

PLEASURE IS ALL MINE

# For God's sake, rise to the occasion!



SHAH HUSAIN IMAM

WITH the past haunting us and the present in a shambles, "the future ain't what it used to be," according to Yogi Berra, one of the most quoted personalities of mid Twentieth century United States of America. Another quote from him is widely used in the contemporary world: "It ain't over 'til it's over."

Both the sayings are apt to describe our current political situation. First, our leaders are not constructing our future but doing everything to undermine it, so the future "ain't what it used to be." At the same time, they are going right down to the wire like a nail biting cricket match which "ain't over 'til it's over." The difference is there's no collateral damage from a fiercely fought cricket match. With politics, the fallout can be huge.

Prime Minister Sheikh Hasina and opposition leader Khaleda Zia are fighting each other, all guns blazing. But in one significant aspect, they are united in their thoughts. Khaleda Zia has hinted at a "third force," meaning possibility of extra constitutional intrusion. Hasina too has warned of a repeat of 1/11.

The natural question to ask is: Since their realisation is the same what stops them translating their apprehension into remedial action?

But the way their minds work, they perhaps are fixated on the idea: "I will not relent, you will not either, so jolly well we hunker down to a distorted outcome instead of risking defeat at the polls."

Little wonder, the leaders have become a fair game for universal critiquing, not only at home but also abroad! World attention is assuredly transfixed on Bangladeshone way or the other. Economic "basket case" we are no more, but politically the basket looks

empty and hollow enough. This is a supreme irony in a country that had aspired for democracy, got one but now losing its way. That is a shame upon shame when we look around and see other nations struggling for a rudimentary democracy.

Two features are common to their ranting. First, they make a political bonfire of any occasion, trading salvos against each other. Words completely irrelevant to the time and place or the platform being used or indeed the audience addressed will be spewed out as though a masterstroke in political wit has been delivered. No sense of timing, level, proportion nor propriety! Secondly, the bad mouthing finds no parallel in any democracy in the world.

Some samples speak for themselves: Sheikh Hasina in a public meeting in Noakhali surprised many by taking a highly personalised dig at the opposition leader. She said: "I realise her plight; she only had passed in Urdu, Arithmetic and Bangla tests in her matriculation examination. So how could she have



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an ill-advised and impolitic comment. Said she: "She has no time for amusing gossip or pep talk." She flatly refused to have anything to do with Awami League unless it declares a caretaker framework for talks.

Only the other day, joint secretary AL Central Committee, Mahbubul Alam Hanif put out a threat to opposition leaders that they might meet the fate of Mirza Fakhrul Islam now in jail seeking bail without success.

On the other hand, BNP leaders never tire of reminding their AL counterparts if they don't restore caretaker system there will be a stampede as they scramble to flee

gracefully accepted the fact that Bangladeshi boys and girls were coming out with flying colours in their academic life." Please, note this is a mellowed version of what she actually said out of respect for the high position she holds and that of the leader of the opposition.

The opposition leader for her part, on the substantive issue of dialogue in the backdrop of AL general secretary saying talks were going on behind the scenes, made

the country in hot haste with no time in hand.

When Sheikh Hasina floated an idea of 10 MPs from AL and equal number of MPs from the opposition forming an interim arrangement, presumably with the PM as its head, it was no-go from the moment she had uttered it because she was perceived to be part of it. But what stopped BNP matching her with its counter proposal? An opportunity lost, one would have thought.

If the terms of reference are predetermined and preconditions set to sitting for talks, then we are looking to a monologue and not a dialogue.

The important first step needs to be taken to start a dialogue here and now, in some form or the other. The urgency comes from the fact whether it's reversion to caretaker system or merchandising it in a different package, the process is going to be arduous. There are many difficult stages and bumps on the way of reaching a negotiated settlement. Previous experience suggests so.

The art is long and the time short. Management of time and splitting the whole process up into doable connective parts leading to fruition would take a lot of deliberation, political intelligence, patience and glass-with-care-kind of handling. There is certainly the national genius for it if only the political parties should care breaking out of their trenches holding up a white flag of peace disengaging them from a hard line political confrontation.

This is a national exigency they cannot turn a blind eye to anymore. If they fail to rise to the occasion, one may be impelled to hear the echo of what Gene Wolfe, an American science fiction and fantasy writer, said many years ago: "There is no limit to stupidity. Space itself is said to be bounded by its own curvature, but stupidity continues beyond infinity."

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## Arresting primary school drop-out

ALAMGIR KHAN

DROPOUT from school is the major barrier in eradicating illiteracy in Bangladesh. The enrolment rate is now a hundred percent, but half the enrolled learners drop out of education before completing the primary cycle. There have been a lot of government and non-government efforts to stop this dropout. Midday meal in school, Reaching Out-of-School Children (ROSC) Project etc. are but a few.

There are many reasons for this dropout, but the central one is poverty. Poverty would not have been a problem for learning if education were free, which it is not, contrary to what has existed on paper since 1990. Every parent knows how free primary education is in this country! There are thousands of loopholes to make it a very un-free primary education. To know a few of the loopholes one has to look at any study report conducted by any person or organisation anywhere in the country. Some of these are poverty, lack of food in

schools, lack of uniforms for school students, necessity of assisting the bread-earner in the family, to name but a few.

Beyond this, one of the reasons for dropout that usually remains unnoticed to most researchers is the workload given in classrooms to students for learning at home, known as homework. In schools across South-Asian countries, teachers give students a lot of homework, ask them to learn these at home, judge their performance next day, and evaluate them accordingly. This has given rise to widespread private tuition, coaching centres and guidebooks for good performance in exams in these countries.

The present government has made private tuition and guides/notebooks illegal, but they are continuing as widely as before. It is impossible to stop this practice of private tuition/coaching, and writing and publishing of guidebooks as long as the homework system exists in schools. Until all lessons can be learnt in classrooms, the status quo will remain. In this system, teachers give credit to and appreciate only those students who can complete their homework and perform well in classrooms, the rest are looked down upon and ignored. Only children from affluent families who can afford all the extra costs for private tuition and guidebooks can perform well and secure credit in this

system; the rest, children from poor families, usually cannot perform well and so fail and fall back.

It is now necessary to stop giving homework in schools, but this is a gigantic task requiring overhauling of the whole education system. Not wanting to wait till that golden change comes about, a national NGO has been determined to address this situation in a new way, which gives giving children from poor families a chance to stay in the march, a window for breathing in a relentless competitive environment, something to hold on to so they do not drop out. It means 2 hours of learning and preparation of the homework given in school, with a local girl working as a teacher for this period. However, it is still confined among children of pre-primary, Class 1 and Class 2. The concept of 1 teacher for 30 children in 1 room promoted by Brac is used here, too. But these are not schools like Brac's, rather a social programme to support mainstream schools.

The teacher joins the programme for Tk.500 month from the NGO and takes Tk.20-30 from each learner; that makes it around Tk.1,200 a month for her. In about 2,500 schools, for 60,000 learners, the organisation spends Tk.2 crore, and the parents of these children spend another Tk.1-1.5 crore every year. This contribution by parents makes it a social programme and the NGO intends to turn it into a social movement. Other NGOs also have started replicating the programme.

Almost all learners in these schools pass the exams successfully and some from poor families secure the top places in the class. Besides completion of their homework, extra-curricular activities like singing, dancing, recitation, telling jokes, etc. comprise their learning period. Researchers who conducted a study (Arresting Primary School Dropout, published by CDIP, 2011) on these schools found that local people said that if the support were withdrawn, they would keep the wheels of their learning centres turning with their own resources.

This is what makes the effort of arresting primary school dropout a potential to be turned into a social movement, independent of outside support.

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## BIRTH ANNIVERSARY

# The times of Justice Murshed

JUSTICE A.M. MAHMUDER RAHMAN

JUSTICE Murshed was born on January 11, 1911 in Calcutta in a distinguished Muslim family of Bengal. He passed the matriculation examination in 1926 securing first position among the students who appeared in the examination from Rajshahi Division of British Bengal. He passed BA examination with honours in Economics from the Presidency College in Calcutta in 1930, MA in 1932 and obtained LLB degree from Calcutta University in 1933 securing first class.

He enrolled himself as an advocate of the High Court of Judicatory at Fort William in Bengal in 1934 and within a short span of time he discontinued his legal profession and went to England to study for the Bar. He was called to the Bar at Lincoln's Inn in 1939. He was the lone student from British India to secure honours in the Bar at Law final examination in that year. In England, he came in touch with Prof. Harold Laski of the London School of Economics, Mr. Krishna Menon.

On his return from England he took up legal profession and within no time made his mark as a lawyer in the Calcutta High Court. He was Senior Government Counsel for Improvement Tribunals, Calcutta Improvement Trust. He was also associated with those who tried to form a coalition ministry in Bengal composed of representatives of the Congress and the Proja Party. He was also associated with the progressive Muslims who formed the Muslim Majlish with the purpose of bridging the Hindu-Muslim divide.

Justice Murshed joined those who actively supported the proposal of the Cabinet Mission led by Sir Stafford Cripps. It proposed autonomous Muslim groups in north-west and east India and a Hindu majority group in the rest of India. He was one of the champions who wanted to keep Bengal undivided. In 1947, he took active part to resist the communal violence that was escalating in the subcontinent. His efforts and the efforts of Humayun Kabir, Syed Badrudduja, Prof. Hiron Mukherjee, Sahon Gupta and others contributed to a great extent in forming the Nehru-Liaquat Pact. On his return to Dhaka he also got involved in the State Language Movement. He helped draft the 21-Point manifesto of the United Front in 1954. After the partition of India he came to the then East Bengal and joined Dhaka High Court as an advocate. He was elevated to the Bench in 1954.

As a judge, Murshed was uncompromising and a firm believer in the rule of law and democracy. He stood up to resist the imposition of military rule by General Ayud Khan in 1958. Some landmark judgments delivered by Justice Murshed are:

(1) Abdul Haq vs. Fazlul Quader Chowdhury and others, popularly known as the "Minister Case." Justice Murshed, as a presiding judge of the Special Bench, delivered the judgment resulting in the unseating of the central and provincial ministers under the Constitution of 1962. Because of this judgment President Ayub Khan had to amend the Constitution regarding appointment of ministers. This judgment is not only a heroic one but also demonstrates an exposition of constitutional law in lucid language.

(2) The Dhaka University Convocation Case, popularly known as "Zakir Ahmed Case." Justice Murshed struck down the decision

of the Dhaka University regarding expulsion of Zakir Ahmed. The doctrine of *audi alteram partem*, which he aptly applied in this case, is still followed by the highest judiciary of our country.

(3) Another outstanding decision of another Special Bench was given in what is known as "Pan Case." In this decision Justice Murshed struck down the Inter Provisional Trade Ordinance, 1969, as void and illegal. He observed: "The guarantee that has been given by the constitution cannot be washed away by an ingenious legislative device which can wipe out an illegal invasion of today by an artful enactment of tomorrow, pretending to act retrospectively, without any constitutional change to that effect. A constitutional light cannot be taken away by a legislative 'fiction' without a constitutional amendment which would permit such a course. There is a world of difference between a legislative immunity and a constitutional guarantee. The constitution by its very nature creates the distinction. A constitutional immunity cannot be wiped out by such a simple method. The hand of a constitutional clock is incapable of manipulation by a simple legislative contrivance as opposed to constitutional amendment."

Justice Murshed, in his reply to a Full Court Reference on the occasion of his becoming the chief justice of the then High Court of East Pakistan, cautioned the judges about their duty. He said: "A judge is nothing but the law speaking with uncompromising justice, for it has been truly said that the best government is that in which the law speaks rather than the law-givers. This is where the judges come in. But where the law ends tyranny begins, and there is no worse tyranny than judicial arbitrariness and no misfortune can be worse than judicial subservience. When a judge departs from the spirit of the law and from a fearless independence in its application, lie becomes the worst lawbreaker."

Regarding lawyers, he said: "The essential characteristic of a lawyer is that by interest and predilection, and often by birth, he belongs to the people; by habit and taste he belongs to the aristocracy. He is thus a happy connecting link between the two. They are very properly co-sharers of the Court not so much as law-givers but as interpreters of the law."

Justice Murshed, even after he resigned, did not stop thinking of the people and the country. He said in one of his writings: "The countries and the peoples of this subcontinent should draw closer and work together. They have so much in common. They have to overcome the prejudices that keep them apart. The nations of the subcontinent have to unitedly work together in order to approximate a common goal. Unity in our part of the world, however, has to grow from within. It cannot be imposed by any external agent."

We may say that he foresaw the birth of what is today called Saarc. A learned man as has was, he never failed to identify the problem of the times and world with the people.



Justice S.M. Murshed