

Article

'Non-Religion' as Part of the 'Religion' Category in International Human Rights

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Abstract: 'Religion' still occupies and maintains a position of formal and informal privilege in many current societies. It retains these privileges despite the increasing numbers of people who label themselves 'non-religious'. There is also evidence that overtly non-religious people are being persecuted due to the continuation of these privileges. This paper will examine such treatment of the non-religious in the context of human rights instruments and laws. It lays out the international law case for the rights of the non-religious. It also discusses the extent to which state actors have or have not ignored human rights standards in their persecution or deprivileging of non-religious people. This paper will proceed through a three-step analysis. Step 1 is to examine the aspirational *Universal Declaration of Human Rights* (UDHR) in relation to the non-religious. The relevant sections of the UDHR and interpretations that they have received will be discussed. Step 2 is to do the same with the binding *International Covenant on Civil and Political Rights* (ICCPR). Finally, Step 3 is to give examples of lower-level and local laws, where I shall examine the extent to which individual countries' laws and practices toward non-religious people support or contradict the treaty commitments that those countries have made. The continuation in coercion/persecution cases suggests that something is amiss with human rights protections being provided to the non-religious. If we are to create social structures that are more inclusive of the non-religious and to advocate for non-religious rights, it is necessary to examine the societal power and privilege still held by 'religion'. It is hoped that this article can inform and encourage further similar engagements among sociologists, religious studies scholars, activists and lay-people interested in the treatment of non-religious peoples.

Keywords: non-religion; atheism; religion; persecution; law; policy

1. Introduction

Religion continues to occupy a position of privilege, both formally and informally, in many contemporary societies (Beaman et al. 2018). These forms of privilege are maintained through the presence of majority norms that pervade social life, such as discursive frameworks and law. For example, two of the common tropes in discursive frameworks around 'religion' are that everyone has a religion (LoRusso 2017) and that religion is good for people (Zuckerman 2013). Both of these tropes lead to 'religion' being seen as ubiquitous and necessary in many societies. They also informally paint those without religion as outside of normal society and less trustworthy. Likewise, laws have often reflected the religious views of the majority, since the majority make the laws and the connection between morality and religion has been strong in most societies. This means that even in more 'secularised' systems the influence of religion remains strong and many formal laws will reflect the will of the religious majority (see Australian examples in Maddox 2005; Kirby 2009). So, we can see that informal and formal privileging of 'religion' continues in many societies, despite the increasing number of the world's population that is non-religious.

This article aims to use international law documents/principles and legal cases as examples to discuss the ongoing human rights issues experienced by the non-religious in many parts of the world. Although using international laws and local interpretations of such laws, I am writing for sociologists, scholars of religious studies, activists and lay-people interested in the treatment of non-religion. As [Beaman et al. \(2018\)](#) argue, in order to create structures that are more inclusive of the non-religious and to advocate for non-religious rights, it is necessary to examine the power and privilege still held by religions. Part of this power is held within residual religious social influence on laws and local social structures. This task is important from a sociology of religion perspective, because there are a growing number of non-religious people in many parts of the world and there is evidence that the overtly non-religious are persecuted due to societal norms around 'religion'.

The continued privileging of 'religion' is an issue because non-religious and atheist groups are becoming ever more present minorities in many societies ([Keysar and Navarro-River 2017](#)). For example, the British Social Attitudes Survey ([Curtice et al. 2019](#)) found that in the UK there has been a "substantial increase in atheism and in self-description as 'very' or 'extremely' non-religious." The survey found that 52% of the UK population now claim they do not belong to a religion, up from 43% in 2008. New Zealand has seen a similar trend, with the 2018 census finding that 48.2% of New Zealanders say they have no religion ([Stats NZ 2019](#)), up from 41.9% in 2013. [Stats NZ \(2019\)](#) adds that "those with no religion outnumber those affiliated with at least one religion". While not as strong as the previous two cases, Australia has also seen a dramatic increase in the non-religious, from 22.3% in 2011 to 30.1% in 2016 ([Australian Bureau of Statistics 2017](#)). Even the US, often cited as a case against secularisation, has seen a significant rise in the atheist, agnostic and non-religious people, from 16% in 2007 to 26% in 2019 ([Pew Research Center 2016a, 2016b, 2019](#)). In a last example, there has even been an increase in non-religion in many Middle Eastern and North African (MENA) countries, with Arab Barometer ([BBC 2019](#)) finding an overall increase in non-religion from 8% to 13% across the MENA region from 2013 to 2019.

Adding to this, there is increasing evidence that atheist and non-religious people face discrimination for openly expressing their beliefs. For example, [Gervais et al. \(2017\)](#) argue that there is evidence from around the globe that supports the presence of prejudice against atheists. Their findings suggest that the perceived influence of religions on morality is in large part responsible for such prejudice. They also find that prejudices affect employment, elections, family life and social inclusion. Due to this, the non-religious are sometimes coerced into religious behaviour and participation, or experience discrimination for not participating, even in relatively open/liberal societies. This allows the maintenance of informal religious privilege in many societies. For example, [Gervais et al. \(2011\)](#) and [Swan and Heesacker \(2012\)](#) found that informal religious privilege is maintained in the US through anti-atheist prejudice, because people in the US distrust those who do not believe in god(s) (also see [Cragun et al. 2012](#); [Hammer et al. 2012](#)). Adding to the structural mechanisms behind such discrimination, [Edgell et al. \(2016\)](#) show that prejudice stems from informal tendencies to see atheists as immoral due to US cultural values that connect religion and morality to citizenship and national identity. [Beaman et al. \(2018\)](#) demonstrate through Canadian cases that non-religious people are informally and formally coerced into religious identification and practices through the privileged access to resources currently available to religions. In Australia, I ([Nixon 2016](#)) used the case of the atheist bus campaign to illustrate informal prejudice through the refusal to advertise atheist views. Finally, in the UK, [Giddings and Dunn \(2015\)](#) found robust anti-atheist prejudice, suggesting that even where large non-religious populations exist, informal prejudice against atheists was present.

Coercion can be even more severe outside of these societies. In some countries, non-religious rights are not just unrecognised, but actively opposed as is the case in Afghanistan, Egypt, Indonesia, Malaysia, Pakistan and Saudi Arabia ([Angeletti 2012](#); [Carpenter 2017](#); [Humanists International 2017a, 2018a](#); [Johnson 2014](#); [Nixon 2018](#)). This creates a situation where the non-religious are actively coerced into maintaining a religious façade, through both formal and informal sanctions. There are an increasing number of claims of persecution in these regions (also see [Nixon 2018](#)). I have chosen three cases

from 2017 to discuss as examples, due to their relatively recent nature, but with enough time having passed to confirm the cases and the consequences involved. Firstly, Ayaz Nizami, the vice president of *Atheist & Agnostic Alliance Pakistan* (AAAP) was arrested, along with two other bloggers. Nizami has been imprisoned just for organising Pakistani Atheists, accused of blasphemy for receiving and disseminating ‘blasphemous content’ which he allegedly translated into Urdu from European sources (Council of Ex-Muslims of Britain 2017). The hashtag #HangAyazNizami became a top trend on social media at the time of the accusations (Hodgart 2017; Mehta 2017; National Secular Society 2017). Therefore, informal discrimination added to and encouraged formal government actions against Nizami and he now faces the death penalty. In the second case, Malaysian Atheists were targeted by government officials after a picture was posted on the Malaysian *Atheist Republic* Facebook page, outing many hidden members (Zurairi 2017). *Atheist Republic* is the biggest atheist group on Facebook, supporting some of the most vulnerable atheists in the world. The Malaysian government requested that Facebook ban *Atheist Republic* pages but the request was denied by the company (Lena 2017). The Malaysian branch was accused by the Malaysian government of attacking religions in an aggressive way. A deputy minister in the prime minister’s department claimed that there was no place or rights for atheists in Malaysia or their constitution, a claim later disputed by lawyers (USCIRF 2018). Another cabinet minister proclaimed that ‘atheism is a very dangerous ideology’ that was being ‘spread by social media’ and that the government would ‘hunt them down’ (Humanists International 2017b). The minister claimed that Malaysia has freedom of religion, but not freedom from religion (USCIRF 2018). In the third and final case of the same year, Saudi Arabian Ahmad Al-Shamri was sentenced to death on charges of blasphemy and being an atheist, after posts he had made on social media in 2014 (McKernan 2017). Saudi Arabia has declared all atheists to be terrorists who can be given the death penalty as of 2014. It is therefore very dangerous to be accused of atheism in the Kingdom. Hala Dosari, who is on the advisory board of *Human Rights Watch* told *The Washington Post* that Al-Shamri’s trial focused heavily on Quranic law and little on any mitigating mental illness, despite Al-Shamri claiming that he had been mentally ill at the time of the posts and was not actually an atheist (Wootson 2017). The Twitter hashtag #حفرالباطن_مرتد (English translation ‘apostate from Hafar Al-Batin’) was used to tweet both support for the government decision and support for Al-Shamri against the government. The hashtag again illustrates the informal discrimination behind formal government actions (Humanists International 2018b). A number of emerging cases also suggest that non-religious asylum claims are on the rise, although it is difficult to find official data to strengthen these assertions (see Nixon 2018).

The continuation in coercion/persecution and the rise in asylum cases suggests that something is amiss with human rights protections being provided to the non-religious (Jamal 2015; Nixon 2018). This paper examines such treatment in the context of human rights instruments and laws. It examines the extent to which state actors have or have not ignored human rights standards in their persecution or deprivileging of non-religious people. It does so through a three-step analysis. Step 1 is to examine the aspirational *Universal Declaration of Human Rights* (UDHR). This paper will examine the relevant sections of the UDHR and interpretations that they have received. Step 2 is to do the same with the binding *International Covenant on Civil and Political Rights* (ICCPR). Finally, Step 3 is to do the same with lower-level and local laws, where I shall examine the extent to which individual countries’ laws and practices toward non-religious people support or contradict the treaty commitments that those countries have made.

2. Article 18 and 19 of the UDHR and Protection of ‘(Non)Religion’

The UDHR (*Universal Declaration of Human Rights*) is a non-binding aspirational rights document that was created in the aftermath of WWII and the events of the Holocaust. It contains a number of articles that are of relevance to the rights of non-religious people. However, whether these rights do apply to non-religious people is not entirely clear. This factor adds to the non-binding nature of the UDHR to allow some ambiguity within this document around protection of the non-religious and their right to expressing and practicing their beliefs. Three articles are of particular interest to

this analysis; Article 18 that protects the freedom of thought, conscience and religion; Article 19 that protects freedom of opinion and expression; and Article 29 a general limitations clause which applies to all rights and freedoms in the declaration.

The UDHR's Article 18 states that:

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

The UDHR uses the phrase 'religion or belief' to signify the freedoms to be protected. On a simple reading of the article, any interpretation that restricts the scope of Article 18 to protecting only religious beliefs would make the addition of "or belief" seem redundant. Heiner Bielefeldt, the *United Nations Special Rapporteur for Freedom of Religion or Belief* (2010–2016) supports this reading. In an article from 2012, he argues that if human rights are to function as the normative reference in international law, the notions of agency and dignity cannot be claimed by any single tradition. For example, he suggests that this reading is supported by the fact that proposals to base UDHR definitions of human dignity on the Biblical idea that humanity has been 'created in the image and likeness of God' were rejected by the majority of delegates. In Bielefeldt's (2012) reading, this indicates an awareness that concepts in human rights instruments must remain open to multiple religious and non-religious traditions.

However, Lindkvist (2013) suggests that "one of the basic features of this articulation [of Article 18]—the distinction between inner and external liberty—is best explained in light of the direct and indirect influences of Christian personalism on the drafting process." Lindkvist (2013) claims that UDHR Article 18 was the work of a few people who saw individual rights to freedom of conscience and belief as the essence of religious freedom in 1948, rather than collective/minority rights to practice or avoid practices. For example, Turkey's ban on wearing the Hijab could be seen as a minor limitation of religious liberty because it left the individual's freedom of belief intact. He argues that this formulation largely arose from the interests of Christian actors who wished to counter a strawman version of Islamic intolerance of conversion and retain the right to evangelise (Lindkvist 2013). As Mahmood (in Asad et al. 2013) reminds us, the concept of religion as a matter of individual choice and belief is a distinctly Protestant way of conceiving of religion. Thus, the ambiguity of the original text means that it is possible to argue that the text was written in an era in which the drafters thought of religion as primarily about religious belief, and conversion to other beliefs. It could therefore be interpreted as protecting only religious belief, not necessarily extending to unbelief.

As a counterpoint, Bielefeldt (2012, p. 23) argues, with particular relation to the non-religious, that plurality should also imply equal concern for both 'positive' freedom and 'negative' freedom. In this interpretation, the non-religious must also be free not to engage in religious ideas and practices; a 'negative' dimension of freedom of religion or belief. This dimension could include the freedom from religion or belief, or to be indifferent about religious or philosophical issues (Bielefeldt 2012). He thinks that what counts in human rights instruments is the self-understanding of humans on what 'religion or belief' entails. He suggests that such broad definitions must be the starting point for defining freedom of religion or belief as a universal human right, due to the variety of religions, philosophies and beliefs present in human societies. In this view, the scope of these rights must be very broad.

Freedom of choice and freedom to convert both work in favour of the non-religious, and other new minority faiths, who need both of these rights to remain protected. Even if the original framers came from a particular perspective in arguing for freedom of choice and conversion, diversity of religion is aided by this framing. In this reading, 'belief' should necessarily include non-religious convictions, a stance that is also backed up on reading the literature and interpretations around the ICCPR as discussed below.

A second part of the UDHR can be seen as related to the rights of the non-religious, as it is the right that could allow the non-religious to express their arguments against the religions that they have

rejected. This right to freedom of opinion and expression has been considered vitally important since the founding of the United Nations. UDHR (Article 19) states that:

[e]veryone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers. (Eltayeb 2010; UDHR [Universal Declaration of Human Rights](#))

The UDHR aims to allow individual expression and an unobstructed flow of information (Eide et al. 1992). Article 19 enables a liberal freedom without any limitations, with only one draft of the UDHR containing any limitations within the article (Glendon 2001, pp. 271–314). However, Article 19 does maintain a clear distinction between freedom of opinion and freedom of expression. Freedom of opinion is subject to no limitations, while freedom of expression is subject to certain restrictions (Eltayeb 2010). Such restrictions and the ability to interpret their application can work to limit the expression of the non-religious, as will be explored through the ICCPR below.

The UDHR also contains a general limitation clause in Article 29 which applies to all rights and freedoms in the declaration (Eltayeb 2010; Johnson 2014). It limits the right to expression by stating that:

everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society. (Eltayeb 2010; Johnson 2014)

However, Article 29 leaves out guidance on what meets the requirements of the limitations discussed in the article. On a surface reading of UDHR article 29, a state could have a law restricting expression as long as the goal was to respect others' freedoms, public morality, public health, and public order. This is where some of the ambiguity around non-religious expression can be seen, since this reading seems to allow for the restriction of non-religious expressions if the state decides that restrictions meet these requirements. Article 29 flags some of the same limitations on expression as ICCPR Article 19 (3), discussed below.

3. Article 18 of the ICCPR: Protecting 'Non-Religion' as 'Belief'

The ICCPR emerged after the completion of the UDHR as the Human Rights Committee (HRC) began to press for a binding covenant to enforce the aspirational rights found in the UDHR (Eltayeb 2010; Johnson 2014). Unlike the UDHR, it is a binding treaty, which compels ratifying countries to protect human rights, making it important to discuss as a separate document.

Article 18 (1) of the ICCPR states that:

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

Like the UDHR, the ICCPR uses the phrase 'religion or belief' to denote the freedoms to be protected. The drafting history of the ICCPR supports a reading that includes the protection of non-religion under the category of 'belief'. For example, many countries objected to initial drafts without the 'or belief' language, largely because they did not cover non-religious convictions (Lerner 2012). The same phrase was found in an influential study preceding the drafting process, which deliberately framed the language as including religious beliefs and "such other beliefs as agnosticism, free thought, atheism and rationalism" (Krishnaswami 1960). The drafters' intentions seem to have been the protection of both religious and non-religious beliefs.

Human Rights Committee (HRC) jurisprudence on the scope of 'religion or belief' also confirms that non-religious beliefs are protected under Article 18 of the ICCPR. For example, in the case

Leirvag v. Norway (2004), Unn and Ben Leirvag, objected to their child being forced to participate in religious instruction, arguing it was in violation of their Article 18 rights. The HRC agreed with their assessment and stated that the “scope of article 18 covers not only protection of traditional religions, but also philosophies of life, such as those held by the authors.” (Carpenter 2017, p. 225).

HRC General Comments (GC) and other reports on the scope of ‘religion or belief’ also give the same impression. HRC GC 22 Paragraph 5 combines earlier stances and confirms that atheistic views are included. It states that:

The Committee observes that the freedom to ‘have or to adopt’ a religion or belief necessarily entails the freedom to choose a religion or belief, including the right to replace one’s current religion or belief with another or to adopt atheistic views, as well as the right to retain one’s religion or belief. (HRC Human Rights Committee)

Furthermore, HRC GC 34 says that it is “impermissible” for any law to “discriminate in favour of or against ... religious believers over non-believers.” (HRC Human Rights Committee). HRC GC 22 Paragraph 3 adds that ICCPR Article 18 does not permit any limitations on this right (OHCHR Office of the High Commissioner of Human Rights). Carpenter (2017, p. 226) cites other reports that include atheists, agnostics and freethinkers as being protected under Article 18 and HRC comments on instances of discrimination against the non-religious.

Coercion away from atheism or non-religion is also barred within human rights instruments. Both the ICCPR Article 18 (2) and the 1981 Declaration of the General Assembly Article 1 (2) state that: “No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice” (OHCHR Office of the High Commissioner of Human Rights). HRC GC 22 Paragraph 5 extends these statements by providing specific cases that are barred and adds the non-religious specifically into the coverage of ICCPR Article 18 (2), stating that the article:

... bars coercion that would impair the right to have or adopt a religion or belief, including the use of threat of physical force or penal sanctions to compel believers or non-believers to adhere to their religious beliefs and congregations, to recant their religion or belief or to convert. Policies or practices having the same intention or effect, such as, for example, those restricting access to education, medical care, employment or the rights guaranteed by article 25 and other provisions of the Covenant, are similarly inconsistent with article 18 (2). The same protection is enjoyed by holders of all beliefs of a non-religious nature. (OHCHR Office of the High Commissioner of Human Rights)

Therefore, we can clearly see that when viewed in accordance with the rules of good faith interpretation (Vienna Convention 1969; ICCPR Article 5 (1)), non-religious beliefs are protected by binding human rights instruments such as the ICCPR. On deeper readings of the interpretations of the ICCPR, it becomes clear that Article 18 should provide as much right to adopt, have and change to non-religious and atheistic views as to any other religion. The idea that Article 18 protects manifestations of non-religious beliefs is therefore based on a broad consensus (Carpenter 2017). The non-religious should also have these rights without being subject to laws and actions that attempt to coerce them away from their non-religious stance. Read together and harmoniously, this suggests that any country that allows the exclusion or coercion of non-religious groups would be in breach of Article 18. However, ICCPR Article 19 and 20 make this interpretation more ambiguous and allow some to argue that certain non-religious expressions and behaviour can be limited.

4. Articles 19 and 20 of the ICCPR: Limiting Non-Religious Expression

A major issue for the non-religious, in comparison to the religious, lies in the fact that some forms of expression may be viewed as incompatible with international law values, and therefore not able to benefit from protections. This is because some non-religious expressions are more like criticisms of religious beliefs than a belief in itself. This means that such expressions while at times problematic,

can at other times be misinterpreted as hate speech or incitement to hatred, even where critiques are arguably legitimate. There are reasons for these restrictions. For example, in the case of *Norwood v. the United Kingdom*, the distribution of posters by a member of an extreme right-wing group that linked Islam with terrorism was deemed a 'vehement attack on a religious group.' It was judged as 'incompatible with the values proclaimed and guaranteed by the convention, notably tolerance, social peace and non-discrimination'. Therefore, the court found that it did not benefit from protection (Evans 2009).

The maintenance of peaceful coexistence in multicultural societies requires governing bodies to uphold a balance between freedom of expression and freedom of religion, since these rights coexist with each other (Eltayeb 2010). Allowing for diversity means that there must be exchanges of ideas, but these expressions may be unwelcome and offensive to some groups. Protecting expression allows the realisation of pluralism yet runs the risk of compromising the values and practices of some groups due to competing rights around certain issues. For example, discussions around the idea of 'Islamophobia', often conflate legitimate criticism of arguably discriminatory Islamic values and practices (which are also held and enacted by many other religious groups) such as homophobia, sexism, ritual slaughter of animals and anti-atheist sentiments, with assaults on the right to hold religious convictions (Bleich 2011; Halliday 1999; Imhoff and Recker 2012; Nixon 2019; Malik 2009; Zúquete 2008). Framing non-religious expression in this way, as Islamophobia, can be problematic. Because while society has become used to accepting the idea that religious truth claims can reject the rights of others, we have often not yet accepted non-religious truth claims as having equal validity (Beaman et al. 2018; Imhoff and Recker 2012). This framing can therefore have a chilling effect on the ability of the non-religious to express their reasons for disagreeing with, disbelieving in, or for leaving a religion.

Due to this tendency to limit non-religious expressions, it is necessary to analyse the relevant ICCPR articles governing freedom of opinion and expression. The discussion will start with ICCPR Article 19 which states:

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
 - (a) For respect of the rights or reputations of others;
 - (b) For the protection of national security or of public order (ordre public), or of public health or morals.

ICCPR Article 19 (3) (a) and (b) contain the restrictions which some commentators and governments argue can be used to limit non-religious expression. The Article flags the same restrictions as UDHR article 29. Its inclusion means a state could have a law restricting expression, as long as the goal was to respect others' freedoms, public morality, public health and public order, allowing the potential for restriction of non-religious expressions. For example, blasphemy laws are often instated for the purpose of protecting the religious freedoms of majority groups (others), religious morality, and public order (due to violent reactions or the perception that religion is necessary for public order). Bielefeldt (2012) and Carpenter (2017) suggest that such interpretations ignore the idea that non-religious expressions might qualify as manifestations of belief under Article 18. Despite this, the ICCPR does allow more restrictions to be placed on freedom of expression (Eltayeb 2010; Johnson 2014). These restrictions can therefore be used against non-religious expression and require further analysis.

The first case, ICCPR article 19 (3) (a), which relates to respecting the rights and freedoms of others, can potentially be used to protect religious leaders and religions from reputational damage.

However, HRC GC 34 (paragraph 48) indicates that this type of comment can only be restricted under limited circumstances ([Angeletti 2012](#); [Johnson 2014](#)):

Prohibitions of displays of lack of respect for a religion or other belief system, including blasphemy laws, are incompatible with the Covenant, except in the specific circumstances envisaged in article 20 par. 2 of the Covenant. Such prohibitions must also comply with the strict requirements of article 19, paragraph 3 (. . .) nor would it be permissible for such prohibitions to be used to prevent or punish criticism of religious leaders or commentary on religious doctrine and tenets of faith

In line with HRC GC 34, ICCPR Article 19 (3) (a) is not intended to protect religious leaders or religious doctrine from criticism. Restricting non-religious speech for the purposes of protecting religious feelings would therefore seem unacceptable once this clarification from the HRC is taken into account.

With relation to ICCPR Article 19 (3) (b), the first condition is that of public morality. Protection of “public morals” can be used as a justification for restricting the right to freedom of expression as long as the restriction meets the conditions in 19 (3) of the ICCPR. However, in GC 34, the HRC stated:

The Committee observed in general comment No. 22, that “the concept of morals derives from many social, philosophical and religious traditions; consequently, limitations . . . for the purpose of protecting morals must be based on principles not deriving exclusively from a single tradition”. Any such limitations must be understood in the light of universality of human rights and the principle of non-discrimination.

According to this comment, laws that protect morality are not intended to be derived from a specific religious tradition. However, apostasy and blasphemy laws are often designed to protect specific traditions and therefore infringe on the rights of religious minorities and the non-religious. [Bielefeldt \(2012\)](#) suggests that laws stemming from a particular tradition often derive from a paradoxical combination of fear and contempt for a minority. Such minorities are also often depicted as lacking in moral values. Fear can even intensify and build towards political paranoia and conspiracy theories (as seen around atheists in Egypt and Saudi Arabia). These escalations often target small minorities who are portrayed as having ‘infectious’ power which allegedly threaten social cohesion. [Bielefeldt \(2012\)](#) argues that on the side of majority society, this fear and contempt, leads to aggressiveness from a feeling of vulnerability and from the perception of moral superiority. These factors are seen in the classic idea of a moral panic ([Cohen 2011](#)). This is particularly the case for the non-religious, who are painted as a ‘dangerous phenomenon’ that damages the fabric of society through their perceived lack of morality ([Humanists International 2018b](#); [Johnson 2014](#); [Marshall and Shea 2011](#); [USCIRF 2018](#)). Laws based on a particular tradition and targeting specific minorities therefore do not seem to meet the HRC GC 34 requirement of the universality of human rights and the principle of non-discrimination.

In the second condition of ICCPR Article 19 (3) (b), restrictions may apply for reasons of ‘public order’. Many of the issues with public order that form around non-religious expression are found in the often violent reactions against it ([Carpenter 2017](#)). Citing previous decisions of the HRC, [Carpenter \(2017\)](#) argues that in cases based on public order, the HRC should consider a state’s actions when deciding if a limitation was necessary. For example, did authorities engage in actions that attempted to calm or stop the responses to non-religious expression that brought about the disorder? He argues that if such actions have not been taken, the HRC should not accept the restrictions as based on necessity ([Carpenter 2017](#), p. 240). ICCPR Article 27 (Protection of minorities) also supports this reading since it prohibits the denial of a minority group’s ability “to profess and practise their own religion,” which as established earlier would include non-religion. Adding to this, ICCPR Article 26 (Equality before the law) states that the law must “guarantee to all persons equal and effective protection against discrimination on any ground,” which would include non-religious status. Non-religious rights cannot be ensured if the HRC finds limitations permissible because of violent reactions from a religious

majority. The threat of violence would essentially bar a non-religious minority from manifesting its beliefs. Thus, in cases where a state limits non-religious expression due to public order issues linked to violent reactions, the HRC should reject the response because the result would be the destruction of freedom of expression for the non-religious minority (Carpenter 2017).

HRC GC 34 states that ICCPR Article 19 and Article 20 work together to complement each other. Article 20 also contains further restrictions to expression, for both the state and individuals/groups within a state. The article directly mentions both propaganda and advocacy of religious hatred. The HRC also expressly indicates the article as needing direct legal action, with parties to the ICCPR obliged to adopt legislative measures prohibiting actions referred to in the article (Eltayeb 2010). For this reason, Article 20 is seen as more controversial than the other articles, because it involves government control of expression, which in turn could enable abuse of that control. All of these factors make it relevant to issues surrounding non-religious freedom and expression and therefore it must also be discussed. The Article states that:

1. Any propaganda for war shall be prohibited by law.
2. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

The drafting history of Article 20 reveals considerable discussion on the consequences of the article's wording. Disagreements around Article 20 involved two main issues: the potential abuse of restrictions by governments and the problems with defining the terms 'incitement', 'hostility' and 'hatred'. The issue of non-religious truth claims often resembling criticism of religions and religious practices also arises through this article. These forms of non-religious expression could be considered as either propaganda or incitement to discrimination, hostility or violence. The ambiguity and diversity of views around what is hostile to a particular religion could allow these expressions to fall within valid restrictions. If non-religious expression is framed in this way, it can have broad consequences in theocratic states, due to monopoly and claims to superiority by the state religion. These factors may lead to harassment and punishment of individuals and groups who do not follow the state's official position (Eltayeb 2010).

However, in GC 11, the HRC argues that the prohibitions under Article 20 (1) extend to all forms of propaganda, whether it has aims internal or external to the State. Furthermore, they state that the measures contemplated by Article 20 (2) are safeguards designed to protect against acts of violence and persecution directed at minority religious groups. It is intended to allow such groups to exercise the rights guaranteed by Articles 18 and 27 (minority rights) of the ICCPR. When GC 11 is taken into account, and the protection of non-religion under Article 18 is recognised, state propaganda against the non-religious should also be seen as problematic. Internal laws and propaganda against the non-religious would run directly counter to the need for active laws that protect against hate speech and persecution of particular groups.

In order to be legitimately restricted, speech acts should also satisfy the criteria set forth by Article 20 (2) of the ICCPR. This means they must be shown to advocate for actions that constitute 'incitement to discrimination, hostility or violence' (Angeletti 2012; Eltayeb 2010; Johnson 2014). Neither the drafting history of Article 20 nor HRC GC 11 have defined this phrase. The HRC jurisprudence regarding Article 20 (2) also says little on the definition of religious hatred that amounts to incitement. It does not specifically tell the states what speech they can and cannot restrict. There is also no stronger definition in any other international law document (Johnson 2014). The *Camden Principles* do try to clarify the definition. They add in Principle 12.1 (i) that "'hatred' and 'hostility' refer to intense and irrational emotions of opprobrium, enmity and detestation towards the target group." They also clarify the terms "advocacy" and "incitement," as being statements that generate an "imminent risk of discrimination." This definition is still broad and could really include whatever a state decides is relevant (Johnson 2014).

While GC 34 specifically protects even 'deeply offensive' speech, it also states that such speech may be prohibited in accordance with the provisions of Article 19 (3) (Angeletti 2012; Johnson 2014).

This means that states may use the wording around the reputation of others, and public order, public health, and public morality as reasons to prohibit certain forms of expression. However, even where restrictions are deemed necessary under Article 20, they cannot favour religious believers over non-believers (HRC Human Rights Committee, para. 48), even if the expression is regarded as “deeply offensive” (HRC Human Rights Committee, para. 11), or if such restrictions are “enshrined in traditional, religious or other such customary law.” (HRC Human Rights Committee, para. 24). The *Special Rapporteur on freedom of religion or belief* (Heiner Bielefeldt 2010–2016) also puts forward that disturbing and shocking speech should not be conflated with speech that amounts to incitement of hatred (Carpenter 2017; UN United Nations). In the document (UN United Nations), the Special Rapporteur states that only expressions that incite *imminent* acts of violence or discrimination against a specific individual or group should be prohibited under Article 20 (2). Adding to these insights, the drafting history of Article 20 suggests that it was designed to restrict only the most extreme types of hateful expression (Carpenter 2017; Eltayeb 2010). Read together, these documents indicate that speech against religions may be considered offensive or insulting by people, but still not necessarily result in violation of the right to freedom of religion (Carpenter 2017; Eltayeb 2010). Mere criticism without a specific call to violence or discrimination would not fit within the definition of incitement via hate speech. GC 34 also specifically excludes blasphemy laws as being incompatible with the article, except in cases where such speech contravenes Article 20 (amounts to propaganda or hate speech). So, while on the surface it is increasingly difficult to see how blasphemy laws can be compatible with the human rights framework (Angeletti 2012; Evans 2009; Johnson 2014), the inclusion of Article 20 allows some government leeway to label certain speech as prohibited.

Carpenter (2017) suggests that it is unlikely that people sanctioned for non-religious expressions had the intention of inciting immanent discrimination, hostility or violence. This is because the non-religious are still mostly in the minority and are often the targets of discrimination and violence due to their speech. The examples of non-religious expression are also often criticisms of religious views that are accepted by those advocating for human rights, such as criticisms of homophobia or sexism. Moreover, much non-religious expression simply states a lack of religion, representing their own belief rather than an attack on a specific individual or group. Even if the HRC allows a religion to qualify as a targeted group and views non-religious expression as advocacy of hatred, the status of the targeted group must surely also be considered. In this framing it is implausible that a non-religious minority, could realise the impairment of rights of a powerful religious majority. If majority feelings are allowed to stifle minority non-religious expression, it encourages violent reactions. This is because, if permitted, such actions allow the majority group to both remove expression distasteful to them and support their group’s identity against a common enemy (Carpenter 2017).

The issues discussed here apply to both minority religions as well as the non-religious. They emphasise the idea that freedom of religion and belief, and freedom of expression are closely related legal safeguards of communicative freedom (Bielefeldt 2012; Eltayeb 2010). The religious require freedom of expression just as much as the non-religious, especially when they are not part of the majority or have been given the designation ‘not religious’ by that majority. As has been shown here, in human rights instruments the burden of proof always falls on those wishing to enact restrictions. Despite this, there is some leeway for restrictions to be enacted. States continue to tightly restrict non-believers, are involved in propaganda against them, and often harshly punish them for expressing or manifesting their beliefs (Carpenter 2017).

5. Local Interpretations of Non-Religious Rights: Inclusion and Exclusion

Even with the protections found within international human rights instruments, the protections extended to religions and non-religion vary by region and legal system. The general consensus in the international agreements has therefore often not been carried down to the level of local laws and culture (Carpenter 2017; Gunn 2002; Hale 2017; Humanists International 2017a, 2018a; Johnson 2014).

Campaigns and laws discriminating against or excluding the non-religious continue to be features of many states and many of these states are also signatories to the ICCPR (Johnson 2014).

Specific to the non-religious, Bielefeldt (2012) and Carpenter (2017) both suggest that many individuals and governments are unaware that freedom of religion or belief covers the non-religious, atheists and agnostics. This lack of awareness and clarity about non-religious rights is reflected in the exclusion of non-religious views from 'religion' in many legal contexts. As observed by Nicolas Bratza, a former President of the *European Court of Human Rights* (ECHR), achieving a definition of 'religion' that is flexible enough to cover the range of world religions but also precise enough for practical application is difficult (cited in Tulkens 2014). Academics have the distance from practical application to consider whether 'religion' can or should be defined. But this is not the case for national governments and persecution/asylum adjudicators, who must interpret the meaning of 'religion'. However impossible it might be, or how inadequate the adjudicator's skillset, the legal system requires them to do so. The meaning of 'religion' is therefore a legal question that is addressed differently in different legal and cultural regimes (Behrman 2014; Gunn 2002). The necessity of defining 'religion' is particularly problematic because 'religion' is not a value-free description of beliefs or practices. It is a value judgment on the particular beliefs or actions, which defines them into something that is acceptable or unacceptable to a society or a legal system (Gunn 2002). However, we also cannot consider just any opinion as having the status of a serious belief, because freedom of religion or belief would lose significance and applicability. Deciding on the correct place to draw the line is difficult and dealing with this issue requires careful consideration (Hale 2017).

The range of legal understandings of 'religion' can be very broad (as in India and the EU) to very narrow (as in Saudi Arabia). The ECHR is the case that Storey (2014) suggests as a paradigm of protections against religious persecution. The court has tended to favour a broad and imprecise definition of 'religion'. These wide protections have enabled European courts to apply the criteria not merely to long-established religions, but also to newer and less common forms of religious movements. The ECHR also specifically includes a wide range of non-religious beliefs, including atheism and humanism. Thus, in the European case, any suitably conscientious system of beliefs could be seen as a 'religion' (Tulkens 2014). As demonstrated in ECHR Article 10 (1) (b):

the concept of religion shall in particular include the holding of theistic, non-theistic and atheistic beliefs, the participation in, or abstention from, formal worship in private or in public, either alone or in community with others, other religious acts or expressions of view, or forms of personal or communal conduct based on or mandated by any religious belief

This is a very broad understanding of the concept of 'religion'. It confirms the idea that the concept is not confined to organised, long-standing religions and it deliberately includes atheists as part of the category. However, as Hale (2017) argues, ideas and practices traditionally seen as 'religion' are still likely to qualify for automatic protections in the ECHR, where non-religious belief systems may have to exhibit certain criteria within the scope of ICCPR Article 18 to merit protection. Hale (2017) illustrates a belief that would not qualify through the example of pacifists distributing leaflets to troops to dissuade them from serving in the armed forces. This particular illustration was confirmed in Europe by the case of *Campbell and Cosans v. the United Kingdom* which found that "the term 'belief' denotes views that attain a certain level of cogency, seriousness, cohesion and importance", discounting certain non-religious stances as qualifying. The case suggests that personally held ideas, opinions and beliefs may not fall within the definition of 'religion' (Evans 2009). So, even in the European case, there are still restrictions on what can qualify as a 'religion' for the purposes of attaining protections under freedom of religion laws.

The ECHR style of broad definition is not adopted in all national contexts. This is illustrated in other, generally more liberal, regions where we can see that the definition of religion is more exclusionary when considering non-religion and atheism. For example, Lord Toulson's 'working definition' adopted by the UK Supreme Court (cited in Hale 2017):

a spiritual or non-secular belief system, held by a group of adherents, which claims to explain mankind's place in the universe and relationship with the infinite and to teach its adherents how they are to live their lives in conformity with the spiritual understanding associated with that belief system. By spiritual or non-secular I mean a belief system which goes beyond that which can be perceived by the senses or ascertained by the application of science.

This specifically UK definition therefore shows the deliberate exclusion of scientific and secular worldviews which many non-religious people hold (also see UK cases *Re South Place Ethical Society* 1980¹; *R (on the application of Hodkin and another) v. Registrar of Births, Deaths and Marriages* 2013)². We can find similarly exclusionary legal definitions around the world, such as ideas related to the supernatural in Australia (*Church of the New Faith v. Commissioner of Pay-Roll* 1983)³, with relation to gods in Singapore (*Nappali Peter Williams v. Institute of Technical Education* 1999)⁴, or as related to individualised spirituality in Canada (*Syndicat Northcrest v. Amselem* 2004)⁵.

In other national contexts the definition and recognition of 'religion' can go well beyond simple legal exclusion, to a direct persecution of those who do not adhere to particular religious beliefs (e.g., Saudi Arabia, Indonesia, Afghanistan, Egypt: [Humanists International 2017a, 2018a, 2018b, 2018c](#)). Freedom of religion or belief abuses occur due to different motives, in different political regimes, and in various regions of the world. They are perpetrated in the name of national identity, for purposes of defending law and order and to protect religious truth claims ([Bielefeldt 2012](#)). In these contexts, non-believers may be treated as apostates or blasphemers, whom the state is duty-bound to punish. They can have their rights restricted through everything from denial of services, tax benefits or legal rights to forced religious participation, government/social harassment, 're-education', removal of children, imprisonment or the death penalty. This includes cases in Egypt, Saudi Arabia, Indonesia, Pakistan, Kazakhstan, the Maldives, Cameroon, Tunisia, the Philippines, Turkey, Poland, and Greece.

The issue can be seen most starkly in national apostasy and blasphemy laws. There are at least two major concerns around these laws: firstly, their vague formulations and terminology, which can allow abuses by individuals, groups and the state; secondly, their exclusivist construction, since many such laws only protect specific religions. Consequently, they are often used to target interpretations of religion not sanctioned by the state and therefore to intimidate non-believers or believers of other creeds. Indeed, Non-Government Organisations (NGOs) have reported cases where blasphemy laws have been used as revenge in personal disputes ([Angeletti 2012](#)). These issues can occur because it is both hard to identify the victims (usually a religious group, not an individual) and to demonstrate one's innocence. Thus, apostasy and blasphemy laws have a restrictive effect on the religious expression of minorities. Such laws can affect critics, dissenters, members of religious minorities and the non-religious ([Bielefeldt 2012](#)). This is especially problematic because what is considered apostasy or blasphemous speech varies significantly and what is considered sacred can be very different even between denominations of a broader religion. [Humanists International \(2018a\)](#) gives an overview of which countries punish apostasy and blasphemy by death, with prison time, or place legal restrictions on (non-) religious speech and thought.

Apostasy is the act of renouncing a religion or at least the perception that an individual has done so. The ambiguity of perception arises because categorising someone as an apostate relies on the local community or authority's judgments of what constitutes an 'official' version of religion, or a renunciation of a religion. Indeed, the person being accused of apostasy may not believe they are an apostate (as seen with the Alevi in Turkey and the Ahmadis in Pakistan). As of 2018, 22 countries criminalise apostasy. In 12 countries (Afghanistan, Iran, Malaysia, Maldives, Mauritania,

¹ *Re South Place Ethical Society*. 1980. 1 WLR 1565, [1980] 3 All ER 981. England

² *R (on the application of Hodkin and another) v. Registrar of Births, Deaths and Marriages*. 2013. UKSC 77. UK.

³ *Church of the New Faith v. Commissioner of Pay-Roll*. 1983. HCA 40; (1983) 154 CLR 120. Australia.

⁴ *Nappali Peter Williams v. Institute of Technical Education*. 1999. 2 SLR 529. Singapore.

⁵ *Syndicat Northcrest v. Amselem*. 2004. 2 S.C.R. 551, 2004 SCC 47. Canada.

Nigeria, Qatar, Saudi Arabia, Somalia, Sudan, United Arab Emirates, Yemen), ‘apostasy’ is in principle punishable by death (Humanists International 2018a). In six countries, it is punishable by imprisonment (Humanists International 2018a). In Morocco, Malaysia and Jordan, it is punishable by fines, flogging and deprivation of family rights, such as the right to child custody (Humanists International 2017a). According to Pew Research Center (2016c), more than one in ten nations (13%) had laws or policies penalising apostasy.

Some countries, although lacking apostasy laws, frequently use blasphemy laws to persecute non-believers or believers of other religions (including non-religion). Humanists International (2018a) shows that blasphemy is punishable by death in six countries (Afghanistan, Iran, Nigeria, Pakistan, Saudi Arabia, Mauritania) and imprisonment in 40 countries. According to Pew Research Center (2016c), a quarter of the world’s countries and territories (26%) have anti-blasphemy laws or policies. Similar to apostasy, there is no clear legal definition of blasphemy. It means something different in most legal systems across the world. In fact, in the Muslim-majority states, where most of these laws are found, there is no common idea of what constitutes blasphemy. The codes around blasphemy have developed differently in each state (Johnson 2014).

For example, the new constitution of Egypt bans blasphemy and forms of ‘insult,’ as well as only permitting ‘divine’ or ‘monotheistic’ religions. The Egyptian Penal Code contains Article 98 (f) which prohibits using religion to “degrade any of the heavenly religions, or harm national unity or social peace.” (Marshall and Shea 2011, p. 67; Humanists International 2018c). Egyptian law also contains the “doctrine of *hisba* which entitles any Muslim to take legal action against anyone he considers harmful to Islam.” (Siddique and Hayat 2008, pp. 370–71). The doctrine gives people the ability to harass others, such as members of other sects of Islam, Judaism, or Christianity (Marshall and Shea 2011, p. 62). Egypt’s government officials have also claimed the presence of 866 atheists and publicly called the presence of these atheists a ‘dangerous development.’ Following this, they have conducted national campaigns to combat the spread of atheism that include convicting atheists of blasphemy (Carpenter 2017; Humanists International 2018c). One example is Sherif Gaber, an Egyptian atheist who was arrested for Blasphemy in 2013 under Article 98 (f). On 16 February 2015, Gaber was found guilty and sentenced to a year in jail—after which, he went into hiding. On 5 May 2018, he was arrested again and imprisoned. On 1 October 2018, Gaber tweeted that there were two “different ongoing blasphemy charges” against him. As of 12 October 2018, according to Gaber’s tweets, he was facing five felony charges, each punishable by up to 15 years in prison “ranging from blasphemy, insulting Islam, contempt of religion, supporting homosexuality, shaking the peace of the society and ‘religious extremism’” (Gaber 2019). Egypt’s constitution therefore violates stipulations within the ICCPR, which Egypt ratified in 1982, by enforcing restrictions outside of those allowed in Articles 19 and 20 and the related general comments (Johnson 2014).

Similar laws are found in other countries. Algeria’s penal code prohibits insults against Islam or the prophet Muhammad (Angeletti 2012; Humanists International 2018e). Adding to this, Algeria’s Information Code of 1990, prohibits publications that are “contrary to Islamic morals, national values, human rights”; it bans insults against “heavenly religions,” which include Islam, Christianity and Judaism. Similarly, in Malaysia, blasphemy is prohibited in both state Shari’a statutes and federal law; Pakistan’s penal code contains blasphemy laws (Angeletti 2012; Humanists International 2018d); and most extreme of all, Saudi Arabia goes so far as to proclaim all atheists as terrorists who can and have been punished with the death penalty (Humanists International 2018b). These examples show that a number of Muslim-majority states favour Islam and its protection over the individual’s right to freedom of religion and expression (Johnson 2014; Asad et al. 2013). However, these issues can also be found in the West. For example, some European states (Bielefeldt 2012) and New Zealand (Humanists International 2018f) continue to have domestic anti-blasphemy provisions, and there are constitutional provisions barring atheists from holding public office in eight US states (Humanists International 2018g). As discussed in the last section, blasphemy laws are specifically barred in the ICCPR and its surrounding interpretive documents. Restrictions of religion or expression based in a

single tradition are also not acceptable. Yet many of these examples suggest that laws are still being created and enforced with both of these factors included.

Restrictions can come in the form of these formal apostasy and blasphemy laws that put limits on the expression of religious and non-religious minorities. Laws which specifically give explicit support to certain religions or outlaw certain types of expression. But, as discussed in the introduction, they can also come in the form of informal negative discourses and culturally based ideas about the non-religious or at least those who are labelled non-religious (as seen in places like the US, UK, Australia, Egypt, Malaysia and Saudi Arabia). Both are effective at silencing non-religious expressions, as they essentially prohibit speech that would be viewed as critical of religion, and open identification with non-religion. Such restrictions clearly have a negative effect on non-religious freedom of expression and belief, and therefore should not be allowed under international human rights instruments. So, despite the support for non-religious individuals and expression in international documents, the situation on the ground is far less clear.

6. Conclusions

A discourse that justifies more automatic rights to something called 'religion', while ignoring or punishing non-religious beliefs, should be seen as unsustainable in the broader context of human rights. This is particularly the case when a growing number of the world's population are declaring themselves to be non-religious. A view of the modern religious landscape in full breadth makes it hard to argue against the large diversity of 'religion' and the need to take this diversity into account in human rights frameworks. By necessity, protecting human rights requires us to allow the expression of new worldviews even if they are distasteful to us, as long as protections remain in place so that they in turn do not violate the rights and freedoms of others. This is a delicate balance at times, as discussed above in relation to balancing freedom of religion and freedom of expression.

International human rights instruments and their interpretations certainly do have the intention of providing protection for the non-religious. However, states can restrict or prohibit non-religious expression under ICCPR Articles 19 and 20 as a form of 'hate speech' or as endangering 'public morality' or 'public order'. Part of this issue occurs due to the difficult line between freedom of expression and freedom of religion, which while complementary rights, can also come into conflict. There is no doubt that incitement to religious hatred, hate speech and discrimination should be forbidden. This is necessary in order to guarantee people their right to freedom of conscience and religion. But it should apply equally to the religious and non-religious. The definition of 'hate speech' that leads to incitement changes over time. Changes have been seen from racial, religious, ethnic, or national hate speech to including gender, age, sexual preference, marital status, physical capacity and other categories over the years (Johnson 2014). Any definition of hate speech is therefore necessarily impacted by the place and time from which we are viewing it. In recent times, we have seen a rise in numbers of the non-religious, cases of non-religious persecution, and the persistence of laws facilitating such persecution. These factors should lead us to argue that definitions of hate speech must now include the non-religious as a potential target.

The persistence of informal cultures and formal structures that effectively persecute the non-religious in many parts of the world mean that these protections are not filtering down for the non-religious at the local level. The non-religious are therefore still subject to formal and informal exclusion, discrimination and persecution in many places. This is evidenced by the presence of discriminatory laws. For example, penal laws prohibiting leaving a religion (apostasy), against criticising religion and against expressing non-religious identities (blasphemy). But also include wide social consequences for openly declaring non-religious identity due to informal ideas about religion and non-religion. That something is amiss is evident through increases in both persecution cases and asylum claims involving the non-religious in the last decade or so. The key issue is not, therefore, a matter of available international protections, but the persistence of local laws and cultures that contribute to non-religious persecution.

This persistence suggests that more focus needs to be put on exposing and alleviating the local conditions that lead to persecution. There are clearly still many places where the rights of the non-religious are tenuous at best and overtly curtailed at worst. As Carpenter (2017) argues, the HRC must clarify its jurisprudence and reaffirm the commitment to protecting controversial minority rights and expression. This is a difficult task and may take some time, especially given the privileged space religion still occupies in many societies. It will also take deep consideration of the perpetually unsettled border between freedom of religion and expression. The local systems that do recognise persecution experienced by the non-religious should also review processes to ensure that non-religious asylum cases are being recognised and heard. This means that those countries that can provide protection should do so, especially while the international legal situation remains so ambiguous for non-religious people.

The power and privilege still retained by ‘religion’ must be examined and challenged to help build fairer and more equal societies that include a place for the non-religious (Beaman et al. 2018). Hence, there is currently a need to better understand and consider non-religious perspectives and issues alongside religious ones within the sociology of religion and by extension through law, rights, policy and education frameworks. We must continue examining and critiquing the negative social influences of religion and the continuation of vestigial religious legal structures. This will allow us to help alleviate some of the persecution being experienced by individuals and groups due to formal and informal religious power. It is a task that is important to the non-religious and religious minorities alike, since both sometimes find themselves being defined by those in power as holding illegitimate forms of belief. I hope this article can inform and encourage these engagements among sociologists, religious studies scholars, activists and lay-people interested in the treatment of non-religious peoples.

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References

- Angeletti, Silvia. 2012. Freedom of religion, freedom of expression and the United Nations: Recognizing Values and Rights in the “Defamation of Religions” Discourse. *Rivista Telematica* 2. [CrossRef]
- Asad, Talal, W. Brown, J. Butler, and S. Mahmood. 2013. *Is Critique Secular? Blasphemy, Injury and Free Speech*. New York: Fordham University Press.
- Australian Bureau of Statistics. 2017. 2016 Census Data Reveals “No Religion” is Rising Fast. Available online: <http://www.abs.gov.au/AUSSTATS/abs@.nsf/mediareleasesbyReleaseDate/7E65A144540551D7CA258148000E2B85?OpenDocument> (accessed on 2 April 2018).
- BBC. 2019. The Arab World in Seven Charts: Are Arabs Turning Their Backs on Religion? Available online: <https://www.bbc.com/news/world-middle-east-48703377> (accessed on 26 September 2019).
- Beaman, Lori, Cory Steele, and Keelin Pringnitz. 2018. The Inclusion of Nonreligion in Religion and Human Rights. *Social Compass* 65: 43–61. [CrossRef]
- Behrman, Simon. 2014. Legal Subjectivity and the Refugee. *International Journal of Refugee Law* 26: 1–21. [CrossRef]
- Bielefeldt, Heiner. 2012. Freedom of Religion and Belief-A Human Right Under Pressure. *Oxford Journal of Law and Religion* 1: 15–35. [CrossRef]
- Bleich, Erik. 2011. What Is Islamophobia and How Much Is There? Theorizing and Measuring an Emerging Comparative Concept. *American Behavioral Scientist* 55: 1581–600. [CrossRef]
- Carpenter, Devin. 2017. “So Made That I Cannot Believe”: The ICCPR and the Protection of Non-Religious Expression in Predominately Religious Countries. *Chicago Journal of International Law* 18: 216–44.
- Cohen, Stanley. 2011. *Folk Devils and Moral Panics: The Creation of the Mods and Rockers*. London: Routledge. First published 1972.
- Council of Ex-Muslims of Britain. 2017. Details on the cases of Ayaz Nizami and Rana Noman. Available online: <https://www.ex-muslim.org.uk/2017/03/details-on-the-cases-of-ayaz-nizami-and-rana-noman/> (accessed on 22 November 2018).

- Cragun, Ryan T., B. Kosmin, A. Keysar, J. H. Hammer, and M. Nielsen. 2012. On the Receiving End: Discrimination Towards the Non-Religious in the United States. *Journal of Contemporary Religion* 27: 105–27. [CrossRef]
- Curtice, John, Elizabeth Clery, Jane Perry, Miranda Phillips, and N. Rahim, eds. 2019. *British Social Attitudes: The 36th Report*. London: The National Centre for Social Research.
- Edgell, Penny, Douglas Hartmann, Evan Stewart, and Joseph Gerteis. 2016. Atheists and Other Cultural Outsiders: Moral Boundaries and the Non-Religious in the United States. *Social Forces* 95: 607–38. [CrossRef]
- Eide, Asbjørn, Gudmundur Alfredsson, Göran Melander, Lars Rehof, Allan Rosas, and Theresa Swinehart, eds. 1992. *The Universal Declaration of Human Rights: A Commentary*. Oxford: Oxford University Press.
- Eltayeb, Mohamed Saeed M. 2010. The Limitations on Critical Thinking on Religious Issues under Article 20 of ICCPR and its Relation to Freedom of Expression. *Religion and Human Rights* 5: 119–35. [CrossRef]
- Evans, Malcolm. 2009. The Freedom of Religion or Belief and the Freedom of Expression. *Religion and Human Rights* 4: 197–235. [CrossRef]
- Gaber, Sherif. 2019. @Mr_SherifGaber. *Twitter*. Available online: https://twitter.com/Mr_SherifGaber (accessed on 29 March 2019).
- Gervais, Will M., Azim F. Shariff, and Ara Norenzayan. 2011. Do You Believe in Atheists? Distrust Is Central to Anti-Atheist Prejudice. *Journal of Personality and Social Psychology* 101: 1189–206. [CrossRef]
- Gervais, Will M., Dimitris Xygalatas, Ryan T. McKay, Michiel van Elk, Emma E. Buchtel, Mark Aveyard, Sarah R. Schiavone, Ilan Dar-Nimrod, Annika M. Svedholm-Häkkinen, Tapani Riekkki, and et al. 2017. Global evidence of extreme intuitive moral prejudice against atheists. *Nature Human Behaviour* 1: 0151. [CrossRef]
- Giddings, Leah, and Thomas J. Dunn. 2015. The Robustness of Anti-Atheist Prejudice as Measured by Way of Cognitive Error. *The International Journal for the Psychology of Religion* 26: 124–35. [CrossRef]
- Glendon, Mary Ann. 2001. *A World Made New: Eleanor Roosevelt and the Universal Declaration of Human Rights*. New York: Random House.
- Gunn, T. Jeremy. 2002. The Complexity of Religion in Determining Refugee Status. UNHCR. Available online: <https://www.unhcr.org/en-au/protection/globalconsult/3e5f2f7f6/complexity-religion-determining-refugee-status-t-jeremy-gunn.html> (accessed on 22 May 2019).
- Hale, B. 2017. Freedom of Religion and Freedom from Religion. *Ecclesiastical Law Journal* 19: 3–13.
- Halliday, Fred. 1999. 'Islamophobia' reconsidered. *Ethnic and Racial Studies* 22: 892–902. [CrossRef]
- Hammer, Joseph H., Ryan T. Cragun, Karen Hwang, and Jesse M. Smith. 2012. Forms, Frequency, and Correlates of Perceived Anti-Atheist Discrimination. *Secularism and Nonreligion* 1: 43–67. [CrossRef]
- Hodgart, K. 2017. #HangAyazNizami is What Comes of Caving in to Clerical Rule. Available online: <http://www.atimes.com/article/hangayaznizami-comes-caving-clerical-rule/> (accessed on 22 November 2018).
- HRC (Human Rights Committee). 1993. *General Comment No. 22 on Article 18 from its 48th Session*. U.N. Documents. CCPR/C/21/Rev.1/Add.4 (July 20, 1993). New York: United Nations.
- HRC (Human Rights Committee). 2011. *General Comment No. 34 on Article 19 from its 102nd Session*. U.N. Documents. CCPR/C/GC/34 (September 12, 2011). New York: United Nations.
- Humanists International. 2017a. The Freedom of Thought Report 2017. Available online: <https://fot.humanists.international/download-the-report/> (accessed on 22 May 2019).
- Humanists International. 2017b. Atheism “Very Dangerous” and “Unconstitutional” Says Government Minister in Malaysia, Again, Wrongly. Available online: <https://humanists.international/2017/11/atheism-dangerous-unconstitutional-says-government-minister-malaysia-wrongly/> (accessed on 1 October 2019).
- Humanists International. 2018a. The Freedom of Thought Report 2018: Open Data. Available online: <https://fot.humanists.international/data/> (accessed on 20 November 2018).
- Humanists International. 2018b. 'Saudi Arabia'. The Freedom of Thought Report. Available online: <https://fot.humanists.international/countries/asia-western-asia/saudi-arabia/> (accessed on 22 May 2019).
- Humanists International. 2018c. 'Egypt'. The Freedom of Thought Report. Available online: <https://fot.humanists.international/countries/africa-northern-africa/egypt/> (accessed on 22 May 2019).
- Humanists International. 2018d. 'Pakistan'. The Freedom of Thought Report. Available online: <https://fot.humanists.international/countries/asia-southern-asia/pakistan/> (accessed on 22 May 2019).
- Humanists International. 2018e. 'Algeria'. The Freedom of Thought Report. Available online: <https://fot.humanists.international/countries/africa-northern-africa/algeria/> (accessed on 22 May 2019).

- Humanists International. 2018f. 'New Zealand'. The Freedom of Thought Report. Available online: <https://fot.humanists.international/countries/oceania-australia-and-new-zealand/new-zealand/> (accessed on 22 May 2019).
- Humanists International. 2018g. 'United States of America'. The Freedom of Thought Report. Available online: <https://fot.humanists.international/countries/americas-northern-america/united-states-of-america/> (accessed on 22 May 2019).
- Imhoff, Roland, and Julia Recker. 2012. Differentiating Islamophobia: Introducing a new scale to measure Islamoprejudice and secular Islam critique. *Political Psychology* 33: 811–24. [CrossRef]
- Jamal, Arif A. 2015. The Impact of Definitional Issues on the Right to Freedom of Religion and Belief. In *Routledge Handbook of Law and Religion*. Edited by Silvio Ferrari. London: Routledge, pp. 93–99.
- Johnson, Eric M. 2014. Examining Blasphemy: International Law, National Security and the U.S. Foreign Policy Regarding Free Speech. *The Air Force Law Review* 71: 25–67.
- Keysar, Ariela, and Juhem Navarro-River. 2017. A World of Atheism: Global Demographics. In *The Oxford Handbook of Atheism*. Edited by Stephen Bullivant and Michael Ruse. Oxford: Oxford University Press.
- Kirby, M. 2009. Law, Human Rights and Religion—Of Genocide, Sexuality and Apostasy. *Macquarie Law Journal* 9: 3.
- Krishnaswami, Arcot. 1960. *Study of Discrimination in the Matter of Religious Rights and Practices*. New York: UN.
- Leirvag v. Norway*. 2004. U.N. GAOR, Hum. Rts. Comm., 58th Sess. U.N. Document. CCPR/C/82/D/1155/2003 (2004). New York: United Nations.
- Lena, M. 2017. Update: Malaysian Persecution of Atheists. Available online: <http://www.atheistrepublic.com/blog/lena-m/update-malaysian-persecution-atheists> (accessed on 22 November 2018).
- Lerner, Natan. 2012. *Religion, Secular Beliefs and Human Rights*. Leiden: Brill.
- Lindkvist, Linde. 2013. The Politics of Article 18: Religious Liberty in the Universal Declaration of Human Rights. *Humanity* 4: 429–47. [CrossRef]
- LoRusso, J. D. 2017. 'Everyone has a faith'. In *Stereotyping Religion*. Edited by Brad Stoddard and Craig Martin. London: Bloomsbury Academic.
- Maddox, Marion. 2005. *God Under Howard: The Rise of the Religious Right in Australian Politics*. Sydney: Allen & Unwin.
- Malik, Maleiha. 2009. Anti-Muslim prejudice in the West, past and present: An introduction. *Patterns of Prejudice* 43: 207–12. [CrossRef]
- Marshall, Paul, and Nina Shea. 2011. *Silenced: How Apostasy and Blasphemy Codes are Choking Freedom Worldwide*. Oxford: Oxford University Press.
- McKernan, B. 2017. Man 'Sentenced to Death for Atheism' in Saudi Arabia. Available online: <https://www.independent.co.uk/news/world/middle-east/saudi-arabia-man-sentenced-death-atheism-ahmad-al-shamri-hafar-al-batin-appeal-denied-a7703161.html> (accessed on 22 November 2018).
- Mehta, H. 2017. With #HangAyazNizami, It's Clear the Anti-Atheist Sentiment in South Asia is Getting Worse. Available online: <https://friendlyatheist.patheos.com/2017/03/26/with-hangayaznizami-its-clear-the-anti-atheist-sentiment-in-south-asia-is-getting-worse/> (accessed on 22 November 2018).
- National Secular Society. 2017. Pakistani Twitter Users Call for Hanging of 'Blasphemer'. Available online: <https://www.secularism.org.uk/news/2017/03/pakistani-twitter-users-call-for-hanging-of-blasphemer> (accessed on 22 November 2018).
- Nixon, Alan G. 2016. Australia: Conflict, Not Competition. In *The Atheist Bus Campaign: Global Manifestations and Responses*. Edited by Steven Tomlins and Spencer Bullivant. Leiden: Brill.
- Nixon, Alan G. 2018. The Case of Atheist Refugees. *Journal for the Academic Study of Religion* 31: 2.
- Nixon, Alan G. 2019. Public Atheism and 'Islamophobia' on Twitter. In *Religion and Belief through the Digital Social*. Edited by Alpha Possamai-Inesedy and Alan Nixon. Berlin: DeGruyter.
- OHCHR (Office of the High Commissioner of Human Rights). 2019. International Standards on Freedom of Religion or Belief. Available online: <https://www.ohchr.org/EN/Issues/FreedomReligion/Pages/Standards.aspx> (accessed on 25 May 2019).
- Pew Research Center. 2016a. The Factors Driving the Growth of Religious 'Nones' in the U.S. Available online: <http://www.pewresearch.org/fact-tank/2016/09/14/the-factors-driving-the-growth-of-religious-nones-in-the-u-s/> (accessed on 2 April 2018).

- Pew Research Center. 2016b. Why America's 'Nones' Left Religion behind. Available online: <http://www.pewresearch.org/fact-tank/2016/08/24/why-americas-nones-left-religion-behind/> (accessed on 17 October 2019).
- Pew Research Center. 2016c. Which Countries Still Outlaw Apostasy and Blasphemy? Available online: <https://www.pewresearch.org/fact-tank/2016/07/29/which-countries-still-outlaw-apostasy-and-blasphemy/> (accessed on 17 October 2019).
- Pew Research Center. 2019. In U.S., Decline of Christianity Continues at Rapid Pace: An update on America's Changing Religious Landscape. Available online: <https://www.pewforum.org/2019/10/17/in-u-s-decline-of-christianity-continues-at-rapid-pace/> (accessed on 17 October 2019).
- Siddique, Osama, and Zahra Hayat. 2008. Unholy Speech and Holy Laws: Blasphemy Laws in Pakistan—Controversial Origins, Design Defects, and Free Speech Implications. *Minnesota Journal of International Law* 17: 303.
- Stats NZ. 2019. Losing Our Religion. Available online: <https://www.stats.govt.nz/news/losing-our-religion> (accessed on 7 October 2019).
- Storey, Hugo. 2014. What Constitutes Persecution? Towards a Working Definition. *International Journal of Refugee Law* 26: 272–85. [CrossRef]
- Swan, Lawton K., and Martin Heesacker. 2012. Anti-Atheist Bias in the United States: Testing Two Critical Assumptions. *Secularism and Nonreligion* 1: 32–42. [CrossRef]
- Tulkens, Francoise. 2014. Freedom of Religion under the European Convention on Human Rights: A Precious Asset. *BYU Law Review*, 509–30. Available online: <https://digitalcommons.law.byu.edu/lawreview/vol2014/iss3/3> (accessed on 17 November 2019).
- UDHR (Universal Declaration of Human Rights). 1948. *G.A. Res. 217A, U.N. GAOR, 3d Sess., 1st plen. mtg.* U.N. Document A/810 (Dec 12, 1948). New York: United Nations.
- UN (United Nations). 2012. *Rep. of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression.* U.N. Doc. A/67/357, (Sept. 7, 2012). New York: United Nations.
- USCIRF. 2018. *Annual Report 2018—Tier 2—Malaysia.* Washington: United States Commission on International Religious Freedom.
- Vienna Convention. 1969. *Vienna Convention on the Law of Treaties.* United Nations Treaty Series. No. 18232; New York: United Nations, vol. 1155, p. 331.
- Wootson, Cleve R., Jr. 2017. A Saudi Man has been Sentenced to Death after Insulting the Prophet Muhammad on Twitter. Available online: https://www.washingtonpost.com/news/worldviews/wp/2017/04/27/a-saudi-arabian-man-has-been-sentenced-to-death-after-insulting-muhammad-on-twitter/?utm_term=.5c8fe4844ec1 (accessed on 22 November 2018).
- Zuckerman, Phil. 2013. Atheism and Societal Health. In *The Oxford Handbook of Atheism.* Edited by Stephen Bullivant and Michael Ruse. Oxford: Oxford University Press.
- Zúquete, José Pedro. 2008. The European extreme-right and Islam: New directions? *Journal of Political Ideologies* 13: 321–44. [CrossRef]
- Zurairi, A. R. 2017. Targeting Atheists Will Ruin Moderate Image, Malaysia Told. Available online: <https://www.malaymail.com/s/1437259/targeting-atheists-will-ruin-moderate-image-malaysia-told> (accessed on 22 November 2018).



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