Submission on “Draft General Comment No. 38 on Article 22 (on the right to freedom of association) of the International Covenant on Civil and Political Rights”

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This submission is made by **Humanists International** (NGO with Consultative Status at UN ECOSOC)

Humanists International is an international non-governmental organization (NGO) and the global representative body of the humanist movement, uniting a diverse community of non-religious organizations and individuals. Inspired by humanist values, we are optimistic for a world where everyone can have a dignified and fulfilling life. We build, support, and represent the global humanist movement and work to champion human rights, equality, and secularism. We campaign on humanist issues and defend humanists at risk of persecution and violence. We work to promote human rights priorities based on humanist values at international institutions, including the United Nations. Our Members and Associates include humanist, rationalist, secular, ethical culture, atheist, and freethought organizations from all over the world. Our community also includes many individual supporters who share our vision and values.

1. This submission by Humanists International is in response to the Call for Inputs issued by the Human Rights Committee on the Draft General Comment No. 38 on Article 22 of the International Covenant on Civil and Political Rights. We are the representative body of the global humanist movement, with members across the world. This submission was gratefully informed by the input of our global network of member organizations.

2. This submission addresses four issues: the treatment of freedom of religion or belief throughout the draft, the unresolved question of anti-rights actors, the meaning of "dominant message," and transnational repression.

3. In addition to the amendments suggested below on these four issues, we believe that the Draft Comment would benefit from additional concrete references to other international treaties and legal regimes, so that this General Comment can reinforce the fact that "all human rights are universal, indivisible, and interdependent and interrelated."[1] Too often, support for one human right is framed as a trade-off for another. We urge the Human Rights Committee to explicitly reject such framing in this draft.

A. **The Right to Freedom of Religion or Belief**

4. Throughout the draft General Comment, the right to freedom of association interacts with other rights. One such right is Article 18, the right to freedom of religion, thought, conscience, or belief. As noted in the International Covenant on Civil and Political Rights (ICCPR), this includes adopting a religion or belief of one's choice.

5. In 1992, General Comment 22 noted that Article 18 of the ICCPR "protects theistic, non-theistic and atheistic beliefs, as well as the right not to profess any religion or belief."[2] We therefore welcome the citation to General Comment 22 in para 18 and urge its retention.

6. Subsequently, in 2020, the Special Rapporteur on Minority Issues discussed the inclusion of atheists and humanists as minorities at length, with the following paragraph worth highlighting:

> *"The Special Rapporteur agrees that, although the term 'religious minority' is theoretically inclusive of those of no religious belief, discussions on religious minorities frequently result in non-religious or non-theistic minorities being overlooked. Persons who are non-believers in a religious faith, such as agnostics, humanists, and atheists, would not necessarily identify themselves as members of a 'religious' minority. … The Special Rapporteur has concluded that, henceforth, activities and documents under the mandate and United Nations agencies should, whenever possible, use the expression 'religious or belief minorities' to more properly encapsulate the scope of minorities this category refers to."*[3]

[1] Vienna Declaration and Programme of Action, 1993, para 5.
[2] CCPR/C/21/Rev.1/Add.4, General Comment No. 22. (General Comments), para 2 https://www.refworld.org/legal/general/hrc/1993/en/13375.
[3] Fernand de Varennes, Special Rapporteur on Minority Issues, 'Minority Issues' (21 July 2020) UN Doc A/75/211, para 15.

7. We are concerned by the lack of explicit references to "belief" throughout the draft. Many States do not recognize the belief element of Article 18, and this omission allows them to point to the General Comment to evade their obligations. This is not merely an academic argument but one which has implications in the real world for humanists, atheists, agnostics, and other non-religious individuals and communities whose ability to access the right to freedom of association is already curtailed in numerous ways. In some countries, terrorist designations are used against the non-religious,[4] or they are described, erroneously and insidiously, as extremists.[5] In others, they are denied the right to have their belief(s), or lack thereof, recognized on their ID cards.[6] In further States, non-religious organizations are denied registration, either on the same level as their religious counterparts, or often at all.[7]

8. As such, we urge the Human Rights Committee to make the following amendments:

   8.1. In para 12, to accurately represent the extent of groups to add either "and/or belief" after "religious."
   8.2. In para 33, add "or belief" after "practice their own religion."
   8.3. In para 44, to accurately represent the extent of groups to add either "and/or belief" after "dissolution of a religious..."

9. Beyond these textual changes, the draft General Comment must reinforce safeguards against the instrumentalization or misuse of the right to freedom of religion or belief, or the misuse of restrictions on the right to freedom of association against religious or belief minorities, including the non-religious.

10. States Parties to the Covenant weaponize initial entry barriers to deny legal personality to minority religious and belief groups. By enforcing high minimum membership thresholds[8] and mandatory longevity requirements demanding decades of prior existence,[9] laws create a catch-22 for newer or smaller communities. This exclusion is worsened by vague and discretionary approval processes, where applications are evaluated by political gatekeepers or majoritarian religious councils rather than

[4] Adam Withnall, 'Saudi Arabia Declares All Atheists Are Terrorists in New Law to Crack Down on Political Dissidents' *The Independent* (London, 4 April 2014). https://www.independent.co.uk/news/world/middle-east/saudi-arabia-declares-all-atheists-are-terrorists-in-new-law-to-crack-down-on-political-dissidents-9228389.html accessed 15 June 2026.
[5] Shimaa El-Yousef, 'Special Report: Inside Egypt's War on Atheism Rekindled' (Religion Unplugged, 19 August 2025) https://religionunplugged.com/news/egypt-war-on-atheism-rekindled accessed 15 June 2026.
[6] David Hutt, 'Atheists Say Indonesia Denies Right to Live Religion-Free' (Genocide Watch, 6 February 2025) https://www.genocidewatch.com/single-post/atheists-say-indonesia-denies-right-to-live-religion-free accessed 15 June 2026.
[7] Danish Humanist Society, 'Denmark: Written Submission by the Danish Humanist Society for the UN Universal Periodic Review' (submission to the 38th session of the UPR Working Group, May 2021) https://upr-info.org/sites/default/files/documents/2021-07/hs_upr38_dnk_e_main_rev.pdf accessed 15 June 2026.
[8] Óscar Salguero Montaño, 'The Institutionalization of Religious Minorities in Spain: The Recognition of the Bahá'í Community's Notorio Arraigo' (2025) 16 Religions 1306 https://doi.org/10.3390/rel16101306 accessed 15 June 2026.
[9] Michael Bourdeaux, 'Trends in Religious Policy' in Eastern Europe, Russia and Central Asia (Europa Publications 2003) 46.

objective administrative checklists, allowing arbitrary denials under the guise of public order.[10] We submit that public morality should not be defined as majoritarian or dominant religious beliefs, nor be used to facilitate State-sponsored vilification of the non-religious.[11] We welcome the draft General Comment's acknowledgment of States Parties' positive obligations in creating an enabling environment to facilitate the exercise and enjoyment of the freedom of association at para 13 and in section IV, and further submit that such entry barriers engage a State Party's positive obligations under Article 22.

11. The text must explicitly integrate Article 18 jurisprudence to ensure that States Parties cannot use administrative hurdles to effectively outlaw minority beliefs or non-religious, philosophical organizations, contrary to Article 22.

12. The draft General Comment should therefore make clear that limitations on the right to freedom of association should not be used to undermine the right to freedom of religion or belief, particularly for religious or belief minorities.

13. In this same vein, the draft General Comment should uphold equal treatment for religious organizations and their non-religious counterparts. Where a State Party deals with religious groups, such as through formalized dialogues, through the provision of preferential taxation regimes, or through the provision of other forms of state aid,[12] it should deal with all religious or belief groups equally. Article 26 of the ICCPR notes that "...the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as …religion…" Insofar as the right to freedom of association is an individually held right which is affected by the manner in which States Parties treat organizations with which one could associate themselves, States Parties should be held to have a positive obligation to treat similar organizations in a similar manner.

B. **Anti-Rights Movements**

14. The draft General Comment raises several interesting and cross-cutting issues relating to anti-rights movements and the right to freedom of association, which highlights an underlying tension within the right—*whose* freedom of association is being protected, and at *whose* cost. As reiterated above, "all human rights are universal, indivisible, and interdependent and interrelated."

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[10] Alberto José Ferrari Puerta, 'Your Name Is Religion: Public Authorities' Assessment of Faith Groups in the Spanish Registration System' (Talk About: Law and Religion, 9 June 2025) https://talkabout.iclrs.org/2025/06/09/name-religious-group-in-the-spanish-registration-system/ accessed 15 June 2026.

[11] See 'Minister Violating Human Rights by "Hunting" Atheists, Says Humanist Group' *Malay Mail* (Kuala Lumpur, 9 August 2017) https://www.malaymail.com/news/malaysia/2017/08/09/minister-violating-human-rights-by-hunting-atheists-says-humanist-group/1439009 accessed 15 June 2026; Shimaa El-Yousef, ;Special Report: Inside Egypt's War on Atheism Rekindled' (Religion Unplugged, 19 August 2025) https://religionunplugged.com/news/egypt-war-on-atheism-rekindled accessed 15 June 2026.

[12] Françoise Curtit and Anne Fornerod, 'State Support for Religions: European Regulation' in Francis Messner (ed.), Public Funding of Religions in Europe (Ashgate 2015) 3.

15. Freedom of association is integral to collective expression and solidarity, making it inextricably linked to democracy. However, we have recently documented an increasing instrumentalization of this right, and the human rights system more broadly, by anti-rights actors, groups, and movements who seek to undermine the international human rights system using the language of human rights.[13] In *Ayoub and Others v. France*,[14] the European Court of Human Rights (ECtHR) upheld the dissolution of three extreme right-wing associations. In respect of two of the applicant associations, the Court found that they had pursued aims prohibited by Article 17 of the European Convention on Human Rights and had abused their right to freedom of association in a manner incompatible with the values of tolerance and non-discrimination underlying the Convention, declaring their complaints inadmissible. In respect of the third, the Court examined the dissolution on the merits and found no violation of Article 11, holding that the dissolution answered a pressing social need to prevent public disorder following violence by the association's members. Anti-democratic associations should not be permitted to instrumentalize international human rights protections to pursue anti-democratic goals.

16. Therefore, we welcome the Human Rights Committee's emphasis on the disparate impact of restrictions and interferences on marginalized, disenfranchised, or disadvantaged persons, groups, communities, and peoples at para 9. However, the draft General Comment does not yet address the converse situation: associations that invoke Article 22 in order to undermine the rights of those minority groups. Article 5(1) ICCPR provides that nothing in the ICCPR implies a right to engage in any activity aimed at the destruction of the rights and freedoms it recognizes. The draft General Comment should expressly state that Article 5(1) applies to the right to freedom of association, and that States Parties may, subject to the strict requirements of Article 22(2) and the contextual assessment set out in the Rabat Plan of Action, restrict associations whose object or activity is the destruction of the rights of others.

17. We further welcome the Committee's acknowledgment at para 10 that attacks and infringements on the right to freedom of association of minority groups or marginalized persons or communities are a crucial barometer of a broader crackdown on human rights and democracy. For example, anti-rights movements that advocate for rolling back LGBTQIA+ rights directly undermine the freedom of association of LGBTQIA+ individuals and groups.[15] States Parties have positive obligations, as the Committee notes in paras 13 and 35, to create an enabling environment where minority or marginalized groups can exercise their freedom of association. This may include restrictions on the freedom of association of anti-rights movements, and in this regard, we suggest an explicit acknowledgment of the standards set out in the Rabat Plan of Action, discussed below.

18. We suggest that, in Section I or IV, the following language is incorporated:

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[13] Neil Datta, *The Next Wave: How Religious Extremism Is Regaining Power* (European Parliamentary Forum for Sexual and Reproductive Rights 2026) https://www.epfweb.org/node/1147 accessed 15 June 2026; Humanists International, 'Humanists International Warns Against Instrumentalization" of Religious Freedom at the UN' (Humanists International, 2 April 2026) https://humanists.international/2026/04/humanists-international-warns-against-instrumentalization-of-religious-freedom-at-the-un/ accessed 15 June 2026.

[14] *Ayoub and Others v. France* App nos. 77400/14, 34532/15, and 34550/15 (ECHR, 8 October 2020).

[15] See UN Women, 'LGBTIQ+ communities and the anti-rights pushback: 5 things to know' (28 May 2024) <https://www.unwomen.org/en/news-stories/explainer/2024/05/lgbtiq-communities-and-the-anti-rights-pushback-5-things-to-know> accessed 28 May 2026.

18.1. *"In accordance with Article 5, Paragraph 1, of the Covenant, the right to freedom of association may not be invoked to allow any activity aimed at the destruction of the rights and freedoms recognized in the Covenant. Any restriction imposed on this basis must satisfy the requirements of Article 22, Paragraph 2, and should be informed by a contextual assessment consistent with the Rabat Plan of Action."*

C. **Action Against Individuals and the Freedom of Association**

19. The relationship between Articles 5 and 22 of the ICCPR discussed by the Committee in Part V of the draft General Comment, particularly on the question of actions against individual perpetrators and not organizations, requires further consideration.

20. The draft General Comment proposes determining the dominant message of an association to make such an assessment, at para 51. Presently, there is no jurisprudence on the dominant message of an association for the purposes of determining restrictions on the freedom of association. The Human Rights Committee, in *Kasem Said Ahmad and Asmaa Abdol-Hamid v. Denmark*,[16] considered the authors' submission that the dominant message of the impugned illustrations critiquing Islam in question was associating Islam with terrorism. The communication was held to be inadmissible by the Committee for failure to exhaust domestic remedies, and thus no dominant message analysis was made on the merits. We submit that this is a significant legal question that requires further clarification by the Committee.

21. The dominant message of an association, particularly when used to determine whether action can be taken against individual members or the association as a whole, should be a careful legal assessment. In the absence of such a legal standard, States Parties have wide discretion and may treat this as a factual assessment, putting ICCPR rights at risk. The Rabat Plan of Action on the prohibition of advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility, or violence,[17] cited by the Committee in the draft General Comment, is illustrative but does not directly address the relationship between hate speech by an individual on behalf of an association and the organization as a whole.[18] It provides no guidance on separating the two or the considerations that should form a part of making such an assessment.

22. On one hand, hate speech by anti-rights movements and associations is a grave concern, but on the other hand, restrictions on freedom of association for organizations against whose members States Parties have taken action individually is equally concerning. The latter disproportionately affects minority groups.[19] Thus, we submit that the Rabat guidance on a contextual assessment[20] is crucial. This balancing exercise can ensure that minority associations are not outlawed under the guise of criminal prosecution of one of their members (particularly if such action is unrelated to the

[16] *Kasem Said Ahmad and Asmaa Abdol-Hamid v. Denmark*, Communication No 1487/2006, UN Doc CCPR/C/92/D/1487/2006 (HRC, 1 April 2008).
[17] Rabat Plan of Action on the prohibition of advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility, or violence, A/HRC/22/17/Add.4.
[18] *Ibid*, para 29.
[19] See Rabat Plan (n 17), para 11.
[20] See Rabat Plan (n 17), para 29.

association in question), while accounting for anti-rights groups whose dominant message meets the six-part threshold test recommended by the Rabat Plan of Action.

23. Accordingly, we recommend that the Committee incorporates the following language at para 51:

23.1. *"When determining the dominant message of an association, States Parties must act in accordance with the six-part threshold test in the Rabat Plan of Action and make a careful contextual assessment. Due care should be taken to ensure that the freedom of association of minority groups is not unlawfully restricted based on individual action against their members, while also ensuring that anti-rights groups whose dominant message is contrary to the Covenant cannot enjoy its protection."*

D. **Transnational Repression**

24. We welcome the Committee's comment on States Parties' negative obligation to prevent their officials or agents from harassing individuals or groups extraterritorially as well as a positive obligation to protect individuals subject to their jurisdiction against such a risk coming from third States, at para 36 of the draft General Comment. However, we believe this para should be strengthened to reflect the evolving and increasingly pernicious nature of transnational repression (TNR). The General Comment should explicitly acknowledge the positive and negative obligations of both States of origin and host States, and ensure that it is harmonized with the evolving international human rights jurisprudence on TNR.

25. TNR impacts many human rights defenders (HRDs), including non-religious activists such as "humanists at risk", whom we work with. It impacts Article 22 rights and curtails civic space.[21] TNR against HRDs, including humanists at risk, encompasses a wide array of tactics. For instance, spyware such as Pegasus, which provides full access to the mobile phones of targeted HRDs, engages the freedom of association.[22] There is also the phenomenon of the abuse of Interpol Red Notices, administrative sabotage like passport cancellations or other travel bans,[23] and coercion of HRDs through the intimidation of family members in their countries of origin.

26. The above tactics have a chilling effect on HRDs, including humanists at risk. For humanists at risk this is particularly threatening as they are often charged with crimes like apostasy or blasphemy, which carry heavy sentences, including the death penalty, in several countries.[24] When the existence

[21] European Parliament, 'Transnational repression of human rights defenders: The impacts on civic space and the responsibility of host states' (June 2025) <https://www.europarl.europa.eu/RegData/etudes/STUD/2025/754475/EXPO_STU(2025)754475_EN.pdf> accessed 29 May 2026.
[22] *Ibid*, 35.
[23] e.g. Observatory for the Protection of Human Rights Defenders, 'Greece: Continued Judicial Harassment Against Migrants' Rights Defender Panayote Dimitras' (FIDH, 23 January 2025) https://www.fidh.org/en/issues/human-rights-defenders/greece-continued-judicial-harassment-against-migrants-rights-defender accessed 15 June 2026.
[24] International Bar Association's Human Rights Institute, *Global Blasphemy Laws Table* (International Bar Association) https://www.ibanet.org/document?id=Global-Blasphemy-Laws-Table accessed 15 June 2026.; Humanists International, *The Freedom of Thought Report 2025: Key Countries Edition* (Humanists International 2026) https://fot.humanists.international/wp-content/uploads/2026/02/Freedom-of-Thought-Report-2025.pdf accessed 15 June 2026.

of groups of non-religious individuals, exercising their right to freedom of association, is seen as a threat, States Parties have shown a willingness to use TNR across borders. The fear of TNR, including surveillance, doxxing, and smear campaigns prevents non-religious individuals who have fled their home countries from exercising their right to freedom of association. This pattern has been identified by the UN Office of the High Commissioner for Human Rights.[25]

27. Therefore, we suggest that para 36 be strengthened by recognizing that the obligations it identifies apply to both States of origin and host States, and that they extend to the full range of methods by which transnational repression is now carried out. We propose that the Committee adopt language along the following lines:

27.1. *"States Parties must refrain from, and take effective measures to protect persons within their jurisdiction against acts of transnational repression that interfere with the right to freedom of association, whether such acts are committed directly by their own officials or agents or by third States or their proxies. These acts include, but are not limited to, targeted digital surveillance and the deployment of spyware against members of associations, the misuse of international law enforcement mechanisms such as Interpol Red Notices, administrative measures such as the cancellation of passports or the imposition of travel bans, and the intimidation, harassment, or punishment of family members in order to coerce or silence individuals abroad. States Parties should further ensure that their cooperation with other States, including through extradition, mutual legal assistance, and information-sharing arrangements, is not used to facilitate the repression of lawful associations or their members."*

28. We submit that this paragraph should be read consistently with the evolving international and regional jurisprudence on transnational repression, so that the protection afforded under Article 22 keeps pace with the methods used to undermine it.

E. **Conclusion**

29. In conclusion, Humanists International welcomes the Human Rights Committee's draft General Comment and the opportunity to contribute to its development. The right to freedom of association is foundational to democratic life and the ability of individuals, including the non-religious, to organize around shared beliefs and convictions. As this submission has illustrated, the current draft, while strong, leaves gaps that States Parties could exploit, including the omission of "or belief" alongside references to religion, the absence of an express safeguard against the instrumentalization of Article 22 by anti-rights associations, the absence of a clear legal standard for assessing the "dominant message" of an association, and underdeveloped explicit engagement with the recent developments in transnational repression.

30. We therefore urge the Committee to adopt the amendments above. First, the General Comment should consistently refer to "religion or belief" in line with Article 18 of the ICCPR and General Comment

[25] OHCHR, 'Transnational Repression' (OHCHR, June 2025) https://www.ohchr.org/en/documents/tools-and-resources/transnational-repression accessed 15 June 2026.

No. 22, and should make clear that administrative barriers to religious and belief associations, including around legal personality and registration, should not be used to undermine the right to freedom of association of religious or belief minorities. Second, it should affirm that Article 5(1) of the Covenant applies to the right to freedom of association, so that this right cannot be invoked to destroy the rights of others. Third, it should anchor the notion of "dominant message" in the contextual assessment and six-part threshold test of the Rabat Plan of Action, and set out the considerations relevant to distinguishing the acts of individual members from those of an association. Fourth, it should strengthen para 36 as described to reflect the full range of threats posed by transnational repression to the right to freedom of association.

31. These recommendations are rooted in policies of Humanists International, which has worked to defend and strengthen the protection of human rights since its 1952 founding. These recommendations share the goal of ensuring that the right to freedom of association is protected for all, while guarding against its instrumentalization by anti-rights actors and States Parties evading their international obligations.