

At last, protection of consumer rights

Better late than never

IT is with a sense of relief that we note the government's endeavour to address the woes of the consumers, through legislation; reportedly, it was on the anvil since 1978 but not ironed out so far. That the matter has come in the government's reckoning is a welcome step forward.

Although, similar laws are prevalent in the neighbouring countries, the interests of the consumers in Bangladesh mattered very little so far. Without recourse to law they were left at the mercy of the traders. The captive sellers market had made the consumers' life in Bangladesh unbearable. But, better late than never.

However, we have certain reservations on the government's plans for implementing the proposed law. Our concern stems from the suggested composition of the National Consumer Council. The proposed Council will be made up mainly of representatives drawn from the private sector. It will be assigned the task of formulating policies to protect consumers' rights. While one would not like to question the sense of objectivity of its members, it stands to reason that, being composed primarily of members of the private sector, there would exist a possibility of perceptions being influenced, because the consumers' compliant would primarily be against business malpractices.

We suggest that the Council should be composed of members of the civil society, lawyers, teachers and the professional community.

Furthermore, instead of restricting the focus on the standards, measurements and prices of commodities alone, we suggest that, for it to be effective in protecting the consumers' rights, all elements of the service sector must be brought under the purview of the proposed law. These include health clinics, private medical practices, educational institutions, restaurants - the entire lot, so to speak.

There should also be a synergy between what the consumers want and how the government wants to guarantee their interest.

After all, the proof of a good legislation is in its ability to defend the common man from injustice.

Avoidable behaviour

Was it respectful to the dead?

OUR deepest sympathy and condolences for the parents and fellow students of Sumon, a student of Government Titumir College who was run over by a speedy bus at the airport road on Sunday. He died the following morning. It was an extremely tragic and untimely end to a promising career, and we are deeply saddened and dismayed by it.

We do realise that such a tragedy was bound to evoke emotions. But none can support the taking out of anger and frustrations on others who had no link to the accident. The reactive outbursts seem to have become a pattern -- students blocking roads and bashing vehicles indiscriminately thus creating traffic tangles much to the petrification and inconvenience of commuters. Just as we had disapproved of such unruly conduct whenever it was demonstrated in the past, so do we express our shock and disbelief at the recurrence of the same the other day.

They might have had reasons, obviously more rabidly emotional than sensible, for behaving in such a manner. They betray a lack of faith in the enforcement system; since to their knowledge, punishments were not meted out to any of those responsible for similar deaths earlier on. But the students must also realise that damaging private property or creating panic among the passers-by is not going to serve any purpose. Taking law into their own hands creates further complications, including an avoidable law and order situation. Besides, they should also bear in mind the fact that going on rampage has never prevented such accidents happening, and will not in the future. On the contrary, it drew flak for them. As educated and conscious segment of the citizenry, their methods should be above reproach.

Detention without trial



AMM SHAWKAT ALI

NORMALLY, detention without trial would mean detention of persons without any specific criminal charge. This arises in a situation where the executive organ, the District Magistrate, based on police report, applies the provision of Special Powers Act (SPA). The provisions of the Act are said to have been much abused primarily on political grounds. Now, we have the cases of under trial prisoners languishing in jails without trial. These cases are different from SPA in that such provisions have to face trial on one or more sections of the penal code. In the language of the jail code, they are known as under trial prisoners (UTPs).

In a landmark judgment in a public interest writ, the High Court on July 3, 2004, asked the attorney general and the principal secretary to the prime minister's office (PMO) to initiate steps on the merits of each case to free the UTPs on bail. The public interest writ was filed by Bangladesh Legal Aid and Services Trust (BLAST) following a news item in the Daily Star relating to Dhaka Central Jail. Following initial directions from the High Court, the government submitted a report on the status of UTPs. The report revealed that as many as 7,409 UTPs were behind bars for a period ranging from about a year to over 11 years. The UTPs also included children and women. The court found the case of prisoners without trial to be violative of constitutional rights. Indeed, such violations

would not have occurred if the subordinate judiciary applied its mind.

The shocking facts of the report submitted by the government lead one to believe that the subordinate judiciary at the level of the sessions court and below has collapsed or is in a near state of collapse. On the positive side, (a) the verdict given by the High Court appears to establish and enhance the image and authority of the High Court in the public eye, and (b) the prisoners without trial will hopefully be out of

provision also lays down that nothing is an offence which is done by a child above seven years of age and under twelve, who has not attained sufficient maturity of understanding to judge the nature and consequences of his/her conduct on that occasion.

This provision qualifies the exemption of children under twelve with the condition that they would be exempted if they have not attained sufficient maturity of understanding to judge the nature and consequences of

judiciary.

There is specific provision for trial and confinement of juvenile offenders. The trial court has the authority to direct that juvenile offenders under the age of fifteen years be confined in reformatories and not in jail. Such reformatories or correctional homes do exist in Bangladesh and these are operated and managed by the department of social welfare. The system is in place but appears to have become dysfunctional.

submit charge sheet, except for cases of grave and serious nature triable by the court of sessions, the magistrates would issue order of discharge for lack of evidence. It all depends on the quality of the magistrates and their courage of conviction. There would also be cases that some UTPs have stayed in jails without trial for a period longer than the sentenced of imprisonment if convicted. In such cases also the magistrates would apply their judicial mind and set the accused free.

be withdrawn with the consent of the court. The law authorises any public prosecutor (PP) to withdraw cases. The detailed procedures for consultation and the cases that are to be withdrawn are more elaborately laid down in the police regulations. Indeed this is also evidence of the near collapse situation of the administration of criminal justice. The system of withdrawal on the merits of each case does not move on its own motion. Many people believe that only political wire pulling can lead to withdrawal of cases.

High Court's rules and orders

The issue of withdrawal of cases being influenced by politics rather than on the merits of each case bring in the question of High Court's rule making authority granted to it by the procedural criminal law. The law empowers the High Court to make rules, with the previous sanction of the government, among others, for regulating its own practice and proceedings including those of all criminal courts subordinate to it. Our High Court must have such rules and orders. The ordinary citizens do not know what these are. There is need to make it transparent. There is also need to revisit the existing rules to include cases of prisoners without trial as part of the drive to regulate the practice and proceedings of subordinate criminal courts. It is said that the High Court used to publish prior to 1971, an annual report on administration of criminal justice. This used to be a public document with relevant information, among others, on long pending cases. This monitoring information document should not only be revived but strengthened to deal with cases of prisoners without trial. Finally, the relevant provision of rule-making authority of the High Court that requires previous sanction of the government should be deleted from the statute book in the changed context of independence of the judiciary.

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WORTH A LOOK

It is said that the High Court used to publish prior to 1971, an annual report on administration of criminal justice. This used to be a public document with relevant information, among others, on long pending cases. This monitoring information document should not only be revived but strengthened to deal with cases of prisoners without trial. Finally, the relevant provision of rule-making authority of the High Court that requires previous sanction of the government should be deleted from the statute book in the changed context of independence of the judiciary.

Managing UTPs

One of the means used to be freely resorted to by the subdivision magistrates (SDMs) of yesteryears was regular inspection of jails within their respective jurisdictions. During visits and inspections to jails, the UTPs would line up holding their individual cards. These cards used to contain rudimentary information such as date of first confinement, sections of law, etc. All cases of UTPs shown arrested under 54 CrPC, specially those whose period of stay is longer, would be released on bail or discharged. This practice probably has gone into disuse thereby leading to an increase of UTPs in jails. In those days, the High Court was not required to intervene. It is said the cabinet committee on jail reforms had, among others, asked the District Magistrates to conduct regular inspections of jails. Apparently, the directive so given is yet to yield desired results.

In other cases, when the police is taking an inordinately long time to

their conduct at the time of commission of the offence.

The case of first offenders

There are also beneficial provisions in the procedural criminal law in respect of first offenders. It enables the court, under certain circumstances, to release a convicted person on probation of good conduct. It applies only to first offenders. The idea is not to force a first offender to prison for an offence which is not of serious nature. The object is to avoid the risk of turning him into a regular criminal.

The cases of juvenile offenders

It was reported that there are 1,223 children in criminal jails. The High Court directed immediate transfer of such offenders from jails to correction centers and withdrawal of cases against under-12 prisoners. This directive of the High Court, highly welcome as it is, also signifies that things are not well in the subordinate

How the UPA government is faring in India?



ZAGLUL AHMED CHOWDHURY

IT is not too long that a new Indian government has taken charge of the country, following the last general elections. The United Progressive Alliance (UPA), a rainbow coalition led by the Indian National Congress, has replaced another alliance government National Democratic Alliance (NDA) headed by the Bharatiya Janata Party (BJP). India, the largest democracy, is experiencing coalition culture in recent times when it comes to governing the country and it is now almost inconceivable that any single party can have its government in the South Bloc. Needless to say that this pattern of government is getting strengthened in India and the latest UPA government is no exception. Gone are the days when a single political organisation could muster enough support in the lower house of parliament and stake claim to form a government of its own.

Even the major parties seldom these days remotely dream of having an absolute majority in the 545-member lower house of parliament (Lok Sabha), elected by direct popular votes. They either seek to reach electoral understanding before the voting or look for like minded parties in the event of necessity to form government when a requisite majority is lacking. The previous NDA government and its

successor UPA alliance -- all fit in the same milieu of coalition culture. The coming together of different political forces for the purpose of ruling is not unusual in parliamentary democracy, which may happen under compulsion or sheer political understanding. But it has also its own pitfalls particularly when none of the constituents enjoy outright majority by its own strength. This is mostly the case with Indian political parties these days. In Bangla-

non-Congress prime ministers were product of coalition culture. The present head of government Dr Manmohan Singh is no exception as he leads a multi-party government although his Congress is the dominant force in the alliance. The coalition authorities generally come into being depending on political exigencies and at times relying on the support from outside. The UPA government is constituted by different political

remains the most powerful figure in the ruling alliance being the chairperson of the UPA and this has certainly alerted the other ambitious leaders in the coalition against thinking too much for themselves. For, Sonia's decision has earned for herself enormous respect , which in effect would put other leaders under poor light if they at all show their ambitions. Sonia Gandhi's this admirable position helped cohesion in the UPA on one hand and keep the ambi-

MATTERS AROUND US

New UPA government's policy towards the neighbours is being viewed as positive, at least compared to that of the NDA government. Soon after coming to power, the external affairs minister paid a visit to small neighbour Nepal and received counterparts from Bangladesh and Sri Lanka. With Pakistan bilateral talks at different levels are taking place. It has also supported next SAARC summit in Dhaka and hopefully this time the event will not be delayed. On some Dhaka-New Delhi vexed issues, the attitude of the new government is more positive.

des, as the situation exists now, there is an alliance government but the main partner has overwhelming majority and hence the strains generally caused by the smaller partners are rarely witnessed.

In India, the Congress which spear-headed country's independence movement, ruled the nation without any interruption for a pretty long spell and one person Jawaharlal Nehru, the first prime minister, remained at the helm till his death in 1964. Lal Bahadur Shastri, Indira Gandhi, Rajiv Gandhi and Narasimha Rao -- all Congress prime ministers headed their party government without any coalition. The end of single party ascendancy in the pattern of rule ended when Congress under Indira Gandhi lost in 1977 to Janata Party, which was born out of combination of several political organisations. Morarji Desai, Chaudhary Charan Singh, H.D. Deve Gowda, I.K. Gujral and lately A.B. Vajpayee -- all these

groups but is critically linked to the support of the leftists from outside without direct involvement.

The UPA government has several heavyweight politicians coming from various parties and their ambitions may create problem for the ruling alliance. The presence of Sharad Pawar of Maharashtra and Laloo Prasad Yadav from Bihar in the ministry and also K. Karunanidhi from Tamil Nadu in the alliance is potentially troublesome since these senior politicians can come to a difference over their influence and strategy. But so far such leaders have shown positive attitude and seem to be content with their positions and roles.

It is a good sign for the UPA government and no doubt this has been made possible largely because of the remarkable gesture demonstrated by Congress chief Sonia Gandhi, who in a near unprecedented manner refused to become prime minister when the position was on the platter. She

tious leaders under control on the other. Besides, streamlining of the political authority of the UPA and a person of clean image and integrity as prime minister are also plus points for the ruling alliance.

The NDA did not face any problem in second term of rule as there was hardly any infighting which was experienced in the first tenure and revolt by Tamil Nadu's Jayaram Jayalalitha cut short the NDA term halfway through. The presence of Vajpayee, who has no rivals as such in the alliance because of his stature, helped it maintain unity among more than twenty parties in the coalition. But it was the complacency that cost it heavily since advancement of the polls by several months was a misjudged decision which boomeranged on the NDA. A major reason for its largely unexpected electoral debacle was its apathy to the rural areas. The new UPA government appears to be quite conscious of that

attaching importance to the previously neglected sides. It has taken several welfare-oriented programmes.

Another problem that the NDA may have faced is likely differences with the leftists, which are supporting the UPA despite many differences mainly to prevent NDA and more particularly the BJP, widely seen as communal, from coming to power. The UPA constituents and leftists are bound by common policy of secularism and castigate the

tial Laloo Prasad Yadav. The prime minister has done well by earlier advising Shivu Sharan, leader of the UPA constituent JMM, to quit. But the opposition is not relenting. This issue may raise more dust in the Indian political scene.

On foreign policy matters, a reported comment by external affairs minister K. Natwar Singh on New Delhi's position in sending troops to Iraq had come under immediate criticisms from both opposition and some UPA partners. The minister retracted from the comments attributed to him evidently under pressure from the leftists and his own leader Sonia Gandhi. This has helped the government to come out from a potentially hot controversy.

New UPA government's policy towards the neighbours is being viewed as positive, at least compared to that of the NDA government. Soon after coming to power, the external affairs minister paid a visit to small neighbour Nepal and received counterparts from Bangladesh and Sri Lanka. With Pakistan bilateral talks at different levels are taking place. It has also supported next SAARC summit in Dhaka and hopefully this time the event will not be delayed. On some Dhaka-New Delhi vexed issues, the attitude of the new government is more positive. Indications are there that UPA government will pursue good neighbourliness and the influence of the leftists, who favour a peaceful region, is also a factor that casts positively on this issue. On the whole, the UPA government in India is faring reasonably well even though it is not free from trouble at home. But there is no immediate or major threat to its existence.

Zaglul Ahmed Chowdhury is a senior journalist.

OPINION

Private relief operations: Some thoughts

MONZUR HOSSAIN

A number of social, political, and cultural organizations as well as individual people are increasingly coming up with their generous support to the flood-distressed people. The optimistic scenario is that more awareness is seen now-a-days among the Bangladeshis (at home and abroad) to help the distressed people. We feel more optimistic about our bright future when we see a teen-aged girl donates all of her stipend to help the flood-affected people.

Various volunteer organisations, donor agencies, and political parties

are now engaged in collecting and distributing relief. With these private relief operations, problems are often noticed in allocation and distribution of relief. Since there is no coordination among the private relief operation groups, it creates some oversupply and undersupply of relief in different areas. Moreover, there are some biases in relief operations regarding area selection.

Another problem in private relief operation is that the operating groups do not have much institutional set-up, and sufficient man-power to handle the operation more effectively and efficiently. Above all, many organisations are suffering from lack of credibil-

ity. The ways the operations go on, it also create "rent-seeking" for some vested interest groups.

More people want to donate, but they cannot rely on the private relief operating agencies. The problem has arisen more seriously for the overseas Bangladeshis. Many overseas Bangladeshis want to donate, but they don't find any reliable source. For example, we some Bangladeshis in Japan after much discussion finally sent our donation to "Prothom Alo Bondhushova" to distribute it, since we don't have much options. I know another organisation of Bangladeshis scholars in Japan "Japan-Bangla Net" that is collecting donations and they

are seriously thinking how to distribute it. This is not only the case for Japan; this is true for all other overseas Bangladeshis around the world. Many foreign governments also like to donate through private organisations.

The issue now raises the important question: How the private relief operations can be made more effective and more efficient? Time has come to think about this issue seriously because flood and other natural calamities in Bangladesh are common phenomena, these occur cyclically and small disasters occur frequently. Since private donations are increasing, we need to find a more effective and efficient way of allocation and distribution of relief.

What is needed is a concerted effort to make private relief operations more effective and efficient. The problem is that how the piecemeal relief operations can be concerted? This is a difficult task no doubt, but not unsolvable. Relief operations can be deemed as 'public goods', and every 'public goods' needs some coordination for its effective allocation and efficient distribution. To make the private relief operations concerted, a "coordination body" (hereinafter "body") is necessary. Only due to lack of concerted effort or a responsible coordination body, many people and organisations do hesitate to come forward with relief donation. Formation of a 'body' to-

ward a concerted relief operation will increase the efficiency and effectiveness of relief operations, as well as it will help increase relief donation fund which might help in extending their operation into rehabilitation too. Their activities are then being regarded as 'privately coordinated public goods'. The government may help in forming the 'body', which must be a private one and volunteer as well. Or, any other respectable and reputed volunteer organisation that is engaged in relief operation may come forward to take initiative in forming an effective consensus 'body'.

Incidentally, the 'body' may consist of the representatives of different

donor agencies, UN organisations, Red Cross and Red Crescent, large NGOs, journalists and some professional groups, those are engaged in relief operations and those have logistic support in this regard. They should have a central bank-account and should have coercive power in relief fund management. They will collect, allocate and distribute the relief properly through partner organisations after careful needs assessment. The process must go through very transparent way so that everybody from everywhere can observe their activities. In this way it could be an acceptable 'body' to all. After formation of such a body, it can work in the backdrop of all

types of natural disasters. Of course, there must be some guidelines about the functions of the body.

I think that formation of such a body will bring a drastic change in private relief operations in terms of quality and quantity. We expect urgent initiatives from governments and/or other organisations, especially journalists can take initiatives to motivate the respected parties to come forward to