

OCCASIONAL PUBLICATION 103

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*Freedom & Sons Ltd*

**The Enterprise of Free Speech in a Market of Control**

by

Gopalkrishna Gandhi



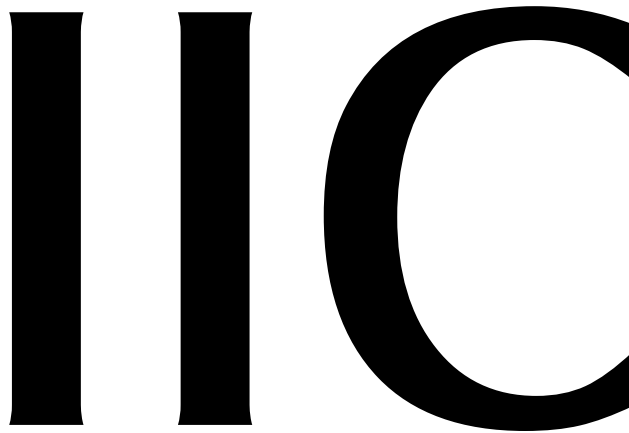
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The views expressed in this publication are solely those of the author and not of the India International Centre.

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***Freedom & Sons Ltd***  
**The Enterprise of Free Speech in a Market of Control\***

As the title of this lecture suggests, it is about dissent, the right to dissent, the freedom to differ, to be able to say ‘I disagree; in fact I oppose...’. And to do so without fear. But no right comes without some difficulty.

And sure enough, as I began working on this text, my late brother Professor Ramchandra Gandhi, Ramu as he was widely known, appeared in a hallucinated vision, to express dissent, strong disagreement, over the title of this lecture. He said to me in his inimitable mix of Hindi, Tamil and English: ‘*Maine tumhare Mushirul Hasan lecture ka title “Freedom & Sons Ltd.” dekha hai... aur uska matlab samajh rahaa huun... lekin... Freedom & Sons Ltd... Sons...illai ...illai....konchum* politically incorrect...and not *konchum*, in fact *romba* incorrect, *romba* gender insensitive.... It may have passed muster some twenty or thirty years ago but not today...and certainly not in the IIC where Kamaladevi Chattopadhyay’s spirit is alive, where Durgabai Deshmukh peers over her husband’s shoulders to see that all is done right....The title obscures ...in fact it nullifies the roles of India’s daughters...from Rani Lakshmibai of Jhansi and Begum Hazrat Mahal of Avadh to Madame Cama and Annie Besant, Kasturba Gandhi who died, don’t forget, in a Raj prison, and Maulana Azad’s wife Zuleikha Begum who died in Calcutta when he was in the Ahmednagar Fort Prison and would not seek parole.... And then, no less than any of these...the women who stood for freedom not from the white man’s domination but from that of our own male-controlled society, like Mirabai, who broke out of the court and

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\* The first Professor Mushirul Hasan Memorial Lecture delivered by Gopalkrishna Gandhi on 17 December 2019 at the India International Centre.

palace to public spaces singing of Krishna, the great emancipator, and M. S. Subbulakshmi, who broke out of the Carnatic *kutcheri*'s strict repertory to sing Mirabai's songs of Krishna...'.

I listened to the admonition in silence. Ramu then went into a further reverie... 'Subbulakshmi's husband was a khadi-wearing freedom-fighter, jail-goer, but she too was one...fighting for freedom from social shackles....she stormed the male-dominated Bajrangi bastion by giving us the most popular and by far the most passionate rendering of the *Hanuman Chalisa*....Has anyone—can anyone—sing *Jai Jai Jai Hanuman Gosain* like that daughter of Madurai?... She who did not touch politics, who had never read the Constitution of India, who did not know the term Gender Equality, has done no less than any politician, lawyer or engineer, to take forward Sardar Patel's unification of India by singing in Braj Bhasha in Madras, Tamil in Bombay, Malayalam in Calcutta, Guru Nanak's compositions in Hyderabad with the same rapturous intensity as any *kirtana* of Tyagaraja.... And then by acting in a Tamil version of Premchand's *Bazar-e-Husn* on the plight of exploited womankind anticipated our Constitution's, Ambedkar's, vision of social justice.... And Begum Akhtar likewise, on whom unfair restrictions were placed inhibiting public concerts but who, by sheer perseverance, returned to them to sing *Kuchh to duniya ki inayat ne aur kuchh talkhiye haalaat ne*... Subbulakshmi and Akhtaribai should be co-Chair of that firm *Freedom & Sons Ltd*...only it cannot then be called that...*illai...vendaam*... Change the title if you can.'

Younger brothers are notorious for taking elder brothers' simple, straightforward blessings but rarely their advice, especially when complex and multidimensional. So, I told him in that hallucinated conversation that by 'Freedom & Sons' I mean the progeny, daughters and sons, of our

freedom struggle, of our freedom, and that I really mean *us*. And stayed with the title for this first Mushirul Hasan Memorial Lecture, which is an honour to be asked to give and a challenge to be expected to take.

Mushirsahib was ‘something else’.

In his thinking ‘something else’, in the expression of that thought, ‘something else’. He was that in what he did too, and the way he did what he did. Very consistently and very typically he asserted his inalienable right to be a contrarian. He thrived in debate. He would of course correct that, at once, and say debating thrived in him.

Working in and heading institutions, Mushirsahib saved some of them from mediocrity and rescued others from mendacity. A Professorship in History is, in some senses, the equivalent of the penultimate ashramic stage of *vanaprastha*, forest-dwelling, like a Professorship in Philosophy is that of *sanyas*. Mushirsahib thought and acted otherwise. Teaching history and culture at the Jamia Millia Islamia saw him take a position on the banning of books, in India or elsewhere, anywhere. He had his own assessment of *The Satanic Verses* but he was opposed, he said, in principle, to a free country like India banning books, curbing free thought and expression. Creative writing, for him, was an enterprise in freedom as much as it was in art, and had to be free of controls. Faiz Ahmed Faiz has spoken of *tir-e-ilzam* and *sang-e-dushnam*. Mushirsahib faced vilification, persecution, unpopularity as a consequence. In the defence of freedom against missiles of intolerance Mushirsahib became, again, ‘something else’.

Archives, in India, are taken to be made of cobwebs and dust. Being posted to the Directorship of Archives is akin to what in medieval times being sent off to the Viceroyalties of the Deccan was—a punishment posting to what is

poorly understood, poorly funded, poorly guarded. Mushirsahib's helming of the National Archives of India (NAI) quickly demonstrated that ageing documents and yellowing books can breathe, think, speak and even speak up—for the truth of things.

Two examples: The first comes from Dadabhai Naoroji. Mentor to both M. K. Gandhi and M. A. Jinnah, neither Hindu nor Muslim but a brilliant specimen of India's smallest and brilliant minority, Parsi, he was to preside over the Indian National Congress twice and be hailed as the Grand Old Man of India's freedom struggle. Naoroji founded in Bombay, the Anglo-Gujarati paper speaking for and to the Parsi—*Rast Goftar*, meaning 'The Truth Teller'. Moving to London, he became the first Indian, in 1892, to be elected to the House of Commons. And when he won his Finsbury Central seat for the Liberal Party by just five votes, Naoroji came to be called 'Narrow Majority'. The liberal and lofty provision in our Constitution for the nomination to the Lok Sabha and some State Assemblies of two legislators from the Anglo-Indian community is being done away with by a Constitutional Amendment. Dadabhai Naoroji, our GOM, would have been dismayed to see that. We can today look back nostalgically to Narrow Majority Naoroji and lament the loss of the broad vision that gave, not took away, confidence from narrow slices of the population. That amazing man has left a frail trail of papers. Dinyar Patel, who is working on a biography of Naoroji tells me that staff in the private papers division of the NAI were not always able to locate the Naoroji letters that he wanted. He pointed this out to Mushirsahib who gave him permission to search for the letters himself in the storage room, which significantly speeded up the process.

The second example relates to M. K. Gandhi's colleague of German-Jewish descent in Johannesburg, Hermann Kallenbach, who worked, with others,

to strengthen the self-confidence of satyagrahis in South Africa fighting under Gandhi's lead for the political rights of that minority community—Indian South Africans. The satyagraha was massive and wholly non-violent, leading Nelson Mandela, decades later, to say that Gandhi it was who gave the African National Congress the example of mass disciplined protest—each of those three being vital. Some letters between Kallenbach and Gandhi were in the Kallenbach family's keep, oscillating between the needs of history and those of natural heirs. Mushirsahib stepped in decisively to assist the Government of India acquire the papers from those private holdings. The creative energies of those two men stepped out of the sealed vault of time, as a result. Mushirsahib did this not because his thought was markedly aligned to Gandhi's or to those who let themselves be called Gandhian. This was because he wanted archival facts, not fiction, to tell the truth, to be *Rast Goftar*. And because he had a sense of the history of freedom functioning within conditions of control and overcoming domination and suppression not just from an insecure State, but from an intolerant society.

Why Mushirsahib left the Archives when he did, I will never understand. His presence in that position was perhaps too good to be true. '*Guide*' film *mein* Shailendra *ke alfaaz ko* S. D. Burman *ne gaayaa hai*:

*Tune to sabko, raah bataayi*  
*Tu apni manzil kyun bhoola*  
*Suljha ke raaja, auron ki uljhan*  
*Kyun kachhe dhaagon mein jhoola*  
*kyun kachhe dhaagon mein jhoola*

We have in India an indigenous language that is completely un-endangered. It is thriving. It is called back-biting. Mushirsahib was given an ultimate compliment in that language. He was dubbed 'Left-Liberal'. Mushirsahib,



being who he was, wore that description as a badge, but again, being who he was, he wore it upside down to make light of both the describers and the description. The Left-Liberal's is a lonely space. Shailendra *ke alfaaz phir yaad aate hein*, Mukesh *ki aawaaz mein*, celebrating that free-to-roam-everywhere and be-pinned-to-nowhere condition, the condition of true independence:

मेरा जूता है जापानी, ये पतलून इंगलिस्तानी  
सर पे लाल टोपी रूसी, फिर भी दिल है हिन्दुस्तानी

Lonely, I said. Lonely but not safe. Those who remember the footage will recall that as Raj Kapoor traipses, singing away, on that serpentine road, a snake actually crawls up towards him, seeing which the jokester simply flees.

The State, whether inclined Left, Right, Liberal or tyrannous, has little use for and less patience with the Left-Liberal. This fate, of course, befalls not just the Left-Liberal, but just about anyone who values the freedom to agree or disagree, assent or dissent, to concur or demur, to say 'I disagree; in fact, I vehemently oppose', and do that in complete fearlessness, out of no compulsion, and becomes as a consequence, at once, a stakeholder in *Freedom & Sons Ltd.*

The great transactions for our freedom from colonial rule have been described as battles, in the historic year of 1857 as a war, and then as a struggle and as movements—of non-cooperation, civil disobedience, and the most iconic 'Quit India'. They were indeed that. Seen in the vocabulary of our age, I submit they can also be seen at a certain allegorical level in terms of an enterprise in which capital—intellectual, emotional but also material—was generated and invested, stakes created and bonds floated, tangible

equity raised through crowd-funding in which the chief fund-gatherer was Gandhi who appealed for and got funds beyond the Raj's own capability and imagination, accounts were maintained scrupulously with internal and social audit systems in place, risks taken—risks of loss, of insolvency—and assets created as well, two tangible goods manufactured—one in a regular pattern of production, namely, khadi, and another as a one-time enterprise in 1931, namely, salt, several house-journals produced, of which *Young India* and *Harijan* acquired substantial subscriptions, two major R&D centres set up in Sabarmati and Sevagram, respectively, dividends declared in terms of opportunities for larger national service through the organisation as well as through participation in elections and patriotic self-governance. And all this while a strict system of controls operated by the British Raj kept its activities under a close and often in the harshest mechanism of control. India was the market over which the Raj imposed regulatory control—not for reasons of commercial ethics but its own parallel self-aggrandisement. *Freedom & Sons Ltd.* did not close operations upon India becoming free in 1947, or on its giving itself in 1950 its great new Articles of Association, the Constitution of India. It floated a new series of bonds in terms of political rights and duties to actuate the freedom that had been won.

*Freedom & Sons Ltd.* stands therefore for the integrated will of the Constituent Assembly of 299, its ethos, its conscience. It *is* in fact those 299 in the shape of its legacy that we the people of India, that Assembly's legatees are trustees and beneficiaries of. We, freedom's legatees and beneficiaries in today's India see that freedom seriously compromised by three major factors—the role of religion in politics, the role of money in politics, and the role which political power, legitimately derived, democratically received, plays in ways that befuddle the laws and bewilder democracy.

## ***Religion and Freedom***

If our Constituent Assembly meeting in its last session on 24 January 1950, comprising 299 members, had been placed in a Time Machine and zoomed forward to our times, and been shown the concept of the National Register of Citizens (NRC) and the Citizenship Amendment Act (CAA) of 2019, it would have gasped in astonished disbelief. To determine nationhood from which citizenship flows on the basis of religion, the 299 would have said, is what the imposition in medieval times of the Jiziya did and which in modern times was to lead to the ideology of Two Nations that led to Partition. The legality and constitutionality of the CAA is now being challenged before the Supreme Court of India and we may trust it to render justice.

But the issue raises the question: Has religion tightened its hold on us as a people? Has freedom loosened its appeal on us? If the nation was asked: ‘Do you want a new temple, or a free Press?’ I am not sure that the majority would opt to read strong editorials over the chance to worship at a new altar. If one were to go by the visible external accoutrements of religion on the persons of individuals and in places of work, in cars, on the surfaces of public transport with the backs of three-wheelers leading the way, the number of mosques and temples being built, one would say, it is undeniable that in the last fifty years or so, religious self-identification has become more pronounced than it used to be. As has religious intolerance, bigotry.

In our secular polity, the Republic was meant to be and attempted to be a sanctuary for those anxious, fearful in their minority status, afraid of being bullied into subordination. Borrowing its symbols from Emperor Ashoka, who declared ‘*savey manuse mama praja*’—all my subjects are my children—the Republic of India made all equal in freedom, free in equality. Do the NRC and CAA strengthen or dilute that confidence? There is nothing

as eroding of freedom as fear. There were many unafraid daughters and sons of the freedom struggle, but standing tall among them, Badshah Khan, Khan Abdul Ghaffar Khan, ‘Frontier Gandhi’ as he was called—a great title because it gave him a ‘GPS’—the North West Frontier Province (NWFP)—but also because it made him appear what he was—at the outermost frontier of courage against bigotry. He strove, alongside his alter ego, Gandhi, to protect Hindus from massacre in Noakhali, to protect Muslims from butchery in Bihar, strove against the Two Nations Theory, against Partition, caused the NWFP to vote against Pakistan, strove, after the inevitable had happened, for the human rights of the Pashtun in Pakistan, was jailed and virtually exiled. Frontier Gandhi lies buried in Jalalabad in Afghanistan. By the provisions of the CAA, that Frontier Gandhi, albeit a recipient of the Bharat Ratna, would be barred from the kindness of the citizenship of India. As would his descendants and the descendants of his descendants, Freedom’s daughters and sons, if they are in either Afghanistan or Pakistan.

Why? To what purpose?

And while at the same time thousands in Bangladesh are offered a welcoming door into neighbouring India, which means our North East and East, already in the most in-elastic land–man ratio, find their economic and cultural freedoms reach breaking point. And to spare a thought for those this Act is said to have been made. *Jin logon ke khatir CAA, humein batlaaya jaa rahaa hai, banaayaa gayaa hai*—those facing religious persecution in Afghanistan, Pakistan and Bangladesh—*un par is qaanuun ka kyaa asar paregaa? Kis kis tarah ke dabaav*, political, emotional, economic, ethnic, *un par parenge?* And turning our thoughts back to India, *iska asar Hind ke Musalmanon ke dil aur dimagh par kyaa hogaa? Hum sab hamaarii aazaadii kii aulaad hein. Hum alag alag mazhabon,*

*quamon aur zubaanon ke hein, magar hamaari aazaadi ek hai.*

The CCA's legality and constitutionality being with the Supreme Court of India now, we must trust it to address these issues in the light of the laws and the Constitution of India.

### ***Money and Freedom***

Next to the power of bigotry in its capacity to threaten and whittle freedom down is that of money.

*Freedom & Sons Ltd.* had to have its assets and liabilities of faith divided in 1947, and then again in 1971. Today, its holdings are a truncated residue of its original holding.

It sought the greatest impact with the highest investment of intellectual energy, intense personal commitment, but with the most modest expenditure budget. This was not so much because the freedom movement was short of funds, but because it knew the value of money raised through donations from some rich but many, many not-so-rich, and in fact often that number, not-rich-at-all. Gandhi was of course its biggest raiser of what is now called crowd-funding. *Kitne log juraae us insaan ne! Koyi media advisers nahin, koyi publicity agent nahin, plasma screen kar ke koyi chiiz nahin aur is se bhi bari baat—prachar ke liye jo bhi rupaye aate voh vahin ke vahin kharch ho jaate aur jis se ki jeb mein na jaaein jeb hi ghayab...jahan kamiz hi nahiin vahaan jeb kahaan.* And yet he raised *some* funding, with each paisa accounted for, audited as well. This worked with extraordinary results. But also with extraordinary forebodings as to the future.

One man foresaw with laser-like precision and uncanny foresight the danger that would face free India, future India. C. Rajagopalachari wrote

in a diary he maintained while in Vellore Jail in 1921–22: ‘We all ought to know that Swaraj will not at once or, I think, even for a long time to come, be better government or greater happiness for the people. Elections and their corruptions, injustice, and the power and tyranny of wealth, and inefficiency of administration, will make a hell of life as soon as freedom is given to us.’ This, believe it or not, was written twenty-five years before independence. *Kuchh imaandaar chunaav hue hein iske baad.*

Elections have now come, by definition, to mean the infusing of candidature with cash. One feels like crying, ‘rel!’. The weaker the candidate, the stronger the cash. The fizz of money—white, black and grey—pervades the election air. Candidacy has come to be regarded as an investment. Their candidacy by itself—victory apart—leaves them richer than when they entered it.

In 1957, in the high noon of the Nehru era, Tata Iron & Steel Co. wanted to change their Memoranda of Association in order to allow the Company to make contributions to political parties which meant, basically, to the Indian National Congress. Did the great Tatas need Congress’ patronage? Did Nehru’s Congress need Tata money? It is anybody’s guess. The matter went to Court. Justice M. C. Chagla and Justice S. T. Desai, going entirely by legal yardsticks, ruled in the Bombay High Court allowing the change but with weighty obiter. Their comments are memorable. They said (and I quote): ‘... Before parting with this case we think it our duty to draw the attention of Parliament to the great danger inherent in permitting companies to make contributions to the funds of political parties. It is a danger which may grow apace and which may ultimately overwhelm and even throttle democracy in this country. Therefore, it is desirable for Parliament to consider under what circumstances and under what limitations companies should be permitted to make these contributions.’

Seventeen years after those bitter truths were uttered, in 1969, Section 293A of the Companies Act was introduced in 1969, imposing a complete ban on corporate funding. Thereafter, the clause was amended in 1985, restricting the earlier blanket ban to political contributions made by Government companies and companies which have been in existence for less than three financial years. All other companies were left free to make political contributions not exceeding 5 per cent of their average net profits if a resolution authorising such contributions was passed at a meeting of their Boards. When a new Companies Act was enacted in 2013, this provision was kept more or less intact, and found reflection in Section 182. The only significant change being an enhancement of the erstwhile limit of 5 per cent to 7.5 per cent of the average of the net profit made during the three preceding financial years. And so, as the law stands at present, a political party may receive contributions subject to certain limitations prescribed by the Companies Act. By an independent encouragement for corporate funding, Section 77 of the Representation of the People Act excludes expenditure incurred by political parties from the computation of the ceiling on an Election Commission-prescribed candidate's election expenditure.

There are two consequences of all this: First, candidates backed by political parties and corporate donations enjoy a weightage over independent candidates. But one may ask, 'Do Independent MLAs or MPs matter?' When the House is hung they matter a great deal. But that contingency apart, they should matter. Second, and more important, corporate funding. Before an election weighs votes on its balance, cash weighs itself on the same scale's trays. Examples can be cited of clear, bonafide and transparent donations by business houses to political parties. But a Board of Directors' payment by means of a white cheque to a party is not the only source of funding. There is the Hindi saying, '*Haathi ke paaon mein sab ke paaon*'.

The doors having been opened wide, vast sums get flung into an election both from within and *outside* of the provisions of the Companies Act. This is where black money mingles with the white, making the whole thing as grey as stubble-burn smog.

Once elected with the help of another's money—be it an individual's or a company's—the victorious candidate cannot, can just not, look the donor in the eye and say 'No' when that donor asks for an inappropriate concession. The 'power of wealth' then becomes a 'tyranny', not only for the losing side but for the winning side as well. One look at the way the Electoral Bonds scheme has worked will show us better than any argument, what I mean.

The present funding arrangement, as I said, puts Independent candidates at a disadvantage. It actually puts the independence of legislators at a disadvantage. Independent MPs and independent-minded MPs are, of course, a rarity now. There was a time when Independent MPs were a factor. In the first general elections in 1952, thirty-six Independents won—the highest so far. This time, four Independents have entered the Lok Sabha, almost all of them backed by a major party for the reason that another major party denied the candidate a ticket. This is not how it used to be. Independent MPs came from across the country and included persons like Acharya Kripalani (elected twice, from different constituencies defeating Congress heavyweights) whose home province—Sind—had vanished from the map of India; Harindranath Chattopadhyay (Sarojini Naidu's gifted brother, from Vijayawada); M.S. Aney (the distinguished disciple of Lokmanya Tilak, from Nagpur); S.M. Banerjee (the Independent Marxist and trade unionist from Kanpur); V.K. Krishna Menon (elected as such twice, first from Midnapore, in West Bengal, after the INC denied him a ticket, and then from Trivandrum); the then still-Left leaning M.R. Masani (Ranchi); N.C.



Chatterjee (the Hindu Mahasabhaite father of a future Lok Sabha Speaker Somnath Chatterjee, from Burdwan); Annie Mascarene, the intrepid freedom fighter from Trivandrum; G.G. Swell (Shillong); and Shameem Shameem (Srinagar). Even a simple research on their contributions to the debates of the Lok Sabha will show that these Independent MPs made a difference. Kripalani, of course, towers above all of them for having tabled the first-ever no-confidence motion against a government led as it then was by Jawaharlal Nehru. Shameem, who died at the unacceptable age of 41, was an exceptional orator and held the Lok Sabha in thrall whenever he spoke. Rahul Bajaj, on saying fear ruled business today, was asked how he can say that when he is so fearlessly saying what he is saying. The Bajaj scion can draw heart and a simile from Shameem. Once, when Shameem spoke of elections in Kashmir having not been free and fair, another MP rose and asked him how he could say that, considering he himself had been elected as an Independent, in fact, defeating a former chief minister. Shameem's reply had the House in splits: 'Sir,' he said, 'if a plane crashed, and some persons escaped miraculously unharmed, would you deny that the plane has crashed?'

Independent legislators are about individuality. There is also such a thing as the independence of legislators who belong to parties. Feroze Gandhi's individuality as a Congress MP is a permanent example. The mega fact is that today, individuality is out, uniformity is in. Non-conformity is out, conformity is in. Argument is out, demagoguery is in. And overarching these, tolerance is out, intolerance is in. If this was to be shown in physical terms, then we could say brain is out brawn is in; mind is out, muscle is in.

The rise and rise of two rival companies threatens *Freedom & Sons Ltd.* with product competition today—*Freedom & Cons Ltd.* having mastered

the art of spinning money, and *Freedom & Dons Ltd.* having mastered the art of bullying.

### ***The State and Freedom***

Through struggle was the Republic of India born; through struggle does it live. And through striving, through alertness and the courage to be able to differ, dissent, disagree against old and new methods of control will it remain a Republic. *Freedom & Sons Ltd.* has always run and will always run the risk of having its accounts called in question, its donors queried, its workers quizzed, its premises raided and newspapers that have flown its banner, interrogated, with the threat of take-over—in so-called public interest—dangled before it. This is nothing new. This is not, as the Left-Liberal may imagine, a post-2014 phenomenon.

When freedom was in the air, round the corner, so to say, a small drama was enacted around *Freedom & Sons Ltd.* which bears brief narration.

In the August of 1941, World War II was at its fieriest. The Luftwaffe had struck Moscow, taken 300,000 Soviet soldiers prisoner. Japan had occupied French Indo-China and taken over Saigon, sending Roosevelt and Churchill to work on the Atlantic Charter.

In India, the British Raj had to do its bit for the ‘War Effort’. It opened a War Fund and public subscriptions to it were solicited. In theory voluntary, they were fairly obligatory for those who came in contact with the establishment. At mid-point, while awarding a sentence of transportation for life to four out of twenty accused in a murder case, the Additional Sessions Judge in Meerut said in Court—as *The Hindustan Times*’ reporter present in court reported in a dispatch to his paper—that the Governor of the Province and

the Chief Justice of the Allahabad High Court had asked judicial officers to subscribe to the War Fund funds. Upon this, lawyers for the accused promptly paid up ₹200 to the judge who resumed reading out his order which acquitted all the other accused.

*The Hindustan Times* carried its Meerut correspondent's report and a little later a comment as well which said, 'If it is true that the new Chief Justice... has issued a "circular" to judicial officers...enjoining on them to raise contributions to the war funds, then...he has done a thing which would lower the prestige of the courts in the eyes of the people'. The Chief Justice of the Allahabad Court caused a contempt writ to be served on the newspaper's Editor and asked him: 'Do you realise... that disrespect has been shown to the office of the Chief Justice?' The Editor maintained that it was his public duty to report matters that seemed to him to be in the public interest but admitted: 'I realise that I have been an unwitting instrument of showing disrespect for which I am extremely sorry'. Saying 'sorry', as we know from recent legal case history, is not the same thing as offering an apology. The Chief Justice held that contempt had been committed, sentenced the reporter to two months', and the Editor to one month's imprisonment with the option to pay ₹1,000 by way of a fine. The Editor chose to go to jail with his reporter. The Court had won its own case, but *The Hindustan Times* had won the day. It had showed up the Raj as embodied in the Court as being churlish but, more seriously, as having ignored canons of judicial fairness and propriety in that the Chief Justice was being both prosecutor and judge rolled into one. And even more seriously, it had shown the Judiciary under the British Raj as being part of the fountain architecture of imperial hubris, colonial ego, statist arrogance.

Mahatma Gandhi took a close interest in the case, the jail-going Editor being

his son, Devadas Gandhi. He had earlier told his son that whatever be the merits of the case, courtesy to the Chief Justice was not to be overlooked. This, coming from one who was going to oppose the Raj within months in the Quit India Movement, is significant. The position of *Freedom & Sons Ltd.* was that Hitler, Mussolini and Tojo are a menace to world peace, human freedom and dignity, but if India is to fight that menace effectively, India must do so in freedom, not in chains. And if it is not allowed to do so, it will launch a massive all India protest which will be a Do or Die thing, but without any violence. Gandhi's injunction to his son in the Contempt Case to fight if need be but courteously has to be seen in that light.

The Judiciary is like any human being, fallible and unpredictable. And *Freedom & Sons Ltd.* may not take the Courts for granted any more than the peasant may take the seasonality of the monsoon for granted. The delay in the Supreme Court's pronouncing orders on Kashmir-related matters before it, especially Habeas Corpus matters, is perplexing. But one must say, with relief and with pride that today, when the Supreme Court of India can, through separate concurring judgements, shine a distinct and delightful light on the individual's right to privacy, that 2019 is not 1941. Likewise, when the Supreme Court can respond independently and speedily to petitions seeking relief from situations arising out of Governors' decisions on Government-formation, that 2019 is not 1941. As also when it says that the RTI Act will apply to it, or that bail is the rule, jail the exception, that 2019 is not 1941. But most tellingly, when the Chief Justice of India says in a public speech that revenge is not justice, and that if revenge becomes justice, justice loses its character, then not only is 2019 not 1941, but we can count ourselves blessed.

There is no war on now, as there was in 1941, thank God or goodness,

whichever recipient of gratitude one may choose to offer it to. But Hitler has a contemporary global avatar in the shape of terrorism, as sinister as that of the architect of gas chambers, but even more diabolical in its techno-savviness, its chilling unconcern for innocents dying under its sway, its facelessness, namelessness, heartlessness. And it has havens in our vicinity. This has created an un-declared war-like situation in which each of us is called upon, rightly and necessarily, to be part of our Republic's vigilance, its readiness to face terror, repulse and end it. Here, there is one paramount lesson that *Freedom & Sons Ltd.* can teach from its World War II experience. It is that external or internal challenges to its freedom cannot be met by undermining democratic rights, especially the right to free thought and expression, which are at the heart of democracy, are the soul of a Republic.

It is not as if these rights have come under controlling mechanisms only in the recent past. Historical fairness requires that we note that it was under the Prime Ministership of Jawaharlal Nehru that in 1953, Sheikh Abdullah's government was dismissed and he was locked up—from Premier to prisoner—overnight, and stayed in custody for eleven long years without any charges. Sire to son to grandson, the prisoners have changed, the prisoners remain the same. And it was again under the Prime Ministership of Jawaharlal Nehru that the democratically-elected communist government of Kerala led by E. M. S. Namboodiripad was sacked. No State government can afford to forget that first instance of the Centre's rough handling of a State, for the mould once cracked, repeats the mark in every casting. Of Indira Gandhi's national emergency with its wholesale arrests of opposition leaders, there is no need to say anything; its diabolism is patent and has been set down in the history of democracy's global infarctions. But no democracy can afford to forget or dare deny that

her emergency has crafted a weapon for democracy's subversion and set a most dangerous precedent.

The freedom struggle threw off fear. The emergency brought it back. Not for nothing was the movement against the emergency described as a second struggle for freedom. But fear was only curbed, it was not exorcised; the State had tasted the ink that approves an unconstitutional measure.

We have reached a stage in our political life when those of us who have valued the legacy of the freedom struggle, cherished the great document called the Constitution of India and our National Emblems, will have to speak with caveats and qualifications—we will have to say 'The Original, Ambedkar's Constitution of India', 'The un-amended Citizenship Act', 'The *purana-wala* Indian Passport'.

Fear is a fever. And fever a symptom, not the disease. Our freedom is fevered at present, with three root causes or diseases causing it: religious bigotry with hatred fuelling it, the tyranny of wealth with corruption adding to its hold, and the play of power. None of these is new. But their concerted action, their combined assault on the enterprises of freedom, especially the freedom of speech and communication, coming from an ideological hinterland, is new. Kashmir, for instance, has known its political leaders to be jailed but with life in Kashmir as such unaffected not as it is now.

There is no point bemoaning these three if they are not faced by each stakeholder in *Freedom & Sons Ltd.*, each in her or his own way. But always with zero violence. The anti-CAA protests have suffered in credibility because of accompanying violence, arson. It was hugely challenging to

strive for freedom from the Imperial Power which believed in democracy for itself but not for its colonies. It was in other words hugely difficult for democrats to fight against an un-democratic order. It is no less challenging, it is differently challenging, to strive to protect freedom within democracy from those who have been democratically placed at the helm, democratically empowered, democratically anointed. It is not easy, but very important for *Freedom & Sons Ltd.* to understand how to save democracy from its self-injury, protect freedom from its self-destruction and to do so democratically, constitutionally, and above all, non-violently. Kripalaniji once said: '*Gandhi se ek bari bhuul hui hai. Usne humein sikhaya ki dushman se kaise pyar haro. Usne yah nahin sikhaya ki apnon se kaise pyar karo*'. Every advantage gets given to the other side, every disadvantage reserved for oneself. That is the challenge.

I will conclude with two fear-related thoughts.

The first is directed at ourselves. And it should make us ponder, reflect. And it is this, simply put: Those who fear fear should know that somewhere in ourselves, in our within, we are actually fearing ourselves, our own weaknesses, our own vulnerabilities. And as long as those weaknesses and vulnerabilities remain unacknowledged and unattended, fear will remain. We value—we respect—those who are honest about their vulnerabilities, willing to take responsibility for these and, where needed, to make amends. Such persons seem to expel fear. Fearlessness does not require a past that is free from weakness. It requires a readiness to face the past.

The second thought about fear is directed at the sources of fear. And it should make us feel somewhat reassured, though complacency would be wrong, unwise. Those who seem pleased with themselves at being

feared are, in reality, themselves rather frightened beings. They know it though they do not show it. They are frightened of losing their privilege of frightening others, frightened of losing their propensity to frighten, frightened of the Rast Goftar, the truth-teller, because they are afraid, in short, of the truth. The removal of safeguards from the Data Protection Bill reflects that insecurity. This can turn us, Justice Srikrishna has warned, ‘into an Orwellian State’. The Bill is now with a joint select committee and one ardently hopes that the expansive exemptions in it, which seem to be at variance with the Supreme Court’s orders on the right to privacy, will be removed and if not, will be disallowed.

There is a final fear-related thought to be borne in mind. Fear being as I said a fever, it assails but the one who is fevered and those concerned for her or him. Those many and many more who are not so assailed by the fever of fear cannot relate to the febrile condition, cannot understand the delirium of the patient. But those in it, those who are stricken, must try to understand why those who are not in fear, not in fever, are unafraid, unfevered. Those who ask, rightly and earnestly, ‘Why are we being made to fear?’ should also ask, ‘Why are so many not in fear?’ *Jo darey hue nahin hein, ve kyun darey hue nahin hein? Jinke liye sab thiik-thaak hai, jinke liye business as usual hai, unke liye aisa kyuun hai?* Are we missing out on something? Is the Left-Liberal aware why the Right-Illiberal is what he is? What makes so many so receptive to bias, to hate? Free speech is valuable because being un-fettered it is frank, honest. But free speech has an obligation to be aware of the whole ground, the full reality, in all its aspects, particularly the aspects that are at variance with its own position. If it fails that obligation, it remains vulnerable. Disdain of so-called middle-class opinion by the so-called intelligentsia is not just arrogant; it



is self-defeating. As is disdain of religion, by the so-called secular. Gandhi did not make that mistake. ‘We do not know the people in whose name we speak’, he said once, ‘And they do not know us’. This is a *parama satya*.

The other day, in New Delhi’s Nizamuddin area, I saw a cycle rickshaw plying a young mother in a bright sari and a brighter *bindi*, with two children. The slightly older one was sitting beside the mother, the younger one on her lap. At a turning the little one slipped out of her mother’s hands and fell tumbling headlong down on the road, the mother’s hold on the child had been slack. Luckily there was no traffic there. The rickshaw puller, an old bearded man, stopped the vehicle in a trice and bending down picked up the wailing child and restored it to the mother. ‘*Bachche ko koyi chot to nahin lagi?*’ I asked him. ‘*Chot to lagi hai...Kaise na lagti...*’ he said... ‘*Lekin InshAllah thiik ho jaegaa...*’ That was when the respective religions of the rickshaw-savaar and the rickshaw-wala dawned on me. And with un-named fears beating in me I said silently ‘Bless you all...*Inshallah...Bhagavan karey...Chot to lagi hai...lekin...sab thiik ho jaegaa...Hind ki santaan Hind ko, aur Hind ko Hind ki santaan bachaegii...*’

In my hallucinated conversation with Ramu, I had mentioned in my defence of the title of this lecture—*Freedom & Sons Ltd.*—Lord Byron’s famous lines on freedom’s sons. Predictably, Ramu was unimpressed. ‘Byron was writing about the Greek War of Independence in the 19th century’, he said to me, and added ‘...You are neither Byron nor Greek’. But when I explained to him that I mean by ‘Sons’, basically, *us*, legatees of the freedom that was won seven decades ago, and of the Constitution that came with it, he softened ...and said, ‘I am a student of philosophy and so am questioning things all the time, while you are a student of

literature, quoting things all the time, so...alright... will you recite those lines from Byron ?’

And I did :

*For freedom’s battle once begun*

*Bequeathed from bleeding Sire to son*

*Though baffled oft is ever won...*

‘Very well then,’ he said ‘ let the title be...’, and raising an imaginary glass added , softly ‘So... to Mushir’.

## About the Author

Gopalkrishna Gandhi read English Literature and History at St. Stephen's College, Delhi. He has been in administrative positions in Tamil Nadu and in Delhi, as a member of the Indian Administrative Service. He was the first Director of The Nehru Centre of the High Commission of India in London (1992–1996), Secretary to the President of India (1997–2000) and headed India's diplomatic missions in South Africa, Lesotho, Sri Lanka, Norway and Iceland. He was Governor of West Bengal from 2004 to 2009.

His published works include a novel (*Refuge*, 1989), a play (*Dara Shukoh*, 1993), a translation into Hindustani of Vikram Seth's novel *A Suitable Boy* (1997), *The Oxford Gandhi* (ed. OUP, 2007), *The Tirukkural* (translated into English, Aleph, 2015) and *The Death Penalty* (2016).

He received the Sarvepalli Radhakrishnan Award of the University of Mysore in 2016, the Lal Bahadur Shastri Award in 2016 and the Rajiv Gandhi Sadbhavana Award in 2018. A columnist for *The Hindustan Times* (New Delhi), *The Telegraph* (Kolkata) and *Nayi Duniya* (Indore), he writes from time to time for *The Hindu* (Chennai) as well.

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