

Reflections on the Right to Religious Freedom in Peru

*Carlos Valderrama Adriansén**

I. INTRODUCTION

I live in a place where stones still keep ancient ritual messages of gods that have ordered the land, of rivers with channels so deep that they inspire the idea of bleeding wounds over our nation, and of mountains with unreachable heights in whose perpetual snows senile gods decide the fate of our people. In Peru, geography had, and continues to have, a divine sense.¹ Into this divine geography, Hispanic voices rent the firmament, announcing their religious faith. For over five hundred years, the divine geography and the voice of Hispanic religious faith have developed particular forms of mystic cohabitation, from which recent ways of interacting with God have created a peculiar mosaic of beliefs and rituals.

Within this reality of religious expression in Peru, we must consider the most advantageous way in which law and religion interact. Peru, despite so many efforts and sacrifices, has not yet consolidated as a nation. This country, according to one of our most recognized historians, Jorge Basadre, “is a beautiful promise not yet fulfilled.”²

* Professor Valderrama is President of the Instituto de Derecho Eclesiástico (Institute of Ecclesiastic Law) in Lima, Peru, President of the Latin American Freedom of Religion Consortium, and Professor at Freedom of Religion Rights at the Catholic University of Peru.

1. A study of Peru’s unique geography is helpful in understanding the cultural and religious development of the country. See PETER FLINDELL KLARÉN, PERU: SOCIETY AND NATIONHOOD IN THE ANDES 1–4 (2000) (“To understand Peru’s history, one needs to begin with Peru’s environment and ecology.”); ROBERT N. SCHWARTZ, PERU: A COUNTRY IN SEARCH OF A NATION 1–2 (1970) (“What geography has done to Peruvians has been, not to defeat them, but to dictate the course of their historical evolution.”).

2. See 10 JORGE BASADRE, HISTORIA DE LA REPÚBLICA DEL PERÚ 4755 (1964). Basadre (1903–1980) occupies a prominent position in Peru’s academic history. See David Sobrevilla, *Jorge Basadre Grobmann*, Universidad Nacional Mayor de San Marcos, at <http://www.unmsm.edu.pe/Letras/Bibliotecologia/Jorge%20Basadre%20Grobmann.htm> (last visited Jan. 25, 2003). For other examples of Basadre’s extensive works on Peruvian history and culture, see JORGE BASADRE, LA VIDA Y LA HISTORIA (2d ed. 1981) and JORGE BASADRE, LA MULTITUD, LA CIUDAD Y EL CAMPO EN LA HISTORIA DEL PERÚ (3d ed. 1980).

In Peru, as in any other nation in transition, the government is generally weak³ and must therefore learn to coexist with social organizations that have their own influence, traditions, and mandatory norms. It is not easy for such a state to govern this multi-dimensional social reality; its laws generally have a limited effect. Its governments fluctuate between attempted democracies (that struggle but fail to consolidate a democracy) and military or pseudo-military dictatorships (that attempt to forcefully and rapidly build a nation by imposing their agenda at the expense of citizens' freedom). Before the eminent failure of their pretentious objectives, these dictatorships fade away, leaving the country's treasury empty.

Furthermore, if we consider that that only forty-five percent of Peru's population, which is approximately nineteen million people, attend or have attended school and have finished their regular cycle of elementary education,⁴ it is easy to deduce that more than half of the Peruvian population is ignorant of what law is. Additionally, the majority of the population would not comprehend the modern concept of a nation and probably does not know what a government is or how it functions.

Recognizing the practical difficulties involved, it is no easy task to state the guidelines on which the relationship between law and religion should be developed. Nevertheless, in a didactic effort, this exposition begins in Part II with a brief account of the historical relationship between law and religion in Peru. Part III then offers an analysis of existing legal structures that affect religious exercise in

3. For a general discussion on the political instability in Peru since World War II, see KLARÉN, *supra* note 1, at 289–424. Klarén records at least ten changes in power between 1945 and 1995, including four military coups. *See id.* at 429–30. In recent years, the political unrest has not subsided. In 2000, after ten years of what some would term “authoritarian rule,” Peruvian President Alberto Fujimori resigned amidst allegations of election corruption and scandal. *See Peru's President Confirms He Will Resign*, at <http://www.cnn.com/2000/WORLD/americas/11/19/fujimori.quit.02/> (Nov. 19, 2000); *see also* KLARÉN, *supra* note 1, at 423–24. Alejandro Toledo, who was born of peasants in southern Peru but eventually earned a Ph.D. at Stanford and worked for the United Nations, was elected president in 2001. *See Peru: The Government of Alejandro Toledo*, Cosmopolis, at http://www.cosmopolis.ch/english/cosmo17/toledo_Peru.htm (Jul. 17, 2001).

For a description of the Catholic religion's historical involvement in Peru's political unrest, see MILAGROS PEÑA, *THEOLOGIES AND LIBERATION IN PERU* 42–57 (1995). *See also* MICHAEL FLEET & BRIAN H. SMITH, *THE CATHOLIC CHURCH AND DEMOCRACY IN CHILE AND PERU* 217–68 (1997).

4. INSTITUTO NACIONAL DE ESTADÍSTICA E INFORMÁTICA DEL PERÚ, *IX CENSO DE POBLACIÓN Y VIVIENDA* (1993), *available at* <http://www.inei.gob.pe/sic/index.asp> (last visited Jan. 25, 2003).

Peru. Part III also contains a recommendation as to how Peru can best establish a healthy balance between law and religion. A brief conclusion follows in Part IV.

II. PRE-INCAN AND INCAN WORSHIP, THE SPANISH CONQUEST, AND THE INFLUENCE OF THE CATHOLIC CHURCH

In Peru, the community religion began with worship of the dead. A thousand years ago, the Peruvian man, who was concerned with the anguishing reality of life's transitory nature, began to sanctify eternity through preserving and worshipping the most important dead individuals.⁵ As time went by, these *muertos* (deceased leaders) acquired mythological characteristics and were even considered gods. According to the native people's beliefs, the abstract idea of God did not exist, nor was there a word that expressed it. This fact does not mean that there was not a multitude of gods and even a hierarchy among them. The gods were known by their own names, which manifested what they were. The sacred formed part of geography, and it was expressed by the *huaca* voice, which contained several meanings and could be represented in several ways, from a stone to a mountain or river.⁶ These gods were considered dual—of such a form that each one possessed its own double, one up and one down, one right and one left. Thanks to this dual sense of divinity, the hierarchic world of the Andean gods was repeated in earthly society so that for the Andean pre-Incan peoples, law and religion were two faces of the same coin.

The Incan Empire, despite the magnificence of its remains, lasted less than a hundred years and had little impact in the religious arena.⁷ The empire's grandeur was expressly due to the excessive and privileged worship of the dead, which the culture professed, especially to their Inca, who was not considered dead after his

5. See GEOFFREY W. CONRAD & ARTHUR A. DEMAREST, *RELIGION AND EMPIRE* 89–90, 101 (1984).

6. MARÍA ROSTWOROWSKI DE DIEZ CANSECO, *ESTRUCTURAS ANDINAS DEL PODER* 9 (Instituto de Estudios Peruanos ed., 1983); see also CONRAD & DEMAREST, *supra* note 5, at 102 (“The word [*huaca*] is a generic term for any person, place, or thing with sacred or supernatural associations; it conveys a sense of embodied holiness.”).

7. See KLARÉN, *supra* note 1, at xi. While Incan prosperity was short-lived, it was not insignificant. In that roughly one-hundred-year period of growth, the Incas built “an empire that spanned a third of the South American continent and achieved a level of general material well-being and cultural sophistication that rivaled and, indeed, surpassed many of the great empires in world history.” *Id.*

passing.⁸ The deceased Inca's uninterrupted life had enormous importance. The deceased's family, which constituted the *panaca*,⁹ was in charge of keeping his rank and royal power; they would constantly offer sacrifices to him, carry his mummified body to the state's most important ceremonies, talk to him, and ask him for help in difficult moments.¹⁰ Indeed, the people converted his mortal remains into one of the holiest objects of the kingdom.¹¹ Since the Inca was never considered deceased, his goods, real property, and mummified body were preserved and guarded by his *panaca*, the Inca's family and servants. The Incan land parcels that were located closer to Cuzco remained the eternal property of the oldest Incan *panacas*, and consequently, new Incas had to find property further away.¹² For this reason, the Incan empire extended widely—the real

8. See CONRAD & DEMAREST, *supra* note 5, at 114.

9. An Inca's *panaca* was comprised of all "his descendents in the male line except his successor." *Id.* at 113. The Inca's material possessions, including real property, fell under the charge of his *panaca*. See *id.*

10. See *id.* Occasionally, the *panaca* would even take the dead Inca to visit his friends. See *id.* at 114. Quoting those who had chronicled Incan activity, Conrad and Demarest record:

[The Inca] had the law and custom that when one of their rulers died, they embalmed him and wrapped him in many fine garments. They allotted these lords all the service that they had had in life, so that their mummy-bundles might be served in death as if they were still alive.

Id. (quoting Pedro Pizarro, *Relación del Descubrimiento y Conquista de los Reinos del Perú, y del Gobierno y Orden que los Naturales Tenían* (1571), in 5 COLECCIÓN DE DOCUMENTOS INÉDITOS PARA LA HISTORIA DE ESPAÑA 201–388 (Martín Fernández Navarrete et al. eds., 1844)). "When there was need for water for the cultivated fields, they usually brought out [Inca Roca's] body, richly dressed, with his face covered, carrying it in a procession through the fields and punas, and they were convinced that this was largely responsible for bringing rain." *Id.* at 114 (quoting 3 BERNABÉ COBO, *HISTORIA DEL NUEVO MUNDO* 147 (1653) (Marcos Jiménez de la Espalda ed., 1890–1895)). Another writer reports:

They brought [the royal mummies], lavishly escorted, to all their most important ceremonies. They sat them all down in the plaza in a row, in order of seniority, and the servants who looked after them ate and drank there. In front of the mummies they lit a fire . . . [and in] the fire they burned the food they had set before the mummies for them to eat; it was the same meal that [the *panaca* members] themselves ate. In front of the mummies they also placed large vessels like pitchers, called *vilques*, made of gold and silver. They filled these vessels with maize beer and toasted the dead with it, after first showing it to them. . . . When the *vilques* were full, they poured them over a circular stone set up as an idol in the middle of the plaza. There was a small channel around the stone, and the beer ran off through drains and hidden pipes.

Id. (citing 3 BERNABÉ COBO, *HISTORIA DEL NUEVO MUNDO* (1653), at 339–41 (Marcos Jiménez de la Espalda ed., 1890–1895)); see also Pizarro, *supra*, at 264 (original account).

11. See CONRAD & DEMAREST, *supra* note 5, at 113–14.

12. See generally *id.* at 113, 129.

property of the last Incas lay hundreds of kilometers away from the imperial city.¹³

The empire's excessive territorial growth, apart from rivalry among all the reigning deceased Incas, contributed to its demise. Huayna Capac, in order to rule such a large extension, had to divide the empire in two, which ultimately caused a civil war between his sons, Huascar and Atahualpa.¹⁴ Importantly, the Incan Empire kept the religious structure of the ancient Andean world intact; the sacred *huaca* and the divine duality of heaven and earth were not affected.¹⁵ This structural continuity was remarkable and continued to be so, even during the above-mentioned Incan civil war when Francisco Pizarro arrived on Peruvian grounds, carrying with him the Christian faith and Spanish state.¹⁶

In those days, while Spain consolidated its empire and strengthened its economy in Europe, it had two problems in America. Certainly, as a Catholic monarchy, Spain's first problem was that it needed to obtain the Catholic Church's approval to take possession of America. Assuming it could obtain such approval, Spain's second problem was that it lacked a legal structure that was strong enough to govern such a large land possession across the Pacific Ocean.

The first problem was solved when Spanish authorities obtained a group of papal grants, which are historically well known as Alexandrine's Bulls. By means of the *Bull Inter Caetera*, the Pope (1) committed the spiritual care of the new world's inhabitants to the king and queen of Spain, (2) conceded temporal and spiritual jurisdiction over the inhabitants, and (3) authorized Spain to send missionaries.¹⁷ Later, by means of the *Bull Universalis Ecclesica*, the

13. *See id.* at 84, 128 (The Incan empire measured "over 4,300 kilometers from end to end" at its height.).

14. *See id.* at 134. Civil war and feuding Incas may not have been the only causes of the empire's collapse. Conrad and Demarest reason, "[T]he property rights of the dead [took] land, plus the labor needed to work it, away from the living. The eventual results were localized imbalances between population and resources." *Id.* at 129. Furthermore, the rapid growth (1) led the people into battles that they were unprepared to fight, (2) presented certain administrative difficulties, such as communication between subdivisions, and (3) fostered revolutions from numerous ethnic subgroups subsumed within the empire. *See id.* at 128-29.

15. *See generally id.* at 101-15.

16. *See* THOMAS C. PATTERSON, *THE INCA EMPIRE: THE FORMATION AND DISINTEGRATION OF A PRE-CAPITALIST STATE* 122-23, 132-35 (1991).

17. *See* KLARÉN, *supra* note 1, at 54; PEÑA, *supra* note 3, at 39. Professor Peña notes that when the papacy granted the Spanish monarchs authority to evangelize Native Americans,

Spanish monarchs were granted the *Patronato Indiano*, or Indian Foundation, by virtue of which the Spanish monarchs intervened in naming Catholic Church authorities in America.¹⁸ The *Bull Eximiae Devotionis Affectus* gave the Spanish monarchs the tithe, which was the mandatory fee that faithful parishioners contributed for maintenance of the church and worship services.¹⁹ Based on having all these privileges, Spanish jurists interpreted that what the Spanish monarchs really possessed was the *Vicariato Regio*, that is to say, authority over the Catholic Church in America to dictate that in which the dogma would not intervene. Hence, the civil and ecclesiastic power was consolidated within the Spanish crown, and as a result, the Spanish king and his representative, the viceroy—which was a species of Inca with no divine nature and with no power to intervene in religious truths—had substantial political and social authority. Consequently, it was not difficult for the Native Americans to substitute the king for the Inca.

This substitution also operated regarding religious practice. Since Andean religion was polytheistic,²⁰ the Native Americans did not find it difficult to accept the conqueror's religion and assume it as their own.²¹ According to Rubén Ugarte, Native Americans did not formally object to the new religious influence and, in fact, appear to have peacefully accepted the faith that was preached to them.²² The Andean gods, little by little, started to take the shape of the diverse Catholic devotions.²³ In the end, during the viceroyship, Spain's

“[i]t was the first time in history that the papacy had granted a state the twofold authority to colonize and to evangelize.” *Id.*

18. For a discussion of the Patronato Indiano (in Spanish), see 1 RUBÉN VARGAS UGARTE, *HISTORIA DE LA IGLESIA EN EL PERÚ* 346–71 (1953). See also KLARÉN, *supra* note 1, at 54.

19. See KLARÉN, *supra* note 1, at 54.

20. See HENRY F. DOBYNS & PAUL L. DOUGHTY, *PERU: A CULTURAL HISTORY* 52 (1976) (listing Incan “sky gods”).

21. See VERÓNICA SALLES-REESE, *FROM VIRACOCCHA TO THE VIRGIN OF COPACABANA* 34 (1997) (“In the Andean religious universe, with its natural tendency to adopt new deities, substitution or syncretism would be unnecessary; the adoption of Christian deities on the part of the Indians would have been an unimpeded, culturally innate impulse.”).

22. UGARTE, *supra* note 18, at 28 (“[L]os Incas recibieron la influencia [religiosa] de los pueblos conquistados y se asimilaron buena parte de su acervo cultural.” [“The Incas accepted the religious influence of the conquistadors and, for the most part, assimilated their cultural estate.”]); see also PEÑA, *supra* note 3, at 40; cf. SALLES-REESE, *supra* note 21, at 34–35 (advancing a theory of *mestizaje*, or hybridization, of Andean religious beliefs with the Catholic faith).

23. See SALLES-REESE, *supra* note 21, at 30–31.

second problem was solved by the Spanish state organizing its political and legal administration over the structure of the Catholic Church, and thus the Christian religion was incorporated into the mythical Andean world, generating a special religious syncretism.²⁴ During these almost five hundred years, religion and law have continued to be, as in the Andean cultures, two faces of the same coin.

Eventually, liberal associations declared the independence of Peru from Spanish domination.²⁵ The new autonomous governments, which were prepared for glorious conflicts on the battlefield, lacked suitable sophistication to rule the newborn republics. In order to have real existence, first the viceroyship and then the republic—in a very difficult territory and with a population as heterogeneous as Peru’s—were forced to support their government structures over the legal base on which the Catholic Church was organized in America. All the governments continued to consider the Catholic religion both as a cohesive and homogenizing element in Peruvian society and as a support to the social order.²⁶ In this way, the governments sought to confirm the church as a working part of the state and the clergy as public officials at their service.²⁷

24. See generally *id.* at 30–41. While raising doubts about the actual existence of religious syncretism within Andean cultures, Salles-Reese presents the context in which such syncretism could have arisen:

The missionaries’ objective was . . . to impose upon the [natives] a Christian God and a complete celestial hierarchy in which the figure of the Virgin played a prominent role. It was the missionaries’ belief that a ‘physical’ change, embodied by the placement of their Christian deities at sites formerly occupied by Indian deities, would help realize a ‘spiritual’ conversion . . . [S]ince the Virgin replaced the protective gods embodied in the mountains and because these were made of soil, it was logical to identify the Virgin with *tierra* (earth, soil).

Id. at 30–31. Some scholars are doubtful that this syncretism occurred among the natives. See PEÑA, *supra* note 3, at 40 (The Catholic Church’s proliferation lead to “the virtual extinction of the religions of the indigenous peoples.”).

25. See generally CHARLES F. WALKER, *SMOLDERING ASHES: CUZCO AND THE CREATION OF REPUBLICAN PERU 1780–1840* (1999).

26. See PEÑA, *supra* note 3, at 37 (“One thing is clear: the Catholic Church’s hold on the educational and cultural institutions of Latin America during and after the colonization period has thus far produced five centuries of a predominantly Catholic mind-set that has influenced every aspect of Latin American society.”).

27. PILAR GARCÍA JORDÁN, *IGLESIA Y PODER EN EL PERÚ CONTEMPORÁNEO 1821–1919*, at 15 (n.d.).

The fact is that the above-mentioned coin, with its religious and state faces, remained in force even during republican times, at least formally, until 1980 when a new history began to be written. On July 16, 1980, by Decree Law N° 23147, Peru formally renounced the exercise of the *Derecho de Patronato* (Foundation's Right). This decree brought to an end the historical era known as the Spanish *Vicariato Regio*, which the Republic of Peru did not hesitate to use for over one hundred and fifty years. Additionally, on July 19 of the same year, the Holy See and the Peruvian state formed an international agreement establishing a separation between church and state, each respecting the other under a regime of independence and autonomy. Finally, that same year, the 1979 Constitution came into effect, which, for the first time, legally formalized religious liberty and freedom of conscience.²⁸ This constitutional law recognized the historical, cultural, and moral role of the Catholic Church in Peru and stated the Peruvian state's interest in establishing relations with religious faiths other than the Catholic Church.²⁹ From that historic point forward, a new Peruvian history began to be written, and the double-faced coin stopped circulating, at least in theory.

III. OBSERVATIONS ON EXISTING LEGAL STRUCTURES

A. Defining the Relation Between Law and Religion

Having formulated the historical account, and as a consequence of the same, an analysis of the existing relation between law and religion in Peru can be undertaken.

1. A relation of mutual support

In such a difficult situation as encountered in Peru, the state and the religious society are prone to support each other as "two faces on the same coin" in order to seek their own development. Therefore, more freedom is generated between the state and religious society by lowering the degree of difficulty.

28. CONSTITUCIÓN POLÍTICA DEL PERÚ art. 2 (1979).

29. *Id.*

2. Religion as a means of cultural expression

The peculiar difficulties provoked in South America have established over centuries strong links between law and religion to the extent that religion has constituted the principal vehicle for elaboration of the tradition, culture, morality, and social-legal structure of the people. Today, the religious theme embraces all elements of the Latin-American world, and therefore, the relationship between law and religion cannot be observed separately. Before it is a legal issue, the matter of religious freedom is a cultural and fundamental issue since it has a determinant historical load, forged through millenary mythical conceptions.

3. Three dimensions to the relation between law and religion

As previously noted, the Peruvian state, as a source of rights, has a limited influence within the population and tends to be weak and volatile,³⁰ which has allowed some cultural groups to remain intact from ancient times with their own social structures embedded into the Christian-Andean religious syncretism. In order to better grasp a suitable vision of the relation between law and religion in our country, we should establish three dimensions of relation: (1) the relation, which we could call “official,” between the religious confessions and the Peruvian state; (2) the relation, which we could call “popular,” between the religious confessions and the human groups that still keep their own legal structures; and (3) the relation, which we could call “institutional,” between the Peruvian state and the cultural groups that have their own religious laws in effect. Each of these dimensions has a peculiar treatment.

4. Personal faith and legal faith

As stated above, the year 1980 marked a major historical turning point for law and religion in Peru, not only because the Peruvian state and the Catholic Church reached an agreement on the autonomy and independence of each with respect to the other, but also because the Peruvian state, through its constitution, formally proclaimed religious freedom and new formal relations with non-Catholic religious faiths. In the middle of the nineteenth century,

30. See *supra* note 3 and accompanying text.

several non-Catholic religious faiths were established within the Republic of Peru's territory, many of which remain today.

Regarding these faiths, there are three general classes. First, there are religious faiths that are the oldest and that are meant to serve specific and concrete human groups, such as the Anglican Church, which serves the English citizens in Peru; the Lutheran Church, which serves the German citizens; and the Jewish faith, which serves the Jewish citizens. Second, there are other religious faiths established in our territory whose aim is to proclaim their religious faith in order to increase the number of parishioners. Finally, there is the presence of pseudo-religious sects. Regarding all of these, especially those that proclaim their faith with a view to increase their membership, including the Catholic Church, it is necessary, given the peculiarities of our people, to distinguish what is the substantive membership from the legal or formal membership. In fact, it is common that groups of our population maintain their ancestral faith intact and, without feeling that they are unfaithful to their original beliefs, integrate formally or legally into a separate religious faith. Indeed, it is common among us—due to the peculiar way of life generated by the Andean-Spanish inter-racial mixing—to preserve the popular faith, which is the product of the Andean-Christian syncretism, and to be part of a church different from that syncretism without feeling unfaithful to the conscience. That double-faced coin, which has formed and still forms the relationship between law and religion in Peru, demonstrates well this reality: our ancestral or personal faith is one thing, and our legal religious organization is another. We belong due to a social need more than a conviction.

B. Establishing a Balance Between Law and Religion

Since the important events of 1980, the question still remains of how to establish greater religious freedom in Peru. The following subsections outline two very recognized ways that allow for this objective to be accomplished.

1. The promulgation of an organic law on religious freedom

The option of promulgating an organic law on religious freedom is generally favored by religious faiths with a relatively new presence. These faiths often urge the state to promulgate a new law that grants them status similar to the Catholic Church's status without taking

notice that the Catholic Church's status is not the result of the creation or application of a law but is the result of the joint elaboration of an entire culture, the product of an interaction of common interests between the civil and the ecclesiastical societies. In Peru, some feel that the government can modify the religious feeling of a people with millennium-old customs and beliefs simply by enacting a law. However, it is necessary to take into account, as we mentioned before, that the religious syncretism formed by the Catholic faith and by the Andean mysticism is the cohesive element of Peru as a nation and over which lies its law. This element cannot be modified or substituted by a state decree. In fact, some claim that promulgation of an organic law on religious freedom, with a text copied from another country, changes Peruvian past and future. On the other hand, the various proposed organic laws on religious freedom all repeat the general principles on religious freedom and conscience that are declared in the state constitution, as well as in the International Pacts on Human Rights in which Peru takes part,³¹ which in our environment is a dangerous extreme. Such repetition places the principles of religious freedom into a law of the state and therefore permits them to be manipulated by the ruling government. Due to the weakness of the Peruvian state, the government tends to use the law as a tool of power more than to order and regulate social life. It offers to a government that rules a weak state a tool to control a very intimate aspect of a person: his or her religious creed and conscience. Hence, the promulgation of an organic law on religious freedom would be extremely dangerous.

2. Organic Law in a Frame of Cooperation with Religious Faiths

Since Peru needs to enter the modern world, it requires clear rules so that each person, freely and in accordance with the dictates of his or her own conscience, chooses the belief that he or she considers appropriate. The Peruvian state, trying to avoid the above-

31. Peru is a signatory to the following human rights agreements, among others: *Universal Declaration of Human Rights*, G.A. Res. 217A (III), U.N. GAOR 3d Sess., U.N. Doc. A/810 (1948) (approved by Peru in Resolución Legislativa N° 13283 (Dec. 15, 1959)); *International Covenant on Civil and Political Rights*, *opened for signature* Dec. 19, 1966, art. 18, 999 U.N.T.S. 171 (approved by Peru in Decreto Ley N° 22128 (April 28, 1978)); *American Convention on Human Rights [Pacto de San José de Costa Rica]*, *opened for signature* Nov. 22, 1969, 1144 U.N.T.S. 123 (approved by Peru in Decreto Ley N° 22231 (July 11, 1978)).

mentioned risks, can put into place the needed mechanisms so that little by little, Peruvians can legitimately exercise freedom of religion, adopting religious beliefs according to their own convictions. To this end, Peru should let religious faiths develop within the complex Peruvian spiritual world, generating their own space and their own ways of relating with their parishioners and with civil society in all its forms. This result is possible through the promulgation of a norm that I denominate as “Organic Law Framed by a Cooperation with Religious Faiths,” which could include three elements.

First, determine the mechanisms that are necessary to define what a religious faith really encompasses in Peru.

Second, establish the normative elements upon which a particular religious faith and the state can agree that can then serve as the instruments that such faith would need in order to attend to the spiritual needs of its members. These elements would also establish the methods a particular faith could follow in utilizing contributions for the substantive benefit and development of Peru as a nation.

Third, establish the necessary procedures for the celebration of a standard agreement between a religious faith and the state, containing what was previously stated, as well as terms to govern its modification, rescission, or culmination.

IV. CONCLUSION

The relationship between law and religion must be appreciated with regard to the peculiar characteristics that typify the society within which both realities interrelate. Religious freedom is a natural and inalienable right granted to every human being as a person, while law and religion are social categories that should respond to the communal space where they develop and interact. In Peru, one needs to appreciate the special religious syncretism that has developed over its history to understand the state of religious freedom. The optimal solution for Peru in establishing greater religious freedom would be to promulgate a norm that would allow religious faiths to gradually develop within the complex spiritual world of Peru.