

103D CONGRESS  
1ST SESSION

# H. R. 1519

To reduce United States development assistance to India unless the Government of India repeals certain special or preventive detention laws.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 30, 1993

Mr. BURTON of Indiana (for himself, Mr. FALEOMAVAEGA, Mr. ROHRBACHER, Mr. WILSON, Mr. HUNTER, Mr. FLAKE, Mr. COX, Mr. MORAN, Mr. HERGER, Mr. MILLER of California, Mr. SOLOMON, Mr. TRAFICANT, Mr. CRANE, Mr. CONDIT, Mr. CUNNINGHAM, Mr. PETE GEREN of Texas, Mr. PAXON, Mr. LEHMAN, Mr. FIELDS of Texas, Mr. ZELIFF, Mr. DOOLITTLE, Mr. PACKARD, Mr. HOKE, Mr. POMBO, Mr. BAKER of California, Mr. KING, Mr. LEVY, and Mr. DREIER) introduced the following bill; which was referred to the Committee on Foreign Affairs

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## A BILL

To reduce United States development assistance to India unless the Government of India repeals certain special or preventive detention laws.

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 “Justice in India Act”.

5 **SEC. 2. FINDINGS.**

6 The Congress finds that—

1           (1) each year, in both Jammu and Kashmir and  
2 the Punjab, the Government of India detains thou-  
3 sands of persons under special or preventive deten-  
4 tion laws without informing them of the charges  
5 against them;

6           (2) most of these detainees are political pris-  
7 oners, including prisoners of conscience;

8           (3) they are often detained for several months  
9 and sometimes even more than a year;

10          (4) detainees are not permitted any contact  
11 with lawyers or family members unless they are re-  
12 manded to judicial custody and transferred to pris-  
13 on, and only then if the family on its own is able  
14 to locate the detainee;

15          (5) in most cases, these persons are detained  
16 under the Terrorist and Disruptive Activities (Pre-  
17 vention) Act of 1987, the National Security Act of  
18 1980, and the Jammu and Kashmir Public Safety  
19 Act of 1978;

20          (6) the Terrorist and Disruptive Activities (Pre-  
21 vention) Act of 1987 authorizes administrative de-  
22 tention without formal charge or trial for up to 1  
23 year for investigation of suspected “terrorist” or  
24 broadly defined “disruptive” activities;

1           (7) the 1-year period of permissible detention  
2 before trial violates Article 9 of the International  
3 Covenant on Civil and Political Rights, to which  
4 India is a party;

5           (8) Article 9 of the International Covenant pro-  
6 vides, “Anyone arrested or detained on a criminal  
7 charge shall be brought promptly before a judge or  
8 other officer authorized by law to exercise judicial  
9 power and shall be entitled to trial within a reason-  
10 able time or to release.”;

11           (9) under the Terrorist and Disruptive Activi-  
12 ties (Prevention) Act of 1987, all proceedings before  
13 a designate court must be conducted in secret “at  
14 any place other than...[the court’s]...ordinary place  
15 of sitting”;

16           (10) section 16(2) of the Terrorist and Disrup-  
17 tive Activities (Prevention) Act of 1987 permits the  
18 designated court to keep the “identity and address  
19 of any witness secret”;

20           (11) under the Terrorist and Disruptive Activi-  
21 ties (Prevention) Act of 1987, a confession to a sen-  
22 ior police officer can be admitted as evidence if there  
23 is reason to believe it was made voluntarily;

24           (12) the Terrorist and Disruptive Activities  
25 (Prevention) Act of 1987 amends India’s criminal

1 code, which prohibits such confessions, and substan-  
2 tially increases the risk of torture;

3 (13) the Terrorist and Disruptive Activities  
4 (Prevention) Act of 1987 reverses the presumption  
5 of innocence, placing the burden on the accused to  
6 prove that he or she is not guilty;

7 (14) the National Security Act of 1980 permits  
8 the detention of persons without charge or trial for  
9 up to 1 year in order to prevent them from acting  
10 in a manner prejudicial to the security of the state,  
11 the maintenance of public order, the maintenance of  
12 supplies and services essential to the community, or  
13 relations with a foreign power;

14 (15) the National Security Act of 1980 was  
15 amended to permit 2 years detention in the Punjab;

16 (16) under this Act, India may detain any per-  
17 son engaged in behavior “prejudicial to the defense  
18 of India, the relations of India with foreign powers,  
19 or the security of India”;

20 (17) the Jammu and Kashmir Public Safety  
21 Act of 1978 empowers India to detain persons with-  
22 out trial for up to 1 year for a broad range of activi-  
23 ties, including “promoting, propagating, or attempt-  
24 ing to create, feelings of enmity or hatred or dishar-

1 mony on grounds of religion, race, community, or  
2 region”;

3 (18) the Armed Forces (Punjab and  
4 Chandigarh) Special Powers Act of 1983 and the  
5 Armed Forces (Jammu and Kashmir) Special Pow-  
6 ers Act of 1990 empower Indian security forces to  
7 search homes without warrant, to make arrests with-  
8 out warrant, to destroy the “hideouts” of suspected  
9 terrorists, and to shoot to kill with immunity from  
10 prosecution;

11 (19) Indian security forces routinely employ  
12 methods of torture, beatings, and threats to induce  
13 detainees to sign statements of confession and to  
14 identify suspected militants;

15 (20) the Terrorist and Disruptive Activities  
16 (Prevention) Act of 1987, the National Security Act  
17 of 1980, the Jammu and Kashmir Public Safety Act  
18 of 1978, the Armed Forces (Punjab and  
19 Chandigarh) Special Powers Act of 1983, and the  
20 Armed Forces (Jammu and Kashmir) Special Pow-  
21 ers Act of 1990 facilitate human rights abuses by  
22 suspending ordinary safeguards against arbitrary ar-  
23 rest, incommunicado detention, and torture; and

24 (21) these 5 laws are incompatible with the  
25 principles of a modern democracy.

1 **SEC. 3. REDUCTION OF DEVELOPMENT ASSISTANCE FOR**  
2 **INDIA UNLESS CERTAIN LAWS REPEALED.**

3 (a) REPORT.—Not later than 60 days after the date  
4 of the enactment of this Act, the President shall report  
5 to the Congress whether the Government of India has re-  
6 pealed all the laws specified in subsection (d).

7 (b) REDUCTION OF ASSISTANCE.—If the President  
8 reports to Congress, either pursuant to subsection (a) or  
9 at any other time, that the Government of India has not  
10 repealed all the laws specified in subsection (d), all devel-  
11 opment assistance for India under chapter 1 of part I of  
12 the Foreign Assistance Act of 1961 shall be terminated  
13 except for assistance to continue the Immunodiagnostic  
14 Development Project, the Child Survival Health Support  
15 Project, and the Private and Voluntary Organizations for  
16 Health II Project.

17 (c) RESUMPTION OF ASSISTANCE.—Assistance termi-  
18 nated pursuant to subsection (b) may be resumed only if  
19 the President reports to Congress that the Government  
20 of India has repealed all the laws specified in subsection  
21 (d).

22 (d) SPECIAL AND PREVENTIVE DETENTION LAWS.—  
23 The laws referred to in subsections (a), (b), and (c) are  
24 the Terrorist and Disruptive Activities (Prevention) Act  
25 of 1987, the National Security Act of 1980, the Jammu  
26 and Kashmir Public Safety Act of 1978, the Armed

1 Forces (Punjab and Chandigarh) Special Powers Act of  
2 1983, and the Armed Forces (Jammu and Kashmir) Spe-  
3 cial Powers Act of 1990.

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