

105TH CONGRESS
1ST SESSION

H. R. 1802

To suspend United States development assistance for India unless the President certifies to Congress that the Government of India has taken certain steps to prevent human rights abuses in India.

IN THE HOUSE OF REPRESENTATIVES

JUNE 5, 1997

Mr. BURTON of Indiana (for himself and Mr. CONDIT) introduced the following bill; which was referred to the Committee on International Relations

A BILL

To suspend United States development assistance for India unless the President certifies to Congress that the Government of India has taken certain steps to prevent human rights abuses in India.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This act may be cited as the “Human Rights in India
5 Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:



1 (1) In India, tens of thousands of political pris-
2 oners, including prisoners of conscience, are being
3 held without charge or trial under special or preven-
4 tive detention laws.

5 (2) The special and preventive detention laws
6 most frequently cited by human rights organizations
7 are the Terrorist and Disruptive Activities (Preven-
8 tion) Act (TADA) of 1987, the National Security
9 Act of 1980, the Armed Forces (Punjab and
10 Chandigarh) Special Powers Act of 1983, the Armed
11 Forces (Jammu and Kashmir) Special Powers Act of
12 1990, and the Jammu and Kashmir Public Safety
13 Act of 1978.

14 (3) Although TADA expired in March 1995,
15 India continues to hold prisoners under it.

16 (4) These laws provide the military and police
17 forces of India sweeping powers of arrest and deten-
18 tion with broad powers to shoot to kill with virtual
19 immunity from prosecution.

20 (5) These laws contravene important human
21 rights standards established under the International
22 Covenant on Civil and Political Rights, to which
23 India is a party, such as the right to liberty and se-
24 curity, the right to a fair trial, the right to freedom

1 of expression, and the right not to be subjected to
2 torture or arbitrary arrest and detention.

3 (6) Throughout India, political detainees are
4 often held for several months, and in some cases a
5 year, without access to family, friends, or legal coun-
6 sel.

7 (7) Throughout India, the torture of detainees
8 has been routine, and scores of people have died in
9 police and military custody as a result.

10 (8) Throughout India, scores of political detain-
11 ees have “disappeared” and thousands of people are
12 reported to have been extrajudicially executed by
13 military and police forces.

14 (9) On September 6, 1995, human rights activ-
15 ist Jaswant Singh Khalra was detained after he pub-
16 lished a report regarding the cremation of Sikhs who
17 have died in police custody. Since that date, Mr.
18 Khalra has been neither charged nor released.

19 (10) A July 22, 1996 report from India’s
20 Central Bureau of Investigation (CBI) to India’s Su-
21 preme Court, documenting nearly 1,000 cases of un-
22 identified bodies having been cremated by the police
23 after being labeled “unidentified”, lends credence to
24 these charges.

1 (11) In Punjab, the Government encouraged
2 extrajudicial executions by offering bounties for the
3 killing of militants and paid over 41,000 such boun-
4 ties between 1991 and 1993, according to State De-
5 partment and human rights reports. In March of
6 1996, a leading human rights advocate was brutally
7 murdered by Indian military forces in Kashmir. Mr.
8 Jalil Andrabi, the Chairman of the Kashmir Com-
9 mission of Jurists, was abducted and slain two
10 weeks before he was to travel to Geneva to testify
11 before the United Nations Human Rights Commis-
12 sion.

13 (12) Abuses by the military and police forces of
14 India are particularly widespread in the states of
15 Punjab, Assam, Manipur, Nagaland, and the portion
16 of the territory of Jammu and Kashmir under the
17 control of the Government of India.

18 (13) Many victims come from underprivileged
19 and vulnerable sectors of society in India, particu-
20 larly the scheduled castes and tribes. The Dalit, or
21 “black untouchables”, have also been victims of
22 widespread human rights abuses.

23 (14) While the Indian Government should be
24 praised for forming a National Human Rights Com-
25 mission, the Commissioners powers have been ex-

1 tremely limited, and international human rights
2 groups continue to be denied access to Punjab and
3 Kashmir.

4 (15) In 1994, the decision by the Government
5 of India to allow the International Committee of the
6 Red Cross to provide limited humanitarian assist-
7 ance in the portion of the disputed territory of
8 Jammu and Kashmir under the control of the Gov-
9 ernment of India was an important first step in pro-
10 viding international organizations access to the trou-
11 bled areas of India.

12 (16) However, the Government of India contin-
13 ues to prohibit several international human rights
14 organizations from conducting independent inves-
15 tigations in the portion of the territory of Jammu
16 and Kashmir under the control of India and to pro-
17 vide only limited access to such organizations to
18 other states such as Punjab, Assam, Manipur, and
19 Nagaland where human rights problems exist.

20 (17) In India, armed opposition groups have
21 committed human rights abuses.

22 (18) Several human rights organizations have
23 called on such armed opposition groups to respect
24 basic standards of humanitarian law which require

1 that individuals not taking part in hostilities should
2 at all times be treated humanely.

3 **SEC. 3. LIMITATION ON DEVELOPMENT ASSISTANCE FOR**
4 **INDIA UNLESS CERTAIN STEPS ARE TAKEN**
5 **BY THE GOVERNMENT OF INDIA TO IMPROVE**
6 **HUMAN RIGHTS IN INDIA.**

7 (a) LIMITATION.—The President may not provide de-
8 velopment assistance for India for any fiscal year unless
9 the President transmits to Congress a report containing
10 a certification for such fiscal year that the Government
11 of India meets the following requirements:

12 (1) The Government of India has released all
13 prisoners of conscience in India.

14 (2) The Government of India ensures that all
15 political prisoners in India are brought to trial
16 promptly and fairly, and have prompt access to legal
17 counsel and family members.

18 (3) The Government of India has eliminated the
19 practice of torture in India by the military and po-
20 lice forces.

21 (4) The Government of India impartially inves-
22 tigates all allegations of torture and deaths of indi-
23 viduals in custody in India.

1 (5) The Government of India has established to
2 the best of its ability, the fate or whereabouts of all
3 political detainees in India who have “disappeared”.

4 (6) The Government of India brings to justice
5 promptly those members of the military and police
6 forces responsible for torturing or improperly treat-
7 ing prisoners in India.

8 (7) The Government of India permits citizens of
9 India who are critical of such Government to travel
10 abroad and return to India.

11 (8) The Government of India insures that
12 human rights monitors in India are not targeted for
13 arrest or harassment by the military and police
14 forces.

15 (9) The Government of India permits both
16 international and domestic human rights organiza-
17 tions and international and domestic television, film,
18 and print media full access to all states in India
19 where significant human rights problems exist.

20 (10) The Indian Government has thoroughly in-
21 vestigated allegations of cremations of Sikhs who
22 have died in police custody and has made every ef-
23 fort to bring those responsible to justice.

24 (11) The repressive laws cited in section 2,
25 paragraph 2 have been repealed.

1 (b) REQUIREMENT FOR CONTINUING COMPLI-
2 ANCE.—Any certification with respect to the Government
3 of India for a fiscal year under subsection (a) shall cease
4 to be effective for that fiscal year if the President trans-
5 mits to Congress a report containing a determination that
6 such Government has not continued to comply with the
7 requirements contained in paragraphs (1) through (11) of
8 such subsection.

9 (c) WAIVER.—The limitation on development assist-
10 ance for India contained in subsection (a) shall not apply
11 if the President transmits to Congress a report containing
12 a determination that providing such assistance for India
13 is in the national security interest of the United States.

14 (d) DEFINITIONS.—As used in this section:

15 (1) DEVELOPMENT ASSISTANCE.—The term
16 “development assistance” means assistance under
17 chapter 1 of part I of the Foreign Assistance Act of
18 1961 (22 U.S.C. 2151 et seq.).

19 (2) INDIA.—The term “India” includes the por-
20 tion of the disputed territory of Jammu and Kash-
21 mir under the control of the Government of India.

22 (e) EFFECTIVE DATE.—The prohibition contained in
23 subsection (a) shall apply with respect to the provision of

- 1 development assistance beginning nine (9) months after
- 2 the date of enactment of this Act.

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