

‘You Do Not Have the Freedom of Religion!’: A Postcolonial Analysis of Article 18 of the Universal Declaration of Human Rights in the Context of Pakistan

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Abstract

This article analyses Article 18 (Freedom of Religion or Belief, FoRB) of the Universal Declaration of Human Rights from a postcolonial perspective, using Pakistan as a case study. It challenges the assumption that FoRB is a Western construct, demonstrating that various cultures, including Islamic traditions, had established forms of religious tolerance long before the European Enlightenment. While Pakistan initially supported Article 18, advocating for the right to change one’s religion, its legal framework has since evolved, incorporating Islamic principles that restrict religious freedom. This shift has created tensions between Pakistan’s secular constitutional foundations and religious legislation, leading to increased limitations on minority rights. The study highlights the complex interplay between colonial legacies, religious identity, and human rights discourse, arguing that critiques of FoRB in postcolonial states must consider historical and cultural contexts rather than applying a purely Western framework.

Keywords

Freedom of religion; postcolonialism; Pakistan; Universal Declaration of Human Rights (UDHR)

Introduction

In the 2023 annual report on Religious Freedom, the US Commission on International Religious Freedom (USCIRF) criticised Pakistan for continuing to violate Article 18 of the Universal Declaration of Human Rights (UDHR), which describes the right to freedom of religion or

belief (FoRB). Likewise, the UK Parliament held a debate on 6 September 2023 on the topic of religious freedom in Pakistan which was also highly critical of the country for violating Article 18 of the UDHR.¹ Pakistan, which is now a predominantly Islamic country, used to be part of British India in which Muslims were a minority group. While the British Empire ruled over the region, it implemented laws based on British norms and values, which differed from those of the region, and, significantly, implemented so-called 'divide and rule' policies, which separated the country into religious groups. These policies and laws have made a considerable impact on the region, leading to the deaths of many and other consequences which can still be measured today.²

At first sight, this 'Western' criticism of Pakistan by the United Kingdom and the United States of America for violation of the Freedom of Religion Act within the UDHR can seem like a repetition of colonial times in which the British rulers would impose their way of thinking on British India. This, therefore, calls for a critical review of both FoRB as a right in the UDHR and of the criticism Western governments have levelled at Pakistan. Therefore, this study aims to answer the question of how the postcolonial history of Pakistan shapes its engagement with the UDHR's Article 18, and how this history challenges or supports postcolonial critiques of human rights. The article begins by investigating the current literature surrounding the topic of post-colonialism and FoRB. Then, the main theories and discourses surrounding this topic are established, which subsequently serve as a foundation for investigating how the Freedom of Religion Act within the Universal Declaration of Human Rights reflects or contests postcolonial studies when looking at the case study of Pakistan.

¹ United States Commission on International Religious Freedom, *Annual Report* (Washington DC, 2023) <<https://www.uscirf.gov/publication/2023-annual-report>> [accessed 3 November 2025]; House of Commons, *Hansard's Parliamentary Debates: The Official Report* (6 September 2023, Volume 737, Ahmadi Muslims: Pakistan) (London: Hansard).

² Francis Robinson, 'The British Empire and Muslim Identity in South Asia', *Transactions of the Royal Historical Society*, 8 (1998), pp. 272–278; Farhat Haq, *Sharia and the State in Pakistan: Blasphemy Politics* (Routledge, 2019), p. 18; Kaushik Roy, 'Partition of British India: Causes and Consequences Revisited', *India Review*, 13.1 (2014), pp. 78–86 (pp. 79–81).

Approach and Positionality

Postcolonial studies are a broad concept, and in taking a postcolonial perspective in this article, it is important to set out here the specific aspects within postcolonial studies most pertinent to the focus of the study at hand. ‘Post-colonialism’ itself is a contested term. As Ania Loomba indicates in the title of her book *Colonialism/Postcolonialism*, ‘post’ means a time after, in both a temporal and ideological sense. However, many previous colonies still struggle with the consequences of colonial times, while additionally, some countries are today still economically and culturally dependent on their former rulers. According to Loomba, in the new world order, countries no longer directly rule their colonies, yet some countries are still culturally, economically, and politically influenced.³

‘Influence’ is an important word in the focus of postcolonial studies taken in this article. It discusses the questions of who is influencing whom, and who is imposing ideas, norms, and values on whom. In this study, I therefore do not look at postcolonial aspects of economic or military power from one country to another but at ideological forms of empire building.⁴ In doing so, I draw upon the work of the famous author Edward Said, who wrote about the notion of ‘Orientalism’, which he described as follows:

Orientalism can be discussed and analysed as the corporate institution for dealing with the Orient — dealing with it by making statements about it, authorising views of it, describing it, by teaching it, settling it, ruling over it; in short, Orientalism as a Western style for dominating, restructuring, and having authority over the Orient.⁵

‘Western’ countries try to modernise and develop the countries of the ‘Orient’ by replacing what they see as ‘orthodox and conservative’ ideas with Western culture and liberal ideas. In this article, I will examine

³ Ania Loomba, *Colonialism/Postcolonialism* (Routledge, 2015), pp. 28–29.

⁴ Tariq Jazeel, *Postcolonialism* (Routledge, 2019), p. 5.

⁵ Edward W. Said, *Orientalism* (Vintage, 1979), p. 3.

whether 'Western' countries attempt to exert influence on Pakistan through the Freedom of Religion Act in the UDHR.⁶

I recognise that as a Dutch, white, academic man, born in the twenty-first century, my position is privileged. I understand that I cannot even imagine what life is like to be a woman or to come from a different country. As a Christian, I can scarcely understand what it is like to be a Muslim or a Hindu. Despite this, I do believe I should try to learn as much as possible about the position of those who are different from me. Although I can never fully make sense of the world, even a limited understanding is better than none. Hence, by educating myself about the cultures, beliefs, religions, and perspectives of individuals from diverse backgrounds, I aim to gain a deeper understanding during each encounter. In this study, I hope that this attempt, while recognising my background, becomes clear to you as a reader. However, I acknowledge that my well-intentioned efforts, coming from a position of privilege as a Christian, white, academic man from the Netherlands, may carry the risk of being perceived as insulting, imperialistic, or perpetuating colonial attitudes.

Postcolonial Perspectives on UDHR

Many scholars have debated the legitimacy and flaws of the Universal Declaration of Human Rights. Some scholars, like Richard Rorty, argue that there is no fundamental basis for universal human rights at all, but that they can still be influential.⁷ Other scholars, such as Valerie Finch and John McGroarty, argue that there is such a thing as fundamental human rights, but that some human rights leave room for interpretation.⁸ Michael Freeman writes that there are different ways to legitimise the UDHR, but that all depends on one's perspective and

⁶ J. K. Patnaik, 'Human, Rights: The Concept and Perspectives: A Third World View', *The Indian Journal of Political Science*, 65.4 (2004), pp. 499–514 (pp. 508–511).

⁷ Anne Phillips, *The Politics of the Human* (Cambridge University Press, 2015), pp. 48–50; Richard Rorty, *Truth and Progress*, Philosophical Papers 3 (Cambridge University Press, 1998), pp. 174–175.

⁸ Valerie Finch and John McGroarty, *Human Rights Law Essentials* (Edinburgh University Press, 2010), pp. 17–19.

theories. He argues that one should always be critical and examine the different theories on which human rights are based.⁹ This makes engaging with or drawing upon the UDHR in academic argument highly complicated. Some scholars have taken a more critical approach to the notion of the UDHR by using postcolonial theories. Bonny Ibhawoh, for example, argues that many human rights scholars have been too fixated on the notion of breakthroughs in the process of the creation of Human Rights while failing to notice the historical events that led to the creation of the UDHR.¹⁰ According to Ibhawoh, scholars often mention Western events like the French Revolution or the American Revolution as historical events that have led to the formation of universal human rights. However, he argues that scholars fail to consider non-Western narratives, which tend to marginalise colonial violence.¹¹ José-Manuel Barreto agrees with this by arguing that in ignoring non-Western narratives in human rights theories, human rights only focus on the relation between the state and the individual without taking into account the problematic relation of the colonisers and the colonies.¹²

Furthermore, different postcolonial scholars, following the concept of a postcolonial cultural relativist approach, observe that Western nations have disregarded the cultural experiences and values of the Global South by asserting the universality of human rights sets.¹³ Abdullah Saeed and Hassan Saeed comment that from non-Western perspectives, the claim for human rights to be ‘universal’ can be experienced as neo-colonial and as a form of Western domination and

⁹ Michael Freeman, *Human Rights* (Polity Press, 2017), p. 52.

¹⁰ Bonny Ibhawoh, *Imperialism and Human Rights: Colonial Discourses of Rights and Liberties in African History* (State University of New York Press, 2008), pp. 15–17; A. Dirk Moses, Marco Duranti, and Roland Burke, *Decolonization, Self-Determination, and the Rise of Global Human Rights Politics* (Cambridge University Press, 2022), pp. 37–39.

¹¹ Moses et al., *Decolonization, Self-Determination*, p. 38.

¹² José-Manuel Barreto, *Human Rights from a Third World Perspective: Critique, History, and International Law* (Cambridge Scholars Publishing, 2014), p. 142.

¹³ Ashwani Peetush and Jay Drydyk, *Human Rights: India and the West* (Oxford Academic, 2015); Abdullah Saeed and Hassan Saeed, *Freedom of Religion, Apostasy and Islam* (Routledge, 2017), pp. 12–13; Patnaik, ‘Human Rights: The Concept and Perspectives’, p. 507; Reza Afshari, ‘An Essay on Islamic Cultural Relativism in the Discourse of Human Rights’, *Human Rights Quarterly*, 16.2 (1994), pp. 235–276 (p. 246), doi:10.2307/762447.

restructuring of the 'Orient'.¹⁴ Moreover, according to J. K. Patnaik, the universal claim of the UDHR can feel like an infringement of the self-determination of previous colonies.¹⁵ Conversely, some authors do claim that non-Western countries have influenced the creation of the UDHR. Huub Lems, for example, describes the positive view of Indonesia towards the UDHR. According to Lems, former foreign minister of Indonesia Ali Alatas claimed that the UDHR has helped former colonies to 'cast off the yoke of colonialism'.¹⁶ Heena Makhija argues similarly in a case study on India, stating that India was actively involved in the process of forming human rights. By doing so, Makhija contends, India has received legitimacy for its own existence and influenced the outcome of universal human rights.¹⁷ Lastly, Islamic history professor Reza Afshari is critical of the postcolonial cultural relativist approach, arguing that even though it is true that the idea of human rights comes from Western countries, they are applicable across the entire world. Indeed, Afshari argues that the universality of human rights is not about the 'cultural-ideological façade', but rather about the protection of individuals from a state that violates human rights. According to Afshari, it is a political demand to protect the individual against the modern state and market economies.¹⁸

Different Perspectives on Freedom of Religion or Beliefs

As outlined by the United Nations (UN), human rights are the entitlements that individuals or groups possess simply by their humanity.¹⁹ These rights serve as safeguards against various forms of

¹⁴ Saeed and Saeed, *Freedom of Religion, Apostasy and Islam*, p. 12.

¹⁵ Patnaik, 'Human Rights: The Concept and Perspectives', pp. 508–509.

¹⁶ A. Van De Beek, Eduardus Van Der Borcht, and Bernardus Vermeulen, *Freedom of Religion* (Brill, 2010), p. 95. Huub Lems, 'Freedom of Religion in Indonesia: Some Thoughts from an International Perspective', in *Freedom of Religion*, ed. by A. Van De Beek et al. (Brill, 2010), pp. 89–107 (p. 95).

¹⁷ Heena Makhija, 'India and Human Rights Diplomacy at the United Nations: The Discourse on Torture', *Jadavpur Journal of International Relations*, 26.2 (2022), pp. 208–226 (pp. 209–210).

¹⁸ Afshari, 'An Essay on Islamic Cultural Relativism', pp. 247–249.

¹⁹ United Nations (General Assembly), 'Universal Declaration of Human Rights', 217 (III) A (Paris, 1948) <<http://www.un.org/en/universal-declaration-human-rights/>> [accessed 18 October 2023].

injustice, such as slavery and torture. Additionally, they uphold individual liberties, including the right to express one's opinions and practise one's beliefs. Human rights have evolved into a universal language for articulating demands for justice.²⁰ Together with the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR), the Universal Declaration of Human Rights can be seen as the foundation of the international system of human rights.²¹ One of the articles in the UDHR is Article 18, otherwise known as the Freedom of Religion Act. Article 18 describes that

everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change their religion or belief, and freedom, either alone or in community with others and in public or private, to manifest their religion or belief in teaching, practice, worship and observance.²²

Various discussions were held on the meaning of FoRB. Is FoRB the freedom of individuals to choose their religion, or is it the freedom to practise one's religion without interference from the state? Most notable and relevant for this current study is the debate on freedom of apostasy as part of Article 18. This right has been a controversial part of the freedom of religion and has been debated since the formation of Article 18. Some Islamic authors like Saeed and Saeed recognise that Islam allows a certain freedom of religion. This means that one is free to believe in the religion that one desires and to profess this. However, the freedom to change one's religion is against Islamic laws. They therefore consider that from an Islamic perspective the freedom of religion does not entail the freedom to spread one's religion and change one's religion.²³ The notion of apostasy in the UDHR has not only been a matter of debate in Islamic countries but also in Hindu

²⁰ United Nations (General Assembly), 'Universal Declaration of Human Rights', United Nations <<https://www.un.org/en/about-us/universal-declaration-of-human-rights>> [accessed 22 March 2025].

²¹ Christopher N. J. Roberts, *The Contentious History of the International Bill of Human Rights*, Cambridge Studies in Law and Society (Cambridge University Press, 2014), pp. 49–52.

²² UN, 'Universal Declaration of Human Rights'.

²³ Saeed and Saeed, *Freedom of Religion, Apostasy and Islam*, pp. 15–16.

countries like India.²⁴ Although Linde Lindkvist and David Hodge recognise that there is no straightforward answer to the notion of conversion as part of the freedom of religion, they contest the view of scholars like Saeed and Saeed by carefully arguing that freedom of religion also means the freedom of apostasy.²⁵ Moreover, according to Silvio Ferrari, FoRB can challenge other rights that are written in the UDHR. From a religious point of view, the UDHR, and with that FoRB, can be seen as another set of 'normative commitments'.²⁶ These commitments are often in line with religious beliefs, but they can also contradict each other. When religious norms and the norms written in the UDHR contradict each other, Ferrari argues, religious people often choose the authority of their religion over that of the UDHR. In these scenarios, FoRB could challenge other rights written in the UDHR; for instance, the freedom from discrimination if one's religion forbids same-sex orientation.²⁷

A Brief (Colonial) History of Pakistan

To return to the particular case study, this section offers, as the heading suggests, a brief (colonial) history of Pakistan. Since the time of the first settlers on the South-Asian subcontinent, the region has been influenced by different invaders and colonisers.²⁸ Both the Aryans and the Arabs invaded parts of the land that is now called India. The people who used to live there before the invasions saw their culture almost completely dominated by these colonisers.²⁹ In their incursions, the

²⁴ Lourens Minnema, 'Hindu Views of Human Rights Regarding Religious Minorities, Freedom of Religion, Freedom of Conscience, and Anti-Conversion Laws', *NTKR Tijdschrift Voor Recht En Religie*, 1 (2019), pp. 11–29 (pp. 20–24).

²⁵ David R. Hodge, 'Advocating for the Forgotten Human Right', *International Social Work*, 49.4 (2006), pp. 431–443 (pp. 437–439); Linde Lindkvist, *Religious Freedom and the Universal Declaration of Human Rights* (Cambridge University Press, 2017), pp. 98–104.

²⁶ Silvio Ferrari, *Routledge Handbook of Law and Religion* (Routledge, 2015), p. 147.

²⁷ Ferrari, *Routledge Handbook of Law and Religion*, pp. 147–148.

²⁸ For this research, it is important to have a general overview of Pakistan's complex history. I recognise that such a history is highly sophisticated and that this brief section cannot aim to fully describe such vast complexity.

²⁹ T. K. Oommen, 'Society, Religion, and Modernity in Postcolonial India', in *Religion and Modernity in India*, ed. by Sekhar Bandyopadhyay and Aloka Parasher Sen (Oxford Academic, 2017), pp. 21–35 (pp. 23–24).

Arabs destroyed Hindu temples and replaced them with Mosques. However, the Arab conquerors failed to take over the whole Indian sub-continent, and, as a result, not much conversion to Islam happened, and the Arabs and the people who came from the land started to live relatively peacefully together.³⁰ This, however, changed during the British Raj (Rule) that started around the seventeenth century and lasted until the twentieth century.³¹ During the period of the British Raj, the colonisers introduced Western ideas concerning the modernisation of technology, democracy, and nationhood. The British rulers did this largely through the English language, which was learned by the elites of the region. The early generation that was educated by the British colonisers was relatively positive about the presence of the colonisers, since they saw them as progressive.³²

Nevertheless, the British colonisers shifted from elite politics to mass politics. By attempting to learn about the population, for example by writing reports and books about the land and its people, the British tried to control them more effectively. This, however, had a strong oriental influence, which led to a process of traditionalising the land. The climax of this oriental approach was the ‘Decennia Census’ of 1881, in which the British government tried to make clear distinctions between the different identity groups.³³ This led to a policy which is infamously known as ‘divide and rule’. During this time, the history of India was divided by the British into a Hindu, Muslim, and British period. The government separated the Indian society into different groups depending on their religion. Practically, this meant that Muslims, for instance, had to disclose their religion when they went to the hospital or signed up for the army. Whereas before Muslims did not have to openly identify as Muslims, and Hindus as Hindus, they now had to.

³⁰ Ira M. Lapidus, *Islamic Societies to the Nineteenth Century: A Global History* (Cambridge University Press, 2012), pp. 513–517.

³¹ Lapidus, *Islamic Societies to the Nineteenth Century*, p. 536.

³² Ian Talbot, ‘India and Pakistan’, in *Routledge Handbook of South Asian Politics: India, Pakistan, Bangladesh, Sri Lanka, and Nepal*, ed. by Paul R. Brass (Routledge, 2010), pp. 27–41 (p. 27).

³³ Talbot, ‘India and Pakistan’, p. 28; Minnema, ‘Hindu Views of Human Rights’, p. 19.

Consequently, this caused the population of India to distinguish itself more from each other by emphasising their religious background. Muslims would, for instance, change their name from a Hindu name to an Islamic name.³⁴ Hindus and Christians would do the same by defining and interpreting what they ought to be from their religion.³⁵

As the boundaries between the different identity groups grew, the tension also increased. The Muslims, who were the biggest minority group within the country, felt this tension and started to plead to the British government for their own country. This demand to have an independent Islamic country grew when the Indian National Congress and the Muslim League failed to reach a power-sharing agreement during the culmination of negotiations for independence from British rule in 1946–1947. Eventually, the British colonial government agreed to have two separate countries, which led to the partition of India and Pakistan. This event caused mass migration between the two areas, extraordinary outbursts of violence, and the deaths of between two hundred thousand and two million people.³⁶ After the partition, Pakistan quickly became a predominantly Islamic country. The Quran was recognised as the source of theological truth and became the base of civil and criminal law. However, the interpretation of the Quran is often debated among religious leaders in Pakistan.³⁷ Moreover, the constitution of Pakistan and its laws are also highly influenced by its former colonial ruler. Indeed, English law has influenced Pakistani politics and law in such a way that an entanglement has been created between 'secular' English law and laws based on the Sharia.³⁸

³⁴ Robinson, 'The British Empire', pp. 272–278.

³⁵ Minnema, 'Hindu Views of Human Rights', p. 19; Chad M. Bauman, 'Hindu-Christian Conflict in India: Globalisation, Conversion, and the Coterminous Castes and Tribes', *The Journal of Asian Studies*, 72.3 (2013), pp. 633–653, doi:10.1017/S0021911813000569.

³⁶ Roy, 'Partition of British India', pp. 35–37.

³⁷ Brian J. Grim and Roger Finke, *The Price of Freedom Denied: Religious Persecution and Conflict in the Twenty-First Century* (Cambridge University Press, 2010), p.190.

³⁸ Haq, *Sharia and the State in Pakistan*, p. 18.

A Brief History of Freedom of Religion and Belief in the UDHR: Not Just a Western Phenomenon

As already noted, the notion of freedom of religion is often seen as a consequence of Western European modernisation.³⁹ However, different cultures over time have developed similar ideas on religious freedom. Indeed, in the time of the ancient Roman Empire, some emperors extended a certain degree of freedom of religion to, for example, the Jews and later the Christians.⁴⁰ But even before that, some rulers allowed certain forms of religious freedom in their domains. For instance, King Cyrus was relatively tolerant towards the people living in his land who believed in different gods.⁴¹ Also, other traditions, cultures, and religions have implemented forms of religious tolerance. In the Islamic Sharia laws, there is a special status for *ahl al-kitāb* (People of the Book). *Ahl al-kitāb* often referred to non-Muslim believers who recognised a certain part of the literary tradition of Islam, such as Jews, Christians, and Sabians.⁴² This legal status '*ahl ad-dimmah*', which means the protected people, is for the people who fall under the category '*ahl al-kitāb*'. Having this legal status gave these people a limited amount of religious freedom, granted that they pay the *jizya*, a tax for non-Muslims, and would recognise the supremacy of the Islamic State.⁴³ This legal, *ad-dimmah* system for *ahl al-kitāb* was implemented in different countries as early as

³⁹ W. Cole Durham Jr, Javier Martínez-Torrón, and Donlu D. Thayer, *Law, Religion, and Freedom: Conceptualizing a Common Right* (Routledge, 2021), p. 37.

⁴⁰ J. Derek Holmes and Bernard Bickers, *Short History of the Catholic Church* (A&C Black, 2002), pp. 11–12, 31–32.

⁴¹ Richard A. Taylor, *Haggai, Malachi: An Exegetical and Theological Exposition of Holy Scripture* (B&H Publishing, 2004), pp. 31–32.

⁴² *Ahl al-kitāb* is a debated term within Islam. Some scholars believe it only refers to Jews and Christians, and some scholars include other traditions like Hinduism and Sikhism. Harry S. Neale, *Jihad in Premodern Sufi Writings* (Springer, 2016), pp. 65–66; Annemarie Schimmel, *The Empire of the Great Mughals: History, Art and Culture* (Reaktion Books, 2004), p. 107.

⁴³ Raja Sakrani, 'The Dhimmī as the Other of Multiple Convivencias in Al-Andalus', *Rechtsgeschichte*, 26 (2018), pp. 94–138 (pp. 96–97, 111), doi:10.12946/rg26/095-138; Saeed and Saeed, *Freedom of Religion, Apostasy and Islam*, pp. 22, 38–39, 168; Neale, *Jihad in Premodern Sufi Writings*, p. 65.

the year 728 CE, long before Western Europeans developed the idea of religious freedom that is known today.⁴⁴

Despite the different historical traditions that had implemented forms of religious freedom, some Western scholars still maintain that the notion of religious freedom as described in the UDHR is based on the Western European religious tradition.⁴⁵ This can be justified by researching the Western European history of the notion of FoRB and the interpretation of this today.⁴⁶ The legal notion of religious freedom can be traced back to the sixteenth and seventeenth centuries in Europe. Different European countries were internally and externally in conflict due to the religious strife, which was partially caused by the Reformation.⁴⁷ These conflicts led to multiple peace treaties that produced a certain religious tolerance or religious freedom. Examples of these are the Union of Utrecht and the Edict of Nantes.⁴⁸ The notions of religious freedom that came out of these peace treaties were more practical than moral. This changed during the period of the Enlightenment when philosophers like John Locke and Voltaire started to argue for the separation of the church and the state, individual freedom of conscience, natural rights, and religious tolerance. According to philosophers like Spinoza and Hobbes, only strong states could facilitate religious freedom in societies that are split between different religions.⁴⁹ The influence of the religious wars and the Enlightenment thinkers after these should not be underestimated. For instance, the separation of church and state, whether it is realistic or not,

⁴⁴ Sakrani, 'The Dhimmi', p. 97; Étienne De La Vaissière, 'Sogdian Dimmī: Religious and Political Protection in Early 8th Century Central Asia', *Annales Islamologiques*, 54 (2020), pp. 165–176 (pp. 165–67), doi:10.4000/anisl.7908.

⁴⁵ *Law, Religion, and Freedom*, ed. by Durham et al., pp. 25–27, 38; *Freedom of Religion*, ed. by Van De Beek, et al., p. 9.

⁴⁶ It is again necessary to emphasise that, due to the confines of the article, this overview is limited. Nevertheless, to understand the Western interpretation and the criticism of it, a brief overview of its history is important.

⁴⁷ *Freedom of Religion*, ed. By Van De Beek et al., p. 9.

⁴⁸ *Freedom of Religion*, ed. by Van De Beek et al., p. 10.

⁴⁹ John Locke, *A Letter Concerning Toleration: John Locke; Latin and English Texts Revised and Edited with Variants and an Introduction by Mario Montuori* (M. Nijhoff, 1963), p. 33; Voltaire, *A Treatise on Toleration* (Glasgow: Printed for Robert Urie, 1764), p. 87; *Freedom of Religion*, ed. by Van De Beek et al., p. 10; *Law, Religion, and Freedom*, ed. by Durham et al., pp. 48–49.

is still a predominant idea in Western politics.⁵⁰ Indeed, these ideas have also influenced the perception in Western society of freedom of religion. In both Europe and the United States, religious freedom is often seen as the protection of the individual and the collective against religious influence from the state. The law is not seen as a ‘threat’ against religions but rather protects the rights of religious groups. On the other hand, the law is also ‘free’ from religion in an ontological sense. This idea, nevertheless, took time to be implemented in the different legal systems, which is reflected in the fact that it has only been implemented in most European states in the twentieth century.⁵¹

The idea of religious freedom as a human right started to develop around the time of the Enlightenment and the Reformation, but some individual thinkers, such as Tertullian, already described it somewhere between the years 160–c.220 CE.⁵² As mentioned before, forms of religious freedom and religious tolerance were implemented in different peace treaties and laws around this time. Consequently, different philosophers argued for the right to religious freedom to be seen as a natural right.⁵³ This idea of natural rights/laws comes out of a Christian tradition. The idea is that God has given this law or right to the human species, which they can implement in their systems so that their law has a divine significance.⁵⁴ Natural rights have been seen as an earlier form of human rights. For this reason, human rights foundations have been criticised because the natural laws have been secularised.⁵⁵ The idea, however, that every human being has natural rights for being

⁵⁰ Craig Hovey and Elizabeth Phillips, *The Cambridge Companion to Christian Political Theology* (Cambridge University Press, 2015), pp. 3–4.

⁵¹ *Law, Religion, and Freedom*, ed. by Durham et al., p. 11.

⁵² Pál Sárý, ‘The Emergence of the Idea of Religious Freedom in Ancient Rome’, *Journal on European History of Law*, 13.2 (2022), pp. 107–113 (p. 110); Timothy Samuel Shah, ‘The Roots of Religious Freedom in Early Christian Thought’, in *Christianity and Freedom*, ed. by Timothy Samuel Shah and Allen D. Hertzke (Cambridge University Press, 2016), pp. 33–61 (pp. 52–55).

⁵³ Locke, *A Letter Concerning Toleration*, p. 52; *Law, Religion, and Freedom*, ed. by Durham et al., pp. 47–50.

⁵⁴ *Law, Religion, and Freedom*, ed. by Durham et al., p. 14; Freeman, *Human Rights*, pp. 52–53.

⁵⁵ On the topic of secularisation and human rights, different debates have occurred. I would recommend chapter 4 of Freeman’s book *Human Rights; Law, Religion, and Freedom* ed. by Durham et al.; and Jocelyn Maclure and Charles Taylor, *Secularism and Freedom of Conscience* (Harvard University Press, 2011).

human remained, and together with this, so did the right to FoRB. Nevertheless, only after the Holocaust did Western countries realise that FoRB can easily be disregarded by governments. The horror of the war moved countries into action to create 'Universal Human Rights'.⁵⁶ According to David Little, the UDHR and particularly FoRB should be understood against this background. Article 18 has an extra focus on the individual choosing their own belief instead of having to follow the beliefs of the government. According to Little, it is not the content of the fundamental belief that is important, but rather the fact that one can choose what to believe. Included in this right is the freedom for one to manifest their faith in 'observance and practice'.⁵⁷

Freedom of Religion in Pakistan

As described before, Pakistan's colonial background has a considerable influence on its lawmaking and, with this, the right to freedom of religion. Besides this, the battles for independence for Pakistan influenced the view of FoRB in Pakistan. Indeed, the Pakistan movement before the partition was focused on the notion of FoRB. Islam was a minority in India, and the movement sought religious tolerance for Muslims. After the partition, the leaders of this movement therefore implemented religious freedom in the constitution of Pakistan.⁵⁸

During the founding of the UDHR, Article 18 received criticism from Saudi Arabia. Saudi Arabia did not agree with the idea that one has the freedom to change one's religion. Saudi Arabia expressed their concern about Christian missionaries, and argued that this part of human rights legislation contradicted Islamic law. Interestingly, Pakistan criticised Saudi Arabia, and what followed was a theological discussion on an international political level. Pakistan stated that it is in line with

⁵⁶ *Freedom of Religion*, ed. by Van De Beek et al., pp. 11–12.

⁵⁷ *Law, Religion, and Freedom*, ed. by Durham et al., p. 26.

⁵⁸ Ujala Akram, 'Freedom of Speech, Freedom of Religion and Islam: A Review of Laws Regarding Offences Relating to Religion in Pakistan from a Domestic and International Law Perspective', *European Journal of Law Reform*, 16.2 (2014), pp. 353–376 (pp. 355–356).

the Quran for one to have the freedom to change one's religion.⁵⁹ Lindkvist points out that Saudi Arabia did have a point concerning the power imbalance of Christian missionaries during colonial times. Indeed, according to Lindkvist, Christian missionaries have often misused their power under Western imperial regimes.⁶⁰ Yet, Pakistan also criticised this concern of Saudi Arabia. According to the representative of Pakistan, Islam is a religion of missionaries, and therefore, one should be allowed to change one's religion.⁶¹ All in all, one can argue that Pakistan had a positive attitude towards the right to freedom of religion within the UDHR and openly discussed it. Over time, however, Pakistan has changed its perspective on the right to freedom of religion. This has caused internal tension between the Islamic law and a more secular constitution, which was based on the British Constitution.

The right to freedom of religion as described within the UDHR is the same as the right to freedom of religion as described in Pakistan's constitution of 1956. Nevertheless, the constitution also stated that Pakistan's principles are based on Islamic principles of social justice.⁶² After a military coup in 1962 by Muslim extremists, a change was made within the constitution, stating that all new laws must not contradict the Quran and the Sunnah and that all existing laws should be changed according to this.⁶³ In 1973, the constitution was once again changed, stating that instead of being a Muslim country, Pakistan would be an Islamic State. Islam was declared the state religion, and a definition of a

⁵⁹ The representatives of Pakistan based this on Surah Al-Kahf 29, which says 'Whoever wills let them believe, and whoever wills let them disbelieve' (Quran 18:29).

⁶⁰ It should be noted that this view of Christian missionaries and their misuse of power in the colonies is criticised as an image. Indeed, Etherington argues that this created image is problematic because arguing that the people of the colonised country did not have anything to say against the missionaries undermines the agency of the colonised. For more on this, see Norman Etherington, *Missions and Empire* (Oxford University Press, 2005), especially the introduction.

⁶¹ Lindkvist, *Religious Freedom*, pp. 63–64.

⁶² Government of Pakistan, *The Constitution of the Islamic Republic of Pakistan*, passed by the Constituent Assembly of Pakistan 29 February 1956 and assented by the Governor-General, art. 25, section 1–2. An online copy of the original can be accessed on the Fact Focus website <<https://factfocus.com/wp-content/uploads/2021/03/The-Constitution-of-Islamic-Republic-of-Pakistan-1956.pdf>> [accessed 15 November 2025].

⁶³ Akram, 'Freedom of Speech', pp. 357–358.

Muslim was given for the law. Ten years later, a definition was made for a non-Muslim under the law. By doing so, Pakistan divided its society more clearly between Muslims and non-Muslims. As a result of these changes, the Federal Shariat Court, which had the purpose of creating Sharia laws and checking if existing laws were in line with the Quran and the Sunnah, received more power, resulting in more Islamic laws.⁶⁴

Consequently, Pakistan has implemented multiple laws that can be seen from Western perspectives as violations of the initial interpretation of the UDHR right of freedom of religion. Most notable is the blasphemy law that was implemented in 1984. This law forbids any derogatory remarks about the Prophet Mohammed. Other laws were implemented to target specific minorities, like the Ahmadis.⁶⁵ Different cases of minority groups have shown limitations to the right of freedom of religion, resulting in criticism from different Western NGOs, such as Amnesty International and Open Doors, and from governmental institutions like the European Union and the United States.⁶⁶

⁶⁴ The Islamisation history of Pakistan described here is by necessity brief and, once more, it is impossible to set out its complexity within the limitations of the article. It should be noted that the 1956 Constitution of Pakistan permitted people to gather and share ideas. This allowed for the creation of different Islamic schools, which have led to different religious social movements. Some of these movements were more 'radical' than others, resulting in much tension within Pakistani society and politics. For more reading, see chapter 6 of Brian J. Grim and Roger Finke, *The Price of Freedom Denied: Religious Persecution and Conflict in the Twenty-First Century* (Cambridge University Press, 2010). See also, Akram, 'Freedom of Speech', pp. 359–362.

⁶⁵ The Ahmadis are a minority group of people in Pakistan who follow the Ahmadiyya Islamic tradition. They have experienced different forms of discrimination since the Islamisation process of Pakistani law. For instance, following the formation of the definition of Muslim, Ahmadis were no longer recognised as Muslims under the law and therefore received different treatment. Besides this, members of the Ahmadi community have often been persecuted under the blasphemy law since they have a different view of the Islamic tradition than the government. For more reading on this topic, see Kayhan Özyakal, 'Messianic Legitimacy: The Case of Ahmadiyya and Mahdiyya Movements', *Journal of Istanbul University Faculty of Theology*, 35 (2016), pp. 217–256.

⁶⁶ United States Commission on International Religious Freedom, *Annual Report*, 2023; Amnesty International, 'Pakistan: Authorities Must Ensure Protection of Minority Christian Community', 16 August 2023 <<https://www.amnesty.org/en/latest/news/2023/08/pakistan-authorities-must-ensure-protection-of-minority-christian-community/>> [accessed 3 November 2025]; Simon Visser, 'Pakistani Christian Couple Acquitted of Blasphemy Flees to Europe', 18 August 2021, Open Doors <<https://www.opendoorsuk.org/news/latest-news/pakistan-couple->

Reflection

So, how does the Freedom of Religion Act within the Universal Declaration of Human Rights reflect or contest postcolonial studies when looking at the case study of Pakistan? By analysing the historical approaches that have been taken in this research, a few nuanced conclusions can be drawn.

To start with, the idea that ‘Western countries’ are the ones who have constructed the idea of religious freedom is in itself open to challenge. Indeed, by looking at a few examples, like the Islamic traditions, one can see that even before the notion of religious freedom was established around the Enlightenment period in Western Europe, other cultures held similar ideas even before the Common Era. Thus, to claim that the notion of freedom of religion or religious tolerance is a reward of Western European modernisation is naïve and does not do justice to moral laws and rights of other cultures and traditions that developed similar notions beforehand.

Related to this is the claim that the UDHR and the act of freedom of religion within it is a Western construct which is being imposed on former colonies. This statement can likewise be challenged as inaccurate and, once again, unfair towards former colonies. Though it is true that it was only after the Second World War that Western countries felt the necessity to form a set of universal rights, they were not the only ones composing these rights. Indeed, countries like Pakistan have helped with the construction of the different rights within the declaration. Moreover, the rights within the UDHR were extensively discussed among the participating countries, including the former colonies of Western powers. An example is the discussion of Pakistan and Saudi Arabia on the right to freedom of religion. Claiming that the voices of the former colonies have not been heard tends to dismiss these countries, and it undermines their agency. Besides this, former colonies

blasphemy/;> European Parliament, ‘Resolution on The Blasphemy Laws in Pakistan, in Particular the Case of Shagufta Kausar and Shafqat Emmanuel (2021/2647(RSP)), P9_TA(2021)0157’, 29 April 2021 <https://www.europarl.europa.eu/doceo/document/TA-9-2021-0157_EN.html> [accessed 3 November 2025].

have used the stage of the UN and the formulation process of the UDHR to create legitimacy for their own country.

On the contrary, it can be argued that the secular interpretation of the right to freedom of religion is influenced by the Western European philosophical tradition. According to this tradition, religious freedom is the protection of the individual and the collective from the state against state religious influence. The law protects the rights of religious groups and is not seen as a threat. At the same time, the law is 'secular', which means that it is free from religious influence at its core. To claim that this interpretation of the right to freedom of religion is universal would be incorrect. Indeed, by investigating the Islamic interpretations, one can see that the Western European interpretations contradict the Islamic interpretations of freedom of religion. This tradition says that the law can be influenced by religion. Thus, to unhesitatingly correct or to accuse Islamic countries like Pakistan of violating the right to freedom of religion would be culturally insensitive. Instead, a more nuanced and careful approach is needed if one desires to discuss the state of FoRB in former colonies such as Pakistan.

Conclusion

This article has delved into the complex interplay between postcolonial studies and the right to freedom of religion, focusing on the case study of Pakistan. As the article has shown, religious freedom is not solely a Western construct, as various cultures have historically embraced forms of religious tolerance. While Western countries have played a significant role in promoting universal human rights, they were not the sole architects of the UDHR. The article has highlighted that the UDHR's formation involved active participation and contributions from a variety of countries, including former colonies like Pakistan. Thus, characterising the UDHR as a Western imposition on non-Western countries is an oversimplification that neglects the active involvement of the latter in the creation of these rights. Furthermore, the interpretation of the right to freedom of religion can differ significantly between Western European and Islamic traditions. The Western view is rooted in the protection of the individual and collective from state

interference in religious matters while maintaining the secular nature of the law. Conversely, Islamic perspectives may allow for a greater influence of religious principles on the legal system. Lastly, the article has also elucidated how Pakistan's stance on freedom of religion has evolved, with a shift towards more restrictive interpretations and the implementation of laws that have been criticised for curtailing this right by Western organisations and governmental institutions. The study has shown that in light of these complexities, it is essential to approach discussions of freedom of religion, as in the case of Pakistan, with cultural sensitivity and a nuanced understanding of different traditions and interpretations. Recognising, however, the contributions of various cultures like Pakistan to the development of these principles and respecting the agency of former colonies in shaping international human rights agreements is imperative.

A few qualifications and suggestions are in order at this point. This article has been intentionally broad in scope to map the historical and conceptual terrain of FoRB in relation to postcolonial debates on the basis of secondary sources. That said, ethnographic fieldwork and interviews in Pakistan could usefully clarify how legal norms translate into everyday practice for different communities, while more narrowly focused studies on, for instance, detailed legal analyses of specific statutes such as the blasphemy laws, could supply the depth that a broad overview cannot. Such studies may serve to strengthen the claims made in this study and help build a richer, more balanced discourse on FoRB.