



Human Rights

One of the most challenging aspects of the Dorje Shugden conflict to accurately report on is that of human rights because it is so strongly contested and highly politicised.

It is alleged that the Dalai Lama and his government are violating Tibetan's human rights by banning the practice of Dorje Shugden, yet the Dalai Lama claims that when Tibetans practise Dorje Shugden they are violating his human rights. Typically this aspect, like that of religious doctrine, becomes mired in confusion and misdirection which serves only to muddy the waters and obstruct a clear view of the situation.

Freedom of Religion

Amongst human rights activists, workers and professors the principle of freedom of religion is a central theme or core concept of an individuals human rights. In theory everyone agrees that it is wrong to discriminate against someone solely on the basis of their religious views and practices.

Speaking on the 50th Anniversary of the UN Universal Declaration of Human Rights (UDHR) the Dalai Lama said, *"By defending those people who persecuted for their race, religion, ethnicity or ideology, you are actually contributing to guiding our human family to peace, justice and dignity."*

The problem comes not when people speak in grandiose terms about the importance of human rights, but when you try to identify individuals and organisations who are guilty of violating them. As in all legal and political matters it then becomes a battleground of semantics.

When the UN UDHR was passed it ushered in the concept of human rights that are possessed simply by virtue of being born. Human rights laws which grew from this concept were initially concerned with the relationship between sovereign states and their citizens. States became signatories to International conventions and had obligations to respect, protect and fulfil the human rights of their citizens which includes their religious freedom.

As the office of the UN High Commissioner for Human Rights explained:

"The United Nations has been concerned with this issue since its foundation and the



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What is Racism?

Race can be defined as:

"A classification system used to categorise humans into distinct populations or groups by anatomical, cultural, ethnic, genetic, geographical, historical, linguistic, religious, and/or social affiliation."

Racism can be defined as:

"The belief that all members of each race possess characteristics, abilities, or qualities specific to that race, especially so as to distinguish

prohibition of religious discrimination is enshrined in all core international human rights treaties. In this regard, States have the duty to refrain from discriminating against individuals or groups based on their religion and belief (obligation to respect); they are required to prevent such discrimination, including from non-State actors (obligation to protect); and must take steps to ensure that, in practice, every person in their territory enjoys all human rights without discrimination of any kind (obligation to fulfil)."

According to this explanation it seems clear that the Dalai Lama and the Tibetan government are violating people's human rights. By forcing individuals out of jobs if they refused to stop their practice of Dorje Shugden they have failed their *obligation to respect*. By refusing to take any action to ensure businesses do not discriminate against practitioners they failed in their *obligation to protect*. By passing resolutions of Parliament calling for people to stop their practice of Dorje Shugden and branding people as "criminals" for refusing to comply with the resolutions they have failed in their *obligation to fulfil*.

However the Dalai Lama and Tibetan government seek to obfuscate the issues and avoid responsibility by claiming that they are not a sovereign state and therefore cannot be found to breach anyone's human rights. This view arises from 'classical' human rights concepts and is perpetuated to a degree by sloppy journalism such as that published by The Foreigner.

Sloppy Journalism

During the Dalai Lama's visit to Oslo The Foreigner reported on the protests and the claims of human rights abuses in an article published on May 8th 2014. In this piece they quoted Dr Nathan Hill of the SOAS University in London who stated about Tibetan Dorje Shugden practitioners that, "*their human rights have not been violated nor their freedoms suppressed.*" He also derided such claims as illogical, saying that it "*makes no sense*".

In our own research we discovered that Dr Hill is a linguistics professor specialising in Tibetan at the SOAS University. He has no formal qualifications relating to human rights, nor any practical experience in the field, so we contacted him to ensure that he had been quoted correctly.

In defending his comments he explained that, "*The question of whether or not the treatment of Shugden practitioners is or is not a violation of their rights...hangs on the question of whether or not the government in exile is a state*". He also went on to admit that, "*I don't believe in human rights*", which we found simply unacceptable for someone who is to be quoted on human rights laws. [Click here to read more about Dr Hill and the SOAS University's connection with the Tibetan government.](#)

Similarly The Foreigner carried links to an interview with a Tibetologist called Thierry Dodin who likewise derided claims of human rights violations. Again researching Mr Dodin's qualifications to make statements regarding human rights uncovered no relevant formal or professional experience to lend any credence to his views.

He once taught at Bonn University and was the Director of the Tibet Information Network, with close links to the Dalai Lama and the Tibetan government, but there was nothing in his resume that gave any indication he was qualified to speak on human rights.

In order to try and discredit any claims of human rights violations the Tibetan government often promote certain academics to journalists as reliable sources on the conflict. In our experience we have found this is usually done indirectly through a local Buddhist organisation linked to the Dalai Lama.

The academics are usually Tibetologists, anthropologists, or another branch of social science that has a connection to Tibet. Although they may be qualified to speak about

it as inferior or superior to another race or races."

When a group of people are labelled according to a certain religious belief or affiliation and their access to public services, jobs, livelihoods and social freedoms are denied or restricted on the basis of this belief or affiliation this is racism.

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Tibetan culture and society they have no professional qualifications or experience to speak about human rights.

Academics with Links to the Tibetan Government

So far we have been advised to consult Dr Hill, Mr Dodin, and Dr Martin Mills, all of whom we have been assured are qualified to address the issue of human rights, yet on closer inspection none of them have any formal qualifications in human rights or international law.

The difficulty journalists face with quoting such academics (other than their lack of relevant qualifications) is the inability to trust them as independent sources because they often have a connection to the Dalai Lama or his government. For example whilst Dr Martin Mills is a senior lecturer of anthropology at the University of Aberdeen he is also a member of the Grampian Tibet Support Group.

The Grampian Tibet Support Group lobbies politicians in the UK and Europe on behalf of the Tibetan government. On April 23rd 2009 Dr Mills was party to a submission from the Grampian Tibet Support Group to the UK Foreign Affairs Committee. In it they called for the UK government to put political pressure on China to meet with the Tibetan government's wishes for self determination.

This direct involvement of Dr Mills with campaigning politically on behalf of the Tibetan government undermines his credibility as an independent academic on issues that are related to the Tibetan government and the Dalai Lama. Despite this conflict of interests he noticeably omits this detail from his resume.

We have also been told that there are no breaches of human rights because Amnesty International didn't find any when they investigated the matter.

In reality Amnesty International did not investigate the issue when it was presented to them because it falls outside of their mandate. As they are only permitted to assess "grave violations" of human rights, such as the death penalty, extra-judicial executions and so forth it was therefore impossible for them to investigate it.

To discern whether the various claims and counter-claims have any credence journalists really need to speak to experts on human rights laws with formal qualifications and relevant professional experience. In this instance they also need to be certain that the experts have no involvement or connection with the Tibetan government.

In doing that we sought out one of the most highly respected, qualified and experienced human rights experts in America and asked him some questions.

Quote a Real Expert

To address this issue of whether human rights apply only to sovereign states we questioned Professor David Stewart of Georgetown University Law Center, Washington DC (pictured right).

Professor Stewart is currently Director of the Global Law Scholars Program, Co-Director of the Center on Trans National Business and the Law (both at Georgetown), and an expert in Human Rights Law. Amongst other areas he previously served as Assistant Legal Advisor in the US Department of State for Human Rights and Refugees. He is also President-elect of the American Branch of the International Law Association and a member of the Board of Editors of the American Journal of International Law.



Discussing 'classical' human rights concepts Professor Stewart

explained, *"the obligations under the main treaties and conventions imposed duties on governments and governmental entities; thus some form of "state action" was generally required before a human rights violation could be found."*

Turning his attention to the contemporary application of human rights law he went on to explain:

"More recently, human rights obligations have been found to extend to the exercise of de facto governmental authority (such as control over parts of a territory or population). An example might be is United States Court of Appeals decision several years back in the Doe v. Karadzic, where the court found the de facto leader of the Bosnian Serbs exercising certain governmental powers within Bosnia could be considered a state actor for purposes of respecting human rights."

"Some authority has also emerged holding non-state actors to human rights norms, such as corporations or international organizations, for example on an "aiding and abetting" theory."

Professor Stewart refutes the view expressed by Dr Hill that the issue of human rights violations in the Tibetan exile community depends on whether its government is a state or not.

Provided that someone is shown to be exercising *"de facto governmental authority"* over a population (such as the Tibetan exile population) they can be considered a *"state actor for purposes of respecting human rights."* This is a mechanism that exists not only as a theoretical concept in law, but one that has been successfully applied in the US courts to bring human rights violators to justice several times already.

The case Professor Stewart refers to, Doe v Karadzic, was brought in the US by the Centre for Constitutional Rights (CCR) and co-counsel in 1993. They filed their claim against Karadzic using the 1789 Alien Tort Statute which according to the CCR, *"allows foreigners to sue in U.S. courts for human rights violations committed anywhere in the world and has been instrumental in cases against leaders like Karadzic and corporations like Unocal, Royal Dutch Shell and Chevron."*

The case was brought to court when Karadzic was visiting New York. He appeared in the case until 1997, when he defaulted. In the subsequent default proceedings a jury found him guilty and awarded \$4.5bn in damages on September 25th 2000.

So it would seem that not only does the Dalai Lama's defence and that of his government (namely that they are not a sovereign state) not apply in International Human Rights Law, but there is also the very real possibility that he or members of the Tibetan government could be prosecuted under the Alien Tort Statute when they next visit the US. All it would take is for a Tibetan or group of Tibetans in exile to show that he had exercised de facto governmental authority over them and had violated their human rights.

[For an in-depth look at how the Tibetan exile community is structured and governed click here.](#)

Whether the Dalai Lama is sued in the US court system or not it would seem that there is sufficient precedence to establish that he is guilty of violating human rights. If his only defence is that the Tibetan government is not a sovereign state then modern human rights laws do not support that claim.

We would therefore have to conclude that he is guilty of failing in his obligation to respect, protect, and fulfil the human rights of the Tibetan exile community. It would seem that the Dalai Lama has spent so much time trying to educate the world on China's responsibilities under Human Rights Laws that he has forgotten to apply the same standards to his own government.