

TRIBUTE

Professor Khan Sarwar
Murshid: My teacher

Prof. K.S. Murshid:
An icon

HARUN UR RASHID

ON December 9, through the internet edition of *The Daily Star*, I learned with great sadness in Sydney that Professor Khan Sarwar Murshid had passed away on December 8 in Dhaka. When I left Dhaka I knew that Professor Murshid was seriously ill and was admitted in a hospital. Hoping against hope, I thought that I would meet him in hospital or at his residence on my return.

A few years ago, he was kind enough to respond to my dinner invitation. I met him after almost 20 years, after he lost his wife and was broken-hearted. We talked about many things and I found him admirably agile and sharp in the analysis of social issues in the country.

An educationist, a free thinker and a writer, an ambassador role Professor Murshid took was carried out in a dedicated manner.

In 1955, I had the privilege of meeting him first when he was our teacher in the final year of Honours Class of English Department of the Dhaka University.

Professor Murshid just had returned from England after earning a Ph-D from Nottingham University on Nobel Laureate dramatist and poet W. B. Yates. From the very beginning, he caught our eye with his demeanour and his gentle approach towards students. He was not intimidating to students like other teachers. He was a soft spoken gentleman.

He had his own style of teaching and we were impressed. Wherever he went he made an impact on other people, and was able to win confidence, respect, affection and hearts of all kinds of people. He was a scholar and his comments on society were penetratingly analytical. His interpretation of social values is very liberal and enlightened. He was against any restraint on liberal thinking.

In ideas, he was ahead of his time and could see further through a brick wall than anyone else. He could get to the causes of a social problem not only the obvious ones but also the hidden ones. He saw the end result of things as well as being able to conceptualise and fathom things as they were. He was the editor of the literary journal *New Values* between 1949 and 1965. He received the Bangla Academy Award in 2010 for his contributions to literature.

Professor Murshid was a great fighter for democracy and stood up against the martial law regime of President Ayub Khan in 1958. He suffered but never bowed to the regime of dictatorship. He could foresee that denial of democracy would one day disintegrate Pakistan.

He was one of the few individuals who predicted the birth of Bangladesh because of continuous neglect and exploitation of resources of former East Pakistan by the West Pakistani leaders and the lack of democracy in

Pakistan.

His words came true in December 1971 when Bangladesh achieved its independence and sovereignty. It is interesting to note that a former chief justice of Pakistan, Justice Ajmal Mia, came to the same conclusion in 1998 as that of Prof. Murshid that martial law and absence of a democratic regime in Pakistan brought its disintegration. He was directly involved in the War of Liberation in 1971 and was a member of the Planning Commission of the Mujibnagar government in exile.

Professor Murshid was a successful teacher and administrator. He was vice chancellor of Rajshahi University and had been courageous enough to stick to his principled views during that period.. He had a social conscience and fought for the victims of suppression and oppression, despite his busy occupation in the profession. He believed in the dictum "Knowledge is power," and that a productive community could exist only through knowledge.

He was a lover of books. His private library is one of the largest in the country. His books included philosophy, history, law, economics, and other related subjects. He was a collector of books and wherever he visited he bought them on a variety of subjects.

Professor Murshid was a great patriot, a man of great feelings, and brought an imaginative touch to any discussion. We desperately need a person like him in Bangladesh.

He passed away at the age of 88, and is survived by his two daughters and two sons. His wife, Nurjahan Mushid, a former state minister in the 1972 government, predeceased him.

We all pray to Allah for eternal peace for his soul. While extending our sincere condolences to the members of his family, we also hope they may have the courage and fortitude to bear this irreparable loss.

Finally let me quote Shakespeare from Henry VIII; "He gave his honours to the world again, His blessed part to heaven, and slept in peace."

The writer is a former Bangladesh Ambassador to the UN, Geneva.



Professor Khan Sarwar Murshid

soul in eternal peace and grant courage to the bereaved family to bear the irreparable loss with fortitude.

I have known Prof. Khan Sarwar Murshid since he assumed the position of vice-chancellor at Rajshahi University immediately after Bangladesh came into being, when I was a student in the Department of Economics. That was the most difficult and challenging time facing the war-torn new country. We (the students) returned to the campus with indomitable spirit and high hopes.

The campus itself was overwhelmed by the loss of so many renowned teachers/students/officials including Prof Habibur Rahamn (Math). Our halls of residence had been turned into army barracks and concentration camps. They were badly looted and gutted by the Pakistan occupation army. The university's own transportation system was destroyed by the Pakistan army. It being the only means of transportation for thousands of students, officials and teachers for daily commuting between the city (Rajshahi) and the campus the result was huge dislocation/deadlock. Besides, we were gripped by an acute shortage of water and food.

He stood like a rock with his towering personality, vision and leadership, and rehabilitated, streamlined and enriched the academic environment thereby surmounting unthinkable odds through tireless efforts. There was not a single day he did not face the students' agitation demanding immediate

MIAN HELALY

I am so saddened to hear of the passing of Prof. Murshid and would like to extend my deepest condolences and sympathy to the bereaved family. My thoughts and prayers are with them in this time of deep sadness. Lets us all pray to the Almighty Allah to rest the departed

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relief/resolution of burning issues, but he handled and resolved the catastrophic crisis in commendable manner. As a student activist, I had the privilege to get to know him very closely and I watched him talking to Bangabandhu almost every day, asking for immediate relief of the burning issues.

Despite the fact that he was an active participant in our Liberation War, a close confidant of Bangabandhu Shaikh Mujibur Rahman and his wife (late Nurjahan Murshid) was a cabinet member under the leadership of Bangabandhu, he never indulged in any political patronisation as the VC. He rather established highest order of ethics, integrity, honesty and fairness throughout his tenure as the VC and by doing so he touched the hearts of everybody around him.

In addition to being an academic icon, his ardent pursuit of arts & culture added a festive cultural life to the university. He sponsored a rare visit by renowned litterateur Dr. Ananda Sankar Roy, Gopal Halder, Abul Fazal, Begum Sufia Kamal etc. He invited many visiting professors in many departments from across the globe.

Because of him, we were so fortunate to have enjoyed the spectacular performances of a huge contingent of the visiting Russian cultural troupe who performed at our campus before doing any show in Dhaka. We also had distinguished performers from Visva Bharati who staged *Chandalika*, *Mayar Khela* etc. He sponsored Feroza Begum, Ferdousi Begum, Purno Das Baul and so many great talented singers and performers.

He got the spectacular mural erected on the Central Shahid Minar (Rajshahi University) by Murtaza Bashir. This rare and incredible art-work basically bears the signature of Prof. Murshid.

His stature as a man and his intelligence and compassion were inspirational. To me, Prof. Murshid was a man who was energised by life, passionate about people and dedicated to making a positive difference in the world. He was a wonderful man, one to be truly admired, our fond memories and love for him will never be forgotten. I am sure that in his passing, the legacy of his works, his commitment to honesty and fairness and the dreams for peace and understanding that he worked so hard to achieve will inspire others.

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ASIF NAZRUL

THE 1966 International Covenant on Economic, Social and Cultural Rights (came into force on January 3, 1976) is the inspiration and guide for many later constitutions for their inclusion of social and economic rights. Its preamble recognises that inherent dignity of all persons is the foundation of freedom, justice and peace in the world and that inherent dignity could not be achieved without enjoyment of economic, social and cultural rights, as well as civil and political rights. According to Article 2 of the Covenant, each State Party therefore undertakes to take steps, to the maximum of its available resources, with a view to achieving progressively the full realisation of these rights by all appropriate means.

The constitutional approach towards social and economic rights varies widely not only from state to state but also generation to generation. For example, classical liberal constitutions like that of US did not include provisions for social and economic rights, although such rights are protected there under other legislation and policies. Starting in the late nineteenth century, constitutional designers began to consider the political desirability of incorporation of social and economic rights in the highest law of the country. They were influenced (i) by the rise of social democratic parties which sought to advance workers' social welfare, (ii) by the conservative response to such parties through establishment of dedicated social welfare institutions, and (iii) by Roman Catholic churches whose social teaching was taken up by their political allies. For example, Irish constitution of 1937 incorporates social welfare rights by describing them as principles of policy for the legislature in the making of laws.

The Irish Constitution of 1937 has been influential in the incorporation of social and economic rights in the constitutions of other members of the British Commonwealth, most notably India. Political heritage against exploitation in both colonised India and post-independent East Pakistan also influenced the process. For example, the 1931 Karachi resolution of the Indian

National Congress held that in order to end the exploitation of the masses, political freedom should include economic freedom. The 11 point movement and the 1970 election manifesto of Awami League included similar provisions.

In addition to the above and other constitutions, the South African Constitution of 1996 made a real breakthrough by not negating the judicial enforcement of socio-economic rights and by instructing the government to take reasonable measures with available resources for progressive realisation of the rights. Since the entry into force of the constitution of South Africa, judicial activism there and in some other areas like Latin America, East Europe and India, a growing consensus has developed over the desirability of the judicial enforceability of social and political rights. This consensus is founded upon the negation of three traditional arguments against the enforceability of social welfare rights.

First: According to one school of thought, the doctrine of separation of power should discourage the enforceability of social and economic rights by the judiciary. Planning, implementation and overseeing the implementation of these rights require legislative discretion and executive competence which the judiciary lacks. Moreover, according to this school of thought, the judiciary does not have clear structural mandate to dispose of this responsibility. The counter argument to this traditional thought is that the categorisation of political rights (often dubbed as first generation rights) from economic rights (second generation rights) is artificial. For example: right to vote may entail judicial intervention for obliging the government to make provisions for access to voting and right to equality before justice entails provision of courts, prosecution service, investigations authorities and counsel for defendants. Therefore, the negation of judicial enforceability of

economic rights on the pretext that their implementation involves discretion and competence is untenable as judiciary often applies similar discretion and competence in enforcing political rights.

Second: More invoked argument in denying judicial enforceability of economic rights is that judicial enforcement of these rights would involve huge expenditure which a less developed country could not sustain. The counter argument is, in case of political rights as well budget expenditure is a must in most cases. For example, right to justice, at the most basic level, requires government expenditures for establishing and maintaining courts and ordinary enforcement apparatus while right to protest may entail huge social cost and government expenditure. The difference is, in the case of political rights, expenses are generally invisible as they are traditional to which public is used to live with or they are diffused across the society and political structures, while the other one is immediately visible in budget statement.

Third: Another growing consensus in favour of economic rights is that the perceived non-effectiveness of judicial intervention should not be a bar to their enforceability. This is due to the fact that effectiveness of judicial enforcement in case of political rights could equally be inadequate and uncertain.

Basing on the above line of thinking new generation constitutions are providing more scope for implementability of economic rights. In addition, the highest courts of many countries (e.g. South Africa, Mexico and Brazil) are increasingly intervening to enforce the government to provide citizens with the basic necessities of life. Unfortunately, in the case of Bangladesh, constitutional development has failed to notice the growing status and relevance of social and economic rights. Except in a few cases (mostly concern-

ing eviction of slum dwellers), judicial activism in favour of these rights is also negligible.

As far as constitution is concerned, Article 37 of the Constitution of India explains the legal status of the directive principles, including those of social and economic rights. Accordingly, these principles are (i) fundamental in the governance of the country and (ii) the state is duty bound to apply these principles in making laws. Article 31C further provides that no law giving effect to the policy of the state towards securing all or any of the principles laid down in Part IV shall be deemed to be void on the ground that it is inconsistent with, or takes away or abridges any of the rights conferred by Article 14 (equality before law) or Article 19 (protection of freedom rights).

The Bangladesh Constitution adds two more functions of social and political rights: (i) guide to the interpretation of law and constitution and (ii) work as basis of the work of the country and its citizens. But it does not have specific enabling provision like Article 31C of the Indian Constitution for elevation of economic rights to enforceable rights.

The Pakistan Constitution imposes more accountability on the government in regard to the implementation of the policies. Clause 3 of Article 29 states that in respect of each year, the president in relation to the federation, and each governor in relation to the affairs of his province, shall cause to be prepared and laid before House of Majlis-e-Shoora or the Provincial Assembly respectively, a report on the implementation of the Principles of Policy including those of social and economic rights, and provision shall be made for discussion on such report.

The constitution of all the above three countries has made the social and political rights judicial non-enforceable. However, the Indian courts, following the precedence of other jurisprudences, are making important contributions in the recognition and implementation of economic rights. Unfortunately, our judicial activism still mostly centres on traditional political rights.

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Social and economic rights:
Our failures