

IDENTITY & BOUNDARIES

...most body of writing available on this subject and the ... must come to the fore with the Bharatiya Janta ... the United Front government at the centre ... the Constitution by enacting a uniform ... Women's organizations and political parties have ... the debate and presented their views which are ... For a fuller discussion see, among ... "Is Gender Justice only a Legal Issue? Political ...", op. cit., Kumkum Sangari, "Politics of ... Communities and Multiple Patriarchies", ... Political Weekly, December 23 and December ... "Reversing the ... and Personal Laws", in *Economic and Po...*, May 18, 1996; Draft Resolution of the All India ... Association, "Equal Rights, Equal Laws", ... "Victims of Gender Justice", Report of ... Meeting, Bombay, December 1995. ... "Identity and its Discontents", op. cit., p. 443.

Appendix I
Abducted Persons (Recovery and Restoration) Act, 1949
(Act No. LXV of 1949)

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 Patala and the East Punjab States Union and United States 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 Patala and East Punjab States Union and the United States 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 first 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 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 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, such 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 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.

Gazette, 28 December 1949.

Appendix II
Number of women and children recovered from Pakistan (December 1947-August 1955)

Punjab Pakistan	6.12.47	1.1.50	1.1.51	1.1.52	1.1.53	1.1.54	1.1.55	1.8.55	Total
	to 31.12.49	to 31.12.50	to 31.12.51	to 31.12.52	to 31.12.53	to 31.12.54	to 31.12.55	to 31.8.55	
Campbellpur Dera	12	24	39	13	1	...	...	...	89
Ismail Khan	15	3	4	...	2	...	...	...	24
Gujranwala	364	4	6	4	3	2	...	...	387
Gujrat	320	41	38	8	15	18	12	1	453
From Gujrat State	487	...	...	...	...	...	...	...	487
Kunja Camp (Gujrat)	950	...	...	...	...	...	...	...	950
Jhang	86	3	4	2	1	...	2	...	98
Jhelum	163	19	29	17	8	5	1	...	242
Lahore	181	11	15	9	7	3	9	...	235
Lyalpur	148	24	12	8	4	4	2	...	302
Marwahi	209	9	6	1	1	2	1	...	229
Mongomery	202	10	6	3	4	6	1	...	232
Multan	296	10	5	6	6	2	1	...	326
Muzaffarpur	95	5	12	1	...	...	3	...	116
Rawalpindi	180	51	21	16	5	7	6	...	286
Sargodha	104	3	5	2	5	2	2	...	123
Sheikhpura	229	5	8	7	1	...	3	...	253
Sialkot	615	55	24	19	10	8	6	1	818
Others	145	6	...	...	...	...	...	...	151
Total	4981	287	234	116	70	60	51	2	5801
Northeast Frontier	16	...	...	...	...	...	...	...	16
Dera Ismail Khan Kohat	5	...	...	...	...	...	...	...	5
Other departments	392	23	8	16	25	3	5	...	472
Total	413	23	8	16	25	3	5	...	492
Baluchistan	10	...	...	...	...	...	...	...	10
Sind	30	12	9	5	16	4	8	...	84
Desi Rajya Bahawalpur	579	1	10	4	2	4	1	...	601
Others	...	...	...	...	...	...	...	...	...
Total	579	1	10	4	2	4	1	...	601
Jammu & Kashmir after 21.1.49	259	548	482	333	211	89	95	26	2043
Total no. of women & children recovered	6272	871	743	474	324	160	160	28	9032

Appendix II (contd.)
Number of women and children recovered from India (December 1947–August 1955)

Indian Punjab	6.12.47	1.1.50	1.1.51	1.1.52	1.1.53	1.1.54	1.1.55	1.8.55	Total
	to	to	to	to	to	to	to	to	
	31.12.49	31.12.50	31.12.51	31.12.52	31.12.53	31.12.54	31.7.55	31.8.55	
Ambala	660	63	174	74	96	37	20	1	1125
Anandpur	1085	125	207	52	133	98	50	2	1762
Ferozpur	1383	169	284	117	270	138	59	6	2426
Gurdaspur	987	59	115	53	73	22	5	...	1314
Gurgaon	54	8	9	13	16	...	...	...	101
Hissar	242	29	55	33	38	21	10	...	428
Hoshiarpur	413	35	47	33	46	19	6	...	599
Jalandhar	539	32	47	33	45	13	3	...	747
Kangra	218	9	43	7	...	11	...	...	292
Karnal	390	45	43	39	34	14	6	...	571
Ludhiana	744	92	133	65	152	58	16	1	1261
Rohtak	110	7	40	19	9	5	1	...	191
Simla	2	...	...	...	...	...	...	...	2
Others	1887	25	43	33	72	32	8	3	2103
Total	8724	678	1240	571	984	491	297	16	12921

Other Delhi areas	62	2	...	...	...	...	...	...	64
Patiala East Punjab									
Ferozpur	230	27	30	21	35	26	9	...	378
Jind	288	22	8	12	30	7	2	...	369
Kapurthala	329	14	38	18	45	8	12	...	464
Nabha	609	96	93	84	111	71	17	...	1081
Patiala	1348	375	526	338	697	497	158	19	3924
Other States	476	...	...	7	...	...	8	...	491
Total	3280	534	695	480	918	575	206	19	6707
Rajasthan Alwar	163	13	9	3	6	2	...	1	197
Bharatpur	107	4	2	...	2	...	...	...	115
Other Departments	5	...	4	...	2	3	7	2	23
Total	275	17	15	3	10	5	7	3	335
Jammu & Kashmir after 21.1.49	211	162	24	108	128	43	24	1	701
Total no. of women & children recovered	12552	1413	1974	1162	2040	1114	434	39	20728

Source: Kamla Patel, *Mool Satta Uthadein*.