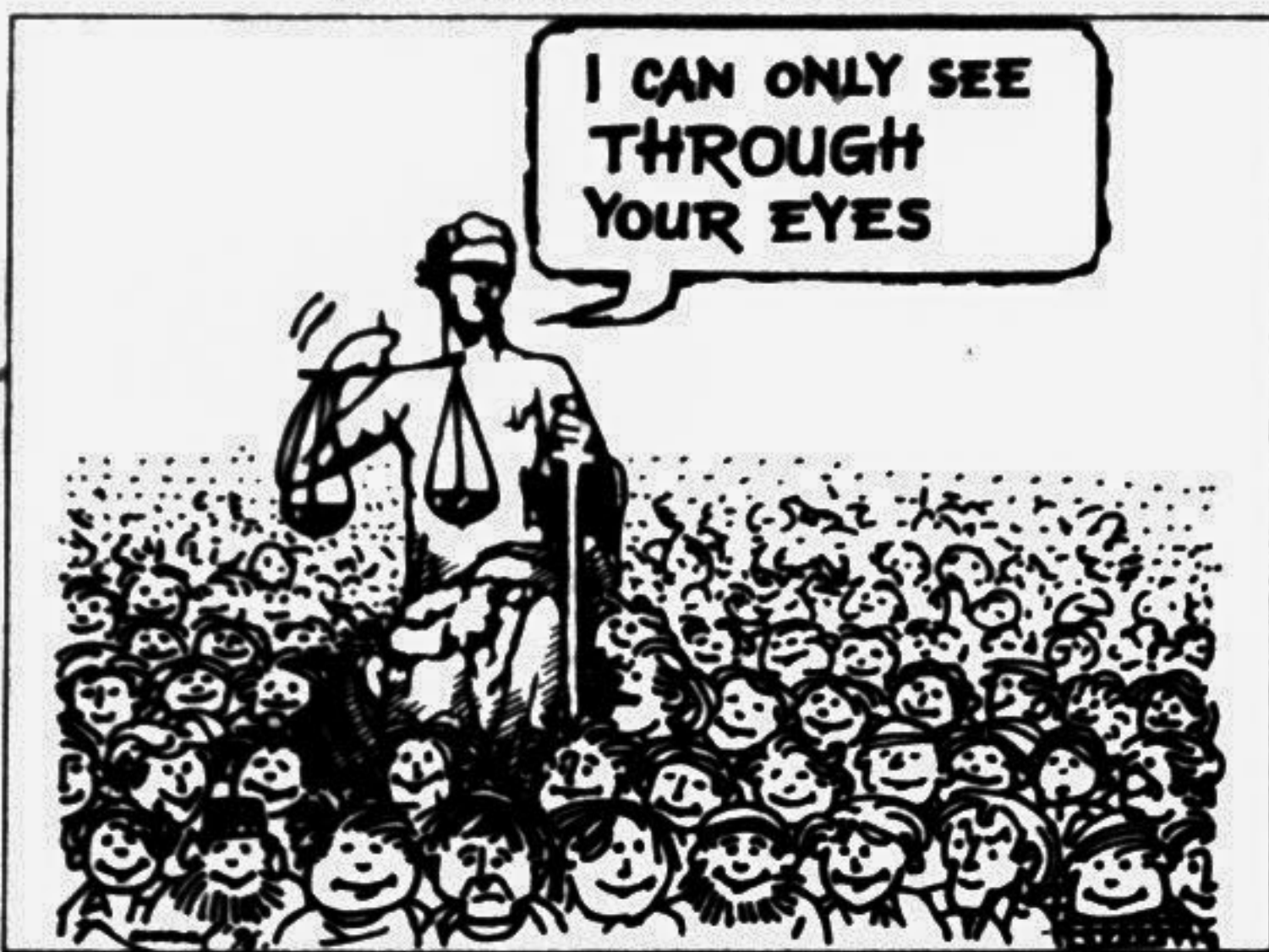


FOCUS

Law and Our Rights

Justice Delayed, Justice Denied

by Md Asaduzzaman



fluence the judiciary;

Therefore question may arise whether, the option to negotiate a case is better for both the parties who are agreed voluntarily. My humble submission in this respect is that where offense is committed by a person or a family; it affects the society, the state and the civilisation. So, the compromise affects the others and as such due to delay if any case is compromised, it affects the justice and the civilisation for the people. Of course, there are some cases which are compensable in nature. So, the law is very clear to that. The other points I have mentioned above are happening usually beyond reasonable doubt and justice is denied to the victims and to the society grossly.

A large number of under-trial prisoners have been detained in different jails all over the country. For example, at present around 6900 prisoners are detained in Dhaka Central Jail. Among them, around 4700 are under-trial prisoners and the rest are convicted. They have been living in a place where accommodation capacity is only 2116. According to the maxim of law, until they are not proved guilty by the court, they should be treated innocent. Then why are these innocent people suffering for so long in the name of the trial of a lengthy procedure. Formerly, the persons who already served 4/5 years before being proved guilty and after the conviction the under-trial period was not counted in sentences. So, it was also injustice to that persons. He had to lose his valuable 4/5 years' time from his life. Now

j) Then the judgment date;
k) After the judgment, any of the aggrieved parties may go for the appeal/revision.

The petition case or complaint case is of about the same nature and procedure. So, it also needs the same time. Thus, a case will come to an end with its final result. I am seriously concerned with the delay up to examination of witnesses. This period is very much effective in a case to have a fair trial. Because until this period, the case may be moved to any side by the interested groups.

Moreover, until the case is disposed off, the parties have to appear before the courts on every scheduled date. The section officials of the courts usually harass the parties by not helping them legally. Without any cost they don't want to move even a file. Besides, they seriously misbehave with the parties.

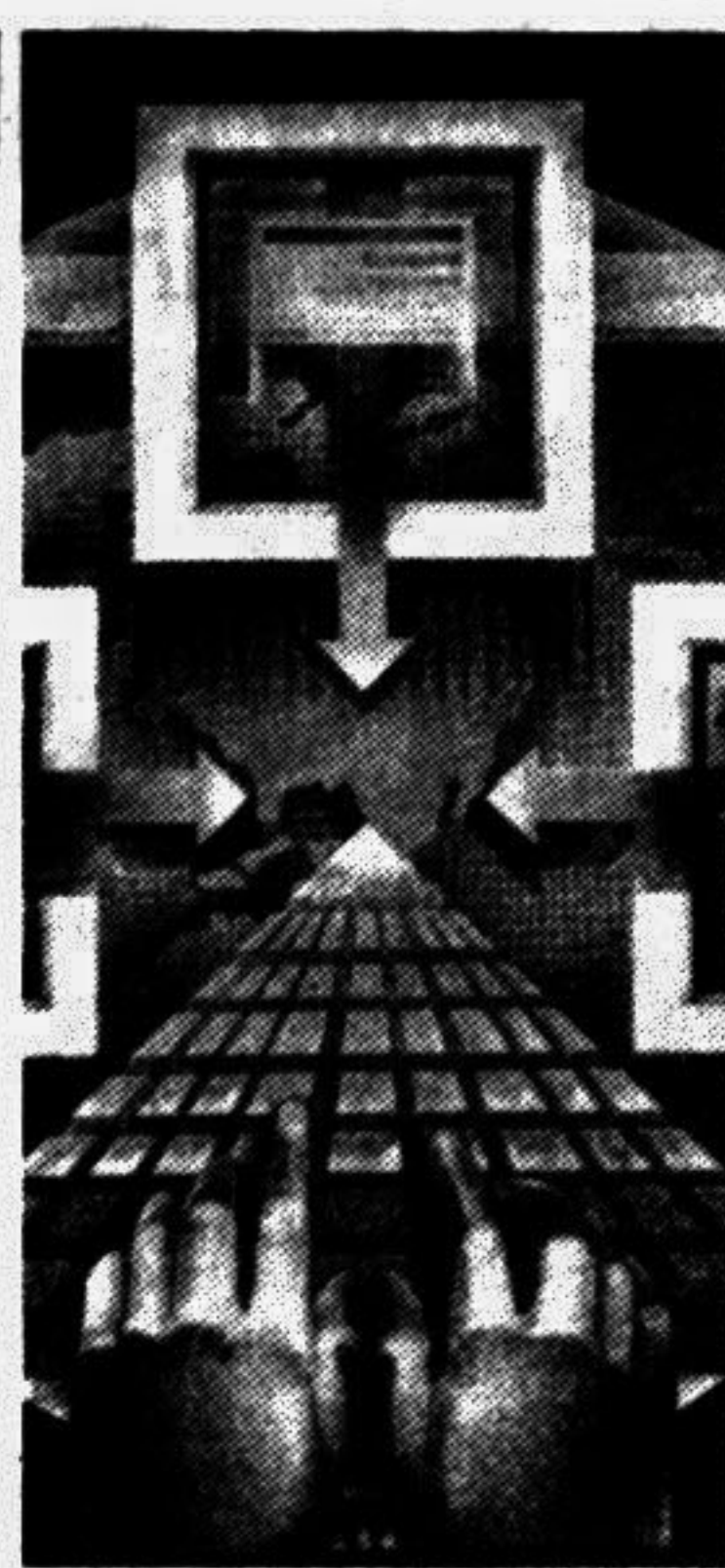
In writ jurisdiction of the High Court Division, we find that at the time of admission rule is being issued for 2 or 4 or 8 weeks returnable, i.e. the respondents are directed to reply within the above mentioned weeks. But what happens actually? It cannot be possible to hear by the Judges of the High Court Division due to rush of filling cases. So, the rule issued cases are pending with the office for years. One example in this respect is — one writ was filed challenging the imposition of bar fetter to Hazier Brahman alias Sambaed in Jhenidah Sub-jail who had been kept in bar fetters for 33 months. The respondents were directed to reply within 2 weeks in June 1997. The 2 weeks had passed, but the case was still pending for final hearing.

The delay procedures I have mentioned above are not to blame the Judges or the Courts but to mention the practical sufferings of the people. Our Judge's have been trying to serve the people with a better justice to their end. But everything is not within their capacity. In one of the parliament sessions, the finance minister has blamed the High Court Division for non-collection of a huge amount of revenue by giving stay order but not hearing finally. But new Judges are not being appointed. Why such things are being happened? This is not for the Judge's in capacity or inability. This is for the shortages of Judges in our judicial services. The number of Judges in all stages are not sufficient enough to dispose off the cases pending for so long.

the under-trial period may be counted with the sentences if so ordered by the court.

The procedure of a criminal case may be described in two ways in our legal system. One is police case procedure and the other one is complaint case procedure. Of course, there are some other procedures which can be mentioned in the pros and cons discussions on that topics. However, in a police case the stairs are:

- Lodging a case in a police station;
- The police will send the record of the case to the GR section of the court;
- Until the police submitted the investigation report, the case will be kept pending with the Magistrate's court;
- After submission of investigation report if all the accused are not available before the court, then question of Gazette Notification and attachment by the Magistrate comes. The further investigation may be commenced if required;
- Then if the Magistrate thinks that the case is ready for trial, he will send it to the trial court concerned;
- The trial court then fixes a date for the appearance of the accused;
- Then if the accused comes, the date of charge hearing will also be fixed;
- After charge hearing, the examination of witnesses comes. It takes a long time. Sometimes the witnesses take time, sometimes the lawyers take time and that makes the trial delayed;
- After examination of witnesses the argument date is fixed;



Satellite Boom and Intellectual Property Rights

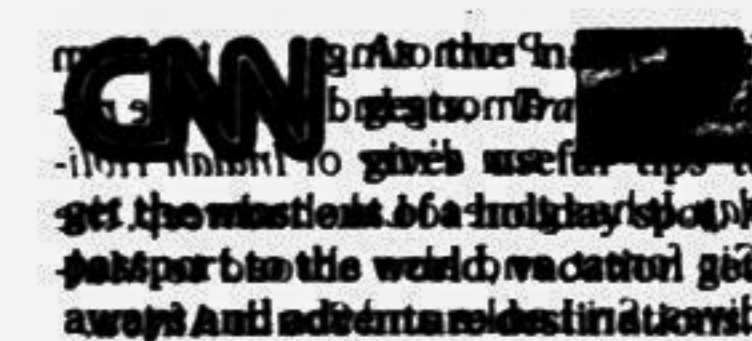
by Mustaq Ahmed Qaiser

Direct TV has formed a network to launch Galaxy Latin America with its partners multivision in Mexico and Telesat in Brazil, Rupert Murdoch's News Corporation has lined up with Brazilian TV Globo Home service is throwing home service covering Latin America and the Caribbean.

Through Star TV and other multi-channel projects will greatly extend the number of channels on offer range from Australia, Asia and Murdoch. Three wholly digital Astra satellites, each costing about 200m will be ready for giving full service by the end of the year 1997 then Astra will be able to transmit five hundred channels over Europe. The owner of Astra the Luxembourg group already leased the capacity of the Astra digital satellites to European television groups such as Canal Plus, France, Munich-based Kirch organisation which dominates German Film and programme distribution, British SKY Broadcasting, CLT the Luxembourg-based international broadcaster. The first of three "Hot Bird" satellites was launched by Eutelsat, the satellite television group owned by the main European telecommunications operators which are capable of either digital or analogue broadcasting and air

In the media world digital technology is driving a major expansion of the global satellite television industry. The revolution is made possible by arrival of digital compression technology. Digital broadcasting transmits only the difference between successive lines and frames and then recreates the original picture accurately and perfectly. But with traditional analogue broadcasting, every live and frame of a picture is transmitted even though it may happen relatively few changes from live to live and frame to frame. By using digital technology more television programme can be broadcast from satellites than analogue technology. A satellite normally has up to twenty transponders, each of which can transmit six to eight digital channels but only one analogue channel. In developed countries many television studios are already using digital technology.

adding new channel costs \$3m to \$4m per year but with digital technology, the cost of broadcasting channel falls to a fraction. The digital technology develops rapidly and it is market-ready for booming globally. The digital satellite revolution began at midnities in the United States with direct TV, a Hughes Communication company, which broadcasts 175 channels to 18 in dishes across North America. The number of subscriber already passed 2m figure.



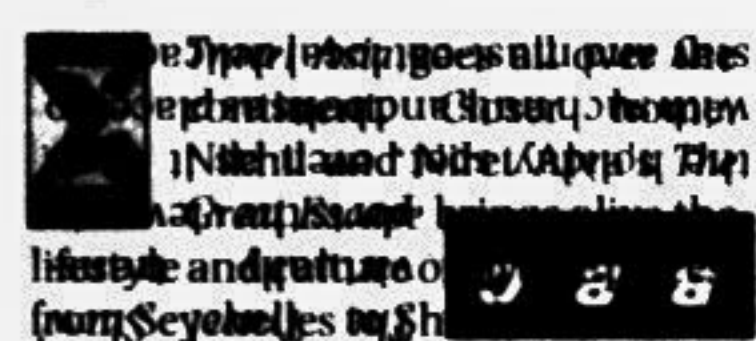
Sky pirates: Well, there's a question of rights

another 500 channel which can be delivered to 50 cm dishes in Europe. The digital technology of satellite television was already introduced in Africa first by Net Hold started broadcasting programmes in 24 channels from Atlas mountains to the Cape of Good Hope the company plans to increase the number to one hundred twenty by 1997. The company is owned by Richmond, a tobacco and luxury goods group and Multi-choice a South African company. For receiving programmes in digital technology, subscribers need decoder to receive programmes with a cost of \$800 the question is whether

the customers will pay for a decoder and to subscribe to a digital package. Net Hold which already offers pay television in 43 countries in Europe, Africa and the Middle East and giving digital satellite services in the Italy, Benelux countries and the Middle East. The Company is backing its belief that consumers want one hundred channels or more than that with hundreds of million of pounds in investments. It recently placed orders with Dutch electronics company Philips, National Panasonic, Japan and Pace of the UK for 1.1M digital satellite receivers worth an estimated \$550m.

By the end of 1997 most parts of the world will have the opportunity to access into at least 150 channels of digital television, and in Europe the number may rise easily to 500 Channels.

Another important elements for viewers is video-on demand has 60 channels for showing eight or nine films. Each shown on several channels with staggered starts, for this the viewers has to wait only twenty to thirty minutes to catch the start of a film. The digital black boxes with modems on board can take order for films and



other satellite services automatically through the phone lines.

Video-on-demand will provide additional revenue but not a viewing revolution. London based communication analyst CIT Research forecast that nearly 9m European house will own a digital satellite receiver by 2004, and a satellite dish of some-sort will be own by 20m people.

There is definitely a market in Bangladesh for pay television. Viewers want to have there access over one hundred or more channels. We hope that by the year 2000 the digital technology of satellite television will enter into our viewers market and many pay televi-

sion will start there programme services. Already 19 foreign and local companies and individuals had already applied for private television channel. Information Minister said that one or more private channel could be allowed on the basis of certain set principles which are now being formulated. A new company Bangla Television News which has already formed and signed agreement with its national partner keeping STAR TV as its strategic international partner.

In this connection, one of the major problem is the conflict between the need to protect Intellectual Property and copy right and the need to protect the free flow of information around the world, considered a basic human right. In Bangladesh, low quality video tapes and pay television film programmes on violence should be banned considering social context. Bangladesh copyright laws should be amended immediately or new laws and rules should be framed for compliance with the requirements of international law for the protection of Intellectual Property. Part III of the Agreement on Trade-related Aspects of Intellectual Property Rights (Known as TRIP) requires countries set-up mechanism for effective enforcement of intellectual property right. New laws regarding this should be made very carefully because in other developing countries they followed the model of Intellectual Property laws of Europe or USA but that laws heavily depend on private enforcement of the law by intellectual property rights owners because their laws provides sufficient incentive to the intellectual property owners to make enforcement economically justifiable.

In Bangladesh our judiciary and the bar is not familiar with intellectual property laws and is unsure of how it is to be applied and enforced. So, Education and Training is needed for serving the purpose.

Now we have arrived at the Age of Information, to face the challenge of the coming century emphasis must be given not only on enacting new Intellectual Property laws, but to set the mechanism properly for enforcing that laws effectively for the greater economic and development benefit of our country.

The writer is an Advocate, Supreme Court of Bangladesh.

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