

E-Pamphlet for Red Books Day 2021



Comrade Somnath Lahiri on Fundamental Rights

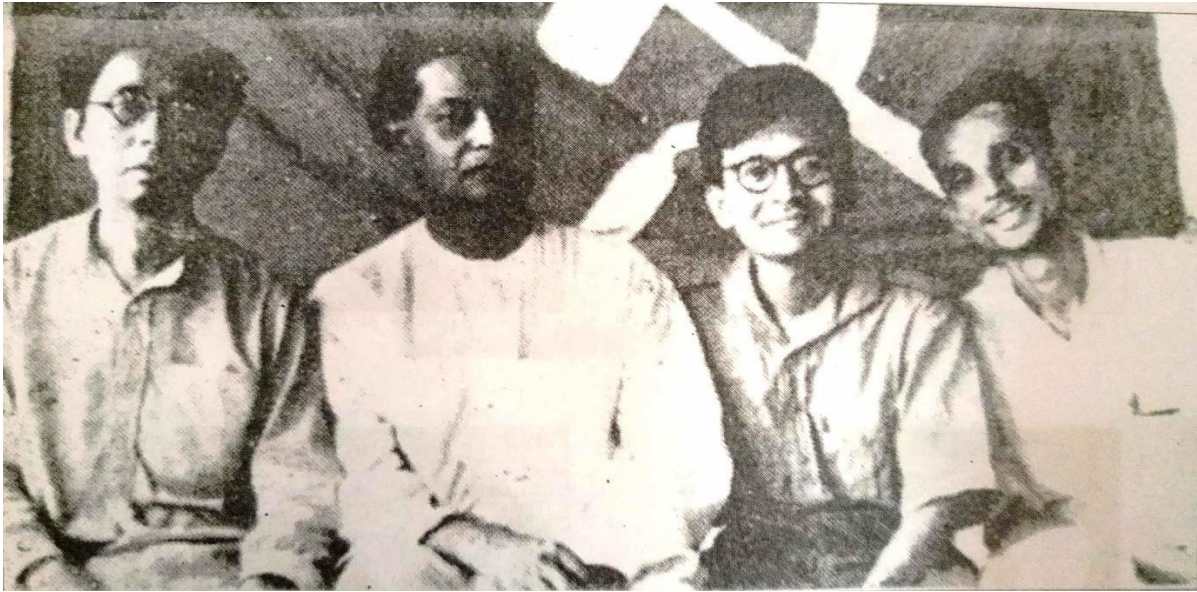
Speech delivered on the 29th of April, 1947 at the Constituent Assembly of India



I agree with what Pandit Kunzru¹ suggested because it is rather difficult to make a fine distinction between what are justiciable rights and what are not. For instance, when we make a provision that people should have the right to work, that is, unemployment should not be allowed to exist in our country, it would be a social right. If you make it an inalienable provision of our fundamental rights, naturally it will have to be justiciable. Similarly, take the question of nationalisation of land. If we want to say that land belongs to the people and to nobody else, that would be a social and fundamental right no doubt. But, nevertheless, it will also be a justiciable right, if that is to be given effect to. Therefore, it is rather arbitrary to make any fine distinction between what are justiciable rights and what are social and economic rights. Therefore, we would be in a better position to consider the whole thing if the full Report was forthcoming so that we might know what is in it. Otherwise, there is the danger that when we might put certain things as essential, we would be told that social and economic rights will come up not now but later on. Therefore, I support Pandit Kunzru's suggestion for taking all these things together. I do not see any great hurry for getting these few fundamental rights passed just now. I was surprised to read this Report submitted by the Committee. Before this Report was submitted by the Committee, I got a circular from the Congress Party section of the Constituent Assembly enumerating certain rights. Many good points were contained in them. Afterwards, when we received this Report, we find that many of the good points which were mentioned in that circular have been omitted. Let me put it a little more strongly. I feel that many of these fundamental rights have been framed from the point of view of a police constable and many such provisions have been incorporated. Why? Because you will find

¹ Referring to Hriday Nath Kunzru's proposal of prioritizing the discussion on justiciable Fundamental Rights instead of clubbing them together with several non-justiciable provisions without making a clear distinction between the two, as Kunzru alleged was being done in the 'preliminary or interim' report moved by Sardar Patel.

that very minimum rights have been conceded and those too very grudgingly and these so-called rights are almost invariably followed by a proviso. Almost every article is followed by a proviso which takes away the right almost completely, because everywhere it is stated that in case of grave emergency these rights will be taken away. Now, Sir, what constitutes a 'grave emergency' God alone knows. It will depend on the executive obtaining at a particular period of government. So, naturally anything that the party in power or the executive may not like would be considered a grave emergency and the very meagre fundamental rights which are conceded in this resolution will be whittled down. Therefore, it is necessary for us to see the whole thing together and see what people are going to get. I should like to mention one or two things as examples. What should be our conception of fundamental rights? Apart from the knowledge that we can gather from the experience of other countries, there is also the knowledge born out of our own experience, that is, there are certain rights which we have been denied in the past by an alien and autocratic government. We have come up against those difficulties. We want to incorporate every one of those rights which our people want to get. One vital thing which our people have been suffering from in the past has been the curtailment of the liberty of the press by means of securities and by other methods. The press has been crushed completely. This is a thing against which every patriotic Indian is up in arms, including every congressman, and therefore, in his heart of hearts, every Indian feels that in a free India, in order that people may feel freedom and act up to it, there should not be such drastic curtailment of liberties of the press. But what do we find? There is not even a mention of the liberty of the press in this whole list of fundamental rights submitted by the Committee, except a solitary mention made at one place that there will be liberty of expression. Sir, this is something which goes against our experience and must be protected.



From Left to Right: Muzaffar Ahmad, Bankim Mukherjee, P.C. Joshi and Somnath Lahiri (1937)

Similarly, there is another thing that we have found all along that a Government which does not depend on the people and which rules the country by autocracy and by means of force, detains people without trial, without having to go through a judicial process. This is a thing against which Indians have been entertaining the bitterest feelings and they have been agitating against this from the Congress and every other platform. But in the fundamental rights that have been cooked up by this Committee we do not find this right. That is why I am constrained to say that these are fundamental rights from a police constable's point of view and not from the point of view of a free and fighting nation. Here whatever right is given is taken away by a proviso. Does Sardar Patel want even more powers than the British Government an alien Government, an autocratic Government which is against the people--needs to protect itself? Certainly not. Sardar Patel has the support of the overwhelming masses of the people and, therefore, he can do with much less powers to rule the country than an autocratic government would require. But here we find that none of the existing provisions of the powers of the executive has been done away with; rather in some respects those powers are sought to be increased. And if some of the amendments are passed--specially that

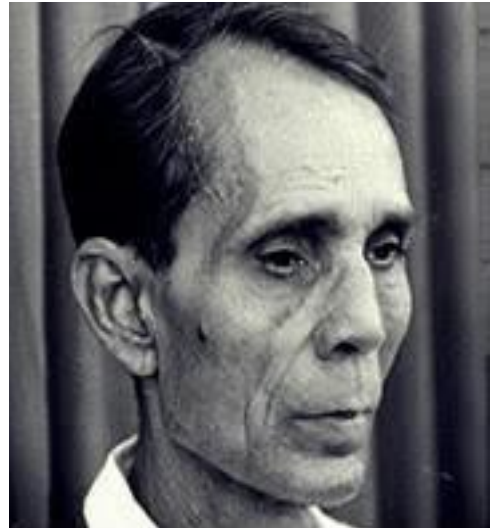
of Sri Rajagopalachari-- it will in certain cases be even worse than the conditions obtaining at present. I will give one example. Here according to Patel, a seditious speech is a punishable crime. If I say at any time in the future, or the Socialist Party says, that the Government in power is despicable, Sardar Patel, if he is in power at that time, will be able to put the Socialist Party people and myself in jail, though, as far as I know, even in England a speech, however seditious it may be, is never considered a crime unless an overt act is done. These are the fundamental bases of the, fundamental rights of a free country, but here a seditious speech also is going to be an offence; and Sri Rajagopalachari wants to go further. Sardar Patel would punish us if we make a speech, but Rajaji would punish us even before we have made the speech. He wants to prevent the making of the speech itself if in his great wisdom he thinks that the fellow is going to make a seditious speech.



We thus find that the feeling among Congressmen in general, as evidenced by this circular of the Constituent Assembly section of the Congress Party, is for extended fundamental and civic rights which will enable the country to function in a free manner and for political oppositions to grow. What is the necessity of fundamental rights in a bourgeois national democracy which you are trying to have? There one of the fundamental objects is that a political opposition must have full freedom to express its views, to draw its own conclusions and to say anything it likes. If I am in the opposition or if someone else is in the opposition it is certainly his business to say that the existing Government is despicable;

otherwise, he would not be in the opposition. Why should my right to say that be curtailed and at the same time we should assume that political opposition will grow and democracy will develop? It cannot; it will have to depend on the sweet will and the tender mercies of the party in power or the executive in power. That is not the basis of democracy.

Sir, I would request the Committee to consider the amendments very liberally and try their best to accommodate the amendments so that we can have really good and democratic fundamental rights which will give our people a real feeling of freedom and from which our country will go on gathering strength. Otherwise, if we lay down fundamental rights



and then insert provisions in every clause for taking away those rights, we will simply make ourselves a laughing stock before the whole democratic world.

Comrade Somnath Lahiri (September 1, 1909 - October 19, 1984) was the sole communist member of the Constituent Assembly of India till July 1947. Lahiri was initiated into Marxism by the Bengali revolutionary Bhupendranath Datta in 1930. He joined the Communist party in 1931, and started working with the Rail and Tram workers' unions. In 1933, he organized the first labour association of the Tata Iron & Steel Company in Jamshedpur. According to the party's resolution of 1938, he joined the Left consolidation committee with Muzaffar Ahmad and Bankim Mukherjee. He also led the historic sweepers' strike at the Calcutta Municipal Corporation in 1944 and played a pivotal role with Dr. Ronen Sen and Abdul Halim in building the undivided Communist Party's Calcutta Committee. He had translated Lenin's *State and Revolution* into Bangla and was also the long-term editor of the party mouthpiece, *Swadhinata*. He was elected to the West Bengal State Legislative Assembly from the CPI in 1957 and served as an MLA till 1977 with brief stints as a cabinet minister in the United Front Government. Lahiri was a prolific writer of political commentary and occasionally wrote short stories which were published as part of a collection titled *Kolijuger Golpo*. This speech is taken from Constituent Assembly Debates Vol. III.