

Religious Pluralism, Legal Development, and Societal Complexity: Rudimentary Forms of Civil Religion

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We explore the question of *why* civil religion might arise in the first place. Essentially the argument is: (1) the condition of religious pluralism creates special problems for social interaction; (2) social interaction, in such situations, is facilitated by a universalistic legal system; (3) a universalistic legal system may, therefore, be elevated to the sacred realm. Actually, the data bear on only the first two of these propositions, showing that the association between legal development and societal complexity increases with every increase in religious pluralism. We prepare the groundwork for the plausible claim, therefore, that, in the absence of a universally acceptable meaning system (traditional religion), the legal order may become a universally acceptable substitute (civil religion).

One of the vexing problems with the civil religion question has to do with *why* civil religions might exist in the first place. It is quite clear that Comte, recognizing a social "need," believed that civil religion *ought* to be promoted. And it is clear that many contemporary sociologists, following Durkheim or other functionalists, take the position that a society cannot be viable without some kind of "totemism," civil religion for them being the totemism of modern society. But the question remains: Why might civil religions exist?

Another way to pose this question is to ask about the channels through which civil religions arise. It is one thing to identify and describe present-day totemisms (eg, in the American case, Warner, 1953, and Bellah, 1967; in the English case, Shils and Young, 1953). And it is another to deny that a civil religion is religious (eg, Thomas and Flippen, 1972). But it is still a third thing to investigate the sources and origins of the phenomena labeled civil religion. Why would people believe it? Why might citizens elevate some aspect of their government? How is it that governments (actually spokesmen in and for governments) come to articulate a people's sense of purpose, of destiny, of ultimate meaning? The debate over whether various ceremonies and

ideologies *should* be regarded as rituals and theologies is advanced, in our view, if a plausible reason can be given as to why they *can* be. What needs, felt by whom, are met by a civil religion? And why are such needs not met by other (prior, noncivil) religions? To answer such questions is to advance our understanding of civil religion at least in the sense that an *efficient* cause of civil religion gets added to an assumed *final* cause.

Having said that much, however, we must admit in advance that the present paper takes us only one step toward answering those questions. Specifically, we attempt only to illuminate some of the conditions that *could* give rise to civil religions, thus making plausible at least their existence. Arguing over whether Presidential Inaugural Addresses are or are not civil religious (again, Thomas and Flippen, 1972) strikes us as premature until agreement is reached regarding what it is about the phenomena in question which is supposed to be religious.

Briefly put, our argument is: (1) the condition of religious pluralism prevents any one religion from being used by all people as a source of generalized meaning (what Berger, 1967, calls a sacred canopy), but (2) people nevertheless want to invest their activity with meaning, especially when that activity brings together persons of diverse religious background. Therefore, (3) a substitute meaning system is sought and, if found, the people whose activities have been facilitated by it will tend to exalt it.

In the present discussion we suggest that a universalistic legal system can be such a substitute meaning system.

A CAVEAT OR TWO

Admittedly, our theory is very abstract. It suffers from the fault of so much of the social scientific study of religion which, in its efforts to show the sociological importance of religion, has been forced to deal with global, far-reaching, and historical variables. In so doing, such study has frequently sacrificed the closely specified and carefully measured variables. Ours is no exception. And yet, as will be seen, we use quantitative data from a number of societies, and we may for that reason claim to avoid some of the pitfalls of "mere" theoretical analysis. Nevertheless our analysis makes several whopping assumptions: regarding the time order of variables, regarding the meaning of "social complexity" (soon to be specified) found among present-day developing societies, and regarding the equating of contemporary nation-states with what in theory are "societies."

A second caveat was identified three paragraphs ago. Our overarching theory states that a generalized legal system will be elevated to civil religious status insofar as it facilitates the interaction of religiously diverse people. In fact, however, our information (and thus the narrower theory examined here) pertains only to the first of the two implied assertions—that a generalized legal system facilitates the interaction of religiously diverse people. The second assertion—that such a legal system will then become sacrosanct—remains unexamined by data in this paper. It is this sense we said at the outset that our understanding of civil religions will be advanced even if only a plausible *reason* for their existence can be given.

With these two qualifications, then, the narrower of the two theories just mentioned is presented and tested in the following pages.

THE THEORY

I. John Courtney Murray (1964: 27-29) puts the first part of this narrower theory as well as it can be put: Civil discourse or civil unity is complicated and laborious enough, he says, but under conditions of religious pluralism it is more so because discussion of concrete affairs goes on in abstract terms—in “realms of some theoretical generality”—and pluralism creates different sets of these realms. Discourse becomes “incommensurable” and confused. (See also Parsons, 1966; Berger, 1967: 48-49, 135-138.) Such confusion is easy to imagine since some taken-for-granted get called into question. Would-be partners cease to be sure of each other’s commitments and thus trustworthiness. The relative strength of loyalties to kin, neighborhood, status group, etc., are possibly challenged by one’s loyalty to one or another (or no) religious group. To the simple categories of believer and heretic get added the various ways to be a nonbeliever. Religious pluralism, to put it simply, complicates matters by ripping the once intact sacred canopy. Interaction, we might suppose, thereby is inhibited.

For this reason, and contrary to one’s initial guess perhaps, we expect *greater* pluralism at the religious level to be associated with *lesser* amounts of social development or, as we shall term it, “societal complexity.” At least we expect no positive relationship between religious pluralism and societal complexity. This is our first proposition.

It is important to realize the meaning attached to “societal complexity” in this proposition, however. Since religious pluralism itself represents one kind of complexity, it should be clear that we exclude that kind of complexity from this variable. The reference in our complexity variable is rather to those “secular” activities which, if religious considerations can be ignored or overcome, may proceed unimpeded but into which religious considerations are likely to intrude *unless special efforts are made*.¹ The type case is the market transaction, wherein two parties can strike a bargain suitable to both if particularistic factors such as religion do not interfere. But the whole range of contacts generally regarded as “socioeconomic” also apply here.

In any event, though religious heterogeneity may very well appear alongside, or as part of, general social complexity, it is our expectation here that a plurality of meaning systems or “sacred canopies” will inhibit development of those social interactions which typically *cross* religious lines, ie, secular or socioeconomic activities.

II. The second part of the theory deals with situations wherein secular activities *have been or are in a position to be* inhibited by religious pluralism. It states that the (threat of) impasse may be lessened by the existence of legal institutions which foster universalistic norms. In effect, this requires of the law some procedures to enable diverse parties to interact in spite of otherwise inhibiting characteristics. For example, two persons who are prohibited by religious scruples from transactions with each other may find it possible, through law, to use third parties (eg, the impersonal, universalistic

1. It is recognized that the more usual formulation is somewhat different, ie, as secular activities develop, such particularistic factors as religion diminish. In either view particularistic factors are held in abeyance to some degree; we are arguing that the condition of religious pluralism makes it more necessary for people to hold religious considerations in abeyance. What little difference exists between these two views revolves around whether religion’s diminution (secularization) occurs *automatically* with pluralization or instead will occur only if the “holding in abeyance” is *helped along* (as by a changing legal order).

procedures of a bank). Or, as another example, two groups who define themselves as "believers" and "heretics" or as "faithful" and "infidel" may nevertheless be convinced that they will receive fair treatment in the courts and thus allow themselves to buy and sell, enter into contract, and so forth.

Max Weber's distinction between substantive and formal rationality sets the terms for this part of the theory:

In general terms . . . the rationality of ecclesiastical hierarchies as well as of patrimonial sovereigns is substantive in character, so that their aim is not that of achieving the highest degree of formal juridical precision which would maximize the chances for the correct prediction of legal consequences. . . . The aim is rather to find a type of law which is most appropriate to the expedient and ethical goals of the authorities in question. . . . Yet in the course . . . of rationalization of legal thinking on the one hand and of the forms of social relationships on the other, the most diverse consequences could emerge from the non-juridical components of a legal doctrine of priestly make. One of these possible consequences was the separation of *fas*, the religious command, from *jus*, the established law for the settlement of such human conflicts which had no religious relevance. In this situation, it was possible for *jus* to pass through an independent course of development into a rational and formal legal system. . . . Juridical formalism enables the legal system to operate like a technically rational machine. Thus it guarantees to individuals and groups within the system a relative maximum of freedom, and greatly increases for them the possibility of predicting the legal consequences of their actions. Procedure becomes a specific type of pacified contest, bound to fixed and inviolable "rules of the game". (1967: 225-227)

Weber, as usual, is speaking here of ideal-typical forms of legal systems. Nevertheless, he sees the strategic importance played by the shift from particularistic to universalistic standards—from what he calls substantive to formal rationality. Related to this shift is the obvious fact that *religious* particularism is not the *only* particularism. Thus, Weber refers to "patrimonial" as well as "ecclesiastical" sovereigns.² The proper interpretation, we believe, is to recognize that whatever loyalties and commitments people may have—to kin, guild, caste, and so on—are likely, when institutionalized, to be expressed religiously. It is in this sense that the opening paragraphs of this paper refer to meaning systems or sacred canopies *as* religion. In a totemistic, exogamous clan society for example, the "kin" loyalty and "religious" loyalty would be identical. But in any society, kin loyalty is likely to find expression in religious language, rituals, and so forth.

Our proposition in this second half of the theory can be stated as follows, therefore: The higher the level of religious pluralism in a society, the more will societal complexity be associated with the presence of a universalistic legal system.

III. This second proposition appears almost to represent common knowledge. A rationalized, generalized, predictable legal system will foster social interaction and thus societal complexity.³ The claim here is more than this, however; it is that, while a rationalized legal system may facilitate societal complexity in any situation, we are suggesting that it may be even more helpful for people who are otherwise religiously different. It is this argument which locates the present paper in the context outlined in our opening paragraphs: the legal order in some significant measure becomes the

2. And Cowan (1963: 18) speaks of "legal pluralism:" "A second great complex of problems to which legal pluralism gives rise is that which has generally come to be known under the heading of inter-personal conflict of laws, internal conflict of laws, or inter-gentile law. . . . How should one regulate disputes between members of different ethnic or religious groups living within the same political unit under different laws?"

3. Compare with Kozolchik's (1972: 2) statement: ". . . the main function of a legal system in bringing about economic development is to instill trust in legal institutions."

religious order as well—the order that supplies meaning—and thus sets the stage for the emergence of civil religion.⁴

Granted, the outcome may not be a sharply defined “civil religion”—one that could be universally recognized as such—but at the least it can be anticipated that some kind of “political religion” will be more likely to emerge in societies where legal structures take on meaning-bestowal qualities (Apter, 1963). Obviously such political religion can emerge in “totalitarian” as well as “democratic” societies, but in either setting it will be the law and not mere coercion which facilitates social development. This is Kozolchik’s (1972) point regarding “fairness” in the law. *If* law is to facilitate societal complexity, it must instill trust, which means that it cannot deviate far from the will of those governed. As we shall see presently, however, nation-states of considerable as well as meager development are variously located along the pluralism axis. What will be shown is that, regardless of political style, the societal complexity of religiously plural societies is helped along *more* by universalistic legal systems than is the complexity in religiously homogeneous societies.

TESTING THE THEORY

In an ambitious project to assess the correctness of Talcott Parsons’ (1964) theory of evolutionary universals, Gary Buck (1969) accumulated masses of data for 115 contemporary nation-states from every part of the world. He developed elaborate indices (as of 1960 wherever possible) of the 10 variables Parsons discussed: (1) communications, (2) kinship organization, (3) religion, (4) technology, (5) stratification, (6) cultural legitimation, (7) bureaucratic organization, (8) money and market complex, (9) generalized universalistic norms, and (10) democratic association.⁵ Information was taken from such sources as the *United Nations Statistical Yearbook*, the *Yearbook of Labor Statistics*, UNESCO’s *World Survey of Education*, and so forth. One index (kinship organization) was measured by only three indicators, but the others were more extensively measured, some by over a dozen separate pieces of information. Of Buck’s 10 indices we have borrowed five in order to measure two of our three variables.

Societal Complexity

Societal complexity, it will be recalled, refers to the degree of complexity in “secular” activities, of which the market transaction is the prime example. Perhaps socioeconomic development is a suitable alternative phrase. Four of Buck’s indices—communication, technology, bureaucratic organization, and money and market complex—seem to us to measure this variable very well. Altogether, they entail 50 different indicators (making their listing here too space-consuming), but one indicator from each of the four indices will give an idea of their nature.

4. Thus, Kozolchik, whose research is based on Latin American societies, goes on (2): “And this trust results not only from the efficient operation of legal institutions, that is to say, when these institutions perform predictably and in the least costly manner, but also from their fairness.” The point, of course, is that “fairness” automatically spills over into the religious sphere.

5. He found by scalogram analysis, incidentally, that the evolutionary sequence Parsons suggests (ie, the order in which the 10 variables are listed above) is strongly supported by the data on these 115 societies. We are indebted to Buck for his cooperation in this research.

<i>For the index of:</i>	<i>An illustrative indicator is:</i>
Communications	Motor vehicles in use.
Technology	Percentage of gross domestic product originating outside of agriculture.
Bureaucratic Organization	Ratio of salaried employees to wage earners.
Money and Market Complex	Imports and exports per capita.

While Buck found it necessary to keep these four indices separate—if he was to test the sequential nature Parsons claimed for them—we have no such requirement. Therefore, since each measures a different, but important, aspect of “complexity,” we choose to lump all four indices together. Each had a range of scale scores from one to seven, which means that the composite index used here ranges from four to 28. For simplicity’s sake, we have subtracted three from every unit, making the range from one to 25. Countries were found at every score level. It is important to remember that all 50 indicators, despite their differences, refer to “secular” activities, that is to say, activities which can be engaged in by persons whether or not they “like” or “know” or “frequently see” each other. They measure how easily “strangers” are brought into interaction.

Legal Development

Buck also has an index he called, following Parsons’ terminology, “generalized universalistic norms.” A legal system is generalized, Parsons says (1964: 351) to the degree it is “an integrated system of universalistic norms, applicable to the society as a whole rather than to a few functional or segmental sectors, highly generalized in terms of principles and standards, and relatively independent of both the religious agencies that legitimize the normative order of the society and vested interest groups in the operative sector, particularly in government.” That is, a generalized legal system facilitates social relations. Such a process can be regarded as legal development (in the sense we have been using that concept here), and we therefore use the Buck index of generalized universalistic norms as our measure. He, in turn, built his index on eight pieces of information about each society contained in one of two sources (Banks and Textor, 1963; Feierabend and Feierabend, 1966).

Seven of these pieces of information deal with the degree to which the law is used to “eliminate” opposition rather than to facilitate concerted action by disparate groups. Thus, from Banks and Textor, Buck recorded the degree of freedom opposition groups enjoy, and from Feierabend and Feierabend he recorded (for the period 1948-1962): the amount of “repressive action against specific groups,” “arrests of significant persons for political reasons,” “arrests of insignificant persons,” “significant changes of general laws,” “politically motivated killing by the government,” and frequency with which the constitution is suspended and martial law is declared. The eighth indicator, from Banks and Textor, reflects a characterization (with the help of a legal scholar) of each nation’s legal system as ranging from “indigenous” (indicating low development) to “common law” (reflecting high development). While this final indicator can be criticized as being subjective (at least on the part of the legal scholar, if not on the part of those who appended the labels on each country’s legal system), it is worth pointing

out that as only one of eight indicators, this one influences the index very little. Were it to be eliminated altogether, the *relative* scores on legal development in 115 nations would change hardly at all.

It may well be asked whether an index mainly of *negative* instances fairly measures the degree of something positively stated. Political reprisals and closing off opposition may reflect the *absence* of a widespread legal order, it might be argued, but is the nonappearance of such phenomena to be taken as indicating its *presence*? Two responses might be made. (1) The expedient one is that the Buck measure *is* available, and no preferable measure based on recorded data is known. (For example, information on the number of lawyers, law schools, etc., in a society could be a substitute measure of legal development, but in that case the relationship with societal complexity would be well-nigh tautological.) (2) Moreover, we are not so much interested in the *existence* of law and lawyers as we are their *effectiveness* in subjecting persons' behavior—without coercion—to legal rules. The record of legal repression seems, then, a reasonable measure of legal development: much repression indicating little legal development and little repression more legal development.

Religious Pluralism

The third index measures the degree of religious pluralism with information from various sources.⁶ Because a certain amount of arbitrariness was involved in our procedure, we want to be certain it is explicit. First, it became apparent that the highest levels of pluralism as measured by any method we had available are *not* found in those societies which are today regarded as very pluralistic (ie, the Western industrialized democracies). To be sure, in our scoring scheme the United States would be quite plural—with Catholics, Jews, and Protestants all in considerable number. But it is surpassed by a number of nations in Asia, Africa, and the Near East, where there exist not only Protestant and Roman Catholic or Christian and Jew, but maybe Islam, Hindu, Animist, Shinto, Buddhist, etc., as well. We decided, therefore, that though we could enumerate many sectarian expressions of Protestantism, we did not have the information to do the same for Buddhism, Islam, Animism, etc., and so we counted only the major groupings just listed (plus Eastern Orthodox and Confucianism), giving one point for the presence of each of these 10 religious categories.

Second, since even the most religiously uniform society is going to have a smattering of "deviants," we decided that a religion must be represented by at least two percent of the population if it was to get counted. Without any firm evidence for selecting that cutoff point, we reasoned that clashing definitions of ultimate reality are likely to clash only when supported by at least a handful of opposing "believers." Moreover, it can be assumed that the data are more imprecise on religious minorities; with a minimum of two percent, the chances are good that they are at least noticed.

The upshot, however, as already indicated, was that those societies generally regarded as most plural—even to a point of the widespread exercise of religious freedom—were categorized along with newly developing societies where tribal religions compete with the legacies of numerous missionaries. It was as if one were

6. But chiefly Coxill and Grabb, 1968; Daggs, 1970; *Deadline Data on World Affairs*, 1971; *Facts on File*, 1971; Mbiti, 1969.

comparing a present-day African or Asian nation with the United States of 1825 (with Protestants and some Jews entrenched on the East Coast, Catholics entrenched in the Southwest, and "Animists" spread out in between). But in fact our measures of legal development and societal complexity are contemporary, thus making that comparison impossible, or at least illegitimate.

The only solution seemed to be to eliminate those nations in our list which had already "developed." Granted, this move has an arbitrariness about it, *but the effect is to subject the theory to an immensely more stringent test*. If societies like the United Kingdom, Canada, Sweden, Luxemburg, France, United States, New Zealand, etc., are known in advance to be (1) highly complex, (2) highly developed legally, and (3) religiously plural, it is not much of a test to determine if legal development and societal complexity are strongly related in religiously plural societies. But what of Burma, Sudan, North Vietnam, Bulgaria, Camaroun, Trinidad, Ceylon, etc.? It seemed reasonable to treat all these latter nations as developing rather than developed and to inquire about their legal and religious circumstances.

Consequently, we eliminated the 23 nations (of the original 115) which scored 20 or higher on the Societal Complexity Index (these are all so-called developed nations). The remaining 92 nations ranged in scores on religious pluralism from one (low) to four (high).⁷

THE RESULTS

The first part of the theory stated that religious pluralism and societal complexity are inversely related, our reasoning being that, while religious pluralism is itself a kind of complexity, it has an inhibiting influence on those "secular" interactions necessary for the kind of development we have called societal complexity. Table 1 shows our findings on this first question.

A statistical fundamentalist would insist that no guaranteed negative relationship exists in Table 1 because the number of cases is small, and the differences are slight indeed. So be it. Our argument is only that, contrary to idle speculation perhaps,

TABLE 1
RELIGIOUS PLURALISM AND SOCIETAL COMPLEXITY

	Religious Pluralism			
	Low			High
	1	2	3	4
Average Societal Complexity Scores	10.8	10.0	9.8	8.9
N	(25)	(24)	(24)	(19)

7. Another obvious weakness characterizes the Religious Pluralism Index: it counts only orthodox, traditional, universally recognized religions, and these may—but probably don't—exhaust the variety of "meaning systems" in a society. Thus, to take an example, Belgium is nominally all Roman Catholic, and yet the Walloon-Flemish distinction is known to pervade all social behavior. India, to take a different kind of example, contains sizeable adherents of several "religions," but the adherents of any one religion are themselves divided by language, ethnic, and regional loyalties of great depth. Our index measures none of these religious-but-not-orthodox-religious differences, though it can be hoped that our errors are distributed randomly. To the extent they are, they mute the corelations which do show up.

religious pluralism is not just another aspect of social differentiation but is, if anything, inimical to societal complexity. The data seem to support this part of our theory.

The second part of our theory is a good deal more difficult to test. It is not enough to show that legal development facilitates societal complexity, though Table 2 shows that it does:

TABLE 2
LEGAL DEVELOPMENT AND SOCIETAL COMPLEXITY

	Legal Development						
	Low			High			
	1	2	3	4	5	6	7
Average Societal Complexity Scores	6.5	7.6	11.6	11.5	9.1	13.3	16.5
N	(11)	(17)	(19)	(17)	(21)	(3)	(4)

The less than perfect relationship merely reminds us that societal complexity is an enormously involved phenomenon and therefore subject to a multitude of forces in addition to legal development. Had the relationship in Table 2 been reversed, we would have need for some revision in our thinking, of course. But in a major way the finding of Table 2 is just what is expected: Nations with the least legal development are least complex; high legal development is associated with high complexity. Bear in mind, too, that putting back in the 23 nations already eliminated would, because they are both legally developed and societally complex, greatly sharpen the relationship in Table 2.

The evidence so far, then, supports the proposition that a universalistic legal system facilitates societal complexity. The theory states more than this, however. It states that a universalistic legal system will be *more* facilitating of societal complexity the *higher* the level of religious pluralism. Operationally, this amounts to the prediction that with each increase in religious pluralism, the association between societal complexity and legal development will also increase. Table 3 contains the evidence.

TABLE 3
RELIGIOUS PLURAL SM, LEGAL DEVELOPMENT AND SOCIETAL COMPLEXITY*

	Religious Pluralism			
	Low			High
	1	2	3	4
Degree of Association Between Legal Development and Societal Complexity (Gamma)	.16	.26	.53	.74
N	(25)	(24)	(24)	(19)

*The nations contained in this table are found in the Appendix.

It would appear that the theory finds considerable support (recognizing, of course, that mere association does not necessarily signify the causal path the theory claims). One possible criticism comes immediately to mind, however: Might the increasing association between legal development and societal complexity be artifactual? Might

earlier colonial regimes, for example, have left both the makings of an industrial (complex) society *and* a legal system somewhat more developed than what they found? Inspection of the Appendix would suggest not. The four societies which are at once most plural, most complex, and most developed legally (Bulgaria, Malaya, The Philippines, and Trinidad) are drawn from widely divergent areas of the world. They represent quite different ways to be religiously plural, but so also are their legal development scores arrived at in quite different ways. Common law traditions are found in the background of one or two, and modern-day colonialism existed in two or three, but neither attribute characterizes all four. In other words, these four nations are not closely aligned historically, geographically, politically, legally, or religiously. Similar statements can be said of the other 11 groups of societies listed in the Appendix. As with all research using static data, of course, such arguments do not "prove" the theory being advanced, but they do make it plausible. We reiterate, therefore: Legal development does appear to make more of a difference in the complexity of religiously plural societies.

IMPLICATIONS FOR CIVIL RELIGION

The question then arises as to what civil religious implications there may be in the role played by legal institutions in religiously plural society. It can be ventured that if people experience conflict, they attempt to resolve it. If the conflict itself includes a clash of "resolution systems" (meaning-systems or "sacred canopies")—if, in other words, A and B cannot agree because neither accepts the other's basis for agreement—then some other resolution will be sought. It is here that the law may be turned to, especially to the degree it is "universalistic," thus overriding whatever parochial conditions have stood in the way. Insofar as the law responds satisfactorily—its procedures respected, its orders obeyed, its sanctions upheld, etc.—a legal "order" can be said to exist. But if, in addition, the agencies of this legal order use the language and imagery of purpose and destiny, if they not only resolve differences but also *justify* their resolutions, it is easy to see how something identifiable as civil religion could emerge. There would exist already a cadre of "clergy," a set of "rituals," places for "worship," and a number of directives for behavior. Add to these a "theology"—an ideology of purpose and destiny, or theodicy—and a civil religion may be close behind.

It is not our mandate here to elaborate this part of the issue, but perhaps an illustration will demonstrate the sorts of linkage between legal development and civil religion which further research should reveal. (See Hammond, 1974, for expanded discussion of this illustration.)

Certainly central to the alleged American civil religion is the notion of "fair play." (See Bellah, 1967) Every society has a notion of fairness, of course, but the ideal in the American theology extends to everyone in all situations.⁸ The legal order has institutionalized this ideal as the doctrine of due process, and thus it is in the legal arena

8. Goodness knows that in practice Americans do not behave in accord with the ideal, but violations of the principle do not indicate the absence of the principle. Indeed, justification for inequality is always in terms that it is *earned*, that "everyone *does* have the same chance," for example. In other words, the doctrine of fair play is used even to explain "unfair" outcomes.

that fair play is most often celebrated. When Americans ponder, debate, observe, ritualize, or hear sermons on fairness, they are likely to be thinking, listening, and acting in a legal setting with legal terminology. And yet as McCloskey (1960: 133) points out, the doctrine of due process entered the Constitution rather modestly in Article IV as a doctrine of civility and procedure. Only later did it assume in the 14th Amendment the magisterial and majestic status of justice itself, doing so through:

... a process so subtle and complex that not even the craftsmen themselves would be fully aware of what was happening, and in the end both they and their observers could feel that the doctrine they applied was a familiar, indeed an immemorial, rule of law. Justice could be served, but the illusion of a changeless constitution need not be abandoned.

Such a process, we think, illustrates our contention that the legal order may take on erstwhile religious duties. More than this, insofar as the notion of due process is not an isolated cultural item but part of a coherent ideology with its accompanying institutional arrangements, we may speak of this "package" as a civil religion.

Whether Bulgaria, Malaya, The Philippines, and Trinidad are further along in the development of civil religions than other societies in Table 3 we do not know. But it seems reasonable to suggest, on the basis of the theory here, that whatever level of civil religion they may possess at this time will, more so in their cases, be reflected by their legal systems. At least, we submit, such a perspective directs us to further research into the issue of civil religion.

APPENDIX I

	Low Complexity: (scores of 1-7)		Medium Complexity: (scores of 8-12)		High Complexity: (scores of 13-19)	
Very High Pluralism:	Burma	4	Camaroun	2	Bulgaria	5
	Central African Republic	1	Ceylon	5	Malaya	5
	Chad	3	Ghana	3	Philippines	7
	Dahomey	1	Malagaysay	4	Trinidad	7
	Nigeria	2	North Korea	1		
	North Vietnam	1	South Korea	3		
	South Vietnam	1				
	Sudan	3				
	Uganda	5				
Medium High Pluralism:	Burundi	2	Albania	3	Hungary	3
	Congo (Brazza.)	2	China (P.R.)	4	Jamaica	6
	Ethiopia	5	Congo (Leopold.)	2	Japan	7
	Gabon	2	Guinea	1	Lebanon	3
	Laos	5	Haiti	4	South Africa	3
	Rwanda	2	India	5	Yugoslavia	4
	Togo	1	Ivory Coast	4		
	Upper Volta	1	Panama	5		
			Senegal	2		
			Tanzania	2		

APPENDIX I

	Low Complexity: (scores of 1-7)		Medium Complexity: (scores of 8-12)		High Complexity: (scores of 13-19)	
Medium Low Pluralism:	Cambodia	5	Indonesia	2	Brazil	4
	Guatemala	4	Libya	5	Chile	4
	Jordan	3	Morocco	5	Costa Rica	5
	Liberia	5	Nicaragua	4	Cuba	4
	Mali	2	Paraguay	4	Cyprus	7
	Nepal	1	Syria	2	Rumania	3
	Niger	1	U.A.R.	2	Uruguay	4
	Pakistan	3			Venezuela	3
	Sierra Leone	5				
Very Low Pluralism:	Afghanistan	5	Bolivia	3	Algeria	2
	Iran	4	Ecuador	5	Argentina	3
	Somalia	3	El Salvador	3	Colombia	4
	Thailand	2	Honduras	6	Dominican Repub.	5
	Yemen	2	Iraq	2	Greece	6
			Mauritania	3	Mexico	5
			Mongolia	1	Peru	4
			Saudi Arabia	5	Poland	3
			Tunisia	5	Portugal	5
					Spain	4
					Turkey	3

*Legal Development Score

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