

## Encyclopedia of Law and Religion

# Encyclopedia of Law and Religion

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The Americas

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# Ecuador

## I. Social Facts

In Ecuador, as in other Latin American countries, the religious phenomenon has been part of the national identity since its formation as one of the republics independent from Spain. According to studies performed by the Ecuadorian Institute of Statistics and Censuses, 91.95% of the population claims to belong to a religion, while only 8.05% said they do not ascribe to any religion. Both urban and rural areas are characterized by the presence of churches, temples, and shrines dedicated to active religious worship. There are many processions organized around particular religious celebrations that attract thousands of faithful each year and have the support of government authorities.

Of those who profess to be religious, 80.44% declare that they belong to the Catholic Church while 11.3% declare they belong to Evangelical Christian churches of various denominations. The total percentage of those declaring that they follow Judaism, Islam, and Buddhism does not even reach one percent of the population. The Jehovah's Witnesses have slightly more than one percent and their number is growing. In recent years, the practice of ancestral religions that existed prior to the introduction of Christianity has increased. This development is, however, better framed in the context of the cultural and sociological elements of Ecuador and not within the religious sphere itself. In fact, there is no specific legal religious structure encompassing ancestral rites.

The pronouncements of religious authorities on issues of common interest are usually respected by the public. The religious factor is influential among the population for promoting educational or social initiatives such as schools, colleges or universities, rural training centers, hospitals, and public soup kitchens, in both urban and rural areas.

The rulings of the Ecuadorian courts in matters of religious freedom are few. The academic study of the freedom of religion and the legal implications of the religious phenomenon within the state has been scarce. The intellectual study of religious freedom owes its origin and continued progress to the lawyer Juan Larrea Holguín. In 2006, the Universidad de Los Hemisferios established a program on Ecclesiastical Law of the State, for law students. There are no similar programs at other Ecuadorian universities.

## II. Historical Background

Since the birth of Ecuador as an independent republic, the religious factor has influenced the legal system of the nation, probably as an inheritance from the Spanish Empire, which empowered the authorities of the Spanish crown to intervene directly in ecclesiastical affairs such as the provision of episcopal headquarters, the construction of seminaries, and the promotion of educational centers set up by religious groups. On the other hand, with the jarring and constant political changes originating from a conflicted republican life, there have been eras in which attempts were made to eliminate all religious references in the Ecuadorian legal framework.

The Constitution, the supreme law of the state, has undergone more than 20 different revisions. In the beginning, its framers dictated this important document in the name of God. This reference is found in the failed Constitution of 1812 and in the Constitutions of 1830, 1835, 1843, 1845, 1851, 1852, 1869, 1884 and 1946. In some cases there was an additional phrase designating God as Author and Lawgiver of the universe. In other cases, God was mentioned as the Creator and Supreme Lawgiver. From 1967 onward, the constitutional text invoked God in its preamble; the same formula was present in the constitutions of 1967, 1978 (as revised in 1984), 1998, and in the current constitution. There was no reference to God in the constitutions of 1906, 1929, 1945, or the original text of the *Carta magna* of 1978.

The constitutional text has not always included the fundamental right of religious freedom. All constitutions from the 19th century mentioned the Catholic Church as the official religion of the State, some of them in an exclusive sense. The Constitution of 1897 expressly admitted the possibility of practicing religions other than Catholicism. A reference to freedom of religion first appeared as a constitutional rule in 1945. Article 141, paragraph 11 determined that the state did not recognize any official religion and that all might practice a religion as they saw fit. The Constitution of 1946 deleted the reference to the freedom of religion, noting only the freedom of conscience, similar to the constitutions of 1906 and 1929.

The Constitution of 1967 introduced a more elaborate wording, noting in its Article 28 that the State undertakes to ensure the freedom of religious belief