

**Speech delivered by Mr. Justice Moyeenul Islam Chowdhury on 08.01.2020 in reply to the felicitations given by the Attorney General for Bangladesh and the President of the Bangladesh Supreme Court Bar Association on the occasion of his retirement.**

My esteemed colleague Mr. Justice Khandaker Diliruzzaman, learned Attorney General for Bangladesh Mr. Mahbubey Alam, learned President of the Bangladesh Supreme Court Bar Association Mr. A. M. Amin Uddin and the gentlemen of the Bar.

Assalamu Alaikum and Good Afternoon.

It goes without saying that every beginning has an end. I began my judicial career as an Assistant Judge about 40 (forty) years back. Today I have come to the end of my judicial career in the natural course of things. I feel humbled and honoured by the words of praise articulated by the learned Attorney General and the learned President of the Supreme Court Bar Association.

Anyway, we, the Judges, man the Judicial organ of the State and the other two organs of the State, as you know, are the Executive and the Legislature. It is often said that the Judiciary is the weakest of the three organs of the State. It has neither the power of the sword like the Executive nor the power of the purse like the Legislature, yet it enjoys the highest respect of the people. But you see, the respect of the people for the Judiciary has been on the wane for a variety of reasons. The unique feature of the Judiciary is its power of judicial review. It is axiomatic that judicial review is

the soul of the Judiciary in a written Constitution. But does this power of judicial review make the Judiciary superior to the other two organs of the State? The answer is obviously in the negative. As a matter of fact, the Judiciary is co-ordinate and co-equal with the other two organs of the State. But none the less, it is the constitutional obligation of the higher Judiciary to check the excesses of the Executive and the Legislature.

A good Judge is never made in a day or two. Similarly, a good lawyer is never made overnight. That is an ongoing process. If somebody wants to make a good Judge, or for that matter, a good lawyer, he must make sustained efforts for it. You see, law is a very vast discipline. Nobody can claim mastery over law, even if he has put in more than half a century of practice. But nevertheless, we should strive learn law as far as practicable; because there goes an age-old adage-‘Knowledge is power’. So the knowledge of a Judge, or for that matter, of a lawyer is his sword. I have the firm conviction that by dint of his unquestionable integrity, impeccable impartiality, profundity of knowledge and towering personality, a Judge can still command unqualified and unflinching respect from the people in general and the members of the Bar in particular.

According to the observation of the Indian Supreme Court in *S. P. Gupta’s Case*, the lawyers are equal partners with the Judges in the administration of justice. So the role of the lawyers is no less important than that of the Judges in the administration of justice. In my humble opinion, the best judgment of the Court is the product of the finest submissions made by the Bar. There goes a legal dictum- “A good Bar begets a good Bench”. But unfortunately there has been deterioration all around affecting the quality of

justice. So both the lawyers and the Judges must rise to the occasion and make all-out efforts for dispensation of quality justice to the justice-seekers.

Needless to say, the Bench and the Bar are the two sides of the same coin. They go hand in hand. Both the Judges and the lawyers are imbued with the same jurisprudential ideas, albeit their roles are different. Given this scenario, any propensity of either side to carry its temporary ruffled feelings against the other to an unreasonable length destroys the moral foundation of both the institutions. So the Judges and the lawyers alike should be on their guard to see that the moral foundation of the Bench and the Bar is not destroyed in any manner.

Our people crave for quick and inexpensive justice. But their craving has largely remained unfulfilled because of the complex, complicated and cumbersome procedural laws and backlog of cases. Simplification of the procedural laws is the job of the Legislature. However, the introduction of Information and Communication Technology (ICT) tools in the justice-delivery system of Bangladesh will hopefully improve case management and Court administration and reduce the backlog of cases to a significant extent.

Boldness is an integral part of the personality of a Judge. Mr. Justice Syed Mahbub Murshed, the then Chief Justice of Dhaka High Court, was a very bold personality on the Bench and off the Bench. He was a versatile genius. He was a multi-faceted and multi-splendoured judicial statesman. He made substantial contribution to the development of constitutional jurisprudence by handing down seminal and trailblazing judgments in the Minister's case, Basic Democracy's case, Zakir Ahmed's case and so on and so forth. According to him, "No tyranny is worse than judicial arbitrariness and no misfortune is worse than judicial subservience." This comment of the

late lamented Mr. Justice Syed Mahbub Murshed is very apt, pithy, pregnant and insightful.

As a Judge, I have always endeavoured to hold aloft the torch of justice in the maze and labyrinth of decided cases. It is admitted on all hands that judicial independence is the lifeblood of constitutionalism in a democratic polity. This judicial independence is for the judged and not for the Judges. So when it comes to judicial independence, it is the perception of the people that is all-important. Precisely speaking, the Judiciary must be independent both in theory and in public perception. If the Judiciary is functioning independently according to public perception, then it is all right. But if the Judiciary is not functioning independently according to public perception, we shall stand nowhere.

Our experience shows that no political Government will come forward to enact any law pursuant to sub-clause (c) of clause (2) of Article 95 of the Constitution for reasons better felt than expressed. In this perspective, a similar mechanism like the Indian Supreme Court Collegium should be in place in Bangladesh so as to ensure the appointment of honest, competent, bold and efficient persons as Judges of both the Divisions of the Supreme Court of Bangladesh. In this respect, the learned Judges of the Appellate Division will hopefully do the needful.

Judges are charged with saying what the law means. When they speak, the force behind the law begins to operate. But the Judges can not establish the rule of law single-handed. Along with the Judges, the lawyers and other stakeholders must play proactive roles in this regard; otherwise establishment of the rule of law will remain a far cry and a piece of music of the distant

drum. In this context, I am reminded of a few lines of Robert Frost, an American poet:

“The woods are lovely, dark and deep,  
But I have promises to keep,  
And miles to go before I sleep,  
And miles to go before I sleep.”

In reality, we have miles to go in establishing constitutionalism in this country.

However, I shall miss you all very much. At times, in course of hearing of various matters, I might have hurt the sentiment of some of the learned members of the Bar. So I beg to be excused. Please forgive my faults; but do not forget me. This grand farewell will remain embedded in my memory in the days to come.

Thank you all.