

Abducted Persons (Recovery And Restoration) Act, 1949

65 of 1949

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An Act to provide, in pursuance of an agreement with Pakistan, for the recovery and restoration of abducted persons.

WHEREAS an agreement has been reached between the Government of India and the Government of Pakistan for the recovery and restoration of abducted persons;

AND WHEREAS it is expedient to provide, in pursuance of the said agreement, for the recovery of abducted persons and for their temporary detention in camps pending restoration to their relatives;

AND WHEREAS the Governors of the United Provinces and East Punjab and the Rajpramukhs of Patiala and the East Punjab States Union and the United State of Rajasthan have, under the provisions of sub-section (1) of section 106 of the Government of India Act, 1935 (26 Geo. 5., c. 2), accorded their previous consent to the making of this law; It is hereby enacted as follows:-

1. Short title and extent :-

(1) This Act may be called the Abducted Persons (Recovery and Restoration) Act, 1949.

(2) It extends to the United Provinces, the Provinces of East Punjab and Delhi, the Patiala and East Punjab States Union and the United State of Rajasthan and shall remain in force up to 31st October 1951.

2. Interpretation :-

(1) In this Act, unless there is anything repugnant in the subject or context:-

(a) "abducted person" means a male child under the age of sixteen years or a female of whatever age who is, or immediately before the 1st day of March, 1947, was, a Muslim and who, on or after that day and before the 1st day of January, 1949, has become separated from his or her family and is found to be living with or under the control of any other individual or family, and in the latter case includes a child born to any such female after the said date;

(b) "camp" means any place established, or deemed to be established, under section 3 for the reception and detention of abducted persons.

(2) In the application of this Act to any Acceding State, references to the Province and the Provincial Government shall be construed as references to that Acceding State or the Government of that State, as the case may be, and references to the official Gazette shall be construed as references to the corresponding official publication of that State.

3. Establishment of camps and notification thereof and of officers in charge :-

(1) The Provincial Government may establish as many camps in the

Province as it may consider necessary for the reception and detention of abducted persons, and any place established in the Province before the commencement of this Act for the reception and detention of abducted persons shall be deemed to be a camp established by the Provincial Government within the meaning of this section.

(2) The Provincial Government shall, as soon after the commencement of this Act as may be practicable, notify in the official Gazette all camps in the Province and the names of officers in charge thereof.

4. Powers of police officers to recover abducted persons :-

(1) If any police officer, not below the rank of an Assistant Sub-Inspector or any other police officer specially authorised by the Provincial Government in this behalf, has reason to believe that an abducted person resides or is to be found in any place, he may, after recording the reasons for his belief without warrant, enter and search the place and take into custody any person found therein who, in his opinion, is an abducted person, and deliver or cause such person to be delivered to the custody of the officer in charge of the nearest camp with the least possible delay.

(2) In exercising any powers conferred by sub-section (1) any such police officer may take such steps and may require the assistance of such female persons as may, in his opinion, be necessary for the effective exercise of such power.

5. Maintenance of discipline in camp :-

(1) The Provincial Government may make regulations for the transfer of abducted persons from one camp to another and for the maintenance of health and good order in the camp and of harmonious relations among the abducted persons detained therein.

(2) In making any regulations under this section, the Provincial Government may provide that a breach thereof shall be tried and punished by the officer in charge of the camp in such manner as may be prescribed in the regulations : Provided that no abducted person shall be liable to be tried in a criminal Court in respect of any offence made punishable by any regulations made under this section.

6. Determination of question whether any person detained is an abducted person :-

(1) If any question arises whether a person detained in a camp is or is not an abducted person or whether such person should be restored to his or her relatives or handed over to any other person or conveyed out of India or allowed to leave the camp, it shall be referred to, and decided by, a tribunal constituted for the purpose by the Central Government.

(2) The decision of the tribunal constituted under sub section (1) shall be final:

Provided that the Central Government may, either of its own motion or on the application of any party interested in the matter, review or revise any such decision.

7. Handing over of abducted persons to persons authorised :-

(1) Any officer in charge of a camp may deliver any abducted person detained in the camp to the custody of such officer or authority as the Provincial Government may, by general or special order, specify in this behalf.

(2) Any officer or authority to whom the custody of any abducted person has been delivered under the provisions of sub section (1) shall be entitled to receive and hold the person in custody and either restore such person to his or her relatives or convey such

person out of India.

8. Detention in camp not to be questioned by Court :-

Notwithstanding anything contained in any other law for the time being in force, the detention of any abducted person in a camp in accordance with the provisions of this Act shall be lawful and shall not be called in question in any Court.

9. Protection of action taken under the Act :-

No suit, prosecution or other legal proceeding whatsoever shall lie against the Central Government, the Provincial Government or any officer or authority for, or in respect of, any act which is in good faith done or intended to be done in pursuance of this Act.

10. Power to make rules :-

(1) The Central Government may, by notification in the official Gazette, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, rules may provide for-

(a) the constitution and procedure of any tribunal appointed under section 6;

(b) the manner in which any application to review or revise any decision of the tribunal may be made under section 6 ;

(c) the manner in which any abducted person may be delivered to the custody of any officer or authority under section 7 or restored to his or her relatives or conveyed out of India by any such officer or authority.

11. Repeal of Ordinance XVIII of 1949 :-

(1) The Abducted abducted Persons (Recovery and Restoration) Ordinance, 1949 (XVIII of 1949), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken in the exercise of any powers conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by this Act, as if this Act were in force on the day on which such thing was done or action was taken.

Notes ; This Act has been repealed by the Repealing and amending Act, 1960 (58 of 1960), s. 2 and Sch. I.