

Subscribers' Woes

Telephone subscribers in some areas of the metropolis are presently going through the hoop as a result of bureaucratic indecision and discrimination.

The whole issue of subscribers' sufferings smack of a diabolically arbitrary policy, better, no-policy, being followed currently by the concerned department of the government.

In some cases subscribers under analog system have been advised to switch to the digital system on their own meaning additional spending for conversion.

Apparently, palm-greasing and the presence of people who can exert influence on authorities are proving the deciding factors in the consideration of an area to be brought under the digital system.

The government should immediately get a move on for streamlining the operations of the T&T so that corruption trickling down from the top may not contribute to the growth of the irregular and corrupt practices.

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For More Investment

Our trade fair which should be considered a showpiece of our industrial performance as well as a sort of measure of foreign companies' confidence in us. The 122 foreign and 192 local establishments represented at this year's month-long international trade fair certainly corroborate the growing confidence in our industrial and commercial ability.

This done, the government has to improve performances in areas like transport, telecommunication and power as part of the government's campaign for inducing more investment — particularly foreign. At the same time it has to be noted that the law and order situation is still far from the ideal and far from congenial for trade and investment.

Boi Mela and Cleanliness

Ekushey Boi Mela or the commemorative book fair in connection with February 21, Language Martyrs' Day is growing both in time and the number of visitors. But what about the cleanliness of the atmospherics of this annual and crowd-pulling 'bibliophilic exhibition'?

The organisers of the fair should enforce a stipulation upon these traders to keep the rear or the front of their stalls clean. These should be dealt in the most uncompromising manner.

I will resign from the office of the Speaker if I fail to show that Bangabandhu Sheikh Mujibur Rahman is still recognised by the Constitution as the father of the nation.

The Speaker's quotation was reported in the Daily Star on 19th February 1997. The news report of the same day said that the Speaker gave his interpretation of the Constitution by saying it is the Constitutional obligation for all to accept Sheikh Mujib as the father of the nation.

A Speaker's ruling on rules of procedure of the Parliament, on proceedings and the business of the House, on what is to be debated and who should speak etc. are final and the internal proceedings of Parliament are not reviewable by the courts.

The Constitution: Our Constitution comprises a Preamble (which strictly is not an integral part of the Constitution, but an expression of peoples will and a statement of how the Constitution came into being).

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The real problem is that of President Farooq Ahmed Khan Leghari, who is enticed to Islamabad but who wants to project a political agenda from Lahore. He wants to be recognised as a Punjabi so that when the chips are down, he is not considered an outsider.

Maladministration or corruption leave unhappy traces behind. Still, it is recoverable. The ethnicity factor Benazir Bhutto has introduced to Pakistan's political scene may endanger the very integrity of the country.

Yet, a decade ago she led the party to victory when it was stuck in burden of promises and engagements in the wake of her father, Zulfikar Ali Bhutto's execution.

When I reached Karachi, which has returned to normality, the city was agog with rumours that the Supreme Court would restore her government. She may now say that she knew it beforehand, casting aspersions on the court's credibility.

3) Ban on the importation of cars without catalytic converters and engine emission controls.

4) Making service stations supply only premixed fuel with correct amounts of oil added, for baby-taxis and other two-stroke engine vehicles.

5) Enforcing the present regulations regarding air pollution by use of suitably trained squads with the power to order vehicles off the road and submission for re-examination after repair.

6) Setting up vehicle examination stations to monitor vehicle condition by checks in every six months, as is done in other countries.

7) Provision of technical data for all makes, models and types of diesel engines to allow correct pump and injector servicing.

8) Provision of lead-free petrol in two octane ratings and the discontinuation of production and sale of leaded petrol.

Speaker and the Constitution

by Nazim Kamran Choudhury

The Speaker has said that he will prove that Sheikh Mujib is recognised by the Constitution as the father of the nation. His saying so alone is not sufficient as the ultimate interpretation of the constitution lies with the Supreme Court.

The 2nd Schedule was omitted by the 4th Amendment. It is the articles 1 to 153 that provide for all the laws that govern the Constitution. Anything not contained in these articles and Schedules is not contained in the Constitution.

2. Amendment of article 11 of the Constitution. In the Constitution of the People's Republic of Bangladesh, hereinafter referred to as the Constitution, in article 11, the comma and words "and in which effective participation by the people through their elected representatives in administration at all levels shall be ensured" shall be omitted.

3. Extension of the term of the first Parliament. Notwithstanding anything contained in the Constitution, the Parliament functioning immediately before the commencement of this Act shall, unless sooner dissolved by the President, stand dissolved on the expiration of the period of five years from such commencement.

4. Thus with one stroke, the life of the 1st Parliament was extended without any election. Once the life was extended, this section became redundant and irrelevant, and as it was never designed to be a part of the Constitution, it does not appear in it.

5. Special provision relating to the President. Notwithstanding anything contained in the Constitution, on the commencement of this Act, (a) the person holding office as President of Bangladesh immediately before such commencement shall cease to hold, and vacate, the office of President of Bangladesh;

(b) Bangabandhu Sheikh Mujibur Rahman, Father of the Nation, shall become, and enter upon the office of President of Bangladesh and shall, as from such commencement, hold office as President of Bangladesh as if elected to that office under the Constitution as amended by this Act.

Section 35 (a) cost President Mohammadullah his job. By section 35(b), Sheikh Mujib, for the second time, become a non-elected President of Bangladesh. The Act was passed in less than 15 minutes and with the passage of the Act, and with Sheikh Mujib automatically entering the office of President, section 35 became redundant

and irrelevant, and that is why it was never proposed to be, nor became, a part of the Constitution. However, even in this section, the words "Father of the Nation" are merely descriptive of the person, and do not confer any legal sanction.

The 4th Amendment was never repealed in entirety, but through a gradual process, many of the affected articles were omitted (Part 6A) or again amended. Many changes like the basic Presidential structure remained till the 12th Amendment. Many newly inserted articles like article 73A have remained (with some restrictions) till now.

Some members of the government benches have argued that section 34 and 35 of Act 2, 1975, were never repealed. True, they were never repealed because they were never a part of the Constitution. You cannot repeal what does not exist. The Constitution, as I have said earlier, comprises articles 1 to 153 and Schedules First, Third and Fourth, nothing else. Prefaces, Appendixes detailing Constitutional amendments, Notes, etc are merely for information, and have no legal status.

That is why most editions of the Constitutions do not contain them. In an article published in The Daily Star on 23rd February, Barrister Rafiqul Huq also argues that section 35 of Act 2 of 1975 was never repealed. He says "It remains part of the Constitution though never incorporated in the body of the Constitution, published from time to time by various governments." The legal entity of the Constitution is its body

able, for democracy to take roots in Pakistan. Still, it is difficult to imagine Nawaz Sharif doing so. Yet, Nawaz Sharif has no alternative to economic ties with India and cut in defence expenditure. He has the power to do so because the people have given him all the strength he wanted in the National Assembly.

Even after 50 years of independence, people in Pakistan remain patient, credulous and hopeful. But then they are like people in India or elsewhere in the subcontinent. Every time they put faith in rulers, every time they are cheated. Politicians have exploited them for their personal ends.

There is the same nexus between the bureaucracy, police, criminals and politicians in Pakistan as in India.

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Ten Days in Pakistan

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BETWEEN THE LINES

Kuldip Nayar writes from New Delhi

Assembly. But most of Leghari's men have lost, including his son. And the quirk of circumstances has made him dependent on Nawaz Sharif. As the latter has said, the National Assembly will consider whether to continue the 8th amendment, the 58(2b) and the Council for Defence and National Security. In a way, he has thrown the gauntlet to Leghari, who is in no position to pick it up.

The 8th amendment, appended to the constitution by the late Zia-ul-Haq, states that the President can dissolve a popularly elected government at the centre and in the states at his will. Benazir Bhutto was dismissed first under the amendment. Nawaz Sharif was its second victim and Benazir

president from the constitution. An elected government has to be supreme. Preparations are already afoot to challenge the 8th amendment 58(2b). Nawaz Sharif's party, Muslim League, expects that along with its allies, it will get a majority in the Senate (elections are in March) as it has done in the National Assembly. Then they can effect a change in the constitution.

A serious situation can, however, arise if and when Nawaz Sharif joins issue with the President on the Council for Defence and National Security. It will be a tough fight. All the three chiefs of services and the chief of general staff are the council members. Its authority extends to all defence, economic and law and order problems.

able SAARC without India, as South East Asia has an ASEAN without China. We hope the national leaders of Sri Lanka, Nepal, Bangladesh, Bhutan, the Maldives and Pakistan may kindly consider the matter seriously and the USA, European Community, ASEAN, Japan and other countries may support the endeavour for the sake of peace, prosperity, democracy and political stability in South Asia and South East Asian countries.

OH Kabir  
6, Hare Street,  
Wari, Dhaka-1203

Chariots of anger  
Sir, For almost half a century, the three-wheel rickshaw has been Dhaka's vehicle of convenience that symbolises the city. Office-goers use it for commuting to work, ladies go to the market riding on it and the children go to school.

When the city streets are flooded with water during monsoon, it is the form of transport readily available. The rickshaw-pullers nearly all of whom are from the countryside need immense stamina to survive the heat, dust, pollution and long hours to earn more than the average unskilled workers.

Although it is a pollution-free mode of transport, the rickshaw is also very slow-moving and the sheer numbers are an important cause of traffic congestion. With the worsening traffic situation, the rickshaw-pullers also have their anger running high. Hardly a day passes without the undignified sight and sound of a rickshaw-puller engaged in abusive quarrel with others.

Dr Rumy Tabrez Hyder  
222-Ka, Malibagh,  
Dhaka-1217

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OPINION

Reservation for Women

Farah Kabir

In the decade, much work has been done for empowering women. A woman's empowerment begins with the consciousness and perceptions about herself and her rights, capabilities, and her potentials.

To be empowered is to be aware, visible, decisive and effective as a change agent. The key element here is to be effective. Empowerment in the political sphere would imply power to influence and affect decisions and their implementation.

Political space all over the world as in Bangladesh is monopolised by men though women constitute 50 per cent of the voters. In the present Parliament, we have 8 per cent women representation. Yet it is gradually being recognised that the participation of women in decision-making processes at all levels will be a step towards restructuring unequal structures and bring about gender equity and distributive justice.

The gender inequity in society persists even today due to the lack of recognition of women as equal political constituency and unequal distribution as well as control of resources. Despite the significant contribution to, and many instances of providing leadership in issues of political importance, women's position has remained structurally powerless. They are marginally represented in formal political structures and at all levels of decision-making.

While the low participation can be attributed to patriarchal social norms and male-dominated political structure, the decline in the participation is mainly due to politicisation of politics and to increasing crim-

inalisation of politics as well. The provision of reservation of 30 seats for women in the Parliament will end in the year 2000 unless renewed. We would like to propose the renewal of reservation or quota for women until such time that a gender equity is achieved in the Parliament.

We would like to propose that the reservation is changed and increased so that for every three male seats there be one woman seat, i.e., 3:1. In the event seats are increased or decreased in future, then the seats for women will increase or decrease in the proportion of 3:1.

The method of election for women's reserve seats, however, needs to be changed to direct election instead of women parliamentarians being elected by the electoral college. It would impact not only the quality of representation and increase the accountability of women parliamentarians, it would no longer be used as power balance for the women to be elected would depend on the electorate and not the major political party in Parliament.

We would also like to propose that the legislators seriously consider the introduction of reservation of a certain percentage of nomination of candidature by political parties for women with an amendment to the Constitution. At present, 30 per cent reservation of nomination for women is recommended. If our political parties believe and want to achieve gender equity, there is no better way than reserving nomination for women which would make it mandatory for political parties to nominate women and they would work to encourage women to participate in electoral politics.

(articles 1 to 153 and Schedules 1, 3 & 4); it has no tail. The title of section 35 also gives us a clue. It is called "Special Provisions Relating to President", and once this special provision was acted upon, it became redundant.

Father of the Nation: As I had earlier said, the words "father of the nation" do not appear anywhere in any edition of our Constitution, including the edition published immediately after the 4th Amendment in March, 1975. For that matter, with the exception of Pakistan (where Mohammed Ali Jinnah is recognised as the founder), no Constitution of any democratic country has a father of the nation. Mahatma Gandhi is not recognised as the father of nation in the Indian Constitution, though many consider him so. Again, many do not. A school-boy in the US if asked, may say that George Washington is the father of the nation; but the US Constitution doesn't recognise him as such. Issues such as these are best left to time and history.

Who knows, if the Awami League continue to be democratic in action rather than in words, after five or six decades, Sheikh Mujib may be accepted by the majority of Bangladeshis as the father of our nation.

The Speaker has said that he will prove that Sheikh Mujib is recognised by the Constitution as the father of the nation. His saying so alone is not sufficient as the ultimate interpretation of the constitution lies with the Supreme Court. If the Speaker is confident of his position, let him ask the Government to refer the question to the Supreme Court under article 106 and their opinion will then set to rest this contentious issue. The sooner done, the better it will be for Parliament and this country.

The author, a former MP, is a business executive, columnist and a business executive, columnist and a researcher.

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