

No. 2745

**PAKISTAN
and
INDIA**

**Agreement on the recovery of abducted persons. Signed
at New Delhi, on 8 May 1954**

Official text: English.

Registered by Pakistan on 8 February 1955.

**PAKISTAN
et
INDE**

**Accord relatif à la recherche et au rapatriement des per-
sonnes enlevées. Signé à New-Delhi, le 8 mai 1954**

Texte officiel anglais.

Enregistré par le Pakistan le 8 février 1955.

No. 2745. AGREEMENT¹ BETWEEN PAKISTAN AND INDIA
ON THE RECOVERY OF ABDUCTED PERSONS. SIGNED
AT NEW DELHI, ON 8 MAY 1954

The following were present :

PAKISTAN DELEGATION :

1. H.E. Raja Ghaznafar Ali Khan, High Commissioner for Pakistan in India, (Leader).
2. Mr. M. W. Abbasi, Secretary to the Govt. of Pakistan, Ministry of Rehabilitation.
3. Mr. A. Hilaly, Joint Secretary to the Govt. of Pakistan, Ministry of Foreign Affairs.
4. Major General Abdul Rehman, Deputy High Commissioner for Pakistan in India.
5. Mr. I. U. Khan, Chief Secretary to the Govt. of Punjab (Pak) and H. P. O. Pakistan.
6. Khawaja Nasur Ullah, Deputy High Commissioner for Pakistan in India, Calcutta.
7. Mr. Iqbal Athar, Counselor Pakistan High Commissioner, New Delhi.
8. Mr. Afzal Iqbal, 2nd Secretary, Pakistan High Commission, New Delhi.
9. Mian Ghulam Haidar, Member Indo-Pak. Tribunal and Supdt. of Police, Pakistan.
10. Raja Mohammed Ashraf, Deputy Supdt. of Police, Pakistan.

INDIA :

1. Sardar Swaran Singh, Minister Works, Housing and Supply, (Leader).
2. Mr. I. S. Chopra, Joint Secretary to the Govt. of India, Ministry of External Affairs, New Delhi.
3. Mr. A. L. Fletcher, High Powered Officer (India).
4. Mr. V. C. Trivedi, Deputy Secretary to the Govt. of India, Ministry of External Affairs, New Delhi.

¹ Came into force on 23 June 1954 by ratification, in accordance with paragraph 14.

5. The Raja Rana of Jubbal, Under Secretary to the Govt. of India, Ministry of External Affairs.
6. Kanwar Shamsher Singh, Dy. Inspector General of Police, and Co-ordinating Officer (Punjab).
7. Mr. S. Chaudhuri, Under Secretary to the Govt. of India, Ministry of External Affairs.
8. Shri C. M. Sharma, Officer on Special Duty, Central Recovery Organisation, New Delhi.
9. Pt. Thakar Dass, Member Indo-Pak. Tribunal.
10. S. Dildar Singh, Supdt. of Police RAW.

At the outset both the Delegations re-affirmed the determination to recover and restore all abducted persons as speedily as possible. For the furtherance of this humanitarian cause, progress made in recovery and restoration and the problems arising therefrom should be reviewed from time to time and effective measures taken to complete this work as early as possible.

With this end in view, every effort should be made to create an atmosphere where the woman can shed her fear-complex and prejudices created in her mind since abduction, which can be ensured only if the recovered person is in a position to think and decide her future in a free and friendly atmosphere.

During the course of the present review the following items were discussed and decisions taken :

1. *Appointment of a Joint Fact Finding Commission to ascertain the extent of outstanding work in either country*

The principle and the desirability of a Fact Finding Commission was accepted, and it was decided to entrust the task to the two H. P. Os, who will be assisted each by one whole-time officer not below the rank of a Deputy Commissioner, and that the assessment should be completed within six months ; further, that a programme for the joint and expeditions verification of the lists should be drawn up immediately. Adequate staff should be deputed for the purpose, and it should be ensured that this assessment does not in any way retard the speedy recovery of abducted persons.

The terms of reference of the Fact Finding Commission will be :

- i) to assess the extent of outstanding work of recovery in the two countries ;
and
- ii) to advise the two Governments on measures to be adopted for speedy conclusion of recovery work in both the countries.

2. *Amendment of the existing Recovery Act to include a penal section to punish abductors after the expiry of a specified period of amnesty*

It was agreed that as the work of assessment is to be completed within six months and intense efforts are to be made over this period for recovery of abducted persons, the position should be reviewed at the end of this period and if thereupon, the two H. P. Os jointly come to the conclusion that the results had been below expectation and recommend the introduction of a penal clause to speed up recovery work, the two Governments would consider the desirability of such legislation.

3. *Free movement of relatives of abducted persons from one country to the other*

It was agreed that the relatives of abducted persons should be given all reasonable facilities by both the countries and actively associated in the hot and continuous pursuit of clues.

4. *Measures to overcome delaying tactics adopted by abductors and speedy implementation of the decisions of the Tribunal*

It was agreed that every effort should be made to discourage delaying tactics employed by abductors at any stage of the proceedings.

5. *Steps to be taken to remove procedural lacuna discovered in the implementation of paragraph 8 of the Indo-Pakistan Agreement of 11th November, 1948*

It was agreed that where there was disagreement between the High Powered Officers, the High Powered Officer of the country of recovery shall refer the case to his Government for decision, under intimation to his opposite number, and, while doing so, also forward to his Government any views that his opposite number may have on the matter in dispute.

6. *Disparity between the definitions of abducted persons in the Pakistan Recovery Ordinance and in the Indian Recovery of Abducted Persons Act*

The Pakistan Government undertook to bring the definition of 'abducted persons' in their Ordinance in line with that of the Indian Act.

7. *Recovery of scheduled castes women and children*

The Pakistan Government agreed to issue executive instructions to all concerned for the recovery of abducted persons belonging to Hindu and Sikh scheduled castes.

8. *Periodical meetings between the two H. P. Os and Recovery officials*

- (i) It was felt that the Members of the Tribunal should meet the High Powered Officers at least once a month, to keep them informed of their difficulties, if any.
- (ii) The two H. P. Os should meet at least once in two months. These meetings should also be attended by—
 - (a) The Co-ordinating Officer of the Central Recovery Organisation, India and his counterpart.
 - (b) Members of the Tribunal, and
 - (c) S.Ps (Recovery) of both the countries.

The purpose of these meetings will be to review the progress made in recovery and restoration and to resolve outstanding problems.

9. *Transfer of abducted persons from one country to the other in special circumstances*

If, in a disputed case pending before the Tribunal, there is *prima facie* evidence of abduction and the abducted person wishes to go over to the other country, the Tribunal may allow the abducted person to be transferred to the appropriate camp in the other country and kept there pending final decision of the case.

10. *Recovery of abducted persons from foreign countries*

It was agreed to continue efforts to effect recovery of such persons through the good offices of the respective Government's diplomatic missions abroad.

11. *The procedure for ascertaining the wishes of a recovered person*

The following procedure was adopted :

- (i) The recovered person will be produced before the Tribunal, at Jullundur when recovered in India and at Lahore when in Pakistan, as soon after recovery as possible.
- (ii) If the recovered person states before the Tribunal that he or she wishes to be restored to Pakistan/India and it is established that he or she is an abducted person, the person's statement will be recorded and he or she will be sent to Pakistan/India for restoration.
- (iii) If the recovered person does not wish to go to the other country, he or she shall be transferred immediately to a special home at Jullundur or Lahore, as the case may be, to be set up for the purpose, where the person will be kept for a sufficient period, to enable his or her relations from Pakistan or India, as the case may be, and Social Workers to meet him or her.
- (iv) If, at any time during this period, the recovered person agrees to be restored, the Tribunal, who shall record his or her statement, will order accordingly.

(v) (a) Where the recovered person does not wish to go to the other country, but is willing to visit it temporarily for a specified period, to meet relations and see the conditions in that country, he or she shall be sent under the Tribunal's orders and kept in a special home at Lahore or Jullundur, as the case may be.

(b) On the termination of the recovered person's visit to the other country, he or she will be brought back to the special home in the country of recovery and produced without unnecessary delay before the Tribunal who shall record his or her statement and—

(i) where the person is willing to go to the other country, order restoration accordingly, and

(ii) where the person does not wish to go to the other country, order release forthwith.

(vi) Where an unwilling recovered person cannot be persuaded to visit the other country even for a brief period and, at the end of the specified period of stay in the special home in the country of recovery, reiterates his or her determination to stay in that country, the case shall be referred to the Central Government, who may, before finally disposing of the case, decide what further steps are necessary for creating a friendly and congenial atmosphere and direct a further stay in the Special Home or a visit to the other country, subject to such precautions as the Government may consider necessary.

It was hoped that occasions for referring cases to the Central Government will be very rare.

12. *Special Homes*

Special Homes shall be set up in both countries and details regarding their set-up should be worked out by the two H. P. Os, and should the latter not agree on any matter of detail, the case shall be referred to their respective Governments.

13. It was agreed that the position may be reviewed after four months in the light of experience gained and the results achieved.

14. The decisions recorded above shall be subject to ratification by the two Governments.

(Signed) GHAZNAFAR ALI
Leader
Pakistan Delegation
8/5/54

(Signed) SWARAN SINGH
Leader
Indian Delegation
8/5/54