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**Buddhism And The Constitution:
The Historiography and Postcolonial
Politics of Section 6**



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Introduction

Of the many legacies of Sri Lanka's 1972 Constitution, one of the most controversial remains its provisions regarding Buddhism, contained in Section 6 (Chapter II). Depending on with whom one speaks, the provisions are controversial for differing reasons. Some claim that by proclaiming Buddhism to occupy the "foremost place" in Sri Lanka, Section 6 undermines commitments to state neutrality or non-discrimination, implicating the constitution in a larger project of religious majoritarianism. Others claim that Section 6 does not go far enough in its privileging of Buddhism, that it stops short of making Buddhism the official 'State Religion,' as it is in Cambodia and Bhutan. A third cohort of critics asserts that by mingling prerogatives for Buddhism with general fundamental rights protections for all religions, Section 6 teeters on the edge of incoherence, prescribing the state's relationship to religion in opposing, incongruous terms – on the one hand obligating state actors to specially protect the majority religion and, on the other hand, requiring state institutions to serve as an impartial arbiter of legal rights for all religious communities.

In another spirit, many jurists, lawyers and judges, as professional interpreters of constitutions, tend to read Section 6, and its contemporary iteration, Article 9 of the 1978 Constitution, differently, assuming a principle of 'harmonious construction' that undergirds the constitution as a whole. From this perspective, the Buddhism chapter is often said to sketch out some kind of unique, creative, coherent position with regards to religion in Sri Lanka, a kind of 'Buddhist secularism' or 'Buddhist liberalism,' in which patronage of Buddhism and guarantees of liberal rights counterbalance each other: the incipient religious biases of secular liberalism are eased (for Buddhists) by guarantees of protections for Buddhism, the potential excesses of Buddhist protections are, in parallel, neutralised (for non-Buddhists) by general liberal rights commitments for "all religions." Those who maintain this perspective tend to describe Buddhism's status using phrases like 'first among equals' and tend to view coincidence of Buddhist prerogatives and fundamental rights as embodying some sort of hazy, under-formulated, compromise – perhaps *détente* – between

Buddhists and non-Buddhists regarding the contours of religious pluralism on the island.

To an extent, all interpretations are right, and all are partial. However, if one looks historically at the political, religious and legal stimuli that led to the creation, alteration and ratification of Section 6, the clauses begin to take on a different hue. In what follows, I argue that Section 6 should be read as a historical product, the legal-rhetorical outcome of unresolved historical desires, grievances and claims which took shape, initially, in the years surrounding independence. Section 6 / Article 9 has its origins not in some kind of shared vision of law and religion or, even, in the constitution-drafting process of 1970-72, but in the groundswells of political discourse that started rumbling from the 1940s.

1948 Constitution and its Discontents

When set alongside the drafting of the independence constitution in India, the process of drafting Sri Lanka's independence constitution appears comparatively diluted in its nationalism. The 1948 Constitution, under which the British transferred powers of self-government to Ceylon,¹ was not so much an independence manifesto but a document calculated to persuade the British to grant independence; it was not a declaration of self-rule, but a precondition for it. The text which would become the 1948 Constitution was designed mainly by the duo of D.S. Senanayake and Ivor Jennings, who together shielded the constitution-making process from nationalists on two sides: anti-colonial nationalists such as the Young Turks in the Ceylon National Congress, who proposed to make "Lanka" a "free republic" and communitarian nationalists who sought to embed in the new charter special protections for the island's Sinhalese majority or non-Sinhalese minorities².

¹ In the interest of keeping a consistency of terms with the sources I cite, I refer to the island before 1972 as Ceylon.

² See, in this volume, A. Welikala 'The Failure of Jennings' Constitutional Experiment in Ceylon: How 'Procedural Entrenchment' led to Constitutional Revolution.'

The 1948 Constitution, from its earliest iterations to its final draft, included very few explicit provisions regarding religion. All of the provisions concerning religion appear in one section, 29(2), which lays out a series of limits on the law-making powers of the parliament, prohibiting it from enacting bills that would:

- a. Prohibit or restrict the free exercise of any religion; or
- b. Make persons of any community or religion liable to disabilities or restrictions to which persons of other communities or religions are not made liable; or
- c. Confer on persons of any community or religion any privilege or advantage which is not conferred on persons of other communities or religions; or
- d. Alter the constitution of any religious body except with the consent of the governing authority of that body; Provided that in any case where a religious body is incorporated by law, no such alteration shall be made except at the request of the governing authority of that body.

The provisions are relatively spare. Religious freedom is elaborated as a series of negative liberties, injunctions *against* laws that would encroach on it – a style of constitutional provision that treats religious freedom as though it was a condition which was already existing among Sri Lanka’s citizens, a *de facto* state of affairs to be preserved through limiting *de jure* encroachments on it.

Many on the island, however, did not consider religious freedom an already-existing state of affairs and did not view Section 29(2) as an adequate statement of religious rights. From its earliest drafts in 1943 and 1944, Section 29(2) had numerous critics, among the island’s smaller and larger political parties. In 1945, the leader of the All Ceylon Tamil Congress (ACTC), G.G. Ponnambalam, warned the Soulbury Commission of the growing “influence of religion on politics” and the rise of political parties which were organised along religious and ethnic lines and were

making “direct appeals...to arouse communal passions.”³ Section 29(2), cautioned Ponnambalam, was not strong enough to protect the freedoms and rights of non-Sinhala communities.⁴ Ponnambalam’s fears were shared by members of the Communist Party who objected to Section 29(2) for similar reasons and who argued that the Soulbury Constitution should integrate more explicit protections for community and individual rights. In particular, they advocated including provisions that would criminalise discrimination based on caste, race, community or religion, and sections that listed positive statutory guarantees for protecting social, economic, educational, political and religious rights.⁵

Section 29(2) also had its critics among the island’s largest political party, the Ceylon National Congress (CNC). Many in the CNC echoed the concerns of Ponnambalam’s Tamil Congress and the Communist Party, and proposed to resolve them through drafting a new section on individual and community freedoms, one that spelled out (among other things) the government’s responsibility to religious freedom. Instead of protecting individual rights through *injunctions against* prejudicial legislation (as had been done in Section 29(2)), certain members in the CNC proposed creating a comprehensive Bill of Rights that would enumerate the state’s *positive obligations* to uphold individual and group freedoms. A constitutional draft oriented around the concept of a Bill of Rights was produced and presented to the Board of Ministers by members of the CNC in 1944.⁶ The draft outlined a series of fundamental rights, including the liberty of the person, education, association, freedom of the press and freedom of religion. The draft articulated the principles of “freedom of religion” in Section 7, saying:

³ CO 54/978/1, No. 96: Letter from G.G. Ponnambalam to Mr Hall on the Tamil Minority Case, 2nd November 1945, in K.M. De Silva (Ed.) (1997) *British Documents on the End of Empire: Sri Lanka* (London: Institute of Commonwealth Studies): p.145.

⁴ Ibid: pp.156-7.

⁵ Resolutions of the Ceylon Communist Party, 15th October 1944, in R. Edrisinha, M. Gomez, V.T. Thamilmaran & A. Welikala (Eds.) (2008) *Power-Sharing in Sri Lanka: Constitutional and Political Documents, 1926-2008* (Colombo: Centre for Policy Alternatives): pp.111-2.

⁶ K.M. De Silva & H. Wriggins (1988) *J.R. Jayewardene of Sri Lanka* (Vol.1) (London: Anthony Blond/Quartet): p.169.

“Freedom of conscience and the free profession and practice of religion, subject to public order and morality, are hereby guaranteed to every citizen. The Republic shall not prohibit the free exercise of any religion or give preference or impose any disability on account of religious belief or status.”⁷

Although the draft proved popular among certain sections of the CNC, the concept of a Bill of Rights was ultimately ruled out by the Board of Ministers during the drafting process. This was due in large part to the protests of Ivor Jennings who, in his teaching and writing at LSE and in Sri Lanka had argued stridently – against thinkers such as Harold Laski – against the ‘bill of rights model’ of constitution-making which, he felt, failed to provide adequate flexibility for governments. Instead, he insisted, bills of rights set up fixed regimes of unchangeable freedoms, fossilising for future generations, the prized values of present politicians, while, at the same time, involving judges regularly in defining and determining the precise meanings and implications of those freedoms. As Jennings would later quip, “...an English lawyer is apt to shy away from [fundamental rights] like a horse from a ghost.”⁸

Whereas political groups like the Tamil Congress, Communist Party and parts of the Ceylon National Congress objected to Section 29(2) because it failed to protect individual and minority rights, some Buddhists in Ceylon, particularly lay Buddhist organisations such as the All Ceylon Buddhist Congress (ACBC), objected to Section 29(2) because it did not redress the injuries that had been done to Buddhism during the colonial period, and because it failed to protect the current interests of Buddhist laymen and monks. Buddhist groups protested, particularly regarding one part of Section 29(2) – subsection (d) – which guaranteed that the government would not alter the constitution of an incorporated religious body without the consent of its “governing authority.”

⁷ J.R. Jayewardene’s Draft Constitution, 29th November 1944, in M. Roberts (1977) *Documents of the Ceylon National Congress and Nationalist Politics in Ceylon 1929-1950* (Colombo: National Archives): p.2593.

⁸ Quoted in S.A. de Smith (1964) *The New Commonwealth and Its Constitutions* (London: Stevens): p.165.

Some Buddhist objections to Section 29(2) were expressed publicly in a letter submitted to Ceylon's first Prime Minister, D.S. Senanayake, by the ACBC in 1951. In the letter, G.P. Malalasekera, the President of the ACBC, voiced the "disappointment, almost resentment, growing among the Buddhists of Ceylon," and prevailed on the government to "extend to Buddhism the same patronage as was extended to it by Sinhalese rulers of old."⁹ In the memorandum attached to the letter, the ACBC called upon the government to remedy some of the damage done to Buddhism during the reigns of the Portuguese, Dutch and British by offering greater state support for Buddhist education, monks and temples, and to appoint a Buddhist Commission to look into, among other things, an "autonomous" constitution for Buddhists like the ones referred to in Section 29(2)(d).¹⁰ When, three years later, Senanayake failed to act upon the ACBC recommendations, the Buddhist Congress created their own Buddhist Commission of Enquiry. The ACBC Commission undertook a two-year investigation to explore the extent of the injuries done to Buddhism during the colonial period and to recommend actions that the state should take to repair them. The work culminated with the publication of a Sinhala report, the English summary of which was titled *The Betrayal of Buddhism*.

In *The Betrayal of Buddhism*, the ACBC elaborated on its critique of Section 29(2), particularly subsection 29(2)(d) which, it argued, kept Buddhists from developing their own autonomous, legally recognised, corporate bodies. The argument outlined in *The Betrayal* is complex. According to the ACBC Commission, subsection 29(2)(d) allows Buddhist groups to petition for an act of incorporation, but it limits the probability that those petitions would succeed because it bases the principle of incorporation on the notion that all religious groups have a clearly defined "governing authority." Yet, Buddhist monastic fraternities on the island, particularly in the 1940s and 1950s, often lacked any clearly determined or clearly agreed upon hierarchies of

⁹ All Ceylon Buddhist Congress (1951) *Buddhism and the State: Resolutions and Memorandum of the All Ceylon Buddhist Congress* (Maradana: Oriental Press): p.3.

¹⁰ Ibid: pp.5-6.

authority.¹¹ *The Betrayal* argues that if a Bill to form a Buddhist organisation was moved in Parliament – for e.g., to incorporate a monastic fraternity (*nikaya*), or a temple – it could be challenged easily on the basis that the Bill cited an illegitimate governing authority. A Member of Parliament who disliked the mover of the Bill or who disliked the monk named as the governing authority in the Bill could readily find another senior monk who claimed that he was the real head monk of a *nikaya* or chief abbot of a temple, and therefore the *real* legitimate governing authority of the proposed corporation.¹² Thus, for the ACBC, Section 29(2)(d) was based on a hierarchical, Christian model of religious organisation and therefore advantaged Christian groups over and against Buddhists.

1950s and 60s: Politicising Constitutional Reform, Pairing Constitutional Criticism

During the 1950s and 1960s, both criticisms of Section 29(2) – those couched in the demands for the elaboration of fundamental rights and in the demands for special Buddhist privileges – gained prominence in national politics. During the prime minister-ship of S.W.R.D. Bandaranaike, both criticisms were filtered into two large government initiatives. On one hand, calls to reconsider constitutional protections for minority and individual rights were addressed in a Joint Select Committee for the Revision of the Constitution, which was charged with, among other things, formulating a chapter on fundamental rights. On the other hand, calls to give Buddhism state support and protection were direct towards a newly appointed government Buddha Sasana Commission, which was mandated to investigate the claims and suggestions of the report of the All Ceylon Buddhist Congress and recommend administrative measures to strengthen the position of Buddhism in the country.¹³

¹¹ K. Malalgoda (1976) *Buddhism in Sinhalese Society, 1750-1900: A Study of Religious Revival and Change* (Berkeley: University of California Press).

¹² Buddhist Committee of Enquiry (1956) *The Betrayal of Buddhism* (Balangoda: Dharmavijaya Press): pp.27-30.

¹³ Sessional Paper No. XXV of 1957: *The Interim Report of the Buddha Sasana Commission* (Colombo: Government Press): p.1.

Promises to integrate fundamental rights into Sri Lanka's constitution had been a visible theme in S.W.R.D. Bandaranaike's political agenda since he separated from the ruling United National Party (UNP) and formed his own political party, the Sri Lanka Freedom Party (SLFP), in 1951.¹⁴ Shortly after taking office, in November 1957, he introduced a motion to establish a Joint Select Commission on the Revision of the Constitution, saying:

“In our present Constitution there is no adequate statement of fundamental rights; fundamental rights as affecting all citizens, fundamental rights maybe as affecting the minority sections of the general community. There is no statement beyond Section 29 which itself is not very satisfactory.”¹⁵

The Joint Committee created by Bandaranaike – which included prominent representatives from the SLFP, UNP, Federal Party¹⁶ and the Left parties, many of whom had proposed their own amendments to the Soulbury Constitution in the 1940s – produced a comprehensive list of fundamental rights one year later, one which included political rights, economic rights, “cultural and educational rights of minorities,” rights to enforce fundamental rights, and discrete rights to freedom of religion. Under the rights to freedom of religion, the Committee included provisions for the “freedom of conscience and worship,” “free profession and practice of religion” and the freedom to manage religious affairs. This list was based closely on the Indian constitutional model, reiterating its provisions *verbatim* in many cases.¹⁷

¹⁴ W.A.W. Warnapala (2005) *Sri Lanka Freedom Party* (Colombo: Godage International): p.91.

¹⁵ S.W.R.D. Bandaranaike, ‘*Revision of the Constitution*’ (Speech Made As Prime Minister, 7th November 1957) in G.E.P. De S. Wickramaratne (Ed.) (1961) *Towards a New Era: Selected Speeches of S.W.R.D. Bandaranaike* (Colombo: Government Press,): p.137.

¹⁶ S.J.V. Chelvanayakam withdrew from the Committee in 1958, following the failure of the Bandaranaike-Chelvanayakam Pact.

¹⁷ Religion was also mentioned in the section on “cultural and educational rights of minorities,” ensuring that state grant aid would not be discriminatory on the basis of language or religion. J.A.L. Cooray (1973) *Constitutional and Administrative Law of Sri Lanka (Ceylon)* (Colombo: Hansa Publishers): p.69.

In order to examine the question of special state protections for Buddhism, Bandaranaike created a Buddha Sasana Commission consisting of ten monks and six laymen.¹⁸ The Commission was formed in 1957 with an aim to evaluate the proposals of the ACBC commission, to recommend measures for effectively managing temple properties and educating the *sangha*, and to formulate a plan for placing all Buddhist monks and temples on a national register.¹⁹ In its report, the Commission confirmed the suggestion of the ACBC commission that the government set up a Buddha Sasana Council, and further specified that the Council should oversee ordaining and registering *bhikkus*, help supervise a code of conduct for monks, promote the spread of Buddhism, and manage temple donations. The Commission also made suggestions for improving monastic education, setting up Buddhist public schools for laity, creating temple trusts for rural villages, regularising the building of temples, establishing *sangha* courts (*sanghadhikarana*) and drafting a Buddha Sasana Act which would formalise the state's supervisory role over Buddhist monks, property and lay officials.²⁰

Both the Committee on the Revision of the Constitution and the Buddha Sasana Commission were dissolved following Bandaranaike's assassination (26th September 1959).²¹ However, the agendas of both bodies were taken up by the major political parties and governments that succeeded Bandaranaike. Mrs Sirimavo Bandaranaike, who took over the leadership of the SLFP in 1960, promised in her first election manifesto that she would pursue both initiatives: she would work to create a republican constitution which included a chapter on fundamental rights, and she would implement the suggestions of the Buddha Sasana Commission.²² In the SLFP policy statement from

¹⁸ Sessional Paper No. XXV of 1957: p.2.

¹⁹ Ibid: p.1.

²⁰ Sessional Paper No. XVIII of 1959: *Budha Śasana Komiṣan Vārtāva (Buddha Sasana Commission Report)* (Colombo: Government Press): pp.277-290.

²¹ The Committee on the Revision of the Constitution ultimately made little headway on fundamental rights, concentrating its attentions primarily towards the re-delimitation of electorates.

²² Warnapala (2005): p.157.

November 1964, Mrs Bandaranaike folded these two objectives into one:

“In addition to steps taken by the late Mr S.W.R.D. Bandaranaike’s Government of 1956, and by the present Government to give Buddhism its proper place in the country as the religion of the majority and at the same time guaranteeing complete freedom of worship to all religions, my Government proposes to place before you legislation which will guarantee this proper place to Buddhism.”²³

Clearly, by 1964, the promises of the SLFP adumbrate the language of Section 6 (and Article 9). Buddhism is to be given a “proper place” (rather than the “foremost” place) and, at the same time, all religions are guaranteed fundamental freedoms.

By the middle of the 1960s, even the UNP – the party whose founding father, D.S. Senanayake, worked to implement the 1948 Constitution – began to adopt similar language and approaches to those of Mrs Bandaranaike and the SLFP when it came to the subjects of Buddhism and fundamental rights. In their election manifesto from 1965 the party promised:

“While restoring Buddhism to the place it occupied when Lanka was free and Kings ruled according to the *Dasa Raja Dharma* (Ten Buddhist Principles) we shall respect the rights of those who profess other faiths and ensure them freedom of worship.”²⁴

Later that year, at the party’s national conference in November, J.R. Jayewardene went further and proposed that a new constitution for the “Democratic Socialist Republic of Lanka is to be established on Feb 4, 1966 [*sic*]” and that it should contain a provision that “Buddhism, the majority religion of the country, where the population is about 75%, being given its rightful place.”²⁵ In 1967, the UNP-led government even reappointed a

²³ *Hansard*, House of Representatives, 20th November 1964: Col.8.

²⁴ United National Party (1965) *Party Manifesto: The United National Party*.

²⁵ *World Buddhism* (Nov. 1965), Vol. 14(4): p.17.

Joint Select Committee on the Revision of the Constitution to carry on with investigations which began under S.W.R.D. Bandaranaike's government, charging it with investigating the same issues as the 1958 Committee, including the inclusion in the constitution of a chapter on fundamental rights.²⁶

As the 1960s drew to a close, there seemed to be an irresistible political surge to abandon the 1948 Constitution and to replace it with a home-grown, "autochthonous" constitution which would give the Parliament full powers of law-making and constitutional amendment, and would redress the shortcomings with respect to fundamental rights and Buddhism in Section 29(2). It was clear that as soon as any one government could muster the required two-thirds majority in Parliament it would take up the task of rewriting the country's constitution.

Giving Buddhism the Foremost Place

In the early 1970s, the talk of a new constitution, which had existed in the political scene since the 1950s finally gave way to actual constitutional change, and in the 1970-1972 Constituent Assembly process, members debated a Draft Basic Resolution on Buddhism (Draft Basic Resolution 3), which read:

"In the Republic of Sri Lanka, Buddhism, the religion of the majority of the people, shall be given its rightful place and accordingly, it shall be the duty of the State to protect and foster Buddhism, while assuring to all religions the rights granted by Basic Resolution 5(4)."²⁷

This resolution, entitled "Buddhism," ties together the two major criticisms of Section 29(2) in the Soulbury Constitution. It refers both to a state obligation to protect Buddhism (here underscored as "the religion of the majority of the people") and to "assure"

²⁶ *The Joint Select Committee of the Senate and the House of Representatives Appointed to Consider the Revision of the Constitution*, Parliamentary Series No. 30, 3rd Session of 6th Parliament, 13th June 1968 (Colombo: Government Press).

²⁷ Constituent Assembly (1972) *Constituent Assembly Committee Reports*, 17th January 1972: pp.88-9.

certain fundamental rights to all religions. Regarding Buddhism, the passage draws from the language used in SLFP policy statements and manifestos during the 1960s, and it reiterated directly the election manifesto of the United Front from 1970, which promised:

“Buddhism, the religion of the majority of the people, will be ensured its rightful place. The adherents of all faiths will be guaranteed freedom of religious worship and the right to practice their religion.”²⁸

Draft Basic Resolution 3 on Buddhism also made reference to the proposed chapter on fundamental rights, which read:

“Every citizen shall have the right to freedom of thought, conscience and religion. This right shall include the freedom to have or to adopt a religion or belief of his choice, and the freedom, either individually or in community with others in public or private, to manifest his religion or belief in worship, observance, practice and teaching.”²⁹

Unlike the language regarding Buddhism, which was drawn up by the SLFP, the language of Section 5(4) on freedom of religion was imported verbatim from Article 18(1) of the 1966 International Covenant on Civil and Political Rights which was adopted by the United Nations, and to which Sri Lanka was a signatory.

When one looks at the Constituent Assembly debates regarding the formulation of Draft Basic Resolution 3 on Buddhism, one sees, for the first time, an extended debate among Members of Parliament, over how the country should balance and reconcile the two critiques of the Soulbury Constitution regarding religion: its failure to ensure adequate fundamental rights (particularly for ethnic and religious minorities) and its failure to protect the interests of Buddhists. The debates over Draft Basic Resolution 3

²⁸ United Front, *Joint Election Manifesto of the United Front (1970) of the Sri Lanka Freedom Party, Lanka Samasamaja Party and Communist Party* (Colombo: Government Press), p. 12.

²⁹ Constituent Assembly (1972) *Constituent Assembly Committee Reports*, 17th January 1972, pp. 90-1.

provide a glimpse at what happened when political initiatives directed towards the creation of a regime of fundamental rights came into direct conversation with political initiatives directed at giving a special status to Buddhism; and they highlight the difficulties in moving those initiatives from *distinct* policy agendas in the rhetoric of campaigning political parties (the SLFP and UNP) to *coincident* legal principles in a new constitution.

Objections to the formulation of Basic Resolution 3 were expressed in three proposed amendments. The first resolution was introduced by A. Aziz, head of the Democratic Workers' Congress (a coalition partner in the United Front), who suggested that the resolution be altered so that it read:

“In the Republic of Sri Lanka, Buddhism, the religion of the majority of the people, shall be given its rightful place and accordingly, it shall be the duty of the State to protect and foster Buddhism, while assuring to **Hinduism, Islam, Christianity and** all religions the rights granted by Basic Resolution 5(4).”³⁰

Aziz explained that he agreed with the general message of the Resolution, i.e. that Buddhism should be awarded a special place in the constitution, but he argued that Hinduism, Islam and Christianity had also played “an important part in the cultural life of a section of the people of this country” and therefore deserved explicit mention in the resolution.³¹ Such an amendment, he insisted, would “give a certain measure of confidence” to Hindus, Muslims and Christians, allowing them to feel equally included and represented in the constitution.³²

A second amendment was proposed by the leaders of the UNP, J.R. Jayewardene and Dudley Senanayake. It read:

“In the Republic of Sri Lanka, Buddhism, the religion of the majority of the people, shall be **inviolable and**

³⁰ *Constituent Assembly Debates* (1972) (Colombo: Ceylon Government Press): Col.640.

³¹ *Ibid*: Col.641.

³² *Ibid*: Col.642.

shall be given its rightful place, and accordingly, it shall be the duty of the State to protect and foster Buddhism, **its rites, Ministers and its places of worship**, while assuring to all religions the rights granted by basic Resolution 5(4).”³³

In their amendment, Jayewardene and Senanayake argued that the language of the original draft was not clear enough, and thus did not provide strong enough protections for Buddhism. To enhance the resolution, Jayewardene and Senanayake suggested including phrases from the Kandyan Convention of 1815, a treaty signed between Kandyan nobles and British officials which, although it ceded sovereignty of the kingdom to the King of England, made certain provisions for the protection of Buddhism.³⁴ Jayewardene explained the rationale for his amendment by saying that the expression “rightful place,” or *nisitāna*, was vague and people would not know what was meant by the phrase. In order to further clarify this duty of the government and to make sure that Buddhist interests were protected, particularly the preservation of Buddhist sacred sites, he insisted that language from the Kandyan Convention was appropriate, and so the terms “inviolable” and “its rites, ministers and places of worship” were added to the resolution.

A third amendment to Draft Basic Resolution 3 on Buddhism was proposed by the leader of the Federal Party, S.J.V. Chelvanayakam. The amendment rejected the entire premise of the resolution and argued the constitution’s main provision regarding religion should read:

³³ Constituent Assembly (1972) *Constituent Assembly Committee Reports*, 27th February 1972: Col. 226.

³⁴ The amendment invokes parts of Section V of the Convention, which reads: “The religion of the Boodho, professed by the chiefs and inhabitants of these provinces, is declared inviolable and its rites, ministers, and places of worship are to be maintained and protected” in C. Parry (Ed.) (1969) *Consolidated Treaty Series with Index, 1648-1919* (Oxford: OUP): pp.484-486.

“The Republic of Sri Lanka shall be a secular State (Tamil: *matacārpārya*) but shall protect and foster Buddhism, Hinduism, Christianity and Islam.”³⁵

V. Dharmalingam, who presented the amendment for Chelvanayakam, explained that the amendment represented a resolution agreed upon by the major Tamil parties at a conference in Velvettitturai. He questioned why the country needed a law to protect the rights of the *majority* religion and he asked how a resolution which linked the government with Buddhism could coexist with one which made Sri Lanka a socialist state, when the dictums of socialism demand that “affairs are run completely without any kind of link between the government and religion and...the government undertakes to keep religion outside of the state.”³⁶ Another Federal Party member, K.P. Ratnam, criticised Basic Resolution 3 for trying to please too many people at once:

“You’re trying not to offend those who oppose religion [the Left Parties] by saying that it won’t be our state religion. [And] you’re trying to say to those who want religion that, without recognising other religions, you will only give a place to Buddhism. I want to point out that this basic draft resolution takes a position between the two. Therefore, both will sour. I wish to tell you that this position will be a cause of continuous strife for this country.”³⁷

For Ratnam, the resolution on Buddhism appeared worrisome because it did not articulate a clear, strong position with regards to the relationship between religion and state. Instead it took a vague, intermediate stance that attempted to reconcile the incompatible desires of two opposing political lobbies.

Ultimately the UF majority in the Constituent Assembly voted to ratify Basic Resolution 3. However, in the version of the

³⁵ Constituent Assembly (1972) *Constituent Assembly Committee Reports*, 27th February 1972: pp.225-26.

³⁶ *Constituent Assembly Debates*: Col 939. Quote translated from Tamil.

³⁷ *Ibid*: Col.947. Direct quote translated from Tamil.

resolution that appeared nine months later in the draft constitution that Colvin R. De Silva presented at a press conference, the language of the chapter on Buddhism had changed slightly. In January 1972, Resolution 3, which became Section 6, on “Buddhism” read:

“The Republic of Sri Lanka shall give to Buddhism the **foremost place** (*S: pramukhasthānaya; T: mutanmai tānam*) and accordingly it shall be the duty of the State to protect and foster Buddhism while assuring to all religions the rights granted by section 18(1)(d).”³⁸

Between May 1971 and January 1972, De Silva and the drafting committee adjusted the resolution to reflect two aspects of the debates. Firstly, the drafters replaced the term *rightful* place with the stronger phrase *foremost* place (*S: pramukhasthānaya*). Secondly, the re-drafted resolution removed the phrase qualifying Buddhism as “the religion of the majority of the people.”

Conclusion

On 22nd May 1972, the legal charter that the UF shepherded through two years of drafting, debates and committees became the constitution of a country newly renamed as “Sri Lanka” and the Buddhism chapter gained the status of the island’s official religious policy. The constitution was ratified by a vote of 119 to 16: the UNP voted against it; the Federal Party members did not vote at all, having walked out of the proceedings in late June after Sinhala was made the sole “official language.”

In the end, Section 6 appears to have left many people unsatisfied. Ultimately even Colvin R. De Silva, the primary drafter of the resolution and the primary architect of the constitution, admitted that he was not fully satisfied. In a speech given in 1978, he described the tense and conflicted process of finalising a constitutional provision on Buddhism, admitting that he would have preferred an entirely secular constitution but arguing that

³⁸ Draft Basic Resolution 5(iv) was incorporated as Section 18(1)(d), although the wording remained identical.

Section 6 should be viewed as something of a compromise between secularism and Buddhist majoritarianism, if for no other reason, because it did not make Buddhism the “state religion.” De Silva recalled that his final rendering of Section 6 represented, in actuality, a much milder version of the measures that the state would take to privilege Buddhism, that it had eliminated certain attempts to make the language stronger by, for example, stipulating that the highest offices in government (the president, prime ministers, etc.) should be held by Buddhists.³⁹ However, as K.P. Ratnam predicted, the provisions in Section 6 continued to leave two groups wanting: those who felt that fundamental rights to freedom of religion were impinged upon by the inclusion of Section 6 in the constitution, and those who felt Buddhism should have greater, more explicit protections contained within it: desires, which one might consider as reincarnations of the two major disaffections with Section 29(2) of the Soulbury Constitution.

Looking at the evolution of the Buddhism Chapter historically, one might argue that controversy concerning its final form is perhaps inevitable. Section 6 did not so much resolve or reconcile competing, long-standing interests as acknowledge them by joining them together, if in rhetoric alone.

³⁹ C.R. De Silva (1987) *Safeguards For the Minorities in the 1972 Constitution* (Colombo: A Young Socialist Publication): pp.10-11.