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1. Introduction

Human rights are as essential to people as the air that they breathe. These rights are innate regardless of the origin, culture, language, ethnicity, religion, or gender. The importance of these rights and the importance of respecting and upholding these rights worldwide were decisive for the international drafting committee which came together in 1947 to devise the Universal Declaration of Human Rights and which was subsequently accepted by the United Nations General Assembly in December 1948 and added as Resolution 217. Ever since, this universal declaration has been sought by many countries and their respective governments and used as guiding principles on how to react to different human rights violations in place. With the establishment of the National Human Rights Institutions (NHRI) within states and their ratification of several human rights treaties in the subsequent years after 1948 such as the United Nations Human Rights Committee (UNHRC) or the United Nations Committee on Economic, Social and Cultural Rights (UNCESCR), control mechanisms were established to monitor human rights issues and violations worldwide and prosecute them should the situation call for it. Lately, voices were raised regarding the situation in India's administrated Kashmir which disclosed different severe human rights violations. As per the report from Human Rights Watch and Physicians for Human Rights from 1993, titled "The Human Rights Crisis in Kashmir – a pattern of impunity", this situation has not crystalized itself recently but has been a reality for over thirty years. As per a recent press release from Amnesty International India, an international non-governmental organization, from June 2022, the increase in human rights abuses including unlawful killings, torture, rape, and even withdrawal of the right to communication such as the ban on social media or cut-off of network and internet supply is still prominent in Kashmir, and India does not seem to react to the United Nations' experts concerns over these rights abuses. Human rights violations against India's Kashmiri people are presently being focused on and being magnified on an international level.

However, these human rights abuses of the Kashmiri population were already at a rising crescendo between 1989 and 1991 during which a religious minority within the Kashmiri community was deeply affected. This religious minority refers to the Kashmiri Hindus of the Kashmir valley, also known as

Kashmiri Pandits. The Kashmiri Pandits, being a minority in a Muslim-dominated Kashmir, were subjected to ethnic cleansing between the years of 1989 and 1991.

This paper analyzes to which extent Kashmiri Pandits' human rights were violated by the radical Islamic terrorist groups and insurgents and what role the Indian government as well as international organizations and the international community played between 1989 to 1991. A particular focus is set on the night of 19 January 1990, which is commonly known amongst Kashmiris, especially among Kashmiri Pandits, as the darkest night of the year. Subsequent hypotheses are put forward and addressed in this paper: what interest India had in covering up the Kashmiri Pandits' situation, how was it that this incident remained unnoticed by the international community and can the Kashmiri Pandits' exodus be considered a genocide.

What had started in the valley as a call for independence from the Indian government ended in a breakout of violent insurgency initiated by arms-trained militants infiltrated from Pakistan across the Line of Control (the border between Pakistani and Indian administrated Kashmir). The policy changed from an independent Kashmir into a call for a Muslim-only state which meant the elimination of all other religious minorities within Kashmir.

Until today, very little is known of the Kashmiri Pandits' human rights violations between 1989 and 1991 and their exodus from Kashmir. The Pandits have fled to different places in and outside of India, their stories have not been heard by the Indian Supreme Court, and little to almost nothing was done for them during the past governments over the last 30 years. Only in the past couple of years, Kashmiri Pandits and Kashmiri Pandit organizations have raised their voices and asked the Indian government as well as the United Nations for help and justice over their forced emigration and unlawful killings of hundreds of people of their community. The issue at hand is that very little research and concrete publications have been made so far on the human rights violations of Kashmiri Pandits during this period and further. Only a few Kashmiri Pandits and scholars addressed the situation such as Kanhya L. Kaul and M. K. Teng in their joint chapter called "Human Rights Violations of Kashmiri Hindus" in Raju G. Thomas' book "Perspectives on Kashmir" from 2019. 'Human Rights impose a limitation on state authority, but they impose an equal obligation on the state to safeguard life, ensure equality and due

process of the law even in the face of Jihad' (Kaul & Teng [of Chapter 9] 2019, p.181). Back then with India's non-existent attempt to safeguard the human rights of Kashmiri Pandits, it is questionable whether this was politically intended or politically indifferent.

The analysis is divided into 6 parts, starting with an overview of Kashmir's geographical, social and political history including pre- and post-partition of India and a short discourse on the conflict between Pakistan and India and Kashmir's special status in the Indian constitution. This is followed by a description of the so-called Kashmiriyat, the ethnical and sociocultural identity of Kashmiris regardless of their religion. Chapter 4 defines Kashmir's political situation between 1989 and 1991 including facts on the Pandits' exodus and mass killings as well as India's role in this incident. Chapter 5 covers the international human rights law and the several conventions under it including India's position in the field of human rights. Establishing subsequently the human rights violations committed by Muslim militants and the genocide status of the ethnical cleansing of Kashmiri Pandits, followed by the assessment of the failure of India, the UN and the international community to protect this minority. In chapter 6, the analysis of semi-structured interviews with 7 exile-living Kashmiri Pandits gives insights into the paper's research on human rights violations and the involvement and position of India.

This paper concludes with a summary of the key findings of the interviews and the subsequent analysis. For the work on this paper, secondary sources including books, scientific research papers, trusted newspaper articles, press statements and television interviews were used. Primary sources used were semi-structured interviews with 7 direct and indirect victims of the Kashmiri Pandit community that are currently in exile scattered across India and Europe. The participants were male and female with an average age of 62. The interviews took place via telephone and video call. The questionnaire included personal viewpoints on the political situation in Kashmir in 1990 as well as personal consternation on death threats and media coverage of the situation (Appendix 2, p.69). The participants were acquaintances and the contacts were obtained via family friends. The request was to be interviewed anonymously. For the evaluation of the texts, hermeneutics was applied, and the snowball method contributed to the collection of various literature on the topic. An overview of the interview questionnaire is in the 'Appendices' section as well as the abstract in English and in German.

2. Overview – Geographical, Social and Political History of Kashmir

The Kashmir Region is approximately 180 square kilometers of mostly mountainous territory, bordering Afghanistan in the northwest, China in the north and east, Pakistan in the south and west and India in the south. In the south, it borders with the Indian provinces of Himachal Pradesh and east Punjab.

An ancient Hindu legend states that Kashmir owes its original name to a Hindu sage, a Rishi (an ascetic scholar), named Kashyapa. He is one of the seven ancient rishis of the Rigveda of Hinduism, but he is also mentioned in Buddha's teachings. It was told that before he discovered the land, Kashmir was all covered with water. It was only due to sacred penance and his mystical power, that he succeeded in converting the area into a land of prosperity and divine vibrations, which was later called Kashmir.

The earliest records of Kashmir's history date between 300 BC and 100 BC when the Maurya emperor Ashoka first arrived in Kashmir and founded the city of Srinagar and brought Buddhism to Kashmir. The Mauryan dynasty dominated the region until the middle of the fourteenth century. Around this time, a Tibetan Buddhist refugee called Rinchana, who later converted to Islam and named himself Sadrudin Shah, appointed himself as the first Muslim ruler of Kashmir from 1320 to 1323. This established the ground for succeeding Muslim dynasties in Kashmir which were followed by the mass conversion of the Kashmir Valley from Buddhism and Hinduism to Islam. The transition to Islam was further cemented by the arrival of Mir Sayyid Ali Hamadani, a Persian Sufi mystic from Hamedan in western Iran, who visited Kashmir between 1370 and 1380, accompanied by hundreds of his disciples, of which many settled in Kashmir. Upon his death in 1390, Mir Sayyid Ali Hamadani also known as 'Shah Hamdan', a mosque – the Khanqah-e-Maula – was built in his honour near the banks of the Jhelum River in Srinagar. There is currently a rebuilt eighteenth-century version of this mosque (Bose, 2022).

The Kashmiri transition to Islam is, however, accredited above all to the locally born Sufi saint called Sheikh Nooruddin Noorani. He was born around 1377 in a village south of Srinagar and lived there until about 1440. Noorani was greatly influenced by a woman called Lalleshwari, a follower of the Shaivite Hinduism (which worships the deity Shiva), and who lived in Kashmir from about 1320 to 1392 (Bose, 2022). In Kashmir, Lalleshwari is known as the Lal Ded (Sanskrit = Mother) and to date continues to be revered. Srinagar's main maternity hospital is named after her. Lalleshwari was the founder of the

Kashmiri literary tradition. She expressed her spirituality in couplets in the Kashmiri language, which belongs to the Dardic group of Indo-Aryan languages. Sheikh Noorani was her follower and then became a Muslim Shaivite who translated Islam into Kashmir's pre-existing spiritual and cultural idiom (Rupasinghe, 2019).

The Kashmiri version of Islam that Sheikh Noorani established was taken into the fifteenth century by Kashmir's greatest indigenous ruler, Sultan Zain-ul-Abidin from around 1420 to 1470. Also known as Badshah, meaning the Emperor, Sultan Zain-ul-Abidin implemented the Din-i-Ilahi which was a fusion of Hinduism and Islam. India's greatest Mughal monarch Akhbar who ruled over India from 1556 to 1605 embraced this Hindu-Islam syncretistic culture, annexed Kashmir to his empire and tried to implement an official religion in Kashmir. When the Mughal empire ended in 1750, the establishment of the Afghan empire over Kashmir immediately followed in 1752. Until 1819 this period was known to be one of the darkest times with turbulent political and social changes in the history of Kashmir. The period was characterized by the invasions by Ahmad Shah Durrani and it was after his death in 1772 that the social and political situation worsened and stretched for many decades. It took 47 years for a Kashmiri resistance leader named Pandit Birbal Dhar to convince Maharaja Ranjit Singh to conquer and free Kashmir from Afghan rule (also known as "Pashtun" rule). Kashmir subsequently was annexed to the Sikh kingdom of Maharaja Ranjit Singh. After the first Anglo-Sikh war in 1845 between the British East India Trading Company and the Sikh Empire, the treaty of Amritsar was established and signed by both parties in 1846, marking the beginning of the Dogra rule in Kashmir under Maharaja Gulab Singh. The British traders had sold the dominion of Jammu and Kashmir to Maharaja Gulab Singh for Rs 75 lakh. The Dogra king ruled over the regions of Jammu, Kashmir Valley, Gilgit-Baltistan and Ladakh. British supremacy was herewith recognized until India's independence in 1947. When all states had to decide on accession to India or Pakistan, Jammu and Kashmir ruler Maharaja Hari Singh asked for a standstill agreement and neutrality for his state. Soon after Pakistan invaded Jammu and Kashmir in October 1947 at which India did not intervene, Maharaja Hari Singh was compelled to sign the Instrument of Accession to India to put an end to the Pakistani invasion.

Although there was a substantial number of Dogras (derived from a dynasty of Hindu warrior clans), Christians, Sikhs and Buddhists in the immediate region and neighboring (now) Union State Ladakh, the overall majority of people living in Kashmir were and still are Muslims. Following the roots of the still ongoing Kashmir conflict between Pakistan and India, it can be found that the origin, as well as the root cause, go back to 1947 when just previously the British had ended their reign over the South Asian subcontinent. India was subsequently divided into two newly formed countries of India and Pakistan. All Muslims in India were deported to Pakistan and all Hindus in Pakistan were deported to India. Under these hasty terms of partition, more than 500 so-called princely states, from former colonial India, scattered all over the subcontinent and which had not been directly governed by Britain, had to choose their affiliation or remain independent (Blakemore, 2019). During the time of the partition and the establishment of the two new countries, the Hindu ruler of the princely state of Kashmir, Maharaja Hari Singh, faced an uprising in his Muslim-dominated state and lost control of large parts of his kingdom. He initially decided on neutrality for his state to which the Pathan tribes, also known as the Pashtuns, supported by Pakistan, aggressively entered Kashmir from Pakistan and Afghanistan. The Maharaja fled and sought protection from the newly formed Indian government, at the cost of accession to India on 26 October 1947. That day marked the beginning of the conflict between Pakistan and India and led immediately to the first Indo-Pakistan war.

The modern-day geopolitical situation in Kashmir includes the dimensions of straddling two nuclear-weapon states of Pakistan and India, the emerging issues and developments due to the transfer of power to the Taliban in neighboring Afghanistan, as well as Kashmir's geographic advantage in the control of water resources in the region.

2.1 The situation in Kashmir and the relationship between India and Pakistan after 1947

Since 1947, India and Pakistan have been locked in conflict and have fought three wars over Kashmir. To date, Kashmir is a Muslim-dominated region in the northern part of India divided between the two countries but claimed by both in its entirety. Back then when the mountainous territory still was a princely state during British rule, it was ruled by Maharaja Hari Singh, the last Dogra ruler of Kashmir who descended from a long line of Hindu warriors (Kilam, 2003).

The roots of the conflict lie in the countries' shared colonial past. From the 17th to the 20th century, Britain ruled most of the Indian subcontinent, first indirectly through the British East India Company, then from 1858 directly through the British crown' (Blakemore, 2019, n.p.). Britain's power over its colony weakened quickly over time as growing nationalist movements started to threaten its rule. In 1947, after India was split into the two new states of Pakistan and India, the option laid out was to let the princely state of Kashmir decide whether to accede to Pakistan or to India based on geographical contiguity and religious demography. According to this logic, Kashmir would have acceded to Pakistan on basis of the majority (80%) of the Muslim population (Junaid, 2020). The violence and riots that erupted all over Bengal, Delhi, Punjab and other areas in India at that time were pivotal to the need for a free plebiscite for the state of Kashmir. The plebiscite was however rejected by Pakistan's Muhammad Ali Jinnah the founder of Pakistan and Liaquat Ali Khan, Pakistan's first Prime Minister. On this backdrop, Hindu militias and Dogra troops attacked Jammu and Kashmir's Muslims, killing thousands of them while in Poonch (along the border with Pakistan) rebels created an independent state called "Azad (free) Jammu Kashmir (AJK)". As the killings of Kashmiri Muslims continued, many fled to AJK and Pakistan (ibid.). According to a census report from the time and later research, 200,000 or more Muslims died, and an equal number had become refugees. 'After what will come to be known as the "Jammu Massacre," Jammu became a Hindu-majority city' (Junaid, 2020, paragraph "1947"). Meanwhile, Sheikh Abdullah, the founder of the political party called 'All Jammu and Kashmir Muslim Conference' or short 'Muslim Conference' was held in prison for having stirred up nationalistic sentiments pre-partition. However, in 1948 he would become the first Chief Minister of Jammu and Kashmir and remain leader of the regional political party the 'National Conference (NC)' previously known as the Muslim Conference. In September of the same year 1947, Indian Congress leaders pressured the Dogra-ruler to accede to India and to release Sheikh Abdullah from prison, so as not to provoke Pakistan any further. Maharaja Hari Singh wanted to remain independent and had signed a Standstill Agreement with Pakistan, as previously mentioned, but India refused to sign it. As the rebellion continued along the borders, on October 22, 1947, members of the Afridi and other Pashtun (Afghani) armed groups started to converge along the border (ibid.). With this threat at his doorstep, the Maharaja fled the Kashmir valley and turned to India for help. India demanded the Accession of Kashmir

to India and to obtain authority over Kashmir's defense, foreign affairs, and communications. Sheikh Abdullah was released from prison and was made giving Emergency Administrator in Jammu and Kashmir. The Indian troops arrived in Srinagar the day after the Maharaja signed the treaty of accession. However, Pakistan had also sent its troops to the Kashmir region which with the arrival of the Indian troops led to the first India-Pakistan war over Kashmir. By mid-1948, the war had reached a standstill and India took the Kashmir case to the United Nations. Kashmir subsequently was registered and recognized as a disputed territory (Munshi, 2005). The United Nations Security Council passed a resolution (UNSC Resolution 47) providing for a ceasefire, a withdrawal of Pakistani and Indian troops from Kashmir and a plebiscite in Kashmir (under international supervision with minimal Indian military presence). There was also an established UN Commission on India and Pakistan (UNCIP) which had the task to investigate and mediate the disputes between the two countries over the future of the state of Jammu and Kashmir. This commission existed from June 1948 until March 1950. The United Nations Representative for India and Pakistan, Sir Owen Dixon, was tasked to prepare for the Plebiscite for Jammu and Kashmir, with Admiral Chester W. Nimitz as Administrator, and to assist in the preparation for and supervision of the demilitarization of the area. The ceasefire proclaimed in 1949 under the UN auspices, gave India control of two-thirds of the historic Kashmir state while Pakistan obtained control over one-third, including the AJK (Junaid, 2020). The UNSC Res 47 para 4 - 'Noting with satisfaction that both India and Pakistan desire that the question of the accession of Jammu and Kashmir to India or Pakistan should be decided through the democratic method of a free and impartial plebiscite' - was not adhered to by India although Prime Minister Jawaharlal Nehru would continue to make statements about India's pledge to the Kashmiris until 1959 (Junaid, 2020). In 1950 the Indian Constitution was institutionalized and in its very first article, Article 1 proclaimed the entire state of Jammu and Kashmir as a part of the territory of India. With the establishment of Article 370, the state was given a special status, allowing it certain independence regarding internal state affairs. However, in 1951 Kashmir held its first elections and India stated that a plebiscite had become unnecessary. Nevertheless, the UNSC resolution 91 still stated that these elections would not be a substitute for the still pending plebiscite. Sheikh Abdullah who was released from prison in 1947, won the elections and became the then so-called first Prime Minister of Kashmir. He carried out land reforms and adopted measures such as debt

relief, especially for Kashmiri Muslims. An assembly was established to draft the constitution for the state. Meanwhile in India, Hindu nationalists raised their voices and concerns over special status to Kashmir, asking for one country, one constitution and one flag. The resentment among members of the Dogra royalty and Hindu feudal grew and subsequently led to the assembly of another Hindu nationalist party, called the Praja Parishad (Junaid, 2020). Since Sheikh Abdullah was unable to control their influence, he shifted positions between endorsing Kashmir's accession to India and supporting the right of self-determination for Kashmiris. He signed the Delhi Agreement in order to endorse the main decisions of the Constituent Assembly of the State of J&K but still held back his confirmation of accession to India. The Delhi Agreement stated that: 1. except in three matters listed under Instrument of Accession, sovereignty will reside in Jammu and Kashmir; 2. Kashmiris will be citizens of India, but the elected Kashmiri government will decide permanent residency requirements in the state; 3. Kashmir will have its own flag and constitution; and 4. Kashmir will have a Prime Minister and President (ibid.). In 1953 pro-Indian authorities in Kashmir dismissed from office and arrested Prime Minister Sheikh Abdullah, as he continued to support the referendum and delayed the formal accession to India. He was again put into prison for the following 10 years. Deputy Prime Minister and Advisor to Sheikh Abdullah, G.M. Bakshi, took over his post and ratified 1954 the accession to India. Loyalists of the previous Prime Minister were removed from the government and from the NC party. Based on the ratification of accession, India passed a "Presidential Order" introducing Article 370 which effectively gave the Indian parliament many more powers over Jammu and Kashmir than what was part of the original "Instrument of Accession" and the "Delhi Agreement". Article 370 was drafted in Part XXI of the Indian constitution titled "Temporary, Transitional and Special Provisions". It stated that the Constituent Assembly of Jammu and Kashmir would be empowered to recommend the extent to which the Indian constitution would apply to the state. The state assembly could also abrogate Article 370 altogether, in which case all of the Indian Constitution would have applied to the state. After the State Constituent Assembly was convened, it recommended the provisions of the Indian constitution that should apply to the state, based on these recommended provisions, another Presidential Order was issued in 1954. However, since the Constituent Assembly dissolved itself without recommending the abrogation of Article 370, the article was deemed to have become a permanent feature of the Indian constitution (WikiMili, 2022).

With Article 370 as a permanent feature of the Indian constitution, thus begun the increasing erosion of Kashmir's independence. In 1955 Mirza Afzal Beg, a member of the NC Party and a follower of Sheikh Abdullah, founded the All Jammu and Kashmir Plebiscite Front (AJKPF), making it the main opponent of the governments led by G.M. Bakshi and his successors who tried to follow the one-nation and India-friendly policy.

After a stretch of seven relatively calm years, the Sino-Indian War between China and India broke out in October/November of 1962. An already disputed border, the so-called Mc Mohan Line which was the eastern Line of Actual Control (LAC) between India and China on the east side of the Himalayas had come under fire. China invaded Kashmir along the 3,225 kilometres long Himalayan border in Ladakh and across the McMahon Line. Indian forces were pushed back, and the war ended when China declared a ceasefire on 20 November 1962. To this war, India lost large tracts of land in Ladakh, especially Aksai Chin, that had been part of the State of Jammu and Kashmir.

After a short recovery break from the Sino-Indian war, the second but short Indo-Pakistan war broke out in 1965. That was after Pakistan had launched a military operation called "Gibraltar". This operation aimed at infiltrating Pakistani militants into India's administered part of Kashmir, to create a revolt hoping to gain support from the Muslim population, and to weaken India's power in Kashmir and take over the administration. To counter this operation, the Indian-administered Kashmir asked the central government of India for support. Subsequently, local Indian forces, as well as the Indian army, were sent to Jammu and Kashmir to fight the militants which led to Pakistan's operation failure. Again, the UN was called upon as a mediator and another resolution of the Security Council (resolution 211) was established, ordering again a ceasefire and seeking a peaceful resolution between the two states. UN Resolution 211 was published on 20 September 1965 and on 22 September backed by the United States of America and the United Kingdom of Great Britain and Northern Ireland with both countries cutting off their arms supply to both India and Pakistan. The ceasefire was accepted by India and Pakistan but did not resolve the issue of Kashmir, which is why a third mediator was brought in – the Soviet Union. Followed by negotiations in Tashkent, Uzbekistan, in January 1966, it concluded with both, India and Pakistan, giving up territorial claims and withdrawing their armies from the disputed territory.

Nevertheless, although the Tashkent agreement achieved its short-term aims, the conflict on the South Asian subcontinent would again reignite shortly after.

Over the time from the first Indo-Pakistan war to the second, several small but armed Kashmiri revolutionary groups emerged. These different groups called for complete independence of Jammu and Kashmir from India and Pakistan. One of these groups was the Jammu Kashmir National Liberation Front (JKNLFF) created by Maqbool Bhat and another group was the Al Fatah, which was the biggest and most subversive espionage group founded in Jammu & Kashmir. It was a guerilla group, comprising of over 200 people, and which began operating around the middle of 1970. The group recruited mainly young men and embarked on gunrunning on a large scale. Heavily financed by Pakistan, its leader was Ghulam Rasool Zehgeer, a Plebiscite Front activist from Srinagar.

In 1971 India and Pakistan fought their third war this time not over Kashmir but over the independence of East Pakistan which resulted in the formation of Bangladesh. India had a strong interest and political motive to support Bangladesh, due to its turbulent relationship with Pakistan and the fear of being surrounded by Pakistan from two sides. A win for the Bengali movement meant a peaceful eastern border for India. On an international scale, the American –Soviet tensions were high as India signed a friendship treaty with Russia and the US supported Pakistan. In July 1972, the Shimla Agreement was signed between India and Pakistan and established that the ceasefire line which was drawn between Pakistani-administrated and Indian-administrated Kashmir in 1949, was called the “Line of Control (LoC)” and was officially registered and recognized as the border. India returned occupied land back to Pakistan, war prisoners were repatriated, and the Kashmir issue was agreed to be further discussed peacefully. Besides including future talks about Kashmir peace, the Shimla Agreement obligates India and Pakistan to respect each other’s territorial integrity and sovereignty; to not interfere in each other’s internal affairs; to respect each other’s political independence; their sovereign equality and to abstain from hostile propaganda. Two years later, the leader of the NC party and former Prime Minister of Jammu and Kashmir, Sheikh Abdullah, returned to Kashmir after an 11-years-imprisonment due to accusation of conspiracy against the State and two years of exile. The Plebiscite Front that he had been involved with prior to his stay in jail, was dispersed as having received such instructions from India’s

Prime Minister Indira Gandhi. The demand for self-determination had herewith officially been given up by Sheikh Abdullah on behalf of Jammu and Kashmir, by signing the Indira-Sheikh Accord.

With this document, Sheikh Abdullah reconfirmed the conditions of Jammu and Kashmir's incorporation into India in 1953, but with a clause that the state's administration would be preserved under Article 370. By the time of the mid-1970s, twenty-three constitutional orders had already been adopted to integrate the state into the Indian Union and around two-hundred-sixty Union laws had also been applied to the state. Although Article 370 was retained, the state was subsequently called "a constituent unit" of the Indian Union. The Indian government had gained control over the most important areas of the state by being able to establish laws concerning activities aimed at rejecting the Indian sovereignty.

The local political parties in opposition as well as the rebellious groups continued their fight for independence. Elections in Jammu and Kashmir in 1975 stirred up the tense situation. The Indian government backed Sheikh Abdullah's reelection to Chief Minister of Kashmir and the opposition to his NC party was decimated. This was followed by the declaration of an internal governmental emergency in India (until 1977, including Kashmir) due to the accusation of the Honourable High Court in Allahabad that Indira Gandhi's government had been involved in the misuse of official machinery and rigging in elections. The subsequent implications were that more strict laws were made to implement the emergency effectively and with more powers to the central government in Delhi. According to Article 352 of the Indian constitution, all fundamental rights were suspended during this time and powers were given to the central government to declare an emergency in case of internal disturbances. The word internal disturbance was changed shortly after into armed rebellion during the forty-fourth amendment of the constitution of India. After the declaration of emergency, the powers of the Indian courts were restricted, and they were stopped from interfering or taking cognizance of the legality of the emergency and its implementation. The arrested persons were taken into custody without explanation or reason and for an indefinite period, any leaders remained in jail until the emergency was revoked. To divert attention from the internal emergency, the Indian Army seized control of the Siachen Glacier in 1984, which was an area not defined by the Line of Control, between Pakistani and Indian administrated Kashmir. Pakistan, therefore, made frequent attempts to capture the area in the following decades.

Another state election in Jammu and Kashmir in 1987 gave way to a pro-independence insurgency managed by the Jammu and Kashmir Liberation Front (JKLF) party and India accused Pakistan of fomenting this uproar by sending again militant groups over the LoC, but Pakistan denied any such behaviour. The newly elected government of Jammu and Kashmir confirmed to the Indian Prime Minister Rahul Gandhi to eliminate all growing unrest in Kashmir and forms a coalition with the NC party of Kashmir. The opposition in Jammu and Kashmir to the newly elected government however grew steadily while the repression increased such as the shutting down of basic necessities like electricity and food supply. Several Kashmiri men who were released from jail in Kashmir started to cross the Line of Control to Pakistan-administrated Kashmir to undergo arms training. Between 1989 and 1991 Indian-administrated Jammu and Kashmir experienced one of the darkest chapters of its history. Kashmiri guerilla groups and anti-India and pro-independence parties mainly led by Muslims had geared up and started an insurgency. Thousands of people left the area and another thousand were killed by armed militants and Muslim fanatics, the majority of the dead being Kashmiri Hindus. Making it India's biggest exodus within the country and reaching genocide status as the first country on the south Asian subcontinent. At that time Indian police had left the state almost abandoned and the government recommended Kashmiris, especially Kashmiri Hindus to leave their homes and come back only after the situation would have calmed down. Curfews were imposed over Jammu and Kashmir as the support for the armed Kashmiris who returned from training camps grew. India sent again troops to Jammu and Kashmir in mid-1990 but only after the adaptation of the "Armed Forces Special Powers Act" of 1958, which in sum gave the Indian government and therefore the Indian military and paramilitary groups a free hand to shoot and arrest any individual assessed as a threat in the interest of India's security, to obtain law and order in the region (Munshi, 2005). The Indian government was not able to bring the rebellion under control and oversaw its own military committing uncountable war crimes that it was never held accountable for and continues to deny even today.

While the insurgent groups continued their fight for independence and the Indian army together with the Border Security Forces (BSF) and paramilitary forces continued to have established postings in Jammu and Kashmir, there were three political parties in Jammu and Kashmir in 1993. These were the All

Parties Hurriyat Conference (APHC) which was an amalgamation of dozens of Kashmiri political groups, asking for their right to self-determination but keeping the question of independence or merging with Pakistan; the Jammu Kashmir Liberation Front (JKLF) and the Hizbul-Mujahidin (HM). In 1994 the Indian Parliament passed a resolution that claimed Kashmir as an integral part of India and therefore non-negotiable, implying that a plebiscite once and for all was off the table. More forces were sent to Kashmir to subdue the armed insurgency and oversee upcoming elections. Indian forces kept fighting pro-independence militant groups together with Indian intelligence. Shortly after in 1995 another war between India and Pakistan broke out – this time in Kargil, a border district along the LoC. India blamed Pakistan for infiltrating its soldiers into positions on the Indian-controlled side of the LoC. Hundreds of soldiers also died in this battle. By mid-year, international pressure forced Pakistan to withdraw its troops. Elections in Kashmir took place in 1996 with hardly to almost no participation. This subsequently made the NC party the winner and Farooq Abdullah, son of Sheikh Abdullah, the new Chief Minister in charge of Jammu and Kashmir.

In July 2001, Indian and Pakistani leaders met again but could not reach an agreement on the Kashmir issue, however, plans for free trade, demilitarization, and a shared autonomy in Kashmir were discussed. Following the 9/11 attacks in the US, the then Indian Prime Minister Vajpayee requested US President Bush to extend his war on terror to the situation in Kashmir. Meanwhile, the US asked for Pakistani support in Afghanistan and declared Pakistan to be US' major non-NATO ally. In order to cope with the US' request for support, Pakistan drastically cut its support to Kashmiri insurgent groups. Still, an armed attack took place in December of the same year aimed at the Indian Parliament which was blamed on Pakistan and the groups Lashkar-e-Tayyiba (LeT) and Jaish-e-Muhammad (JeM) which were both operating in Kashmir. India subsequently started a year-long build-up of military forces at the border, threatening to go again to war with Pakistan. However, in May 2003, India and Pakistan declared again a ceasefire along the LoC, restored diplomatic relations, and later started a bus service between Lahore (Pakistan) and Amritsar (India). Peace talks were held in 2006 with Pakistani President Musharraf that had the four-point Formula for peace proposal. The plan included: 1. free cross-LoC movement for Kashmiris; 2. self-governance for Kashmir on both sides of the LoC; 3. phased withdrawal of troops;

and 4. a joint India-Pakistan mechanism to implement these and create a future path towards the final resolution (Junaid, 2020). Jammu and Kashmir hardliners like pro-Pakistan separatist leader Syed Ali Shah Geelani's faction opposed the four-point plan, whilst the All Parties Hurriyat Conference (APHC) group led by Mirwaiz Umar Farooq however supported the plan. Finally, Indian Prime Minister Manmohan Singh, had the last word and excluded any consideration of such proposals, stressing that the state of Jammu and Kashmir was an integral part of India and therefore there would not be a redrawing of the international boundaries or rearrangement of regions.

In 2008 the government of Jammu and Kashmir, including members of the Peoples' Democratic Party-Congress government, gave away parts of Kashmir's land to a non-Kashmiri entity to build a permanent infrastructure for Indian pilgrims. However, this land deal was in contradiction to Article 370 and Article 35a, which promised protection of Kashmiri land and ownership only to Kashmiri people and permanent residents. By June of the same year, widespread protests against the land giveaway had emerged across Kashmir, led by a Coordination Committee comprised of APHC factions, JKLF, and several civil society groups. The land deal got cancelled but left many protestors dead and injured. Followed by this incident, Hindu nationalists in Jammu imposed an economic blockade on Kashmir for several weeks, by closing the only highway into Kashmir. During a procession headed towards the Line of Control to open the border to relieve suffering due to the blockade, Indian forces killed the prominent Kashmiri APHC leader Sheikh Aziz along with several group members. 'The killings lead to an upsurge of young Kashmiris coming into the streets and confronting Indian soldiers with stones' (ibid., 2020, paragraph "2008"). Subsequently, India put Kashmir again under curfew for several months. Meanwhile in Pakistan, upon the resignation of President Musharraf, the four-point plan about Kashmir lost its last supporter. With the Mumbai attacks towards the end of the year by Lashkar-e-Taiba, a militant Islamist organization operating against India in Pakistan, the peace talks between India and Pakistan had officially stopped.

In 2009 the rape and murder of two Kashmiri women in Shopian led to widespread protests across Kashmir and challenged further investigations on enforced disappearances. Independent investigations of the case showed that Indian forces had been involved and that the crime was identified as rape and

subsequent murder, although the Indian government claimed that the two women had drowned in a stream. Investigations were therefore closed and the Chief minister of Jammu and Kashmir, Sheikh Abdullah's grandson, Omar Abdullah, backed out from his initial support for the victims and concluded the case with the same judgment. Triggered by this incident, a Kashmiri human rights group discovered shortly after the unmarked mass graves across three districts of the highly militarized northern part of Kashmir. The graves contained some 2700 to 2900 unknown corpses, that were believed to be among the 8000 enforced disappearances that had taken place in Kashmir since 1989 (Junaaid, 2020).

In 2010 the number of killings of innocent Kashmiri civilians by the Indian military had risen and protests were led by Syed Ali Shah Geelani, a pro-Pakistan separatist leader in Jammu and Kashmir. Geelani demanded demilitarization, the release of political prisoners and a clear path towards implementing the right to self-determination of Kashmir. India subsequently appointed three interlocutors which were rejected by Kashmiri leaders who viewed them as puppets of the central government in Delhi. Protests were called off however dozens of Kashmiri youths joined the armed militant ranks of the Hizbul Mujahideen (HM). In 2013 the Indian government, upon the Indian Supreme Court's verdict of death by hanging, hung a Kashmiri man in prison on the accusation that he carried out the attack on the Indian Parliament in 2001. Several Indian civil society groups had claimed that the evidence of his role in the attacks was thin. India received worldwide criticism for this verdict.

Just one year later, in 2014, the APHC faction led by Mirwaiz Umar split and many members joined Geelani's faction, known as APHC (G). The National Conference (NC), which had been in government in Jammu and Kashmir and in coalition with the Congress since 2008, lost the elections. A drastic political change took place in March of 2015 when the PDP formed an alliance with newly elected Indian Prime Minister Narendra Modi's Hindu nationalist party, the Bharata Janata Party (BJP). It was the first time in the history of Kashmir that Hindu nationalists had officially come to power in Kashmir since 1947. After the killing of a 22-year-old commander of the HM, who had become widely popular on social media, another wave of protest ran through the Kashmir Valley and compelled the Indian government to impose another curfew for several months most especially in South Kashmir.

India's counterinsurgency war, also called "Operation All Out" intensified in 2017 in the southern part of Kashmir. Many militants died especially the youth that had previously joined the insurgent and militant groups. Subsequently, the BJP left the coalition with PDP Kashmir and the central government took full charge of the situation in Kashmir. In February 2019, which was Narendra Modi's year of reelection as Prime Minister of India, unrest in Kashmir did not cease. On the contrary, an Indian military convoy in South Kashmir was attacked by a Kashmiri bomber which led to the death of forty soldiers and an airstrike of India over Pakistan. The counterstrike of Pakistan was to be expected. India put a ban on the JKLF and the Jamaat-e-Islami, arrested their leaders and launched a massive crackdown against APHC activists across the Valley. Thousands of Kashmiri political and civil society activists were arrested in raids, and by late July thousands of new Indian forces were deployed in Kashmir. A memorable day for Kashmiris in and outside of Kashmir was 5 August 2019, which was when the Indian government revoked Article 370 and Article 35a of the Indian constitution. It removed the '(...) last remnants of "autonomy" and (thus the) "special status" (which was previously) guaranteed under the Instrument of Accession and the Delhi Agreement' (Junaid, 2020, n.p.). The removal of 35a paved the way for all Indian citizens to settle in Kashmir. The leaders of NC and PDP were put under detention, Kashmir itself was under a complete curfew and all forms of communication were shut down. On 31 October, the Indian government split the State of Jammu and Kashmir into two union territories under the Jammu Kashmir Reorganization Act from 9 August. One was the union territory of Jammu and Kashmir which was to have a legislative assembly but with restricted powers, and the second was the union territory of Ladakh which did not get to have a legislative assembly. The Indian government took on full control over the determination of the land use and residency requirements in Kashmir, while an intense crackdown and communication blockade was established to ensure that Kashmiris were unable to protest (ibid., 2020). Implementing their newly acquired responsibility of determining land use and residency in Kashmir, the Indian government enacted a new domicile law for Jammu and Kashmir allowing only certain classes of Indians to become permanent residents of Kashmir. Therefore, Indian officials in Kashmir started with the issuance of certificates to all Indians which '(...) would allow them to get state employment in Kashmir and make them eligible to purchase land' (ibid., 2020, n.p.). To draw attention away from internal politics with another clash in Ladakh along the border with China,

India was forced again to withdraw several kilometres away from what it previously had claimed to be the border with China. Subsequently, the Indian government issued additional new laws to expand its military bases and create new housing areas and units in the region.

2.2 Kashmir's Special Status: Article 370

When the British, through the East India Trading Company, arrived for the first time in India, the Maharaja had taken several steps to secure the rights of his citizens to keep the British away from Kashmir. This included laws that denied outsiders (non-residents), the right to own/acquire property within Kashmir which was limited only to natural-born citizens or inheritance. Subsequently, after the partition of India and Pakistan when Pakistan breached the treaty on Kashmir's neutrality and the Maharajah Singh was compelled to sign the instrument of accession to India, the Maharaja only gave up the control over three state subjects namely defence, foreign affairs and communications. The Indian Prime Minister at that time, Jawaharlal Nehru, together with the Indian government agreed to these conditions to maintain the privileges of the Kashmiri people and to keep Kashmir's independence from the central Indian government, although subjecting it to a later reevaluation. The matter was subsequently placed before the Constituent Assembly of India, which at that time was drafting the first constitution of India. Article 370 was included in this constitution and declared Jammu and Kashmir's status temporary, transitional and special. Reinforcing the temporary and transitional status through the Presidential Order of 1954, Jammu and Kashmir's status of independence weakened with the Delhi Agreement from 1952 and the Presidential order of 1954, according to which it had to give up its administration of '(...) citizenship and fundamental rights, the legislative, executive and judicial organs of the Union and their powers, relations between the Union and the State, finance, trade, commerce and intercourse within the Union, elections to the Union, legislative bodies, etc' (The Hindu, August, 2019). The State of Jammu and Kashmir was the only state in India that negotiated its terms of accession to keep its independence from India for as long as possible. 'The result of the parleys, spread over months, between the Central and State leaderships was the special status given to the State within the Indian Union, providing greater autonomy and legalised through Article 370 of the constitution. However, from October 1949 when the Constituent Assembly of India inserted Article 306A, which from 17 November

1952 became operative as Article 370, J&K state was ensured autonomy within the Indian Constitution. It immediately became a bone of contention between two diametrically opposing groups, within the State and at the Centre' (Wani, 2014, p.93). Although two different parties - a fusion group of the Vishwa Hindu Parishad (VHP) and the Bharatiya Janata Party (BJP) - opposed Jammu and Kashmir's independence and worked towards a full integration to the Indian Union. Its slogan was 'Ek Pradhan, Ek Vidhan, Ek Nishan' (Wani, 2014, p.93) which translated into English means as much as 'one Prime Minister, one constitution and one flag'. The argument they maintained was that the previous nationalistic uprising and growing aggression in the state were due to the privileges gained and maintained from Article 370. On the other hand, there was the Jammu and Kashmir National Conference party, which was in opposition to the integration party as previously mentioned. This group was supported by many scholars in and outside of Kashmir and voiced their opinion on keeping Kashmir's special status. They argued that due to a breach of trust and the continuous erosion of Kashmir's autonomy on the part of India, the state resulted in alienation between its people. 'Noorani states that Sheikh Abdullah and Home Minister Sardar Vallabhbhai Patel had serious disagreements over the original draft of Article 370, and it was unilaterally altered by N. Gopalaswamy Ayyangar without the consent of the Sheikh and his colleagues. Had the originally agreed draft been approved, the dismissal of Sheikh Abdullah later in 1953 would have been impossible. It was an unfortunate breach that created distrust, concludes Noorani' (Wani, 2014, p.94). In 1963, Prime Minister Jawaharlal Nehru apparently defrauded Sheikh Abdullah, with whom he had a closer political relationship, by telling the Indian parliament (Lok Sabha) in November of the same year that he, Sheikh Abdullah, stood behind the abrogation of Article 370 to include Jammu and Kashmir fully into India.

In all the Indo-Pakistan wars in Kashmir and the Kashmir region, India found reasons to intervene in Jammu and Kashmir's politics and policies, justifying and strengthening its supremacy in the state. When Narendra Modi was reelected Prime Minister in 2019, he had included the Jammu and Kashmir issue in his election manifesto, made it his goal to revoke the special status of Jammu and Kashmir and annul Article 370 through a Presidential Order in 2019, superseding the Presidential Order from 1954. He argued that it was an obstacle to the development of the state and that the government would take all

necessary steps to ensure a safe and peaceful environment for all residents of the state and make sure that Kashmiri Pandits can return to their homes, providing financial assistance for the resettlement of refugees from West Pakistan, Pakistan occupied Jammu and Kashmir (POJK) and Chhamb (Bharatiya Janata Party – Lok Sabha Election Manifesto, 2019, p.12). Article 370 in its entirety could only be repealed under article 370(3), which required a recommendation from the Constituent Assembly of Jammu and Kashmir. However, the Constituent Assembly had already been dissolved years before, in January 1957 to be exact, therefore the parliament together with Prime Minister Modi had a free hand. Together with the Presidential Order 2019, a Reorganization Act for Jammu and Kashmir was passed, which contained provisions to dissolve the state and reorganize it into two union territories namely Jammu and Kashmir and Ladakh. Since then, Article 370 of the Indian Constitution was no more. With the abolishment of Article 370, Kashmir's special status was lifted once and for all and the privileges previously owned by the Kashmiri people were taken away from them implying that from that moment on, anybody could buy land and property in Kashmir regardless of their origin and nationality.

2.3 Religious Minorities in Kashmir

The people of Kashmir are called Kashmiris and live in the union territories Jammu & Kashmir and Ladakh, which are situated in the northwest of India. Two-thirds of Kashmir is currently under Indian administration and the estimated population is 12.5 million according to the last census in 2011. The other third of the region is administrated by Pakistan.

Kashmir has quite a multi-faceted population, with a mix of religions, languages, and cultures. Although the Kashmir valley is Muslim dominant, the plains of the Jammu region are settled by Hindus (Kashmiri Pandits), who make up the largest minority in the state of Jammu and Kashmir. The third largest group are the Buddhists from the Ladakh region. The Kashmiri population speaks Kashmiri and different dialect versions of it, including outside the valley in the Jammu area. They comprise together an ethnically distinct cultural Kashmiri-speaking group. This group apparently comprises around 6.8 million according to the 2011 Census. To put it in numbers, Muslims make a 68.3% of the population's religion, Hindus 28.4% followed by Sikhs with an astonishing 1.87% more than the Buddhists of Ladakh

with only 0.9% and Christians with 0.28%. The rest are other minorities not officially stated (2011 Census India).

Kashmir has been heavily militarized for decades. The Indian administrated Kashmir has clear divisions on demographics with Muslims situated in the North and the Kashmiri Hindus mainly situated in the South. Industries and economy are concentrated in the South and governmental development funding is geared to support the horticulture/agricultural sectors that are predominant in the North.

The beginning of the religious riot was in 1989 when armed militants and violent insurgences by militarized Kashmiri Muslims, sought after Kashmiri Hindus and started an ethnical cleansing of the state to create a pure Muslim state. This was followed by Indian security forces invading Kashmir and pursuing policies inter alia of extra-judicial killings, detentions and torture of the militants while the implication of these policies was particularly tragic for India's Kashmiri Muslims as the government saw all Kashmiri Muslims as responsible for the on-going situation in Kashmir. Nevertheless, arbitrary killings and practices of arrests, detentions and torture have been deployed against the Kashmiri Pandits (Hindus) by Muslim militants of the area, towards the end of the 1980s and against the Kashmiri Muslims in Jammu and Kashmir by the Indian army in the subsequent years.

3. Kashmiriyat

According to an interview by Nandita Haksar, author and human rights lawyer in India, the term "Kashmiriyat" is (an Indian) state-sponsored term which is aimed at promoting Kashmir's official integration and showing that Hindus and Muslims have been living happily and peacefully together for decades (Sharma, 2015).

However, Kashmiriyat is nowadays more of a concept of Kashmiri nationalism that evolves around the Kashmiri people's sociocultural identity which is rooted and deeply connected to the Kashmir region (Tak, 2013). The original idea of Kashmiriyat related to communal harmony, peace, hospitality, tolerance and understanding towards different or unknown cultures and traditions, which were to be embraced by devotees of both Hinduism and Islam in Kashmir (EFSAS, 2020). Despite the differences in their religious beliefs, the members of both religious communities developed similar customs and

traditions, which emphasized their common ethnic and cultural ties. One example is the official language in Jammu & Kashmir, which is Urdu, however, the Kashmiri people still nourish their own language called Koshur. Although the language originated in Sanskrit, it was later influenced by the Persian language. Kashmiri people practiced their tolerance and understanding towards different religions by building Sufi shrines and temples all over the Kashmir valley welcoming devotees regardless of their faith. Another essential aspect of the Kashmiri culture is its food. Kashmiri people of both religious communities (Hindu and Muslim) respect each other's diet such as salted tea or noon chai which are essential and traditional elements of the Kashmiri breakfast and lunch. The Kashmiri community is also famous for its clothing and dressing style as their fabrics include detailed embroidery and high-quality woollen garments which are worn by men and women of both religious communities. These citations in addition to Hindus and Muslims having retained their original surnames over centuries, pointing out the original profession of their ancestors, make it difficult to differentiate between both Hindu and Muslim cultures and traditions. Therefore, the concept of Kashmiriyat can be better described as a socio-cultural and tolerant philosophy than a simple fusion of two religions.

Furthermore, it is argued that the term has become a powerful socio-political tool in order to support the singling out and shaping of certain groups in the Kashmir region and highlighting the conflicting political agendas of different actors (Aggarwal, 2008). However, its official use dates to the beginning of the 20th century when a different meaning and different background were applied to the term. 'As a response to excessive abuse from the Dogra rulers, who were viewed as foreign and illegitimate' (Arakotaram, 2010, p. 28), was the practical application of the term coined back then. It was Sheikh Abdullah who made use of this term for the first time in the 1930s but not in form of a Kashmiri sociocultural philosophy but rather in form of a Muslim political movement targeted at the Dogra ruling government, as to overcome and correct Muslim's inequality towards the rest of the Kashmiri population and in particular towards the Kashmiri Hindu population.

Between 1931 and 1939, Kashmiriyat became a political movement of the Muslim community which led to the founding of the All Jammu & Kashmir Muslim Conference, although later in 1939, it was expanded to include all religions making it a secular movement and resulting in the transformation of

the Muslim Conference into the National Conference. This was as per the instructions of Jawaharlal Nehru, the leader of the Indian National Congress party, due to the growing political unrest in Kashmir. This unrest was coupled with the uprising of Muslims in their pursuit of freedom from religious, political and economic oppression and equality before the law under the Dogra government and the Kashmiri Pandits' countermovement in fear of a growing Muslim domination. Therefore, Sheikh Abdullah, who had used the term "Kashmiriyat" previously to support the Muslims' political movement, turned the Muslim Conference into a secular nationalist movement, redefining Kashmiriyat to represent all of the Kashmiri people in their common fight for independence from the Dogra government (Arakotaram, 2010). Sheikh Abdullah recognized the need for establishing a structured and unified political narrative for his followers and voters which is why he had Kashmiriyat reinforce the legitimacy of the National Conference as a representative of all Kashmiri Muslims and Hindus (ibid.). This was instrumented through publishing in newspapers, widespread use of political slogans, rallies and most importantly communicated extensively in mosques. The National Conference functioning as a unity of Kashmiri identity was the political party in the 1960s that still voiced its concern and request for the rightful plebiscite of the Kashmiri people and laid the foundation for the formation of the Jammu and Kashmir Plebiscite Front and several other separatist organizations in their pursuit of Kashmir's independence after the partition. Nevertheless, the ethos and spirit of the Kashmiriyat were largely destroyed with the onset of the Kashmir conflict in 1947 and the beginning of Islamic militancy in 1989 and the subsequent exodus of Kashmiri Hindus (Pandits) and violent attacks against remaining religious minorities (EFSAS, 2020). The beginning of the Kashmir conflict, which had already started in the 1930s with the foundation of the Muslim Conference and the Muslims' fight against the Dogra-government oppression, and later on the conflict between Kashmir and India about Kashmir's independence from India, took its toll on the subsequent conflict between India and Pakistan as this conflict instigated enmity and fights between Hindus and Muslims. Furthermore, Pakistan preached its Muslim identity in the Muslim-dominant Kashmiri valley including religious sentiments in political disputes and paving the way for anti-Hindu propaganda with the aim of Kashmir's accession to Pakistan (ibid.). The narrative of Kashmiriyat, therefore, drastically changed and with rising terrorist attacks in the valley, the term lost not only its

original meaning, but the concrete cultural and social elements it was previously associated with started to disintegrate.

As for the Kashmiri Hindu minority, of which the larger group in Kashmir were the so-called Kashmiri Pandits, they saw themselves alienated after the breakout of Muslim terrorism in the valley in the late 1980s. The Kashmiri Pandits, originating from North India and belonging to the Brahmin caste of Hinduism, developed their own customs and traditions which were different from the practices of the rest of the Brahmins in India. They lived up to what had previously been described as “Kashmiriyat” as their subculture was less connected with Hinduism itself but rather closely connected to Kashmir itself. They did not subject their faith to the limitations imposed by caste or religious practices in other parts of India. Kashmiri Pandits enriched the literature of the language of Kashmir over decades as opposed to Muslims considering that their community was historically smaller than the Muslims’ (Kilam, 2003). However, it was in the 1930s when Kashmiri Pandits jointly joined government jobs and civil service positions to secure their positions and rights and ensure that the Dogra-ruler’s oppression over the Muslims would continue and no Muslim dominance could be established in the Kashmiri government as the uprising of the Muslim political movement was steady growing (Arakotaram, 2010). Unfortunately, ‘the increasing politicization of religious boundaries threatened to derail the greater struggle against the oppressive Dogra regime’ for both religious communities and ‘instead of working together to secure greater political and economic benefits, the Kashmiri Pandits and the Kashmiri Muslims were being turned against each other by competing narratives that emphasized religion as the basis of political loyalty’ (ibid. p.33). Although the Muslim political movement could be redirected and transformed into a nationalistic and secular movement of all Kashmiris, this event pinned a thorn between the previous friendly and peaceful relationship and Kashmiriyat of Kashmiri Pandits and Kashmiri Muslims.

The Kashmiri Pandit community was and still is deeply connected to their state and separating them from it would lead to an uprooting of their culture and their traditions jeopardizing their existence. Since they are simply a subgroup of Hindus, they would become extinct as a distinct community if they were to get permanently separated from the Valley over several generations (Sender, 1988).

4. Kashmir's Political Situation - 1989-1991

It had been estimated that in December 1989 more than 200,000 Kashmiri Pandits from the Kashmir Valley migrated to Jammu and other parts of India and that by 1991 only an estimated 4000 Kashmiri Pandits were still in the valley (Evans, 2002). The insurgency in Jammu and Kashmir since then had grown steadily on a daily basis during the next two years. How could such an insurgency rise in such a short period of time and lead to an ethnoreligious clash and devastating ethnical cleansing of Kashmiri Pandits in the following years?

Looking back a couple of years it is vital to keep in context that the relationship between India and Pakistan has always been fraught with difficulties and distrust starting from the partition in 1947 which in the end resulted in the division of Kashmir into two areas – the India-administered Jammu and Kashmir, and the Pakistan-administered Kashmir which is known also as “Azad Kashmir”. Kashmir is geographically situated between the two states and its annexation to either of the two countries was the point of origin of the three wars between India and Pakistan during the past forty years, including countless smaller insurgencies, especially in South Kashmir.

The constant violence and insurgency in the region, the uprising and the constant curfews and Kashmir's government's Muslim-friendly politics in Jammu and Kashmir post-partition, did not contribute at all to a friendly relationship with the Kashmiri Hindus and other minorities. As Ganguly explains it, there were two interlinked forces wearing down Kashmiris' tolerance. On the one hand the political mobilization from Pakistan's side, by supporting Muslim militants to infiltrate Jammu and Kashmir and to spread anti-India slogans/sentiments with the aim to conjure the Kashmiri Muslims' century-long discontent and disadvantaged treatment in comparison to the Kashmiri Hindus. There was also the result of the developmental activities of the Indian government such as improving literacy and education, media and jobs accelerated a mobilization in Kashmir in particular among Jammu and Kashmir's youth as they became more conscious about their civil rights. On the other hand, Ganguly connects the origin of the insurgency, to the institutional decay of India's governmental structures (Ganguly, 1996). The growing corruption and nepotism made Indian politics slowly lose its credibility and the trust of people in being treated by the government with fairness. Culminating in the presidential elections in July 1987,

for which Jammu and Kashmir reconducted elections in March for the position of the state's Chief minister, just four months after Chief Minister Farooq Abdullah had already been appointed. It was reported that these elections were rigged from top to bottom with voters being intimidated, ballot boxes tampered, and opposition candidates threatened, in order to prevent the Central government from losing control over the country's politics (Kaul, 2011).

Nevertheless, ethnic stereotyping should also be mentioned in Kashmir's case although it was rather irrelevant in the decades prior to the outbreak of the insurgency in 1989. It is a fact that there were economic disparities between Hindus and Muslims, and Hindus dominated most of the governmental and economic institutions but something like communal hatred did not exist. The two communities would interact with each other and no violence or any inter-ethnic conflict was prevalent over all those years until the beginning of the 1980s. Instead, there was a common bond of Kashmiri identity, popularly referred to as *Kashmiriyat* (Ganguly, 1996).

The violent insurgency started in December 1989 when members of the Jammu and Kashmir Liberation Front (JKLF) kidnapped the daughter of the Indian Minister of Home Affairs in Srinagar (Jammu and Kashmir) and refused to release her until several of their imprisoned members were released in exchange. After negotiations between the government in Delhi and the abductors, it was agreed to release the imprisoned members in exchange for the Home Minister's daughter. In the following weeks, many more insurgent groups emerged and raged through the Kashmir Valley, looting, and killing government officials (mostly Hindus), police officials (mostly Hindus) and innocent bystanders (regardless of origin or religion) who were in their way. Although these insurgent groups had different ideologies, however, all confessed to one common enemy, the Indian government and its rule in Jammu and Kashmir. The insurgency did not take long to develop into a critical mass insurgency which included ethnoreligious differences of everyone who was not Muslim, focusing strongly on the differences between Hindus and Muslims and threatening the lives of the Kashmiri Pandits in every corner of Kashmir. From public propaganda to threats mailed to their homes and relatives, killings, abductions and so on, this marked the moment when the official exodus of the Kashmiri Pandits started.

Previously Indian military forces had carried out several massacres across Kashmir in January 1990 with the aim to diminish the insurgent groups but protests of Kashmiris in the region intensified. On 17 January, the Indian central government dismissed Farooq Abdullah's government in Jammu and Kashmir and imposed its central rule. To improve the situation in Kashmir on 20 January 1990 a Hindu nationalist and member of the Indian National Congress party, Jagmohan Malhotra, was installed as the fifth governor. Jagmohan swiftly launched widespread military crackdowns on urban neighbourhoods and intensified the curfews. In the meantime, armed militant and separatist groups carried out further assassinations of mainly government officials, National Congress activists, and intelligence agents including Kashmiri Muslims and Kashmiri Hindus, who had held such positions in the Kashmiri government. As previously mentioned, during this time thousands of Pandit families left the Valley, especially after 19 January 1990 heading to Jammu in the south with nothing more than what they could carry in their hands, some even just with the clothes they were wearing. Threats and street-killings of Kashmiri Pandits by militant Muslim groups had become daily incidents and although there had always been a peaceful relationship between Kashmiri Hindus and Kashmiri Muslims, the situation had escalated very quickly. In another debate about the Pandits' exodus from the valley, Governor Jagmohan was blamed for encouraging the Pandits to leave (instead of the armed militants), by facilitating their migration, providing them refugee camps and food rations and promising them to be able to return after the rebellion was crushed (Asia Watch and Physicians for Human Rights, 1993). Regardless of whether it was government-assisted or not, these refugee camps were overfilled, and people had to queue in a long line outside the camp to wait for registration and admission to the camps (Defensive Offence, 2021). This meets somehow with what Lubna Abid Ali writes in his paper, that after Jagmohan had been appointed Governor of Kashmir, the Indian central government took a number of steps to oversee Jagmohan's doing against the Kashmiri Muslims in Kashmir and introduced the necessary steps that none of it would reach the outside world (1991). Subsequently, a bulk of Indian troops were sent to the Kashmir Valley for enforcement in order to fight the militants and reestablish law and order. Any kind of protest was blocked regardless of whom and if the Indian army felt it was required, they even shut them down with force and violence. During that time many civilians died, and the curfews that were either prolonged or in other places established by the state's Governor, led to great and widespread

misery as it was during the wintertime and people would run out of their supplies. On 30 March 1990, the chief commander of JKLF, Ashfaq Wani, was killed during an attack. Taking into account that he was the founder of this armed struggle and the Kashmiri Muslim uprising, his death should reflect a first major achievement for India. On the contrary, thousands of people attended his funeral, not only from Jammu and Kashmir but also from Pakistan-administrated Kashmir who crossed the LoC and joined the JKLF as new members. JKLF's philosophy ironically still proclaimed to be a secular one with the aim of unification of Kashmir and its independence from India. But it had clearly taken on another direction and was not as secular anymore as it liked to describe itself (Defensive Offence, 2021). Meanwhile, the second largest militant group was formed, the Hizbul Mujahideen (HM), which was proclaimed to be an Islamic organization with the aim of merging Kashmir with Pakistan. As no major improvement in the situation could be verified, the Indian government replaced Jammu and Kashmir governor Jagmohan after five months in office with Girish Saxena as the new governor. The central government continued to send troops into the region which accounted for more than 300.000 active-duty Indian soldiers in the Kashmir Valley. By July 1990, India imposed the Armed Forces Special Powers Act (AFSPA), which is an act that enables certain special powers, given to the Indian military and members of the armed forces, in disturbed areas in a state, without being prosecuted for it. It allows them upon their own judgement to open fire, initiate killings of any person in contravention of the law, carry arms, arrest individuals without a warrant and search premises without a warrant and provides them with immunity against any sort of legal proceeding or prosecution (Sarkaria, 2009). The oppression in Kashmir continued in 1991 as separatist groups proliferated and found new mass support among Kashmiri Muslims, with the JKLF still being the most important group among them. However, the Hizbul Mujahideen (HM) was the favourite of Pakistan and had received additional trained members and a better weapon supply. The HM was subsequently integrated into the Jamaat e Islami as their field group. Jamaat e Islami was and still is a cadre-based socio-religious and political organization in Jammu and Kashmir which officially fought for Kashmir's independence from India.

With the Indian military finding itself unable to crush the ever-growing rebellion, they not only committed several armed strikes in and around the Kashmir valley leaving many civilians (most of them

Muslims) dead and wounded and in addition committed humanitarian crimes such as the rape of Kashmiri women and the abduction of civilians suspected of rebellious acts, which not only left Kashmiris deranged and in shock but also the international community. These acts were covered up by the Indian government under the AFSPA and any charge of its military was and still is denied until today. According to the official numbers of the Indian government, between 1989 and 2004, there were (only) 219 Kashmiri Pandits killed by armed militants, while about 165.000 Pandits (of a total of 1 million) had left Kashmir (Bukhari in The Hindu, March 2010).

4.1 Kashmiri Pandits Exodus and Mass Killings

The violence in the Valley spread quickly beginning in the late 1980s, ‘(...) following the launch of the so-called Operation Tupac, the creation of Pakistani President Zia-ul-Haq, which intended to “liberate” the Muslim majority in the Kashmir Valley and establish an independent Islamic State’ (EFSAS, 2020, p.8). In 1988, several rebel leaders and Kashmiri youth crossed the Line of Control (LoC) into Pakistan-administrated Jammu & Kashmir, received weapon training and returned to the Valley. They were prepared for an armed insurgency. Pakistani and Kashmiri religious parties and their militant squads were used as a front to escalate armed attacks in Jammu and Kashmir and succeeded in injecting the ideology of communalism into the Valley of Kashmir (ibid., 2020).

The Kashmiri Pandits’ exodus then started when armed militants from JKLF formation first kidnapped the Indian Home Minister’s daughter in Srinagar in December 1989. Although she was released shortly after in exchange for JKLF prisoners and no harm was done to her, the situation in Kashmir had changed and Kashmiri Pandits figured they could not count on the government’s help or support anymore. It was then when the “ethnic cleansing” by the Muslim militant groups had spread over Kashmir and was communicated to the Kashmiri community through periodic write-ups in the local newspapers, sermons through mosques, shouting slogans and referring to the minority community as non-believers which led to an overall insurgent uprising (Sinha&Manna, 2020). Their focus was on the Kashmiri Hindus, who were a minority in the Indian-administrated Kashmir but still would make up 3 per cent of the valley’s population. In order to get rid of them and create their solemn Muslim state with a much-hoped annexation to Pakistan by many insurgents, the militants started to send death threats to Kashmiri

Hindus' households. The message was clear, either to leave the valley with their families or get killed by militants. Many Kashmiri Pandits, at first did not take seriously the threats but as they saw how friends, neighbours and even relatives were murdered or gunned down by the militants, and the wave of harassment grew, they had come to terms with their situation and left the valley to Jammu in the South, Chandigarh in Punjab or even further to Delhi. The Indian government did not interfere in the situation nor assist the Pandit community in any way like transportation or personal security so by the end of 1990 supposedly around 100.000 Pandits had already left the valley. The killings of Kashmiri Pandits took place in large numbers, regardless of their age, but their profession and political commitment were decisive. Government employees, most of them Kashmiri Pandits, working for the police and also working as journalists had fled Kashmir as they had received death threats from the militants (Defensive Offence, 2021) 'At the beginning of the then-present violent campaign, the terrorists were selective in picking their victims, but progressively, the killings became indiscriminate. Similarly, the early victims were killed with straight gunshots, but in subsequent murders, the most barbaric, gruesome and brutal methods were used' (Kaul & Teng, et.al.2019, p.176). The bodies of the victims that were killed were sometimes hung on trees or displayed in public spaces to obtain the maximum terror and fear from the people. The bodies if and when disposed of by the police, were disposed of without letting family members perform the last rites or even identify their dead. In addition to the killings, houses were set on fire and looted. The killings and intentional fire were accompanied by campaigns and slogans from local mosques issuing ultimatums to the Pandits to leave the valley. Mosques had become the new community centres where Muslims would gather for prayers and were informed of the current hitlist of the upcoming killings of Kashmiri Pandits as well as future bomb blasts and destruction (Defensive Offence, 2021). According to Raju Gc Thomas' edited publication in 2019, at least 1000 Kashmiri Pandits had died until that time and another 200 were missing since July 1988. A total of 260.000 people had fled the Valley by that time to the closest bigger cities in neighbouring states southern to Jammu and Kashmir (Thomas, 2019).

4.2 The Role of the Indian Government

Even though there were sufficient warning signs throughout 1987 to 1989 with several violent protests, looting, abductions and killings of several government officials, the Indian government did not interfere in the situation and did not work on a solution for Jammu and Kashmir. 'The protest rally on January, 20, 1990, finally led to a direct confrontation and soon Srinagar and other major cities were placed under curfew. Neither the curfew restrictions nor the heavily armed troops could dampen the spirit of the Freedom Fighters whose movement (had) won the mass support' (Ali, 1990, p.82).

India's best strategy seemed to have been the dismissal of the state government with Farooq Abdullah as Chief Minister and installing a new Chief Minister who should work in the interest of the central government in Delhi and deal with the growing conflict of law and order. Jagmohan Malhotra, who had earlier served in the state as governor, was brought back in January 1990 to deal with the situation. He, however, did not last long in the position as Chief Minister as even the minimum political mechanisms available were suspended shortly after his appointment (Chowdhary, 2014). While the coalition of the National Conference and Congress government, which was previously led by Farooq Abdullah and formed after the controversial Assembly elections in 1987, resigned from their involvement in government politics, the Legislative Assembly was dissolved and made way for the 'governor's rule', which implied a conversion into the presidential rule. This again implied the suspension of Jammu and Kashmir's state government and the imposition of a direct union government which was the central government in New Delhi. The breakdown of civil authority in Kashmir further impelled India to respond in a militarized manner. 'Draconian laws were passed by the Indian government in Kashmir to give legal sanction to mass murder, torture, arson, and what amounts to systematic genocide of the Kashmiri nation' (Munshi, 1995, p.23). The situation in Kashmir during 1989–90 was therefore quite precarious. The popular response from Muslim militant groups against the state was so intense that it was difficult to enforce authority of any kind. Due to the erosion of credibility of the local politicians a political vacuum had formed in Kashmir and India's response to the insurgency and armed militants had been changing according to the development of the insurgency.

India had to restore its authority in Kashmir and re-establish law and order. Only then did it see a chance for peacebuilding measures to be applied. According to Rekha Chowdary a peacebuilding approach was only possible evolving over time and including three elements: 'First, even while the militaristic response was considered indispensable, it was recognized that the long-term approach had to be political. Second, it was also recognized that the problem had a complex character of intertwining external and internal dimensions. Hence, the need to address both the dimensions was recognized. Third, it was also acknowledged that long-term peace could not come about till the confidence of people in the state had been restored' (2014, p.8).

All strategies of the Indian government were therefore targeting the militancy which was seen as an institutionalized war by Pakistan. Bringing into Kashmir large numbers of security forces such as the army and paramilitary forces and giving them extraordinary powers and freepasses with the extension and set-up of certain laws for Kashmir such as the '(...) local Public Safety Act (1978), which had the provision of keeping people in detention without charge (...) up to one year, in cases of threat to public order and two years in cases of threat to the security of the state (...) ' (Chowdhary, 2014, p.13). Or the Armed Forces Special Powers Act of 1990 gave sweeping powers to the army officials and immunity from prosecution for 'anything done or purported to be done in the exercise of the powers conferred by this Act' (AFSPA, 1990, n.p.). A number of additional laws were invoked over this time, including the introduction of a restriction on press and radio networks. Curfews and mobility restrictions as well as strict control of entry to the Valley by the Indian government would constrain and restrain the news coverage under the pretext of the "greater good of the nation" (Munshi, 1995).

The massive use of force had a huge impact not only on the militants and the insurgency but also on civil society. Kashmiri Pandits who had previously received death threats by different militant groups and were asked to leave Jammu and Kashmir, had requested the state government for physical protection and the Indian government for assistance in relocation. But the Indian government was not present (Sarkaria, 2009), and it is not clear whether it did not take the issue seriously or what it was that kept it from interfering in the situation (Defensive Offence, 2021). Much later towards the mid-90s, the Indian government succeeded in setting up refugee camps outside the valley where the Pandits were asked to

stay until the situation would have improved. It's also not very clear what the central government's goal in this incident was, but it is certain that it had an interest in putting an end to the militant insurgency by applying a repressive attitude towards the rest of the people that remained in Kashmir, most of them moderate Muslims but also a small number of Hindu families that had stayed back due to lack of resources for relocation. The massive use of force by the Indian government, day-to-day harassment faced by people during the crackdowns and house-to-house and body searches at any public place was the new "normal" as well as frequent cases of arbitrary arrests and torture in custody and enforced disappearances (Chowdhary, 2014). Physical visibility of armed militant forces everywhere in Jammu and Kashmir had become normality at the beginning of the 1990s and very much remained until today. The brutalising of those who stayed back became a routine affair (Gigoo et.al.2015).

5. International Human Rights Law

It was in February 1947 when the group of drafters of the Universal Declaration of Human Rights first met. At that time the group consisted of Eleanor Roosevelt, the wife of former US President Franklin Roosevelt, Pen-Chun Chang a Chinese academic, diplomat and human rights activist and Charles Malik who also was an activist, diplomat and politician of Lebanon. Their first and foremost task was to draft the International Bill of Human Rights and with the assistance of the UN Secretariat, a preliminary draft was assigned to John Humphrey, Director of the UN's Secretariat for the Division of Human Rights. Following a letter from Eleanor Roosevelt, as the Chair of the Commission on Human Rights, to Mr Ramaswami Mudaliar from India, who was the President of the Economic and Social Council (ECOSOC) at that time in March 1947, requesting the enlargement of the Drafting Committee, the subsequently additional members were from Australia (Mr William Hodgson), Chile Mr Hernan Santa Cruz), France (Mr Rene Cassin), the United Kingdom (Mr Charles Dukes), the Union of Soviet Socialist Republic (Mr Alexandre Bogomolov) and from Canada (Mr John P. Humphrey). The ECOSOC is the governing and policy-making body of the Commission on Human Rights.

The Universal Declaration of Human Rights was adopted by the Third General Assembly of the United Nations on 10 December 1948 in Paris and is herewith the first document in the history of mankind which was drafted by different representatives of different legal and cultural backgrounds from all over

the world. 'In their final comments, delegates to that Assembly made it abundantly clear that the Declaration was born out of the experience of the war that had just ended' (Morsink, 1993, p. 357) three years earlier.

Apart from the Universal Declaration of Human Rights, there is a series of other legally binding international human rights treaties, declarations and other instruments guiding the UN Human Rights activities and those of countries worldwide.

There is the Convention on the Prevention and Punishment of the Crime of Genocide (1948 Genocide Convention) adopted by the United Nations to prevent atrocities, such as the Holocaust, from happening again (Human Rights Commission Cayman Islands, n.d.). The Convention defines the crime of genocide, what it implies and which crimes it includes. Then there is the '1951 Refugee Convention, relating to the status of refugees to protect people who are forced to flee their home country for fear of persecution on specific grounds' (Human Rights Commission Cayman Islands, n.d., n.p.). There is also the 1960 Discrimination in Employment Convention. The International Labour Organisation Discrimination (employment and occupation) Convention which prohibits discrimination at work on many grounds, including race, sex, religion, political opinion and social origin. The 1966 Racial Discrimination Convention, which is the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) and obliges states to take the necessary steps to prohibit racial discrimination and promote understanding among all races (ibid., n.d.). The 1966 Economic, Social and Cultural Rights Covenant, called in full name the International Covenant on Economic, Social and Cultural Rights (ICESCR) protects rights like the right to an adequate standard of living, education, work, healthcare, and social security. The 1966 Civil and Political Rights Covenant (ICCPR) which protects rights that include the right to vote, the right to freedom of association, the right to a fair trial, the right to privacy, and the right to freedom of religion contains also a First Optional Protocol that creates a mechanism for individuals to make complaints about breaches of their rights. With the Second Optional Protocol issues regarding the abolition of the death penalty are treated. The ICESCR and the ICCPR are built on the Universal Declaration of Human Rights and create binding obligations for state parties. The 1979 Convention of the Elimination of all forms of Discrimination against Women

(CEDAW) lays out that all states must take steps to eliminate the discrimination against women and to ensure that women enjoy human rights to the same degree as men in a range of areas, including education, employment, healthcare, and family life. The Optional Protocol, which was added to it, establishes a mechanism for making complaints. Then there is also the 1984 Convention against Torture and Other Cruel, Inhuman or other Degrading Treatment or Punishment short CAT, which aims to prevent torture around the world. It requires states to take steps to eliminate torture within their borders and it also prohibits states from sending people to other countries where he or she would be in danger of being subjected to torture. The Optional Protocol to CAT creates a system for regular inspection of places of detention.

With the 1989 Children's Rights Convention (CRC) there was also established a Human Rights treaty to ensure the rights of the children and their entitlement to the same human rights as all other people. It also emphasizes the special rights of children, recognizing their particular vulnerability, such as the right to express their views freely and that decisions that will affect the children, must always be in the best interest of the child/children. With two Optional Protocols to the CRC, the first OP considers child prostitution and pornography and the second OP the involvement of children in armed conflict. The 1989 Indigenous Peoples Convention which is the International Labour Organization's Indigenous and Tribal Peoples Convention (No. 169) aims at protecting the rights of Indigenous and tribal peoples around the world. It is based on respect for the right of Indigenous peoples to maintain their own identities and to decide their own path for development in all areas including land rights, customary law, health and employment (Human Rights Commission Cayman Islands, n.d.). The 11th within the United Nations Human Rights framework is the 1990 Convention on Migrant Workers which aims at the protection of the rights of all migrant workers and their families to ensure that they enjoy the full protection of their human rights, regardless of their legal status. After a gap of sixteen years, the 2006 Convention on Persons with Disabilities was adopted. The Convention aims to promote, protect and ensure the rights of persons with disabilities to be able to enjoy equal treatment of their human rights. That includes the right to health, education, employment, accessibility, and non-discrimination. The Optional Protocol to it, establishes an individual complaints mechanism.

And finally, with the 2007 Declaration on the Rights of Indigenous Peoples, it was established a minimum standard for the enjoyment of individual and collective rights for Indigenous peoples. This includes the right to effectively participate in decision-making on matters which affect them, and the right to pursue their own priorities for economic, social and cultural development.

There are eight treaty bodies concerned with human rights violations, and each is in relation to one of the core UN human rights treaties with the responsibility to monitor and protect those human rights. Treaty bodies here are committees of independent experts who monitor the implementation of United Nations' human rights treaties across the signatory parties. They consider state reports on progress made, to realize human rights under the treaty they monitor and issue authoritative interpretations (so-called General Comments or General Recommendations) on the status of states' obligations under the treaty.

Most treaty bodies can also review and make recommendations on complaints from individuals and groups where they feel that their rights under the treaty have been violated and they have been denied a remedy at the national level.

However, there are two types of human rights monitoring mechanisms within the United Nations system: first, the treaty-based bodies as mentioned previous and second the charter-based bodies. The human rights treaty bodies, made up of committees of independent experts, monitor the implementation of the core international human rights treaties. The charter-based bodies include the Human Rights Council, Special Procedures, the Universal Periodic Review and Independent Investigations. Treaty-based are all the Committees which were mentioned earlier including the Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading treatment or punishment and the Committee on Enforced Disappearances, while the charter-based bodies count with the Human Rights Council and its Special Procedures (45 thematic mandates and 13 country mandates) as well as the Universal Periodic Review (UPR) and independent investigations. The Human Rights Council is the highest level of the UN human rights machinery, and it is an inter-governmental body within the UN system made up of 47 States. Together with the treaty-based bodies, it is responsible for the promotion and protection of all human rights around the globe (ohchr.org).

Victims of a human rights violation can turn to one of the two bodies for human rights monitoring mechanisms, to submit a complaint: Either to the Special Procedures of the Human Rights Council which are independent human rights experts, to the human rights Treaty Bodies which are the committees of independent experts, or they can turn to the Human Rights Council. Through addressing these complaints, the mechanism's aim is to prevent further violations, investigate and that action is taken. Each mechanism has different criteria on how to submit a claim and by who it can be submitted, for example, the submission by individuals or by a national court and whether prior to that all national legal possibilities must be exhausted or not.

Taking into account that there were established several more conventions to safeguard people's human rights there is one particular convention I would like to lay focus on: the Convention on the Prevention and Punishment of the Crime of Genocide.

The very first definition of genocide was made by Polish Jewish Lawyer Raphael Lemkin in 1944, shortly before World War II ended. He wanted to make the international community recognize mass murder as a horrific, punishable and international crime. As at that time there didn't exist an international law to prosecute such crimes. Lemkin created the word "genocide" himself by putting the ancient Greek word "genos" (such as race or tribe) together with the Latin word "cide" which when put together and translated means "killing", thus defining genocide as the destruction of a nation or ethnic group as an entity and the actions involved directed towards individuals of this group and not towards any individuals per se. In 1948 the United Nations adopted the Convention on the Prevention and Punishment of the Crime of Genocide, short Genocide Convention, through the General Assembly (GA), classifying genocide finally as a crime under international law. Although genocide was already previously recognized by the GA in 1946 as a crime under international law (A/RES/96-I). The Convention entered officially into force in 1951.

In Articles 1 to 4 of the Genocide Convention a precise definition of genocide is given, starting with Article 1 laying out that all Contracting Parties to the Convention confirm that genocide committed in times of peace or war is a crime under international law and therefore should be prevented and prosecuted. While Article 2, a) defines genocide as the the killing of members of a group; b.) causing

serious bodily or mental harm to members of the group; c.) deliberately inflicting on the group's conditions of life calculated to bring about its physical destruction in whole or in part; d.) imposing measures intended to prevent births within the group and e.) forcibly transferring children of the group to another group. Article 3 registers the punishable acts from a) to e) such as: genocide, conspiracy to commit genocide, direct and public incitement to commit genocide, attempt to commit genocide and finally complicity in genocide. With Article 4 the Convention clarifies that all persons responsible for genocide or any other acts listed in Article 3 shall be prosecuted and punished regardless of their origin, title or status (UNCPPCG, 1948, Article 1 to 4). While the Convention has a total of 19 Articles, Articles 5 to 19 are administrative articles clarifying the process of invocation of prosecution, ratification of the Convention and its validity and acceptance by the contracting member states. Genocide is also defined as an international crime in the Rome Statute of the International Criminal Court (ICC) (Article 6), in the Statute of the International Criminal Tribunal for Rwanda (ICTR) (Article 2/2), and in the Statute of the International Criminal Tribunal for the former Yugoslavia (ICTY) (Article 4/2).

Genocide is originating very often in connection with other crimes such as for example political killings, racialization, the configuration of social relations and state formation or as Powell puts it: 'The point of the principle of continuity is that genocide is not assumed a priori to obey a unique logic: indeed, one explains genocide by investigating its situatedness within other forms taken by power struggles' (Powell, 2004, p.45).

5.1 India as a Drafting Member to the UDHR and Signatory Party of UN's Human Rights Conventions

Although the Universal Declaration of Human Rights (UDHR) itself is not legally binding, its purpose is to be universally applicable to all people, all over the world and set to guide legal decisions for the protection of the rights and freedom of the people. Its articles have been incorporated into many national constitutions and domestic legal frameworks which after all give them legal and binding status.

India was involved in the drafting process of the Universal Declaration of Human Rights between 1947 and 1948. With Dr Hansa Jivraj Mehta, who was a reformer, social activist and worker and feminist and who led the Indian delegation making an important contribution to the Declaration, by highlighting the

need to reflect gender equality. She requested to change the language of the UDHR to be gender neutral from ‘all men are created equal’ to ‘all human beings are created equal’.

During the adoption of the UDHR India voted in favour of the adoption of the Declaration in the General Assembly of December 1948 and afterwards also established national human rights institutions in its country, the so-called NHRIs. Among those is the National Human Rights Commission, the National Commission for Women, the National Commission for Minorities, the National Commission for Backward Classes, the National Commission for Scheduled Castes and the National Commission for Scheduled Tribes all based in Delhi. ‘National Human Rights Institutions are funded by the State but are independent of it: they are not non-governmental organizations, but they act as a “bridge” between civil societies and Governments. They are known by different names in different countries, for instance, they may be called Human Rights Commission, Committee or Council, Ombudsman, Public Defender, Provedor or Defensor’ (ohchr.org, May 2013, n.p.).

Their work consists for example in the contribution to effective parliaments, civil society organizations and alert media or ensure a school system with human rights education programs at all levels and also perform core protection functions such as the prevention of torture and degrading treatment. Accredited by the Global Alliance of National Human Rights Institutions (GANHRI) as of 13 July 2022, is only India’s National Human Rights Commission, graded with A. The A grade indicates full compliance with the Paris Principles (a set of international standards which frame and guide NHRIs, drafted at an international workshop in Paris in 1991 and adopted by the General Assembly in 1993). India is currently one member state of the 47 Member states elected to the Human Rights Council for the period of 2022 to 2024. India currently serves for a period of three years and is not eligible for immediate re-election as this is its second term and there has to be a break after two consecutive terms. With its membership in the Council there comes a great responsibility to uphold high human rights standards (according to Resolution 60/251 of March 2006 to create the HRC). However, in the past, India made efforts to comply with these high standards by signing several treaties such as the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (CAT) in 1997 and the Convention for the Protection of All Persons from Enforced Disappearance (CED) in 2007 but not

ratifying these. However, it ratified the International Covenant on Civil and Political Rights (ICCPR) in 1979, the International Covenant on Economic, Social and Cultural Rights (ICESCR) also by 1979 and the Convention on the Rights of the Child (CRC) by 1992. A signature and ratification have also been done for the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) by 1993, for the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) by 1968, for the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (CRC-OP-AC) by 2005, for the Optional Protocol to the Convention on the Rights of the Child on the sale of children child prostitution and child pornography (CRC-OP-SC) also by 2005 and for the Convention on the Rights of Persons with Disabilities (CRPD) by 2007. India also signed and ratified the Convention on the Prevention and Punishment of the Crime of Genocide, first in November 1949 and then in August 1959 but since then has not enacted any specific national law that deals with genocide and its prosecution. It even had one reservation to the Genocide Convention which was: ‘With reference to article IX of the Convention, the Government of India declares that for the submission of any dispute in terms of this article to the jurisdiction of the International Court of Justice, the consent of all the parties to the dispute is required in each case.’ (UN-Treaty Series, vol. 78, p. 277). This means that, should India ever be accused of genocide by other State Parties of the Genocide Convention or by the International Criminal Court (ICC), in its own territory, it must first consent to the accusation and prosecution.

Nevertheless, India has a constitutional obligation under Article 51 to respect international laws and treaty obligations and therefore Article 253 of its constitution makes it mandatory for its parliament to enact any law pertaining to an international treaty and to implement any treaty, agreement, or convention (Article 51 & 253 Indian Constitution). But as previously pointed out, this is insufficient when it comes to the prosecution of genocide on its national territory as India’s approval for prosecution must at all be obtained. Therefore, and in order to enforce the prosecution mechanism, the International Criminal Court has set up the Rome Statute for ratification by its States Parties, defining genocide as a crime under Article 6. According to Article 6 of the Statute, the courts that have jurisdiction over the crime are those of the State on whose territory the act was committed and in addition the International Criminal

Court. The Statute of the ICC was adopted in July 1998 and entered into force in July 2002. The ICC therefore legally holds the authority to prosecute cases of human rights violations, especially genocide as well as war crimes and other crimes against humanity, but only if the crime was committed on the territory of, or by a national of a State that has previously ratified the Statute. If the state where the crime was committed has not ratified the Rome Statute, or if the state of the accused's nationality has not ratified it either, the Security Council is the only body that may escalate the ICC's exercise of jurisdiction. Although the ICC could be approached for bringing justice to the victims, as under Article 1 of the Rome Statute, the court has the jurisdiction to take up matters of serious crimes against humanity. Article 1 of the Statute states that 'An International Criminal Court ("the Court") is hereby established. It shall be a permanent institution and shall have the power to exercise its jurisdiction over persons for the most serious crimes of international concern, as referred to in this Statute, and shall be complementary to national criminal jurisdictions. The jurisdiction and functioning of the Court shall be governed by the provisions of this Statute' (Rome Statute, Article 1). But 'India has neither signed nor ratified the Rome Statute of the International Criminal Court ('ICC'). It actively participated in the Preparatory Committee for the Establishment of International Criminal Court ('Prep Com') and the United Nations Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court ('Rome Conference') but had '(...) abstained from the motion to adopt the Statute at the conclusion of the conference' (Bais, 2016, p.1). India, therefore, is not a State Party to the International Criminal Court. And history has shown that its domestic courts are reluctant to punish such crimes as mentioned above, due to the fear of international society's condemnation and sanctions with extensive devastating economic consequences for the entire country. However, the guiding principles establish that domestic authorities have a responsibility to provide aid and protection to internally displaced persons in their territory (UNHCR, 2004). Thus, India has a responsibility to deal with human rights violations on its territory and the displacement of its people and in particular its minorities such as the Kashmiri Pandits.

R2P, the Responsibility to Protect, is another principle which is a global and political commitment endorsed by all Member States of the United Nations at the 2005 World Summit, in order to address its

four key concerns such as preventing genocide, war crimes, ethnic cleansing and crimes against humanity. The concept of the responsibility to protect stresses that sovereignty is not just the protection of countries from outside interference but also a matter of states having positive responsibilities towards their population's welfare on its territory. Subsequently, the primary responsibility for the protection of its people lies first and foremost with the state itself. However, a so-called 'residual responsibility' remains with the broader community of states, to act on the persecution of perpetrators and prosecution of such crimes when the specific state is either unable or unwilling to fulfil its duties of protection. R2P is articulated around three pillars. Pillar I recognizes the responsibility of a sovereign state to protect its citizens from the four types of crimes. Pillar II describes that if a state is not capable enough to protect its citizens, the global community then helps the state to develop the capacity to safeguard its population. And pillar III illustrates that if a state is manifestly involved in genocide, war crimes, ethnic cleansing, and crimes against humanity, then the responsibility to protect its citizens transfers to the international community, which then has the mandate to take collective action appropriately and decisively through the guidelines given in the Chapter VI and VIII of the United Nations Charter (United Nations, 2005).

Ever since the endorsement of the R2P-commitment, India has been reluctant to approve and join the R2P commitment. As Vikash Chandra formulates it, India's approach to the "Responsibility to Protect" is very much influenced by six factors like its historical legacies, its attitude towards the principles of non-intervention and state sovereignty, domestic issues such as the failure to guarantee inclusive development and ensuring human rights of its citizens even in remote areas (Chandra, 2021).

It is clear that the sovereign state is solely responsible for the protection of its citizens, however the international community supports the state in order to develop its capacity to fulfil these obligations, but in case of a state getting involved in mass human rights violations, the international community can act on its responsibility to protect the population of the state in question (Hussain & Mehmood, 2021). 'As a functioning democracy with an independent judiciary and a constitutional commitment to the protection of civil and minority rights and as an emerging power that hopes to play a global role, it would be reasonable to surmise that India would readily embrace the emerging norm of the Responsibility to Protect (R2P)' (Ganguly, 2016, p. 362). And as previously mentioned, India had not

shied away from its duties and responsibilities to promote human rights. However, in the years post-partition, India became extremely cautious in safeguarding its sovereignty and defending its independence from any international organization, international court, or treaty. It was in 1948 when India addressed the Kashmir conflict to the UN, for the first time requesting international interference in its quarrel with Pakistan over Kashmir. To India's discontent, the issue quickly became a topic of international politics during the Cold War, and the India-Pakistan conflict was left aside without further consideration. And instead of clearance of the situation, it was subjected to a series of United Nations Security Council (UNSC) resolutions, which India's politicians deemed to be fundamentally prejudicial to its interests. Consequently, India became reluctant to approach any further multilateral institution with issues regarding its sovereignty and where at question (Ganguly, 2016). This is one of the reasons, among others, why India ever since has been safeguarding its sovereignty and was reluctant to get the report on "Implementing R2P" issued by the UN in 2009. However, it is important to take into account that India has currently contributed to forty-four United Nations Peace Keeping Operation missions (UNPKO) and has been contributing to global order and governance since the inception of the UNPKO in 1948, the so-called forerunner and facilitator of R2P as the idea was and still is to implement R2P through UN peacekeeping missions.

5.2 Human Rights Violations and Genocide

India has never in its history invoked any sort of prosecution of human rights crimes and neither has it interfered in them although its awareness regarding human rights cannot be ignored. It was in the late 1980s when casual human rights violations started to become more prominent in Jammu and Kashmir, India's most northern state close to the Himalaya. It essentially included the violations of the right to freedom from torture, the right to life and liberty, the right to freedom of speech and expression, the right to education and work, and many others which will be elaborated shortly. Those human rights were severely violated as per the definition of the Universal Declaration of Human Rights and the Genocide Convention, during the exodus of the Kashmiri Pandits between 1989 and 1991.

Kashmiri Pandits were forced to leave Jammu and Kashmir after the first killings of Kashmiri Pandits took place on 14 September 1989, Tika Lal Taploo, President of the Bharatiya Janata Party (BJP) and a

lawyer by profession and Nilakanth Ganjoo a Judge in Srinagar who had previously issued the death sentence to Maqbool Bhat, the leader of Jammu & Kashmir National Liberation Front (JKLF), as he was charged in the murder of Amar Chand, a CID Police Sub-Inspector of Jammu and Kashmir Police of Baramulla district. ‘Gunning down of two outstanding members of their community in the autumn of 1989 within a span of only three weeks was ominous for the Pandits’ (EFSAS, 2017, pdf p.1).

With subsequent kidnappings of innocent Kashmiri Pandits later in the same year, Kashmiri Pandits started to fear for their security and safety. To drive out the Pandits from Kashmir, shortly after they were threatened with notes and letters delivered to their door gates, newspaper advertisements, wall scribblings outside their homes and even directly approached by Muslim militants in their area, to leave their homes permanently and never come back if they wanted to stay alive. Naturally, such threats were extended to family members of the threatened persons especially to the females of the household, extending their threats to rape Kashmiri Pandits’ wives and daughters as well as abduct their children. Such was the case with a Kashmiri Pandit woman, Girija Tickoo whose murder case went viral due to the brutality and the savagery with which the crime was carried out. She was settled in Jammu after she left the valley, and on a particular day, she was asked to collect her salary but was assured that the territory was safe for return. Subsequently, she was kidnapped, and her body was found on the road. The post-mortem report showed that she was gang-raped and later torn into half by a mechanical saw while she was still alive.

Such mass atrocities including daylight shooting on open streets accumulated in Kashmir on a daily basis.

Furthermore, in various areas of Kashmir when filing a complaint at the local police stations, Kashmiri Pandits were not taken seriously and sent home. They were rather encouraged to leave Kashmir (Defensive Offence, 2021). The threats continued and started to become a gruesome reality in the form of targeted killings in the most devastating and atrocious ways. ‘In private and in public, in homes and in mosques, Kashmir Valley’s Muslim society was in revolt. In their mass congregations, India was painted as the occupier and the Kashmiri Pandits were dubbed as the spies of India’ (EFSAS, 2017, pdf p.5). On 19 January 1990, the valley witnessed the most horrid night in the history of the exodus of

Kashmiri Pandits. It was 'around 9 PM (when) loud and thunderous Islamic and pro-Pakistan slogans raised collectively by a multitude of humanity and relayed through powerful loudspeakers almost pierced ear drums. These slogans were not new to Pandits in the Valley of Kashmir as they were familiar to such outbursts, however the very odd hour, the tumultuous bang and the intriguing spontaneity besides the pressing loudspeakers into service, all spoke threateningly that a storm was brewing in the Kashmir Valley' (EFSAS, 2017, p.5-6). Devastating war cries, communal calls, and threats to the religious minority filled the Kashmir Valley, and reportedly, a famous rallying cry was, "Ralive-Tsalive-Ya Galive", which translated to "convert to Islam-leave Kashmir-or perish". The merciless butchering of Pandits and human rights violations against them took place in all kinds such as rape, torture and murder reaching genocide status within the same year but was building up during that night of the 19th and subsequently the following months. The Kashmiri Pandits being a religious minority in Muslim-dominated Kashmir suddenly saw themselves threatened because of their religion and the connotation that Hindus were pro-India oriented and all those working for the Indian government subsequently were supposed to be spies of the government.

Crimes that were committed here were as per the Genocide Convention fulfilling the definition of a genocide. Indicating that these acts extended to the intentional killing of members of a group (national, ethnical, racial or religious) which was the case with every Kashmiri Pandit in the valley, either targeted due to accusations of working as a spy for the Indian government or for being a Hindu Pandit, and per definition of the Genocide Convention Article 2 (b), causing them serious bodily and mental harm as was the case with the atrocious killings and cuttings of body parts of the Pandits while still conscious or when already dead. Article 2 (c) of the Genocide Convention was also violated as the deliberate harm of a group's living conditions which caused their physical destruction was also valid since the Pandits were chased away from their homes intentionally inflicting on their survival chances as they left the valley with not more than what they could carry. They left without taking any resources, abandoned their homes which were looted afterwards and often burned down to the ground; hereby indicating another violation and thereof deriving genocide by the intentional measures that were imposed by the militants to prevent further housing or living for the Pandits including the violation of Article 2 (d) that

births within the Kashmiri Pandit community were tried to be prevented by threatening Kashmiri Pandit men to leave the valley and give their wives and children to a Muslim man to repopulate Kashmir with Muslim men and raping Kashmiri Pandit women. Lastly the forcibly transferring Kashmiri Pandits' children to another community or even killing them stands in violation of Article 2 (e) of the Genocide Convention and in addition all these crimes just listed, which were committed by the Muslim militants, also fall under torture and severe pain and suffering and thereby also violate the Convention against Torture and other cruel, Inhuman or Degrading Treatment or Punishment (CAT). As per Article 1 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment '(...) the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity' (CAT, 1984 – GA Res 39/46). However this Convention was never ratified by India meaning that it has not yet been affirmed by the State in order for it to be binding as per international law (Kadam, in CJP, 2021). As the European Foundation for South Asian Studies (EFSAS) lists the following killings of Kashmiri Pandits who were working in one or the other way for the Indian government such as Girija Tickoo, as previously stated, a Kashmiri Pandit teacher in a government school in Kupwara district who was gang raped and put under a machine saw and cut her body into pieces or 'Lassa Kaul, Director Doordarshan (television) Srinagar (who) was gunned down outside his house in Bhan Mohalla. He was accused of relaying anti-militancy news' and finally Pandit Premnath Bhat of Anantnag, a lawyer by profession, who was dragged out of his house by masked Jihadis who emptied their gun magazine on him (EFSAS, 2017, pdf p.8). These human rights violations add to the previously elaborated atrocities and violations committed by Muslim militants during this time. Kashmiri Pandits' men were primarily the targeted ones who were subjected to threats of murder or were ordered to have their wives converted to Islam and remarry with Muslim men to repopulate Kashmir. According to the Universal Declaration of Human Rights a clear violation of several human rights took place here, as the violation of Article 18 the right to freedom of

thought, conscience and religion and to practice his/her religion or belief and Article 16 paragraph 2 which states that 'Marriage shall be entered into only with the free and full consent of the intending spouses' (UDHR, 1948, Article 16 & 18). Furthermore, the Pandits' right to free movement had been inhibited and herewith violated Article 13 of the Universal Declaration of Human Rights, as they could not move around freely anymore, and many adopted Muslim habits such as men wearing the watch on the right hand including the watches and clocks to be turned back thirty minutes, to match the Pakistan Standard Time and women stopped wearing their wedding jewels (Gigoo&Sharma, 2016). The Pandits' right to voice their concerns and fears to the local police and media was also violated according to Article 19 of the UDHR as the police did not act upon the complaints and the media was manipulated by the Muslim militants as many posts had been taken up by Muslims in favour of the militants and reporting only what they were instructed to. As was reported, that after the appointment of Jagmohan as the new Governor of Kashmir, the central government did not lose time in arranging the necessary steps to make sure that the reports of the situation in the valley and the human rights violations did not reach the outside world (Ali, 1991). According to the European Foundation for South Asian Studies, the 'police (had) deserted their posts and the Pandits were left to themselves with their survival hanging in balance. The government was knocked out by a single night of defiance and revolt and the next morning not a single policeman was visible anywhere in the city. They had withdrawn to their barracks or hid in their homes as the administrative machinery had collapsed and law and order crumbled' (2017, pdf p. 6-7). By torturing the Kashmiri Pandits in such cruel ways, the human rights violations continued applying here, considering Article 5 of the Universal Declaration of Human Rights which lays out that no one shall be subjected to torture or cruel inhuman and degrading treatment or punishment regardless of their origin and committed crime. Adding here also the violation of Article 9 that states that no one should be arbitrarily arrested and Article 3 that everyone has the right to life, liberty and security and nobody is allowed to arbitrarily interfere in any of these values. Taking also into account the militants' violation of Article 10 of the UDHR which states that 'everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him' (UDHR 1948, Article 10). Concluding with the violation of Article 12 that no arbitrary interference should take place in the privacy, family or home of the person and

his/her right to property, which was also the case for the Pandits as they were forced to leave their homes and were deprived of their property which was burned down and destroyed by the insurgents.

Although there are several conventions for the protection of human rights as previously stated, most notably the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of all forms of Discrimination against Women (CEDAW) and the Convention on the Rights of the Child (CRC) their many articles also stand violated in the context of the exodus of the Kashmiri Pandits, such as the right to life and liberty, no torture or inhuman treatment, no discrimination based on race, colour, religion or gender; the right to an adequate standard of living, the right to a standard of mental and physical health and to ensure the protection and care of children and their well-being. The United Nations as well as the signatory states have the obligation under these conventions to act and enact measures deemed necessary to secure the rights of the people. It is supposed to work together with the country concerned with human rights violations to provide a sufficient remedy to the affected.

Panun Kashmir, a political organization of the displaced Pandits, published a complete list of about 1341 Kashmiri Pandits who were killed by Muslim militants during the armed insurgency in the valley of Kashmir in 1990 and subsequent years. This includes also the enforced disappeared Pandits, whose identity was not possible to establish and of whom the police kept no record. Interestingly, the Jammu and Kashmir State government reduced the number of Pandits killed by militants below two hundred as according to critics, this distortion of numbers had been done deliberately to escape the censure by the United Nations, which according to the 1963 Tokyo Convention recognizes killings beyond two hundred as genocide. 'It must be noted that the National Commission for Human Rights of India while considering the appeal of the Kashmiri Pandits, said that they were subjected to killings 'akin to genocide' (EFSAS, 2017, pdf p. 9).

A question that forms itself at this point is: why did the Indian government not undertake any measures to ensure the Kashmiri Pandits' safety and security in the Valley? The next subchapter addresses why India did not act on Kashmiri Pandits' request for help.

5.3 Failure to protect: India, the role of the UN, the International Community and Human Rights Organizations

Regarding the situation of the Kashmiri Pandits from 1989 to 1991, it is almost remarkable how many of the human rights could be grossly violated by Pakistan infiltrated insurgents and Kashmiri terrorist groups in such a short time. But why did the Indian government not react to this situation? Had it tried to suppress any information coming out of Kashmir within India and abroad?

As several sources stated, the official local media and communication in Kashmir had been dubbed and was manipulated by the Muslim militants as positions in tv channels or radio stations that had previously been occupied by Kashmiri pandits were vacated due to death or migration and non-governmental organizations such as Amnesty International, Asia Watch or even news channels like CNN were denied entry into Kashmir and it was reported that the Indian government did not let anybody in who would not report in their interest as India was strictly avoiding exposure of what was going on in Kashmir (Munshi, 1995). Media analyses and research from interviews show that the Indian government had several reasons and national interest in keeping the situation in Kashmir to a minimum low.

First, there were upcoming general elections in 1991 and the ruling party did not want to draw unnecessary attention to the Kashmir conflict which is why the BJP set up a political rally called “Ekta Yatra” which was intended to signal the BJP’s support for unity in India and opposing the separatist and militant groups in Kashmir. The departure was in South India in the district of Tamil Nadu and ended with a flag hoisting of the Indian flag in Srinagar, Kashmir in January 1992. The success was minimal as Kashmir was under curfew during this time and not many people joined the rally (Newslandry, 2019, part 2). It was an intention to motivate voters to vote for the BJP and stir a change in the political positions’ distribution among the parties as the BJP promised to take care of the Kashmir issue which the National Front and Janata Dal couldn’t or wouldn’t commit to. Nevertheless, the National Front in coalition with the Janata Dal party was more inclined to support Muslims in India which is why they saw no urge to immediately interfere in Kashmir as the general hypothesis was that the Kashmiri Pandits who were killed were all from the upper class and elite and therefore “deserved to die” as they had always been the privileged ones and it was time to balance out the inequality (Defensive Offence, 2021).

In addition, as previously stated, police forces were being retracted or left without instructions as the plan had been introduced in 1991, after the elections, to send military and armed Indian forces to Kashmir and taking this as an opportunity, the central government took the uprising insurgency of Pakistani and Kashmiri Muslim terrorists as the occasion to start a counterinsurgency which later was internationally recognized as a crime against humanity by India against Kashmiris.

Secondly, by keeping the news coverage about Kashmir to a minimum and faking news that reached outside of India, the Indian government gained time to establish a plan on how to tackle the insurgency and deal with the Muslim militants in their own way supported by the AFSPA Act and others, the act that gives sweeping powers to the armed forces (Evans, 2002).

Thirdly, in the political arena, India maximized its geostrategic location by capitalizing on its maritime routes (with the United States of America fixed on key checkpoints in the Middle East and Southeast Asia), as well as the traditional transit and trading areas of influence in the Eurasian and central regions (which were favoured by the Russians). India's strategic partnerships with the USA, its international influence in world economy and politics as well as its military potential had all played in the dilemma of the international community to whether or not interfere with India's military strike in Jammu and Kashmir. Subsequently, the geostrategic significance of South Asia made it an important region of rivalry for them. High politics of national interest seemed to override the urgency to protect human rights and humanity (Hussain & Mehmood, 2020). However, most ironically in the wider geopolitical perspective, China, the USA, Russia, and several major European countries had largely ignored the Indian-occupied Kashmir. Since its geographical location is rather problematic due to the mountainous area, the cold winters and difficult access, those countries abstained from interfering in any campaign of conquest of Kashmir. Nevertheless, 'Russia has always made the attempts to control the Indian Ocean through Afghanistan, China built the Karakorum Highway now expanding it into the China-Pakistan Economic Corridor (CPEC) to enter in the Indian Ocean through Pakistan administered Kashmir. CPEC connects the Chinese Province of Xinjiang with the Pakistani port of Gwadar located at the conduit of the Arabian Sea. The 3000 km-long economic corridor passes through the Gilgit Baltistan and Pakistani

administered Kashmir (therefore) downgrading the geographic importance of the Indian held Kashmir' (Hussain & Mehmood, 2020, p.64-65).

Meanwhile India's regional influence on its neighbouring countries and within the region was focused on bilateral dialogues and bilateral agreements especially with Nepal, Bhutan, Maldives, and Sri Lanka, while their tendency was rather towards a multilateral approach as certain issues and topics required the involvement of several south Asian states and not only India. Therefore, with India as an aspiring regional hegemon, it adapted a certain exclusive and ignorant foreign policy which, except for Pakistan as of equal level and nuclear-capable rival of the region, allowed India to confine smaller states in South Asia to develop an independent foreign policy from India. Due to the neighbouring states' dependency on India's goodwill politics, economic trade, and many migrant workers in India, they also were incapable of calling upon the United Nations Security Council to interject in India's actions in Jammu and Kashmir. Concerning the human rights organizations' interference, the by then already existing independent human rights organizations claimed that they were not aware of any Islamic insurgency in Indian administrated Kashmir nor were they aware of any Pakistani planned "Islamization" of the Valley. Amnesty International India admitted in 2020 that it had no clue of what was exactly going on in Kashmir and even less was it aware of any so-called "forced conversion" of the Kashmiri Pandits to Islam. However, since the insurgency began in 1990, apparently more than 200 000 Kashmiri Pandits had been expelled from the Kashmir Valley with the intention of ethnic cleansing the region (Lateef, June 2022, in DW). During that time hundreds of Pandits were killed and thousands had abandoned their homes and it seems that Amnesty International tried to turn a blind eye to the situation. Only between 2000 and 2005, Amnesty International made a first reference to the Kashmiri Pandits in a report from 2004, referring to the massacre of Nadimarg, in Pulwama District of Jammu and Kashmir which took place in 2003 and included the killing of 24 Kashmiri Pandits. As for the Indian National Human Rights Commission, which was founded in 1993, it is clear today that at the time of its foundation they already knew about the human rights violations that were taking place in Kashmir but since they were not allowed entry to Kashmir, they could not prove anything tangible. A different case applies to the Human Rights Watch organization which is originally situated in the United States of America and has a

subdivision for the Asian region called Asia Watch. This human rights organization had found several human rights violations in Kashmir during the time of 1990 to 1992 against Kashmiri Pandits but mainly by government officials against the Kashmiri population in general. These crimes are accessible for reading in its 219-page report 'The Human Rights Crisis in Kashmir' which was published in 1993 in the US in cooperation with the organization of Physicians for Human Rights (Asia Watch, 1993).

However, the Kashmiri Pandits' exodus and mass killings remain a mystery or at least a topic that no human rights organization has touched upon so far in depth. It is just recent that Kashmiri Pandits in and outside of India started to voice their thoughts, their suffering and their experience of this time either individually through social media like Aarti Tikoo in an interview with "Defensive Offence" in 2021 or via Kashmiri Pandits organizations such as the Kashmiri Pandit Sangharsh Samiti which is an organization of Pandits who stayed back in the Valley after the exodus between 1989 and 1991.

6. Human Rights Violations of Kashmiri Pandits 1990-1991 through eyewitnesses

The focus of this chapter lies on human rights violations of Kashmiri Pandits during the time of 1990 and 1991 in Kashmir, India. The information deduced here was obtained through semi-structured interviews with 7 Kashmiri Pandits currently living in exile. All 7 interviewees were primarily selected as they all fled Kashmir in the 1990s and they have had personal experiences during the uprising of the Muslim militants in Kashmir. Only Kashmiri Pandits were chosen for these interviews as this paper analyzes the human rights violations of Kashmiri Pandits by Islamic terrorist and separatist groups and not the Kashmiri population in general. The interviewees were male and female and aged between 60 to 70. All of them are originally from Srinagar and its vicinity. The interviews were conducted in person, via telephone and via video call as the interviewees are currently living in different countries and cities including Chandigarh, Delhi and Vienna.

It was in 1989 in Srinagar that the first murders of two known Kashmiri Pandits, Tika Lal Taploo a lawyer and BJP-President in Kashmir on 14 September 1989 at his residence and on 4 November judge Neelkanth Ganjoo in front of the Srinagar High Court building occurred by Muslim militants. To date, neither the Kashmiri state government nor the Indian central government took any action in prosecuting and never held anybody accountable for these killings. It was these two incidents which acted as a

warning for Kashmiri Pandits. Towards the end of 1989, Kashmir was put under a 10-day curfew which was aimed at calming the situation among Muslims as they started big riots and lootings all around the Kashmir area, demanding independence from India and their own Muslim state. But it was not until the night of 19 January 1990 that Kashmiri Pandits were tangibly frightened and threatened. Many of them finally decided to leave the Valley and move to Jammu or leave the region completely. The night of 19 January around 9:30 pm, Muslim militants stormed out of the mosques all over Kashmir and started a mob in the streets of Srinagar and the surrounding areas. With burning sticks and loudspeakers from the mosques, they shouted paroles demanding the Pandits to leave Kashmir threatening to kill them if they would not consider the ultimatum and asking the men to leave their females in the valley to convert to Islam and repopulate the valley with Muslim men. That night marked the beginning of countless human rights violations on Kashmiri Pandits in the weeks and months to come.

The findings of the interviews reveal that between 1989 and 1991, there was a clear absence of Kashmir's state government regarding an interference in the killings of Kashmiri Pandits. No broadcasting of the crimes through media channels was conducted such as on radio or tv and any kind of prosecution failed. It was also found that police presence was withdrawn, either due to fear of the situation or because the government had ordered it to – this is not clear and the real reason behind it couldn't be confirmed from the interviews. Furthermore, the presence of the Indian Border Security Force (BSF) had been established and subsequently protected Kashmiri Pandits in their desperate plight to flee the militants and the Kashmir Valley. Additional findings confirmed the scarce sources of Kashmiri Pandits' exodus and human rights violations as the Kashmiri news and broadcasting agency had been overtaken by radical Muslims (since all the Kashmiri Pandits who had held these positions previously were killed or fled) who received instructions from the Muslim militant groups on what to broadcast and which news should be published. Therefore, the only news that reached the Indian population outside of Kashmir via newspaper or radio transmission were the news on the death tolls from the militant's side. A general fear had been established in Kashmir and the news of which Kashmiri Pandit family would be the next one on the hitlist of the militants was distributed in the mosques. Moderate Muslims, friends and colleagues had distanced themselves from the Pandits as they were

intimidated too but warned them and recommended them to leave. Other findings observed included treatment of patients in hospitals – Kashmiri Pandits were not treated by any doctors in and around Kashmir as the doctors were prohibited by the Muslim militants to treat anybody besides people of the Muslim community. Several other human rights violations could also be confirmed by eyewitnesses such as the universal human right of the right to life, liberty and security (UDHR Article 3), the right to an effective remedy by competent national tribunals for acts of violating their fundamental rights (UDHR Article 8) as the genocide of the Pandits was not acknowledged as such until recently in 2019. The right to protection against interference or attacks in his/her privacy, family, or home (UDHR Article 12) was violated since the police were absent and the state government did not interfere in the violations. Furthermore, the right to own property and the protection of arbitrarily deprivation of his/her property (UDHR Article 17.2) was also violated as the Pandits had to flee from their homes for an indefinite time and have never been able to return to the valley and never received any kind of compensation for their loss. Subsequently, this worsened with the abolishment of Article 370 of the Indian constitution, as this article had previously secured the rights of all Kashmiris to own their land in the Kashmir valley and protected it from external investments. In addition, the right to choose their religion, practice and worship and not being prosecuted for it (UDHR Article 18) was jeopardized too as the political insurgency had evoked anti-Hindu sentiments and sought an ethnical cleansing of the Kashmiri Hindus by the Kashmiri Muslims. The right to seek and receive objective information and ideas through media (UDHR Article 19), the right to equal access to public service and health and well-being in his/her country such as adequate medical care (UDHR Article 21&25) and finally the right to social security through national effort and international cooperation (UDHR Article 22) were also violated.

What can also be drawn from the interviews is that Muslim militants between 1989 and 1991 in Kashmir violated several severe human rights of Kashmiri Pandits without ever having been prosecuted for them and without the Indian government ever having taken action to protect the Kashmiri Pandits. Nevertheless, another finding of the interviews is, that Kashmiri Pandits are willing to go back to Kashmir and reinstall themselves should there be a guarantee of their and their families' safety and security as they feel alienated and long for their place of cultural and ethnical origin but feel unsafe with

regard to the current situation in Kashmir. They feel that due to their exodus and migration to other parts of India and all over the world, it has become difficult for them to uphold their culture, traditions and especially their language as they are all deeply rooted and connected to the Kashmir valley. With the Pandits already being an ethnic and religious minority in their own country, these factors have a huge impact on their future generations.

7. Conclusion

Based on research and key findings from the interviews regarding human rights violations of Kashmiri Pandits by Muslim militants infiltrated into Kashmir by Pakistan, it is deduced that severe human rights violations of Kashmiri Pandits occurred, which led to an ethnical cleansing of the Kashmiri Pandits in and around Indian administrated Kashmir. This situation accounts for crimes against humanity with the Pandits' extermination, torture, rape and persecution to the extent that it reached genocide level during 1989 and 1991 as per the key findings of the analyses which were also confirmed by the interviewees, the Kashmiri Pandits themselves, and compared with the definition of the Genocide Convention. However, it has to be taken into account that the number of actual deaths of Kashmiri Pandits was falsified by the Jammu and Kashmir government so as to avoid UN censure. The killings reported by the government amounted to less than 250 persons as according to the Tokyo Convention, genocide is recognized and registered where killings exceed 200 people. In the case of the Kashmiri Pandits, the real figures exceed 1300 death tolls.

India has not ratified the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), nor has it ratified the Rome Statute, under which the human rights violations of Kashmiri Pandits also fall, and which in the case of ratification would have allowed and still would permit the retroactive action and prosecution of these violations by the UN Committee on Torture and the Committee on Enforced Disappearances and the United Nations Security Council. Thus, India also has not yet included specific national laws that would allow national prosecution of such crimes on its territory. India, however, ratified the Genocide Convention in August 1959 and had also not yet established a legislative framework on this matter, arguing that the already established substantive and procedural law frameworks are sufficient regarding dealing with crimes against humanity including

genocide. Although it should be remarked that the Indian Penal Code does not criminalize killings, or physical and mental harm caused to individuals of a particular national, ethnic or religious group with the perpetrator's aim to eradicate aforementioned communities partially or entirely. India also abstained from ratifying the Rome Statute which fortifies the Genocide Convention, as it did not agree with the sharing of its sovereignty over its legal framework with the UN Security Council. Arguably, India does not recognize genocide and mass crimes and history shows that India denies any such mass crimes to have ever taken place on its territory for example the 1984 Anti-Sikh riots also known as the Sikh Massacre, which was a series of organized crimes against Sikhs, another religious community from northern India.

However, India failed in protecting the human rights of Kashmiri Pandits. It failed in protecting their fundamental rights, and their dignity and it ignored intentionally their exodus including the manner thousands of Kashmiri Pandits fled the valley in a precarious situation. The reasons for this were politically motivated nationally as well as internationally. Furthermore, it did not provide any compensation for the Pandits' loss during the last thirty years.

Nevertheless, India did recognize the Kashmiri Pandits' genocide, in a first precedence in 2019 when the government abolished Article 370 of the Indian constitution which previously had given Kashmir its special status, including Kashmir officially and entirely to India. As a result of the abolishment of Article 370 and Article 35a, Jammu and Kashmir lost its own independent constitution and now adheres to the Indian constitution like all other Indian states. Still, it lost its responsibility of ruling over its residents and ownership of property in Jammu and Kashmir for non-residents as well as the distribution of educational scholarships and government jobs in the region. It implied that the Indian central government took on the power of who to sell the property of Kashmir to and who to give scholarships and government jobs to. This also includes people and investors outside of Kashmir and outside of India, which on the other hand is to the disadvantage of the Pandits as they have lost their privilege of owning Kashmiri land through heritage or inheritance.

Addressing the question of why the perpetrators were not held accountable for their mass crimes at that time or even now, as previously stated, was driven by the fact that firstly India does not recognize any

form of such crimes and secondly the state government was originally pro-Muslim oriented during 1989 and 1990 and did not seek to jeopardize their existing relationships with the majority Muslim community. Furthermore, they did not consider Kashmiri Pandits as an entity of their own or opponents to theirs. As for the international community's awareness and interference, the community did not interfere in the situation in Kashmir because of a lack of communication since the local media channels were taken over by the Muslim militants and false information and propaganda were spread and after the Pandits' exodus, the media was controlled by the central Indian government which made sure no information on the new political struggle and human rights violations by India in Kashmir would leak outside the region and outside of India. But also, strategic partnerships with India were rather safeguarded than to incriminate India or even Pakistan of human rights violations in Kashmir. Regarding the question of why international human rights organizations did not interfere and did not come to the Pandits' rescue, this is of similar origin as that of the international community – it was because they were not aware of the ethnical cleansing that took place in Kashmir in that period and if they were, they could not access the region as the militants controlled the entrance and exit. Also, the Kashmiri Pandits as a minority only comprised 3% of Jammu and Kashmir's population. It was much later that human rights organizations became aware of Kashmir's overall situation.

As for the recent developments, the Kashmiri Pandits themselves have started a call for their justice and drew not only national but also international attention to their exodus and genocide. The Global Kashmiri Pandit Diaspora (GKPD) for example is aiming to bring the Kashmiri Pandits' genocide to the UN, as a first step to have it officially recognized and subsequently receive justice. However, it remains to be seen whether it will be successful with it, as India so far attempted to avoid any interference from the UN in its internal politics. Meanwhile, the US-based non-profit, International Commission for Human Rights and Religious Freedom (ICHRRF) is the first human rights watchdog to have officially recognized the 1989-1991 mass killings of Kashmiri Hindus as a crime of genocide and has recently this year published its report on the hearings of the Kashmiri Hindu Genocide.

In conclusion, the suggestion is that India should become a State-Party to the Rome Statute and the International Criminal Court as soon as possible and introduce legislation in its national legislative

framework that allows for the prosecution of crimes against humanity to ensure that past perpetrators receive their judgement, that victims receive their justice and future mass crimes are avoided or at least interfered by the United Nations Security Council. Furthermore, it should also abolish the Armed Forces Special Powers Act which currently is still being operated in many regions of Kashmir as well as other Indian states. India should also join the R2P-commitment because it has positive responsibilities toward its population's welfare. And lastly, in order for the Kashmiri Pandits to be able to return to Kashmir and stay, India will have to change its policy in the Kashmir region, lay down the groundwork for a solid-state government and offset current inequalities between the Hindu and the Muslim population in regard to the assignment of government jobs and educational scholarships.

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Appendices

Appendix 1:

Abstract: The night of 19 January 1990 is what many Kashmiris remember as the darkest in their history. Previously, trained and armed insurgent groups as well as Muslim terrorist groups from Pakistan, infiltrated India and crossed the Line of Control (LoC). Together with Kashmiri Muslims, they proceeded to venture out on the streets of Kashmir that night and shouted and threatened Kashmiri Pandits. Furthermore, they committed several human rights violations. Slogans of “leave, convert or die” were shouted in the streets and from the loudspeakers of the local mosques. Their aim was an ethnical cleansing of the Kashmiri Pandits, a religious minority in a Muslim-dominated Jammu and Kashmir region. Some weeks prior to the atrocities, the first warnings and death threats had been distributed to Kashmiri Pandits’ households with instructions to leave Kashmir or were told to bear the consequences. Curfews were imposed by the state government, journalists who dared to report about the situation were killed and the local police were not in the capacity to help. In this context, this paper elucidates the history between India and Pakistan and its decade-long fight over Kashmir starting with the partition of India and Pakistan in 1947. It gives an insight into Kashmir’s special status within India due to Article 370 and analyses the political situation in Kashmir between 1989 to 1991. By examining the culture and traditions of the Kashmiris in general, the aim is to understand the common sociocultural background of Kashmiri Hindus and Muslims which let them live peacefully next to each other for centuries prior to the insurgent outbreak towards the end of the 1980s. This paper also compares the definition of genocide with the exodus and mass killings of the Kashmiri Pandits at the centre of the focus by tracking the human rights violations between 1989 and 1991 with a particular focus on that night. The findings of the semi-structured interviews are examined together with India’s position towards human rights treaties and human rights violations. In conclusion, the paper also outlines how India failed to protect its religious minority in Kashmir.

Zusammenfassung: Die Nacht des 19. Januar 1990 ist vielen Kaschmiris als die Dunkelste in ihrer Geschichte in Erinnerung geblieben. Zuvor waren militärisch ausgebildete und bewaffnete aufständische Gruppen sowie muslimische Terrorgruppen aus Pakistan nach Indien eingedrungen und

hatten die sogenannte Kontrolllinie (Line of Control (LoC)) überquert. In jener Nacht versammelten sich diese Gruppen zusammen mit kaschmirischen Muslimen in den Straßen von Kaschmir, schrien und drohten den kaschmirischen Pandits. Sie begingen bis zum frühen Morgen zahlreiche Menschenrechtsverletzungen. Auf den Straßen und aus den Lautsprechern der örtlichen Moscheen schallten Slogans wie "verlasst Kaschmir, konvertiert zum Islam oder sterbt". Ihr Ziel war eine ethnische Säuberung der Kaschmiri Pandits, einer religiösen Minderheit im muslimisch dominierten Jammu und Kaschmir. Einige Wochen vor den Gräueltaten waren die ersten Warnungen und Todesdrohungen an die Haushalte der Kaschmiri Pandits verteilt worden, mit der Aufforderung Kaschmir zu verlassen oder die Konsequenzen dafür zu tragen. Die Regierung des Bundesstaats verhängte Ausgangssperren, Journalisten, die es wagten, über die Situation zu berichten, wurden umgebracht, und die örtliche Polizei war nicht in der Lage die Situation unter Kontrolle zu bringen. Vor diesem Hintergrund beleuchtet dieser Beitrag die Geschichte zwischen Indien und Pakistan und den jahrzehntelangen Kampf um Kaschmir, der mit der Teilung Indiens und Pakistans im Jahr 1947 begann. Es wird Einblick gegeben in den Sonderstatus Kaschmirs innerhalb Indiens aufgrund von Artikel 370 und es wird die politische Situation Kaschmirs zwischen 1989 und 1991 analysiert. Durch eine genauere Betrachtung der Kultur und der Traditionen der kaschmirischen Bevölkerung sollen die gemeinsame soziokulturelle Herkunft der kaschmirischen Hindus und Muslime aufgezeigt werden, welche es erlaubten, dass beide religiösen Gemeinschaften die letzten hundert Jahre friedlich zusammen lebten bevor die Aufstände Ende der 1980er aufkamen. Diese Arbeit vergleicht ebenfalls die Definition von Völkermord mit dem Exodus und den Massentötungen der kaschmirischen Pandits, indem es die Menschenrechtsverletzungen gegen sie zwischen 1989 und 1991 mit besonderem Augenmerk auf diese Nacht verfolgt. Die Ergebnisse der halbstrukturierten Interviews werden zusammengefasst und mit Indiens Position zu Menschenrechtsverträgen und Menschenrechtsverletzungen in Beziehung gesetzt. Schließlich wird analysiert, wie Indien es versäumen konnte, seine religiöse Minderheit in Kaschmir zu schützen.

Appendix 2:

Interview Questionnaire:

1. Gender:
2. How old were you at that time and where were you living with your family?
3. What was going on in Kashmir from your perspective?
4. How was your relationship with your neighbors? Were they Muslims?
5. Did you or your family receive death threats if you wouldn't leave Kashmir? Where did you go?
6. If you were there, describe the night of 19 January 1990 and your impressions/experiences. If you were not there, what did you hear from relatives/friends who stayed back?
7. What did you think was going to happen?
8. The days prior to 19 January, how did you experience those? Could you leave the house?
9. What about school for the children?
10. What about the newspaper, tv news channels and radio? Did they communicate what was going on in Kashmir? Do you remember which media was reporting on the situation (if any)? Local/national?
11. Did you receive any support from Muslims from your area? What kind of support?
12. Have you heard of Kashmiriyat and can you give a brief description of what it means?
13. Did you and/or your family flee from the Valley, or did you stay until after 1991? Why/why not? How did you manage to leave?
14. What were local authorities telling you? Were there any police around to protect the civilians/Kashmiri Pandits? Where was the police?
15. What were you told by the local government when leaving your house/home?
16. Did your family survive the exodus? Somebody was killed? By whom and what were the 'official' reasons for it?
17. Do you understand the relevance of human rights issues in this situation and in general? Can you name 2-3 human rights?
18. Have you heard of the Universal Declaration of Human Rights (if yes) and in which context? Briefly explain.
19. Do you feel that due to the exodus and migration of many thousand Kashmiri Pandits the culture and tradition is getting lost and forgotten? Why? Other reasons?
20. Would you like to go back to Kashmir and live there if the situation would allow? Why/why not?