CHAPTER 6
ECONOMIC AND SOCIAL ISSUES IN INDO-AMERICAN RELATIONS

In the first decades after independence, India became an international advocate of human rights. Opposing European colonialism and apartheid, and later Israeli actions against Palestinians, it was a leader among non-aligned nations in a quest to end the state-enforced social inequality that had characterized the world order in the preceding centuries. India engaged in assertive diplomacy, criticizing states well beyond the reach of its limited material power. It twice intervened militarily outside its borders, invoking human rights: opposing the government in East Pakistan in 1971 and aligning with the government in Sri Lanka in 1987. Before the end of Cold War, external human rights pressure on India was low, in spite of events that might easily have occasioned such pressure. For example, there were anti-Sikh riots in Delhi after the assassination of Indira Gandhi in 1984, with the clear involvement of politicians in the ruling Congress Party, yet India faced little criticism about this from other states.\(^1\) The period after 1989 witnessed a profound transformation in India’s human rights diplomacy, which switched from an assertive to a defensive mode. The new world order brought in its train an invigorated but highly inconsistent international human rights regime dominated by Western states and by influential NGOs rooted primarily in the West. India entered a severe economic crisis in the early 1990s, which also brought home an awareness of how far India had fallen behind its Asian neighbours in economic development. The

conjunction of international and domestic circumstances led the Indian government to abandon assertive diplomacy of the past. Its human rights diplomacy in the post Cold War period has been primarily defensive. Defensive human rights diplomacy may be the defence of democracy and sovereignty against imperialist or aggressive stratagems disguised as human rights concern.\textsuperscript{2} India’s defensive diplomacy has consisted of rebutting charges against India in international forums, making common cause with some developing countries, using its economic reforms to seek favour with wealthy nations, and to a degree, getting better at fighting insurgencies without killing civilians. Although India’s economic globalization and liberalization were undertaken for mainly economic reasons, the benefits in terms of defensive human rights diplomacy were well recognized.\textsuperscript{3}

Human rights have consistently had a place in U.S. foreign policy since the mid-1970s. Their place, however, has been dependant on competing security, political, economic, or ideological objectives. In case of conflict between human rights and such objectives, human rights have usually lost out. The forces of globalization coinciding with the end of the Cold War engendered a paradigmatic power shift. According to Jessica Mathews, "The end of the Cold War has brought no mere adjustment among states but a novel redistribution of power among states, markets, and civil society."\textsuperscript{4} The Reagan administration explicitly linked human rights to democracy building, in contrast to the Carter administration, which in its human rights policy was unwilling to advocate any particular political theory or system. Democracy building was again adopted by both

\textsuperscript{2} Ibid. pp. 183.
\textsuperscript{3} Ibid.
Bush and Clinton administrations as an explicit component of U.S. human rights policy. But it has been argued that during President Clinton’s tenure economic interests have consistently outweighed all other concerns, including human rights. As Samuel Huntington put it, “In case after case, country after country, the dictates of commercialism have prevailed over other purposes, including human rights, democracy, alliance relationships, maintaining the balance of power, technology export controls, and other strategic and political considerations...” Therefore, India’s policy of economic liberalization was one of reasons that Clinton diluted his criticism of its human rights record in Kashmir.

Although India refrained from human rights criticism of the United States for either international or domestic actions since 1989, in line with its shift to a defensive posture, the U.S. began to criticize Indian counter-insurgency methods in Punjab and Kashmir as well as its record of child labour, dowry murders and other abuses. The U.S. Congress and administration, like some other developed countries, pressed criticism of India for child labour. The U.S. has been especially concerned about child labour in export industries, such as carpets, even though these account for a small fraction of overall child labour in India. The majority of child labour in India is in agriculture. The U.S. and other wealthy nations have taken steps to reduce imports of carpets produced by child bonded labour, without adequate provisions for alternative sustenance for the children. Rescue efforts that neglect to support the children afterwards have frequently failed, with the

---


children returning to bonded labour. India has opposed the inclusion of clauses in the GATT that ban trade in goods produced by child labour on the grounds that these would do little to actually reduce the problem and would harm the exports of developing countries.\(^7\) It has also led to a widespread perception in India that the international institutions, diplomacy, and rhetoric of human rights are biased according to the larger inequalities of power and wealth in the world.\(^8\) There have however been some trends limiting U.S. accusatory diplomacy against India with India’s policies of economic liberalization playing a key role. This chapter would examine the economic policy followed by the Clinton administration with regard to India. It would also explore how the administration has used the emotive issue of child labour to undermine India’s competitive edge in the world market.

**U.S. AND INDIA’S EVOLVING ECONOMIC RELATIONSHIP**

**Pre-Reform Period in India**

After attaining independence in 1947, India opted for a capital-intensive import-substitution strategy of development with the objective of achieving both growth and social justice. While the country did not register impressive achievements on either of these objectives\(^9\), the ideological attachments of India's developmental policy made it possible to argue that means were as important as ends. Hence, a democratic government considered political and civil rights guaranteed for all just as important as the rate of

---

\(^7\) Ibid. pp. 200.

\(^8\) Ibid. pp. 183.

growth that was achieved in the economy. India followed the policy of extensive
government spending on infrastructure, the promotion of government-owned companies,
pervasive regulatory authority over private sector investment, and extensive use of trade
and investment barriers to protect local firms from foreign competition. As a result India
settled for what came to be called the 'Hindu rate of growth', a fairly steady 3.5%.10
Although the numbers were not impressive, the industrial policy did put in place a large
industrial base with domestic production accounting for approximately 95% of the supply
of manufactured goods and almost 100% of consumer goods.11 Unlike Latin America, the
political leadership with its particular ideological outlook was able to bargain
successfully with multinational corporations, keeping their influence on the economy
minimal at least until 1980.12 In contrast with much of East Asia and Latin America,
India as part of the post-colonial world was able to retain a relatively stable and
functioning democracy (except during the Emergency, 1975-1977). The share of the
public sector in gross value added rose from about 10 percent of GDP in 1960-61 to over
26 percent during the 1980s.13 The share of the state in gross capital formation grew from
22.9 percent in 1950-51 to close to 50 percent in the 1980s.14 In addition to owning a
large part of the economy, the state exerted control over the private sector and had limited
foreign trade in a variety of ways. The establishment and expansion of industrial

10 Isher Ahluwalia, Industrial Growth in India: Stagnation since the Mid-Sixties (Delhi: Oxford University
12 Dennis J. Encarnation, Dislodging Multinationals: India's Strategy in Comparative Perspective, (Ithaca:
Cornell University Press, 1989); and Joseph Greico, Between Dependency and Autonomy, (Berkeley:
13 Shalendra D. Sharma, “Democracy, Neoliberalism and Growth with Equity: Lessons from India and
September/October 1997, pp. 37..
enterprises above a certain size until recently required a myriad of clearances under a byzantine industrial licensing apparatus. Many products were under price and distribution controls. Imports and exports were subject to licensing. Limits were placed on the extent of equity ownership of firms by foreign companies, restricting entry to certain sectors and until recently allowing only a minority equity participation of up to 40 percent. But the basic endemic causes of inequality and poverty – grossly inequitable ownership of land and productive resources, entrenched caste hierarchies, and natural resource-intensive industrialism that caused the impoverishment of millions dependant upon on resources for subsistence – were only marginally addressed by the development plans of the early governments. In the end, islands of prosperity were created by the imposition of an economic model that retained its socialist principles without ever seriously challenging the hegemony of pre-existing powerful feudal and capitalist lobbies. 15

Throughout the Cold War, India and the U.S. never had a direct clash of vital interests. But the impact of the global rivalry between Washington and Moscow on the subcontinent forced India and the U.S. to become estranged democracies. The main objective of U.S. policy remained containment of Communism and its economic assistance had some strings attached. Under Eisenhower and Dulles, the U.S. unequivocally used economic assistance to under-developed countries as a way of building military alliances throughout the Third World. Kennedy, however, tried to change the policy by increasing economic assistance without demanding concessions. He was primarily motivated by the desire to see India and other Third World countries achieve economic growth and, in so doing, to secure them from the threat of

Despite this tolerant attitude to India in the executive branch, Kennedy encountered opposition, notably in the Congress. U.S. policymakers were at odds with India’s policy of “mixed economy,” believing that it curtailed, if not eliminated, incentives to private investment. Critics also argued that India was following a policy of non-alignment purely to obtain aid from both blocs. Kennedy hoped to overcome what had previously been a negative image of U.S. aid giving. The Bokaro steel plant project seemed one such way to communicate to India U.S. sincerity in promoting growth without demanding political concessions. However, the Congress, influenced by negative reports by the U.S. Steel Corporation and the Clay Commission report to Congress, defeated the proposition by eliminating Bokaro from the foreign aid appropriations on August 22, 1963. 17

The Johnson administration extended PL 480 aid to serve the larger foreign policy goal of containment. His policy of withholding food aid as a means of punishing India for criticizing the U.S. on Vietnam led to widespread anger in India as well as abroad. During the Nixon period, as India began to lean more towards the Soviet Union, the United States responded by aiding Pakistan. President Carter outlined a foreign policy that was to rest on democratic values, that no longer needed to be guided by an “inordinate fear of communism,” and that recognized “the new global questions of justice, equality and human rights” to have a place alongside “the traditional values of

war and peace." Development assistance was resumed although it never amounted to more than about $103 million during the Carter period. In 1979-80, U.S. equity investments in India amounted to no more than about $350 million, which constituted about 30 percent of foreign investment in the country. Joint-ownership arrangements with Indian firms had a notable set back when IBM and Coca Cola were expelled. The two-way flow of trade amounted to about $2 billion in 1980. The Reagan administration approved a $2.5 billion aid package for Pakistan in an all-out effort to allay its security concerns and use it as a “frontline” state to contain Soviet Union after it invaded Afghanistan in 1979. The second term of Reagan administration saw some improvement in Indo-U.S. relations especially in matters of technology transfer. The Bush administration was impeded by the export review process and Congressional concerns about technological transfers. During this period, certain commercial legislation passed by the U.S. Congress became irritants to U.S.-India relations. The Congress enacted Paragraph 301 of the Omnibus Trade Competitiveness Act of 1988 - also referred to as Super 301. As a result, India was one of the first countries named when the first watch list was released in 1989. Three complaints were lodged against India, requiring the President to take retaliatory action: India was excluding investments from foreign companies by limiting equity participation to a maximum of 40 percent; the nationalization of the insurance industry in India denied access and adequate compensation; and the most contentious issue, India was lax in its protection of

---


273
intellectual property rights, especially patents related to the pharmaceutical industry.\textsuperscript{21}
The Indian government considered Super 301 another form of coercion. The end of Cold War and the dissolution of the Soviet state opened the way for significant changes in Indo-American relations. From 1980 onwards, the Congress Party which formed the government introduced a series of liberalization measures in industrial policy under three prime ministers: Mrs. Gandhi leading the liberalization effort of 1980-1984; Rajiv Gandhi, her son, pushing them during 1985 to 1989; and the Narasimha Rao government during 1991 to 1996.

**Post-Reform Period in India**

Beginning in mid-1991, the Indian government embarked on liberalization and reforms of far-reaching consequences. The apparent reason for the reforms was a severe balance of payments crisis due to exogenous shocks. The first was the second Gulf War between Iraq and the U.S. (August 1990 - March 1991), which led to a short-term increase in the price of oil. The second factor was domestic political instability, with no major party able to win a clear mandate from the electorate. It had an adverse impact on international lender confidence. India's credit rating was downgraded and non-resident Indian capital took flight. Numerous international lenders feared that India would fall into a debt crisis because India's foreign exchange reserve position became precarious. India's shaky financial situation forced it to concede to the dictates of the IMF.\textsuperscript{22} It was at this juncture

\begin{itemize}
\item \textsuperscript{22} There were three major elements of the IMF-dictated conditions India had to follow. First, India had to deregulate and liberalize all markets. Second, there had to be increased competitiveness in all spheres of economic activity. Thirdly, the government would have to learn to live within its means of a strong budget constraint (fiscal austerity).
\end{itemize}
that a new, minority Congress party government initiated the stabilization and structural adjustment programmes. Jeffrey E. Garten posits that the world was astounded when Prime Minister Rao’s government undertook measures that opened India’s economy in the early 1990s. India was prepared to seek a loan from the IMF. In the negotiations between the Indian government and the IMF, a process was thus started which culminated in the most sweeping changes in India’s economic policy since independence.

The IMF, on its part, wanted India to undertake fiscal consolidation by agreeing to a set of terms that would go along with its stabilization and structural adjustment plan, i.e. reduction of fiscal deficits, balancing the budget, cutting subsidies, and increasing food and fertilizer prices. However, matters became a little more complex because India had also applied to the World Bank for a loan, whose conditions included more general economic and trade reforms. The Narasimha Rao government brought out a Statement on Industrial Policy on July 24, 1991, which substantially liberalized the industrial policy regime. The number of industries reserved for the public sector was significantly reduced; limited reforms were introduced to ensure greater autonomy and accountability in public sector enterprises; and shares of public sector enterprises were sold to financial institutions and private individuals. The industrial licensing system was substantially dismantled with the abolition of licensing requirement in all but 18 specified industries. The government removed most quantitative restrictions on imports, relaxed exchange controls on foreign trade, and made significant reductions in the tariff on equipment and industrial imports. The exchange rate was devalued by 20 percent in 1991 and made more

---

flexible; the Rupee was gradually made fully convertible on current account transactions.\(^{25}\)

**Clinton Administration’s Economic Policy toward India**

It was only after India started liberalizing its economy that an enhanced level of economic interaction between India and the U.S. became a distinct possibility. The disintegration of Soviet Union in December 1991 gave an added impetus to the prospect. Even before Bill Clinton entered the Oval Office in January 1993, a report on India and America After the Cold War, co-authored by senior Carnegie Endowment Associates, Selig Harrison and Geoffrey Kemp and signed by 34 members of the study group was released, urging the U.S. government to give increased priority to India as the world’s largest democracy and as "a potential partner" in efforts to resolve global disputes.\(^{26}\) Releasing the report, former US Ambassador to India, Robert Goheen said that U.S. policy makers should approach India with the understanding that it is the strongest military and economic power in South Asia and that its power is likely to grow.\(^{27}\) A study titled “South Asia and the United States After the Cold War” presented by the Asia Society Study Mission, subsequently recommended to the Clinton administration that economic relations should be the focal point of U.S. engagement with South Asia because “...successful economic reform and deregulation in South Asia will offer

\(^{25}\) Ma Ying, “Development of Indo-U.S. Relations in the Era of the Post-Cold War,” A Presentation Collection for Conference on India’s 21\textsuperscript{st} Century: External Relations, June 24-25, 2002, (Shanghai Institute of International Studies), pp. 70.


extensive commercial opportunities for the United States, especially in India."28 Such recommendations, in fact, came in the wake of remarkable transformation in India's economic policies and outlook after Rao (along with Manmohan Singh, as the head the Finance Ministry) embarked on a policy of economic reforms. Indian entry into the international economic playground caught the imagination of the American Commerce, Treasury and Energy Departments, as well as American corporations and business houses. However, neither the Carnegie Report nor the Asia Society report had any positive impact on the State Department officials' thinking, at least during the first year of the Clinton administration. In 1993, issues such as threat to impose sanctions under Super and Special 301 of the U.S. Trade Act29 against India, unpalatable remarks on Kashmir by the administration officials as well as President Clinton himself, and an undue delay in sending an ambassador to New Delhi created bad blood between India and the United States.30

Although the creation of a new South Asian Bureau in the State Department provided an indication that the Clinton administration would give increased attention to South Asia, the priorities set by Clinton's State Department at that time did not appear very encouraging for Indo-US relations. During her confirmation hearing in the Senate Foreign Relations Committee on July 19, 1993, Robin Raphel made a prepared statement

---

29 Section 301 of the U.S. Trade Act, 1974 permits the U.S. to unilaterally treat trade related aspects of Intellectual Property Rights (IPRs) as a part of its trade law. Section 301, through an amendment in 1984, empowered the U.S. President to take action for inadequate protection of IPRs of U.S. citizens in foreign countries. The U.S. may take retaliatory action against the recalcitrant country. Action under Section 301 will include suspension or withdrawal of trade concessions, imposition of trade duties and other restrictions and suspension or withdrawal of benefits under the Generalised System of Preferences (GSP). GSP offers preferential treatment for developing countries.
which did not give much attention to the prospects of improvement in Indo-US economic ties. Raphel, on the other hand, highlighted that "South Asia—home to one-quarter of mankind—faces challenges as ancient as ending poverty, as new as pollution and deforestation, and as tragic as the spread of AIDS and the challenge of terrorism. Moreover, in several places in the region, armed conflict and insurgency continue to take an unacceptable human and economic toll. The proliferation of nuclear weapons and their means of delivery threaten massive destruction in the region." She did mention the existence of opportunities "to foster new partnerships between the United States and the countries of South Asia on issues ranging from controlling the spread of destabilizing weapons to protecting the natural environment to strengthening trade and economic relationships," but there was little in her statement that would have pleased Indian industrial houses, traders or even the Indian Commerce and Finance Ministries. Nonetheless, there was a piecemeal improvement in her subsequent perceptions of India, which was perhaps the result of the Indian economic reforms that had begun to draw attention around the world. One of the important developments that influenced the State Department's perception of an evolving India was the release of a report prepared by the U.S. Commerce Department in 1993 on emerging markets. According to this study, India was called "one of ten major emerging markets" in the world, and fully affirmed India's potential of economic development. As Under Secretary of Commerce for International Trade from 1993 to 1995, Jeffery E. Garten was instrumental in conceiving and implementing the Big Emerging Markets strategy as a lynchpin of American trade policy during the first Clinton administration. Garten suggested that India was one among the


278
ten big emerging markets – the others being Mexico, Brazil, Argentina, China, Indonesia, South Korea, Poland, Turkey and South Africa. India's likely share of the world's GDP would be double in two decades from the current 10 per cent to 20 per cent. Although the United States was already the largest trading and investment partner of India, the scope of Indo-U.S. economic relations remained vast with only 0.6 per cent of the U.S. exports coming to India and less than 0.3 per cent of the U.S. overseas investment concentrated in India. About two months after her confirmation as the Assistant Secretary of State, Raphel stated in her address at the close of the Asia Foundation's two-day Conference on South Asia in Washington that "American commercial presence in the subcontinent is growing rapidly as trade barriers fall. Projected new U.S. investment in India this year is $200 million, one quarter of the total since independence. Half of the new foreign investment approved by the Government of India in the first six months of this year is American."34

**Beginning of a Change**

By early 1994, the State Department was considerably optimistic about prospects for enhanced level of economic interaction between the two countries. In her first appearance at the Senate Foreign Relations Subcommittee on Near Eastern and South Asian Affairs after her confirmation, Robin Raphel stated on February 5, 1994: "The U.S. economic relationship with India expanded rapidly in 1993. There was more investment by American companies in India last year than in all the years since independence. Major U.S. corporations recently launched an India Interest Group. This group includes AT&T,

---


279
Coca Cola, Enron, Ford, General Electric, IBM, International Equity Partners, Morgan Stanley, Raytheon and Unisys. I am certain trade and investment will grow at an increasing pace. This is fueled by continuing Indian economic reforms and increased willingness by U.S. business to pursue commercial opportunities there. Twenty per cent of all Indian exports come to the United States, and the U.S. is the largest source of foreign investment and commercial technology for India. The Commerce Department has designated India as one of the ten big emerging markets in the world-to receive special attention as we formulate our worldwide export strategy.”35 Four days later, while speaking to the Asia Society in Washington, she repeated these remarks and emphasized that the "U.S.-India economic relationship took a spectacular leap last year..."36 Robin Raphel's observations of Indian economic reforms and growing Indo-American trade and investment relations came in the midst of the political row between the two countries which was caused, among other things, by Raphel's own statement on Kashmir issue.

The following month, Robin Raphel and Deputy Secretary of State, Strobe Talbot, visited India on a damage-limitation mission to remove misunderstandings and augment political relations between the two countries to facilitate further trade and investment relations. Raphel asserted in New Delhi that the United States supports "a strong stable prosperous India" and emphasized the growing commercial and business ties and the long-standing agreements on scientific and technological collaboration between the two countries.37 A day before Talbot's visit to India, it was made known that President Clinton had sent to

the Congress his report on narcotics trade which appreciated New Delhi's cooperation in drugs and narcotics control. It appeared as if the Clinton administration's effort to focus on economic ties with India was back on the rail. A little before the Indian Prime Minister's visit to the U.S., the House Foreign Affairs Committee Chairman Lee Hamilton stressed the need for better ties with India in a speech to the Asia Society on April 29, 1994. Hamilton said: ".... For decades South Asia has been a forgotten stepchild of American foreign policy. Yet the U.S. should care about India. Why? First, India is simply too important to ignore. It has the fifth largest economy, the fourth largest army, the largest scientific and technical community, and the second largest number of software professionals....Fortunately, there are forces drawing our two nations together. Foremost are exciting economic developments in India. After four decades of socialism, India began in 1991 a far reaching program of economic reform and deregulation... India's middle class already rivals the total population of the United States, and is growing. The sheer size of this pool of potential customers starved for consumer goods is a powerful magnet for US business.... US business has seized this opportunity... the Commerce Department recently named India one of the world's Big Emerging Markets.... US companies with business interests are also active. They recently formed the India Interest Group, an informal network aimed at improving bilateral commercial ties. Some of America's largest corporations, including Coca Cola, Citibank, AT&T, American Express, IBM, Ford and Xerox, are members." 38 While enumerating the positive developments, Hamilton did not fail to highlight the American concerns. He continued: "Yet the Indian economic revolution needs to be pushed forward. Indian industries find it nearly impossible to fire surplus workers. Privatization has lagged and the state props up

money-losing companies. A maze of regulation stifles initiative. Intellectual property rights are not yet safeguarded. We have serious concerns about Indian companies infringing patents of US firms, especially in the pharmaceutical industry.  

39

*Breaking New Ground*

All these developments laid the groundwork for Prime Minister Rao's visit to Washington D.C. in May 1994. He sought to convey India's desire to enhance Indo-U.S. economic cooperation. On top of his agenda were issues where the two countries had not yet worked that closely, namely trade, investment and transfer of technology. The visit was instrumental in creating a climate conducive to a new post-Cold War partnership with India. This was the first time an Indian Prime Minister made an official visit to America since 1985, and also broke the usual practice of Indian Prime Minister visiting Moscow before going to Washington. Rao visited the U.S. first, which signaled strongly that the Indian government hoped to strengthen its relations with the United States. Rao said that his visit "offered an unprecedented opportunity to free India-U.S. bilateral relations from the distortions induced by the Cold War, to look for areas of converging interest in the changed international situation, and work together for our mutual benefit."  

40 The achievements of the visit were two-fold: one, India reduced political differences with America. Rao discussed issues of bilateral relations and the regional situation with President Clinton. The two leaders declared in a joint statement that the two countries would establish a "new partnership" wherein India increased economic

---

39 Ibid.
relations with the U.S. There were three key elements to the partnership: 1) improving economic and commercial ties; 2) strengthening the security relations and cooperation; and 3) deepening policy dialogue on global as well as numerous regional political issues, including the environment and human rights. In the Joint Press Conference on May 19, 1994, President Clinton declared, "...I told the Prime Minister that we heartily support his ambitious program of economic reform that brings India's economy into the global marketplace. This important reform plan will be the engine of growth in our relationships. Our Commerce Department has identified India as one of the 10 biggest emerging markets around the world. We are pleased at the rapid expansion of trade and investment between our two countries. We are now the largest bilateral trading partner and investor with India.\(^{41}\) We're proud of that, and we want that relationship to grow. We also discussed some of the obstacles to trade. And we pledged that we'd work hard to resolve those. We talked about security issues that affect India in the post-Cold War era. We discussed common.\(^{42}\)

With regard to India’s economic liberalization, Prime Minister Rao, in his statement, said, "...We reviewed the tremendous economic opportunities thrown up by the sweeping economic reforms in India... The U.S. is India's largest trading partner. India is one of the big, emerging economies of the world, offering vast opportunities for trade and investment. Corporate America, too, is attracted by the prospects that have opened up in India. We will continue steadily along this path of economic liberalization. There will be

\(^{41}\) Share of India’s export to the U.S. in 1996-97 was 19.98% and share of imports from the U.S. was 8.98%. (available at http://indiabudget.nic.in/es96-97/TAB69.HTM).

\(^{42}\) Joint Press Conference with President Clinton and Prime Minister Rao, the White House, May 19, 1994.
Mr. Rao stressed the role of the U.S. in the post-cold war era in promoting international peace and cooperation. He declared that Indo-U.S. bilateral relations would be improved through economic ties. He said, "The United States has a crucial position in promoting international cooperation. As the first post-Cold War President of the United States, you, Mr. President, have a special role to play in this regard. I'm happy to note in this context that Indo-U.S. cooperation flourishes in many areas in bilateral and multilateral, ranging from cooperation in U.N. peacekeeping and our joint advocacy of the nuclear test ban treaty to our rapidly expanding economic ties. As the growth and size of the Indian economy expands with the stimulus of international linkages and competition, we expect India to be in a position to make increasingly important contributions to the shaping of the world in both its political and economic dimensions. We look forward to working with the U.S. administration on the many areas in which our interests converge." Prime Minister Rao concluded by emphasizing the two countries' shared belief in democracy and individual liberty. He said, "The United States and India are the world's largest democracies. We share many cherished ideals and values. None are more important than democracy, individual liberty and rule of law. My discussions with President Clinton have strengthened my conviction that our two nations can work together closely for international peace."

Rao's economic diplomacy in Washington brought considerable premium, particularly in attracting U.S. business and bureaucratic attention to the economic opportunities offered by India. In a speech to the World Conference on "The U.S. Relationship with India" on

---

43 Ibid.
44 Ibid.
45 Ibid.
September 8, 1994 Assistant Secretary of State, Robin Raphel said: "The opening up of India's economy has created [yet] another avenue of collaboration between our two countries.... India's growing middle class and dynamic new entrepreneurs are making their mark. They are propelling India into the high-technology, information-based world of the 21st century. Bangalore has become as the "Silicon Valley" of India and India's software exports are growing at a rate of 40-50 per cent a year. Indian business cards increasingly include an Internet address, as entrepreneurs take advantage of the global information superhighway. Both the United States and India intend to be in the forefront of this 21st century world. Our trade and commercial ties will expand even faster in the years ahead. Facilitating the expansion remains a top priority of this Administration." 46 In his speech at the United Nations on September 29, 1994, Secretary of State Warren Christopher said among other things that "India's economic reform plan has cleared the way for unprecedented trade and investment between our two countries, a matter that's certainly been noted by more and more of our business community. Our investment in India has increased more in the last year than in the preceding four decades of Indian independence." 47 President Clinton himself wrote a letter to Prime Minister Rao the same month indicating his desire to work for enhancing Indo-American economic interactions.


285
1995, leading a delegation of Chief Executive Officers of major U.S. corporations. By agreement between then-Commerce Minister Pranab Mukherjee and Secretary Brown, a U.S.-India Commercial Alliance (USICA) was set up in January 1995. Business leaders from the private sectors in both countries were named to the USICA Board and the full board held its first meeting on June 19, 1995, in Santa Clara, California. Commerce Minister P. Chidambaram, who had been re-appointed to the Commerce Ministry in February 1995, participated in the USICA Board meeting.48 The importance of Brown's commercial mission is reflected in the fact that chief executives of 25 big U.S. business houses accompanied him to explore areas of possible cooperation and collaboration and conclude agreements wherever the deals are finalized. Significantly, on the third day of Brown's stay in India, 11 business collaborations were signed. Contracts for business collaboration in the sectors for power, telecommunications and insurance alone equaled $4 billion.49

Annual foreign investment approvals rose from $90 million in 1990 to $4 billion in 1994. More than one-third of these investments were by U.S. companies, including IBM, Motorola, Coca Cola, Pepsico, Morgan Stanley, Merrill Lynch, AT&T, Raytheon, Kellogg, Procter & Gamble, Ford, and Mobil. In the largest foreign investment project approved to date, the Indian government in December 1993 signed an agreement for a liquefied gas-fired power station in Maharashtra state from a U.S. group that includes Enron, General Electric, and Bechtel. In mid-January 1995, the U.S. Commerce Secretary led the largest U.S. trade and investment mission to India to date. Agreements were

initiated on more than $7 billion in power generation, transportation, petrochemicals, financial services, telecommunications, and health care projects. During the February 1995 visit of U.S. Energy Secretary Hazel O'Leary and a delegation of U.S. business leaders, energy agreements worth more than $1.4 billion were signed. The Cabinet-level visits demonstrated Clinton Administration support for the Indian economic reform process, as well as U.S. interests in broadening ties with India. Positive results by 1995 included: raising the GDP growth rate from 1.2% to 5.3%; reducing the fiscal deficit from 8.4% to 6% of GDP; reducing inflation from 16% to 10%; instituting trade and industrial reforms; and privatizing some state-owned industries and requiring others to seek commercial financing in lieu of government subsidies. In these efforts India received the support and prodding of the IMF as well as various aid-donor nations. In June 1995, the India Development Fund (IDF) meeting in Paris pledged assistance of $6.5 billion for 1996. In extending the assistance, however, the IDF urged India to persevere with its reforms, with particular attention to budget deficit reduction, state government involvement in liberalization efforts, and social sector and infrastructure investment.50

**Toward a Steady Economic Relationship**

Although economic relations with India improved in the first term of Clinton presidency, political issues such as Kashmir and nuclear non-proliferation marred the possibility of breaking new grounds in Indo-U.S. relations. However, the regional policy blossomed during the second Clinton administration. In May 1997, the president ordered a

comprehensive policy review of South Asia because he believed the U.S. had neglected the subcontinent. It was decided that the U.S. would take a "multi basket" approach to India that covered not only non-proliferation but also trade, economy, energy, environment, climate change and regional security. Most importantly, it was decided that no issue would be "held hostage to another."\textsuperscript{51} It is hard to pinpoint what triggered this interest in South Asia. Firstly, the nonproliferation debate served to focus much diplomatic attention on the subcontinent. Second, India's democratic credentials indicated a nation that would have an important role in the worldview outlined by the Clinton doctrine. Third, India's economic reforms began to generate impressive levels of growth by the mid-1990s. Though a small fraction of total U.S. trade, economic exchange with India was sufficiently large to result in active business lobbies canvassing on behalf of India on Capitol Hill. Fourth, India's opening up to the world also helped galvanize the latent lobbying power of the Indian-American community in favour of India specific policies. The India Caucus became one of the largest ethnic congressional groupings in the U.S. Congress during the 1990s. One of its immediate impacts was to end the annual resolutions in the U.S. Congress over Kashmir and human rights that caused so much bad blood between India and the U.S.\textsuperscript{52}

However, the positive outlook of the South Asia policy review threatened to be extinguished with Pokhran II, when India tested nuclear devices in May 1998. The Clinton administration slapped heavy sanctions on India. The several rounds of talk


between Strobe Talbott and Jaswant Singh, the minister for external affairs, did serve to clarify the non-proliferation divide between the two countries. The U.S. came to accept that India’s nuclear deterrent was a necessary security guarantee against China. Having already diluted its arms control goal in the sub-continent from rollback to capping, the U.S. now concentrated on persuading India to recognize its responsibilities as a nuclear power when it came to non-proliferation. In September 1998, Vajpayee made a speech at the U.N. announcing a moratorium on further nuclear tests. The Kargil conflict also resulted in a “qualitative shift” in U.S. attitudes regarding New Delhi. India was seen as “stabilizing force” in Asia. Clinton’s engagement policy and its argument that India and Pakistan needed to be treated differently found wider acceptance. His March 2000 visit to South Asia seemed a major U.S. initiative to improve cooperation with India in the areas of economic ties, regional stability, nuclear proliferation concerns, security and counterterrorism, environmental protection, clean energy production, and disease control. President Clinton and Indian PM Vajpayee agreed to institutionalize dialogue between the two countries through a range of high-level exchanges, and the two countries established working groups and agreements on numerous issues of mutual concern, from increasing bilateral trade to combating global warming. President Clinton also lifted sanctions on some small U.S. assistance programmes. Clinton addressed the Joint Session of Indian Parliament where he complemented India on its democratic ethos in spite of its diversity. In his speech, he eulogized globalization as a concept denying that it led to widening gap between the rich and poor. He said, “A third lesson India teaches is

53 Ibid. pp. 131.
about globalization and what may be the central debate of our time. Many people believe the forces of globalization are inherently divisive; that they can only widen the gap between rich and poor. That is a valid fear, but I believe wrong. As the distance between producers large and small, and customers near and far becomes less relevant, developing countries will have opportunities not only to succeed, but to lead in lifting more people out of poverty more quickly than at any time in human history. In the old economy, location was everything. In the new economy, information, education and motivation are everything -- and India is proving it.56 He added, “You liberated your markets and now you have one of the 10 fastest growing economies in the world. At the rate of growth within your grasp, India's standard of living could rise by 500 percent in just 20 years. You embraced information technology and now, when Americans and other big software companies call for consumer and customer support, they're just as likely to find themselves talking to an expert in Bangalore as one in Seattle.”57 Clinton also praised India on various other social and political aspects. He commented, “You decentralized authority, giving more individuals and communities the freedom to succeed. In that way, you affirmed what every successful country is finding in its own way: globalization does not favor nations with a licensing raj, it does favor nations with a panchayat raj. And the world has been beating a path to your door. In the new millennium, every great country must answer one overarching question: how shall we define our greatness? Every country -- America included -- is tempted to cling to yesterday's definition of economic and military might. But true leadership for the United States and India derives more from the power of our example and the potential of our people. I believe that the greatest of India's

56 Remarks by U.S. President Clinton to the Joint Session of Indian Parliament, March 22, 2000.
57 Ibid.
many gifts to the world is the example its people have set from Midnight to Millennium." The Vision Statement also outlined architecture of several high level consultations which would institutionalize this dialogue in a separate document: Agreed Principles: Institutional dialogue between the United States and India. This architecture laid out the following framework for the bilateral economic dialogue.59

Vajpayee reciprocated by making an official visit to the U.S. from September 13-17, 2000. During the visit, Prime Minister Vajpayee addressed the joint session of the U.S. Congress and held bilateral talks with President Clinton. They reaffirmed the vision they outlined in March in New Delhi of a closer and qualitatively new relationship between India and the United States in the 21st century. Vajpayee also visited the U.S. in November 2001 at the invitation of the new U.S. President, George W. Bush. In September 2000, President Clinton and Vajpayee signed a joint statement agreeing to cooperate on arms control, terrorism, and AIDS. The "Vision Statement" signed by the Prime Minister of India Atal Bihari Vajpayee and the former U.S. President, Bill Clinton in March 2000, envisioned a broader dialogue between the two countries on economic policy issues. Pursuant to this Yashwant Sinha, Finance Minister of India and Hon. Lawrence Summers, the former U.S. Treasury Secretary, signed an agreement in April 2000 setting up the India-United States Financial and Economic Forum. The objective of the Forum is to strengthen the financial and economic relationship between the two countries through regular government-to-government meetings of economic policy makers. The Forum envisages Cabinet level meetings between the Indian Finance minister and the U.S. Treasury Secretary, who are expected to meet on an annual basis.

58 Ibid.
59 Ibid.
These meetings are to be supplemented by sub-Cabinet level meetings of the officials of the two governments with participation of associated agencies like the Securities and Exchange Commission, Federal Reserve Board, office of the Comptroller of Currency on the U.S. side and the Reserve Bank of India and the Securities and Exchange Board of India on the Indian side. The first sub cabinet level meeting of the forum was held in June and the second Cabinet level meeting was held in Washington D.C. in September 2000. The next sub-cabinet level meeting of the Forum is also expected to be held this year.60

The economic and trade exchanges between India and the U.S. have been developing greatly by the promotion of the two countries' governments. The U.S. was India's largest trade partner, and the volume of two-way trade was beyond $12 billion in 1999, which was more than double comparing with $5.6 billion in 1992. Moreover, America was the largest foreign direct investor in India; just in the first year President Clinton was in power, its investment in India already surpassed its accumulative one between 1947 and the middle of 1991. The total of foreign investment India approved was $60.3 billion between 1991 and May 2000, among which American capital accounted for $13.4 billion. To further strengthen economic relations with India, some influential companies of the U.S. set up an India Interest Group, which was a non-official web, and its members included the well-known transnational corporations, such as AT&T, Coco Cola, Ford, GE, IBM, and Morgan Stanley etc.61

A major U.S. concern with regard to India was the scope and pace of reforms in what has been that country's quasi-socialist economy. Economic reforms that began in 1991

---

60 Ibid.
61 India-U.S. Trade Relations, Embassy of India (available at http://www.indianembassy.org/indusrel/trade.htm).
boosted economic growth and led to a huge foreign investment in India during the mid-1990s. Annual foreign direct investment rose from about $100 million in 1990 to $2.1 billion by 1995-96. A major share of such direct investment flowed into the engineering sector, electrical and electronic equipments (including computers), manufacturing and finance companies. Net FDI in 2002 was nearly $3.5 billion, with projections for 2003 at $6.5 billion. More than one-third of these investments were made by U.S. companies. Germany, Singapore, Hong Kong and France are becoming increasingly important as sources of FDI flows into India. Reform efforts stagnated, however, under the weak coalition governments of the mid-1990s. The Asian financial crisis and sanctions on India further dampened the economic outlook.

The Vajpayee government launched second-generation economic reforms, including major deregulation, privatization, and tariff-reducing measures. Once seen as favoring domestic business and diffident about foreign involvement, the government appeared to be gradually embracing globalization and sought to reassure foreign investors with promises of transparent and nondiscriminatory policies. As India's largest trading and investment partner, U.S. supported New Delhi's continuing economic reform policies. Despite significant tariff reductions and other measures taken by India to improve market access, according to the report of the United States Trade Representative (USTR) for 2002, a number of foreign trade barriers remained and, in November 2002, then-U.S. Treasury Secretary O'Neill noted that India's average tariff rates were among the highest

---

62 During April-December 1996, FDI flows were $1.7 billion compared with US$1.5 billion in the corresponding period of 1995. USA is the largest source of FDI inflows into India. Cited in Government of India (1997), Economic Survey 1996-1997, Ministry of Finance, New Delhi.
in Asia. U.S. exports that reportedly would benefit from lower Indian tariffs include fertilizers, wood products, computers, medical equipment, scrap metals, and agricultural products. Inadequate intellectual property rights protection, by means of patents, trademarks and copyrights, has been a long-standing issue between the United States and India. In a November 2002 speech in Mumbai, U.S. Under Secretary of State Larson made an explicit link between the improvement of India’s intellectual property rights protections and India’s further economic growth. Major areas of irritation have included pirating of U.S. pharmaceuticals, books, tapes, and videos. The International Intellectual Property Alliance estimates U.S. losses of more than $468 million due to trade piracy in 2002. U.S. motion picture industry representatives estimated their annual losses due to audiovisual piracy at $66 million. In May 2003, the USTR again named India to the Special 301 Priority Watch List for its “weak” protection and enforcement of intellectual property rights.64

President Bush and his senior aides have transformed the bilateral relationship to treat India as a rising great power and a strategic collaborator of the United States. This has included encouraging India to play a greater role in regional and global military, political, and economic institutions. In the past two years or so, the Administration has also tried to foster highly positive relations between India and Pakistan — and has refused to allow the two to play off of each other in their relations with the United States. There are several areas where economic cooperation between India and the U.S. could progress further: infrastructure, IT, Telecom sector, energy and other knowledge industries such as pharmaceuticals and biotechnology. While trade between India and the United States is

64 Ibid.
increasing, several issues remain in dispute. These include the American practice of linking human rights issues with economic policies, the question of child labour, the disappearance of Indian brands, and the danger of a political backlash from uneven economic growth within India. While this relationship will require nurturing, powerful economic forces on both sides are now interested in maintaining it.65

**Linking Trade and Labour Standards: Genesis of "Social Clause"**

Differences over issues such as inclusion of "social clause", labour laws, quality control, visible and invisible import restrictions have created bilateral tensions between the two countries. Linking trade concessions to compliance with internationally recognized labour standards is referred to as a 'social clause'. The labour standards at issue in the discussions on whether they should be made compulsory comprise the seven International Labour Organization (ILO) core conventions, often grouped in four categories (referred to as basic principles by the ILO), namely freedom of association and collective bargaining (Nos. 87 and 98); freedom from forced labour (Nos. 29 and 105), elimination of discrimination (Nos. 100 and 111) and the abolition of child labour (No. 138). An eighth convention was added to the aforementioned seven regarded as core labour standards, namely the Convention to Eliminate the Worst Forms of Child Labour, which came into force in November 2000.66 The concept of a social clause has its roots in the post-World War I founding of ILO, which was envisaged to counter the ideological attraction of the Russian Revolution to the working classes of Europe and America. At the time of the founding of the ILO, the United Kingdom, which by then had lost its

---

position as the dominant Centre and was worried about the low-wage competition from the U.S. and some continental countries, unsuccessfully tried to put a social clause/trade link into the ILO framework. In the 1960s, the concept of "low-wage" exports of textiles and clothing products from developing countries and their "unfair competition" with the industry in the North was used to force the "short-term cotton textiles agreement," aimed at hitting exports mainly from India, Pakistan, Egypt and Turkey who were all producers of raw cotton. With their raw material, and abundance of cheap labour, they were able to offset the North's technological and productivity advantages. That short-term agreement then became the long-term agreement on cotton textiles and clothing and was replaced in 1973 by the MultiFibre Agreement (MFA)\textsuperscript{67} - with its theory of "market disruption" because of "low-cost" imports. The MFA was repeatedly extended, with each extension bringing in more restrictions and embracing more and more fibres.\textsuperscript{68} These arrangements were unfair to the developing countries which were trying to catch up with their missed opportunities of the 19th century industrial revolution and perhaps reflected the relative economic power equations. But gradually, the protectionist forces against rising competition began gathering strength, and the issue of "fair trade" and "labour standards" began to be invoked.\textsuperscript{69} The Havana Charter also had an article which dealt with the issue of labour rights.\textsuperscript{70} However, there was no provision in the ITO Charter to develop some

\textsuperscript{67} The MFA sets the rules for international trade in textiles and garments made from cotton, wool and synthetic fibre. It sets quotas limiting the amount of imports of textiles and clothing from "developing" to "developed" countries, essentially safeguarding industries in the industrialized countries, controlling the level of market access for developing country imports.


\textsuperscript{70} The Havana Charter was the charter for the International Trade Organization, which never came to be because it was not approved by the U.S. Congress. The draft was completed at a conference in Havana, Cuba, in 1948.
sort of an international regime on labour standards. Muchkund Dubey for instance argues that the Charter only “calls upon each member of the ITO to take whatever action may be appropriate and feasible to eliminate unfair labour conditions within its territory.”71 When the General Agreement on Trade and Tariff (GATT) was signed by Contracting Parties in 1947, only the references to convict or prison labour was brought in under Article XX which covered General Exceptions.

The social clause issue was raised again in 1978-79, just before the conclusion of the Tokyo Round of the GATT Multilateral Trade Negotiations. The issue was also raised by organized labour at the ILO's Textiles and Clothing Committee as well as at UNCTAD-V in Manila. But the issue was dropped when it became clear that it was unlikely to advance the cause of workers and could become a protectionist tool. In any case, as a part of the market concessions of the Tokyo Round, the developing countries had to agree to further extensions of the six-year old MFA regime. The U.S. again brought the issue up in Punta del Este when the Uruguay Round was launched, but since the Uruguay Round had so many “new” issues to deal with, the issue on labour standards did not attract much attention or support. It was only after the Uruguay Round had been completed, that the issue resurfaced again when the then ILO Director-General Michael Hansenne broached it, by calling for the need for a social clause in trade negotiations. Labour was definitely an issue brought up by several ministers during the Marrakesh meeting in 1994 when the Uruguay Round agreements were concluded and a decision was made to create the World Trade Organization (WTO). There was no decision taken though, during the Marrakesh

meeting on labour standards and it was decided that the issue should be dealt with by a Preparatory Committee within the WTO. India and other developing countries had taken the position that labour standards at the international levels can be appropriately addressed only in the ILO, not in the WTO. The social clause is not within the mandate of the WTO. India had countered that the relationship between trade and immigration policies may also be examined in the WTO. The issue was not pursued seriously by the U.S. for sometime thereafter. The Preparatory Committee of the WTO forwarded all the new issues to the WTO General Council. These new issues which included labour rights have not been seriously or formally discussed within the WTO.\(^2\)

**Unilateral Measures to Link Trade and Labour Standards**

Since 1890, the U.S. has passed laws to curb labour exploitation. Some of these laws are: Mckinley Act (1890) which prohibited imports made by convict labour, Trade Act (1974) which directed the President to seek adoption of fair labour standards in the Tokyo round of GATT negotiations, Generalized System of Preferences Renewal Act (1984) whose criteria for eligibility as a beneficiary country extended to include whether or not the country has taken, or is taking, steps to afford its workers internationally recognized worker rights defined as including freedom of association, the right to organize and bargain collectively, freedom from forced labor, minimum age for the employment of children, and acceptable conditions of work with respect to wages, hours of work and occupational safety and health. Preferential access can be denied “if such country has not taken or is not taking steps to afford internationally recognized worker rights to workers

in the country (including any designated zone in that country).” Benefits can be withdrawn in part or in full. The provision can be waived by the president, however, for reasons of national economic interest. Since 1996, benefits have only been suspended for Belarus in 2000, clearly following foreign policy considerations. An analysis of the enforcement of labour rights provisions in U.S. trade law, specifically in the Generalized System of Preferences, in fact confirms the often-stated criticism that labour rights provisions can be employed in a discriminatory fashion. The U.S. government has enforced the unilateral labour rights provisions less on the basis of a fair and consistent assessment of labour rights violations than with a view to U.S. foreign policy interests and domestic politics. The U.S. also passed the Trade Act (Omnibus Trade and Competitiveness Act) in 1988, which made the systematic denial of internationally recognized worker rights by foreign governments an unfair trade practice and liable for U.S. countermeasures where such denials cause a burden or restriction on U.S. commerce. There are a number of other labour rights provisions in U.S. laws, which have not been as consequential. The Bonded Child Labor Elimination Act of 1997 (Sanders Amendment to 1930 Tariff Act, Section 1307) prohibits imports of goods made by indentured child labourers, but it is unclear even to its legislative sponsors how it is actually to be enforced by U.S. Customs. As part of the fight against child labour, President Clinton ordered the government in 1999 not to procure goods made with the worst forms of child labor. He had to exclude Mexico and Canada from this executive

order, which binds only the federal government, because NAFTA rules do not allow such protections. However, the U.S. is party to very few of the ILO conventions, and the core conventions are not among those to which the U.S. is a party. Among the “core labour standards” linked to the discussion on social clause, the issue of child labour exploitation has evoked considerable discussion and controversy in the United States and elsewhere as labour unions and human rights and other public interest groups have advocated the pursuit of improved labour standards and conditions of work in developing countries. Exploitation, understood as inhumane working conditions, is something to be avoided per se, regardless of the age of the worker. However, even after eliminating exploitative working conditions for children, child labour still has an effect on a child’s lifetime welfare. Both the normative and pragmatic reasons for elimination of child labour have been debated for a long time.

The plight of child workers and the complicity of international businesses in their exploitation aroused world attention in 1995 when it was revealed that Wal-Mart’s line of clothing bearing the name of television celebrity Kathie Lee Gifford was made in Honduran factories that employed girls aged 13-15 who worked up to 75 (UNITE 2003). In the same year, Nike was accused of exploiting child labor in Cambodia in the manufacture of its shoes, apparel, and soccer balls. Althad contracted with what it thought were responsible manufacturers who would adhere to the company’s age standards for labor (18 for shoes; 16 for apparel and equipment), those manufacturers had subcontracted to villagers who violated those standards. As a result, Oxfam International

formed its project NikeWatch (Oxfam Community Aid Abroad 2003). Today, the internet is littered with websites documenting the conditions of child workers and advocating for the abolition of child labour. The 1989 United Nations Convention on the Rights of the Child not only brought children’s rights to the forefront of international attention, it generated more international consensus than any other human rights documents. The document enshrines as interdependent and indivisible the full range of the civil, political, economic, social and cultural rights of all children that are vital to their survival, development, protection and participation in the lives of their societies. Because of this connection between children’s rights and their survival and development, virtually all the Convention’s articles address issues — such as education, health, nutrition, rest and relaxation, social security, the responsibilities of parents — that are related to child labour and its effects on children. One of the tenets of the Convention is that in all actions concerning children, their best interests should be taken fully into account. Article 32 recognizes children’s right to be protected from work that threatens their health, education or development and enjoins States parties to set minimum ages for employment and to regulate working conditions. The convention has been ratified by 191 States as of 2002. However, the United States and Somalia are the two notable exceptions. It is generally accepted that Somalia has not been able to adhere to the Convention because of the parlous state of its governmental infrastructure. The United States, however, has withheld ratification for a multitude of quite different reasons. President Clinton signed

---

78 Ibid.
79 Philip Alston, “The Best Interest Principle: Towards a Reconciliation of Culture and Human Rights,” in Philip Alston (ed), The Best Interests of the Child: Reconciling Culture and Human Rights, (Oxford: Clarendon Press, 1994). Alston explained that the convention was caught in Cold War politics. The original draft was submitted by Poland. Thus it emphasizes the economic, social, and cultural rights of children instead of the political and civic rights that the U.S. favors.
the Convention on February 16, 1995, but baulked at submitting the document to the Senate in the face of an extraordinarily strident Senate Resolution penned by Senator Jesse Helms who, as Chairman of the Senate Foreign Relations Committee, was uniquely placed to block passage of the Convention.  

Clinton Attempts to link Trade with Child Labour; India Objects

The major post cold war constant in U.S. government policy with respect to global trade is strong support for regional and global trade agreements that promote "free trade." Some Indian political analysts have criticized the Clinton administration for following a "two-track policy." On the one hand, Washington has supported New Delhi's economic reform and has facilitated international loans to India, but, on the other, it has relentlessly pursued an agenda to force India's accession to U.S. non-proliferation goals and has used human rights issues to try to force India to meet Washington's political objectives. The issue of child labour was raised from time to time during the Clinton administration culminating in the showdown at the Seattle WTO conference. In 1992, Sen. Tom Harkin (D-Iowa) proposed the Child Labor Deterrence Act, which called for a ban on all imports where the production process involved any kind of work by children. Although similar legislation was supported by President Clinton and other members of the U.S. Congress, Harkin's links to organized labour raised suspicions that the Senator was more interested in protecting American jobs, particularly in textiles, than he was in child rights. Opponents argued that such a ban was a form of hidden protectionism against

“social dumping.”83 Subsequently, in April 1997, the Bill was changed wherein it took action against child labour “under circumstances tantamount to involuntary servitude” or “under exposure to toxic substances or working conditions otherwise posing serious health hazards.” The bill was later passed in the form of an Amendment to the 1997 Treasury spending bill, but the agent of enforcement—the U.S. Customs Service—was ill-equipped to carry out its mandate; additional funds for the service, while promised, were slow in coming. The ultimate effect of the bill was minimal.84 At Senator Harkin's urging, President Clinton issued an Executive Order in 1998 banning the U.S. Government from using items made by forced and indentured labour. It also required the government to make a list of all items made with forced and indentured labour. The media in the U.S. also highlighted the use of child labour in the apparel industry, forcing President Clinton to organize an “apparel industry partnership” in 1997, in which companies such as Nike, Reebok and Liz Clairborne agreed not to employ children younger than 14 anywhere in the world.85 However, while asking the Congress to renew his “fast-track” authority to negotiate trade agreements without legislative interference, Clinton and some senators also pushed to make sure sanctions and bans were in place for countries that exported products made by children. Senators such as Tom Harkin and Chris Smith (R-New Jersey) sponsored bills that would levy trade sanctions against countries found to exploit child labour as well as cutting off foreign aid.86 In his January 1998 State of the Union Address, Clinton however did not support cutting off trade with

83 Social Dumping: The idea that social conditions in poorer countries and the use of child labour creates an unfair competitive advantage by lowering production costs.
86 Ibid.
countries not adhering to “core standard.” He said, “I think we should seek to advance worker and environmental standards around the world. It should – I have made it abundantly clear that it should be a part of our trade agenda, but we cannot influence other countries’ decisions if we send them a message that we're backing away from trade with them.” He added, “This year I will send legislation to Congress, and ask other nations to join us, to fight the most intolerable labor practice of all-abusive child labor.”

He pledged his support for banning abusive child labour in his subsequent State of the Union Addresses in 1999 and 2000, while reiterating that open markets and rule based trade were the best way to ensure better living standards. In his words, “…Now, those of us who believe passionately in the power of open trade, we have to ensure that it lifts both our living standards and our values, never tolerating abusive child labor or a race to the bottom in the environment and worker protection. But others must recognize that open markets and rule-based trade are the best engines we know of for raising living standards, reducing global poverty and environmental destruction, and assuring the free flow of ideas.”

However, there is some scepticism about the intention of the U.S. on the issue of child labour. Though the United States has made much of the possibility of using trade sanctions to prohibit goods produced by children, it appears to be the case that few child workers can be found in the export sectors. According to the Bureau of International Labor Affairs, “Only a very small percentage of all child workers, probably less than five percent, are employed in export industries in manufacturing and mining. And they are not

---

commonly found in large enterprises; but rather in small and medium-sized firms and in neighborhood and home settings. Those export industries which most commonly employ children include garments, carpets, shoes, small-scale mining, gem-polishing, food-processing, leather tanning, and furniture. In some cases, government policies to promote exports of low-skilled, labor intensive products, such as garments and carpets, may have resulted in an increase in the demand and use of child labor. Rather, as noted in the Bureau of International Labor Affairs, "children are usually found in family-based agriculture, in services such as domestic servants, restaurants, and street vending, prostitution, and in small-scale manufacturing such as carpets, garments, and furniture. Due to the informal nature of the type of work usually undertaken by children, their work is not always regulated by national law."

Certain scholars and economist such as Jagdish Bhagwati, T.N. Srinivasan and Walter Williams have expressed their misgivings about linking trade with child labour and have argued that a social clause in the WTO is not the right response to child labour and other problems of labour standards. Instead, Bhagwati argues for "methods of suasion" and for ILO to be the main international agency to strive towards better standards. A classic example of U.S. protectionist agenda is the case of India’s carpet industry. India, which used to be a small exporter of carpets, became a big player in the 1990s. In 1996, the United States, which does not make any hand-knotted carpets, imported $316 million worth of this product. The five biggest sellers were India (45 percent), China (25 percent), Pakistan (16 percent), Turkey (6.5 percent), and Nepal (2.9 percent). The U.S. based Human Rights Watch estimated

90 Ibid.
that 10 to 20 percent of child labourers in the Indian hand-knotted carpet industry were bonded workers. Generally, these children were trafficked from Bihar or Nepal.92 The U.S. tried to use various methods to restrict import of carpets from India such as the Child Labor Deterrence Act, 1993.93 In its original version, the Bill proposed to ban all imports where the production process involved any kind of work by children.

India has been on the forefront of the struggle to oppose "social clause" in relation to international trade. On January 1, 1995, India entered into the world trading system by acceding to the newly formed WTO. Although the international trade union, ICFTU was keen on including workers' rights clause in the WTO, the Indian trade union leaders Sanjeev Reddy of the Indian National Trade Union Congress (INTUC) and Umraol Purohit of the Hind Mazdoor Sabha (HMS) along with the Indian government and employers were opposed to the issue of social clause.94 The somewhat unusual tripartite unity between the government, employers, and unions was officially forged at the Indian government's meeting of the tripartite Standing Labor Committee in September 1994. The government had also established, in August 1994, the Commission on Labour Standards and International Trade chaired by Dr. Subramaniam Swamy. In January 1996, the Commission finally issued a report that called upon the Indian government to adopt a more moderate position on the social clause, seek international funds to abolish child labour, and forge international consensus on the matter. However, the government never

93 President Clinton's State of the Union Speech 1998.
released the controversial report.\textsuperscript{95} However, it was not only unions, government, and employers that were opposed to the workers' rights clause. Other influential segments of civil society, including the media and nongovernmental organizations (NGOs), also took strong positions against it. The Indian government also organized opposition to a workers' rights clause among developing nations in order to defeat it in the WTO. The Fifth Conference of Labor Ministers of Non-Aligned and Other Developing Countries took place in January 1995 in Delhi and provided India with an opportunity to take a leadership role on the issue. The conference issued a statement known as the “Delhi Declaration,” which proclaimed the conference’s unanimous opposition to a social clause, notably describing the clause as coercive and economically harmful to the workers it would purport to benefit. The statement stated, “We are deeply concerned about the serious post-Marrakech efforts at seeking to establish linkage between international trade and the enforcement of labor standards through the imposition of the social clause. [Instead], [a]ction at the national level should be pursued by each country as considered appropriate to its own socio-economic conditions without any form of coercion such as that which the application of the social clause may impose. Such coercion...also will negate the benefit which the liberalization of trade is intended to bring about, thus aggravating further at least in the developing countries the existing problems of unemployment and distress.”\textsuperscript{96}

\textsuperscript{96} See Fifth Conference of Labour Ministers of Non-aligned and other developing countries draft Delhi Declaration, art. 5.1-2, reprinted in Center for Education and Communication, Social Clause in Multilateral Trade Agreements 161 (1995).
At the November 1995 G-15 summit in Buenos Aires, Prime Minister Narasimha Rao strongly urged other developing countries to stand united in opposing a social clause. Instead of a social clause, he argued, they should encourage development assistance from the industrialized countries. India brought this momentum to the WTO’s 1996 Ministerial Conference in Singapore, where some developed countries, notably the United States and France, pushed for linking trade and labour standards. While the Clinton administration, ably backed by the European Union team, were able to persuade countries dependent on labour-intensive industries to open up their markets for Western goods and services in exchange for greater access to Western markets for their textiles, clothing, and steel at the Singapore meeting, they were not successful in their attempt to link trade with labour rights. In a much discussed compromise move, the contracting parties issued a final declaration supporting international core labor standards, while insisting that the standards stay out of the domain of the WTO and instead remain in the jurisdiction of the ILO. As reported in The Financial Times, “…hardest to resolve was the issue of labour standards, where the U.S. threatened to veto the entire declaration if no mention was made. Ministers eventually agreed to uphold internationally recognized core labor standards….But trade sanctions to enforce them were rejected and there is no provision to follow-up such work in the WTO, which is asked simply to maintain its (minimal) collaboration with the International Labour Organization.” India, Pakistan, and Sri Lanka opposed the statement, but were forced in the end to concede, once other countries such as Malaysia accepted it as a compromise position. The next WTO Ministerial

---

Conference, in Geneva, was less contentious, as labour rights were not prominently on the agenda. The Clinton administration made an effort in the fall of 1997 to induce Republicans to approve fast-track negotiating authority by downplaying its support for including labour standards in future trade agreements. However, organized labour, environmental interest groups, and labor and human rights public interest groups mounted an intensive campaign to oppose fast track unless the legislation included protection of labour rights and the environment. When it became clear in mid-November 1997 that there were insufficient Democratic votes to obtain fast-track approval in the House of Representatives, the legislation was withdrawn. Fast-track legislation was re-introduced in the fall of 1998 and again failed to pass. The link between trade and labor standards thus remained a highly visible and controversial issue of public discourse on future trade legislation. In June of 1999, President Clinton became the first U.S. President to travel to Geneva to address the ILO Conference. He urged members to adopt Convention 182 and pledged to seek its ratification. On December 2, 1999, with bipartisan support from the Senate, President Clinton signed ILO Convention Number 182 - "the Convention Concerning the Prohibition and Immediate Action for Elimination of the Worst Forms of Child Labor". In signing Convention 182, President Clinton noted that tens of millions of children "are still forced to work in conditions that shock the conscience and haunt the soul. If we want to slam the door shut on abusive child labor," he stated, "we must open the door wide to education and opportunity."

---

The Battle in Seattle

It was the 1999 Seattle Ministerial -- known as the “Battle in Seattle” due to the extensive, and occasionally militant, protests by a diverse range of anti-WTO protestors - - that was to become infamous and that marked a turning point in the social clause debate. One of the Clinton administration’s priorities at the 1999 WTO Ministerial meeting in Seattle was to establish a working group on core labour standards and trade within the WTO.102 What particularly irked the developing countries was an apparently off-the-cuff remark in which President Clinton told the press that he would support the use of trade sanctions if a country violated core human rights.103 In an interview with a local newspaper Clinton said he “favoured sanctions against nations that violated international labour standards and America should not buy goods from countries that do not follow labour standards.”104 This statement galvanized the developing countries' rebellion. India vehemently opposed any effort to create any link between the WTO and labour issues and accordingly opposed the working group proposal. The cabinet minister, Murasoli Maran, who was India’s chief representative at the talks, described Mr. Clinton's statements as having electrified envoys from developing countries, made the danger to their economic interests clear, and unified them in opposition to any linkage of trade and labour standards. "Sir, finally the last straw was cast by President Clinton himself," Mr. Maran declared. "It made all the developing countries and least-developing countries to

harden their position. It created such a furor that they all felt the danger ahead. In the eyes of India, Egypt and other third world nations, Mr. Clinton's call to link trade accords to labor standards for workers around the world was protectionism in the guise of idealism, motivated by his desire to woo labor union support for the presidential campaign of his vice president, Al Gore. "The Western world, the industrialized world, wants to take away our comparative advantage," Mr. Maran said. "It is a pernicious way of robbing our comparative advantage. The developing countries consider it as a maneuver by wealthy nations to force our wages up, to undermine our competitiveness. This is the secret." Opposition to the inclusion of labour standards in trade deals was not limited to government officials. In India, even labour unions that regularly battle employers for higher wages and improved benefits opposed using trade negotiations as leverage for a better deal. The developing countries won vigorous backing from a group of African, Latin American and Asian academics, led by the Columbia University economist Jagdish Bhagwati. They, as well as a variety of labour and non-governmental leaders, signed a statement against including labour and environmental issues in trade deals. Their contention was that the labour issues in particular are selectively used against developing countries for the economic gain of the richer nations. For example, President Clinton had cited child labour, a problem of developing countries like India, but had made no mention of lax enforcement of laws to protect workers in garment sweatshops or migrant farm workers in the United States. Since the Seattle talks collapsed on Dec. 3, President Clinton said that India and Pakistan, another outspoken opponent of linking

106 Ibid.
107 Ibid.
trade and labour standards, had misunderstood his remarks. The president said he had not meant to suggest that the United States would cut off American markets to India and Pakistan if they did not raise wages to American levels.\textsuperscript{108} Despite India’s objections to the working group or any other mechanism to discuss labour rights in the WTO, the WTO posted on its website that the contracting parties nevertheless decided to establish a “working group on labor” chaired by Costa Rican Vice Minister Anabel Gonzalez.\textsuperscript{109} The Indian delegation was reportedly furious at this development. The delegation still participated in the December 3, 1999 meeting of the working group, but when asked if a proposal on labour standards would be acceptable if all other Indian demands were met on other issues, Minister of Commerce Murasoli Maran conveyed the vehemence of India’s opposition to linkage when he stated, “No, I cannot drink a drop of poison.”\textsuperscript{110} Later, Mike Moore, the WTO Director General, claimed that the nomenclature “working group” was inaccurate, and that in fact the group was really just a “sub-group” of the working group that was working on the issues raised at the Singapore Ministerial session. Indian officials were not convinced, however, and were quoted as saying that Moore’s clarification was just an “afterthought.”\textsuperscript{111} Indeed, no working group on labour currently exists in the WTO. The failure to make any headway in Seattle on trade and labour standards linkage marked both a severe blow to social clause advocates and, perhaps, a stinging defeat. The developing countries managed to successfully prevent the creation of any mechanism within the WTO to discuss labour issues. That accomplishment, combined with the election of conservative U.S. administration in 2001 (George W. Bush

\textsuperscript{108} Ibid.
ascended the Oval Office) that was hostile to linkage, quelled any momentum to include a workers’ rights clause in the WTO. As a result, the social clause debate largely died down in India after Seattle. The WTO Doha Ministerial Conference, in November 2001, notably did not include the social clause issue on the agenda, and the Doha Declaration only reiterated the 1996 Singapore statement, reaffirming that the contracting parties would work with the ILO on the social dimensions of globalization.\textsuperscript{112} Effectively, the campaign for a workers’ rights clause was dead.

Since this failure in Seattle, the U.S. has increasingly negotiated labour rights provisions into bilateral trade agreements with its trading partners. Congress incorporated language into the U.S. Bipartisan Trade Promotion Authority Act of 2002, directing the president to negotiate labor rights provisions directly into bilateral trade agreements.\textsuperscript{113} The Bush administration has not abandoned the child labour issue completely in favour of strategic issues. In February 2005, Deputy Labor Secretary Steven J. Law conducted a six-day visit to India to meet with Indian government officials, representatives of non-governmental organizations, business leaders, education providers and children to assess the progress of U.S. Department of Labor (USDOL)-sponsored projects to eliminate hazardous and exploitive child labor in India. But it seems to be working in coordination with India to help alleviate the problem rather than taking steps to link trade with human rights.


CONCLUDING REMARKS

While the U.S. has incorporated labour rights language into unilateral and bilateral trade regimes, efforts to link trade and labour through a workers' rights clause in the WTO have been unsuccessful. Trade unions have often been at the forefront of these campaigns, and the International Confederation of Free Trade Unions (ICFTU) has taken the lead on promoting trade and labour linkage. The ICFTU, in 1999, published its own workers rights' clause proposal in anticipation of the Seattle Ministerial. However, the opposition to linkage by developing countries means there is no possibility in the near future of a workers' rights clause being adopted by the contracting parties. In order to make progress, scholars and advocates need to better understand the following question: Why do many of the developing countries oppose linkage, particularly in the WTO? Some scholars and writers have attempted to address arguments put forth by developing countries. Clyde Summers, for example, has highlighted concerns about protectionism, sovereignty, and capital flight. While taking issue with these concerns, he also finds them "not wholly groundless."

The post Cold War dilemma in American foreign policy concerning human rights has been characterized by high level of rhetoric but have not achieved much durable gains. Developing countries such as India view the Western attempt to link the practice of human rights with trade as protectionist ploy. While the American concern for human rights, for instance, include child labour, which are commonly prevalent in many

developing countries, the latter consider such practices as essential for economic development. Thus India though acknowledges that the employment of children in the carpet industry is against principles of human rights, it stresses the fact that these children earn their livelihood and such goods are produced at a cheaper rate. The Subramanian Swamy Commission, therefore, struck a note that the West's advocating of trade sanctions to enforce international compliance with “core labour standards” is not just discordant but also downright jarring.\textsuperscript{116}

Developing countries such as India therefore allege that the welfare of workers is the last thing Western countries have in mind when they espouse trade sanctions. They point out that this linkage is nothing but a veiled form of protectionism. This is evident in U.S. targeting India's carpet industry although the number of children employed in it is much less. Thus, India perceives the entire debate concerning “social clause” as fraught with double standards. A forward looking American policy in defence of human rights and democracy may serve not only the interest of humanity, but also American interests as the observance of human rights and promotion of democratic ideals hold the best promise of stability and peace as well as emergence of states feeling a community of interests with the U.S.