

104TH CONGRESS
1ST SESSION

H. R. 1425

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

IN THE HOUSE OF REPRESENTATIVES

APRIL 6, 1995

Mr. BURTON of Indiana (for himself, Mr. TORRICELLI, Mr. COX of California, Mr. FLAKE, Mr. ROHRABACHER, Mr. MORAN, Mr. KING, Mr. JEFFERSON, Mr. HUNTER, Mr. REYNOLDS, Mr. DIAZ-BALART, Mr. CONDIT, Mr. FIELDS of Texas, Mr. TOWNS, Mr. DOOLITTLE, Mr. ABERCROMBIE, Mr. POMBO, Mr. PETERSON of Minnesota, Mr. CUNNINGHAM, Mr. LIPINSKI, Mr. CRANE, Mr. HERGER, Mr. WALDHOLTZ, Mr. BARTLETT of Maryland, Mr. FUNDERBURK, Mr. HASTINGS of Washington, Mr. JONES, Mr. CALVERT, Mr. STOCKMAN, Mr. PETE GEREN of Texas, and Mr. WILSON) 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 the 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Human Rights in India
3 Act”.

4 **SEC. 2. FINDINGS.**

5 The Congress finds the following:

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

10 (2) The special and preventive detention laws
11 most frequently cited by human rights organizations
12 are the Terrorist and Disruptive Activities (Preven-
13 tion) Act (TADA) of 1987, the National Security
14 Act of 1980, the Armed Forces (Punjab and
15 Chandigarh) Special Powers Act of 1983, the Armed
16 Forces (Jammu and Kashmir) Special Powers Act of
17 1990, and the Jammu and Kashmir Public Safety
18 Act of 1978.

19 (3) These laws provide the military and police
20 forces of India sweeping powers of arrest and deten-
21 tion with broad powers to shoot to kill with virtual
22 immunity from prosecution.

23 (4) These laws contravene important inter-
24 national human rights standards established under
25 the International Covenant on Civil and Political
26 Rights, to which India is a party, such as the right

1 of liberty and security, the right to a fair trial, the
2 right to freedom of expression, and the right not to
3 be subjected to torture or arbitrary arrest and de-
4 tention.

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

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

12 (7) Throughout India, scores of political detain-
13 ees have “disappeared” and hundreds of people are
14 reported to have been extrajudicially executed by
15 military and police forces.

16 (8) In Punjab, the Punjab Government encour-
17 aged extrajudicial executions by offering bounties for
18 the killing of militants and paid over 41,000 such
19 bounties between 1991 and 1993.

20 (9) Abuses by the military and police forces of
21 India are particularly widespread in the states of
22 Punjab, Assam, Manipur, Nagaland, and the portion
23 of the disputed territory of Jammu and Kashmir
24 under the control of the Government of India.

1 (10) Many victims come from underprivileged
2 and vulnerable sections of society in India, particu-
3 larly the scheduled castes and tribes.

4 (11) The establishment of the National Human
5 Rights Commission by the Government of India is
6 an important first step toward improving the human
7 rights record of India.

8 (12) However, many human rights organiza-
9 tions are deeply concerned about the severe limita-
10 tions placed on the powers, mandate, and methodol-
11 ogy of the National Human Rights Commission.

12 (13) In 1994, the decision by the Government
13 of India to allow the International Committee of the
14 Red Cross to provide limited humanitarian assist-
15 ance in the portion of the disputed territory of
16 Jammu and Kashmir under the control of the Gov-
17 ernment of India was an important first step in pro-
18 viding international humanitarian organizations
19 greater access to troubled areas of India.

20 (14) However, in 1994, the Government of
21 India continued to prohibit several international
22 human rights organizations from conducting inde-
23 pendent investigations in the portion of the disputed
24 territory of Jammu and Kashmir under the control
25 of the Government of India and provided only lim-

1 ited access to such organizations to other states such
2 as Punjab, Assam, Manipur, and Nagaland where
3 significant human rights problems exist.

4 (15) In India, armed opposition groups have
5 committed human rights abuses.

6 (16) Several human rights organizations have
7 called on such armed opposition groups to respect
8 basic standards of humanitarian law which require
9 that individuals not taking part in hostilities should
10 at all times be treated humanely.

11 **SEC. 3. LIMITATION ON DEVELOPMENT ASSISTANCE FOR**
12 **INDIA UNLESS CERTAIN STEPS ARE TAKEN**
13 **BY THE GOVERNMENT OF INDIA TO IMPROVE**
14 **HUMAN RIGHTS IN INDIA.**

15 (a) LIMITATION.—The President may not provide de-
16 velopment assistance for India for any fiscal year unless
17 the President transmits to the Congress a report contain-
18 ing a certification for such fiscal year that the Government
19 of India meets the following requirements:

20 (1) The Government of India has released all
21 prisoners of conscience in India.

22 (2) The Government of India ensures that all
23 political prisoners in India are brought to trial
24 promptly and fairly, or released, and have prompt
25 access to legal counsel and family members.

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

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

7 (5) The Government of India has established
8 the fate or whereabouts of all political detainees in
9 India who have “disappeared”.

10 (6) The Government of India brings to justice
11 those members of the military and police forces re-
12 sponsible for torturing or improperly treating pris-
13 oners in India.

14 (7) The Government of India permits citizens of
15 India who are critical of such Government to travel
16 abroad and return to India.

17 (8) The Government of India ensures that
18 human rights monitors in India are not targeted for
19 arrest or harassment by the military and police
20 forces of India.

21 (9) The Government of India permits both
22 international and domestic human rights organiza-
23 tions and international and domestic television, film,
24 and print media full access to all states in India
25 where significant human rights problems exist.

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 the Congress a report containing a determination
6 that such Government has not continued to comply with
7 the requirements contained in paragraphs (1) through (9)
8 of 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 the Congress a report con-
12 taining a determination that providing such assistance for
13 India is in the national security interest of the United
14 States.

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

16 (1) DEVELOPMENT ASSISTANCE.—The term
17 “development assistance” means assistance under
18 chapter 1 of part I of the Foreign Assistance Act of
19 1961 (22 U.S.C. 2151 et seq.).

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

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

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

