

Why citizens must speak out against injustice

NAJRUL KHASRU

FREEDOM of expression lies in everyone's heart—but it must do more than just lie there."

— Judge Andrew Napolitano

The first amendment to the United States Constitution declares that government shall make no laws "abridging the freedom of speech". Legal experts agree that the wording of the amendment makes it abundantly clear that the framers of the Constitution held firm convictions that freedom of speech pre-existed the Constitution, the government and the state, and that the Constitution simply reiterated the truism that the government has no authority to interfere with that.

The answer to the question of the origin of the right to freedom of speech, is that it comes from our humanity, our inherent ability to think and express our thoughts. This right is a part of the fabric that make us humans, and the existence and preservation of all other human values and rights depend on our freedom to exercise this right. Contrary to the general understanding, it is not the function of the Constitution of a state to confer such right, as it is pre-existing, inherent and a part of human make up. By very nature, therefore, it is an inalienable right, and the task of the Constitution is to acknowledge its existence and warn the successive governments to steer clear.

This was well understood by the framers of the US Constitution, and those of others, particularly since the Second World War and promulgation of the Universal Declaration of Human Rights. The right to freedom of expression is ingrained in the natural law tradition and has been articulated throughout human history by such individuals as Aristotle, Thomas Moore, John Stuart Mill, John Locke and others. Writing a piece in this newspaper in November 2019 Professor CR Abrar aptly described freedom of expression as the mother of all rights that essentially distinguishes human beings from animals.

The Constitution of Bangladesh also does not presume to *declare* right to freedom of expression, but instead guarantees its



preservation, thereby acknowledging, in true natural law tradition, its pre-existence.

The question that now hits us in the face is: why is it that a right so fundamental and so uniquely inalienable, gets mercilessly trampled upon time and again by governments throughout the world?

The answer lies in the fifth century philosopher Augustine's theory of *libido dominandi*—lust for domination. It is a natural instinct of those who aspire for power, to dominate at will. Freedom of expression against the excesses and injustices of those in power, becomes a great obstacle in their journey. Thus the desire to ruthlessly curtail such right is present in all governments, including those who come to power through seemingly legitimate and democratic means. It is worth remembering

that even the Third Reich's ascension to power was through democratic norms and manoeuvrings. Human history is littered with examples of governments' relentless will to muzzle their citizens.

In the USA within seven years of the first amendment, president John Adams orchestrated passing of two pieces of legislation, commonly known as the Alien and Sedition Acts 1798, in blatant disregard of the first amendment rights. The Alien Act in many ways resembled the recent Indian Citizenship Amendment Act (except that the targets were French-Americans, not Muslims!). The Sedition Act, which prohibited citizens, among other things, from criticising the president and the congress, mirrored the colonial sedition laws inherited and preserved by the successive

governments of the countries of the Indian subcontinent.

This is a classic example of uncontrollable urge of *libido dominandi*, as many of those involved in passing the Alien and Sedition Acts would have been otherwise decent men, previously involved in drafting the first amendment themselves. Similar examples of governments' legislating in disregard of citizens' natural rights are abundantly evident in India and Bangladesh.

Not unsurprisingly citizens of America took to the street. Many deliberately exercised their right to freedom of speech by criticising president Adams in public thereby provoking arrests and prosecution. In the face of popular protests, the Acts were repealed within two years and president Thomas Jefferson, on assuming office, pardoned all those convicted under the notorious legislation.

No one seriously argues that freedom of expression is an absolute right. As all human beings are equal, the law of nature dictates limitations of freedom of speech when its exercise is harmful to other human beings and interferes with their rights and freedoms. This limitation is also extended to when a historical fact is deliberately distorted causing emotional harm to many, such as Holocaust denial, Armenian genocide denial and denial of the enormous sacrifices made by men and women of Bangladesh in its liberation.

Beyond that, any attempt to limit freedom of expression may be viewed as an exercise of *libido dominandi* and therefore needs to be resisted. Voltaire was highlighting the enormous value of freedom of expression when he said: "I disapprove of what you say, but I will defend to the death your right to say it".

Bangladeshis, like the Irish of the west, have a proud tradition of speaking out against injustice, exploitation and subjugation for centuries regardless of the costs. Many cultural anthropologists find an uncanny resemblance in the behavioural history of these two peoples. Both peoples were oppressed for centuries and suffered devastating famines and colonial rules, millions of citizens of both countries ventured out of their own shores but never

forgot their roots, and both peoples were repeatedly trampled by dark and sinister forces but rose up again and again to assert their rights to live with dignity. The Irish leader De Vera said in 1945 of his Irish brethren (which could easily be said of Bangladeshis too): "That for several hundred years people of Ireland had endured, spoiliations, famine, massacres, in endless successions; that they were beaten many times into insensibility, but that each time on returning to consciousness took up the fight anew."

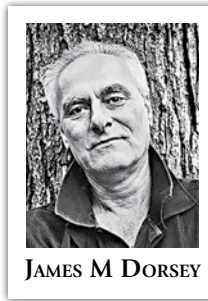
Bangladeshis, in preserving their traditional bravery, must continue to speak out against currently prevalent injustices such as border killings, crossfire killings, forced disappearances, sexual violence, corruption and crimes with impunity, erosion of democratic values and lack of judicial independence, regardless of the costs. Their voices must become louder as the country proudly celebrates the centenary year of the birth of the Father of the Nation. The greatest son of the land would not have expected any less.

"The only thing necessary for the triumph of evil, is for good men to do nothing," said Edmund Burke. These words are a stark reminder as the world watches with baited breath the Indian Hindu nationalist government's repressive designs for its Muslim citizens. Nevertheless, a ray of hope has appeared in the recent days as amongst the ruins of Delhi there appears a green shoot of collective national conscience beginning to find its voice. At this crucial juncture, humankind in general and the citizens of India in particular, would do well to remember the words expressed by German Pastor Martin Niemoller in 1946 on his failure to speak out against the Third Reich: "First they came for the communists, I was not a communist, so I did not protest. Then they came for the journalists, I was not a journalist, so I did not protest. Then they came for the gypsies, I was not a gypsy, so I did not protest. Then they came for the Jews, I was not a Jew, so I did not protest. Finally they came for me, but by then there was no one left to protest!"

Najrul Khasru is a British Bangladeshi barrister and a part-time tribunal judge in England.

BIDEN, SANDERS, OR TRUMP

US policy towards the Gulf will change regardless



JAMES M DORSEY

THE fight in this week's Democratic primaries may have been about who confronts Donald J Trump in November's US presidential election, Bernie Sanders or Joe Biden. But irrespective of who wins the primaries and the election, one thing is certain: the next American leader will preside over fundamental changes in the US military commitment to the Gulf and what a new regional security architecture will look like.

No doubt, a President Sanders, based on his electoral campaign promises, would likely oversee the most fundamental shift in US policy towards the Gulf and the rest of the Middle East in decades.

Yet, even if Mr Sanders fails to become the Democratic candidate in the November election, or loses to Mr Trump, significant elements of his thinking are certain to be at the core of the next administration's policy, reflecting a broader trend in US attitudes towards foreign engagements in general and the Middle East in particular.

It's hard to think of anything that Messrs Sanders and Trump would agree on. And even if there is something, like a reduced commitment to Gulf security, they would do everything to deny that there is any common ground.

Yet, that is perhaps the only thing they agree on.

However, the difference between the two men is that Mr Trump, who lacks a policy vision that goes beyond slogans like "Make America Great Again" and "Why should the United States shoulder the responsibility of others?", has no issue with repeatedly

reversing himself and sees Saudi Arabia, the United Arab Emirates, and Israel as his guardrails.

Irrespective of whether one agrees with Mr Sanders or not, or how realistic one thinks his vision is, it is beyond doubt that he has thought through a concept of what American policy towards the Middle East should be.

As a result, a Sanders presidency, viewed with apprehension by countries like Israel, Saudi Arabia, and the UAE, whom the Democrats' most left-wing hopeful has targeted, could prove to be either the most constructive US government in changing the region's political landscape or the most divisive and destructive.

The changing landscape is likely to be driven by the US desire to reduce its military commitment and nagging Gulf doubts about US reliability. Doubts that began with US President Barak Obama's support for the 2011 popular Arab revolts and his nuclear deal with Iran and were later reinforced by Mr Trump's unpredictability and refusal to respond forcefully to multiple Iranian provocations, including last September's attack on two key Saudi oil facilities.

The killing in January by US drones of Iranian General Qassem Soleimani was seen by Gulf states as the welcome taking out of a feared and wily opponent but also as an operation that risked dragging the region into a full-fledged war.

Mr Trump has further raised questions with his insistence that his withdrawal from the 2015 nuclear deal that curbed Iran's nuclear programme and sanctions-driven maximum pressure campaign are producing results.

As a result, a move towards a multilateral security architecture looks increasingly attractive given the regional uncertainty about the outcome of the US election and the fact



A US military convoy takes part in joint patrol with Turkish troops in the Syrian village of al-Hashisha on the outskirts of Tal Abyad in September. PHOTO: DELIL SOULEMAN/AFP

that neither China nor Russia is willing or capable on their own of replacing the US as the Gulf's security guarantor.

While Mr Biden has ruffled few Middle Eastern feathers even though he is expected to hue closer to Mr Obama's approach, Mr Sanders has raised alarms in Riyadh and Jerusalem with his campaign promise to re-join the nuclear agreement on the first day of his presidency even though, in theory, a return could facilitate achieving some kind of regional non-aggression understanding.

Such an understanding is at the core

of Russian and Iranian proposals for a multilateral arrangement that would embed the current unipolar US defence umbrella that was designed to protect the conservative Gulf states against Iran.

The degree to which Mr Sanders' intention to revive the agreement with Iran facilitates a broader agreement or complicates a transition to a multilateral arrangement is nonetheless likely to depend on whether and how Israel, Saudi Arabia, and the UAE respond to Mr Sanders' policy.

The glass is half full or half empty on that

count.

The Saudis, Emiratis, and Israelis were opposed to the original agreement.

A sense in Riyadh and Abu Dhabi that Saudi and UAE interests had been ignored during the negotiations with Iran and that the US could no longer be fully trusted prompted them to embark on a series of reckless policies. That perception of mistrust sparked the disastrous war in Yemen and persuaded them to forge close albeit informal ties with Israel, which views the regime in Tehran as an existential threat.

A Sanders administration that takes the Gulf states to task on human rights issues, and targets economic structures that enable the oil-rich states' dollar diplomacy—even if it embraces Palestinian national rights—could convince them to do what it takes to counter the new president and thwart his initiatives.

By the same token, Mr Trump's perceived unreliability prompted the UAE and Saudi Arabia to reach out to Iran. The Emiratis appear to have made progress in lowering tensions while indirect Saudi-Iranian contacts broke down with the Soleimani killing.

A progressive US military disengagement from the Gulf and Iraq as well as a halt to support of the Saudi engagement in Yemen under Mr Sanders could blow new life into regional efforts to create an environment conducive to a rejiggered security architecture.

International affairs scholar Dania Koleilat Khatib said: "Though some might see a Sanders presidency as causing more turbulence in the region, as he will likely let Iran loose, the chances are that he will lead a more multilateral approach, giving more space for the UN to resolve the conflicts in the region."

Dr James M Dorsey is a senior fellow at Nanyang Technological University's S Rajaratnam School of International Studies, an adjunct senior research fellow at the National University of Singapore's Middle East Institute and co-director of the University of Wuerzburg's Institute of Fan Culture.

QUOTABLE Quote

GEORGE BERNARD SHAW
(1856-1950)
Irish comic dramatist, literary critic, and socialist propagandist.

Both optimists and pessimists contribute to society. The optimist invents the aeroplane, the pessimist the parachute.

CROSSWORD BY THOMAS JOSEPH

ACROSS

- 1 Mongoose foe
- 6 Shoppers' aids
- 11 "The Tempest"
- 12 Hawaiian greeting
- 13 Japanese box lunch
- 14 Rental choice
- 15 Writer Philip
- 17 Ram's mate
- 18 Baby's mouthful
- 22 Dull pain
- 23 Stockholm natives
- 27 Tick off
- 29 Small herring
- 30 In addition
- 32 Track event
- 33 Vampire's

DOWN

- 1 Fare carrier
- 2 Valuable rock
- 3 Storage site
- 4 Got back
- 5 Coldly distant
- 6 Tasty nuts
- 7 Tavern drink
- 8 Took the bus
- 9 Turn to slush
- 10 Rational

16 "My country—of thee"

18 One of a bear trio

19 High cards

20 Enjoy some gum

21 Granted a stay

24 Pull along

25 Singly

26 Proofing mark

28 Went by

31 Caustic compound

34 Andean animal

35 White House power

36 Plow pullers

37 Use a sponge on

40 Hamilton's bill

42 Commotion

43 Knight's title

44 Leather color

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YESTERDAY'S ANSWERS

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BEETLE BAILEY by Mort Walker

BABY BLUES by Kirkman & Scott