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BUDDHIST LEGAL STUDIES EXPERIMENTATION FOR UNIVERSITY-APPROVED STUDENT AND PROFESSIONAL RELIGIOUS ORGANIZATIONS

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Organizations in Australia are controlled by civil laws to guide administration. For small religious ethnic Buddhist majority temples, more details protocols with need to be established based on Australian culture of Buddhism. Current lack of proper legal procedures against faulty Buddhist administration will require new guideline.

It is understood that specific regulations are specially drafted to guide the ethic of religious organization in addition to civil laws, ensuring no contradictory statements happened. Due to the nature of loving kindness and spirituality of religious entity, many scripture-based regulations are not properly followed due to lack of proper references and guidelines inherited previously but may not be suitable for Australian context. This is particularly true for Australian Buddhism where the dharma-based Law of Karma etc have not been fully explored and applied.

This project will serve to investigate standard regulations suitable for Buddhist organization in order to formally prosecute and condemn corrupted leaders with reference to Islamic Syariah and Catholic Law. Application of standard Buddhism court will follow the steps below:

(a) Data of various mistakes with evidences, done by Buddhist authorities particularly in university-related Buddhist organizations would be collected from time to time, where the ease would be reviewed by special committee.

(b) Evaluation of current regulations of Buddhist organizations would be reviewed based on the Australian laws and scriptures of Buddhism with specific provisions to be drafted as general guidelines to manage the ethics of Buddhism-related workers in Australian religious Buddhism entities.

(c) Research fund would be utilized not only for paper-drafting of suitable scripts of Buddhist law but also to assemble the responsible corrupted and crooked Buddhist leaders in Buddhist organizations for special hearings using formal civil court procedures. Nomination of the potentially accused Buddhist leaders, judges, security, reporters etc would be appointed.

(d) Results on outcomes of special religious court of Buddhism would be evaluated and reported to Buddhist committee involved in this project.
(e) Further follow-up on the condemnation towards the truly guilty personnel would be prosecuted formally or released with apologies if innocent. This will serve as warning for the mismanaged Buddhist organization, ensuring proper procedure and rule compliances.

In the process of formal condemnation of those suspects who damage the credibility of noble Buddhist organization in Australian universities, the personnel below is proposed to handle the complaints against corrupted Buddhist leaders:

(a) Research and development (R&D) unit – assisting the drafting of suitable laws based on Buddhist scriptures extracting the main component of organization management rules for Australians

(b) Civil court – serving to produce warning letters for those corrupted Buddhist representatives, consisting of investigation officers that will visit the defected university Buddhist organizations and make further conclusion. Law court security will consist of specially-trained professionals with big body size and possessing martial art or other self-defence techniques as back-up against potential physical fighting during disputes on court.

Additional funding will intend towards smoothing the Buddhist court hearing process. Example of legal statements used in the abovementioned project in the proposed argument and dispute settlement recommended for various university-based Buddhist clubs are as below:

AREA ONE: DISCRIMINATION IN UNIVERSITY BUDDHIST ORGANIZATIONS

[1] Racial Discrimination Act 1975 (Commonwealth Australia) section 9: Racial discrimination to be unlawful (1) It is unlawful for a person to do any act involving a distinction, exclusion, restriction or preference based on race, colour, descent or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of any human right or fundamental freedom in the political, economical, social, cultural or any other field of public life. (1A) Where: (a) a person requires another person to comply with a term, condition or requirement within which is not reasonable having regard to the circumstances of the case; and (b) the other person does not or cannot comply with the term, condition or requirement; and (c) the requirement to comply has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, by persons of the same race, colour, descent or national or ethnic origin as the other person, of any human right or fundamental freedom in the political, economical, social, cultural or any other field of public life; the act of requiring such compliance is to be treated, for the purposes of this
Part, as an act involving a distinction based on, or an act done by reason of, the other person’s race, colour, descent or national or ethnic origin.

University club is a small community organization based in university. Regardless of the dominance of the race and language used in the functions, everybody should be welcome to the formal university function of the club without holding "double standard" in the invitation to the program, welcoming the fellows warmly that are the same race as you but in reverse very cold and indifferent to those that have different nationalities and origins without similar treatment as that are closer physically as you.

[2] Sex Discrimination Act (SDA) 1984 (Commonwealth Australia) s 25 provides:
Section 25 Clubs:
(1) It is unlawful for a club, the committee of management of a club or a member of the committee of management of a club to discriminate against a person who is not a member of the club on the ground of the person’s sex, marital status, pregnancy or potential pregnancy:
(a) by refusing or failing to accept the person’s application for membership; or
(b) in the terms or conditions on which the club is prepared to admit the person to membership.
(2) It is unlawful for a club, the committee of management of a club or a member of the committee of management of a club to discriminate against a person who is a member of the club on the ground of the member’s sex, marital status, pregnancy or potential pregnancy:
(a) in the terms or conditions of membership that are afforded to the member;
(b) by refusing or failing to accept the member’s application for a particular class or type of membership;
(c) by denying the member access, or limiting the member’s access, to any benefit provided by the club;
(d) by depriving the member of membership or varying the terms of membership; or
(e) by subjecting the member to any other detriment.

University-recognized Buddhist committee should welcome students and staffs of multicultural to understand Buddhism, treating everybody fairly as “brothers” and “sisters”, regardless of Buddhist affiliation, race and even religion. It will not matter what the attire the Buddhist committees are wearing, especially among the females during the functions as long as the dressings are convenience for everybody attending the club function, where no restriction should be imposed among the females (by covering the head or body part) and lenient among the males that is unfair.
Equal Opportunity Act 1995 (Victoria, Australia), Act No 42/1995-Part 3, Division 6, Section 59 : Discrimination against applicants for membership - A club, or a member of the committee of management or other governing body of a club, must not discriminate against a person who applies for membership of the club (a) in determining the terms of a particular category or type of memberships of the club. (b) in arrangement made for deciding who should be offered membership. (c) by refusing, or failing to accept, the person's application for membership. (d) in the way in which the person's application is processed. (e) in the terms on which the person is admitted as a member. Section 60 : Discrimination against club members - A club, or a member of the committee of management or other governing body of a club, must not discriminate against a member of the club (a) by refusing, or failing to accept, the member's application for a different category or type of membership. (b) by denying or limiting access to any benefit provided by the club (c) by varying the terms of membership (d) by depriving the member of membership (e) by subjecting the member to any other detriment.

For those who are willing to contribute to the club and follow the stated club constitution, everybody is welcome to be a member and should not be rejected from memberships as long as centralized Buddhist dharma concepts are followed regardless whether the applicants are from Mahayana or Theravada Buddhist tradition.. Those of Taoism and the conventionally curt like White Lotus Sect, that pray for Buddha, should also be recruited as members and be classified as "Buddhists" when they are in the society following the prescribed standard Buddhism teachings, similar to the invitation of Jehovah Witness in Christian clubs.

[4]
Equal Opportunity Act 1995 (Victoria in Australia), Section 37 : Discrimination by educational authorities........

(2) An educational authority must not discriminate against a student- ........... (c) by subjecting the student to any other detriment.

When offering free Buddhist education in Australian universities, everybody will get the equal treatment, books and gift material provided by the sponsor based on the total amount of effort placed so far by voluntary committee. Universally acceptable dharma should be taught regardless of the Buddhist affiliation of the listeners. Non-Buddhists are far more welcome to dharma talks without intention to restrict their access to Buddhist dharma talk if non-Buddhists are not willing to convert themselves into Buddhists after many Buddhist dharma and meditation sessions.

[5]
Equal Opportunity Act 1995 (Victoria in Australia), Section 97 : What is victimization
(1) A person victimizes another person if the person subjects or threatens to subject the other person to any detriment because the other person, or a person associated with the other person- (a) has made a complaint against any person; (b) has brought any other proceedings under this Act against any person; (c) has given evidence or information, or produced a document, in connection with any proceedings under this Act; (d) has attended a compulsory conference at the Tribunal; (e) has otherwise done anything in accordance with this Act in relation to any person; (f) has alleged that any person has contravened a provision of Part 3, 5 or 6, unless the allegation is false and was not made in good faith; (g) has refused to do anything that would contravene a provision of Part 3, 5 or 6- or because the person believes that the other person or the associate has done or intends to do any of those things.


Racial and Religious Tolerance Act 2001 (Victoria in Australia), Part V – Consequential Amendments to the Equal Opportunity Act 1995. Section 14 : What is victimization : 1) A person victimizes another person if the person subjects or threatens to subject the other person to any detriment because the other person, or a person associated (whether as a relative or otherwise) with the other person- (a) has made a complaint against any person; (b) has brought any other proceedings under this Act against any person; (c) has given evidence or information, or produced a document, in connection with any proceedings under this Act; (d) has attended a compulsory conference at the Tribunal; (e) has otherwise done anything in accordance with this Act in relation to any person; (f) has alleged that any person has contravened a provision of this Act, unless the allegation is false and was not made in good faith; (g) has refused to do anything that would contravene a provision of this Act- or because the person believes that the other person or the associate has done or intends to do any of those things. (2) It is sufficient for subsection (1)(f) that the allegation states the conduct that would constitute the contravention, without actually stating that this Act, or a provision of this Act, has been contravened. (3) In determining whether a person victimizes another person it is irrelevant- (a) whether or not a factor in subsection (1) is the only or dominant ground for the treatment or threatened treatment, so long as it is a substantial ground; (b) whether the person acts alone or in association with any other person.

For those Buddhist leaders who discriminate against others, having been complaint and followed by victimization, on the ground of disability and sex, a breach of section 42 of the Disability Discrimination Act 1992 (Commonwealth Australia) and Section 94 of Sex Discrimination Act (Commonwealth Australia) occur, that may give rise to civil and/or criminal proceedings as Lee v Smith & Ors [2007] FMCA 59, [211] and Johnston & Lemeki v Government of Papua New Guinea [1997] HREOCA 26, with the term “unlawful discrimination” defined as in the section 3 of the HREOC Act 1986 (Commonwealth Australia). HREOC is Human Rights and Equal Opportunity Commission.
AREA TWO : MULTICULTURAL CONTRACT - INTERFAITH

[1] Under mutual agreement among all religious groups, no deceitful religious conversion is allowed. Reference [Paterson, J.; Robertson, A.; Duke, A. (2009), "Lawbook Co Casebook-Contract-Cases and Material", 11th Edition, Thomas Reuters (Professional) Australia Ltd., p 627] states that "damages are to be awarded for a loss of a chance and the burden of establishing the existence and loss of this chance as a result of the defendant's breach". If any members of multifaith leaders breach the contract, causing the unavailability of certain religious groups to represent in multicultural program - a symbol of loss in the harmonic community, the relevant religious leaders will be liable to pay compensation for the building of religious centre, that should contain the representation of original and converted religions.

[2] Contract Law : With reference to Burger King Corporation v Hungry Jack's Pty Ltd [2001] NSWCA 117 Supreme Court of New South Wales, Court of Appeal, university students of certain Buddhist religion sect should not retard the establishment of formal university Buddhist organizations when it was understood that the leaders are from other Buddhist affiliations, that may compete with them. All Buddhist students should help each other to establish university-recognized Buddhist groups in the varsity, but not imposing additional unnecessary conditions in the collaboration. This is similar to the situation of interfaith partnerships. Extraneous purpose beyond the contract, without reasonableness, sometimes will jeopardize the harmonic relationships of Buddhist Organizations.

For any religious leaders, inclusive of Buddhist leaders, that were unwilling to participate in interfaith collaborative activities in any places in Australia, due to discrimination with each other with the intention to boycott, criticize and ridicule the harmonious religious ceremonies of the fellow counterparts either of different religions or same religion but with different affiliation, they could be prosecuted under Racial and Religious Tolerance Act 2001 (Victoria in Australia), Equal Opportunity Act 1995 (Victoria, Australia) in the state of Victoria of Australia.

[3] Summary Offences Act 1966 (Victoria in Australia), section 21 : Disturbing religious worship (Provisions applicable throughout Victoria, Division 2 – General offences tending to personal injury, or damage to property etc) : (1) Any person who willfully and without lawful justification or excuse, the proof of which lies on him, disquiets or disturbs any meeting or persons lawfully assembled for religious worship or assaults any person lawfully officiating at any such meeting or any of the persons there assembled shall be guilty of an offence. Penalty : 15 penalty units or imprisonment for 3 months. (2) A prosecution for an offence against this section shall be commenced within 3 months after the offence is committed: Entry of police into houses, buildings etc.
AREA THREE : COMMITTEE RELATIONSHIPS

[1] Workplace Relations Amendment (Termination of Employment) Act 2001, Section 170CK(2) provides:"...an employer must not terminate an employee's employment for any one or more of the following reasons, or for reasons including any one or more of the following reasons:...(e) the filing of a complaint, or the participation in proceedings, against an employer involving alleged violation of laws or regulations or recourse to competent administrative authorities; (f) race, colour, sex, sexual preference, age, physical or mental disability, marital status, family responsibilities, pregnancy, religion, political opinion, national extraction or social origin.

This message is intended to support those who can act as watchdog towards the operation of the university Buddhist organizations in Australia. Those executive committees that can sincerely and objectively complaint and point out the mistakes inside the society are not allowed to be victimized and proceed with further disciplinary actions by the respondents. Employer here means the managing committees of power whereas employee here is equivalent to the subordinates.

AREA FOUR : PRIVACY

[1] Privacy Act 1988 (Commonwealth Australia) : Part III - Information Privacy : Division 3 - Approved privacy codes and the National Privacy Principles (1) An organization must not do an act, or engage in a practice, that breaches an approved privacy code that binds the organization. (2) To the extent (if any) that an organization is not bound by an approved privacy code, the organization must not do an act, or engage in a practice, that breaches a National Privacy Principles. s. 16D : Delayed application of National Privacy Principles to small business.

All the reports of the club should be retained for at least 1 year before being destroyed and but not be disposed immediately when the changes of the club committees happened. This is similar for the list of memberships details that should be protected without disclosure for the uses other than the club affairs, for example, direct sale and unrelated club activities. Financial record will need to be kept properly for internal and external auditing for verification at any time requested, in order to prevent corruption and abuse of power, whether intentionally or unintentionally, among the treasurers.
AREA FIVE: BUDDHIST CLUB ADMINISTRATION

[1] Many Buddhist leaders will agree with what was said by Samuels JA in Commonwealth Bank of Australia v Mehta (1991) 23 NSWLR 84 at 88: “...silence is not only misleading only where there is a duty to disclose at common law or in equity. It may simply be the element in all the circumstances of a case which renders the conduct in question misleading or deceptive.... Refer to Trade Practices Act 1974 (Commonwealth Australia) s. 52. Reference is: Paterson, J.; Robertson, A.; Duke, A. (2009), "Lawbook Co Casebook-Contract-Cases and Material", 11th Edition, Thomas Reuters (Professional) Australia Ltd., p 849.

When it is understood that some university Buddhist club will require continuous support in order to not move to the verge of collapse like that happen in RMIT University in year 2007 and Melbourne University Buddhist Society in year 2005, none of the underground Buddhist committees are willing to stand up and lead the organization but prefer to secretly lure the members of formal Buddhist clubs to involve in to unrecognized activities outside the varsities. This is a form of deceptive conduct applied by certain defected underground Buddhist student leaders that intend to overturn the formal university Buddhist clubs.

[2] Evidence Act 1995 (Commonwealth Australia), section 27: Parties may question witnesses: A party may question any witness, except as provided by this Act. Some Buddhist leaders in the state of Victoria denied the problems that had happened among many of the Buddhist youth in Australian universities during the establishment of Buddhist clubs. If the affected persons are called to give evidence on certain existing problems in Australian university Buddhist organizations the witnesses should not be victimized, by cancelling the membership's status or imposing disciplinary action against those who truthfully reveal the problem, followed by proactive solutions against the problems that lead to the collapse of Buddhist clubs in Australian universities. Please see Section 96 and Section 97 in Equal Opportunity Act 1995, and also Section 29 of Racial and Religious Tolerance Act 2001.

[3] Criminal Code Act 1995 (Commonwealth Australia), section 135.2 states that: “Obtaining financial advantage (1) A person is guilty of an offence if: (a) the person engages in conduct; and (aa) as a result of that conduct, the person obtains a financial advantage; and (b) the other person is a Commonwealth (Australia) entity. Penalty: Imprisonment for 12 month...”.

University-affiliated clubs obtained money from the university student association that is funded by the university. Portion of the funding to the university is from the Commonwealth Australian government's Department of Education, Employment and Workplace Relations (DEEWR) Australia. University-approved Buddhist organization's leader shall present high quality program by appropriately utilizing the limited resources for the benefit of all university students and members, rather than abusing the funding for personal benefit, that is contradictory to Criminal Code Act 1995 (Commonwealth Australia), section 135.2. Similar charge could be applied to those hidden Buddhist organizations that secretly recruit the Buddhist members underground discriminatively and unwilling to formally lead the registered clubs, intending to deceive the student members that pay the high fees to the university and mistakenly joined the illegal Buddhist clubs without being noticed that certain rights have been lost without formal varsity recognition, even the registration is open for all clubs and societies.

[4] Organizing any vent of Buddhism in Australian university will require systematic and thorough planning with proper discipline, so that the aims and objectives of the project could be achieved. However, over strict Buddhist learning environment will do nothing good when certain Buddhist community, controlled by selected religious group, attempted to enforce the view of scripture by harsh punishment infliction, and latter the regime has not endured when the attempt has failed, similar to the Puritan controlled New England or Scotland in the 16th and 17th centuries for Christian and current strict shariah punishment for the 21st century of the said modern Muslim majority country of Malaysia. Reference is : Young, A. D. (Editor), "Current Issues – More Malaysian Cannings", The Australian Law Journal, volume 83, number 12, page 787, December 2009, Thomson Reuter (2009) 83 ALJ [page 787].

[5] "Almighty GOD, we humble beseech Thee to vouchsafe Thy blessing upon this PARLIAMENT. Direct and prosper our deliberations to the advancement of Thy glory, and the true welfare of the people in Australia". "Our FATHER, which act in Heaven. Give us this day our daily bread. And forgive us our trespasses, as we forgive them that trespass against us. And lead us into the temptation; but deliver us from evil : For Thine is the Kingdom, and the power, and the glory, for ever and ever. AMEN". These prayers, one for Parliament and the other is for Lord's prayer - the speaker of the house of Representatives of Commonwealth of Australia, begin each sitting on to King the chair. Other Christian majority Commonwealth of British nations like New Zealand, Canada, United Kingdom, and the nation that apply Common law jurisdiction like United States and Ireland, have prayed while beginning parliamentary. Reference is : Puig, G. V.; Tudor, S. (March 2009), "To the advancement of thy glory? : A constitutional and Policy critique of parliamentary prayers", Public Law Review, Volume 20, Number 1, page 56]. Using such a situation as an example for non-Christian majority community of Buddhism, certain words could be changed to suit the requirement of the typical religious group in Australia as well without contradictory to religious doctrine, by modifying GOD into BUDDHA, PARLIAMENT into GENERAL MEETING, FATHER into TEACHER and AMEN into AMITABHA for certain ceremony in university Buddhist community.
AREA SIX : TRADE PRACTISE MISCONDUCT IN BUDDHIST ORGANIZATIONS

[1] Fair Trading Act 1999 (Victoria in Australia), Part 2 - Unfair practice, Section 9-Misleading or Deceptive Conduct
(1) A person must not, in trade or commerce, engage in conduct that is misleading or deceptive or is likely to mislead or deceive. (2) Nothing in the succeeding provisions of this Part is to be taken as limiting by implication the generality of subsection (1).
Fair Trading Act 1999 (Victoria in Australia), Part 2 - Unfair practice, Section 11 : Misleading conduct in relation to services : A person must not, in trade or commerce, engage in conduct that is liable to mislead the public as to the nature, the characteristics, the suitability for their purpose or the quantity of any services. Penalty: 600 penalty units, in the case of a natural person. 1200 penalty units, in the case of a body corporate.

Many records are missing when the university Buddhist clubs changed committee every year, leading to many opportunities for corrupted Buddhist leaders to spend the clubs' money for their own benefit without providing satisfactory services for the many Buddhist students in the universities. Fair Trading Act 1999 (Victoria in Australia), Part 2 - Unfair practice, Section 9 and Section 11 should be applied to sue against the Buddhist leaders in the inappropriately managed university Buddhist clubs that did not manage the monetary fund professionally, finally leading to the collapse of the university Buddhist clubs because of lack of sufficient funding to organize quality Buddhist and interfaith activities as a part of university community services among Buddhist students in the university and Australian society.

[2] Religious entity is organized on a non-profit basis where many donations and thanksgiving are tax exempted. Cost saving will always be considered so that the income of the religious organization will be saved for more beneficial welfare purposes. Places of public worships are exempt from land taxes and local council rates in most jurisdiction, but places of private worship, that are not clearly accessible to the general public who want to worship there are not so exempt. Reference is : Mr Justice P. W. Young AD (January 2009), “Churches : rating”, The Australian Law Journal, (2009) 83 ALJ [page 27] where ALJ =Australian Law Journal. Such provision has been disputed in the case of Gallagher v Church of Jesus Christ of Latter Day Saints [2008] 1 WLR 1852. (Reference is : also in [2008] 4 All ER for Mormon Church unopened to public) on the ground of discrimination, but rejected by the House of Lords in Australia. When refer back to the unregistered university Buddhist organization in Australian varsity, certain privileges towards the accessibility of the university facility and funding has been lost, and it will not be appropriate for the related committee members to blame other university approved Buddhist community as discriminative indirectly when the unaffiliated university clubs has “closed-door policy” at first instance.
There are some Malaysian law that could be modified directly for the application of Australian Buddhist organization, approved by Australian Commonwealth government or State of Victoria parliament, either for multifaith application or individual Buddhist organization uses. Members of parliament of Buddhist origin could be consulted to consider in the recognition of religious institute management law as provided by Malaysian law as follows: (a) Malaysian Act 108 - Good Shepherd Nun (Incorporation) Act 1973 - Christian; (b) Malaysian Act 457 - Methodist Church in Malaysia Act 1955 - Christian; (c) Malaysian Act 492 - Roman Catholic Bishop (Incorporation) Act 1957 - Christian (d) Malaysian Act 517 - Cheng Hoon Teng Temple (Incorporation) Act 1949 - Buddhist/Taoist (e) Malaysian Act 573 - Joint Service (Islamic Affairs Officers) Act 1997 – Muslim. Equivalent Australian acts and bills related to religious organizations are Young Women’s Christian Association Incorporation Act 1962 (Victoria in Australia), The Uniting Church in Australia Amendment Bill 2008 (Victoria in Australia) etc. Perhaps the sample Buddhist Organizations in Australia Act (Commonwealth Australia) could be approved in Australian parliament one day in future.

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