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AND PROTECTION OF MINORITIES
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India-Pakistan Agreement on Minorities

(Note by the Secretariat)

1. The Governments of India and Pakistan concluded an Agreement concerning the protection of minorities in their respective countries on 8 April 1950. The Secretary-General, in the belief that the Members of the Sub-Commission will be interested in it, has the honour to circulate herewith the text of this Agreement.
2. The Agreement is particularly concerned with the problem of minority riots and other forms of crime and violence against minorities, and the consequent movement of refugees between the two countries. The Agreement, although prompted by communal disturbances in the Bengal-Assam area^{1/} has, nevertheless, general clauses that are applicable to the entire territory of the two countries. Some of the general clauses of the Agreement are in its Part A, wherein the two Governments affirm the constitutional guarantees of equal treatment of all citizens and undertake to ensure to the minorities "a full sense of security in respect of life, culture, property and personal honour..." Both Governments have emphasized - and this is important not only in the context of the India-Pakistan situation but for the general problem of minorities elsewhere - "that the allegiance and loyalty of minorities is to the State of which they are citizens, and that it is to the Governments of their own State that they should look for the redress of their grievances."
3. The Agreement had for one of its purposes the restoration of normal life in the communities affected by communal disturbances. To achieve this objective it

^{1/} Bengal was divided between the Union of India and Pakistan at the time of the partition of the sub-continent in 1947. East Bengal, the eastern half of Pakistan, is bordered by West Bengal, Tripura and Assam (India). This area has a mixed population of Hindus, Muslims and other groups. East Bengal (Pakistan) is predominantly Muslim; West Bengal, Assam and Tripura (India) are predominantly Hindu.

was considered essential to create confidence and a sense of security in the minds of the minorities. The Prime Minister of India, Pandit Jawaharlal Nehru, while presenting the Agreement to the Indian Parliament, on 10 April 1950, observed:

"The problem before us has many aspects but perhaps the most important is the psychological and human aspect. Conditions have been created which make it difficult if not impossible for people to live in their homelands, and so vast numbers of them have preferred to leave everything they possess and go to distant places rather than live always with insecurity and fear as their companions. Unless this fear and insecurity are removed completely and normal civilized conditions of life prevail, this problem will not be solved in spite of all agreements. An agreement is a step, and a step only, in a certain direction. It has to be followed up by many other steps and more particularly by the change in the very conditions of life. By this Agreement the Governments of Pakistan and India have pledged themselves to take those steps also,....."

4. The Agreement provides for an elaborate machinery for the restoration of the confidence of minorities and for bringing general living conditions to normalcy. This machinery is intended not only to deal with the after-effects of communal disturbances, but also with the means of preventing such catastrophes in the future. Each Government will designate, according to the Agreement, a Minister of the Central (Federal) Government to stay in the affected areas. Minorities Commissions will be established to supervise, and assist in, the implementation of this agreement and keep in touch with minorities in each district of the area in question. Members of the minorities will be included in the Cabinets of the Provincial Governments concerned. Separate bodies will be created to investigate the causes and extent of the communal disturbances. Provision has also been made for the protection of the movable and immovable property left behind by refugees, their safe transit through frontier posts and recovery of abducted women. Offences against persons and property belonging to minorities will be punished and, when necessary, collective fines will be imposed on communities whose members have committed such offences.

5. Other undertakings of considerable significance were:

(a) the consideration as a crime of "the dissemination of news and mischievous opinion calculated to rouse communal passion by press or radio or by any individual or organisation" and

/(b) the prohibition,

(b) the prohibition, at the pain of penalty, of any propaganda "purporting to incite war" between the two Governments.

6. The importance of the Agreement is sufficiently evident from the statements of the two Prime Ministers. Prime Minister Nehru of India said, inter alia: "I think I may say with justice that this particular agreement, both in regard to its contents and its timing, has a peculiar significance and importance, for our future depends upon the measure of compliance in Pakistan and India." The Prime Minister of Pakistan, Mr. Liaquat Ali Khan, in a statement before the Pakistan Constituent Assembly, said, inter alia: "I look upon this agreement as a precursor of a new understanding between India and Pakistan."

ANNEX

Agreement between the Government of India and the Government of
Pakistan, dated 6 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 emphasize 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 movable personal effects and household goods as a migrant may wish to take with him. Movable 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

and facilities 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 immovable 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 31 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 31 December 1950. In exceptional cases, if a Government considers that a migrant's immovable property cannot be returned to him, the matter shall be referred to the appropriate Minority Commission for advice.

Where restoration of immovable 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 immovable 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 immovable 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

disturbances but after 15 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 recognize 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 organization. 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 organization 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

E. In order to help to 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 organizations as they may consider necessary.

/(vii) The functions

- (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 cognizance 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:
8 April 1950
