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U. S. HOUSE OF REPRESENTATIVES

International Relations Sub-Committee on International Organizations
Hearings on Human Rights in India

Statement submitted by Leila Kabir Fernandes

September 16, 1976.

Mr. Chairman:

It is indeed heartening that this Committee is showing so much concern for human rights in the world. Indeed, this is a subject of universal concern and transcends national barriers. Unfortunately, however, the tendency of human nature is to adjust and to repress what is unpalatable in order to maintain peace of mind. Thus, in the case of gross violation of human rights - from the initial reaction of revulsion, shock, disgust and horror - the mind gets gradually desensitized and immunized to the indignities and the desecrations. Intensity and permanence are opposed. Casualness and indifference or even a neutral stance is what we specifically have to guard against as far as the violation of human rights is concerned. Technology has condensed our globe, and this condensation of time and space demand and make imperative a perennial sensitivity, a constant vigilance and alertness to injustice and suppression of the human spirit in all its manifestations anywhere on this earth. Otherwise, what is the value of flying to the moon and photographing Mars? The technological feats of this century are nothing so long as mankind is enslaved in the meshes of torture, exploitation, hunger, and the degradation of poverty.

But while I am heartened at this Committee's interest and concern about the prevailing Indian situation and grateful for giving me this opportunity to testify, at the same time I must confess that my heart is very heavy as I find myself

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before you, looking to this august forum for redress. This reflects volumes upon the situation in India today. Here I am, thousands of miles away from my home; with no prospect of returning to the country that I love; with no knowledge of when I will see my husband, who has been in jail since June, 1976, whom I have not seen since June 26, 1975, and from whom I have received no news since his detention over three months ago; with no idea when I will ever see my aged mother, now 71 years old and living alone in Delhi.

Here I am before you today because neither I nor any of my countrymen and women today can find any forum of redress in our own country against the total suppression of personal and civil liberties which has come about under the new dispensation of Mrs. Indira Gandhi.

Before I proceed with my testimony, I must present my credentials. I come from a family that has an interesting social and political background and a certain commitment to basic human values. My parents came from the two major religions in India: Hinduism and Islam. My mother, Shanti Kabir (nee Das), is a member of the Brahmo Samaj — a protestant movement within Hinduism that was formed in the middle of the nineteenth century which rejected the ossifications of the caste system, substituted monotheism for the pantheism of Hinduism, and strongly advocated education and emancipation for women. She spent terms in jail in the 1930's as a political prisoner for her activities in the freedom struggle against British rule in India. My father, the late Professor Humayun Kabir, was a poet, scholar, educationist, trade unionist and politician. A nationalist Muslim, he was against the concept of a theocratic state. In 1946, some fanatic Muslim Leaguers tried to assassinate him. From 1957, until Mrs. Gandhi became Prime Minister in 1966, he was a member of the Council of Ministers

with Pandit Nehru and, after Nehru's death in 1964, with Mr. Lal Bahadur Shastri, the first and second Prime Ministers of India respectively.

As for myself, I started out to be an academic, but, after graduating in History and while studying Politics, Philosophy and Economics at Oxford University, I discovered Albert Schweitzer. Inspired by him I chose nursing as a career. From 1961 until 1966, I was on the teaching staff at the College of Nursing, Delhi University. In 1966, I joined the Indian Red Cross Society as Assistant Director, Nursing. In 1969 I became Assistant Secretary of the Indian Red Cross. During these years I had the opportunity to study the health scene in India, to work in the famine-stricken areas of Bihar during the great 1967 drought. I was involved with disaster relief programs, including, for some time, the relief program for the refugees from Bangladesh during the exodus in 1971.

In July 1971, I married George Fernandes. Our marriage drew country-wide attention and received wide publicity. Our wedding reception was attended by people of national eminence from all walks of life: artists, scholars, journalists, trade unionists, politicians, high-ranking members of the Government of India, including the Prime Minister, Indira Gandhi.

Born on June 3, 1930, George Fernandes comes from a Christian background, a Roman Catholic background. He started life to be a priest. After three years at the seminary, he felt his real vocation to serve God and man lay in practical work. Thus, at the age of nineteen, moved by the injustices and inequalities in India's society and inspired by the ideals of equality and a better life for all embodied in the program of the Socialist Party of India, he became a member in 1949. From then on, George Fernandes' life is a record of public service, always championing the cause of the poor and downtrodden. He

had a flare for organizing the workers. Over the years, he organized many unions amongst dock, transport, hotel, municipal and other workers. He became a member of the National Committee of the Socialist Party in 1955, its Treasurer in 1964, General Secretary of the Samyukta (United) Socialist Party in 1969, and Chairman of the Socialist Party since 1973. Since 1968, Fernandes has been the founder-chairman of the Bombay Labor Co-operative Bank. He was invited by the International Labor Organisation to report on the working conditions of urban transport workers. A member of the Bombay Municipal Council from 1961 to 1968, Fernandes came into the national scene in India in 1967 when he was elected to the Lok Sabha (Lower House of Parliament) defeating the powerful Congress Party boss, S. K. Patil. He served in the House until its premature dissolution by Mrs. Indira Gandhi in December 1970.

In 1973, George Fernandes became President of India's largest railway union, the All India Railwaymen's Federation. Railwaymen are among the most poorly paid workers in India. Under the leadership of my husband, the railwaymen, disunited over the years, formed a new unity and cohesiveness and presented their demands for better wages and working conditions to the government. The government replied by arresting the union leaders and thousands of workers even as negotiations were going on, thus precipitating a lightening strike throughout India. The strike was crushed brutally, and, despite assurances, there were massive reprisals.

It is necessary to deal at some length regarding my husband's work until June 1975 as there has been a systematic campaign of slander and denigration against him, especially from July 1975, after freedom of the press was abolished. The White Paper presented to the monsoon session of Parliament stated the Railway Strike as one of the principal causes for the need

to impose 'Emergency.' It also stated that George Fernandes was the recipient of large foreign funds in May 1974, and insinuated that he was in touch with Chairman Mao Tse Tung of China.

I think, it is best that I let my husband's letter to Mrs. Gandhi on July 27, 1975, from the underground speak for itself (Exhibit 1). The Committee will note from it my husband's outspoken style, which is one of several factors in his incurring Mrs. Gandhi's intense wrath. I will only add, however, that when the Government of India realized its obvious mistake in stating May, 1974, as the date for receipt of foreign funds, it later on changed the date on additional copies of the same publication, clumsily erasing 1974 to read 1975 without acknowledging the correction. I have seen both the original publication as presented on July 23, 1975, on the floor of the Lok Sabha as well as the amended version.

I also wish to submit the pamphlet 'BIHAR: The Struggle for a New India' as Exhibit 2. This was a note written by my husband in December, 1974, and illustrates his philosophy, his sense of dedication and responsibility, and his commitment to civil liberties and democratic values.

A great tragedy is overtaking India. Step by step since June 26, 1975, the flame of freedom has been extinguished. For 600 million people the promise that Mr. Nehru made at midnight of August 15, 1949, of "a tryst with destiny" rings harsh and hollow. For the past 29 years, the Congress party has ruled India. Mr. Nehru, father of Indira Gandhi, was Prime Minister for 17 years. Between his death and his daughter's succession to the same post, there was a short interval of 18 months when Mr. Shastri was Prime Minister. Since January, 1966, Mrs. Gandhi has held this position. So it makes no sense to state that personal freedoms, civil liberties, the freedom of

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the press, and the freedom to disagree had to be suspended for the sake of an economic Utopia. Postponing national elections, jailing tens of thousands indefinitely without charge or trial, bull-dozing drastic constitutional amendments by a Rump Parliament that has outlived its legitimate time span; none of these measures can possibly herald the new economic dawn. These steps are not actions of strength; rather, they belie a deep insecurity and an obsession to retain the levers of power at all costs. Let us be very clear: suppression of freedom and liberty, incarceration, and torture will never result in solving India's formidable economic problems. Enforced sterilization as a policy for the three million government employees will not resolve the galloping birth rate of a population of 600 million. Nor will other violations of human rights lead to land to the landless, jobs to the 20 or 25 million unemployed, nor adequate food to the starving millions, of which 420 million, per the official statistics of the Government of India, live below the poverty line (i.e. cannot spend more than U.S. 20 cents a day).

For a more detailed account regarding the reasons for the launching of "Emergency" and the dictatorship, I submit the pamphlet entitled: "Indira's India: Anatomy of a Dictatorship", which has a preface by my husband, as Exhibit No. 3. As Exhibit No. 4, I submit the transcript of a taped message from my husband sent to Indians for Democracy before his arrest. More vividly than anything else, this postulates both the nature of the crisis confronting India and the dimensions of the challenge taken on by those unwilling to relinquish their responsibilities towards restoration of the lost milieu of liberty, within which alone a people can move forward towards realization of their deepest aspirations. As Exhibit No. 5, I submit the article by "Azad" published in The New Republic of August 7 and 14, 1976. Mrs. Gandhi's trump card in implementing her authoritarian rule has

been censorship. No journal in India would have published "Azad's" article. Even for publication in this great country, "Azad" had to resort to a pseudonym.

Censorship has cast a shroud over India from June 26, 1975. Selective manipulation and calculated distortion of news, imprisonment, intimidation and harassment of those ignoring the censorship "guidelines" are calculated to keep the population subdued and demoralized. One by one the last of the opinion magazines have closed down. As Exhibit No. 6, I submit the letter of my mother-in-law, Alice Fernandes, detailing the brutal torture of my brother-in-law, Lawrence Fernandes, which was published in Janata, the Socialist weekly from Bombay. All copies of the offending issue were confiscated and the publication was banned. The publisher, Mr. G. B. S. Chowdhary, has since been arrested.

Since June, 1975, Mrs. Gandhi and her cohorts have been denouncing the western press for its "malicious propaganda." But, Mr. Chairman, please note: if a word of praise emanates from any western source, it is immediately grabbed and made into a big news item. Exhibit No. 7, the recent letter from a political prisoner detained at Tihar Jail, Delhi, illustrates this point besides focusing attention upon the atrocious and inhumane conditions of detention at that jail. Exhibit No. 8 is one of many letters from the underground written by my husband which sketches the Indian scene as it was developing. Exhibits 9 and 10, "The Persecution of University Students and Teachers" and "Torture of Political Prisoners in India," were prepared by the Lok Sangharsha Samiti, New Delhi, India, and give details of how human rights are being violated in India.

Necessarily, my own story must unfold within the framework of this dark and gloomy backdrop. By a chance of fate, my husband, George Fernandes, escaped arrest that fateful

night of June 25-26, 1975 (when thousands of Mrs. Gandhi's political and trade union opponents, as well as many innocents, were arrested in the stealth of the night). Knowing full well the risks of his action, he went underground in opposition to the deprivation of civil liberties and established trade union rights, the abolition of freedom of the press and other draconian measures.

When I returned to Delhi on June 30, 1975, with my seventeen-month-old son, I found India's capital a transformed place. Overtly, all appeared still and calm. But underneath was an all-pervasive panic reinforced by the mantle of silence that surrounded everything. Absence of news magnified small shadows into lurking monsters. Wild rumors were the order of the day. The cancer of fear as it gripped the towns people was a terrible thing to witness, as it knawed and ate its way into the very vitals of society.

We, my husband and I, had been bringing out an opinion newsweekly entitled "Pratipaksha", meaning "The Other Side", since October 1972. George was the Chief Editor, and I, Publisher/Manager. In Jack Anderson style it had made exposes of many a skeleton in the Establishment cupboard. In September, 1974, in a daring front-page article, we had charged that the Indian Parliament was a den of thieves, deliberately inviting contempt proceedings upon our publication which we hoped to use as a lever to institute inquiries into certain scandals of gargantuan proportions in which high-ranking members of the Government of India, including the then Railway Minister, L. N. Misra, were closely involved. But realizing the catch, no proceedings were instituted against our publication despite its outrageous effrontery.

However, two days after the "Emergency" and imposition of press censorship, on June 28, 1975, the police sealed the

editorial office and arrested the editor under Defence of India Rules. Released on bail in a few days, the young man, a father of two small children aged four and two years, was rearrested under MISA (Maintenance of Internal Security Act, referred to now as Maintenance of Indira and Sanjay Act). In all probability he is languishing in jail to this day.

It was a tense and trying period. I was constantly shadowed by inept plainclothesmen. My phone was tapped and occasionally disconnected to prevent specific outside contacts. In mid-August, the police walked in unannounced to search for my husband and to interrogate me. Close friends urged that I hide or leave the country, fearing my arrest anytime. That I was not, I attribute to the premise that probably I was being used as a decoy to lead them to the big catch. Who knows what might have happened to me and my son had I lingered on.

I say this keeping in mind the sad fate that has befallen two of my brothers-in-law. Michael Fernandes, an officer of the Indian Telephone Industries, Bangalore, was arrested under MISA in December 1975. He belonged to no political party but was an office-bearer of the trade union at his factory. A far worse fate awaited another brother-in-law: Lawrence Fernandes, the details of which are to be found in Exhibit No. 6. What needs to be added is that Lawrence Fernandes was not concerned with politics. He was a small businessman, a bachelor looking after his aged parents. He got caught in the torture chains of the dictatorship in May 1976, only because he was George Fernandes' brother. Having failed to track down my husband despite a massive hunt for the previous ten months, the police made Lawrence Fernandes a victim of their gruesome torture techniques.

After reducing Lawrence Fernandes to a physical and nervous wreck, he was put in jail under MISA. Soon thereafter,

in early June, 1976, my husband was tracked down by the secret police and arrested. The date of his arrest as announced by the state-controlled news agency was June 10, 1976. But I have since learned that he was, in fact, arrested under MISA on June 3, 1976 - ironically, his birthday.

It is over three months now that news of my husband's arrest has been given out. These past weeks have been full of nothing except great misgivings and anguish. I have sent three cables personally to Mrs. Gandhi, two communications to the Home Ministry, and made two phone calls, written one letter and sent one mailgram to the Indian Ambassador in Washington, requesting each time to be informed of my husband's whereabouts. The first reply I received from the Home Ministry in response to my cable of inquiry to Mrs. Gandhi was profoundly shocking. It stated:

How can you not be aware of the activities of your husband who has for the past several months been moving about instigating people to commit acts of violence, subversion, sabotage and other serious crimes prejudicial to public order and security of the country. He was arrested in Calcutta on 10th June and is in legal custody in connection with several criminal cases under investigation. He is in his normal health. Allegation of torture of his brother Lawrence Fernandes is totally false, baseless and mischievous. Home Ministry, New Delhi.

This reply disturbed me on several counts. The tone and language of the cable was meant to intimidate and demoralise. It gave the impression that my husband was being treated like a criminal. I responded by asking for the specific charges against him. I have been repeating this request in all my communications with the Government of India - all to no avail.

My alarm and disquiet was intensified when I learnt that from June 11 until June 22, George had been kept in police custody and prevented from sleeping for ten successive days. I was also informed by my sources that on June 23 my husband

was taken to the Military Compound of the Red Fort in Delhi and kept in the torture chamber for two days. I was also told that the Indian Government employs highly sophisticated methods of torture which leave no signs of physical mutilation.

I cannot describe the anguish and helplessness I experienced when I learnt sometime in mid-July that on June 25 my husband had been whisked away from Delhi to an unknown place; that, in the meanwhile, the preliminaries for a show-trial entitled "Union of India vs. George Fernandes and Others" had started in Delhi. Whereas my husband was produced before the magistrate on June 11 and June 23 for purposes of obtaining remand in police custody, he was not produced at any of the hearings in July. No lawyer or relative was permitted to visit him. Mr. Fernandes' lawyer alleged that he was being kept away to put pressure on him and that he was being tortured with electric shocks. The Indian Ambassador at Washington, in his letter of August 26, 1976, wrote that "family members are allowed to see the detainees once a week" In late July, the Home Ministry stated, I could write letters to my husband c/o The Chief Secretary, Delhi Administration.

But Mr. Chairman, Sir, the truth is that no relative met my husband in June or July. I am too dumbfounded to react to these communications. George was taken away from the jurisdiction of the Delhi Administration on June 25 and taken to Hissar Jail in Haryana State. I have not received a single letter from him since his arrest, although he has stated in his letter to another relative in India that he has written to me and my son. There can be only one purpose in asking me to write letters c/o The Delhi Administration - to scrutinize and censor. I have written just two letters under these discouraging circumstances, enclosing many paintings of our two and one-half year old son, but perhaps they have not reached him.

As for the weekly family visits, no permission was granted, despite application, until August 19, 1976 — almost two and one-half months after arrest. Meanwhile, the following report has been received from unnamed sources in India regarding my husband's physical environment:

Mr. George Fernandes is kept at Hissar Jail
Mr. George is kept in a solitary cell. It consists of a flooring and roof but it is not covered by walls but pipes and wires. So there is no protection from sun, winds and rains. At night, powerful flood lights are focused on him. He is not getting sufficient rest or sleep. He is tortured with this type of cruel treatment

Under normal circumstances, one rejects anonymous reports. But in the India of today, where reprisals are harsh and severe, those who volunteer information perforce remain anonymous.

If these reports are all untrue, why then does Mrs. Gandhi's government not welcome an open inquiry? The request of Amnesty International, a world-wide organization concerned with prisoners of conscience and respected for its neutrality and objectivity, to inspect the conditions of such prisoners in Indian jails has been turned down. What can be the reason for not letting me, the wife, know my husband's place of detention? What can be the purpose of not letting me or, for that matter, the general public know what the charges are against him? The judiciary in India is emasculated. The legislature also is about to strip itself of its sovereignty by permitting the executive wing to alter the constitution as thought fit over the next two years. I am plagued by nightmares and questions. Can the executioner also be the judge? Can a fair and open trial be possible in India today? I am not a student of law but it seems to me that the basis of a fair trial presumes that the total burden of proof which establishes the guilt of the accused beyond doubt, rests on the prosecution. All evidence should be recorded

in a manner that is easily accessible to the public. The accused should have complete opportunity to cross-examine witnesses; the government should guarantee the personal safety for the defense counsels. The defense must have the right to examine all the evidence presented by the prosecution. Proceedings should be public and be fully reported by the press, and the accused must be considered innocent until guilt is proven beyond every doubt. I confess I have serious misgivings that any fair or open trial can be held in the prevailing political climate of authoritarianism and repression.

What is the law in India today ? Where is the sanctity of law ? The concept of equality before the law has been shred in the winds. Where was the reverence for law when the Allahabad High Court delivered its judgment on June 12, 1976, setting aside Indira Gandhi's election and debarring her from holding public office for six years ?

When her lawyers obtained a 20-day stay order from the High Court Judge, it was on the plea that time was required to elect another leader for the Congress party and ensure a smooth transition. It was upon this reasonable request that the judge granted the stay order. But we all know what happened. Instead of stepping down, Mrs. Gandhi staged a constitutional coup within 48 hours of the Supreme Court of India's granting of a conditional stay order.

In justifying the "Emergency", Indira Gandhi said, there was a sinister conspiracy to overthrow her government. No evidence was produced to substantiate the charge, and the "chief conspirator", Jayaprakash Narayan, was hastily released in November 1975, when he was almost at death's door, for fear of consequences in case he died in detention. Amongst the countless others still kept in detention without trial is Morarji Desai, who was Deputy Prime Minister of India from 1964 until 1969.

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So we know how much reverence for law there exists in Indira's dictatorship. A new version of the "Divine Right of Kings", propounded by the Stuarts in seventeenth century England, has been formulated by Indira Gandhi. The 41st Amendment to the Indian Constitution gives to the Prime Minister, President, Vice-President and Speaker life-long immunity from criminal proceedings against past and present actions. Now this is a strange view of the concept of equality before the law. While those who dissent are branded traitors and criminals, the Prime Minister confers absolution upon herself for past misdeeds and puts herself beyond judicial inquiry. I wish to draw attention to two very recent examples of political persecution. They concern persons whose patriotism, loyalty and commitment to India are beyond question. The first is Mr. Ram Jethmalani, President of the Bar Council of India, against whom a warrant under MISA was issued, and who has recently obtained political asylum in this country. The other is the noted Indian economist, Professor Subramaniam Swamy, a member of the Rajya Sabha (Upper House) of Parliament. Professor Swamy's criticism of Mrs. Gandhi's government over the past year has now resulted in a House Committee being set up to investigate his conduct and activities, which include "anti-Indian propaganda evasions of law and fleeing from justice and legal processes etc."

And finally, while those who dare to disagree are being branded as traitors and enemies of the state, we observe the meteoric rise of the son of Indira Gandhi, Sanjay, who is being projected as the successor. To quote The Economist of May 29, 1976:

Did Mrs. Gandhi put many thousands in jail, remove freedom of speech and habeas corpus and muzzle the press not just to preserve a throne but to build a dynasty? The answer to that, after 11 months of one-mother-one-son rule, seems to be yes.

This is the backdrop to the dark drama unfolding for India as a whole; for me, personally. India voted for adoption of the International Declaration of Human Rights way back in 1949. It has criticized other countries, like South Africa, for violation of these rights. Today India is flagrantly violating the principles enshrined in this noble document.

As I stated at the beginning, I have come before your Committee to testify. I have testified in the hope and confidence that you will heed my testimony and my cry of anguish and move the government of this great country to speak out.

I repeat once again, violation of human rights should be a matter of concern to everybody. The United States is celebrating its Bicentennial. The United States is a leader in the Free World. The United States must take a stand on this matter. Mrs. Gandhi has taken India along a perilous path and made the position explosive for herself also by shutting off all the outlet valves. I fear for my country's future as I fear the fate of my husband. The world community that cares has a great responsibility to discharge under these circumstances. Thank you.
