

Unforgettable Justice Murshed

In his role as a justice, one feels happy and proud to observe that Mahbub Murshed lived up to the highest tradition of that lofty calling. He mentioned in one of his well-known addresses that he was greatly influenced by the profound learning of Aristotle, Imam Abu Hanifa, Justinian and Francis Bacon, and modern giants like Holmes and Cardozo. For him, the function of a justice was far from being mechanical.

KABIR CHOUWdhury

I first met Justice Murshed, most probably in the mid-fifties, at a national seminar where issues like interrelationship between nationalism and culture were discussed and debated. He spoke brilliantly. His talk displayed his firm grasp on many dimensions of the subject, intellectual breadth and range, and ability to develop his point of view through lucid logical arguments bolstered by quotations from great writers from several languages, many erudite references and wonderfully felicitous phrases. It was a treat to listen to him. One could easily see that he was interested in the subject he spoke. He spoke seriously and with conviction, and that there was true learning. I was also a participant in the seminar, and later he complimented me on my paper. It was most gracious of him and a source of encouragement to me.

Grace, good nature, wit and humour, kindness and sympathy, and a capacity to appreciate other man's point of view were characteristic of Justice Murshed. In many ways he was true aristocrat, in the best sense of the term. He was also firmly committed to the ideals of democracy, to upholding the course of justice against extreme odds and to keep the flag of liberty flying in defiance of all kinds of pressure from the highest quarters.

Everyone knows about his role in the mass upsurge of 1969. During the liberation of Bangladesh in 1971, a lot of pressure was brought to bear upon him to collaborate with the Pakistani occupation junta, which he consistently resisted with success. One also recalls in this context his valuable, conscientious and earnest efforts in organising the defence of the Agartala Conspiracy case, into which he threw himself selflessly after resigning from the post of chief justice in late 1967.

He was also very sensitive to the question of cultural freedom. The support he gave to those during the repressive regime of Ayub Khan revealed his stature as a man of courage and vision, truly civilised and cultured, and above all the narrow sectarian and parochial considerations.

In 1961, Justice Murshed played a leading role in organising the Tagore Centenary celebrations in Dhaka, in defiance of the expressed opposition of the Pakistani rulers of the day. In his presidential address in the main function at Dhaka, he gave a moving assessment of Tagore as a world poet, a devotee of beauty, and a relentless fighter against evil, injustice, ugliness and tyranny of every kind.

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greatly influenced by the profound learning of Aristotle, Imam Abu Hanifa, Justinian and Francis Bacon, and modern giants like Holmes and Cardozo. For him, the function of a justice was far from being mechanical. Reference to precedents and examination of points of law as codified in various authorities' books were, no doubt, important parts of it, but they were not all. Let me quote his own words in this regard: "The truth is that the function of justice in the task of interpretation begins, flourishes, lives and progresses in the currents of human need to which it steadfastly responds."

Justice Murshed was ever aware of these currents of human need. It was obviously this awareness that prompted him to incorporate in one of his stirring judgements the well-known lines of Shakespeare from *Measure for Measure*:

"O! It is excellent
To have a giant's strength, but it
is tyrannous

To use it like a giant."

Justice Murshed's dedication to his vocation, total fearlessness, and fierce independence of spirit have carved for him in our hearts an abiding niche of love, affection and respect. The judgments he delivered in the famous cases popularly known as the "Minister's Case," "Colonel Bhattacharya Case," and "Pan Case" are still regarded as historic for his brilliant exposition of constitutional law, among other



things.

Justice Murshed is no longer with us. But his example rests with us as a source of noble inspiration. Today, we are in dire need of men like him, men who can act in accordance with the ideals that justice Murshed upheld and fostered. I am reminded at this point of the closing words of the presidential address that justice Murshed delivered in 1967 at a seminar on Rule and Law. Let me quote: "The spirit of liberty is the spirit which seeks to understand the minds of other men and women; the spirit of liberty is the spirit which weighs their interests alongside its own without bias; the spirit of liberty

remembers that not even a sparrow falls to earth unheeded; the spirit of liberty is the spirit which emanates from the faith that there may be a kingdom where the least shall be heard and considered side by side with the greatest. It is in that spirit lies hidden, in some form, the aspiration of us all. In that spirit, I ask you to pledge our faith."

Moving words! And very pertinent at the present moment when the spirit of liberty seems to be threatened in so many parts of the world by the forces of tyranny and oppression.

Professor Kabir Chowdhury is a National Professor.

LEST WE FORGET

Shahidul Zahir: An exceptional public servant

SYED NAQUIB MUSLIM

SHAHIDUL Haque (who used the pseudonym, Shahidul Zahir), Secretary-in-Charge, Hill Tracts Affairs, passed away last March 23 at the age of 55, due to a cardiac arrest.

Shahid worked as a deputy director at BPATC, Savar. Meek and unassuming, he used to discourse for long on politics, administration, literature and societal issues without citing a word about his literary achievements.

An introvert, Shahid sought to communicate with the people through his prolific pen. Coming from political science, he had an inbred leaning towards literature, particularly short stories and novels, through which he exposed what he witnessed and experienced. Much of his private time was devoted to reading and writing. Novels were his singular source of inspiration, entertainment and perhaps of learning. His major writings include *Parapar*, *Dolu Nadir Hawa*, *Jiban O Rajnaitik Bastabota*, *Shey Rate Purnima Chilo*, and *Mukher Dike* Dekhi. The style he pursued was innovative and non-conventional.

There was no conflict between literature and bureaucracy in him. He rather catalysed a happy marriage between these two odd partners. He never let his love for

literature influence his official tasks. Our batch-mate, Kazi Aminul Islam, Secretary to the Hon'ble Chief Adviser, describes him as "an impeccable personality."

As a supervisor, he was humane and friendly, but firm in task accomplishment; as a supervisee, he was shock absorbing and supportive. Shamima Nargis, a deputy secretary, who worked under him at ERD remarks: "He was so meticulous! Only a person working under him could discover that."

He had a genuine concern for the downtrodden people. He envisioned a civil service that would be de-politicised, meritocratic, pro-people and pro-poor. He envisioned a public administration that would help to install good governance.

He used to practise the virtue of humility; arrogance he despised most. To him, follies were human, arrogance was satanic and modesty was angelic. He believed that arrogance stemmed from real ignorance. In an environment where malice, bias, prejudice and insolence permeate, Shahid exemplified the values of integrity, frugality, co-operation, and compassion for others.

Concern for work and concern for employees made Shahid a role model. An altruistic civil servant, he never squandered public resources



for personal comfort; austerity and financial propriety were his forte. Practices like changing furniture, window-screens, altering crockery, fixing costly rest-room fittings by spending public money were unknown to him. His last home telephone bill amounted, incredibly, to Tk.95.

Thomas Browne, an English theologian, said in a mystical vein: "The first day of our jubilee is death." Shahid is now perhaps rejoicing at the celebration of that jubilee. As I cast my last glance at his But my thoughts were at once interrupted by the deathless poetic lines of Theodore Roethke:

"I wake to sleep, and take my waking slow,

I learn by going when I have to go."

These lines perhaps fit best as an epitaph for Shahid.

Dr. Syed Naquib Muslim is acting Chairman, Bangladesh Tariff Commission.

Women's empowerment

Bengali women had started to come out again in the 1960s to protest repression on Bengalis and women. During the liberation movement in the late 1960s and in the war of independence in 1971 the role of the Bengali women was great, and many of them participated actively in the freedom movement and the Liberation War. It created a new vista of women engaging in politics.

BIJAN LAL DEV

BEFORE discussing women's empowerment, let us glance over some facts on the economic and political decision-making status of women worldwide. Only 1% of the world's assets are in the name of women. Men in Arab states have 3.5 times the purchasing power of their female counterparts. 70% of people in abject poverty across the world -- living on less than \$1 per day -- are women. Women's participation in managerial and administrative work is around 33% in the developed world, 15% in Africa, and 13% in Asia/Pacific.

In Africa and Asia/Pacific, these percentages, small as they are, reflect a doubling in the last twenty years. Among the developed countries, only 9% of the workforce in France and 20% in the Netherlands are female administrators and managers.

The global picture of the participation of women in politics has also been bleak. In 1945, there were only 26 parliaments worldwide where 3% of the members of the lower house were women. The table shows the gradual increase in women's participation in politics.

The percentage of women senators in the upper house has also increased over the years. Coming down to 2008, according to the data of 188 countries compiled by the Inter-Parliamentary Union (IPU), there are 44,087 MPs in both houses -- out of which 7,793, or 17.7%, are women. Counting only the lower houses, the situation is slightly better. Out of 37,019 MPs 6,615, or 17.9%, are women.

On a regional basis, the parliaments of the Nordic countries have the highest representation of women, 41.4%. It is 20.9% in the whole of Europe, 20.7% in the

Americas, 17.3% in Sub-Saharan Africa, 16.9% in Asia, 12.9% in Pacific and 9.6% in Arab states. Country-wise figures show that Rwanda (48.8%), Sweden (47%) and Finland (41.5) are at the top, while there is not a single woman MP in Oman, Qatar, Saudi Arabia and the Solomon Islands.

In the eighth parliament of Bangladesh, only six MPs of 300, or 2%, were women. In India 49, or 9.1%, MPs out of 541 are women. In the US Congress in 2007, women held 87, or 16.3%, of the 535 seats (16 of the 100 seats in the Senate and 71 of the 435 seats in the House of Representatives).

In the 20th century, a good number of women leaders were heads of state or government across the world. They were Sri Lankan Prime Minister Sirimavo Bandarnaike (1960-65, 1970-77, 1994-2000), Indian Prime Minister Indira Gandhi (1966-77, 1980-84), Israeli President Golda Meir

(1969-74), British Prime Minister Margaret Thatcher (1979-90), Dominican Prime Minister Eugenia Charles (1980-95), President of the Philippines Corazon Aquino (1986-92), Pakistan Prime Minister Benazir Bhutto (1988-90, 1993-96), Irish President Mary Robinson (1990-97), Sri Lankan President Chandrika Kumaratunga (1994-2005), President of the Philippines Gloria Arroyo (2001-) and Indonesian President Megawati Sukarnoputri (2001-04).

Two prime ministers of Bangladesh, Khaleda Zia (1991-96, 2001-06) and Sheikh Hasina (1996-2001), also drew global attention for many reasons. At present, women are heads of state or government in Germany, India, Argentina, Chile, the Philippines, Finland, and Mozambique.

Year	No. of Parliaments	% of Women MPs
1945	26	3.0
1955	61	7.5
1965	94	8.1
1975	115	10.9
1985	136	12.0
1995	176	11.6
2005	188	17.9

Women were elected speakers of parliament for the first time in Pakistan, Gambia, Swaziland, Turkmenistan and the United States, holding a record 36 out of 262 speakers worldwide, according to the IPU.

The lives of women in the Indian subcontinent began to change in the late 19th century when the colonial government, critical of the treatment of both Hindu and Muslim women, found allies among reformers in the country. Keen to reform their own society, these men agreed that women should be educated and play some role in public life.

By the end of the 19th century, women of the subcontinent were attending schools and colleges, becoming teachers and doctors, writing work of fiction and essays about their condition, joining

organisations to promote social reforms, and participating in political meetings. They were referred to as "new women," and like the next generation who joined the freedom movement, like Kalpana Datta, Pretilata Sen, Ila Mitra, Sarajoni Naidu, they entered public spaces reserved for men.

The womenfolk of the subcontinent benefited from colonial rule as they were granted the right to vote on the same terms as men in 1928, before the women in Europe and the Americas, by the Representation of the People Act 1928. It was felt that men and women should be equal in every way and that all adults were entitled to a vote, whether rich or poor, male or female, regardless of race.

But this system was not continued after the end of the colonial rule. Women were pushed back in the then Pakistan, and Indian women were engaged in economic reality. But Bengali women had started to come out again in the 1960s to protest repression on Bengalis and women. During the liberation movement in the late 1960s and in the war of independence in 1971 the role of the Bengali women was great, and many of them participated actively in the

freedom movement and the Liberation War. It created a new vista of women engaging in politics.

To continue the spirit of women's empowerment, a good number of revolutionary measures, including constitutional provisions, have been introduced since independence. Article 28(4) of the Constitution of Bangladesh enacted in 1972 states: "Nothing in this article shall prevent the State from making special provision in favour of women or children..." Based on this constitutional provision, Article 65(3) allows the parliament to select 45 women as MPs. It states: "...there shall be forty-five seats exclusively for women members, and they will be elected by the aforesaid members in accordance with law on the basis of procedure of proportional representation in the Parliament through single transferable vote..."

The revised clause was inserted by the fourteenth amendment of the constitution in 2004, and will be valid for ten years. So, in the 9th Parliament, there will be 45 reserved women MPs. But this provision will not prevent a woman from being elected to any of the 300 parliamentary seats open for general election.

It will help women to get into politics faster and in larger numbers. The reconstituted Election Commission floated a draft proposal for amending Representation of People Order (RPO), 1972 to give more space to women in the political parties' rank and file. It proposed Article 90A(9) of RPO as: "Every registered political party shall make specific provisions in its constitution regarding inclusion of at least 33% women as office-bearers of its central committee and other committees at different levels."

They also discussed this issue with the political parties. Discussions are going on in different fora about the ways of ensuring of women's empowerment in public life. It has created awareness in the society and, hopefully, one day it will come out as a movement as the concerned agencies including the government, Election Commission and civil society are pursuing the case. Women will then earn decision-making power in real terms, and could build bridges of development and economic empowerment effectively.

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Failed expectations to renewed opportunity

The ILC stands ready to support the steps that can turn today's false expectations among the landless of Bangladesh into a renewed opportunity to reduce poverty and realise the implementation of the land reform dreams that are held by many millions of poor people throughout the country.

BRUCE H. MOORE

WITH over 60% of the Bangladesh labour force being employed in agriculture, accounting for 35% of the national GDP, it is a tragic irony that hunger and poverty are highest among those who grow food.

In the past few days, Raja Devasish Roy, Special Assistant to the Chief Adviser and Rasheda K. Chowdhury, Adviser to the Government of the People's Republic of Bangladesh, have stated without qualification that agrarian reform is essential for human development and poverty reduction in Bangladesh. I have travelled with our partner organi-

sation, the Association for Land Reform and Development, to Baliakandi where I learned of the failure of expectations from over 100 landless people. Their demands surpass all measures of reasonable expectation -- that the government should implement the existing land legislation.

Their non-violent struggle for their rights stands in stark opposition to the many forms of exploitation that they have endured over years, years that have grown into decades.

Bangladesh has three pieces of legislation that all parties, the landless, the representatives of the government and the Association for Land Reform and

Development, consider favourable to the poor -- to distribute khas land to the landless; to enforce the regulations on sharecropping; and, to ensure fair employment conditions and wages for agriculture workers.

However pro-poor this legislation may be, as with other countries, the government of Bangladesh does not seem willing, or able, to live up to its own legislation.

The global nature of the work of the International Land Coalition makes it well aware that implementation means confronting the powerful interests that stand in the way. Politics is the art of making the necessary possible. In Bangladesh, this

means making land reform possible, by standing up for the rights of the landless and near landless, instead of the "ill-gotten" privileges of the few.

When I walked beside the flourishing crops being grown by the landless on khas land, I asked myself if their crops would be expropriated by elites filing false land claims. I also thought about the potential of smallholder farmers to raise national food supplies and reduce the rising food import bill of Bangladesh.

International research and "on-the-ground experience" confirm that smallholder agriculture can produce more food per unit of land than commercial agriculture and, in aggregate terms, increase overall supplies and national food security.

As early as 1987, under its Land Reform Action Program, Bangladesh recognised the threat of land grabbing. As in other countries, the challenge that emerges is that the institutions

that control land are in the hands of the powerful non-poor. A common question arises in all of the countries where the ILC is involved; can these institutions that were created by political and land elites to serve their own interests, be reformed to meet the needs of the poor?

I have learned that the government repealed the Vested Property Act in 2001, but the lack of enforcement means that more than 5 million people remain the victims of the discrimination that the repeal of this law was intended to address. If enforced, the government can empower these 5 million people with their rights, and the productive means to become food self-reliant and generate improved family incomes.

I have also been briefed on the Land Commission that was established in 1997 under the consensus between the Hills people in the Chittagong Hill Tracts and the government. I

understand that the Commission needs to be reconstituted to overcome its current ineffective and largely dysfunctional condition.

Politics is the art of making the necessary possible. Many studies by renowned Bangladeshi scholars and researchers confirm not only that land reform is essential to development, but also that agrarian development can be a driving force in overcoming rural poverty and expanding the overall economy. Evidence from countries with a high reliance on agriculture is that where property rights are secure, investments in agriculture have, on average, a 2.7% multiplier effect on the national economy.

Bangladesh has taken a very important first step by putting enabling legislation in place, legislation that compares favourably with today's call for pro-poor land governance. Nothing compares with the central nature of land, as the way for the caretaker

government to show that it is committed to creating a new political future.

By putting the current land legislation into action, the country will receive the signal that change is coming. It will send the signal that a pro-poor government is needed to lead the country into the future. It will make it clear that land grabbing, a primary form of corruption, will no longer be tolerated, and that former abuses will be addressed. And, it will put the continued implementation of land reform on the national agenda, regardless of which political party leads the next government.

By taking immediate steps toward enforcing the current laws, regulations and policies, the government will make a very positive contribution toward the reduction of poverty and liberate the landless and small-holders to not only improve their own well-being, but also to contribute to overall agriculture production

and the national economy.

For the International Land Coalition, landlessness is a proxy for poverty. Landlessness can be used to measure the performance of governments in implementing poverty reduction strategies and in meeting government commitments to the Millennium Development Goals.

The ILC stands ready to support the steps that can turn today's false expectations among the landless of Bangladesh into a renewed opportunity to reduce poverty and realise the implementation of the land reform dreams that are held by many millions of poor people throughout the country.

The International Land Coalition is a global alliance of civil society and intergovernmental organisations, including the United Nations (IFAD, WFP, FAO, UNEP), IFPRI, the World Bank, the European Commission.

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