

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.

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## 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

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## 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       tigation 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.

