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APPENDIX A

Eight Possible Questions to Address to the Dalai Lama

Drafted August 8th, 2006, revised August 17th, 2006 by
the Concepts Committee

The central area of interest for this conference on “Law, Buddhism, and Social Change” is the application of Buddhist philosophy to political and legal problems and questions. In talking to the Dalai Lama, we would like to discern what practical and theoretical insights we can receive from him with respect to these issues.

The conference will be divided into two days. On the first day we will spend two or more hours with the Dalai Lama putting a number of questions to him and following up with his answers. After those two hours there will be time for informal discussion among the participants. The second day will consist of a more formal discussion and expansion upon the discussion of the first day.

We therefore provisionally envision each participant to have two distinct but related tasks: the formulation of questions to pose to the Dalai Lama and the provisional development of a subject for discussion the second day. While these need not be directly dependent upon one another, it is likely that some adoption of subject matter by each participant will make for a cohesive conference.

To aid in the completion of these tasks we have brainstormed eight ideas and topic areas, which participants are encouraged to further hone and develop.

I. DEMOCRACY AND ATTACHMENT

Let’s imagine that you and the current government have the opportunity to return to the Tibetan plateau and create a new democratic government. What will be the role

of Buddhism in the new democracy?

Does a Buddhist democracy assume that the legal system should be infused with the precepts of Buddhism? How do morally substantive concepts fit with a procedural legal and political system?

Would law protect property interests? How is such a legal system justified with the Buddhist philosophical position of non-attachment? In a Buddhist democracy, what role should law play in protecting individual property interests?

How does the Buddhist idea of avoiding attachment and the democratic commitment to the rule of law help in the problem of whether to return ancestral property to its original owners or leave it in the hands of the current owners?

Some citizens may advocate an unfettered capitalist individualist system as the best way to move the political community forward. This means the pursuit of individual ends. Does this create a tension in Buddhist values between attachment and non-attachment to materialism?

II. ECONOMIC DEVELOPMENT AND POVERTY

Again, locating this question in the Government-in-Exile's return to the plateau to create a new government, what will be the role of law in economic development?

How will law in a democratic Tibet grapple with traditional Tibetan differences in class and social status? To what extent should law be used affirmatively to break down these differences?

Many political and legal systems including our own allow for economic inequality in a housing, education, and income. Will the new Tibet use the legal system to reduce these inequalities or are they an inevitable result of economic development?

Is there a Buddhist-infused notion of the appropriate use of taxation and welfare to reduce poverty? Does Buddhism give you a unique perspective on these issues?

III. CONSTITUTION AS SOCIAL ORDER

Your government has drafted at least two constitutions

and used those documents to construct a social order. Do you see any problems or tensions between substantive Buddhist ideals and procedural constitutional ideals?

For example, there has been a constitutional crisis in Thailand this year, 2006, because of corruption at the highest levels of government. Many have called for the King to intervene but this would not be using constitutional process. When is it appropriate for a religious leader to intervene in the constitutional process?

The Thai King chose not to intervene but gave an informal lecture to the top judges that they are going to have to make some tough decisions about the nature of the state and they should look to good moral character. What do you think of this approach?

IV. KARMIC CONSEQUENCES OF LEGAL DECISIONS

We have a question dealing with the role of judges in a new democratic Tibet. Let's assume, as we do in Western courts, that when a judge decides a case, it advances the rule of law and the democratic goals of the society although it might produce pain and harm for some individuals.

In a democratic Tibet will judges face a tension between their identity as a judge and their identity as a Buddhist?

When a judge makes a decision, what are the implications for the karma of the parties and what are the implications for the karma of the judge? Is karma an appropriate consideration for a legal institution?

What about good people doing good actions that violate the law? What about a situation in which an enlightened person is trying to alleviate the suffering of others and needs to break the law to do so?

What if this same good person is beating a child to burn off the child's karma from a previous life? In a trial commenced by the child's parents, do you allow in evidence of karma as a defense in a secular legal system informed by Buddhism?

V. LIMITS OF LEGAL CONSTRAINTS

Let's again imagine that you and the current government have the opportunity to return to the Tibetan

plateau and create a new government. Some people view unlimited freedom of expression as an essential democratic freedom, while others find some expressions excessive and destructive to society. One example is violence and pornography on television.

To what extent should government and the legal system limit the material on television?

Should the law protect these expressions even if they conflict with Buddhist ideals?

More generally, do you view law as a valuable instrument to discourage immorality and encourage Right Attitude and Right Action?

VI. PUNISHMENT AND REHABILITATION

Western societies have been engaged in a debate about the purpose of punishment: is it to deter such actions in the future, to provide retribution, or to rehabilitate the offender? Buddhist legal systems might promote different agendas such as encouraging the future enlightenment of the individual or curing someone of desire and greed.

What is the Buddhist theory of punishment and rehabilitation?

Taking one example, a person is caught stealing a diamond ring to make himself rich. This is a clear situation of bad motivation and action. How should this be handled in terms of punishment?

VII. CONSENSUS IN THE LEGAL SYSTEM

One of the benefits of the Tibetan legal system pre-1960 was the emphasis on consensus by the parties to the forum, by the judge, to the finality of the decision itself. This approach is quite different from one with a clear winner or loser.

Is there a way in a democratic legal system to preserve the virtues of consensus while still adhering to the rule of law?

Connected to this are the ideas of catharsis of the parties and reconnecting the interdependence of the groups. In Tibet's previous legal system, extensive victim compensation, religious rituals, and a wide variety of

forums for settlement of disputes accomplished these goals. Will these be present in a newly created legal system?

To what extent is this consensus model transferable to Western culture? How would we institute it?

VIII. CORRUPTION, CONSCIENCE, AND THE LIMITS OF LAW

One of the great plagues of governments around the world has been corruption and bribery.

What is the Buddhist idea of how to stop corruption and bribery in government?

In America, many laws designed to prevent corruption and bribery have failed. What problems would you expect to encounter in a new Tibet? To what extent and how can corruption be restrained by law?

