

How secular and religiously free are Europe's "secular" states?

*Jonathan Fox*¹

Abstract

This study uses data from the Religion and State (RAS) project to examine the extent to which 43 European states are, in fact, secular and religiously free. I find that these European states engage in substantial levels of support for religion, regulation, restriction, and control (RRC) of the majority religion, and government-based discrimination (GRD) against religious minorities. This is true of both countries in Europe with official religions and those which declare separation of religion and state (SRAS) in their constitutions. This demonstrates a distinctly European pattern of state-religion relations that is influenced in no small part by anti-religious forms of secularism.

Keywords

Religious freedom, secularism, Europe, discrimination, separation of religion and state.

1. Introduction

Freedom of religion or belief (FoRB) is a universal value which most states across the world declare in their constitutions and by signing international treaties. (Fox 2023) While there is a strong tradition which posits that secular liberal democratic states maintain religious freedom as a core value (eg. Stepan 2000), empirical studies show that many liberal democratic states, including many in Europe, do not live up to this ideal. (Fox 2016; 2020; Grim & Finke 2011)

This study uses empirical data to examine the extent to which 43 European states are, in fact, secular and religiously free using the Religion and State (RAS) dataset. More specifically it examines to what extent European states support religion, regulate, restrict, and control (RRC) the majority religion, and engage in

¹ Jonathan Fox is the Yehuda Avner Professor of Religion and Politics at Department of Political Studies, Bar Ilan University. He specializes in the influence of religion on politics, using both quantitative and qualitative methodology to analyze the impact of religion on domestic conflict, international relations. This article uses American English. Article submitted: 1 May 2023; accepted: 16 October 2023. Email: Jonathan.fox@biu.ac.il.

discrimination against religious minorities. I find that all three of these types of behavior are common, even among states that declare separation of religion and state (SRAS) in their constitutions. More importantly, when comparing European states to the rest of the world, in many ways the government religion policies of European states are more similar to each other regardless of whether they declare SRAS or an official religion than they are to non-European states. Thus, there is arguably a European pattern where secular states do not have substantial levels of SRAS and are not among the world's best providers of FoRB. Rather, there are indications that Europe's secularism includes a substantial anti-religious element that is not conducive to FoRB.

2. What is secularism?

It is important to emphasize that secularism is a diverse family of ideologies rather than a monolithic ideology. Philpott (2009) for example, identifies nine uses of the term secular in the academic literature, all with different meanings but all of them identify the secular as something that is other than religion or anti-religious. (see also Calhoun et al. 2012) This is inherent in definitions of political secularism. Casanova (2009:1051) defines "secularism as a statecraft principle" as:

some principle of separation between religious and political authority, either for the sake of the neutrality of the state vis-a-vis each and all religions, or for the sake of protecting the freedom of conscience of each individual, or for the sake of facilitating the equal access of all citizens, religious as well as nonreligious, to democratic participation.

Fox (2015:28) defines political secularism as "an ideology or set of beliefs advocating that religion ought to be separate from all or some aspects of politics and/ or public life." Modood (2017:52) argues:

[T]he core idea of political secularism is the idea of political autonomy, namely that politics or the state has a *raison d'être* of its own and should not be subordinated to religious authority, religious purposes or religious reasons. Maintaining this separation requires some regulation of religion in the public sphere.

Fox (2018:171-176) identifies multiple forms of political secularism, each with different policy implications. Absolute secularism, a form of secularism identified with the United States, seeks to restrict any government involvement in religion either to support it or restrict it. Laicism, classically associated with France, seeks

to restrict religion from the public sphere. This view considers religion a private matter that should not intrude on the public so it not only allows restrictions on religion in public spaces, it mandates them. Neutralism demands that the government treat all religions equally. This means supporting or restricting religion is possible, but it must be done equally for all religions. This form of neutrality can be based on either the intent of government policy or its outcome. There is also a minimalist approach which deviates from secularism and simply asks what is the minimum level of SRAS necessary to maintain religious freedom?

This study does not differentiate across these types of policy empirically. However, it is important to keep them in mind as different approaches to political secularism have different implications for religious freedom.

3. A note on the data used in this study

This study focuses on the Religion and State (RAS) dataset which includes data on 183 countries worldwide. This study's European focus looks specifically at 43 states which include members of the Council of Europe as well as Russia and Belarus. In order to empirically address the issue of secular vs. non-secular states, I divide these countries into three categories:

- (1) States which declare official religions. In most cases this declaration is in their constitutions but some countries such as the United Kingdom declare an official religion in other manners.
- (2) States which declare SRAS in their constitutions. While looking at states which declare themselves specifically "secular" has theoretical import, among the 43 states included in this study only Azerbaijan, France and Turkey make such a declaration, which is too few for a separate category.
- (3) Countries which declare neither SRAS nor an official religion.

The distribution of states in each of these categories is presented in Figure 1.

I focus on three RAS variables measuring government religion policy, all of which are described in more detail in the analyses below: (1) government support for a religion; (2) the regulation, restriction, and control of the majority religion (RRC); and (3) government-based restrictions on minority religions (GRD). For more details on the RAS dataset including data collection methodology reliability tests, detailed discussions of the variables and their components, as well as the weighting of these components see Fox (2008; 2011; 2015; 2020; Fox et al. 2018) All statistics presented in this study unless otherwise noted are from 2014, the most recent year available.

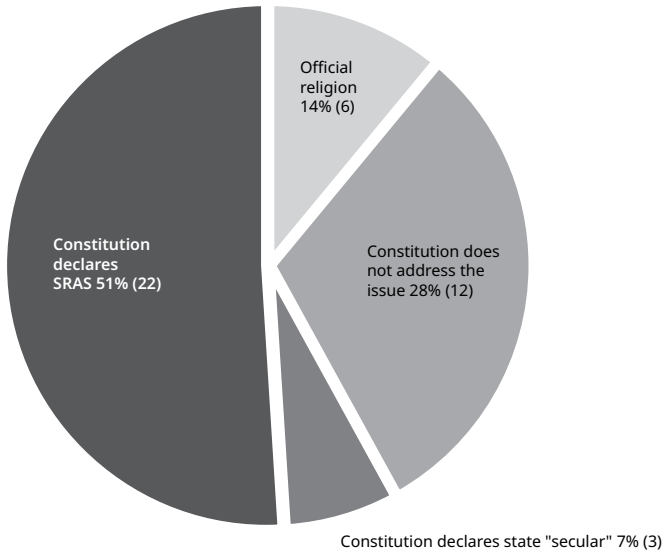


Figure 1: Distribution of government religion policies in Europe

4. Government support for religion

State support for a religion does not, in and of itself, violate FoRB. However, there are at least three reasons this government support for religion is relevant to FoRB. First, governments which are more closely connected to a single religion are more likely to restrict FoRB. Second, government support for religion is inexorably intertwined with government control over those religions it supports, particularly religious institutions. This can restrict FoRB. Third, governments which support religions, tend to support some religions more than others. This unequal treatment has implications for FoRB. I discuss each of these issues in more detail below.

4.1. Government support for religion is correlated with FoRB

Perhaps one of the most classic motivations for violating FoRB is religious belief. Rodney Stark (2003:32) explains that “those who believe there is only One True God are offended by worship directed toward other Gods.” That is, people who believe in one religion, particularly monotheistic religions, are often intolerant of those who follow the ‘wrong’ religion and even of members of their own religions who do not worship or believe ‘properly’. There is a tendency to want to restrict these ‘offensive’ practices. This applies to minority religions as well as

interpretations of the majority religion that are different from that supported by the state. In fact, Cesari (2014; 2018; 2021a; Cesari et al. 2016) argues that governments which support a single religion often support and enforce a single interpretation of that religion rather than allowing the natural diversity that tends to occur in long-standing religious traditions. As state support for religion can be a strong indicator that a state is strongly connected to a religion, it is often used as a measure for this factor. Studies examining the correlation between the two generally find that state support for religion predicts lower levels of FoRB and higher levels of GRD. (Fox 2016; 2020; Grim & Finke 2011)

This type of argument linking religions to exclusivity and intolerance is present across the social sciences. Jelen & Wilcox (1990:69) argue as political scientists that "religion is often thought to inhibit the development of the tolerance for unorthodox beliefs and practices.... Religion is accused of inculcating ultimate values in its adherents – values which do not lend themselves to compromise or accommodation." International relations theorists like Laustsen and Waever (2000:719) argue, focusing on international relations theory, that "religion deals with the constitution of being as such. Hence, one cannot be pragmatic on concerns challenging this being." Sociologists such as Grim and Finke (2011:46) argue:

exclusive religious beliefs provide motives for promoting the 'one true faith.' To the extent that religious beliefs are taken seriously and the dominant religion is held as true, all new religions are heretical at best. Thus, established religions will view the new religions as both dangerous and wrong.

Finally, psychologists such as Silberman (2005:649) argue that "once they are constructed, collective meaning systems tend to be viewed within a given group as basic undisputable truths. Accordingly, they are usually held with confidence, and their change or redirection can be very challenging."

Gill (2008) makes a different type of argument. He argues that governments which support religion do so because it is in their own interest. Governments seek to rule more efficiently and to stay in power. Supporting a state religion can, under some circumstances, accomplish both. It increases a government's legitimacy which reduces opposition and lowers the cost of ruling. It may also increase the morality of a population which reduces the costs for law enforcement. Others expand on Gill arguing that repression is expensive, and religions can provide community services such as welfare and healthcare to the population at a lower expense to the government. (Sarkissian 2015; Koesel 2014) Other benefits include increased social trust. (Fox et al. 2022)

How is this related to FoRB? In order to gain these benefits, Gill (2008) argues that a government must give the supported religion a monopoly, or put differently, exclusivity. Most theorists argue that it is necessary to repress minority religions in order to achieve a true religious monopoly. (Casanova 2009; Froese 2004:36; Gill 2008:45; Grim & Finke 2011:70; Stark & Finke 2000:199) A government-enforced religious monopoly is also generally among the demands of the supported religious institutions in return for their partnership with the government. (Gill 2008)

4.2. State support for religion is inexorably intertwined with control of religion

State support for religion is intimately connected with control over the religions which it supports. Why is this the case? Take, for example, government financing of religion. When a religious institution becomes dependent upon government financing this gives government officials who control the purse strings the ability to threaten withdrawal of this money unless the funded institutions comply with government demands. This lever of power is present even if it is not used and, in the long run, it is rare that no government official seeks to use it. Similarly, when a government allows religious classes in public education institutions or funds private religious education, this gives it the ability to influence the content of that education in favor of the government's preferred understanding of the religion in question. As I discuss in more detail in the next section, states which support a religion are more likely to have control over the state religion in matters such as appointing church leaders which gives them the power to choose leaders whose theologies are more convenient for the government. While, as UK King Henry II learned in the case of Thomas Beckett, this can backfire, it is still an important avenue of influence. For example, Kuhle (2011:211) notes that "a close relationship between state and church entails a risk of the state interfering with what some would regard as 'internal' religious questions." In fact, she documents that many of the Nordic states used this influence to force their state churches to change their doctrines on issues like same-sex marriage and female clergy.

These levers of power are difficult to resist or shed for at least two reasons. First, they tend to be institutionalized into the fabric of a country's culture and politics which makes them difficult to change. Second, even if change is possible, dependence on state funding, especially when this is a large part of a religious institution's budget, cannot be given up without serious short-term and long-term consequences. It can take decades or longer for these institutions to find new bases of support to replace the lost government support. This can threaten insti-

tutional survival and almost certainly requires substantial institutional change. (Toft et al. 2011)

Toft et al. (2011:34-35) document how the establishment of a religion, state influence over religious finances, and giving religion a part in the political process all undermine the independence of religious institutions. For these reasons, many argue that supporting a state religion is an excellent tactic to control that religion. Fox (2015:65) observes:

[W]hen a government supports a religion, that religion becomes to some degree dependent on the government and more susceptible to government control even if control was not the original motivation for the support...[Thus] a good tactic to control religion is to support it and make that support dependent on some element of control.

Demerath (2001:204) argues similarly:

[G]overnments frequently keep religion under control by 'volunteering' state offices and resources to 'assist' with important religious functions.... Even some of the most secular nations – for example, China and Turkey – have national ministries of religion for such purposes. These alliances between government and religion generally involve some form of co-optation, and religious groups sometimes prefer to remain outside of the state apparatus to preserve their potential for autonomous power.²

In addition, state support for religion, effectively, allows the state to determine which religions are legitimate and which are not. Even if a state allows complete FoRB for all religions including those it does not support, in funding a religion, states declare that this religion is considered by the state to be not just a legitimate religion, but one deserving of state support. Those left out of this regime are not only at a disadvantage financially, but they also have a legitimacy deficit. The results are similar for states which allow religious education in certain religions in public schools but not others. This effectively educates school children which religions are in and which are out.

From this perspective, government control over supported religions is a limitation on FoRB. True religious freedom requires the freedom for religions to determine their own paths and theology and this includes independence of religious

² See also Cosgel & Miceli (2009:403), and Grim & Finke (2011:207).

institutions from the state. It limits the freedom of religious institutions and in extreme cases can limit even the freedom of individuals to study and practice religion freely.

4.3. *Unequal support for religion causes inequality*

Roger Finke (2013; Stark & Finke 2000; Grim & Finke 2011), argues that religious equality is impossible without a “level playing field.” That is, unless a government supports all religions equally, there is no true equality. This is true even if the government does not restrict the non-supported religions in any way and simply gives some religions forms of support that it does not give others. This is because selectively supporting some religions can have the same result as restricting the non-supported religions. For example, selective financial support for religion gives an unfair advantage to the supported religion. Religion costs money. Funds are required to secure and maintain places of worship, pay clergy, and for a range of other religious activities. This makes government supported religions less expensive for their congregants. Congregants of non-supported religions must pay the full cost for these as well as the taxes which support the state supported religious institutions they do not attend. In contrast, the congregants of supported religions pay less or perhaps even nothing beyond taxes. Thus, this differential cost gives the supported religion or religions an unfair advantage in attracting congregants.

Others make similar arguments. Ciornei, Euchner & Yesil (2021:2) argue that “given that in Western Europe, the majority religion (Christianity) receives material and symbolic support from the state that leaves minority religions at a disadvantage.” Clitour & Elian (2022:111) argue that “state religions create inequality in the form of religious privileges for a specific part of the population, and this undermines the legitimacy of the state.” Mantilla (2016:235) argues that state accommodation of the Catholic Church in Latin America

...creates a tilted playing field in which the Catholic Church enjoys a discreet and largely informal, but nevertheless significant, advantage when seeking to promote its social, political and economic vision, while sidestepping potential conflicts over formal prerogatives and legal recognition.

4.4. *Levels of support for religion in Europe*

Figure 2 compares levels of state support for religion in Europe to Christian-majority countries outside of Europe as well as other countries outside of Europe. This is in order to take into account that patterns of government religion policy differ across religious traditions and world regions. (Fox 2016; 2020)

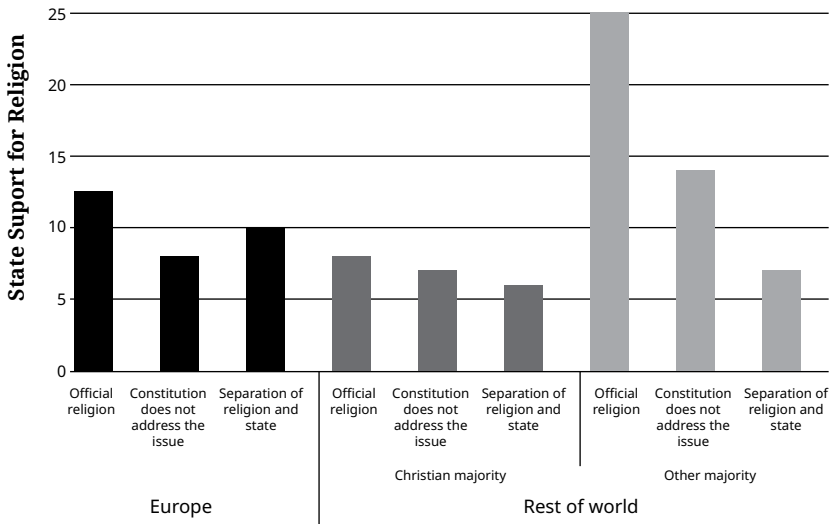


Figure 2: Mean levels of state support for religion

Based on all of the above, one would expect that states with official religions would more strongly support religion than states with SRAS. As shown in Figure 2, this is technically the case for both Europe and the rest of the world, but the results for Europe defy the spirit if not the technicalities of this expectation. The difference between states with official religions and those with SRAS is not large in Europe. This measure looks at how many among 52 types of support for religion measured by the RAS dataset are present in a country. (A listing of those present in Europe is presented in Table 1). While European states with official religions average 12.33 types, those with SRAS clauses average ten. This is not a large difference and quite high levels of support for states which claim SRAS as a constitutional principle. In addition, in European states which do not declare a policy, which one would expect to have a level of support at some point in between those with an official religion and those which declare SRAS, have the lowest levels of support at a mean of 8.25 types. Thus, those states whose constitutions address the issue of religion, either to declare an official religion or to declare SRAS, are more likely to support it. This also implies that the higher levels of support in states that declare SRAS may involve the motivation to control religion.

In contrast, the rest of the world has the expected distribution with a large gap between states with official religions and other states. This comparison between

	Official Religion	Constitution does not address the issue	Separation of religion and state
Marriage/divorce can only occur under religious auspices	0.0%	0.0%	4.0%
Automatic civil recognition for marriages performed by clergy	50.0%	25.0%	44.0%
Prohibitive restrictions on abortion	66.7%	8.3%	8.0%
Mandatory closing of some/all businesses during religious holidays/Sabbath	16.7%	25.0%	12.0%
Other restrictions during religious holidays/Sabbath	0.0%	25.0%	4.0%
Blasphemy laws/restrictions on speech about majority religion	66.7%	16.7%	24.0%
Censorship of press/publications for being anti-religious	33.3%	8.3%	8.0%
Religious courts, jurisdiction family law and inheritance	33.0%	0.0%	4.0%
Religious courts, jurisdiction matters other than family law/inheritance	16.7%	0.0%	0.0%
Funding: religious public schools / religious education in nonpublic schools	66.7%	83.3%	84.0%
Funding: seminary schools	33.3%	16.7%	44.0%
Funding: religious education in colleges or universities	50.0%	25.0%	28.0%
Funding: religious charitable organizations/hospitals	33.3%	41.7%	48.0%
Religious taxes	33.3%	25.0%	28.0%
Government positions/salaries/funding for clergy other than teachers	33.3%	58.3%	60.0%
Direct general grants to religious organizations	66.7%	41.7%	60.0%
Funding: building/maintaining/repairing religious sites	33.3%	66.7%	88.0%
Free air-time on television/radio for religious organizations	16.7%	25.0%	60.0%
Funding or other government support for religious pilgrimages	16.7%	0.0%	8.0%
Funding other than the types listed above	16.7%	8.3%	44.0%
Diplomatic status/passports/immunity from prosecution for rel. leaders	16.7%	8.3%	12.0%
Government department for religion	50.0%	26.0%	76.0%
Government officials given position in state religious institutions	50.0%	0.0%	0.0%
Religious leaders given government position	16.7%	8.3%	0.0%
Government officials must meet religious requirement to hold office	16.7%	8.3%	0.0%
Seats in legislature/Cabinet granted along religious lines	0.0%	8.3%	0.0%
Religious education in public schools	100.0%	91.7%	76.0%
Official prayer sessions in public schools	50.0%	16.7%	12.0%
Public schools segregated by religion / separate public schools by religion	0.0%	16.7%	8.0%
Religious symbols on the state's flag	83.3%	41.7%	16.0%
Religion listed on identity cards or other mandatory government documents	0.0%	0.0%	4.0%
Registration process for religious organizations different form other orgs.	50.0%	75.0%	80.0%
Burial controlled/overseen by religious organizations or laws	50.0%	16.7%	4.0%
Blasphemy laws protecting minority religions/religious figures	33.3%	8.3%	28.0%
Other religious prohibitions or practices that are mandatory	33.3%	8.3%	20.0%

17 Categories are not included on this table because no country in this study engages in these types of support

Table 1: Specific types of support for religion

Europe and the rest of the world seems to indicate that “Europeanness” has a greater impact on levels of support for religion than the presence of an official religion and constitutional declarations of SRAS. European states with official religions are far more similar in levels of support to European states with SRAS than they are to non-European states. Non-European Christian-majority states

engage in lower levels of support for religion in all categories. Non-Christian-majority non-European states have higher levels of support overall but among those states the ones which declare SRAS have lower levels of support for religion than do European states which declare SRAS. Only among European states are levels of support higher in states which declare SRAS than in states whose constitutions do not address the issues of official religion or SRAS.

This finding – that European states which declare SRAS nevertheless support religion and do so at levels higher than those outside of Europe and even more than European states whose constitutions do not address the issue of religion – requires more discussion. In Table 1, 11 of the 35 types of state support for religion found in European states (among 52 included in the RAS dataset) are most common in states which declare SRAS. Many of them involve funding religion including funding religious education, seminary schools, clergy, and religious buildings and sites. In fact, each of the 43 European states in this study regardless of its religion policy funds religion in some manner and the average European state with SRAS engages in 5.52 types as opposed to states with official religions which engaged in a mean of 4.00 types. Even if this was done equally for all religions, which is rarely the case (Fox 2015), this involves significant government funding of religion which gives these ‘secular’ governments a considerable amount of potential leverage over religion.

Other common types of government support for religion in states with SRAS could also be used for control. For example, 76 percent of such states have a religion department, office, or ministry as opposed to 50 percent of countries with official religion. Similarly, 80 percent of states with SRAS require religions to register as opposed to 50 percent of states with official religion.

All of this indicates at the very least a wariness of religion in European secular states. This wariness causes them to keep close to religion just as one might wish to keep one's enemies even closer than one's friends. Thus, from this perspective, this pattern of government religion policy can be described as secular but in the anti-religious meaning of the term. Clearly this is unlikely to be to the benefit of FoRB.

5. Government regulation, restriction and controls of the majority religion

While state support for religion is a relatively subtle and indirect form of control, there are many government policies which directly regulate, restrict and control (RRC) the majority religion. Interestingly both religious and secular states can have motives to engage in RRC, though there is considerable overlap between the two.

A primary motive that is unique to secular ideologies is the anti-religious element of secularism. As noted, secularism is by no means a unitary ideology and not all secular ideologies are anti-religious. But even non-anti-religious versions of secularism may wish to restrict religion in the public sphere.

That being said, the anti-religious forms of secularism tend to see religion as violent, dangerous, and irrational and the method to control this danger is to restrict religion. This type of secularism “presuppose[s] that religion is either an irrational force or a non-rational form of discourse that should be banished from the democratic public sphere.” (Casanova 2009:1052) This argument is rooted in a European perception of religion which evolved after the Treaty of Westphalia and the Thirty Years War that sees religion as a source of violence and conflict.” (Casanova 2012:79-80) This view aligns religion with “tradition, superstition, and supernaturalism and kindred categories, whereas secularity is aligned with modernity, rationality, and science.” (Gorski & Altinordu 2008:61) In fact, “religion is thought to be a regressive irrational and force and individuals would be better off if they left it behind entirely. If they insist on clinging to religiosity, then legally and culturally religion should be a strictly private matter cordoned off from public life.” (Hoover & Johnston 2012:2) This type of anti-religious secularism is particularly common in the West and used to silence and restrict members of “certain faiths.” (Cavanaugh 2007; See also Cesari 2021a; Farr 2008; Kettell & Djupe 2020; McAnulla et al. 2018; Pabst 2012:38; Stark & Finke 2000; Troy 2015)

However, it should be noted that Branas-Garza & Solano (2010:347) argue that in the West “the proportion of clearly religious-averse citizens is very small and never larger than 6%.” Thus, this phenomenon may be driven by a small number of partisans. (Buckley & Wilcox 2017:5)

A motivation common to religious and secular governments is the desire to harness, control, or limit religion’s political power. While governments often seek to benefit from the legitimacy religion can grant to governments (Gill 2008; Fox & Breslawski 2023) they often fear religion’s political power and seek to limit it. Demerath & Straight (1997:44) argue that “while religion is often an ally in the pursuit of power, once power has been secured, religion can become an unwelcome constraint in the quite different process of state administration.” Governments often seek to limit religion precisely because it can be a basis for political power that can challenge the government. Sarkissian (2015:16) argues along these lines:

[R]eligious groups hold the power to influence citizens’ perceptions of state or government legitimacy. By restricting the ability of religious groups to express themselves through public speech or publications or by restricting clergy or other religious individuals from participating in

the political process, politicians can prevent criticism from the religious sector from being made public.

Grzymala-Busse (2015) argues that this political motivation to avoid religious challenges to power is sufficiently strong that governments are more likely to accommodate religious demands when religious officials lobby them in private rather than challenge them in public.

This motivation remains present even among religious governments. Theocracies where clergy rule directly are rare worldwide and currently nonexistent in Europe. While politicians are often willing to support religious institutions and engage in partnerships with religious institutions, in the West the government has generally been the senior partner in this relationship for at least several centuries. (Toft et al. 2011) That is, the European tradition has the state regulating, restricting, and controlling religion far more than religion influences the state. Modood & Sealy (2022) argue that even European states which have official religions are secular in this sense because they tend to seek to use religion to serve government purposes rather than support religion for ideological reasons.

There also exist religious motives to regulate the majority religion. As noted, some governments support a specific interpretation of a religion. (Cesari 2014; 2018; 2021a) These governments often seek to maintain the theological purity of the supported religion by repressing other interpretations of their religion. This can involve actions like repressing alternative religious institutions and clergy whose theologues diverge from the government-supported orthodoxy.

5.1. Levels of RRC of religion in Europe

Given that there are both secular and religious motives to engage in RRC, it is not surprising that, as shown in Figure 3, in Europe both governments with official religions and those that declare SRAS have higher levels of RRC than governments whose constitutions do not address the issue. As was the case for support, RRC in European states is higher than in non-European Christian-majority states but lower than in other non-European states. This pattern indicates that higher levels of SRAS seem to be a Christian phenomenon, but one that is stronger outside of Europe than in Europe.

As shown in Table 2, the differing patterns of which types of RRC are present in states with official religions and SRAS in Europe also supports the contention that there are differing motives for RRC. States with official religions are more likely to engage in types of RRC that involve ideological purity including monitoring sermons by clergy and controlling the content of religious education. They are also more likely to seek to control religious institutions, which is an effective

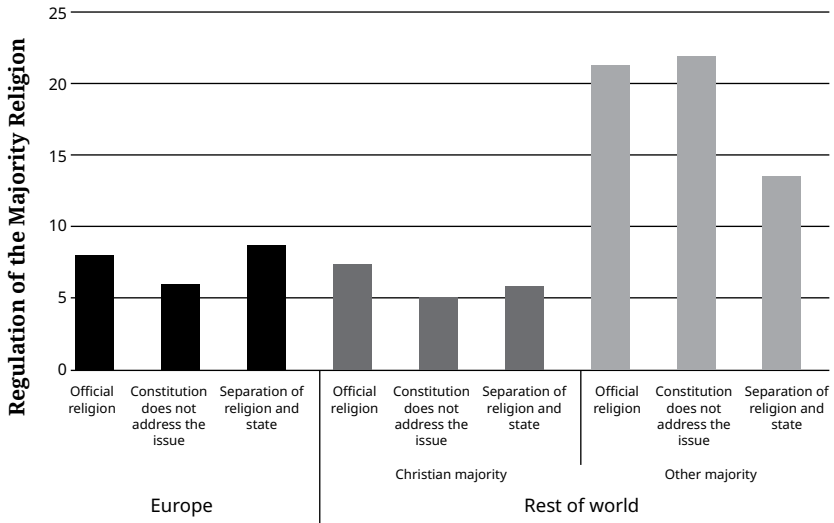


Figure 3: Mean levels of regulation, restriction and control of religion

method to influence official religious theology and present political challenges from religious institutions. This includes influencing clerical appointments, other aspects of religious institutions, and having a role in determining the content of official religious laws and theologies. It also includes banning religious organizations belonging to the majority religion that are outside the officially recognized institutions.

Governments with SRAS clauses in their constitutions are more likely to directly restrict religion’s political role by banning religious political parties and trade or civil associations as well as political speech by clergy. In some cases, these tendencies are more overtly anti-religious or at least display a suspicion of religion. These include bans on the public observance of some types of religious activity. For example, in 2014 France’s courts, applying the country’s laïcité policy, ordered regional authorities to remove nativity scenes from public property such as city halls.³ Sometimes this control is more broad. For example, according to a 1995 law in Latvia, religious organizations must coordinate any public religious service with local municipalities.

3 (8 December 2014) France told to avoid ‘secular war’ after nativity scene ban sparks uproar *UK Telegraph*; Williams, T. (15 December 2014) In France overwhelming support for public nativity scenes *Breitbart News*.

HOW SECULAR AND RELIGIOUSLY FREE ARE EUROPE'S "SECULAR" STATES?

Restrictions on	Official Religion	Constitution does not address the issue	Separation of religion and state
Religious political parties	0.0%	8.3%	24.0%
Trade/civil associations being affiliated with religion	0.0%	0.0%	12.0%
Clergy holding political office	0.0%	8.3%	4.0%
Sermons by clergy	16.7%	0.0%	0.0%
Political speech/activity by clergy/religious organizations	0.0%	8.3%	12.0%
Restrictions/harassment of non-state sponsored/recognized religious format	16.7%	16.7%	12.0%
Formal religious organizations other than political parties	0.0%	0.0%	4.0%
Access to places of worship	0.0%	0.0%	16.0%
Foreign religious organizations required to have local sponsor or affiliation	0.0%	8.3%	0.0%
Heads of religious organizations must be citizens	0.0%	25.0%	8.0%
All practicing clergy must be citizens	0.0%	8.3%	0.0%
Government influences clerical appointments	50.0%	8.3%	8.0%
Other than appointments government influences religious organizations	33.0%	8.3%	8.0%
Government passes or approves laws governing state religion	33.3%	8.3%	4.0%
Public observance of religious practices	0.0%	0.0%	24.0%
Religious activities outside of recognized facilities	0.0%	8.3%	4.0%
Publication/dissemination of written religious material	0.0%	0.0%	4.0%
Religious public gatherings not placed on other public gatherings	0.0%	0.0%	8.0%
Public display by private persons/organizations of religious symbols	33.0%	8.3%	20.0%
Conscientious objectors not allowed alternative service and are prosecuted	0.0%	8.3%	8.0%
Arrest/detention/harassment of religious figures/officials/rel. party members	0.0%	0.0%	4.0%
Religious-based hate speech	100.0%	83.3%	84.0%
Govt. controls/influences instructors/content rel. education: public schools	33.3%	41.7%	8.0%
Govt. controls/influences instructors/content rel. education: in private	0.0%	16.7%	12.0%
Govt. controls/influences instructors/content rel. education: university level	0.0%	0.0%	4.0%
State ownership of some religious property or buildings	16.7%	33.3%	28.0%
Other religious restrictions	33.3%	33.3%	48.0%

Two categories are not included in this table because no country in this study engages in these types of regulation, restriction, and control.

Table 2: Specific types of religious regulation, restriction, and control of the majority religion or all religions by governments

6. Government-based religious discrimination (GRD)

There are numerous possible motivations for GRD. As discussed in the context of support for religion, there are considerable monopolistic and theological motivations for restricting the religious institutions and practices of minority religions. Yet, as most governments in Europe do not support an official religion it is important to examine other motivations, particularly secular motivations.

6.1. Secular motivations for GRD

There are multiple inter-related reasons secular ideologies and beliefs can be anti-religious. As discussed above, many interpretations of secularism see religion

as a primitive, violent, and dangerous phenomenon that is best left in the past. For example, Communist ideologies see it as a false consciousness which blinds people to their true interests and is used as a means of illegitimate state control of the population.

However, this begs the question of why would this lead to GRD? GRD is restrictions placed on minority religious practices and institutions that are not placed on the majority religion. If secularism is hostile to religion, shouldn't secularists seek to repress all religion and not just minority religions? I address several inter-related reasons secular ideologies, beliefs, and governments might engage in GRD.

Secularism can become a dominant ideology similar to a mandatory religious ideology where its supporters will advocate banning all practices that they see as violating this ideology. Put differently, some secular activists claim a veto over religious practices they see as abhorrent. These true believers in secularism see themselves as enforcing an enlightened and superior moral code which overrides irrational and primitive religious beliefs. Paradoxically, they see FoRB as a secular value, but they also believe that only manifestations of religion that are consistent with their secular beliefs are entitled to this FoRB. Thus, FoRB is not an absolute right. It is one that is contingent on compliance with a secular belief system. For this reason, when religious values and practices contradict secular values, secularists who subscribe to this type of manifestation of secularism believe that religious values and practices must be abandoned or altered in order to conform. (Sweetman 2015) That is, "secularism is not merely being defined by engagement with religion. Secularism also intellectually and politically redefines religion to suit secularist values and purposes." (Triansafyllidou & Modood 2017:53) From this perspective, secularism acts as a dominant totalitarian ideology in a manner similar to a religious state which imposes its values on non-believers. (Keane 2000; Fox 2020)

Again, why would this lead to restricting religious minorities and not religion in general? Because religious minorities are more likely to engage in practices that secularists see as abhorrent. The dominant religion has a stronger cultural presence in a country and for this reason, its practices are less likely to be seen as outside the pale. Fox (2016; 2020) argues that three religious practices common to Muslims and Jews – male infant circumcision, ritual slaughter of meat (Kosher and Halal slaughter) and female modest dress, particularly head coverings – are restricted for precisely this reason. Interestingly, each of these types of restriction is present most prominently in Western Europe. (Fox 2020) Each of these practices violates a specific secular belief. It is important to emphasize that secularism is by no means a monolithic ideology so I make no claim that these beliefs are shared by all who believe in secular ideologies. However, I do claim that these

beliefs are present and even prominent within the multifaceted and complex secular belief economy.

Seven Western European countries – Denmark, Germany, Iceland, Norway, Sweden, Switzerland, and as of 2019, Belgium – limit Kosher and Halal slaughter based on secular beliefs that this practice is cruel to the animals. These countries mandate that before slaughter, animals must be stunned. This stunning process makes ritual slaughter impossible. Yet it is this ritual slaughter that makes meat Kosher for Jews and Halal for Muslims. Many other countries, such as Austria, Cyprus, France, Luxembourg, the Netherlands, and Spain, have similar stunning laws but, given the importance they give to FoRB, they allow a religious exception for Kosher and Halal slaughter. Thus, for those countries which ban ritual slaughter, the secular animal rights ideology is given a veto over ‘abhorrent’ religious practices rather than prioritizing FoRB. This secular veto is an explicit public policy in some parts of Europe. For example, when discussing Denmark’s ban on ritual slaughter Danish minister for agriculture and food Dan Jørgensen stated in a 2014 TV interview that “animal rights come before religion.”⁴ Flanders minister for animal welfare similarly said “Unstunned slaughter is outdated...In a civilized society, it is our damn duty to avoid animal suffering.”⁵ These restrictions have been upheld by European courts. (Pin & Witte 2020)

There is a growing movement to ban male infant circumcision, a central ritual in both Judaism and Islam. While no countries currently ban the practice, many heavily regulate it to the extent practicing the ritual is more difficult. Sweden began regulating the practice in 2001. The ritual must be performed by a licensed doctor or in the presence of someone certified by the National Board of Health and Welfare (NBHW). The NBHW has certified mohels (persons who traditionally perform the Jewish ritual) to perform circumcisions, but only if an anesthesiologist or other medical doctor is present.⁶ Similar laws were passed in Denmark in 2005⁷ and Norway in 2014.⁸ These laws place a significant burden on performing the ritual. In practice, Jews and Muslims often must perform the ritual in medical clinics rather than in homes and places of worship, undermining the solemn-

4 “Denmark Bans Kosher and Halal Animal Slaughter” *Time*, 28 July 2015. Available at: <https://time.com/3974498/denmark-ban-kosher-halal/>.

5 “Belgian regions’ plan to ban ritual slaughter upsets religious minorities” *Reuters*, 30 March 2017. Available at: <https://reut.rs/3twdbQJ>.

6 Sweden restricts circumcision (1 October 2001) *BBC News*; Ritual circumcision ban recommended in Sweden and Denmark by medical associations (27 January 2014) *Huffington Post*; Deisher, J. (29 September 2013) Sweden children’s rights official calls for ban on infant male circumcision, *Jurist: University of Pittsburgh’s School of Law*. Available online: <https://bit.ly/48XwdQ2>; US Department of State *Human Rights Report Sweden 2013*.

7 Guidance on circumcision of boys. Available at: <https://bit.ly/3QjBF7x>.

8 Act No. 40 on ritual circumcision of boys of 20 June 2014. Available at: <https://lovdata.no/dokument/NL/lov/2014-06-20-40>.

ty of the ritual. Advocacy groups and politicians in Denmark, Finland, Norway, Sweden, and Iceland have sought, thus far unsuccessfully, to ban all male infant circumcision with no religious exception.

A 2012 case where a German court temporarily effectively banned all male infant circumcision in Germany, until it was overruled by Germany's legislature, demonstrates the secular reasoning behind this type of ban. The court ruled that the practice of male infant circumcision inflicts "grievous bodily harm" on young boys. The court ruled that "the fundamental right of the child to bodily integrity outweighed the fundamental rights of the parents" to perform this ritual. Thus, the court gave a secular interpretation of human rights priority over performance of a religious ritual that is central to two major religions. While, the ruling technically was limited to a single jurisdiction and applied to a single case, the ruling caused doctors and hospitals across Germany to suspend the procedure due to the uncertainty created by the ruling until it was overturned by Germany's legislature.⁹

Attempts to restrict female modesty, particularly head coverings, are common in Europe but, with the exception of France, are largely enacted by local and regional governments in limited locales such as courthouses and schools or are limited only to certain individuals such as government employees. (Fox 2016; 2020) The reasoning for these restrictions comes in two categories, both associated with secularism. First, many believe that they undermine women's equality and autonomy which is inconsistent with European liberal values. Second, particularly in France, they are considered an improper public display of religion. (Cesari 2021b:913; Kuru 2009:106-107) Though, both of these secular motivations likely tap into a deeper sentiment. For example, Cesari (2021b:914) argues:

Muslims are perceived as internal enemies because they seem to endanger the core liberal values of European societies and to contribute to social problems like unemployment and ghettoization of urban areas. ... [A]ny expression of Islamic identity or practice, from head covering to dietary rules, is seen as a political act and therefore deemed illegitimate.

Similarly, Fernandez-Reino, Si Stasio, & Veit (2022:2) argue:

The Muslim veil has been interpreted as a symbol of women's unwillingness to integrate into mainstream society and has raised concerns

9 Nicholas Kulush "German Ruling Against Circumcising Boys Draws Criticism," *New York Times*, 26 June 2012; Judy Dempsey "Germany, Jews and Muslims, and Circumcision," *New York Times*, 17 September 2012; Melissa Eddy "Germany Clarifies its Stance on Circumcision," *International Herald Tribune*, 13 December 2012.

about the role of religion in the public sphere [and]...the veil is commonly perceived as a symbol of women's oppression in Muslim communities, based on the argument that women do not wear it by choice but out of social pressure.

This type of restriction has been upheld by the European Court of Human Rights (Koev 2019) and the Court of Justice of the European Union with regard to restrictions by private companies in the workplace, as long as it is in the context of a neutral dress code. (Pin & Witte 2020) The secular quality of these restrictions is supported by studies which show that religious Europeans are more accepting of Muslim head coverings than secular Europeans (Helbling 2014; van der Noll et al. 2018)

These three prominent examples of how secular values can be given, in law, priority over religion demonstrate that there is a clash between religious values and the concept of human rights. For this reason, some call human rights a secular religion. (eg. Rogobete 2014; Malachuk 2012; Martin 2005:834; Joustra 2018) Freeman (2004), for example, documents that human rights advocates often present human rights as a principle that should be given priority over religion when the two are in contradiction. When this is applied religious groups, most often religious minorities, are required to abandon their religious principles or discontinue those religious practices which contradict this universal value system.

Fox (2020) argues that secularism can also have an indirect influence on levels of GRD. There are many motivations for discriminating against religious minorities, many of which have little to do with either religion or secularism. These include, among others, nationalism, the desire to protect indigenous culture from outside influences, the belief that some religions such as cults are inherently violent and dangerous, government perceptions that a minority poses a political or security threat and long-standing prejudices in society. When one of these motivations for discrimination is in play, anti-religious secular attitudes can exacerbate the levels of GRD.

6.2. Levels of GRD in Europe

As shown in Figure 4, governments with SRAS in Europe engage in 62 percent more GRD than their counterparts with official religions. In fact, European governments with SRAS clauses in their constitutions engage in more GRD than both Christian-majority and non-Christian-majority governments outside Europe which have SRAS clauses in their constitutions. Non-European Christian-majority states overall engage in lower levels of GRD with those whose constitution do not address the issues of SRAS and official religion engaging in the least. This is the pattern one would expect if both the most religious and most secular states have motives to engage in GRD. In contrast, in Europe this data indicates the secular

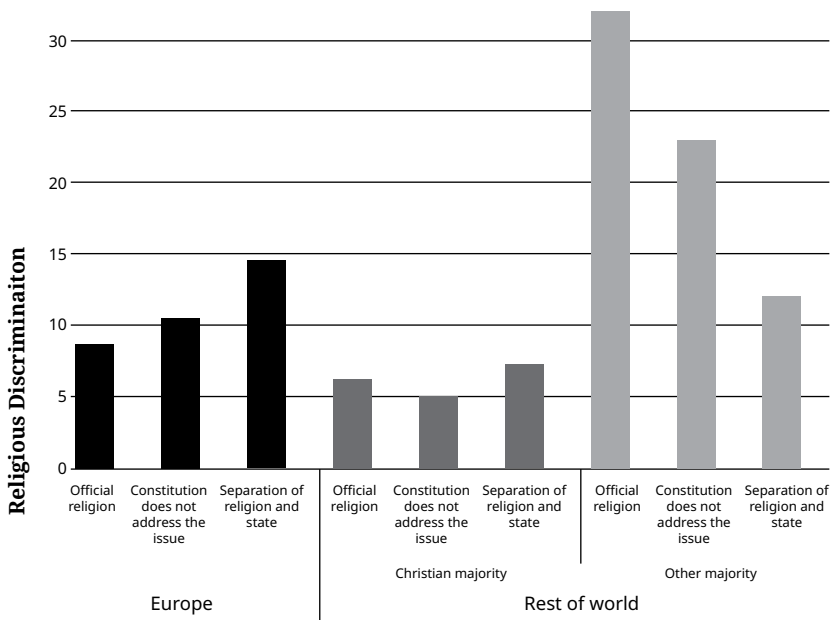


Figure 4: Mean levels of GRD

motive is a more powerful cause of GRD than religious motives. In non-Christian-majority states the religious motive seems to be more influential.

As shown in Table 3, 17 of the 33 types of GRD present in European states are most common in states with SRAS clauses in their constitutions. As noted above there are two theories as to why secular states might engage in GRD rather than restricting all religions: (1) objections to acts that contradict secular values and (2) anti-religious secular beliefs can exacerbate GRD caused by other motivations. These 17 types of acts which are most restricted by governments with SRAS in Europe are a closer fit to the latter explanation.

I make this assessment for two reasons. First, restrictions on the three types of religious acts that run explicitly against specific secular values – circumcisions, ritual slaughter, and modest female dress – are more common in states with official religions than in those with SRAS. Second, many of the types of restrictions that are more common in states with SRAS are basic restrictions of religious freedom that are not closely connected to any specific secular ideal other than perhaps a general anti-religious sentiment or suspicion of religion.

HOW SECULAR AND RELIGIOUSLY FREE ARE EUROPE'S "SECULAR" STATES?

	Official Religion	Constitution does not address the issue	Separation of religion and state
Public observance of religion	16.7%	16.7%	32.0%
Private observance of religion	0.0%	16.7%	16.0%
Forced observance: religious laws of another group.	0.0%	0.0%	4.0%
Make/obtain materials necessary for religious rites/customs/ceremonies	0.0%	0.0%	12.0%
Circumcisions or other rite of passage ceremonies	16.7%	16.7%	0.0%
Religious dietary laws	33.3%	16.7%	4.0%
Write/publish/disseminate religious publications	0.0%	0.0%	24.0%
Import religious publications	0.0%	0.0%	12.0%
Religious laws concerning marriage and divorce.	16.7%	0.0%	4.0%
Religious laws concerning burial	50.0%	25.0%	24.0%
Religious symbols or clothing	50.0%	25.0%	32.0%
Building/leasing/repairing/maintaining places of worship	66.7%	58.3%	84.0%
Access to existing places of worship	16.7%	33.3%	52.0%
Formal religious organizations	0.0%	16.7%	28.0%
Ordination of and/or access to clergy	50.0%	16.7%	16.0%
Minority religions (as opposed to all religions) must register	66.7%	83.3%	72.0%
Minority clergy access to jails.	33.3%	33.3%	56.0%
Minority clergy access to military bases	16.7%	33.3%	60.0%
Minority clergy access to hospitals & other public facilities	16.7%	33.3%	56.0%
Efforts/campaigns to convert members of minority religion (no force)	0.0%	0.0%	4.0%
Proselytizing by permanent residents to members of the majority religion	16.7%	0.0%	36.0%
Proselytizing by permanent residents to members of minority religions	16.7%	0.0%	32.0%
Proselytizing by foreign clergy/missionaries	50.0%	33.3%	48.0%
Religious schools/education	16.7%	33.3%	28.0%
Mandatory education in the majority religion	16.7%	8.3%	20.0%
Arrest/detention/harassment for activities other than proselytizing	33.3%	41.7%	32.0%
Failure to protect rel. minorities against violence or punish perpetrators	16.7%	25.0%	24.0%
State surveillance of religious activities	16.7%	50.0%	36.0%
Child custody granted on basis of religion	0.0%	0.0%	4.0%
Declaration of some minority religions dangerous or extremist sects	0.0%	16.7%	44.0%
Anti-religious propaganda in official/semi-official gvt. publications	16.7%	25.0%	36.0%
Other forms of governmental religious discrimination	0.0%	41.7%	28.0%

Three categories are not included in this table because no country in this study engages in these types of GRD.

Table 3: Specific types of religious discrimination

Hungary's Act CCVI *On the Right to Freedom of Conscience and Religion and the Legal Status of Churches, Denominations and Religious Communities*¹⁰ (from here called the *2011 Religion Act*) provides a good example of this phenomenon. This law, which replaces a 1990 law covering the same topic, reiterates the rights to freedom of religious belief and practice in private and in public that is also

¹⁰ Act CCVI *On the Right to Freedom of Conscience and Religion and the Legal Status of Churches, Denominations and Religious Communities*, Religion and Law Consortium. Available at: <https://bit.ly/48YQLrt>.

found in the country's constitution, and it prohibits the state from controlling or monitoring churches. However, it significantly restructured the registration process for religions. It differentiates between three tiers of religions, two tiers for "recognized churches" and one for "religious associations." Churches receive significantly greater rights and support. More importantly, the law recognizes 14 "Churches," deregistered all other religions, and gave Hungary's Parliament control over the registration process. Hundreds of small religious groups which had been registered as churches under the 1990 legislation were de-registered, many of which were unable to re-register. Included among the deregulated groups were Jewish communities (Alliance of Hungarian Reformed Jewish Communities and *Sim Shalom Progressive Jewish Congregation*), Protestant groups (Hungarian Christian Mennonite Church, Evangelical Szolnok Congregation Church, Hungarian Evangelical Fellowship, "The Bible Talks" Church of Hungary) and some non-traditional religions.¹¹

A survey conducted among groups which had been deregistered by the 2011 *Religion Act* found that as a result of losing their previous status, some had property liquidated, rental leases terminated, and were forced to shut down schools, charitable programs and other ministry activities. While these groups could register as civil associations, civil associations in Hungary do not enjoy complete internal autonomy. Some groups had to change their organizational structure as a result of the change in status. Some groups which re-registered as civil associations found that the required organizational structure, such as having a president, conflicted with their doctrine and beliefs; some had to change their name, their official teachings or their worship services in order to gain status as civil organizations. For example, Reformed and Lutheran Churches would have to eliminate their presbyteries and legislative synods in order to receive this status. A Buddhist organization lost its status as a church and therefore had to follow different guidelines in running the school it operated for Roma children. Unable to meet the new requirements, the group lost its funding and had to close the school. A Methodist group which lost its status had to close its schools and homeless shelters because it was re-registered as a civic organization, not a non-profit organization. The law also allows only clergy from registered religions and associations access to government institutions including the military, prisons and hospitals.¹²

11 *Magyar Keresztény Mennonita Egyház and others v. Hungary*, Religion and Law Consortium. Available at: <https://bit.ly/3FILNrb>.

12 Baer, D. (18 March 2013) *Testimony Concerning the Condition of Religious Freedom in Hungary, Submitted to the U.S. Commission on Security and Cooperation in Europe* (The Helsinki Commission); Baer, D. (2014) "Let Us Make Them In Our Image:" How Hungary's Law on Religion Seeks to Reshape the Religious Landscape. Available at: <https://bit.ly/46OSM70>; Baer, D. (2012) Report on Hungary's deregistered churches, *Occasional papers on Religion in Eastern Europe*, 32(4).

Other benefits that recognized groups get include government funding for a wide range of activities. The financial benefits for "Churches" are more substantial. Hungarian taxpayers may designate one percent of their personal income taxes to a recognized "Church" or a registered non-government organization. Churches may receive funding equivalent to that given to state and local institutions performing similar civic services; this support includes payment of the salaries of employees of church institutions. Salaried employees of recognized Churches are exempt from paying income tax. Recognized churches receive tax benefits.¹³

For these reasons, among others on 8 April 2014, the European Court of Human Rights found the *2011 Religion Act* in breach of article 9 (protecting freedom of religion) and article 11 (protecting freedom of association) of the European Convention. According to the court, the broad reference to "rules of law" enables the government to restrict religious activities. Further, the court considered the obligation to obtain recognition by the Hungarian Parliament as a condition to establish a Church, and the limited status granted to Religious Associations, a restriction of freedom of religion.¹⁴

The debate in Hungary's Parliament over this law does not show clear secular intent for the law and focused more on several motives for the law. First, a fear that individuals and groups could abuse the ability of religious groups to gain government funding and tax-exempt status. Second, the debate demonstrated that "the Hungarian parliament regards the recognition of churches not as a question concerning freedom of religion but as a matter reserved for the discretion of the sovereign." (Uitz 2012:948) Third, the legislators considered the number of currently registered religions to be "unacceptably high." (Uitz 2012:949) Fourth "the parliamentary debate in December 2011 was heavily underscored by the need to tailor church registration in a manner which reflects Hungarian identity, understood as a means of responding to 'real social needs.'" (Uitz 2012:951) That is, the 14 Churches recognized by the law represent most of Hungary's population, so it was felt that there is no real social need for many of the smaller organizations.

It is difficult to reconcile this type of use of parliamentary power to limit the religious freedom of small religious groups with the concept of SRAS. These expressed motivations can certainly be seen as suspicious of at least some religious entities and reflecting a desire to exercise some control over religious institutions.

¹³ Act CCVI *On the Right to Freedom of Conscience and Religion and the Legal Status of Churches, Denominations and Religious Communities* (ch. IV section 19.4); US Department of State *Religious Freedom Report Hungary 2013*.

¹⁴ *Opinion on Act CCVI of 2011 on the Right to Freedom of Conscience and Religion and the Legal Status of Churches, Denominations and Religious Communities*, (19 March 2012) European Commission for Democracy through Law. Available at: <https://bit.ly/46UIRNY>; Baer, D. (18 March 2013) *Testimony Concerning the Condition of Religious Freedom in Hungary, Submitted to the U.S. Commission on Security and Cooperation in Europe* (The Helsinki Commission). Available at: <https://bit.ly/48UxokV>.

It is difficult to draw a direct line between secular ideals and these restrictions on some religious minorities and this policy can be described as a move away from secularism and toward identitarian politics. (Vekony et al. 2022) However, it is also consistent with secularist motivations under the surface exacerbating more visible causes for restriction religious minorities. Fox (2020) argues that nationalism and the protection of indigenous culture is a common motive for GRD in former Soviet bloc countries which can combine with their history of communism's anti-religious bias to increase levels of GRD.

7. Conclusions

This study demonstrates that SRAS in practice (rather than in theory) and full FoRB are the exception rather than the rule in Europe. It is likely that the two are linked. This study shows a pattern that states that declare SRAS tend to be inclined to restrict religion. It is likely that anti-religious secular ideologies are among the reasons for this but it is unlikely that this is the only motivation. However, it is likely that secularism's role combines direct influences on restrictions on FoRB along with a tendency to exacerbate restrictions caused by other motivations.

European states which declare SRAS in their constitutions show a strong tendency to support religion, but in a manner that allows them to control it. They both directly regulate their majority religions and engage in GRD more than other European states. Thus, it is fair to conclude that secular states in Europe are a more direct threat to FoRB than European states with official religions. This implies that, in Europe, secularism is a greater threat to FoRB than religion. Thus, in Europe during the period covered by this study the secular Gods are less tolerant than the Christian God.

Even more interestingly, Europe shows a distinct pattern of being less involved in religion than non-Christian-majority countries but engaging in far more support for religion, RRD, and GRD than non-European Christian-majority states. There are an additional four aspects of European states' religion policies that are distinct to Europe. First, there is little difference in levels of support for religion between countries with official religions and those that declare SRAS in their constitutions. Second, states with SRAS tend to engage in forms of support that give them control over religious organizations. Third, European states which declare SRAS tend to regulate religion's role in politics. Fourth, European secular states engage in more GRD than other European states as well as more than other non-European states which declare SRAS.

This overall pattern is unique to Europe. It is one that is linked to European ideas about religion, that are certainly influenced by its Christian past but different from Christianity's influence on state-religion relations in the rest of the

world. This implies that this pattern is at least in part a result of Europe's unique historical experience, especially those parts which are distinct from Christianity outside of Europe.

I posit that part of this distinctiveness is driven by the influence of European secularism, even in those countries which do not declare SRAS, including countries with official religions. This influence can be seen in that the three Muslim and Jewish religious practices seen as objectionable to some manifestations of secular ideology are more likely to be restricted in states with official religions than in states with SRAS. It can also be seen in the tendency of states with official religions to regulate, restrict, and control their majority religion. Yet it is secular European states which are most likely to engage in GRD suggesting that in Europe, those who are connected to a religion are more likely to be tolerant of other religions. This tendency is also found in polls on Europe which show that religious Europeans are more likely to be tolerant of Muslim religious practices such as head coverings. (Helbling 2014; van der Noll et al. 2018) Given that restricting religious minorities can have violent consequences, (Basedeau et al. 2023; Deitch 2022) it is ironic that secularism may be a potential cause of future religious violence in Europe.

Thus, secular European states are truly struggling with FoRB. Dealing with this issue will require tackling complex issues including nationalism the desire to insulate European culture from perceived foreign influences and identity politics. However, it will also require a deeper reckoning with Europe's anti-religious secular elements.

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