CHAPTER - IV

BUSH ERA: A MIXTURE OF COMPROMISE AND PRIORITISING OF HUMAN RIGHTS POLICY

“Interests has a powerful influence over the mankind, and is the basis on which all the transactions of mankind are built”.

(William Richardson Davie, Quoted in the Records of the Federal Convention of 1787).
CHAPTER- IV

BUSH ERA: A MIXTURE OF COMPROMISE AND PRIORITISING OF HUMAN RIGHTS POLICY

BACKGROUND

The George Bush administration followed Reagan’s “constructive engagements” and “quiet diplomacy” to further the cause of human rights till 1990. He like Reagan accorded high priority to fighting communist Soviet Union in Afghanistan. The human rights principles received low priority in the initial years of the Bush administration. To facilitate this posture, Bush continued the Reagan administration’s human rights policies. Under this policy, human rights issues were upheld against the countries which were adversaries. And in the case of allies, which form part of American anti-communist group were free from any American criticism or diplomatic actions against any violations of human rights. Once again this policy was justified in the interest of American security and thereby human rights policies were compromised.

However, after the successful victory of the US and its allies in liberating Kuwait by defeating and deterring the aggressive conquest of Iraq in January 1990, where the recalcitrant Iraqi President Sadam Hussein was humiliated militarily, humbled politically, harassed economically and above all hounded out of Kuwait, which he had annexed because of its sheer military prowess over it, the US had emerged as the lone super military power in the 1990’s.
No wonder, following the liberation of Afghanistan, fall of Berlin wall, collapse of the Soviet Union, end of communism and more importantly after America’s resounding victory in the 1990 Gulf war over Iraq, these factors paved the way for US to emerge as the sole key player in the world affairs where it abundantly exhibited its military power and political will power, which even the former Soviet Union, the then super power silently acquiesced it.

In the post-1990 scenario, Bush administration accorded high priority to the cause of human rights. However, unlike Carter, he and his predecessor did not recognise the importance of socio-economic rights in the hierarchy of human rights. Concerning India and Pakistan, the Bush administration did not use the human rights to achieve their country’s security interests till 1990.

However, in the post-1990 period, the Bush administration became somehow even handed in its assessment of the human rights situations in India and Pakistan. The Bush administration in the post-1990 phase used the human rights issue as a bargaining chip to achieve America’s security objectives. Such as compelling India and Pakistan to sign the discriminatory Non-Proliferation Treaty (NPT), liberalise their economies for the entry of US multinational companies and protecting America’s intellectual property rights. From the year 1990-1992, there was certain perceptions in some circles that the Bush administration was using this issue as an instrument of intervention to push for the independence of the entire Kashmir region as an independent Kashmir would serve US interests better, thereby gaining access to Tibet to needle China on human rights violations there.
The US administration became concerned about two things on India and Pakistan, such as nuclear proliferation and human rights issues in regard to its relationship with India and Pakistan. In a sense, the Bush administration used this issue as a goal to be pursued in tandem with America’s security, political, economic and commercial interests, thus, abandoning its earlier low profile human rights policies in its relations with India and Pakistan. With the collapse of the Soviet Union, nuclear proliferation and missile proliferation greatly threatened America’s security interests. The region of South-Asia, especially India and Pakistan were subject of concern in this context. Thus, upholding and prioritising human rights provided the best options to pressurise on capping nuclear proliferation and missile proliferation.

HUMAN RIGHTS IN THE POST - 1990 PHASE

In the post-1990 phase, the issue of human rights in Indo-US relations reached its crescendo and sometimes it appeared, it would be threatening if not jeopardising the very essence of Indo-US ties as some Congressmen and some vested interests in US took an unusual active interests in the human rights record of India concerning its policies towards Kashmir and Punjab, and compelled the US administration to take actions against India for its alleged human rights violations. However, the Bush administration understandably refused to play to the galleries and get swayed by these allegations. But nevertheless, it had diplomatically taken up this issue in right earnest with India and urged it to tone up its human rights record in Punjab and Kashmir.
Leading the virulent attack on India on its human rights record, an US Congressional Research Service (CRS) report had stated that the "broad powers given to the security forces deployed in trouble-spots like the Punjab and Kashmir had become key factors in the abuses of human rights in India. The broad powers granted to security forces under various security legislations and lack of accountability reportedly had led to widespread abuse of human rights in India that exceeded the provision of law."¹ And also it alleged that "moreover, although never proclaimed as emergency powers, such laws have had the effect of establishing a continuing state of emergency."² To drive the point home, it stated that the Armed Forces (special powers) Act had been in effect in some north-east areas for 33 years.

The CRS report had also documented the major legal provision used by the Indian government in responding to problems of regional ethnic or ideological dissidence. These provisions were, the president’s rule under Article 356 of the constitution, National Security Act (NSA) 1980, Terrorist and Disruptive Activities (prevention) Act, 1985 (TADA), and Armed Forces (special powers) Act.

The report had been prepared to provide basic information to US Congressmen on India security laws and the debate in India, and internationally, on the government’s use of law. The report while acknowledging the various constitutional and legal safeguards pointed out that India had significant evidence of reported human rights abuse, much of which was related to the response of authorities to communal tensions and separatist violence. It complained that various internal security laws provide

² ibid.
a means for suspending constitutional guarantees and the safeguards provided by an independent judiciary.

Coming on the heels of this report, in 1991, was another Congressional study which alleged that "there was significant proof of ongoing human rights abuses against civilians by Indian security forces". Two California Congressmen, David Dreier (Republican), and Vic Fazio (Democrat) released this report prepared by the Congressional Research Service (CRS) outlining human rights abuses in India. This report indicated that the overall human rights situation had deteriorated rather than improved in the past year.

Citing the cases of Punjab, Kashmir, and the north-east, the report noted that separatism and civil rights had played a significant role in the growing fragmentation of Indian politics. It also stated that in response, normal constitutional guarantees had been suspended in Kashmir, Punjab and the north-east. It stated, "the government's reaction to the violence in Punjab had led to violation of fundamental rights. Security forces had often overreacted to incidents by using excessive force, preventive arrests, detention, torture, encounter killing and other means of repression."

Turning to Kashmir it spoke that the human rights situation in Kashmir valley had deteriorated. It noted that in December 1990, a delegation from Amnesty International met with the senior officials from New Delhi but was

---

3 Times of India, (New Delhi), 11 August 1991. (All references to the Times of India in this chapter are to the New Delhi of that paper).
4 ibid.
denied access to Punjab, Kashmir and the north-east on the grounds of inadequate security conditions.

Coupled with these reports, the Congress in general and some Congressmen like David Drier, Vic Fazio and Dan Burton in particular had been orchestrating their anti-India tirades on the alleged human rights abuses by India in these areas on the basis of reports released by Amnesty International annually, the Asia Watch, reports of the UN Commission of Human Rights (UNCHR), reports of People's Union for Civil Liberties (PUCL), Citizens for Democracy, Manav Adhikari Samiti, and above all the various anti-India lobbies operating in US and UK.

**HUMAN RIGHTS LOBBYISTS**

The Asia-Watch, a US-based human rights organisation, had taken the curious position that security forces in Kashmir and Punjab were "legitimate military targets, subject to direct attacks by militant and that such killings did not violate the laws of war if they occurred in combat or ambush and were not result of perfidy." This human rights body alongwith Amnesty International were being influenced by the propaganda materials supplied to them without understanding or judging the ground realities prevalent there. These bodies still insist on treating the terrorists operating in Punjab and Kashmir as "political prisoners" and criticise the special powers granted to the security forces to enforce law order there. And not surprisingly, these annual reports were serving the interests of vested Congressmen in attacking India on human rights front playing to the gallery of anti-India lobbies.

---

Some Congressmen were also carried away by the allegations made by Pakistani propaganda machine and its agents while participating in the annual session of the UN Commission on Human Rights (UNCHR) at Geneva. Though these tendentious allegations and insinuations were refuted point-by-point by India, some Congressmen buttress their criticism against India on the basis of the debate taking place in UNCHR.

In addition to these reports, there were some Indian human rights agencies like PUCL, Citizens for Democracy, Manav Adhikari Samiti while criticising the government for its alleged human rights violations in terrorist-infested areas, had maintained studied silence over the violence and human rights abuses perpetrated and perpetuated by the terrorists. These self-styled Indian human rights organisations were pleading for giving the so-called “rights to self-determination” and “holding of plebiscite” in Kashmir and Punjab for solving these problems there. And obviously, some anti-India information-hungry Congressmen prepare their reports condemning the human rights abuses in India basing their conclusion on the basis of Indian press reports and reports of these human rights organisations.

And to top it all, there was mushrooming growth of anti-India lobbies operating in US and UK, who were constantly and ceaselessly manufacturing false stories about India’s alleged human rights abuses and poisoning the minds of the American public opinion and Congressmen. They were constantly fed with information as well as resources by lobbyists opposed to India.
In 1990, the National Journal's survey of campaign donations revealed that two major Washington lobbying firms with the biggest individual donations during 1989-90, "worked ceaselessly against India's interests. One was for Pakistan lobbying, Neil and Co., which distributed $105,427, the other was Black, Manafort, Stone and Kelly, the lobbying firm for the Kashmir American Council (KAC) which contributed $98,888."6

The KAC is demanding an independent Kashmir. These lobbyists influence the Congressmen to attack India and for legislating in Congress for incorporating hard measures cutting down aid benefit to India. The US-based Kashmir separatist group in 1990 had "taken out a more than $42,000 full-page advertisement in the popular and largest-selling New York Times alleging repression in the state and urging President George Bush to work for the cessation of hostilities, especially human rights violations by India".7

In 1991, KAC pushed a resolution through a Senate Foreign Relations Committee that was critical of New Delhi's policy on Kashmir. This resolution urged on parties to the Kashmir issue to enter into negotiations to guarantee the protection of human rights and to ensure the ethnic integrity of its people. And on the basis of this, senior Senator Howard M. Metzenbaum (Democrat) "deplored the human rights violations in Kashmir and called for direct negotiations among India, Pakistan and Kashmir".8

This resolution introduced at the behest of this firm urged the Bush administration to provide humanitarian assistance to the civilians of Kashmir.

---

6 Times of India, 2 September 1991.
7 Ibid.
8 Hindustan Times, (New Delhi), 29 April 1991. (All references to the Hindustan Times in this chapter are to the New Delhi of that paper).
during the ongoing crisis and also urged Washington to encourage other governments to assist in relief efforts. Ghulam Nabi Fai, KAC's executive director said that the resolution was a result of a concerted effort by it and its lobbying firm."

Dan Burton, the Republican Senator from Indiana sponsored an amendment in the Senate in 1991 seeking termination of development assistance to India in view of its policy on visits by human rights groups. However, the US administration promptly expressed its opposition to this bill. In 1990 the administration had also opposed a similar bill moved by Burton. He introduced these amendments stating that "there could be little progress until all groups inside regained the basic freedom that people all over the world were striving for. This goal might be impossible as long as India continued to for human rights organisations at its borders."  

Another Republican Congressman Wally Herger had once almost succeeded in getting a similar legislation through the House, and only the determined efforts by Congressman Stephen Solarz, who often defended India against assaults by his colleagues, retrieved the situation. Surprisingly, on that occasion, the Indian Embassy in Washington was caught napping and the persistent one-man anti-India lobbying on Capitol Hill by G.S. Aulakh, President of the so-called "Council of Khalistan", almost succeeded in the bid to get New Delhi penalised for alleged abuse in Punjab and Kashmir. The Indian Embassy, however, criticised Dan Burton for calling into question

---

9 ibid.  
10 *Indian Express* (New Delhi): 3 February 1991. (All references to the *Indian Express* in this chapter are to the New Delhi of that paper).
India’s human rights record. It termed them as “being based on a wrong premise and a gross misleading of facts”. 11

On 26th June, 1992, the US House of Representatives passed an “anti-India amendment sponsored by Burton by 210 votes to 200”. 12 The amendment would reduce development aid for all countries by $24 million with Burton declaring that he had done this to voice his criticism of the human rights situations in India. Although he did not specify India, he hoped that “the administration would see his intent and act accordingly”. 13

The Indian press was predictably up in arms against Dan Burton for again introducing an anti-India bill in 1992 as he did in 1990. “If the US Congressman Burton’s resolution to deny development aid unless it permits Amnesty International to monitor alleged human rights violations in India, it only proved that all practising democracies had a nuisance fringe. Burton’s move was no more than a nuisance. It is at a certain level a clumsy attempt to bluff the upholders of the cause he was supposedly championing that of Khalistan”. 14

Though there were some anti-India elements galore in the US Congress, there were also some India-friends aplenty in the Congress too, such as Stephen Solarz, Mathew F. Mc Hugh, Bill Mc collum, and Jim Bacchus. These four Congressmen urged their colleagues to reject the Burton amendment a day before the ultimate passing of the Bill. In a letter the four

11 The Statesman (New Delhi), 22 February 1991. (All references to the Statesman in this chapter are to the New Delhi of that paper).
Congressmen argued that "it made little sense to try to send a signal to New Delhi by cutting back of AID’s prevention, child health programmes and other essential developments in Africa, Latin America and Asia".¹⁵

Though these Congressmen were not successful in blocking this Bill, but nevertheless, these Congressmen had been more considerate and reasonable of India’s ground realities than the India-baiters like Dan Burton. They pointed out saying "even if this amendment was an appropriate vehicle through which to express displeasure at India, it would fly in the face of efforts to build a more cordial relationship between India and US, and the amendment was strongly opposed by the Bush administration".¹⁶

They said, "we were not aware of any case in which the Congress had enacted legislation to reduce or eliminate development aid to a country that was a constitutional democracy".¹⁷ These Congressmen had understood the importance and significance of India’s democratic and constitutional means of remedying the human rights abuses. In their considered view, this amendment had become partisan and deliberately ignored the constitutional and other democratic methods and resources available in India to improve its human rights situation. In their opinion, the proposed amendment failed to recognise that India is functional democracy with legal safeguards, an independent judiciary, a vigorous press and active local human rights community which monitors conditions and publishes reports. According to them, "this amendment was also one-sided as it failed to address the systematic abuses of human rights by terrorists operating in several parts of

¹⁵ Times of India, 26 June 1992.
¹⁷ ibid.
India. Such terrorists had been responsible for the killings and kidnappings of thousands of persons in recent years as well as the destruction of property and other abuses. This was not to argue that human rights issues in India and elsewhere were not the appropriate concern of the Congress. We believe, however, that this measure was a counter-productive way to express US concerns.18

Congressmen had also strongly and unequivocally flayed this amendment saying that the amendment ignored recent significant improvement in Indo-US relations and threatens to cast a chill over the bilateral dialogue that could threaten progress in a number of important area. They also said that Burton and others neglected to focus on the atrocities of the militants and the support Pakistan was providing them. In an eloquent, though unsuccessful effort to his colleagues not to vote with the India-hater Burton, Solarz maintained that the amendment would send wrong signals to India at a time when India and US were becoming closer than ever before. But nevertheless, Solarz urged the Indian government to permit a team of the Amnesty International to visit Punjab and Kashmir as "it would help India to tell the world that it had nothing to hide".19

Though this bill sought to impose a cut of $ 24 million for developed assistance programmes without naming any country. but coincidentally. this was the precise amount of aid US sanctions to India. During the debate on the amending legislation, the chairman of the foreign operations sub-committee, David Obey. had clarified that the Burton amendment would not have any impact on US assistance to India. In fact this measure would result

18 ibid.
19 ibid.
in an across-the board reduction of $24 million in the development assistance allocation available to all the recipient countries including India.

How in the US, the Pakistan lobbyists had Commissioned a professional firm for a million-dollar campaign on human rights violations in Kashmir and the right of self-determination for Kashmir, had been vindicated by Kanaiya Lal Kaul’s, executive secretary of the Indo-American Kashmir Forum and President of the Kashmir oversees Association, and Hiralal Fotedar’s, President of the Indo-American Kashmir Forum, statements during their official visit to Kashmir on 15th November, 1991 to assess the conditions of the Kashmir refugees and to document facts to be presented to the world community. They also said, “the Pakistan-based organisations in the US and Britain were trying to project alleged human rights violations by India in Kashmir deliberately ignoring other human rights abuses by the terrorist organisations. And not surprisingly, Congressmen like Burton gives in to their false and motivated propaganda and indulges in India-bashing time and again”.

From the above analysis, one finds that the Congressmen were divided with two major spectrum of views emanating from them regarding the human rights situation in India. Dan Burton was leading the pack of anti-India elements within Congress on this issue, which was primarily influenced by the Pakistani propaganda machine operating there in US. At the same time, Congressmen like Solarz was spearheading a campaign against these Burton-cohorts, and supporting and understanding the human rights problems in India. At the same time, they had made the Bush administration understand

---

20 Times of India, 15 November 1991.
that India’s human rights abuses were taking place due to the separatist and divisive forces operating in the troubled states actively aided and abetted by Pakistan. They had driven the point home that in India the terrorists were the main perpetrators of the human rights violations of the civilians. And as a result, they had urged the administration to take a objective assessment of India’s human rights abuses and not to impose any aid-cut on India.

Thus, the Congressmen were divided over this issue. And the most heartening feature in the 1990’s was that many Congressmen barring Burton and his combine had realised the ground realities present in Punjab and Kashmir, and the accompanied human rights abuses arising out there. This was clearly vindicated when on 26th June 1992, the Burton-Bill was passed by 210 votes to 200 in the Congress. So, this was a narrow win for Burton group. More so, the Congressmen decided to approve this Bill as India’s name in particular was not mentioned in it. In fact, Burton lost out in the Rules Committee to cut the proposed $ 24 million development aid to India, since he had specified India’s name there. And then, he moved another amendment cutting $ 24 million without mentioning India and this Bill would have general application. Hence, a positive factor on this issue to be underlined here was that in the post-1990 era, the Congress had become considerable enough in understanding India’s complex human rights problems and not accepting the biased materials and feedbacks provided by anti-India elements as gospel-truths without proper verification. And those Congressmen who were making all the noises in the Congress had their own problems and compulsions as they have got some influential sections of anti-India elements present in their respective constituencies. And obviously, this
campaign reaches its feverish pitch during election times. And after the elections, this anti-India campaign cools off and fizzles out.

However, such Congressional studies and Congressional research service reports do not have any legislative value though they draw attention to problems which the sponsors of the studies feel requires Congressional notice. Moreover, one such Congressional study in its conclusion titles options for US policy had acknowledged that that "the US administration's policy towards India had been and would be guided by a variety of other considerations".21

Thus, one finds a veneer of truth in saying that in the 1990's the US administration’s policy towards India had been influenced by number of other issues, with the major shifts taking place in the US foreign policy towards India on Kashmir and Punjab.

This perceptible change of policy of the US administration could be noticed when the Bush administration rejected the "Burton-Bill" seeking termination of development assistance to India in view of its policy denying access to human rights groups and human rights abuses in 1990 and 1991 consecutively. The administration's stand was articulated and conveyed by the assistant secretary of state Janet Mullins to Solarz, chairman of the House Sub-Committee on Asia and Pacific Affairs.

After learning from his failures of not being able to terminate development-assistance to India for its development-assistance to India for its alleged human rights records after naming India specifically in 1990 and

---

1991, Burton moved another amendment in 1992 without mentioning India in particular. But in 1992, since the proposed amendment had not named India in particular, the administration did not reject it outrightly. As it is already mentioned, this Bill would not affect the US development aid to India.

DEPARTMENT OF STATE'S COUNTRY-REPORTS ON HUMAN RIGHTS PRACTICES IN INDIA AND PAKISTAN FROM 1989 TO 1992

Although a constant battle had been going on between the US Congress and administration on the human rights issue, with the Congress becoming more vocal and assertive in pointing out the alleged human rights abuses in India in the 1990's, the administration had been more understanding of India's human rights problems than some Congressmen and Senators were. The Department of State had been quite understanding of India's situation in its annual country reports on human rights issues except making some reservations about the over all law and order problems taking place in Kashmir and Punjab.

For example, in its country reports on human rights practices for 1989, the very first year of the Bush administration, the State Department, appreciated the positive human rights developments that had taken place during the year which included the release of most Golden Temple detainees from Jodhpur jail, the release of a number of prominent Sikh political figures who had been held in detention for several years without trial, the lifting of restrictions on travel by foreigners to Punjab, the peaceful holding of national elections in Punjab, and the initiation of negotiations between Bodo
revolutionaries and the government. The report observed that "at the year's end, the new government headed by V.P. Singh initiated several positive human rights measures that demonstrated a willingness to seek a negotiated solution to the Punjab crisis. India is a basically democratic polity with strong and legally sanctioned safeguards for individuals, a vigorous free press, and action-oriented voluntary human rights organisations". 22

While noting these positive developments on the human rights front in India, the State Department, however, charged India of significant human rights violations. It stated that "significant human rights abuses, many of them generated by severe social tensions (including casteism and often violent ethnic, sectarian, linguistic or tribal communal politics) remained. The severity of human rights problems varied considerably from state to state. Problem areas included extrajudicial 'encounter' killings by the police particularly in Punjab and Andhra Pradesh, incommunicado detention for prolonged periods without charge under anti-terrorist laws, torture and deaths of suspects in police custody, lack of prosecution of police accused of abusing and raping detainees, uneven implementation of laws affecting women's rights, the increase of dowry deaths, the significant exploitation of indentured and child labour, separatist terrorism in Punjab and Kashmir, and unchecked intercaste and communal violence, notably in Bihar". 23

However, in an another news report in the New York Times daily, "the Indian officials charged that armed underground movement, encouraged by Islamic leaders in Kashmir and supported by Pakistan was threatening

---

23 ibid, p. 1382.
sensitive frontier state of Jammu & Kashmir, the only state with Muslim majority".24

The country report turning its attention to Punjab stated that it remained the most intractable of India’s ethnic regional problems. It cited the press statistics compiled from January to late September “showed 1,255 deaths by terrorist violence, 595 terrorists killed, and 1,584 arrested. In addition, 89 security force deaths were recorded. The government reported that, in the six months ending June 1989, 564 persons had been killed as a result of terrorist violence, 336 terrorists killed, and 1,593 arrested. In the six weeks following the January 6 execution by hanging of Kehar Singh, convicted of conspiring to assassinate Indira Gandhi, 169 persons were killed in Punjab, including twelve persons hanged to death by terrorists”.25

The country report, turning its focus on Kashmir maintained that, political militancy in India’s only Muslim majority state of Kashmir, rose markedly in 1989. It stated that, “two major terrorist organisations, the Jammu and Kashmir Liberation Front (JKLF) and the People’s League, began killing moderate politicians, including three major political figures. In December the JKLF kidnapped the medical-student daughter of the new Home Minister and only released her when five jailed Kashmir militants were released in exchange. Terrorists also stepped up use of bombs in public places. The militant’s grievances had both political and economic roots. Augmented powers given to the police aimed at controlling the violence appeared instead to escalate it”.26

---

25 US Department of State, n.22, p. 1383.
26 ibid, p. 1383.
As to the Indian government attitude regarding international and non-governmental investigation of alleged violations of human rights, the report referred to the statement of the Indian ambassador to the United States who stated in May that "as a sovereign and democratic nation, India cannot permit investigations by foreign governments or organisations into any aspect of her domestic affairs".27

The report observed that, despite the reopening of Punjab to foreigners, Amnesty International representatives continued to be denied permission to investigate human rights problems there. It however, stated India invited a U.S. Congressional delegation to visit Punjab for first-hand information on human rights.

The country report cited the Amnesty International’s 1989 report, covering 1988, which stated that Amnesty International had informed the U.N. Special Rapporteur on Summary and Arbitrary Executions of its concerns regarding India and that its reports were also submitted to the Indian government but it had not replied. The Indian government stated in March that it was examining amnesty International’s report on human rights violations in Bihar, various incidents of alleged human rights violations were being investigated and appropriate actions had been taken by the law enforcement agencies, according to the government spokesman. Also in March, then Minister of State for External Affairs Natwar Singh reacted publicly to the State Department’s 1988 human rights report on Indian to the

27 ibid, pp 1393-94.
U.S. Congress, stating that the government did not accept the veracity of all the report’s findings. 28

However, the report observed that, independent Indian human rights organisations were very active and vocal in sending out teams to study specific allegations of human rights abuses and publish reports on their findings. These organisations included Citizens for Democracy (CD), the People’s Union for Civil Liberties (PUCL), the People’s Union for Democratic Rights (PUDR), and the Indian People’s Human Rights Commission (IPHRC). The report stated that the Indian government was very tolerant of dissent within India but was very sensitive to international allegations of human rights by outside agencies.

Thus in the very first year of Bush administration, the Department of State praised the Indian government for improving the overall human rights situation in the country, and especially in Punjab. It has appreciated the Indian government move to release all Sikh political detainees who were arrested after the ‘Operation Blue Star’. However, the US expressed serious concern over the promulgation of various security laws in Punjab giving broad powers to the security forces. It also urged the Indian government to allow the visit of Amnesty International to Punjab for an on the spot assessment of the situation.

The country report turning its focus on Pakistan stated that the political landscape changed drastically in 1988 with the death of President Zia and the orderly transition to representative government under Prime Minister

28 ibid, p. 1394.
Benazir Bhutto. It stated that the Bhutto government had made progress in some aspects of human rights, although the problem areas still remained. It observed that, “the review of the martial law cases and the release of political prisoners had been largely completed. Most travel restrictions had been lifted and the Pakistanis no longer needed government permission to travel abroad. The appointment of a substantial number of former human rights activists to high level government positions had invigorated debate and focused attention on some human rights issues and human rights groups reported they had greater access to officials and to the media than ever before.”

The report however, maintained that, despite these positive developments, in other areas, human rights abuses continued during 1989. It stated that “kidnappings and random violence continued in the southern province of Sind and tribal areas in the northwest. Government forces at times violated individual rights and used excessive force in efforts to combat banditry and reestablish law and order. There were repeated incidents of ethnic violence, especially in Karachi and Hyderabad. Widespread police abuse of prisoners and the failure of authorities to bring to trial and punish personnel who committed such abuses remained a significant problem. Arbitrary arrest and detention of prisoners were also issues of concern. Religious minorities such as Ahmadis, Christians, and Hindus still faced discrimination and were the objects of harassment, and both social and legal constraints continued to place women in a subordinate position in society. Significant restraints also remained on worker rights.”

---

29 ibid. p. 1526.
30 ibid. pp. 1526-27.
The report went on to state that extrajudicial killings, physical abuse of prisoners and detainees by police continued largely unchecked and unpunished. Ethnic clashes continued to result in one form of political killings. Violence between rival ethnic political parties and organisations especially in Sind province was a growing concern as frequent outbreaks of violence between Sindhis, Mohajirs, Punjabi and Pakhtun groups left scores dead and injured. Because of their political connections, the authorities had little success in preventing this type of violence and the perpetrators had gone largely unpunished.

In respect of the Pakistani government attitude regarding international and non-governmental investigation of alleged violations of human rights, the report stated that "domestic human rights organisations operate free of official harassment and their reports receive extensive coverage in the press. Pakistan had allowed visits by persons affiliated with various human rights organisations. In 1989, an Amnesty International delegation met with government officials, including the President and Prime Minister. In 1989, several new human rights and legal aid groups were formed and operated without government restriction."31

All in all, the 1989 country report on human rights situation in India and Pakistan painted a bright as well as a gloomy picture concerning human rights. It had condemned and criticised both the government agencies and terrorists for all the killings and abuses of human rights. It had tried to make it a balanced report. The Pakistani government came in for severe criticisms for discriminating against the religious minorities like Hindus, Christians and

31 ibid. p. 1536.
Ahmadis, and denying them the basic human rights and freedom. It also criticised the government for its handling of the ethnic strife in Sindh, resulting in large-scale violations of human rights.

The country report on human rights practices for 1990 prefaced its comments on India with an observation that India is a functioning democracy with strong and legally sanctioned safeguards for individuals, a vigorous free press, an independent judiciary and an active civil liberties organisations. But nonetheless, it observed that still "significant areas of human rights abuse remained, many of them generated by severe social tensions related to violent ethnic, caste, communal, and secessionist politics and the authorities reactions thereto. The severity of abuses varied from state to state. In 1990, problem areas included security force excesses against civilians, particularly in Kashmir during operations against militants, separatist terrorism in Punjab, including political murder and kidnapping as well as extrajudicial actions, harassment and beatings by police, incommunicado detention for prolonged periods without charge under national security legislation, political killing on an increasingly wide scale, torture and deaths of suspects in police custody, inadequate although increased prosecution of police and security force implicated in abuse of detainees, including custodial rape, uneven implementation of laws affecting women’s rights, infrequent prosecution of dowry deaths, the widespread exploitation of indentured, bonded and child labour, and widespread intercaste and communal violence".

The country report turning its focus on Jammu & Kashmir stated that despite government’s stringent law and order policies aimed at curbing

---

growing political and terrorist violence, "political killings occurred. Some killings resulted from ethnic strife and militant separatist activities. Some were the result of actions by government security forces in suppressing mass demonstrations. Some resulted from excesses by individual members of the security forces in encounters with terrorists.”

On Punjab, the report observed that despite government efforts to bring a political solution to the intractable problems of ethnic strife, violent activities by militants demanding a separate Sikh state, and lawlessness, the number of deaths escalated to 4,987 for the year. Exact numbers killed by either side could not be determined. Press statistics showed the breakdown of deaths to be: 3,261 civilians, 467 security force members, 1,194 militants and 65 persons the government claimed crossed into India from Pakistan to perpetuate terrorist acts in Punjab.”

The report however, appreciated the fact that India being a member of the U.N. Human Rights Commission, Geneva, it hosted the World Congress on Human Rights in 1990, the first time the Conference was to be held in Asia. It may be recalled that this first-ever conference in Asia was held in New Delhi from December 10 to 15 December 1990, convened by the Centre for Promotion of Human Rights Teaching Research (HURITER), and Jawaharlal Nehru University, New Delhi. This conference was co-sponsored by the United Nations Centre for Human Rights, Geneva. This Conference was inaugurated by the then Chief Justice of Supreme Court of India, Mr. Justice Ranganath Mishra, and the keynote address was delivered

---

33 ibid. p. 1426
34 ibid. p. 1426
by Mr. Jan Martenson, Under Secretary General for Human Rights and Director-General of the United Nations office at Geneva.

While delivering the key-note address, he praised India as a "country characterized by its commitment to peace, democracy, human rights and rule of law, and India showed us the way forward in our common objectives for peace with justice and human dignity for all."\(^{35}\)

Echoing the same sentiments, Justice Ranganath Mishra stated that "Indian constitution which was being formulated at the time the Universal Declaration of Human Rights was adopted by the General Assembly, had accepted most of the these as fundamental rights and the rest had been drafted into part-IV of the constitution as Directive principles of State policy."\(^{36}\)

Thus the 1990 year report on human rights practices in India has been a mixed one. It has acknowledged India’s democratic structures and the free play of its institutions in protecting human rights in India. On the other hand, it continued to express concern over the situations in Punjab and Kashmir. The country report also praised India for hosting the World Congress on Human Rights in January 1990.

Turning its searchlight on Pakistan, the country report stated that Pakistan’s political landscape changed dramatically on August-6 when Pakistani President Ghulam Ishaq khan dismissed the elected people’s Pakistan Peoples’ Party (PPP) government of Prime Minister Benazir Bhutto.

\(^{36}\) ibid, p.38.
and dissolved the National Assembly and the provincial assemblies. Elections were announced on October 24 for the National Assembly and October 27 for the provincial assemblies. A new government was formed in November, led by Prime Minister Nawaz Sharif, leader of the Islamic Jamhoori Ittehad (IJI) and the state of emergency laws, which had not been used, were lifted.

The report stated that although in 1990 the Bhutto government made progress in some aspects of human rights, but broke little new ground. The review of martial law cases and the release of political prisoners was completed. Most travel restrictions were lifted, passports were endorsed for all countries except Israel and South Africa and Pakistani’s travelled abroad without first obtaining government permission. Human Rights groups continued to enjoy access to officials and to the media and there continued to be considerable freedom of expression by the press and political organizations.

However, the report further stated that in other areas, “human rights abuses continued. Kidnappings and random violence plagued Sindh and the tribal areas, and similar incidents were reported in Punjab and the frontier. The provincial government forces used excessive force in responding to such incidents. Ethnic tensions, primarily in Sindh, exacerbated the problems caused by strong political, constitutional and regional differences. As the result of these differences, plus the weakness of central and provincial law enforcement agencies and the super abundance of weapons was a serious deterioration in law and order with a decidedly negative impact on human rights. The arbitrary detention, arrest, torture, and other abuse of prisoners
and detainees by the police continued, as did the failure of authorities to prosecute and punish those responsible. The caretaker government attempted to use the judicial process against the PPP by accusing only its leaders of corruption. Religious minorities faced some discrimination and harassment."37

Focussing its concern on the wave of violence in Sindh, the report stated that ethnic tensions resulted in a form of political killing as rival ethnic, political parties and organizations and their student wings frequently clashed, leaving scores dead and injured. The situation in Sindh became a major element in political differences between the President and the army, and the central and provincial governments prior to the August dismissal of the Bhutto government.

On the Pakistani government attitude regarding international and non-governmental investigation of alleged violations of human rights, the report stated that “persons affiliated with various international human rights organizations had been permitted to visit Pakistan and travelled freely. In 1989, an Amnesty International team met with government officials, including the President and Prime Minister, and issued a special report on the visit in May 1990. Domestic human rights organisations operated free of official harassment, and new human rights and legal aid groups continued to form and operate without government restriction.”38

Thus the 1990 year country report on human rights situation in Pakistan has been a mixture of criticism and appreciations. It appreciated the Pakistani

37 ibid. pp. 1586-87.
38 ibid. p. 1601.
government for facilitating the visits of various international human rights organisations into Pakistan. However, the country report expressed serious dismay over the disturbing political developments in Pakistan, and the mistreatment of religious minorities.

In its country report on human rights practices for 1991 on India, the State Department maintained that despite having a vigorous press and active civil liberties organisations reporting extensively on human rights abuses throughout the country, "significant areas of abuse remained, many of them generated by severe social tensions related to violent ethnic, caste, communal and secessionist politics and authorities’ reactions thereto. The catalogue of the main areas in 1991 varied little from what it had been in past years. These included, security force excesses against civilians, particularly in Kashmir in response to attacks by militants, political murder, kidnapping and extortion by militants in Punjab, as well as extrajudicial actions by the police, incommunicado detention for prolonged periods without charge under national security legislation, political killing on an increasingly wide scale, torture, rape and deaths of suspects in police custody, inadequate prosecution of police and security forces implicated in abuse of detainees, widespread communal and intercaste violence, uneven implementation of laws affecting women’s rights." \(^{39}\)

The State Department report however, praised the Indian government for following strict law and order policies to control growing political and terrorist violence, particularly militant separatist activity in the states of Punjab, Jammu and Kashmir and Assam, though there had been no reduction

---

in the scale of killing. Turning its focus on Punjab, the report indicted the militants for “carrying out politically-motivated killings, targeting government and police officials and their families, members of the press and members of rival factions. Twenty-three candidates for state and national elections in Punjab were killed by militants during the spring election campaign. The nine principal militant groups claimed their terrorist activities were part of the struggle for an independent Sikh state ‘Khalistan’. Among other militant killings, on January 28 militants stopped traffic on the road leading to Bhikowal, identified 13 Hindus and shot them.”  

Focussing on Jammu & Kashmir, the report castigated the militants for maintaining a reign of terror in the Kashmir valley throughout the year. “Among the victims were K.M. Shaban, editor of AL-Safa, an Urdu-language newspaper, Ghulam Mustafa Malik, a former state legislator, Hissamuddin Bandey, a former state minister, and Sheikh Sadia, cousin of the former chief minister, Farooq Abdullah. According to the Indian home ministry, over 72,000 families, primarily Hindu, had fled the violence in the valley since the beginning of 1990.  

Thus in 1991 year country report, the Department of State praised India for maintaining strict law and order in arresting the growing militancy in Punjab and Kashmir. However, it disapproved the Indian government’s attitude of not allowing the visit of Amnesty International to India.  

On Pakistan, the country report stated that in the third year since Pakistan’s return to democratic rule, the Prime Minister and the President

40 ibid, p. 1389.  
41 ibid, p.1389.
continued to work together in governing the country. Though there was improvement in some aspects of human rights in 1991, but in other areas serious abuses continued unabated. Human rights groups continued to enjoy access to officials and to the media and there continued to be considerable freedom of expression by the press and political organizations. However the situation “deteriorated significantly in the Sindh province, where the government of Sindh chief minister Jam Sadiq Ali abused executive and judicial power to arrest and detain members of the opposition and failed to take decisive action to uphold press freedom in the face of physical violence perpetrated apparently for political reasons. As in the past, ethnic and religious tensions led to a serious deterioration in law and order in many areas, and provincial government forces sometimes resorted to excessive force in dealing with local incidents. The arbitrary detention, arrest, torture, and other abuse of prisoners and detainees by the police continued to be a serious problem, and the authorities again did little to prosecute and punish those responsible. Religious minorities continued to face discrimination and harassment.”

The report held the government responsible for continuing discrimination against minorities such as Ahmadis, who had been declared non-Muslims by the state, and the police continued to close down Ahmadi places of worship which could not be designated as mosques in Pakistan. About Hindus, the report stated they complained of continued kidnappings and forced conversion of their women, confiscation of Hindu shrines, the temples, disruption of prayer services and their burning of manuscripts as

---

42 ibid. p. 1548.
well as torture of detained Hindus. Christians, the report noted, were discriminated against in public services, universities and the military.

In respect of the Pakistani government attitude regarding international and non-governmental investigation of alleged violations of human rights, the report stated in 1991, domestic human rights groups operated free of official harassment and persons affiliated with various international human rights organizations had been permitted to visit Pakistan and travelled freely.

All in all, in the 1991 country report, Pakistan had been severely indicted for the human rights abuses, particularly in the Sindh province and criticized the Pakistani government for its continuing discrimination practices against the religious minorities. And the 1991 country report on India had appreciated the Indian government’s stand in upholding law and order in the troubled spots of Jammu & Kashmir and Punjab, and castigated the militant groups of these regions for blatantly violating the human rights of innocent civilians in the form of kidnappings, deaths, rape, torture and killings. And at the same it had attributed some killings to excesses by individual security force members in encounters with terrorists and while in some cases, the government security forces had killed civilians in apparent retaliation against terrorist attacks. One respectable Indian newspaper observed that, “it was, by and large, a balance report on the human rights situations prevailing in India in 1991.”

In the last year of the Bush administration the country report for 1992 prepared by the State Department in its section on India running into several

---

pages stated that "there continued to be significant abuses of human rights, many of which were the product of violent ethnic, religious, caste, communal, and secessionist activities and the government's reactions to them. As in the past years, the main problems continued to include police, para-military and army excesses against civilians, particularly in Punjab, Assam, and Kashmir in response to attacks by militants; political killings, kidnapping and extortion by militants in Punjab and Kashmir, extrajudicial actions by the police against the detainees throughout India, incommunicado detention for prolonged periods without charge under national security legislation, general failure to persecute police and security forces implicated in abuse of detainees, widespread inter caste, religious and communal violence."^44

Criticizing the militants for carrying out large-scale killing of innocent civilian people in Kashmir, the report stated that, "the among the victims were the daughter of a former Member of Parliament, an employee of the state road transport corporation, and Nazir Saddiqui, who earlier mediated the exchange of militant detainees for a kidnapped Indian oil executive. Press reports indicated that 1,106 civilians died in insurgency related violence in Kashmir during the year ending November 30, 1992. Combatant casualties during this same period numbered 982, many of whom died in encounters with security forces. In that year, an unidentified gunman murdered Hirdi Nath Wanchoo, a human rights activist."^45

Turning its attention on another volatile state of India, i.e. Punjab, the country report condemned terrorist activities and castigated the militant Sikh

---

45 ibid, p. 1134.
organizations "engaged in random attacks on public sites and targetted civil servants, political activists, journalists, presumed government informers, members of rural groups, and police officials and their families. Their area of operation spread from Punjab into the neighbouring states of Haryana, Uttar Pradesh, as well as Delhi. On March 10, a militant gang entered a factory in Sangrur district, separated 18 non-Punjabis and gunned them down, killing 15. On March 14, militants went on a shooting spree in downtown Ludhiana, killing 18 shopkeepers and customers. Fifty other civilians were killed during similar incidents in March as militants sought to destabilize the newly installed Punjab state government. In August, militants massacred 29 villagers in Philbhit district of Uttar Pradesh. Later that month, militant gangs killed 47 policemen and family members during a two-day spree in retaliation for the killing of several separatist leaders by police. On October 20, militants killed 27 Bihari migrant labourers in a shooting spree in Ludhiana. On December 1, seven armed militants boarded a bus near Jagnaon and shot 22 passengers, mostly Hindus. About 4,049 people were killed during the year ending November 30, 1992. Press reports for this period indicated, that 2,036 civilians, 226 security force personnel and 1,787 alleged militants were killed in 1992." \(^{46}\)

The report stated that although civilian deaths in Punjab were down about half from the 1991 rate, which was due to the heavy army presence which helped to keep militants activities in check, but nevertheless, Punjab insurgency remained one of the most violent in the world. The report also criticized the police for staging 'fake encounters' with militants.

\(^{46}\) ibid, p.1135.
As to the Indian government attitude regarding international and non-governmental investigation of alleged violations of human rights, the report stated, the Indian government had called the conference of chief ministers in September to finalize legislation for setting up of a national human rights Commission. And in October 1993, it was finally set up by an Act of the parliament, known as the National Human Rights Commission (NHRC).

India got a mixed rating from the US in the year 1992 as to its human rights records. The Department of State criticised the terrorist violence unleashed by the militants in Kashmir and Punjab, resulting in abuse of human rights of innocent civilian people. At the same time, the country report continued to express concern over India’s stand in not allowing the visit of international human rights groups.

The country report on Pakistan for 1992 pointed an overall grim picture in the field of human rights. It began observing that, “there was little change in the human rights situation in 1992, and serious problems remained in several areas. The press and political organizations continued to exercise considerable overt repression of political opponents, a particular problem in Sindh, lessened but nonetheless remained an issue of concern. Selective prosecution of opposition political leaders continued. The arbitrary detention, arrest, torture and other abuse of prisoners and detainees also continued to be serious problem. There were no significant efforts to reform either the police or judicial systems, and responsible authorities did little to prosecute and punish those responsible for abuses. Heightened sectarian clashes between the Sunni and Shia’s communities resulted in numerous murders. Non-Muslim minorities continued to be the subject of unofficial persecution by religious
zealots. The government did little, despite complaints, to curb these activities and continued its support for religious legislation designed to Islamic Pakistan.47

Lamenting over the sorry state of affairs in Sindh province, the report stated that "at least nine villagers of Tando Bhawal were killed in a massacre on June 5, in the course of the army clean-up operation in Sindh. Journalists produced evidence that the victims were farm labourers involved in a land dispute rather than terrorists and saboteurs as the army had originally announced. Several deaths reportedly occurred in army custody during the operation in Sindh. One of the reported deaths in army custody was that of political activist Mohammed Yusuf Jakharani. Arrested at his village home in Sindh without charges on June 7, Jakharani was tortured during several days of political interrogation before succumbing to his injuries on June 12"48

The report expressed concern over the lack of respect for the integrity of person, including freedom from political and other extrajudicial killings in Pakistan. It expressed dismay over the murder of two Christians accused of blasphemying the prophet Mohammad. They were murdered before a legal judgement could be rendered in their cases. Supporters of the opposition parties were frequently arrested and detained illegally without any charges, the report added.

With regard to the Pakistani government attitude regarding international and non-governmental investigation of alleged human rights violations, the report appreciated the fact that in 1992, that domestic human

47 ibid. p. 1160.
48 ibid. p. 1160.
rights organizations operated free of official harassment, and their reports received extensive coverage in the press. New human rights and legal aid groups continued to form and operate without government restriction. Persons affiliated with various international human rights organizations had been permitted to visit Pakistan and travel freely, the report averred.

The Department of State portrayed a very bad picture of human rights situation in Pakistan in the year 1992. It expressed serious concern over the large-scale violations of human rights in Sindh and Karachi, and continued to criticise the Pakistani government for mistreating the religious minorities.

After the perusal of these country reports on human rights situations in India and Pakistan prevailing from 1989 to 1992, during the four years of Bush administration, one finds that the Bush administration had taken care to be evenhanded and balance in its response to be human rights situations both in India and Pakistan. For example, the State Department had appeared to be very balance in reporting the human rights situations in India, particularly in the states of Punjab and Kashmir. It had condemned in clearest terms the wave of terrorist violence unleashed by the terrorists in Kashmir and Punjab. And at the same time, while praising India for maintaining strict law and order in these two states amidst terrorist menace, the State Department had criticized ‘police excesses’ during operations, resulting in the killing of innocent civilians. On Pakistan, the state department had praise the Pakistani government for allowing the visit of international human rights organizations into Pakistan, and at the same time it had criticized it for unleashing terror campaign in Sindh, and persecuting the non-Muslims such as Hindus and Christians in Pakistan.
CONGRESSIONAL HEARINGS ON HUMAN RIGHTS

How the Bush administration had taken a very understanding approach on the human rights front in India and Pakistan was clearly noticed in a hearing before the Sub-Committee on human rights and international organizations and on Asia-pacific affairs of the Committee on Foreign Affairs, House of Representatives on 18 July, 1990. The Sub-Committee of U.S. Congress, met to review recent developments in human rights practices in South-Asia, presided by Stephen Solarz

Beginning the discussion on this topic, the subcommittee observed that "escalating tensions in Kashmir, renewed fighting between the Sri Lankan government and Tamil separatists and continued violence in Afghanistan had left countless innocent people dead, displaced or injured. While we celebrate the end of oppression in Eastern Europe, many people in South-Asia were suffering under continued repression. The most serious concern in the region was the conflict in Kashmir. Militants had resorted to killing civilians suspected of being in opposition to their campaign to either join Pakistan or become an independent state. Further, Indian security forces had reportedly used indiscriminate lethal force when confronted with unarmed demonstrators. In Pakistan, there remained serious human rights problems. The ethnic and political violence in the Sindh province had mounted over the past few weeks, leaving the situation ripe for human rights abuses not only by those promoting the violence, but also by security forces."

---

While giving testimony on human rights in India, Congressman Dan Burton stated that, "unfortunately India's own laws encouraged the human rights abuses. In 1984, India instituted the Terrorism and Disruptive Activities (prevention) Act (TADA), which allowed for the arrest and detention of any person for up to two years without charge, trial or access to legal counsel. Violations of the human rights in India did not stop at the imprisonment of citizens. One of the groups, most often the victim of the human rights abuses, are the Sikhs in Punjab... In Kashmir, the human rights situations rivalled that of the Punjab... These violations must be stopped. It is vital for the U.S. Congress to play an active role in promoting human rights in India. We must hold India to the same human rights standards to which we held every other democracy in the world."  

Stephen J. Solanz, chairman of this sub-committee, while making his opening statement maintained that in "South-Asia, as in many other parts of the developing world, two kinds of political conflict had given rise to abuses of human rights. The first had involved the response of governments to demands within their societies for political reform and democratization. All too often, governments had responded to such demands with arrests of peaceful protesters, banning of newspapers and other acts of repression. The second kind of conflict involved the practices of governments and insurgent groups in the context of internal strife involving diverse ethnic and religious groups, and while there were certainly well-established principles of international law governing treatment of civilians and other non-combatants in

50 ibid. pp.50-53.
such situations, they were more often than not honoured in the breach, with
tragic consequences."\textsuperscript{51}

Appearing before this sub-committee, Joshua R. Gilder, deputy
assistant secretary, Bureau of Human Rights and Humanitarian Affairs opined
that "India can be justly proud of her long-standing democratic tradition.
Independent political parties, a vibrant free press, independent judicial
systems and constitutional protections of the rights of individuals all
buttressed the democratic order in India. Yet this country was torn by a series
of violent insurgencies that had resulted in the widespread loss of innocent
life and had driven the Indian government to respond violently. Most,
although not all, these conflicts had been inspired by ethnic and religious
divisions."\textsuperscript{52}

On Pakistan, he stated that, "since the 1988 election of Prime Minister
Bhutto, Pakistan had shown progress in human rights. Recently however,
there had been sharp increases in ethnic violence, particularly between
Sindhis and ethnic Mohajirs in the Sind province. On several occasions,
police forces had fired on demonstrators, killing or wounding scores of
persons. There had also been failure of authorities to bring to trial for
punishment those that committed such abuses. Another problem the U.S. had
also raised with the government of Pakistan for the need to provide greater
security for the Ahmadi community against attacks by Muslim
fundamentalist."\textsuperscript{53}

\textsuperscript{51} ibid. p. 18.
\textsuperscript{52} ibid. p. 21.
\textsuperscript{53} ibid. p. 21.
Speaking in the same vein, Ms. Teresita C. Schaffer, Deputy Assistant Secretary of State, Near Eastern and South-Asian Affairs Bureau, stated that “India and Pakistan faced the gravest test confronting democratic governments-maintaining public order in the face of often violent dissent without undermining the very values for which they stood. The balance was a difficult one. In both the Punjab and disputed Kashmir, Indian security forces had been confronted by serious public disorder, including terrorist activity. Legislation to counter terrorism and quell civil unrest had eroded the normal rule of law in both these areas. And in both areas, security forces, admittedly often hard-pressed, had used excessive force against the local populace. We are categorical in our opposition to terrorist activity there or anywhere else.” 54

She explained during her testimony, the broad basic objectives of the Bush administration towards South-Asia in general and India and Pakistan in particular. She elaborated that “the administration’s support for human rights in South-Asia took place in the context of a policy which had traditionally stressed a few basic themes: regional stability, peaceful resolution of disputes, U.S. friendship with all the countries in the area, non-proliferation, support for democracy, pursuit of U.S. interests in trade and investment, and assistance to economic development.” 55

The US administration urged the Indian government to permit the Amnesty International and other human rights groups to visit Punjab and Kashmir to study the human rights situation there. The Bush administration felt that since India had nothing to hide in these states, the human rights

54 ibid, pp. 56-57.
55 ibid, p. 55.
groups should be allowed to assess the alleged violations of human rights. However, the Indian government had resisted the pressure of the US on this front and convinced it saying it was not possible to give adequate security cover to these groups, given the complex situation existing there. But the US administration was not convinced by this explanation given by India. But nevertheless, the US administration was not pressurizing India to allow the visit of these groups, rather it just prevailing upon the Indian government on this issue.

**SUM-UP**

Thus, it was found that in the 1990’s the Bush administration had been taking a very different stance than that of the Congress. It had understood the magnitude of the complex human rights problems prevalent in India. Although, it had been exonerating India on this issue, at the same time, through mild criticisms of the handling of the situations in Punjab and Kashmir, it had sent the message home asking India to tone up its human rights situation. So, it was a policy of willing to strike, but unwilling to wound. On the one hand, the Bush administration was encouraging some Congressmen to be critical of India’s human rights policy time and again, at the same time, through diplomatic exchanges and other official pronouncements, it was praising India for its effective handling of law and order problems in Punjab and Kashmir.

But the Human Rights Watch, an organization that monitors human rights observance around the world, had criticized the Bush administration in its comprehensive annual report for not making human rights an important
enough factor in foreign policy decisions. The group stated that the administration put political interests above human rights and "misused the State Department's Bureau of Human Rights to defend nations with poor rights record. The administration advanced the human rights cause, only when it was cost-free."56

In 1992, a former US ambassador to India, Harry Barnes visited India on a low-profile scouting mission for Asia Watch. His "pursuit was to put things in proper perspective and it was not a straight-jacket case of building pressure on India on its human rights record."57

The Kashmir issue happens to be an area of disagreement between India and the United States. India was offended by what it regarded as unsympathetic and even hostile American attitude towards its position on Kashmir question from the time the question was raised in UN. Serious differences between the two countries over this problem persisted throughout the cold war period. A change brought by the end of cold war resulted in a shift in US policy towards Kashmir issue. A discernible shift on Kashmir issue was clearly visible during the Bush administration.

Deviating from the earlier pro-Pakistan stance on the issue, the Bush administration became supportive of India's stand that the issue should be settled through bilateral talks between India and Pakistan within the gamut of Shimla Agreement. The then US Assistant Secretary of State, John Kelly, testified before a Congressional hearing that the "US was no longer urging a plebiscite for Kashmir and would leave it to India and Pakistan to settle their

---

57 The Telegraph (Calcutta), 3 January 1992
dispute bilaterally.” Later, a State Department advisory note repeated Kelly’s observations in clarifications of its stand on the Kashmir issue.

At the same time, US also showed concern about Pakistan’s involvement in Kashmir. It had taken a strong position against the aid given by Pakistan to terrorist and separatists. There was also a move to declare Pakistan a state supporting terrorism. When India-Pakistan tension over Kashmir these to the highest level, President Bush sent his Deputy National Security Adviser, Robert Gates to urge caution on India and Pakistan. During his visit, Gates made it clear that Washington no longer backed a UN plebiscite as the preferred way to solve the Kashmir issue, but instead supported bilateral talks between India and Pakistan in accordance with Shimla agreement.

US Kashmir policy thus corresponded with India’s own strongly held preference for bilateral negotiations and was at odds with Pakistan’s desire to involve outsiders in settling the dispute.

According to a scholar, this significant transformation of US Kashmir policy occurred because with end of cold war, “Us started looking to militant Islam as one of the greatest threats” Pakistan could not be a credible ally against militant Islam. Indeed Pakistan appeared to be aiding militant Islam by arming terrorists in Kashmir, and had therefore, drawn a sharp rebuke from the US.


59 ibid, p.6
The global concern about the threat to nation-states from sub-nationalism which often manifested itself as religious fundamentalism as in Kashmir, was no doubt another reason for the change in the US stance on Kashmir. Whatever the reasons, President Bush's policy on the human rights issue in Kashmir caused much satisfaction in India.

While development of the last few years had contributed to a change in US perceptions of India's policy of human rights, this issue still emerged as one of the nucleus of new tensions between India and America. Certain organizations of the Sikhs and the Kashmiris had successfully lobbied with members of the US Congress. Some Congressmen and Senators were genuinely interested in the issue of human rights, but quite a few only found it useful in their favourite game of India-bashing. However, "the State Department had taken a fairly well-balanced view."  

**Bush Administration's Perception on India**

Though a variety of considerations guiding the US human rights policy during Bush era have been given passing coverage, but nevertheless it needs further delineation and comprehension to make it more analytical and empirical. These factors and considerations were as follows:

Firstly, the Bush administration perceived India as a democratic state with liberal and secular traditions. In India, it sees the full play of all democratic institutions with a pluralist polity. And it thought, no US national interest would be served by supporting separatist movement in India. Any

---

60 ibid.
American support for secessionists could lead to the balkanization of India. And certainly, it would open the floodgates of instability, chaos and confusion in South-Asia. Hence, the resulting instability would be precisely of kind the US had long sought to avoid or contain.

For these reasons, the US administration had supported the territorial integrity of India as well as other South-Asian countries, and also, as mentioned earlier, had left the territorial disputes, such as the Kashmir question, to the parties themselves to find any amicable solution to it. Although, it treated Kashmir as a "disputed territory", nevertheless, as mentioned earlier, had found the UN resolutions concerning Kashmir as redundant and anachronistic as it would not pave the way for a mutual amicable solution. This stand was further reiterated by the US ambassador to Pakistan, who stated that "the US treats Kashmir as a disputed territory and wants the issue to be resolved through a dialogue between India and Pakistan based on the Shimla accord."62

Even the US administration had supported India's views that the terrorists operating in Kashmir and Punjab, actively aided and abetted by the Pakistani agencies, were the primary and principal violators of human rights of the innocent civilians in these states. The US administration had endorsed this view of India. Since Reagan period, the US administration had been treating the international terrorism as the biggest violator of human rights all over the world. Therefore, the US administration asked Pakistan time and again not to provide aid and sustenance to militants for disruptive activities in Punjab and Kashmir. This was "conveyed by the US Under Secretary of State

for international security affairs, Bartholomew to the then external affairs minister. Madhav Singh Solanki and foreign secretary, Muchkund Dubey during discussion in 1991.“63

In recent years, Washington has fully appreciated that abatement of terrorism would lead to heightening of tension and have a major impact on the security of the region. In 1991, the deputy assistant secretary of state, Teresita C. Schaffer reiterated US concern over reported Pakistani government support for terrorism. She stated this at a special press conference for Indian and Pakistani correspondents in Washington. She categorically stated that “if reports of support for Kashmir militants continue, we would find any such activity dangerous and destabilizing.”64

Secondly, US leverage over India, however remained limited during Bush’s time. And given India’s prickly nationalism, it was arguable how much American criticism would influence the Indian government’s policies. It thought, too much US pressure might simply poison relations and cause the Indian government to adopt a stubborn determination to deal with these matters in its own way. It did not want to disturb the smooth relations between India and US. However, on the other hand, it believed since the Indians do pride themselves on their democratic process, simply highlighting of the alleged human rights abuses might do the magic in bringing about positive results.

Thirdly, the US administration felt that it could use its influence in multilateral financing agencies like the World Bank and IMF to pressure India

63 Times of India. 24 November 1991.
64 New York Times. 3 July 1991
on observing basic human rights. It thought, this approach might work if other donors to India such as Japan and the European countries could also be persuaded to put pressure on India on human rights. But this was unlikely to happen. Japan and other European countries were concerned about the human rights situation in India, but they refuse to link aid to India with observance of human rights. Japan would continue to be wary of any direct conditioning of aid to human rights performance in India.

Fourthly, US administration believed that India's response to international concerns over its human rights performance would depend mainly on domestic political developments and calculations of political self-interests on the part of India's leaders.

Fifthly, the US administration would continue to desire to reward India for adopting more friendly foreign policy stances rather than confront New Delhi over its human rights record. During Bush's time, there was a spurt of a new mood conducive to more friendly relations and greater understanding of the nation's economic and other problems including human rights had been clearly emerging in the US. Though, there was no basic points of misunderstanding between India and US. Still there were certain issues on which Washington would have liked New Delhi to review its stand, like the charge of alleged human rights violations in Kashmir. The US administration felt that India should allow Amnesty International team to visit the border states since it had nothing to hide.

In the post-1990 era, it was believed in some quarters that the US policy had tilted infavour of India and the gradual policy of the US was tilting
away from Pakistan. There was changing climate in Indo-US relations as there was emerging increased military to military cooperation between the two countries. In the words of Abid Hussain, former India’s ambassador to Washington, “the Bush administration had indeed unfolded a policy of growing friendship with India. Even in the critical hours of the Gulf-war, they did not give up the practice of seeking aid and assistance from India for they knew that India most often represented the voice of conscience. It did not treat India as belonging to the hostile camp.”

Under the Kickleighter proposals, the US wanted to build up defence ties with India on a greater scale. Under this proposal, there was joint naval exercises in June 1992. The joint naval exercises with the US Navy was a “giant step in the growing cooperation between the two countries. It would have been unthinkable only a few years before.” During Bush’s time, India was viewed as one of the six regional power centres of the world at the end of this decade.

Last but never the least, the US public opinion was averse to taking any actions against India on this human rights issue. They had instilled great hope on the democratic and institutional policies of India with a free and fair press, independent judiciary to remedy alleged human rights violations. They had also fully realized the fact that the terrorists actively supported by Pakistan had been responsible in the major violations of human rights in India.

---

66 B.K. Shrivastava, n 76, p. 221.
So also, the US media was taking very little interest on the alleged human rights violations in India. Though, it was one of the major issues of Indo-US relations in the 1990's, the US media did not consider it as a big issue, rather it was underplaying the issue in sharp contrast to the wide coverage given by the Indian press in recent times on this issue. Rather it was preoccupied with the vexed nuclear issue between India and US, the solution of which it seemed, was eluding both of them.

Moreover, the US media had understood the terrorist problems India was facing in the trouble-torn states of Punjab and Kashmir. It treated international terrorism as the biggest violator of human rights of innocent civilians in India. However, if the US media had given too much importance to this, certainly India’s standing and credibility in the Capitol Hill would have been diminished if not damaged.

Thus, the US administration had taken a different stance contrary to the Congress on the human rights issues. The US administration had fully realised and appreciated India’s stand on this issue except asking India to review some of its policies concerning human rights. It was concerned with the nuclear issue and India’s signing of Nuclear Non-proliferation Treaty (NPT). However, at the same time, the US administration was not allowing India to have a cake walk on this human rights front, with some Congressmen prompted by the State Development were raising the bogey of alleged human rights violations in India at periodic interludes. Though the Bush administration did not intend punishing India on this issue, but nevertheless, it wanted to rap the Indian government on this issue to bring
India closer to the US since the US was interested for a mutual and good relations with India.

The US administration had acquiesced if not agreed that India was a signatory to the International Bill of Human Rights. It believed that "the Indian constitution safeguards that incorporate the essentials of important international instruments relating to human rights."\(^6\)

The American government had appreciated that "India inherited its commitment to human rights from its freedom struggle. These have been enumerated and enshrined in 46 Articles concerning fundamental human and civil rights in the Indian constitution."\(^7\)

However, these developments had taken place at a time when human rights had become a pretext for foreign intervention in the domestic affairs of less powerful nations. During the Cold War, human rights were used to coerce adversaries. But now that Cold War has ended, nations which do not fall in line to submit to the new regional arrangements in the context of what was described as the new world order, had become the targets. It continued to be the stick with which to beat the newly-freed countries because some of these did not want to accept great power countries’ hegemony.

Fortunately, India has a credit worthy record on human rights. This has been universally recognized. But lately, this country too had come under attack and all kinds of international agencies had begun accusing it of violation of human rights in Punjab and Kashmir. But the Bush

\(^{67}\) National Herald (New Delhi), 3 December 1991.
\(^{68}\) The Patriot (New Delhi), 21 February 1992.
administration had refused to these motivated allegations since it had understood the ground realities better than any other human rights organizations.

Hence, against these backdrops, the human rights issue in Indo-US relations should be grasped and examined. The Bush administration had used this issue as one of the slightly "embarrassing tactics", though not "harassing tactics" against India. Through this, it wanted to send the signal to India and expected New Delhi to decipher the right and clearly expressed meaning, that was for intensifying ties with the US. A scholar had rightly summed up this approach, that "the US had a few obsessions, not always easy to appreciate. Non-proliferation was one, human rights was another. It had harassed India for the former and leaned lightly for the latter." This reflected the exact thematic thrust of the Bush administration approach to human rights in the 1990's.

---