

SEE THIS FILE

11 JUN 74

THE NEW YORK TIMES, TUESDAY, AUGUST 6, 1974

26 JUN 74

20 FEB 75 (REFS)

# 2 Americans Held in Calcutta Jail for Over a

By **BERNARD WEINRAUB**  
Special to The New York Times

**CALCUTTA, India, Aug. 5**—Two young Americans, who have been in a Calcutta prison for more than a year, are on a hunger strike in advance of a trial that has stirred tensions between the United States and India.

The case, which has political overtones, is to be heard within the next few weeks, and involves allegations that the two men were spies. Prime Minister Indira Gandhi and United States Ambassador Daniel P. Moynihan are now involved in the tangled case.

The defendants are 27-year-old Richard W. Harcos, an Army veteran, and Anthony A. Fletcher, 30, a graduate of San Francisco State. The men, who lived in San Francisco, have listed their occupations as taxi drivers. Both deny the spying allegations, and lawyers in the case say that they were seeking to smuggle out narcotics and that suspicions of espionage are unfounded.

### Allegations Unspecified

To American officials, the detention of the men for nearly 16 months in a bleak jail is a source of deepening anger. "These guys have been held this long without a trial, without charges against them," said one senior American official. "It's an outrage."

Indian officials decline to discuss the specific allegations against the two prisoners, but have made it clear that the men face charges

under the Official Secrets Act, a measure that deals with spying, conspiracy and acts "prejudicial to the safety or interests of the state."

This week a Calcutta judge is to rule on a defense plea that the trial be held in open court. Virtually all cases under the Official Secrets Act are closed. If found guilty, the two men would probably face a 14-year prison sentence.

They have been on a hunger strike since June in protest against their detention and in an effort to open the trial to the public. They have lost about 20 pounds each and are being forced-fed through nasal tubes.

### Facts Are Bizarre

The known facts of the case are bizarre. At about 3 A.M. on April 26, 1973, Indian security men seized Mr. Harcos, who was swimming in a "prohibited area" of the King George dock along Calcutta's Hooghly River. He was carrying scuba diving equipment. His companion, Mr. Fletcher, was later arrested at the Waverly Hotel in downtown Calcutta.

According to persons involved in the case, Mr. Harcos initially insisted that he had been merely taking a swim. This was repeated for months, to the disbelief of Indians and American consular officials who visited the Americans in jail. "No one goes swimming in the middle of the night in the Hooghly because it's hot," said one American official.

Lawyers say the two were seeking to smuggle narcotics, apparently hashish, out of India by fixing a plastic bag to the hull of a ship. Lawyers say that the two failed to admit the scheme because of a fear that India's narcotics laws are as stiff as those in Turkey or Iran.

In fact, India's laws are relatively mild, and foreigners who plead guilty to narcotics violations are generally fined \$75 to \$200 and ordered to leave the country.

On the other hand, the Official Secrets Act is a stern measure that places the burden squarely upon a defendant to prove his innocence. The law says that a defendant "may be convicted if, from the circumstances of the case or his conduct or his known character as proved, it appears that his purpose was a purpose prejudicial to the safety or interests of the state."

Americans have been arrested before under the act; an American engineer was in prison here about ten days for taking photographs of the Howrah Bridge during the Bangladesh war. But it could not be recalled when an American had been in prison this long in India or placed on trial under the act.

### Evidence Also Unclear

Why it took the defendants more than a year to change their story remains unclear, although one Indian lawyer in the case said that a prisoner has only 14 days to make a statement to the police before the judicial process begins. Nevertheless, the defendants told American consular officials for months that Mr. Harcos had been merely taking a swim.

The specific evidence against the two, beyond swimming in a prohibited area, is also unclear.

Recently Leonard Boudin, the civil liberties lawyer, has involved himself in Mr. Fletcher's defense. A colleague, Dolores A. Donovan of San Francisco, has spent more than a week here, meeting the defendants, consular officials and lawyers. Two prominent Indian lawyers are defending Mr. Fletcher, and another is working for Mr. Harcos.

A further murky element in the case was the arrest, shortly after the incident, of two men linked to Mr. Harcos and Mr. Fletcher. One is the Chinese owner of a Calcutta hotel where Mr. Harcos was said to have kept his swimming gear. The other is a Jamaican taxi driver and

long-time resident of Calcutta. The Jamaican, whose citizenship is unclear, is a popular figure and a habitué of the Calcutta docks.

What complicates the case is the delicacy of India's relations with the United States and the Government's sensitivity—Americans call it "obsession"—to alleged Central Intelligence Agency activities, especially in north-east India.

Moreover, some Indians and Americans say officials in Calcutta, the capital of the politically volatile state of West Bengal, are fearful of dropping the case because it would leave them open to charges of being pro-American.

## Year in Bizarre Case

One Indian lawyer in the case said that it had political overtones because "it might be useful to show that the Americans are doing harm to India." But some sources indicated that Mrs. Gandhi had grown concerned about the treatment of the prisoners and had discussed the possibility of placing them under house arrest until the case is resolved.

American officials say privately and angrily that middle-level Indian officials in New Delhi, as well as the West Bengal government, were largely unhelpful and even cut off consular access to the prisoners from April to June. Officials in Calcutta say that access was re-

established only after Mr. Moynihan met India's Foreign Secretary, Kewal Singh, and brought up the case in mid-June.

"Before then we made requests that weren't answered and we got no indication at all that they were trying to expedite the case," said one official in Calcutta.

Currently, an American official meets the two prisoners three times a week and gives them news magazines, paperback books, soap and cigarettes. The two live together in a cell, about 20 feet by 50 feet. "They seem to be fairly cheerful, not despondent," said one official. "They say the jailers treat them well."