

Analyzing Fundamental Rights in the Legal System of Pakistan-Administered Kashmir with Pakistani Jurisprudence on the Crossroads of Human Rights Law and Law of State Responsibility

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Abstract

The study aims to analyze the fundamental rights in Azad Jammu & Kashmir with Pakistan through their supreme laws of the land within the boundaries of International Human Rights Instruments juxtaposed Law of State Responsibility and Islamic Law of Human Rights. The rapid evolution in the 20th century, which included the majority of agreements regarding the protection of human rights eventually transformed people's thoughts about their relationship with the law of state responsibility not only at the international level but also in state laws, especially in the form of fundamental rights given almost in every constitution of the state. In case of any violation, the law of state responsibility elucidates how the culprit state is held responsible for breaching its obligations under international law. Therefore, by adopting a mixed-method approach, this study proposes the incorporation of basic rights and freedoms which are not available under the Interim Constitution of AJ&K by its administering state to ensure consistency.

Key Words: AJ&K Interim Constitution, Constitution of Pakistan, International Human Rights, Islamic Law of Human Rights, Legal System, State Responsibility

Introduction

All individuals are entitled to human rights, which are unalienable, universal, and indivisible, regardless of their nationality, race, color, sex, religion, language, property, birthplace, or any other factor. For the purpose of safeguarding these rights, hundreds of millions of laws are enacted. The teachings of the Holy Prophet Hazrat Muhammad (Peace Be Upon Him) and obligations placed on others are examples of these in Islam found in the Holy Quran. In the Modern system of international human rights law, these exist in the forms of international treaties like the Universal Declaration of Human Rights, 1948 (UDHR) (Shah, 2020, p. 01) and its daughter treaties; recognized international customs by the international community (Opinio Juris); in the shape of general principles of law (Article 38 of the Statute of the International Court of Justice); and various other sources and instruments of international law whether at the international or regional level or in the shape of domestic laws at the municipal level for and within the boundaries of states. These guarantees which we call fundamental rights at the municipal level entitle all individuals to invoke them through the operation of law or otherwise in their favour. However, some human rights fall on such a highest degree universally (Ishay, 2004, p. 03) that they show the dignity and worth of a human being irrespective of any legal jurisdiction, ethnicity, or nationality such as Protection against Torture, Protection against Genocide, etc. Dreams of creating an ideal society, nation, or state cannot be materialized without recognizing the basic rights or guarantees of every human being.

So, whenever and wherever we discuss any action, act, or series of acts whether taken by any state or individual, we usually evaluate them in the discourse of human rights traditions where rights and duties correspond to one another to confirm steadiness. This work analyzes fundamental rights as available in the legal system of Pakistan-administered Kashmir usually called the Azad Jammu & Kashmir or AJ&K with Pakistani jurisprudence on the crossroads of international human rights law and law of state responsibility. For this, the doctrinal methodology supported by exploratory and explanatory design was adopted where instruments of international and regional human rights were

examined and explained in first part and then deepening down towards the legal system of Pakistani Administered Kashmir to check the fundamental rights available to the people of this region by taking it comparatively with the fundamental rights available in Pakistani Constitution, 1973 along with a brief look on the rights available under Islamic concept of human rights by collecting data from the internet, writings of scholarly authors, case laws, works and reports of Intergovernmental Organizations (IGOs) and Non-government Organizations (NGOs). The strategy of collective multiple procedures has paved the way for studying legal literature on how these two legal systems in terms of guaranteeing fundamental rights to their people have their link with international human rights law by extending the dogmatic International law concept of State Responsibility on the lines of international human rights instruments to their systems through their land laws i.e., constitution. It is pertinent to mention here that states are bound to provide human rights not only to those people over which they have their direct physical control in terms of territory or otherwise but also to those who are foreigners or over which they have their indirect control due to any international legal obligation or because of any agreement This quest has led to examining different non-academic articles too written by experts on their blogs, or published by newspapers and magazines. This study has eventually proved the hypothesis that irrespective of any stand whatsoever any state takes in its defense to hide any of its violation or negligence is no more than a piece of paper or useless words and has no strength in front of huge and universally accepted human rights doctrine where states are obliged to carry out practical and genuine steps in protecting human rights.

The aim and object of this study are to take a comparative and deep analysis of fundamental rights provided in Article 04 of the AJ&K Interim Constitution, 1974 in juxtaposition with Fundamental rights given in the Quran, the last Sermon of Holy Prophet (P.B.U.H) (both of these are treated as the Supreme and Fundamental Instruments related to human rights under the Islamic system of Human Rights), the UDHR along with its two Covenants i.e. ICCPR and ICESCR of 1966, and Constitution of Islamic Republic of Pakistan, 1973, after understanding its legal system with following intentions: (i) to assess the extent to which Fundamental rights are available to people in the state of Azad Jammu and Kashmir duly protected and guaranteed by Pakistan due to its international commitments on the crossroad of International Human Rights Law and Law of State Responsibility; (ii) to draw the attention of the AJK government towards providing timely access to fundamental rights to its citizens as available to Pakistani people under the Constitution of Pakistan, 1973; (iii) to understand the extent of application of international treaties, national laws, policy, strategies, and programs that recognize the rights internationally, regionally, and locally and if they are being realized by AJ&K government in terms of providing fundamental rights to their people because all these things fall within the paradigm of the doctrine of State Responsibility (SR) duly influenced by International Human Right Laws (IHRL).



Figure No. 1 “Objectives of the Study”

Literature Review

While doing a literature review for the subject at hand, the article by Justice® Syed Manzoor Hussain Gillani was reviewed, which provides the historical, political, and constitutional standing of

AJ&K. It describes the development of AJK's governance, highlighting its lack of autonomy under multiple legal frameworks imposed by Pakistan. Based on the Azad Jammu & Kashmir Interim Constitution, 1974 until the 13th Amendment of 2018, which further consolidated power under Pakistan. The disparate representation given to migrants, the AJK Council's superfluous structure, and the disenfranchisement of the local populace are all categorically criticized by the author. To maintain the disputed status and comply with international commitments while addressing the democratic and civic rights of the population, he contends that AJK, which is treated as a de facto province lacks full rights, is experiencing an identity crisis, and demands that AJK be granted powers similar to those of provinces of Pakistan (Gillani, 2023).

Regarding jurisdiction under international human rights law, the work of Olivier De Schutter presents the idea of state responsibility. It draws attention to the fact that, depending on their power and influence, states have responsibilities within as well as outside of their borders. The responsibilities of states to protect human rights beyond territories also come under this ambit (Schutter, 2010). Additionally, the subject matter regarding state responsibility discussed by Janusz Symonides focuses on the duties of states. It advocates that states have to preserve and defend human rights inside their territorial limits. He argues that the main responsibility bearers in the international human rights framework are states. Therefore, the states must ensure that neither their own nor non-state actors' activities on their territory infringe upon human rights norms (Symonides, 2002).

However, the state's responsibility for upholding and protecting human rights has been the focus of considerable scholarly discussion since its inception. The discussion has changed over time in historical, legal, and socio-political contexts. However, a substantial gap still exists in addressing the state's responsibility to provide fundamental rights to its citizens. This study focuses on IHRL's influence on hybrid legal systems, including both Pakistan and AJ&K surrounding fundamental rights' especially to the people of AJ&K, particularly in the context of administering states' responsibility.

Material and Methods

This library-based legal study will be conducted by employing a mixed-method approach of exploratory and explanatory design. The legal systems of Azad Jammu & Kashmir and Pakistan through their constitutions will be analyzed using a comparative approach. The doctrinal legal research underhand will apply functional and normative legal methodologies to compare and examine the legal systems, respectively.

Human Rights and State Responsibility

The *Principle of State Responsibility* is one of the oldest principles of international law. With the evolution of international law, this principle drew its roots from the concept of just war and reprisals where a state if found no other remedy except to wage war, could wage to enforce her rights against the guilty state, which failed to fulfill her obligations, and vice versa in other cases if a state took an unjust step would be held responsible to pay damages to the aggrieved state. Here, this idea was linked to a crucial idea: that every legal wrong must have a corresponding legal obligation. The same is mentioned in the case of the *Spanish Zone of Morocco Claims between Spain and the United Kingdom* (1924), in which Judge Huber clearly said, that if one fails to fulfill one's obligations then repercussions of this failure should be met with as right and duty correspond one another. In addition to this, the Permanent Court of International Justice or the PCIJ in a case titled *Chorzów Factory (Indemnity), Germany v. Poland* (1924), observed that any breach of obligation requires compensation in consideration. On one hand, state responsibility under international law is determined by states in terms of internationally wrongful against other states, yet, under the influence of IHRL, the same is extended to the observance of fundamental rights given in the constitutions of almost every state which determines a state's obligation not only for other states but also for its citizens. It implies the efficacy and authority of international law. Without this principle, international law is unable to enforce its obligations in terms of respecting human rights and others which it demands from the states.

Traditional Approach to Human Rights

Before the creation of the UN and the proclamation of the UDHR, the principle of state sovereignty had been protecting states from aggression. Nearly all states refrained from interfering in any question of human rights falling within the domestic boundaries of any other state because of the shield provided by two twin principles i.e. state sovereignty and equality of all states. Despite the lack of universal international rules for their treatment at that time, the main goal of state responsibility was to safeguard the rights of foreign nationals in an alien state. Diplomatic means or international arbitration was the way for its enforcement. Under this approach, minimum protection was available to the rights of non-nationals in the hosting state. Although this approach was criticized by many scholars, as Anzilotti pointed out, the violation of the right of the non-national present in a foreign state is not the violation of the right of that individual only rather it is the violation of the rights of the state under international law. In the case titled *Mavrommatis Palestine Concessions* before the PCIJ, the court endorsed Anzilotti's point of view as a state is bound to protect its subjects not only in national spheres but also from the actions of another state because the state is representing her subjects inter-se and before international fora and it is ultimately the protection of herself from others (*Greece v the United Kingdom*, 1924). In the past, states were treated as sole and conventional subjects of international law, and individuals and others were considered as indirect beneficiaries.

Modern Approach to Human Rights

The traditional approach to understanding and enforcing the principle of state responsibility, especially concerning the protection of human rights changed soon after the adoption of the UN Charter and with the declaration of the UDHR and its daughter conventions and protocols i.e. the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social, and Cultural Rights (ICESCR), which are famously known as International Bill of Human Rights along with other ancillary human rights conventions. Since then, a drastic change in the minds of the international community and states in terms of protecting human rights can be seen where no longer a barrier in the shape of state sovereignty as was before remained at the international level. As stated in Article 02(1)(d) of the Vienna Convention (1969), the existence or application of the provisions of that treaty becomes operative upon the consent of the states.

Here, the Vienna Convention in its number of Articles i.e., Article 18, Article 26, Article 27, and others, gives various legal principles that establish the basis for the legal responsibility of states in their obligations. Moreover, all human beings possess human rights; wherever they are, independent of their nation-state, and without any discrimination based on anything as enshrined in almost all human rights documents and accepted approximately by all states. Although, a number of rights such as the right to life, liberty, personal security, or conversely, the equality of all persons before the law, as well as other rights enshrined in the UDHR, the ICCPR, or other treaties, have made it clear that individuals, whether they are citizens or not, are direct delegates of international human rights. These treaties give reciprocal rights to state signatories to them and individuals also. Here, three basic elements are considered as a core to the human rights obligations stem from these treaties and as assumed by states, i.e. onus to give respect to human rights, to give protection, and to fulfill their obligation (Schutter, 2010, p. 242) and any act which results in derogation to any of these three obligations is considered as the violation of human right (International Commission of Jurists, 1997). The office of the High Commission for Human Rights in para 47 of the Principle and Guidelines for a Human Right Approach to Poverty Reduction Strategies of 2005 stated:

“All human rights —economic, civil, social, political, and cultural— impose negative as well as positive obligations on States, as is captured in the distinction between the duties to respect, protect and fulfil.”

The International Bill of Rights

The Universal Declaration of Human Rights was the first milestone document in this contemporary world soon after the establishment of the UN along with two of its daughters' documents the ICCPR and the ICESCR (Shah, 2020, p. 01). Keeping these as leading examples, a

number of subsequent human rights documents have been created through various human rights conventions and treaties.

The Universal Declaration of Human Rights and Its Covenants

The UDHR is the first universal document on human rights in this modern world and is considered a Magna Cart of this era. In an effort to accomplish the objectives of the United Nations, the Commission on Human Rights was established with the responsibility of creating a text that would define the basic or fundamental freedoms and rights outlined in the organization's Charter. It was promulgated on December 10, 1948, by the 56 members of the UN unanimously and ultimately injected a new concept into the traditional definition of human rights and its protection at the international level. Although it has no legally binding effects, it has provided a moral ground for a whole international community to come forward for the protection of human rights and their availability to every human being, everywhere. It urges member states of the United Nations to respect and promote human rights for all. Protection of human rights remains not simply a domestic problem rather it is now a topic of international interest in terms of the modern concept of state responsibility as they are interdependent, indivisible, and universal.

The *Principle of Equality* as enshrined in the Charter of the UN also shines in its provisions along with the other thirty of its articles. Many constitutions of the nations present in the world have drawn their principles from the UDHR. Nonetheless, it has attained the status of customary international law as people consider it a common standard of achievement for all human beings (Shiman, 1993, p. 6-7).

Besides this, the UDHR has two covenants i.e. the ICCPR and the ICESCR. The first one is the ICCPR which is a multilateral treaty and an offshoot of the UDHR adopted by the United Nations General Assembly in 1966 and came into force in 1976, covering civil and political rights. The United Nations Human Rights Committee is a monitoring body to it. The right of all peoples to Self-determination is an integral part of it as enshrined in Article 01. Moreover, Civil and Political Rights protect individuals' inviolability and enable them to enjoy freely in an atmosphere of full freedom and to participate in all spheres of civil, economic, and politically enriched society (Symonides, 2002, p. 69). the right to life and liberty, personal security and equality before the law, protection from arbitrary arrest and due process of law, right to speech and freedom of expression, right to vote and political participation coupled with other rights come under the veil of civil and political rights (ICCPR, 1966). History clearly witnesses and gives shreds of evidence that these rights have been considered as fundamental rights almost in the history of all nations where states were obliged to uphold these rights. Due to these characteristics, civil and political rights are considered negative rights where states or governments are bound not to take any action contrary to these but with due process of law (ICCPR, Article 02).

Moreover, another name in the list of the International Bill of Human Rights is the ICESCR which is also a multilateral treaty that was adopted by the UNGA in 1966 along with other covenants and came into force in 1976. It aims to induce member states to grant non-self-governing and trust areas and individuals economic, social, and cultural rights. The UN Committee on Economic, Social, and Cultural Rights is in charge of overseeing the aforementioned pact. Positive rights that are covered by this covenant include the rights to social security, employment, a good quality of living, education, cultural rights, and more (McChesney, 2000, p. 17-18).

It is pertinent to mention that all rights as reflected in the title of the International Bill of Rights have a close nexus with one another as depicted under:

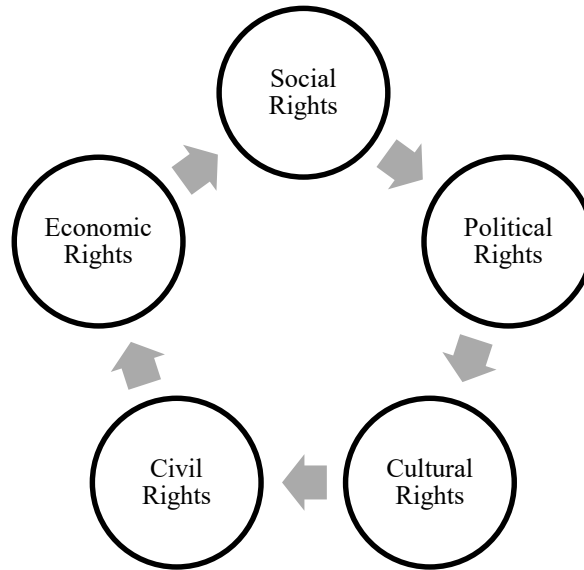


Figure No. 2 “Rights reflected in the International Bill of Rights”

Legal System: A Brief Introduction

The legal system of any state is key to running its affairs. It covers all its politico-legal and socioeconomic perspectives. The law determines not only every structure of the state but also the behavior of its people to work under it. Discussing law means a rule that is made by an authority capable of applying it to everyone legitimately. It not only determines the rights of people but also imposes various obligations in this regard. Every legal system provides a detailed procedure for interpreting and enforcement of its laws. In this modern world, three main legal systems are available in almost all states to run their businesses. These legal systems consist of Civil laws, Common laws, and Religious laws.

Constitutional History of Azad Jammu & Kashmir

Featuring a locally established parliamentary system of government and an ad-hoc constitutional framework, Azad Jammu & Kashmir is an integral part of the disputed State of Jammu and Kashmir (Document No. S/1100, Para. 75, dated 9th November 1948). It is primarily based on the constitutional structure of the Islamic Republic of Pakistan 1973, which declared Islam as the official state religion. It protects fundamental rights and establishes goals to strive towards the ultimate resolution of J&K’s disputes under the supervision of the United Nations through a free, fair and impartial plebiscite. This is due to Islam as state religion and indirect constitutional ties with Pakistan. Shortly following 24th October, 1947, the first body of rules of business were drafted to govern the administration of this freed region of the State of Jammu and Kashmir. The President was granted both executive and the legislative powers. Afterwards, in 1948, the Courts and Laws Code was implemented. Some of the previous laws of J&K were also combined to operate the judicial administration. In 1952, the first rules of business were revised, having included the legislative track and the administrative system. This stayed in place until 1960 after being amended in 1957. Through the “votes of basic democrats,” the Presidential Election System was introduced in AJ&K in 1960. This system also constituted another council called as “Azad Jammu and Kashmir State Council.” The AJ&K Government Act, 1964 somehow modified this system. The provision for the State Council was amended in terms of its election, selection, and number of members. Later, the AJ&K Government Act, of 1968 also brought some changes in the area of representation of members.

The Azad Jammu and Kashmir Act of 1970 established a democratic system in AJ&K. This introduced the system of adult franchise, leading to one of the most significant constitutional changes. The first AJ&K Legislative Assembly was established. The people of AJ&K and the refugees of Jammu & Kashmir settled in Pakistan, along with one co-opted lady member, chose the President and 24 members of the Legislative Assembly directly through adult franchise. Under the AJ&K Interim

Constitution Act, 1974 this four years system was superseded by the parliamentary system, which persisted until the 13th amendment. After the 13th amendment, the same is called the Interim Constitution, 1974 as the word “Act” in its nomenclature was removed and some other amendments in it were also carried out. Furthermore, Articles 42(4) and 43(2-A) of the Interim Constitution of AJ&K were amended via the 14th Amendment Act of 2020, respectively. The amendment led to the insertion of the phrase “the Chairman of” in reference to “the Council” highlighting the participation of the Chairman in decisions and opinions provided by the Council. So far, 14 amendments have been taken place in AJ&K’s Constitution.

A Legal System of Pakistan-Administered Kashmir or the AJ&K: An Analysis

The legal system of the liberated region of Kashmir, widely known as Pakistan-Administered Kashmir or, under the laws as applicable therein, the State of Azad Jammu & Kashmir, is discussed in this section. The discussion is carried out while keeping in mind the foregoing legal systems and other factors such as the nature of a constitution, whether written or verbal; primary legislation, statutes, and laws authorized by a constitutionally authorized legislative body; subordinate legislation or by-laws; traditional court practices; and civil, common, religious, or other codes of law as a source of such rules or practices. To determine whether the Administering Power, Pakistan, has fulfilled its obligations to provide a proper legal system and ensure the fundamental rights of the people of AJ&K, and to assess whether the International Human Rights Law has an impact on state responsibility in terms of applying human rights on a practical basis, a comparison with Pakistan's supreme law, the 1973 Constitution, and a brief comparison between the concept of human rights under Islamic law and the rights available in the 1974 AJ&K Interim Constitution are necessary. However, remembering that this area is a part of disputed Kashmir, which is a point of contention between India and Pakistan, is preferable.

Fundamental Rights in the Constitution of Pakistan, 1973

Even though at the international level, human rights are present in the shape of International Bills of Rights, but are the same available at a national level or not? To investigate this matter, the same is analyzed hereinafter. All citizens of Pakistan are entitled to equal protection under the law and are equal before it, as stated in the 1973 Constitution. In order to achieve this goal, various essential rights are outlined from Article 08 to 28 of the Pakistan’s 1973 Constitution. But the objective of work here is not to delve into extensive detail about the fundamental rights that are present in the Constitution of Pakistan, 1973 rather a brief look is required to verify the responsibility of Pakistan *vis a vis* AJ&K under the concept of state responsibility by making a comparison of rights available in both the Constitutions in table form which is here as under:

**Table No. 1
Comparison between Fundamental Rights available in Pakistan Constitution, 1973 and AJ&K Interim Constitution, 1974**

S. #	Rights	In the Constitution of Pakistan, 1973	In AJ&K Interim Constitution, 1974
1	Security of Person	Yes	Yes
2	Safeguards as to Arrest and Detention	Yes	Yes
3	Right to Fair Trial	Yes	Yes
4	Slavery, Forced Labour, etc. Prohibited	Yes	Yes
5	Protection Against Retrospective Punishment	Yes	Yes
6	Protection Against Double Punishment and Self Incrimination	Yes	Yes
7	Inviolability of Dignity of Man	Yes	Yes
8	Freedom of Movement	Yes	Yes
9	Freedom of Assembly	Yes	Yes
10	Freedom of Association	Yes	Yes
11	Freedom of Trade, Business or Profession	Yes	Yes
12	Freedom of Speech	Yes	Yes
13	Right to Information	Yes	Yes
14	Freedom to Profess Religion	Yes	Yes

15	Safeguard Against Taxation for Religious Purpose	Yes	Yes
16	Safeguard as to Educational Institutions	Yes	Yes
17	Provision as To Property	Yes	Yes
18	Protection of Proper Rights	Yes	Yes
19	Equality of Citizens	Yes	Yes
20	Right to Education	Yes	Yes
21	Safeguard Against Discrimination in Services	Yes	Yes
22	Preservation of Language Script and Culture	Yes	Yes

The idea of Human Rights in Islam

The modern concept of fundamental rights is not identical to the guidance provided by Islam. Quran constantly emphasizes the primacy of duties and obligations over rights. "And that to your LORD is the final goal" (53:42). The Quran clearly defines rights. Comprehensive information regarding the state's social responsibility with regard to fundamental human rights is found in the Holy Quran and the teachings of the Holy Prophet (Peace Be Upon Him).

Verses of Quran and the Last Sermon of Holy Prophet (Peace Be Upon Him) Related to Fundamental Rights

Some Verses of the Quran related to Human Rights as an example are as follows:

And kill not the soul which ALLAH has forbidden save for just cause. (17, 33).

ALLAH likes not the publication of evil except on the part of one who is wronged (4, 148).

And consult them in the matters (of Administration) (3, 159).

Thou hast no authority to compel them (88, 22).

And If you find no one therein, do not enter them until you are given permission.

And if it be said to you, Go back, then go back; that is purer to you. And ALLAH knows well what you do. (24, 27-28)

Whereas the Last Sermon of the Holy Prophet (Peace Be Upon Him) related to fundamental rights is as follows:

The Last Sermon (Khutba Hajj-Tul-Wadha) of the Holy Prophet Muhammad (Peace Be Upon Him) has an important role in understanding the human rights given in the constitutions especially of Muslim Countries following the true letter and spirit of Islam. Holy Prophet (Peace Be Upon Him) narrated "O people, listen to me in earnest, worship Allah, say your five daily prayers, fast during the month of Ramadan and give your wealth in Zakat, and perform Hajj if u can afford it. All mankind is from Adam. An Arab has no superiority over a non-Arab nor non-Arab have any superiority over an Arab except by piety and good action, Every Muslim is a brother of another Muslim, do not do injustice to yourself".

Table No. 2
Comparison between Rights in Quran and AJ&K Interim Constitution, 1974

S. #	Rights	In the Quran	In AJ&K Interim Constitution, 1974
1	Right of Protection of Life	Yes	Yes
2	Right of Justice	Yes	Yes
3	Right to Equality	Yes	Yes
4	Duty to Obedience of What is Lawful, Disobedience of What is Unlawful	Yes	Yes
5	Right to Participate in Public Life	Yes	Yes
6	Right to Freedom	Yes	Yes
7	Right to Freedom of Conviction	Yes	Yes

8	Right to Freedom of Expression	Yes	Yes
9	Right of Protection Against Persecution on Ground of Difference of Religion	Yes	No
10	Right to Protection of Honour and Good Name	Yes	No
11	Right to Privacy	Yes	No
12	Economic Rights	Yes	No
13	The Right to Property	Yes	Yes
14	Right to Adequate Remuneration and Compensation	Yes	No

Conclusion

Human Rights are considered the primary demand of people under their respective constitutions. Although apparently, it seems that the question which was raised at the very start of this work has been answered. After taking a comparison of both the Constitutions i.e. Constitution of Pakistan, 1973 and AJ&K Interim Constitution, 1974 in terms of fundamental rights, it is noted that under the respective governing supreme laws, the people of AJ&K are entitled to nearly all of the fundamental rights which are available to the people of Pakistan. Also, the legal system of AJ&K shows that Pakistan has been fulfilling her responsibilities imposed by the UNCIP Resolutions by providing and supporting a proper legal system present in AJ&K which also assures the performance of her obligations under the concept of state responsibility duly influenced by the International Human Right Laws especially after the 13th amendment that was brought in the Interim Constitution of Azad Jammu & Kashmir, 1974 which has given more empowerment to the local government working with a title of the Azad Government of the State of Jammu & Kashmir duly elected purely based on the democratic principle of an adult franchise by the people residing in that region. However, the Right of Protection Against Persecution on Grounds of Difference of Religion, the Right to Protection of Honour and Good Name, the Right to Privacy, Economic Rights, Language Rights, and the Right to Adequate Remuneration and Compensation are still absent as fundamental rights for the people of AJ&K within their legal system and in their Interim Constitution. All these are not only provided and assured by Islamic Human Rights Laws but also by the International Bill of Human Rights both in the traditional and modern concept of human rights. Pakistan being an administering state of AJ&K is responsible under International, regional, and domestic rules to assure the provision of these fundamental rights to the people over whom she has its control either directly or indirectly so that the people of AJ&K could become equal to the other people of the world.

Recommendations

When a disputed region is being controlled by other states whether, through an agreement or otherwise, the protection of the fundamental rights of its citizens falls under the responsibility of the administering state. Therefore, it is recommended that the rights that are still not available under the Interim Constitution of AJ&K should be incorporated by transforming the legal provisions in a shape to ensure protection equal for all the citizens. Moreover, basic human freedoms should be guaranteed to every person for a proper and harmonious development of his personality.

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