

No. 1733

**PAKISTAN
and
INDIA**

**Agreement (with annexure). Signed at New Delhi, on
8 April 1950**

Official text: English.

Registered by Pakistan on 12 May 1952.

**PAKISTAN
et
INDE**

Accord (avec annexe). Signé à New-Delhi, le 8 avril 1950

Texte officiel anglais.

Enregistré par le Pakistan le 12 mai 1952.

No. 1733. AGREEMENT¹ BETWEEN PAKISTAN AND INDIA.
SIGNED AT NEW DELHI, ON 8 APRIL 1950

A. The Governments of India and Pakistan solemnly agree that each shall ensure to the Minorities throughout its territory, complete equality of citizenship, irrespective of religion, a full sense of security in respect of life, culture, property and personal honour, freedom of movement within each country and freedom of occupation, speech and worship, subject to law and morality. Members of the minorities shall have equal opportunity with members of the majority community to participate in the public life of their country, to hold political or other office, and to serve in their country's civil and armed forces. Both Governments declare these rights to be fundamental and undertake to enforce them effectively. The Prime Minister of India has drawn attention to the fact that these rights are guaranteed to all minorities in India by its Constitution. The Prime Minister of Pakistan has pointed out that similar provision exists in the Objectives Resolution adopted by the Constituent Assembly of Pakistan. It is the policy of both Governments that the enjoyment of these democratic rights shall be assured to all their nationals without distinction.

Both Governments wish to emphasise that the allegiance and loyalty of the minorities is to the State of which they are citizens, and that it is to the Government of their own State that they should look for the redress of their grievances.

B. In respect of migrants from East Bengal, West Bengal, Assam and Tripura, where communal disturbances have recently occurred, it is agreed between the two Governments :

(i) That there shall be freedom of movement and protection in transit.

(ii) That there shall be freedom to remove as much of his moveable personal effects and household goods as a migrant may wish to take with him. Moveable property shall include personal jewellery. The maximum cash allowed to each adult migrant will be Rs. 150/- and to each migrant child Rs. 75/-.

(iii) That a migrant may deposit such of his personal jewellery or cash as he does not wish to take with him with a Bank. A proper receipt shall be furnished to him by the Bank for cash or jewellery thus deposited and facilities

¹ Came into force on 8 April 1950 by signature.

shall be provided, as and when required, for their transfer to him, subject, as regards cash to the exchange regulations of the Government concerned.

(iv) That there shall be no harassment by the Customs authorities. At each Customs post agreed upon by the Governments concerned, liaison officers of the other Government shall be posted to ensure this in practice.

(v) Rights of ownership in or occupancy of the immoveable property of a migrant shall not be disturbed. If, during his absence, such property is occupied by another person, it shall be returned to him, provided that he comes back by the 31st December 1950. Where the migrant was a cultivating owner or tenant, the land shall be restored to him, provided that he returns not later than the 31st December, 1950. In exceptional cases, if a Government considers that a migrant's immoveable property cannot be returned to him, the matter shall be referred to the appropriate Minority Commission for advice.

Where restoration of immoveable property to the migrant who returns within the specified period is found not possible the Government concerned shall take steps to rehabilitate him.

(vi) That in the case of a migrant who decides not to return, ownership of all his immoveable property shall continue to vest in him and he shall have unrestricted right to dispose of it by sale, by exchange with an evacuee in the other country, or otherwise. A Committee consisting of three representatives of the minority and presided over by a representative of Government shall act as trustees of the owner. The Committee shall be empowered to recover rent for such immoveable property according to law.

The Governments of East Bengal, West Bengal, Assam and Tripura shall enact the necessary legislation to set up these Committees.

The Provincial or State Government, as the case may be, will instruct the District or other appropriate authority to give all possible assistance for the discharge of the Committee's functions.

The provisions of this sub-paragraph shall also apply to migrants who may have left East Bengal for any part of India, or West Bengal, Assam or Tripura for any part of Pakistan, prior to the recent disturbances but after the 15th August, 1947. The arrangement in this sub-paragraph will apply also to migrants who have left Bihar for East Bengal owing to communal disturbances or fear thereof.

C. As regards the Province of East Bengal and each of the States of West Bengal, Assam and Tripura respectively, the two Governments further agree that they shall :

(1) Continue their efforts to restore normal conditions and shall take suitable measures to prevent recurrence of disorder.

(2) Punish all those who are found guilty of offences against persons and property and of other criminal offences. In view of their deterrent effect, collective fines shall be imposed, where necessary. Special courts will, where necessary, be appointed to ensure that wrong-doers are promptly punished.

(3) Make every possible effort to recover looted property.

(4) Set up immediately an agency, with which representatives of the minority shall be associated, to assist in the recovery of abducted women.

(5) Not recognise forced conversions. Any conversion effected during a period of communal disturbance shall be deemed to be a forced conversion. Those found guilty of converting people forcibly shall be punished.

(6) Set up a Commission of Enquiry at once to enquire into and report on the causes and extent of the recent disturbances and to make recommendations with a view to preventing recrudescence of similar trouble in future. The personnel of the Commission, which shall be presided over by a Judge of the High Court, shall be such as to inspire confidence among the minority.

(7) Take prompt and effective steps to prevent the dissemination of news and mischievous opinion calculated to rouse communal passion by Press or radio or by any individual or organisation. Those guilty of such activity shall be rigorously dealt with.

(8) Not permit propaganda in either country directed against the territorial integrity of the other or purporting to incite war between them and shall take prompt and effective action against any individual or organisation guilty of such propaganda.

D. Sub-paragraphs (1), (2), (3), (4), (5), (7) and (8) of C of the Agreement are of general scope and applicable, according to exigency, to any part of India or Pakistan.

E. In order to help restore confidence, so that refugees may return to their homes the two Governments have decided (i) to depute two Ministers, one from each Government to remain in the affected areas for such period as may be necessary; (ii) to include in the Cabinets of East Bengal, West Bengal and Assam a representative of the minority community. In Assam the minority community

is already represented in the Cabinet. Appointments to the Cabinets of East Bengal and West Bengal shall be made immediately.

F. In order to assist in the implementation of this agreement, the two Governments have decided, apart from the deputation of their Ministers referred to in E, to set up Minority Commissions, one for East Bengal, one for West Bengal and one for Assam. These Commissions will be constituted and will have the functions described below.

(i) Each Commission will consist of one Minister of the Provincial or State Government concerned, who will be Chairman, and one representative each of the majority and minority communities from East Bengal, West Bengal and Assam, chosen by and from among their respective representatives in the provincial or State Legislatures, as the case may be.

(ii) The two Ministers of the Governments of India and Pakistan may attend and participate in any meeting of any Commission. A Minority Commission or any two Minority Commissions jointly shall meet when so required by either Central Minister for the satisfactory implementation of this Agreement.

(iii) Each Commission shall appoint such staff as it deems necessary for the proper discharge of its functions and shall determine its own procedure.

(iv) Each Commission shall maintain contact with the minorities in Districts and small administrative headquarters through Minority Boards formed in accordance with the Inter-Dominion Agreement of December, 1948.

(v) The Minority Commissions in East Bengal and West Bengal shall replace the Provincial Minorities Boards set up under the Inter-Dominion Agreement of December, 1948.

(vi) The two Ministers of the Central Governments will from time to time consult such persons or organisations as they may consider necessary.

(vii) The functions of the Minority Commission shall be :

(a) To observe and to report on the implementation of this Agreement and, for this purpose, to take cognisance of breaches or neglect;

(b) To advise on action to be taken on their recommendations.

(viii) Each Commission shall submit reports, as and when necessary, to the Provincial and State Governments concerned. Copies of such reports will be submitted simultaneously to the two Central Ministers during the period referred to in E.

(ix) The Governments of India and Pakistan, and the State and Provincial Governments, will normally give effect to recommendations that concern them when such recommendations are supported by both the Central Ministers. In the event of disagreement between the two Central Ministers, the matter shall be referred to the Prime Ministers of India and Pakistan who shall either resolve it themselves or determine the agency and procedure by which it will be resolved.

(x) In respect of Tripura, the two Central Ministers shall constitute a Commission and shall discharge the functions that are assigned under the agreement to the Minority Commissions for East Bengal, West Bengal and Assam. Before the expiration of the period referred to in E, the two Central Ministers shall make recommendations for the establishment in Tripura of appropriate machinery to discharge the functions of the Minority Commissions envisaged in respect of East Bengal, West Bengal and Assam.

G. Except where modified by this Agreement, the Inter-Dominion Agreement of December 1948 shall remain in force.

Jawaharlal NEHRU
Prime Minister of India

Liaquat ALI KHAN
Prime Minister of Pakistan

New Delhi, April 8th, 1950.

ANNEXURE

I. COMMUNAL INCIDENTS

1. It was agreed :

(i) That whenever a communal incident is brought to the notice of the authorities, it should be promptly investigated and effective action should be taken against the miscreants, including Government servants, if any, who may have been guilty of dereliction of duty;

(ii) That the widest publicity should be given by Government to action taken to deal with the offenders;

(iii) That investigation should be directed to determine the causes of the particular incident in order that remedial measures might be devised and taken to prevent the recurrence of such incidents.

2. It was agreed that each and every incident reported by one Government to the other should be inquired into promptly and, if the facts are established, action taken to bring the wrong-doers to book. The result of the enquiry and the action taken should be communicated to the other Government. Priority in the matter of inquiry and action should be given to the more serious incidents including cases involving

offences against women. Wherever necessary, the State/Provincial Government should set up a special machinery or place officers on Special Duty so that those inquiries could be undertaken quickly.

3. It was agreed that the Presidents and Members of Union Boards should be charged with special responsibility for the prevention of communal incidents in their areas, the protection and the welfare of the minorities and the promotion of goodwill between the two communities. Instructions to this effect should be issued to the Union Boards by each State/Provincial Government.

It was also agreed that the legal implications of this should be further examined and also the possibilities of penal or disciplinary action against the Presidents and Members of Union Boards in the event of their failure to discharge this responsibility.

4. It was agreed that in areas where communal incidents are of frequent occurrence influential persons, particularly those belonging to the majority community should be appointed as Special Constables and charged with responsibility for the prevention of such incidents, in particular, abduction or molestation of, or insults to, women and for the apprehension of offenders.

5. It was agreed that an area where a serious communal disturbance takes place, or where there is a succession of incidents involving oppression or harassment of the minorities, and where the inhabitants have either themselves been responsible for the crimes or have not been diligent in preventing the commission of such crimes, should be penalised by the levy of a collective fine or the imposition of a Punitive Police Force.

6. It was agreed that a deterrent sentence should be awarded on an offender convicted of communal crime, particularly in cases involving offences against women.

II. RECOVERY AND RESTORATION OF ABDUCTED WOMEN

1. It was agreed that the procedure to be adopted in East Bengal, West Bengal and Assam should be such as to ensure (a) speedy recovery of abducted women, (b) during investigation and trial her interim custody in a neutral institution where she can be free from extraneous influence, (c) speedy trial and punishment of the offenders, and (d) the ultimate restoration of the recovered woman to her relations.

2. So far as trial and punishment of the offender were concerned, it was agreed that the normal penal law and procedure should continue to be followed; but that steps should be taken to ensure that investigation and trial were prompt and a deterrent sentence was awarded in case of conviction.

3. It was agreed that Police Officers of a stated rank should be given the powers to search without a warrant houses and places where, according to information received by them, an abducted woman might be found.

4. It was further agreed that the two Central Ministers should examine the question whether any other additional powers were necessary to deal with such cases

and in particular whether for the purpose of recovery and custody the definition of an abducted woman should be framed on the model of the Punjab Acts.

5. It was agreed that upon the recovery of an abducted woman, it should be obligatory for the Police and the Court to remit her to the custody of a Home to be established by the Provincial/State Government, and that this should be done irrespective of the age of the recovered woman, her statement before the Magistrate or the Police or the defence case.

6. Such Homes for the custody of recovered women should be established by the Provincial/State Government at such places as may be considered necessary. With the management of such Homes should be associated an Advisory Committee consisting of an Official Chairman and non-official women members, a majority of whom shall belong to the minority community.

III. DELINQUENT GOVERNMENT OFFICERS

1. Attention of Officers of both Governments should be drawn to the provisions of para. 7 of the Delhi Agreement of December, 1948.

2. It was agreed that disciplinary action should be taken against officers who are found to be acting against the spirit of the Agreement or in any way fail to implement it, or who directly or indirectly lend support to persons who are against the agreement.

3. The Governments of East Bengal and of West Bengal have already taken steps to appoint a Focal Officer, who would receive copies of complaints received against Government Officers and who would be kept informed of the progress of the Departmental Proceedings. It will be the responsibility of the Focal Officer to ensure that these cases are dealt with promptly and properly and that the punishment awarded is adequate. It was agreed that the Government of Assam should also be asked to appoint a similar Focal Officer.

IV. RESTORATION OF HOUSES AND LANDS TO MIGRANTS

It was agreed that the Government of West Bengal, East Bengal and Assam should immediately assume powers necessary to eject unauthorised occupants of migrants' property and to restore the possession of such property to the migrant owner or occupier on his return.

In this connection following decisions should be given the widest publicity :—

(A) *Urban property*

As regards migrants' houses occupied by third parties without lawful authority, the Provincial/State Governments concerned undertake to eject such persons from these houses immediately on the return of migrant owners or migrant occupiers and to restore possession of such houses to them.

As regards houses belonging to the minority community which have been requisitioned by Government, it is agreed as follows :

(a) That with regard to houses requisitioned after the April Agreement all houses belonging to the minority community which were in the occupation of owners or their

relations or tenants shall, if requisitioned, be de-requisitioned and possession shall be restored to those who occupied such houses at the time of requisitioning. Every attempt will also be made to de-requisition such requisitioned houses as are periodically visited by their owners and for the rest of the year remain in the occupation of their employees. As far as practicable, the same principle should apply to houses requisitioned before the disturbances;

(b) That in future, houses which are occupied by the owners or their relations or by their tenants will not be requisitioned, provided, however, that houses which are occupied in a bona fide manner by the members of the minority community may be requisitioned in future only for urgent governmental requirements, and orders of requisition should be issued only after a careful examination of the case by a responsible Government officer of high status;

(Note: Urgent governmental requirements shall not include finding accommodation for individual refugee families but may include the establishment of refugee camps by Government.)

(c) That the procedure for de-requisitioning should be made as simple as possible;

(d) That in the event of requisition adequate time should be allowed to the owners for the removal of their furniture and other movable property;

(e) That rent or compensation will be promptly assessed, and in the case of rent, shall be paid regularly; any arrears of rent that may have accumulated shall be cleared off as quickly as possible;

(f) That in the event of a migrant owner or migrant occupier of requisitioned house returning to his home before the 31st December, 1950, the house shall be de-requisitioned.

(B) *Rural property*

1. (a) It was agreed that migrants' lands which are under the Aus and Jute crops shall be restored to returning migrants whenever they return after the end of the Aus or Jute harvest and the third parties (whether authorised allottees or trespassers) now in occupation shall be ejected.

(b) In the event of the migrant not returning, such lands shall not be re-allocated to third parties before the 31st March, 1951.

(c) Where according to these arrangements, the entire holding, along with the homestead, cannot be restored to the migrant, he shall be provided with alternative accommodation.

(d) In all such cases the over-riding consideration should be the restoration of all the immovable property of the migrant to him at the earliest possible date.

2. As regards lands under the Aman crop, it shall be open to the migrant to return at any time after the 15th of January, 1951, and before the 31st March, 1951, when such lands shall be restored to him on return.

3. Vacant homesteads and lands on which no crops have so far been grown shall not be allotted to third parties. It shall be open to the migrant owner or migrant tenant or occupier to return and occupy such lands and houses at any time before 31st March,

1951, and the Provincial/State Government shall assist him in obtaining possession of such lands and houses immediately on return.

V. JURISDICTION OF TRUST COMMITTEES

With regard to the difference of opinion which has arisen between East Bengal and West Bengal as to whether the Trust Committees under Clause (VI), Section B of the Agreement, could assume management of the property of a migrant who applies in writing asking for such arrangement without formally declaring his intention not to return, it was decided that the two Central Ministers will give their final decision in the matter on return to Calcutta.

VI. CUSTOMS

1. It was agreed that Customs Officers on both sides should be asked to give liberal interpretation to the term "migrant" and that elaborate examination of a traveller to ascertain whether he is a migrant or not should be avoided.

2. It was agreed that it should be impressed upon the Customs authorities on both sides of the border that a "certificate of status" was not necessary in order to enable a migrant to bring his personal jewellery.

3. It was agreed that the question of the detention of cattle at Benapole and other border points in East Bengal should receive the highest priority of consideration at the next Chief Secretaries' Conference.

4. It was also agreed that the procedure for the speedy return of articles seized by Customs before the Agreement should be resolved at the next Chief Secretaries' Conference. In the meantime the time limit of three months after which seized articles are due to be sold by auction should be extended.

VII. DISPLACED INDUSTRIAL LABOUR

The Governments of West Bengal, East Bengal and Assam agree to persuade employers of industrial labour and other private employers to reinstate returning migrants in their old jobs.

VIII. PUBLICATION OF FIGURES OF MIGRATION BETWEEN WEST BENGAL AND EAST BENGAL

It was decided that only agreed figures of migrant traffic at checking stations in East Bengal and West Bengal should in future be published. The mechanism necessary for obtaining such figures should be worked out at the next Chief Secretaries' Conference.

IX. DISTRICT MINORITIES BOARDS

1. In view of the fact that some members of District Minorities Boards had migrated to the other country it was agreed that District Minorities Boards in either country should be reconstituted immediately, wherever necessary.

2. It is understood that rules relating to the grant of transport facilities and travelling allowances to members of Minorities Boards in respect of journeys authorised by the Boards already exist. These rules should be brought to the notice of the members of the Boards by the District Officers.

3. It was agreed that Sub-Divisional Minorities Boards should be established both in East Bengal and in West Bengal and Assam.

X. PUBLICITY AND PROPAGANDA

1. It was agreed that pamphlets and literature regarding the Indo-Pakistan Agreement should be circulated more widely particularly in the rural areas.

2. It was agreed that a Communal Harmony Week should be celebrated in East Bengal, West Bengal and Assam in the near future.

3. It was also agreed that such propaganda, in order to be effective, should be sustained.