
How Police Use Religion To Deceive Suspects

Posted: 03/21/2013 7:00 am

Should police be permitted to impersonate religious figures to elicit confessions from suspects and their relatives? In a social democracy like ours, one that protects the right to a relationship with a religious advisor free from police interference, the answer should be obvious: No.

But depending on how the Superior Court of Ontario decides an appeal currently under consideration, Canadians may no longer be able to take that right for granted.

The appeal in question concerns the conviction of Jamaican-Canadians Evol Robinson, Jahmar Welsh and Ruben Pinnock in a Brampton court for the 2004 murder of Youhan Oraha. In pursuing the investigation for this case, a Brampton Ontario police officer of Caribbean origin impersonated a religious priest of the Caribbean Obeah faith in order to solicit confessions from the men's family members.

In the pre-trial hearing, the investigating officer said that he had been instructed to target the family of the defendants, including their mother/aunt, Colette Robinson. When they met, he identified himself as an Obeah man and told her he sensed an evil spirit who was attaching itself to her family and drawing the justice system to it. He said that he could help her banish the evil spirit if she told him its name and how it had died. By impersonating a religious advisor, he attempted to trick her and other family members into implicating the defendants.

This kind of religious deception is offensive and shocks the sanctity of many of the constitutional and charter freedoms we hold dear as Canadians. So why did police determine it was an acceptable way to implement their investigation?

Because they did not believe Obeah qualified as an actual religion.

Originating in West Africa, Obeah came to the West with the slave trade. Its practices, however, were radically transformed during plantation slavery when the religion was outlawed by slave owners throughout the British West Indies and made punishable by death. Once outlawed, Obeah practice took shape in highly secretive and decentralized domains in which beliefs and practices were engaged in private.

Its outlawing created the conditions for its subversion as a practice, making its religious customs foreign and questionable to the mainstream Christian majority. Even after the religious restrictions were lifted, Obeah continued to lack institutional bureaucracies, unlike more highly bureaucratized and legible practices such as Judaism, Islam, and Christianity. Although it continued to be seen negatively in public, people also continued to practice it discretely behind closed doors. As a result, its legitimacy as a religion has often been in question by non-practitioners.

To be sure, investigators and police need to have a range of tools and strategies at their disposal to investigate criminal activity. But impersonating religious figures in order to solicit confessions or incriminating evidence should not be one of them. This is particularly offensive when members of under-represented minority groups that are members of minority religions are unfairly targeted with this practice.

If we allow it to be acceptable as a society, we open the floodgates for police to infiltrate religious spaces and undermine the bedrock of religious faith. The state would be able to insert itself into the religious connection between the believer and the divine thereby undermining not only the rights of defendants, but the religious freedoms of all Canadians of every faith.

Fortunately, during the original trial, the judge determined that Obeah was a religion that deserved protections. He agreed that Obeah did provide a religious experience and that members of the family were, indeed, believers. But the judge did not feel that the defendants had been hindered from practicing their religion and so the evidence gathered during the police officer's impersonation was allowed.

This interpretation of the Charter's religious protections is deeply problematic. It means that the Charter protections only cover a believer's right to express their beliefs to their own satisfaction, regardless of the authenticity of the experience itself. In other words, as long as someone believes he's speaking with a priest, rabbi, or imam, it doesn't violate his Charter protections -- even if that religious advisor was actually a police officer.

If democracy and equality in Canada means that the targeted trampling over a minority religion is what we are to expect from the Courts' interpretation of the Canadian Charter of Rights and Freedoms, then it won't be long before the same treatment will be applied to other religions. If the court upholds the appeal, then we will produce a religious heritage in Canada in which

citizens will no longer have faith in their religious leaders and the freedom to exercise religion will mean very little.

Kamari Maxine Clarke is a Professor of Anthropology and International Area Studies at Yale University and a Public Voices Fellow at The Op-Ed Project. She is the author of Mapping Yoruba Networks: Power and Agency in the Making of Transnational Networks.