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Interfaith Dialogue in Spain—Religious Mediation: A Brief Analysis of Spain's Religious Liberty Law

José Ferrer Sánchez

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Interfaith Dialogue in Spain—Religious Mediation: A Brief Analysis of Spain’s Religious Liberty Law*

*José Ferrer Sánchez***

I. PROLOGUE	730
II. INTRODUCTION	733
III. SPAIN’S RELIGIOUS LIBERTY LAW: A BRIEF ANALYSIS.....	734
A. Historical and Legal Background	736
B. Main Features of the LOLR.....	740
1. It affects all religious denominations, including the Catholic Church.....	740
2. It is a law with little content and whose principles are tightly secured.....	741
C. Why Do We Need to Reform the LOLR?.....	742
D. Materials to Be Amended in the LOLR.....	746
1. Manifestations of the right to religious freedom.....	746
2. Legal status of religious denominations	748
3. Cooperation between government and religious groups: Agreements.....	749
4. Assets and economic systems of religious denominations	752

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** Professor, Collaborating Peace and Conflicts Institute, Granada University. As a specialist in Interfaith Dialogue and Mediation, Mr. Ferrer Sánchez presents seminars at universities and negotiates between management and employees. Mr. Ferrer Sánchez, Master in Culture of Peace, has four degrees in social work, peace and conflict studies, and law, as well as several certificates in management topics. In addition to working as a human-resources manager, he is the Head of the Cabinet of Development and Social Action of the Municipal Patronage of Sports of the City Council of Granada. At present, Mr. Ferrer Sánchez also teaches U.S. students visiting Granada a course entitled, “Culture of Peace: Spain and the European Union and Political-Social Vision.” As executive member of a UNESCO program in Andalucía (Dialogue Interfaith Department), he gave presentations on ecology, religion, and interfaith dialogue. Mr. Ferrer Sánchez also collaborates with nongovernmental organizations to carry out humanitarian projects among Sahrawi refugees who have fled Western Sahara.

5. Nondenominational or secular state	753
6. Draft religious-liberty law	754
III. INTERFAITH DIALOGUE—RELIGIOUS MEDIATION	756
A. What Do Religious Entities Demand?	759
B. Mediation and Conciliation in the Religious Sphere	762
1. Settlement	763
2. Mediation and culture of peace	764
3. Religious mediation.....	766
IV. CONCLUSIONS.....	770

I. PROLOGUE

Interfaith dialogue is absolutely necessary for the resolution of conflicts that arise in the fundamental area of religious freedom in contemporary societies. Clearly, great religious diversity exists today, which is evidenced by traditional religions as well as other emerging European religions—and particularly in Spain. This phenomenon gives rise to several fundamental questions. Does the regulation of Spain’s Religious Liberty Law (“LOLR,” for *Ley Orgánica de Libertad Religiosa*)¹ adjust to the needs that religious diversity poses? Do state and other local and autonomous entities guarantee religious freedom in a full and effective manner? Is the Spanish Constitution’s mandate in article 16, section 3, which states that “[p]ublic authorities shall take into consideration the religious beliefs of the Spanish public and shall maintain relations of cooperation with the Catholic Church and the other religions,”² fulfilled in an effective and practical manner?

Modern Spain, for various reasons, such as migration, development, and the enjoyment of freedoms in matters of religious diversity, is nothing like the Spain of 1978, when the Spanish Constitution was adopted and religious freedom was made positive law. Nor is it like the Spain of 1980, when the LOLR was adopted. This law, though still in force, has been challenged as obsolete, underscoring that it does not meet the needs of a pluralistic society in religious matters, nor does it even meet the needs of those who,

1. Ley Orgánica de Libertad Religiosa [L.O.L.R.] [Religious Liberty Law] (BOLETÍN OFICIAL DEL ESTADO [B.O.E.] 1980, 15955) (Spain), available at <http://bit.ly/QpA4Ld>.

2. CONSTITUCIÓN ESPAÑOLA [C.E.] art. 16.3, B.O.E. n. 311, Dec. 29, 1978 (Spain) (emphasis added), available at <http://bit.ly/QpzSM1>.

exercising their freedom, do not profess any religion. It is, therefore, important to ask whether the Spanish government has effectively guaranteed the fundamental right to religious freedom, especially for religious minorities, specifically in terms of equality of members of various religious minorities in the eyes of different administrations. There are no longer only three “traditional” religions (Jews, Christians, and Muslims). Rather, there are different traditions and religious movements that have a significant presence in Spain and have been given the legal status of *notorio arraigo*³ (Buddhists, Mormons, Jehovah’s Witnesses, and the Orthodox Church); there are also spiritual movements that do not have this social and administrative recognition available in the legal system (e.g., Hare Krishna and Brahma Kumaris). Therefore, these imbalances that affect fundamental rights and freedoms should be analyzed and properly corrected.

We will view this issue from three perspectives:

- (1) Real. It is necessary to consider the reality of interfaith dialogue, especially institutional, under the just-cited provisions in article 16, section 3 of the Spanish Constitution—and not only among the historical or, to put it graphically, “traditional” religions. It is necessary to discuss whether there is a sufficient degree of interreligious dialogue at the institutional level and in the state, regional, and local arenas.
- (2) Legal. The state and the autonomous communities of the state, together with local authorities, must guarantee the exercise of fundamental rights, such as religious freedom, according to the provisions of the LOLR.⁴ It is not the mission of the government, of course, to promote religious acts or religious diversity. However, inasmuch as these are imbedded in our society, it is the mission of the government

to ensure the effective exercise of religious freedom on equal terms.

3. L.O.L.R. art. 7.1. The terms “notorious influence” and “deeply rooted” are oft-used English translations of *notorio arraigo*. See José María Contreras Mazarío, *The “Direct” Financing of Religious Minorities in Spain*, 2007 BYU L. REV. 575, 588 n.55 (2007) (“The phrase *notorio arraigo* means ‘conspicuous and well-established presence,’ but it is often translated as ‘well-known, deeply-rooted beliefs.’”). *Notorio arraigo* is addressed in greater depth in Part III.C.

4. See L.O.L.R. art. 2.3.

- (3) Social. It is also necessary to take into consideration the degree to which society has internalized the existence of the religious-diversity phenomenon, considering its impact on society and society's attitude towards this phenomenon. According to a recent study, more than ninety percent of Spanish high school students do not support groups that promote xenophobia or violence against Moroccans, Gypsies, and Jews; more than half of Spanish adolescents, however, *would reject a Jewish classmate*.⁵

Can we be inactive concerning religious freedom and interfaith dialogue, especially considering that religious minorities, despite obtaining the legal *status* of notorious influence, are not equal in the eyes of the government and other faiths? Are there believers that, in the eyes of the government, could be classified as first-, second-, or third-class members of religions? What about those who are nonbelievers? What can the government do to ensure equality? These questions will act as underlying *items* in this speech that we will try to answer.

A preliminary review of the literature reveals that the government's performance—at central, regional, and local levels—is deficient in regard to relations with religious minorities and their members. Equality, by constitutional imperative, should prevail in such relationships. Ascertaining this condition requires analyzing legal regulations as a condition of performance of the authorities and the relative positions in which lie the different faiths.

The ignorance and lack of interfaith dialogue increases human, social, and cultural bias in the plural and diverse society of today. Consequently, it is necessary to create mechanisms in different institutional levels to correct this tendency and prevent and combat this cultural violence. The cultural base of this social violence is clearly visible and due to, among other factors, not understanding differences. It is, therefore, necessary to advance in interreligious dialogue as a fundamental part in the dialogue and alliance of civilizations.

5. *Racismo e Intolerancia en las Aulas Escolares* [*Racism and Intolerance in the Classroom*], MOVIMIENTO CONTRA LA INTOLERANCIA (Aug. 22, 2007), <http://www.movimientocontralaintolerancia.com/html/Admin/verNoticia.asp?cod=1369&esBusq=True> (discussing a study by the School Coexistence State Observatory, an agency of Spain's Ministry of Education).

For example, the creation of a bureau, center, or similar mechanism through a government department on interreligious dialogue might decisively help to promote this dialogue. It would be a framework for generating unification, social, and integration policies for members of different faiths. Religious mediation would take on a fundamental role in trying to correct any imbalance in the conditions of the exercise of religious freedom as a fundamental right, guaranteed and particularly protected.

II. INTRODUCTION

The new multicultural reality has caught us ill prepared; we still carry a Catholic denominational heritage in Spain, which is difficult to change in only a few decades. It is especially difficult to erase deeply rooted modes of behavior and thought. For example, numerous religious denominations—like Islam—have houses of worship in unfit places, like the outskirts of cities or industrial zones, which public authorities tolerate. However, human dignity is a constitutional value, the foundation of political order and social peace established by article 10 of the Spanish Constitution, from which very different values, principles, and fundamental rights are born.⁶ Because of Spain's apparent failure with regard to this established value, we in Spain have already been the subject of international criticism in news articles. Articles in *The Financial Times* and *Economist* made particular and notable references to the condition of Spanish mosques, describing opposition inspired by extremist right-wing groups in 2007 to a land transfer to build a mosque in a Barcelona neighborhood.⁷ Such opposition affects not only the conditions of places of Muslim worship but also those of other minority religions.

In this speech, I will analyze certain aspects of the current Religious Liberty Law (known as the LOLR), showing that it does not meet the needs and realities of Spanish society concerning religious matters. Similarly, I will show the government's performance deficits in this area, based on the duties the legal system places upon them.

6. See C.E. art. 10.

7. See Victoria Burnett, *Spain's Resurgent Muslims Clamour for Places to Pray*, FIN. TIMES, Feb. 9, 2007, at 9 (referring generally to Catalonia and particularly to Badalona); *Constructing Conflict; the Politics of Mosque-Building*, ECONOMIST, Sept. 1, 2007, at 51.

These duties are limited and do not meet the current structural and developmental needs of an autonomous Spain. Therefore, LOLR reform is necessary, and this need has been recognized in the political sphere, as new legislation was introduced during the beginning of the current legislative session to amend the LOLR. Nonetheless, this legislation has recently been postponed for politically opportunistic reasons.

It has been sufficiently demonstrated that interfaith dialogue is central to the culture of peace, but such “culture” is still not rooted in our society; there is a clear concern for the promotion and development of a culture of peace by the current government. Religious freedom and the issue of interfaith dialogue are addressed in this speech from a viewpoint of building peace and peacefully managing conflict in an effort to promote “*convivencia*,” or a society where groups peacefully live together rather than merely coexisting. Finally, I will speak about religious mediation, which is fundamental to effective interfaith dialogue.

III. SPAIN’S RELIGIOUS LIBERTY LAW: A BRIEF ANALYSIS

The LOLR established an unprecedented framework of religious freedom for Spain and its legal system. This has enabled religious groups of all types to establish themselves and develop while preventing the implementation of intolerant policies and attitudes, but not with the rigor that is required in a legal and democratic social state. There are numerous legislative reforms that have undoubtedly affected religious freedom either directly or indirectly. For example, the new design of the educational system under the Law on Education (*Ley Orgánica de Educación*) affects religion because it introduces into the education curriculum the subject of Citizen Education, changes the status of religion professors, makes tax allowances for the Catholic Church, addresses funding of religious minorities, modifies the civil code concerning marriage, addresses social protections of religious ministers, and addresses religious services in prisons. These are some of the issues, among others, which undoubtedly affect the LOLR.

The LOLR has been in existence for thirty years. It was passed in a social context very different from today. The potential future reform should be adapted to the characteristics of religious life that exist today in Spanish society. Due to the time period in which it was developed, the LOLR silences the right to freedom of conscience and

its exercise in a secular state. It was also inconceivable in 1980 that in Spain there would be two million Muslims, or more than 1.2 million evangelical Protestants,⁸ or leadership—for the purposes of acceptance in society—of different groups such as Mormons, Buddhists, Jehovah's Witnesses, or other religious spiritual minorities. Another reason for the LOLR's eventual reform is its articulation; it is a very short law with only eight articles, which substantially regulate the right to religious freedom (for both individuals and communities, which sometimes carry the name of "denominations") and, in turn, the privileges inherent in this right, distinguishing between the rights of persons and those of communities (churches, denominations, and religious groups).⁹ Similarly, for effective implementation, the LOLR identifies various forms of religious observance: religious services in public, in the military, in hospitals, in the community, in penitentiary establishments and any other establishments under government control, as well as religious training in public schools. Moreover, the LOLR introduces the necessary guarantees that follow from the constitutional recognition of this freedom, noting also its limits and establishing a regime by which churches, faiths, and religious communities will enjoy legal status once they are registered in the public register created by the LOLR. These are the main areas that the LOLR regulates. The legislature sought consensus—a commendable desire—that was brief and ambiguous enough to be accepted by all political parties, but it did not respond to all the needs of the different religious faiths.

Before proceeding, we need to better understand the context. Religious freedom in Spain is regulated by article 16 of our "Law of Laws," which is framed in a special place in the constitution: title I, chapter II, section 1, titled "Fundamental Rights and Freedoms."¹⁰ That section sets up a series of recognized provisions of fundamental rights and freedoms, specially protected with strengthened safeguards, by which is found the need for development by legislation.¹¹ These require a special-majority approval, consisting of

8. Federación de Entidades Religiosas Evangélicas de España [hereinafter FEREDE], *Datos Estadísticos*, RED EVANGELICA, <http://www.actualidadevangelica.es/red/informacion-general/datos-estadisticos> (last visited Aug. 27, 2012).

9. L.O.L.R. art. 2.

10. C.E. art. 16.

11. See C.E. arts. 53.1, 81.1.

an absolute majority in a final vote on the bill in the Spanish Congress.¹² The legislation that develops this constitutionally guaranteed and recognized right is the LOLR.¹³

A. Historical and Legal Background

I should indicate that I am going to reference only the legal history of religious matters from the nineteenth century. Before that century, religious freedom had not been positivized—or formally recognized by law. Nonetheless, before that time, I would say that religions certainly lived together in “*convivencia*,” such as Jews, Muslims, and Christians in previous centuries. The term *convivencia*, however, connotes living, accepting, understanding, and seeing things from another person’s perspective; and this ability to understand an alternate viewpoint—when considering the historical *convivencia* between religions—has not existed in Spain in the broadest and fullest sense of that word. What has existed, in my opinion, is a relatively peaceful coexistence and a certain tolerance, usually practiced by the dominant religion, but not without bloody and painful episodes.

The United States President, Barack Obama, in his historic Cairo conference,¹⁴ spoke of these three religions in the historic region of Al-Andalus (modern Spain), where these religions supposedly experienced their moment of glory in a unity and harmony that is assumed to have been complete. I do not intend to express something completely contrary, but it is correct to clarify that the wonders that we speak of today did not occur in that region. Toledo was perhaps the part of Al-Andalus where Jews suffered the least persecution—at least before the fourteenth century. In fact, Jews suffered so little persecution that this region was known as the “Jerusalem of Sefarat” (the ancient Jewish name of Spain). There was a certain flourishing of the Jewish community in that city, but I prefer to call it “coexistence” that was sometimes “peaceful”¹⁵ among the three cultures, rather than “*convivencia*” (or peacefully living

12. C.E. art. 81.2.

13. L.O.L.R. (B.O.E. 1980, 15955).

14. President Barack Obama, Address at Cairo University: Remarks by the President on a New Beginning (June 4, 2009), <http://www.whitehouse.gov/the-press-office/remarks-president-cairo-university-6-04-09>.

15. Juan Carlos Ocaña, *La “Coexistencia Pacífica,”* <http://www.historiasiglo20.org/GLOS/coexistenciapacifica.htm> (last visited Aug. 20, 2012).

together).

Some authors have recently decided to describe this period with the term “tolerance,” but I find it difficult to associate this term with that region because not only did that term not yet exist, but also invoking the idea of tolerance would mean invoking the idea of mutual acceptance—something that probably did not exist at that time. Nonetheless, this does not preclude recognition that the three religions effectively coexisted for many years, since they needed each other and coexistence provided mutual benefits. These were the results that President Obama highlighted in his speech. Certainly, culture, arts, and medicine in this region flourished, with distinguished examples from all the religions in each area. Treatment of Jews was not exceptionally better in Cordoba during the caliphate than it was in times of Christianity, although the Jews and the Mozarabics raised their children in the two religions without feeling forced to convert to one or the other. But this was short lived after Christianity was imposed, though this is another topic.

Legislation on religious freedom is very recent in Spain, as the social and political influence of the Catholic Church throughout the centuries, coupled with the scarcity of other religions (since the Jews and Muslims were expelled), resulted in Catholic state regimes that were intolerant or narrowly tolerant of other religions. And when religious freedom appeared in constitutional texts, it was done for political reasons, such as to remove obstacles that might disturb the non-Catholic groups of foreigners settled in our country (Constitution of 1876) and to dismantle the Catholic Church and its institutions in Spain (Constitution of 1931).

As examples of these trends, one must mention the intolerant Cadiz Constitution of 1812, which proclaimed in article 12: “The Religion of the Spanish Nation is and will be forever the Catholic, Apostolic, Roman, and the only true Religion. The Nation protects it by wise and just laws and prohibits the exercise of any other religion.”¹⁶ The tolerant 1876 Constitution upholds Catholic confessionalism and adds that “no one will be bothered in Spanish territory because of his religious beliefs or for the exercise of his respective religion, except the respect for Christian morality. However, ceremonies or public demonstrations besides those of the

16. C.E. art. 12, Mar. 19, 1812, available at http://www.congreso.es/constitucion/ficheros/historicas/cons_1812.pdf.

religion of the State are not permitted.”¹⁷

The 1869 and 1931 Constitutions made declarations of religious freedom, but their effects were short-lived. The 1869 Constitution obliquely set forth Catholic confessionalism in these terms:

The nation is required to uphold the religion and the ministers of Catholicism. Public or private exercise of any other religion is guaranteed to all foreigners, residents in Spain, without limitations other than the universal rules of morality and law. If any Spaniard professes a religion other than the Catholic, all provisions in the prior article apply to that Spaniard.¹⁸

The Republican Constitution of 1931 expressed this more directly, answering the religious question in very broad terms and with a certain aggressiveness against the Catholic Church that was exacerbated by several of the Constitution’s developmental laws. It provided that “the state has no official religion,”¹⁹ and that “freedom of conscience and the right freely to profess and practice any religion is guaranteed in the Spanish territory, except for respect required by the demands of public morality. All religions may perform their services privately. Public displays of religion must be, in each case, authorized by the Government.”²⁰ It established that all religious denominations would be considered associations under a special act, with the prohibition that neither the state, nor any other public administration gave economic aid to the churches, religious associations, or institutions, while a special law would regulate the total elimination of the clergy’s budget within a period of two years, which so far is plausible. It provides for the dissolution of religious orders that imposed a fourth vow of obedience to authority other than the legitimate authority of the state, and their properties would be nationalized. Other religious orders would be subject to a law tailored to the foundations that the same article enumerated and that entailed dissolution in cases of danger to the state’s security; enrollment in a special Register; the inability to acquire and hold

17. C.E. art. 11, June 30, 1876, *available at* http://www.congreso.es/constitucion/ficheros/historicas/cons_1876.pdf.

18. C.E. art. 21, June 6, 1869, *available at* http://www.congreso.es/constitucion/ficheros/historicas/cons_1869.pdf.

19. C.E. art. 3, Dec. 9, 1931, *available at* http://www.congreso.es/constitucion/ficheros/historicas/cons_1931.pdf.

20. C.E. art. 27, B.O.E. n. 311, Dec. 29, 1978.

assets other than those needed for housing and fulfilling their private purposes; prohibition from engaging in industry, commerce, and education; yearly accounting; and the possibility of nationalizing their assets.²¹ This picture of anti-Catholic measures was completed with the Decree of January 23, 1932, which dissolved the Society of Jesus and ordered the nationalization of their property,²² and with the Religious Confessions and Congregations Act of June 2, 1933,²³ which confiscated items intended for the Catholic religion, respecting only their involvement with the religion, and established strict tools for monitoring the activities of the Catholic Church and its entities.²⁴

Under what was called the “New State,” as in the Franco regime, there was a return to the Catholic denominational regime with limited tolerance for other religious faiths. In fact, the Law of July 17, 1945, promulgated the Charter of the Spanish (*Fuero de los españoles*), the sixth article of which provided: “The profession and practice of the Catholic religion, which is the religion of the Spanish State, will enjoy official protection. No one will be persecuted for their religious beliefs or the private exercise of their faith. Ceremonies or outward manifestations other than those of the Catholic religion are prohibited.”²⁵ In this sense, Professor José María Ramírez Porrás sets out and brilliantly summarizes this section:

In any case, the model adopted by the Constitution begins a new era in the history of these relations, which clearly breaks with the past Spanish Constitution, which had experienced successive phases of (1) *exclusive Catholic confessionalism* (under the Constitutions of 1812, 1837, and 1845); of (2) *attenuated Catholic confessionalism, with religious freedom* (under the brief lifespan of

21. C.E. art. 26.

22. Decree, 24 GACETA DE MADRID [G.M.] 610 (Jan. 24, 1932), available at <http://www.boe.es/datos/pdfs/BOE/1932/024/A00610-00611.pdf>.

23. Ley de Confesiones y Congregaciones Religiosas [Religious Confessions and Congregations Act], 154 G.M. 1651 (June 3, 1933), available at <http://www.boe.es/datos/pdfs/BOE/1933/154/A01651-01653.pdf>.

24. Ángel López-Sidro López, *Breve Noticia Sobre la Vigencia del Registro de Congregaciones Religiosas de la II República en la Época de Franco*, 83 IUS CANONICUM, XLII 319, 319–20 (2002) (Spain), available at <http://dspace.unav.es/dspace/bitstream/10171/6788/1/83-10.Est.Lopez.pdf>.

25. Fuero de los Españoles [Charter of the Spanish] art. 6 (B.O.E. 1945, 7244), available at <http://www.boe.es/datos/pdfs/BOE/1945/199/A00358-00360.pdf>.

the 1869 Constitution); of (3) *Catholic confessionalism with tolerance toward the private worship of unofficial religions* (under the 1876 Constitution); of (4) *state nonconfessionalism and tolerance toward private religious worship* (under the 1931 Constitution); and of (5) *a return to state Catholic confessionalism, originally exclusive and later tolerant of the private worship of unofficial religions* (under the dictatorship of General Franco)].²⁶

The new LOLR faced a special challenge caused by the adjustment to the Constitution, by the prior effect of agreements with the Catholic Church and by those agreements that were expected with other religious denominations, as well as by the socio-religious circumstances of the Spanish nation. The constituents' willingness to overcome the "religious question" facilitated the Law being processed in an atmosphere of harmony and consensus. We should remember that this general law was the first to develop a fundamental right in the actual Constitution.

B. Main Features of the LOLR

1. It affects all religious denominations, including the Catholic Church

Some scholars and religious persons, evidently Catholic, argue that the LOLR does not affect the Catholic Church, based on the fact that the agreements with the Catholic Church became effective before the LOLR entered into force and that they were agreements of an international treaty status. On the other hand, a double regime is not constitutionally correct: bilateral for the Catholic Church and unilateral-bilateral for other denominations, being that the LOLR, properly understood, ensures a system of equality that is as equal under the law as in the law.

In this specific legal regime, a differentiated treatment exists that results particularly in the creation of a system of neo-denominational privileges for the Catholic Church, based on a concordat system that opposes the ulterior design of a right in the LOLR, of which all other denominations are deserving. These denominations narrowly satisfy the requirements that the LOLR provides, based on the discretionary assessment of these

26. José María Porras Ramírez, *Las Relaciones Iglesia-Estado en el XXX Aniversario de la Constitución Española de 1978* [*The Relations Between the State and the Confessions in Spain*], 127 BOLETÍN MEXICANO DE DERECHO COMPARADO, Jan.-Apr. 2010, at 209, 210 (Mex.), available at <http://bit.ly/RLrckJ>.

denominations that the public administration makes.²⁷

2. It is a law with little content and whose principles are tightly secured

The LOLR established that “[t]he rights recognized in this Act, practiced within the limits indicated herein, shall guarantee effective legal protection before ordinary Courts and constitutional protection before the Constitutional Court under the terms stipulated in the General Act related thereto.”²⁸ This legal protection may be exercised before the courts of criminal jurisdiction when it comes to prosecuting crimes or misdemeanors committed against the rights of religious freedom recognized by the LOLR and established under the Penal Code or other applicable laws such as offenses punishable in various jurisdictions. The courts of administrative justice have jurisdiction with respect to the government’s acts that violate, ignore, or disrupt the normal exercise of the rights of religious freedom in order to preserve or restore these rights as contemplated by the LOLR, which says, “[e]ntities relating to a given religious Entity may only be cancelled at the request of its representative bodies or in compliance with a final court sentence.”²⁹

I say that the LOLR has little content because it strictly regulates the right to religious freedom by a small number of articles (eight); at its creation, this allowed for a broad consensus by obtaining approval from a large majority that a law with greater content could not have achieved. The drafters of the LOLR limited themselves to enumerating the individual rights of religious freedom, collective rights, and legal status of churches or denominations and of their subdivisions, including a final repeal of Law 44/1967, of June 28, which was replaced by the current LOLR. But I say again that the LOLR does not meet the current needs of Spanish society in religious matters, and it is therefore necessary to advocate for change; the law responded to the historical needs of its time, a far cry from the plural and diverse society of Spain today.

27. *Id.* at 216.

28. L.O.L.R. art. 4 (B.O.E. 1980, 15955).

29. L.O.L.R. art. 5.3.

C. Why Do We Need to Reform the LOLR?

As stated previously, the Spain of today is not the Spain of 1980. Such is reflected today in Spain in that there are more than two million Muslims and more than one million Protestants, and there may be another million in other religious minorities, something inconceivable in 1980. Under the current legislation, referring to the faithful of these Churches using a soccer metaphor, there are churches—and therefore citizens—that are of a first, second, and third division and that are not Catholic, nor “*conveniadas*” (lacking an agreement with the government). There are also those having notorious influence that can “play,” following this metaphor, in a regional grouping. It must be reiterated that there should be legislation and recognition of the differences, in both terms of number of members and in terms of implementation (including social work), while recognizing that differences should never be a catalyst to creating and institutionalizing inequality, a condition in which certain religious minorities currently find themselves.³⁰

The actual wording of article 7, section 1 of the LOLR is as follows:

The State, taking account of the religious beliefs existing in Spanish society, shall establish, as appropriate, Co-operation Agreements or Conventions with the Churches, Faiths or Religious Communities enrolled in the Registry where warranted by their *notorious influence* in Spanish society, due to their domain or number of followers. Such Agreements shall, in any case, be subject to approval by an Act of Parliament.³¹

I emphasize the words notorious influence,³² as it is essential to understand what is detailed below.

Because the statement notorious influence, made by the state, is fundamental so that a religious denomination can make an

30. See Ana Fernández-Coronado González, *Valoración Jurídica del Sistema de Cooperación con las Confesiones Minoritarias en España*, OLIR.IT (Nov. 2005), http://www.olir.it/areetematiche/103/documents/Fernandez_Coronado_Acuerdos.pdf.

31. L.O.L.R. art. 7.1 (emphasis added).

32. *Notorio arraigo* is a legal term of art used in European and Latin American civil-law countries. Granting *notorio arraigo* status is a legal-administrative act of the state. To achieve this status, denominations must show that in Spain, they possess sufficient territorial area, numbers of believers, religious personnel, and places of worship. See Contreras Mazarío, *supra* note 3; Àlex Seglers, *El Notorio Arraigo de las Religiones*, FORUMLIBERTAS.COM (Nov. 30, 2007), <http://bit.ly/Qpz8GK>.

agreement and benefit from it, I will later detail what those benefits are. According to the Advisory Committee on Freedom of Worship of the Ministry of Justice (now having status of Deputy General), the religious denominations and confessions that currently have notorious influence status are as follows (without mentioning the Catholic Church, which has a separate legal status):

- The Evangelical/Protestant faith
- The Muslim faith
- The Jewish faith
- The Church of Jesus Christ of Latter-day Saints (Mormons)
- The Jehovah's Witnesses
- The Buddhist Community
- The Orthodox Church

It is the agreement with the Catholic Church that has been implemented best, although there are views from the Episcopal Conference that argue the opposite. There are voices from the Catholic realm—and not only from this realm—that maintain that the agreements with the Catholic Church must be outside the General Law, because those agreements are international treaties (with the Vatican, like the ancient Concordats) and that they existed before the General Law; but, at the same time, the Catholic Church does not renounce the benefits that the LOLR offers. Clearly, we cannot expect to enjoy a legal regulation of the Charter, accepting positive aspects of current legislation but ignoring the LOLR when parts of prior agreements prove more beneficial. Spanish and Vatican diplomacy agreed upon a “show of effectiveness”; it should be remembered, in this regard, that the Catholic Church-state agreements are from January 1979. In other words, they were performed a short time—barely a few days—after the Spanish Constitution was adopted, and more than a year before the LOLR was enacted in July 1980.

In short, the aforementioned Agreements are materially pre-constitutional, since they were initiated and consolidated before the Constitution entered into force, whether or not later formally incorporated into our legislation. If this were so, it would be because the Catholic Church needed to establish with certainty its position under the transition toward democracy, which would be highlighted by the 1978 Constitution.

Having established this caveat, it is necessary to recognize that even though all the faiths listed earlier have the administrative status of notorious influence, only the Federation of Evangelical Religious Entities (Protestant), the Jewish community, and the Muslim community, in addition to the Catholic Church, have agreements with the government—although these agreements are not fully developed. This can result in unfairness, since it is not understood rationally nor legally why some denominations have the status of notorious influence but have not obtained a corresponding agreement. (This status is a prerequisite and a *sine qua non* for achieving agreements with the state.) But why an agreement? Does it have benefits? Is it important for members of different churches and the churches themselves? The answer is a resounding yes. For an example, consider some of the benefits of the State's agreement with evangelical denominations, which is not fully developed:

- Offerings and contributions, as well as internal publications, are not subject to any tax.
- Exemption from Property Tax (IBI), the former contribution, for church buildings used for worship or for other uses.
- Corporate Income Tax Exemption of property devoted to worship.
- Exemption from transfer taxes and document stamps for religious properties.
- All other tax benefits that the legal system affords nonprofit entities.
- Civil recognition of marriages entered into by the corresponding religion.
- Authority to minister in the military and in prisons.
- Receipt of religious instruction in public schools where requested.
- Organization of religious-education courses in universities.
- If a faithful member of the church has a test or work scheduled on his or her day of worship, this member will be excused from participating on that day.
- Legal recognition of religious "ministers."

- Tax deductibility of donations from members of the Church.³³

It seems that the agreement clearly does matter to the citizen members of the different churches. The Constitution obliges the government to cooperate with religious groups,³⁴ unlike similar constitutions in other European countries that are required only to recognize religious freedom. In Europe, there is a certain common model of church–state relationships—always based on the protection and defense of the right of religious freedom—that can be defined by three fundamental characteristics:

- (1) Neutrality of the state in individual religious matters, so the constitutional laws, international treaties, and agreements guarantee an impartial government and the obligation to respect the freedom to manifest religious beliefs free from religious discrimination.
- (2) Respect for the internal autonomy of religious denominations.
- (3) The presence of laws that set limits on the exercise of the right of religious freedom in its collective manifestations for reasons of public order, morality, health, or, finally, the protection of the rights and freedoms of others.

In Spain, the Constitution aims to do more and, therefore, establishes the need for “cooperation with the Catholic Church and other denominations,”³⁵ but does not specify the means by which to carry out such cooperation. The LOLR provides two options: (1) working through the Advisory Committee on Freedom of Worship or (2) signing agreements.³⁶ The agreements, however, raise different problems that should be corrected in a future reform of the LOLR, as detailed below.

From the beginning, the promoters of the LOLR took the option of forming a minimalist or limited-content draft, to set a brief skeletal law, which was limited to developing the substance of the right of religious freedom and little else. Consequently, the LOLR is a

33. Act Approving the Cooperative Agreement of the State with the Spanish Federation of Evangelical Religious Entities (B.O.E. 1992, 24853), *available at* <http://boe.es/boe/dias/1992/11/12/pdfs/A38209-38211.pdf>; *see* Contreras Mazarío, *supra* note 3, at 588–90.

34. C.E. art. 16.3 (“There will be no state religion. Public authorities shall take into consideration the religious beliefs of the Spanish public and shall maintain relations of cooperation with the Catholic Church and the other religions.”).

35. *Id.*

36. *See* L.O.L.R. art. 8.

very brief text with a reductionist nature, as reflected by the fact that the LOLR consists of only eight articles, as stated before.

D. Materials to Be Amended in the LOLR

With no need of being verbose in this section, I do consider it appropriate to explain why we need to reform the LOLR. I cannot, for reasons of space and efficiency, excessively dwell on the topic, so I will not, therefore, talk about the ministers of religious denominations—one of the pending assignments of the current law. I will point out, however, some of the State's secularism and also briefly discuss some important aspects of the law. I do so in a way that, in my opinion, clarifies that reform is needed to make way for interfaith dialogue, the role of which—in my judgment—is basic and strategic.

1. Manifestations of the right to religious freedom

Article 2 of the LOLR states:

1. The freedom of worship and religion guaranteed by the Constitution secures the right, which may therefore be exercised by all without duress, to:

(a) Profess whatever religious beliefs they freely choose or profess none at all; change or relinquish their faith; freely express their own religious beliefs or lack thereof or refrain from making any statement in such regard.

(b) Take part in the liturgy and receive spiritual support in their own faith; celebrate their festivities; hold their marriage ceremonies; receive decent burial, with no discrimination for reasons of religion; be free from any obligation to receive spiritual support or participate in religious services that are contrary to their personal convictions.

(c) Receive and deliver religious teaching and information of any kind, orally, in writing or any other means; choose religious and moral education in keeping with their own convictions for themselves and any non-emancipated minors or legally incompetent persons, in and outside the academic domain.

(d) Meet or assemble publicly for religious purposes and form associations to undertake their religious activities in community in accordance with ordinary legislation and the provisions of this

General Act.

2. It also comprises the right of Churches, Faiths and Religious Communities to establish places of worship or assembly for religious purposes, appoint and train their ministers, promulgate and propagate their own beliefs and maintain relations with their own organizations or other religious faiths, within the national boundaries or abroad.³⁷

The content of this regulation has not been fully implemented.³⁸ Although the right to religious freedom and worship is an individual right, the exercise of that right is clearly collective, since it is exercised in parishes, mosques, synagogues, temples, meetinghouses, chapels, etc. This right is not always guaranteed, as various minority religions have had many problems accessing land needed to build their places of worship. Some political administrative officials consider these minorities to be reprehensible foreigners. (Even though there are no statistics on this, it is believed that more than 50% of Muslims in Spain are native Spaniards—as opposed to foreign immigrants.)³⁹ Further, these officials wish to take these congregations outside of cities to industrial zones, making transportation by bus or taxi necessary; and even this does not eliminate travel difficulties. Nor are such places of worship, in some cases, provided with the minimum degree of habitability and sanitary conditions. To this might be added the need for better social reasoning regarding the presence of places of worship in the cities, which must be addressed from a sociological and urban perspective. For example, one can argue that Islam should be taken out of the “garages” of Spain (to put it graphically), because doing so would not only facilitate the right to exercise religious freedom, but would also, according to Neal Kumar Katyal, establish appropriate conditions to reduce crime. Certainly, religious buildings, which appear to help reduce crime in their surrounding neighborhoods, should be placed strategically. As several studies in the United States show, places of worship reduce crime rates in cities since they cultivate the different

37. L.O.L.R. art. 2.

38. Abraham Barrero Ortega, *Apuntes Críticos al Sistema Español de Acuerdos de Cooperación*, 33 REV. CUADERNOS DER. PÚBLICO (Spain), Jan.–Apr. 2008, at 123, available at http://bit.ly/Barrero_Ortega.

39. See *El Número de Musulmanes Españoles en Madrid Iguala a los Procedentes del Magreb*, PROTESTANTE DIGITAL (Oct. 5, 2009), <http://www.protestantedigital.com/ES/Ciudades/articulo/9958/El-numero-de-musulmanes-espanoles-en-madrid>.

religious traditions and lead to social organization and a sense of order, which support peaceful coexistence.⁴⁰

2. Legal status of religious denominations

The LOLR addresses this issue, referring to religious denominations that acquire legal status: “Churches, Faiths and Religious Communities and their Federations shall acquire legal personality once registered in the corresponding public Registry created for this purpose and kept in the Ministry of Justice.”⁴¹ This registry is the Registry of Religious Entities. Royal Decree 142/1981 of January 9, closely linked to the right of association, has regulated the Registry’s organization and operation.⁴² Every religious group has the right to act freely without unreasonable interference from the state. Notwithstanding this statement, religious freedom has its own unique characteristics that distinguish it from the right of association, and it should be recognized by the laws. Unlike what happens with associations, the state cannot impose on religious denominations a particular organizational structure or operating rules nor resolve disputes between their members.

It seems necessary to ask what the purpose is of the system by which religious denominations acquire legal status through registering in a special registry. There has been considerable confusion on this question, caused by the legal precedent in Law 44/1967 of June 28, which governs the exercise of the civil right to religious freedom: registration served to *legally recognize* religious groups.⁴³

In the current constitutional system, religious groups are entitled to religious freedom from the very moment they are instituted or created by their founder or founders. The ownership and exercise of this right are not subordinate to legalization or group recognition by the government. Therefore, registration in the Registry of Religious Entities (“RER,” or *registro de entidades religiosas*) is voluntary and is not a *prerequisite* for exercising the right to religious freedom. The

40. See Neal Kumar Katyal, *Digital Architecture as Crime Control*, 112 YALE L.J. 2261, 2264 (2003).

41. L.O.L.R. art. 5.1.

42. Law on the Organization and Function of the Register of Religious Entities (B.O.E. 1981, 2368), available at <http://bit.ly/QpzDR2>.

43. Law Regulating the Exercise of the Civil Right to Religious Freedom (B.O.E. 1967, 10949), available at <http://bit.ly/QpzInY>.

registration of religious denominations in the RER is intended to identify them as religious groups and give them a certain legal status based on two premises: (1) their purposes are general-interest purposes, and (2) they exist as nonprofit entities. This means that RER groups are the legal equivalent of nonprofit organizations with general-interest purposes. But that equality is made, as it otherwise could not be, while respecting the most unique aspect of religious faiths—their right to autonomy. Consequently, they are not required to comply with structural (e.g., organizational or operational) requirements that other nonprofit organizations (whose purposes might also be of general interest, like public interest associations and foundations) must meet. To conclude this section, when considering the legal position of religious denominations, it should be noted that these groups are entities holding the fundamental right of religious freedom, whose identity as a group the state must recognize, which is distinct from the rights of individual members of these groups. Recognizing these groups' identity translates into respect for their institutional autonomy and establishment of some channels through which they can achieve legal status. Those channels cannot force religious denominations to adopt a particular organizational structure or specific performance standards, since such would be contrary to this right to autonomy.

I bring up the doctrinal debate about whether it is correct, in constitutional terms, to provide to religious denominations special regulations (i.e., the RER), or instead whether religious groups should be classified as associations and framed in article 22 of the Constitution⁴⁴ and its implementing regulations, especially considering that some religious minorities, such as the Jews, are resistant to any registration or control. This is based on sad and bloody historical episodes that the Jews have suffered and of which we are all aware. Thus, the RER is a useful to—but not essential for—the exercise of religious freedom.

3. Cooperation between government and religious groups: Agreements

The Spanish system of agreements, as applied in practice, has five features that make it questionable:

- (1) The agreements provide a general arrangement, very similar for all groups who sign on.

44. C.E. art. 22, B.O.E. n.311, Dec. 29, 1978, available at <http://bit.ly/QpzSM1>.

- (2) When the legislature unilaterally regulates matters affecting religious denominations, it considers only the groups that have reached an agreement with the State.
- (3) The procedure for signing agreements lacks precise and formal regulation, even though there may be an effective right of religious denominations, enforceable in court, to obtain an agreement with the State.
- (4) To sign agreements, religious denominations, in addition to being registered in the RER, must have notorious influence status in Spain, based on the scope and number of believers.
- (5) Notorious influence is a vague legal concept that to date has not been precisely defined either by the government or by the courts.

This creates two negative consequences:

- (1) Effective recognition of the right of religious freedom is subordinate to signing a covenant with the state.
- (2) Unjustified differences exist between denominations included in the registry that have not signed an agreement and those that have.

For this reason, qualification should not be a political decision beyond judicial control. The authorities lack the power to freely decide with which religious groups to negotiate without giving valid legal justification that explains and substantiates their decision. The LOLR provides that agreements are signed by the State and approved by the law of the Parliament (*Cortes Generales*);⁴⁵ this does not envisage the possibility that these agreements are signed at a regional or even local governmental level, and such should be corrected. For these reasons, it should be important, in the announced reform of the LOLR, to raise the possibility of giving autonomous communities and local authorities the authority to sign complementary agreements of cooperation with religious denominations, and clarify the legal regime applicable to such agreements. This would clarify areas such as subjects eligible to subscribe and the form, subject, content, and position in the system of sources of law. This neglect of regional and local authorities has led to a few conflicts, which, in questions like holidays and tax exemptions, are aggravated because they are matters regulated by

45. L.O.L.R. art. 7.

cooperation agreements signed by the central government with religious denominations.⁴⁶

The model cooperation agreement of the LOLR states:

The State, taking account of the religious beliefs existing in Spanish society, shall establish, as appropriate, Co-operation Agreements or Conventions with the Churches, Faiths or Religious Communities enrolled in the Registry where warranted by their notorious influence in Spanish society, due to their domain or number of followers. Such Agreements shall, in any case, be subject to approval by an Act of Parliament.⁴⁷

This provision poses several problems that should be corrected in a future reform of the LOLR. Some of these problems have to do with the content of the LOLR, but the primary issues are due to the interpretation and application of the article by public authorities (both the legislature and the administration).

The government's decision to enter into a covenant with a particular religious denomination produces direct and far-reaching consequences on the legal status of that religious group and the rights of its members. We should note the agreements with the Evangelical, Jewish, and Muslim communities,⁴⁸ although these

46. The Constitutional Court of Spain resolved two conflicting claims, related to the legislation regulating public holidays, argued by the Executive Council of the Catalonia Government and the Basque Government against the Spanish Government. See S.T.C., Jan. 28, 1985 (S.T.C., No. 7), available at <http://bit.ly/QpAktQ>. The conflict affected religious holidays, including a proposal of the Spanish Episcopal Conference. See Royal Decree Determining the National Holidays for Labor Purposes (B.O.E. 1981, 27723), available at <http://bit.ly/QpAv8l>. The Constitutional Court concluded that there had not been an invasion of regional powers. The court brought up article III of the Agreement with the Vatican on Legal Affairs (*Acuerdo con la Santa Sede sobre Asuntos Jurídicos*), which provides that the state recognizes as holidays every Sunday of the year, and adds that, by agreement, the state will determine what other holidays are recognized as religious holidays. In turn, the Supreme Court of Spain heard the challenge, made by counsel for the state, to the regulations implementing corporate income tax to ecclesiastical entities approved by the County Council of Navarre on September 17, 1981. See S.T.S., Mar. 6, 1987 (R.J., No. 1907). The High Court declared these regulations void, explaining that they flout the law to regulate a matter reserved to the state, and that it has been included by the state in the Economic Agreement with the Vatican (*Acuerdo sobre Asuntos Económicos con la Santa Sede*).

47. L.O.L.R. art. 7.1.

48. Law 26/1992, of Nov. 10, Approving the Cooperative Agreement of the State with the Spanish Islamic Commission (B.O.E. 1992, 24855), available at <http://bit.ly/QpAC3P>; Law 25/1992, of Nov. 10, Approving the Cooperative Agreement of the State with the Spanish Federation of Israeli Communities (B.O.E. 1992, 24854), available at <http://bit.ly/QpANMp>; Law 24/1992, of Nov. 10, Approving the Cooperative Agreement of the State with the Spanish Federation of Evangelical Religious Entities (B.O.E. 1992, 24853), available at

framework agreements have not been fully developed through regulations.

In addition, the current system of cooperation favors faith-based organizations endowed with larger followings, given the considerable presence of these groups in the population, a circumstance that is detrimental to minority faiths and new religious movements. From this favored treatment, majority or dominant faiths derive considerable benefits, as occurs in Spain.

The contrast with the intensity of cooperation established with the Catholic Church is very notable. Consequently, it is this relationship that should become the model adopted with the so-called minority religions, in order to comply with the constitutional principles that are today sometimes openly flouted.

In this regard, Professor Porras Ramirez calls for the denunciation and “renegotiation” of the agreements with the Catholic Church in order to achieve a model for relations with the state in line with the principles of religious freedom, secularism, and equality, following the wake of the agreements with minority faiths.⁴⁹

4. Assets and economic systems of religious denominations

It is appropriate to set the basic legal guidelines for treatment of religious denominations’ property. In this regard, one must determine what role these benefits have in various sectors of the legal system, specifying in which cases property should be classified as benefits of general interest or public interest, and what legal consequences arise from this classification for expropriation, demolition, embargo, free transfer of state assets to religious denominations, or tax benefits.

The LOLR lacks a substantive regulation on the economic system of religious denominations, especially if one considers that the Agreement on Economic Affairs between the Spanish State and the Vatican on January 3, 1979, which referred to the funding of the Catholic Church through a tax allocation system and collected a list

<http://bit.ly/QpATnk>.

49. José María Porras Ramírez, *Las Relaciones Iglesia-Estado en el XXX Aniversario de la Constitución Española de 1978*, INSTITUTO DE INVESTIGACIONES JURÍDICAS DE LA UNAM (Oct 19, 2009), <http://bit.ly/QpAAY0>.

of tax benefits applicable to religious entities.⁵⁰

In the future reform of the LOLR, it would be appropriate to lay the foundations of the economic system of religious denominations, since the current situation, wherein tax benefits apply only to religious groups that have signed cooperation agreements with the government, does not conform, according to the characteristics of the system of agreements, with the constitutional principles of nondiscrimination and non-denominationalism.

5. Nondenominational or secular state

LOLR reform is needed to further the state's secular character and achieve greater government neutrality toward religion. Constitutional jurisprudence attaches two dimensions to the principle of nondenominationalism or secularism: (a) the neutrality of the public authorities before religion and (b) the obligation of public authorities to maintain cooperative relations with religious denominations.

In the judgments of the Constitutional Court of Spain,⁵¹ the state is declared to have the duty to abstain in religious matters to respect the self-determination of persons in this field and the religious pluralism present in society. From a careful reading of these judgments, and according to the doctrine contained in them, the debate on secularism is focused on the following positions:

- The negative dimension of secularism: Neutrality of the government before religious phenomenon.
- The positive dimension of secularism: The maintenance of cooperative relationships between the government and religious denominations.

The state cannot assume ownership of the values and principles of a particular religious denomination; therefore, it requires neutrality, needing to distinguish between religious goals and state goals. Accordingly, religious denominations cannot be legally equated to the state, nor can the state assume religious functions.

50. Instrument Ratifying the Economic-Affairs Agreement Between the Spanish State and the Vatican, signed at Vatican City on Jan. 3, 1979 (B.O.E. 1979, 29490), available at <http://bit.ly/QpB9CS>.

51. S.T.C., Feb. 15, 2001 (S.T.C., No. 46); S.T.C., Nov. 11, 1996 (S.T.C., No. 177); S.T.C., Nov. 16, 1993 (S.T.C., No. 340); S.T.C., May 13, 1982 (S.T.C., No. 24); S.T.C., Feb. 13, 1981 (S.T.C., No. 5).

Religious neutrality presupposes, therefore, a separation between the religious sphere and the state sphere. Religious goals are not *state goals*, notwithstanding that they may be *goals of public relevance*, because the public is not necessarily the same as the state. Secularism means not only that faiths cannot assume state functions, but also, in return, means that the state cannot directly carry out grants of a religious nature.

As pointed out by the Constitutional Court of Spain,⁵² the principle of secularism acts as a constraint on the cooperative action of the state, a concept the court defined as “positive secularism.”⁵³ This concept is an appeal to the understanding between parties, so that they, while still retaining a distinct nature and purpose, converge on achieving a shared interest: satisfying the fundamental right in question.

It is important to note, however, that neutrality does not mean the absence of values; public actors must defend and promote those values that are common to society (the “least common ethic of a society received by Right”),⁵⁴ values that define a social and democratic state of law.⁵⁵ Neutrality does not mean moral relativism, but, as stated by the Constitutional Court, “in this way, neutrality in religious matters becomes an axiom for peaceful coexistence between different religious beliefs that exist in a pluralistic and democratic society.”⁵⁶

6. Draft religious-liberty law

The government has, in the current legislature, provided information about the announced draft bill on religious liberty that it has prepared; and in parliament, at the request of the two political parties ERC and IU-ICV,⁵⁷ it was pledged that the text would be known before the summer of 2010.⁵⁸ The government has been

52. S.T.C., Nov. 16, 1993 (S.T.C., No. 340); S.T.C., May 21, 1988 (S.T.C., No. 146); S.T.C., May 13, 1982 (S.T.C., No. 24).

53. S.T.C., Feb. 15, 2001 (S.T.C., No. 46), available at <http://bit.ly/QpBkxV>.

54. S.T.C., Mar. 17, 1998 (S.T.C., No. 62), available at <http://bit.ly/QpBmG8>.

55. See C.E. art. 1.1, B.O.E. n. 311, Dec. 29, 1978.

56. S.T.C., Nov. 11, 1996 (S.T.C., No. 177), available at <http://bit.ly/QpBzZN>.

57. The ERC is the Republican Left of Catalonia (*Esquerra Republicana de Catalunya*) and the IU-ICV is a coalition of the United Left (*Izquierda Unida* or *IU*) and the Initiative for Catalonia Greens (*Iniciativa per Catalunya Verds* or *ICV*).

58. Francisco Delgado, *Información sobre Ley Orgánica de Libertad de Conciencia*, BLOG DE CÓRDOBA LAICA (June 15, 2010), <http://cordobalaica.wordpress.com/tag/ley-de-libertad-de->

preparing a rough draft of the draft law for over two years, under the guidance of a team headed by then-Vice President Maria T. Fernandez de la Vega, with the involvement of the then-General Director of Religious Affairs. In developing the law, they have relied on advisors from various universities, and the opinions of religious leaders of the Catholic Church, and also those from other realms, such as the Islamic, Evangelical, Jewish, Mormon, Jehovah's Witness, Buddhist, and Orthodox faiths (religions considered by the government as having notorious influence, regardless of the fact that, according to the current Minister of Justice in a parliamentary hearing, there are over 2,300 legal religious organizations in Spain). There is also a conflict of interpretation of responsibilities between various ministries, which hindered the final text.

Prior to this, the IU-ICV presented in parliament in September 2006 a proposal for a law of liberty of thought, conscience, and religion,⁵⁹ which was rejected. Also, in April 2008, the ERC and IU-ICV had a so-called "[p]roposal for a law on freedom of ideology, religion and worship,"⁶⁰ which has also been rejected by parliament. In my opinion, both proposals have acceptable intentions but lack a certain rigor concerning the interpretation of "freedom of conscience and belief."

Some voices claim that the text is only "a slight facelift" of the current legislation, giving religions with notorious influence status an agreement "similar" to the Catholic Church's (made complex because these churches have a totally different organization from that of the Catholic Church) and erecting only a few symbolic safeguards.⁶¹ However, it should be noted that given current economic and political problems, some have argued that the reform does not touch the existing LOLR, which is plausible given the broad support and consensus needed for a law like the LOLR. On December 1, 2010, the government announced, through the Minister for the Presidency Ramon Jauregui, the creation of the Observatory of Religious Pluralism by the end of the current term in order to ensure

conciencia/.

59. EUROPA LAICA, PROPUESTA DE EUROPA LAICA PARA UNA PROPOSICIÓN DE LEY ORGÁNICA DE LIBERTAD DE CONCIENCIA (2006), available at http://www.rivaslaico.org.es/Proposicion_de_Ley_de_Libertad_de_Conciencia.pdf.

60. Carlos Pérez Vaquero, *El Reconocimiento de la Libertad Religiosa [Recognition of Religious Liberty]*, NOTÍCIAS JURÍDICAS (May 2011), <http://noticias.juridicas.com/articulos /00-Generalidades/201106-2813976645285.html>.

61. Delgado, *supra* note 58.

diversity in the secular state and accommodate the demands arising from religious diversity to public administration. It should be said that this government body was already announced in 2008 but then frozen in light of the announced reform of the LOLR, and that its creation has been taken up again to be effective from July 5, 2011, an observation that for some minority religious denominations is a “substitute” for a real law ensuring equality in religious freedom.

Notwithstanding the foregoing, the agreements with the Vatican should be revised, including the funding of the Catholic Church. Creation of a “secular state” must be established legally and symbolically; individual rights and duties in matters of conscience must be clarified; and secularism in state institutions, including education, should be advanced. This state task, which is very important and crucial for our social and democratic state of law and our peaceful coexistence, requires development that cannot be hastily addressed, but that does not mean that it should be metaphorically placed on the back burner, since the constitutionally adequate treatment of religion in an increasingly secular society is at issue.

III. INTERFAITH DIALOGUE—RELIGIOUS MEDIATION

Echoing the declaration of the United Nations Educational, Scientific and Cultural Organization (“UNESCO”), the main objective of this section of my speech, which represents an essential part of intercultural dialogue, is to promote dialogue between different religions and spiritual traditions in a world in which intra- and inter-religious conflicts are intensified due to an ignorance or misunderstanding of the spiritual traditions and culture of others.

Along these lines, Asma Yahangir, before the European Parliament and to mark the International Year of Intercultural Dialogue (2008), commented about the importance of interfaith dialogue in intercultural dialogue:

[D]oes “intercultural” also include “interreligious” dialogue? Of course, I would answer this question in the affirmative, since religions are part of culture. At the same time, “intra-religious” tensions also need to be adequately addressed. Consequently, intercultural dialogue should also take the believers of different denominations of the various religions on board and their ideas

into account.⁶²

And as to the importance of interreligious dialogue, she added: "It seems crucial to institutionalise an intercultural dialogue at various levels in the right format and with a wide selection of participants, while still allowing for a real exchange of views. I think that joint declarations and statements by religious leaders are important . . ." ⁶³

Maintaining cooperative relationships between public powers and religious denominations is the positive dimension of secularism. The right to religious liberty does not end with the internal aspect of recognized freedom accorded to religious individuals or denominations. Rather, there is an external aspect that translates into the possibility that those activities that constitute manifestations or expressions of religious phenomena require a positive attitude from public powers, which offer assistance and even support. Specifically, cooperation with religious denominations must conform to the Spanish Constitution, which imposes the following obligations on public powers:

- Promote such conditions that the freedom and equality of individuals and the groups of which they are a part are real and effective.
- Remove obstacles that impede or obstruct full freedom and equality.
- Facilitate participation of all citizens in political, economic, cultural, and social life.⁶⁴

The government should not promote religious acts (as is the reality in our Spanish society) but should make plain the full recognition of religious freedom and equality. It should also fulfill the constitutional mandate to "maintain relations of cooperation" with religious denominations.⁶⁵

Religion can act as an aggravating factor, heightening conflicts, but it can also serve as a mitigating factor. Religion can inflame and prolong wars and conflicts, but it can also prevent or shorten them. Achieving a new world order and peace does not require a "re-

62. Remarks of Asma Yahangir, 2008 O.J. (Annex) 35–36 (June 18, 2008) (European Parliamentary debates), available at <http://bit.ly/QpBMfw>.

63. *Id.*

64. C.E. art. 9.2, B.O.E. n.311, Dec. 29, 1978.

65. C.E. art. 16.3.

evangelization” oriented toward the past of Europe or the world, nor a new secularization of Western Europe, which strips man of every meaningful horizon in life, of every moral criteria, and of every

spiritual home. Rather, it requires a spiritual renewal of the world, a common ethic of humanity found in the roots of religious traditions.

We need to reflect more on moral ideals and behaviors, since laws are useless without moral attitudes. Truthfulness, generosity, and honesty can hardly be prescribed by law. Religions and their too-passive representatives should take an active role and thereby facilitate the work of politicians. There is no religious peace without dialogue between religions.

Implicit in any dialogue between religions is self-evaluation of the respective religions, for only in this way is it possible to establish credibility. Many Muslims support modernization of their countries but totally reject secularization, which to them is synonymous with atheism and rejection of religion. Islamic states can lose touch with modern development if they are unable to guarantee civil liberties, if they do not put into practice tolerance and respect for human dignity and human rights, and if they do not construct a democracy truly worthy of such a designation. A religion erects walls of separation when it considers itself the only medium capable of providing salvation.

Also necessarily implicit in any dialogue between religions is a scientific and theological investigation of the basics. One of the tasks would be to familiarize the theologians with the fundamental ideas of other religions, so that their differences as well as their similarities become the foundation of general training. Only in this way is it possible to continue in society, given the multi-religious and multicultural status of the world. Today, it is no longer responsible to teach about religion in a way that does not give room for dialogue and information about other religions. In this way, religions could take on their original missions. Representatives of religions cannot eliminate from the world the political problems of strategy and security, but they could—if they spoke the same language—help find a spirit of understanding, trust, and peace—the central role of religious mediators.

Dialogue is key in any measure seeking to resolve conflict, and I speak of dialogue on equal terms, open, cooperative, and without any presumptions—a dialogue beyond simply sitting and talking. It is

also important to speak with a hermeneutic effort, understanding this as the ability to understand something a bit difficult and obtuse, to understand each other even though the language—and I do not mean dialect—is different.

One of the first to speak of interfaith dialogue at the institutional level was Roger Garaudy in his work “Dialogue of Civilizations.”⁶⁶ Garaudy said that the story of mankind in the future cannot focus on the West, which has never shown a cultural superiority; rather, it has been characterized by aggressive military armament techniques. To carry out a global project for the future—a future that is truly designed for all and by all—the proper course is dialogue between civilizations.

A future global project, concludes Garaudy, requires more of transcendence than of determinism and introduces a new category to carry out this project: spirituality, which is defined as the effort to find meaning and purpose in our lives. Religious and moral values, like political realities, are very much interlinked and often coincide.

A. What Do Religious Entities Demand?

The things that religious entities request of the government are related to the following issues, among others:

- Opening places of worship (land transfers, building and use permits, etc.)
- Granting public spaces to hold ceremonies for different faiths or to hold educational, cultural, or social events sponsored by religious institutions
- Granting plots reserved for Islamic burials
- Performing acts in public areas
- Inviting authorities to public events organized by religious organizations
- Accessing grants and public aid

The demands address, therefore, applications whose content and processing in most cases does not vary from those regularly presented by any other entity or group. The only difference is the religious nature of the applicant, which for various reasons produces an initial discomfiture that singles out and sets the applicant apart from the “normalcy” with which applications should be handled and addressed. When religious elements come into play, there is a risk of

66. ROGER GARAUDY, *DIÁLOGO DE CIVILIZACIONES* (Esther Benítez trans., 1977).

overestimating inconveniences.

From where should the demands of religious groups be met and managed? Should there be specific services? What administrative departments would be most appropriate? Logically, to implement these demands, one must take into account the different regional and organizational characteristics of our municipalities and autonomous communities, but there is considerable agreement regarding the management of religious diversity:

- (1) We may be facing a particular aspect of one of the characteristics of our current societies: the issue of diversity management in relation to the exercise of citizens' rights.
- (2) We find ourselves facing an issue that transcends public life and that, as such, requires attention and response from public management agencies.
- (3) Managing religious diversity extends to very diverse issues (planning, education, social welfare, health, civic participation, etc.) and, therefore, it is necessary to begin by finding their intersection.

Excluding particular cases, it is clear that, because of the relative lack of attention it has received so far and because of the apparent transcendence that at specific times can lead to social cohesion and harmony, management of religious pluralism requires, at least for the time, special attention. Moreover, the management of religious diversity is interconnected and related to various departments and areas. In many cases, conflict prevention and resolution requires that all actors be involved, which is why one should consider the need to institutionalize this transversely.

Participation is one of the fundamental principles of democratic societies, and such is reflected in the Spanish Constitution, which establishes that facilitating the participation of all citizens in political, economic, cultural, and social life is a duty of public authorities.⁶⁷ It is also a duty of public authorities to create opportunities for institutional participation in which representatives of formally and legally organized groups within civil society have an advisory capacity and the ability to influence political decision-making. Promoting citizen participation is a form of social justice because it favors equality of persons. In this sense, religious bodies become another actor in civil society with the right to participate in

67. C.E. art. 9.2.

the public arena. This right is addressed in Spanish case law and is an effective measure of integration and social cohesion.⁶⁸

This process, which we might call a “normalization process,” aims to achieve better management of religion through the incorporation or inclusion of religious pluralism in the daily life of our towns and cities as entities that—in addition to their religious work—develop educational, cultural, social, and athletic processes that promote social cohesion as opposed to social exclusion. Governments do not infringe on the principle of separation between church and state because religious activities are not funded; however, social activities, educational activities, cultural activities, etc. are funded when conducted by a religious entity (just as they would be if conducted by a civil association, NGO, or other foundation).

Many religious groups, including minority religions, perform basic social work: food distribution, legal advice, support in searching for employment (Evangelicals and Mormons, for example), etc. Cultural and educational topics highlight the role that religious bodies play in the development of literacy programs, adult education, language training, educational workshops, etc. The recognition of social, educational, and cultural work by religious institutions and their participation in these public networks allows the following:

- A more complete and effective map of resources, which greatly contributes to the quality of social intervention (programs) performed in our society.
- Contribution to the visibility and standardization of religious minorities.

Having discussed these aspects in connection with the institutionalization of interfaith dialogue in Spain, and in view of their incomplete character and their large shortcomings and gaps at the institutional and regulatory level, the importance of religious mediation to this dialogue may be better understood. To succinctly address religious mediation, it is necessary to briefly distinguish the differences between the related concepts of conciliation, negotiation, and arbitration. It goes without saying that the following reflections are a response to the need for this perspective of mediation in

68. See S.T.C., Feb 15, 2001 (S.T.C., No. 45).

religious dialogue. Neither the law nor institutional practice has shown much concern for these fundamental principles until now. In my view, these assumptions and techniques should be more strongly considered in order to appraise a better and more qualitative efficiency in interfaith dialogue and, ultimately, in achieving a more advanced, peaceful, and respectful democratic society concerning others and their beliefs—a more humane society. In this sense, introducing this dimension into norms that might be generated in central areas as well as regional or local, is of fundamental importance, as it is for the generation of institutional environments, such as schools, assemblies, or interreligious dialogue committees equipped with the knowledge, guidance, diverse composition, methods, and techniques appropriate and necessary to address the conflicts that arise repeatedly in society for religious reasons are often related to the exercise of competencies in specific different areas of action by public authorities.

B. Mediation and Conciliation in the Religious Sphere

Before giving the religious definition of these concepts, I would like to explain the legal meanings of mediation and conciliation, especially in the contexts of labor law and family law, even though they extend to other areas of laws (e.g., the Basic Statute for Public Employees already includes these legal concepts for public employees⁶⁹) but are classified within what we generically refer to as methods of social conflict resolution.

The focus of this section is conciliation and mediation. Both are means of conflict resolution that are of vital importance to peaceful social *convivencia*. It should be noted that addressing a particular study requires investigating it from a practical point of view, to translate into reality the solid theoretical framework in which such research should be based. As a basic premise of my work, the question arises of how effective these types of conflict resolution tend to be in the Spanish system, and especially in the sensitive area of interreligious dialogue. In looking for the answer to this question I make this brief summary:

- (1) Negotiation: Negotiation is characterized as voluntary, informal, unstructured, and used to achieve mutually acceptable agreements. In this process, there is no neutral

69. Basic Statute for Public Employees art. XLV (R.C.L. 2007, 7).

third party and no limit on the presentation of evidence, arguments, and interests. Once its characteristics are described, negotiation can be defined as a process of mutual communication, aimed at reaching agreement with others when there are both shared and opposing interests. I do not really consider it a per se form of conflict resolution, but rather a process undertaken prior to any agreement or resolution.

- (2) Conciliation: In conciliation, parties attempt to reach a reasonable agreement, with the intention of preventing a conflict or terminating existing litigation.
- (3) Mediation: Mediation is a non-adversarial proceeding in which a neutral third party, rather than act as a judge, assists the parties to identify points of controversy and to negotiate to reach a mutually acceptable result.
- (4) Arbitration: Arbitration is a regulated procedure in which the parties freely choose a third party, called an arbitrator, who resolves the dispute raised in accordance with the 1998 Arbitration Act. In arbitration, the parties agree to accept the resolution, called the award. Arbitration may be of law (i.e., following legal policy) or of equity (i.e., regardless of what the policy says, the award is based on what the referee understands to be right). It is a legal proceeding prior to a judgment, and therefore far from the study that concerns me, since in religious things there is not—or should not be—a referee to designate what religious position is more appropriate or “fair.” Therefore, it is discarded from this study.

Having made this brief reference, I will focus on conciliation and mediation.

1. Conciliation

Conciliation is an attempt to reach an understanding between the parties to a dispute and means a reasonable agreement. It is intended to prevent a conflict or put an end to litigation already started through a negotiated agreement between the parties. In a legal setting, prior conciliation fits before judgment, or can fit within judgment but before the pronouncement of a sentence. It is most common in courts of peace and courts of first instance. The person who reconciles seeks to bring the parties together. In law, if the

parties reach an agreement through this method, it has the force of an agreement made in a public and solemn document. Thus, if the agreement is broken, the other party may demand its enforcement.

2. *Mediation and culture of peace*

I agree with the affirmation of Professor Francisco Muñoz, that “we must find mediation as building peace, creating opportunities for mediation.”⁷⁰ Certainly, we must approach the study of peace without prejudice; I know that we analyze everything in light of our imperfections, but we must study and create a culture of peace without prejudice, immovable attitudes, or justifications. I refer to justifying one’s own position at all costs even though reality tells us otherwise. In my opinion, it is the best way not only to study but also to internalize peace.

Mediation is a non-adversarial proceeding in which a neutral third party assists the parties to negotiate in order to reach a mutually acceptable result. This third party mediator does not act as a judge. Rather, she helps adversaries identify points of controversy and then explore possible solutions. She points out the consequences of not reaching any agreement. The relationship between the parties should be based on cooperation, reduced tension, and good communication, all with the result that both parties win.

Mediation is also an extrajudicial process in which the mediator intervenes as an impartial third party to whom the parties to the conflict have come voluntarily. The role of the mediator is primarily to help establish dialogue and communication between the parties so they can resolve the conflict themselves. This contrasts with arbitration: although both methods involve a neutral third party, the arbitrator’s decisions are binding on the parties while the mediator cannot make binding decisions, because her function is to facilitate dialogue, permitting the parties to reach their own solution.

Although an agreement may be made in writing, mediation is always confidential, which means that all information disclosed by the parties during the mediation sessions cannot be used by the parties or by the mediator.

When parties begin mediation, their previous efforts have usually stagnated and there is little or no progress toward reaching

70. Francisco Adolfo Muñoz, *Paz imperfecta*, in *ENCICLOPEDIA DE PAZ Y CONFLICTOS: L-Z* 1227 (Mario López Martínez et al. eds., spec. ed. 2004).

an agreement on the issues under discussion. Mediation is often described as structured negotiation. Mediators encourage a special kind of negotiation called principle-based negotiation or negotiation based on the parties' interests. The mediator is trained to listen and guide the parties involved in the conflict to settle their differences amicably. The mediator's role is to serve as a facilitator of conflict resolution, seeker of channels of communication, and generator of options. She does not impose solutions, but seeks to offer satisfactory solutions based on the aspirations of the parties.

Between the two concepts of positive peace and negative peace lies "imperfect peace," understood as all those situations where we can achieve the maximum possible peace permitted by social and personal party conditions. In this sense we could group under the name of "imperfect peace"⁷¹ all these experiences and spaces in which conflicts are regulated peacefully or where people, groups, or both choose to facilitate meeting others' needs. It is imperfect because, even though controversies are managed peacefully, it coexists with conflict and some forms of violence. In these spaces, imperfect peace is where it makes most sense to mediate—where there is space for mediation and where peace may be built.

I should point out that it is irresponsible to pursue peace at any price. Pacifism is insufficient to preserve peace. Instead of a coward peace, we need a peace based on justice. In the twentieth century, wars are neither holy, nor just, nor fair. The time of "Wars of Yahweh" and "The Crusades" happily passed long ago, and as for the bellicose Jihad—which does not mean, at least originally, "holy war," but moral commitment to the cause of God—it belongs equally to the past.

A new world order based on peace will be possible when founded on bases such as:

- More commonly held views, ideals, values, objectives, and criteria.
- Increased global responsibility by people and their rulers.

Only ethics, and not law, can offer a rebuttal to the double standards and ambiguous language of world politics. There can be no world peace without religious peace.

71. *See id.*

3. Religious mediation

The history of religious mediation shows how in 1636 the Puritans of Dedham, a small community southeast of Boston, considered in their constitutional charter an informal system of conflict resolution: mediation. The Bible also mentions how conflicts or disputes should be resolved among members of religious congregations. This procedure explains the role of priests and pastors as mediators. As has been observed since ancient times, man has recognized the importance and usefulness of this method of peaceful conflict resolution from a perspective that involves the community and groups. In our times, it is worth saving the application of these procedures in the daily activities that are developed by religious communities. This should be done regardless of creed, since it allows effective resolution of differences that naturally arise from any interrelationship that occurs in the spectrum of communities. It also strengthens these communities, helping these relationships last in harmony through time. The role of mediator that religious leaders can assume is essential to the preservation and consolidation of human relationships that develop outside of churches and temples. And not only outside the churches: these mediators can also do so within the community in which they are embedded—as potential peacekeeping agents.

Politicians can probably talk about an “alliance of civilizations,” an initiative at a worldwide level not solely as a project of two countries, Turkey and Spain, under the auspices of the United Nations within their peace programs and with the corresponding Commission. However, those of us who are involved in the world of law or scholars of peace must speak of mediation between religions, as much on an international level concerning major conflicts as on a local level within the interfaith dialogue—but especially to mediate between religions and the government.

I say mediation, because it has to do with finding a technique or method that can alleviate the tremendous conflicts and also those at a local level, which conflicts arise due to a lack of dialogue between different cultures and religions. Today, the term “religion” is used to justify the atrocities caused in these conflicts. We must learn that the religion of each person gives some guidelines—some reasoning—that are not very different from other religions we do not profess. It is necessary to work for justice and mutual respect for religious beliefs

and traditions in a world of increasing interdependence in all areas, ranging from health to security.

Mediators should know that, when working with conflict, differences are a reality but not the conflict itself. Diversity—or being different—is a value. We are different, and that is very positive. Conflict does not arise because of different religions or different culture, but instead from fear of seeing one's own customs and privileges changed. Diversity—or differences—must be managed, but being different does not mean being unequal.

Inequality itself is a reality that creates conflict and that generates violence. Conflict does not arise from difference, but from inequality. When a difference becomes inequality, conflict arises. This is where mediation works best.

The goal of mediation is to create links, to regenerate relationships, and to promote fruitful meetings and discussions between people, groups, or both in conflict. Work is needed to recognize the value of religions we do not profess or share and also to require that they recognize the values of the religion that we ourselves profess. To mediate is to reason, to return to the parties in conflict the power to find a solution, which power was lost by the irrationality of conflict. Mediating is not voluntary or compulsory; it is the will to live and learn from conflicts that often cannot be avoided. The United Nations Secretary General, when presenting the document "United Against Terrorism," clearly stated:

Exclusion or discrimination on the basis of ethnic origin or religious belief, and the failure of many countries to integrate minorities or immigrants, create grievances that can be conducive to the recruitment of terrorists, including feelings of alienation and marginalization and an increased propensity to seek socialization in extremist groups. This seems to be particularly true of young people, especially second-generation immigrants, in some developed countries, who see themselves as outsiders lacking equal opportunities. I urge countries with multicultural societies to reflect on their policies of integration.⁷²

An example of this happened in France in recent years due to

72. U.N. Secretary-General, *Uniting Against Terrorism: Recommendations for a Global Counter-Terrorism Strategy: Rep of the Secretary-General*, ¶ 35, U.N. Doc. A/60/825 (Apr. 27, 2006), available at <http://bit.ly/QpCo4X>.

riots in slums and the violence therein, problems to which Spain is no stranger. And may I add that we must reflect on intercultural mediation and, as an important part thereof, religious mediation.

In Barcelona in 2001, religious leaders around the world signed the Proclamation of the Manifesto of Peace (*Proclamación del manifiesto de la paz*). In this document it was agreed that

[i]n this century that has just begun, men and women of different religions, from many parts of the world, have gathered in Barcelona to invoke God's great gift of peace. On the shores of the Mediterranean, which has known conflict and coexistence, a sincere prayer has been offered seeking that war might depart from many parts of the world. In the conscience of each different religion resounds the echo of a conviction: God loves peace and does not want war, and whoever invokes the name of God discovers that his name means peace. This conviction and this prayer are a treasure to the world. The demands of people caught in war, of the poor, and of the victims of hate have reached us. Men of religion have joined in the search for what is human. We feel that the challenge of cultivating a peaceful soul in our globalized world is a common challenge. The soul can discover the many faces of the world.⁷³

I believe that this has been an important beginning to the approach of dialogue and communication—which is essential to mediation—sponsored by the religions themselves.

Today, with more awareness of religious pluralism, we feel with greater urgency the need to improve relations and dialogue between people of different religions. Increased mobility—large movements of refugees and economic migrants—has made it so that more people of different religions must live together in society. When there are mechanisms for meetings and dialogue, there are opportunities to promote greater awareness and knowledge of other religions. Unfortunately, the closest relationships between communities have sometimes been a source of tension and fear. For many communities, this tension confirms the need to protect their individual identities and distinctive character. Relations and interfaith dialogue should allow communities to distinguish between the legitimate quest for identity and an overprotective attitude that leads to hostility toward other religions and cultures.

73. PROCLAMACIÓN DEL MANIFIESTO DE LA PAZ (2001), available at <http://www.zenit.org/article-3481?l=spanish>.

It is said that wherever religious pluralism raises tensions in the community, there is the possibility of manipulating religious sentiments. Religion expresses some of the deepest feelings and sensitivities of individuals and communities. Too often, religious identity has a specific role in conflicts and violence. In some parts of the world, religion is increasingly assimilated into ethnic identity, giving religious connotations to ethnic conflict. In other situations, religious identity is so closely associated with power that communities without power—or that are discriminated against—consider their religion the force capable of mobilizing those who dissent and protest. These conflicts tend to look like—or are presented as—conflicts between religious communities, and they are polarized according to community-based criteria. Religious communities often inherit deep divisions, hatreds, and enmities that, in most cases, are transmitted through generations of conflict. It seems therefore of vital importance today to understand religions, learn their principles, and know that mediation can and should be an effective tool for reducing conflict. We must be conscious to work on religious mediation in the ambiguities of religious expressions and of the traditions or doctrines, but also the similarities and characteristics that comprise both.

I would like to establish some basic principles for this dialogue between religions that makes mediation possible. Author Javier Ales Sioli said:

Mediation between religions should be a process of mutual enrichment, not a negotiation between parties with opposing interests and demands. Instead of isolating themselves in power relationships, the parties must be empowered to participate in a common quest for justice and peace.

In mediation between religions, we grow in the faith of each of our beliefs. For Christians it arises in the Bible, but for the other monotheistic religions, it arises in the Torah (Jewish), the Koran (Muslim), or other books for other religious groups.

In mediation between religions, we confirm our hope that there are solutions to conflicts and that we can solve them creatively.

In mediation, we can cultivate interfaith relations in the future to help us understand and coexist during the migration and mixing of cultures. Patience and perseverance are essential in practicing dialogue.

In mediation between religions, context helps us to understand the reasons for the practice of every religion. Dialogue takes place in a particular context.

In mediation between religions, we move toward mutual respect by which we understand another without necessarily sharing their practices or ideas. Each dialogue partner has to hear and listen to how the other party understands its own faith.

In mediation between religions, cooperation and collaboration are at the heart of dialogue, having put aside power struggles in order to get to the real interest of peace.

In mediation between religions, we must try to be inclusive of each of the sectors in society.⁷⁴

IV. CONCLUSIONS

The current Religious Liberty Law (LOLR) does not respond to the cultural, social, and religious realities of contemporary Spain. The regulation is scarce, nuclear, and for reasons clear today, was not configured to address the extraordinary complexity and richness that social development, migration, and globalization have created in different expressions of religion. Furthermore, the unequal position in which certain denominations are situated in relation to the predominant religion becomes more and more apparent, which is fundamentally a consequence of the process that was originally in the framework of the political transition, with materially pre-constitutional regulations, such as the 1979 agreements with the Vatican.

It is necessary to reform the LOLR. Two years ago, the government, through its then-vice president, announced a reform of the LOLR to, among other things, “adapt to new circumstances and to religious pluralism” that characterizes “the Spain of today.”⁷⁵ The government recently postponed the announced reform “*sine die*” (without a set date for later consideration).⁷⁶ Some say that this is a “smokescreen,” and that “there are other more pressing

74. See Javier Ales Sioli & Juan Diego Mata Chacón, *LA MAGIA DE LA MEDIACIÓN* (2010).

75. *Ultimado el anteproyecto de Ley de Libertad Religiosa*, ANDALUCÍA INFORMACIÓN, Apr. 19, 2010, <http://andaluciainformacion.es/portada/?a=119121&i=1>.

76. *Zapatero aplaza la reforma de la Ley de Libertad Religiosa hasta que haya consenso*, 20MINUTOS.ES (Nov. 10, 2010, 10:11 AM), <http://bit.ly/QpD2zp>.

problems.”⁷⁷ But who is it that determines which are the most pressing problems? Does the government only address problems that are considered “current”? The exercise of government should not be dictated by political pressures. It governs all and, most importantly, is for everyone. In short, if the need for reform is detected, as it has been, it makes little sense to delay attending to that reform for political reasons.

State cooperation with religious denominations should only achieve the exercise of the fundamental right to religious freedom. This cooperation should preferably happen through laws that apply to all, with the objective of harmonizing the government's treatment of religious faiths that request it, in order to satisfy the right that such confessions deserve.

The agreements with the Catholic Church must be overturned and renegotiated in order to assume a model relationship with the state that is adjusted to the principles of religious freedom, secularism, and equality in the wake of agreements with religious groups.

There is some conflict between religions; ignorance and absence of interfaith dialogue increases human, social, and cultural bias in the plural and diverse modern society. Therefore, it is necessary to create mechanisms, through the organization of public authorities, to correct this trend of cultural violence that is already becoming implanted in our society. This occurs because of a lack of altruism that interfaith dialogue promotes as a fundamental piece in intercultural dialogue.

Creating a round table through a government department at national, regional, and municipal levels of interfaith dialogue would decisively help develop this framework of conciliation, social, and integration policies for members of different faiths. It would also help to correct any imbalances in the exercise of religious freedom, which is a guaranteed and specially protected fundamental right. It would allow, among other things, the creation of a framework for buffering against potential conflict and to deepen the religious pluralism that exists in Andalusia.

Interfaith dialogue is based on these three premises:

(1) No religion preaches killing of innocent people or that “man

77. *El PSOE, otro riesgo para la libertad religiosa*, LIBERTAD DIGITAL (Apr. 3, 2010), <http://bit.ly/QpDygl>.

is a wolf to man.”

(2) That no culture tolerates the exploitation of human beings.

(3) That no civilization accepts violence or terror.

Interfaith dialogue is essential because religions are the core of cultures and civilizations and are the most resistant to dialogue.

History shows that religions, mostly, have felt more comfortable in dictatorial regimes. Traditional religions have spoken out against religious freedom, favored the death penalty on many occasions, sometimes incited or justified violence, and discriminated against women or other believers or unbelievers. This involves conducting a hermeneutic interpretation of sacred texts from the perspective of human rights.

Religions have their positive side: they are fountains of culture and an inexhaustible source of wisdom. They have made significant contributions to society's cultures, have contributed to human thought, have taught fundamental ethical principles of peace, justice, equality, and defense of nature, and have been associated with individuals who are committed to nonviolence, such as Gandhi, Buddha, Confucius, Jesus of Nazareth, Martin Luther King, Jr., the Dalai Lama, etc.

Interfaith dialogue is the alternative for several reasons:

- There are diverse beliefs regarding what is sacred and, therefore, mismatched and often conflicting viewpoints.
- The dialogic nature of knowledge, reason, and philosophy
- Intercultural focus: no culture has the full and exclusive truth.
- Interfaith dialogue is an ethical imperative for human survival. Let us not forget that about five-billion human beings are linked to some religious or spiritual tradition.

Mediation builds peace. “Without dialogue,” as Raimon Pannikar said, “man chokes and religions declines.”⁷⁸

I close with the words of our poet, Miguel Hernández, on speaking and dialogue: “And I call you to come to the milky almond

blossoms who are souls flying. I miss you [soul mate], . . . *we still have*

78. Raimon Pannikar, NUEVO DICCIONARIO DE TEOLOGÍA 243–51 (2005) (“Sin diálogo, el ser humano se asfixia y las religiones se anquilosan.”). Pannikar was a philosopher, theologian, and writer from Spain who developed an interreligious and intercultural philosophy that is characterized by a new, respectful openness to dialogue with other non-Western subjects and traditions. *See id.* He passed away in August of 2010.

729

An Analysis of Spain's Religious Liberty Law

so many things to talk about.”⁷⁹

79. SELECTED POEMS OF MIGUEL HERNANDEZ 30-31 (1995) (emphasis added) (providing Timothy Baland's translation of "Elegía," which originally reads in Spanish: "A las aladas almas de las rosas del almendro de nata te requiero, que tenemos que hablar de muchas cosas, compañero del alma, compañero").