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Introduction: Religion, Law and the Pyrrhic Constitutionalism of Sri Lanka

Courtrooms are not places that one expects to see Buddhist monks, which is why visitors to Sri Lanka are often surprised by newspaper images of saffron-robed men filing into or out of the island's courts of law. Although not an everyday occurrence, Buddhist monks in Sri Lanka visit courtrooms regularly, and for a variety of reasons. They attend hearings, give evidence and make civil suits. They file writ petitions and, on rare occasions, even face criminal charges.[1]

Visitors are not the only ones unsettled by the appearance of monks in court. For litigants, lawyers and judges, the presence of monks in Sri Lankan courtrooms can also generate unease due to an anticipated clash between civil and religious norms. Sri Lanka's rules of civil procedure require that all persons seated in a courtroom stand up when a judge enters. Yet Buddhist texts and customs (which are specially protected by Sri Lanka's constitution) dictate that monks should never rise to greet non-monks – judges included.[2] Therefore, when Buddhist monks go to court, a dilemma ensues: Do monks stand for judges or do judges stand for monks? Do civil or Buddhist norms prevail?

Sri Lanka's lawyers are aware of the clash and take steps to avoid it. When representing Buddhist monks, lawyers delay their clients' entry into courtrooms until *after* judges have taken their seats at the bench. In Sri Lanka today, virtually all cases involving Buddhist monks employ this tactic.[3] Rather than addressing the normative clashes directly, lawyers elect to avoid them by substituting one lapse in protocol (not standing) with another (arriving late).

[1] The most famous example of a monk facing criminal charges is described in detail in Lucian Weeramantry, *Assassination of a Prime Minister: The Bandaranaike Murder Case* (Geneva, Switzerland: S.A. Studer, 1969).

[2] None of Sri Lanka's civil court judges are ordained Buddhist monks; they are all laypersons.

[3] One important instance of exception will be discussed in the Conclusion, Chapter 8.

To an outside observer, Sri Lanka's courtroom standoff might look like a minor procedural issue, a simple matter of symbolism and ceremony. For many in Sri Lanka, however, the dilemma – and its now-standard method of avoidance – strikes a more troubling chord. If protocols of courtroom etiquette prove so challenging, how can Sri Lanka's courts and constitution be expected to cope with more serious questions related to religion: Who is responsible for balancing religious and civil authority? Is it possible, in practice, to enforce constitutional obligations to "protect and foster" Buddhism while also guaranteeing religious freedom and equality?

Every time monks and judges perform their complicated dance of avoidance, refusing to perform the supremacy of either party, they call attention to the persistence of deeper uncertainties about law and religion in Sri Lanka, while also dramatizing a more unsettling fact: when it comes to religion, the very institutions to which citizens turn to resolve disputes – laws and courts – provoke new conflicts and conundrums that neither judges nor lawmakers nor lawyers seem willing or able to resolve.

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Religion and Law in a Constitutional Age

Balancing law and religion is a challenge throughout the world. Sri Lanka's conundrums are culturally specific, but not unparalleled. In places like the United States and Canada, one finds similar difficulties trying to reconcile civil and religious authority in constitutional contexts that celebrate both the impartiality of law and the free exercise of religion. North American jurists argue over whether it is possible to prevent formally neutral laws (such as those banning the use of hallucinogens) from having substantively discriminatory effects on certain religious groups (such as Native Americans who use peyote for ritual purposes).[4] In places like India and South Africa, one finds similar

[4] Douglas Laycock, "Formal, Substantive, and Disaggregated Neutrality Toward Religion," *DePaul Law Review* 39, no. 4 (1990): 993–1018. Martha Nussbaum, *Liberty of Conscience: In Defense of America's Tradition of Religious Equality* (New York: Basic Books, 2010). Gerard Bouchard and Charles Taylor, *Building the Future: A Time for Reconciliation (Report Prepared for Commission de consultation sur les pratiques d'accommodement reliées aux différences culturelles, Province of Quebec)*, 2008. www.accommodements.qc.ca/documentation/rapports/ (accessed May 31, 2010).

challenges of trying to protect religious customs without officially endorsing those customs. The depth of these challenges can be seen in inveterate disagreements over whether state-recognized systems of religion-based family and customary law are compatible with otherwise secular legal cultures.[5] In places like Israel, Ireland and Malaysia, one finds analogous disputes over how a single constitutional system might simultaneously safeguard a majority religion (Judaism, Catholicism or Islam) while also protecting general religious rights.[6]

In recent years, these struggles to manage religion through law have taken on a new sense of urgency. One sees this urgency in the growing prevalence of contentious, high-profile legal disputes involving religion. These disputes touch on a vast range issues, from the display of religious symbols in public, to the teaching of religion in schools, to the use of special legal accommodations and exemptions for religious groups. One also sees this urgency in the growing attention given to the legal management of religion by scholars, governments and human rights organizations. In the past 15 years, the United States, Canada and the European Union have all created separate administrative offices charged with overseeing and extending legal protections for religion around the world.[7] A similar expansion has occurred in the non-governmental sector, where an increasing number of organizations have dedicated themselves to monitoring the regulation of religion domestically and abroad.[8] Today, the legal management of religion features as a key object of policy, advocacy and even international relations[9] – so much so that

[5] Gerald Larson (ed.), *Religion and Personal Law in Secular India: A Call to Judgment* (Bloomington, IN: Indiana University Press, 2001). Jean Comaroff and John L Comaroff, "Reflections on Liberalism, Policulturalism, and ID-ology: Citizenship and Difference in South Africa," *Social Identities* 9, no. 4 (2003): 445–473.

[6] Steven V Mazie, *Israel's Higher Law: Religion and Liberal Democracy in the Jewish State* (Lanham: Lexington Books, 2006). Bill Kissane, "The Illusion of State Neutrality in a Secularising Ireland," *West European Politics* 26, no. 1 (2003): 73–94. Tamir Moustafa, "Liberal Rights Versus Islamic Law? The Construction of a Binary in Malaysian Politics," *Law & Society Review* 47, no. 4 (2013): 771–802.

[7] Bouchard and Taylor, *Building the Future*. R Scott Appleby, Richard Cizik and Task Force on Religion and the Making of U.S. Foreign Policy, *Engaging Religious Communities Abroad: A New Imperative for U.S. Foreign Policy* (Chicago: Chicago Council on Global Affairs, 2010). Elizabeth Shakman Hurd, *Beyond Religious Freedom: The New Global Politics of Religion* (Princeton, NJ: Princeton University Press, 2015).

[8] Ibid. Allen D Hertzke and Pew Forum on Religion & Public Life, *Lobbying for the Faithful: Religious Advocacy Groups in Washington, D.C.* (Pew Forum, May 2012).

[9] Hurd, *Beyond Religious Freedom*.

one scholar has characterized our current era as a time of unprecedented overlap between religion and law, a new age of "theo-legality."[10]

This age of so-called theo-legality has arisen alongside an age of constitutional law. In fact the growing interpenetration of religion and law is happening at a time when written constitutions have established themselves as the dominant form of law – "the norm" – for regulating societies throughout the world.[11] Only a handful of the world's countries have not developed codified constitutions; of that handful, all have produced some written body of basic laws.[12] Not only have constitutions become virtually omnipresent, they have also grown in influence. In many states, constitutional courts function not simply as jurisprudential bodies, but as extraordinarily powerful and active political and legal agents.[13]

Today, discussions about the legal management of religion are often discussions about constitutions. A well-designed and well-implemented constitution, many academics and policy-makers argue, holds the key to greater harmony and trust among groups with differing religious interests.[14]

[10] John L Comaroff, "Reflections on the Rise of Legal Theology: Law and Religion in the Twenty-First Century," *Social Analysis* 53, no. 1 (2009): 193–216.

[11] Zachary Elkins, Tom Ginsburg, and James Melton, *The Endurance of National Constitutions* (New York: Cambridge University Press, 2009), 49, no. 11. Justin Blount, Zachary Elkins, and Tom Ginsburg, "Does the Process of Constitution-Making Matter?," in *Comparative Constitutional Design*, ed. Tom Ginsburg (Cambridge: Cambridge University Press, 2012), 31.

[12] These include the UK, New Zealand, Saudi Arabia, and Israel. Even in these countries, however, the strong pull of written constitutionalism can be felt. Recently, the UK, New Zealand, and Israel have all undertaken formal inquiries to examine whether they *should* draft a written constitution. See, e.g., Hanna Lerner, "Constitutional Impasse, Democracy and Religion in Israel," in *Constitution Writing, Religion and Democracy*, ed. Asli Bali and Hanna Lerner (Cambridge: Cambridge University Press, 2016).

[13] Bruce Ackerman, "The Rise of World Constitutionalism," *Virginia Law Review* 83, no. 4 (1997): 771–797. Julian Go, "Modeling States and Sovereignty: Postcolonial States in Africa and Asia," in *Making a World After Empire: The Bandung Moment and Its Political Afterlives*, ed. Christopher Lee (Athens: Ohio University Press, 2010). Ran Hirschl, *Towards Juristocracy: The Origins and Consequences of the New Constitutionalism* (Cambridge, MA: Harvard University Press, 2004).

[14] On the promises of constitutional governance for the management of social and religious diversity see: Sujit Choudhry, *Constitutional Design for Divided Societies: Integration or Accommodation?* (New York: Oxford University Press, 2008). Jurgen Habermas, "Why Europe Needs a Constitution," *New Left Review* 11 (2001): 5–26. Donald L Horowitz, *A Democratic South Africa?: Constitutional Engineering in a Divided Society* (Los Angeles: University of California Press, 1991). Andrew Reynolds, *The Architecture of Democracy: Constitutional Design, Conflict Management, and Democracy* (London: Oxford University Press, 2002). Arend Lijphart, "Constitutional Design for Divided Societies," *Journal of Democracy* 15, no. 2 (2004): 96–109. Jennifer Widner, "Constitution Writing and Conflict Resolution," *The Round Table* 94, no. 381 (2005): 503–518.

Debates about legal policies for religion therefore take the form of debates over *how* (rather than *whether*) to design or interpret constitutions.[15] Experts treat constitutional law as a form of "higher lawmaking" that supervenes over and structures all other state institutions. Accordingly, they treat constitutional provisions for religion as higher-order rules, which ought to trickle down to all aspects of governance. One can observe this emphasis on the constitutional management of religion not only in countries with long-standing, stable constitutional regimes, such as the United States, but also in debates over the world's newest constitutions, such as those of Tunisia, Egypt, Iraq, Afghanistan, Sudan and Nepal.[16]

The Costs of Constitutional Law

It is understandable why so many people trust in constitutional law's ability to reduce conflicts among (and within) religious communities and to address disputes about the proper relationship between religious and civil authorities. (In this book, I refer to all of these types of conflicts

[15] Haider Hamoudi, *Negotiating in Civil Conflict: Constitutional Construction and Imperfect Bargaining in Iraq* (Chicago: University of Chicago Press, 2013), 7. In a December 2013 speech to the United Nations General Assembly, the Special Rapporteur on Freedom of Religion or Belief, Heiner Bielefeldt, expressed this sentiment with striking directness: "[a]n open constitutional framework that allows free manifestations of existing or emerging religious pluralism on the basis of equal respect for all is a *sine qua non* of any policy directed towards eliminating collective religious hatred by building trust through public institutions" United Nations General Assembly, *Report of the Special Rapporteur on Freedom of Religion or Belief, Heiner Bielefeldt to the General Assembly of the UN*, 2013, www.iirf.eu/index.php?id=178&no_cache=1&tx_ttnews%5BbackPid%5D=176&tx_ ttnews%5Btt_news%5D=1686 (accessed August 15, 2015), 11.

[16] Malika Zeghal, "The Implicit Shariah," in *Varieties of Religious Establishment*, ed. Winnifred Fallers Sullivan and Lori G Beaman (London: Ashgate, 2013). Ahmet T Kuru, *Muslim Politics Without an "Islamic" State: Can Turkey's Justice and Development Party Be a Model for Arab Islamists? (Policy Briefing)* (Washington, D.C.: Brookings Institution, February, 2013). B R Rubin, "Crafting a Constitution for Afghanistan," *Journal of Democracy* 15, no. 3 (2004): 5–19. Noah Feldman and Roman Martinez, "Constitutional Politics and Text in the New Iraq: An Experiment in Islamic Democracy," *Fordham Law Review* 75, no. 2 (2006): 883–920. J Alexander Thier, "The Making of a Constitution in Afghanistan," *New York Law School Law Review* 51 (2006): 557–579. Noah Salomon, "The Ruse of Law: Legal Equality and the Problem of Citizenship in Multi-Religious Sudan," in *After Secular Law*, ed. Winnifred Fallers Sullivan, Robert A Yelle, and Mateo Taussig-Rubbo (Palo Alto, CA: Stanford University Press, 2011). Mara Malagodi, "The End of a National Monarchy: Nepal's Recent Constitutional Transition From Hindu Kingdom to Secular Federal Republic," *Studies in Ethnicity and Nationalism* 11, no. 2 (2011): 234–251.

as *conflicts over religion*.) Constitutions are, after all, documents that elaborate the guidelines according to which states agree to manage disputes. They are also documents that announce the principles of solidarity that are meant to join citizens together.[17] Governments often create constitutions after experiences of conflict (e.g., civil wars or revolutions) in an effort to assert a vision of national unity and to establish the institutional conditions for lasting peace. Moreover, even when constitutional practice fails to reduce the intensity of conflicts over religion, observers and activists frequently blame political, social and environmental factors outside of the constitutional system (e.g., political chauvinism or radical religious ideologies), or insist that the constitutional system was not designed or implemented properly in the first place.[18]

Yet this association of constitutional law with the reduction of conflicts over religion belies the fact that constitutional practice often coincides with the escalation, rather than the cessation, of these conflicts. This is true even in the world's most celebrated constitutional democracies. Though often held out as an epitome of democratic lawmaking, the U.S. Constitution's First Amendment and its judicial interpreters helped legitimate anti-Catholic discrimination in the United States for much of the nineteenth and twentieth centuries.[19] Similarly, in India, another country with a respected constitutional tradition, appeals to constitutional religious rights and secularism have permitted Hindu nationalists to justify complex forms of anti-Muslim politics.[20] In both cases, litigants, lawyers and judges acted as constitutional theorists would expect: they used the language, procedures and spaces of democratically designed constitutional law to advance and

[17] Sujit Choudhry, "Bridging Comparative Politics and Comparative Constitutional Law: Constitutional Design in Divided Societies," in *Constitutional Design for Divided Societies*, 3–40, 6.

[18] One can see vivid examples of both in discussions of Iraq's constitution. E.g., Hamoudi, *Negotiating in Civil Conflict*. Noah Feldman, "Review of Hamoudi, *Negotiating in Civil Conflict*," *International Journal of Middle East Studies* 47, no. 1 (2015): 177–178.

[19] Philip Hamburger, *Separation of Church and State* (Cambridge, MA: Harvard University Press, 2002). Sarah Barringer Gordon, "'Free' Religion and 'Captive' Schools: Protestants, Catholics, and Education, 1945–1965," *DePaul Law Review* 56 (2006): 1177–1220.

[20] Brenda Cossman and Ratna Kapur, "Secularism: Bench-Marked by Hindu Right," *Economic and Political Weekly* 31, no. 38 (1996): 2613–2617, 2619–2627, 2629–2630. Ronojoy Sen, *Articles of Faith: Religion, Secularism, and the Indian Supreme Court* (New Delhi: Oxford University Press, 2010).

arbitrate competing claims about religion. Nevertheless, in both cases, using constitutional law aggravated the very dynamics of exclusion and acrimony that most American and Indian constitution drafters had hoped to allay or avoid.

This book argues that, although unintended, the potential to deepen disputes over religion is not an aberration of constitutional law; it is one of constitutional law's intrinsic capacities. With respect to religion, the practice of constitutional law may strengthen the very lines of tension it purports to moderate. It can aggravate conflicts among those with differing religious commitments and opposing ideas about the proper relationship between religious and civil authority.

Understanding this conflict-intensifying capacity of constitutional law is important for scholars, activists and legal professionals. This is not because a better understanding of constitutional law might somehow help lawmakers craft the perfect constitution: these potentials for conflict are endemic to, and therefore not eradicable from, constitutional practice. Rather, understanding these capacities is important because it may help experts understand more clearly the potential costs of deploying constitutional law in the attempt to mitigate conflicts over religion. Investigating constitutional law's divisive capacities allows one to identify the limitations of constitutional solutions for existing (or anticipated) conflicts over religion, and to think holistically about whether to invest political, financial and other resources in creating and enforcing constitutional policies. It helps analysts to consider more critically the choice to promote constitutional law (rather than, e.g., civil society activities, bureaucratic institutions or grassroots initiatives) as a way of encouraging coexistence among diverse populations. It shines a light on the fact that, while constitutional law may be helpful for some goals of governance, it may be unhelpful for others.

The Case of Sri Lanka

Sri Lanka offers a particularly compelling case for understanding constitutional law's capacities to amplify conflicts over religion. A large portion of the world's constitutional systems operate in the former colonies of the global South, which often face social, economic and political challenges not unlike those faced by Sri Lanka. Nevertheless, with the notable exceptions of India and South Africa, these countries remain enormously underrepresented in the literature on comparative constitutional law – a literature that draws its theories and normative models disproportionately

from a limited set of cases of mostly wealthy, mostly English-speaking, and mostly European (or European-settler) countries.[21]

To better understand constitutional law as a global practice, it helps to craft theory from places like Sri Lanka.[22] As in many parts of the global South, the history of constitutional law in Sri Lanka has been enmeshed with attempts to establish self-rule, design postcolonial economies, manage nationalism, and deal with political patronage and corruption. Moreover, like other former colonies, constitutional agents in Sri Lanka have addressed conflicts over religion in a context framed by the legacies of European control and Christian missionizing and by the ideological and institutional imprints of foreign laws.[23]

Sri Lanka's religious demography is also instructive. The constitutional management of religion has particular salience in countries like Sri Lanka, where religion, language and ethnicity intersect and show strong majority and minority contours.[24] Most Sri Lankans (70%) identify as Buddhists. Nevertheless, large proportions of Sri Lankans also identify as Hindus (12.7%), Muslims (9.7%) and Christians (7.6%).[25] These religious

[21] In his 2014 assessment of the state of comparative constitutional law, Ran Hirschl quotes several recent studies to indicate just how acute this selection bias is. According to one quote, from Rosalind Dixon and Tom Ginsburg, "90% of comparative work in the English language covers the same ten countries." Another assessment, by Sujit Choudhry, claims that for the last 20 years comparative constitutional law has been "oriented around a standard and relatively limited set of cases: South Africa, Israel, Germany, Canada, the United Kingdom, New Zealand, the United States and, to a lesser extent, India." As quoted in Ran Hirschl, *Comparative Matters: The Renaissance of Comparative Constitutional Law* (New York: Oxford University Press, 2014), 213–215.

[22] In making this claim, I echo the broader arguments made by Comaroff and Comaroff about the value of the theorizing from the South. Jean Comaroff and John L Comaroff, *Theory From the South: Or, How Euro-America Is Evolving Toward Africa* (Boulder, CO: Paradigm Publishers, 2012).

[23] Bernard S Cohn, *Colonialism and Its Forms of Knowledge: The British in India* (Princeton, NJ: Princeton University Press, 1996). Mahmood Mamdani, *Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism* (Princeton, NJ: Princeton University Press, 1996). M R Anderson, "Islamic Law and the Colonial Encounter in British India," in *Institutions and Ideologies: A SOAS South Asia Reader*, ed., David Arnold and Peter Robb (London: Curzon Press Ltd., 1993): 165–185.

[24] The following statistical estimates are based on the 2012 Census, Table 2.10 and Table 2.13, "Population by Ethnic Group and Census Year" and "Population by Religion and Census Year" respectively. Available at www.statistics.gov.lk/Abstract2015/CHAP2/2.10.pdf, and www.statistics.gov.lk/Abstract2015/CHAP2/2.13.pdf (Accessed February 16, 2016).

[25] Roughly 81% of Christians report to be Roman Catholic, leaving the estimated population of "Other Christians" (which includes Protestant sects and other newer Christian groups [see Chapter 7]) at approximately 1.5% of the total national population.

affiliations overlap with ethnic and linguistic identities. Most Buddhists identify as ethnically Sinhalese (75% of total population) and Sinhalese-speaking. Most Hindus identify as ethnically Tamil (15% of the population) and Tamil-speaking.[26] Most Muslims identify their ethnicity as "Moor" or "Malay" (9.3% and 0.2% of the population respectively) and speak Tamil, Sinhala or both. Christianity alone crosscuts ethnic and linguistic backgrounds. In this way, the demography of Sri Lanka appears similar to that of other countries like India, Malaysia, Israel, Indonesia and Ireland.[27]

The case of Sri Lanka also recommends itself because of its long history of using constitutional law as a tool for managing the island's diverse population and the conflicts over religion that arise. Sri Lankans have convened constitution-drafting committees in each of the last eight decades. Sri Lanka's current constitutional policies for religion emerged from a popularly elected constituent assembly and were designed with reference to international law. These policies have been invoked in a legal culture in which public law remedies and protocols of judicial review are widely accessible[28] and have been interpreted by a Supreme Court that

[26] The census separates ethnic Tamils into two categories: "Up-Country" or "Indian" Tamils (4%), which refers to those who claim descent from plantation laborers who came from India, and "Ceylonese" or "Sri Lankan" Tamils (11%), which refers to those who claim descent from the island's long history of Tamil inhabitants. The ethnic designation Moor usually applies to the descendants of Muslim traders from the Arabian Peninsula. Other important categories of ethnicity on the census include Burghers (descendants of the Dutch) and Veddas (indigenous Sri Lankans). On these categories see: A J Wilson, "The Colombo Man, the Jaffna Man, and the Batticaloa Man," in *The Sri Lankan Tamils: Ethnicity and Identity*, ed. Chelvadurai Manogaran and Bryan Pfaffenberger (Boulder, CO: Westview Press, 1994). Qadri Ismail, "Unmooring Identity: The Antinomies of Muslim Elite Self-Formation in Sri Lanka," in *Unmaking the Nation: The Politics of Identity and History in Modern Sri Lanka*, ed. Pradeep Jeganathan (Colombo: Social Scientists Association, 1995). Dennis B McGilvray, "Dutch Burghers and Portuguese Mechanics: Eurasian Ethnicity in Sri Lanka," *Comparative Studies in Society and History* 24, no. 2 (1982): 235–263. Gananath Obeyesekere, "Representations of the Wildman in Sri Lanka," in *Beyond Primitivism: Indigenous Religious Traditions and Modernity*, ed. Jacob K Olupona (New York: Routledge, 2004).

[27] Scholars of comparative nationalism have tended to group Sri Lanka alongside other "ethnocracies," countries in which one ethnic group dominates the institutions of state power. The grouping above is meant to encompass these countries while also suggesting a broader collection of comparative cases in which religious identity and ethnic identity do not correlate as closely. That is, I believe that the relevance of the analysis to follow pertains not only to ethnocracies but also to many other democracies. See, e.g.: Sammy Smooha, "The Model of Ethnic Democracy: Israel As a Jewish and Democratic State," *Nations and Nationalism* 8, no. 4 (2002): 475–503.

[28] I refer here to pre-enactment (abstract) judicial review. For further descriptions, see Chapters 4 and 7.

(despite its acknowledged faults and its descent into disrepute during the years surrounding the end of Sri Lanka's civil war in 2009) has been seen as relatively independent in its rulings on fundamental rights.[29] (In 2014, the World Justice Project ranked Sri Lanka as first among all South Asian countries in its Rule of Law Index.)[30]

This book documents the history of using constitutional law to address conflicts over religion in Sri Lanka by investigating the development and effects of the island's most consequential constitutional policy regarding religion. This policy is contained in the second chapter of the constitution, entitled "Buddhism":

> The Republic of Sri Lanka shall give to Buddhism the foremost place and accordingly it shall be the duty of the State to protect and foster the Buddha *Sasana*, while assuring to all religions the rights granted by Articles 10 and 14(1)(e).

Like nearly half of the world's basic laws, the Buddhism Chapter of Sri Lanka's constitution gives to the majority religion a privileged status ("the foremost place") while also guaranteeing general religious rights for all citizens, in the form of "Fundamental Rights" contained in Chapter III of the constitution:[31] the rights of individuals to "freedom of thought, conscience and religion, including the freedom to have or to adopt a religion or belief of his choice" (Article 10) and the rights

[29] While not seen as exercising independent judgment in all issues, when it comes to decisions involving individual fundamental rights, Sri Lanka's courts, particularly its Supreme Court, have been seen as relatively neutral arbiters. Deepika Udagama, "The Sri Lankan Legal Complex and the Liberal Project: Only Thus Far and No More," in *Fates of Political Liberalism in the British Post-colony: The Politics of the Legal Complex*, ed. Terence C Halliday, Lucien Karpik, and Malcolm M Feeley (New York: Cambridge, 2012). Viveka S De Silva, *An Assessment of the Contribution of the Judiciary Towards Good Governance* (Colombo: Sri Lanka Foundation and Friedrich Ebert Stiftung, 2005), 96.

[30] Sri Lanka, WJP Rule of Law Index, 2014, http://data.worldjusticeproject.org/#/index/LKA (accessed August 19, 2014). There are, of course, many problems with this index. However, I use it here as a rough indication of certain expert perceptions of Sri Lanka's legal system.

[31] According to a 2009 Pew Forum report 45% of the world's basic laws and constitutions "recognize a favored religion or religions," and, of those, most also "specially provide for 'freedom of religion' or include language used in Article 18 of the United Nations Universal Declaration of Human Rights." Pew Forum on Religion and Public Life, "Global Restrictions on Religion," 2009. http://pewforum.org/docs/?DocID=491 (accessed June 14, 2011), 60. By another measure, approximately 40% of the world's constitutions combine special protections for a particular religion with general religious rights. Email communication with Dr. Jonathan Fox, January 2011; the measurement is based on his RAS (Religion and State) Dataset.