Modern human rights law has sought to avoid much philosophical controversy by asserting that the terms *religion* and *belief* are meant to refer to both theistic views of the universe, as well as atheistic, agnostic, rationalistic and other convictions where religion and belief are absent. Because religion, in general, has been too hard to define, the United Nations has adopted instead a catalog of rights in the sphere of religion, under the heading of freedom of thought, conscience, and religion. The same approach has been followed in regional human rights instruments. None of the international and regional instruments addressing the freedom of rights of religion has attempted to define religion.\(^1\)

**Religion**

Some legal dictionaries have attempted to define the term religion more precisely. *Stroud’s Judicial Dictionary*, for example, provides the following description: “The essential elements of religion are belief in and worship of God.” Here, the distinction between religion and belief is absent. Stroud’s further asserts that “religion and ethical principles must not be confused, for religion is concerned with man’s relation to God, ethics with man’s relation to man.”\(^2\) By comparison, *Black’s Law Dictionary* defines religion as “a [human’s] relation to Divinity, to reverence, worship, obedience, and submission to mandates and precepts of supernatural or superior beings. In its broadest sense [religion] includes all forms of belief in the existence of superior beings exercising power over human beings by volition, imposing rules of conduct, with future rewards and punishments.”\(^3\)

These and similar dictionary definitions of religion contain several common elements. All incorporate the recognition of the existence of a Supreme Being, usually called God. The nature and power of this being differ from one religion to another. For all religions God has a normative function, and believers are expected to follow God’s teachings and rules of conduct. This may

---

include a duty to propagate these teachings and rules among others in order to persuade them to accept the teaching as true. Believers are also expected to express their religious convictions in varying forms of worship or cult. Generally, though not always, a church or other institution is established to organize the cult or worship.

A number of courts, particularly in the United States, have also attempted to define the outer limits of religion for constitutional purposes. In its early years the United States Supreme Court stressed the need for a relationship of humans to some Supreme Being. More than one hundred years ago the Court defined religion as a term that “has reference to one’s views of his relations to his Creator, and to the obligations they impose of reverence for his being and character, and of obedience to his will. It is often confounded with the cultus or form of worship of a particular sect, but is distinguishable from the latter.”

In _Torcaso v. Watkins_ (1961), the Court gave wider scope to the legal term religion—now including Buddhism, Taoism, Ethical, Cultural, and Secular Humanism among protected religious beliefs. This trend, however, has its limits. As the Court asserted in _Wisconsin v. Yoder_ (1972): “Ordered liberty precludes allowing every person to make his own standards on matters of conduct in which society as a whole has important interests.” In _United States v. Seeger_ (1965) and _Welsh v. United States_ (1970), the Supreme Court affirmed this broad approach regarding religious diversity and plurality. Specifically, the Court determined that the First Amendment religion clause forbade the legal distinction between “religions based on a belief in the existence of God as against those religions founded on different beliefs.” In subsequent years the Court “moved in the direction of a functional definition of religion, stressing the ultimate concern of individuals. . . . The resulting bifurcated definition of religion fairly accommodates the individual’s liberty of belief within the confines of the affirmative secular state.”

In _Malnak v. Yogi_ (1979) the United States Court of Appeals for the Third Circuit asserted that in order to meet the definition of religion, a belief must (1) address fundamental and ultimate questions; (2) be comprehensive in