibetan Buddhism and a Professor of Religion at Williams College.

Our guests were housed with spouses or relatives in the local Marriot Inn, a spot we all suspected was also the secret site for the Tibetan entourage as there were rumors that one entire floor had been rented out. A law student shepherded all of our academic guests from place to place in a mini-van as they attended other activities such as an Interfaith Celebration, the Dalai Lama's public talk in the UB stadium and group dinners.

The last of the conversants to arrive were two legal anthropologists who work in Tibetan-speaking areas, *Fernanda Pirie*, a member of the Research Staff of the Oxford Centre for Socio-Legal Studies who works in Ladakh and *Richard Whitecross*, a Fellow in Social Anthropology at the University of Edinburgh who works in Bhutan, and two others, *Lobsang Shastri*, the Chief Librarian of the Manuscript Department at the Library of Tibetan Works and Archives, Dharamsala, India, who had worked with me during my fieldwork and *Winni Sullivan*, a lawyer and formerly a Dean at the University of Chicago Divinity School who will soon come to the Law School in Buffalo as the Director of the Law and Religion Program; her specialty is modern American law and religion.

### III. THE ARTICLES IN THIS COMMENTARY SECTION

This Commentary section has several parts. The first piece, entitled "The Dalai Lama Speaks on Law," is an explanation of some of the key ideas expressed by the Tibetan leader. This piece is meant to clarify and organize his thoughts, to condense and then chronicle his central points. If a text without condensation is desired at this point, you will find a complete edited version of the audio recording of the two-hour conversation in Appendix B.

Following this exegetical exercise are seven delightful short commentaries written by some of the participants on their reactions to, or thoughts after, the Dalai Lama's discussion, presented in alphabetical order. The first piece,

by Ken Ehrenberg, begins by differentiating Non-Ideal models of behavior guidance (admitting the possibility of imperfection and limitations in human actions) from Ideal models (pushing toward the ideal through training and attitude). He then applies this distinction to Law and Buddhism, pointing out the problems that might arise in a secular democratic state that has natural compassion as a substantive universal value.

David Engel, in the next commentary, takes us from American legal philosophy to a city in northwest Thailand where he has been researching for over thirty-two years. Injured parties there find the invocation of rights in a lawsuit to be a moral failure, emphasizing instead karmic explanations, selflessness and forgiveness. This is similar to responses by very religious individuals in the US. However, as he points out, the Dalai Lama's position at the conference was that law should be used by virtuous people to obtain justice through a restrained process consistent with religious practice.

Leslie Gunawardana uses the early history of Buddhist Sri Lanka to turn Engel's ideas on their head. Instead of discovering a complete absence of early lawsuits by Buddhist monks and nuns because of their vows and karma, he suggests that litigation had actually become a serious problem even within the early community of nuns. The negative comments in the Buddhist canon on "lawsuitmakers," the use of monks as judicial decision-makers in royal courts and the increase in cases between laymen and the monastic community are all chronicled. Buddhist commentators in Sri Lanka generally opposed going to court and using penal measures because they result in bad karma but kings who advocated nonviolence were often deposed, a point that Gunawardana brings up in the transcript. Indeed, he argues that recourse to litigation was one of the more effective means for women to protect themselves from marauders in the community.

The fourth paper in this set of commentaries, the one by Jim Magavern, a local practitioner, asks a broad ranging question: what did the Dalai Lama actually say about Law and can we use it in our legal practice? The Dalai Lama definitely advocated for universal compassion as a secular principle. Magavern provides an excellent short review of the ideas of the Dalai Lama that follow from this principle in a succinct three-page format. This is an excellent guide

to the key points in the transcript.

A philosopher, Ken Shockley, focuses on the central issue of how universal compassion is to be instilled in the individual and how the implied reform of individual motivation might occur. A Buddhist legal institution cannot judge the actual internal motivation of an individual; it can only force another person to *behave* as if she were someone with good motivations, not actually to *have* good motivations. Shockley reasons that the Dalai Lama emphasized education and reform of law curriculum because he wants to create lawyers who have internalized these norms and therefore will strive for a compassionate society.

Vesna Wallace moves, as Leslie Gunawardana did, to the early period of Buddhism in South Asia for her comment. She provides a brief overview of the various sources available in Pali and Sanskrit that describe the origin of the Buddhist monastic "code", the *Vinaya*, and how the rules appear to evolve from the actual experiences of the community as it was formed. Guidelines for the laity can be drawn from many different sources and she cites two examples. She concludes that these sources remain a very rich vein of material on Law and its relationship to Buddhism.

The seventh and final paper in this set of commentaries is by the legal anthropologist, Richard Whitecross, who has worked extensively in Buddhist Bhutan following the development of that country's judiciary and constitution. From 1950 to the 1980's, the country sought to import foreign laws that would help with development. In 1991, however, a change took place and the judiciary turned inward in an attempt to integrate the legal system with Buddhism described as "Bhutanese culture." The description of this return to Buddhist ideas in law is fascinating.

#### IV. THE QUESTIONS AND TRANSCRIPT

Following these commentaries are two Appendices. The first is the result of the already described efforts to formulate questions to be addressed to the Dalai Lama. The final set, which is reproduced as Appendix A, was distributed to all of the participants, interested audience

members and to Tashi Wangdi, Head of the Office of Tibet in New York, to be given to the speaker. There follows Appendix B, a complete edited transcript of the event. It was originally transcribed from the oral recording by Kunchok Youdon, a PhD candidate in Political Science at UB. I then re-edited the final version several times.

My hope is that this collection of papers will help a wider audience to experience the Dalai Lama and his concepts about Law.

